



---

I hereby give notice that a hearing under the Reserves Act 1977 by an Independent Commissioner shall be held:

**Date:** Friday 10 February 2023  
**Time:** 10.00am  
**Meeting Room:** Te Takere Room, Matamata-Piako Civic and Memorial Centre  
**Venue:** 11 Tainui Street, Matamata

---

## HEARING REPORT HETANA STREET RESERVE CLASSIFICATIONS

---

**INDEPENDENT COMMISSIONER:**

**Peter Kensington**

---

**Stephanie Hutchins**

**GOVERNANCE SUPPORT OFFICER**

Telephone: 07 884 0060 | ext 7811

Email: [governance@mpdc.govt.nz](mailto:governance@mpdc.govt.nz)

**Note:** The reports contained within this document are for consideration and should not be construed as a decision of Council.

## WHAT HAPPENS AT A HEARING

---

At the start of the hearing, the Independent Commissioner will introduce themselves and council staff and will briefly outline the procedure. The Independent Commissioner may then call upon the parties present to introduce themselves to the panel. The Independent Commissioner is addressed as Commissioner Kensington.

Any party intending to give written or spoken evidence in Māori or speak in sign language should advise the hearings advisor at least five working days before the hearing so that a qualified interpreter can be provided.

Catering is not provided at the hearing. Please note that the hearing may be recorded.

### **Scheduling submitters to be heard**

A timetable will be prepared approximately one week before the hearing for all submitters who have returned their hearing attendance form. Please note that during the course of the hearing, changing circumstances may mean the proposed timetable is delayed or brought forward. Submitters wishing to be heard are requested to ensure they are available to attend the hearing and present their evidence when required. The hearings advisor will advise submitters of any changes to the timetable at the earliest possible opportunity.

### **The Hearing Procedure**

The usual hearing procedure is:

- Submitters (for and against the application) are called upon to speak. Submitters' active participation in the hearing process is completed after the presentation of their evidence so ensure you tell the Independent Commissioner everything you want them to know during your presentation time. Submitters may also be represented by legal counsel or consultants and may call witnesses on their behalf. Each speaker may be questioned in turn by the Independent Commissioner.
- Should you wish to present written information (evidence) in support of your submission please ensure you provide the number of copies indicated in the notification letter.
- Only the Independent Commissioner can ask questions about submissions or evidence. Attendees may suggest questions for the Independent Commissioner to ask but it does not have to ask them. No cross examination is permitted at the Hearing.
- After the submitters have presented their cases, the Independent Commissioner may call upon Council officers to comment on any matters of fact or clarification.
- Following the presentation of all the evidence, the Independent Commissioner will deliberate in private. The Independent Commissioner will then make a recommendation to the Matamata-Piako District Council who will make a decision. You will be sent a copy of the decision for your information.

**PROPOSAL TO CLASSIFY HETANA STRET RESERVE AS LOCAL PURPOSE (COMMUNITY USE) AND RECREATION RESERVE**

**TABLE OF CONTENTS**

**Reporting officer's report**

- Attachment 1** MSCHT's building plans
- Attachment 2** Hetana Street Reserve - Land Status Report; prepared by Schwarz Consulting Ltd on 19 August 2022
- Attachment 3** Public notice (Scene 6 September 2022)
- Attachment 4** Statement of proposal
- Attachment 5** Submissions in full
- Attachment 6** Submission analysis
- Attachment 7** Ngāti Hauā letter
- Attachment 8** Arborist report

Reporting officers: Anna M<sup>c</sup>Elrea (Senior Consultant, Xyst Ltd) and Mark Naude (Council's Parks and Facilities Planning Team Leader)

Reporting on submissions to the proposal to classify approximately 223m<sup>2</sup> (building footprint and 2m buffer) of Lot 2 DPS 86435 to local purpose (community use) reserve to enable Matamata Community Health Shuttle Trust to relocate and extend its existing garage and to classify the remainder of the parcel as recreation reserve.

<b>SUBMITTER NUMBER</b>	<b>SUBMITTER NAME</b>	<b>REQUESTED OPPORTUNITY TO SPEAK TO SUBMISSION</b>
1	Royce Wiles	Yes
2	Brett Hodge	Yes
3	Peter Jacobsen	No
4	Matamata Community Health Shuttle Trust	Yes
5	Lynley Jobe	No
6	Beau Timberland	No
7	Peter Colemore-Williams	No
8	Derek Bown	No
9	Clive Williams	No
10	Transition Matamata	No
11	David Irwin	No
12	Centennial Drive Committee	No
13	Tom Grant Drive Incorporated	No
14	Keep Matamata Beautiful	No

15	Bede Stevens	No
16	Robin Burr	No
17	Misty Smith	No

# **Hearing of submissions on Matamata-Piako District Council's proposal to classify part of Hetana Street Reserve, Matamata (Lot 2 DPS 86435) as local purpose (community use) reserve and the remainder as recreation reserve**

## **Purpose of the report**

1. To provide background information and a summary of submissions received following the public notification of the proposed classifications of Hetana Street Reserve, Matamata (Lot 2 DPS 86435) to assist the Independent Commissioner to hear from submitters at a hearing and make recommendations to Matamata-Piako District Council (Council).

## **Executive summary**

2. On 29 June 2022 Council's Corporate and Operations Committee resolved that Council approve the relocation of the Matamata Community Health Shuttle Trust (MCHST) garages to the sculpture park area in Hetana Street Reserve and commence the reserve reclassification process. Council subsequently identified that the reserve has never been classified and so initiated the process to classify approximately 223m<sup>2</sup> (building footprint and 2m buffer) of Lot 2 DPS 86435 to local purpose (community use) reserve to enable Matamata Community Health Shuttle Trust (MCHST) to relocate its existing garage and extend it to create a four bay garage. Concurrently it initiated the process to classify the remainder of Lot 2 DPS 86435 in accordance with the purpose it was vested, that is, as recreation reserve
3. The public notification period was between 6 September 2022 and 14 October 2022. There was a total of 17 submissions received. Three of the submitters indicated they would like to speak at a hearing.
4. On 14 December 2022, Council resolved to appoint an Independent Commissioner to conduct the hearing in respect of objections and submissions received on the proposed reserve classifications and prepare a report to Council which considers all submissions and objections received, including both written submissions and those presented at the hearing and makes recommendations to Council in respect of the proposal.
5. The three submitters that indicated they wanted to speak at a hearing were invited to speak at the dedicated hearing to be held Friday 10 February 2023 and all three confirmed their attendance.

## **Recommendation/s**

6. That the Independent Commissioner:
  - a) Receive this report and information in relation to the proposed classifications of Hetana Street Reserve, Matamata,
  - b) Note that all three submitters who indicated that they wished to be heard were invited to attend and speak at the 10 February 2023 hearings in accordance with the requirements of the Reserves Act 1977,
  - c) Review written submissions and consider the verbal submissions heard during the hearing, and

- d) Make a recommendation of the proposed classifications for Hetana Street Reserve for the Matamata-Piako District Council to consider at a future Council meeting.

## Context

### Outline of the proposal

7. The proposal is to classify approximately 223m<sup>2</sup> (building footprint and 2m buffer) of Lot 2 DPS 86435 to local purpose (community use) reserve to enable Matamata Community Health Shuttle Trust (MCHST) to relocate its existing garage and extend it to create a four bay garage.
8. MCHST is a not-for-profit community organisation that provides a community health shuttle service for those who need to travel to medical facilities outside Matamata. MCHST currently owns a building located within the area leased to Matamata Resources Trust (Railside by the Green) on Hetana Street Reserve in Matamata. MCHST has increased the size of its fleet because of the level of demand for the service and wishes to expand its building to accommodate all of the vehicles and manage its operation out of one central facility.
9. MCHST's service runs on week days only. Typically, two of MCHST's vehicles are out on the road by 8am and brought back to the garage in the afternoon between 2-5pm and the other two vehicles are out on Mondays, Wednesdays and Fridays by 6.30am and back by approximately 9am.
10. Council initially considered the options to support the MCHST to develop a facility to house its expanding vehicle fleet at its 11 August 2021 Council meeting<sup>1</sup> and subsequently at a workshop in April 2022.
11. MCHST's original proposal to extend their existing garage at its current location within the Railside by the Green's leased area was opposed by Railside by the Green because of their plans to expand the Railside by the Green building to accommodate demand from their tenants and additional activities in the future. Council considered a range of alternative locations and determined that relocating and extending the garage at the proposed location on the Hetana Street Reserve was an acceptable option.
12. The 1.6051ha of land referred to as Hetana Street Reserve comprises four parcels. The proposal affects Lot 2 Deposited Plan South Auckland 86435 which is 1,617m<sup>2</sup>. The land parcel was vested as recreation reserve through the subdivision undertaken in 2000 by the New Zealand Railways Corporation. Classification in accordance with section 16 of the Reserves Act 1977 hasn't occurred. The subject site is designated as Proposed Reserve (Designation 45). The underlying zone is business.
13. The proposed garage is 16.12m wide and 7.07m deep with a pitched roof. It is proposed to locate the garage in the south-west corner of the reserve; approximately 12m from the western fence between the reserve and the rail line and 3m from the southern side boundary. Refer to Attachment 1 for MCHST's building plans.
14. MCHST has proposed to mitigate visual effects of the proposed garage facility through the siting of the facility, the proposed use of visually recessive colour steel and screen planting. They are open to meeting other requirements and have noted they are open to building an entirely new building with a lower building height and roof pitch if required.
15. The proposed relocation to the new site within Hetana Street Reserve requires the classification of part of the reserve as local purpose (community use) prior to the land

---

<sup>1</sup> Full report and minutes are available at [www.mpd.govt.nz/our-council/minutes](http://www.mpd.govt.nz/our-council/minutes)

being leased to MCHST. It is proposed to classify the remainder of Lot 2 DPS 86435 in accordance with the purpose it was vested, that is, as recreation reserve.

### Public notification

16. On 29 June 2022 the Corporate and Operations Committee<sup>2</sup> resolved that Council approve the relocation of the garages to the sculpture park in Hetana Street Reserve and commence the reserve reclassification process.
17. Subsequently Council confirmed via a Land Status Report by Schwarz Consulting Ltd (Attachment 2) that the subject site - Lot 2 DPS 86435 - was vested in Matamata-Piako District Council in 2000 as recreation reserve subject to the Reserves Act 1977 however, it has never been classified under the Reserves Act 1977. Council initiated a public consultation process in accordance with the Reserves Act 1977 to classify the area required for the garage as local purpose (community facility) reserve and the remaining area as recreation reserve.
18. The public consultation period was from 6 September 2022 - 14 October 2022.
19. A public notice (Attachment 3) was placed in the Scene (in the Council in Focus on the 6 September and 4 October), on Council's website under 'Have Your Say' and promoted through Council's Facebook page and Antenno posts. The Statement of Proposal (Attachment 4) promoted through these channels was made available on Council's website.

### Brief overview of submissions received

13. Seventeen submissions were received. Five submissions were from community organisations including Matamata Community Health Shuttle Trust, Transition Matamata, Centennial Drive Committee, Tom Grant Drive Incorporated, and Keep Matamata Beautiful. Twelve submissions were from individuals. These submissions are provided in full in Attachment 5.
14. The proposal to classify approximately 223m<sup>2</sup> (building footprint and 2m buffer) of Lot 2 DPS 86435 to local purpose (community use) reserve to help enable MCHST to relocate its existing garage and extend it to create a four bay garage received five submissions in support, two in partial support and ten in opposition. See Figure 1.
15. The proposal to classify the remainder of Lot 2 DPS 86435 in accordance with the purpose it was vested, that is, as recreation reserve received six submissions in support, two in partial support and seven in opposition. Two submitters did not state their position. See Figure 1.

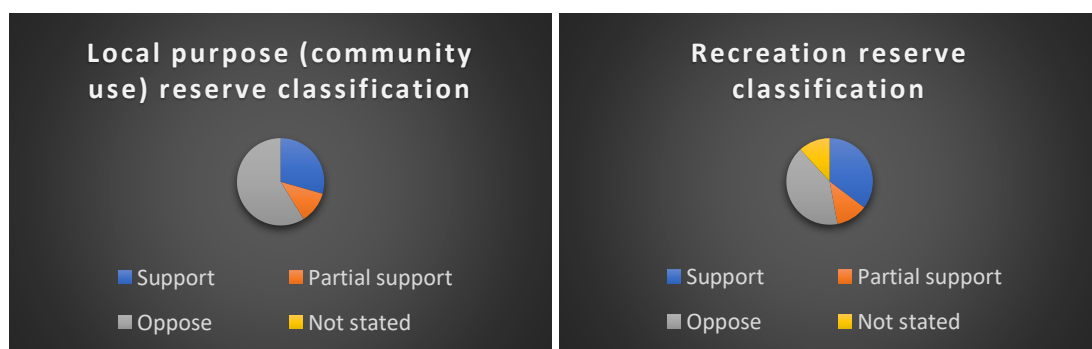


Figure 1. Responses to proposed classifications (total 17 submissions)

<sup>22</sup> Full report and minutes are available at [www.mpd.govt.nz/our-council/minutes](http://www.mpd.govt.nz/our-council/minutes)

16. While there was strong support for the MCHST's activities and services to the local community, a range of concerns were raised by submitters about the proposed location of the garage, including but not limited to:
- Green spaces in Matamata should not be sacrificed for buildings that could be located elsewhere,
  - Ad hoc and reactive nature of planning requests like this which will reduce public amenity at the heart of Matamata,
  - This will set a precedent and create expectations from other user groups to expect the same ability to locate garages for one community group on reserves,
  - Council has invested in consultation on the masterplan and better use of this area and should complete this work and maintain the area as a reserve,
  - Proposal isn't aligned to the General Policies Reserve Management Plan 2019,
  - The proposed garage will have visual amenity and stormwater impacts on the remainder of the reserve,
  - Cost of the classification to ratepayers,
  - The proposed location and building alignment may pose security and vehicle manoeuvring issues,
  - Potential impact on oak trees within Hetana Street Reserve,
  - The need to avoid potential impacts on the amount of self-contained freedom camping parking, and
  - Mana whenua engagement.
17. MCHST and two submitters that opposed the proposed classifications requested the opportunity to speak to their submissions. Council is required to hear these three submitters at a hearing.

### **Hearings and decision making on proposal**

18. Under section 120 of the Reserves Act 1977 any person or organisation may make a (written) submission on the proposal. Those submitters are given the opportunity to be heard before the administering body (the Council). The Council determines its own procedure for these hearings.
19. The Council can choose whether the full Council or a subcommittee/hearings panel/independent commissioner will hear submissions and objections.
20. At the Council meeting on 14 December 2022 Council resolved to appoint an independent commissioner to conduct the hearings, consider the submissions and make recommendations to Council in respect of the proposal (see Figure 2).



## WHAKATAUNGA A TE KAUNIHERA | COUNCIL RESOLUTION

### That:

1. The report be received;
2. Pursuant to sections 16 and 120 of the Reserves Act 1977 and clause 32 of Schedule 7 of the Local Government Act 2002, Council delegates Council's Group Manager Business Support to appoint an independent hearings commissioner with landscape architecture, urban design and/or reserve planning experience to:
  - a. Conduct hearings in respect of objections and submissions received in respect of the proposed reserve classifications for Hetana Street Reserve, Matamata (Lot 2 DPS 86435) (the proposal);
  - b. Pursuant to section 120(3) of the Reserves Act 1977, determine the procedures for any such hearing; and
  - c. Prepare a recommendations report to Council which:
    - i. Considers all submissions and objections received, including both written submissions and those presented at the hearing; and
    - ii. Makes recommendations to Council in respect of the proposal.

Moved by: Cr S Whiting  
Seconded by: Cr J Sainsbury

**KUA MANA | CARRIED**

Figure 2. Council 14 December 2022 Resolutions

21. Council's Group Manager Business Support subsequently appointed Peter Kensington as the Independent Commissioner.

### Analysis and advice

#### Summary of submissions

22. An analysis of the key themes of the submissions is set out in Attachment 6.

#### Māori impact statement

22. Ngāti Hauā and Ngāti Hinerangi were provided with an overview of the proposed classifications and subsequently a summary of the written submissions received following the public notification and were asked whether they would like their position to be set out in the hearing report.
23. Ngāti Hauā confirmed in writing (Attachment 7) that they are opposed to the proposal because they do not support ad hoc responses to these types of planning issues and are uncertain as to what impact this may have on the wider redevelopment of the Hetana Street Reserve and the master planning process.
24. Ngāti Hinerangi hadn't provided a response at the time of writing this report. This may be tabled at the hearing if received by Council prior to the 10 February 2023.

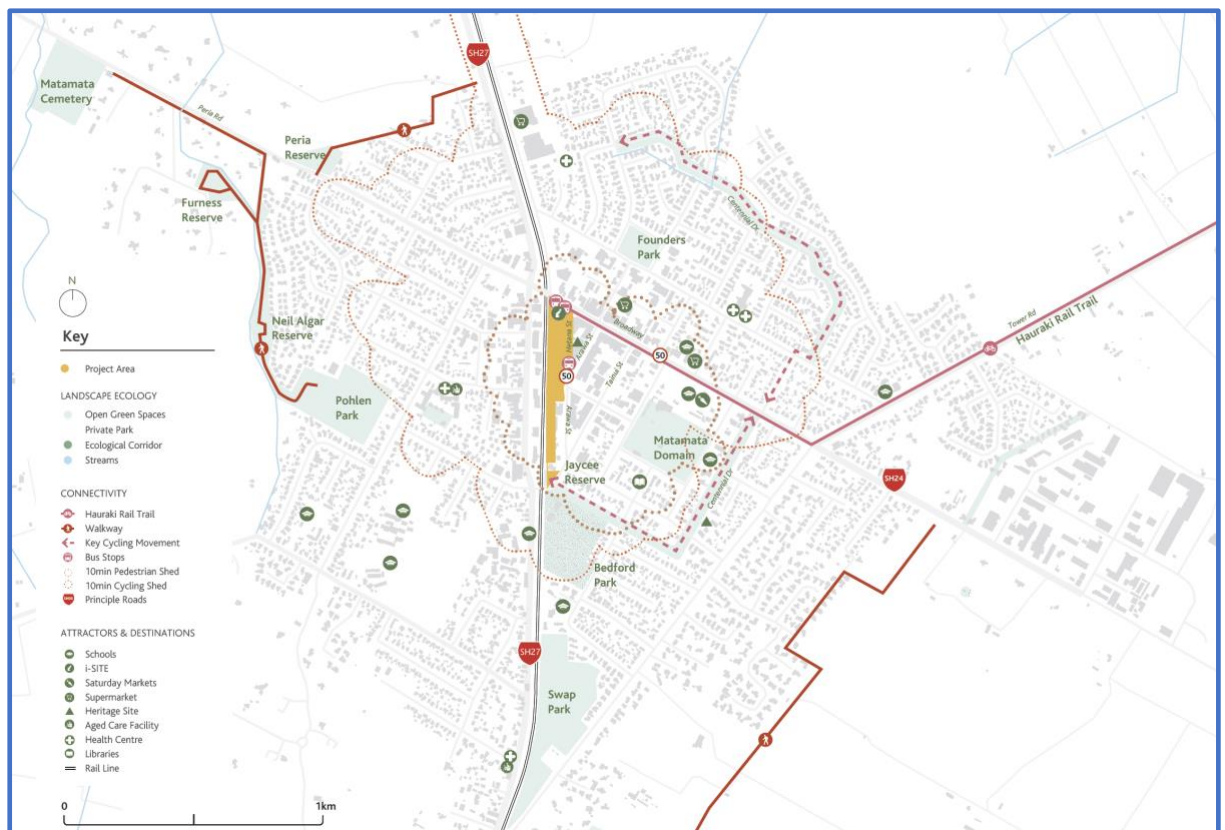
## Legislation assessment

25. The Reserves Act 1977 provides for the classification of reserve land as local purpose for community buildings and for leases to be granted without public notification under section 61.

## Council policies and plans assessment

26. The Rautaki Mō Ngā Pāpa Rēhia Me Ngā Wāhi Wātea - Parks Open Space Strategy 2021-2051 (the Strategy) guides how parks and open spaces are provided, developed and maintained by Council in the long-term. The Strategy's vision is that '*Our parks and open spaces network meets the recreation needs of our community and protects our natural, cultural and historic heritage.*' The Strategy contains principles to guide decisions and strategic goals. It identifies Hetana Street Reserve as a community park which is described as a park developed and used primarily for informal recreation and sporting activities, play and family centred activities and social and community activities, with good street frontage.
27. The General Policies Reserve Management Plan 2019 (General Policies RMP) and the Passive Reserves Management Plan 2009 apply to the reserve. Section 7.2 of the General Policies RMP deals with buildings and structures on reserves. The objectives are:
  - to ensure the design and scale of any new buildings are appropriate to the character and purpose of the reserve
  - to facilitate public recreation and enjoyment in keeping with the purpose of the reserve, and
  - to optimise the use of existing buildings where practicable.
28. Section 7.2.1 of the General Policies RMP sets out the following relevant policies for buildings and structures on parks:
  - Buildings may be provided for the specific proven needs of the users where this does not detrimentally affect the appearance or utilisation of the park.
  - New buildings will only be allowed if it is not practicable or suitable to use an existing building, modify an existing building; or share existing facilities with other users.
  - The new building does not detract from the open nature of the park, especially as seen from surrounding properties and roads.
  - All new buildings and structure shall be of a size and design that is appropriate to the purpose of the reserve, is appropriate to the character of the reserve and is of an appropriate architectural standard for a public building or structure.
29. Section 9 of the General Policies RMP sets out objectives and policies related to leases on parks. They provide a framework for Council to grant occupation agreements that:
  - are consistent with the Reserves Act 1977,
  - align with the objectives of the relevant reserve management plan, Council strategies, policies and bylaw, and
  - that avoid, mitigate or minimise any adverse effects of reserve occupation and which
30. Council initiated the Hetana Street and Hetana Reserve Masterplan Project (Master Plan) in 2020 to present a clear and compelling long-term vision for the street and reserve that reflects the values of the community and supports all ages and abilities. The scope for the masterplan is identified in Figure 3. The project was put on hold following initial public, stakeholder and mana whenua consultation to enable Council to

complete Te Whakahi o te Takiwā o Matamata Pride of Place Matamata – Te rautaki me ngā rautaki whāinga – Strategy and Action Plan July 2022 (POP Matamata). The POP Matamata identifies that the community values Matamata’s key green spaces and sets ‘*Matamata’s Town Centre green spaces are well-used and celebrated*’ as one of the plan’s six Place Goals. The plan identifies that The Oaks (Oak Plantation within Hetana Street Reserve) and the flat green space outside of Railside by the Green (see Figure 4) offers an ideal event or activity space and sets placemaking objectives and actions related to these parts of Hetana Street Reserve.



**Figure 3. Scope of the Hetana Street and Hetana Reserve Masterplan and surrounding open space network**

## Matamata's Town Centre Infrastructure



**Figure 4. Matamata's Town Centre Infrastructure Diagram from Te Whakahi o te Takiwā o Matamata Pride of Place Matamata – Te rautaki me ngā rautaki whāinga – Strategy and Action Plan July 2022**

31. A resource consent for the proposed building will be required under the Matamata-Piako District Plan as any building on a public reserve is a discretionary activity under Rule 2.2.7.3. Consent may also be required because of the side yard setback and works within the dripline of protected trees.

### Hetana Street Reserve overview

32. At the heart of Matamata's CBD, Hetana Street Reserve has been identified as a critical green space for both residents and visitors to Matamata for recreation, walking and cycling connections (including the Hauraki Rail Trail), visual amenity, the large mature oak trees and the home of key visitor infrastructure such as the Matamata i-site Visitor Information Centre and the town's main public toilets. Council has also last year approved a new 10 + 10 year lease to Railside by the Green.
33. The proposed site is currently mown grass with a path through the middle that leads into the adjoining stand of oak trees with sculptures under it. Anecdotally the area currently has limited recreation use.
34. While not completed or approved by Council, ideas generated for the area on and around the proposed new garage site through the Master Plan initial engagement included extending the Hauraki Rail Trail through the reserve along the Western boundary next to the proposed garage site, realigning the internal road at the southern end of the reserve to create a larger contiguous grassed event space and stopping vehicle access to the private parking at the south western corner of the reserve. The

proposed garage location would mean the Hauraki Rail Trail section adjoining the garage would need to be 'on-road' and the realignment of the internal road wouldn't be able to be achieved.

### **Impact on trees**

35. The reserve contains a number of large mature specimen trees. Council is yet to confirm if these are protected under the Matamata-Piako District Plan.
36. A number of the submissions raised concerns about the impact of the proposed building on the trees within the reserve. In response to these concerns, Council commissioned Arbor Care Ltd to undertake an assessment of the impact of the proposal on the trees.
37. Arbor Care Ltd found that the proposed building will be outside of the structural root zone of the two mature healthy English Oak trees (*Quercus robur*) but within their standard circular root protection zone. They assessed that with a robust tree protection plan in place, the building should be able to be constructed without excessive root damage and a suitable root protection area should be able to be maintained away from the building. They also noted that some crown lifting/side reduction pruning to allow for the construction of the building and assessed that this will be very minor and not adversely affect the health or life expectancy of these trees.
38. While the building can be built without affecting the tree stability, health or life expectancy, Arbor Care Ltd highlighted the long-term considerations:
  - The building will be located under the canopy of mature trees,
  - These canopies will continue to extend further over the building into the future,
  - There will be annual leaf and acorn drops that will land on the roof of the building, and
  - There could be limb failures during storms in the future.
39. A full copy of the report, with a proposed tree protection plan, is included as Attachment 8.

### **Financial implications**

40. The 29 June 2022 Corporate and Operations Committee report set out a draft budget for the classification and building relocation and extension. The financial implications of approving the classification will be updated and presented back to Council when the Independent Commissioner's recommendation is reported to Council.

### **Risks and mitigations**

41. Any risk of a judicial review of Council decision-making processes is minimised if the process follows the statutory requirements of the Reserves Act 1977.
42. MCHST will be responsible for the relocation and extension of the existing garage and the regulatory consents to develop and operate the new facility if the Council approves the classification and lease of the proposed new site.
43. If Council doesn't approve the classification of the proposed new site, it will be unable to lease the site to MCHST. MCHST will remain on a month to month arrangement with Railside by the Green for the existing garage facility and will be required to find another site to move to so that Railside by the Green can progress its plans to develop and extend their building.

**Next steps**

44. The Independent Commissioner will make a recommendation to Council about whether to approve the proposed classifications following the hearing.
45. Council will resolve whether to approve the proposed classifications at its full business meeting on 22 March 2023.