

OPEN AGENDA



Kawhia Community Board

Te Poari Hapori o Kawhia

Notice is hereby given that an ordinary meeting of the Kāwhia Community Board will be held in the Kāwhia Community Hall, Jervois Street, Kāwhia on **Thursday, 6 June 2024 commencing at 4.00pm.**

Tanya Winter, Chief Executive

27 June 2024

Membership

Chairperson	Upoko	Geoff Good	022 678 6053
Deputy Chairperson	Upoko Tiriwā	Hinga Whiu	021 181 1009
Member	Mema	Dave Walsh	021 296 0392
Member	Mema	Richard Harpur	022 401 7192
Member	Mema	Councillor Kit Jeffries	021 226 4904

Quorum

A majority of members (including any vacancies).

Role of the Community Board

The Kawhia Community Board (the Board) is a separate entity to Ōtorohanga District Council (the 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 Kawhia and Aotea communities.
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 Kawhia and Aotea communities.
4. Prepare an annual submission to the Council for expenditure within the community.
5. Communicate with community organisations and special interest groups within the Kawhia and Aotea communities.
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 Reserve Funds in accordance with the Terms of Reference for the following funds:

1. Kāwhia Reserve Fund.

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.

Important note for members of the public attending meetings

This meeting will be electronically recorded (audio and video) for the purpose of webcasting to Council's YouTube channel. Every care will be taken to maintain individual's privacy however attendees are advised they may be recorded as part of the general meeting proceedings or if speaking in the public forum.

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 contact governance@otodc.govt.nz at least two days prior to the meeting, identifying the speaker/s, providing their contact details and the topic(s) on which they wish to speak. 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.

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No reports.

Public excluded | Take matatapu

No reports.

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Order of agenda

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Opening formalities

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/huritao/whakataukī

The Chairperson will invite an elected member or a staff member to provide the opening words.

Apologies | Ngā hōnea

An elected member who has not been granted a leave of absence may tender an apology should they be absent for all or part of a meeting. The Board may accept or decline any apologies. For clarification, the acceptance of an elected member's apology constitutes a grant of leave of absence for that specific meeting(s).

Staff recommendation

That the Kāwhia Community Board receive and accept the apology from Chairperson Geoff Good for non-attendance.

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 the local authority.

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 debate or decisions will be made at the meeting on issues raised during the forum unless related to items already on the agenda.

Mr Aubrey Te Kanawa requested to be heard on a Solar Sense Ltd project, alongside Waipa Networks, looking at innovative ways to improve energy network resilience in the Kāwhia area.

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 of the Act relating to meeting notice, agendas, agenda format and content. Should a late item be raised, the staff recommendation is shown below.

That the Kāwhia Community Board accept the late item relating to ... (subject) due to ... (special circumstance).

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 staff recommendation is shown below.

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. Should any conflicts be declared the staff recommendation is shown below.

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 Board meeting are attached on the following page. The staff recommendation is shown below.

That the open minutes of the Kawhia Community Board meeting held on 6 June 2024, having been circulated, be taken as read and confirmed as a true and correct record of that meeting.

OPEN MINUTES



Kawhia Community Board

Te Poari Hapori o Kawhia

Open minutes of an ordinary meeting of the Kāwhia Community Board held in the Kāwhia Community Hall, Jervois Street, Kāwhia on Thursday, 6 June 2024 commencing at 4.00pm.

Tanya Winter, Chief Executive

17 June 2024

Elected Member attendance register

Chairperson	Upoko	Geoff Good	Apology
Deputy Chairperson	Upoko Tiriwā	Hinga Whiu	Attended
Member	Mema	Dave Walsh	Attended
Member	Mema	Richard Harpur	Attended
Member	Mema	Councillor Kit Jeffries	Attended

Senior staff in attendance

Chief Executive	Tanya Winte	Apology
Group Manager Business Enablement	Graham Bunn	Apology
Group Manager Engineering & Assets	Mark Lewis	Apology
Group Manager Regulatory & Growth	Tony Quickfall	Apology
Group Manager Strategy & Community	Nardia Gower	Apology
Chief Advisor	Ross McNeil	Apology
Policy Advisor	Andrew Loe	Attended

Order of business

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- Aubrey Te Kanawa

Board projects

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Opening formalities

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Decision reports | Ngā pūrongo whakatau

No reports.

Information only reports | Ngā pūrongo mōhiohio anake

No reports.

Public excluded | Take matatapu

No reports.

Other business | Ētahi atu take

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Opening formalities

Commencement of meeting | Te tīmatanga o te hui

Deputy Chairperson Whiu declared the meeting open at 4.01pm.

Opening prayer/reflection/words of wisdom | Karakia/huritao/whakataukī

Deputy Chairperson Whiu provided the opening karakia.

Apologies | Ngā hōnea

Resolved K64: That the Kāwhia Community Board receive and accept the apology from Chairperson Geoff Good for non-attendance.

Councillor Jeffries | Board Member Walsh

Public forum | Hui tūmatanui

Mr Aubrey Te Kanawa requested to be heard on a Solar Sense Ltd project, alongside Waipa Networks, looking at innovative ways to improve energy network resilience in the Kāwhia area.

Deputy Chairperson Whiu took the following item due to the availability of the external presenter.

Board projects

Project 1: Kāwhia storyboards

Frank Thorne joined the meeting via Zoom. He advised conversations had been held with three Museums regarding archive photos which are to be used in the storyboards. The details are being finalised and will be brought to the Board once confirmed. In response to a query from Councillor Jeffries, Mr Thorne advised contact had not yet been made with the Kāwhia Museum.

In response to a query from Deputy Chairperson Whiu, Mr Thorne advised the proposed storyboards included Pouewe which covers the area around the playground and Jervois Street. The storyboard would detail the area's origin story and its connection to Tainui.

Opening formalities

Late items | Ngā take tōmuri

There were no late items.

Decision reports | Ngā pūrongo whakatau

There were no reports.

Information only reports | Ngā pūrongo mōhiohio anake

There were no reports.

Public excluded | Take matatapu

There were no reports.

Other business | Ētahi atu take

Board Member updates

Board Member Walsh had met with ŌDC to discuss the lease arrangements for the Kāwhia Sports Club. He read out a confirmation email from ŌDC's Acting Property Manager, Chris Ryan. The email was in support of the project.

Board Member Harpur spoke on the draft Long Term Plan. He also spoke on the compliance costs for temporary traffic management. ŌDC's Roading Manager spoke on traffic management costs noting the application and legal process component was considerable. Councillor Jeffries noted Ōtorohanga District Council had agreed to fully fund the ANZAC Day service traffic management costs for both Kāwhia and Ōtorohanga.

Councillor Jeffries noted the recent heavy workload relating to the Kāwhia/Aotea/Ōpārau concept plan, Ōtorohanga rural concept plan and draft Long Term Plan hearings and deliberations. He spoke on the Ōtorohanga Kiwi House stage one opening. He also attended several regional housing meetings on facilitating assisting people into healthy homes.

Deputy Chairperson Whiu attended the Kāwhia/Aotea/Ōpārau concept plan hearing and deliberation meeting. She noted the upcoming Matariki Ball. She was also working with the designer to finalise the draft sign boards for the State Highway 39 turnoffs to Kāwhia.

Members discussed the submission process for the recent community consultations.

Opening formalities

Declaration of conflict of interest | Te whakapuakanga pānga taharua

There were no conflicts declared.

Confirmation of minutes | Te whakaū i ngā meneti

Resolved K65: That the open minutes of the Kawhia Community Board meeting held on 2 May 2024, having been circulated, be taken as read and confirmed as a true and correct record of that meeting.

Board Member Harpur | Board Member Walsh

Other business | Ētahi atu take

Community Board discretionary fund

Deputy Chairperson Whiu commented on the importance of ensuring community projects had the support of mana whenua, particularly for community groups seeking Board grants.

Members discussed the request for funding received from the Kāwhia Māori Womens' Welfare League for a 'Garden Sculpture - Terrazzo Family Statue' to go in the proposed Kaora garden. Board Member Harpur spoke to a comment made at the previous meeting in the public forum. He was against the need for a plaque noting the Board gave money as it was the community's money. This was supported by Deputy Chairperson Whiu.

Resolved K66: That the Kāwhia Community Board grant the amount of \$1,079.00 excluding GST to the Kāwhia Māori Womens' Welfare League for a 'Garden Sculpture - Terrazzo Family Statue' to go in the proposed Kaora garden.

Board Member Harpur | Board Member Walsh

Members discussed the request for funding received from the Kāwhia Whaleboats to help with traffic management costs for 2025.

Resolved K67: That the Kāwhia Community Board grant the amount of \$883 excluding GST to the Kāwhia Whaleboats to help with traffic management costs for 2025.

Board Member Walsh | Councillor Jeffries

Resolution register

There were no changes made to the Register.

Closing formalities**Closing prayer | Karakia**

Deputy Chairperson Whiu provided the closing karakia.

Meeting closure | Katinga o te hui

Deputy Chairperson declared the meeting closed at 5.00pm.

Workshops | Hui awheawhe

Footpath programme

Open

ŌDC's Paul Strange (Manager Roding) spoke to a map handout requesting Board members to note areas where footpaths needed improvements and suggestions for extending footpaths.

Decision reports | Ngā pūrongo whakatau

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 26 - Policy updates: Trading in public places, and compliance and enforcement

To: The Chairperson and Members of the Kāwhia Community Board

From: Tony Quickfall, Group Manager Regulatory and Growth

Date: 4 July 2024

Relevant community outcomes: Sustainable Engaged Responsible



1 Purpose | Te Kaupapa

1.1 To outline a proposed Trading in Public Places Policy, and Compliance and Enforcement Policy.

2 Executive Summary | Whakarāpopoto Matua

- 2.1 Ōtorohanga District Council (ŌDC) occasionally receives requests to trade in public places or is made aware of trading. Examples include food/coffee carts, events, stalls etc. “Public places” includes road reserves, green space reserves and other public places that may not be formal reserves.
- 2.2 To date, these trading activities have been relatively few, and ŌDC has managed these case by case. However, ŌDC recently received a formal request for mobile trading in multiple locations in Ōtorohanga town. This has identified a gap in that there is no procedure or process in place for issuing approvals (permits or licenses to occupy) for these activities. Note that an approval to occupy is separate from any regulatory approvals, which may include food license, resource consent or alcohol license.
- 2.3 Staff have therefore developed a Trading in Public Places Policy to clarify the procedure for considering, and approving, permits and licenses.
- 2.4 Similarly, ŌDC receives enquiries and complaints around various regulatory issues. These include parking, occasional freedom camping, resource consent conditions, district plan rules, roaming stock, traffic, noise, trade waste, and also trading in public places. Like trading in public places, ŌDC doesn’t have any policy guidance around how staff will operationalise ŌDC’s compliance and enforcement responsibilities. To address this, staff have prepared a Compliance and Enforcement Policy. This reflects ŌDC’s current approach of “light touch” with the focus being on advice and information, noting that ŌDC does not have any dedicated compliance staff.
- 2.5 Both are non-statutory operational policies (not required under any legislation) and are consistent with best practice and aligned with other councils who have similar policies.
- 2.6 These policies will be taken to ŌDC’s June meeting for endorsement.

3 Staff recommendation | Tūtohutanga a ngā Kaimahi

That the Kawhia Community Board receive the report 'Policy updates: Trading in public places, and compliance and enforcement' (document number 761279) from Tony Quickfall, Group Manager Regulatory & Growth.

4 Context | Horopaki

Trading in Public Places

- 4.1 One of ŌDC's functions is to authorise requests for traders and event organisers to occupy public places. This power is within legislation that ŌDC operates under, and the Group Manager Engineering & Assets has functional responsibility for approving requests to occupy public spaces. However, ŌDC does not have any guidelines around how staff approach trading in public places. A recent formal request to occupy multiple locations in Ōtorohanga town has identified an operational gap in that there is no clear procedure or process for considering requests to occupy public spaces.
- 4.2 Staff have looked at options for formalising this and have developed an operational policy to help guide consideration and decisions for requests to occupy public spaces. While a bylaw could also be developed, at this stage, given the relatively few enquiries and low impact of these activities, staff consider a policy is sufficient to guide the issue of permits and licenses to occupy.
- 4.3 The purpose of the proposed policy is to manage trading in public places so that:
- Public access, use and enjoyment of those places is maintained.
 - Effects on users and members of the public are minimised.
 - Mobile commercial activities are managed to regulate frequency, duration and numbers of activities.
- 4.4 The policy does **not** control trade competition where mobile traders may compete with permanent activities, as ŌDC has no legal powers to control trade competition. Staff are also aware that the Commerce Commission expressed concerns around anti-competitive behaviour and statutory powers to at least once council who sought to include trade competition as one of their considerations for controlling mobile trading.
- 4.5 The policy sets out:
- Various considerations for assessing applications to trade.
 - Types of activities covered.
 - Considerations around fees (including discretion to waive fees for community or charitable events/activities).
 - Types of conditions on permits and licenses.
 - Definitions.

- Forms for both applicants and permits/licenses.

4.6 It is proposed that the policy is endorsed by ŌDC, approved by the Chief Executive, and comes into effect from 1 August 2024. There is an initial 2 year review proposed with reviews 5 yearly thereafter.

Compliance and Enforcement

4.7 ŌDC has statutory functions to monitor compliance and undertake enforcement, in respect of various legislation. In addition, each bylaw of council also requires monitoring for compliance and enforcement. This is a relatively complex and specialised area, involving various pieces of legislation and bylaws, each with varying powers around compliance and enforcement ranging from a few hundred dollars (in bylaws) to prison and/or six figure fines (under the RMA).

4.8 ŌDC does not have any dedicated compliance staff. Rather, a number of staff undertaking other core roles are warranted enforcement officers as part of their core role. In the absence of a policy and dedicated compliance staff, there is a high risk of unclear or inconsistent approach to compliance and enforcement.

4.9 Despite this, staff have aligned their compliance and enforcement response with the current direction of ŌDC which is “light touch”. The focus is around advice and information, then warnings. Fines and prosecution are a last resort. Staff are proposing to codify this approach into a Compliance and Enforcement Policy.

5 Considerations | Ngā whai whakaarotanga

Significance and engagement

5.1 As non-statutory policies, neither policy meets the threshold for significance, and no public engagement is required. As “operational” guides for *how* we deliver, rather than *what* we deliver, the policies do not require any public input.

Impacts on Māori

5.2 The Trading in Public Places policy does not have any impacts or consequences specifically relating to iwi/Māori values. If ŌDC received any proposals to trade on public spaces which are of cultural significance, mana whenua iwi would be consulted prior to any approval.

5.3 The Compliance and Enforcement Policy is of interest to iwi in respect of activities impacting sites of cultural significance. The draft policy was circulated to mana whenua iwi for comment. One comment was received, requesting that iwi are consulted on any compliance or enforcement affected sites of cultural value. This change has been added to the policy

Risk analysis

5.4 The absence of any procedures or policy for trading in public places and compliance and enforcement is a risk area for ŌDC, with risks including inconsistency of ŌDC’s approach and uncertainty of process for staff, the public and traders/applicants.

5.5 Developing these policies mitigates these risk and ensures consistency of approach.

Policy and plans

5.6 The proposed policies codify ŌDC's statutory powers into procedure and policy documents. This responds to a generally low level of inquiry for trading and events, and a general low level of complaints around compliance and enforcement.

Legal

5.7 There are no significant legal considerations. The policies are in accordance with legislation and do not require a legal review.

Financial

5.8 There are no significant financial considerations, and no additional costs.

5.9 There are financial benefits in that the proposed policies will assist ŌDC staff to recover fees and charges where ŌDC may not be recovering these.

6 Discussion | He Kōrerorero

Option 1: Do nothing

6.1 "Do nothing" has generally been workable to date, however a recent formal request for approval to trade in multiple public locations, and ongoing enquiries/complaints around compliance, have exposed a risk around lack of procedural process. The absence of policies remains an organisational risk and do nothing (ad-hoc and inconsistent approach) is no longer considered a viable option.

Option 2: Prepare and implement policies as proposed

6.2 Preparation and implementation of the policies by staff is "no cost" and will mitigate the risks of not having any guidelines. The policies will provide consistency of approach, certainty for staff and public, increased recovery of fees and charges, improved management of public places, and the ability to and consider applications/complaints on a case by case basis. As policies, there is also some degree of discretion and flexibility to adjust our approach to specific circumstances, if and as needed.

Option 3: Prepare and implement bylaw (for Trading in Public Places only).

6.3 A bylaw is not appropriate or required for compliance and enforcement as this is covered in either legislation or other bylaws.

6.4 Development of a bylaw for Trading in Public Places typically follows where there is a heightened risk, or significant issues, around the management of a particular issue. Bylaw development is a legal process which is subject to legal review, consultation, submissions, hearings and formal adoption.

6.5 At this stage, trading in public places is not a significant issue for ŌDC. The level of events/inquiry is low, public complaints around trading are rare, and impacts from the current level of activity is minor. For these reasons a bylaw is not considered necessary, at this point in time.

Recommendation option and rationale

6.6 For reasons described in this report, Option 2 (policies) is proposed.

7 Appendices | Ngā ĀpitiHanga

Appendix #	Name
1	Proposed Trading in Public Places Policy
2	Compliance and Enforcement Policy



Ōtorohanga
District Council

POLICY

Trading in Public Places Policy 2024

Approval and review details

Approval authority	Ōtorohanga District Council	Effective date	1 August 2024
Administrator	GM Regulatory & Growth	Next review date	31 June 2026

Version History

Date	Version	Changes	Author	Approver	Date Adopted
15/5/24	1.0	Final	GM R&G	Chief Executive	Pending

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Purpose

Commercial activities in public places (events, market stalls, mobile traders, busking and street collections), can add character, vibrancy, and safety to urban areas (through activity and active surveillance), and can attract visitors. However they can also affect public use and enjoyment.

The purpose of this policy is to manage trading in public places so that:

- Public access, use and enjoyment of those places is maintained.
- Effects on users and members of the public are minimised.
- Mobile commercial activities are managed to regulate frequency, duration and numbers of activities.

NOTE: This policy does NOT control trade competition where mobile traders may compete with permanent activities. Council has no legal powers to control trade competition.

Trading and Events in Public Places Policy

1. Background

The Trading in Public Places Policy provides the framework to authorise activities and balance activities against the impacts of these activities.

Despite any approval under this policy, activities may require separate approvals under the Health Act (for food activities), the Resource Management Act, the Traffic Bylaw, and/or other relevant legislation or regulation.

2. Scope of the Policy

2.1. The scope of this policy is limited to trading and events undertaken on public places administered by Ōtorohanga District Council.

2.2. This policy does **not** cover:

- a. Mobile trading on Council owned property. This will be subject to separate lease arrangements.
- b. Mobile trading on private property. Activities on private property are still subject to other regulatory controls including but not limited to: food safety, alcohol licensing, resource management, noise, discharges, building)
- c. Trade competition impacts i.e. impacts of trade on other business carrying out similar trade. Council has no legal powers to constrain or control commercial activities which may result in trade competition with another activity.
- d. Trading or activities within any party of the State Highway corridor, **except for** the pedestrianised part of the State Highway running through Ōtorohanga Township central

business district which is under Council management. All other activities on State Highways are administered by Waka Kotahi NZ Transport Agency.

3. Policy objectives

The objectives of this policy are:

- 3.1. To enable temporary activities that enhance the use of public places, offer a service to residents and visitors, and provide diversity and vibrancy.
- 3.2. To retain the unimpeded and ongoing public use and enjoyment of public places.
- 3.3. To minimise safety and environmental impacts on adjoining uses and activities (excluding trade competition impacts).
- 3.4. To outline the process for applying for mobile and temporary trading in public places administered by Ōtorohanga District Council.

4. Location

4.1. Private land or Council-owned land

This policy does not apply. You will need written approval from landowner. Other regulatory controls may apply e.g. food registration and/or alcohol licenses and resource consent requirements under the Ōtorohanga District Plan.

4.2. Public places in the pedestrian precinct

Council will consider approvals on a case by case basis, with a priority for community-centred activities. Activities in these areas must not be contrary to or inconsistent with the policy objectives. Temporary mobile food stalls are not permitted in the pedestrian precinct unless part of an organised event or market.

4.3. Roadside activities

State highways. Approval for mobile trading on State Highways, arterial routes (as defined in the District Plan) lies with Waka Kotahi NZ Transport Agency. The sole exception is the pedestrian area of Ōtorohanga town centre.

Local roads.

- a. Approval will not generally be provided on roads with a speed limit that exceeds 50km/hour to ensure the safety of vendors and customers. Exceptions can be made if the activity is part of an organised event, and all traffic management requirements are met.
- b. Activities must not be contrary to or inconsistent with the policy objectives or relevant bylaws including the Traffic Bylaw.

4.4. Other public places and reserves

- a. Approval for mobile trading and events on other public places administered by Ōtorohanga District Council will be assessed on a case by case basis.
- b. Activities in these areas must not be contrary to or inconsistent with the policy objectives or any relevant legislation or bylaw.

5. Obtaining a permit or license

- 5.1. A formal application must be submitted using the relevant form in Appendices (also available on Council’s website and customer service desk).
- 5.2. All applications, including renewals or extensions, will be considered on a case-by-case basis. **No approvals will be issued unless all other regulatory approvals are first obtained.**
- 5.3. The Council will notify the applicant in writing of the outcome of the approval process within 20 working days. If approved, the required fee must be paid before the approval is issued.
- 5.4. The Council may require modifications to the applicant’s proposal, and these will be discussed with the applicant before approval is granted.
- 5.5. Approvals will be for a fixed duration only up to a maximum of 12 months, with renewals determined on a case by case basis on application for renewal.
- 5.6. Approvals may be subject to conditions including the right to revoke a permit or license to occupy under certain circumstances.

Approvals Process



6. Guiding principles for issuing a permit or license

When deciding whether to approve or decline an application, the Council will consider the following matters:

- 6.1. Consistency and adherence to the Council’s bylaws, policies, strategies, and plans, as well as other governing legislation (e.g. traffic legislation, Resource Management Act 1991, Reserves Act 1977);

- 6.2. Appropriate location – the activity should enhance the existing function and public use of the area while minimising impacts other users;
- 6.3. Accessibility - whether it is likely to cause a nuisance, obstruction or a hazard to mobility impaired persons, other pedestrians, or vehicular traffic;
- 6.4. Where a stall is located directly in front of a permanent shop(s), whether the applicant has engaged with or has the agreement of the permanent shop tenant(s).
- 6.5. Safety – including health and safety, and any traffic management issues;
- 6.6. Diversity and quality – the use of public places should provide opportunities for the public to participate in activities such as leisure, recreation, and entertainment;
- 6.7. Suitability - any negative impacts the activity might have on the amenity of the proposed area, with special regard to noise levels and any history of prior trading;
- 6.8. Sustainability - applicants are encouraged to integrate environmentally friendly practices in their operations, this may be a consideration for approval;
- 6.9. Density – this policy operates on a “first-in” basis, and approval will consider the number of other permits or licenses to occupy in the same area or in the vicinity of the proposed location(s). Renewal or extension of existing permits is not guaranteed, and permits will be issued in accordance with the objectives and considerations of this policy. Where there are multiple traders providing the same offerings, Council may consider rotational permits, or a competitive registration of interest process.

NOTE: no permit or license will be issued where, in the opinion of the Authorised Officer, any material on display or for sale or associated merchandise or promotions is, or has potential to be, objectionable or offensive.

7. Fees

- 7.1. Fees will be applied for commercial activities or events in public places in accordance with Council’s Schedule of Fees and Charges which is available on the Council’s webpage.
- 7.2. The Council reserves the right to charge rental fees and/or a bond for all commercial activities on a public place. The rent will be set at a level that reflects the value of the location and ensures that businesses on private property are not unfairly disadvantaged.

- 7.3. Fees may be waived at the discretion of an authorised officer for a voluntary organisation, school, registered charitable trust or community group where satisfactory evidence is produced that the proceeds from any trading are retained wholly for charitable or community purposes.

8. General conditions

The general conditions upon which written approval is granted may include, but are not limited to, the following:

- 8.1. The permit/license to occupy must be prominently displayed so that it is able to be read by the public at all times during the approved activities;
- 8.2. All permits/licenses to occupy are non-transferable and can be suspended or cancelled at any time due to non-compliance;
- 8.3. The times, duration and location of operation;
- 8.4. Unless specifically allowed to remain, any associated equipment must be removed from the site at the end of each day;
- 8.5. The trading or event area should be left clean and tidy, and all rubbish must be properly disposed of;
- 8.6. All traders must provide evidence they hold their own suitable public liability insurance, unless alternatives are agreed with Council;
- 8.7. Restrictions on the use of amplified music/sound, including generators;
- 8.8. Emergency vehicle access must not be impeded;
- 8.9. The display and/or sale of any material and associated merchandise or promotions must not be objectionable or offensive.
- 8.10. Obtaining any other required permits – **this is a pre-requisite** of a permit/license to trade or hold an event in a public place, including any necessary traffic management plan, corridor access request, food plan or alcohol licenses, resource consents, etc. **No permit or licence to occupy will be issued without all necessary regulatory approvals first being obtained.**

9. General information: Events

The Council generally supports events due to the wide array of social, cultural, and economic benefits events provide. For all events, refer to the Event Application Form and the Event Risk Assessment Form. These documents are available on our website and via customer services .

10. General information: Markets

Any group or individual interested in a site, or establishing an open air market, should contact the Council. Market stall applicants must approach the market organiser directly for a site. The Council may consider permitting the establishment of open air markets in other public places on an individual basis:

- Registrations of interest to run a market may be called to operate the market on the expiry of a license term;
- All stall sites open for tender will be publicly advertised;
- The allocation of all Council-administered market and stall sites will be decided by a weighted attribute method of tender.

Any allocated sites for permanent mobile food stall locations will be tendered on the expiry of a license.

11. General information: Stalls

Stalls are a common way to start a business, promote products at events, raise funds for charitable and educational organisations, or as a way for existing food businesses to reach new customers.

Any person wanting to run a stall to prepare or handle packaged or unpacked food for retail sale generally needs a license. See above if the stall is part of a market.

Stall operators selling food must also comply with the Food Act 2014 in respect of food to be sold at the stall.

12. General information: Mobile or travelling shops and mobile food stalls

Mobile trading is the temporary trading activity from a location which is vacated once trading has ended. For example, roadside stalls, coffee/food carts, and ice cream trucks. A permit is required to operate a mobile food stall or travelling shop, where these are parked up for the purposes of trading.

A permit is not required for itinerant and occasional “stop and go” trading where **all** of the following apply:

- a. the trading vehicle is parked lawfully; and
- b. the parked-up duration is less than 10 minutes in any one single location; and

- c. the activity does not trade in more than 5 separate locations within any consecutive 48 hour period;
and
- d. the activity does not operate for more than 2 days in any consecutive 7 day period

Most parks and reserves with offsite parking can accommodate temporary mobile food stalls, such as coffee carts and ice cream trucks. Vendors at parks should always take care not to damage the grassed surfaces, and to seek permission from organised groups using the park. Contact the Council to book a location.

13. General information: Goods or services for sale or hire

A **permit** is required to display goods or services for sale or hire in a public place. This activity includes businesses using the footpath outside their premises to display goods, such as clothing, tables with items for sale, and recreational equipment for hire. Where goods or services are for sale or hire, the items:

- 13.1. Must not impede the movement of pedestrians or vehicles, or be likely to cause danger to any person;
- 13.2. Must be placed immediately adjoining the premises from which the goods and/or services displayed may be purchased;
- 13.3. Be removed from the public place when the business is closed, or secured to the appropriate infrastructure, e.g. bike stands;
- 13.4. Goods on display must not be dangerous or offensive.

14. General information: Hawkers/pedlars

A hawker is someone who travels about carrying goods for sale unsolicited to the public but does not display them on a table or stall. A permit is required for hawking in a public place. Trading from a fixed location is not permitted. Hawkers/Pedlars are not permitted in the pedestrian precinct.

15. General information: Street performers and busking

All street performers, whether they need a permit or not, must comply with the Code of Conduct for Street Performance. A street performance permit is required:

- 15.1. if a street performer wishes to perform outside the central business district;
- 15.2. for all performances in Council parks and reserves (including within parks in the central city);

15.3. for any street performer using dangerous materials, objects, or animals - any other applicable legislation and policies must also be complied with. Dangerous materials include but are not limited to, substances that are flammable, toxic, or hazardous, sharp implements or those that pose a risk.

A permit is valid for a period of up to one (1) year, and the street performer will be able to nominate locations where they wish to perform.

Pavement Art is not permitted in the pedestrian precinct unless it is part of an approved event. A street performance permit is required for pavement art. The following conditions apply to pavement art:

- Use of materials that can easily be washed off without leaving any residue. The materials must not be slippery or create a public hazard;
- If the pavement art is created on a removable surface, such as plastic, canvas or paper/card, and is fixed to the pavement, it must be with a product that does not leave any residue;
- The site must be kept clean, tidy, and safe at all times;
- Commercial advertising is not permitted in pavement art;
- The artist must not offer individual works of art or products for sale at the site.

The Council may, from time to time, designate specific areas where street performance (including pavement art) is permitted or prohibited. The nominated street performance areas will be included in a Register on the Council website.

In addition, all street performers should note that the sale of any goods is not permitted as part of the street performance activity. A separate trading permit under this policy must be obtained to do so.

16. [General information: Fundraising](#)

Any individuals, groups or organisations wanting to use a public place to fundraise, must contact the Council to determine the suitability, location, and time.

17. [General information: Promotions](#)

Promotions include activities where promotional material is handed out, e.g. pamphlets, free goods. Where a promoter requires exclusive space to park a vehicle or set up equipment an event permit may be required. Contact the Council to discuss the activity.

Promoters should be mindful of the amount of litter that the activity generates and seek to minimise this by not forcing people to take the item if they do not want it and picking up any discarded promotional items in the vicinity of the activity.

18. General information: Other activities

For activities not specifically listed in this policy, contact the Council to discuss whether a permit/license is required for the activity.

Applications for permits/licenses to undertake commercial activities other than those already identified in this policy will be considered on a case-by-case basis, taking into account the type of activity, the environment the applicant wants to operate in and the impact on local existing businesses.

19. Monitoring and enforcement

The Council will monitor trading and events in public places to ensure that permit and license holders are complying with their permit or license conditions.

Anyone trading or holding an event in a public place without a permit will be required to cease the activity and remove any associated equipment/material.

Non-compliance with a license or lease will be managed in accordance with the conditions of the relevant license or lease.

20. Complaints or Compliments

Complaints or compliments about traders or events may be made to the Council via the Council's website, general email address, or by phoning 07 873 4000.

Complaints regarding violent, disorderly, or offensive behaviour should be referred in the first instance to the Police, and then to the Council.

Complainants are encouraged to talk to the trading, event, or activity operator to explain the issue and potential resolution (e.g. trade or perform elsewhere, reduce the noise level, or relocate if the activity is on a prohibited site).

Policy Review Date

An initial review two years with further reviews every 5 years.

APPENDIX 1: Definitions

In this policy, unless otherwise defined:

Authorised officer	means an officer or other person appointed by the Council provided with delegated authority under the Ōtorohanga District Council Traffic Bylaw or Delegations Register (including any warranted enforcement officer). Permits and licenses will be authorised by the Group Manager Engineering and Assets or alternatively, the Group Manager Regulatory and Growth.
Bylaw	means the Ōtorohanga District Council Traffic Bylaw 2015.
Commercial activity	includes: <ul style="list-style-type: none"> • trading, which includes selling, hiring, or displaying for sale any goods or services; • advertising goods, services, or events; • street performing; • other activities undertaken for payment or reward.
Corridor Access Request (CAR)	means an application to carry out any work or activity that affects the normal operation of the road, footpath, and grass berm prior to performing the work or activity.
Council	means the Ōtorohanga District Council and includes any person authorised by the Council to act on its behalf.
Food stall /mobile food stall	means a stall selling food and that meets the requirements of the Food Act 2014.
Enforcement officer	means any person who has been appointed as an enforcement officer by the Council under the Local Government Act 2002.
Event	means an organised temporary activity with set start and end dates, which is set-up in a public place. It may be free or ticketed, conducted for the purpose of attracting revenue, support, awareness, and/or for entertainment, community connection or competition. An event may include the erection of structures, setting up of equipment, and other activities that could require exclusive use or prevent access or use by others of the public place.

<p>Hawker</p>	<p>includes a pedlar or any person with goods, wares or merchandise for sale that are either carried or taken around by the seller and offered unsolicited to the public in a public place. For avoidance of doubt, it does not include stallholders or mobile or travelling shops.</p>
<p>License to Occupy</p>	<p>means a contractual agreement with the Council issued under this policy which authorises the applicant to carry out a specific activity, at a specified location, for a specified duration.</p>
<p>Mobile or travelling shop</p>	<p>means a vehicle, whether self-propelled or not, from which goods, wares, or merchandise may be purchased in the road or from which services are offered for sale in the road; but does not include any vehicle on or from which food is sold for consumption (see (mobile) food stall), or any vehicle used for the purpose of transporting and delivering goods, wares, or merchandise.</p>
<p>Objectionable or offensive</p>	<p>Objectionable: <i>describes, depicts, expresses, or otherwise deals with matters such as sex, horror, crime, cruelty, or violence in such a manner that it is likely to be injurious to the public good</i> (source, Department of Internal Affairs).</p> <p>Offensive: <i>expresses hostility against, or contempt or ridicule towards, another person on the ground of race, ethnicity, or national origin; and is likely to be unwelcome or offensive to that person, whether or not it was conveyed directly to that person</i> (source – NZ Law Society)</p>
<p>Open air market</p>	<p>means any outdoor place, accessible to the public, where goods or services are offered for sale, which usually consists of several stalls grouped together.</p>
<p>Pavement art</p>	<p>means temporary images or drawings created for the purposes of public exhibition either directly on to the pavement or on removable surfaces, such as paper or plastic, laid out on the pavement. Advertising on the pavement is not considered to be pavement art under this policy.</p>
<p>Pedestrian precinct</p>	<p>means any of the pedestrian area of Ōtorohanga and Kawhia central business district or main street, including linking side streets, lanes, and open spaces.</p>
<p>Permanent mobile stall</p>	<p>means a mobile stall that has a lease agreement with the Council for more than six months.</p>

Permit	means a temporary of fixed term permit issued by the Council under this policy or a relevant bylaw.
Public place	<p>means an area that is open to or used by the public, and which is owned, managed, maintained, or controlled by the Council. Public places include, but are not limited to: roads, streets, footpaths, alleys, pedestrian malls, cycle tracks, lanes, accessways, thoroughfares, squares, carparks, reserves, parks, beaches, foreshore, riverbanks, berms, verges, and recreational grounds.</p> <p>Explanatory Note: Privately-owned public places, such as lanes or squares, will only fall within the above definition if they are also managed, maintained, or controlled by the Council. The Council will consider on a case-by-case basis in discussion with the landowner whether any privately-owned public places should come under Council's management, maintenance, or control for the purposes of the Bylaw. Similarly, the Council may enter into an arrangement with the Crown to manage, maintain or control its land by mutual agreement, usually where the land is adjacent to Council-owned land.</p>
Road	has the same meaning as in section 2(1) of the Land Transport Act 1998.
Street performance	includes busking and means a person or group of persons who is/are actively providing a performance to entertain in exchange for a donation. A street performance may include sounding or playing a musical instrument, singing, reciting, or performing conjuring, juggling, puppetry, miming, statue acts, dancing, or other entertainment, or doing any of those things concurrently.
Trading	includes selling, hiring, or displaying any goods or services for sale
Traffic Management Plan	means a document describing the design, implementation, management, and removal of temporary traffic management measures (such as signs and road cones) while an activity or event is taking place within the road or adjacent to and affecting the road. This includes plans prepared for one-off events and generic plans to cover activities carried out frequently.
Temporary retail	means any stand, stall, tent, mobile shop, vehicle, vessel, or other setup from which goods and/or services are sold that is open in a temporary nature and removed when not in use.

Schedule 1 – Forms

Form 1A: Application for Mobile Trading License

Form 1L: License to Occupy a public space for mobile trading

Form 2A: Application for Hawkers License

Form 2L: License to Occupy a public space to undertake hawking

Form 3A: Application for Commercial Services or Events License

Form 3L: License to Occupy a public space to undertake commercial services or an event

Form 4A: Application for permit to solicit donations or sell lottery tickets

Form 4P: Permit to solicit Donations or sell Lottery Tickets

Form 5A: Application for Buskers Permit

Form 5P: Permit to undertake busking

Trading in Public Places Form 1A: Application for Mobile Trading License



Full Name:

Address:

Phone:

Email:

Occupation:

Date of Birth:

Description of vehicle to be used:

Registration number:

Goods to be sold:

CONVICTIONS:

(a)	Under the Motor Legislation	Yes	No
(b)	In the Police Court	Yes	No

If yes provide details:

Particulars to be provided as part of Application

i)	Vehicle Warrant of Fitness and Registration	Yes	No
ii)	Road User Certificate	Yes	No
iii)	Electrical Certificate	Yes	No
iv)	LPG Installation Inspection Certificate (from a registered gasfitter)	Yes	No
v)	All regulatory approvals obtained	Yes	No

I do hereby solemnly state to the best of my knowledge and belief that the foregoing particulars are correct and that the issue to me of a Mobile Trading License is conditional on the understanding that the particulars stated in this application are true and correct. I further declare that I am familiar with the terms and conditions which apply to this license and agree to abide with same.

Signature of Applicant: _____ Date: _____



Trading in Public Places Form 1L: LICENSE TO OCCUPY

a public space for Mobile Trading

The person named herein is authorised to operate a Mobile Shop within Ōtorohanga District subject to the terms and conditions as set out.

Full name of license holder:

Address:

Registration number of vehicle used:

Goods permitted to be sold:

Expiry date:

Special conditions (if any):

Approved under delegated authority:

Name:

Role:

Date:

General License Conditions

1. The holder of a Mobile Trading License shall carry the license at all times.
2. The license will apply only to the vehicle whose registration number is specified on the license.
3. Trading is prohibited in the following areas:
 - i) all Parks and Reserves not listed on this license (including car parks and roads in Reserves);
 - ii) restricted areas – schedule if any;
 - iii) within 200 metres of another premises selling similar products;
 - iv) within 50 metres of any intersection or pedestrian crossing where people visiting the site may be placed in danger.
4. No trading is allowed on State Highways, except with the specific consent of NZTA.
5. The licensee or operator of any mobile shop shall not remain stationary on any one site for a period exceeding one hour.
6. The operator of the Mobile Shop shall ensure that the area in which trading is carried out is cleaned up when trading is finished.

Trading in Public Places Form 2A: Application for Hawker's License



Full Name:

Address:

Phone:

Email:

Occupation:

Nature of goods to be offered for sale:

Address of premises to be used for the preparation or storage of any food:

Date:

Applicant's signature:



Trading in Public Places Form 2L: LICENSE TO OCCUPY

a public space to undertake hawking

The person named herein is authorised to ply the trade of a hawker within Ōtorohanga District Council subject to the terms and conditions as set out.

Full name of license holder:

Address:

Registration number of vehicle used:

Goods permitted to be sold:

Expiry date:

Special conditions (if any):

Approved under delegated authority:

Name:

Role:

Date:

License Conditions

1. This license must be available on demand, to any Authorised Officer or Police Officer.
2. No trade is allowed on any reserve without the specific consent of the Council.
3. No trade is allowed on the State Highway, except with the specific consent of NZTA.
4. The Council may limit the class of goods to be sold, and the hours or days during which business can be carried out.

Trading in Public Places Form 3A: Application for Commercial Services or Event License



Full name:

Address:

Phone:

Email:

Date of Birth:

Nature of service to be offered:

The area of the District in which the
service is to be offered:

Date/s on which the service is to be
offered:

The time of the day during which the
service is to be offered:

Date:

Applicant's Signature:

Trading in Public Places Form 3L: LICENSE TO OCCUPY a public space to undertake Commercial Services or an Event



License holder: _____

License Expiry Date: _____

Authorised Service: _____

Area of Operation: _____

Date of Operation: _____

Time of Operation: _____

Special conditions (if any): _____

Date of Issue: _____

Approved under delegated authority: _____

Name: _____

Role: _____

Date: _____

License Conditions

1. This license is to be available on demand, to any Officer or Police Officer.
2. No trade is allowed on any reserve without the specific consent of the Council.
3. No trade is allowed on the State Highway, except with the specific consent of NZTA (C/- Broad Spectrum, phone).
4. This License is not transferable.

Trading in Public Places Form 4A: Application to Solicit donations or sell lottery tickets



Application for a permit to solicit donations/sell lottery tickets (*delete whichever is not applicable*) within public places in Ōtorohanga District Council.

Full Name:

Address:

Phone:

Email:

Name of the organisation on whose behalf the activity will be undertaken:

Charity or Certificate of Incorporation Number:

Dept of Internal Affairs License Number (if applicable):

Location of sites from which it is proposed to operate:

Date(s) on which it is proposed to undertake the activities:

Applicant's Signature:

Date:

Trading in Public Places Form 4P: PERMIT to solicit donations or sell lottery tickets in a public place



Full name of permit holder: _____

Address: _____

Organisation represented: _____

Charity or Certificate of Incorporation Number: _____

Dept of Internal Affairs License Number (if applicable): _____

Date of activity: _____

Special conditions (if any): _____

Approved under delegated authority: _____

Name: _____

Role: _____

Date: _____

License Conditions

1. This permit is to be available on demand to any Authorised Officer or Police Officer.
2. This permit is not transferable.

Trading in Public Places Form 5A: APPLICATION FOR BUSKER'S PERMIT



Full name:

Address:

Phone:

Email:

Occupation:

Date of Birth:

Instrument(s):

Proposed Date(s):

Proposed Location(s):

Proposed time of performance:

Parent/caregiver consent
(if applicant is under 14 years of age):

I,
(full name)
being issued with a busking permit

consent to:
(full name)
Signature:

Signature of applicant:

Date:

Trading in Public Places Form 5P: PERMIT to undertake busking



Permit holder:

Permit Expiry Date:

Instrument(s):

Area of Operation:

Date(s) of Operation:

Time of Operation:

Special conditions (if any):

Date of Issue:

Approved under delegated authority:

Name:

Role:

Date:

General Conditions

1. Buskers must carry their busking permit and show it to any Authorised Officer or Police Officer on request.
2. No busker shall:
 - a. occupy any footpath adjacent to any retail or other commercial premises without the consent of the owner or manager of such premises;
 - b. occupy any footpath or pedestrian way in such a way as to obstruct or impede the free movement of pedestrians along the footpath, or way or through the public place;

- c. allow the persons forming the audience to obstruct or impede the free movement of pedestrians along the footpath or way or through the public place;
- d. use language or behaviour which is abusive, insulting, threatening or offensive;
- e. undertake or perform any busking activity which generates any noise which in the opinion of any Officer or Police Officer unreasonably interferes with the peace, comfort and/or convenience of any person or persons; or
- f. continue to occupy any place or site on a footpath or in any public place for longer than 2 hours, or after being requested by an Officer or Police Officer, to move to another place or site.

Ōtorohanga District Council

Compliance and Enforcement Policy

STATUS:	Final
VERSION:	June 2024
POLICY OWNER:	Group Manger Regulatory & Growth
POLICY APPROVER:	Chief Executive, Ōtorohanga District Council
DATE APPROVED:	xxxx

OVERVIEW: COMPLIANCE AND ENFORCEMENT POLICY

Purpose	<ol style="list-style-type: none">Formalise the principles that underpin how Ōtorohanga District Council applies regulatory compliance and enforcement.Set out Council's approach to compliance and enforcement in the Ōtorohanga District while informing how Council resources these functions.Provide consistent, integrated and fair compliance and enforcement in terms of approach, processes, procedures, and decisions.Achieve good outcomes by ensuring that private activities do not give rise to adverse public effects.
Key Points	<p>Local government in New Zealand is responsible for ensuring compliance with a variety of laws and regulations that are aimed at achieving positive community and environmental outcomes.</p> <p>Ōtorohanga District Council has statutory obligations relating to implementation of its compliance and enforcement activities. This policy ensures appropriate public outcomes from private activities.</p>
Date of Issue	Approved xxx
File Retention	Magiq doc number xxx
Review	Every two years at the anniversary date

RELATED DOCUMENTS / WEBSITES

Related Council policies and documents include:

- Delegations Manual
- Conflict of Interest Policy
- Schedule of Fees and Charges
- Bylaws

Relevant legislation and other resources include (but are not limited to):

- Biosecurity Act 1993
- Building Act 2004
- Dog Control Act 1996
- Food Act 2014
- Freedom Camping Act 2011
- Gambling Act 2003
- Hazardous Substances & New Organisms Act 1996
- Health Act 1956
- Impounding Act 1955
- Land Transport Act 1998
- Litter Act 1979
- Local Government Act 2002 and the Local Government Act Amendment Act 2014
- Prostitution Law Reform Act 2003
- Regional Sector Strategic Compliance Framework 2016-2018
- Reserves Act 1977
- Resource Management Act 1991 and associated regulations and national direction
- Sale and Supply of Alcohol Act 2012
- Self-contained Motor Vehicles Legislation Act 2023
- Solicitor-General's Prosecution Guidelines 2013
- Transport Act 1998 Resource Management Act 1991
- Various other Acts, Regulations, Council plans and bylaws which may be in force or amended from time to time

1. Purpose

The purpose of this policy is to:

- a. Formalise the principles that underpin how Ōtorohanga District Council applies regulatory compliance and enforcement.
- b. Set out Council's approach to compliance and enforcement in the Ōtorohanga District while informing how Council resources these functions.
- c. Provide consistent, integrated and fair compliance and enforcement in terms of approach, processes, procedures, and decisions.
- d. Achieve good outcomes by ensuring that private activities do not give rise to adverse public effects.

Based on the Ministry for the Environment Best Practice Guidelines for Compliance, Monitoring and Enforcement Under the Resource Management Act, the principles represented in this policy are equally applicable across the range of enforcement activities under different legislation.

2. Encouraging Compliance

Ōtorohanga District Council has statutory obligations to ensure the public comply with regulations and legislation which is administered by the Council. However we are not resourced to undertake proactive enforcement. Ōtorohanga District Council may employ different strategies to promote compliance. These include (in order of preferred actions):

- a. Engagement with people, stakeholders and the community on legislative requirements to promote greater understanding of the challenges and constraints; engender support; and identify opportunities.
- b. Education for those who are unaware of the rules and regulations or need reminding of their obligations, and to provide the public with information about what rules and regulations are in place acceptable outcomes.
- c. Enabling individuals and stakeholders to develop best practice e.g. by linking with resources and advice and promoting examples of best practice.
- d. Enforcement when breaches of rules and regulations are identified using the range of enforcement tools council has available to it to bring about positive change.

3. Why Enforce?

Enforcement is an integral part of the implementation and administration of the legislation that Council is obligated to implement, on behalf of the communities it represents. As an agency bound by legislation, Council has responsibility to ensure compliance with a range of laws.

Compliance and enforcement is related to matters of health, safety, and environmental protection.

Enforcement mechanisms aim to have three interrelated outcomes, these are:

- a. Avoidance, mitigation or remedying of adverse effects
- b. Compliance promotion
- c. Deterrents and restitution.

Typically, the process of undertaking enforcement is a staged escalation of: firstly promoting awareness and providing assistance; then issuing warnings; issuing of enforcement / abatement notices; and in serious and rare cases, prosecution.

4. Conflicts of Interest

Ōtorohanga District Council will carry out all enforcement functions in accordance with the Conflict-of-Interest Policy to:

- a. Avoid actual or perceived conflict of interest
- b. Minimise the risks where a conflict of interest exists
- c. Ensure staff are free from any personal, commercial, financial, political, or other pressures that might affect their actual or perceived ability to make independent decisions.

5. Policy Clarification and Breaches

- 6.1 **Clarification.** Clarification regarding this policy can be sought from the Ōtorohanga District Council Group Manager Regulatory and Growth.
- 6.2 **Breaches.** The Ōtorohanga District Council Group Manager Regulatory and Growth is responsible for monitoring compliance with this policy.
- 6.3 **Exceptions.** Any deviations from this policy will be authorized by the Ōtorohanga District Council Group Manager Regulatory and Growth.

6. Our Compliance and Enforcement Principles

6.1 We will be targeted and focus our effort on outcomes according to risk and available resourcing

Table 1: Our Compliance and Enforcement Focus

	Light touch				Heavy Hand			
	Council's Focus area				Only if/as necessary		Absolute resort	Last resort
Action	Do nothing ¹	Recognise & reward ²	Inform and advise	Warning	Infringe	Abate	Prosecute	
Outcome	No action	Promote best practice	Education	On-notice	Fine	Stop doing	Conviction	

- We will target enforcement at recidivist poor performers and highest risk.
- We will use right tool/for the right problem/at the right time, within our available resources & capacity, and appropriate, recognize and reward best proactive and proactive compliance (e.g. profiling best practice / company via our newsletters)
- Low level "nuisance" non-compliance may not be enforced if we do not have capacity.

6.2 Our response and response times will be based around our capacity

Where a compliance or enforcement response is deemed necessary, we will investigate and respond as soon as practicable, within our available capacity, resourcing, priorities, and any third party responder contractual response terms and conditions .

6.3 We will be cost effective

Compliance and enforcement comes at a cost to the public. Full costs of compliance and enforcement are rarely recovered from the offender. We will therefore:

- apply compliance and enforcement tools in a way that is cost effective
- only undertake compliance investigation:
 - in response to formal complaints³ received; or
 - where enforcement staff observe activities that result in, or have high likelihood of, serious or significant harm to people, property or environment

6.4 We will be transparent

We will provide clear information and explanation about the standards and requirements for compliance.

6.5 We will be collaborative

We will work with and where possible, share necessary information with other regulators and stakeholders to ensure the best outcomes (subject to any limitations around providing sensitive or private information).

6.6 We will be consistent

¹ "Do nothing" only where the risk or outcome is negligible or very low e.g. nuisance only incidents

² "Recognise and reward" best practice and proactive compliance

³ "Formal complaints" means complaints received through any of Council's official contact pathways (email to info@otodc.govt.nz; phone call to 07 873 4000; or incident log via the Antenna App), and logged as a service request. Council will not investigate complaints that provide insufficient details, are anonymous, or have not come through Council's official communication pathways (e.g. complaints on social media).

- a. Our actions will be consistent with the legislation and within our powers.
- b. Compliance and enforcement will be consistent and predictable for similar circumstances.
- c. We will ensure that our staff have the necessary skills and training, with effective systems and policies in place to support them.

6.7 We will act lawfully

We will conduct ourselves lawfully and impartially and in accordance with legislation and Council’s powers.

6.8 We will be fair, reasonable and proportional

- a. We will use our discretion justifiably.
- b. Our interventions and actions will be proportionate to the breach and the risks posed to people, property and the environment.

6.9 Actions and decision will be evidence-based and informed

- a. We will use an informed and evidence-based approach to our decision making.
- b. Our decisions will be informed by a range of sources, including sound science, the regulated parties, information received from other regulators, members of the community, industry and interest groups.

7. Enforcement Tools

Enforcement “tools” can be categorized into three main types:

- a. Informal Actions
Focused on providing education and incentive-based responses to allow the person to become better-informed and to develop their own means to improve compliance.
- b. Directive Actions
These are about looking forward and giving direction and righting the wrong.
- c. Punitive Actions
These are about looking back and holding people accountable for what they have done.

The primary purpose of the informal and directive actions is to encourage compliance via engaging, educating, and enabling stakeholders, while the punitive action focuses on using enforcement tools to deal with non-compliances. The following Enforcement Matrix represents enforcement tools available to the Council in response to designated breaches.

Table 2: Enforcement Matrix

	First offence <i>Our Focus Area</i>			Second offence or higher risk		Third / repeat offence or significant consequences	
	Oral Warning	Written Warning	Notice to Fix	Infringement Notice	Abatement Notice	Enforcement Order	Prosecution
Animal Control	✓	✓	n/a	✓	✓	Dog Seizure	✓
Building	✓	✓	✓	✓	n/a	n/a	✓
Bylaws	✓	✓	n/a	✓	n/a	n/a	✓
District Plan	✓	✓	n/a	✓	✓	✓	✓

	First offence Our Focus Area			Second offence or higher risk		Third / repeat offence or significant consequences	
Environmental Health	✓	✓	n/a	n/a	n/a	n/a	✓
Freedom camping	✓	✓	n/a	✓	n/a	n/a	✓
Liquor	✓	✓	n/a	✓	n/a	n/a	✓
Noise	✓	✓	n/a	✓ Excessive noise direction	✓	Equipment seizure	✓
Parking	n/a: Under this current policy, Council does not enforce parking						
Resource Consents	✓	✓	n/a	✓	✓	✓	✓

The enforcement tool used to achieve compliance is dependent upon factors such as:

- The nature, scale and risk of the harm caused by the breach
- Which penalty is likely to be most effective in ensuring compliance or acting as a deterrent
- Whether there is general public awareness of the regulation
- Any history of previous breaches, for the same activity

8. Enforcement Process

The following section outlines the enforcement process that the Council undertakes from the point of discovering an offence throughout to the decision to take enforcement action.



ACKNOWLEDGE: within 1 working day of receiving the complaint

Upon receiving a complaint (via a Service Request), the complaint will be acknowledged as being received.

INVESTIGATE/RESPOND: within 5 working days of receiving the complaint (unless other response times apply)

Investigation which would include reviewing past history, reviewing file documents, gathering evidence, speaking to witnesses, obtaining explanations, and other specific considerations such as cultural / iwi considerations and impacts on other agencies (e.g. public health, State Highway). **NOTE** – where a location or activity involves cultural sensitivity for Maori, Council’s Kaitakawaenga (Iwi Relations Advisor) will be engaged to assist and provide advice. The purpose of this is to find out whether, how, and why the breach has occurred and to enable informed decisions to be made. The depth and scope of an investigation and response is constrained by Council’s capacity to respond, and dependent on the risk arising.

If the complaint relates to a matter that is outside the statutory function of Ōtorohanga District

Council, the complainant will be referred to the correct agency and the complaint will be closed.

Council will not:

- follow up or facilitate a complaint falling to another agency, on behalf of the complainant
- investigate or respond to cases where:
 - complaints or allegations are made on social media
 - there is a recorded history of complaints where no enforcement action has been justified;
 - complaints relate to a civil matter and not a Council responsibility;
 - no adverse effects are likely;
 - any proven complaint would justify no more than minor action;
 - the complaint is vexatious or frivolous

High risk breaches may require a response prior to any other action. Examples include:

- To prevent further serious environmental damage from starting or continuing; actions may include abatement notice (to stop an activity and/or apply for necessary approval), enforcement, or interim enforcement order.
- An immediate closure in the case of a serious food hygiene risk.
- Seizure of an offending animal in the case of a dog attack.

EVALUATE OPTIONS

Determining the correct enforcement response requires good judgement, good information, and accurate interpretation of the relevant legislation involved. It is widely accepted across agencies that the Courts have provided helpful guidelines as to what factors are appropriate to consider when determining the seriousness of a breach. General factors to consider are:

- a. The actual adverse effects
- b. The potential adverse effects
- c. Whether the breach was intentional or unintentional, or a repeat breach
- d. Foreseeability of incident
- e. The degree of value/sensitivity of affected area(s) including matters of significance to iwi/Māori, and impacts on third party agencies. **NOTE** – where a location or activity involves cultural sensitivity for Maori, Council’s Kaitakawaenga (Iwi Relations Advisor) will be engaged to assist and provide advice
- f. The response and attitude of the offender towards the breach
- g. Any effort made to avoid, remedy, and/or mitigate the adverse effects
- h. The effectiveness of any remediation or mitigation undertaken
- i. Any profit or benefit gained by alleged offender
- j. Any relevant special circumstances outside the control of the party involved that had facilitated the occurrence of the breach

There may be factors for specific breaches that are also prescribed in the governing legislation.

DECIDE THE ACTION: within 15 working days of receiving the complaint

Decisions will generally be made under staff delegated authority.

Prosecution is an absolute last resort. Decisions to prosecute will be in accordance with delegated authority (usually by the Chief Executive and/or Group Manager Regulatory and Growth) based on expert and legal advice, and the evaluation factors along with the prosecution guidelines under section 13.

10. Council Obligations to Complainant

To initiate an enforcement investigation, a request or complaint must have been received via the official Council contact pathways, via email to info@otodc.govt.nz; via telephone to 07 873 4346; in person at the Council offices; or via the Antenno app. **Posts on social media, including Council's facebook page, or anonymous complaints, will not be investigated.**

Full information should be provided when the initial enquiry is made. This should include:

- the identity and address of complainant
- the address, time and date at which the alleged breach has taken place
- a description of the unauthorised activities
- the harm that is considered to have been caused
- complainants will also be encouraged to send in dated photographs of the alleged breach to assist the investigation.

In respect of complaints received, the following standards apply:

- a. All valid enquiries will be properly recorded and investigated.
- b. The personal details of the complainant will be held in the strictest confidence.
- c. Where resources allow, the enquirer / complainant will be updated on any subsequent action that may result, as soon as reasonably practicable. In some instances there may be no follow up other than the initial acknowledgement that the query/complaint has been received.
- d. The extent of investigation is dependent on Council resources and capacity.
- e. Staff will not take sides in a dispute; staff will however judge what action is appropriate according to the evidence, particular circumstances, impact on the environment and the community, relevant policies, and legislation.

11. Council Obligations to Individuals in Breach

Under normal circumstances, prior to taking formal enforcement action, the officer concerned will fully and openly discuss the circumstances of the breach with those involved. Those in breach will be contacted as soon as possible following the site visit, and advice will be provided on what action is required to avoid, remedy and/or mitigate the environmental harm identified.

When breaches are found to have occurred, the Council officers will:

- a. Communicate clearly to the responsible party or their agent, identifying the problem and that they may need to undertake action to achieve compliance.
- b. Where officers consider there is a minimal effect, or effects are satisfactorily addressed by mitigation measures, a reasonable period of time will be allowed to comply (where this is an available course of action under the relevant piece of legislation).
- c. Initiate formal enforcement powers after being satisfied that there is a clear breach of the relevant piece of legislation.
- d. In the case of formal action being authorised, the rights of appeal will be explained to those in breach.

12. Prosecution Guidelines

Council will adhere to the standards of good criminal prosecution practice expressed in the Solicitor-General's Prosecution Guidelines (2013 – refer **Appendix A**). These guidelines are a comprehensive 31-page document providing a detailed guide to evidential and public interest considerations. The Solicitor General's Prosecution Guidelines and the Media Protocol for Prosecutors (Crown Law 2013),

while not binding on local authorities, represent best practice.

12.1 The Evidential Test

The first part of the test is the evidential test for prosecution and requires a legal assessment of whether:

- a. The evidence relates to an identifiable person (whether natural or legal).
- b. The evidence is credible.
- c. The Council can produce the evidence before the court, and it is likely it will be admitted by the court.
- d. The evidence can reasonably be expected to satisfy an impartial jury (or judge), beyond a reasonable doubt, that the individual has committed a criminal offence; the individual has given any explanations and, if so, whether the court is likely to find the explanations credible in the light of the evidence.
- e. There is any other evidence the Council should seek out which may support or detract from the case. Once it has been established that there is sufficient evidence to provide a reasonable prospect of conviction, the test for prosecution requires a consideration of whether the public interest requires a criminal prosecution.

12.2 The Public Interest Test

The second part of the test for prosecution is the public interest test, which is important for ensuring that the discretion to prosecute is exercised in accordance with the rule of law and any relevant statutory requirements.

These considerations are not intended to be comprehensive or exhaustive. The public interest considerations that may properly be considered when deciding whether the public interest requires prosecution will vary from case to case.

In practice in New Zealand the independence of the prosecutor refers to freedom from undue or improper pressure from any source, political or otherwise.

APPENDIX 1: LEGAL STATUS AND LIMITATIONS

This policy:

- a. Is not legally binding on Ōtorohanga District Council, any other organisations, such as government departments, the police, or individuals in the community.
- b. Is general in nature and does not exhaustively address all statutory limitations and considerations that may be relevant under legislation.
- c. Does not confine, restrain, or limit the discretion of Ōtorohanga District Council to take any action.
- d. Is not a substitute for legal advice or legal processes.
- e. Does not give rise to any act or omission of any officer of Ōtorohanga District Council being called into question or held to be invalid, on the basis of a failure to comply with this policy.
- f. Only applies to matters within Ōtorohanga District Council's statutory powers. Examples of breaches that are outside Council's powers, and will not be investigated, include but are not limited to:
 - i. All discharges to air, land or water (a Waikato Regional Council function).
 - ii. All activities in the Coastal Marine Area below high tide (a Waikato Regional Council function).
 - iii. All matters relating to state highways (a NZ Transport Agency function).
 - iv. Fence disputes and private property covenants (a "civil matter" between neighbours).
 - v. Welfare of farm animals (a Ministry of Business, Innovation and Employment function).
 - vi. Navigation and safety on waterways (administered by the Waikato Regional Council Harbourmaster).
 - vii. Healthy homes that are not dangerous or insanitary buildings⁴ (a Ministry of Business, Innovation and Employment function and Tenancy Services function).

⁴ Dangerous and insanitary buildings fall under Council's functions.

APPENDIX 2: SOLICITOR GENERAL PROSECUTION GUIDELINES

[Solicitor General Prosecution Guide crownlaw.govt.nz](https://www.crownlaw.govt.nz)

Matters will vary in each case according to the particular facts. Under the Solicitor-General's Prosecution Guidelines, a prosecution is more likely if:

- a. A conviction is likely to result in a significant sentence
- b. The offence caused significant harm or created a risk of significant harm
- c. The offence was committed against a person serving the public e.g., a Police or Council officer
- d. The individual was in a position of authority or trust
- e. The evidence shows that the individual was a ringleader or an organiser of the offence
- f. There is evidence that the offence was premeditated
- g. There is evidence that the offence was carried out by a group
- h. The victim of the offence was vulnerable, has been put in considerable fear, or suffered personal attack, damage, or disturbance
- i. The offence was committed in the presence of, or near, a child
- j. There is an element of corruption
- k. The individual's previous convictions or cautions are relevant to the present offence
- l. There are grounds for believing that the offence is likely to be continued or repeated for example by a history of recurring conduct
- m. The offence, although not serious, is widespread in the area where it was committed
- n. A prosecution would have a significant positive impact on maintaining community confidence
- o. The individual is alleged to have committed the offence while subject to an order of the court
- p. A confiscation or some other order is required, and a conviction is a prerequisite

Under the Solicitor-General's Prosecution Guidelines, a prosecution is less likely if:

- q. The court is likely to impose a nominal penalty
- r. The individual has already been made the subject of a sentence and any further conviction would be unlikely to result in the imposition of an additional sentence or order
- s. The offence was committed because of a genuine mistake or misunderstanding (these factors must be balanced against the seriousness of the offence)
- t. The loss or harm can be described as minor and was the result of a single incident, particularly if it was caused by a misjudgement
- u. There has been a long delay between the offence taking place and the date of the trial, unless: the offence is serious, the delay has been caused in part by the individual, the offence has only recently come to light, or the complexity of the offence has meant that there has been a long investigation
- v. A prosecution is likely to have a bad effect on the physical or mental health of a victim or witness, always bearing in mind the seriousness of the offence
- w. The individual is elderly or very young or is, or was at the time of the offence, suffering from significant mental or physical ill health, unless the offence was serious or there is real possibility that it may be repeated
- x. The individual has put right the loss or harm that was caused (but individuals must not avoid prosecution or diversion solely because they pay compensation)
- y. Where other proper alternatives to prosecution are available (including disciplinary or other proceedings).

Additional considerations for Council are:

- a. Strength of the evidence
- b. Alternative enforcement options.
- c. Risks of not prosecuting.
- d. Likelihood of a successful prosecution.
- e. Costs to run a prosecution case including monetary costs, staff resourcing costs, time costs.

Information only reports | Ngā pūrongo mōhiohio anake

There are no reports.

Public excluded | Take matatapu

There are no reports.

Board projects

Project 1: Kāwhia storyboards

Other business | Ētahi atu take

Board Member updates

Board members who have attended meetings on behalf of the Kawhia Community Board may give feedback to the Board. This is a discussion item only and no resolutions can be made from the discussion.

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)
Total granted				\$0
Total remaining				\$5,000

At the June meeting, the Board intended to provide the remainder of their fund to the Kāwhia Whaleboat event and granted \$883 excluding GST. Subsequently, the Board were advised that the total available was \$1,898.13 excluding GST. Board Members advised that they supported the increased amount be granted.

Staff recommendation

That the Kāwhia Community Board alter Resolution K67: *'That the Kāwhia Community Board grant the amount of \$883 excluding GST to the Kāwhia Whaleboats to help with traffic management costs for 2025'* to *'That the Kāwhia Community Board grant the amount of **\$1,898.13** excluding GST to the Kāwhia Whaleboats*

to help with traffic management costs for 2025.' in accordance with the intent to grant the remaining Discretionary Fund budget allocation for the 23/24 financial year.

Resolution register

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

Resolution #	Date resolved	Resolution	Staff update
N/A	26/2/21	That a meeting be held with recreational and commercial users of the Kāwhia wharf to discuss: <ul style="list-style-type: none"> 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. 	An asset management plan for the wharf structure will be developed. This plan will provide guidance for ongoing maintenance costs, and possible replacement of the wharf. Further decisions about ongoing charges and funding will flow on once future costs are understood.

Closing formalities

Closing prayer | Karakia

The Chairperson will invite an elected member or a staff member to provide the closing words.

Meeting closure | Katinga o te hui

The Chairperson will declare the meeting closed.

Workshops | Hui awheawhe

Concept Plans priority projects

Open