

Kāwhia Community Board

Notice is hereby given that an ordinary meeting of the Kāwhia Community Board will be held in the Kāwhia Community Hall, 141 Jervois Street, Kāwhia on Thursday, 13 February 2025 commencing at 4.00pm.

Tanya Winter, Chief Executive

3 February 2025



OPEN TO THE PUBLIC AGENDA

Kāwhia Community Board membership

Chairperson	Geoff Good
Deputy Chairperson	Hinga Whiu
Ōtorohanga District Councillor	Kit Jeffries
Board Member	Richard Harpur
Board Member	Dave Walsh

All attendees at this meeting are advised that the meeting will be electronically recorded (audio and video) for the purpose of webcasting to the Council's YouTube channel. Every care will be taken to maintain individuals' privacy however attendees are advised they may be recorded as part of the general meeting proceedings.

Public forum

The purpose of the forum is to provide an opportunity at the start of all ordinary public meetings of the Boards, for members of the community to come along and speak to their elected representatives. This reflects the Board's desire to see more public participation in decision making and meeting procedures.

To speak at the Public Forum please use the [online form](#) on our website. Each speaker will be allocated a maximum of 5 minutes speaking time.

Role of the Community Board

The Kāwhia Community Board (the Board) is a separate entity to Ōtorohanga District Council. The role of a community board is set out in Section 52 of the Local Government Act 2002 and is summarised below.

1. Represent, and act as an advocate for, the interests of the Kāwhia and Aotea community.
2. Consider and report on all matters referred to it by the Council, or any matter of interest or concern to the Board.
3. Maintain an overview of services provided by the Council within the Kāwhia and Aotea community.
4. Prepare an annual submission to the Council for expenditure within the community.
5. Communicate with community organisations and special interest groups within the Kāwhia and Aotea community.
6. Undertake any other responsibilities that are delegated to it by the Council.

Delegations by Ōtorohanga District Council

The Council is authorised to delegate powers to the Board and has made the following specific delegations to be exercised in accordance with Council policy.

Power to act – Reserve Funds

Full decision-making authority on the use of the Kāwhia Reserve Funds in accordance with the Terms of Reference.

Power to act - Discretionary Fund

Full decision-making authority on the use of the Board's discretionary fund in accordance with the Terms of Reference for the Fund.

Power to recommend – Long Term Plan/Annual Plan/Policy issues

Authority to make a submission to the Long Term Plan/Annual Plan process on activities, service levels and expenditure (including capital works priorities) with the Board's area or to make a submission in relation to any policy matter which may have an effect with the Board's area.

Power to recommend – Advocacy/Submission to other agencies

Authority to recommend to the Council on inclusions to submissions/advocacy to external organisations.

Opening formalities

Commencement of meeting	Te tīmatanga o te hui	5
Opening prayer/reflection/words of wisdom	Karakia/huitao/whakatauki	5
Apologies	Ngā hōnea	5
Public forum	Hui tūmatanui	5
Late items	Ngā take tōmuri	6
Declaration of conflict of interest	Te whakapuakanga pānga taharua	6
Confirmation of minutes	Te whakaū i ngā meneti	6

Decision reports**Ngā pūrongo whakatau**

There are no reports.

Information only reports**Ngā pūrongo mōhiohio anake**

Item 31	Kāwhia beach access road – legal status	17
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Public excluded**Take matatapu**

There are no reports.

Other business**Ētahi atu take**

Board Member updates		22
Board projects		22
Community Board discretionary fund		22
Resolution Register		22

Closing formalities

Closing prayer/reflection/words of wisdom	Karakia/huritao/whakataukī	23
Meeting closure	Katinga o te hui	23

Workshops/briefings

Workshop	Kāwhia boat park	Open to the public	23
Workshop	Draft Annual Plan 2025/26	Open to the public	23

Please note: The reports attached to this Open Agenda set out recommendations and suggested resolutions only. Those recommendations and suggested resolutions DO NOT represent Ōtorohanga District Council views or policy until such time that they might be adopted by ŌDC resolution. This Open Agenda may be subject to amendment by the addition or withdrawal of items contained therein or the taking of items in another order.

This Open Agenda was prepared by Manager Governance, Kaia King and approved for distribution by Group Manager Regulatory & Growth, Tony Quickfall on 3 February 2025.

Commencement of meeting**Te tīmatanga o te hui**

The Chairperson will confirm the livestream to YouTube is active then declare the meeting open.

Opening prayer/reflection/words of wisdom**Karakia/huitao/whakataukī**

The Chairperson will invite a member to provide opening words and/or prayer/karakia. Refer to the last page for a karakia in both English and Maori.

Apologies**Ngā hōnea**

A Member who does not have leave of absence may tender an apology should they be absent from all or part of a meeting. The meeting may accept or decline any apologies. For clarification, the acceptance of a Member's apology constitutes a grant of 'leave of absence' for that specific meeting(s).

Should an apology be received the following resolution is recommended: *That Kāwhia Community Board receive and accept the apology from ... for ... (non-attendance, late arrival, early departure).*

Public forum**Hui tūmatanui**

Public forums are designed to enable members of the public to bring matters, not necessarily on the meeting's agenda, to the attention of Council. Requests to attend the public forum must be made to on the form available on Council's website: otodc.govt.nz/about-council/meetings/speak-at-public-forum. Alternatively, please call 07 873 4000.

Speakers can speak for up to five (5) minutes. No more than two speakers can speak on behalf of an organisation during a public forum. At the conclusion of the presentation, elected members may ask questions of speakers. Questions are to be confined to obtaining information or clarification on matters raised by a speaker. Following the public forum, no debated or decisions will be made during the meeting on issues raised in the forum unless related to items already on the agenda.

Speaker 1: Hano Ormsby regarding the Kawhia Domain Grounds.

Speaker 2: Horahaere Scott regarding vehicles on beaches.

Late items**Ngā take tōmuri**

Items not on the agenda for the meeting require a resolution under section 46A of the Local Government Official Information and Meetings Act 1987 stating the reasons why the item was not on the agenda and why it cannot be dealt with at a subsequent meeting on the basis of a full agenda item. It is important to note that late items can only be dealt with when special circumstances exist and not as a means of avoiding or frustrating the requirements in the Act relating to notice, agendas, agenda format and content.

Should a late item be raised, the following recommendation is made: *That Kāwhia Community Board accept the late item due to to be heard*

Declaration of conflict of interest**Te whakapuakanga pānga taharua**

Members are reminded to stand aside from decision making when a conflict arises between their role as an elected member and any private or external interest they may have.

A conflict can exist where:

- The interest or relationship means you are biased; and/or
- Someone looking in from the outside could have reasonable grounds to think you might be biased.

Should any conflicts be declared, the following recommendation is made: *That Kāwhia Community Board receive the declaration of a conflict of interest from for item ... and direct the conflict to be recorded in Ōtorohanga District Council's Conflicts of Interest Register.*

Confirmation of minutes**Te whakaū i ngā meneti**

The unconfirmed Minutes of the previous meeting is attached on the following page.

Staff recommendation

That Kāwhia Community Board confirm as a true and correct record of the meeting, the open Minutes of the meeting held on 5 December 2024 (document number 794256).

Kāwhia Community Board

Open Minute of an ordinary meeting of the Kāwhia Community Board held in the Kāwhia Community Hall, 141 Jervois Street, Kāwhia on Thursday, 5 December 2024 commencing at 4.00pm.

Tanya Winter, Chief Executive

13 December 2024



OPEN TO THE PUBLIC

Kāwhia Community Board membership

Chairperson	Geoff Good	Attended
Deputy Chairperson	Hinga Whiu	Apology
Ōtorohanga District Councillor	Kit Jeffries	Attended
Board Member	Richard Harpur	Attended
Board Member	Dave Walsh	Attended

Senior staff in attendance

Chief Executive	Tanya Winter	Attended
Group Manager Business Enablement	Graham Bunn	Apology
Group Manager Engineering & Assets	Mark Lewis	Attended
Group Manager Regulatory & Growth	Tony Quickfall	Attended
Group Manager Strategy & Community	Nardia Gower	Apology
Chief Advisor	Ross McNeil	Attended via Zoom

Opening formalities

Commencement of meeting	Te tīmatanga o te hui	4
Apologies	Ngā hōnea	4
Public forum	Hui tūmatanui	4
Late items	Ngā take tōmuri	5
Declaration of conflict of interest	Te whakapuakanga pānga taharua	5
Confirmation of minutes	Te whakaū i ngā meneti	5

Decision reports**Ngā pūrongo whakatau**

Item 29	Update on consultation on the removal of pohutukawa trees, Kāwhia	6
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Information only reports**Ngā pūrongo mōhiohio anake**

Item 30	Kāwhia/Aotea/Ōpārau Concept Plan – Implementation Update December 2024	7
Item 31	Aotea Seawall resource consent renewal update	7

Public excluded**Take matatapu**

There are no reports.

Other business**Ētahi atu take**

Board Member updates		8
Board projects		8
Community Board discretionary fund		9
Resolution Register		9

Closing formalities

Closing prayer/reflection/words of wisdom	Karakia/huritao/whakataukī	9
Meeting closure	Katinga o te hui	9

Workshops/briefings

There are no scheduled workshops or briefings.

This Open Minute was prepared by Manager Governance, Kaia King and approved for distribution by Group Manager Regulatory & Growth, Tony Quickfall on 13 December 2024.

Commencement of meeting**Te tīmatanga o te hui**

Chairperson Good declared the meeting open at 4.02pm and provided the opening prayer.

Apologies**Ngā hōnea**

Resolved K88: That Kāwhia Community Board receive and accept the apology from Deputy Chairperson Hinga Whiu for non-attendance.

Chairperson Good | Board Member Walsh

Public forum**Hui tūmatanui****Annie Mahara**

Ms Mahara spoke on the Kai 4 All project who had approached her to organise a kai distribution hub for the community from the Kāwhia Community Hall. She noted the distribution would be from the Hall kitchen and no home deliveries would be made. The distribution would be on a first come, first served basis. She requested funding for the Hall hireage of the kitchen for 2 hours per week for 6 months.

Councillor Jeffries queried if the impact on local food businesses had been considered and Ms Mahara noted the distribution would be on 1 day per week which would benefit the big families in the community. Chairperson Good queried the volume of kai to be distributed and Ms Mahara advised the kai was provided by Fresh Choice, Woolworths and a Cambridge bakery. Fresh Choice would deliver to the Hall what was available however there were no guarantees on quantity. In response to a further query, Ms Mahara advised the distribution would commence before the holiday period.

Horahaere Scott

Ms Scott spoke then passed to Annie who advised the sculpture funded by the Board had been concreted in (with assistance from Board Member Walsh) and the area was now clean and tidy. Ms Mahara was looking at the fence and has contacted local artists to see if art could be installed in the area including Carole Shepherd. Ms Mahara advised a reveal of the area and unveiling of the statue would be held on 13 February at 1pm. This would be followed by a community luncheon. She invited the Board to attend.

Ms Scott spoke on the initiative of the Māori Women's Welfare League to plant pīngao (golden sand sedge) between Te Papa o Karewa and Tangi Te Korowhiti. She advised pīngao has now been planted in the area.

Ms Scott spoke on the recent spate of vehicle strandings on the beach. She advised she has applied for a Rāhui to be placed on the area to protect the environment. In response to a query from Councillor Jeffries,

ŌDC's Tony Quickfall undertook to investigate the public road location. Ms Scott advised the seawall outside Maketū Marae was not the actual boundary and the Marae's ownership of the land extending further out.

Late items

Ngā take tōmuri

Resolved K89: That the Kāwhia Community Board

- a) Approves consideration of a late item, being a request for funding from the Discretionary Fund for \$240 inclusive of GST to Annie Mahara for the fortnightly hireage of the Kāwhia Community Hall to open an Operation Kai 4 All foodbank.
- b) Note that this item cannot be dealt with at a subsequent meeting due to the next meeting being 13 February 2025 and the need for a foodbank over the holiday period.

Chairperson Good | Board Member Harpur

Declaration of conflict of interest

Te whakapuakanga pānga taharua

There were no declarations made.

Confirmation of minutes

Te whakaū i ngā meneti

Resolved K90: That Kāwhia Community Board confirm as a true and correct record of the meeting, the open Minutes of the meeting held on 7 November 2024 (document number 787676).

Board Member Walsh | Councillor Jeffries

Matters arising:

1. Councillor Jeffries sought an update on the progress to resolve car and boat parking at the Karewa boat ramp. ŌDC's Tony Quickfall advised a report would be presented to the Board in 2025.
2. Board Member Harpur spoke on the concerns raised by Councillor Jeffries in response to the presentation by Michael Edmonds at the previous Board meeting. He had spoken to Mr Edmonds who had requested a letter from the Board to support their initiative.

Decision reports**Ngā pūrongo whakatau****Item 29 Update on consultation on the removal of pohutukawa trees, Kāwhia**

ŌDC's Mark Lewis spoke on behalf of the report writer who could not attend the meeting. He acknowledged the feedback received during the community consultation but advised staff were still seeking the removal of the trees. He confirmed a total of 12 trees would need to be removed, of which 10 were pōhutakawa.

Board Member Walsh queried if direct mana whenua consultation had been done and Mr Lewis advised direct consultation had not been undertaken. Board Member Harpur suggested people could walk along the beach rather than install a pathway. Chairperson Good noted the beach was unavailable for 6 hours each day so this was not a viable option.

Mr Lewis stated the footpath was a secondary consideration as the trees were affecting the coastal structure and it would be a significant expense to the community to rebuild the seawall. He noted that a gravel pathway was proposed by staff.

Councillor Jeffries queried the funds provided for the seawall and Mr Lewis noted the \$730K was for the entire seawall through to Maketū Marae and not specifically for that portion of the seawall. He stated there were three areas where the seawall was damaged with some parts of the wall pushed out from the trees. He noted that further north there was no seawall, and staff were looking to put rock in as a temporary barrier to slow erosion.

Councillor Jeffries referred to clause 5.7 and queried the costings. Mr Lewis noted clause 5.7 was specifically in relation to option 3, relocating the seawall, and the costings for maintaining existing structures and building new were significantly different.

Chairperson Good queried if the boardwalk design could be amended for option 1 and Mr Lewis noted the tree removal may not require a boardwalk component. Councillor Jeffries queried if the watermain was impacted and Mr Lewis confirmed there was no underground infrastructure in the area concerned.

Councillor Jeffries noted the removal of the trees as at the Board's discretion and the Urban Trees Policy did not require community consultation. He suggested an arborist assess the trees and Chairperson Good noted an arborist could provide advice on how the trees were affecting the seawall which was an engineering matter.

In response to a query from Councillor Jeffries, Mr Lewis confirmed there were 10 pōhutakawa trees and 2 other trees recommended for removal. He advised the trees could be marked prior to removal for community awareness and once removed the stumps would be removed prior to pathway construction. Chairperson Good noted the resulting wood could be offered to local Marae and community groups for re-use. Mr Lewis advised that could be actioned.

Resolved K91: That the Kāwhia Community Board:

- a) receives the feedback from the community from the consultation period and
- b) approves the removal of 12 trees including 10 Pōhutukawa along the seawall to the left of Pouewe St on the main entrance to Kāwhia as identified in the October 2024 report (document number 781672).
- c) Requests the trees are identified via marking for community awareness prior to their removal.
- d) Requests the wood is offered to local marae and the community for re-use.

Board Member Walsh | Board Member Harpur

Information only reports

Ngā pūrongo mōhiohio anake

Item 30 Kawhia Aotea Ōpārau Concept Plan – Implementation Update December 2024

ŌDC's Ross McNeil took the report as read. In response to a query from Chairperson Good, Mr McNeil advised a targeted request for proposal (RFP) process would be undertaken with responses due in early February and commenced in March. This work would include reserve concept plans (Aotea Beach Reserve, and Omimiti Reserve) as well as the Urban Design Plan and Jervois Streetscape Upgrade.

Resolved K92: That the Kāwhia Community Board receives the report: Kawhia Aotea Ōpārau Concept Plan – Implementation Update December 2024 (document number 790123).

Councillor Jeffries | Board Member Harpur

Item 31 Aotea Seawall Resource Consent Renewal update

ŌDC's Robbie Whiteman, Manager Projects took the report as read and advised of a minor error in the report where the May 2024 seawall emergency works was incorrectly noted as August 2024. He advised that following the distribution of the agenda, Waikato Regional Council had provided the draft Conditions which ŌDC staff were reviewing. In response to a query from Councillor Jeffries, Mr Whiteman stated the wall height was based on the sea level of a 100 year return event which showed any areas below the level indicated would be subject to surcharge. In response to comments from Councillor Jeffries and Chairperson Good, Mr Whiteman confirmed on set of stairs had been removed during remedial works. In response to a query from Councillor Jeffries, Mr Whiteman confirmed the costs were for the physical works and there was no overhead included.

Resolved K93: That the Kāwhia Community Board receive the report titled 'Aotea Seawall resource consent renewal update' (document number 787014).

Board Member Harpur | Board Member Walsh

Public excluded**Take matatapu**

There were no reports.

Board Member updates**Ngā kōrero hou a ngā Kaikaunihera**

Board Member Walsh spoke on the Kāwhia Sports Club rebuild project advising the draft Memorandum of Understanding and draft lease agreement had been received from Ōtorohanga District Council. He advised the formal quote for the structure build had been received and was approximately \$100K less than the original quote. In response to a query from Board Member Harpur, he advised the Club had to decide if the driveway access would need to be gated which would close the tennis courts during the rebuild.

Board Member Harpur spoke on the Pataka Kai shed which was on hold as the person who initiated the project would not be able to oversee the Pataka once installed. Chairperson Good called for a member of the community to step forward and take ownership of the Pataka. Board Member Harpur attended the local Art Exhibition, and the Hamilton let of the recent Hikoi. In response to a query from Board Member Walsh, he advised a site had been selected for a community garden, but he had no further update at that time.

Councillor Jeffries, with Chairperson Good, provided a tour of the Kāwhia and Aotea communities for Ōtorohanga District Council's Regulatory department. He then spoke on a Maru Trust presentation to Ōtorohanga District Council's meeting in November and joined via Zoom a hui on 3 Waters reform which provided an update to iwi.

Chairperson Good thanked Deputy Chairperson Whiu who chaired the November meeting in his absence. He attended the farewell for the local Policeman, Jonathan (Jono) Maoate. He was joined by Councillor Jeffries at a meeting on the Ōtorohanga College school bus and advised a possible solution may have been determined. He then spoke on an incident at Aotea where 5 fuel tanks were stolen from the marine farm, and another incident where visiting fishermen were threatened and assaulted at the Aotea boat ramp.

Board projects**Project 1: Kāwhia Storyboards**

No update was provided as Deputy Chairperson Whiu was not in attendance.

Community Board discretionary fund

Resolved K94: That the Kāwhia Community Board approve a grant of \$480 inclusive of GST to Annie Mahara for the weekly hireage of the Kāwhia Community Hall to open an Operation Kai 4 All foodbank.

Councillor Jeffries | Board Member Walsh

Resolution Register

Board Member Walsh advised the Kāwhia Sports Club had received the draft lease from Ōtorohanga District Council for consideration. He requested Resolution K85 be retained on the Register until the lease was signed. No changes were made to the Register.

Closing prayer/reflection/words of wisdom**Karakia/huritao/whakataukī**

Councillor Jeffries led the Board in a recitation of the karakia provided in the agenda.

Meeting closure**Katinga o te hui**

Chairperson Good declared the meeting closed at 5.35pm.

Workshops/briefings

There were no scheduled workshops or briefings.

Decision reports**Ngā pūrongo whakatau**

There are no reports.

Information only reports**Ngā pūrongo mōhiohio anake**

DISCLAIMER: The reports attached to this Open Agenda set out recommendations and suggested resolutions only. Those recommendations and suggested resolutions DO NOT represent Ōtorohanga District Council policy until such time as they might be adopted by formal resolution. This Open Agenda may be subject to amendment either by the addition or withdrawal of items contained therein.

Item 31 Kāwhia beach access road – legal status

To Kāwhia Community Board

From Tony Quickfall, Group Manager Regulatory and Growth

Type **INFORMATION REPORT**

Date 13 February 2025



1. Purpose | Te kaupapa

- 1.1. To update the Kāwhia Community Board (the Board) following a request at the December 2024 meeting on the legal status of the beach access road.

Important disclaimer

The advice contained within this report is staff advice, based on publicly accessible information. This report does not purport to provide legal advice in any way, shape or form, and should not be relied upon as legal advice.

2. Executive summary | Whakarāpopoto matua

- 2.1. At its meeting on 5 December 2024, the Board received a verbal update on a proposed rāhui on the beach access road during the public forum. This was in response to vehicles repeatedly getting stuck. Following a query from Councillor Jeffries on legal status, staff undertook to come back to the Board with further advice.
- 2.2. The issue of beach access continues to arise from time to time and this report confirms staff’s previous advice.

Comprehensive Summary

- 2.3. The beach is a legal road under the Land Transport Act 1998. Normal road rules apply and the legal road is the “beach”. Because “beach” is not defined, it is generally considered to be the entire area of sand between the sea at low tide and the land.
- a) For Kāwhia and Aotea beach access, Ōtorohanga District Council (ŌDC) is the road controlling authority, and New Zealand Police enforce any breach of road rules.
 - b) The Waikato Regional Council Regional Coastal Plan restricts vehicle access and vehicle speed below the high tide mark. Therefore, Waikato Regional Council administers vehicle access below high tide, and ŌDC is the road controlling authority above high tide.
 - c) The Marine and Coastal Area (Takutai Moana) Act 2011 guarantees public (pedestrian) access over the foreshore (“common marine and costal area”) including across any private freehold title where the foreshore has encroached. The two exceptions are no right of public access on foreshore that is “specified freehold land” and no right of vehicle access on the foreshore.
 - d) In the case of Kāwhia beach, vehicle access is permitted under the Land Transport Act 1998.

- 2.4. Public access on the foreshore can only legally be restricted if a Customary Marine Title has been issued **and** a wāhi tapu is specified, **and** public restrictions are specified. There are currently no Customary Marine Titles issued around Kāwhia.
- 2.5. A general rāhui does not have any legal status to restrict public access.

3. Staff recommendation | Tūtohutanga a ngā kaimahi

That the Kāwhia Community Board receive the report titled 'Kāwhia beach access road – legal status' (document number 797961).

4. Discussion | He kōrerorero

- 4.1. The Kāwhia foreshore provides vehicle access from the Kāwhia boat ramp around the Kāwhia headland. This is popular for recreational activities as an alternative to walking over the sand dunes at Te Puia Road end.
- 4.2. The issue of the legal status and administration of the Kāwhia beach access arises from time to time. While this is a complex area involving various legislation, the legal status is relatively clear. It is noted there continues to be some general misinformation and/or misunderstanding around the legal status and administration of the beach access.

Legal Status

- 4.3. In Aotearoa/New Zealand, "beaches" are specified as legal roads in the [Land Transport Act 1998](#) (the definition of "road" includes "beach") . "Beach" is not itself defined, and where there is no definition then the legal principle is to apply ordinary everyday meaning. In this case the generally accepted area of "beach" (i.e. legal road) is the area of sand between low tide mark and the land. Traffic laws, such as speed limits and vehicle registration requirements, can be enforced on beaches by New Zealand Police.
- 4.4. The exception is where a council has issued a local bylaw restricting access to beaches. ŌDC has no restrictive bylaws, and all beaches in the district retain access as legal roads.
- 4.5. In summary, the extent of the legal road is the entire beach area between land and low tide.

Administrative Bodies

- 4.6. A beach falls under the local council as the road controlling authority. Usual procedures apply around any specific speed limits or road closures.
- 4.7. The New Zealand Police have full powers to enforce normal road rules for beach roads.
- 4.8. Under the Resource Management Act, regional councils administer the "coastal marine area" which is the sea out to the Exclusive Economic Zone and the "wet beach area" below high tide. The Waikato Regional Coastal plan (administered by Waikato Regional Council) restricts vehicle access and speed below high tide on all beaches (refer Operative Regional Coastal Plan rule 16.6.2, Proposed Regional Coastal Plan rule DD-R2).

Figure 1: Kāwhia Beach showing indicative jurisdictions



Private Titles

- 4.9. Along the Kāwhia foreshore (and also Aotea foreshore), historic titles extend into what is now the foreshore (the beach) or the coastal marine area (the sea). Erosion over time has created this foreshore encroachment into private titles.
- 4.10. In 2011 the National-led government replaced the Foreshore and Seabed Act 2004 with the Marine and Coastal Area (Takutai Moana) Act 2011. Crown ownership of the foreshore and seabed was replaced with a ‘no ownership’ regime. The Marine and Coastal Area (Takutai Moana) Act 2011 sets out legal rights for access to the foreshore, including where the foreshore has encroached into private titles.
- 4.11. Under the Act, every individual has, without charge, the following rights, including across historic private freehold titles where the foreshore has encroached:
 - *“to enter, stay in or on, and leave the common marine and coastal area;*
 - *to pass and repass in, on, over, and across the common marine and coastal area;*
 - *to engage in recreational activities in or on the common marine and coastal area.”*
- 4.12. There is one exception to public access for “specified freehold land”, where public access is restricted. “Specified freehold land” includes:
 - *“Māori freehold land within the meaning of section 4 of Te Ture Whenua Māori Act 1993*
 - *Land set apart as a Māori reservation under Te Ture Whenua Māori Act 1009*
 - *Land registered under the Land Transfer Act 2017 and in which a person other than the Crown or a local authority has an estate in fee simple that is registered under that Act*

- *Land subject to Deeds Registration Act 1908 in which a person other than the Crown or local authority has an estate in fee simple under and instrument registered under that Act."*

4.13. Under the Act, iwi can also apply to the court or negotiate with the Crown for recognition of *customary rights* or *Customary Marine Title* over a particular area. This is a complex and specialised legal area. Generally, iwi rights and interests do not prevent existing rights and uses such as fishing, aquaculture, and public access along the foreshore can only be legally restricted if:

- a) Iwi have been granted a Customary Marine Title **and**
- b) The Customary Marine Title specifies wāhi tapu locations, restrictions and any exemptions **and**
- c) Public access restrictions have been imposed in relation to the wāhi tapu.

4.14. There are multiple (overlapping) applications seeking Customary Marine Titles around the Kāwhia/Aotea foreshore. As at the date of this report, no titles have been granted/issued and these applications are progressing through the legal determination process.

4.15. In summary, the right of public access generally exists around the Kāwhia foreshore including where the foreshore has encroached into private land, unless that land is "specified freehold land", which includes Māori Freehold Land. There is no right of public access across "specified freehold land".

Rāhui

4.16. A rāhui is a traditional Māori practice used to restrict access to, or use of, an area or resource. It is a form of tapu (sacred restriction) imposed by the kaitiaki (guardians) of the area to protect it for various reasons, such as conservation, respect after a death, or to allow resources to regenerate.

4.17. A rāhui can be placed on land, sea, rivers, forests and other resources. It is usually marked by visible signs, such as a carved post (pou rāhui), and is often accompanied by appropriate rituals and prayers (karakia) performed by a person of mana.

4.18. A rāhui, while deeply respectful and observed within Māori culture, does not automatically have legal status. The only circumstances where a rāhui can be legally enforced are:

- a) Temporary Closures: Under the Fisheries Act 1996, a rāhui can be formalised as a temporary closure by the Minister of Fisheries. This legally prohibits fishing in the designated area and can be enforced by Fisheries Officers.
- b) Customary Marine Title: Where a Customary Marine Title has been issued and there are wāhi tapu and a rāhui is in place over the area, stopping people from accessing it or fishing there. A warden is usually engaged/employed by mana whenua iwi to help carry out a rāhui and maintain the mana and tapu, or sacredness, of the space.

Summary

4.19. The beach is a legal road under the Land Transport Act 1998. Normal road rules apply and the legal road is the "beach", being the entire area of sand between the sea at low tide and the land.

- a) For Kāwhia and Aotea beach access, ŌDC is the road controlling authority, and New Zealand Police enforce any breach of road rules.

- b) The Waikato Regional Council Regional Coastal Plan restricts vehicle access below the high tide mark. Therefore, Waikato Regional Council administers vehicle access below high tide, and ŌDC is the road controlling authority above high tide.
- c) The Marine and Coastal Area (Takutai Moana) Act 2011 guarantees public (pedestrian) access over the foreshore (“common marine and costal area”) including across any private freehold title where the foreshore has encroached. The two exceptions are no right of public access on foreshore that is “specified freehold land” and no right of vehicle access on the foreshore. In the case of Kāwhia beach, vehicle access is permitted under the Land Transport Act 1998.
- d) Public access can only legally be restricted if a Customary Marine Title has been issued and a wāhi tapu is specified, and public access restrictions are applied. There is currently no Customary Marine Title around Kāwhia/Aotea.
- e) A general rāhui does not have legal status to restrict public access.

Public excluded**Take matatapu**

There are no reports.

Board Member updates**Ngā kōrero hou a ngā Kaikaunihera**

All Board Members will be invited by the Chairperson to provide a verbal update to the meeting.

Board projects**Project 1: Kāwhia Storyboards****Community Board discretionary fund**

Any decision to allocate the Board's funds must be made to promote the social, economic, environmental, and cultural well-being of the Kāwhia and Aotea community in the present and for the future.

Date of grant	Resolution #	Recipient	Purpose	Amount (excl. GST)
3/10/24	K81	Kāwhia Kai Festival	Event funding	1,000
7/11/24	K86	Kāwhia Kai Festival	Resolution K81 rescinded	-1,000
5/12/24	K94	Annie Mahara	Hall hire for Operation Kai 4 All	417.40
Total granted				\$417.40
Total remaining				\$4,582.60

Resolution Register

Previous resolutions of the Kāwhia Community Board which are not yet finalised are outlined below.

Resolution #	Date	Resolution	Staff update
N/A	26/2/21	That a meeting be held with recreational and commercial users of the Kāwhia wharf to discuss: a) costs required to maintain the wharf asset b) the setting of fair and reasonable fees and charges and how these will be collected c) who pays.	There are two phases of this project. The first is the development of an asset management plan for the wharf structure. This phase has been included in a wider project which is currently underway.

			Once completed the Plan will provide guidance for ongoing maintenance costs, and possible replacement of the wharf. Further discussions are anticipated in 2025 about ongoing charges and funding.
05/12/24	K91	That the Kāwhia Community Board: a) receives the feedback from the community from the consultation period and b) approves the removal of 12 trees including 10 Pōhutukawa along the seawall to the left of Pouewe St on the main entrance to Kāwhia as identified in the October 2024 report (document number 781672). c) Requests the trees are identified via marking for community awareness prior to their removal. d) Requests the wood is offered to local marae and the community for re-use.	The removal of the trees is planned for after the holiday period. It is recommended that this Resolution be retained until the trees have been removed and an update provided to the Board.

Closing prayer/reflection/words of wisdom**Karakia/huritao/whakataukī**

The Chairperson will invite a Member to provide the closing words and/or prayer/karakia.

Meeting closure**Katinga o te hui**

The Chairperson will declare the meeting closed.

Workshops/briefings

Workshop	Kāwhia boat park	Open to the public
Workshop	Draft Annual Plan 2025/26	Open to the public

For use in both opening and closing meetings

A Member will provide the words of their preference or may choose to use the following:

Mā te whakapono	<i>By believing and trusting</i>
Mā te tūmanako	<i>By having faith and hope</i>
Mā te titiro	<i>By looking and searching</i>
Mā te whakarongo	<i>By listening and hearing</i>
Mā te mahi tahi	<i>By working and striving together</i>
Mā te aroha	<i>By all being done with compassion</i>
Ka taea e tātou	<i>We will succeed</i>

For use in blessing food

A Member will provide the words of their preference or may choose to use the following:

Nau mai e ngā hua o te wao	<i>I welcome the gifts of food from the forest</i>
O te ngakinga	<i>From the cultivated gardens</i>
O te wai tai	<i>From the sea</i>
O te wai māori	<i>From the fresh waters</i>
Hei oranga mō tātou	<i>For the goodness of us all</i>
Tūturu whakamaua	<i>Let this be my commitment to all!</i>
Kia tina! Tina! Hui e! Tāiki e!	<i>Drawn together and affirmed!</i>