

## I give notice that an Ordinary Meeting of Council will be held on:

Date:	Friday, 17 February 2023
Time:	1.00pm
Location:	Council Chamber
	107 te Heuheu Street
	Taupō

# AGENDA

### MEMBERSHIP

Chairperson	Mayor David Trewavas
Deputy Chairperson	Cr Kevin Taylor
Members	Cr Duncan Campbell
	Cr Karam Fletcher
	Cr Sandra Greenslade
	Cr Kylie Leonard
	Cr Danny Loughlin
	Cr Anna Park
	Cr Christine Rankin
	Cr Rachel Shepherd
	Cr Kirsty Trueman
	Cr Yvonne Westerman
	Cr John Williamson

Quorum

7

## **Order Of Business**

- 1 Karakia
- 2 Whakapāha | Apologies
- 3 Ngā Whakapānga Tukituki | Conflicts of Interest
- 4 Whakamanatanga O Ngā Meneti | Confirmation of Minutes

Nil

#### 5 Ngā Kaupapa Here Me Ngā Whakataunga | Policy and Decision Making

#### 6 Ngā Kōrero Tūmataiti | Confidential Business

Nil

# 5.1 APPROVAL OF SUBMISSIONS ON THE WATER SERVICES LEGISLATION BILL AND THE WATER SERVICES ECONOMIC EFFICIENCY AND CONSUMER PROTECTION BILL

Author: Louise Chick, Programme Manager

Authorised by: Andrew Moraes, General Manager Operations and Delivery

#### TE PŪTAKE | PURPOSE

This report introduces the Water Services Legislation Bill and the Water Services Economic Efficiency and Consumer Protection Bill, and requests that Council formally endorse the submissions on these bills for lodgement with the Select Committee.

#### WHAKARĀPOPOTOTANGA MATUA | EXECUTIVE SUMMARY

The Government is progressing its Three Waters Reform agenda through the introduction of three pieces of legislation:

- **#1** Water Services Entities Act (WSE Act) was enacted on 14 December 2022 and sets up the water services entities and associated governance arrangements.
- #2 Water Services Legislation Bill this highly operational bill is an amendment to the WSE Act and was introduced to Parliament on 8 December 2022. It establishes detailed powers and functions of the Water Services Entities (WSEs).
- **#3** Water Services Economic Efficiency and Consumer Protection This bill provides price and quality regulation and consumer protection, and was also introduced to Parliament 8 December 2022.

Submissions on the Water Services Legislation Bill and Water Services Economic Efficiency and Consumer Protection bills close to councils on 17 February 2023.

Three waters reform is crucial to Taupō communities and the role of local government. Advocacy on change is an important function of Council as a democratically elected body, and many in the community rely on Council to understand the implications of change and advocate on behalf of the whole community.

Consequently, it was strongly recommended that Council express its views on these two most recent three waters reform bills by lodging submissions (Option 1).

#### NGĀ TŪTOHUNGA | RECOMMENDATION(S)

That Council:

- 1. Endorses the Water Services Legislation Bill submission (Attachment 1) and authorises staff to lodge this submission on Council's behalf.
- 2. Endorses the Water Services Economic Efficiency and Consumer Protection Bill submission (Attachment 2) and authorises staff to lodge this submission on Council's behalf.
- 3. Approves [*insert elected members' name*(*s*) *nominations to be received at the Council meeting*] to speak to both submissions as part of the Select Committee process.

#### TE WHAKAMAHUKI | BACKGROUND

In 2020 the Government proposed the need for reform of three waters services to address concerns regarding local government's ability to fund three waters infrastructure investments. Although initially promoted as a voluntary reform the Government announced participation in three waters reform as mandatory in October 2021 and has since been driving forward reform through three key pieces of legislation:

• Bill #1 - Water Services Entities Act (WSE Act) – was enacted on 14 December 2022 and sets up the water services entities and associated governance arrangements.

- Bill #2 Water Services Legislation Bill this highly operational bill is an amendment to the WSE Act and was introduced to Parliament on 8 December 2022. It establishes detailed powers and functions of the WSEs.
- Bill #3 Water Services Economic Efficiency and Consumer Protection This bill provides price and quality regulation and consumer protection, and was also introduced to Parliament 8 December 2022

From the outset Taupō District Council (TDC) has acknowledged that the current system is not suitable for all councils and that change is necessary, however it does not support the reform model currently proposed, nor the pace of reform. Council's concerns have been formally noted at its 28 September 2021 meeting (resolution TDC202109/02) and its <u>submission</u> on the Water Services Entities legislation.

Submissions for the Water Services Legislation Bill and Water Services Economic Efficiency and Consumer Protection bills closed to the public on the 12 February 2023 and to councils on the 17 February 2023.

On 31 January Elected Members participated in an initial workshop where the key elements of the Water Services Legislation and Water Services Economic Efficiency and Consumer Protection bills were discussed. A number of key concerns were identified, and staff were instructed to use these as a basis for drafting TDC's submissions on the bills. Draft submissions were disseminated to Elected Members for review and comment on 7 & 9 February and subsequent feedback from elected members incorporated.

#### NGĀ KŌRERORERO | DISCUSSION

#### Water Services Legislation Bill

Council's submission on the Water Services Legislation Bill echoes that of its original submission, and reflects that this amendment to the WSE Act does not address Council's original concerns.

TDC still does not support the reform model currently proposed, nor the pace of this reform.

The three waters reform as currently reflected in the Water Services Legislation Bill is not joined up with the resource management system and future for local government reforms, and there is a lack of clarity between roles and responsibilities of the water services entities and territorial authorities regarding stormwater management. The reform is rushed. TDC's submission highlights that water is a lifeline utility and the risks of getting it wrong are great, especially at a time when any barrier to growth risks much needed housing development.

Council's submission on this bill is presented in Attachment 1.

#### Water Services Economic Efficiency and Customer Protection Bill

This bill establishes a regulatory framework not dissimilar to those used for other utilities regulated through the Commerce Act 1996. Although Council welcomes the provision of economic regulation needed to safeguard its ratepayers, we have identified a number of areas where improvements to the Bill are required which include matters like clarifying whether subsidiaries are to be regulated or not, and stating how the Commerce Commission will interface with other water service regulators to ensure a cohesive water services regulatory system.

Council's submission on this bill is presented in Attachment 2.

#### NGĀ KŌWHIRINGA | OPTIONS

#### Analysis of Options

Council has two options available to it:

- i) express its ongoing concerns regarding three waters reform by making submissions on both bills; or
- ii) do not make any submissions.

**Option 1.** Lodge submissions on the Water Services Legislation Bill and the Water Services Economic Efficiency and Consumer Protection Bill.

Advantages	Disadvantages
• TDC communicates its communities' views that	None identified.

	three waters reform as currently proposed	
	should cease.	
٠	• TDC contributes towards the improvement of	
	the bills.	

Option 2. Do not lodge submissions.

Advantages	Disadvantages
None identified.	<ul> <li>TDC does not communicate its communities' views that three waters reform as currently proposed should cease.</li> <li>TDC does not contribute towards the improvement of the bills.</li> </ul>

#### Analysis Conclusion:

Three waters reform is crucial to Taupō communities and the role of local government. Advocacy on change is an important function of Council as a democratically elected body, and many in the community rely on Council to understand the implications of change and advocate on behalf of the whole community. Consequently, it is recommended that Council express its views on these bills and lodge submissions (Option 1).

#### NGĀ HĪRAUNGA | CONSIDERATIONS

#### Whakahāngai ki tā te Kaunihera wawata | Alignment with Council's Vision

Council's vision is 'to be the most prosperous and liveable district in the North Island'. The prosperity of the District is directly related to its growth and development. The governance models proposed in the Water Services Entities Bill and its amendment significantly constrains Council's, and its communities', ability to direct and prioritise when and where growth should occur.

With concurrent Resource Management System, Future for Local Government, and Three Waters reforms, it is unclear how they will be seamlessly brought together into one coherent system that facilitates efficient growth and development.

#### Ngā Aronga Pūtea | Financial Considerations

The financial impact of submitting is negligible.

#### Long-term Plan/Annual Plan

The expenditure outlined is currently budgeted for as staff overhead costs.

#### Ngā Aronga Ture | Legal Considerations

#### Local Government Act 2002

The matter comes within scope of the Council's lawful powers, including satisfying the purpose statement of <u>Section 10</u> of the Local Government Act 2002. That section of the Act states that the purpose of local government is (a) to enable democratic local decision-making and action by, and on behalf of, communities; and (b) to promote the social, economic, environmental, and cultural well-being of communities in the present and for the future. It is considered that social, economic, environmental and cultural well-beings are all of relevance to this particular matter.

The proposal has been evaluated with regards to a range of legislation. The key legislation applicable to the proposal has been reviewed and the relevant matters for consideration are as follows:

The Water Services Legislation Bill is an omnibus bill and makes broad changes to a multitude of Acts. This includes substantial changes to the Local Government Act 2002 and the Resource Management Act 1991 to reflect the significantly changed role of local government under this reform.

Authorisations are not required from external parties.

#### Ngā Hīraunga Kaupapa Here | Policy Implications

The proposal has been evaluated against the following plans:

✓ Long Term Plan 2021-2031 ✓ Annual Plan □ Waikato Regional Plan

□ Taupō District Plan ✓ Bylaws □ Relevant Management Plan(s)

Should three waters reform continue as currently proposed in the Water Services Legislation Bill the role of Council will be changed significantly. It will also impact:

- the Long Term Plan will no longer include provision for three waters, excepting those stormwater management functions that Council retains.
- bylaws three waters bylaws like the trade waste bylaw will be revoked under the Water Services Legislation Bill.
- Annual Plan TDC's next Annual Plan will be subject to Department of Internal Affairs (DIA) oversight, monitoring and ultimately approval.

#### Te Kōrero tahi ki te Māori | Māori Engagement

Taupō District Council is committed to meeting its statutory Tiriti O Waitangi obligations and acknowledges partnership as the basis of Te Tiriti. Council has a responsibility to act reasonably and in good faith to reflect the partnership relationship, and to give effect to the principles of Te Tiriti. These principles include, but are not limited to the protection of Māori rights, enabling Māori participation in Council processes and having rangatiratanga over tāonga.

Our statutory obligations outline our duties to engage with Māori, and enable participation in Council processes. Alongside this, we recognise the need to work side by side with the ahi kaa / resident iwi of our district. Engagement may not always be required by law, however meaningful engagement with Māori allows Council to demonstrate good faith and our commitment to working together as partners across our district.

In preparing these submissions, officers have considered the potential impacts of the legislative changes on the whole of the Taupō District community, including Māori. Copies of Council's submissions were provided to our iwi partner organisations prior to lodgement to assist them with understanding Council's perspective. However, we are of the view that it is appropriate for Māori to take the opportunity to present their own discrete views to the Select Committee on these bills. This approach reflects that the Water Services Entities Bill has provisions specific to Māori.

#### Ngā Tūraru | Risks

Adopting Option 2 (do not submit) would risk the Taupō district communities' views not being adequately represented and the potential for the community dissatisfaction with Council.

#### TE HIRANGA O TE WHAKATAU, TE TONO RĀNEI | SIGNIFICANCE OF THE DECISION OR PROPOSAL

Council's Significance and Engagement Policy identifies matters to be taken into account when assessing the degree of significance of proposals and decisions.

Officers have undertaken a rounded assessment of the matters in clause 11 of the Significance and Engagement Policy (2016), and are of the opinion that the proposal under consideration is significant.

#### TE KŌRERO TAHI | ENGAGEMENT

Although this paper addresses significant matters Council has not specifically engaged with the community on these bills - they are Government led reforms, not Council's, and it is not for TDC to promote and consult on these reforms.

Council has advised its ratepayers of these bills and actively encouraged them to prepare their own submissions.

#### TE WHAKAWHITI KŌRERO PĀPAHO | COMMUNICATION/MEDIA

The Taupō District Council Communications Team have been communicating with the public on Council's three waters reform stance through social media and sharing of information on our website. This

communication will continue, and the communications team will work to ensure Council's submissions are made broadly available to the public.

#### WHAKAKAPINGA | CONCLUSION

The reform model encapsulated in the Water Services Entities Act 2022 and its subsequent amendment (Water Services Legislation Bill) is insufficient to manage water services or ensure these are delivered in a manner that accounts for our community's aspirations. Council has significant concerns regarding the reform model as proposed. Taupō District Council's submission reiterates its previously stated position that local decision-making will be problematic or non-existent. Council also has significant concerns regarding Water Services Entities' ability to 'establish, own or operate' one or more subsidiaries, of which shares can be held on a '*licensed market*' and WSEs only need control or hold a majority shareholding.

The Water Services Economic Efficiency and Consumer Protection Bill establishes a regulatory framework not dissimilar to those used for other utilities regulated through the Commerce Act 1996, but fails to recognise the uniqueness and lifeline importance of water services, when compared with other utilities.

Three waters reform is crucial to Taupō communities and the role of local government. Many in the community rely on Council to understand the implications of change and advocate on their behalf. It is recommended that Council express its views on these bills and lodge submissions presented in Attachments 1 and 2.

#### NGĀ TĀPIRIHANGA | ATTACHMENTS

- 1. Attachment 1 Submission Water Services Economic Efficiency and Consumer Protection Bill
- 2. Attachment 2 Submission Water Services Legislation Bill 2022

# 5.2 GRANT OF EASEMENT TO UNISON NETWORKS LIMITED OVER RECREATION RESERVE (STAGES 2 & 3A KOKOMEA VILLAGE)

Author: Karyn Hollman, Senior Solicitor

Authorised by: Nigel McAdie, Legal, Risk and Governance Manager

#### TE PŪTAKE | PURPOSE

To have Council, acting under delegation from the Minister of Conservation, consent to the grant of easements in favour of Unison Networks Limited for an electrical installation over a Council reserve pursuant to section 48(1) of the Reserves Act 1977.

#### WHAKARĀPOPOTOTANGA MATUA | EXECUTIVE SUMMARY

Kokomea Village Centre Limited ("**KVCL**") is in the process of developing in 5 stages Lots 1, 2, 30 and 31 on DP 538371 and Lot 200 DP 574534, as sold to it by Council in 2022.

Having completed stages 1A and 1B (RM 200356), KVCL are now endeavouring to obtain new title to the lots comprising Stages 2 and 3A (RM 210179). These stages comprise residential lots, recreation reserve, local purpose reserves for specified purposes, and public road (Ngaru Crescent, Tai Road, Uta Lane, Manga Street and Tatahi Lane).

Condition 5 of RM 210179 requires KVCL to ensure all residential lots are serviced with (*inter alia*) individual electricity and telecommunications connections to the service providers standards, and to secure such services by appropriate easement.

To supply electricity and telecommunications to the allotments along Tauhara Ridge Drive and Tuapapa Drive an easement to Unison Networks Limited ("**UNL**") is required. Accordingly, this is provided by way of compulsory easement in gross for rights to convey electricity and convey telecommunications in favour of UNL over proposed Lot 101 marked "UV" on LT 581466.

Proposed Lot 101 is to vest as recreation reserve in Council on deposit of LT 581466.

By section 48(1) of the Reserves Act ("**Act**") Council may grant an easement over reserves vested in it as administrating body for the installation of electrical works, with the consent of the Minister of Conservation.

By instrument of delegation dated 12 June 2013 the Minister of Conservation has delegated to Council the Minister's powers under section 48(1) of the Act in respect of reserves vested in Council as the administrating body.

Council officers have confirmed that cabling (only), as associated with UNL's easement rights, has been installed underground within the easement area.

The proposed easement instrument contains standard easement terms as usually apply to UNL easements.

Public notice of Council's intention to grant easements over reserve is required unless the circumstances set out in section 48(3) of the Act exist. In this case, Council officers believe those circumstances exist and accordingly have determined that public notice is not required.

For these reasons, the preferred option is to give ministerial consent to the proposed grant of easements in gross to UNL for the right to convey electricity and right to convey telecommunications over Lot 101.

#### NGĀ TŪTOHUNGA | RECOMMENDATION(S)

That Council gives ministerial consent to the grant of easements in gross in favour of Unison for rights to convey electricity and to convey telecommunications over Lot 101 DP 581466 (Recreation Reserve) pursuant to section 48(1) of the Reserves Act 1977, and authorise the Chief Executive and Mayor to sign the requisite consent certificate on behalf of Council.

#### TE WHAKAMAHUKI | BACKGROUND

The proposal has not been presented previously.

#### NGĀ KŌRERORERO | DISCUSSION

KVCL is developing in 5 stages Lots 1, 2, 30 and 31 on DP 538371 and Lot 200 DP 574534.

The entire development comprises commercial, residential, retirement living and a care facility, roads, recreation reserve, and local purpose reserves for specified purposes.

Stages 1A and 1B has been completed (RM 200356).

KVCL is now endeavouring to obtain new title to the lots comprising Stages 2 and 3A, as consented to by RM 210179, involving residential lots on Ngaru Crescent, Tai Road, Uta Lane, Ruku Lane, Manga Street and Tatahi Lane.

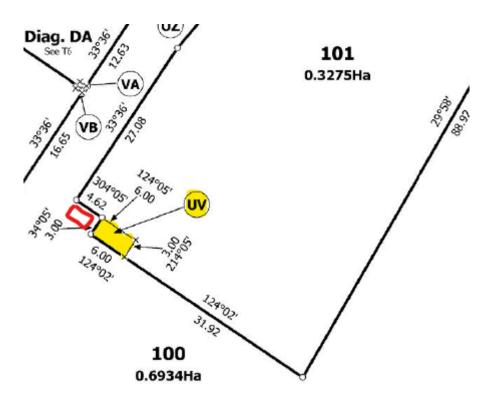
RM 210179 contains (*inter alia*) a condition that "*the consent holder shall service all residential lots with individual* [..] electricity and telecommunications connections to the service providers standards. Easements shall be provided as necessary to secure services to allotments".

The service provider in this case is UNL.

To supply electricity and telecommunications to residential lots along Tauhara Ridge Drive and Tuapapa Drive, UNL has installed cabling (only) underground within proposed Lot 101 to connect to a transformer in the adjoining area of road.

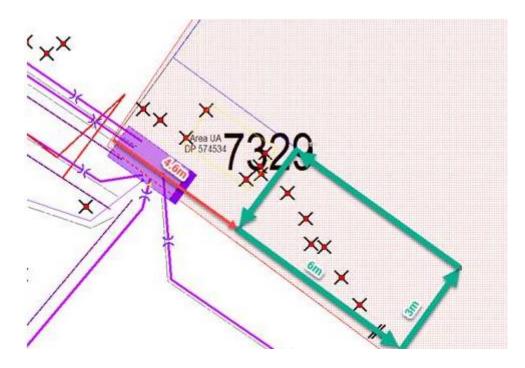
Proposed Lot 101 is recreation reserve to vest in Council on deposit of LT 581466.

The relevant easement area within Lot 101 is shown "UV" on LT 581466 (highlighted below). The aboveground transformer is outlined in red.



Council officers have confirmed the assets installed within the easement area for UNL's services are underground cabling only. The cabling is indicated by X within the green square below.

(The green square is within the area highlighted in yellow in the above image).



Pursuant to section 48(3) of the Act, public notice of Council's intention to grant an easement over reserve is not required in any case where:

1. the reserve is vested in an administering body and is not likely to be materially altered or permanently damaged; and

2. the rights of the public in respect of the reserve are not likely to be permanently affected,

by the establishment and lawful exercise of the particular easement.

Given the cabling is underground, the reserve is unlikely to ever be materially altered or permanently damaged, and the rights of the public in respect of the reserve are unlikely to be permanently affected by the establishment of the easements in favour of UNL.

Based on this information it is considered that there are 2 options.

#### NGĀ KŌWHIRINGA | OPTIONS

Analysis of Options

Option 1: Do not give ministerial consent to the grant of easement to UNL.

Advantages	Disadvantages
None known.	<ul> <li>UNL does not have security for its assets and may require their removal, resulting in Stage 2 and 3A of Kokomea Village development not proceeding as designed, resulting in (at least) further delay in the deposit of LT 581466 and issue of new titles.</li> </ul>

Option 2: Give ministerial consent to the grant of easement to UNL.

Advantages	Disadvantages
UNL achieves the required security for its infrastructure, and Kokomea Village development can utilise installed electricity and telecommunications facilities to serve the new lots on LT 581466 and deposit the plan without further delay.	

#### Analysis Conclusion:

The preferred option is Option 2: give ministerial consent to the grant of easement to Unison.

#### NGĀ HĪRAUNGA | CONSIDERATIONS

#### Whakahāngai ki tā te Kaunihera wawata | Alignment with Council's Vision

Council's vision is 'to be the most prosperous and liveable district in the North Island'. This is accompanied by a core set of values to underpin decision-making, the following of which are relevant to this particular proposal: World Class; Vibrant; Quality; Resilient and Value.

#### Ngā Aronga Pūtea | Financial Considerations

The financial impact of the proposal is estimated to be \$Nil. The costs pertaining to the UNL easement are to be meet by UNL and/or the developer.

#### Long-term Plan/Annual Plan

There is no expenditure to be budgeted for.

#### Ngā Aronga Ture | Legal Considerations

#### Local Government Act 2002

The matter comes within scope of the Council's lawful powers, including satisfying the purpose statement of <u>Section 10</u> of the Local Government Act 2002. That section of the Act states that the purpose of local government is (a) to enable democratic local decision-making and action by, and on behalf of, communities; and (b) to promote the social, economic, environmental, and cultural well-being of communities in the present and for the future. It is considered that social / economic / environmental are of relevance to this particular matter.

The proposal has been evaluated with regards to a range of legislation. The key legislation applicable to the proposal is the Reserves Act 1977 ("**Act**") and the relevant matters for consideration are as follows:

1. Section 48(1) of the Act permits an administering body of a reserve to grant easements over any part of a reserve vested in that administrating body for the purposes of *inter alia* an electrical installation, with the consent of the Minister of Conservation.

2. Pursuant to section 10 of the Act, by instrument of delegation dated 12 June 2013, the Minister of Conservation delegated to Council the Minister's powers under section 48(1) of the Act in respect of reserves vested in Council as the administrating body.

3. Lot 101 is recreation reserve to vest in Council *qua* administering body.

4. Section 48(2) requires public notice of the intention to grant such easements unless the circumstances in section 48(3) of the Act exist.

5. The reserve is not likely to be materially altered or permanently damaged, and the public's rights in respect of the reserve are not likely to be permanently affected, by the installation of underground cabling within area UV on LT 581466 and the lawful exercise of UNL's easement rights.

6. The exercise of ministerial consent by Council as administering body may be delegated to a Committee of Council but, on this occasion, time is factor and we wish to have this matter considered at the earliest opportunity within Council's 2023 meeting schedule.

7. The exercise of ministerial consent by an administering body cannot be delegated to an officer.

8. The proposed easements are to be granted on terms usually applying to Unison easements.

Authorisations are not required from external parties.

#### Ngā Hīraunga Kaupapa Here | Policy Implications

There are no known policy implications.

#### Te Kōrero tahi ki te Māori | Māori Engagement

Taupō District Council is committed to meeting its statutory Tiriti O Waitangi obligations and acknowledges partnership as the basis of Te Tiriti. Council has a responsibility to act reasonably and in good faith to reflect the partnership relationship, and to give effect to the principles of Te Tiriti. These principles include, but are not limited to the protection of Māori rights, enabling Māori participation in Council processes and having rangatiratanga over tāonga.

Our statutory obligations outline our duties to engage with Māori,and enable participation in Council processes. Alongside this, we recognise the need to work side by side with the ahi kaa / resident iwi of our district. Engagement may not always be required by law, however meaningful engagement with Māori allows Council to demonstrate good faith and our commitment to working together as partners across our district.

Appropriately, the report author acknowledges that they have considered the above obligations including the need to seek advice, guidance, feedback and/or involvement of Māori on the proposed recommendation/s, objective/s, project/s or service/s outlined within this report.

#### Ngā Tūraru | Risks

There are no known risks.

#### TE HIRANGA O TE WHAKATAU, TE TONO RĀNEI | SIGNIFICANCE OF THE DECISION OR PROPOSAL

Council's Significance and Engagement Policy identifies matters to be taken into account when assessing the degree of significance of proposals and decisions.

Officers have undertaken an assessment of the matters in the <u>Significance and Engagement Policy (2022)</u>, and are of the opinion that the proposal under consideration is of a low degree of significance.

#### TE KŌRERO TAHI | ENGAGEMENT

Taking into consideration the above assessment, that the decision is of a low degree of significance, officers are of the opinion that no further engagement is required prior to Council making a decision.

#### TE WHAKAWHITI KŌRERO PĀPAHO | COMMUNICATION/MEDIA

No communication/media required.

#### WHAKAKAPINGA | CONCLUSION

KVCL is progressing its staged development of Lots 1, 2, 30 and 31 on DP 538371 and Lot 200 DP 574534 as a multi-use development comprising variously commercial lots, residential lots, retirement living and a care facility, roads, recreation reserve, and local purpose reserves for specified purposes.

Stages 1A and 1B has been completed (RM 200356).

KVCL is now endeavouring to obtain new title to the lots comprising Stages 2 and 3A as authorised by RM 210179.

To supply electricity and telecommunications to residential lots along Ngaru Crescent, Tai Road, Uta Lane, Manga Street, Ruku Lane and Tatahi Lane, cabling (only) has been installed underground within (recreation reserve) Lot 101, to connect to a transformer in the adjoining area of road.

By virtue of the location and (underground) nature of the cabling within area "UV" on LT 581466, the reserve is unlikely to ever be materially altered or permanently damaged, nor are the rights of the public in respect of the reserve likely to be permanently affected by the establishment of the proposed UNL easements for the right to convey electricity and right to convey telecommunications.

Accordingly, no public notice is required of the intention to grant the UNL easements.

Furthermore, it is proper for Council, as delegate of the Minister of Conservation, to consent to the proposed UNL's easements affecting the area marked "UV" on LT 581466 as part of a recreation reserve to vest in Council on deposit of LT 581466.

#### NGĀ TĀPIRIHANGA | ATTACHMENTS

Nil