

Notice of Meeting:

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

Date: Tuesday 13 December 2016
Time: 9.30am
Meeting Room: Council Chamber
Venue: Municipal Building, Garden Place, Hamilton

Richard Briggs
Chief Executive

Council OPEN AGENDA

Membership

Chairperson	Mayor A King
Deputy Chairperson	Deputy Mayor M Gallagher
Members	Cr M Bunting
	Cr J R Casson
	Cr S Henry
	Cr D Macpherson
	Cr G Mallett
	Cr A O'Leary
	Cr R Pascoe
	Cr P Southgate
	Cr G Taylor
	Cr L Tooman
	Cr P Yeung

Quorum: A majority of members (including vacancies)

Meeting Frequency: Monthly – or as required

Lee-Ann Jordan
Governance Manager

7 December 2016

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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.

Oversight of Policies:

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

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1 Apologies

2 Confirmation of Agenda

The Council to confirm the agenda.

3 Declaration of Interest

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

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 three 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 Democracy 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 Democracy by telephoning 07 838 6439.

Committee: Council**Date:** 13 December 2016**Report Name:** Council Open Minutes 30
November 2016**Author:** Emily Acraman

Status	<i>Open</i>
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Recommendation

That the Council confirm and adopt as a true and correct record the Open Minutes of the Council Meeting held on 30 November 2016.

2. Attachments

3. Attachment 1 - Council - Open Minutes - 30 November 2016

Council

OPEN MINUTES

Minutes of a meeting of the Council held in Council Chamber, Municipal Building, Garden Place, Hamilton on Wednesday 30 November 2016 at 9.45am.

PRESENT

Chairperson	Mayor A King
Deputy Chairperson	Deputy Mayor M Gallagher
Members	Cr M Bunting
	Cr J R Casson
	Cr S Henry
	Cr D Macpherson
	Cr G Mallett
	Cr A O’Leary
	Cr R Pascoe
	Cr P Southgate
	Cr G Taylor
	Cr L Tooman
	Cr P Yeung

In Attendance:

- Chief Executive - Richard Briggs
- Executive Director H3 and Events - Sean Murray
- General Manager Strategy and Communications - Sean Hickey
- General Manager City Infrastructure - Chris Allen
- General Manager Community - Lance Vervoort
- General Manager Corporate – David Bryant
- Group Business Manager - Helen Paki
- Strategic Property Manager - Ken Cunningham
- Strategic Property Manager - Nicolas Wells
- Senior Planner – Jamie Sirl
- City Safe Unit Manager - Kelvin Powell
- City Planning Unit Manager - Luke O’Dwyer
- Acting General Manager, Growth - Debra Stan-Barton
- Strategic Advisor, Arts and Community – Nick Johnston
- Manager Swimming & Recreation - Matthew Bayliss
- Group Business Manager – Karen Saunders
- Governance Manager, Lee-Ann Jordan

CEO Sport Waikato – Matthew Cooper

Governance Advisers: Mr B Stringer, Ms C Guthrie, Mrs E Acraman

Item 5

1. Apologies

Resolved: (Crs O’Leary/Macpherson)

That the apology from Cr Pascoe (for lateness) be received and accepted.

2. Confirmation of Agenda

Resolved: (Crs Bunting/Casson)

That the Council confirm the agenda, noting the following:

Updated Items

- **Item 8** - Beale Cottage Historic Reserve Management Plan Review – *(Updated attachment tabled at the Meeting showing the track changes between the 2006 and 2016 Beale Cottage Management Plans.)*
- **Item 11** - Land Exchange – 9 Grey Street – *(clearer versions of attachments 1 and 2 tabled at the Meeting.)*

Late Items

- **Item 15** - Final decision on A&A King Family Trust v HCC regarding Partly Operative District Plan Report - *(Report late to allow for the provision of timely advice on the outcome of an ongoing matter which has had strong public interest.)*
- **Item C1** - Final decision on A&A King Family Trust v HCC regarding Partly Operative District Plan – Legal Advice (Public Excluded). - *(Linked to Item 15, Report was late to allow for the provision of timely advice on the outcome of an ongoing matter which has had strong public interest and to allow for a representative from Tompkins Wake to give a verbal report.)*
- **Item 14** - Housing Accord – *(would be taken in the Public Excluded section of the Meeting to enable Council to carry out negotiations with the Ministry of Business, Innovation and Employment.*

Report was late as visibility of the matter ahead of approving a final draft was required. The matter could not be taken later in the Meeting due to external timeframes needing to be met.)

Attachment 1

3. **Declarations of Interest**

Cr Macpherson declared an interest in Item 10 (Rototuna Recreation Centre) as he was a member of the Waikato Volleyball Association.

Mayor King declared a conflict of interest with Item 15 (Final decision on A&A King Family Trust v HCC regarding Partly Operative District Plan Report) in the Open Meeting and Item C1 (Final decision on A&A King Family Trust v HCC regarding Partly Operative District Plan – Legal Advice) in Public Excluded section of the Meeting. He vacated the Chair and withdrew from the Meeting prior to consideration of Items C1 and 15.

4. **Public Forum**

Mr Fred Philips from Rotary made a presentation promoting a fountain development for Hamilton Lake Domain based on the Bellagio fountain in Las Vegas. Mr Phillips stated he was looking for an indication of interest in such a development from the Council. In light of the public engagement on the Hamilton Lake Domain Management Plan, it was recommended that Rotary put in a high-level submission to the Hamilton Lake Domain Management Plan with a summary of the concept.

The Chief Executive pointed out that Rotary could also present a submission as part of the 2017 Annual Plan process.

5.

Chair's Report

The Mayor spoke to his report.

Regulatory Efficiency and Effectiveness Report.

Mayor King advised that the purpose of the project was to make it easier, cheaper, and faster to do business with Council and to provide certainty for Council's customers. To this end it was important that all regulatory functions and processes contributed explicitly to the plans, policies and outcomes they were designed to enable, and that staff were empowered and supported to make common sense decisions. Mayor King advised the meeting that the report as circulated noted that the project would not review existing plans and policies but he had since realised that to streamline regulatory functions and processes, the project would also need to review and identify potential changes to relevant existing plans and policies.

In response to questions and concerns raised, Mayor King clarified the following:

- any review would not apply to Council's strategic plans such as the Hamilton East Plan and the River Plan, only those policies and plans that govern regulatory functions and processes;
- he accepted that the District Plan was only just becoming operative after a long process, however it was already out of date in some respects. There was no intention to change zoning but some aspects of the plan were problematic and could be improved;
- he noted that staff would need to be mandated and well supported to make common sense decisions against usual practice or requirements; and
- he noted cautions raised about the potential size and complexity of the project. The terms of reference and project scope that would come back to Council for approval would include indicative costs and timing.

Public Art.

The Mayor noted that MESH and TOTI had had discussions with him to signal an interest in sites for future art projects. This information was provided as an early 'heads-up' for Council and applications would come forward for consideration in due course.

The Chair of Community & Services Community indicated that an update on the Public Art and Development Process would be presented to the 13 December 2016 Council meeting.

Resolved: (Mayor King/Cr Taylor)

That:

- a) the report be received; and
- b) in respect of the Regulatory Effectiveness and Efficiency Project, Council authorise staff to develop a project plan with external expert input for approval by Council by February 2017.

Cr O'Leary dissenting.

6. Council Open Minutes 9 November 2016

The correct wording for Item 6 – Open Council Minutes – 9 November 2016, for the date on page 11 in the fifth paragraph, was to be amended to read “Local Government Act 2002”.

Resolved: (Crs Tooman/Southgate)

That:

- a) That Council confirms and adopts as a true and correct record the Open Minutes of the Council Meeting held on 9 November 2016 subject to the above noted amendment.

The Meeting adjourned from 11.15am – 11.30am.

Item 10 (Rototuna Indoor Recreation Centre) was taken early to accommodate the external guests availability.

10. Rototuna Indoor Recreation Centre

The General Manager Community introduced Matthew Cooper, Chief Executive Sport Waikato, and the Manager, Swimming & Recreation. Mr Cooper briefly addressed the meeting to update Council on the Waikato Regional Sports Facility Plan and the cross-boundary funding framework Sport Waikato were developing.

The General Manager Community took the report as read and noted that:

- This project was a ground-breaking partnership with the Ministry of Education that had produced a significant community asset.
- Consultation was conducted with the sporting codes that would predominantly use the indoor centre to get information on the codes' requirements and on the design and function of the facility. Sport Waikato worked with Council and Ministry of Education staff throughout the concept and design phase.
- The project was developed under time pressures that meant the design and consultation were undertaken under tighter deadlines than usual.
- As development proceeded it became apparent that not all of the needs requested by the sport codes could be accommodated, as the area needed to provide for courts as well as associated changing and storage facilities.
- Waikato Volleyball provided feedback that the current construction only provided adequate run-off areas for six competition sized courts and not the eight they had anticipated to enable regional competitions.
- Rototuna High School was supportive of an addition to the Indoor Recreation Centre, however neither they nor the Ministry of Education were able to contribute funding.
- Additional funding of \$3.1 million would allow the floor area to be extended by 721m² to include extra playing space and thus meet Waikato Volleyball's requirements.

Sport Waikato spoke in favour of using any additional funding to construct a second indoor recreation centre rather than to expand the Rototuna facility. A second indoor recreation centre would be consistent with the direction of Sport Waikato's Regional Facilities Plan.

Staff responded to questions in relation to the need for additional funding to increase the facility size. There was considerable discussion on this matter with a high level of concern noted by some Elected Members and a request for the Chief Executive to open an investigation to clearly understand how this had occurred. Staff also responded to a number of questions regarding opportunities for a second indoor recreation centre and on the potential partnerships to support a further facility.

Motion: (Crs Macpherson/Mallett)

That:

- a) the report be received;
- b) Council continues with the current Funding Contribution and Operating Agreement for a four court indoor recreation facility at the Rototuna High Schools site.
- c) Council notes the 2014 Waikato Regional Sports Facilities Plan's recommendation for two indoor recreation centres, with the second being needed from 2018 onwards.

- d) funding of \$3.1M for a second partnership indoor recreation centre, that provides for a facility that can accommodate at least four netball, basketball and futsal courts, eight volleyball courts and sixteen badminton courts, with surrounding floor areas of a safe and effective size for community sport competition in each code, be considered by Council in the first half of 2017, for inclusion in the first half of the 2018-28 Ten Year Plan.
- e) the Chief Executive issue a Request for Proposal from potential partnership Parties, for the facility outlined in (d) above, to be reported back to the Community & Services Committee no later than June 30, 2017.
- f) Council enter into discussions with the Waikato Regional Council, and other Waikato local authorities, especially neighbouring ones with a view to establishing a regional funding mechanism to support the facility outlined in (d) above.
- g) the Chief Executive undertakes a review and reports to the Audit & Risk Committee, to:
 - 1. identify the causes for Council's contribution to the Rototuna Indoor Recreation Centre needing to be increased by \$3.1 million from \$4.5 million to \$7.6 million, an increase of 69%; and
 - 2. recommend changes so that such failings do not reoccur.

Amendment: (Crs Southgate/Yeung)

That:

- a) the report be received;
- b) the Council continues with the current Funding Contribution and Operating Agreement for a four court indoor recreation facility at the Rototuna High Schools site;
- c) the development of a second partnership for an indoor recreation centre aligned to the Waikato Regional Sports Facility Plan be considered in the development of the 2018-28 10 year plan; and
- d) That Council works with regional councils to discuss and pursue regional funding options.

Those for the Amendment: Councillors Yeung, Tooman, O'Leary, Bunting, Henry, Southgate and Taylor

Those against the Amendment: Mayor King, Councillors Gallagher, Mallett, Macpherson and Casson

The Amendment was declared carried.

The Amendment as the Substantive Motion was put.

Resolved: (Crs Southgate/Yeung)

That:

- a) the report be received;
- b) the Council continues with the current Funding Contribution and Operating Agreement for a four court indoor recreation facility at the Rototuna High Schools site;
- c) the development of a second partnership for an indoor recreation centre aligned to the Waikato Regional Sports Facility Plan be considered in the development of the 2018-28 10 year plan; and
- d) the Council works with regional councils to discuss and pursue regional funding options.

The Meeting adjourned (11.55am-12.15pm) during the discussion on the Motion (Macpherson/Mallett) and Amendment (Southgate/Yeung).

The Meeting adjourned (1.19pm – 2.00pm)

7. 2017 Schedule of Meetings

Resolved: (Crs O'Leary/Gallagher)

That:

- a) the report be received; and
- b) the proposed 2017 Schedule of Meetings attached to this report as Attachment 1 be approved.

Cr Tooman left the meeting at 2.05 pm during Item 7 and was not present for the voting.

8. Beale Cottage Historic Reserve Management Plan Review

The Strategic Advisor, Arts and Community, supported by the Group Business Manager, noted that Beale Cottage review had been a non-comprehensive review to consider strategy and legal changes that had occurred since the 2006 Management Plan. Changes between the 2006 Management Plan and the proposed update included removing obsolete actions, revising content and moving the vision and objectives to the front of the plan.

In response to questions from Elected Members about the long term intention to have the Cottage open to public use, the Strategic Advisor clarified that the Beale Cottage Working Group, (established by the Strategy and Policy Committee on 22 March 2016), together with the Heritage Advisory Panel, had recommended the cottage remained tenanted until such time as open public access could be achieved.

Public access to Beale Cottage at pre-arranged times and at short notice was possible and was part of the tenancy agreement. The tenant received a reduced rent to ensure visitors could access the cottage for guided tours. The tenant was also responsible for some of the garden maintenance.

Resolved: (Crs O'Leary/Bunting)

That:

- a) the report be received;
- b) Council approves the Beale Cottage Historic Reserve Management Plan; and
- c) staff develop a Beale Cottage Implementation Action List that includes an implementation timeline and funding, and report back to the April 2017 Community and Services Committee for approval.

9. Hamilton Lake Domain Draft Management Plan - Referral of Submissions to Regulatory Hearings Committee

The Senior Planner, Community, gave an overview of the review programme and noted 60 submissions had been received to date through the consultation process required under legislation; seven people had requested to speak to their submissions.

Resolved: (Crs O'Leary/Yeung)

That:

- a) the report be received;
- b) Council's Regulatory and Hearings Committee hear submissions and make determinations on submissions to the Draft Hamilton Lake Domain Management Plan in February 2017;
- c) a Waikato-Tainui representative be appointed to the Regulatory and Hearings Committee for hearings on the Draft Hamilton Lake Domain Management Plan; and
- d) a final plan, incorporating any revisions recommended by the Regulatory and Hearings Committee, be presented to the Community and Services Committee for adoption.

Cr Mallett left the meeting at 2.51 pm during the Item 9 and was not present for the voting.

11. Land Exchange - 9 Grey St

The Strategic Land Manager, outlined the issues for the land exchange, the need for which arose from the proposed Cobham Drive Pedestrian underpass. In response to questions about costs to the other party of the process for the land exchange, he confirmed that Council would cover all costs and that this had been verbally advised to the other party.

Resolved: (Crs O'Leary/Yeung)

That:

- a) the report be received;
- b) approximately 18.30m² of Grey St, identified as Area C on Attachment 2, is stopped;
- c) the area of stopped road be exchanged for approximately 17.70m² of land from 9 Grey Street, identified as Areas A & B on Attachment 2, at no cost to either party, subject to:
 - i. Survey plans, for the land being exchanged, being approved by Land Information NZ,
 - ii. The road stopping being completed,
 - iii. The area of stopped road being amalgamated with the title for 9 Grey Street;
- d) Council cover all costs related to the land exchange; and
- e) the Chief Executive be delegated authority to:
 - i. Sign all documentation relating to the road stopping process;
 - ii. Sign all documentation relating to the land exchange.

Cr Mallett returned to the meeting at 3.00 pm during Item 11 and was present for the vote.

12. Development Contributions Funding Model, Assessment Tool and Growth Model

The Group Business Manager, and the Economic Growth & Planning Unit Manager, gave an overview of the Development Contributions Funding Model, Assessment Tool and Growth Models and the need to fund a technology solution for what was presently a largely manual system.

Staff answered questions on the following:

- Confirmed that the current models were a system of Excel spread sheets which contained important data and information on such things as population, economic forecast, transportation movement etc. It gave a view of growth over time and assisted with infrastructure planning and fed into the DC model. This informed Council how much additional land was needed and what infrastructure would be required to enable staff to make informed decisions.
- The combination of the manual nature of the system, its importance and complexity and the reliance on an experienced staff member who was leaving Council shortly created a high level of risk to Council. A solution needs to be in place by 30 June 2017 to meet legislative and organisational requirements.
- Authority was the core regulatory system for property information. It is also an information management system for building consents, resource consents, parking and rates. Funding for a new technology solution could be diverted from funding approved for the Authority Replacement.
- The risk of deferring the replacement of Authority was low as the Council had confidence in the new provider and a series of recent upgrades had provided a more stable platform.
- Discussions had been held with other Territorial Authorities who used Authority (eg Auckland and Tauranga) about sharing information.
- \$150,000 sought for a feasibility study for the replacement for Authority was required to ensure that any new solution was future-proofed and to leverage existing functionality.

Resolved: (Mayor King/Cr Bunting)

That:

- a) the report be received;
- b) funding of \$1.515m is approved to implement the Growth Model and DC Funding Model and DC Assessment Tool projects;
- c) the 2016/17 capital budget for the Authority Replacement is reallocated to fund the Growth Model and DC Funding Model and DC Assessment Tool Projects; and
- d) funding of \$150,000 operating expenditure is approved via Risks and Opportunities, to prepare an 'Authority Replacement Feasibility Study' in 2017.

Cr Tooman returned to the meeting at 3.25 pm during Item 12 and was present for the voting.

13. Domain Endowment Lease - Freeholding - 225 Dey Street

The Strategic Property Manager, took his report as read. He noted, that the Domain Endowment Fund was used for the enhancement and development of parks and reserves. The properties of the Domain Endowment Fund were given to the city as an enduring source of income for parks and reserves and the funds of the sale would go into the Domain Endowment Fund for this purpose.

In response to questions, the Chief Executive stated that it would be possible to show how the funds were used for parks and reserves development if desired.

Resolved: (Mayor King/Cr Tooman)

That:

- a) the report be received;
- b) Council sells the freehold interest in the land described in the Schedule to the lessee for a price of \$290,000 (Two hundred and Ninety Thousand Dollars) including GST (if any) plus all Council's costs associated with the sale.
- c) Council authorises the Chief Executive Officer to:
 - i. prepare and execute an Agreement for Sale and Purchase; and
 - ii. any other instruments required to give effect to this resolution

SCHEDULE

ALL THAT LAND described as an Estate in Fee Simple comprising Lot 10 Deposited Plan 35144 contained in Computer Freehold Register Identifier SA7B/9 of 812 square meters more or less and physically located at 225 Dey Street, Hamilton

Cr Pascoe joined the meeting at 3.32 pm during Item 13 and was present for the voting.

14. Housing Accord

The requirement for this item to be heard in Public Excluded was queried. The Chief Executive confirmed his earlier advice that the item should be dealt with in Public Excluded to enable Council and the Ministry of Business, Innovation and Employment (MBIE), to continue to carry out discussions on the matter.

Resolution to Exclude the Public

Resolved: (Mayor King/Cr Gallagher)

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
14. Housing Accord	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 14	to carry out, without prejudice or disadvantage, negotiations, (Including commercial and industrial negotiations)	Section 7 (2) (i)
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The Meeting went into a Public Excluded Session at 3.44pm

The Meeting returned to Open Session at 4.38pm

Extension of Time

Resolved: (Mayor King/Cr Mallett)

That the Meeting be extended in accordance with Standing Order 3.2.7.

- Item 15. **Final Decision on A&A King Family Trust v HCC Partly Operative District Plan and**
- Item C1. **A&A King Family Trust v HCC Partly Operative District Plan – Legal Advice**

Mayor King declared a conflict of interest with the Agenda Item 15. Final Decision on the A&A King Family Trust v HCC Partly Operative District Plan and Item C.1. Final Decision on A&A King Family Trust v HCC regarding Partly Operative District Plan. The Mayor vacated the Chair and Deputy Mayor Gallagher replaced the Mayor as Chair for the remainder of the Meeting.

Elected Members queried the requirement to go into Public Excluded for Item C1 which was to receive legal advice in relation to pursuing costs for the Environment Court decision.

The Chief Executive outlined the reasons for this item to be heard in Public Excluded. Legal advice was always treated confidentially to preserve and protect legal options for Council.

Resolution to Exclude the Public

Resolved: (Crs Gallagher/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 the passing of this resolution
C1. A&A King Family Trust v HCC regarding Partly Operative District Plan - Legal Advice	Good reason to withhold information exists under Section 7 Local Government Official Information and Meetings Act 1987	Section 48(1)(a)

And that Lachlan Muldowney, Tompkins Wake, remains for Item C1 to provide legal advice to the Council.

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 maintain legal professional privilege Section 7 (2) (g)

Cr Macpherson dissenting.

The Meeting returned to a Public Excluded Session at 4.48 pm

The Meeting returned to Open Session at 5.48pm

15. Final Decision on A&A King Family Trust v HCC Partly Operative District Plan

The Chief Executive invited the City Solicitor, as agreed in the Public Excluded Session, to provide an outline of his advice regarding the option to pursue costs.

The City Solicitor stated he would give independent legal advice on the merits of pursuing costs, regardless of the nature of the appellant, based purely on the prospects of success. Firstly, for appeals of District Plans under the Environment Court appeal process it was not the practice to award costs, regardless of the outcome as there was a clear public interest component to appeals.

There were a number of factors that did not encourage the pursuit of costs, such as:

- the court would need to be shown that actions of the appellant were vexatious, abusive of court processes or so poorly run as to incur extra costs;
- there was one criticism evident in the decision but this would not reach the threshold of vexatious, abusive of court process or unnecessary changes that would have caused extra expense;
- this was a case that very clearly involved the public interest particularly as the Council's District Plan would materially impact the city for a long period of time. This would count against awarding of costs as the process of developing a District Plan was a public participatory process; if every unsuccessful appellant in the Environment Court were subject to significant costs that would have a chilling effect on appeals;
- the Court Decision stated that seeking of costs was not encouraged; and
- the expenses involved in making a costs application were likely to be offset by the amount awarded even if the application was successful, and success was not guaranteed.

Resolved: (Crs Gallagher/Casson)

That:

- a) the report be received; and
- b) Council confirm the resolution passed in the Public Excluded Meeting and formally note the advice received from the City Solicitor

Minute Note: The Public Excluded Resolution

Resolved: (Crs Mallett/Casson)

That:

- a) the Council resolves not to pursue costs in relation to the decision; and
- b) Council releases the reasons for this decision in the Open Meeting.

The Meeting was declared closed at 6.09pm

Committee: Council

Date: 13 December 2016

Report Name: Waikato Waters Study -
Consideration of Direction

Author: Stephen Halliwell

Report Status	<i>Open</i>
Strategy, Policy or Plan context	<i>2015-25 Long Term Plan – Review of Service Delivery</i>
Financial status	<i>Council has spent a total of \$500,000 since 2014 on this project (50% share), funded from existing budgets.</i>
Assessment of significance	<i>Having regard to the decision making provisions in the LGA 2002 and Council's Significance Policy, a decision in accordance with the recommendations is not considered to have a high degree of significance</i>

1. Purpose of the Report

- To confirm Council's position on forming an asset owning water and wastewater CCO for Hamilton City and Waipa and Waikato District Councils (asset owning CCO) either by upholding the previous decision to approve the Record of Agreement, or determine any additional information Council requires before making a decision on the most effective service delivery system for waters services.

3. Executive Summary

- In the past few years Council has made steps towards forming an asset owning CCO for water and wastewater services with Waipa and Waikato Districts. Following the 2016 Local Body Elections each council is considering their options and either confirming the path set by previous elected members or considering other options.
- Council resolved on 30 July 2015, "*That Council receive the Business Case for Water Services – Delivery Options ("Cranleigh report")*" and "*Council supports in principle the formation of a Waters CCO for the Hamilton City, Waikato and Waipa Distric Councils...*" (full resolution, see Attachment 1).
- Council resolved on 14 July 2016, "*That Council adopt the attached Record of Agreement and supporting documentation relating to the potential formation of a water and wastewater CCO for Hamilton City and Waipa and Waikato District Councils.*" This resolution related to the formation of a CCO with Waipa and Waikato District Councils (full resolution, see Attachment 1).
- As the recommendations offer an either/or recommendation option Council is asked to choose a preferred direction. This direction could be influenced by the decisions of Waipa and Waikato who meet on 5 and 6 December to confirm their positions. At the time of finalising this report these meetings had not been held; their officer recommendations are included as are web links to the reports on their agenda.

8. The first recommendation option provides for Council to confirm its preference to proceed to an asset owning CCO with an amendment to the decision making framework contained in the draft Record of Agreement. Since the adoption of the draft Record of Agreement there has been discussion on the appropriateness of the water meters decision making framework (see point 46 of this report). The report asks Council to confirm whether its position has changed and whether it wishes the agreement to be amended accordingly.
9. The second recommendation option provides for Council to seek further information prior to selecting a preferred direction. A decision to choose this option will result in a report in 2017 for Council’s consideration to determine its preferred direction for the delivery of water and wastewater services.
10. This report reminds Council of the options previously considered and informs Council of new options that could be further considered (see point 54 of this report). These new options have been derived from advice Waipa have received from their consultant MorrisonLow (Attachment 3). Council could choose to seek more information on any of these, although the existing options have been comprehensively considered in the Cranleigh report.
11. This report also provides information on the challenges and obstacles of establishing an asset owning CCO and risks as they relate to the process of forming an asset owning CCO (see point 40 of this report).

Recommendations from Management

Option 1

That:

- a) the report be received;
- b) Council amend the draft Record of Agreement for the decision to implement water metering as follows:

Decision	Decision-maker			Type of Shareholder Decision
	CCO Board/ Management	Shareholders Jointly	Individual Shareholders	
Implementing water metering			✓	

- c) Council confirm its decision of July 2016 to adopt a draft Record of Agreement (with the above amendment) in relation to the potential formation of a sub-regional water and wastewater CCO.
- c) the Chief Executive be delegated responsibility to progress the project including discussions with Waipa and Waikato District Councils and advisors; to identify practicable options for working together; seeking further advice and modelling and to work with the Waters Governance Group as necessary; and
- d) the Chief Executive report back to Council on the findings of any additional advice received, and the preferred direction of each Council for the service delivery option for Waters Services.

OR**Option 2**

That:

- a) the report be received;
- b) Council request further advice on options previously considered, or new options:
either /and
 - (i) Asset owning CCO;
 - (ii) Enhanced shared services;
 - (iii) Non-asset owning CCO;
 - (iv) Transitional Model: Non-asset owning CCO to an asset owning CCO;
 - (v) Two council asset owning CCO.
- c) the Chief Executive be delegated responsibility to progress the project including discussions with Waipa and Waikato District Councils and advisors; to identify practicable options for working together; seeking further advice and modelling and to work with the Waters Governance Group as necessary; and
- d) the Chief Executive report back to Council on the findings of any additional advice received, and the preferred direction of each Council for the service delivery option for Waters Services.

12. Attachments

13. Attachment 1 - Sub-regional Waters Study - Resolutions of Hamilton City Council
14. Attachment 2 - Record of Agreement
15. Attachment 3 - Morrison Low - Waipa District Council - Waikato Sub-Regional Waters CCO - November 2016
16. Attachment 4 - Pros and Cons of Options assessed by Cranleigh
17. Attachment 5 - Extract from Cranleigh Report - Summary of Options

18. Web Links

19. <http://www.waterstudywaikato.org.nz/> The link to the full Waikato Waters Study website containing information, technical reports, consultants reports (commissioned both individually and collectively), media releases, council reports and FAQs.
20. The following links take you directly to these documents on the water study web site.
 - [Full Cranleigh report](#)
 - [Waikato District Council - 5 Dec Report to Council](#)
 - [Waipa District Council - 6 Dec - Report to Strategic Planning & Policy Committee](#)

21. Background

22. Since 2012 multiple independent reports have advised that councils working together in the sub-region for the provision of water and wastewater activities would deliver significant financial and non-financial advantages for ratepayers and communities. In addition, many of New Zealand's relevant professional bodies (Industry New Zealand, IPENZ, Waters NZ, Ingenium, NIU...) also support the benefits of scale in the reticulation and delivery of water services.
23. On 26 June 2014 Council resolved to "... undertake a detailed business case examination of a Council Controlled Organisation for water and wastewater activities as a joint project between Hamilton City Council, Waikato District Council and Waipa District Council." and "The detailed business case includes an enhanced shared services model as part of the review". This started the process for which this reports recommendations relate (full resolution, see Attachment 1).
24. On 30 October 2014 Council confirmed the appointment of the Cranleigh consortium following a competitive procurement process and established a Waters Governance Group with 2 members from each council with oversight over the business case development. Councillors Mallet and Pascoe represented Council.
25. The Cranleigh business case was a comprehensive piece of work which looked at the case for change, examined three options in detail identifying the financial and non-financial benefits of these options and recommending the preferred option.
26. Council resolved on 30 July 2015, "That Council receive the Business Case for Water Services – Delivery Options ("Cranleigh Report")" and "Council supports in principle the formation of a Waters CCO for the Hamilton City, Waikato and Waipa District Councils..." (full resolution, see Attachment 1)
27. On 29 October 2015 a new Waters Governance Group was established to address issues to be resolved prior to public consultation on forming an asset owning CCO. This resulted in the draft Record of Agreement which was developed via a series of independently facilitated workshops with members of a representative Waters Governance Group with three members from each council. The previous Mayor, (Julie Hardaker) along with Councillors Gallagher and Mallett represented Council. (Full Record of Agreement, see Attachment 2)
28. Council resolved on 14 July 2016, "That Council adopt the attached Record of Agreement and supporting documentation relating to the potential formation of a water and wastewater CCO for Hamilton City and Waipa and Waikato Districts Councils." This resolution related to the formation of a CCO with Waipa and Waikato District Councils (full resolution, see attachment 1).
29. In supporting the draft Record of Agreement Council did not decide to form a CCO. The formation of an asset owning CCO could not progress until:
 - All three Councils formally proposed forming a CCO following the 2016 Local Government Elections,
 - Formal public consultation had been carried out.
30. On 5 and 6 December 2016, Waikato and Waipa District Councils consider their positions on forming an asset owning CCO. This report for Council's 13 December meeting was finalised before those Council's met. The final resolutions of their meetings will be advised at the council meeting. Waikato is expected to confirm their position of moving towards an asset owning CCO. As part of Waipa's considerations they commissioned Morrison Low to consider a new option not considered by Cranleigh and the Waters Governance Group (full Morrison Low report Attachment 3). Waipa are expected to take a more prudent approach to developing a waters CCO in line with the MorrisonLow report.

31. Council must now formally consider whether to either confirm its support for an asset owning CCO formed on the basis of the attached draft Record of Agreement or whether it requires more information in order to be able to make a decision on the most cost effective service delivery option for waters services.

32. Options Previously Considered for Delivery of Water Services

33. On 30 October 2014 Council appointed the Cranleigh consortium to undertake a business case and resolved *“That the scope of works for the detailed business case [Cranleigh report] as outlined in Appendix 1 of the staff report are approved”* (full resolution and appendix 1, see Attachment 1).
34. The scope specified that the business case would investigate 3 options:
- The status quo
 - Enhanced shared services (ESS)
 - An asset owning Council Controlled Organisation (CCO)
35. Brief description of each option:
- **Status Quo:**
Each council employs and supports asset managers and engineers to plan, manage and maintain the waters activities. Each Council owns all the assets, debt and consents, fees and charges and holds all risks. Some collaboration may occur.
 - **Enhanced Shared Services (ESS):**
Councils pool most of their waters teams into one unit to manage and maintain waters activities. One council is the employer. Each Council owns all the assets, debt and consents, fees & rates and holds the risks associated with their assets and consents. Collaboration will occur subject to each council approving scope and funding.
 - **Asset-owning Council Controlled Organisation (CCO)**
An entity in which each Council is a shareholder, which owns, manages, maintains and finances the waters assets and usage. The entity would be governed by a Board appointed by the shareholder and follow the shareholders instructions. It would carry the risk of asset ownership and operation. It would be self funding and be responsible to the customer.
36. The process of developing and reporting on the business case was overseen by the Waters Governance Group (WGG) who met regularly with representatives of the Cranleigh consortium. During this process the WGG agreed assumptions, pros and cons and participated in the assessment of options.
37. The pros and cons of each option were formulated and are attached (Attachment 4). The Cranleigh report recommends an asset owning CCO as the preferred option as; *“It meets all the agreed investment objectives well, is lower risk and offers substantial financial benefits. Key advantages include:*
- *Water services are an activity with substantial economies of scale. The CCO option is the only one which offers scale across all key areas including staffing, systems, operations, network ownership and funding.*
 - *A CCO structure is also the only option which brings a full Waikato sub-regional view and solution supported by a robust and responsive governance structure. ESS goes some way towards this, but lacks strong governance and a single unified network.*

- *Major cost savings for water customers and councils due to opex and capex savings and the optimisation of funding structures made possible by a specialist, asset owning entity. Cost savings are supported by evidence from similar amalgamations overseas and in New Zealand as identified in the Mott MacDonald's engineering report.” (extract from Cranleigh Report, see Attachment 5)*

38. The final Cranleigh report, agreed by the Waters Governance Group was discussed with Council at a workshop on 12 May 2015 and then received by Council on 30 July 2015. Council then resolved to support in principle the formation of an asset owning CCO (full resolution, see Attachment 1).
39. Attachment 5 contains the full text of Cranleigh's Summary Options Assessment. The table below summarises the ranking of the options considering the multi-criteria scoring, financial savings potential and risk.

Decision Factor	Status Quo	ESS	CCO
Multi – Criteria Score	58%	60%	82%
Combined Savings (10 years)	NA	\$27m	\$107m
Combined Savings (28 years)	NA	\$104m	\$468m
PV of Capex & Opex Savings	NA	\$35m	\$91m
Risk Rating	Medium	High	Low
Overall Ranking	2nd	3rd	1st

40. Challenges of Forming an Asset Owning CCO

41. Since Council adopted the draft Record of Agreement in July 2016, staff have been progressing toward the next stage of establishing an asset owning CCO.
42. During the same period the Government proposed an amendment to the Local Government Act 2002 that could have made the establishment of the proposed CCO easier. Further to that, Council submitted on other matters that would further remove obstacles to forming an asset owning CCO.
43. The establishment of a new asset owning CCO in a very regulated environment and involving multiple councils is challenging. As the project moves forward to each decision point more detailed consideration of matters is required. As an example the setting of Development Contributions during the establishment period for the CCO is frustrated by the existing legislation:
- The Cranleigh Report assumed that development contribution charges would be replaced by an infrastructure growth charge (Cranleigh p48). This appeared an appropriate assumption as it is the mechanism used by Watercare. This assumption was reflected in the draft Record of Agreement.
 - In June 2016 the Government's proposed Local Government Act amendment contained very different provisions for development contributions which required Council's to collect these on behalf of a waters CCO. Council submitted for this to be changed.

- Furthermore our legal advisors and auditors (following consideration of many alternatives) concluded a full LTP amendment is required. A consequence of which is, the removal of capital projects critical to charging development contributions from the period each council adopted the LTP amendment and resolves to form an asset owning CCO to the time the CCO is operational with its policies in place. The consequence of this would be a period of significant undercharging of water and wastewater DC levies.

44. Many of the challenges staff are identifying have also been identified by MorrisonLow and are listed on pages 4 and 5 of their report to Waipa (Attachment 3). While each of these challenges is surmountable, they all add to the time, complexity and risk of establishing an asset owning CCO. Many of the largest and most challenging issues are more easily resolved in the Transitional Model discussed below.
45. We have heard from those involved in the establishment of other CCOs that we should expect multiple challenges to appear as we move to establishing the CCO and that it will be necessary to find pragmatic solutions so that the big gains can be achieved. They advised that many of the issues weren't project critical and can be resolved after the CCO is established. Should the implementation plan seek to be overly prudent and seek to have an answer to every issue, the CCO will never be established nor achieve the potential benefits the business case has outlined.

46. Amendment to the Record of Agreement

47. The current draft Record of Agreement outlines the matters on which the councils have agreed in principle. It represents how an asset-owning CCO would function, if formed.
48. Since the elections informal discussions have been held between the councils on various matters relating to the proposed CCO. In these discussions HCC outlined a preference that should a CCO be formed the decision to install water meters in the city, should meters be needed in the future, must be solely a decision of Hamilton City Council. This is slightly different to what is outlined in the existing draft Record of Agreement.
49. Council need to confirm that it is its preference to move the decision in the Record of Agreement Table 1, as shown below:

Decision	Decision-maker			Type of Shareholder Decision
	CCO Board/ Management	Shareholders Jointly	Individual Shareholders	
Implementing water metering	✓	Establish principles		Significant

Changed to:

Implementing water metering			✓	
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50. The Cranleigh report did not assume that water meters would be installed in Hamilton. Council's 30-year Infrastructure Strategy estimates this decision is towards the end of the 30 year period).
51. The report to Waikato District Council contemplates that HCC may seek to change the decision making process on water meters as follows: *"this proposed change to the RoA would have no material effect on the benefits outlined in the report. It is recommended that, if this request is formally made by HCC, Waikato District Council support such an amendment."*

52. Other minor amendments may need to be made to the draft Record of Agreement following further consideration by each Council. These can be considered by the CEOs of each Council or through the Waters Governance Group (delegated through Council to be His Worship the Mayor, the Chair and Deputy Chair of the Strategy & Finance Committee.)

53. It should be noted that the draft Record of Agreement agreed to by all three Councils in June and July of this year represents the basis of the formation of an asset-owning Water CCO. If any Council wished to fundamentally change any of the base assumptions underpinning the agreement, a new agreement would need to be developed. This would likely add significant further costs to the project and delay moving towards public consultation.

54. Potential New Options for Delivery of Water Services

55. Since the councils resolved to adopt the draft Record of Agreement in June/July 2016, further consideration of the proposal has been undertaken. Specifically Waipa District Council independently sought additional advice on the advantages and disadvantages of a non-asset owning CCO and transitional approach to implementing a CCO from MorrisonLow (see Attachment 3).

56. The report proposes a “prudent transition” to an asset owning CCO which has three parts to it. A non-asset owning CCO, transitioned to a self funding CCO which could then be transitioned to an asset owning CCO.

57. These options have been given various names in the Waipa report, a Waipa press release and the MorrisonLow report, including Mixed Model, Mixed Model of management and operation, Council Funded CCO and Self Funded CCO.

58. It appears Waipa is wishing to pursue a transitional approach to establishing a Waters CCO. This leaves HCC and Waikato the option to either join with Waipa to transition to a asset owning CCO, acknowledging that Waipa have indicated a strong preference not to take the final step (i.e. transition from a self-funding CCO to asset owning CCO), or for HCC to work with Waikato alone and investigate a new 2 council asset owning CCO, or for HCC to consider other options.

59. For the purpose of this report we have identified three potential new options that have not been considered. They are not exactly the same but incorporate the essence of the MorrisonLow report.

60. Brief description of each option:

- **Non-asset Owning CCO**

This option is much like the Enhanced Shared Service option except with a governance structure that could possibly mitigate Cranleigh’s assessment of high risk. A non-asset owning CCO could be established more quickly and easily than the asset owning CCO. The MorrisonLow report documents two steps within this option where in the first step the CCO operates as a provider of asset management services and a second step where the CCO could become self funding from user charges.

- **Transitional Model**

This option starts with the establishment of a non-asset owning CCO which at a prescribed point in time and subject to certain conditions would recommend to its shareholders the transfer of the waters assets to the CCO. This is an important end point to achieving all the benefits identified in the Cranleigh report. This

option could possibly start sooner than an asset owning CCO and provide time and resources to address potential obstacles for an asset owning CCO.

- 2 Council Asset Owning CCO
This option joins Waikato and Hamilton as the likely remaining council's (assuming that Waipa resolves to support the MorrisonLow proposal). It is assumed that this would look very similar to the agreements already made however no analysis has been done to assess how this might work and whether this is a reasonably practicable option.

61. From an HCC perspective none of these options have been assessed against the business case (Cranleigh). It is not possible to assess whether these options are reasonably practicable or more or less cost effective without further work. Also it is not possible without further analysis to conclude the extent to which the benefits of the asset owning CCO will be achieved under each of these options and what the associated risk of achievement is.
62. If Council were to consider that the information in the Cranleigh report was not sufficient to proceed and that one or more of these options merited consideration, then staff recommend that any selected option be assessed by Cranleigh (and if necessary other advisors) against the assessment criteria used already. This will enable a proper determination of the most suitable option.

63. Recommendations to Waikato and Waipa District Councils

64. On 5 and 6 December 2016 Waipa and Waikato Councils meet and discuss the following recommendations. Unfortunately this is after this report was finalised. We will update Council on the final resolutions at the meeting.

65. Waikato District Council

- Council meeting on Monday 5 December 2016 to consider the following recommendations:

THAT the report from the General Manager Service Delivery -Sub Regional Water CCO- be received;

AND THAT Council formally support the formation of an Asset Owning Three Council Water CCO:

AND FURTHER THAT Council adopt the attached draft Record of Agreement, incorporating any necessary amendment in relation to any decision on water meters for Hamilton City being made by that Council alone as the basis of the formation of a three council asset-owning Water CCO:

AND FURTHER THAT Council request staff to develop the plan to undertake the next stage of the project, including a full public consultative process and delegate the approval of this plan to the members of the Waters Governance Group.

66. Having considered this report and advice from officers we interpret this to mean that Waikato District Council has a strong preference to proceed with an asset owning CCO.

67. Waipa District Council

- Council meeting on Tuesday 6 December 2016 to consider the following recommendations:

“That

a) The report of David Hall, Group Manager Planning and Community Relations, be received;

b) The Strategic Planning and Policy Committee resolve to request that Hamilton City Council and Waikato District Council consider amending the “Transition and Establishment Processes Options” section of the Record of Agreement and other consequential amendments;

c) The Strategic Planning and Policy Committee recommend to Council the reformation of the Waters Governance Group to allow discussion with Hamilton City Council and Waikato District Council about amendments to the Record of Agreement and a coordinated approach to public consultation.”

68. Having considered this report, a press release regarding the report and advice from officers we interpret this to mean Waipa District Council has a preference to not proceed directly to an asset owning CCO and to take the more prudent approach as outlined in the MorrisonLow report. This is a significant amendment to the draft Record of Agreement.

69. Financial and Resourcing Implications

70. On 30 October 2014 Council approved a budget of \$650,000 shared with Waikato and Waipa.
71. Furthermore on 29 October 2015 Council approved \$350,000 shared with Waikato and Waipa.
72. The budgets have been managed by the joint staff water project group and costs have been shared HCC 50% and Waipa and Waikato 25% each.
73. At 31 December 2016 all approved budgets will have been spent on external costs. No estimate of staff time has been made.
74. Further reports will require further funding provision. No prices have been obtained for this work. If Council requested analysis, analysis of each option could cost \$50,000 - \$100,000 each. No agreement on cost sharing has been made and it is likely that not all partners would be willing to contribute to each option. Given this uncertainty it is difficult to determine a final cost to HCC. As such it is recommended the Chief Executive be given discretion to get quotes, fund from variations to the budget and seek partner funding as he sees appropriate so that any additional work can be expedited. The Chief Executive will report any budget impact to the Finance Committee.

75. Risk

76. Challenges and obstacles. This report and the MorrisonLow report discuss challenges and obstacles that have been identified and would require resolution when forming an asset owning CCO.
- These will create delays (see below)

Item 6

- An amendment to the Local Government Act 2002 could significantly assist with some of the larger challenges.
- Mitigation: We believe that each issue can be resolved however the more complex the issue the greater likelihood of delays and increased risk. An essential element in mitigating risk is extending implementation timeframes.
- The current tentative timetable gives six months for consultation and decision making; six months to establish the company and appoint interim directors, and for them to appoint a chief executive and 12 months to start operations.
- The Transitional Model proposes more time to address some of the obstacles associated with the formation of an asset owning CCO.

77. There are further delays in confirming the preferred delivery option.

- The start date is presently 1 July 2019. Delays in confirming the delivery option affect each Council’s ability to employ qualified staff. The effects of this are already being seen particularly at Waipa and Waikato and to a limited extent at HCC.
- Delays mean that data relied upon for decision-making is getting out of date and may need re-assessing.
- Delays mean that benefits are not being realised.
- Mitigation: Significant progress was made in the last term of council and there has been a hiatus in progress due to necessary democratic processes. Progress in 2017 will be determined by the decisions of the councils this month, and how quickly a consensus on the delivery model can be achieved.

78. The business case contains errors or is out of date

- The business case is based on draft 2015-25 10-Year Plan data and changes have been made to operations of each Council since then (particularly to respond to growth). In addition, Waikato has identified potentially significant new capital works to maintain wastewater systems (report to Waikato Council 5 December 2016).
- Mitigation: As the Cranleigh business case data will be two years old and is based on a different start date it would be prudent to update the report closer to the consultation and decision-making time.

79. Conclusion

80. It remains the staff view that from all the expert evidence presented to us that an asset owning CCO is the most cost effective option for the delivery of waters services. We have identified a number of obstacles and challenges that make implementing this in a reasonable timeframe difficult. The transitional model proposed by MorrisonLow (which needs much more analysis) could possibly provide a path to a quicker start and a more effective transition to the asset owning solution.

Signatory

Authoriser	Blair Bowcott, Executive Director Special Projects
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**Waikato Sub-Regional Waters Study
Resolutions of Hamilton City Council**

26 June 2014

Purpose of report

To seek Council approval to undertake a detailed business case analysis of a proposal to establish a Council Controlled Organisation (CCO), between Hamilton City Council, Waikato District Council and Waipa District Council for water and wastewater services.

Resolution

That:

- (a) The report be received,
- (b) Council undertake a detailed business case examination of a Council Controlled Organisation for water and wastewater activities as a joint project between Hamilton City Council, Waikato District Council and Waipa District Council,
- (c) The detailed business case also includes an enhanced shared services model as part of the review,
- (d) The Chief Executive Officer be delegated authority to conduct a competitive process to identify the specialist advisor/s reflecting the outline scope in Section 22 of this report but with the flexibility to incorporate respondents suggestions, and
- (e) The outcome of the competitive process be reported back to Council for approval. The report to include details of the proposed final business case.

30 October 2014

Purpose of report

To approve the consultant, project scope, cost allocation and governance arrangements for the business case analysis of collaboration in waters activities which is proposed as a joint project between Hamilton, Waikato and Waipa Council.

Resolution

That:

- a) the report be received,
- b) Following a competitive procurement process, the Cranleigh consortium be appointed to prepare the detailed business case for collaboration in water, waste water and the inclusion of storm water at a total cost of \$450,000 (representing \$395,000 of joint Hamilton, Waikato and Waipa Council funded work and \$55,000 of Waikato District Council funded work),
- c) The scope of works for the detailed business case as outlined in Appendix 1 (***see attached***) of the staff report be approved,
- d) Hamilton City Council's contribution to the project be \$325,000 which is 50% of the total net project cost of \$650,000,

- e) The Terms of Reference, including membership, for a Waters Governance Group as outlined in Appendix 2 of the staff report be approved, and
- f) Councillors Pascoe and Mallett be appointed to the Waters Governance Group.
- g) That the Chief Executive works with Waikato and Waipa District Councils and Cranleigh to identify opportunities to shorten the timetable and the Chief Executive reports back to Council on this matter.
- h) Council notes the \$250,000 unbudgeted expenditure will be managed within the Council's overall budget and reported through the Risks and Opportunities Report.

11 December 2014

Purpose of report

The purpose of this report is to outline the most likely timetable for the Waters project.

Resolution

That the report be received

30 July 2015

Purpose of report

1. *To formally receive the Business Case for Water Services – Delivery Options (“Cranleigh Report”) following its public release at a Karapiro briefing on 11 May 2015 and HCC briefing on 12 May 2015.*
2. *To support “in principle” the formation of ratepayer owned Waters Council Controlled Organisation (CCO), subject to other councils also approving the same.*

Resolution

That:

- a) the report be received;
- b) Council receive the Business Case for Water Services – Delivery Options (“Cranleigh Report”);
- c) Council support in principle the formation of a Waters CCO for the Hamilton City, Waikato and Waipa District Councils; and
- d) staff report back to Council once all three Councils have formally considered and determined their position on the business case.

29 October 2015**Purpose of report**

To approve further analysis on important decision making and shareholding arrangements in relation to a Waters Council Controlled Organisation for Hamilton City, Waikato and Waipa District Councils.

Resolution

That:

- a) The report be received;
- b) Council support the establishment of a Hamilton City Council, Waikato District Council and Waipa District Council Waters Governance Group to address the issues in Attachment 1 of this report and any other associated issues, in accordance with the Terms of Reference outlined in Attachment 2 of this report;
- c) Council appoints the Mayor, Cr Mallett and Cr Gallagher to the Waters Governance Group;
- d) Council agrees to a combined budget of \$350,000 being allocated to the Waters Governance Group to undertake investigations into the issues identified in Attachment 1 of this report "Issues to be resolved prior to public consultation" and such other issues as may be identified, to report back on those investigations and to work towards the completion of a record of agreement between all three Councils by 30 June 2016;
- e) Hamilton City Council fund 50% (\$175,000) of the approved budget and Waikato and Waipa District Councils fund 25% (\$87,500) each of the approved budget;
- f) Hamilton City Council's share of the funding for this project (\$175,000) will be addressed through the Risks and Opportunities process for the 2015/16 year.
- g) Council delegates authority to the Chief Executive to engage specialist advice as required.

14 July 2016**Purpose of report**

To consider and adopt a proposed Record of Agreement in relation to the potential formation of a sub-regional water and wastewater CCO.

Resolution

That:

- a) the report be received.
- b) Council adopt the attached Record of Agreement and supporting documentation relating to the potential formation of a water and wastewater CCO for Hamilton City and Waipa and Waikato District Councils.

Appendix 1 – For Resolution 30 October 2014

SCOPE OF WORK

OUTPUTS OF THE DETAILED BUSINESS CASE

The project will deliver the following key outcomes.

- The shape and scale of an asset-owning CCO (as recommended in the Stage 2 report) will be understood in detail, including: governance and shareholding arrangements; how differing levels of debt across the three councils are managed; financial and funding arrangements; organisation structure and service delivery model. (Comments on the advantages/disadvantages of this model over a non-asset owning structure will also be included.)
- The Business Case will consider the different standards and scale of network across the three communities; different levels of service; forecast capital works; the risk and debt profiles of each council and the operational implications of merging the networks.
- The advantages and disadvantages of an enhanced shared services¹ model will be understood. The intent is to look at the viability of adding additional services without going as far as a CCO structure. For example a wider range of back-office services or the joint delivery of physical works using a joint committee between the councils should be considered.
- The Business Case will confirm what changes each council will need to make (resourcing for example) to comfortably deliver their respective LTP programme of work, in the event that no change is made. It will be important to ensure that consistent assumptions are used across the three councils.² This represents the 'control' option.
- Determine whether stormwater services are appropriately delivered via any/all of the options being considered or whether stormwater is better left with the parent councils. The implications for stormwater under each option should be identified.
- The establishment and transitional costs of each option will be estimated and the transition process will be well understood.
- The strategic, organisational, financial and other implications of options for each council will be understood - including risks and benefits and the implications for local decision-making.

The detailed business case analysis will follow the NZ Treasury 'Better Business Case' model. The essential outcome will be the provision of substantive information sufficient for each council, and the residents and ratepayers of each council, to make an informed decision on the preferred long-term model of waters delivery.

The business case will result in a firm and clear recommendation on whether a CCO, an enhanced shared service structure or status quo will deliver the best long-term outcome for the sub-region.

Note 1: *There is no preference for any option at the moment. All are to be considered equally.*

Note 2: *The report must clearly show the full implications of each option for each council.*

¹ Presently, the three councils have a joint office providing water conservation, water quality testing and trade waste services.

² Draft 2015-25 LTP figures will be used as the benchmark for this analysis and the draft 30-year strategies will also be used as a reference point.

Note 3: *It is expected that the work will be sufficiently comprehensive that no further work will be required for the councils to make a decision.*

Note 4: *Because of the complexity of this project, independent peer review will be undertaken at appropriate project milestones.*



Committee: Council **Date:** 14 July 2016
Report Name: Waikato Sub-Regional Waters CCO Proposed Record of Agreement **Author:** Blair Bowcott

Report Status	<i>Open</i>
Strategy, Policy or Plan context	<i>2015-25 Long Term Plan – Review of Service Delivery</i>
Financial status	<i>There is no budget allocated to fund the \$175,000 (HCC share 50% of \$350,000) costs associated with the next stage of the Waters Study. This cost has been funded by corresponding savings identified in the Risks and Opportunities process.</i>
Assessment of significance	<i>Having regard to the decision making provisions in the LGA 2002 and Councils Significance Policy, a decision in accordance with the recommendations is not considered to have a high degree of significance</i>

1. Purpose of the Report

- To consider and adopt a proposed Record of Agreement in relation to the potential formation of a sub-regional water and wastewater CCO.

3. Executive Summary

- A number of independent reports have concluded that Hamilton City, Waikato and Waipa District Councils could manage water, wastewater and stormwater infrastructure more efficiently and cost-effectively by forming a joint Council-controlled organisation (CCO). Those reports have also indicated there would substantial non-financial benefits in forming a CCO.
- All three Councils have now agreed, in principle, to form a ratepayer-owned CCO to manage water and wastewater services, pending full public consultation.
- A Waters Governance Group (WGG), supported by a staff Project Control Group (PCG), was tasked with agreeing the essential elements of any CCO (if one was to be formed) and has now reached a proposed Record of Agreement. The WGG has also agreed a plain English version of the Record of Agreement in order to provide more clarity and certainty to ratepayers, residents and others about what has been agreed.
- Should the Record of Agreement and supporting document be adopted by all three Councils, post the October 2016 local body elections the newly elected Councils would be required to further consider and support, or not, the proposed Record of Agreement. If it was supported, each Council would be required to formally propose forming a CCO and undertake a full public consultation process. The shape and feel of any public consultation process has yet to be determined and is an ongoing task for the PCG.

Recommendation/s from Management

- a) That the report be received
- b) That Council adopt the attached Record of Agreement and supporting documentation relating to the potential formation of a water and wastewater CCO for Hamilton City and Waipa and Waikato District Councils.

8. Attachments

9. Attachment 1 - Proposed Record of Agreement
10. Attachment 2 - Plain "English" version of the Record of Agreement

11. Background

12. A number of independent reports have concluded that Hamilton City, Waikato and Waipa District Councils could manage water, wastewater and stormwater infrastructure more efficiently and cost-effectively, as well as gain non-financial benefits for ratepayers including improved compliance with environmental standards through an alternate delivery model.
13. In late 2014, the three Councils jointly commissioned an independent report to look at the management of water and wastewater infrastructure services in detail. A specialist consultancy (Cranleigh) was asked to consider three options:
 - 1) Boosting the existing shared service arrangements between all three Councils.
 - 2) Retaining the status quo with each Council continuing to run its own water operations
 - 3) All three Councils forming a joint, rate-payer owned CCO to run water and wastewater services on behalf of all three organisations.
14. In May 2015, the Cranleigh report was presented to the three Councils. It made two recommendations:
 - 1) That Hamilton City, Waikato District and Waipa District Councils transfer their water and wastewater assets into a jointly-owned not-for-profit Council-controlled organisation (CCO), and
 - 2) That the Councils retain ownership of their urban stormwater assets, but outsource management of those assets to the CCO on a cost recovery basis.
15. In July 2015, following receipt of the Cranleigh report [Hamilton City](#) and Waikato District Councils agreed, in principle, to form a CCO to manage water and wastewater activities, subject to full public consultation. Waipa DC agreed, in principle, to form an asset-owning CCO in March 2016 (also subject to public consultation).
16. In [late 2015](#), a nine-person WGG was tasked with working through a range of issues to reach agreement and establish the essential elements that determine how a ratepayer-owned CCO would function, if formed. The WGG has now reached a draft Record of Agreement following a number of facilitated meetings informed by professional advice from Peter Winder (McGredy

Winder) supported by Mike Stanton (Cranleigh). That draft Record of Agreement is attached. (Attachment 1)

17. The WGG has also agreed a 'plain English' version of the Record of Agreement in order to give more clarity and certainty to ratepayers, residents and others about what has been discussed. The plain English version is also attached. (Attachment 2)
18. It should also be noted that on 9 June 2016 the Local Government Act 2002 Amendment Bill (the bill) was introduced to the House. The focus of the bill is to provide a broader range of functions to be transferred between local authorities, joint governance arrangements for areas of common or shared interest, and greater use of joint CCOs for providing services.

19. Discussion and Analysis of Options

20. Discussion

21. The WGG considered the draft Record of Agreement through a series of facilitated workshops. Following the WGG's general agreement on content of the documentation, workshops were held with elected members across all three Councils (this Council's was held on 9 June 2016) with comments fed into the documents. On 10 June 2016 the WGG considered the final documents and confirmed its general support.
22. Please note that support for the attached documents does not mean a decision to form a CCO has been made. A decision on whether or not to form a CCO could not be made until:
 - All three Councils formally propose forming a CCO following the 2016 local body elections in October 2016; and
 - Ratepayers and the general public across all three Councils have been consulted on that formal proposal to form a CCO.
23. If consultation goes ahead, it is unlikely to happen until 2017. A Special Consultation Process is required and this could not occur prior to the election. Given the scale and scope of any next stage, and the need to be fully prepared to brief the incoming Councils, the PCG will continue to work on the possible approaches to the next stage of the process over the next few months.

24. Options

25. There are two options available to Council:

26. Option One

27. Adopt the attached proposed Record of Agreement and supporting plain English document. Adopting the documents will reflect Council's continued in principle support of a CCO, based on the Record of Agreement. However it will not signal a final decision to form a CCO. In line with previous discussions with Council and the Governance Group representatives, this is the preferred option.

28. Option Two

29. Not support the adoption of the attached Record of Agreement and supporting plain English version. This will signal that Council does not support the proposal to form a CCO based on the proposed Record of Agreement attached.
30. This option is inconsistent with previous views expressed by Council and the Governance Group representatives and is not recommended.

31. Financial and Resourcing Implications

- 32. There are no financial impacts of the decision. Any works undertaken by staff can be covered within existing budgets and workloads.
- 33. The delivery of the Cranleigh contractual requirements to the three Councils represents the end of the commission. The work was undertaken within the \$350,000 budget. Further communications input may be required over the next short period. This will also be covered within the existing budget allocation.

34. Legal implications

- 35. There are no known legal matters related to the adoption of the attached documentation. It should, however, be noted that the recent Bill introduced to parliament supports the approach being taken here.

36. Engagement with Iwi

- 37. Engagement with Iwi on the formation of a CCO is ongoing. Council representatives on the appropriate Joint Management Agreement Committees have continued to keep Iwi partners up to date. Further, the three Mayors and Chief Executives met with senior Iwi representatives from across the sub-region to discuss the CCO proposal in April. Following that meeting, staff have continued to liaise with Iwi representatives. A joint statement from Iwi is provided in the plain English document. Iwi engagement and liaison will continue.

38. Risk

- 39. All three Councils need to adopt the Record of Agreement as presented for it to be an approved agreement.
- 40. If any changes are sought to the Record of Agreement, these would need to be referred back to the Waters Governance Group for further discussion, delaying the adoption of the Agreement.

Signatory

Authoriser	Blair Bowcott, Executive Director Special Projects
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Water Governance Group

Record of Agreement:

1. This Agreement records the consensus reached by the Waikato Water Governance Group in relation to the design and operation of a possible Waikato Waters CCO.

Key Elements of the Proposed CCO

2. The key elements of the proposed Waters CCO are agreed as per the Cranleigh report:
 - a. The purpose of the CCO will be to provide drinking water and treat and dispose of wastewater (water services) across the Hamilton, Waikato and Waipa local authority areas.
 - b. The CCO will aim to deliver water services and operations in an efficient, effective and sustainable manner, maintaining agreed service standards and prudent management.
 - c. The CCO will also provide stormwater services under contract to Hamilton City, Waikato District and Waipa District Councils.
 - d. The CCO would be 100% owned by Hamilton City Council, Waikato District Council and Waipa District Council.
 - e. It will be possible for other Councils to join the CCO on a fair and equitable basis.
 - f. The CCO will take the form of a shareholder-owned, limited liability entity subject to taxation advice.
 - g. The CCO will earn enough revenue to maintain and develop the waters network, but will not pay dividends to shareholders.
 - h. It will effectively be a cooperative in favour of water customers and communities, although customers will not be members or shareholders.
 - i. The CCO will purchase the water and waste water assets and liabilities of the three Councils. This will involve a transfer of those assets and related liabilities from each Council to the CCO. In consideration for the water and waste water assets the Councils will receive a mix of cash, shares in the CCO and shareholder loans.
 - j. The CCO will manage its own balance sheet and debt within agreed parameters.
 - k. The CCO will be overseen by an independent, professional board of directors who are appointed by shareholders through the Shareholders' Forum.
 - l. The CCO will be managed by a CEO reporting to the Board of Directors.

- m. Operational decisions about water services will be the responsibility of the Board, based on an agreed Statement of Intent with the Councils and on decision thresholds defined in the constitution on a 'no surprises' basis.
- n. The CCO will be 'customer-facing'. That is, it will be expected that any service requests or customer complaints will be managed by the CCO.
- o. The CCO will report against financial and non-financial performance targets, and on any other matters reasonably requested.
- p. The CCO will bill customers directly after a transition period.
- q. Strategic planning, particularly for growth, will remain the exclusive prerogative of the Councils, and the CCO will be constitutionally bound to give effect to these plans and strategies.

Values and Principles

3. As joint owners of a Waikato Waters CCO, Hamilton City and Waikato and Waipa District Councils would require the CCO to adopt, and expect it to adhere to, the following values and principles:
 - **Transparent, Ethical and with Integrity** – operations, costs and business practices must be transparent to both shareholders and the public. The CCO must act with integrity and adopt the highest ethical standards in all that it does. Its business practices must be beyond reproach.
 - **Open and Customer Focused** – placing customers at the centre of all that it does, the CCO must be focused on delivering the services that they need. It must be responsive, open to criticism and feedback, and constantly seek to learn and improve.
 - **Reliable** – with the customer at the centre of all that it does, the CCO must deliver reliable services, replacing aging infrastructure as is necessary to maintain supply, and securing additional water sources as may be necessary to ensure reliable, consistent delivery.
 - **Affordable** – with the customer at the centre of all that it does, the CCO must deliver affordable services. To do this it must be very focused on finding the most cost-effective ways of delivering its services.
 - **Safety** – develop and foster an embedded safety culture that is reflected in the quality, consistency, and safety of products and services. The safety culture will be reflected in all aspects of the CCO's operations and in the way in which it looks after its customers and its staff.
 - **Innovation** – develop and foster a culture of innovation that constantly seeks to find new ways of delivering more cost effective services.
 - **Kaitiakitanga** – recognising the guardianship and link between Iwi, water and natural resources.
 - **Environmental Care** – the long-term success of both the CCO and the communities that it serves depends on the sustainable management of water resources. The CCO must embed sustainability principles in its business, caring for the water sources on which it depends, minimising water losses, minimising wastewater overflows, and ensuring that the quality of discharges meet required standards. The CCO must also



play a positive role in managing demand for water and appropriate incentives for conservation.

- **Social Responsibility** – working for the benefit of the communities that it serves, the CCO must imbue its activity with a strong sense of social responsibility. A strong social conscience must be reflected in pricing policy and tariff structures.
- **Enabling Economic Development** – providing reticulated water and wastewater services is a key enabler of economic development and growth. The CCO must plan and develop water services to sustain existing communities and support the agreed growth priorities of the shareholding councils.

Commitments to Iwi

4. Establishing a CCO would change the way in which water services are delivered and managed but it would not change in any way commitments to Iwi through Memoranda of Understanding, Joint Management Agreements, and a number of co-governance and co-management arrangements. Neither would it change processes for water allocation, consents, or regulatory responsibilities.

Control of Water Assets

5. The Local Government Act prohibits the privatisation of water assets. The councils support the current legislation and keeping water assets in public ownership.

Joint Shareholder Decisions

6. Joint shareholder decisions will be made by a Shareholders' Forum established under the constitution of the CCO and a related shareholders agreement. This forum would allow voting in proportion to shareholding.
7. How each council deals with its responsibilities and decision-making will be determined by each council. It is expected that each council will have a framework for considering the performance of the CCO and any issues that need to be decided by the Shareholders' Forum.

Membership of the Shareholders' Forum

8. The Shareholders' Forum will comprise a lead representative and two others appointed by each council.
9. The lead representative will be authorised to exercise any voting on behalf of the shareholding council. In the absence of the lead representative, one of the other representatives will be authorised to exercise the shareholder's votes.
10. It will up to each council to determine how it considers the matters considered by the forum and how their representatives reflect their interests.
11. For the first 18 months of operation, the Shareholders' Forum will be chaired by a non-voting independent chair. At the end of the 18 month period the Shareholders' Forum will recommend to councils whether or not to continue with an independent chair, or whether the position of chair will rotate between shareholders.

12. The Independent Chair will be appointed by resolution of each of the three shareholding councils.

Decision-making Thresholds

13. Shareholders will use best endeavours to make all joint shareholder decisions by consensus.
14. The role of the non-voting Independent Chair will be to facilitate consensus decisions. The Independent Chair must ensure that adequate time is devoted to reaching a consensus. However, where, after the best efforts of the Independent Chair and the members of the Shareholders' Forum a consensus cannot be reached, a decision will be made by voting.
15. Where consensus cannot be reached, 'ordinary' decisions made by the Shareholders' Forum will be by simple majority of votes on a one (equal) vote per shareholder basis.
16. Where consensus cannot be reached, 'significant' decisions made by the Shareholders' Forum will be by way of super-majority with voting proportionate to the shareholding of each council and require a majority of 75% of shareholder votes.
17. Table 1 shows which of the decisions reserved for the Shareholders' Forum are ordinary and which are significant and require a super-majority. It also shows where the role of either the Board or the Shareholders' Forum is to make recommendations or establish principles.

Decision-making Framework

18. Table 1 records the broad allocation of decision-making between the Board of the CCO, the shareholders collectively, and the shareholders individually.
19. In the table the ✓ indicates the decision-maker. The table also shows those responsible for making a recommendation.

Table 1: Decision-making Framework

Decision	Decision-maker			Type of Shareholder Decision
	CCO Board / Management	Shareholders Jointly	Individual Shareholders	
Establishing / changing the CCO's constitution		Recommend	✓	Unanimous
Establishing debt caps and/or debt ratio limits (SOI/Letter of Expectation)	Recommend	✓		Significant
Increases in debt over a certain cap or ratio	Recommend	✓		Significant
Establishing debt levels, security and sources of borrowing	✓		(See Note 1)	NA
Entering into a loan within debt cap and ratio limits	✓			NA
Repayment of shareholder loans	Recommend	✓		Significant
Approving a material transaction – including any additional related revenue	Recommend	✓		Ordinary



Decision	Decision-maker			Type of Shareholder Decision
	CCO Board / Management	Shareholders Jointly	Individual Shareholders	
Acceptance of another Council as a new shareholder and issue of shares, or change in shareholding	Recommend	Recommend	✓	Unanimous
Appointment of Chairperson		✓		Ordinary
Appointment of Directors		✓		Ordinary
Appointing the CCO CEO	✓			NA
Letter of Expectation		✓		Ordinary
Statement of Intent (See Note 2)	✓	✓		Ordinary
Development (and measurement) of KPIs	Contribute / Recommend	✓		Ordinary
Reporting CCO performance	✓			Ordinary
Monitoring the performance of the CCO		✓	Receives reports	Ordinary
Ensuring statutory compliance	✓			NA
Ensuring that assets are maintained to agreed standards over the long-term	✓			NA
Delivering water and wastewater services to agreed standards	✓			NA
Establishing growth priorities		✓ confirm for CCO	✓ through joint process – see below	
Alignment to shareholder strategic plans	✓			NA
Development and approval of capital works programme	✓			NA
Establishing procurement processes and approaches to tendering	✓			NA
Awarding tenders	✓			NA
Establishing / harmonising tariff structures	✓	Establish principles		Ordinary
Changes in tariffs / charges	✓	Establish limits		Ordinary
Negotiating tariffs with major water users	✓			NA
Customer relations – complaints, resolution and feedback process	✓			NA
Water Conservation and Demand Management	✓	Establish principles		Ordinary
Implementing water metering	✓	Establish principles		Significant

Note 1:

If a council chooses to borrow money secured against rates and on-lend to the CCO that would require the relevant council decisions.

Note 2:

The CCO Board prepares a draft SOI and adopts it following consideration of Shareholder Forum comments. By practice Shareholders 'accept' by resolution the final SOI. The Shareholders' Forum may (by resolution) require the CCO Board to change the SOI (see Local Government Act 2002, Schedule 8).

Establishing Growth Priorities

20. Decisions relating to implementing growth priorities will be determined by the shareholding councils through a new joint committee. For the purposes of this agreement this decision-making body is referred to below as a 'Growth Forum'. The details of the way in which the Growth Forum will be constituted and operate will be finalised later.
21. Each council will take the agreed location and sequencing of growth cells from Future Proof and translate that into more detailed planning for growth within its district. That planning will integrate and align the public infrastructure required to support growth.
22. The Growth Forum will provide the mechanism by which the more detailed growth planning from each council is then integrated. This will resolve any cross boundary issues, and ensure that the sequencing, timing and scope of the planned infrastructure best provides for the growth of the sub-region.
23. The Growth Forum will recommend to councils the agreed priorities for infrastructure. Councils will make final decisions relating to their infrastructure through their Long Term Plan processes (including consultation with their community).
24. The Growth Forum will convey the agreed priorities for infrastructure to the Shareholders' Forum. The Shareholders' Forum will then ensure that these priorities are reflected in the CCO's Letter of Expectation, Statement of Intent, etc.
25. Only shareholder council representatives will be members of the Growth Forum. Only shareholder council representatives will be able to vote and make decisions at the Growth Forum. Other organisations, including the CCO, may be invited to attend and provide advice.
26. Ideally decisions at the Growth Forum will be by consensus. At the Forum all councils will be represented on an equal basis.

Alignment to Council Objectives

27. The CCO will be required to act in the interests of its shareholders and give effect to Council policy as conveyed to the CCO through the Shareholders' Forum, the annual letter of expectations from shareholders and the Statement of Intent process.
28. The constitution of the CCO will use Section 131 of the Companies Act (or equivalent) to support the requirement to act in the interests of shareholders. This requirement will also be reflected in letters of appointment to directors.
29. The councils will use the process described above to establish agreed approaches to growth and development and priorities across the sub-region. These development priorities will be conveyed to the CCO through the Shareholders' Forum.



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30. Through the Shareholders' Forum, councils may set other objectives and expectations for the CCO. When developing objectives for the CCO the Shareholders' Forum will provide for input from the Board of the CCO on their ability to meet any proposed objectives and any cost or revenue implications.

Asset Valuation

31. The three councils will jointly appoint one valuer to independently value, or confirm the valuation of all the councils' water services assets as at the formation date of the CCO (expected to be 1 July 2019) using the ODRC methodology.
32. As agreed through LASS the councils will this year appoint one valuer and agree one set of asset life assumptions, one set of unit rates, and optimisation methodologies.
33. The agreed valuer will complete the valuation of the assets, which will become the agreed value of the assets for transfer to the CCO.

Treatment of Existing Council Debt, Development Contributions and Reserves

34. On formation, the CCO would raise debt at least sufficient to settle the agreed consideration.
35. On formation, the CCO would assume all future water infrastructure expansion obligations that each of the councils has relating to development contributions that they have previously received and the councils will pay to the CCO any unspent cash they have received as development contributions for this purpose.
36. On formation, the CCO would pay the councils a cash amount equal to their deficit reserve (if any) and any council with a surplus reserve would pay a cash amount equal to the reserve to the CCO.

Treatment of Future Vested Assets

37. Future vested assets are assets that are transferred to a Council at nominal or zero cost by a developer. They will be sold to the CCO with the consideration being an increase in the shareholder loan of that Council.
38. As part of their submissions to Government on new legislation, the councils will suggest reforms so that developers can be required to vest relevant assets directly with a CCO rather than in the council. Under this approach other exemptions will need to apply to avoid large, taxable, paper profits arising in the CCO.

Consideration

39. The principles that apply to consideration are:
- the councils should be treated in a fair, equitable and even manner
 - the approach to consideration must be transparent and able to be simply explained to the public

- total consideration for each council will be equal to the value of assets contributed
- the value of the councils' assets will be determined by independent valuations prior to the establishment of the CCO
- given the intention to minimise costs to water customers and the need to leave headroom for future capital expenditure, the amount of consideration that is paid as cash needs to be prudent and should not result in the CCO exceeding the maximum prudent level of debt that the CCO could take on at establishment
- no council should be left with residual water-related debts upon establishment of the CCO
- the councils' level of existing water debt will be confirmed by an independent reviewer.

40. The final calculation of consideration will be done as part of the establishment process. It must reflect the value of the assets held by each council at that time. The value of the assets at that time will depend upon the level of investment that the councils make between now and then. This means that at this time the councils cannot agree the final dollar value of consideration, they can only agree the basis on which consideration will be calculated at establishment.

41. The agreed approach to consideration is that:

- a. Total consideration paid by the CCO to the councils will be equal to the sum of the water-related assets, net water-related working capital and any surplus net reserves that are transferred into the CCO (i.e. total assets contributed).
- b. Consideration will be a mix of cash, shareholder loans and ordinary shares.
- c. The cash consideration paid to each council will be the greater of:
 - an amount proportional to the total assets contributed by each council multiplied by the total debt contributed by councils to the CCO as calculated below:

$$\left(\frac{\text{Total Assets Contributed by Council}}{\text{Total Assets in CCO}} \right) \times \text{Total Debt Contributed by all Councils}$$
 - or
 - the total water-related debt contributed by each council to the CCO.
- d. The total consideration paid as ordinary shares will be equal to 75% of the total assets in the CCO less the total debt contributed by councils. The ordinary shares received by each council will be equal to their net equity percentage pre-merger.

The definition of net equity is as below:

$$\text{Net Equity} = \text{Total Assets Contributed} - (\text{Debt} + \text{Deficit Reserves})$$

- e. Shareholder loan amounts will make up the balance of consideration, with the shareholder loan amounts to be apportioned to each council calculated as follows:

$$\text{Council Shareholder Loan} = \text{Total Assets Contributed by Council} - \text{Cash Consideration} - \text{Ordinary shares}$$



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42. On commencement, the CCO will raise debt at least sufficient to pay the cash consideration to each council.
43. Based on the current forecast model (as at 30 June 2019), the agreed approach to consideration would result in the following:

Consideration				
As at 30/06/2019	Waikato \$m	Hamilton \$m	Waipa \$m	Total \$m
<i>Council Water Assets (2 Waters)</i>				
Fixed Assets	248.9	787.6	232.3	1,268.8
Net Working Capital	4.1	12.5	3.7	20.3
Surplus Net Reserves	0.0	0.0	0.0	0.0
Total Assets Contributed	253.0	800.1	236.0	1,289.1
% of Total Assets	19.6%	62.1%	18.3%	100.0%
<i>Council Water Debt</i>				
External Debt	38.9	130.9	22.6	192.4
Deficit Net Reserves	22.5	0.0	8.9	31.4
Total Debt	61.5	130.9	31.5	223.8
Net Pre-merger Equity	191.6	669.1	204.5	1,065.3
% Equity Pre-merger	18.0%	62.8%	19.2%	100.0%
<i>Purchase Consideration Paid</i>				
Cash	61.5	138.9	41.0	241.3
Ordinary Shares	133.6	466.7	142.7	743.0
Shareholder Loans	58.0	194.4	52.4	304.8
Total Consideration	253.0	800.1	236.0	1,289.1
% Shareholding	18.0%	62.8%	19.2%	100.0%

Please note that the above figures are rounded to one decimal place; any slight differences in the addition of rows is due to rounding.

Debt/Equity Position of the CCO

44. It is noted that based on work to date, the ratio of debt to equity of the CCO has been forecast to peak at just over 31%. Many international water companies have ratios much higher than this.

Shareholder Exit Provisions

45. It will be possible for a shareholding council to exit from the CCO and resume the management and operation of the water and wastewater activities in its area.
46. If a council were to decide to exit from the CCO the following principles would apply:
- Fairness.** The arrangements should be fair to both exiting and remaining shareholders.

- b. **Trigger points.** An exit would need to be triggered by a council asking to leave. The key would be appropriate time lines. This might be:
 - i. departing council notifies other shareholders it wishes to leave
 - ii. other shareholders working with the CCO board and management to develop a detailed exit plan within one year
 - iii. departing shareholder has up to one year to accept the plan or agree another
 - iv. once a plan is agreed it should be implemented within 18 months.
- c. **Treatment of assets.** The departing shareholder will need to buy from the CCO all the water and wastewater assets in its territory at the value they are held in the CCO's accounts together with an appropriate amount of working capital. At the boundaries there may be some assets that serve customers outside the exiting council's territory, or customers within the exiting council's territory may be serviced by assets that remain within the CCO. The remaining and departing councils will need to agree appropriate arrangements for these assets as part of the exit plan.
- d. **Consideration.** As payment for the CCO's assets the exiting council would agree to the cancellation of its CCO shares and shareholder loans and would pay the balance in cash.
- e. **Other liabilities.** It would be unfair for the remaining shareholders to be left with stranded assets or other liabilities. These might include a now oversized head office or operating systems or redundancy costs for staff not now required who do not wish to accept positions with the exiting council. These costs should be borne by the exiting council.
- f. **Transaction costs.** Fair transaction costs such as legal costs and increased costs of working should be borne by the exiting council.

Option to Allow New Shareholders

- 47. It will be possible for another council to become a shareholder and transfer its water assets into the CCO.
- 48. A proposal for a new shareholding council would be considered by the Board of the CCO and a recommendation to accept or reject the proposal would be made by the Board to the Shareholders Forum. The final decision on the proposal would be made by the shareholders themselves in accordance with this agreement.
- 49. The following principles apply to a possible new shareholding:
 - a. The shareholders are open to considering the admission of new shareholders.
 - b. The admission of a new shareholder must be approved by the existing shareholders.
 - c. The admission of a new shareholder should not be detrimental to the existing shareholders.
 - d. A new shareholder will pay all the transaction costs of joining the CCO.



Approach to Tariff structures

50. It is essential to establish a clear process for determining water service tariffs. The CCO needs to be able to raise the necessary revenue to cover its operating costs by direct billing. Direct billing is also important to establish a relationship between the customer and service provider. It is intended to move to a unified tariff structure across the sub-region as soon as possible.
51. The following principles apply to water and wastewater revenues and will be reflected in the Letter of Expectation, the Statement of Intent, the CCO monitoring framework and a no surprises policy:
- CCO revenues will be based on sustainable whole of life costs and long-term cost reduction.
 - Objective to move to price harmonisation as soon as possible so that customers of the same type, that receive the same level of service, pay the same tariffs.
 - Water and wastewater charges will not be higher than expected under council Long Term Plans for at least one year after the establishment of the CCO is completed.
 - CCO to bill customers directly as soon as possible.
 - The CCO must allow for both volume and fixed rate charging.
 - A hardship mechanism shall be included. The preferred mechanism will need to be developed and recommended by the CCO.

Role and Competencies of the Board

52. The board of directors is appointed to act on behalf of the shareholders to run the day to day affairs of the business. A critical board task is the selection, mentoring and monitoring of the CEO.
53. Board members must collectively have skills relevant to a substantial water related infrastructure business. These skills will include civil engineering, accounting, law, customer service, financing, staff selection and monitoring, planning, information technology, health and safety, commercial contracts, procurement, an understanding of and empathy for iwi Māori perspectives, experience of dealing constructively with community matters and concerns and an understanding of local government.
54. This does not mean that the board must include an accountant, an HR expert or a lawyer. Rather that board should include people whose skill set includes a good understanding of the application and relevance of these to the running of a water company. Having said that, it is expected that at least one or two qualified engineers will be on the board given the core function of the business.
55. The board is appointed by the shareholding councils via their Shareholders' Forum and will be accountable to it via the letter of expectation, the statement of intent and reporting processes. If performance is inadequate, the Shareholders' Forum will have the ultimate sanction of removing and replacing some or all of the directors. The Shareholders' Forum will have the right to remove directors at any time.

The Potential for Elected Representatives to Serve as Board Directors

56. Elected representatives including community board members are not permitted to serve as board directors.

Iwi Relationships

57. Councils will require that one of the competencies that is required on the Board of the CCO is an understanding of and empathy with iwi Māori perspectives. Councils will consult iwi to explain the proposed structure and governance arrangements of the water company and to hear which matters are likely to be of most interest to iwi. This will assist in determining the best avenue for those interests to be heard and will include ensuring that existing consultative arrangements are linked to the water business.

How the Voice and Interests of Customers Are Heard

58. The agreed Board competencies include experience of dealing constructively with community matters and concerns.
59. Representing the interests of customers will be a critical role for councils via the Shareholders' Forum, statement of intent and monitoring process.
60. Councils will ensure that the statement of intent includes clear targets and key performance indicators on service performance and customer satisfaction.

The Management of Stormwater Assets

61. Councils will negotiate appropriate management service agreements for their stormwater activities during the implementation phase. The councils will also adopt the principle that no council should be offered lower pricing for like for like stormwater services than any other council.

Central Government Insurance Cover for Natural Disasters

62. Under current legislation, Central Government insurance cover for natural disasters will not be available to the CCO. However, there may be changes to this legislation and so this position may change by the time that the CCO is formed.
63. Should there be no change to legislation, the CCO can simply buy the necessary cover in the market.

Government Rate Rebates Programme

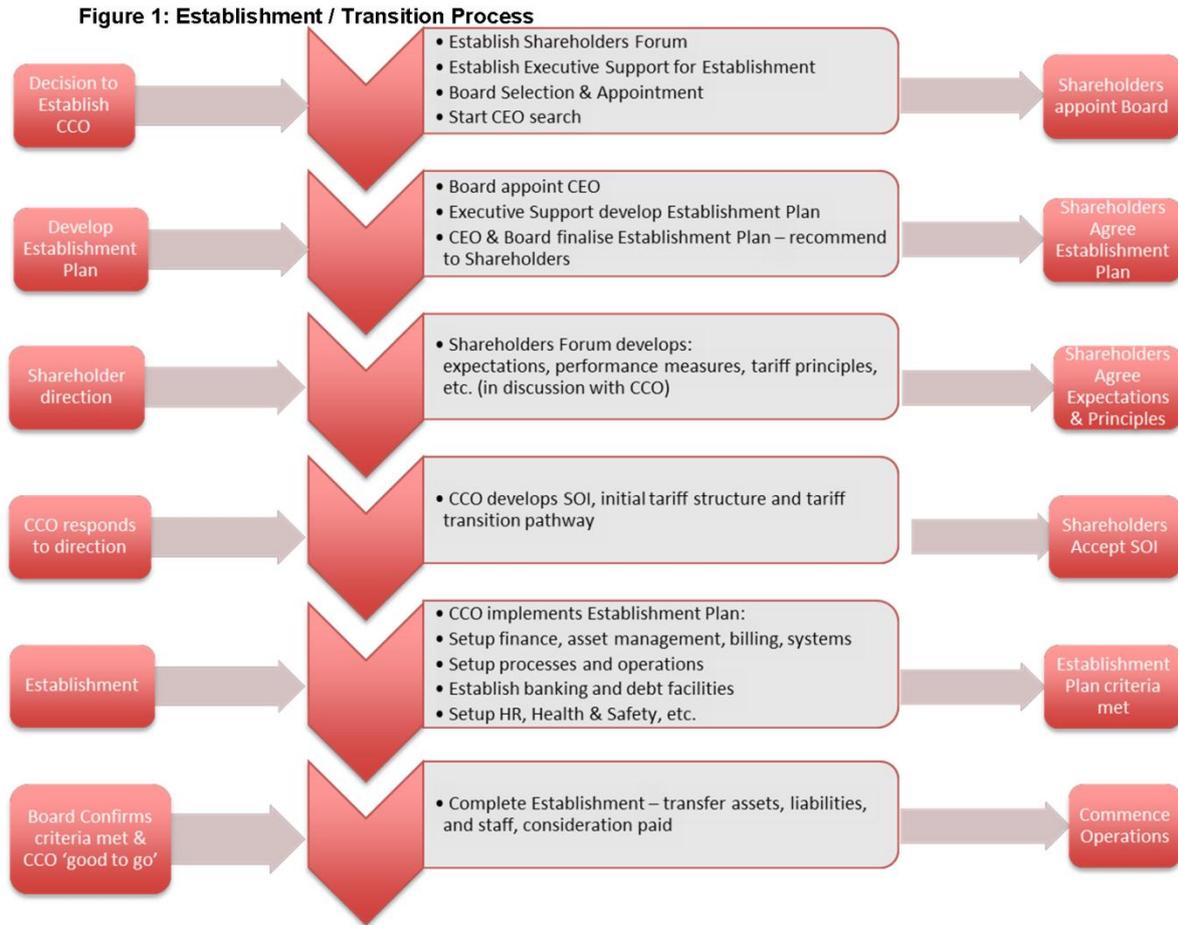
64. Current legislation provides for rates rebates for certain customers who have difficulty paying. This would not be available to the CCO. As with insurance cover, this legislation is under review.
65. Should there be no change to legislation, the CCO could provide a comparable tariff rebate scheme for such customers at little cost.



Transition & Establishment Processes Options

66. The current negotiation between the councils is intended to produce an agreed CCO proposal that (once agreed by all Councils) will become the basis of a single public description of a possible Waters CCO that will inform the public. It is intended that this single description of the CCO would be available before the end of June 2016.
67. Assuming that the three councils reach agreement on a proposed CCO, it is intended that they would each consult the public on the proposal in 2017. Following public consultation, if the three councils agree to proceed then the establishment and transition process would begin.
68. This sequence of steps is shown in Figure 1 below. It provides a staged transition process and does not transfer assets, liabilities, staff and operational responsibility to the CCO until it is fit for purpose and ready to go.
69. The process provides key decision / control points to shareholders through the process. Under this approach, once a decision to establish a CCO is made, shareholders would work to:
- a) appoint the Board
 - b) agree an establishment plan
 - c) develop and agree the expectations that they will set for the CCO, the principles that the CCO must use to develop its tariff structure, and their expectations with respect to growth and economic development
 - d) consider and adopt the SOI.
70. The CCO will work systematically through the establishment process according to an agreed establishment plan. The CCO Board will oversee the establishment, including recruiting a CEO, SOI, initial tariff structure and tariff transition pathway. The CCO will also setup its business systems and processes **before** it takes over ownership and operation of the water and wastewater systems. Having these systems in place and operational before the CCO commences full operations significantly reduces risks associated with the transition. Importantly, staffing arrangements, management and operational systems will all be in place before it takes over assets.
71. The establishment plan will include the criteria that the CCO Board must meet before the final stage of the establishment process is completed. The CCO Board must satisfy itself that the organisation meets the criteria and is fit for purpose before they agree to the final stage of the transition – the transfer of assets, liabilities, staff and operational responsibility.
72. Prior to the good to go decision, the shareholders will have ample scope to exercise their decision-making role as they establish expectations, principles and the framework of performance measures within which the CCO will operate. All of this must be established and agreed before the transfer of assets and operational responsibility.
73. In order to complete the establishment / transition process in a timely manner many of the processes shown in Figure 1 would be undertaken in parallel, rather than sequentially. The selection and implementation of business systems will need to be run in parallel with the process of setting shareholder expectations. The start of the CEO selection process (selecting a recruitment consultant, developing a draft position description and person spec, etc.) can happen in parallel with the selection and appointment of the Board.
74. The establishment process would also be supported by an executive team comprising key staff from each council. Their role will be to assist both the shareholder representatives and the Board and CEO through the process.

75. Assuming that the three councils consult on the proposal to establish a CCO at the beginning of 2017, it is expected it would be possible to complete the establishment process and transfer the assets and responsibilities to the CCO by the end of the 2018-19 financial year.

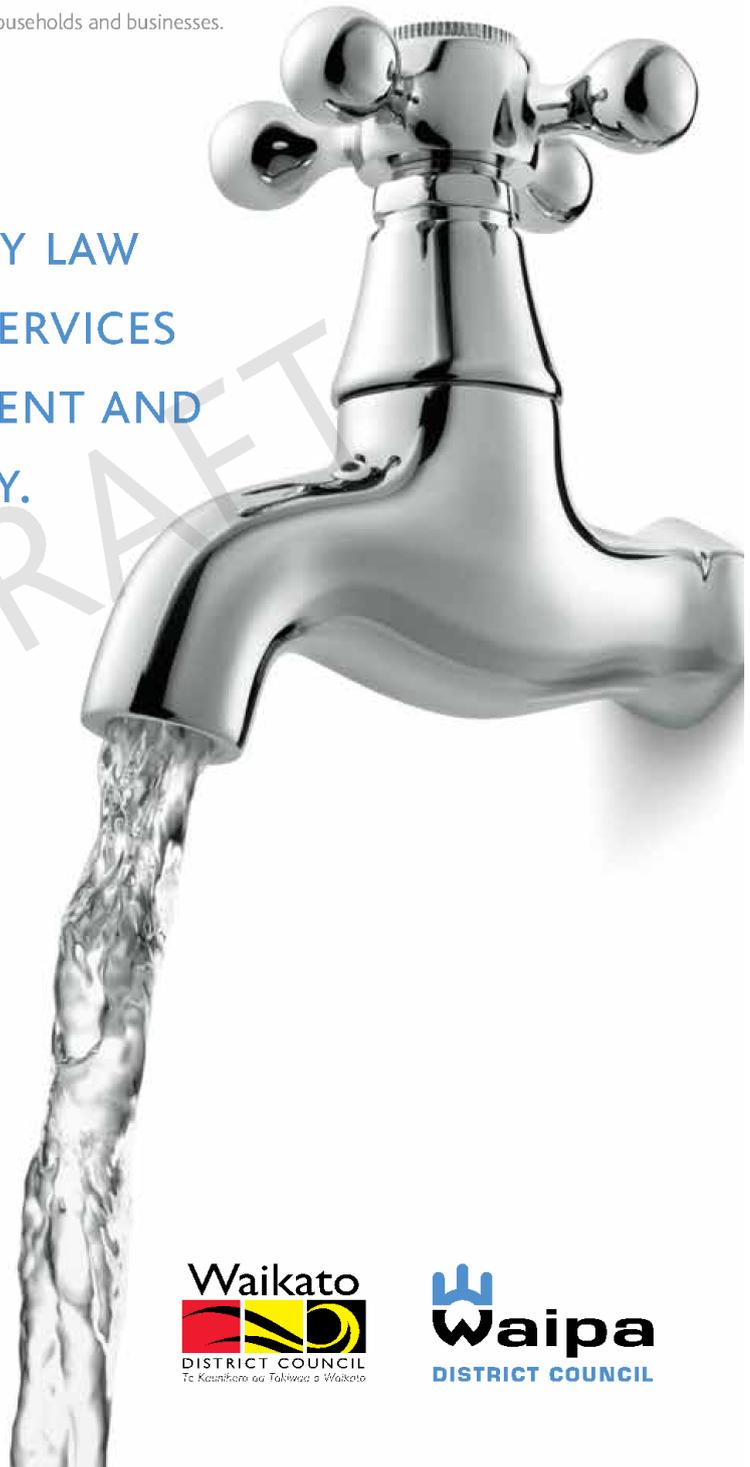


Each year we spend more than \$100 million dollars delivering water and wastewater services.

We deliver around 38 billion litres of water and dispose of around 23 billion litres of wastewater. That's enough clean, drinking water to fill more than 15,000 Olympic size swimming pools... and enough wastewater to fill more than 9,000 more.

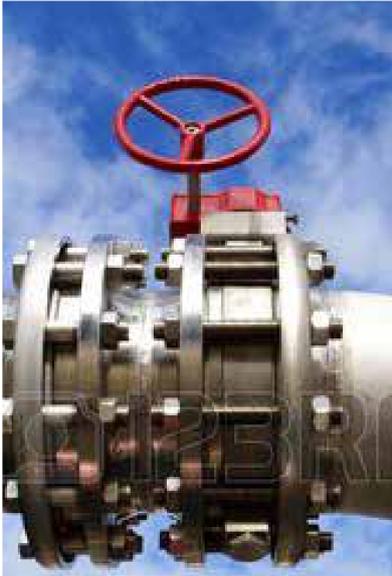
Across the Waikato and Waipa districts, and within Hamilton city, we provide these services to more than 76,000 connected households and businesses.

**WE ARE REQUIRED BY LAW
TO DELIVER THESE SERVICES
IN THE MOST EFFICIENT AND
COST-EFFECTIVE WAY.**



June 2016





WHY HERE?

Hamilton city, Waikato and Waipa districts are all high-growth areas. Over the next 30 years, population across the three neighbouring Councils will increase from around 265,000 to around 384,000. That's around 75 new people per week moving here.

We will need more water and wastewater infrastructure, or upgraded infrastructure, to cope with our growing population. We will also need to provide the right infrastructure for the industrial and economic growth we'll need to sustain and support our communities.

While Hamilton will experience an increase in the number of young people living in the city, many more people across the three Council areas will be older, with smaller average incomes. Affordability of Council services will be an even more important issue with a greater focus than ever before on efficiency and cost-effectiveness.



www.waterstudywaikato.org.nz

BACKGROUND

Councils by law must provide services, including water and wastewater services, in the most efficient and cost-effective way.

A number of independent reports have suggested that Hamilton City, Waikato District and Waipa District Councils could manage water, wastewater and stormwater infrastructure in a better way; a way which will provide significant financial and non-financial benefits to ratepayers and others.

In late 2014 the three Councils agreed to explore this issue further, commissioning an independent report to look at water infrastructure services in detail. A specialist consultancy called Cranleigh was asked to consider three options:

- (1) Boosting the existing shared service arrangements between all three Councils. (All three currently work together on trade waste and laboratory services and to encourage water conservation)
- (2) Retaining the status quo with each Council continuing to run its own water operations (meaning there would be no change)
- (3) All three Councils forming a joint, Council-controlled organisation (CCO) to run water and wastewater services on behalf of all three Councils.

The report did not consider privatising water services. Privatising Council-delivered water services is against the law in New Zealand. All three Councils support the current legislation and support keeping water assets in public ownership.

TWO RECOMMENDATIONS

In May 2015, the Cranleigh report was presented to the three Councils. It made two recommendations:

1. That Hamilton City, Waikato District and Waipa District Councils transfer their water and wastewater assets into a jointly-owned not-for-profit Council-controlled organisation (CCO), and
2. That the Councils retain ownership of their urban stormwater assets, but outsource management of those assets to the CCO on a cost recovery basis.

All three councils have agreed to support the formation of the CCO in principle, subject to the outcome of public consultation. That consultation is unlikely to happen before 2017. **No decision to form a CCO has been made or could be made for some time.**

Full copies of the reports from Cranleigh (including a 38-page summary report) are available at www.waterstudywaikato.org.nz. Copies of a report from Mott MacDonald (who advised Cranleigh on engineering issues) is also available on this website, along with other information.

WHAT IS A CCO?

CCO stands for Council-controlled organisation. In a CCO one or more Councils control 50 per cent or more of votes, or have the right to appoint 50 per cent (or more) of the directors. In other words, Councils 'control' the organisation. Existing local CCOs include Waikato Regional Airport Ltd (jointly owned by Hamilton City, Waipa, Waikato, Matamata-Piako and Otorohanga District Councils) and Local Authority Shared Services (jointly owned by 12 councils).



CRANLEIGH

WHY THE REPORT RECOMMENDED A CCO

The Cranleigh report identified two main areas of benefit from forming a CCO – financial and non-financial.

NON-FINANCIAL BENEFITS

The Cranleigh report says forming a ratepayer-owned CCO would:

- **improve compliance with environmental and drinking water standards**
In a CCO structure, the concentration of expertise, a single-minded focus on water services and greater financial resources will ensure environmental and drinking water standards are met. Directors will be personally liable if they are not.
- **help create a stronger and more resilient waters network across the three council areas**
Combining into one entity would make greater expertise and resources available across the whole sub-region.
- **help attract and retain expert waters service staff to work in the region**
Working for a larger, dedicated waters organisation is likely to be more appealing to specialist water staff.
- **help develop a regional water centre of excellence**
Having a specialist waters organisation would provide combined expertise in water infrastructure, available locally.
- **better harness and maximise the economic potential of the region.**
Water is a critical economic resource. Having water infrastructure managed more efficiently and cost-effectively would ensure water services can better support economic growth and development.

FINANCIAL BENEFITS

The Cranleigh report also says forming a ratepayer-owned CCO would create significant savings for Councils and ratepayers. The figures in the table below are based on the Councils' 2015-2025 draft 10-Year Plans and draft 30-year Infrastructure Strategies.

COUNCIL	Estimated savings over 10 years (from the Cranleigh report)	Estimated savings over 28 years (from the Cranleigh report)
Hamilton City Council	\$52.3 million	\$282.1 million
Waikato District Council	\$28.1 million	\$105.5 million
Waipa District Council	\$26.7 million	\$80.8 million
	Estimated total savings over 10 years = \$107.1 million (an average of \$10.7 million per year)	Estimated total savings over 28 years = \$468.4 million (an average of \$16.7 million per year)

The Cranleigh report says savings would come from three key areas:

- **Operational expenditure** (the money spent to operate the waters business) would reduce by \$153.5 million over 28 years (an average of \$5.4 million per year)
- **Capital expenditure** (the money spent on items like plant and equipment) would reduce by \$150.9 million (an average of \$5.3 million per year)
- **Debt optimisation:** Debt optimisation involves borrowing more money up front and repaying it over a longer period of time. Cranleigh advise that optimising debt would reduce total charges to consumers by \$164 million – an average of \$5.8 million per year – over 28 years. (See page 8, Q8, for more information on debt optimisation.)

Comprehensive financial information, including estimated break-downs of annual savings for consumers, is available at www.waterstudywaikato.org.nz. This website also contains a full copy of the Cranleigh report (including a 38-page summary) plus further detailed information.

www.waterstudywaikato.org.nz 2



DISCUSSIONS SO FAR

All three Councils have agreed to support the formation of the CCO **in principle**, but have not made a decision. No decision could be made until:

- all three Councils have considered the issue following the 2016 local body elections in October, and
- ratepayers and the general public across all three Council areas have been consulted.

If consultation goes ahead, it would be unlikely to happen until 2017 at the earliest. Following that consultation with the public, each Council would need to make its own independent decision about whether to form a CCO or not.

However, all three Councils have now agreed on what the waters CCO might look like, if it were to go ahead.

This proposed agreement outlined in this document, has been reached in order to give more clarity and certainty to ratepayers, residents and others about what has been discussed.

This proposed agreement is summarised on page 3 – 6. A copy of the full agreement along with much more information, is available at www.waterstudywaikato.org.nz.

PROPOSED AGREEMENT

The CCO's purpose would be to provide drinking water and treat and dispose of wastewater across Hamilton, Waikato and Waipa. The CCO would aim to do so in an efficient, effective and sustainable way, maintaining agreed service standards and acting prudently. The CCO would also be contracted by the three Councils to provide stormwater services (with Councils retaining ownership of their stormwater assets).

Establishing a CCO would not change, in any way, existing Council commitments to Iwi. Nor would it change Councils' commitment and support for the Vision and Strategy for the Waikato River (Te Ture Whaimana o te Awa o Waikato).

VALUES

The three Councils believe any CCO managing water infrastructure on behalf of communities should adhere to the following set of values.

Transparent, ethical, with integrity

Be guided by the highest ethical standards and use business practices that are beyond reproach.

Open and customer-focused

Put customers first by being responsive and open to customer feedback while constantly seeking to learn and improve.

Reliable

Invest what is necessary to ensure reliable water and wastewater services.

Affordable

Be focused on delivering affordable services and constantly seek to be cost-effective.

Safety

Foster and support a strong culture of workplace safety.

Innovation

Foster a culture of innovation aimed at delivering more cost-effective services.

Kaitiakitanga

Recognise the guardianship and link between river Iwi, water and natural resources.

Environmental care

Care for water sources, minimise water use, ensure compliance with environmental standards and encourage water conservation.

Social responsibility

Have a strong sense of social responsibility, including in setting prices for water.

Enabling economic development

Plan and develop services in ways that support the economy and growth priorities.

HOW A CCO MIGHT WORK

Councils have agreed how the CCO might work, if one was formed. The proposed agreement is summarised in this booklet and is available in full at www.waterstudywaikato.org.nz.

ROLES AND RESPONSIBILITIES

- The CCO would provide drinking water and treat and dispose of wastewater across Hamilton, Waikato and Waipa. It would provide stormwater services under contract to the three Councils.
- The CCO would manage any customer requests or complaints.
- After a transition period the CCO would bill connected customers directly. The Councils would set the principles and limits for water and wastewater charges but actual charges would be set by the CCO.
- Waipa, Hamilton and Waikato are all growing rapidly and new water and wastewater infrastructure will be needed in the future. Councils would maintain full responsibility for deciding growth priorities. The CCO would be responsible for designing and delivering the water and wastewater infrastructure required to support planned growth.

OWNERSHIP AND SHAREHOLDING

- Any CCO managing water and wastewater infrastructure on behalf of the Hamilton, Waipa and Waikato communities would be 100 per cent owned by Hamilton City, Waikato District and Waipa District Councils. There would be no other shareholders and, effectively, the Councils would control the organisation.
- The CCO would be set up as a limited liability partnership or company and would act as a co-operative, working on behalf of customers and communities.
- The CCO would only earn enough money to maintain and develop the waters network. It would not pay dividends to shareholding Councils.
- The CCO would buy the water and wastewater assets of each Council, meaning it would own all of the water infrastructure assets which currently belong to each Council. In return, each Council would receive a mix of cash, shareholder loans and shares in the CCO (see page 6).

- Councils would transfer existing water and wastewater-related debt to the CCO. This would mean that connected water and wastewater consumers will pay off that debt, not all ratepayers.
- A shareholding Council could leave the CCO if it chose to. But the exit arrangements would need to be fair to all three Councils. Other Councils could also join the CCO at a later date, but this would need to be unanimously agreed by all three Councils first.

CHECKS AND BALANCES

- Councils would want a number of checks and balances to ensure the CCO was working cost-effectively and efficiently and in the best interests of ratepayers.
- Day-to-day operational decisions about water services would be the responsibility of the CCO. But decisions would be guided by formal agreements the CCO would have with all three Councils. The CCO would also be required to meet agreed service standards.
- Overall, the CCO would be accountable to all three Councils on a range of financial and non-financial targets.

SPECIFIC ROLES OF COUNCILS

- Councils believe there are some decisions which should be made by the CCO – but those decisions should be based upon principles or limits set by Councils. For example, the CCO would manage its own balance sheet and debt – but it would have to do so within debt limits set by shareholding Councils.
- The Councils would set principles and limits around the price charged for water and wastewater so that customers of the same type, receiving the same level of service would pay the same charge no matter where they were located.
- If the CCO wanted to implement water meters, or take other water conservation or demand measures, it could only do so based upon principles set by the Councils. Specifically, principles around water meters could only be set if Hamilton City Council and at least one of the other shareholding Councils agreed with those principles via a vote at the Shareholders' Forum (see page 5).
- The Councils would also be responsible for establishing a constitution for the CCO. Any changes to that constitution would require the unanimous agreement of all three Councils.

IWI STATEMENT

Waikato and Waipa River Iwi have a special relationship with the Waikato and Waipa Rivers. Within this relationship exists mana whakahaere (roles and responsibilities) to support the restoration and protection of the health and wellbeing of the Waikato and Waipa Rivers for future generations.

Te Ture Whaimana (Vision and Strategy) is the primary direction-setting document in relation to activities that affect the Waikato River and its catchment.

The significance of the Waikato and Waipa Rivers to all river Iwi is

formally reflected in settlement and co-management legislation. It heralds a new era of co-governance and co-management between the Crown, local authorities and all river Iwi. In all cases, river Iwi reserved their rights and interests in fresh water.

At a national level, the resolution of Iwi rights and interest in fresh water is currently being discussed with the Crown. The resolution of these interests will be essential to the continued development of a robust, enduring and equitable framework for managing fresh water for the future of the country.

CCO CUSTOMERS

CCO customers would be those connected to the water and wastewater network. Not everyone is, particularly in Waikato and Waipa districts where many people live rurally and are not connected to a Council network (see graphs back page).

- The CCO would need enough money to cover the costs of supplying, treating and disposing of water. After a transition period, that money would come from directly billing customers.
- The CCO would only recover the costs of supplying and treating

water, and disposing of wastewater. It would not seek to make a profit and would not pay any dividends to the shareholding Councils. Any surpluses would be reinvested back into the waters network to benefit connected water and wastewater consumers.

- The CCO would need to meet very clear targets around customer satisfaction. The CCO would also be expected to set up a hardship scheme, equivalent to the current rates rebate scheme, to ensure that low-income customers were no worse off under a CCO, than under the existing Council structures.



HOW DECISIONS WOULD BE MADE

The CCO, which would be 100 per cent owned by Hamilton City, Waikato District and Waipa District Councils, would be accountable to those three Councils.

Elected members, as representatives of the community, must have a strong influence on the CCO. This would be achieved through a Shareholders' Forum.

SHAREHOLDERS' FORUM

The Shareholders' Forum would ensure a CCO was strongly guided by what Councils want and need. Its role would be to provide clear guidance to the CCO's Board of Directors.

- The Forum would be made up of three elected members (Councillors) from each of the three Councils (nine Councillors in total).
- For the first 18 months of the CCO, the Shareholders' Forum would be chaired by a non-voting independent Chair (appointed by the three Councils).
- The Shareholders' Forum would make a number of collective decisions on behalf of individual Councils. Those decisions would include things like:
 - establishing how much debt the CCO could incur,
 - approving material transactions,
 - appointing the Board of Directors (including the Chair of the Board),

- developing formal accountability documents (Letter of Expectation and Statement of Intent),
- developing a series of measures (key performance indicators) against which the CCO would be measured,
- setting principles and limits for water and wastewater charges,
- establishing principles for water conservation and demand management, including any implementation of water meters.

BOARD OF DIRECTORS

- The CCO would be governed by an independent, professional Board of Directors with the right mix of skills and competencies. A key competency would be an understanding of the unique relationship Iwi have with the Waikato and Waipa Rivers, and the laws around this. Another key competency would be experience in dealing constructively with community matters and concerns.
- Other skills would include civil engineering, accounting, law, customer service, financing, staff selection and monitoring, planning, local government expertise, information technology, health and safety, commercial contracts and procurement.
- The Chair of the Board and Directors would be appointed by the three Councils, via the Shareholders' Forum. The Shareholders' Forum could remove Directors at any time.
- Elected Councillors or Community Board members from any of the shareholding Councils would not be permitted to sit on the CCO Board of Directors.

5 www.waterstudywaikato.org.nz

ASSETS, DEBT AND SHAREHOLDING

If a CCO was formed each Council would be treated in a fair, equitable and even way.

- The size, age, condition and value of the water and wastewater assets belonging to all three Councils is different. Before any CCO was formed, these assets would be valued by a common, independent valuer. The level of water and wastewater-related debt held by each Council would also be independently confirmed.
- The three Councils would transfer their water and wastewater assets to the CCO (at the value determined by the independent valuer.) In return for those assets, each Council would receive a mix of cash, shares in the CCO and shareholder loans. Together, the cash, shares and shareholder loans would equal the value of each Council's water and wastewater assets.
- No Council would be left with water and wastewater-related debt once the CCO was established. This means that each Council would receive cash from the CCO to go towards their water and wastewater-related debt. The amount received would be based on the proportion of assets transferred to the CCO. If necessary, the cash paid by the CCO, and levels of shareholding, would be adjusted to cover the amount of debt each Council had.
- The CCO would borrow the money required to pay the Councils. This would mean that both the water-related debt, as well as water and wastewater assets, would move from the Councils to the CCO.
- The CCO's total debt limits would be set jointly by shareholding Councils and would reflect the requirement of the CCO to keep water costs down and act in the best interests of its customers.

The final value of assets and levels of water and wastewater debt will change between now and when a CCO might be formed. However, based on financial forecasts for June 2019, and based on the proposed agreement detailed here, this is how the assets, debt and shareholding would look.

Assets, debt and shareholding (based on forecasts to June 2019)				
	Waikato	Hamilton	Waipa	Total
As at 30/06/2019	\$million	\$million	\$million	\$million
Council water and wastewater assets				
Total assets contributed to the CCO	253.0	800.1	236.0	1,289.1
% of total assets contributed to the CCO	19.6%	62.1%	18.3%	100.0%
Council water and wastewater debt				
External debt	38.9	130.9	22.6	192.4
Deficit net reserves	22.5	0.0	8.9	31.4
Total	61.5	130.9	31.5	223.8
Cash, loans and shares in the CCO paid to Councils				
Value of cash	61.5	138.9	41.0	241.3
Value of shares in the CCO	133.6	466.7	142.7	743.0
Value of shareholder loans	58.0	194.4	52.4	304.8
Total value to each Council	253.0	800.1	236.0	1,289.1
% of shareholding	18.0%	62.8%	19.2%	100.0%

Please note that the above figures are rounded to one decimal place; any slight differences in the addition of rows is due to rounding.

For more detail on how assets, debt and shareholding might be treated if a CCO was formed, go to www.waterstudywaikato.org.nz

MORE INFORMATION IS AVAILABLE

This is a summary of the agreed proposal between all three Councils. A full copy is available at www.waterstudywaikato.org.nz.

This website contains the Cranleigh report recommending the formation of a CCO plus reports from other independent consultants.

The website also contains all reports from all three Councils relating to the recommendation to form a CCO, plus further information, including media releases and other independent reports.

WHAT HAPPENS NOW?

All three Councils have only agreed to support the formation of the CCO in principle. **No decision to form a waters CCO covering Hamilton City, Waikato District and Waipa District has been made.**

The agreed proposal on what a CCO might look like, outlined here, is not binding on any incoming Council. It has been developed to give more clarity and certainty to ratepayers, residents and others about what has been discussed.

A decision on whether or not to form a CCO cannot be made until:

- All three Councils formally propose forming a CCO following the 2016 local body elections in October, and
- Ratepayers and the general public across all three Councils have been consulted on that formal proposal to form a CCO.

If consultation goes ahead, it would be unlikely to happen until 2017 at the earliest. Following consultation, each Council would need to make a final decision on whether to form a waters CCO or not.

www.waterstudywaikato.org.nz 6

QUESTIONS AND ANSWERS

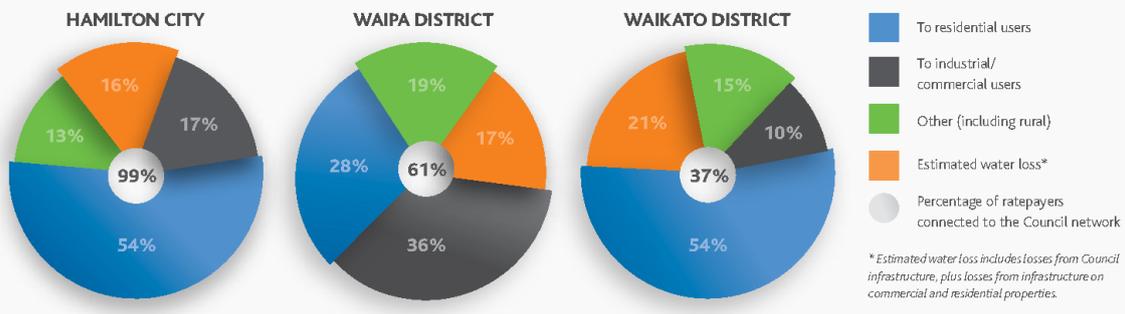
1. *Would forming a CCO mean water services are being privatised?*
No. The privatisation of Council-delivered water services is against the law in New Zealand.
2. *Would the CCO aim to make a profit?*
No. The CCO would only recover the costs of supplying and treating water, and disposing of wastewater. Any surplus funds would be reinvested back into the waters network to benefit consumers.
3. *What is wrong with the way water infrastructure is currently being managed?*
The status quo is working, but independent advice suggests it has some limitations and cannot deliver the financial and non-financial benefits that could be offered by a CCO.
4. *If a CCO was formed could there be staff redundancies from each of the three Councils?*
Yes, there could be. Under a CCO it is estimated around 34 fewer staff would be required to run water activities. However the independent report from Cranleigh estimates there would be few redundancies because of natural staff turnover over the two years it would take the CCO to be established. The CCO would also require its own staff and these jobs would need to be filled.
5. *Is this all about 'who owns water'?*
No. This issue is about water infrastructure. It has nothing to do with the ownership – or not – of water. It is all about how we deliver more cost-effective and cost-efficient services and also takes into account non-financial benefits.
6. *Does a CCO mean the introduction of water meters for those areas that do not already have them?*
No. Waipa District Council and Waikato District Council already have water meters in many parts of their districts (*see below) and in Hamilton most commercial, industrial and rural users are already metered. If the CCO wanted to implement water meters, or take other water conservation or demand measures, it could only do so based upon principles set by the Councils. Specifically, principles around water meters could only be set if Hamilton City Council and at least one of the other shareholding Councils agreed with those principles via a vote at the Shareholders' Forum.
7. *Would a CCO be required to meet the infrastructure and development obligations that Councils may already have with developers?*
Yes.
8. *What is debt optimisation?*
Debt optimisation involves borrowing more money up front and repaying it over a longer period of time. This reflects that water and wastewater assets have a long life. Using debt in this way allows the cost to consumers to be spread out. It means charges to current water and wastewater customers would be lower, but also means that after 30 years future users would share in some of the cost.

Over the life of the water and wastewater assets, the total interest bill would be higher than what would have been incurred if current council borrowing plans were followed. This is because more money would have been borrowed, overall. The total debt, at peak, would also be higher.
9. *Would new Councils elected in October have to abide by the proposed agreement outlined here?*
No. It would be up to new Councils as to what they wanted to do.

For a far more extensive series of questions and answers see www.waterstudywaikato.org.nz

**In Waipa there have been residential water meters in Ohaupo since 1991 and parts of Pirongia since 1997. The majority of rural, industrial and commercial users in Waipa are already metered. In the Waikato district all towns apart from Raglan, Ngaruawahia and Huntly already have water meters and all industrial users are already metered. By the time the CCO would be established, the whole of the Waipa and Waikato districts would be metered as the decisions to install meters have already been made. In Hamilton, there are already around 3,900 meters in place, covering most commercial, industrial and rural users.*

WHERE COUNCIL-SUPPLIED WATER GOES (Based on the 2014/2015 financial year)



V13

For more information
www.waterstudywaikato.org.nz



Waikato Sub-Regional Waters CCO

November 2016

Introduction

A number of independent reports have consistently concluded that Hamilton City (HCC), Waikato (WDC) and Waipa District (WPDC) Councils could manage water, wastewater and stormwater infrastructure more efficiently and cost-effectively by forming a joint Council controlled organisation (CCO). Those reports have also indicated there would be substantial non-financial benefits in forming a CCO, including:

- improved and greater consistency in engineering standards
- improved risk identification and management
- greater resilience in the operation of the network
- improvements in procurement practices
- improved focus on and enhanced responsiveness to customers
- improved demand management ability
- improved ability to attract and retain specialist professional engineering staff.

The formation of an asset-owning CCO is a substantial decision. It involves the transfer of more than \$1.3bn of assets into a yet-to-be-established entity, charged with providing an essential public service. To compound this, the legal and political environment in which these decisions are being considered is complex.

Prior to recent local government elections, the Record of Agreement (RoA), which was developed around the formation of an asset-owning CCO, was adopted by all three Councils and commitments were made to carry out the necessary public consultation. This still remains the last official point of agreement, although as this report describes, agreement has not yet been reached on several complicated issues and significant logistical challenges have been identified with an asset-owning CCO.

Until the issues outlined in this paper are resolved, it would not be prudent to commit to entering an asset-owning CCO. While each issue is surmountable, combined they present a risk of stalling or preventing the formation of any kind of waters CCO in the sub-region.

Purpose

The purpose of this paper is to examine an alternative approach which is intended to reduce the risks and uncertainties inherent in forming an asset-owning CCO, while allowing each Council to enjoy most of the benefits identified in the Cranleigh Business Case (CBC) released in May 2015.

Specifically, it is proposed to begin by establishing a CCO that performs strategic asset management and operational activities for the sub-region.

The three key activities of tariff setting, ownership of risk, and decision-making authority are inextricably linked. The transfer of these to the CCO defines two distinct modes of operation. Namely, a Council-funded CCO, where Council controls tariffs and approves works programmes, and a self-funded CCO where the CCO determines its own works programmes and sets tariffs sufficient to cover them. Logically, the CCO would start as Council-funded and progress to self-funded.

Once the self-funded CCO has developed, in tandem with the Councils, all resources, systems and processes that would be required in an asset-owning CCO, the transition to an asset-owning CCO can be initiated by any one or any two Councils that perceives an additional benefit in doing so, without obligating other Councils to also transfer infrastructure assets.



There is nothing to prevent the CCO from continuing indefinitely either as a self-funded CCO, asset-owning CCO or a combination of each with the different Councils involved. Relative shareholdings can be adjusted if a Council chooses to sell their assets to the CCO, which would afford Councils who choose to transfer assets greater influence over significant decisions and proportional liability for any debt raised by the CCO.

The ability of the Councils to strategically align with each other remains paramount. Efficiency gains from a self-funded CCO will be similar to those forecast for the asset-owning CCO if agreement can be reached on regional asset management plans and a regional development plan. For maximum benefits to be realised, amalgamation of these plans would be required under either a self-funded or an asset-owning CCO.

Background

The original CBC produced in May 2015 investigated the potential financial and non-financial benefits of water governance options for the sub-region. The options considered included the status quo, an enhanced shared services model, and an asset-owning CCO. From these options, it was recommended that an asset-owning CCO was the most beneficial.

The Waikato Waters Governance Group (WWGG) and Waters Project Group (WPG) have been working together to identify and resolve issues associated with forming a CCO and negotiations have proceeded on a 'nothing is agreed until everything is agreed' basis.

The RoA contains all decisions unanimously reached by the Councils through the WWGG, including agreement on fair consideration to be paid to each Council. The RoA was adopted by all three Councils and still stands as the last official point of agreement.

The recommendations made in this paper are a further development based on the desire to reduce risks around implementation and to ensure that optimal solutions are obtained for significant issues, which require time and process to develop.

Also relevant to any discussion about a water CCO in the Waikato sub-region, is the report recently published by Mott McDonald titled "*Analysis of 3 Waters in the Wellington Region, June 2016*" regarding Wellington Water. In particular, the following learnings from the Wellington Water CCO structure would equally apply to a Council-funded or self-funded waters CCO in the Waikato sub-region, with or without the goal of transitioning to an asset-owning CCO:

- the five Councils' objectives, reporting requirements, priorities and procurement strategies are all different, and the CCO caters to each of them, diminishing the efficiency savings
- the CCO needs to develop a regional 10 year plan that all the Councils agree on and commit to funding
- the CCO needs a common asset management strategy and IT system for integration across the Councils
- the Councils need to agree on a common level of service to be provided by the CCO
- the CCO should develop a stronger relationship directly with the customers.



Obstacles Identified in Forming an Asset-Owning CCO

The following obstacles have been identified by the WPG and these issues require solutions before an asset-owning CCO is considered a viable option. Each of these issues requires the unhurried attention of the Councils as they will shape the future operation of any asset-owning CCO.

Legal

For the CCO to perform the same utility provider function as the Councils currently do, amendments to legislation are required. Some of these changes are included in the *Local Government Act 2002 Amendment Bill (No 2) 2016*, currently before the Local Government and Environment Select Committee. Further changes are described in detail in Hamilton City Council's submission on the Bill. The changes are extensive and as a brief summary, they include:

- availability of the Rates Rebate Scheme to customers of the CCO
- uncertainty around the treatment of vested assets and development contributions (DCs)
- removal of the requirement for the CCO to pay income tax – while not preventing the formation of the asset-owning CCO, the likely savings to customers are reduced if the CCO is required to pay income tax.

Political

The WWGG and WPG have worked together to reach agreement in many areas, however there are unresolved matters that require further discussion and negotiation. These include:

- Lack of agreement on tariff harmonisation, including:
 - inconsistent attitudes towards water meter installation within the sub-region,
 - a lack of willingness by HCC for the decision to install meters to be transferred to the CCO along with the assets, and
 - difficulty in determining a fair methodology for the establishment of a unified tariff.
- The impaired accuracy of the financial model in predicting future savings, due to any potential historical underinvestment in infrastructure, particularly in compliance, as a result of trade-offs between the needs and desires of a wide range of activities and elected member's assessment of what is affordable for their communities. Preparation of a sub-regional asset management plan will allow each Council to better understand the position of the sub-regional waters network.
- The above point will also resolve any queries about the asset condition information that was used to determine relative levels of consideration in the RoA
- The role of each Council in the development of growth priorities for the sub-region
- Changing current established practices to meet the challenge of achieving unanimous alignment on asset management practices and levels of service
- Waipa Councillors' reluctance to move directly to an untested asset-owning CCO
- Potential public palatability of Council not owning essential infrastructure directly, including concerns around the potential for future privatisation.

Operational

While not requiring the same degree of negotiation as the political challenges, these issues require time and cooperation to be worked through to completion, before an asset-owning CCO can be considered.

- Each Council's Long Term Plan (LTP) will need to be rewritten to authorise the transfer of water assets to the proposed CCO. It is possible to do this at any time by way of an amendment, or it could be undertaken as part of the regular three-yearly review, which would delay a decision concerning the vesting of assets until June 2018 at the earliest. The disadvantages of transferring assets by way of an LTP amendment are:
 - It would be a significant, and costly, exercise. The water and waste water activities form a substantial part of each Council's LTP and are not easily removed. In addition to the staff time involved, each Council will require approval from the Office of the Auditor General. The level of detail required to satisfy audit requirements is unlikely to assist the consultation process and would be wasted if the proposal did not proceed.
 - Future capital expenditure projects cannot immediately be removed from each Council's LTP, irrespective of the proposal to establish the CCO. This is because Councils can only charge development contributions for scheduled projects. The inability to charge for future growth infrastructure would have significant financial consequences. However, if an LTP amendment were only required after the CCO was established this problem would be avoided.
 - Any proposal that commits the future transfer of assets will require a full Special Consultative Process. The establishment of a CCO still requires public consultation, however if infrastructure assets are not included this can occur under Section 82 of the Local Government Act, which gives Councils much greater flexibility about how they consult.
- An accurate and consistent assessment of asset condition is vital to ensure there are no surprises in the infrastructure transferred to an asset-owning CCO. This impacts:
 - the degree of consideration each Council receives for their assets
 - the relative Council shareholdings
 - the required future expenditure of an asset-owning CCO
 - the realisation of the potential savings.

An accurate condition assessment will be an essential element of work as part of a sub-regional Strategic Asset Management Plan. It would seem prudent to allow this work to be undertaken by the CCO prior to each Council committing the transfer of their assets.



Advantages of a Prudent Transition

- Taking a considered approach to the establishment of a CCO through a Council-funded and self-funded CCO, eliminates all but one of the issues with the asset-owning CCO discussed in the previous section. The only issue remaining is the Councils' ability to work together to align asset management plans and practices, which is still necessary for maximum efficiency benefits to be realised. Issues eliminated are:
 - tariff and rating system harmonisation, as the CCO will initially be Council-funded
 - water meters, for the reasons listed above
 - competing priorities between different Councils and the CCO will be resolved because work programmes will continue to be approved by individual Councils until the CCO is authorised to self-fund. It is however important that this provision does not restrict or discourage sub-regional planning on growth and growth related priorities.
 - gaps in knowledge about asset condition, as existing infrastructure issues will remain the responsibility of the Council to whom they belong until, at the earliest, a Regional Asset Management Plan is approved
 - fair consideration being paid for water assets
 - LTP amendment requirements for the transfer of assets
 - the relative debt of individual Councils, because debt will be funded by each individual Council (unless a separate arrangement is agreed).
- The CCO is able to earn status as Trusted Advisor and become familiar with networks and risks, while Councils still retain control as a precaution against over or under spending during the learning and establishment phase
- During the Council-funded phase, each Council retains control of the capital projects and operational works programmes undertaken within its local area and has the ability to introduce and fund projects strategically important to them, or to choose not to carry out projects recommended by the CCO
- It allows the CCO to demonstrate that efficiencies are available. Savings predicted in the original CBC should still be realised from:
 - increased strategic planning and asset management ability (capital and network savings)
 - operational savings and savings in asset delivery, in part from economies of scale as well as greater capability and experience
 - admin savings, including procurement practices and overheads.
- The timing of the savings is also likely to follow a similar timeline, as an asset-owning CCO would still require time to align AMPs and would be using existing Council plans initially
- Operations and maintenance requirements would be aligned and crews would service the whole sub-region as one network, allowing programming and resourcing efficiencies that will lower costs overall, giving consistency in strategy and approach to maintenance
- It enables a consistent and more accurate determination of asset condition across all councils and it enables the CCO to work through each Council's current AMPs to provide certainty that there are no 'hidden costs' and that growth costs are being adequately managed by each Council. This also means that in the event of a transfer of water assets in the future, a fair amount of consideration can be paid.
- Council still having direct ownership of the infrastructure assets eliminates the possibility of future privatisation and therefore makes the CCO more likely to be accepted by the public

- Each Council keeps physical assets on their balance sheet, rather than un-saleable shares and interest free shareholder loans
- The CCO would be more flexible without the infrastructure assets involved and therefore quicker and easier to:
 - implement initially (especially setting up the organisation)
 - dismantle if necessary
 - offer services to other Councils
 - extend ownership to include other Councils in the future.
- The CCO would not require any legislation changes before implementing, so it is not dependent on the passage of the LGA Amendment Bill
- Each Council retains the responsibility for their funding mechanisms for water until key targets have been achieved and the CCO becomes self-funded. The transition to a self-funded CCO does not pre-suppose or necessitate the approval of tariff harmonisation.
- This approach would allow directors the opportunity to become familiar with the networks and associated issues before taking complete responsibility for them. This is likely to attract a higher calibre of directors than the alternative, which requires the directors to assume full responsibility from the very beginning
- It gives the three Councils experience in working together, to provide a basis for determining whether a transition to an asset-owning CCO is likely to be successful
- Working together will improve trust between the Councils, which will reduce the perceived risk of vesting greater responsibility in the CCO, and therefore make it more palatable
- Because very little capital would be involved, it makes the ownership/governance decision a lot simpler to resolve.



Suggested Transition Path

Each of the obstacles previously identified carry the risk of negatively affecting the long-term performance of the final CCO if solutions are less than ideal, or face the very real prospect of the CCO not proceeding at all if negotiations on these matters are not encouraged to continue. To enable the issues to be dealt with in a proper manner, the following transition pathway is recommended.

Transition from a Council-funded to a self-funded CCO will proceed based on the achievement of certain defined targets. A self-funded CCO does not necessitate tariff harmonisation. The movement from a self-funded CCO to an asset-owning CCO would be at the discretion of each Council. If any Council chooses not to proceed, or requires more time before proceeding, the other two Council can progress uninhibited. The relative shareholdings in the CCO may need to be adjusted to reflect the different levels of responsibility and risk carried by the CCO on behalf of each Council, when or if any infrastructure asset transfers take place.

1. Reinstatement of the Waikato Waters Governance Group
Target: Develop a business case for the establishment of a CCO, and continue to seek resolution of the larger issues
2. Establishment of Council-funded CCO
Target: CCO operating as stand-alone entity with clear responsibilities, stable workforce, office and depot in place, IT systems functioning.
3. Strategic alignment between Councils
Target: Aligned AMPs, agreed Levels of Service, Regional Development plan approved by all Councils. CCO would be instrumental in developing infrastructure options for this.
4. Proven savings from CCO recorded
Target: Tangible savings from operations and maintenance displayed
5. Agreed process for setting of water rates
Target: Agreement between Councils/shareholders and CCO on tariff setting principles
6. Tariff setting transferred to CCO, creating a Self-funded CCO
7. Tariff harmonisation (if desired)
8. Successful removal of legal obstacles
Target: Passing of LGA Amendment Bill 2016
9. Transfer of assets into CCO, at each Council's discretion.

The Appendix shows a schematic of these phases, with greater detail about the Council and CCO roles in each phase, and minimum requirements for transitioning to a self-funded CCO, and an asset-owning CCO if desired.

Description of a Council-Funded and Self-Funded CCO

Function

- The CCO would aim to develop a single set of strategic Asset Management Plans and a combined infrastructure delivery programme for implementation across the sub-region. This would be done by first reviewing all current AMPs, converting them to a common and consistent basis, then consolidating them into a sub-regional plan.
- The CCO would plan and deliver all capital and operational works within the sub-region.
- Accountability for overall performance of the networks would lie with the CCO, except where a Council has chosen not to proceed with the CCO's recommendations. This is discussed in greater detail further on in this paper.
- The CCO would have sub-regional strategic oversight of network management, including capacity management, identifying opportunities to share capacity between networks, and implement asset management strategies which are uneconomical for each Council to introduce individually.
- Optionally, the CCO could prepare and distribute bills on behalf of a Council, but until a decision is made by the Council to transfer funding authority to the CCO, the payee for the bill would remain the relevant Council.

Operation

- The CCO would operate as a separate legal entity external to all three Councils, with its own administration support, procurement strategies, and operational equipment.
- The CCO would be run from a single office, housing all management, administration, asset management, planning and project management staff, and the coordination of the maintenance crews.
- Any physical works staff would be accommodated either at treatment plants or in a centralised depot which would also provide storage for parts, stores and equipment if required. It would be ideal to have the management office and the depot relatively close to each other.
- The CCO would have its own IT arrangements, and a single asset management system would be introduced. Each Council would be able to view in real time, but not update, their data and the status of work orders relating to their area, along with any other reporting required (within reason).
- Operational plant, equipment and vehicles would be sold to the CCO by each Council at valuation. Funding for purchasing this equipment, along with sufficient reserves for working capital and to ensure equipment can be replaced, would be included in the initial capital provided to the CCO equally by all three Councils. Typically, the operational funding requirement is related to the expenditure over the first six weeks to two months' trading.
- Operations and maintenance costs would be coded for costing through logging of work orders (within the systems adopted by the CCO) to each Council's network and asset identifiers, to enable cost recovery from the relevant Council. The CCO would consolidate materials and consumables across the sub regional networks to develop economies of scale. (If no bulk electricity agreement exists between the three councils then the CCO would undertake this, for example).
- However, as the CCO is not intended to make a profit, it ought to be able to maintain lower rates than other external businesses. This could be monitored by periodically comparing the rates charged by the CCO with rates for similar services from relevant companies in the marketplace e.g. contracting



companies.

- To produce the maximum opportunity to provide enhanced services, the CCO organisation structure will be finalised at the establishment planning stage to ensure there is increased capacity and capability in the CCO, and not simply the sum of the relevant parts of the Councils. There may be different positions required than currently exist across the combined councils, but it is expected that the total management and operational staff costs will be no more than the current group totals. Costs associated with meeting any redundancy obligations of any existing Council staff could either lie with each individual Council or be paid by the CCO (but this would require extra funding).

Council-funded CCO

- The Council-funded CCO would produce a list of capital works (including renewals) for each Council annually in advance, along with drivers for each project. Each Council would have the opportunity to approve or change the works planned for their area, including the ability to add projects that have become significant for Council. Similarly, the CCO will be transparent about its maintenance plans (including intervention strategies) which would be derived from the AMPs.
- Once approved, the Council would then have responsibility for funding the agreed list of works to be undertaken by the CCO or others. The utilisation of different funding mechanisms would be at the discretion of each Council.
- Although Councils have existing time frames for determining rating requirements, earlier time frames may need to be introduced for reaching agreement between the CCO and each Council, similar to that afforded large contractor works at present, in order for the CCO to be able to operate efficiently.
- Costs billed to each Council would be on a fee for service basis for asset management, a schedule of payments or other agreed payment terms for network operational costs and probably a lump sum basis for capital works. It is recommended that operation and maintenance of treatment plants and pumping stations be under a reducing lump sum payment schedule to drive efficient operational performance including usage of chemicals, electricity and other ongoing activities. Invoiced costs would include the CCO's governance, management, operational and delivery costs.
- Having approved the maintenance plans as part of the AMP, Councils would be aware if significant changes to existing funding levels are expected.

Self-funded CCO

- Once key milestones have been met by the CCO, the Council would delegate the necessary tariff-setting and decision-making authority to create a Self-funded CCO.
- The Self-funded CCO would carry the full responsibility for operation and compliance across the networks and would not require Council approval of capital or maintenance plans. Council would still provide direction and KPIs to the CCO through the Letter of Intent as a Shareholder, but not have direct control of projects.
- The Self-funded CCO would set tariffs necessary to fund the programmes they develop, guided by principles agreed with the shareholders.

Public Interfaces

- Initially, each Council would remain the interface for all billing and water related issues. Customer management would remain the responsibility of each Council. By agreement between the Council and the CCO, this activity could be transitioned to the CCO. The customer service operation is possibly one

of the first functions that may be transferred, although there is no requirement for all Councils to transfer customer service at the same time.

- As a Council-funded CCO, vested infrastructure assets and development contributions would continue to be received by the relevant Council. As the infrastructure became required, the contributed funds would be paid to the CCO as part of the capital delivery programme.

Governance

- The CCO will initially have three shares, with each Council subscribing for one share. Each Council need only be compensated for the operational plant purchased by the CCO. There is no advantage in holding more or less shares, as the CCO is not structured to make profits and requires local Council funding and approval to deliver local projects, while it is Council-funded. The relative shareholdings can be adjusted with a further issue of shares when any Council chooses to transfer their infrastructure assets.
- While the CCO is providing similar services to all shareholders, voting is carried out on a one vote per council basis, requiring a simple majority to pass, except where it has been previously agreed that voting ought to be unanimous, in line with the current Record of Agreement. At the point where one or more Councils transfer their assets to the CCO, the relative shareholdings and impact on decision making would need to be reviewed.
- The CCO would be run by an independent board consisting of at least three members. All board members must be approved by all shareholders. Board members would be appointed impartially based on their experience and expertise, not to represent a specific Council. The Chair should be appointed separately by the shareholders.
- The Shareholders' Forum described in the Record of Agreement would still be appointed to be the main liaison between the CCO and each Council. Authority would be delegated to the shareholders' group as agreed by all Councils.
- Initial capital will be provided by the Councils equally and will be based on the assets required and sufficient operational funding to allow the CCO to pay its costs and remain solvent. Ongoing support payments will not be necessary as the CCO will be able to generate a secure source of funds through its activities.
- It is common to expect the CCO to raise some of its required funding through third party financiers using its revenue base as the prime security offering. The board will determine the scope of external funding requirements.
- It would be possible for one Council to fund a project in another Council's area, assuming there was sufficient benefit to be gained and the host Council was agreeable. Such arrangements would need to be negotiated between the Councils concerned, outside the CCO, and clear direction passed on to the CCO.



Comparison of Council / Self-Funding CCO to Asset-Owning CCO

	Council-Funded and Self-Funded CCO	Asset-Owning CCO
Asset Management Plans	Initially, a Council-funded CCO would develop a single set of strategic asset management plans and a combined delivery programme for implementation across the sub-region. Each Council would still be required to adopt a water, wastewater and stormwater plan as part of their Long Term Plan, but these would be heavily based on the sub-regional plans developed by the CCO. When the CCO became self-funding it would no longer be necessary to develop individual plans for each territory.	An asset-owning CCO (and a self-funded CCO) would develop a single set of strategic asset management plans and a combined delivery programme across the sub-region.
Growth Planning	Growth planning and sequencing would remain the prerogative of the individual Councils. The CCO would be charged with ensuring that waters infrastructure met each Council's growth objectives in the most efficient and effective manner.	Growth planning and sequencing would remain the prerogative of the individual Councils. The CCO would be charged with ensuring that waters infrastructure met each Council's growth objectives in the most efficient and effective manner.
Demand Management	A decision to introduce universal water metering would remain with the Councils, most other decisions (e.g. restricted water season) would stay with CCO.	A decision to introduce universal water metering would transfer to the CCO, although this would be subject to principles established by shareholders, as outlined in the RoA.
Development Engineering	Transfers to the CCO, although Development Agreements, because of the funding implications, may require adoption by the individual Councils.	Transfers to CCO.
Compliance and Consenting	Accountability and liability would remain with Council while it was Council-funded, but would transfer to a self-funded CCO. Council would still hold some responsibility as asset owners. Liaison with the Regional Council, applications and reporting would transfer to the CCO.	The CCO would hold legal accountability for compliance.
Statutory Planning	While the CCO is Council-funded each Council would be required to include water and waste water services in Annual Plans, LTPs, AMPs, Infrastructure Strategies, development contribution policies etc. The development of these documents would be undertaken by the CCO.	The CCO (and a self-funding CCO) would be required to produce an annual Statement of Intent.
Resilience Planning	Transfer to the CCO, but ultimately subject to Council decisions on funding for implementation until responsibility is delegated.	Transfer to the CCO.
Project Delivery	Transfer to the CCO.	Transfer to the CCO.
Project Management	Transfer to the CCO.	Transfer to the CCO.
Renewals	Transfer to the CCO.	Transfer to the CCO.
Procurement	Transfer to the CCO.	Transfer to the CCO.
Network Operations	Transfer to the CCO.	Transfer to the CCO.
Plant Operations	Transfer to the CCO.	Transfer to the CCO.

	Council-Funded and Self-Funded CCO	Asset-Owning CCO
Maintenance and Planning	Transfer to the CCO.	Transfer to the CCO.
Laboratory Services	Transfer to the CCO.	Transfer to the CCO.
Trade Waste	Transfer to the CCO.	Transfer to the CCO.
Communications	Migrate to the CCO.	Transfer to the CCO.
Customer Services	Migrate to the CCO.	Transfer to the CCO.
Iwi Engagement	Migrate to the CCO.	Transfer to the CCO.
Water Education	Transfer to the CCO.	Transfer to the CCO.
Finance	The CCO, as a stand-alone entity, will require a finance team. The Councils will also require waters finance staff until the CCO becomes self-funding. It may be possible to transfer some finance people to the Council-funded CCO while leaving sufficient to manage a smaller water asset workload related to finance.	The CCO would be direct funded, and therefore Council finance staff would transfer to the CCO.
Meter Reading	Transfer to the CCO. Could also undertake billing on behalf of the Councils.	Transfer to the CCO.
Revenue	Councils would set rates / tariffs to gather revenue for a Council-funded CCO, based on agreed capex and opex plans. Once self-funded, the CCO would set tariffs based on principles established by the shareholders.	CCO would set tariffs, based on principles established by the shareholders, as per the Record of Agreement.



Disadvantages of a Council-Funded or Self-Funded CCO

The challenges of the Council-funded or self-funded CCO are more easily overcome than the challenges associated with an asset-owning CCO (or in fact in getting agreement on the establishment of an asset-owning CCO in a single step), but would need to be approached differently by the Councils and a CCO:

- Savings from debt optimisation

The original CBC predicted savings from optimising the water-related debt across all three councils. With each Council retaining their assets, they would also retain their debt. To achieve the savings from debt optimisation across the region, an alternate debt structure could be utilised which may be completely separate from the CCO. It would be possible to combine all relevant Council borrowings and effectively guarantee each other's water debts using the combined water infrastructure, which is essentially what would happen if all debt was transferred to an asset-owning CCO.

- Council control of CCO practices

This is both an advantage and a disadvantage. As a Council-funded CCO, each Council would control and adopt the AMP policy for the management of their own assets and have direct input into renewals and upgrade programmes carried out in their area, which alleviates the concerns about competing priorities across the region. However, the CCO will function optimally when practices and standards are aligned between Councils. To achieve this, the CCO would be likely to change some well-established existing work practices. This means that each Council's ability to direct the workings of the CCO within their area, should not be overly prescriptive or so inflexible that they impair the CCO's ability to create uniform asset management plans, standards and practices.

This could possibly be achieved by having accepted common levels of service across the region as part of the CCO KPIs, and by the shareholders' group engaging independent assurance from time-to-time to confirm processes and practices of the CCO.

- Stranded costs

Stranded costs will still exist and each Council will need to determine how these are to be funded, reduced or eliminated within its own capabilities. There would not be a period where stranded costs are reimbursed by the CCO, originally proposed by the CBC, as this would only increase the cost of the CCO's services. Each Council would be responsible for managing and minimising their own stranded costs (which we are still concerned may be understated in the original CBC).

Areas for Further Consideration

- A clear level of risk intended to be borne by a Council-funded CCO would need to be agreed and clearly communicated in the Letter of Expectation to the board. This includes under what circumstances each Council could defer recommended works. Any fines incurred by the CCO as a result of a Council's decision to defer works, or any other cause beyond the CCO's control, would be assumed to be recovered from that Council. However, it would be equally undesirable for the CCO to make recommendations that were overly cautious in order to reduce its own risk.
- The organisation structure and optimal level of staffing for the CCO, particularly around the ability to deliver capital and operational works internally or to engage contractors for the majority of the projects and have the CCO focus on the project management aspects of the delivery.



Implementation of a Council-Funded CCO

The suggested steps for establishing a Council-funded CCO are:

1. Complete a business case to examine feasibility
2. If feasible, develop an initial Proposal for initial approvals of Councils
3. If approved, finalise Proposal jointly and undertake public consultation
4. Develop a Letter of Expectation from the combined shareholders, detailing specific directives, required service levels and KPIs for the CCO
5. Develop position descriptions for CEO and board members, seek to conditionally appoint those positions and develop the CCO Statement of Intent
6. Develop structure of CCO, including preparation of an organisational chart detailing the number and type of positions, position descriptions, and any specialised skill sets required
7. Each Council develops its owner/client/smart buyer function
8. Final approval to implement from all Councils
9. Fill positions through advertising and complying with all Councils' employment policies. Existing staff from all three councils may apply, and any external applicants if appropriate
10. Start-up costs and an agreed amount of working capital transferred by all three Councils
11. All operational assets (not infrastructure) be transferred at valuation eg. utes, equipment and computers
12. Systems and processes implemented
13. All staff successful in obtaining positions be offered new positions and employed
14. All infrastructure assets and water related debts remain with the Councils
15. As existing contracts come up for renewal, they are evaluated and either discontinued or transferred to the CCO.

Recommendation

We suggest establishing a self-funded CCO, after transitioning through an initial phase of a Council-funded CCO, is in the best interests of all the Councils, whether as an interim step towards an asset-owning CCO, or as a destination in it's own right.

A Council-funded CCO is the first step on the pathway to an asset-owning CCO, notwithstanding that the final decision to vest assets will be at the discretion of each Council. It does not require full agreement on all issues or any changes to current legislation, yet enables some of the potential benefits to be realised. Transition into a self-funded CCO would follow the successful completion of clearly defined pre-requisites. Following that, the transition, at the discretion of each Council, to an asset-owning CCO can proceed on a Council-by-Council basis, as both the Council and the CCO agree that there are benefits to be gained by doing so.

The proposed approach of establishing a transitional Council-funded CCO offers many advantages, including:

- It will test the ability of the potential infrastructure savings identified in the CBC to be realised
- It will give confidence in Councils' ability to work together
- It can be implemented quickly and easily
- It removes many of the issues encountered with establishing an asset-owning CCO.

After transitioning to a self-funded CCO, further advantages are expected:

- Maximum efficiency gains can be achieved, resulting in savings to the sub-region
- The complex issues described in this report, such as tariff harmonisation, still do not need to be resolved before the savings can be achieved.

The next steps towards implementing the CCO are:

1. Reinstating the Water Governance Group to enable development to continue
 - a. Establish whether support continues for the Record of Agreement or not
 - b. Obtain in-principle support for the Council / self-funded CCO option.
2. Prepare a business case that includes the pre-requisites for transition to a self-funded CCO, which can be reported back to each of the Councils for consideration.



Appendix



Status Quo

Council owns assets
 Council provides all services
 Council produces local plans for capital and maintenance
 Council determines funding source and sets tariffs
 Council bills, collects water revenue and manages customer interface



Council-Funded CCO

Form Strategic Asset Management and Operational CCO
 CCO: Evaluate current AMPs across the region and align based on common ground to produce regional AMPs
 CCO: Produce capital delivery programme for each Council
 CCO: Develop regional capital delivery plan
 CCO: Carry out operations and maintenance across the sub-region
 Council: Approve AMPs, work together with CCO to plan transition to regional AMPs
 Council: Approve capital delivery plan
 Council: Fund approved CCO works, either by water rates or borrowings
Goal – normalisation of asset data, valuations and LOS. Development of regional AMPs and Regional Capital Plan approved by all Councils. Take initial steps for efficiencies.
 Relationship – the “consultant” model and earning trusted advisor status



Self-Funded CCO

Transfer funding, billing and decision-making authority to CCO
 CCO: Accepts responsibility for funding operations, based on ability to bill and raise revenue from customers
 CCO: Accepts responsibility for network performance and compliance
 CCO: Approves tariff setting principles and any tariff increases
 Council: Specifies tariff setting principles and required level of service
Goal – operating sub-regionally to maximise savings (short of debt optimisation). Assumption of majority of operational risk.
 Relationship – high level of trust. Strategic in terms of planning and delivery; specifying and monitoring of performance through a Statement of Intent and the Joint Shareholders Group; assets remain in Council ownership. CCO as trusted advisor.



Asset-Owning CCO

Assets are vested to CCO
 Consideration based on thorough understanding of asset condition and risk
 CCO assumes full responsibility for services
Requires – Tariff harmonisation across sub-region; and conclusion on consideration
Relationship – full asset owning or mixed model of some ownership and

Extracted from Detailed Cranleigh Report - Pros and Cons for each option

Status Quo: Option Summary

Pros
<ol style="list-style-type: none"> 1. Capable local teams providing satisfactory service 2. Sense of local ownership 3. Supportive of other council activity 4. Covers part of council overhead 5. Local council oversight on behalf of local community
Cons
<ol style="list-style-type: none"> 1. Struggle to attract, retain and develop staff 2. Lacks sufficient scale to gain true efficiencies 3. Overall risk profile assessed as medium 4. Difficulties in prioritising water activities over time 5. Weight of capex investment profile crowds out investment in other council activities 6. Debt capacity of councils limits water investment or encourages higher water prices to raise revenues as an alternative funding source for investment

In summary, the Status Quo can be regarded as a workable solution, but one which will always offer only basic service delivery and performance and at a higher cost than other options.

Enhanced Shared Service: Option Summary

Pros
<ol style="list-style-type: none"> 1. Creates larger team 2. Good public acceptance as idea of councils working together attractive 3. Supportive of other council activity 4. Covers part of council overheads 5. Local council oversight of ESS unit on behalf of local community 6. Greater focus on core water activity 7. Opportunity to share systems and intellectual property 8. Opportunity to bundle projects and improve procurement 9. Offers some cost savings
Cons
<ol style="list-style-type: none"> 1. Must negotiate priorities with three different councils 2. Vulnerable to one or more councils withdrawing in the future as the model relies largely on goodwill of the three councils 3. Some water activities remain outside arrangement creating coordination issues 4. No balance sheet to raise funds to support water investment and optimise debt 5. Weight of capex investment profile constrains investment in other council activity 6. Debt capacity of councils limits water investment or encourages higher water prices to raise revenues as an alternative funding source for investment 7. Joint procurement difficult to arrange and manage 8. Difficulty of managing liability across councils when one council is host and employer of staff 9. Difficult to implement and maintain 10. Higher assessed risk profile

In summary this option potentially offers some worthwhile benefits over and above the Status Quo. However, these may ultimately be offset by significant coordination costs between the ESS unit and the three councils. It should be noted that the decision making and approval process has proved difficult even for the existing limited shared services arrangement. In addition the lack of certainty as to whether councils will remain engaged for the long term will be detrimental to what is a long term infrastructure business. Shared services arrangements are best suited for low risk, low complexity activities rather than water services. On balance the option is less attractive than the Status Quo given the likely coordination problems and risks around long term council cooperation.

Asset owning CCO: Option Summary

Pros
<ol style="list-style-type: none"> 1. Single focus organisation 2. Facilitates capex programme 3. Enhances resilience – security of supply 4. Strategic asset management of whole network 5. Support economic growth and development in sub-region and wider region 6. Provides for a centre of excellence 7. Council liabilities become contingent rather than direct and shared 8. Allows optimal funding model – intergenerational fairness 9. Lowest cost option offering savings for customers 10. Lower assessed risk profile 11. Will face greater public scrutiny leading to higher performance 12. Benefits from professional independent governance.
Cons
<ol style="list-style-type: none"> 1. Leaves councils with some stranded overheads 2. Difficult to implement 3. Accountability to Councils is more remote

The CCO option is recommended as the best option available to the councils. It strongly meets all the Councils' identified investment criteria listed in the Strategic Case while offering customers significantly reduced water services charges. Savings are forecast to total \$468.4m over 28 years.

The Cranleigh report also briefly described a non-asset owning CCO on page 30 of the part B Report as follows:

Non-Asset Owning CCO

An alternative to an asset owing CCO as described above is a non-asset owing CCO. This would essentially be the ESS model placed within a company structure jointly owned by the three Councils. The one advantage it would have over ESS is a clearer governance structure with the ability to appoint experienced independent directors who would have real authority over the company. This advantage on its own would not be sufficient to offer a significant improvement in performance over the ESS.

Its strengths and weakness would be very similar to ESS. Problems with this model elsewhere include:

- Difficulties with alignment of interests between the Councils
- Political interference from individual Councils typically focussed on the short term
- Funding uncertainties and the requirement to often secure funding on a project by project basis
- Lack of a single common LTP and strategy
- Differences with systems and procedures between the Councils

The fundamental flaws are:

- No control of revenues
- Inability to impose common network standards and exploit network synergies
- With no revenue control and no assets the company cannot raise debt funding and benefit from optimising this nor plan and execute coordinated capital investment programmes over time

For these reasons a non-asset owning CCO offers few advantages over ESS and hence substantially fewer benefits than an asset owning CCO.

**Extract From Detailed Cranleigh Part B Report - Summary Options
Assessment pages 31 to 36**

2.6 Summary Options Assessment

The financial impacts associated with each option have been quantified as far as possible and this analysis is a key component of the options assessment. However, not all impacts can be readily quantified in monetary terms. It is appropriate to also take qualitative considerations into account. To this end, a simple form of multi-criteria decision analysis has been used to complement the financial analysis.

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A decision support workshop was held with council personnel (elected representatives and officers) to discuss and agree a range of criteria against which to assess the options. Consistent with the BBC guidelines, the criteria were grouped under two headings; objectives and critical success factors (CSFs).

The weighting given to each objective and CSF was discussed and agreed at the workshop. The weighting is designed to give a sense of relative importance notwithstanding that all objectives and all critical success factors are important. In general, the headings used for objectives and critical success factors reflect those that are contained in the BBC guidelines. The objectives and the CSFs have been tailored so that they are specific, and as relevant as possible, to water services.

The assessment criteria agreed at the workshops are summarised below.

Objectives

Broad Objective	Detailed Objectives	Weighting
Effectiveness	<ul style="list-style-type: none"> ▪ Provide better customer services in terms of reliability (including fewer water restrictions and increased security of supply), quality and responsiveness ▪ Lift customer product and service quality through improved organisational, managerial and financial focus ▪ Promote and value the efficient and sustainable use of water 	25%
Efficiency	<ul style="list-style-type: none"> ▪ Improve the cost effectiveness of service through: <ul style="list-style-type: none"> <input type="checkbox"/> Better long term and more joined up planning, development and management of the networks on a sub-region basis <input type="checkbox"/> Generating long term/sustainable savings <input type="checkbox"/> Maximising economies of scale <input type="checkbox"/> Manage water assets in a financially sustainable way based on asset condition understood and depreciation fully funded 	15%
Costs lower than LTP	<ul style="list-style-type: none"> ▪ Deliver services that over, the long term, cost less than they would under the status quo option 	20%
Alignment	<ul style="list-style-type: none"> ▪ Achieve regulatory compliance ▪ Meet agreed customer expectations ▪ Capability to manage future environmental/regulatory outcomes ▪ Maximise influence over regulatory outcomes 	10%
Reducing risk	<ul style="list-style-type: none"> ▪ Resilient organisation that drives long term value through being fit-for-purpose <ul style="list-style-type: none"> <input type="checkbox"/> Infrastructure <input type="checkbox"/> Human capital <input type="checkbox"/> Financial capacity <input type="checkbox"/> Technical capacity 	10%
Community voice/focus	<ul style="list-style-type: none"> ▪ Appropriate governance to ensure the community continues to have a voice 	20%

Critical success factors

CSF	Generic Description	Specific to Water Services	Weighting
Strategic fit and business needs	How well the option: <ul style="list-style-type: none"> meets the agreed investment objectives, related business needs and service requirements, and integrates with business strategies and plans 	<ul style="list-style-type: none"> Strong customer focus Supports the sub-regional Three Waters Strategy and associated goals Meets future growth requirements 	25%
Potential value for money	How well the option: <ul style="list-style-type: none"> optimises value for money from both organisational and society perspectives, and minimises associated risks 	<ul style="list-style-type: none"> Delivers value for money over the long term (30 years) Delivers benefits for the sub-region and each of the three Councils (i.e. avoids benefitting one Council at the expense of the others) Reduces risk/better risk mitigation (compared to what it otherwise would be) 	17%
Service provider capacity and capability	How well the option: <ul style="list-style-type: none"> matches the ability of potential service providers to deliver, and appeals to providers 	No weighting applied as scores for all options would be equal and options would meet the CSF	0%
Potential affordability	How well the option: <ul style="list-style-type: none"> is financially sustainable, and can be implemented within funding constraints 	<ul style="list-style-type: none"> Affordable to the community 	20%
Potential achievability	How well the option: <ul style="list-style-type: none"> is likely to be delivered given organisational ability to respond to the changes required, and matches the level of available skills required for successful implementation 	<ul style="list-style-type: none"> Is supported by the community Deals with the issue of stranded overheads Supports retention and development of high quality staff 	23%

Confidential

CSF	Generic Description	Specific to Water Services	Weighting
Achieves regulatory compliance	N/A	<ul style="list-style-type: none"> Meets environmental, water quality, health and safety and other relevant legal and regulatory requirements 	15%

A simple approach to scoring the options against the various objectives and CSFs was also agreed at the workshop and this is shown below.

Scoring system

5.0	Strongly meets the criteria in <u>all respects</u>
4.5	
4.0	Meets the criteria in <u>most respects</u>
3.5	
3.0	Only <u>partly meets</u> the criteria
2.5	
2.0	Does not meet the criteria (but <u>does not contradict</u> it)
1.5	
1.0	Fails to meet and is <u>contrary</u> to the criteria. A score of 1 for any Critical Success Factor removes the option from further consideration

2.7 Multi Criteria Options Analysis

We have scored the options against the criteria. A preliminary scoring was presented to and discussed at an Options Workshop held on 2 April. In light of discussion at the workshop, and drawing on further work undertaken, our assessment of the options, using the scoring system, is shown below.

Option scores

Assessment Criteria	Weight %	Status Quo	ESS	CCO
Objectives:				
Effectiveness	25%	3/5	2/5	4/5
Efficiency	15%	3/5	3/5	4/5
Improved Financial Sustainability	20%	3/5	3.5/5	4/5
Alignment	10%	2/5	3/5	4/5
Reducing Risk	10%	3/5	2/5	4/5
Customer Voice/ Focus	20%	3.5/5	3.5/5	4/5
Critical Success Factors:				
Strategic fit	25%	3/5	3.5/5	4.5/5
Value for Money	17%	2/5	2.5/5	4/5
Affordable	20%	3/5	3.5/5	4.5/5
Achievable	23%	3/5	3/5	4/5
Regulatory Compliance	15%	2.5/5	3/5	4/5
Overall Weighted Score	Out of 100	58%	60%	82%

The reasoning behind the scores in the option scores table above is set out in Appendix 5. It is important to note that determining the best option is not driven solely by the scoring system. It is the analysis and informed judgements that underpin the scores that are of key relevance to decision making. The scoring system is just a mechanism for bringing structure to the assessment.

Most of the comments in Appendix 5 focus on the ESS and CCO options because these are the options that give effect to the need to change. Across several of the objectives and CSFs, we have given the status quo a score of 3 out of 5; that is the status quo partly, but does not fully, meet the criteria. This should be interpreted as the status quo is providing a basic level of service and the score of 3/5 is intended to reflect this. However, as our analysis has shown, and as also found by previous reviews, there are real challenges and risks around future service delivery and opportunities to do better and, hence, attain a score in the 4 to 5 range. In the instances where we have scored the status quo above or below 3, this is explained.

2.8 Options Assessment Summary

The different assessments of each option are brought together in the following table:

Decision Factor	Status Quo	ESS	CCO
Multi – Criteria Score	58%	60%	82%
Combined Savings (10 years)	NA	\$27m	\$107m
Combined Savings (28 years)	NA	\$104m	\$468m
PV of Capex & Opex Savings	NA	\$35m	\$91m
Risk Rating	Medium	High	Low
Overall Ranking	2 nd	3 rd	1 st

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ESS has an overall ranking less than the Status Quo as possible financial benefits are offset by the risks. The risk/reward ratio does not justify a change from the Status Quo.

The CCO is clearly the highest ranking option and therefore recommended by Cranleigh as the preferred option. It meets all the agreed investment objectives well, is lower risk and offers substantial financial benefits. Key advantages include:

- Water services are an activity with substantial economies of scale. The CCO option is the only one which offers scale across all key areas including staffing, systems, operations, network ownership and funding.
- A CCO structure is also the only option which brings a full Waikato sub-regional view and solution supported by a robust and responsive governance structure. ESS goes some way towards this, but lacks strong governance and a single unified network.
- Major cost savings for water customers and councils due to opex, capex and the optimisation of funding structures made possible by a specialist, asset owning entity. Cost savings are supported by evidence from similar amalgamations overseas and in New Zealand as identified in Mott MacDonald's engineering report.

Committee: Council

Date: 13 December 2016

Report Name: Chair's Report

Author: Mayor Andrew King

Status	<i>Open</i>
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1. Regulatory Efficiency and Effectiveness Project

2. Further to the Chair's report provided to the 30 November 2016 Council Meeting and the resolution to prepare a terms of reference (TOR) for the Regulatory Efficiency and Effectiveness Project I wish to note the following.

3. Preliminary Investigation

4. In preparing for the TOR it is expected that Council through the use of internal and external staff will need to undertake preliminary investigation to determine the focus and scope of the TOR. This will involve meetings with the development community and an independent assessment of a selection of resource consents (effectively a stocktake) to determine the nature and extent of areas of concern.

5. This work will be undertaken within in the delegated authority of the Chief Executive.

6. Taskforce

7. A Taskforce is to be established to provide oversight, challenge and guidance to the team undertaking the project. The taskforce will also provide direction in the development of the terms of reference.

8. The Taskforce will have 5 members being:

- The Mayor
- Chief Executive
- GM Infrastructure
- Up to three external members (to be selected by the members of the Taskforce)

9. Recommendation

It is recommended that:

- a) The report is received; and
- b) A Regulatory Efficiency and Effective Taskforce is established and that the membership of this taskforce is:
 - The Mayor
 - Chief Executive
 - GM Infrastructure
 - Three External Members (to be selected by the members of the Taskforce)

Committee: Council

Date: 13 December 2016

Report Name: Delegations to Positions Policy

Author: Lee-Ann Jordan

Report Status	<i>Open</i>
Strategy, Policy or Plan context	<i>Local Government Act 2002</i>
Financial status	<i>There is no budget allocated – Administrative</i>
Assessment of significance	<i>Having regard to the decision making provisions in the LGA 2002 and Councils Significance Policy, a decision in accordance with the recommendations is not considered to have a high degree of significance</i>

1. Purpose of the Report

- To seek Council's approval of the updated Delegations to Positions Policy, and delegations necessary to give effect to the Governance Structure 2016-19.

3. Executive Summary

- The Delegations to Positions Policy supports effective governance by authorising the Chief Executive and designated staff, who are responsible for carrying out tasks or functions on behalf of the Council. The Council (as a governance body) and the Chief Executive are then clear about their delegation powers and responsibilities, and any exclusions or limitations that apply.
- The Council retains ultimate accountability for the decisions and actions made under the Delegations to Positions Policy.

6. Recommendations from Management

That Council:

- receives the report;
- approves the delegations to the Committees and other subordinate decision-making bodies, and external appointments, as detailed in the Governance Structure document approved by Council on 9 November 2016; and
- approves the revised Delegations to Positions Policy (Attachment 2), which is to replace the current Delegations to Positions Policy with effect from 1 February 2017, and the delegations detailed in the Policy.

7. Attachments

8. Attachment 1 - Current Delegations to Positions Policy
9. Attachment 2 - Draft Delegations to Positions Policy
10. Attachment 3 - Principal Changes to Delegations to Positions Policy

11. Background

12. At its meeting on [9 November 2016](#), the Council approved a new Governance Structure for the 2016-19 triennium, setting out the committees and other subordinate decision-making bodies with their respective terms of reference, as well as appointments of Elected Members to external organisations. Council is required to expressly approve the delegations and external appointments detailed in the 2016-19 Governance Structure to give effect to that structure (refer to paragraph 6(b) above).
13. The current Delegations to Positions Policy ('the Delegations Policy') was approved by the Council at its meeting on [13 December 2013](#), reflecting the Governance Structure for the 2013-16 triennium. Subsequent amendments were approved at the Council meeting on [26 November 2015](#), mainly to reflect updated management positions aligned with the Chief Executive's new organisation structure (refer to Attachment 1).
14. It was noted at the November 2015 meeting that a comprehensive review of the Delegations Policy would be undertaken following the 2016 local body elections.

15. Discussion

16. It is the Council's responsibility to maintain oversight of its delegations and their effectiveness in practice. The Council is able to amend or revoke any delegation at any time.
17. The Delegations Policy is one of a number of documents adopted by the Council to define the roles and responsibilities within its decision-making process. The purpose of the Policy is to detail the delegations from the Council to the Chief Executive and, where required, specific officer positions (such as the local Civil Defence Controller), including any limitations or conditions attached to those delegations.
18. Staff have reviewed the Delegations Policy to:
 - a. ensure there is alignment with the approved 2016-19 Governance Structure document;
 - b. update the language and format for ease of understanding and application; and
 - c. simplify the delegation structure to cover only those responsibilities, powers and duties that need to be directly delegated from Council.

The intended outcome is that Council (as a governance body) and the Chief Executive are clear about their delegation powers and responsibilities, and any exclusions or limitations that apply.

19. The changes proposed to the Delegations Policy are summarised in Attachment 3. Given the nature and number of amendments, a tracked-change version of the current policy would not be useful to Elected Members.
20. If the revised Delegations Policy is approved, it is recommended that the new Policy comes into effect on 1 February 2016. This timing will enable the Chief Executive to proceed with consequential updating of the management policies and other documents that record the sub-delegations from the Chief Executive to Council officers.

21. Legal considerations

Item 8

- 22. All proposed changes to the Delegations Policy have been reviewed by Tompkins Wake and confirmed as legally compliant.
- 23. **Risks**
- 24. The responsibilities, powers and duties of Council should be delegated to the appropriate level to ensure staff who undertake functions on behalf of the Council have the relevant authority to do so.

Signatory

Authoriser	Richard Briggs, Chief Executive
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First adopted:	December 2013
Revision dates/version:	November 2015
Next review date:	
Engagement required:	
Document Number	D-1244952
Associated documents:	
Sponsor/Group:	Mayor of Hamilton / Chief Executive Officer

Delegations to Positions (Consolidated) Policy

The philosophy of the Council

1. Hamilton City Council believes that it is essential, in the interests of effective governance, to encourage a delegation of decision making to the lowest competent level. This will achieve best use of the abilities of elected representatives and officers, ensure cost effective use of resources, and promote the development of efficient and effective management.
2. Authority and responsibility are inseparable. Those with responsibility for a task or function should always have the authority to carry it out effectively. Those with authority should always be responsible for its wise use. Delegations cannot, however, remove from the Council and senior management the ultimate accountability for the affairs of this Council.
3. Those with delegated authority should willingly accept authority and responsibility for decision making in the certain knowledge that their decisions, if made in a full, fair and objective manner, will not be reviewed lightly.
4. It is the statutory function of this Council to lead and guide the good management of the City by determining primary goals and objectives, by setting strategies and policies for their achievement, to encourage their achievement through the considered use of committees and the appointment of skilled officers, and to monitor performance. Officers, in turn, implement and administer those policies, contribute substantially to their formulation and provide and manage the infrastructures on which the City is based. Delegation focuses and sharpens this relationship and assists in the better achievement of the respective functions of elected representatives and officers.

Local Government Act 2002

"A committee, subcommittee, other subordinate decision-making body, community board, or member or officer of the local authority to which or to whom any responsibilities, powers, or duties are delegated may, without confirmation by the local authoritythat made the delegation, exercise or perform them in the like manner and with the same effect as the local authority could itself have exercised or performed them." (Clause 32 (4), Schedule 7 Local Government Act 2002)

"Nothing in this clause entitles a local authority or committee to rescind or amend a decision made under a delegation authorising the making of a decision by a committee, a sub-committee, or other subordinate decision-making body". (Clause 30 (6) Schedule 7 Local Government Act 2002)

The Delegations Policy

5. The Delegation Policy ("the Policy") is one of a series of documents adopted by the Council to define methods and means of operation and managerial and administrative relationships. Delegations are related to these other key documents including:
 - a. Governance Structure
 - b. Council Standing Orders
 - c. Council Policies
 - d. Management Policies
 - e. City by-laws and other formal expressions of Council's policies

6. Delegations to Committees of Council are specified in the Governance Structure policy document. Delegations to the Mayor, Deputy Mayor, Chief Executive Officer, General Managers and certain positions are recorded in the Policy. It includes the officially approved delegations to the Chief Executive Officer and specified Council officers. All financial delegations to staff below CEO are recorded in the Management Policy – Financial Delegations to Officers.

General and specific Delegations

7. General delegation implies the granting of authority to determine a range of matters of a similar kind as and when they arise over a period of time without further reference to the delegator.
8. From time to time the Council may delegate authority by resolution to determine a specific issue and this authority will exist only so long as that matter is unresolved and will then lapse. This is a specific delegation.
9. Delegations will be updated for general delegations as they are granted, but not necessarily those of a specific nature, which will be largely historical by the time they are recorded in this policy.

Statutory Authority

10. These delegations are made in accordance with the Local Government Act 2002 and any other statutory authority permitting delegation.

The meaning of Delegation

11. Delegation means the assignment of a duty or power of action to another together with the authority to carry out that duty or complete the action assigned with responsibility for the outcome.
12. Where a power to hear evidence and submit a subsequent report or recommendation to a higher authority requires delegation, the delegation is recorded in the Policy.
13. Where specific delegation is not identified or, the delegation is not clear, or, the matter overlaps a number of fields of activity for Standing Committees, such items should either expressly, or by default, be dealt with as recommendations only to Council or its respective Standing Committee.

What may be Delegated

14. In almost all situations the Council itself is a delegate in that its functions, powers and duties derive from Parliament through empowering legislation under which legislative, judicial and administrative authority is granted to the Council for specific purposes.
15. In this environment, the Council has a wide discretion to arrange its own administration in a way which ensures efficiency, flexibility and responsiveness to local needs. In doing so it must, however, comply with the special requirements imposed by the Local Government Act 2002 and other legislation.

The characteristics of Delegation

16. It is important to understand the following characteristics of delegation:
 - a. It is implicit that a delegation may be revoked by formal decision of Council or delegator, and effective when communicated to delegate;
 - b. The delegate is acting in his or her own name on behalf of the Council when exercising delegated authority;
 - c. To be effective and of legal standing, all delegations must be in writing (i.e. via the Policy or by resolution).

Care in defining Authority

17. The law recognises, in certain circumstances, the right of individuals acting in good faith in relying on the apparent authority of a delegate to enforce a decision of that delegate, whether or not the delegate in fact had the authority claimed. Accuracy and precision should always be a feature when defining the scope and limitations of any delegated authority in order to protect the interests of the Council, the delegate and any interested third party.

The legal framework

18. Council may delegate any of its functions to a Committee or Subcommittee, subject to any conditions or limitations imposed by the Council.
19. The fundamentals are that Council **cannot delegate**:
- The power to make a rate; or
 - The power to make a bylaw; or
 - The power to borrow money, or purchase or dispose of assets, other than in accordance with the long-term plan or otherwise expressly covered in the Policy; or
 - The power to adopt a long-term plan, annual plan, or annual report; or
 - The power to appoint a Chief Executive; or
 - The power to adopt policies required to be adopted and consulted on under this Act in association with the long-term plan or developed for the purpose of the local governance statement; or
 - The power to adopt a remuneration and employment policy.
- (Local Government Act 2002 - Schedule 7, Clause 32 (1))*
20. Council **can** delegate all statutory powers (other than those listed above or as expressly provided in any other legislation) and the authority to manage and regulate on Council's behalf to committees.
- (Local Government Act 2002 - Schedule 7, Clause 32 (1))*
21. A **Standing Committee** or other subordinate decision making body, or member or officer of the local authority may delegate any of its responsibilities, duties, or powers to a subcommittee or person, subject to any conditions, limitations, or prohibitions imposed by the local authority or by the committee or body or person that makes the delegation.
- (Local Government Act 2002 – Schedule 7, Clause 32 (3))*

References to legislation

22. In this Policy, unless the context otherwise requires, all references to a repealed enactment should read as a reference to its replacement.

Review of Delegations Policy

23. The delegations policy shall remain in effect until such time as it is
- varied or revoked by resolution of the Council.*

Financial Delegation - the specified sum

24. The specified sum is a dollar sum established initially by Council resolution and re-viewable each year with any variation recorded by resolution, which determines, in conjunction with the Policy and the management policy – **Financial Delegations to Officers**, the extent of the financial authority of any delegate within the authorised programme. The specified sum(s) applicable to the various financial transactions are as follows noting that these values apply to CEO only. General Managers and officers are subject to limitations as set out in **Financial Delegations to Officers**.

Expenditure Type – Refer Definitions

Unexpended Budget - (Operating and Capital)	Overspends/ Unbudgeted (Operating and Capital)	Capex – B/Fwd	Contract Payments	Purchase/Sale of Land	Debt Write-off	Legal Claims	Financial Operations (Admin disbursements)	Development Contributions
Limited to the approved budget	\$250,000 Also Civil Defence Emergency Limit	\$500,000	\$1,500,000 Total contract term not exceeding 5 years including renewals	\$1,500,000	\$10,000	\$500,000 for weather-tight building claims (leaky buildings) \$250,000 for all other legal claims	Limited to budget	\$1,500,000

***Notes:**

- A cumulative cap of \$1,000,000 per financial year for the aggregate total (whole of Council) of all unbudgeted items, overspends and operational expenditure (Opex) brought forward and approved under delegated authority during that financial year. Any significant overspends or underspends will be recorded and reported to the Finance Committee on a quarterly basis.
- An additional \$500,000 is an “at risk” component to apply only in the event of a declared emergency to give a maximum annual Opex brought forward cap of \$1,500,000.

Expenditure Types – Definitions**Unexpended Budget**

25. Operating and capital expenditure including deferred capital expenditure (approved by Council resolution) that has been budgeted in the applicable Long Term Plan/Annual Plan and not yet spent. All expenditure must comply with the requirements of Council’s procurement policy.

Overspend and Unbudgeted

26. Any expenditure on an item that exceeds the amount budgeted for that item in the Applicable Long Term Plan/Annual Plan or is not budgeted but required to deliver the level of service and outcomes outlined in the applicable Long Term Plan/Annual Plan e.g. contract or project cost over-run. This is also the limit for expenditure in the event of an emergency from funds not included in the estimates.

Capex – Capital Expenditure Brought Forward

27. Capital expenditure occurring in financial periods in advance of the planned expenditure timeframe in the applicable 10 year Plan. This delegation is to the Chief Executive, Chief Financial Officer and General Managers only (limits apply to positions per Financial Delegations to Officers) and may not be further delegated.

Contracts – Payment (or Revenue)

- Includes all payments (including retentions) made in respect of contractual agreements.
- Progress Payment Certificates are completed and approved by Delegated Authority, and in the case of Physical Works Contracts, must be countersigned by another person with knowledge of the project (this may be an external consultant).

30. If a contract has been approved by Council resolution, CE or GM can execute the contract, can authorise payments up to the Approved Contract Sum and/or can delegate the authorisation of payments to a nominated position.
31. If a contract has been approved by management delegation, the payment/s must be authorised by a staff member with the correct Financial Delegated Authority for that payment.
32. Contracts involving revenues receivable by Council, including contracts and agreements with promoters and relating to the organising of events by Event Facilities, must have the necessary Delegated Authority to authorise the payment, unless the agreement has been approved by Council.
33. Contracts exceeding 5 years total term (including renewals) to be authorised by Council or Finance Committee.
34. Where a contract involves both; (a) expenditure (payable by Council) and (b) revenue (receivable by Council), the sum total is the greater of either the expenditure or revenue. i.e. there must be no offset of expenditure and revenues.
35. The Approved Contract Sum is the aggregate of all amounts most likely to be paid to the contractor, for that contract, over the life of the contract. Disaggregation of supplies or contractual arrangements in order to comply with this requirement is expressly forbidden.

Purchase/Sale of Land

36. Includes any expenditure occurring in respect to the purchase and sale of land where the purchase or sale is provided for in the applicable Long Term Plan/Annual Plan either separately or as an integral part of a project, or authorised by a resolution of Council. For the avoidance of doubt, the purchase and sale of land includes the acquisition or disposal of land under the provisions of the Public Works Act 1981.

Debt Write-off

37. Irrespective that the CEO and GM's may have delegated authority to write off bad debts, all such debts written off must be reported to the next Finance Committee meeting.

Legal claim

38. **Insured Claims – No Excess** (provided prior written confirmation is obtained from Council's insurer)
39. **Insured Claims – Excess Applicable** (provided written confirmation is obtained from Council's insurer stating that the proposed settlement amount less the amount of the excess payable by Council is covered by Council's insurance and, the Chief Financial Officer confirms that funds are available to cover the Council's excess.
40. **Uninsured Claims – Direct cost to Council or, the settlement amount is less than the excess of the Council's applicable Insurance policy** (Confirmation by the Chief Financial Officer that funds are available. If funds are not available the proposed settlement amount must be reported to Council or a Standing Committee.)
41. **Uninsured Claims involving an indirect cost to Council** – (Loss of Revenue e.g. Fees, Fines, Charges, Rates)
42. **All legal claims to be reported to the next Finance Committee**
 - **Note: Legal claim includes weather-tight building claims (leaky buildings)**

Financial Operation

43. Subject to any policies adopted by the Council, the Chief Executive and Chief Financial Officer are each delegated the authority to operate (including opening and closing accounts) all of the Council's bank accounts, investment accounts, sinking funds, loan accounts, special funds and other financial matters including signing authority where appropriate. This includes payment of

regular sums for administrative matters such as: power, heat and light; tax and GST payments; rates; etc.

Development Contributions

44. Subject to the Development Contributions Policy, the Chief Executive is delegated authority to approve a reduction, postponement, or refund in a development contribution levied on a developer to the limit specified in this Policy. All reductions, postponements or refunds to be reported to the next Finance Committee meeting. No delegation is provided to CEO for hardship related remissions or remissions not provided in the Development Contributions Policy.

Waiver of Council Fees & Charges

45. Subject to any specific waiver policies adopted by Council, the Chief Executive and General Managers are each delegated authority to waive fees and charges for their areas of responsibility **provided:** (a) the waiver and the amount are recorded and available for audit purposes and, (b) the waiver is in consideration of circumstances that do not create a precedent, and (c) the act of waiving such fees and charges reflects 'good citizen' conduct, and (d) any waivers to be reported to the next Finance Committee meeting with the threshold to be determined in conjunction with the Chair of the Finance Committee.

Delegations by the Council to the Mayor and Deputy Mayor

Position	General Delegations
Mayor	<p>The Mayor is elected by the City as a whole and as one of the elected members shares the same responsibilities as other members of Council.</p> <p>Authorities</p> <ul style="list-style-type: none"> • Lead the development of Council's plans (including the long-term plan and the annual plan), policies and budgets for consideration by the Council.* • To appoint the Deputy Mayor.* • To establish committees of the Council.* • To appoint the chairperson of each committee.* • Act as a Justice of the Peace. • Requisition a meeting of Council. • Declare a Civil Defence emergency. • Authority of a chairperson pursuant to standing orders. • In relation to the Chief Executive's employment contract, has delegated authority to manage routine employment matters such as; approving leave provisions; deduction and overpayment arrangements; approving expenditure and travel reimbursement claims, but excluding changes to employment contract provisions. <p>*Note: Subject to the provisions of Section 41A of the local Government Act 2002.</p>

Position	General Delegations
Deputy Mayor	<p>Authorities</p> <ul style="list-style-type: none"> • All the authorities of the Mayor when the Mayor is not available and including, in relation to the Chief Executive's employment contract, the delegated authority to manage routine employment matters such as; approving leave provisions; deduction and overpayment arrangements; approving expenditure and travel reimbursement claims, but excluding changes to employment contract provisions, and the Mayor's powers under section 41A(3) of the Local Government Act 2002.

Delegations by the Council to the Chief Executive, General Managers and Specified Positions

Position	General Delegations
Chief Executive Officer	<p>In accordance with clause 32(1) of Schedule 7 of the Local Government Act 2002, the Chief Executive is hereby delegated all responsibilities, duties and powers to act, and to further delegate such responsibilities, duties and powers to act on any matter, and shall exercise this delegation subject to the Exclusions and Conditions listed below:</p> <p>Exclusions</p> <ul style="list-style-type: none"> • Any responsibilities, duties and powers that the Council is prohibited by rule of law from delegating to officers • Any responsibilities, duties and powers conferred on Council by an external entity that the entity has prohibited the Council from delegating to officers. • Any matter that can only be given effect by a resolution of the Council or a standing committee. • Any matter that is outside the Chief Executive's Financial Delegations. • Council's own power to delegate (<i>section 34A(1) of the RMA</i>). This power remains with Council. • Approve the Proposed District Plan as operative (<i>section 34A(1)(a) of the RMA</i>). This power remains with Council. • Appoint a hearings commissioner (<i>section 34A(1) of the RMA</i>). This power remains with Council. • Notify a Proposed District Plan. • Make a decision on submissions and further submissions to a Proposed District Plan. • Agree to settle and submit a draft consent order to the Environment Court relating to an appeal on a Proposed District Plan, Plan Change, Variation or Notice of Requirement to designate land or for a heritage order. • Reject a private plan change request. • To hear and determine objections to officer-declined resource consent applications which will be heard by hearings commissioners (independent). • Agree to settle and submit a draft consent order to the Environment Court relating to an appeal on a resource consent application. <p>Conditions</p> <ul style="list-style-type: none"> • This delegation does not preclude the Chief Executive from referring any matter to the Council or a committee for decision if the matter is particularly significant; of political importance or sensitivity; of special community interest or for any other reasons the Chief Executive determines. • The Chief Executive shall exercise this delegation in accordance with any plans, policies, and procedures and by laws adopted by Council and with any specific directives given by way of resolution of the Council or standing Committee. • Unless specifically restricted as to name or time, this delegation shall remain in effect until such time as it is varied or revoked by resolution of the Council. • Where exercised by a General Manager (other than the Deputy Chief Executive) in the unplanned or unforeseen absence of the Chief Executive, that consultation occurs with the Senior Leadership Team. • The Approved Contract Sum is the aggregate of all amounts most likely to be paid to the contractor, for that contract, over the life of the contract. Disaggregation of supplies or contractual arrangements in order to comply with this requirement is expressly forbidden, and a higher level of authority must be sought in every situation. <p>Note: The Council may from time to time appoint the CEO (or other senior officers) to act in Council's interests as director or shareholder representative with associate organisations. Any such appointment should be considered a <u>specific delegation</u> and to be fulfilled in terms of the requirements of each specified appointment rather than as a general delegation as provided by this policy.</p>

Deputy Chief Executive	In the formal and recorded absence of the Chief Executive the Deputy Chief Executive is delegated all the powers of the Chief Executive and may act for the chief Executive in an emergency where the Chief Executive cannot be contacted.
General Managers and Executive Directors	<p>General Managers and Executive Directors may:</p> <ul style="list-style-type: none"> • Delegate further to staff within their respective Groups (without any further sub-delegation) • Enforce by-laws overseen by their respective Groups or by further delegation to the appropriate enforcement officer or by any other means as required by statute. • Enter into contracts subject to their Delegated Financial Authority • Execute statutory notices, encumbrances, bonds and agreements in the name of Council and within approved delegated limits. • Exercise their specific delegations without further reference (some may require to be reported) • Establish staff committees or working groups • Act for the Chief Executive in an emergency where the Chief Executive and the Deputy Chief Executive cannot be contacted, provided this is done through consultation with the Senior Leadership Team.
General Manager Corporate incorporating Chief Financial Officer	<p>The General Manager Corporate (when incorporating Chief Financial Officer) may exercise the following specific powers, where that is permitted by law, and in accordance with Council policy and any term or condition imposed by Council.</p> <ul style="list-style-type: none"> • To determine an interest rate under Section 42 (3) and Section 68 (2) (b) (ii) of the Local Government (Rating) Act 2002 • Amend any entries in the valuation roll or the Council's rating records which are the result of an error or which are no longer correct as a result of changed circumstances • To administer the rating function in conjunction with the Financial Controller and Revenue Manager under Section 132 of the Local Government (Rating) Act 2002.
GM - City Infrastructure	<p>The General Manager may exercise the following specific powers where that is permitted by law, and in accordance with Council policy and any term or condition imposed from time to time by the Council.</p> <ul style="list-style-type: none"> • Exercise any power to impose temporary restrictions in regard to traffic and restrict vehicular access of any kind to roads within the City. • The specific powers and authorities detailed in the Resource Management Act 1991, as specified in the Chief Executive's delegations to officers.
GM - City Growth	<p>The General Manager may exercise the following specific powers where that is permitted by law, and in accordance with Council policy and any term or condition imposed from time to time by the Council.</p> <ul style="list-style-type: none"> • Unless prohibited by law, the General Manager may sub-delegate any of the powers hereby delegated and may temporarily withdraw or restrict the use of the powers sub-delegated to any officer under his/her control with the exception of specific statutory powers. All such delegations are to be recorded in writing. • The specific powers and authorities detailed in the Resource Management Act 1991, as specified in the Chief Executive's delegations to officers. • The power to enforce provisions of Section 75 of the Building Act 2004 – Construction of Building on two or more allotments including the power to sign or not sign a certificate under S75 of the Building Act. • The power to receive and process consent applications pursuant to policy under Sections 98-100 of the Gambling Act 2003. • The power to enforce provisions of the bylaw relating to signage and location of brothels pursuant to Sections 12 & 14 of the Prostitution Reform Act 2003. • The power to waive building line restrictions and revocation of those previously imposed pursuant to Section 327A, Local Government Act 1974.

	<ul style="list-style-type: none"> • The power to permit rights-of-way and to impose conditions pursuant to Section 348, Local Government Act 1974. • Exercise, on behalf of Council, the general powers and authorities specified in statutes and bylaws relating to: <ul style="list-style-type: none"> a) the service of orders and notices b) the issue of licenses and permits c) the suspension and/or revocation of licenses or permits. <p>Note: Delegations of territorial authority responsibilities with regard to the Dog Control Act 1996 can be exercised by any one of: the General Manager City Growth, City Safe Unit Manager and Animal Control Manager, or appointed nominee.</p>
GM - Community	<p>The General Manager may exercise the following specific powers where that is permitted by law, and in accordance with Council policy and any term or condition imposed from time to time by resolution of Council.</p> <ul style="list-style-type: none"> • The General Manager Community administers the Reserves Act 1977 as it affects reserves under the control of Council in accordance with Council policy. • The specific powers and authorities detailed in the Resource Management Act 1991 as specified in the Chief Executive's delegations to officers.
Secretary of District Licensing Committee	<p>The City Safe Manager is to act as Secretary of the District Licensing Committee with authority to perform all powers, functions and acts of the secretary under the Sale and Supply of Alcohol Act 2012.</p>
Privacy Officer	<p>The Democracy Manager is appointed Privacy Officer for the Council pursuant to Section 23 of the Privacy Act 1993 and is delegated the powers associated with that position pursuant to Section 124 of the Privacy Act.</p>
Rates Administration Officers	<p>The responsibility for administering the provisions of the Local Government (Rating) Act 2002 is delegated to the following officers:</p> <ul style="list-style-type: none"> • <i>Chief Executive</i> • <i>General Manager Corporate (incorporating the Chief Financial Officer)</i> • <i>Financial Controller</i> • <i>Revenue Manager</i> <p>In addition, the Revenue Manager is specifically delegated the responsibility to make decisions as to the allocation of rating units to differential rating categories in terms of Section 27(5)(a) of the Local Government (Rating) Act 2002.</p> <p>Note: Council may not delegate to any officer (Section 132):</p> <ol style="list-style-type: none"> Any of the powers to set and assess rates Any of the duties relating to the setting and assessment of replacement rates The power to delegate.
Prosecuting Officers	<p>The following Officers of Council, by Appointment, are appointed to act on behalf of Council in all proceedings in a District Court or before any Justice of the Peace.</p> <ul style="list-style-type: none"> • <i>General Manager (Incorporating the Chief Financial Officer)</i> • <i>Revenue Manager</i> • <i>Any duly appointed warranted officer (Dog Control, Parking, Liquor Licensing, RMA etc.)</i>
Civil Defence Controller	<p>The Civil Defence Controller and the Civil Defence Emergency Management Group (CDEMG) for the Waikato Region during a State of Local Civil Defence Emergency shall have the powers vested as described in the Civil Defence Emergency Management Act 2002.</p> <p>Authority has been delegated by Council to the CDEMG/Controller pursuant to the Civil Defence Emergency Management Act 2002. A summary of the powers and obligations of the Civil Defence Controller are contained in the Civil Defence Emergency Management</p>

	<p>Group Plan.</p> <p>Pursuant to Section 94 of the Civil Defence Emergency Management Act 2002, the Group/Local Civil Defence Controller and Alternate Controllers for Hamilton City Council and the Civil Defence Emergency Management Group for the Waikato Region Emergency Operating Area are authorised to enter into urgent contracts on behalf of Hamilton City Council for the purposes of the Act as outlined in the Waikato Civil Defence Emergency Management Group Plan and subject to the Specified Sum limitation.</p>
<i>Electoral Officer</i>	<p>The Democracy Manager is appointed Electoral Officer for the Council pursuant to Section 12 of the Local Electoral Act 2001 to exercise the powers and carry out the duties conferred by this Act.</p>
<i>Staff Committee Appointees</i>	<p>Officers other than the CEO and GMs may be appointed in writing to serve on staff committees (including those having a quasi-judicial function) to receive, consider, recommend or decide matters such as minor planning matters, road naming and non-notified subdivision consent applications.</p> <p>Reporting to the appropriate committee with attending appointees recorded in the minutes.</p>

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Delegations to Positions Policy

Purpose and scope

1. Part of Council's strategic and governance role is to ensure that its statutory responsibilities, duties and powers are carried out at the most effective and efficient levels. This Policy sets out the delegations from Council to specified elected members and officers.
2. Matters outside the scope of this Policy are:
 - a. Delegations from Council to Committees, which are specified in the Governance Structure; and
 - b. Delegations from the Chief Executive to subordinate officers through management policies or by way of a specific delegation.

Definitions

Term	Definition
Committee	A committee or subcommittee (if any) of Council, as listed in the Governance Structure
Delegated Financial Authority	The financial limit delegated to: <ol style="list-style-type: none"> a. the Chief Executive or a specified officer under this Policy; or b. an officer under the relevant management policy or a specific delegation from the Chief Executive.
Governance Structure	The Council's approved Governance Structure document, including the terms of reference and delegations for Council and Committees, for the current triennium.
Officer	A Council staff member who is for the time being the holder of a specified office.

Principles

3. Where local authority activities do not contain a governance component and are not limited by statutory restrictions then they should be delegated to the Chief Executive, who may sub-delegate to officers.
4. To be effective and of legal standing, all delegations from Council must be precise and in writing (i.e. via this Policy or by Council resolution).

5. The delegate is acting in his or her own name on behalf of the Council when exercising delegated authority. In so doing, the delegate will ensure they act in accordance with any:
 - a. binding statutory authority (in relation to each delegation, relevant sections of legislation will be identified); and
 - b. relevant Council policy or process, including delegated financial authority and reporting requirements.
6. Council retains ultimate responsibility for its governance, statutory and financial responsibilities, duties and powers at all times. No delegation relieves Council of the liability or responsibility for the performance of the delegated responsibility, duty or power.
7. Those with responsibility for a delegated task or function should always have the authority to carry it out effectively.
8. Those with authority to perform a delegated responsibility, duty or power should always be responsible for the performance of the delegation in a full, fair and objective manner. To this end, it is open to the person delegated a responsibility, duty or power to consider whether or not to exercise that delegated responsibility, duty or power, or to refer the matter back to Council or the relevant Committee.
9. Subject to any legislative restrictions, a responsibility, duty or power delegated to an officer is also delegated to all officers in a direct line of authority above that officer and is also delegated to any officer who is in an acting capacity for that officer.
10. Any delegation made includes any ancillary responsibilities, duties or powers necessary to give effect to that delegation.
11. Unless specifically restricted, a delegation continues in force until expressly revoked or varied by resolution of Council. A delegation will survive any change in the person occupying the office to which the delegation was made.
12. Unless otherwise expressly stated in the Policy:
 - a. all financial values stated in this Policy are GST exclusive; and
 - b. all references to a repealed enactment should read as a reference to its replacement.

Policy

The meaning of delegation

13. For the purpose of this Policy, delegation means the transfer of a responsibility, duty or power from Council to specified Elected Members, the Chief Executive or other specified officers, together with the authority to carry out that responsibility, duty or power or complete the action delegated.
14. General delegation means the granting of authority to determine a range of matters of a similar kind as and when they arise over a period of time without further reference to the delegator.
15. From time to time the Council may delegate authority by resolution to determine a specific issue. This specific delegation will exist only so long as that matter is unresolved and will then lapse at a specified time.
16. General delegations will be updated in this Policy as they are confirmed. Specific delegations may not necessarily be recorded in this Policy due to the fact that they would be largely historical by the time they are recorded.

Legal basis

17. The delegations in this Policy are made in accordance with the Local Government Act 2002 and any other legislation permitting delegation.
18. **Council cannot delegate** the power to:
- make a rate; or
 - make a bylaw; or
 - borrow money, or purchase or dispose of assets, other than in accordance with the long-term plan or otherwise as expressly covered in this Policy; or
 - adopt a long-term plan, annual plan, or annual report; or
 - appoint a Chief Executive; or
 - 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 local governance statement; or
 - adopt a remuneration and employment policy.

(Local Government Act 2002 - Schedule 7, Clause 32 (1))

Council has reserved other matters for its sole decision, which are recorded in the Governance Structure.

19. The **Chief Executive and other specified officers** can further delegate their delegations to any other officer, subject to certain restrictions.

(Local Government Act 2002 – Schedule 7, clause 32B)

Delegations by the Council to Elected Members

20. Delegations from Council to specified Elected Members are detailed in Schedule 1.

Delegations by the Council to Chief Executive and Specified Officers

21. Delegations from Council to the Chief Executive and specified officers (including Financial Delegations) are detailed in Schedule 2.
22. The Policy is to be read alongside the Hamilton City Council management policies that record the delegations from the Chief Executive to subordinate officers. The Policies, read together, record compliance with the statutory norm allowing only one sub-delegation.

Review of Policy

23. The Policy shall remain in effect until such time as it is varied or revoked by resolution of the Council. It is intended that the Policy will be reviewed and updated from time-to-time; at the start of each triennium as a minimum.

Schedule 1 - Delegations by the Council to Elected Members

Position	General Delegations
Mayor	<p>The Mayor is elected by Hamilton City as a whole and as one of the elected members shares the same responsibilities as other members of Council.</p> <p>Authorities</p> <ul style="list-style-type: none"> • Lead the development of Council's plans (including the long-term plan and the annual plan), policies and budgets for consideration by the Council.* • To appoint the Deputy Mayor.* • To establish committees of the Council.* • To appoint the chairperson of each committee.* • Act as a Justice of the Peace. • Requisition a meeting of Council. • Declare a local Civil Defence emergency. • Authority of a chairperson of a Council meeting under Standing Orders. • In relation to the Chief Executive's employment contract, has delegated authority to manage <u>routine</u> employment matters such as; approving leave provisions; deduction and overpayment arrangements; approving expenditure and travel reimbursement claims, but excluding changes to employment contract provisions. <p>*Note: Subject to the provisions of Section 41A of the Local Government Act 2002.</p>

Position	General Delegations
Deputy Mayor	<p>Authorities</p> <ul style="list-style-type: none"> • All the authorities of the Mayor when the Mayor is not available and including, in relation to the Chief Executive's employment contract, the delegated authority to manage <u>routine</u> employment matters such as; approving leave provisions; deduction and overpayment arrangements; approving expenditure and travel reimbursement claims, but excluding changes to employment contract provisions, and the Mayor's powers under section 41A(3) of the Local Government Act 2002.

Position	Signing and Sealing of Formal Documents
Elected Members	<p>Authorities</p> <ul style="list-style-type: none"> • The Mayor, Deputy Mayor, or any other two elected members acting at the specific request of the Mayor or Chief Executive, are authorised to sign any document required by law to be signed under seal, provided those documents have been: <ol style="list-style-type: none"> a) approved by the Council or a Committee (in accordance with its delegations); or b) authorised by an officer (including the Chief Executive) under delegated authority. <p>Note: Where a document does not need to be executed under Council seal it may instead be signed by the Chief Executive or any other officer who is authorised under delegated authority, whether under this Policy or otherwise, to approve the transaction involved.</p>

Schedule 2 - Delegations by the Council to the Chief Executive and Specified Officers

Position	General Delegations
Chief Executive Officer	<p>In accordance with clause 32(1) of Schedule 7 of the Local Government Act 2002, the Chief Executive is hereby delegated all Council's responsibilities, duties and powers, and to further delegate such responsibilities, duties and powers on any matter, and shall exercise this delegation subject to the Exclusions, Conditions and Notes below.</p> <p>To the extent that they are relevant, the following Exclusions, Conditions and Notes below also apply to the Financial Delegations section in this Schedule.</p> <p>Exclusions:</p> <ul style="list-style-type: none"> • Any responsibilities, duties and powers that the Council is prohibited by legislation or operation of law from delegating to officers. • Any responsibilities, duties and powers conferred on Council by an external entity that the entity has prohibited the Council from delegating to officers. • Any matter that can only be given effect to by a resolution of the Council. • Any power, responsibility or duty that has been delegated to a Committee, unless sub-delegated by resolution of that Committee. • Any matter that is outside the Chief Executive's delegated financial authority (refer below). • In relation to the Resource Management Act 1991 ('RMA'): <ol style="list-style-type: none"> i. Council's own power of delegation (section 34A(1)). ii. Notification of a Proposed District Plan. iii. Approval of a Proposed District Plan (section 34A(1)(a)). iv. Appointment of a hearings commissioner. v. Decisions on submissions and further submissions to a Proposed District Plan. vi. Approval to settle and submit a draft consent order to the Environment Court relating to an appeal on a Proposed District Plan, Plan Change, Variation or Notice of Requirement to designate land or for a heritage order. vii. Rejection of a private plan change request. viii. Hearing and determining objections to officer-declined resource consent applications which will be heard by independent hearings commissioners. <p>Conditions:</p> <ul style="list-style-type: none"> • The Council's delegations to the Chief Executive do not preclude the Chief Executive from referring any matter to the Council or a Committee for decision if the matter is particularly significant; of political importance or sensitivity; of special community interest or for any other reasons the Chief Executive determines.

- The Chief Executive shall exercise this delegation in accordance with any plans, policies, and procedures and by-laws adopted by Council and with any specific directives given by way of resolution of the Council or a Committee.
- Under section 125 of the Privacy Act, the Chief Executive is authorised to sub-delegate all or any of Council's powers under that Act, subject to the Exclusions above.
- The Chief Executive has the Council's general authority to delegate to any officer any of the Chief Executive's functions, powers and duties under the Sale and Supply of Alcohol Act 2012, other than the general power of delegation.

Notes:

- For the purposes of the Trespass Act 1980, the Chief Executive is the person in lawful occupation of land owned, occupied or controlled by the Council.
- For clarity, the Chief Executive has the Council's general authority to exercise all of the Ministerial powers that have been delegated to the Council under the Reserves Act 1977. This differs from the specific delegation to the General Manager Community in this Policy.
- Where exercised by a General Manager (other than the Deputy Chief Executive) in the unplanned or unforeseen absence of the Chief Executive, that prior consultation occurs with the Senior Leadership Team.
- The Council may from time to time appoint the Chief Executive (or other senior officers) to act in Council's interests as director or shareholder representative with associate organisations. Any such appointment should be considered a specific delegation and to be fulfilled in terms of the requirements of each specified appointment rather than as a general delegation as provided by this Policy.

Position	General Delegations
Deputy Chief Executive	<p>The Deputy Chief Executive is delegated all the responsibilities, duties and powers of the Chief Executive and may act for the Chief Executive in:</p> <ul style="list-style-type: none"> the formal and recorded absence of the Chief Executive; or an emergency where the Chief Executive cannot be contacted.
General Managers and Executive Directors	<p>General Managers and Executive Directors are delegated the following responsibilities, powers and duties within their respective areas of responsibility, where that is permitted by law, in accordance with any Council policy (as appropriate) and subject to any condition, limitation or prohibition imposed by Council or any statutory limitation:</p> <ul style="list-style-type: none"> The responsibilities, powers and duties delegated to them from the Chief Executive, as are recorded in management policies or specific written delegations, from time to time. The power to enter into contracts subject to their delegated financial authority¹. The power to sub-delegate, unless expressly restricted by law or the terms of Council's delegation to the General Manager or Executive Director. All such sub-delegations must be recorded in writing. The power to undertake their specific delegations without further reference (though some may require to be reported). The power to establish staff committees or working groups. The power to act for the Chief Executive in an emergency where the Chief Executive and the Deputy Chief Executive cannot be contacted, provided this is done through prior consultation with the Senior Leadership Team.
GM - Community	<p>The General Manager may exercise the following specific powers where that is permitted by law, in accordance with any Council policy (as appropriate) and subject to any condition, limitation or prohibition imposed from time to time by Council or any statutory limitation:</p> <ul style="list-style-type: none"> All the powers and functions of the Council, as an administering body under the Reserves Act 1977, to the extent that the Reserves Act affects reserves held by or under the control of Council.
City Safe Manager	<p>The City Safe Manager is to act as Secretary of the District Licensing Committee with authority to perform all responsibilities, duties and powers of the Secretary under the Sale and Supply of Alcohol Act 2012.</p>

¹ Refer to the Council Management Policy – *Financial Delegations to Officers*
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<p><i>Governance Manager</i></p>	<p>The Governance Manager is appointed Privacy Officer for the Council pursuant to Section 23 of the Privacy Act 1993 and is delegated the responsibilities, duties and powers associated with that position pursuant to Section 124 of the Privacy Act. The Governance Manager may sub-delegate such responsibilities, duties and powers to other officers, except for the power to delegate under that Act.</p> <p>The Governance Manager may exercise the powers of the Council under Parts 2 to 5 of the Local Government Official Information and Meetings Act 1987, except any powers specified in section 32 of that Act; such delegation to be exercised in accordance with any condition, limitation or prohibition imposed from time to time by Council. The Governance Manager may sub-delegate such powers to other officers, except for the power to delegate under that Act.</p>
<p><i>Rates Administration Officers</i></p>	<p>The responsibility for exercising the functions, powers or duties and administering the provisions under the Local Government (Rating) Act 2002 are delegated to the following officers:</p> <ul style="list-style-type: none"> • Chief Executive • General Manager Corporate • Financial Controller • Rates and Revenue Manager <p>In addition, the Rates and Revenue Manager is specifically delegated the responsibility to:</p> <ul style="list-style-type: none"> • make decisions as to the allocation of rating units to differential rating categories in terms of Section 27(5)(a) of the Local Government (Rating) Act 2002; and • amend any entries in the district valuation roll (under section 14 of the Rating Valuations Act 1998) or the rating information database (under section 40 of the Local Government (Rating) Act 2002) which are the result of an error or which are no longer correct as a result of changed circumstances. <p>Note:</p> <ul style="list-style-type: none"> • The functions, powers or duties under the Local Government (Rating) Act 2002 and the Rating Valuations Act 1998 delegated by the Council to the above specified officers, including the Chief Executive, may not be sub-delegated. <p>Exclusion:</p> <ul style="list-style-type: none"> • Council must not delegate to any officer, including the Chief Executive: <ul style="list-style-type: none"> a) the power to delegate; or b) a function, power or duty conferred by subpart 2, Part 1 or subpart 1, Part 5 of the Local Government (Rating) Act 2002.

**Local Civil
Defence
Controller**

The Local Civil Defence Controller ('the Controller') and the Civil Defence Emergency Management Group (CDEMG) for the Waikato Region during a State of Local Civil Defence Emergency shall have the powers vested as described in the Civil Defence Emergency Management Act 2002 ('CDEM Act').

Authority has been delegated by Council to the CDEMG/Controller under the CDEM Act. A summary of the powers and obligations of the Controller are contained in the CDEMG Plan.

Under section 94 of the CDEM Act, the CDEMG/Controller and Alternate Controllers for Hamilton City Council and the Civil Defence Emergency Management Group for the Waikato Region Emergency Operating Area are authorised to enter into urgent contracts on behalf of Hamilton City Council for the purposes of the Act as outlined in the Waikato Civil Defence Emergency Management Group Plan, subject to the following limitations:

- In a declared emergency, the Controller is delegated automatic uncapped delegated financial authority when formally identified as acting as a Controller. The Controller is required to present incremental reporting to the Chief Executive and Group Controller for every \$500,000 of expenditure incurred when exercising this delegation to ensure there is appropriate oversight.
- In a non-declared emergency, the Controller is delegated uncapped delegated financial authority when formally identified as acting in control of that emergency. The Controller is required to present incremental reporting to the Chief Executive and Group Controller for every \$250,000 of expenditure incurred when exercising this delegation to ensure there is appropriate oversight.

Note: A non-declared emergency is an emergency, as defined under the CDEM Act, where a formal declaration of state of local emergency has not been made pursuant to section 68 of that Act.

Financial Delegations

- The limits of the specified sum(s) applicable to various financial transactions delegated to the Chief Executive (and other specified officers, as applicable) under this Policy or otherwise, are as follows²:

Expenditure Type – Refer to Terms of Delegation below

Unexpended Budget - (Operating and Capital)	Overspends/Unbudgeted (Operating and Capital)	Capex – B/Fwd	Contracts	Purchase/Sale of Land	Debt Write-off	Legal Proceedings	Financial Operations (Admin disbursements)	Development Contributions
Limited to the approved budget	\$250,000	\$500,000	\$3,000,000 Total contract term not exceeding 5 years including renewals For contracts not going to tender: \$250,000 (subject to same restriction above on contract term).	\$3,000,000	\$10,000	\$500,000 for weather-tight building claims (leaky buildings) \$250,000 for all other legal proceedings	Limited to the approved budget	\$1,500,000

Notes:

There is a cumulative cap of \$1,000,000 per financial year for the aggregate total (whole of Council) of all unbudgeted items, overspends and operational expenditure (Opex) brought forward and approved under delegated authority during that financial year. Any significant overspends or underspends will be recorded and reported to the Finance Committee on a quarterly basis.

Expenditure Types – Terms of Delegation

Unexpended Budget

- Operating and capital expenditure including deferred capital expenditure (approved by Council resolution) that has been budgeted in the applicable Long Term Plan/Annual Plan and not yet spent. All expenditure must comply with the requirements of Council's Procurement Policy.

Overspend and Unbudgeted

- Any expenditure on an item that exceeds the amount budgeted for that item in the applicable Long Term Plan/Annual Plan or is not budgeted but required to deliver the level of service and outcomes outlined in the applicable Long Term Plan/Annual Plan e.g. contract or project cost over-run.
- A Local Civil Defence Controller has an uncapped delegated financial authority in the event of a declared or non-declared emergency, subject to the conditions and reporting provisions in this Policy (See: *Local Civil Defence Controller* [above](#)).

² The delegated financial authority limits specific to General Managers, Executive Directors and officers are set out in the Council's Management Policy - *Financial Delegations to Officers*.
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Capex – Capital Expenditure Brought Forward

5. Capital expenditure occurring in financial periods in advance of the planned expenditure timeframe in the applicable Long Term Plan. This delegation is to the Chief Executive, General Managers and Executive Directors only (limits apply to officers in accordance with the Hamilton City Council Management Policy - *Financial Delegations to Officers*) and cannot be further delegated.

Contracts

6. The delegated financial authority limit for contracts applies on a 'per contract' basis. For clarity, the delegated financial authority limits apply to contracts involving revenues receivable by Council, including contracts and agreements with promoters and relating to the organising of events.
7. The Approved Contract Sum is the aggregate of all amounts most likely to be paid to the contractor (including retentions made, or to be made in respect of a contract), or amounts received from the other party (as applicable), for that contract, over the life of the contract. Disaggregation of supplies or contractual arrangements in order to comply with this requirement is expressly prohibited.
8. For the purposes of determining whether a specified officer has the necessary delegated financial authority in relation to a contract that involves both; (a) expenditure (payable by Council) and (b) revenue (receivable by Council), the Approved Contract Sum for that contract is the greater of either the expenditure or revenue in that contract. That is, there must be no offset of expenditure and revenues.
9. If a contract has been approved by Council resolution, the Chief Executive, or relevant General Manager or Executive Director (as appropriate), can:
 - a. execute the contract (other than those contracts required to be signed under the Council's seal);
 - b. authorise payments up to the Approved Contract Sum or delegate the authorisation of payments to a nominated position; or
 - c. (if applicable) correct and re-issue invoices, issue credit notes or refunds up to the Approved Contract Sum, in relation to revenue receivable by Council under an approved contract.
10. If a contract has been approved under this Policy or by management delegation:
 - a. the payment/s or any correction to invoices (as applicable) must be authorised by an officer with the correct financial delegated authority for that payment or invoice³;
 - b. a brief summary of such contracts are to be reported quarterly to Elected Members.

For clarity, no reporting is required under section 10(b) above for contracts approved by Council or a Committee.
11. Contracts exceeding five years total term (including renewals) must be authorised by Council or the relevant Committee⁴.

Purchase/Sale of Land

12. Includes any expenditure occurring in respect to the purchase and sale of land where the purchase or sale is provided for in the applicable Long Term Plan/Annual Plan either separately or as an integral part of a project, or authorised by a resolution of Council. For clarity, the purchase and sale of land includes the acquisition or disposal of land under the provisions of the Public Works Act 1981.

³ For management delegations, refer to Council's Management Policy - *Financial Delegations to Officers*.

⁴ Refer to the *Governance Structure*.

13. In exercising this delegation, the Chief Executive is permitted to negotiate sale and purchase of land, where appropriate, at not less than 90% of the estimated market value determined by a registered valuer.

Debt Write-off

14. The delegated financial authority limit applies on a 'per debtor' basis.
15. Irrespective that the Chief Executive, General Managers, Executive Directors and Financial Controller may have delegated authority to write-off bad debts⁵, all such debts written off must be reported to the next Finance Committee meeting on an aggregate basis for each Group.

Legal Proceedings

16. The delegated financial authority is determined on a per proceeding basis.
17. Includes commencing or defending, negotiating, settling or withdrawing from legal proceedings (including prosecutions and claims) on the Council's behalf in any New Zealand court or tribunal. The Chief Executive is also delegated the authority to take all steps necessary to enforce any court or tribunal judgment in favour of the Council, and to recover debts owing to the Council, subject to the delegated financial authority limit.
18. All legal claims or other proceedings undertaken by, or on behalf of, the Chief Executive, for an amount in excess of \$100,000 are to be reported to the next meeting of Council or the relevant Committee.

Financial Operation

19. Subject to any Council or management policies, the Chief Executive, General Manager Corporate and Financial Controller are each delegated the authority to operate (including opening and closing accounts) all of the Council's bank accounts, investment accounts, sinking funds, loan accounts, special funds, tax related matters, and other financial matters including exercising signing authority where appropriate. This includes payment of regular sums for administrative matters such as: power, heat and light; tax and GST payments; rates; etc.

Development Contributions

20. Subject to the development contributions provisions in the Local Government Act 2002 and the provisions of the Council's Development Contributions Policy, the Chief Executive is delegated authority to approve a remission, postponement, or refund of a development contribution levied on a developer to the delegated financial authority limit specified in this Policy. All remissions, postponements or refunds are to be reported, for noting purposes, at the next Growth and Infrastructure Committee meeting.
21. For clarity, Council will not delegate to the Chief Executive any powers in relation to hardship related remissions or remissions not provided for in the Development Contributions Policy.

⁵ Refer to the Management Policy – *Financial Delegations to Officers*
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Waiver of Council Fees & Charges

22. Subject to any specific waiver policies adopted by Council, the Chief Executive, General Managers and Executive Directors are each delegated authority to waive fees and charges for their respective areas of responsibility **provided:**

- a. the waiver and the amount are recorded and available for audit purposes;
- b. the circumstances of the specific waiver will not create a precedent;
- c. the act of waiving such fees and charges reflects 'good citizen' conduct;
- d. any waivers in excess of \$10,000 (calculated on an aggregate basis per Group) are to be reported to the next Finance Committee meeting.

For clarity, development contributions are not within the scope of the delegated authority detailed in this section 22.

DRAFT

Main Changes to the Delegations to Positions Policy

Topic	Page Number (Draft Policy)	Summary of, and reason for, change *
Format, Structure and Content		<p>The Policy is restructured to provide an overview and principles upfront and place the delegations into Schedules for ease of reading and application.</p> <p>Introductory sections within the current policy (for example, 'The philosophy of the Council', 'The characteristics of delegation' and 'Care in defining authority') have either been subsumed in the Principles or deleted if they are not required for the delegations to take effect.</p> <p>Where possible, a plain English approach has been adopted.</p>
Definitions	1	A table of common defined terms has been inserted.
Principles	1-2	A set of principles to act as an overview and guidance for the implementation of delegations has been included.
Delegations to Elected Members	4	<p>Expanded to clarify the authority and process for signing documents that require the Council seal.</p> <p>Reason: To formalise the process for signing documents under seal.</p>
Delegations to the Chief Executive - Exclusions	5	<p>Expressly exclude powers, responsibilities and duties delegated to Council Committees from those matters delegated to the Chief Executive.</p> <p>Delete current exclusion in relation to settlement and submission of a draft consent order to the Environment Court relating to a resource consent appeal. This aligns with the Court's guidance documents, which expects those who take part in alternative dispute resolution processes for resource consents (ie Council officers) to have the required authority to settle the matter.</p> <p>Reason: To reflect procedural changes and the new Governance Structure.</p>

Topic	Page Number (Draft Policy)	Summary of, and reason for, change *
Delegations to the Chief Executive – Conditions and Notes	5-6	Sets out the terms of certain delegations to the Chief Executive where required by legislation for the delegation to be effective, or to provide clarity on the scope of the general delegation to the Chief Executive. Reason: To expressly include delegations that are required to come directly from the Council.
Delegations – General Manager and Executive Directors	7	Removal of general delegations from the Council to GMs and EDs which do not need to come directly from Council. Reason: To enable the Chief Executive to effectively manage those matters for which he is responsible under his general delegations from Council.
Delegations – General Manager Community	8	Clarifies the role the GM Community fulfils in carrying out the powers and functions of the Council as an 'administration body' under the Reserves Act for those reserves within the control of the Council. This excludes the Ministerial powers that have been delegated to the Council under the Act, which lie with the Chief Executive. As with all delegations, the GM Community is able to refer any matters within his/her delegated authority to Council or the appropriate Committee for determination, if required. Reason: To align with the Governance Structure 2016-19.
Delegations – Governance Manager	8	Expanded to expressly include a delegation from Council to exercise certain powers under the Local Government Official Information and Meetings Act 1987, a requirement for this legislation. Reason: To formalise the activities that the Governance Manager (formerly, the Democracy Manager) has undertaken on behalf of the Council.
Delegations – Rates Administration Officers	8	Expanded and clarified to enable the specified officers to administer the provisions of the Local Government (Rating) Act 2002 and Rating Valuations Act 1998 effectively, other than those provisions which cannot be delegated under that legislation. This also picks up a number of delegations which were previously directed to the General Manager Corporate to simplify the Policy.

Topic	Page Number (Draft Policy)	Summary of, and reason for, change *
Delegations – Civil Defence Controller	9	<p>Clarification of the two levels of delegated authority for Controllers:</p> <ul style="list-style-type: none"> • For both a declared and non-declared emergency, a Controller will have uncapped financial delegated authority to carry out his/her role without administrative impediment under the Civil Defence Emergency Management Act 2002. This is subject to an incremental reporting obligation: <ul style="list-style-type: none"> ○ For every \$250,000 spent (non-declared emergency); or ○ For every \$500,000 spent (declared emergency). • This links in with 'Overspend and Unbudgeted' Expenditure under the Financial Delegations section of the Policy. <p>Reason: To align with the recent decisions of the Waikato Region Civil Defence Emergency Management Group (Joint Committee).</p>
Financial Delegations – Table	10	<ul style="list-style-type: none"> • The Chief Executive's financial delegated authority for contracts and the purchase/sale of land has increased. The delegation's limit of a five year term continues to apply. Exercise of this delegated authority is subject to certain restrictions, including reporting obligations. • The limit on the Chief Executive's delegated authority to approve contracts not going to tender has increased from \$100,000 to \$250,000. <p>Reason: To provide administrative certainty and flexibility in respect of the increased number and value of contracts with which Council are now presented.</p>
Financial Delegations – Contracts	11	<p>Section amended to provide greater clarity as to scope and application of the Chief Executive's financial delegated authority in respect of the approval of, and payment/receipt of funds under, contracts. In particular:</p> <ul style="list-style-type: none"> • Confirmation that an 'Approved Contract Sum' applies to both contracts where Council makes payments as well as contracts under which Council receives funds. • Clarification of the scope of the delegated authority for contracts approved by Council, as compared to those approved by the Chief Executive (or officers) in accordance with the Policy (or delegations in management policies).

Topic	Page Number (Draft Policy)	Summary of, and reason for, change *
Financial Delegations – Purchase/Sale of Land	11-12	Expanded to include the discretion available to the Chief Executive for negotiating the sale and purchase of land Reason: To align with the Council resolution at its 29 September 2016 meeting.
Financial Delegations – Debt Write-off	12	Reporting on written-off debts authorised at the SLT or Financial Controller level will be presented on an aggregate basis for each organisational group; breakdowns of each amount will be able to be provided if required.. Reason: To present information to the Council at the appropriate financial level.
Financial Delegations – Legal Proceedings	12	Updated wording to clarify intention that the Chief Executive’s delegated authority expands to all types of legal proceedings - not just claims (subject to the financial delegated authority limit and general exclusions). Legal proceedings with a value in excess of \$100,000 will be reported for noting purposes to Council/the relevant Committee. Reason: To provide administrative certainty and flexibility, and present information to the Council at the appropriate financial level.
Financial Delegation – Waiver of Council Fees & Charges	13	A financial threshold of \$10,000 is inserted for the purposes of reporting any waiver of fees and charges authorised by the Chief Executive, General Managers or Executive Directors. Again, this will be reported on an aggregate basis for each Group. Reason: To present information to the Council at the appropriate financial level.

* Unless stated, the reason for the change is to provide clarity.

Committee: Council

Date: 13 December 2016

Report Name: Re- appointment of Panel of Independent Hearings Commissioners for certain RMA Matters

Author: Lee-Ann Jordan

Report Status	<i>Open</i>
Strategy, Policy or Plan context	<i><Enter Strategy, Policy or Plan></i>
Financial status	<i>There is/is not budget allocated Amount \$<enter amount></i>
Assessment of significance	<i>Having regard to the decision making provisions in the LGA 2002 and Council's Significance Policy, a decision in accordance with the recommendations is/is not considered to have a high degree of significance</i>

1. Purpose of the Report

- The purpose of this item is to inform Council of the decision, taken under delegated authority by the General Manager City Growth, to re-appoint the Independent Hearings Commissioners for a further three year term.

3. Background

- At the Council meeting of 27 March 2014 Council resolved to approve the following persons to the Council independent hearings commissioners panel for a period of three years:
 - William Wasley;
 - Simon Berry;
 - Murray Kivell;
 - Rebecca Macky;
 - Russell De Luca;
 - Richard Knott;
 - Alan Withy;
 - Alan Bickers;
 - Mark Farnsworth;
 - Loretta Lovell;
 - Any Hamilton City Councillor who is a Ministry for the Environment accredited RMA commissioner.

Council also made a number of related resolutions including:

- delegating to the General Manager City Environments (now GM City Growth) the authority to select a hearings commissioner/s from the appointed list to hear and decide RMA matters with this information to be advised to Elected Members, and

- b. approving the contract term for the independent hearings commissioners for a period of three years, plus a right of renewal of three years at Council’s sole discretion.
5. The General Manager City Growth has exercised his authority to approve the rollover of the contract for the RMA Hearings Commissioners. This decision is based on the following considerations:
- The satisfactory performance of the independent hearings commissioners under the existing contract;
 - The low frequency of use of the independent hearings commissioners (6 appointments over a three year period) and as a consequence, the relatively low expense incurred (approximately \$34k);
 - The cost to Council to run a full procurement process (time, advertising costs, staff time and cost to panel) would be in excess of the current spend on existing panel members.
 - There is a right of renewal within the existing contract for the panel and the decision to renew is within the delegations of the General Manager City Growth.

Recommendation from Management

That the report be received.

6. Attachments

- 7. There are no attachments for this report.

Signatory

Authoriser	Debra Stan-Barton, Acting General Manager City Growth
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Committee: Council

Date: 13 December 2016

Report Name: North City Road Land

Author: Ken Cunningham

Report Status	<i>Open</i>
Strategy, Policy or Plan context	Hamilton Urban Growth Strategy, Partly Operative District Plan and Rototuna Structure Plan.
Financial status	<i>There is no budget allocated</i> Costs to be met from the sale proceeds of the land that is the subject to this report.
Assessment of significance	<i>Having regard to the decision making provisions in the LGA 2002 and Councils Significance Policy, a decision in accordance with the recommendations is not considered to have a high degree of significance</i>

1. Purpose of the Report

- To seek Council approval to declare three areas of land surplus and to offer them for sale, noting that one area of land is currently road, which will need to be formally stopped.

3. Executive Summary

- Kirkdale and Council have been jointly developing a Comprehensive Development Plan (CDP) for Stage 1 of the Rototuna Town Centre as required by the Partly Operative District Plan (PODP).
- Council has been kept informed on the progress of the CDP through the Key Project Monitoring Report to the Finance Committee. The CDP is on track to be completed by 30 December 2016 and a full update will be provided to Council in early 2017.
- Council previously acquired land to realign the North City Road and Borman Road intersection.
- North City Road intersection and Borman Road have now been constructed and part of the land purchased is now surplus to requirements and can be sold.
- The surplus land together with the original North City Road corridor is identified as land required for retail development as part of the Rototuna Town Centre.
- It is important to Kirkdale and HCC that land areas A, B and C are declared surplus and offered for sale at the earliest possible time so that implementation of the CDP can proceed.
- Area C on Attachment 1 is the original North City Road and cannot be formally stopped and disposed of until a new access to Hamilton Christian School is constructed, as part of the Stage 1 Rototuna Town Centre road construction.

11. Recommendations from Management

That:

- a) the report be received;
- b) The areas of land identified as A and B in Attachment 1 are declared surplus to Council requirements;
- c) The areas of land identified as A and B in Attachment 1, subject to legal survey, are offered back to the previous owners for purchase in terms of section 40 of the Public Works Act 1981;
- d) If the areas identified as A and B in Attachment 1 are not required by the previous owners, they are sold on the open market at a purchase price supported by independent market advice;
- e) The road area identified as C in Attachment 1 to this report be stopped and sold on the open market at a purchase price supported by independent market valuation, subject to finalisation of access arranged for the Hamilton Christian School; and
- f) The Chief Executive be delegated authority to:
 - i) Commence the disposal of areas A & B at this time;
 - ii) Determine the appropriate time to initiate the formal road stopping process over Area C and dispose of the land;
 - iii) Execute all documentation in relation to the road stopping and sale and purchase process for the identified land areas shown on Attachment 1 of this report as A, B and C.

12. Attachments

13. Attachment 1 - Blue Wallace Surveyors Ltd plan indicating land at North City Rd and road land.
14. Attachment 2 - Plan indicating location of North City Road land.
15. Attachment 3 - Rototuna Town Centre POPD Concept Plan.

Key Issues

16. Background
17. The City is involved in the CDP as the proposed Aquatic Centre and Library falls within the CDP area.
18. The CDP is now in its final draft and once complete will be submitted to Council's Planning Guidance Unit for assessment. Once it is approved all resource consent applications for proposals in Stage 1 will need to conform to the CDP.
19. A report will be presented to Council in early 2017 outlining the status of the CDP project together with Council's obligations with respect to the CDP and agreements with Kirkdale. The immediate Council obligation is to upgrade North City Road which is subject to separate reporting to Council.
20. Council acquired land, under the provisions of the Public Works Act, from Kirkdale (2007) and Jeffcoat (2005) for roading purposes, which is a public work.

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21. The land was used to realign North City Road to relocate the North City Road/Borman Road intersection. The original North City Road alignment was retained to provide access to the Hamilton Christian School.
22. Construction of the Borman Road/North City Road intersection has now been completed and there is land that is no longer required for that public work.
23. The location of the land considered surplus is shown on Attachment 1 as 'A' (719m²) and 'B' (1060m²), refer Attachment 2 red and blue hatching. This land has been identified for Retail use in the Rototuna Town Centre Plan.
24. An area of North City Road, shown as 'C' (2192m²) on Attachment 1, is proposed to be stopped (refer Attachment 2 yellow hatch), is also shown in the PODP as being part of the Rototuna Town Centre zone.
25. Area C is the original North City Road and cannot be formally stopped and disposed of until a new vehicular access has been constructed to serve the Hamilton Christian School. This access will connect to a proposed road to be constructed this summer.
26. The location of the land to be declared surplus is shown on Attachment 3 which is the Town Centre Plan as included in the PODP. This plan has been amended by the CDP as it has been developed and has been included in this report only to locate the road and to demonstrate the land use development expectations of that land.
27. Legislative requirements or legal issues
28. In terms of the Public Works Act (Section 40) any land purchased for a public work that is no longer required for any other public work, and is declared surplus, is to be offered back to the former owner for purchase, based on independent market valuation at the date the land was declared surplus.
29. The property can be sold to a third party if the former owner declines to purchase.
30. The road stopping of part of North City Road is required to be completed in terms of the Public Works Act (PWA) (Section 116) or the Local Government Act 1974 (LGA) (Section 342)
 - i. The Public Works Act process for the road stopping is summarised as:
 - Council approval for the road stopping obtained.
 - Adequate road access to adjoining land.
 - Consent from adjoining land owners is obtained.
 - A survey plan, approved by Land Information NZ, is obtained for the stopped road area and a Certificate of Title issued.
 - ii. The LGA process is summarised as:
 - Council approval for the road stopping obtained.
 - Public consultation e.g. notices in Waikato Times.
 - Any objections received and unresolved are reported back to Council.
 - Adequate road access to adjoining land.
 - A survey plan, approved by Land Information NZ, is obtained for the stopped road area and a Certificate of Title issued.
31. Valuation
32. Council will request valuation reports from an independent Hamilton based valuer for the land identified as A, B & C on Attachment 1 of this report, prior to signing any sale and purchase agreement.

33. Based on a valuation of the property obtained in January 2016 area 'A' (719m²) on Attachment 1 has an estimated value of \$250,000 (plus GST, if any) while area 'B' (1060m²) on Attachment 1 has an estimated value of \$372,000 (plus GST, if any).
34. Area C (2192m²) on Attachment 1 has not been valued yet as it is uncertain when the formal road stopping will occur.
35. Property
36. The area shown as 'A' on Attachment 1, which is part of Section 11 SO 378139 (Title 354309) that is held in Council ownership as Fee Simple, was purchased from Kirkdale in 2007.
37. The area shown as 'B' on Attachment 1, which is part of Section 14 SO 378139 (Title 354312) that is held in Council ownership as Fee Simple, was purchased from Jeffcoat in 2005.
38. The area shown as 'C' on Attachment 1 is legal road that is a part of North City Rd, which was vested in Council in 1989 when it was transferred to Hamilton City Council from Waikato District Council as a result of a boundary change.
39. Road Stopping
40. The area of road proposed to be stopped is part of North City Road and is shown in the PODP as being part of the Rototuna Town Centre retail zone.
41. Area C cannot be formally closed (using the provisions of the Public Works Act or the Local Government Act), until a new access to the Hamilton Christian School has been constructed, as the school currently has legal road access via area C.
42. Rototuna Town Centre
43. The Rototuna Town Centre will provide the commercial, retail and community services for residents in the north east residential area. Council is committed to providing an Aquatic Centre and a Library within the development.
44. Kirkdale is the predominate owner of the land within the Town Centre area, and is ready to begin the construction of Stage 1, once the CDP and ensuring resource consents have been approved by the Planning Guidance Unit.
45. Until the Public Works Act offer back and road stopping processes are complete, uncertainty remains on how the land that is the subject of this report will be developed, which is why this report is before Council at this time.
46. Consultation
47. Consultation with the previous owners (Kirkdale & Jeffcoat) is required prior to the disposal of the areas shown as 'A' and 'B' on Attachment 1.
48. The road stopping process for area C will require public consultation. The extent of the public consultation will be dependent on whether the road stopping process is enacted under the Public Works Act or Local Government Act.
49. Treaty requirements/implications
50. There are no known Treaty requirements/implications.

51. Financial and Resourcing Implications

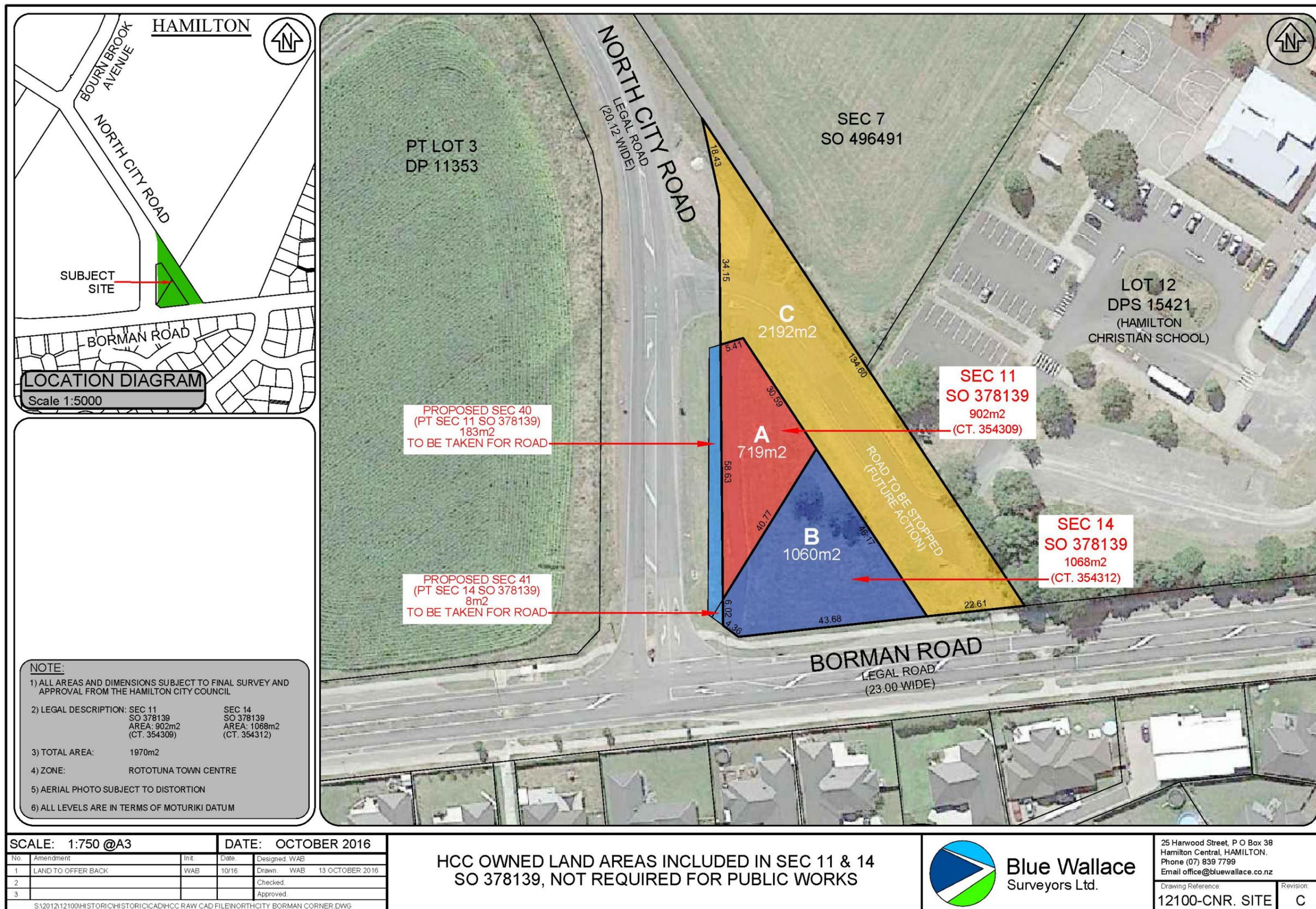
- 52. It is expected that the sale proceeds from the proposed transactions will exceed land sale costs.
- 53. The net sale proceeds will be used to either purchase other pieces of land required by Council to implement the CDP or will be used to offset any obligations Council has to implement the CDP.

54. Risk

- 55. There is a risk of the Rototuna Town Centre development not being completed as intended should the land continue to be held for roading purposes or the purchaser of the land wishes to use it for a purpose that does not align with Council’s intentions.

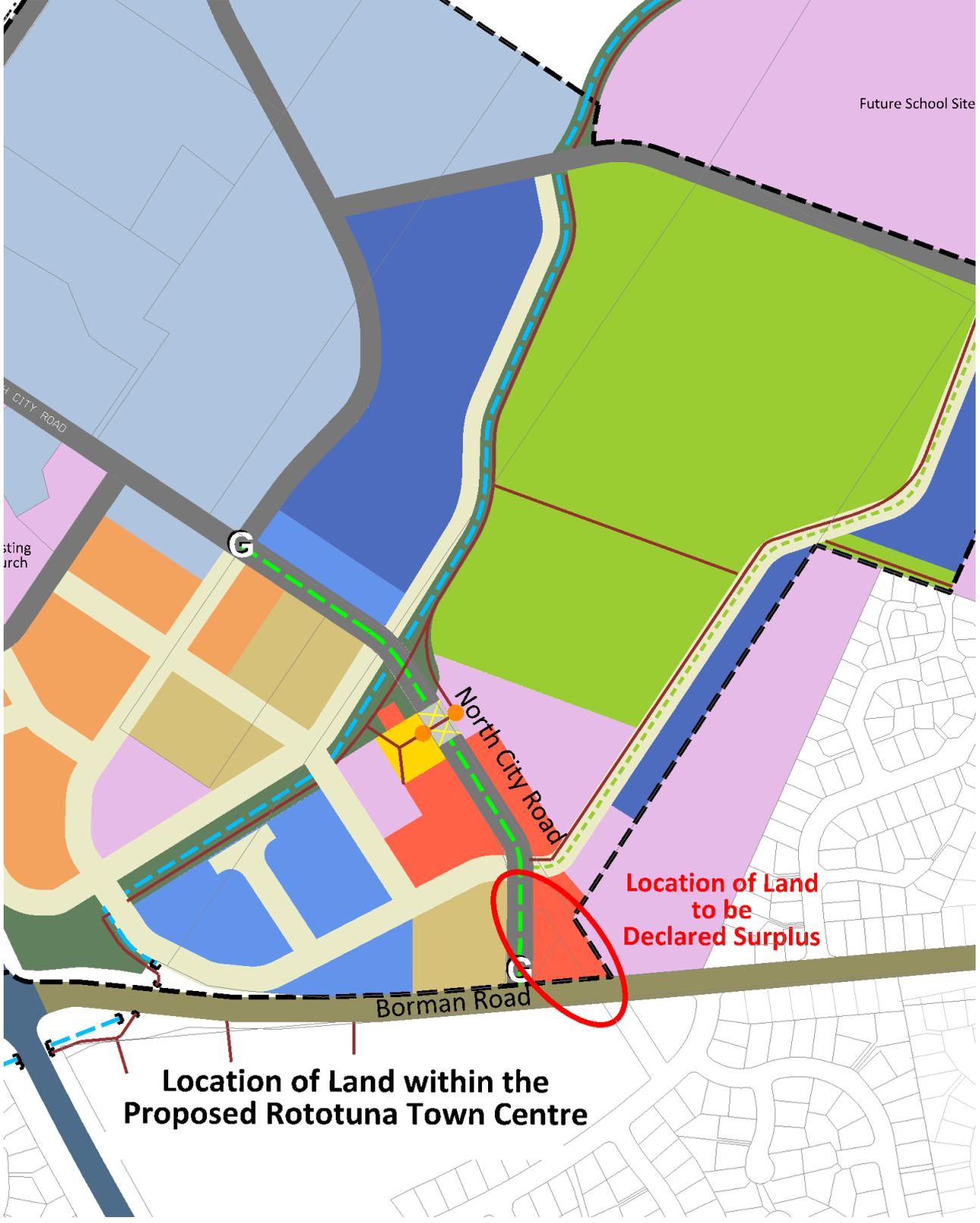
Signatory

Authoriser	Chris Allen, General Manager City Infrastructure Group
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Red Hatched – Section 11 SO 378139 **Blue Hatched** – Section 14 SO 378139 **Yellow Hatched** – Road to be stopped (future action)



Committee: Council

Date: 13 December 2016

Report Name: Rubbish and Recycling -
Referral of Submissions to
Regulatory Hearings
Committee

Author: Emily Botje

Report Status	<i>Open</i>
Strategy, Policy or Plan context	<i>Waste Management and Minimisation Plan</i>
Financial status	<i>There is budget allocated Amount \$75,000</i>
Assessment of significance	<i>Having regard to the decision making provisions in the LGA 2002 and Council's Significance Policy, a decision in accordance with the recommendations is not considered to have a high degree of significance</i>

1. Purpose of the Report

- To seek Council approval for submissions on the Rubbish and Recycling public engagement to be referred to Council's Regulatory and Hearings Committee.

3. Executive Summary

- Rubbish and recycling is a core service provided by Council. The current level of service provided to the community does not allow Council to meet its vision in the 2012 Waste Management and Minimisation Plan.
- Since 2012 a comprehensive waste review has been undertaken, and a business case has been drafted with assistance from a Waste Working Group consisting of former Mayor Hardaker, and Councillors King, Forsyth, Gallagher and Macpherson
- In order to complete the business case, public engagement using a special consultation process was carried out from 17 October to 30 November 2016.
- To complete the public engagement process, approval is sought for the Regulatory and Hearings committee to hear submitters who have indicated that they wish to speak to their submissions
- Upon completion of the hearings, staff will report back to the Growth and Infrastructure Committee in March 2017 with a deliberations report and final business case for approval.

Recommendations from Management

That the Council:

- a) receives the report; and
- b) approves Council's Regulatory and Hearings Committee to hear submissions from the rubbish and recycling public engagement in February 2017.

9. Attachments

10. There are no attachments for this report.

11. Key Issues

12. Background
13. It is a legal requirement for councils to have a [Waste Management and Minimisation Plan](#) (WMMP). Council's 2012 WMMP has the vision "Hamilton City becomes recognised as a national leader in the minimization of waste and ensures that innovative and should waste management practices underpin the City's environment, social, economic and cultural well-being".
14. In order to achieve the vision, a kerbside service change will be required which meets or exceeds services provided by other councils in New Zealand.
15. In 2019 Council's long term (17 year) kerbside rubbish and recycling service contract ends. This provides opportunity for Council to consider the levels of service provided to the community. The current service consists of:
 - 2x 60L rubbish bags
 - Crate for recycling glass, tin, aluminum and plastics (1 and 2's only)
 - Paper bundled separately
16. Business case development
17. At its meeting of [20 November 2015](#) the Finance Committee approved a Waste Working Group, consisting of Elected Members (Mayor Hardaker, Councillors King, Forsyth, Gallagher and Macpherson) to provide political oversight on the development of the business case.
18. The Waste Working Group met regularly over a eight month period in 2016 to develop the draft [business case](#), which was presented to the Finance Committee on 20 September 2016 for consideration.
19. The business case considered 24 different kerbside services. Each option was evaluated on cost and its ability to divert waste from landfill. The preferred kerbside level of service option as recommended by the business case includes:
 - a 120 L wheeled bin for rubbish, collected weekly
 - a 240 L wheeled bin for recycling: paper, tin, aluminum and all plastics (excluding film and polysterene), collected fortnightly
 - the existing crate for glass, collected fortnightly
 - a 23L bin for food, collected weekly.



20. At its meeting of the [20 September 2016](#), the Finance Committee resolved that:
- (i) the draft business case for a rubbish and recycling service change (based on option 24) is approved for the purposes of undertaking community engagement;
 - (ii) engagement with the community using a special consultation process is carried out from 17 October till 30 November 2016;
 - (iii) that staff report back to Council no later than March 2017 to approve the final business case incorporating the outcome of the public engagement;
21. In October 2016, Council publically notified its proposed service change and invited public to make submissions over a six week period.
22. The process will involve the Regulatory and Hearings Committee convening in February 2017 to hear all submitters that wish to speak. A final business case for consideration in the 2018-2028 LTP, incorporating any revisions recommended by the Committee will then be presented to the Growth and Infrastructure Committee for approval.
- 23. Next steps**
24. Public engagement
25. Submissions will be summarised in a deliberations report and presented to the Growth and Infrastructure Committee in March 2017. As part of this report, the final business case, including any revisions resulting from the public engagement process will be presented for approval.
- Contractor procurement
26. In late January 2017, the procurement of a new service contractor will commence. This process will be initiated with an Expression of Interest public request. This process will identify potential service providers who would like to be considered to provide future services to Council. This process will not bind Council to any particular service type or provision.
27. Staff will return to the Growth and Infrastructure Committee in March 2017 with the outcome of the Expression of Interest process, and request approval to proceed to the second stage of the procurement process – Request for Tender. In this process Council will tender on the preferred service for the city, test financial assumptions made in the business case, and will invite alternative tenders to maximise innovation and efficiencies.

28. Financial and Resourcing Implications

- 29. The business case does not bind Council to on-going funding; it provides direction for rubbish and recycling priorities to be considered in the 2018-28 10 Year Plan.
- 30. The budget allocated for the public engagement was \$40,000, and has been fully expended. Works included billboards and billstickers, bus backs, banners (Victoria Street), on-line advertisement, radio and print adverts, video's, design and printing. Facebook and Twitter were also used at no cost. The budget was funded from the Waste Levy.
- 31. The engagement process has been facilitated by staff within existing staff resources. To date approximately 350 staff hours (estimate \$35,000 staff cost at \$100 per hour) have been spent on this public engagement.

32. Risk

- 33. There is no risk to Council if the Regulatory and Hearings Committee hear and deliberate on submissions.

Signatory

Authoriser	Chris Allen, General Manager City Infrastructure Group
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Committee: Council

Date: 13 December 2016

Report Name: Access Hamilton Strategy

Author: Chris Allen

Report Status	<i>Open</i>
Strategy, Policy or Plan context	<i>Access Hamilton Strategy</i>
Financial status	<i>There is no additional budget required to establish this task force. \$100,000 is allocated within approved transport operational budgets to develop a Programme Business Case.</i>
Assessment of significance	<i>Having regard to the decision making provisions in the LGA 2002 and Council's Significance Policy, a decision in accordance with the recommendations is not considered to have a high degree of significance</i>

1. Purpose of the Report

2. To seek Council approval to establish:
 - a. A task force to work with staff and report back to the Growth and Infrastructure Committee in June 2017 on the Access Hamilton Strategy; and
 - b. A Central City Parking Control task force which includes an earlier requirement to report back by March 2017.

5. Executive Summary

6. The Access Hamilton Strategy (the Strategy) is the city transport strategy developed in 2010. The following is a link to the full strategy

<http://www.hamilton.govt.nz/our-services/transport/accesshamiltonstrategy/Pages/default.aspx>

7. The Strategy has guided council decision making since that time and has also guided the development of parts of the Proposed District Plan (PDP). The transport objective of the PDP is;

An integrated multi-modal transport network that meets the transport needs of the City and is

- *Responsive*
- *Efficient*
- *Affordable*
- *Safe*
- *Accessible*
- *Sustainable*

8. A number of things have changed since 2010, not the least being national and regional policy and the Strategy needs to be reviewed in order to align and to also allow the City to access national land transport funding.

9. Council has been kept informed on much of this new policy (which includes Government Policy Statement on funding, NZTA investment Assessment policy, One Network Road Classification, the National Speed Management Guide to name a few) through regular reporting to the Strategy and Policy Committee.
 10. Council was also advised that staff had started work on the review of the Strategy in line with the NZTA Better business case model. This involves agreement on;
 - a strategic business case which will demonstrate that investing in Hamilton's transport system aligns with strategic priorities and will respond to evidence based need, and
 - a programme business case to demonstrate the best way to deliver desired outcomes
 11. Engagement with Council has indicated that the following tactical responses to meet desired strategic outcomes are still relevant and work has proceeded on this basis.
 - Maximising Economic Development
 - Managing growth
 - Providing Travel Alternatives
 - Improving safety
 - Existing Network Management and Optimization
 12. Staff have completed gathering the evidence base and have had some interaction with key stakeholders to develop the Strategy strategic case. It is now timely to bring this work forward to Council for approval and to then develop the programme business case. This needs to be completed by June 2017 to inform the next Regional Land Transport Plan and the 2018-28 10-year plan.
 13. Staff believe it would be useful to have a task force established to agree how best to bring the complex mix of different transport issues forward to Council.
 14. Terms of reference to establish a task force to report back to Growth and Infrastructure Committee by June 2017 are attached to this report.
- Central City Parking Control Strategy
15. Council has previously resolved the primary outcome for parking in the central city is to achieve a vibrant central city, and acknowledged that parking controls including time restrictions and parking fees are important methods to achieve this vibrancy.
 16. Staff have (since November 2016) implemented a key action of the Central City Transformation Plan (CCTP) which is to introduce free parking before 9.00am and after 3.00pm in the blue zone of the Central City.
 17. Council has also previously approved the introduction of new parking technology in the core area of the Central City and this is due for implementation in April/May 2017.
 18. Staff believe that it would be appropriate for Council to consider the effectiveness of this CCTP change in time to align with the introduction of the new parking technology, and to consider whether any other changes are appropriate.
 19. It is proposed that a task force is set up to work with staff and the Central City Business Association to bring recommendations to the Growth and Infrastructure Committee in March 2017 in regards to this review and any potential further parking control changes for the central city.
 20. A terms of reference for the task force attached to this report.

On Street Parking Availability

21. Staff are currently reviewing the opportunities to increase the current on-street parking numbers in the central city with a particular emphasis on converting parallel car parks to angle parking where appropriate.
22. Staff will consult with local businesses and the Central Business Association on any potential changes and report back to the Growth and Infrastructure Committee in February 2017 identifying all of the opportunities to further increase parking numbers, some of which may require funding or further consultation.
23. Direction from Committee on this issue in February will be helpful for the broader recommendations to be made by the task force in March 2017.

Recommendations from Management

That:

- a) the report be received;
- b) Council approve the Terms of Reference for an Access Hamilton Strategy Task Force attached to this report, and that the Task Force report back to the Growth and Infrastructure Committee by June 2017;
- c) Council approve the Terms of Reference for a Central City Parking Control Task Force attached to this report, and that the Task Force report back to the Growth and Infrastructure Committee by June 2017; and
- d) Council request staff to report back to the Growth and Infrastructure Committee in February 2017 identifying all opportunities to increase the on street parking numbers in the Central City.

24. Attachments

25. Attachment 1 - Access Hamilton Strategy - Task Force Terms of Reference
26. Attachment 2 - Central City Parking Controls- Task Force Terms of Reference

27. Financial and Resourcing Implications

28. There are no additional financial or resource implications related to establishing task forces to guide staff in reviewing the Access Hamilton Strategy and to review central city parking.

29. Risk

30. The risks of staff developing a transport strategy which is not aligned with the direction of Council are minimized by the forming of a Task Force to assist in bringing the right information to Growth and Infrastructure Committee at the right time.

Signatory

Authoriser	Chris Allen, General Manager City Infrastructure Group
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ATTACHMENT 1

Task Force– Access Hamilton Strategy; Task Force Terms of Reference

Chairperson:	Chair Growth and Infrastructure Committee - Cr Macpherson
Elected Members:	Deputy Chair Growth and Infrastructure Committee - Cr Taylor 2 Elected Members to be determined Mayor – ex officio
External Members :	Nil (noting that engagement with stakeholders will be undertaken)
Support Staff:	Chris Allen – General Manager City Infrastructure Jason Harrison – Unit Manager City Transportation Katherine Johns - Strategic Transport Planner Andrew Parsons - Unit Manager City Development Julie Clausen - Programme Manager, Strategy Support and other staff to be nominated and agreed at first Task Force meeting.
Date Established:	13 December 2016 (Council Resolution)
Reporting Back Date:	20 June 2017
Appointing Committee:	Council
Reporting Committee:	Growth and Infrastructure Committee
Purpose:	To recommend a revised Access Hamilton Strategy to Growth and Infrastructure Committee for adoption.

Terms of Reference:	<p>To consider and recommend the work undertaken on the strategic business case that underpins a revised Access Hamilton Strategy and in particular to:</p> <ul style="list-style-type: none"> • Ensure proper regard is given to the Hamilton Plan and the transport objective of the Partly Operative District Plan • Ensure there is alignment with national and regional transport policy and transport interventions by others such as the Waikato Expressway. • Ensure there is alignment with any agreed land use settlement pattern approved by Council including taking into account future projected growth assumptions across the sub-region • Ensure the correct problems have been identified and the correct benefits to be gained by transport investment have been articulated • Ensure appropriate consultation with stakeholders and others is undertaken • Give direction to staff on how best to present the strategic business case to Growth and Infrastructure Committee for adoption. <p>To give guidance on the development of a programme business case (A requirement of NZTA for funding from the National Land Transport Fund) to be approved by the Growth and Infrastructure Committee and recommended to Council. The programme business case will underpin a revised Access Hamilton Transport Strategy and form the basis of any transport priorities for the 2018-28 10-Year Plan and the Regional Land Transport Plan, for Councils consideration.</p>
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ATTACHMENT 2

Task Force– Central City Parking Controls; Task Force Terms of Reference

Chairperson:	Deputy Chair Growth and Infrastructure Committee - Cr Taylor
Elected Members:	Chair Growth and Infrastructure Committee - Cr Macpherson 1 Elected Member to be determined Mayor - ex officio
External Members:	1 External Appointment to be appointed (noting that engagement with Hamilton Central Business Association will be undertaken)
Support Staff:	Chris Allen – General Manager City Infrastructure Jason Harrison – Unit Manager City Transportation John Purcell – Parking Manager Tracey Musty – Financial Controller
Date Established:	13 December 2016 (Council Resolution)
Reporting Back Date:	28 March 2017
Appointing Committee:	Council
Reporting Committee:	Growth and Infrastructure
Purpose:	To make recommendations on parking controls for the central city
Terms of Reference:	To consider and recommend revised parking controls for the central city to the Growth and Infrastructure Committee and in particular to: <ul style="list-style-type: none"> • To review and confirm the strategic drivers for parking in the central city • To review the effectiveness of the Central City Transformation Plan parking control changes implemented on 7 November 2016 • Consider the benefit and implications of further changes to parking controls in the central city • To review the alignment of the new parking technology with any changes to parking controls that may be recommended • To review Councils approach to parking and traffic infringements in the central city area • To consult with the Hamilton Central Business Association • To propose a future reporting structure for parking to Growth and Infrastructure Committee.

Committee: Council

Date: 13 December 2016

Report Name: Ruakura Inland Port; Ruakura
and Percival Road Stopping

Author: Chris Allen

Report Status	<i>Open</i>
Strategy, Policy or Plan context	<i>Economic Development Agenda Hamilton Urban Growth Strategy</i>
Financial status	<i>There is not budget allocated All costs to be met by Tainui Group Holdings</i>
Assessment of significance	<i>Having regard to the decision making provisions in the LGA 2002 and Council's Significance Policy, a decision in accordance with the recommendations is not considered to have a high degree of significance</i>

1. Purpose of the Report

- To seek Council's approval to send two unresolved submissions to Councils proposal to stop parts of Ruakura Road and Percival Road to the Environment Court as prescribed by Schedule 10 of the Local Government Act 1974.

3. Executive Summary

- Council has been working in partnership with Tainui Group Holdings (TGH) and Chedworth Property Ltd (CPL) since 2009 to bring the Ruakura lands into the City and to develop it for the purposes of an inland port and residential dwellings in the north.
- The remaining significant issue for Council to resolve to allow the inland port to progress is completion of the road stoppings.
- Council has approved the required road stoppings and a full public consultation process has been followed as required using the Local Government Act 1974. This process indicates that if after consultation objections remain, the objections and overall road stopping process is referred to the Environment Court for a decision.
- Eight submissions were initially received, two in support and six in opposition. One late submission was received. Council has consulted extensively over a six month period with all submitters. All concerns of submitters have been examined in detail, and where possible, have been resolved by changing conditions of the road closure to accommodate those concerns. All but two submissions in opposition remain unresolved after this extensive consultation process.
- The two remaining submissions raise noise, transport safety and transport efficiency issues. Despite Council staff's best good faith endeavors, these technical issues remain unresolved,

and Council staff and legal advisors consider that the objections will be best resolved with the expert input and judgment of the Environment Court, which is the prescribed process under the Local Government Act for resolving road stopping objections.

9. It is recommended that the most efficient way forward is to refer the road closure and objections to the Environment Court for consideration and resolution. This step will provide certainty and due process for all concerned, and will ensure that the submitters have their concerns heard and evaluated by an independent body.

Recommendations from Management

That:

- a) report be received;
- b) Council approves the following conditions be confirmed as part of the road stopping process:

*Ruakura Road shall not be stopped to the public until the following conditions have been met to the satisfaction of the General Manger City Infrastructure,
Hamilton City Council*

- i. *Realigned Ruakura Road (west) shall be constructed and open for traffic*
 - ii. *Road 3 of Tainui Group Holdings Inland Port shall be constructed and open for traffic*
 - iii. *A 2m wide off-road shared footpath and cycle path shall be provided along Road 3*
 - iv. *A shared footpath and cyclepath shall be provided along existing Ruakura Road and Percival Road between Road 3 and the East Coast Main Trunk railway connecting to the Ryburn/Percival Road enclave*
 - v. *A pedestrian sign (PW-29/WU10) shall be placed on Road 3 warning users of the presence of pedestrians potentially using this road*
 - vi. *The pre/post construction road safety audit required by conditions 45 and 46 of the land development Plan Consent for areas A, C, E and F (010.2015.0008413.001) shall also consider and respond to the effect of the temporary and permanent transport network changes on pedestrians and cyclists.*
 - vii. *The new Percival Road level rail crossing shall be constructed using the KiwiRail Quiet Bell product; and*
- c) Approves to delegate to the Chief Executive the authority to refer the outstanding objections to the road stopping process for parts of Ruakura and Percival Roads (approved by Strategy and Policy Committee on 3 November 2015) received from Alan and Barbara Julian of 53A Ryburn Road and Graeme Goodwin of 23 Ryburn Road to the Environment Court for a decision as prescribed by Schedule 10 of the Local Government Act 1974.

10. Attachments

11. Attachment 1 - Ruakura Road Stopping Report- 8 November 2015
12. Attachment 2 - Ruakura Variation- Ryburn/Percival Enclave Road Connections

13. Key Issues

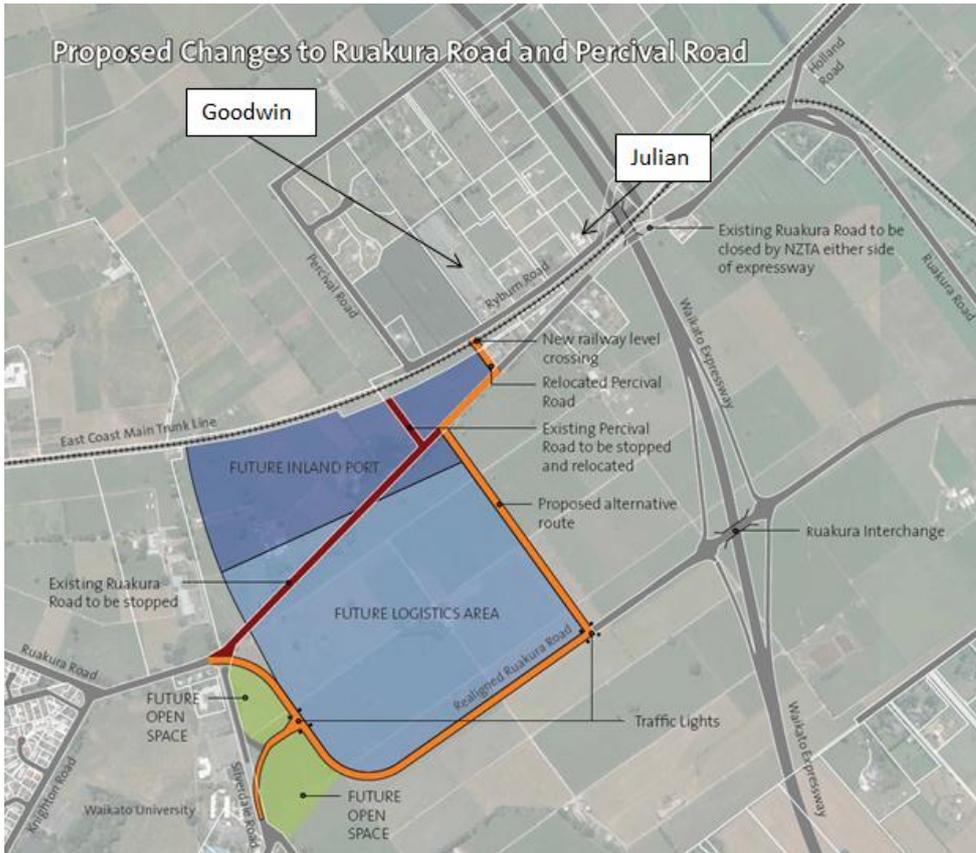
14. Background

15. Council entered into a Ruakura Strategic Development Agreement (RSDA) with TGH and CPL in September 2009 with the purpose of addressing how to work together to allow the bringing of their Ruakura lands into the city for development.
16. As a consequence of the RSDA, Ruakura was brought into the city in 2011 from Waikato District Council.
17. Through a subsequent private plan change opportunity promoted in 2013 jointly by TGH and CPL and decided by a Board of Inquiry (BoI) process, some of their land was zoned for residential and industrial uses, including an inland port.
18. Since September 2014 when the BoI decision was incorporated into the Operative District Plan:
 - CPL has been granted consent for medium density residential development in the north (Area J) and is progressing further applications
 - TGH has been granted subdivision and land use consents for the inland port and logistics area south of the railway line.
 - Council by decision of Strategy and Policy on 3 November 2015 commenced the statutory process to close parts of Ruakura and Percival Roads that are required to develop the inland port and logistics area.
 - Council resolved on 29 October 2015 to approve the Ruakura Variation for notification and hearings were held in August 2016.
 - The independent Commissioners decision on the Ruakura Variation was received on 2 November 2016.
 - This Ruakura Variation decision is now known as Plan Change 1 to the Partly Operative District Plan and is in the appeal period.
19. Council had been directed by the BoI to use the Local Government Act 1974 road stopping processes because of the higher consultative requirements of the Act over alternate legislation.
20. Prior to the formal consultation requirements under the Local Government Act being undertaken, a series of Community Liaison Group meetings were undertaken as well as a public open day where the option assessment was available.
21. Council then resolved through the Strategy and Policy Committee meeting of 8 November 2015 to approve the stopping of areas of Ruakura Road and Percival Road to enable the Ruakura Inland Port and agreed to alternative access arrangements. The full report to Strategy and Policy is attached as Attachment 1.
22. Council received a further report in July 2015 relating to an update on the road stopping process as part of a report on the progress of a Private Developer Agreement with TGH. Staff reported that eight submissions had been received, two in support and six in opposition. Engagement had continued with the objectors resulting in 5 objections being withdrawn with one outstanding at that time.
23. Council resolved to delegate approval to the Chief Executive to complete the road stopping process if all objections could be resolved, or to refer the matters back to Council if the objections were not able to be resolved.

24. During further engagement with the submitter of the outstanding objection (Alan and Barbara Julian, 53A Ryburn Road) which was based on noise issues relating to a level rail crossing being moved closer to their residence and the effect of the noise screening and landscaping at the inland port boundary, a decision was made by staff to defer any further action until the independent commissioners decision was received on the Ruakura Variation. Staff felt that the noise issues of the rail crossing were being mixed up with noise issues from the inland port operations.
25. Since July one further objection has been received from Mr Graeme Goodwin (23A Ryburn Road) on 10 August 2016.
26. Remaining objections
27. Alan and Barbara Julian live at 53A Ryburn Road. The Julian's objection relates to the appropriateness of the inland port development and the effects of the inland port on their property. Meetings with the Julian's have identified that the matters of primary concern to them are:
- *Noise issue 1*; increased noise and reduced visual amenity arising from the staged development of the inland port (particularly the break in the future screening between the residences and the port from the Percival Road relocation required to accommodate the rail siding) and;
 - *Noise Issue 2*; the effect of relocating Percival Road and the level railway crossing closer to their dwelling (it is currently 570m from their dwelling, and once relocated will be 275m from their dwelling).
28. Mr Goodwin has raised a number of issues including;
- Noise effect of relocating Percival Road and the level railway crossing closer to the 23A Ryburn Road dwelling (it is currently 335m from their dwelling, and once relocated will be 55m from their dwelling)
 - The transport safety of pedestrians and cyclists having to use the alternative access arrangements which will also carry heavy inland port traffic.
 - The transport efficiency resulting from residents being required to travel extra distance to get to any of the locations beyond the existing Ruakura/Silverdale Road intersection
29. The Julians submitted on the same transport safety and efficiency issues and have indicated support for Mr Goodwins submission.

Noise

30. The Percival Road stopping, and its subsequent relocation 257m to the east is required to give effect to Stage 1 of the inland port Development, as the rail siding and inland port development will cross over the existing Percival Road (refer plan below and also Ruakura inland port Layout Plan in Attachment 1):



31. *Noise issue 1*; This issue relates to the recently consented - Tainui Group Holdings Inland Port, rather than the actual road stopping (notwithstanding that the road stopping is required to give effect to the consent to operate the inland port).
32. TGH has already been granted consent for the inland port (in March 2016) and as part of this process conditions of consent have been imposed to require compliance with all of the noise and visual requirements. Notwithstanding that consent has already been granted under the Operative District Plan, no changes to the noise and visual amenity provisions have been proposed by the independent commissioners as part of the Ruakura Variation decision released on 2 November 2016. Staff believe that this issue is out of scope for the road closure process.
33. Although it is not a direct requirement of the inland port consent, staff have asked TGH to consult with the Julians and Mr Goodwin over the detailed design of the visual and noise mitigation measures required by consent to be installed on the inland port property.
34. *Noise issue 2*; Marshall Day Acoustics have carried out a noise assessment at Council’s request to consider the potential increased noise on the dwellings from the relocation of the level crossing (particularly the bells and a potential horn warning).
35. The noise levels normalized to a 15 minute period (which is the smallest given in the applicable NZ standard) results in the following modeled measurements.

Location	Predicted Sound levels (dB LAeq(15 minutes))		
	Train Bypass	Signal Note 1	Combined
23 Ryburn Road			
Existing	62	12	62
Proposed	62	30	62
53A Ryburn Road			
Existing	62	7	62
Proposed	62	15	62

Note 1; the maximum sound levels at the dwellings for the signals only change from 30dB to 48dB for 23 Ryburn Road and 25dB to 33dB for 53A Ryburn Road.

37. The assessment concluded that the relocation of the Percival Road crossing would have no acoustic impact on the Ryburn Road dwellings and in particular;
 - the combined sound level of the crossing signal and train bypass is dominated by the train noise (which generally passes within 30 seconds of the bells signalling) quickly overwhelming any noise from the bells.
 - It is possible that the signal would be audible within the closest dwellings at Ryburn Road, in the quiet of the night with the windows open for a few moments, but this would soon be over-shadowed by the train noise which is some 30decibels greater; subjectively 5 times as loud.
38. Council commissioned a peer review of the Marshall Day work by Malcolm Hunt Associates which indicates that “they are of the view that the noise assessment provided (by Marshall Day) aligns reasonably well with our assessment of the likely noise effects”.
39. Notwithstanding the above, HCC has through consultation with KiwiRail, found that there is a new product available which is a low decibel warning bell system. Kiwi Rail has agreed, and Council has undertaken to install this product as part of the Percival Road relocation. The bell sound level can be adjusted below the normal standards and the sound radiating pattern is omni-directional, and more localized than electro-mechanical bells.
40. Marshall Day have considered this product and in their assessment concluded that “the sound level at the boundary of 23A Ryburn Road is less than what is considered acceptable for inside a library and meets the most stringent standard for bedroom noise levels”.
41. Other measures were considered and discussed with the Julians such as boundary fencing between the properties and Ryburn Road but these were proven to not be effective in reducing noise and not desired by them.
42. Mr Goodwin has proposed one other remedy relating to noise mitigation, and that is not to relocate Percival Road so far to the east, and to instead align it with the north/south proposed alternative route (a shift of approximately 50m and not 257m). TGH have confirmed that this would not suit the development of Stage 1 of the inland port as it would curtail the length of rail siding required.

Transport Safety

43. Mr Goodwin has raised the issue of safety for pedestrians and cyclists using the inland port roads and has suggested that a remedy would be to construct a cycle/pedestrian path north of the railway line to connect the Percival Road/Ryburn Road residents with Silverdale Road (via the future Spine Road) or AgResearch.

44. A number of other submitters had also raised concerns about the safety of pedestrians and cyclists but have withdrawn their objections on the basis of the offer to include the following conditions as part of the road closure to be implemented prior to Ruakura Road being closed.
- *A 2m wide off-road shared footpath and cycle path shall be provided along Road 3*
 - *A shared footpath and cyclepath shall be provided along existing Ruakura Road and Percival Road between Road 3 and the East Coast Main Trunk railway connecting to the Ryburn/Percival Road enclave*
 - *A pedestrian sign (PW-29/WU10) shall be placed on Road 3 warning users of the presence of pedestrians potentially using this road*
 - *The pre/post construction road safety audit required by conditions 45 and 46 of the land development Plan Consent for areas A, C, E and F (010.2015.0008413.001) shall also consider and respond to the effect of the temporary and permanent transport network changes on pedestrians and cyclists.*
45. Staff have indicated that in their opinion these conditions address any pedestrian/cyclist safety concerns and that it would be difficult to justify requiring TGH or Council to construct a further off road cycleway on land that neither has full control over.

Transport Efficiency

46. Following engagement with the Julians and Mr Goodwin on the proposed alternative road layout approved by Council they have identified the following remedies to address their concerns about reduced transport efficiency;
- The early construction of an alternate route north of the railway line to connect with Silverdale Road via the future Spine Road.
 - Relocate Percival Road only 50m to the east to align with the north/south proposed alternative route as outlined above as a noise remedy
47. Council has already considered a number of options for the alternative road access in its November 2015 decision to approve the road stopping. The chosen option was considered to be practical, suitable and consistent with the principles identified by the Board of Inquiry, particularly in relation to maintaining a strong connectivity between the residential enclave and the suburbs of Hillcrest and Silverdale. It was also supported by technical evidence including a Traffic Impact Assessment.
48. The Julians and Mr Goodwin had not anticipated that TGH would stage their port development to require the Percival Road shift and would like to see the ultimate road access proposed for the full inland port development, built ahead of time. The Operative District Plan and now the Partially Operative District Plan allow staging of the inland port and consent has already been granted already to implement a staged Ruakura Inland Port.
49. The Independent Commissioners, responding to submissions, did address the issue of the long-term roading connections between the Ryburn/Percival enclave and Silverdale and in their decision included a new collector road extending from Percival Roads east-west alignment to the new Spine Road, which will provide access for residents to the south. Attachment 2 includes a marked up version of the Commissioners decision with the strike out version on the reverse side to highlight the change
50. This change better reflects the communities desire for connectivity with Silverdale, noting that the Proposed District Plan Variation version had the residents connecting north all the way to the future Fifth Avenue connection and then south using the future Spine Road to Silverdale.

Item 13

- 51. In the summary of decisions the independent commissioners indicated that this was to be put in place ‘before Ruakura Road is closed’. The submitters have indicated that this decision would therefore require the new layout to be put in place prior to any closure of Ruakura Road.
- 52. This is not the intent of the decision. It is our view that the intent was prior to the community being denied the “Ruakura Road” route, noting that when the Inland Port expands in the future a further and full closing of Ruakura Road will be required.
- 53. The approximate route lengths of the various options are as follows.

Route description	Distance (Km)
Operative District Plan Route (prior to Ruakura Variation)	3.0
Staged Inland Port Route (proposed as a condition of road closures)	2.1
Partly Operative District Plan (subject to appeal)	1.7

- 54. Staff have asked TGH if they would be prepared and able to construct this alternative access to the Ryburn/Percival Road enclave earlier and they have indicated it would not be viable for them to do so until such point as the inland port was ready to expand and/or other land development in the area triggered the construction of the Spine Road.
- 55. Staff believe that it would be impractical and unreasonable to construct the submitters remedy ahead of proper development of the Spine Road for a number of reasons including;
 - Control of the land
 - Need to gain approval for a new rail crossing
 - Cost of construction when an alternative exists that is “practical, suitable and consistent with the principles identified by the Board of Inquiry”.
- 56. The submitters believe that a simple two lane road to serve only the Ryburn/Percival Enclave with an upgrade rail crossing could be constructed ahead of the full Spine Road standard which will include a grade separated (over-bridge) crossing of the railway line. It would be difficult to limit the traffic on the submitters proposed simple standard road if it is a public road and available for use by adjacent land development, and without being able to control the traffic volumes it is unlikely that KiwiRail would agree to an at-grade railway crossing, even in substitution for the Percival Road crossing.
- 57. Summary
- 58. The road stopping is a critical next step in HCC enabling its intended long term land use strategy for Ruakura. The road stopping as notified is consistent with the Board of Inquiry outcome, the consent already issued to TGH for the Ruakura Inland Port and the Ruakura Variation Independent Commissioners Decision.
- 59. Schedule 10 of the LGA indicates that unless Council decides to allow an objection, it should be sent to the Environment Court to “confirm, modify or reverse the decision of Council which shall be final and conclusive on all questions”.
- 60. Council has worked hard to resolve all objections and the conditions of the road stopping have satisfied the concerns of all but two submitters. The objections largely centre around 3 issues
 - Noise
 - Transport safety
 - Transport efficiency

- 61. The noise effects are either irrelevant (i.e. not arising from the road stopping and more relevant to the operation of the inland port) or deemed within reasonable noise limits. Further mitigation in the form of low decibel bells for the railway crossing has been offered and will be confirmed by way of a condition. Ultimately this is a technical acoustic issue best resolved by the Environment Court.
- 62. Transport safety issues for pedestrians and cyclists have been raised and mitigation measures have been offered and will be confirmed by conditions. Once again this is a technical issue best resolved by the Environment Court.
- 63. In relation to transport efficiency, Council considered a number of alternate route options when it made its decision in November 2015 and this decision was based on work including a Traffic Impacts Assessment comparing all of the options. The chosen option was considered to be practical, suitable and consistent with the principles identified by the Board of Inquiry, particularly in relation to maintain a strong connectivity between the residential enclave and the suburbs of Hillcrest and Silverdale.
- 64. The alternate road layouts suggested by the submitters are not considered practical or reasonable at this time.
- 65. It is recommended that the objections will be best resolved with the expert input and judgment of the Environment Court, which is the prescribed process under the Local Government Act for resolving road stopping objections.

66. Financial and Resourcing Implications

- 67. There will be no financial implications to Council
- 68. The cost of the road stopping and legalization process will be the responsibility of TGH.
- 69. Relocation costs for any existing services or easements within the road corridor will be the responsibility of TGH

70. Risk

- 71. If the road stopping can not be achieved the inland port will not be able to continue.
- 72. If the Environment Court reverses the decision of Council, no proceedings shall be entertained by the Environment Court for stopping the road for 2 years thereafter.
- 73. If Council does not refer the decision to the Environment Court there will be delays to the programme to establish inland port activity.

Signatory

Authoriser	Chris Allen, General Manager City Infrastructure Group
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Committee: Strategy & Policy Committee **Date:** 03 November 2015

Report Name: Road Stopping - Ruakura Rd & Percival Rd **Author:** Tony Denton

Report Status	<i>Open</i>
Strategy, Policy or Plan context	Economic Development, Access Hamilton
Financial status	There is not budget allocated. All costs to be met by Tainui Group Holdings Ltd
Assessment of significance	Having regard to the decision making provisions in the LGA 2002 and Councils Significance Policy, a decision in accordance with the recommendations is not considered to have a high degree of significance

1. Purpose of the Report

- The purpose of this report is to obtain Council's approval for stopping part of Ruakura Rd and Percival Rd and amalgamating it with the adjacent property owned by Tainui Group Holdings Ltd (TGH).

3. Executive Summary

- The Inland Port development proposed by TGH was considered by the Environment Protection Agency (EPA) as being a project of national significance.
- The EPA then appointed a Board of Inquiry (BOI) to assess the proposal to initiate a private plan change to Council's Operative District Plan (Waikato Section).
- The Board of Inquiry's decision confirmed the change to Council's Operative District Plan and recognised that the stopping of parts of Ruakura Rd and Percival Rd is critical to the success of the application and is to follow the Local Government Act 1974 process.
- Resource consent applications have now been received from TGH which are reliant on the stopping of parts of Ruakura Rd and Percival Rd and the amalgamation of this land with their adjacent property as part of their inland port development.
- TGH has been undertaking informal consultation as part of the road stopping process including discussions with local residents and now wish Council to initiate the formal LGA process.
- The proposed road stopping area is adjacent to land owned by TGH and it is proposed that the stopped road area, if successful, be transferred to TGH with the value of the land being recognised in a private development agreement to be reported back to Council.

10. Recommendations from Management (*Recommendation to Council*)

- That the report be received.

- b) That Council grants approval to initiate stopping the areas of Ruakura Rd and Percival Rd as indicated on Attachment 1 of this report subject to:
 - (i) The road stopping process be completed in terms of the Local Government Act 1974 (section 342 and 10th Schedule).
 - (ii) Public consultation commencing on receipt of approval of the Minister of Land Information to stop the parts of Ruakura Rd and Percival Rd together with a survey plan approved by Land Information New Zealand for the areas of road proposed to be stopped as indicated in Attachment 1.
 - (iii) Any objections received from the public consultation are to be reported back to Council for consideration.
 - (iv) Closing of the roads is not to be undertaken until construction of the new agreed alternative roads are complete.
- c) That the Chief Executive be delegated authority to sign all documentation relating to the road stopping process and legalisation of the land.
- d) That all costs associated with the road stopping process, physical works associated with the closure and new alternative routes, transfer of existing utility services and legalisation of the land to be the responsibility of Tainui Group Holdings Ltd.
- e) That Council grants approval in principal for the transfer of the road area stopped to Tainui Group Holdings Ltd, upon the legalisation being completed and subject to any statutory obligations being met and also subject to the value of the land being included in a private development agreement to be reported back to Council for approval.
- f) That all costs associated with the transfer of the land to be the responsibility of Tainui Group Holdings Ltd.

11. Attachments

- 12. Attachment 1 - Plan showing overview of proposed stopped road and proposed new road.
- 13. Attachment 2 - Ruakura Rd plan from Bloxam Burnett & Oliver showing proposed stopped road and new roads
- 14. Attachment 3 - Plan showing alternative roading network options
- 15. Attachment 4 - Ruakura Inland Port- Stage 2

16. Key Issues

- 17. Background
- 18. The Environmental Protection Agency (EPA) approved Tainui Group Holdings Ltd application for their proposed inland port development to be one of national significance. The EPA then appointed a Board of Inquiry (BOI) to consider the change to the District Plan to allow the development.
- 19. The BOI's decision was released in September 2014 confirming the change to the Operative District Plan. In regards to the road stopping the decision advised that;

"Road stopping procedures for parts of Ruakura Road and Percival Road will be required under the Local Government Act to enable the expansion of the Inland Port. The principles to be adhered to, for any alternative access proposal, include (to the extent possible):

- i. A route which provides for travel in the general direction of Hillcrest and Silverdale without significant detours in terms of distance, travel times or connectivity;*
 - ii. A route which enables use of alternative modes of transport (particularly walking and cycling); and*
 - iii. A route which avoids severance effects for the Percival/Ryburn Road community."*
- 20. Applications have now been made by TGH for land use and subdivision consents for the inland port development (Refer Attachment 4).
- 21. TGH's Road Stopping Request
- 22. A request has now been received from TGH for parts of Ruakura Rd and Percival Rd to be stopped and transferred to them, with new roads to be constructed as an alternative route by New Zealand Transport Agency (NZTA) and/or TGH. Refer Attachment 1 for an overview of the proposed road stopping areas and new roads.
- 23. The road stopping, if successful, will enable the development to be unimpeded by public roads, allow easier movement of vehicles/containers within the inland port area and in particular allow for the construction of the rail siding to transport containers to/from the inland port as contemplated by the development proposal.
- 24. Road Stopping area
- 25. The area proposed to be stopped for Ruakura Rd and Percival Rd is approximately 17125m²(Refer Attachment 2).
- 26. The road stopping will not be completed until the proposed alternative roading network is constructed and useable by the public.
- 27. The request received advises that "the services will be relocated to the realigned Ruakura Road route. The relocation of these services will be managed in consultation with the supply authorities so that there will be no disruption to supply."
- 28. Alternative roading network
- 29. TGH have undertaken an option assessment to find the option that best meets their needs in relation to developing the port, fits with the direction given by the BOI decision and aligns with the expectations of the affected community. Five alternative routes were considered by TGH. The alternative road route proposed by TGH and which forms the basis for their request is shown on Attachments 2 and 3.
- 30. The four other alternative routes considered, which are shown on Attachment 3, were:
 - a. Option A; Extend Ryburn Rd West along the northern side of the railway line to connect to Ruakura Lane through Ag Research.
 - b. Option B; Extend Ryburn Rd West along the railway line to connect to a new road following Spine Rd alignment and then south to Ruakura Rd.
 - c. Option C; Extend Percival Rd north and then west to connect to the Fifth Avenue extension and Wairere Dr.
 - d. Option D ;Extend Percival Rd north to connect to Powells Rd and upgrade part of Powell Rd.
- 31. Traffic Design Group Ltd (TDG), completed a Traffic Impacts Assessment in October 2015 for TGH on the proposed new roading route.
- 32. In its conclusion the TDG report advises that the proposed alternative roading option "...is practical, suitable and consistent with the principles identified by the Board...In particular, the proposed alternative maintains strong connectivity between the Ryburn/Percival area and the suburbs of Hillcrest and Silverdale."

33. The proposed new roading network will continue to allow convenient access to the Waikato Expressway and will be constructed mostly by NZTA as part of the Waikato Expressway, although TGH will construct part of it at their cost.
34. The request informs that the proposed alternative route will offer a higher standard of walking and cycling areas than that currently available on the areas being stopped.
35. In addition to the above TGH advises the proposed alternative route will provide provision for bus stops in suitable locations and public bus routes are expected to service the area.
36. Strategic alignment
- a. The proposed road stopping will allow the implementation of the Board of Inquiry's decision in approving the Inland Port development.
 - b. The proposed road stopping will allow the development to be unimpeded by public roads and allow easier movements of vehicles/containers within the site being developed, while new roads that are to be constructed will continue to allow vehicle, cycling and pedestrian connectivity to the Hillcrest and Silverdale areas from Ryburn/Percival Roads affected by the proposed road stopping.
 - c. The proposed road stopping is consistent with the New Zealand Transport Agency's Waikato Expressway (Hamilton Section) designation which includes realignment of Ruakura Rd and will allow the reconfiguration of the roading network in anticipation of the planned construction of the Waikato Expressway.
37. Legislative requirements or legal issues
- a. The road stopping is to be completed in terms of the Local Government Act 1974 (Section 342 and Schedule 10) process.
 - b. Section 342 requires prior approval from the Minister of Lands for the road stopping, as the roads are in an area zoned Rural with a Ruakura Area Logistics overlay, and then completing the process outlined in the 10th Schedule of the Local Government Act 1974. This process is summarised as follows:
 - i. Obtain a Survey Plan, showing areas of road to be stopped, approved by Land Information New Zealand.
 - ii. Council opening the survey Plan for public inspection at Councils offices and advertise the proposed road stopping twice in a local newspaper and advising adjoining owners and occupiers directly.
 - iii. An objection is to be received within 40 days of the first advertisement of the proposed road stopping being published in newspaper.
 - iv. Any objection received and not resolved will be reported to Council prior to being referred to the Environment Court for determination.
 - v. If there are no objections received then road stopping can be legalised by a Gazette Notice being published and a Certificate of Title issued for the stopped road.
 - c. It is proposed that the legalising of the road stopping would not occur until the proposed alternative route is constructed and able to be used by the public.
38. Consultation
39. As previously noted in this report formal public consultation is required for a 40 day period, which provides the public with the opportunity to submit an objection to the proposed road stopping within this period.
40. TGH has held discussions with KiwiRail on the proposed road stopping and consequential relocation of Percival Rd, which involves the relocation of a level rail crossing.
41. KiwiRail letter 28 August 2015 to TGH advises that:

"KiwiRail has received and reviewed the proposal to undertake works within and adjoining the Railway Designation to facilitate the relocation of the existing Percival Road and level crossing to a position 200m to the east of the current location...This is to confirm that KiwiRail approves in principle of the project by Tainui Group Holdings to undertake works within the designation proposed"

42. TGH has held three Community Liaison Group meetings prior to the lodgement of the resource consent applications for their Inland Port development, which have included plans to realign Percival Road and Ruakura Road if the road stopping process is successful.
43. These meetings have included representatives from the Ryburn/Percival Rd community. There has been no significant adverse feedback regarding the proposed road closures from this group at this time.
44. Notwithstanding the above informal advice from the Community Liaison Group, formal public consultation as required by schedule 10 will be completed upon the road stopping being approved by Council and the Minister of Lands.
45. TGH also propose to participate in a public open day for the proposed Ruakura variation to the PDP on 17 November 2015 and have the road stopping proposals displayed.
46. Environmental sustainability
 - a. New roading is to be constructed to enable continued vehicle, cycling and pedestrian access to/from the Hillcrest and Silverdale areas from Ryburn/Percival Rd residents affected by the proposed road stopping.
 - b. The road closure will not be completed until construction of the alternative roading access is available for use by the public.
 - c. TGH are aware that there are existing utility services that will require relocating to the realigned roading network prior to the road being stopped, at their cost.
47. Transfer of Stopped Road Area
48. Should the proposed road stopping be successful (1,7125m²) the land can then be transferred to TGH, the adjacent land owner.
49. The land has a commercial value which will be determined by land valuation procedures.
50. It is proposed that this land value be recognised in a private developer agreement to come back to Council for approval prior to any transfer of land. The private development agreement will, take into account a number of matters including aspects of the 2009 agreement with TGH and Chedworth Properties Ltd, the cost of land for the alternative road option and other infrastructure matters.
51. Treaty requirements/implications
52. Investigation into the statutory implications is not conclusive and requires further investigation to confirm the implications of the road area being stopped and transferred to TGH.
53. Options (if applicable)
54. The options are to either accept the request by TGH for Council to approve the road closure and to instigate the formal LGA road stopping process or to not accept it.
55. The application is consistent with the BOI decision and is integral to the development of the inland port.

56. The risk of the road closure process being successful or not will depend to some extent the community acceptance and this risk resides ultimately with TGH. Staff recommend supporting the option to approve the road stopping as set out in this report.

57. Financial and Resourcing Implications

- 58. There will be no financial implications to Council.
- 59. The cost of the road stopping and legalisation process will be the responsibility of TGH.
- 60. Relocation costs for any existing services or easements within the road corridor will be the responsibility of TGH.

61. Risk

- 62. There is minimal risk in proceeding with the proposed road stopping with alternative roading network to be made available before the road stopping is completed.
- 63. The proposal will go to full public consultation and the risk of success or failure of the prescribed process rests with TGH

Signatory

Authoriser	Chris Allen, General Manager City Infrastructure Group
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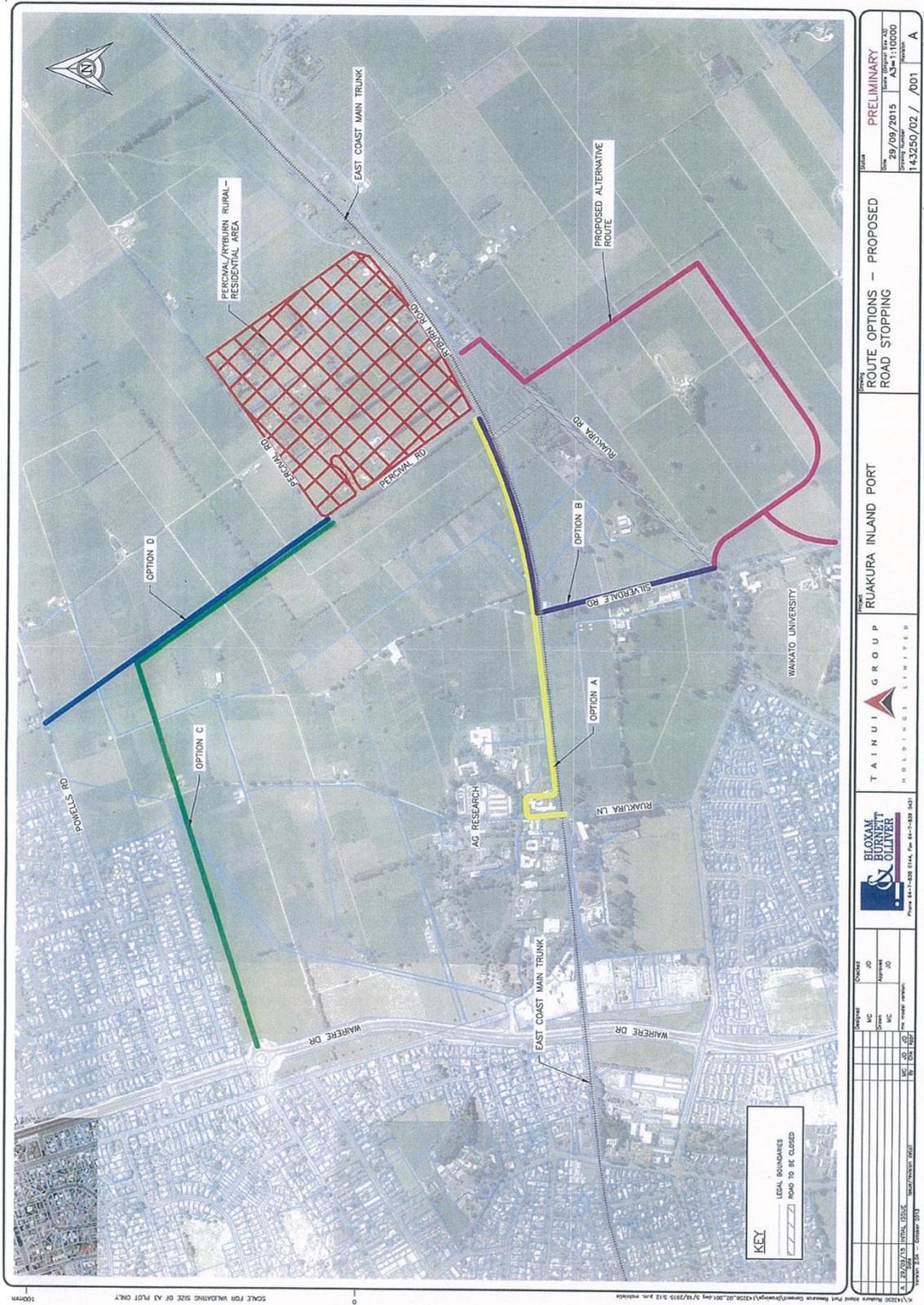
-  Indicates area of Percival Rd proposed to be stopped
-  Indicates area of Ruakura Rd proposed to be stopped
-  Indicates proposed new roads to be constructed



SCHEDULE OF AREAS

Section	Area
Section 1	0.2860 ha
Section 2	0.0830 ha
Section 3	0.4510 ha
Section 4	0.0340 ha
Section 5	0.0030 ha
Section 6	0.5465 ha
Section 7	0.2870 ha

<p>BLUXAM BURNETT & OLIVER Phone: 642-7438 014, Fax: 642-7438 843</p>		<p>TAINUI GROUP BUILDINGS LIMITED</p>		<p>RUAKURA INLAND PORT</p>		<p>LAND REQUIREMENT PLAN</p>		<p>PRELIMINARY</p>	
<p>Project: RUAKURA INLAND PORT</p>		<p>Client: TAINUI GROUP</p>		<p>Scale: 1:5000</p>		<p>Date: 05.08.2015</p>		<p>Drawing Number: 143250/00 (RP/011)</p>	
<p>Author: [Name]</p>		<p>Checked: [Name]</p>		<p>Drawn: [Name]</p>		<p>Approved: [Name]</p>		<p>Scale: 1:5000</p>	
<p>Project Manager: [Name]</p>		<p>Client Representative: [Name]</p>		<p>Author: [Name]</p>		<p>Checked: [Name]</p>		<p>Date: 05.08.2015</p>	



 BRYAN BOWYER COLLIERS CONSULTANTS Phone: 64-7-838 5144, Fax: 64-7-838 0541		 TAINUI GROUP HOLDINGS LIMITED		PROJECT: RUAKURA INLAND PORT ROUTE OPTIONS - PROPOSED ROAD STOPPING		DRAWN: PRELIMINARY Date: 28/09/2015 Scale: AS 1:10000 Project No: 14.3250/02 / 001 Rev: A	
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Strategy & Policy Committee 3 NOVEMBER 2015 - OPEN

10. Election Signs Policy - Review

The report was taken as read. In response to questions, the Democracy Manager advised that:

- size of election signs were a District Plan matter; and
- the Local Electoral Act regulated advertising wraps on vehicles.

Resolved: (Crs Tooman/Yeung)

Recommendation to Council

That:

- a) the report be received; and
- b) the Election Signs Policy (Attachment 2 to the staff report) be deleted.

11. Road Stopping - Ruakura Rd & Percival Rd

Resolved: (Crs Tooman/Pascoe)

Recommendation to Council

That:

- a) the report be received;
- b) Council grants approval to initiate stopping the areas of Ruakura Rd and Percival Rd as indicated on Attachment 1 of this report subject to:
 - (i) The road stopping process be completed in terms of the Local Government Act 1974 (section 342 and 10th Schedule).
 - (ii) Public consultation commencing on receipt of approval of the Minister of Land Information to stop the parts of Ruakura Rd and Percival Rd together with a survey plan approved by Land Information New Zealand for the areas of road proposed to be stopped as indicated in Attachment 1.
 - (iii) Any objections received from the public consultation are to be reported back to Council for consideration.
 - (iv) Closing of the roads is not to be undertaken until construction of the new agreed alternative roads are complete.
- c) the Chief Executive be delegated authority to sign all documentation relating to the road stopping process and legalisation of the land.
- d) all costs associated with the road stopping process, physical works associated with the closure and new alternative routes, transfer of existing utility services and legalisation of the land to be the responsibility of Tainui Group Holdings Ltd.
- e) Council grants approval in principal for the transfer of the road area stopped to Tainui Group Holdings Ltd, upon the legalisation being completed and subject to any statutory obligations being met and also subject to the value of the land being included in a private development agreement to be reported back to Council for approval.
- f) all costs associated with the transfer of the land to be the responsibility of Tainui Group Holdings Ltd.

12. Road Stoppings - CDL Land New Zealand Ltd

Resolved: (Crs Tooman/Yeung)

Recommendation to Council

That:

- a) the report be received
- b) an area of Brywood Rise totaling approximately 6162m², as shown on Attachment 2, be stopped in terms of the Public Works Act 1981, subject to area being confirmed by a survey plan.
- c) the area of Brywood Rise stopped is transferred to CDL Land New Zealand Ltd in exchange for approximately 6552m² being vested in Council as road at no cost, as shown on Attachment 2, subject to area being confirmed by a survey plan.
- d) an area of Sylvester Road totaling approximately 1265m², as shown on Attachment 3, be stopped in terms of the Public Works Act 1981, subject to area being confirmed by a survey plan.
- e) the area of Sylvester Road stopped is transferred to CDL Land New Zealand Ltd in exchange for approximately 1800m² being vested in Council as road at no cost, as shown on Attachment 3, subject to area being confirmed by a survey plan.
- f) road stopping process to be completed in terms of the Public Works Act 1981.
- g) Local Government Act road stopping process is to be completed if the Public Works Act 1981 process is unable to be complied with.
- h) all costs associated with the road stopping and land exchange processes are the responsibility of CDL Land New Zealand Ltd.
- i) the Chief Executive be delegated authority to sign all documentation relating to the road stopping and land exchange.

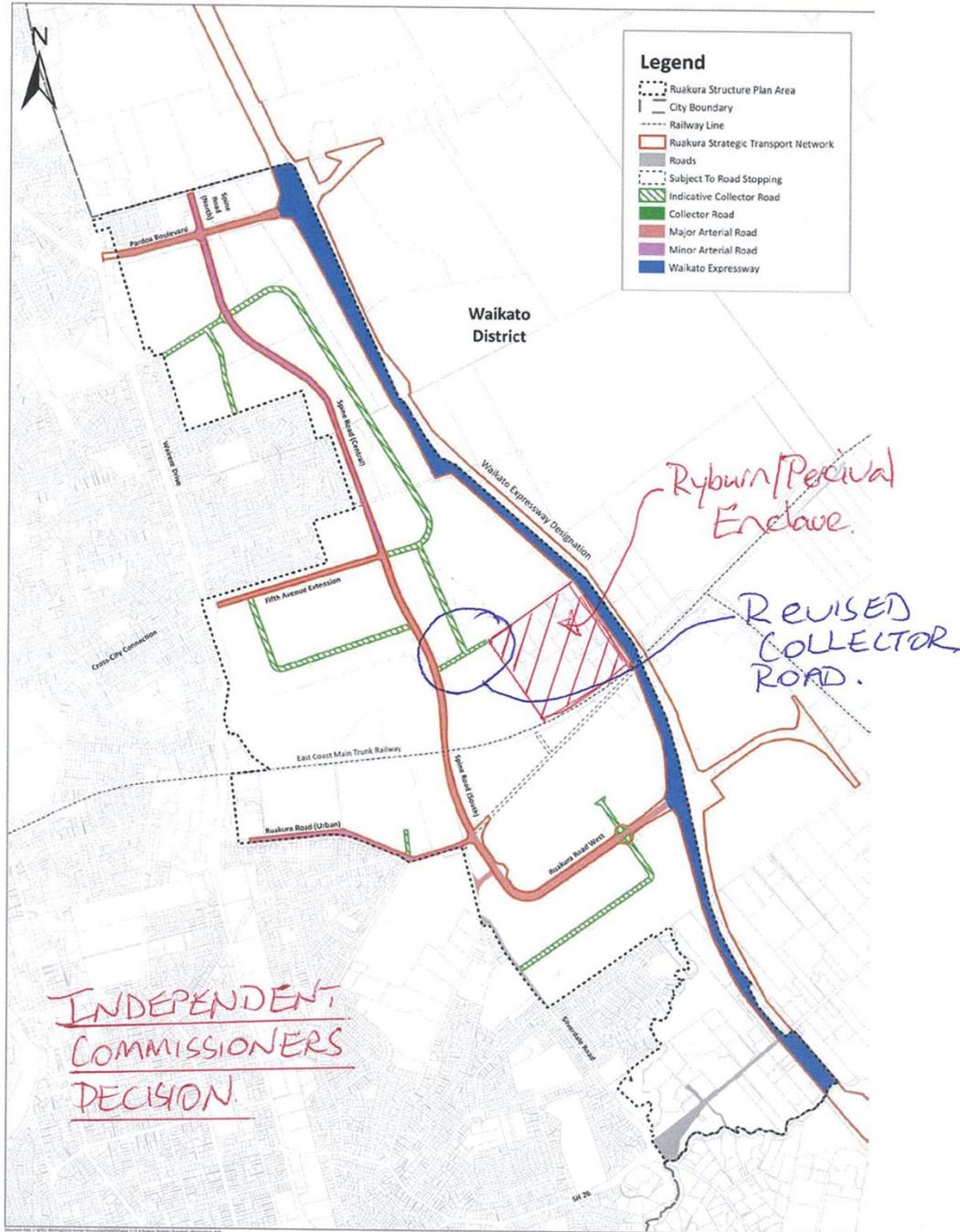
14. Hamilton Lake Domain - Management Plan Review Update

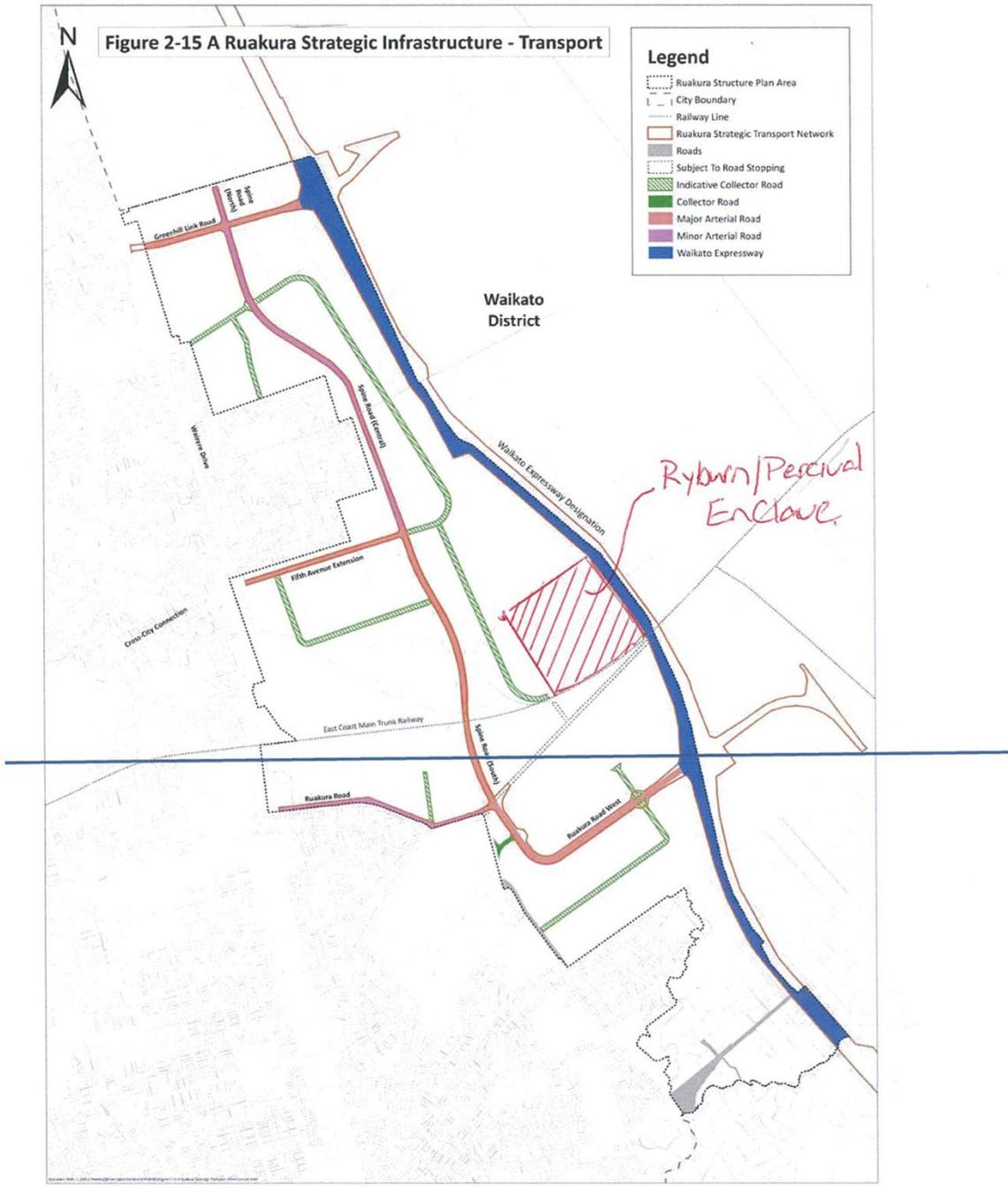
The report was taken as read.

The Parks & Open Spaces Manager and Team Leader Planning & Assets responded to questions on the following points:

- **Leases**
Council had leases with The Verandah Café, Hamilton Yacht Club, Waikato Dragon Boat & Waka Ama Association, and the Hamilton Pigeon Racing Club.
- **Budget**
The budget allocated to fund the development of the Management Plan was \$30,000. Staff were keeping record of staff time and expenditure and were well within budget for the current financial year.

Figure 2-15A: Ruakura Strategic Infrastructure – Transport Structure Plan – Transport Network





STRIKE OUT VERSION

Committee: Council

Date: 13 December 2016

Report Name: Public Art Development
Process

Author: Nick Johnston

Report Status	<i>Open</i>
Strategy, Policy or Plan context	<i>Arts Agenda, Public Art Plan</i>
Financial status	<i>There is budget allocated</i>
Assessment of significance	<i>Having regard to the decision making provisions in the LGA 2002 and Council's Significance Policy, a decision in accordance with the recommendations is not considered to have a high degree of significance</i>

1. Purpose of the Report

2. To update the Public Art Development Process to reflect the Council's Governance Structure 2016-2019.

Recommendations from Management

That:

- a) the report be received; and
- b) the Council approve the Proposed Public Art Development Process for Permanent Artworks.

3. Attachments

4. Attachment 1 - Proposed Public Art Development Process for Permanent Artworks

5. Key issue

6. Following the approval of the Governance Structure 2016-2019 at the 9 November 2016 Council meeting, staff have undertaken a review of the Public Art Development Process for Permanent Artworks (Development Process).
7. The Development Process, adopted by the Council in May 2015, required projects to be reviewed by the former Public Art Panel and approved by the former Public Art Subcommittee.
8. The Development Process provides a consistent and appropriate approach to the consideration of public art projects, and ensures that new public artwork assets are designed to a high standard. The Development Process also provides certainty to external parties to contract artists to undertake a project after the artwork location is approved.

9. Proposed Development Process

- 10. The proposed Development Process (Attachment 1) has been updated to reflect the Governance Structure 2016-2019.
- 11. Key changes include:
 - Stage One (artwork location and artist brief) and Stage Two (artwork concept) to be presented to the Community and Services Committee for approval.
 - Stage Two decision-making at Community and Services Committee to be limited to health and safety, maintenance requirements and costs, and site suitability.
 - Stage Three (artwork detailed design) to be approved by the General Manager Community.
 - Staff to conduct the review of public art projects rather than an independent advisory board.
- 12. The Development Process also has the provision for the Community and Services Committee to establish a Public Art Taskforce Group to review an artwork concept at the recommendation of the General Manager Community. Taskforce membership would be determined on a case-by-case basis.

13. Financial and Resourcing Implications

- 14. \$32,000 capital budget is allocated in Year 3 (2017-18) of the 2015-25 10-Year Plan for the provision of public artworks and seed-funding for the development of new public art assets.
- 15. The Council has an \$18,000 annual operational budget for the maintenance of the city’s Public Art Collection.
- 16. \$500 of staff time was required for the review of the Development Process.
- 17. No additional budget is required to implement the proposed changes to the Development Process.

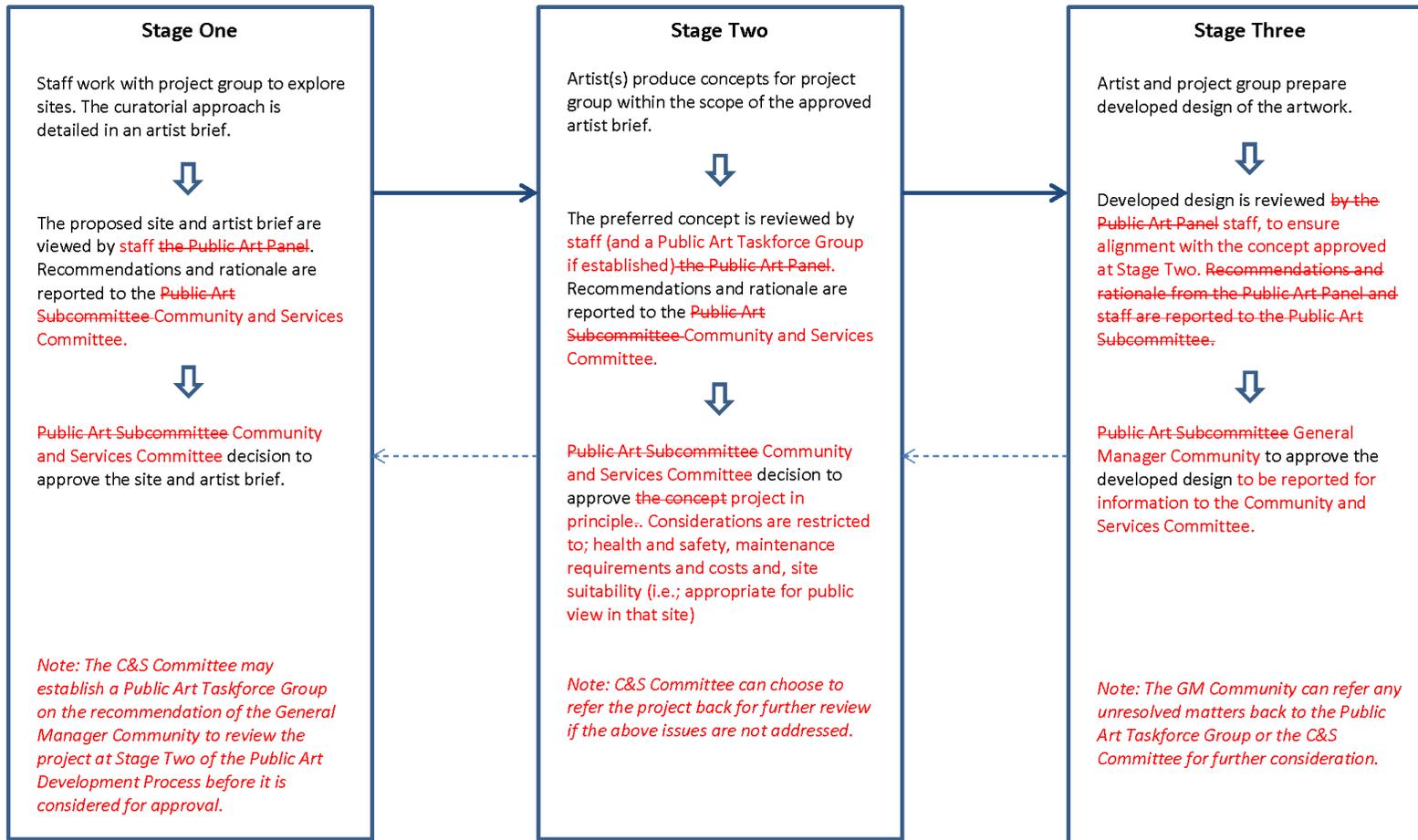
18. Risk

- 19. The Council has received recommendations from an independent advisory panel for public art projects since 2008. The most recent advisory panel was the Public Art Panel, which consisted of art, architecture and urban design professionals providing voluntary advisory services to the Council on all public art matters. Recommendations to the Council on public art matters will be reliant on in-house expertise from Council staff, which may not cover all of the skillsets provided by the members of the former Public Art Panel.

Signatory

Authoriser	Lance Vervoort, General Manager Community
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Proposed Public Art Development Process – Permanent Artworks



Committee: Council

Date: 13 December 2016

Report Name: Victoria on the River Public Artwork Proposal

Author: Nick Johnston

Report Status	<i>Open</i>
Strategy, Policy or Plan context	<i>Arts Agenda, Public Art Plan and Development Guide</i>
Financial status	<i>There is budget allocated</i>
Assessment of significance	<i>Having regard to the decision making provisions in the LGA 2002 and Council's Significance Policy, a decision in accordance with the recommendations is not considered to have a high degree of significance</i>

1. Purpose of the Report

- To seek the Council's approval of the location and artist brief for Mesh Sculpture Trust's Victoria on the River public art proposal (Stage One of the Council's Public Art Development Process).

3. Executive Summary

- The Council has received a proposal from Mesh Sculpture Trust to commission a public artwork at the Victoria on the River site.
- The proposal has strong strategic alignment to the objectives of the Public Art Plan and Development Guide, the Hamilton Plan, the River Plan and the Central City Transformation Plan.
- Staff have reviewed the proposal and are satisfied that it meets the requirements of Stage One of the Public Art Development Process adopted by the Council in May 2015, as well as the criteria outlined in the proposed Development Process currently under review.
- Approval at Stage One will allow Mesh to begin a fundraising campaign, as well as selecting an artist to develop a concept for the artwork.

Recommendations from Management

That:

- the report be received;
- the Council approves Mesh Sculpture Trust's public art proposal for the Victoria on the River site at Stage One of the Public Art Development Process.

8. Attachments

9. Attachment 1 - Victoria on the River - Artist Brief

10. Victoria on the River proposal

11. Mesh Sculpture Trust is a charitable trust focused on commissioning public artworks in Hamilton. Mesh has a proven track record and has successfully commissioned and fundraised three significant public artwork in the city:
 - Te Pumanawa o te Whenua | Beat Connection – Claudelands
 - Te Waharoa ki te Ao Maarama | Gateway to the World of Enlightenment – Lake Domain
 - Tongue of the Dog – Victoria Street near Waikato Museum and ArtsPost
12. Staff have received a proposal from Mesh to commission a public artwork at the Victoria on the River site, including an artist brief for the project (Attachment 1). The artist brief defines the scope of the project, key site considerations and the design standards required.
13. The proposal calls for an artist to engage with the natural environment and the pre-European horticultural history of the site and the surrounding area. A specific location within the Victoria on the River site will be determined when the project is reported back at Stage Two of the Public Art Development Process.
14. The project has an indicative budget of \$250,000. Mesh will undertake a fundraising campaign to raise the required funds to deliver the project.
15. Staff have consulted with Te Haa o te Whenua o Kirikiriroa (THaWK), a group representing local mana whenua, throughout the Victoria on the River development project. Staff have updated THaWK on the public art proposal and Mesh intends to undergo further consultation with Waikato-Tainui, THaWK and Nga Mana Toopu o Kirikiriroa (NaMTOK) in 2017.
16. Mesh's proposal will have no impact on the delivery of the Victoria of the River enhancement work that is scheduled to be completed in 2017 as the concept is developed.

17. Strategic alignment

18. The proposal has strong strategic alignment to the Public Art Plan and Development Guide, the Hamilton Plan, the River Plan and the Central City Transformation Plan.
19. The proposal responds to three of the Hamilton Plan priorities:
 - Celebrated for our arts and culture
 - Strongly connected to the river
 - Best garden in the world.
20. 'Arts and culture' is a theme in the River Plan. The project meets many of the strategic objectives listed in the River Plan, including:
 - Tell our stories through public artworks
 - Promote river side spaces and facilities for celebration of arts and culture.

21. The proposal responds strongly to the following outcomes in the Public Art Plan and Development Guide:
 - Our artworks challenge, surprise, entertain and inspire
 - Our artworks are relevant to Hamilton’s history and tell our stories
 - Our artworks are at the core of urban transformation and revitalisation.
22. The Public Art Plan and Development Guide also lists criteria for high priority projects. The proposal responds to the following priorities:
 - Artworks that activate and enhance our central city
 - Artworks that enhance the unique Waikato River experience
23. ‘Encourage public art that reflects the history of the central city’ is an action point in the Central City Transformation Plan to deliver on the ‘Streetscape, Amenity and Beautification’ transformation strategy.

24. Public Art Development Process

25. Staff have reviewed the proposal and are satisfied that it meets the requirements of Stage One of the Public Art Development Process adopted by the Council in May 2015, as well as the criteria outlined in the proposed Development Process currently under review.
26. Approval at Stage One will allow Mesh to select an artist to develop a concept as outlined in the artist brief. Approval at Stage One also provides land-owner approval for the site which will enable Mesh to begin fundraising.
27. The proposal has been elevated to a full Council meeting because the delegated authority to approve public art projects has not been finalised at the time of this report being prepared.
28. The first Community and Services Committee meeting is scheduled for February 2017 and Mesh have requested a decision at Stage One of the Public Art Development Process in 2016 so the trustees can begin fundraising.

Signatory

Authoriser	Lance Vervoort, General Manager Community
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MESH Sculpture Hamilton Public Art Project: Victoria on the River, Hamilton Artist Brief

INTRODUCTION

MESH Sculpture Hamilton is a charitable trust focused on commissioning significant public art works for the city of Hamilton.

Central to all commissioned works is the consideration of site and community, ensuring that the highest artistic merit is married with suitability and responsiveness to the proposed site.

MESH have successfully launched and gifted three sculptures to the city of Hamilton and this will be their fourth project.

See: www.meshsculpture.org.nz for more information.

BACKGROUND

Hamilton City Council purchased the land that is known as the "Victoria on the River site" in 2009 and at the time, it was believed to be a strategically valuable development site for a high quality commercial building with the added opportunity for attractive public spaces and connectivity to Waikato River edge.

Appendix 1 shows an aerial photograph showing the site location, lot numbers and the boundary of Council's ownership.

The land remained undeveloped and was confined to use as a car park in varying forms over a number of years. Following years of effort by private developers, a viable commercial opportunity for the land had still not been found.

The council has since been considering alternative uses for the land that can add value and amenity for the central city area, meet legal obligations and support the concepts being driven by the Hamilton City River and Central City Transformation plans.

To that end in December 2015 the council approved the Victoria on the River project (and budget) to remediate the land and make enhancements, (landscaping into an attractive urban space and links to the river walks) as per the design images from Edwards Whites Architects in appendix 2. The project will be carried out in two stages with approximate timings as follows;

Stage One: Land Stability and Public Safety (Remediation)- Completed in May 2016 (that involved some major earthworks and removal of contaminated fill).

Stage Two: Enhancement - will commence in early 2017.

SITE HISTORY

Documentary evidence suggests that the site was occupied by both Maori and Europeans prior to 1900. Kirikiriroa Pa was located approximately 550m to the north. The Pa was occupied prior to the European arrival and would have been surrounded by gardens. A gardening site south of the project area at Grantham Street was investigated in 2014. The presence of these type of sites within the larger area indicates there is a possibility that the project area was used for a similar purpose. In addition historic photographs from the 1870s show historic European development within the surrounding area which strongly suggests that historic European material may exist on site.

The project footprint is currently occupied by a car park which was formed following the removal of the Waikato Times building in 2009. This building had a basement which was backfilled. The former basement footprint will have no archaeological values, however there is reason to suspect that intact archaeological evidence will exist on the site. Modern fill may have capped and therefore protected potential archaeological material on site. (Ref: Assessment of Archaeological Effects: Victoria on the River, OPUS)

SITE LOCATION

The project site is situated off Victoria Street within the Hamilton City CBD. The site is on the western bank of the Waikato River. The area is predominantly comprised of a range of commercial buildings. The site gains access from the street on the east side of Victoria Street, in the block between Garden Place (to the north) and Collingwood Street (to the south), and extend back to, and across, a steep embankment above the Waikato River. The riverside boundary neighbours the HCC river walk, built on what was once known as Hamilton Parade, a crown grant public road.

See appendix 1.

IWI CONSULTATION

From HCC: Note that while we have support from Waikato Tainui and THAWK/ Te Haa, consultation with NAMTOK / Ngati Wairere is ongoing in relation to our application for Archaeological Authority to Heritage NZ.

MESH intends to undergo consultation with NAMTOK/Ngati Wairere in 2017.

SCOPE**Curatorial considerations**

For 'a breathing place in the heart of the city' –

C.J.W. Barton in Waikato Times, 13 October 1906.

Historical Context

In the above quote, past Mayor and long-serving Hamilton politician (1881 – 1933) Charles John Wright Barton is referring to the wonderfully lush abundant gardens that used to populate the centre of Hamilton city. These gardens covered what is now known as 'Garden Place' or 'Wintec Hill' and flowed down from what is now Ruakiwi Road, down Tristram Street, through to Garden place and onwards to Victoria Street and down to the Waikato riverbanks edge.

Known to pre-European Maori of the area as Te Kopu Mania O Kirikiriroa (the smooth belly of Kirikiriroa), this hill had extremely fertile soil and Maori had extensive gardens here, perhaps the first market gardens in Aotearoa, and they would cultivate kumara and rauruhe (fern root) and taro in the lower swampy areas. There were many fresh water springs (puna) at the base of the hill. Trade was strong for this area supplying crops to Hupu even to the Auckland region. The Waikato area and this site was the 'Garden Basket' for Auckland. During the 1930's when Hamilton was first developed, this lush garden was sadly to disappear and the fertile hill, which now Waikato Institute of Technology (Wintec) occupies partially, was significantly altered by flattening the area and making what is now 'Garden Place and the central CBD around the Hamilton council buildings.

Site

The Victoria on the River Site is important to the centre of Hamilton because of its proximity to the Waikato River banks and the potential for a regeneration of the space that will reflect the union of contemporary sculpture with urban/industrial architecture and landscaping of the newly created open space.

There is an expectation that the tiered seating will attract groups of people and families to utilise this space for socialising, picnics, and a place to take a quiet break from the CBD, where they can sit and view the sculpture and the river. It will also be a natural stopping off point for those using the river promenade with access to the new cafes.

At this stage the site is in its early stages of development, and exact plans for public access are yet to be finalised.

Concept & Impact

The artist is expected to engage with the natural environment and the history of Hamilton as the garden basket to its people and the surrounding areas. The goal is to provide an artwork that is consistent with bringing back this green space and the

garden theme into the CBD, and to draw attention to this historical importance. This is a lush vision for Hamilton and a conceptual linkage between Rotoroa / Hamilton Lake and the gardens through the central city to the Waikato River.

The vision for the site is people walking through the alleyway of chic restaurants and cafes and then entering into the wide space – tiered seating with a pathway leading down to the river, drawing attention back to the Waikato, the life force, the natural environment and away from the street.

Key site considerations:

- Visual collateral that is planned with the seating design, lighting, potential for murals, shop fronts and way finding signage and per current architectural plans
- Steepness of parts of site in regards to geo technical considerations and ease of construction.
- Accessibility, interaction and visibility- the work would be seen from above where people are sitting on the terraced slope, but also being able to be viewed from different places and perspectives, including from the river bank promenade, and accessed from a path that flows around to the left side of the site when looking down to the river from Victoria Street.
- Connection to the River. The aim is to re engage and reconnect with the river.
- Future landscaping opportunities.
- A series of works or a standalone piece. Ideas that encourage visitors to wander further down the site towards the river.
- Potential for changes to the existing plans as the site is developed further

Other info:

- Due to the fact that the site is not yet developed, MESH envisages a flexible and open approach to the development of the concept.
- Selected artists will attend a site visit and discussion over the existing detailed plans.
- Determining the exact position of the sculpture on the site will need to be a collaborative process with the artist, developer, designer/architects, and MESH.

Information to be supplied to artist:

1. Assessment of Archaeological Effects: Victoria on the River. Author: OPUS
2. Edward White Architects site concept images:
https://www.dropbox.com/s/cr2v9uzvnftihsr/16.06.08_VOTR_Image_pack.pdf?dl=0

Requirements for concept to progress to stage 2

- Concept outline
- Detailed drawings
- Indicative budget
- Lighting recommendation included

Indicative budget

The TOTAL budget for this project is \$250K. This includes ALL project costs, including artist fee.

A more detailed project budget will be agreed to when the concept is confirmed.

DESIGN STANDARDS

In commissioning an artist to prepare a proposal it is required that the following issues are addressed in the artwork.

- Be suitable by way of form and quality for public viewing and accessibility
- Ensure the artwork is resistant to vandalism, both in terms of design and materials.
- Ensure that the artwork is low maintenance in terms of upkeep and construction elements eg internal electrical components etc
- Details of external elements eg lighting, planting, mounting must be clearly articulated in the final proposal.
- That the artwork is produced within an agreed budget and timeframe
- Ensure the artwork complies with public safety, consents and building standards
- Ensure that the artwork has the ability to resist the rigours of weather, both structurally and in terms of appearance, eg waterproof, hail proof, rustproof, must have no parts that will melt, burn, fade or otherwise break down in sunlight, and be fabricated using quality materials in a professional manner.

PROJECT MANAGEMENT

MESH will appoint their own project manager to coordinate and manage the project.

DOCUMENTATION

MESH is collating film documentation of all projects.

This project is designed to capture the stages of creating sculptures and is intended as an educative resource that can potentially be made into a film about the work of MESH in Hamilton.

COMMISSIONING PROCESS

- The curatorial panel and MESH trustees have invited xx artist - to make a proposal for the site.

- A fee of \$xx will be paid for a full proposal. This will include the concept, an indicative budget, time frame and outline of materials and work required (contractors etc). For this MESH offers the assistance of Holmes Consulting Group who can assist with feasibility, working drawings and a knowledge of industry in the greater Waikato region.
- The MESH curatorial board will evaluate the proposal and will make a recommendation to the MESH trustees. Once the concept has been approved by the curatorial board and accepted by the MESH trustees it will then be presented to the appropriate council committee for approval via the agreed Council Public Art Process.
- Following the acceptance of the concept a contract will be drafted with the artist that covers the scope and duration of the project, outlining the agreed budget, timeframes, fees, roles and responsibilities.
- The artist will produce a developed design within the agreed timeframes that fully outlines the project, based on the feedback during the concept stage, and address any issues or constraints that have been identified.
- Depending on the nature of the project, the manufacture and installation of the artwork may be carried out by the artist or other parties. This will be agreed during the contracting phase but will be factored into initial pricing.
- It is expected that the artist will take into consideration any lighting, planting and mounting requirements that will need to be carried out in advance of the installation. These should be outlined explicitly in the final design proposal and considered as part of the project budget.
- A realistic timeframe for manufacture and installation should be included.
- Submission material will be retained for MESH archival purposes (unless agreed otherwise by negotiation). Copyright remains with the commissioner in the case of commissioned works.
- It is expected that the artist will
 - Allow images of the concept to be used by MESH for promotional activities
 - Allow images of the completed work for educational and promotional activities.
 - Allow filming and photography opportunities whilst the project is progressing
 - Make themselves available for key MESH events eg fundraising events, art talks and interviews.
 - Sign images/photos of the work to be gifted to key sponsors upon project completion
 - Sign a small plaque that will be added to the sculpture site

Concept design proposal must include the following:

- Artist's name and contact details
- Written description of concept proposal
- Sketch plans of concept and details as required
- Models, maquettes or 3D rendered images may be included
- Budget outline (materials, artist fees, freight, installation, construction, lighting)
- Confirmation that the work can be completed within the indicative budget and an indicative timeframe for fabrication and installation.
- Concepts must clearly identify scale/size, orientation and proposed location
- Concept proposal must be submitted by agreed date (TBC).

PROJECT MANAGEMENT

TIMEFRAMES- to be determined post stage 1.

Submission of concept:

Curatorial (MESH)review of concept:

MESH Board approve concept:

Concept feasibility assessment and costing:

Public Art Panel stage 2 approval

Stage 2 Council approval of concept

Detailed design phase:

Public Art Panel stage 3 approval:

Stage 3 Council approval of detailed design:

Project completion:

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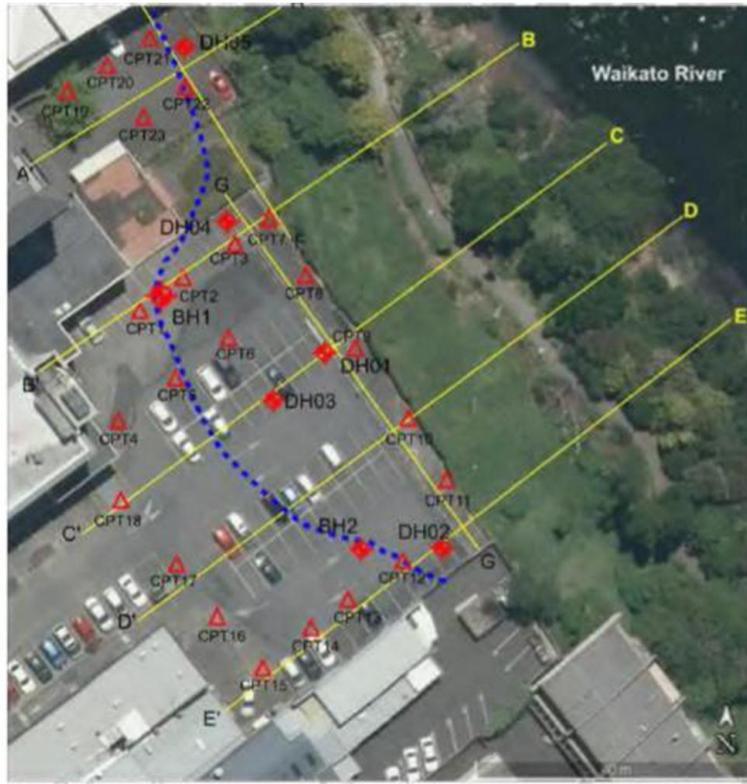
Ph:

Address for proposal:

Proposal to be delivered to; TBA

APPENDICES

Appendix 1: Current site aerial view



Appendix 2:



Committee: Council

Date: 13 December 2016

Report Name: Western Rail Trail Update

Author: Jason Harrison

Report Status	<i>Open</i>
Strategy, Policy or Plan context	<i>Hamilton Biking Plan 2015-2045</i>
Financial status	<i>There is not sufficient budget allocated Current Total Project Budget is \$5.82m Projected Total Project Budget required is in the range \$6.55m- \$7.15m</i>
Assessment of significance	<i>Having regard to the decision making provisions in the LGA 2002 and Council's Significance Policy, a decision in accordance with the recommendations is not considered to have a high degree of significance</i>

1. Purpose of the Report

- To inform Council of time delays and increased costs to the Western Rail Trail project and to seek approval for an increase to the Approved Contract Sum for Contract 15363.

3. Executive Summary

- Finance Committee approved the awarding of a contract to construct the Western Rail Trail in July 2016.
- At the time of awarding this contract staff expressed confidence in the cost estimates provided as the project risks were assumed to be low. This has not proved to be the case and omissions and unexpected factors have caused the costs to increase and approval is required to increase the project budget and to offset the increased cost by using savings and deferrals from within current transport budgets.
- A number of other projects that were to be funded from the discretionary transport fund have been deferred to offset the additional costs and savings in the Rototuna Transport work will allow the additional Western Rail Trail costs to be funded without any impact on Councils financial strategy.
- The omissions were in relation to missing scheduled items in the suite of contracts and the unexpected factors have largely related to ground contaminated by asbestos and other refuse which has increased cost substantially.
- Independent internal experts from Opus International have worked with staff to review the scope and remaining risk to this project and the requested additional funding is based on this work.

9. An independent review (internal or external depending on the size and nature of the contract) of the proposed contract model to ensure project risks are assigned to those best able to manage them will be added to project plans for future projects.

Recommendations from Management

That:

- a) the report be received; and
- b) Council approve an increase of \$920,000 to the Approved Contract Sum for Contract 15363; Western Rail Bike Trail from \$4,280,000 to \$5,200,000 excluding GST which includes a contingency allowance of \$500,000 for further unforeseen risks.

10. Attachments

11. There are no attachments for this report.

12. Key Issues

13. Background

14. At the 14 July 2016 Finance Committee meeting the Committee resolved to award the physical works contract for the Western Rail Trail Bike project. The following are the approved resolutions.

- a) *the report be received;*
- b) *Contract 15363 for the Western Rail Trail Bike Path is awarded to HEB Construction for the tendered sum of \$4,188,218.52 excluding GST;*
- c) *the Approved Contract Sum for Contract 15363 is based on Option 2 as described in this report and is set at \$4,000,000 excluding GST comprised of the tender sum less reduced scope (\$280,000) being \$3,908,218.52 plus a contingency allowance of \$91,781.48;*
- d) *the Project Budget is revised from \$4,000,000 to \$5,540,000 as set out in this report; and*
- e) *staff be requested to pursue value engineering opportunities throughout the implementation of this project and to add back the identified scope omissions as the project budget allows;*
- f) *an additional sum of \$280,000 for the scope items in paragraph 36 of the Staff Report be added to the approved contract sum, from the Discretionary Transport Fund, to be used if required*

15. This Approved Contract Sum included an allowance of \$280,000, if needed, for a number of scope items listed in the report which include connections to Innes Common and Hastings Place together with selected landscape and public art elements. These items were instructed early and the additional funding was required.
16. In addition to the main contract, the project included other items of work including plants and signals to be undertaken by others including the Infrastructure Alliance, professional fees and internal time costs. The overall project budget was set at \$5,820,000.
17. The contract is now more than 50% complete and a number of significant risks have arisen that were not adequately allowed for and together with some scheduling omissions staff believe that additional costs in the order of \$920,000 will be required to complete the contract.

18. Prior to recommending the project to Council in July 2016, staff had re-scoped the project in order to minimize the expected outturn cost and had indicated that there were value engineering opportunities to pursue post contract award relating to the Lake Road junction that would save costs. Staff also considered that the risks of the project were relatively low and a contingency of about \$103,000 was included in the tender sum and \$91,781.48 outside the tender sum, in total about \$195,000 or 4.5%. In hindsight this was too low for this project.
19. A number of risks have materialised that have caused the likely contract out turn cost to exceed the Approved Contract Sum requiring a consequent increase in the project budget. These risks have included
 - Unforeseen ground conditions (\$340,000); a small allowance only for contaminated soils had been allowed for but a number of areas contaminated with asbestos were uncovered which required extensive and costly remedial works or disposal. In addition a substantial amount of cut material containing concrete, rubbish and tyres had to be carted away and disposed of instead of being used.
 - Contract schedule errors (\$203,000); the project was packaged into 2 main contracts, one for the substantive work and one for installation of the traffic signals for a number of road crossings. Unfortunately neither contract included a scheduled item for ducts to cross the roads to service the signal installations and these have proven to be costly particularly for the Lake Road crossing which is in the vicinity of a bridge structure.
 - Unrealised value engineering savings (\$200,000) ; the value engineering opportunity to redesign the Lake Road structures has not realised as much savings as expected
 - Time delay costs (\$100,000); a combination of the above factors have resulted in about 8 weeks of time delay to the main contract which has cost associated with extension of time claims.
20. Since Staff became aware of this emerging financial situation in November a number of project reviews have taken place to ensure the best possible financial outcome. Independent internal experts from the consulting firm engaged to manage the project for Council (Opus International Ltd) have undertaken detailed risk assessments in conjunction with the contractor and staff to make what savings are possible without substantially affecting the expected outcomes for the project.
21. In investigating why the true costs of this contract were not better articulated when the request to commit was made by Council, a key identified issue is the contract model used for this contract. A full measure and value contract was used and in this model all of the risk remains with the client and there is not much incentive for the contractor to finish early. In hindsight a more accurate cost would have been received if the contract had required the contractor to do more of their own due diligence in pricing the contract and managing more of the risk.
22. In saying the above, there were also some fundamental omissions and unforeseen conditions that contributed to the under estimation of the cost including making no allowance in any of the suite of contracts for traffic signal ducts.
23. An independent review (internal or external depending on the size and nature of the contract) of the proposed contract model to ensure project risks are assigned to those best able to manage them will be added to project plans for future projects.
24. Options Considered

25. One option available is to not complete the contract and to try and manage all of the costs within the available budget. This is not recommended as the project will still expend most of the available budget given that is over 50% complete, and the bike trail will not be usable. It would not therefore deliver the expected outcomes purchased by the community, NZTA and the Urban Cycle fund.
26. The preferred and recommended option is to proceed with the project with some scope reductions and to continue to tightly manage the project to its completion, and to find offset projects out of the transportation budgets for 2016/17 that result in a neutral impact to Councils financial strategy.

27. Financial and Funding Implications

28. The following table indicates the current estimated financial position of the project.

Item	Approved Budget	Current estimated Cost	Additional Allowance for unexpected risk and other items	Total Potential Outturn cost	Note
Contract 15363	\$4,280,000	\$4,900,000	\$300,000	\$5,200,000	1
Other Physical works	\$540,000	\$440,000	\$292,000	\$732,000	2
Professional fees	\$875,000	\$1,054,000	\$146,000	\$1,200,000	3
Internal staff time Costs	\$125,000	\$160,000	0	\$160,000	4
Total	\$5,820,000	\$6,554,000	\$738,000	\$7,146,000	
Additional Funding Required		\$734,000		\$1,326,000	

Note 1; The Current estimated Contract 15363 cost includes \$200,000 for unforeseen but expected risk and an additional allowance of \$300,000 for unforeseen but unexpected risk is requested in the revised Approved Contract Sum (total \$500,000 for further unforeseen risks)

Note 2; Total Potential cost includes \$292,000 for planting which has been removed from main contract due to seasonal constraints and will be planted later by other means

Note 3; Staff are in discussions with Opus about their professional fees

Note 4; additional staff time to increase involvement in contract supervision.

29. The additional funding requirements for this project range from \$734,000 to \$1,326,000, although the upper bound is considered to be a worst case scenario.
30. To offset the additional costs, staff have put on hold the remaining projects being developed with the 2016/17 discretionary transport budgets. The total costs of these equate to \$530,000. The projects that would be deferred for consideration for 2017/18 would be;
 - Minor improvements to Te Rapa Road/Forest Lake Road intersection
 - Alteration to the Killarney Road/Queens Avenue intersection.
 - One laning of Caro Street
31. Staff are forecasting that surplus funding will be available in the Rototuna Roding upgrade project CE15092 sufficient to offset any cost increases above the \$530,000 to ensure that there is no impact on Council’s financial strategy.

- 32. Staff have considered potential additional funding from NZTA and while an application will be made, no assumptions have been made that additional subsidy funding will be received.

33. Risk

- 34. In the last two weeks staff have been advised that an additional KiwiRail license is required for access to the rail corridor at the Killarney Road crossing. Staff are currently looking to expedite this, however there is a risk that any delays may further delay the completion of the project and impact on project cost.

Signatory

Authoriser	Chris Allen, General Manager City Infrastructure Group
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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. Council Public Excluded Minutes 30 November 2016) Good reason to withhold information exists under Section 7 Local Government	Section 48(1)(a)
C2. Recommended appointment of a Trustee to Vibrant Hamilton Trust) Official Information and Meetings Act 1987	
C3. Variation to Contract 11079 for the External Appointments to the Audit and Risk Committee)	
C4. Approval - Renewal of Stadia Contracts		

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 protect the privacy of natural persons	Section 7 (2) (a)
Item C3.	to protect the privacy of natural persons	Section 7 (2) (a)
Item C4.	to enable Council to carry out commercial activities without disadvantage	Section 7 (2) (h)