

## Notice of Meeting:

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

**Date:** Thursday 24 May 2018  
**Time:** 9.30am  
**Meeting Room:** Council Chamber  
**Venue:** Municipal Building, Garden Place, Hamilton

Richard Briggs  
Chief Executive

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## Council OPEN AGENDA

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### 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 R Hamilton

**Quorum:** A majority of members (including vacancies)

**Meeting Frequency:** Monthly – or as required

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Lee-Ann Jordan  
Governance Manager

**18 May 2018**

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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 Governance Team will be available to co-ordinate this. As many speakers as possible will be heard within the allocated time.

If you have any questions regarding Public Forum please contact Governance by telephoning 07 838 6439.

# Council Report

**Committee:** Council **Date:** 24 May 2018  
**Author:** Amy Viggers **Authoriser:** Becca Brooke  
**Position:** Committee Advisor **Position:** Governance Team Leader  
**Report Name:** Confirmation of Council Open Minutes - 19 April 2018

<b>Report Status</b>	<i>Open</i>
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## Staff Recommendation

That the Council confirm the Open Minutes of the Council Meeting held on 19 April 2018 as a true and correct record.

## Attachments

Attachment 1 - Council Open Unconfirmed Minutes - 19 April 2018

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## Council

### OPEN MINUTES

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**Minutes of a meeting of the Council held in Council Chamber, Municipal Building, Garden Place, Hamilton on Thursday 19 April 2018 at 9.40am.**

#### 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 R Hamilton

In Attendance:	Richard Briggs – Chief Executive
	Lance Vervoort – General Manager Community
	Sean Murray – General Manger Venues, Tourism and Major Events
	Sean Hickey – General Manager Strategy and Communication
	Jen Braid – General Manager City Growth
	Eeva-Liisa Wright – Acting General Manager City Infrastructure
	Nigel Ward – Acting Unit Manager Communication
	Natasha Ryan – Key Projects Programme Manager
	Chad Hooker – Director of Operations
	Nicolas Wells – Strategic Property Manager
	Andrew Parsons – City Development Manager
	Trent Fowles – Compliance Manager
	Charlotte Catmur – Waste Minimisation Advisor
	Mark Brougham – Programme Manager
	Brendan Stringer – Legal Services and Governance Officer
	Jaime Sirl – Senior Planner
	Raewyn Simpson – Senior Planner
	Jeff Neems – Communications Advisor
	Claire Foster – Property Officer

Sarah Nathan - Creative Waikato CEO  
Sean Austin – The Chiefs Commercial Manager

Governance Staff:	Lee-Ann Jordan - Governance Manager
	Amy Viggers, Claire Guthrie and Rebecca Watson – Committee Advisor

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*Tame Pokaia carried out a blessing and the Venerable Paul Weeding a bible reading to open the Council Meeting.*

*The Chief Executive acknowledged the passing of former Councillor Jean Vickridge. He asked that the meeting observe a minute's silence in recognition of the contribution she had made to the city. Deputy Mayor Gallagher made a brief statement, acknowledging the positive impact she had made to the city.*

**1. Apologies**

**Resolved:** (Crs Casson/Tooman)

That the apology from Cr Bunting (absence between 1pm and 3pm) is accepted.

**2. Confirmation of Agenda**

**Resolved:** (Mayor King/Cr Southgate)

That the agenda be confirmed noting the following:

- that the debate will be 2 minutes with an extension of 1 minute if required;
- that there is to be an additional verbal update taken as a part of Item 10 (*Chair's Report*). The update is on Bill amendments affecting Local Government. It is late as the information was received on 18 April 2018 and there is urgency in making a submission to Central Government; and
- that there would flexibility to order of items to accommodate presenters.

**3. Declarations of Interest**

No members of the Council declared a Conflict of Interest.

**4. Public Forum**

**Graham McFarlane (Verandah Café Director)** – Spoke to item C5 (*New Lease - Verandah Cafe - Hamilton Lake Domain*) and addressed level of service matters raised through earlier lease discussions.

**Helen Jarman (Resident)** – Spoke to item 13 (*River Plan Progress*). Ms Jarman raised concerns regarding a proposed river pathway between Victoria on the River and Embassy Park that was to be built alongside her and other's residential property.

**Darren Mills (Waikato River Explorer Director)** - Spoke to item 13 (*River Plan Progress*). Mr Mills spoke in support of the new jetty structure with ramp and pontoon. He responded to questions from Elected Members regarding the proposed design for the jetty.

*Item 5-13 were taken after Item 4 (Public Forum) to accommodate external presenters.*

**10. Chair's Report - 19 April 2018**

The Mayor took the report in parts.

Sarah Nathan (Creative Waikato CEO) spoke to the process followed to select local artist Jeremy Shirley to design a piece of art to represent Hamilton in Hamilton's sister city Chengdu, China. She responded to questions from Elected Members concerning timeline and process.

The Deputy Mayor Gallagher gave a verbal report on the relationship between Hamilton City and the City of Ieper.

Councillor O’Leary gave a verbal report on the Local Government (Community Well-being) Amendment Bill and the Local Electoral Matters Bill.

*Action: Staff undertook to provide an update on Sister City Relationships at a future Elected Member Briefing.*

**Resolved:** (Deputy Mayor Gallagher/Mayor King)

That the Council:

- a) receives the report;
- b) defers the Founders Theatre future use of site report to the 24 May meeting of Council; and
- c) delegates the Mayor to upgrade the current Memorandum of Understanding with Ieper to a Sister City Memorandum of Understanding if he reasonably believes it is beneficial to the city.

*Following the discussion of the above item, Item 10 (Chair’s Report), Item 11 (FMG Stadium Waikato – Proposed Development), Item 12 (Deliberation and adoption of the 2018-2024 Waste Management and Minimisation Plan) and Item 13 (River Plan Progress) were taken next to accommodate external presenters in attendance.*

#### **11. FMG Stadium Waikato - Proposed Development**

The Director of Operations and Sean Austin (The Chiefs Commercial Manager) spoke to the report. They responded to questions from Elected Members concerning the design, location and ownership of the proposed corporate suites, and Council’s possible financial contribution towards a resource consent.

**Motion:** (Cr Macpherson/Mayor King)

That the Council:

- a) receives the report; and
- b) requests the Chief Executive negotiate the commercial terms of the agreement with the Chiefs Rugby Club Limited, including the cost to Council, if any, of the resource consent for the corporate hosting facility and brings the final draft agreement to the Council for approval.

**Amendment:** (Crs Casson/Pascoe)

That the Council:

- a) receives the report;
- b) delegates the Chief Executive to negotiate the commercial terms of the agreement with the Chiefs Rugby Club Limited.

**The Amendment was put.**

**Those for the Amendment:** Councillor Casson.

**Those against the Amendment:** Mayor King, Deputy Mayor, Gallagher, Councillors Pascoe, Mallett, Tooman, O’Leary, Macpherson, Bunting, Henry, Southgate, Taylor and Hamilton.

**The Amendment was declared lost.**

**The Motion was put and declared carried.**

**Resolved:** (Cr Macpherson/Mayor King)

That the Council:

- a) receives the report; and
- b) requests the Chief Executive negotiate the commercial terms of the agreement with the Chiefs Rugby Club Limited, including the cost to Council, if any, of the resource consent for the corporate hosting facility and brings the final draft agreement to the Council for approval.

**During the discussion of the above Item the meeting adjourned (11.12am – 11.30am).**

## **12. Deliberation and adoption of the 2018-2024 Waste Management and Minimisation Plan**

The report was taken as read. Staff responded to questions from Elected Members concerning funding from the Ministry for the Environment Waste Minimisation Fund and how the Waste Management and Minimisation Plan would work alongside the other Council proposals such as kerbside collection.

**Resolved:** (Crs Bunting/Henry)

That the Council:

- a) receives the report; and
- b) adopts the 2018-2024 Waste Management and Minimisation Plan.

**Cr Mallett dissenting.**

## **13. River Plan Progress**

The report was taken as read. Staff responded to questions from Elected Members concerning the deferral of a connection between Victoria on the River and Embassy Park, and possible design options for the new jetty structure.

*Action: Staff undertook to provide an update on the \$1million pledge by Donny Trust for river development projects through a report to a future Community and Services Committee meeting as previously agreed at the 17 April 2018 Committee meeting.*

**Resolved:** (Mayor King/Cr O'Leary)

That the Council:

- a) receives the report;
- b) defers construction of the upper level connection between Victoria on the River and Embassy Park until staff report back to Council in August 2018 on revised costs and other matters; and
- c) approves the alternative for the Jetty being a new jetty structure with ramp and pontoon (Option A of this report).

**Cr Mallett dissenting.**

*Cr Bunting left the meeting (12.59pm) during the discussion of the above item. He was not present when the matter was voted on.*

**The meeting adjourned 1.28pm to 2.08pm.**

*Following the above adjournment the meeting resumed with Items 5-9 before continuing with Item 14.*

**5. Confirmation of the Council Open Minutes - 15 March 2018**

**Resolved:** (Mayor King/Cr Taylor)

That the Council confirm the Open Minutes of the Council Meeting held on 15 March 2018 as a true and correct record.

**6. Confirmation of the Council Open Minutes - 27 March 2018 (10 Year Plan)**

**Resolved:** (Mayor King/Cr Taylor)

That the Council confirm the Open Minutes of the Council Meeting (10 Year Plan) held on 27 March 2018 as a true and correct record.

**7. Confirmation of Elected Member Briefing Notes - Open - 15 March 2018**

**Resolved:** (Mayor King/Cr Taylor)

That the Council confirm the open notes of the Elected Member Briefing held on 15 March 2018 as a true and correct record.

**8. Confirmation of Elected Member Briefing Notes - Open - 22 March 2018**

**Resolved:** (Mayor King/Cr Taylor)

That the Council confirm the open notes of the Elected Member Briefing held on 22 March 2018 as a true and correct record noting that Cr Pascoe was in attendance.

**9. Confirmation of Elected Member Briefing Notes - Open - 27 March 2018**

**Resolved:** (Cr Macpherson/Mayor King)

That the Council confirm the open notes of the Elected Member Briefing held on 27 March 2018 as a true and correct record.

*Cr Bunting re-joined the meeting (2.21pm) during the discussion of the above item. He was present when the matter was voted on.*

**14. Draft HCC Submissions to the Draft 2018-28 Long Term Plans of Waikato Regional Council, Waikato District Council and Waipa District Council**

The report was taken as read. Staff responded to questions from Elected Members concerning the submissions process, how Waikato Regional Council funds itself, and Project Watershed finances.

*Action: Staff undertook to provide an update on Project Watershed finances in a future report to the Growth and Infrastructure Committee.*

**Resolved:** (Mayor King/Cr Casson)

That the Council:

- a) receives the report.
- b) approves HCC's draft submission to:
  - Waikato Regional Council's Draft 2018-28 Long Term Plan.

- Waikato District Council's Draft 2018-28 Long Term Plan.
  - Waipa District Council's Draft 2018-28 Long Term Plan.
- c) notes the approved submissions will sent to the respective councils by 20 April 2018; and
- d) notes the approved submissions will then be uploaded to HCC's website.

*Cr O'Leary left the meeting (3.18pm) during the discussion of the above item. She was not present when the matter was voted on.*

*Cr Southgate retired from the meeting (3.35pm) during the discussion of the above item. She was not present when the matter was voted on.*

**15. Submissions in respect of 1) Government Proposal to make KiwiRail an Approved Public Organisation; and 2) Land Transport Management (Regional Fuel Tax) Amendment Bill**

The report was taken as read.

**Resolved:** (Crs Macpherson/ Pascoe)

That the Council:

- a) receives the report;
- b) approves HCC's draft submission to:
  - i. The Government proposal to make KiwiRail an Approved Public Organisation;
  - ii. The Land Transport Management (Regional Fuel Tax) Amendment Bill;
- c) notes the approved submissions will be sent to the respective organisations by 20 April 2018; and
- d) notes the approved submissions will then be uploaded to HCC's website.

**The Motion was put.**

**Those for the Motion:**

Mayor King, Deputy Mayor Gallagher,  
Councillors O'Leary, Macpherson,  
Bunting, Henry, Taylor and Hamilton.

**Those against the Motion:**

Councillors Pascoe, Mallett, Tooman and  
Casson.

**The Motion was declared carried.**

*Cr O'Leary re-joined to the meeting (3.44pm) during the discussion of the above item. She was present when the matter was voted on.*

**16. Recommendation from the Growth and Infrastructure Committee - Ruakura Reservoir Bulk Watermains**

The report was taken as read.

**Resolved:** (Mayor King/Deputy Mayor Gallagher)

That the Council approves the award of Contract 17141 to West Construction 2011 Ltd for the installation of a new bulk water supply to Ruakura with an Approved Contract Sum of \$4,200,000.00.

**17. Recommendation from the Growth and Infrastructure Committee - Private Developer Agreement Tasman Greig Development Limited**

The report was taken as read. Staff responded to questions from Elected Members concerning the perceived benefits to Council from the private developer agreement.

**Resolved:** (Cr Macpherson/Deputy Mayor Gallagher)

That the Council approves \$2.335 million be included on the Risk and Opportunities Register for the land acquisition and road construction, and that this cost be offset by savings from CE15090, Rooding Upgrades and Development in Rotokauri.

**Cr Casson dissenting.**

**18. Resolution to Exclude the Public**

**Resolved:** (Mayor King/Cr Taylor)

**Section 48, Local Government Official Information and Meetings Act 1987**

The following motion is submitted for consideration:

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

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

General subject of each matter to be considered	Reasons for passing this resolution in relation to each matter	Ground(s) under section 48(1) for the passing of this resolution
C1. Confirmation of Council Public Excluded Minutes - 15 March 2018	) Good reason to withhold ) information exists under ) Section 7 Local Government	Section 48(1)(a)
C2. Confirmation of Elected Member Briefing Notes - Closed - 13 March 2018	) Official Information and ) Meetings Act 1987 )	
C3. Confirmation of Elected Member Briefing Notes - Closed - 22 March 2018		
C4. Confirmation of Elected Member Briefing Notes - Closed - 27 March 2018		
C5. New Lease - Verandah Cafe - Hamilton Lake Domain		

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)
Item C2.	to maintain legal professional privilege	Section 7 (2) (g)
Item C3.	to maintain legal professional privilege	Section 7 (2) (g)
Item C4.	to enable Council to carry out negotiations	Section 7 (2) (i)
Item C5.	to avoid the unreasonably, likely prejudice to the commercial position of a person who supplied or is the subject of the information	Section 7 (2) (b) (ii)

**The meeting went into a public excluded session at 4.01pm.**

**The meeting was declared closed at 4.43pm.**

# Council Report

Item 6

**Committee:** Council

**Date:** 24 May 2018

**Author:** Amy Viggers

**Authoriser:** Becca Brooke

**Position:** Committee Advisor

**Position:** Governance Team Leader

**Report Name:** Confirmation of Extraordinary Council Open Minutes - 26 April 2018

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<b>Report Status</b>	<i>Open</i>
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## Staff Recommendation

That the Council confirm the Open Minutes of the Extraordinary Council Meeting held on 26 April 2018 as a true and correct record.

## Attachments

Attachment 1 - Extraordinary Council Open Unconfirmed Minutes - 26 April 2018

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## Council OPEN MINUTES

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Minutes of a meeting of the Council held in Council Chamber, Municipal Building, Garden Place, Hamilton on Thursday 26 April 2018 at 9.30am.

### 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 R Hamilton

In Attendance: Richard Briggs - Chief Executive

Governance Staff: Lee-Ann Jordan – Governance Manager

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#### 1. Apologies

**Resolved:** (Crs Mallett/Hamilton)

That the apologies from Crs Bunting and Casson are accepted.

#### 2. Confirmation of Agenda

**Resolved:** (Cr Mallett/Tooman)

That the agenda be confirmed noting the following;

- a) that the debate will be 2 minutes with an extension of 1 minute if required;
- b) attachment 1 (CCs Draft Submission to the Draft 2018 Governments Policy Statement on Land Transport) for Item 5 (HCCs Draft Submission to the Draft 2018 Governments Policy Statement on Land Transport) has been circulated under separate cover; and
- c) the late item 6 (Submission – The sale and Supply of Alcohol [Renewal of Licences] Amendment Bill No.2) be accepted. This item has been brought as a late report to allow the Council to consider whether to make a submission on ‘The sale and Supply of Alcohol [Renewal of Licences] Amendment Bill No.2’.

### 3. Declarations of Interest

No members of the Council declared a Conflict of Interest.

### 4. Public Forum

No members of the public wished to speak.

### 5. HCC's Draft Submission to the Draft 2018 Government Policy Statement on Land Transport

The General Manager City Infrastructure presented the report and sought the Council's feedback on the draft submission.

**Resolved:** (Crs Macpherson/ Taylor)

That the Council:

- a) receives the report;
- b) approves HCC's draft submission to the Draft 2018 GPS on Land Transport and delegates the General Manager, Chair and Deputy Chair of the Growth and Infrastructure to finalise the content of the Council's submission to reflect the amendments requested at today's meeting in relation to:
  - i. 3.4 to provide the Council with a greater role in safety camera deployment and use
  - ii. 4.9 to include explicit reference to Southern Links and the importance of access for this area
  - iii. 4.9 to support any approach that improves the safety and future-proofing of the transport corridor to Tauranga and Taupo
  - iv. 4.9 to include the word 'successful' in the last sentence "...and the City has made a successful application to the Housing Infrastructure Fund (HIF).."
  - v. 7.0 transitional rail to advocate for ongoing improvements in the rail network (freight and commuter)
  - vi. noting support for an integrated metropolitan centres' public transport network and support for improvements to Auckland's public transport system
  - vii. noting Hamilton City Council's recent investment in land for rail infrastructure
  - viii. noting support for the Government's aspirations for a Vision Zero approach and Hamilton City Council's adoption of this direction for our transport activities
  - ix. shifting 4.2 and 4.3 earlier in the document.
- c) notes the approved submission will sent to the NZ Transport Agency by 2 May 2018; and
- d) notes the approved submission will then be uploaded to HCC's website.

### 6. Submission - The Sale and Supply of Alcohol (Renewal of Licences) Amendment Bill (No.2)

The Corporate Policy Specialist presented the late report seeking Council's direction on making a submission on the Sale and Supply of Alcohol (Renewal of Licences) Amendment Bill (No.2).

Elected Members noted that:

- the Bill did not go far enough in addressing Council's concerns about the appeal process;
- it would be good for Hamilton City Council to be included any LGNZ working groups on the Bill given its experience with developing of a local alcohol policy.

*Action Point: Staff undertook to prepare a draft submission to the 10 May 2018 Extraordinary Council meeting for consideration, and to seek input from Councillor O'Leary, Deputy Mayor Gallagher and Mayor King in preparing the document.*

**Resolved:** (Crs O'Leary/Pascoe)

That the Council:

- a) formally supports the local Government New Zealand submission supporting the Sale and Supply of Alcohol (Renewal of Licences) Amendment Bill (No.2); and
- b) requests the Chief Executive prepare a submission on the Council's behalf supporting the Sale and Supply of Alcohol (Renewal of Licences) Amendment Bill (No.2).

**The meeting was declared closed at 11.00am**

# Council Report

Item 7

**Committee:** Council

**Date:** 24 May 2018

**Author:** Amy Viggers

**Authoriser:** Becca Brooke

**Position:** Committee Advisor

**Position:** Governance Team Leader

**Report Name:** Confirmation of Council Open Minutes - 10 May 2018

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<b>Report Status</b>	<i>Open</i>
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## Staff Recommendation

That the Council confirm the Open Minutes of the Council Meeting held on 10 May 2018 as a true and correct record.

## Attachments

Attachment 1 - Council Open Unconfirmed Minutes - 10 May 2018

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## Extraordinary Council

### OPEN MINUTES

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Minutes of a meeting of the Council held in Council Chamber, Municipal Building, Garden Place, Hamilton on Thursday 10 May 2018 at 9.42am.

#### 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 L Tooman
	Cr R Hamilton

In Attendance:

- Richard Briggs – Chief Executive
- Chris Allen – General Manager City Infrastructure
- Blair Bowcott – Executive Director Special Projects
- Lance Vervoort – General Manager Community
- Jen Baird – General Manager City Growth
- Sean Hickey – General Manager Strategy and Communication
- Andrew Parsons – City Development Manager
- Elizabeth McKnight – Project Manager City Planning
- Paul Bowman - Team Leader Economic Growth and Urban Policy
- Claire Douglas – Intermediate Planner
- Alisa Neal – Planner
- Mark Roberts – Senior Planner
- Fraser McNutt – Acting Planning Guidance Unit Manager
- Greg Carstens – Acting Unit Manager Economic Growth and Planning
- Nicola Walsh – Communications Advisor
- Stafford Hodges – Analyst
- Jackie Collier – Strategic Infrastructure Manager
- Lisa Topscov – Partnership and Sponsorship Manager

Lachlan Muldowney (Council Lawyer)  
Luke O’Dwyer (Beca Consultant)

Governance: Lee-Ann Jordan – Governance Manager  
Beca Brooke – Governance Team Leader  
Amy Viggers – Committee Advisor

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*Tame Pokaia carried out a blessing and Rev Stephen Black a reading to open the Council Meeting.*

*A minute's silence was observed to acknowledge the passing of Tony Steele, former MP and former Boys High Principal.*

## 21. Apologies

**Resolved:** (Crs Bunting/Hamilton)

That the apologies from Cr Taylor and Cr Southgate (early departure) are accepted.

## 22. Confirmation of Agenda

**Resolved:** (Crs Casson/Tooman)

That the agenda be confirmed noting the following;

- that the debate will be 2 minutes with an extension of 1 minute if required;
- attachment 1 (*HCCs Draft Submission to the Sale and Supply of Alcohol (Renewal of Licences) Amendment Bill (No.2)*) for Item 10 (*Submission (Approval) - Sale and Supply of Alcohol (Renewal of Licences) Amendment Bill (No.2)*) has been circulated under separate cover;
- that item C1 (*Special Housing Area Application - Rotokauri North - Statement of Intent*) is to be taken during item 5 (*Special Housing Area Application - Rotokauri North*) to allow Council to finalise the Statement of Intent (SOI); and
- that the late item (*10 Year Plan Hearings Process*) be added to the agenda as minor item as per Standing Order 3.5.7.; this item was unable to be taken at another time due to availability of the City Solicitor.

## 23. Declarations of Interest

No members of the Council declared a Conflict of Interest.

## 24. Public Forum

**Paul Radich and Aaron Collier (Perry's Representatives)** - Spoke to Item 9 (Special Housing Area Policy Review Update), They advised that Perry's were supportive of SHAs in general. They agreed that the policy should include affordability measures but thought that further changes were needed to the policy to enable a more streamlined process to facilitate the delivery of fast, efficient housing developments.

**Norm Hill (Tangata Whenua Working Group Representative)** - Spoke to Item 9 (Special Housing Area Policy Review Update). Mr Hill noted that Tangata Whenua supported the advancement of the SHA policy as it encouraged the provision of affordable housing.

**Thomas Gibbons & Katherine Wilson (Property Council NZ Representatives)** - Spoke to Item 9 (Special Housing Area Policy Review Update). They supported the advancement of the SHA Policy as it provided an opportunity to respond to high growth and increased housing needs in Hamilton.

## 25. Special Housing Area Application - Rotokauri North

Luke O'Dwyer (Consultant to Council) introduced the report noting that any issues to do with the Statement of Intent for this application would be dealt with in the public excluded session of the meeting. He summarised the main points outlined in the report and noted that the objections to the SHA had been included in the report. He responded to questions from Elected Members concerning the following:

- Discussions between the developer, Council and Ministry of Education regarding the need for schools in the area and possible locations.
- Types of housing and possible risks such as the impact of affordability on good urban design.
- The difference between the intended Private Developers Agreement and the Statement of Intent.
- The process once a Special Housing Area Application is approved, including when Council will consider issues such as the sensitive catchment area, storm water and erosion.
- Public Transport.
- Further costs to Council and decision making around the process.

*The meeting went into a Public Excluded session at 10.42am during the discussion of the above Item.*

## 11. Resolution to Exclude the Public

**Resolved:** (Mayor King/ Cr Bunting)

### 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. Special Housing Area Application - Rotokauri North - Statement of Intent	) 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 C1.	to enable Council to carry out commercial activities without disadvantage	Section 7 (2) (h)
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*The meeting came back into an open session and adjourned (11.35am – 11.50am) before continuing with the resolution for Item 5 (Special Housing Area Application - Rotokauri North) as below.*

## CONTINUED – Item 5 (Special Housing Area Application – Rotokauri North)

**Resolved:** (Mayor King/Cr Southgate)

That the Council:

- a) receives the report;
- b) delegates authority to the Chief Executive to:

(i) finalise and sign a Statement of Intent (SOI) around how, at a high level, key infrastructure is to be provided and funded in accordance with the Hamilton SHA Policy and the Growth Funding Policy 2016;

(ii) ensure that the final SOI is updated prior to signing as follows:

- a) Includes specific clarification on the land ownership and control exercised by MADE;
- b) Clause 2.11 is extended to cover a plan change scenario also; and
- c) Plus any other consequential changes to the SOI arising from these discussions;

(iii) negotiate with the developer, prior to lodging any qualifying development consent, and recommend to Council a Private Development Agreement (PDA) to secure detailed provisions on necessary infrastructure development and funding in accordance with the signed SOI, the SHA Policy and the Growth Funding Policy 2016;

- c) recommends to the Minister for Housing and Urban Development, pursuant to section 17 of the Housing Accords and Special Housing Areas Act 2013, that a Special Housing Area be established over Rotokauri North listed by the land parcels identified on the proposed SHA map set out in **Attachment 1**, subject to a SOI agreement being concluded in accordance with the terms established in recommendation b) above;
- d) confirms, for the purpose of section 16 of the Housing Accords and Special Housing Areas Act, that it is satisfied there is:
  - evidence of demand to create qualifying developments in the SHA
  - demand for residential housing in the SHA
  - adequate infrastructure, either existing or likely to exist, to service the proposed Special Housing Area; and
- e) recommends to the Minister for Housing and Urban Development, pursuant to section 17 of the Housing Accord and Special Housing Areas Act 2013, that the Special Housing Area has the prescribed criteria as follows:
  - the maximum calculated height of dwellings shall be 11m in the residential zones except in the local neighbourhood centre identified in the attached master plan and within a 400m radius of this centre where the maximum calculated height shall be 14m;
  - the SHA shall not contain fewer than 1450 dwellings;
  - the SHA shall not contain less than 40% of affordable dwellings as defined in the SOI.

## 26. Special Housing Area Application - Eagle Way, Te Rapa

The Team Leader Economic Growth and Urban Policy introduced objector Basil Dunn (Riverlea Trust and Riverlea Group Ltd Representative) who outlined their group's objection to the proposed SHA application for Eagle Way, Te Rapa. Mr Dunn noted that the group was open to further discussions with Council and the developer to mitigate issues raised if the application was

approved. Staff and Mr Dunn responded to questions from Elected Members concerning mitigations to manage the level of noise generated from the business and roading congestion concerns.

The Applicant, Rob Dol and Andrew Wood, then spoke to their application. They responded to questions from Elected Members concerning: infrastructure funding, the design of the development to be completed during the next stage, and research on the effect on traffic flow in the area.

The Team Leader Economic Growth and Urban Policy took the report as read. Staff responded to questions from Elected Members concerning the rights of current businesses in the area, and the technical specifications and design which were to be reviewed during the qualifying development stage.

**Resolved:** (Mayor King/Cr Casson)

That the Council:

- a) receives the report;
- b) delegates authority to the Chief Executive to:
  - finalise and sign a Statement of Intent (SOI) around how, at a high level, key infrastructure is to be provided and funded in accordance with the Hamilton SHA Policy and the Growth Funding Policy 2016;
  - negotiate with the developer, prior to lodging any qualifying development consent, and recommend to Council a Private Development Agreement (PDA) to secure detailed provisions on necessary infrastructure development and funding in accordance with the signed SOI, the SHA Policy and the Growth Funding Policy 2016;
- c) recommends to the Minister for Housing and Urban Development, pursuant to section 17 of the Housing Accords and Special Housing Areas Act 2013, that a Special Housing Area be established over Eagle Way, Te Rapa, listed by the land parcels identified on the proposed SHA map set out in **Attachment 1**, subject to a SOI agreement being concluded in accordance with the terms established in recommendation b) above;
- d) confirms, for the purpose of section 16 of the Housing Accords and Special Housing Areas Act, that it is satisfied that there is:
  - evidence of demand to create qualifying developments in the SHA;
  - demand for residential housing in the SHA;
  - adequate infrastructure, either existing or likely to exist, to service the proposed Special Housing Area; and
- e) recommends to the Minister for Housing and Urban Development, pursuant to section 17 of the Housing Accord and Special Housing Areas Act 2013, that the Special Housing Area has prescribed criteria as follows:
  - the maximum calculated height of dwellings shall be 11m;
  - the SHA shall not contain fewer than 150 dwellings;
  - the SHA will not contain less than 40% of affordable dwellings as defined in the paragraphs 60-64 of the staff report.

**The meeting adjourned 1.15pm – 1.56pm.**

*Cr Southgate left the meeting during the above adjournment.*

## 27. Special Housing Area - Gilbass Avenue/Quentin Drive, Hamilton Lake.

Team Leader Economic Growth and Urban Policy introduced objector Arama Puriri, Chairman of the Gilbass Avenue, Rimmington Drive, Hastings Place Residents Incorporated Society. Mr Puriri noted that the society had some concerns excess water and run off effect onto neighbouring homes particularly on Hastings Place and Gilbass Avenue. They were also concerned about increased traffic using the access and alley ways. Mr Puriri responded to questions from Elected Member concerning the Society's views on the use of the alley ways to access the areas.

The Applicant, Bevan Houlbrooke and Rob Dol then spoke to the application and addressed concerns around storm water being contained on the site. They also noted that they had changed the access ways in response to concerns from residents and direction from Council and NZTA. They noted that the purpose of Special Housing Areas was to increase affordable housing and their application addressed this need. They responded to questions from Elected Members concerning the access way, parking issues, and the design of the development.

Team Leader Economic Growth and Urban Policy took the report as read noting yield would be determined prior to the Private Developers Agreement being brought to Council. He responded to questions from Elected Members concerning infrastructure and design that were to be reviewed at the qualifying development stage, access ways, the industrial zoning of the area, and NZTA roading preferences.

**Resolved:** (Deputy Mayor Gallagher/Cr Macpherson)

That the Council:

- a) receives the report;
- b) delegates authority to the Chief Executive to:
  - finalise and sign a Statement of Intent (SOI) around how, at a high level, key infrastructure is to be provided and funded, including consideration of cycling and pedestrian access to Gilbass Avenue, in accordance with the Hamilton SHA Policy and the Growth Funding Policy 2016;
  - negotiate with the developer, prior to lodging any qualifying development consent, and recommends to Council, a Private Development Agreement (PDA) to secure detailed provisions on necessary infrastructure development and funding in accordance with the signed SOI, the SHA Policy and the Growth Funding Policy 2016;
- c) recommends to the Minister for Housing and Urban Development, pursuant to section 17 of the Housing Accords and Special Housing Areas Act 2013, that a Special Housing Area be established over Gilbass Avenue/Quentin Drive, Hamilton Lake, listed by the land parcels identified on the proposed SHA map set out in **Attachment 1**, subject to a SOI agreement being concluded in accordance with the terms established in recommendation b) above;
- d) confirms, for the purpose of section 16 of the Housing Accords and Special Housing Areas Act, that it is satisfied that there is:
  - evidence of demand to create qualifying developments in the SHA;
  - demand for residential housing in the SHA;
  - adequate infrastructure, either existing or likely to exist, to service the proposed Special Housing Area; and

e) recommends to the Minister for Housing and Urban Development, pursuant to section 17 of the Housing Accord and Special Housing Areas Act 2013, that the Special Housing Area has prescribed criteria as follows:

- the maximum calculated height of dwellings shall be 10m;
- the SHA shall not contain fewer than 15 dwellings;
- the SHA shall not contain less than 40% of affordable dwellings as defined in paragraphs 68-72 of the staff report.

**The Motion was put.**

**Those for the Motion:**

Mayor King, Councillors Gallagher, Pascoe, Macpherson, Bunting and Hamilton.

**Those against the Motion:**

Councillors Mallett, Tooman, O'Leary, Casson and Henry.

**The Motion was declared carried.**

*Item 9 (Special Housing Area Policy Review Update) was taken next to accommodate staff availability.*

**9. Special Housing Area Policy Review Update**

Executive Director Special Projects introduced the report. He noted that the purpose of the update was to advise Council that the Special Housing Area Policy was currently being reviewed in accordance with the intentions of the Government's KiwiBuild Housing scheme. A further report would come back to the Council once central government's position had been publicly announced. Staff responded to questions from Elected Members concerning what was known about central government's direction in response to flexibility and growth issues, and how the current Special Housing Area applications may be affected by a policy change.

*Action Point: Staff undertook to provide Elected Members with an update at a future Elected Member Briefing.*

**Resolved:** (Mayor King/Deputy Mayor Gallagher)

That the Council:

- a) receives the report;
- b) notes that an updated Special Housing Area Policy will be brought to Council for approval once the details of the Government's KiwiBuild housing scheme have been publicly released; and
- c) notes that amendments to the Special Housing Area Policy will be based on the principles outlined in the report in paragraph 20.

*Cr Southgate re-joined the meeting (3.25pm) during the discussion of the above item. She was present when the matter was voted on.*

## 12. Late (Minor Item) - 10 Year Plan Hearings Process - Verbal Update

Lachlan Muldowney, Council's lawyer, provided clarification and legal advice around the process for the draft 10 Year Plan and Consultation and Hearings process. He noted that his view was that Council had followed a robust process in terms of the Local Government Act. He addressed concerns raised around confusion on some of the consultation questions. He was confident that staff were undertaking the necessary steps to address the confusion and that Council were in a legally robust position.

He responded to questions from Elected Members concerning the redaction of swear words and profanities, and further communications to submitters advising of the potential confusion in relation to question 8 on the consultation.

**Resolved:** (Cr Southgate/Cr Bunting)

That Council requests staff send an email to all submitters advising of the possible confusion in relation to question 8 on the consultation document suggesting they may wish to review their submission in light of this and email staff with any corrections.

**The Motion was put.**

**Those for the Motion:** Deputy Mayor Gallagher, Crs Pascoe, Bunting, Casson and Southgate.

**Those against the Motion:** Mayor King, Councillors Mallett, Tooman, Macpherson and Hamilton.

**The Motion was declared equal.**

**The Chair exercised his casting vote and the motion was declared carried.**

*The meeting adjourned 4.19pm – 4.25pm during the debate of the above item.*

*Crs O'Leary and Henry retired from the meeting (4.15pm) during the debate of the above item. They were not present when the matter was voted on.*

*Cr Mallett retired from the meeting (4.40pm) at the conclusion of the above item. He was present when the matter was voted on.*

## 8. Tourism Infrastructure Fund

The General Manager Community took the report as read.

**Resolved:** (Mayor King/Cr Hamilton)

That the Council:

- a) receives the report;
- b) approves applications to be submitted to the May 2018 Tourism Infrastructure Fund for:
  - i. Hamilton Gardens - toilet in the new development area; and

- ii. River Plan projects - construction and upgrading of the river promenade (revetment upgrade); construction of a new jetty; paths to connect river to the Waikato Museum; and boardwalks connecting the Waikato Museum to Victoria on the River; and
- c) receives a report to the next funding round reconsidering the Waiwhakareke and Te Awa projects.

**28. Submission (Approval) - Sale and Supply of Alcohol (Renewal of Licences) Amendment Bill (No.2)**

The report was taken as read.

**Resolved:** (Mayor King/Cr Macpherson)

That the Council approves the submission supporting the Sale and Supply of Alcohol (Renewal of Licences) Amendment Bill (No.2) be submitted from the Council (Attachment 1).

**The meeting was declared closed at 4.56pm.**

# Council Report

Item 8

**Committee:** Council **Date:** 24 May 2018  
**Author:** Lee-Ann Jordan **Authoriser:** Lee-Ann Jordan  
**Position:** Governance Manager **Position:** Governance Manager  
**Report Name:** Confirmation of Elected Member Briefing Notes - Open - 26 April 2018

<b>Report Status</b>	<i>Open</i>
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## Staff Recommendation

That the Council confirm the open notes of the Elected Member Briefing held on 26 April 2018 as a true and correct record.

## Attachments

Attachment 1 - Elected Member Briefing Notes - 26 April 2018

## Elected Member Briefing Notes – 26 April 2018 – Open Session

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<b>Date:</b>	26 April 2018
<b>Venue:</b>	Committee Room 1, Hamilton City Council
<b>In Attendance:</b>	Mayor King, Deputy Mayor Gallagher, Crs Hamilton, Henry, Macpherson, Mallett, O'Leary, Pascoe, Southgate, Taylor, Tooman
<b>Apology for Full Session:</b>	Crs Bunting and Casson
<b>Apologies for Part Session:</b>	Deputy Mayor Gallagher, Crs Mallett and Taylor

### Discussion

The briefing session covered the following topics in the open session:

1. Delegations to Housing Accords and Special Housing Areas Act (HAASHA) prior to hearings
2. Sport and Recreation: Strategic Direction
3. TIF Prioritisation
4. Growth Assumptions
5. Peacocke Affordability
6. Bill amendments affecting Local Government in relation to online voting

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

**1. Delegations to Housing Accords and Special Housing Areas Act (HAASHA) prior to hearings**  
(*presentation was provided*)

The General Manager City Growth and the Acting Unit Manager Planning Guidance presented information to Elected Members on the context and background to HAASHA, the Council's responsibilities, duties and powers under the Act, and options for delegations under the Act.

They responded to questions from Elected Members on the following:

- Order/process for managing applications and decisions including central government's role
- Differences between the District Plan, Resource Management Act and HAASHA
- The pro's and cons of decision-making via either an Accord Territorial Authority Panel or staff delegations and an independent commissioners panel
- Protections for affected parties
- The Jepson Place application
- Ensuring housing affordability
- Provision of appropriate green space and managing for good design

*Staff were asked to ensure that the report to Council on this matter addressed what limits there are on the Council in terms of notifications.*

**2. Sport and Recreation: Strategic Direction**  
(*presentation was provided*)

The Policy and Strategy Advisor - Social Development and Recreation introduced the item which was seeking Elected Member input into the development a sport and recreation strategy for the city that integrated sport and recreation planning with other areas/functions of Council (e.g.

transport initiatives). Elected Members participated in an exercise facilitated by staff to capture their ideas and priorities for activities, facilities and initiatives that should be considered in preparing the strategy. The draft strategy is expected to be ready for consideration by Council in April 2019.

Staff responded to questions from Elected Members regarding:

- The difference between recreation and sport
- National, regional and local planning contexts
- The rationale for the strategy
- The use of data and responses to changing trends
- What was in and out of scope
- Partnerships/relationships, multi-use and share facilities
- Investment options and funding opportunities
- Optimising Council's ability to be responsive.

### 3. TIF Prioritisation

*(presentation was provided)*

This item was presented by the Partnership & Sponsorship Manager – Major Projects and the Key Projects Programme Manager, Parks and Open Spaces. They provided an update on the projects assessed for eligibility for the Tourism Infrastructure Fund and sought Elected Members' direction regarding applications for this funding round. There would be more rounds to come.

Staff responded to questions from Elected Members concerning:

- Metrics/data for the Zoo/Waiwhakareke walkway and River Plan projects
- How specific applications needed to be
- Eligibility of the Te Awa River Ride project
- Criteria and approach for ranking Council's projects
- Pro's and cons of submitting multiple applications.

### 4. Growth Assumptions

*(presentation provided)*

The General Manager City Growth and the Executive Director Special Projects presented an update on growth assumptions. They responded to questions from Elected Members regarding:

- Projections data - NIDEA versus NZ Stats medium
- Implications for SHAs and the National Policy Statement targets
- Supply versus demand and existing and potential capacity
- Data on household units
- Timing for opening new growth cells

### 5. Peacocke Affordability

*(presentation was provided)*

Stephen Halliwell, financial consultant, provided modelled data on the contribution of Peacocke over 10 years to 'everyday costs'. The information had been previously requested by some councillors. Elected Members asked questions relating to:

- The definition of everyday costs
- Which rating system was assumed in the modelling
- The impacts of other rating system options
- Implications if the development did not proceed as projected
- Risks related to the modelling

- What was/was not included in the modelling.

#### 6. Bill amendments affecting Local Government

##### **Online voting:**

Hamilton City Council's Electoral Officer Dale Ofsoske presented this item to inform Elected Members about proposed legislation to enable councils to trial online voting for the 2019 local authority elections. Mr Ofsoske provided background on the cancelled 2016 online voting trial and Council's decision not to participate. He also provided information on the current national proposal, the steps involved, possible costs, and the potential advantages and disadvantages for the Council of participating in a trial (if it went ahead) in 2019.

Mr Ofsoske responded to questions from Elected Members on:

- What had changed since 2016
- Selecting voter cohorts for the trial
- Estimated costs
- Who determines which councils will participate and which councils had expressed interest
- Timeframes
- Costs and options for international and local providers
- LGNZ/SOLGM support for the trial
- How the Council could participate in national discussions on this matter
- Impact on low voter turnout.

*Staff were asked to bring a report on considerations related online voting to the next Council meeting.*

##### **Proposed changes to Significance and Engagement:**

The General Manager Strategy noted that the Bill introduced a change back to the four well-beings. This would mean that Council's policy would need a minor change should the Bill pass into legislation, however he did not think there was any need for the Council to submit on the Bill. Elected Members asked about the cost to the ratepayers of introducing the four well-beings.

# Council Report

Item 9

**Committee:** Council **Date:** 24 May 2018  
**Author:** Rebecca Watson **Authoriser:** Becca Brooke  
**Position:** Committee Advisor **Position:** Governance Team Leader  
**Report Name:** Confirmation of Elected Member Briefing Notes - Open - 1 May 2018

<b>Report Status</b>	<i>Open</i>
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## Staff Recommendation

That the Council confirm the open notes of the Elected Member Briefing held on 1 May 2018 as a true and correct record.

## Attachments

Attachment 1 - Unconfirmed Members Briefing Notes - 1 May 2018

## Elected Member Briefing Notes –1 May 2018 – Open

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<b>Time and date:</b>	1 May 2018 at 9.40am
<b>Venue:</b>	Committee Room 1, Hamilton City Council
<b>In Attendance:</b>	Mayor King, Deputy Mayor Gallagher, Crs Tooman, Mallett, Henry, Casson, Bunting, Pascoe, Hamilton, Southgate, Macpherson
<b>Apology for Full Session:</b>	Cr O'Leary
<b>Apologies for lateness/early departure:</b>	Deputy Mayor Gallagher, Cr Southgate

### Discussion

The briefing session covered the 2018-28 10-Year Plan submission process overview in the open session.

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

#### 1. 2018-28 10-Year Plan submissions process overview (Presentation was provided)

The Programme Manager Strategy spoke about the process for submissions to the 2018-28 10-Year Plan, including key dates. She noted that formal submissions closed on 30 April 2018, and there have been 1696 submissions received, although more submissions will be received via post and drop-ins for a further few days.

Staff will collate key messages from the submissions received and circulate to Elected Members, staff, and the media. A link to all the submissions will be published on the Hamilton City Council website by Friday 4 May 2018.

A small team made up of Mayor King, Deputy Mayor Gallagher, Crs Pascoe and Taylor will review the submission document for layout and ease of viewing.

Elected Members asked questions in relation to the following:

- The types of data being shown in the overview of submissions
- The redaction of names and contact details of submitters
- The number of verbal submitters to be heard and the time available for each submitter
- Process for Elected Members to be a part of discussions when there are conflicts with schedules
- Ability to group submitters together so common themes of submissions can be heard in the same 90 minute slot
- Provisions of food and breaks for staff, Elected Members and visitors to manage the late evenings during the submissions process
- Time available for a Chief Executive's submission to be provided towards the end of the hearings process

# Council Report

Item 10

**Committee:** Council  
**Author:** Amy Viggers  
**Position:** Committee Advisor  
**Report Name:** Chair's Report - 24 May 2018

**Date:** 24 May 2018  
**Authoriser:** Becca Brooke  
**Position:** Governance Team Leader

<b>Report Status</b>	<i>Open</i>
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## Recommendation

That the Council:

- a) receives the report;
- b) notes staff will report on the Master Plan process at the June 2018 Community and Services Committee;
- c) approves the deferral of Te Rapa Sportdrome and the Memorandum of Understanding with the Excite Trust report until the negotiations have been finalised; and
- d) approves 50% of the cost of the LGNZ 2018 Conference registration fee for any Elected Member attending the conference from the budget for *Conferences by Resolution*.

## Attachments

Attachment 1 - Chair's Report - 24 May 2018



# Chair's Report

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## **Founders Theatre, Stadium Bowling and the future of the West Town Belt**

Following a briefing on 17 April 2018 about Founders Theatre, The Stadium Bowling facility and the future of the West Town Belt, it has been proposed that a Master Plan be developed for the entire area. Councillors will have a chance to input into this process, which is anticipated to be finished by the end of this calendar year. Staff will report back on the Master Plan process at the June 2018 Community and Services Committee.

## **Te Rapa Sportsdrome**

Negotiations with the preferred vendor for the management lease of Te Rapa Sportsdrome have become more complex than anticipated and the vendor has requested to alter the original proposal tendered to Council for the management of this site. Information on this will be brought to Council in a briefing on 26 June.

## **Exscite Trust**

The Memorandum of Understanding with the Exscite Trust was programmed for report back to Council this month. It was understood that negotiations with the Trust had been finalised and agreed on. However, further requests from the Trust require consideration. This report has therefore been deferred and will be brought to a forthcoming briefing 26 June 2018.

## **10 Year Plan Hearings**

I would like to thank the entire organisation for the hearings and consultation process. I know all staff have been part of the process directly or indirectly especially given the media coverage around the 10 Year Plan. I want to acknowledge Sean, Julie and the strategy team for the time and effort they have put in to get us to this stage in the 10 Year Plan Process.

## **LGNZ Conference**

For the upcoming LGNZ conference half the cost will be cover by the conference by resolution budget the remainder will be cover by elected members own conference budget.

## **Recommendation**

That the Council:

- a) receives the report;
- b) notes staff will report on the Master Plan process at the June 2018 Community and Services Committee;
- c) approves the deferral of Te Rapa Sportdrome and he Memorandum of Understanding with the Exscite Trust report until the negotiations have been finalised; and
- d) approves 50% of the cost of the LGNZ 2018 Conference registration fee for any Elected Member attending the conference from the budget for *Conferences by Resolution*.

Andrew King  
Mayor - Hamilton City Council  
Love Hamilton

# Council Report

Item 11

**Committee:** Council

**Date:** 24 May 2018

**Author:** Lee-Ann Jordan

**Authoriser:** Richard Briggs

**Position:** Governance Manager

**Position:** Chief Executive

**Report Name:** Chief Executive's Report

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<b>Report Status</b>	<i>Open</i>
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1. An update to the review of alternative Maaori representation options is attached.

## Staff Recommendation

2. That the Council approves the deferral of the staff report on Maaori representation options to August 2018.

## Attachments

Attachment 1 - Chief Executive Report - Maaori Representation Review

# Chief Executive Report

## Maaori Representation Review Update

1. At its meeting on 18 October 2017, the Council considered a report on options for Maaori representation. It resolved:
  - *To further explore Maaori governance representation options ('alternative representation models') other than Maaori wards and requests the Chief Executive to further investigate such alternative representation models including:*
    - *Consulting with key stakeholders (including Waikato-Tainui, Te Runanga o Kirikiriroa and Te Haa o te Whenua o Kirikiriroa); and*
    - *Assessing implications for the Council, including financial, legal, policy and process; and*
  - *That the additional work requested will align with the mid-term Governance Structure review, and that a report will be presented to the Council with recommended options before 30 May 2018.*
2. Staff have progressed the investigation of alternative representation models, as requested by the Council.
3. An update was provided to Elected Members at a Briefing on 12 April 2018, which noted the ongoing discussions with Maaori stakeholders to identify a meaningful representation structure enabling Maaori representatives to contribute their expertise to the Council's decision-making in the best interests of Hamilton.
4. Staff and Maaori stakeholders have participated in several productive hui to work through the many considerations relating to Maaori representation at a governance level, and good progress has been made.
5. As a result of those discussions both staff and our Maaori stakeholders have identified further work to be done before a report and recommendations can be brought to the Council. This work relates to evaluating and finalising related financials, logistics and processes. Our key stakeholders support the ongoing exploration of these matters at this time, in consultation with each other and Council staff.
6. As such, this item will now be presented for the Council's decision in August 2018, with a further update to Elected Members in the June Briefing. This adjusted timeframe also better aligns with the mid-term Governance Structure review being led by the Mayor's office, which is also expected to be reported to the Council in August.

### Staff Recommendation

That the Council approves the deferral of the staff report on Maaori representation options to August 2018.

# Council Report

Item 12

**Committee:** Council **Date:** 24 May 2018  
**Author:** Riki Manarangi **Authoriser:** Jen Baird  
**Position:** Corporate Policy Specialist **Position:** General Manager City Growth  
**Report Name:** Class 4 Gambling Venue Policy - Deliberation and Adoption Report

<b>Report Status</b>	<i>Open</i>
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## Purpose

1. To seek a decision from Council to continue with the existing Class 4 Gambling Venue Policy or to adopt the proposed Class 4 Gambling Venue Policy.

## Staff Recommendation

2. That the Council
  - a) receives the report and approves the proposed Class 4 Gambling Venue Policy for adoption

**OR**

  - b) receives the report and no amendments are made to the existing Class 4 Gambling Venue Policy.

## Executive Summary

3. The [Gambling Act 2003](#) (**the Act**) enables councils to control the growth of Class 4 gambling seeking to balance the potential harm from gambling with responsible gambling which ensures money from gambling benefits the community ([s3](#), the Act).
4. The Act requires all councils to have a Class 4 Gambling Venue Policy (**Policy**) ([s101\(1\)](#), the Act).
5. The policy must specify whether new Class 4 venues may be established and where they may be located, if existing venues can relocate, how many machines a venue may have once established/relocated, and what the primary activity of the venue must be.
6. The Council adopted its [existing Class 4 Gambling Venue Policy](#) (**existing policy**) on 29 September 2016 with a review date of September 2019.
7. The 8 August 2017 Community and Services Committee resolved for staff to bring back a report on the review of the Council's existing Policy.
8. The adoption of a new policy/amendment of the existing policy legislatively requires the Council to present a Statement of Proposal, consult for one month on the proposed policy and provide the opportunity for submitters to present their views in a spoken form.
9. At the 16 November 2017 Council meeting (refer to pages 21-74 of the [Agenda](#)), the proposed Class 4 Gambling Venue Policy (**proposed policy**) was approved for consultation.

10. The consultation resulted in a total of:
  - 74 written submissions received between 5 February 2018 and 5 March 2018;
  - 6 individuals heard at the 29 March 2018 Hui held at Kirikiriroa Marae;
  - 26 verbal submissions heard by the 24 April 2018 Hearings and Regulatory Committee **(the Committee)**.
11. Overall, submitters felt that the proposed policy was clear, although a majority of submitters stated that the proposed policy was too restrictive.
12. The Council has the option to adopt the proposed policy or not. The proposed policy is a sinking lid policy with no relocations or mergers permitted whereas the existing policy is a sinking lid policy only allowing for limited relocations and mergers.
13. If the proposed policy is not adopted, the existing policy will remain in place, but is scheduled to be reviewed by September next year.
14. Staff consider that the recommendations comply with the Council’s legal requirements.

### Background

15. The Act allows for the growth of Class 4 gambling to be controlled through councils. The Act seeks to balance the potential harm from gambling against facilitating responsible gambling, which ensures money from gambling benefits the community ([s3](#), the Act).
16. Under [s101\(1\)](#) of the Act, all councils are required to have a Class 4 Gambling Venue Policy (**policy**).
17. Under the policy, the Council is limited to whether new Class 4 venues may be established and where they may be located, if existing venues can relocate, how many machines venues may have once established/relocated, and what the primary activity of the venue must be.
18. The Council’s role in terms of Class 4 gambling is distinct from that of the Department of Internal Affairs (**DIA**) as outlined in the table below:

The Council’s Role	Department of Internal Affairs Role
<ul style="list-style-type: none"> <li>• Determine <b>New</b> Venue Consents (location and machines by applying the Class 4 policy)</li> <li>• Provide New Venue <b>Consents</b></li> </ul>	<ul style="list-style-type: none"> <li>• <b>Regulate Existing Venues</b></li> <li>• <b>Issue/Renew Venue Licences (upon receipt of application which includes Council’s venue consent).</b></li> </ul>

19. The Council adopted its [existing Class 4 Gambling Venue Policy](#) (**existing policy**) on 29 September 2016. The existing policy is a ‘sinking lid’ policy only allowing for limited relocations and mergers.
20. The 8 August 2017 Community and Services Committee resolved for staff to bring back a report on the review of the Council’s existing policy (refer to page 6 of the [minutes](#)).
21. The adoption of a new policy/amendment of the existing policy requires use of the special consultative procedure (**SCP**) under [s83](#) of the [Local Government Act 2002](#) (**LGA**) meaning that the Council is required to present a Statement of Proposal, consult on the proposed policy for one month and provide the opportunity for submitters to present their views in a spoken form.

22. The [Statement of Proposal](#) for the proposed policy was approved for public consultation at the 16 November 2017 Council meeting (refer to pages 21-74 of the [Agenda](#)).
23. [Public consultation](#) opened on 5 February 2018 and closed on 5 March 2018.
24. An invitation to provide feedback was emailed to Maaori organisations, Class 4 venues and contact's in the Council's consultation database (881 email addresses). The consultation was also advertised via Facebook (2,235 people reached), via a [Council Media Release](#) and was also a national news item on [Newshub](#).
25. The consultation resulted in a total of 74 submissions. A full copy of all submissions is accessible online [here](#). A majority, 56 out of 74 (76%), of the written submitters stated that the proposed policy was too restrictive.
26. A Hui was held at Kirikiriroa Marae with a majority of the six (6) attendees verbalising their view in favour of the proposed policy (refer to pages 27-28 for minutes of the Hui [here](#)).
27. The Committee heard 26 submitters who spoke to their written submission (refer to pages 21-28 of the [Agenda](#) for the staff report and the minutes can be found [here](#)).
28. Overall, submitters felt that the proposed policy was clear although a majority of submitters felt the proposed policy was too restrictive.
29. At the 24 April Hearing, the Committee requested that staff provide further information to enable the Council to make an informed decision during deliberations. This information is provided in the discussion section below and is in addition to or clarifies information provided to date.

## Discussion

30. **Harm**
31. Harm is defined under [s4](#) of the Act and means harm or distress of any kind arising from, or caused or exacerbated by, a person's gambling and includes personal, social, or economic harm suffered:
  - by the person; or
  - the person's spouse, partner, family, whanau, or wider community; or
  - in the workplace; or
  - by society at large.
32. The definition is broad as it includes personal, social and economic harm. Harm is also not confined to an individual, others can suffer harm as a result of a person's gambling.
33. Various reports referred to throughout the discussion section below provide further discussion around harm.

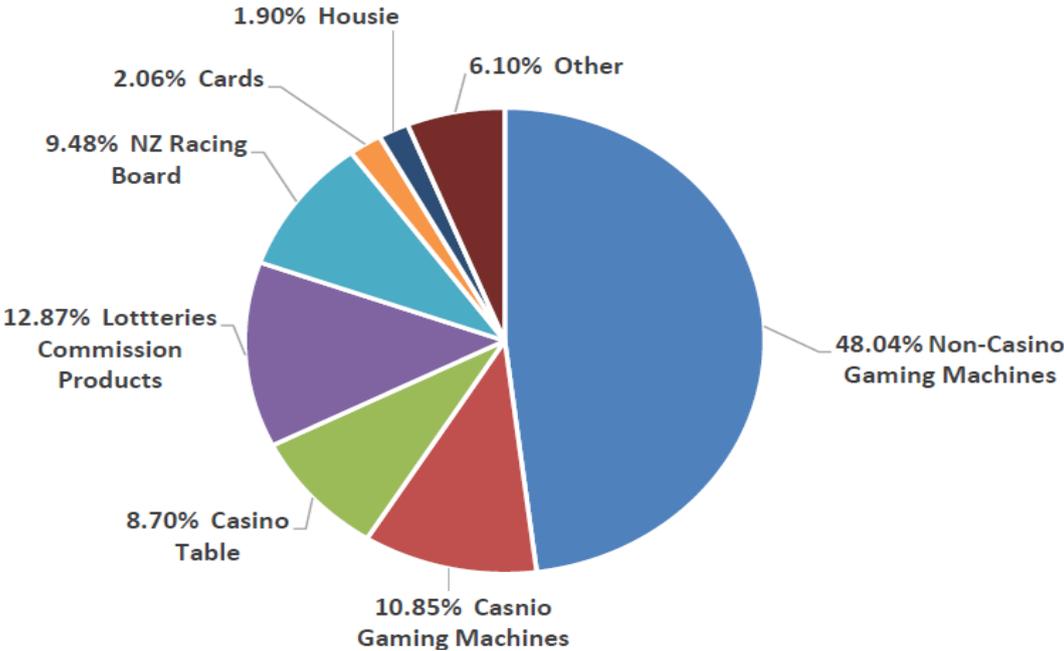
34. Problem Gambling Statistics
35. The category of gambler and meaning are discussed throughout the [Health Promotion Agency Gambling Report – Results from the 2016 Health and Lifestyles Survey \(February 2018\)](#) report (**the HPA Report**) and the [Ministry’s Problem Gambling in New Zealand \(Preliminary findings from the New Zealand Health Survey \(July 2011 to March 2012\)\)](#) report (**the Ministry’s Health Survey Report**). The categories are summarised and outlined in the table below:

Category	Meaning
Recreational/Non-problem gamblers	People who are gambling recreationally and are experiencing no self-reported harms.
Low-risk gamblers	People who may be experiencing some degree of harm or negative consequences from their gambling. For example, they may very occasionally spend over their limit or feel guilty about their gambling.
Moderate-risk gambler	People who are likely to be experiencing some harm leading to negative consequences. For example, they may sometimes spend more than they can afford, lose track of time or feel guilty about their gambling.
Problem gambler	Problem gamblers gamble with negative consequences and a possible loss of control. For example, they may often spend over their limit, gamble to win back money and feel stressed about their gambling

36. The [National Gambling Study Wave 3 \(2014\) Report No. 5](#), that the Ministry of Health (**the Ministry**) contracted Auckland University of Technology (**AUT**) to undertake, highlights the problem gambling rate was 0.3% of the adult (18+) population, 1.5% were moderate-risk gamblers and 5.0% were low-risk gamblers. The summary report can be found [here](#).
37. The [Ministry’s Health Survey](#) report found similar results that, in 2011/12, 0.3% of the adult (18+) population were reported as problem gamblers, 1.0% were reported as moderate-risk gamblers, 1.8% were reported as low-risk gamblers and the rest (97%) were either recreational or non-gamblers.
38. Records are kept by the Ministry of the number of people who seek help from problem gambling. During the most recent reported period (July 2016 to June 2017), the number of new clients assisted were 213 people and all clients assisted were 296 people in Hamilton City. These have been the lowest reported figures since 2006. More information can be found [here](#).

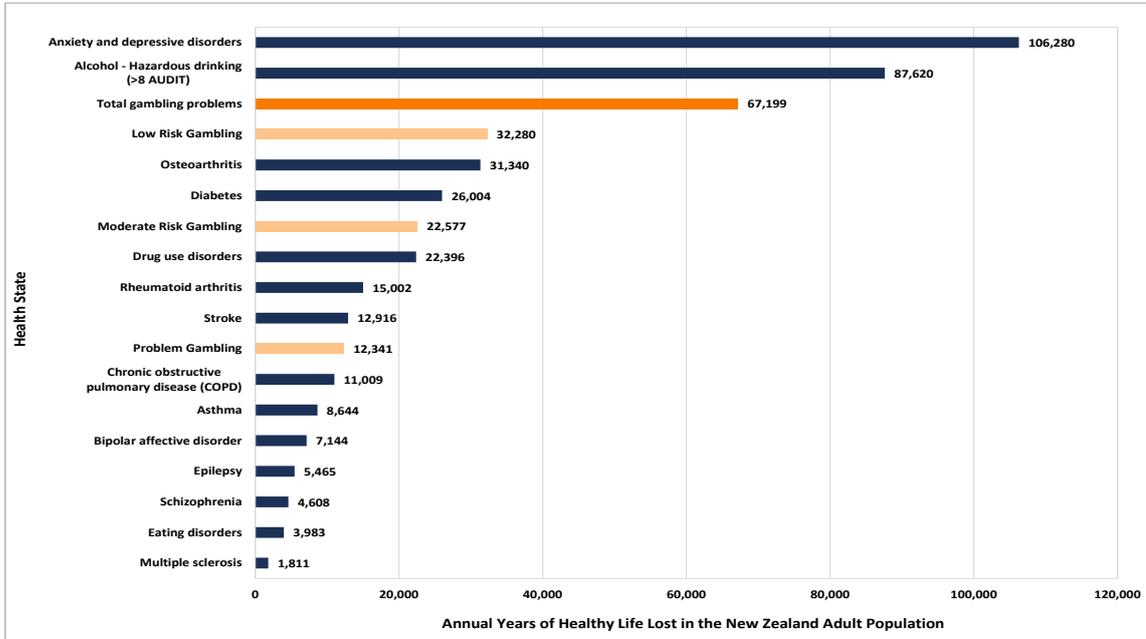
39. For the 2016/2017 financial year 48.04% of new clients assisted cited non-casino gaming machines (i.e. Class 4 gaming machines) as their primary gambling mode. The graph below highlights the comparison with other forms of gambling (more information can be found [here](#)):

**Primary Gambling Mode of New People Presenting for Problem Gambling / Intervention 2016 / 2017**



40. Gambling Harm vs Other Health States

41. The Ministry contracted Central Queensland University and AUT to provide the [Measuring the Burden of Gambling Harm in New Zealand \(2017\)](#) report which highlights the harm caused from gambling compared to other health states. The report outlines that gambling annually generates more ongoing harm in terms of years of healthy life lost than other key health conditions as highlighted in the graph below (refer to page 187 of the report). Note that the total gambling figure combines the low, moderate and problem gambling figures:



42. Problem Gambling and Smoking

43. In the [National Gambling Study: Gambling harm and problem gambling: Report No. 2 \(the Gambling Study Report No.2\)](#), problem gamblers who said they had smoked, more often (93.9%) reported having smoked 100 or more cigarettes than did non-problem (67.1%) and low-risk (68.7%) gamblers. Whereas over a half of adults (56.8%) and a similar proportion of non-problem gamblers (59.2%) who had smoked more than 100 cigarettes did not smoke currently, only 28.7% of problem gamblers and 24.7% of moderate-risk gamblers said they no longer smoked. However, more problem gamblers (86.4%) than non-problem (47.3%) and low-risk gamblers (45.0%) indicated that they had tried to get help to stop smoking (refer to page 88 of the report).

44. Problem Gambling and Alcohol

45. In [the Gambling Study Report No.2](#), over a third of adults (38.8%) who reported having a drink containing alcohol in the past year were classified as hazardous drinkers. Of the problem gamblers who drank alcohol in the past year, 59.6% were hazardous drinkers, compared to 23.7% of non-gamblers, 41.4% of non-problem gamblers, 53.2% of low-risk gamblers and 50.2% of moderate-risk gamblers (refer to page 90 of the report).

46. Problem Gambling and Other Drug Use
47. In [the Gambling Study Report No.2](#), the majority of adults (84.0%) said that they had not taken any of the listed substances during the past 12 months. Percentages are lower for low-risk (69.0%), moderate-risk (67.3%) and problem gamblers (52.8%). Around one in eight adults (13.3%), and similar numbers of non-gamblers and non-problem gamblers, reported using cannabis in some form during the past 12 months. Proportionately more problem gamblers (41.5%), moderate-risk (26.0%) and low-risk (28.8%) gamblers indicated that they used cannabis in the last 12 months. Problem gamblers and to some extent, moderate-risk and low-risk gamblers also reported higher use of other substances including ecstasy, amphetamines, party pills, stimulants and benzodiazepines (refer to page 89 of the report).
48. It must be noted that the statistics in the reports above relate to all gambling as the studies do not isolate Class 4 gambling from other forms of gambling.
49. **Harm Minimisation**
50. Below are the various instruments and organisations that play a role in harm minimisation.
51. Legislation
52. Part 2 (sub part 4, ss50-118) of [the Act](#) outlines the requirements specific to Class 4 gambling including licencing, consent and Class 4 gaming machine requirements. Part 4 (ss301-363) of [the Act](#) however deals with Harm Prevention, Minimisation and Enforcement. This includes admission to Class 4 venues, exclusion orders and offences for breach of problem gamblers, regulations relating to harm prevention and minimisation, minimum standards for gambling equipment, powers and functions of gambling inspectors.
53. The [Gambling \(Harm Prevention and Minimisation\) Regulations 2004](#) deals with premises that would be unsuitable for Class 4 venues, stake and prize limits for Class 4 gambling and restrictions on jackpot advertising at Class 4 venues.
54. The Department of Internal Affairs
55. The DIA monitors the gambling industry to ensure that the rules and regulations are followed and that all gambling is in accordance with the Act. As part of its regulatory role, the DIA addresses problem gambling through the regulation and enforcement of the supply of gambling opportunities and the manner in which they are provided. More information can be found [here](#).
56. The DIA has an [Approach to Compliance and Enforcement guideline](#) which outlines the DIA's high level approach to achieve in terms of minimising harm and their authority to cancel, amend, suspend or refuse renewal of licences.
57. The DIA has developed guidelines to assist societies in self-checking levels of compliance against the Gambling Act 2003 (the Act) and regulations relating to Harm Prevention and Minimisation. These guidelines can be found [here](#).
58. The DIA has [Internal Guidelines for Harm Prevention, Harm Minimisation and Responsible Gambling](#) (DIA Internal Guidelines). The DIA Internal Guidelines provide a framework in which the DIA can identify and determine appropriate regulatory responses to any harm prevention, harm minimisation and responsible gambling implications.

59. The Ministry of Health
60. The Ministry focuses on public health and on preventing and minimising harm caused by gambling. The Ministry is responsible for:
- funding and coordinating [national and local problem gambling services](#) (e.g. Salvation Army);
  - [raising public awareness of the risks of problem gambling](#);
  - [conducting research](#) about problem gambling in New Zealand to understand the harm gambling causes and identify approaches that will work best to address problem gambling.
61. National Gambling Goal/Strategy
62. Although there is no national Goal or Strategy such as the [Smoke-Free Aotearoa 2025](#) for gambling, the Act (under [s317](#)) requires the development of an integrated problem gambling strategy focused on public health. The Act states that the strategy must include:
- measures to promote public health by preventing and minimising the harm from gambling
  - services to treat and assist problem gambling and their families / whānau
  - independent scientific research associated with gambling
  - evaluation
63. As of 1 July 2016, the Ministry's work in this area is guided by its [Strategy to Prevent and Minimise Gambling Harm 2016/17 to 2018/19 \(the Ministry's Strategy\)](#), which sets out a high-level framework to guide the structure, delivery and direction of Ministry-funded problem gambling services and activities.
64. Corporate Societies and Venues
65. Corporate Societies are the Class 4 gaming machine societies or gaming trusts (e.g. Lion Foundation). As a part of their obligations under the Act, Corporate Societies provide gambling training to staff at Class 4 venues. Trainers discuss problem gambling and take staff members through harm minimisation practices as well as provide refresher and online training. Further information can be found [here](#) on an example corporate societies website (NZCT).
66. The [Health Promotion Agency](#), in partnership with the DIA and the Ministry, has developed a Gamble Host Pack (**GHP**) with resources to support venue staff meeting their host responsibility requirements. Resources in this pack include:
- Gambling Host Responsibility - Guidance for venue staff
  - Gambling Harm Reference Resources
  - Everyday Tips for Gambling Hosts
  - Posters and Leaflets
  - Gambling Harm Logbook Template
67. More information on the GHP can be found [here](#).
68. Problem Gambling Services
69. The [Problem Gambling Foundation](#) of New Zealand, [Salvation Army](#) and [Problem Gambling Helpline](#) provide free and confidential gambling counselling services for both gamblers and others affected by gambling.

70. **Class 4 vs Other Gambling**

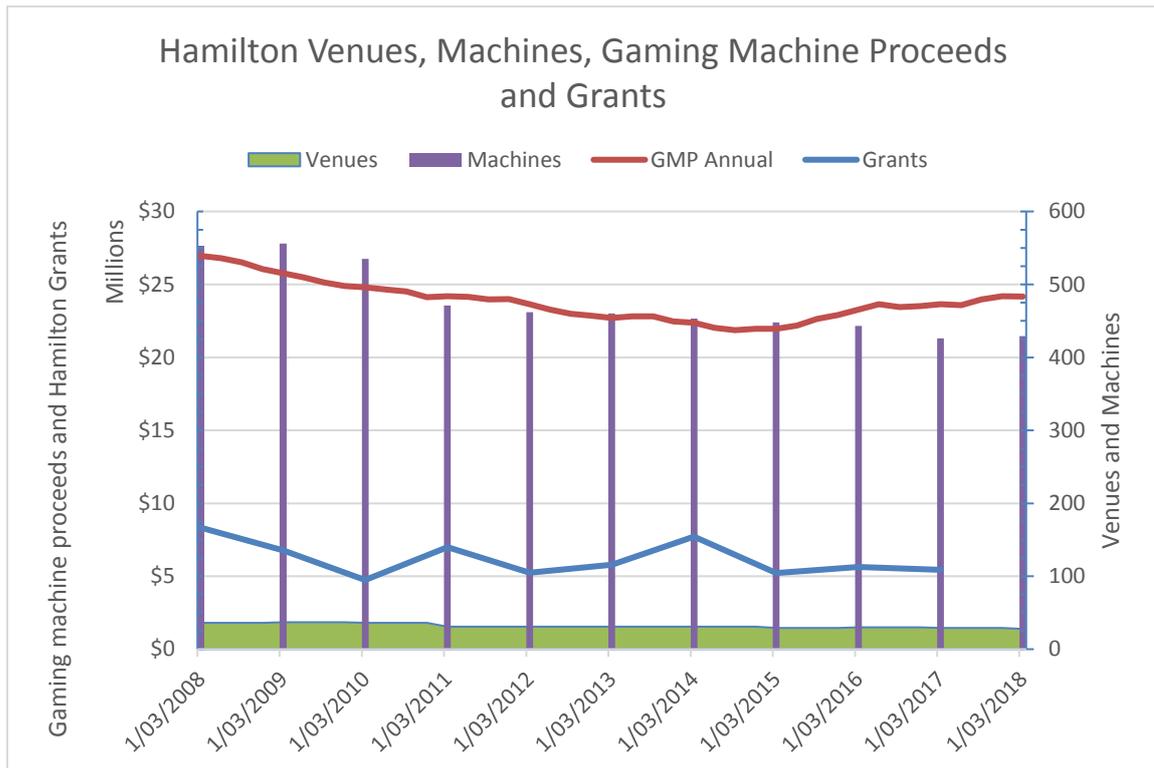
71. The DIA has gambling expenditure statistics which show the amount lost by gamblers (operator's profits) for the four main types of gambling activity – TAB racing and sports betting, New Zealand Lotteries products, gaming machines outside casinos (i.e. Class 4 gaming machines) and casino gambling between the financial years ending 2011-2017 as provided in the table below (more information can be found on DIA's website [here](#)):

<b>Reported Gambling Expenditure 2010/11 to 2016/17</b>							
Actual dollars (non-inflation adjusted) for gambling operators' financial year-end.							
	2010/11	2011/12	2012/13	2013/14	2014/15	2015/16	2016/17
	\$m						
NZ RACING BOARD (TAB)	\$273	\$283	\$294	\$310	\$325	\$342	\$338
NZ LOTTERIES COMMISSION	\$404	\$419	\$432	\$463	\$420	\$437	\$555
GAMING MACHINES (outside Casinos)	\$856	\$854	\$827	\$806	\$818	\$843	\$870
CASINOS	\$448	\$483	\$490	\$486	\$527	\$586	\$572
<b>TOTAL</b>	<b>\$1,982</b>	<b>\$2,038</b>	<b>\$2,042</b>	<b>\$2,065</b>	<b>\$2,091</b>	<b>\$2,209</b>	<b>\$2,334</b>

72. Compared to the other three main gambling activities, Class 4 accounts for the significant contribution to losses by gamblers for every year in the period reported.
73. NZ Racing Board
74. The [HPA report](#) highlights that participation in Racing Board products has significantly reduced since 2006/07. In the [Ministry's Strategy](#), the Ministry highlight that there has been smaller, less consistent, increases in spending on casino gambling and Racing Board Products while Class 4 gambling has generally declined for more than a decade.
75. The Racing Board distribute net proceeds to the community, in accordance with its [Sports Authorised Purpose](#). Up to 20% of its net proceeds are distributed under its Sports Authorised Purposes. In 2017, the racing board distributed \$15.5million to the community. More information can be found [here](#).
76. Lottery
77. In the [Ministry's Strategy](#), the Ministry acknowledges that only a minority participate in any gambling activity other than buying lotto products or raffle tickets. The Ministry highlights that 62% of adults had bought a Lotto ticket at least once but only 14% had played a Class 4 gaming machine at least once.
78. The Ministry also highlight in its Strategy that 17% of adults bought a lotto ticket at least once a week but that only 1.5% played a Class 4 gaming machine this frequently. The Strategy also acknowledges that while Class 4 gambling has generally declined for more than a decade, there has been a substantial increase in spending on Lotto products.
79. The [HPA Report](#) highlights that the most commonly reported form of gambling was buying Lotto tickets (55% of adults had purchased a lottery ticket at least once in the past year) compared to 10% of adults for Class 4 gaming machines. The HPA report however highlights that participation in Lottery products and Class 4 gaming machines has significantly reduced since 2006/07.
80. The Lottery Grants Board allocated in the 2016/2017 period \$235 million for distribution to the community. The Board's Annual report can be found [here](#).

81. Casinos
82. Part 2 (subpart 5, ss119-187) of [the Act](#) governs casinos. The DIA is responsible for the day-to-day regulatory activities such as setting minimum operating standards, game rules, and equipment standards for casinos. The [New Zealand Gambling Commission](#) considers casino operator's licence applications and hears appeals against decisions made by the Department. The DIA confirm that existing casinos cannot expand their gambling activities and no new casino venue licences can be issued. More information on what casinos can and cannot do can be found [here](#).
83. While Casinos in New Zealand operate to generate profits for their shareholders, which differs from the Class 4 revenue distribution model, licence conditions for casinos require payments to be made to independently established trusts for community funding. These requirements are set out in the respective casino's venue licence.
84. The DIA does not hold information on a casino's revenue distribution. However, each casino licence holder is required annually to provide the Gambling Commission with an audited statement certifying that 1.5% has been distributed.
85. [SKYCITY](#) Hamilton is licenced to operate up to 339 gaming machines. The DIA confirm that SKYCITY Hamilton currently is operating at its maximum gaming machines. For the year ended 30 June 2017, SKYCITY Hamilton Limited contributed NZ\$694,136 to the SKYCITY Hamilton Community Trust. Information on SKYCITY Hamilton's revenue distribution is available [here](#).
86. Online Gambling
87. The only organisations that are able to conduct remote interactive gambling (such as gambling via the internet and mobile phones) within New Zealand are the New Zealand Racing Board and the New Zealand Lotteries Commission.
88. While it is illegal to advertise overseas gambling in New Zealand, it is not illegal to participate in gambling on an overseas-based website or to gamble on overseas competitions and games.
89. Estimating the scale of online gambling by New Zealanders on offshore websites is difficult as there is no single authoritative data set. The [Offshore Racing and Sports Betting Working Group \(the Working Group\)](#) in 2015 commissioned [Infometrics](#) to review the estimates from a number of gambling expenditure studies. By assessing the methodology, sample size and information provided in the various studies, Infometrics concluded that:
- The number of New Zealand residents participating in online offshore betting in 2010/12 was probably about 22,900, and almost certainly between 20,000 and 26,000.
  - Assuming a 15% per annum growth in participation (weighting the very wide range of estimates in the available studies), participation in 2015 would have been around 40,000.
  - Total spending (net loss) in 2010-12 is estimated to have been about \$32 million, rising to \$58 million in 2015. The error margin on these figures is likely to be around  $\pm 20\%$ .
  - Over the period 2011 to 2015 the implied point to point annual growth rate in spending was about 16.2% per annum.
  - A reasonable forecast for future growth in spending over the next few years is about 11.5% per annum.
  - It seems likely that growth in spending will be slower than growth in participation because newer participants in offshore online betting are less likely than early adopters to be high spenders.

- 90. The [HPA report](#) states that, between 2010 and 2016, there has been no statistically significant rise, overall, in the proportion of respondents who gambled online on an overseas website. Overseas online gambling activities included betting on a horse/dog race through an overseas TAB or betting agency, internet bingo and online poker. There has, however, been a significant rise in the proportion of respondents who gambled on an overseas TAB or betting agency on either horse/dog racing or sports events between 2010 and 2016, from 0.5% to 2.1%.
- 91. Class 4 Statistics – Hamilton City
- 92. The following graph illustrates the trend of the venue numbers, gaming machines, gaming machine proceeds and grants to the community by data provided from the DIA for the last 10 years:



- 93. The graph outlines that there has been a decrease in Class 4 venues and machines over the 10-year period to date. There is no significant trend in annual gaming machine proceeds except that proceeds are less now than they were in 2008.
- 94. Grant data was provided by the DIA who aggregate the Corporate Societies reported community grants. For Hamilton, grant data excludes grants to multi-area recipients and NZ recipients where residents of Hamilton might benefit. Examples of multi-area grants include St John Ambulance, where a grant to a St John region will include ambulances in Hamilton but the grant is received elsewhere. An example of a NZ grant is a national sporting body, where participants of that sporting code in Hamilton benefit.
- 95. Return to Player (NZ vs Australia)
- 96. The percentage of money returned to players is known as percentage Return-to-Player (%RTP).
- 97. For (New Zealand) Class 4 gaming machines, the technical standards require the %RTP to be between 78% and 92%. In practice DIA confirm that most Class 4 gaming machines have a %RTP in the range of 86% to 91%.
- 98. The minimum and maximum %RTP for clubs and hotels (equivalent to Class 4) in Australia is between 85% and 99.99%, depending on the state. More information can be found [here](#) (refer to pages 77-81).

99. **Other Councils Policies (Relocations/Sinking Lids)**
100. A relocation policy, as defined in [s101\(4\)](#) of the Act, is a policy setting out if and when a Council will grant consent for a new venue to replace an existing venue within the district.
101. If councils adopt a relocation policy, or already have one in place, and consent to a venue relocation, the maximum number of machines permitted at the new venue would be the same as the number permitted at the original venue (up to a maximum of 18 machines). This means there is no increase overall in the number of Class 4 gaming machines.
102. As per the Waikiwi Tavern [2013] NZHC 1330 High Court decision, where the new location for a venue is a site that is very close to the existing site, the venue name will be the same and the ownership and management of the venue will be the same as in the original site, then the DIA may not deem that to be a change in venue or a relocation under the Act. In such cases machines allowed under the existing venue licence at the original site may be taken to the new site.
103. Staff are aware of two (2) councils that do not allow for relocations in their policy (Auckland City and Christchurch City councils) and 25 councils that have a clause in their policy to the effect of a sinking lid. The Auckland Council report that outlines the reasoning behind their policy can be found [here](#).

### Options

104. Staff have assessed that there are two reasonable and viable options for the Council to consider. The options are set out in the table below:
105. **Option A: Adopt the proposed Class 4 Policy**
106. This option involves Council adopting the proposed Class 4 Policy. This option complies with the legislative requirements under the Act that requires Council to adopt a policy on Class 4 Gambling Venues.

<b>Option A - Adoption the proposed Class 4 Policy</b>	
<b>Overview</b>	Sinking lid on venues and machines with no relocations or mergers permitted.
<b>Review date (Scheduled)</b>	<b>May 2021</b>
<b>Key Elements</b>	<p><b>Relocations</b></p> <ul style="list-style-type: none"> <li>No relocations permitted.</li> </ul> <p><i>Example: A venue site that is destroyed due to a fire will not be permitted to relocate to another venue site.</i></p> <p><b>Club Mergers</b></p> <ul style="list-style-type: none"> <li>No club mergers permitted.</li> </ul> <p><i>Example: A club that is destroyed due to a fire will not be permitted to merge its gambling operations with another club.</i></p>

107. **Option B: Do not adopt the draft Class 4 Policy**

108. This option involves the Council not adopting the proposed Class 4 policy. By not adopting the proposed Class 4 policy, it means that the existing policy will remain in place until it is reviewed (scheduled review date September 2019).

<b>Option B – Do not adopt the proposed Class 4 Policy (Retain status quo - existing policy)</b>	
<b>Overview</b>	Sinking lid on venues and machines only allowing for limited relocation and mergers.
<b>Review date (Scheduled)</b>	<b>September 2019</b>
<b>Key Elements</b>	<p><b>Relocations</b></p> <ul style="list-style-type: none"> <li>• Outside of a gambling area into a gambling area.</li> <li>• Within a gambling area if the: <ul style="list-style-type: none"> <li>- venue is physically incapable of being reused for the purpose of the venue</li> <li>- landlord refuses to renew a lease</li> <li>- building deemed earthquake-prone, dangerous or insanitary.</li> </ul> </li> <li>• Further relocation restrictions in relation to: <ul style="list-style-type: none"> <li>- Other venues</li> <li>- The Casino</li> <li>- Schools/Early Childhood Centres</li> <li>- Residential/Special Character/Community Facilities Zones.</li> </ul> </li> </ul> <p><i>Example 1: A venue outside of a gambling area can currently relocate to anywhere within a gambling area (subject to relocation restrictions above e.g. cannot be within 100 metres of a residential zone).</i></p> <p><i>Example 2: If a landlord increases the rent of a venue site, a venue will <u>not</u> be able to relocate.</i></p> <p><i>Example 3: If a venue site inside of a gambling area is destroyed due to a fire it will be allowed to relocate within 50 metres of another venue (subject to relocation restrictions above e.g. cannot be within 100 metres of a residential zone).</i></p> <p><i>Example 4: A venue outside of a gambling area will <u>not</u> be allowed to relocate next to another venue even if it is within a gambling area.</i></p> <p><b>Club Mergers (Clauses 4a and 9)</b></p> <ul style="list-style-type: none"> <li>• Permitted for a combined venue within the gambling area.</li> <li>• Max of lesser: <ul style="list-style-type: none"> <li>- 24 machines</li> <li>- sum of machines previously operated by each club.</li> </ul> </li> </ul> <p><i>Example: two clubs with 9 machines each are currently allowed 18 machines at a new combined club venue.</i></p>

109. The staff's recommendation is either option A or option B.

### Financial Considerations

110. The development of this proposed policy is a regular operating activity funded through the 10-Year Plan.

111. The approximate cost for the proposed policy development process leading up to and including the deliberation report is \$13,000.
112. In total, the costs to either keep the existing policy or adopt the new policy are approximately \$13,000.

### **Legal and Policy Considerations**

113. Staff confirm that the recommendations in this report comply with the Council's legal and policy requirements.
114. The Council has had regard to the social impact of gambling within Hamilton as required by s101(2) of the Act in consideration of the following:
- Problem Gambling Foundation reports and Waikato District Health Board Position Statement on gambling presented at the 16 November 2017 Council Meeting
  - written and verbal feedback received during the submission period by the community
  - information provided to the elected members in this report
  - the elected members being representative of the community.

### **Cultural Considerations**

115. Cultural considerations were addressed with organisations representing Maaori in Hamilton City, given notice of the proposed policy and their opportunity to provide feedback.
116. A Hui at Kirikiriroa Marae was held on 29 March 2018 to enable stakeholders to present their views in an informal environment.

### **Risks**

117. There are no known risks associated with the decisions required for this matter.

### **Significance & Engagement Policy**

#### **Significance**

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

#### **Engagement**

119. Community views and preferences are already known to the Council through the use of the Special Consultative Procedure (SCP) throughout the development of the policy. This has included:
- Submitters having the opportunity to make a submission online and in writing between 5 February 2018 and 5 March 2018.
  - An email inviting submissions sent to six (6) Maaori organisations and 13 Gambling Societies as required by s102 of the Act.
  - A post published on Facebook on 9 February 2018 with a link to the Council's online consultation webpage. The post reached 2235 people.
  - An email sent on 19 February 2018 via Campaign Monitor which reached 881 recipients inviting submissions. 28% or 247 of the recipients opened the email.
  - A media release published on 19 February 2018 inviting submissions.
  - A Hui at Kirikiriroa Marae was held on 29 March 2018 to invite stakeholders to present their views in an informal environment.

120. There is a statutory requirement to consult as per legislation outlined below.

### **Attachments**

Attachment 1 - Class 4 Gambling Venue Policy - Proposed Policy

<i>First adopted:</i>	8 March 2004
Revision dates/version:	May 2018 / Revision 9
Next review date:	May 2021
Engagement required:	SCP
Document number:	
Associated documents:	Gambling Act 2003
<b>Sponsor/Group:</b>	City Growth

## CLASS 4 GAMBLING VENUE POLICY

### Purpose and Scope

- To control the growth of Class 4 gambling venues.
- To minimise the harm caused by Class 4 gambling.

### Definitions

Term	Means
Venue	A Class 4 gambling venue being a place used to operate class 4 gambling as defined in Section 4 of the Act.
Venue consent	A class 4 gambling venue consent provided by the Council to a society in accordance with this policy and the Act.

### Policy

- To hold a venue consent under this Policy, the primary activity of a venue must be either for:
  - the sale of alcohol or, the sale of alcohol and food where the venue is subject to an on licence (but not being a bring-your-own licence) or club licence; or
  - the conducting of race and sports betting in standalone, alcohol free New Zealand Racing Board venues under the Racing Act, 2003 subject to compliance with s 33(3) of the Gambling Act 2003.
- The Council will not grant venue consent for the establishment of any new venues. This also means The Council will not grant venue consent for the relocation of an existing venue.

### Monitoring and implementation

- The implementation of this policy will be monitored by the General Manager City Growth.
- The policy will be reviewed in response to any issues that may arise, every three years as required under the Act, at the request of Council or in response to changed legislative and statutory requirements (whichever occurs first).

# Council Report

Item 13

**Committee:** Council **Date:** 24 May 2018  
**Author:** Riki Manarangi **Authoriser:** Jen Baird  
**Position:** Corporate Policy Specialist **Position:** General Manager City Growth  
**Report Name:** Dangerous and Insanitary Buildings Policy - Deliberation and Adoption Report

<b>Report Status</b>	<i>Open</i>
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## Purpose

1. To seek adoption of the proposed Dangerous and Insanitary Buildings Policy.

## Staff Recommendation

2. That the Council approves the proposed Dangerous and Insanitary Buildings Policy for adoption.

## Executive Summary

3. The Council is required to have a policy for dangerous and insanitary buildings outlining the methodology the Council will take to identify and deal with dangerous and insanitary buildings, under the [Building Act 2004 \(the Act\)](#).
4. Adoption of a Dangerous and Insanitary Buildings policy requires the Council to present a statement of proposal, consult on the proposed policy for a minimum period of one month and provide the opportunity for submitters to be heard.
5. The proposed Dangerous and Insanitary Buildings policy (**the proposed policy**) was approved for consultation at the 16 November 2017 Council Meeting. The Statement of Proposal to accompany the proposed policy was approved at the 14 December 2017 Council Meeting.
6. Public consultation opened on 5 February 2018, closed on 5 March 2018 and resulted in a total of 5 written submissions.
7. Submitters generally felt that the approach in the policy was clear and that the Council should adopt the proposed policy. Submitters mostly identified themselves as being building owners or building tenants/businesses in Hamilton.
8. One submitter was heard by the [24 April 2018 Regulatory and Hearings Committee \(the Committee\)](#) (refer pages 18-20 of Agenda) and, although the submitter felt the policy was supportive of identification and management of dangerous and insanitary buildings, they commented on the inadequacy of the Council proactively identifying dangerous and insanitary buildings.
9. Staff were directed by the Committee to provide information around the provision to be more proactive in terms of the identification of dangerous and insanitary buildings.

10. The proposed policy is consistent with the Ministry's advice in outlining that dangerous or insanitary buildings are referred to the Council by concerned members of the public or any person/organisation that has a health and safety interest in a building (e.g. the Fire service).
11. Alongside the community, Staff also identify if a building is dangerous or insanitary during routine inspections as there is only provision under the Act for staff to enter a building for the purposes of a dangerous or insanitary inspection in response to a complaint and not prior.
12. Upon the adoption of a policy, a webpage for dangerous and insanitary buildings will make it easier for the community to understand and work through the processes in the policy including the identification of dangerous and insanitary buildings.
13. Staff consider the matters in this report have low significance and that the recommendations comply with the Council's legal requirements.

## Background

14. The Council has an existing [Earthquake-Prone, Dangerous and Insanitary Buildings Policy \(existing policy\)](#) as previously required under the Act.
15. The Act was amended changing the requirements around references to Earthquake-Prone buildings that a Council policy must include. The requirements around Earthquake-Prone buildings are now included in the Act.
16. The effect of the amendment to the Act means that the Council is required to have a policy for dangerous and insanitary buildings only ([s131](#), the Act).
17. Some clauses in the Council's existing policy are no longer relevant and the most efficient approach to developing a policy for dangerous and insanitary buildings is to revise the existing policy to reflect the changes to the legislation.
18. The proposed policy was drafted outlining the specific methodology the Council will take to identify and deal with dangerous and insanitary buildings.
19. Adoption of the proposed policy requires use of the Special Consultative Procedure under [s83](#) of the Local Government Act 2002 (**LGA**) meaning that the Council is required to present a statement of proposal, consult on the proposed policy for a minimum period of one month and provide the opportunity for submitters to be heard.
20. The proposed policy was approved for consultation at the [16 November 2017 Council Meeting](#) (refer pages 75-108 of Agenda). The Statement of Proposal to accompany the proposed policy was approved at the [14 December 2017 Council Meeting](#) (refer pages 114-134 of Agenda) and can be found [here](#).
21. Public consultation opened on 5 February 2018 and closed on 5 March 2018. The consultation was also advertised via Facebook (2141 people reached) and the Hamilton Central Business Association and the Property Council were encouraged to invite its members to provide feedback.
22. The consultation resulted in a total of 5 written submissions. A full copy of all submissions can be found [here](#). Submitters generally felt that the approach in the policy was clear and that the Council should adopt the proposed policy. Submitters identified as being building owners or building tenants/businesses in Hamilton.
23. One submitter was heard by the Committee and, although they felt that the policy was supportive of identification and management of dangerous and insanitary buildings, they commented on the inadequacy of the Council proactively identifying dangerous and insanitary buildings.

24. Staff were directed by the Committee to provide information around the provision to be more proactive in terms of the identification of dangerous and insanitary buildings.

### **Discussion**

25. The proposed policy is consistent with the Ministry's advice in outlining that dangerous or insanitary buildings are referred to the Council by concerned members of the public or any person/organisation that has a health and safety interest in a building (e.g. the Fire service).
26. There is no provision in the Act for Staff to enter a building to undertake routine inspections on a building's dangerous or insanitary status. Irrespective of the resourcing implications therefore to perform the duties of routine inspections on every residential and commercial building in the city, the Council would need the permission from each building owner to enter for the purposes of a specific dangerous and insanitary inspection. Staff are unaware of any council that currently carry out a regime of inspecting all buildings within a city/district to specifically inspect for a building's dangerous or insanitary status prior to receipt of a complaint.
27. Where the Council plays a proactive role is in the identification of any potentially dangerous or insanitary situations during their inspection duties such as Building Warrant of Fitness checks, building inspections for additions and alterations to existing buildings and inspections and investigations of complaints by compliance officers.
28. In the proposed webpage for Dangerous and Insanitary Buildings that will include quick facts and diagrams to compliment the policy, staff will ensure the community are educated on the assessment criteria as to what is deemed a dangerous or insanitary building to assist identification.
29. As Staff were given no direction by the Committee to revise the proposed policy itself, the proposed policy remains unchanged since first presented to the Council on 16 November 2017 and in the Statement of Proposal on 14 December 2017.
30. If the recommendation is not approved, the Council will not have a Dangerous and Insanitary Buildings Policy (the Council is required to have a Dangerous and Insanitary Policy under s131 of the Act).

### **Financial Considerations**

31. The development of this proposed policy is a regular operating activity funded through the 10-year plan.
32. In total costs to develop, adopt and implement the new policy is approximately \$5,000.

### **Legal and Policy Considerations**

33. Staff confirm that the proposed policy complies with the Council's legal and policy requirements.

### **Risks**

34. There are no known risks associated with the decisions required for this matter.

## **Significance & Engagement Policy**

### **Significance**

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

### **Engagement**

36. Community views and preferences are already known to the Council through the Special Consultative Procedure process which has been undertaken.
37. Given the low level of significance determined, the engagement level is low. No engagement is required.

## **Attachments**

Attachment 1 - Proposed Policy - Dangerous and Insanitary Buildings Policy

<b>First adopted:</b>	May 2018
<b>Revision dates/version:</b>	Version 1
<b>Next review date:</b>	May 2023
<b>Engagement required:</b>	The Special Consultative Procedure is required
<b>Document number:</b>	
<b>Associated documents:</b>	
<b>Sponsor/Group:</b>	City Growth

## Draft Dangerous and Insanitary Buildings Policy

### Purpose and scope

1. To outline the approach the Council will take and clarify the Council's priorities in performing its functions under the Building Act 2004.

### Principles

2. The Council will seek immediate or early resolution of any defect to minimize potential risk to public health or safety.
3. The Policy recognises the importance of Hamilton's heritage buildings and will protect the heritage value of these buildings wherever possible, without compromising public health and safety.
4. The Council will work pro-actively with building owners to ensure the best outcome for all parties.

### Definitions

Term	Means
Affected Building	Defined in s121A of the Act; A building is an affected building for the purposes of this Act if it is adjacent to, adjoining, or nearby: (a) a dangerous building as defined in Section 121; or (b) a dangerous dam within the meaning of Section 153.
Building Owner	Defined in s7 of the Act; Owner in relation to any land or buildings on the land, (a) means the person who – (i) is entitled to the rack rent from the land; or (ii) would be so entitled if the land were let to a tenant at a rack rent; and (b) includes – (i) the owner of the fee simple of the land; and (ii) for the purposes of sections 32, 44, 92, 97, and 176(c), any person who has agreed in writing, whether conditionally or unconditionally, to purchase the land or any leasehold estate or interest in the land, or to take a lease of the land, and who is bound by the agreement because the agreement is still in force.
Dangerous Building	Defined in s121 of the Act; (1) A building is dangerous for the purposes of this Act if: (a) in the ordinary course of events (excluding the occurrence of an earthquake), the building is likely to cause— (i) injury or death (whether by collapse or otherwise) to any persons in it or to persons on other property; or (ii) damage to other property; or (b) in the event of fire, injury or death to any persons in the building or to persons on other property is likely.

	<p>(2) For the purpose of determining whether a building is dangerous in terms of subsection (1)(b), a territorial authority:</p> <p>(a) may seek advice from employees, volunteers, and contractors of Fire and Emergency New Zealand who have been notified to the territorial authority by the board of Fire and Emergency New Zealand as being competent to give advice; and</p> <p>(b) if the advice is sought, must have due regard to the advice.</p>
Heritage Building	<p>Defined in s7 of the Act; Means a building that is included on :</p> <p>(a) the New Zealand Heritage List/Rarangi Korero maintained under section 65 of the Heritage New Zealand Pouhere Taonga Act 2014; or</p> <p>(b) the National Historic Landmarks/Ngaa Manawhenua o Aotearoa me onaa Korero Tuturu list maintained under section 81 of the Heritage New Zealand Pouhere Taonga Act 2014.</p>
Immediate danger	<p>Defined in s129 of the Act;</p> <p>(1) This section applies if, because of the state of the building;</p> <p>(a) immediate danger to the safety of people is likely in terms of section 121 or 123; or</p> <p>(b) immediate action is necessary to fix insanitary conditions.</p>
Insanitary Building	<p>Defined in s123 of the Act;</p> <p>A building is insanitary for the purposes of this Act if the building:</p> <p>(a) is offensive or likely to be injurious to health because:</p> <p>(i) of how it is situated or constructed; or</p> <p>(ii) it is in a state of disrepair; or</p> <p>(b) has insufficient or defective provisions against moisture penetration so as to cause dampness in the building or in any adjoining building; or</p> <p>(c) does not have a supply of potable water that is adequate for its intended use; or</p> <p>(d) does not have sanitary facilities that are adequate for its intended use.</p>
Property file and register	A record of legal information the Council is required to maintain in terms of 216 of the Act
Structural condition	The structural condition of the building at the time the Council carries out an inspection of the building to ascertain its state.
Territorial Authority	<p>Defined in s7 of the Act;</p> <p>(a) means a City Council or District Council named as Part 2 of Schedule 2 of the local Government Act 2002; and</p> <p>(i) in relation to land within the district of the territorial authority, or a building on or proposed to be built on such land, means that territorial authority; and</p> <p>(II) in relation to any part of a coastal marine area (within the meaning of the resource management Act 1991) that is not within the district of the territorial authority, or a building on or proposed to be built on any such part, means the territorial authority whose district is adjacent to that part; and</p> <p>(b) includes the Minister of Conservation or the Minister of Local Government, as the case may be, in any case in which the Minister of Conservation or the Minister of Local Government is the territorial authority under section 22 of the Local Government Act 2002.</p>
The Act	The Building Act 2004
The Council	The Hamilton City Council

## Policy

### Identifying dangerous and insanitary buildings

5. The Council will respond to building complaints received from the public, the Fire Service, or any person or organisation that has a health and safety interest in a particular building and investigate the complaint and assess the condition of the building.
6. The assessment of dangerous buildings will be in accordance with Section 121 of the Act.
7. The assessment of insanitary buildings will be in accordance with Section 123 of the Act.

### Actions for dangerous and insanitary buildings

8. Priority for action will be decided after investigation of complaints.
9. The Council will liaise with the Fire Service to discuss the proposed action when notification has been received from the Fire Service of a dangerous building.
10. The Council may also engage a subject matter expert to assist with determining the course of action.
11. The Council may use the powers given in Section 124 of the Act to take action regarding dangerous or insanitary buildings to serve formal notice in accordance with the Act and consider if it should erect a hoarding, fence or warning sign.
12. On being advised of conditions that are alleged to be insanitary within the provisions of Section 123 of the Act, the buildings will be inspected and a determination made whether action in terms of Sections 124 or 129 of the Act will be taken.
13. Where it is considered measures are necessary to avoid immediate danger or to fix insanitary conditions. The Council may use the powers given in Section 129 of the Act.

### Working with building owners

14. Where there is an agreement between the Council and the building owner to rectify any deficiency, the Council may elect to forego the issue of a formal notice, but will retain details of the building in the property file and register.
15. Where an acceptable agreement between the building owner and the Council cannot be obtained, the Council will exercise its powers and issue a notice under Section 124 of the Act. The Section 124 notice will outline the danger to be removed and a timeframe to achieve the necessary result.
16. In urgent cases the Council may at the outset serve formal notice under Section 124 of the Act.

### Recording a building's dangerous or insanitary status

17. The Council will keep a record of all dangerous and insanitary buildings noting the status of requirements for improvement or the results of improvements as applicable.
18. In addition, the Council will keep and record the following information that may be placed on the Land Information Memoranda (LIM) for each dangerous or insanitary building:
  - a. A statement that the building is considered to be dangerous or insanitary.
  - b. The date by which rectification of any deficiency, or demolition is required (only if known).
  - c. If a notice under Section 124 is issued in respect of any dangerous or insanitary building then a record may also be included.
  - d. A statement that further details may be available from Council's property file.

### Access to information

19. Information concerning the dangerous or insanitary status of a building (if known) will be contained in the property file.
20. If a notice under Section 124 is issued in respect of any dangerous or insanitary building then a record of that will also be available on the relevant property file.
21. Access to information may be available through a LIM application or request for information in terms of the Official Information and Meetings Act 2002.
22. Building owners will be able to access information from the Council relating to their building during normal office hours.

### Heritage buildings

23. Heritage buildings will be assessed in the same way as other dangerous and insanitary buildings.
24. The Council will work with the building owner to ensure the development of appropriate management and planning for these buildings for their protection wherever possible. This will be achieved by:
  - a. Recognising the heritage buildings that exist in the city, including the Heritage New Zealand Register, the Heritage Items Schedule of the Hamilton City District Plan, listed heritage places, and buildings of significance to iwi, and other buildings of significance to the community, for example:
  - b. Any listed in a strategy or management plan prepared under the Conservation Act 1987 or Reserves Act 1977
  - c. Any within a reserve identified by the Te Turi Whenua Maori Land Act 1993 for historic and cultural purposes;
  - d. Any listed in an iwi management plan;
  - e. Buildings or structures associated with historic cemeteries or memorials;
  - f. Any building managed for heritage purposes by agencies, such as Heritage New Zealand, Department of Conservation or by Council; and
  - g. Buildings or structures subject to heritage order, heritage covenant or other protective covenant.
  - h. Informing relevant statutory organisations, including Heritage New Zealand, with regards to any listed building identified as dangerous or insanitary.
  - i. Ensuring the consideration of any advice from Heritage New Zealand or professional conservation organisation, heritage professional, including the Council's own heritage advisers (if relevant).
  - j. Considering any relevant conservation report, conservation plan, condition report, management plan, heritage assessment or other document.
  - k. Any statutory protection, including any listing in the Heritage Items.
  - l. For any notice issued in relation to a heritage building under Section 124 of the Act, the Council will provide a copy of the notice to Heritage New Zealand.

### Monitoring and implementation

25. The implementation of this policy will be monitored by the General Manager City Growth.
26. The policy will be reviewed in response to any issues that may arise, every five years as required under section 132 of the Act, at the request of Council or in response to changed legislative and statutory requirements (whichever occurs first).

# Council Report

Item 14

**Committee:** Council  
**Author:** Richard Briggs  
**Position:** Chief Executive  
**Report Name:** Regulatory Efficiency and Effectiveness Programme (REEP)- 10-Year Plan Funding

**Date:** 24 May 2018  
**Authoriser:** Jen Baird  
**Position:** General Manager City Growth

<b>Report Status</b>	<i>Open</i>
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## Purpose

1. To inform the Council regarding staff's response to the resolution of 6 December 2017 Council Meeting relating to the future funding of the Regulatory Efficiency and Effectiveness Programme (REEP).

## Staff Recommendation

2. That Council receives the report.

## Executive Summary

3. As part of the preparation of the 10-Year Plan staff were directed to include funding for further stages of the REEP and funding for customer process improvements identified during Stage 1.
4. At its meeting on 6 December 2017 Council resolved the following:

**Resolved:** (Cr Pascoe/Cr O'Leary)

*That Council withdraw funding for the REEP project estimated at \$385,000 in year 2, and \$385,000 in year 3, and ongoing annual costs of \$150,000 in year 1 and \$50,000 for the following nine years (total funding \$1,370,000) until such time as:*

- 1. the project reports formally to Council on its progress to date, and*
  - 2. advises its targets going forward, and*
  - 3. advises how the REEP project will spend the \$1,370,000*
5. This report addresses Points 1, 2 and 3 of that resolution.
  6. A request for future funding, to be included in the 10-Year Plan budget, will be included as a recommendation in the 10-Year Plan Deliberations Report.

## Background

7. The objective of the REEP is to ensure that the Council's regulatory functions are delivered in an effective, efficient and customer-focused manner.

8. Stage 1 focuses on the provisions of the District Plan and is broken into two sections. Part A looks at the efficiency and effectiveness of the Plan provisions; Part B is aimed at identifying process efficiency improvements from a customer perspective.
9. The terms of reference and funding for Stage 1 were approved by the Council on [1 June 2017](#) and a project Task Force was appointed. The project is proceeding on time and within budget.
10. As part of the 10-Year Plan preparation, staff were directed to include funding in the draft plan for further stages of REEP and for customer process improvements identified in Stage 1.
11. \$385,000 in year 2 and \$385,000 in year 3 was requested to undertake further stages of REEP (i.e. to examine other Council regulatory functions which were at that time yet to be identified).
12. \$150,000 in year 1 and \$50,000 per annum over years 2-10 was also requested to undertake the following customer process improvement initiatives identified in Stage 1:
  - Develop a Communication/Education Plan for applicants
  - Prepare District Plan information sheets for applicants
  - Develop resource consent and building consent applicant workshop content on how to prepare basic resource consent and building consent applications
  - Develop a suite of educational videos on how to prepare resource and building consent applications
  - Present on-going monthly workshops.
13. These initiatives are intended to better support applicants through the consent process and minimise processing delays created by substandard or incomplete applications.
14. At its meeting on [6 December 2017](#) Council resolved the following:

**Resolved:** (Cr Pascoe/Cr O’Leary)

*That Council withdraw funding for the REEP project estimated at \$385,000 in year 2, and \$385,000 in year 3, and ongoing annual costs of \$150,000 in year 1 and \$50,000 for the following nine years (total funding \$1,370,000) until such time as:*

1. *the project reports formally to Council on its progress to date, and*
2. *advises its targets going forward, and*
3. *advises how the REEP project will spend the \$1,370,000*

15. The resolution is addressed below:
16. Point 1 - Formal Reporting to Council:
 

The REEP Task Force TOR require it to report to Council twice yearly. The Task Force formally reported to Council on progress and findings to date at its meeting of [8 February 2018](#). Findings are contained in a series of reports that are being provided to Elected Members as they are reported to the REEP Task Force. Although Stage 1 is not yet completed, the project team considers that significant benefits will be provided to plan users through making minor changes to existing provisions, and that resource consent and building consent applicants would benefit from the Council supplying educational material and support.
17. Point 2 – Future Programme Targets:
18. Work completed to date as part of Stage 1 indicates that Building Control and City Infrastructure functions, resourcing and processes should be the next areas investigated under the REEP. A similar project governance structure and methodology to that of Stage 1 of the REEP would be developed and implemented and a TOR agreed.

19. Point 3 – Use of Funds:

The Chief Executive proposes that the requested funding be used to deliver a suite of customer-related initiatives to better support applicants through the planning and building consent process and minimize processing inefficiencies created by substandard or incomplete applications; and on assessing the efficiency and effectiveness of Building Control and City Infrastructure functions, resourcing and processes to identify where customer-related gains can be made.

### Financial Considerations

20. As part of the annual plan, and as detailed in the REEP's Terms of Reference (TOR – see Attachment 1) Council approved Stage 1 REEP funding of \$770,000 split over two financial years:
- 2017/18 \$325,000
  - 2018/19 \$445,000
21. The approved funding and work programme for Stage 1 do not include implementing any of the recommendations (e.g. plan changes, or developing and implementing any customer process improvements that require additional funding).
22. Having addressed the three points in the 6 December 2017 resolution, a recommendation will be included in the 10-Year Plan deliberations report for \$385,000 in Year 2 and \$385,000 in Year 3 to undertake further stages of REEP, (i.e., to examine other Council regulatory functions) and \$150,000 in Year 1 and \$50,000 per annum over Years 2-10 to fund the customer improvements identified during Stage 1.

### Significance & Engagement Policy

#### Significance

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

#### Risks

24. No risks have been identified.

### Attachments

Attachment 1 - Regulatory Effectiveness and Efficiency programme - Terms of Reference

# Agenda of Ordinary Council Meeting - 24 May 2018

D-2333125[v2]

## 1 Purpose

To streamline Council's regulatory functions so they are effective, efficient, transparent and customer-focused, resulting in increased confidence in the quality of Council's regulatory performance and providing certainty and clarity of process to business and community.

## 2 Scope

Stage 1 of the programme will consist of:

**Part A:** Assessing the rules and methods framework (including associated standards etc) of the Partly Operative District Plan (PODP) in terms of their efficiency and effectiveness in meeting the objectives and policies in the PODP, and recommending any potential changes to those rules and methods necessary to serve the Purpose set out in section 1 above.

**Part B:** Identifying whether there are;

- a) opportunities for improving the delivery of PODP-related customer processes; and recommending potential changes where appropriate.
- b) Objectives and policies which could be reviewed in order to better serve the Purpose set out in section 1 above; and

Following completion of Stage 1, other regulatory functions will be selected for assessment, dependent on identified needs or legislative requirements.

## 3 Stage 1 Objectives

- To ensure greater efficiency, effectiveness and ease of use of the PODP by jettisoning redundant or unnecessary provisions and clarifying other provisions where necessary to achieve the objectives and policies of the plan.
- To improve the delivery of PODP-related customer processes through customer efficiency assessments.

## 4 Methodology

### 4.1 Part A: Assessing the efficiency and effectiveness of the rules and methods framework

The methodology for implementing Part A of Stage 1 consists of three workstreams, outlined below, followed by recommendations which will be reported to Council for approval.

<b>Three work streams</b> - Identifying rules and methods that can be eliminated or improved to ensure the planning framework in the PODP is user-friendly and encourages development and innovation, without compromising the PODP's objectives and policies.		
<b>A Formal Monitoring and Evaluation of the PODP (Note 1)</b>	<b>B Already identified issues and inefficiencies</b>	<b>C External Review</b>
Monitor and determine the extent to which the rules and methods efficiently and effectively achieve the objectives and policies of the PODP.	Review the "live" compilation of inefficient or unclear rules and methods identified by staff during the implementation of the PODP in conjunction with external stakeholders.	A group of external customers/ stakeholders will work in conjunction with staff to determine areas of the plan where an efficiency review will result in the best return for effort.
Identify rules and methods that are creating inefficiencies, resource consent processing delays, and additional processing costs without adding to the achievement of the objectives and policies.  The assessment is to be informed by monitoring and analysis of data collected by Council's consenting team, supplemented by consultation with relevant stakeholders in the development and planning community.	Identify superior alternatives or deletion of identified issues through implementation of PODP.  Investigate matters and options through discussion and analysis with input from external experts.	Rather than undertake an analysis of the entire plan, sections with the greatest scope for improvement will be identified via a stocktake of a selection of resource consents identified via discussions with external stakeholders.  Investigate issues and options through discussion and analysis with input from external experts.
<b>D Recommendations</b>		
<ul style="list-style-type: none"> <li>Staff will make recommendations to the Task Force (see 6. Project Governance) that the PODP should be amended when evidence demonstrates that existing rules and methods add costs and delay to the planning process without delivering actual resource management or urban planning benefits</li> <li>The Task Force will endorse the recommendations on which rules and methods can be amended, replaced or removed from the PODP to improve the efficiency and effectiveness of the PODP in achieving its objectives and policies</li> </ul>		
<b>E Reporting on Findings</b>		
The Task Force will report to Council on the outcomes of the assessment, including any recommended changes to rules and methods in the PODP within twice yearly. This would include discussion of the legislative process required to make any changes to the PODP and related processes. After receiving the report, Council will determine whether to initiate a plan change to address any recommended changes to the rules and methods in the PODP and related processes.		

*Note 1 - The Monitoring and Evaluation Assessment of the rules and methods in achieving the objectives of a district plan is based on data and evidence-based methodology over a twelve-month period commencing June 2017.*

A detailed project plan and timelines will be developed for Part A.

#### 4.2 Part B: Efficiency assessments from a customer perspective

An independent consultant specialising in customer efficiency processes will be appointed to undertake customer process assessments. The methodology for undertaking these assessments will be developed by and approved by the Task Force.

## 5 Budget – Stage 1

### Part A - Project Cost

Project management **\$150,000**

#### Direct project costs

• Legal support	\$100,000	
• External resources	\$150,000	
• Research and evidence	\$100,000	
• Engagement	\$50,000	
• Internal Costs	\$100,000	
		<b>\$500,000</b>

### Part B

• Customer efficiency assessments	\$120,000	
		<b>\$120,000</b>

**TOTAL (Est)** **\$770,000**

2017/18		2018/19	
Stage 1 – Part A	\$325,000	Stage 1 Part A	\$325,000
		Stage 1 Part B	\$120,000

#### Note:

- The project costs for Stage 1 will be spread over two financial years as above.
- The internal costs are associated with
  - The secondment of staff to the role of Project Manager
  - Back filling internal secondment
  - Administrative and project management support
- These figures do not include the cost of any plan change processes required to effect changes to the PODP. These figures will form part of the LTP submissions as the scope of the required changes will be known at that stage.

## 6 Project Governance

### Project Task Force

A Task Force will be established to:

- provide guidance and direction to the project team
- resolve strategic and directional issues
- manage high and critical risks for the programme
- make recommendations to Council
- champion the programme and related projects.

The Task Force will have up to 7 members, being:

- The Mayor
- Councillor O’Leary
- Chief Executive
- GM Infrastructure
- GM City Growth
- Up to three external members.

The Task Force will meet on a monthly basis and report back to Council on a 6-monthly basis.

## 7 Programme Implementation

### 7.1 Project Manager (internal to Council)

The Project Manager will:

- act as the internal Council co-ordinator across the various units involved within the planning-related regulatory functions of Council
- be the Council link with the Project Advisor and the Task Force
- provide access to Council information and in tandem with the Project Advisor, manage each of the three stages of the assessment and provide technical expertise
- provide access to information to external stakeholders and lead stakeholder sessions with the Project advisor
- gather feedback from the external stakeholders for analysis in tandem with the Project Advisor
- prepare internal reports to the Task Force for meetings
- prepare reports to Council on recommendations of the Task Force.

### 7.2 Project Advisor (external to Council)

A project advisor will be appointed to ensure the project takes a “customer point of view”. The project advisor will work alongside an internal project manager, external experts and stakeholders to assist in developing:

- identification of required external skills sets as required to fulfil evidential requirements
- technical analysis as per Stages A, B and C (refer Section 2) in tandem with Council , and
- analysis and review of assessment findings with supporting recommendations to the Task Force for reporting to Council.

### 7.3 Stakeholders

- Iwi
- Property Council and members
- Chamber of Commerce and members
- Master Builders and members
- NZTA and other government agencies eg Housing NZ
- Waikato Regional Council.
- Council Staff
- Other individuals and groups as required

## 8 Timeframe

It is estimated that the delivery period for Stage 1 will be approximately 18 months. Key milestones and a work schedule will be identified in the project plan.

Recommendations to Council by the Task Force will ultimately need agreement by Council for adoption to the PODP via a formal process.

## 9 Terms of Reference Review

The terms of reference will be reviewed as required and, at a minimum, every 12 months.

# Council Report

Item 15

**Committee:** Council **Date:** 24 May 2018  
**Author:** Fraser McNutt **Authoriser:** Jen Baird  
**Position:** Acting Unit Manager Planning Guidance **Position:** General Manager City Growth  
**Report Name:** Delegations under the Housing Accords and Special Housing Areas Act

<b>Report Status</b>	<i>Open</i>
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## Purpose

To seek Council's approval to delegate decision-making powers on notified Qualifying Development (QD) applications to a panel of Resource Management Act (RMA) accredited Commissioners.

## Staff Recommendation

2. That the Council:
  - a) receives the report;
  - b) delegates decision-making powers on notified Qualifying Development (QD) applications to a panel of Resource Management Act (RMA) accredited Commissioners (**Option 1** of this report); and
  - c) approves the changes to the Independent Hearings Commissioners' Panel's Terms of Reference in the Council's Governance Structure, as set out in Attachment 1 to this report.

## Executive Summary

3. The Minister of Housing and Urban Development has recently approved Jebson Place as Hamilton's first special housing area (SHA) under the Housing Accords and Special Housing Areas Act 2013 (HASHAA or the Act).
4. As soon as a SHA is established, a resource consent application (called a Qualifying Development (QD) under HASHAA) can be lodged with the Council to develop land within the SHA for predominantly residential purposes. The HASHAA consent process is a deliberately condensed version of the more familiar process under the Resource Management Act 1991 (RMA).
5. With its truncated timeframes and limited participation, the HASHAA consent process lends itself to delegations to ensure Council can conduct its responsibilities, duties and powers under the Act effectively and efficiently.
6. Council's responsibilities, duties and powers relevant to the HASHAA consent process are similar to corresponding functions under the RMA. Council's existing delegations under the RMA to its Chief Executive, officers and Independent Hearings Commissioners provide a tried and tested approach to delegations.

7. Staff therefore recommend Option 1 (refer to paragraph 18 below) to extend the Council’s delegations to the current Independent Hearings Commissioners’ Panel.

## Structure of this report

8. This report covers the following matters:
- Context and background
  - Delegations under HASHAA
  - The HASHAA consent process
  - Options
  - Financial considerations
  - Legal, policy and cultural considerations
  - Risks
  - Significance and Engagement Policy – including engagement with Tauranga City Council and Queenstown Lakes District Council.

## Context and background

9. The purpose of the HASHAA is “to enhance housing affordability by facilitating an increase in land and housing supply...”
10. The [Hamilton Housing Accord](#) was signed by Mayor King and the then Minister of Building and Construction in December 2016. The Accord, via SHAs, enables the Council to use the provisions of the HASHAA to advance housing supply in areas that the Council would consider suitable for housing in Hamilton. Subsequently, the Council approved the [SHA Policy](#) in August 2017, and called for expressions interest for potential SHAs. In response to Council’s recommendation, the Minister has considered and gazetted Jebson Place as Hamilton’s first SHA.
11. As soon as a SHA is established, a consent application can be lodged with Council under the HASHAA to develop land within the SHA for predominantly residential purposes (referred to as a qualifying development (QD)). The HASHAA consent process is a deliberately condensed version of the more familiar process under the RMA.

## Delegations under the HASHAA

12. Council’s Delegations to Officers Specific to the Resource Management Act 1991 (Delegations Policy) records Council’s delegations of its statutory responsibilities, duties and powers to its Chief Executive. The HASHAA commenced in September 2013. The Delegations Policy was established by Council resolution three months later in December 2013 and has subsequently been adopted and revised by the current Council. The HASHAA forms part of the suite of statutory responsibilities, duties and powers that the Council has delegated to its Chief Executive.
13. Council’s delegations to its Chief Executive are subject to the overriding condition, recorded in Schedule 2 of the Delegations Policy, that the Chief Executive may refer any matter arising while exercising those delegations back to Council for decision if he considers it appropriate to do so.
14. Section 76(2)(d) of the Act allows the Chief Executive to, in turn, delegate responsibilities, duties and powers relating to the Act’s resource consent process to Council officers. These delegations from the Chief Executive to officers can be recorded in a management policy issued by the Chief Executive.

## The HASHAA consent process

15. The HASHAA resource consent process is, as already noted, a condensed version of the more familiar resource consent process under the RMA. In summary, the HASHAA resource consent process consists of the following key steps:

- i. The applicant lodges a resource consent application with Council for a QD under section 25 of the Act (not the alternative section 88 of the RMA). This starts the condensed process under the Act rather than the traditional process under the RMA.
- ii. Council decides, under section 27 of the Act, whether or not the application is complete. If the application is considered complete, Council accepts the application as lodged and starts to process, consider and decide the application.
- iii. Council can request further information from the applicant under section 28 of the Act to help it consider and decide the application.
- iv. Council can only notify the application, under section 29(3) of the Act, to:
  - o Owners of land adjacent to the application site;
  - o Waikato Regional Council;
  - o Infrastructure providers with assets on or adjacent to the application site; or
  - o Requiring authorities with designations on or adjacent to the application site

who have not otherwise given their written approval to the QD. Council must, under section 29(4) of the Act, make its notification decision within 10 working days of the application being lodged.

- v. Only persons who have been notified can make a submission on the application under section 29(7) of the Act.
- vi. Council can only hold a hearing on the application under section 30 of the Act if submissions have been made on the application and submitters have asked to be heard.
- vii. If a hearing is held, it must commence no later than 20 working days and be completed within 30 working days after the closing date for submissions.
- viii. Council must decide the application having regard to criteria listed in section 34(1) of the Act as per below. The criteria are ranked in order of importance. Primary importance is placed on the purpose of the Act. The purpose and principles of the RMA are of secondary importance as per s34(1).
  - (a) the purpose of this Act;
  - (b) the matters in [Part 2](#) of the Resource Management Act 1991;
  - (c) any relevant proposed plan;
  - (d) the other matters that would arise for consideration under:
    - (i) [sections 104 to 104F](#) of the Resource Management Act 1991, were the application being assessed under that Act;
    - (ii) any other relevant enactment (such as the [Waitakere Ranges Heritage Area Act 2008](#)):
  - (e) the key urban design qualities expressed in the Ministry for the Environment's *New Zealand Urban Design Protocol (2005)* and any subsequent editions of that document.

- ix. Section 34(2) of the Act prohibits Council from granting consent for a QD unless it is satisfied that sufficient and appropriate infrastructure will be provided to support the QD. In every other case, Council may exercise its discretion to grant or decline the application under section 36(1) of the Act.
- x. Council can, under section 36(2) of the Act, impose conditions if it decides to grant resource consent for the QD.
- xi. A right of appeal to the Environment Court against Council's decision only exists for QDs of four or more storeys. Only the applicant and submitters (if any) can exercise this right under section 79 of the Act.

## Options

- 16. The HASHAA's condensed resource consent process, with its truncated timeframes and limited participation, lends itself to delegations to ensure the Council can conduct its responsibilities, duties and powers under the Act effectively and efficiently.
- 17. The Act's requirement to commence and complete hearings (if a hearing is required at all) and make decisions on resource consent applications for QDs within a very short timeframe is a feature of the consent process that is particularly challenging to align with full Council's meeting schedule. Council does, however, have two options to manage this challenge.

### Option 1 (Recommended)

- 18. Council could delegate its decision-making powers to Hearings Commissioners, just as it currently does under the RMA. Council could extend its delegations to its existing Independent Hearings Commissioners Panel to include hearing and decision-making functions under the HASHAA.
- 19. Proposed changes to the Panel's existing delegations, which are included in the Council's Governance Structure, are set out in Attachment 1. These changes are required to give effect to the staff recommendation, and will not adversely impact the mid-term review of the Governance Structure being led by the Mayor's office.
- 20. This option would ensure that Commissioners hearing and deciding applications under HASHAA and/or objections against a Council decision under HASHAA hold pre-requisite accreditation under the RMA, as required by section 76(2)(g) of the RMA, and are suitably qualified and experienced to conduct a fair and robust hearing process.
- 21. Hearings can be time consuming – before, during and after. The ability to be available for the extent of a hearings process is more likely to be accommodated by a group of approved Commissioners. The timeframes set down for processing QD consents through to a decision is demanding, leaving little time for flexibility. Under the RMA, the timeframe to conclude a hearing from the end of submissions is 75 days, whereas under HASHAA it is 30 days.
- 22. Option 1 would ensure that the QD processing would occur within optimum timeframes and with no disruption to elected members' schedules. Council would deploy its existing list of independent commissioners and secure availability to convene at relatively short notice for an efficient process.
- 23. By providing a fully independent decision-making body, Option 1 also avoids any potential conflicts of interest.

### Option 2

- 24. Council could appoint an Accord Territorial Authority Panel (ATA) under section 89 of the HASHAA and delegate its functions and powers in the resource consent process to that panel under section 90 of the Act.

25. Each ATA Panel must comprise no fewer than three members:
- (a) one of whom is a member of the relevant local authority, community board, or local board; and
  - (b) the remainder of whom are persons who, collectively, have knowledge of and expertise in relation to planning, design, and engineering and appropriate knowledge and experience relating to the Treaty of Waitangi (Te Tiriti o Waitangi) and tikanga Māori (Māori customary values and practices).

### Potential conflict of interest arising under Option 2

26. On 1 May 2018, an informal Councillor workshop was held to discuss the ATA Panel option and how to manage any potential conflicts of interest. Council's external legal advisor presented. Councillors were advised that the ATA decision-making function was quasi-judicial, which means that unlike ordinary Council decision-making, its decisions are like those of a Court or tribunal decision. Accordingly, the ATA Panel members must be free of any reasonable perception of bias.
27. If councillors who voted in support or against an SHA wish to sit on and ATA Panel and adjudicate on a qualifying development under that same SHA, this may give rise to a reasonable perception of bias on the basis that the previous support or opposition for the SHA might be brought to bear in the decision-making on the qualifying development.
28. Councillors were advised that this perceived conflict could be managed by potential ATA Panel members refraining from participating in the SHA decisions. This would provide a complete answer by avoiding the conflict altogether. This approach was recommended in the workshop. It remains the staff recommendation that if Council elects to use the ATA Panel option, it appoint an elected member who did not participate in any "up stream" SHA decision.

### Financial Considerations

29. Commissioner costs are all charged back to the applicant at 100% recovery (\$150/hour).
30. The current [Local Government Members \(2017/18\) \(Local Authorities\) Determination](#) 2017 sets out the hourly rates payable to elected members taking part in a hearing as a member of an ATA Panel. This remuneration covers a hearing arising from:
- A resource consent application under subpart 2, Part 2 of HASHAA; or
  - A request for a plan change/variation to a proposed plan under subpart 3 of Part 2 of HASHAA.

The hourly rate is \$100/hour for a member acting as a chairperson, and \$80/hour for an 'ordinary member' of an ATA Panel.

The Determination sets out an exhaustive list of what constitutes 'hearing time' that a member can claim for:

- i. Conducting a hearing;
- ii. In formal deliberations to decide the outcome of a hearing;
- iii. Participating in an official group site inspection related to the hearing;
- iv. Determining a resource consent application where a formal hearing does not take place; and
- v. Up to a maximum of the aggregate of the time referred to in paras (i) and (ii) above for:
  - Preparing for a hearing; and
  - Participating in an inspection of a site for the purpose of a hearing (other than under (iii) above).

## **Legal and Policy Considerations**

31. Staff confirm that both Options 1 and 2 comply with the Council's legal and policy requirements, although Option 2 gives rise to a potential conflict of interest that would require managing.
32. The legal implications of not appropriately managing the potential conflict of interest are significant. A party may seek judicial review if dissatisfied with Council's management.

## **Cultural Considerations**

33. Under both options, the Commissioners need to have knowledge and experience relating to the Treaty of Waitangi (Te Tiriti o Waitangi) and tikanga Māori (Māori customary values and practices).

## **Risks**

34. There are no known risks associated with the decisions required for this matter, other than the risk of potential conflict of interest outlined in 24-26 above.

## **Significance & Engagement Policy**

### **Significance**

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

### **Engagement**

36. The report writer has contacted Tauranga City Council and Queenstown Lakes District Council to query how they have dealt with their own delegations for s89/90:
  - Tauranga District Council use a panel of Hearings Commissioners as they do for RMA matters.
  - Queenstown Lakes District Council uses an ATA panel where a Councillor is involved in conjunction with Commissioners. Note that only RMA accredited Councillors are on the Panel.
37. Given the low level of significance determined, the engagement level is low. No engagement is required.

## **Attachments**

Attachment 1 - Independent Hearings Commissioners' Panel - Proposed changes to delegations

# Independent Hearings Commissioners' Panel

**Reports to:** Council  
**Chairperson:** As appropriate

**Membership - with up to three sitting at any one time (including the Chairperson, if required):**

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

**Meeting frequency:** As required

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## **Purpose:**

To undertake certain hearings under the Resource Management Act 1991 ('RMA') and the Housing Accords and Special Housing Areas Act 2013 ('HASHAA'), unless otherwise reserved by full Council.

<b>The Panel is delegated the following Terms of Reference and powers:</b>
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## **Terms of Reference:**

1. The power to hear and decide any of the following RMA matters:
  - a. application for a resource consent or change to conditions of resource consent;
  - b. notice of objection; or
  - c. notice of requirement to designate land and alter a designation; for a heritage order and alteration to a heritage order.
2. The power to hear and decide any of the following HASHAA matters:
  - a. An application for a resource consent or change to conditions of resource consent; or
  - b. Notice of objection.

3. The power to exercise all procedural powers under the RMA and HASHAA relevant to the matter to be heard from the date selection being confirmed by the General Manager City Growth until the date the final decision is delivered by the hearings commissioner(s).
4. The power to select a hearings chairperson; and give the chairperson, if one is selected, a casting vote.

**Special Notes:**

- The General Manager City Growth is delegated authority to select the Hearings Commissioner/s from the appointed list to hear and decide RMA and HASHAA matters within the Terms of Reference.
- The Commissioners' decisions are reported to Council for information and monitoring of the District Plan and Special Housing Area Policy

# Council Report

Item 16

**Committee:** Council **Date:** 24 May 2018  
**Author:** Ken Cunningham **Authoriser:** Lance Vervoort  
**Position:** Strategic Land Manager **Position:** General Manager Community  
**Report Name:** Electricity Easement - Hamilton Zoo

<b>Report Status</b>	<i>Open</i>
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## Purpose

1. To seek the Council's approval for an easement to WEL Networks over Council owned Hamilton Zoo land for the transmitting and/or conveying underground electricity, telecommunications and computer media.

## Staff Recommendation

2. That the Council approves:
  - a) an easement to WEL Networks for the transmitting and/or conveying electricity, telecommunications and computer media underground over approximately 130m<sup>2</sup> of Council owned land (Lot 1 DP 429730) subject to:
    - i. An easement Survey Plan being approved by Land Information New Zealand.
    - ii. WEL Networks being responsible for the payment of costs associated with surveying the easement area and the undergrounding of the cables.
    - iii. WEL Networks being responsible for its own legal costs associated with the easement document.
    - iv. Staff agreeing to the alignment of the undergrounding of the WEL Networks cables.
    - v. Council being responsible for its own legal costs associated with the easement document.
    - vi. Council being responsible for a electricity connection from a WEL Networks Ltd pillar box to adjacent Council owned zoo facilities.
  - b) Delegates to the Chief Executive to sign all documentation relating to the easement document, with costs to be met by WEL and the Council as per paragraphs 16-18 of this report.

## Executive Summary

3. Following an investigation involving sagging powerlines over a service road in the south west corner of the Hamilton Zoo (Zoo), the undergrounding of WEL Networks overhead powerlines was the preferred solution to preventing possible future incidents of a similar type in this area.
4. Staff consider the recommended decisions in this report have low significance and that the recommendations comply with the Council's legal requirements.

## Background

5. An investigation involving powerlines over a service road in the south west corner of the Zoo found that the overhead powerlines, that are susceptible to sagging, are a significant risk. The recommendation from the investigation and endorsed by Hamilton Zoo is the overhead powerlines be relocated underground. The removal of the overhead powerlines will eliminate the risk of machinery snagging overhead powerlines in the future. Undergrounding was also confirmed as the preferred solution upon consultation with WEL Networks.
6. WEL is to underground the cables and install a pillar box in the road berm, where possible, but some encroachment will occur into the Zoo's land that is located outside the perimeter fence but within the legal property boundary. Refer Attachment 1.
7. The encroachment of the Zoo land is due to the lack of berm space between the legal boundary and the road formation.
8. The Zoo's perimeter/animal security fence is situated between approximately 1.50m – 2.50m from the property's legal boundary.
9. Currently the easement area is estimated to be 65m x 4, although this will not be able to be confirmed until the laying of the cable has been completed.

## Discussion

10. Following investigation of an incident in 2017 incident the option of undergrounding the WEL Network overhead power lines in the south west corner is favoured as, apart from eliminating the hazard of the overhead power lines, other benefits to the Zoo were identified.
11. The undergrounding of the overhead powerlines will also provide additional benefits:
  - a) allowing for possible future development of the Zoo site, particularly the area identified in the Zoo's master plan as carnivore corner.
  - b) Avoiding vegetation maintenance within the vicinity of overhead power lines.
  - c) Reduces the risk of power outages caused by severe weather events and accidental contact.
  - d) Contribute to the Zoo's objective of having an environment that is safe and practical for visitors, staff and animals.
  - e) Provides assurance to stakeholders, including the Ministry of Primary Industries, and demonstrates a considered approach to safety and compliance with regulatory standards.
12. Until the undergrounding of the cables is complete Zoo staff have been made aware of the hazard created by the overhead powerlines and has been registered in the Zoo's hazard's register.
13. The Zoo's master plan, which was adopted 27 June 2017, identifies one of the keys to ease of maintenance is a well organised site that has good connections to centralised operations hub (page 36). The peripheral service road is essential to this and the overhead powerline obstructs ease of access.
14. If the recommendations are not approved then the power lines will remain in an above ground situation.
15. The Zoo's Master Plan, adopted in June 2017, supports the proposed easement and undergrounding of the overhead power lines.

### Financial Considerations

16. WEL Networks will meet the cost of:
  - a) Undergrounding the overhead power lines, outside of the perimeter fence.
  - b) Installation of service pillar box, outside of the perimeter fence.
  - c) Removing the overhead power lines and poles from the Zoo property.
  - d) Survey work to complete easement document.
17. Council will be responsible for the cost of:
  - a) laying underground the cables from the WEL Network pillar box to the Zoo's facilities.
  - b) Any legal costs incurred by Council for the easement.
18. Zoo staff will prepare a report to the General Manager Community for a funding request for the undergrounding of the Zoo's electricity cables from the WEL Networks Ltd pillar box to the Zoo's facilities immediately adjacent. The cables being undergrounded, at an anticipated cost \$10,000, will replace the existing connections from the overhead powerlines.

### Legal and Policy Considerations

19. Staff confirm that the recommendation(s) complies with the Council's legal and policy requirements.

### Risks

20. There are no known risks associated with the decisions required for this matter.

### Significance & Engagement Policy

#### Significance

21. Staff considered the following factors under the Significance and Engagement Policy:

The portion of the community affected by the proposal or decision. 22. Based on these factors, staff have assessed that the recommendation(s) in this report have low significance.

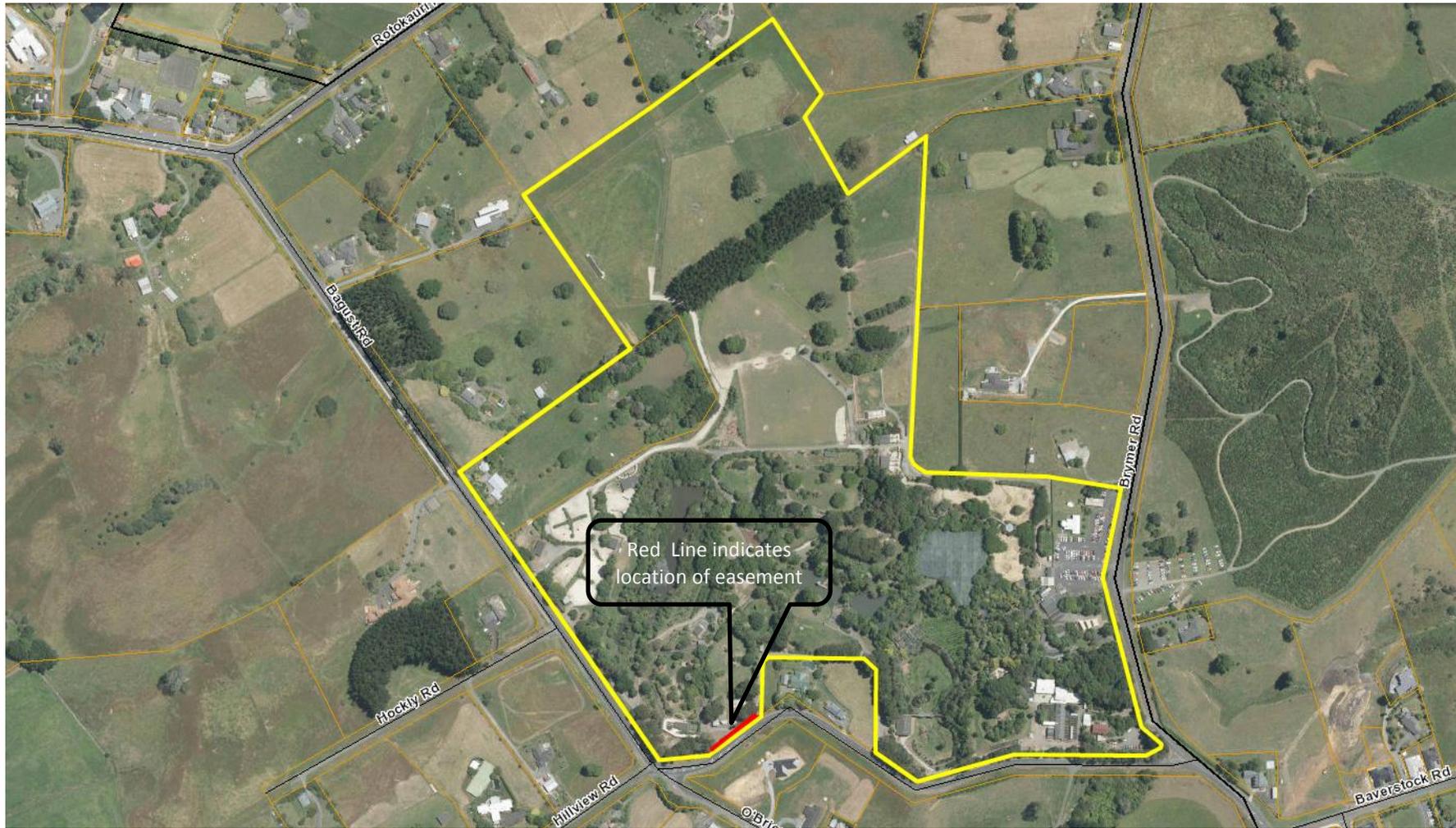
#### Engagement

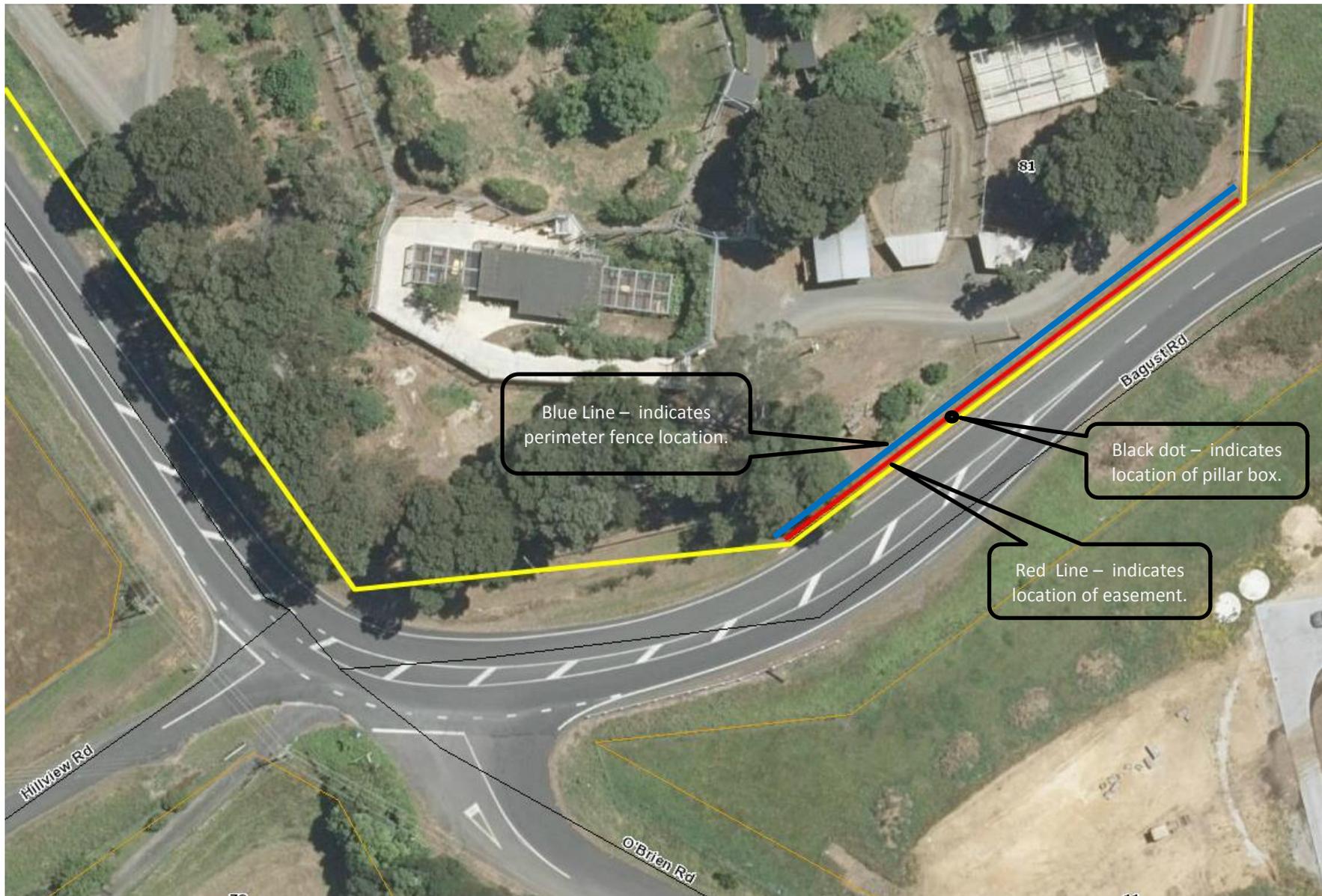
23. Public engagement is not required for this matter due to its low significance.

### Attachments

Attachment 1 - Hamilton Zoo Easement Aerial map

Yellow outline – indicates Hamilton Zoo area





Blue Line – indicates perimeter fence location.

Black dot – indicates location of pillar box.

Red Line – indicates location of easement.

# Council Report

<b>Committee:</b>	Council	<b>Date:</b>	24 May 2018
<b>Author:</b>	Riki Manarangi	<b>Authoriser:</b>	Jen Baird
<b>Position:</b>	Corporate Policy Specialist	<b>Position:</b>	General Manager City Growth
<b>Report Name:</b>	Open Air Burning Bylaw - Review		

<b>Report Status</b>	<i>Open</i>
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## Purpose

1. To seek approval from the Council to consult on either revocation or amendment of the Open Air Burning Bylaw.

## Staff Recommendation

2. That the Council approves a Statement of Proposal be brought to the 28 June 2018 Council meeting to consult with the public on the option to either amend the Open Air Burning Bylaw or revoke the Open Air Burning Bylaw.

## Background and Discussion

3. The Council adopted the [Open Air Burning Bylaw](#) (**the Bylaw**) on 26 February 2015.
4. The Bylaw was considered the most appropriate mechanism for enabling the Council to exercise its control over the lighting of fires in the open air in Hamilton.
5. The Bylaw was adopted in response to a New Zealand Fire Service (**NZFS**) request for a Council bylaw as to enable fire risks to be mitigated during times of high fire risk.
6. Recent legislative changes, by introduction of the [Fire and Emergency New Zealand Act 2017](#) (**FENZ Act**), established the Fire Emergency Services New Zealand (**FENZ**) which replaces NZFS.
7. The FENZ Act also moves responsibilities relating to open air burning except for nuisance fires from the Council to FENZ.
8. The effect of the legislative change means that provisions other than nuisance fires need to be removed from the Bylaw.
9. As well as amending the Bylaw, the Council has the option to revoke the Bylaw completely however this will mean that the Council will no longer have an effective tool for managing nuisance fires.
10. Section [156](#) of the LGA sets out that the Council is required the use of the special consultative procedure (**SCP**) if:
  - the bylaw concerns a matter identified under the Council's Significance and Engagement Policy as being of significant interest to the public; or
  - there will be a significant impact on the public due to the changes to or revocation of the bylaw.

11. Given the impact on the public due to either changing the Bylaw or no longer having a Bylaw, to meet the requirements of s156 of the LGA, the Council is required to consult using the SCP.
12. Staff recommend reporting back to the 28 June 2018 Council meeting outlining the impact in detail of the legislative changes and a Statement of Proposal (SOP) for approval.
13. The SOP will consult the community on whether to retain provisions in the Bylaw relating to nuisance fires or revoke the Bylaw meaning that the Council will no longer have an effective method of managing nuisance fires.
14. There are no options to consider as the legislative change requires either the amendment or revocation of the bylaw and Council must consult prior to making a decision.
15. If the recommendation is not approved, the Council will have a Bylaw that will incorrectly state powers that the Council will no longer have.
16. The cost to prepare this report is \$1,000. This is a regular operating activity funded through the 10-Year Plan.
17. There are no known risks associated with the decisions required for this matter.
18. Staff confirm that the staff recommendation complies with the Council's legal and policy requirements.

### **Attachments**

There are no attachments for this report.

# Council Report

<b>Committee:</b> Council	<b>Date:</b> 24 May 2018
<b>Author:</b> Lee-Ann Jordan	<b>Authoriser:</b> David Bryant
<b>Position:</b> Governance Manager	<b>Position:</b> General Manager Corporate
<b>Report Name:</b> Online Voting Trials - Local Electoral Matters Bill	

<b>Report Status</b>	<i>Open</i>
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## Purpose

1. To seek the Council's direction on exploring participation in an online voting trial for the 2019 local authority triennial elections.

## Staff Recommendation

### Either:

2. That the Council:
  - a) confirms its interest in exploring participation in an online voting trial for the 2019 local authority elections.
  - b) requests the Chief Executive and Electoral Officer to further investigate the considerations and costs of undertaking an online voting trial of the following subset(s) of voters:  
*[insert subset of voters]*.
  - c) notes that staff will:
    - i. provide updates to Elected Members on the matters in paragraph 2(d); and
    - ii. present a further report for a decision by the Council on whether to undertake an online voting trial for the 2019 local authority elections.
  - d) notes that paragraphs 2(a)-(c) above does not commit the Council to participating in a trial for online voting at the 2019 elections.
  - e) notes that an online voting trial is conditional upon:
    - i. the Local Electoral Matters Bill being enacted;
    - ii. regulations being made under the Local Electoral Regulations 2001 authorising the Council to undertake a trial of online voting;
    - iii. technical compliance protocols for a trial (including security and assurance) being developed by the Department of Internal Affairs and implemented and reviewed by the Electoral Officer and staff;
    - iv. agreement with the Waikato Regional Council and Waikato District Health Board on the allocation of costs for undertaking a trial;
    - v. agreement with a provider to undertake the trial on behalf of the Council; and

- vi. the Council resolving to undertake a trial of online voting in accordance with regulations.

**OR**

- 2. That the Council confirms that it is not interested in exploring participation in a trial for online voting at the 2019 local authority elections.

**AND/OR**

- 3. That the Council requests the Chief Executive to draft a submission to the Justice Committee on the Local Electoral Matters Bill to reflect the following positions of the Council:
  - i. *[insert points to be included in a draft submission]*

### **Executive Summary**

- 4. The [Local Electoral Matters Bill](#), and proposed accompanying regulations, will empower local authorities to participate in a trial of online voting for the 2019 local authority elections and onwards. The legislation is expected to be enacted by November 2018.
- 5. The draft legislation contemplates an online voting trial could apply for an entire local authority area or a subset of voters (by way of example only, visually-impaired voters and/or voters within a specific ward/geographic area). This would be a decision of the Council, in discussion with the Department of Internal Affairs. Postal voting would remain a valid option should a voter not wish to vote online during a trial.
- 6. Any trial of online voting requires regulations to be in place to enable the Council to proceed with a trial, agreement with Waikato Regional Council (WRC) and Waikato District Health Board (DHB) on cost allocation, and appointment of a provider to undertake the trial.
- 7. The Council's Electoral Officer, Dale Ofoske, provided a status update on online voting at the Council Briefing on 26 April 2018. Elected members requested that staff report to the Council on options of trialling online voting, on the assumption that the Bill is enacted.
- 8. At the April Briefing, Mr Ofoske advised that the estimated additional cost for an online voting trial for the whole city at the 2019 local authority elections would be approximately \$150,000 plus GST, with the net cost to the Council (following allocation between the WRC and DHB) being approximately \$75,000-\$85,000 plus GST. The assumptions for this estimate are in paragraph 28 below. Costs would reduce if a subset of voters was preferred for the trial, noting that some costs are fixed.
- 9. If the Council confirms its interest in an online voting trial, staff will provide updates on this matter, and present a further report for a Council decision on whether to carry out such a trial once the Bill is enacted and regulations are in place.
- 10. Staff consider the decision in this report has low significance and that the recommendations comply with the Council's legal requirements.

### **Background**

- 11. The Local Electoral Act 2001 (LEA) makes provision for electronic voting as a permitted 'voting method'. However, regulations are required to detail how online voting would operate. Currently, booth and postal voting are the only authorised voting methods under the Local Electoral Regulations 2001 (LER).

### **Council's Previous Position**

12. In 2015, the National government proposed developing regulations to enable a trial of online voting at the 2016 local authority elections. Local Government New Zealand (LGNZ) then called for expressions of interest from councils interested in taking part in a trial.
13. [On 25 June 2015](#), the Council resolved unanimously:  
*That the Council registers an interest with LGNZ, for Hamilton City Council to participate in an online voting trial for the 2016 Local Authority Elections, conditional upon:*
- i. Council approving the costs; and*
  - ii. the technical aspects of the election process relating to councils participating in the online voting trial being resolved to the satisfaction of the Electoral Officer.*
14. [On 27 August 2015](#), the Council resolved:  
*That the Council confirms with LGNZ, that Hamilton City Council will not be participating in the online voting trial for the 2016 Local Authority Elections,*  
 principally due to the unbudgeted costs and further clarification required on technical requirements for a trial.
15. [On 19 April 2016](#), the Cabinet decided not to proceed with a trial of online voting in the 2016 local elections on the basis that the Government's trial requirements could not be met in time by the participating local authorities.

### **Ongoing local government sector work**

16. In 2017, a number of the councils worked alongside SOLGM and LGNZ to continue to explore online voting, specifically:
- to assess the feasibility of a joint national procurement of an online voting provider; and
  - to investigate the technical architecture required for local authorities to provide online voting.
17. Their findings indicated that there would be substantial costs to local authorities in using a single internationally-recognised online voting provider for a nationwide trial at local elections.
18. Earlier this year, the new Government confirmed that no funding would be provided towards such costs in the 2018/19 financial year. SOLGM and LGNZ have since both indicated that their focus will now be on the development of a trial and evaluation process, and associated system/service expectations. Local authorities, individually or collectively, are expected to manage the procurement and implementation of an online voting solution.

### **The Local Electoral Matters Bill**

19. In April 2018, the Local Government Minister, Honourable Nanaia Mahuta, introduced the Local Electoral Matters Bill (the Bill). This Bill, with supporting regulations, would enable a local authority to trial a new voting method, such as online voting. It is expected the supporting regulations will be drafted in consultation with interested local authorities.
20. The Bill has been referred to the Justice Select Committee with unanimous support of Parliament, with submissions for the Committee's consideration due by 22 June 2018.
21. The Bill will enable a trial to take place over a subset of voters. The purpose of which is to provide the flexibility for a local authority to design a trial that reflects available resources and mitigates the risk of a trial over the whole local authority area.
22. Voters outside the designated subset would continue to vote via the post, which would also remain an option for voters within the selected subset.

23. A trial of online voting would need to cover all matters being voted on by the relevant subset of voters (if a subset is chosen). That is, elections for WRC and DHB candidates would need to be included in the trial for the category of voters selected within Hamilton.

## Discussion

### Next Steps

24. The next step for the Council would be to indicate whether it is interested in exploring participation in an online voting trial and the subset(s) of voters (if any) to participate in a trial, for staff to investigate further.
25. There are a number of matters that would be clarified as the Bill passes through its next stages, which are discussed in paragraph 41 below. Staff will regularly update Elected Members on these matters (should the Council support participation in a trial) before a final decision is required from the Council as to whether to proceed with a trial.

### Analysis of Online Voting Trial

26. Below is a general overview of the advantages and disadvantages of participating in a trial at the 2019 local authority elections based on information known now.
27. **Advantages**
- Mitigates the reduction in postal services, which constrains the delivery of voting papers and their return to the Electoral Officer. In comparison, online voting could be completed at any time up to 12 noon on election day.
  - A more accessible/attractive means to participate in local democracy for certain classes of voters, compared to postal voting. For example, visually-impaired, overseas voters or younger voters.
  - A tool for local authorities to use, alongside other mechanisms, to enhance voter turnout, noting international evidence is mixed on whether online voting itself leads to increased voter turnout.
  - Easy for voters to use, particularly as more people are becoming familiar with completing day-to-day activities online.
  - Potentially a more cost-effective and environmentally friendly tool in the longer term, reflecting the significant increase in costs and resources required for postal voting.
  - Eliminates the risk of informal voting. For example, a voter could not vote for two candidates for the mayor, or duplicate or miss a ranking for a DHB election (under the STV electoral system).
28. **Disadvantages**
- Comes at an additional cost. Mr Ofsoske has estimated this additional cost would be in the order of \$150,000 plus GST for an online voting trial at the 2019 local authority elections. The net cost to the Council would be approximately \$75,000 - \$85,000 plus GST, if the costs are allocated between the Council, WRC and DHB. This estimate is based on the following assumptions:
    - a. The trial applies to all voters in Hamilton. Costs would be lower if a subset of voters is selected to take part in the trial.
    - b. A separate mailout of credentials to those voters selected to take part in the trial is required. This is the largest proportion of the estimated costs.

- c. WRC and DHB agree to the same cost allocation proportions as for the 2016 local authority elections.
  - d. The security and assurance protocols in the Government's regulations and requirements are comparable with the proposed 2016 trial.
  - e. Independent Election Services is appointed to carry out the trial on behalf of the Council. Costs of other providers may differ. International providers are likely to be significantly more expensive.
- There would also be additional costs associated with public education of a trial, the extent of which would be dependent on if any subset(s) of voters was/were selected for the purpose of the trial.
  - Requires a significant amount of work to ensure a trial can be carried out effectively at the 2019 elections, in potentially tight timeframes to set up, test and communicate the online voting trial to relevant stakeholders once the legislation is in place.
  - Not the 'silver bullet' to address low voter turnout at local authority elections. It would need to be considered alongside other mechanisms to enhance voter participation.

### **Possible Voter Subsets**

29. If the Council is interested in taking part in a trial of online voting, it can decide whether only specified category/categories of voters would take part in the trial, which would require discussion with, and agreement by, the Government (via Department of Internal Affairs).
30. Postal voting would remain available for any voter within a subset selected for the trial – the Council cannot require a voter to take part in the trial.
31. The Local Government Minister referred to overseas voters, disabled voters, voters within a particular ward, or a combination of these, as possible subsets. SOLGM has also identified visually-impaired voters as another subset local authorities could consider.
32. If the Council wishes to consider a particular subset or subsets of voters to participate in an online voting trial, it is recommended that staff undertake further analysis and report back to the Council. This will enable the Council to have informed discussions with other stakeholders (including LGNZ/SOLGM and the Government) as to the potential inclusion of subsets for any trial taking place in Hamilton.

### **Financial Considerations**

33. The cost for carrying out a trial of online voting is noted in paragraph 28 above, and is an estimate only. There are a number of matters that need to be worked through before a firmer estimate can be obtained. A more definitive costing would be reported to the Council in a staff report once the relevant legislation (including regulations) are in place.
34. The cost for a trial of online voting is not included in the draft Long Term Plan (2018-28) and would be captured in Risks and Opportunities.

### **Legal and Policy Considerations**

35. The ability for the Council to carry out a trial of online voting, whether at the 2019 local authority elections or later, is dependent on the enactment of the Bill and regulations, and additional technical requirements (if any) required by the Government. It is understood that the regulations will be drafted in consultation with the local government sector.

36. Submissions on the Bill are due by 22 June 2018. In addition to the trial of online voting, the Bill also proposes local authorities being able to access:
  - a. date of birth information from the electoral roll, for authentication of voters. Regulations would set out how this information must be protected; and
  - b. statistically anonymised age-group information from the Electoral Commission, to improve the analysis and knowledge base of local electoral participation.
37. Staff seek the Council's direction on whether it wishes to present a submission on the Bill.
38. A copy of SOLGM's draft submission was circulated to Elected Members on 8 May 2018.

### **Risks**

39. The Council is not bound to proceed with a trial of online voting until it considers and adopts this as a voting method once regulations are in place.
40. There may be some risks of being part of the first group of local authorities to participate in a trial of online voting. Refer to paragraphs 27 and 28 for advantages and disadvantages.

### **Process to further explore online voting**

41. The following matters would need to be considered as part of any further exploration of an online voting trial, some of the details of which await clarification from the Government:
  - a. Discuss with the WRC and DHB to agree participation with, and cost allocation of, an online voting trial.
  - b. Procure a provider to undertake the online voting trial on the Council's behalf.
  - c. Connect with LGNZ/SOLGM as sector leaders and advocates on the regulatory and security framework that will be required to enable trials to proceed.
  - d. Once the Bill is enacted, regulations would be required to identify the local authorities taking part in a trial of online voting, to specify the subset of voters (if any) to be included in the trial (for each participating local government area) and to detail the security and assurance protocols with which a trial must comply.
  - e. If the Council resolves to proceed with an online voting trial, it is expected testing and an audit of the security and assurance protocols would be required prior to the trial taking place as part of the elections.

### **Significance & Engagement Policy**

42. Staff have considered the key considerations under the Significance and Engagement Policy and have assessed that the recommendations in this report have a low level of significance. No engagement is required at this stage.

### **Attachments**

There are no attachments for this report.

# Council Report

<b>Committee:</b>	Council	<b>Date:</b>	24 May 2018
<b>Author:</b>	Mark Brougham	<b>Authoriser:</b>	Sean Hickey
<b>Position:</b>	Programme Manager - Analysis & Research	<b>Position:</b>	General Manager Strategy and Communications
<b>Report Name:</b>	Council's Draft 2 Submission to the Local Government (Community Well-being) Amendment Bill		

<b>Report Status</b>	<i>Open</i>
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## Purpose

1. To seek approval of Council's **Draft 2** submission to the Local Government (Community Well-being) Amendment Bill.
2. **Draft 2** is attached to this report.

## Staff Recommendation

3. That the Council:
  - a) receives the report.
  - b) approves Council's **Draft 2** submission to the Local Government (Community Well-being) Amendment Bill.
  - c) notes the approved submission will be sent to the Parliament's Governance and Administration Committee by 25 May 2018.
  - d) notes the approved submission will then be uploaded to Council's website.

## Background

4. The key objectives of the Local Government (Community Well-being) Amendment Bill (the 'Bill') are to restore the purpose of local government to be "*to promote the social, economic, environmental, and cultural well-being of communities*" and to restore territorial authorities' power to collect development contributions for any public amenities needed as a consequence of development.
5. Feedback from the 26 April Council Briefing session was used to develop Council's **Draft 1** submission. **Draft 1** was then circulated to Elected Members for feedback on 8 May, with comments sought by 14 May 2018.
6. Although no Elected Member feedback suggesting changes was received, staff have included a practical example in **Draft 2** of how the development contribution provisions in the Bill could work regarding recovery of costs in instances where Council has made a significant investment into a community project. This is outlined in Sections 3.7-3.9 of **Draft 2** (highlighted in yellow).
7. **Draft 2** supports the Bill's provisions and the submissions made by LGNZ and SOLGM.

8. Council's **final submission** need to be lodged with Parliament's Governance and Administration Committee by 25 May 2018.

## **Attachments**

Attachment 1 - Hamilton City Council Draft 2 Submission to the Local Government (Community Well-being) Amendment Bill

DRAFT 2**Submission by  
Hamilton City Council****LOCAL GOVERNMENT (COMMUNITY WELL-BEING) AMENDMENT BILL****24 May 2018****1.0 INTRODUCTION**

- 1.1 Hamilton City Council (HCC) welcomes the opportunity to make a submission to the Local Government (Community Well-being) Amendment Bill (the 'Bill').
- 1.2 Overall, HCC supports the overall content and direction of the Bill.
- 1.3 In addition, HCC supports the submissions made by the Development Contributions Working Group, Local Government New Zealand and SOLGM to the Bill, which for the most part, endorse the Bill's provisions in their entirety.
- 1.4 Our specific points around community well-being and development contributions are outlined in further detail below.

**2.0 COMMUNITY WELL-BEING**

- 2.1 HCC, in line with Local Government New Zealand (LGNZ) and the New Zealand Society of Local Government Managers (SOLGM), supports reinstatement of the four well-beings in the Local Government Act 2002 as proposed by the Bill i.e. "Promoting the social, economic, environmental and cultural well-being of their communities."
- 2.2 The draft submissions of LGNZ and SOLGM to the Bill are of the view that central and local government are in the 'business' of promoting well-being in the community, and that reinstatement of the four well-beings will provide councils with a clear signal about what is expected of them.

**3.0 DEVELOPMENT CONTRIBUTIONS**

- 3.1 HCC supports the reintroduction of development contributions for a broad range of community infrastructure provided by councils (e.g. libraries, aquatic facilities, sports arenas, theatres and community centres), and the removal of limitations around reserve contributions.
- 3.2 HCC notes that a critical gap in the current legislation is the inability for territorial authorities to recover through development contributions community infrastructure investment that benefits or was caused by growth, but where the financial mechanism to

deliver it is through a public private partnership or a funding mechanism that is not capital expenditure and ownership of the asset.

- 3.3 In keeping with the wider purpose of development contributions, such investment should be recoverable through development contributions. But if that investment is not structured as capital expenditure in the territorial authority's books and ultimately owned the territorial authority, then recovery through development contributions is either problematic or precluded. The legislation does not contemplate more sophisticated funding structures, and leaves ratepayers to pick up the bill.
- 3.4 The provisions as they stand constrain a territorial authority's ability to provide community infrastructure to growth areas, and closes off funding arrangements beneficial to the territorial authority and the community.
- 3.5 HCC suggests amending the legislation to provide for recovery of such expenditure structures through development contributions. Suggested drafting is outlined in Section 4.0 'Recommendations'.
- 3.6 HCC supports the proposed changes to the LGA 2002 repealing section 198A 'Restrictions on power to require contributions for reserves'.
- 3.7 For example, HCC recently invested \$4.5 million towards a new community infrastructure facility named 'The Peak', in the suburb of Rototuna. This is a new four court indoor recreation centre, in a growth part of city, where Council has given a grant matched by central government for the facility to be constructed at new high school and owned by the Ministry of Education and managed by a trust (not Council). These models are increasingly common, as opposed to the traditional council builds and owns/operates model.
- 3.8 This facility has all the characteristics of a community infrastructure facility that would otherwise be eligible for cost-recovery through development contributions under the provisions of the current Bill, but is precluded because of its specific funding structure.
- 3.9 The asset provides benefits to and is caused by growth in that catchment, and has caused Council to incur significant costs toward a capital project, but because Council has employed an innovative financial structure to deliver the asset (which would not have been provided without the partnership funding arrangement), that funding structure unfairly means Council cannot recover costs.

#### 4.0 RECOMMENDATIONS

- 4.1 That reference to the four well-beings as proposed in the Bill be reinstated in the Local Government Act 2002.
- 4.2 That the proposed reintroduction of development contribution recovery for community infrastructure occur and that this specifies a broad range of community infrastructure assets, including libraries, aquatic facilities, sports arenas, theatres and community centres.
- 4.3 That the Bill be amended to provide that:

##### ***Community infrastructure-***

- a. means land, or development assets on land which is either:*
- i. owned or controlled by a territorial authority for the purpose of providing public amenities; and/or*



## Resolution to Exclude the Public

### Section 48, Local Government Official Information and Meetings Act 1987

The following motion is submitted for consideration:

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

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

General subject of each matter to be considered	Reasons for passing this resolution in relation to each matter	Ground(s) under section 48(1) for the passing of this resolution
C1. Confirmation of Council Public Excluded Minutes - 19 April 2018	) Good reason to withhold information exists under Section 7 Local Government	Section 48(1)(a)
C2. Confirmation of Extraordinary Council Public Excluded Minutes - 10 May 2018	) Official Information and Meetings Act 1987	
C3. Confirmation of Elected Member Briefing Notes - Closed - 17 April 2018		
C4. Confirmation of Elected Member Briefing Notes - Closed - 1 May 2018		
C5. FMG Stadium Waikato - Proposed Development		

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 enable Council to carry out commercial activities without disadvantage	Section 7 (2) (h)
Item C2.	to enable Council to carry out negotiations	Section 7 (2) (i)
Item C3.	to prevent the disclosure or use of official information for improper gain or improper advantage	Section 7 (2) (j)
Item C4.	to prevent the disclosure or use of official information for improper gain or improper advantage	Section 7 (2) (j)
Item C5.	to enable Council to carry out commercial activities without disadvantage	Section 7 (2) (h)
	to enable Council to carry out negotiations	Section 7 (2) (i)