

Notice of Meeting:

I hereby give notice that an ordinary Meeting of the Council will be held on:

Date: Thursday 12 May 2022
Time: 9.30am
Meeting Room: Council Chamber and Audio Visual Link
Venue: Municipal Building, Garden Place, Hamilton

Lance Vervoort
Chief Executive

Council *Kaunihera* OPEN AGENDA

Membership

Chairperson Mayor P Southgate
Heamana

Deputy Chairperson Deputy Mayor G Taylor
Heamana Tuarua

Members

Cr M Bunting	Cr A O’Leary
Cr M Gallagher	Cr R Pascoe
Cr R Hamilton	Cr S Thomson
Cr D Macpherson	Cr M van Oosten
Cr K Naidoo-Rauf	Cr E Wilson
Cr M Donovan	

Quorum: A majority of members (including vacancies)

Meeting Frequency: Monthly – or as required

Amy Viggers
Mana Whakahaere
Governance

5 May 2022

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Purpose

The Council is responsible for:

1. Providing leadership to, and advocacy on behalf of, the people of Hamilton.
2. Ensuring that all functions and powers required of a local authority under legislation, and all decisions required by legislation to be made by local authority resolution, are carried out effectively and efficiently, either by the Council or through delegation.

Terms of Reference

1. To exercise those powers and responsibilities which cannot legally be delegated by Council:
 - a) The power to make a rate.
 - b) The power to make a bylaw.
 - c) The power to borrow money, or purchase or dispose of assets, other than in accordance with the Long Term Plan.
 - d) The power to adopt a Long Term Plan or Annual Plan, or Annual Report.
 - e) The power to appoint a Chief Executive.
 - f) The power to adopt policies required to be adopted and consulted on under the Local Government Act 2002 in association with the Long Term Plan, or developed for the purpose of the Council's governance statement, including the 30-Year Infrastructure Strategy.
 - g) The power to adopt a remuneration and employment policy.
 - h) The power to approve or change the District Plan, or any part of that Plan, in accordance with the Resource Management Act 1991.
 - i) The power to approve or amend the Council's Standing Orders.
 - j) The power to approve or amend the Code of Conduct for Elected Members.
 - k) The power to appoint and discharge members of committees.
 - l) The power to establish a joint committee with another local authority or other public body.
 - m) The power to make the final decision on a recommendation from the Parliamentary Ombudsman, where it is proposed that Council not accept the recommendation.
 - n) The power to amend or replace the delegations in Council's *Delegations to Positions Policy*.
2. To exercise the following powers and responsibilities of Council, which the Council chooses to retain:
 - a) Resolutions required to be made by a local authority under the Local Electoral Act 2001, including the appointment of an electoral officer and reviewing representation arrangements.
 - b) Approval of any changes to Council's vision, and oversight of that vision by providing direction on strategic priorities and receiving regular reports on its overall achievement.
 - c) Approval of any changes to city boundaries under the Resource Management Act.
 - d) Adoption of governance level strategies plans and policies which advance Council's vision and strategic goals.
 - e) Approval of the Triennial Agreement.
 - f) Approval of the local governance statement required under the Local Government Act 2002.

- g) Approval of a proposal to the Remuneration Authority for the remuneration of Elected Members.
- h) Approval of any changes to the nature and delegations of the Committees.
- i) Approval of all Council and Committee Advisory Groups and their terms of reference.
- j) Appointments to, and removals from, CCO CCTO and CO boards;
- k) Approval of proposed major transactions or constitutional adjustments of CCOs, CCTOs and COs.
- l) Approval or otherwise of any proposal to establish, wind-up or dispose of any holding in, a CCO, CCTO or CO.
- m) Approval of city boundary changes, including in respect of Strategic Boundary Land Use Agreements.
- n) Approval Activity Management Plans.

Oversight of Policies and Bylaws:

- *Corporate Hospitality and Entertainment Policy*
- *Delegations to Positions Policy*
- *Elected Members Support Policy*
- *Significance and Engagement Policy*

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1 Apologies - *Tono aroha*

2 Confirmation of Agenda - *Whakatau raarangi take*

The Council to confirm the agenda.

3 Declaration of Interest - *Tauaakii whaipaaanga*

Members are reminded of the need to be vigilant to stand aside from decision making when a conflict arises between their role as an elected representative and any private or other external interest they might have.

4 Public Forum - *Aatea koorero*

As per Hamilton City Council's Standing Orders, a period of up to 30 minutes has been set aside for a public forum. Each speaker during the public forum section of this meeting may speak for five minutes or longer at the discretion of the Mayor.

Please note that the public forum is to be confined to those items falling within the terms of the reference of this meeting.

Speakers will be put on a Public Forum speaking list on a first come first served basis in the Council Chamber prior to the start of the Meeting. A member of the Governance Team will be available to co-ordinate this. As many speakers as possible will be heard within the allocated time.

If you have any questions regarding Public Forum please contact Governance by telephoning 07 838 6727.

Council Report

Item 5

Committee: Council

Date: 12 May 2022

Author: Tyler Gaukrodger

Authoriser: Michelle Hawthorne

Position: Governance Advisor

Position: Governance and Assurance
Manager

Report Name: Confirmation of the Council Open Minutes of 17 March 2022

Report Status	<i>Open</i>
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Staff Recommendation - *Tuutohu-aa-kaimahi*

That the Council confirm the Open Minutes of the Council Meeting held on 17 March 2022 as a true and correct record.

Attachments - *Ngaa taapirihanga*

Attachment 1 - Council Unconfirmed Open Minutes - 17 March 2022

Council Kaunihera OPEN MINUTES

Minutes of a meeting of the Council held in Council Chamber, Municipal Building, Garden Place, Hamilton and via Audio Visual link on Thursday 17 March 2022 at 9.33am to Thursday 31 March 2022.

PRESENT

Chairperson <i>Heamana</i>	Mayor P Southgate
Deputy Chairperson <i>Heamana Tuarua</i>	Deputy Mayor G Taylor
Members	Cr M Bunting Cr M Gallagher Cr R Hamilton Cr D Macpherson Cr K Naidoo-Rauf Cr M Donovan Cr A O'Leary Cr R Pascoe Cr S Thomson Cr M van Oosten Cr E Wilson

In Attendance	Lance Vervoort – Chief Executive David Bryant - General Manager People and Organisational Performance Helen Paki – General Manager Community Eeva-Liisa Wright – General Manager Infrastructure Operations Murry Heke - General Manager Customer, Technology and Transformation Sean Hickey – General Manager Strategy and Communication Sean Murray – General Manager Venues, Tourism and Major Events Chris Allen – General Manager Development Blair Bowcott – General Manager Growth Andrew Parsons - Executive Director - Strategic Infrastructure Lisa Topcsov - External Funding Manager - Major Projects Greg Carstens - Growth, Funding and Analytics Unit Manager Tiki Mossop – Programme Manager Economics & Policy Julie Clausen - Unit Manager Strategy and Corporate Planning Tracey Musty - Financial Controller Maria Barrie - Unit Director Parks and Recreation Rebecca Whitehead - Acting Community Services Unit Director Robyn Denton - Operations Team Leader Martin Lynch - Energy Consultant Martin Parkes – Transport and Urban Mobility Programme Delivery Lead Dan Finn – People, Safety & Wellness Manager
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Lachlan Muldowney – Barrister to Hamilton City Council

Governance Team Michelle Hawthorne - Governance & Assurance Manager
Amy Viggers – Governance Lead
Carmen Fortin – Senior Governance Advisor
Claire Guthrie, Narelle Waite and Tyler Gaukrodger – Governance Advisors
Melanie Hill - Governance and Elected Member Support Coordinator
Tatiyana Taunoa - Official Information Advisor & Legal support

Cr Hamilton opened the meeting with a Karakia.

1. Apologies – Tono aroha

Resolved: (Mayor Southgate/Deputy Mayor Taylor)

That the apologies for early departure from Cr van Oosten, Cr Bunting and Cr Donovan are accepted.

2. Confirmation of Agenda – Whakatau raarangi take

Resolved: (Mayor Southgate/Cr O’Leary)

That the agenda is confirmed noting that:

- a) late addition (Reviewing membership in anticipation of the establishment of the Te Huia subcommittee) to Item 8 (Chair’s Report) is accepted;
- b) late attachments (‘Tompkins Wake Letter – What would trigger the requirement to consult on the Annual Plan’ and ‘Animal Education and Control Fees and Charges (including GST) Proposed for Year 2 2022/23 of the 2021-31 10-Year Plan’) for Item 11 (2022/23 Annual Plan Proposed Draft Annual Plan Budget) are accepted. These have been circulated to members as late additions to the agenda due to a delay in receipt of information and staff error. Both are also attached to the minutes of the meeting as an Appendix; and
- c) late item C11 (Central City Infrastructure Acceleration Fund (IAF) Proposal) is accepted as part of the public excluded agenda as per Section 7 (2) (i) of the Local Government Official Information and Meetings Act 1987 to enable Council to carry out negotiations. This was added as a late item at the request of Kaainga Ora to enable Council to further consider its proposal to the Infrastructure Acceleration Fund;
- d) item C6 (Draft 2022-23 Annual Plan Report Considerations), item C7 (Rototuna Pool Funding Proposal Report) and C11 (Central City Infrastructure Acceleration Fund (IAF) Proposal) will be taken during the discussion of item 11 ((2022/23 Annual Plan Proposed Draft Annual Plan Budget) at the request of staff;
- e) the order of Items will be flexible as required to accommodate availability; and
- f) standing order 22.2 – Time Limit on Speakers, with respect the debate times being reduced to 2 minutes for all items, with the exception of the last debate on item 11 (2022/23 Annual Plan Proposed Draft Annual Plan Budget), which would be 5 minutes.

3. Declarations of Interest – Tauaakii whaipanga

During the discussion of the Item 12 (Reform Response Programme update) Mayor Southgate declared an interest in the item but noted that she was not conflicted. She took part in the discussion and vote on the matter.

During the discussion of the Item C7 (Rototuna Pool Funding Proposal Report) Cr Pascoe declared an interest in the item but noted that he was not conflicted. He took part in the discussion and vote on the matter.

During the discussion of item C8 (Recommendations for Public Excluded Committee Meetings) Cr Wilson declared an interest in relation to the recommendation from the District Plan Committee. He did not take part in the discussion or vote on the matter.

During the discussion of item C8 (Recommendations for Public Excluded Committee Meetings) Deputy Mayor Taylor declared an interest in relation to the recommendation from the Economic Development Committee. He did not take part in the discussion or vote on the matter.

4. Public Forum – Aatea korero

- **Murray Young** spoke to item 11 (2022/23 Annual Plan Proposed Draft Annual Plan Budget) regarding the Burial Lawn plaque area proposal and requested that the Council resolve to maintain all plaques on the Burial Lawn area.
- **Allan Archer** spoke to item 11 (2022/23 Annual Plan Proposed Draft Annual Plan Budget) regarding the Burial Lawn plaque area proposal and asked that the Council to consider the introduction of concrete strips to maintain the Burial Lawn area.

5. Confirmation of the Extraordinary Council (Recommendation from the CE Review Committee) Open Minutes - 17 November 2021

Resolved: (Mayor Southgate/Deputy Mayor)

That the Council confirms the Open Minutes of the Extraordinary Council (Recommendation from the CE Review Committee) Meeting held on 17 November 2021 as a true and correct record.

6. Confirmation of the Council Open Minutes of 3 February 2022

Resolved: (Mayor Southgate/Cr van Oosten)

That the Council confirm the Open Minutes of the Council Meeting held on 3 February 2022 as a true and correct record.

Cr Bunting Dissenting.

7. Confirmation of the Elected Member Open Briefing Notes - 2 February 2022

Resolved: ((Mayor Southgate/Deputy Mayor)

That the Council confirm the Open Briefing Notes of the Elected Member Briefing held on 2 February 2022 as a true and correct record.

8. Chair's Report

The Chair spoke to her report thanking Elected Members for their work and acknowledged the recent 'Stand with Ukraine' event held Civic Square where the Ukrainian flag was raised on the Council building. She responded to questions from members concerning Council and Committee meetings being held via audio visual links.

Resolved: (Mayor Southgate/Deputy Mayor Taylor)

That the Council:

- a) receives the report; and
- b) approves the appointment of Cr Ewan Wilson as an appointed voting member and Cr Dave Macpherson as an alternate member to the Te Huia subcommittee representing Hamilton City Council.

9. Hamilton City Council's Draft Submission to the WEL Energy Trust's 2022/2023 Draft Annual Plan

The External Funding Manager - Major Projects outlined the report and the draft submission. She responded to questions from Elected Members concerning the scope to apply for further funding.

Resolved: (Cr Wilson/Cr Hamilton)

That the Council:

- a) receives the report;
- b) approves Hamilton City Council's draft submission to the WEL Energy Trust's 2022-2023 Draft Annual Plan;
- c) notes that the approved submission will be sent to the WEL Energy Trust following approval at the Council's meeting (noting that the Trust has provided Council with an extension to the official 16 March 2022 submission closing date); and
- d) notes that Cr Bunting and Cr Hamilton will speak in support of the approved submission at the Trust's hearing scheduled for 22 March 2022.

The meeting was adjourned 10.43am to 10.56am.

10. Draft Development Contributions Policy 2022/23 – Consultation

The Programme Manager Economics and Policy spoke to the report noting that the changes to the Policy were limited which meant that a majority of the policy was unchanged. Staff responded to questions from Elected Members concerning consultation, financial implications of remission for state integrated schools, the inability to require a Development Contribution from state schools under the Local Government Act 2002, and community access.

Resolved: (Cr Hamilton/ Mayor Southgate)

That the Council:

- a) receives the report;
- b) approves the Proposed Development Contributions Policy 2022/23 (**Attachment 1** of the staff report) and the Development Contributions Policy Consultation Document (**Attachment 3** of the staff report) for community consultation; and
- c) notes that community consultation on the Proposed Development Contributions Policy 2022/23 will take place from 22 March to 14 April 2022.

Item 11 (2022/23 Annual Plan Proposed Draft Annual Plan Budget) was deferred to be taken later in the meeting at the request of Elected Members.

12. Reform Response Programme update

The General Manager Strategy and Communication introduced the report noting the recent workshop with Members concerning the Future of Local Government Reform. Staff responded to questions from Elected Members concerning presenting to the Future of Local Government Panel, if there was any feedback from other Councils' meetings with the Panel, and the process for the development of Council's submission to the panel which was to be submitted by 1 June 2022.

Resolved: (Mayor Southgate/Deputy Mayor Taylor)

That the Council receives the report.

During the discussion of the following item Mayor Southgate noted an interest in the matter and that she was not conflicted. She took part in the discussion and vote on the matter.

13. Watercare - Board of Inquiry Update

The Executive Director Strategic Infrastructure and Lachlan Muldowney explained that there had been an appeal to the High Court filed by Te Whakakitenga o Waikato Incorporated and that it was recommended that Council not take part in the appeal process.

Resolved: (Mayor Southgate/Deputy Mayor Taylor)

That the Council:

- a) receives the report; and
- b) determines that Hamilton City Council will not participate and/or become a party to the appeal in relation to the Watercare Board of Inquiry decision.

14. Community Committees Trial Update

Resolved: (Cr O’Leary/Cr Bunting)

That the Council:

- a) receives the report; and
- b) defers the final report concerning the process to establish a trial for two Community Committees to a future meeting of the Council by 30 June 2022.

15. Recommendations from Open Committee Meetings

Financial Performance & Strategy Report to 30 November 2021

Resolved: (Cr Pascoe/Cr van Oosten)

That the Council:

- a) approves the capital movement as identified in paragraph 30 of the 10 February 2022 Capital Portfolio Monitoring Report;
- b) approves the significant forecast adjustments as set out in paragraphs 51 to 52 of the staff report; and
- c) approves the revised Financial Strategy position for Debt to Revenue, Net Debt and Balancing the Books as set out in paragraphs 54 to 56 of the staff report

WLASS/Co-Lab - additional shareholder and replacement HCC director on Co-Lab Board

Resolved: (Cr Hamilton/Cr Wilson)

That the Council:

- a) approves that Western Bay of Plenty District Council (WBOP) becomes a shareholder of Co-Lab on the following basis:
 - i. WBOP is issued with one (1) ordinary share in the company, for a consideration of \$1,000, noting that the share will remain uncalled;
 - ii. WBOP signs a deed acceding to the Shareholders Agreement dated 5 October 2005;
 - iii. the constitution of the company is amended to reflect that WBOP will, together with Thames-Coromandel, Hauraki and Matamata-Piako District Councils, be entitled to appoint one representative to the company’s Board;
 - iv. WBOP will contribute at the rate of 100% (as opposed to the 50% the other BOPLASS shareholding councils do, ie Rotorua and Taupo) to Company Management and Support costs, the Opportunity Development Fund and any other requests for funding in line with the formula previously agreed between the current shareholders; and
 - v. WBOP will contribute a proportionate share to the “value” of opportunities currently under development; and
 - vi. if the required 75% approval of the resolution details in paragraph 2. b) i. to v. above is received, authorise the Co-Lab Board and Chief Executive to:
 - A. approach WBOP to establish whether they are willing to accept the offer on this basis; and
 - B. if so, take the necessary actions to achieve the outcomes noted above; and
- b) approves the transition of the Hamilton City Council-appointed director of Co-Lab from David Bryant, General Manager People & Organisational Performance to Lance Vervoort, Chief Executive Officer, by 31 March 2022.

Licence to Occupy - Spark New Zealand - FMG Waikato Stadium

Resolved: (Cr Hamilton/Cr Wilson)

That the Council approves a new licence for Spark New Zealand for existing telecommunications equipment and antennae located at FMG Waikato Stadium, subject to the following terms and conditions:

- a) Term – 10 years, commencing 1 June 2022;
- b) Rental – Market value to be determined closer to commencement; and
- c) Rent Reviews – 3 yearly CPI.

Event Sponsorship Activity - Policy Review and Fund Update

Resolved: (Cr Hamilton/Cr Wilson)

That the Council approves the draft Event Sponsorship Policy (as set out in Attachment 1 of the staff report).

That the Council approves that any underspend of the 2021/22 Event Sponsorship fund be redirected to “events” re-launch activity targeting CBD activation in partnership with the Hamilton Central Business Association when Government’s COVID-19 alert framework moves to Orange and/or Green status in either the current 2021/22 financial year or within the 2022/23 financial year.

General Manager's Report

Resolved: (Cr Hamilton/Cr Wilson)

That the Council approves \$138,000 to provide 50% rent relief for eligible Council tenants in the hospitality sector during the Covid Protection Framework effective from 3 December 2021 to 3 June 2022, in accordance with the following criteria:

- a) tenants need to occupy Council-owned premises and operate in the hospitality sector;
- b) provide proof of financial hardship and a reduction of more than 50% normal revenue for the period;
- c) provide proof of any Government subsidies applied for and received; and
- d) provide proof of any relief funding received from other sources.

One Victoria Trust (Meteor Theatre) - Property Renewals Funding Request

Resolved: (Cr Bunting/Cr Naidoo-Rauf)

That the Council:

- a) approves a financial underwrite of up to \$20,000 to The One Victoria Trust for bathroom renovations at the Meteor Theatre; and
- b) notes that if the underwrite is called upon, this unbudgeted amount would be funded through current underspend in an existing Council budget in 2021/22.

General Manager's Report

Resolved: (Cr Hamilton/Cr Thomson)

That the Council approves the revised work programme and schedule (as detailed in paragraphs 25 to 42 of the staff report).

16. Resolution to Exclude the Public

Resolved: (Mayor Southgate/Deputy Mayor Taylor)

Section 48, Local Government Official Information and Meetings Act 1987

The following motion is submitted for consideration:

That the public be excluded from the following parts of the proceedings of this meeting, namely consideration of the public excluded agenda.

The general subject of each matter to be considered while the public is excluded, the reason for passing this resolution in relation to each matter, and the specific grounds under section 48(1) of the Local Government Official Information and Meetings Act 1987 for the passing of this resolution

follows.

General subject of each matter to be considered	Reasons for passing this resolution in relation to each matter	Ground(s) under section 48(1) for the passing of this resolution
C1. Confirmation of the Council Public Excluded Minutes of 3 February 2022	) Good reason to withhold) information exists under) Section 7 Local Government) Official Information and	Section 48(1)(a)
C2. Confirmation of the Elected Member Public Excluded Briefing Notes - 2 February 2022	) Meetings Act 1987)	
C3. Confirmation of the Elected Member Public Excluded Briefing Notes - 9 February 2022		
C4. Confirmation of the Elected Member Public Excluded Briefing Notes - 23 February 2022		
C5. Confirmation of the Elected Member Public Excluded Briefing Notes - 4 March 2022		
C7. Rototuna Pool Funding Proposal Report		
C8. Recommendations from Public Excluded Committee Meetings		
C11. Central City Infrastructure Acceleration Fund (IAF) Proposal		

This resolution is made in reliance on section 48(1)(a) of the Local Government Official Information and Meetings Act 1987 and the particular interest or interests protected by Section 6 or Section 7 of that Act which would be prejudiced by the holding of the whole or relevant part of the proceedings of the meeting in public, as follows:

Item C1.	to prevent the disclosure or use of official information for improper gain or improper advantage	Section 7 (2) (j)
Item C2.	to prevent the disclosure or use of official information for improper gain or improper advantage	Section 7 (2) (j)
Item C3.	to prevent the disclosure or use of official information for improper gain or improper advantage	Section 7 (2) (j)
Item C4.	to prevent the disclosure or use of official information for improper gain or improper advantage	Section 7 (2) (j)
Item C5.	to prevent the disclosure or use of official information for improper gain or improper advantage	Section 7 (2) (j)
Item C7.	to enable Council to carry out negotiations	Section 7 (2) (i)
Item C8.	to prevent the disclosure or use of official information for improper gain or improper advantage	Section 7 (2) (j)
Item C11	to enable Council to carry out negotiations	Section 7 (2) (i)

The meeting went into a Public Excluded session at 11.59am.

The meeting returned to the open session at 3.59pm.

The meeting was adjourned 3.59pm to 4.10pm.

Cr Naidoo-Rauf left the meeting during the above adjournment.

11. 2022/23 Annual Plan Proposed Draft Annual Plan Budget

The Chief Executive introduced the report, noted the next steps in the Annual Plan process and thanked Members for their engagement in the process. The General Manager Strategy and Communication spoke to the staff recommendation.

For further information concerning content and discussion, please refer to the following recordings of the meeting: www.youtube.com/user/HamiltonCityCouncil/videos?view

The meeting was adjourned 5.17pm on Thursday 17 March 2022 to 9.03am Friday 18 March 2022.

Cr Naidoo-Rauf re-joined the meeting during the above adjournment.

11. 2022/23 Annual Plan Proposed Draft Annual Plan Budget - Continued

Staff provided Elected Members with an update on the process for the remainder of the meeting.

Item 11 (2022/23 Annual Plan Proposed Draft Annual Plan Budget) was adjourned at the conclusion of the above to enable discussion of related matters in the public excluded session.

16. Resolution to Exclude the Public

Resolved: (Mayor Southgate/Deputy Mayor Taylor)

Section 48, Local Government Official Information and Meetings Act 1987

The following motion is submitted for consideration:

That the public be excluded from the following parts of the proceedings of this meeting, namely consideration of the public excluded agenda.

The general subject of each matter to be considered while the public is excluded, the reason for passing this resolution in relation to each matter, and the specific grounds under section 48(1) of the Local Government Official Information and Meetings Act 1987 for the passing of this resolution follows.

General subject of each matter to be considered	Reasons for passing this resolution in relation to each matter	Ground(s) under section 48(1) for the passing of this resolution
C6. Draft 2022-23 Annual Plan Report Considerations	) Good reason to withhold) information exists under) Section 7 Local Government) Official Information and) Meetings Act 1987	Section 48(1)(a)

This resolution is made in reliance on section 48(1)(a) of the Local Government Official Information and Meetings Act 1987 and the particular interest or interests protected by Section 6 or Section 7 of that Act which would be prejudiced by the holding of the whole or relevant part of the proceedings of the meeting in public, as follows:

Item C6.	to enable Council to carry out commercial activities without disadvantage	Section 7 (2) (h)
	to enable Council to carry out negotiations	Section 7 (2) (i)

Attachment 1

Item 5

The meeting went into a Public Excluded session at 10.26am.

The meeting went into an Open session at 3.55pm.

The meeting was adjourned 3.55 to 4.03pm.

Cr Hamilton left the meeting during the above adjournment.

11. 2022/23 Annual Plan Proposed Draft Annual Plan Budget - Continued

Resolved: (Mayor Southgate/Deputy Mayor Taylor)
That the Council receives the report.

(Cr Hamilton was not present for the above vote)

Resolved: (Cr Bunting/Cr Thomson)
That the Council approves the inclusion of the following for the purposes of preparing the draft 2022-23 Annual Plan budget changes to the Year 2 (2022-23) budget arising from Council resolutions post the adoption of the 2021-31 Long-Term Plan with an impact of \$1,171,000 additional operating expenditure and \$1,000 additional operating revenue:

- A. Beale Cottage Museum Pilot: Operating expenditure \$45,000 and \$1,000 operating revenue in 2022-23 only;
- B. City Waters Sludge Contract: Operating expenditure \$376,000 per year ongoing;
- C. Sub-regional 3 Waters Project: Operating expenditure \$750,000 2022-23 only.

(Cr Hamilton was not present for the above vote)

Resolved: (Mayor Southgate/Cr Bunting)
That the Council approves the inclusion of the following for the purposes of preparing the draft 2022-23 Annual Plan budget: Zoo/Waiwhakareke Natural Heritage Park Entry - correct consequential operating expenditure timing: Consequential operating expenditure \$200,000 per year ongoing.

Cr Hamilton re-joined the meeting (4.12pm) during the discussion of the above item. He was present when the matter was voted on.

Resolved: (Mayor Southgate/Cr Hamilton)
That the Council approves the inclusion of the following for the purposes of preparing the draft 2022-23 Annual Plan budget: Electricity Costs – Whole of Council: Operating expenditure \$1,480,000 and \$134,000 operating revenue per year ongoing.

Resolved: (Cr Wilson/Cr Pascoe)
That the Council approves the inclusion of the following for the purposes of preparing the draft 2022-23 Annual Plan budget: FMG Stadium Waikato Maintenance Adjustment: Operating expenditure \$130,000 per year ongoing

Cr Macpherson Dissenting.

(Cr Hamilton was not present for the above vote)

Cr Hamilton left the meeting (4.22pm) during the discussion of the above item. He was not present for the vote on the matter.

Resolved: (Cr Macpherson/Cr Pascoe)
That the Council approves the inclusion of the following for the purposes of preparing the draft

2022-23 Annual Plan budget: Information Services – Security: Operating expenditure \$1,030,000 per year ongoing.

(Cr Hamilton was not present for the above vote)

Resolved: (Cr O’Leary/Cr Bunting)

That the Council approves the inclusion of the following for the purposes of preparing the draft 2022-23 Annual Plan budget: Landfill Provision and Interest Adjustment: Operating expenditure \$241,000 per year ongoing.

(Cr Hamilton was not present for the above vote)

Resolved: (Cr Pascoe/Cr Van Oosten)

That the Council approves the inclusion of the following for the purposes of preparing the draft 2022-23 Annual Plan budget: Insurance Premium Adjustment: Operating expenditure reduction - \$314,000 per year ongoing.

(Cr Hamilton was not present for the above vote)

Resolved: (Mayor Southgate/Cr O’Leary)

That the Council approves the inclusion of the following for the purposes of preparing the draft 2022-23 Annual Plan budget: Remuneration Authority - Councillor Remuneration: Operating expenditure \$36,000 per year ongoing.

Cr Pascoe Dissenting.

(Cr Hamilton was not present for the above vote)

Resolved: (Cr Thomson/Cr O’Leary)

That the Council approves the inclusion of the following for the purposes of preparing the draft 2022-23 Annual Plan budget: Waka Kotahi National Land Transport Programme 2021-24 Change: Revenue adjustment of -\$1.231 million 2022-23, -\$1.888 million 2023-24, -\$11.109 million 2024-25, -\$2.815 million 2025-26, +\$12.001 million 2026-27 and capital expenditure adjustments of - \$2.31 million 2022-23, -\$3.525 million 2023-24, -\$23.352 million 2024-25, -\$4.55 million 2025-26 and +\$27.85 million 2026-27.

(Cr Hamilton was not present for the above vote)

Resolved: (Cr Macpherson/Cr Gallagher)

That the Council approves the inclusion of the following for the purposes of preparing the draft 2022-23 Annual Plan budget: Peacocke Bridge Contract: Capital revenue \$9.23 million and capital expenditure \$18.1 million 2023-24 only.

Cr Bunting Dissenting.

(Cr Hamilton was not present for the above vote)

Resolved: (Mayor Southgate/Cr Pascoe)

That the Council:

- a) notes the changes to the underlying assumptions have been incorporated into the Year 2 (2022-23) budget adjustments:
 - (i) Increase in depreciation arising from the revaluation of asset categories;

- (ii) Re-assessment of the impact of COVID-19 on revenue and expenditure;
 - (iii) Incorporation of the NIDEA high demographic projections for the purposes of planning and development of the draft 2022-23 Annual Plan;
 - (iv) the inflation assumptions in year 2 (2022-23) are per the 2021-2031 Long Term Plan as being 5% for operational expenditure and 5% for capital expenditure including renewals, with the financial impact of a forecast increase in operational expenditure of \$5.4m, and an increase in the capital programme of \$6.3m in 2022-23 and \$5.7m in 2023-24.
- b) notes that staff will report back on the growth projections and dwelling projections.

Those for the Motion: Mayor Southgate, Councillors Pascoe, O'Leary, Hamilton, Gallagher, Macpherson, Naidoo-Rauf, van Oosten and Thomson

Those against the Motion: Deputy Mayor Taylor, Councillors Wilson, Bunting and Donovan

Cr Hamilton re-joined the meeting (4.32pm) during the discussion of the above item. He was present when the matter was voted on.

The meeting was adjourned 4.59pm on Friday 18 March 2022 until 9.30am Tuesday 22 March 2022.

1. Apologies – *Tono aroha*

Resolved: (Mayor Southgate/Deputy Mayor Taylor)
That the apologies for partial absence from Cr Bunting, Cr Hamilton, Cr Naidoo- Rauf are accepted.

11. 2022/23 Annual Plan Proposed Draft Annual Plan Budget - Continued

Resolved: (Mayor Southgate/Cr van Oosten)
That the Council approves for the purposes of modelling the financial impact in the draft 2022-23 Annual Plan budget the deferral of \$19.62 million of capital projects from 2022-23 to later years.

Cr Wilson Dissenting.

University of Waikato pool

Resolved: (Cr Wilson/Cr Pascoe)
That the Council approves staff to carry out further investigations into the condition and long-term viability of the University of Waikato pool and to prepare a proposal for consideration in the 2023-24 Annual Plan.

Cr Bunting left the meeting 10.15am during the discussion of the above matter. He was not present when the matter was voted on.

Funding relating to the 2022 Welcoming Plan

Motion: (Cr Naidoo- Rauf/Cr Macpherson)
That the Council approves for the purposes of financial modelling for the draft 2022-23 Annual Plan budget additional funding to assist community groups in partnering with Council to achieve the outcomes of the 2022 Welcoming Plan, to make Hamilton a more inclusive city with a financial impact of \$75,000 per annum ongoing from 2022-23.

Amendment: (Cr Deputy Mayor Taylor/Cr Hamilton)
That the Council approves for the purposes of financial modelling for the draft 2022-23 Annual Plan budget additional funding to assist community groups in partnering with Council to achieve the outcomes of the 2022 Welcoming Plan, to make Hamilton a more inclusive city with a financial

impact of \$25,000 per annum for 2022-23 and 2023-24.

The Amendment was put.

Those for the Amendment: Mayor Southgate, Deputy Mayor Taylor
Councillors Donovan, Pascoe, O'Leary,
Hamilton and Wilson

Those against the Amendment: Councillors Gallagher, Macpherson,
Naidoo-Rauf, van Oosten and Thomson

The Amendment was declared CARRIED.

The Amendment as that substantive motion was then put and declared CARRIED.

Resolved: (Cr Deputy Mayor Taylor/Cr Hamilton)

That the Council approves for the purposes of financial modelling for the draft 2022-23 Annual Plan budget additional funding to assist community groups in partnering with Council to achieve the outcomes of the 2022 Welcoming Plan, to make Hamilton a more inclusive city with a financial impact of \$25,000 per annum for 2022-23 and 2023-24.

The meeting was adjourned from 11.14am to 11.25am.

Cr Naidoo-Rauf left the meeting during the above adjournment.

School travel planning pilot programme

Resolved: (Cr Thompson/Cr O'Leary)

That the Council:

- a) approves for the purposes of financial modelling for the draft 2022-23 Annual Plan budget a school travel planning pilot programme to create a school travel plan for one cluster with a financial impact of \$105,000 operating expenditure in 2022-23 and \$130,000 operating expenditure in 2023-24; and
- b) notes that staff will seek co-funding and in kind support from partners to deliver the programme.

Those for the Motion: Mayor Southgate, Councillors Gallagher,
O'Leary, Macpherson, van Oosten and
Thomson

Those against the Motion: Deputy Mayor Taylor, Councillors Wilson,
Pascoe and Donovan

Cr Hamilton left the meeting (11.41am) during the discussion of the above item. He was not present when the matter was voted on.

Hamilton City Council staff travel plan

Resolved: (Cr Macpherson/Cr van Oosten)

That the Council approves for the purposes of financial modelling for the draft 2022-23 Annual Plan budget a Hamilton City Council staff travel plan to encourage sustainable travel by Hamilton City Council Staff with a financial impact of \$50,000 in 2022-23.

The Motion was put.

Those for the Motion: Councillors Gallagher, O'Leary, Macpherson, van Oosten and Thomson

Those against the Motion: Mayor Southgate, Deputy Mayor Taylor
Councillors Pascoe, Wilson and Donovan

The Motion was declared EQUAL.

Mayor Southgate exercised her casting vote as Chair and the Motion was declared CARRIED.

Cr Naidoo-Rauf and Cr Bunting re-joined the meeting (12.45pm) at the conclusion of the above item. They were not present when the matter was voted on.

Transport Stakeholder Manager

Resolved: (Cr O'Leary/Cr Bunting)

That the Council approves for the purposes of financial modelling for the draft 2022-23 Annual Plan budget A full-time position for a Transport Stakeholder Manager with a financial impact of \$120,000 operating expenditure per year ongoing from 2022-23.

Those for the Motion: Mayor Southgate, Councillors Bunting, Donovan, Naidoo-Rauf, Gallagher, O'Leary, Macpherson, van Oosten and Thomson

Those against the Motion: Deputy Mayor Taylor, Councillors Wilson and Pascoe

Item 11 (2022/23 Annual Plan Proposed Draft Annual Plan Budget) was adjourned at the conclusion of the above to enable discussion of matters in the public excluded session.

16. Resolution to Exclude the Public

Resolved: (Mayor Southgate/Deputy Mayor Taylor)

Section 48, Local Government Official Information and Meetings Act 1987

The following motion is submitted for consideration:

That the public be excluded from the following parts of the proceedings of this meeting, namely consideration of the public excluded agenda.

The general subject of each matter to be considered while the public is excluded, the reason for passing this resolution in relation to each matter, and the specific grounds under section 48(1) of the Local Government Official Information and Meetings Act 1987 for the passing of this resolution follows.

General subject of each matter to be considered	Reasons for passing this resolution in relation to each matter	Ground(s) under section 48(1) for the passing of this resolution
C9. Confirmation of the Extraordinary Council (Recommendation from the CE Review Committee) Public Excluded Minutes - 17 November 2021	) Good reason to withhold) information exists under) Section 7 Local Government) Official Information and) Meetings Act 1987)	Section 48(1)(a)

- C10. Recommendations from Public Excluded CE Review Committee Meeting of 10 March 2022
- C11. Central City Infrastructure Acceleration Fund (IAF) Proposal

This resolution is made in reliance on section 48(1)(a) of the Local Government Official Information and Meetings Act 1987 and the particular interest or interests protected by Section 6 or Section 7 of that Act which would be prejudiced by the holding of the whole or relevant part of the proceedings of the meeting in public, as follows:

Item C9.	to protect the privacy of natural persons	Section 7 (2) (a)
Item C10.	to protect the privacy of natural persons	Section 7 (2) (a)
	to prevent the disclosure or use of official information for improper gain or improper advantage	Section 7 (2) (j)
Item C11	to enable Council to carry out negotiations	Section 7 (2) (i)

The meeting went into a Public Excluded session at 1.14pm .

*Cr Hamilton re-joined the meeting during the above public excluded session of the meeting.
Cr O'Leary left the meeting during the above public excluded session of the meeting.*

The meeting went returned to an Open session at 2.44pm.

11. 2022/23 Annual Plan Proposed Draft Annual Plan Budget - Continued

Acquisition of a community park within Peacocke Stage One

Resolved: (Mayor Southgate/Deputy Mayor Taylor)

That the Council approves the discussion concerning the acquisition of a community park within Peacocke Stage One to the public excluded session of the meeting.

Cr O'Leary re-joined the meeting (2.47pm) during the discussion of the above item. She was present when the matter was voted on.

Rototuna Passenger Transport facilities hub Business Case

Staff Action: Staff undertook to organise an session with Elected Members concerning the Funding for a business case for the Rototuna Passenger Transport facilities hub as soon as possible.

Garden Place, Civic Square, and Worley Place Shared Zone Study

Motion: (Mayor Southgate/

That the Council approves for the purposes of financial modelling for the draft 2022-23 Annual Plan budget Funding for a Garden Place, Civic Square, and Worley Place Shared Zone Study: to plan for safety improvements with a financial impact of \$50,000 operating expenditure in 2023-24.

The Motion was put.

Those for the Motion: Mayor Southgate, Councillors Gallagher, Naidoo-Rauf, van Oosten and Thomson

Those against the Motion : Deputy Mayor Taylor, Councillors Pascoe, O'Leary, Macpherson, Bunting, Wilson and Donovan

The Motion was declared LOST.

Cr Hamilton left the meeting (3.45pm) during the discussion of the above item. He was not present when the matter was voted on.

The meeting was adjourned 4.00pm to 4.10pm

Cr Naidoo-Rauf left the meeting during the above adjournment.

The meeting was adjourned 4.47pm Tuesday 22 March 2022 to 9.32am Wednesday 23 March 2022 during the discussion of the above item.

Cr Hamilton and Cr Naidoo-Rauf re-joined the meeting during the above adjournment.

1. Apologies – Tono aroha

Resolved: (Mayor Southgate/Deputy Mayor Taylor)
That the apologies for partial absence from Cr Bunting are accepted.

11. 2022/23 Annual Plan Proposed Draft Annual Plan Budget - Continued

Peacocke Stage One Neighbourhood Park

Resolved: (Cr Macpherson/Cr Hamilton)
That Council approves for the purposes of financial modelling for the draft 2022-23 Annual Plan budget purchase of the Peacocke Stage One Neighbourhood Park to a maximum value of \$1.5m.

Cr Wilson Dissenting.

The meeting was adjourned from 10.48am to 11.00am.

Strategic Water Line (Hamilton South)

Resolved: (Cr O'Leary/Cr Hamilton)
That the Council approves for purposes of financial modelling for the draft 2022-23 Annual Plan the inclusion of capital expenditure for the Strategic Water Line (Hamilton South) which was unfunded capital expenditure in the 2021-31 Long-Term Plan with a financial impact of \$700,000 capital expenditure in 2022-23 and \$1,030,000 capital expenditure in 2023-24.

Pukete Reservoir Pump Station Upgrade

Resolved: (Cr O'Leary/Cr Hamilton)
That the Council approves for purposes of financial modelling for the draft 2022-23 Annual Plan the inclusion of capital expenditure for the Pukete Reservoir Pump Station Upgrade which was unfunded capital expenditure in the 2021-31 Long-Term Plan with a financial impact of \$500,000 capital expenditure in 2022-23, \$970,000 capital expenditure in 2023-24 and \$5,000 consequential operating expenditure per year ongoing from 2022-23.

Burial Lawn plaque area

Resolved: (Mayor Southgate/Cr O'Leary)
That the Council approves for purposes of financial modelling for the draft 2022-23 Annual Plan an increase in levels of service for the Burial Lawn plaque area with edging around plaques undertaken with a financial impact of \$75,000 operating expenditure per year ongoing from 2022-23 and \$40,000 capital expenditure in 2022-23.

Collingwood Street Branding feasibility case

Motion: (Cr Naidoo-Rauf/Cr Bunting)
That the Council approves for purposes of financial modelling for the draft 2022-23 Annual Plan the additional operating expenditure for a Collingwood Street Branding feasibility case with a

financial impact of \$30,000 operating expenditure in 2022-23.

The Motion was put.

Those for the Motion: Mayor Southgate, Councillors Gallagher, Macpherson, Bunting and Naidoo-Rauf
Those against the Motion: Deputy Mayor Taylor, Councillors Pascoe, O'Leary, Hamilton, van Oosten, Thomson and Donovan, Wilson

The Motion was declared LOST.

Kent Street Carpark and adjacent green space

Staff Action: Staff undertook to report back to the 14 June 2022 Community Committee meeting with a proposal that includes costs to enhance the Kent Street Carpark and adjacent green space to be a more friendly community event space.

The meeting was adjourned from 12.49 to 2.05pm.

Comet & Meteor Route

Motion: (Cr Macpherson/Cr Gallagher)

That the Council approve for purposes of financial modelling for the draft 2022-23 Annual Plan the expenditure of \$4.0m capex in year 2023-24 only on Comet and Meteor Route PT Infrastructure, and \$200k ongoing from that year as consequential operational expenditure.

Amendment: (Cr Thomson/Cr Bunting)

That the Council approves for the purposes of financial modelling for the draft 2022-2023 Annual Plan:

- a) capital expenditure of \$800k for design and engagement work for Comet & Meteor Route priority projects in 2022-23;
- b) capital expenditure of \$3.2m in 2023-24 for construction of priority projects, subject to 51% external revenue from Waka Kotahi; and
- c) requests that staff remove in-lane bus stops on Te Rapa Road/Ulster Street and report back to the Infrastructure Operations Committee for final approval of the list of priority projects.

The Amendment was put.

Those for the Amendment: Councillors Gallagher, O'Leary, van Oosten, Macpherson, Bunting, Hamilton, Thomson and Donovan.

Those against the Amendment: Mayor Southgate, Deputy Mayor Taylor, Councillors Pascoe, Wilson and Naidoo-Rauf

The Amendment was declared CARRIED.

The Amendment as the Substantive Motion was then put and declared CARRIED.

Resolved: (Cr Thomson/Cr Bunting)

That the Council approves for the purposes of financial modelling for the draft 2022-2023 Annual Plan:

- a) capital expenditure of \$800k for design and engagement work for Comet & Meteor Route priority projects in 2022-23;

- b) capital expenditure of \$3.2m in 2023-24 for construction of priority projects, subject to 51% external revenue from Waka Kotahi;
- c) requests that staff remove in-lane bus stops on Te Rapa Road/Ulster Street and report back to the Infrastructure Operations Committee for final approval of the list of priority projects.

Those for the Amendment as the Substantive Motion:

Mayor Southgate, Councillors Pascoe, Gallagher, O'Leary, Macpherson, Bunting, Hamilton, van Oosten, Thomson and Donovan

Those against the Amendment as the Substantive Motion:

Deputy Mayor Taylor, Councillors Wilson and Naidoo-Rauf

The meeting was adjourned during the above item from 2.34pm to 2.40pm.

'Bikes on Pipes'

Resolved: (Cr O'Leary/Cr Bunting)

That the Council

- a) approves for purposes of financial modelling for the draft 2022-23 Annual Plan additional capital expenditure for 'Bikes on Pipes' to combine the construction of a shared walking and cycling path with a Housing Infrastructure Fund-funded wastewater connection and associated gully crossing structure with financial impact of \$7.426 million capital expenditure in 2023-24 and \$35,000 consequential operating expenditure per year ongoing from 2024-25; and
- b) requests staff schedule the walking and cycling path connections to the two walking and cycling bridges 'bikes on pipe' to be priced separately in the construction contract to enable Council to make a separate decision whether to proceed with the path connections as part of the contract award decision once the final cost and any external funding opportunities are known.

Those for the Motion:

Mayor Southgate, Councillors Gallagher, O'Leary, Macpherson, Bunting, Hamilton, van Oosten, Thomson and Donovan

Those against the Motion:

Deputy Mayor Taylor, Councillors Pascoe, Naidoo-Rauf and Wilson

The Motion was declared CARRIED.

The meeting was adjourned from 3.43pm to 3.56pm.

Crs Naidoo-Rauf and Bunting left the meeting during the above adjournment.

Health insurance scheme

Resolved: (Cr Pascoe/Cr van Oosten)

That Council endorses the option for Chief Executive to introduce a staff attraction and retention benefit of a Health Insurance Scheme, to be implemented within approved Personnel Costs, should he deem this useful in implementing the staff Talent Management Strategy.

(Cr Naidoo-Rauf and Bunting were not present for the above vote)

Cr Bunting re-joined the meeting (4.21pm) at the conclusion of the above item. He was not present when the item was voted on.

Power resilience and Climate Action Plan initiative at Pukete Wastewater Treatment Plant

Resolved: (Cr Hamilton/Cr O'Leary)

That the Council approves for purposes of financial modelling for the draft 2022-23 Annual Plan capital expenditure brought forward from 2025-26 for a power resilience and Climate Action Plan initiative at Pukete Wastewater Treatment Plant with the financial impact of \$4.3 million capital expenditure in 2022-23 and \$50,000 consequential operating expenditure per year ongoing from 2022-23 and a reduction in capital expenditure of \$4.3 million in 2025-26 and a reduction of \$50,000 in consequential operating expenditure in 2025-26 per year ongoing;

(Cr Naidoo-Rauf was not present for the above vote)

Resolved: (Cr Thomson/Cr Gallagher)

That the Council approves for purposes of financial modelling for the draft 2022-23 Annual Plan a business case and early design relating to the Climate Action Plan at Pukete Wastewater Treatment with a financial impact of \$100,000 of operating expenditure in 2022-23.

Those for the Motion: Mayor Southgate, Deputy Mayor Taylor
Councillors Gallagher, O'Leary, van Oosten,
Bunting, Macpherson, Thomson, Donovan
and Wilson

Those against the Motion: Councillors Hamilton and Pascoe

The meeting was adjourned 5.07pm to 5.12pm.

The meeting was adjourned 5.21pm Wednesday 22 March 2022 to 9.32am Thursday 24 March 2022.

Cr Naidoo-Rauf re-joined the meeting during the above adjournment.

11. 2022/23 Annual Plan Proposed Draft Annual Plan Budget - Continued

External Funding

Resolved: (Cr Bunting/Cr Hamilton)

That the Council approves for purposes of financial modelling for the draft 2022-23 Annual Plan the realignment of external revenue to smooth revenue targets to align with external funders and project pipelines with a financial impact of a \$1.8 million reduction in operating revenue in 2022-23 and an increase of \$1.8 million in operating revenue in 2023-24.

Climate Change and Sustainability Resource

Resolved: (Cr Thomson/Cr Gallagher)

That the Council approves for purposes of financial modelling for the draft 2022-23 Annual Plan operating expenditure of \$190,000 per year for funding for two additional FTE staff to support delivery of the climate change strategy, policy and action plan.

Those for the Motion : Mayor Southgate, Councillors Gallagher,
O'Leary, Macpherson, Naidoo-Rauf, van
Oosten and Thomson

Those against the Motion: Deputy Mayor Taylor, Councillors Pascoe,
Bunting, Hamilton, Wilson and Donovan

The Motion was declared CARRIED.

Resolved: (Cr Thomson/Cr Gallagher)

That the Council notes that the draft Annual Plan budget will reflect a budget correction of \$100k

additional operating expenditure to support the Environment Committee (which was removed in error during the Long-Term Plan).

The meeting was adjourned 10.22am to 11.05am.

3 Waters Reform transition planning

Motion: (Cr O'Leary/Cr Naidoo-Rauf)

That the Council notes the funding 3 Waters Reform transition planning to deliver the work required to ensure the smooth transition of Council's three waters assets and operations to Entity B in years 2022-23 and 2023-24 is to remain unfunded until written confirmation from the Government that they will cover the cost in full, including the cost of borrowing to fund the work until reimbursed by Central Government.

Amendment: (Cr Macpherson/Cr Pascoe)

That the Council approves for purposes of financial modelling for the draft 2022-23 Annual Plan the inclusion of funding for 3 Waters Reform transition planning to deliver the work required to ensure the smooth transition of Council's three waters assets and operations to Entity B with a neutral financial impact with the \$1.7 million operating expenditure in 2022-23 and 2023-24 being offset by a \$1.7 million grant revenue in 2022-23 and 2023-24, subject to an agreement with government to fund all the costs and regular reporting to the Finance Committee throughout each year on performance under the agreement.

The Amendment was put.

Those for the Amendment: Councillors Gallagher, Pascoe, Macpherson, van Oosten and Thomson

Those against the Amendment: Mayor Southgate, Deputy Mayor Taylor, Councillors O'Leary, Bunting, Naidoo-Rauf, Wilson and Donovan

Amendment was declared LOST.

The Motion was then put and declared CARRIED.

Resolved: (Cr O'Leary/Cr Naidoo-Rauf)

That the Council notes the funding 3 Waters Reform transition planning to deliver the work required to ensure the smooth transition of Council's three waters assets and operations to Entity B in years 2022-23 and 2023-24 is to remain unfunded until written confirmation from the Government that they will cover the cost in full, including the cost of borrowing to fund the work until reimbursed by Central Government.

Those for the Motion: Mayor Southgate, Councillors O'Leary, Naidoo-Rauf, Gallagher, Pascoe, Macpherson, van Oosten and Thomson

Those against the Motion: Deputy Mayor Taylor, Councillors Wilson, Bunting and Donovan

Cr Hamilton left the meeting 11.33am during the discussion of the above item. He was not present when the matter was voted on.

Department of Internal Affairs 'Better Off' fund

Resolved: (Mayor Southgate/Cr Thomson)

That the Council notes the potential funding from the Department of Internal Affairs 'Better Off'

fund has not been incorporated into the draft 2022-23 Annual Plan budget due to the uncertainty at this point of the terms and conditions of the funding.

(Cr Hamilton was not present for the above vote)

Rates Remission and Postponement Policy

Resolved: (Mayor Southgate/Cr van Oosten)

That the Council approves consultation on the proposed changes to the Rates Remission and Postponement Policy pursuant to the Local Government (Rating of Whenua Maaori) Amendment Act 2021.

(Cr Hamilton was not present for the above vote)

Animal Education and Control fees and charges schedule

Resolved: (Deputy Mayor Taylor/Cr van Oosten)

That the Council approves the Animal Education and Control fees and charges schedule in **appendix 2** of the minutes.

(Cr Hamilton was not present for the above vote)

The meeting was adjourned 12.03pm to 12.10pm.

The meeting was adjourned 1.00pm Thursday 24 March 2022 until 1.32pm Thursday 31 March 2022.

Cr Hamilton re-joined the meeting during the above adjournment.

Attachment 1

Item 5

2. Confirmation of Agenda – *Whakatau raarangi take*

Resolved: (Mayor Southgate/Deputy Mayor Taylor)

That the agenda is confirmed noting that late item 17 (Notice of revocation - My Vaccine Pass requirements for Council facilities) is accepted. This was added as a late item following Central Government changes to Covid-19 restrictions.

4. Public Forum – *Aatea korero*

Christie Harger spoke to item 17 (Notice of revocation - My Vaccine Pass requirements for Council facilities) and requested that the Council revokes the requirement for the production of a valid My Vaccine Pass for entry by the public to all Council owned and operated facilities

Cushla Moore spoke to item 17 (Notice of revocation - My Vaccine Pass requirements for Council facilities) and requested that the Council revokes the Council Policy the Covid-19 vaccine.

Pat Gregory spoke to item 17 (Notice of revocation - My Vaccine Pass requirements for Council facilities) and requested that the Council revokes the current policy.

Ursula Edgington spoke to item 17 (Notice of revocation - My Vaccine Pass requirements for Council facilities) and requested that the Council revokes the policy that she felt was not appropriate.

Kelly Fredrickson spoke to item 17 (Notice of revocation - My Vaccine Pass requirements for Council facilities) and requested that the Council revokes its policy for Community Facilities.

17. Notice of revocation - My Vaccine Pass requirements for Council facilities

The Governance and Assurance Manager introduced the report, noting the range of feedback included in the report. Staff responded to questions from Elected members concerning the opinion of staff, timeframe, Bill of Rights implications, public health guidance, the options outlined in the staff recommendation, safety measures, mask usage, advice received, and the staff policy versus the Council facilities policy.

Motion: (Cr Hamilton/Cr Bunting)

That the Council:

- a) receives the report;
- b) notes that the Chief Executive is undertaking a review of the policy concerning Covid 19 vaccinations for staff;
- c) effective from 5 April 2022, Council revokes the requirement for the production of a valid My Vaccine Pass for entry by the public to all Council owned and operated facilities passed in its resolution of 30 November 2021 with the exception of H3 and Council owned and operated facilities, where a hirer has exclusive use of the entire facility and specifies use of the My Vaccine Pass for individual events; and
- d) effective from 5 April 2022, revokes the policy for all 'in-person' participants at formal Council meetings and Committee meetings, Hearings and official Council Workshops as adopted in its resolution of 30 November 2021.

Amendment: (Cr Wilson/Cr Macpherson)

That the Council continues its policy requiring vaccine passes for all Council public facilities until 30th April 2022, excluding H3 and Council owned and operated facilities, where a hirer has exclusive use of the entire facility and specifies use of the My Vaccine Pass for individual events, subject to the CE:

- i. reviewing this decision by 22nd April; and
- ii. receiving medical advice that the lifting of the vaccine pass requirement will not significantly heighten the risk of Hamilton residents catching Covid-19.

The Amendment was put.

Those for the Amendment: Councillors van Oosten, Gallagher, Macpherson, and Wilson

Those against the Amendment: Mayor Southgate, Deputy Mayor Taylor, Councillors O'Leary, Hamilton, Donovan, Naidoo-Rauf, Bunting, Pascoe, and Thomson

The Amendment was declared LOST.

The Motion was put and the Motion was declared CARRIED.

Resolved: (Cr Hamilton/Cr Bunting)

That the Council:

- a) receives the report;
- b) notes that the Chief Executive is undertaking a review of the policy concerning Covid 19 vaccinations for staff;
- c) effective from 5 April 2022, Council revokes the requirement for the production of a valid My Vaccine Pass for entry by the public to all Council owned and operated facilities passed in its resolution of 30 November 2021 with the exception of H3 and Council owned and operated facilities, where a hirer has exclusive use of the entire facility and specifies use of the My Vaccine Pass for individual events; and
- d) effective from 5 April 2022, revokes the policy for all 'in-person' participants at formal Council meetings and Committee meetings, Hearings and official Council Workshops as adopted in its resolution of 30 November 2021.

Those for the Motion: Mayor Southgate, Deputy Mayor Taylor, Councillors O'Leary, Hamilton, Donovan, Naidoo-Rauf, van Oosten, Pascoe, Thomson,

Bunting and Wilson

Those against the Motion:

Councillors Gallagher and Macpherson

The meeting was adjourned 3.40pm to 3.46pm.

11. 2022/23 Annual Plan Proposed Draft Annual Plan Budget - Continued

Operating Budget**Resolved:** (Cr Wilson/Mayor Southgate)

That the Council approves the following changes to draft 2022-23 Annual Plan operating budget of:

Topic	Resolution	Amount \$
Beale Cottage Museum Pilot	2(b)(i)(b)	+\$44,000
City Waters Sludge Contract	2(b)(i)(d)	+\$376,000
Sub-regional 3 Waters Project	2(b)(i)(e)	+\$750,000
Zoo / WNHP	2(b)(ii)(a)	+\$200,000
Electricity Costs	2(b)(ii)(b)	+\$1.34 million
FMG Stadium Waikato Maintenance	2(b)(ii)(c)	+\$130,000
Information Services – Security	2(b)(ii)(d)	+\$1.03 million
Landfill Provision	2(b)(ii)(e)	+\$241,000
Insurance Premium Adjustment	2(b)(ii)(f)	\$-314,000
Remuneration Authority	2(b)(ii)(g)	+\$36,000
Power Resilience at the Pukete WWTP 2022-1.63	g (iii)	+\$50,000
Pukete WWTP Climate Action Plan Business Case	G (iii)	+100,000

Capital Budget**Resolved:** (Cr Wilson/Mayor Southgate)

That the Council approves the following changes to draft 2022-23 Annual Plan capital budget of:

Topic	Resolution	Amount \$
Waka Kotahi NLTP	2(b)(ii)(h)	\$-1.231 million (Capex Revenue) \$-2.31 million (Capex Expenditure)
Peacocke Stage One: Neighbourhood Park Acquisition	f (vi)	+\$625,000
Strategic Water Line (Hamilton South)	f (x)	+\$700,000
Pukete Reservoir Pump Station Upgrade	f (xi)	+\$500,000
Increased Level of Service for Burial Lawn Plaque Areas	f (xiii)	+\$40,000
Power Resilience at the Pukete WWTP	g (iii)	+\$4.3 million
External Revenue Realignment – Community Capital	g (iv)	\$-1.8 million
Public Excluded Capital Projects (<i>Rototuna Pool, Rotokauri Community Park Acquisition, and Onion Road Realignment Design</i>)	Public Excluded	+\$28.025 million

Deputy Mayor Taylor Dissenting.

2022 Welcoming Plan**Motion:** (Cr Macpherson/Cr Naidoo-Rauf)

That the Council approves for the draft 2022-23 Annual Plan budget additional funding to assist

community groups in partnering with Council to achieve the outcomes of the 2022 Welcoming Plan, to make Hamilton a more inclusive city with a financial impact of \$75,000 per annum ongoing from 2022-23.

Amendment: (Mayor Southgate/Cr Pascoe)

That the Council approves for the draft 2022-23 Annual Plan budget additional funding to assist community groups in partnering with Council to achieve the outcomes of the 2022 Welcoming Plan, to make Hamilton a more inclusive city with a financial impact of \$25,000 per annum ongoing from 2022-23.

The Amendment was put.

Those for the Amendment: Mayor Southgate, Deputy Mayor Taylor, Councillors Wilson, O’Leary, Hamilton and Pascoe.

Those against the Amendment: Councillors Bunting, Gallagher, Naidoo-Rauf, van Oosten, Donovan, Macpherson and Thomson

The Amendment was LOST.

The Motion was then put and declared CARRIED.

Resolved: (Cr Macpherson/Cr Naidoo-Rauf)

That the Council approves for the draft 2022-23 Annual Plan budget additional funding to assist community groups in partnering with Council to achieve the outcomes of the 2022 Welcoming Plan, to make Hamilton a more inclusive city with a financial impact of \$75,000 per annum ongoing from 2022-23.

Those for the Motion: Councillors Bunting, Gallagher, Naidoo-Rauf, van Oosten, Donovan, Macpherson, Thomson

Those against the Motion: Mayor Southgate, Deputy Mayor Taylor, Councillors Wilson, O’Leary, Hamilton, Pascoe

School travel planning pilot programme

Motion: (Cr Thomson/Cr Naidoo-Rauf)

That the council approves for inclusion in the draft 2022/23 Annual Plan budget a school travel planning pilot programme with a financial impact of \$70,000 operating expenditure per year in years 2022-23 and 2023-24 only.

Amendment : (Cr O’Leary/Cr Gallagher)

That the Council:

- a) approves for the draft 2022-23 Annual Plan budget a school travel planning pilot programme to create a school travel plan for one cluster with a financial impact of \$105,000 operating expenditure in 2022-23 and \$130,000 operating expenditure in 2023-24; and
- b) notes that staff will seek co-funding and in kind support from partners to deliver the programme.

The Amendment was put.

Those for the Amendment: Councillors Macpherson and van Oosten

Those against the Amendment: Mayor Southgate, Deputy Mayor Taylor, Councillors Bunting, O’Leary, Donovan, Pascoe, Naidoo-Rauf, Gallagher, Hamilton,

Thomson and Wilson.

The Amendment was LOST.

The Motion was put and declared CARRIED.

Resolved: (Cr Thomson/Cr Naidoo-Rauf)

That the council approves for inclusion in the draft 2022/23 Annual Plan budget a school travel planning pilot programme with a financial impact of \$70,000 operating expenditure per year in years 2022-23 and 2023-24 only.

Those for the Motion: Mayor Southgate, Councillors Naidoo-Rauf, Bunting, van Oosten, Thomson, Gallagher, Macpherson, Donovan, Hamilton and O’Leary

Those against the Motion: Deputy Mayor Taylor, Councillors Pascoe and Wilson

Hamilton City Council staff travel plan

Motion: (Cr Macpherson/Cr van Oosten)

That the Council approves for the draft 2022-23 Annual Plan budget a Hamilton City Council staff travel plan to encourage sustainable travel by Hamilton City Council Staff with a financial impact of \$50,000 in 2022-23.

Those for the Motion: Councillors van Oosten, Gallagher, O’Leary, Macpherson and Thomson

Those against the Motion: Mayor Southgate, Deputy Mayor Taylor, Councillors Hamilton, Bunting, Donovan, Naidoo-Rauf, Wilson and Pascoe

The Motion was LOST.

Underlying Assumptions

Resolved: (Mayor Southgate/Cr Pascoe)

That the Council approves the changes to the underlying assumptions have been incorporated into the Year 2 (2022-23) budget adjustments:

- (i) Increase in depreciation arising from the revaluation of asset categories;
- (ii) Re-assessment of the impact of COVID-19 on revenue and expenditure; and
- (iii) Incorporation of the NIDEA high demographic projections for the purposes of planning and development of the draft 2022-23 Annual Plan.

Inflation Assumptions

Motion: (Cr Pascoe/Cr Hamilton)

That the Council approves the changes to the underlying assumptions have been incorporated into the Year 2 (2022-23) budget adjustments the inflation assumptions in year 2 (2022-23) are per the 2021-2031 Long Term Plan as being 5% for operational expenditure and 5% for capital expenditure including renewals, with the financial impact of a forecast increase in operational expenditure of \$5.4m, and an increase in the capital programme of \$6.3m in 2022-23 and \$5.7m in 2023-24.

Amendment: (Cr Wilson/Cr Thomson)

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That the Council approves the changes to the underlying assumptions which have been incorporated into the Year 2 (2022-23) budget adjustments the inflation assumptions in year 2 (2022-23) are per the 2021-2031 Long Term Plan as being:

- a) 5% for operational expenditure with the financial impact of a forecast increase in operational expenditure of \$5.4m in 2022-23; and
- b) an inflation rate of 7% (an increase of 4% above the 2021-31 Long-Term Plan assumption) is applied to capital projects that are assessed as having a cost escalation risk due to inflation and 3% inflation on the non at risk capital projects with the financial impact of a forecast increase in the capital programme of \$10.6 million in 2022-23 and \$9.7 million in 2023-24.

The Amendment was put.

Those for the Amendment: Deputy Mayor Taylor, Councillors Wilson, Donovan, Gallagher, Macpherson, Thomson and van Oosten

Those against the Amendment: Mayor Southgate, Councillors Bunting, O’Leary, Pascoe, Hamilton and Naidoo-Rauf

The Amendment was declared CARRIED.

The Amendment as the substantive motion was then put and declared CARRIED.

Resolved: (Cr Wilson/Cr Thomson)

That the Council approves the changes to the underlying assumptions which have been incorporated into the Year 2 (2022-23) budget adjustments the inflation assumptions in year 2 (2022-23) are per the 2021-2031 Long Term Plan as being:

- a) 5% for operational expenditure with the financial impact of a forecast increase in operational expenditure of \$5.4m in 2022-23; and
- b) an inflation rate of 7% (an increase of 4% above the 2021-31 Long-Term Plan assumption) is applied to capital projects that are assessed as having a cost escalation risk due to inflation and 3% inflation on the non at risk capital projects with the financial impact of a forecast increase in the capital programme of \$10.6 million in 2022-23 and \$9.7 million in 2023-24.

The meeting was adjourned 6.10pm to 7.01pm.

Cr Naidoo-Rauf and Cr Hamilton left the meeting during the above adjournment.

Burial Lawn plaque area

Resolved: (Mayor Southgate/Cr O’Leary)

That the Council approves for the draft 2022-23 Annual Plan an increase in levels of service for the Burial Lawn plaque area with edging around plaques undertaken with a financial impact of \$75,000 operating expenditure per year ongoing from 2022-23 and \$40,000 capital expenditure in 2022-23.

(Crs Hamilton and Naidoo-Rauf were not present for the above vote)

Transport Stakeholder Manager

Motion: (Mayor Southgate/Deputy Mayor Taylor)

That the Council approves for the draft 2022-23 Annual Plan budget a full-time position for a Transport Stakeholder Manager to be funded from existing organisation personnel budgets and reported to 2023/24 Annual Plan.

Amendment: (Cr O’Leary/Cr Bunting)

That the Council approves for the draft 2022-23 Annual Plan budget a full-time position for a Transport Stakeholder Manager with a financial impact of \$120,000 operating expenditure per

year ongoing from 2022-23.

The Amendment was put.

Those for the Amendment: Councillors Bunting, Macpherson, O’Leary, Gallagher, van Oosten and Thomson

Those against the Amendment: Mayor Southgate, Deputy Mayor Taylor, Councillors Pascoe, Hamilton, Naidoo-Rauf, Wilson and Donovan

The Amendment was declared LOST.

The Motion was then put and declared CARRIED.

Resolved: (Mayor Southgate/Deputy Mayor Taylor)

That the Council approves for the draft 2022-23 Annual Plan budget A full-time position for a Transport Stakeholder Manager to be funded from existing organisation personnel budgets and reported to 2023/24 Annual Plan.

Those for the Motion: Mayor Southgate, Deputy Mayor Taylor, Councillors Pascoe, Hamilton, Naidoo-Rauf, Wilson, Donovan, Bunting, O’Leary, and Thomson

Those against the Motion: Councillors van Oosten, Gallagher and Macpherson

Cr Naidoo-Rauf re-joined the meeting (7.09pm) during the discussion of the above item. She was present when the matter was voted on.

Cr Hamilton re-joined the meeting (7.10pm) during the discussion of the above item. He was present when the matter was voted on.

Climate Change and Sustainability Resource

Motion: (Cr Thomson/Cr Gallagher)

That the Council approves for the draft 2022-23 Annual Plan operating expenditure of \$190,000 per year for funding for two additional FTE staff to support delivery of the climate change strategy, policy and action plan.

Amendment: (Cr Pascoe/Deputy Mayor Taylor)

That the Council approves for the draft 2022-23 Annual Plan two additional FTE staff to support delivery of the climate change strategy, policy and action plan to be funded from existing organisation personnel budgets and reported to 2023/24 Annual Plan.

The Amendment was put.

Those for the Amendment: Mayor Southgate, Deputy Mayor Taylor, Councillors Wilson, Bunting, Hamilton, Pascoe, and Donovan

Those against the Amendment: Councillors Naidoo-Rauf, Macpherson, O’Leary, Gallagher, van Oosten, and Thomson

The Amendment was CARRIED.

Amendment as Substantive Motion was then put and declared Carried.

Resolved: (Cr Pascoe/Deputy Mayor Taylor)

That the Council approves for the draft 2022-23 Annual Plan two additional FTE staff to support delivery of the climate change strategy, policy and action plan to be funded from existing organisation personnel budgets and reported to 2023/24 Annual Plan.

Collingwood Street Branding feasibility case

Motion: (Cr Macpherson/Cr Gallagher)

That the Council approves for the draft 2022-23 Annual Plan the additional operating expenditure for a Collingwood Street Branding feasibility case with a financial impact of \$30,000 operating expenditure in 2022-23.

Those for the Motion: Councillors Macpherson, Naidoo-Rauf, Bunting, Thomson and Hamilton

Those against the Motion: Mayor Southgate, Deputy Mayor Taylor, Councillors O'Leary, Gallagher, van Oosten, Thomson, Pascoe and Donovan

The Motion was declared LOST.

Cr Naidoo-Rauf left the meeting (7.59pm) at the conclusion of the above item. She was present when the matter was voted on.

Comet & Meteor Route PT Infrastructure

Motion: (Cr O'Leary/Cr Thomson)

That the Council approves for the draft 2022-2023 Annual Plan:

- a) capital expenditure of \$800k for design and engagement work for Comet & Meteor Route priority projects in 2022-23;
- b) capital expenditure of \$3.2m in 2023-24 for construction of priority projects, subject to 51% external revenue from Waka Kotahi; and
- c) requests that staff remove in-lane bus stops on Te Rapa Road/Ulster Street and report back to the Infrastructure Operations Committee for final approval of the list of priority projects.

Amendment: (Cr Macpherson/Cr Pascoe)

That the Council approves for the draft 2022-23 Annual Plan:

- a) the expenditure of \$4.0m capex in year 3 (2023-24)only on Comet and Meteor Route PT Infrastructure, and \$200k ongoing from that year as consequential operational expenditure, subject to Waka Kotahi subsidy being sought and made available; and
- b) requests that staff remove in-lane bus stops on Te Rapa Road/Ulster Street and report back to the Infrastructure Operations Committee for final approval of the list of priority projects.

The Amendment was put.

Those for the Amendment: Mayor Southgate, Councillors Macpherson, Gallagher, O'Leary, van Oosten, Thomson, Pascoe and Donovan

Those against the Amendment: Deputy Mayor Taylor, Councillors Wilson, Bunting and Hamilton

The Amendment was declared CARRIED

Amendment as Substantive Motion was then put and declared CARRIED.

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Resolved: (Cr Macpherson/Cr Pascoe)

That the Council:

- a) approves for the draft 2022-23 Annual Plan the expenditure of \$4.0m capex in year 3 (2023-24)only on Comet and Meteor Route PT Infrastructure, and \$200k ongoing from that year as consequential operational expenditure, subject to Waka Kotahi subsidy being sought and made available; and
- b) requests that staff remove in-lane bus stops on Te Rapa Road/Ulster Street and report back to the Infrastructure Operations Committee for final approval of the list of priority projects.

Those for the Motion :

Mayor Southgate, Councillors
Macpherson, Gallagher, O'Leary, van
Oosten, Thomson, Donovan and Pascoe

Those against the Motion:

Deputy Mayor Taylor, Councillors
Hamilton, Wilson and Bunting

Bikes on Pipes

Motion: (Cr O'Leary/Cr Bunting)

That the Council:

- a) approves for the draft 2022-23 Annual Plan additional capital expenditure for 'Bikes on Pipes' to combine the construction of a shared walking and cycling path with a Housing Infrastructure Fund-funded wastewater connection and associated gully crossing structure with financial impact of \$7.426 million capital expenditure in 2023-24 and \$35,000 consequential operating expenditure per year ongoing from 2024-25; and
- b) requests staff schedule the walking and cycling path connections to the two walking and cycling bridges 'bikes on pipe' to be priced separately in the construction contract to enable Council to make a separate decision whether to proceed with the path connections as part of the contract award decision once the final cost and any external funding opportunities are known.

Cr Pascoe Dissenting.

(Cr Naidoo-Rauf was not present for the above vote)

Average Annual Rate Increase

Motion: (Mayor Southgate/Cr O'Leary)

That the Council approves the proposed average annual rate increase remains as per the 2021-31 Long-Term Plan assumption of 4.9% for 2022-23.

Cr Pascoe Dissenting.

Cr Naidoo-Rauf re-joined the meeting (8.28pm) during discussion of the above item. She was present when the matter was voted on.

Financial Strategy Targets

Resolved: (Mayor Southgate/Cr Thomson)

That the Council:

- a) notes the changes to the Year 2 (2022-23) budget to incorporate the changes noted in this report have the following impact on the financial strategy targets for 2022-23, noting the financial strategy will be updated at adoption of the budget:
 - i. \$12 million balancing the books deficit

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- ii. 220% debt to revenue ratio
 - iii. \$808 million debt
- b) approves for the draft 2022-2023 Annual Plan budget a capital programme of \$419.93 million.

Those for the Motion : Mayor Southgate, Councillors Hamilton, Bunting, Macpherson, Gallagher, O’Leary, van Oosten, Thomson, Donovan and Pascoe

Those against the Motion: Deputy Mayor Taylor and Councillor Wilson

The Motion was declared CARRIED.

Cr Hamilton retired from the meeting (9.20pm) during the discussion of the above item. He was not present when the matter was voted on.

Consultation/Informing campaign

Procedural Motion

Resolved: (Cr Macpherson/Cr O’Leary)

That the Motion under debate (Consultation/Informing campaign) should now be put.

Cr Gallagher Dissenting.

(Crs Hamilton and Naidoo-Rauf were not present for the above vote)

Cr Naidoo-Rauf retired from the meeting (9.56pm) during the discussion of the above item. She was not present when the matter was voted on.

Resolved: (Deputy Mayor Taylor/Cr Pascoe)

That the Council:

- a) approves consultation on the Draft 2022-23 Annual Plan;
- b) delegates to the Mayor, Deputy Mayor and Chief Executive to approve the 2022-23 Annual Plan Consultation Document to reflect the decisions made at this meeting, noting that the draft will be circulated to Elected Members for feedback prior to consultation;
- c) notes that consultation will occur between 20 April and 20 May 2022; and
- d) notes that a hearing will be scheduled to hear verbal submissions from the public.

(Crs Hamilton and Naidoo-Rauf were not present for the above vote)

The meeting was declared closed at 10.03pm Thursday 31 March 2022.

During the public excluded session of the meeting the following was resolved in relation Item C6 - Draft 2022-23 Annual Plan Report Considerations:

That the Council approves for the purposes of financial modelling draft in the 2022-23 Annual Plan budget: approves the inflation assumptions in year 2 (2022-23) are per the 2021-2031 Long Term Plan as being 5% for operational expenditure and 5% for capital expenditure including renewals, with the financial impact of a forecast increase in operational expenditure of \$5.4m, and an increase in the capital programme of \$6.3m in 2022-23 and \$5.7m in 2023-24.

During the public excluded session of the meeting the following was resolved in relation Item C11 - Central City Infrastructure Acceleration Fund (IAF) Proposal:

That the Council:

- a) receives the verbal report;*
- b) approves the further scaling back of the Central City funding request to the Infrastructure Acceleration Fund (IAF) to \$151M (from the 'circa \$200M' resolved on 17 March 2022 as a part of this Council meeting) on the basis that:*
 - i. an additional \$50M will be generated through the deployment of an Infrastructure Funding and Financing (IFF) regime to recycle the Housing Infrastructure Funding (HIF) loan in Peacocke, to be offset against the circa \$200M funding request resolved at the 17 March Council meeting; and*
 - ii. Hamilton City Council retains the ability to terminate the IAF funding agreement if this estimated IFF funding of \$50M is not reached, and that no responsibility for that shortfall in the IAF "funding stack" will rest with Council; and*
- c) notes that the total funding required from the combined IFF and IAF funding is \$201M, and that the change in b) above represents a change to the funding mix only, not the total level of funding sought for the Central City proposal.*
- d) approves the above be released to the public via the open minutes of this meeting.*

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16 March 2022

Partner: Kate Cornegé

File Ref: 348176-3376

Hamilton City Council
Private Bag 3010
Waikato Mail Centre
Hamilton 3240

For: Kimberley Atkins
Email: kimberley.atkins@hcc.govt.nz

Dear Kimberley

Advice on consultation and Annual Plans

EXECUTIVE SUMMARY

1. You have asked us to advise on what would trigger the requirement for Hamilton City Council ("Council") to consult on the Annual Plan.
2. If an Annual Plan is not accompanied by any amendments to the Long-Term Plan ("LTP") the requirement to consult is only triggered where there are significant or material differences from the content of the LTP. Significance and materiality should be determined in accordance with the Council's Significance and Engagement Policy ("SEP").

GENERAL PRESUMPTION IN THE LOCAL GOVERNMENT ACT 2002 ("LGA")

3. Annual plans are undertaken in the two years between each update to the LTP. Councils are required to use the special consultative procedure ("SCP") under the LGA when developing LTPs.
4. For Annual Plans, no consultation is required unless there is a "significant or material differences from the content of the long-term plan for the financial year to which the proposed annual plan relates."¹

Background to annual plan consultation requirements

5. In 2014 the LGA was amended to remove the requirement to use the special consultative procedure (SCP) for annual plans. These amendments first took effect for the 2016/2017 annual plans. The purpose of the 2014 amendments to the LGA were:

¹ Section 95(2A) LGA 2002.

- (a) To make consultation requirements more flexible and accommodate new ways of communicating and consulting;
 - (b) To provide for a new significance and engagement policy to make it clear how and when communities can expect to be engaged in decisions about different matters; and
 - (c) To enable more efficient and focused consultation on long-term and annual plans.
6. The amendments recognised that the SCP was not fit for purpose for annual plans, and that if annual plans are consistent with the LTP no further consultation with the public is required. A review of the 2016/2017 annual plan processes throughout New Zealand showed that 21 councils did not undertake any formal consultation on their annual plans.²

WHAT ARE SIGNIFICANT OR MATERIAL DIFFERENCES?

7. The LGA provides a non-exhaustive list of differences between an Annual Plan and LTP that will require consultation:
- (a) Significant or material variations or departures from the financial statement or funding impact statement;
 - (b) Significant new spending proposals; and
 - (c) A decision to delay or not proceed with a significant project.³
8. Unhelpfully, this list does not help a council to determine whether a difference is 'significant' or 'material'. Ultimately the decision about the significance or materiality is for elected members to make, in line with the Council's SEP.
9. In *Hauraki Coromandel Climate Action Inc v Thames-Coromandel District Council*⁴ the High Court held that the decision of the Council to not approve the Mayor signing the Local Government Leaders' Climate Change Declaration was a breach of the Council's SEP.
10. While the facts are not directly relevant to the development of Annual Plans, the Court's decision does emphasise the importance of the SEP. The SEP was the key document referred to by the Court when determining what type of decision was made and the level of engagement required with the community.

Use of the Significance and Engagement Policy

11. The Council's current SEP recommends consulting with the public when a proposal is of high or medium significance. To determine the significance of any given proposal or decision, a list of considerations is provided in the SEP with examples. There is no hierarchy of the considerations in the SEP – for each proposal different criteria will be of particular relevance and it will be necessary to consider whether the proposal is deemed to be low, high or medium

² Controller and Auditor-General "Local Government: Results of the 2015/16 audits", April 2017.

³ Section 95A(2)(a).

⁴ [2020] NZHC 3228.

significance (see triggers in paragraphs 16 – 18 of the SEP). For the purposes of the Annual Plan, we consider the primary consideration is:

Financial consequences in relation to unbudgeted operating cost or capital cost in the 10 year plan

(Schedule 1 SEP)

12. The examples provided in the SEP of high or medium significance for this consideration are:
 - (a) \$15m unbudgeted increase in lease costs (being operating costs over 5% of total expenses in the financial year); and
 - (b) Construction of a \$25m unbudgeted building (being over 0.5% of unbudgeted capital costs).
13. The other considerations in the SEP may also be relevant when determining whether the significance threshold has been reached for annual plan consultation. The considerations are set out below, and we have identified an example for each where, depending on the specific details, the requirement to consult might be triggered. The other SEP considerations are:
 - (a) Ability to reverse the decision (for example bringing forward a decision to invest in a new capital project earlier than proposed in the LTP);
 - (b) Consistency with prior decisions (for example a proposal to delay annual funding of playground renewals throughout the city as set out in the LTP);
 - (c) Levels of public interest (for example any financial decision related to a proposal known to be of high public interest);
 - (d) Impact on proportion of the community (for example an increase in the costs associated with funding a suburban town development); and
 - (e) Degree of impact on affected people in the community (for example a proposal to delay spending on stormwater infrastructure).
14. Whether a difference between the Annual Plan and LTP is sufficiently significant or material to trigger consultation will ultimately be fact specific. There has been no judicial consideration of the requirement to consult on an Annual Plan. We expect this is because councils generally take a conservative view when determining whether to consult or not.

AMENDMENTS TO THE LTP

15. For completeness, we note that there are situations where decisions elected members may wish to take will, by virtue of the LGA and related legislation, require an amendment to the LTP itself. These changes cannot be made through the Annual Plan process. Amendments to the LTP can be made at any time but require the Council to use the SCP. Examples of these decisions include:

- (a) Setting a rate higher than the rate limit in the current LTP;⁵
- (b) Adoption of a new rate not included in the current LTP;⁶
- (c) Decisions to alter significantly the intended level of service for any significant activity undertaken by or on behalf of the local authority, including a decision to commence or cease any such activity;⁷ and
- (d) Decisions to transfer the ownership or control of a strategy asset to or from the local authority.⁸

16. In relation to (c) and (d) above, the Council's SEP sets out the definitions of 'significant activity' and 'strategic asset'.

When amendments are proposed to the LTP concurrently with an annual plan

17. If amendments to the LTP are proposed at the same time as the annual plan, consultation must be combined into one consultation document and the SCP must be used in relation to both matters.⁹ For example, as set out in our previous advice this is the process that would need to be followed to set a rate higher than the rate limited in the current LTP, and the inclusion of a new rate.

CONCLUSION

18. This advice is intended to be high-level and generic in its application. We would be happy to discuss with you or provide additional advice on specific matters being considered by the elected members for the 2022/2023 Annual Plan.

Yours faithfully
TOMPKINS WAKE



Jill Gregory /
Senior Associate /



Megan Crocket
Senior Associate

⁵ As set out in our previous advice of 3 February 2022 and 25 February 2022.

⁶ Ibid.

⁷ Section 97(1)(a) LGA.

⁸ Section 97(1)(b) LGA.

⁹ Section 95B LGA.

Appendix 2 :

Fees and Charges (including GST) Proposed for Year 2 2022/23 of the 2021-31 10-Year Plan

ORIGINAL	SUGGESTED UPDATE		2021/22	2022/23 (Proposed)	Fee Change	% increase/ decrease 2021/22 to 2022/23	Comments 2022/23
ANIMAL EDUCATION AND CONTROL							
Dog registration fees up to 31 August	Dog registration fees up to 31 August						
Category 1	Category 1		\$80.00	\$80.00	\$0.00		
Category 2	Category 2		\$150.00	\$150.00	\$0.00		
Dog registration fees after 31 August	Dog registration fees after 31 August						
Category 1	Category 1		\$95.00	\$95.00	\$0.00		
Category 2	Category 2		\$165.00	\$165.00	\$0.00		
50% Penalty - Applies to registrations after 30 September	50% Penalty - Applies to registrations after 30 September						
Category 1	Category 1		\$142.00	\$142.50	\$0.50	0.35%	Removal of rounding
Category 2	Category 2		\$247.00	\$247.50	\$0.50	0.20%	Removal of rounding
Miscellaneous Fees Dogs	Miscellaneous Fees Dogs						
First impoundment	First impoundment		\$84.00	\$84.00	\$0.00		
Second impoundment	Second impoundment		\$153.00	\$153.00	\$0.00		
Third impoundment	Third impoundment		\$245.00	\$245.00	\$0.00		
Sustenance	Sustenance	per day	\$19.00	\$19.00	\$0.00		
Collars	Collars	actual cost					
Tag replacement	Tag replacement		\$5.00	\$5.00	\$0.00		
Dog sign over	Dog sign over		\$65.00	\$65.00	\$0.00		
Puppy parvo vaccination	Puppy parvo vaccination	actual cost					
Dog Adoption	Dog Adoption		\$225.00	\$225.00	\$0.00		
Seizure	Seizure	per seizure per dog	\$90.00	\$90.00	\$0.00		
Second seizure	Second seizure	per dog	\$165.00	\$165.00	\$0.00		
Third seizure	Third seizure	per dog	\$260.00	\$260.00	\$0.00		
Dog micro chipping	Dog micro chipping		\$25.00	\$25.00	\$0.00		
De-sexing	De-sexing						
Males	Males	actual cost	actual cost	actual cost	\$0.00		
Females	Females	actual cost	actual cost	actual cost	\$0.00		
Cat Trap Hireage	Cat Trap Hireage	per week	\$15.00	\$15.00	\$0.00		
Inspection Fee for Keeping More than 2 Dogs	Inspection Fee for Keeping More than 2 Dogs						
First application fee	First application fee		\$85.00	\$85.00	\$0.00		
Annual renewal fee	Annual renewal fee		\$40.00	\$40.00	\$0.00		
Stock Impounding Related Fees	Stock Impounding Related Fees						
Cattle	Cattle		\$48.00	\$48.00	\$0.00		
Pig	Pig		\$33.00	\$33.00	\$0.00		
Weaners	Weaners		\$14.00	\$14.00	\$0.00		
Horse, mule & deer	Horse, mule & deer		\$48.00	\$48.00	\$0.00		
Sheep, goats	Sheep, goats		\$14.00	\$14.00	\$0.00		
Sustenance	Sustenance	per stock/day	\$15.00	\$15.00	\$0.00		
Stock-driving and rangers charge stock	Stock-driving and rangers charge stock	per hour	\$80.00	\$80.00	\$0.00		

Appendix 3:

Stacey Written Submission:

Hello Everyone my name is Stacey I'm 26 years old.

The vaccine passport has made me suffer very badly because I'm a social butterfly. Ever since the Vaccine passport come in I can't enjoy my social life. The vaccine passport has made me get quite down because I can go into a cafe just if I need a drink. The biggest downside to this vaccine passport i really Enjoy Tap Dancing I can't do a any Tap Danceing class that been really hard. One more thing I found really hard is I can't get my hair i found that quite hard to because I have gotten build though out my life a hair cut make me feel really good about myself.

Thank you

Stacey

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Appendix 3:

Suzanne Kok Written Submission:

Kia ora koutou,

First I would like to introduce myself. I have been a ratepayer in Hamilton since 2011. Even though I don't make much use of the HCC facilities myself, I find it important to share my opinion as a ratepayer who cares about members of the community.

I am double jabbed myself, so I would have been eligible for the vaccine pass, if I had wished to do so. However, I choose not to obtain one as I cannot support discrimination in any way. I cannot support a system that allows and supports 2 classes of citizens, which is what the vaccine passport system creates. If not everyone is able to use a service, then I won't be using or enjoying that service either. This conscious choice made me aware of when discrimination takes place. One example that I have experienced is when I went along with my partner to VTNZ to renew his driver's license (note: not sitting the practical test, but completing paperwork to renew). We were both turned away because we were unable to show a vaccine pass. My partner is also double jabbed and we both made this choice together.

My partner ended up in the hospital after 48 hours of receiving his second jab with heart problems. This was the evening of 24th December. Ending up in the hospital is never fun, but certainly not just before Christmas. We are both healthy people, fit and never get really sick. Being taken to the hospital by the ambulance was therefore not a pleasant experience. Our GP has declared that my partner got a reaction from the 2nd jab, which was why he was admitted to the hospital.

I work in the community and my biggest concern with the vaccine passport system is that it excludes our community members from some services. I stand for inclusion: every person has the right to live their life like any other.

I am thinking of children with disabilities who would require support from others to be able to make use of the library, go to the Zoo or the museum. If the parent or the carer of these children do not hold a valid vaccine pass, then these children are excluded from these experiences in our community. My concern with this is that these children already need to go through challenges to be able to live the life like any other and through the vaccine passport system, this will put even more barriers in place. Another example is when we are starting to exclude certain people from our community or society, it means that there will be less 'eyes' on these people, they will feel less connected to the community and have a decreased sense of belonging, which can result in all different problems e.g. child abuse may not be noticed soon enough or at all, women or men who are in abusive relationships become more isolated, just to name 2 examples.

The evidence is becoming clear that the vaccine doesn't stop the spread of the virus and it doesn't stop a person of getting Covid and therefore there is no scientific point to support the continuation of any mandate or vaccine passport system.

From the Ministry of Health case demographics on 29th March 2022, I got the following details:

Vaccination status of cases 48 hours ago:

188 total cases in above timeframe in hospital

5 - unvaccinated - 2.7% (2.5 Per 100k)

2 - Partially vaccinated - 1.1% (2.7 Per 100k)

150 - Fully vaccinated - 79.8% (3.8 Per 100k)

31 - under 12 years - 16.5% (3.9 Per 100k)

2 hospitalised in above time frame

2 - unvaccinated - 100.0% (1.00 Per 100k)

0 - Partially vaccinated - 0.0% (0.00 Per 100k)

0 - Fully vaccinated - 0.0% (0.00 Per 100k)

0 - under 12 years - 0.0% (0.00 Per 100k)

Appendix 3:

Unvaccinated 12+ make up 3.99% of population (199,602)

Partially vaccinated 12+ - 1.48% (74,213)

Fully vaccinated 12+ - 78.70% (3,935,242)

under 12s - 15.83% (791,434)

<https://www.health.govt.nz/our-work/diseases-and-conditions/covid-19-novel-coronavirus/covid-19-data-and-statistics/covid-19-case-demographics?fbclid=IwAR0sRNBqDMyc4iHRxTTLnVBsoaltqQhw7lvbz-vyeG1iCQOnLzn80jPxtP8>

This simply shows that the vaccine does not protect the vaccinated more than the unvaccinated (3.8 vs 2.5 per 100k). Because the numbers are per 100k we can actually compare the statistics with each other.

The high court has also indicated that mandating police officers has been unlawful and therefore I can only support the council to choose for Option 1:

- vaccine passes are not longer required by the public to enter facilities
- in person meetings will be accessible for everyone, no matter what someone's vaccination status is.

I hope the meeting goes well. I am sorry that I am unable to present this in person, however if you do have any questions, please email me.

Thank you for reading through my submission.

Nga mihi,

Suzanne Kok

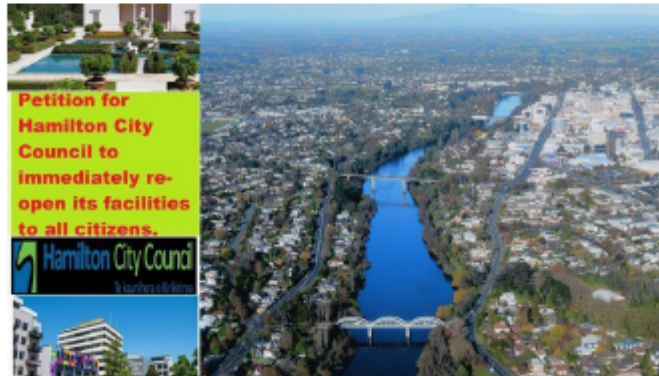
Attachment 1

Item 5

Appendix 3:

Chrisie Harger Written Submission:

Petition for Hamilton City Council to immediately re-open its facilities to all citizens.



[Rebecca Dyson](#) started this petition to Mayor Paula Southgate and 2 others

Hamilton City Council Facilities Petition

We the ratepayers and citizens of Hamilton City request that the Hamilton City Council immediately re-open its facilities to all citizens regardless of their Covid-19 vaccination status or holders of a current Covid-19 Vaccine Passport.

By denying access to those that do not hold a current vaccine passport, the Hamilton City Council has not followed due process and have violated the purpose of local government, as according to the Local Government Act 2002, the purpose of local government is to:

enable democratic local decision-making and action by, and on behalf of, communities meet the current and future needs of communities for good quality local infrastructure, local public services, and performance of regulatory functions in a way that is most cost-effective for households and businesses.

Denying access to vital services is also in direct contravention of the New Zealand Bill of Rights Act. As stated in the Hamilton City Council Vision, the aim is improving the wellbeing of Hamiltonians. P19 Hamilton City Council Vision 2020 states:

"We want to make sure our city provides opportunities for all our people to play and have fun – whether it be through organised sport, local playgrounds, events or our visitor destinations."

Segregation and discrimination is never acceptable in a democratic, progressive and inclusive society and therefore we request that free and open access to all public council services and facilities be reinstated immediately for all residents and their children.

Concerned Hamilton City Citizens

Appendix 3:

Name	City	State	Postal Code	Country	Date	Comment
Courtney Tomlinson Fox	Hamilton			New Zealand	16/03/2022	"It is discrimination to not allow New Zealand citizens inside their own facilities that they are paying for . It's absolutely abhorrent it was allowed in the first place."
Jolly Stewart	Wellington		6021	New Zealand	16/03/2022	"Im a ratepayer and believe everyone has the right to use these facilities"
julia shepherd	hamilton			New Zealand	16/03/2022	"as tax payers we have the right to access our facilities just as much as any NewZealander - omicron doesn't care whether your vaxed or not it's just plain discrimination now"
Sue McKinnon	Wellington			New Zealand	16/03/2022	"Im signing this petition because I want to take and let my grandchildren enjoy the facilities I pay for through paying my rates!!! Not everyone has a pool sitting in their backyard!! Let's encourage reading in children people!! Let us back into libraries!!"
Howard Roe	Hamilton			New Zealand	16/03/2022	"I am signing this petition because I need to use the library."
Danette van Jaarsveld	Auckland		8081	New Zealand	16/03/2022	"Do not discriminate"
Jane Kerr-Bell	Hamilton			New Zealand	16/03/2022	"Because as a Ratepayer I'm entitled to use all the facilities that I pay more. And all mandates MUST GO!!!"
Tui Fehney	Hamilton			New Zealand	16/03/2022	"This is discrimination"
Delwyn Houghton				New Zealand	16/03/2022	"I'm signing because I am a long-standing rate payer (2 properties at a time for a period of over 10 years). I have been prevented from accessing the Hamilton Gardens and Waterworld swimming and hydrotherapy pools. Both of these facilities have been an integral part of my physical and mental health and wellbeing since 2013. It is hard to understand and very sad that a simple choice to decline an injection which has the potential to be very harmful to me, also means that I need to be excluded by the Hamilton City Council in regard to use of public facilities that I have invested in over many years. Please reconsider reopening HCC public facilities to all citizens and ratepayers - your consideration as councillors is much appreciated. Thank you in advance."
Bev Cowper	Hamilton			New Zealand	16/03/2022	"I am totally opposed to discrimination and segregation"
MaryAnne Hamer	Hamilton			New Zealand	16/03/2022	"Discrimination of unvaccinated has to stop, especially since vaccinated are sick too"
Aaron Peters				New Zealand	16/03/2022	"Apartheid is not the way forward Hamilton and ostracising members of the public for making their own choices and then completely ignoring the NZBoR is just plain disgusting behaviour by our government and now it is being followed by our councillors. Do you really want to be held accountable for the upcoming court cases that will follow if these rights are continually abused and taken away from New Zealanders with these illegal mandates?"
joh Whittaker	Hamilton, Waikato, New Zealand			New Zealand	16/03/2022	"I pay rates.I do not have covid.My immunity system works just fine - has done so for decades.HCC - Paula, do NOT be like Jacinda."
Lynda Hall	Hamilton			New Zealand	16/03/2022	"Segregation and discrimination based on medical choices is never okay. Many people have reluctantly accepted medical interventions due to mandates. Local and central government is there to represent all people not just those who believe a 'single source of truth' narrative. Children especially should not have to miss out on cultural, social and sporting activities. Health and wellbeing is important. Segregation and discrimination do not support a healthy and vibrant community. Drop all mandates now."

Appendix 3:

Jacque Waters	Canbridge			New Zealand	16/03/2022	"Because I an against discrimination of healthy nz citizens. We pay the rates and everyone should be able to go to the frikin library. Silly rules everyone goes to the supermarket. Stop the discrimination"
Lynda Gulbransen				New Zealand	16/03/2022	"I'm sick of the mandates that are causing Discrimination in our countryThe rest of the world is living with Covid and this country needs to as well"
Gregory Luckie	Hamilton			New Zealand	16/03/2022	"Discrimination is plainly wrong and the vaccinated have been proven to pass on the virus as much as the unvaccinated as there is no immunity in the vaccinated nasal passages"
Emily Feng	Auckland			New Zealand	16/03/2022	"I do not believe in discrimination"
Kathryn Hunter	Hamilton			New Zealand	16/03/2022	"I cannot trade at the farmers market held at the Claudelands farmers market"
julie gofton	Hamilton			New Zealand	16/03/2022	"We don't want a segregated society"
Gavin McDermott	Hamilton			New Zealand	16/03/2022	"Its reprehensible to discriminate against rate payers who chose not to take an ineffective and experimental drug.A drug therapy that promised to halt transmission, give protection and later purported, once it was discovered not to stop covid, to lessen the symptoms, preventing hospitalisation. Given that the councils reasoning, by enforcing the mandates, that it is aiming to reduce the spread of the disease by preventing unjabbed individuals access to our citys facilities. The mounting evidence is showing that it is in fact not effective at all and is, disturbingly, more a show of unfettered fascist force control."
Kelly Fredrickson	Auckland		1150	New Zealand	16/03/2022	"Discrimination is not ok."
Michelle Bishop	Rotorua			New Zealand	16/03/2022	"Covid is just cold!!"
Catherine Hodges				New Zealand	16/03/2022	"I want to have access to the services my rates pay for. I object to having to show a vaccine pass when it's not a legal requirement. I've stopped using the library even though I could show my pass. I want to keep libraries and am concerned that this is a ploy to show that the services aren't been utilised."
monica van de weerd	Hamilton			New Zealand	16/03/2022	"I pay rates but cannot use council premises"
Jeanette Burdus	Hamilton			New Zealand	16/03/2022	"I'm a rate payer and I no longer want to be discriminated against."
Lynette Sanders	Wanganui			New Zealand	16/03/2022	"It's time to open up to everyone. It's discriminating to open to just the vaccinated!!"
Melissa sunflower				New Zealand	16/03/2022	"Covid mandates need to end and all laws need to be repealed"
Sharon Crow	Hamilton			New Zealand	16/03/2022	"I am signing because every rate payer and their household deserves the right to have access to all Council activities. Hamilton City Council needs to be forward critical thinkers and accept and acknowledge that this is not about who and who is not vaccinated. It is quite clear now that it doesn't matter if you are or not vaccinated everyone is getting it. This is quite clear as all mandated site's workers are at home recovering from it. Please see sense and open up our city for all."
John Phillips	Auckland			New Zealand	16/03/2022	"ALL facilities must be made available to ALL citizens. Immediately."

Appendix 3:

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Stephen Lee	Auckland			New Zealand	16/03/2022	"I stand against medical apartheid in NZ when there is no science or studies suggesting the vaccine lowers the risk of someone getting Covid."
tony Dixon	Hamilton		3214	New Zealand	16/03/2022	"The decision was discriminatory and against the NZ Bill of Rights making councillors and the staff involved criminals"
Robyn Head	Hamilton			New Zealand	16/03/2022	"I'm Not getting any subsidy for not being able to enjoy the things my rates are helping to pay for. Enough is enough"
Wendy Dale	Auckland			New Zealand	16/03/2022	"There should be no discrimination. It is unlawful and against our Human Rights."
Roger Child	Tauwhare			New Zealand	16/03/2022	"It's the right thing to do considering all the information we have now"
Maria Smith	Hamilton			New Zealand	16/03/2022	"This is wrong. Discrimination can never be justified. All property owners pay their rates and they should not be excluded from using the facilities because they don't take an experimental drug that is ineffective against Omercon."
Suskia Van Der Merwe				New Zealand	16/03/2022	"Our family have been locked out of council facilities for nearly four months!! We pay our rates but cannot access what are paying for. This discrimination should have never been allowed in the first place."
Bianca Richardson	Hamilton, Waikato, New Zealand			New Zealand	16/03/2022	"It is discrimination and no longer valid due to omicrom not details being the spreader. Vax or unvax both still spread it and catch it. There is other methods. Temperature check and RATs tests"
Lynda Kamphuis	Auckland			New Zealand	16/03/2022	"Because I am a living being who pays rates for my facilities."
Shawn van de Weerd	Hamilton		3200	New Zealand	16/03/2022	"Everything should be open to everyone!"
Rod Lovegrove				New Zealand	16/03/2022	"Councillors who instigated and supported this segregation of citizens and ratepayers, are complicit in coercing people to inject test drugs. Some of those councillors may one day be culpable for those actions."
Kevin Sharp	Papakura			New Zealand	16/03/2022	"Coercion breaches human rights law. No virus in history has ever been completely eliminated or transmission totally prevented via vaccines alone. A quarter million reported infections in 10 days, still rising, post mandates means the injections, passports and mandates have failed. Around 5 to 10% of NZ's medical professionals were sacked in November 2021 when the mandates were introduced, for not wishing to be a drug experiment. The Govt stated the mandates were needed to prevent the health system being overwhelmed from covid. At that time annualised covid deaths were just 3.3% of the Ministry of Health stats 1967-2017 for flu and pneumonia averaging around 800 deaths a year. Inconsistently, there are no mandates for that. We understand, that there was no Waikato DHB protocol for staff to be vaccinated for flu or other common infections. They had no plans to test staff post injection either, despite the fact it was already known that 'vaxxed' people were spreading covid about. There are no objective threshold"
Maurice Carrington	Hamilton			New Zealand	16/03/2022	"It's wrong to push these mandates"
Marea Smith	Hamilton			New Zealand	16/03/2022	"the Hamilton City Council are breaching the NZ Bill of Rights"

Appendix 3:

Susan Rayner	Hamilton			New Zealand	16/03/2022	"I will not be utilising any of these services and facilities HCC provides until there is a reversal of the decision to discriminate against those that chose not to take a medical procedure. Noted are the councillors that voted for and against and I commend Cr Ryan Hamilton for making a stand against the discriminatory passport system."
MARY Shepherd	Hamilton			New Zealand	16/03/2022	"It is wrong."
Sung Choi	Hamilton			New Zealand	16/03/2022	"Signed"
Philippa McDermott				New Zealand	16/03/2022	"I pay rates and I am sick of being short changed by the council simply because I refuse to be jabbed with experimental gene therapy"
Beth Sampson	Hamilton			New Zealand	16/03/2022	"NZ Should never have been made an apartheid state. It is totally against most New Zealanders wishes."
Gabrielle Mason	Lower Hutt			New Zealand	16/03/2022	"Vaccine passes need to go. Crazy that a child cannot go to the Zoo or the Library"
WAYNE EDGAR	Auckland			New Zealand	16/03/2022	"Ratepayers etc should be entitled to use council facilities whether or not there's an issue with covid"
Ruth Kowalewicz	Hamilton			New Zealand	16/03/2022	"Hamilton CC is being the same as Thames Councils ridiculous my 3 yr old Grandson wanted to go to the library and I had to say we not allowed!"
Leigh Clements	Hamilton			New Zealand	16/03/2022	"Everyone should be able to access facilities that we pay rates for. I am absolutely gobsmacked that you put the vaccine passport restrictions on children from the age of 12. What happened to young people reading books???"
paul alderton	Hamilton			New Zealand	16/03/2022	"Your idiots.."
Doris Olliver				New Zealand	16/03/2022	"I do not believe we should be discriminating before because of their vaccine statues especially when both v and unv are still able to get covid and pass it on. It doesnt make sense"
derek finlay	Hamilton			New Zealand	16/03/2022	"What ham council is doing is so wrong .making 2 classes of kiwis ,punishing us for not taking a medical treatment absolutely evil .what in the world is wrong with them ??????"
Marie Farrell	Waikato			New Zealand	16/03/2022	"I disagree with creating a class of New Zealander's who cannot participate in parts of live including libraries and facilities that are essential to a high quality of life. I don't think a serious pandemic warrant's discrimination or exclusion so this pandemic with its 98.8% survivability rate certainly doesn't warrant such drastic and draconian measures. Vaccine Passports does not make medical or scientific sense anymore and it is the most destructive policy ever unleashed in New Zealand. It needs to be repealed immediately."
Siobhan Brolly				New Zealand	16/03/2022	"It is unfair and doesn't make for a free society."
Rosemary Roberts	Hamilton		3216	New Zealand	16/03/2022	"There's no scientific or ethical basis to justify the segregation."
Charleen Seiuli	Hamilton			New Zealand	17/03/2022	"Stop all mandates"
Linda Mist	Hamilton			New Zealand	17/03/2022	"We pay rates"
Andrew Hopkins				New Zealand	17/03/2022	"I am the subject of discrimination after having lived here for the past 38 years. I pay HCC Rates and I am excluded from visitor destinations and community services. This is disgusting ☹️"

Appendix 3:

Attachment 1

Wendy Booth	Hamilton			New Zealand	17/03/2022	"I wrote to the 11 HCC councillors objecting to those who voted for this tyranny. Received polite replies from three including the mayor. MacPherson's response was an obnoxious "River of Filth" type reply. The only councillor who voted against was Ryan Hamilton who replied promptly and politely - he will get my vote in October."
Hendrika Tate	Ngaruawahia			New Zealand	17/03/2022	"It makes absolutely no sense to segregate people into two groups, supposedly to protect one group from the other, when the truth is that we're all going to be exposed to omicron sooner or later. Both jabbed and unjabbed people can spread it, get sick from it, recover from it, and then move on with life. The jab was a hideous waste of time and money. We need to get back to normal."
Quita Clifton	PUTARURU			New Zealand	17/03/2022	"As a homeschooling family being able to utilize any library for our children's education has been very important. Unfortunately this has not been available for us to use when we come into Hamilton. Based on these mandates and restrictions, if unvaccinated means we can't use this resource that is meant to be available to everyone not just a select few."
Carol Harrison	Hamilton	3210		New Zealand	17/03/2022	"I'm fed up with the discrimination, the segregation, the isolation of unvaccinated, who are clearly healthier than many vaccinated it seems. There is no valid reason to keep people apart, and punish those that chose to protect their own right to say what goes in their bodies."
Tania Clarke				New Zealand	17/03/2022	"We pay rates and should be able to go to the zoo or Claudelands if we want to"
Michael Schoombie	Auckland			New Zealand	17/03/2022	"I am signing this because what Hamilton City Council is doing wrong whatever way you look at it."
Pauline Davies	Waikato			New Zealand	17/03/2022	"I believe mandates are wrong!"
Jackie Rawlings	Auckland	1010		New Zealand	17/03/2022	"It's so wrong having to produce papers when it's mostly the vaccinated people who are spreading the cold"
Kate Hanifan	Hamilton			New Zealand	17/03/2022	"Discrimination is never ok"
Antonia Christensen	Hamilton			New Zealand	17/03/2022	"I don't agree with medical apartheid"
Natalie Mist	Hamilton			New Zealand	17/03/2022	"There should be no segregation to New Zealanders. Particularly all rate payers should be able to enjoy all the same services with no division."
Carol FEPULEAI	Hamilton			New Zealand	17/03/2022	"There should be NO discrimination."
Vandghie Badenhorst	Hamilton			New Zealand	17/03/2022	"We need equal opportunity for everyone, irrespective of their personal medical choices!"
Jason Fulton	Hamilton			New Zealand	17/03/2022	"Your stopping me and my kids going to the pools and library and do much more, you wouldn't do it if we were black. Stop the segregation there is no need everyone can get covid vaxxed or not. I pay rates on multiple Hamilton properties and want my fair use of what I pay for!!"
Nigel Rowling	Hamilton			New Zealand	17/03/2022	"Because local body mandates are a waste of time. Mandates in general are a waste of time."
Cushla Moore	new zealand	3200		New Zealand	17/03/2022	"It has been a complete over reach by the Council members of HCC to mandate vaccination for entry to public facilities. They never had the right to banish anyone entry and the fact they did is appalling. The discrimination, disadvantage and pure upset this has caused to so so many people young, old and in-between is incomprehensible. Their vax pass requirements have not protected anyone they have only caused hurt and harm and an apology and immediate removal is the absolute least they can do."

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Deborah Bloodworth	Auckland			New Zealand	17/03/2022	"We pay rates for a reason and if we don't get what we pay for we shouldn't pay rates"
Richard Parsons	Hamilton			New Zealand	17/03/2022	"I'm sick of the hypocrisy. The vaccinated transmit covid too. Stop the discrimination."
Janeen Mckenzie	Porirua		5024	New Zealand	17/03/2022	"Mandates have no place in a cohesive society!"
Marieka Donk	Whangamata			New Zealand	17/03/2022	"I hate discrimination based on fabricated lies."
Lilyana Draca	Auckland		1010	New Zealand	17/03/2022	"This is not the same country !What happened to all these people leading NZ ?Who can trust them any more ? Why so many bussinesses are destroyed ?Many Families are leaving NZ and just want to save own children. The World is in shock watching what is happening here !Democracy is just the word, action shows totally diferent. Where is the truth, moral and justice ?GOD save NZ !"
Kaela Robben	Hamilton			New Zealand	17/03/2022	"We pay rates but can't do bugger all anymore because we refuse to be experimented on. This keeps up and we'll just stop paying our rates!"
Jeff Pairaudeau	Hamilton		3200	New Zealand	17/03/2022	"This needs to stop."
Michael Allen	Hamilton			New Zealand	17/03/2022	"Let my children use the facilities we pay for!!!! They cant enter without their parents in nearly all of them!"
Maryanne Fransen	Hamilton			New Zealand	17/03/2022	"I think it is totally unfair to bar ratepayers who pay for council facilities from these facilities solely on the grounds I haven't received a particular vaccine."
Nicole Mackie	Hamilton			New Zealand	17/03/2022	"I want to see an end to discrimination of unvaxxed attending or using council facilities.Please stop the segregation."
Alex Wheaton				New Zealand	17/03/2022	"Discrimination based on vaccination choice is unacceptable."
Josephine Feaver				New Zealand	17/03/2022	"Stop discrimination!!!"
Donna Donald				New Zealand	17/03/2022	"Discrimination is wrong any way you look at it! The jibby jab doesn't even work, everyone can get it and pass it on so stop the apartied. We will remember this come voting time!"
Claire Dodd	Auckland			New Zealand	17/03/2022	"Vaxination doesn't prevent transmission & we all need to be able to utilise & support Hamilton facilities - remove the ridiculous discrimination now!!"
Jemima Knudsen	Hamilton			New Zealand	17/03/2022	"Segregation is against humanity! Nonsense mandates must be stopped"
Louisa Andrews	Matamata			New Zealand	17/03/2022	"Mandates are not necessary"
Clare Brien	Huntly			New Zealand	17/03/2022	"Discrimination at it finest, this isn't who we are in New Zealand. Freedom for all"
Cindy Forbes	Ngaruawahia			New Zealand	17/03/2022	"It down right segregation, discrimination and absolutely unfair to those that can't use our facilities that we pay rates for. So disappointed this was even the decision HCC made....this will be remembered for next election."
Sineaid Smith	Waikato			New Zealand	17/03/2022	"This isn't humane, people suffering genuine health concerns can not get the vaccine because their go has advised them against it but they also cannot qualify for an exemption, so the decision has been taken from them stopping them from being able to do everyday things"

Appendix 3:

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Joan Wilson	Hamilton			New Zealand	17/03/2022	"I'm a ratepayer and I am disgusted that the HCC would refuse any Hamilton resident from using the public facilities that are paid for by rate payers, thus causing segregation and discrimination within our city. This is shameful!"
Marj Crome	Hamilton			New Zealand	17/03/2022	"It's against my rights to prevent me from accessing the facilities that I support with my rates ! Also it is detrimental to my physical and mental health!!"
Donna Huggard	Hamilton			New Zealand	17/03/2022	"I pay for the use of HCC facilities in my rates and am entitled to receive the services I pay for. Additionally I do not support discrimination and segregation in our community."
Col Elliott	Auburn		2144	Australia	17/03/2022	"Freedom for all people, stop the tyranny"
rebekah hannah	hamilton			New Zealand	17/03/2022	"Unjustifiable action - no robust science to back this decision, which is effectively blocking anyone who refuses to use a pass, even if they are vaccinated."
Anne Caldwell				New Zealand	17/03/2022	"The current policy is discriminating and is not stopping covid spread"
Richard Pickard	Tauranga			New Zealand	17/03/2022	"To stop discriminating"
Frank McDonald	Auckland			New Zealand	17/03/2022	"This should be the start of something to be applied all over NZ. The game is over https://off-guardian.org/2022/01/26/media-lies-the-sacred-rites-of-the-vaccine-cult/"
Yvonne Gattung	Hamilton			New Zealand	17/03/2022	"Should be open to all"
Craig Stevens	Hamilton			New Zealand	17/03/2022	"Medical Apartheid has no place in New Zealand, especially as the Pfizer jab does not prevent one catching or transmitting the virus. Go woke go broke HCC!"
jan grime	Hamilton		S61 7JW	New Zealand	17/03/2022	"It's about time, if we can open borders for foreigners, we can open libraries etc for locals who pay humongous rates"
Mischele Rhodes	Hamilton		3204	New Zealand	17/03/2022	"As Chairperson of Patients' Rights Advocacy Waikato Inc. (since 1988) I can promise you that no one can legally force another to participate in a clinical trial! You were voted onto HCC to represent us, not coerce us into untested medical treatment. Think carefully about what you are doing! Carolyn McKenzie (PRAWI)"
Angelina Carden	Auckland			New Zealand	17/03/2022	"I believe in freedom of choice."
Jonathan Yeow	Hamilton			New Zealand	17/03/2022	"It is now clear that vaccine passes do not reduce risk or transmission rates, and therefore is not evidenced-based policy, but rather a punitive policy. And it is a grave injustice that innocent citizens and ratepayers should be punished."
Sue Edwards	Hamilton			New Zealand	17/03/2022	"I want to see the end of segregation, and there is no justification for it now that covid is being spread by the vaccinated."
Jenna Hardie	Auckland			New Zealand	17/03/2022	"I'm a regular visitor to Hamilton and love the gardens. The ineffective vaccine passport should be dropped all over NZ!"
Pete Raleigh	Tauranga		3300	New Zealand	18/03/2022	"It's discriminatory."
Sue Bunt				New Zealand	18/03/2022	"As a ratepayer I have a right to the use of HCC facilities, regardless of my vaccination status."
Donna Liddicoat	Lower Hutt			New Zealand	18/03/2022	"Nobody should be discriminated against for medical reasons. Everyone should have access to public facilities."
Sarah Lawson	Whakatane			New Zealand	18/03/2022	"No one should miss out on anything for any reason....no Discrimination !"

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Gregory Patrick Cuttance	Dannevirke			New Zealand	18/03/2022	"It's communist scum politics and against the BILL OF RIGHTS END OF STORY"
Jo Hollinshead	Hamilton			New Zealand	18/03/2022	"People shouldn't be discriminated against at all, whether it be because of race, religion, nationality or medical status. WE ARE ONE"
Jeanette Maka				New Zealand	19/03/2022	"Because this is a ridiculous law, unvaxed are no more likely to spread or get covid than the triple vaxed. They are not the unclean nor a river of filth!! We are all New Zealanders , not 2 types of people!, it's time to put an end to this sort of segregation . Truly very damaging & sad times."
Daryl John	Hamilton	3200		New Zealand	19/03/2022	"Mandates have always been a wedge between kiwis and now also have shown to be a waste of time. No reason to keep them in place, let's move on from this error and welcome all kiwis to enjoy our facilities."
Rachel Elmes	Whangarie			New Zealand	19/03/2022	"Because discrimination and segregation is wrong"
Stephen Limmer	hamilton			New Zealand	19/03/2022	"It's the right thing to do."
Chantelle Cameron	Hamilton			New Zealand	19/03/2022	"I'm signing because I want to go the the zoo with my family but because as parents we made the choice not to vaccinate our children my 13 year old can't come with us. Time to stop the discrimination it's just causing hurt to people and businesses now and not protecting anyone"
Danny Fo'isaga				New Zealand	19/03/2022	"Council facilities is owned by the people"
Rino Stoof	Hamilton			New Zealand	19/03/2022	"It has been proven that vaccination does not stop covid 19, period!So discriminating against people that don't have something that doesn't work does not make sense.On top of that it has now been shown that natural immunity is many times more effective then any vaccine, You're stopping us achieving that. We all make mistakes and try and learn from them, please stop this nonsense! Thank you so much!Rino Stoof"
Rowena Powell	Hamilton			New Zealand	20/03/2022	"It is not acceptable to discriminate against any citizens for medical reasons."
Catherine Johnson	Auckland			New Zealand	20/03/2022	"i go to the Wkto Art society ptg groups. Very much missed."
Cholena Rust	Hamilton			New Zealand	20/03/2022	"Everyone should have access to all council facilities."
Karan Craigie	Hamilton			New Zealand	20/03/2022	"I want to take my grandchildren to the library, zoo, museum etc"
Rae Crichton	Mt Maunganui			New Zealand	20/03/2022	"Segregation and discrimination is not who we are"
Linda Jefferson	Brisbane	4066		Australia	20/03/2022	"Medical Discrimination breaches human rights ."
Carol Magee	Te Kauwhata	37810		New Zealand	20/03/2022	"I am a citizen of NZ and pay taxes in good faith for elected government-- and my local council-- to operate towards my and my children's wellbeing. It is not currently doing so. Trespassing into my personal medical decisions and removing my citizen's rights unless I consent to profits for Pfizer and all those who took Pfizer bribes, is unlawful, bullying and tyranny. Right the wrong."
JOAN BEAUMONT	Hamilton			New Zealand	20/03/2022	"I'm signing this partition because I want all you councilors gone in the next elections. You have NOT DONE YOUR JOB AS THE SERVANTS OF THE HAMILTON CITY POPULATION.."

Appendix 3:

Terina Pukeroa	Cambridge			New Zealand	20/03/2022	"It's wrong to stop tax payers from accessing areas they contribute to in rates simply because of government mandates that are un supported and outdated .."
Ian Francis WORRALL	Auckland			New Zealand	20/03/2022	"Because you are discriminating without valid reason...The Vaccines do not work. Vaccinated people are spreading the Flu Virus you must realize by now."
Kendra Steed	Hamilton			New Zealand	21/03/2022	"I think this is discrimination. It is not the kiwi way and it is not right. The council should have no say in my personal medical choices. And we should not be barred from places for a choice we made. We live in a FREE democratic society, this does not align with democracy or liberal and personal freedoms."
Amethyst Rose				New Zealand	21/03/2022	"Vaccine passes is discrimination and this must stop. I find it very hard to understand how the city council's can live with themselves knowing that innocent children are being punished for not being able to use the facilities like a library, swimming pool and so on. What did the children do wrong??? NOTHING!!! Everyone should be using the facilities vaccinated or not."
Michelle Nelley	Hamilton			New Zealand	21/03/2022	"We are all one"
Andrea Mansfield	Hamilton			New Zealand	21/03/2022	"All council's, businesses need to stop this division immediately. It is unnecessary."
Rachelle Smith	Hamilton			New Zealand	21/03/2022	"I pay too much in rates as it is..... I want to take my granddaughter to the museum."
jane cotterill				New Zealand	21/03/2022	"New Zealand is not and should never be tolerated as a country of discrimination"
Rhonda Johnson				New Zealand	21/03/2022	"My son who is 31yrs loves to go to the Hamilton zoo and as I'm not vaccinated we are unable to visit. He ask me every week. Mum can we go to the zoo, Sadly I have to say no, this is so unfair that we are unable to do what we have been doing for most of my sons life."
Rhonda Johnson				New Zealand	21/03/2022	"My son who is 31yrs and has Downs syndrome and Autism also suffers Anxiety ask me every week if we can go to the zoo as he has been visiting the Hamilton Zoo most of his life, because of these rules in place I have to sadly so no. He gets very emotional not been able to visit. There shouldn't be these rules."
Jacqui Barrett	Hamilton			New Zealand	21/03/2022	"Because segregation is devastating for our children's development, for our economy, and Hamilton's Citizens. We are the last country on the planet to acknowledge how damaging this is for us. Catch Up Hamilton!!!"
Sandra Bright	Hamilton, Waikato, New Zealand			New Zealand	21/03/2022	"I'm a ham rate payer since 1979 and I would appreciate NOT being discriminated from entering any council establishment. The only privilege is taking the buses."
Kathleen McGurk	Gisborne			New Zealand	21/03/2022	"I've been living in Hamilton for the past 3 years. Moved towards family and loved taking grandchildren to zoo and other council facilities where we are no longer permitted"
Lisa Barr				New Zealand	21/03/2022	"Equality to all! Especially now we know vaccines do not stop people catching the virus or spreading it"

Attachment 1

Item 5

Appendix 3:

						"I believe in FREEDOM OF CHOICE. AND FREEDOM OF CONSCIENCE. What has happened to New Zealand's friendly tolerant people? Those who follow the Christian religion should be supporting this. Our bodies are our temple we should decide whether the vaccine is for us. There should be no persecution of those who do not wish to take an experimental drug into their bodies. God gave us immunity to fight disease. I pray that all Kiwis will come to an understanding of God's ways. Treat each as you would wish to be treated. Do not follow the false prophets. Bring this land back to the paradise it once was. Mandates are wrong in any form. Time to get rid of them. Search your conscience and do the right thing. Help stop the vaccines that are harming so many people now and will do in the future."
Eunice Eccles				New Zealand	21/03/2022	
Marco Monti	Hamilton			New Zealand	21/03/2022	"I'm signing because discrimination is wrong!"
Willetta Staheli				New Zealand	21/03/2022	"Vaccine passports are obnoxious. And costly in so many ways and particularly as we all know now that the vaxxed have passed on the Covid and vaxxed people more likely to get the Covid!!!! Stop all vaccine passports now as well as Mandates. Thank you"
Sandra Gerrard				New Zealand	21/03/2022	"I pay tax so let me use the council facilities."
Sue Oliver	Hamilton			New Zealand	21/03/2022	"HCC seem to not be able to take the initiative themselves and do what's right by our kids"
Sally Mowbray	Auckland			New Zealand	21/03/2022	"Segregation, division & medical apartheid is not in my nature or that of us as kiwis. We are One"
Danielle Walton				New Zealand	21/03/2022	"I'm signing because I have a right my taxes go towards these public things like library's. And this needs to stop its segregation of choice which is very against what our ancestors fought for, Freedom of Rights and Speech"
Steve Slater	Otorohanga			New Zealand	21/03/2022	"Tired of the lies."
Dennis Kingswell	Oamaru		9401	New Zealand	21/03/2022	"It's disgraceful in this day & age where it's such a sin to discriminate against so many things yet it's ok to discriminate against people not wanting to partake in an experimental injection that as time goes by proves is neither safe or effective, stop the mandates now."
Blair S				New Zealand	22/03/2022	"Never should have been implemented in the first place. Thanks to Ryan Hamilton, the only councillor with a spine and integrity to vote against this at its inception."
Carol Orr	Bader		3206	New Zealand	22/03/2022	"I want my son and his friend to play hockey"
Caroline van Vliet	HAMILTON			New Zealand	22/03/2022	"I cannot go to the library because of my medical status and by discriminating against people like myself who choose a different medical option the library is no longer a public library but exclusive"
Sara Dix	Auckland			New Zealand	22/03/2022	"I am not happy paying my rates when I cannot enter the gardens, the library or a pool. I would like a rebate. This is discrimination to families and children for currently no valid reason."
David McClelland	Dunedin			New Zealand	22/03/2022	"We have had enough of mandates"
Baker Sharleen				New Zealand	22/03/2022	"It is unfair to segregate New Zealanders especially when councils charge rates so everyone can use the facilities. Counselors are paid to do a job by the taxpayers, who should have full access to public amenities all of them!"
Peter Crutchley	Hamilton			New Zealand	22/03/2022	"This is discrimination!!"
Colin McLellan	Taranaki			New Zealand	22/03/2022	"They should never have been closed"

Appendix 3:

Richard Nahi	Auckland			New Zealand	22/03/2022	"People rights to use as rate payers"
Jane Hunter	Hamilton			New Zealand	22/03/2022	"This is appalling decision-making from a council that is employed to work on behalf of ALL of it's rate-paying citizens. To discriminate based on an individual's medical decision is a far over-reach of what a council is appointed to do and a direct breach of the Human Rights Act. That a child cannot go to a library or a swimming pool or take part in their sport is ludicrous - especially when both jabbed and unjabbed can catch and transmit the virus! Nevermind that the vast majority of the population (99.7%) survive covid - and get natural immunity as a bonus. We ALL pay for these facilities, so you have no right to segregate. Stand up for the people who voted you in and refuse to participate in this wrongful segregation. Remove these non-sensical mandates and allow people to once more enjoy all the facilities their taxpayer dollars have paid for!"
Victoria Davis	Auckland		1010	New Zealand	22/03/2022	"End the mandates"
Bianca Richardson	Hamilton, Waikato, New Zealand			New Zealand	22/03/2022	"I pay my rates. I should be able to access the facilities. Vax or un Vax can all catch & pass on Covid"
StanKo S.				New Zealand	22/03/2022	"Because I believe it.."
Gleniss Kehely	Hamilton			New Zealand	22/03/2022	"I'm signing because I want to see freedom to all NZers returned to us."
Sheena Jones	Tauranga			New Zealand	22/03/2022	"Freedom"
russelle knaab	Hamilton			New Zealand	22/03/2022	"It is a nonsense. Both vaccinated and un vaccinated can spread covid. If you believe that the un-vaccinated have a higher risk of dying then the only risk they pose is to themselves. Just absurd that they cant come into pay a bill or go to the library we they can go to a bookstore. How absurd the day before the Red light system came in they could visit HCC facilities and infection was low. and the following day they were lepers. How about some common sense fro HCC"
vanya derwin	Auckland		3206	New Zealand	22/03/2022	"Where the majority of the population is fully vaccinated it is more likely for transmission to occur from the vaccinated than unvaccinated. Aside from being a divisive tactic The science and the current state of Covid cases just proves that passports are invalid and outdated. End the mandates and stop the discrimination it's appalling"
linda jones	hillcrest		3216	New Zealand	22/03/2022	"The council have voluntarily chosen to segregate our community by a medical procedure. The recent research shows that vaccine passports will not stop or even slow the spread of covid. Children and young teenagers are being punished as they are denied access to libraries, pools and other HCC facilities."
Ryan Apted	Auckland			New Zealand	22/03/2022	"Mandates don't work"
Annemieke Smit	Hamilton			New Zealand	22/03/2022	"Discriminatory measures were never needed and are against the law"
Christine Edgar				New Zealand	22/03/2022	"Please drop the vaccine passes and end discrimination for legal citizens."
Siobhan Patterson				New Zealand	23/03/2022	"My 4 year old wants to go back to swimming lessons (which she began at 4 months of age) and to be able to use the library. The exclusion she has experienced through Hamilton City Council mandates has caused her unnecessary distress and sadness. Despite my best efforts, it is difficult for a 4 year old to not take this segregation and discrimination personally."

Appendix 3:

MARY Shepherd	Hamilton			New Zealand	23/03/2022	"It is wrong."
Rosie Bentley	Hamilton			New Zealand	23/03/2022	"It is discriminatory to prevent some citizens from using publicly funded facilities such as the Museum, libraries, Zoo, Themed Gardens and other council operated buildings."
Richard Conyngham				New Zealand	24/03/2022	"A Vax pass does not constitute a clean bill of health or prove you are not a risk of transmission. There is no requirement to provide a negative test for access to an outdoor stadium , so this is an unreasonable restriction for public ratepayers ."
tracey powell	hamilton			New Zealand	25/03/2022	"It does not make sense to have mandates anymore. It is evident that omicron is rampant in the community even with these mandates in place. Mandates DON'T WORK"
Julie Green	Hamilton			New Zealand	25/03/2022	"Hamilton citizens should never have been restricted from council facilities esp as they pay for them"
Cary Warren	Port Moresby			Papua New Guinea	25/03/2022	"It's about time"
Treena Martin	Hamilton			New Zealand	26/03/2022	"Disgraceful behaviour from HCC! Segregation and discrimination has absolutely no place in this world but to knowingly segregate and discriminate against innocent children is truly, wickedly evil! To all the councillors who voted in favour of this tyranny be warned....find yourself out of a job next election!!"
Rangi-Rere Ata Harrison	Hamilton			New Zealand	29/03/2022	"It's disgusting the UNNECESSARY EXCLUSION of rate payers from council funded or owned resources!!!"
sariah smith	Hamilton			New Zealand	29/03/2022	"Access to council facilities should be available to all in the city. Also the mandates from government are ending 4th April, HCC should also follow this. As a rate payer for 15yrs I would expect that what we are contributing to is available to all residents and visitors to the city."

Council Report

Item 6

Committee: Council

Date: 12 May 2022

Author: Tyler Gaukrodger

Authoriser: Michelle Hawthorne

Position: Governance Advisor

Position: Governance and Assurance
Manager

Report Name: Confirmation of the Council Open Minutes of 14 April 2022

Report Status	<i>Open</i>
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Staff Recommendation - *Tuutohu-aa-kaimahi*

That the Council confirm the Open Minutes of the Extraordinary Council Meeting held on 14 March 2022 as a true and correct record.

Attachments - *Ngaa taapirihanga*

Attachment 1 - Council Unconfirmed Open Minutes - 14 April 2022

Council Kaunihera OPEN MINUTES

Minutes of a meeting of the Council held in Council Chamber, Municipal Building, Garden Place, Hamilton and via Audio Visual link on Thursday 14 April 2022 at 9.32am.

PRESENT

Chairperson Mayor P Southgate (via audio visual link)
Heamana

Deputy Chairperson Deputy Mayor G Taylor (via audio visual link)
Heamana Tuarua

Members
Cr M Gallagher (via audio visual link)
Cr R Hamilton (via audio visual link)
Cr D Macpherson (via audio visual link)
Cr K Naidoo-Rauf (via audio visual link)
Cr M Donovan
Cr R Pascoe (via audio visual link)
Cr S Thomson (via audio visual link)
Cr M van Oosten (via audio visual link)
Cr E Wilson

In Attendance
Lance Vervoort – Chief Executive
Sean Murray – General Manager Venues, Tourism and Major Events
Tilly Murcott – City Programme Manager

Governance Team
Michelle Hawthorne – Governance and Assurance Manager
Amy Viggers – Governance Team Lead
Carmen Fookes – Senior Governance Advisor
Tyler Gaukrodger – Governance Advisor

Cr Hamilton opened the meeting with a karakia.

1. Apologies – *Tono aroha*

Resolved: (Deputy Mayor Taylor/Cr van Oosten)
That the apologies for absence from Crs O’Leary and Bunting are accepted.

2. Confirmation of Agenda – *Whakatau raarangi take*

Resolved: (Mayor Southgate/Deputy Mayor Taylor)
That the agenda is confirmed.

3. Declarations of Interest – *Tauaakii whaipaaanga*

During the discussion of item C2 (Appointment of Hearing Commissioners) Cr Wilson declared an interest in the matter. He did not take part in the discussion or vote on the matter.

4. **Public Forum – AAtea koorero**
No members of the public wished to speak.

5. **Central City Come Back Campaign Approval**

The General Manager Venues, Tourism and Major Events introduced the report, noting the reason it was being reported to the Council rather than the Economic Development Committee due to being time sensitive, actions already undertaken, and financial support through surpluses and underspend of the Events Sponsorship Fund. Staff and Members acknowledged the work of Hamilton Central Business Association (HCBA) and their efforts to revitalise the Central City following Covid-19 outbreak. Staff responded to questions from Members concerning regular funding to HCBA, funding for the Gardens Festival, other funders, return of unspent funding, reporting and accountability, and use of Flexibus service for events.

Resolved: (Mayor Southgate/Deputy Mayor Taylor)

That the Council:

- a) receives the report; and
- b) endorses the ‘Central City Come Back Campaign’ activity plan by HCBA.

6. **Resolution to Exclude the Public**

Resolved: (Mayor Southgate/Cr Wilson)

Section 48, Local Government Official Information and Meetings Act 1987

The following motion is submitted for consideration:

That the public be excluded from the following parts of the proceedings of this meeting, namely consideration of the public excluded agenda.

The general subject of each matter to be considered while the public is excluded, the reason for passing this resolution in relation to each matter, and the specific grounds under section 48(1) of the Local Government Official Information and Meetings Act 1987 for the passing of this resolution follows.

General subject of each matter to be considered	Reasons for passing this resolution in relation to each matter	Ground(s) under section 48(1) for the passing of this resolution
C1. Legal Claim - 896A River Road	) Good reason to withhold	Section 48(1)(a)
C2. Appointment of Hearing Commissioners	) information exists under) Section 7 Local Government) Official Information and) Meetings Act 1987	

This resolution is made in reliance on section 48(1)(a) of the Local Government Official Information and Meetings Act 1987 and the particular interest or interests protected by Section 6 or Section 7 of that Act which would be prejudiced by the holding of the whole or relevant part of the proceedings of the meeting in public, as follows:

Item C1.	to protect the privacy of natural persons	Section 7 (2) (a)
	to maintain legal professional privilege	Section 7 (2) (g)
	to enable Council to carry out negotiations	Section 7 (2) (i)
	to prevent the disclosure or use of official information for improper gain or improper advantage	Section 7 (2) (j)

Item C2. to protect the privacy of natural persons Section 7 (2) (a)

The meeting went into a public excluded session at 10.03am.

The meeting was declared closed at 11.00am.

Attachment 1

Item 6

Council Report

Item 7

Committee: Council

Date: 12 May 2022

Author: Tyler Gaukrodger

Authoriser: Michelle Hawthorne

Position: Governance Advisor

Position: Governance and Assurance
Manager

Report Name: Confirmation of the Elected Member Open Briefing Notes - 9 March 2022

Report Status	<i>Open</i>
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Staff Recommendation - *Tuutohu-aa-kaimahi*

That the Council confirm the Open Briefing Notes of the Elected Member Briefing held on 9 March 2022 as a true and correct record.

Attachments - *Ngaa taapirihanga*

Attachment 1 - Elected Member Open Briefing Notes - 9 March 2022 .

Elected Member Briefing Notes – 9 March 2022 – OPEN

Time and date:	9.42am, 9 March 2022
Venue:	Audio-Visual Link, Hamilton City Council
In Attendance:	Mayor Southgate, Deputy Mayor Taylor, Crs Pascoe, Hamilton, Macpherson, van Oosten, Thomson, Wilson, Naidoo-Rauf, Donovan, and Gallagher
Apology for Full Session:	Crs O’Leary and Bunting, and Maangai Kana, Hill, Te Ua, Thompson-Evans and Whetu

Discussion

The briefing session covered in an open session.

- Rostrevor Street – Next Steps Following Completion of Innovating Streets Project

There were a number of key points arising from the discussion:

1. **Rostrevor Street – Next Steps Following Completion of Innovating Streets Project** (*Presentation was provided*)

The Operations Team Leader explained that the purpose of the presentation was to discuss Rostrevor Street and receive feedback from Elected Members on options prior to a report going to a future Infrastructure Operations Committee meeting. She explained the outstanding issues from the project, learnings and evaluation, and design options to be considered.

Members asked questions in relation to the following:

- traffic volume;
- original innovating streets plan;
- cyclist use and off-road cycle areas;
- parking options for Founders Theatre area;
- current commuter parking;
- precinct and area plan and integration with West-town belt;
- low-cost, low-risk project opportunities;
- current design elements; and
- Annual Plan implications.

Council Report

Item 8

Committee: Council

Date: 12 May 2022

Author: Tyler Gaukrodger

Authoriser: Michelle Hawthorne

Position: Governance Advisor

Position: Governance and Assurance
Manager

Report Name: Confirmation of the Elected Member Open Briefing Notes - 4 May 2022

Report Status	<i>Open</i>
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Staff Recommendation - *Tuutohu-aa-kaimahi*

That the Council confirm the Open Briefing Notes of the Elected Member Briefing held on 4 May 2022 as a true and correct record.

Attachments - *Ngaa taapirihanga*

Attachment 1 - Elected Member Open Briefing Notes - 4 May 2022 .

Elected Member Briefing Notes – 4 May 2022 – OPEN

Attachment 1

Time and date:	9.39am, 4 May 2022
Venue:	Committee Room 1, Hamilton City Council and via Audio Visual link
In Attendance:	Mayor Southgate, O’Leary, Hamilton, Macpherson, van Oosten, Thomson, Wilson, Donovan, Gallagher, Naidoo-Rauf and Bunting
Apology for Full Session:	Deputy Mayor Taylor, Cr Pascoe, Maangai Kana, Hill, Te Ua, Thompson-Evans and Whetu
Apologies for lateness/early departure:	Cr Bunting

Discussion

The open briefing session covered Local Alcohol Policy.

1. Local Alcohol Policy

The City Safe Unit Manager and Policy and Strategy Advisor explained that the purpose of the presentation was to update Members on the required steps to implement a Local Alcohol Policy if that was the intent of Council. He outlined to the development of Local Alcohol Policies in other Councils, application in local Councils, current application of Alcohol policy within Hamilton, potential conditions that could be implemented with a new Local Alcohol Policy, and steps to develop the policy.

Elected Members asked questions in relation to the following:

- conditions of Alcohol licences being issued;
- function and management of the District Licencing Committee;
- alcohols effect on community safety;
- history of issuing off-site alcohol licences;
- nature of off-site alcohol licence locations;
- the relation to the current gambling policy;
- timeline of Alcohol policy development;
- community behaviour studies;
- residential delivery of alcohol;
- Central Government potential changes to Alcohol related law;
- Medical Officers and Police support for an Local Alcohol Policy to be implemented;
- legal challenges to the implementation of the policy;
- previous attempts to implement a policy; and
- regulations within the District Plan.

Item 8

Council Report

Item 9

Committee: Council

Date: 12 May 2022

Author: Tyler Gaukrodger

Authoriser: Amy Viggers

Position: Governance Advisor

Position: Governance

Report Name: Chair's Report

Report Status	<i>Open</i>
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Recommendation – *Tuutohu*

That the Council receives the report.

Attachments - *Ngaa taapirihanga*

Attachment 1 - Chair's Report

Chair's Report



Welcome to another very full Council meeting. Whilst we consult on our Annual Plan, there are numerous other important pieces of work underway that we will discuss at this meeting. I would like to thank all Chairs, Deputies and staff for the work they are doing through the various committees. We can be proud of what we are achieving together.

At the time of writing I will be chairing this Council meeting remotely from Wellington ahead of a meeting with Hon Grant Robertson. I am looking forward to the opportunity to ensure Minister Robertson understands our unique views on the Government's reforms as a growth metro, and our other challenges and opportunities, in particular around the funding and financing of infrastructure. We want to work together with central Government, but it must be genuine partnership that works for Hamilton.

Turning to the agenda for this Council meeting, I want to touch on the Code of Conduct review. I believe passionately in the good that local Government can do. As elected representatives of the city we love, we know our city's potential, and we are committed to doing everything we can, working with and on behalf of our community, to realise it. But doing so requires having the confidence of Hamiltonians that we are representing them in a way that they can be proud of. The Code of Conduct is an important tool that can help to ensure that is the case. I have believed for some time that by strengthening the Code in a few key areas – in particular, around the use of social media – we can increase the community's confidence in Council. I am therefore grateful for the work that has gone into this, and look forward to today's discussion.

Since our last Council meeting our representation arrangements for the next triennium have been confirmed, following a successful hearing at the Local Government Commission. This will be confirmed in one of the items at this meeting. I'm grateful for all the work that has led us to this point. It's now incumbent on all of us to explain the changes to our community and encourage as many people as possible to vote at this year's Election.

Finally, last month Linda Te Aho moved on from her role as Chair of Te Arataura, Waikato Tainui's executive board. Tukuroirangi Morgan has since been elected to that role. I would like to place on record my thanks to Linda for her important work and valued partnership in the role. I look forward to building on this with Tuku.

Chair's Recommendation

That the Council receives the report.

Paula Southgate

Mayor Hamilton City

Council Report

Item 10

Committee: Council **Date:** 12 May 2022
Author: Michelle Hawthorne **Authoriser:** Lance Vervoort
Position: Governance and Assurance **Position:** Chief Executive
Manager
Report Name: Elected Members Code of Conduct - Review

Report Status	<i>Open</i>
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Purpose - Take

1. To consider the adoption of a revised code of conduct for elected members, in accordance with the Local Government Act 2002.

Staff Recommendation - *Tuutohu-aa-kaimahi*

2. That the Council:
 - a) receives the report; and

Either

Option 1

- b) (by a majority of not less than 75% of the members present) adopts the revised Code of Conduct (Attachment 1) in accordance with clause 6, Schedule 7 of the Local Government Act 2002; and
- c) notes that the newly adopted Code of Conduct will replace the current Code of Conduct and take effect immediately.

Or

Option 2

- b) (by a majority of not less than 75% of the members present) adopts the revised Code of Conduct (Attachment 1) with further amendments in accordance with clause 6, Schedule 7 of the Local Government Act 2002; and
- c) notes that the newly adopted Code of Conduct will replace the current Code of Conduct and take effect immediately.

Or

Option 3

- b) (by a simple majority) does not adopt the revised Code of Conduct; and
- c) notes that the existing Code of Conduct will remain in place.

Executive Summary - *Whakaraapopototanga matua*

3. The Council is required to adopt a code of conduct (clause 15 of Schedule 7 of the Local Government Act 2002 ('LGA')). Once adopted, all Elected Members are required to comply with the Code.
4. Staff have reviewed [the Council's current code of conduct](#), adopted in March 2018. Elected Members provided feedback on a draft code of conduct presented at an informal update by the Governance team.
5. Attachment 1 is a revised code of conduct, which incorporates Elected Member feedback, and is presented for the Council's consideration.
6. The revised Code (as with the current code) is designed to be a self-regulatory instrument. In adopting the revised Code, Elected Members are agreeing to 'own' and demonstrate the principles and standards of behaviour and conduct set out in the revised Code.
7. The changes with the most substantive effect are:
 - i. Revised complaints process (part 6, page 12 and schedule 3, page 21);
 - ii. Revised media section (clause 5.4, page 9);
 - iii. Revised social media guidance (clause 5.9, page 11 and schedule 4);
 - iv. Schedule 5- examples of breaches of the Code.
8. Staff consider the matters in this report are of low significance and that the recommendations comply with the Council's legal requirements.

Background - *Koorero whaimaarama*

9. The Council is required to adopt a code of conduct (clause 15 of Schedule 7 of the Local Government Act 2002 ('LGA')). Once adopted, all Elected Members are required to comply with the Code.
10. The code of conduct must set out:
 - i. understandings and expectations adopted by the local authority about the manner in which members may conduct themselves while acting in their capacity as members, including—
 - ii. behaviour toward one another, staff, and the public; and
 - iii. disclosure of information, including (but not limited to) the provision of any document, to elected members that—
 - A. is received by, or is in the possession of, an elected member in his or her capacity as an elected member; and
 - B. relates to the ability of the local authority to give effect to any provision of this Act; and
 - C. a general explanation of—
 - a. the Local Government Official Information and Meetings Act 1987; and
 - b. any other enactment or rule of law applicable to members.
11. A local authority may amend or replace its code of conduct but may not revoke it without replacement. After the adoption of the first code of conduct, an amendment of the code of conduct or the adoption of a new code of conduct requires, in every case, a vote in support of the amendment of not less than 75% of the members present.
12. Staff have reviewed [the Council's current code of conduct](#), adopted in March 2018. Elected Members provided feedback on a draft code of conduct presented at an informal update by the Governance team.

13. Attachment 1 is a revised code of conduct, which incorporates Elected Member feedback, and is presented for the Council's consideration.
14. The revised Code (as with the current code) is designed to be a self-regulatory instrument. In adopting the revised Code, Elected Members are agreeing to 'own' and demonstrate the principles and standards of behaviour and conduct set out in the revised Code.
15. The key changes from the current code are summarised below in this report.
16. If the revised Code (or an amended version) is not adopted by the Council, the current code will continue to operate until it is replaced.

Discussion - *Matapaki*

17. The changes with the most substantive effect are summarised below. For completeness a tracked version of the changes is attached to the report as Attachment 2.

Revised complaints process (part 6, page 12 and schedule 3, page 21)

18. The most significant amendment in the revised Code relates to the process for making and dealing with complaints against Elected Members. These changes allow members of the public to make complaints regarding a breach of the Code directly to the Council. Changes to the process set out in schedule 3 also clarify the use of an informal process for resolution of a complaint where this is appropriate.
19. There is a new option for the Council to refer a final decision on a material breach of the Code to an independent panel if it considers this to be appropriate and in the interests of natural justice.

Revised media section (clause 5.4, page 9)

20. Changes proposed to this section remove a specific process for media releases and statements from the Council and refer Elected Members to the process agreed by Elected Members and followed by the Communication Team.

Revised social media guidance (clause 5.9, page 11 and schedule 4)

21. The Code includes more information on the use of social media and guidance in schedule 4 on harmful digital communications.

Schedule 5- examples of breaches of the Code

22. This schedule provides three scenarios that would be breaches of the Code. These are for illustrative purposes and intended to provide some guidance to Elected Members.

Options

23. Staff have assessed that there are three reasonable and viable options for the Council to consider.

<p>Option One Approve the proposed changes to the Code</p>	<p>The newly adopted Code of Conduct will replace the current Code of Conduct and take effect immediately.</p>
<p>Option Two Approve the proposed changes to the Code, with amendments</p>	<p>As above, but with amendments as requested by Council.</p>

Option Three Do not approve the proposed changes to the Code	No changes would be made to the Code. The current code would remain in place.
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Financial Considerations - *Whaiwhakaaro Puutea*

24. The financial cost of external legal advice (if required) and appointing an independent investigator would depend on the circumstances of the complaint.
25. An independent investigator's hourly rate is expected to be between \$200 to \$400/hour.

Legal and Policy Considerations - *Whaiwhakaaro-aa-ture*

26. Staff confirm that the staff recommendation complies with the Council's legal and policy requirements, specifically clause 15 of Schedule 7 of the Local Government Act 2002.

Wellbeing Considerations - *Whaiwhakaaro-aa-oranga tonutanga*

27. The purpose of Local Government changed on the 14 May 2019 to include promotion of the social, economic, environmental and cultural wellbeing of communities in the present and for the future ('the 4 wellbeings').
28. The subject matter of this report has been evaluated in terms of the 4 wellbeings during the process of developing this report as outlined below.
29. The recommendations set out in this report do not directly affect the four wellbeings. However, ensuring appropriate agreed behaviours are in place ensures that Council can act in the best interests of the community and protect their immediate and future wellbeing in unforeseen circumstances. In this sense, the recommendations are consistent with the purpose of local government.

Risks - *Tuuraru*

30. Each of the options presents risk to the Council that there may be different views on how the Code should be interpreted, or a lack of clarity in the extent to which the Code does or should apply to Elected Member Behaviour.
31. In addition there is a risk that the revised process for responding to a complaint of a breach of the Code will have perceived or actual shortcomings both by Elected members and the public.

Significance & Engagement Policy - *Kaupapa here whakahira/anganui*

Significance

32. Staff have considered the key considerations under the Significance and Engagement Policy and have assessed that the recommendation(s) in this report has/have a low level of significance.

Engagement

33. Given the low level of significance determined, the engagement level is low. No engagement is required.

Attachments - *Ngaa taapirihanga*

Attachment 1 - Hamilton City Council Code of Conduct - Clean Draft - April 2022

Attachment 2 - Hamilton City Council Code of Conduct - Tracked Draft - April 2022 .



HAMILTON CITY COUNCIL
**CODE OF
CONDUCT**

FORELECTED MEMBERS



DRAFT ONLY

1 & 2

SCOPE & APPLICATION

Hamilton City Councillors and Mayor (“Elected Members”) have an important and privileged role representing the people of Hamilton. This Code of Conduct (“the Code”) represents a commitment from all Elected Members to maintain high standards of behaviour as public figures, which is important for their credibility as city leaders and for the reputation of Hamilton.

As well as articulating agreed professional and ethical behaviours, encouraging teamwork and facilitating effective local democracy, the Code is of value to the Council as a resource and information guide for existing Elected Members and an aid to the public—enabling the public to evaluate behaviour.

1. SCOPE

The Council is required to adopt a code of conduct (clause 15 of Schedule 7 of the Local Government Act 2002 (‘LGA’)). Once adopted, all Elected Members are required to comply with the Code.

The Code is designed to deal with the behaviour of Elected Members towards:

- each other;
- the Chief Executive (‘CE’) and staff;
- the media; and
- the public.

It is also concerned with the disclosure of information that Elected Members receive in their capacity as members and information which impacts on the ability of the Council to give effect to its statutory responsibilities.

2. APPLICATION

The Code applies to Elected Members at all times in their official capacity as Elected Members, and as representatives of Hamilton City Council and the wider community. Elected Members, like all citizens are entitled to freedom of expression and play an important role in putting issues out for public debate and discussion. As a community leader and elected representative, this comes with a concurrent responsibility to be respectful, and open-minded to alternative views. Elected Members must have this standard of conduct in mind in the public arena whether as a part of a public rally, public speech or via websites or social media platforms.

Where a connection of any kind can be made to the behaviour of an Elected Member in their official capacity, then this Code of Conduct will apply.

The LGA requires Elected Members to comply with the provisions of this Code. Members are also bound by the LGA, the Local Authorities (Members’ Interests) Act 1968, the Local Government Official Information and Meetings Act 1987, the Secret Commissions Act 1910, the Crimes Act 1961, the Financial Markets Conduct Act 2013, the Health and Safety at Work Act 2015, and the Protected Disclosures Act 2000. The CE will ensure that an explanation of these Acts is provided at the first meeting after each triennial election and that copies of the above Acts are freely available to Elected Members.

Short explanations of the obligations that each of these Acts has with respect to the conduct of Elected Members are set out in Schedule 1 of this Code.

3

PRINCIPLES OF GOVERNANCE

The Code outlines the principles of good governance relating to behaviour. Elected Members must adhere to the following principles as public figures and leaders of the city:

3. INTEGRITY AND HONESTY

Elected Members will be honest and act with integrity. This includes:

- behaving in accordance with the trust that the public places in them;
- being fair and consistent in dealings with others and following through on commitments;
- not making statements or doing anything that will, or is likely to, mislead or deceive including any statements or information that is false or factually incorrect;
- not placing themselves in situations where their honesty and integrity may be questioned;
- being open to constructive feedback;
- complying with relevant legislation and Council policies and procedures; and
- making decisions on merit; including appointments, awarding contracts, and recommending individuals for rewards or benefits.

3.1 ACCOUNTABILITY

Elected Members will:

- comply with all legislative requirements applying to their role, abide by the Code, and act in accordance with the trust placed in them by the public to be responsible for their decisions and actions, and be prepared to justify these;
- act in an open and transparent manner; and
- ensure Council resources are used prudently.

3.2 RESPECT

Elected Members may not always get their own way. Elected Members will treat everyone with respect and respect other individuals' points of view and opinions, beliefs, and rights.

This includes:

- treating people, including other members, with respect and courtesy, regardless of their race, age, religion, gender, sexual orientation, or disability;
- recognising and encouraging ideas and contributions from others;
- being courteous and approachable;
- not engaging in aggressive, offensive, abusive, harassing, bullying, or discriminatory behaviour (including for example any repetitive or unreasonable behaviour towards a person or group that poses a risk to their wellbeing or a single episode or unreasonable or demanding behaviour including when there is a power imbalance);
- not making personal attacks;
- respecting the impartiality and integrity of staff;
- not interrupting when others are expressing their point of view;
- not making any unreasonable, unwelcome, or unsolicited comments to the public or other Elected Members; and
- not insulting, intimidating, being malicious, degrading or offensive to the public or other Elected Members.

3.3 GOOD FAITH

Elected Members will faithfully and impartially perform their duties and exercise their powers and authorities in the best interest of the community of Hamilton City.

A breach of this Code could indicate a lack of good faith and could be relevant to assessment of personal liability (see explanation of sections 43 to 47 of the LGA set out in Schedule 1 of the Code).

3.4 PROPER USE OF POSITION

Elected Members must not abuse their position, they must not:

- solicit, demand or request any gift or benefit because of their position;
- claim expenses which are not legitimate;
- fail to declare gifts given to them because of their position (see explanation of declaring gifts set out under Section 5.6 of this Code);
- influence, or attempt to influence, any Council employee, or another member, in order to benefit their own, or family's, personal or business interests;
- use information and/or Council resources for any purpose which is not directly related to Council business, including use of Council resources to promote personal or business interests; or
- use, directly or indirectly, any Council resources and/or branding for the purpose of seeking reelection.

3.5 LEADERSHIP

Elected Members agree to be bound by this Code and demonstrate adherence to these principles through their leadership of the city. They should always endeavour to act individually and collectively in a way that maintains public confidence in the good governance of the Council.

These principles complement, and work in conjunction with, the governance principles relating to local authorities (sections 14 and 39 LGA).

4

ROLES AND RESPONSIBILITIES

Good governance requires clarity of roles and respect between those charged with responsibility for the leadership of the Council and those responsible for advice and the implementation of the Council's decisions. This section of the Code describes the roles and responsibilities of Elected Members, the Mayor, Deputy Mayor, Committee Chairpersons, and Chief Executive.

4.1 ELECTED MEMBERS

Elected Members, acting as the Council, are responsible for governance, including:

- the development and approval of Council plans, policies and budgets;
- monitoring the performance of the Council against its stated objectives and policies;
- prudent stewardship of Council resources; and
- employment of the CE.

Elected Members are also responsible for representing the interests of the residents and ratepayers of the city.

Unless otherwise provided in the LGA or in the Council's Standing Orders, the Council can only act by majority decisions at meetings. Any individual member (including the Mayor) has no authority to act on behalf of the Council unless provided for by statute or the Council has expressly delegated such authority.

Elected Members must be committed to achieving the highest standards of conduct and behaviour at all times and will carry out their role to the best of their skill and judgment. To achieve this, Elected Members should:

- take responsibility for ensuring that they understand their roles and responsibilities and the Code;
- attend all meetings (including for external organisations to which they are appointed), task force groups (as appropriate) and any appropriate training opportunities provided by Council;
- come to meetings prepared, including having read relevant material;
- seek personal and skill development opportunities to effectively fulfil their statutory declaration of office and contribute to the good governance of Hamilton;
- present themselves in a way that respects the level of formality of a meeting, event or occasion.

4.2 MAYOR

The Mayor is elected by the city as a whole. Section 41A of the LGA states that role of a Mayor is to provide leadership to other members of the Council and to the people of Hamilton.

The Mayor also has the following roles:

- lead the development of the Council's plans (including long-term plan and annual plan), policies and budgets for consideration by members of the territorial authority;
- appoint the Deputy Mayor; and
- establish committees of the Council and appoint the chairperson of each committee established – noting that nothing limits or prevents the Council from discharging or reconstituting committees or chairpersons of those committees established by the Mayor by way of Council resolution at a later date;
- presiding at Council meetings – the Mayor is responsible for ensuring the orderly conduct of business during Council meetings (as determined by Standing Orders);
- advocating on behalf of the community – this role may involve promoting the community and representing its interests. Such advocacy will be most effective where it is carried out with the knowledge and support of the Council;
- ceremonial head of the Council;
- providing leadership and feedback to other Elected Members on teamwork and chairing of committees; and
- keeping the Council informed of matters brought to their attention.

4.3 DEPUTY MAYOR

If the Mayor has not appointed the Deputy Mayor as noted above, then the Deputy Mayor must be elected by the members of Council, at the first meeting of the Council.

The Deputy Mayor exercises the same roles as other Elected Members, and if the Mayor is absent or incapacitated, the Deputy Mayor must perform all the responsibilities and duties, and may exercise the powers, of the Mayor (as summarised above).

The Deputy Mayor may be removed from office by resolution of the Council.

4.4 COMMITTEE CHAIRPERSONS

A committee chairperson presides over all meetings of the committee, ensuring that the committee acts within the powers delegated by the Council and the orderly conduct of business during committee meetings (as determined by Standing Orders).

Committee chairpersons may be called on to act as official spokespersons on issues within the terms of reference for their committees.

Chairpersons may be removed from office by resolution of the Council. The Council may also appoint deputy chairpersons of committees, who shall fulfil the functions of the chair when the chairperson is absent.

4.5 CHIEF EXECUTIVE

Section 42 of the LGA provides that the CE is the only person directly employed by the Council itself. All concerns about the performance of an individual member of staff must, in the first instance, be referred to the CE.

As the principal administrative officer of the local authority, it is the CE, not the Elected Members, who is responsible for:

- implementing the decisions of the Council;
- providing advice to the Council and its committees;
- ensuring that all responsibilities, duties and powers delegated to them, or to any person employed by the local authority, or imposed or conferred by an Act, regulation or bylaw, are properly performed or exercised;
- managing the Council's activities effectively and efficiently;
- maintaining systems to enable effective planning and accurate reporting of the financial and service performance of the Council;
- providing leadership for the staff of the Council; and
- employing staff on behalf of the Council (including negotiation of the terms of employment for the staff of the local authority).

While the Council is ultimately accountable, its function is not to make detailed decisions on operational matters. The Council, committee structures and Elected Members day-to-day dealings with the CE should recognise the statutory responsibilities of the CE for the effective management of Council staff and for implementing the decisions of the Council.

5

RELATIONSHIPS AND BEHAVIOURS

This section of the Code sets out the Council's agreed standards of behaviour between members; members and staff; and members and the public. Any failure by members to meet the standards set out in this section represents a breach of this Code. For clarity, sections 5.1 to 5.3 include (but are not limited to) any written communication between Elected Members, or from an Elected Member, including through social media platforms.

5.1 RELATIONSHIP WITH OTHER MEMBERS

Successful teamwork is a critical element in the success of any organisation. No team will be effective unless mutual respect exists between members. Members must conduct their dealings with each other in ways that:

- maintain public confidence in the office to which they have been elected;
- are open and honest;
- focus on issues rather than personalities;
- avoid abuse of meeting procedures, such as a pattern of unnecessary notices of motion and/or repetitious points of order; and
- avoid conduct which is aggressive, offensive or abusive or which may constitute unlawful or inappropriate behaviour.

5.2 RELATIONSHIP WITH THE CHIEF EXECUTIVE AND STAFF

Elected Members should be aware that failure to observe the standards in section 5.2 of the Code may compromise the Council's obligations to act as a good employer and may expose the Council to civil litigation and/or audit sanctions.

Effective performance of the Council requires a high level of cooperation and mutual respect between Elected Members and staff. Members will:

- recognise the CE is the employer (on behalf of the Council) of Council staff and only the CE (or their delegate) may hire, dismiss, instruct or discipline an employee;
- make themselves aware of the obligations that the Council and the CE have as employers and observe those requirements at all times;
- treat all Council staff with courtesy and respect (including the avoidance of aggressive, offensive or abusive conduct towards employees);
- observe any guidelines that the CE puts in place regarding contact with employees;
- not do anything which compromises, or could be seen as compromising, the impartiality of an employee;
- avoid publicly criticising any employee in any way, but especially in ways that reflect on the competence and integrity of the employee;
- raise concerns about employees only with the CE, and concerns about the CE only with the Mayor or the CEO Review Committee;
- not seek to improperly influence staff in the normal undertaking of their duties.

5.3 RELATIONSHIP WITH THE PUBLIC

Effective Council decision-making depends on productive relationships between Elected Members and the community at large. Elected Members will, when interacting with the public (whether electronically or verbally):

- interact with members of the public in a fair, respectful, equitable and honest manner;
- be available to listen and respond openly and honestly to community concerns;
- consider all points of view or interests when participating in debate and making decisions;
- treat members of the public in a courteous manner;
- act in a way that upholds the reputation of the local authority and values community involvement in local democracy; and
- ensure their behaviour, in the mind of the public, does not undermine the reputation of the Council or other Elected Members.

5.4 CONTACT WITH THE MEDIA

The media plays an important part in local democracy. To fulfil this role, the media needs access to accurate and timely information about the affairs of the Council. From time to time, individual members will be approached to comment on a particular issue either on behalf of the Council, or as an Elected Member in their own right.

Elected Members will follow the policy and process agreed with the Communications Unit on official statements made on behalf of Council.

Elected Members are free to express a personal view in the media, at any time, provided the following rules are observed:

- i. media comments must not state or imply that they represent the views of the Council;
- ii. where an Elected Member is making a statement that is contrary to a Council decision or Council policy, the member must not state or imply that their statements represent a majority view;
- iii. media comments must observe the other requirements of the Code, e.g. not disclose confidential information; compromise the impartiality or integrity of staff; or avoids aggressive, offensive or abusive comments which reflects adversely on the member or the Council; and
- iv. media comments must not be misleading and should be accurate within the bounds of reasonableness.

5.5 INFORMATION AVAILABLE TO ELECTED MEMBERS

Any failure by members to act in the manner described in this section 5.5 will be treated seriously and will immediately be referred to the Code of Conduct Complaints Process in this Code.

Confidentiality

To enable Elected Members to properly discharge their duties, members are entitled to, and receive, a broad range of information which is publicly accessible. In the course of their duties, Elected Members will also receive information that may be classified as confidential. This includes information received at meetings which are closed to the public or information that is identified as confidential.

Elected Members may also be provided with, or have the ability to access, confidential information held by Council.

Confidential information includes information that staff have determined that there is good reason to withhold under sections 6 and 7 of the Local Government Official Information and Meetings Act 1987 ('LGOIMA'). This will often be information that is either commercially sensitive or is personal to a particular individual. The Council's Privacy Officer is responsible for the release of information under LGOIMA.

Elected Members must not use or disclose confidential information for any purpose other than the purpose for which the information was supplied to the Elected Member. Elected Members should be aware that failure to observe these provisions relating to confidential information will impede the performance of Council by inhibiting information flows and undermining public confidence in the Council. They may also expose the Council to prosecution under the Privacy Act 2020 and/or civil litigation.

A breach of confidentiality could also indicate a lack of good faith which may be relevant to the assessment of personal liability (see explanation of sections 43 to 47 of the LGA set out in Schedule 1 of the Code). Information received in capacity as an Elected Member will be disclosed to other members and, where appropriate the CE, any information received in their capacity as an Elected Member that concerns the Council's ability to give effect to its responsibilities.

Members who are offered information on the condition that it remains confidential will inform the provider of the information that is the member's duty to disclose the information and will decline the offer if that duty is likely to be compromised.

Elected Members are accountable to the public.

- All official information held by them personally, whether on Council equipment or their own personal equipment is subject to the LGOIMA.
- Official information, if sought as part of a request, must be made available immediately to the CE (or nominee) so that it can be assessed in terms of the requirements of the LGOIMA.

5.6 GIFTS AND HOSPITALITY

A person in a position of trust, such as an Elected Member, should not make a profit through their office. The Crimes Act 1961 and the Secret Commissions Act 1910 deals with corruption and the obtaining of gifts as an inducement or reward for acts in relation to the Council's affairs (refer to Schedule 1). Gifts can include discounts, commissions, bonus or deductions.

Acceptance of gifts, services or hospitality may be considered as a bribe or perceived as undue influence. Elected Members must notify the Governance and Assurance Manager or Governance Lead (or delegate) if any gifts are accepted for inclusion in the Gifts Register maintained by the Council. Where a gift to the value of \$150 or more is offered to a member, it will also be included in the Register of Members Interests maintained by the Council.

As guidance:

- The cumulative value of recurring gifts received each financial year from the same donor must be disclosed. For example, if someone provides a member with concert tickets at different times through the year, the total value of those tickets over the relevant financial year is to be disclosed.
- A member is not required to disclose tickets to events for which that member is required to attend as the Council's representative (as recorded in the Council's Governance Structure).
- Working lunches and social occasions should be undertaken with a recognition of the public perception regarding undue influence on Elected Members.

CONFLICTS OF INTEREST

Failure to observe the requirements of the Local Authorities (Members' Interests) Act 1968 ('LAMIA') could potentially invalidate a decision made, or action taken, by the Council. Failure to observe these requirements could also leave the Elected Member open to prosecution. In the event of a conviction, Elected Members can be removed from office.

Schedule 2 of this Code sets out the Code's conflict of interest requirements. Elected Members must fully acquaint themselves, and adhere strictly to, these requirements.

Ultimately, it is up to each member's own judgement as to whether they have an interest that needs to be disclosed or declared, and what action they take (if any) as a consequence.

The requirements cover two classes of conflict of interest:

- A financial conflict of interest is one where a decision or act of the governing body could reasonably give rise to an expectation of financial gain or loss to an Elected Member.

A financial conflict of interest need not involve cash changing hands directly. It could, for example, relate to an effect on the value of land or shares that the member owns, or an effect on the turnover of a business that the member is involved in. There are particularly strict provisions (and penalties) relating to dealing with a financial conflict of interest.

- A non-financial conflict of interest does not have a personal financial component. It may arise, for example, from a personal relationship, or involvement with a non-profit organisation, or from conduct that indicates prejudice or predetermination.

Elected Members are required to complete declarations of interest following their inauguration, and to update their declarations as and when required.

5.7 BANKRUPTCY

Elected Members who are declared an undischarged bankrupt shall notify the CE when elected or as soon as practicable after being so declared. The member will provide the CE with a brief explanatory statement of the circumstances surrounding the bankruptcy, including its likely outcome. This must be recorded in the Register of Interests.

5.8 DISQUALIFICATION FROM OFFICE

The LGA and Standing Orders provide for disqualification of Elected Members from office for example, if they:

- are convicted of a criminal offence punishable by two or more years imprisonment;
- cease to be an elector or become disqualified for registration as an elector under the Electoral Act 1993;
- breach the LAMIA; or
- are absent without leave from the Council for four consecutive ordinary meetings of the Council.

5.9 USE OF SOCIAL MEDIA

Social media and online platforms include any internet-based tool used for publishing, sharing and discussing information and includes websites, blogs, wikis and social networking sites such as Facebook, Twitter or LinkedIn.

Use of social media is an effective and efficient way to share information, engage with the public and inform the communities that Elected Members serve. However, platforms can be misused, false information shared, and abusive interactions can negatively impact the wellbeing of those targeted and undermine staff or Elected Member's ability to serve the community.

This guidance for use of social media is designed to protect members of the public, Elected Members, and staff. Elected Members are supported to utilise social media in their elected member's official capacity provided any posts or comments are consistent with the Code (including Schedule 4), are open and transparent (including the entitlement to taking a view on critical issues for a decision to be made by Council) but do not:

- contain any language or the behaviours required of them in clause 3.3 above;
- bring the Council into disrepute e.g., making derogatory remarks about any individual or any organisation;
- contain confidential information (see Confidential Information at 5.5), impugn the integrity or impartiality of other Elected Members;
- contain information that is factually false or misleads the public; or
- undermine or misrepresent the views of the Council, any Council Policy, or the views of other Elected Members unless the post or comment clearly states that it does not represent the views of the majority of Elected Members.

For further guidance with using social media and other online platforms, see Schedule 4 for examples of terms of engagement, good practice online behaviour, actions to take for serious emotional distress and separating private and official capacity accounts.

6

BREACHES OF THE CODE

Members must comply with the provisions of this Code (clause 14(4), Schedule 7, LGA). The exact nature of the action taken to resolve any allegations relating to misconduct of an Elected Member will depend on the nature of the alleged breach and whether there are statutory provisions dealing with the issue in question.

6.1 PRINCIPLES:

The following principles will guide any processes for investigating and determining whether a breach under this Code has occurred:

- that the approach for investigating and assessing a complaint will be proportionate to the apparent seriousness of the alleged breach;
- that the roles of complaint, investigation, advice and decision-making will be kept separate as appropriate to the nature and complexity of the alleged breach; and
- that the concepts of natural justice and fairness will apply in the determination of any complaints made under this Code. This is conditional on the nature of an alleged breach, and requires that affected parties:
 - have a right to know that an investigation process is underway;
 - are given due notice and are provided with an opportunity to be heard;
 - have a right to seek appropriate advice and be represented;
 - have their privacy respected.

6.2 COMPLAINTS PROCESS

At all times, other than breaches of legislation, any of the following informal processes may be followed:

- Internal (staff or Elected Member) complaints: Elected Members (including the Mayor) are encouraged, when appropriate, to resolve the matter between themselves or with staff to attempt to resolve the issue and seek assistance from the CE when needed; or
- External (public) complaints: the Mayor, Deputy Mayor and CE at their discretion may apply a suitable informal resolution process to attempt to resolve the matter regardless of whether a complaint has been made formally or not and/or the issue is material.

Any complaints that are not resolved informally using the above options, must be addressed in accordance with the process set out in Schedule 3 including the appointment of an investigator, as required but also noting that in the Schedule 3 process, allows for further referral to an informal process, if appropriate.

Panel of Independent Investigators

On behalf of the Council, the CE will, as soon as practicable after the start of a triennium and adoption of the Code, prepare, in consultation with the Mayor and Deputy Mayor, a panel of independent investigators. The panel of independent investigators will be responsible for undertaking an assessment of complaints and making recommendations to the Council in accordance with the process set out in Schedule 3. The Panel of Independent Investigators is not a committee of the Council.

The CE may, at their discretion, prepare a list specifically for the Council or prepare a list jointly with selected neighbouring councils or contract with an agency capable of providing appropriate investigators.

Example Scenarios

For further guidance with when conduct may or may not be a breach of this Code, see Schedule 5 with example scenarios and explanations.

Materiality

An alleged breach under this Code is material if, in the reasonable opinion of an independent investigator, it would, if proven, bring an Elected Member or the Council into disrepute (for example in the mind of the public, any behaviour that negatively risks or undermines the reputation of the Council or another Elected Member) or, if not addressed, reflect adversely on another Elected Member of the Council. An alleged breach of section 5.5 of the Code (Information available to Elected Members) will automatically be considered material and referred to an independent investigator for assessment.

6.3 PENALTIES AND ACTIONS

Where a complaint is determined to be a material breach of the Code and referred to the Council for determination, the nature of any penalty or action will depend on and be commensurate to, the seriousness of the breach.

Material breaches

In the case of material breaches of this Code the Council may require one or more of the following:

- a letter of censure to the member;
- a request (made either privately or publicly) for an apology;
- a vote of no confidence in the member;
- removal of certain Council-funded privileges or Council appointments;
- restricted entry to Council offices, such as no access to staff areas (where restrictions may not previously have existed);
- limitation on any dealings with Council staff so that they are confined to the CE only;
- suspension or removal from Committees (including joint committees), task forces or other Council bodies; and/or
- an invitation for the member to consider resigning from the Council.

The Council may decide that a penalty will not be imposed where the respondent agrees to one or more of the following:

- attend a relevant training course; and/or
- work with a mentor for a period; and/or
- participate in voluntary mediation (if the complaint involves a conflict between two members); and/or
- tender an apology.

The process is based on the presumption that the outcome of a complaints process will be made public unless there are grounds, such as those set out in LGOIMA, for not doing so.

Breaches of Legislation

If there are statutory provisions dealing with the issue in question, the issue will not be dealt with as a breach of the Code but may be addressed in accordance with the relevant statutory provisions.

These include:

- issues relating to members' interests may render members liable for prosecution by the Auditor General under the Local Authorities (Member's Interests) Act 1968 and, if convicted, the Member can be removed from office;
- issues which result in the Council suffering financial loss or damage may be reported on by the Auditor General under the LGA, which may result in the member having to make good the loss or damage;
- issues relating to the commission of a criminal offence may leave the Elected Member liable for criminal prosecution.

Council may refer an issue to the relevant body, any member of the public may make a complaint to that body, or the Auditor-General or the Police may take action of their own initiative

Breaches of the Code during meetings

It is expected that compliance with the provisions of this Code during a meeting shall be dealt with by the Chairperson of that meeting, within Standing Orders, at the time the breach arises.

Elected Members should raise alleged breaches of the Code with the Chairperson at the time. If an Elected Member believes that an alleged breach of the Code has not been dealt with adequately by the Chairperson at a meeting, that Elected Member may initiate the procedures set out in Section 6.2 and Schedule 3 in the Code.

7

REVIEWS OR CHANGES TO THE CODE

The Council may by resolution of 75 per cent majority or more, change the Code at any time.

The Council will formally review the Code as soon as practicable after the beginning of each triennium. The results of that review will be presented to the full Council for its consideration and vote. At that time, a clean slate will apply to the application of this Code for the new triennium.

The Code should be read in conjunction with the Council's Standing Orders.

Schedule 1

SUMMARY OF LEGISLATION

This Schedule is a summary of the legislative requirements that have some bearing on the duties and conduct of Elected Members. Copies of the legislation can be found on www.legislation.govt.nz or requested from the Governance team.

LOCAL GOVERNMENT ACT 2002 ('LGA')

Governance Principles

In performing its role, the Council must act in accordance with nine broad principles as set out in section 14(1) of the LGA as follows:

- conduct its business in an open, transparent, and democratically accountable manner; and
- give effect to its identified priorities and desired outcomes in an efficient and effective manner;
- make itself aware of and have regard to the views of all its communities;
- when making a decision, take account of the diversity of the community and the various community's interests; the interests of future as well as current communities and the likely impact of any decision on these interests;
- provide opportunities for Maaori to contribute to its decision-making process;
- collaborate and cooperate with other local authorities;
- undertake commercial transactions in accordance with sound business practices and assess periodically the expected returns from investing in or undertaking a commercial activity;
- ensure prudent stewardship and efficient and effective use of its resources in the interests of the district;
- take a sustainable development approach that takes into account the social, economic and cultural interests of people and communities and the need to maintain and enhance the quality of the environment and the reasonably foreseeable needs of future generations.

If any of the principles are in conflict, the Council must resolve that conflict in an open, transparent and democratically accountable manner. These principles are helpful in determining the governance structure as they are indicative of the spirit and intent of the LGA and govern the way in which the Council undertakes decision-making. A Council that is seen to act in conflict with these principles can be subject to judicial review.

In deciding on a governance structure, section 39 is also helpful to consider as it defines the following governance principles:

- a local authority should ensure that the role of democratic governance of the community, and the expected conduct

of elected members, is clear and understood by elected members and the community;

- a local authority should ensure that the governance structures and processes are effective, open and transparent;
- local authority should ensure that, so far as is practicable, responsibility and processes for decision-making in relation to regulatory responsibilities is separated from responsibility and processes for decision-making for non-regulatory responsibilities;
- a local authority should be a good employer; and
- a local authority should ensure that the relationship between elected members and management of the local authority is effective and understood.

Decision-Making Responsibility

Every decision made by a local authority, including a decision not to take any action, must be made in accordance with sections 77, 78, 80, 81 and 82 of the LGA. Specifically, the Council must during the decision-making process:

- seek to identify all reasonably practicable options for the achievement of the objective of a decision;
- assess the options in terms of their advantages and disadvantages;
- identify those options which involve a significant decision in relation to land or a body of water, take into account the relationship of Maaori and their culture and traditions with their ancestral land, water, sites, waahi tapu, valued flora and fauna and other taonga;
- give consideration to the views and preferences of persons likely to be affected by, or to have an interest in the matter;
- determine the matters significance in relation to Council's Significance and Engagement Policy;
- identify whether the proposed decision would be significantly inconsistent with any existing policy or plan;
- establish and maintain processes to provide opportunities for Maaori to contribute to the decision-making process;
- consider ways in which the Council may foster the development of Maaori capacity to contribute to the decision-making process;
- provide relevant information to Maaori;
- undertake consultation in accordance with the principles of consultation as set out in section 82.

Significance and Engagement

A higher standard of compliance with the decision-making process is required when the Council is making a significant decision. The definition of "significance" is defined in the LGA and in the Council's Significance and Engagement Policy.

If the Council determines that the decision or matter is significant in terms of the Council's Policy, then the Council must apply greater diligence in regard to the decision-making requirements of the LGA.

This includes the degree to which different options are identified and assessed and the extent to which community views are considered, including whether consultation is required. The more significant a matter, the greater the level and detail, of analysis is required.

Section 78 alone does not require the Council to undertake a consultation process, provided the Council has sought to make itself aware of the views of those interested or affected. The Council may, for example, have gathered information through a process, formal or informal, which has provided the Council with the information it needs to take community views into account. The Significance and Engagement Policy provides guidance on when consultation will and will not be undertaken.

Personal liability of members

Although having qualified privilege, Elected Members can be held personally accountable for losses incurred by a local authority where, following a report from the Auditor General under section 44 LGA, it is found that one of the following applies:

- money belonging to, or administered by, a local authority has been unlawfully expended; or
- an asset has been unlawfully sold or otherwise disposed of by the local authority; or
- a liability has been unlawfully incurred by the local authority; or
- a local authority has intentionally or negligently failed to enforce the collection of money it is lawfully entitled to receive.

Members will not be personally liable where they can prove that the act or failure to act resulting in the loss occurred as a result of one of the following:

- without the member's knowledge;
- with the member's knowledge but against the member's protest made at or before the time when the loss occurred;
- contrary to the manner in which the member voted on the issue; and
- in circumstances where, although being a party to the act or failure to act, the member acted in good faith and relied on reports, statements, financial data, or other information from professional or expert advisers, namely staff or external experts on the matters.

1. The Auditor-General can provide retrospective approval for contracts that would otherwise disqualify a member under the Act, in limited circumstances.

In certain situations members will also be responsible for paying the costs of proceedings (section 47 LGA 2002).

LOCAL AUTHORITIES (MEMBERS' INTERESTS) ACT 1968 ('LAMIA')

LAMIA regulates situations where an Elected Member's personal interests impinge or could be seen as impinging on their duties as an Elected Member.

Members may contact the Office of the Auditor General ('OAG') for guidance as to whether that member has a pecuniary interest, and if so, may seek (through an application from the Council) an exemption to allow that member to participate or vote on a particular issue in which they may have a pecuniary interest. The latter must be done before the discussion or vote¹. The CE must also seek approval from the OAG for contractual payments to members, their spouses or their companies that exceed the \$25,000 annual limit.

Failure to observe these requirements could also leave the Elected Member open to prosecution under the LAMIA. In the event of a conviction Elected Members can be removed from office. Further guidance is detailed under Schedule 2 of the Code.

LOCAL GOVERNMENT OFFICIAL INFORMATION AND MEETINGS ACT 1987 ('LGOIMA')

The purpose of LGOIMA is to provide for the availability to the public of official information held by local authorities, and to promote the open and public transaction of business in meetings of local authorities.

The general principle is that information held by local authorities is to be made available unless there is good reason for withholding it. The principal grounds for withholding information are set out in sections 6 and 7 of LGOIMA.

LGOIMA sets out a number of statutory procedures and requirements for local authority meetings. Meetings are to be publicly notified, and open to the public unless there is good reason for withholding information and excluding the public.

The Chair has the responsibility to maintain order at meetings, but all Elected Members should accept personal responsibility to maintain acceptable standards of address and debate in line with the principles detailed in section 3 of this Code.

SECRET COMMISSIONS ACT 1910 ('SCA')

It is unlawful for an Elected Member (or officer) to advise anyone to enter into a contract with a third person and receive a gift or reward from that third person as a result. It is also unlawful for an Elected Member (or officer) to present false receipts to the local authority. If convicted of any offence under the SCA, a person can be imprisoned for up to 7 years. Elected Members convicted of an offence will be removed from office.

CRIMES ACT 1961

It is a crime for any Elected Member to accept, or solicit for themselves (or anyone else), any gift or reward for acting or not acting in relation to the business of the local authority. It is also a crime for any Elected Member to use information acquired in their official capacity for monetary gain or advantage. These offences are punishable by a term of imprisonment of 7 years or more. Elected Members convicted of these offences will be removed from office.

FINANCIAL MARKETS CONDUCT ACT 2013 ('FMCA')

The FMCA regulates the offer, issue and re-sale of financial products, which includes shares, debt securities and derivatives. Council is unable to issue shares, but can issue debt securities and derivatives, and may from time to time sell financial products. If Council does issue financial products or, in certain cases, sells financial products that it holds, members will be potentially subject to personal liability for breaches of the offer and other provisions of the FMCA.

HEALTH & SAFETY AT WORK ACT 2015 ('HSWA')

HSWA came into force on 4 April 2016. Its focus is the protection of workers and other people against harm to their health, safety and welfare by eliminating or minimising risks at workplaces. The HSWA places obligations on four duty holders - a person conducting a business or undertaking ('PCBU'); officers of a PCBU; workers; and other people at a workplace. Council as a PCBU holds the primary duty of care under HSWA i.e., to ensure so far as is reasonably practicable, the health and safety of its workers and of other workers whose activities Council influences or directs.

Each elected member is an 'officer' (being a person occupying a position in a body corporate that is comparable with that of a director of a company), responsible under HSWA for exercising due diligence to ensure that the Council is meeting its health and safety responsibilities under HSWA. The CE and Senior Leadership Team are also officers under HSWA.

The due diligence duty of officers supports the primary duty of care owed by a PCBU – placing duties on individuals whose decisions significantly influence the activities of a PCBU, therefore influencing whether the PCBU meets its statutory duties.

Unlike the Chief Executive and Executive Leadership Team, Elected Members are not required to be directly involved in the day-to-day management of health and safety. They are, however, still required to take reasonable steps to understand Council's operations and health and safety risks, and to ensure that they are managed so that the organisation meets its legal obligations under the HSWA. This duty does not extend to ensuring that a council-controlled organisation ('CCO') complies with the HSWA, unless the Elected Member is also an 'officer' of that CCO.

Taking 'reasonable steps' requires each Elected Member to exercise the care, diligence and skill a reasonable officer would exercise in the same circumstances, taking into account matters including the nature of Council's business, and the Elected Member's position and nature of their responsibilities.

Most officers can be convicted of an offence for failing to meet their due diligence obligations, whether or not a PCBU is convicted of an offence. Elected members, however, when acting in the capacity of an elected member of the Council are expressly exempted from prosecution.

PROTECTED DISCLOSURES ACT 2000 ('PDA')

Under the PDA, the definition of an employee of a public sector organisation (PSO) includes Elected Members of a local authority. Elected Members (as 'employees') who disclose information about a serious wrongdoing by the Council are protected from civil or criminal liability that might arise from such a disclosure and from retaliatory action against the Elected Member.

Serious wrongdoing under the Act includes unlawful or irregular use of funds or resources; conduct that risks public health and safety; conduct that risks the maintenance of law; conduct that constitutes an offence; oppressive, improper discriminatory conduct; and gross negligence or gross mismanagement by a public official.

Protection under the PDA applies where the employee has information about a serious wrongdoing; a reasonable belief that the information is true or likely to be true; the employee wishes to have the matter investigated; and that employee desires protection under the Act.

The Council has a Protected Disclosure Management Policy, which applies to employees. For Elected Members, the default position requires a disclosure to be made to the CE or Deputy CE. If the employee considers the CE or Deputy CE may be involved in serious wrongdoing, the matter can also be escalated to an "appropriate authority".

Appropriate authorities are defined in the Act and include the Commissioner of Police, the Controller and Auditor-General and the Parliamentary Ombudsman.

Schedule 2

CONFLICTS OF INTEREST

GENERAL

Elected Members are expected to approach decision making with an open mind - 'faithfully and impartially' and in 'the best interests of Hamilton City'. Elected Members must therefore be careful that they maintain a clear separation between their personal interests and their duties as a member of Council (as governing body, and as a member of a Council committee or other Council body). They must exercise care to avoid situations where they have, or appear to have, a conflict of interest.

Elected Members must carry out their duties free from bias (whether actual or perceived). Bias is the common factor in all conflict-of-interest situations. The rule about bias applies to both financial and non-financial conflicts of interest and is summed up in the saying 'no one may be judge in their own cause'.

In the local government context, financial conflicts of interest are governed primarily by the Local Authorities' (Members' Interests) Act 1968 ('LAMIA') and non-financial conflicts of interest are governed by the common law rule about bias.

Broadly speaking, a conflict of interest exists when an elected member could use, or uses, their position to further their own interests or those of their partner, or spouse. The various types of conflict of interest include:

- Direct financial interest - where a decision or act of the Council could reasonably give rise to an expectation of financial gain or loss to an elected member.
- Indirect financial interest - where cash doesn't change hands directly but, for example, may influence the value of land or shares that the member owns, or an effect on the turnover of a business that the member is involved in;
- Non-financial interest - where an elected member's responsibilities as a member of Council could be affected by some other separate interest or duty that they may have in relation to a matter as a result of, for example, a personal relationship, or involvement with an external organisation, or from conduct that indicates prejudice or predetermination.

Conflicts of interest can be:

- Actual: where the conflict of interest already exists;
- Potential: where the conflict is about to happen, or reasonably could happen; or
- Perceived: where other people might reasonably think an Elected Member is not being objective or their position as an Elected Member has been compromised.

FINANCIAL CONFLICTS OF INTEREST

Elected members are often faced with the question of whether or not they have a pecuniary interest in a decision and if so whether they should participate in discussion on that decision and vote. When determining if this is the case or not the following test is applied:

"...whether, if the matter were dealt with in a particular way, discussing or voting on that matter could reasonably give rise to an expectation of a gain or loss of money for the member concerned." (OAG, 2001)

Members should consider the following factors in considering whether they have a financial interest.

- What is the nature of the decision being made?
- Do I have a financial interest in that decision - do I have a reasonable expectation of gain or loss of money by making that decision?
- Is my financial interest one that is in common with the public?
- Do any of the exceptions in the LAMIA apply to me?
- Could I apply to the Auditor-General for approval to participate?

Members may seek assistance from the Mayor or another person to determine if they should discuss or vote on an issue but ultimately it is their own judgment as to whether or not they have pecuniary interest in the decision. Any member who is uncertain as to whether they have a pecuniary interest is advised to seek independent legal advice. Where uncertainty exists, members may adopt a least-risk approach which is to not participate in discussions or vote on any decisions.

The two specific rules in the LAMIA relate to:

Contracts

An Elected Member is disqualified from office, or from election to office, if that member is concerned or interested in contracts and subcontracts (either directly or indirectly) under which payments made by or on behalf of Council exceed \$25,000 in any financial year (unless there is an exemption granted by the Office of the Controller and Auditor-General ('OAG')).

The \$25,000 limit includes GST. The limit relates to the value of all payments made for all contracts in which a member is interested during the financial year. It does not apply separately to each contract, nor is it just the amount of the profit the contractor expects to make or the portion of the payments to be personally received by the member.

It is an offence under LAMIA for a person to act as a member of the Council (or Council committee) while disqualified.

Participation in decision-making

Elected Members must not participate in any Council discussion or vote on any matter in which they have a financial interest (either directly or indirectly), other than an interest in common with the public.

Both rules apply in the case of an interest or concern through an Elected Member's spouse or partner, or through a company or trust.

HOW IS BIAS DETERMINED?

Bias is determined by asking the following question:

"Is there, to a reasonable, fair-minded and informed observer, a real danger of bias on the part of a member of the decision-making body, in the sense that they might unfairly regard with favour (or disfavour) the case of a party to the issue under consideration?"

It is natural to expect that Elected Members will bring their own experience and knowledge to the decision-making process; that members may already have views – even strong or publicly stated views – about the matter; and that political considerations may play a part in the decision.

The question is not limited to actual bias but relates to the appearance or possibility of bias reflecting the principle that justice should not only be done, but should be seen to be done. Whether or not members believe they are not biased is irrelevant.

Members should focus on the nature of the conflicting interest or relationship and the risk it could pose for the decision-making process. The most common risks of non-pecuniary bias are where:

- members' statements or conduct indicate that they have predetermined the decision before hearing all relevant information (that is, members have a "closed mind"); and
- members have a close relationship or involvement with an individual or organisation affected by the decision.

In determining whether they might be perceived as biased, members must also consider the context and circumstance of the issue or question under consideration. For example, if a member has stood on a platform and been voted into office on the promise of implementing that platform then voters would have every expectation that the member would give effect to that promise, however they must still be seen to be open to considering new information (this may not apply to decisions made in quasi-judicial settings, such as an RMA hearing).

2. The Auditor General can retrospectively approve contracts that would otherwise disqualify a member under the Act, in limited cases.

DECLARATIONS OF INTEREST

To help identify possible conflicts of interest the Council operates a Register of Members' Interests.

Elected Members must make full and complete declarations of interests following the Inaugural Meeting of Council (after local government elections or by-election, as appropriate), and then every six months, using the Register of Members' Interests Declaration Form. These declarations of interests are a key individual responsibility of all Elected Members. They must notify the Council of the nature and extent of any interest as further detailed in the declaration form.

Declarations will be recorded in a Register of Members' Interests maintained by Council's Governance Manager. The Register (or a fair and accurate summary of its contents) will be available for public inspection. A summary will be published on the Council's website.

The Register does not remove the requirement to disclose conflicts of interest as they arise. Members must therefore advise the Council's Governance Manager, as soon as practicable during the year, if any new interests arise; complete a declaration of interests form every six months and update the Register whenever a member's interest has changed. Members must also declare their interests at meetings where matters in which they have a conflict of interest arise. The Elected Member must:

- declare the existence of a conflict to the meeting (the member does not have to disclose the nature of the interest concerned, though they are required if the interest is a financial one);
- abstain from discussion and voting (take no part in the consideration of the matter). Depending on the issue, the member may consider it best to leave the meeting room itself.

GENERAL AWARENESS AND SUPPORT

There is no simple binding rule that covers all conflict-of-interest situations – each situation must be evaluated on its individual merits. If an Elected Member is in any doubt as to whether they should declare an interest and stand aside from decision-making (including a decision to take no action), then they should seek guidance from the Mayor immediately; seek advice from the OAG (as to whether there is a financial interest) or from their own lawyer.

In some situations of pecuniary interest, a member may be able to obtain an exemption from the OAG to allow him/her to participate or vote on a particular issue. Any exemptions must be obtained before the discussion or vote takes place².

In a case of doubt, a member should refrain from discussing or voting on the matter in question and preferably physically withdraw from the meeting. The minutes of the meeting will record the member's declaration of interest and absence from voting.

Relevant guidelines include:

- 'Guidance for Members of Local Authorities about the Local Authorities' (Members' Interests) Act 1968' – Office of the Auditor General 2010.
- 'Managing Conflicting Interests in Local Government: The Local Authorities (Members' Interests) Act 1968 and Associated Issues' – Department of Internal Affairs August 2011.

CONSEQUENCES OF BIAS AND/OR BREACH OF THE LAMIA

An Elected Member will be automatically disqualified from office if they are concerned or interested in contracts and subcontracts (either directly or indirectly) under which payments made by or on behalf of Council exceed \$25,000 in any financial year.

If an Elected Member has a financial interest in a matter and participates in discussion and voting on it, they will have committed an offence under the LAMIA. In the event of a conviction, an Elected Member can be removed from office.

An Elected Member's bias (whether actual or perceived) has the potential to invalidate the particular decision made, or the action taken, by Council (if successfully challenged by way of judicial review).

If an Elected Member's conduct has contributed to Council incurring a loss; that conduct could also result in personal financial liability under section 46 of the LGA (refer to Schedule 1).

PROCESS FOR THE INVESTIGATION AND DETERMINATION OF COMPLAINTS

SUMMARY

The process for dealing with complaints under this Code of Conduct is as follows:

Stage 1: The complainant is required to complete a complaint form, which is acknowledged by the Legal Team.

Stage 2: Preliminary assessment of the complaint is completed by the Legal Team and a recommendation made to the Mayor, Deputy Mayor and the CE's Office, which may be referred to an informal process.

Stage 3: Upon receiving the recommendation, the Mayor, Deputy Mayor and CE's Office will consider the recommendation and make a decision on referral of the complaint to an informal process or to an investigator.

Stage 4: Where the Mayor, Deputy Mayor and CE's Office refers the complaint to an independent investigator assessment, the CE will use discretion to select a suitable investigator from the Panel of Investigators.

Stage 5: The Council will consider the investigator's report and reach a decision for a resolution for the complaint.

A flowchart illustrating the complaints process is attached to this Schedule. Staff are guided by internal information and templates with appropriate timeframes of which all uphold a fair process and natural justice with clear communication to the parties involved.

STEP 1: ACKNOWLEDGMENT OF COMPLAINT

1. Upon receipt of a complaint, the following will occur:
 - a. An acknowledgement of a submitted complaint form will be emailed to the complainant. The Legal Team will review the completed form and if needed, request clarification for any missing information or evidence.
 - b. The onus is on the complainant to ensure they have referred to the relevant section of the Code of Conduct that they are claiming to have been breached. The complaint will remain confidential while an investigation is being completed.
 - c. The Legal Team will inform the respondent that a complaint has been made against them and refer them to the process for dealing with the complaint under this Code.

STEP 2: PRELIMINARY ASSESSMENT OF COMPLAINT

2. The CE, with the Mayor and Deputy Mayor (either of whom may be removed from the process if the complaint involves the Mayor or Deputy Mayor) will decide whether:
 - a. the complaint is frivolous or without substance and should be dismissed;
 - b. the complaint is outside the scope of the Code and should be redirected to another agency or process;
 - c. the subject of the complaint has previously been assessed and actions have been completed in accordance with the Code to address the complaint.
 - d. is suitable based on the circumstances, to refer to an informal process for implementation by the CE's Office. The interpretation of the complaint against the Code of Conduct at that time will be based on the Legal Team's assessment.
 - e. the complaint is material and should be the subject of a full investigation to be completed by an independent investigator.

3. At each stage of the complaints process, the Legal Team and the CE's Office will be responsible for informing the parties involved of the progress, timeframes and decisions, and will utilise internal templates and guidance to ensure a fair process and natural justice is upheld.

4. If it is determined that the complaint involves a potential legislative breach and is outside the scope of the Code, the Legal Team will advise the CE's Office and will forward the complaint to the relevant agency and inform both the complainant and respondent of the action. The Legal Team may also make additional recommendations based on the circumstances.

5. The Mayor, Deputy Mayor and the CE have full discretion to refer any complaint to an informal process for resolution, notwithstanding that it is material or not.

6. The timeframes for assessment, resolution and/or investigation will be clarified by the Legal Team based on the circumstances of the complaint. If additional time is required to complete the assessment following the initial assessment, the CE Office or the Legal Team must notify the complainant and respondent of the further time required.

STEP 3: INFORMAL RESOLUTION

7. Where the complaint is referred to an informal process, the parties will endeavour to resolve the complaint as soon as reasonably practicable, in the circumstances.

The outcome of any process that it is not fully investigated may be that the parties reach an informal agreement to resolve the complaint, in which case no further action is required. A written record of the informal agreement must be kept by the CE's office and the outcome of the informal agreement sent to the Legal Team, Mayor's Office and the Governance Team. If agreement is not possible between the parties under an informal process, the CE, Mayor and Deputy Mayor may refer the complaint to an independent investigator for full investigation.

STEP 4: INDEPENDENT INVESTIGATOR ASSESSMENT

8. The CE's Office will refer the complaint to an independent investigator selected from the approved Panel of Independent Investigators.

9. On receipt of a complaint the investigator will, if appropriate, assess whether:

- a. the complaint is frivolous or without substance and should be dismissed;
- b. the complaint is outside the scope of the Code and should be redirected to another agency or process;
- c. the subject of the complaint has previously been assessed and actions have been completed in accordance with the Code to address the complaint;
- d. the complaint is more suitably resolved informally;
- e. the complaint is non-material; or
- f. the complaint is material, and a full investigation is required.

10. The investigator must carry out their assessment in accordance with the principles in section 6.1 and within the terms of engagement provided by the CE. The assessment must be completed and sent to the CE as soon as reasonably practicable, from the date the complaint is referred to the investigator (unless otherwise agreed with the CE).

11. In making the assessment, the investigator may make whatever initial inquiry is necessary to determine the materiality of an alleged breach and to recommend the appropriate course of action. The investigator has full discretion to recommend any complaint is dismissed which, in their view, fails to meet the test of materiality.

12. On receiving the investigator's assessment, the CE will:

- a. where an investigator determines that a complaint is frivolous or without substance or previously been assessed and actioned under the Code, inform the complainant and the respondent directly and inform other Elected Members (if there are no grounds for confidentiality)

of the investigator's decision; or

- b. in cases where the investigator finds that the complaint involves a potential legislative breach and is outside the scope of the Code, forward the complaint to the relevant agency and inform both the complainant and respondent of the action.

STEP 4A: ACTIONS WHERE A BREACH IS FOUND TO BE NON-MATERIAL

13. The investigator will inform the CE if they find the breach is non-material as part of their assessment, and, if they choose, recommend a course of action appropriate to the breach, such as the respondent:

- a. receiving direction from Council (excluding the respondent and any interested Elected Members) regarding behaviour or conduct expected from Elected Members;
- b. attending appropriate training or counselling to better understand the behaviour or conduct that is expected from Elected Members in circumstances that led to the complaint.

14. The CE's Office should implement the recommendations made by the investigators report which may include referring the resolution to a suitable informal process.

STEP 4B: ACTIONS WHERE A BREACH IS FOUND TO BE MATERIAL

15. The investigator will inform the CE if they find that the breach is material as part of their assessment. The CE will then inform the complainant and respondent. The investigator will then prepare a report for the Council on the seriousness of the breach.

16. In preparing that report the investigator:

- a. must consult with the complainant, respondent and any affected parties; and
- b. must refer to any relevant documents or information provided by the CE; and
- c. may undertake a hearing with relevant parties.

On receipt of the investigator's report, the CE will prepare a report for the Council, which will meet as soon as reasonably possible. The CE's report will include the full report prepared by the investigator, including any recommendations.

The CE will share the investigator's report with the complainant and respondent under strict confidentiality inviting them to reply in writing as to whether they agree to the findings and whether they wish to make a written submission for consideration by the Council. The complainant and respondent must not disclose or discuss the investigator's report with any person other than appropriate internal staff, such as the Legal Team and the Governance and Assurance Manager prior to the Council meeting being held to determine the complaint.

STAGE 5: THE COUNCIL'S CONSIDERATION OF AN INVESTIGATOR'S REPORT

17. The CE's report (with the investigator's full report or assessment, and any submissions from the complainant or respondent, attached) will be considered by the full Council, excluding any interested members (including the complainant (if relevant) and respondent).

18. The Council will consider the CE's report in an open meeting, except where the alleged breach concerns matters that justify the exclusion of the public, such as the misuse of confidential information or a matter that would otherwise be exempt from public disclosure under section 48 of the LGOIMA, in which case it will be a Public Excluded meeting.

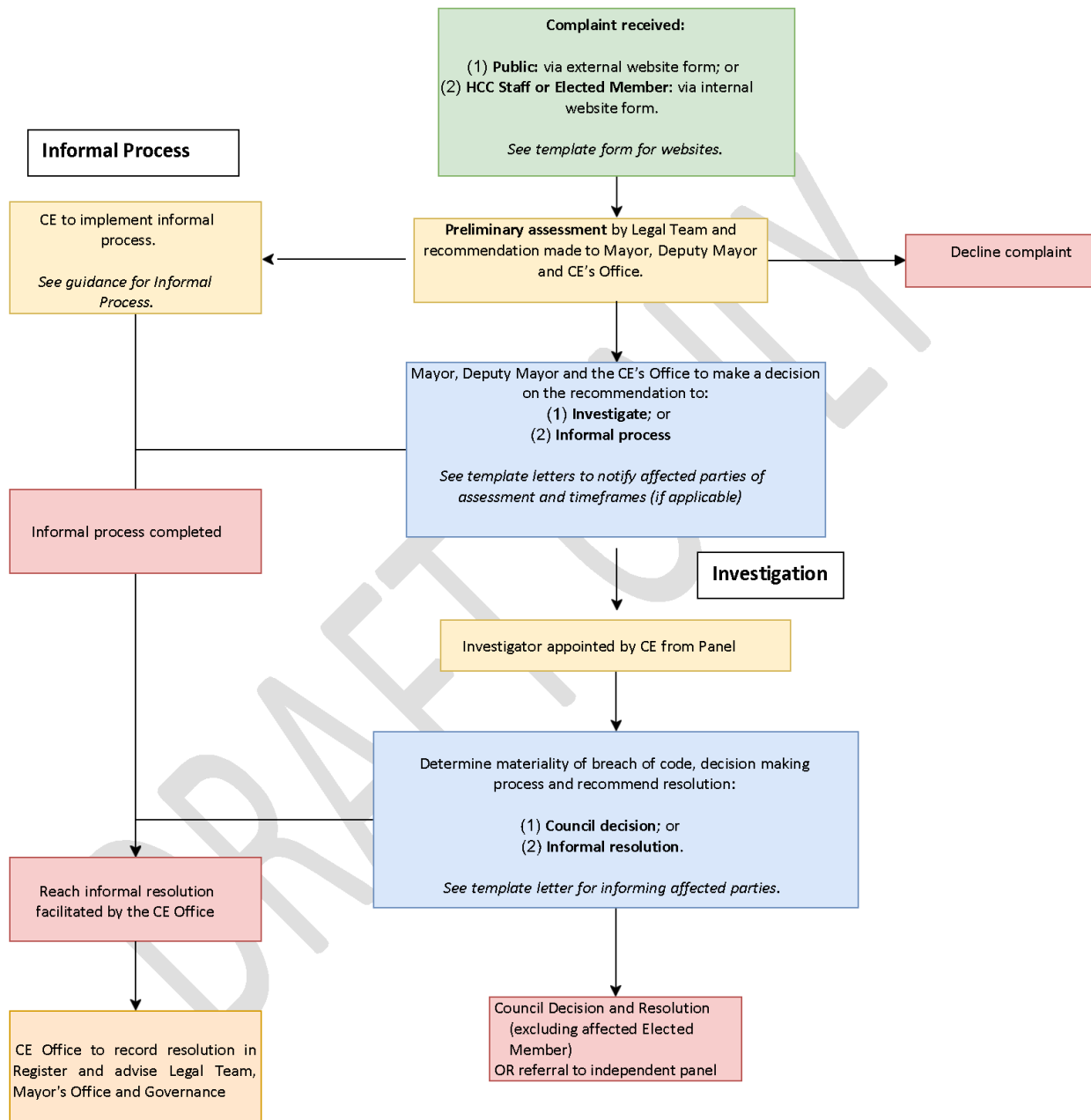
19. Before making any decision in respect of the investigator's report the Council will give the respondent an opportunity to appear and speak in their own defense. Members with an interest in the proceedings may not otherwise take part in these proceedings.

20. Council shall:

- a. consider the findings of the investigator's report; and either:
- b. determine whether to accept the findings of the investigator's report and whether a penalty, or some other form of action, will be imposed; or
- c. determine that in the interests of natural justice, a decision on whether to accept the findings of the investigator's report and whether a penalty, or some other form of action, will be imposed, should be made by a panel of no less than three independent, appropriately qualified members, to be selected by the CE, Mayor and Deputy Mayor.

21. The form of penalty that might be applied will depend on the nature of the breach and may include actions set out in section 6.3 of this Code. Any censure or penalty must be proportional to the behaviour that is found to be in breach of the Code.

Flowchart



ONLINE COMMUNICATION

DEALING WITH ONLINE ABUSE

Elected Members are public facing and interacting with the public should be robust, but it should also be respectful. Elected Members are encouraged to participate in debate and entitled to take a view on critical issues that call for a decision of Council including doing so on social media platforms, websites or blogs whilst presenting and applying an open mind. Whilst this open minded debate is acceptable, personal attacks are not, as well as any of the misconduct in clause 5.10.

To apply best practice, Elected Members may decide to utilize the following template to display to users in on their social media accounts:

I openly welcome your comments to encourage discussion on this platform but ask that you are polite and respectful in your comments and views. I reserve the right to hide or remove posts or comments from this page which include any content that is disrespectful, rude or abusive language, any direct personal attacks or any disclosure of private information or details of any elected members or staff or other users, objectionable material and any unsolicited advertising marketing or spam. If your comments fail to comply with the above terms, you may be blocked from posting on this page and comments will be hidden.

TAKING ACTION AGAINST HARMFUL DIGITAL COMMUNICATIONS

Abuse sent to and from the public on social media may be in different forms, so good judgment is required when determining what is an appropriate response or post.

Elected Members must be mindful that it is a criminal offence to cause serious emotional distress by posting a 'digital communication' intended to cause harm on social media (or any other digital source) in accordance with the Harmful Digital Communications Act 2015 (HDCA).

Where abuse is made against an Elected Member, they are encouraged to take a screenshot and record the URL of the webpage. Any complaints about breaches of under the HDCA should be made to NetSafe and when serious, also reported to Police as well as the Mayor/CEO.

If necessary, where abuse is serious, Elected Members should report the abusive comments to the social media platform, mute or block repeat offenders or refuse to engage with aggressive comments by not replying or hiding the comments.

Elected Members are guided to:

- Make it clear that inappropriate comments are unacceptable.
- Be factual and polite to avoid escalation and retaliatory comments.
- De-escalate situations negative situations by acknowledging a person's frustrations, assure them that they have been heard and commit to follow up where appropriate.

ONLINE BEHAVIOUR – LEADING BY EXAMPLE

Elected Members should model good online behaviour when using social media. As a rule of thumb, an Elected Member should only post what they would be prepared to say in person in a public gathering and if in doubt, do not post it. Once it is posted, it can be copied and shared, even if it has been deleted.

Focus should be on the issue, not the person, counter misinformation with facts and call out inappropriate behaviour. It is recommended that Elected Members consider logging off before responding and seek guidance if you are unsure.

Schedule 5

EXAMPLES

EXAMPLE ONE

Councillor Smith was elected on a platform of stopping the sale of council housing. The Council has made a decision to sell the council housing. Cr Smith makes a media statement with comments against the decision after it is made. The same statements suggested that Council staff advising on the sale “must have own shares” in the company that proposed to buy the houses.

Cr Smith’s actions in releasing a media statement criticizing a decision after has been made could probably not in and of themselves constitute a breach of a Code of Conduct. Cr Smith has a right to express a viewpoint and, if he makes it clear he is expressing a personal view, then issuing a critical press statement is an action he is entitled to take. If his statement failed to make it clear that he was expressing a personal or minority view then it may be a non-material breach of the Code of Conduct, probably one where censure would be the appropriate response.

However, the media statement has made an allegation that staff advice was based on improper motives and/or corruption and that would be a breach of the Code of Conduct. It is most likely to be a material breach given the potential impact on the Council’s reputation and the reputation of staff.

Also, there is no qualified privilege attaching public statements about employees which are false and damaging. In other words, Elected Members may be sued for defamatory statements made about employees. This will also apply for any defamatory statements made about other Elected Members, if that was the case.

EXAMPLE TWO

Councillor Jones is on the Council’s Works and Services Committee. The Committee is currently considering tenders for the construction of a new wastewater treatment plant and has received four tenders in commercial confidence. The Committee has recommended to Council that they award the contract to the lowest tenderer. Cr Jones is concerned that the lowest tender proposes to treat sewerage to a lesser standard than others. She leaks all four tenders to the local media. A subsequent investigation by the Council conclusively traces the leak back to her.

In leaking the tender information to the media, Cr Jones will have breached the Code of Conduct. This breach has potentially serious consequences for the Council as a whole. It not only undermines elected members trust of each other, it also undermines the confidence of suppliers in the Council, which may lead to them not dealing with the Council in the future, or even complaints under the Privacy Act 2020.

In circumstances such as these, where an Elected Member fails to respect a commercial confidence censure and removal from the Committee is an obvious step. The Council may be liable for prosecution under the Privacy Act, and even to civil litigation.

If the Council suffers financial loss the Council may elect to ask the Auditor-General to prepare a report on the loss (or the Audit Office may do so on their own initiative), which may result in Cr Jones having to make good the loss from her own pocket.

EXAMPLE THREE

The Council is conducting a performance review of the Chief Executive. It has established a CEO performance review that the Committee meets informally with the CEO to review which performance targets were met and which were not. The meeting notes that the CEO has been unable to meet two of his twenty performance targets that were set and resolves to formally report this to the full Council for consideration. At the conclusion of the meeting, Cr Black jumps online, logs into his social media page and comments that “John White won’t be getting a pay rise this year because he didn’t meet all his targets as the CEO”.

This action will constitute a breach of the Conduct of Conduct in that it:

- *Breached a confidence*
- *Presumed to speak on behalf of the Council*
- *Purported to commit Council to a course of action before the Council had made a decision (or even met to consider the matter); and*
- *Failed to treat a staff member with respect and courtesy.*

In addition, Cr Black’s actions will undermine the relationship between the CEO and the Council, which may also give rise to grounds for litigation against the Council in terms of employment and privacy.



HAMILTON CITY COUNCIL CODE OF CONDUCT

FORELECTED MEMBERS

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SCOPE & APPLICATION

Hamilton City Councillors and Mayor (“Elected Members”) have an important and privileged role representing the people of Hamilton. This Code of Conduct (“the Code”) represents a commitment from all Elected Members to maintain high standards of behaviour as public figures, which is important for their credibility as city leaders and for the reputation of Hamilton.

As well as articulating agreed professional and ethical behaviours, encouraging teamwork and facilitating effective local democracy, the Code is of value to the Council as a resource and information guide for existing Elected Members and an aid to the public—enabling the public to evaluate behaviour.

1. SCOPE

The Council is required to adopt a code of conduct (clause 15 of Schedule 7 of the Local Government Act 2002 (‘LGA’)). Once adopted, all Elected Members are required to comply with the Code.

The Code is designed to deal with the behaviour of Elected Members towards:

- each other;
- the Chief Executive (‘CE’) and staff;
- the media; and
- the public.

It is also concerned with the disclosure of information that Elected Members receive in their capacity as members and information which impacts on the ability of the Council to give effect to its statutory responsibilities.

2. APPLICATION

The Code applies to Elected Members at all times in their official capacity as Elected Members, and as representatives of Hamilton City Council and the wider community.

Elected Members, like all citizens are entitled to freedom of expression and play an important role in are supported with their right to freedom of speech including being entitled to put putting issues out for public debate and discussion. As a community leader and elected representative, this comes with a concurrent responsibility to be respectful, and open-minded to alternative views. Elected Members must have this standard of conduct in mind in the public arena whilst being open-minded; however, they are also encouraged to ensure they are respectful of their privileged position as representatives and leaders of Hamilton and the wider community and must uphold themselves to a higher standard to others when in the public arena whether as a part of a public rally, public speech or via websites or social media platforms.

Where a connection of any kind can be made to the behaviour of an Elected Member in their official capacity, then this Code of Conduct will apply.

The LGA requires Elected Members to comply with the provisions of this Code. Members are also bound by the LGA, the Local Authorities (Members’ Interests) Act 1968, the Local Government Official Information and Meetings Act 1987, the Secret Commissions Act 1910, the Crimes Act 1961, the Financial Markets Conduct Act 2013, the Health and Safety at

Work Act 2015, and the Protected Disclosures Act 2000. The CE will ensure that an explanation of these Acts is provided at the first meeting after each triennial election and that copies of the above Acts are freely available to Elected Members.

Short explanations of the obligations that each of these Acts has with respect to the conduct of Elected Members are set out in Schedule 1 of this Code.

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3 PRINCIPLES OF GOVERNANCE

The Code gives effect outlines to the following general principles of good governance relating to behaviour. ~~with which Elected Members have agreed to comply~~ must adhere to the following principles as public figures and leaders of the city:

3.1 INTEGRITY AND HONESTY

Elected Members will be honest and act with integrity. This includes:

- behaving in accordance with the trust that the public places in them;
- being fair and consistent in dealings with others and following through on commitments;
- not making statements or doing anything that will, or is likely to, mislead or deceive including any statements or information that is false or factually incorrect;
- not placing themselves in situations where their honesty and integrity may be questioned;
- being open to constructive feedback;
- complying with relevant legislation and Council policies and procedures; and.
- making decisions on merit; including appointments, awarding contracts, and recommending individuals for rewards or benefits.

3.2 ACCOUNTABILITY

Elected Members will:

- comply with all legislative requirements applying to their role, abide by this Code of Conduct, and act in accordance with the trust placed in them by the public to be responsible for their decisions and actions, and be prepared to justify these;
- act in an open and transparent manner; and
- ensure Council resources are used prudently;

3.3 RESPECT

Elected Members may not always get their own way. Elected Members will treat everyone with respect and respect other individuals' points of view and opinions, beliefs, and rights.

This includes:

- treating people, including other members, with respect and courtesy, regardless of their race, age, religion, gender, sexual orientation, or disability;
- recognising and encouraging ideas and contributions from others;
- being courteous and approachable;
- ~~not~~ not engaging in aggressive, offensive, abusive, harassing, or bullying, or discriminatory behaviour (including for example any repetitive or unreasonable behaviour towards a person or group that poses a risk to their wellbeing or a single episode or unreasonable or demanding behaviour including when there is a power imbalance);
- not making personal attacks;
- respecting the impartiality and integrity of staff;
- not interrupting when others are expressing their point of view;
- not making any unreasonable, unwelcome, or unsolicited comments to the public or other Elected Members; and
- not insulting, intimidating, being malicious, degrading or offensive to the public or other Elected Members.

3.4 GOOD FAITH

Elected Members will faithfully and impartially perform their duties and exercise their powers and authorities and ~~duties~~ in the

best interest of the community of Hamilton City.

A breach of this Code could indicate a lack of good faith and could be relevant to assessment of personal liability (see explanation of sections 43 to 47 of the LGA set out in Schedule 1 of the Code).

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3.5 PROPER USE OF POSITION

Elected Members must not abuse their position, including they must not:

- solicit, demand or request any gift or benefit because of their position;
- claim expenses which are not legitimate;
- fail to declare gifts given to them because of their position (see explanation of declaring gifts set out under Section 5.6 of this Code);
- influence, or attempt to influence, any Council employee, or another member, in order to benefit their own, or family's, personal or business interests;
- use information and/or Council resources for any purpose which is not directly related to Council business, including use of Council resources to promote personal or business interests; or,
- uUse, directly or indirectly, any Council resources and/or branding for the purpose of seeking reelection.

Note: refer to the OAG Guidelines – “Good Practice for Managing Public Communications by Local Authorities”.

3.6 LEADERSHIP

Elected Members agree to be bound by this Code and demonstrate adherence to these principles through their leadership of the city. They should always endeavour to act individually and collectively in a way that maintains public confidence in the good governance of the Council.

These principles complement, and work in conjunction with, the governance principles relating to local authorities (sections 14 and 39 LGA).

4 ROLES AND RESPONSIBILITIES

Good governance requires clarity of roles and respect between those charged with responsibility for the leadership of the Council and those responsible for advice and the implementation of the Council's decisions. This section of the Code describes the roles and responsibilities of Elected Members, the Mayor, Deputy Mayor, Committee Chairpersons, and Chief Executive.

4.1 ELECTED MEMBERS

Elected Members, acting as the Council, are responsible for governance, including:

- the development and approval of Council plans, policies and budgets;
- monitoring the performance of the Council against its stated objectives and policies;
- prudent stewardship of Council resources; and
- employment of the CE.

Elected Members are also responsible for representing the interests of the residents and ratepayers of the city.

Unless otherwise provided in the LGA or in the Council's Standing Orders, the Council can only act by majority decisions at meetings. Any individual member (including the Mayor) has no authority to act on behalf of the Council unless provided for by statute or the Council has expressly delegated such authority.

Elected Members ~~are~~ must be committed to achieving the highest standards of conduct and behaviour at all times and will carry out their role to the best of their skill and judgment. To achieve this, Elected Members should:

- take responsibility for ensuring that they understand their roles and responsibilities and the Code;

- attend all meetings (including for external organisations to which they are appointed), task force groups (as appropriate) and any appropriate training opportunities provided by Council;
- come to meetings prepared, including having read relevant material;
- seek personal and skill development opportunities to effectively fulfil their statutory declaration of office and contribute to the good governance of Hamilton;
- ~~present themselves in a way that respects the level of formality of a meeting, event or occasion~~ maintain an appropriate standard of dress at public meetings, events or functions that does not discredit the Council. Generally, the more formal the occasion, the more formal the standard of dress required.

4.2 MAYOR

The Mayor is elected by the city as a whole. Section 41A of the LGA states that role of a Mayor is to provide leadership to other members of the Council and to the people of Hamilton.

The Mayor also has the following roles:

- lead the development of the Council's plans (including long-term plan and annual plan), policies and budgets for consideration by members of the territorial authority;
- appoint the Deputy Mayor; and
- ~~establish committees of the Council and appoint the chairperson of each committee established.~~ noting that

- ~~However~~, nothing limits or prevents the Council from discharging or reconstituting committees or chairpersons of those committees established by the Mayor by way of Council resolution at a later date;
- presiding at Council meetings ~~the~~. The Mayor is responsible for ensuring the orderly conduct of business during Council meetings (as determined by Standing Orders);
- advocating on behalf of the community ~~this~~. This role may involve promoting the community and representing its interests. Such advocacy will be most effective where it is carried out with the knowledge and support of the Council;
- ceremonial head of the Council;
- providing leadership and feedback to other Elected Members on teamwork and chairing of committees; and
- keeping the Council informed of matters brought to ~~his/her~~ their attention.

4.3 DEPUTY MAYOR

If the Mayor has not appointed the Deputy Mayor as noted above, then the Deputy Mayor must be elected by the members of Council, at the first meeting of the Council.

The Deputy Mayor exercises the same roles as other Elected Members, and if the Mayor is absent or incapacitated, the Deputy Mayor must perform all the responsibilities and duties, and may exercise the powers, of the Mayor (as summarised above).

The Deputy Mayor may be removed from office by resolution of the Council.

4.4 COMMITTEE CHAIRPERSONS

A committee chairperson presides over all meetings of the committee, ensuring that the committee acts within the powers delegated by the Council and the orderly conduct of business during committee meetings (as determined by Standing Orders).

Committee chairpersons may be called on to act as official spokespersons on issues within the terms of reference for their committees.

Chairpersons may be removed from office by resolution of the Council. The Council may also appoint deputy chairpersons of committees, who shall fulfil the functions of the chair when the chairperson is absent.

4.5 CHIEF EXECUTIVE

Section 42 of the LGA provides that the CE is the only person directly employed by the Council itself. All concerns about the performance of an individual member of staff must, in the first instance, be referred to the CE.

As the principal administrative officer of the local authority, it is the CE, not the Elected Members, who is responsible for:

- implementing the decisions of the Council;
- providing advice to the Council and its committees;
- ensuring that all responsibilities, duties and powers delegated to ~~him or her~~ them, or to any person employed by the local authority, or imposed or conferred by an Act, regulation or bylaw, are properly performed or exercised;
- managing the Council's activities effectively and efficiently;
- maintaining systems to enable effective planning and accurate reporting of the financial and service performance of the Council;
- providing leadership for the staff of the Council; ~~and~~
- employing staff on behalf of the Council (including negotiation of the terms of employment for the staff of the local authority).

While the Council is ultimately accountable, its function is not to make detailed decisions on operational matters. The Council, committee structures and Elected Members day-to-day dealings with the CE should recognise the statutory responsibilities of the CE for the effective management of Council staff and for implementing the decisions of the Council.

5 RELATIONSHIPS AND BEHAVIOURS

This section of the Code sets out the Council's agreed standards of behaviour between members; members and staff; and members and the public. Any failure by members to meet the standards set out in this section represents a breach of this Code. For clarity, sections 5.1 to 5.3 include (but is-are not limited to) any written communication between Elected Members, or from an Elected Member, including through social media platforms.

5.1 RELATIONSHIP WITH OTHER MEMBERS

Successful teamwork is a critical element in the success of any organisation. No team will be effective unless mutual respect exists between members. Members must conduct their dealings with each other in ways that:

- maintain public confidence in the office to which they have been elected;
- are open and honest;
- focus on issues rather than personalities;
- avoids abuse of meeting procedures, such as a pattern of unnecessary notices of motion and/or repetitious points of order; and
- avoids conduct which is aggressive, offensive or abusive or which may constitute unlawful or inappropriate behaviour.

5.2 RELATIONSHIP WITH THE CHIEF EXECUTIVE AND STAFF

Elected Members should be aware that failure to observe the standards in section 5.2 of the Code may compromise the Council's obligations to act as a good employer and may expose the Council to civil litigation and/or audit sanctions.

Effective performance of the Council requires a high level of cooperation and mutual respect between Elected Members and staff. Members will:

- recognise the CE is the employer (on behalf of the Council) of Council staff and only the CE (or his/her/their delegate) may hire, dismiss, instruct or discipline an employee;
- make themselves aware of the obligations that the Council and the CE have as employers and observe those requirements at all times;
- treat all Council staff with courtesy and respect (including the avoidance of aggressive, offensive or abusive conduct towards employees);
- observe any guidelines that the CE puts in place regarding contact with employees;
- not do anything which compromises, or could be seen as compromising, the impartiality of an employee;
- avoid publicly criticising any employee in any way, but especially in ways that reflect on the competence and integrity of the employee;
- raise concerns about employees only with the CE, and concerns about the CE only with the Mayor or the CEO Review Committee;
- not seek to improperly influence staff in the normal undertaking of their duties.

5.3 RELATIONSHIPS WITH THE PUBLIC

Effective Council decision-making depends on productive relationships between Elected Members and the community at large.

Elected Members will, when interacting with the public (whether electronically or verbally):

- interact with members of the public in a fair, respectful, equitable and honest manner;
- be available to listen and respond openly and honestly to community concerns;
- consider all points of view or interests when participating in debate and making decisions;
- treat members of the public in a courteous manner; ~~and~~
- ~~act in a way that upholds the reputation of the local authority and values community involvement in local democracy; and~~
- ~~ensure their behaviour, in the mind of the public, does not undermine the reputation of the Council or other Elected Members.~~

iv. media comments must not be misleading and should be accurate within the bounds of reasonableness.

iv-v.

5.4 CONTACT WITH THE MEDIA

The media plays an important part in local democracy. To fulfil this role, the media needs access to accurate and timely information about the affairs of the Council. From time to time, individual members will be approached to comment on a particular issue either on behalf of the Council, or as an Elected Member in their own right.

Elected Members will follow the policy and process agreed with the Communications Unit on official statements made on behalf of Council.

~~The following rules apply for media contact on behalf of the Council:~~

- ~~• the Mayor is the first point of contact for the official view on any issue, unless delegations state otherwise. Where the Mayor is absent, any matters will be referred to the Deputy Mayor or relevant Committee chairperson.~~
- ~~• No other member may comment officially on behalf of the Council without having first obtained the approval of the Mayor or (where delegated) the relevant Committee chairperson.~~
- Elected Members are free to express a personal view in the media, at any time, provided the following rules are observed:
 - i. media comments must not state or imply that they represent the views of the Council;
 - ii. where an Elected Member is making a statement that is contrary to a Council decision or Council policy, the member must not state or imply that ~~his or her~~ their statements represent a majority view;
 - iii. media comments must observe the other requirements of the Code, e.g. not disclose confidential information; compromise the impartiality or integrity of staff; or avoids aggressive, offensive or abusive comments which reflects adversely on the member or the Council; and

5.5 INFORMATION AVAILABLE TO ELECTED MEMBERS

Any failure by members to act in the manner described in this section 5.5 will be treated seriously and will immediately be referred by the CE to an independent investigator for assessment under section 6.2 and Schedule 3 of this Code to the Code of Conduct Complaints Process in this Code.

Confidentiality

To enable Elected Members to properly discharge their duties, members are entitled to, and receive, a broad range of information which is publicly accessible. In the course of their duties, Elected Members will also receive information that may be classified as confidential. This includes information received at meetings which are closed to the public or information that is identified as confidential.

Elected Members may also be provided with, or have the ability to access, confidential information held by Council.

Confidential information includes information that staff have determined that there is good reason to withhold under sections 6 and 7 of the Local Government Official Information and Meetings Act 1987 ('LGOIMA'). This will often be information that is either commercially sensitive or is personal to a particular individual. The Council's Privacy Officer is responsible for the release of information under LGOIMA.

Elected Members must not use or disclose confidential information for any purpose other than the purpose for which the information was supplied to the Elected Member. Elected Members should be aware that failure to observe these provisions relating to confidential information will impede the performance of Council by inhibiting information flows and undermining public confidence in the Council. They may also expose the Council to prosecution under the Privacy Act ~~1993~~ 2020 and/or civil litigation.

A breach of confidentiality could also indicate a lack of good faith which may be relevant to the assessment of personal liability (see explanation of sections 43 to 47 of the LGA set out in Schedule 1 of the Code). Information received in capacity as an Elected Member Members will be disclosed to other members and, where appropriate the CE, any information received in their capacity as an Elected Member that concerns the Council's ability to give effect to its responsibilities.

Members who are offered information on the condition that it remains confidential will inform the provider of the information that it is the member's duty to disclose the information and will decline the offer if that duty is likely to be compromised.

Elected Members are accountable to the public.

- All official information held by them personally, whether on Council equipment or their own personal equipment is subject to the LGOIMA.
- Official information, if sought as part of a request, must be made available immediately to the CE (or nominee) so that it can be assessed in terms of the requirements of the LGOIMA.

5.6 GIFTS AND HOSPITALITY

A person in a position of trust, such as an Elected Member, should not make a profit through ~~his or her~~their office. The Crimes Act 1961 and the Secret Commissions Act 1910 deals with corruption and the obtaining of gifts as an inducement or reward for acts in relation to the Council's affairs (refer to Schedule 1). Gifts can include discounts, commissions, bonus or deductions.

Acceptance of gifts, services or hospitality may be considered as a bribe or perceived as undue influence. Elected Members must notify the ~~Governance Manager~~Governance and Assurance Manager or Governance Lead (or delegate) if any gifts are accepted for inclusion in the Gifts Register maintained by the Council. Where a gift to the value of \$150 or more is offered to a member, it will also be included in the Register of Members Interests maintained by the Council.

As guidance:

- The cumulative value of recurring gifts received each financial year from the same donor must be disclosed. For example, if someone provides a member with concert tickets at different times through the year, the total value of those tickets over the relevant financial year is to be disclosed.
- A member is not required to disclose tickets to events for which that member is required to attend as the Council's representative (as recorded in the Council's Governance Structure).
- Working lunches and social occasions should be undertaken with a recognition of the public perception regarding undue influence on Elected Members.

5.7 CONFLICTS OF INTEREST

Failure to observe the requirements of the Local Authorities (Members' Interests) Act 1968 ('LAMIA') could potentially invalidate a decision made, or action taken, by the Council. Failure to observe these requirements could also leave the Elected Member open to prosecution. In the event of a conviction, Elected Members can be removed from office.

Schedule 2 of this Code sets out the Code's conflict of interest requirements. Elected Members must fully acquaint themselves, and adhere strictly to, these requirements.

Ultimately, it is up to each member's own judgement as to whether they have an interest that needs to be disclosed or declared, and what action they take (if any) as a consequence.

The requirements cover two classes of conflict of interest:

- A financial conflict of interest: is one where a decision or act of the governing body could reasonably give rise to an expectation of financial gain or loss to an ~~elected~~ Elected Member.

A financial conflict of interest need not involve cash changing hands directly. It could, for example, relate to an effect on the value of land or shares that the member owns, or an effect on the turnover of a business that the member is involved in. There are particularly strict provisions (and penalties) relating to dealing with a financial conflict of interest.

- A non-financial conflict of interest does not have a personal financial component. It may arise, for example, from a personal relationship, or involvement with a non-profit organisation, or from conduct that indicates prejudice or predetermination.

Elected Members are required to complete declarations of interest following their inauguration, and to update their declarations as and when required.

5.8 BANKRUPTCY

Elected Members who are declared an undischarged bankrupt shall notify the CE when elected or as soon as practicable after being so declared. The member will provide the CE with a brief explanatory statement of the circumstances surrounding the bankruptcy, including its likely outcome. This must be recorded in the Register of Interests.

5.9 DISQUALIFICATION FROM OFFICE

The LGA and Standing Orders provide for disqualification of Elected Members from office for example, if they:

- are convicted of a criminal offence punishable by two or more years imprisonment;
- cease to be an elector or become disqualified for registration as an elector under the Electoral Act 1993;
- breach the LAMIA; or
- are absent without leave from the Council for four consecutive ordinary meetings of the Council.

5.10 USE OF SOCIAL MEDIA

Social media and online platforms includes any internet-based tool used for publishing, sharing and discussing information and includes websites, blogs, wikis and social networking sites such as Facebook, Twitter or LinkedIn.

Use of social media is an effective and efficient way to share information, engage with the public and inform the communities that Elected Members serve. However, platforms can be misused, false information shared and abusive interactions can negatively impact the wellbeing of those targeted and undermine staff or Elected Member's ability to serve the community.

This guidance for use of social media is designed to protect members of the public, Elected Members, and staff. Elected Members are supported to utilize social media in their elected member's official capacity provided any posts or comments are consistent with the Code (including Schedule 5), are open and transparent (including the entitlement to taking a view on critical issues for a decision to be made by Council) but do not:

- contain any language or the behaviours required of them in clause 3.3 above;:-
- bring the Council into disrepute e.g. making derogatory remarks about any individual or any organisation;:-
- contain confidential information (see Confidential Information at 5.5), impugn the integrity or impartiality of other Elected Members;:-
- contain information that is factually false or misleads the public;:- or
- undermine or misrepresent the views of the Council, any Council Policy, or the views of other Elected Members unless the post or comment clearly states that it does not represent the views of the majority of Elected Members.

For further guidance with using social media and other online platforms, see Schedule 54 for examples of terms of engagement, good practice online behaviour, actions to take for serious emotional distress and separating private and official capacity accounts.

6

BREACHES OF THE CODE

Members must comply with the provisions of this Code (clause 14(4), Schedule 7, LGA). The exact nature of the action taken to resolve any allegations relating to misconduct of an Elected Member will depend on the nature of the alleged breach and whether there are statutory provisions dealing with the issue in question.

6.1 PRINCIPLES:

The following principles will guide any processes for investigating and determining whether a breach under this

Code has occurred:

- that the approach for investigating and assessing a complaint will be proportionate to the apparent seriousness of the alleged breach-complained about;
- that the roles of complaint, investigation, advice and decision-making will be kept separate as appropriate to the nature and complexity of the alleged breach; and
- that the concepts of natural justice and fairness will apply in the determination of any complaints made under this Code. This requires, is conditional on the nature of an alleged breach, and requires that affected parties:
 - have a right to know that an investigation process is underway;
 - are given due notice and are provided with an opportunity to be heard;
 - have a right to seek appropriate advice and be represented;
 - have their privacy respected.

6.2 COMPLAINTS PROCESS

Only an Elected Member, or the Chief Executive (either for him/herself or on behalf of an employee), who believes that the Code has been breached by the behaviour or action of a member, may make a complaint to that effect. A complaint may be made as a result of a single incident or as the

culmination of a series of incidents. At all times, other than breaches of legislation, any of the following informal processes may be followed:

- Internal (Staff or Elected Member) complaints: Elected Before making a complaint, Members (including the Mayor) are encouraged, when it is suitable to do so appropriate, to resolve the matter by discussion with the member alleged to have committed the breach between themselves or with staff to attempt to resolve the issue and seek assistance from the CE when needed; or,
- External (public) complaints: the Mayor, Deputy Mayor and CE at his/her/their discretion may apply a suitable informal resolution process to attempt to resolve the matter regardless of whether a complaint has been made formally or not and/or the issue is material.

All Any complaints made that are not dealt resolved informally using the above options, complaints must be made addressed in accordance with the process set out in Schedule 3 including the appointment of an investigator, as required but also noting that in the Schedule 3 process, allows for further referral to an informal process, if appropriate.

- made under this Code must be made in writing and addressed to the CE, setting out the alleged breach of the Code and providing

~~corroborating evidence.~~

~~On receipt of a complaint, the CE must follow the process set out in Schedule 3. For the purpose of the Code, (an) Elected Member(s) who is/are the subject of a complaint under the Code is/are 'the respondent'.~~

Panel of Independent Investigators

On behalf of the Council, the CE will, as soon as possible~~shortly practicable~~ after the start of a triennium and adoption of the Code, prepare, in consultation with the Mayor and Deputy Mayor, a list~~panel of independent~~ of investigators. The panel of independent investigators for the purpose of~~who will be~~ responsible for undertaking an assessment of complaints ~~(when required)~~ and making recommendations to the Council in accordance with the process set out in Schedule 3. The Panel of Independent Investigators is not a committee of the Council. The ~~C~~Chief Executive CE may, at his/her~~their~~ discretion, Emay prepare a list specifically for the Council or, prepare a list jointly with selected neighbouring councils or contract with an agency capable of providing appropriate investigators.

Example Scenarios

For further guidance with when conduct may or may not be a breach of this Code, see Schedule 65 with example scenarios and explanations.

~~The Panel of Independent Investigators is not a committee of the Council.~~

Materiality

An alleged breach under this Code is material if, in the reasonable opinion of an independent investigator, it would, if proven, bring an Elected Member or the Council into disrepute (for example in the mind of the public, any behaviour that negatively risks or undermines the reputation of the Council or another Elected Member) or, if not addressed, reflect adversely on another Elected Member of the Council.

An alleged breach of section 5.5 of the Code (Information available to Elected Members) will automatically be considered material and referred to an independent investigator for assessment.

6.3 PENALTIES AND ACTIONS

Where a complaint is determined to be a material breach of the Code and referred to the Council for determination, the nature of any penalty or action will depend on and be commensurate to, the seriousness of the breach.

Material breaches

In the case of material breaches of this Code the Council may require one or more of the following:

- a letter of censure to the member;
- a request (made either privately or publicly) for an apology;
- a vote of no confidence in the member;
- removal of certain Council-funded privileges or Council appointments;
- restricted entry to Council offices, such as no access to staff areas (where restrictions may not previously have existed);
- limitation on any dealings with Council staff so that they are confined to the CE only;
- suspension or removal from Committees (including joint committees), task forces or other Council bodies; and/or
- an invitation for the member to consider resigning from the Council.

The Council may decide that a penalty will not be imposed where the respondent agrees to one or more of the following:

- attend a relevant training course; and/or
- work with a mentor for a period; and/or
- participate in voluntary mediation (if the complaint involves a conflict between two members); and/or
- tender an apology.

The process is based on the presumption that the outcome of a complaints process will be made public unless there are grounds, such as those set out in the Local Government Official Information and Meetings Act 1987 (LGOIMA), for not doing so.

Breaches of Legislation

If there are statutory provisions dealing with the issue in question, the issue will not be dealt with as a breach of the Code but may be addressed in accordance with the relevant statutory provisions. These include:

- issues relating to members' interests may render members liable for prosecution by the Auditor General under the Local Authorities (Member's Interests) Act 1968 and, if convicted, the Member can be removed from office;
- issues which result in the Council suffering financial loss or damage may be reported on by the Auditor General under the LGA, which may result in the member having to make good the loss or damage;
- issues relating to the commission of a criminal offence may leave the Elected Member liable for criminal prosecution.

Council may refer an issue to the relevant body, any member of the public may make a complaint to that body, or the Auditor-General or the Police may take action of their own initiative

Breaches of the Code during meetings

It is expected that compliance with the provisions of this Code during a meeting shall be dealt with by the Chairperson of that meeting, within Standing Orders, at the time the breach arises.

Elected Members should raise alleged breaches of the Code with the Chairperson at the time. If an Elected Member believes that an alleged breach of the Code has not been dealt with adequately by the Chairperson at a meeting, that Elected Member may initiate the procedures set out in Section 6.2 and Schedule 3 in the Code.

7 REVIEWS OR CHANGES TO THE CODE

The Council may by resolution of 75 per cent [majority](#) or more, change the Code at any time.

The Council will formally review the Code as soon as practicable after the beginning of each triennium. The results of that review will be presented to the full Council for its consideration and vote. [At that time, a clean slate will apply to the application of this Code for the new triennium.](#)

The Code should be read in conjunction with the Council's Standing Orders.

SUMMARY OF LEGISLATION

This Schedule is a summary of the legislative requirements that have some bearing on the duties and conduct of Elected Members. Copies of the legislation can be found on www.legislation.govt.nz or requested from the Governance team.

LOCAL GOVERNMENT ACT 2002 ('LGA')

Governance Principles

In performing its role the Council must act in accordance with nine broad principles as set out in section 14(1) of the LGA as follows:

- conduct its business in an open, transparent, and democratically accountable manner; and
- give effect to its identified priorities and desired outcomes in an efficient and effective manner;
- make itself aware of and have regard to the views of all its communities;
- when making a decision, take account of the diversity of the community and the various community's interests; the interests of future as well as current communities and the likely impact of any decision on these interests;
- provide opportunities for Maaori to contribute to its decision-making process;
- collaborate and cooperate with other local authorities;
- undertake commercial transactions in accordance with sound business practices and assess periodically the expected returns from investing in or undertaking a commercial activity;
- ensure prudent stewardship and efficient and effective use of its resources in the interests of the district;
- take a sustainable development approach that takes into account the social, economic and cultural interests of people and communities and the need to maintain and enhance the quality of the environment and the reasonably foreseeable needs of future generations.

If any of the principles are in conflict, the Council must resolve that conflict in an open, transparent and democratically accountable manner. These principles are helpful in determining the governance structure as they are indicative of the spirit and intent of the LGA and govern the way in which the Council undertakes decision-making. A Council that is seen to act in conflict with these principles can be subject to judicial review.

In deciding on a governance structure, section 39 is also helpful to consider as it defines the following governance principles:

- a local authority should ensure that the role of democratic governance of the community, and the expected conduct

of elected members, is clear and understood by elected members and the community;

- a local authority should ensure that the governance structures and processes are effective, open and transparent;
- local authority should ensure that, so far as is practicable, responsibility and processes for decision-making in relation to regulatory responsibilities is separated from responsibility and processes for decision-making for non-regulatory responsibilities;
- a local authority should be a good employer; and
- a local authority should ensure that the relationship between elected members and management of the local authority is effective and understood.

Decision-Making Responsibility

Every decision made by a local authority, including a decision not to take any action, must be made in accordance with sections 77, 78, 80, 81 and 82 of the LGA. Specifically, the Council must during the decision-making process:

- seek to identify all reasonably practicable options for the achievement of the objective of a decision;
- assess the options in terms of their advantages and disadvantages;
- identify those options which involve a significant decision in relation to land or a body of water, take into account the relationship of Maaori and their culture and traditions with their ancestral land, water, sites, *wāhi tapu*, valued flora and fauna and other taonga;
- give consideration to the views and preferences of persons likely to be affected by, or to have an interest in the matter;
- determine the matters significance in relation to Council's Significance and Engagement Policy;
- identify whether the proposed decision would be significantly inconsistent with any existing policy or plan;
- establish and maintain processes to provide opportunities for Maaori to contribute to the decision-making process;
- consider ways in which the Council may foster the development of Maaori capacity to contribute to the decision-making process;
- provide relevant information to Maaori;
- undertake consultation in accordance with the principles of consultation as set out in section 82.

Significance and Engagement

A higher standard of compliance with the decision-making process is required when the Council is making a significant decision. The definition of "significance" is defined in the LGA and in the Council's [Significance and Engagement Policy](#).

If the Council determines that the decision or matter is significant in terms of the Council's Policy, then the Council must apply greater diligence in regards to the decision making requirements of the LGA.

This includes the degree to which different options are identified and assessed and the extent to which community views are considered, including whether consultation is required. The more significant a matter, the greater the level, and detail, of analysis is required.

Section 78 alone does not require the Council to undertake a consultation process, provided the Council has sought to make itself aware of the views of those interested or affected. The Council may, for example, have gathered information through a process, formal or informal, which has provided the Council with the information it needs to take community views into account. The Significance and Engagement Policy provides guidance on when consultation will and will not be undertaken.

Personal liability of members

Although having qualified privilege, Elected Members can be held personally accountable for losses incurred by a local authority where, following a report from the Auditor General under section 44 LGA, it is found that one of the following applies:

- money belonging to, or administered by, a local authority has been unlawfully expended; or
- an asset has been unlawfully sold or otherwise disposed of by the local authority; or
- a liability has been unlawfully incurred by the local authority; or
- a local authority has intentionally or negligently failed to enforce the collection of money it is lawfully entitled to receive.

Members will not be personally liable where they can prove that the act or failure to act resulting in the loss occurred as a result of one of the following:

- without the member's knowledge;
- with the member's knowledge but against the member's protest made at or before the time when the loss occurred;
- contrary to the manner in which the member voted on the issue; and
- in circumstances where, although being a party to the act or failure to act, the member acted in good faith and relied on reports, statements, financial data, or other information from professional or expert advisers, namely staff or external experts on the matters.

1. The Auditor-General can provide retrospective approval for contracts that would otherwise disqualify a member under the Act, in limited circumstances.

In certain situations members will also be responsible for paying the costs of proceedings (section 47 LGA 2002).

LOCAL AUTHORITIES (MEMBERS' INTERESTS) ACT 1968 ('LAMIA')

LAMIA regulates situations where an Elected Member's personal interests impinge, or could be seen as impinging on their duties as an Elected Member.

Members may contact the Office of the Auditor General ('OAG') for guidance as to whether that member has a pecuniary interest, and if so, may seek (through an application from the Council) an exemption to allow that member to participate or vote on a particular issue in which they may have a pecuniary interest. The latter must be done before the discussion or vote¹. The CE must also seek approval from the OAG for contractual payments to members, their spouses or their companies that exceed the \$25,000 annual limit.

Failure to observe these requirements could also leave the Elected Member open to prosecution under the LAMIA. In the event of a conviction Elected Members can be removed from office. Further guidance is detailed under Schedule 2 of the Code.

LOCAL GOVERNMENT OFFICIAL INFORMATION AND MEETINGS ACT 1987 ('LGOIMA')

The purpose of LGOIMA is to provide for the availability to the public of official information held by local authorities, and to promote the open and public transaction of business in meetings of local authorities.

The general principle is that information held by local authorities is to be made available unless there is good reason for withholding it. The principal grounds for withholding information are set out in sections 6 and 7 of LGOIMA.

LGOIMA sets out a number of statutory procedures and requirements for local authority meetings. Meetings are to be publicly notified, and open to the public unless there is good reason for withholding information and excluding the public.

The Chair has the responsibility to maintain order at meetings, but all Elected Members should accept personal responsibility to maintain acceptable standards of address and debate in line with the principles detailed in section 3 of this Code.

SECRET COMMISSIONS ACT 1910 ('SCA')

It is unlawful for an Elected Member (or officer) to advise anyone to enter into a contract with a third person and receive a gift or reward from that third person as a result. It is also unlawful for an Elected Member (or officer) to present false receipts to the local authority. If convicted of any offence under the SCA, a person can be imprisoned for up to 7 years. Elected Members convicted of an offence will be removed from office.

CRIMES ACT 1961

It is a crime for any Elected Member to accept, or solicit for themselves (or anyone else), any gift or reward for acting or not acting in relation to the business of the local authority. It is also a crime for any Elected Member to use information acquired in ~~his- or her- their~~ official capacity for monetary gain or advantage. These offences are punishable by a term of imprisonment of 7 years or more. Elected Members convicted of these offences will be removed from office.

FINANCIAL MARKETS CONDUCT ACT 2013 ('FMCA')

The FMCA regulates the offer, issue and re-sale of financial products, which includes shares, debt securities and derivatives. Council is unable to issue shares, but can issue debt securities and derivatives, and may from time to time sell financial products. If Council does issue financial products or, in certain cases, sells financial products that it holds, members will be potentially subject to personal liability for breaches of the offer and other provisions of the FMCA.

HEALTH & SAFETY AT WORK ACT 2015 ('HSWA')

HSWA came into force on 4 April 2016. Its focus is the protection of workers and other people against harm to their health, safety and welfare by eliminating or minimising risks at workplaces. The HSWA places obligations on four duty holders - a person conducting a business or undertaking ('PCBU'); officers of a PCBU; workers; and other people at a workplace. Council as a PCBU holds the primary duty of care under HSWA i.e. to ensure so far as is reasonably practicable, the health and safety of its workers and of other workers whose activities Council influences or directs.

Each elected member is an 'officer' (being a person occupying a position in a body corporate that is comparable with that of a director of a company), responsible under HSWA for exercising due diligence to ensure that the Council is meeting its health and safety responsibilities under HSWA. The CE and Senior Leadership Team are also officers under HSWA.

The due diligence duty of officers supports the primary duty of care owed by a PCBU – placing duties on individuals whose decisions significantly influence the activities of a PCBU, therefore influencing whether the PCBU meets its statutory duties.

Unlike the Chief Executive and Senior Leadership Team, Elected Members are not required to be directly involved in the day-to-day management of health and safety. They are, however, still required to take reasonable steps to understand Council's operations and health and safety risks, and to ensure that they are managed so that the organisation meets its legal obligations under the HSWA. This duty does not extend to ensuring that a council controlled organisation ('CCO') complies with the HSWA, unless the Elected Member is also an 'officer' of that CCO.

Taking 'reasonable steps' requires each Elected Member to exercise the care, diligence and skill a reasonable officer would exercise in the same circumstances, taking into account matters including the nature of Council's business, and the Elected Member's position and nature of ~~his/her/their~~ responsibilities.

Most officers can be convicted of an offence for failing to meet their due diligence obligations, whether or not a PCBU is convicted of an offence. Elected members, however, when acting in the capacity of an elected member of the Council are expressly exempted from prosecution.

PROTECTED DISCLOSURES ACT 2000 ('PDA')

Under the PDA, the definition of an employee of a public sector organisation (PSO) includes Elected Members of a local authority. Elected Members (as 'employees') who disclose information about a serious wrongdoing by the Council are protected from civil or criminal liability that might arise from such a disclosure and from retaliatory action against the Elected Member.

Serious wrongdoing under the Act includes unlawful or irregular use of funds or resources; conduct that risks public health and safety; conduct that risks the maintenance of law; conduct that constitutes an offence; oppressive, improper discriminatory conduct; and gross negligence or gross mismanagement by a public official.

Protection under the PDA applies where the employee has information about a serious wrongdoing; a reasonable belief that the information is true or likely to be true; the employee wishes to have the matter investigated; and that employee desires protection under the Act.

The Council has a Protected Disclosure Management Policy, which applies to employees. For Elected Members, the default position requires a disclosure to be made to the CE or Deputy CE. If the employee considers the CE or Deputy CE may be involved in serious wrongdoing, the matter can also be escalated to an "appropriate authority".

Appropriate authorities are defined in the Act and include the Commissioner of Police, the Controller and Auditor-General and the Parliamentary Ombudsman.

Schedule 2

CONFLICTS OF INTEREST

GENERAL

Elected Members are expected to approach decision making with an open mind - 'faithfully and impartially' and in 'the best interests of Hamilton City'. Elected Members must therefore be careful that they maintain a clear separation between their personal interests and their duties as a member of Council (as governing body, and as a member of a Council committee or other Council body). They must exercise care to avoid situations where they have, or appear to have, a conflict of interest.

Elected Members must carry out their duties free from bias (whether actual or perceived). Bias is the common factor in all conflict of interest situations. The rule about bias applies to both financial and non-financial conflicts of interest and is summed up in the saying 'no one may be judge in their own cause'.

In the local government context, financial conflicts of interest are governed primarily by the Local Authorities' (Members' Interests) Act 1968 ('LAMIA') and non-financial conflicts of interest are governed by the common law rule about bias.

Broadly speaking, a conflict of interest exists when an elected member could use, or uses, their position to further their own interests or those of their partner, or spouse. The various types of conflict of interest include:

- Direct financial interest - where a decision or act of the Council could reasonably give rise to an expectation of financial gain or loss to an elected member.
- Indirect financial interest - where cash doesn't change hands directly but, for example, may influence the value of land or shares that the member owns, or an effect on the turnover of a business that the member is involved in;
- Non-financial interest - where an elected member's responsibilities as a member of Council could be affected by some other separate interest or duty that he/she/they may have in relation to a matter as a result of, for example, a personal relationship, or involvement with an external organisation, or from conduct that indicates prejudice or predetermination.

Conflicts of interest can be:

- Actual: where the conflict of interest already exists;
- Potential: where the conflict is about to happen, or reasonably could happen; or
- Perceived: where other people might reasonably think an Elected Member is not being objective or his/her/their position as an Elected Member has been compromised.

FINANCIAL CONFLICTS OF INTEREST

Elected members are often faced with the question of whether or not they have a pecuniary interest in a decision and if so whether they should participate in discussion on that decision and vote. When determining if this is the case or not the following test is applied:

"...whether, if the matter were dealt with in a particular way, discussing or voting on that matter could reasonably give rise to an expectation of a gain or loss of money for the member concerned." (OAG, 2001)

Members should consider the following factors in considering whether they have a financial interest.

- What is the nature of the decision being made?
- Do I have a financial interest in that decision - do I have a reasonable expectation of gain or loss of money by making that decision?
- Is my financial interest one that is in common with the public?
- Do any of the exceptions in the LAMIA apply to me?
- Could I apply to the Auditor-General for approval to participate?

Members may seek assistance from the Mayor or another person to determine if they should discuss or vote on an issue but ultimately it is their own judgment as to whether or not they have pecuniary interest in the decision. Any member who is uncertain as to whether they have a pecuniary interest is advised to seek independent legal advice. Where uncertainty exists, members may adopt a least-risk approach which is to not participate in discussions or vote on any decisions.

The two specific rules in the LAMIA relate to:

1. Contracts

An Elected Member is disqualified from office, or from election to office, if that member is concerned or interested in contracts and subcontracts (either directly or indirectly) under which payments made by or on behalf of Council exceed \$25,000 in any financial year (unless there is an exemption granted by the Office of the Controller and Auditor-General ('OAG')).

The \$25,000 limit includes GST. The limit relates to the value of all payments made for all contracts in which a member is interested during the financial year. It does not apply separately to each contract, nor is it just the amount of the profit the contractor expects to make or the portion of the payments to be personally received by the member.

It is an offence under LAMIA for a person to act as a member of the Council (or Council committee) while disqualified.

2. Participation in decision-making

Elected Members must not participate in any Council discussion or vote on any matter in which they have a financial interest (either directly or indirectly), other than an interest in common with the public.

Both rules apply in the case of an interest or concern through an Elected Member's spouse or partner, or through a company or trust.

HOW IS BIAS DETERMINED?

Bias is determined by asking the following question:

"Is there, to a reasonable, fair-minded and informed observer, a real danger of bias on the part of a member of the decision-making body, in the sense that ~~he or she~~they might unfairly regard with favour (or disfavour) the case of a party to the issue under consideration?"

It is natural to expect that Elected Members will bring their own experience and knowledge to the decision-making process; that members may already have views – even strong or publicly stated views – about the matter; and that political considerations may play a part in the decision.

The question is not limited to actual bias, but relates to the appearance or possibility of bias reflecting the principle that justice should not only be done, but should be seen to be done. Whether or not members believe they are not biased is irrelevant.

Members should focus on the nature of the conflicting interest or relationship and the risk it could pose for the decision-making process. The most common risks of non-pecuniary bias are where:

- members' statements or conduct indicate that they have predetermined the decision before hearing all relevant information (that is, members have a "closed mind"); and
- members have a close relationship or involvement with an individual or organisation affected by the decision.

In determining whether they might be perceived as biased, members must also consider the context and circumstance of the issue or question under consideration. For example, if a member has stood on a platform and been voted into office on the promise of implementing that platform then voters would have every expectation that the member would give effect to that promise, however ~~he/she~~they must still be seen to be open to considering new information (this may not apply to decisions made in quasi-judicial settings, such as an RMA hearing).

2. The Auditor General can retrospectively approve contracts that would otherwise disqualify a member under the Act, in limited cases.

DECLARATIONS OF INTEREST

To help identify possible conflicts of interest the Council operates a Register of Members' Interests.

Elected Members must make full and complete declarations of interests following the Inaugural Meeting of Council (after local government elections or by-election, as appropriate), and then every six months, using the Register of Members' Interests Declaration Form. These declarations of interests are a key individual responsibility of all Elected Members. They must notify the Council of the nature and extent of any interest as further detailed in the declaration form.

Declarations will be recorded in a Register of Members' Interests maintained by Council's Governance Manager. The Register (or a fair and accurate summary of its contents) will be available for public inspection. A summary will be published on the Council's website.

The Register does not remove the requirement to disclose conflicts of interest as they arise. Members must therefore advise the Council's Governance Manager, as soon as practicable during the year, if any new interests arise; complete a declaration of interests form every six months and update the Register whenever a member's interest has changed. Members must also declare their interests at meetings where matters in which they have a conflict of interest arise. The Elected Member must:

- declare the existence of a conflict to the meeting (the member does not have to disclose the nature of the interest concerned, though ~~he or she~~they ~~is~~are required if the interest is a financial one);
- abstain from discussion and voting (take no part in the consideration of the matter). Depending on the issue, the member may consider it best to leave the meeting room itself.

GENERAL AWARENESS AND SUPPORT

There is no simple binding rule that covers all conflict of interest situations – each situation must be evaluated on its individual merits. If an Elected Member is in any doubt as to whether ~~he/she~~they should declare an interest and stand aside from decision-making (including a decision to take no action), then ~~he/she~~they should seek guidance from the Mayor immediately; seek advice from the OAG (as to whether there is a financial interest) or from ~~his/her~~their own lawyer.

In some situations of pecuniary interest, a member may be able to obtain an exemption from the OAG to allow him/her to participate or vote on a particular issue. Any exemptions must be obtained before the discussion or vote takes place².

In a case of doubt, a member should refrain from discussing or voting on the matter in question and preferably physically withdraw from the meeting. The minutes of the meeting will record the member's declaration of interest and absence from voting.

Relevant guidelines include:

- 'Guidance for Members of Local Authorities about the Local Authorities' (Members' Interests) Act 1968' – Office of the Auditor General 2010;
- 'Managing Conflicting Interests in Local Government: The Local Authorities (Members' Interests) Act 1968 and Associated Issues' – Department of Internal Affairs August 2011;

CONSEQUENCES OF BIAS AND/OR BREACH OF THE LAMIA

An Elected Member will be automatically disqualified from office if he/she is concerned or interested in contracts and subcontracts (either directly or indirectly) under which payments made by or on behalf of Council exceed \$25,000 in any financial year.

If an Elected Member has a financial interest in a matter and participates in discussion and voting on it, he/she will have committed an offence under the LAMIA. In the event of a conviction, an Elected Member can be removed from office.

An Elected Member's bias (whether actual or perceived) has the potential to invalidate the particular decision made, or the action taken, by Council (if successfully challenged by way of judicial review).

If an Elected Member's conduct has contributed to Council incurring a loss; that conduct could also result in personal financial liability under section 46 of the LGA (refer to Schedule 1).

Schedule 3

PROCESS FOR THE INVESTIGATION AND DETERMINATION OF COMPLAINTS

Item 10

SUMMARY

There is a five-stage process for dealing with complaints under the Code of Conduct. The process for dealing with complaints under this Code of Conduct is as follows:

Stage 1: ~~The complainant is required to complete a complaint form, which is acknowledged by the Legal Team. Acknowledgement of the complaint and the respondent is informed.~~

Stage 2: Preliminary assessment of the complaint ~~led by either the CE or an independent investigator~~ is completed by the Legal Team and a recommendation made to the Mayor, Deputy Mayor and the CE's Office, which may be referred to an informal process.

Stage 3: ~~Informal resolution of complaint (where alleged breach is considered non-material). Upon receiving the recommendation, the Mayor, Deputy Mayor and CE's Office will implement~~ consider the recommendation and make a decision on which may be either referred to an informal process or referred to an investigator.

Stage 4: ~~Where the Mayor, Deputy Mayor and CE's Office refers the complaint to an independent investigator assessment where:~~
~~- the alleged breach is considered material;~~
~~- the complaint has not been able to be resolved informally; or~~
~~the complaint is otherwise referred to an independent investigator by the CE,~~ the CE will use discretion to select a suitable investigator from the Panel of Investigators.

Stage 5: ~~The Council's consideration will consider of the investigator's report and reach a decision for a resolution for the complaint.~~

A flowchart illustrating the complaints process is attached ~~as an appendix~~ to this Schedule. Staff are guided by internal information and templates with appropriate timeframes of which all uphold a fair process and natural justice with clear communication to the parties involved.

STEP 1: ACKNOWLEDGMENT OF COMPLAINT

1. ~~Within two working days~~ Upon receipt of a complaint, the CE ~~the following will occur~~ will:

a. An ~~automatic~~ acknowledgement of a submitted complaint form will be emailed to the complainant ~~and contemporaneously a notification will go to the Legal Team.~~ The Legal Team will review the receipt-completed form and if needed, request clarification for any missing information or evidence.

a.b. ~~The onus is on the complainant to ensure they have~~

~~referred to the relevant section of the Code of Conduct that they are claiming to have been breached. The complaint will remain confidential while an investigation is being completed. refer the complainant to the process for dealing with the complaint under this Code.~~

b.c. ~~The Legal Team will~~ inform the respondent that a complaint has been made against them and refer them to the process for dealing with the complaint under this Code.

STEP 2: PRELIMINARY ASSESSMENT OF COMPLAINT

2. The CE, with the Mayor ~~(or and~~ Deputy Mayor ~~(either of whom may be removed from the process~~ if the complaint involves the Mayor ~~or Deputy Mayor~~) will ~~assess~~ decide whether:

- the complaint is frivolous or without substance and should be dismissed;
- the complaint is outside the scope of the Code and should be redirected to another agency or process;
- the subject of the complaint has previously been assessed and actions have been completed in accordance with the Code to address the complaint;

Attachment 2

d. ~~the complaint is not material and should progress to informal resolution (refer to Stage 3) As a part of the Legal Team assessment, it may be suitable based on the circumstances of the complaint, to refer the complaint to an informal process for implementation by the CE's Office or decline the complaint. The interpretation of the complaint against the Code of Conduct at that time will be based on the Legal Team's assessment.)~~ or

e. ~~if the Legal Team assess the complaint to be material, they will make a recommendation to the CE Office and should be the subject of a for- and a full investigation is required to be completed by an independent investigator (refer to Stage 4). An alleged breach of section 5.5 of the Code is deemed to be material.~~

3. The CE may request further information/evidence from the complainant in support of the complaint and, if considered appropriate, may also request a preliminary statement in response from the respondent.

4.3. Where the CE and the Mayor (or Deputy Mayor) determines the complaint falls under paragraphs 2(a) or (c) above, the CE will inform the complainant and the respondent directly. The CE will also inform other Elected Members of the decision, unless there are grounds for the matter to remain confidential. At each stage of the complaints process, the Legal Team and the CE's Office will be responsible for informing the parties involved of the progress, timeframes and decisions, and will utilise internal templates and guidance to ensure a fair process and natural justice is upheld.

5.4. If it is determined that the complaint involves a potential legislative breach and is outside the scope of the Code, the CE Legal Team will advise the CE Office and will forward the complaint to the relevant agency and inform both the complainant and respondent of the action. The Legal Team may also make additional recommendations based on the circumstances.

6. Where the CE and Mayor (or Deputy Mayor) determine the complaint is material, the matter must immediately be referred to an individual investigator for assessment (Stage 4).

7.5. The CE Legal Team Mayor, Deputy Mayor and the CE Office has full discretion to refer any complaint to an informal process for resolution independent investigator at any stage, even if it is considered not material, notwithstanding that it is material or not.

8.6. The preliminary assessment of a complaint under Stage 2 will be completed within seven working days of receipt of the complaint timeframes for assessment, resolution and/or investigation will be clarified by the Legal Team based on the circumstances of the complaint. If additional time is required to complete the assessment following the initial assessment, the CE Office or the Legal Team must notify the complainant and respondent with the date when the preliminary assessment is expected to be completed of the further time required.

9.7. Where the CE and the Mayor (or Deputy Mayor) determine the complaint falls under paragraph 2(d) (refer to Stage 2), they will endeavour to settle the matter informally between the parties within 10 working days from the completion of Stage 2. The process for informal resolution must be fair to, and include, the affected parties. complaint is referred to an informal process, the parties will endeavour to resolve the complaint as soon as reasonably practicable, in the circumstances.

The outcome of this initial process that it is not fully investigated may be that the parties reach an informal agreement to resolve the complaint, in which case no further action is required. A written record of the informal agreement must be kept by the CE's office and the outcome of the informal agreement sent to the Legal Team, Mayor's Office and the Governance Team.

STEP 3: INFORMAL RESOLUTION

~~10.8.~~ If agreement is not possible between the parties under ~~Stage 3 an informal process~~, the CE, ~~Mayor and Deputy Mayor may Office may seek further guidance from the Legal Team and if appropriate, refer will refer~~ the complaint to an independent investigator for full investigation.

~~11.~~ For clarity, ~~Stage 3 is not available if the complaint has been assessed as material under Stage 2 or referred to an independent investigator under paragraph 7 above.~~

involves a potential legislative breach and is outside the scope of the Code, forward the complaint to the relevant agency and inform both the complainant and respondent of the action.

STEP 4: INDEPENDENT INVESTIGATOR ASSESSMENT

~~12.9.~~ ~~Where the CE and the Mayor (or Deputy Mayor) Legal Team makes a recommendation based on anit's initial assessment, determines the complaint falls under paragraph 2(e) in Stage 2, or the complaint is not otherwise resolved, the~~The CE's Office will refer the complaint to an independent investigator selected from the approved Panel of Independent Investigators. ~~The CE Office will utilise internal templates for informing all parties and instructing the investigator.~~

~~13.10.~~ On receipt of a complaint the investigator will, if appropriate, assess whether:

- a. the complaint is frivolous or without substance and should be dismissed;
- b. the complaint is outside the scope of the Code and should be redirected to another agency or process;
- c. the subject of the complaint has previously been assessed and actions have been completed in accordance with the Code to address the complaint;
- ~~e.d.~~ ~~the complaint is more suitably resolved informally;~~
- ~~d.e.~~ ~~the complaint is non-material; or~~
- ~~e.f.~~ ~~the complaint is material and a full investigation is required.~~

~~14.11.~~ The investigator must carry out their assessment in accordance with the principles in section 6.1 and within the terms of engagement provided by the CE. The assessment must be completed and sent to the CE as soon as ~~reasonably practicable possible, no later than 20 working days~~ from the date the complaint is referred to the investigator (unless otherwise agreed with the CE).

~~15.12.~~ In making the assessment, the investigator may make whatever initial inquiry is necessary to determine the materiality of an alleged breach and to recommend the appropriate course of action. The investigator has full discretion to recommend any complaint is dismissed which, in their view, fails to meet the test of materiality.

~~16.13.~~ On receiving the investigator's assessment, the CE will:

- a. where an investigator determines that a complaint is frivolous or without substance or previously been assessed and actioned under the Code, inform the complainant and the respondent directly and inform other Elected Members (if there are no grounds for confidentiality) of the investigator's decision; or
- ~~b.~~ in cases where the investigator finds that the complaint

STEP 4A: ACTIONS WHERE A BREACH IS FOUND TO BE NON-MATERIAL

~~17.14.~~ The investigator will inform the CE if they find the breach is non-material as part of their assessment (under Stage 4), and, if they choose, recommend a course of action appropriate to the breach, such as the respondent:

- a. receiving direction from ~~the Mayor (or Deputy Mayor, as appropriate)~~Council (excluding the respondent and any interested Elected Members) regarding behaviour or conduct expected from Elected Members;
- b. attending appropriate training or counselling to better understand the behaviour or conduct that is expected from Elected Members in circumstances that led to the complaint.

~~15.~~ The CE Office should implement the recommendations made by the investigators report which may include referring the resolution to a suitable informal process.

~~18.~~ The CE, in consultation with the Mayor (or Deputy Mayor, as appropriate) may determine which recommendation, if any, from the independent investigator's assessment should be actioned. The CE will advise both the complainant and the respondent of the investigator's findings, which is not open to challenge, and any recommendations to be actioned. The CE will also notify other Elected Members, unless there are grounds of confidentiality. A written record must be kept by the CE's office.

~~19.~~ If the CE and Mayor (or Deputy Mayor) do not agree on the investigator's recommendations to be actioned, the CE must report the investigator's assessment to the Council for determination (refer to Stage 5).

STEP 4B: ACTIONS WHERE A BREACH IS FOUND TO BE MATERIAL

~~20.16.~~ The investigator will inform the CE if they find that the breach is material as part of their assessment (Stage 4). The CE will then inform the complainant and respondent. The investigator will then prepare a report for the Council on the seriousness of the breach.

~~21.17.~~ In preparing that report the investigator ~~must~~:

- a. ~~must~~ consult with the complainant, respondent and any affected parties; and
- b. ~~must~~ refer to any relevant documents or information provided by the CE; ~~and~~
- ~~b.c.~~ ~~and~~ may undertake a hearing with relevant parties.

On receipt of the investigator's report, the CE will prepare a report for the Council, which will meet ~~within a month as soon as reasonably possible~~ of the CE receiving the investigator's report, to:

~~consider the findings of the investigator's report; and
determine whether a penalty, or some other form of action, will be imposed.~~

The CE's report will include the full report prepared by the investigator, including any recommendations.

~~22.18.~~ The CE will share the investigator's report with the complainant and respondent under strict confidentiality inviting them to reply in writing as to whether they agree to the findings and whether they wish to make a written submission for consideration by the Council. The complainant and respondent must not disclose or discuss the investigator's report with any person other ~~than the CE and/or the Mayor (or Deputy Mayor, as appropriate)~~ than appropriate internal staff, such as the Legal Team and the Governance and Assurance Manager prior to the Council meeting being held to determine the complaint.

STAGE 5: THE COUNCIL'S CONSIDERATION OF AN INVESTIGATOR'S REPORT

~~23.~~ The CE's report (with the investigator's full report or assessment, and any submissions from the complainant or respondent, attached) will be considered by the full Council, excluding any interested members (including the complainant (if relevant) and respondent), only if:

~~a. the CE and Mayor do not agree on which recommendations from the investigator, if any, are to be actioned for a non-material breach (refer Stage 4A); or~~

~~24.19. the breach is found to be material (refer Stage 4B);.~~

~~25.20.~~ The Council will consider the CE's report in an open meeting, except where the alleged breach concerns matters that justify the exclusion of the public, such as the misuse of confidential information or a matter that would otherwise be exempt from public disclosure under section 48 of the LGOIMA, in which case it will be a Public Excluded meeting.

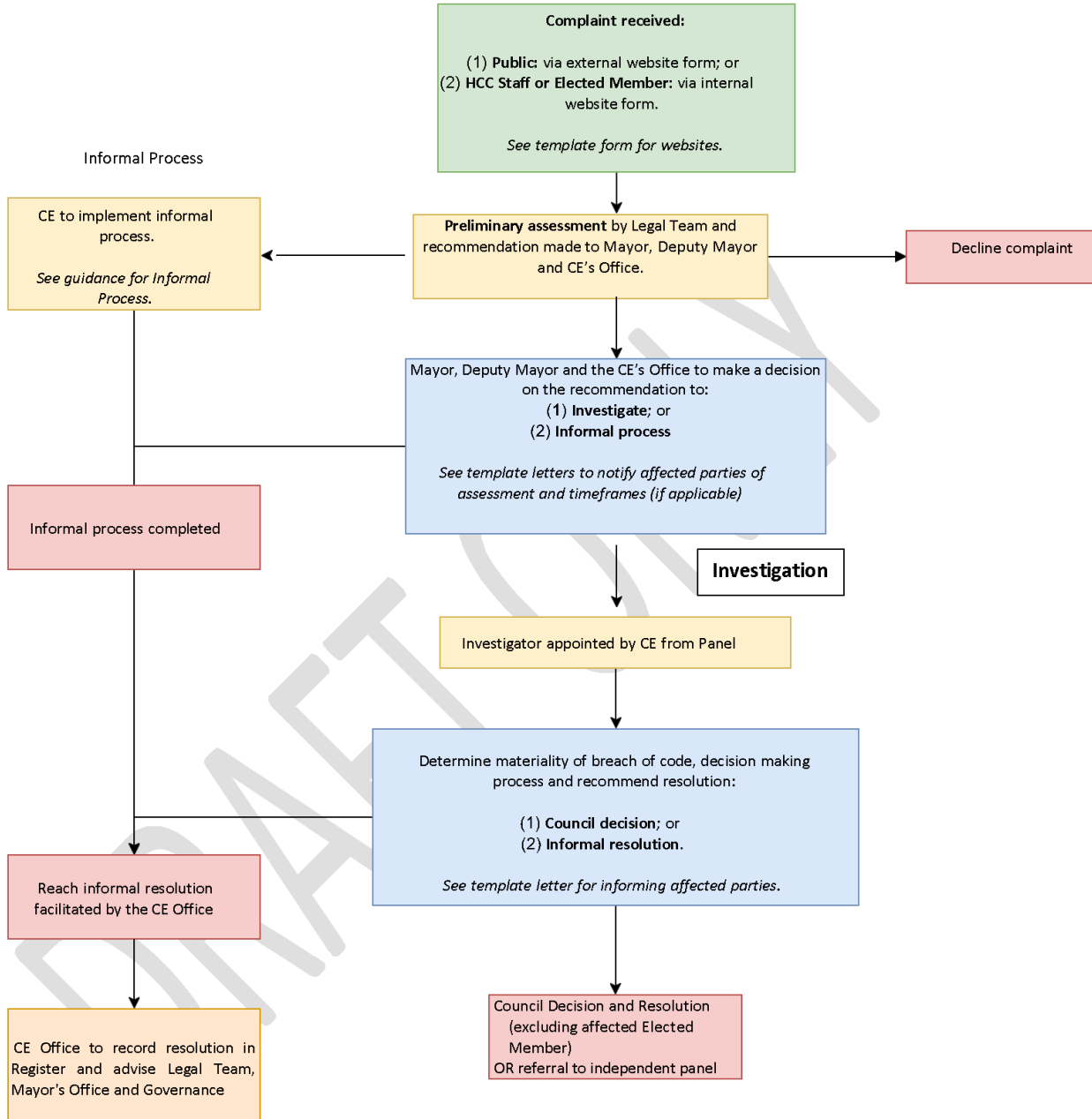
~~26.21.~~ Before making any decision in respect of the investigator's report the Council will give the respondent an opportunity to appear and speak in their own defense. Members with an interest in the proceedings may not otherwise take part in these proceedings.

22. Council shall:

~~a. consider the findings of the investigator's report; and either:
b. determine whether to accept the findings of the investigator's report and whether a penalty, or some other form of action, will be imposed; or~~

~~c. determine that in the interests of natural justice, a decision on whether to accept the findings of the investigator's report and whether a penalty, or some other form of action, will be imposed, should be made by a panel of no less than three independent, appropriately qualified members, to be selected by the CE, Mayor and Deputy Mayor.~~

~~27.23.~~ The form of penalty that might be applied will depend on the nature of the breach and may include actions set out in section 6.3 of this Code. Any censure or penalty must be proportional to the behaviour that is found to be in breach of the Code.



Schedule 4

Dealing with online abuse

Elected Members are public facing and interacting with the public should be robust, but it should also be respectful. Elected Members are encouraged to participate in debate and entitled to take a view on critical issues that call for a decision of Council including doing so on social media platforms, websites or blogs whilst presenting and applying an open mind. Whilst this open minded debate is acceptable, personal attacks are not, as well as any of the misconduct in clause 5.10.

To apply best practice, Elected Members may decide to utilize the following template to display to users in on their social media accounts:

I openly welcome your comments to encourage discussion on this platform but ask that you are polite and respectful in your comments and views. I reserve the right to hide or remove posts or comments from this page which include any content that is disrespectful, rude or abusive language, any direct personal attacks or any disclosure of private information or details of any elected members or staff or other users, objectionable material and any unsolicited advertising marketing or spam. If your comments fail to comply with the above terms, you may be blocked from posting on this page and comments will be hidden.

Taking action against harmful digital communications

Abuse sent to and from the public on social media may be in different forms, so good judgment is required when determining what is an appropriate response or post.

Elected Members must be mindful that it is a criminal offence to cause serious emotional distress by posting a 'digital communication' intended to cause harm on social media (or any other digital source) in accordance with the Harmful Digital Communications Act 2015 (HDCA).

Where abuse is made against an Elected Member, they are encouraged to take a screenshot and record the URL of the webpage. Any complaints about breaches of under the HDCA should be made to NetSafe and when serious, also reported to Police as well as the Mayor/CEO.

If necessary, where abuse is serious, Elected Members should report the abusive comments to the social media platform, mute or block repeat offenders or refuse to engage with aggressive comments by not replying or hiding the comments.

Elected Members are guided to:

- Make it clear that inappropriate comments are unacceptable.
- Be factual and polite to avoid escalation and retaliatory comments.
- De-escalate situations negative situations by acknowledging a person's frustrations, assure them that they have been heard and commit to follow up where appropriate.

Online behaviour – leading by example

Elected Members should model good online behaviour when using social media. As a rule of thumb, an Elected Member should only post what they would be prepared to say in person in a public gathering and if in doubt, do not post it. Once it is posted, it can be copied and shared, even if it has been deleted.

Focus should be on the issue, not the person, counter misinformation with facts and call out inappropriate behaviour. It is recommended that Elected Members consider logging off before responding and seek guidance if you are unsure.

Schedule 5 Example One

Councillor Smith was elected on a platform of stopping the sale of council housing. The Council has made a decision to sell the council housing. Cr Smith makes a media statement with comments against the decision after it is made. The same statements suggested that Council staff advising on the sale “must have own shares” in the company that proposed to buy the houses.

Cr Smith’s actions in releasing a media statement criticizing a decision after has been made could probably not in and of themselves constitute a breach of a Code of Conduct. Cr Smith has a right to express a viewpoint and, if he makes it clear he is expressing a personal view, then issuing a critical press statement is an action he is entitled to take. If his statement failed to make it clear that he was expressing a personal or minority view then it may be a non-material breach of the Code of Conduct, probably one where censure would be the appropriate response.

However, the media statement has made an allegation that staff advice was based on improper motives and/or corruption and that would be a breach of the Code of Conduct. It is most likely to be a material breach given the potential impact on the Council’s reputation and the reputation of staff.

Also, there is no qualified privilege attaching public statements about employees which are false and damaging. In other words, Elected Members may be sued for defamatory statements made about employees. This will also apply for any defamatory statements made about other Elected Members, if that was the case.

Example Two

Councillor Jones is on the Council’s Works and Services Committee. The Committee is currently considering tenders for the construction of a new wastewater treatment plant and has received four tenders in commercial confidence. The Committee has recommended to Council that they award the contract to the lowest tenderer. Cr Jones is concerned that the lowest tender proposes to treat sewerage to a lesser standard than others. She leaks all four tenders to the local media. A subsequent investigation by the Council conclusively traces the leak back to her.

In leaking the tender information to the media, CR Jones will have breached the Code of Conduct. This breach has potentially serious consequences for the Council as a whole. It not only undermines elected members trust of each other, it also undermines the confidence of suppliers in the Council, which may lead to them not dealing with the Council in the future, or even complaints under the Privacy Act 2020.

In circumstances such as these, where an Elected Member fails to respect a commercial confidence censure and removal from the Committee is an obvious step. The Council may be liable for prosecution under the Privacy Act, and even to civil litigation. If the Council suffers financial loss the Council may elect to ask the Auditor-General to prepare a report on the loss (or the Audit Office may do so on their own initiative), which may result in CR Jones having to make good the loss from her own pocket.

Example Three

The Council is conducting a performance review of the Chief Executive. It has established a CEO performance review that the Committee meets informally with the CEO to review which performance targets were met and which were not. The meeting notes that the CEO has been unable to meet two of his twenty performance targets that were set and resolves to formally report this to the full Council for consideration. At the conclusion of the meeting, Cr Black jumps online, logs into his social media page and comments that “John White won’t be getting a pay rise this year because he didn’t meet all his targets as the CEO”.

This action will constitute a breach of the Code of Conduct in that it:

- Breached a confidence
- Presumed to speak on behalf of the Council
- Purported to commit Council to a course of action before the Council had made a decision (or even met to consider the matter); and
- Failed to treat a staff member with respect and courtesy.

In addition, Cr Black’s actions will undermine the relationship between the CEO and the Council, which may also give rise to grounds for litigation against the Council in terms of employment and privacy.

Council Report

Item 11

Committee: Council
Author: Justine Kennedy
Position: Project Manager
Date: 12 May 2022
Authoriser: Andrew Parsons
Position: Executive Director -
Strategic Infrastructure
Report Name: Reform Response Programme Update

Report Status	<i>Open</i>
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Purpose - *Take*

1. To inform the Council on the status of central government reform and Hamilton City Council's Reform Response Programme.

Staff Recommendation - *Tuutohu-aa-kaimahi*

2. That the Council:
 - a) receives the report; and
 - b) notes the following matters in relation to Three Waters Reform:
 - (i) The Government, on 29 April 2022, confirmed it will proceed with reform based on the 4 Water Services Entities model.
 - (ii) The Government, through the Department of Internal Affairs - National Transition Unit, is implementing the operational transition to the 4 Water Services Entity model.
 - (iii) Staff will continue to participate in all matters of the Three Waters Reform to ensure that Council continues to be fully informed, and that staff can continue to influence outcomes for the transfer of assets, liabilities and staff while also ensuring that all obligations to deliver safe waters services to Hamiltonians continues.
 - (iv) Staff will continue responding to National Transition Unit information requests, as resources allow, within the provisions of the Local Government Official Information and Meetings Act.

Executive Summary - *Whakaraapopototanga matua*

3. The Reform Response Programme encompasses the Three Waters Reform, Future for Local Government and Resource Management Reform projects.
4. The three reforms are working to different timeframes and are of varying complexity. To enable informed decision-making, staff decided to bring them together for reporting and engagement purposes under the Reform Response Programme umbrella.

Three Waters Reform

5. This report provides an update of new and emerging matters since the 3 February 2021 Council meeting.

6. The Government announced, on 29 April 2022, its commitment to proceed with reform based on the 4 entities model (see below).
7. The Government has announced the Better Off Funding will be partially released from 1 July 2022, with the balance to be released from 1 July 2024. (see below).
8. The Department of Internal Affairs (DIA) and its business unit - the National Transition Unit (NTU) - have also been very active implementing the transition to the Government's 4 Water Services Entity model. A summary of the details can be found on slides from the 14 April 2022 Elected Member Briefing (**Attachment 1**).
9. DIA have also released a communications document intended to be an overview of the reform with some FAQ's to debunk "...some common misconceptions or myths about the Reforms". ([here](#) or **Attachment 5**).

Future for Local Government

10. The Future for Local Government Review panel released an interim report on 30 September 2021. The report states the review is an opportunity to rethink local governance to create a system in which the many organisations that contribute to local wellbeing can work together more effectively to address the challenges and deliver the shared goals and aspirations for now and future generations.
11. The report asked for responses to five priority questions by 1 June 2022. Elected members met with the review panel on 21 March 2022. Staff are working to prepare a formal submission.
12. There are two separate additional work programmes (Zone Two programme and WLASS programme) being undertaken within our region that Council is participating in. As these reports from the programmes are delivered, they will be made available to elected members.

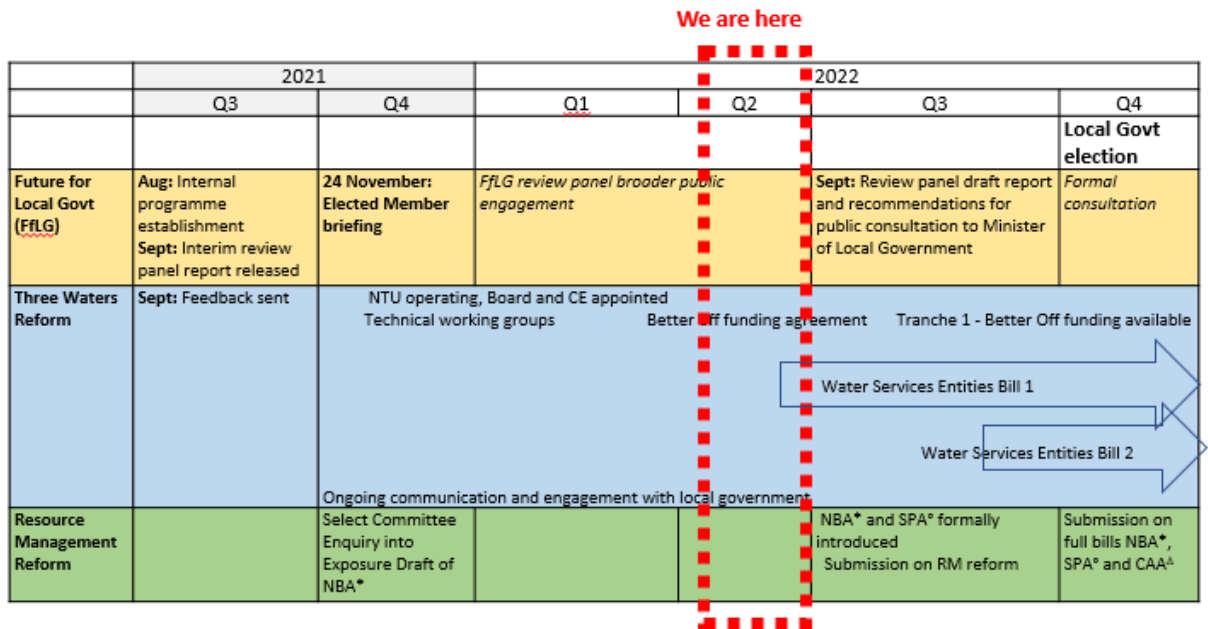
Resource Management Reform

13. In February 2021, the Government announced it would repeal the RMA and enact new legislation based on the recommendations of the Resource Management Review Panel. The three proposed acts are:
 - a) Natural and Built Environments Act (NBA), as the main replacement for the RMA, to protect and restore the environment while better enabling development
 - b) Strategic Planning Act (SPA), requiring the development of long-term regional spatial strategies to help coordinate and integrate decisions made under relevant legislation; and
 - c) Climate Adaptation Act (CAA), to address complex issues associated with managed retreat.
14. The proposed Natural and Built Environments Act (NBA) is intended to be the primary piece of legislation to replace the RMA. Like the RMA, the National and Built Environments Act will be an integrated statute for land use and environmental protection.
15. Council provided a submission on the exposure draft of the NBA that can be accessed [here](#).
16. On 1 November the Environment Select Committee released its [report on their inquiry on the Natural and Built Environments Bill 2021](#), following a consultation on the parliamentary paper and an exposure draft of the Bill.
17. In November, the Ministry for the Environment published a [discussion document](#) on the Resource Management Reform seeking further feedback on a number of topics. Hamilton City Council [submitted](#) on this discussion document in late February 2022.

18. In February 2022, the LGNZ RM Reform Steering Group published a draft proposal outlining methods that could ensure local voice and accountability would be maintained in the future RM system.
19. HCC prepared a [submission](#) on this proposal and the final LGNZ [proposal](#) was presented at the Zone 2 Meeting on 25th March 2022.
20. Staff continue to work directly with the Ministry for the Environment on the development of the new RM legislation, specifically in relation to the Strategic Planning Act (SPA).
21. Staff consider the recommendations of this report has low significance as assessed against the Significance and Engagement policy. The recommendations comply with the Council’s legal requirements.

Background - Koorero whaimaarama

22. Central government is undertaking a number of significant reform programmes that will have varying degrees of impact on local government. These cover three waters, resource management, local government, housing, climate change, health, and education.
23. Hamilton City Council has established a Reform Response Programme to ensure we take a holistic view of central government reform and coordinate our response on those matters most impacting local government.
24. There are three key workstreams that make up the proposed Reform Response Programme: Three Waters Reform, Future for Local Government; and Resource Management Reform.
25. The Resource Management Reform, and the Future for Local Government Reform are still in much earlier stages than Three Waters. Each of the three workstreams is of differing complexity and on a different timeline:



Item 11

	2023				2024	2025
	Q1	Q2	Q3	Q4		
Future for Local Govt	<i>Formal consultation</i>	Apr: Review panel presents final report to the Minister and LGNZ https://environment.govt.nz/news/rm-reform-update-third-edition/#the-way-forward-what-and-039s-next			Central Govt election	
Three Waters Reform					1 Jul: All water service entities operational	
Resource Management Reform	<i>Climate Change Adaptation Act introduced</i>		NBA* and SPA* expected to be passed into law			

- a) * Natural and Built Environments Act
- b) ° Strategic Planning Act
- c) Δ Climate Change Adaptation Act
- d) Note
- e) The italicised text in the table indicates that these timeframes and next steps have been assumed; staff are waiting on clarity from central government.

Discussion - Matapaki

Status Updates

Three Waters Reform

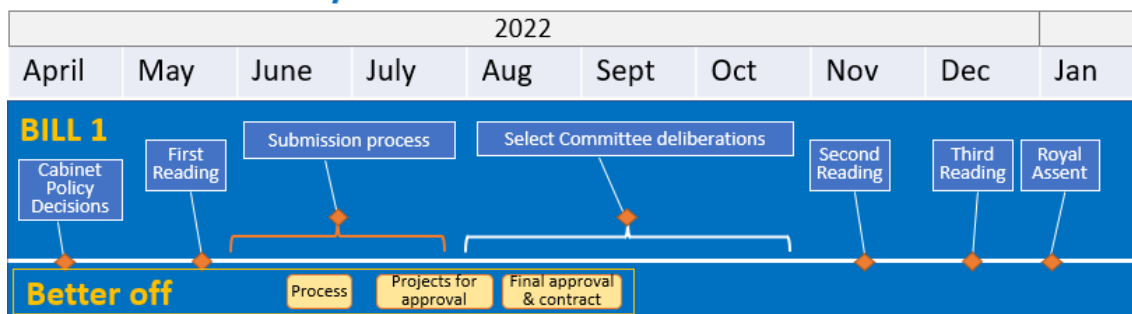
26. This report provides an update of new and emerging matters since the 3 February 2021 Council meeting.
27. The Government announced, on 29 April 2022, its commitment to proceed with reform based on the 4 entities model. The announcement advised that Cabinet has supported many of the Representation, Governance and Accountability Working Group’s recommendations. (see below)
28. The Government has announced the release of the Better Off Funding which will be partially released from 1 July 2022 with the balance to be released from 1 July 2024. (see below).
29. Also, the Department of Internal Affairs (DIA) and its business unit the National Transition Unit (NTU) have been very active implementing the transition to the Government’s 4 Water Services Entity model. A summary of the details can be found on slides from the 14 April 2022 Elected Member Briefing (Attachment 1).
30. DIA have also released a communications document intended to be an overview of the reform with some FAQ’s to debunk “...some common misconceptions or myths about the Reforms”. ([here](#) or **Attachment 5**).

f) Government Response to Governance Working Group

31. The Government announced its acceptance of many of the recommendations. These changes will modify the exposure draft if the Water Services Entity Bill, publicly released and provided to the Governance Group in December 2021.
32. The Water Services Entities Bill is expected to have its first reading in May and be immediately forwarded to a select committee. A new select committee may be formed to focus on the waters reforms legislation.

33. We have developed the following indicative timeline for the passage of the Water Services Entities Bill (Bill 1). The Government has not released a timetable. In this period from now to September Council plans to consult on and make a submission to Bill 1 and decisions on the Better Off Funding. Note, as shown in the timetable (see background above) there will be a second bill and an economic regulation bill.

Water Services Entity Bill



34. The substantive recommendations accepted by the Government are:
- New shareholding giving councils shares on a population basis, per 50,000 people. List of Entity B shareholding see **Attachment 11**.
 - Confirmation of no change to councils, through their communities, will remain the collective owners of their waters assets.
 - Confirmation no change to the Entity Boards' appointments being competency-based, professional Boards'.
 - Confirmation no change to co-governance representation on the Regional Representative Groups' (RRG).
 - New Sub-regional catchment sub-committees.
 - Strengthening of the clauses on operating in accordance with the Treaty of Waitangi and Te Mana o Te Wai.
 - Confirmation of the importance of balance sheet separation from council's and the Government.
 - Confirmation of the Government's commitment to ensuring the public is well informed.
35. The following information from the announcement is attached:
- Ministers statement [here](#)
 - Summary Table of Working Group Recommendations and Governance Response – with add staff traffic light analysis (**Attachment 8**).
 - Media Pre-Briefing – to Ministers announcement, 29 April 2022 (**Attachment 9**)
 - Key Council Figures (**Attachment 10**)
 - Council Shareholding (**Attachment 11**)

Better Off Funding

36. Better off Funding was first announced by the Minister of Local Government at the 2021 Local Government New Zealand Conference. Hamilton was allocated \$58.61M. Council submitted in its feedback to the Government in October 2021, that *"We request that additional funding of \$15M is provided to contribute to the necessary community infrastructure for placemaking and build strong, resilient new communities."* The sum allocated in the new release remains \$58.61M. Details of all Councils funding can be found in the Better Off Support Package Guidance slide 15, [here](#) or **Attachment 3**.
37. Documents which have been released and since these have been released a number of questions have been asked by the sector for which we expect a further FAQ release.
- Minister's Press statement [here](#)
 - Better Off Support Package Guidance ([here](#) or **Attachment 3**)

- c. Better Funding Agreement ([here](#) or **Attachment 4**)
 - d. Pro Forma Better Off Funding Proposal ([here](#) or **Attachment 5**)
38. The Government describes the objectives and criteria of the Better of Funding package as laid out in the Funding Agreement are:
- “The Crown’s objectives with the better off package are, acknowledging the Reform Objectives, to demonstrate central government confidence in the future for local government by providing the sector with additional funds to support local wellbeing outcomes in a way that aligns with the priorities of central and local government, including through meeting some or all of the following criteria:*
- 1. *supporting communities to transition to a sustainable and low emissions economy, including by building resilience to climate change and natural hazards;*
 - 2. *delivery of infrastructure and/or services that:*
 - a. *enable housing development and growth, with a focus on brownfield and infill development opportunities where those are available;*
 - b. *support local place-making and improvements in community well-being.”*
39. Summary of the key elements of the Better off Funding are:
- a) Council can receive it’s \$58.61M allocation in two tranches:
 - i. Tranche 1 is up to \$14.6M from 1 July 2022;
 - ii. Tranche 2 is the balance up to \$58.61 from 1 July 2024;
 - b) for Tranche 1:
 - i. The funding can be spent on opex or capex that fit the criteria (see above);
 - ii. The projects to be funded, in whole or in part, and must be in the Funding Proposal approved by the DIA;
 - iii. The funding will be released – 10% on approval of the Funding Proposal and monthly in arrears as approved by Crown Infrastructure Partners (CIP);
 - iv. Projects must be completed within 5 years (or September 2027);
 - c) the Funding Agreement and the approved Tranche 1 Funding Proposal must be signed by 30 September 2022;
 - d) we have no information on Tranche 2, other than the amount of funding;
 - e) the Funding Agreement:
 - i. is a formal contract between Council and DIA and CIP;
 - ii. we are seeking clarity on whether this applies to just Tranche 1 or both Tranches;
 - iii. the contract comes with conditions, summarised as *“The Recipient will work collaboratively with the New Zealand Government in connection with the Three Waters Reform Programme.”* (from Funding Agreement) and expanded on in detail in Schedule 2 of the Funding Agreement;
40. Staff propose that Council consider the funding package formally at its June 2022 Council Meeting. This provides time for DIA to be clear on the process rules and allows time to prepare a process for Council to meet the September Deadline. A potential proposes is included in the Briefing slides (**Attachment 1**).

Non-Financial Case for Change

- 41. At the Bbriefing staff were asked to provide more information on the non-financial case for change. Council submitted in its October 2021 Feedback it’s concerns that *“Communication should be balanced to focus on all the benefits of reform including all the wellbeings - economic, social, cultural and environmental”*.
- 42. Recently, for the Working Group on Accountability, Governance and Representation the DIA prepared a 15-page report headed Three Water Service Delivery: Problem Statement. This can be found in the 10 December Agenda papers ([here](#) starting page 12 or **Attachment 6**).

43. Documents have also been released on the performance for all of New Zealand on drinking water supplies and on river and lake environment indicators (previously distributed to EM's).
- a) [Water New Zealand National Performance Review 2020-2021](#)
 - b) [Ministry of Health Annual Report on Drinking-water Quality 2020-2021](#)
 - c) [Stats NZ – Environmental Indicators \(Lake and River Water Quality – Phosphorous, Nitrogen, Macroinvertebrates, E.coli, Clarity, turbidity\)](#) – General Environmental Indicators trended by MoE and updated for Environment Aotearoa 2022 Report (General freshwater overview, not specific to consents or Councils)
44. Locally Waikato Regional Council – Territorial Authorities Three Waters Compliance 2020-2021 – November Environmental Performance Committee 2021 (**Attachment 7**)

Community Engagement – Three Waters

45. Council resolved at its meeting of 16 December 2021: *“that staff will circulate a draft consultation document to all elected members for feedback prior to presenting a draft consultation document for approval at the next available Council meeting following confirmation of the introduction of the Water Services Entities Bill and subsequent Select Committee dates”*.
46. The Water Services Entities Bill has been put on hold and will not be put to Parliament until after the Government has considered the report from the Governance and Accountability Working Group. No further information is available at the time of preparing this report.

Future for Local Government

47. The Future for Local Government Review panel released an interim report on 30 September 2021. The report states the review is an opportunity to rethink local governance to create a system in which the many organisations that contribute to local wellbeing can work together more effectively to address the challenges and deliver the shared goals and aspirations for now and future generations.
48. The Panel is seeking submissions to respond to the five priority questions set out in the interim report. The questions are:
- a) How should the system of local governance be reshaped so it can adapt to future challenges and enable communities to thrive?
 - b) What are the future functions, roles and essential features of New Zealand's system of local government?
 - c) How might a system of local governance embody authentic partnership under Te Tiriti o Waitangi, creating conditions for shared prosperity and wellbeing?
 - d) What needs to change so local government and its leaders can best reflect and respond to the communities they serve?
 - e) What should change in local governance funding and financing to ensure viability and sustainability, fairness and equity, and maximum wellbeing?
49. Staff are preparing a formal submission after elected members met with the review panel in March 2022. The submission is due 1 June 2022.
50. There are two separate additional work programmes (Zone Two programme and WLASS programme) being undertaken within our region that Council is participating in. As these reports from the programmes are delivered, they will be made available to elected members.

Zone Two programme

51. The Council is also participating in work being commissioned by the Zone Two group for Peter McKinlay to provide a report on the proposition that local government is the gateway between communities and central government. This work will be available prior to the end of February. The work comprises two separate projects:
- a) **Building the evidence and analysis to support the case that local government does have that gateway function:** This analytical piece will include reviewing recent policy material from central government, and examples of emerging practice. It will also include drawing on international research and practice and understanding the approach taken by higher tiers of government in jurisdictions similar to New Zealand.
 - b) **Strengthening communities:** We each advocate that councils are the natural leaders of their communities. Part of this is helping communities themselves come together and better connect. Elsewhere, this is at the heart of good well-being practice. For New Zealand councils demonstrating this in practice is crucial to support the argument that local government is the natural gateway between communities and central government and vice versa. We have links with a number of think tanks which are world leaders in how best to enable resilient place-based communities and can draw on their experience and expertise. It gives us a real advantage in ensuring that councils are recognised as the natural enabler of strong, resilient and connected communities. This work will also provide for consideration of the relationship between place-based communities and Mana Whenua and Iwi.

WLASS programme

52. The Council is also participating in the work that Rob Williams (CEO of Thames Coromandel District Council) is leading with the Waikato Local Authority Shared Services (WLASS) councils relating to the assessment of community needs under the Shifting Landscapes project. This work involves the collection of positive and negative stories that illustrate how each of the respective councils have worked in partnership with central government and other parties. The overall aim of the project is to bring together data on what Waikato communities need and how the public sector is, and has historically, been meeting those needs.

Resource Management Reform

53. The reform of the Resource Management system is based on the findings of the comprehensive review which were released in 2020.
54. The review was carried out by the independent Resource Management Review Panel led by Hon Tony Randerson, QC. It is the most significant, broad-ranging, and inclusive review of the resource management system since the Resource Management Act 1991 (RMA) was enacted.
55. In February 2021, the Government announced it would repeal the RMA and enact new legislation based on the recommendations of the Resource Management Review Panel. The three proposed acts are:
- a) Natural and Built Environments Act (NBA), as the main replacement for the RMA, to protect and restore the environment while better enabling development
 - b) Strategic Planning Act (SPA), requiring the development of long-term regional spatial strategies to help coordinate and integrate decisions made under relevant legislation; and

- c) Climate Adaptation Act (CAA), to address complex issues associated with managed retreat.

Ministry for the Environment Discussion Document

56. In November 2022, the Ministry for the Environment published a [discussion document](#) on the Resource Management Reform to provide another opportunity to engage on the current proposals for the NBA and SPA before they are developed into full Bills.
57. Hamilton City Council [submitted](#) on this discussion document in late February 2022.

Local Government New Zealand (LGNZ) Reform Steering Group Draft Proposal

58. In February 2022, the LGNZ RM Reform Steering Group published a draft proposal outlining methods that could ensure local voice and accountability would be maintained in the future RM system.
59. These included the development of:
- i. Statements of Community Outcomes (to feed into Regional Spatial Strategies)
 - ii. National Spatial Strategies (prepared by central Government to ensure alignment of priorities across central government agencies)
 - iii. Guidance on the makeup of Joint Committees
 - iv. Implementation arrangements including funding
60. HCC prepared a [submission](#) on this proposal that reinforced Council's significant concerns with RM reform and that the intended objectives are unlikely to be realised through current proposals.
61. We noted that 'in principle' decisions have been made to move to a regional system, and therefore we support mechanisms to enable 'local voice' to be recognised in the new system, noting that:
- i. Representing local voice is a key function of local government
 - ii. Proposed regional planning committees will dilute this function
 - iii. Proposed 'statements of community outcomes' will be unworkable work in practice and add an additional layer of local planning
 - iv. Existing work through Future Proof sets the spatial direction for the sub-region and should be used as our input into regional spatial strategies instead of creating new strategic planning processes
 - v. We supported the creation of National Spatial Strategies to align central government priorities and funding
 - vi. Joint committees will result in the loss of local democratic decision-making, and create an inefficient and undemocratic form of planning and plan-making
 - vii. All councils need to be represented on Joint Committees for both RSSs and NBAs
 - viii. Certainty of funding is required, with access to central government funding simplified
 - ix. Further detail on implementation is also needed including relationship to other legislation e.g. LGA

Final LGNZ Proposal

62. The final LGNZ [proposal](#) was presented at the Zone 2 Meeting on 25th March 2022.
63. Changes made to the final proposal as a result of submissions included:
- i. Reinforcing that Elected Members from each council should sit on Joint Committees
 - ii. Whether natural and built environments plans (NBA plans) will include local chapters, which would be developed by local authorities in partnership with iwi/hapū, and set out local objectives and rules
 - iii. That the Government allow additional time to progress critical work on how joint committees will be established and resourced, and transitional arrangements
 - iv. That Government must play an active role in funding and supporting change
 - v. Noted that the creation of 'statements of community outcomes' may be confusing given LGA requirements.

HCC Staff involvement in MfE Work Programme

64. HCC staff from the Growth Group have continued to work closely with the Ministry for the Environment providing advice to inform the development of the new Strategic Planning Act.
65. This advice focuses on sharing our practical experience gained through participation in a number of collaborative forward planning initiatives, including the Waikato Plan, Hamilton to Auckland Corridor Plan, Metro Spatial Plan, and the Future Proof Partnership.
66. This opportunity has allowed HCC to raise issues directly with the Ministry regarding the practicality and workability of the new legislation, as well as its potential impacts on local government and the communities that it will impact.
67. Staff have been able to provide key points from our submission to the LGNZ Steering Group directly to MfE where they were not incorporated into the final LGNZ proposal, and central government staff working on the new RM legislation have been receptive to this feedback.

Next Steps for Council

Three Waters Reform

68. Staff are aware of matters that may progress between the drafting of this report and the next Council meeting. These are:
- i. Water Services Entity Bill (timing uncertain but potentially imminent).
 - ii. NTU transition information request - Commercial and Legal

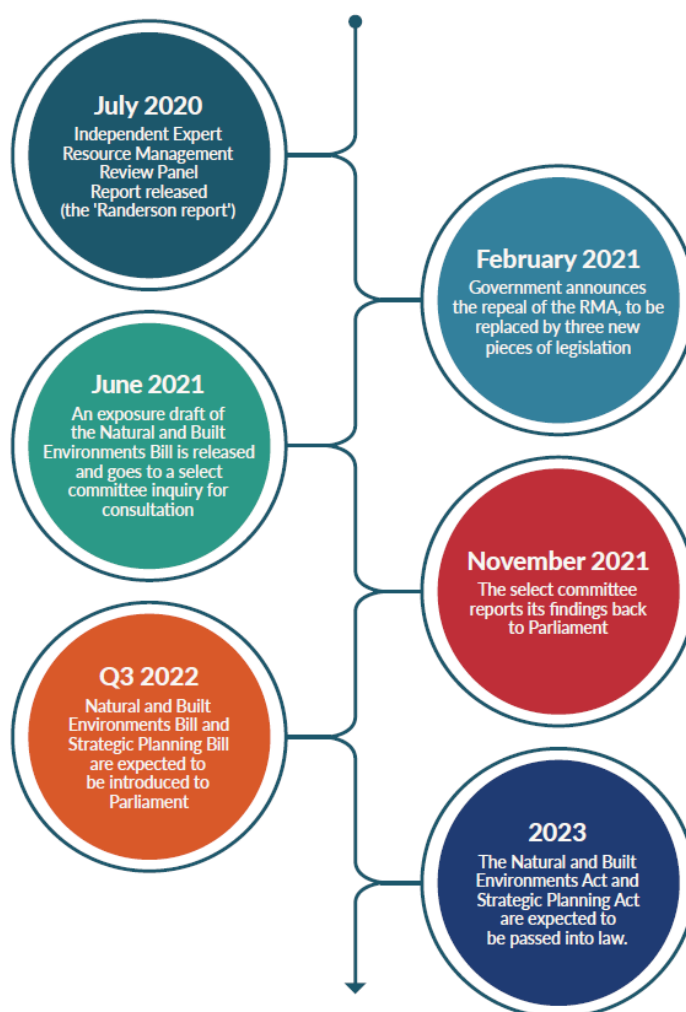
Future for Local Government

69. Staff are preparing a formal submission to respond to the Future for Local Government's (FfLG's) report by 1 June 2022.

Resource Management Reform

70. The next steps in respect of Resource management Reform are:
- i. Continue staff engagement with MfE on the development of the Strategic Planning Act.
 - ii. Identify and confirm key HCC messaging on RM reform, building on our stated position in recent submissions.
 - iii. Work with our key partners for collaboration.
 - iv. Note that the Natural and Built Environments Act and the Strategic Planning Act will be formally introduced in 2022.

- v. A standard legislative and select committee process will follow with the aim of the NBA being passed into law in this parliamentary term.
- vi. The CAA will be progressed in this time too.



Financial Considerations - *Whaiwhakaaro Puutea*

- 71. There are no financial implications in relation to the Reform Response Programme.

Waters Reform

- 72. The cost of participation in the Government's Three Waters Reform to date has been funded from the Government waters stimulus fund. This is reported separately to the Infrastructure Operations Committee.
- 73. This reform now moves to the transition phase and more funding will be required for Council to continue to undertake transition activities. As discussed in the Feedback to Government these costs should be funded by the Government.
- 74. The Government released information on the Funding for Council's with the Ministers announcements on 29 April 2022. (See **Attachment 10**). Staff note that the worse of funding remains at \$8M, leaving a significant shortfall for Council's stranded costs.

Legal and Policy Considerations - *Whaiwhakaaro-aa-ture*

- 75. Staff confirm that staff recommendations comply with the Council's legal and policy requirements.

Wellbeing Considerations - *Whaiwhakaaro-aa-oranga tonutanga*

76. The purpose of Local Government changed on the 14 May 2019 to include promotion of the social, economic, environmental and cultural wellbeing of communities in the present and for the future ('the 4 wellbeings').
77. The subject matter of this report has been evaluated in terms of the 4 wellbeings during the process of developing this report as outlined below.
78. The recommendations set out in this report are consistent with that purpose.
79. No social, economic and environmental wellbeings were identified during the creation of this report.

Cultural

Three Waters Reform

80. The Government's proposed governance model for waters reform includes formal roles for Iwi/Maori. This includes, but is not limited to, the following matters:
 - a) The Crown's relation with Maori
 - b) Te Mana o te Wai;
 - c) The relationship Maori have with the Crown;
 - d) Te Ture Whaimana o Te Awa o Waikato
 - e) Council's relationship with local Iwi;
 - f) Iwi's relationship across a wider Entity B rohe of Waikato / Bay of Plenty / Taranaki; and
 - g) The role Maori may or may not have in the future governance of a three water's entity.
81. Throughout the reform of the water services delivery reform Council has maintained engagement with Waikato-Tainui through the joint management committee (JMA).
82. Waikato-Tainui remain active in its engagement with the reform and have succeeded in having two prominent appointments:
 - a) Rukumoana Schaafhausen (Ngāti Haua) has been appointed to the Three Waters National Transition Unit Board
 - b) Donna Flavell (Waikato, Ngāpuhi, Ngāti Ruapani) was a member of the Accountability, Governance and Representation Workgroup.
83. Waikato-Tainui issued a media release, on 29 April 2022, stating "*Waikato-Tainui are optimistic around the direction of the Three Waters reform following the Ministers announcement today.*" Full release [here](#).

Risks - *Tuuraru*

84. There are no known risks associated with the decisions required for this matter.

Significance & Engagement Policy - *Kaupapa here whakahira/anganui*

Significance

85. Staff have considered the key considerations under the Significance and Engagement Policy and have assessed that the recommendation(s) in this report has/have a low level of significance.

Engagement

87. Given the low level of significance determined, the engagement level is low. No engagement is required.

Attachments - *Ngaa taapirihanga*

Attachment 1 - DIA Three Waters Refrom boiled down - a quick overview

Attachment 2 - HCC Briefing Presentation 14 April 2022

Attachment 3 - DIA Guide to better off funding pakage for local government

Attachment 4 - DIA better of funding agreement (the contract)

Attachment 5 - DIA pro forma better off proposal form

Attachment 6 - DIA - Extract from Minutes of the Accountability, Governance and Representaion Workgroup - non-financial matters

Attachment 7 - Waikato Regional Council - Territorial Authorities Three Waters Complaine - November 2021

Attachment 8 - DIA HCC Summary Table of Working Group Recomendations and Government Response with HCC traffic light assessment

Attachment 9 - DIA Media Pre-Briefing - Ministers Annoucement, 29 April 2022

Attachment 10 - DIA Key Council Figures.

Attachment 11 - DIA Council Shareholdings - Water Services Entities. .

Three Waters Reform boiled down – a quick overview

Provided by the Department of Internal Affairs

March 2022

Find out more at www.dia.govt.nz/Three-Waters-Reform-Programme
or email threewaters@dia.govt.nz



Te Tari Taiwhenua
Internal Affairs



Why are 'three waters' important

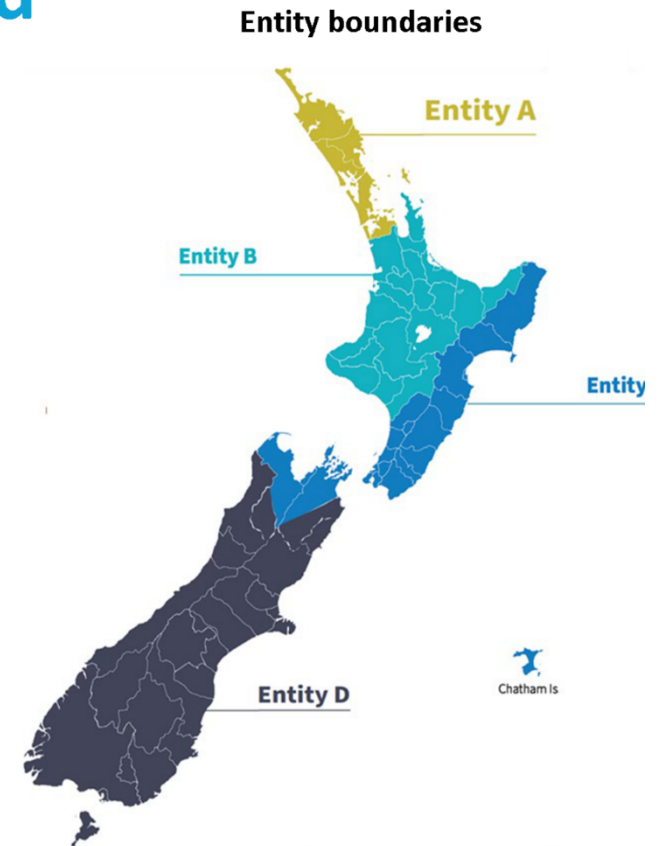
- Every New Zealander has a right to safe drinking water no matter where they live. We also expect strong and resilient stormwater and sewage services that enable communities to prosper and grow, while protecting the environment
- Drinking water, wastewater and stormwater services make up the 'three waters'. This three waters system is critical for the health and wellbeing of all New Zealanders
- The performance of the three waters system is significant for upholding Te Mana o te Wai, the health of the environment, and the performance of the economy, building resilience to climate change and natural hazards, and unlocking housing and growth

What is the current performance of three waters services?

- Every year, some 35,000 New Zealanders get sick from tap water that does not meet the international benchmark for clean drinking water
- It is estimated that nationally an average of 20% of drinking water is lost on the way to households. This is more than the volume of water supplied by Hamilton, Rotorua, Dunedin and Christchurch City combined
- Of the 321 wastewater treatment plants in the country, more than 100 are breaching consents and 60 require upgrades to meet minimum standards under the National Policy Statement for Freshwater Management
- In 2021 there were 2,754 dry-weather **wastewater overflows** (i.e. blockages or system failures) and 1,159 wet-weather (i.e. rainfall events) overflows, and a further 355 from combined **wastewater and stormwater networks**. Out of 37 councils reviewed, there were 648 reported consent non-conformances in wastewater treatment plants.

What has the Government proposed

- The three waters services in the 'Three Waters Reforms' are the **council-owned** infrastructure network and processes used to treat, transport, and discharge **drinking water, wastewater and stormwater**
- The Government's Three Waters Reforms are proposing to shift the current 67 council-owned and operated three waters services into **four new publicly-owned entities** to manage the future delivery of these services
- These new entities will:
 - be **publicly-owned by councils** on behalf of communities, with strong protections against any future privatisation
 - have **joint strategic direction and oversight** through Regional Representative Groups made up of local government and mana whenua to ensure the entities are driven by community expectations and priorities
 - be **financially separate from councils** with a greater ability to borrow to fund long-term infrastructure
 - have **independent competency-based boards** that will run the day-to-day management of the entities and oversee the maintenance and renewal of this infrastructure
- The Government has also proposed a **new economic regulatory regime** to protect consumer interests and drive efficient investment and performance



What are the objectives of reform

The Government’s reforms aim to significantly improve **the safety, quality, resilience, accessibility, and performance** of three waters services, in a way that is **affordable** for New Zealanders now and into the future

The **purpose** of the entities will be to **provide safe, reliable and efficient water services**. With high-level objectives including:



The Government also wants to ensure it delivers on **Treaty-related obligations**, including by improving outcomes for iwi/Māori in relation to three waters service delivery and **upholding Te Mana o Te Wai**. Integral to this is effective infrastructure delivery, underpinned by an **efficient, high-performing, financially-sustainable, and transparent three waters system**

Why is the Government reforming three waters

- The Government's reform proposals follow the Havelock North Drinking Water Inquiry, and many years of discussion with local government and iwi about the outcomes we expect of our three waters services and the challenges facing the provision of these services into the future
- The future of water service delivery is changing regardless of the Government's reforms. These are expensive services to provide. Upgrading our services to maintain infrastructure, meet community and environmental expectations and combat future challenges will see the costs of delivering these services increasing across the country
- These future challenges include:
 - Adapting to climate change and building resilience to natural hazards
 - Lifting the standard of service delivery to meet health, environmental and cultural bottom lines
 - Responding to growth, housing and urban development needs
 - Maintaining and upgrading aging infrastructure
 - Operating within a constrained budget and workforce
- The national evidence base shows that across New Zealand communities face an estimated cost of \$120bn-\$185bn over the next 30 to 40 years for investment in three waters infrastructure
- Research shows that without reform, meeting community expectations to provide safe, reliable and clean water services will become increasingly unaffordable for some communities. Doing nothing will lead to further deterioration of services and be more costly for future generations to fix

What underlying problems do the reforms solve

- The Department’s analysis* identified four root causes that contribute to persistent and systemic problems in the provision of three waters services
 1. **Limited opportunities to achieve benefits of scale** – with most councils currently supplying services to less than 100,000 customers
 2. **Significant affordability challenges** – New Zealand’s three waters services are estimated to need investment of between \$120bn to \$185bn over the next 30+ years. Meeting these costs without reform will be challenging for most local authorities, with average household bills needing to increase significantly
 3. **Poor incentives for critical water infrastructure decisions** – Councils have a constrained ability to borrow to spread the high up-front costs of infrastructure over the lifetime of the service. Local authorities water infrastructure investment decisions must be considered against other council services
 4. **Lack of effective oversight and stewardship for the three waters sector** – There is a lack of transparency about the state of assets and performance of the three waters system that make it difficult for customers and communities to hold water services providers to account. This has enabled the current challenges to slowly accumulate over time
- The Government considers that **comprehensive system-wide reform** is required to address these root causes **together**. Simply addressing one cause alone, such as changing funding arrangements or introducing stronger regulation, will add pressure on the system in different places. This is likely to exacerbate inequities, and will not achieve long-term outcomes for all New Zealanders

*This analysis is available online in the [Department of Internal Affairs - Regulatory Impact Analysis](#)

Addressing these underlying problems

- The Government has assessed a range of potential solutions to the underlying problems facing the delivery of three waters services into the future
- The Government's reforms proposals would create multi-regional entities with a singular focus on delivering safe, reliable and affordable water services to communities
- These new entities will be able to achieve greater efficiencies than councils can by themselves, and will have significantly greater capacity to invest and respond to future needs.
 - This is achieved through a combination of factors including highly competent boards, strong management capability, greater workforce specialisation, greater capacity to invest, and economies of scale in procurement and other specialist functions
- Local government and mana whenua will provide joint oversight and strategic direction which will set priorities for these entities and keep them to account
- Communities and consumers will have existing and new mechanisms to engage directly with the entities
- In addition, a stronger regulatory environment from Taumata Arowai, Regional Councils and the proposed economic regulator will drive efficiencies and transparency of performance and ensure these entities achieve quality standards. National-level direction may also be set through the introduction of a Government Policy Statement

Opportunities of Reform

- The Three Waters Reforms present an opportunity for us to work together as a country to ensure drinking water, wastewater and stormwater services meet our safety, cultural and environmental expectations at an affordable price no matter where you live
- The reforms also present opportunities to:
 - Build a world-leading, innovative three waters system
 - Put Te Mana o Te Wai – the health and wellbeing of water – at the centre of the system. The health and wellbeing of people and communities depends on the health and wellbeing of water
 - Take a catchment-based and interconnected view of the water system from source to sea – ki uta, ki tai
 - Grow the local workforce and unlock new professional pathways and development opportunities
 - Unlock housing and economic development, and create a secure pipeline of infrastructure investment that will grow the national and regional economies
 - Embody true partnership between mana whenua, local government and central government in the interests of all communities across New Zealand

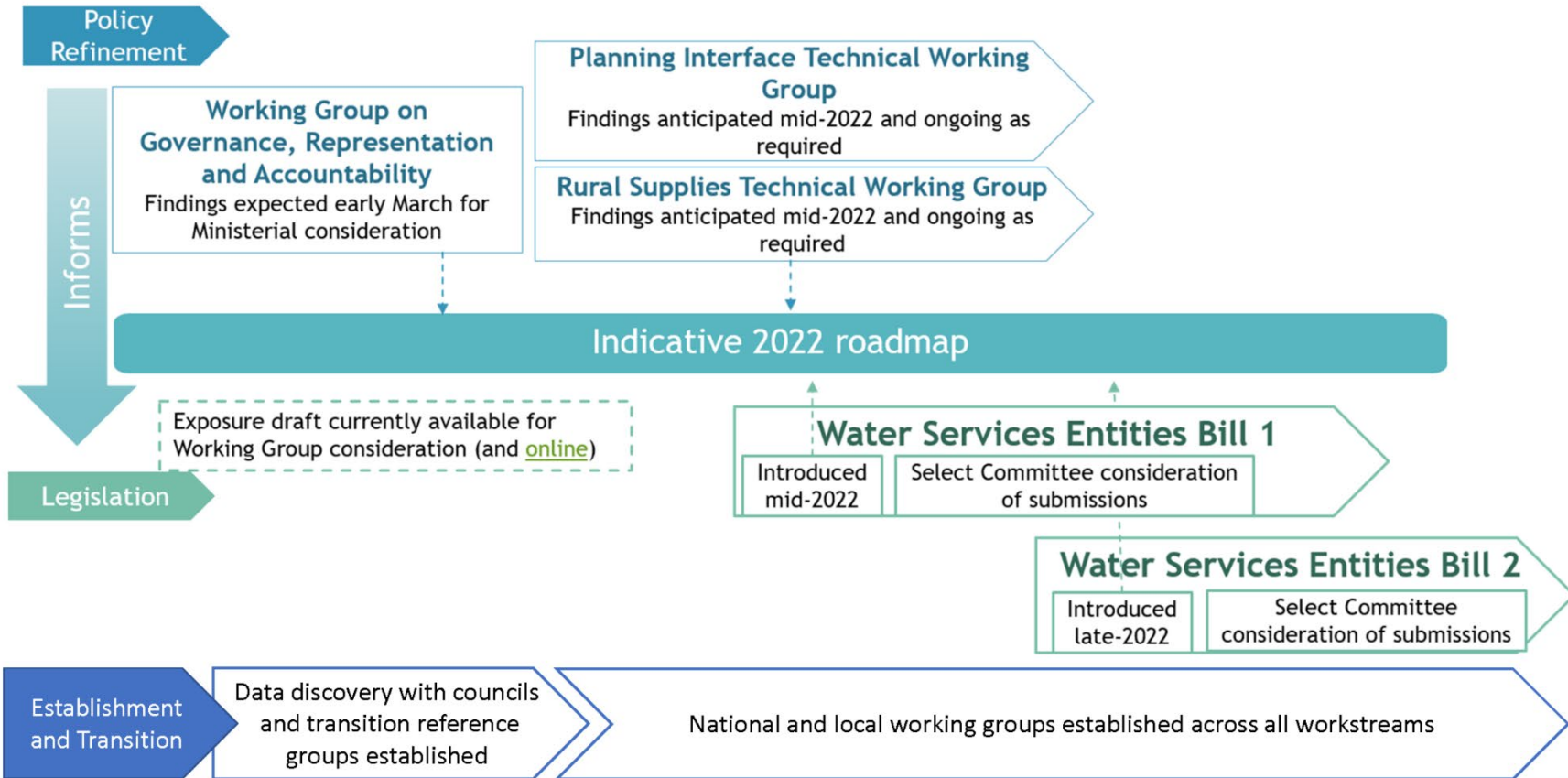
What is outside the scope of the Government's "Three Waters Reforms"

- **This is not about taking over operation of privately-owned supplies.** However, the Government is working with a Rural Supplies Technical Working Group to understand how the proposed entities may support private supplies who currently receive assistance from councils to run their services
- The proposed entities will continue to operate within the resource management system – **the Three Waters Reforms will not alter the system for gaining resource consents, water allocations, or ownership and management of freshwater.** This is subject to work of the Ministry for the Environment you can read more about this work here: [Resource management system reform | Ministry for the Environment](#)
- **The Three Waters Reforms are not reforming the flood protection system** implemented mostly by Regional Councils. However, in taking a catchment-based approach, the reforms are considering the interplay of stormwater in this system

Next steps

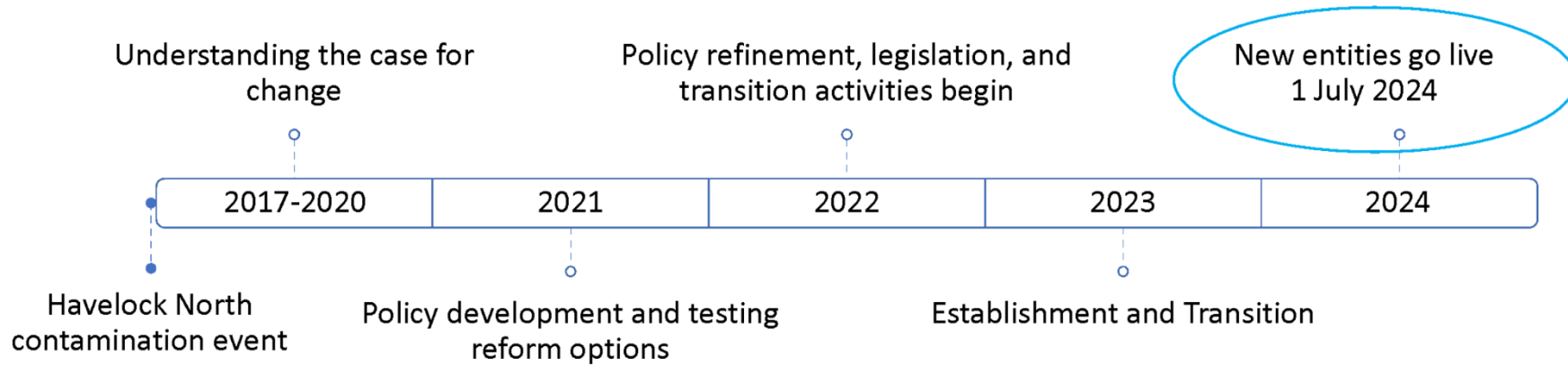
- The Government's reform proposals have been designed through continuous and ongoing engagement with local government and iwi over the past few years. You can read this engagement information on the Department's website
- In response to feedback from the sector in August and September 2021, the Government has recently established three working groups that will advise on further refinements to the Government's reform proposals in early 2022:
 - The **Working Group on Representation, Governance and Accountability** – this group released its report on 9 March and the recommendations are being considered by the Government
 - The **Planning Technical Working Group** that will focus on how the Three Waters Reforms interact with the future resource management system
 - **Rural Supplies Working Group** which will focus on how the new entities will work together with rural suppliers and communities to achieve service outcomes
- You can read the papers and recommendations of these working groups here: [three waters reform programme working groups - dia.govt.nz](https://www.dia.govt.nz/three-waters-reform-programme-working-groups)
- These reforms will be implemented through a series of legislation that is expected to be introduced to Parliament during 2022. The Government will consider the recommendations of the above working groups in drafting this legislation
- Once the Bill is introduced the public, including councils, iwi/hapū, community groups and individuals, will be able to submit their views on the reform proposals through written and oral submissions to the Select Committee
- The Government will continue working closely with mana whenua, local government and the water industry in the establishment of and transition to the new entities which would go live on 1 July 2024

Indicative 2022 timeline





Long-term timeline overview



Some common questions...

The Three Waters Reforms are complex. This has meant there is some confusion about the reform proposals. The following slides discuss some common misconceptions or myths about the Reforms

Question: Will the Three Waters Reforms take private water supplies / take back water allocations

Answer: No. The Three Waters Reforms aim to reform **council-owned services only**. **This discussion is not about taking over operation of privately-owned supplies**. However, the Government is working with a Rural Supplies Technical Working Group to understand how the proposed entities may support private supplies who currently receive assistance from councils

The proposed entities will continue to operate within the resource management system – **the Three Waters Reforms will not alter resource consents, allocations, or address ownership of freshwater**. This is subject to work of the Ministry for the Environment

Question: Are the Reforms taking away local assets

Answer: The water services entities will be **collectively owned by councils**. Through the reforms, council-owned three waters assets will transfer to the new entities who will be responsible for the maintenance and renewal of these assets, and the day-to-day running of the services. These assets will continue to deliver services to the communities that have paid for them

This arrangement is similar to that of Auckland's Watercare model – noting the difference is that the new entities will be collectively owned by councils and have operational and financial independence

The reforms will ensure the maintenance, renewals and upgrades to the infrastructure is affordable for all New Zealanders into the future

Questions continued...

Question: Will we have a say in the future system

Answer: Yes. The Reform proposals have been designed ensure councils, mana whenua, communities and consumers have a strong role in the new water services entities. This includes through existing mechanisms, like council planning tools and community consultation on the entities plans, and new protections like the introduction of consumer forums. The Governance and Accountability Working Group has also made recommendations to strengthen local voice, and these are currently being considered by the Government

Question: Are the Three Waters Reforms a step towards privatising water

Answer: No. Continued **public ownership of the water services entities is a bottom line for the Government.** Safeguards against future privatisation will be written into legislation to maintain ongoing ownership of the new entities by local authorities on behalf of communities they represent. Beyond that, the Government will make communities the ultimate guardians of public ownership by requiring a minimum of 75% of the votes in a public referendum for any privatisation proposal to proceed

Question: Are the reforms giving ownership of the entities to Māori

Answer: No. The entities will be **owned collectively by councils** as the current owners of these services

Mana whenua will sit alongside local government on the Regional Representative Groups in joint strategic direction and oversight of the entities – **this is not ownership**

The entities will have independent, competency-based boards that will manage the day-to-day business of the entities informed by the priorities and expectations set by the Regional Representative Groups

Ngā mihi

Thank You

Find out more at www.dia.govt.nz/Three-Waters-Reform-Programme
or email threewaters@dia.govt.nz



Te Tari Taiwhenua
Internal Affairs





Three Waters Reform

Elected member briefing
14 April 2022





Waters Reform

26 months to go

		Progress
Participation:	engaging with the Government's process, influencing and submitting.	80%
Transitioning:	preparing to move the assets, liabilities, revenues and staff to the new entity.	5%
Transforming:	making Council better after waters has gone.	1%



Waters Reform

Department and National Transition Unit Alphabet Soup

Acronym	
DIA	Department of Internal Affairs
NTU	National Transition Unit
LEE	Local Establishment Entity
WSE	Water Services Entity
WSEB	Water Services Entity B
TRG	Transition Reference Group
LTT	Local Transition Team
RFI	Request for Information
LGOIMA	Local Government Official Information and Meeting Act

**There is a lot of information in this Powerpoint.
We will not go through this slide by slide
and will focus on these yellow slides**

Separate to the slides, we will provide an update on the latest information, including initial advice on 'Better Off' Funding.

What's new since this slide pack was published.

Better-Off Funding

- Tranche 1: \$14.65M from July 2022
- Tranche 2: \$43.95M from July 2024

TOTAL
\$58.61M

- Tranche 1...Must:
 - Have an approved Funding Proposal.
 - Have a signed Funding Agreement.

- Tranche 2 ... detail not specified

- The Funding Agreement contains conditions summarised as "*The Recipient will work collaboratively with the New Zealand Government in connection with the Three Waters Reform Programme*"

Better-Off Funding – Tranche 1

- Projects must meet criteria and be approved DIA.



Supporting communities to transition to a sustainable and low-emissions economy, including by **building resilience to climate change and natural hazards.**



Delivery of infrastructure and/or services that **enable housing development and growth**, with a focus on brownfield and infill development opportunities where those are available.



Delivery of infrastructure and/or services that **support local place-making and improvements in community well-being.**

- Projects must be completed within 5 years.
- Funding will be 10% up front, thereafter claimed monthly in arrears through Crown Infrastructure Partners.
- Six monthly formal reporting to DIA.

Better-Off Funding - Process

- Council decision to participate in Tranche 1 or not (June 2022).

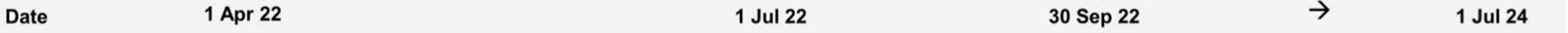
If yes to Tranche 1.

- Review and clarify Funding Agreement (including legal).
- Review LTP 2021-2031 projects for a match to criteria and projects with business cases developed since the LTP. (staff)
- Identify long list. (staff)
- Develop process for short-listing in line with the requirements. (June 2022)
- Draft proposal to DIA (July 2022)
- Finalise proposal (August 2022)
- Sign Funding Agreement. (September 2022)

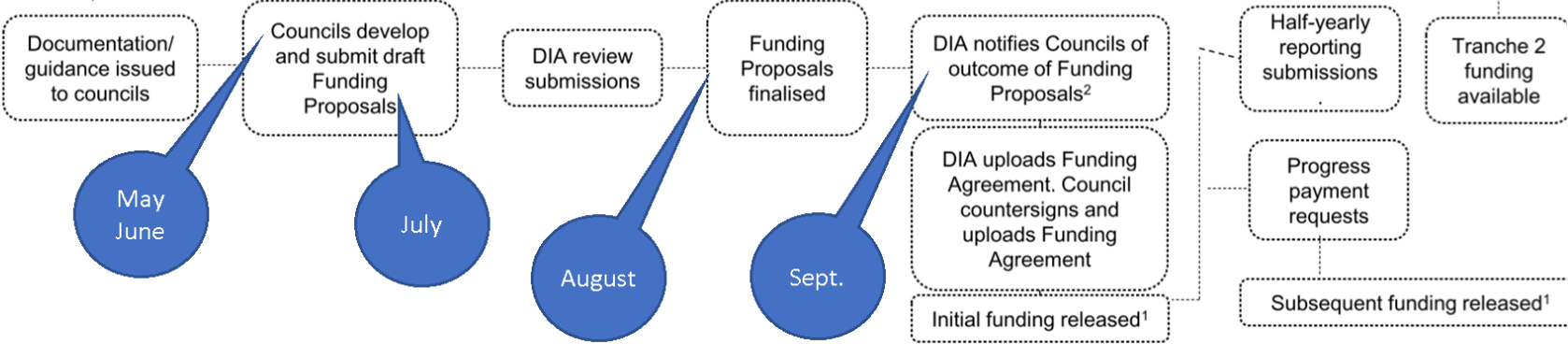
see graphic - next slide

Better-Off Funding - Process

Key Dates:



Milestones



Waters Reform

What's happened in 2022, so far politically:

- **Local Governments involvement is paused.**
- **Three working groups have met** (links DIA website for publicly available info on each group):
 - [Working Group on Representation, Governance and Accountability](#)
 - Meet and [reported](#) to minister ... and now we wait ...
 - [Planning Technical Working Group](#)
 - Blair has been appointed to this group which has meet once.
 - [Rural Supplies Technical Working Group](#)
- **Joint Three Waters Steering Committee**
 - Provides collaborative oversight of the reform programme that brings together central and local government expertise and experience.
 - Meeting? no minutes?

Waters Reform

What's happened in 2022, behind the scenes:

- DIA are very busy:
 - [National Transition Unit](#) NTU - operational
 - [NTU Transition Information Pack](#) (Jan)
 - **Board appointed (23 Feb)** (See info slide 1)
 - [Executive Directors appointed](#) (23 Feb)
 - [NTU Plan 2022](#) (23 Feb) (See info slide 2)
 - **9 Workstreams**
 - **Many Technical Reference Groups (TRG) being established.**
 - **Staff involvement in TRG – one appointment to Asset Management TRG**
 - **Information requests from Workforce, Data and Digital, and Finance and Corporate**
 - **NTU staff workstream leads advertised and appointed – contracts to 2024, in excess of 20.**
 - **NTU Three Waters Local People and Workforce Lead staff advertised (late March)**
 - **Entity B LTT being established.**

Waters Reform

What's happened in 2022, behind the scenes:

- **The reform team has largely been monitoring and influencing.**
 - **Letters to NTU and DIA expressing concern on Funding and RFI request.**
 - **Working with DIA and others to get better information for Council's public and internal messaging.**
 - **Updating impacted staff and establishing alignment with other reform messaging.**
 - **Prepare annual plan budget proposal and supporting information.**
 - **Attendance at multiple NTU webinars for Overall and workstreams Workforce, Data and Digital.**
 - **Attendance Waters NZ Conference – NTU used to release new information.**
 - **Workforce information requests**
 - **Undertook early adopter opportunity on Finance and Commercial revenue data request.**
 - **Completed Workforce RFI request under Privacy Act and LGOIMA.**
 - **Received and completing Data and Digital under LGOMIA – Note aspects may be withheld.**
 - **Attend WSEB Mayors and CE's working group (Chair: Mayor Neil Holdom)**
 - **Participate in WSEB LTT (see info slide 3)**
 - **Meet with MBIE on Council's submission on the Economic Regulator**

Waters Reform

What could be happening (now - June)

- **Better Off Package - April**
 - Not directly related to Three Waters infrastructure or services. Applications open until 30 September 2022 for Tranche 1 (\$14.6M available for Hamilton). Requires Council decisions on funding agreement and potential projects.
- **Cabinet decisions, draft legislation and consultation**
 - Potentially mid 2022, likely 8-week Select Committee process. This is compressing timelines for transition to new entities just 24 months later. (see timeline info slide 4)
- **Announcement of increase in funding to councils funding for transformation.**
 - \$80M up from \$60M – this may take the form of centrally procured resources not cash.

Waters Reform

What could be happening (now - June)

Appointment of WSE Board Chair and Chief Executive

More requests for data and information (ongoing)

- RFI requests from Workstreams - Asset Management, Customer and Pricing.
- More jobs and secondments advertised for NTU and LTT.
- More TRGs and secondment opportunities.
- Individual staff dealing directly with NTU Workforce.

Staff retention and recruitment

- Councils, including Hamilton, will come under increasing pressure to retain key staff as multiple agencies seek experienced staff from across the business as the reform develops.

Waters Reform

Looking Forward July 2022 to December 2022 (24 to 18 mths left)

- **Better off Package Tranche 1 - \$14.6M – April to September**
 - HCC decision to sign Funding Agreement
 - Select projects (for the full amount), get approval finalise the deal.
 - Expect detailed modelling
- **Legislation**
 - **Select Committee on Waters Services Entities Bill**
 - HCC Community consultation
 - HCC submission to Select Committee
 - Govt. adoption Late 2022 – **everything becomes mandated**
 - **Waters Services Entities (Implementation) Bill**
 - Introduced to parliament late 2022, Select Committee & HCC submission – **probably more mandating**
- **NTU information requests and due diligence – all workstreams**
 - Including debt, insurance, lab services, catchment plans, contracts in operations - customer services – IT – projects and suppliers.
- **WSEB**
 - To quote NTU “Working together for success”... to smooth the transition.

Waters Reform

Looking Forward July 2023 to December 2024

- **Economic Regulation (Water Services) Bill**
 - Select committee and submission
- **MORE - Information requests and due diligence – all workstreams**
 - Including operational risk management, stormwater modelling, guarantees and stakeholder agreements.
 - Secondments.
- **WSEB**
 - Transitioning staff.
 - Transitioning assets and liabilities

Waters Reform

Paying for reform

- **Council's position has been: the government pays for the governments reform**
- **2021/22 (mostly participation)**
 - **Stimulus funding for participation**
- **2022/23 (mostly transition and a bit of participation)**
 - **Funded to participate – i.e. submissions and contracts (e.g. better-off and worse-off)**
 - **Unfunded - transitioning and transforming**
 - Relying on government statement that no council will be worse off. (but they probably count the better off funding even though the fund is project based)
 - Govt has \$80M for councils. Unclear of HCC share of funding and whether the funding will take the form of financial assistance or resource assistance.
- **2022/23 (transition)**
 - **As above**
- **2024 onwards (transformation)**
 - **Indications are a significant (\$ millions) - insufficient funding for stranded costs.**
 - **Uncertainty of impact of other reforms.**

Three Waters Reform – the numbers

Health warning – these numbers will change. Changes will occur in assumptions, valuations, project spend and due diligence outcomes.

ASSET VALUE
@ DRC Valuation Cost (\$B)

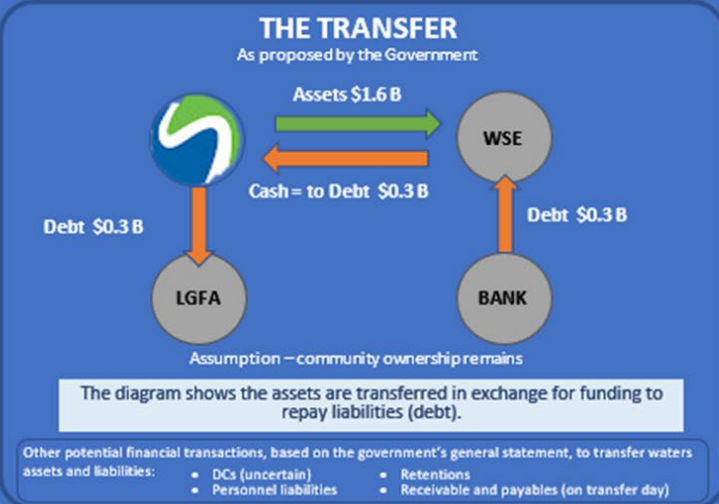
WATER	WWATER	SWATER	TOTAL
0.41	0.60	0.63	\$1.6 B

DRC - Depreciated Replacement Costs. Data Source LTP 2021-31. Not all assets would be transferred to any new waters' entity.

WATERS DEBT

	Year	\$ M	% of total debt
Actual	2020	195	36
Forecast	2021	241	34
	2022	221	29
	2023	267	30
Transfer	2024	319	31

- Council manages debt based at the whole of council level.
- Debt is attributed to activities for annual reporting purposes.
- LTP 2021-31 modified the attribution to better align with capital spending and debt repayment



POST REFORM - DEBT CAPACITY

- Developed from LTP 2021-31 forecast 2024 financials.
- Borrowing for waters investment is proportionally greater than the waters revenue.
- Consequently, removing waters would lead to a lower debt to revenue ratio.
- More detailed analysis will be undertaken using updated 2022/23 annual plan data. This will more fully investigate the consequence of waters leaving on Council's financials.

Debt to revenue – all council	225%
Debt to revenue waters only	389%
Debt to revenue rest of Council	189%
Debt capacity after removing water revenue and debt using 250% limit	\$225,000,000



Waters Reform – info slide 1.

Members of the Three Waters National Transition Unit Board:

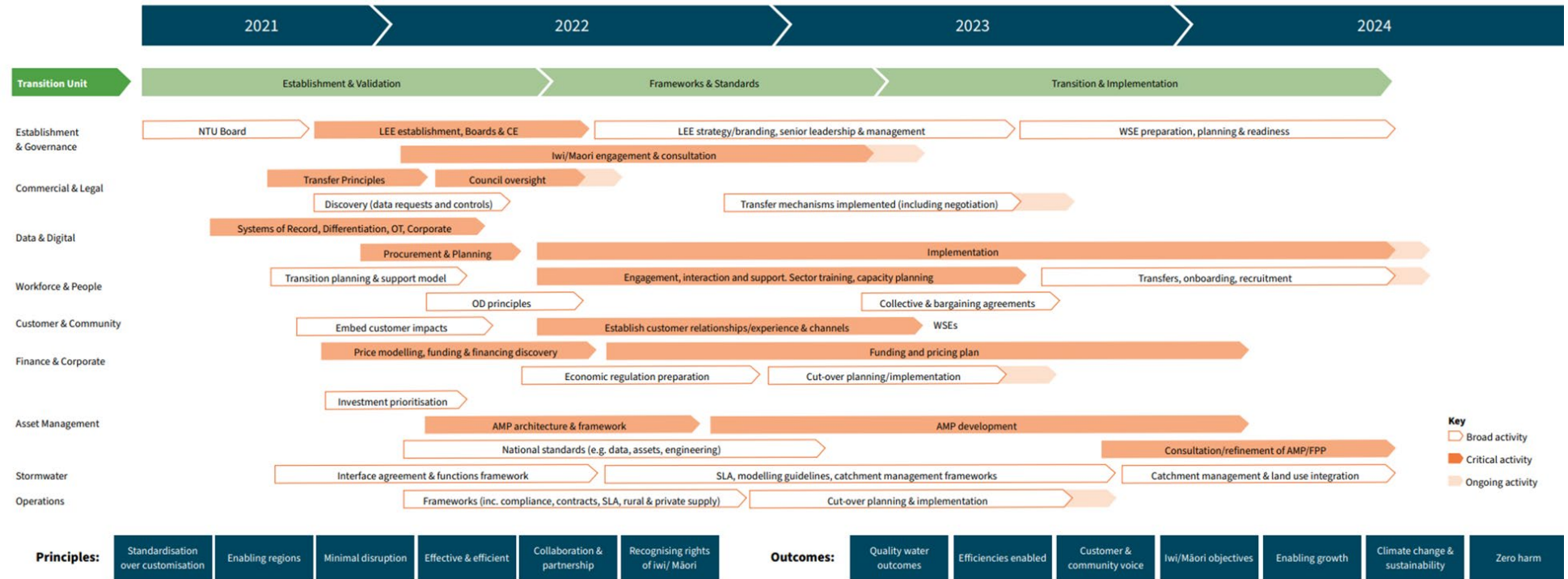
- **Sir Brian Roche** (chair) has direct experience in the establishment and operation of organisations. His roles over many years have created a skill base and perspective directly related to many of the complex financial, operational and policy issues associated with the successful establishment of the entities. He chairs Waka Kotahi NZTA and the COVID-19 Independent Continuous Review, Improvement and Advice Group.
- **John Duncan** has extensive experience in management and global financial markets, including banking and risk management. He is a Deputy Chair of Kāinga Ora and the Public Trust, and an advisor to Auckland City Council on funding, risk management, and balance sheet and capital issues.
- **Fiona Mules** started her career as an investment banker specialising in transactions and valuations. After a decade in the private sector, Fiona was brought in by Treasury to help establish a Public-Private-Partnership (PPP) programme in New Zealand. Fiona is currently an independent director of the Reserve Bank of New Zealand, Lyttelton Port Company and Rural Livestock. She is also a Member of the Southern Response Earthquake Services Independent Oversight Committee for government.
- **Rukumoana Schaafhausen** (Ngati Haua) is a lawyer with significant governance experience. She was recently the Chair of Te Arataura, Waikato-Tainui and is currently serving across a number of Iwi, community, private and public organisations in governance roles including Contact Energy, AgResearch, Miro Berries, Te Waharoa Investments, Tindall Foundation and The Princes Trust.
- **Richard Wagstaff** is the President of the New Zealand Council of Trade Unions (NZCTU). He was previously NZCTU Vice President and National Secretary of the Public Service Association. He is also a member of the International Labour Organisation's Governing Body.
- **Peter Winder** is an experienced director, chief executive and senior manager in local and central government and the private sector. He is a Council Member and Establishment Board Member of Te Pūkenga, the Chair of Unitech and Manukau Institute of Technology. He is also a former Chief Executive of Auckland Regional Council and Local Government New Zealand.

Source: DIA Press Release 23 Feb 2022



Waters Reform – info slide 2.

Indicative Transition Roadmap

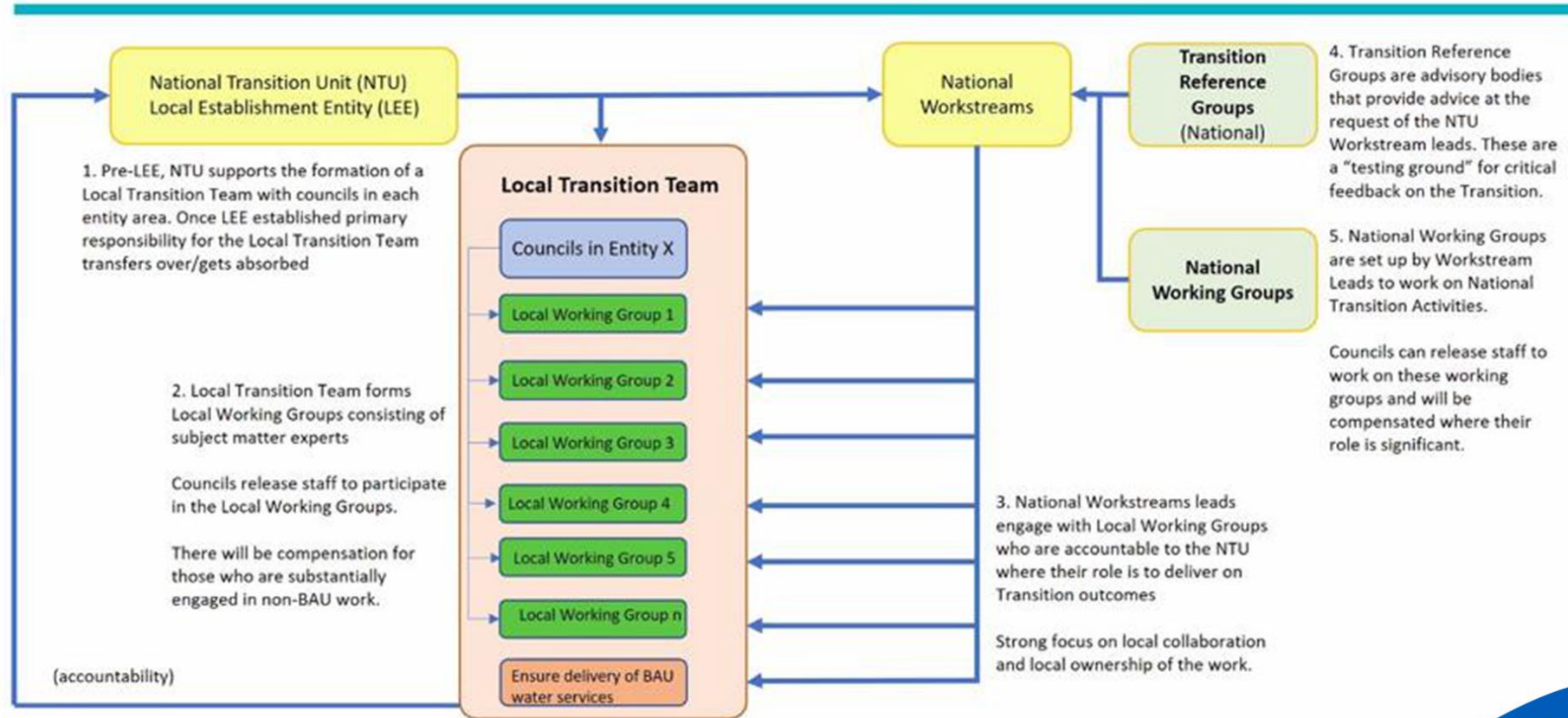


Source: Transition Information Pack (Jan 2022)



Waters Reform – info slide 3.

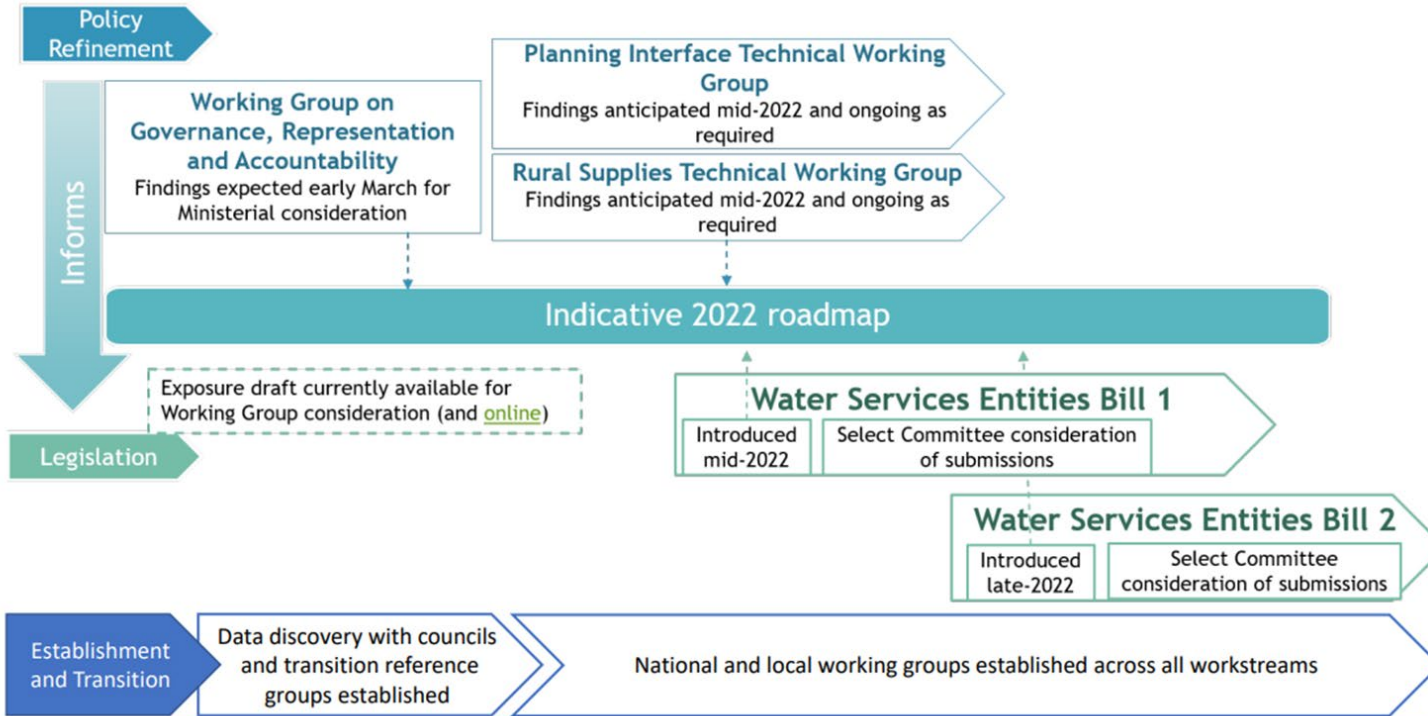
Transition Operating Model – Where the Local Transition Team fits in



Source: NTU webinar (April 2022)



Waters Reform – info slide 4. Indicative 2022 timeline



Three Waters Reform Information provided by the Department of Internal Affairs for discussion purposes 11

Source: DIA PowerPoint Three Waters Reform Boiled Down – a quick overview (April 2022)



Three Waters Better Off Support Package

Guide to the better off funding package for
local authorities



Te Tari Taiwhenua
Internal Affairs

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Headline Information



Key Dates

- ▶ Funding Proposal submission portal opens online **Monday 11 April 2022** and close **Friday 30 September 2022**
- ▶ Tranche 1 funding is available for use from **1 July 2022**



Applying for Funds

- ▶ There are **two** key **documents** to apply for and access the funding:
 - The Funding Proposal, outlining your council's intentions
 - The Funding Agreement
- ▶ You can only submit **one** Funding Proposal, but may include multiple projects or initiatives.
- ▶ You can use funding to cover projects up to **five years** in duration (through to 30 June 2027)
- ▶ You have a **relationship manager** assigned to your council to help you complete your proposal and access the funds (see **Appendix D** for details)



Funding Release

- ▶ An **initial instalment** of 10% of your funds will be released on approval of your Funding Proposal
- ▶ Subsequent instalments will be released in **arrears of costs** incurred, on receipt of:
 - A payment request (up to **one a month** can be submitted); and
 - Proof of **progress** on your expenditure programme

About the better off package

The better off package is:

- An investment by the Crown into the future for local government and community wellbeing; and
- In recognition of the significance to the local government sector (and the communities they serve) of the transfer of responsibility for water service delivery.

The use of this funding supports councils to transition to their new role post-reform through meeting some or all of the following criteria, as laid out in the Heads of Agreement:



Supporting communities to transition to a sustainable and low-emissions economy, including **by building resilience to climate change and natural hazards.**



Delivery of infrastructure and/or services that **enable housing development and growth**, with a focus on brownfield and infill development opportunities where those are available.



Delivery of infrastructure and/or services that **support local place-making and improvements in community well-being.**

About the application and funding process

The better off package is one of the financial support packages to be provided to Local Authorities under the Three Waters Reform, as outlined in the Heads of Agreement.

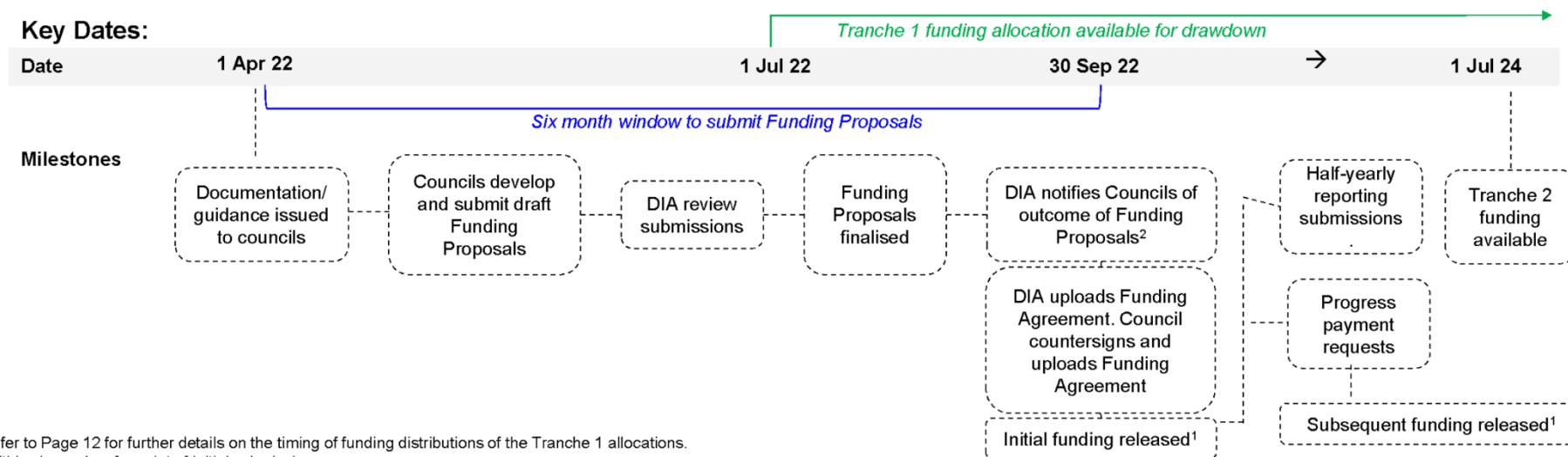
The \$2 billion package has been pre-allocated to councils based on a nationally consistent formula, and is available in two tranches. The first \$500 million of Crown Funding is available from 1 July 2022 and the remaining \$1.5 billion is available from 1 July 2024. This guide is specific to the first tranche of funding, however it is expected that access to Tranche 2 funding will follow a similar process.

This guide sets out the information needed for Local Authorities to engage with the Funding Agreement and Funding Proposal templates.

These are available on the Three Waters Reform webpage at: <https://www.dia.govt.nz/three-waters-reform-programme-reform-support-package>:

- Funding Proposal template available **01/04/2022** (NB: template for review only, proposals must be submitted online via the Grants Management System)
- Funding Agreement available **01/04/2022**

Key Dates:



¹ Refer to Page 12 for further details on the timing of funding distributions of the Tranche 1 allocations.

² Within six weeks of receipt of initial submission.

Relationship managers

To streamline the funding application and approval process, each council will be assigned a Relationship Manager to support them in developing their Funding Proposals. They will be available to provide additional guidance on an as-required basis.

Crown Infrastructure Partners have been appointed to fill this role.



The Relationship Manager's Role

Relationship managers are in place to work with, and support local authorities through the end-to-end Funding Proposal process. They also provide a liaison point between the councils and the DIA throughout the approval process.

Identify and Prioritise

Assist councils to **identify** and **prioritise** initiatives that:

- ▶ Meet the funding criteria & conditions
- ▶ Provide value for money
- ▶ Demonstrate wellbeing outcomes

Prepare

Help local authorities to **prepare** funding proposals, including:

- ▶ Preparing the schedule of expenditure
- ▶ Identifying milestones linked to project delivery
- ▶ Advising on contingency requirements
- ▶ Completing the wellbeing assessments

Submit

Support Councils to **submit** funding proposals to DIA:

- ▶ Navigate the online Grants Management System
- ▶ Liaise with the DIA and the Cross Government Evaluation team to resolve any queries on the Funding Proposal

Funding application documentation

Funding Agreement

Local Authorities are required to sign the **Funding Agreement** to access the better off funding package.

DIA will provide a completed Funding Agreement following its review of the funding proposal. A pro-forma copy of the Funding Agreement is available [here](#).

The Agreement sets out the **purpose** of the funding, and the **requirements and conditions** that local authorities agree to meet to access the funding. The Agreement includes detail on the following:

- Funding conditions and criteria
- Overview of what the funding stimulus may be spent on
- Conditions attached to the funding
- Engaging with and supporting transition activities
- Reporting and other requirements

Funding Proposal

The Funding Proposal is the document Local Authorities will use to access funding, and specifies the Programme of Expenditure they wish to apply funding to. It will be submitted to DIA for review to ensure that it meets the following criteria:

Funding criteria

- The Programme must support one or more of the better off package criteria (*refer page 4*)
- Funding proposals must be for:
 - new initiatives/projects; and/or
 - to accelerate, scale-up and/or enhance the quality of planned investment
- The duration of the Programme of Expenditure must be 5 years or less (completion date on or before 30 June 2027)
- The Total Maximum Amount Payable must be equal to or less than the funding allocation (*refer page 13*)

Local Authorities have flexibility to apply better off funding as they deem appropriate, provided it is consistent with these funding conditions and the Funding Agreement, and approved via the Funding Proposal.

The Funding Proposal will cover the following elements:

- Programme overview (including work to be undertaken, summary of costs, relevant milestones and dates.)
- Demonstration that engagement was undertaken with iwi/Māori on the use of funding.
- How the Programme meets one or more of the better off package funding criteria and conditions
- A brief wellbeing assessment setting out the expected benefits of the Programme



Administration of the better off package will be managed through the DIA online Grant Management System. **To apply you will need access to this system.** See **Appendix C** for more information

How to Identify and Prioritise Initiatives

The funding criteria provides flexibility for Councils to identify a potentially wide range of funding proposals.

Where a council has existing strategic plans and documentation that meet the funding criteria, these may inform your project selection, including proposals to accelerate, scale up or enhance current and planned initiatives.

To assist in identifying and prioritising your initiatives, below are examples of projects that may be eligible based on the criteria, along with key considerations when prioritising a list of initiatives. Judgement is required when making these decisions, and councils may choose to assign different weighting to these prioritisation factors based on the needs of your community.

Initiative Examples	
1	Public Transport Improvement Programme* <ul style="list-style-type: none"> Replace bus fleet with electric buses Upgrade public transport hubs to make them more user-friendly and safe Increase frequency of services in busy times, and identify and provide public transport options to under-serviced areas
2	Street Lighting Project <ul style="list-style-type: none"> Replace street lights with energy efficient bulbs Increase street lighting in underlit and unsafe areas
3	Coastal Placemaking Initiative <ul style="list-style-type: none"> New coastal public space and open air water park
4	Community Connectivity Initiative* <ul style="list-style-type: none"> Assist communities in need with affordable wifi connections and wifi-enabled devices
5	Digital Automation Programme* <ul style="list-style-type: none"> Transform resource consent application system
6	Supporting people living with disabilities to participate fully in society* <ul style="list-style-type: none"> Improve accessibility to community facilities including ramp access and handrails Installation of high specification bathrooms for people with complex disabilities

Initial Eligibility Check	
Does the initiative meet the funding conditions listed on page 4?	
Prioritisation Factors	
Value for Money	Do the identified wellbeing outcomes justify the cost?
Strategic Plans	Is there existing strategic planning documentation to support this initiative?
Iwi/Māori Support	Has the council engaged with iwi/Māori on the intended use of the funding?
Risk Analysis	Does your risk analysis show any undue concerns in completing the project - for example, are the resources required readily available?
Community Support	Does the initiative have rate-payer and local community support?

*See Appendix B for examples of wellbeing assessments for these initiatives

Funding Proposal – Key areas of consideration

Key areas of consideration to be aware of when developing the Funding Proposal:

Relationship between funding tranches

The first tranche (\$500m available in July 2022 as per this guidance document) is distinct from the second, but councils are expected to **consider how the first tranche could support funding proposals for the second tranche**.

Local authorities do not have to apply for the full Tranche 1 amount upfront, funds not applied for in Tranche 1 will be made available in Tranche 2.

The second tranche will be subject to future guidance and application processes, however the same funding criteria and conditions are expected to apply.

Output-based milestones

Milestones must be linked to **specific and measurable outputs**. Milestones should reflect progress of project delivery. For example:

- In relation to project stages (e.g. procurement, design, construction); or
- Based on project progress (e.g. percentage of works completed)

Contingency

When preparing your schedule of expenditure, consider whether a contingency allowance is appropriate to allow for cost increases outside your control.

A process will be developed in the coming months to enable you to utilise unspent contingency.

Prior funding applications

If you have a project that meets the better off funding criteria, and has previously been submitted and reviewed through **another contestable funding source**, speak to your Relationship Manager.

You may be able to re-use your prior application details to streamline your Funding Proposal application.

Examples of funding that may fit this criteria are:

- Infrastructure Acceleration Fund (IAF)
- National Land Transport Programme (NLTP)
- IRG Shovel Ready

Other areas of consideration

Iwi/Māori: Pathway to target state of partnership

Refer to Page 10

Wellbeing assessment

Refer to Page 11

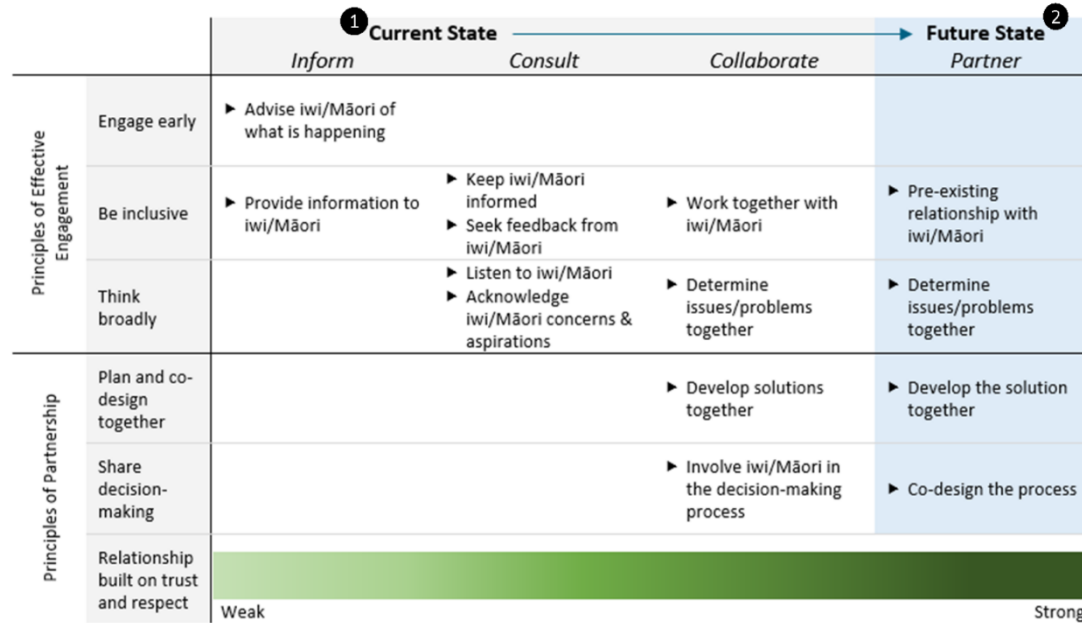


Relationship Managers will work with Local Authorities to finalise their Funding Proposals. They will be able to assist with specific questions around these considerations.

Iwi/Māori engagement

The criteria for the Better off funding package recognises that local authorities are expected to engage with iwi/Māori in determining how it will use its funding allocation. For tranche one, it is expected that the Funding Proposal demonstrates genuine engagement, extending beyond standing committees (see below).

The diagram below illustrates a continuum of engagement to partnership between Local Authorities and iwi/Māori. The funding tranches have been designed in a way that understands that most councils sit on the continuum at or near the current state. Investment in time and resources is required by both parties in order to build a relationship that is closely aligned to partnership. In recognition of this, the **minimum** expectations for Tranche 1 are set around the current state. However, the expectation with respect to accessing Tranche 2 funding is that the target state is achieved, or that there is a demonstrated pathway as to how it will be achieved.



Tranche 1 Minimum Expectations (Current State):

- Identify Māori impacted by the kaupapa (purpose) of the work, with a focus on hapū, iwi, post-settlement government entities, other mana whenua
- Evidence of genuine engagement, extending beyond standing committees
- Identify issues/concerns arising from the engagement, and steps taken to accommodate and support these interests.

Tranche 2 Minimum Expectations (Target State):






- Relationships built on trust and mutual respect
- Funding Proposals have been co-designed and co-implemented from inception
- Decision-making on initiatives to fund and prioritise have been made jointly.

Wellbeing assessments

Councils are expected to provide a wellbeing assessment setting out the expected benefits and wellbeing outcomes for each Programme.

The assessment should outline how the programme will deliver on:

- The broader “wellbeing mandates” under the framework of the Local Government Act 2002 (LGA), and
- The specific wellbeing criteria for the better off package shown on page 3

LGA areas of wellbeing	Considerations for completing the Wellbeing Assessment
 Social wellbeing	<ul style="list-style-type: none"> • Define the expected wellbeing outcomes from the Programme. • Describe how the Programme outcomes will promote the better off package outcomes and wellbeing objectives for your community. • Decide how you will measure, monitor and report on your stated wellbeing outcomes, preferably using your existing processes. (e.g. indicators of change/key performance indicators)
 Economic wellbeing	
 Environmental wellbeing	
 Cultural wellbeing	
 See Appendix B for examples of Wellbeing Assessments based on the initiatives shown on page 8.	

Administration Process - Key areas of consideration

Key administration principles to be aware of when planning and applying for the better off funding package:

Release of funding	<p>Following approval of a Funding Proposal and an executed Funding Agreement, an initial disbursement of 10% of the Total Maximum Payable amount will be released.</p> <p>The remainder will be disbursed on receipt of a progress payment request from Councils:</p> <ul style="list-style-type: none"> • Councils may submit a progress payment request, along with a progress report, up to once a month. This will be reviewed and approved by Crown Infrastructure Partners (CIP). • The review will focus on evidence that payments are linked to progress on the Programme. • On confirmation the review is satisfactory, funds will be released in arrears of costs incurred.
Monitoring and reporting	<p>The Funding Agreement will outline the reporting requirements for councils.</p> <ul style="list-style-type: none"> • Reporting is half-yearly (periods ending 30 June and 31 December), and a template will be provided to submit online. • CIP will monitor local authorities' progress against the Funding Proposal to provide assurance that Crown funding is being spent as intended and that projects are progressing within a reasonable timeframe. • The half-yearly reporting will also include monitoring of the achievement of outcomes as specified per the Funding Proposal. • There will be a process to address any material under-delivery or deviation from scope.
Project Substitution	<p>There may be circumstances in which a council wishes to substitute or re-allocate funds allocated to another project in the Funding Proposal. These decisions will be considered by CIP, and made on a case-by-case basis.</p> <p>It may be prudent to consider having a “back-up” list of projects you have discussed with your relationship manager that can be used as a substitute in the event an approved initiative is unable to proceed.</p>
Funding shortfalls	<p>Funding allocations will not be ‘topped up’ to meet any shortfalls experienced by councils.</p>

Funding allocations - methodology

A funding allocation framework has been developed, which is based on a nationally consistent formula.

The Government and Local Government New Zealand have agreed to this formula as it recognises the relative needs of local communities, the unique challenges facing local authorities in meeting those needs and the relative differences across the country in the ability to pay for those needs.

General approach to determining notional funding allocations



The **population** in the relevant council area.
(75% weighting)



The NZ **deprivation index*** adjustment to recognise the relative distribution of need across the country
(20% weighting)



The **land area** covered by a council, excluding national parks
(5% weighting)

*The New Zealand index of deprivation is an area-based measure of socioeconomic deprivation in New Zealand that combines nine variables from the Census, including income levels, educational qualifications, home ownership, employment, family structure, housing and access to transport and communications. It has been introduced in the formula for allocating the better off component of the support package to recognise the relative distribution of need across the country. It enables a balanced distribution of funding across territorial authorities that complements the remaining two criteria that recognise needs associated with a larger population base and land area.



APPENDICES

APPENDIX A: Notional funding allocations

Council	Allocation (\$m)		
	Tranche 1	Tranche 2	Total
Auckland	127.14	381.43	508.57
Ashburton	4.19	12.57	16.76
Buller	3.50	10.51	14.01
Carterton	1.70	5.10	6.80
Central Hawke's Bay	2.83	8.50	11.34
Central Otago	3.21	9.63	12.84
Chatham Islands	2.21	6.62	8.82
Christchurch	30.61	91.82	122.42
Clutha	3.27	9.82	13.09
Dunedin	11.54	34.63	46.17
Far North	8.79	26.38	35.18
Gisborne	7.21	21.62	28.83
Gore	2.29	6.86	9.15
Greater Wellington	5.08	15.23	20.31
Grey	2.98	8.95	11.94
Hamilton	14.65	43.95	58.61
Hastings	8.72	26.16	34.89
Hauraki	3.78	11.34	15.12
Horowhenua	4.99	14.96	19.95
Hurunui	2.67	8.01	10.68
Invercargill	5.78	17.33	23.11
Kaikoura	1.55	4.66	6.21
Kaipara	4.04	12.11	16.14
Kapiti Coast	5.26	15.79	21.05
Kawerau	4.32	12.95	17.27
Lower Hutt	8.36	25.07	33.43
Mackenzie	1.55	4.65	6.20
Manawatu	3.76	11.29	15.05
Marlborough	5.76	17.28	23.04
Masterton	3.88	11.65	15.53
Matamata-Piako	4.32	12.95	17.27
Napier	6.46	19.37	25.82
Nelson	5.18	15.54	20.72
New Plymouth	7.90	23.69	31.59
Total			

Council	Allocation (\$m)		
	Tranche 1	Tranche 2	Total
Opotiki	4.68	14.04	18.72
Otorohanga	2.66	7.99	10.65
Palmerston North	8.16	24.47	32.63
Porirua	5.41	16.22	21.63
Queenstown Lakes	4.03	12.09	16.13
Rangitikei	3.33	9.99	13.32
Rotorua Lakes	8.05	24.15	32.19
Ruapehu	4.12	12.35	16.46
Selwyn	5.59	16.77	22.35
South Taranaki	4.55	13.65	18.20
South Waikato	4.64	13.92	18.56
South Wairarapa	1.88	5.63	7.50
Southland	4.80	14.41	19.21
Stratford	2.57	7.70	10.27
Taranaki	3.80	11.39	15.19
Tasman	5.64	16.91	22.54
Taupo	4.93	14.80	19.74
Tauranga	12.10	36.30	48.41
Thames-Coromandel	4.05	12.15	16.20
Timaru	4.97	14.92	19.90
Upper Hutt	3.90	11.69	15.59
Waikato	7.88	23.65	31.53
Waimakariri	5.54	16.63	22.18
Waimate	2.42	7.26	9.68
Waipa	5.24	15.73	20.98
Wairoa	4.66	13.97	18.62
Waitaki	3.71	11.13	14.84
Waitomo	3.55	10.64	14.18
Wellington	14.42	43.27	57.69
Western Bay of Plenty	5.34	16.03	21.38
Westland	2.79	8.36	11.15
Whakatane	5.66	16.99	22.66
Whanganui	5.98	17.94	23.92
Whangarei	9.48	28.45	37.93
Total	500.00	1,500.00	2,000.00

APPENDIX B: Wellbeing assessment examples

Example 1	Initiative Description: Public Transport Improvement Programme		
	Better off funding criteria met:		Wellbeing areas met:
	1. Supporting communities to transition to a sustainable and low-emissions economy 2. Delivery of infrastructure and/or services that support local place-making and improvements in community well-being.		1. Social 2. Environmental
	Wellbeing Outcomes	How Outcome is Measured	How Outcome is Reported
Lower carbon emissions	Reduction in carbon emissions	Annual Report	
Increase in use of public transport	Increase in # people using buses and trains Increase in % people that feel safe using public transport	Annual Report	

Example 2	Initiative Description: Community Connectivity Initiative		
	Better off funding criteria met:		Wellbeing areas met:
	1. Delivery of infrastructure and/or services that support local place-making and improvements in community well-being.		1. Social 2. Economic
	Wellbeing Outcomes	How Outcome is Measured	How Outcome is Reported
Increase in access to reliable at home wifi service	Increase in # people with access to reliable wifi connections	Annual Report	
Increase in access to wifi enabled devices to support work and study from home	Increase in % people with the ability to work and/or study from home	Annual Report	

APPENDIX B: Wellbeing assessment examples

Example 3	Initiative Description: Digital Automation Programme		
	Better off funding criteria met:		Wellbeing areas met:
	1. Delivery of infrastructure and/or services that enable housing development and growth		1. Economic
	Wellbeing Outcomes	How Outcome is Measured	How Outcome is Reported
Faster processing of resource consents	Decrease in time taken to process a consent Increase in customer satisfaction on consent process	Annual Report	

Example 4	Initiative Description: Supporting people living with disabilities to participate fully in society		
	Better off funding criteria met:		Wellbeing areas met:
	1. Delivery of infrastructure and/or services that support local place-making and improvements in community well-being.		1. Social 2. Cultural
	Wellbeing Outcomes	How Outcome is Measured	How Outcome is Reported
Community facilities are inclusive and accessible to those living with disabilities	Increase in # community facilities with disability friendly access Increase in % people with disabilities that feel community spaces are accessible	Annual Report	
Those with complex disabilities can access and use public bathroom facilities	# Public high specification bathrooms installed	6 Monthly Better Off Report Submission	

Appendix C: How to access the DIA's Grants Management System

STEP 1: Create the Better Off organisation profile

- ▶ Your relationship manager will provide DIA staff with the following information on behalf of your council:
 - Council name
 - Contact name (*this person will become the "Profile Secretary"*)
 - Contact phone number
 - email address (*this will be used for payment advice and other correspondence*)
- ▶ DIA staff will create the Better Off organisation

STEP 2: Linking an individual to administer the profile

- ▶ A RealMe invitation link will be emailed to the nominated contact, connecting them to the Better Off council profile. RealMe credentials are required for logging in, but can be created if need be.
- ▶ The contact person will fill out the organisation profile, including:
 - Bank account for payment
 - Upload of bank account verification document (bank deposit slip, statement confirming bank account name and number)
- ▶ Once logged in, the named contact can invite other individuals to join the organisation profile (to act as signatories for example).

STEP 3: Submit the Funding Proposal

- ▶ Nominated individuals linked to the Better Off organisation can create, edit and submit the Funding Proposal for the Council they represent.
- ▶ Once submitted, the Funding Proposal will be reviewed and the DIA will issue a decision within 6 weeks.

email ▶ community.matters@dia.govt.nz phone ▶ 0800 824 824 login: ▶ <https://communityadviceandgrants.dia.govt.nz>

Appendix D: Relationship manager details

Below are the contact details for the Relationship Managers assigned to each region.

Region	Name	email contact
Auckland & Northland	Martin Smith	martin.smith@crowinfrasturcture.govt.nz
Bay of Plenty & Waikato	John Mackie	john.mackie@crowinfrasturcture.govt.nz
Taranaki	Anthony Wilson	anthony.wilson@crowinfrasturcture.govt.nz
Manawatu/Rangatikei & Top of the South	Ian Garside	ian.garside@crowinfrasturcture.govt.nz
Hawkes Bay	Geof Stewart	geof.stewart@crowinfrasturcture.govt.nz
Wellington	Brent Manning	brent.manning@crowinfrasturcture.govt.nz
Canterbury	Paul Utting	paul.utting@crowinfrasturcture.govt.nz
Otago/Southland and West Coast	Steve Apeldoorn	steve.apeldoorn@crowinfrasturcture.govt.nz



FUNDING AGREEMENT

BETWEEN

DEPARTMENT OF INTERNAL AFFAIRS

AND

[NAME OF RECIPIENT]

AND

**CROWN INFRASTRUCTURE PARTNERS
LIMITED (AS MONITOR)**

FOR

**THREE WATERS REFORM – BETTER OFF
PACKAGE (TRANCHE 1 FUNDING)**

AGREEMENT

The parties (identified below in Part 1) agree to be bound by the terms and conditions of this Agreement, as set out below in Part 1 (Key Details), Part 2 (General Terms), Part 3 (Definitions and Construction), Schedule 1 (Permitted Funding Activities) and Schedule 2 (Transition Support Arrangements).

PART 1: KEY DETAILS

- 1 **Parties** The Sovereign in right of New Zealand, acting by and through the [Deputy Chief Executive] of the Department of Internal Affairs (**DIA**)
[NAME OF RECIPIENT] (**Recipient**)

Crown Infrastructure Partners Limited (**Monitor**)
- 2 **Background** The New Zealand Government is undertaking a reform programme for “Three Waters” (drinking water, wastewater and stormwater) service delivery for communities (**Three Waters Reform Programme**).

The Crown entered into a Heads of Agreement with New Zealand Local Government Association Incorporated Te Kahui Kaunihera o Aotearoa (**LGNZ**) under which, amongst other things, the Crown proposed that a Three Waters Reform financial support package be provided to local authorities, comprising:
1. a “no worse off” package which will seek to ensure that financially, no local authority is in a materially worse off position to provide services to its community directly because of the Three Waters Reform Programme and associated transfer of responsibility for the provision of water services (including the transfer of assets and liabilities) to the Water Services Entities; and
 2. a “better off” package of \$2 billion which supports the goals of the Three Waters Reform Programme by supporting local government to invest in the wellbeing of their communities in a manner that meets the priorities of both the central and local government, and is consistent with the agreed criteria for such investment set out in the Heads of Agreement,
- to be given effect in agreements between each local authority and the Crown (through DIA).

The better off package will comprise:
1. \$1 billion of Crown funding, \$500 million of which is intended to be provided to local authorities from 1 July 2022 to enable early investment (“**Tranche 1 Funding**”); and
 2. the remaining \$1 billion to be funded by the new Water Services Entities.
- This Agreement relates to the provision of funding to the Recipient from the Tranche 1 Funding of \$500 million.

The Crown’s objectives with the better off package are, acknowledging the Reform Objectives, to demonstrate central government confidence in the future for local government by providing the sector with additional funds to support local wellbeing outcomes in a way that aligns with the priorities of central and local government, including through meeting some or all of the following criteria:
1. supporting communities to transition to a sustainable and low-emissions economy, including by building resilience to climate change and natural hazards;

2. delivery of infrastructure and/or services that:
 - a. enable housing development and growth, with a focus on brownfield and infill development opportunities where those are available;
 - b. support local place-making and improvements in community well-being.

The Recipient is a [territorial authority with statutory responsibility for delivering Three Waters services within its own district or city]. The Recipient will work collaboratively with the New Zealand Government in connection with the Three Waters Reform Programme.

Crown Infrastructure Partners Limited is party to this Agreement to undertake a review and monitoring role on behalf of the DIA, as further described in this Agreement.

DIA has agreed to contribute funding to the Recipient on the terms and conditions of this Agreement (**Agreement**). This funding is being provided to enable the Recipient to undertake the activities described in Schedule 1.

Key details of this Agreement are set out in this **Part 1**. The full terms and conditions are set out in **Part 2**. Defined terms and rules of interpretation are set out in **Part 3**.

- 3 **Conditions Precedent**

No Funding is payable under this Agreement until DIA has confirmed to the Recipient in writing that it has received, and found, in its sole discretion, to be satisfactory to it in form and substance, the following documents and evidence:

 1. This Agreement, duly executed by the Recipient.
 2. The final Funding Proposal prepared by the Recipient, in a form approved by DIA.

The Recipient is responsible for the content of the Funding Proposal and approval by DIA for the purposes of this Agreement shall not impose any obligations on DIA in respect of the Funding Proposal other than as expressly set out in this Agreement.

These conditions precedent must either be satisfied (in the opinion of DIA) or waived by DIA (at its sole discretion) by 30 September 2022. In the event that they are not satisfied or waived within that time, DIA may notify the Recipient that this Agreement has not come into effect and is null and void.
- 4 **Permitted Funding Activities**

The Recipient may only use the Funding:

 1. for the purposes set out in Schedule 1; and
 2. for any other purpose with DIA or the Monitor's prior written approval,

(each a **Permitted Funding Activity**).
- 5 **Funding Proposal**

The Recipient is to undertake the Permitted Funding Activities in accordance with the Funding Proposal approved by the DIA (or otherwise with DIA or the Monitor's prior written approval).
- 6 **End Date**

The End Date is [1 July 2027], or such later date determined by DIA in its discretion. **[Note: Recipients may propose an End Date having regard to the funding activities covered by this agreement, no later than 30 June 2027. DIA intend that the End Date is to be confirmed for each agreement]**
- 7 **Funding**

The total Funding available under this Agreement is up to NZ\$[INSERT HERE] plus GST (if any). This is the Total Maximum Amount Payable.

The first instalment of Funding under this Agreement is (NZ\$[insert] plus GST (if any)) subject to satisfaction of the Conditions Precedent set out in Item 3 above and receipt of a duly completed Payment Request in accordance with clause 1 of Part 2.

The Recipient may submit progress payment claims for the balance of the Funding under this Agreement, subject to satisfaction of the conditions set out below and the other terms and conditions of this Agreement.

Each instalment of Funding under this Agreement, following payment of the first instalment, is subject to:

- (a) Receipt of a duly completed Payment Request in accordance with clause 1 of Part 2.
- (b) DIA receiving and being satisfied with the six-monthly reports specified in the Key Details, together with the other information required in this Agreement.
- (c) DIA being satisfied that the Recipient is using reasonable endeavours to comply with the Transition Support Arrangements set out in Schedule 2.
- (d) DIA being satisfied that the Recipient is complying with the requirements of any Remedial Plan.
- (e) No Termination Event, or event entitling DIA to suspend funding under this Agreement, subsisting.

The first Payment Request may be submitted upon the Commencement Date occurring. Each subsequent Payment Request may be submitted at any time, but no more than one such Payment Request may be submitted in any month, except (in each case) to the extent agreed by DIA in its sole discretion.

8 Reporting

The Recipient will provide DIA via the DIA's Grant Management System portal with six-monthly reports by the 15th Business Day following the end of each six month period ending on 30 June and 31 December), with effect from the Commencement Date. Each six-monthly report must include the information set out below, in the standard reporting form specified by DIA.

If the frequency of reporting is changed to quarterly, as further described in clause 2.14, then the obligations described in this Agreement in respect of each six-monthly report will equally apply to the required quarterly reports (to be provided by the 15th Business Day following the end of each Quarter).

The Recipient will also provide DIA via the DIA's Grant Management System portal with a final report by the 15th Business Day following the End Date. The final report must include the information set out below, in the standard reporting form specified by DIA.

Each report is to be in form and substance satisfactory to DIA in its sole discretion.

Each six-monthly report must include the following information:

- (a) Description of activities undertaken during the relevant six month period (including progress against relevant milestones);
- (b) A summary of expenditure for the relevant six month period (including any co-funding by the Recipient);
- (c) Plans for the next six month period (including a financial forecast for cashflow purposes);
- (d) Any major risks arising or expected to arise with the Permitted Funding Activities, costs or performance of this Agreement, together with actual or proposed mitigations for those risks (including, where the Permitted Funding Activities) costs are forecast to exceed budgeted

costs, how the shortfall is to be funded);

- (e) A summary of the outcomes achieved as a result of the Permitted Funding Activities; and
- (f) Any other information relevant to this Agreement and/or DIA's involvement in connection with the Permitted Funding Activities that is notified by DIA or the Monitor in writing to the Recipient.

The final report must include the following information:

- (a) Description of activities undertaken during the term of this Agreement;
- (b) A summary of expenditure on the Permitted Funding Activities (including any co-funding by the Recipient);
- (c) A summary of the outcomes achieved as a result of the Permitted Funding Activities;
- (d) Any specific reporting requirements set out in this Agreement; and
- (e) Any other information relevant to this Agreement and/or DIA's involvement in connection with the Permitted Funding Activities that is notified by DIA or the Monitor in writing to the Recipient.

9 **Special Terms** During the term of this Agreement the Recipient shall use reasonable endeavours to comply with the Transition Support Arrangements, as set out in Schedule 2.

10 **Representative** DIA's Representative:
Name: Michael Lovett
Email: threewaters@dia.govt.nz

Recipient's Representative:
Name: [name]
Email: [email]

Monitor's Representative:
Name: [name]
Email: [email]

11 **Address for Notices** To DIA:
Three Waters Reform
Level 7, 45 Pipitea Street
Wellington 6011
Attention: Michael Lovett
Email: threewaters@dia.govt.nz, with a copy to legalnotices@dia.govt.nz

To the Recipient:
[address]
Attention: [name]
Email: [email]

To the Monitor:
[address]
Attention: [name]
Email: [email]

SIGNATURES

SIGNED by the **SOVEREIGN IN RIGHT OF NEW ZEALAND** acting by and through the [Deputy Chief Executive] of the Department of Internal Affairs or his or her authorised delegate:

Name: Michael Lovett
Position: Deputy Chief Executive, Local Government
Date:

SIGNED for and on behalf of [RECIPIENT NAME] by the person(s) named below, being a person(s) duly authorised to enter into obligations on behalf of the Recipient:

Name:
Position:
Date:

Name:
Position:
Date:

SIGNED for and on behalf of **CROWN INFRASTRUCTURE PARTNERS LIMITED** by the person(s) named below, being a person(s) duly authorised to enter into obligations on behalf of the Monitor:

Name:
Position:
Date:

Name:
Position:
Date:

END OF PART 1

PART 2: GENERAL TERMS

1 FUNDING

- 1.1 DIA must pay the Funding (up to the "Total Maximum Amount Payable" specified in the Key Details) to the Recipient, subject to the terms of this Agreement. Unless stated otherwise in this Agreement, the Recipient may only claim the Funding to the extent necessary to cover Eligible Costs that have been or will be incurred by the Recipient, and the Recipient must use the Funding solely on Eligible Costs.
- 1.2 The Recipient must submit for DIA's approval a Payment Request via the DIA's Grant Management System portal at the time specified in, and otherwise in accordance with, Item 7 in the Key Details.
- 1.3 Each Payment Request must include the amount of Funding requested, be authorised by the Chief Executive or an authorised representative of the Recipient, and be accompanied by the following supporting documentation:
- (a) a breakdown / total transaction listing of total Eligible Costs that have been or will be incurred to undertake the Permitted Funding Activities, substantiated by invoices and cost details;
 - (b) for the first Payment Request submitted following payment of the first instalment of Funding, a breakdown / total transaction listing of expenditure related to the first instalment, substantiated by invoices and cost details;
 - (c) a summary of the number of jobs created through people employed in the relation to the Permitted Funding Activities; and
 - (d) any other reasonable information or evidence requested by DIA or the Monitor in relation to summary project information or Eligible Costs that have been incurred or will be incurred.
- 1.4 DIA is not required to pay any Funding in respect of a Payment Request:
- (a) if any reports specified in the Key Details have not been provided or are not in form and substance satisfactory to DIA or the Monitor in its sole discretion;
 - (b) if the Conditions specified in Item 7 of the Key Details relating to that instalment have not been satisfied;
 - (c) if payment will result in the Funding exceeding the "Total Maximum Amount Payable" specified in the Key Details;
 - (d) if this Agreement has expired or been terminated; and/or
 - (e) while the Recipient is in material breach of this Agreement.

For the avoidance of doubt, DIA's obligation to make Funding available under this Agreement is strictly subject to clause 6.2.

- 1.5 Subject to the terms of this Agreement, DIA must pay each valid Payment Request by the 20th day of the month after the month the relevant Payment Request is approved by the DIA, and if such day is not a Business Day, on the next Business Day. DIA will pay the Funding to the Recipient's nominated Bank Account.

- 1.6 The Funding made available under this Agreement comprises grant funding and does not comprise an equity investment or loan. It is only repayable in the specific circumstances set out in this Agreement.
- 1.7 DIA may, at its discretion, notify the Recipient in writing that it wishes to enter into a GST Offset Agreement in connection with the payment of GST on any Funding. The Recipient must, where applicable, take all such steps as are reasonably required to achieve that GST offset in accordance with the Goods and Services Tax Act 1985.

2 RECIPIENT'S RESPONSIBILITIES

Standards and compliance with laws

- 2.1 The Recipient must comply with all applicable laws, regulations, rules and professional codes of conduct or practice.

Permitted Funding Activities

- 2.2 The Recipient must not, without DIA's or the Monitor's prior written consent, make any Material Variation to the Permitted Funding Activities (including their description and scope).
- 2.3 The Recipient must ensure that the Permitted Funding Activities are carried out:
- (a) promptly with due diligence, care and skill, and in a manner that is consistent with Best Industry Practice; and
 - (b) by appropriately trained, qualified, experienced and supervised persons; and in accordance with any directions of DIA or the Monitor, notified by DIA or the Monitor in writing from time to time.
- 2.4 The Recipient must use reasonable endeavours to ensure that the Permitted Funding Activities are completed by the End Date.
- 2.5 The Recipient is solely responsible for the activities and matters carried out as Permitted Funding Activities, including being solely responsible for the acts and omissions of any contractors and subcontractors in connection with the same.
- 2.6 The Recipient must ensure that all agreements it enters into with any contractors or any other party in connection with the Permitted Funding Activities are on an "arm's length" basis, provide value-for-money and do not give rise to any Conflict of Interest. The Recipient must provide DIA with reasonable evidence of compliance with this clause 2.6 in response to any request by DIA from time to time.

Information Undertakings

- 2.7 The Recipient must provide DIA and the Monitor with the reports specified in the Key Details, in accordance with the timeframes and reporting requirements set out in the Key Details.
- 2.8 The Recipient must provide DIA and the Monitor with any other information about the Permitted Funding Activities requested by DIA and/or the Monitor within the timeframe set out in the request.
- 2.9 The Recipient must promptly notify DIA and the Monitor if:

- (a) the Recipient (or any of its personnel or contractors) becomes aware of, or subject to, a Conflict of Interest; or
- (b) the Recipient becomes aware of any matter that could reasonably be expected to have an adverse effect on the Permitted Funding Activities and any related programme, or result in a Termination Event or a breach of any term of this Agreement by the Recipient,

and if requested by DIA must promptly provide DIA with its plan to mitigate and manage such Conflict of Interest or such matter.

- 2.10 The Recipient must not at any time do anything that could reasonably be expected to have an adverse effect on the reputation, good standing or goodwill of DIA or the New Zealand Government. The Recipient must keep DIA informed of any matter known to the Recipient which could reasonably be expected to have such an effect.
- 2.11 The Monitor has been appointed by DIA to undertake a review and monitoring role under this Agreement, including by:
- (a) reviewing and confirming satisfaction with the reports specified in the Key Details;
 - (b) reviewing and approving Payment Requests submitted by the Recipient;
 - (c) seeking, reviewing and confirming satisfaction with further information from the Recipient; and
 - (d) making recommendations to DIA and the New Zealand Government in respect of the Funding and the Agreement.

The Recipient agrees that all its communications and correspondence under this Agreement will be made with DIA or, to the extent directed by DIA or provided for above, the Monitor.

Funding, records and auditors

- 2.12 The Recipient must receive and manage all Funding in accordance with good financial management and accounting practices and to a high standard that demonstrates appropriate use of public funds.
- 2.13 The Recipient must keep full and accurate records (including accounting records) of the Permitted Funding Activities and retain them for at least 7 years after the last payment of Funding under this Agreement. The Recipient must permit DIA or the Monitor (or any auditor nominated by DIA or the Monitor) to inspect all records relating to the Permitted Funding Activities and must allow DIA, the Monitor and/or the auditor access to the Recipient's premises, systems, information and personnel for the purposes of this inspection. DIA shall bear any third party costs arising from such inspection, unless the inspection reveals a breach of this Agreement, in which case the Recipient shall bear such costs.

Monitoring

- 2.14 Without limiting anything in clause 2.15, at the request of the DIA (or the Monitor), the Recipient and the DIA and/or the Monitor shall meet by the 15th Business Day following the end of each six month period, to jointly discuss the Recipient's compliance with its obligations under this Agreement during the relevant six-month period (including its obligations under Items 5 and 9 of the Key Details). Where the DIA (or the Monitor)

considers (acting reasonably) that the Recipient has not complied with its obligations under this Agreement during the relevant six-month period:

- (a) DIA (or the Monitor) and the Recipient shall in good faith discuss:
 - (i) the identified areas of non-compliance and agree the steps that the Recipient will take to address such areas of non-compliance going forwards (**Remedial Plan**). If the parties are unable to agree a Remedial Plan by the 30th Business Day following the end of the relevant six month period, then DIA (or the Monitor) shall (acting reasonably and having regard to the matters raised by the Recipient in such discussions) provide the Recipient with a remedial plan which shall, for the purpose of this Agreement, be deemed to be the Remedial Plan. The Recipient shall comply with the requirements of any Remedial Plan;
 - (ii) acknowledging the commitment of resources (including staff) required by the Recipient to comply with its obligations under this Agreement (including the Transition Support Arrangements set out in Schedule 2), how the parties can work together to ensure such obligations are appropriately managed by all parties; and
- (b) DIA (or the Monitor) may increase the frequency of the reports required under Item 8 of the Key Details from six-monthly to quarterly.

- 2.15 At the request of the DIA (or the Monitor) at any time after the occurrence of a Relevant Event, the Recipient and the DIA and/or the Monitor shall meet promptly to jointly discuss the circumstances relating to that event. DIA (or the Monitor) and the Recipient shall in good faith discuss the steps that the Recipient will take to address that event (a **Response Plan**). If the parties are unable to agree a Response Plan within 20 Business Days following a request under this clause, then DIA (or the Monitor) shall (acting reasonably and having regard to the matters raised by the Recipient in such discussions) provide the Recipient with a response plan which shall, for the purpose of this Agreement, be deemed to be the Response Plan. The Recipient shall comply with the requirements of any Response Plan and non-compliance by the Recipient shall entitle DIA to suspend funding under this Agreement until such time as the non-compliance is remedied to DIA's satisfaction (acting reasonably).

3 INTELLECTUAL PROPERTY

- 3.1 DIA acknowledges that the Recipient and its licensors own all pre-existing intellectual property which they contribute to the Permitted Funding Activities , and all new intellectual property which they create in the course of the Permitted Funding Activities.
- 3.2 The Recipient grants an irrevocable, perpetual, royalty-free, sub-licensable licence to DIA and the Monitor to use all reports, documents, information and other materials created or provided by the Recipient to DIA or the Monitor under or in connection with the Permitted Funding Activities and this Agreement.
- 3.3 The Recipient warrants that it has obtained (or will obtain, prior to creation of each relevant work) all rights and permissions necessary to enable the grant and exercise of the licence in clause 3.2 without infringing the intellectual property rights of any third party.

4 **TERM AND TERMINATION**

- 4.1 This Agreement will be effective on and from the Commencement Date, which will be the latest to occur of:
- (a) the date this Agreement has been signed by all parties; and
 - (b) the date on which DIA has provided written notice to the Recipient that the Conditions Precedent specified in the Key Details have either been satisfied (in the opinion of DIA) or waived by DIA (at its sole discretion).
- 4.2 This Agreement will remain in force until the End Date, unless terminated in accordance with this Agreement.
- 4.3 DIA can terminate this Agreement with immediate effect, by giving notice to the Recipient, at any time:
- (a) while DIA reasonably considers that the Recipient has become or is likely to become insolvent;
 - (b) while the Recipient is subject to the appointment of a liquidator, receiver, manager or similar person in respect of any of its assets or a Crown Manager or Commission is appointed in respect of the Recipient under Part 10 of the Local Government Act 2002; or
 - (c) subject to clause 4.4, while any one or more of the following events or circumstances remains unremedied:
 - (i) the Recipient is materially in breach of any obligation, or a condition or warranty, under this Agreement;
 - (ii) the Recipient has provided DIA with information in connection with or under this Agreement that (whether intentionally or not) is materially incorrect or misleading, and/or omits material information;
 - (iii) DIA reasonably considers that this Agreement or a Permitted Funding Activity has caused, or may cause, DIA and/or the New Zealand Government to breach any legal obligations (including its international trade obligations);
 - (iv) the Recipient abandons a Permitted Funding Activity without the prior written consent of DIA (or the Monitor);
 - (v) the Recipient is involved in any intentional or reckless conduct which, in the opinion of DIA, has damaged or could damage the reputation, good standing or goodwill of DIA or the New Zealand Government, or is involved in any material misrepresentation or any fraud;
 - (vi) the Recipient (or any of its personnel or contractors) is subject to a Conflict of Interest which cannot be managed to DIA's satisfaction; or
 - (vii) any change in law, regulations or other circumstances materially affects DIA's ability to perform its obligations under this Agreement.

- 4.4 However, where DIA considers that a Termination Event set out in clause 4.3(c) can be remedied, DIA must give notice to the Recipient requesting a remedy, and must not exercise its right of termination unless the relevant event remains unremedied for at least 14 days (or any longer period agreed with the Recipient) after that notice has been provided by DIA.
- 4.5 On expiry or termination of this Agreement, where the aggregate of (a) the total Funding paid under this Agreement and (b) any other money received or allocated by the Recipient, in each case to carry out a Permitted Funding Activity, exceeds the amount required to perform the Permitted Funding Activity, the Recipient must upon request refund to DIA the excess amount.
- 4.6 At any time DIA may recover the amount of any Funding that has been spent or used other than in accordance with this Agreement, or not applied to Eligible Costs by the End Date, together with interest on all such amounts calculated at 10% per annum from the date of the misspending to the date the money is repaid.
- 4.7 Clauses 1.2, 1.4, 1.5, 2.1, 2.7, 2.12, 2.13, 3, 4, 5, 6, 7, 8, 9, 10 and 11 survive expiry or termination of this Agreement, along with any other parts of this Agreement necessary to give effect to those provisions. Expiry or termination of this Agreement does not affect any accrued rights, including any rights in respect of a breach of this Agreement or Termination Event that occurred before expiry or termination.

5 **WARRANTIES AND UNDERTAKINGS**

- 5.1 The Recipient warrants that, in the course of its activities in connection with the Permitted Funding Activities, it will not infringe any intellectual property or other rights of any contractor or any other third party.
- 5.2 The Recipient warrants that, as at the date of this Agreement:
- (a) It has full power and authority to enter into and perform its obligations under this Agreement which, when executed, will constitute binding obligations on it in accordance with this Agreement's terms, and it has complied with the Local Government Act 2002 in entering into this Agreement;
 - (b) the Recipient is solvent and is not subject to the appointment of a liquidator, receiver, manager or similar person in respect of any of its assets or to the appointment of a Crown Manager or Commission under Part 10 of the Local Government Act 2002;
 - (c) all information and representations disclosed or made to DIA by the Recipient in connection with this Agreement are true and correct, do not omit any material matter, and are not likely to mislead or deceive DIA as to any material matter;
 - (d) it has disclosed to DIA all matters known to the Recipient (relating to the Permitted Funding Activities, the Recipient or its personnel) that could reasonably be expected to have an adverse effect on the reputation, good standing or goodwill of DIA or the New Zealand Government; and
 - (e) it is not aware of any material information that has not been disclosed to DIA which may, if disclosed, materially adversely affect the decision of DIA whether to provide the Funding.
- 5.3 The Recipient warrants that the Funding has been or will be applied solely to Eligible Costs

and such warranty will be deemed to be repeated continuously so long as this Agreement remains in effect by reference to the facts and circumstances then existing.

- 5.4 DIA warrants that, as at the date of this Agreement, it has full power and authority to enter into and perform its obligations under this Agreement which, when executed, will constitute binding obligations on it in accordance with this Agreement's terms.
- 5.5 The Recipient acknowledges that DIA has entered into this Agreement in reliance on these warranties and undertakings.
- 5.6 The Recipient acknowledges and agrees that DIA has made no warranty or representation that any funding or financial support is or will be available to the Recipient in respect of the Permitted Funding Activities, other than the Funding.

6 LIABILITY

- 6.1 The maximum liability of DIA under or in connection with this Agreement, whether arising in contract, tort (including negligence) or otherwise, is limited to the total amount of Funding paid or payable under this Agreement.
- 6.2 The Recipient undertakes to pay any and all cost overruns of the Permitted Funding Activities and any funding shortfall, and DIA and the New Zealand Government have no obligations or responsibility whatsoever in respect of such cost overruns and funding shortfall and accept no financial risk in the Permitted Funding Activities.
- 6.3 DIA is not liable for any claim under or in connection with this Agreement or the Permitted Funding Activities, whether arising in contract, tort (including negligence) or otherwise, where such claim is or relates to any loss of profit, loss of revenue, loss of use, loss of reputation, loss of goodwill, loss of opportunity (in each case whether direct, indirect or consequential) or any other indirect, consequential or incidental loss or damages of any kind whatsoever.
- 6.4 The Monitor will not have any liability whatsoever under or in connection with this Agreement to DIA or the Recipient. The limitation of liability set out in this clause does not apply to the Monitor's liability for any fraudulent, malicious or criminal act or omission of the Monitor to the extent that such liability cannot be limited or excluded by law.

7 CONFIDENTIALITY

- 7.1 Subject to clause 7.2 and 7.3, each party must keep the other parties' Confidential Information in confidence, and must use or disclose that Confidential Information only to the extent necessary to perform its obligations, and/or take the intended benefit of its rights, under this Agreement. However, this will not prohibit:
- (a) either party from using or disclosing any information with the written prior consent of the relevant other party;
 - (b) use or disclosure of information that has become generally known to the public other than through a breach of this Agreement;
 - (c) either party from disclosing information to its personnel, contractors or advisors with a need to know, so long as the relevant personnel, contractors and advisors use the information solely to enable that party to perform its obligations and/or take the intended benefit of its rights under this Agreement, and so long as they

are informed of the confidential nature of the information and, in the case of the Recipient, the Recipient receives an acknowledgement from its personnel, contractors or advisors that they acknowledge, and must comply with, the confidentiality obligations in this Agreement as if they were party to it;

- (d) disclosure required by any law, or any compulsory order or requirement issued pursuant to any law; or
 - (e) DIA or the Monitor from using or disclosing to any party any documents, reports or information received in relation to this Agreement, provided that prior to any such disclosure DIA or the Monitor (as applicable) removes all information that is commercially sensitive to the Recipient from the relevant work.
- 7.2 The Recipient acknowledges and agrees that nothing in this Agreement restricts DIA and/or the Monitor's ability to:
- (a) discuss, and provide all information in respect of, any matters concerning the Recipient, the Permitted Funding Activities or this Agreement with any Minister of the Crown, the Monitor, any other government agency or any of their respective advisors;
 - (b) meet its obligations under any constitutional or parliamentary convention (or other obligation at law) of or in relation to the New Zealand Parliament, the New Zealand House of Representatives or any of its Committees, any Minister of the Crown, or the New Zealand Auditor-General, including any obligations under the Cabinet Manual including the "no surprises" principle; and
 - (c) publicise and report on the awarding of the Funding, including the Recipient's and any of its contractor's names, the amount and duration of the Funding and a brief description of the Permitted Funding Activities, on websites; in media releases; general announcements and annual reports.
- 7.3 The Recipient acknowledges that:
- (a) the contents of this Agreement; and
 - (b) information provided to DIA and the Monitor (including the reports specified in the Key Details),

may be official information in terms of the Official Information Act 1982 and, in line with the purpose and principles of the Official Information Act 1982, this Agreement and such information may be released to the public unless there is good reason under the Official Information Act 1982 to withhold it.

- 7.4 DIA acknowledges that the Recipient is subject to the Local Government Official Information and Meetings Act 1987 and that its confidentiality obligations under this clause 7 are subject to its compliance with that Act.

8 MEDIA AND COMMUNICATIONS

- 8.1 The Recipient will keep DIA informed on a "no surprises" basis in relation to any media statements or press releases (including social media posts) to be made by the Recipient regarding this Agreement and/or DIA's involvement in connection with the Permitted Funding Activities.

- 8.2 The Recipient will refer any enquiries from the media or any other person about the terms or performance of this Agreement to DIA's Representative.
- 8.3 The Recipient will acknowledge the New Zealand Government as a source of funding in all publications (including any digital presence) and publicity regarding the Permitted Funding Activities in accordance with funding acknowledgement guidelines agreed with DIA.
- 8.4 The Recipient does not have the right to enter into any commitment, contract or agreement on behalf of DIA or any associated body, or to make any public statement or comment on behalf of DIA or the New Zealand Government.
- 8.5 All correspondence with DIA under this clause 8 must be directed to DIA's Representative and copied to threewaters@dia.govt.nz and the Monitor.

9 DISPUTES

- 9.1 In the event of any dispute, controversy or claim arising out of or in connection with this Agreement, or in relation to any question regarding its existence, breach, termination or invalidity (in each case, a **Dispute**), either party may give written notice to the other parties specifying the nature of the Dispute and requesting discussions under this clause 9 (**Dispute Notice**). As soon as reasonably practicable following receipt of a Dispute Notice, the parties must meet (in person, or by audio or video conference) and endeavour to resolve the Dispute by discussion, negotiation and agreement.
- 9.2 If the matter cannot be amicably settled within 20 Business Days after the date of the Dispute Notice then, at the request in writing of either party, the matter in respect of which the Dispute has arisen must be submitted, together with a report describing the nature of such matter, to the Representatives (or, if no such Representatives have been appointed, the respective Chief Executives of the parties) (together the **Dispute Representatives**).
- 9.3 Within 20 Business Days after the receipt of a request under clause 9.2, one individual (who does not act in his or her professional capacity as legal counsel for either party) selected by each of the Dispute Representatives, must make a presentation of no longer than 30 minutes to each of the Dispute Representatives (which may be by telephone or remotely), who will then attempt in good faith to reach a common decision within a half-day. The decision of the Dispute Representatives is binding on the parties.
- 9.4 In the case of a Dispute, if the Dispute Representatives have not met within 20 Business Days of receiving a request in accordance with clause 9.2, or if they fail to reach a common decision within the stated time period, either party may by notice in writing to the other parties refer the Dispute to be referred to mediation before a single mediator appointed by the parties. Each party will bear its own costs of mediation and the costs of the mediator will be divided evenly between the parties to the dispute.
- 9.5 If the parties are unable to agree on the appointment of a mediator within 5 Business Days of the notice requiring the Dispute to be referred to mediation, a mediator may be appointed at the request of any party by the Arbitrators' and Mediators' Institute of New Zealand Inc.
- 9.6 If the Dispute is not resolved within 20 Business Days of referral to mediation, the parties may commence court proceedings without further participation in any mediation.
- 9.7 Nothing in this clause 9 will prevent either party from seeking urgent interim relief from a

court (or other tribunal) of competent jurisdiction.

10 **REPRESENTATIVES**

- 10.1 All matters or enquiries regarding this Agreement must be directed to each party's Representative (set out in the Key Details).
- 10.2 Each party may from time to time change the person designated as its Representative on 10 Business Days' written notice to the other parties.

11 **GENERAL**

- 11.1 Each notice or other communication given under this Agreement (each a **notice**) must be in writing and delivered personally or sent by post or email to the address of the relevant party set out in the Key Details or to any other address from time to time designated for that purpose by at least 10 Business Days' prior written notice to the other parties. A notice under this Agreement is deemed to be received if:

- (a) **Delivery:** delivered personally, when delivered;
- (b) **Post:** posted, 5 Business Days after posting or, in the case of international post, 7 Business Days after posting; and
- (c) **Email:** sent by email:
- (i) If sent between the hours of 9am and 5pm (local time) on a Business Day, at the time of transmission; or
- (ii) If subclause (i) does not apply, at 9am (local time) on the Business Day most immediately after the time of sending,

provided that an email is not deemed received unless (if receipt is disputed) the party giving notice produces a printed copy of the email which evidences that the email was sent to the email address of the party given notice.

- 11.2 The Recipient agrees to execute and deliver any documents and to do all things as may be required by DIA to obtain the full benefit of this Agreement according to its true intent.
- 11.3 No legal partnership, employer-employee, principal-agent or joint venture relationship is created or evidenced by this Agreement.
- 11.4 This Agreement constitutes the sole and entire understanding with respect to the subject matter hereof and supersedes all prior discussions, representations and understandings, written or oral.
- 11.5 No amendment to this Agreement will be effective unless agreed in writing by the parties, provided that the Monitor's agreement will not be required in respect of (and the Monitor will be deemed to have agreed to) any amendment to this Agreement that does not relate to the scope of the Monitor' review and monitoring role under this Agreement (including, for example, the Transition Support Arrangements).
- 11.6 Neither the Recipient nor the Monitor may assign or transfer any of their contractual rights or obligations under this Agreement, except with DIA's prior written approval.

- 11.7 DIA may assign or transfer any of its contractual rights or obligations under this Agreement without the other parties' prior approval. DIA may at any time disclose to a proposed assignee or transferee any information which relates to, or was provided in connection with, the Recipient, the Permitted Funding Activities or this Agreement.
- 11.8 No failure, delay or indulgence by any party in exercising any power or right conferred on that party by this Agreement shall operate as a waiver. A single exercise of any of those powers or rights does not preclude further exercises of those powers or rights or the exercise of any other powers or rights.
- 11.9 The exercise by a party of any express right set out in this Agreement is without prejudice to any other rights, powers or remedies available to a party in contract, at law or in equity, including any rights, powers or remedies which would be available if the express rights were not set out in this Agreement.
- 11.10 This Agreement is not intended to confer any benefit on or create any obligation enforceable at the suit of any person not a party to this Agreement.
- 11.11 Any provision of this Agreement that is invalid or unenforceable will be deemed deleted, and will not affect the other provisions of this Agreement, all of which remain in force to the extent permitted by law, subject to any modifications made necessary by the deletion of the invalid or unenforceable provision.
- 11.12 This Agreement is to be governed by the laws of New Zealand, and the parties submit to the non-exclusive jurisdiction of the courts of New Zealand.
- 11.13 This Agreement may be executed in any number of counterparts (including duly electronically signed, scanned and emailed copies). So long as each party has received a counterpart signed by each of the other parties, the counterparts together shall constitute a binding and enforceable agreement. This Agreement is intended to constitute a binding and enforceable agreement in accordance with its terms.

END OF PART 2

PART 3: DEFINITIONS AND CONSTRUCTION

Defined terms

In this Agreement, unless the context requires otherwise, terms defined in the Agreement have the meaning set out therein and:

Authorisation means:

- (a) any consent, authorisation, registration, filing, lodgement, agreement, notarisation, certificate, permission, licence, approval, authority or exemption from, by or with a governmental agency or required by any law (including any consent under the Resource Management Act 1991); or
- (b) in relation to anything which will be fully or partly prohibited or restricted by law if a governmental agency intervenes or acts in any way within a specified period after lodgement, filing, registration or notification, the expiry of that period without intervention or action.

Best Industry Practice means that degree of skill, care and foresight and operating practice that would reasonably and ordinarily be expected of a skilled and competent supplier of services engaged in the same type of undertaking as that of the Recipient or any contractors (as applicable) under the same or similar circumstances as those contemplated by this Agreement.

Business Day means any day other than a Saturday, Sunday or public holiday within the meaning of section 44 of the Holidays Act 2003.

Commencement Date has the meaning given in clause 4.1 of Part 2.

Conditions means the conditions to the payment of a Funding instalment as specified in Item 7 of the Key Details.

Confidential Information of a party (Owner), means any information in the possession or control of another party (Holder) that:

- (a) was originally acquired by the Holder in connection with this Agreement through disclosures made by or at the request of the Owner; and/or
- (b) was originally acquired by the Holder in connection with this Agreement through any access to, or viewing, inspection or evaluation of, the premises, facilities, documents, systems or other assets owned or controlled by the Owner; and/or
- (c) is derived from information of a kind described in paragraph (a) or (b) above; but excludes any information which the Holder can show:
 - (d) was lawfully acquired by the Holder, entirely independently of its activities in connection with this Agreement, and is free of any other obligation of confidence owed to the Owner; and/or
 - (e) has been independently developed by the Holder without reference to the Owner's Confidential Information, and without breaching any other obligation of confidence owed to the Owner.

Notwithstanding the foregoing, the terms of this Agreement are not Confidential Information.

Conflict of Interest means any matter, circumstance, interest or activity of the Recipient, its personnel or contractors, or any other person with whom the Recipient has a relationship that:

- (a) conflicts with:
 - (i) the obligations of the Recipient (or its personnel or contractors) to DIA or the Monitor under this Agreement; or
 - (ii) the interests of the Recipient in relation to this Agreement and/or the undertaking of the Permitted Funding Activities; or

- (b) otherwise impairs or might appear to impair the ability of the Recipient (or any of its personnel or contractors) to carry out the Permitted Funding Activities diligently and independently in accordance with this Agreement.

Eligible Costs means the actual costs that have been or will be reasonably incurred by the Recipient on or after the Commencement Date and no later than the End Date to undertake a Permitted Funding Activity in accordance with this Agreement, excluding overhead and management time that is not directly attributable to undertaking a Permitted Funding Activity.

Funding means the funding or any part of the funding (as the context requires) payable by DIA to the Recipient in accordance with the terms of this Agreement, as described in the Key Details.

Funding Proposal means the Funding Proposal setting out the scope of the Permitted Funding Activities(s) to which Funding is to be applied, in the form approved by DIA.

GST Offset Agreement means a deed of assignment between DIA as Assignor and the Recipient as Assignee providing for the offset of the amount of GST in accordance with the Goods and Services Tax Act 1985.

Key Details means Part 1 of this Agreement.

Material Variation means, in respect of a Permitted Funding Activity, any variation which on its own or together with any other variation or variations results in, or is likely to result in the budgeted expenditure (taking into account all variations) being exceeded or a Permitted Funding Activity being materially delayed, or any variation that materially amends the scope, specifications or function of a Permitted Funding Activity.

Monitor means Crown Infrastructure Partners Limited, appointed by the DIA to assist in managing the Funding by undertaking a review and monitoring role.

Payment Request means a request submitted to DIA by the Recipient seeking payment of Funding.

Quarter means a financial quarter, being a three monthly period ending on 30 June, 30 September, 31 December or 31 March.

Relevant Event means actual or forecast failure to materially achieve an outcome(s) of the Funding Proposal (as determined by DIA or the Monitor acting reasonably), including where arising from unfunded cost overruns, material unapproved scope changes, material delay in achieving the delivery timeframes, or failure to meet the End Date for completion of the Permitted Funding Activities.

Reform Objectives means the following:

- (a) that there are safeguards (including legislative protection) against privatisation and mechanisms that provide for continued public ownership;
- (b) significantly improving the safety and quality of drinking water services, and the environmental performance of drinking water, wastewater and stormwater systems (which are crucial to good public health and wellbeing, and achieving good environmental outcomes);
- (c) ensuring all New Zealanders have equitable access to affordable three waters services and that the Water Services Entities will listen, and take account of, local community and consumer voices;
- (d) improving the coordination of resources, planning, and unlocking strategic opportunities to consider New Zealand's infrastructure and environmental needs at a larger scale;
- (e) ensuring the overall integration and coherence of the wider regulatory and institutional settings (including the economic regulation of water services and resource management and planning reforms) in which the local

government sector and their communities must operate;

- (f) increasing the resilience of three waters service provision to both short- and long-term risks and events, particularly climate change and natural hazards;
- (g) moving the supply of three waters services to a more financially sustainable footing, and addressing the affordability and capability challenges faced by small suppliers and local authorities;
- (h) improving transparency about, and accountability for, the planning, delivery and costs of three waters services, including the ability to benchmark the performance of the new Water Services Entities; and
- (i) undertaking the reform in a manner that enables local government to further enhance the way in which it can deliver on its broader “wellbeing mandates” as set out in the Local Government Act 2002.

Remedial Plan has the meaning given in clause 2.14(a) of Part 2.

Response Plan has the meaning given in clause 2.15 of Part 2.

Termination Event means any one or more of the events or circumstances set out in clause 4.3.

Transition Support Arrangements means the obligations set out in Schedule 2.

Water Services Entity means:

- (j) the new water services entities to be established by legislation giving effect to the Three Waters Reform Programme; and
- (k) the local establishment entities to be established by legislation in advance of the establishment of the new water services entities.

Construction

In the construction of this Agreement, unless the context requires otherwise:

Currency: a reference to any monetary amount is to New Zealand currency;

Defined Terms: words or phrases appearing in this Agreement with capitalised initial letters are defined terms and have the meanings given to them in this Agreement;

Documents: a reference to any document, including this Agreement, includes a reference to that document as amended or replaced from time to time;

Inclusions: a reference to “includes” is a reference to “includes without limitation”, and “include”, “included” and “including” have corresponding meanings;

Joint and Several Liability: any provision of this Agreement to be performed or observed by two or more persons binds those persons jointly and severally;

Parties: a reference to a party to this Agreement or any other document includes that party's personal representatives/successors and permitted assigns;

Person: a reference to a person includes a corporation sole and also a body of persons, whether corporate or unincorporate;

Precedence : if there is any conflict between the different parts of this Agreement, then unless specifically stated otherwise, the Key Details will prevail over Part 2;

Related Terms: where a word or expression is defined in this Agreement, other parts of speech and grammatical forms of that word or expression have corresponding meanings;

Statutes and Regulations: a reference to an enactment or any regulations is a reference to that enactment or those regulations as amended, or to any enactment or regulations substituted for that enactment or those regulations;

Writing: a reference to “written” or “in writing” includes email and any commonly

used electronic document format such as .DOC or .PDF.

END OF PART 3

Item 11

Attachment 4

SCHEDULE 1: PERMITTED FUNDING ACTIVITIES

[Note: Permitted activities on which the Recipient may spend the Funding on, as described in the Recipient's approved Funding Proposa will be inserted by DIA]

SCHEDULE 2: TRANSITION SUPPORT ARRANGEMENTS

The Recipient will collaborate and co-operate with the DIA (including through the DIA's National Transition Unit (NTU)) to provide for the implementation and carrying out of certain parts of the Three Waters Reform Programme, as further described below.

In making requests under these arrangements, DIA (including the NTU) will have regard to the Recipient's available resources and the competing demands on those resources. It is intended that such requests are made and considered by DIA, the NTU and the Recipient in a collaborative and co-operative manner with a view to achieving the Reform Objectives and ensuring the Recipient is able to continue to carry out its other functions and activities.

The Recipient agrees to provide the collaboration and co-operation requested. If a council controlled organisation (CCO) of the Recipient is involved in the delivery of water services then the Recipient agrees to ensure that its CCO does the same.

1. The Recipient will collaborate and co-operate with the DIA (including the NTU) to facilitate the Three Waters Reform Programme (to the extent the law permits).
2. Subject to the consent of any affected employee (and in compliance with the Recipient's employment law and health and safety obligations), the Recipient will:
 - (a) comply with any reasonable request by the Executive Director of the DIA's National Transition Unit (NTU) for employees of the Recipient to be seconded to, or otherwise facilitate the engagement of employees with, the DIA for the purpose of assisting the DIA with the Three Waters Reform Programme; and
 - (b) enable, and where necessary facilitate, the participation of the Recipient's staff in any process or engagement with the NTU that relates to their potential employment with a Water Services Entity, including (but not limited to) attending information sessions, accessing NTU channels such as the "People Platform", providing input into the Water Services Entity organisational design and role design, engaging in unions and professional body processes developed to engage and support staff through transition.
3. The Recipient will respond to and comply with any reasonable request by the Executive Director of the NTU for information that the Recipient holds for the purpose of assisting the DIA with the Three Waters Reform Programme.
4. The Recipient acknowledges and agrees that its obligation to provide information under paragraph 3:
 - (a) may include, subject to compliance with applicable laws including the Privacy Act 2020, a requirement to provide information in relation to the assets, liabilities, contracts, property, employees, customers, processes, pricing information relating to water services fees and associated costs, and any other matters that relate to water services delivery;
 - (b) includes a requirement to comply with any reasonable request to research and collate information; and
 - (c) includes a requirement to comply with any reasonable request to provide information in a particular format and within a particular timeframe.
5. The Recipient will notify, and respond to requests for information by, DIA of intended decisions:
 - (a) that relate to the provision of water services; or
 - (b) that may affect (other than in an immaterial way) the provision of water services.

The Recipient acknowledges that such decisions include a decision:

- (c) to adopt or amend a long-term plan or to adopt an annual plan, in each case as contemplated by the Local Government Act 2002;
 - (d) to adopt a policy required by the Local Government Act 2002;
 - (e) that is significantly inconsistent with, or is anticipated to have consequences that will be significantly inconsistent with, any policy or plan adopted by the Recipient under the Local Government Act 2002;
 - (f) to purchase or dispose of assets other than in accordance with its long-term plan;
 - (g) to purchase or dispose of an asset, if the purchase or disposal of the asset will have a material impact on the capacity to provide water services or on the financial well-being of the Recipient;
 - (h) to enter into any contract (other than an employment agreement) that imposes, or will continue to impose, any obligation in relation to the delivery of water services on the existing local authority after 30 June 2024 and the consideration for which is material in the context of the three water services or operations of the Recipient; or
 - (i) to borrow money for a period that extends beyond 30 June 2024.
6. The Recipient must not act inconsistently with its long-term plan and its annual plan as it relates to the provision of water services.
7. The Recipient shall include estimated and indicative prices for water services on invoices to consumers on an information only basis, based on a water revenue discovery process undertaken by the DIA. This disclosure obligation will not apply until the DIA has completed this discovery process and notified the Recipient of the basis of disclosure.
8. The Recipient must respond to and comply with any reasonable request by the Executive Director of the NTU to assist DIA and the NTU in the preparation of asset management plans and pricing plans for the Water Services Entities. The Recipient acknowledges that such requests may include:
- (a) a request to compile certain categories of information as part of an information base to inform the preparation of such plans (including, for example, existing water services assets held by or on behalf of the Recipient, current sources of funding for water services and details of employee roles within the Recipient's region or district that are involved in providing water services); and
 - (b) a request to consider particular options or matters for the Recipient's region or district to inform the preparation of such plans.



THREE WATERS BETTER OFF GRANT FUNDING PROPOSAL: TRANCHE 1¹

Instructions to complete the Funding Proposal:

- The Funding Proposal is to be submitted through the DIA online Grant Management System. **To apply you will need access to this system.** Guidelines on accessing this system are provided in Appendix C of the guidance document *“Guide to better off package funding for local authorities”* found here: <https://www.dia.govt.nz/three-waters-reform-programme-reform-support-package>
- One Funding Proposal per Local Authority can be submitted for the total Tranche 1 Programme of Expenditure.
- Local Authorities do not have to apply for the full Tranche 1 notional amount upfront, funds not applied for in Tranche 1 will be available in the Tranche 2 application round.
- A Programme may consist of more than one Project or Initiative, and Local Authorities may elect to provide appendices with further details and breakdowns if that would assist in the approval process.
- The Programme may relate to expenditure over a period of up to 5 years.
- All figures in this Funding Proposal should be GST exclusive.
- A relationship manager will be available to support councils and can provide advice if the Local Authority has additional questions.
- Refer to the document *“Guide to better off package funding for local authorities”* which sets out the information needed for Local Authorities to engage with the Funding Agreements and the Funding Proposal template below.

The draft Funding Proposal can be submitted by the Local Authority any time between 4 April 2022 and 30 September 2022. The Funding Proposal will be assessed by the Department of Internal Affairs, who may provide feedback and require further detail, additions or alterations. The Funding Proposal is to be finalised, and Councils notified of the outcome within six weeks of receipt of the draft submission.

Where the Department of Internal Affairs requires any additional assurance or conditions for a specific Funding Proposal, this will be included in Question 17 below following the Department of Internal Affairs review. Question 17 will form part of the Funding Proposal.

¹ The \$2 billion ‘better off’ package is available in two tranches. The first \$500 million is available from 1 July 2022 and the remaining \$1.5 billion is available after 1 July 2024.

**SECTION 1: General Information**

1. Programme Title:

2. Local Authority:

3. Organisation Lead Contact:

Name:	<input type="text"/>
Position:	<input type="text"/>
Email:	<input type="text"/>

SECTION 2: Programme of Expenditure Overview

4. Provide a brief description of the Programme of expenditure the funding will be applied to. If the Programme comprises more than one Project, or Initiative that you will be reporting on separately, please list (add more rows if required):

[description of Programme]
List of Projects/Initiatives under this Programme
<input type="text"/>
<input type="text"/>

5. Total Maximum Amount Payable as defined and stated in the Funding and Collaboration Agreement (NZD \$):

\$ <input type="text"/>

6. Total estimated cost of the Programme (NZD \$)?

\$ <input type="text"/>

7. Of the total estimated cost above, specify the amount (if any) that will be allocated to general management oversight and other administrative costs.

\$ <input type="text"/>
<input type="text"/>

8. If the total estimated cost exceeds the Total Maximum Amount Payable, please specify the additional funding source(s) and amount(s):

Funding Source	Amount (NZ\$M)
<input type="text"/>	\$ <input type="text"/>
<input type="text"/>	\$ <input type="text"/>
Total	\$ <input type="text"/>

9. Please indicate below the expenditure programme funding status:

	Yes/No	Amounts in NZD \$	Year
Included in LTP	Choose an item.	\$	
Included in the latest Annual Plan	Choose an item.	\$	
Not funded in any plan	Choose an item.	\$	
Was funded but COVID-19 deferred	Choose an item.	\$	
Local Authority co-funding being contributed	Choose an item.	\$	

10. Has the programme been submitted and reviewed through another contestable funding source? (such as the Infrastructure Acceleration Fund)

If Yes, please state the funding source and the stage of the funding process you reached below.

Funding Source	Stage Reached

11. Describe the risks you have identified in completing the programme on time and on budget (eg: availability of and access to specialist skills) and any steps/actions you have taken to mitigate these risks.

SECTION 3: Programme of expenditure details

12. Please provide a high-level breakdown of the expenditure programme, including the programme commencement and completion dates, key delivery milestones, and for each milestone the planned completion date and estimated cost:²

Milestones should reflect the progress of project delivery, and link to specific and measurable project outputs. Please refer to your relationship manager for guidance, and examples of output-based milestones.

If the funding package is to be used to fund multiple projects/initiatives, duplicate the table below for each project. The total of all projects must equal the Total Maximum Amount Payable per the Funding Agreement.

	Expenditure Programme/Project Milestone (including a description of how the milestone is identified)	Estimated Completion Date	Estimated costs (NZD \$)
1.	Commencement Date per the Funding Agreement	dd-mmm-yy	Nil
3.	[milestone 1]	dd-mmm-yy	\$
4.	[milestone 2]	dd-mmm-yy	\$
5.	[milestone 3]	dd-mmm-yy	\$
6.	[milestone 4]	dd-mmm-yy	\$
7.	[Completion of expenditure programme/project]	dd-mmm-yy <i>To be no later than 30 June 2027</i>	\$
	TOTAL		\$

² All figures should be GST exclusive.



CHECKS	
Total maximum funding instalment amount per the Milestone Table(s) ³ is less than or equal to Total Maximum Amount Payable per question 6	Choose an item.
Total budgeted costs to complete the expenditure programme per the Milestone Table(s) ⁴ is equal to the total estimated cost of the expenditure programme per question 7	Choose an item.

³ If the Milestone Table was duplicated to reflect multiple projects/initiatives, please add the total amounts across all tables when performing the checks above.

SECTION 4: Wellbeing Assessment

For this section, please refer to the document "Guide to better off package funding for local authorities" for guidance on conducting the wellbeing assesment.

13. Please set out how the expenditure programme promotes one (or more) of the key criteria of the better off package and the well-being of communities (social, economic, environmental, and/or cultural) in the table below. Add lines where necessary.

If the funding package is to be used on multiple project/initiatives, duplicate the table below in order to identify the wellbeing outcomes for each project.

Programme Title				
Project/Initiative (if applicable)				
Better Off funding criteria (select as many that apply)	Criteria 1: Supporting communities to transition to a sustainable and low-emissions economy.	Criteria 2: Delivery of infrastructure and/or services that enable housing development and growth.	Criteria 3: Delivery of infrastructure that support improvements in community well-being.	
Wellbeing Area (select as many that apply)	Social wellbeing	Economic wellbeing	Environmental wellbeing	Cultural wellbeing
Wellbeing Outcomes				
Outcome	How Outcome will be Measured		How Outcome will be Monitored/Reported	



SECTION 5: Iwi/Māori Engagement

For this section, please refer to the document "Guide to better off package funding for local authorities" for guidance on the Iwi/Māori engagement required to answer the following questions.

14. Describe the process you used to identify relevant iwi/Māori parties in your region, and specify which Māori groups / entities / organisations (eg, iwi, hapū, post-settlement governance entities, etc) you engaged with.

15. Provide details of the engagement you undertook with iwi/Māori in determining the use of the funding allocation. Include details regarding the methods of engagement (e.g. hui, wānanga, consultation on material, subsequent feedback).

16. Provide details of the ideas, suggestions, issues or concerns raised by iwi/Māori during your engagement process, along with the steps taken to address these.

SECTION 6: DIA USE ONLY

17. Additional requirements in respect of the Funding Agreement (such as specific conditions):

2. Context for reform and problem definition

Item 11

Attachment 6

Three Waters Service Delivery: Problem Statement

Background

This document has been prepared for the Working Group by the Department of Internal Affairs as a summary of the “problem definition” underpinning the case for reforming water service delivery arrangements. This problem definition draws on a significant national evidence base gathered through the four-year Three Waters Review and has been informed by independent expert advice and analysis. This problem statement, and the analysis of policy options for addressing it, is outlined in the Regulatory Impact Statement (RIS) published by the Department.

Much of this problem statement, and the underpinning evidence base, was developed and tested with oversight of the Joint Central-Local Government Three Waters Steering Committee. On the basis of this work, Local Government New Zealand agreed that there is a sufficient and evidence-based national case for change, including that the current approach to three waters service delivery is not capable of delivering the outcomes required in an affordable and sustainable way into the future.

Many submissions on the Government’s three waters reform proposals expressly accepted the case of change, while simultaneously expressing disagreement with the Government’s reform proposals.

Problem Statement

The three waters sector is facing a significant crisis and will continue to suffer from a series of challenges without necessary action

It has become clear that New Zealand’s three waters sector is facing a significant crisis, and will continue to do so without major, transformational reform.

While there are pockets of good performance, in many parts of the country communities cannot be confident that their drinking water is safe, that the three waters sector is achieving good environmental outcomes, that it can accommodate population and housing growth, that the rights and interests of iwi/Māori are being upheld, and that climate change and natural hazard risks are being successfully managed.

The challenges the three waters sector faces in delivering health, customer and environmental outcomes and the sheer size of the infrastructure deficit that has developed, are symptomatic of a wider systemic failure underpinning the way three waters services are currently delivered.

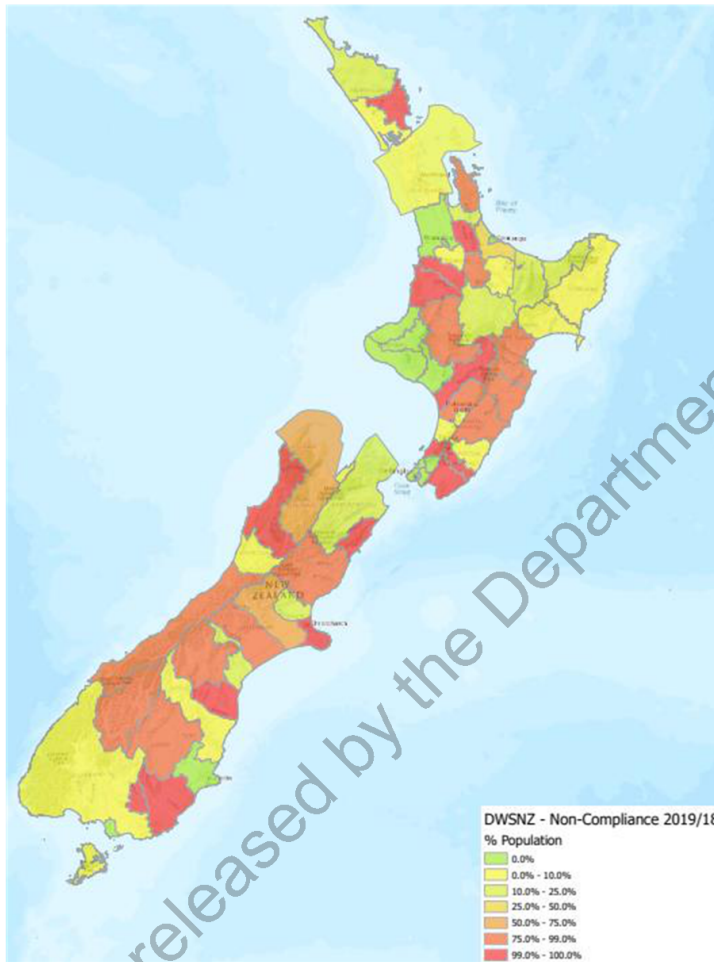
Significant investment is needed across the country to address the issues. Without a national, co-ordinated approach, the costs to householders will be high.

Poor compliance with drinking water standards

Access to safe drinking water and sanitation is considered a basic human right. However, many New Zealanders cannot be confident that their drinking water is safe.

Water suppliers' compliance with drinking water standards varies significantly across the country. The map below outlines the percentage of the population within each local authority area that is served by supplies that are non-compliant with the drinking water standards, as reported by the Ministry of Health.¹

Figure 1: Map of compliance with Drinking Water Standards New Zealand



Source: Beca, using data from the Ministry of Health Annual Report on Drinking Water Quality 2018-2019

The Ministry of Health also reports that there were 22 permanent and 18 temporary boil water notices in place for the whole of the reporting period (2018-2019), affecting roughly 40,000 people.

¹ Ministry of Health (2020). Annual Report on Drinking-water Quality. Available at <https://www.health.govt.nz/system/files/documents/publications/annual-report-drinking-water-quality-2018-2019-25june2020.pdf>

Poor health outcomes

One in five New Zealanders are supplied with drinking water that is not guaranteed to be safe from bacterial contamination, according to the Ministry of Health². A study in 2010 estimated that around 35,000 cases of acute gastrointestinal illness were contracted from reticulated drinking water each year.³ These numbers are likely to be an underestimation of the true incidence of illness due to the large number of visitors in small, non-compliant townships and/or the under-reporting of waterborne illnesses.

The health impacts of a failing three waters system has significant flow-on impacts from an economic perspective:

1. Cases of water-borne gastrointestinal illnesses have been calculated to have cost New Zealanders \$496.1 million over 40 years, principally in terms of health care and lost productivity⁴
2. In 2006, the Ministry for the Environment estimated that water-borne disease cost New Zealand \$25 million a year⁵
3. The economic cost of the Havelock North outbreak to the country was calculated to be \$21 million.⁶

Specific cases of water contamination in recent years have also dented public confidence in the system for delivering three waters services and exposed the systemic issues facing the sector. The Havelock North tragedy was the largest recorded outbreak of waterborne disease in the country, killing four people and causing illness in 5,500 of the town's 14,000 residents. Recent infrastructure failures in Wellington and the discovery of elevated levels of lead in the water supply in Dunedin are more recent and tangible examples of the potential challenges we will continue to face across the country under the current system for delivering three waters services.

A large, accumulated infrastructure deficit

The Office of the Auditor General (OAG) reported in 2017 that local authorities are not investing enough in three waters assets, indicating that assets could be deteriorating to an extent that they are unable to meet the levels of service that their communities expect.⁷

² Ministry of Health (2020). Annual Report on Drinking-water Quality. Available at <https://www.health.govt.nz/system/files/documents/publications/annual-report-drinking-water-quality-2018-2019-25june2020.pdf>

³ Moore, et al., Cost Benefit Analysis of Raising the Quality of New Zealand Networked Drinking Water (LECG, 2010), 6. <http://srgexpert.com/wp-content/uploads/2018/02/cba-raising-quality-of-networked-drinking-water-jun20101.pdf>

⁴ Moore, et al., Cost Benefit Analysis of Raising the Quality of New Zealand Networked Drinking Water (LECG, 2010), 159. <http://srgexpert.com/wp-content/uploads/2018/02/cba-raising-quality-of-networked-drinking-water-jun20101.pdf>

⁵ Ministry for the Environment, Proposed National Environmental Standard for Sources of Human Drinking-Water: Resource Management Act Section 32: Analysis of the Costs and Benefits (Ministry for the Environment, March 2007), <https://www.mfe.govt.nz/sites/default/files/nes-drinking-water-section-32-mar07.pdf>

⁶ Government Inquiry into Havelock North Drinking Water, Report of the Havelock North Drinking Water Inquiry: Stage 2 (Department of Internal Affairs, December 2017), 33. [https://www.dia.govt.nz/diawebsite.nsf/Files/Report-Havelock-North-Water-Inquiry-Stage-2/\\$file/Report-Havelock-North-Water-Inquiry-Stage-2.pdf](https://www.dia.govt.nz/diawebsite.nsf/Files/Report-Havelock-North-Water-Inquiry-Stage-2/$file/Report-Havelock-North-Water-Inquiry-Stage-2.pdf)

⁷ Controller and Auditor-General. Introducing our work programme - Water management. October 2017 ISBN 978-0-478-44275-5. paras 2.9 -2.11. Available at <https://oag.parliament.nz/2017/water-management/docs/water-management.pdf>

More recent analysis by the Water Industry Commission for Scotland (WICS), based on information provided by local authorities through the Request for Information process undertaken in late 2020, suggests that there has been systematic under-funding of economic depreciation by local authorities in New Zealand. This is shown in Table 1 below:

Table 1: Economic depreciation spent on three waters infrastructure by local authority groups.

Metro	NZ\$124	NZ\$267	46%
Provincial	NZ\$128	NZ\$254	50%
Rural	NZ\$158	NZ\$253	63%
Larger rural (>10,000 residents)	NZ\$153	NZ\$237	65%
Smaller rural	NZ\$163	NZ\$266	61%
Metro	NZ\$124	NZ\$267	46%

Source: Water Industry Commission for Scotland, 2021.

WICS estimates that between **\$120 billion to \$185 billion** of investment will be needed over the next 30 years to address this renewals backlog (i.e., replace and refurbish existing infrastructure), upgrade three waters assets to meet drinking water and environmental standards, and provide for future population growth.⁸ WICS reports that these figures are likely to underestimate the real cost of lifting the performance of our three waters infrastructure.

Box 1: Independent review of WICS assumptions underpinning investment estimates⁹

Beca has reviewed the standards and practices that apply in Scotland and their relevance for New Zealand. The analysis confirms that WICS' estimates are likely to be conservative as these do not include certain factors unique to New Zealand such as giving effect to iwi / Māori aspirations and building seismic resilience.

Poor customer outcomes

There is no globally consistent set of performance measures for evaluating the performance of three waters delivery systems.¹⁰ In New Zealand, this problem is compounded by the lack of high-quality information generally about the state and performance of three waters networks, which itself reflects the challenges facing the sector.

⁸ Water Industry Commission for Scotland (2021). Economic analysis of water services aggregation: Final report. Available at [https://www.dia.govt.nz/diawebsite.nsf/Files/Three-waters-reform-programme/\\$file/wics-final-report-economic-analysis-of-water-services-aggregation.pdf](https://www.dia.govt.nz/diawebsite.nsf/Files/Three-waters-reform-programme/$file/wics-final-report-economic-analysis-of-water-services-aggregation.pdf)

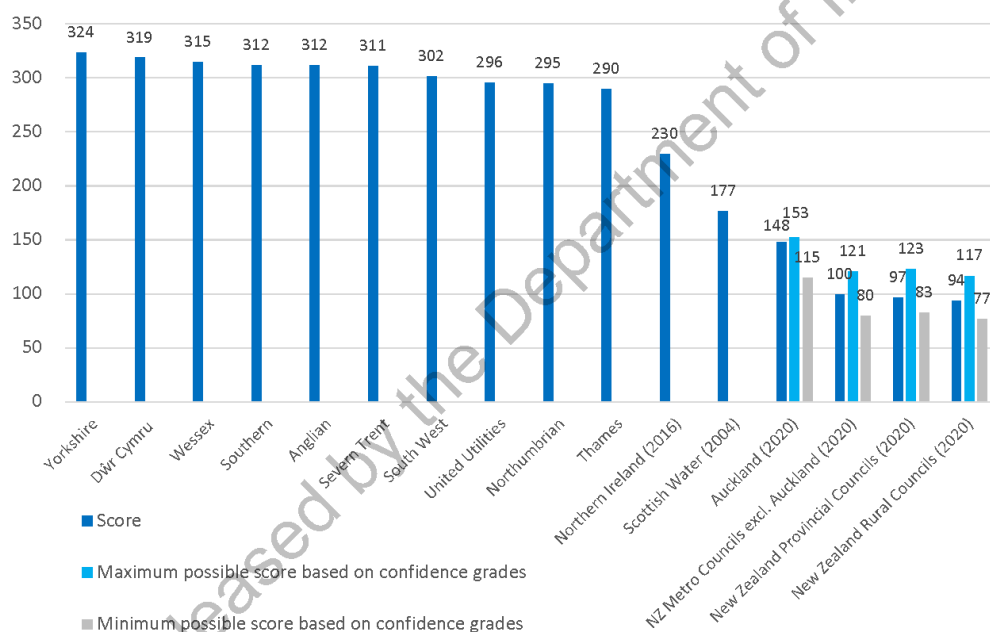
⁹ Beca (2021). Review of assumptions between Scotland and New Zealand three waters systems. Available at [https://www.dia.govt.nz/diawebsite.nsf/Files/Three-waters-reform-programme/\\$file/becca-report-dia-three-waters-reform-wics-modelling-phase-2.pdf](https://www.dia.govt.nz/diawebsite.nsf/Files/Three-waters-reform-programme/$file/becca-report-dia-three-waters-reform-wics-modelling-phase-2.pdf)

¹⁰ The closest measures used in New Zealand would be those used in the Water New Zealand National Performance Review, which helps to provide a basis for comparisons between different parts of the country.

WICS has used a performance measurement tool (the Overall Performance Assessment) developed by the water regulator in England and Wales (Ofwat) to measure the performance of water utilities on areas significant to customers (e.g. service disruptions, response to complaints). Based on WICS' comparison¹¹ of New Zealand local authorities at an aggregate level with regulated water utilities in the United Kingdom (see Figure 2), it is clear that:

- New Zealand has a long way to go, to catch up with the performance of more mature systems overseas
- We are at a starting position similar to Scottish Water, before the Scottish reforms. In the last two decades, Scottish Water has been able to close the performance gap and is now among the top-performing water services providers in the United Kingdom.

Figure 2: Comparison of New Zealand local authorities' Overall Performance Assessment scores with those of UK water utilities



Source: Water Industry Commission for Scotland, 2021

Poor environmental outcomes

Wastewater discharge

Discharges from wastewater treatment plants are harming the environment in many parts of New Zealand, particularly where multiple plants are scattered across a catchment or are operating poorly.

¹¹ The WICS assessment is indicative only as, like the Water New Zealand survey, it is based on the submissions of only a subset of local authorities in response to the Department's request for information (albeit a large subset representing over 80% of the population), and the assessment also relies on council's self-reporting. Unlike the Water New Zealand survey, there was no audit process for the RfI.

Resource consents are required for the discharge of treated wastewater from treatment plants in all regions. A report in 2019¹² found that nearly a quarter of wastewater treatment plants are currently operating on expired consents. Moreover, there is a bow wave of treatment plants that will require re-consenting in the next decade, with almost 35% of all treatment plants (comprising 110 plants) currently going through or expected to go through a resource consenting process in the next 10 years.

These discharges can also cause health problems if they contain bacterial pathogens such as *E. coli* or *Campylobacter*, or protozoan pathogens such as *Cryptosporidium* or *giardia*.

Stormwater overflows

In urban areas, stormwater overflows are the main contributor to poor water quality, as a result of the greater proportion of impervious surfaces that increase the volume and speed of contaminant run-off. While there is a growing recognition and effort towards managing stormwater quality, this is not yet widespread. Of the 41 stormwater service providers contributing to the 2020/2021 National Performance Review, 26 (63%) had stormwater catchment management plans, and 23 (56%) were monitoring stormwater quality.¹³

As with treatment plants, formal actions in response to stormwater consent breaches are rare, but they are gradually increasing over time. One important difference from wastewater treatment discharges is that stormwater discharges are not always consented.

Other challenges facing stormwater systems are maintenance, resilience, and climate change. There is currently a lack of consistent information about the condition of stormwater infrastructure, and also about the impact of climate change and other natural hazards, to which stormwater systems are particularly susceptible.

Lack of resilience

New Zealand is facing threats to our water security. Climate change is bringing greater variation and extremes in our climate. Rural and urban areas across the country are experiencing more flooding and droughts. Water shortages disproportionately affect small, rural, and/or vulnerable communities, iwi/Māori, and households that depend on rainwater tanks.

Although estimates of water loss for water supplies without universal metering have a wider margin for error, it is estimated that 21% of water supplied to networks is lost on the way to its end use. This is more than the combined volume of water supplied by Christchurch City and Wellington Water. Opportunities for reducing water loss exist in at least 83% of serviced districts.¹⁴

¹² GHD-Boffa Miskell (2019). National Stocktake of Municipal Wastewater Treatment Plants. Available at [https://www.dia.govt.nz/diawebsite.nsf/Files/Three-waters-documents/\\$file/Report-1-National-Stocktake-of-Municipal-WWTps.pdf](https://www.dia.govt.nz/diawebsite.nsf/Files/Three-waters-documents/$file/Report-1-National-Stocktake-of-Municipal-WWTps.pdf)

¹³ Water New Zealand (2021). National Performance Review 2019-20. Available at <https://www.waternz.org.nz/NationalPerformanceReview>

¹⁴ Water New Zealand (2021). National Performance Review 2019-20. Available at <https://www.waternz.org.nz/NationalPerformanceReview>

The amount of water lost through networks is increasing. The median annual real water loss per property has increased by 44% in the last five years.

Water leakages and losses can contribute to water shortages, especially in dry years, and potentially can lead to water restrictions and disruption of supply. Because of leakages and losses, water takes, and water storage must also be greater than they would otherwise need to be.

Poor outcomes for iwi/Māori

Māori express a relationship with water as kaitiaki. Māori do not distinguish their rights and interests in freshwater from the three waters; they are viewed as a connection to the water environs and its systems. This holistic approach highlights the important connection between the review of three waters service delivery arrangements and other work programmes underway across government, particularly those that relate to resource management and freshwater allocation.

Water can be a taonga of particular significance and importance to Māori, and the Crown has a duty to protect iwi/Māori rights and interests under the Treaty of Waitangi / Te Tiriti o Waitangi (the Treaty / Te Tiriti), and existing and subsequent Treaty settlements. The Crown has responsibilities under the principles of Te Tiriti to protect such a relationship and allow for an appropriate exercise of tino rangatiratanga alongside kāwanatanga. The Crown also has broad responsibilities to protect taonga, the exercise of tino rangatiratanga and kāwanatanga, and the principles of Te Tiriti.

A clear concern from iwi/Māori is that the system for delivering three waters needs to uphold, align and integrate with Te Tiriti and Te Mana o te Wai.

In addition, iwi/Māori have roles within the current three waters service delivery system that will need to be acknowledged. They are suppliers and/or recipients of water services (particularly to rural marae, papakāinga, and rural communities), and are often members of communities that are underserved by the existing three waters service delivery system, and who receive poor quality three waters services or none at all.

The causes of New Zealand's three waters challenges are rooted in the way the system is currently designed

As the challenges and issues noted above show, many of New Zealand's communities are dealing with unacceptable outcomes from their three waters services. The Government has identified and is seeking to address four root causes that contribute to these persistent and systemic problems.

Limited opportunities to achieve benefits from scale

Most local authorities in New Zealand currently serve 100,000 or fewer connected ratepayers, and this creates significant inefficiencies within the system for delivering three waters, including:

- a lack of strategic and co-ordinated asset planning at a regional or greater level
- limited opportunities to consider catchment-level outcomes

- a lack of funding and pipeline certainty to create competitive pressures in the supply chain
- the lack of capacity and capability that tends to be associated with larger-scale entities
- a lack of innovation
- a lack of career pathways and opportunities for the workforce to specialise; and
- wide variation in water charges, particularly for vulnerable communities.

Achieving our ambitions for reform requires entities to have a sufficient asset and customer base to be financially sustainable, operate at an economically efficient scale, and enable prices to be affordable and levels of service to be broadly comparable.

We have drawn on international expertise and available empirical evidence¹⁵ to analyse the benefits of aggregation, including considering the scope for efficiency gains. This analysis took account of the potential for efficiency gains across financing costs, operating expenditure and capital expenditure.

International evidence indicates each entity would need to serve a connected population of at least **600,000 to 800,000** to achieve the desired level of efficiency. Below this point, water services providers may find it difficult to fully realise the efficiency benefits that have been shown to be possible in other jurisdictions.

The main benefits of scale relate to:

- improved access to capital markets and borrowing at a greater level than local authorities can achieve – as a result of having stronger balance sheets, and independent professional governance and management
- shifting the provision of water services onto a more financially sustainable footing – by leveraging scale to strategically plan, procure and manage three waters infrastructure and service delivery, delivering operating efficiencies, and adopting more flexible funding and pricing mechanisms to address geographical, climate risk and intergenerational equity considerations

¹⁵ See for instance:

- Klien (2017). Global study on the aggregation of Water Supply and Sanitation Utilities. <https://openknowledge.worldbank.org/bitstream/handle/10986/27981/119098-WP-P159188-PUBLIC-ADD-SERIES-50p-stat-analysis-24-8-2017-13-34-31-W.pdf?sequence=1&isAllowed=y>
- Ferro, Lentini, and Mercadier (2011). Economies of Scale in the water sector: a survey of the empirical literature. <https://iwaponline.com/washdev/article-abstract/1/3/179/28777/Economies-of-scale-in-the-water-sector-a-survey-of?redirectedFrom=fulltext>
- González-Gómez and García-Rubio (2008). Efficiency in the management of urban water services. What we have learned after four decades of research. https://www.researchgate.net/publication/23565871_Efficiency_in_the_management_of_urban_water_services_What_have_we_learned_after_four_decades_of_research
- Independent Pricing and Regulatory Tribunal (2007). Literature Review: Underlying costs and industry structures of metropolitan water industries. https://www.ipart.nsw.gov.au/files/sharedassets/website/trimholdingbay/final_report_-_literature_review_-_underlying_costs_and_industry_structures_of_metropolitan_water_industries_-_september_2007.pdf

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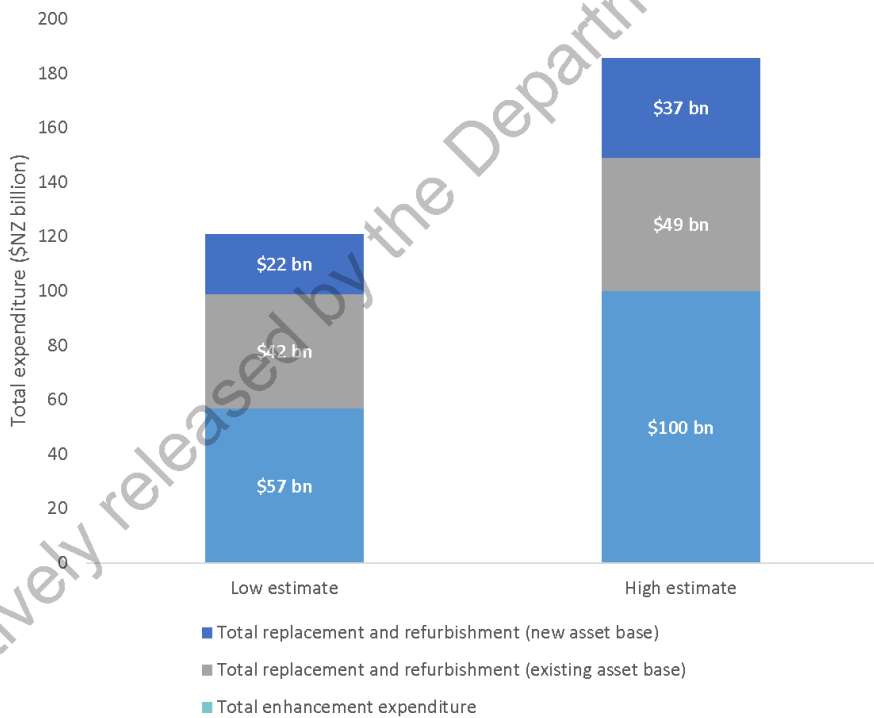
- improving sector capacity – by providing sufficient scale to encourage strategic workforce planning, and provide the required depth of governance, management and specialist technical skills and experience
- regulatory burden and benchmarking performance of providers – including the ability to adequately benchmark performance across a smaller number of providers without imposing significant costs (relative to the costs associated with benchmarking the performance of a large number of entities with insufficient scale).

A further benefit of scale relates to the potential to spread costs over a larger population base, assisting in ensuring an acceptable level of service can be delivered affordably in smaller, rural communities.

A significant affordability challenge

As already noted, WICS analysis using information collected from local authorities on their assets, finances, and connected properties, indicates a likely range for future investment requirements in three waters at a national level in the order of \$120 billion to \$185 billion (see Figure 3 for a breakdown).

Figure 3: Estimated future capital investment requirement for three waters infrastructure



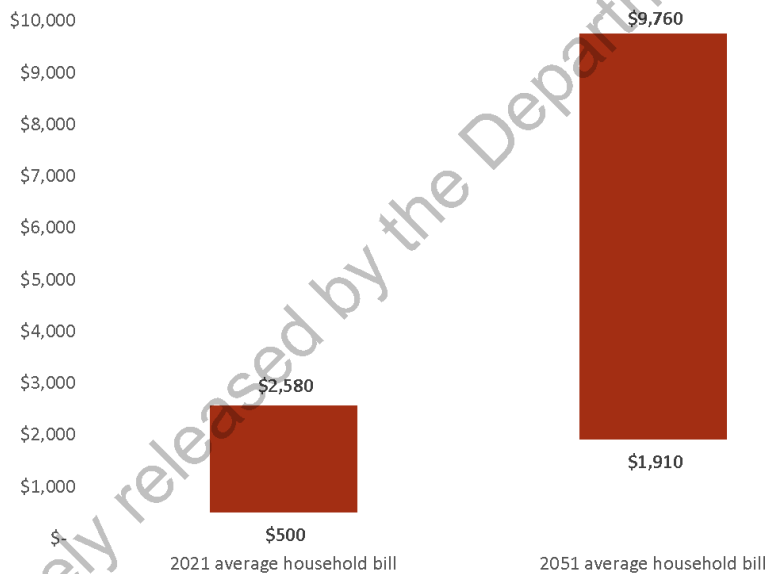
Source: Water Industry Commission for Scotland, 2021

As illustrated in Figure 4 overleaf, meeting these costs will be challenging for most local authorities, with average household bills needing to increase significantly.¹⁶ Without reform, the real cost increases to households of meeting the required investment would be significant, and likely unaffordable for many smaller communities and low-income customers.

For rural local authorities, average household costs in 2019 ranged from less than \$500¹⁷ per annum to \$2,600 per annum, with a median of \$1,300. To meet the investment required, average household costs would need to increase by between three and 13 times in real terms. For some small, rural local authorities, average household costs in 2050 could reach as high as \$9,000 in today's dollars and would be unaffordable for many households.

The situation is not much better for larger provincial and metropolitan local authorities. Average household bills (in 2019) for provincial local authorities ranged from around \$600 to \$2,550, with a median of \$1,120. By 2050, these bills would need to increase by between two and eight times to meet the required investment. Similarly, average household bills across metropolitan local authorities would need to increase by between 1.5 and seven times. In some metropolitan areas, bills could reach between \$1,700 and \$3,500 per annum in today's dollars.

Figure 4: Average household bills in 2021 compared with 2051 without reform



Source: Water Industry Commission for Scotland, 2021

These findings are consistent with analysis undertaken independently by the following local authorities:

¹⁶ The average household cost figures for 2051 are charted up to the 75th percentile to account for large variances in the data collected from local authorities.

¹⁷ Current costs are not necessarily a good reflection of the true economic costs of service delivery, as evidence suggests many councils do not fully cover economic depreciation through current charges.

- **Otago/Southland.** Potential future average charges for three waters services across the region is estimated to more than double over the next 10 years from \$1,300 to almost \$3,000¹⁸
- **Hawkes' Bay.** Average three water rates could increase to over \$3,500 and \$4,000 for households in Central Hawke's Bay and Wairoa respectively.
- **West Coast.** A review of Water Service Delivery for West Coast councils found that none of the regional models/options considered would support all of the objectives for Three Waters services delivery on the West Coast (see Box 2 for summary of problem definition).

Box 2: Summary of Problem Definition from Three Water Service Delivery Review, West Coast councils (Tonkin & Taylor)

There is a wide range of challenges for Councils on the West Coast in managing Three Waters assets and planning for the future:

- There is a disconnect between the Level of Service (LoS) that is required by legislation and/or desired by communities and the Councils ability to fund that LoS.
- In some cases, it is unrealistic for direct beneficiaries to fund LoS improvements for small schemes.
- Delivering consistent levels of service and improved performance needs the broader community (local, regional, national) to be willing to fund.
- Maintenance and renewals of assets is not well funded resulting in poor performance and emergency repairs. Reactive maintenance can be a costly way of managing the asset portfolio.
- It is difficult to attract and retain the right people – Hard to manage design and construction activities – Contractors can't provide the right skills
- It is difficult to find staff who can respond to both the technical and the community requirements of incidents, for example wastewater overflows or mains breaks.
- Scale makes procurement challenging (attracting qualified tenders)
- The cost of doing design and construction work has increased, even when adjusted for the construction price index (CPI) or equivalent.
- Standards for water supply and wastewater treatment are becoming increasingly stringent: – Moving to a nationally consistent approach (Taumata Arowai, National Environmental Standards).
- Some activities have historically been under-regulated in the region due to issues not necessarily being well understood
- Aging assets make it difficult to maintain performance e.g. cross connections, infiltration.
- There has been growth in some areas with infrastructure maintenance, renewals and capital investment not keeping up

¹⁸ Morrison Low (2021). Otago Southland Three Waters: Issues and principles. Available at (pages 39 to 68) <https://www.goredc.govt.nz/assets/documents/meetings/2021/20210309-Council-agenda.pdf>

The expected increases do not only impact on rural and provincial areas. In Auckland, recent announcements have signalled water charges will increase by 7 per cent in 2022, followed by a 9.5 per cent increase each year up to 2029.¹⁹

Clearly, the costs of accessing safe, clean and environmentally friendly three waters services are projected to increase significantly and would have an impact on the cost of living for New Zealanders, especially lower income households.

Misaligned incentives for critical water infrastructure decisions

Local authority service providers operate in a political environment, in which investment decisions are made by elected representatives who have a duty to consider broader community interests (for example, other investment priorities and affordability of rates increases) and a constrained financial environment, in which the main funding and financing mechanisms are via ratepayers and council borrowing.

These factors combine to limit the level of three waters investment, for example due to:

4. covenants imposed by lenders which limit the debt to revenue ratios that councils can maintain while achieving a good credit rating and cost-effective financing
5. varying attitudes to debt and rates increases across communities
6. financially constrained households (such as ratepayers on low incomes), especially in areas with higher levels of deprivation
7. misaligned incentives, and a lack of management focus, connected with an operating environment in which three waters is just one aspect of the broader responsibilities that councils have and services that communities require.

Recent reviews into the delivery of three waters infrastructure in Wellington,²⁰ the West Coast,²¹ Hawkes' Bay²² have arrived at similar conclusions regarding the challenges associated with three waters service delivery and infrastructure provision in the current local government operating environment.

¹⁹ Watercare (2021). Water and wastewater prices to increase from 1 July 2021 Available at <https://www.watercare.co.nz/About-us/News-media/Water-and-wastewater-prices-to-increase-from-1-Jul>

²⁰ Wellington City Council (2020). Mayoral Taskforce on the Three Waters report Available at <https://wellington.govt.nz/-/media/environment-and-sustainability/water/files/2020/mayoral-taskforce-three-waters-taskforce-report.pdf?la=en&hash=3B3EC07C7DFBC70020C610AB8372E37FEB2C537E>

²¹ Tonkin & Taylor (2020). Three Waters Service Delivery Review.

²² Morrison Low (2020). Hawkes' Bay Three Waters: Business case of three waters service delivery options. Available at <https://www.hb3waters.nz/assets/Uploads/HB-3-Waters-Delivery-Detailed-Analysis-29.07.20-Full-Report.pdf>

Lack of effective oversight and stewardship for the three waters sector

New Zealand has 67 local authority (or council-controlled organisation) suppliers, 20 district health boards (noting the Government's recent announcements of major reform in this area, including to create one national health organisation with four regional divisions), 16 regional councils, and seven government ministries that have a role in relation to the supply of safe drinking water.²³

The dispersed nature of the roles and responsibilities within the system, being spread across many agencies, means no one is responsible for monitoring or overseeing the performance of the whole system.

While the Government has already taken steps to strengthen the regulatory environment – through the creation of Taumata Arowai and the passage of the Water Services Act 2021 – this is focused on improving the quality of the three waters, and other gaps remain around how the performance of the system and its outcomes for customers are regulated.

In addition, existing water service providers are not subject economic regulation. This has hampered the quality of information about, and understanding of, the condition of three waters assets and the performance of water networks.

The lack of effective oversight and stewardship arrangements, and weaknesses in the regulatory environment, have compounded the challenges noted above with how the system is currently designed.

Without good quality information, there is a lack of transparency about fundamental elements of the three waters system – such as the costs and performance of services, asset condition, and required investment – that makes it difficult for customers and communities to hold water services providers to account for performance.

A changing regulatory context will help but the operating environment for many local authorities will continue to be challenging

The policy landscape will change significantly with the establishment of Taumata Arowai and the introduction of a new water services regulatory framework. It will take some time to implement the new regulatory regime, but it can be expected to provide much greater assurance that drinking water is safe and that drinking water standards are being complied with.

Key features of the new regulatory framework include:²⁴

- all drinking water suppliers, except domestic self-suppliers, have a duty to consistently provide safe drinking water
- stronger requirements on water suppliers to manage risks to drinking water safety
- strong compliance, monitoring and enforcement actions for Taumata Arowai

²³ Department of Internal Affairs (2017). Report of the Havelock North Drinking Water Inquiry, Stage 2. Available at [https://www.dia.govt.nz/diawebsite.nsf/Files/Report-Havelock-North-Water-Inquiry-Stage-2/\\$file/Report-Havelock-North-Water-Inquiry-Stage-2.pdf](https://www.dia.govt.nz/diawebsite.nsf/Files/Report-Havelock-North-Water-Inquiry-Stage-2/$file/Report-Havelock-North-Water-Inquiry-Stage-2.pdf)

²⁴ These features are contained in the current draft of the Water Services Bill being considered by the Health Select Committee and are subject to change when reported back to the House later this year.

- new national environmental standards for wastewater discharges and overflows, with new obligations on network operators to manage risks to people, property and the environment
- new requirements for reporting on the performance of wastewater and stormwater networks.

These regulatory changes will increase the pressure on local authorities to raise current levels of investment in three waters infrastructure and services. Shifting public perceptions around access to safe drinking water and environmentally friendly wastewater and stormwater practices and tougher resource management consent requirements will only serve to amplify the regulatory pressure, and will be key drivers of investment.

Without reform, local authorities will need to make increasingly difficult decisions about how they meet this challenge, including through future rates rises, higher levels of borrowing, and scaling back or delaying other investment priorities.

Local authority responsibilities under provisions in the Water Services Bill

Local authorities (and other water suppliers) will face significant duties and obligations for drinking water when the Water Services Bill and associated regulations are enacted. A summary of these obligations is outlined in Table 2 below.

Under the proposed service delivery reforms, these responsibilities and obligations would transfer to the new water services entities, meaning local authorities (and their officers, employees and agents) would cease to face these obligations.

Table 2: Local authority responsibilities under provisions in the Water Services Bill

Local authorities as suppliers of water services	General obligations of local authorities
<ul style="list-style-type: none"> • Duty to provide safe drinking water and meet drinking water standards, and clear obligations to act when water is not safe or fails to meet standards • Key provisions include: <ul style="list-style-type: none"> ○ Suppliers need to register with Taumata Arowai ○ Local authority suppliers will need a drinking water safety plan and a source water risk management plan ○ Water suppliers must give effect to Te Mana o te Wai • Taumata Arowai will have significant compliance and enforcement powers, including powers to direct suppliers and enter into enforceable undertakings with suppliers • Officers, employees and agents of suppliers will have a duty to exercise professional due diligence 	<ul style="list-style-type: none"> • Local authorities will have a duty to ensure communities have access to drinking water if existing suppliers face significant problems in complying with drinking water standards including: <ul style="list-style-type: none"> ○ Requirements to work with suppliers and consumers to identify solutions ○ Intervention responsibilities if a supplier is unable to meet standards, including potentially taking over management and operations of private or community supplies • In rural communities, this could represent a significant risk (contingent liability) for local authorities • Local authorities will be required to make assessments of drinking water, wastewater and sanitary services to ensure communities have access to safe drinking water • Local authorities will need to assess drinking water services available to

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<ul style="list-style-type: none"> Complying with these new requirements is expected to require significant capital and operating expenditure by local authorities (including paying levies to Taumata Arowai for operation of the regulatory system) 	<p>communities at least once every three years, including private and community supplies (excluding domestic self-supplies)</p>
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It will be challenging for many suppliers to comply with these new obligations, particularly those suppliers that are being brought into the regulatory system for the first time. The WICS estimate of future investment requirement already presented in this paper signals the likely scale of the challenge facing water suppliers. Local authorities will also face an added burden given they will have a duty to intervene on behalf of those suppliers that are unable to meet their obligations under the new regulatory environment.

Transformative change is required, not piecemeal solutions

The nature and extent of the challenges facing the system, and the root causes of these problems, mean we cannot expect the current system of service delivery to respond to meet these challenges – particularly in the comprehensive, widespread and sustained manner that is required. Most councils and communities will not have the funding, or the operational capacity, to eliminate the infrastructure deficit and meet future growth requirements. Experience over the past 30 years also indicates that widespread improvements, particularly through voluntary change and collaboration, are unlikely.

Proactively released by the Department of Internal Affairs

Report to Environmental Performance Committee

Date: 29 October 2021

Author: Hugh Keane, Team Leader Infrastructure, Resource Use

Authoriser: Brent Sinclair, Director, Resource Use

Subject: Update on Territorial Authorities 3-waters compliance in the Waikato Region

Section: A (Committee has delegated authority to make decision)

Purpose

1. To update the Environmental Performance Committee on progress by Territorial Authorities in the Waikato Region in relation to compliance with consents that authorise '3-waters' infrastructure. The term '3-waters' refers to municipal wastewater treatment, community water supply and the discharges from stormwater networks operated by Territorial Authorities.

Executive Summary

2. Compliance of water and wastewater systems operated by Territorial Authorities is a topic of interest across the country. The recent government announcement of mandated restructuring of '3-waters' delivery nationally can be expected to heighten interest in current Territorial Authorities compliance statuses. This report advises on compliance status in the Waikato Region and provides an update on the status report presented to the Environmental Performance Committee in August 2021.

Staff Recommendation:

1. That the report Update on Territorial Authorities 3-waters compliance in the Waikato Region (Environmental Performance Committee 11 November 2021) be received.

Current Compliance Status of Territorial Authorities

3. The eleven Territorial Authorities (TAs) that provide 3-water utility services in the region operate under current resource consents. In addition, Watercare Services Ltd (WSL) operates the Pukekohe Wastewater Treatment Plant (WWTP) and the Tuakau Water Treatment Plant (WTP) on behalf of Waikato District Council (DC).
4. As reported previously, while on occasion non-compliance with consent requirements relates to exceedances of parameter limits, identified non-compliance more commonly relates to breaches of other consent conditions such as reporting requirements, the provision of data sets, management plan updates, or the provision of results of monitoring programmes and the submission of annual reports.
5. The table below provides a compliance grading for the 11 TAs and WSL for the 2020/2021 year and has been updated taking account of recent annual audits of resource consents and compliance improvements.

Doc # 21953803

T/A	Total sites ww/w/sw	Wastewater			Trend	ANYC	Water supply			Trend	ANYC	Stormwater			Trend	ANYC
Hamilton City Council	1/1/1	0	0	1	↗	0	0	0	1	↗	1	0	0	1	↔	0
Waikato DC	9/7/8	4	2	1	↔	2	0	1	4	↗	2	1	3	4	↔	0
Waipa DC	3/5/5	1	0	2	↗	0	0	0	5	↗	0	0	5	0	↔	0
Watercare Services Ltd	1/4/0	0	0	1	↗	0	0	0	1	↗	3	0	0	0	n/a	0
Thames Coro DC	10/6/10	4	2	2	↔	2	0	1	1	↔	4	0	7	0	↘	3
Hauraki DC	7/5/5	3	3	1	↘	0	0	3	1	↗	1	0	2	2	↘	1
Matamata Piako DC	5/7/4	0	1	3	↗	1	0	0	0	↔	7	0	0	0	↔	4
South Waikato DC	4/5/3	0	1	1	↗	2	0	0	5	↔	5	0	0	1	↔	2
Otorohanga DC	1/5/2	0	1	0	↗	0	0	1	4	↔	0	0	0	2	↗	0
Waitomo DC	4/4/1	0	0	4	↗	0	0	1	3	↗	0	0	0	1	↗	0
Taupo DC	14/13/3	0	2	4	↗	8	0	1	4	↔	8	0	0	3	↗	0
Rotorua Lakes DC	0/2/0	0	0	0	n/a	0	0	0	0	↔	2	0	0	0	n/a	0

Key
Significant non-compliance
Moderate non-compliance
Full or low risk of non-compliance
ANYC Audit Not completed for this year

Trend	Direction
↗	Doing well, compliant, improving or exceeding expectations
↔	Holding steady, generally compliant but still requires work to improve
↘	Non-compliances, poor reporting, needs supervision

Territorial authority site compliance for sites monitored this compliance year to date (1 July 2021 to 31 October 2021)

- Thames Coromandel DC (TCDC) continues to progress an agreed work programme for the provision of reporting requirements for several of its WWTPs, WTPs and urban stormwater consents. As reported to the Environmental Performance Committee in August 2021, we continue to liaise with TCDC to ensure this work programme is delivered.
- Improvements in compliance for Whangamata WWTP are ongoing. TCDC has advised desludging of the forest balance pond is confirmed and will commence in November. This will provide improved operational resilience, and a greater working storage available to ensure irrigation is only occurring as authorised. This will address a significant outstanding concern at this site. A number of other actions such as LiDAR scanning of recently harvested areas and reporting improvements are also occurring. The abatement notice remains in place.
- All outstanding consent-directed reports for Pauanui-Tairua WWTP have now been provided. TCDC has committed funds to ongoing wastewater process control upgrades in the LTP, for which improvements at Pauanui-Tairua WWTP have been implemented in the past 12-18 months and continue. The abatement notice remains in place.
- Coromandel WWTP continues to have elevated ammoniacal nitrogen levels in the final discharge and work is still required to resolve this. TCDC has trialed improvements and this has resolved an issue related to pH. Contractors have been engaged to look at further options and a report is expected in three months. The abatement notice will remain in place until the performance of the WWTP demonstrates compliance.
- Recent disposal area issues have arisen at Onemana WWTP. TCDC has restricted use of the affected disposal area and is actively working through a range of options to remedy this, in conjunction with the current consent replacement process. Covid-19 travel restrictions have delayed technical investigations at the WWTP.
- Hauraki DC (HDC) is progressing its pond desludging programme in response to the abatement notices served as a result of the performance of the Paeroa, Ngatea, and Waihi WWTPs. HDC advises these works, which also include the Turua and Kerepehi WWTPs, are expected to improve the efficiency of the WWTPs. HDC advises this programme of works is scheduled to be completed by January 2022.

12. As a result of recent compliance audits for these HDC WWTPs conducted in October, a report will be taken to the Resource Use Enforcement Decision Group (EDG) in November for consideration whether further action is required.
13. The Waikato District Council has recently commissioned the new membrane bioreactor (MBR) WWTP for the Meremere community WWTP and it is now compliant with the new discharge consent, which will allow the AN to be removed. Construction work is being progressed at Te Kauwhata WWTP with a new membrane aerated biofilm-reactor (MABR). The abatement notice will remain in place until the new technology is commissioned in mid-2022 and compliance has been consistently demonstrated.
14. The upgrade works at the Tokoroa WWTP are continuing and a new consent is now in place. Once compliance is demonstrated with the new consent SWDC can apply to have the abatement notice removed.
15. The Kinloch WWTP is utilising a new dripper irrigation system at the Kinloch Golf Course. Once consent compliance is confirmed, Taupo DC (TDC) can apply for the abatement notice to be removed. TDC is also currently converting the WWTP to MBR technology. TDC is also implementing improvements at the Taupo township land treatment operation. When the current reconsenting process is concluded, TDC expects to be in the position to achieve full compliance.
16. Three waters infrastructure operated by Matamata-Piako DC, Otorohanga DC, Waipa DC and Waitomo DC are in general compliance with consent requirements.
17. Appendix 1 lists current Abatement Notices in place in relation to 3-waters infrastructure in the region.

Case Study: Hamilton City Council

18. Hamilton City Council (HCC) operates one WWTP for the treatment of municipal wastewater and one WTP for supply of potable water to the city and surrounding communities. In addition, HCC holds a comprehensive stormwater discharge consent for discharges from its urban stormwater network.
19. The Pukete WWTP serves a population of 160,000 people. The site has been undergoing an upgrade over the last couple of years including the construction of a fifth aeration basin and clarifier, along with a new interstage pump station to complement the existing one, and for additional pumping capacity for the new aeration basin. Due to the site's high standard of monitoring and reporting and continued good compliance record, WRC permits HCC to undertake self-monitoring of the site and provide an annual report on compliance for assessment by WRC staff. In October 2021 HCC was awarded full compliance for the 2020/2021 audit period.
20. In addition to this HCC operates a significant sewer network with 135 pump stations. A programme of pumpstation upgrades has been underway since 2013, which has resulted in a reduction of network spills over time. The most recent improvement has been the commissioning of the Hillsborough pumpstation (with storage tanks), which was fast tracked following the prosecution of HCC for a spill in 2018 from the now decommissioned ANZAC Bridge Street pumpstation. Network spills are not authorised and thus every spill is investigated to determine its environmental effects and appropriate consequence.
21. HCC operates the municipal water treatment plant at Waiora Terrace for the water take, treatment and reticulation of potable water to Hamilton City and some surrounding areas. River water is taken via a surface water intake structure built on the true left bank of the Waikato River. In 2009, resource consent 113941 was granted for a period of 35 years. This consent requires HCC to report on water taken via telemetry direct to WRC and to provide an annual report each year on the performance of the WTP with regard to the consent requirements. In October 2021 WTP consent compliance was awarded full compliance for the 2020-21 compliance year.

22. HCC also holds a current consent for urban stormwater discharge that was granted in 2011. HCC operates a large stormwater network with outfalls to urban streams and the Waikato River. The majority of the stormwater pipe network consists of older infrastructure, and but given the considerable growth in recent years, HCC is becoming responsible for newer systems in areas including Rototuna, Rotokauri and Ruakura.
23. The most recent stormwater compliance audit for the 2020/21 reporting year completed in September 2021 received an overall compliance rating of moderate non-compliance. This is due to several medium priority non-compliances and outstanding actions from previous compliance assessments. Issues identified in this audit include the failure to implement several of the management initiatives required via certified management plans, or to undertake the actions identified through annual reporting and compliance assessments. We continue to liaise with HCC to address these non-compliance matters prior to the next compliance audit.

Conclusion

24. The Environmental Performance Committee has requested regular updates on compliance with 3-waters activities undertaken by Territorial Authorities in the Waikato Region. This report demonstrates that in response to actions initiated by WRC progress is being made by Territorial Authorities to improve overall compliance.

Appendix 1: Abatement Notices served in relation to 3-waters infrastructure in the Waikato region.

Public Utility	Territorial authority	Date of service	Key Abatement Notice Requirements
Whangamata WWTP	Thames Coromandel DC	17/06/2019	Provide outstanding reports, plans and data sets to demonstrate compliance with consent conditions
Coromandel WWTP (reissued)	Thames Coromandel DC	19/06/2019	Comply with pH and ammoniacal nitrogen limits, improve reporting.
Pauanui-Tairua WWTP	Thames Coromandel DC	05/08/2015	Provide accurate discharge volumes and reporting requirements.
Te Kauwhata WWTP	Waikato DC	03/12/2018	Comply with consent limits for SS, BoD5 <i>E coli</i> , N species.
Meremere WWTP	Waikato DC	19/03/2019	Comply with consent limits for SS, BoD5 and volumes.
Tokoroa WWTP	South Waikato DC	07/01/2020	Comply with consent limits for N species.
Taupo Land Irrigation	Taupo DC	03/12/2018	Comply with volume and Total Nitrogen loadings.
Kinloch WWTP Complaint	Taupo DC	14/02/2020	Comply with volume and Total Nitrogen loadings, undertake WWTP upgrades
Paeroa WWTP	Hauraki DC	02/11/2020	Comply with consent limits for TSS and N species.
Waihi WWTP	Hauraki DC	02/11/2020	Comply with consent limits for <i>E coli</i> and N species.
Ngatea WWTP	Hauraki DC	02/11/2020	Comply with consent limits TSS and <i>E coli</i> .
Waitakaruru Water supply	Hauraki DC	11/10/2021	Comply with consent take volume
Raglan Stormwater	Waikato DC	11/03/2020	Comply with consent requirements
Thames Stormwater (x6)	Thames Coromandel DC	13/11/2019	Review management and monitoring plans. Improve annual reporting.



Government Response to Three Waters Working Group on Representation, Governance and Accountability recommendations

This document includes a summary of the 47 recommendations of the Working Group on Representation, Governance and Accountability and a summary of the Government responses.

The full Working Group report is available online here: [Report from the Working Group on Representation, Governance and Accountability](#).

The Working Group recommendation references to 'the Bill' relate to the [exposure draft of the Water Services Entities Bill](#) provided to the Working Group for consideration as part of its work.

For a fulsome discussion on the Working Group recommendations and Cabinet considerations, please refer to the Cabinet paper *Strengthening representation, governance and accountability of the new water service entities* which will be published on the Department's website here: [Three Waters reform programme cabinet decisions and reform proposals](#).


The table below has been modified by HCC (GREEN column only) to record a staff assessment of the contribution the Government response has to meeting the expectation of Council based on Councils stated position in its feedback to the Government in October 2021, in its submission to MBIE of economic regulation of three waters in December 2021, in its feedback to the Representation, Governance and Accountability Work Group in February 2022 and other Council resolutions.

Key	Position impaired 	Neutral 	Position improved 	Not applicable
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Summary of recommendation in Working Group report	Government response	Assessment of contribution to HCC stated position
<p><i>Better explain water services reform</i></p> <p><i>Government acknowledges that more can be done to effectively communicate the need for change and to explain the opportunities for communities from water services reform</i></p>		
<p>Recommendation 1: That the Crown acknowledges the significant contribution that councils have made as stewards of three water infrastructure. We recommend the Crown undertake a positive communications campaign with the nation to explain the universally agreed ‘need for change’ to serve the needs of communities, expectations of how we best ensure the health of our wai, and the opportunities provided by the three waters reform.</p>	<p>The Government agrees it is important to ensure New Zealanders understand the reasons for reform and the opportunities it brings for communities. It is universally agreed that the status quo is not fit for purpose, and there is a need for significant change to achieve the outcomes communities expect of their three waters services.</p> <p>The Government is committed to ensuring that the public is well informed about the case for change and the legislative proposals, to assist the public with making submissions to the Select Committee.</p>	<div data-bbox="1525 619 1637 655" style="text-align: center;"> </div> <p>Council provided feedback in October 2021 on needing better information.</p>



Summary of recommendation in Working Group report	Government response	Assessment of contribution to HCC stated position
<p>Ensure alignment with resource management reform <i>Government has agreed to ensure alignment between water services reform and resource management reform</i></p>		
<p>Recommendation 2: The Crown ensures Resource Management Act reforms are consistent with and do not undermine the three waters reforms (informed by the recommendations in this report).</p>	<p>There are important intersections between the reforms to the three waters and resource management systems, as well differences in the focus of, and outcomes sought from, these two reforms.</p> <p>The Government notes there will be differences between the governance and decision-making bodies enabled by three waters reforms and those under the resource management reforms;</p> <p>The Government will direct officials in relevant agencies to continue to work together across the two reform programmes, as appropriate, to ensure the new water services entities are able to work within the reformed resource management system;</p> <p>The Government notes that consents for taking and discharging water will continue to be administered by local authorities under the Resource Management Act (which will be transferred into the Natural and Built Environments Act, if enacted).</p>	<p style="text-align: center;"></p> <p>The government has restated previous positions.</p>
<p>Entrench Community Ownership <i>Government will introduce legislation to entrench ownership of water services entities by councils for communities</i></p>		



Summary of recommendation in Working Group report	Government response	Assessment of contribution to HCC stated position
<p>Recommendation 3: The Bill prescribes the collective ownership of each water services entity by local communities through a direct shareholding interest allocated to their territorial authorities. One share for each 50,000 people, rounded up. As shareholding owners of the water services entities, each territorial authority will be required to vote on any proposal for the water services entity to be sold (privatised) or involved in a merger of water services entities, in each case that changes the owners of the water services entity. The proposal will only proceed if there is unanimous shareholder approval. This is in addition to the privatisation protections currently outlined in the Bill.</p>	<p>The Government agrees with the Working Group’s recommendations to strengthen community ownership of the new entities.</p> <p>The legislation establishing the new entities will provide that ownership of a water services entity is through shares assigned to each territorial authority in an entity’s service area, with each share assigned to the relevant council per 50,000 people in its district (rounded up, with at least one share for every territorial authority). Council shares cannot be sold or transferred for any reason and will not carry any financial interests.</p> <p>The Government agrees that this proposal provides an added layer of protection against privatisation. Council owners would need to vote unanimously in support of any proposal to divest ownership in water services or lose control of significant infrastructure for it to proceed.</p> <p>This is in addition to the further protections against privatisation already proposed by the Government, meaning the public in the service area would then need to vote with a 75% majority in support of any proposal of this nature.</p>	<div style="text-align: center;">  </div> <p>Council’s concern is about the rights of ownership and local involvement in decision making. These shares only provide for that in the exceptional circumstances of divestment of ownership and significant infrastructure.</p> <p>This does not address Council’s concern that the RRG (subject to a constitution not yet developed) potentially has 1 vote per council and not based on the population a Council represents.</p>



<p>Recommendation 4: The Bill entrenches the need for a majority of 75% of all the members of the House of Representatives to repeal or amend provisions of the Bill where the repeal or amendment of that provision is necessary to allow privatisation of a water services entity.</p>	<p>Cabinet agrees that this provision would safeguard these services against privatisation for all New Zealanders into the future.</p> <p>The Government is seeking cross-party support to entrench these provisions to protect against privatisation of water services infrastructure - this will require a 75 percent majority by Parliament at the Committee of the whole House.</p>	<p style="text-align: center;"></p> <p>This is subject to a future decision outside of the control of the Government.</p> <p>If achieved this would turn the lights green.</p>
<p>Recommendation 5: The Bill expressly provides a prohibition on local authorities providing financial support to, or for the benefit of, water services entities – this includes by way of guarantee, indemnity or security, or the lending of money or provision of credit or capital.</p>	<p>Balance sheet separation is a priority of the three waters reforms. The legislation establishing the water services entities will include a provision prohibiting local authorities from providing financial support to, or for the benefit of, water services entities by way of guarantee, indemnity or security, or the lending of money or provision of credit or capital.</p>	<p style="text-align: center;"></p> <p>Council hasn't considered lending to the Entity and does not support the 4 entities model.</p>
<p>Summary of recommendation in Working Group report</p>	<p>Government response</p>	<p>Assessment of contribution to HCC stated position</p>
<p>Recommendation 6: The Crown should further explore and clarify the thresholds regarding what constitutes a major transaction to be raised to the regional representative group for consideration.</p>	<p>The Government has given this consideration and, based on provisions in the Exposure Draft Bill, the most common definitions of a major transaction already require Regional Representative Group consideration, particularly in relation to merger or privatisation proposals. No additional changes are proposed to the Bill.</p>	<p style="text-align: center;"></p> <p>No changes proposed by the government</p>
<p>Effective Community Oversight</p> <p><i>Government agrees on the need for strong regional representative groups and the legislation will reflect this</i></p>		






**Te Tari Taiwhenua
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<p>Recommendation 7: The Bill requires regional representative group co-chairs, one council and one iwi/hapū representative.</p>	<p>The Government agrees that regional representative groups should have co-chairs to cement co-governance principles.</p> <p>The Government agrees to amend the Bill to enable each regional representative group to appoint co-chairs, comprising one council and one mana whenua chair;</p> <p>The Government agrees that details relating to co-chairs of a regional representative group, such as appointment processes, procedures in meetings, and decision-making powers, will be set out in the constitution of each entity.</p>	 <p>Council feedback to Government in October 2021 Council taking a neutral position on Iwi participation. HCC has built enduring and mutually supportive relations with Iwi/Māori in its region.</p>
<p>Recommendation 8: The Bill requires consensus decision making for all decisions on regional representative group. Where consensus cannot be reached within an appropriate timeframe, 75% majority vote will be sought as agreed by co-chairs. This process should be prescribed in the Bill.</p>	<p>The Government agrees that decision making can be strengthened by requiring consensus decision making of the regional representative group. This will be included in legislation and, where consensus decisions can't be reached, co-chairs will be able to move a majority vote of 75%.</p> <p>Procedural details to give effect to this recommendation would be set out in entity constitutions.</p>	 <p>Council does not support the Governance model, particularly the loss of the rights of ownership.</p> <p>The provision of a draft RRG constitution and whether votes based on population are included would be beneficial to understand.</p>
<p>Recommendation 9: The regional representative group requires appropriate secretariat and resource provisions to enable it to perform its role, and to allow for meaningful council and iwi/hapū participation in the regional representative group. This should be funded by the water services entity.</p>	<p>The Government agrees that a water services entity should be required to fund the support and resourcing required to enable its regional representative group to properly exercise its functions. This will be provided for in legislation.</p>	 <p>Council provided feedback in October 2021 requesting this.</p>

Item 11

Attachment 8



Summary of recommendation in Working Group report	Government response	Assessment of contribution to HCC stated position
<p>Strong Accountability to Communities</p> <p><i>Government agrees on the need for strong accountability of water services entities to their communities and will legislate to ensure this</i></p>		
<p>Recommendation 10: The role of the regional representative group is to collate inputs to the statement of strategic and performance expectations, including alignment with the Government Policy Statement, direction from regulators, local community priorities within the region as outlined in council strategic documents, Te Mana o te Wai statements, and alignment with RMA. This is to ensure that the water services entities receive clear strategic direction. It is recommended that the Bill is amended to reflect this approach and ensure the regional representative group receives all necessary information to undertake its role, this includes receiving copies of the water services entities' Asset Management Plan and Te Mana o te Wai statements to support the development of the strategic and performance expectations, and the ability to seek further information as necessary for it to undertake its role.</p>	<p>The Government agrees that it is important a regional representative group collates information and inputs from a range of sources when developing a statement of strategic and performance expectations.</p> <p>The legislation will be updated to include provisions to ensure the entity provides the information required by its regional representative group. Entity constitutions will contain provisions that enable a regional representative group to consider information and other inputs when developing a statement of strategic and performance expectations.</p>	<p style="text-align: center;"></p> <p>Council provided feedback in October 2021 requesting this.</p>



<p>Recommendation 11: The Bill is amended to ensure the strategic and performance expectations, which covers a period of 3 years, be issued annually to the water services entity.</p>	<p>The Government agrees that the statement of strategic and performance expectations should cover a three-year period, with provision for annual review by the regional representative group.</p>	<p style="text-align: center;"></p> <p>Council provided feedback in October 2021 requesting this.</p>
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Summary of recommendation in Working Group report	Government response	Assessment of contribution to HCC stated position
<p>Recommendation 12: The role of the regional representative group be extended in legislation to include the approval of the strategic direction outlined by the water services entity in the Statement of Intent (on the assumption that the Statement of Intent is limited to strategic direction only).</p>	<p>The Government agrees the regional representative group should have power to approve the strategic direction of the entity, provided that balance sheet separation is maintained and this does not compromise board independence and accountability.</p> <p>The Government intends to formally test the achievement of balance sheet separation with Standard & Poor's before the Bill is introduced.</p> <p>The Prime Minister, Minister of Finance, and Minister of Local Government have been authorised by Cabinet to consider the findings of Standard & Poor's and confirm the final design of the entity governance and accountability arrangements for inclusion in the Water Services Entities Bill.</p>	<p style="text-align: center;"></p> <p>The Government is not in a position to make a decision on this as it seeks professional advice.</p>
<p>Recommendation 13: The role of the regional representative group be extended in legislation to allow comment on the operational direction of the water services entity through the Asset Management Plan and key documents</p>	<p>The Government agrees the role of the regional representative group should be extended to allow comment, but not decisions, on operational matters. The establishing legislation will include provision that enable a regional representative group to comment on the entities statement of intent, asset management plan, funding and pricing plan, and infrastructure</p>	<p style="text-align: center;"></p> <p>Council provided feedback in October 2021 requesting this.</p>




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	<p>strategy, along with a requirement for the board to state how it has responded to those comments.</p>	
<p>Recommendation 14: The Bill clarifies the scope of the statement of strategic and performance expectations and excludes directing the water services entity at a project, investment or management level.</p>	<p>The Government considers it is important to safeguard the independence of a water services entity in delivering its responsibilities at a project, investment, and management level. This is already addressed in the Exposure Draft Bill.</p> <p>The regional representative group will represent the views of councils and mana whenua in the service area of the entity, and will approve the strategic direction of the entity, but will not be involved in making operational decisions about what an entity does or how it functions. The Board will be primarily accountable for developing the strategy for approval by the regional representative group, and for implementing it once it has been approved.</p> <p>The Bill's provisions will enable the regional representative group to set the strategic priorities, objectives and outcomes for a water services entity, but it is important that this group cannot direct the entity at a project, investment or operational/management level.</p>	<p style="text-align: center;"></p> <p>No changes proposed by the government</p>
<p>Cane Summary of recommendation in Working Group report</p>	<p>Government response</p>	<p>Assessment of contribution to HCC stated position</p>



<p>Recommendation 15: The Bill should specify that the regional representative group will monitor performance of the water services entity on delivering strategic outcomes of the statement of strategic and performance expectations and Statement of Intent through six monthly reporting from the water services entity. Individual constitutions could require additional performance reporting requirements (e.g. quarterly reporting).</p>	<p>The Government agrees it is important the regional representative group is enabled to monitor the performance of the entity and receive reporting at a frequency it deems appropriate.</p> <p>The legislation will include a provision for a water services entity and its board to report on an annual basis to the regional representative group with the ability for the constitution to specify more frequent reporting and monitoring arrangements.</p>	<p></p> <p>Council provided feedback in October 2021 requesting this.</p>
<p>Recommendation 16: The Bill is amended to allow regional representative groups to provide additional competency requirements for appointees to the water services entity board.</p>	<p>The Government agrees that additional competencies may be considered important for an entity or its regional representative group. The legislation will ensure a water services entity's constitution can specify additional collective competency requirements for the board.</p>	<p></p> <p>Council provided feedback in October 2021 requesting that councils and iwi develop a skills matrix and approve Board Members.</p>
<p>Recommendation 17: The Bill is amended so that conflict of interest requirements for regional representative group and water services entity board appointments need to be stated.</p>	<p>The Government agrees that legislation should require disclosure of any conflict of interest in relation to the appointment of a board member.</p> <p>The legislation will also specify that a member of a regional representative group or person who is serving as an elected member of a council may not be appointed to the water service entity board.</p>	<p></p> <p>Not consider by Council.</p>
<p>Recommendation 18: The Bill is amended to provide for bi-annual Board performance reviews. Independent reviewers or additional reviews can be included in individual constitutions.</p>	<p>The Government agrees it is important to provide for reviews of the board at a frequency deemed appropriate by the regional representative group. The constitution of a water services entity will be able to contain provisions relating to the performance reviews for the board, including the frequency of those reviews.</p>	<p></p> <p>Not consider by Council.</p>



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<p>Recommendation 19: The Bill requires a minimum of 12 and maximum of 14 representatives on the regional representative group. The composition and appointment of council and iwi/hapū representatives will be left to individual water services entities and outlined in their constitution, noting that the Working Group also recommends that the Crown consult the Working Group as they draft the default constitutions.</p>	<p>The Government agrees with this recommendation. The Bill will require a minimum of 12 and a maximum of 14 representatives on a regional representative group.</p>	<p style="text-align: center;"></p> <p>Entity B has 22 councils. This means that up to 10 councils are not represented on the RRG. There is no provision to guarantee a Hamilton representative.</p>
<p>Summary of recommendation in Working Group report</p>	<p>Government response</p>	<p>Assessment of contribution to HCC stated position</p>
<p>Recommendation 20: The Bill requires that Council representatives should have a mix of representatives from urban, provincial, and rural councils.</p>	<p>The Government considers it is important to provide for the regional representative group to have a mix of representation.</p> <p>The constitution of each entity will enable a regional representative group to set the composition of the group, including representation from a mix of urban, provincial, and rural councils.</p> <p>The Minister of Local Government will make the first constitution for each entity in regulations, following engagement with council owners and mana whenua in the service area of each water services entity.</p>	<p style="text-align: center;"></p> <p>Council provided feedback based on voting linked to population. Having a mix of representatives, and combined with the decision to reduce representation to 12-14, would likely not represent the population distribution.</p>



<p>Recommendation 21: The Bill requires that iwi representatives should have a mix of representatives that are appointed on a tikanga basis reflecting their whakapapa affiliations through waka groupings. Entity D will appoint on a tikanga basis reflecting their hapū groupings.</p>	<p>Cabinet has agreed to include a definition of mana whenua for the purposes of the water services entities as an iwi or hapū holding and exercising customary rights, interests and authority in accordance with tikanga in an identified area.</p> <p>This definition of mana whenua will allow mana whenua representation on the regional representative groups to be set out in the constitution of each entity.</p> <p>Mana whenua representation for Entities A, B and C will be through iwi and hapū appointments on a tikanga basis reflecting whakapapa affiliations through waka groupings. Mana whenua representation for Entity D will be through appointments on a tikanga basis reflecting hapū groupings.</p> <p>The legislation will also clarify that mana whenua may make Te Mana o te Wai statements on an individual iwi or hapū or multi-iwi/hapū basis, and the statements may relate to a single catchment or a multi-catchment area.</p>	<div style="text-align: center;">  </div> <p>Council feedback to Government in October 2021 Council taking a neutral position on Iwi participation. HCC has built enduring and mutually supportive relations with iwi/Maori in it's region.</p>
<p>Recommendation 22: The Bill provides for bespoke arrangements for the Entity A regional representative group, specifically 14 members with 50:50 Council and iwi/hapū composition. There should be 4 Auckland Council representatives, 4 Tāmaki Makaurau iwi/hapū representatives, 1 representative each from the Northland Councils and 3 iwi/hapū representatives from Te Tai Tokerau.</p>	<p>The Minister of Local Government has agreed that the first constitution for Entity A will provide for the Working Group's proposed representative arrangements.</p>	<div style="text-align: center;">  </div> <p>Not consider by Council</p>
<p>Summary of recommendation in Working Group report</p>	<p>Government response</p>	<p>Assessment of contribution to HCC stated position</p>







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<p>Recommendation 23: The Crown provides financial support to councils so they can be appropriately resourced to allow them to fulfil their regional representative group roles.</p>	<p>The Government agrees it is important the regional representative groups are appropriately resourced to deliver their roles and functions.</p> <p>The Bill will make provision for each water services entity to fund the support and other resourcing arrangements to enable its regional representative group to properly exercise its functions and powers, including any remuneration arrangements for council or mana whenua representatives.</p>	<p></p> <p>Council provided feedback in October 2021 requesting this.</p>
<p>Recommendation 24: The Bill requires a competency requirement for representatives to the regional representative group but detailed criteria will be left to individual water services entity constitutions.</p>	<p>The Bill will be amended so that the constitution of each water services entity may provide for competency requirements for appointments to the regional representative group.</p>	<p></p> <p>Not consider by Council.</p>
<p>Recommendation 25: The Bill includes provision for regional advisory groups (sub-regional representative groups) to the regional representative group to exist within legislation. Other than 50/50 co-governance between council and iwi/hapū, composition and number of advisory groups (sub-regional representative groups) will be left to individual water services entity constitutions.</p>	<p>The Bill will be amended to enable the constitution of a water services entity to provide for sub-regional advisory groups or committees of a regional representative group.</p> <p>These would be based on regional or geographic areas in the service area of the water services entity, with equal representation from mana whenua and councils in the geographic area.</p>	<p></p> <p>Sub-regional groups provide for the opportunity of more local involvement – advocated by Council. However, this structure adds more layers of governance to an already complex structure, which Council does not support.</p>
<p>Recommendation 26: The Bill is amended to require a single constitution that governs the regional representative group and water services entity for each region and modifications to the constitution will require the co-governance consensus agreement of the regional representative group.</p>	<p>The Government agrees that the Bill provide for a single constitution that applies to the board and the regional representative group. Modifications to the constitutions will require the consensus agreement of the regional representative group.</p>	<p></p> <p>Not consider by Council.</p>





<p>Recommendation 27: The Crown consults the Working Group as they draft the default constitutions.</p>	<p>The Minister of Local Government will make the first constitution for each entity following engagement with the council owners and mana whenua in the service area of each water services entity.</p> <p>The Minister will consider the process for this engagement and that this could include, for example, reconstituting the Working Group, or new groups for each entity.</p>	 <p>Not consider by Council.</p>
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Summary of recommendation in Working Group report	Government response	Assessment of contribution to HCC stated position
<p><i>Community and local voice</i></p> <p><i>Government will legislate to provide for communities to have effective input into the strategies and investment priorities of water services entities. This will be through a strengthened regional representative group and requirements on water services entities to consult with communities and consumers on asset management, and funding and pricing plans.</i></p>		
<p>Recommendation 28: The Bill requires the regional representative group to have input into the investment prioritisation methodology and framework through consultation between the water services entity and the regional representative group.</p>	<p>The Government agrees this is an important part of the roles, responsibilities and accountabilities of the regional representative group.</p> <p>The regional representative group will be enabled by legislation to have input into the investment prioritisation methodology and framework at the appropriate levels. These include the statement of strategic and performance expectations, statement of intent, asset management plan, funding and pricing plan, and infrastructure strategy. The board will be required to state how it has responded to any</p>	 <p>Council provided feedback in October 2021 requesting the RRG have influence over strategic documents.</p>



	<p>comments on these documents from the regional representative group.</p>	
<p>Recommendation 29: The Bill includes provision for the water services entity to engage with councils on the development of the water services entities' Asset Management Plan (AMP) as it applies to their district and to respond to Council's comments.</p>	<p>The Government agrees that the Bill require the board of a water services entity to engage with councils in the service area in relation to the development of asset management plan and related documents. This will further strengthen existing provisions in the Exposure Draft Bill relating to engagement with communities.</p>	<p></p> <p>Council provided feedback in October 2021 requesting the entity engage with directly councils.</p>
<p>Recommendation 30: The Bill includes the establishment of a national Water Services Ombudsman with jurisdiction over all the public facing activities of each water services entity, incorporating a tikanga based dispute resolution process.</p>	<p>The Government considers there is a need to ensure the reforms include a comprehensive, consistent, and well-integrated consumer protection framework for the three waters system, which makes provision for public complaints and dispute resolution mechanisms and incorporates a tikanga-based dispute resolution process.</p> <p>Cabinet will look at how best to give effect to this recommendation later this year as part of its consideration of broader proposals for the economic regulation and consumer protection framework for the new three waters system. These proposals are being developed by the Minister of Commerce and Consumer Affairs.</p>	<p></p> <p>Council submitted to MBIE the a waters Services Ombudsman be created to support consumers.</p>



Summary of recommendation in Working Group report	Government response	Assessment of contribution to HCC stated position
<p><i>Te Tiriti within the Three Waters system</i></p> <p><i>The Government accepts the recommendations to strengthen legislative provisions to give effect to Te Tiriti in the three waters system, and to confirm that nothing in legislation will create, transfer or extinguish Māori interests in water</i></p>		
<p>Recommendation 31: The Bill requires the Crown and Minister to give effect to Te Tiriti and its principles when exercising powers and functions under the legislation (including in issuing the Government Policy Statement and exercising monitoring, review and intervention powers in relation to water services entities).</p>	<p>The Government agrees that the legislation should require all persons who exercise functions, duties and powers under the Act to give effect to the principles of Te Tiriti o Waitangi, including the Minister when developing the Government Policy Statement.</p>	<p style="text-align: center;"></p> <p>Council feedback to Government in October 2021 Council taking a neutral position on Iwi participation. HCC has built enduring and mutually supportive relations with iwi/Maori in it's region.</p>
<p>Recommendation 32: When developing the Government Policy Statement, and consistent with the principles of Te Tiriti, the Crown engages with its Te Tiriti partner (separate from any public consultation).</p>	<p>See response to Recommendation 31.</p>	<p style="text-align: center;"></p> <p>Council did not the content of the Government Policy Statement.</p>
Summary of recommendation in Working Group report	Government response	Assessment of contribution to HCC stated position



**Te Tari Taiwhenua
Internal Affairs**


EMBARGOED UNTIL 11AM 29 APRIL 2022

This document is modified to include a staff assessment of the contribution the government response has provided to the stated HCC positions on this reform



<p>Recommendation 33: The Bill includes a provision confirming that nothing in legislation creates or transfers a proprietary interest in water or limits, extinguishes, or otherwise adversely affects or constrains iwi or hapū authority over, or rights and interests in, water.</p>	<p>The Government notes that the Bill proposes reform of the service delivery arrangements for water services to communities and that the broader questions of freshwater allocation and consents for taking water and discharges to it, and the associated questions of Māori rights and interests in freshwater, are matters to be considered within the resource management system and the proposed Natural and Built Environments Act;</p> <p>The Government notes that that nothing in the Three Waters legislation creates or transfers ownership rights or interests in water, and is not an acknowledgement by the Crown that ownership rights or interests in water exist;</p> <p>The Government has agreed to amend the Bill to include a clause that preserves the status quo iwi and hapū customary rights and interests in water, with the nature of that clause to be agreed by Ministers during the drafting process.</p> <p>Cabinet has authorised the Minister of Local Government, Attorney General, Minister for the Environment, Associate Minister for the Environment, and Minister for Māori – Crown Relations to approve the clause, and to report back to the Cabinet Legislation Committee prior to introduction of the Bill to the House.”</p> <p>The Government has agreed to amend the Bill to include a clause that preserves the status quo for ownership in, and iwi and hapū customary rights relating to, water.</p> <p>Cabinet has authorised the Minister of Local Government, Attorney General, Minister for the</p>	<div data-bbox="1518 336 1630 373" style="text-align: center;"> </div> <p>The Government is not in a position to make a decision on this as it seeks professional advice.</p>
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	<p>Environment, and Minister for Māori – Crown Relations to approve the clause, and to report back to the Cabinet Legislation Committee prior to introduction of the Bill to the House.</p>	
<p>Recommendation 34: The Bill includes appropriate provisions to ensure that Treaty settlement mechanisms which interrelate with or affect the current legal regime governing the Three Waters reforms (including but not limited to provisions of the LGA and RMA) are carried across and have application to the equivalent or analogous aspects of the new water services regime.</p>	<p>The Government agrees it is important that Treaty settlement obligations prevail and any arrangements relating to water services that councils have entered into with mana whenua are to be carried forward to the new water services entities. This will be given effect to across the suite of legislation establishing the new entities.</p>	<p style="text-align: center;"></p> <p>Council feedback to Government in October 2021 Council taking a neutral position on Iwi participation. In doing so Council expressly requested that the Government recognise treaty settlements and give effect to Te Ture</p>





**Te Tari Taiwhenua
Internal Affairs**


EMBARGOED UNTIL 11AM 29 APRIL 2022


This document is modified to include a staff assessment of the contribution the government response has provided to the stated HCC positions on this reform



		Whaimana/the Vision and Strategy for the Waikato River.
Summary of recommendation in Working Group report	Government response	Assessment of contribution to HCC stated position
Recommendation 35: The Crown provides equitable resourcing to enable the full and effective participation of iwi and hapū in the Three Waters regime.	The Government is currently giving consideration to support for iwi and hapū to participate in the water services entity establishment and transition process and will make further announcements on this shortly. See also the response to Recommendation 9.	 The Government has not made a decision. Councils feedback in October 2021 expressed its concern at the lack of funding and specifically with our EB partners including iwi.
<i>Te mana o te wai and three water services</i> <i>Government agrees that Te Mana o te Wai is consistent with improved public health and environmental outcomes for three waters services and should guide its delivery</i>		
Recommendation 36: The Bill includes Te Mana o te Wai as an overarching objective guiding decision making, planning, governance, accountability, and service delivery	The Government agrees that the legislation should require every person that exercises a function, power, or duty under the Act has to give effect to Te Mana o te Wai to the extent that Te Mana o te Wai applies to the function, power or duty.	 Not consider by Council.



<p>Recommendation 37: The definition and application of Te Mana o te Wai in the draft Bill be amended to ensure that Te Mana o te Wai encompasses the interconnection with, and the health and wellbeing of, all water bodies that are affected by the Three Water system (including marine and estuarine waters, lagoons, and puna that are either the source, conduit or receiving environment for Three Waters activities).</p>	<p>The Government agrees in principle that, for the purposes of three waters service delivery reform, Te Mana o te Wai encompasses the interconnection with, and the health and wellbeing of, all water bodies that are affected by the three waters system.</p> <p>However, before this can be incorporated into legislation, further work is required to ensure alignment with other Government frameworks and legislation that relates to Te Mana o te Wai.</p> <p>The Government will undertake this further work and consider changes in legislation to implement this recommendation as part of the second bill that will implement the three waters service delivery reforms.</p>	 <p>Not consider by Council.</p>
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Summary of recommendation in Working Group report	Government response	Assessment of contribution to HCC stated position
<p>Recommendation 38: Te Mana o te Wai is reflected at all levels of the water services entity framework, including but not limited to:</p> <ul style="list-style-type: none"> • Te Mana o Te Wai being given effect to by the Minister in developing the Government Policy Statement; • Te Mana o Te Wai being given effect to by the regional representative group in the development of the strategic and performance expectations and Statement of Intent; • Te Mana o Te Wai being given effect to in asset management plans; and • Te Mana o Te Wai being given effect to in infrastructure strategies. 	<p>The Government agrees the legislation should require transparent accountability relating to Te Mana o te Wai statements through the strategic planning and reporting documents that relate to a water services entity, based on similar requirements that are already proposed for the annual report.</p>	 <p>Not consider by Council.</p>




<p>Recommendation 39: The Crown furthers work to design inclusive communications and processes to support the embedding of Te Mana o te Wai in the community.</p>	<p>The Government agrees to undertake communications to increase public understanding about Te Mana o te Wai and its significance to the three waters system.</p>	<p style="text-align: center;"></p> <p>Not consider by Council.</p>
<p>Central Government ongoing support for three water services <i>Government agrees that it will consult with regional representative groups and councils in its development of Government Policy Statements for three waters. It also confirms the provision of a Crown liquidity facility to support water services entities creditworthiness and balance sheet separation from councils</i></p>		
<p>Recommendation 40: Due to the number of bodies that provide strategic direction to the water services entities the Bill should include strengthened provisions around the content of the Government Policy Statement, and consultation requirements, to mitigate the risk of disconnected priorities.</p>	<p>The Government acknowledges that a Government Policy Statement is likely to consider and provide expectations relating to the national interest in the overall direction and priorities for water services – which may include a different perspective from the local priorities of the entities.</p> <p>The consultation process for preparing the Government Policy Statement will help to identify any situations in which these different perspectives may be problematic.</p>	<p style="text-align: center;"></p> <p>Not consider by Council.</p>
<p>Summary of recommendation in Working Group report</p>	<p>Government response</p>	<p>Assessment of contribution to HCC stated position</p>
<p>Recommendation 41: When the Crown develops or reviews the Government Policy Statement it should consult with the regional representative groups of the water services entities, and follow the standard Government Policy Statement consultation process which includes community consultation.</p>	<p>The Government agrees that in setting a Government Policy Statement, the Minister should undertake a consultation process which includes the regional representative groups and other persons, and groups, who have an interest in water services in New Zealand.</p>	<p style="text-align: center;"></p> <p>Not consider by Council.</p>





<p>Recommendation 42: The Bill includes provision for a non-voting Crown liaison to the regional representative group.</p>	<p>Legislation will not prevent a Crown representative from participating (on a nonvoting basis) on a regional representative group by invitation.</p> <p>In addition, the legislation will allow the Crown to appoint a Crown Observer where a problem relating to a water services entity exists.</p>	<p style="text-align: center;"></p> <p>Not consider by Council.</p> <p>Council did support the option to appoint commissioners or statutory managers to the waters entities, in its economic regulation submission to MBIE.</p>
<p>Recommendation 43: The Crown confirms that it will provide sufficient financial support to the water services entities to ensure 'balance sheet separation' from councils, that the water services entities have sufficient borrowing capacity to invest in the required infrastructure and can borrow funds at a cost similar to councils.</p>	<p>The Government agrees that balance sheet separation and sufficient borrowing capacity are critical elements of the reform. The Government agreed in June 2021 that a Crown liquidity facility will be available to water services entities on similar terms to that provided to the Local Government Funding Agency, as would the existing Civil Defence and Emergency Management provisions that are afforded to local authorities. This will help to achieve balance sheet separation for the water services entities from territorial authorities, and will also strengthen the creditworthiness of the entities.</p>	<p style="text-align: center;"></p> <p>Not consider by Council.</p>
<p>Recommendation 44: The Crown confirm to iwi and councils the size of investment required to address issues of historic degradation of waterways and inequalities in the provision of water services for their consideration, along with a plan as to how addressing these issues will be funded.</p>	<p>The Government notes that a fundamental part of the rationale for the reforms, and the creation of the new water services entities, is to equip those entities to address all future investment requirements, including remediating historic underinvestment, and providing for more equitable service delivery arrangements.</p> <p>The governance arrangements for the new entities, including the role of the regional representative group, Te Mana o te Wai statements, and the statement of performance expectations, will provide the means for mana whenua, councils, and</p>	<p style="text-align: center;"></p> <p>Not consider by Council.</p>



Summary of recommendation in Working Group report	Government response	Assessment of contribution to HCC stated position
<p>Recommendation 45: The establishment of the water services entities is not the end of the Crown’s involvement in addressing water services issues, and the Crown should have an ongoing role to support and invest in water services.</p>	<p>The Government notes that the Crown will have ongoing oversight, stewardship and regulatory roles in relation to the new three waters system, which will occur in a number of ways, including through Taumata Arowai and an economic regulator, whole of system stewardship by central government, and a Government policy statement.</p> <p>The Government will continue to review any need for Crown support for water services infrastructure as part of the stewardship work, including monitoring the effectiveness of implementation and achievement of intended outcomes of the reforms.</p>	<p style="text-align: center;">  Not consider by Council. </p>

communities to convey their expectations and priorities for investments necessary to address inequities in provision of services and adverse environmental impacts over time.



<p>Recommendation 46: A review of the three waters structure is undertaken 5 years after the water services entities are operationalised.</p>	<p>The Government agrees that ongoing review of the new three waters system is important and notes that this would support and inform central government’s ongoing system oversight, stewardship and monitoring work.</p> <p>The legislation will provide for a two-stage review process for the three waters reform, with:</p> <ul style="list-style-type: none"> • an interim review of water services entities’ governance framework within five years of the date that entities are fully established (on 1 July 2024); and • a comprehensive review of the three waters system, within 10 years of the date that entities are fully established. 	 <p>Council hasn’t considered this change however, Council submitted to MBIE that a formal independent inquiry to assess whether the multi-regulator model is working effectively in the best interest of the wellbeing of the water and communities.</p>
<p>Recommendation 47: The Crown formally tests the recommendations outlined in this report with S&P to ensure balance sheet separation.</p>	<p>The Government will formally test the arrangements in the Bill (incorporating those changes made in relation to the Working Group recommendations as outlined above) with Standard & Poor’s before the legislation is introduced into Parliament. This will test the balance sheet separation between water services entities and councils.</p>	 <p>The Government has not made a decision.</p>

Briefing under embargo until 11am, Friday 29 April

Department of Internal Affairs
29 April 2022

Find out more at <https://www.dia.govt.nz/Three-Waters-Reform-Programme>
or email media@dia.govt.nz



Te Tari Taiwhenua
Internal Affairs

Overview

- Context
- Representation, Governance and Accountability Working Group recommendations and Government response
- Next steps

Attachment 9

Context

Item 11

History of reform

- The challenges facing three waters delivery have been discussed by central and local government for decades:
 - The Report from the Parliamentary Commissioner for the Environment (June 2000) Aging Pipes and Murky Waters: Urban water system issues for the 21st century notes **“industry and community evidence indicates that the ‘model’ has now reached the end of its design life.”**
 - The Report of the Land and Water Forum: A Fresh Start for Fresh Water (September 2010) notes **“further changes are desirable to improve water services management in order to contribute to a step-change in the outcomes for water management in New Zealand”**
 - The 2011 National Infrastructure Plan identified two key challenges **“insufficient resources in each local authority area or community to meet the cost of deferred maintenance on aging assets...For example, communities most in need of improved reticulated systems are often the least able to afford it. ”** and **“The extent to which there may be a ‘hidden’ long-term investment problem in the urban water sector.”**
 - Three Controller and Auditor General Reports all raise persistent challenges **“local authorities might not be reinvesting enough in three waters assets, suggesting that these assets could be deteriorating to an extent that they are unable to meet the levels of service that their communities expect”**
 - The Stocktake report from the Technical Committee of the Climate Change Adaption Technical Working Group (2017) Adapting to climate change in New Zealand notes **“Sea-level rise will cause seawater to run up stormwater pipes, significantly affecting drainage capability...[which] may not cope with more intense and frequent heavy rain events.”**
- The Government has extensively engaged with local government, iwi and the water industry for more than four years to understand the case for change and assess options for reform.
- We have considered a wide range of options. The best evidence and analysis strongly shows the best way forward is for these services to be drawn together into four publicly-owned, specialist water authorities.

Objectives of reform

The Government's reforms aim to significantly improve **the safety, quality, resilience, accessibility, and performance** of three waters services, in a way that is **affordable** for New Zealanders now and into the future

The **purpose** of the entities will be to **provide safe, reliable and efficient water services**. With high-level objectives to be set out in the legislation including:

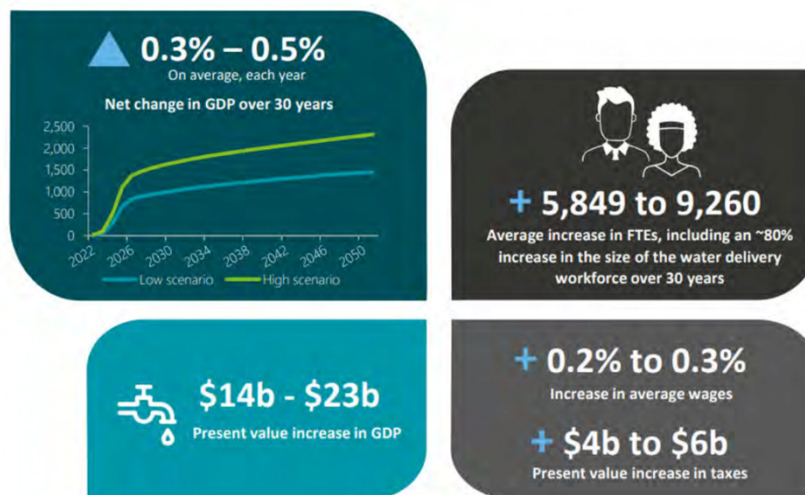


The Government also wants to ensure it delivers on **Treaty-related obligations**, including by improving outcomes for iwi/Māori in relation to three waters service delivery and **upholding Te Mana o Te Wai**. Integral to this is effective infrastructure delivery, underpinned by an **efficient, high-performing, financially-sustainable, and transparent three waters system**

Opportunities of Reform

- The Three Waters Reforms present an opportunity to work together as a country to ensure drinking water, wastewater and stormwater services meet our safety, cultural and environmental expectations at an affordable price no matter where you live
- The reforms also present opportunities to:
 - Build a world-leading, innovative three waters system as a stronger foundation for healthy, prosperous and growing communities
 - Put Te Mana o Te Wai – the health and wellbeing of water – at the centre of the system. The health and wellbeing of people and communities depends on the health and wellbeing of water
 - Take a catchment-based and interconnected view of the water system from source to sea – ki uta, ki tai
 - Grow the local workforce and unlock new professional pathways and development opportunities
 - Unlock housing and economic development, and create a secure pipeline of infrastructure investment that will grow the national and regional economies
 - Embody true partnership between mana whenua, local government, and central government in the interests of all communities across New Zealand

[Deloitte Industry Development Study and Economic Impact Assessment](#)



Current state

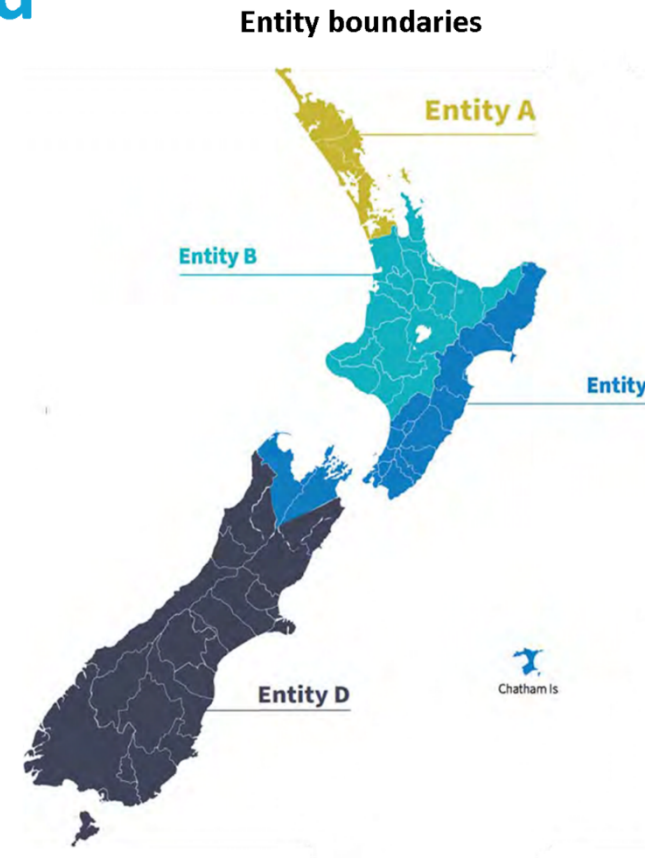
- Every New Zealander has a right to safe drinking water no matter where they live. We also expect strong and resilient stormwater and sewage services that enable communities to prosper and grow, while protecting the environment
- The three waters system is significant for upholding Te Mana o te Wai, environmental health, the performance of the economy, building resilience to climate change and natural hazards, and unlocking housing and growth
- Every year, it is estimated that 35,000 New Zealanders get sick from tap water that does not meet the international benchmark for clean drinking water.
- The Ministry of Health released the 2020/21 Drinking Water Quality Report. This report showed persistent problems in the current provision of drinking water. In the reporting period:
 - Over a million New Zealanders did not have access to safe drinking water at some point in the last year.
 - Only 78 percent of the report population (3,155,000 people) received drinking-water that complied with all the Standards, which is a decrease of 1 percent compared with the previous reporting period.
 - Large council supplies that did not comply with all of the Standards include: Taupo District Council; Hastings District Council; Marlborough District Council; Ashburton District Council; Christchurch City Council; and Dunedin City Council.
 - Tasman and Carterton District Councils did not take prompt remedial action in response to transgressions.

Current state (cont.)

- Water NZ recently released the 2020/21 [National Performance Review](#), covering 38 councils and 87% of New Zealand’s population. The findings show:
 - **Service delivery costs are driving increases in water and wastewater charges and there is large variation in charges around NZ.** The average residential water charge increased by 7% last year to \$471, and the average wastewater charge by 8% to \$522.
 - **Revenue and expenditure are insufficient to cover depreciation in some service districts.** Water supply revenue fell short in 47% of drinking water service districts, 54% of wastewater service districts, and 48% of stormwater service districts.
 - **Total water losses are around 20%** of overall water supplied, but **reach as high as 55%**. This is more than the volume of water supplied by Hamilton, Rotorua, Dunedin and Christchurch City combined.
 - In 2021 there were 2,754 dry-weather **wastewater overflows** (i.e. blockages or system failures) and 1,159 wet-weather overflows (i.e. rainfall events), and a further 355 from combined **wastewater and stormwater networks**. Out of 37 participants, there were 648 reported consent non-conformances in wastewater treatment plants.
 - 18% of drinking water, 17% of wastewater, and 14% of stormwater network is rated as in an **unknown condition**.
- DIA’s 2019 analysis shows of New Zealand’s 321 wastewater treatment plants, more than 100 are breaching consents and 60 require upgrades to meet minimum National Policy Statement for Freshwater Management standards.
- In March 2022, the Regional and Unitary Councils Aotearoa wrote to the Minister of Local Government noting “There are numerous examples of performance issues with current water services delivery model that need addressing: Aged infrastructure in need of renewal **with 25% of all Waste Water Treatment Plans operating on expired consents**” and “Poor compliance performance of some reticulated wastewater systems.”

What has the Government proposed

- The Government's Three Waters Reforms are proposing to shift the current 67 council-owned and operated three waters services into **four new publicly-owned entities** to manage the future delivery of these services
- The government's bottom lines are that these new entities will:
 - be **publicly-owned by councils** on behalf of communities, with strong protections against any future privatisation
 - have **joint oversight** through Regional Representative Groups made up of equal local government and mana whenua membership to ensure the entities are driven by community expectations and priorities
 - have **independent competency-based boards** that will run the day-to-day management of the entities and oversee the maintenance and renewal of this infrastructure
 - be **financially separate from councils** with a greater ability to borrow to fund long-term infrastructure
- The Government has also proposed a **new economic regulatory regime and consumer protections** to protect consumer interests and drive efficient investment and performance



Working Group recommendations and response

Item 11

Attachment 9

Why the Working Group was established

- In July 2020, in agreement with LGNZ National Council at the Prime Minister’s Central/Local Government Forum, the Government launched the Three Waters Reform Programme in response to mounting evidence of the challenges facing three waters service delivery nationally.
- Following extensive engagement with local government, iwi and the water industry during 2020 and the first half of 2021, Cabinet made a series of decisions through 2021 to transform the three waters service delivery system, and create four new water services entities.
- In August and September 2021, the local government sector was given the opportunity to engage with, and provide feedback on, the Government’s proposals. While there was general agreement about the need for reform, this engagement highlighted concerns about certain aspects of the proposals, particularly around the representation, governance and accountability arrangements, and ownership of water assets.
- In response to this feedback, and in recognition that improvements could be made to the proposed model, in October 2021 the Government established the Working Group on Representation, Governance and Accountability to examine these key areas of concern.
- This approach represents a continuation of the partnership-based approach that the Government has taken to the development of policy throughout the three waters reforms, upholding our obligations as a Treaty Partner, and the commitments the Crown made to Local Government New Zealand through the Heads of Agreement signed in July 2021.

About the Working Group

- The Working Group was established with an equal number of representatives from local government and iwi/Māori to consider feedback and make recommendations about the governance, representation and accountability arrangements in the Government’s reform proposals.
- The Group was led by an independent chair and included a balance of membership from across all four entity boundaries and a mix of rural, provincial and metropolitan leadership.
- The Working Group followed an effective and inclusive process, with consensus-based decision making to develop its recommendations. The final report reflects this constructive approach, and the consensus that was reached among members.
- Through their process, the Working Group considered potential alternative models including: a ‘co-op’ model; the Wellington Water model; the council-controlled organisation (Watercare) model; the Hawke’s Bay regional model; a Ngāi Tahu model; the ‘Communities 4 Local Democracy’ alternatives; and a shareholding model.
- The also considered: core concepts of accountability, oversight, control and decision making; financial capacity and separation; other governance models that were considered during the development of the Government’s reform proposals; Te Mana o te Wai and co-governance considerations; community ombudsman schemes; and stormwater considerations.

Working Group recommendations

- The Working Group developed a set of **47 recommendations** to enhance the reform proposals and deliver stronger representation, governance and accountability.
- These recommendations cover the following main areas:
 - a **public shareholding structure that makes community ownership clear**, with shares held by councils on behalf of their communities – to provide a tangible expression of ownership that is recognisable by communities and territorial authorities;
 - **ensuring mana whenua have input in the delivery of water services through equal representation** on the regional representative group, **while maintaining a merit-based approach to board appointments**;
 - **recognising and embracing Te Mana o te Wai as a korowai**, or principle, that applies across the water services framework;
 - **tighter accountability from each water services entity board to the community**, through new and stronger mechanisms, including strengthening and clarifying the role of the regional representative group; and
 - **strengthened connections to local communities**, including sub-committees feeding into the regional representative group, comprised of representatives of regional communities, to ensure local voice is considered as part of investment prioritisation.

The Government's bottom lines

- The Working Group considered a range of reform options, analysis, and considerations both within their Terms of Reference. This included consideration of wider context as reflected in their recommendations.
- The Government considers the **recommendations fall within its bottom lines**, which represent important elements of the design of the future system.
 - **Good governance** will ensure competency-based boards govern the entities with the right combination skills, expertise and capabilities in delivering large infrastructure within the New Zealand context;
 - **Public ownership** through collective council ownership, among other protections, will safeguard these services for future generations to come and ensure they continue to deliver services to those communities that have invested in them;
 - **Balance sheet separation** will ensure the entities are not constrained in their ability to invest in infrastructure needed to meet future needs and expectations. This will in turn ensure councils are freed up to focus their investment on things that matter to local place-making and community wellbeing; and
 - **Upholding the Treaty partnership**, through the joint strategic direction and oversight of these entities, will ensure these new entities benefit from the intergenerational knowledge and experience of mana whenua alongside local government leadership in setting local priorities for these services.

Government response

- Cabinet has agreed to progress almost all of the Working Group recommendations in some form.
- These changes will be incorporated into the Water Services Entities Bill prior to introduction.
- Key changes to the Government's reform proposals in response to the Working Group recommendations relate to the following themes:
 - Ownership
 - Governance and accountability
 - Te Mana o te Wai
 - Strengthening the application of Te Tiriti o Waitangi
 - Other matters relating to iwi/Māori rights and interests
- The following slides set out a summary of the Working Group recommendations for each of these areas and the Government response.

Ownership

Summary of Working Group recommendations

- Introduce a shareholding model with one share per 50,000 of population, rounded up, to ensure a minimum of one share per **territorial authority**.
- This would be rebased every five years to provide communities with a tangible expression of ownership.
- Shareholdings only carry voting rights in relation to merger or sale proposals and must carry a unanimous vote – to preserve balance sheet separation, there is no financial interest attached.

Ownership

Government Response

- The Government has agreed with the Working Group's recommendations to strengthen community ownership of the new entities.
- The legislation establishing the new entities will provide that ownership of a water services entity is **through shares assigned to each territorial authority** in an entity's service area, with each share assigned to the relevant council per 50,000 people in its district (rounded up, with at least one share for every territorial authority).
- The council owners of the entity will need to **vote unanimously in support of any proposal to divest ownership** in water services or lose control of significant infrastructure for it to proceed. This is in addition to the further protections against privatisation already proposed by the Government, meaning the public in the service area would then need to vote with a **75% majority in support** of any proposal of this nature.
- To preserve balance sheet separation between council owners and water services entities, and provide further protection against any future privatisation, the **council shares cannot be sold or transferred for any reason** and will not carry any financial or decision making interests.
- The Government is also proposing the Bill would be introduced with a further level of protection against privatisation by requiring a 75% Parliamentary majority to make any legislative changes necessary to enable privatisation ('entrenchment') – this would need to be voted on by Parliament at the Committee of the whole House

Governance and accountability

Summary of Working Group recommendations

- There are several Working Group recommendations to strengthen the governance and accountability.
- In particular, the Group recommends:
 - strengthening co-governance arrangements through the introduction of **co-chairs to the Regional Representative Group (RRG)** and consensus voting
 - **introducing ‘sub’ regional representative groups** to provide regional/catchment level input into the RRG, while maintaining co-governance
 - **clarifying the role of the RRG and the range of inputs it may consider to strengthen accountability** (example inputs include: the Government Policy Statement, direction from regulators, local community priorities within the region as outlined in council strategic documents, Te Mana o te Wai statements, and alignment with the Resource Management Act (or its replacement))
 - that each entity will be required to **fund the support to its RRG to properly exercise its functions and powers**, including any remuneration arrangements for territorial authority or iwi/hapū representatives
 - the regional representative group issues the **statement of strategic and performance expectations and has approval rights over strategic matters in the statement of intent**

Governance and accountability

Government Response

- **The Government has agreed to give effect to the Group's recommendations** in a way that provides for flexibility (likely via entity constitutions), so that the unique characteristics of each entity can be provided for over time.
- **This will include provisions in the legislation which set out that:**
 - The regional representative groups will have co-chairs and consensus decision making to cement co-governance principles.
 - The constitution of a water services entity can enable sub-regional advisory groups or committees of a regional representative group. These would be based on regional or geographic areas in the service area of the water services entity, with equal representation from mana whenua and councils in the geographic area.
 - Through their constitution, each entity and regional representative group will establish appointment processes that reflect their unique community needs.
 - The entity provides the information and support required by its regional representative group to deliver its functions.
 - The constitution of each entity would contain provisions that enable a regional representative group to consider information and other inputs when developing a statement of strategic and performance expectations.
 - The Government agrees the regional representative group should have power to approve the strategic direction of the entity and is investigating how best to give effect to this recommendation while preserving balance sheet separation.
- It is important to note **the water services entities will have a two-tier governance system**, and co-governance - equal representation between local government and mana whenua - applies to the regional representative oversight group. The entity boards are independent, with merit-based appointments taking into account relevant knowledge, competency and experience.

Te Mana o te Wai

Summary of Working Group recommendations

- **Te Mana o te Wai to apply to all functions and powers** – Te Mana o te Wai is a korowai, or overarching requirement, that applies to everything in the Bill
- **Te Mana o te Wai should apply to all water** for the purpose of the three waters system (including marine, estuarine and harbours, and rivermouths).

Government Response

- The Government agrees that the legislation should require every person that exercises a function, power, or duty under the Act has to give effect to Te Mana o te Wai to the extent that Te Mana o te Wai applies to the function, power or duty.
- The Government agrees in principle that for the purposes of reform, Te Mana o te Wai encompasses the interconnection with, and the health and wellbeing of, all water bodies affected by the three waters system.
- Further work is required to ensure alignment with other Government frameworks and legislation that relates to Te Mana o te Wai, such as, concepts in resource management reform and Taumata Arowai establishing legislation and regulatory framework and the National Policy Statement for Freshwater Management.
- The Government will undertake this further work and consider changes in legislation to implement this recommendation as part of the second bill that will implement the three waters service delivery reforms.

Strengthening the application of the Treaty

Summary of Working Group recommendations

- **Principles of Te Tiriti to apply to all functions and powers** – The requirement to give effect to Te Tiriti should apply equally to the Crown, including when it makes a Government Policy Statement, where engagement with Te Tiriti partners should be elevated above any consultation processes.
- **Preserving iwi, hapū and Māori rights and interests in water** – The Bill should state that nothing in the Act creates or transfers ownership in water, or limits, extinguishes or adversely affects iwi or hapū authority over, or rights in, water. The intention of the Working Group is to ensure that the status quo is preserved while the Crown and Te Tiriti partners continue discussion about the scope and nature of those rights in the context of resource management reform.

Government Response

- The Government accepts the recommendation of the Working Group to strengthen legislative provisions to give effect to Te Tiriti in the three waters system.
- The Government also accepts the recommendation to include a clause in the Bill preserving the status quo for iwi and hapū customary authority, rights and interests in water, while the Crown and Te Tiriti partners continue discussion about the scope and nature of those rights in the context of resource management reform
- The Government agrees that the Bill should require **all persons** who exercise functions, duties and powers under the Act to give effect to the principles of Te Tiriti o Waitangi, to the extent that it applies to their duties, functions and powers. This requirement will apply equally to decisions made by entities and Ministers under the Act.

Other matters re: iwi/Māori rights and interests

Summary of Working Group recommendations

- **Ensure Treaty settlements are enduring** – legislation includes provisions to ensure Treaty settlements are enduring.
- **Definition of mana whenua** – Inclusion of a definition of “mana whenua” in the Bill.
- **Resourcing to ensure iwi, hapū and Māori can participate in the new arrangements** – That the Crown provides equitable resourcing to enable the full and effective participation of iwi and hapū in the three waters regime. The Working Group’s priority for this recommendation is to ensure there is proper resourcing.

Government Response

- The Government agrees it is important that Treaty settlement obligations prevail and any arrangements relating to water services that councils have entered into with mana whenua are carried forward from councils to the new water services entities. This will be given effect to across the suite of legislation establishing the new entities.
- To avoid ambiguity, Cabinet has agreed include a definition of mana whenua for the purposes of the water services entities as an iwi or hapū holding and exercising customary rights, interests and authority in accordance with tikanga in an identified area.
- This definition of mana whenua will allow mana whenua on the RRGs to be written into the constitution of each entity.
- Mana whenua representation for Entities A, B and C will be through iwi and hapū appointments on a tikanga basis reflecting whakapapa affiliations through waka groupings. Mana whenua representation for Entity D will be through appointments on a tikanga basis reflecting hapū groupings.
- The legislation will also clarify that mana whenua may make Te Mana o te Wai statements on an individual iwi or hapū or on a multi-iwi/hapū basis, and the statements may relate to a single catchment or a multi-catchment area.
- Each water services entity will fund the support and other resourcing arrangements to enable its RRG to properly exercise its functions and powers, including any remuneration arrangements for council or mana whenua representatives. The Government will give further consideration to the ongoing support and resourcing for mana whenua in the implementation of the reforms

Next steps

Two further Working Groups

- Resource management and planning alignment, and regulatory compliance costs for rural water schemes, remain important issues for the reforms. The Department of Internal Affairs has established two further technical working groups to inform the development of policy in these areas:
 - **Planning Technical Working Group** – to support development of policy proposals to ensure an effective interface between the water services entities and the planning and regulatory system
 - **Rural Supplies Technical Working Group** – to bring a rural perspective to the development of policy to implement the water services reforms, including the obligations water services entities will have to support rural water schemes and the communities they serve
 - The Rural Supplies Technical Working Group is also considering issues for rural water schemes relating to the regulation of drinking water, which Taumata Arowai will take into account in its implementation of the Water Services Act 2021 – including proposals to simplify compliance
- The Department will consider the recommendations of the above technical working groups in drafting the further legislation later this year
- The Department will continue working closely with iwi, local government and the water industry in the establishment of and transition to the new entities ahead of them going live on 1 July 2024

Next steps

- These reforms will be implemented through a series of legislation.
- The exposure draft version of the Water Services Entities Bill – which informed the Working Group considerations – will be amended before being introduced in the coming months.
- Further legislation is planned for the coming year to:
 - provide the functions and powers relating to service delivery;
 - implement the new arrangements (for example, transfer assets, liabilities and contracts);
 - make any changes to preserve Treaty settlements or other arrangements between mana whenua and councils;
 - establish economic regulation and consumer protection regimes; and
 - make detailed, technical changes to other legislation (for example, the Local Government Act 2002).
- Once the first Bill is introduced and referred to Select Committee, the public, including councils, iwi/hapū, community groups and individuals, will be able to submit their views on the reform proposals through written and oral submissions. Timing will be subject to Parliament.

**Briefing provided
under embargo until
11am Friday 29 April**

**Ngā mihi
Thank you**

Find out more at <https://www.dia.govt.nz/Three-Waters-Reform-Programme>
or email threewaters@dia.govt.nz

Council	Cost of service without reform (2051)	Cost of services with reform (2051)	Additional debt capacity with reform	No worse off funding	Better off support package
Ashburton District Council	\$8690+	\$1640	\$35m	\$2m	\$17m
Auckland Council	\$1910	\$800	\$1.2b	Up to \$50m	\$509m
Buller District Council	\$8690+	\$1640	\$4m	\$1m	\$14m
Carterton District Council	\$4860	\$1260	\$5m	\$1m	\$7m
Central Hawke's Bay District Council	\$7260	\$1260	\$45m	\$1m	\$11m
Central Otago District Council	\$7790	\$1640	\$42m	\$2m	\$13m
Chatham Islands Council	\$8690+	\$1260	\$0	\$0	\$9m
Christchurch City Council	\$2720	\$1640	\$380m	Up to \$50m	\$122m
Clutha District Council	\$8690+	\$1640	\$22m	\$1m	\$13m
Dunedin City Council	\$5180	\$1640	-\$2m	\$9m	\$46m
Far North District Council	\$8690+	\$800	\$42m	\$4m	\$35m
Gisborne District Council	\$8690+	\$1260	\$10m	\$3m	\$29m
Gore District Council	\$6770	\$1640	\$20m	\$1m	\$9m
Greater Wellington Regional Council					
Grey District Council	\$8690+	\$1640	\$14m	\$1m	\$12m
Hamilton City Council	\$2740	\$1220	\$256m	\$8m	\$59m

Council	Cost of service without reform (2051)	Cost of services with reform (2051)	Additional debt capacity with reform	No worse off funding	Better off support package
Hastings District Council	\$4530	\$1260	\$107m	\$5m	\$35m
Hauraki District Council	\$5000	\$1220	\$30m	\$2m	\$15m
Horowhenua District Council	\$2960	\$1260	\$41m	\$2m	\$20m
Hurunui District Council	\$8690+	\$1640	\$32m	\$1m	\$11m
Hutt City Council	\$2380	\$1260	-\$28m	\$28m tbc	\$39m
Invercargill City Council	\$5300	\$1640	\$45m	\$3m	\$23m
Kaikōura District Council	\$8690+	\$1640	\$0m	\$0m	\$6m
Kaipara District Council	\$8690+	\$800	\$48m	\$2m	\$16m
Kapiti Coast District Council	\$2630	\$1260	\$20m	\$3m	\$21m
Kawerau District Council	\$2440	\$1220	\$4m	\$1m	\$17m
Mackenzie District Council	\$8690+	\$1640	\$0m no LTP data	\$1m	\$6m
Manawatu District Council	\$5840	\$1260	-\$2m	\$4m	\$15m
Marlborough District Council	\$6560	\$1260	\$21m	\$3m	\$23m
Masterton District Council	\$4890	\$1260	\$25m	\$2m	\$16m
Matamata-Piako District Council	\$4970	\$1220	\$17m	\$2m	\$17m

Council	Cost of service without reform (2051)	Cost of services with reform (2051)	Additional debt capacity with reform	No worse off funding	Better off support package
Napier City Council	\$2540	\$1260	\$91m	\$4m	\$26m
Nelson City Council	\$2330	\$1260	\$18m	\$3m	\$21m
New Plymouth District Council	\$3460	\$1220	\$60m	\$5m	\$32m
Ōpōtiki District Council	\$8690	\$1220	\$19m	\$1m	\$19m
Ōtorohanga District Council	\$8660	\$1220	\$10m	\$1m	\$11m
Palmerston North City Council	\$3210	\$1260	\$39m	\$5m	\$33m
Porirua City Council	\$2330	\$1260	\$69m	\$0m	\$25m
Queenstown lakes District Council	\$8690	\$1640	\$33m	\$3m	\$16m
Rangitikei District Council	\$8690	\$1220	\$21m	\$1m	\$13m
Rotorua District Council	\$3400	\$1220	\$12m	\$4m	\$32m
Ruapehu District Council	\$8690	\$1220	\$19m	\$1m	\$16m
Selwyn District Council	\$3480	\$1640	\$48m	\$4m	\$22m
South Taranaki District Council	\$7460	\$1220	\$52m	\$2m	\$18m
South Waikato District Council	\$6100	\$1220	-\$19m	\$21m	\$19m

Council	Cost of service without reform (2051)	Cost of services with reform (2051)	Additional debt capacity with reform	No worse off funding	Better off support package
South Wairarapa District Council	\$8690	\$1260	\$19m	\$0m	\$8m
Southland District Council	\$8960	\$1640	\$42m	\$2m	\$19m
Stratford District Council	\$8690	\$1220	\$8m	\$1m	\$10m
Tararua District Council	\$8690	\$1260	\$19m	\$1m	\$15m
Tasman District Council	\$6760	\$1260	\$63m	\$3m	\$23m
Taupō District Council	\$7310	\$1220	\$75m	\$3m	\$20m
Tauranga City Council	\$3060	\$1220	\$191m	\$7m	\$48m
Thames-Coromandel District Council	\$5450	\$1220	\$86m	\$2m	\$16m
Timaru District Council	\$5030	\$1640	\$65m	\$3m	\$20m
Upper Hutt City Council	\$2570	\$1260	\$9m	-	\$18m
Waikato District Council	\$4720	\$1220	\$21m	\$5m	\$32m
Waimakariri District Council	\$3000	\$1640	\$42m	\$4m	\$22m
Waimate District Council	\$8690	\$1640	\$7m	\$1m	\$10m
Waipa District Council	\$2970	\$1220	\$18m	\$3m	\$21m
Wairoa District Council	\$8690	\$1260	\$5m	\$1m	\$19m

Council	Cost of service without reform (2051)	Cost of services with reform (2051)	Additional debt capacity with reform	No worse off funding	Better off support package
Waitaki District Council	\$8690	\$1640	-\$10m	\$12m	\$15m
Waitomo District Council	\$8690	\$1220	\$18m	\$1m	\$14m
Wellington City Council	\$2440	\$1260	-\$158m	\$158m	\$67m
Wellington Regional Council (Greater Wellington)	-	-	\$120m	-	-
Western Bay of Plenty District Council	\$4050	\$1220	\$60m	\$3m	\$21m
Westland District Council	\$8690	\$1640	\$2m	\$1m	\$11m
Whakatāne District Council	\$6250	\$1220	\$29m	\$2m	\$23m
Whanganui District Council	\$4200	\$1220	\$35m	\$3m	\$24m
Whangarei District Council	\$4060	\$800	-\$90m	\$95m	\$38m

Council shareholding in water service entities

Entity A

Council	Population	Shareholding
Auckland Council	1,718,000	35
Far North District Council	72,600	2
Kaipara District Council	26,000	1
Whangārei District Council	99,400	2
Total shares		40

Entity B

Council	Population	Shareholding
Hamilton City Council	178,500	4
Hauraki District Council	21,800	1
Kawerau District Council	7,670	1
Matamata-Piako District Council	36,700	1
New Plymouth District Council	87,300	2
Ōpōtiki District Council	10,300	1
Ōtorohanga District Council	10,750	1
Rangitikei District Council	16,050	1
Rotorua District Council	77,400	2
Ruapehu District Council	12,900	1
South Taranaki District Council	29,100	1
South Waikato District Council	25,500	1
Stratford District Council	10,100	1
Taupō District Council	41,100	1
Tauranga City Council	155,200	4
Thames-Coromandel District Council	33,000	1
Waikato District Council	85,900	2
Waipa District Council	59,500	2
Waitomo District Council	9,640	1
Western Bay of Plenty District Council	58,100	2

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Whakatane District Council	38,400	1
Whanganui District Council	48,400	1
Total shares		33

Entity C

Council	Population	Shareholding
Carterton District Council	10,050	1
Central Hawke's Bay District Council	15,600	1
Chatham Islands Council	780	1
Gisborne District Council	51,500	2
Hastings District Council	90,100	2
Horowhenua District Council	36,500	1
Hutt City Council	112,800	3
Kapiti Coast District Council	58,000	2
Manawatu District Council	33,000	1
Marlborough District Council ¹	51,500	2
Masterton District Council	28,200	1
Napier City Council	66,700	2
Nelson City Council	54,700	2
Palmerston North City Council	90,500	2
Porirua City Council	61,900	2
South Wairarapa District Council	11,650	1
Tararua District Council	19,050	1
Tasman District Council ²	57,900	2
Upper Hutt City Council	47,500	1
Wairoa District Council	9,040	1
Wellington City Council	217,000	5
Total shares		36

¹ Note: parts of Marlborough District Council will sit in Entity D, but given small population in those areas shareholding rights are attributed to Entity C.

² Note: parts of Tasman District Council will sit in Entity D, but given small population in those areas shareholding rights are attributed to Entity C.

Entity D

Council	Population	Shareholding
Ashburton District Council	35,900	1
Buller District Council	9,660	1
Central Otago District Council	24,800	1
Christchurch City Council	392,100	8
Clutha District Council	18,500	1
Dunedin City Council	133,300	3
Gore District Council	13,050	1
Grey District Council	14,100	1
Hurunui District Council	13,450	1
Invercargill City Council	57,000	2
Kaikoura District Council	4,260	1
Mackenzie District Council	5,480	1
Queenstown-Lakes District Council	48,300	1
Selwyn District Council	73,600	2
Southland District Council	32,700	1
Timaru District Council	46,296	1
Waimakariri District Council	66,300	2
Waimate District Council	8,290	1
Waitaki District Council	23,800	1
Westland District Council	8,910	1
	Total shares	32

Council Report

Committee:	Council	Date:	12 May 2022
Author:	Luke Archbold	Authoriser:	Helen Paki
Position:	Parks Operational Planning and Capital Projects Manager	Position:	General Manager Community
Report Name:	Celebrating Age Centre - Options Report		

Report Status	<i>Open</i>
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Purpose - *Take*

- To inform the Council on the current land status and options for the possible redevelopment of the Celebrating Age Centre.
- To seek Council's approval to under further feasibility assessment.

Staff Recommendation - *Tuutohu-aa-kaimahi*

- That the Council:
 - receives the report;
 - requests staff undertake further feasibility assessment work on the development of a new building at 240 Victoria Street and redevelopment options for buildings at Norris Ward Park to enable a decision on the future of the Celebrating Age Centre at 240 Victoria St;
 - notes that a business case to inform a decision on the Celebrating Age Centre will be bought back to the Community Committee for consideration; and
 - notes that the existing leaseholder and stakeholders will be kept up to date with plans and have opportunity to provide input.

Executive Summary - *Whakaraapopototanga matua*

- The Celebrating Age Centre has an established history of providing support services to Hamilton's older people. The current lease holders and some of the wider community see this as a legacy worth preserving.
- Ongoing issues with the roof of the Celebrating Age Centre (CAC) escalated prior to Christmas 2021 and it was determined that the building was no longer suitable for occupancy.
- Council has secured a commercial premises for the current lease holder, Age Concern, to operate from as an alternative location and interim measure while a long-term solution is determined and implemented.
- The five-year lease with Age Concern expires on 30 June 2023. As there is no right of renewal for the lease, Age Concern will need to make a new application prior to expiry.
- The 2020 Community Facilities Strategy indicates moderate to high level concern across most community facilities in relation to their 'fitness for purpose' to best serve the needs of our community.

9. An underlying intent for the strategy was to assist with rationalising the existing portfolio of properties to enable investment into buildings that can provide improved 'fit for purpose' facilities to our community.
10. Four options have been considered within the context of how Council could make the best use of land available:
 - **Option 1** – Proceed with the planned roof replacement for CAC only,
 - **Option 2** – Replace the CAC roof and improve the internal layout of the current building
 - **Option 3** – Demolish current CAC building and develop a new facility with a mix of community and commercial space on the existing site.
 - **Option 4** – Relocate current activities and develop a suitable 'fit for purpose' facility with two alternative locations to be considered (Pembroke Park and Norris Ward Park).
11. Staff recommend **options 3 and 4** are progressed for further investigation, as detailed in the options section below.
12. Staff consider the matter in this report have medium level significance and that the recommendations comply with the Council's legal requirements.

Background - *Koorero whaimaarama*

13. The Celebrating Age Centre was built in 1978/79. It is 1007 m² (ex. parking) and is located on land that consists of two land parcels, which have a total area of 9105m² (*Refer to Attachment 1*).
14. The land is held by Council as Municipal Endowment land. It is not subject to the Reserves Act 1977. Municipal Endowment land is typically held to provide a financial return to Council, which can be used to improve the well-being of Hamiltonians.
15. Council leased the building to the Waikato Regional Old People's Welfare Organisation, and then the Senior Citizens Association until 1997. The legacy of serving our older people from a central city site has significance to the current lease holder.
16. Between 1997 and 2015, Council had staff based in the building and managed community bookings and the community group leases for dedicated office space used by Senior Citizens Association, Age Concern, Senior Net and Grey Power.
17. In 2015 the Council's Celebrating Age staff roles were disestablished.
18. Council staff continued to provide a community booking service via staff based in the Municipal building. Age Concern were provided with some additional funding to offer reception duties to users of the facility.
19. Following an Expression of Interest process in 2017 Council granted Age Concern a 5-year lease of the entire building.
20. As noted above, the lease expires on 30 June 2023 and there is no right of renewal for the lease. This means Age Concern will need to submit a new application ahead of the expiry date.
21. Age Concern is a national organization providing the following services to older community members:
 - i. social connections to combat loneliness,
 - ii. support to complete essential tasks such as paying bills,
 - iii. a volunteer driven shopping service to those that have no alternative way of receiving groceries,
 - iv. responses to elder abuse concerns, etc.

22. Age Concern also co-ordinated bookings for the hall space within the current building. There were a number of users who have either disbanded since Covid-19 or have found alternative venues.
23. Senior Net provide training to assist senior citizens with understanding and using new technology.
24. Grey Power provide an advocacy function to support the rights of senior citizens including matters pertaining to NZ Superannuation, as well as in the areas of Aged Care and Retirement Villages, Energy, Fifty plus, Health and ACC, etc.
25. An Initial Seismic Assessment undertaken in 2017 gave the building a provisional grading of 95% New Building Standard and hence a low safety risk.
26. Staff sought funding for the CAC roof renewal in the 2021-31 Long Term Plan due to on-going leaking issues, with \$756,000 currently allocated for Year 4, 2024/25.
27. Over the last 12-months ongoing water tightness issues have resulted in damaged building components despite significant efforts in remedial maintenance.
28. In December 2021 the decision was made to close CAC. With no other community space available to relocate the leaseholder, Senior Net and Grey Power, Council leased a new commercial premises as an interim measure to ensure these services to our older community members could continue.
29. The commercial premises secured by Council is at 150 Grantham Street. Whilst Age Concern took up the offer to move there, both Senior Net and Grey Power chose not to. Grey Power decided to operate out of their Tauranga office in the interim, and Senior Net have found short-term office space adjoining a church hall. The users of the CAC hall space could not be catered for as no commercial space was available to meet their needs.
30. On 23 February 2022, staff briefed Elected Members on the current status of the CAC building on Victoria Street. Staff were directed to prepare a report for the 26 April 2022 Community Committee meeting providing options beyond replacement of the roof.

Discussion - *Matapaki*

31. The Council's 2020 Community Facilities Strategy provides a vision that Hamilton has an effective network of quality Community Facilities that improve the wellbeing of Hamiltonians. *(Refer to Attachment 2)*
32. An underlying intent of the 2020 Community Facilities Strategy was to inform the strategic direction and potential rationalisation of existing facilities when planned renewals and significant issues arose with the buildings within the community facilities portfolio.
33. The strategy highlighted condition concerns for key community facilities along with a moderate to high level of concern across most community facilities in relation to their 'fitness for purpose' for users and the needs of our community.
34. This issue of 'fit for purpose' is now further exacerbated when facilities are closed, with added pressure to accommodate groups put on remaining community facilities where the options are less likely to meet the needs of the groups displaced.
35. The Community Group is facing increasing pressure to maintain the existing properties to meet the strategic direction provided by the 2020 Community Facilities Strategy.
36. Funding of \$15,429,773 has been included in the 2021-31 in 10-year plan for the renewal of 20 community facilities. This funding does not provide for an increased level of service across the portfolio.

37. For the Celebrating Age Centre, investigations and high-level conceptual designs have been developed for:
- i. Only roof replacement.
 - ii. Roof replacement plus a key internal reconfiguration that will improve and maximise current useable space for the current purpose of the building.
 - iii. Roof replacement plus a full internal reconfiguration including a new third floor to provide additional floor space for an expansion of community services.

Options

38. Staff consider that there are 4 options:
- **Option 1** – Proceed with the planned roof replacement for CAC only
 - **Option 2** – Replace the CAC roof and improve the internal layout of the current building
 - **Option 3** – Demolish current CAC building and develop a new facility with a mix of community and commercial space on the existing site
 - **Option 4** – Relocate current activities and develop a suitable ‘fit for purpose’ facility with two alternative locations to be considered (Pembroke Park and Norris Ward Park).

These options are outlined in more detail in the points below.

Option 1 – Proceed with the roof replacement of the CAC as planned for in Renewals Programme

39. Based on a condition assessment prior to the last LTP, roof replacement was identified as required as part of the community facilities renewal programme. The LTP confirmed funding of \$100,000 in Y3 for design, and \$756,000 in Y4 for construction.
40. The condition of the roof has worsened faster than anticipated, this option would bring forward the work so that design could start immediately in Y1, with construction of the new roof to be done in Y2. High level cost estimates for this option start at \$1m.

Pros	Cons
<ul style="list-style-type: none"> • This option will see the current lease holders back into a long-term facility more quickly than other options. • The current building is well suited to meeting physical accessibility needs. • Close to public transport • Easy onsite parking • Older people see this as a safe space • The current building is known to successfully accommodate the core services of Age Concern, Grey Power and Senior Net well. • It is close to other amenities of interest to our older peoples. • This location is visible to the wider community reminding them of the importance of our older people. 	<ul style="list-style-type: none"> • Water tightness has been compromised, so what we find once the roof is removed is unknown which is likely to lead to additional costs. • The current budget may not be sufficient in the current market. • The internal features of the building are tired/dated and will likely need to be improved in the near future if not done now. • Fixing the roof does not improve the facility’s ‘fit for purpose’ beyond its current state. • There is no opportunity to expand beyond current activities if required in the future.

Option 2 – Proceed with the roof replacement plus internal reconfiguration

41. This option would seek additional investment to renew the existing building and improve its ‘fitness for purpose’ for current and future community lease holders as well as add further utility for additional community groups.
42. Staff have completed some initial investigations to establish what is possible with the current building to improve its useability for the existing users and two approaches have been considered for this option.
43. **Option 2(A)** – Complete roof replacement plus key internal reconfiguration that will improve and maximise current useable space for the current users of the building. (*Refer to Attachment 3*).
44. **Option 2(B)** – Complete roof replacement plus full internal reconfiguration including a new third floor to provide additional floor space for an expansion of community services (*Refer to Attachment 4*).
45. Both options would enable a return of the existing lease holders (Age Concern who then sublet to Grey Power and Senior Net) and community groups using the hall space.
46. High level cost estimates for delivery of **Option 2(A) and 2(B)** range from \$3-\$12m

Pros	Cons
<ul style="list-style-type: none"> • The current building is well suited to meeting physical accessibility needs. • A better designed internal layout will improve ‘fit for purpose’ for the current users of the building • Option 2(B) will allow other complimentary groups to also locate themselves out of the CAC building due to the additional floor being added. • Internal features will be updated and not require renewal anytime soon. • Close to public transport • Easy onsite parking • Older people see this as a safe space • It is close to other amenities of interest to our older peoples. <ul style="list-style-type: none"> • This location is visible to the wider community reminding them of the importance of our older people. 	<ul style="list-style-type: none"> • Water tightness has been compromised, so other issues may be identified once the roof is removed are unknown which is likely to lead to additional costs. • Additional funding is required beyond the current renewal budget. • Affordability is unknown • Expanded opportunities beyond servicing community functions are unlikely to work within the current building. I.e., commercial opportunities.

Option 3 – Demolish current building and develop a new facility with a mix of community and commercial space on the existing site.

47. This option would see the current building demolished, and a new building designed that seeks to include a mix of commercial space and retain the site as the location for offering support services to older people.
48. This option could include commercial opportunities like those envisaged in the 2016 Ferrybank Development Plan could enable a possible return on investment to council.

Pros	Cons
<ul style="list-style-type: none"> • A new purpose build facility will improve utility for existing users and open up new opportunities for other segments of our community to interact at this location. • Activities currently not possible in the current building can be incorporated into a new build. I.e., commercial opportunities. • A new building can be designed to integrate seamlessly with the larger design principles within the 2016 Ferrybank Development Plan. • The legacy of the location serving our older people from this central city site can be retained. • Close to public transport • Easy onsite parking • Older people see this as a safe space • It is close to other amenities of interest to our older peoples. • This location is visible to the wider community reminding them of the importance of our older people. 	<ul style="list-style-type: none"> • Significant time delays to provision of facilities for existing lease holders. • For any new development, the site is steep and less suited to meeting physical accessibility needs. • There is currently no funding allocated for a new build. • Possibly conflicts with Aranui development plans which proposes to provide a significant amount of commercial space in Grantham St. • Affordability is unknown.

Option 4 – Pursue permanent relocation of current Leaseholder to a new site and develop a suitable ‘fit for purpose’ facility

49. The option would require the demolition of the current CAC and minor investment to reinstate an open space like that planned for the adjacent Municipal Pools site. This would leave the current site available for commercial redevelopment later.
50. It would also require the relocation of the current lease holder (to ensure continuation of their support services to older people) and hall users to an alternative location while a ‘fit for purpose’ facility is constructed.
51. Staff have considered what locations within the Community Facilities Portfolio would be suitable to meet the needs of the current occupants of the CAC and two options have been identified.
52. **Option 4(A)** - Pembroke Park. This option would involve demolition of the existing buildings and a new facility being developed to provide appropriate accommodation for a greater mix of activities – including active and passive recreation.
53. Pembroke Park is 3,824 m² and is held for Recreation Reserve purposes, it is subject to the Reserves Act 1977.

- 54. The Metro Judo club currently lease the building which has been identified as needing approximately \$500,000 repairs. The Judo Club could be accommodated in a new building at this site. The lease expires in September 2025.
- 55. A change in reserve status, to say Local Purpose (Community) Reserve, would likely be required to better reflect the proposed activities using the reserve.

Pros	Cons
<ul style="list-style-type: none"> • A new purpose build facility will improve utility for existing users and open up new opportunities for other segments of our community to interact at this location. • Better utilisation of restricted land • A hub facility will provide greater opportunity for a wider range of community groups to benefit from the new facility. • Enhanced community outcomes via an improved fit for purpose build. 	<ul style="list-style-type: none"> • Conflict with existing users • The existing lease does not expire until September 2025. • No vacant building for existing lease holders – Metro Judo – to move into. • Significant time delays to provision of facilities to existing lease holders. • Less visible to the wider community reminding them of the importance of our older people. • Could be seen as a less desirable location by the CAC lease holders – not as accessible as other locations. • Road access to the park is on a busy road that may intimidate older people. • Size of land parcel may limit parking. • Costs are unknown

- 56. **Option 4(B)** – Norris Ward Park. This option would involve demolition of the existing buildings and a new facility being developed to provide appropriate accommodation for a greater mix of activities – including active and passive recreation.
- 57. Norris Ward Park has an area of 15,127m², which is held for Recreation Reserve purposes, it is subject to the Reserves Act 1977.
- 58. A change in reserve status, to say Local Purpose (Community) Reserve, would likely be required to better reflect the proposed activities using the reserve.
- 59. Redevelopment of existing buildings is contemplated by the West Town Belt Management plan and there is a current proposal from the Hamilton Community Men’s Shed Trust to expand the Ward St building footprint to enable their activities to co-locate at this site and enable an Arts and Craft centre.

Pros	Cons
<ul style="list-style-type: none"> • A new purpose build facility will improve utility for 4 existing users and open up new opportunities for other segments of our community to interact at this location. • Better utilisation of restricted land. • The site is flat and better suited to meeting physical accessibility needs. • The Arts Hub and Age Concern groups have synergy for being co-located. • A hub facility will provide greater opportunity for a wider range of community groups to benefit from the new facility. • Enhanced community outcomes via an improved fit for purpose build. • A short walk from and to the Hamilton Transport Centre • It is close to other amenities of interest to our older peoples. • This location is visible to the wider community reminding them of the importance of our older people. • Close to Hamilton Girls High which promotes cross generational interaction. 	<ul style="list-style-type: none"> • Potential conflict with existing users and known opposition to the current expansion proposal • The existing leases expire on: <ul style="list-style-type: none"> ○ Artmakers – Sept 2025 ○ Arts for Health – Sept 2025 ○ Men’s shed – Sept 2025 ○ Waikato Society of Potters – 30 June 2030 (includes termination clause if needed for future development of a hub site) • The current lease holders would have no suitable location to continue their activities while a new building is constructed • Significant time delays to provision of facilities for existing lease holders. • Costs are unknown

60. A change in reserve status for both sites would require public consultation for one month, to provide the community with the opportunity to provide feedback on the proposal. The approval of the Department of Conservation, or their delegate, is also required for the change of reserve status regardless of how the reserve land is derived by Council.

61. Staff recommend **Options 3 and 4** for further investigation– These options could both provide a fit for purpose facility for the current lease holder, CAC user groups and other community groups whilst enabling possible commercial development of the current site. Both options provide for:

- Strong alignment with the outcomes defined in the 2020 Community Facilities Strategy.
- Alignment with the River Plan and associated Ferrybank development plan.
- Hub of activities that could provide the greatest long-term benefits for the existing lease holders of the CAC, the current lease holders at Norris Ward Park, and possibly more complementary community groups as well.
- The development of a community facility hub at Norris Ward is consistent with intent defined within the Western Town Belt master plan.

Financial Considerations - Whaiwhakaaro Puutea

62. At this stage the costs –are known for Options 1 & 2, but unquantified for Options 3 & 4.
63. A business case for the preferred option(s) would need to be developed and provided to Elected Members for consideration.
64. Options 1 & 2 have been investigated as an initial step to establish what is possible with the current building. Three approaches have been considered for this option, with associated high-level estimates developed:
 - Option 1 - Replace the roof only - \$1m to \$2m
 - Option 2(A) - Roof replacement plus key internal reconfiguration that will improve and maximise current useable space for the current purpose of the building – \$3m to \$6m
 - Option 2(B) - Roof replacement plus full internal reconfiguration incl. a new third floor to provide additional floor space for an expansion of community services - \$8m to \$12m
65. To date staff have invested approximately \$23,000 of staff hours and \$34,000 of consulting expertise to understand the current issues with the CAC building and to explore options for better utilisation of the current building.
66. Council is covering the balance of cost for the commercial lease at 150 Grantham Street (\$52,110+GST). Age Concern continues to pay their community lease (\$9,440+GST per annum), given they operate on a limited budget where commercial building costs are not sustainable.
67. The cost of the temporary commercial lease is being met through the existing operating budget previously set aside by the Community & Social Development team to house the People’s Project at Garden Place. As the People’s project have now relocated to long-term accommodation, the budget now covers the 3-year lease for Age Concern.
68. The current LTP has funding for a renewal of the Celebrating Age Centre roof allocated for design in Y3 for \$100,000 and construction in Y4 for \$756,000 for a total of \$856,000.
69. The cost of investigating options 3 and 4(b) is estimated at \$100,000 and could be funded by existing operating budget if split across the 2021/22 and 2022/23 financial years.
70. Any additional costs for a more comprehensive development are currently unfunded. Staff would investigate funding options, including reprioritisation of existing planned work, use of Municipal Endowment funds and/or partnership funding for the preferred option(s) through the business case.

Legal and Policy Considerations - Whaiwhakaaro-aa-ture

71. Staff confirm that all options comply with the Council’s legal and policy requirements. Reclassification of land title will be required for Options 2(A) and (B).

Wellbeing Considerations - Whaiwhakaaro-aa-oranga tonutanga

72. The purpose of Local Government changed on the 14 May 2019 to include promotion of the social, economic, environmental and cultural wellbeing of communities in the present and for the future (‘the 4 wellbeings’).
73. The subject matter of this report has been evaluated in terms of the 4 wellbeings during the process of developing this report as outlined below.
74. The recommendations set out in this report are consistent with that purpose.

Social

75. Community facilities contribute to social wellbeing in Hamilton. Celebrating Age Centre has been a focal point for social connection and provide opportunities for community cohesion.
76. A well-functioning older person facility increases a sense of belonging for older people themselves, but also ensures that the rest of the community better understands the value of older people.

Economic

77. Economic wellbeing is enhanced through the provision of community facilities by strengthening local communities and improving cohesion at a local level. This contributes to making Hamilton a welcoming place to live, and increasing individual's desire to move to, and stay in Hamilton.
78. Older people are a critical part of the job market, with many working beyond the age of 65, or moving into part time or voluntary roles within the community.

Environmental

79. Community facilities can contribute to environmental wellbeing by enhancing public spaces and ensuring that local communities feel a greater sense of belonging and care for their area. Council has opportunities to improve the sustainability of the Celebrating Age Centre in the long term to reduce its environmental impact.
80. Older people are generally higher users of public and active transport options. Ensuring these options work well for older people in accessing the Celebrating Age Centre will increase usage amongst this group directly, and for the wider community as well.

Cultural

81. Community facilities already contribute a great deal to the cultural wellbeing of Hamiltonians. The Celebrating Age Centre is a space that is used for cultural activities and is known as a space where residents from a variety of ethnic backgrounds can express their identity freely.
82. Any improvements to the Celebrating Age Centre will ensure this commitment is continued and enhanced through capital works and ongoing service provision.

Risks - *Tuuraru*

83. Risk has been considered in relation to each individual option in the Options section of the report.
84. Across our community facility portfolio, there is a growing risk that our provision of facilities will see increased reductions of service due to old buildings no longer being fit for occupation, or due to them no longer being fit for purpose.
85. Old buildings pose an increasing health and safety risk, and Council could see near misses turning into serious incidents.
86. Without investment in new and existing facilities, Council will not be able to provide suitable community facilities for existing and new community groups with resulting impacts on the levels of service and the wellbeing of Hamiltonians.
87. Without adequate long-term facilities for the services provided by Age Concern, Senior Net and Grey Power, there is a risk these core services to our senior community will no longer be sustainable and the groups cannot continue to operate.
88. Relocating our senior community facilities to less central sites, carries a potential risk of dissatisfaction from an active, time rich and vocal segment of the community.

89. There is also a risk of public dissatisfaction and media scrutiny if the community perceives levels of services are reducing and/or their expectations for provision of suitable community facilities have not been met.

Significance

90. Staff have considered the key considerations under the Significance and Engagement Policy and have assessed that the recommendation(s) in this report has/have a medium level of significance.

Engagement

91. Community views and preferences are somewhat known to the Council through ongoing targeted conversations with Age Concern and our older persons communities.
92. All options will involve active collaboration with Age Concern and other stakeholders.
93. Given the medium level of significance determined, the engagement level is medium. Engagement is required.

Attachments - *Ngaa taapirihanga*

Attachment 1 - Maps of considered options

Attachment 2 - 2020 Community Facilities Strategy Outcome Areas

Attachment 3 - Option 2A Concept Design - Roof replacement and key internal layout improvements

Attachment 4 - Option 2B Concept Design - Roof replacement and full redevelopment of the existing building

Celebrating Age Centre – Options Report

Maps for considered options

Options 1, 2 and 3 - Current Site on Victoria Street



A – Current Celebrating Age Building

B – Municipal Pools Site

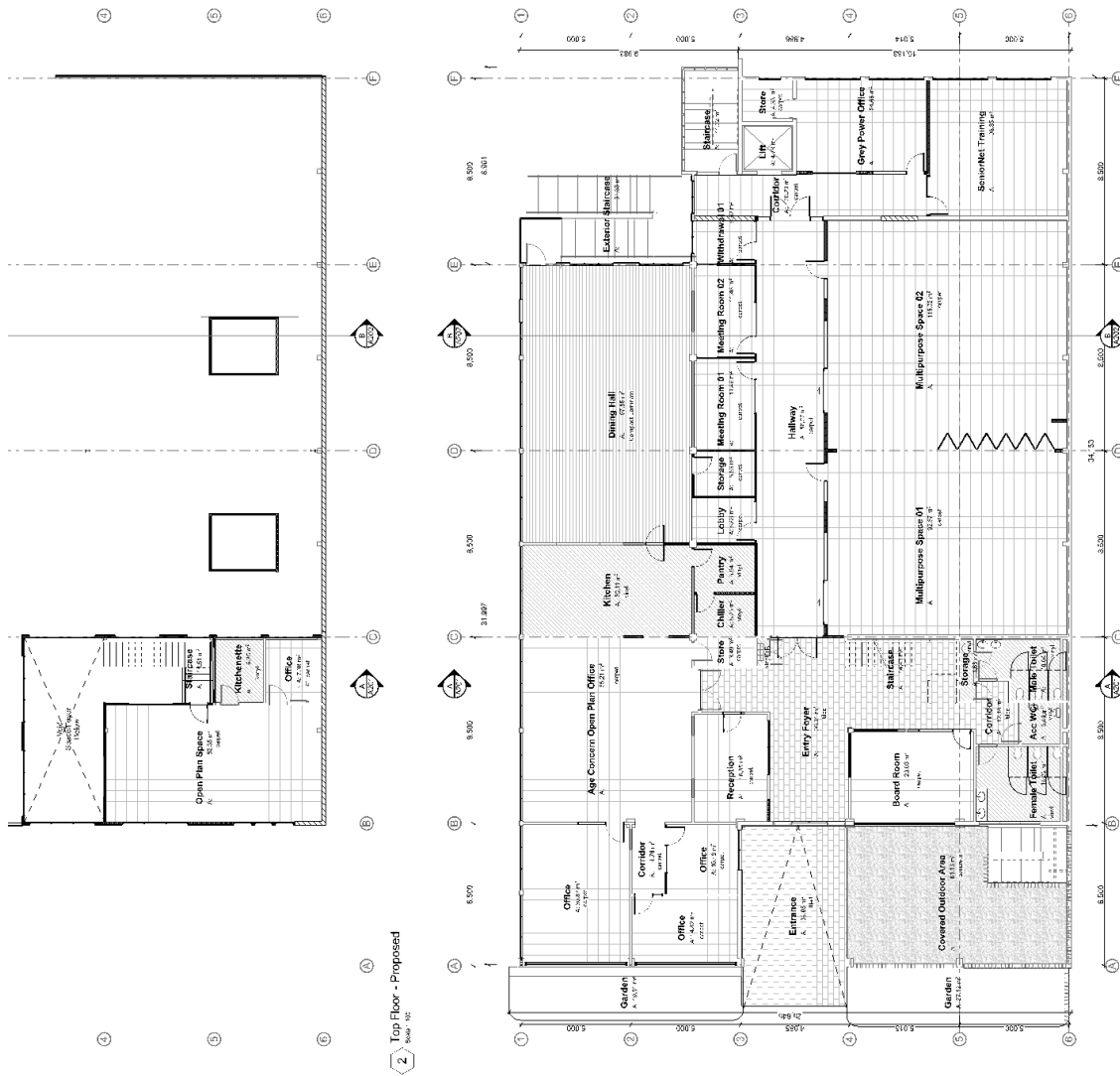
Option 4(A) – Pembroke Park



Option 4(B) – Norris Ward Park



Celebrating Age Centre – Options Report
2020 Community Facilities Strategy Outcome Areas



1 Ground Floor - Proposed
Scale: 1:50

Notes:
1. All dimensions are in millimeters unless otherwise stated.
2. All dimensions are to the centerline of walls unless otherwise stated.

No.	Date:	Amendment:

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Contractors:
 EYON CONSULTING
 WYI opus
 EBC GROUP
 Elektron
 DublinMury

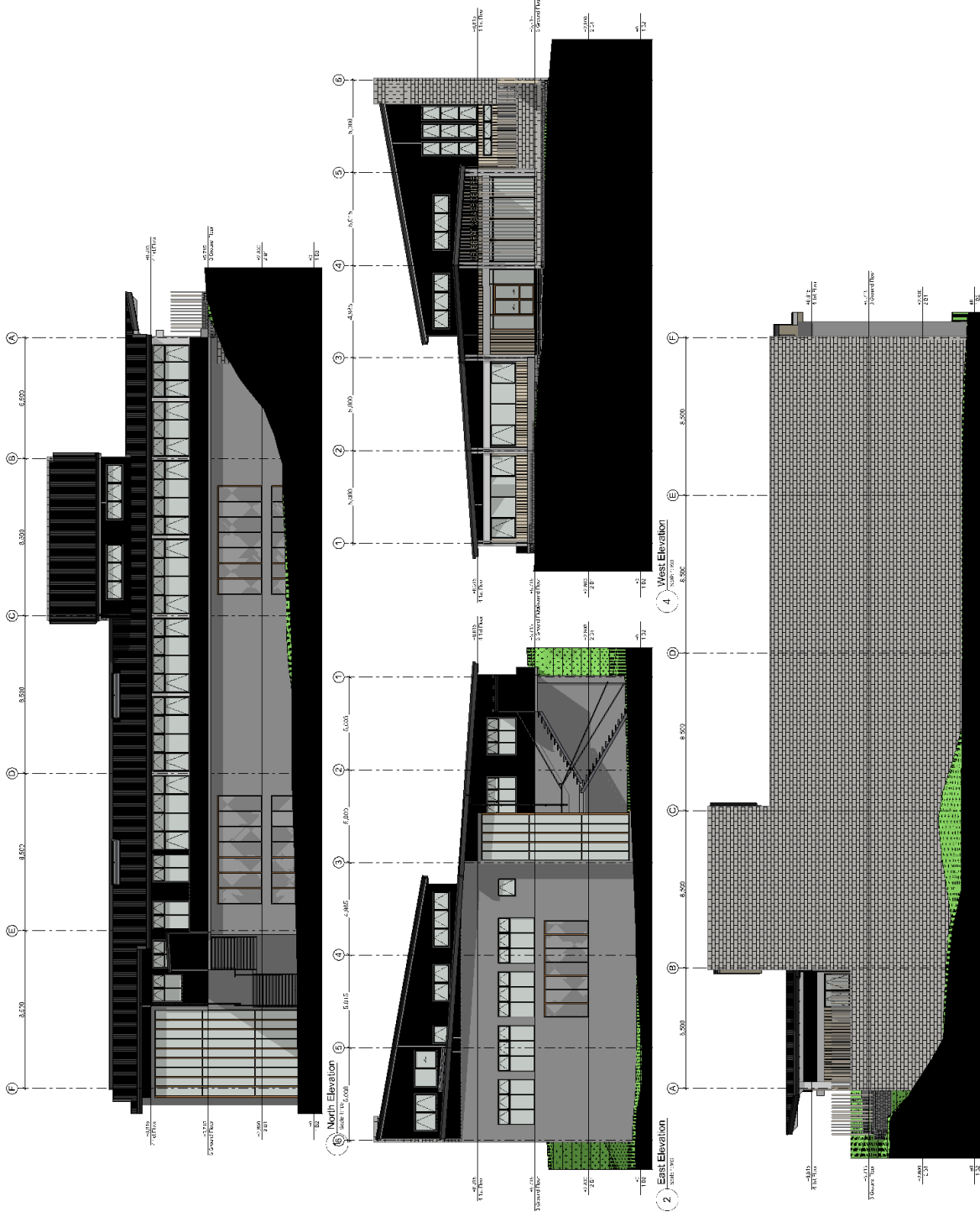
Client:
Hamilton City Council
 To celebrate a birthday
 To celebrate a birthday

Client:
HCC Celebrating Age Building
 Roof and Internal Redevelopment

Client:
Ground Floor & Top Floor - Proposed

CONCEPT DESIGN ONLY

Rev.	Description	Date
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1	Issue for Information	22/05/2022
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Drawn	22.05.2022	22.05.2022	22.05.2022
Checked	22.05.2022	22.05.2022	22.05.2022
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Project	A301	A301	A301
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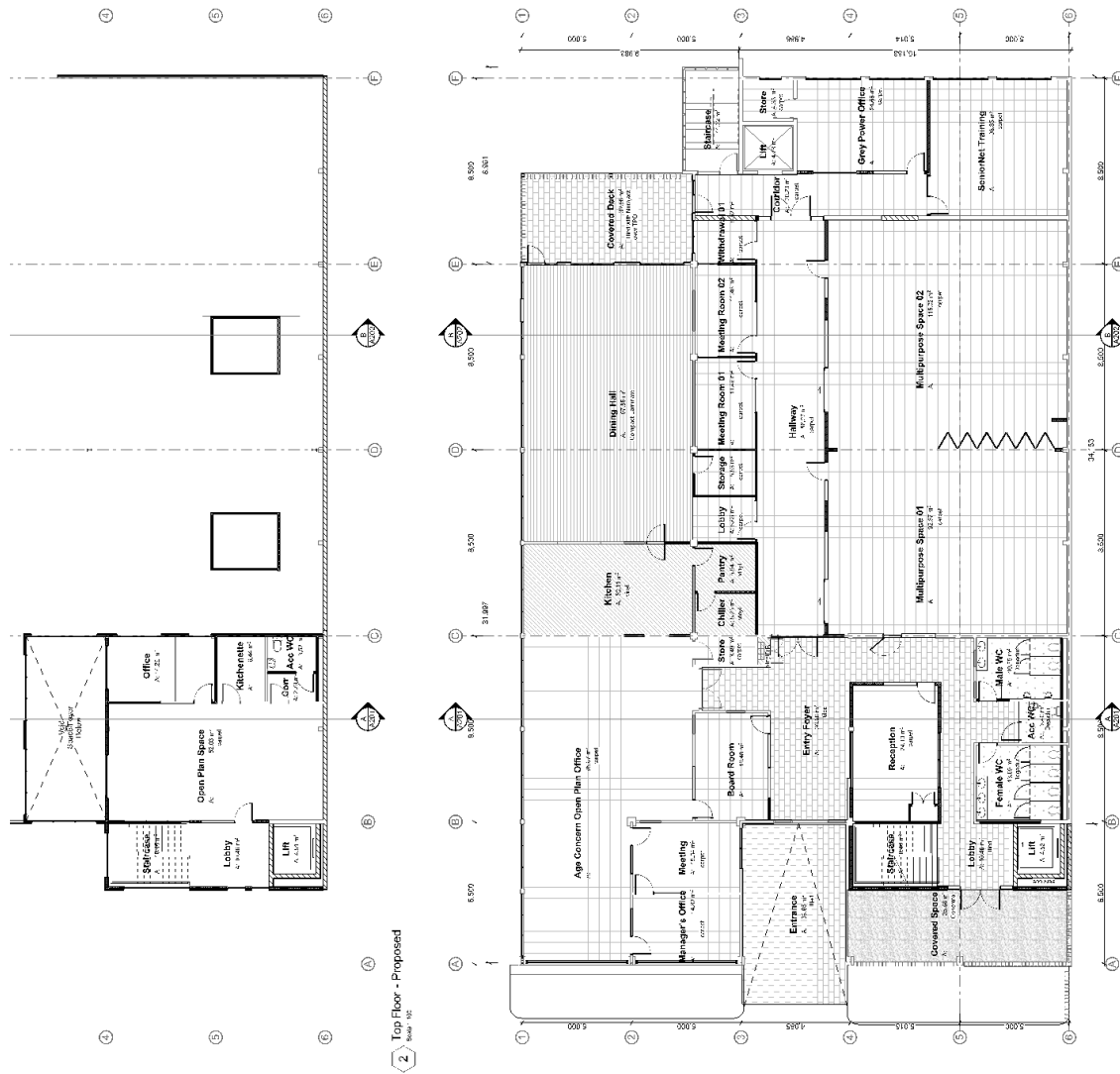
HCC Celebrating Age Building
Roof and Internal Redevelopment

Hamilton City Council
In partnership with

pedestlethorp architects
wyl opus
Elektron DublinMurray

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Elektron DublinMurray

No.	Date	Amendment



CONCEPT DESIGN OPTION 3

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Scale	1:500	Date	10/05/2021
Drawn	AC/ML/EF/MLC	Checked	AC/ML/EF/MLC
Project		Sheet No	A107
		Sheet	0

101 Ground Floor & Top Floor - Proposed

102 HCC Celebrating Age Building Roof and Internal Redevelopment

Hamilton City Council
In partnership with

Contractors:
 - **WSP | opus | bac GROUP**
 - **Elektron | Duffell Murray**

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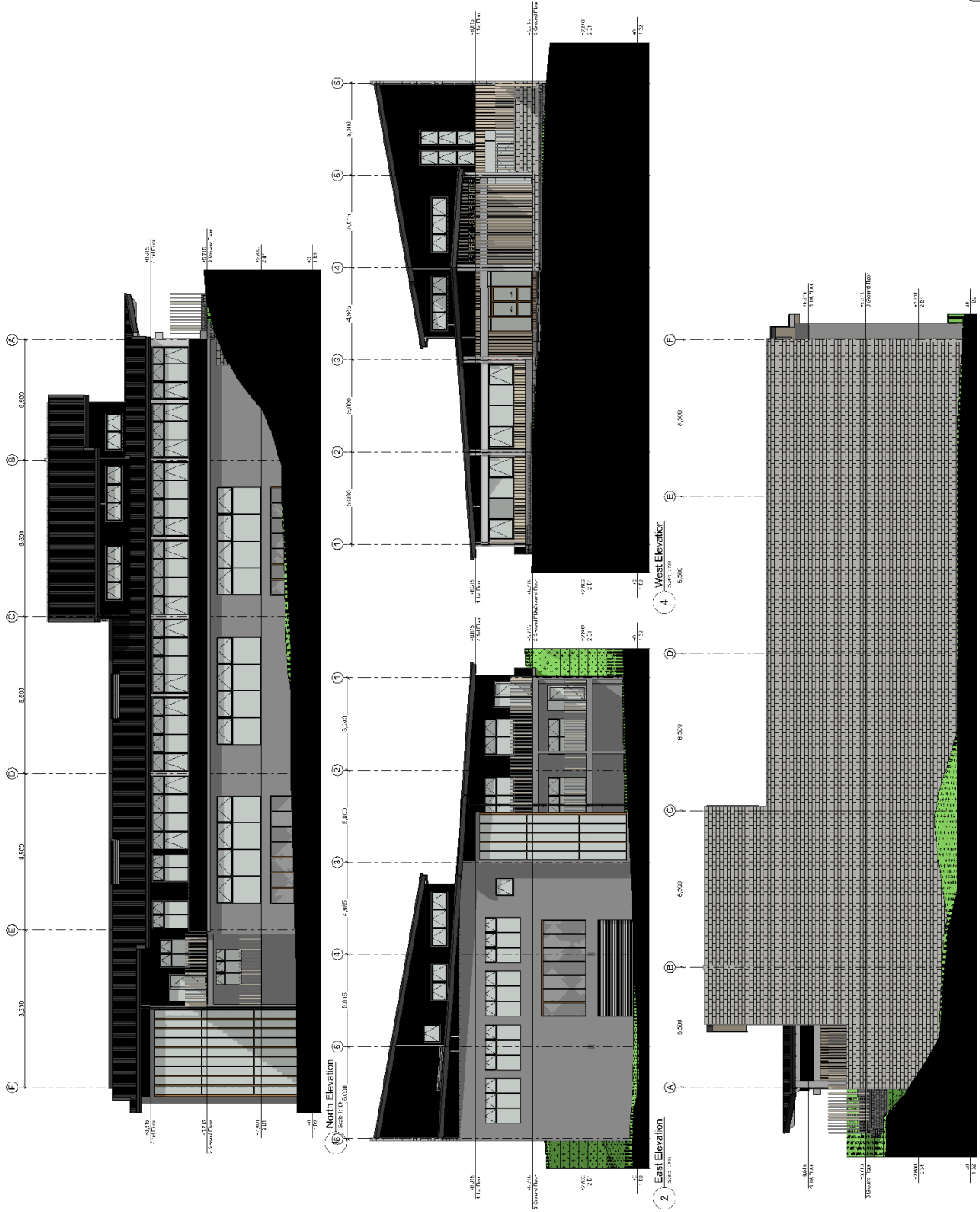
No.	Date	Amendment



B1 Plan - Proposed
Scale: 1/8"

CONCEPT DESIGN OPTION 3

<p>Notes: 1. See notes on drawings for details. 2. See notes on drawings for details. 3. See notes on drawings for details.</p>	<p>Project: B1 Basement Plan - Proposed</p>	<p>Client: HCC Celebrating Age Building Roof and Internal Redevelopment</p>	<p>City: Hamilton City Council To celebrate 20th Anniversary</p>	<p>Contractors: </p>	<p>Architect: </p>	<p>Drawn: [Name] Date: [Date] Checked: [Name]</p>	<p>Scale: 1/8"</p>	<p>Revision: 0</p>
	<p>Drawn: [Name] Date: [Date] Checked: [Name]</p>	<p>Project: B1 Basement Plan - Proposed</p>	<p>Client: HCC Celebrating Age Building Roof and Internal Redevelopment</p>	<p>City: Hamilton City Council To celebrate 20th Anniversary</p>	<p>Contractors: </p>	<p>Architect: </p>	<p>Drawn: [Name] Date: [Date] Checked: [Name]</p>	<p>Scale: 1/8"</p>	Revision: 0



CONCEPT DESIGN OPTION 3

<p>Notes: 1. All elevations are shown on a white background. 2. All elevations are shown on a white background. 3. All elevations are shown on a white background.</p>		<p>Scale: 1:100</p>	<p>Date: 12/05/2022</p>	<p>Project: HCC Celebrating Age Building Roof and Internal Redevelopment</p>	<p>Client: Hamilton City Council 10 Rathdown Park, Rathdown, Dublin 6</p>	<p>Architect: peddlethorp architects 100-102, 104, 106, 108, 110, 112, 114, 116, 118, 120, 122, 124, 126, 128, 130, 132, 134, 136, 138, 140, 142, 144, 146, 148, 150, 152, 154, 156, 158, 160, 162, 164, 166, 168, 170, 172, 174, 176, 178, 180, 182, 184, 186, 188, 190, 192, 194, 196, 198, 200, 202, 204, 206, 208, 210, 212, 214, 216, 218, 220, 222, 224, 226, 228, 230, 232, 234, 236, 238, 240, 242, 244, 246, 248, 250, 252, 254, 256, 258, 260, 262, 264, 266, 268, 270, 272, 274, 276, 278, 280, 282, 284, 286, 288, 290, 292, 294, 296, 298, 300, 302, 304, 306, 308, 310, 312, 314, 316, 318, 320, 322, 324, 326, 328, 330, 332, 334, 336, 338, 340, 342, 344, 346, 348, 350, 352, 354, 356, 358, 360, 362, 364, 366, 368, 370, 372, 374, 376, 378, 380, 382, 384, 386, 388, 390, 392, 394, 396, 398, 400, 402, 404, 406, 408, 410, 412, 414, 416, 418, 420, 422, 424, 426, 428, 430, 432, 434, 436, 438, 440, 442, 444, 446, 448, 450, 452, 454, 456, 458, 460, 462, 464, 466, 468, 470, 472, 474, 476, 478, 480, 482, 484, 486, 488, 490, 492, 494, 496, 498, 500, 502, 504, 506, 508, 510, 512, 514, 516, 518, 520, 522, 524, 526, 528, 530, 532, 534, 536, 538, 540, 542, 544, 546, 548, 550, 552, 554, 556, 558, 560, 562, 564, 566, 568, 570, 572, 574, 576, 578, 580, 582, 584, 586, 588, 590, 592, 594, 596, 598, 600, 602, 604, 606, 608, 610, 612, 614, 616, 618, 620, 622, 624, 626, 628, 630, 632, 634, 636, 638, 640, 642, 644, 646, 648, 650, 652, 654, 656, 658, 660, 662, 664, 666, 668, 670, 672, 674, 676, 678, 680, 682, 684, 686, 688, 690, 692, 694, 696, 698, 700, 702, 704, 706, 708, 710, 712, 714, 716, 718, 720, 722, 724, 726, 728, 730, 732, 734, 736, 738, 740, 742, 744, 746, 748, 750, 752, 754, 756, 758, 760, 762, 764, 766, 768, 770, 772, 774, 776, 778, 780, 782, 784, 786, 788, 790, 792, 794, 796, 798, 800, 802, 804, 806, 808, 810, 812, 814, 816, 818, 820, 822, 824, 826, 828, 830, 832, 834, 836, 838, 840, 842, 844, 846, 848, 850, 852, 854, 856, 858, 860, 862, 864, 866, 868, 870, 872, 874, 876, 878, 880, 882, 884, 886, 888, 890, 892, 894, 896, 898, 900, 902, 904, 906, 908, 910, 912, 914, 916, 918, 920, 922, 924, 926, 928, 930, 932, 934, 936, 938, 940, 942, 944, 946, 948, 950, 952, 954, 956, 958, 960, 962, 964, 966, 968, 970, 972, 974, 976, 978, 980, 982, 984, 986, 988, 990, 992, 994, 996, 998, 1000</p>	<p>Project: HCC Celebrating Age Building Roof and Internal Redevelopment</p>	<p>Client: Hamilton City Council 10 Rathdown Park, Rathdown, Dublin 6</p>	<p>Architect: peddlethorp architects 100-102, 104, 106, 108, 110, 112, 114, 116, 118, 120, 122, 124, 126, 128, 130, 132, 134, 136, 138, 140, 142, 144, 146, 148, 150, 152, 154, 156, 158, 160, 162, 164, 166, 168, 170, 172, 174, 176, 178, 180, 182, 184, 186, 188, 190, 192, 194, 196, 198, 200, 202, 204, 206, 208, 210, 212, 214, 216, 218, 220, 222, 224, 226, 228, 230, 232, 234, 236, 238, 240, 242, 244, 246, 248, 250, 252, 254, 256, 258, 260, 262, 264, 266, 268, 270, 272, 274, 276, 278, 280, 282, 284, 286, 288, 290, 292, 294, 296, 298, 300, 302, 304, 306, 308, 310, 312, 314, 316, 318, 320, 322, 324, 326, 328, 330, 332, 334, 336, 338, 340, 342, 344, 346, 348, 350, 352, 354, 356, 358, 360, 362, 364, 366, 368, 370, 372, 374, 376, 378, 380, 382, 384, 386, 388, 390, 392, 394, 396, 398, 400, 402, 404, 406, 408, 410, 412, 414, 416, 418, 420, 422, 424, 426, 428, 430, 432, 434, 436, 438, 440, 442, 444, 446, 448, 450, 452, 454, 456, 458, 460, 462, 464, 466, 468, 470, 472, 474, 476, 478, 480, 482, 484, 486, 488, 490, 492, 494, 496, 498, 500, 502, 504, 506, 508, 510, 512, 514, 516, 518, 520, 522, 524, 526, 528, 530, 532, 534, 536, 538, 540, 542, 544, 546, 548, 550, 552, 554, 556, 558, 560, 562, 564, 566, 568, 570, 572, 574, 576, 578, 580, 582, 584, 586, 588, 590, 592, 594, 596, 598, 600, 602, 604, 606, 608, 610, 612, 614, 616, 618, 620, 622, 624, 626, 628, 630, 632, 634, 636, 638, 640, 642, 644, 646, 648, 650, 652, 654, 656, 658, 660, 662, 664, 666, 668, 670, 672, 674, 676, 678, 680, 682, 684, 686, 688, 690, 692, 694, 696, 698, 700, 702, 704, 706, 708, 710, 712, 714, 716, 718, 720, 722, 724, 726, 728, 730, 732, 734, 736, 738, 740, 742, 744, 746, 748, 750, 752, 754, 756, 758, 760, 762, 764, 766, 768, 770, 772, 774, 776, 778, 780, 782, 784, 786, 788, 790, 792, 794, 796, 798, 800, 802, 804, 806, 808, 810, 812, 814, 816, 818, 820, 822, 824, 826, 828, 830, 832, 834, 836, 838, 840, 842, 844, 846, 848, 850, 852, 854, 856, 858, 860, 862, 864, 866, 868, 870, 872, 874, 876, 878, 880, 882, 884, 886, 888, 890, 892, 894, 896, 898, 900, 902, 904, 906, 908, 910, 912, 914, 916, 918, 920, 922, 924, 926, 928, 930, 932, 934, 936, 938, 940, 942, 944, 946, 948, 950, 952, 954, 956, 958, 960, 962, 964, 966, 968, 970, 972, 974, 976, 978, 980, 982, 984, 986, 988, 990, 992, 994, 996, 998, 1000</p>
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Council Report

Committee:	Council	Date:	12 May 2022
Author:	Sandra Murray	Authoriser:	Blair Bowcott
Position:	Consultant	Position:	General Manager Growth
Report Name:	Deliberations report on the review of the Naming of Roads, Open Spaces and Council Facilities Policy		

Report Status	<i>Open</i>
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Purpose - *Take*

- To inform the Council on the review of the Naming of Roads, Open Spaces and Council Facilities Policy.
- To seek approval from Council to adopt the proposed Naming of Roads, Open Spaces and Council Facilities Policy.

Staff Recommendation - *Tuutohu-aa-kaimahi*

- That the Council:
 - receives this report;
 - approve that the Council adopts the proposed Naming of Roads, Open Spaces and Council Facilities Policy **attachment 2** of the staff report which reflects the changes outlined in Paragraph 22;
 - requests a feasibility assessment for a 'greenprint' or map of appropriate names and areas of significance to be implemented as part of the He Pou Manawa Ora implementation plan and reported back to the Committee with a project scope, timing, and cost.

Executive Summary - *Whakaraapopototanga matua*

- The Naming of Roads, Open Spaces and Council Facilities has been reviewed and a proposed policy was provided for public feedback between 1 - 30 November 2021.
- The proposed amendments to the policy are:

Change A:

Amendments to ensure names are decided on consistently and are in accordance with He Pou Manawa Ora: Pillars of Wellbeing strategy adopted by Council in 2021.

These changes ensure strategic alignment with Council approved strategies and contributes towards the delivery of key objectives and policies and compliance with national standards.

Change B:

The timing of consultation between property developers and mana whenua is proposed to be moved **from** the time-sensitive approval-of-consent period; **to** an earlier period in the development life cycle when there are fewer time pressures e.g., before developers begin the formal consenting and work clearance process. In addition, this change does not preclude developers applying for further stages of subdivision. This change allows the period available for developers and mana whenua to engage to increase from 10 days to 12 weeks, without causing delays to the development.

These changes were supported by most property developers and mana whenua groups; and recognise that 10 days is not enough time engage internally and seek appropriate approvals on the naming of the road. In selecting an appropriate name(s) mana whenua may need to undertake hui/wananga with marae and haapu as part of the process.

Change C:

Applicants may provide council with up to three options for the naming or renaming of a public road. Applicants must demonstrate how the suite of options for the naming or renaming of a road or overall group of roads reflects the outcomes of engagement with mana whenua. A copy of the response provided to the applicant by Mana Whenua must be included in the application.

These changes ensure mana whenua participation in the naming process is acknowledged.

6. Responses to consultation were received from 239 submitters, including 230 submissions to the Have Your Say survey, three hardcopy submissions, and six emails. Of the submissions received, 235 responses were from individuals, and four were from organisations.
7. Of the individuals that responded to the survey, 54% indicated their preference to keep the policy as it is now, 43% supported making changes, and 3% were undecided.
8. The options are set out in the Table below:

Option 1: (Recommended)	Recommend that the Council Adopts the proposed Naming of Roads, Open Spaces and Council Facilities Policy.
Option 2:	Retain the existing Naming of Roads, Open Spaces and Council Facilities Policy without amendment.

9. Staff recommend **option 1** as the proposed policy better meets Councils strategic outcomes including alignment with the outcomes sought by He Pou Manawa Ora and the Joint Management Agreement with Waikato Tainui.
10. The amendments are also supported by the views of a significant number of submitters expressed during public consultation.
11. It is also proposed that Elected Members to approve staff to undertake a feasibility assessment to create a ‘greenprint’ or map of appropriate names and areas of significance to be implemented as part of the He Pou Manawa Ora implementation plan and report back to the Committee with a project scope, timing and cost; and
12. Staff note that any ‘greenprint’ or map (as per (i) above) would not be a replacement for the requirement that developers consult with iwi, as consultation is a requirement under the Resource Management Act 1991.

13. Ngati Waiere, Waikato-Tainui, THaWK and other submitters strongly indicated a preference for increased interaction with developers, allowing trusting relationships to form and the time to communicate the stories and history of each place. Their submissions make it clear that a tick-box website check would not be an acceptable replacement for the meaningful interactions they seek to foster.
14. Staff consider the matters in this report have a medium significance and that the recommendations comply with the Council's legal requirements

Background - *Koorero whaimaarama*

15. The Naming of Roads, Open Spaces and Council Facilities Policy (the Policy) has been reviewed as part of the three-yearly review cycle, funded through the Long-Term Plan.
16. The Policy was first adopted in May 2012 and reviewed in 2016.
17. The current policy review commenced in September 2019 and has been 'paused' twice awaiting the development of He Pou Manawa Ora.
18. Elected Members have been consulted during the development of the Policy at a briefing on 6 May 2019, via a Sharepoint process in November/December 2020, and at briefing on 4 August 2020.
19. At a meeting of the Hearings and Engagement Committee on 16th February, Elected Members heard from 6 submitters and considered written submissions.
20. At a meeting of the Community Committee on 2 March 2022, Elected Members considered the proposals presented by staff and requested the recommendations be further refined before being presented to the Community Committee for final deliberations.

Discussion - *Matapaki*

Policy Performance

21. Staff note concerns with the performance of the existing policy:
 - i. The inability to require an applicant provide names that more closely align with the criteria set out in the policy. An applicant may currently choose to put forward a single name which may poorly align with the criteria. While the Planning Guidance Manager may discuss the name with the applicant, they are unable to insist on a 'better' name. Including a requirement for the application to include a name proposed by mana whenua will ensure there are always at least two names available to consider.
 - ii. 10 days is not enough time to identify the correct mana whenua groups, contact the correct individuals and for mana whenua to engage and provide the appropriate approvals (including governance boards) on the naming of the road.
 - iii. Developers engage with mana whenua during a time pressured period, reducing opportunities to develop meaningful relationship or to have broader discussions about mana whenua aspirations. In addition, the timing means it is too late for mana whenua to input into other naming decisions such as the name of the entire development.
 - iv. The existing policy is not able to meaningfully improve the percentage of roads that have a te reo Maaori name; or ensure te reo Maaori names are historically meaningful in the context of where they are located.

Summary of proposed changes

22. The proposed changes are set out in the Table below:

<p>Change A: Amendments to ensure names are decided on consistently and are in accordance with He Pou Manawa Ora: Pillars of Wellbeing strategy adopted by Council in 2021. <i>These changes ensure strategic alignment with Council approved strategies and contributes towards the delivery of key objectives and policies and compliance with national standards.</i></p>
<p>Change B: The timing of consultation between property developers and mana whenua is proposed to be moved from the time-sensitive approval-of-consent period; to an earlier period in the development life cycle when there are fewer time pressures e.g., before developers begin the formal consenting and work clearance process. In addition, this change does not preclude developers applying for further stages of subdivision. This change allows the period available for developers and mana whenua to engage to increase from 10 days to 12 weeks, without causing delays to the development. <i>These changes were supported by most property developers and mana whenua groups; and recognise that 10 days is not enough time engage internally and seek appropriate approvals on the naming of the road. In selecting an appropriate name(s) mana whenua may need to undertake hui/wananga with marae and haapu as part of the process.</i></p>
<p>Change C: Applicants may provide council with up to three options for the naming or renaming of a public road. Applicants must demonstrate how the suite of options for the naming or renaming of a road or overall group of roads reflects the outcomes of engagement with mana whenua. A copy of the response provided to the applicant by Mana Whenua must be included in the application. <i>These changes ensure mana whenua participation in the naming process is acknowledged..</i></p>

Strategic Alignment

- 23. Staff have considered whether the existing policy meets Council’s strategic objectives, particularly in relation to the Long Term Plan, Hamilton Heritage Plan and He Pou Manawa Ora: Pillars of Wellbeing Strategy.
- 24. The Long Term Plan, [Our Vision for Hamilton Kirikiriroa](#) has a focus on wellbeing and creating a sense of community identity.
- 25. While ‘Our Vision’ does not include specific outcomes or monitoring indicators directly related to the naming of roads, open spaces or Council facilities, the overall intent is transferrable to the policy in terms of recognising that names provide people with a sense of belonging and community identity.
- 26. The [Hamilton Heritage Plan](#) has a goal of “Promotion: heritage is celebrated, and its importance and value promoted”. This goal is reflected in the policy through the policy criteria.
- 27. The Hamilton Heritage Plan does not include specific outcomes or monitoring indicators directly related to the naming of roads, open spaces or Council facilities. However, the overall intent – that an appreciation of the past contributes to a sense of identity and belonging for residents and visitors – is transferrable to the policy.

28. [He Pou Manawa Ora: Pillars of Wellbeing Strategy](#) includes:
- i. a pou (pillar) manawa korero with an outcome of ‘Te reo Maaori is seen, heard and celebrated throughout the city’; and
 - ii. a monitoring measure of the “percentage of new streets that have te reo Maaori names”.
29. An implementation workplan has been developed for He Pou Manawa Ora, and the optional directions proposed in this report would be included in the implementation workplan.

Names – English vs te reo Maaori

30. Staff have assessed how many roads, open spaces and council facilities are currently named in English vs te reo Maaori as a baseline against the monitoring measure set out in He Pou Manawa Ora; and whether the existing policy has suitable mechanisms to improve this measure.
31. Currently, 10% of roads in Hamilton City are in te reo Maaori, and 90% are in English.
32. The 2016 review of the policy included new provisions to encourage names in te reo Maaori. The percentage te reo Maaori road names has improved from 8.8% in August 2016 to 10% in August 2021.
33. Since the policy change, 52 of the 160 new road names (32.5%) have been in te reo Maaori and 108 new road names have been in English (67.5%).
34. One development, Rotokauri, has been responsible for 19.2% of the new te reo Maaori names since the 2016 policy change (10 roads). This was 6.3% of all names (te reo Maaori + English) since the change in policy.
35. Staff suggest the existing policy has limited ability in the short to medium term to meaningfully improve the measure ‘percentage of new streets that have te reo Maaori names’ or even to ensure road names reflect the history of Hamilton / Kirikirioa.
36. For named open spaces, 18.5% are named in te reo Maaori; while 7% of buildings and 9% of service buildings have names in te reo Maaori.

Stakeholder views

37. On 12 October 2021 the Community Committee considered proposed amendments to the policy and approved the amended policy for public consultation between the 1st and 30th November 2021.
38. At a meeting of the Hearings and Engagement Committee on 16th February, Elected Members heard from 6 submitters and considered written submissions.
39. In 2019 and 2020 Te Haa o te whenua o Kirikirioa (THaWK), Waikato-Tainui, the Property Council and Hamilton property developers were contacted to identify concerns and identify potential policy changes.

THaWK

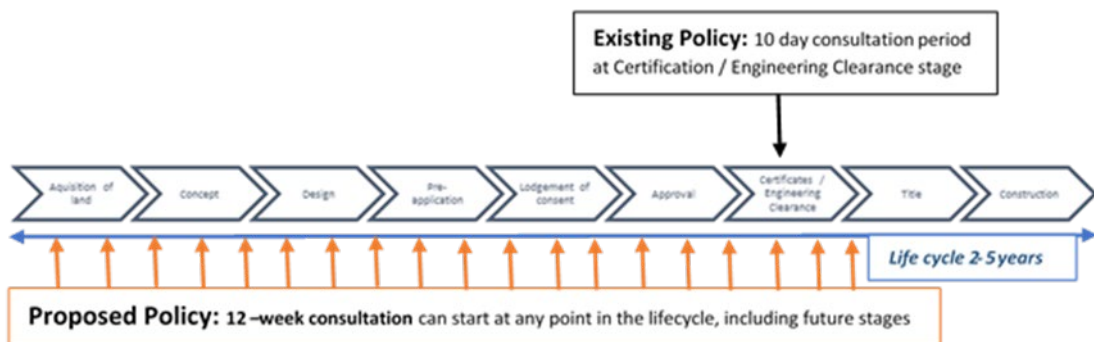
40. THaWK requested an increase in the consultation timeframe from 10 days to 12 weeks; and the requirement that at least one of their preferred names be included on the road naming application form.
41. THaWK supported the proposed amendments to the policy.

Waikato-Tainui

- 42. Waikato-Tainui supported the proposed amendments to the policy, including increasing in time available for consultation (increased to 12 weeks from 10 days), and the earlier engagement. They did however raise a concern about the proposed list of names and process for selecting the final name as failing to recognise the cultural importance of the gifting of a name.
- 43. In addition, Waikato-Tainui questioned whether the policy could go further to have a greater alignment with the intent of the Joint Management Agreement between Waikato-Tainui and Council and indicated an interest in being part of the committee than makes naming decisions. As no such committee exists, the suggestion to form a committee has been considered as part of this report.
- 44. Such a committee or forum would take time to establish and entail significant change to the road naming process.

Property Council and Property Developers

- 45. The Property Council and Hamilton property developers were provided with opportunities to input into the development of the proposed policy.
- 46. The proposed policy addressed their concerns by moving the consultation period with mana whenua from a late stage in the consenting process (when developers were time-poor) to the very earliest stages in the development life cycle to avoid time pressures.
- 47. As a full development life cycle usually takes 2-5 years developers can engage with mana whenua at any time from when they first conceived of the development (property purchase) through to when they begin the formal consenting process and work clearance process. In addition, the proposed policy does not preclude developers apply for further stages of the subdivision.
- 48. The diagram below indicates the current policy requirement (10-day mana whenua consultation at time of consent approval) vs proposed policy requirement (12-week mana whenua engagement at any time up to time of consent approval).



- 49. The proposed policy amendment is not anticipated to cause delays in the development cycle. In addition, further information on the engagement process will be part of any pre application process.
- 50. The proposal was presented to five local developers and the Property Council, with a majority indicating support for the change.
- 51. The earlier time, and longer period, also provide opportunities for developers and iwi to form meaningful and trusting relationships.

Public Views

52. Public consultation occurred between 1 - 30 November 2021. Submissions can be viewed [online](#).
53. Responses were received from 239 submitters, including 230 submissions to the Have Your Say survey, three hardcopy submissions, and six emails.
54. Of the 235 individual respondents, 197 made comments. Analysis of the responses and comments made by individual respondents indicated that 127 supported keeping the existing policy (54%), 99 supported making changes to the policy (43%) and 9 were undecided or unclear in their support (3%).
55. Public views were also heard at the [Hearings and Engagement Committee](#) meeting 16th February 2022.
56. At the Hearings and Engagement Committee meeting submitter Wiremu Puke from Ngati Wairere recommended the policy include provisions to ensure new arterial roads are named after significant ancestors, and referenced a 2003 report, [Nga Tapuwae O Hotumauea](#), that identifies mana whenua groups in Hamilton City and provides historical background. This link has been provided for Elected Members at their request.

Options

57. Staff have assessed that there are 2 reasonable and viable options for the Community Committee to consider. This assessment reflects the level of significance and the views of stakeholders and the public.
58. The options are set out in the Table below:

Option	Detail	Implications
1	<p>Adopt the proposed Naming of Roads, Open Spaces and Council Facilities Policy.</p> <p>(Recommended)</p>	<p>Adopting the proposed policy will lead to a greater acknowledgement of the views of mana whenua and provide additional opportunities for staff to ensure road names reflect the history of Hamilton / Kirikirioa and the criteria set out in the policy.</p> <p>The proposed policy has the additional benefit of fostering relationships between mana whenua and developers and allowing time to communicate the stories and history of each place.</p>
2	<p>Retain the existing Naming of Roads, Open Spaces and Council Facilities Policy without amendment.</p>	<p>Retaining the existing policy or pausing the policy review means the council is unlikely to meaningfully deliver on the He Pou Manawa Ora Pillars of Wellbeing measure 'percentage of new streets that have te reo Maaori names'.</p> <p>Retaining the policy will continue limit meaningful engagement of mana whenua. It will also fall short of the engagement principles/ expectations of Waikato-Tainui and the outcomes sought by the Joint Management Agreement with HCC.</p> <p>In addition, council will continue to lack adequate policy measures to ensure road names reflect the history of Hamilton / Kirikirioa.</p>

59. Staff recommend **option 1** as the proposed policy better meets Councils strategic outcomes including alignment with the outcomes sought by He Pou Manawa Ora and the Joint Management Agreement with Waikato Tainui. The amendments are also supported by the views of a significant number of submitters expressed during public consultation.

Greenprint / mapping overlay

60. During the Hearing Committee discussions on 16th February 2022 Elected Members indicated an interest in developing a publicly available database or map that provided information on the history or rationale for current names (for roads, open spaces and council facilities) and also provided historical or traditional names from iwi.
61. Such a project would create a public resource to assist in the naming of roads, open spaces or council facilities, based on historical events, people or special features.
62. Similarly, Waikato-Tainui recommended a working group be established including subject experts from mana whenua to create a Naming Framework to determine the parameters of narratives provided for names of roads, open spaces and Council facilities.
63. Elected Members are provided with a proposal for a 'greenprint' or map to provide public information on the history of Hamilton to be implemented as part of the He Pou Manawa Ora implementation plan.
64. Staff note that any such 'greenprint' or map would not be a replacement for the requirement that developers consult with iwi, as consultation is a requirement under the Resource Management Act 1991.
65. Ngati Waiere, Waikato-Tainui, THaWK and other submitters strongly indicated a preference for increased interaction with developers, allowing trusting relationships to form and the time to communicate the stories and history of each place. Their submissions make it clear that a tick-box website check would not be an acceptable replacement for the meaningful interactions they seek to foster.

Further policy work

66. Elected Members have indicated an interest in additional work being undertaken to further develop the policy. Staff note that policies are reviewed every 3 years and are continually being amended and improved.
67. The current policy review has been underway for nearly 3 years and has twice been 'paused' while further work is carried out. Improvements were last adopted in 2016.
68. There is unlikely to be any significant improvement in the measure: 'percentage of new streets that have te reo Maaori names' until policy changes are adopted.
69. In effect, any further 'pause' is the same as choosing Option 2: to retain the existing policy.
70. The recommendation to adopt the proposed policy is (in effect) an option to make some improvements to the policy and then continue to do further work, potentially including the proposal a feasibility assessment to create a 'greenprint' or map of appropriate names and areas of significance, and report back to the Committee with a project scope, timing and cost.

Implications

71. Retaining the existing policy means the council is unlikely to meaningfully improve the He Pou Manawa Ora Pillars of Wellbeing measure 'percentage of new streets that have te reo Maaori names'.
72. In addition, council will continue to lack adequate policy measures to ensure road names reflect the history of Hamilton / Kirikirioa.

73. Adopting the proposed policy will lead to a greater acknowledgement of the views of mana whenua and provide additional opportunities for staff to ensure road names reflect the history of Hamilton / Kirikiriroa and the criteria set out in the policy.
74. The proposed policy has the additional benefit of fostering relationships between mana whenua and developers and allowing time to communicate the stories and history of each place.
75. Staff consider the matters in this report have a medium significance and that the recommendations comply with the Council's legal requirements

Who should name roads?

76. Public consultation and stakeholder engagement raised the question: *who should name Hamilton's roads?*
77. The existing policy affords property developers the most significant role in road naming.
78. The proposed policy continues this role, while increasing the ability of mana whenua to input into the road naming process.
79. Submitters views were largely separated by the issue of *when* roads were named.
80. Submitters who specifically supported property developer's having a primary role in naming roads did so on the basis that the roads were on the developer's private property at the time of naming.
81. Other submitters considered the community and / or mana whenua should have the greater role, as roads would be vested to council, become public roads, and the name would impact the public for the life of the road (potentially hundreds of years).
82. Other councils vary in the extent to which road naming is a property developer role vs a community role. For Auckland Council, road names are decided by Local Boards with mana whenua and community input. While developers can propose names, they have no more of a role than any other submitter to the process.
83. Elected members are provided with a proposal to approve staff partner with mana whenua, developers, and key stakeholders to investigate a consultative naming process; and report back to Elected Members with a project scope, timeframe and cost. It is proposed that this would form part of the He Pou Manawa Ora implementation plan.

Bi-lingual road names

84. The proposed policy encourages the use of bilingual names for open spaces and council facilities only.
85. Road names are based on the National Standards for road naming (AS/NZS 4819:2011) which must be adhered to when developing proposed road names for consideration.
86. The needs of emergency services have been considered in the development of National Standards, including:
 - i. A name must not be duplicated in Hamilton or in the Waipa or Waikato Districts (to reduce the likelihood of emergency services attending an incorrect address in an emergency).
 - ii. Preferably be short (generally not longer than 12 characters). An exception to this is the use of te reo Maaori names, where longer names may be suitable, balanced with the physical limitations for signs such as strength of bracket attachments, wind loading and risk of being hit by vehicles.
 - iii. Be single words to avoid cartographic problems. For example, a second word may be misinterpreted as a placename associated with a nearby cartographic feature.

- iv. Not sound similar, or be similar in spelling, to an existing road name (to avoid emergency services attending an incorrect address in an emergency). Currently, emergency services may need to send multiple emergency vehicles to each of similar streets to ensure rapid response.
87. Bi-lingual road names are not recommended at this time as they:
- i. do not meet the National Standards for road naming (AS/NZS 4819:2011).
 - ii. may create confusion when a person is calling emergency services - particularly if the person has English as a second language or is a tourist.
 - iii. may lead to signs which over-reach physical limitations for signs e.g., become too heavy for brackets, leading to maintenance issues and additional costs; or become a safety risk due to being over-dimension – with potential for people or vehicles to collide with the sign.
88. Staff recommend considering bilingual road names when Standards NZ update the National Standards to support bilingual road name signage. If the change occurs as part of the National Standards council can be assured adverse implications have been addressed and the change has support from FENZ.

Financial Considerations - *Whaiwhakaaro Puutea*

89. This is a regular operating activity funded through the Long Term Plan.

Legal and Policy Considerations - *Whaiwhakaaro-aa-ture*

90. Staff confirm that all options provided comply with the Council's legal and policy requirements

Wellbeing Considerations - *Whaiwhakaaro-aa-oranga tonutanga*

Social

91. The naming of roads, open spaces and council facilities contributes to individuals' and communities' sense of 'place' in Hamilton. Names provide a sense of local identity and can reflect the history or historical significance of a place, including recognising people associated with an area or events significant to a community locally, nationally or internationally.

Economic

92. No economic considerations have been identified.

Environmental

93. No environmental considerations have been identified.

Cultural

94. The proposed policy recognises the special relationship that Iwi and mana whenua have to Hamilton Kirikiriroa and provides new opportunities for this relationship to be publicly acknowledged.
95. The proposed amendments to the policy demonstrate Council's commitment to cultural wellbeing by ensuring decisions of cultural significance are considered in a careful and measured way.
96. The amendments also provide an opportunity to demonstrate commitment to the recently adopted He Pou Manawa Ora: Pillars of Wellbeing Strategy.
97. The pou (pillar) manawa korero, in He Pou Manawa Ora, includes an outcome of 'Te reo Maaori is seen, heard and celebrated throughout the city' and the monitoring measure of the "percentage of new streets that have te reo Maaori names".

98. The proposals provide new opportunities for Council to measurably improve outcomes in this area.

Risks - *Tuuraru*

99. Due to Council's adoption of He Pou Manawa Ora: Pillars of Wellbeing Strategy, which specifically includes a target related to road names, there may be a reputational risk if Council is not seen to be taking steps to address the discrepancy in the number of roads named in te reo Maaori compared to the number of roads named in English.

Significance & Engagement Policy - *Kaupapa here whakahira/anganui*

Significance

100. Staff have considered the key considerations under the Significance and Engagement Policy and have assessed that the recommendation(s) in this report has/have a medium level of significance.

Engagement

101. Stakeholder views and preferences are already known to the Council through:
- i. Meetings and communication with Waikato-Tainui, THaWK and property developers.
 - ii. Public consultation between 1 – 30 November 2021.
 - iii. Hearings Committee on 16th February 2022.

Attachments - *Ngaa taapirihanga*

- Attachment 1 - Proposed Naming of Roads Open Spaces and Council Facilities Policy - annotated
Attachment 2 - Proposed Naming of Roads Open Spaces and Council Facilities Policy - clean

First adopted:	24 May 2012
Revision dates/version:	4 (12 September 2019)
Next review date:	February 2025
Engagement required:	No SCP
Document number:	TBC
Associated documents:	He Pou Manawa Ora: Pillars of Wellbeing strategy
Sponsor/Group:	General Manager City Growth

Not part of policy: Key to reading annotated policy

Blue text	New content
Crossed Out Text	Changed content or deleted content
Orange Text	Orange text shows a section of content has been moved to another location.

Naming of Roads, Open Spaces and Council Facilities Policy

Purpose and scope

1. The purpose of this policy is to provide a process for naming roads, open spaces and council facilities in Hamilton city.
2. This policy applies to the naming (and renaming) of roads (including private roads and private ways), open spaces and council facilities.

Definitions

Definition	Detail
Applicant	An individual or entity which is making an application. This may include council, a consent holder or the party developing the infrastructure including but not limited to a developer.
Area	One-kilometre radius from the centre of a road, open space or council facility.
Council	Hamilton City Council.
Council facility	A council owned facility that is provided for public amenities including artistic, social or cultural facilities. Such facilities may include but are not limited to community halls, civic spaces and centres as well as major sport, recreation and entertainment facilities.
Culturally significant	Ancestral land, water, waahi tapu, valued flora and fauna, and other taonga significant to Mana Whenua.
Mana Whenua	The indigenous people (Maaori) who have historic and territorial rights over the land (including but not limited to Te Haa o te whenua o Kirikiriroa and Waikato-Tainui)
Name	The word used to identify a road, open space or council facility. Name excludes the road type (see definition: road types).
Open space	Includes all parks and reserves administered by council.
Park	Land owned by council with a primary recreation function, not held under the Reserves Act 1977.
Private roads and private ways	Roads and accessways as defined under section 315(1) of the Local Government Act 1974 and includes right-of-ways, common access lots, retirement village roads. Also included is common property within a Unit Development as defined under section 5 of the Unit Titles Act 2010.
Register of naming recommendations	A list, catalogue, inventory or similar provided by Mana Whenua to an applicant setting out names in te reo Maaori that are appropriate for an area. The purpose is to provide a selection of culturally and historically appropriate names for roads, open spaces or developments which may not yet have been approved for development.
Reserve	As defined under s 2 of the Reserves Act 1977.
Road	Road as defined in section 315 of the Local Government Act 1974 and includes access ways and service lanes as defined in section 315, any square and any public place intended for the use of the public generally.

Road types	Road types in accordance with The Australian/New Zealand Standard on Rural and urban addressing AS/NZS 4819:2011 (outlined in Schedule 1 below).
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Principles

3. Council ensures:
 - that the city's history, local identity and local culture is recognised and maintained; and
 - that decisions contribute to the outcomes of *He Pou Manawa Ora: Pillars of Wellbeing*.
4. Council provides a consistent approach to determining appropriate names for roads, open spaces and council facilities.

General Procedure

[Explanatory Note: all applications to name or rename a road or open space must follow this general procedure as well as specific steps set out in the applicable sections of this policy].

5. To name or rename a road or open space, an applicant must make an application to the council by completing the application form for Road and Open Space Naming/Renaming.
[content moved from later section]
6. An application to name or rename a road or open space must explain and provide evidence that the proposed name(s) reflect one or more of the following:
 - a. The identity of Hamilton and/or local identity.
 - b. The historical significance of the location.
 - c. The cultural significance of the area to Tangata Whenua Mana Whenua.
 - d. People important in the history of an area.
 - e. Events, people and places significant to a community or communities locally, nationally or internationally.
 - f. Flora and Fauna significant or important to the history of an area.
7. An application to name or rename a public road or open space must also include an assessment of how the proposed names meet outcomes under the four pou (pillars) in *He Pou Manawa Ora: Pillars of Wellbeing* strategy. The relevant outcomes are summarised in the table below:

Pou	Pillar	Outcomes
He pou manawa koorero	History:	<ul style="list-style-type: none"> • Maaori art and culture is a source of pride for all Hamiltonians. • Kiingitanga is respected and celebrated as one of New Zealand's most enduring internationally recognised institutions. • Te reo Maaori is seen, heard and celebrated throughout the city.
He pou toorangapu maaori	Unity:	<ul style="list-style-type: none"> • Increased role of Maatauranga Maaori (Maaori knowledge) to inform infrastructure, community and organisational development.
He pou manawa taurikura	Prosperity:	<ul style="list-style-type: none"> • Increased wellbeing of Maaori in Kirikiriroa/Hamilton. • Increased Maaori economic and business activity through procurement. • Increased employment and career pathways through partnerships and projects we deliver.
He pou manawa taiao	Restoration:	<ul style="list-style-type: none"> • Native flora and fauna species numbers are increased year on year. • Increased application of Maatauranga Maaori (Maaori knowledge) to develop environmental enhancement solutions and mitigations to infrastructure growth challenges. • Increased co-management arrangements with iwi and mana whenua to deliver best environmental practices and results.

Prior to making an application, applicants are to consult Council staff to provide guidance as to the appropriate Tangata Whenua of an area. Applicants are to provide each Tangata Whenua group with at least 10 working days to identify if the area has cultural significance and provide feedback to the applicant. The purpose of the feedback is to provide non-binding advice to the applicant as to how culturally significant an area is to Tangata Whenua. The applicant must provide evidence that they have given Tangata Whenua an opportunity to provide feedback in accordance with this section.

Section 6 does not apply to private roads.

[section expanded in section 10-15 and flow diagrams added for clarity]

8. Where there is a theme or grouping of names in an area, names submitted should have an appropriate association with other names in the area.

Criteria for all road names

9. All road names shall meet the technical requirements set out in Schedule 1.

[criteria for all road names moved to Schedule 1]

Naming or Renaming Public or Private Roads

Mana Whenua consultation is required for naming or renaming public roads

10. Prior to making an application to name or rename a public road, applicants must consult council staff, who will provide guidance as to the appropriate Mana Whenua group(s) in relation to the relevant area.
11. Applicants must provide an opportunity for each identified Mana Whenua group to:
 - identify if the area has cultural significance, and
 - provide a 'register of naming recommendations' suitable for the geographical area, or specified parts of the geographical area; and
 - offer any related feedback to the applicant.
12. Applicants must provide each identified Mana Whenua group with at least 12 calendar weeks to provide a response to the opportunity set out in section 11. Applicants are encouraged to contact Mana Whenua early in the process.
13. Applicants may provide council with up to three options for the naming or renaming of a public road. ~~and at least one proposed option must be selected from the register of recommendations made by the appropriate Mana Whenua engaged with in accordance with this policy. Applicants must demonstrate how the suite of options for the naming or renaming of a road or overall group of roads reflects the outcomes of engagement with mana whenua.~~ A copy of the response provided to the applicant by Mana Whenua must be included in the application. ~~including the full register of recommended names.~~

[section amended post consultation]
14. The naming and renaming of public roads will reflect council's commitment to the outcomes of *He Pou Manawa Ora: Pillars of Wellbeing* strategy.
15. The determination will be communicated to the applicant and appropriate Mana Whenua of the area by council.

Naming a new road (public or private)

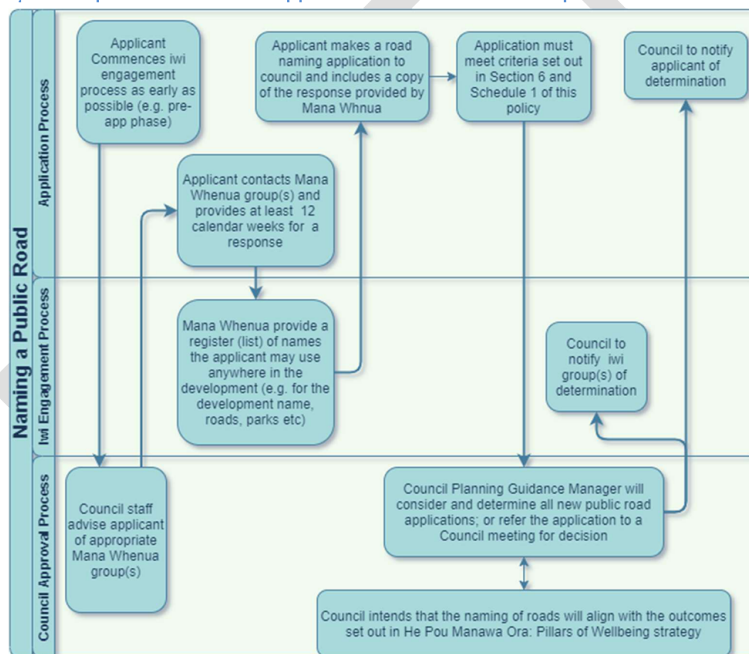
The applicant must make an application to the Planning Guidance Unit by completing the application form for Road and Open Space Naming/Renaming. [content moved to section 5 and amended]

Up to two names can be proposed by the applicant. [content moved to section 13 and amended]

16. Council's Planning Guidance Manager is empowered to consider and determine all new road name applications, in accordance with the principles of this policy.
17. At the Planning Guidance Manager's discretion, applications may be referred to Council a council meeting for determination.
18. Council's Planning Guidance Unit will maintain an archive of the new road names and the reasons for selection of such names.

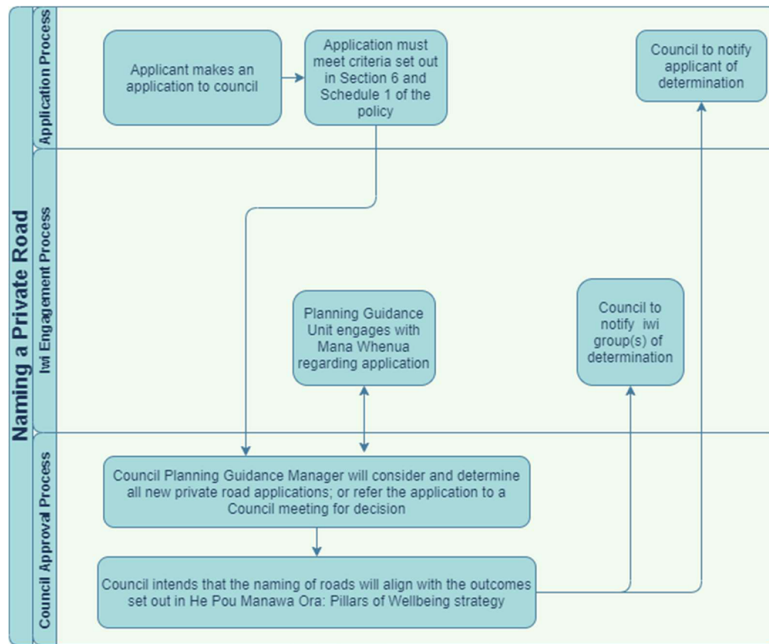
Process for naming a new public road

19. The diagram below visually depicts the process for naming a public road as set out in this policy and is provided to assist applicants to understand the process.



Process for naming a new private road

20. The diagram below visually depicts the process for naming a private road as set out in this policy and is provided to assist applicants to understand the process.



Renaming a public or private road

[sections in existing policy relating to renaming roads extensively reformatted into the table below, with content largely unchanged]

21. The approval process for renaming a road is set out in the table below.

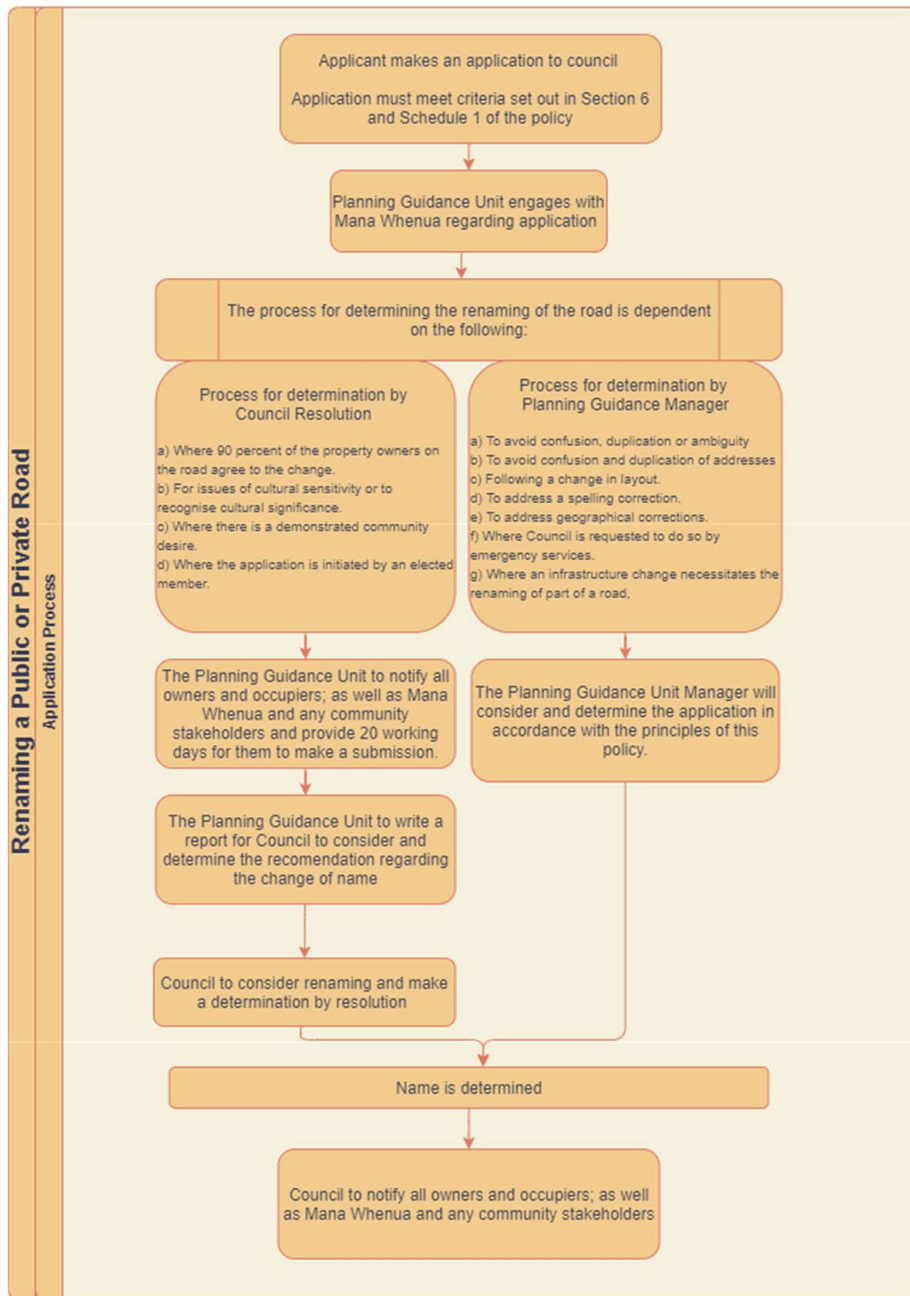
Approval by: Council Resolution	Approval by: Planning Guidance Manager
<p>Rationale</p> <p>a) Where 90 percent of the property owners on the road are in agreement agree to the change.</p> <p>b) For issues of cultural sensitivity or to recognise cultural significance.</p> <p>c) Where there is a demonstrated community desire.</p> <p>d) By an elected member Where the application is initiated by an elected member.</p>	<p>Rationale</p> <p>e) To avoid confusion, duplication or ambiguity caused by the existing road name.</p> <p>f) To avoid confusion and duplication of addresses associated with road name.</p> <p>g) Following a change in layout.</p> <p>h) To address a spelling correction.</p> <p>i) To address geographical corrections.</p> <p>j) Where Council is requested to do so by emergency services.</p> <p>k) Where an infrastructure change necessitates the renaming of part of a road, e.g. an existing road is severed by a new road.</p>
<p>Process</p> <ul style="list-style-type: none"> The applicant completes the application form for Road Open Space Naming/Renaming which is submitted to the Planning Guidance Unit. The Planning Guidance Unit will notify all owners and occupiers in the road of the 	<p>Process</p> <ul style="list-style-type: none"> The Planning Guidance Unit Manager will consider and determine the application in accordance with the principles and requirements in this policy. The Planning Guidance Unit will notify Mana Whenua and all owners and occupiers on the

<p>proposed change, as well as Mana Whenua and any community stakeholders who may have an interest in the name change.</p> <ul style="list-style-type: none"> • Submissions on the proposed name change can may be made to the Planning Guidance Unit within twenty (20) working days of notification. • The Planning Guidance Unit will prepare a report for the Council meeting outlining the request that outlines: <ul style="list-style-type: none"> i. the request ii. the rationale reason for the change iii. confirmation of Mana Whenua consultation if required iv. the response from Mana Whenua, affected owners/occupiers on the road, and other submitters; and v. a recommendation to Council. • Council will consider and determine the recommendation regarding the change of name. • The Planning Guidance Unit will notify the applicant, all owners and occupiers in the road, Mana Whenua and all other submitters of the decision and if applicable, the new name. 	<p>road of the decision and, if applicable, the new name.</p> <p>a. The applicant completes the application form for Road Open Space Naming/Renaming which is submitted to the Planning Guidance Unit.</p> <p>b. The Planning Guidance Unit Manager will consider and determine the application.</p> <p>c. The Planning Guidance Unit will notify all owners and occupiers on the road of the decision and if applicable, the new name.</p>
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22. The costs associated with a name change (such as changing street signs) must be met in full by the applicant(s) except where the name change is initiated by Council resolution. These costs do not include the costs to businesses or residents on an affected street to e.g. change business signs or business cards.

Process for renaming public or private roads

23. The diagram below visually depicts the process for renaming a public road as set out in this policy and is provided to assist applicants to understand the process.



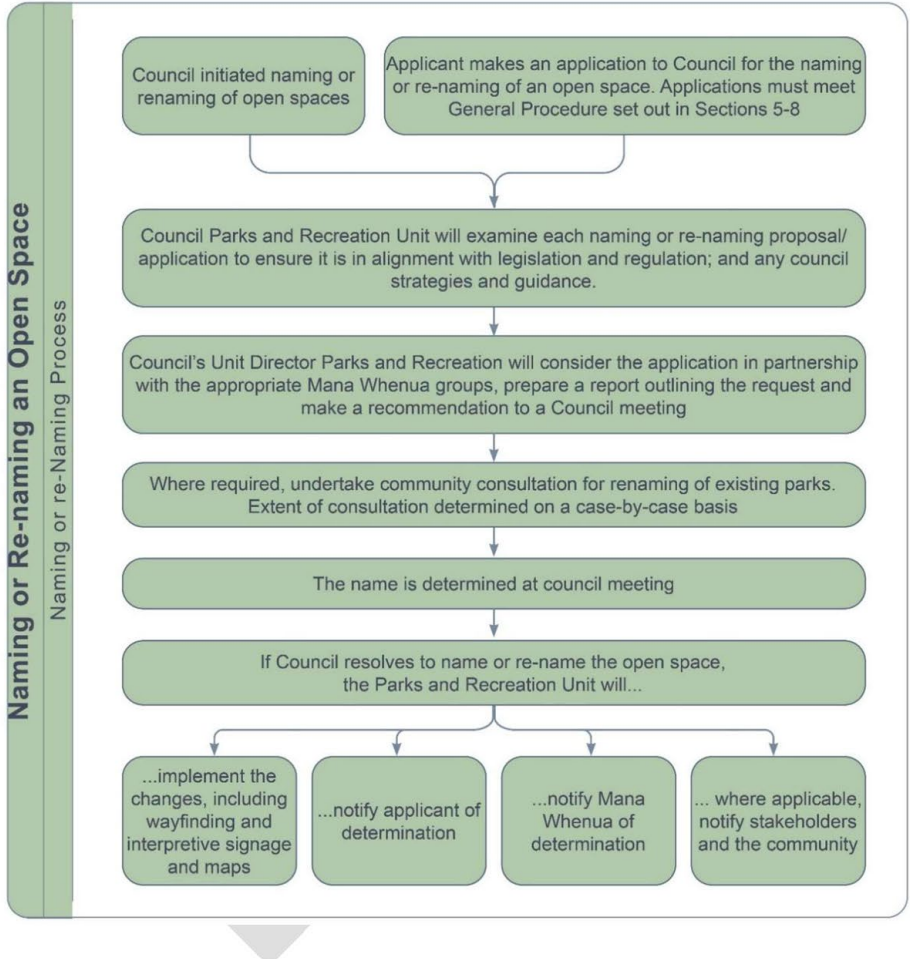
Open spaces

Applications for naming and renaming open spaces must be made to the Parks and Open Spaces Unit by completing the Application Form for Road and Open Space Naming/Renaming.

24. The naming or renaming of any open space must align with the principles of this policy, follow the general procedure identified in sections 5-8; and meet the following requirements:
- Any naming or renaming of open spaces must consider the obligations set out in Part 6 of the Local Government Act 2002.
 - Reserves must be named or renamed by Council resolution and in accordance with the Reserves Act 1977.
 - Any naming or renaming of open spaces must be in alignment with the objectives of *He Pou Manawa Ora: Pillars of Wellbeing* strategy.
 - ~~Council's Parks and Open Spaces Manager will consider the application, prepare a report outlining the request and make a recommendation to a Council meeting.~~
 - If naming a new open space, Council's Unit Director Parks and Recreation will consider the application in partnership with the appropriate Mana Whenua groups, prepare a report outlining the request and make a recommendation to a Council meeting.
 - If renaming an existing open space, Council's Unit Director Parks and Recreation will consider the application in partnership with the appropriate Mana Whenua groups, undertake wider consultation where required, undertake additional heritage reviews and will implement the changes, including the installation of interpretive signage.
 - Council may, at its discretion, implement a bi-lingual name for any Open Space
 - ~~If Council resolves to change the name, the Parks and Open Spaces Unit will implement the changes, to signage and maps.~~

Process for renaming or renaming open spaces

25. The diagram below visually depicts the process for renaming an open space as set out in this policy and is provided to assist applicants to understand the process.



Council facilities

26. Where a new council facility is to be named or an existing council facility renamed:

- The Council Unit responsible for the council facility will propose names for the council facility to the Chief Executive that are in accordance with the principles of this policy.
- The Chief Executive will consider the proposed names and prepare a report for a Council meeting outlining the request; and making a recommendation.
- Council may, at its discretion, implement a bi-lingual name for any council facility.
- The Council will consider the report and determine the facility name by Council Resolution.

Naming rights and sponsorship

27. Council can grant naming rights for an open space or council facility or parts of an open space or council facility.
28. All requests to grant naming rights or sponsorship opportunities, whether permanent or for a fixed period, will be determined by Council [resolution](#).

Monitoring and implementation

29. The implementation of this policy will be monitored by the General Manager City Growth.
30. The policy will be reviewed every three years or at the request of council or in response to changed legislative and statutory requirements or in response to any issues that may arise.

References

- This Policy complies with The Australian/New Zealand Standard on Rural and Urban Addressing AS/NZS 4819:2011.
- Sections 319(1)(j), 319A and 319B of the Local Government Act 1974 apply to the Naming of Roads.
- Council may name or alter the name of any road under Section 319 Local Government Act 1974.
- Section 5 of the Unit Titles Act 2010 applies only to provide a meaning of common property.
- Where a reserve is vested in Council, the Minister of Conservation or Council may specify or change the name of a reserve by notice in the Gazette (Section 16(10) Reserves Act 1977).
- [This policy aligns with He Pou Manawa Ora: Pillars of Wellbeing strategy.](#)

Schedule 1 – AS/NZS 4819 – Types of roads

[criteria for all road names moved to this location from s9 in the existing policy]

The National Standards for road naming (AS/NZS 4819:2011), must be adhered to when developing proposed road names for consideration. Any proposed road names should also meet the following criteria—These include the following requirements:

- Not be duplicated in Hamilton or in the Waipa or Waikato Districts.
- Preferably be short (generally not longer than 12 characters). An exception to this is the use of Te Reo Maaori names, where longer names may be suitable, balanced with the physical limitations for signs such as strength of bracket attachments, wind loading and risk of being hit by vehicles).
- Be single words to avoid cartographic problems.
- Be easy to spell and pronounce.
- Not sound similar, or be similar in spelling, to an existing road name.
- Not include a preposition, e.g. Avenue of the Allies.
- Not be abbreviated or contain an abbreviation excepting that “St” can be used for “saint” and ‘Mt’ can be used for “mount”. ‘Maunga’ must not be abbreviated or combined with ‘Mt’ e.g. Maungawhau’ not ‘Mt Maungawhau’.
- Not be in poor taste or likely to cause offense.
- Not lead with ‘The’. An exception to this is the use of ‘Te’ in Te Reo Maaori names.
- Road types must comply with AS/NZS 4819 – Types of roads below:

Road type	Abbreviation	Description	Open ended	Cul-de-sac	Pedestrian only
Alley	Aly	Usually narrow roadway in a city or towns.	√	√	
Ara¹	Ara	Road –option to be used as a prefix for Te Reo Maaori or Moriori road names ²	√	√	√
Arcade	Arc	Covered walkway with shops along the sides			√
Avenue	Ave	Broad roadway, usually planted on each side with trees.	√		
Boulevard	Blvd	Wide roadway, well paved, usually ornamented with trees and grass plots.	√		
Circle	Cir	Roadway that generally forms a circle; or a short enclosed roadway bounded by a circle.	√	√	
Close	Cl	Short enclosed roadway.		√	
Court	Crt	Short enclosed roadway, usually surrounded by buildings.		√	
Crescent	Cres	Crescent shaped roadway, especially where both ends join the same thoroughfare.	√		
Drive	Dr	Wide main roadway without many cross-streets.	√		

Esplanade	Esp	Level roadway along the seaside, lake, or a river.	√		
Glade	Gld	Roadway usually in a valley of trees.	√	√	
Green	Grn	Roadway often leading to a grassed public recreation area.		√	
Grove	Grv	Roadway that features a group of trees standing together.		√	
Highway	Hwy	Main thoroughfare between major destinations.	√		
Lane	Lane	Narrow roadway between walls, buildings or a narrow country roadway.	√	√	√
Loop	Loop	Roadway that diverges from and rejoins the main thoroughfare.	√		
Mall	Mall	Wide walkway, usually with shops along the sides			√
Mews	Mews	Roadway in a group of houses.		√	
Parade	Pde	Public roadway or promenade that has good pedestrian facilities along the side.	√		
Place	Pl	Short, sometimes narrow, enclosed roadway.		√	
Promenade	Prom	Wide flat walkway, usually along the water's edge.			√
Quay	Qy	Roadway alongside or projecting into the water.	√	√	
Rise	Rise	Roadway going to a higher place or position.	√	√	
Road	Rd	Open roadway primarily for vehicles.	√		
Square	Sq	Roadway which generally forms a square shape, or an area of roadway bounded by four sides.	√	√	
Steps	Stps	Walkway consisting mainly of steps.			√
Street	St	Public roadway in an urban area, especially where paved with footpaths and buildings along one or both sides.	√		
Terrace	Tce	Roadway on a hilly area that is mainly flat.	√	√	
Track	Trk	Walkway in natural setting.			√
Walk	Walk	Thoroughfare for pedestrians.			√
Way	Way	Short enclosed roadway.		√	√
Wharf	Whrf	A roadway on a wharf or pier.	√	√	√

Footnotes:

1. If a Te Reo Maaori or Moriori road name is used it should be endorsed by local representatives with relevant cultural connections, such as Mana Whenua, local iwi or iwi organisations.
2. Ara and Te Ara are the only road types that are to be used as a prefix to the road name e.g. Ara Moana, not Ara Moana Road

First adopted:	24 May 2012
Revision dates/version:	4 (12 September 2019)
Next review date:	February 2025
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Pou	Pillar	Outcomes
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He pou manawa taiao	Restoration:	<ul style="list-style-type: none"> • Native flora and fauna species numbers are increased year on year. • Increased application of Maatauranga Maaori (Maaori knowledge) to develop environmental enhancement solutions and mitigations to infrastructure growth challenges. • Increased co-management arrangements with iwi and mana whenua to deliver best environmental practices and results.

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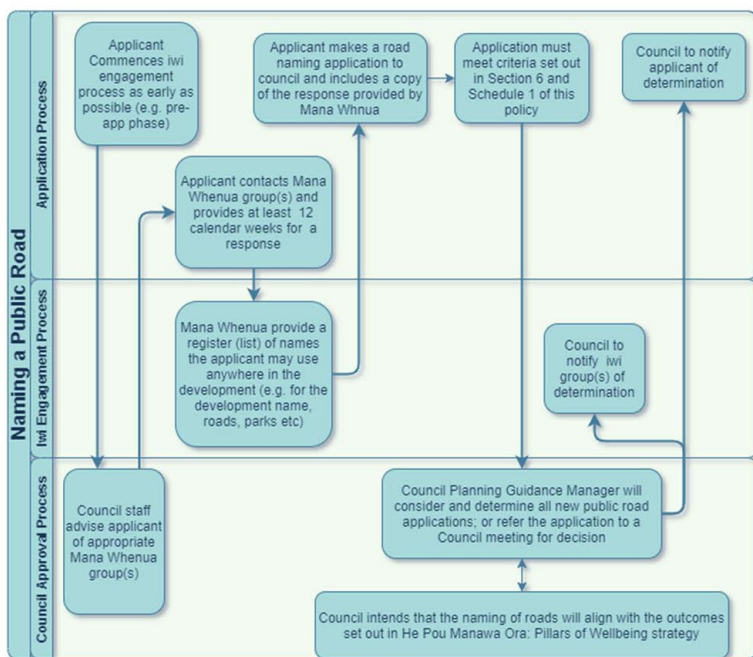
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12. Applicants must provide each identified Mana Whenua group with at least 12 calendar weeks to provide a response to the opportunity set out in section 11. Applicants are encouraged to contact Mana Whenua early in the process.
13. Applicants may provide council with up to three options for the naming or renaming of a public road. Applicants must demonstrate how the suite of options for the naming or renaming of a road or overall group of roads reflects the outcomes of engagement with mana whenua. A copy of the response provided to the applicant by Mana Whenua must be included in the application.
14. The naming and renaming of public roads will reflect council's commitment to the outcomes of *He Pou Manawa Ora: Pillars of Wellbeing* strategy.
15. The determination will be communicated to the applicant and appropriate Mana Whenua of the area by council.

Naming a new road (public or private)

16. Council's Planning Guidance Manager will consider and determine all new road name applications, in accordance with the principles of this policy. For public roads this will include ensuring compliance with the requirements for iwi consultation.
17. At the Planning Guidance Manager's discretion, applications may be referred to a council meeting for decision.
18. Council's Planning Guidance Unit will maintain an archive of the new road names and the reasons for selection of such names.

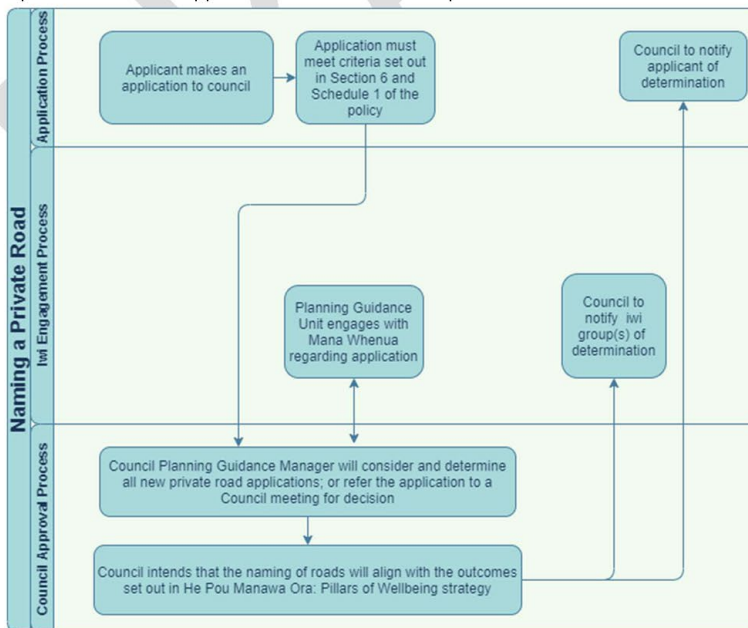
Process for naming a new public road

19. The diagram below visually depicts the process for naming a public road as set out in this policy and is provided to assist applicants to understand the process.



Process for naming a new private road

20. The diagram below visually depicts the process for naming a private road as set out in this policy and is provided to assist applicants to understand the process.



Renaming a public or private road

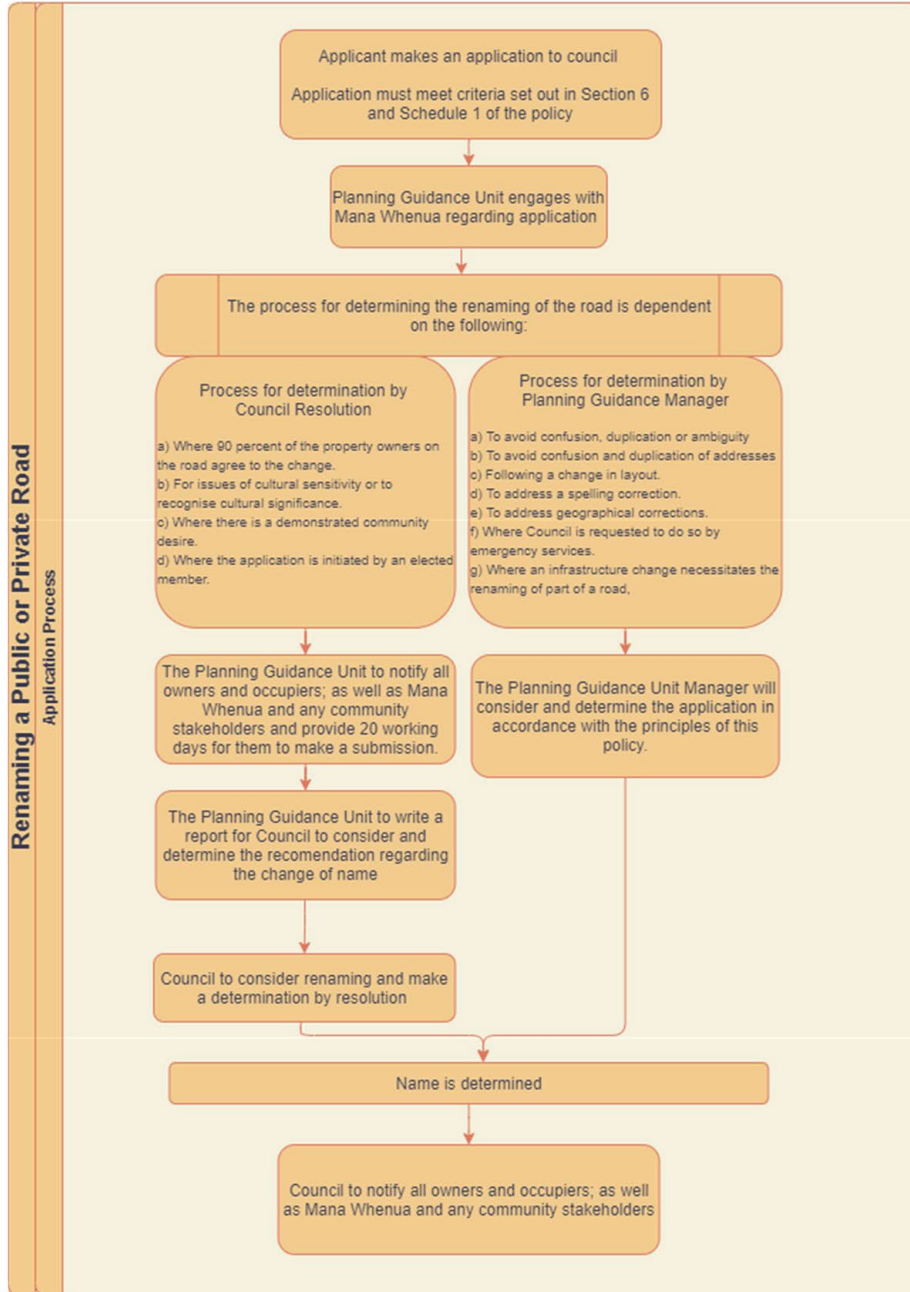
21. The approval process for renaming a road is set out in the table below.

Approval by: Council Resolution	Approval by: Planning Guidance Manager
Rationale	Rationale
a) Where 90 percent of the property owners on the road agree to the change. b) For issues of cultural sensitivity or to recognise cultural significance. c) Where there is a demonstrated community desire. d) Where the application is initiated by an elected member.	e) To avoid confusion, duplication or ambiguity caused by the existing road name. f) To avoid confusion and duplication of addresses associated with road name. g) Following a change in layout. h) To address a spelling correction. i) To address geographical corrections. j) Where Council is requested to do so by emergency services. k) Where an infrastructure change necessitates the renaming of part of a road, e.g. an existing road is severed by a new road.
Process	Process
<ul style="list-style-type: none"> • The Planning Guidance Unit will notify all owners and occupiers in the road of the proposed change, as well as Mana Whenua and any community stakeholders who may have an interest in the name change. • Submissions on the proposed name change may be made to the Planning Guidance Unit within twenty (20) working days. • The Planning Guidance Unit will prepare a report for the Council meeting that outlines: <ol style="list-style-type: none"> i. the request ii. the reason for the change iii. confirmation of Mana Whenua consultation if required iv. the response from Mana Whenua, affected owners/occupiers on the road, and other submitters; and v. a recommendation to Council. • Council will consider and determine the recommendation regarding the change of name. • The Planning Guidance Unit will notify the applicant, all owners and occupiers in the road, Mana Whenua and all other submitters of the decision and if applicable, the new name. 	<ul style="list-style-type: none"> • The Planning Guidance Unit Manager will consider and determine the application in accordance with the principles and requirements in this policy. • The Planning Guidance Unit will notify Mana Whenua and all owners and occupiers on the road of the decision and, if applicable, the new name.

22. The costs associated with a name change (such as changing street signs) must be met in full by the applicant(s) except where the name change is initiated by Council resolution. These costs do not include the costs to businesses or residents on an affected street to e.g. change business signs or business cards.

Process for renaming public or private roads

23. The diagram below visually depicts the process for renaming a public road as set out in this policy and is provided to assist applicants to understand the process.



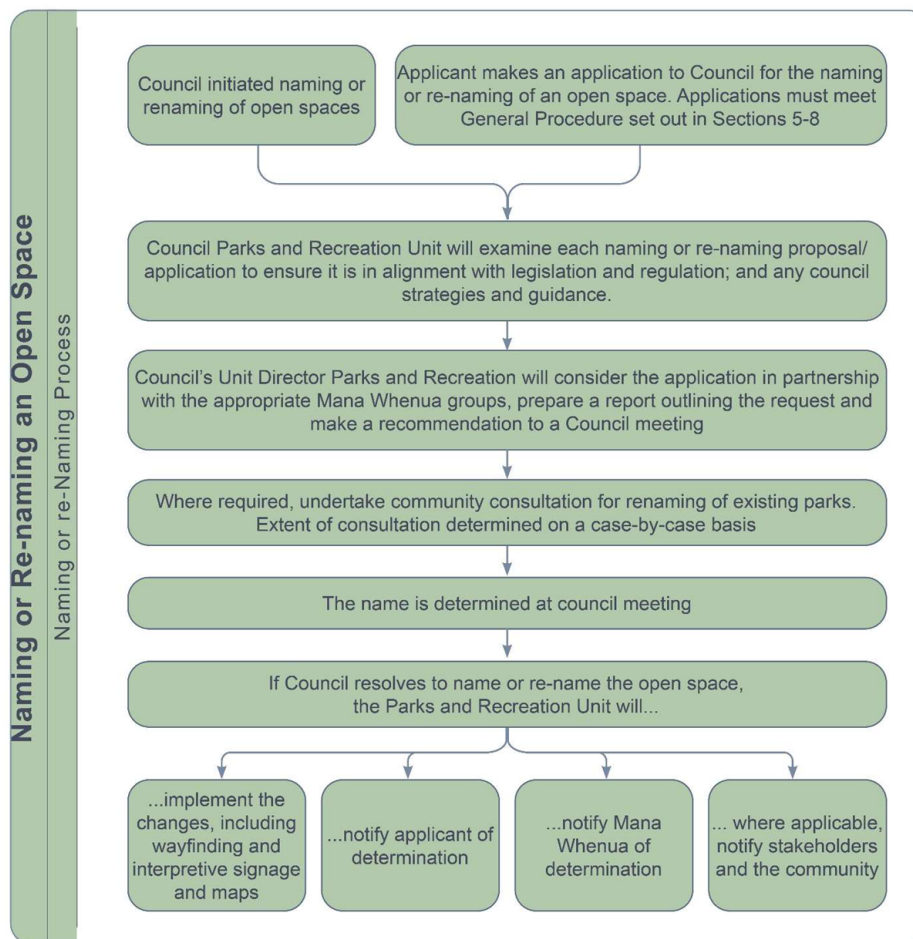
Open spaces

24. The naming or renaming of any open space must align with the principles of this policy, follow the general procedure identified in sections 5-8; and meet the following requirements:

- Any naming or renaming of open spaces must consider the obligations set out in Part 6 of the Local Government Act 2002.
- Reserves must be named or renamed by Council resolution and in accordance with the Reserves Act 1977.
- Any naming or renaming of open spaces must be in alignment with the objectives of *He Pou Manawa Ora: Pillars of Wellbeing* strategy.
- If naming a new open space, Council's Unit Director Parks and Recreation will consider the application in partnership with the appropriate Mana Whenua groups, prepare a report outlining the request and make a recommendation to a Council meeting.
- If renaming an existing open space, Council's Unit Director Parks and Recreation will consider the application in partnership with the appropriate Mana Whenua groups, undertake wider consultation where required, undertake additional heritage reviews and will implement the changes, including the installation of interpretive signage.
- Council may, at its discretion, implement a bi-lingual name for any Open Space

Process for naming or renaming open spaces

25. The diagram below visually depicts the process for renaming an open space as set out in this policy and is provided to assist applicants to understand the process.



Council facilities

26. Where a new council facility is to be named or an existing council facility renamed:

- The Council Unit responsible for the council facility will propose names for the council facility to the Chief Executive that are in accordance with the principles of this policy.
- The Chief Executive will consider the proposed names and prepare a report for a Council meeting outlining the request; and making a recommendation.
- Council may, at its discretion, implement a bi-lingual name for any council facility.
- The Council will consider the report and determine the facility name by Council Resolution.

Naming rights and sponsorship

27. Council can grant naming rights for an open space or council facility or parts of an open space or council facility.
28. All requests to grant naming rights or sponsorship opportunities, whether permanent or for a fixed period, will be determined by Council resolution.

Monitoring and implementation

29. The implementation of this policy will be monitored by the General Manager City Growth.
30. The policy will be reviewed every three years or at the request of council or in response to changed legislative and statutory requirements or in response to any issues that may arise.

References

- This Policy complies with The Australian/New Zealand Standard on Rural and Urban Addressing AS/NZS 4819:2011.
- Sections 319(1)(j), 319A and 319B of the Local Government Act 1974 apply to the Naming of Roads.
- Council may name or alter the name of any road under Section 319 Local Government Act 1974.
- Section 5 of the Unit Titles Act 2010 applies only to provide a meaning of common property.
- Where a reserve is vested in Council, the Minister of Conservation or Council may specify or change the name of a reserve by notice in the Gazette (Section 16(10) Reserves Act 1977).
- This policy aligns with *He Pou Manawa Ora: Pillars of Wellbeing* strategy.

Schedule 1 – AS/NZS 4819 – Types of roads

The National Standards for road naming (AS/NZS 4819:2011), must be adhered to when developing proposed road names for consideration. These include the following requirements:

- Not be duplicated in Hamilton or in the Waipa or Waikato Districts.
- Preferably be short (generally not longer than 12 characters). An exception to this is the use of Te Reo Maaori names, where longer names may be suitable, balanced with the physical limitations for signs such as strength of bracket attachments, wind loading and risk of being hit by vehicles).
- Be single words to avoid cartographic problems.
- Be easy to spell and pronounce.
- Not sound similar, or be similar in spelling, to an existing road name.
- Not include a preposition, e.g. Avenue of the Allies.
- Not be abbreviated or contain an abbreviation excepting that “St” can be used for “saint” and ‘Mt’ can be used for “mount”. ‘Maunga’ must not be abbreviated or combined with ‘Mt’ e.g. Maungawhau’ not ‘Mt Maungawhau’.
- Not be in poor taste or likely to cause offense.
- Not lead with ‘The’. An exception to this is the use of ‘Te’ in Te Reo Maaori names.
- Road types must comply with AS/NZS 4819 – Types of roads below:

Road type	Abbreviation	Description	Open ended	Cul-de-sac	Pedestrian only
Alley	Aly	Usually narrow roadway in a city or towns.	√	√	
Ara¹	Ara	Road –option to be used as a prefix for Te Reo Maaori or Moriori road names ²	√	√	√
Arcade	Arc	Covered walkway with shops along the sides			√
Avenue	Ave	Broad roadway, usually planted on each side with trees.	√		
Boulevard	Blvd	Wide roadway, well paved, usually ornamented with trees and grass plots.	√		
Circle	Cir	Roadway that generally forms a circle; or a short enclosed roadway bounded by a circle.	√	√	
Close	Cl	Short enclosed roadway.		√	
Court	Crt	Short enclosed roadway, usually surrounded by buildings.		√	
Crescent	Cres	Crescent shaped roadway, especially where both ends join the same thoroughfare.	√		
Drive	Dr	Wide main roadway without many cross-streets.	√		
Esplanade	Esp	Level roadway along the seaside, lake, or a river.	√		
Glade	Gld	Roadway usually in a valley of trees.	√	√	

Green	Grn	Roadway often leading to a grassed public recreation area.	√		
Grove	Grv	Roadway that features a group of trees standing together.	√		
Highway	Hwy	Main thoroughfare between major destinations.	√		
Lane	Lane	Narrow roadway between walls, buildings or a narrow country roadway.	√	√	√
Loop	Loop	Roadway that diverges from and rejoins the main thoroughfare.	√		
Mall	Mall	Wide walkway, usually with shops along the sides			√
Mews	Mews	Roadway in a group of houses.			√
Parade	Pde	Public roadway or promenade that has good pedestrian facilities along the side.	√		
Place	Pl	Short, sometimes narrow, enclosed roadway.			√
Promenade	Prom	Wide flat walkway, usually along the water's edge.			√
Quay	Qy	Roadway alongside or projecting into the water.	√	√	
Rise	Rise	Roadway going to a higher place or position.	√	√	
Road	Rd	Open roadway primarily for vehicles.	√		
Square	Sq	Roadway which generally forms a square shape, or an area of roadway bounded by four sides.	√	√	
Steps	Stps	Walkway consisting mainly of steps.			√
Street	St	Public roadway in an urban area, especially where paved with footpaths and buildings along one or both sides.	√		
Terrace	Tce	Roadway on a hilly area that is mainly flat.	√	√	
Track	Trk	Walkway in natural setting.			√
Walk	Walk	Thoroughfare for pedestrians.			√
Way	Way	Short enclosed roadway.		√	√
Wharf	Whrf	A roadway on a wharf or pier.	√	√	√

Footnotes:

1. If a Te Reo Māori or Māori road name is used it should be endorsed by local representatives with relevant cultural connections, such as Mana Whenua, local iwi or iwi organisations.
2. Ara and Te Ara are the only road types that are to be used as a prefix to the road name e.g. Ara Moana, not Ara Moana Road

Council Report

Committee:	Council	Date:	12 May 2022
Author:	Kelvin Powell	Authoriser:	Helen Paki
Position:	City Safe Unit Manager	Position:	General Manager Community
Report Name:	Consideration of Support of Private Member's Bill: Sale and Supply of Alcohol (Harm Minimisation) Amendment Bill		

Report Status	<i>Open</i>
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Purpose - *Take*

- To seek endorsement from Council to publicly support the proposed Private Members Bill: Sale and Supply of Alcohol (Harm Minimisation) Amendment Bill.

Staff Recommendation - *Tuutohu-aa-kaimahi*

- That the Council:
 - receives the report;
 - endorses the proposed Private Members Bill: Sale and Supply of Alcohol (Harm Minimisation) Amendment Bill, which aims to:
 - remove the special appeal process through Local Alcohol Policies.
 - wind down alcohol advertising and sponsorship of sport.
 - requests the proposed Private Members Bill: Sale and Supply of Alcohol (Harm Minimisation) Amendment Bill, be supported by the Government and/or non - Executive Members of Parliament;
 - requests the New Zealand Government review the Sale and Supply of Alcohol Act 2012; and
 - delegates (an Elected Member) to advocate to central government and to the Non – Executive Members of Parliament in support of the proposed Bill.

Executive Summary - *Whakaraapopototanga matua*

- The Member of Parliament for Auckland Central, Chloe Swarbrick, has a Private Member's Bill, seeking to amend the Sale and Supply of Alcohol Act to provide more controls to alcohol advertising, and reforming the appeals process relating to Local Alcohol Policies (LAPs). The Bill is awaiting selection to the order sheet.
- The Bill has two distinct parts. Part 1 of the Bill abolishes appeals on local alcohol policies to provide proper local control over alcohol regulation. Part 2 of the Bill focuses on reducing young people's exposure to messages that encourage them to drink alcohol and removing the link between sport and alcohol.

5. Hamilton City Council has previously submitted to the Governance Administration select Committee on the Sale and Supply of Alcohol (Renewal of Licences) Amendment Bill (No.2) in 2018. The Council submission was consistent with the proposed Bill and highlighted several concerns about the appeals process, including cost, time delay and the undermining of community confidence.
6. The Local Government New Zealand conferences passed remits in 2018 (95% support) and 2019 (88% support) seeking a review of the Sale and Supply of Alcohol Act 2012, with commentary that it be more supportive of community involvement.
7. Staff consider the matters in this report have medium significance and that the recommendations comply with the Council's legal requirements.

Background - *Koorero whaimaarama*

8. The Sale and Supply of Alcohol Act 2012 came into existence with the object that sale, supply and consumption of alcohol should be undertaken safely and responsibly; and that the harm caused by the excessive or inappropriate consumption of alcohol should be minimised.
9. Another primary objective of the alcohol law reforms was to 'improve community input into local alcohol licensing decisions.' This was in response to community concerns regarding their inability to influence important decisions about where alcohol is sold in their neighbourhoods.
10. The legislation devolved alcohol policy making to local government through the introduction of a Local Alcohol Policy (LAP). It was intended that these LAPs would allow local authorities to control where and when alcohol could be sold, set maximum trading hours for alcohol sales, and restrict the location of new premises when they are close to existing premises or sensitive sites.

Discussion - *Matapaki*

11. Territorial authorities have endeavoured to develop local alcohol policies to enhance community wellbeing. However, it has been assessed by a number of commentators and practitioners that this aspect of the Act has largely failed as 'large companies have used their appeal rights in the Act to significantly block the development of local Alcohol policies. Those local alcohol policies that are adopted have only rarely included regulations over the location and density of stores selling alcohol'.
12. It is significant that Auckland, Wellington, Christchurch, and Hamilton do not have operative Local Alcohol Policies in place. Christchurch, Wellington, and Hamilton all withdrew their Provisional LAPs, and Auckland has been engaged in lengthy litigation in attempts to get their Provisional LAP adopted.
13. On 24 March 2022 Auckland City Council unanimously supported a motion to call for the Government to take stronger, evidence-based actions to reduce the harm from alcohol. The motion called for:
 - i. Support of the Private Members Bill: Sale and Supply of Alcohol (Harm Minimisation) Amendment Bill.
 - ii. Requesting that the Private Members Bill is supported by Government and/ or non-Executive Members of Parliament.
 - iii. Request that the New Zealand Government review the Sale and Supply of Alcohol Act 2012; and
 - iv. Nominate an elected member to advocate to central government and to non-Executive Members of Parliament in support of the proposed Bill

14. On 7 April 2022 Christchurch City Council passed a similar motion supporting the measures outlined in the Bill and advocating for a review of our alcohol legislation.
15. Hamilton City Council have received media enquiries querying our level of support for the stance taken by Auckland and Christchurch Councils. Hamilton has also been formally requested by both Health Coalition Aotearoa and Alcohol Health Watch to consider adopting a similar stance.
16. The proposed Private Members Bill - Sale and Supply of Alcohol (Harm Minimisation) Amendment Bill and explanatory note is located [here](#). The Bill has two key components:
 - i. removal of the special appeal process through the Local Alcohol Policies (LAP)
 - ii. winding down of alcohol advertising and sponsorship of sports

Removal of the special appeal process through Local Alcohol Policies (LAP)

17. As of May 2021, 31 of 36 (86%) of Local Alcohol Policies had been appealed by supermarkets and 72% had been appealed by bottle stores. More than one half of the LAP were subject to appeals around proposed off licence hours and outlet density restrictions. The 36 policies represent 47 Councils.
18. Hamilton commenced their LAP journey in 2013 and finally publicly notified their Provisional LAP in January 2016. Three notices of Appeal against the provisional LAP were filed with the Alcohol Regulatory Licensing Authority, two of whom were from large supermarket chains. In March 2018, following a period of unsuccessful negotiations with the appellants Council elected to abandon their provisional LAP. Costs incurred by Council amounted to \$102,000 in legal costs and a further \$101,000 in staff time.
19. While the introduction of the Sale and Supply of Alcohol Act 2012 was viewed as an opportunity for local communities to have a degree of control over the supply of alcohol in their communities, this has largely not been realised, replaced instead by a legal challenge process that is both time consuming and costly.
20. The removal of the LAP appeal process was the central feature of a Hamilton City Council 2018 submission to the Governance Administration Select Committee. The recommendation in this submission was:

“The removal of s81 will allow Judicial Review as a safeguard to check and balance the decision-making of a council. This will ensure consistency, as no other legislation that relates to policies controlling harm (e.g. the Gambling Act 2003 and the Psychoactive Substances Act 2013) uses a separate authority to hear appeals on decisions made by local government.”
21. Copy of submission located [here](#).

Wind-down alcohol advertising and sponsorship of sports

22. There has been a longstanding relationship between sport and alcohol in New Zealand. Alcohol sponsorship has continued to reach large and diverse audiences, including children. The brands are often visible on jumpers, playing grounds and clubrooms. The brands are paired with our fascination and passion for sport. Through sport alcohol often becomes linked with success, adventure, excitement, and performance excellence.
23. A New Zealand doctoral study in 2018 found that children aged between 11-13 were exposed to alcohol marketing 4.5 times a day. 31% was in the form of sports sponsorship, 25% from merchandise and 12% at sports venues. Maaori and Pacific children showed disproportionately higher levels of exposure. Full study report is [here](#).

The Private Member's Bill Process

24. Currently the Bill is waiting to be drawn through the ballot process. At least eight member's bills, awaiting a first reading, must be on the Order Paper on each members' day. When a space on the Order Paper becomes available, a ballot is held to decide which members' bill(s) will be introduced. However, if 61 or more non-executive members indicate support for a member's bill, the bill will be introduced without needing to be selected through the ballot.
25. This second option is the focus of the staff recommendation. It reflects the approach adopted by Auckland and Christchurch Councils and suggests that by bypassing the ballot system, this could hasten the Bill being introduced. Should this private member's bill be introduced Hamilton City Council would have opportunity to submit on the bill at the select committee stage.
26. If the recommendation is not approved the advocacy from Auckland and Christchurch may still result in the Bill being introduced bypassing the ballot system.

Financial Considerations - *Whaiwhakaaro Puutea*

27. No additional cost to Council is incurred by supporting the Private Members' Bill at this stage. Staff time to consider the matters and respond are covered within existing budgets.

Legal and Policy Considerations - *Whaiwhakaaro-aa-ture*

28. Staff confirm that recommendation complies with the Council's legal and policy requirements.

Wellbeing Considerations - *Whaiwhakaaro-aa-oranga tonutanga*

29. The purpose of Local Government changed on the 14 May 2019 to include promotion of the social, economic, environmental and cultural wellbeing of communities in the present and for the future ('the 4 wellbeings').
30. The subject matter of this report has been evaluated in terms of the 4 wellbeings during the process of developing this report as outlined below.
31. The recommendations set out in this report are consistent with that purpose.

Social

32. One in Four alcohol drinkers in New Zealand are deemed to drink hazardously, which has led to New Zealand having a high rate of hospitalisations and deaths related to alcohol.
33. It is reported that 40% of offences that involve assault, abduction, robbery, threat, or damage to property, and 1 in 3 family violence incidents across New Zealand are known to involve alcohol.

Economic

34. The Economic impact of alcohol harm is significant as Alcohol is linked to more than 200 different diseases and injury conditions and is known to factor in approximately 20% of fatal vehicle crashes.

Environmental

35. This Private Member's Bill is primarily focused at reducing social harm and doesn't directly impact environmental wellbeing of our community.

Cultural

36. Hazardous alcohol drinking affects all age group, gender, and ethnicity in New Zealand.

Risks - *Tuuraru*

37. There are no direct risks to Council associated with the decisions required for this matter.

Significance & Engagement Policy - *Kaupapa here whakahira/anganui*

Significance

38. Staff have considered the key considerations under the Significance and Engagement Policy and have assessed that the matter(s) in this report has/have a medium level of significance.

Engagement

39. Community views and preferences are already known to the Council through actions of community to mobilise and protest new off license premises in their neighbourhoods.

40. Given the medium level of significance determined, the engagement level is medium. No engagement is required.

Attachments - *Ngaa taapirihanga*

There are no attachments for this report.

Council Report

Item 15

Committee: Council

Date: 12 May 2022

Author: Igor Magud

Authoriser: David Bryant

Position: Procurement Manager

Position: General Manager People and Organisational Performance

Report Name: Social Procurement Policy

Report Status	<i>Open</i>
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Purpose - Take

1. To seek the Council's approval of the amended Procurement Policy.

Staff Recommendation - Tuutohu-aa-kaimahi

2. That the Council approves the amended Procurement Policy (**Attachment 1** of the staff report) which includes a sixth Principle to address Social Procurement.

Executive Summary - Whakaraapopototanga matua

3. Following the amendment to the Local Government Act 2002 to reinstate "the purpose of local government is to promote the social, economic, environmental, and cultural well-being of communities in the present and for the future" staff have been working with Elected Members, General Managers, and subject matter expert staff for the purpose of amending our Procurement Policy and processes.
4. Staff recommend adopting Broader Outcomes into Council's Procurement Policy by adding an additional Procurement Principle and amending the previous Local Impact and Sustainability consideration to include a more nuanced category-based approach. This would factor the social impact against the value and risk of each procurement opportunity.
5. Wellbeings are acquired through Broader Outcomes which can be achieved through the government procurement activity of buying goods and services with the secondary benefit of delivering positive social wellbeings.
6. Staff consider the decision in this report is of medium significance and that the recommendations comply with Council's legal requirements.

Background - Koorero whaimaarama

7. Amendments to the Local Government Act 2002 in 2019 have reinstated that "the purpose of local government is to promote the social, economic, environmental, and cultural well-being of communities in the present and for the future".
8. Broader Outcomes are initiatives which seek to achieve wider Social, Economic, Cultural, and Environmental outcomes.
9. Social Procurement is when organisations use their buying power to generate social and public value beyond the value of the goods and services or works being procured.

10. Workshops have been held with Elected Members, General Managers, and subject matter expert staff for the purpose of amending our Procurement Policy and processes. This is to allow for amendments which factor Broader Outcomes into decision-making processes when tendering, and to support our He Pou Manawa Ora Strategy, Climate Change Strategy, and Climate Change Action Plan.
11. Our current Procurement Policy has five Principles based mostly on MBIE principles.
12. The current procurement process has a requirement when tendering to factor the “Local Impact” of the goods or services as 5%, and the effectiveness of “Sustainability” as a 2.5% attribute.
13. The He Pou Manawa Ora Strategy Principle of Prosperity looks to the procurement process with the specific intended output to enable Maaori business to become suppliers to Hamilton City Council.
14. The Climate Change Action Plan requires that “Council’s procurement process will give weighting to how companies are responding to sustainable outcomes and emission reduction.”

Discussion - *Matapaki*

15. This report is seeking approval to amend our existing Procurement Policy to factor Broader Outcomes by adding Social Cultural, Economic and Environmental considerations to the minimum non-price attributes.
16. Tendering documentation will be amended to include a suite of specific questions to score against Broader Outcomes.
17. The Procurement Policy will add a new 6th Procurement Principle “Take care of our local community and natural world” which will:
 - i. Factor Social, Cultural, Economic and Environmental wellbeing’s into our procurement decisions through the secondary benefits of Broader Outcomes
 - ii. Give careful and due consideration to suppliers and options which are responding to sustainable outcomes and emissions reductions
 - iii. Make buying decisions that support low carbon options
 - iv. Support options and ideas which encourage Maaori business to become suppliers to Hamilton City Council

Process Changes

18. As part of the recommendation, the process change means an adjustment to the current minimum non-priced attribute considerations of Local Impact 5% and Sustainability 2.5%.
19. The previous Sustainability 2.5% attribute will be replaced with the Environmental attribute, percentage to be determined by the respective project (see Attachment 2).
20. Local Impact will continue to feature in addition to Economic Wellbeing.
21. The approach to buying activity will be matrixed based and categorised into four categories dependant on Social Impact versus Value and Risk (see Attachment 2).
22. For ‘Routine Operational’ categories with both low Social Impact and Value / Risk, a 10% Broader Outcomes consideration will be applied (2.5% respectively for Social, Cultural, Economic, and Environmental)
23. For “Community Value Projects” type categories high in Social Impact but low in Value/ Risk; a weighting of 15% Broader Outcomes will apply, with an additional 5% Local Impact (20% in total).

24. For “Professional and Technical” type categories low in Social Impact but high in Value or Risk, 10% Broader Outcomes and 5% Local Impact will apply (15% in total).
25. For “Strategic High Value” projects high in both Social Impact and Value / Risk, there will be 15% Broader Outcomes applied, with an additional Local Impact graduated based on project value.
26. The previous 5% weighting of Local Impact will be changed. Replacing this will be new bands of 5% up to a value of \$1 million, 2.5% for projects of value of \$1 million to \$10 million, 1.25% for projects of a value between \$10 million to \$50 million, and 1% for Procurement > \$50 million. (Refer para. 29 for examples of potential impact).
27. If the recommendation is not approved, the status quo will continue.

Financial Considerations - *Whaiwhakaaro Puutea*

Procurement is a funded activity approved in Council’s 2021-31 Long Term Plan. The sample scenarios below use examples of Tender Value and the Maximum Local Impact Premium with various Price Ratios (the typical NZTA funded Project uses a price weighting of 70%) using a PQM (Price -Quality Methodology). The top row illustrates the impact potentially with the current 5% rule. The bottom table shows actual recent tenders by value and number.

EXAMPLE Tender Value				
	1,000,000	10,000,000	50,000,000	100,000,000
Current 5% Local Impact	5%	5%	5%	5%
Max Premium using PQM with Price ratio 70	46,428	464,285	2,321,428	4,642,857
Option 1	5%	5%	2.5%	2.00%
Max Premium using PQM with Price ratio 70	46,428	464,285	1,160,714	1,857,142
Option 2- RECOMMENDED	5%	2.5%	1.25%	1.00%
Max Premium using PQM with Price ratio 70	46,428	232,142	580,357	928,571

This data set represents the last 100+ Tenders bid by HCC

Tender # by Value last 114 tenders	
Greater \$100M	1
\$10-\$50M	6
\$1-\$10M	18
Up to \$1m	89
	114

Legal and Policy Considerations - *Whaiwhakaaro-aa-ture*

31. Staff confirm that the staff recommendation complies with the Council’s legal and policy requirements.

Wellbeing Considerations - *Whaiwhakaaro-aa-oranga tonutanga*

32. The purpose of Local Government changed on the 14 May 2019 to include promotion of the social, economic, environmental and cultural wellbeing of communities in the present and for the future (‘the 4 wellbeings’).
33. The subject matter of this report has been evaluated in terms of the 4 wellbeings during the process of developing this report as outlined below.
34. The recommendations set out in this report are consistent with that purpose and are intended to address those wellbeings specifically through the recommended Policy and Process changes.

Social

- 35. Social Wellbeing will be addressed by providing the ability for staff to consider the state of community for health, safety, accessibility, equity through the Social Wellbeing attribute suggested.

Economic

- 36. Economic Wellbeing will be addressed through the provision of the Economic attribute change suggested; additionally, there is an additional “Local Impact” percentage of consideration.

Environmental

- 37. Environmental Wellbeing will be addressed in the suggested Procurement process change.
- 38. Environmental wellbeing will also be addressed in the recommended Policy Change, with the addition of the sixth Procurement Principle “Take care of our local community and natural world” which intention is to give careful consideration to suppliers and options which are responding to sustainable outcomes and emissions reductions.

Cultural

- 39. Cultural Wellbeing will be addressed by adopting the recommendation of process change to allow consideration for heritage, cultural considerations, diversity and inclusion, and inclusion of all ethnicities and genders, via a Cultural Wellbeing attribute.
- 40. The additional recommended new sixth Procurement Principle will seek to support options and ideas which encourage Maori business in Kirikiriroa Hamilton.

Risks - *Tuuraru*

- 41. There are no known risks associated with the decisions required for this matter.

Significance & Engagement Policy - *Kaupapa here whakahira/anganui*

- 42. Staff have considered the key considerations under the Significance and Engagement Policy and have assessed that the matter(s) in this report has/have a low level of significance.

This report relates to moderate process considerations and accordingly engagement is not required.

Attachments - *Ngaa taapirihanga*

- Attachment 1 - Social Procurement Draft Policy (Clean Version)
- Attachment 2 - Social Procurement Draft Policy (Track Changes)
- Attachment 3 - Social Procurement Policy Council Brief May 12 2022

1.Management Policy - Procurement Policy

Purpose

This Policy is to ensure Council delivers public value and value for money, fit for purpose goods and services, with consideration of Broader Outcomes and the economic wellbeing of our local economy.

To provide staff with clear guidelines for open, transparent, and effective Procurement in accordance with public sector practise.

Goals of the Policy

The purpose of HCC's Procurement Policy is to provide clear direction to staff in relation to procurement activities and establish a decision framework that ensures:

- **Openness** - all procurement is made in an open and transparent manner.
- **Fairness** - all procurement is carried out in a fair manner and decisions are seen to be made with impartiality and without bias.
- **Integrity** - all HCC staff undertaking procurement do so ethically and with behavioural standards of the highest levels.
- **Value for Money** - accounts for the costs and benefits of any procurement over the life of the goods, services or works which contribute towards Hamilton City Council's five priority areas for its community
- **Lawfulness** - ensures that all procurements are within the law and meet HCC's legal obligations, our Supplier Code of Conduct, and delivered safely, meeting all legislative requirements under the Health and Safety at Work Act 2015
- **Accountability** - ensures both staff and Suppliers are accountable for their performance.
- **Sustainability** - encourages environmental and socially sustainable procurement, to assist in delivery of Hamilton City Council's Climate Change Strategy and Climate Change Action Plan
- **Broader Outcomes** - to ensure alignment with and assist in the delivery of Council's He Pou Manawa Ora Strategy and assist in a circular economy for Hamilton through careful consideration of local impact in our buying decisions.

Scope

This policy covers activities associated with the procurement of all physical work, consultancy and all goods and services required by HCC.

Contracts for the sale and purchase of land and other property interests, legal settlements, assignments, and non-contractual obligations are outside the scope of this policy.

Guiding Documents

- HCC Procurement Policy
- HCC Supplier Code of Conduct
- HCC Contracts Manual

- HCC Financial Delegations to Officers Policy
- HCC Council Policy Delegations to Positions
- HCC Conflict of Interest Policy
- HCC Gifts and Hospitality Policy
- HCC Health & Safety Policy
- MBIE Five Principles for Government Procurement
- MBIE Rules of Government Sourcing 4th Edition
- NZTA Procurement Manual
- NZTA Contracts Manual
- Office of Auditor General Guidelines- Procurement: A Statement of Good Practise

Relevant Legislation

- Local Government Act 2002
- Local Government Official Information and Meetings Act 1987
- Civil Defence and Emergency Management Act 2002
- Commerce Act 1986
- Contract and Commercial Law Act 2017
- Construction Contracts Act 2002
- Fair Trading Act 1986
- Fire and Emergency New Zealand Act 2017
- Health and Safety at Work Act 2015
- Human Rights Act 1993
- Land Transport Management Act 2003
- New Zealand Bill of Rights Act 1990
- Official Information Act 1982
- Ombudsmen Act 1975
- Privacy Act 2020
- Public Audit Act 2001
- Public Bodies Contracts Act 1959
- Public Finance Act 1989
- Public Records Act 2005
- Resource Management Act 1991

Guidelines

Procurement Framework

HCC is committed to efficient public procurement that delivers excellent public goods and services and provides public value for money to the ratepayers of Hamilton City whilst striving to improve their wellbeing. Through its Procurement activity Council seeks to include Broader Outcomes and the generation of positive Social, Cultural, Economic, and Environmental benefits.

HCC's procurement framework is based on policy, principles Procurement rules (as contained in this policy and in the Procurement Policy and Procedures Manual). Collectively, these provide a broad framework that supports accountability for spending, sound business practice, clear measurable benefit, and excellent results.

Procurement Principles

HCC has six Procurement Principles

They are the foundations for good practice at all stages of the procurement lifecycle, from initial planning through to the end of the contract/life of the goods, services or works purchased.

It is essential that all staff take the principles into account when buying goods, services or works. The six Procurement Principles are:

1. Plan and Manage for Great Results

- Identify what you need and then plan how to get it
- Set up a team with the right mix of skills and experience
- Take the time to understand the market and your effect on it. Be open to new ideas and solutions
- Choose the right process - proportional to the size, complexity and any risks involved

2. Be Fair to All Suppliers

- Create competition and encourage capable Suppliers to respond
- Treat all suppliers equally
- Make it easy for all Suppliers (small and large) to do business with us
- Be open to subcontracting opportunities in large projects
- Clearly explain how you will assess Supplier's proposals - so they know what to focus on

- Communicate to unsuccessful Suppliers so they can learn and know how to improve for next time

3. Get The Right Supplier

- Be clear about what you need and fair in how you assess Suppliers
- Choose the right Supplier who can deliver what you need, at a fair price and on time
- Build demanding, but fair and productive relationships with Suppliers
- Make it worthwhile for Suppliers - encourage and reward them to deliver great results
- Identify relevant risks and identify the right person to manage them

4. Get The Best Deal for Everyone

- Get best public value for money - account for all benefits over the lifetime of goods and services
- Make balanced decisions - consider the social, economic, and environmental effects of the deal
- Encourage and be receptive to new ideas and ways of doing things
- Take calculated risks and reward new ideas
- Have clear performance measures - monitor and manage to make sure you get great results
- Work together with Suppliers to make on-going savings and improvements
- It's more than just agreeing the deal - be accountable for the results

5. Play By the Rules

- Be accountable, transparent, and reasonable
- Make sure everyone involved in the process acts responsibly, lawfully and with integrity
- Stay impartial - identify and manage conflicts of interest
- Protect Suppliers commercially sensitive information and intellectual property

6. Take care of our local community and natural world

- Factor Social, Cultural, Economic, and Environmental wellbeings into our Procurement decisions through the secondary benefit of Broader Outcomes.
- Give careful consideration and due consideration to suppliers and options which are responding to sustainable outcomes and emissions reductions.
- Make buying decisions that support low carbon options.
- Support options and ideas which encourage and enable Maaori business to become suppliers to Hamilton City Council.
- Be supportive of Hamilton business to promote our local economy through money spent locally.

1. Management Policy - Procurement Policy

Purpose

This Policy is to ~~provide Council staff with clear guidelines relating to procurement and ensure any Hamilton City Council procurement is made appropriately and in line with good public sector practice; ensure Council delivers public value and value for money, fit for purpose goods and services, with consideration of Broader Outcomes and the economic wellbeing of our local economy.~~

To provide staff with clear guidelines for open, transparent, and effective Procurement in accordance with public sector practise.

Goals of the Policy

The purpose of HCC's Procurement Policy is to provide clear direction to staff in relation to procurement activities and establish a decision framework that ensures:

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- **Lawfulness** - ensures that all procurements are within the law and meet HCC's legal obligations, our Supplier Code of Conudct, and delivered safely, meeting all legislative requirements under the Health and Safety at Work Act 2015:
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- **Broader Outcomes**, to ensure alignment with and assist in the delivery of Council's He Pou Manawa Ora Strategy and assist in a circular economy for Hamilton through careful consideration of local impact in our buying decisions.

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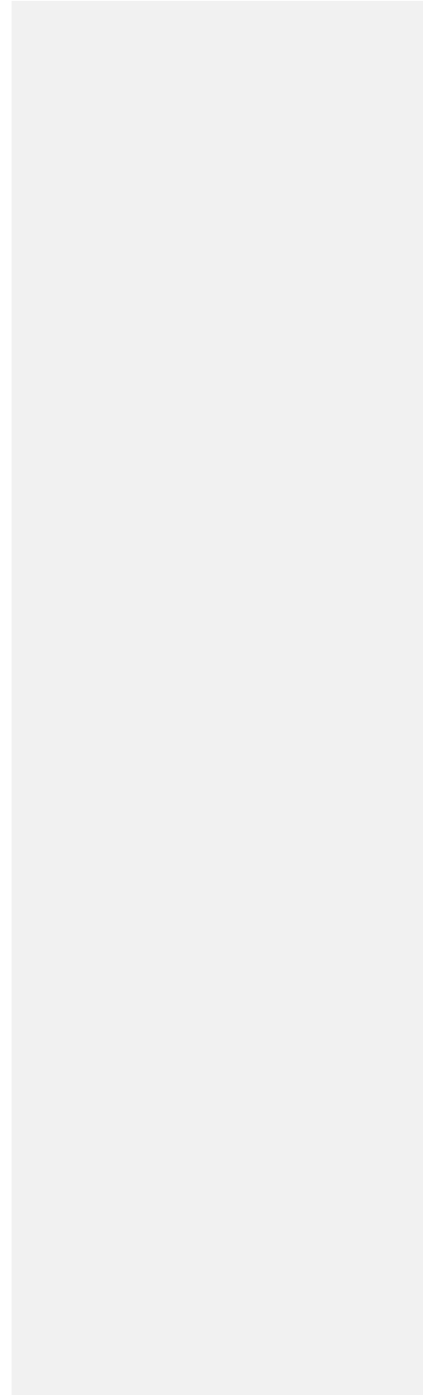
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HCC's procurement framework is based on policy, principles Procurement rules (as contained in this policy and in the Procurement Policy and Procedures Manual). Collectively, these provide a broad framework that supports accountability for spending, sound business practice, clear measurable benefit, and excellent ~~better~~ results.

~~Good practice isn't just mechanically applying the rules. It's about developing a strong understanding of all of the aspects of the procurement lifecycle and skilfully applying these to deliver the best results. While compliance with the rules is still necessary, the process should be designed proportionate to the value, risk, and complexity of the procurement. It's about applying sound commercial judgement to achieve the best value for money, which isn't always the cheapest price, and drive innovation and performance.~~

~~Understanding Suppliers and the market is part of the careful planning essential to developing the right approach to market.~~

~~Procurement also covers proactively managing supplier and other key stakeholder relationships throughout the sourcing process and for the duration of the contract. This embraces continuing to develop the Supplier and driving value for money through on-going efficiency gains.~~

Procurement Principles

HCC has ~~six~~ five Procurement Principles ~~based in part on those issued by the Ministry of Business, Innovation and Employment~~

~~They are the foundations for good practice at all stages of the procurement lifecycle, from initial planning through to the end of the contract/life of the goods, services or works purchased.~~

It is essential that all staff take the principles into account when buying goods, services or works. The ~~six~~ five Procurement Principles are:

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- Be supportive of Hamilton business to promote our local economy through money spent locally.

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SOCIAL PROCUREMENT POLICY

WHAT IS SOCIAL PROCUREMENT?

Procurement = Process of acquiring goods and services

Procurement with **Broader Outcomes** = Process of acquiring goods and services

+

Generation of positive Social, Cultural, Economic, Environmental benefit for Hamiltonians



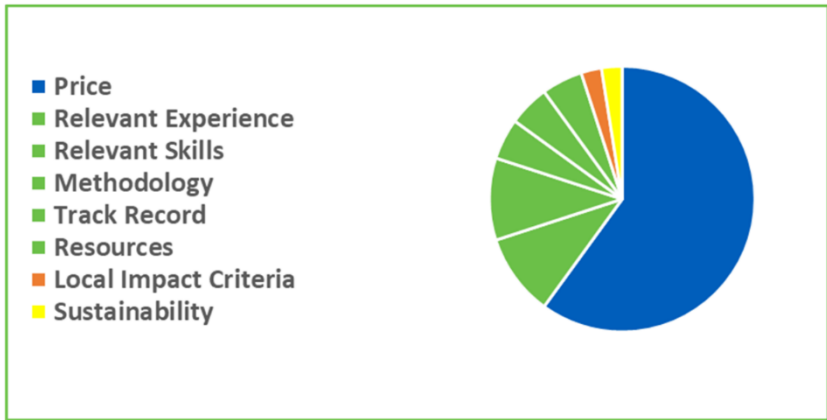
4 WELLBEINGS- HIGH LEVEL

CULTURAL WELLBEING State of our identity in terms of heritage and ethnicity, cultural considerations, diversity & inclusion of all ethnicities and genders	SOCIAL WELLBEING State of community for health, safety, accessibility ,equity, affordability and livability	ECONOMIC WELLBEING State of economy in terms of employment, efficiency, resilience, productivity	ENVIRONMENTAL State of the surrounding natural environment in terms of air, land , water, habitats, and natural heritage
<ul style="list-style-type: none"> • He Pou Manawa Ora Pillars • Improved diversity and inclusion of all ethnicities & genders • Partnering with organisations which impact and improve diversity • Incorporating Maaori Cultural heritage • Mana Whenua engagement 	<ul style="list-style-type: none"> • Employment opportunities for priority social groups • Improved conditions for workers • Health & Wellbeing initiatives for workers • Charitable Support • Living Wage • Supply Chain that supports ethical and sustainable workforces • Local stakeholder engagement 	<ul style="list-style-type: none"> • Maximum access for local business • Employment for locals • Upskilling local economy • Opportunity for local business growth and development • Opportunity for diverse business access and representation • Pillar of Prosperity He Pou Manawa Ora 	<ul style="list-style-type: none"> • Mitigation and response to Climate Change • HCC Climate Change Strategy • Transitioning to a low carbon economy • Ensuring Sustainable Outcomes • Ensuring emission reductions

EVALUATION ATTRIBUTES IMPACT- TYPICAL

Supplier Selection Model	Price	Quality	Broader Outcomes
Direct Appointment	N/A	N/A	N
Lowest Price Conforming	Y	Y	Pass/Fail
Purchaser Nominated Price	Y	Y	Y
Weighted Attributes	Y	Y	Y
Price Quality	Y	Y	Y
Quality	N	Y	Y

Typical Weighted Attributes / Price Quality Split

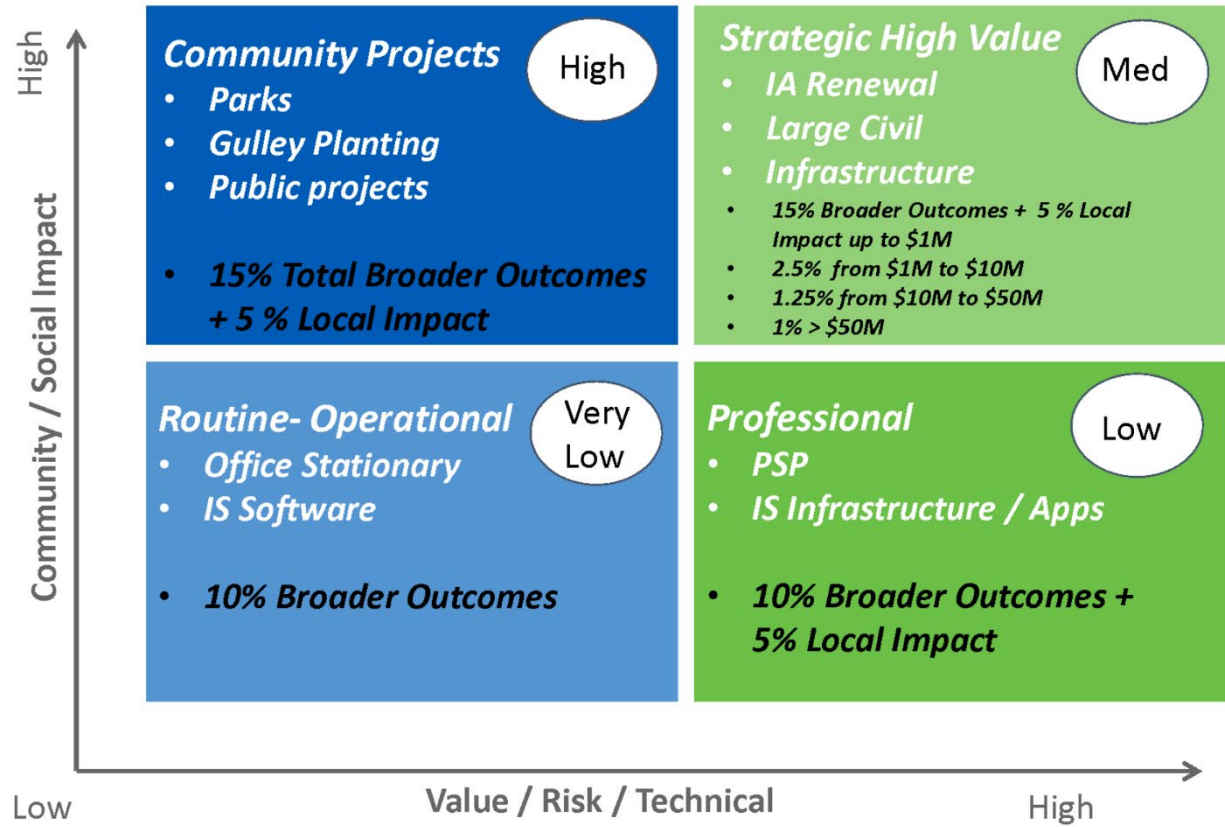


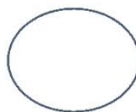
- Price and Non-Price Attributes typical split
- Price is typically 60-70% of consideration
- Currently Local Impact 5%
 Sustainability 2.5%

PROCUREMENT DECISION TENSIONS



COMMUNITY IMPACT PROCUREMENT CLASSIFICATION & Tender Numbers



Social Procurement Potential 

SAMPLE MAXIMUM PREMIUM LOCAL IMPACT

	EXAMPLE Tender Value			
	1,000,000	10,000,000	50,000,000	100,000,000
Current 5% Local Impact	5%	5%	5%	5%
Max Premium using PQM with Price ratio 70	46,428	464,285	2,321,428	4,642,857
Option 1	5%	5%	2.5%	2.00%
Max Premium using PQM with Price ratio 70	46,428	464,285	1,160,714	1,857,142
Option 2- RECOMMENDED	5%	2.5%	1.25%	1.00%
Max Premium using PQM with Price ratio 70	46,428	232,142	580,357	928,571

This data sate represents the last 100+ Tenders bid by HCC

Tender # by Value last 114 tenders	
Greater \$100M	1
\$10-\$50M	6
\$1-\$10M	18
Up to \$1m	89
	114

PROCUREMENT PRINCIPLES

1. Plan and Manage for Great Results

2. Be Fair to All Suppliers

3. Get The Right Supplier

4. Get The Best Deal for Everyone

5. Play By the Rules

6. **(NEW)** Take care of our local community and natural world

- Factor Social, Cultural, Economic, and Environmental wellbeings into our Procurement decisions
- Give careful and due consideration to suppliers and options which are responding to sustainable outcomes and emissions reductions
- Make buying decisions that support low carbon options
- Support options and ideas which encourage and enable Maaori (and Pasifika?) business in Kirikiriroa Hamilton
- Be supportive of Hamilton businesses to promote our local economy through money spent locally

Council Report

Committee:	Council	Date:	12 May 2022
Author:	Michelle Hawthorne	Authoriser:	David Bryant
Position:	Governance and Assurance Manager	Position:	General Manager People and Organisational Performance
Report Name:	2021 Wider Representation Review - Local Government Commission - Decision on Appeals		

Report Status	<i>Open</i>
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Purpose - *Take*

1. To inform the Council of the Local Government Commission's determination, which upheld Hamilton City Council's representation arrangements for this year's local elections.

Staff Recommendation - *Tuutohu-aa-kaimahi*

2. That the Council receives the report.

Executive Summary - *Whakaraapopototanga matua*

3. The Local Electoral Act 2001 (LEA) requires every local authority to undertake a review of their representation arrangements at least once every six years. Hamilton City Council's last review was carried out in 2018. However, the decision in 2021 to establish Maaori wards for the 2022 and 2025 triennial elections triggered the requirement to undertake a Wider Representation Review to determine the wider representation arrangements for at least the 2022-25 triennium.
4. Council undertook a robust process, resulting in an initial proposal resolved at its 12 August 2021 meeting and final proposal resolved at its 11 November 2021 meeting.
5. During the one-month appeal period following notification of the Council's final proposal, five appeals were received. The Council referred the appeals to the Commission. Two of the appeals were considered valid.
6. The Commission met with the Council and the two appellants at a hearing held online on 8 March 2022.
7. The Local Government Commission determination upheld the final proposal of the Council. For the election of the Hamilton City Council to be held on 8 October 2022, the following representation arrangements will apply:
 - a) Hamilton City will be divided into three wards. Those three wards will be:
 - i. the Kirikiriroa Maaori Ward
 - ii. the East General Ward
 - iii. the West General Ward

- b) The Council will comprise the Mayor and 14 councillors elected as follows:
 - i. 2 councillors elected by the electors of the Kirikiriroa Maaori Ward
 - ii. 6 councillors elected by the electors of the East General Ward
 - iii. 6 councillors elected by the electors of the West General Ward.
8. Staff consider the matters in this report have medium significance as determined under the Significance and Engagement policy and that the recommendations comply with the Council's legal requirements.

Background - *Koorero whaimaarama*

9. The Local Electoral Act 2001 (LEA) requires every local authority to undertake a review of their representation arrangements at least once every six years. Hamilton City Council's last review was carried out in 2018.
10. However, the decision in 2021 to establish Maaori wards for the 2022 and 2025 triennial elections triggered the requirement to undertake a Wider Representation Review to determine the representation arrangements for at least the 2022-25 triennium. This process must be carried out according to the LEA which requires each council to:
- a) Identify the city's communities of interest and their geographical boundaries;
 - b) Ensure effective representation of these communities of interest by considering the following factors:
 - i. the number of wards (if any), and their boundaries and names;
 - ii. how Councillors are elected; i.e. from wards, 'at large' (across the whole of the city) or a mix of both;
 - iii. the number of Councillors;
 - iv. whether to establish community boards, and, if so, the arrangements for those boards.
 - c) Provide fair representation to electors, by ensuring that each Councillor represents about the same number of people. The LEA sets out a formula (known as the '+/- 10% rule') that applies to wards to achieve population equity. This principle does not apply if councillors are elected 'at large'.
11. The above aspects were thoroughly considered. The range of options considered and supporting information can be found in the previous 12 August 2021 Council report to resolve the initial proposal and 11 November 2021 Council report to canvass the submissions received and adopt its final proposal.
12. Council was required to give public notice of the final proposal prior to or on 17 November 2021. Following the public notice, there was a further one-month appeal period.
13. During the one-month appeal period five appeals were received. The Council referred the appeals to the Local Government Commission in accordance with section 19Q of the LEA.
14. Two of the appeals were considered valid by the Local Government Commission and covered the following matters:
 - i. One proposed alternative ward and membership arrangements for the Council
 - ii. One sought the establishment of community boards in the four most deprived areas of Hamilton City.
15. Staff consider the matters in this report have medium significance as determined under the Significance and Engagement policy and that the recommendations comply with the Council's legal requirements.

Discussion - *Matapaki*

16. The Local Government Commission met with the Council and the two appellants at a hearing held online on 8 March 2022. The Council was represented at the hearing by Mayor Paula Southgate. The Mayor was assisted by Chief Executive Lance Vervoort and governance staff.
17. Matters raised at the hearing are detailed in the Local Government Commission determination as **Attachment 1**.
18. The Local Government Commission determination upheld the final proposal of the Council. Specifically determining that under section 19R of the Local Electoral Act 2001, for the general election of the Hamilton City Council to be held on 8 October 2022, the following representation arrangements will apply:
 - a) Hamilton City, as delineated on Plan LG-016-2013-W-1 deposited with the Local Government Commission, will be divided into three wards.
 - b) Those three wards will be:
 - i. the Kirikiriroa Maaori Ward, comprising the area delineated on Plan LG-016-2022-W-2
 - ii. the East General Ward, comprising the area delineated on Plan LG-016-2013-W-2
 - iii. the West General Ward, comprising the area delineated on Plan LG-016-2013-W-1.
 - c) The Council will comprise the Mayor and 14 councillors elected as follows:
 - i. 2 councillors elected by the electors of the Kirikiriroa Maaori Ward
 - ii. 6 councillors elected by the electors of the East General Ward
 - iii. 6 councillors elected by the electors of the West General Ward.
19. As noted in the determination, when the Council decided not to establish community boards it also resolved to seek a staff report on a process to establish two community committees. This work is underway and will be reported back to Council in the near future.
20. The Council has also indicated through a resolution that it will recommend to the Council elected at the 2022 local elections that a further representation review be undertaken prior to the 2025 elections.

Options

21. No options are available for Council to consider.

Financial Considerations - *Whaiwhakaaro Puutea*

22. The primary financial impact relates to changes required to accommodate two additional Councillors and the potential implementation of another Wider Representation Review in the 2022-25 triennium.
23. The cost of two additional Councillors is estimated to cost \$94,432 over a triennium (or \$46,144 in the first year then \$24,144 per year ongoing) to accommodate the addition of two more Councillors in terms of technology requirements, a one-off chamber adjustment and normal Councillor support allowances.
24. The 2021-2031 Long Term Plan approved budget of \$100,000 in the year 2023/24 for a wider representation review. However, as the current review was unanticipated this budget was brought forward. Adjustments will need to be considered as part of future annual plan and long-term plan processes to ensure there is sufficient budget for a review (approximately \$100,000 is recommended) should Council choose to carry one out.

Legal and Policy Considerations - *Whaiwhakaaro-aa-ture*

25. Staff confirm that the Wider Representation Review process, including development and consultation on Council's initial proposal comply with legal and policy requirements.

Wellbeing Considerations - *Whaiwhakaaro-aa-oranga tonutanga*

26. The purpose of Local Government changed on the 14 May 2019 to include promotion of the social, economic, environmental and cultural wellbeing of communities in the present and for the future ('the 4 wellbeings').
27. The subject matter of this report has been evaluated in terms of the four wellbeings during the process of developing this report as outlined below.
28. The recommendations set out in this report are consistent with that purpose.

Social

29. Hamilton City Council is obliged under the LEA to provide fair and effective representation for the individuals and communities of Hamilton.
30. As part of undertaking a Wider Representation Review, Council assesses the communities of interest in Hamilton and how best to ensure they have appropriate access to Elected Members that are able to represent their needs appropriately.
31. This works to ensure that individuals and communities are included and able to participate in the decision-making processes of Council that affect their daily lives.

Economic and Environmental

32. The matters considered in this report have no significant direct impact on economic or environmental wellbeing.
33. However, effective representation does mean individuals and communities are able to better participate in Council processes and decision-making that may have an impact on economic and/or environmental wellbeing.

Cultural

Effective representation means individuals and communities are able to better participate in Council processes and decision-making that may have an impact on cultural wellbeing. The inclusion of one or more Maaori wards as part of the Wider Representation Review has important implications for Maaori cultural wellbeing.³⁶ The LGA imposes obligations on the Council to recognise and respect our Treaty obligations. In upholding these obligations, local government acknowledges the unique perspective of Maaori on decisions that relate to people, land, assets and resources.

37. Ensuring appropriate and effective representation of Maaori in Council supports the capability and capacity of Maaori communities to ensure their unique heritage and culture is expressed and reflected in Council decision-making.

Risks - *Tuuraru*

38. There are no known risks associated with the decisions required for this matter.

Significance & Engagement Policy - *Kaupapa here whakahira/anganui*

Significance

39. Staff have considered the key considerations under the Significance and Engagement Policy and have assessed that the matter(s) in this report has/have a medium level of significance.

Engagement

40. Community and partner views are known to the Council through:
- i. Engagement with Maaori partners included facilitating and attending three hui with Iwi, Mana Whenua and Maataawaka throughout June 2021.
 - ii. Formal consultation with a public notice of the initial proposal on 25 August 2021. Submissions closed at midnight 6 October 2021.
 - iii. A public hearing held on 13 October 2021, where 12 submitters spoke to their submission.
41. Given the medium level of significance determined, the engagement level is medium. No engagement is required.

Attachments - *Ngaa taapirihanga*

Attachment 1 - Hamilton City Council - Local Government Commission - Representation Review - Determination - April 2022

Attachment 2 - Wider Representation Review 2021 - 11 November Council Report - Ward Boundary Maps



Determination

of representation arrangements to apply for the election of the
Hamilton City Council to be held on 8 October 2022

Background

1. All territorial authorities are required under sections 19H and 19J of the Local Electoral Act 2001 (the Act) to review their representation arrangements at least every six years. Representation reviews are to determine the number of councillors to be elected, the basis of election for councillors and, if this includes wards, the boundaries and names of those wards. Reviews also include whether there are to be community boards and, if so, arrangements for those boards. Representation arrangements are to be determined so as to provide fair and effective representation for individuals and communities.
2. The Hamilton City Council (the Council) last reviewed its representation arrangements prior to the 2019 local authority elections with the Commission upholding the Council's review following consideration of an appeal. In May 2021 the Council resolved to establish Māori wards. Accordingly, it was required to undertake a review prior to the next elections in October 2022.
3. Previously, in August 2020 the Council had also adopted STV for use at the 2022 local elections. A submission process had favoured STV with 726 submissions for and 202 against.
4. The Council's current representation arrangements are that it comprises a mayor and 12 councillors elected as follows:

Ward	Population	Number of councillors	Population per councillor	Deviation from district average population per councillor	% deviation from district average population per councillor
West Ward	82800	6	13,800	-908	-6.18
East Ward	93700	6	15,617	908	6.18
Total	176,500	12	14,708		

*Based on Tauranga Aotearoa Stats NZ 2020 electoral population estimates

5. There are currently no community boards in Hamilton City.

Current review: Council process and proposal

Preliminary consultation

6. Prior to developing a formal proposal the Council engaged with Māori and developed options through a councillor workshop. Consideration was underpinned by consultation on communities of interest and public understanding of representation options carried out prior to the 2018 review, which the Council considered recent enough to be valid.
7. A combined view was received from Waikato and Maatawaka expressing a desire that:
 - *The number of councillors constitutes 12 general and 2 Māori elected members*
 - *Māori elected members are elected via one city-wide ward.*
 - *As many general seats be elected at large as possible without reducing Māori ward seats (this recommendation favours a mixed system).*
 - *Any decisions on representation arrangements should be reviewed after the 2022 elections.*
8. The councillor workshop considered a number of options for the overall basis of election. In considering options it took into account the following:
 - *Voter choice (impacted by ward boundaries/number of candidates to choose from)*
 - *Degree of elector influence (proportion of full Council that electors will get to rank in order of preference under STV)*
 - *Perception of a united Hamilton*
 - *Perception of specific community needs and interests being served*
 - *Perception of closer connection with local councillors*
 - *Candidate campaign expenditure allowance (higher may be perceived as creating a greater barrier to some candidates' ability to stand and therefore equity of access to participation in the democratic process).*
9. The workshop narrowed these options down to two which were considered by the Council at its August 2021 meeting. They were:
 - A city-wide Māori ward electing 2 councillors, and one General ward electing 12 councillors
 - A city-wide Māori ward electing 2 councillors, and two General wards each electing 6 councillors.

The Council's initial proposal

10. On 12 August 2021 the Council resolved as its initial representation proposal a council comprising 14 members elected from three wards, plus the mayor. The Council also resolved not to establish community boards.

11. From a statistical point of view the proposed arrangements were as follows:

Ward	Population	Number of councillors	Population per councillor	Deviation from district average population per councillor	% deviation from district average population per councillor
East General	81,940	6	13,657	1,171	9.38
West General	67,890	6	11,315	-1,171	-9.38
Total general	149,830	12			
Kirikiroa Māori	26700	2	13,500		
Total		14			

*Based on Tauranga Aotearoa Stats NZ 2020 electoral population estimates

12. The Council notified its proposal on 25 August 2021 and received 451 submissions by the deadline of 6 October 2021.
13. The submissions could be categorised as follows:
- 177 submissions (39%) supported the Council's proposal in its entirety
 - 143 of 296 submissions (48%) that commented on increasing the total number of councillors to 14 supported this
 - 105 of 175 submissions (60%) supported the East/West General ward arrangements
 - 41 of 52 submissions (79%) supported a city-wide Māori ward (as opposed to two single member Māori wards)
 - 27 of 43 submissions (63%) supported the introduction of community boards
 - 99 submissions were rejected as being invalid, most for solely opposing the establishment of Māori wards.

The Council's final proposal

14. After considering submissions the Council adopted its initial proposal as its final proposal. In doing so it also resolved to:
- *Recommend [to the next Council] that any arrangements confirmed as a result of this wider representation review be reviewed in 2023/24 (for the 2025 triennial elections)*
 - *Request staff to report back to the Council by April 2022 on a process to establish a trial for two Community Committees, one in the East Ward, one in the West Ward [as an alternative to community boards].*
15. The Council publicly notified its final proposal on 17 November 2021.

Appeals against the Council's final proposal

16. Five appeals against the proposal were received. The Council referred the appeals to the Commission in accordance with section 19Q of the Act.
17. Two of the appeals were considered valid and covered the following matters:

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- a. One from Jason Howarth proposed alternative ward and membership arrangements for the Council
- b. One from Community Waikato sought the establishment of community boards in the four most deprived areas of Hamilton City¹.

Hearing

18. The Commission met with the Council and the two appellants at a hearing held online on 8 March 2022. The Council was represented at the hearing by Mayor Paula Southgate. She was assisted by Chief Executive Lance Vervoort, Governance and Assurance Manager Michelle Hawthorne, Project Manager Chelsey Stewart, and Electoral Officer Dale Ofoske.
19. The following appellants and objectors appeared at the hearing:
 - a. Jason Howarth spoke to his appeal
 - b. Speaking on behalf of Community Waikato were:
 - Holly Snape
 - Ray Mudford
 - Neil Tolan
 - Jamie Toko
 - Margaret Evans

Matters raised at the hearing

20. Mayor Paula Southgate and Chief Executive Lance Vervoort, explained the process the Council had followed in carrying out its representation review and reaching its final proposal. They emphasised the following points:
 - a. The Council is making significant change to its representation arrangements through establishing Māori wards and introducing STV. Together the two changes introduce considerable complexity for the community
 - b. The Council had carried out an extensive review in 2018, in particular on communities of interest, and the information gathered through that exercise is recent enough to still be relevant
 - c. There had been significant engagement with Māori in the development of its review and the final proposal generally reflected their desires
 - d. The Council gave considerable thought to the general ward structure, including whether the East/West divide is still relevant or, conversely, whether there should be four general wards
 - e. It opted for continuation of the current two general wards noting that there was general support for this in the submissions received

¹ This appeal had the support of 21 named community advocates and activists.

- f. In relation to community boards it noted that only 10% of submissions had commented on this issue
 - g. Any change to establish community boards would need to be justified by more consultation with the community
 - h. It was difficult to engage in nuanced consultation with the community about community boards during the pandemic
 - i. Rather than establish community boards the Council had decided to establish two community committees, one for the area of each general ward
 - j. The Council had taken the community board issue as one to explore further rather than one to act on immediately
 - k. The Council is confident in the quality and coverage of its overall engagement with the community
 - l. The Council had resolved to recommend to the new Council that it carry out a further review prior to the 2025 local elections, which could take in to account further population growth and the experience of the proposed community committees.
21. The appellants emphasised the following points in opposition to the Council's proposal:

Community Waikato

- a. A driver for the push for community boards was the fact that people generally didn't engage with Council, finding it a daunting experience, resulting in missed opportunities
- b. Society faces big challenges where often the solutions could be found at the grassroots level
- c. Community boards would fill a gap by encouraging village democracy
- d. Community boards are a new concept, but only in Hamilton. They operate successfully elsewhere.
- e. Feedback received in Hamilton since the topic had been raised had been positive
- f. Larger institutions often have difficulty engaging at the grassroots level and community boards would help fill the gap created by that
- g. Community Waikato's vision is that there should ultimately be community boards covering all of Hamilton City, but they were currently focused on the four suburbs with greatest need
- h. Historically those suburbs had not had not had elected members living in them
- i. A large number of people had been involved in the background helping to develop the proposal so there was a considerable body of people and knowledge available to support community boards
- j. There were also a number of community assets that could support community boards.

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Jason Howarth

- a. Jason Howarth's key concern was that the proposed arrangements had resulted in significantly different voting powers for people in the same geographic area merely as a result of ethnicity
- b. He thought this was an unforeseen consequence of the changed legislation on Māori wards but that it potentially raised some Bill of Rights issues
- c. He had proposed two possible options for addressing the issue.

Matters for determination by the Commission

22. Section 19R of the Act makes it clear that the Commission, in addition to consideration of the appeals and objections against a council's final representation proposal, is required to determine, in the case of a territorial authority, all the matters set out in sections 19H and 19J which relate to the representation arrangements for territorial authorities. This interpretation was reinforced by a 2004 High Court decision which found that the Commission's role is not merely supervisory of a local authority's representation arrangements decision. The Commission is required to form its own view on all the matters which are in scope of the review.
23. The matters in the scope of the review are:
 - whether the Council is to be elected from wards, the district as a whole, or a mixture of the two
 - the number of councillors
 - if there are to be wards, the area and boundaries of wards and the number of members to be elected from each ward
 - whether there are to be community boards
 - if there are to be community boards, the area and boundaries of their communities, and the membership arrangements for each board.

Key considerations

24. Based on the legislative requirements, the Commission's *Guidelines for local authorities undertaking representation reviews* (the Guidelines) identify the following three key factors when considering representation proposals:
 - a. communities of interest
 - b. effective representation of communities of interest
 - c. fair representation for electors.

Communities of interest

25. The Guidelines identify three dimensions for recognising communities of interest:
 - a. *perceptual*: a sense of identity and belonging to a defined area or locality as a result of factors such as distinctive geographical features, local history, demographics, economic and social activities
 - b. *functional*: ability of the area to meet the needs of communities for services such as local schools, shopping areas, community and recreational facilities, employment, transport and communication links
 - c. *political*: ability to represent the interests of local communities which includes non-council structures such as for local iwi and hapū, residents and ratepayer associations and the range of special interest groups.
26. We note that in many cases councils, communities and individuals tend to focus on the 'perceptual' dimension of communities of interest. That is, they focus on what intuitively they 'feel' are existing communities of interest. While this is a legitimate view, more evidence may be required to back this up. It needs to be appreciated that the other dimensions, particularly the 'functional' one, are important and that they can also reinforce the 'sense' of identity with an area. In other words, all three dimensions are important but should not be seen as independent of each other.
27. In addition to demonstrating existing communities of interest, evidence also needs to be provided of *differences* between neighbouring communities, i.e. that they may have "few commonalities". This could include the demographic characteristics of an area (e.g. age, ethnicity, deprivation profiles) and how these differ between areas, and evidence of how different communities rely on different services and facilities.

Effective representation of communities of interest

28. Section 19T of the Act requires the Commission to ensure that:
 - a. the election of members of the Council, in one of the ways specified in section 19H (i.e. at large, wards, or a combination of both) will provide effective representation of communities of interest within the district
 - b. ward boundaries coincide with the boundaries of the current statistical meshblock areas determined by Statistics New Zealand and used for parliamentary electoral purposes
 - c. so far as is practicable, ward boundaries coincide with community boundaries (where they exist).
29. 'Effective representation' is not defined in the Act, but the Commission sees this as requiring consideration of factors including an appropriate number of elected members and an appropriate basis of election of members for the district concerned (at large, wards, or a mix of both).
30. The Commission's Guidelines note that what constitutes effective representation will be specific to each local authority but that the following factors should be considered:
 - a. avoiding arrangements that may create barriers to participation, such as at elections by not recognising residents' familiarity and identity with an area

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- b. not splitting recognised communities of interest between electoral subdivisions
 - c. not grouping together two or more communities of interest that share few commonalities of interest
 - d. accessibility, size and configuration of an area including access to elected members and vice versa.
31. Within the scope of a representation review, councils can achieve effective representation of communities of interest by having members elected by wards, at large, a mixture of wards and at large. As the Council has resolved to establish Māori wards, it must also establish at least one general ward.
32. While not a prescribed statutory requirement, the Guidelines suggest that local authorities consider the total number of members, or a range in the number of members, necessary to provide effective representation for the district as a whole. In other words, the total number of members should not be arrived at solely as the product of the number of members per ward, if there are to be wards.
33. Section 19A of the Act provides that a territorial authority shall consist of between 5 and 29 members, excluding the mayor. The Hamilton City Council initially comprised a mayor and 17 councillors on its constitution in 1989. This number was reduced to 13 in 1992 and then to the current 12 in 2007. Hamilton City initially had five wards in 1989 and this was reduced to three in 1998. The current two wards, divided by the Waikato River, were established for the 2007 elections.
34. In this review the Council's proposal for 14 councillors plus the Mayor was supported by the Council's submission process and there were no appeals relating to this matter. The proposal for three wards – one Māori and two general – was also supported by the submission process, although Jason Howarth's appeal does raise some alternatives to this arrangement.

Jason Howarth's appeal

35. Mr Howarth's principal concern is that voters on the Māori electoral roll will be able to vote for fewer councillors than voters on the general electoral roll and that this is inequitable.
36. While Mr Howarth's broad concern falls within the range of issues that may be dealt with by the Commission neither of his two proposed solutions are ones the Local Electoral Act allows. In short, they allocate numbers of councillors to wards in a manner that does not fit with the formula set out in Schedule 1A of the Act.

37. His two options are:

Option1

Area	Councillors	Voters
East Ward	5	All electors
West Ward	5	All electors
At large	2	Maori roll
At large	2	General roll

Option 2

Area	Councillors	Voters
At large	12	All electors
Māori Ward	2	Māori roll

38. As an observation it is not uncommon for different wards to elect different numbers of councillors. It is in fact quite common. The difference is that in the majority of cases the difference is geographic whereas in this case (and in most other districts with Māori wards) the difference is based on different electoral rolls.
39. Mr Howarth also raises some issues related to the New Zealand Bill of Rights Act 1990 (the Bill of Rights).
40. Firstly, he argues that the Māori wards legislation is in breach of the Bill of Rights, specifically section 12(a) which provides that:
- Every New Zealand citizen who is of or over the age of 18 years ... has the right to vote in genuine periodic elections of members of the House of Representatives, which elections shall be by equal suffrage ...*
41. He suggests that the fact voters on the Māori electoral roll will vote for fewer councillors than voters on the general electoral roll is a breach of the equal suffrage requirement.
42. A flaw in this argument is that while the appeal relies on the underlined words above it omits reference to “elections of members of the House of Representatives”. The provision applies to parliamentary elections but not local elections.
43. Mr Howarth’s second argument is that the Commission has the powers of the District Court in the civil jurisdiction and this would mean that the Commission is required to uphold the New Zealand Bill of Rights Act. This view is presumably based on section 34(1)(a) of the Local Government Act. That provision only, however, provides the Commission has the powers of the District Court exercising its civil jurisdiction in respect of citing parties and maintaining order at any meeting or hearing. That is a very limited application and does not extend to what Mr Howarth argues applies to the Commission
44. As a statutory decision-maker the Commission should not make decisions that are in breach of the Bill of Rights and we do not intend to do so. However Mr Howarth’s key argument is that the legislation is in breach of the Bill of Rights rather a discretion exercised by the Commission. In effect he is asking the Commission to amend the legislation, which are not able to do.

45. Mr Howarth suggests that the Commission could use section 34 of the Inquiries Act 2013 to refer the point he raises to the High Court to seek a decision as to whether the Bill of Rights has been breached. It is correct that section 34 of the Inquiries Act applies to the Commission. It provides that an Inquiry may refer a question of law to the High Court. However this ability only relates to the Commission functions under the Local Government Act 2002 not the Local Electoral Act.
46. In any case, if the High Court did consider this matter, and if it did declare a provision of the Māori ward provisions to be in breach of the Bill of Rights the legislation would not change. At most it would create a state of uncertainty as the law remains in place. In the meantime, the Commission still has to make a representation determination for Hamilton City by 10 April 2022 and the only legislation enabling it to do so is that set out in the current Local Electoral Act 2001.
47. We have therefore decided to confirm the Council's proposal for a council of 14 councillors elected from three wards as being a proposal that is legally compliant and has the overall support of the community as indicated through the Council's submission and other engagement processes. Based on what we have heard we are satisfied that it will provide effective representation of communities of interest.

Fair representation for electors

48. For the purpose of achieving fair representation for the electors of a district, section 19V(1) of the Act requires that the population of each ward divided by the number of members to be elected by that ward must produce a figure no more than 10 per cent greater or smaller than the population of the district divided by the total number of members (the '+/-10% rule').
49. However, section 19V(3)(a) permits non-compliance with the '+/-10% rule' for territorial authorities in some circumstances. Those circumstances are where:
 - a. non-compliance is required for effective representation of communities of interest within island communities or isolated communities
 - b. compliance would limit effective representation of communities of interest by dividing a community of interest
 - c. compliance would limit effective representation of communities of interest by uniting two or more communities of interest with few commonalities.
 - d. The ward and membership arrangements determined by the Council comply with the +/-10% rule. Consequently, we are not required to consider this matter further. Accordingly we have upheld the ward and membership arrangements proposed by the Council.
50. The ward and membership arrangements determined by the Council comply with the +/-10% rule. Consequently, we are not required to consider this matter further. We have upheld the ward and membership arrangements proposed by the Council.

Communities and community boards

51. Section 19J of the Act requires every territorial authority, as part of its review of representation arrangements, to determine whether there should be community boards in the district and, if so, the nature of those communities and the structure of

the community boards. The territorial authority must make this determination in light of the principle in section 4 of the Act relating to fair and effective representation for individuals and communities.

52. The particular matters the territorial authority, and where appropriate the Commission, must determine include the number of boards to be constituted, their names and boundaries, the number of elected and appointed members, and whether the boards are to be subdivided for electoral purposes. Section 19W also requires regard to be given to such of the criteria as apply to reorganisation proposals under the Local Government Act 2002 as is considered appropriate.
53. Community Waikato seeks the establishment of four community boards in those areas of Hamilton City that are the most highly deprived and the most ethnically diverse. They are:
 - Fairfield-Enderley
 - Nawton
 - Central
 - Melville
54. While the appeal seeks the four community boards listed above the longer-term goal is community boards across the whole city.
55. At the hearing the representatives of the appellant spoke about the gaps they considered community boards would fill, particularly in relation to engaging with communities and in giving a voice to communities. They considered, also, that the necessary social and community infrastructure already existed to give the establishment of boards a strong basis.
56. The Council's response was somewhat more cautious viewing it as a new idea for Hamilton requiring exploration rather than immediate action, and ultimately consultation with the community. The Council considered it had effective mechanisms for engagement with the community and was continually trying to enhance these.
57. The reasons recorded by the Council for not establishing community boards were:
 - *Effective representation would not be enhanced by establishing community boards, having considered the identified communities of interest in terms of distinctiveness, representation, access and effective governance; and*
 - *If wards are confirmed, ward councillors are likely to provide sufficient representation of communities of interest and therefore ensure adequate representation and access between elected members and the population.*
58. These reasons are somewhat more conservative than the views expressed by the Council at the hearing where the Mayor conveyed a willingness to explore the issue. As noted above when the Council decided not to establish community boards it also resolved to seek a staff report on a process to establish a trial for two community committees (matching the two wards).

59. Overall we are not persuaded to change the Council's proposal to not establish community boards for the 2022 local elections. We have two concerns which are discussed below.
60. Firstly, while supporting the concept of community boards as a component of local government, it is not clear that the community board model is the one best suited to meet the broader aims of the appellant. The impression we gained was that what is desired is a fairly activist, advocacy-based model. The Council could have a role in facilitating this, but we feel that considering alternative models as well as community boards may be helpful. We strongly suggest that the Council considers these alongside its review of community committees. Although the context may be slightly different, the Flaxmere Planning Committee established some years ago with the assistance of the Hastings District Council provides one alternative model.
61. Secondly, although the appellants consider that community boards for Hamilton City are "ready to go" we consider the issue requires more consideration by the Council and the broader community than has so far been possible.
62. Consequently, we have decided to uphold the Council's decision to not establish community boards.
63. The Council has indicated that it will explore the concept of community committees while the Mayor has indicated that broader issues will be explored. Although we cannot bind the Council into how it deals with this matter in the future we hope that in the exploring the issue it takes a wide ranging and forward-thinking view.

Future review

64. The Council has indicated through a resolution and through advice at the hearing that it will recommend to the Council elected at the 2022 local elections that a further representation review be undertaken prior to the 2025 elections.
65. It will allow the Council to consider a range of issues – most immediately the experience of holding elections by STV and representation through Māori wards, the Council's and the community's experience of community committees and associated initiatives, and beyond that the population growth Hamilton City continues to experience and the associated expansion of the built environment.
66. At the 2006 census Hamilton City's population was 129,588. The estimated population in 2020 was 176,900 (or a growth rate of 36.4% over 14 years). Current projections are that Hamilton City's population will be between 205,000 and 218,000 by 2033. In addition to population growth Hamilton City has expanded geographically. In 2003 the Temple View area was included in the City, and, in 2011, five areas to the north and east, including 700 hectares at Ruakura and several areas between the east of the city and the then under construction Waikato expressway.
67. We look forward to seeing the considerations and outcomes of the next representation review.

Commission's determination²

68. Under section 19R of the Local Electoral Act 2001, the Commission determines that for the general election of the Hamilton City Council to be held on 8 October 2022, the following representation arrangements will apply:
- a. Hamilton City, as delineated on Plan LG-016-2013-W-1 deposited with the Local Government Commission, will be divided into three wards.
 - b. Those three wards will be:
 - (i) the Kirikiriroa Maaori Ward, comprising the area delineated on Plan LG-016-2022-W-2
 - (ii) the East General Ward, comprising the area delineated on Plan LG-016-2013-W-2
 - (iii) the West General Ward, comprising the area delineated on Plan LG-016-2013-W-1.
 - c. The Council will comprise the mayor and 14 councillors elected as follows:
 - (i) 2 councillors elected by the electors of the Kirikiriroa Maaori Ward
 - (ii) 6 councillors elected by the electors of the East General Ward
 - (iii) 6 councillors elected by the electors of the West General Ward.
69. As required by section 19T(b) of the Local Electoral Act 2001, the boundaries of the above wards coincide with the boundaries of current statistical meshblock areas determined by Statistics New Zealand and used for Parliamentary electoral purposes.

Local Government Commission



Commissioner Brendan Duffy (Chair)



Commissioner Janie Annear



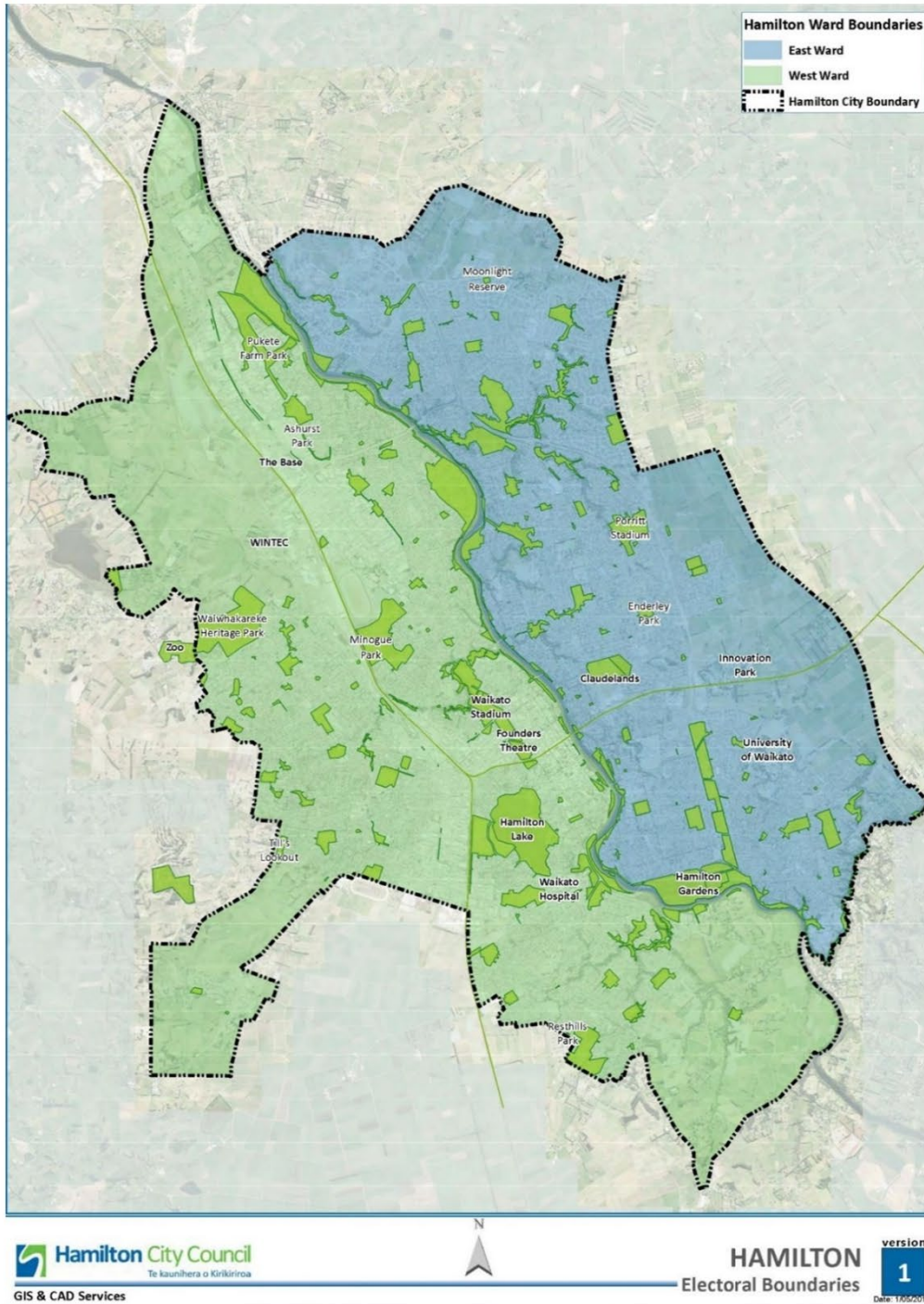
Commissioner Sue Piper

8 April 2022

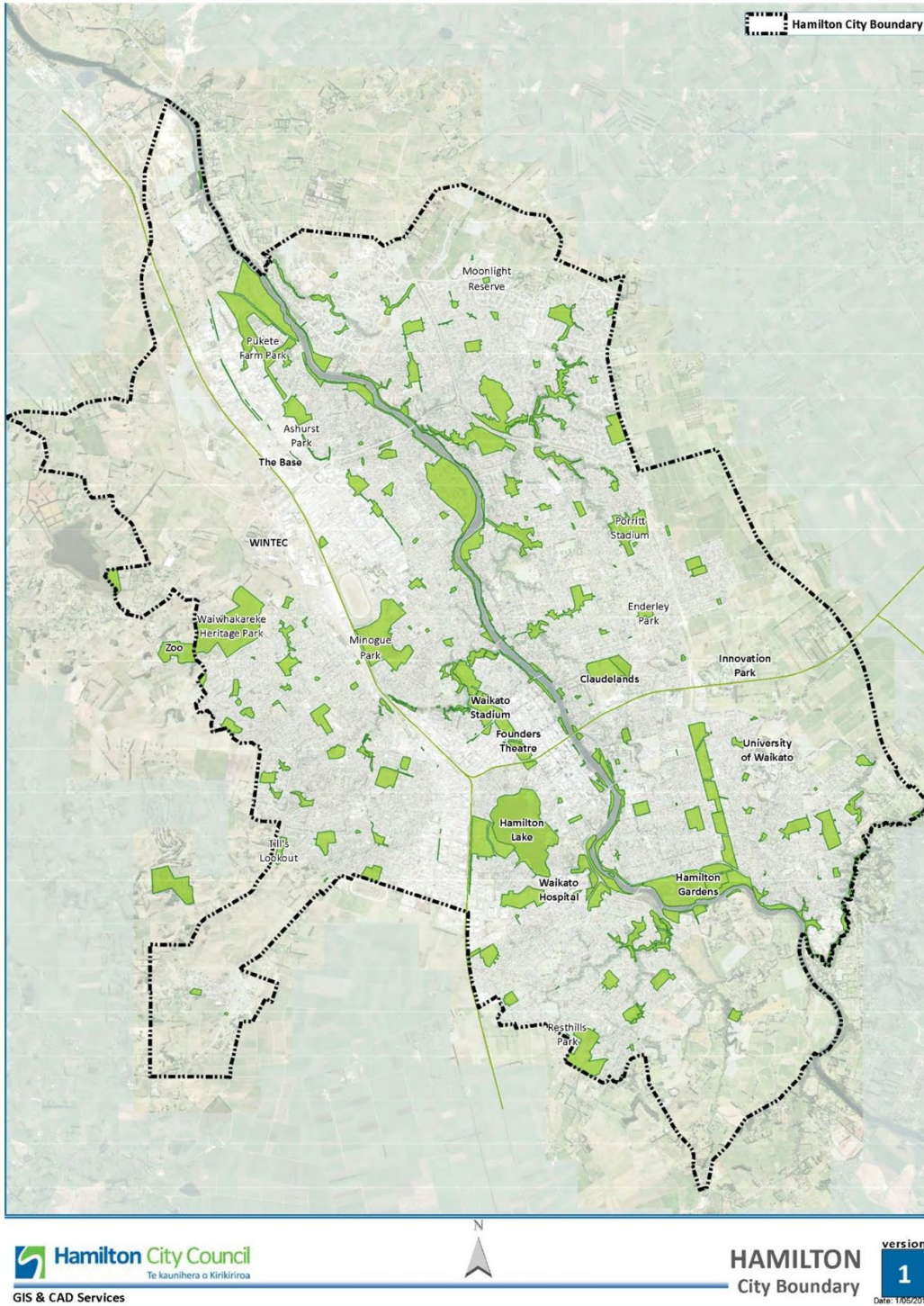
² All plans referred to in this determination are deposited with the Local Government Commission

PROPOSED WARD BOUNDARY MAPS

Map 1: Boundaries for East and West General Wards



Map 2: City-wide ward (apply for Maaori city-wide wards)



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M30 Electoral Boundaries

Council Report

Committee:	Council	Date:	12 May 2022
Author:	Dan Finn	Authoriser:	David Bryant
Position:	People, Safety & Wellness Manager	Position:	General Manager People and Organisational Performance
Report Name:	Report from the Strategic Risk and Assurance Committee - Safety and Wellness		

Report Status	<i>Open</i>
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1. To inform the Council on safety and wellness strategic progress, performance, and activities for the period covering 1 November 2021 to 31 January 2022.
2. The Safety and Wellness Report – 1 November 2021 to 31 January 2022 as presented to the Strategic Risk and Assurance Committee is provided as **Attachment 1**.

Staff Recommendation - *Tuutohu-aa-kaimahi*

3. That the Council receives the report.

Attachments - *Ngaa taapirihanga*

Attachment 1 - Safety and Wellness Report - 1 November 2021 to 31 January 2022 .

Council Report

Committee:	Strategic Risk and Assurance Committee	Date:	30 March 2022
Author:	Dan Finn	Authoriser:	David Bryant
Position:	People, Safety & Wellness Manager	Position:	General Manager People and Organisational Performance
Report Name:	Safety and Wellness Report - 1 November 2021 to 31 January 2022		

Report Status	<i>Open</i>
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Purpose - *Take*

1. To inform the Strategic Risk and Assurance Committee on safety and wellness strategic progress, performance, and activities for the period covering 1 November 2021 to 31 January 2022.

Staff Recommendation - *Tuutohu-aa-kaimahi*

2. That the Strategic Risk and Assurance Committee receives the report.

Executive Summary - *Whakaraapopotanga matua*

3. This report is intended to provide the Strategic Risk and Assurance Committee continued visibility on progress of key strategic activities that are aligned to risks, relationships and resources. To provide Members with a more comprehensive overview on our progress we have also included further updates on wider activities, assurance, and successes.
4. The Safety Management System (SMS) has been reviewed and updated by the Safety & Wellbeing Team. It has been aligned with the ISO45001 international standard with a final draft submitted to the Executive Leadership Team (ELT) for endorsement. It is also intended that the final draft is tabled at the next Safety Governance Committee scheduled for 24 March 2022. Once approved a communication plan will be put in place to inform all business units. A simplified one pager outlining the fundamentals of the SMS is attached (**Attachment 1**).
5. Project Ora has been a priority and building the Safety Events, Hazard & Risk and Inspection Checklist Modules is well underway to complete Phase 1. Good progress is being made with limitations only as we balance 'business as usual' activities with increasing workloads on key individuals and teams who are being affected by multiple change processes, including the ongoing impact and uncertainty that Covid-19 is having on business continuity.
6. Recommendations and corrective actions identified through our 'State of Safety' programme have been assigned to each business unit. The Safety & Wellbeing Business Partners continue to work collaboratively to support and guide business units to achieve key actions assigned. Covid-19 continues to restrict some work and major projects have been given priority.

7. Progress is being made with the Contractor Management workstream, including a Contractor Management Induction Booklet created and currently out for consultation with key stakeholders. Monitoring forms have been finalised and now form part of Phase 1 of the Ora build which contains the inspection templates for audit purposes. Several key activities within this complex body of work are still being completed.
8. Staff consider the matters in this report have low significance and that the recommendations comply with Council's legal requirements.

Discussion - *Matapaki*

Strategic Progress - *Te ahunga whakamua rautaki*

9. The following workstreams outline Council's progress on our 'safety reset' activities previously communicated. They are designed to strengthen and support our wider safety and wellness strategy and will continue to formulate part of this report until full completion.

Workstream	Status	Next milestone	Comment
SafePlus review recommendations	40%	Consolidate actions & recommendations	Several recommendations will be completed via Ora/SMS streams
SMS development and implementation	100%	SMS finalised and submitted to ELT for endorsement	Communicate out to the business once approved
Technology and communication (Ora)	60%	Safety Events / Hazard & Risk and Inspection Templates comprise Phase 1 of the rebuild	This work is a key priority to give clear oversight of what events are occurring and to whom, with robust reporting for relevant key stakeholders. Good progress is being made
Critical risk management	30%	Organisational critical risks have been confirmed. Risk owners to be identified.	Review bowties that have been completed. Engaging Coachio Group to complete bowtie risk assessment training on remainder critical risks.
Contractor management	80%	Confirmed workstream team. Consultation with several parties (Procurement, Facilities/ Decentralised Team)	Contractor Induction Booklet finalised and out for consultation. Inspection templates created and being put into Ora.
Resourcing and structure review	100%	The Safety & Wellness Team have a full complement of people now on board.	Aligning with the Business Partnering Model meeting key stakeholders and building on a collaborative approach to support Council in health, safety & wellbeing

Table 1 Key workstreams

Risks and Incidents - *Ngaa Tuuraru me ngaa Paanga*

10. Incidents profiled for the quarter are summarised in figure 1 below.

11. There was a total of 13 injuries this quarter, compared to 4 in the previous period. Of those injured, 3 resulted in lost time and 10 required medical treatment. Near hit reporting has slightly increased from the previous period with 30 near hits recorded.



12. There was one notifiable event to the regulator during this quarter. This event was a serious burn as the result of a Council worker who was mowing lawns and noticed that the mower was overheating. The worker stopped to investigate and opened the hood of the mower and attempted to open the radiator cap. The cap burst off and steam was released, burning the worker on the hand and forearm. The worker sustained serious burns and they were admitted to hospital for 1 night and were put off work from 17 January to 27 February 2022 (a total of 42 days).
13. There was 1 serious harm incident recorded (not WorkSafe notifiable) on 11 January 2022 when a drunk male was present at the Hamilton Gardens and was asked to leave. As he was leaving the Gardens, he splashed a liquid substance at the City Safe and Hamilton Gardens Team members. It was confirmed that this substance was a bodily fluid, and one of our workers had received splashes to their face and corner of their mouth. All team members involved sought immediate medical assessments to rule out any risk of infection, were offered EAP and well supported by their managers. The subsequent medical test results were negative.

Contractor WorkSafe Notifiable Events

14. On 10 January 2022 a WEL RMU527 unit failed with an internal fault. A hole was blown through the case with smoke, sparks and a release of electrical energy occurring. There was no fire. One of our Council workers was walking close by. They were not injured. On 17 January 2022 Waipa Civil had potholed to locate services, then as the drill head went underneath the gas pipe, it disturbed the existing ground material at the bottom of the pothole. This caused the material at the top of the pothole to dislodge and fall in the hole. It hit the gas lateral on the way down, causing it to break off at the main.
15. Further details on the notifiable events above can be found in **Attachment 2**.

Relationships - *Whanaungatanga*

16. A simplified one-page version of the Safety & Wellness Strategy continues to be communicated throughout the organisation to help support and embed continuous safety improvement in the way we do things at Council. This is being achieved by a collaborative partnering approach adopted by Safety & Wellbeing Business Partners.

17. Covid-19 continues to impact business continuity and there is much work continuing through the Incident Management Team (IMT) to provide the organisation with guidance and clarity based on the information available to us.
18. After much work was put into risk assessments to determine those roles that would be required to be fully vaccinated, it was determined that all roles had an element of risk that was deemed unacceptable. After a thorough consultation process Council implemented a Covid-19 Vaccination Policy (**Attachment 3**), which included the mandating of all employees to be fully vaccinated to carry out their duties at all Council sites and facilities.
19. The landscape continues to change each week and with Government direction we have now moved into Phase 3 of the red setting under the Covid-19 Protection Framework (Traffic Light System). We continue to support our essential and critical workers who are household contacts and who need daily RATs (with a negative result) to be able to work, as well as turning our focus to utilising RATs for monitoring and surveillance purposes at critical sites across the organisation.
20. The annual WorkWell Survey has been scheduled and will open on the 7th of March 2022 for two weeks. The survey is targeted at the wellbeing of our people and once survey results are shared with us, we will ensure that action plans, programmes and key initiatives are designed to address and improve areas highlighted where possible.
21. A survey was sent to Elected Members to better understand the confidence and experience held by them in the health and safety area, and the results of the survey indicated that there are varying levels of expertise. What Elected Members can expect is:
 - i. visits to business units to see the risk associates with tasks and duties done (covid permitting);
 - ii. an adapted mentoring/coaching approach to leverage experience across Elected Members;
 - iii. Online 'Due Diligence' training with Coachio Group which Elected Members can complete in their own time and at their own pace; and
 - iv. Continued support from the Safety & Wellbeing Team.

Given it is an election year it is suggested that face-to-face workshops be organised with new and re-elected members after this time.

22. The Safety & Wellbeing Team have started providing ELT with a monthly Safety & Wellbeing Report to give them greater oversight of what's happening across the whole of Council in this area. A copy of the first report submitted to ELT is provided as **Attachment 4**.
23. The Safety Governance Committee (SGC) met on 1 November 2021, via audio-visual link due to Covid-19 alert level restrictions. The next meeting is scheduled for 24 March 2022. An excerpt from the minutes is below, and the full minutes are provided as **Attachment 5**.

'The SGC undertook a critical risk deep dive on Hazardous Substances, with representation and insights provided by the Community Group in relation to the pool incident at Waterworld. It was agreed that more time was needed to look at the 'What Matters Most' survey. Health & Safety training for Elected Members was to be explored and a focus was needed to be placed on the proposed Plant, Structures and Working at Heights Review which commences in early 2022.'

Resources - Rauemi

24. The Safety & Wellness Team are establishing momentum and building an excellent collaborative working relationship with business units to be able to support and advise them.

25. The team are one Business Partner down since early November 2021 as the result of a serious non-work-related injury. At this stage we are not sure when they will be able to return-to-work due to the seriousness of her injury.

Assurance - *Kii Taurangi*

26. The Safety & Wellbeing Team continue to complete their due diligence across the business units to establish what current processes are in place, how effective they are and strive to establish consistency across the organisation.
27. The completion of some of the big projects of work being worked on by the Safety & Wellbeing Team link directly into the assurance pillar of the SMS.

Success and Recognition - *Angituutanga me ngaa Mihi*

28. In the wake of recent Cyclone Dovie we wanted to recognise the great work done by the City Delivery Teams in responding to the damage done across Hamilton City. There were teams who were out all day and night attending to water main breaks, multiple pump station failures, and arborists cleaning up and clearing damage from fallen trees across roads, which had also damaged many power lines during the event. Teams are still finding damaged and unsafe trees around the city while continuing the clean-up process. The damage caused by the cyclone is expected to take around 8-10 weeks to clean up at this stage.

Financial Considerations - *Whaiwhakaaro Puutea*

29. This is a regular operating activity funded through the Long-Term Plan.

Legal and Policy Considerations - *Whaiwhakaaro-aa-ture*

30. Staff confirm that any recommendations in this report comply with Council's legal and policy requirements.

Wellbeing Considerations - *Whaiwhakaaro-aa-oranga tonutanga*

31. The purpose of Local Government changed on the 14 May 2019 to include promotion of the social, economic, environmental, and cultural wellbeing of communities in the present and for the future ('the 4 well-beings').
32. The subject matter of this report has been evaluated in terms of the 4 well-being's during the process of developing this report.
33. This report addresses matters of safety and wellbeing. There are no known social, economic, environmental, or cultural considerations associated with the matters in this report.

Risks - *Tuuraru*

34. There are no risks associated with the recommendations in this report.

Significance & Engagement Policy - *Kaupapa here whakahira/anganui*

Significance

35. Staff have considered the key considerations under the Significance and Engagement Policy and have assessed that the matter(s) in this report has/have a low level of significance.

Engagement

36. Given the low level of significance determined, the engagement level is low. No engagement is required.

Attachments - *Ngaa taapirihanga*

Attachment 1 - SMS One Pager

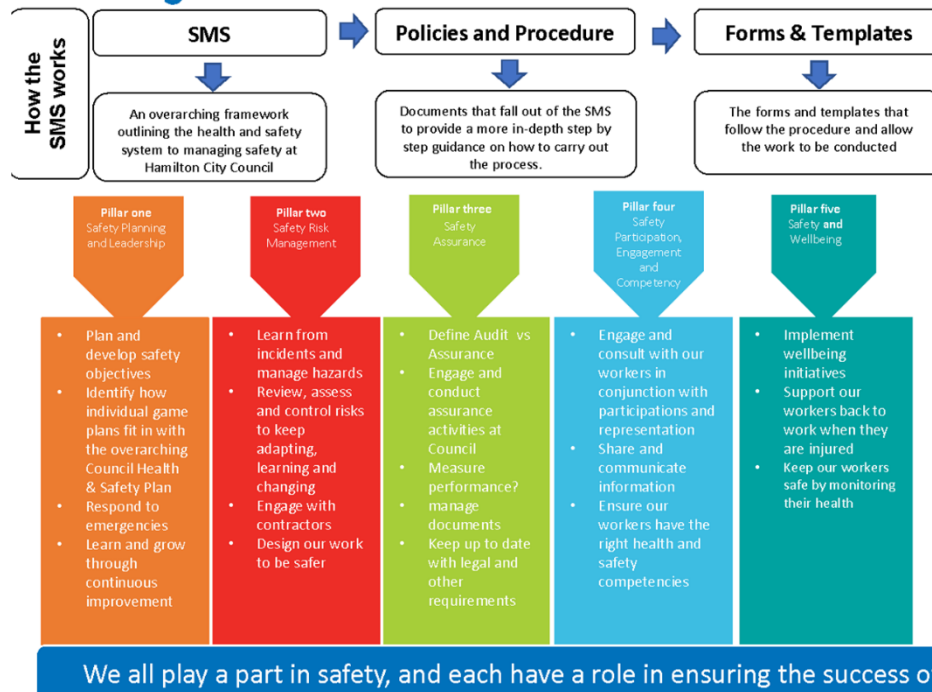
Attachment 2 - Notifiable and Serious Harm Events

Attachment 3 - Covid Vaccination Policy 031221

Attachment 4 - SW Monthly Report

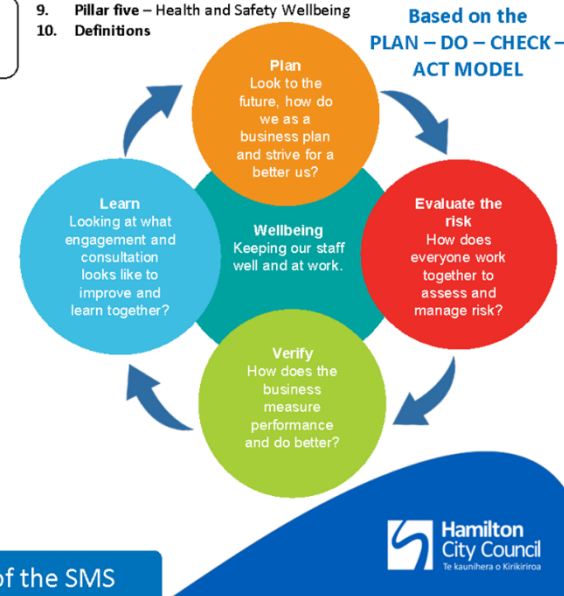
Attachment 5 - Safety Governance Committee Minutes Nov 21

Safety Management System at a glance



SMS FRAMEWORK DOCUMENT STRUCTURE

1. **Introduction** – How to use the document
2. **Health & Safety Policy** – Leadership Commitment
3. **Roles & Responsibilities** – How each role plays a part
4. **Overarching Framework** – The 5 Pillars
5. **Pillar one** – Health and Safety Leadership and Policy
6. **Pillar two** – Health and Safety Risk Management
7. **Pillar three** – Health and Safety Assurance
8. **Pillar four** – Health and Safety Participation, Engagement and Competency
9. **Pillar five** – Health and Safety Wellbeing
10. **Definitions**



Attachment 2 – Notifiable Events

During this reporting period (1 November 2021 to 31 January 2022) there was one notifiable event involving a Council employee and one for a contractor, with two other serious harm events occurring. A brief summary is below:

Date	Incident summary	Status
17 January 2022	<p>WorkSafe Notifiable - Serious Injury While a worker was mowing it was noticed that the mower was overheating. The worker stopped and hopped off to investigate. They opened the hood of the mower and attempted to open the radiator cap. The cap burst off and steam was released burning the worker on the hand and forearm.</p>	<ol style="list-style-type: none"> 1. A regular maintenance programme to clean screens with an air gun and air compressor to maintain good airflow has been introduced which helps prevent mowers from overheating. 2. The team all now operate out of Duke Street to enable management oversight before start of day. 3. Workers reassured that they do not take caps of radiators when hot.
11 January 2022	<p>Serious Harm Incident The City Safe Team responded to a situation when a drunk male was present at the Hamilton Gardens. They asked the man to leave the gardens, and as he was leaving he splashed a liquid substance at the City Safe and Hamilton Gardens Team members.</p> <p>On the 12 January the City Safe Team received information confirming that the liquid was a bodily fluid, and one of our workers had received splashes to their face and corner of their mouth. The City Safe Team received information that the male offender was positive for infectious viruses that could have been transmitted in the event.</p>	<ol style="list-style-type: none"> 1. All team members involved were seeking immediate medical assessments, had been offered EAP and well supported by their managers. 2. The incident was reported to the Police and a Trespass Notice was issued to the Offender to enter the Hamilton Gardens. 3. Team members stood down from work until blood test results were available. 4. Blood tests were negative.

10 January 2022	<p>Potential Serious Harm Event – Contractor</p> <p>At the Pukete Waste Water Treatment Plant a WEL RMU527 unit failed with an internal fault. A hole was blown through the case with smoke, sparks and a release of electrical energy occurring. There was no fire. One of our Council workers was walking close by. They were not injured, however this was serious potential that they could have been.</p>	<ol style="list-style-type: none"> 1. HCC team responded immediately with WEL arriving in 7 mins from my call with FENZ in tow. The Area was cordoned off immediately. 2. The fault was due to an electrical flashover from the high voltage termination of the switchgear to the metal enclosure. The flashover is believed to be due to a breakdown of the high voltage insulation material (Raychem insulation material) allowing moisture ingress and electrical tracking. 3. WEL are replacing the RM527 unit.
17 January 2022	<p>WorkSafe Notifiable – Contractor</p> <p>Waipa Civil Limited had potholed to locate services, then as the drill head went underneath the gas pipe, it disturbed the existing ground material at the bottom of the pothole. This caused the material at the top of the pothole to dislodge and fall in the hole. It hit the gas lateral on the way down, causing it to break off at the main.</p>	<ol style="list-style-type: none"> 1. First Gas were called out and isolated the gas 2. Waipa Civil Limited have notified WorkSafe and Hamilton City Council

ATTACHMENT 3

Date Approved by ELT:	3 December 2021
Next review date:	3 June 2022
Document number:	D-4013352
Associated documents:	N/A
Sponsor/Group:	People and Organisational Performance
Policy Owner:	People, Safety and Wellness

Management Policy – COVID-19 Vaccination Policy

Te Puutake - Purpose

1. The purpose of this Policy is to outline Hamilton City Council's ('Council') position and requirements in relation to COVID-19 vaccinations to reduce the risk of contracting or transmitting Covid-19 for all Employees, Contractors and Volunteers.
2. In consultation with employees, Council has conducted a risk assessment examining exposure and transmission risks across most roles within the organisation. We also looked at the range of other controls available and how those may be applied across the organisation.
3. Council has an obligation to provide a safe and healthy working environment for all our workers under the [Health and Safety at Work Act 2015](#), which extends to others that we engage, including our customers, visitors and wider communities and iwi. This commitment is reinforced through our organisational purpose, to 'Improve the wellbeing of Hamiltonians' and places front and centre our non-negotiable ethos: Safety first in all we do.
4. Under the Health and Safety at Work Act 2015 we have a duty to take all reasonably practicable steps to eliminate, or otherwise minimise, any risks to our people. Council continually assesses risks within our workplaces, including the risk that is introduced by having COVID-19 in the community.
5. Vaccinations play a key role in managing the risk of COVID-19 in the workplace as they provide an effective way to mitigate the risk to business continuity arising from workplace infection and support the continuing provision of our services and job security for our people. More importantly, they are crucial in reducing the likelihood of our people and the community accessing our workplaces and becoming infected with COVID-19 in the course of the work that we do and reducing the severity of the illness if anybody is infected despite best efforts being made to avoid that happening.

Overview

6. Council recognises that vaccination against COVID-19 represents an important risk mitigation to assist in bringing the spread and impact of the disease under control.

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Vaccines help protect people by reducing their likelihood of becoming infected and by

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either preventing or reducing symptoms of COVID- 19 which is helpful in reducing the risk of COVID-19 spreading in the workplace.

Ngaa Tikanga Whakahaere - Principles of Policy

7. The guiding principles for this policy are:

- To effectively manage the health and safety of all people in the workplace through our risk management process
- Support the Governments vaccination programme and the ethos behind the COVID-19 Protection Framework
- Adhere to all Public Health Orders issued by Government to manage COVID-19, which takes precedence over this Policy and any other Council issued instructions

Te Whaanuitanga – Scope

8. This Policy applies to all Employees, Contractors and Volunteers of the Council, regardless of whether they work full time, part time or on a casual basis and irrespective of location.
9. This policy also extends to any contractors and temporary staff performing work for Council or who are present in the workplace or engaging with our employees through the course of their work.
10. All Council Business Units are required to comply with this Policy in its entirety.
11. COVID-19 vaccination requirements applicable to independent contractors and suppliers will be set out in the Supplier Requirements.
12. This Policy has been drafted based on the advice and information provided by government departments at the time. However, given the changing nature of matters relating to COVID-19, this Policy will be reviewed in 6 months' time, or earlier if required, and changes made where necessary. Staff will be advised of any further updates to this Policy.

Aahurutanga – Guidelines

Accessing our workplaces

13. While vaccination greatly reduces a person's chance of infection with COVID-19 as well as likelihood of severe illness resulting from infection, transmission can still occur. For this reason, it is important that staff remain vigilant and take appropriate alternative precautions and protections.

Symptoms of COVID-19 include:

- Fever
- Cough
- Fatigue/tiredness
- Loss of taste and/or smell
- Sore throat
- Headache

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- Aches and pain

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14. If you experience any of the above symptoms, or any other cold or flu-like symptoms, you should not come to work. You should notify your People Leader as per the usual process for sick leave. Symptomatic staff should be tested for COVID-19 as soon as possible in accordance with the Ministry of Health's guidelines. Council may require evidence of a negative COVID-19 test returning to work.
15. More information about COVID-19 symptoms and what to do if symptoms develop can be found here [COVID-19-like symptoms](#)
16. All Council employees shall be given reasonable, paid, time off work to enable a COVID-19 test to be taken and to isolate until the result is known if they are displaying COVID-19 symptoms, or if they have returned a positive test result.
17. If a Council employee contracts COVID-19, they must follow all Ministry of Health instructions, notify their People Leader, and may not return to a Council workplace until they return a negative COVID-19 test and are asymptomatic.
18. Council will provide paid special leave to accommodate short-term absences from work relating to COVID-19. If time off is prolonged (longer than three weeks), then we will work with the employee on a case-by-case basis to assist in determining further ongoing support.
19. Vaccination is a key measure for Council to minimise the risk of COVID-19 in the workplace and from the date the COVID-19 Protection Framework comes into force on 3 December 2021:
 - a. Every Council Employee, Contractor or Volunteer who is required to enter one of Council's workplaces to perform their duties must be vaccinated. Council appreciates that not all staff are currently vaccinated and so this requirement will be phased in as follows:

From 13 December 2021: only people who have had at least one COVID-19 vaccination will be allowed on our sites.

From 17 January 2022: only people who are fully vaccinated will be allowed on our sites.
 - b. Every Council Employee, Contractor or Volunteer who enters any of our customer or supplier sites must be fully vaccinated.

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20. 'Fully vaccinated' means having received two doses of the Pfizer COVID-19 vaccine or an equivalent approved by the Ministry of Health. Additional booster vaccinations will also be required to maintain a person's 'fully vaccinated' status as those become applicable.
21. In circumstances where a member of staff has not been vaccinated (due to medical, religious, or personal choice reasons), or provided proof of vaccination by the above date(s), Council will work with those individuals and consider any redeployment options or alternative duties that may be available, including any remote working arrangements. The Chief Executive, the General Manager - People and Organisational Performance, the relevant General Manager of the staff member and the People, Safety and Wellness Manager, will oversee and approve these arrangements on a case-by-case basis.
22. Due to the nature of the work that we do, these options are likely to be very limited. If an alternative is not able to be found, we may be left with no option but to terminate employment.
23. To help us manage our vaccination requirements:
- a. Every Council Employee, Contractor and Volunteer will be asked to disclose their vaccination status, and to update that status as and when it changes (e.g., they receive a booster vaccination).
 - b. Council acknowledges that someone's vaccine status is personal and private information and employees are not obliged to disclose their vaccination status to anyone beyond their People Leader and/or a nominated representative from People, Safety and Wellness for record purposes.
 - c. All vaccination information will be held in a secure, confidential system with restricted access, and in accordance with the Privacy Act 2020. If you choose not to disclose your vaccination status, we will assume you are not vaccinated for the purpose of this Policy.
 - d. All employees have Council's full support in getting vaccinated. For those not vaccinated, reasonable time off on pay will be given (up to one day) to speak to a medical professional regarding the vaccine, and/or to receive the vaccine.
 - e. If an employee has any concerns regarding this Policy, or wishes to discuss their individual circumstances, they are encouraged to talk to their People Leader, a member of the People, Safety and Wellness Team, Health & Safety Representative, or an independent advisor.

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Public Facilities

24. Council will require proof of vaccination (My Vaccine Pass) from the public as a condition of entry into Council facilities e.g., H3 Sites (FMG Stadium, Claudelands and Seddon Park), Hamilton Park Cemetery (crematorium, chapel and other building accesses by the public) our Aquatic Centres, the Hamilton Zoo, Waikato Museum, ArtsPost and i-site, Hamilton Gardens (pavilion, information centre/shop and enclosed gardens), our Libraries, the Municipal Building and Council Chambers, to protect the public and our people from contracting or transmitting COVID-19.
25. As a public service we have an obligation to our community to operate as effectively and efficiently as is possible under the COVID-19 Protection Framework (traffic light system).
26. By implementing the requirements to provide proof of vaccination (or exemption) to gain entry into Council venues and facilities, it logically follows that public will expect that all Employees, Contractors and Volunteers are also vaccinated. For staff working in sectors or business units described as being “higher risk” under the traffic light system (including events, hospitality, close contact services etc.), staff will be legally required to be vaccinated under the Government mandate (Vaccine Pass Mandate).

Risk Assessment

27. The purpose of our risk assessment was to determine the current risk associated with COVID-19, and to assess the effectiveness of control mechanisms, including the use of vaccination as a workplace control, to reduce risk to a level that is deemed acceptable, or as low as reasonably practicable.
28. Using WorkSafe’s [risk assessment approach](#) we worked with relevant people leaders and staff who perform the work to understand the risk for each role. For completeness, we have performed a risk assessment for roles that are already subject to a Government mandate and those working in higher-risk environments subject to a Vaccine Pass mandate under the traffic light system.
29. At Council we have over 1,300 employees undertaking approximately 655 different roles. For the purpose of the risk assessment, each role was placed into the following broad categories:

A.	PHO Roles	Positions that fall under the COVID-19 Public Health Response (Vaccinations) Order 2021
B.	Higher Risk Roles	Positions working in environments or services specified as being higher risk under the COVID-19 Protection Framework (traffic light system)
C.	Vulnerable Contact Roles	Positions that work with children under 12, or other vulnerable members of the community
D.	Office Based Roles	Positions predominately based indoors with little or no interaction with general public

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E.	Public Facing Roles	Positions that are public facing and/or involve a high level of interaction with the general public (including community-based events)
F.	Physical Works Role	Positions predominately based outdoors with little to no interaction with general public
G.	Essential Service Roles	Positions that are essential in providing key services to support the running of the city

Risk Assessment Summary

30. For all role types A to G above, the risk assessment process demonstrated that there is a significant risk reduction with the use of vaccination, alongside other controls. Without vaccination in each category, our reliance is on our existing control measures (e.g., Lockdowns) that may not be sustainable or realistic over time.

31. People in positions at the lower risk end, even those workers in outdoor settings or in office environments, still present with risk due to the contact with other staff in our workplace and the consequences associated with COVID-19. Vaccinated workers provide for a reduction in those consequences, and a further reduction in likelihood of infection, when combined with all other current controls in place.

Risk Assessment Outcomes

32. Through our assessment of all information available it became evident that the best way to protect our people and the community we serve, was that including vaccinations as a requirement of employment (existing and new), provided the best chance of reducing the risk and ensured that we are meeting our obligations as a good employer.

Record Keeping

33. Vaccination information that is collected will be kept confidential and secure and handled in accordance with all applicable privacy laws.

34. Proof of vaccination status will be required to ensure compliance with this Policy. As your vaccination status is your personal information, you are under no obligation to share it. However, if you do not disclose your vaccination status or provide proof that you are fully vaccinated (or have received your first dose), we must assume that you are not fully vaccinated (or have not received your first dose) for the purposes of this Policy.

35. It may be necessary to share your vaccination information with third parties (to satisfy site entry requirements etc). You will be provided with further details and asked for consent to share your information with any third-party before any disclosure is made.

36. Proof should be provided in the form of a government issued vaccine certificate or "My Vaccine Pass". You can download your vaccine certificate/pass through My Covid Record: <https://www.health.govt.nz/our-work/diseases-and-conditions/covid-19-novel-coronavirus/covid-19-vaccines/my-covid-record-proof-vaccination-status>

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Monitoring & Surveillance

37. Rapid antigen screening is another tool to support the pandemic response but does not replace the usual mask-wearing, hand hygiene and distancing rules that need to remain in place, as well as the need for vaccination. Council will consider adopting this tool in the future if practicable and may conduct 'Rapid Antigen Testing' to promote early detection of COVID-19 cases in the workplace.

New Employees

38. All new Employees, Contractors and Volunteers must be fully vaccinated (two doses) with an Approved COVID-19 Vaccine and provide Evidence of Vaccination before they commence employment.

39. It will be made clear to all applicants that all staff at Council must be fully vaccinated. Candidates who are not fully vaccinated or do not hold a MOH exemption will not be offered employment.

40. All new offers of employment/engagement will be subject to the successful candidate providing proof that they are fully vaccinated against COVID-19, or hold a MOH exemption, before they begin work.

41. Where a person offered employment/engagement with Council is not able to provide proof that they are fully vaccinated (or a MOH exemption) within the required timeframe, the offer will lapse.

Ngaa Hononga - Legislation and HCC Documents

The following legislation and documents are related or should be read in conjunction with this Policy:

- Code of Conduct Management Policy
- Health and Safety Policy
- Employment Agreement
- Human Rights Act 1993
- Bill of Rights Act 1990
- Employment Relations Act 2000
- Privacy Act 2020
- Health and Safety at Work Act 2015
- COVID-19 Public Health Response Act 2020
- COVID-19 Response (Vaccinations) Legislation Act 2021
- COVID-19 Public Health Response (Vaccinations) Order 2021
- COVID-19 Public Health Response (Protection Framework) Order 2021



Safety & Wellbeing

Monthly Report – March 2022



Definitions to Safety & Wellbeing Reporting

Team	Safety & Wellness
Data Source & Plans	Data Vault, EAP, Vitae, ACC, Cornerstone and PSE (HRIS)
Period – By Month	Monthly Report, eventually collects annualised data for further trend, analytics & insights
Scope of Reporting	Hamilton City Council Employees only and Contractor WorkSafe Notifiable events

HSW Terminology	Explanations
Incident	A generic term to include all unplanned events that result in a loss or potential loss relating to: Incident, personnel safety, product quality or business reputation, the environment, equipment / asset damage
Near Hit	A near hit is an incident which potentially could have caused injury or occupational illness and/or damage (loss) to people, assets, the environment or reputation, but did not cause actual harm
Lost Time Injury	A work-related personal injury/illness that results in more than one day shift off the job (i.e. the worker is unable to resume work the day after the work-related personal injury/illness has occurred)
When to notify WorkSafe	<p>A notifiable incident can be an illness, injury or death arising out of the conduct of the business or undertaking. It could be due to the condition of the work site, the way the work activity is organised, or the way equipment or substances are used.</p> <p>A notifiable illness or injury is where a person has been admitted to hospital for immediate treatment. Admitted to a hospital means being admitted to hospital as an inpatient for any length of time.</p>



Incidents, ACC Claims, LTI and Work Safe

Months	Dec 21	Jan 22	Feb 22	Mar 22	Apr 22	May 22	June 22	Jul 22	Aug 22	Sept 22	Oct 22	Nov 22
Total Incidents	43	67	18									
New Injury Claims (ACC)	3	5	4									
LTI / Serious Harm	0	1	0									
Council WorkSafe Notifiable	0	1	0									
Contractor WorkSafe Notifiable	0	2	1									

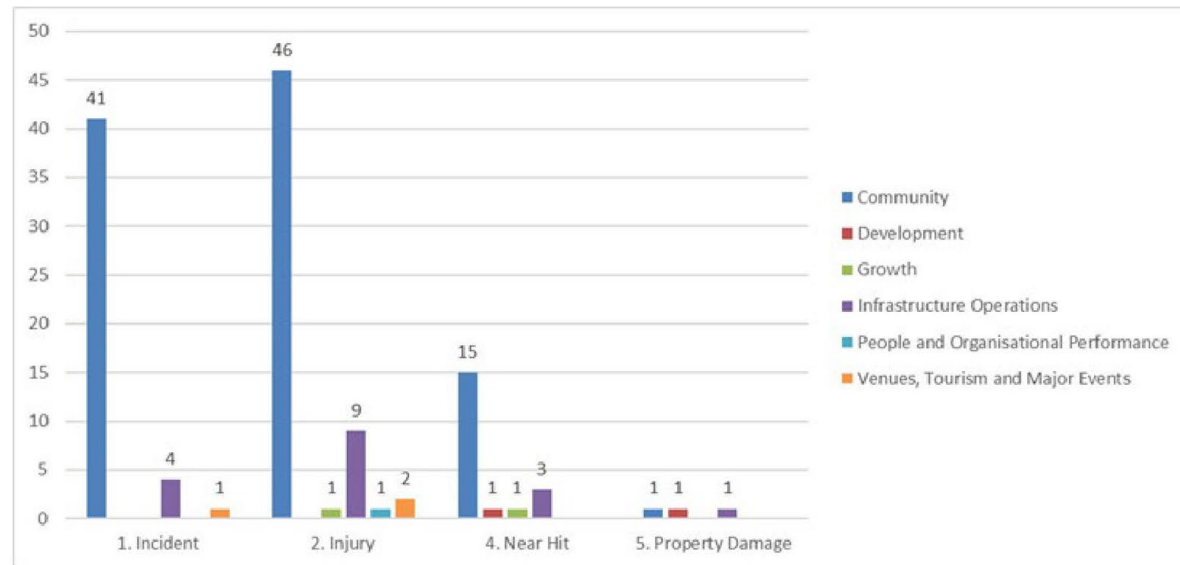
Event Classification	Dec 21	Jan 22	Feb 22	Mar 22	Apr 22	May 22	June 22	Jul 22	Aug 22	Sept 22	Oct 22	Nov 22
1. Incident	20	20	6									
2. Injury	15	34	10									
3. Pain & Discomfort *	0	0	0									
4. Near Hit	7	11	2									
5. Property Damage	1	2	0									

* Pain & Discomfort has not been recorded in VAULT to date, but will be in Ora





Events by Business Units – (Dec 21 to Feb 22)





WorkSafe Notifications

Notified by Council

While a Council worker on 17 January 2022 was mowing it was noticed that the mower was overheating. The worker stopped and hopped off to investigate. They opened the hood of the mower and attempted to open the radiator cap. The cap burst off and steam was released burning the worker on the hand and forearm.

Notified by Contractor

Waipa Civil Limited on 17 January 2022 had potholed to locate services, then as the drill head went underneath the gas pipe, it disturbed the existing ground material at the bottom of the pothole. This caused the material at the top of the pothole to dislodge and fall in the hole. It hit the gas lateral on the way down, causing it to break off at the main.

Waipa Civil Limited on 14 February 2022 were excavating a trench to install a CLS water main. In the process a gas lateral pipe was struck by the excavator when carrying out the works and gas was released as a result.

Waipa Civil Limited on 25 February 2022 while horizontal drilling grazed a 40mm gas main and gas was released. The area was closed off to the public and First Gas attended to isolate the gas and repair.

Lost Time Injury

The Council worker on 17 January 2022 sustained serious burns to their hand and forearm, they were admitted to hospital for 1 night and were put off work from 17 January to 27 February (a total of 42 days) as a result of the injury to recover.





Hamilton City Council's Organisational Critical Risks

The Safety & Wellbeing Team, along with the Council Decentralised Team, and with the assistance of Coachio Group have identified the following organisational critical risks across the business:

- Working in confined space
- Working at height
- Driving for work
- Working with plant and machinery
- Working with animals
- Hazardous substances
- Working with energy sources
- Moving vehicles in a workplace
- Dealing with aggressive and/or violent people
- Working over and near water
- Working in and around excavations
- Lone working
- Mental health

It is intended that Bowtie Risk Assessments be completed on the above. The Bowtie model contains eight elements: hazard, top event, consequences, threats, prevention barriers, mitigation barriers, degradation factors, and degradation controls. The hazard is an option, activity or material with the potential to cause harm.

These critical risks are being built into the Ora Incident Management System to enable us to report events that occur in these areas. We will be in a position to report on these once Ora is launched.



Vitae & Instep EAP

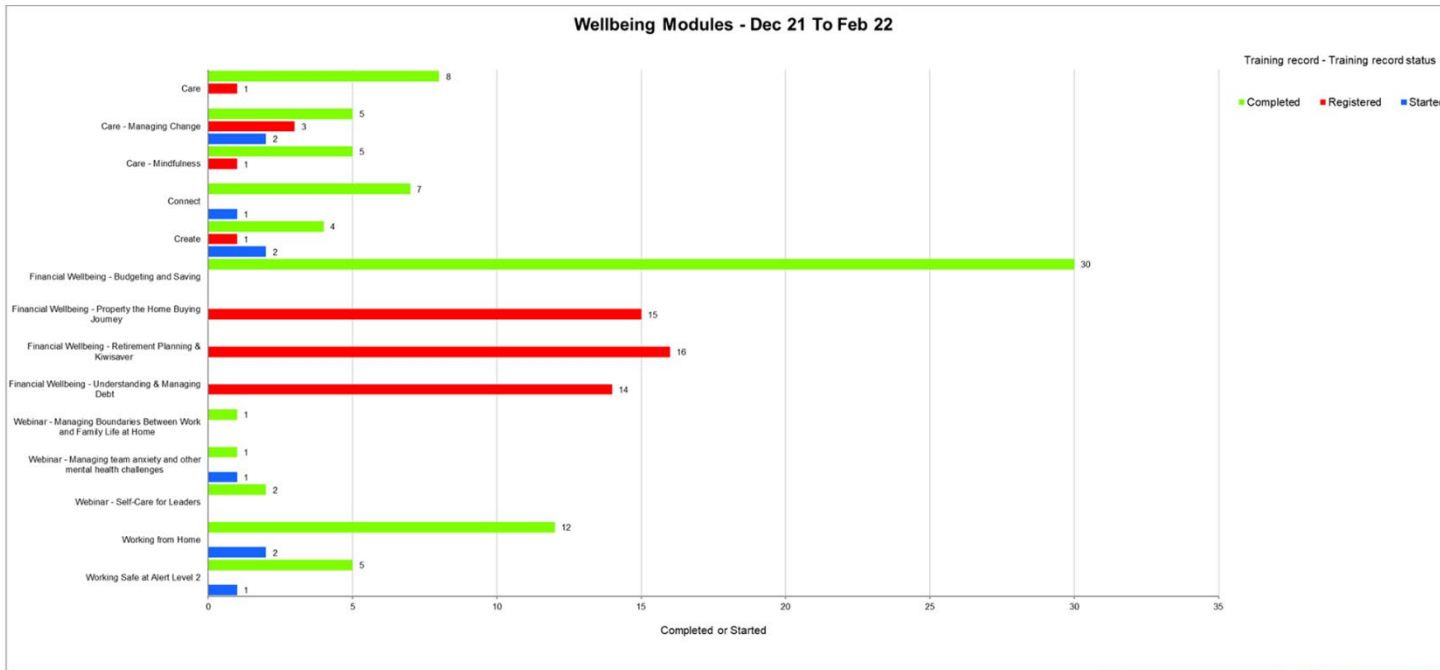
Vitae	Dec 22	Jan 22	Feb 22
Personal – Grief & Loss	0	0	1
Work – Covid 19	0	0	1
Work Stress	0	0	1

Instep (EAP)	Dec 21	Jan 22	Feb 22
Depression & Anxiety	1	4	3
Grief Loss	1	2	0
Parenting/ Family	0	3	2
Personal Relations	1	2	2
Personal Stress	1	1	2
PTSD	1	0	1
Suicide/ Family	0	1	1
Work Incident	0	6	4
Sexual Harassment	0	0	1
Stress – Work & Personal	2	2	0
Superior	1	0	0
Work Performance	0	0	1
Work Stress	1	1	1
Other	0	0	3
Total	9	22	18





Wellbeing Hub





Insights from the Courts

Fletcher Steel Ltd was fined \$175,000 and ordered to pay \$30,000 emotional harm reparation after a June 2019 incident at its Pacific Coal Coaters operation when a worker's overalls were caught in the unguarded driveshaft of a coater machine. He suffered rib and shoulder fractures, a kidney contusion and a degloved upper arm. He resumed part-time work six months later. The guard which normally covered the shaft had been removed. Pre-start checks would have ensured controls were in place, and monitoring of the SOP was lacking (Auckland DC, 24 August 2021).

Kerr Construction Whangarei Ltd was fined \$210,000 and ordered to pay emotional harm reparation of \$30,000 after an employee fell from a mobile scaffold, suffering a broken skull and a brain injury. The company was refurbishing commercial premises when an unanticipated task came up: to remove air conditioning units. The job was to have been undertaken by a contractor who was no longer available. The task was not in the SSSP. It was decided that a genie lift would be best, but none was available so mobile scaffolds were pressed into service. The SSSP was not amended. When a 54kg unit came loose it fell onto the scaffold, dislodging the worker (Whangarei DC, 18 November 2021).

WorkSafe NZ has accepted an enforceable undertaking from **Sicon Ltd** after a March 202 incident in which a motorcyclist lost control at a roadworks site and collided with a caravan. He was placed in a coma and had an arm amputated. The company's traffic management plans were inadequate, as were its training and supervision of workers. The company will spend \$315,000 under the terms of the EU, including payment of \$132,000 to the injured person, training for its staff, assisting an incident data collection project with Waka Kotahi, preparation and dissemination of a case study, and donations to assist air ambulance and other first aid responses (WorkSafe NZ, 28 September 2021).

WorkSafe NZ has accepted an enforceable undertaking from **Highway Stabilizers NZ Ltd** after a December 2019 incident in which a worker's foot became entangled in the rotating axle of a stabilizer machine. His leg was drawn in and ended up being amputated above the knee. There was no safe system of work for inspection/cleaning, guarding was inadequate, and an isolation system could have been fitted to allow manual rotor rotation. The EU will cost the company at least \$360,000 and includes amends to the victim, creation of a VR training system, an improvement initiative for the stabilizing industry, and community donations (WorkSafe NZ, 19 November 2021).





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Meeting Minutes – Attachment 5

Safety Governance Committee

Time and date:	1:00pm, Monday 1 November 2021
Venue:	Zoom
In Attendance:	Greg Dearsly (Independent Chair), Lance Vervoort (Chief Executive), Dan Finn (People, Safety & Wellness Manager), David Bryant (GM POP), Helen Paki (GM Community), Marie Snowball (Safety & Wellness Lead) Karin Barclay (Safety and Wellness Business Partner), Emily Botje (City Waters), TBA Vacant (City Delivery), Claire Toko (H3), Ewan Wilson (Elected Member), Olly Te Ua (Maori Rep) Virginie Maene (Minutes), Bishwajit Roy (Revolving Health & Safety Representative, Waterworld) Liz Cann (Aquatics Director)
Apologies:	Dion Liddel (AWUNZ)

1. Welcome

Meeting opened by the Chair, followed by acknowledging Lance Vervoort as HCC's new CE.

2. Confirmation of previous minutes and review of the Action Register

The minutes of the Safety Governance Committee Meeting held Monday 30 August 2021, have been confirmed.

Moved by: Dan Finn
Seconded by: Lance Vervoort

The previous meetings action register was reviewed and amended as follows.

Action	Assigned To	Due Date	Comments	Status
It was agreed more time was required to digest the Monitoring What Matters survey results and discuss at next meeting.	Dan Finn	Next meeting		Completed
Further follow up from Governance to confirm Safety and Wellness updates to be included at full Council Meetings.	Dan Finn		Dan to discuss with Becca, more discussion on that. Minutes and reports will go to full council and SRA - quarterly	Completed

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3. Recap - Monitoring What Matters – Final Assessment Insights

The final assessment insights from the survey were presented at the 30 August Meeting and the committee has been given more time to digest the results.

The following questions were asked by the Committee:

Q. This survey was a really good starting point, when is the next one coming out?

A. This survey will be linked into other surveys to identify trends and to ensure targeted action is taken. In November the Annual Staff survey will be conducted.

Q. Is there some planning in place for the areas with less confidence?

A. Yes, Health and Safety is going to be a focus of the new CE.

4. Safety and Wellness Strategy 2021-2023

Marie Snowball presented an overview of the final performance metrics. A Safety Data Analyst has joined the team to help present data to provide people leaders with better insights.

The following questions were asked by the committee:

Q. What are the components of the Wellbeing Index?

A. A standard group of questions as well as additional questions to make up the Wellbeing Index were asked, we use the Culture Amp platform for the exact drivers.

Q. How will you bring insights back to the committee to ensure we can see have oversight?

A. We will supply brief commentary for the committee, so there are no surprises. We will leverage these to create a safe workplace and will look at this being a part of our High-Performance Way of Working.

Q. How are critical risks being managed with Council?

A. We need to make progress on improvement plans for the critical risks. We are a new team and are working on it.

5. Critical Risk Deep Dive – Hazardous Substances

Helen Paki, Shayla Whaiapu Keith, Josh Hamilton and Liz Cann presented the Waterworld Investigation Report relating to the Chlorine Incident to the Committee and shared their learnings.

The following questions were asked by the Committee:

Q. Are there other plants or processes that could do with updating? Are we pro-active enough to prevent any events organisational wide?

A. We promote designing out the risk itself. Lance Haycock is doing work around safety and design. The other piece of work is repair which Paul Gower is working on. Another key thing is sharing our learnings with other groups which we do. This has been the catalyst for identifying other areas of the business where we can remove Hazardous Substances.

Q. Is there anything else under the surface of the WW infrastructure that has been uncovered?

A. We have upped the focus on asset management planning and are confident staff is doing the work to flag risks. We did a walkaround to identify any other risks and have implemented many changes to ensure we are compliant

Meeting Minutes – Attachment 5

Q. Do we have a full understanding of Location Compliance Certificates and are we meeting all the requirements? Are there other areas in council maybe?

A. We do have other locations across Council, Health & Safety Business Partners can help keep track of these.

Some comments on the report are listed below:

- The Committee is more confident that processes are actively looked at. This issue would have been fixed after a while even when this event would not have happened.
- The new system has made an amazing difference.
- This is a good news story to share, not just a response as a whole lot of improvements have been made. This type of response wins awards.
- A new piece of regulation is coming into force in 2022, plant instruction regulations have been written and are set for implementation at the end of next year, these will include a huge range of items. This should be top of the list for 2022, do we know what we have and how complaint are we? Mobile plant regulations have been in force since 1992.

6. Professional development for Elected Members, Maangai Maaori and the Senior Leadership Team.

- Marie and Karen have been looking at training which a lot of companies are providing.
- We need to look at competence and knowledge in our Elected Members and Maangai Maaori and need to be specific. Walkarounds, getting a feel of the business, suggesting mentoring/coaching from EM's and formal training. Richard Briggs had suggested mandatory training twice a year.
- A suggestion was made for a gap analysis/survey to be conducted to identify what is required. We can get this out quickly and come back with some proposals for next year. Our team can provide some training in the meantime. Covid is limiting walkarounds. We may not be able to do much this side of Christmas.
- We are developing a training matrix, what is essential at all tiers, and we will start with our most senior people and across the business. You will see further work in that space.

7. Round the table

- We are working towards developing a vaccination strategy, we have good guidance from LGNZ and are working on safety assessments of the roles. We are formulating a view on roles deemed high risk and mandating those roles. One is staff and the other is the public. We are looking to mandate earlier at H3 due to Government reference to large gatherings, we need to ensure our communications to staff and the public goes through one channel only and that our messaging is accurate.
- Through the use of covid certificates at public facilities, there will be people who get agitated when they are refused entry. We will need to look at other services for them, we have had City Safe at our facilities. It is also happening to our contracting staff where they have been approached by the public.
- Highlighting the increased safety risk in the run up to Christmas and return to work where we normally see increased incidents, accidents/fatalities. Are we sending out messaging to our staff?
- We have people working with other providers, chances are that our staff will need to be vaccinated to access the other areas
- SLT will be putting Health & Safety at the top of their agenda to continue the good work that is happening.
- Recognition of the big effort Dan's Team has made with regards to Covid-19 and mental wellbeing.
- Emily was welcomed to the Committee in place of Maire and Tanya joined to represent Infrastructure Ops

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8. Actions Register

Action	Assigned To	Due Date	Comments	Status
Look at the make up of the Committee, do we need to invite other people across tiers?	Lance Vervoort	Next meeting		
Changes to the regulatory framework with a review of regulations for plant, structures and working at heights is to commence in early 2022. The implementation of new regulations will come into force by the end of 2022. This should be top of the list for 2022, do we know what we have and how compliant are we?	Marie Snowball	Next meeting		
It was agreed more time was required to digest the Monitoring What Matters survey results of the survey and discuss at next meeting.	Dan Finn	Next meeting		Completed
Further follow up from Governance to confirm Safety and Wellness updates to be included at full Council Meetings.	Dan Finn		Has been confirmed, starting at the Council Meeting on 3 February 2022.	Completed

The meeting was declared closed at 3:30pm.

- To be confirmed early in the New Year

Council Report

Item 18

Committee: Council **Date:** 12 May 2022
Author: Tyler Gaukrodger **Authoriser:** David Bryant
Position: Governance Advisor **Position:** General Manager People and Organisational Performance
Report Name: Recommendations from Open Committee Meetings

Report Status	<i>Open</i>
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Purpose – *Take*

To seek the Council’s approval of the following recommendations from Committee Meetings:

- a) Finance Committee meeting of 29 March 2022 (Agenda [Here](#), Minutes [Here](#)), in respect of:
 - i. Financial Performance & Strategy Report to 31 January 2022
- b) Community Committee meeting of 26 April 2022 (Agenda [Here](#), Minutes [Here](#)), in respect of:
 - i. TOTI Business Case Proposal Decision – Founders Theatre Site

Recommendations from the Finance Committee meeting of 29 March 2022 Financial Performance & Strategy Report to 31 January 2022

That the Council:

- a) approves the capital movement as identified in paragraph 32 of the 29 March 2022 Capital Portfolio Monitoring Report;
- b) approves the significant forecast adjustments as set out in paragraphs 55 to 56 of the staff report; and
- c) approves the revised Financial Strategy position for Debt to Revenue, Net Debt and Balancing the Books as set out in paragraphs 58 to 60 of the staff report.

Recommendations from the Community Committee meeting of 26 April 2022 TOTI Business Case Proposal Decision – Founders Theatre Site

That the Council declines the TOTI proposal for Founders Theatre (Option A) and proceed with the 2021-31 Long-Term Plan funded activity for the West Town Belt Implementation - Founders Theatre Site upgrade project (\$4.008m in Year 2) as approved in May 2021, noting that staff begin work on presenting to the 2024 Long Term Plan costings and well-researched options for a purpose built community facility (or facilities) to meet the needs for community space in Hamilton.

Attachments - *Ngaa taapirihanga*

There are no attachments for this report.

Resolution to Exclude the Public

Section 48, Local Government Official Information and Meetings Act 1987

The following motion is submitted for consideration:

That the public be excluded from the following parts of the proceedings of this meeting, namely consideration of the public excluded agenda.

The general subject of each matter to be considered while the public is excluded, the reason for passing this resolution in relation to each matter, and the specific grounds under section 48(1) of the Local Government Official Information and Meetings Act 1987 for the passing of this resolution follows.

General subject of each matter to be considered	Reasons for passing this resolution in relation to each matter	Ground(s) under section 48(1) for the passing of this resolution
C1. Confirmation of the Council Public Excluded Minutes of 17 March 2022	) Good reason to withhold) information exists under) Section 7 Local Government) Official Information and) Meetings Act 1987)	Section 48(1)(a)
C2. Confirmation of the Council Public Excluded Minutes of 14 April 2022		
C3. Confirmation of the Elected Member Closed Briefing Notes - 9 March 2022		
C4. Confirmation of the Elected Member Closed Briefing Notes - 5 April 2022		
C5. Confirmation of the Elected Member Closed Briefing Notes - 6 April 2022		
C6. Confirmation of the Elected Member Closed Briefing Notes - 14 April 2022		
C7. Confirmation of the Elected Member Closed Briefing Notes - 27 April 2022		
C8. Confirmation of the Elected Member Closed Briefing Notes - 4 May 2022		

This resolution is made in reliance on section 48(1)(a) of the Local Government Official Information and Meetings Act 1987 and the particular interest or interests protected by Section 6 or Section 7 of that Act which would be prejudiced by the holding of the whole or relevant part of the proceedings of the meeting in public, as follows:

Item C1.	to prevent the disclosure or use of official information for improper gain or improper advantage	Section 7 (2) (j)
Item C2.	to prevent the disclosure or use of official information for improper gain or improper advantage	Section 7 (2) (j)
Item C3.	to prevent the disclosure or use of official information for improper gain or improper advantage	Section 7 (2) (j)

Item C4.	to prevent the disclosure or use of official information for improper gain or improper advantage	Section 7 (2) (j)
Item C5.	to prevent the disclosure or use of official information for improper gain or improper advantage	Section 7 (2) (j)
Item C6.	to prevent the disclosure or use of official information for improper gain or improper advantage	Section 7 (2) (j)
Item C7.	to prevent the disclosure or use of official information for improper gain or improper advantage	Section 7 (2) (j)
Item C8.	to prevent the disclosure or use of official information for improper gain or improper advantage	Section 7 (2) (j)