

Notice of Meeting:

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

Date: Thursday 14 March 2019
Time: 9.30am
Meeting Room: Council Chamber
Venue: Municipal Building, Garden Place, Hamilton

Richard Briggs
Chief Executive

Council OPEN AGENDA

Membership

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

Quorum: A majority of members (including vacancies)

Meeting Frequency: Monthly – or as required

Lee-Ann Jordan
Governance Manager

8 March 2019

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Purpose

The Council is responsible for:

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

Terms of Reference

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

- e) Approval of the Triennial Agreement.
- f) Approval of the local governance statement required under the Local Government Act 2002.
- g) Approval of a proposal to the Remuneration Authority for the remuneration of Elected Members.
- h) Approval of any changes to the nature and delegations of the Committees.
- i) Approval of all Council and Committee taskforces and their terms of reference.

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:** 14 March 2019
Author: Amy Viggers **Authoriser:** Becca Brooke
Position: Committee Advisor **Position:** Governance Team Leader
Report Name: Confirmation of the Council Open Minutes - 7 February 2019

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

That the Council confirm the Open Minutes of the Council Meeting held on 7 February as a true and correct record.

Attachments

Attachment 1 - Council Open Unconfirmed Minutes - 7 February 2019

Council

OPEN MINUTES

Minutes of a meeting of the Council held in Council Chamber, Municipal Building, Garden Place, Hamilton on Thursday 7 February 2019 at 9.35am.

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 G Taylor
	Cr L Tooman
	Cr R Hamilton

In Attendance:

- Richard Briggs – Chief Executive
- Lance Vervoort – General Manager Community
- Jen Baird – General Manager City Growth
- Eeva-Liisa Wright – General Manager Infrastructure Operations
- Sean Hickey – General Manager Strategy and Communication
- Chris Allen – General Manager Development
- Blair Bowcott – Executive Director Special Projects
- Debra Stan-Barton – Project Manager
- Luke O'Dwyer – City Planning Manager
- Alice Morris - City Planning Heritage, Urban Design and Spatial Team Leader
- Jamie Sirl – Senior Planner
- Nick Chester – Social Development Advisor
- Nicolas Wells – Strategic Property Manager
- Riki Manarangi – Corporate Policy Specialist
- Nigel Ward – Communications Team Leader
- Natasha Ryan – Key Projects Programme Manager

Lachlan Muldowney – Lawyer for Hamilton City Council

Governance Staff:

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

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

1. Apologies

Resolved: (Mayor King/Deputy Mayor Gallagher)

That the apology for absence from Cr Southgate be accepted.

2. Confirmation of Agenda

Concern was raised around the number of late reports and attachments under separate cover.

Resolved: (Mayor King/Deputy Mayor Gallagher)

That the agenda is confirmed noting the following:

- a) the debate will be 2 minutes with an extension of 1 minute if required;
- b) the two late verbal updates (Clarke Lounge and Boundary Discussion Group) for item 7 (Chair's Report) be accepted; these have been added as late topics as both need to be discussed prior to the next meeting of Council;
- c) item 8 (Proposed Plan Change 3 - Temple View Boundary Alteration) be taken after item 4 (Public Forum) to accommodate members of the public;
- d) Item 7 (Chair's Report (SKYCITY Casino Application)) is to be taken after item 8 (Proposed Plan Change 3 - Temple View Boundary Alteration) followed by item 11 (Submission on SKYCITY application to amend Casino licence conditions) and then the remainder of item 7 (Chair's Report) to accommodate members of the public;
- e) the late Item 19 (Review of Future Proof and Hamilton to Auckland Corridor Plan Governance Arrangements) be accepted and will be taken after item 12 (River Plan: Task Force Terms of Reference) to accommodate staff availability; This item was circulated late due to the timing of the 31 January 2019 Elected Member Briefing;
- f) that attachment 1 (Mural Design Concept) for item C2 (Boon Festival 2019 – Further information in relation to the request to install mural on the municipal building) was circulated prior to the meeting under separate cover; and
- g) debate for items 7 (Chair's Report) and 11 (Submission on SKYCITY application to amend Casino Licence conditions) to be allowed up to 5 minutes.

3. Declarations of Interest

No members of the Council declared a Conflict of Interest.

4. Public Forum

Bert Jackson – Mr Jackson spoke to item 11 (Submission on SKYCITY application to amend Casino licence conditions). He outlined his concern around SKYCITY increasing the number of electronic gaming machines and noted the harm that these types of machines can do to members of the community. He supported the Council's submission to the Gambling Commission.

Sir David Moxon – Sir Moxon spoke to item 11 (Submission on SKYCITY application to amend Casino licence conditions). He outlined the concerns submitted at the 1998 Skycity Application hearing, stating that these were still concerns relevant today.

Deborah Fisher – Ms Fisher spoke to item 11 (Submission on SKYCITY application to amend Casino licence conditions) and item 16 (2019 Triennial Elections Information). She noted that she was in support of the Council's submission as she felt the proposed change from tables to machines was not a fair proportion of exchange. She requested the Council consider increasing the visibility of candidate information events by advertising them on the Council website during the 2019 election period.

Karen Morrison-Hume (Director Anglican Action) – Ms Morrison-Hume spoke to item 11 (Submission on SKYCITY application to amend Casino licence conditions) in support of Council's submission. She asked the Council to show leadership in this matter and consider how children and the vulnerable members of the community would be affected by problem gambling.

Mayor King requested that the public forum speakers provide written copies of their submissions to be included with the Council's submission to the Gambling Commission.

5. Proposed Plan Change 3 - Temple View Boundary Alteration

The City Planning Unit Manager and the City Planning Heritage, Urban Design, Spatial Team Leader took the report as read. They responded to questions from Elected Members concerning the estimated cost to council of the proposed plan change, the consultation that had occurred with Waikato Tainui, and the plan change process.

Resolved: (Mayor King/Deputy Mayor Gallagher)
That the Council:

- a) approves public notification of Plan Change 3 – Temple View Boundary Alteration (Attachment 1) pursuant to clause 5 of the First Schedule of the Resource Management Act 1991;
- b) requests staff convene a hearings panel to hear, determine and make decisions on all submissions and matters relating to the Temple View Boundary Alteration plan change once notified. The Hearings Panel will comprise two independent commissioners who are accredited and hold qualifications and skills in strategic land use planning. The panel will have expertise in tikanga Maaori and one will be appointed as chair; and
- c) delegates authority to the Chief Executive to select and appoint two suitably qualified independent commissioners as per part b) above.

The Gambling submission section of the item 7 (Chair's Report) was discussed together with item 11 (Submission on SKYCITY application to amend casino licence conditions)

6. Chair's Report

The Chair took the report as read, noting that the section of the report covering the Waikato Regional Council's Middle Waikato Catchment Sub-committee was no longer required as Cr Southgate had indicated she still wished to be on the Sub-committee. He also encouraged Elected Members to act cordially and professionally in the lead up to the 2019 Local Authority Elections.

The Chair responded to questions from Elected Members firstly, concerning the meaning of receiving a report, and secondly, on the delays to boundary discussions due to the availability of both parties.

Resolved: (Mayor King/Deputy Mayor Gallagher)
That the Council receives the report.

Those for the Motion: Mayor King, Deputy Mayor Gallagher, Crs Mallett, Tooman, Macpherson, Bunting, Taylor and Hamilton.

Those against the Motion: Crs Pascoe, O'Leary, Casson and Henry.

The Motion was declared carried.

Resolved: (Mayor King/Deputy Mayor Gallagher)
That the Council defers the Standing Orders report to the 14 March 2018 Council Meeting.

Resolved: (Mayor King/Deputy Mayor Gallagher)
That the Council:

- a) notes that Chair of the Regulatory and Hearings Committee, at her request, no longer wishes to participate in the meetings between Hamilton City Council and Waikato District Council regarding the wider context of growth in the central Waikato area; and
- b) notes that the Chief Executive, Mayor and the Chair of the Growth and Infrastructure Committee will continue to represent Council at these meetings and will report back to the Council on any matters for consideration, direction or decision.

7. Submission on SKYCITY application to amend Casino licence conditions

The Chair took the report as read and noted that he had received a letter from the Gambling Commission advising that the Commission intended to issue public notices and additional invitations to a number of entities which would outline the submissions/hearing process that it intends to follow. A copy of the letter would be attached to these minutes as Appendix 1. He responded to questions from Elected Members concerning the scope of the submissions and hearings process.

Motion: (Crs Macpherson/Casson)
That the Council:

- a) approves the draft submission (attachment 3 of the staff report) opposing SKYCITY's application to the Gambling Commission to amend its licence conditions; and
- b) notes that the Chief Executive will circulate external expert advice in support of council's submission to Elected Members prior to it being attached to the final submission to be presented to the Gambling Commission.

Amendment: (Crs O'Leary/Pascoe)
That the Council defers the decision until such time as Council understands the Gambling Commission process for the SKYCITY application.

The Amendment was put.

Those for the Amendment: Crs Pascoe, Tooman, O'Leary and Henry.

Those against the Amendment: Mayor King, Deputy Mayor Gallagher, Crs Mallett, Macpherson, Bunting, Casson, Taylor and Hamilton.

**The Amendment was declared lost.
The Motion was then put and declared carried.**

Resolved: (Crs Macpherson/Casson)
That the Council:

- a) approves the draft submission (attachment 3 of the staff report) opposing SKYCITY's application to the Gambling Commission to amend its licence conditions; and
- b) notes that the Chief Executive will circulate external expert advice in support of council's submission to Elected Members prior to it being attached to the final submission to be presented to the Gambling Commission.

Cr Mallett Dissenting.

The meeting adjourned 11.40am – 12.05pm.

8. Confirmation of the Council Open Minutes - 13 December 2018

Resolved: (Mayor King/Deputy Mayor Gallagher)

That the Council confirm the Open Minutes of the Council Meeting held on 13 December 2018 as a true and correct record.

9. Confirmation of the Elected Member Briefing Notes - 13 December 2018

Resolved: (Mayor King/Deputy Mayor Gallagher)

That the Council confirm the Open Notes of the Elected Member Briefing Meeting held on 13 December 2018 as a true and correct record.

10. Regulatory Efficiency and Effectiveness Programme (REEP) Proposed Plan Change

The REEP Project Manager introduced the report, noting a correction to paragraph 15 of the staff report which should refer to (para 13c). Staff and Mr Lachlan Muldowney (Lawyer for Hamilton City Council) responded to questions from Elected Members concerning the various recommended changes in Attachment 1 of the staff report and their effects.

Resolved: (Mayor King/Deputy Mayor Gallagher)

That the Council:

- a) receives the report; and
- b) approves preparation of a change to the District Plan to:
 - i. incorporate the recommendations from the Regulatory Efficiency and Effectiveness Programme (REEP) that can be made in a simple plan change (refer Attachment 1);
 - ii. correct a mapping error in relation to the National Grid Yard and National Grid Corridor; and
 - iii. rezone Lot 2 DP 425316 from Special Natural Zone, Rotokauri – Lake Waiwhakareke Landscape Character Area to Destination Open Space.

11. Parks, Domains and Reserves Bylaw review

The Senior Planner and the Corporate Policy Specialist took the report as read. They responded to questions from Elected Members concerning drone usage guidelines, the purpose of the bylaw as an education tool, opportunities to pursue prosecution if required, and the requirement for the Council to consider all public spaces under the Freedom Camping Act.

Staff Action: Staff undertook to organise an Elected Member Briefing concerning drone usage guidelines and regulations.

Resolved: (Mayor King/Cr Tooman)

That the Council determines that a bylaw is the most appropriate mechanism of addressing the issues associated with the management and protection of parks within Hamilton.

Resolved: (Mayor King/Cr Tooman)

That the Council approves the consultation process outlined including the attached Statement of Proposal which sets out the proposed amendments to the Hamilton City Parks, Domains and Reserves Bylaw 2012.

12. River Plan: Task Force Terms of Reference

The Key Projects Programme Manager introduced the report. The Chair of the River Plan Task Force provided an update on the formation of the River Plan Taskforce Group. They responded to questions from Elected Members concerning the scope of projects the taskforce would consider and the delegation of the taskforce which they confirmed was to only to provide recommendations to the Council.

Resolved: (Cr Taylor/Cr Casson)

That the Council:

- a) receives the report; and
- b) approves the draft River Plan Task Force Terms of Reference (attachment 1 of this report).

19. Review of Future Proof and Hamilton to Auckland Corridor Plan Governance Arrangements

The Executive Director Special Projects provided an overview of the report. He noted the Future Proof Growth Management Partnership would be updated with a new governance and executive/technical structure. This would become the primary delivery mechanism for the Corridor Plan from 2019. Staff responded to questions from Elected Members concerning the focus of the new governance group and the role Elected Members would have in the group.

Staff Action: *Staff undertook to invite all Elected Members to the future governance meetings of the yet to be established partnership group.*

Resolved: (Mayor King/Cr Macpherson)

That the Council:

- a) receives the report;
- b) approves the Future Proof growth management partnership to be repurposed to respond to the Hamilton to Auckland Corridor Plan as described in section 3 and recommendations 4(a) – 4(i) in Attachment 1 to this report:
 - i. use the Future Proof governance, management and technical model, and invite Auckland partners and central government representation, to respond to the Hamilton to Auckland Corridor Plan;
 - ii. invite central government and Auckland Council (and other Auckland partners where appropriate) to have representation on Future Proof structures at all levels;
 - iii. convene more regular Future Proof Implementation Committee meetings on a bimonthly basis, with informal workshops in the “off” months;
 - iv. chief Executive Advisory Group members to report/present at Future Proof Implementation Committee meetings on the direction/strategic matters;
 - v. hold six monthly partnership stocktake meetings with Chief Executive Advisory Group members;

- vi. retain the independent chair model;
 - vii. include standing items on the Chief Executive Advisory Group and Future Proof Implementation Committee agendas in relation to project check-ins;
 - viii. report a summary of Future Proof Implementation Committee meetings to partner Council Committee/Council meetings;
 - ix. review the number of representatives from each organization on Future Proof Implementation Committee post local government elections in October 2019.
- c) notes that Council's approval of 2b) above is subject to the following conditions and requests the Chief Executive negotiate this re-development with the other growth management partnership representatives:
- i. a new name for the partnership to reflect its new focus and participants;
 - ii. the primary focus of the new partnership is to:
 - respond and deliver on the Government Urban Growth Agenda with respect to the Hamilton to Auckland corridor;
 - to respond and deliver the Hamilton to Auckland Corridor Plan and growth planning for the sub-region;
 - to guide the development of the Hamilton-Waikato Metropolitan Spatial Plan;
 - the re-development of the draft Future Development Strategy (required by the National Policy Statement on Urban Development Capacity), growth strategies and other planning processes (such as working with the Urban Development Authority) for the sub-region to reflect the above;
 - iii. the Memorandum of Understanding, Joint Committee Agreement and Terms of Reference for the governance, management and technical model are reviewed to reflect the new focus and participants;
 - iv. the Terms of Reference for the independent chair are reviewed and subject to appropriate procurement processes, noting the current contract expires at 30 June 2019;
 - v. the external resourcing needed by the partnership is reviewed and subject to appropriate procurement processes, noting the current contract expires 30 June 2019.
- d) requests the Chief Executive negotiate with the other growth management partnership representatives to withdraw the existing Future Proof resolution to invite Matamata-Piako District Council to join the partnership, and instead seek that Matamata-Piako District Council are engaged as a key stakeholder to the Hamilton to Auckland Corridor Plan and the Metropolitan Spatial Plan; and
- e) notes that the Hamilton to Auckland Corridor Plan governance arrangements will be considered by the Governance Group of Ministers, Mayors and Chairs on 15 February 2019 and the Future Proof Implementation Committee on 20 February 2019, with Hamilton City Council represented by the Mayor and Councillor Macpherson; and
- f) notes that the Hamilton to Auckland Corridor Plan, will be reported to the Growth and Infrastructure Committee on 26 March 2019.

Cr Mallett Dissenting.

The meeting adjourned 2.00pm – 2.45pm.

Cr Macpherson left the meeting during the above adjournment.

13. Boon Festival 2019 - Request to Install Mural on Municipal Building

The General Manager Community spoke to the report noting that there was a need to consult on the proposal and as such requested the matter be deferred to the 19 February 2019 Community Services and Environment Committee Meeting for consideration.

Resolved: (Mayor King/Deputy Mayor Gallagher)

That the Council refers item 17 (Boon Festival 2019 - Request to Install Mural on Municipal Building) and item C2 (Boon Street Festival – further information) in the public excluded section of the agenda to the 19 February 2019, Community Services and Environment Committee meeting for consideration.

Cr O'Leary re-joined the meeting (2.49pm) at the conclusion of the above item. She did not partake in the vote on the matter.

It was noted that Item 13 – (Contract 12073 Telecommunications Services Extension) would be moved into the public excluded section of the agenda for reasons as outlined in the resolution to exclude the public. It had been incorrectly included in the open section of the agenda due to administrative error.

Resolved: (Mayor King/Deputy Mayor Gallagher)

That Item 13 – (Contract 12073 Telecommunications Services Extension) be moved into the public excluded section of the agenda to enable Council to carry out commercial activities without disadvantage.

14. 79 Norton Road - Municipal Endowment - Family Start Proposal

The Strategic Property Manager took the report as read and responded to questions from Elected Members concerning the value of the potential lease, the process staff had followed since 2 August 2018 to attempt to sell the land, and the requirement for the new leasee to remove all buildings from the land at the end of the lease.

Resolved: (Cr Tooman/Cr Casson)

That the Council:

- a) revokes the following resolution of Council made at its 2 August 2018 meeting in respect of Item 15 – Municipal Endowment – Sale of Land – 79 Norton Road
*“ a) approves selling the land described in the schedule by a competitive, transparent open-market process (option 1 of this report);
b) authorises the Chief Executive to give effect to this resolution; and
c) notes that the net proceeds of sale will be credited to the Municipal Endowment Fund Reserve.”*
- b) approves leasing the land described in the schedule to Kirikiriroa Family Services Trust on commercial terms:
 - Initial term of five years
 - One right of renewal of five years
 - Market rental
- c) authorises the Chief Executive to give effect to this resolution.

SCHEDULE

First All that land described as an Estate in Fee Simple comprising Lot 3 Deposited Plan South Auckland 8955 contained in Computer Freehold Register Identifier SA9D/1420 of 794

square metres more or less and physically located at 79 Norton Road, Hamilton (shown bordered in red on Attachment 1).

Second All that land described as an Estate in Fee Simple comprising Lot 4 Deposited Plan South Auckland 8955 contained in Computer Freehold Register Identifier SA9D/1421 of 61 square metres more or less and physically located at 79 Norton Road, Hamilton (shown bordered in red on Attachment 1).

Third All that land described as an Estate in Fee Simple comprising Lot 5 Deposited Plan South Auckland 8955 contained in Computer Freehold Register Identifier SA9D/1422 of 615 square metres more or less and physically located at 79 Norton Road, Hamilton (shown bordered in red on Attachment 1).

Fourth All that land described as an Estate in Fee Simple comprising Lot 6 Deposited Plan South Auckland 8955 contained in Computer Freehold Register Identifier SA9D/1423 of 814 square metres more or less and physically located at 79 Norton Road, Hamilton (shown bordered in red on Attachment 1).

Cr Macpherson re-joined the meeting (2.59pm) during the discussion of the above item. He was present when the matter was voted on.

15. Draft 2019 Council Schedule of Reports

The Governance Manager introduced the report and responded to questions from Elected Members concerning specific report due dates that were based on previous resolutions of the Council.

Resolved: (Mayor King/Cr Casson)

That the Council:

- a) receives the draft 2019 Schedule of Reports; and
- b) notes that the Schedule of Reports is intended to be a living document that will be updated as necessary and will be made available to Elected Members on Onedrive.

16. 2019 Triennial Elections Information

The Governance Manager introduced the staff report. She responded to questions from Elected Members concerning the advertisement of candidate information events on the Council website, electoral spend requirements under the Local Electoral Act (2001). It was noted that the Electoral Officer, Dale Ofoske, should be contacted directly if members had any questions associated with electoral spend or relevant legislation.

Resolved: (Cr Hamilton/Cr Casson)

That the Council:

- a) receives the report; and
- b) approves the names of the Hamilton City Council candidates for the 2019 Local Authority Elections to be arranged on the voting documents to be **random order**.

18. Resolution to Exclude the Public

Section 48, Local Government Official Information and Meetings Act 1987

The following motion is submitted for consideration:

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

consideration of the public excluded agenda.

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

General subject of each matter to be considered	Reasons for passing this resolution in relation to each matter	Ground(s) under section 48(1) for the passing of this resolution
C1. Confirmation of the Council Public Excluded Minutes - 13 December 2018) Good reason to withhold information exists under Section 7 Local Government Official Information and Meetings Act 1987	Section 48(1)(a)
C3. Contract 12073 – Telecommunications Services)	

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

- Item C1. to prevent the disclosure or use of official information for improper gain or improper advantage Section 7 (2) (j)
- Item C3. Enable Council to carry out commercial activities without disadvantage; Section 7 (2) (h)

The meeting went into a public excluded session at 3.45pm.

The meeting was declared closed at 3.50pm.

7 February 2019

Dear All

APPLICATION BY SKYCITY HAMILTON TO DEPLOY 60 ADDITIONAL GAMING MACHINES IN SUBSTITUTION FOR THREE BLACK JACK TABLES (TOGETHER WITH RELATED APPLICATIONS)

1. By letter dated 10 December 2018, the Gambling Commission received an application from SKYCITY to deploy 60 gaming machines at the Hamilton casino, in substitution for three Blackjack tables.
2. While increases in the opportunities for casino gambling are prohibited by section 11 of the Gambling Act 2003, section 12(2)(a) provides that an increase in the number of gaming machines is not an increase in the opportunities for casino gambling if accompanied by a reduction in the number of table games that the Commission believes is proportionate. The maximum numbers of gaming machines and table games, and a minimum ratio between them, are conditions of the Hamilton casino operator's licence.
3. The Commission initially sought submissions on the application from the Secretary for Internal Affairs, Problem Gambling Foundation, The Salvation Army Oasis, Hamilton Casino Monitoring Group and Ministry of Health by 21 January 2019, but subsequently extended that date to 19 February 2019.
4. Although section 12 of the Act has been in force since 2003, the application is the first occasion on which a casino has applied to the Commission to increase its gaming machines in exchange for a reduction in table games. The application has generated considerable public interest, particularly in the Hamilton and Waikato communities. Some interested parties have contacted the Commission with a request that a broad consultation process be adopted and that the Commission hold a public hearing of the application.
5. The Commission has considered the novelty of the issues and the extent of local community concern to which the application gives rise. It has decided to broaden the scope of consultation and to hold a public hearing as part of its process to determine the application. As the application is the first of its kind to seek substitution of table games for gaming machines and the decision is likely to affect the prospects of similar applications elsewhere, the Commission takes the view that it should be the subject of public notice, both nationally and locally, so that those interested in both the broad national issues and their local application can be heard.
6. This letter is to notify you that the Commission intends to issue public notices and additional invitations to a number of entities which are potentially interested in the outcome. When doing so, it will outline the hearing process that it intends to follow.
7. In the light of the decision to notify the application publicly and to issue further invitations to make submissions, the present arrangements to lodge submissions by 19 February 2019 are vacated. A later date for the receipt of submissions will be advised.

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www.gamblingcom.govt.nz

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8. Please contact the writer should you have any queries.

Yours faithfully,



Blair Cairncross
Executive Director Gambling Commission
Tel: 09-353 7222
blair.cairncross@gamblingcom.govt.nz

cc: Phil O'Connell
Group General Manager, Regulatory Affairs & AML
SKYCITY Entertainment Group Limited
PO Box 6443
Wellesley Street
Auckland

Attachment 1

Item 5

Council Report

Item 6

Committee: Council
Author: Claire Guthrie
Position: Committee Advisor
Report Name: Confirmation of the Elected Members' Briefing Open Notes - 31 January 2019

Date: 14 March 2019
Authoriser: Becca Brooke
Position: Governance Team Leader

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

That the Council confirm the Open Notes of the Elected Members' Briefing held on 31 January 2019 as a true and correct record.

Attachments

Attachment 1 - Elected Members' Briefing Open Unconfirmed Notes - 31 January 2019

Elected Member Briefing Notes – 31 January 2019 – Open

Attachment 1

Time and date:	12.30pm 31 January 2019
Venue:	Committee Room 1, Hamilton City Council
In Attendance:	Mayor King, Deputy Mayor Gallagher, Crs Pascoe, Taylor, Henry, Mallett, Casson, Hamilton, Tooman, Macpherson
Apology for Full Session:	Crs O’Leary, Bunting and Southgate
Apologies for lateness/early departure:	Crs Hamilton and Taylor

Discussion

The briefing session covered the following topic in an open session.

- Growth Management Partnerships

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

1. **Growth Management Partnerships** *(Presentation was provided)*

Item 6

The Executive Director Special Projects explained that the purpose of the presentation was to recap the Hamilton to Auckland Corridor Plan, the Hamilton-Waikato Metropolitan Spatial Plan and present the feedback summary from the December 2018 briefing. Further input was sought from Elected Members towards a report to be presented to Council on 7 February 2019 which would outline options for future partnerships and a governance group to implement these Plans. The partnerships would include the Central Government, Territorial Authorities and Iwi. It was noted that the proposed governance group would give effect to growth strategies such as the Future Development Strategy, the Regional Policy Statement and to the Government Urban Growth Strategy and Urban Development Authority.

Elected Members asked questions in relation to the following:

- meeting with Minister Twyford planned for 15 February 2019
- extent of the Metropolitan Spatial Plan
- Government and Auckland Council perspectives on the proposed partnerships
- Future Proof group ongoing relationships, the changes required to the Future Proof agreement and requirements for future leadership and for councils to work together
- a new partnership agreement required as a foundation for the new governance structure and possible new external support and legislative frameworks
- provision of communication plans
- Elected Members attending Future Proof meetings as observers
- Waikato Plan relationship to the Hamilton to Auckland Corridor Plan
- Production of new partnership plans, including the draft Future Development Strategy (under the NPS)
- funding and financing work programme to support growth in the Corridor

Council Report

Item 7

Committee: Council

Date: 14 March 2019

Author: Claire Guthrie

Authoriser: Becca Brooke

Position: Committee Advisor

Position: Governance Team Leader

Report Name: Confirmation of the Elected Members' Briefing Open Notes - 14 February 2019

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

That the Council confirm the Open Notes of the Elected Members' Briefing held on 14 February 2019 as a true and correct record.

Attachments

Attachment 1 - Elected Members' Briefing Open Unconfirmed Notes - 14 February 2019

Elected Member Briefing Notes – 14 February 2019 – Open

Time and date:	10.30am, 14 February 2019
Venue:	Committee Room 1, Hamilton City Council
In Attendance:	Mayor King, Deputy Mayor Gallagher, Crs Pascoe, O’Leary, Taylor, Henry, Bunting, Mallett, Hamilton, Tooman, Macpherson Maangai Maaori Hill, Te Ua, Thompson-Evans
Apology for Full Session:	MM Whetu, Cr Casson
Apologies for lateness/early departure:	MM Takiari-Brame, Cr Southgate

Discussion

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

- WEL Energy Trust Community Investment Strategy Consultation
- Overview of the Annual Plan Process/ Elected Member Questions on Process
- Financial Update
- Proposed Items for Consideration in the Annual Plan
- Development Contributions Policy Update
- I-SITE Options
- Productivity Commission Inquiry on Local Government Funding and Financing

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

1. WEL Energy Trust Community Investment Strategy Consultation

(Presentation was provided)

The Business and Planning Manager, Community, introduced the Chair and Chief Executive of the WEL Energy Trust. The purpose of the presentation was to outline the Trust’s new Community Investment Strategy (CIS) 2019-2022 which had new outcomes and goals. The CIS was based on the United Nations Sustainable Development Goals (SDGs) which provided a common language for goals. The Trust’s 2019- 2020 Annual Plan was presented to the Members and reflected this new paradigm.

Elected Members asked questions in relation to the following:

- role of government policy in supporting SDGs and investment drives
- role of the Trust to support prosperity in the region
- process for deciding priorities – economic development, sustainable city, environmental improvements
- clarification of the Trust’s Annual Plan and criteria to invest with communities
- the Trust’s geographical area for grant and investment distribution
- partnership opportunities with HCC and DHB on long term goals for good health and wellbeing

2. Overview of the Annual Plan Process /Elected Member Questions

(Presentation was provided)

The General Manager Strategy and Communications explained that the purpose of the presentation was to advise Members of the proposed changes to the 2019/2020 budget. The timeframes for decision making and the specific items to be considered were outlined. Two questions, received from Elected Members prior to the briefing were answered; that the Mayor’s

statutory role is to lead development of the plan, policies and budgets for Elected Members' consideration; and the process if Council decides to sell strategic assets through the Annual Plan.

Elected Members asked questions in relation to the following:

- timeframes to finalise the Annual Plan items
- earlier circulation of items to allow for review
- impact of significant changes in the Annual Plan budget on the 10 Year Plan

3. Financial Strategy (Annual Plan)

(Presentation was provided)

The General Manager Corporate explained that the purpose of the presentation was to consider the financial strategy over the 10 Year Plan. Graphs of the Council's Debt to Revenue, Net Debt and Balancing the Book projections were circulated along with the Register of Significant Forecast Changes. It was noted that the Finance Committee now had three standing reports and the 10 Year Plan measures were reported to each Finance Committee meeting.

4. Proposed Items for Consideration in the Annual Plan

(Presentation was provided)

The Unit Manager Corporate Planning and Strategy explained that the purpose of the presentation was to review the proposed changes to the 2019/2020 budget before the items came to the Council Meeting on 26 February 2019. The circulated items contained a staff assessment of each proposal and a proposed recommendation. The items included;

- VOTR/River Park Master Plan
- Greenwood Street/Kahikatea Drive intersection investigation
- City Safe programme extension to suburban areas
- decorative lighting in Garden Place and Civic Square
- seismic strengthening projects
- options for separation between swimmers/divers and vessels at Hamilton Gardens
- CBD cycling infrastructure; Access Hamilton – use of additional FAR funding
- level of service change for drainage reserve maintenance.

Some additional items were outlined but these could not be circulated formally until the details were finalised.

Elected Members asked questions in relation to the following:

- timeframes for the depreciation expected in relation to the revaluations of property
- problem intersections in the city
- the requirement to consult
- the communication strategy for the Annual Plan

5. Development Contributions (DC) Policy Update

(Presentation was provided)

The Economic Growth and Analytics Unit Manager explained that the purpose of the presentation was to provide an update on the proposed changes to the DC Policy and seek Elected Member input. He outlined the proposed changes (gross floor area definition and update of the Schedule of Assets and growth project) and noted it was proposed that this Policy would go out for public consultation for three weeks during 8-26 April 2019.

Elected Members asked questions in relation to the following:

- requirements to consult on a DC policy change
- effect of an increase in DCs and the ways DCs get triggered
- effect of previous changes to DCs on the development community
- fairness of charges for smaller businesses
- effect of the new DC levies on CBD residential development
- impact on HCC financial strategy if there were major changes to the DC Policy

6. i-SITE Options

(Presentation was provided)

The General Manager Venues, Tourism and Major Events explained that the purpose of the presentation was to review three options available for the future of the i-SITE business. These included no i-SITE service but basic assistance from HCC reception staff; a mid-range service integrated within Artspost and a full-service status quo.

Elected Members asked questions in relation to the following:

- the benefit in cost savings over the 10 Year Plan period if the service closed
- possible redundancy costs if there was a reduction of staff levels
- costs to re-open and reputational risk if closed in the meantime
- i-SITE requirement to be open seven days a week, Artspost opening hours and rent costs if located at Artspost
- other alternative sites considered and the cost of the current operation in relation to other providers
- level of service that was desirable for Hamilton and provision of other services such as city ambassadors
- options for ticketing venues and the effect of no booking service
- accessibility and parking for i-SITE visitors if located in the CBD
- the viability of the options in relation to the region's tourism focus and visitor industry growth

7. Productivity Commission Inquiry on Local Government Funding and Financing

(Presentation was provided)

The General Manager Corporate and the Executive Director Special Projects explained that the purpose of the presentation was to obtain Elected Member direction on the items for inclusion in HCC's submission to the Productivity Commission Inquiry. Staff had outlined seven potential key themes for discussion;

1. continuation of interest-free loans for infrastructure
2. supportive of development of new off-balance sheet financing tools
3. opportunity to align spending programmes between local and central government to achieve efficiencies
4. open minded on aggregation for delivery of core services
5. supportive of a community facilities funding framework
6. supportive of standardisation and increased efficiencies in local government systems, facilities and services
7. supportive of regional fuel tax and variable road pricing

Elected Members asked questions in relation to the following:

- priority level for interest free loans
- possible long-term problems with the new off-balance sheet financing tools
- social demographics and impact of road and fuel tax
- alternatives for local government funding other than property rates

Council Report

Item 8

Committee: Council
Author: Amy Viggers
Position: Committee Advisor
Report Name: Chair's Report

Date: 14 March 2019
Authoriser: Becca Brooke
Position: Governance Team Leader

Report Status	<i>Open</i>
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Mayor's Recommendations

Cultural appropriateness

1. That the Council requests the chief executive to scope the work required to understand and respond to any issues of cultural sensitivity with naming of council-controlled sites (e.g. roads, parks, buildings) where cultural offence has already been identified.

Development of a Council Submission to the Ministry of Education's February 2019 Consultation Discussion Document 'Reform of Vocational Education'

2. That the Council:
 - a) request staff to draft a submission to the MOEs February 2019 Consultation Discussion Document 'Reform of Vocational Education'.
 - b) that the draft Council submission be circulated to Elected Members for discussion at the 21 March 2019 Council Briefing.
 - c) that the Chief Executive be given delegated authority to approve Council's final submission that will be sent to the MOE by 27 March 2019.

Attachments

Attachment 1 - Chair's Report

Attachment 2 - Reform of Vocational Education Consultation Discussion Document .



Chair's Report

Cultural appropriateness

Recently we have had claims about cultural appropriateness of the naming and recognition of colonial figures in the city. To better understand the issues raised the council needs to undertake its own work to confirm an accepted view of historical events and if recognition of colonial figures is offensive to Maaori

Recommendation

That the Council requests the chief executive to scope the work required to understand and respond to any issues of cultural sensitivity with naming of council-controlled sites (e.g. roads, parks, buildings) where cultural offence has already been identified.

Community Lands Trust

At the Mayoral update on the 14th of February I gave an overview to councillors on forming a community lands trust.

I spoke at the community funders forum on the 4th of March, which was a meeting of the major trusts in the Waikato. I spoke about progressing the concept of a land trust. The concept is well supported with all trusts looking at how this could be advanced.

Throughout the discussion there is a willingness from all the trusts to use their tools and resources to address any issues and make the land trust viable. There were also conversations on the many different trust models that could be used.

I believe there is significant support for a community lands trust for the “missing middle” and the idea could progress this year.

I will be recommending that council through the 19/20 annual plan, allocate the \$2 million set aside for social housing, fund the Community Lands trust at \$1 million per annum in year 2019/2020 & 2020/2021 once the trust is established.

I believe it is important that we also include the formation of a Land trust for the “missing middle” in our submission to WEL Trust

Development of a Council Submission to the Ministry of Education's February 2019 Consultation Discussion Document 'Reform of Vocational Education'

The government has announced plans to establish a unified, national system of vocational education and training.

The Government's proposals are outlined in the Ministry of Education's (MOEs) February 2019 Consultation Discussion Document 'Reform of Vocational Education' (**attached**). Submissions to the consultation discussion document close on 27 March 2019.

I attended a presentation on the 4th of March on the proposed reforms. Cr Paula also attended. The presentation noted that there was a regional expectation for a continued strong relationship of any changed educational entity with local government.

Given the significance of these proposed reforms, and the potential impact they may have on Wintec, I would like staff to develop a draft submission to the discussion document that primarily focuses on the success and significance of Wintec and its pivotal role in meeting the training and employment needs of Hamilton, the Waikato Region and beyond – and that we do not want this compromised by the proposed reforms.

Recommendations

That the Council:

- a) request staff to draft a submission to the MOEs February 2019 Consultation Discussion Document 'Reform of Vocational Education'.
- b) that the draft Council submission be circulated to Elected Members for discussion at the 21 March 2019 Council Briefing.
- c) that the Chief Executive be given delegated authority to approve Council's final submission that will be sent to the MOE by 27 March 2019.

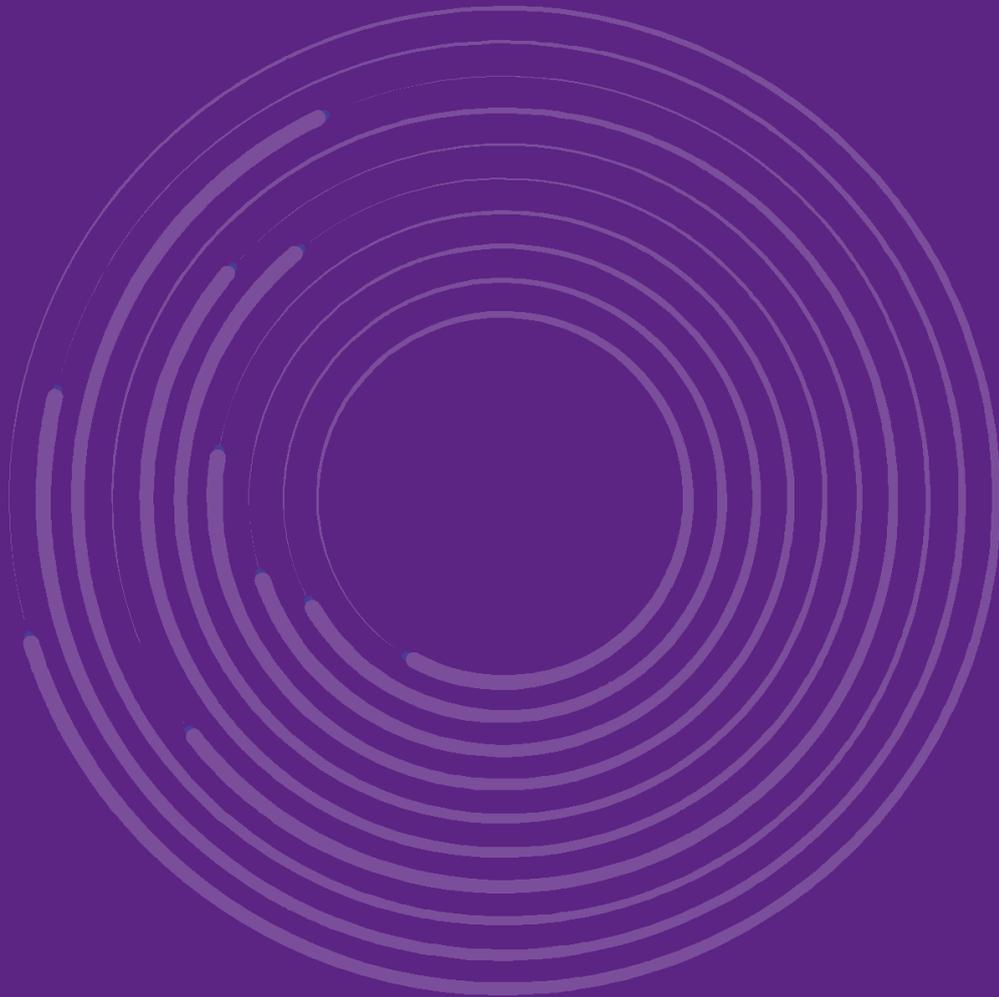
Andrew King
Mayor - Hamilton City Council
Love Hamilton

Reform of Vocational Education

Consultation discussion document



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Ministerial foreword



Every New Zealander deserves access to quality education and training throughout their lives, so they can realise their potential and participate fully in our economy and society.

The world around us is changing rapidly and will continue to do so. Our education system needs to keep up.

Our vocational education system is a case in point. At a time when we're facing critical skill shortages, our polytechnics and institutes of technology are going broke.

The strong labour market is encouraging young people to move directly into the workforce rather than continue in formal education, and our system isn't geared up for the future economy, where re-training and up-skilling will be a regular feature of everyone's working life.

It's time to reset the whole system and fundamentally rethink the way we view vocational education and training, and how it's delivered.

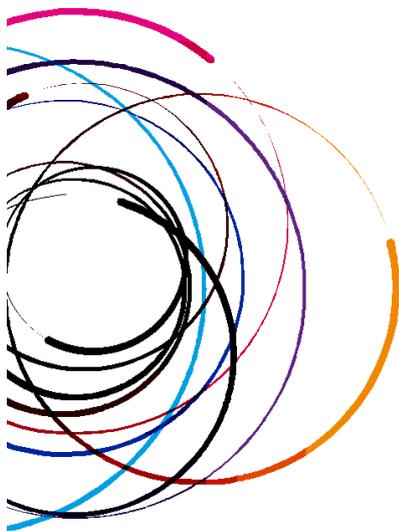
We need to move from a system where educational institutions and on the job training compete with one another, to a system where on the job and provider-based learning is seamlessly integrated.

We need to move away from the cycle that sees course delivery at institutes boom when the economic cycle turns down and then dive when the economy improves, while on the job training providers face the opposite cycle.

Instead of our regional institutes of technology retrenching, cutting programmes, and closing campuses, we need them to expand access to consistently high-quality quality vocational education and their course delivery throughout the country.

We need a model where businesses, industry, iwi and local government in every region play an active role in driving skills development. We need to shift from the current approach where they ask their local education providers "what can you do for us?" to one where they say "this is what we want from you".

We need a system of training and skills development that is more flexible and more nimble, so we can get people with the right skills into the right jobs much faster.





Our thinking needs to shift from the idea that the ultimate goal of senior secondary schooling is to prepare young people for university to add a much greater focus on the career pathways of the two-thirds of school leavers who do not go on to study degrees.

Our Government is committed to delivering a step-change. We know that big change is required, and that's what the proposals contained in this document are designed to achieve.

We propose to establish a unified, coordinated, national system of vocational education and training.

The roles of existing Industry Training Organisations (ITOs) would be re-shaped so that they are much more focussed on skills leadership and making sure that the education and training provided meets the needs of employers.

A new institution, the New Zealand Institute of Skills & Technology, would replace our 16 existing polytechnics and institutes of technology. The new Institute would have a strong regional focus, giving local leaders much more say in the education and training offered in their region.

The development of courses and programmes would be consolidated, freeing up resources to expand front-line delivery. There will be more sharing of expertise and best-practice, and more use of on-line, distance, and blended learning.

Our proposals are ambitious, and necessarily so. We cannot continue to tweak the system knowing that the model is fundamentally broken, and isn't delivering our workforce the skills that they need to thrive.

I look forward to hearing your feedback. Consultation closes on **Wednesday 27 March 2019**. Make sure that you have your say before then, and thank you for taking the time to contribute your thoughts to this important work.

Hon Chris Hipkins, Minister of Education

Introduction

How to read this document

This document sets out an integrated package of reforms the Government is considering for New Zealand's vocational education system.

The three proposals of the reforms will:

- 1 **redefine the roles of education providers and ITOs**, and extend the leadership role of industry and employers across all vocational education through new Industry Skills Bodies (page 19);
- 2 **create an institution**, with the working name of the New Zealand Institute of Skills & Technology, bringing together our 16 public Institutes of Technology and Polytechnics (ITPs) as a single entity (page 22); and
- 3 **create a unified vocational education funding system**, removing barriers to collaboration and flexibility, ensuring a sustainable network of provision, and supporting the wider reforms (page 27).

After describing the proposed changes, we discuss what these changes may mean for learners, employers, the community and people and organisations working across the vocational education system.

We want to hear your views on these proposals. The changes we propose are complex, and we need the detailed knowledge and different perspectives of people across New Zealand to get them right. Over the next six weeks, we will be undertaking an extensive engagement and consultation process across the country. You don't need to write a formal submission or limit your feedback to the questions asked - any and all feedback, written and verbal, will be taken into account as the Government makes its final decisions.

We need to receive your feedback by Wednesday 27 March 2019.



What do I need to know for 2019?

The proposals in this document may go ahead in this or another form, but the Government won't make any decisions until we have heard and carefully considered feedback from this consultation process. Even if the proposals for change go ahead, we do not expect learners to experience any substantial change in their education and learning during 2019; and any changes from 2020 onward would be implemented in a way that minimised disruption to learners and employers. So, in the meantime, what do you need to know for 2019?

Regional communities

Our regions keep New Zealand moving. The proposals outlined in this document would increase the amount and range of delivery available to regional New Zealand through our proposed vocational education network.

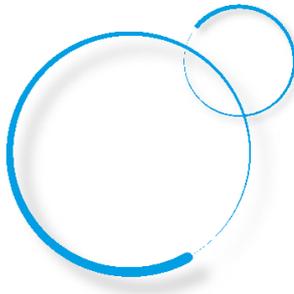
This document proposes the creation of a New Zealand Institute of Skills & Technology. This new institution would build on the current relationships, skills and unique identities of our current national network of ITPs. The vocational education system would enable more and better regional delivery in a sustainable way across all of New Zealand.

If you work or partner with a regional ITP, for example as a school, employer, iwi, non-government organisation (NGO) or local Government official, you should continue to do so. The proposed reforms aim to maintain and expand, rather than reduce or withdraw from, education and training activity in the regions. You can continue to build and maintain enduring and highly valuable relationships with ITPs.

These proposals support the Government's International Education Strategy objectives to enable greater regional provision of international education and share the benefits of the international education industry with our regions.

Domestic or international learners

If you are a student or trainee, whether domestic or international, you can confidently enrol in your vocational education courses in 2019. You will be able to proceed with your study through any future change process. Your course fees for 2019 won't change due to the proposed reforms. Over time, fees for students in vocational education may become more consistent around the country. Local scholarships and fee support programmes that ITPs have committed to with their communities will remain. The Government's policy of a Fees-Free first year of tertiary education and training will continue. If you are an international student, any approved visas and study arrangements will continue, and the courses and qualifications you are enrolled in will continue to be recognised.



If the changes go ahead as currently proposed, you should not notice any major changes to how the system operates in 2019. Education providers and ITOs will be gearing up for transformation, but it will be “business as usual” for you as a learner. Ensuring you can complete your study as planned – during 2019 and beyond – will be a top priority throughout any change process, including for international students on multi-year visas.

If the proposals presented in this document go ahead, students at ITPs who finish their studies in 2020 or later may be awarded their qualifications by the New Zealand Institute of Skills & Technology, which your institution would become a part of. Similarly, if you are a trainee or apprentice enrolled with an ITO, you may finish your qualification with an education provider. The Government will consult separately with learners at a later date on how best to reflect these changes on your Record of Achievement and other documents.

Employers engaged in industry training

If you are an employer engaged in industry training, and the changes outlined in this document go ahead as proposed, then your ITO might start gearing up for change in the second half of 2019. The Government will work closely with ITOs and vocational education providers to make any change process as smooth as possible for you, your trainees and apprentices. In the meantime, and indeed throughout any future change process, you can continue to invest in vocational education and training for your staff with the confidence that they will be able to complete their programmes.

Where you can learn more, and how you can provide feedback

To help you find out what you need to know, we have developed a range of factsheets and more technical discussion documents. These documents, and the Consulting on Proposals for Vocational Education System Reform January 2019 Cabinet paper, are published online here: <https://conversation.education.govt.nz/conversations/reform-of-vocational-education>.

Our factsheets can help you to learn more about the proposals, and the technical discussion documents will seek your feedback on specific design elements of the proposals.

This link will also take you to a regularly updated database of FAQs, as well as our online survey where you can respond to the questions posed in this document and more. You can find a list of factsheets and technical discussion documents on page 34, along with a glossary.

Have your say...

You can provide feedback by attending a face-to-face consultation event in the coming weeks. These will include:

- » four community engagement days, where a wide range of community stakeholders can engage with the Reform of Vocational Education team. These community stakeholders will include, but not be limited to, employers, learners (including students, trainees and apprentices), iwi and community representatives, unions, as well as education providers/schools and ITOs - in Auckland, Rotorua, Palmerston North, and Christchurch;
- » six dedicated hui for iwi and Māori stakeholders, in Northland, Auckland, Gisborne, Rotorua, Wellington and Christchurch, as well as iwi and Māori engagement in each region via the community engagement days and visits to ITPs;
- » two fono for Pacific stakeholders, in Auckland and Porirua;
- » Engagement with ITO Boards, followed by 11 visits to ITOs;
- » 16 meetings with individual ITPs, at a major campus of each ITP through the country, with separate feedback sessions for management teams, staff and students;
- » partnership meetings with the three wānanga; and
- » meetings with Universities New Zealand and with peak bodies in the private training establishment sector.

**Consultation on these proposals closes on
Wednesday
27 March 2019.**

Feedback



If you give us feedback at a face-to-face consultation event, you don't need to also submit your thoughts in writing - but you're welcome to if you'd like to.



If you prefer to write your own response separate from the questions posed in this document, you can submit it at vocationaleducation.reform@education.govt.nz. You can also use this email address to contact the Reform of Vocational Education team.



If you have any questions, or would like to discuss the proposal with someone, please call **0800 462 543**.



Setting the scene

What is vocational education?

Vocational education has a special emphasis on the skills, knowledge and attributes required to perform a specific role or work in a specific industry.

For this work, vocational education is defined as:

- » all industry training (training and apprenticeships people undertake in employment); and
- » provider-based education at levels 3-7 of the New Zealand Qualifications Framework, excluding:
 - › degree study;
 - › Te Reo and tikanga Māori;
 - › English for Speakers of Other Languages;
 - › any university provision; and
 - › other non-formal provision.

Changes to vocational education need to be designed with consideration of wider settings to retain the coherence of the skills system as a whole, and to respond to changes needed in the workplace as signalled in our Future of Work agenda.

Vocational education matters to learners and employers, and to the communities in which they work and live. People also use vocational skills outside the workplace, for example on the marae, or in doing voluntary work for a local community group or school.

How does our current system work?

Vocational education qualifications in New Zealand are mainly New Zealand Certificates and Diplomas. This means there is a specific national qualification in a range of defined subject areas, but learners can achieve it in different ways via the many “programmes” on offer at different tertiary education organisations. Learners can work toward qualifications:

- » by enrolling in a **programme of study at an education provider** (for example, an ITP, a private training establishment or a wānanga) and doing mainly classroom-based learning; or
- » by participating in a **programme of industry training**, if they are employed and their employer supports their learning. Industry training involves learners doing formal education and training through their workplace, including apprenticeships, with most learning happening on the job.

The Government pays education providers and ITOs mainly according to how many learners they each enrol. Funding rates for provider-based study are higher than for industry training.

What other relevant changes are underway in education?

Alongside reforms in vocational education, this Government is undertaking other work that will also support a stronger education system. This includes the National Certificate of Educational Achievement review, the review of Tomorrow’s Schools, the Tertiary Education Strategy, ongoing tertiary Fees Free settings, the International Education Strategy, the review of the New Zealand Qualifications Framework, and the Careers System Strategy (which includes the Careers Action Plan). You can read about many of these on the Education Work Programme website: <https://www.education.govt.nz/our-work/information-releases/information-releases-from-2018/education-portfolio-work-programme/>

Why are changes being proposed?

Our vocational education system must change to meet current and future challenges, and deliver better outcomes for New Zealand. Vocational education can help to ensure that all New Zealanders have the skills, knowledge and capability to adapt and succeed in a world of rapid economic, social and technological change. It can improve people’s resilience, employment security and life outcomes, and reduce social inequities.

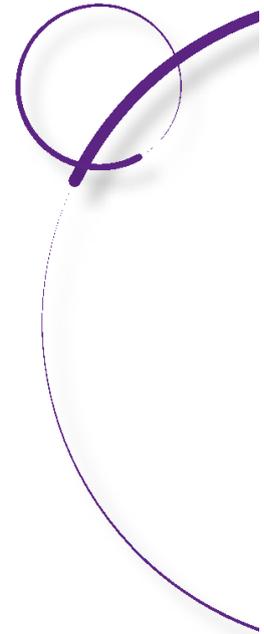
We need to be ready for a fast-changing future of skills, learning and work

It is important that the vocational education system is ready and equipped to respond to future needs to help New Zealand thrive, and be resilient to change. Our current vocational education system is poorly positioned to deliver on our future needs. Technology continues to change the world in which we live, learn and work, both onshore and overseas, and these changes are likely to accelerate. Automation will change the nature of work in New Zealand, with around a third of current jobs likely to be significantly affected. As these jobs change, other new jobs will emerge. However, people with no or low qualifications are most likely to see their jobs become extensively automated, and many will find it difficult to adapt to new jobs and new technologies.

The proposed reforms, which go a step further than the options explored and developed through initial consultation last year, are about creating a system that is agile and responsive to the opportunities and challenges that we currently face, and that will meet New Zealand’s needs in the future.

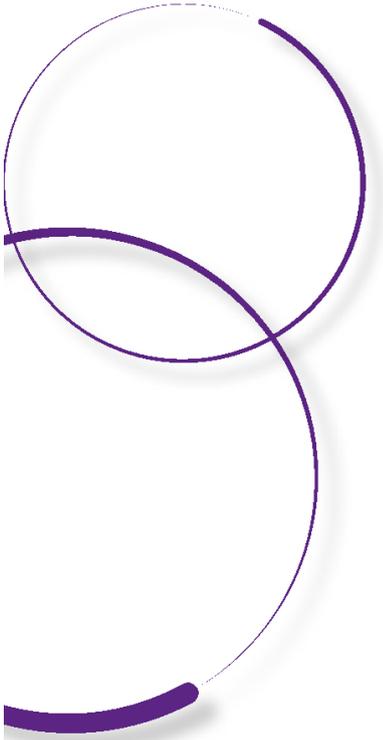
Workers will need to either upskill to do new aspects of a job, or reskill to adapt to a digitally automated environment or to a new field. The 2018 World Economic Forum Future of Jobs report reflects this, identifying that by 2022, no less than 54% of all employees worldwide will require significant re-and upskilling. As indicated in the ‘From Education to Employer’ report published by Infometrics in 2018, the labour force participation rate of people over the age of 65 has tripled since 2001, from 7.9% to 24%, and will continue to rise, albeit more slowly. This means more older people in the workplace needing to upskill, reskill or retrain, alongside younger people, to keep their skills relevant in a changing world.

Our vocational education system needs to be ready to respond positively to these changes.



A recent OECD study estimated that around a third of jobs in New Zealand are likely to be significantly affected by automation, including around 10% with a high risk of being automated. Most workers in the 10% have no qualifications and are in the lowest income bracket.

Source: Nedelkoska, L., & Quintini, G. (2018). 'Automation, skills use and training' (OECD Social, Economic and Migration Working Papers No. 202).



Employers need confidence the vocational education system will respond to their needs

Employers need to have confidence that employees have the skills to successfully contribute to the economy, and part of this is enabling better connections between business, employers, industries, local communities and the education sector. We've heard from industry representatives, as well as individual businesses and employers, that the current system isn't always delivering what they need. Our vocational education systems need to be better aligned to the needs of industry and employers, to ensure we are getting the most from our investment in education – and our people.

Employers need to be given, and must take on, a greater leadership role in building more effective partnerships with education specialists, so that people in the current and future workforce benefit from on-job training, and high quality teaching and support. The system needs to increase the amount of vocational learning that takes place in the workplace, and it needs to suit learners from diverse cultural and socioeconomic backgrounds. Shorter blocks of training via micro-credentials will increasingly be used to ensure skills remain relevant in variable, fast-paced and highly technological work environments. We want to make sure that our vocational education system enables transitions between, and combinations of work and training, in order to best facilitate the needs of both learners and industry.

The regions of New Zealand need a collaborative, flexible and sustainable vocational education system

A strong, healthy vocational education system is critical to supporting the Government's regional economic development strategies and action plans, and our comprehensive work to raise New Zealand's living standards. Supporting thriving, sustainable regions is one of the Government's key strategies for achieving 'Government Priority 1 – an economy that is growing and working for all of us'. The system must respond better to skills and education needs at a regional level.

The current ITP network plays an important role in ensuring that access to vocational education is available throughout the regions of New Zealand. Without educational reform to help stabilise the sector, the range of vocational education options in some regions of New Zealand will likely decline. Educational relevance to regions could be at risk and some existing ITP campuses may no longer be sustainable.

Why are changes being proposed?

Reform of Vocational Education

New Zealand needs a robust regional network of vocational education provision, which serves both national and regional interests in balance with each other. The proposals will help to strengthen vocational education throughout the regions of New Zealand in terms of meeting the needs of local communities, iwi, employers, and industry. We want regional agencies to work alongside central Government to collaborate in building regional economies.

Our proposals aim to increase the availability and relevancy of vocational education in our regions. We need to make sure that we create a system that has the capacity and capability to deliver the skills that our regions are urgently seeking, and we need to do this quickly.

We need a vocational education system that delivers to the needs of all learners

The ethnic diversity of our society and workplaces is also increasing, with the share of New Zealand's total population that is Māori, Asian or Pacific projected by Statistics New Zealand to grow from about 34% of New Zealand's total population now to about 51% by 2038. Statistics New Zealand also projects that the proportion of young people aged 15-24 who identify as Māori will increase from about one in five in 2018 to more than one in four by 2038; over the same period, it projects that the proportion who identify as Pacific will increase from about one in ten to about one in seven.

The current system persistently under-serves some learner groups, including Māori and Pacific people, disabled people, learners in remote areas of New Zealand, and learners with limited prior achievement in education. We need to ensure that these learners can access and succeed in a vocational education system that responds to their needs.

The proposals in this paper would improve outcomes for all learners, and they align and complement other Government initiatives to improve outcomes and wellbeing for New Zealanders, specifically for Māori, Pacific and disabled people and those with learning support needs.



It is critical that businesses take an active role in supporting their existing workforces through reskilling and upskilling, that individuals take a proactive approach to their own lifelong learning and that governments create an enabling environment, rapidly and creatively, to assist in these efforts.

Source: World Economic Forum (2018). 'The Future of Jobs Report 2018'

We want to build on New Zealand's international reputation as a great place to study

There is wide recognition of the social, cultural and economic benefits that international students bring to New Zealand. International students make a huge contribution to the richness and diversity of New Zealand's society and culture, and bring valuable global connections and perspectives with them. These yield social and economic benefits not just while the students are studying, but also after they graduate and return home or engage in skilled work in New Zealand.

New Zealand has a deservedly great reputation as a high-quality, safe and caring country for international students to study, live and work. Students need to continue to see New Zealand's vocational education system as robust and sustainable, delivering education that develops the contemporary skills sought by employers. Competition for international students is intense, and the system needs to be agile and responsive to maintain and strengthen our standing on the world stage.

The proposals in this document would significantly bolster New Zealand's standing in the international market - especially the proposal to create a single high-quality New Zealand Institute of Skills & Technology. A new institution of this kind would represent a great value proposition for international students, and due to its size and scale should be able to achieve a much higher level of visibility in international markets.

Education technology is changing

Education technologies are evolving fast. Today's young people have access to technologies that were hard to imagine just a generation earlier, for example:

- » ultrafast access to the internet where information of all kinds is constantly available, usually for free;
- » personalised interactive online learning programmes available 24/7; and
- » increasingly, virtual and augmented reality as a means of providing immersive learning in the classroom.

Many vocational education providers are using technology to enhance their existing approaches to training, and some are using it to change the way they engage with learners. Face-to-face learning will remain important for large numbers of learners and for developing particular kinds of skills. However, our vocational education system needs to make the best use of technology to make high-quality learning accessible to people who might otherwise miss out.

We can turn our challenges into opportunities

By working now to create a better system, we can transform many of the challenges facing New Zealand's vocational education system into opportunities for learners, employers and communities - and therefore the nation as a whole - to thrive.

To achieve this we must solve some pressing and long-standing problems

This Government has taken action to address various immediate issues with skills supply in New Zealand, such as through the Construction Skills Action Plan, and by investing funds to address financial viability issues in ITPs. This work is important, but more fundamental change is needed if our vocational education system is to meet New Zealand's long-term needs.

Through the Kōrero Mātauranga, the national Education Conversation, and through ITP Roadmap 2020 and the review of vocational education and training, Ministers and their officials have collected information and ideas from learners, educators, parents, employers, iwi, Pacific people and community members across the country. We have heard about what is - and isn't - working in New Zealand's vocational education system. You can read summaries of what New Zealanders have told us online at <https://conversation.education.govt.nz/conversations/reform-of-vocational-education/>.

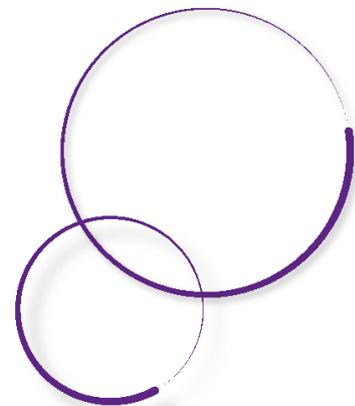
This discussion and analysis has made it clear that our current system has some long-standing problems which need solving.

ITPs are under considerable financial stress. This is due to declining enrolments, high fixed costs, the pressure of responding to changes in policy, and funding that does not reflect their cost structures.

The Government can't continue tinkering at the edges, or adding more layers of complexity and "band-aid solutions" to an already complex system. These problems call for decisive action to safeguard New Zealand's skills pipeline and economic development for the future. These issues with our current system are holding New Zealand back, and some groups bear the costs much more than others. New Zealand deserves better.

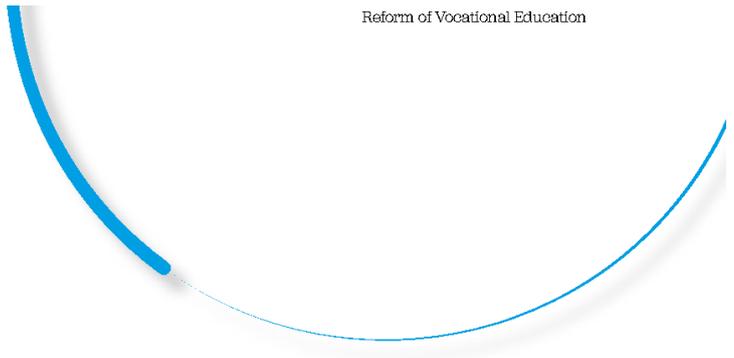
We need a more flexible system that can meet the needs of industry. It feels like the system has had a lot of bolt- or add-ons in the past.

Source: Peak Body



The change we need

Challenges we face...	What we need in our future system...
...for employers	
Employers and industry have limited influence over what education and training is delivered. Some industries and employers face enduring skills shortages.	Employers and industry have a strong local and national voice, across all forms of vocational education, ensuring programmes consistently meet the skills needs of industry and regions for the future.
We place too much reliance on immigration to fill skills gaps and shortages.	Vocational training responds more quickly to changing skills demands. New and more flexible learning methods (including micro-credentials and improved online options) will provide opportunities for upskilling and reskilling to develop our new and existing workforce and reduce our reliance on immigration to meet skill shortages.
Our system is complex, and employers don't always know where to get help or how they can contribute. It can be hard and costly for employers to "find a way in". Employers deal with multiple ITOs and education providers.	The system is simplified and everyone is clear about their roles and responsibilities. Programmes are consistent and employers find it easier to engage with the vocational education system to meet their skills needs. Employers to be direct and active participants rather than recipients.
...for learners	
Some qualifications don't provide skills that employers recognise and value, so learners don't get the job opportunities they deserve. Learners cannot transfer or progress within or across industries.	Qualifications, credentials, programmes and assessment are consistent nationwide, so learners can be confident their skills and knowledge will be valued. Learners have flexible options to move smoothly between work and study in different places.
Some learners experience persistently poor access and outcomes. Māori and Pacific learners are under-served and often poorly supported by the current vocational education system. So too are learners with low prior achievement, disabled learners, and people living in more remote areas.	The system meets all learners' unique learning and pastoral needs and is responsive and flexible to learner pathways.
Vocational education is undervalued. Some young people and key influencers such as schools, parents and employers don't view vocational education pathways as desirable.	Vocational education is recognised as a credible pathway for our most talented and capable young people and is seen to have equal esteem to academic study.
Our network of international education providers is well-regarded, but unless it makes a shift toward higher quality it will fall behind in an increasingly competitive market.	New Zealand has a public vocational education system that is internationally recognised and consistently branded and is attractive to both domestic and international learners.



Challenges we face...	What we need in our future system...
...for everyone	
<p>The range and availability of education that is being offered in regions is decreasing and not aligned with regional economic development strategies.</p>	<p>There is more regional programme delivery, and regional stakeholders have formal input into local programme requirements aligned with regional economic development strategies and local workforce and skills needs. Nationwide resources will provide focused delivery to regional communities.</p>
<p>Structural features of the current system drive providers and ITOs to compete over funding rather than collaborate to offer effective on-job and off-job training for learners and employers.</p>	<p>Our vocational education system encourages and incentivises providers and employers to collaborate to give each learner the appropriate mix of employer-based and provider-based training.</p>
<p>The system doesn't respond well to economic cycles.</p>	<p>A network of public provision sustainably supports vocational education throughout the economic cycle and can adapt and respond to changes in the market trends.</p>
<p>There are too many small scale programmes of similar nature that create complexity for employers and learners and waste resource.</p>	<p>Qualification and credentials are nationally consistent. They are valued by industry and draw on the expertise of national leaders in their field.</p>
<p>The sector as a whole is unsustainable without significant organisational change. ITPs struggle to scale up and down as people move in and out of work.</p>	<p>A sustainable distributed public vocational education network gains the quality and efficiency benefits that result from larger scale, while maintaining the ability to respond quickly to required demand and supply for skills both regionally and nationally.</p>



What changes are proposed, and how would these changes benefit New Zealand?

At the heart of the Government's reform of vocational education is a goal to ensure that the needs of learners, employers and communities drive the system, to help us raise living standards for everyone in New Zealand. We want a system that truly delivers to the regions of New Zealand, and our proposals will help to ensure that there is greater availability of provision throughout New Zealand.

To achieve this goal, every participant in a future system needs to have a clear and well-understood contribution to make, with roles that are complementary rather than competitive.

The Government's integrated programme of reform comprises three main proposals:

- 1 Redefined roles for education providers and industry bodies;
- 2 An institution with the working title of New Zealand Institute of Skills & Technology, bringing together the 16 existing ITPs as a single entity; and
- 3 A unified vocational education funding system.

These proposals are a linked and interdependent package. Collectively, they will result in a single streamlined and effective system of vocational education and training to meet New Zealand's current and future needs.

What is the Government consulting on?

The Government hasn't yet made decisions on any of the proposals. We want to hear from you whether these proposals would meet New Zealand's needs, what you think would make them work in practice, and whether we have missed any factors that need considering.

When considering each proposal, we encourage you to consider not only the implications for that particular proposal, but how it could contribute to a wider system of reform.



Proposal 1: Redefined roles for industry bodies and education providers



In the Government's proposed vocational education system, industry, employers and education providers would each have clear and complementary roles to play in ensuring learners, employers and communities get what they need. We would clarify their roles and minimise overlapping responsibilities, so they are positioned to act collaboratively.

We want to hear your view on our proposals to:

- » extend the leadership role of industry and employers across all vocational education, including provider-based vocational education, through new "Industry Skills Bodies";
- » transfer to vocational education providers the ITOs' current role of supporting workplace learning and assessment for work-based vocational education; and
- » provide industry with a purchase role across all vocational education, through advice to the Tertiary Education Commission (TEC), which TEC must give regard to.

We believe these changes would better align New Zealand's vocational education system to those in other high-performing jurisdictions such as Scotland and Singapore. The changes would align responsibilities across industry and providers and support employers and learners to meet their training needs in similar ways to the top vocational education systems around the world.

The table below describes the proposed changes to current organisations' roles and responsibilities in more detail, with further explanation of the key elements below.

Table 1: Proposals to redefine roles to create a single vocational education system

Proposal	Rationale / details
Industry Skills Bodies provide advice to TEC (the Government's main investor in tertiary education) on industry needs. TEC would purchase all vocational education, acting on advice from Industry Skills Bodies.	TEC considers social and network objectives. Industry Skills Bodies advise on industry need. We propose to consult on how the interaction between TEC and Industry Skills Bodies could work best.
Providers would be responsible for all vocational education provision, including supporting workplace training.	Work-based learners would be more supported in their learning and pastoral needs. Alignment between on-job and off-job provision would be strengthened.
Alongside the New Zealand Qualifications Authority (NZQA), Industry Skills Bodies would approve all vocational education programmes.	Ensures learners gain the skills and competencies they need to work in a particular industry.
Industry Skills Bodies would ensure industry needs are met by: <ul style="list-style-type: none"> » setting standards across all vocational education; » moderating end of study assessments; and » contributing to curriculum development. 	Industry Skills Bodies would largely act as "bookends" to the vocational education system by setting expectations at the outset about what learners need to achieve, and then ensuring learners have acquired the skills and competencies employers need.
Centres of Vocational Excellence (see Table Two below) would support programme and curriculum development.	Ensures consistency of core programme content and qualifications.

A clear role for industry and employers in identifying and describing their skill needs

In place of existing ITOs, the Government is proposing to recognise and fund "Industry Skills Bodies".

To give industry and employers a stronger voice, these new Industry Skills Bodies would:

- » provide skills leadership, coordinating industry efforts to identify and plan to address future skills needs;
- » set skill standards and approve programmes in vocational education across the entire vocational education and training system;
- » set or moderate end of study assessments;
- » support high-quality programmes, core curricula, and teaching and learning resources, working with Centres of Vocational Excellence (see below) where appropriate; and
- » advise and guide the TEC's priorities for purchasing vocational education.

Vocational education providers would be required to adhere to the relevant skills standards. This could potentially take the form of an approved nationwide core vocational programme. The Industry Skills Bodies would have new powers to set standards and co-approve programmes with the NZQA for all vocational education and training.

Industry Skills Bodies could also administer "capstone" assessments (exit assessments for graduates at the end of programmes), if they chose.

We envisage that Industry Skills Bodies would collectively set standards for all vocational skill areas, and would progressively include areas that have no ITO coverage at the moment (for example, Information and Communications Technology).

Instead of purchasing provider-based components of work-based training programmes for employers, as ITOs currently do, Industry Skills Bodies would have a formal role in advising the TEC about where investment is best utilised. Industry Skills Bodies could also significantly contribute to curricula design in partnership with Centres of Vocational Excellence (which are addressed later in this document), where appropriate.

We propose that Industry Skills Bodies be industry-led organisations, similar to ITOs. Industry groups would apply to the Minister of Education for recognition. Initially, some industries and cross-industry qualifications would lack coverage. Approximately two-thirds of vocational education has ITO coverage at present. In the short term, current arrangements are adequate to cover the gaps. Over time, Government would facilitate the Industry Skills Bodies to fill these gaps if necessary.

Supporting workplace training currently accounts for much of the work of ITOs. We anticipate some current ITO employees who support workplace learning and assessment would take up similar roles at providers (particularly the new Institute).

"At a trades union meeting we found that a lot of industry feel that the qualifications [offered] are not relevant to what industry needs."

Source: ITP representative

A clear role for education providers

In the Government's proposed future state, vocational education providers would be responsible for delivering and supporting all vocational education and training, whether it took place at a provider's facilities on campus or in a workplace.

For providers, the biggest change would be taking on the role of supporting work-place learning. This change would promote better alignment between on- and off-job education and training, and stabilise provision of vocational education across the economic cycle. Providers would take responsibility for approximately 140,000 trainees and apprentices in addition to the approximately 110,000 vocational education learners they already serve (based on 2017 Ministry of Education figures). This would require increased capability and capacity.

Workplace learning would become part of the core business of vocational education providers, putting them in day-to-day contact with employers.

Over time, programmes that integrate structured learning with the workplace would become the norm, making it easy for learners to transfer between providers and between on-job and off-job training throughout their programme of study. More vocational education could resemble apprenticeships, with education providers and employers working together to help a learner meet industry skill standards via a mix of work-based learning occurring in the course of doing a job, and structured learning supported by a provider off-job where needed - regardless of whether the learner is employed.

The changes set out above would require significant change processes for providers and ITOs. If these changes proceed, Government will need to provide support for the change processes to ensure they are smooth and effective, including supporting existing trainees and apprentices and their employers to easily shift training arrangements.

The funding system would need to change to support more work-integrated learning and Industry Skills Bodies. See "A unified funding system" on page 27.

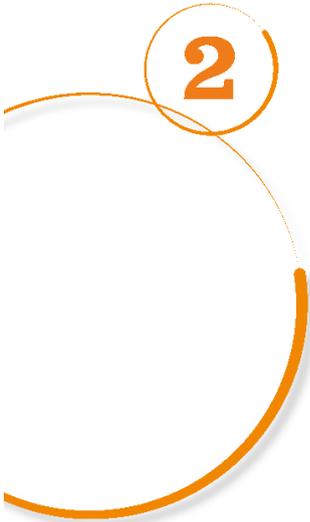
The special role of wānanga

We are committed to working in partnership with wānanga to determine how the proposals could best support their aspirations, and whether there are alternative approaches that should be considered for their sector. In particular, we need to ensure that we acknowledge the unique role of the wānanga throughout any vocational education reforms.

The Government wants to work with wānanga to understand where the biggest opportunities for them and their learners lie in these proposals, and what adaptations might be needed to reflect their unique role in the system. There are opportunities for wānanga to strengthen their connections with employers and work-place vocational education, and to provide nationwide leadership in developing high quality teaching and learning that meets the needs of Māori learners, their whānau, hapū, and iwi. Wānanga may wish to adopt, adapt and contribute to national qualifications and vocational programmes so that they are appropriate and effective for unique local contexts.

“We have heard from industry that there is too much confusion [for employers] around the different providers offering the same qualifications, in different ways.

Source: ITO representative



Brokerage and advisory services for employers

Many employers will, from time to time, want advice from an impartial source about training options for their staff, before they decide where and when to invest. It can be costly and difficult for employers to gather this information for themselves and to know who to contact to learn more.

In the proposed future state, impartial training advisory and brokerage services for employers could potentially be provided by Industry Skills Bodies, by wānanga, or by the skills and employment “hubs” the Government is currently considering as part of its immigration changes (see <https://www.mbie.govt.nz/have-your-say/consultation-on-a-new-approach-to-employer-assisted-work-visas-and-regional-workforce-planning>). The Government is interested in your feedback on what you think might work best.

Proposal 2: Create a New Zealand Institute of Skills & Technology with a robust regional network of provision

The Government proposes to create a New Zealand Institute of Skills & Technology to offer high-quality vocational education throughout New Zealand, building on and expanding the regional presence of the current ITP network.

The proposal to create the New Zealand Institute of Skills & Technology would bring together all 16 existing ITPs in New Zealand. The creation of a new institution that encompasses the delivery previously offered through our current 16 ITPs will allow greater and faster improvements, compared to continuing with ad-hoc mergers of competing ITPs across New Zealand, as individual institutions run into financial difficulties.

At the national level, the New Zealand Institute of Skills & Technology would have a leadership role for vocational education nationally and regionally, driving efficient and effective education delivery. It would be governed by a national Council appointed by the Minister of Education, overseeing a single combined management team and balance sheet to manage capital and operational budgets, staffing, and student and learning management systems. A consolidated organisation could make strategic use of capital, achieve greater efficiency in programme design, development and delivery, and reduce the duplication of back-office functions within the current vocational education network.

A dedicated charter in the legislation would set out the purpose and functions of the institution, including specific obligations for the Institute to ensure it was responding to the needs and aspirations of regional New Zealand and of Māori as tangata whenua.



The “New Zealand Institute of Skills & Technology” is a working name, and we are interested in your feedback on the name. The Government would like the New Zealand Institute of Skills & Technology to be in operation from 1 January 2020. The process of transformation would be phased to ensure minimal disruption to learners.

The table below describes the proposal for the New Zealand Institute of Skills & Technology in more detail.

Table 2: Details of proposal for the New Zealand Institute of Skills & Technology

Detail of proposal	Rationale / details
A national office and governing council would drive regional performance and support a strong regional voice.	Balancing national and regional needs. Could show our commitment to regions by locating national office functions in one or more regions.
Members of the governing council would be appointed by the Minister.	Ensure Government has adequate oversight. There are a number of ways to ensure learners and staff have their voices heard by the council.
Local campuses would be responsible for delivery (there may be more or fewer main campuses than the current number of ITPs).	Better connected education at the regional level, particularly with schools. Over time, coverage could expand to regions where ITP presence is currently weak.
Each region would have a Regional Leadership Group to advise the Institute’s national office and TEC on local skills needs.	Ensure strong local Government, industry, community and iwi participation. “Regional Leadership Group” is a working name, and we are interested in feedback on the most appropriate name.
The Institute would be guided by an institutional charter set in legislation.	Ensure Government has adequate oversight. The charter could describe Government’s expectations (including how the council engages with learners and staff) and guide autonomous decision-making.
The Open Polytechnic of New Zealand would be incorporated into the Institute for the provision of online learning.	Ensure national online provision is retained, and is integrated nationwide with employer-led and provider-led education and training. Capitalise on the Open Polytechnic’s online expertise.
Regional campuses and wāhanga could host Centres of Vocational Excellence that reflect the key industry (or industries) in their region.	Centres of Vocational Excellence could: <ul style="list-style-type: none"> » be partnerships between regional campuses and relevant Industry Skills Bodies; » incentivise high-quality provision and contribute to a strong international reputation; » take a leadership role in applied research; » lead programme and curriculum development; and » improve consistency across regions.
A number of activities would be centralised at national office or at one or a few regional campuses.	Eliminate duplication, and improve efficiency and quality. Engagement in 2018 showed support for centralising some functions to address inefficiencies.
The governing council and/or national office would agree long-term capital and operational strategies, oversee capital asset management, and set and oversee operational budgets.	Ensure decision-making prioritises long-term viability. Ensure investments are made where most needed. Ensure consistency across all regions. Greater visibility of these activities for the Crown.

Delivering for the regions

Regional and local campuses of the New Zealand Institute of Skills & Technology would be focused on delivering high-quality and relevant services to learners, employers and communities across all of New Zealand, rather than competing with each other for enrolments. These campuses would spend more time on the delivery of quality teaching and learning, with delivery and responsiveness led through engagement with regional and local stakeholders. Regional campuses of the Institute could:

- » connect strongly with local regional and economic development strategies;
- » have strong relationships with local Government; and
- » work closely with other local education providers, particularly secondary schools.

This would ensure that delivery is tailored to regional need - including those needs identified through regional and local bodies and Government. The Government could show its commitment to regions by locating national office functions in one or more regions.

The creation of a New Zealand Institute of Skills & Technology would help increase the accessibility and relevance of vocational education across New Zealand. A new model of delivery through a New Zealand Institute of Skills & Technology, with regional campuses, could allow small but relevant niche courses to be run regionally, giving learners and employers access to greater education and training options without the need for travel.

Each region would have a Regional Leadership Group - aligned to other regional advisory organisations being developed through various Government agencies - to advise the Institute's "national office" and the TEC on local skills, to link with local and regional development strategies, and to advise on what mix of courses should be offered in that region. This would include both existing offerings that it was important to maintain, and new areas of provision where local needs weren't currently being fully met.

Part of the role of the Regional Leadership Group could be identifying how the regional campus can work to identify future labour demand needs for the region, and how these could be addressed through upskilling both our domestic and international student market. The courses on offer in each region would not be limited by what the local or regional campuses could provide on their own - each campus will be able to draw on the resources of the whole New Zealand Institute of Skills & Technology system to offer what the region needs. In this way, regional delivery and responsiveness will be not just maintained, but enhanced and expanded.



“Regional Leadership Group” is a working name, and we are seeking input from stakeholders on the most appropriate name for this function. We are also interested in feedback about what Regional Leadership Group structure might best serve multiple needs across immigration, education and labour markets. They have a critical role to play in bringing together employers, education providers and other stakeholders such as community leaders, iwi and local government, to ensure these regional voices are heard in decision-making that affects them.

Groups of this kind have been mooted in recent consultation on proposed changes to immigration settings (see <https://www.mbie.govt.nz/have-your-say/consultation-on-a-new-approach-to-employer-assisted-work-visas-and-regional-workforce-planning>) as well as in education contexts, such as the Tomorrow’s Schools proposals (see <https://conversation.education.govt.nz/conversations/tomorrows-schools-review/>). The introduction of Regional Leadership Groups provide another opportunity for regions to ensure that they are best served through our vocational education system.

Our proposals also consider the unique contribution that Māori can make towards our vocational education model. We consider it important that iwi and Māori have the opportunity to be represented on Regional Leadership Groups to influence the behaviour and offerings of their local campuses of the New Zealand Institute of Skills & Technology. However, the Treaty partnership is and will remain with the Crown – so Māori also need ongoing opportunities to participate in vocational education policy and operational decision-making with central government.

Collaboration through Centres of Vocational Excellence

The Government envisages that the New Zealand Institute of Skills & Technology, and perhaps also wānanga, would host Centres of Vocational Excellence focused on teaching and learning, and possibly applied research, in areas of study of particular importance to New Zealand.

Centres of Vocational Excellence would cover key sectors and industries, which could be broad (eg, agriculture) or specific (eg, viticulture). They could potentially also cover key types of educational delivery or activity, for example kaupapa Māori delivery. We envision these would be located across the country, including in regional New Zealand. Centres of Vocational Excellence would bring together a critical mass of knowledge and expertise in their areas, helping drive innovation and lift quality, and improve links to industries and communities.



“Sometimes online learning is more important for those students who can’t access learning, and sometimes it is not appropriate. It’s about providing the learning where the student needs to engage – either online, blended, mixed or workplace-based.”

Source: ITP Tutor

Expert educators at Centres of Vocational Excellence would work closely with Industry Skills Bodies to develop and maintain high-quality programmes, curricula and teaching and learning resources. This would also occur in areas not covered by Centres of Vocational Excellence – the system realises the greatest benefit when education providers and industry, businesses and employers work together to build skills pipelines that meet workforce needs.

Within the New Zealand Institute of Skills & Technology, programme and curricula development for any given field of study would be done by dedicated specialist teams (at a Centre of Vocational Excellence where relevant) for delivery nationwide. Teaching staff at the New Zealand Institute of Skills & Technology’s local campuses, and perhaps also at other education providers in the system, could then use these core teaching materials and adapt them as needed for delivery that reflects local needs and opportunities.

Students could move around the country from campus to campus of the New Zealand Institute of Skills & Technology (and potentially between other education providers too, if programmes were common across the sector) without interrupting their studies. Large national employers could deal with a single organisation to arrange consistent packages of pre-work and in-work skills training nationwide.

Other features of the proposal

The Government envisages that the New Zealand Institute of Skills & Technology would support delivery via a single high-quality learning management system nationwide, using a mix of online and face-to-face options to enable quality access for the largest possible number of people.

Alongside its vocational delivery (which, subject to the first proposal outlined above, would include workplace delivery), the New Zealand Institute of Skills & Technology would continue to deliver foundation education, non-vocational certificate and diploma delivery (eg te reo and tikanga Māori provision), and degree and postgraduate education, as ITPs currently do.

The New Zealand Institute of Skills & Technology would also continue to deliver to international students, both onshore and offshore. International students in vocational education make a significant economic and cultural contribution to New Zealand’s regions. The new institution should have the size, scale and expertise to significantly improve its visibility and impact in the international market, and share more of the benefits of international education with our regions.

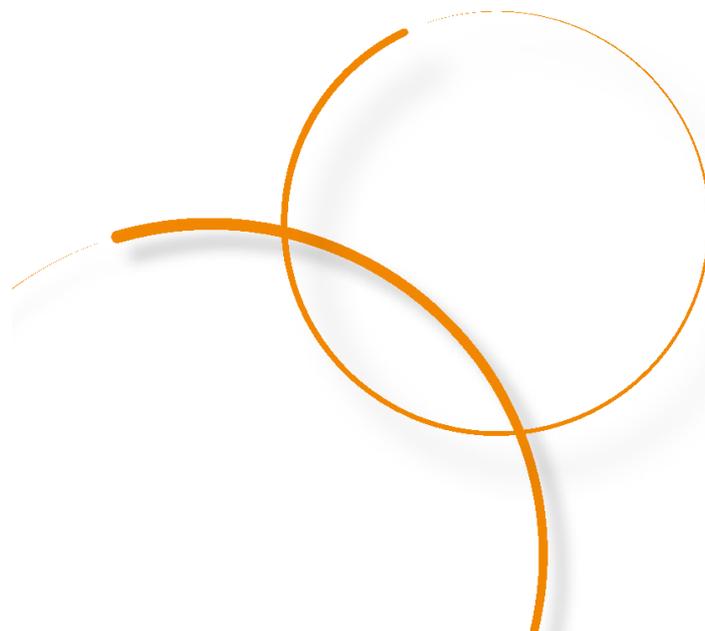


Proposal 3: A unified vocational education funding system

The proposed changes above would need to be supported by a new funding system. Creating one funding system for vocational education would ensure learners get the skills, experience and support they need to be successful, providers have the funding they need to be sustainable and to support our regions, and Industry Skills Bodies can fulfil their roles.

The Government will work through the details of the new funding regime after consultation. We want to hear your ideas about how it could work, and what kind of incentives different arrangements might create. At this stage, the Government envisages that a new funding system would include:

- » a consolidated set of funding rates for both on-job and off-job provision;
- » funding for strategically important delivery that comes at higher costs (for example, where more delivery is in remote regions or in areas with lower populations). This could be a per-learner top-up or through a base grant;
- » funding for Industry Skills Bodies (since they would not receive funding for individual trainees and apprentices), balanced with employer contributions to ensure Industry Skills Bodies are responsive to employers;
- » continued industry/employer contributions to the cost of training; and
- » continued fees to learners in some cases.



What could the proposed changes mean for you?

If the changes went ahead as currently proposed, different parts of the vocational education sector would experience transformation as outlined below.

Remember, even if our proposals for change go ahead, we do not expect learners to experience any substantial change in their education and learning during 2019; and any changes from 2020 onward would be implemented in a way that minimised disruption to learners and employers.

Regions

Regional stakeholders would be able to access a sustainable, stable and supportive network of regional campuses as part of a New Zealand Institute of Skills & Technology. These campuses would offer a wider range of delivery, with offerings tailored to the needs of local communities, employers and industry, through the Institute's engagement with Regional Leadership Groups and other relevant bodies.

Domestic and international learners

Learners would be able to move easily between education providers and regions, and between on- and off-job training, all while gaining skills they can be confident will help them to succeed in work and life.

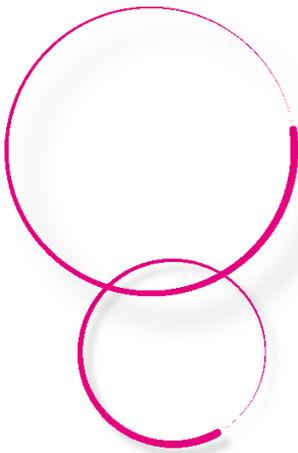
Learners at the New Zealand Institute of Skills & Technology would be enrolled at an organisation that is sustainable, resilient, and able to make investments in quality education that is valued by employers.

Trainees and apprentices would benefit from more hands-on learning support.

Learners in regional New Zealand would have access to a wider range of study choices via the New Zealand Institute of Skills & Technology, thanks to a well-supported mix of face-to-face, blended and online delivery options.

Employers and industry

Employers and industry would have more choice about how they engage with vocational education providers to meet the skill needs of their current and future workforce. Employers would have a choice of education providers to work with, rather than having to arrange on-job training via their ITO. Better integration of work-place and provider based vocational education programmes would enable employees to gain the skills that employers and industry need.



What could the proposed changes mean for you?

Reform of Vocational Education

Via Regional Leadership Groups, employers would be able to tell the New Zealand Institute of Skills & Technology and the Government what their skill needs are, and how well the Institute was meeting them.

Via Industry Skills Bodies, employers would have a greater leadership role across the entire vocational education system, in setting skills standards and overseeing qualifications and programmes for their industry. They would have greater confidence about what employees know and can do, as well as a stronger voice to articulate their changing skills needs to the Government.

Vocational education providers (the New Zealand Institute of Skills & Technology, private training establishments and wānanga)

Vocational education providers would be able to deliver on-job as well as provider-based vocational education, moving them much closer to the world of work. This would be a big shift for some education providers, and some might choose not to make the shift - but others would embrace it, and rapidly build on their existing capability in working with employers and employees.

Vocational education providers would be able to offer a complete "workforce development service" to employers, from pre-employment training through to professional development, supported by a mix of Government and private funding.

Teaching staff in the vocational education system

Teaching staff in the vocational education system would have more time to spend "at the frontline" with learners and employers - something many of them have been wanting for a long time. Most New Zealand Institute of Skills & Technology staff would spend little or no time designing curricula and assessment from scratch, as these would be centralised. The exception to this would be those who have the expertise and mana to do the work on behalf of the whole New Zealand Institute of Skills & Technology network, at a Centre of Vocational Excellence or otherwise, and who choose to focus on this particular function (perhaps for a set period of time).

You can find more detail in the factsheets online <https://conversation.education.govt.nz/conversations/reform-of-vocational-education/> explaining what the proposed changes would mean for key stakeholder groups.

What other options were considered?

Alongside the proposals presented above, the Government considered a number of other options for resolving problems with the current vocational education system, and preparing for a changing future. These were drawn both from overseas models (including England, Scotland, Ireland, Canada and several U.S. and Australian states) and from suggestions from the sector and from Government officials.

The main alternative models of structural change the Government considered for the ITP sector were:

- » A centralised ITP “shared services entity” serving two different types of ITP (programme lead ITPs and regional access ITPs), plus an online delivery arm function;
- » Federation and franchise models; and
- » A smaller number of ITPs (from three to six).

Tū Kahikatea (the Strength of a Network) – a network model with four types of entities

Following the ITP Roadmap co-design process, the TEC explored an option designated *Tū Kahikatea, the Strength of a Network*, a network model with four types of entities:

- » **An ITP centralised entity:** a new organisation proposed to provide a range of services to ITPs, possibly including a shared Learning Management System, a shared Student Management System, a pool of learning and assessment designers, specialist capability in data analytics and reporting, common business processes and workflows, central expertise in asset management, and infrastructure and training to strengthen “student voice”.
- » **Programme lead ITPs:** Most ITPs would be Programme Lead ITPs. They would deliver a range of programmes, develop programmes in their areas of expertise, and share programmes across the ITP network, for delivery by other ITPs.
- » **Regional Access ITPs:** A proposed model for ITPs delivering to small or dispersed populations. They would arrange the delivery of a package of education and training across their region mainly by brokering and hosting delivery from other providers.
- » **An ITP specialising in open flexible distance learning:** The Open Polytechnic would serve the open and flexible distance learning needs of the whole ITP network.

This option was proposed as a way to replicate a number of the gains from a “one ITP” model with less potential disruption and potential adverse reactions. A separate project would work to strengthen ITP governance capabilities.

However, on balance, the Minister of Education considered this network model was convoluted with a number of moving parts, and many previously untried arrangements. Some transitions could be contentious and contested (eg, the designation of Programme Lead ITPs) while others (eg, an ITP centralised entity) could gain very limited traction.

It was not clear that the key objective of sustainably addressing ITPs' financial viability would have been achieved, and as a number of changes were being proposed in parallel, responsibility for coordinating them and ensuring they were successfully implemented would largely have landed with Government agencies rather than the sector being accountable for its own successful transition.

It was also uncertain whether the components of this option would align well with the wider vocational education reforms that were being developed.

Federation and franchise models

Options were also considered that combined some features of **Tū Kahikatea** and some features of the one ITP model. In these options, the ITP network would consist of both individual ITPs and an ITP centralised entity. The central entity's roles would include programme development and some back-office and delivery support functions. The central entity would be funded by the ITPs under a "fee for service" model.

Both federation and franchise arrangements were considered, the main difference being the ownership structure and decision rights of the ITP centralised entity:

- » **Federation model:** The centralised entity would be a jointly-owned subsidiary of the ITPs, and thus under their governance and management control. It would have limited decision rights over individual ITPs.
- » **Franchise model:** The centralised entity would be a separate body, probably owned directly by the Crown. It would have significant decision rights over individual ITPs. Decision rights could include funding distribution and use of programmes, materials, and technology.

However, federal arrangements - where all participants have veto rights - could limit the strategic effectiveness of a centralised entity. The franchise model would avoid this risk, but create an unwieldy network with individual ITPs still existing nominally but with little control over their own destiny.

A small number of ITPs (three to six)

The ITP network could be consolidated into a few larger entities, rather than a single one. This would avoid a single high-stakes transition, but would open up more contentiousness and uncertainty; leave more scope for internal rivalries and external competitive positioning; and largely side-line the potential system role of The Open Polytechnic. Coordinating the success of the mergers and the relationships between the resulting entities would largely be left to Government agencies rather than the sector being accountable for its own successful transition.



Government next steps and timelines for change

The Government's proposals outlined in this document would fundamentally change the nature of the New Zealand vocational education system. Every New Zealander has a stake in the system, and we look forward to hearing your views about the proposals.

Even the best change can be stressful and disruptive, and ongoing uncertainty will make it harder for vocational education organisations to continue delivering their best for their learners, employers and communities. For this reason, the Government will consider all feedback received during consultation, and then make decisions quickly – likely in May or June 2019 – about how to proceed. Public announcements will follow shortly after decisions are made.

The Government would aim to pass any new legislation during 2019 to enable a new institution to be in place from 1 January 2020. While this means that the implementation of change will be fast, it will also be phased to ensure that disruption is minimised, time is given for new capabilities to be put in place and that the continuing education of learners and trainees is our top priority.

Whatever change is agreed, we will work closely with stakeholders to support those affected to make the most of the opportunities it presents.

Glossary

Equivalent full-time student (EFTS)

EFTS is a measure of consumption of education (or the size of a qualification in relation to workload). One EFTS unit is defined as the learner workload in a single academic year (12-month period) by a learner enrolled full-time. Usually is 120 credits on the New Zealand Qualifications Framework (NZQF).

Industry training organisation (ITO)

ITOs co-ordinate structured training for employees, both on-job and off-job. This enables employees to gain a qualification from the New Zealand Qualifications Framework (NZQF) while working and earning money.

Institute of technology and polytechnic (ITP)

ITPs focus on delivering technical, vocational and professional education up to degree and postgraduate levels. They also promote applied research to support vocational learning.

Ministry of Education (MoE)

The Government's lead advisor on the New Zealand education system.

National Certification of Educational Achievement (NCEA)

The NCEA is New Zealand's main national qualification for senior secondary school and is available in three levels.

New Zealand Qualifications Authority (NZQA)

The Crown entity charged with ensuring that New Zealand qualifications are robust and credible nationally and internationally.

Private Training Establishments (PTEs)

PTEs delivery foundation level programmes and qualifications, up to higher level post-graduate qualifications, depending on their educational subject areas.

Programme (of study)

A coherent arrangement of learning or training that is based on clear and consistent aims, content, outcomes and assessment practices, and which leads to a qualification on the New Zealand Qualifications Framework.

Qualification

Formal certification for a given purpose of the achievement of specified learning outcomes to a given standard.

Student Achievement Component (SAC)

The SAC is the Government funding contribution or subsidy to the costs of teaching and learners and other costs driven by student numbers.

Standard training measure (STM)

An STM is defined as the amount of training that is required for a trainee to achieve 120 credits (or its equivalent) in an approved structured training programme.

Tertiary Education Commission (TEC)

The TEC leads the Government's relationship with the tertiary education sector and provide career services from education through to employment.

Tertiary Education Organisations (TEOs)

TEOs are any organisations that supply tertiary education and/or training and/or assessment services.



List of factsheets and technical discussion documents



You can find more information for specific stakeholder groups about what the proposals could mean for you, as well as more detail about the proposals in factsheets and technical discussion documents online: <https://conversation.education.govt.nz/conversations/reform-of-vocational-education/>

The list of factsheets and technical discussion documents published on 13 February 2019 is below; more may be added during consultation. You can also read FAQs on the website which will be updated regularly.

Table 3: Factsheets and technical discussion documents

Technical discussion documents	Factsheets with more information for specific groups about what the proposals would mean for you:	Further information:
<ul style="list-style-type: none"> » Proposal on roles of providers and industry bodies » Proposal on a single New Zealand Institute of Skills & Technology » Proposal on a unified funding system 	<ul style="list-style-type: none"> » Learners » Employers » Iwi and Māori stakeholders » Pacific learners, their families and communities » Disabled learners and learners with additional learning support needs » Regions of New Zealand » International education » ITO management and staff » ITP management and staff » Private training establishments » Wānanga » Universities » Secondary schools 	<ul style="list-style-type: none"> » How your feedback during 2018 has informed the proposals » Understanding the current vocational education and training system

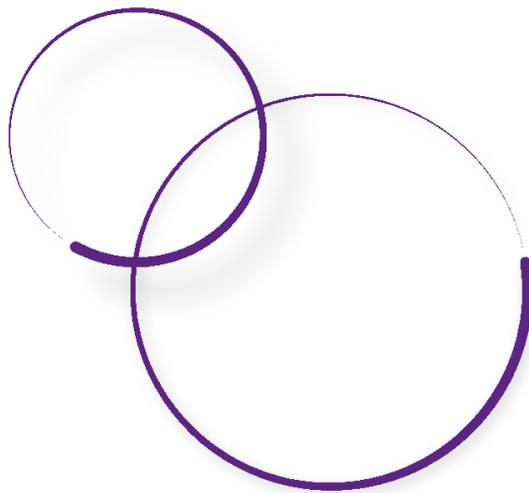
We need your feedback

Feedback questions

The questions below are just a guide - we welcome any additional feedback you have. You can see more questions or provide additional feedback online.

-  Does this document's description of the current problems and opportunities within the vocational education sector look right to you? Is there anything you would add or remove? What problems or opportunities do you think should be the priority?
-  What do you think the Government needs to understand about the current system to inform its work on changes?
-  How strongly do you agree or disagree with the following statement?
"To meet New Zealand's future needs, our vocational education system needs a big change"

Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly Disagree	Don't know / no opinion
<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>



Feedback



Proposal 1: Redefined roles for industry bodies and education providers

- ? Do you agree that the creation of Industry Skills Bodies would be a positive step in ensuring vocational education delivers to the needs of industry? What do you think these should be called - is "Industry Skills Bodies" the right name?
- ? What do you think about the new roles proposed for industry, employers and education providers? How might they benefit employers and learners? What will the risks be? What is needed to help them work well?
- ? The Government wants to help more employers get involved in the vocational education system. Do you think the proposed changes would achieve that? Why or why not?
- ? To make the proposals for new roles for industry bodies and providers work well, what changes would be needed at education providers? What in turn would be needed to ensure those changes happen?
- ? Thinking about "Regional Leadership Groups", is this the right name for these proposed new bodies?
- ? What are your thoughts on Centres of Vocational Excellence? How should their roles be defined and how should they work with Industry Skills Bodies and providers? What should their relationship with Regional Leadership Groups be?
- ? Do employers need access to impartial advice on their training options, and help making the right connections with education providers? If so, how should this service be provided?

Please indicate how much you agree or disagree with the following propositions:

	Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly Disagree	Don't know / no opinion
Recognise and fund "Industry Skills Bodies" to set skill standards in vocational education	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Make vocational education providers responsible for delivering and supporting all vocational education and training at providers and in workplaces	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Create Centres of Vocational Excellence focused on teaching and learning, and applied research, in areas of particular importance to New Zealand	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Feedback

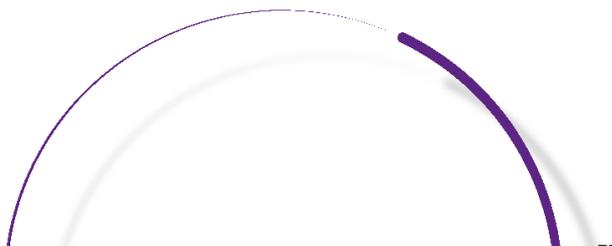


Proposal 2: Proposals for the New Zealand Institute of Skills & Technology

- ? Do you agree with the Government’s proposal to introduce a single New Zealand Institute of Skills & Technology? What do you think the institute should be called - is the New Zealand Institute of Skills & Technology the right name?
- ? What should Government, the ITP sector and its stakeholders keep in mind if we were to design and implement a New Zealand Institute of Skills & Technology for all New Zealand?
- ? What purposes and functions could be included in the charter of a New Zealand Institute of Skills & Technology?
- ? How could we best ensure that a New Zealand Institute of Skills & Technology would deliver to the needs of New Zealand’s regions?
- ? What kind of Regional Leadership Group structure might work best, and what other functions could these groups fulfil? What should the term for these regional groups be?
- ? Do you believe that Regional Leadership Groups will be able to actively and representatively consider iwi and Māori interests? If not, what other vehicle or means of understanding Māori skills needs could be considered?

How strongly do you agree or disagree with the following statements?

	Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly Disagree	Don't know / no opinion
Creating a New Zealand Institute of Skills & Technology to serve all of New Zealand would help employers and learners	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Creating a New Zealand Institute of Skills & Technology would make provision more consistent and easier to access across the country	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
A New Zealand Institute of Skills & Technology would be financially stronger and more resilient than the current network	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>



Feedback



Proposal 3: A unified vocational education funding system

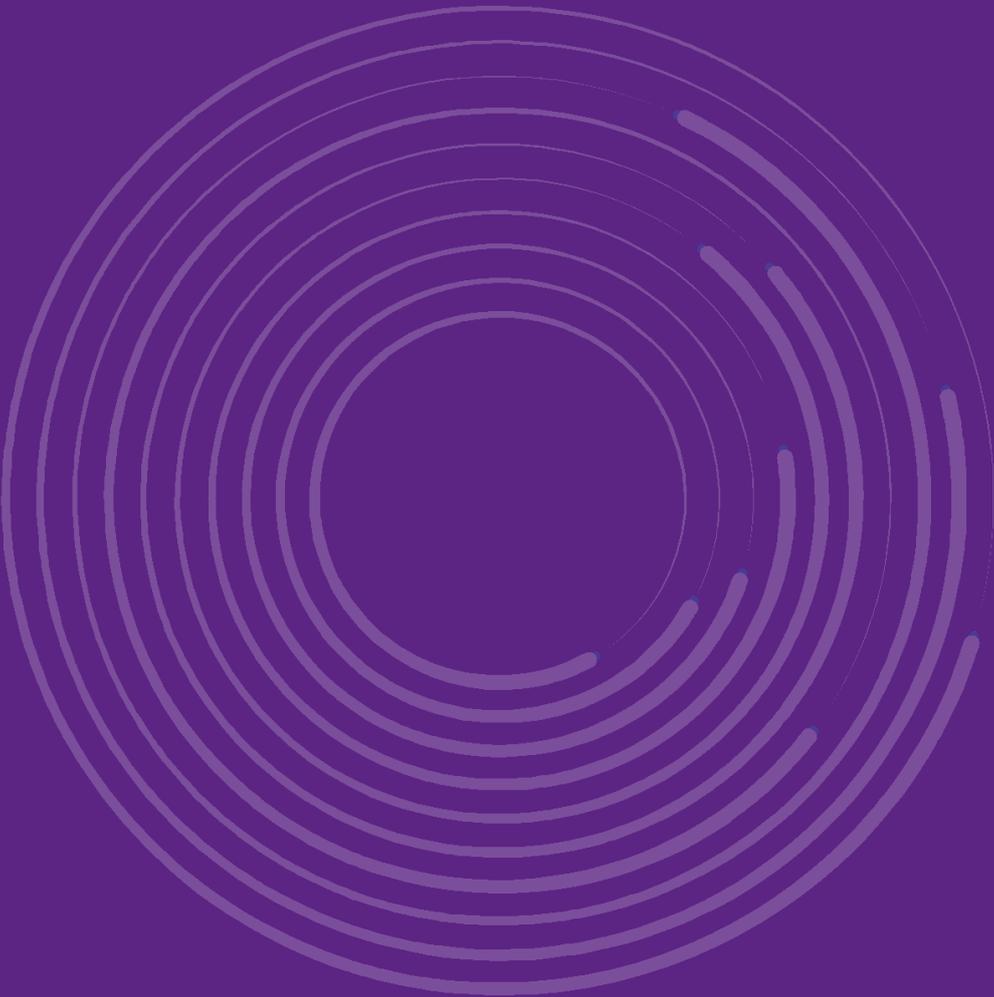
- ? Do you agree that a unified funding system for vocational education, encompassing both provider-based and work-based learning, will help to improve our overall vocational education system?
- ? What do you think the Government needs to consider in designing a new funding system?
- ? Are the suggested elements for a vocational education funding system the right ones? What might be missing?

Concluding questions:

- ? What do you think about the impacts described above? Is anything big missing from the list?
- ? How might different groups of learners be impacted by the proposals? In particular:
 - What unique issues or opportunities arise for Māori learners in the proposed new system?*
 - What unique issues or opportunities arise for Pacific learners in the proposed new system?*
 - What unique issues or opportunities arise for disabled learners and learners with additional learning support needs?*
- ? How might different groups of employers be impacted by the proposals? In particular:
 - What unique issues or opportunities arise for small and medium-sized enterprises in the proposed new system?*
 - What unique issues or opportunities arise for Māori enterprises in the proposed new system?*
- ? How could the new system best ensure that specific learner groups - such as those identified above - can participate and achieve in vocational education?
- ? Overall and in the long run, do you think the future arrangements being proposed for vocational education would be better or worse for you personally than the current arrangements? What about for any groups or communities you are a part of?
- ? What other ideas or models do you think we should be considering?

Attachment 2

Item 8



Kōrero

Mātauranga

Me kōrero tātou

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Item 8

Attachment 2

Council Report

Committee:	Council	Date:	14 March 2019
Author:	Mark Brougham	Authoriser:	Blair Bowcott
Position:	Programme Manager - Analysis & Research	Position:	Executive Director Special Projects
Report Name:	HCC's Draft 1 submission to the NZ Productivity Commission's Local Government Funding and Financing Inquiry		

Report Status	<i>Open</i>
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Purpose

1. To seek approval of HCC's **Draft 1** submission to the NZ Productivity Commission's Local Government Funding and Financing Inquiry.
2. **Draft 1** is attached to this report.

Staff Recommendation

3. That the Council:
 - a) receives the report;
 - b) approves HCC's **Draft 1** submission to the NZ Productivity Commission's Local Government Funding and Financing Inquiry as set out in Attachment 1 of the staff report; and
 - c) notes the final submission will be sent to the NZ Productivity Commission following approval.

Executive Summary

4. The Government has asked the New Zealand Productivity Commission (the Commission) to examine the adequacy and efficiency of the current framework for funding and financing local government via an Inquiry.
5. A Council submission has been prepared (Attachment 1 of this report) based on feedback from Elected Members at the 14 February 2019 Council Briefing.
6. Staff consider the matters in this report have a low level of significance and that the recommendations comply with the Council's legal requirements.

Background

7. The Government has asked the New Zealand Productivity Commission (the Commission) to examine the adequacy and efficiency of the current framework for funding and financing local government via an Inquiry.

8. The Commission notes that costs and pressures facing local government have increased in recent years, particularly for fast-growing and declining councils, and councils with high levels of tourism.
9. The Commission is seeking submissions on its Local Government Funding and Financing Inquiry.
10. Feedback from submissions will inform the Commission's draft report, scheduled for release in June 2019 (with submissions due in August 2019).
11. The Commission's final report is due with Government by 30 November 2019.
12. The Commission held a presentation/Q&A session in Hamilton on 11 February 2019 on its Local Government Funding and Financing Inquiry, which was attended by Elected Members and staff from HCC and surrounding councils.
13. The Commission's Inquiry and potential theme areas for incorporation in HCC's submission were then discussed at the 14 February 2019 Council Briefing.
14. Feedback from this Briefing informed development of HCC's **Draft 1** submission, which was circulated to Elected Members for comment on 1 March 2019. As no feedback was received, **Draft 1** remains unchanged.
15. **Draft 1** was also sent to the Commission on 1 March 2019.
16. HCC's final submission will be sent to the Commission following approval at the 14 March 2019 Council meeting.

Financial Considerations

17. The staff cost to develop the submission was approximately \$5,000.

Legal and Policy Considerations

18. Staff confirm that the recommendations in this report comply with the Council's legal and policy requirements.

Cultural Considerations

19. There are no known cultural considerations identified by staff or Elected Members.

Sustainability Considerations

20. There is no known impact on the Sustainability Principles.

Risks

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

Significance & Engagement Policy

Significance

22. 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.
23. Given the low level of significance determined, the engagement level is low. No engagement is required.

Attachments

Item 9

Attachment 1 - HCCs Draft 1 Submission to the NZ Productivity Commissions Local Government Funding and Financing Inquiry (14 March 2019)

1.5 Detail on these eight theme areas is outlined below.

2.0 EIGHT THEME AREAS FOR THE COMMISSION TO CONSIDER

THEME AREA 1: SUPPORT INTEREST-FREE GOVERNMENT LOAN ARRANGEMENTS FOR CORE INFRASTRUCTURE

2.1 KEY POINTS/RECOMMENDATIONS

- a) HCC supports further rounds of interest-free Government loan arrangements for core infrastructure for high growth councils, as well as councils facing significant infrastructure challenges.

2.2 COMMENTARY

- 2.3 Despite interest rates for borrowing being extremely competitive at the moment, clearly interest-free Government loan arrangements offer substantial benefits for councils.
- 2.4 Like the Government's \$1 Billion Housing Infrastructure Fund (HIF), each application would still be subject to provision of a clear, comprehensive and compelling business case.
- 2.5 Applications should only be available for:
- Transport
 - 3 Waters
 - Land for Parks and Reserves

THEME AREA 2: SUPPORTIVE OF NEW OFF-BALANCE SHEET FINANCING TOOLS

2.6 KEY POINTS/RECOMMENDATIONS

- a) HCC is supportive of new financing tools (such as Special Purpose Vehicles) being explored and ultimately available for use by local government.
- b) Such tools are being specifically designed to finance infrastructure off a council's balance sheet.
- c) These mechanisms will assist in monetising 'value uplift/value capture' from properties that benefit from lead growth infrastructure, but don't actively develop (1st wave beneficiaries).

2.7 COMMENTARY

- 2.8 New financing tools, such as Special Purpose Vehicles (SPVs) that are being explored as part of the Government's Infrastructure Funding and Financing workstream (to strengthen the infrastructure strategy, planning, investment and delivery) will add to the 'toolbox' available to councils.
- 2.9 Such tools will provide ability to finance infrastructure off a council's balance sheet and to have a mechanism that can monetise 'value uplift/value capture' from properties that benefit from lead growth infrastructure, but don't actively develop (1st wave beneficiaries).

THEME AREA 3: EFFICIENCY GAINS – SUPPORT ALIGNMENT OF LOCAL GOVERNMENT AND GOVERNMENT SPENDING/PROGRAMMES

2.10 KEY POINTS/RECOMMENDATIONS

- a) HCC advocates that greater alignment of spending and programmes between local and central government is beneficial and indeed critical for investment and operational alignment opportunities, e.g. the Hamilton-Auckland Corridor Plan.
- b) The scale of a council's operation is also important to achieving efficiencies.
- c) Greater alignment with Government programmes will ensure councils have a more stable and meaningful planning horizon and at the same time will enable them to leverage greater investment opportunities.

2.11 COMMENTARY

- 2.12 HCC advocates that greater alignment of spending and programmes between local and central government is beneficial and indeed critical.
- 2.13 For example, the Hamilton-Auckland Corridor Plan offers significant investment and operational

alignment opportunities. HCC is working with Government, iwi and local authorities on Auckland to Hamilton Corridor Plan and Hamilton-Waikato Metro Spatial Plan to progress the Government's Urban Growth Agenda spatial planning actions/objectives i.e. to achieve competitive urban land-markets, where supply meets demand and prices cover the cost of growth.

- 2.14 Scale important to achieving efficiencies – particularly, for example, regarding Hamilton's position in the metropolitan area and attaining further scale and a commensurate rating base to reflect services it provides to a wider area.
- 2.15 Alignment with Government programmes will ensure councils have a more stable and meaningful planning horizon and at the same time enable them to leverage greater investment opportunities.

THEME AREA 4: OPEN-MINDED ON AGGREGATION FOR DELIVERY OF 3 WATERS AND OTHER CORE SERVICES

2.16 KEY POINTS/RECOMMENDATIONS

- a) Government should provide financial support towards investigative work that councils may need to undertake when looking at more cost-effective and efficient 3 waters models.
- b) Government assistance for addressing funding gaps in resilience, asset management and service delivery deficiencies for 3 Waters should only be available to councils who are part of an aggregated service delivery model i.e. a CCO.
- c) Government should investigate introducing a 3 Waters subsidy to fund provision of core infrastructure - similar in nature to the NZ Transport Agency's funding/subsidy model for transport.
- d) Government intervention may also be an appropriate mechanism to use when looking at/reviewing models, structure and management of other council core services.

2.17 COMMENTARY

- 2.18 HCC made a comprehensive submission to the Minister of Local Government on Government's 3 Waters Review on 23 October 2018 (refer [here](#)). The submission noted that:
- HCC invested a significant amount of staff/Elected Member time and resource into the 3 waters project with Waikato District Council and Waipa District Council between 2012 and 2017, all without achieving the desired result. HCC's share of the consultancy costs was around \$600,000.
 - HCC is therefore of the view that Government intervention is necessary to achieve aggregation of water service delivery and that the decision for the aggregation of water services must be led by the Government, as local government is not always able to make the decision to aggregate on its own.
 - HCC is therefore open-minded on the various models being considered by Government over potential management and structure of a 3 Waters model for the Greater Hamilton/Waikato area.
 - Government should provide financial support towards investigative work that councils may need to undertake when looking at more cost-effective and efficient 3 waters models.
 - Government assistance for addressing funding gaps in resilience, asset management and service delivery deficiencies (which nationally are estimated to be significant for water and wastewater), including meeting environmental and waters standards for 3 Waters, should only be available to councils who are part of an aggregated service delivery model i.e. a CCO.
- 2.19 HCC is also of the view that Government investigate introducing a subsidy to fund provision of 3 waters core infrastructure - similar in nature to the NZ Transport Agency funding/subsidy model for transport (noting that detailed business cases are required for transport projects as part of the subsidy process).
- 2.20 Government intervention may also be an appropriate mechanism to use when looking at/reviewing models, structure and management of other council core services.

THEME AREA 5: DEVELOPMENT OF NATIONAL GUIDELINES THAT SUPPORT IMPLEMENTATION OF A COMMUNITY FACILITIES FUNDING FRAMEWORK

2.21 KEY POINTS/RECOMMENDATIONS

- a) National Guidelines that support development and implementation of a Community Facilities Funding Framework should be available to assist in a council's decision-making on financing new facilities that provide clear benefit beyond a council's administrative area.

2.22 COMMENTARY

- 2.23 New community facilities delivering regional benefit are potentially being 'duplicated' throughout the country by councils e.g. stadiums, theatres, libraries. Greater collaboration between councils is essential to develop and fund such facilities.
- 2.24 A Community Facilities Funding Framework for the Waikato was originally developed and endorsed by the Waikato Mayoral Forum on 11 September 2017 (refer [here](#)). Although the Framework has never been officially formalised by the region's constituent councils, it is envisaged that a further report on the Framework will be considered by the Waikato Regional Council following the October 2019 local authority elections.
- 2.25 HCC would like to have discussions with the Commission with a view to incorporating the underpinning principles of the Waikato Community Facilities Funding Framework into a National set of Guidelines.

THEME AREA 6: SUPPORT STANDARDISATION AND INCREASED EFFICIENCIES OF SYSTEMS IN LOCAL GOVERNMENT FACILITIES AND SERVICES

2.26 KEY POINTS/RECOMMENDATIONS

- a) Greater standardisation of the current multitude of local government systems (e.g. payroll, procurement and information services) is required for the various facilities and services provided by New Zealand's 78 councils to ensure increased efficiencies and cost-savings.
- b) Scale of service delivery will also bring efficiencies – development of an effective Shared Services model is a key means of achieving this.
- c) While the focus still has to be on 'keeping local government local', there are further opportunities that will enable greater standardisation and consolidation of service delivery solutions for the local community.
- d) Government regulation may be required for such standardisation and consolidation to occur.

2.27 COMMENTARY

- 2.28 HCC supports standardisation and increased efficiencies in the multitude of corporate systems used throughout local government's various facilities and services. Currently, a number of differing systems are used throughout the country's 78 councils e.g. payroll, procurement, information services.
- 2.29 Waikato Local Authority Shared Services (WLASS – refer [here](#)), which comprises 12 councils, goes some way to addressing the issue of increased standardisation and efficiencies e.g. Shared Valuation Data Service; numerous joint procurement contracts; Waikato Building Consent Group.
- 2.30 The leveraging ability for obtaining various services/products under WLASS is still constrained to 12 councils.
- 2.31 However, greater collaboration amongst the councils in WLASS provides a key opportunity to deliver other key services and products more efficiently and effectively both regionally and nationally - not just 'back office' corporate activities.
- 2.32 The focus still has to be on 'keeping local government local' i.e. while HCC is fully supportive of local representation in local government, there are further opportunities that could be used to enable greater standardisation and consolidation of service delivery solutions for the local community.

- 2.33 All councils operate under the same legislation and scale will bring efficiencies. Many large corporates are already doing this, as are other parts of Government - so the question is why not councils? The bottom line is that Government may need to regulate to achieve this.

THEME AREA 7: SUPPORTIVE OF REGIONAL FUEL TAX; VARIABLE ROAD PRICING/TOLLING; 'ROADING BORDER LEVY'; INCREASE IN THE FUNDING ASSISTANCE RATE (FAR) FOR PUBLIC TRANSPORT; NEW TARGETED ENHANCED FUNDING ASSISTANCE RATE (TEFAR)

2.34 KEY POINTS/RECOMMENDATIONS

- a) Support introduction of Regional Fuel Tax from 1 January 2021 via the Land Transport Management (Regional Fuel Tax) Amendment Act.
- b) Support variable road pricing and tolls for road users.
- c) Investigate introduction of a 'Roading Border Levy' for non-ratepayers/non-residents that enter a city/district and then use its roads.
- d) Support an increase to the Funding Assistance Rate (FAR) for Public Transport.
- e) Support an extension of the current 3-year timeframe of the NZ Transport Agency's new Targeted Enhanced Funding Assistance Rate (TEFAR) to 10-years.

2.35 COMMENTARY

- 2.36 HCC made a submission on 20 April 2018 to the Land Transport Management (Regional Fuel Tax) Amendment Bill (refer [here](#)). Our submission and hearing appearance was supportive of the Bill. Subsequently, the Land Transport Management (Regional Fuel Tax) Amendment Act received Royal Assent on 26 June 2018 and will enable regions, or part of a region, to apply for a fuel tax to fund transport infrastructure programmes from 1 January 2021.
- 2.37 HCC is also supportive of variable road pricing and tolls for road users - funding and financing tools that are used extensively and operate successfully overseas.
- 2.38 As an additional means of financing transport infrastructure, the Commission could investigate introduction of a 'Roading Border Levy' for non-ratepayers/non-residents that enter a city/district and then use its roads. The 'wear and tear' impact on a city's/district's transport infrastructure from vehicles normally domiciled outside of a city/district can be significant.
- 2.39 In order to be economic, a 'Roading Border Levy' scheme would also need to be able to be applied in other Road Controlling Authorities. A central system like the tolling that the NZ Transport Agency currently provides for various locations around New Zealand would be a logical way forward.
- 2.40 The Funding Assistance Rate (FAR) for Public Transport should be increased, which will mean fares can be reduced, resulting in increased patronage. This will mean decreased congestion, less spending on new transport infrastructure, decreased crashes, and increased personal health - a 'win-win' result for the NZ Transport Agency and councils. The FAR for public transport should be calculated on the full cost rather than the balance after fare revenue.
- 2.41 The NZ Transport Agency's new targeted enhanced funding assistance rate (TEFAR) to assist councils in bringing forward new high and very high priority locally-led improvement activities for the 2018-21 National Land Transport Programme (NLTP) needs to be extended for a much longer timeframe.
- 2.42 HCC has a number of high priority public transport projects that would benefit significantly from TEFAR, but these will be ongoing and require greater funding certainty over a longer timeframe than the current three-year timeframe. A 10-year timeframe should be considered.

**THEME AREA 8: SUPPORTIVE OF ECONOMIC BENEFIT REVENUE LINKED TO GROWTH AND DEVELOPMENT
IN A COUNCIL'S ADMINISTRATIVE AREA**

2.43 KEY POINTS/RECOMMENDATIONS

- a) Investigate use of various financing tools that are linked to the growth and development in a council's administrative area.
- b) This could involve councils receiving a set portion of the Government's GST 'take' from their administrative area, or alternatively, a set amount of the total 'spend' in a council's administrative area that is captured as an additional levy to the current GST component, potentially in the form of an increase to the GST rate.
- c) Such funding streams should be dedicated to core infrastructure maintenance and enhancement.

2.44 COMMENTARY

- 2.45 A form of economic benefit revenue accruable to a council that is linked to growth and development in its administrative area could provide a funding stream that is dedicated to maintenance and enhancement of core infrastructure.
- 2.46 This could involve councils receiving a set portion of the Government's GST 'take' from their administrative area, or alternatively, a set amount of the total 'spend' in a council's administrative area that is captured as an additional levy to the current GST component, potentially in the form of an increase to the GST rate. Such a mechanism would effectively be similar in nature to a local area sales tax.
- 2.47 Currently, the majority of 'spend' benefit in a council's administrative area accrues directly to central government via GST - councils receive no benefit from the area that they invest a significant amount of money and resource on maintaining, enhancing and promoting economic activity and development.

3.0 FURTHER INFORMATION AND OPPORTUNITY TO MEET

- 3.1 Should the New Zealand Productivity Commission require clarification of the above points, or additional information, please contact David Bryant (General Manager Corporate) on 07 959 9019, email david.bryant@hcc.govt.nz or Blair Bowcott (Executive Director – Special Projects) on 07 838 6742, email blair.bowcott@hcc.govt.nz in the first instance.
- 3.2 Hamilton City Council representatives would be happy to meet with staff from the New Zealand Productivity Commission to discuss in more detail how the points outlined in this submission could be applied in a Hamilton and national context.

Yours faithfully

Richard Briggs
CHIEF EXECUTIVE

Council Report

Item 10

Committee: Council **Date:** 14 March 2019
Author: Andy Mannering **Authoriser:** Lance Vervoort
Position: Social Development Manager **Position:** General Manager Community
Report Name: Social Housing Fund Update

Report Status	<i>Open</i>
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Purpose

1. To inform the Council on progress of actions relating to the Social Housing Fund approved in the 2018-28 10-Year Plan.

Staff Recommendation

2. That the Council
 - a) receives the report; and
 - b) notes staff will continue to develop criteria, for a report back to the Council by 8 August 2019 (not the 31 March 2019 as previously requested).

Executive Summary

3. The Council approved funding provision of \$2million in the 2018-28 10-Year Plan to be used as seed funding for a Hamilton Social Housing Fund ([Agenda](#), [Minutes](#)).
4. The resolution requested the Chief Executive, in consultation with the community housing sector, to develop the criteria for the fund to be approved at a future Council meeting, prior to 31 March 2019.
5. An Elected Member Briefing occurred on 29 November 2018, updating the Council on community consultation that had occurred around the proposed fund.
6. Subsequent conversations have provided an opportunity to redefine the purpose of the Social Housing Fund.
7. Staff consider the matters in this report to have low significance and that the recommendations comply with the Council's legal requirements.

Discussion

8. The Council approved funding provision of \$2million in the 2018-28 10-Year Plan to be used as seed funding for a Hamilton Social Housing Fund.
9. During the 10-Year Plan discussion, three potential options for the disbursement of funds over the term of the 2018-28 10-Year Plan were discussed.
 - Single-Year disbursement of \$2,000,000
 - Multi-Year disbursement (a combination of years and amounts equalling \$2,000,000)

- 10-Year annual disbursement of \$200,000 per annum
10. The Council agreed to a multi-year disbursement.
 11. The Council resolved that this fund should be for the purposes of research; administration; concepts; architectural plans and engineering designs; and consent applications for providers of social housing in Hamilton.
 12. Elected Members and staff have had multiple conversations with interested social housing stakeholders around the potential use of the allocated money.
 13. The Waikato Plan Regional Housing Initiative has been collecting coordinated regional housing data to clearly identify current demand, supply and location of housing needs across the housing spectrum (attachment one). A preliminary overview of this stocktake was released at the end of February.
 14. Two recurring themes have consistently been voiced by stakeholders:
 - The Council is a significant part of the overall process of delivering houses across the spectrum. It is believed that financial investment into improving the time it takes and cost of Council consent processes would significantly benefit the entire community.
 - Multiple solutions are needed to address the housing concerns in the city. Several initiatives are already occurring which gives the Council the opportunity to support a new initiative like a Lands Trust with this fund.
 15. The Council is currently involved across the housing spectrum in several ways, including but not limited to the following:
 - Multi-Year Community Grants to Te Whakaruruhau Incorporated and the Christian Nightshelter Trust and rental subsidy support of the People's Project.
 - Affordable housing requirements in Special Housing Areas (SHA).
 - Fast tracking development within Peacocke through the Housing Infrastructure Fund (HIF).
 - Infrastructure Funding conversations with developers and Crown Infrastructure Partners (CIP) to enable new residential developments.
 - Density allowances within the District Plan delivering affordable options.
 - Development Contributions Policy per bedroom charge facilitates affordable development options.
 - Provision of community infrastructure allows for ongoing residential development.
 - Ongoing monitoring of Housing Market including consents, sales, affordability, etc.
 16. An Elected Member Briefing occurred on 29 November 2018, updating the Council on community consultation that had occurred around the proposed fund.
 17. At the Elected Member Briefing Councillors requested to be part of the next step of developing the related criteria of the Social Housing Fund.
 18. Subsequent meetings with Councillors and community stakeholders have identified the potential opportunity to utilise this funding to assist in the establishment of a Land Trust within the city. Direction around this option could significantly alter the criteria for the fund.

Land Trust Option

19. Through the work of the Waikato Plan Regional Housing Initiative it is recognised that there is a housing shortage today and population projections indicate that there is a significant need for more houses to be built over the next 30-years.

20. To enable the required supply across the housing spectrum there is a need for multiple interventions, from increased emergency housing, social housing provision to full market properties.
21. Coupled with the housing shortage within the region there are affordability issues.
22. Affordable housing is defined as housing costs being less than 30% of income of low to moderate income households. The current housing and rental affordability within Hamilton is lower than national figures, yet both remain higher than 30%. ([Growth and Infrastructure Committee, 23 October 2018](#))
23. Central Government through the Ministry of Housing and Urban Development is primarily responsible for addressing emergency and public housing tenancies. Private developers deliver houses to the market.
24. The Council has an opportunity to partner with existing housing providers already working in Hamilton and the wider region in the “missing middle” of affordable rental and pathways to homeownership: The “missing middle” has been used to describe the blue columns in attachment one, namely assisted rental, affordable assisted ownership and market affordable properties.
25. The main organisations working in this part of the spectrum are Habitat for Humanity, Maaori Housing Foundation and the NZ Housing Foundation.
26. There are three significant elements that affect the overall affordability and cost of housing developments - the cost of land, the cost to build and the cost to process applications.
27. The \$2million allocated by the Council for the social housing fund could be used to seed fund a Land Trust to remove the cost of land as a mechanism to address affordability.
28. A Land Trust is a non-profit organisation, created to acquire and hold land for the benefit of a community, and provide secure affordable access to land and housing for community residents. A Land Trust owns the land and leases it for a nominal fee to individuals who own the buildings on the land.
29. Locally there is a willingness to work with the Council to progress a Land Trust initiative. Community Housing Aotearoa has also offered to assist the Council in the development of a collaborative response.
30. Community Housing Aotearoa is the peak body for New Zealand’s community housing sector. There are 90 provider members who house approximately 25,000 people nationally across 13,000 homes. They have 19 partner members including developers, consultants and local Councils. They assisted Queenstown Lakes District Council with the creation of the [Queenstown Lakes Community Housing Trust](#).
31. Key considerations that would need to be addressed in developing a Land Trust includes:
 - The legal structure of the entity.
 - The eligibility of households to access land.
 - Practical issues including terms of land leases, dealing with property sales, social support of households.
 - The ongoing funding of the organisation.
32. There are a set of partners operating in this space that have experience and is recommended to explore options with existing entities before launching into creating a new trust. Current partners are already registered as community housing providers and have legal and tax status that could be capitalised on.

33. The specific details around households' eligibility to access support from a local Land Trust would be developed in time. Successful and well-functioning models do exist across New Zealand to support this development, including Habitat for Humanity, the NZ Housing Foundation and the Queenstown Lakes Community Housing Trust having worked with people over many years, with a range of services or products offered.
34. There is an opportunity now to approach local funders to partner with the Council in this initiative. It has been signalled that the 2019 budget will confirm the Ministry of Housing and Urban Developments commitment to support affordable housing and supportive rental initiatives.
35. DV Bryant Trust, Habitat for Humanity, Community Housing Aotearoa and other members of the local community housing sector have indicated that they are willing to work with Council to develop the correct legal structure and establish a steering group to initiate the selection of appropriate governance.
36. Staff request to continue to work with Elected Members and a small working group to either develop the criteria of the Social Housing Fund considering the Regional Housing Initiative stocktake findings or a local Land Trust and then report back to the Council.

Financial Considerations

37. The total amount allocated to the Social Housing Fund is \$2,000,000, which is currently scheduled to be allocated in years 2-6 of the 2018-28 10-Year Plan.
38. If allocation was changed to \$1,000,000 in both 2019/20 and 2020/21 there will be a negative impact in Year 3, which is the year the Council is most likely to breach the debt to revenue limits. It will reduce the Council's debt capacity.
39. Staff time would be needed to support the administration around creating a trust, establishing the governance and supporting the initial operations to allow housing outcomes to be achieved.

Legal and Policy Considerations

40. Staff confirm that this matter complies with the Council's legal and policy requirements.

Risks

41. There are no additional risks associated with this matter.

Significance & Engagement Policy

Significance

42. Having considered the Significance and Engagement Policy, staff have assessed that the matters in this report have low significance. This means further consultation is not required. However, working in a partnership with the community will deliver the best outcomes.

Engagement

43. Community views and preferences are already known to the Council through a mixture of one-to-one and forum conversations with the Community Housing Sector and Philanthropic funders.

Attachments

Attachment 1 - Waikato Plan Regional Housing Initiative - The Housing Spectrum

The Housing Spectrum (Homelessness to Market Products)

		SOCIAL	AFFORDABLE			MARKET		
		← Increasing Subsidy			Increasing Independence →			
		Homelessness and Emergency Housing	State and Other Social Housing	Assisted Rental	Affordable Assisted Ownership	Market Affordable	Market Rental	Full Market
Challenges	Significant rise in the level of homelessness	Number of households seeking social housing has risen significantly	Rents rising at a faster rate than wages Rental market is very tight 45% increase in house prices in the Waikato in the last five years Home ownership rates are declining					
Key Players	The People's Project Ministry of Social Development Ministry of Housing and Urban Development Development Women's Refuge Salvation Army Community Housing Aotearoa	Ministry of Social Development Ministry of Housing and Urban Development Housing NZ Waikato-Tainui Accessible Properties Perry's Foundation – pensioner housing Te Rūnanga o Kiriikirōa Councils, e.g. pensioner housing	Habitat for Humanity NZ Housing Foundation Ministry of Social Development Ministry of Housing and Urban Development	Habitat for Humanity Community Housing Aotearoa Waikato-Tainui Gallagher Charitable Trust	Waikato-Tainui Gallagher Charitable Trust Te Rūnanga o Kiriikirōa Developers and councils through Special Housing Areas Te Mata Pihī Future Proof Ministry of Housing and Urban Development – KiwiBuild, Urban Growth Agenda	Developers Councils through zoning land MinisttSpecial Housing Areas Waikato-Tainui Future Proof		
Programmes	The People's Project - Housing First – Government programme LinkPeople (part of Wise Group) Special Housing Areas – 40% required to be affordable homes WEL Energy Trust Vital Impact Grants – Housing KiwiBuild The Government's Urban Growth Agenda Healthy Homes – Ministry of Health and Whare Ora - Waikato DHB Universal Design (Lifemark) Papakainga Housing Housing Infrastructure Fund	Strategies and Plans		Waikato Plan Future Proof Strategy Hamilton Urban Growth Strategy Waipa 2050 Waikato District Development Strategy Hamilton Central City Transformation Plan Hamilton Age Friendly Plan Taupo District 2050 Matamata-Piako Town Strategies NPS-UDC – Housing & Business Development Capacity Assessment; Future Development Strategy Waikato Maaori Housing Toolkit				

Council Report

Committee:	Council	Date:	14 March 2019
Author:	Mark Brougham	Authoriser:	Sean Hickey
Position:	Programme Manager - Analysis & Research	Position:	General Manager Strategy and Communications
Report Name:	HCC's Draft 1 Submission to the WEL Energy Trust's 2019-20 Draft Annual Plan		

Report Status	<i>Open</i>
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Purpose

1. To seek approval of HCC's **Draft 1** submission to the WEL Energy Trust's 2019-20 Draft Annual Plan.
2. **Draft 1** is attached to this report.

Staff Recommendation

3. That the Council:
 - a) receives the report;
 - b) approves HCC's **Draft 1** submission to the WEL Energy Trust's 2019-20 Draft Annual Plan;
 - c) notes the final submission will be sent to the WEL Energy Trust prior to the 20 March 2019 submission closing date; and
 - d) approves [an Elected Member] to present the final submission, on behalf of Hamilton City Council, at the Trust's hearings scheduled for 27 March 2019 at 2.30pm.

Executive Summary

4. The WEL Energy Trust is currently consulting on its 2019-20 Draft Annual Plan, with submissions due on 20 March 2019.
5. A Council submission has been prepared (Attachment 1) based on feedback from Elected Members at the 14 February 2019 Council Briefing.
6. Staff consider the matters in this report have a low level of significance and that the recommendations comply with the Council's legal requirements.

Background

7. The WEL Energy Trust is currently consulting on its 2019-20 Draft Annual Plan, with submissions due on 20 March 2019.
8. Trust Manager Raewyn Jones and Trust Chair Mark Ingle made a presentation on the WEL Energy Trust's 2019-20 Draft Annual Plan and its 2019-22 Community Investment Strategy at the 14 February 2019 Council Briefing.

9. It was noted at the Briefing that HCC would make a submission that supported the Trust's 2019-20 Draft Annual Plan and new Sustainable Development Goal framework approach to funding and investment as outlined in its 2019-22 Community Investment Strategy.
10. HCC's **Draft 1** submission was circulated to Elected Members for feedback on 1 March 2019. As no feedback was received, **Draft 1** remains unchanged.
11. HCC's final submission will be sent to the Trust following approval at the 14 March 2019 Council meeting.
12. Hearings for submitters will be held as part of the Trust's 27 March 2019 meeting, which commences at 2.30pm.
The Trust's 2019-20 Draft Annual Plan will then be finalised at this meeting.

Financial Considerations

13. The total staff cost to develop the submission was approximately \$2,000.

Legal and Policy Considerations

14. Staff confirm that the recommendations in this report comply with the Council's legal and policy requirements.
15. **Cultural Considerations**
16. There are no known cultural considerations identified by staff or Elected Members.

Sustainability Considerations

17. There is no known impact on the Sustainability Principles.

Risks

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

Significance & Engagement Policy

19. 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.
20. Given the low level of significance determined, the engagement level is low. No engagement is required.

Attachments

Attachment 1 - HCCs Draft 1 Submission to the WEL Energy Trusts 2019-20 Draft Annual Plan (14 March 2019)

DRAFT 1

Private Bag 3010 TEL 07 838 6699
 Hamilton 3240 FAX 07 838 6599
 New Zealand EMAIL info@hcc.govt.nz
 hamilton.govt.nz

Submission by

Hamilton City Council

WEL ENERGY TRUST'S 2019-20 DRAFT ANNUAL PLAN

14 March 2019

1.0 INTRODUCTION

- 1.1 Hamilton City Council (HCC) welcomes the opportunity to make a submission to the WEL Energy Trust's 2019-20 Draft Annual Plan.
- 1.2 HCC would like to thank the Trust for the comprehensive presentation made on its 2019-20 Draft Annual Plan and 2019-22 Community Investment Strategy by Trust Manager Raewyn Jones and Trust Chair Mark Ingle at the 14 February 2019 Council Briefing.

2.0 SUPPORT FOR SOCIAL INVESTMENT LINKED TO REGIONAL PRIORITIES

- 2.1 HCC supports the Trust's Community Investment Strategy application of the Sustainable Development Goal (SDG) framework to focus social and impact investment as outlined on page 13 of the Community Investment Strategy 2019-2022.
- 2.2 We also support the Trust's General Theory of Change outlined on page 3 of the Draft Annual Plan i.e. *"If we make coordinated use of different forms of financial capital and non-financial resources to support innovation and the wider innovation ecosystem, THEN we will begin to see the systemic change required for impact at scale"*.
- 2.3 HCC considers the Community Investment Strategy's differentiation of investment into philanthropy, social/impact and sustainable/responsible investment provides a greater clarity for the community and region in understanding how to target applications for investment.
- 2.4 HCC supports the use of the Social Impact Investment to recognise the social value of investment by considering not only the financial return, but also the social and environmental outcome of the investment.
- 2.5 HCC supports the use of Vital Impact Grants and Investment to catalyse new approaches and provide opportunity for blended-finance models.
- 2.6 HCC supports the allocation of \$10 million for social and impact investments in 2019/20 and \$500,000 for Vital Impact Grants.

3.0 AFFORDABLE HOUSING

- 3.1 The Trust has identified the SDG goal 11 – Sustainable Cities and Communities as one of its focus areas and identified its priorities for action as *"Promote innovative thinking and collaborative action to enhance access to affordable, quality housing, including social housing and rental accommodation"*, with a success measure of 'Improved housing affordability'.

- 3.2 HCC commend the Trust for proposing the challenge in your Community Investment Strategy for organisations to have a conversation with the Trust to 'unlock the powerful possibilities for our community, now and into the future', and would like to signal to the Trust that HCC will be active in conversations to improve the well-being of Hamiltonians.

4.0 FURTHER INFORMATION AND HEARINGS

- 4.1 Should the WEL Energy Trust require clarification of the above points, or additional information, please contact Sean Hickey (General Manager Strategy and Communications) on 07 838 6432, email sean.hickey@hcc.govt.nz in the first instance.
- 4.2 HCC **does wish to speak** in support of this submission at the WEL Energy Trust's hearings that are scheduled for 27 March 2019.

Yours faithfully

Richard Briggs
CHIEF EXECUTIVE

Council Report

Committee:	Council	Date:	14 March 2019
Author:	Riki Manarangi	Authoriser:	Jen Baird
Position:	Programme Manager - Policy and Bylaw	Position:	General Manager City Growth
Report Name:	Prostitution Bylaw Review - Determination and Consultation		

Report Status	<i>Open</i>
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Purpose

1. To seek the Council's approval, as required under the Local Government Act 2002, on whether a bylaw is or is not the most appropriate way of addressing the perceived problems in relation to commercial sexual services operating in Hamilton.
2. To seek the Council's approval for the consultation process outlined in the report including the attached Statement of Proposal in compliance with the Local Government Act 2002.

Staff Recommendation

Recommendation 1

Option 1

3. That the Council determines, as required under sections 160(1) and 155 of the Local Government Act 2002, that a bylaw is the most appropriate way of addressing the perceived problems in relation to commercial sexual services operating in Hamilton.

Option 2

4. That the Council determines, as required under sections 160(1) and 155 of the Local Government Act 2002, that a bylaw is not the most appropriate way of addressing the perceived problems in relation to commercial sexual services operating in Hamilton.

Recommendation 2

5. That the Council approves public consultation for one month from 18 March 2019 to 18 April 2019 on the attached Statement of Proposal (attachment 1) in compliance with sections 160 and 156 of the Local Government Act 2002.

Executive Summary

6. The Council has an existing Prostitution Bylaw (**the existing Bylaw**) which the Council is required to review to meet its 10-yearly legislative requirements under the Local Government Act 2002 (s159, **the LGA**).
7. The purpose of the existing Bylaw is to support the intent of the Prostitution Reform Act 2003 (**the PRA**) while allowing for the managing of commercial sexual service providers in relation to the community's concerns of exposure to commercial sexual activities.

8. The existing Bylaw was last reviewed in 2009 where permitted brothel locations, signage restrictions and sensitive sites were retained since the Bylaw's initial adoption in 2004.
9. The LGA requires the Council to consult the public on whether to continue the existing Bylaw without amendment (s160(3)(b), the LGA) or amends, revokes or replaces the Bylaw (ss160(3)(a) and 156(1), the LGA).
10. Prior to publicly consulting, staff have sought feedback from stakeholders and undertook a legal review to understand the Bylaw's current status and provide direction as to what to consult the public on.
11. Elected Members were briefed at the 27 February 2019 public briefing on the outcome of the initial review including any issues raised by stakeholders and the legal review. Guidance from the Elected Members on what to consult the public on and further information required for this report was sought at the briefing and through subsequent correspondence.
12. When reviewing a Bylaw, the Council is required to determine whether it is appropriate to have a Bylaw or not; therefore, the Council must determine as required under sections 160(1) and 155 of the LGA:
 - **Option 1** – that a bylaw is the most appropriate way of addressing the perceived problems in relation to commercial sexual services operating in Hamilton.
 - **Option 2** – that a bylaw is not the most appropriate way of addressing the perceived problems in relation to commercial sexual services operating in Hamilton.
13. Both options require consultation with the public as required by legislation. The Statement of Proposal (**the SOP**) attached to this report considers stakeholder views, the legal review and any input from elected members leading up to this report.
14. Stakeholders will be invited to provide feedback on the positions outlined for consideration in the SOP so that their views on the positions can be considered by the Council in conjunction with the wider community's views.
15. Following consultation, staff will report to the Regulatory and Hearings Committee in May on all the feedback received and provide any further information gathered in response to any feedback received.
16. Both staff recommendations comply with the Council's legal requirements.

Background and Discussion

Determination

17. Under the PRA, the Council is empowered to make bylaws relating to prostitution. The PRA allows the Council to determine in its bylaw the prohibition or regulation of signage for commercial sexual services (s12, the PRA) and the regulation of the location of brothels (s14, the PRA). The PRA further outlines that a bylaw can be made inconsistent with the Bill of Rights Act (**the BORA**) but only in relation to signage (s13, the PRA).
18. The LGA, under s145, empowers the Council to make a bylaw for one or more of the following purposes:
 - protecting the public from nuisance (s145(a), the LGA) or;
 - protecting, promoting, and maintaining public health and safety (s145(b), the LGA) or;
 - minimising the potential for offensive behaviour in public places (s145(c), the LGA).

19. Section 160 of the LGA states that the Council must review a bylaw by making the following determinations under s155 of the LGA:
 - determine if a bylaw is the most appropriate way of addressing the perceived problems and;
 - determine the most appropriate form for the bylaw and;
 - consider if the bylaw gives rise to any implications under the BORA as a bylaw cannot be made inconsistent to the BORA under the LGA.
20. The Council must determine whether it is appropriate to have a bylaw or not.
21. **Option 1: Determine that a Bylaw is appropriate (continue the bylaw unamended or amend bylaw)**
22. **Background**
23. This option entails determining that a bylaw is still the most appropriate way of addressing the perceived problems in relation to commercial sexual services operating in Hamilton.
24. A bylaw is required if the Council wishes to establish legally enforceable rules to manage the community's concerns in relation to the provision of commercial sexual activities.
25. The BORA sets out rights that are subject to "such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society" (s5, the BORA).
26. With the exception of the solicitation provision, the existing and amended bylaws in the SOP are considered consistent and a reasonable response to provide for the provision for commercial sexual services and their regulation in-line with s5 of the BORA.
27. The staff have undertaken pre-consultation with 13 stakeholders, with 10 of the 13 stakeholder groups supporting the Council's continuation of its Bylaw. Staff have also sought legal opinion on the existing Bylaw.
28. **Solicitation**
29. The Council's existing Bylaw prohibits solicitation within the Hamilton City Council area and in any street, road, footpath, road reserve, public place or area.
30. The effect of this provision in the existing Bylaw means that currently a person is not permitted to approach another person and offer the provision of commercial sexual services.
31. The PRA restricts the Council to making a prostitution bylaw which regulates signage for commercial sexual services and the location of brothels (s12 and s14, the PRA). The Council has no power to make a bylaw regulating solicitation under the PRA.
32. Under the scope of s145 of the LGA, prohibiting solicitation may be considered as a means to protect the public if solicitation is deemed to be an unreasonable interference with the peace, comfort or convenience of a member of the public.
33. However, a bylaw and its provisions are subject to the BORA. The legal review has advised that retaining the solicitation clause will expose the Council to the legal risk that the Bylaw has an element in it that is an unreasonable limit on freedom of expression that may be demonstrably justified (s14, the BORA). This is inconsistent with the BORA and therefore unlawful under the LGA.
34. The Council has the ability to revise the solicitation clause or definitions relating to the terms in the clause to reduce the provision from being a complete ban on solicitation in Hamilton. However, any revision to the clause will not remove the legal risk of it being an unreasonable limit on freedom of expression.
35. Other councils have appealed to central government for legislative change to enable their council to ban solicitation but were unsuccessful (parliamentary report [here](#)).

36. Following legal advice, removal of the legal risk to the Council therefore requires removal of the solicitation clause. The amended bylaws proposed in the SOP ensure the Council has fully legal and enforceable bylaw options to consider.
37. **District Plan change**
38. The Bylaw must be read alongside the Council's current Operative District Plan (**the current DP**).
39. The existing Bylaw has a map which outlines where brothels are permitted to operate.
40. The shaded areas in the existing Bylaw map were based on the previous District Plan in terms of zones where brothels were a permitted activity.
41. Since the prostitution bylaw review in 2009, the District Plan has changed making brothels a non-complying activity in the industrial zone.
42. The change does not affect any existing brothels that are in the industrial zone but any new brothel operating in the industrial zone under the existing Bylaw map is no longer a permitted activity.
43. The legal review advises aligning the existing Bylaw map with the current DP provisions to ensure more transparency with the community around where brothels can be located under the District Plan.
44. The result of this is to exclude any industrial zoned area in the amended bylaws being consulted on in the SOP.
45. **Further Amendments**
46. In the existing Bylaw, the definition of Early Childhood Education Centre refers to s308 whereas the reference should be to s310 and the District Plan definition should state Operative Hamilton District Plan. These minor amendments will be addressed in any approved Bylaw.
47. **Option 2: Do not determine a bylaw is appropriate (revoke existing bylaw)**
48. The Council has the option to revoke the Bylaw completely. Removing the Bylaw means that the Council may no longer have an appropriate way of addressing the perceived problems in relation to commercial sexual services operating in Hamilton meaning:
- solicitation would be permitted (contrary to the position of the existing Bylaw).
 - any restrictions on signage and brothel locations will be as per the current DP.

Consultation

49. Both options necessitate the Council consulting with the public as required under legislation (s156, the LGA).
50. As well as meeting legislative requirements, consultation will enable the Council to capture the community's views since last captured in the review 10 years prior.
51. The SOP will enable the Council to engage the community on the following four positions following the legal review and direction from stakeholders:
52. **Retain Existing Bylaw** (Option A in the SOP) – notwithstanding the issues outlined above, the effect of continuing the Council's existing Bylaw unamended would mean:
- a brothel is permitted in areas shaded in the Bylaw Map but must be 100 metres away from schools, early childhood centres, marae and places of worship.
 - a brothel does not include a premises at which accommodation is normally provided on a commercial basis if the prostitution occurs under an arrangement initiated elsewhere (e.g. a hotel)
 - soliciting on streets is not permitted.

- signage is restricted to one sign which must:
 - be a maximum 2m² in total area
 - not contain flashing and/or neon lighting
 - not contain explicit or offensive words
 - not contain any images, shapes or models considered sexually explicit/offensive
 - any breach of the Bylaw is an offence and an offender is liable upon summary conviction to a fine up to \$20,000.
53. **Amended Bylaw A** (Option B in the SOP) - the Council's existing Bylaw position except removing solicitation and aligning the map with the current DP. The effect of Amended Bylaw A would mean:
- a brothel is permitted in areas shaded in the existing Bylaw Map (excluding the industrial zone) but must be 100 metres away from schools, early childhood centres, marae and places of worship.
 - a brothel does not include a premises at which accommodation is normally provided on a commercial basis if the prostitution occurs under an arrangement initiated elsewhere.
 - signage is restricted to one sign which must:
 - be a maximum 2m² in total area
 - not contain flashing and/or neon lighting
 - not contain explicit or offensive words
 - not contain any images, shapes or models considered sexually explicit/offensive
 - any breach of the Bylaw is an offence and an offender is liable upon summary conviction to a fine up to \$20,000.
54. Amended Bylaw A is an amended bylaw, which aligns the existing map with the areas where a brothel is allowed under the Operative District Plan and removes of the legal risk to the Council in relation to banning solicitation.
55. **Amended Bylaw B** (Option C in the SOP) - the Council's existing Bylaw position except removing solicitation, aligning the map with the current DP and allowing sex workers and one employee to work from their own home. The effect of Amended Bylaw B would mean:
- a brothel is permitted in areas shaded in the existing Bylaw Map (excluding the industrial zone) but must be 100 metres away from schools, early childhood centres, marae and places of worship.
 - a brothel does not include a premises:
 - where a home-based business is a permitted activity under the District Plan or;
 - at which accommodation is normally provided on a commercial basis if the prostitution occurs under an arrangement initiated elsewhere.
 - signage is restricted to one sign which must:
 - be a maximum 2m² in total area
 - not contain flashing and/or neon lighting
 - not contain explicit or offensive words
 - not contain any images, shapes or models considered sexually explicit/offensive
 - any breach of the Bylaw is an offence and the offender is liable upon summary conviction to a fine up to \$20,000.
56. Amended Bylaw B is an amended bylaw which aligns the existing map with the areas where a brothel is allowed under the Operative District Plan, removes of the legal risk to the Council in relation to banning solicitation and enables sex workers to work in their own home. Under Amended Bylaw B, sex workers are allowed to employ only one other person and visitors in relation to their business are allowed only between 8am and 8pm.

57. **No Bylaw** (Option D in the SOP) – The effect of no Bylaw would mean:
- solicitation would be permitted (contrary to the position of the existing Bylaw).
 - any restrictions on signage and brothel locations will be as per the current DP.
58. The Council's options to prosecute for severe infringements would be limited if the Council revokes the bylaw.
59. Following consultation, staff will report to the Regulatory and Hearings Committee in May on all the feedback received and provide any further information gathered in response to any feedback received.

Financial Considerations

60. The total cost to review the Bylaw up to and including this report is approximately \$15,000. This includes approximate legal costs of \$5,000 and staff time of \$10,000 which has been budgeted for through the 10-Year Plan.
61. Depending on the submissions received, additional costs of \$5,000-\$10,000 are anticipated to complete the consultation and deliberation process.
62. The total cost to complete the 10-yearly review on the Bylaw including adopting a bylaw or revocation will be approximately \$20,000-\$25,000.

Legal and Policy Considerations

63. Staff confirm that the staff recommendations comply with the Council's legal and policy requirements.

Cultural Considerations

64. Te Runanga o Kirikiriroa and Te Haa o te Whenua o Kirikiriroa were informed of the Council's review of the Bylaw and invited to provide feedback. Their views have been considered in the positions presented in the SOP as highlighted in the engagement section. Both organisations will be invited to provide the Council feedback on any cultural considerations during the public consultation.
65. The public consultation period will provide an opportunity for any further cultural considerations to be captured by staff.

Sustainability Considerations

66. There are no known sustainability considerations in relation the recommendations.

Risks

67. There are no known risks associated with the decisions required for this matter beyond any risk of legal challenge in relation to the solicitation provision should the Council decide to approve the existing Bylaw.

Significance & Engagement Policy

Significance

68. Given the statutory requirement to consult, staff have not considered the key considerations under the Significance and Engagement Policy to assess the significance of the matter(s) in this report.

Engagement

69. Feedback was sought from the following stakeholders to give the Council some direction, alongside legal advice, as to what to engage the public on: The Aids Foundation, Hamilton Central Business Association, the Ministry of Education, the National Council of Woman NZ, the New Zealand Federation of Business and Professional Woman Incorporated, the New Zealand Police, The New Zealand Prostitutes Collective, Shama, Te Runanga o Kirikiriroa, Te Haa o te Whenua o Kirikiriroa, Waikato Interfaith Council, the Waikato District Health Board, and the YWCA.
70. A majority of the stakeholders believed the Bylaw was operating as intended with only two stakeholders believing the Bylaw was too restrictive and should be revoked or amended.
71. Staff will direct the stakeholders to the public consultation to provide feedback so that their views can be captured, on the options presented for consideration by the Council, in conjunction with the wider community's views.
72. Section 156 of the LGA sets out that the Council is required the use the Special Consultative Procedure (**the 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.
73. Given the potential impact on the public, should the Council determine to revise the existing Bylaw in-line with legal advice and stakeholder views, or to revoke the existing Bylaw, the Council will comply with s156 by ensuring:
- a SOP (as attached) is made available to the public including options for consideration.
 - a public consultation period of one month between 18 March and 18 April 2019 on the attached SOP.
 - Submitters have an opportunity to present their views in a spoken form at the Regulatory and Hearings Committee in May 2019 (date to be confirmed).

Attachments

Attachment 1 - Prostitution Bylaw Review - Statement of Proposal

Hamilton City Prostitution Bylaw

Item 12



Attachment 1

STATEMENT OF PROPOSAL

Statement of Proposal: Hamilton City Prostitution Bylaw 2019

Hamilton City Council (the Council) is seeking feedback following the review of the Hamilton City Prostitution Bylaw 2009.

BACKGROUND

The Bylaw was last reviewed in 2009 as per the Local Government Act 2002 requirements. At the time it came into force it was determined the most appropriate format for the Council to provide most appropriate way of addressing the perceived problems in relation to commercial sexual services operating in Hamilton.

WHY ARE WE DOING THIS?

The Council is required to review the existing Bylaw every 10 years by law. This provides an opportunity for the Council to check in with our community on how the Bylaw is working, find out if the Bylaw is still needed and request feedback on any changes proposed.

OPTIONS

Option A: Retain the existing Bylaw

This will mean the Council continues the existing Bylaw unamended meaning:

- a brothel is permitted in areas shaded in the Bylaw Map but must be 100 metres away from Schools, Early Childhood Centres, Marae and Places of Worship.
- a brothel does not include a premises at which accommodation is normally provided on a commercial basis if the prostitution occurs under an arrangement initiated elsewhere (e.g. a hotel).
- soliciting on streets is not permitted.
- signage is restricted to one sign which must:
 - be a maximum 2m2 in total area
 - not contain flashing and/or containing neon lighting
 - not contain explicit or offensive words
 - not contain any images, shapes or models considered sexually explicit/offensive

- any breach of the Bylaw is an offence and an offender is liable upon summary conviction to a fine up to \$20,000.

A copy of the existing Bylaw (Option A) is attached to this proposal.

The existing Bylaw has been legally reviewed, and the Council has been advised that the ban on solicitation is inconsistent with the Bill of Rights and creates a legal risk for the Council.

Option B: Amend the existing Bylaw (one)

This will mean the Council amends the existing bylaw with the effect of the following:

- a brothel is permitted in areas shaded in the existing Bylaw Map (excluding the industrial zone) but must be 100 metres away from Schools, Early Childhood Centres, Marae and Places of Worship.
- a brothel does not include a premises at which accommodation is normally provided on a commercial basis if the prostitution occurs under an arrangement initiated elsewhere (e.g. a hotel).
- signage is restricted to one sign which must:
 - be a maximum 2m2 in total area
 - not contain flashing and/or neon lighting
 - not contain explicit or offensive words
 - not contain any images, shapes or models considered sexually explicit/offensive
- any breach of the Bylaw is an offence and an offender is liable upon summary conviction to a fine up to \$20,000.

A copy of the proposed Bylaw (Option B) is attached to this proposal.

Option B is an amended bylaw which aligns the existing map with the areas where a brothel is allowed under the Operative District Plan and removes of the legal risk to the Council in relation to banning solicitation.

Option C: Amend the existing Bylaw (two)

This will mean the Council amends the existing bylaw with the effect of the following:

- a brothel is permitted in areas shaded in the existing Bylaw Map (excluding the industrial zone) but must be 100 metres away from Schools, Early Childhood Centres, Marae and Places of Worship.
- a brothel does not include a premises:
 - where a home-based business is a permitted activity under the District Plan or;
 - at which accommodation is normally provided on a commercial basis if the prostitution occurs under an arrangement initiated elsewhere (e.g. a hotel).
- signage is restricted to one sign which must:
 - be a maximum 2m2 in total area
 - not contain flashing and/or neon lighting
 - not contain explicit or offensive words
 - not contain any images, shapes or models considered sexually explicit/offensive
- any breach of the Bylaw is an offence and the offender is liable upon summary conviction to a fine up to \$20,000.

- solicitation would be permitted (contrary to the position of the existing Bylaw).
- any restrictions on signage and brothel locations will be as per the current Operative District Plan.

The Council's options to prosecute for severe infringements would be limited if the Council revokes the bylaw.

TELL US YOUR THOUGHTS ON THE BYLAW

Before making any final decisions, we'd like to have your input.

You can give us feedback from ...

How to give feedback:

- Fill out a feedback form online at hamilton.govt.nz/haveyoursay
- Fill out the feedback form included in this Statement of Proposal and send to Hamilton City Council, c/- Strategy Unit, Private Bag 3010, Hamilton 3240.
- Fill out the feedback form and deliver it to the Municipal Building Reception or any branch of Hamilton City Libraries.

Feedback forms and the proposed Bylaw amendments are available from all Hamilton City Libraries, and from the Ground Floor reception of the Council's Municipal Building in Civic Square .

For any queries please ring 07 838 6699 or email haveyoursay@hcc.govt.nz

A copy of the proposed Bylaw (Option C) is attached to this proposal.

Option C is an amended bylaw which aligns the existing map with the areas where a brothel is allowed under the Operative District Plan, removes of the legal risk to the Council in relation to banning solicitation and enables sex workers to work in their own home. Under Option C, sex workers are allowed only to employ one other person and visitors in relation to their business are only allowed between 8am to 8pm.

Option D: Revoke the bylaw

The effect of no Bylaw would mean:

Next Steps

Staff will collect and analyse all feedback at the close of the submission period.

The analysis of this feedback will be presented to the May 2019 meeting of the Regulatory and Hearings Committee. At this meeting, submitters who want to speak to their written submission will be able to do so.

The Council will then consider all the views and make a decision on the Bylaw in June 2019.

FEEDBACK FORM

Hamilton City Prostitution Bylaw

Hamilton City Council has reviewed the Prostitution Bylaw.

Please note:

Please be aware when providing a submission that all responses are part of the consultation process. This means your name but not your contact details may be reproduced and included in the Council's public documents such as the Council's meeting agendas and minutes. These documents are available on the Council's website at hamilton.govt.nz

1. Should Hamilton have a Prostitution Bylaw?

- Yes
- No (Option D – No Bylaw)

Reasons (Please print clearly): _____

2. If the Council was to have a Prostitution Bylaw, can you rank 1-3 your most preferred option to least preferred option? (i.e. 1 being most preferred with 3 being least preferred)

- Option A – Existing Bylaw
- Option B – Amended Bylaw (One)
- Option C – Amended Bylaw (Two)

Reasons (Please print clearly): _____

3. Is there anything in the existing (Option A) or amended (Options B and C) bylaws that should be changed?

- Yes
- No

Reasons (Please print clearly): _____

ABOUT YOU: (Please print your details clearly)

This section lets us know a bit more about you and helps us with our analysis of the overall feedback we receive.

4. Are you responding as a:

- An individual/householder
- A representative of a business, organisation or a community group

As a representative of a business, organisation or community group:

What is the name of your business, organisation, group? _____

What is your role within it? _____

What is the key focus of the business, organisation, group? _____

Do you have an office/a base in Hamilton?

- Yes
- No

As an Individual:

5. Can you tell us your age group?

- 16-24
- 25-35
- 36-50
- 51-64
- 65-80
- 80+

6. Which best describes your household?

- Living alone
- Family or couple with dependants (children or other family)
- Family or couple with no dependants
- Living with others that are not family

7. Where do you live?

I am a Hamilton city resident, my suburb is: _____

I live outside Hamilton city:

- Waipa
- Waikato
- Elsewhere in New Zealand
- Overseas

The Regulatory and Hearings Committee will hear any verbal submissions that the community and organisations wish to make in support of their written feedback in May 2019 (date to be confirmed).

8. Do you want to verbally present to the Council in support of your feedback?

- Yes *(*Please ensure you give us your contact details below)*
- No

9. **Contact Details:** (Please print your details clearly)

Name: _____

Organisation (where applicable): _____

Postal Address (incl. City and postcode) _____

Phone: (day) _____ (evening) _____

Email: _____

Please get your feedback to us by 18 April.

Feedback after this date may not be included in the feedback summary.

Feedback can be:

- Completed online at hamilton.govt.nz/haveyoursay
- Posted to: Freepost 172189, C/- Strategy Unit, Hamilton City Council, Private Bag 3010, Hamilton 3240
- Dropped off to a Council library or the main reception, ground floor of Council (Municipal) Building, Garden Place.

Option A

Prostitution Bylaw 2009

Bylaw of the Hamilton City Council made in pursuance of the powers contained in the Prostitution Reform Act 2003 and the Local Government Act 2002, and any other authority enabling the Council in that behalf.

Interpretation

Adjoining: means allotments sharing one or more common boundaries or separated only by a road width or similar equivalent.

Brothel: means

1. any premises
 1. kept; or
 2. habitually used for the purposes of prostitution; but
2. does not include a premises at which accommodation is normally provided on a commercial basis if the prostitution occurs under an arrangement initiated elsewhere.

Brothel Permitted Area: means the area indicated on Map 1 that defines the area of the city where brothels may be located.

Children and young people: means individuals under 18 years of age.

Commercial sexual services: means sexual services that-

1. involve physical participation by a person in sexual acts with, and for the gratification of, another person; and
2. are provided for payment or other reward (irrespective of whether the reward is given to the person providing the services or another person).

Council: means Hamilton City Council.

District Plan: means the Proposed Hamilton City District Plan (References version 2001) or any subsequent amendments (or the Waipa District Plan (1997 version) in respect of the Temple View area where this is not yet subject to the Hamilton City District Plan).

Marae: means land and buildings of premises that:

1. are used as a public marae; and
2. are included on the Prostitution Sensitive Sites Register held by Hamilton City Council.

Place of Worship: means land and buildings of premises that are:

1. used as a place of religious worship; and
2. are subject to Part 1 of Schedule 1 of the Local Government (Rating) Act 2002; and

3. are included on the Prostitution Sensitive Sites Register held by Hamilton City Council.

Prostitution: means the provision of commercial sexual services.

School / Licensed Early Childhood Centre: means a parcel or adjoining parcels of land that:

1. contain a school as defined in section 2 of the Education Act 1989, or
2. a licensed Early Childhood Centre as defined in section 308 of the Education Act 1989, and
3. are included on the Prostitution Sensitive Sites Register held by Hamilton City Council.

Sensitive site: means a site that is either:

1. a school / Licensed Early Childhood Centre, or
2. a place of worship, or
3. a marae.

and is identified as a sensitive site on the Prostitution Sensitive Sites Register held by Hamilton City Council.

Sex worker: means a person who provides commercial sexual services.

Solicit: means any person who, in any public place offers any commercial sexual service not in pursuance to any invitation.

Objectives of the Bylaw

1. To support the purpose and intent of the Prostitution Reform Act 2003.
2. To enable commercial sexual service providers to operate within Hamilton City in a manner that both meets community demand for services and addresses community concerns and sensitivities.
3. To allow the establishment of brothels in areas where the effects associated with the operation can be readily controlled.
4. To limit the exposure of children and young people to commercial sex activities.
5. To control the establishment of signage associated with brothels to minimise community harm or offence.
6. To control the soliciting of commercial sexual services in Hamilton.

Location of Brothels

1. Permitted areas of operation

Brothels are permitted to locate and provide commercial sexual services from premises located within the Permitted Brothel Area indicated on Map 1 (Refer to Page 5), subject to meeting other conditions in the bylaw.

2. Proximity to Sensitive Sites

Any brothel shall not be located within 100 metres (in a straight line) of any sensitive site as shown on the current version of the Prostitution Sensitive Sites Register held by Council, unless it was lawfully established prior to the date this bylaw comes into force, and not discontinued for more than six months.

Where a sensitive site establishes within 100 metres of an existing and lawfully established brothel, the brothel will be exempt from this restriction, provided that this exemption shall not apply where the operation of the brothel is discontinued for a continuous period of more than 6 months.

Signage of Commercial Sexual Services

1. Brothels

Any sign advertising any brothel must be fixed to the premises at which the commercial sexual service is provided.

Only one sign is permitted per premises.

The maximum area of total signage per site should be 2m².

Signs must not:

1. contain neon lighting or include or be lit by flashing lights; or
2. contain words reasonably considered to be sexually explicit or offensive by Council or delegated officer (under clause 32 of schedule 7 of the Local Government Act 2002); or
3. contain any images (photographs or artwork) or models (human or mannequin) or shapes reasonably considered by Council or delegated officer (under clause 32 of schedule 7 of the Local Government Act 2002) to be sexually explicit or offensive.

Soliciting of Commercial Sexual Services

No person shall solicit within the Hamilton City Council area or in any street, road, footpath, road reserve, public place or area.

No person shall solicit within the Hamilton City Council area where that person is, or may be visible from any public place, reserve or area.

Breach of Bylaw

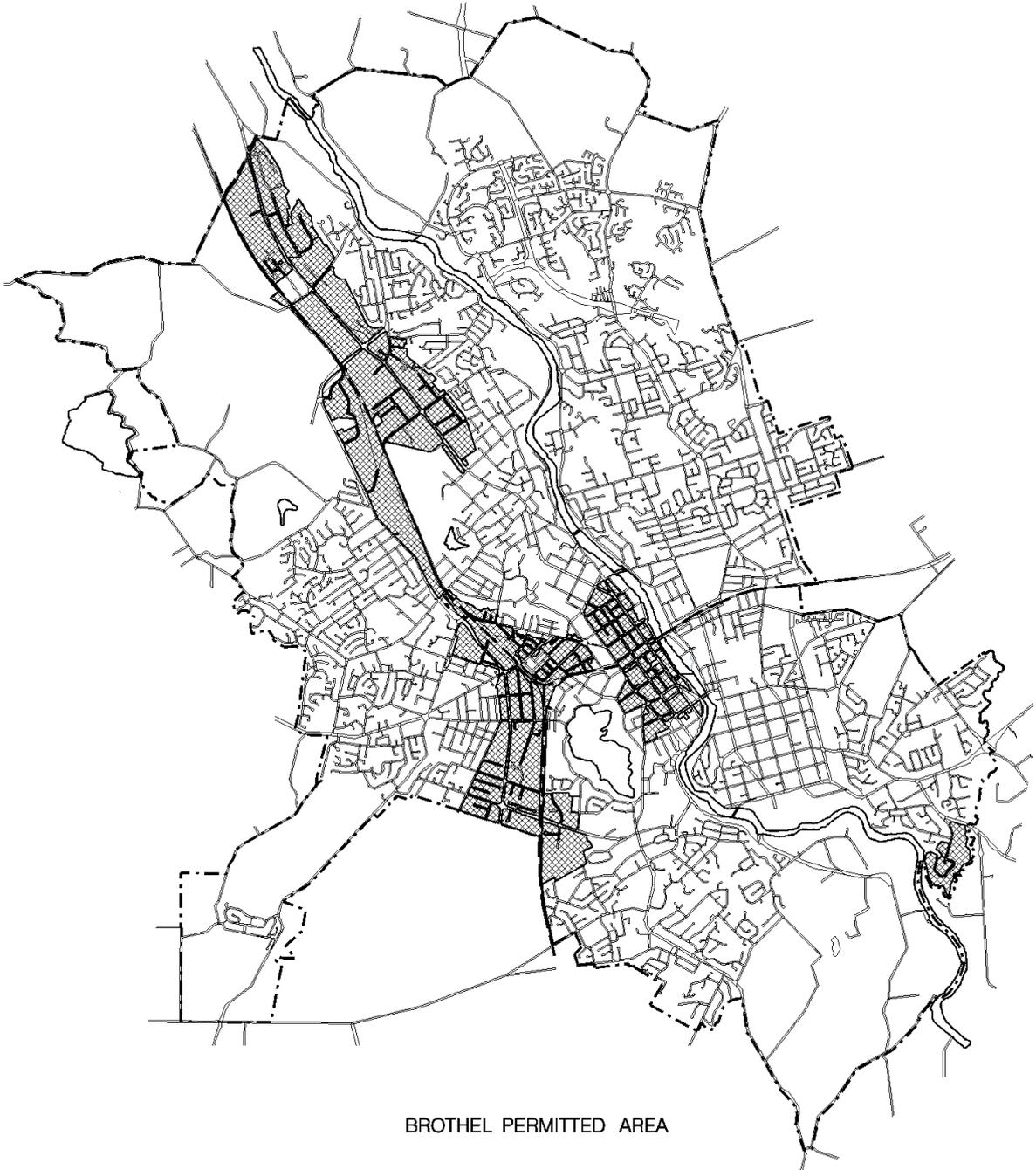
Any person who acts in breach of this Bylaw commits an offence and is liable upon summary conviction to a fine, as provided for under the Local Government Act 2002 (which specifies a fine not exceeding \$20,000), and may also be liable to penalties under other legislation.

Commencement

This bylaw applies to all Brothels located in Hamilton City and comes into force on 1 July 2009.

Advisory Note: Brothels are subject to the provisions of this bylaw and the Hamilton District Plan and both regulations must be complied with at all times.

MAP 1



BROTHEL PERMITTED AREA

The foregoing bylaw was duly made by the Hamilton City Council by a resolution passed on the 26th day of June 2009 following consideration of submissions received during the special consultative procedure. The Prostitution Bylaw 2009 was ordered to come into force on the 1st day of July 2009.

The COMMON SEAL of the HAMILTON CITY COUNCIL was hereunto affixed in the presence of:

Councillor _____

Chief Executive _____

Option B

**Hamilton City Council
BYLAWS**

Approved By:	Date Adopted :
Date In Force:	Review Date:

HAMILTON CITY PROSTITUTION BYLAW 2019

This bylaw is made by the Hamilton City Council under the powers given to it by Prostitution Reform Act 2003 and the Local Government Act 2002.

Hamilton City Council BYLAWS

1. PURPOSE

- 1.1. The purpose of this bylaw is to:
- a) support the purpose and intent of the Prostitution Reform Act 2003.
 - b) enable commercial sexual service providers to operate within Hamilton City in a manner that both meets community demand for services and addresses community concerns and sensitivities.
 - c) allow the establishment of brothels in areas where the effects associated with the operation can be readily controlled.
 - d) limit the exposure of children and young people to commercial sex activities.
 - e) control the establishment of signage associated with brothels to minimise community harm or offence.

2. APPLICATION

- 2.1. This bylaw applies to the City of the Hamilton Council.

3. DEFINITIONS

- 3.1. The following definitions apply to this bylaw, except where inconsistent with the context:

Adjoining	Means allotments sharing one or more common boundaries or separated only by a road width or similar equivalent.
Brothel	Means any premises: Kept; or Habitually used for the purposes of prostitution; but Does not include a premises at which accommodation is normally provided on a commercial basis if the prostitution occurs under an arrangement initiated elsewhere.
Brothel Permitted Area	Means the area indicated in red on the Permitted Brothel Areas Map that defines the area of the city where brothels may be located.
Children and young people	Means individuals under 18 years of age.
Commercial sexual services	Means sexual services that – Involve physical participation by a person in sexual acts with, and for the gratification of, another person; and Are provided for payment or other reward (irrespective of whether the reward is given to the person providing the services or another person).
The Council	Means the Hamilton City Council.
District Plan	Means the Operative Hamilton City Council District Plan (references version 2017) or any subsequent amendments.
Marae	Means land and buildings of premises that: are used as a public marae; and

Hamilton City Council BYLAWS

are included on the Prostitution Sensitive Sites Register held by the Council.

Place of Worship	Means land and buildings of premises that are used as a place of religious worship; and are subject to Part 1 of Schedule 1 of the Local Government (Rating) Act 2002; and are included on the Prostitution Sensitive Sites Register held by the Council.
Prostitution	Means the provision of commercial sexual services.
School / Licensed Early Childhood Centre	Means a parcel or adjoining parcels of land that: contain a school as defined in section 2 of the Education Act 1989, or a licensed Early Childhood Centre as defined in section 310 of the Education Act 1989; and are included on the Prostitution Sensitive Sites Register held by the Council.
Sensitive site	Means a site that is either: a school / Licensed Early Childhood Centre; or a place of worship; or a marae; and is identified as a sensitive site on the Prostitution Sensitive Sites Register held by the Council.
Sex worker	Means a person who provides commercial sexual services.
Solicit	Means any person who, in any public place offers any commercial sexual service not in pursuance to any invitation.

4. Location of Brothels

4.1. Brothels are permitted to locate and provide commercial sexual services from premises located within the Permitted Brothel Area indicated on Map 1, subject to meeting other conditions in the bylaw.

5. Proximity to Sensitive Sites

5.1. Any brothel shall not be located within 100 metres (in a straight line) of any sensitive site as shown on the current version of the Prostitution Sensitive Sites Register as held by the Council, unless it was lawfully established prior to the date this Bylaw comes into force, and not discontinued for more than six months.

5.2. Where a sensitive site establishes within 100 metres of an existing and lawfully established brothel, the brothel will be exempt from this restriction, provided that this exemption shall not apply where the operation of the brothel is discontinued for a continuous period of more than 6 months.

6. Signage

6.1. Any sign advertising any brothel must be fixed to the premises at which the commercial sexual service is provided.

6.2. Only one sign is permitted per premises.



Hamilton City Council BYLAWS

6.3. The maximum area of total signage per site should be 2m2.

6.4. Signs must not contain:

- a) neon lighting or include or be lit by flashing lights; or
- b) words reasonably considered to be sexually explicit or offensive by the Council or delegated officer (under clause 32 of schedule 7 of the Local Government Act 2002); or
- c) any images (photographs or artwork) or models (human or mannequin) or shapes reasonably considered by the Council or delegated officer (under clause 32 of schedule 7 of the Local Government Act 2002) to be sexually explicit or offensive.

7. PENALTIES AND POWERS

7.1. Any person who acts in breach of this Bylaw commits an offence and is liable upon summary conviction to the penalty set out in section 242(4) of the Local Government Act 2002 and may also be liable to penalties under other legislation.

The COMMON SEAL of the HAMILTON CITY COUNCIL
was hereunto affixed in the presence of:

Councillor: _____

Councillor: _____

Chief Executive: _____



**Hamilton City Council
BYLAWS**

Item 12

EXPLANATORY NOTE

Advisory Note: Brothels are subject to the provisions of this bylaw and the Hamilton District Plan and both regulations must be complied with at all times.

Attachment 1



Option C

**Hamilton City Council
BYLAWS**

Approved By:	Date Adopted :
Date In Force:	Review Date:

HAMILTON CITY PROSTITUTION BYLAW 2019

This bylaw is made by the Hamilton City Council under the powers given to it by Prostitution Reform Act 2003 and the Local Government Act 2002.

Hamilton City Council BYLAWS

1. PURPOSE

- 1.1. The purpose of this bylaw is to:
- a) support the purpose and intent of the Prostitution Reform Act 2003.
 - b) enable commercial sexual service providers to operate within Hamilton City in a manner that both meets community demand for services and addresses community concerns and sensitivities.
 - c) allow the establishment of brothels in areas where the effects associated with the operation can be readily controlled.
 - d) limit the exposure of children and young people to commercial sex activities.
 - e) control the establishment of signage associated with brothels to minimise community harm or offence.

2. APPLICATION

- 2.1. This bylaw applies to the City of the Hamilton Council.

3. DEFINITIONS

- 3.1. The following definitions apply to this bylaw, except where inconsistent with the context:

Adjoining	Means allotments sharing one or more common boundaries or separated only by a road width or similar equivalent.
Brothel	Means any premises: Kept; or Habitually used for the purposes of prostitution; but Does not include a premises: where a home-based business is a permitted activity under the District Plan or; at which accommodation is normally provided on a commercial basis if the prostitution occurs under an arrangement initiated elsewhere.
Brothel Permitted Area	Means the area indicated in red on the Permitted Brothel Areas Map that defines the area of the city where brothels may be located.
Children and young people	Means individuals under 18 years of age.
Commercial sexual services	Means sexual services that – Involve physical participation by a person in sexual acts with, and for the gratification of, another person; and Are provided for payment or other reward (irrespective of whether the reward is given to the person providing the services or another person).
The Council	Means the Hamilton City Council.
District Plan	Means the Operative Hamilton City Council District Plan (references version 2017) or any subsequent amendments.

Hamilton City Council BYLAWS

Marae	Means land and buildings of premises that: are used as a public marae; and are included on the Prostitution Sensitive Sites Register held by the Council.
Place of Worship	Means land and buildings of premises that are used as a place of religious worship; and are subject to Part 1 of Schedule 1 of the Local Government (Rating) Act 2002; and are included on the Prostitution Sensitive Sites Register held by the Council.
Prostitution	Means the provision of commercial sexual services.
School / Licensed Early Childhood Centre	Means a parcel or adjoining parcels of land that: contain a school as defined in section 2 of the Education Act 1989, or a licensed Early Childhood Centre as defined in section 310 of the Education Act 1989; and are included on the Prostitution Sensitive Sites Register held by the Council.
Sensitive site	Means a site that is either: a school / Licensed Early Childhood Centre; or a place of worship; or a marae; and is identified as a sensitive site on the Prostitution Sensitive Sites Register held by the Council.
Sex worker	Means a person who provides commercial sexual services.
Solicit	Means any person who, in any public place offers any commercial sexual service not in pursuance to any invitation.

4. Location of Brothels

- 4.1. Brothels are permitted to locate and provide commercial sexual services from premises located within the Permitted Brothel Area indicated on Map 1, subject to meeting other conditions in the bylaw.

5. Proximity to Sensitive Sites

- 5.1. Any brothel shall not be located within 100 metres (in a straight line) of any sensitive site as shown on the current version of the Prostitution Sensitive Sites Register as held by the Council, unless it was lawfully established prior to the date this Bylaw comes into force, and not discontinued for more than six months.
- 5.2. Where a sensitive site establishes within 100 metres of an existing and lawfully established brothel, the brothel will be exempt from this restriction, provided that this exemption shall not apply where the operation of the brothel is discontinued for a continuous period of more than 6 months.

**Hamilton City Council
BYLAWS**

6. Signage

- 6.1. Any sign advertising any brothel must be fixed to the premises at which the commercial sexual service is provided.
- 6.2. Only one sign is permitted per premises.
- 6.3. The maximum area of total signage per site should be 2m².
- 6.4. Signs must not contain:
 - a) neon lighting or include or be lit by flashing lights; or
 - b) words reasonably considered to be sexually explicit or offensive by the Council or delegated officer (under clause 32 of schedule 7 of the Local Government Act 2002); or
 - c) any images (photographs or artwork) or models (human or mannequin) or shapes reasonably considered by the Council or delegated officer (under clause 32 of schedule 7 of the Local Government Act 2002) to be sexually explicit or offensive.

7. PENALTIES AND POWERS

- 7.1. Any person who acts in breach of this Bylaw commits an offence and is liable upon summary conviction to the penalty set out in section 242(4) of the Local Government Act 2002 and may also be liable to penalties under other legislation.

The COMMON SEAL of the HAMILTON CITY COUNCIL
was hereunto affixed in the presence of:

Councillor: _____

Councillor: _____

Chief Executive: _____



**Hamilton City Council
BYLAWS**

EXPLANATORY NOTE

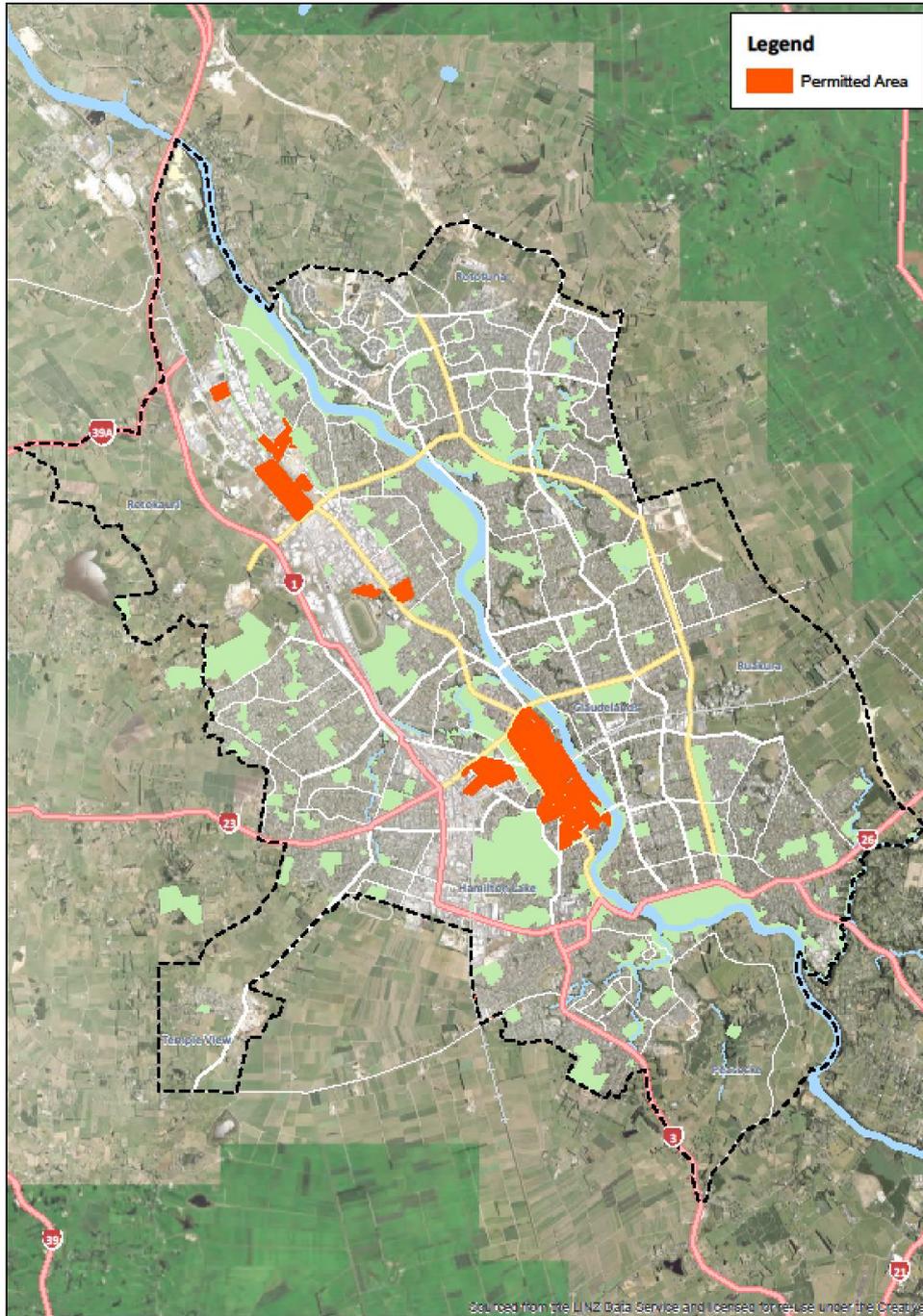
Advisory Note: Brothels are subject to the provisions of this bylaw and the Hamilton District Plan and both regulations must be complied with at all times.



Hamilton City Council BYLAWS

Item 12

Permitted Brothel Areas Map



Attachment 1

Council Report

Committee: Council **Date:** 14 March 2019
Author: Sean Murray **Authoriser:** Sean Murray
Position: General Manager Venues, Tourism and Major Events **Position:** General Manager Venues, Tourism and Major Events
Report Name: Update on Hamilton i-SITE Review

Report Status	<i>Open</i>
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Purpose

1. To inform the Council on opportunities to restructure the Hamilton i-SITE operation to return it to a breakeven position, as requested by the Council at its meeting on 12 December 2017.
2. To inform the Council on the completion of an assessment of the i-SITE operation under the terms of a Section 17a Service Delivery Review under the Local Government Act.
3. To seek a decision from the Council on the future of the i-SITE.

Staff Recommendation

4. That the Council:
 - a) receives the report; and
EITHER
 - b) notes that a breakeven result of the Hamilton i-SITE is unachievable;
 - c) approves the retention of the Hamilton i-SITE operation under a changed operating model (detailed in this report as Option B) within the Visitor Destinations Unit, physically located at Waikato Museum (Artspost) due to potential savings and activity synergies;
 - d) notes that Option B will:
 - i. lead to an operating cost saving of \$283,943 in the 2019/20 financial year and \$340,000 in the years beyond.
 - ii. add significant value to the visitor experience at the Waikato Museum (Artspost);
 - iii. lead to the retention of three permanent i-SITE staff (3.00 FTE), the disestablishment of one permanent position (0.19 FTE) and the non-renewal of contracts for six staff currently employed in a fixed term or on a casual basis.**OR**
 - e) approves the full closure of the Hamilton i-SITE (detailed in this report as Option C) within the 2018-19 financial year.

Background

5. The Hamilton i-SITE is one of over 80 visitor information centres networked throughout New Zealand. The network was established by central government and is co-ordinated by Tourism New Zealand (a crown-owned agency).
6. Most i-SITEs are owned and funded by Local Government either directly or indirectly through Incorporated Societies, Trusts, or through Regional Tourism Organisations. The Waikato region has a total of 17 i-SITEs although this number is expected to reduce.
7. The i-SITE network is the official information network responsible for providing international visitors, domestic travellers and locals with comprehensive and up-to-date information and advice on travelling routes, activities and attractions, accommodation and transportation services. As a part of the service i-SITEs also provide a New Zealand-wide booking service from which income is derived that off-sets the costs of the core service.
8. The financial performance of individual i-SITEs across the network vary greatly depending on the operating model and commercial factors unique to a location. For example, an i-SITE that is the sole or primary retailer of major visitor attractions or located within a premium visitor destination operates at a much lower cost than an i-SITE suited to the primary purpose of an i-SITE (traveller advice and support) which has less opportunity to sell additional product or services.
9. The Hamilton i-SITE is primarily promoted through Tourism New Zealand and the broader i-SITE network itself. It also offers new resident advice and information, major event support services, event ticketing and sells merchandise (visitor orientated) to help defray its costs.
10. Other than visitors attracted through various staged events (sporting and business) Hamilton is not a major visitor destination centre in New Zealand. It does however benefit from through traffic within a touring circuit. Therefore, for a city of its size the proportion of customer enquiry and selling opportunity is somewhat limited. While Council's visitor destinations portfolio (Hamilton Gardens, Waikato Museum and the Hamilton Zoo) attracts visitors from out of town and out of the region, they are not yet major visitor destinations of scale or that well known on the tourism circuit.

Response to Council Resolution

11. At its 12 December 2017 meeting the Council resolved:

That the Council:

 - a) *continues the Hamilton i-SITE service; and*
 - b) *requests that staff report back in 6 months on opportunities to restructure the service and return it to a break-even result.*
12. Management's comment at the time of the resolution was in considering either closure or an alternative operating model for the Hamilton i-SITE, Council must consider the need (or otherwise) to offer this service as a part of its core function and the value of this activity as it relates to the liveability of the city.
13. Management commissioned external tourism consultants Destination Planning Limited (DPL) to review the i-SITE business and prepare a report.
14. It is important to note that personnel costs (for a seven-day operation) are 64% of the total expenditure budget and greater than the net revenue generated. It is unrealistic to produce a break event result. Staff suggest the focus should be on the most effective delivery mode and therefore, the report from DPL moves beyond just a consideration for or against a break-even result.

15. For the 2017/18 financial year the i-SITE reported an operating deficit of \$445,635. Gross revenue was \$110,004 and net revenue (after cost of sales \$42,616) was \$67,388.

Consultants Review – Destination Planning Limited (DPL)

16. During the first half of 2018, DPL reviewed research on visitor information developments in New Zealand, analysed the Hamilton i-SITE financial and operating data, carried out a benchmarking review of other i-SITEs, interviewed national and local stakeholder within and outside of Council and ran an online survey of tourism operators.
17. The executive summary of this report is attached as Attachment One.
18. In summary, DPL determined the following:
- The Hamilton i-SITE is an expensive operation by most New Zealand i-SITE standards. Status quo is not an option;
 - It is severely challenged in its ability to lift sales revenue in order off-set its costs;
 - The people to people contact delivered under the i-SITE model with visitors and residents alike still has a valuable role to play; and
 - Without Council funding it is very difficult to find an alternative funding model with significant revenue generating opportunity.

Options

19. The recommendation in this report assumes status quo is not an option.
20. DPL provided several alternate operation model options in their report, with two options seen as potential. The option to close the Hamilton i-SITE has also been included for the purposes of this report although this was not a recommendation proposed by DPL.
21. Several options were considered but not pursued and these are covered off under paragraph 38 of this report. The executive summary (attachment one) from page 23-25 contains further information on alternate options.
22. **Option A: Status Quo with savings**
23. This would primarily require reduced operating hours thereby saving staff costs however revenue would be equally compromised under this option which would limit true operating savings.
24. The reduction in operating hours at the current site would target a 15% (\$41,740) savings in personnel costs. The budget impact is primarily in staff costs. The ability to grow revenue is assumed to be limited.
25. **Level of Service Impact**
26. There would be a minor impact on the level of service with some minor changes to opening hours and the need to service those hours with casual staff. The current location would be reviewed at the end of its lease, (31 July 2019).
27. **Option B: Retain under a changed operating model within the Visitor Destinations Unit within Council, located at Waikato Museum (Artpost).**
28. This option generates some significant synergies - adding value to a key visitor destination and over \$340,000 in savings from 2020/21 and beyond.
29. This option is explained in more detail in paragraph 41-50 as it is the preferred option.

30. Level of Service Impact
31. There would be a sustained level of service with an i-SITE available to service visitor information needs in the city. There is potential for the Museum site too support CBD vibrancy. There is good parking (car and coach) and public transport options but lower foot traffic opportunities when compared to option A. This option also assumes a 7 day a week operation.
32. The original DPL report proposed the i-SITE was located at both the Waikato Museum and Hamilton Gardens. However, management have since removed the Hamilton Gardens site as further work is required on that option.
33. **Option C: Close the Hamilton i-SITE**
34. If the Council's position is that visitor information services will not receive any Council funding, then the i-SITE must be closed. The benefit in closing the i-SITE is the cost saving of \$512,452 in operating costs per annum commencing in the 2019/20 financial year, and \$601,304 in the 2020/21 financial year, based on 2018-2028 10-Year Plan budgets.
35. There is a one-time cost for subsequent staff redundancy estimated at \$120,000 (if required) in 2019/20.
36. However, this excludes the Council overheads (2019/20 \$294,172 and 20/21 \$304,010) which would remain as a stranded cost to the Council.
37. Level of Service Impact
38. If the i-SITE is closed there would be no dedicated visitor information service for locals, residents or visitors. It could signal a lack of confidence in Hamilton as a destination of choice, and mean the city no longer benefits from exposure in key tourism channels.

Financial Consideration of Options

39. The financial details of options A, B and C are below:

Options	Baseline Budget	One off Costs to change		Savings ex-LTP (including one off costs)	
		Capex	Opex	FY19-20 Y2	FY20-21 Y3
Option A: Status Quo with Savings	\$469,446	-	-	\$114,496	\$144,075
Option B: Visitors Destinations Unit		\$25,000	\$29,000	\$283,943	\$347,322
Option C: Closure	-	-	\$147,333	\$512,452	\$601,304

**Excluding Council overheads as per paragraph 36*

40. **Some other options were considered but not pursued:**
- **Transfer i-SITE responsibility to Hamilton & Waikato Tourism (HWT)** - HWT do not see this as a core function to their operation and as a conflict given the wider partnership model across other neighbouring councils that fund HWT. HWT would also require full funding to deliver the service as they hold no spare resource (in money or people) to fulfil the function.

- **Transfer i-SITE responsibility to HCBA** – this option was not considered viable other than perhaps under a shared office space rental option that would deliver minimal cost saving. The i-SITE mandate falls well outside that of the HCBA focus on Hamilton’s central city precinct. Like HWT they also lack the resource required and would need Council funding to support the i-Site operation as it does now in any case.
- **Transfer i-SITE to the New Zealand School of Tourism** – The initial proposal was to locate within the Centre Place Mall (which is inappropriate) and deploy students under the school’s supervision. Their commercial model would share net revenue with Council but require Council to pay all other costs plus a management fee. This proposal was not pursued on the basis that there was no probable financial advantage to the Council and the fact that the Visitor Destinations Unit option under consideration was more attractive to them for integration to the Schools training curriculum.

Preferred Option: Option B - i-SITE integration with the Visitor Destinations Unit

41. Visitor Destinations is a unit of the Council’s Community Group established to align Council’s existing key visitor destinations to better leverage off New Zealand’s primary economy driver, Tourism. They manage key city destinations - Hamilton Gardens, Waikato Museum and Hamilton Zoo. Each of the three destinations currently offer information advisory services using a mix of paid and volunteer staff which could be extended as an i-SITE service.
42. Enhancing these existing services to meet minimum i-SITE criteria will retain visitor information services within Council but move the responsibility from Venues, Tourism and Major Events Group, to under the Community Group.
43. Under this preferred option, the current i-SITE office in Garden Place would close, and a new i-SITE would be opened in the Artspost Building at Waikato Museum.
44. i-SITE staffing is proposed to consist of three full-time FTEs. It is envisaged that staff from the Waikato Museum will be utilised to reduce staff costs. Staff and volunteers would undergo minimum training requirements as set by i-SITE:
 - i-SITE New Zealand 100% Pure Welcome Workshop;
 - Tourism NZ 100% Pure New Zealand Specialist Programme.
45. This option has the added benefit of ensuring a key visitor destination customer interface is consistent with international tourism standards while delivering significant savings to Council.
46. There are some costs associated with locating the i-SITE at the Artspost site and these have been factored into the proposed revised budget for 2019/20. This includes \$20,000 for make good costs at the Garden Place office to return it to the original condition and remove all fixtures and fittings so council can exit the lease 31 July 2019 in line with an extended lease agreement, plus \$25,000 for a contribution towards the fit out of the area at Artspost.
47. This strategy aligns with Council’s current investment in its key inbound visitor assets.
48. It is proposed that the move to the new operating structure takes place during the 2019-20 financial year, with an opening of the new site and staff transitioned by 31 July 2019.

49. The financial model under this option:

Option B: Visitors Destination Unit				Current model
	FY2018-19 Y1 (Forecast)	FY2019-20 Y2	FY2020-21 Y3	FY2017-18 Actuals
Income				
Activity Income	\$58,000	\$8,000	\$8,000	\$84,796
Other Income	\$30,000	\$25,000	\$25,000	\$25,208
TOTAL INCOME	\$88,000	\$33,000	\$33,000	\$110,004
Direct Expenditure				
Cost of sales	\$88,000	0	0	\$42,616
Personnel	\$394,773	\$225,182	\$209,182	\$356,692
Activity	\$6,350	\$21,000	\$1,000	\$4,074
Utility	\$98,555	\$8,213	0	\$100,025
Professional & Admin	\$36,460	\$18,800	\$18,800	\$38,867
Other	\$61,000	\$53,000	\$53,000	\$13,366
TOTAL DIRECT EXP	\$685,138	\$326,195	\$281,982	\$555,640
NET SURPLUS/DEFICIT	-\$597,138	-\$293,195	-\$248,982	-\$445,636

Staff Feedback

50. Current i-SITE permanent, fixed term and casual staff were invited to give feedback on the options. Waikato Museum Visitor Services Staff were also asked to give feedback.
51. Feedback from the i-SITE staff has been positive with a collective view that the i-SITE function sits much better within the Visitor Destinations area of Council.
52. The only areas of concern noted (apart from fixed term and casual staff not being required to work at the new site) was the staffing provision under the new plan might be light for the volume of visitor servicing required.
53. Feedback from Visitor Destinations staff has been mostly positive with concerns being mainly around reporting lines and how the i-SITE staff will be integrated into daily operations. The feedback agrees on full integration with a view that in the medium to long term, all front of house visitor engagement personnel will be fully i-SITE trained.

Significance and Engagement

54. Having considered the Significance and Engagement Policy, staff have assessed that the matters in this report have low significance.

Financial Considerations

55. Paragraph 39 contains a summary of cost options (A, B, C), with Option B's financial model in paragraph 50. Page 26 of attachment one also contains a detail profit and loss statement across all options.

Legal and Policy Considerations

56. There are no legal or policy considerations required to enact a decision on the future of Hamilton i-SITE.
57. Changes proposed in this report do not require approval of i-SITE NZ, but Management has made contact with the CEO to discuss the options and will update them following the outcome of the meeting.

Cultural Consideration

58. No cultural considerations have been identified relevant to the matters in this report.

Risks

59. Option A: Existing budgets and service delivery prevail.

60. Option B: No material risk identified.

61. Option C: Loss of visibility and service to users of Hamilton i-SITE and perception of Hamilton not valuing its place as a visitor destination.

Attachments

Attachment 1 - Review of Hamilton i-SITE - DPL Limited



REVIEW OF HAMILTON i-SITE

9 AUGUST 2018

Prepared by:
DESTINATION PLANNING LTD &
KIRI GOULTER CONSULTING LTD

on behalf of:
HAMILTON CITY COUNCIL

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EXECUTIVE SUMMARY

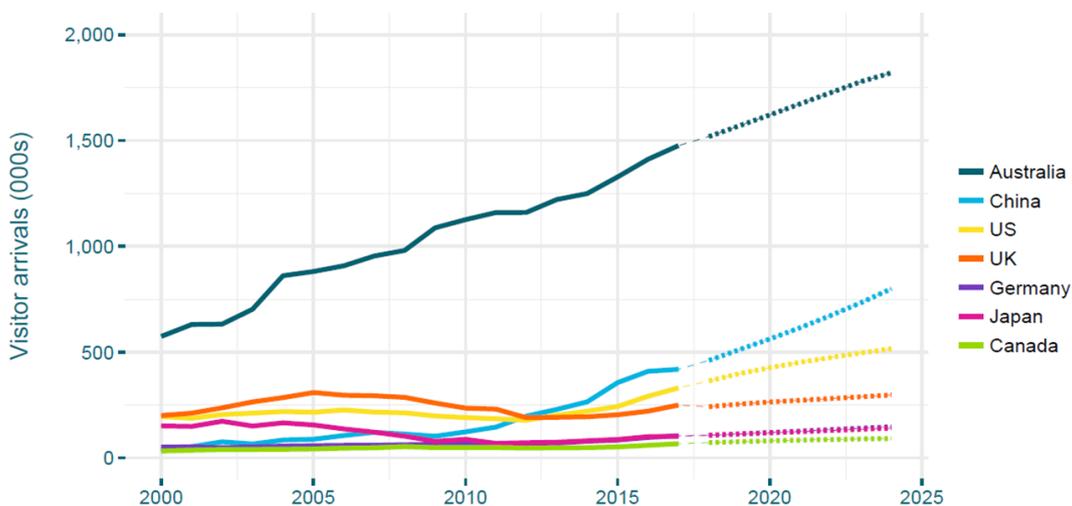
Hamilton City Council commissioned Destination Planning Ltd (DPL) to undertake a review of its Hamilton i-SITE Visitor Centre, to consider its efficiency and effectiveness, benchmark against other i-SITEs, explore alternative service levels and delivery models and to explore the feasibility of a breakeven operation. This meets the requirements of Section 17a review under the Local Government Act. The i-SITE service currently runs at an operating deficit of \$445,366. Council then attributes a further \$367k of internal overhead charges (indirects) to the i-SITE operation.

In undertaking the project, DPL reviewed research on visitor information developments in New Zealand and overseas, analysed the i-SITE’s financials and other operating data, carried out a benchmarking review of other i-SITEs, interviewed national and local stakeholders within and outside council and ran an online survey of tourism operators.

New Zealand and Waikato Region Tourism Growth Context

New Zealand’s inbound tourism sector has experienced steady growth over the last five years to become our number one foreign exchange earner. The official government forecast is for continued growth at 4.6% per annum reaching 5.1M visitors by 2024. Some commentators believe there could be more of a flattening off in that timeframe with tourism following cyclical patterns.

The following MBIE graph shows international visitor arrivals to New Zealand by geographic market and the forecasts to 2024. It highlights Australia as the biggest market and China’s rise to overtake the traditional western markets. While Chinese visitors are not yet a key market for Hamilton they are visiting Waitomo and Hobbiton, and they will increasingly explore Hamilton and the rest of the region.

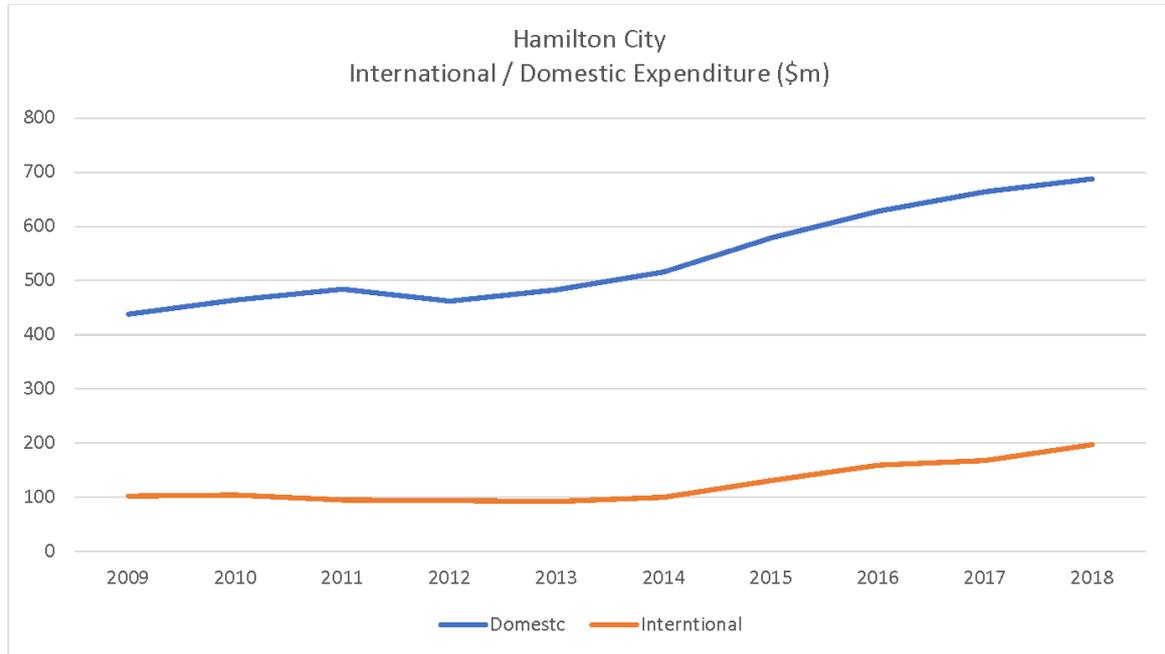


Source: Stats NZ and MBIE

Domestic tourism across New Zealand has been growing at 4% per annum and is forecast to continue at a similar rate.

Tourism is a key sector for Waikato region also, with international and domestic visitor expenditure totaling \$1.5 billion (YE March 2018). Waikato’s regional visitor spend is the fifth highest in New Zealand behind Auckland, Christchurch, Wellington and Queenstown. Surprisingly, Waikato’s visitor spend is higher than Rotorua with Waikato receiving a much higher percentage of its spend from domestic visitors. The following graph focuses in

on the Hamilton City Council area which also shows strong growth in both domestic and international visitor expenditure.



Hamilton & Waikato Tourism (HWT) is the Regional Tourism Organisation (RTO) for the Waikato region. Its role is to promote the region to attract international, domestic and business event visitors. It also has a role to champion and facilitate the region’s destination management and product development opportunities.

The Hamilton Waikato Tourism RTO region has 13 i-SITEs, the largest number for any RTO region in New Zealand. They are operating under a range of ownership and delivery structures with three run directly by councils, eight by Trusts or Incorporated Societies and two by independent contractors. All 13 i-SITEs receive some form of funding from local government to supplement their income in order to maintain their operations. Matamata is the most commercially successful i-SITE in the region, driven by its theming and role as a ticketing gateway to Hobbiton. It still requires council funding to operate. Due to the number of i-SITEs and their funding issues, HWT does not have aspirations to take on operation of Hamilton or any other Waikato region i-SITEs.

Section 17A Local Government Act reviews have been undertaken for Waipa District Council’s Cambridge and Te Awamutu i-SITEs, and Waikato District Council’s Raglan and Huntly i-SITEs. All four are run independently of council by Incorporated Societies. Each of these centres is funded by their council between \$75,000 and \$116,350 per annum. The national benchmark average for this rural small-town category of i-SITEs is \$148,000. Hamilton’s i-SITE has quite different characteristics to the other i-SITEs in the region and is the only one categorized as “Provincial City”.

Hampton Downs Motor Sport Park in the north of the Waikato District plans to open an information centre in 2018 which will be co-located with a café, car simulator and exhibition experience. This is proposed to become an i-SITE in the next two to three years.

Hamilton City Destination Development Context for the i-SITE

Total visitor expenditure in Hamilton city is \$872m for YE Feb 2018, up 5.8% on the previous year. Domestic visitor expenditure is \$680m (+2%) and international visitor expenditure \$187m (+19.4%).

Hamilton city has benefited from proximity to New Zealand's main international gateway and the large Auckland market, along with ease of access into the region and central north island. This will continue to improve with the completion of the Waikato Expressway in 2020. The region's major attractions, Hobbiton Movie Set and Waitomo Caves continue to drive international visitation. Hamilton Gardens, major events and conferences along with planned developments such as activation of the river front, position the city to evolve from a commercial hub into a destination in its own right. General awareness and appeal within domestic markets has also improved particularly for conferencing and major events, plus walking and cycling.

HCC's Central City Transformation Plan talks about attracting more people to live and work in the city, having an economically prosperous core, and being an attractive destination for everyone. It also recognises the importance of activating the river front. HCC also has aspirations to greatly lift visitation levels at Hamilton Gardens, Hamilton Zoo, Waikato Museum and Claudelands Events and Entertainment Centre.

HCC's Economic Development Agenda identifies developing a strategic investment plan for city assets including visitor assets; Hamilton Airport and event venues. Reports have been commissioned and investigations ongoing regarding new hotel development to optimize the performance of the city's signature venues. The Regional Theatre project is underway with private sector partners who are seeking to attract increased visitation. A new hotel is planned for the previous Les Mills site and Sky City plans to develop an adjacent hotel. Further hotel developments include the Novotel adding 40 rooms and Sudima Hotel's recent upgrade and street front retail space.

There are also a number of other commercial developments that will bring more people and visitors into the city center, including the DHB's 800 staff moving into Hamilton's old Farmers Building, the new ASB Regional Centre and Genesis Energy offices. The Waikato Regional Council is also relocating in to the CBD adding another 400 people.

Visitors are often indistinguishable from residents and increasingly purchase from the same stores and share the same spaces as locals. There is a growing demand for visitors to understand and interact with local communities, cultures and environments and an enriching community experience is an important success factor for destinations.

Hamilton City i-SITE's role in achieving the community outcomes of HCC's Long-Term Plan is to support the improving sense of city vibrancy, by providing a smartly presented welcome facility and professional, passionate local expert staff who can share the city's stories and hidden gems. Ultimately the aim is to encourage visitors to stay longer and spend more. They are often involved in developing partner programmes for conferences and can be an important contact and source of information for new residents and students, as well as those considering relocating, investing or studying in the city.

Hamilton city's leisure tourism destination status and offering of saleable visitor experiences is currently much weaker than most of its NZ counterparts. However, in five years' time as the developments outlined above roll out, the visitor proposition will be stronger. This may result in more demand and revenue opportunity for a CBD i-SITE.

i-SITE NZ Overview

i-SITE New Zealand is the official visitor information network responsible for providing international visitors, domestic travellers and locals with comprehensive, up-to-date information and a New Zealand-wide travel booking service. i-SITEs are an important part of the distribution channel for many tourism businesses, especially start-ups. The Vision in the i-SITE NZ strategic plan is:

Customers rate us as the best official visitor information and booking network in the world.

The i-SITE NZ Mission is:

- *Matching visitors with quality experiences, helping them to safely see and do more, creating net promoters.*
- *Driving community and business growth through delivery of trusted information and a competitive sales channel.*
- *Providing Manaakitanga that our host communities take pride in.*

The Network has over 500 i-SITE staff in over 80 Visitor Centres around New Zealand. Each year, these centres welcome 860,000 international visitors and collectively assist with 7.3 million visitor enquiries.

As tourism continues to grow and pressure comes on places and communities, the tourism industry is shifting its emphasis from marketing to managing a quality visitor experience and encouraging regional dispersal of visitors. In this context the i-SITE network is being recognised as a key enabler in supporting the management of visitors within communities.

Costs and Benefits of i-SITE Accreditation

The cost of to be an i-SITE and part of the network is relatively minimal at approximately \$3,500-\$6,500 per annum depending on the qualifications of staff and their need for additional training. The management, administration and marketing of i-SITE New Zealand is largely funded through an annual grant from Tourism New Zealand (TNZ) and membership fees. The i-SITE brand is managed by TNZ and accredited members must meet standards in staff training, professionalism and information technology. There are several local visitor information centres throughout New Zealand which are not i-SITE NZ branded.

The main costs of i-SITE NZ accreditation include the membership fee, ensuring that staff meet all training and qualification standards, participation in the annual i-SITE NZ Conference and providing a computer booking system. Meeting relatively strict opening hours used to be a significant cost driver for i-SITE members, however there is now more flexibility to close during genuine low demand periods to save operating costs. Reducing the open hours and/or open days is one of the main cost efficiency opportunities for Hamilton i-SITE.

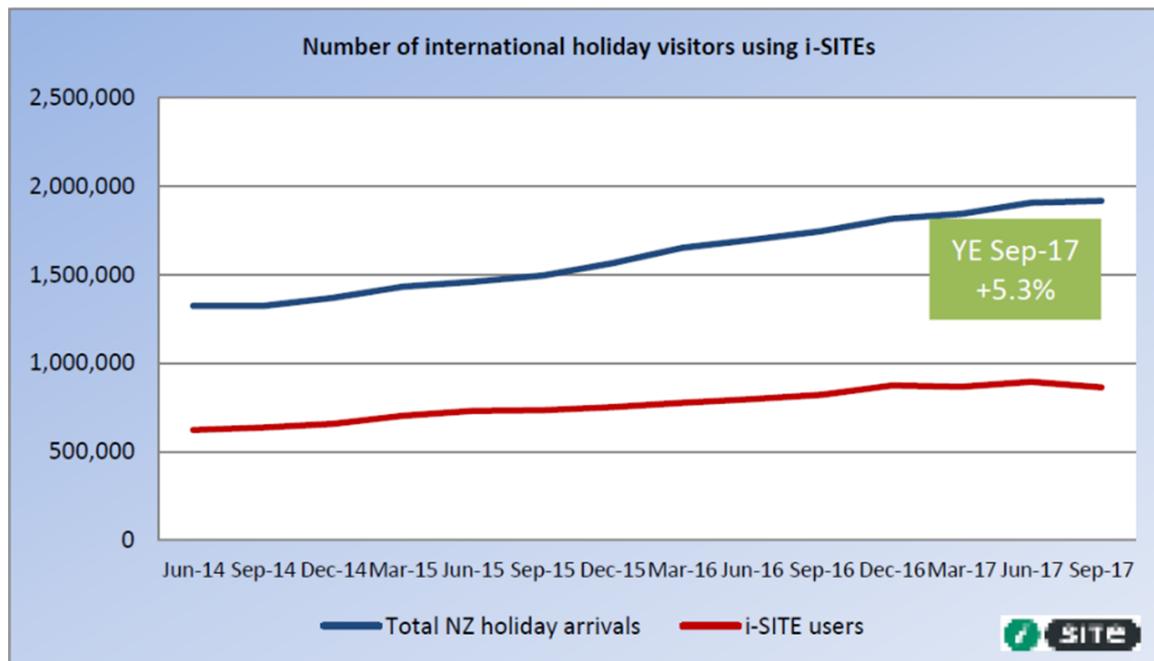
There are significant benefits of membership:

- Use of the i-SITE brand, signifying official government endorsement.
- Actively promoted by TNZ on their web site newzealand.com, inclusion in marketing materials and at offshore trade and consumer events.
- Inclusion in the official i-SITE map brochure which is duplicated in Mandarin.
- Centrally coordinated Google business listings which feed to prominent mapping applications including GoogleMaps, TNZ's visitor app and CamperMate. This literally places the i-SITE's town on many tourism maps which would otherwise exclude it.
- Access to the IBIS point of sale booking system with nationwide booking and retail capability, seamless back-end billing administration and Bookit live inventory at 12.5% commission as opposed to the industry standard 10%.
- Access to a structured and subsidised staff training programme and knowledge management resource. Much of the induction training cost is covered by i-SITE NZ.
- Access to preferential supplier arrangements coordinated through the network ranging from supplier management systems to tourism operator booking contracts with favourable commission rates.

i-SITE Research

Of all international holiday visitors to New Zealand, 45% use an i-SITE¹. Despite the percentage share decreasing slightly as more visitors use digital and other channels, the numerical numbers have trended upwards because the total holiday arrivals have grown so strongly.

Around two thirds of these international holiday i-SITE users say that i-SITEs influenced their decision on what activity, transport or accommodation provider they used.



Recent research by Angus & Associates found that i-SITE users appear to favour talking to real people and discussing options in-person, over booking travel online. International visitors in particular, are more likely to get overwhelmed and confused by the amount of information online, compared with domestic visitors.

Economic impact research conducted for ATEED by M.E Spatial in 2015, highlighted the key role i-SITE visitor centres play nationwide in unlocking visitor spending in the tourism sector. The report showed that:

- For every \$1 provided in funding, the network returns on average \$8.70 in GDP.
- For every \$1 of direct sales made by the i-SITE network, there is \$1.48 total additional spending in the wider economy.

i-SITEs' key revenue streams have been challenged over the last 5-10 years as more visitors use other channels, particularly online, to access information and book their accommodation, activity and transport requirements. The i-SITE network fell behind in its booking technology and became perceived as an expensive channel. The network is now implementing improved booking systems which will enable it to provide more efficient information and earn more booking commission revenue.

¹ International Visitor Survey 2017, MBIE (& TNZ)

Overseas Visitor Centre Developments and Digital Information Provision

Various overseas reviews of visitor centres and visitor information provision have concluded that there are trends which will both negatively and positively affect the relevance and demand for i-SITE information centres. More visitor information centres that are in non-strategic locations will close over time, but other existing and new visitor centres will proactively harness new technology for new customer attraction, engagement, booking and information provision.

An increasing proportion of total tourists will use mobile digital technology for both information and bookings. However, there will continue to be strong demand for face to face information and booking services from local experts. The breadth of on-line information is overwhelming for many visitors and most websites and online travel agents fail to deliver personalised travel arrangements with up to the minute local secret visitor offerings. Expedia, one of the two biggest Online Travel Agencies (OTAs) has extended into bricks and mortar “Local Expert” concierge services to offer personalised advice and bookings. TripAdvisor’s CEO recently acknowledged the biggest barrier to growth in their online activities booking is consumer preference to wait until they are in destination and to book off-line.

Some organisations such as Visit Scotland are closing several visitor centres in favour of investment in digital channels. Meanwhile, the Western Australian state government and Los Angeles Tourism Authority are stepping up investment in existing and new visitor centres. Research by Los Angeles Tourism and Visit Wales has pointed to the continued importance of printed brochures and maps once people are in a destination.

Lead practice destination management requires an integrated visitor information and visitor servicing plan. This delivers information through multiple channels and “touch-points” at the right time and place for the visitor as they research, plan, book, travel to and through a destination, and return home and share their experiences. i-SITEs are one of many information channels available which may also include:

- Unmanned information displays at key visitor nodes.
- Manned pop-up visitor information and booking services at events.
- Local tourism operators, especially accommodation providers.
- Outdoor including billboards and signage.
- Digital channels including owned and third party.
- Other mainstream media (print, radio, tv).
- Official publications and brochures.

Hamilton i-SITE Background and Operating Characteristics

Since the 1990s the Hamilton information centre has moved from the Council building to the Transport Centre, then half way down Garden Place and finally to its current location on the edge of Garden Place on Alexander Street. The i-SITE operation moved from Tourism Waikato back into council operations when Tourism Waikato was disbanded in 2006.

Key motives to move from the Transport Centre included the antisocial behaviour and environment, a drive to expand Council’s information and tourism services and to support the CityHeart revitalisation plan. The decision to move to the current location was due to insufficient working space for retail and event ticketing, an absentee landlord who didn’t maintain the property, poor visibility and a lack of car and bus parking.

During the period in the Transport Centre, Intercity and other bus companies relied heavily on i-SITEs for ticketing services and the i-SITE made an operating surplus for its owner, Tourism Waikato. Rent was also much lower but this would not be the case today.

During 2013/14, \$57,000 was spent on new fit-out of the current i-SITE including large images of Hamilton attractions and the HamiltON branding. Hamilton currently provides a full-service operation which meets i-SITE criteria and enables the use of the i-SITE brand.

Core services include:

- Free local tourism information pertaining to events, activities, attractions, accommodation, dining and trails.
- Distribution of free maps and visitor guides.
- Free nationwide touring information.
- Booking and Payment services.
- Travel Itinerary Planning.
- Accommodation Availability Management.
- Basic Community Information.
- Weather and outdoors safety info.

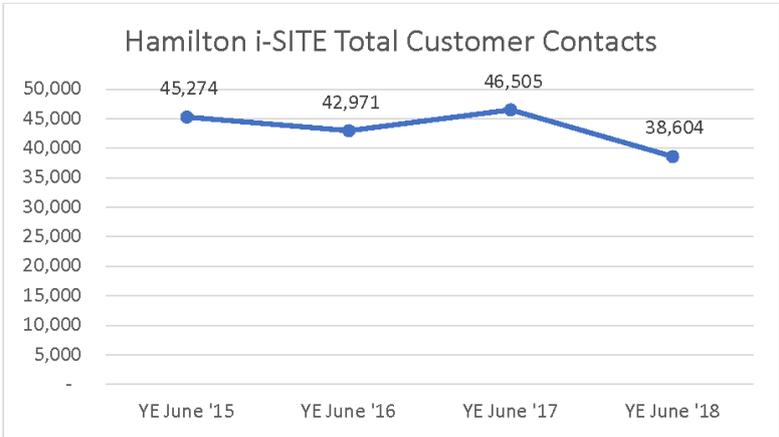
Non-core services include:

- Event ticketing across several agencies (e.g. Ticketek, DashTickets). When Founders Theatre was closed the i-SITE became the city's main event ticketing office.
- Retailing Souvenirs, Gifts and Publications.
- Operating the Visit Hamilton Destination and What'sOn events website on behalf of HCC.
- Providing information to new and potential new settlers (15-20 per week).
- Pop-up i-SITE services for major events including Rugby Sevens and National Field Days.
- Sole manager of bookings and meet & greet for Balloons over Waikato.
- Ticketing hub and events information coordinator for Hamilton Gardens Arts Festival.
- Parcel Connect Agency.
- Free WiFi.
- Bike Hire.
- Providing paid for display options for tourism operators within the i-SITE.

Some of these responsibilities, particularly around website upkeep and events have been shifted from elsewhere within Council to the i-SITE in recent years to better utilise the staff capacity. Cutting these services or closing the i-SITE completely, will mean either a loss of service for the city or an extra cost transferring elsewhere within Council.

Number of Customer Contacts

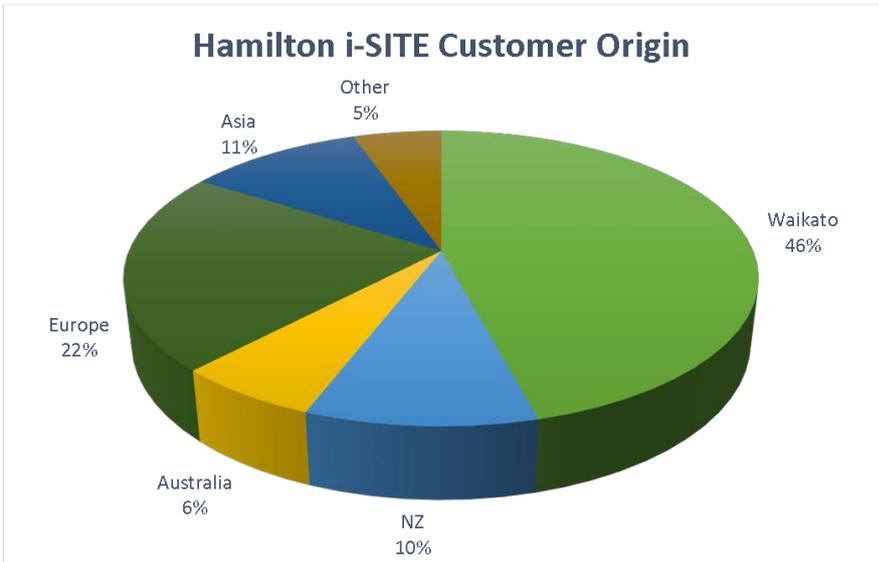
The following graph shows the total number of customer contacts which grew to YE June 2017 but have declined by 17% in the last year to 38,604.



As a local comparison, Matamata i-SITE reports over 300,000 customer contacts while Te Awamutu, Cambridge and Raglan i-SITEs have 25,000-30,000 each.

Customer Origin

The following pie chart uses sample data collected manually by the i-SITE staff over two full years July 2016-June 2018. Around 44% of logged enquiries are from overseas visitors with the largest share from Europe. It is notable that Asian customers are nearly double Australians. The largest single group are Waikato (and Hamilton) residents at 46%, with 10% from the rest of NZ.



The largest share of customers are locals (47%) most of which are doing event ticketing. Following this, it is overseas visitors getting tourism information and booking activities and tours, especially to Waitomo and Hobbiton.

Customer Feedback

The i-SITE has relied mainly on external feedback and review channels although it is included in the council’s Compliments and Complaints register and has had an i-PAD customer feedback survey along with other council destinations. Nearly all of the comments related specifically to the i-SITE were positive.

On TripAdvisor, based on the small sample rate, Hamilton i-SITE has 4.5 stars and is ranked #12 of 71 things to do in Hamilton. The Net Promoter Score works out to 92% compared to the i-SITE network average of 85.3%. On **Google Reviews** Hamilton i-SITE has an overall 4.4 star rating.

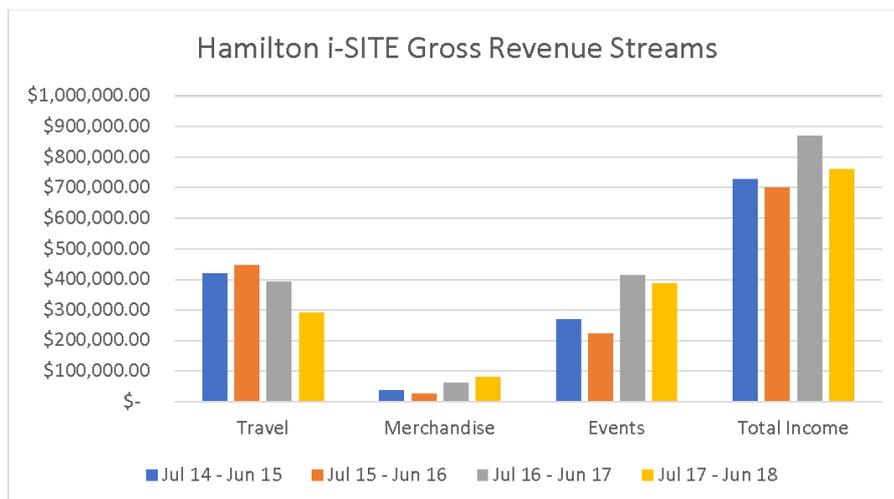
Local Stakeholder Feedback

Over the period of this review formal i-SITE stakeholder input has been obtained through face to face and phone interviews of major local operators, council representatives and group managers, the i-SITE team, i-SITE NZ, local businesses and some national stakeholders. An online survey was also conducted of local operators to cover a wider group, and Hamilton Central Business Association had independently included a question on whether the i-SITE should close, in its member survey regarding its LTP submission.

Larger tourism operators such as Novotel and Sky City do not see the i-SITEs as important for direct sales for their businesses. This is because they have large marketing budgets and well established alternative sales channels and many of them receive advanced bookings. Most stakeholders we talked to and those surveyed, felt it was important to maintain an i-SITE service to help visitors. However, there was concern about the current cost and location.

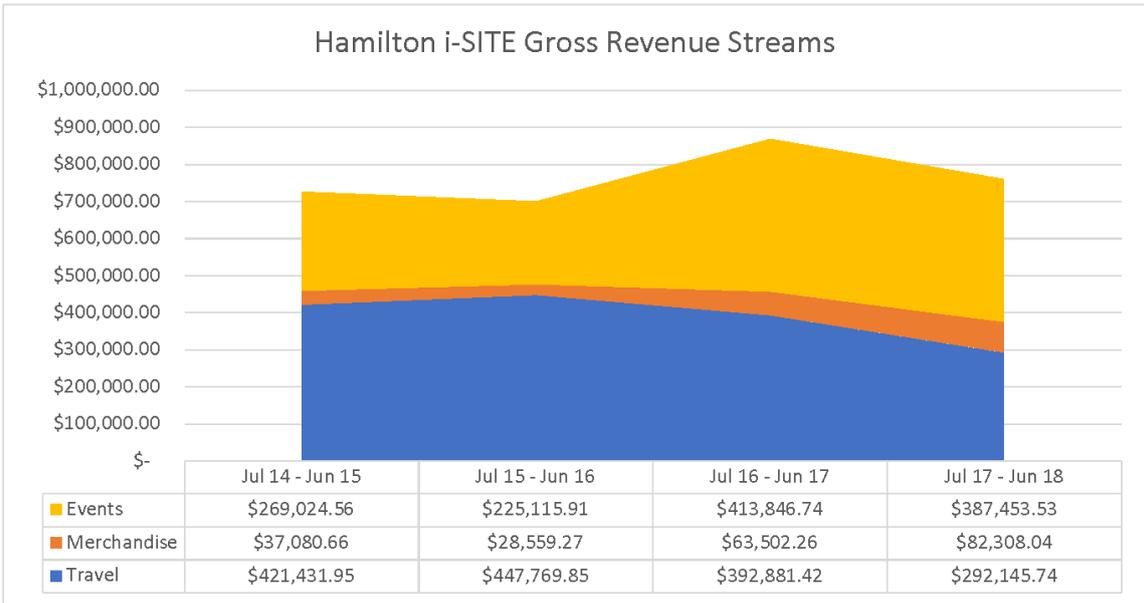
Income Streams

The following chart shows trend from YE June 2015 to YE June 2018.



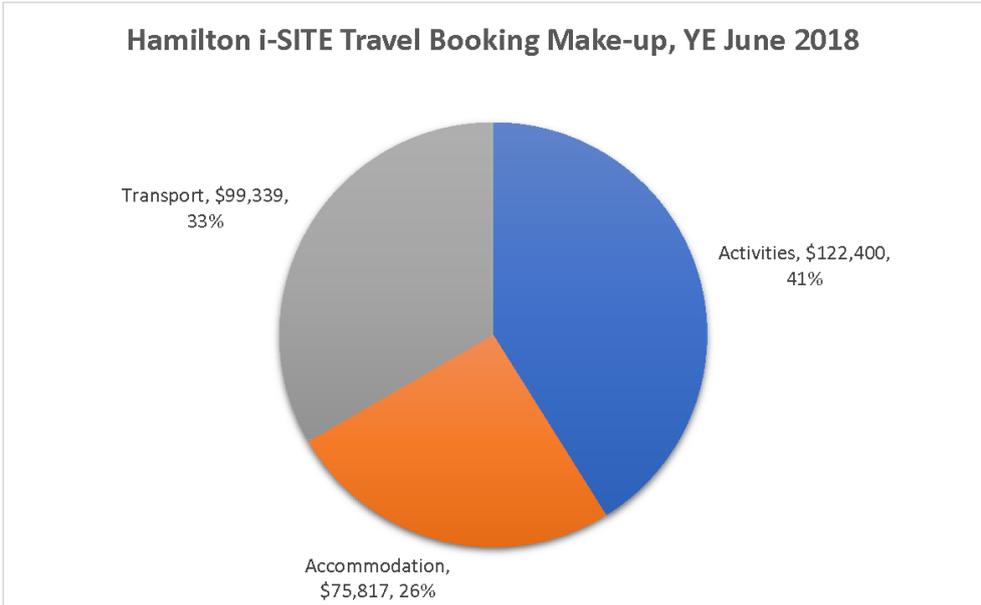
Total gross revenue turnover grew to \$870,000 in YE June 2017 but then declined by -12% to \$762,000 over YE June 2018. Travel bookings for accommodation, activities and tours increased to YE June 2016 but have since declined over the last two years. Event Ticketing and to a lesser degree Merchandise, has offset the decline in travel bookings but even events have declined over the last year.

The next graph presents the same data but makes it easier to see the relative composition of the income.



Net return from Sales Turnover

The growth in overall sales in YE June 2017 was encouraging but it was mainly driven by event ticketing which provided little net return of \$8,167 to the i-SITE operation. Voucher (travel) sales provides better commission but the volume has eroded. Merchandise sales is the only category to have continued improving during YE June 2018 but this is not core to the business and is unlikely to contribute significantly to covering the costs of the business. Overall the net return or gross profit before operating expenditure is only around \$90,000 per annum.



Hobbiton and Waitomo trips represent the main share of activities and tours booked by Hamilton i-SITE. Next would be Rotorua activities followed by central North Island experiences. Hamilton currently has limited commercial activity/attraction operators which the i-SITE is able to book for visitors. A large portion of Hamilton’s product is accommodation and like most i-SITES, accommodation booking commission has continued to decline as other digital channels have offered a better selection of live inventory than i-SITES, and as more

people pre-book. Hamilton's accommodation sales dropped by a massive 46% over the June 2018 year. Nearly all i-SITEs including Hamilton have seen a decline in Intercity bus bookings as online channels have become easier to access. Train ticket sales declined for Hamilton i-SITE following the re-organisation of the Northern Explorer service and timetable.

Hamilton i-SITE has a range of advertising display options which, apart from booking commission paid by operators, is the main source of private operator funding for the i-SITE. In total this raised approximately \$15,600.

i-SITE Operating Costs and Internal Council Charging

With total direct expenses at \$556,000 (including merchandise cost of sales) the Net Operating Deficit was \$445,635 for YE June 2018. Most of the typical operating expenses of Hamilton i-SITE are reasonable and in line with other i-SITEs. Following are the largest items and some smaller expenses which could be reduced or on-charged.

Commercial Rental - The current Caro/Alexander St premises is rented on commercial terms from a private landlord with a rental expense of \$80,000 per annum for the coming 2018-19 year. This represents 13% of total operating costs. The next rent review is due 1 May 2019. Notice of intention to either renew or not is required by January 2019. Council cannot terminate the lease early and is therefore committed to paying out rent to May, even if the i-SITE closed immediately. Closing or relocating the current i-SITE would also result in an additional cost to "make-good" the premises and remove all fixtures and fittings as per the lease conditions.

The \$55,000 capital expenditure from the 2012/13 fit out is still being depreciated at \$530 per month in the i-SITE financials with a Current Net Book Value of \$27,044 that would need to be written off if the i-SITE closed. Even if the complete property bill could be cut, this would only marginally move the business towards breakeven.

Employment Costs and staffing levels - Employment costs are by far the single highest operating expense for i-SITEs. Hamilton's staff remuneration is \$347,000 plus other employment costs giving a total of \$357,000 in the forecasted YE June 2018. This represents 64% of total operating expenditure.

An i-SITE NZ remuneration survey shows that Hamilton i-SITE more senior and permanent full-time salaries are slightly higher than the average across all i-SITEs and the Provincial City peer group. The salary levels have some impact, but the main driver of the high employment costs is the number of staff FTEs at over 6. This is the key area where costs could be cut whilst still maintaining an accredited i-SITE service.

In response to this review being undertaken, (at the time of writing this report) the New Zealand School of Tourism has a concern over the possible closure of the i-SITE and expressed interest in supporting the i-SITE by providing pre-trained students to deliver full i-SITE information and booking services at zero or minimal cost. This is still being explored but if successful, this could significantly reduce operating costs.

Marketing is budgeted at \$30,000 per annum but actual spend has been minimised to range between \$300 and \$18,000 over the last three years. Hamilton's peer i-SITEs and indeed most i-SITEs have lower marketing budgets and tend to rely on marketing by i-SITE NZ and profiling in digital channels and official brochures by RTOs and TNZ. Hamilton's budget also covers Hamilton maps and visitor guides which would usually sit under a separate council or RTO marketing budget rather than the i-SITE. HWT includes a Hamilton section in the regional visitor guide which is well supported by operators and has extensive editorial coverage of the city.

Phones (landlines, calls and mobiles) costs are \$13,000. By comparison, much busier i-SITEs have typical phone costs of \$5,000 - \$7,000 per annum. Council is charging the i-SITE \$60,000 per annum for "Information Services User Charges". An independently-run i-SITE, carefully procuring its own ICT services would never spend that much.

Indirects / Council Overheads

The i-SITE is being charged very high internal charges (indirects) of \$392,000 for YE June 2018. This would typically cover a share of governance, policy, HR, and financial administration. The i-SITE is already being charged separately for expenses such as security and insurance.

The Hamilton City Council is not alone amongst Council i-SITE owners in its practice of indirect charging, but this level of charges is not an accurate reflection of the costs the i-SITE business actually generates. Closing the i-SITE will leave these charges *stranded* within Council.

Benchmarking Other i-SITEs (Year ending June 2017 Data)

For the purposes of benchmarking Hamilton i-SITE, data has been drawn from the annual i-SITE NZ benchmarking survey carried out by Deloitte, for YE June 2017. This survey produces average operating metrics across the whole network of 81 i-SITEs, plus sub-category averages where i-SITE NZ groups its members in like categories as follows:

- Large Tourist (e.g. Auckland, Rotorua, Christchurch, Queenstown).
- Secondary Tourist (e.g. Taupo, Wellington, Nelson).
- Small Tourist (e.g. Whitianga, Waitomo, Turangi).
- City Satellite (e.g. Hutt City, Kaiapoi).
- Provincial City (Hamilton, Whangarei, Palmerston North, Gisborne, Hastings & Havelock North, New Plymouth, Whanganui, Oamaru, Invercargill and Ashburton (now closed)).
- Rural / Small Town (this covers most of the other Waikato i-SITEs).

In the 2017 Deloitte survey, only eight out of the 81 i-SITEs made an operating surplus before funding from a parent RTO or council. These tend to be in primary tourism regions with a significant supply of high cost tourism activity product in the destination or neighbouring regions e.g. Wanaka and Queenstown. Even Rotorua i-SITE, which turns over in excess of \$10m per annum, still draws on council funding to break even.

For the Hamilton review we have gone a step further than the main i-SITE NZ categories and selected a specific group of i-SITEs which have more in common with Hamilton, although these i-SITEs still present a wide array of operating contexts. These are:

- Hamilton, Palmerston North, New Plymouth, Hastings (from i-SITE NZ's "Provincial City" category)
- Dunedin, Wellington, Napier (from the "Secondary Tourist" category).
- Tauranga (from the "Small Tourist" category. We see this as relevant because Tauranga is a significant sized provincial city but it has limited hotels and icon attractions. However, it does have major cruise business for part of the year).

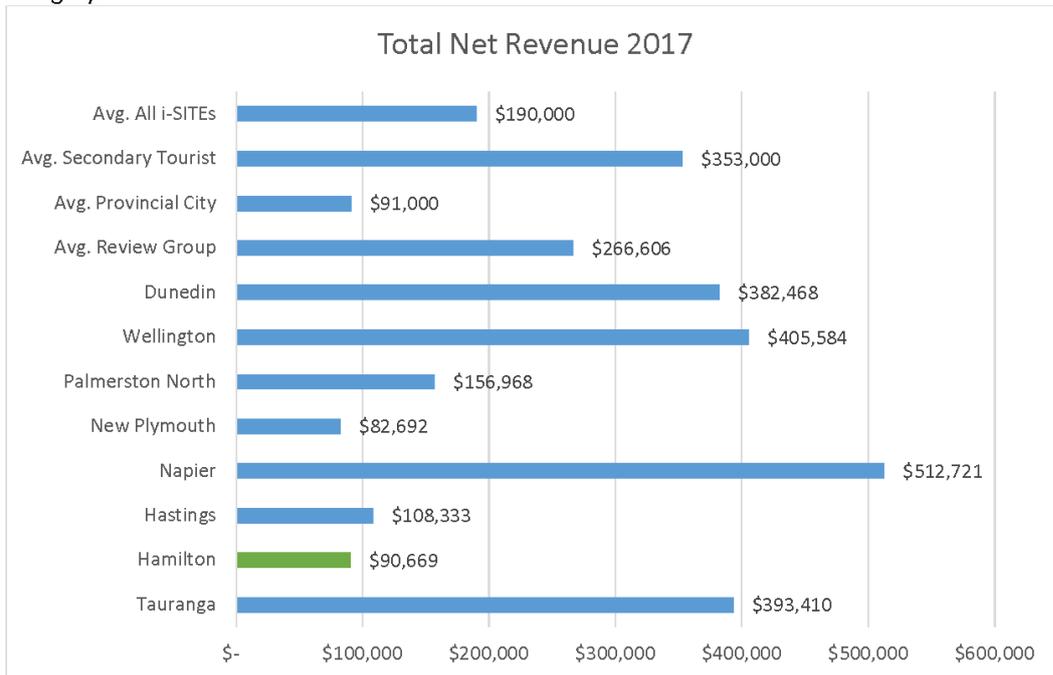
Note that the Dunedin and Tauranga i-SITE metrics in this report include cruise customers at port-based satellite i-SITEs as well as the associated revenue, costs and professional staff. Napier and Wellington i-SITEs do handle many cruise passengers which make their way from the port but unlike Tauranga and Dunedin, they do not provide paid staff or carry out sales directly at the cruise ports.

The following graphs show operating metrics for the following:

- Avg. All i-SITEs - The average across the national network for All i-SITEs.
- Avg. Secondary Tourist - The average for the whole Secondary Tourist i-SITE category
- Avg. Provincial City - The average for the whole Provincial City i-SITE category
- Avg. Review Group - The average across the chosen "Comparison Group" for this review.
- Each of the individual i-SITEs in the chosen "Comparison Group" for this review.



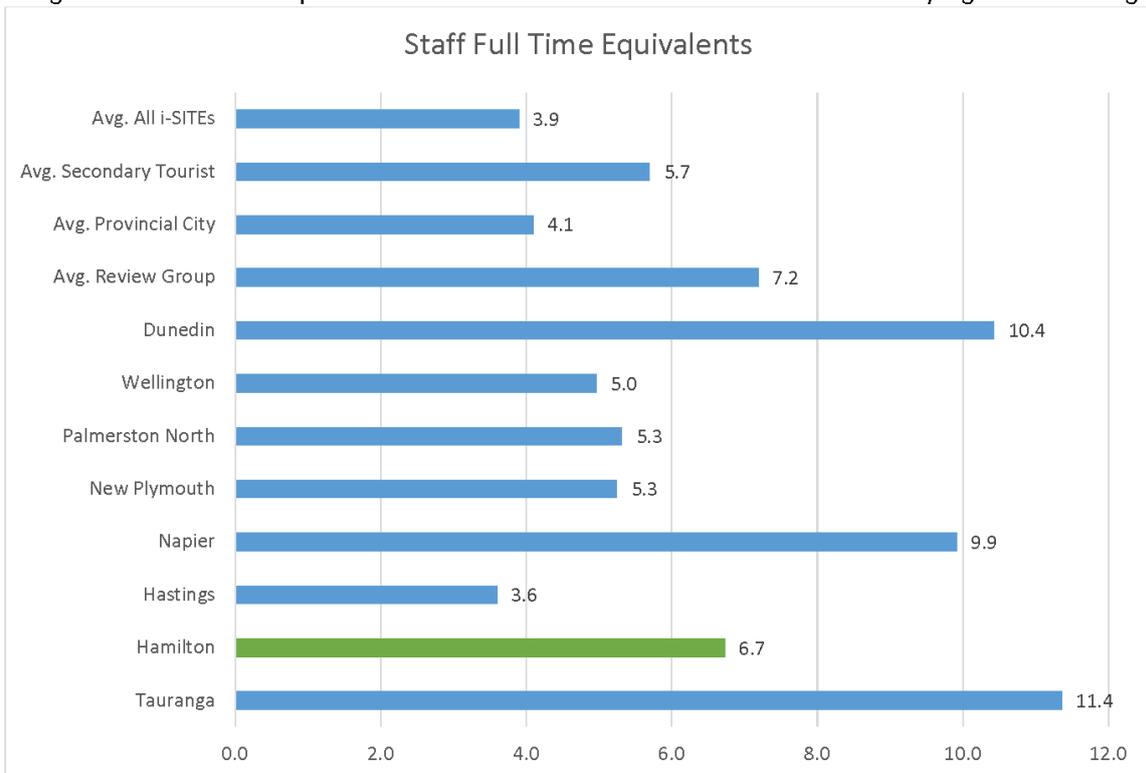
Hamilton has the lowest amount of customer contacts and is well under the average for its Provincial City i-SITEs category.



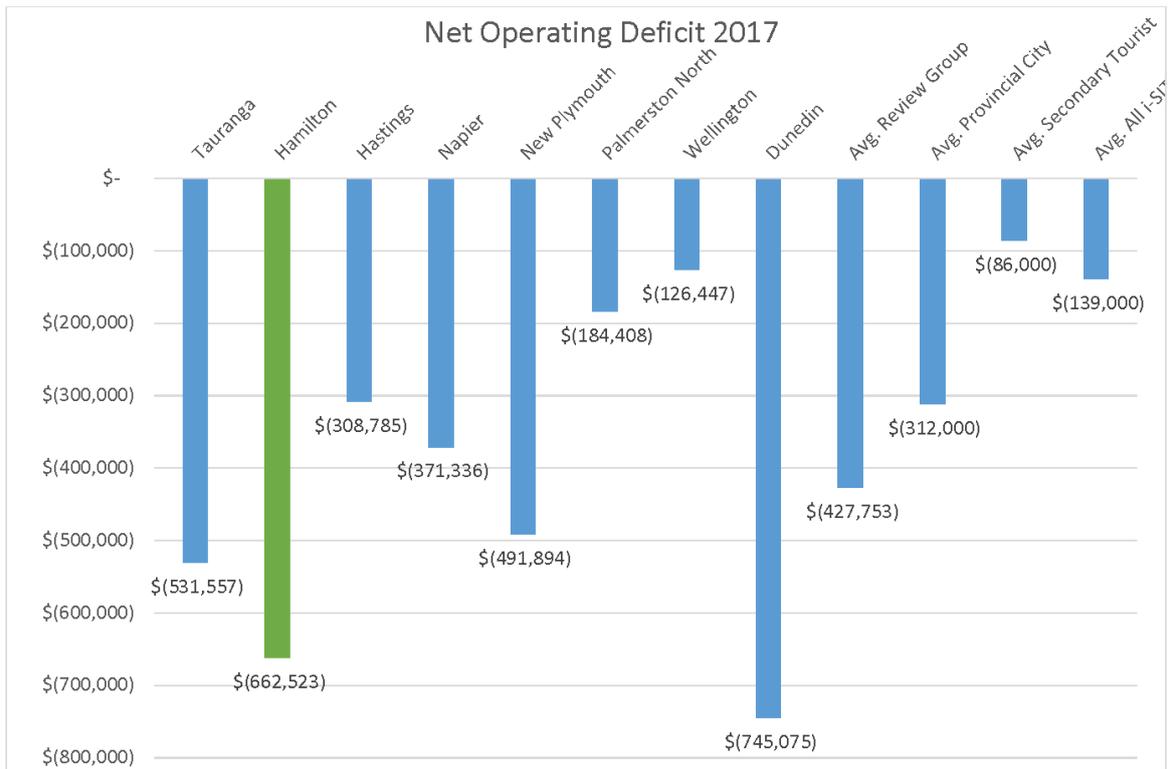
Hamilton i-SITE also has among the lowest levels of net revenue with only New Plymouth lower.



This data includes council internal charging (indirects) for all the council-run i-SITEs. Hamilton’s costs are the 3rd highest and above average in the review group; and well above the averages for Provincial Cities and all other categories. Dunedin and Napier are the two other council owned i-SITEs which have very high internal charges.

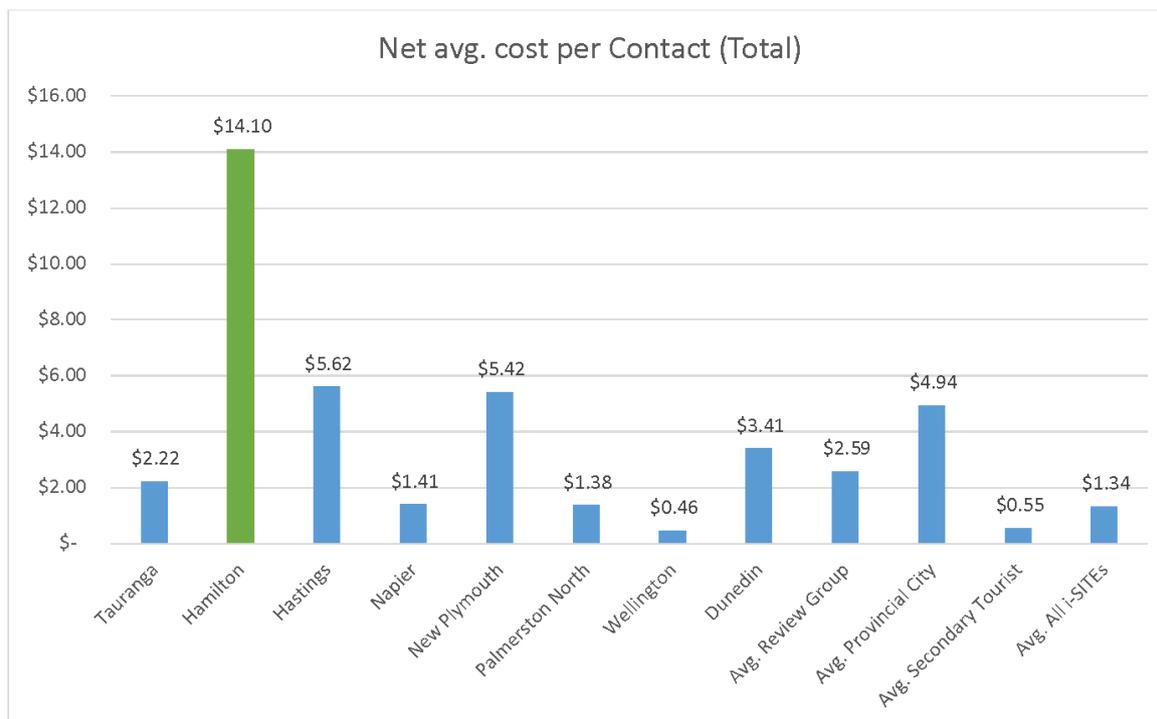


Hamilton is well above the average for Provincial Cities and has nearly double the staff of Hastings which has more customer contacts.



This net position data is generally close to the council funding level for each i-SITE. Hamilton’s “indirect” council charges are included in this figure as this is consistent with the other council-run i-SITEs, (New Plymouth, Hastings, Napier, Dunedin). Hamilton had the second largest operating deficit at \$662,523, behind Dunedin but Dunedin handles a lot more customer contacts.

The average deficit for the review group was \$427,753, while the average across all i-SITEs was \$139,000. The Provincial Cities category has the worst i-SITE NZ category average operating deficit at \$312,000 while the Small Tourist and Large Tourist categories have the smallest average deficits.



The measure of net average cost per customer contact shifts the focus off commercial return and acknowledges that where there is high demand for free visitor information and less sales opportunity, the i-SITE may still be creating value. If the average cost of servicing each visitor is reasonable and visitors go away satisfied and spend more time and money in the city and region, then it is a valid investment.

Hamilton is less cost efficient than its peer group and the overall i-SITEs average. However, across various i-SITE reviews DPL has carried out, there have been figures as high as \$17 per customer, often in satellite suburban centres on the edge of major cities with marginal tourism flows.

DPL recommends that this should be a focus in KPI reporting with a goal to reduce it towards the relevant category average or below. In Hamilton's case, just under \$5 per contact rather than the current \$14.10. This could only be achieved by a reduction in expenses and increased customer contacts which improves the likelihood of generating more bookings/sales revenue.

Feasibility of Hamilton i-SITE Breakeven Target and Reduced Service Levels

Destination Planning Ltd looked at all options to rationalise operating expenses and increase revenue to reduce the requirement for council funding. However, with the exception of significantly cutting staff costs, there will only be a small effect on the operating deficit.

Options to improve the current i-SITE Operation

- Reduce staffing levels to 3-4 FTEs and further investigate the offer from the NZ School of Tourism to fully or partially staff the i-SITE with qualified students.
- Move to a smaller footprint premises with lower rent.
- Rationalise event ticketing services.
- Enable the i-SITE to operate as a defined micro business unit with freedom to procure more cost-effective services such as phone, ICT, financial administration.

- Work more closely with local operators to load their live bookable inventory with the standard 12.5% commission through the i-SITE's Bookit/IBIS system.
- Implement credit card fees to recover merchant costs (around \$5,000) and increase booking fees for travel and events to cover the staff time involved.
- Rationalise poor performing retail merchandise to free up floor space for destination display and storytelling.
- Improve staff up-selling skills and proficiency with booking systems to develop more value-add packages which differentiate from what is available direct from operators and through other channels.
- Work with HWT to produce destination mapping and attraction display that is more effective in portraying reasons why walk-in visitors should stay longer and do more in and around Hamilton.

With an operating deficit of \$445,366, it would need to both cut costs by at least \$225,000 and increase income by at least \$225,000 to move towards breakeven. At an average 10% commission rate, that would mean selling an additional \$2.25 million in travel bookings before finding the \$225,000 in expense cuts. A breakeven position in the near term is unachievable even if significant staff savings are made. The current i-SITE business model and location are also considerable barriers and the City's commercial tourism proposition is not strong enough to support an improved financial position for the i-SITE. However, in five years with planned city developments, the city will offer more for visitors and the level of demand is likely to positively impact on i-SITE operations.

Summary of Implications of Closing i-SITE

The key potential benefit in closing the i-SITE is the eventual saving of the \$445,366 annual operating cost for council, excluding stranded overhead charges. However, the suggested \$5.6M over 10 years savings that has been discussed by council would not be realised, particularly in the first year.

Rent/Lease exit arrangement

Council is committed to the i-SITE lease of \$80,000 p.a. until at least May 2019. It is also Council's responsibility and cost, to make good the premises to the original condition and remove all fixtures and fittings by the end of termination or earlier.

Substituted customer service resource at Council reception and library, and to local shops and accommodation providers

Council would need to consider where and whom within council has responsibility for visitor associated contacts. i-SITE customers will default to the council reception, library and local businesses, increasing information demand there on those staff who will not have comprehensive knowledge. The effect will be to transfer rather than remove some of the service provision costs for council. This is likely to impact on the quality of the visitor experience if visitors' information needs are not sufficiently met.

Operation on VisitHamilton and What's On events Website

This activity requires nearly a ½ FTE salary to resource and would have to be re-allocated elsewhere within council.

Official City Visitor Guide and Maps

The i-SITE marketing budget currently covers printed official Hamilton city brochures and visitor maps which will continue to be demanded, particularly if council's reception and other locations became the main visitor information points. This will be \$10,000-\$20,000 per annum.

CBD Event Ticketing Service

There will no longer be a CBD event ticketing outlet.

Satellite visitor information/bookings for major events

Any pop-up visitor information or booking services, or management of freedom camping around mega events would have to be funded elsewhere within or outside of council.

Signals lack of confidence as a destination

Visitors have an expectation that an information service will be provided in a city the size of Hamilton. Also, many local community members have a sense of pride in the city offering a quality official welcome service. This would reinforce the negative historical perception of Hamilton as a place not worthy of a leisure visit. The same message would be noticed by the wider tourism industry and stakeholders including TNZ, travel trade, media and potential investors who are considering developing tourism businesses in Hamilton. It will also likely to be questioned by the business events and events organiser sectors.

Loss of exposure in key tourism channels

Hamilton city will no longer benefit from the exposure that i-SITE NZ and TNZ provide. This includes network member cross-promotion, printed brochures and maps, advertising, third party channels such as Google Business, TripAdvisor and Campermate which recognise official i-SITEs in their wayfinding databases and which the i-SITE executive team proactively manage.

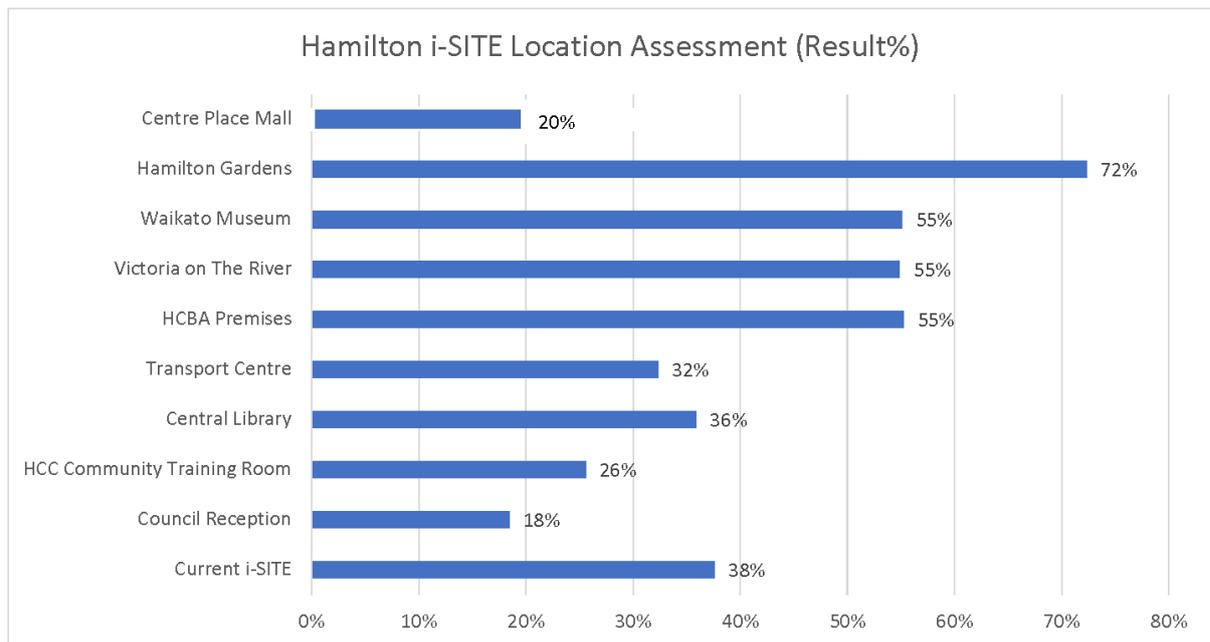
Assessment of Alternative i-SITE Visitor Information Locations

i-SITE or visitor information locations were first assessed against the following criteria on a scale of 1-10. This is prior to and excluding consideration of the operating model and structure.

- Potential for increased customer contacts.
- Enables more income generation.
- Relevant customer mix - The visitors at this site are likely to be interested in i-SITE services and can be influenced to stay longer and spend more.
- The nature of business and customers at the site are consistent with a positive destination experience.
- Supports CBD destination vibrancy.
- Services local community information needs.
- Proximity to Visitor Flows (foot traffic, cars, bus).
- Location showcases positive Hamilton tourism attributes.

The following locations were assessed:

- Current i-SITE
- Council Reception
- Council Community Training Room (between reception and current i-SITE)
- Central Library (Re-developed), Garden Place
- Hamilton Transport Centre
- Hamilton Central Business Association Premises (HCBA - Victoria Street, SE corner of Garden Square)
- Victoria on The River
- Waikato Museum, Main facility
- Hamilton Gardens
- Centre Place Mall



The strongest i-SITE location is Hamilton Gardens with its already high level of tourist and resident visitors. The Waikato Museum, Victoria on the River and HCBA premises form the next strongest group with the Museum also hosting high visitor numbers and the flow of visitors along Victoria Street from the main hotels.

However, there is no current available premises at Victoria on the River and the HCBA site does not have a long-term guarantee. No single location will adequately address all visitor information needs. Lead practice is to have an integrated visitor servicing plan which delivers information through a range of channels and at multiple locations and stages of a visitor's journey. This may include an official i-SITE, satellite services at the Library and council's *Visitor Destinations* (Museum, Gardens, Zoo), plus un-manned information/mapping, signage, various digital channels and local accommodation operators as information providers. Formal ambassador programmes would up-skill visitor-facing council staff, tourism operators, hospitality providers and retailers to provide better destination information to visitors.

Placing brochure racks in the council reception area and expecting reception staff to spend time with customers wanting complex itinerary and booking advice will not be effective on its own as a substitution of the i-SITE.

Moving the i-SITE back to the Transport Centre is not recommended. The ambience and layout is not ideal and it wouldn't receive the revenue of the old Transport Centre i-SITE because there are already two competing transport ticketing outlets. Satellite i-SITE services could be considered within the Transport Centre redevelopment project that is planned over the next two years. However, it should be noted that bus passenger visitors through the transport centre represent a very small proportion of total visitors to Hamilton City.

Hamilton i-SITE Alternative Operating Model Options

The following eight potential operating models for the delivery of information services were assessed. The first three retain delivery within Council while the remaining five options involve externalizing the service through some form of contract or service delivery agreement. The option to utilise NZ School of Tourism students to reduce staff costs could be applied to most of these delivery models.

Status Quo with cost efficiencies, managed by Hamilton City Council

Council retains the i-SITE operation and location with reduced staffing levels and opening hours; and a range of increased revenue initiatives.

Close i-SITE, revert to local visitor information in public facing council facilities

Pay out the remaining rental and make good the current i-SITE premises. Install visitor brochure racks in council's public facing facilities where there are likely to be visitor flows: the central library, the Transport Centre, Hamilton Gardens, Waikato Museum, Hamilton Zoo and council reception.

Reposition i-SITE to Hamilton Gardens and Waikato Museum, managed by Hamilton City Council's Community Group (Visitor Destinations)

Retain visitor information servicing within Council but move the responsibility under the Visitor Destinations Unit within the Community Group. This includes the city's key visitor assets which already receive higher visitor numbers than the i-SITE and they already play a key role in presenting the city and regional story. Hamilton Gardens and the Waikato Museum would become Hamilton's official i-SITEs with enhanced visitor information display and 2-3 professionally trained staff, with potential to use NZ School of Tourism students to reduce staff costs. i-SITE booking and any more complex tourism advice can be separated from the existing volunteer gardens information service and retail.

The other city destinations and the Central Library would have a modest investment in mapped city and regional visitor information, brochures, digital channel prompts and basic visitor information training of customer facing staff. This would also be partially addressed in Council reception but not as a primary visitor information point.

Hamilton Central Business Association - Contract for Services

Council provides ring-fenced funding to HCBA to provide an i-SITE service with a Service Delivery Agreement including agreed KPIs and reporting regime. This would mean a smaller shop-floor area, a reduced rental cost and still meet i-SITE criteria. HCBA have considered this option and have declined to consider this any further.

NZ School of Tourism operated Centre Place Mall pop-up

NZSOT have proposed providing a pop-up i-SITE in Centre Place mall manned by two students from 9.30 to 4.30 pm each day, with two further students responding to online enquires up in the campus. This location would not be adequate as a primary i-SITE for Hamilton as it has primarily local resident customers and would not present a distinctive environment for visitors. This option would come at a significant cost to Council.

RTO Management (Hamilton and Waikato Tourism)

HWT would take over Hamilton i-SITE but not the other 12 Waikato region i-SITEs. This is not an aspiration of HWT and would be impractical because of the complexities around funding and equity of service provision across the region.

Private sector funded contract for services (Usually retail or booking agency)

Seek a private provider to run the i-SITE on a contract for services. This is the model used by South Waikato District Council where a private business is contracted to operate Tokoroa and Tirau i-SITEs. It was also used in Ruapehu District for Taumarunui and Ohakune i-SITEs until council took direct management back in 2015. Any private operator with the necessary business acumen will require significant council funding to underwrite the contract and/or alternate funding streams.

Private tourism company designation as i-SITE with no council funding

Seek interest from a commercial operator to be given i-SITE status with endorsement but no funding from council. Hamilton City does not have large scale tourism companies which lend themselves to subsidising an i-SITE operation.

Recommendation on i-SITE Retention**If HCC decides it wants to retain an i-SITE service, what level of investment is appropriate?**

If the HCC position is that visitor information services will not receive any council funding support, then the i-SITE must be closed. None of the options identified will be financially self-sufficient. If, however HCC determines that there is a public good rationale for funding support, an i-SITE can be retained with a significantly reduced level of funding.

Using the national benchmarking exercise as a guide, a suitable target would be to reduce the public cost from \$14 to \$5 per customer contact which is close to the provincial city average. Based on current demand of 46,000 contacts, Hamilton's funding would be \$230,000 per annum. (The average funding for the review benchmark group is \$428,000 but the other i-SITEs have much higher customer contacts).

Prior to assessing the shortlisted delivery options DPL presents the following recommendations which if accepted, become assumptions on which to base the decision about delivery model:

- That council supports retaining an appropriate and affordable level of visitor information service.
- That the service delivery performance reporting is more clearly mapped to council's LTP and economic development outcomes, particularly growing visitor length of stay and spend and enhancing the visitor experience.
- That council seeks to retain an accredited Hamilton i-SITE with reduced cost to council based on:
 - the value of the i-SITE brand and exposure it delivers for Hamilton;
 - the modest difference in cost of having an i-SITE as opposed to a professionally staffed local community visitor information service;
 - the stakeholder support for retaining an i-SITE.
- That in considering the actual costs that will remain with council in providing a visitor information service, and reviewing benchmark data from comparator i-SITEs, it is unrealistic for a Hamilton i-SITE to break even, at least until the city develops further as a destination over the next five years.
- That based on peer i-SITE benchmark information, \$200,000 - \$300,000 is a more acceptable level of council funding for a Hamilton i-SITE service, (ignoring internal recharges).
- That based on benchmark information, council seeks to grow visitor contacts to an appropriate level based on its investment, (around a minimum of 64,000 customer contacts per annum).

Shortlist of Management Delivery Models

Based on the assessment of potential benefits, and the disadvantages/risks, the following shortlist was developed for further assessment against outcome-based criteria.

1. **Status Quo with cost efficiencies managed by Hamilton City Council**
2. **Reposition i-SITE to Hamilton Gardens and Waikato Museum managed by Hamilton City Council's Community Group (Visitor Destinations).**

In addition to the location assessment criteria, the two shortlisted options were assessed on the opportunity to reduce cost to Council. The following spreadsheet provides an indicative operating budget for each of the two scenarios, with the requirement for council funding and the saving compared with the 2018 actuals.

This is followed by an assessment table summarising how each delivery option performs against the location criteria and cost reduction for council.

i-SITE Review Options	2017-2018 Actuals	Option A: Status Quo with Cost Efficiencies FY19/20	Option B: Visitor Destinations FY19/20	Full Closure of i-SITE one off costs
INCOME				
Activity Income				
Sale Of Goods	69,082	60,000	0	
Fees And User Charges	15,714	8,000	8,000	
Total Activity Income	84,796	68,000	8,000	
Other Income				
Commission Received	25,208	35,000	25,000	
Total Other Income	25,208	35,000	25,000	
TOTAL INCOME	110,004	103,000	33,000	
DIRECT EXPENDITURE				
COST OF SALES				
COS - Materials	42,616	39,000	0	
Total Cost of Sales	42,616	39,000	0	
Personnel				
Staff Remuneration	346,677	304,937	198,200	120,000*
Overtime	2,905	3,000	3,000	
Allowances	10	0	0	
Leave Accrual	(2,512)	0	1,000	
Staff Rewards	1,353	375	300	
Fringe Benefit Tax (FBT)	596	500	99	
ACC Premiums	954	1,046	583	
Professional Membership	2,150	3,000	3,000	
Health And Safety	1,902	1,000	0	
Training And Development	2,018	5,000	3,000	
Recruitment	638	600	0	
Vacancy Factor	0	0	0	
Total Personnel Expenditure	356,692	319,458	209,182	120,000
Activity Expenditure				
Maintenance - Planned	1,165	1,004	0	
Maintenance - Reactive	205	0	0	20,000
Operating Leases	1,770	2,004	1,000	
Minor Equipment Purchases	707	500	0	
Consumables	227	504	0	
Stock Purchases	0	0	0	
Total Activity Expenditure	4,074	4,012	1,000	20,000
Utility Expenditure				
Rent - External	84,627	87,996	0	7,333
Electricity	7,644	9,400	0	
Security	486	2,196	0	
Cleaning	7,211	7,996	0	
Insurance	57	388	0	
Total Utility Expenditure	100,025	107,976	0	7,333
Professional & Administration Expenditure				
Support And Licence Agreements	2,975	3,000	0	
External IT Services	0	0	2,000	
Telephones	11,442	13,000	4,000	
Internet And Webhosting	10	0	0	
Technical Services	693	0	0	
Advertising And Marketing	14,767	15,000	10,000	
Bank Fees	3,548	5,004	500	
Clothing	1,339	1,800	500	
Printing And Stationery	2,771	1,700	500	
Postage, Courier, Freight	662	996	300	
Ex Gratia Payments	19	0	0	
Travel And Accommodation	640	1,500	1,000	
Total Professional & Administration Expenditure	38,867	42,000	18,800	0
Other Expenditure				
Facilities Unit (Property) Management Charges	2,160	1,000	1,000	
Information Services User Charges	11,191	60,000	52,000	
Internal expenditure - operating	15	0	0	
Total Other Expenditure	13,366	61,000	53,000	0
TOTAL DIRECT EXPENDITURE	555,639	573,446	281,982	147,333
OPERATING SURPLUS/DEFICIT	(445,635)	(470,446)	(248,982)	(147,333)

*Assumes no redeployment opportunities

Shortlist Alternative i-SITE Delivery Model and Location Assessment

Option	Reduced cost to council	Potential for increased customer contacts	Enables more income generation	Relevant customer mix	Supports CBD destination vibrancy	Services local community information needs	Proximity to Visitor Flows (foot traffic, cars, bus)	Location showcases positive Hamilton tourism attributes	Other
Status Quo with cost efficiencies, managed by HCC	Modest saving opportunities, depending on staff cuts & NZSOT students. Rent likely to ratchet up.	Customer numbers similar, may increase after 2-3 years as more product comes on stream	Not in the next 2-3 years	Unchanged, majority local residents.	To some degree by staying on Garden Place, but no change.	Yes, as before.	Closest to Transport Centre. Parking, Bus OK	No	Trees in Garden Square reduce visibility approaching from East. Least disruption
Reposition i-SITE to Hamilton Gardens and Waikato Museum managed by HCC	Save rent and fit within new visitor centre. depending on staff structure.	Yes, Hamilton's number 1 attraction.	Yes, although retail will be left to Gardens.	Existing strong mix of domestic and international visitors.	No at Gardens but it can better promote CBD to more visitors. Museum supports CBD.	Less convenient for CBD locals. Library/ Museum can address locals in CBD.	Good car and coach access. Public Bus connections. Low foot traffic. Relies on being destination.	Yes, already most popular attraction with high satisfaction levels.	Requires consultation with Garden volunteers.

Recommendation on Delivery Model and i-SITE Location

DPL recommends retaining a full i-SITE service but significantly reducing the council cost. The recommended delivery option is:

- Retain council delivery of i-SITE Visitor Information, repositioned under HCC's Visitor Destinations function within the Community Division.
- Integrate a full i-SITE service in the Hamilton Gardens and Waikato Museum.
- Provide improved visitor information delivery at the Central Library, Council Reception and Hamilton Zoo when it is redeveloped.
- Further explore the viability of the NZ School of Tourism free staffing initiative if that proves a genuine offer and is approved by i-SITE NZ.

Council Report

Item 14

Committee: Council **Date:** 14 March 2019
Author: Luke O'Dwyer **Authoriser:** Jen Baird
Position: City Planning Manager **Position:** General Manager City Growth
Report Name: Special Housing Areas - Expressions of Interest - Round 2

Report Status	<i>Open</i>
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Purpose

1. To inform the Council of the Round 2 Expressions of Interest (EOIs) received for sites seeking to be declared a Special Housing Area (SHA).
2. To inform the Council of the Government's decision to repeal part of the Housing Accords and Special Housing Areas Act 2013 (HASHAA) and the implications this will have on the timeframe for assessing the EOIs and lodging them with the Ministry of Housing and Urban Development (MHUD).
3. To seek the Council's approval to continue evaluating both Endeavour Avenue and Quentin Drive (Enlarged Proposal) EOIs and to publicly consult on these proposed SHA sites in accordance with the Council's SHA Policy.

Staff Recommendation

4. That the Council:
 - a) receives the report; and
 - b) approves both Endeavour Avenue and Quentin Drive (Enlarged Proposal) EOIs as scheduled in Attachment 1 for:
 - further evaluation, in accordance with the criteria set out in the Hamilton Special Housing Areas Policy and the Housing Accords and Special Housing Areas Act 2013 (HASHAA); and
 - public feedback for four weeks, from 18 March to 12 April 2019.

Executive Summary

5. The Council and the Government signed the [Hamilton Housing Accord](#) in December 2016. The [Hamilton Special Housing Areas Policy](#) (SHA Policy) was approved on 24 August 2017 and amended on 13 December 2018 to include affordability criteria. The SHA Policy gives effect to the Housing Accord and the Housing Accords and Special Housing Areas Act 2013 (HASHAA).
6. The Council invited expressions of interest (EOI) for the first round of potential SHAs in September 2017. Six EOIs were received. To date:
 - Te Karearea (Jebson Place) has been gazetted and earthworks are now underway on site

Item 14

- Rotokauri North, Te Awa Lakes and Quentin Drive are with the Ministry of Housing and Urban Development (MHUD) for consideration
 - Eagle Way is on hold
 - Tawa Street was withdrawn last year.
7. From mid-November 2018 to Friday 15 February 2019, the Council invited EOIs for a second round of SHAs.
 8. During the EOI period, pre-application meetings were held with the applicants to help inform their EOI submissions and to advise them of the possibility that the HASHAA might be partly repealed.
 9. Three EOIs were received, one of which has now been withdrawn:
 - Endeavour Avenue, Flagstaff for 69 dwellings (Housing New Zealand)
 - Quentin Drive, Enlarged Proposal for 111 dwellings (Quentin Residential Ltd)
 - Carlingford Rise, Dinsdale (Freelance Lands Ltd) – withdrawn.
 10. On 15 February 2019, the MHUD confirmed that on 16 September 2019, sections 16 and 17 of the HASHAA will repeal. These sections provide the ability to establish SHAs. This means:
 - no new SHAs can be established after 16 September 2019;
 - any existing SHAs will also be disestablished on this date;
 - no resource consent applications can be made in relation to a specified development in a SHA after 16 September 2019, but any qualifying development applications lodged with the Council prior to 16 September 2019 will continue to be processed under the HASHAA; and
 - The MHUD's last day for accepting new SHA applications is 30 April 2019.
 11. The MHUD cannot guarantee that applications received by 30 April 2019 will be gazetted by 16 September 2019, due to the number of applications they expect to receive.
 12. The applicants were briefed on the implications of the Government's decision regarding HASHAA. One has withdrawn (Carlingford Rise) and two wish to proceed (Endeavour Avenue and Quentin Drive, (Enlarged Proposal)).
 13. The Council has full discretion on whether to accept or reject SHA proposals for recommendation to the Minister. Reporting on the EOIs received is the first step in this process. Given the timeframes, Council staff have done an initial high-level evaluation and now seek the Council's approval to continue with the evaluation and seek public feedback on two proposals for a four-week period.
 14. If the Council gives its approval, negotiations with the applicant will commence to secure the necessary infrastructure required to service the proposal through a Stage 1 Private Developer Agreement (Stage 1 PDA).
 15. For previous SHAs, the CE has had delegated authority to finalise and sign the Stage 1 PDA which is then sent to MHUD as confirmation that the Council is confident the necessary infrastructure will be in place or made available at no cost to the Council.
 16. Given the MHUD's tight timeframe, an Extraordinary Council Meeting has been scheduled for 29 April 2019 to enable these applications to be sent to the Minister for Housing and Urban Development (the Minister) for consideration by the 30 April 2019 deadline.
 17. A summary of the EOIs received and those recommended for further evaluation and public feedback is included in Attachment 1.

18. Staff consider the decision of high significance and that the recommendations comply with the Council's legal requirements.

Discussion

Effect of Government decision to partially repeal the HASHAA

19. On 15 February 2019, Minister Phil Twyford announced the Government's decision that on 16 September 2019, sections 16 and 17 of the HASHAA will repeal. This was followed up with a letter to the Mayor, received on 25 February 2019, confirming this decision. Sections 16 and 17 set out the process for establishing a SHA. Section 18 prescribes the timeframes for when SHAs are disestablished. Under section 18(1)(c) any SHA established after 16 September 2016 will become automatically disestablished on 16 September 2019. This was the provision the Government was considering extending.
20. The Government's decision means:
- i. Section 18(1)(c) will have effect. This is particularly relevant to Hamilton City Council, given that all SHAs in Hamilton will have been established after 16 September 2016, and are therefore caught by this section;
 - ii. In simple terms, all SHAs in Hamilton will be disestablished on 16 September 2019. This applies to existing SHAs, and any that might be approved prior to 16 September 2019;
 - iii. For any SHAs that have been approved by the Minister and which expire on 16 September 2019, the transitional provisions set out in schedule 3 to the HASHAA will apply, i.e. any Qualifying Development (QD) applications lodged with the Council prior to 16 September 2019 will continue to be processed under the HASHAA, but no new QD applications can be accepted for processing after that date; and
 - iv. Developers wanting to lodge a QD application prior to 16 September 2019 will need to ensure the QD application is for the entire site.

Overview of Expressions of Interest

21. Round 2 EOIs were received for the following sites:
- Endeavour Avenue, Flagstaff (Housing New Zealand)
 - Quentin Drive (Enlarged Proposal) (Quentin Residential Ltd)
 - Carlingford Rise, Dinsdale (Freelance Lands Ltd).
22. The applicants have been fully briefed on the Government's decision to partially repeal the HASHAA and the consequent risks and implications outlined above.
23. Given the complexity of technical reports required and the timescale pressures involved, the Carlingford Rise applicants have withdrawn their EOI and will reconsider an RMA consenting route instead.
24. Both Quentin Drive (Enlarged Proposal) and Endeavour Avenue wish to proceed.
25. Quentin Drive (Enlarged Proposal) is an extension on the southern side of the previous SHA considered by Council in 2017 on industrial-zoned land. Endeavour Avenue is already zoned General Residential.
26. Both sites propose a development yield greater than 10 units. The majority are two-storey, with section sizes ranging from 200m² to 400m² on average. Housing typology ranges from stand-alone dwellings, town houses and duplexes to three-storey apartments.

27. Based on the information provided in the EOIs and the Council's early review, both proposals will need some level of further infrastructure assessment in accordance with Section 16 of HASHAA and Clause 15 d) of the SHA Policy, which require adequate infrastructure to service the development.
28. A full schedule including location, site area, zoning, and potential housing yield for each EOI is included in Attachment 1.

Endeavour Avenue, Flagstaff

29. The site is located on the southern end of Endeavour Avenue adjacent to the Flagstaff shops and south of the Flagstaff Sports Park. The site will gain vehicular access from Endeavour Avenue. It is currently vacant and covered by grass.
30. The site is zoned General Residential. The Flagstaff Park is located to the north of the site and is zoned Open Space – Sports and Recreational. The Flagstaff shops are located to the west and are zoned General Business – Zone 6 Neighborhood Centre. A child-care facility is located on the south-eastern boundary of the site. To the immediate east is the existing direct off-road path network to Flagstaff Park and through the school to the north from Endeavour Road.
31. The site is approximately 2ha in area and surrounded by residential development to the north and east, comprising detached residential dwellings on lots ranging from approximately 400m² to 1000m². Further to the south and west of the site are several large retirement villages located within the General Residential Zone.
32. The SHA application is for approximately 69 residential dwellings. The development concept achieves a gross density of 35 dwellings per hectare and provides an average lot area of approximately 280m². A range of housing typologies are proposed, and lot areas are expected to range from 200m² to 400m². Building height will range from single storey detached housing to three-storey walk-up apartments.
33. It is worth noting that given the existing residential zoning and assuming an estimated 25% deduction for roads on the 2ha site, approximately 35 x 400m² sections or 70 duplexes could be applied for under the normal RMA consenting pathway.
34. Initial feedback from City Development teams also suggest further impact assessments for Water Supply and Wastewater are required. This in turn may affect the proposed yield.
35. The applicants will work with the Council on a Stage 1 PDA in respect of these obligations, including any new or upgraded infrastructure required as a consequence of more detailed assessment.

Quentin Drive, (Enlarged Proposal)

36. This proposal is an extension to the previous SHA application received for part of this site in May 2018, which is currently with MHUD for consideration. The enlarged proposal includes the site that was recommended by Council in 2018 as a proposed SHA, and also incorporates additional land to the south currently used by Jack House Transit for the storage of houses awaiting relocation; immediately to the south of this is Bunnings. Attachment 1 of this report includes a locality plan for Quentin Drive – the area shaded green is the part of the site that has already been considered by Council, while the area shaded pink is the additional land.
37. As such, this proposal seeks to combine with the previous SHA application to make a development area of approximately 4ha. This site is also located within the Industrial Zone of the Operative District Plan (ODP), with most of the northern and eastern part of the site being located within the Industrial Amenity Protection Area.
38. The western part of the site is located within the low and medium flood hazard area of the ODP. The site has road frontage to Quentin Drive, which is listed as a Local Transport Corridor under the ODP and which has access off Kahikatea Drive (SH1) to the south.

39. This proposal has provided a preliminary concept plan which shows 62 lots accessed off Quentin Drive which, combined with the previous application, would total 111 lots across the entire site. However, much like the previous SHA, it is expected that a much lower minimum yield of 40 units overall would be recommended to accommodate all the infrastructure concerns that still apply to this site.
40. The development concept achieves a gross density of 27 dwellings per hectare and shows a range of typologies including duplexes and detached dwellings with lot sizes predominantly 260-280m² in area and a few entrance sections over 300m². Vehicle access to the site will be from the currently unformed portion of Quentin Drive and a pedestrian access is also proposed through to Alison Street via an existing right-of-way as per the original scheme.
41. There is no open space shown in the draft concept plan.
42. This application also relies on the provision of an onsite stormwater solution (wetland/flood storage) which is shown in the northern end of Quentin Drive and is owned by the Council. The applicant intends to seek the Council's approval to commence a road-stopping process in order to achieve this stormwater solution.
43. Council staff will need to determine, through evaluating the information provided, whether there is sufficient information available to identify that the sub-catchment can be adequately serviced with stormwater infrastructure to allow urban development across both sites, and before recommending as an SHA.
44. The applicants will work with the Council on a Stage 1 PDA in respect of these obligations, including the identification of any new or upgraded infrastructure required as a consequence of more detailed assessment.

Other matters

45. **Private Developer Agreements**

46. Section 16 of the HASHAA requires the Minister has certainty that adequate infrastructure to service the qualifying development in the proposed SHA either exists or is likely to exist, having regard to the relevant local planning documents, strategies and policies.
47. In accordance with Clause 19 of the SHA Policy, if a proposal is accepted in principle, Council will enter negotiations with the applicant to secure adequate infrastructure to service the site. This will be achieved through a Stage 1 PDA between Council and the proponent before recommendation to the Minister.
48. The clauses set out in the PDA will depend on the information provided by the applicant at this stage and the level of confidence the Council has that there is or will be adequate infrastructure provided to service the development at no cost to the Council either now or into the future.
49. An initial review of the EOIs received shows there are infrastructure requirements for three waters – water, wastewater and storm water, and both sites will need a PDA to secure adequate infrastructure to service these sites at no cost to the Council. In the case of Quentin Drive (Enlarged Proposal), given the expansion of the original SHA, this will mean an update to the existing signed PDA.

50. **Affordability component**

51. In line with Clause 15 g) of the updated SHA Policy, the applicants will need to demonstrate in their PDA that 10% of the yield will be sold at 90% of the Hamilton average house value as measured by QV. Other affordability requirements are that the 10% of dwellings must be built on their own exclusive fee simple titled sections and be sold on the open market to a first home buyer.

52. In the case of Endeavour Avenue, the applicants (Housing New Zealand) will need to demonstrate what model of social rental or affordability is to be proposed. Their specific affordability requirements will be secured in the PDA to ensure they are met.
53. In accordance with the SHA Policy, once a full evaluation has been undertaken, the proposals will be reported back to the Council and if accepted, delegated authority will be sought for the Chief Executive to finalise negotiations with the applicant and sign the PDA.
54. **Inter-relationship with District Plan and consenting process**
55. Establishing SHAs is essentially the first of two legislative steps required in terms of realising development.
56. Once SHAs are approved by the Council and subsequently recommended by the Minister, resource consent for 'qualifying developments' need to be lodged with the Council before the partial repeal of the HASHAA on 16 September 2019.
57. Establishing SHAs is enabling; however, it does not guarantee an increase in housing in itself. This process relies on private developers coming forward with their QD application before the partial repeal of HASHAA.
58. **Urban Design**
59. The level of design detail received for EOIs at this stage is confined to concept level only. Subsequent infrastructure constraints or detailed plans will likely mean the layout will change between now and the time of applying for a QD consent.
60. Applications for resource consent for QDs would be required to address more detailed matters such as building height controls, amenity and design standards for bulk and location to avoid possible adverse effects on existing residential properties in neighbouring zones (such as shading or loss of privacy), and to promote good design outcomes.
61. These design expectations are reinforced in Section 34(1) (e) of the HASHAA which requires applications to be assessed against the Ministry for the Environment's Urban Design Protocol.
62. It is important to note that changes in design, siting and layout at QD stage and the need for additional soft infrastructure by way of parks, reserves or open spaces may result in a lower yield than first stated in the EOI. Previous SHAs have reduced their yield before recommendation to the Minister to make allowance for this.
63. **Public Feedback**
64. Whilst HASHAA is silent on public consultation prior to recommendation to the Minister, the Council is still required to meet the criteria for good decision making as set out in Part 6 of the LGA 2002. The SHA Policy simply requires that consideration be given to whether feedback is necessary and – if so – to what extent.
65. Public feedback was sought on the previous Quentin Drive SHA; therefore, it is recommended that feedback is sought on this second stage EOI, as well as for the Endeavour Avenue EOI, which is a higher density than the District Plan provides for in a general residential zone.
66. Staff recommend a minimum feedback period of four weeks (20 working days) on Endeavour Avenue and Quentin Drive (Enlarged Proposal). This includes a targeted mail out and opportunity to submit on the Council's 'Have Your Say' webpage.
67. All feedback will be reported back to the Council on 29 April to help make an informed decision on whether to recommend an SHA proposal to the Minister.
68. Attachment 2 to this report sets out the proposed mailout area for each EOI.

69. **NPS-UDC**

70. For those EOIs that propose residential development on existing industrial employment land, both Clause 15c) of the Council's SHA Policy and the Hamilton Housing Accord require that consideration is given to the Council's ability to meet its statutory requirements to provide for both residential and employment land under the NPS-UDC.
71. The Council has previously accepted residential development in this industrial location for Quentin Drive; Endeavour Avenue already has existing general residential zoning.

Next Steps

72. Staff recommend proceeding to seek public feedback on the two sites identified in Attachment 1 and evaluating the EOIs in accordance with HASHAA and Section 18 of the approved SHA Policy.
73. For those sites that meet SHA Policy criteria requirements, including certainty around infrastructure servicing in accordance with Section 16 of HASHAA, staff recommend taking a report back to Council on 29 April 2019 for recommendation to the Minister, subject to a PDA where necessary.
74. If a SHA is recommended to the Minister, it then goes through a number of formal channels outlined below, taking approximately 10-12 weeks. This process has taken considerably longer than this for Round 1 SHAs currently with MHUD.
- MHUD assessment and advice to Minister (briefing)
 - Minister signs off briefing to recommend an Order in Council (or not) (NB timing for this depends on Minister's workload)
 - MHUD prepares draft Cabinet paper and issues drafting instructions to Parliamentary Counsel Office
 - Minister's office reviews Cabinet paper and undertakes ministerial consultation (10+ days)
 - Feedback to MHUD and changes made to Cabinet paper
 - Minister submits paper to Cabinet Office Legislative Committee
 - Legislative Committee approves/declines Cabinet paper (ie approves the Order in Council or not)
 - Publication of Order in Council/regulations in NZ Gazette
 - Regulations come into effect (generally 28 days after publication in the Gazette).
75. If the Minister gives approval to the SHA proposal, an order is made in Council for sites to be formally established.
76. As previously noted, the MHUD has set a tight timeframe of 30 April 2019 by which to receive all further EOIs before the HASHAA is partially repealed. To meet this timeframe, consultation, all further technical review and a PDA will need to be completed before a report can be taken back to Council with a recommendation.

77. An Extraordinary Council meeting has been scheduled for 29 April 2019. Should the Council approve the EOIs in Attachment 1 for evaluation and public feedback, an indicative timeline is as follows:

- | | |
|--|----------------------|
| • Public feedback sought (20 working days) | 18 March to 12 April |
| • EOI Assessment and draft PDA | March/April |
| • SHAs recommended to Council | 29 April |
| • Sent to MHUD | 30 April |
| • Government assessment (estimated) | May/July |
| • QD applications received by the Council | August onwards* |
| • HASHAA partially repealed | 16 Sept 2019 |

* this is up to the applicant

Financial Considerations

78. **SHA evaluation costs**

79. In accordance with Section 22 of the approved SHA Policy, once an SHA proposal is lodged with Council, all Council staff time and other consultant costs required to evaluate SHA proposals are cost recoverable.

Risks

80. Even if the Council meets their 30 April deadline, the MHUD cannot guarantee they will be able to process and approve the applications for a QD to be lodged before 16 September, as they will need to prioritise others received from across the country.

81. At this stage, at least one EOI will need further consultant review and PDA negotiations and preparation, which takes additional time and adds complexity; this also involves additional cost to the applicant. The time issue may impact of the ability to report to the Council on 29 April 2019, which is the last day before the MHUD's deadline of 30 April 2019.

82. Public feedback was sought on previous SHAs; if opportunities for public feedback are not offered during evaluation of Round 2 EOIs prior to the Council decision making and subsequent recommendation to the Minister, this may expose the Council to the undue legal risk resulting from the absence of a clearly defined, consistent and transparent approach to assessing applications for SHAs.

Legal and Policy Considerations

83. The legal and policy considerations arising from this report have been detailed in the discussion section (paragraphs 19–20).

Cultural Considerations

84. In evaluating each EOI, staff will consider the likely impact on the community, recognising Maaori culture values and their relationship to land and water.

Sustainability Considerations

85. When assessing each EOI, staff will consider whether it impacts positively or adversely on the quality of the environment and the foreseeable needs of future generations living in Hamilton.

Significance & Engagement Policy

Significance

86. Staff considered the following factors under the Significance and Engagement Policy:
- The level of financial consequences of the proposal or decision required.
 - The portion of the community affected by the proposal or decision.
 - The likely impact on the community, recognising Maaori culture values and their relationship to land and water.
 - The proposal affects the level of service of a significant activity (including commencing or ceasing an activity or involves transfer the ownership or control of strategic assets.
 - Community interest is high.
87. Based on these factors, staff have assessed that the evaluation and consideration of SHAs received is of high significance.

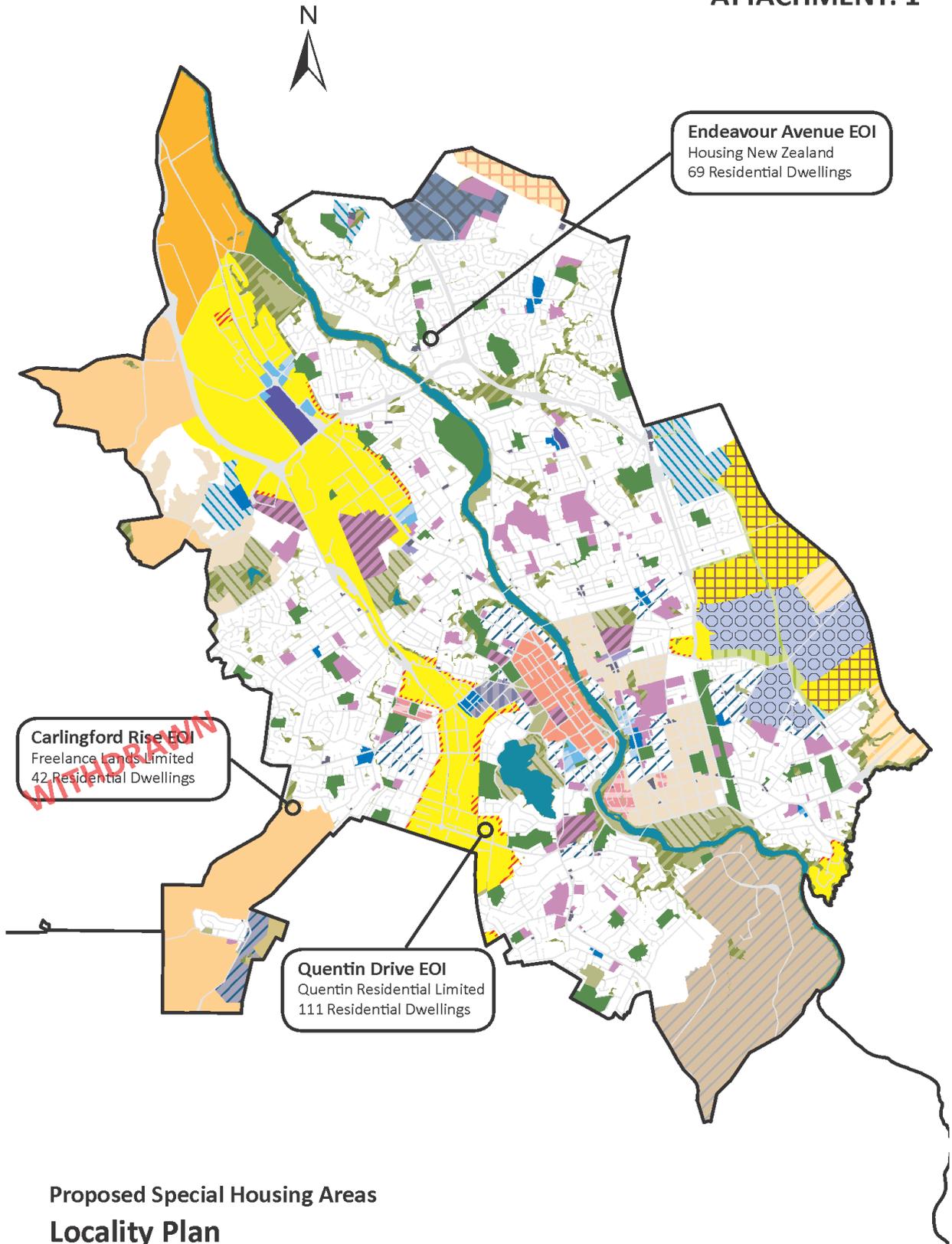
Engagement

88. Given the high level of significance, staff recommend a public feedback period of 20 working days for the two EOIs detailed in this report.

Attachments

Attachment 1 - SHA Round 2 Locality Plan

Attachment 2 - Proposed Targeted Consultation Plan



Proposed Special Housing Areas
Locality Plan



Endeavour Avenue EOI

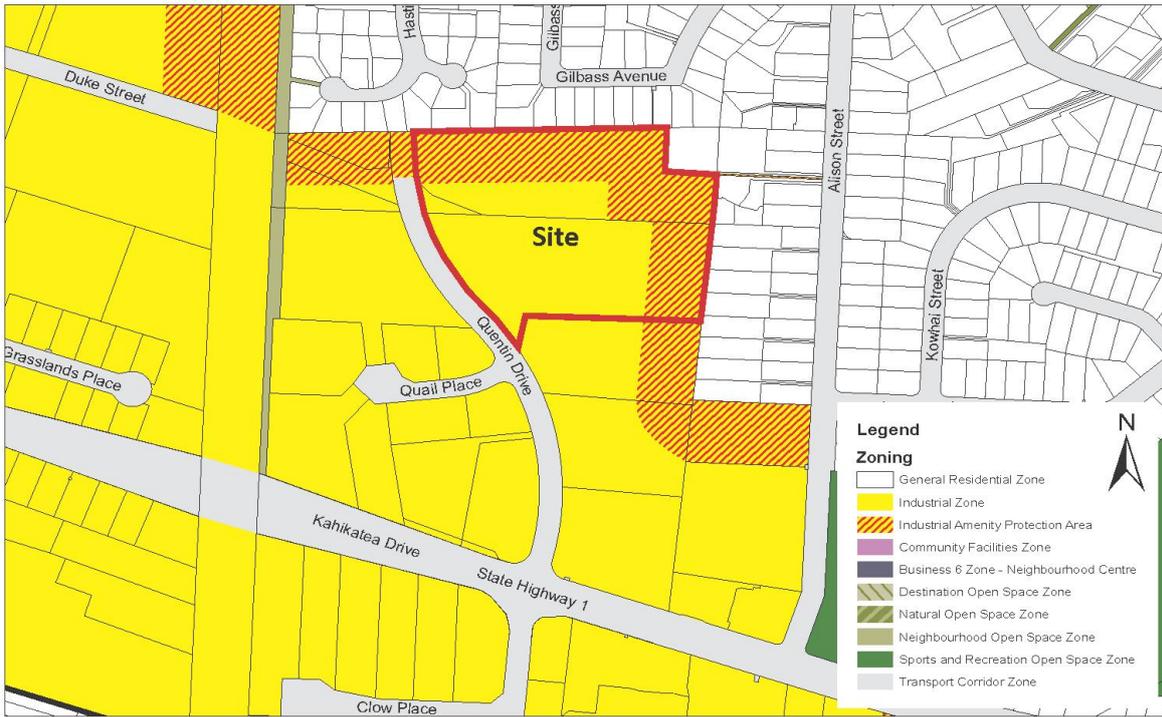
Applicant = Housing New Zealand

Area = 2.11ha

Total Residential Dwellings = 69

Operative District Plan Zoning = General Residential





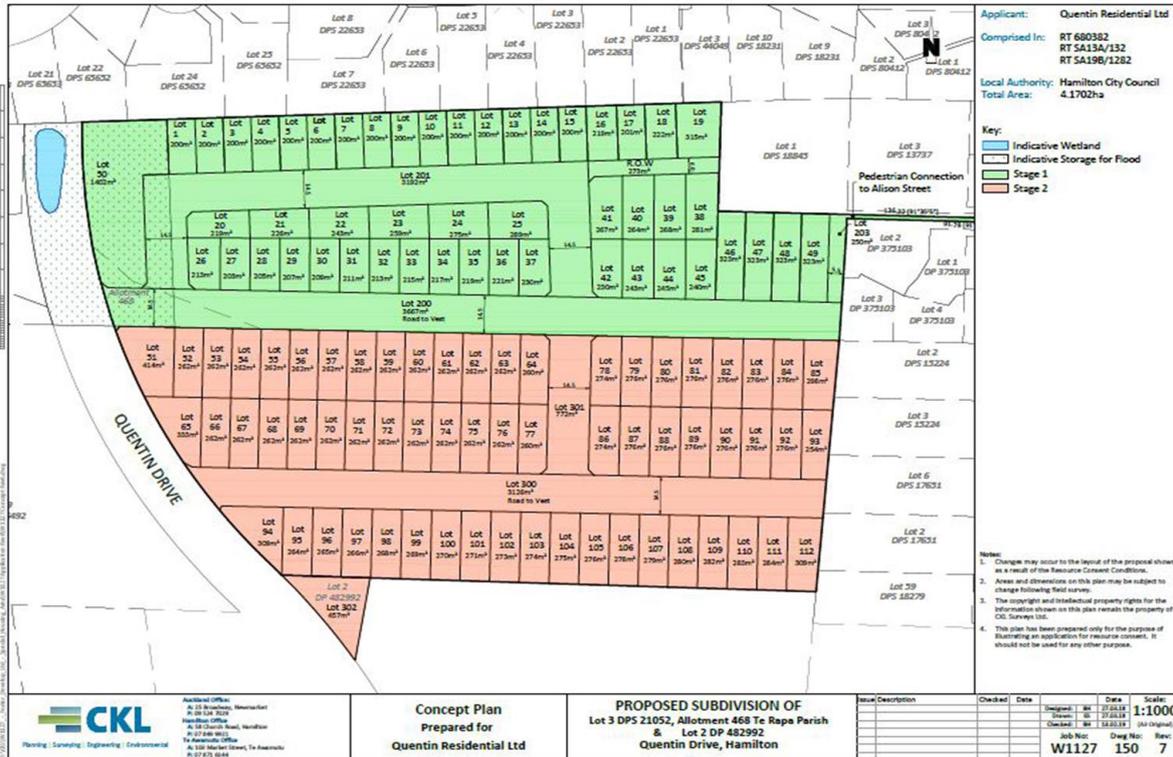
Quentin Drive EOI

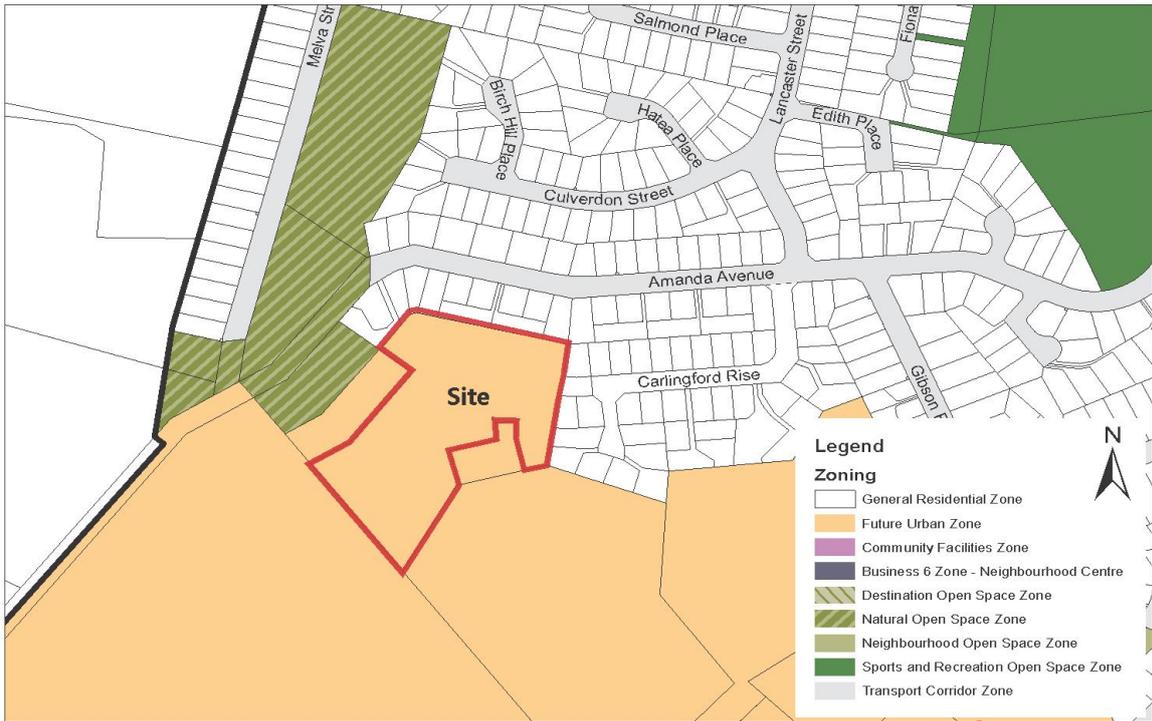
Applicant = Quentin Residential Limited

Area = 4.2ha

Total Residential Dwellings = 111

Operative District Plan Zoning = Industrial

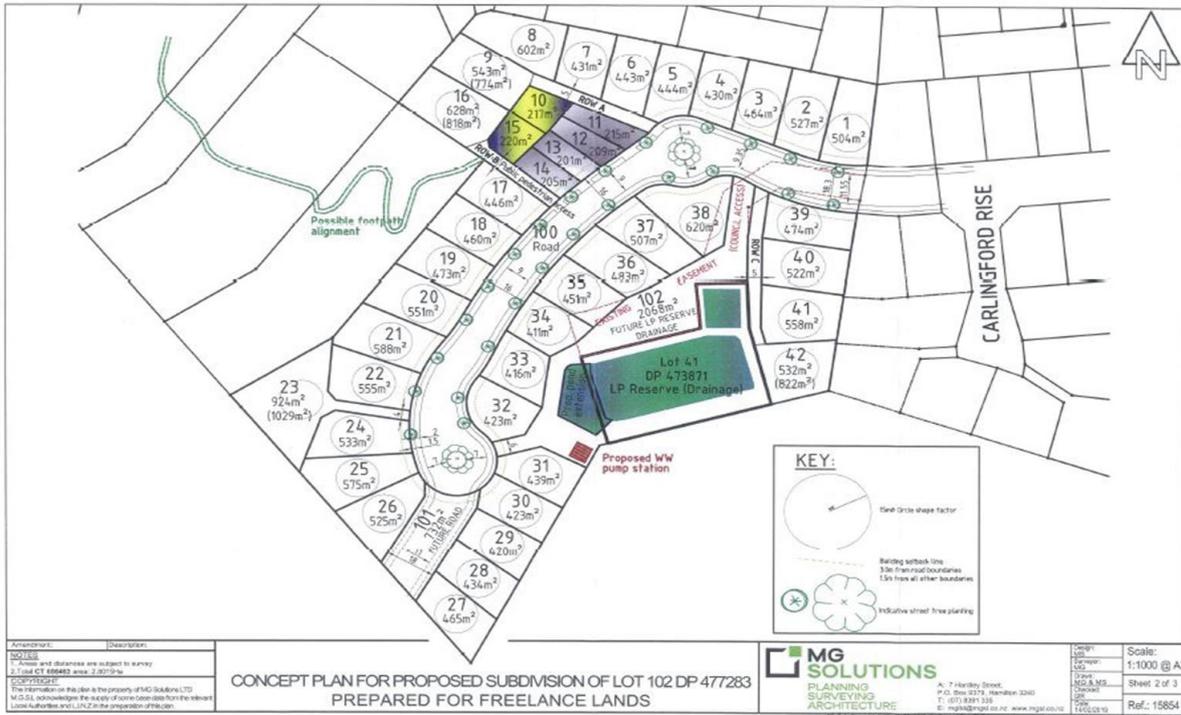




Carlingford Rise EOI

Applicant = Freelance Lands Limited
 Area = 2.11ha
 Total Residential Dwellings = 42
 Operative District Plan Zoning = Future Urban

WITHDRAWN



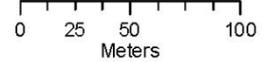


KEY

- Endeavour Ave SHA Site
- Proposed sites to be notified



SIS & CAD Services

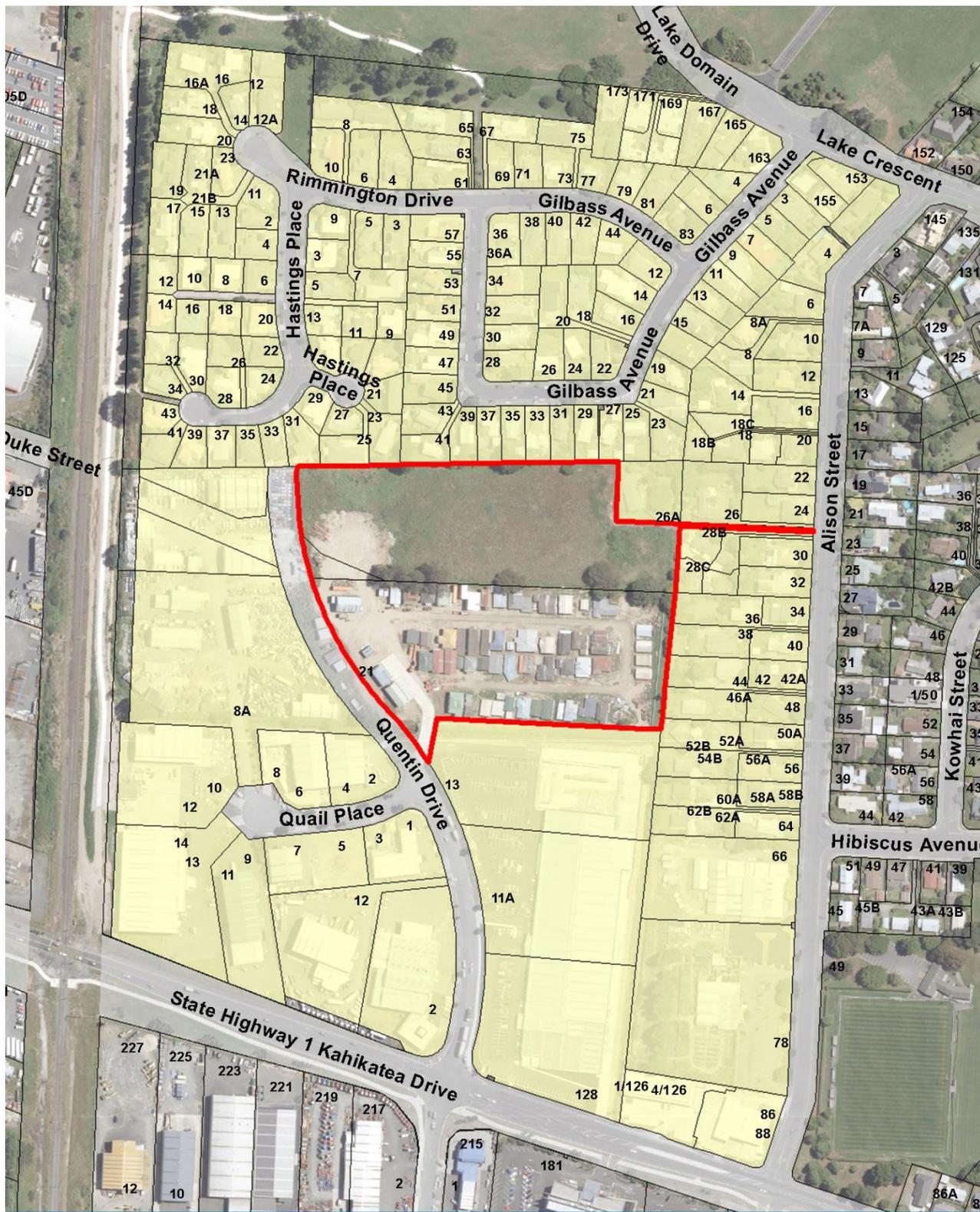


Attachment: 2

ENDEAVOUR AVE
 SPECIAL HOUSING AREA
 PROPOSED NOTIFICATION

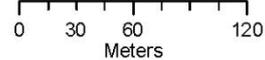
version

1



KEY

- Quentin Drive SHA Site
- Proposed sites to be notified



Attachment: 2

QUENTIN DRIVE

SPECIAL HOUSING AREA

PROPOSED NOTIFICATION

version

1



SIS & CAD Services

Council Report

Committee: Council **Date:** 14 March 2019
Author: Luke O'Dwyer **Authoriser:** Jen Baird
Position: City Planning Manager **Position:** General Manager City Growth
Report Name: Prioritisation of upcoming District Plan Changes

Report Status	<i>Open</i>
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Purpose

1. To inform the Council of the City Planning Unit's Plan Change program.
2. To seek approval from the Council for staff to begin work on three of these changes.

Staff Recommendation

3. That the Council:
 - a) receives the report; and
 - b) requests staff begin work on the following plan changes to the District Plan:
 - i. Heritage and Character;
 - ii. Te Rapa North – Deferred Industrial Zone; and
 - iii. Removal of development plan provisions.

Executive Summary

4. The Hamilton City District Plan became fully operative in October 2017 after a comprehensive review that began in 2010.
5. The completion of the District Plan review project has provided a platform to enable the future growth of Hamilton. Despite this, its finalisation did not mean that all planning provisions for the city were settled in perpetuity.
6. Since making the plan fully operative, new growth issues, development opportunities and changes in legislation have necessitated further changes to the District Plan. As such, several changes to the District Plan are already underway or are planned, and others are on the horizon.
7. This report sets out the prioritisation for these changes and seeks the Council's approval to start work on three of them.
8. Staff will seek the Council's approval to notify the proposed plan changes and formally commence Resource Management Act 1991 (RMA) processes at a later date. Only the Council can resolve to publicly notify a plan change, and only once notified will the direction set out in the plan change have legal or regulatory effect under the formal RMA processes.

9. Financial resources for delivering the proposed plan changes exist within the City Planning Unit budget over the life of the current 10-Year Plan, with the exception of the full amount for the ICMP for Te Rapa North Plan Change outlined in
10. Staff consider the decision in this report is of low significance and that the recommendations comply with the Council's legal requirements.

Background

11. At the Council meeting of 11 October 2018, the Council resolved that a possible Heritage and Character Plan Change be deferred until staff complete a review and prioritisation of all known plan changes, to be reported back to the Council by March 2019.

What is a plan change?

12. The RMA explicitly provides for amendments to district plans to respond to changes in circumstances; it provides a mechanism known as a 'plan change' to ensure city and regional planning documents can anticipate and respond to the developments that normally occur in cities across New Zealand.
13. A plan change is a public process requiring research, evaluation and consultation. It can be initiated by the Council or by members of the public (through a private plan change). Examples of possible plan changes include:
 - the rezoning of land
 - the addition of a building to the schedule of heritage buildings
 - amendments to rules.

14. Why do councils undertake plan changes?

15. The RMA requires the provisions in district plans to be reviewed every 10 years. However, it is best practice for district plans to be subject to ongoing monitoring and review, as recently done through the Regulatory Effectiveness and Efficiency Programme (REEP) or to respond to emerging issues or new development opportunities (such as Te Awa Lakes).

16. What does the plan change process involve?

17. The RMA outlines the plan change process that we are required to follow. Consultation and community involvement, including pre-consultation, notification, submission and hearing processes, are important steps in the plan change process.

18. What are the steps in the plan change process?

19. The plan change process is codified in the RMA and follows a series of important steps which are summarised below:
 - Initial issue identification and pre-consultation process.
 - Plan change and section 32 report assessing costs and benefits produced.
 - Plan change and section 32 approved by the Council for public notification.
 - Public notified for submissions (20 working days).
 - Public notification of summary of submissions for further submissions (10 working days).
 - Hearings.
 - Public notification of decisions.
 - Appeals (30 working days to lodge).
 - Settlement of appeals.
 - Plan change becomes operative.

City Planning Plan Change Programme

20. The District Plan is a living document and changes are required of it from time to time. A number of changes are already underway or are planned, and others are on the horizon.
21. Attachment 1 to this report provides a high-level summary of each plan change in the City Planning Plan Change Programme, including estimated costs relating to preparing plan changes for notification and hearings, but not including the appeals process. Each proposed change has a different driver and purpose. They have been categorised and prioritised as follows:
- **A – Private Plan Changes** – the Council must either accept, adopt or reject applications for private plan changes. (Currently, there is only one private plan change in our programme – the Te Awa Lakes Private Plan Change. The Council resolved to accept this plan change, and to notify it, in September 2017; it is currently on hold.)
 - **B – Plan Changes already supported by Council Resolutions** – already approved by Council to proceed with work (Peacocke 1 and 2; Temple View Boundary Alteration; REEP simple plan change)
 - **C – previously reported to Council, but now requiring approval from the Council** to begin work (Heritage and Character; Te Rapa North Deferred Industrial Zone; removing Development Plans from the District Plan)
 - **D – upcoming changes that are not currently being worked on but are in the pipeline** and are nonetheless on the radar. (These include a mix of changes, including the National Planning Standards, which is a legislative requirement that will need to be implemented in the next 5 years; the Rotokauri North Private Plan Change; the more complex recommendations arising from the REEP; and potential rezoning because of SHAs being granted).
22. The following section provides more detail on plan changes that fall in to category C and require a decision from the Council to proceed.

Plan Changes where decision is sought from the Council to proceed

23. **Heritage and Character**
24. Two reports on this matter were tabled at Council meetings in 2018. It has been identified as part of the City Planning work program during the formulation of the current 10-Year Plan.
25. The purpose of this plan change is to give effect to directions contained in the Hamilton Heritage Plan ('Heritage Plan') and to address priority heritage and character matters that need amending in the District Plan.
26. In 2016, the Council completed and adopted the Heritage Plan. It has five goals, associated actions and deliverables, including reviewing and updating the heritage and character components of the District Plan.
27. Since originally tabling those two reports, staff have been reviewing the parameters of a scaled back version of a heritage and character plan change that focuses on the elements which would provide the most value for Hamilton.
28. By way of background, Heritage New Zealand Pouhere Taonga ('HNZ') released its report 'National Assessment – resource management Policies and Plans, Heritage provisions' in December 2018. This is the result of a national survey of all RMA plans and policy statements undertaken every three years. The report identified keys areas that need to be strengthened nationwide through the provisions in district plans:
- Development pressures
 - Identification and protection of Maaori heritage.

29. Following consideration of this report, staff consider there are three specific areas that should be reviewed through a proposed plan change to ensure the District Plan continues to achieve the requirements under the RMA and the expectations of HNZ. Staff consider it most prudent to undertake a review of:
- *The objectives, policies and methods for the protection of heritage within Chapter 19 – Historic Heritage.* There is an opportunity to provide greater clarity and certainty by amending provisions in Chapter 19 to provide for alternatives to demolition and re-location (such as transferable development rights), and to assist decision makers when evaluating whether to protect and avoid the further loss of existing heritage listed buildings. Making amendments to planning provisions in Chapter 19 is considered to be more effective and would be significantly cheaper than embarking on the inclusion of further buildings onto the District Plan’s heritage schedule.
 - *The existing provisions for the Central City to provide further guidance for new development to consider the area’s unique character –* consideration of the Central City area’s unique character consists of both heritage and character buildings that together provide a cohesive street character, one that is arguably the most important in Hamilton. The scoping work undertaken to date (presented at a Councillor Briefing 2017) has identified key elements of what could be considered ‘Victoria Street Character’. The next phase of the work, as part of this plan change, is to engage with the owners, key stakeholders and the community on the character of this area, workshop the preliminary scoping works already undertaken, and strengthen existing planning provisions to enable new developments, or the redevelopment of existing buildings, to consider the character elements that make the area unique.
 - *How the District Plan presently achieves Council’s obligations to protect Maaori Heritage –* HNZ has identified a ‘overall lower standard of regulation nationwide for Maaori Heritage in comparison with scheduled built heritage’. Maaori Heritage is ‘central to New Zealand’s unique identity’; it is New Zealand’s earliest heritage and relates to both physical places and the knowledge and stories of those places. Heritage places include historical sites, ancestral places, tribal landmarks, cultural landscapes as well as built heritage features such as marae structures, church buildings and monuments. Hamilton’s District Plan already addresses Maaori Heritage through the protection of archaeological sites. However, it is important to ensure best practice is applied in the protection of all aspects of Maaori Heritage, to protect places of significance to Iwi and reflect the values of Maaori Heritage set out in HNZ’s Maaori Heritage Council’s ‘2017 Statement on Maaori Heritage, Tapuwae’. At present the District Plan heritage schedule includes waahi tapu sites identified in investigations in the late 1990s and during the District Plan review during the period 2010-2012. Since that time, staff have become aware that there are potentially more sites of Maaori heritage that warrant investigation and potential inclusion in the District Plan.
30. The proposed consultation associated with the plan change will consist of targeted and general consultation. The following groups, related to the three key areas of the plan change, are:
- Central city owners and occupiers
 - Iwi
 - Owners of heritage listed sites.
31. It is also important to consult with the general public, as the protection and management of Hamilton’s heritage is a city-wide matter. This could be achieved through an open day. In terms of project timeframes, it is envisaged that financial year 2018/2019 would include consultation and research activities and financial year 2019/2020 would include preparation and notification of the plan change.

32. **Amendments to Development Plan provisions**

33. Development Plans are used as the 'blueprint' for the integrated development of the larger areas that may be incrementally developed. In the District Plan, development plans take several forms and terminology, such as 'Comprehensive Development Plans', 'Master Plans', 'Concept Plans', 'Land Development Plans' or 'Concept Development Plans'. While each of these development plans is subtly different, the commonality arises with each requiring the consent of a plan to allow future activities, and the activity status to be determined on whether a development plan exists or not.
34. Presently this tool is used throughout Hamilton to manage the development of 'greenfield' areas. The administrative issues associated with development plans has been identified in the REEP and this is a plan change arising from those investigations.
35. The Council has already resolved to address development plans in the Temple View Boundary Alteration and Peacocke 1 plan changes. The plan change proposed in this report would address the issue of development plans across the rest of the city.
36. The RMA sets out the principles regarding what activities may be applied for through the resource consent process. Recent decisions of the Environment Court regard the use of 'development plans' as being *ultra vires*.¹ In particular, the case law raises doubt as to the vires of an activity status for a particular activity being determined by whether or not a land use consent (i.e. for a 'development plan') had been previously issued.
37. Because of this case law, there is the potential for the District Plan's existing development plan provisions to be *ultra vires*. Accordingly, to avoid any doubt as to the vires of the District Plan's provisions, there needs to be a full examination of the specific planning provisions against the principles and the matters raised in the case law.
38. The process will enable the Council to provide solutions where they are required and to confirm those provisions that are not affected to remain. The plan change will need to review all the development plan provisions to determine whether there is a vires issue or not and to provide solutions or remove any provisions that could offend the RMA.

39. **Te Rapa North Deferred Industrial Zone**

40. The purpose of this plan change is to bring more land to market for industrial growth in Hamilton.
41. Council has received two reports (on [6 September 2018](#) (Item 12) and [13 December 2018](#) (Item 11)) on the need to progress the rezoning of deferred land in the Te Rapa North area.
42. As noted in the September report, there has been strong demand and uptake of industrial land in Hamilton in recent years. The level of supply has not kept pace with the level of demand for industrial properties. This trend of tightening conditions in the industrial property market is evident in the two annual market measures of industrial vacancy rates provided by CBRE NAI Harcourts and Bayleys Research.
43. As noted in the September report, this issue is also related to the Council's approval on 26 June 2018 of the Te Awa Lakes Special Housing Area, which, if approved by the Government, would result in the loss of 51ha of industrial-zoned land to housing.

¹ *Queenstown Airport Corporation Limited & Ors v Queenstown Lakes District Council* [2014] NZEnvC93; *Re: Auckland* [2016] NZEnvC56; and *Re: Auckland* [2016] NZEnvC65.

44. A plan change to accelerate the release of deferred industrial land in Te Rapa North would involve:
- conducting a stocktake of existing studies and any existing plans for the area
 - undertaking archaeological and cultural assessments of the area
 - undertaking a three waters Integrated Catchment Management Plan (ICMP) for the local catchment
 - undertaking indicative scoping and budget estimate for strategic infrastructure to service the area
 - formal RMA plan change process, including S32 cost benefit analysis, to create an indicative structure plan and zoning change to enable industrial land use in the area
 - consultation with iwi partners and other relevant stakeholders.
45. It is important to note that the Te Rapa North area of Hamilton is currently an unfunded growth cell with no new three waters or transport infrastructure provided for in the current 10-Year Plan.
46. As such, any large-scale growth proposal or plan change requires a detailed understanding of infrastructure needs and impacts. It is important that an integrated approach is taken to ensure the infrastructure necessary to support the growth is planned and provided, and that the costs and implications on the wider infrastructure network are taken into account during the development of this plan change.
47. Despite these challenges, there are opportunities to partner with large land owners in the Te Rapa North area to explore cost-recovery arrangements for technical investigations necessary to support the plan change, and to prepare a developer agreement(s) in accordance with HCC's Growth Funding Policy for consideration by Council prior to any decision to notify the structure plan.

Options

48. Staff have assessed that for each plan change where a decision is sought to proceed, the only other option viable available to the Council is to not proceed with this work.
49. If the Council decides not to proceed with some, or all, of the plan changes seeking approval in this report, it would mean the issues being sought to be addressed in each plan change would either not be dealt with or would simply be deferred.

Risks

50. The risks of not progressing each plan change would mean:
- for Te Rapa North Deferred Industrial Zone – potentially delaying the ability for the Council to assist in bringing more industrial land to market.
 - for Heritage and Character – important parts of Hamilton may potentially not be protected.
 - for Development Plans – ongoing administrative matters cannot be resolved.

Financial Considerations

51. Financial resources for delivering the proposed plan changes exist within the City Planning Unit budget over the life of the current 10-Year Plan, with the exception of the full amount for the ICMP for Te Rapa North Plan Change as outlined below.

52. For the Te Rapa North Deferred Industrial Zone Plan Change, the estimated costs are:

Technical Studies	Estimated Cost
Cultural study	\$10,000-\$20,000
Archaeological assessment	\$10,000-\$20,000
Landscape assessment	\$10,000-\$20,000
Land value and industrial viability/feasibility report	\$10,000-\$20,000
Integrated Catchment Management Plan (ICMP)	To be determined through cost-sharing investigations, but could be approximately \$600,000
Traffic assessment	\$50,000 (approx)
TOTAL	\$730,000 (approx)

53. For the Heritage and Character plan change, the estimated costs are:

Technical Studies	Estimated Cost
Archaeological expertise	\$40,000
Heritage expertise	\$30,000
Urban design modelling and testing	\$25,000
Consultation	\$5,000
TOTAL	\$100,000

54. For the Development Plans plan change, the estimated costs are:

Consultants	Estimated Cost
Legal fees	\$25,000
TOTAL	\$25,000

Legal and Policy Considerations

55. There are no legal policy considerations arising from this report. If the Council decides to support the recommendations in the report, each plan change will follow standard RMA compliance issues and will require a further report to the Council to seek approval for notification.

Cultural Considerations

56. The RMA requires the Council to recognise and provide for the relationship of Maaori and their culture and traditions with their ancestral land, waters, sites, waahi tapu and other taonga (section 6(e)).
57. Once work starts on a plan change, staff will follow the process is set out in Schedule 1 of the RMA and the Waikato Tainui and Hamilton City Council Joint Management Agreement 2012.
58. The Council must consult with tangata whenua who may be affected including by providing a draft of the plan change and having particular regard to the advice received from the iwi authority (Waikato-Tainui). The Section 32 report must summarise all advice reviewed from iwi authorities and the response to that advice.
59. The RMA also requires local authorities to take into account any relevant planning documents recognised by an iwi authority, which in this case is the Waikato-Tainui Environmental Management Plan.

Sustainability Considerations

60. Sustainability considerations, where applicable, will be taken into account for each plan change during preparation and reporting back to Council prior to notification.

Significance & Engagement Policy

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

Engagement

62. If the Council resolves to proceed with preparing the three plan changes outlined in this report, detailed engagement and consultation in accordance with the RMA will be required prior to notification.

Attachments

Attachment 1 - Upcoming Plan Changes - Prioritisation

Upcoming plan changes – prioritisation

Category	Plan change	Comments / status	Total cost over financial years 18/19, 19/20, 20/21 (estimated)	Notification date (estimated)	Hearings date (estimated)
A – Private Plan Changes	Te Awa Lakes	21 Sept 2017 – accepted by Council resolution #9 Currently on hold	Cost recoverable (after notification)	1 Nov 2017	TBD
B – Council resolutions	Peacocke 1	11 Oct 2018 – Council resolution #16 to prepare plan change	\$330,000	Oct 2019	March 2020
	Peacocke 2	“		Oct 2019	June 2020
	REEP (simple)	7 Feb 2019 – Council resolution #10 to prepare plan change	\$250,000	Early June 2019	Nov 2019
	Temple View Boundary Alteration	7 Feb 2019 – Council resolution #5 to publicly notify	\$50,000	27 Feb 2019	May 2019
C – No resolution (but previously reported to Council)	Heritage and Character	Previously reported at: <ul style="list-style-type: none"> EM briefing on 30 Nov 2017 (Victoria Street South scoping study) Council Meeting 2 August 2018 (see pp 93-97) EM briefing on 13 Sept 2018 (interrelationships with both the Central City River Park and the Waikato Regional Theatre) Council report 11 October 2018, recommending deferral to March 2019 (in conjunction with prioritisation report) 	\$90,000	Feb 2020	June 2020
	Te Rapa North – Deferred Industrial Zone	Previously reported on 6 Sept 2018 (Item 12) and 13 December 2018 (Item 11). The need for this plan change arose from the Council’s recommendation of the SHA at Te Awa Lakes, which would result in the loss of 51ha of industrial-zoned land to housing.	\$730,000	Mar 2020	Aug 2010
	Development Plans	Tidy up of development plans in Rotokauri and Rototuna, Ruakura and Te Rapa North, ie development plans that are not being dealt with in other plan changes (Peacocke 1, Temple View Boundary Alteration)	\$25,000	Dec 2019	April 2020
D – Upcoming	Rotokauri North PPC	Private plan change – must undertake	Cost recoverable	May 2019	Aug/Sep 2019
	National planning standards	Legislative requirement – coming in April 2019, but 5 years to implement Includes e-plan	To be determined (TBD)	TBD	TBD
	REEP (more complex)	Recommendations from the REEP that require more technical work, ie are too complex to be included in the simple plan change (see B above)	Currently being scoped to notify in 2019	TBD	TBD
	SHA rezoning	Re-zoning land as residential that has been granted SHA status	TBD	TBD	TBD

D-2883422

Council Report

Item 16

Committee: Council **Date:** 14 March 2019
Author: Andy Mannering **Authoriser:** Lance Vervoort
Position: Social Development Manager **Position:** General Manager Community
Report Name: Management of Te Rapa Sportsdrome

Report Status	<i>Open</i>
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Purpose

1. To inform the Council on the outcome of further exploration to outsource the management of Te Rapa Sportsdrome.
2. To seek the Council's approval for the management of Te Rapa Sportsdrome to continue to be delivered in-house, by Hamilton City Council.

Staff Recommendation

3. That the Council:
 - a) receives the report; and
 - b) approves retaining the management of Te Rapa Sportsdrome in-house by Hamilton City Council.

Executive Summary

4. At the 6 September 2018 Council Meeting it was requested that staff continue to explore options to outsource the management of Te Rapa Sportsdrome and report back to the Council.
5. Further exploration was undertaken with the Rototuna Indoor Recreation Centre Trust and Pukete Neighbourhood House for the management of Te Rapa Sportsdrome. Both organisations have declined the opportunity due to financial viability.
6. Staff consider the matters in this report to have a low significance and that the recommendations comply with the Council's legal requirements.

Background

7. Te Rapa Sportsdrome has been owned and operated by the Council since 2005 when ownership was transferred from Te Rapa Sportsdrome Incorporated to the Council.
8. At this time the Council confirmed that the Sportsdrome would operate as a multi-sport facility and allowed Pukete Neighbourhood House to establish itself within the building.
9. Since 2005 the Council has managed the facility and bookings for the indoor recreation hall alongside community occupancy leases.
10. In 2007 some alterations were made by the Council to the building to accommodate the administration needs of Pukete Neighbourhood House.

11. At the request of Council, staff investigated the option of a long-term management lease for Te Rapa Sportsdrome during 2017.
12. A Request for Proposal process was used to test the market and two tenders were received. A preferred vendor, Community Leisure Management Ltd. (CLM) was selected and a business case was prepared and presented to Council on 12 December 2017.
13. At the 12 December 2017 Council meeting, it was resolved that the contract be awarded to CLM and that existing user bookings be protected under the new agreement.
14. Further negotiations with CLM following Council's requirement to protect existing bookings long term resulted in a revision of CLM's financial analysis and the terms of their original proposal.
15. At the 6 September 2018 Council Meeting ([Agenda](#), [Minutes](#)), it was resolved:

"That the Council:

 - a) approves that no further action be taken by the Chief Executive in respect of Contract 17104b, management lease of Te Rapa Sportsdrome, with Community Leisure Management; and*
 - b) notes that management will continue to explore other options to outsource the management of the facility and report back to Council by March 2019."*
16. Staff have provided existing users and Pukete Neighbourhood House with assurance of continued use of Te Rapa Sportsdrome until 30 June 2019, to allow time for the Council to decide on the next steps.

Discussion

17. Following the Council's decision in September 2018, staff considered further alternative options, specifically whether a community trust would be an option for management of the facility.
18. Rototuna Indoor Recreation Centre Trust and Pukete Neighbourhood House have done their own investigation into taking on a long-term management of the Sportsdrome.
19. These further investigations have demonstrated that the same issues identified by CLM during the tender process remain a constraint. It is therefore not a financially viable proposition for either community trust to take on the management of the facility.
20. Given the current lack of interested parties to manage Te Rapa Sportsdrome, staff recommend the Council continue to manage and book the facility for the community.
21. The Council's usual community occupancy application process would apply to expired and expiring lease agreements. Recommendations for any new lease will be brought back to a future Community, Services and Environment Committee for approval.
22. The 2014 Waikato Regional Sports Facilities Plan recommended that Hamilton maintain and where possible optimise existing indoor recreation facilities.
23. As part of the 2018-28 10-Year Plan, the Council has provision to enter a partnership with the University of Waikato for an additional indoor recreation facility. Te Rapa Sportsdrome's place within the city's indoor recreation network will in part be determined by this project.
24. In the meantime, staff will continue to work with existing users and tenants to optimise the use of this facility and to explore possible future management options.

Legal and Policy Considerations

25. Staff confirm that this matter complies with the Council's legal and policy requirements.

Risks

26. Several organisations have a long history of utilising Te Rapa Sportsdrome which means any significant change from the existing operational model could result in some community dissatisfaction.

Cultural Considerations

27. No cultural considerations have been identified relevant to the matters in this report.

Financial Considerations

28. Staff recommend retaining the management of Te Rapa Sportsdrome in-house so there are no changes to the current 10 Year Plan budget.

Significance & Engagement Policy**Significance**

29. Having considered the Significance and Engagement Policy, staff have assessed that the matters in this report are of a low significance. This means that the Council can decide on this report without the need for further consultation.

Engagement

30. There is no need to engage with the wider public on this report, however in developing a lease agreement for the Council to consider, the community will be given an opportunity to engage further with the Council.

Attachments

There are no attachments for this report.

Council Report

Committee: Council **Date:** 14 March 2019
Author: Dan Finn **Authoriser:** David Bryant
Position: People, Safety & Wellness **Position:** General Manager Corporate Manager
Report Name: Safety and Wellness Performance Update

Report Status	<i>Open</i>
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Purpose

1. To inform the Council on our health and safety performance and key safety matters, as part of our obligations under the Health and Safety at Work Act to demonstrate good governance and exercise due diligence.
2. The People, Safety and Wellness Manager will present a verbal update in support of this report and the corresponding attachment.
3. The Safety and Wellness Audit and Risk Report – March 2019 is attached to this report.

Staff Recommendation

4. That the Council:
 - a) receives the report; and
 - b) notes that the Council's safety performance is steady, and several pro-active initiatives are being deployed to support our high-performance culture through improved work practices and mindsets.

Background

5. The People, Safety and Wellness Team continue to work closely with managers and workers to improve safe behaviours and mindsets to drive a high-performance culture. Knowing that systems, processes and procedures form an important part of our Safety Management System (SMS), we also know that connecting people to our purpose and helping them understand why we do things, also keeps our people safe.
6. To support the ongoing development and investment in a Safe and Just Culture we are further developing our SMS with accompanying frameworks to help improve our standards of safety performance as well as simplifying our focus, so that it can be easily understood and applied across teams in a way that is more inclusive. Following the disestablishment of the ACC Partnership Programme, our SMS will now be aligned with the new international standard for Health and Safety, ISO 45001. This standard has recently been adopted in New Zealand and Australia and provides an important benchmark for us to achieve from an assurance perspective, but equally from an engagement perspective.

7. Working towards the implementation of ISO45001 will help guide some of our health and safety work programmes for the next six months (and beyond), providing frameworks and principles to ensure a consistent and effective approach to create a safe and supportive place of work, assisting with our aspiration in becoming an employer of choice and a great and safe place to work.
8. Increasing workload and peak demands across business units are likely to impact on our people. Focussed workstreams in combination with increased safety conversations with employees and management will bring about a sustained change in performance and help promote a just safety culture, which should underpin everything we do.

Attachments

Attachment 1 - Safety & Wellness Audit and Risk Report - March 2019



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Executive Summary

Overview

The development and introduction of a Safety Management System (SMS) with accompanying frameworks is the focus for the Safety Team for the next six months. The SMS will be aligned with the new international standard for Health and Safety, ISO 45001. This standard has recently been adopted in New Zealand and Australia.

Working towards the implementation of ISO45001 will provide the outline for the Health and Safety work programme for the next six months (and beyond). This programme will provide the frameworks and principles to ensure a consistent and effective safety system that creates a safe place of work and assists Council in becoming an employer of choice.

There are several important highlights from this report, which include:

- A significant reduction in the number of Lost Time Injuries
- A significant decline in the reporting of near hits
- Radio Telephone (R/T) coverage impacted by blackspots
- Inconsistent health monitoring across business units in relation to known exposures

Safety & Wellness Audit and Risk Report – March 2019

Attachment 1

Safety Performance – Year to Date 1 July – 31 January 2018/19

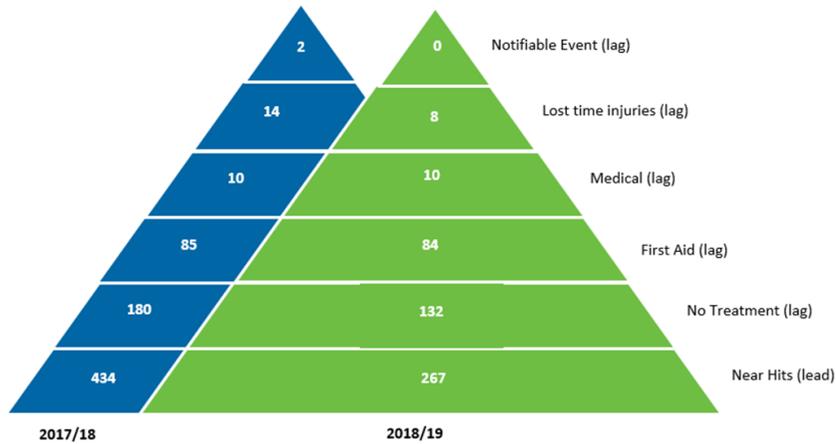


Figure 1: Performance Indicators for events reported 1 July – 31 Jan 2017/18 and 1 July – 31 Jan 2018/19

Lost Time Injuries By Month

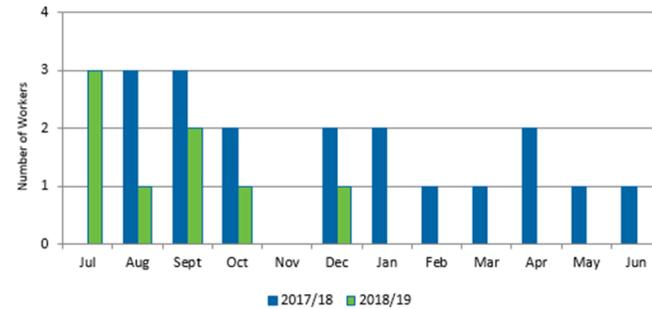


Figure 3: Lost time injuries by month 2017/18 and 2018/19 Year to Date

Total Recordable Injury Frequency Rate

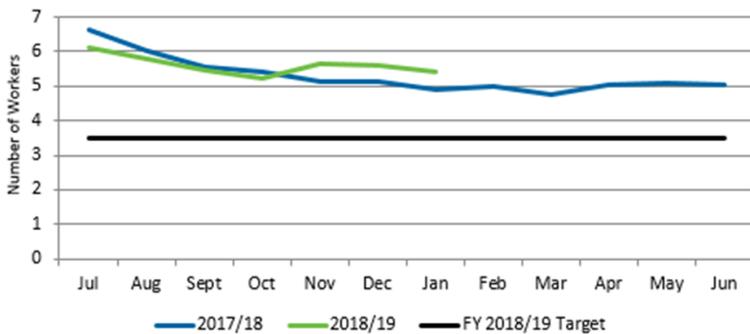


Figure 2: Total recordable injury frequency rate per 200,000 work hours

Lost Time Injury Frequency Rate

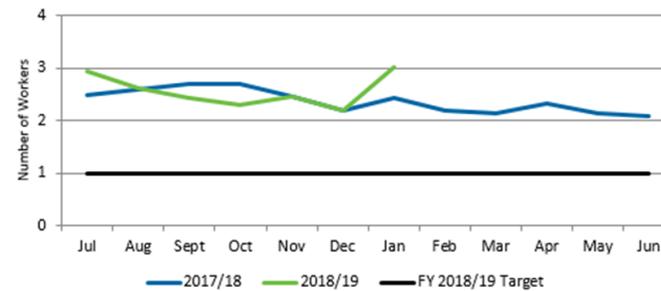


Figure 4: Lost time injury frequency rate per 200,000 work hours

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Safety & Wellness Audit and Risk Report – March 2019

Health and Safety Trends

A review of our data in Vault shows that there are issues relating to coding, bulk loading of events and data entered/alterd after the report cut off dates, which continues to have an impact on data reliability and integrity.

This is being addressed by revising access levels for Vault users and introducing a triage process for Safety Event Management as part of the SMS.

Looking at our key performance metrics we can see that they remain mostly static but are subject to seasonal peaks and workloads. Additionally, syncing issues have occurred between and payroll system, translates the total number of hours worked into Vault, resulting in an understatement of hours worked, thus skewing the frequency rates for LTIFR and TRIFR, as seen on the previous graphs. This is currently being addressed.

In future reports, a trend line will be incorporated to indicate rates over time, rather than single monthly peaks, which doesn't tell the whole picture.

Notifiable Events

There have been no notifiable events reported to WorkSafe between 1 November to 31 January 2019.

Lost Time Injuries

Between 1 November to 31 January 2019 we recorded one lost time injury, compared to four for the same period last year. Our current LTIFR is 3.03 per 200,000 work hours verses our target of 1.0.

Date	Department	Description and Findings
8 Dec 18	H3 Turf services	Staff hit on the side of head by a cricket ball from a cricket game being played. Team leader sat staff down in the shade and assessed him immediately. Team medics treated him immediately and passed concussion test and monitored by a staff member. Team leader took staff to A &E early hours of the morning, he was admitted into hospital for a brain scan, next morning he was able to go home. Three days off to recover from 11/01/19. Team leader to discuss importance of taking cover if a ball is hit in their direction, being aware of activity on the field and warning others if a ball is hit in their direction.

Table 1: Lost time injury 1 Nov to 31 Jan 2019

Medical Treatment and First Aid Injuries

Between 1 November to 31 January 2019 we recorded five medical treatment injuries and 41 first aid injuries. Our current TRIFR is 5.42 verses our target of <3.5.

Safety & Wellness Audit and Risk Report – March 2019

Near Hit Reporting

Between 1 November to 31 January 2019 we recorded 84 near hits.

We continue to encourage near hit reporting, however we need to provide feedback on all events to reporters. Vault currently does not provide this automatic facility and will be discussed with the provider. Lower levels of near hit reporting may be related to lower engagement levels as employees have not seen the follow up and learnings from events.

Audits, monitoring and reviews

To improve our level of safety assurance across Council we are looking to introduce a refreshed Safety Assurance Framework based on three lines of defence. This is being developed as part of the SMS and will provide safety assurance for both corporate and operational safety activities.

The three lines of defence are:

1. the first line of defence – Team leaders oversee and verify compliance audits
2. the second line of defence – Managers implement the SMS
3. the third line of defence – Internal and External audit of the SMS functions to provide independent assurance

The three lines of defence safety assurance is attached as Appendix A.

Between 1 November to 31 January 2019 there were 127 health and safety audits carried out, made up of 44 manager audits and 83 worksite/ contractor audits.

We also carried out 239 safety observations, providing workers and managers with an opportunity to have positive safety conversations as well as addressing any unsafe practices.

Site Visits – Emerging Issues

Mark Wagstaffe and Karin Barclay undertook site visits to Council sites over January. Two emerging issues have been identified following these visits.

1. Health monitoring as required under the HSWA has not been fully embedded and is not consistently being applied. General health checks do not meet this requirement as the monitoring must be specific to the hazard, subsequent risk identified, and the correct personal protective equipment provided. Safety Advisors are working with business units to ensure the necessary monitoring is being undertaken.
2. The radio telephone (R/T) network is subject to blackspots within the CBD and the wider Hamilton area. These blackspots are currently being mapped. R/T's are used by many business units as part of their control strategy for hazards related to lone working and dealing with aggressive and/or violent people. The R/T's are used as an emergency communications device but due to these blackspots cannot be considered as a reliable means of communications for summoning assistance when required. Investigations are underway to map the blackspots across the city with a view to installing additional transmitters on council owned assets.

Worker Participation and Engagement

In January City Delivery held a welcome back day, the aim of this day was to raise awareness of Health and Safety as workers return to work following their summer holiday. It was aimed at assisting staff back into work mode; remind them of the need to manage their work life balance and their physical work environment. Additionally, it also provided awareness and understanding by all staff as to what some of council's high-risk activities are. City Parks will be holding a similar day with their staff in March.

Safety & Wellness Audit and Risk Report – March 2019

Engagement with Regulatory Agencies

Regular meetings are held with WorkSafe to discuss emerging issues, case law and WorkSafe initiatives. The next meeting is to be held in March. The safety team has developed an effective working relationship with the Hamilton Branch. This includes notification to us of observed issues.

Engagement with other organisations

The health and safety team leads have visited Auckland Transport and Sanford Fisheries to discuss models for worker engagement in diverse organisations, including implementation of Wellness programmes in complex settings.

The purpose of these visits is to widen our scope outside of local government and to learn and benchmark ourselves against private sector organisations to lift our safety performance and challenge ourselves to do better.

Key Health and Safety Initiatives

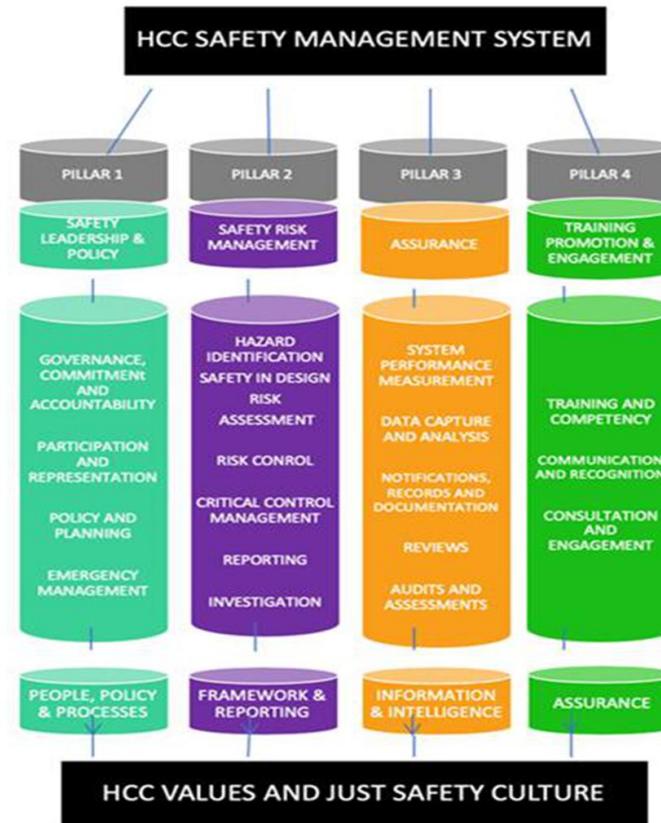
Health and Safety Management System

The Safety Team is focussed on the refreshing of the Safety Management System (SMS) based of four pillars of Safety Management, which are closely aligned to our established Health and Safety Roadmap

The work programme will initially focus on three work streams:

1. Safety Risk Management (including the refinement of the Safety Risk Matrix that will provide a focus on critical risks).
2. Safety Assurance
3. Safety Event Management and Learnings

The four pillars of the SMS are outlined as follows.



Safety & Wellness Audit and Risk Report – March 2019

Attachment 1

- Provide assurance to our duty holders that hazards have been identified and risks are being effectively controlled, so far as is reasonably practicable
- Support a consistent approach to managing safety risks effectively
- Support better collaboration
- Provide a rational and systematic basis for decision making and resource allocation.

The SMS will:

- Establish how Council maintains a safe and healthy workplace and addresses Councils obligations under the Health and Safety at Work Act (HSWA) 2015
- Take into account the Councils risk profile, core functions, services and activities.
- Set a safety standard for Council and other Persons Control Business Undertaking (PCBU's) working with Council.
- Support integration of key standards to promote the achievement of a just safety culture.

Benefits across Council include:

Employees of the Council

- Greater focus on preventing harm
- Personnel exposed to less safety risk due to consistent, high safety standards applied to the design and planning of work
- Consistent expectations for working safely across the Council
- Capability building and training that is specific to role and risks

Business Units

- Alignment of existing systems allows for consistency across operations and easier exchange of safety risk intelligence
- Greater assurance that we are meeting our legal obligations
- Inclusion of safety elements in tender criteria
- A consistent approach to making risk-based decisions

Council Partners and Contractors

- Consistent expectations for risk management
- Improved access to safety risk information
- Clear expected standards for safety performance reporting
- Safety in design from the start and throughout project lifecycle
- A framework for consultation, cooperation and coordination

Safety Leaders, Duty Holders

- A governance framework that describes how officers and duty holders enact their safety obligations
- A systematic basis for resource allocation and decision making
- Prioritisation and investment based on safety risk and performance data
- Assurance that hazards have been identified and risks are being effectively controlled, so far as is reasonably practicable

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Safety in Design

Elements of Safety in Design are included in aspects of project management within Council. As part of the establishment of the SMS, a framework for Safety in Design will be developed to ensure the consistent application of the requirements across all areas of Council activity.

Health and Safety Reporting System - Vault

Version 3 of Vault is now available in our testing environment. Testing is being undertaken to ensure that Vault aligns with the requirements of the SMS. Discussions with other Vault users are underway to ensure that three workstreams can be captured and managed efficiently.

Wellness Programme – WorkWell

A WorkWell working group has been established consisting of 15 members from across the organisation, with members of the group receiving a comprehensive introduction to WorkWell. A group Vision and Terms of Reference has been drafted with a staff survey to be completed. This will help to identify staff's perceptions and behaviours relating to their current wellbeing and to determine which priority wellbeing areas they would like to make improvements in.

Training and Competency

Work has commenced with the Organisational Development (OD) Lead to refresh and consolidate our training using a blended learning approach. This will include e-learning modules and a more focussed classroom learning experience for key safety stakeholders, particularly those with a direct health and safety role. A focus of this training will be to ensure that Health and Safety Representatives have the knowledge and competence to be safety champions across the organisation.

COURSES PROVIDED BETWEEN Nov-Jan	NUMBER ATTENDED
Mental Health First Aid – Duke Street	37
Aging Positively in the Workplace	10
Intercultural Awareness	9
Looking After Yourself (Wellness).	11
Refresher Warrant Officer Training	39
Melanoma Awareness	68
Health and Safety Representative Training	12
Vulnerable Children's Act	58
Bullying and Harassment Awareness & Prevention – Duke Street	31

Table 2: Health, Safety and Wellness training completed Nov- Jan 2019

People, Safety and Wellness update

Mark Wagstaffe our new Health and Safety Assurance Lead commenced his role on the 14th January. Mark was previously Deputy Director Safety Risk and Assurance with the New Zealand Defence Force.

Safety & Wellness Audit and Risk Report – March 2019

Health and Wellbeing

Bullying and Harassment Monitoring

Reporting of incidents relating to alleged bullying and harassment occurrences are captured and categorised by:

- Peer support contact (early intervention)
- Informal reports (investigated internally)
- Formal reports (investigated externally)

	Peer Support	Informal Reports	Formal Reports
Total for period 1 September to 31 October 2018	0	3	0

Table 3: Harassment and Bullying

Employee Assistance Program (EAP)

For the period 1 November – 31 January 2019 there were 46 cases handled through EAP, which is down eight from the previous reporting period. Most of

these cases continue to be through self-referrals and relate to work and non-work stressors and personal relationship issues.

EAP Use	1 Aug – 31 Oct 2018	1 Nov – 31 Jan 2019
New Cases	27	21
Reopened Cases	4	6
Pre-existing cases seen during period	23	19
Total Cases	54	46
Contact Hours for the Period	103	65
Average Hours per Client	2	1.7

Table 4: EAP Usage * NOTE reporting period set by EAP

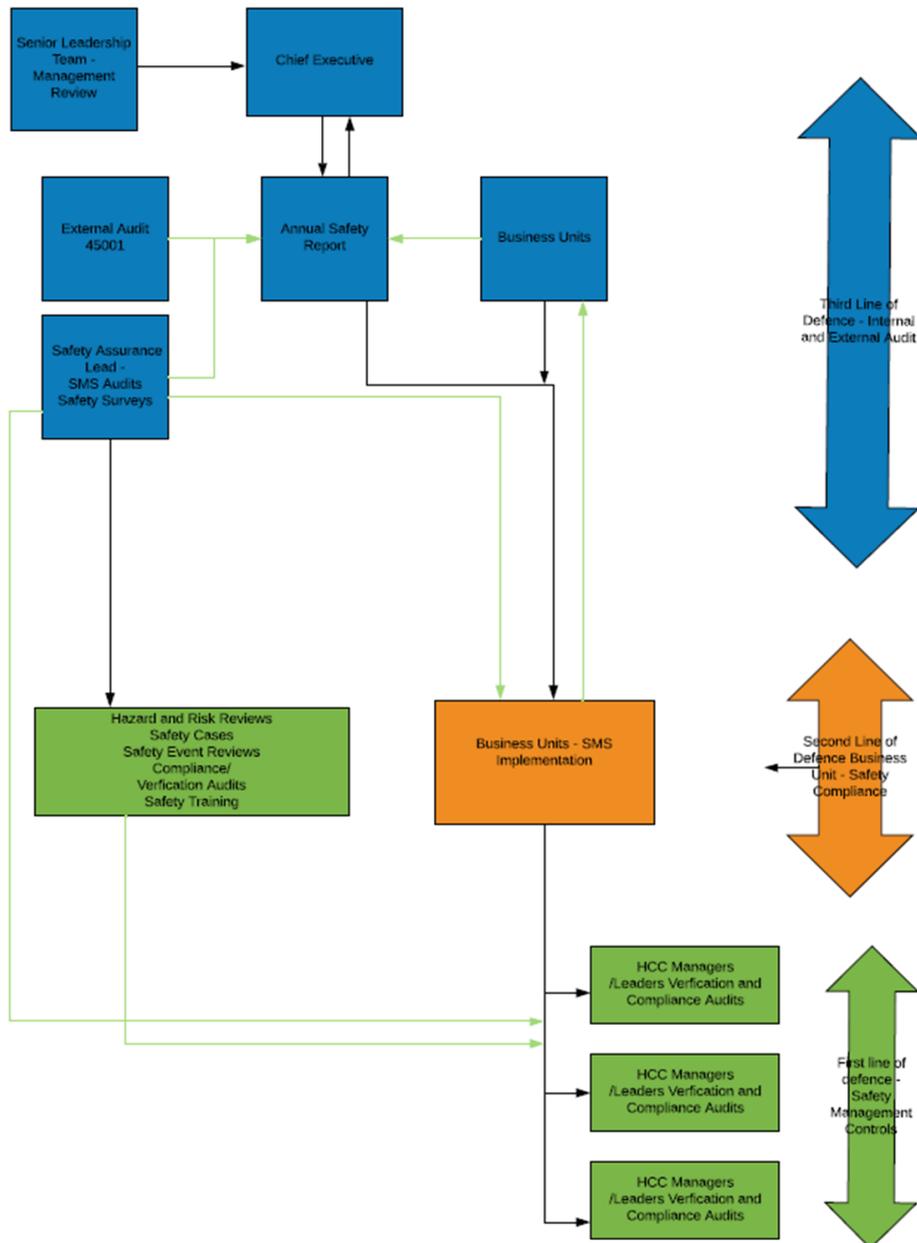
In Summary

Our safety performance is steadily improving; however, this may be affected by increasing workload and peak demands across business units. The focussed workstreams in combination with increased safety conversations with workers and management will bring about a sustainable change in performance and promote a just safety culture.

Safety & Wellness Audit and Risk Report – March 2019

Three Lines of defence – Appendix A

The three lines of defence safety assurance model is outlined below.



Item 17

Attachment 1

Council Report

Committee: Council **Date:** 14 March 2019
Author: Lee-Ann Jordan **Authoriser:** David Bryant
Position: Governance Manager **Position:** General Manager Corporate
Report Name: Review of Standing Orders

Report Status	<i>Open</i>
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Purpose

1. To seek approval of the revised Hamilton City Council Standing Orders.

Staff Recommendation

2. That the Council adopts the draft Standing Orders as set out in Attachment 2 of this report as Hamilton City Council's Standing Orders from 15 March 2019.

Discussion

Context

3. The purpose of both the current and proposed Standing Orders is to enable Hamilton City Council to exercise its decision-making responsibilities in a transparent, inclusive and lawful manner for the benefit of its residents.
4. Standing Orders are the rules governing the conduct of proceedings for meetings of a council and its committees.
5. All councils are required to adopt and operate within a set of standing orders (clause 27 Schedule 7 of the Local Government Act 2002).
6. Standing Orders are reviewed and updated as needed, typically once each triennium.
7. Governance staff have reviewed the Council's current Standing Orders that were adopted on 27 March 2014 and are proposing a significant number of changes. The changes are intended to ensure the document remains relevant and to make it easier to understand both the intent and the application of provisions.
8. On 13 December 2018, the Council resolved to defer consideration of the Standing Orders until the meeting on 14 March 2019 to ensure sufficient time for Elected Members to review a draft document and provide feedback.
9. An initial draft of the updated Standing Orders was emailed to Elected Members at the end of 2018 for review and comment.
10. In February 2019, a session was held with Elected Members to discuss the initial draft and receive their feedback. A number of other feedback mechanisms have been offered to Elected Members to provide opportunities to discuss proposed changes and potential alternatives, and to provide comments.

11. Standing Orders serve an important local democracy function by facilitating an effective environment for good governance. Whilst acknowledging this, staff have assessed the matters in this report under the Significance and Engagement policy and consider that the matters in this report have a low level of significance.
12. Staff also confirm that the recommendations comply with the Council's legal requirements.

Explaining the proposed changes to Standing Orders

13. There are two attachments to this report: Attachment 1 with comments reflecting Elected Member feedback, and Attachment 2 which is a clean version of the same document (i.e. without comments).
14. The updated Standing Orders (attached to this report) has been drafted using the LGNZ template and reflects Governance's view of best practice meeting management and conduct across the sector.
15. Governance has paid particular attention to provisions that the team and Elected Members have identified as problematic or confusing during the course of the current triennium, as well as opportunities to address gaps or ambiguities in the current Standing Orders.
16. **The proposed changes include:**
 - a. plain-languaging of the document
 - b. reformatting and better cross-referencing within the document to improve navigation and readability
 - c. updates to current clauses to improve clarity of meaning and application
 - d. new clauses including selected sections of the LGNZ template to address gaps in the current version of Standing Orders
 - e. Removal of attachments no longer relevant.
17. Governance has responded to Elected Member feedback requesting clarification of points with updated wording and this is shown in the document **in red text**.
18. Conflicting feedback from Elected Members is shown in the document in comment boxes to ensure visibility of differing points of view.
19. Staff recommend adoption of the revised Standing Orders, as set out Attachment 2 of this report, to take effect the day after today's meeting, that is from 15 March 2019.
20. If revised Standing Orders are not approved by the Council, the current Standing Orders of 27 March 2014 will continue to apply.

Financial Considerations

21. The cost of reviewing the Standing Orders is in Governance staff time and is funded through the 10-Year Plan as a business as usual function of the Council. The cost to design the final version of the proposed Standing Orders, if approved, is expected to be under \$500, also funded through the 10-Year Plan.

Legal and Policy Considerations

22. All councils are required to adopt and operate within a set of standing orders (clause 27 Schedule 7 of the Local Government Act 2002).
23. Staff confirm that the recommendation in this report complies with the Council's legal and policy requirements.

Cultural Considerations

24. The opportunity has been taken in reviewing Standing Orders to take some steps towards better reflecting the Council's commitment to Te Tiriti o Waitangi. This includes the introduction a Maaori welcome, some Maaori terms and an easing of the requirements on people choosing to present to the Council and committees in Te Reo Maaori.
25. Further opportunities to support a Te Ao Maaori worldview within the Chamber will be explored with the Amorangi Maaori, Elected Members, Maangai Maaori and other externally appointed committee members in the next triennium.

Sustainability Considerations

26. There are no substantial sustainability considerations; Standing Orders are available to Elected Members, staff and the public electronically via the Hamilton City Council website.

Risks

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

Significance & Engagement Policy

Significance

28. 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

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

Attachments

Attachment 1 - Revised Draft Standing Orders - with comments

Attachment 2 - Revised Draft Standing Orders - clean version

Hamilton City Council

Standing Orders

Ngaā tino ture-aa-hui



Adopted on:



He Mihi

He hoonore he kororia ki te Atua

He maungarongo ki te whenua

He whakaaro pai ki ngaa taangata katoa

E mihi ana ki a Kiingi Tuuheitia e pupuru ana i te Mana Motuhake

Ka mihi ki te Koromatua me toona kaunihera e poipoi ana i te manawa o

Kirikiroa

Ki a koutou katoa ngaa mana me ngaa maunga koorero

Teena koutou, teena koutou, teena taatou katoa.

We acknowledge the creator of all things

May his peace cover the land, with goodwill to all

We acknowledge the keeper of Mana Motuhake King Tuheitia

We acknowledge the Mayor and councillors as sentinels of the city

To all that hold the rich heritage of great city

We acknowledge you all.

Teena koutou, teena koutou, teena koutou katoa.

E whakawhiti atu ai i te koopuu maania o Kirikiriroa

*Me oona maara kai, te ngaawhaa whakatupu ake o te **whenua** moomona*

Across the smooth belly of Kirikiriroa

Its gardens bursting with the fullness of good things.

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1. Introduction

All councils must adopt standing orders for the conduct of their meetings and the meetings of any subordinate bodies, (clause 27 Schedule 7 of the Local Government Act 2002).

The purpose of the Standing Orders is to enable Hamilton City Council to exercise its decision-making responsibilities in a transparent, inclusive and lawful manner for the benefit of Hamiltonians.

Standing orders are a means to enable both the orderly conduct of Council meetings and Council committee and subcommittee meetings, and an effective environment for good governance decision-making. They contain rules for the conduct of the proceedings of the Council and all subordinate decision-making bodies, and the conduct of members.

All members of the Council or any Council committee or subcommittee whether elected or appointed must abide by the standing orders.

These standing orders fulfil the requirements of the Local Government Act 2002 and the Local Government Official Information and Meetings Act 1987 with regard to the conduct of meetings.

1.1 Principles

Standing orders are part of the framework of processes and procedures designed to ensure that our system of local democracy and in particular, decision-making within local government, is transparent and accountable. They are intended to give effect to the principles of good governance, which include that a local authority should:

- conduct its business in an open, transparent and democratically accountable manner;
- give effect to its identified priorities and desired outcomes in an efficient and effective manner;
- make itself aware of, and have regard to, the views of all its communities;
- take account, when making decisions, of the diversity of the community, its interests and the interests of future communities as well;
- ensure that any decisions made under these standing orders comply with the decision-making provisions of Part 6 of the LGA; and
- ensure that decision-making procedures and practices meet the standards of natural justice.

These are reinforced by the requirement that all local authorities act so that “governance structures and processes are effective, open and transparent” (s. 39 LGA 2002).

1.2 Statutory references

The Standing Orders combine statutory provisions with guidance on their application. Where a statutory provision has been supplemented with advice on how it might be implemented, the advice is distinguished from the relevant legislative reference.

Standing Orders use the following acronyms:

LGA 2002	Local Government Act 2002
LGOIMA	Local Government Official Information Act 1987
LAMIA	Local Authority Members' Interests Act 1968

1.3 Application

For the removal of any doubt:

- these standing orders do not apply to workshops, briefings or meetings of working parties and advisory groups.
- during a meeting any statutory references in the standing orders apply throughout the period of the meeting, whether or not parts or all of the Standing Orders have been suspended. These provisions must also be carried through into any amendment of the standing orders that might be made. Please note, the word 'must', unless otherwise stated, identifies a mandatory legislative requirement.
- whenever a question about the interpretation or application of these standing orders is raised, particularly where a matter might not be directly provided for, it is the responsibility of the Chairperson of each meeting to make a ruling. The Chairperson may at any time seek the advice of the Governance Advisor, Chief Executive, or Principal Advisor to make a ruling.

2. Definitions

Adjournment means a break in the proceedings of a meeting. A meeting, or discussion on a particular business item, may be adjourned for a brief period, or to another date and time

Advisory group means a group of people convened by a local authority for the purpose of providing advice or information that is not a committee or sub-committee. These Standing Orders do not apply to such groups. This definition also applies to workshops, working parties, working groups, panels, taskforce groups, forums, portfolio groups, briefings and other similar bodies.

Agenda means the list of items for consideration at a meeting together with reports and other attachments relating to those items in the order in which they will be considered. It is also referred to as an 'order paper'.

Amendment means any change of proposed change to the original or substantive motion.

Audio visual link means facilities that enable audiovisual communication between participants at a meeting when one or more of them is not physically present at the place of the meeting.

Briefing means in the context of these standing orders, a gathering of elected members to consider matters of importance to the local authority at which no decisions are made and therefore these standing orders do not apply. Briefings may include non-elected members. See definition of "advisory group". Briefings are also described as workshops.

Chairperson means the person presiding at a meeting – the presiding member.

Chief Executive means the Chief Executive of a territorial authority appointed under section 42 of the LGA 2002, and includes, for the purposes of these standing orders, any other officer authorized by the local authority.

Clear working days means the number of working days (business hours) prescribed in these standing orders for giving notice and excludes the date of the meeting and date on which the notice is served.

Committee includes, in relation to a local authority:

- (a) A committee comprising all the members of that authority;
- (b) A standing committee or special committee appointed by that authority;
- (c) A joint committee appointed under clause 30A of Schedule 7 of the LGA 2002; and
- (d) Any subcommittee of a committee described in (a), (b) and (c) of this definition.

Contempt means being disobedient to, or disrespectful of, the chair of a meeting, or disrespectful to any members, officers or the public.

Council means, in the context of these standing orders, the governing body of a local authority.

Electronic link means both an audio and audio visual link.

Commented [BB1]: Remove if section 13 comes out

Extraordinary meeting has the same meaning as defined in cl. 22 of Schedule 7 of the LGA 2002.

Foreshadowed motion means a motion that a member indicates their intention to move once the debate on a current motion or amendment is concluded.

Joint committee means a committee in which the members are appointed by more than one local authority in accordance with clause 30A of Schedule 7 of the LGA 2002.

Karakia timatanga means an opening prayer.

Karakia whakamutunga means a closing prayer.

Lawfully excluded means a member of a local authority who has been removed from a meeting due to behaviour that a Chairperson has ruled to be contempt.

Local authority means in the context of these standing orders a regional council or territorial authority, as defined in s. 5 of the LGA 2002, which is named in these standing orders, and any subordinate decision-making bodies established by the local authority.

Mayor means the Mayor of a territorial authority elected under the Local Electoral Act 2001.

Meeting means any first, inaugural, ordinary, or extraordinary meeting of a local authority and subordinate decision-making bodies of the local authority convened under the provisions of LGOIMA.

Member means any person elected or appointed to the local authority. For clarity, member specifically includes *ngaa Maangai Maaori* (literally 'the voice of Maaori') - representatives appointed to committees of the Council by the Council in partnership with Waikato Tainui and Te Runanga o Kirikiriroa.

Commented [BB2]: Added for clarity.

Mihi whakatau means a brief welcome typically delivered by one person without any further formalities.

Minutes means the record of the proceedings of any meeting of the local authority.

Motion means a formal proposal to a meeting.

Mover means the member who initiates a motion.

Newspaper means a periodical publication published (whether in New Zealand or elsewhere) at intervals not exceeding 40 days, or any copy of, or part of any copy of, any such publications; and this includes every publication that at any time accompanies and is distributed along with any newspaper.

Notice of motion means a motion given in writing by a member in advance of a meeting in accordance with, and as provided for, in these standing orders.

Open voting means voting that is conducted openly and in a transparent manner and may be conducted by electronic means. The result of the vote must be announced immediately as it has concluded. Secret ballots are specifically excluded.

Order paper means the list of items for consideration at a meeting together with reports and other attachments relating to those items set out in the order in which they will be considered. An order paper is also referred to as an agenda.

Ordinary meeting means any meeting, other than the first meeting, of a local authority publicly notified in accordance with sections 46(1) and (2) of LGOIMA.

Petition means a request to a local authority which contains at least 150 signatures.

Commented [BB3]: Increase from 100 to 150.

Powhiri means a formal welcome involving a Karanga from the Tangata Whenua (the home people) followed by formal speech making. A Powhiri is generally used for formal occasions of the highest significance.

Presiding member means the person chairing a meeting.

Procedural motion means a motion that is used to control the way in which a motion or the meeting is managed as specified in standing orders 24.1 – 24.7.

Public excluded information refers to information which is currently before a public excluded session, is proposed to be considered at a public excluded session or had previously been considered at a public excluded session and not yet been released as publicly available information. It includes:

- any minutes (or portions of minutes) of public excluded sessions which have not been subsequently released by the local authority;
- any other information which has not been released by the local authority as publicly available information.

Public excluded session, also referred to as confidential or in-committee session, refers to those meetings or parts of meetings from which the public is excluded by the local authority as provided for in LGOIMA.

Public forum refers to a period set aside usually at the start of a meeting for the purpose of public input.

Publicly notified means notified to members of the public by a notice contained in a newspaper circulating in the district of the local authority, or where there is no such newspaper, by notice displayed in a public place. The notice may also be replicated on a council's website.

Qualified privilege means the privilege conferred on member by s. 52 and s. 53 of LGOIMA.

Quasi-judicial means a meeting involving the consideration of issues requiring the evaluation of evidence, the assessment of legal argument and/or the application of legal principles.

Quorum means the minimum number of members required to be present in order to constitute a valid meeting.

Resolution means a motion that has been adopted by the meeting.

Right of reply means the right of the mover of a motion to sum up the debate and reply to those who have spoken against the motion. (The right can also apply to an amendment.)

Secunder means the member who seconds a motion.

Sub judice means under judicial consideration and therefore prohibited from public discussion elsewhere.

Subordinate decision-making body means committees, subcommittees, and any other bodies established by a local authority that have decision-making authority, but joint committees.

Substantive motion means the original motion. In the case of a motion that is subject to an amendment, the substantive motion is the original motion incorporating any amendments adopted by the meeting.

Substantive resolution means the substantive motion that has been adopted by the meeting or a restatement of a resolution that has been voted on in parts.

Subcommittee means a subordinate decision-making body established by a council, or a committee of a council, local board or community board. See definition of "Committee".

Working day means any day of the week other than:

- (a) Saturday, Sunday, Waitangi Day, Good Friday, Easter Monday, Anzac Day, the Sovereign's Birthday, Auckland Anniversary Day and Labour Day and, if Waitangi Day or Anzac Day falls on a weekend, the following Monday.
- (b) A day in the period commencing with the 25th day of December in any year and ending with the 15th day of January in the following year.

Should a local authority wish to meet between the 25th of December and the 15th day of January in the following year any meeting must be notified as an extraordinary meeting unless there is sufficient time to notify an ordinary meeting before the commencement of the period.

Working party means a group set up by a local authority to achieve a specific objective that is not a committee or subcommittee and to which these standing orders do not apply.

Workshop means in the context of these standing orders, a gathering of elected members to consider matters of importance to the local authority at which no decisions are made and to which these standing orders do not apply. Workshops may include non-elected members. Workshops are also described as briefings.

General matters

3. Standing orders

3.1 Obligation to adopt standing orders

A council is required to operate in accordance with standing orders for the conduct of its meetings and the meetings of its committees and subcommittees. Standing orders must not contravene any Act.

cl. 27(1) & (2), Schedule 7, LGA 2002.

3.2 Process for adoption and alteration of standing orders

The adoption of standing orders and any amendment to standing orders must be made by the Council and by a vote of not less than 75 % of the members present.

cl. 27(3) Schedule 7, LGA 2002.

3.3 Members must obey standing orders

All members of the local authority, including members of committees and subcommittees, must obey these standing orders.

cl. 16(1) Schedule 7, LGA 2002.

3.4 Application of standing orders

These standing orders apply to all meetings of the local authority, its committees, subcommittees and subordinate decision-making bodies. This includes meetings and parts of meetings from which the public are excluded.

3.5 Temporary suspension of standing orders

Any member of the Council, committee, subcommittee or subordinate body may move a motion to suspend standing orders at a meeting of which they are a member. The motion must also include the reason for the suspension. If seconded, the Chairperson must put the motion without debate and at least 75 per cent of the members present and voting must support the motion for it to be carried.

The Chairperson must respond to any questions for clarification of the process or the motion prior to putting a matter to the vote.

cl. 27(4), Schedule 7, LGA 2002.

A motion may also identify specific standing orders to be suspended. In the event of suspension of standing orders in whole or in part, any provisions within standing orders prescribed in statute will continue to apply, such as the quorum requirements.

Commented [BB4]: Addition requested by EM to specify Members' ability to ask questions about the meaning of motion.

3.6 Quasi-judicial proceedings

For quasi-judicial proceedings the local authority may adopt meeting procedures and practices in addition to or in substitution of these standing orders. For example, District Licensing Committee hearings. Resource Management Act hearings.

3.7 Physical address of members

Every member of a local authority, must give to the Chief Executive a physical residential or business address within the district or region of the local authority and, if desired, an electronic or other address, to which notices and material relating to meetings and local authority business may be sent or delivered. Members are to provide their address within 5 working days of the publication of the declaration of the election results.

4. Meetings

4.1 Legal requirement to hold meetings

The local authority must hold meetings for the good government of its city, district or region. Meetings must be called and conducted in accordance with:

- (a) Schedule 7 of the LGA 2002;
- (b) Part 7 of LGOIMA; and
- (c) These standing orders.

A meeting can be adjourned to a specified time and day if required by resolution of the meeting.

4.2 Meeting duration

A meeting cannot continue more than eight hours from when it starts (including any adjournments), or after 10.30pm, unless the meeting resolves to continue. If there is no such resolution any business on the agenda that has not been dealt with must be adjourned, transferred to the next meeting or transferred to an extraordinary meeting.

Commented [BB5]: Increased from six hours.

The Chairperson should ensure that no meeting sits for more than three hours continuously without a break of at least ten minutes, and that meal breaks of at least 45 minutes are provided at appropriate times.

Commented [BB6]: Change to include provision of meal breaks.

4.3 Language

Commented [BB7]: Changes to this section to better align with the other two official languages of New Zealand

A member or a presenter may address a meeting in English, te reo Māori or New Zealand Sign Language. A Chairperson may require any speech to be translated and printed in English or te reo Māori or both.

If a member or presenter intends to address the meeting in New Zealand Sign Language, or in te reo Māori when the normal business of the meeting is conducted in English, or in English when the

normal business of the meeting is conducted in te reo Maaori, and where translation is sought, they should give prior notice to the Chairperson, ideally not less than 2 working days before the meeting so that a translator can be provided.

4.4 First meeting (Inaugural)

The first meeting of the Council following a local authority triennial general election must be called by the Chief Executive as soon as practicable after the results of the election are known. The Chief Executive must give elected members not less than 7 days' notice of the meeting. However, in the event of an emergency the Chief Executive may give notice of the meeting as soon as practicable.

cl. 21(1) - (4), Schedule 7, LGA 2002.

4.5 Requirements for the first meeting

The Chief Executive (or, in the absence of the Chief Executive, their nominee) must chair the first meeting until the Chairperson has made an oral declaration and attested the declaration (*see cl. 21(4), Schedule 7 (LGA 2002)*).

The business to be conducted at the first meeting following a general election must include the following:

- (a) The making and attesting of the declarations required of the mayor (if any) and members under *cl.14, Schedule7, (LGA 2002)*, and
- (b) The election of the Chairperson (if any) and the making and attesting of the declaration required of the Chairperson under *cl. 14 Schedule7, (LGA 2002)*, and
- (c) A general explanation, given or arranged by the Chief Executive, of:
 - i. LGOIMA; and
 - ii. Other laws affecting members, including the appropriate provisions of the *Local Authorities (Members Interests) Act 1968; and sections 99, 105, and 105A of the Crimes Act 1961; and the Secret Commissions Act 1910; and the Financial Markets Conduct Act 2013;*
- (d) The fixing of the date and time of the first meeting of the local authority, or the adoption of a schedule of meetings; and
- (e) The election of the deputy Mayor or deputy Chairperson in accordance with *cl.17 Schedule7, (LGA 2002)*.

Please note that the election of a Deputy Mayor is not required if the Mayor has already made the appointment under s. 41A (3)(a) of the LGA 2002 prior to the meeting. Nothing limits a territorial authority from removing a Deputy Mayor from office in accordance with cl.18 of Schedule 7 LGA 2002.

cl. 21(5), Schedule 7, LGA 2002.

Adoption of Standing Orders: It is common for councils to adopt standing orders at the first meeting; however, current standing orders will remain in force after each triennial election until such time as they are amended and adopted by the Council.

5. Appointments and Elections

5.1 Mayoral appointment of Deputy Mayor, Committee Chairs and Members

A Mayor may appoint the Deputy Mayor, the Chairperson and the Members of each Committee of the Council. The names of any appointments made by the Mayor must be tabled at the first meeting of the Council after the appointments are made. The Mayor may also appoint him- or herself.

s. 41A (3) LGA 2002.

5.2 Council discharge of a Mayoral appointment

Nothing, however, limits or prevents a territorial authority from discharging a Deputy Mayor, a Chairperson or a Member of a Committee appointed by the Mayor. Any decision by the Council to discharge a Deputy Mayor shall follow the procedure in *standing order 5.5*.

If the Mayor declines to appoint a Deputy Mayor or Committee Chairpersons in accordance with s.41A LGA 2002, the Council (or a Committee, if so directed by the Council) must elect those positions in accordance with *standing order 5.4*.

cl. 31, Schedule 7 LGA 2002

5.3 Establishment of Committees by the Mayor

The Mayor may establish Committees of the territorial authority. Where a Mayor exercises this right a list of the Committees and their terms of reference must be tabled at the next following meeting of the Council. Should the Mayor decline to establish Committees under *s. 41A* then any decision to establish Committees must follow the processes set out in these standing orders.

Nothing, however, limits or prevents a territorial authority from discharging or reconstituting, in accordance with *cl. 30 of Schedule 7, LGA 2002*, a Committee established by the Mayor or appointing, more Committees in addition to any established by the Mayor.

s. 41A (3) and (4) LGA 2002.

5.4 Elections of Deputy Mayors and Deputy Chairperson/s

The council (or a committee responsible for making the appointment) must decide by resolution to use one of two voting systems (*see cl. 25 Schedule 7, LGA*) when electing people to the following positions:

- the Deputy Mayor;
- the Chairperson and Deputy Chairperson of a Committee; and
- a representative of a local authority.

Please note, this provision does not apply in situations where a Mayor has used their appointment powers under *s.41A* to appoint a Deputy Mayor or committee chairs.

cl. 25 Schedule 7, LGA 2002.

5.5 Removal of a Deputy Mayor

A Deputy Mayor, whether appointed by the Mayor under Standing Order 5.1 or elected by the Council, can only be removed in accordance with *cl. 18, Schedule 7, of the LGA 2002.*

cl. 18, Schedule 7, LGA 2002.

6. Delegations

6.1 Limits on delegations

Unless clearly stated in the LGA or any other Act, a Council may, for the purposes of efficiency and effectiveness, delegate to a Committee, Subcommittee, subordinate decision-making body, member, or officer of the local authority, any of its responsibilities, duties, or powers except:

- (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, 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 LGA in association with the long-term plan or developed for the purpose of the local governance statement;
- (g) *Repealed;*
- (h) the power to adopt a remuneration and employment policy.

cl. 32 (1) Schedule 7, LGA 2002.

6.2 Committees may delegate

A committee, subcommittee, subordinate decision-making body, or officer of the local authority, may delegate any of its responsibilities, duties, or powers to a subcommittee or person, subject to any conditions, limitations, or prohibitions imposed by the body that made the original delegation.

cl. (2) & (3), Schedule 7, LGA 2002.

6.3 Use of delegated powers

The committee, subcommittee, other subordinate decision-making body, or member or officer of the local authority to which or to whom any responsibilities, powers, duties are delegated may, without confirmation by the council, committee or body or person that made the delegation, exercise or perform them in the like manner and with the same effect as the local authority could itself have exercised or performed them.

cl. 32(2) & (3)(4) Schedule 7, LGA 2002.

6.4 Decisions made under delegated authority cannot be rescinded or amended

Nothing in these standing orders allows a council, committee and subcommittee to rescind or amend a lawfully made decision of a subordinate decision-making body carried out under a delegation authorising the making of that decision. The same requirement applies to a local board and community board in relation to any committees or subcommittees with delegated authority.

cl. 30 (6), Schedule 7, LGA 2002.

6.5 Committees and sub committees subject to the direction of the local authority

A committee, subcommittee or other subordinate decision-making body is subject in all things to the control of the local authority, and must carry out all general and special directions of the local authority given to them.

cl. 30 (3) & (4), Schedule 7, LGA 2002.

7. Committees

7.1 Appointment of committees and subcommittees

The Council may appoint the committees, subcommittees, and other subordinate decision-making bodies that it considers appropriate. A committee may appoint the subcommittees that it considers appropriate unless it is prohibited from doing so by the Council.

cl. 30(1) & (2), Schedule 7, LGA 2002.

7.2 Discharge or reconstitution of committees and subcommittees

Unless expressly provided otherwise in legislation or regulation:

- (a) a local authority may discharge or reconstitute a committee or subcommittee, or other subordinate decision-making body; and
- (b) a committee may discharge or reconstitute a subcommittee.

A committee, subcommittee, or other subordinate decision-making body is, unless the Council resolves otherwise, discharged when members elected at a subsequent triennial general election come into office.

cl. 30 (5) & (7), Schedule 7, LGA 2002.

Please note: s.12 (2) of the Civil Defence and Emergency Management Act 2002 states that a Civil Defence and Emergency Management Group is not deemed to be discharged following a triennial election.

7.3 Local authority may replace members if committee not discharged

If a local authority resolves that a committee, subcommittee or other subordinate decision-making body is not to be discharged under *cl. 30 (7) Schedule 7, LGA 2002 (see standing order 7.2)*, the local authority may replace the members of that committee, subcommittee or subordinate decision-making body after the next triennial general election of members.

cl. 31(5) Schedule 7, LGA 2002.

7.4 Appointment or discharge of committee members and subcommittee members

The Council may appoint or discharge any member of a committee and, if established by the council, a subcommittee. A committee may appoint or discharge any member of a subcommittee appointed by the committee unless directed otherwise by the council.

cl. 31 (1) & (2), Schedule 7, LGA 2002

7.5 Members on committees and subcommittees

The members of a committee or subcommittee may be, but are not required to be, elected members of a local authority. The Council or committee may appoint a person who is not a member of the local authority to a committee or subcommittee if, in the opinion of the council or committee, the person has the skills, attributes or knowledge to assist the committee or subcommittee.

At least one member of a committee must be an Elected Member of the Council. A staff member of the local authority, in the course of their employment, can be a member of a subcommittee but not a committee.

cl. 31(4) Schedule 7, LGA 2002.

7.6 Membership of Mayor

The Mayor is an ex-officio member of every committee or sub-committee of the local authority.

s. 41A (5), LGA 2002.

7.7 Decision valid despite irregularity in membership

Under these standing orders a decision of a local authority, committee, is not invalidated if:

1. there is a vacancy in the membership of the local authority, committee, at the time of the decision; or
2. following the decision some defect in the election or appointment process is discovered and/or that the membership of a person on the committee at the time is found to have been ineligible.

cl. 29, Schedule 7, LGA 2002.

7.8 Appointment of joint committees

A local authority may appoint a joint committee with another local authority or other public body if it has reached agreement with each local authority or public body. The agreement must specify:

- (a) the number of members each party may appoint; and
- (b) how the Chairperson and deputy Chairperson are to be appointed; and
- (c) the terms of reference of the committee; and
- (d) what responsibilities, if any, are to be delegated to the committee by each party; and
- (e) how the agreement may be varied.

The agreement may also specify any other matter relating to the appointment, operation, or responsibilities of the committee agreed by the parties.

cl. 30A (1) & (2), Schedule 7, LGA 2002.

7.9 Status of joint committees

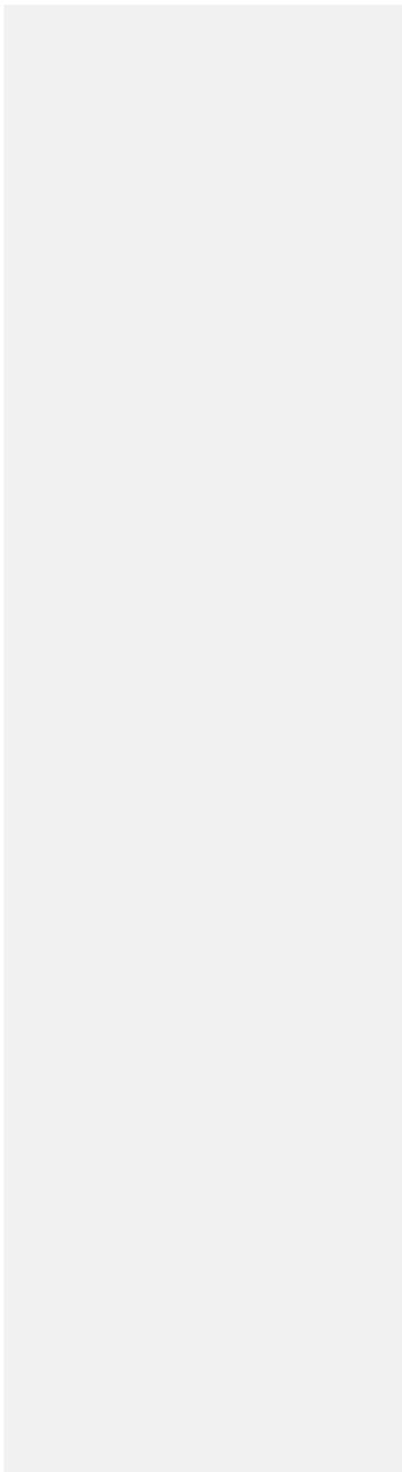
A joint committee is deemed to be both a committee of the Council and a committee of each other participating local authority or public body.

cl. 30A (5), Schedule 7, LGA 2002.

7.10 Power to appoint or discharge individual members of a joint committee

The power to discharge any individual member of a joint committee and appoint another member in their stead must be exercised by the Council or public body that made the appointment.

cl. 30A (6)(a), Schedule 7, LGA 2002.



Pre-meeting

8. Giving notice ordinary/extraordinary meetings

8.1 Ordinary meetings - public notice

All meetings scheduled for the following month must be publicly notified not more than 14 days and not less than 5 days before the end of every month, together with the dates on which and the times and places at which those meetings are to be held. In the case of meetings held on or after the 21st day of the month public notification must be given not more than 10 nor less than 5 working days before the day on which the meeting is to be held.

s. 46, LGOIMA.

8.2 Ordinary meeting - notice to members

The Chief Executive must give notice in writing to each member of the local authority of the time and place of any meeting. Notice must be given at least 14 days before the meeting unless the council has adopted a schedule of meetings, in which case notice must be given at least 14 days before the first meeting on the schedule.

cl. 19 (5), Schedule 7, LGA 2002.

8.3 Extraordinary meeting - call for meeting

Under these Standing Orders, an extraordinary meeting refers to any meeting outside of the adopted Schedule of Meetings. Additionally, any meeting within the Schedule of Meetings where the date of that meeting is brought forward such that the requirement for notice set out in 8.2 cannot be met is also to be treated as an Extraordinary meeting.

Commented [BB8]: Updated for clarity.

An extraordinary council meeting may be called by:

- (a) resolution of the Council, or
- (b) a request in writing delivered to the Chief Executive which is signed by:
 - i. the Mayor or Chairperson, or
 - ii. no less than one third of the total membership of the Council (including vacancies).

cl. 22 (1) Schedule 7, LGA 2002.

8.4 Extraordinary meeting - notice to members

Notice in writing of the time and place of an extraordinary meeting called under Standing Order 8.3 and of the general nature of business to be considered must be given by the Chief Executive to each member of the Council at least three working days before the day appointed for the meeting.

Where this is not possible, notice must be given to each member of the Council and the Chief Executive by whatever means is reasonable in the circumstances and at least 24 hours before the time appointed for the meeting.

Commented [BB9]: Addition for clarity.

If the meeting is called by a resolution then notice must be provided within such lesser period as is specified in the resolution, provided it is not less than 24 hours.

cl. 22 (3), Schedule 7, LGA 2002.

8.5 Extraordinary meetings inconsistent with notice requirements

If the nature of business requires a meeting to be held at an earlier time than is allowed by the notice requirements specified in standing order 8.4, a meeting may be called by the Mayor or Chairperson, or if the Mayor and Chairperson are not available, the Chief Executive.

Commented [BB10]: Addition for clarity.

Where an extraordinary meeting of the Council was called and notice of that meeting was inconsistent with these standing orders the Council must, as soon as practicable following the meeting, give public notice stating that:

- (a) the meeting has occurred;
- (b) the general nature of business transacted; and
- (c) the reasons why it was not correctly notified.

cl. 22 (2) Schedule 7, LGA 2002 and s. 46 (3) & (4), LGOIMA.

8.6 Chief Executive may make other arrangements

The Chief Executive is to make any other arrangements for the notification of meetings, including extraordinary meetings, as the Council may, from time to time, determine.

s. 46(5) LGOIMA.

8.7 Validity of meetings not correctly notified

The failure to notify a public meeting under these standing orders does not of itself make that meeting invalid. However, where a local authority becomes aware that a meeting has been incorrectly notified it must, as soon as practicable, give public notice stating:

- that the meeting occurred without proper notification;
- the general nature of the business transacted; and
- the reasons why the meeting was not properly notified.

s. 46 (6), LGOIMA.

8.8 Extraordinary meetings - resolutions passed

A local authority must, as soon as practicable, publicly notify any resolution passed at an extraordinary meeting of the local authority unless -

- (a) the resolution was passed at a meeting or part of a meeting from which the public was excluded; or
- (b) the extraordinary meeting was publicly notified at least 5 working days before the day on which the meeting was held.

8.9 Meeting schedules

Where the Council adopts a meeting schedule it may cover any period that the Council considers appropriate and may be amended. Notification of the schedule, or an amendment, will constitute notification to members of every meeting on the schedule or the amendment. This does not replace the requirements under LGOIMA to also publicly notify each meeting.

cl. 19 (6) Schedule 7, LGA 2002.

8.10 Non-receipt of notice to members

A meeting of the Council is not invalid if notice of that meeting was not received, or not received in due time, by a member of the local authority or board unless:

- (a) it is proved that the person responsible for giving notice of the meeting acted in bad faith or without reasonable care; and
- (b) the member concerned did not attend the meeting.

A member of a local authority may waive the need to be given notice of a meeting.

cl. 20 (1) & (2) Schedule 7, LGA 2002.

8.11 Meeting cancellations

The Chairperson of a scheduled meeting may cancel the meeting if, in consultation with the Chief Executive, they consider this is necessary for reasons that include lack of business, lack of quorum or clash with another event.

The Chief Executive must make a reasonable effort to notify members and the public as soon as practicable of the cancellation and the reasons behind it.

9. Meeting agenda

9.1 Preparation of the agenda

It is the Chief Executive's responsibility to prepare an agenda for each meeting listing and attaching information on the items of business to be brought before the meeting so far as is known, including the names of the relevant members.

When preparing business items for an agenda the Chief Executive should consult the Chairperson.

For clarity, the Chief Executive is not required to provide the meeting papers to the Chairperson for review prior to the agenda being circulated to members.

Reports that do not require decisions (information only reports) will be attached as appendices to Council/Committee agendas and will not be discussed/debated unless:

- a) the report concerns an upcoming decision of the Council/Committee; or
- b) with approval of the Chairperson and Principal Advisor prior to the meeting; or
- c) by resolution of Council/Committee at the time the agenda is confirmed.

9.2 Process for raising matters for a decision

Requests for reports may be made by a resolution of the Council, committee, subcommittee, or subordinate decision-making body and, in the case of all decision-making bodies other than the Council, must also fall within the scope of their specific delegations. A process for requesting reports is described below.

Matters requiring a decision may be placed on an agenda of a meeting by a:

- (a) report of Chief Executive
- (b) report of a Chairperson
- (c) report of a Committee
- (d) notice of motion from a member. *See SO 26*

Where a matter is urgent and has not been placed on an agenda, it may be brought before a meeting as extraordinary business by a:

- (a) report of Chief Executive
- (b) report of Chairperson

Although out of time for a notice of motion, a member may bring an urgent matter to the attention of the meeting through the meeting Chairperson. *(SO 9.4 applies)*

9.3 Chief Executive may delay or refuse request

The Chief Executive may delay commissioning any reports that involve significant cost or resources or are beyond the scope of the Council or committee that made the request. In such cases the Chief Executive will discuss options for meeting the request with the respective Chairperson and report back to a subsequent meeting with an estimate of the cost and/or resources involved and seek direction on whether the report should still be prepared.

If a member makes a direct request to a Chief Executive asking that a report is prepared the Chief Executive may refuse. In such cases an explanation should be provided to the member.

9.4 Order of business and confirmation of the agenda

At the meeting the business is to be dealt with in the order in which it stands on the agenda unless the Chairperson, or the meeting, decides by majority vote at the time of confirming the agenda.

Any late items must also be confirmed as part of the agenda at this time. (see SO 9.12)

Commented [BB11]: Addition for clarity.

The order of business for an extraordinary meeting must be limited to items that are relevant to the purpose for which the meeting has been called.

9.5 Chairperson's recommendation

A Chairperson, either prior to the start of the meeting and/or at the meeting itself, may include a recommendation regarding any item on the agenda brought before the meeting. Where a Chairperson's recommendation varies significantly from an officer's recommendation the reason for the variation must be explained.

9.6 Chairperson's report

The Chairperson of a meeting has the right, through a report, to direct the attention of a meeting to any matter which is on the agenda or which falls within the responsibilities of that committee. This may include a report informing the council/committee of:

1. a **minor** governance matter or decision sought which is directly related to the terms of reference, a previous resolution, or current area of work, and is not more appropriately addressed through a staff report.
2. a **critical** governance matter directly related to the terms of reference, a previous resolution, or current area of work, and that cannot or is yet to be addressed through a staff report. Such a matter should typically not require a decision of the Committee.

A Chairperson's report must acknowledge official Council and committee positions and may not criticise the validity of any resolution of the Council or Committee of Council except by notice of motion to amend or revoke the resolution. In the absence of a staff report, a Chairperson's report should not be used to express a purely subjective view on any matter.

Commented [BB12]: Changes for clarity.

9.7 Public availability of the agenda

All information provided to members at a local authority meeting must be publicly available except where an item included in the agenda refers to a matter reasonably expected to be discussed with the public excluded.

s. 5 & 46A, LGOIMA.

9.8 Public inspection of agenda

Any member of the public may, without payment of a fee, inspect, during normal office hours and within a period of at least 2 working days before a meeting, all agendas and associated reports circulated to members of the Council or committees of Council relating to that meeting. The agenda:

- (a) must be available for inspection at the public offices of the local authority (including service centres), at public libraries under the authority’s control and on the council’s website, and:
- (b) must be accompanied by either:
 - i. the associated reports; or
 - ii. a notice specifying the places at which the associated reports may be inspected.

s. 46A (1), LGOIMA.

9.9 Withdrawal of agenda items

If justified by circumstances an agenda item may be withdrawn prior to distribution by the Chief Executive. In the event of an item being withdrawn the Chief Executive should inform the Chairperson, if possible, prior to the relevant meeting.

Once the agenda has been distributed an agenda item may only be withdrawn by resolution of the Council or Committee of Council when the agenda is confirmed at the meeting.

9.10 Distribution of the agenda

The Chief Executive must send the agenda to every member of a meeting at least three clear working days before the day of the meeting, except in the case of an extraordinary meeting (see standing order 8.4).

Commented [BB13]: EM request to consider 5 working at least for Annual and 10-Year Plan meetings.

The Chief Executive may send the agenda, and other materials relating to the meeting or other council business, to members by electronic means.

9.11 Status of agenda

No matter on a meeting agenda, including recommendations, may be considered final until determined by formal resolution of that meeting.

9.12 Items of business not on the agenda (late items) which cannot be delayed

A meeting may deal with an item of business that is not on the agenda where the meeting resolves to deal with that item and the Chairperson provides the following information during the public part of the meeting:

- (a) the reason the item is not on the agenda; and
- (b) the reason why the discussion of the item cannot be delayed until a subsequent meeting.

s. 46A (7), LGOIMA

Items not on the agenda may be brought before the meeting through a report from either the Chief Executive or the Chairperson.

Please note that nothing in this standing order removes the requirement to meet statutory requirements, including the provisions of Part 6, LGA 2002 with regard to consultation and decision-making.

9.13 Discussion of the Minutes

The only topic that may be discussed at a subsequent meeting, with respect to the minutes, is their correctness.

9.14 Discussion of minor matters not on the agenda

A meeting may discuss an item that is not on the agenda if it is a minor matter relating to the general business of the meeting and the Chairperson explains at the beginning of the public part of the meeting that the item will be discussed. However, the meeting may not make a resolution, decision or recommendation about the item, except to refer it to a subsequent meeting for further discussion.

Please note that if a resolution, decision or recommendation is required about an item not on the agenda, standing order 9.12 applies.

s. 46A (7A), LGOIMA.

9.15 Public excluded business on the agenda

Items that are likely to be discussed under public excluded must be indicated on each agenda and state the general subject of the item. The Chief Executive, however, may exclude public access to any reports, or parts of reports, which are reasonably expected to be discussed with the public excluded. See appendix 1 for the requirements for public excluded business

s. 46A (9), LGOIMA.

9.16 Qualified privilege relating to agenda and minutes

Where any meeting is open to the public and a member of the public is supplied with a copy of the agenda, or the minutes of that meeting, the publication of any defamatory matter included in the agenda or in the minutes is privileged. This does not apply if the publication is proved to have been made with ill will or improper advantage has been taken of the publication.

s. 52, LGOIMA.

9.17 Receiving a report

By receiving a report, the Council or committee is agreeing it is appropriate the report should form part of the official record of a Council or committee meeting. As with all decisions, Members must feel that the matter is consistent with the terms of reference for the Council or committee, and that they have sufficient information to make an informed decision, even if that decision is only to receive a report.

Commented [BB14]: Addition for clarification.

Meeting Procedures

10. Opening and closing meetings

The Council or committee, may, at the start of a meeting, choose to recognise the civic importance of the occasion through some form of reflection. This could be an expression of community values, a reminder of the contribution of members who have gone before or a formal welcome, such as a mihi whakatau. Options for opening a meeting could include a karakia timitanga, mihi whakatau, or powhiri as well as a karakia whakamutunga to close a meeting where appropriate. *(see Definitions for English translations)*

Commented [BB15]: Addition for clarification

11. Quorum

10.1 Requirement for a quorum

A meeting is constituted where a quorum of members is present, regardless of whether or not they are all voting or entitled to vote. To conduct any business at a meeting, a quorum of members must be present for the whole time that the business is being considered.

cl. 23(1) & (2) Schedule 7, LGA 2002.

10.2 Council

The quorum for a meeting of the Council is:

- (a) half of the members physically present, where the number of members (including vacancies) is even; and
- (b) a majority of the members physically present, where the number of members (including vacancies) is odd.

cl. 23 (3)(a) Schedule 7, LGA 2002.

10.3 Committees and subcommittees

The Council sets the quorum for its committees and subcommittees, either by resolution or by stating the quorum in the terms of reference, provided that it is not less than two members. Committees may set the quorums for their subcommittees by resolution.

In the case of committees at least one member of the quorum must be a member of the Council.

cl. 23 (3)(b) Schedule 7, LGA 2002.

10.4 Joint Committees

The quorum at a meeting of a joint committee must be consistent with *standing order 10.1*. Local authorities participating in the joint committee may decide, by agreement, whether or not the quorum includes one or more members appointed by each local authority or any party.

cl. 30A (6)(c) Schedule 7, LGA 2002.

10.5 Quorum where member declares conflict

Where a member has declared a conflict of interest, such that they are not participating in the debate or vote of the matter but are required to be in the room for quorum, the meeting may decide by resolution that the member can remain in the meeting room to maintain quorum.

10.6 Meeting lapses where no quorum

A meeting must lapse, and the Chairperson vacate the chair, if a quorum is not present within 15 minutes of the advertised start of the meeting. Where members are known to be travelling to the meeting, but are delayed due to extraordinary circumstance, the Chairperson has discretion to wait for a longer period.

Commented [BB16]: Changed from 10 to 15 mins.

No business may be conducted while waiting for the quorum to be reached. Minutes will record when a meeting lapses due to a lack of a quorum, along with the names of the members who attended.

10.7 Business from lapsed meetings

Where meetings lapse the remaining business will be adjourned and be placed at the beginning of the agenda of the next ordinary meeting, unless the Chairperson sets an earlier meeting, and this is notified by the Chief Executive.

11. Public access and recording

11.1 Meetings open to the public

Except as otherwise provided by Part 7 of LGOIMA, every meeting of the Council, its Committees and subcommittees, must be open to the public.

s.47 & 49(a), LGOIMA.

11.2 Grounds for removing the public

The Chairperson may require any member of the public whose conduct is disorderly, or who is creating a disturbance, to be removed from the meeting.

11.3 Local authority may record meetings

Meeting venues should contain clear signage indicating and informing members, officers and the public that proceedings may be recorded by the local authority and may be subject to direction by the Chairperson.

11.4 Public may record meetings

Members of the public may make electronic or digital recordings of meetings which are open to the public. Any recording of meetings must be notified to the Chairperson at the commencement of the meeting, who must advise all members and public present at the start of the meeting of such recording(s).

The Chairperson must ensure that the recording does not distract the meeting from fulfilling its business. Where circumstances require the Chairperson may stop the recording for a period of time.

12. Attendance

12.1 Members right to attend meetings

A member of the Council, or of a committee of the Council, has, unless lawfully excluded, the right to attend any meeting of the Council or committee.

cl. 19(2), Schedule 7, LGA 2002.

If the member of the Council is not an appointed member of the meeting at which they are in attendance they may not vote on any matter at that meeting. However, they may, with the leave of the Chairperson, take part in the meeting's discussions.

A member attending a meeting of which they are not an appointed member is not a member of the public for the purpose of *s.48 LGOIMA*. Consequently, if the meeting resolves to exclude the public any members of the local authority who are present may remain unless they are lawfully excluded.

Please note: this section does not confer any rights to non-elected members appointed to committees of a local authority.

12.2 Attendance when a committee is performing judicial or quasi-judicial functions

When a committee is performing judicial or quasi-judicial functions members of the local authority who are not members of that committee are not entitled to take part in the proceedings.

12.3 Leave of absence

The Council may grant a member leave of absence following an application from that member.

In addition, the Council may delegate the power to grant a leave of absence to the Chairperson in order to protect a member's privacy. The Chairperson will advise all members of the council, local board or community board whenever a member has been granted leave of absence under delegated authority. Meeting minutes will record that a member has leave of absence as an apology for that meeting.

12.4 Apologies

A member who does not have leave of absence may tender an apology should they be absent from all or part of a meeting. The Chairperson must invite apologies at the beginning of each meeting, including apologies for lateness and early departure. The meeting may accept or decline any apologies.

For clarification, the acceptance of a member's apology constitutes a grant of 'leave of absence' for that meeting.

12.5 Recording apologies

The minutes will record any apologies tendered before or during the meeting, including whether they were accepted or declined and the time of arrival and departure of all members.

12.6 Absent without leave

Where a member is absent from the Council for four consecutive meetings without leave of absence (not including extraordinary meetings) then the office held by the member will become vacant. A vacancy created in this way is treated as an extraordinary vacancy.

cl. 5 (d) Schedule 7, LGA 2002.

13. Members attending by audio visual link

Commented [BB17]: Optional section – (13-13.7) – incl will future proof Standing Orders, omitting is relatively he as technology currently not available.

13.1 Right to attend by audio visual link

Provided the conditions in these standing orders are met members of the local authority or its committees have the right to attend meetings by means of an electronic link, unless they have been lawfully excluded or do not meet the requirements of SO 14.1 (Chairperson's duties).

Conditions for attending by audio visual link:

The Chairperson may give approval for a member to attend meeting by audio visual link, either generally or for a specific meeting. Examples of situations where approval can be given include:

- (a) where the member is at a place that makes their physical presence at the meeting impracticable or impossible;
- (b) where a member is unwell; and
- (c) where a member is unable to attend due to an emergency.

Request to attend by audio visual link:

Where possible, a member will give the Chairperson and the Chief Executive at least 2 working days' notice when they want to attend a meeting by audio or audio visual link. Should, due to illness or emergency, this not be possible the member may give less notice.

Where such a request is made and the technology is available, the Chief Executive must take reasonable steps to enable the member to attend by audio or audio-visual link. However, the council has no obligation to make the technology for an audio or audio-visual link available.

If the member's request cannot be accommodated, or there is a technological issue with the link, this will not invalidate any acts or proceedings of the local authority or its committees.

13.2 Member attending by audio visual link: quorum

Members who attend meetings by audio visual link will not be counted as present for the purposes of a quorum.

13.3 Member attending by audio visual link: voting

Where a meeting has a quorum, determined by the number physically present, the members attending by audio visual link can vote on any matters raised at the meeting, provided the requirements of SO 12.1 are met.

13.4 Chairperson's responsibility for audio visual attendance.

Where the technology is available and a member is attending a meeting by audio visual link, the Chairperson must ensure that:

- (a) the technology for the link is available and of suitable quality;
- (b) procedures for using the technology in the meeting will ensure that:
 - i. everyone participating in the meeting can hear each other;
 - ii. the member's attendance by audio visual link does not reduce their accountability or accessibility of that person in relation to the meeting;
 - iii. the requirements of Part 7 of LGOIMA are met; and
 - iv. the requirements in these standing orders are met.

If the Chairperson is attending by audio visual link then chairing duties will be undertaken by the Deputy Chair or a member who is physically present.

cl. 25A (3) schedule 7, LGA 2002.

13.5 Chairperson may terminate link

The Chairperson may direct that an electronic link should be terminated where:

- (a) use of the link is increasing, or may unreasonably increase, the length of the meeting;
- (b) the behaviour of the members using the link warrants termination, including the style, degree and extent of interaction between members;
- (c) it is distracting to the members who are physically present at the meeting; and
- (d) the quality of the link is no longer suitable.

Where an audio visual link is terminated, the link fails, or there are other technological issues that prevent a member who is attending by link from participating in a meeting, that member must be deemed to be no longer attending the meeting

13.6 Giving or showing a document

A person attending a meeting by audio visual link may give or show a document by:

- (a) transmitting it electronically;
- (b) using the audio-visual link; or
- (c) any other manner that the Chairperson thinks fit.

cl. 25(A) (6) schedule 7, LGA 2002.

13.7 Confidentiality

A member who is attending a meeting by audio visual link must ensure that the meeting's proceedings remain confidential during any times that the public are excluded. At such times, the Chairperson may require the member to confirm that no unauthorised people are able to view or hear the proceedings.

14. Chairperson's role in meetings

14.1 Application of standing orders

Whenever a question about the interpretation or application of these standing orders is raised, particularly where a matter might not be directly provided for, it is the responsibility of the Chairperson of each meeting to make a ruling.

The Chairperson may request the advice of the Governance Advisor on any matter or interpretation relating to these Standing Orders.

Commented [BB18]: Added for clarity.

14.2 Council meetings

The Mayor or Chairperson of the Council must preside at meetings of the Council unless they vacate the chair for a part or all of a meeting. If the Chairperson is absent from a meeting or vacates the chair, the Deputy Mayor/Chair must act as Chairperson. If the Deputy Mayor/Chair is also absent the Council members who are present must elect a member to be Chairperson at that meeting. This person may exercise the meeting responsibilities, duties and powers of the Mayor/Chairperson for that meeting.

This provision also applies to committees, subcommittees and subordinate decision-making bodies.

cl. 26(1), (5) & (6) Schedule 7, LGA 2002.

14.3 Addressing the Chairperson

Members will address the Chairperson as 'Chair' except where the Chairperson has requested otherwise.

14.4 Chairperson's rulings

The Chairperson will decide all procedural questions where insufficient provision is made by these standing orders and rule on to all points of order. Any refusal to obey a Chairperson's ruling or direction constitutes contempt. (see SO section 19 – disrespectful conduct)

14.5 Chairperson standing

Whenever the Chairperson stands during a debate, members are required to sit down and be silent so that they can hear the Chairperson without interruption.

14.6 Member's right to speak

Members are entitled to speak in accordance with these standing orders. Members should address the Chairperson when speaking. They may not leave their place while speaking, unless they have the leave of the Chairperson.

14.7 Chairperson may prioritise speakers

When two or more members want to speak the Chairperson will name the member who may speak first. Other members who wish to speak have precedence where they intend to:

- (a) raise a point of order, including a request to obtain a time extension for the previous speaker; and/or
- (b) move a procedural motion to terminate or adjourn the debate; and/or
- (c) make a point of explanation.

15. Public Forums

Public forums are a defined period of time, usually at the start of a meeting, which is put aside for the purpose of public input. Public forums are designed to enable members of the public to bring matters to the attention of the Council, committee or subcommittee. **Any issue, idea or matter raised in public forum must fall within the terms of reference for the meeting the speaker is addressing and must relate to an item on the agenda for that meeting.**

Public Forum does not apply to any sub-judice matters including but not limited to:

- (a) **matters subject to an upcoming hearings process;**
- (b) **matters on which public consultation is occurring;**
- (c) **matters on which public consultation has closed and a decision is yet to be made.**

Commented [BB19]: Addition for clarity.

15.1 Time limits

A period of up to 30 minutes, or such longer time as the meeting may determine by majority vote, will be available for the public forum at each scheduled local authority meeting. Requests are scheduled in the order they are received; ideally requests should be made to the Governance Advisor ahead of the meeting; however, requests may be made up until the meeting starts. This requirement may be waived by the Chairperson.

Commented [BB20]: Added for clarity

Speakers will be allowed up to five minutes to speak and respond to questions. Questions must be confined to obtaining information or clarification on matters raised by a speaker/s. Questions over the time limit are at the discretion of the Chairperson.

Commented [BB21]: Increased to five minutes

Where the number of speakers presenting in the public forum exceeds six in total, the Chairperson has discretion to restrict the speaking time permitted for all presenters or limit people speaking in support of or in opposition to the same matter.

Commented [BB22]: Addition of this section to allow for management of public forum.

15.2 Restrictions

The Chairperson has the discretion to decline to hear a speaker or to terminate a presentation at any time where:

- a speaker is repeating views presented by an earlier speaker at the same public forum;
- the speaker is criticising elected members and/or staff;
- the speaker is being repetitious, disrespectful or offensive;
- the speaker has previously spoken on the same issue;
- the matter is subject to legal proceedings.

Commented [BB23]: Added for clarity

15.3 Questions at public forums

At the conclusion of a presentation, with the permission of the Chairperson, elected members may ask questions of speakers.

15.4 No resolutions or debate following matters raised in public forum

Commented [BB24]: Added for clarity

Following the public forum, no debate or decisions will be made at the meeting on issues raised during the forum unless related to items already on the agenda.

16. Petitions

16.1 Presenting petitions

The Council will consider a petition on any matter relating to either the services it provides or may be provided by it, or any policy or intended policy of the Council at such times as the citizens of Hamilton request, subject to the provisions outlined below.

Petitions may be presented to the Council or any of its committees (ensuring it relates to matters within the terms of reference of committee).

16.2 Valid petitions

A valid petition will be considered by the Council or appropriate Committee, together with staff advice, within sixty days of receipt or two meeting cycles.

Petitions:

- must not be disrespectful, use offensive language or include malicious statements (see standing order 19.9 on qualified privilege).
- may be written in English or te reo Maaori. Petitioners planning to make a petition in te reo Māori or sign language should advise the relevant Chairperson at least two working days before the meeting to enable the petition to be translated and reprinted, if necessary.
- may be presented in hard copy or electronic form.
- must consist of fewer than 250 words (not including signatories).
- must contain at least 150 signatures of residents of Hamilton City, inclusive of the primary petitioner, all being on the Electoral Roll for Hamilton City and eligible to vote.
- must also contain the full name, physical address and signature for all signatories to the petition. In the case of an electronic petition, the signatory must provide their email address in place of their signature.

Commented [BB25]: Addition for clarity

16.2 Petition presented by petitioner

A petitioner who presents a petition to Council or any of its committees and subcommittees, may speak for five minutes (excluding questions) about the petition, unless the meeting resolves otherwise. Questions of petitioners are at the discretion of the Chairperson and must comply with SO 20.3. The Chairperson must terminate the presentation of the petition if he or she believes the petitioner is being disrespectful, offensive or making malicious statements.

16.3 Petition presented by member

Members may present petitions on behalf of petitioners. In doing so, members must confine themselves to presenting:

- (a) the petition;
- (b) the petitioners' statement; and
- (c) the number of signatures.

17. Exclusion of public

17.1 Motions and resolutions to exclude the public

Members of a meeting may resolve to exclude the public from a meeting. The grounds for exclusion are those specified in section 48 of LGOIMA (see Appendix 1).

Every motion to exclude the public must be put while the meeting is open to the public, and copies of the motion must be available to any member of the public who is present. If the motion is passed the resolution to exclude the public must be in the form set out in schedule 2A of LGOIMA (see Appendix 1). The resolution must state:

- (a) the general subject of each matter to be excluded;
- (b) the reason for passing the resolution in relation to that matter; and
- (c) the grounds on which the resolution is based.

The resolution will form part of the meeting's minutes.

s. 48 LGOIMA.

17.2 Specified people may remain

Where a meeting resolves to exclude the public, the resolution may provide for specified persons to remain for those items where, in the opinion of the meeting, they will assist the meeting to achieve its purpose in relation to that item. Any such resolution must state, in relation to the matter to be discussed, how the knowledge held by the specified people is relevant and will be of assistance.

Commented [BB26]: Clarification of intent.

No such resolution is needed for people who are entitled to be at the meeting, such as relevant staff and officials contracted to the council for advice on the matter under consideration.

s.48 (6) LGOIMA.

17.3 Public excluded items

The Chief Executive must place in the public-excluded section of the agenda any items that he or she reasonably expects the meeting to consider with the public excluded. The public excluded section of the agenda must indicate the subject matter of the item and the reason the public are excluded.

s.46A (8) LGOIMA.

17.4 Non-disclosure of information

No member or officer may disclose to any person, other than another member, officer or person authorised by the Chief Executive, any information that has been, or will be, presented to any meeting from which the public is excluded, or proposed to be excluded.

This restriction does not apply where a meeting has resolved to make the information publicly available or where the Chief Executive has advised, in writing, that one or both of the following apply:

- (a) there are no grounds under LGOIMA for withholding the information;
- (b) the information is no longer confidential.

17.5 Release of information from public excluded session

A local authority may provide for the release to the public of information which has been considered during the public excluded part of a meeting.

Each public excluded meeting must consider and agree by resolution, what, if any, information will be released to the public. In addition, the Chief Executive may release information which has been considered at a meeting from which the public has been excluded where it is determined the grounds to withhold the information no longer exist. The Chief Executive will inform the subsequent meeting of the nature of the information released.

18. Voting

18.1 Decisions by majority vote

Unless otherwise provided for in the LGA 2002, other legislation or standing orders, the acts of and questions before a local authority (or local and community boards) must be decided at a meeting through a vote exercised by the majority of the members of that meeting voting.

cl. 24 (1), Schedule 7, LGA 2002.

18.2 Open voting

An act or question coming before the local authority must be done or decided by open voting.

cl. 24 (3) Schedule 7, LGA 2002.

18.3 Chairperson has a casting vote

The Mayor, Chairperson or any other person presiding at a meeting has a deliberative vote and, in the case of an equality of votes, has a casting vote. **A Chairperson is not required to exercise their casting vote.**

In the case of an equal vote, the motion is considered lost and the status quo prevails. See also SO 24.4.

Commented [BB27]: Addition for clarity.

cl. 24 (2) Schedule 7, LGA 2002.

18.4 Method of voting

The method of voting must be as follows:

- (a) the Chairperson in putting the motion or amendment must call for members to submit their vote by choosing FOR or AGAINST on the electronic voting system or by a show of hands, the result of either of which, as announced by the Chairperson or Governance Advisor, must be conclusive.
- (b) **In the event that a member indicates an error in voting before the result of the vote has been announced or displayed, the Chairperson may call for the vote to be retaken.**
- (c) the result of each vote including how members voted will be notified to the meeting and recorded in the minutes.

Commented [BB28]: Clarification added.

18.5 Members may not abstain

No member may abstain from voting UNLESS:

- (a) they have declared a direct or indirect financial interest in relation to an item that precludes them from voting on that matter; or
- (b) declared a non-pecuniary interest in relation to an item that they believe precludes them from voting on that matter.

Any declaration of interest and consequential abstention from voting under this clause must be recorded in the meeting minutes.

18.6 Members joining the meeting during debate may choose not to vote

A member may choose not to participate in a vote for an item where the member has been absent for that item and has only joined or rejoined the meeting after commencement of debate AND does not feel able to make an informed decision on the matter. In this situation the member may leave the table until the vote is completed.

The record of the meeting will show that the member was present but did not participate in the vote.

19. Meeting conduct

Members are expected to comply with the Council's Code of Conduct for Elected Members at all times. The Code (which can be found in Appendix 4) requires members to:

- (i) act with integrity and honesty (3.1)
- (ii) demonstrate accountability by complying with legislative requirements applying to their roles, acting in an open and transparent manner and ensuring the prudent use of Council resources (3.2)
- (iii) treat everyone with respect and respect other individuals' points of view and opinions, beliefs, and rights (3.3)
- (iv) show good faith, faithfully and impartially exercising their powers, authority and duties in the best interest of the community of Hamilton (3.4)

19.1 Code of Conduct

The Code of Conduct for Elected Members provides for perceived breaches of the code during meetings to be dealt with by the Chairperson of that meeting at the time the breach arises under SO 25.2. If an Elected Member believes an alleged breach of the code has not been dealt with adequately by the Chairperson at the meeting, that Elected Member may initiate the procedures set out in 6.2 in schedule 3 of the code.

Commented [BB29]: Addition for clarity

19.1 Form of Address for Members

All members are to be addressed by their title and surname unless the member agrees to a different form of address. The appropriate form of address for a Chairperson is Chair or Chair [surname].

Commented [BB30]: Request for clarification

19.2 Calling to order

When the Chairperson calls members to order, they must be seated and stop speaking. If the members fail to do so, the Chairperson may direct that they should leave the meeting immediately for a specified time.

19.3 Disrespect

No member may speak or act in a manner which is disrespectful of other members, staff or other meeting attendees or inconsistent with the local authority's Code of Conduct at any meeting.

19.4 Retractions and apologies

In the event of a member or speaker who has been disrespectful of another member or contravened the Council's Code of Conduct, the Chairperson may call upon that member or speaker to withdraw the offending comments and may require them to apologise. If the member refuses to do so the

Chairperson may direct that they should leave the meeting immediately for a specified time and/or make a complaint under the Code of Conduct.

19.5 Recording objection to words

When a member objects to any words used by another member in a speech as part of a point of order which is upheld by the Chair and wants the minutes to record their objection, they must object at the time when the words are used and before any other member has spoken. The Chairperson must order the minutes to record the objection.

19.6 Disorderly conduct

Where the conduct of a member is disorderly or is creating a disturbance, the Chairperson may require that member to leave the meeting immediately for a specified time.

If the disorder continues:

- (a) The Chairperson may remove any member who refuses to leave the meeting when directed to do so by the Chairperson (see SO 19.7); and/or
- (b) The Chairperson may adjourn the meeting for a specified time. At the end of this time the meeting must resume and decide, without debate, whether the meeting should proceed or be adjourned; and/or
- (c) The Meeting may, by majority vote, resolve that a member is in contempt where that member has been subject to repeated cautions by the Chairperson for disorderly conduct. Any such resolution must be recorded in the meeting's minutes.

The Chairperson may also adjourn the meeting if other people cause disorder or in the event of an emergency.

19.7 Removal from meeting

A member of the police or authorised security personnel may, at the Chairperson's request, remove or exclude a member from a meeting.

This standing order will apply where the Chairperson has ruled that the member should leave the meeting and the member has refused or failed to do so; or has left the meeting and attempted to re-enter it without the Chairperson's permission.

19.8 Financial conflicts of interests

Every member present at a meeting must declare any direct or indirect financial interest that they hold in any matter being discussed at the meeting, other than an interest that they hold in common with the public.

Commented [BB31]: EM request to specify what the cc of interest is, particularly around financial interests.

No member may vote on, or take part in, a discussion about any matter in which they have a direct or indirect financial interest unless an exception set out in s.6 LAMIA applies to them, or the Auditor-General has granted them an exemption or declaration under s.6.

Members with a financial interest should physically withdraw themselves from the meeting room.

Neither the Chairperson nor the meeting may rule on whether a member has a financial interest in the matter being discussed. The minutes must record any declarations of financial interests and the member's abstention from any discussion and voting on the matter. (See also SO 18.5.)

s. 6 & 7 LAMIA.

19.9 Non-financial conflicts of interests

Non-financial interests always involve questions of judgement and degree about whether the responsibility of a member of a local authority (or local or community board) could be affected by some other separate interest or duty of that member in relation to a particular matter. If a member considers that they have a non-financial conflict of interest in a matter they must not take part in the discussions about that matter or any subsequent vote.

The member must leave the table when the matter is considered but does not need to leave the room. The minutes must record the declaration and member's subsequent abstention from discussion and voting (see also SO 18.5).

Neither the Chairperson nor the meeting may rule on whether a member has a non-financial interest in the matter being discussed.

19.10 Qualified privilege for meeting proceedings

Any oral statement made at any meeting of the local authority in accordance with the rules adopted by the local authority for guiding its proceedings is privileged, unless the statement is proved to have been made with ill will or took improper advantage of the occasion of publication.

s. 53, LGOIMA.

19.11 Qualified privilege additional to any other provisions

The privilege referred to above is in addition to any other privilege, whether absolute or qualified, that applies as a result of any other enactment or rule of law applying to any meeting of the local authority.

s. 53, LGOIMA.

19.12 Electronic devices at meetings

Electronic devices and phones can only be used to advance the business of a meeting.

Personal use may only occur at the discretion of the Chairperson. A Chairperson may require that an electronic device is switched off if its use is likely to distract a meeting from achieving its business or a member is found to be receiving information or advice from sources not present at the meeting which may affect the integrity of the proceedings.

20. Question Time

20.1 Members may ask questions of staff

The Chairperson will ensure that the opportunity is provided for members to ask questions of the Chief Executive and their staff on any item on the agenda for that meeting necessary to enable informed debate and decision-making provided that:

- (a) Questions demonstrate respect for staff and are put courteously;
- (b) A member does not use a question to state their point of view or enter into debate;
- (c) Questions raised by members are directly relevant to the item and are not repetitive;
- (d) Questions raised by members are succinct, clear and unambiguous;
- (e) Staff are not asked to comment on matters to which they have already responded or do not feel qualified to address.

20.2 Chairperson's discretion

The Chairperson may terminate a Member's question or questions, or question time altogether if in the Chairperson's view:

- (a) the rules of question time as set out in SO 20.1 are not being observed; and/or
- (b) the length of time being taken on questions is not proportionate to the importance of the item or the progress of the meeting.

The Chairperson's decision on such matters is final.

20.3 Questions of presenters other than staff

At the discretion of the Chairperson, members may ask questions of external presenters for items on the meeting agenda other than staff for the purpose of enabling informed debate and decision-making. The following provisions apply:

- a) questions demonstrate respect for presenters and are put courteously;

- b) members must not use a question to state their point of view or enter into debate;
- c) members must ask questions directly relevant to the item being discussed and not be repetitive;
- d) questions should be succinct, clear and unambiguous; and
- e) presenters should not be asked to comment on matters to which they have already responded or do not feel qualified to address.

20.4 Questions during Debate

No questions are allowed once debate has commenced, unless a member who has a question that relates to the accuracy of significant material facts informing decision-making or legal compliance. Such questions may be raised under SO 21.4.

21. General rules of debate

21.1 Chairperson may exercise discretion

The application of any procedural matters in this section of the standing orders, such as the number of times a member may speak, is subject to the discretion of the Chairperson.

21.2 Time limits on speakers

The following time limits apply to members speaking at meetings unless there is an exception provided for in SO 21.3 below.

- (a) movers of motions when speaking to the motion – not more than 3 minutes;
- (b) movers of motions when exercising their right of reply – not more than 3 minutes;
- (c) other members – not more than 3 minutes.

21.3 Exceptions to time limits on speakers

Time limits set out in SO 21.2 will not apply in the following circumstances:

- (a) 10 Year Plan meetings
- (b) Annual Plan meetings
- (c) for individual agenda items of any meeting of council or a committee where a simple majority of those members present resolve to exempt that item.

In these circumstances the following time limits apply:

- (a) movers of motions when speaking to the motion – not more than 5 minutes;
- (b) movers of motions when exercising their right of reply – not more than 5 minutes;

Commented [BB32]: Changed in response to the balar feedback from Elected Members.

- (c) other members – not more than 5 minutes.

21.4 Questions of Significance to Staff during debate

A member who believes they have a necessary question regarding the accuracy of significant material facts informing decision-making or legislative compliance must:

- (a) wait until the member currently speaking has concluded their debate;
- (b) indicate to the Chairperson that they have a question of significance;
- (c) when asked by the Chairperson, put their question simply and clearly without commentary or opinion;
- (d) abide by the decision of the Chairperson as whether the question is sufficiently material to be put to staff;
- (e) accept the response provided by the Chairperson or staff, and not enter into further questions or debate.

The Chairperson's ruling on the materiality of a question is final and not open to challenge.

21.5 Limits on number of speakers

If three speakers have spoken consecutively in support of, or in opposition to, a motion, the Chairperson may call for a speaker to the contrary. If there is no speaker to the contrary, the Chairperson must put the motion after the mover's right of reply.

Members speaking must, if requested by the Chairperson, announce whether they are speaking in support of or opposition to a motion.

21.6 Secunder may reserve speech

A member may second a motion or amendment without speaking to it, reserving the right to speak later in the debate.

21.7 Speaking only to relevant matters

Members must confine their remarks strictly to the motion or amendment that is being debated. Otherwise Members may only speak during debate to raise a point of order or a question of significance.

The Chairperson's rulings on any matters arising under this standing order are final and not open to challenge.

21.8 Stating, Restating and Display of Motions and Amendments

A motion or amendment will generally be displayed on the electronic screen (where technology allows this) for the information of members prior to or at the commencement of debate. Members may ask the Chairperson for the motion or amendment to be read out in the meeting or, where the motion or amendment cannot be easily read on the screen, in writing. Members may also request the Chairperson restate a motion or amendment at any time but may not interrupt a speaker to do so.

Commented [BB33]: Clarification added in response to request

21.9 Criticism of resolutions

A member speaking in a debate may not unduly criticise the validity of any resolution of the Council or Committee of Council except by a notice of motion to amend or revoke the resolution.

21.10 Right of reply

The mover of an original motion has a right of reply. A mover of an amendment to the original motion does not. In their reply, the mover of the motion must confine themselves to answering previous speakers and may not introduce any new matters.

A mover's right of reply can only be used once. The mover may reserve their right of reply and exercise it at the end of any debate:

- (a) on the original or substituted motion (where there is no amendment, or the motion and amendment are being debated separately); OR
- (b) on an amendment (where the motion and the amendment are being debated separately); OR
- (c) on the amendment as the substantive motion (where the amendment is won and becomes the motion); OR
- (d) on the motion and amendment where these are being debated together.

The mover of a motion is entitled to speak once to their motion and once to each amendment. If a closure motion (see SO 24.9) is carried the mover of the motion has the right of reply before the motion or amendment is put to the vote.

21.11 No other member may speak

No other member may speak:

- (a) after the mover has started their right of reply; OR
- (b) after the mover has indicated that they will forego their right of reply; AND
- (c) the Chairperson has indicated that he or she intends to put the motion.

22. Motions and amendments

22.1 General procedures for speaking to and moving motions

- (a) the mover and seconder of a motion cannot move or second an amendment. (This does not apply when the mover or seconder of a motion to adopt a report of a committee wants to amend an item in the report. In this case the original mover or seconder may also propose or second the suggested amendment).
- (b) only members who have not spoken to the original or substituted motion may move or second an amendment to it.
- (c) members can speak to any amendment and, provided they have not spoken to the motion or moved or seconded an amendment, they can move or second further amendments.
- (d) the meeting by agreement of the majority of members present may amend a motion with the agreement of the mover and seconder.

22.2 Proposing and seconding motions

All motions and amendments must have a mover and a seconder. The Chairperson may then state the motion and propose it for discussion.

Amendments and motions moved but not seconded are not in order and will not be discussed or entered in the minutes.

This requirement for a mover and a seconder also applies to notices of motion (see SO 26)

22.3 Motions in writing

The Chairperson may require movers of motions and amendments to provide them in writing, signed by the mover.

22.4 Motions expressed in parts

The Chairperson, or any member, can require a motion that has been expressed in parts to be decided part by part.

22.5 Substituted motion

Where a motion is subject to an amendment, the meeting may substitute the motion with the amendment, provided the mover and seconder of the original motion agree to its withdrawal. The substituted motion will be debated as the motion

22.6 Amendments to be relevant

Every proposed amendment must be relevant to the motion under discussion. Proposed amendments cannot be similar to an amendment that has already been lost.

22.7 Amendments cannot be direct negatives

An amendment which, if carried, would have the effect of defeating a previous resolution is a direct negative and is therefore not allowed.

An amendment which, if carried, would have the effect of negating the current motion or substituted motion AND PRESERVES the Status Quo is a direct negative and is therefore not allowed.

However, where an amendment which if carried, would have the effect of negating the current motion or substituted motion AND WOULD RESULT in a change to the Status Quo, it is not a direct negative and will be allowed.

22.8 Foreshadowed and Further Amendments

A member may indicate to the meeting that they intend to move a further amendment once the existing amendment in front of the meeting has been dealt with i.e. they foreshadow a further amendment. A member may do this at any time until the Chairperson calls for the existing amendment to be put to the vote provided they have not already spoken in the debate. They may but are not required to disclose the nature of a foreshadowed amendment.

Alternately, once the existing amendment has been dealt with and before the Chairperson calls for the vote on the motion (original, substituted or substantive), a member may move a further amendment. A further amendment requires both a mover and a seconder who have not already spoken in the debate.

22.9 Lost amendments

Where an amendment is lost, and the motion and amendment are being debated separately, the meeting will resume the debate on the original or substituted motion. Any member who has not spoken to that motion may speak to it and/or move or second a further amendment.

Where an amendment is lost, and the motion and amendment have been debated together, debate is concluded unless members who have not already spoken move and second a further amendment.

22.10 Carried amendments

Where an amendment is carried, and the motion and amendment debated separately, the meeting will resume the debate on the substantive motion (the amendment which has now become the motion). Members who have not spoken to the original motion may speak to the substantive motion and may move or second a further amendment to it.

Where an amendment is carried, and the motion and amendment (now the substantive motion) have been debated together, debate is concluded unless members who have not already spoken in the debate move and second a further amendment to it.

22.11 Where a motion is lost

In a situation where a motion that recommends a course of action is lost and the outcome of the vote results in a status quo situation that could or would mean that Council was not meeting its legal compliance requirements clause, the Chairperson may allow a procedural/motion as *per SO 24.4*.

22.12 Withdrawal and alteration of motions and amendments

A motion or amendment which has been seconded may be withdrawn, altered, or the motion substituted with the amendment with the consent of the mover and the seconder prior to it being put by the Chairperson to the meeting for the vote UNLESS a member requests it be retained as is. In this case a motion or amendment cannot be withdrawn or altered, or the motion substituted with the amendment without the consent of the majority of the members who are present and voting.

22.13 No speakers after reply or motion has been put

A member may not speak to any motion once:

- (a) the mover has started their right of reply in relation to the motion; and
- (b) the Chairperson has started putting the motion.

23. Revocation or alteration of resolutions**23.1 Member may move a revocation or alternation of a decision**

A member may give notice to the Chief Executive of their intention to move a notice of motion for the revocation or alteration of all or part of a previous resolution of the Council or Council committee. This is called a Notice of Revocation or Alteration. The notice must set out:

- (a) The resolution or part of the resolution which the member proposes to revoke or alter;
- (b) The meeting date when the resolution was passed;
- (c) The motion, if any, which the member proposes to replace it with; and
- (d) Sufficient information to satisfy the decision-making provisions of sections 77-82 of the LGA 2002.

23.2 A Notice of Revocation or Alteration must be considered by the body responsible for the decision

Only the body that made the resolution for which a notice of motion has been received may revoke or amend their resolution, irrespective of whether the resolution was made under delegated authority, assuming the resolution is legally made.

This provision does not prevent the body that made the delegation from removing or amending a delegation given to a subordinate body.

cl. 32 (2)4 Schedule 7, LGA 2002.

23.3 Giving Notice of Revocation or Alteration

A member must give notice of their intention to move to revoke or alter all or parts of a resolution to the Chief Executive at least 5 working days before the meeting at which it is proposed to consider the motion. The notice of revocation or alteration must name a seconder and be signed by not less than one third of the members of the local authority, including vacancies. Notice can be sent via email and include the scanned electronic signatures of members. Once the motion is received the Chief Executive must give members notice in writing of the intended motion at least 2 clear working days' notice of the date of the meeting at which it will be considered.

(See also section 26 Notices of Motions).

23.4 Lost Notice of Revocation or Amendment

If the notice of motion is lost, no similar notice of motion which is substantially the same in purpose and effect may be accepted within the next six months.

23.5 Restrictions on actions under the affected resolution

Once a notice of motion to revoke or alter a previous resolution has been received no irreversible action may be taken under the resolution in question until the proposed notice of motion has been dealt with. Exceptions apply where, in the opinion of the Chairperson:

- (a) the practical effect of delaying actions under the resolution would be the same as if the resolution had been revoked;
- (b) by reason of repetitive notices, the effect of the notice is an attempt by a minority to frustrate the will of the local authority or the committee that made the previous resolution.

In either of these situations, action may be taken under the resolution as though no notice of motion had been given to the Chief Executive.

23.6 Revocation or alteration by resolution at same meeting

A meeting may revoke or alter a previous resolution made at the same meeting where, during the meeting, it receives fresh facts or information concerning the resolution. In this situation 75 percent of the members present and voting must agree to the revocation or alteration.

23.7 Revocation or alteration by report recommendation

The local authority, on a recommendation in a report by the Chairperson, Chief Executive, or any committee or subcommittee, may revoke or alter all or part of a resolution passed by a previous meeting. The Chief Executive must give at least two clear working days' notice of any meeting that will consider a revocation or alteration recommendation.

cl. 30 (6) Schedule 7, LGA 2002.

24. Procedural motions

24.1 Procedural motions must be taken immediately

A procedural motion to close or adjourn a debate will take precedence over other business, except points of order and rights of reply. If the procedural motion is seconded the Chairperson must put it to the vote immediately, without discussion or debate.

However, the Chairperson must respond to any questions regarding the members obligations under legislation and Standing Orders, prior to putting a matter to the vote.

Commented [BB34]: Addition for clarity.

24.2 Procedural motions to close or adjourn a debate

Any member who has not spoken on the matter under debate may move any one of the following procedural motions to close or adjourn a debate:

- (a) that the meeting be adjourned to the next ordinary meeting (unless the member states an alternative time and place);
- (b) that the motion under debate should now be put (a closure motion);
- (c) that the item being discussed should be adjourned to a specified time and place and not be further discussed at the meeting;
- (d) that the item of business being discussed should lie on the table and not be further discussed at this meeting;
- (e) that the item being discussed should be referred (or referred back) to the relevant committee.

A member seeking to move a procedural motion must not interrupt another member who is already speaking.

24.3 Voting on procedural motions

Procedural motions to close or adjourn a debate must be decided by a majority of all members who are present and voting. If the motion is lost no member may move a further procedural motion to close or adjourn the debate within the next 15 minutes.

24.4 Procedure if no resolution reached

Where the outcome of a vote results in a status quo situation that could or would mean that Council was not meeting its legal compliance requirements the Chairperson may accept a procedural motion to progress the matter under discussion.

24.5 Adjournment motions

The carrying of any motion to adjourn a meeting must supersede other business remaining to be disposed of. Any such business must be considered at the next meeting. Business referred, or

referred back, to a specified committee or local or community board, is to be considered at the next ordinary meeting of that committee or board, unless otherwise specified.

24.6 Debate on adjourned items

When debate resumes on items of business that have been previously adjourned all members are entitled to speak on the items.

24.7 Remaining business at adjourned meetings

Where a resolution is made to adjourn a meeting, the remaining business will be considered at the next meeting.

24.8 Business referred to the council or committee

Where an item of business is referred (or referred back) to a committee, the committee will consider the item at its next meeting unless the meeting resolves otherwise.

24.9 Chairperson's acceptance of closure motions

The Chairperson may only accept a closure motion where there have been at least two speakers for and two speakers against the motion that is proposed to be closed, or the Chairperson considers it reasonable to do so.

However, the Chairperson must put a closure motion if there are no further speakers in the debate. When the meeting is debating an amendment, the closure motion relates to the amendment. If a closure motion is carried, the mover of the motion under debate has the right of reply after which the Chairperson puts the motion or amendment to the vote.

24.10 Other types of procedural motions

The Chairperson has discretion about whether to allow any other procedural motion that is not contained in these standing orders.

25. Points of order

25.1 Members may raise points of order

Any member may raise a point of order when they believe these standing orders have been breached. When a point of order is raised, the member who was previously speaking must stop speaking and sit down (if standing).

25.2 Subjects for points of order

A member who is raising a point of order must state precisely what its subject is. Points of order may be raised for the following subjects:

- (a) disorder – bringing disorder to the attention of the Chairperson;
- (b) language – use of disrespectful, offensive or malicious language;
- (c) irrelevance – the topic being discussed is not the matter currently before the meeting;
- (d) misrepresentation – incorrect or misleading account of any statement made by a member or by an officer or council employee;
- (e) breach of standing order – the breach of any standing order while also specifying which standing order is subject to the breach;
- (f) **breach of the Code of Conduct of Elected Members– see SO 19.11**
- (g) to request the recording of words, such as a request that the minutes record words that have been the subject of an objection.

Commented [BB35]: Added for clarity

Having raised the subject of their point of order, a member may not explain further until invited by the Chairperson to do so.

25.3 Contradictions

Expressing a difference of opinion or contradicting a statement by a previous speaker is not a point of order.

25.4 Point of order once the Chairperson has called the vote

A member may not raise a point of order once the motion or amendment has been put for the vote by the Chairperson, except with the permission of the Chairperson.

25.5 Chairperson's decision on points of order

The Chairperson may either decide a point of order immediately after it has been raised or choose to hear further argument about the point before deciding. The Chairperson's ruling on any point of order, and any explanation of that ruling, is not open to any discussion and is final.

26. Notices of motion

26.1 Notice of intended motion to be in writing

Any member seeking to put a motion at an upcoming meeting may provide notice of their intended motion subject to the requirements of these Standing Orders. Notice of intended motions must be in writing signed by the mover, stating the meeting at which it is proposed that the intended motion be considered (see SO 26.6), the name of the seconder, and must be delivered to the Chief Executive at least 5 clear working days before such meeting.

[Notice of an intended motion can be sent via email and include the scanned electronic signature of the mover.]

Once the motion is received the Chief Executive must give members notice in writing of the intended motion at least two clear working days' notice of the date of the meeting at which it will be considered.

26.2 Refusal of notice of motion

The Chairperson may direct the Chief Executive to refuse to accept any notice of motion which:

- (a) is disrespectful or which contains offensive language or statements made with malice; or
- (b) is not related to the role or functions of the local authority or meeting concerned; or
- (c) contains an ambiguity or a statement of fact or opinion which cannot properly form part of an effective resolution, and where the mover has declined to comply with such requirements as the Chief Executive officer may make; or
- (d) is concerned with matters which are already the subject of reports or recommendations from a committee to the meeting concerned; or
- (e) fails to include sufficient information as to satisfy the decision-making provisions of s.77-82 LGA 2002; or
- (f) concerns a matter where decision-making authority has been delegated to a subordinate body.

Reasons for refusing a notice of motion should be provided to the mover. Where the refusal is due to (f) the notice of motion may be referred to the appropriate committee.

26.3 Mover of notice of motion

Notices of motion may not proceed in the absence of the mover unless moved by another member authorised to do so, in writing, by the mover.

26.4 Alteration of notice of motion

Only the mover, at the time the notice of motion is moved and with the agreement of a majority of those present at the meeting, may alter a proposed notice of motion. Once moved and seconded no amendments may be made to a notice of motion.

26.5 When notices of motion lapse

Notices of motion that are not put when called by the Chairperson must lapse.

26.6 Referral of notices of motion

Any notice of motion received that refers to a matter ordinarily dealt with by a committee of the local authority must be referred to that committee by the Chief Executive.

Where notices are referred the proposer of the intended motion, if not a member of that committee, must have the right to move that motion and have the right of reply, as if a committee member.

26.7 Repeat notices of motion

When a motion has been considered and rejected by the local authority or a committee, no similar notice of motion may be accepted within the next 12 months, unless signed by not less than one third of all members, including vacancies. The Chairperson will determine whether a repeat notice of motion is similar to one previously rejected.

Where a notice of motion has been adopted by the local authority no other notice of motion which, in the opinion of the Chairperson has the same effect, may be put while the original motion stands.

27. Minutes

27.1 Minutes to be evidence of proceedings

The local authority, its committees and subcommittees must keep minutes of their proceedings. These minutes must be kept in hard copy, signed and included in the council's minute book and, when confirmed by resolution at a subsequent meeting and signed by the Chairperson, will be prima facie evidence of the proceedings they relate to.

cl. 28 Schedule 7, LGA 2002.

27.2 Matters recorded in minutes

The Chief Executive must keep the minutes of meetings. The minutes must record:

- (a) the date, time and venue of the meeting;
- (b) the names of the members present;

- (c) the Chairperson;
- (d) any apologies or leaves of absences;
- (e) the arrival and departure times of members;
- (f) any failure of a quorum;
- (g) a list of any external speakers and the topics they addressed;
- (h) a list of the items considered;
- (i) the resolutions and amendments related to those items including those that were lost, provided they had been moved and seconded in accordance with these standing orders;
- (j) the names of all movers, and seconders;
- (k) any objections made to words used;
- (l) a record of each members' vote;
- (m) the names of any members requesting that votes or abstentions be recorded;
- (n) any declarations of financial or non-financial conflicts of interest;
- (o) the contempt, censure and removal of any members;
- (p) any resolutions to exclude members of the public;
- (q) the time at which the meeting concludes or adjourns;
- (r) the names of people permitted to stay in public excluded.

Please Note: hearings under the RMA, Dog Control Act 1996 and Sale and Supply of Alcohol Act 2012 may have special requirements for minute taking.

27.3 No discussion on minutes

The only topic that may be discussed at a subsequent meeting, with respect to the minutes, is their correctness.

27.4 Minutes of last meeting before election

The Chief Executive and the relevant Chairpersons must sign the minutes of the last meeting of the local authority and its local and community boards before the next election of members.

28. Minute books

28.1 Inspection

A hard copy of the local authority's minute books must be kept by the Chief Executive and be open for inspection by the public. This does not preclude the complementary use of electronic minutes in accordance with the Electronics Transactions Act.

s. 51 LGOIMA.

28.2 Inspection of public excluded matters

The Chief Executive must consider any request for the minutes of a meeting or part of a meeting from which the public was excluded as a request for official information in terms of the Local Government Official Information and Meetings Act 1987.

Referenced documents

- Commissions of Inquiry Act 1908
- Sale of Alcohol Act 2012
- Crimes Act 1961
- Financial Markets Conduct Act 2013
- Local Authorities (Members' Interests) Act 1968 (LAMIA)
- Local Electoral Act 2001 (LEA)
- Local Government Act 1974 and 2002 (LGA)
- Local Government Official Information and Meetings Act 1987 (LGOIMA)
- Marine Farming Act 1971
- Resource Management Act 1991 (RMA)
- Secret Commissions Act 1910
- Securities Act 1978

Appendix 1: Grounds to exclude the public

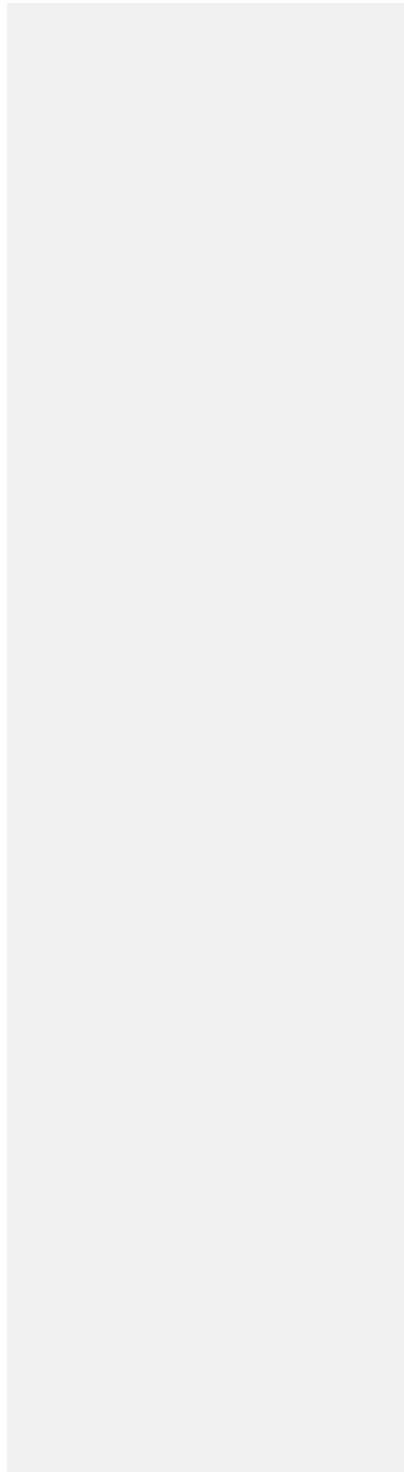
A local authority may, by resolution, exclude the public from the whole or any part of the proceedings of any meeting only on one or more of the following grounds:

- A1** That good reason exists for excluding the public from the whole or any part of the proceedings of any meeting as the public disclosure of information would be likely:
- (a) to prejudice the maintenance of the law, including the prevention, investigation, and detection of offences, and the right to a fair trial; or
 - (b) to endanger the safety of any person.
- A2** That the public conduct of the whole or the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information where the withholding of the information is necessary to:
- (a) Protect the privacy of natural persons, including that of deceased natural persons; or
 - (b) Protect information where the making available of the information would:
 - i. disclose a trade secret; or
 - ii. be likely unreasonably to prejudice the commercial position of the person who supplied or who is the subject of the information; or,
 - (c) In the case only of an application for a resource consent, or water conservation order, or a requirement for a designation or heritage order, under the Resource Management Act 1991, to avoid serious offence to tikanga Māori i, or to avoid the disclosure of the location of waahi tapu; or
 - (d) Protect information which is subject to an obligation of confidence or which any person has been or could be compelled to provide under the authority of any enactment, where the making available of the information would:
 - i. be likely to prejudice the supply of similar information, or information from the same source, and it is in the public interest that such information should continue to be supplied; or
 - ii. be likely otherwise to damage the public interest; or
 - (e) Avoid prejudice to measures protecting the health or safety of members of the public; or
 - (f) Avoid prejudice to measures that prevent or mitigate material loss to members of the public; or
 - (g) Maintain the effective conduct of public affairs through –the protection of such members, officers, employees, and persons from improper pressure or harassment; or
 - (h) Maintain legal professional privilege; or
 - (i) Enable any Council holding the information to carry out, without prejudice or disadvantage, commercial activities; or
 - (j) Enable any Council holding the information to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations); or

- (k) Prevent the disclosure or use of official information for improper gain or improper advantage.

Provided that where A2 of this Appendix applies the public may be excluded unless, in the circumstances of the particular case, the exclusion of the public is outweighed by other considerations which render it desirable, in the public interest, that the public not be excluded.

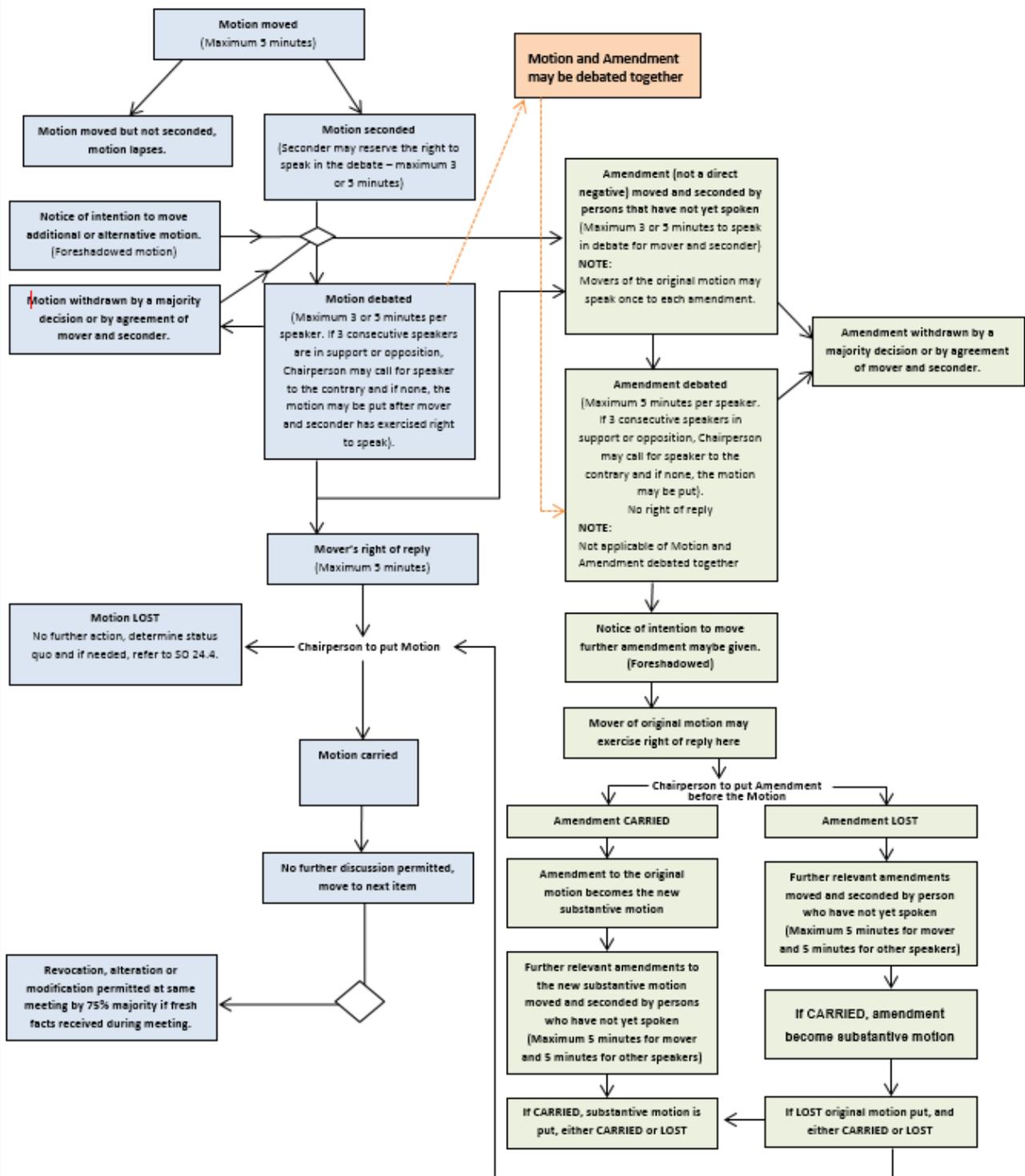
- A3 That the public conduct of the whole or the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information, the public disclosure of which would:
 - (a) Be contrary to the provisions of a specified enactment; or
 - (b) Constitute contempt of Court or of the House of Representatives.
- A4 That the purpose of the whole or the relevant part of the proceedings of the meeting is to consider a recommendation made to that Council by an Ombudsman under section 30(1) or section 38(3) of this Act (in the case of a Council named or specified in Schedule 1 to this Act).
- A5 That the exclusion of the public from the whole or the relevant part of the proceedings of the meeting is necessary to enable the Council to deliberate in private on its decision or recommendation in:
 - (a) Any proceedings before a Council where
 - i. A right of appeal lies to any Court or tribunal against the final decision of the Council in those proceedings; or
 - ii. The Council is required, by any enactment, to make a recommendation in respect of the matter that is the subject of those proceedings; and
 - (b) Any proceedings of a Council in relation to any application or objection under the Marine Farming Act 1971.



Appendix 2: Motions and Amendments - see SO 22

Motions without amendments

Motions with amendment



Appendix 3: Webcasting protocols

The provisions are intended as a good practice guide to local authorities that are webcasting meetings or planning to do so.

- (a) The default shot will be on the Chairperson or a wide-angle shot of the meeting room.
- (b) Cameras will cover a member who is addressing the meeting. Cameras will also cover other key participants in a meeting, including staff when presenting a report and responding to questions, and members of the public when addressing the meeting during the public forum time.
- (c) Generally, interjections from other members or the public are not covered. However, if the Chairperson engages with the interjector, the interjector's reaction may be filmed.
- (d) PowerPoint presentations, recording of votes by division and other matters displayed by on the screens may be shown.
- (e) Shots unrelated to the proceedings, or not in the public interest, are not permitted.
- (f) If there is general disorder or a disturbance from the public gallery, coverage will revert to the Chairperson or a wide-angle shot of the meeting.
- (g) Appropriate signage will be displayed outside the meeting room alerting people that the proceedings are being web cast.
- (h) A recording of the meetings following the webcasting will be made available on Council's website for public record.

Code of Conduct for Elected Members



Adopted on: 15 March 2018

Updated: 9 October 2018



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1 & 2

Scope & Application

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

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

1. Scope

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

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

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

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

2. Application

The Code applies to Elected Members at all times.

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

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

External appointees of the Council’s Committees must also comply with the provisions of this Code as required under their individual agreements with the Council.

3 Principles of Governance

The Code gives effect to the following general principles of good governance with which Elected Members have agreed to comply:

3.1 Integrity and Honesty

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

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

3.2 Accountability

Elected Members will:

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

3.3 Respect

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

- treating people, including other members, with respect and courtesy, regardless of their race, age, religion, gender, sexual orientation, or disability.
- recognising and encouraging ideas and contributions from others.
- being courteous and approachable.
- not engaging in aggressive, offensive, abusive or bullying behaviour.
- not making personal attacks.
- respecting the impartiality and integrity of staff.
- not interrupting when others are expressing their point of view.

3.4 Good Faith

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

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

3.5 Proper Use of Position

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

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

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

3.6 Leadership

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

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



4 Roles and Responsibilities

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

4.1 Elected Members

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

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

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

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

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

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

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

4.2 Mayor

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

- lead the development of the Council's plans (including long-term plan and annual plan), policies and budgets for consideration by members of the territorial authority;
- appoint the Deputy Mayor;
- establish committees of the Council and appoint the chairperson of each committee established. However, nothing limits or prevents the Council from discharging or reconstituting

committees or chairpersons of those committees established by the Mayor by way of Council resolution at a later date.

- presiding at Council meetings. The Mayor is responsible for ensuring the orderly conduct of business during Council meetings (as determined by Standing Orders);
- advocating on behalf of the community. This role may involve promoting the community and representing its interests. Such advocacy will be most effective where it is carried out with the knowledge and support of the Council;
- ceremonial head of the Council;
- providing leadership and feedback to other Elected Members on teamwork and chairing of committees; and
- keeping the Council informed of matters brought to his/her attention.

4.3 Deputy Mayor

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

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

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

4.4 Committee Chairpersons

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

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

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

4.5 Chief Executive

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

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

- implementing the decisions of the Council;
- providing advice to the Council and its committees;
- ensuring that all responsibilities, duties and powers delegated to him or her, or to any person employed by the local

authority, or imposed or conferred by an Act, regulation or bylaw, are properly performed or exercised;

- managing the Council's activities effectively and efficiently;
- maintaining systems to enable effective planning and accurate reporting of the financial and service performance of the Council;
- providing leadership for the staff of the Council;
- employing staff on behalf of the Council (including negotiation of the terms of employment for the staff of the local authority).

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

5 Relationships and Behaviours

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

5.1 Relationship with Other Members

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

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

5.2 Relationship with the Chief Executive and Staff

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

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

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

5.3 Relationships with the public

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

- interact with members of the public in a fair, respectful, equitable and honest manner;
- be available to listen and respond openly and honestly to community concerns;
- consider all points of view or interests when participating in debate and making decisions;
- treat members of the public in a courteous manner; and
- act in a way that upholds the reputation of the local authority and values community involvement in local democracy.

5.4 Contact with the Media

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

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

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

5.5 Information available to Elected Members

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

Confidentiality

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

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

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

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

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

Information received in capacity as an Elected Member

Members will disclose to other members and, where appropriate the CE, any information received in their capacity as an Elected Member that concerns the Council's ability to give effect to its responsibilities.

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

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

5.6 Gifts and Hospitality

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

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

As guidance:

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

5.7 Conflicts of Interest

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

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

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

The requirements cover two classes of conflict of interest:

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

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

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

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

5.8 Bankruptcy

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

5.9 Disqualification from Office

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

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



Item 18

Attachment 1

6

Breaches of the Code

Members must comply with the provisions of this Code (clause 15(4), Schedule 7, LGA). The exact nature of the action taken to resolve any allegations relating to misconduct of an Elected Member will depend on the nature of the alleged breach and whether there are statutory provisions dealing with the issue in question.

6.1 Principles

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

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

6.2 Complaints Process

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

Before making a complaint, members are encouraged to resolve the matter by discussion with the member alleged to have committed the breach.

All complaints made under this Code must be made in writing and addressed to the CE, setting out the alleged breach of the Code and providing corroborating evidence. On receipt of a complaint, the CE must follow the process set out in Schedule 3. For the purpose of the Code, (an) Elected Member(s) who is/are the subject of a complaint under the Code is/are 'the respondent'.

Panel of Independent Investigators

On behalf of the Council, the CE will, shortly after the start of a triennium, prepare, in consultation with the Mayor, a list of investigators for the purpose of undertaking an assessment of complaints (when required) and making recommendations to the Council. The CE may prepare a list specifically for the Council, prepare a list jointly with neighbouring councils or contract with an agency capable of providing appropriate investigators.

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

Materiality

An alleged breach under this Code is material if, in the reasonable opinion of an independent investigator, it would, if proven, bring an Elected Member or the Council into disrepute or, if not addressed, reflect adversely on another Elected Member of the Council.

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

6.3 Penalties and actions

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

Material breaches

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

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

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

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

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

Breaches of Legislation

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

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

leave the Elected Member liable for criminal prosecution.

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

Breaches of the Code during meetings

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

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

7 Review or Changes to the Code

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

The Council will formally review the Code as soon as practicable after the beginning of each triennium. The results of that review will be presented to the full Council for its consideration and vote.

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



Item 18

Attachment 1

Schedule 1

Summary of Legislation

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

Local Government Act 2002 ('LGA')

Governance Principles

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

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

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

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

- a local authority should ensure that the role of democratic governance of the community, and the expected conduct of elected members, is clear and understood by elected members and the community;
- a local authority should ensure that the governance structures and processes are effective, open and transparent;

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

Decision-Making Responsibility

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

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

Significance and Engagement

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

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

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

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

Personal liability of members

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

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

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

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

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

Local Authorities (Members' Interests) Act 1968 ('LAMIA')

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

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

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

Local Government Official Information and Meetings Act 1987 ('LGOIMA')

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

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

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

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

Secret Commissions Act 1910 ('SCA')

It is unlawful for an Elected Member (or officer) to advise anyone to enter into a contract with a third person and receive a gift or reward from that third person as a result. It is also unlawful for an Elected Member (or officer) to present false receipts to the local authority.

If convicted of any offence under the SCA, a person can be imprisoned for up to 7 years. Elected Members convicted of an offence will be removed from office.

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

Crimes Act 1961

It is a crime for any Elected Member to accept, or solicit for themselves (or anyone else), any gift or reward for acting or not acting in relation to the business of the local authority. It is also a crime for any Elected Member to use information acquired in his or her official capacity for monetary gain or advantage.

These offences are punishable by a term of imprisonment of 7 years or more. Elected Members convicted of these offences will be removed from office.

Financial Markets Conduct Act 2013 ('FMCA')

The FMCA regulates the offer, issue and re-sale of financial products, which includes shares, debt securities and derivatives.

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

Health & Safety at Work Act 2015 ('HSWA')

HSWA came into force on 4 April 2016. Its focus is the protection of workers and other people against harm to their health, safety and welfare by eliminating or minimising risks at workplaces.

The HSWA places obligations on four duty holders - a person conducting a business or undertaking ('PCBU'); officers of a PCBU; workers; and other people at a workplace. Council as a PCBU holds the primary duty of care under HSWA i.e. to ensure so far as is reasonably practicable, the health and safety of its workers and of other workers whose activities Council influences or directs.

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

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

Unlike the Chief Executive and Senior Leadership Team, Elected Members are not required to be directly involved in the day-to-day management of health and safety. They are, however, still required to take reasonable steps to understand Council's operations and health and safety risks, and to ensure that they are managed so that the organisation meets its legal obligations under the HSWA.

This duty does not extend to ensuring that a council controlled organisation ('CCO') complies with the HSWA, unless the Elected Member is also an 'officer' of that CCO.

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

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

Protected Disclosures Act 2000

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

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

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

The Council has a Protected Disclosure Management Policy, which applies to employees. For Elected Members, the default position requires a disclosure to be made to the CE or Deputy CE. If the employee considers the CE or Deputy CE may be involved in serious wrongdoing, the matter can also be escalated to an "appropriate authority". Appropriate authorities are defined in the Act and include the Commissioner of Police, the Controller and Auditor-General and the Parliamentary Ombudsman.

Conflicts of Interest

General

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

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

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

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

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

Conflicts of interest can be:

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

Financial conflicts of interest

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

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

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

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

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

The two specific rules in the LAMIA relate to:

1. Contracts

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

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

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

2. Participation in decision-making

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

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

How is bias determined?

Bias is determined by asking the following question:

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

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

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

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

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

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

Declarations of interest

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

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

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

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

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

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

General awareness and support

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

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

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

Relevant guidelines include:

- [‘Guidance for Members of Local Authorities about the Local Authorities’ \(Members’ Interests\) Act 1968’](#) – Office of the Auditor General 2010;
- [‘Managing Conflicting Interests in Local Government: The Local Authorities \(Members’ Interests\) Act 1968 and Associated Issues’](#) – Department of Internal Affairs August 2011;

Consequences of bias and/or breach of the LAMIA

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

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

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

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

Schedule 3

Process for the investigation and determination of complaints

Summary

There is a five-stage process for dealing with complaints under the Code of Conduct:

Stage 1: Acknowledgement of the complaint and the respondent is informed.

Stage 2: Preliminary assessment of the complaint – led by either the CE or an independent investigator.

Stage 3: Informal resolution of complaint (where alleged breach is considered non-material).

Stage 4: Independent investigator assessment where:

- the alleged breach is considered material;
- the complaint has not been able to be resolved informally; or
- the complaint is otherwise referred to an independent investigator by the CE.

Stage 5: The Council's consideration of the investigator's report.

A flowchart illustrating the complaints process is attached as an appendix to this Schedule.

Stage 1: Acknowledgment of complaint

1. Within two working days of receipt of a complaint, the CE will:

- a. acknowledge receipt and refer the complainant to the process for dealing with the complaint under this Code.
- b. inform the respondent that a complaint has been made against them and refer them to the process for dealing with the complaint under this Code.

Stage 2: Preliminary assessment of complaint

2. The CE, with the Mayor (or Deputy Mayor if the complaint involves the Mayor) will assess whether:

- a. the complaint is frivolous or without substance and should be dismissed;
- b. the complaint is outside the scope of the Code and should be redirected to another agency or process;
- c. the subject of the complaint has previously been assessed and actions have been completed in accordance with the Code to address the complaint;
- d. the complaint is not material and should progress to informal resolution (refer to Stage 3); or
- e. the complaint is material and a full investigation is required by an independent investigator (refer to Stage 4). An alleged breach of section 5.5 of the Code is deemed to be material.

3. The CE may request further information/evidence from the complainant in support of the complaint and, if considered appropriate, may also request a preliminary statement in response from the respondent.

4. Where the CE and the Mayor (or Deputy Mayor) determines the complaint falls under paragraphs 2(a) or (c) above, the CE will inform the complainant and the respondent directly. The CE will also inform other Elected Members of the decision, unless there are grounds for the matter to remain confidential.

5. If it is determined that the complaint involves a potential legislative breach and is outside the scope of the Code, the CE will forward the complaint to the relevant agency and inform both the complainant and respondent of the action.

6. Where the CE and Mayor (or Deputy Mayor) determine the complaint is material, the matter must immediately be referred to an individual investigator for assessment (Stage 4).

7. The CE has full discretion to refer any complaint to an independent investigator at any stage, even if it is considered not material.

8. The preliminary assessment of a complaint under Stage 2 will be completed within seven working days of receipt of the complaint. If additional time is required to complete the assessment, the CE must notify the complainant and respondent with the date when the preliminary assessment is expected to be completed.

Stage 3: Informal Resolution

9. Where the CE and the Mayor (or Deputy Mayor) determine the complaint falls under paragraph 2(d) (refer to Stage 2), they will endeavour to settle the matter informally between the parties within 10 working days from the completion of Stage 2. The process for informal resolution must be fair to, and include, the affected parties.

10. The outcome of this initial process may be that the parties reach an informal agreement to resolve the complaint, in which case no further action is required. A written record of the informal agreement must be kept by the CE's office.

11. If agreement is not possible between the parties under Stage 3, the CE will refer the complaint to an independent investigator for full investigation.

12. For clarity, Stage 3 is not available if the complaint has been assessed as material under Stage 2 or referred to an independent investigator under paragraph 7 above.

Stage 4: Independent Investigator Assessment

13. Where the CE and the Mayor (or Deputy Mayor) determines the complaint falls under paragraph 2(e) in Stage 2, or the complaint is not otherwise resolved, the CE will refer the complaint to an independent investigator selected from the approved Panel of Independent Investigators.

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

- a. the complaint is frivolous or without substance and should be dismissed;

- b. the complaint is outside the scope of the Code and should be redirected to another agency or process;
- c. the subject of the complaint has previously been assessed and actions have been completed in accordance with the Code to address the complaint;
- d. the complaint is non-material; or
- e. the complaint is material and a full investigation is required.

15. The investigator must carry out their assessment in accordance with the principles in section 6.1 and within the terms of engagement provided by the CE. The assessment must be completed and sent to the CE as soon as possible, no later than 20 working days from the date the complaint is referred to the investigator (unless otherwise agreed with the CE).

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

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

- a. where an investigator determines that a complaint is frivolous or without substance or previously been assessed and actioned under the Code, inform the complainant and the respondent directly and inform other Elected Members (if there are no grounds for confidentiality) of the investigator's decision; or
- b. in cases where the investigator finds that the complaint involves a potential legislative breach and is outside the scope of the Code, forward the complaint to the relevant agency and inform both the complainant and respondent of the action.

Stage 4A: Actions where a breach is found to be non-material

18. The investigator will inform the CE if they find the breach is non-material as part of their assessment (under Stage 4), and, if they choose, recommend a course of action appropriate to the breach, such as the respondent:

- a. receiving direction from the Mayor (or Deputy Mayor, as appropriate) regarding behaviour or conduct expected from Elected Members;
- b. attending appropriate training or counselling to better understand the behaviour or conduct that is expected from Elected Members in circumstances that led to the complaint.

19. The CE, in consultation with the Mayor (or Deputy Mayor, as appropriate) may determine which recommendation, if any, from the independent investigator's assessment should be actioned. The CE will advise both the complainant and the respondent of the investigator's findings, which are not open to challenge, and any recommendations to be actioned. The CE will also notify other Elected Members, unless there are grounds of confidentiality. A written record must be kept by the CE's office.

20. If the CE and Mayor (or Deputy Mayor) do not agree on the investigator's recommendations to be actioned, the CE must report the investigator's assessment to the Council for determination (refer to Stage 5).

Stage 4B: Actions where a breach is found to be material

21. The investigator will inform the CE if they find that the breach is material as part of their assessment (Stage 4). The CE will then inform the complainant and respondent. The investigator will then prepare a report for the Council on the seriousness of the breach.

22. In preparing that report the investigator must:

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

23. On receipt of the investigator's report, the CE will prepare a report for the Council, which will meet within a month of the CE receiving the investigator's report, to:

- a. consider the findings of the investigator's report; and
- b. determine whether a penalty, or some other form of action, will be imposed.

The CE's report will include the full report prepared by the investigator, including any recommendations.

24. The CE will share the investigator's report with the complainant and respondent under strict confidentiality inviting them to reply in writing as to whether they agree to the findings and whether they wish to make a written submission for consideration by the Council. The complainant and respondent must not disclose or discuss the investigator's report with any person other than the CE and/or the Mayor (or Deputy Mayor, as appropriate) prior to the Council meeting being held to determine the complaint.

Stage 5: The Council's consideration of an investigator's report

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

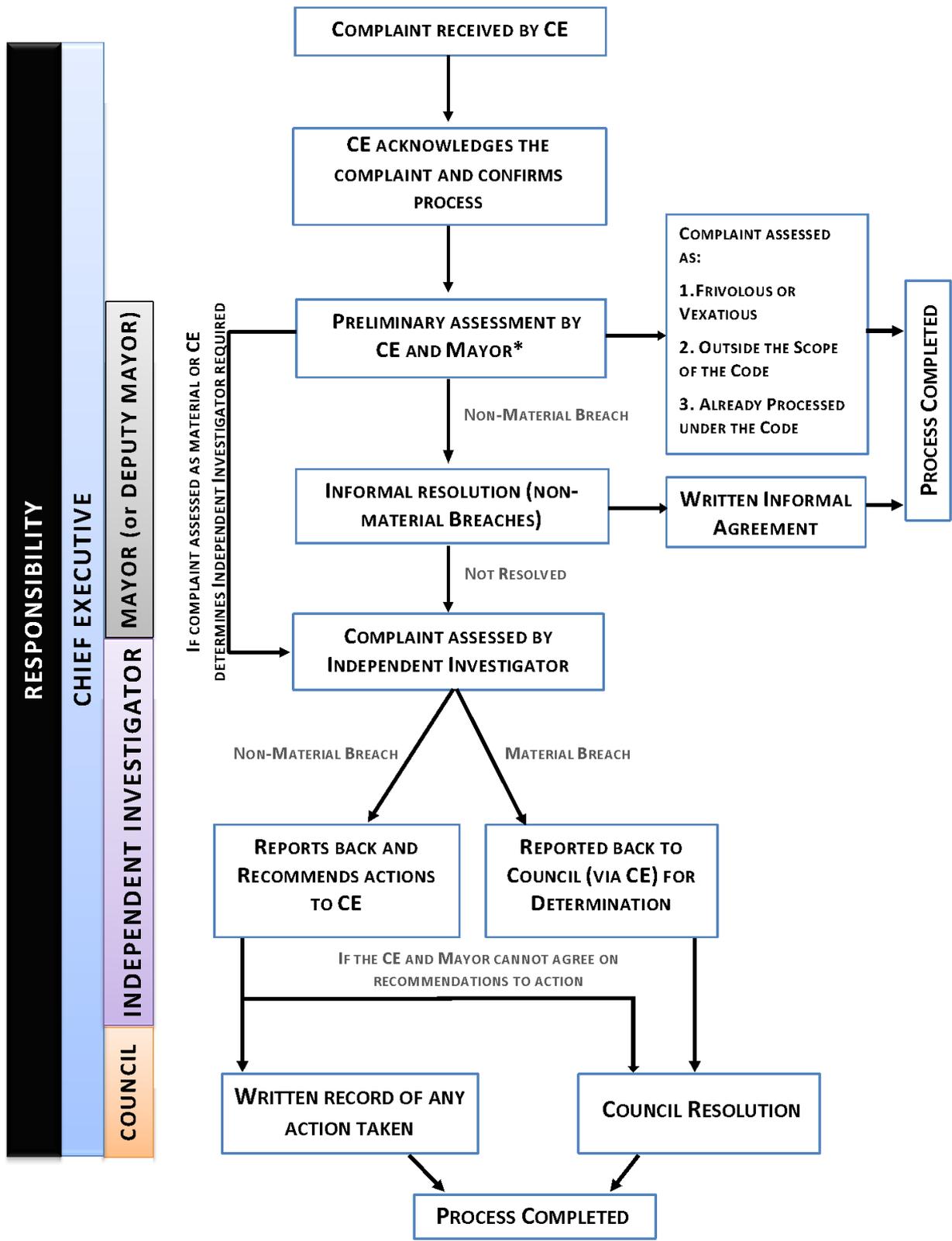
- a. the CE and Mayor do not agree on which recommendations from the investigator, if any, are to be actioned for a non-material breach (refer Stage 4A); or
- b. the breach is found to be material (refer Stage 4B).

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

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

28. The form of penalty that might be applied will depend on the nature of the breach and may include actions set out in section 6.3 of this Code.

Schedule 3 Appendix - Flowchart of Complaints Process



* OR THE DEPUTY MAYOR IF COMPLAINT IS AGAINST THE MAYOR

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Hamilton City Council

Standing Orders

Ngaa tino ture-aa-hui

Item 18

Attachment 2



Adopted on:



He Mihi

He hoonore he kororia ki te Atua
He maungarongo ki te whenua
He whakaaro pai ki ngaa taangata katoa
E mihi ana ki a Kiingi Tuuheitia e pupuru ana i te Mana Motuhake
Ka mihi ki te Koromatua me toona kaunihera e poipoi ana i te manawa o
Kirikiriroa
Ki a koutou katoa ngaa mana me ngaa maunga koorero
Teenaa koutou, teenaa koutou, teenaa taatou katoa.

We acknowledge the creator of all things
May his peace cover the land, with goodwill to all
We acknowledge the keeper of Mana Motuhake King Tuheitia
We acknowledge the Mayor and councillors as sentinels of the city
To all that hold the rich heritage of great city
We acknowledge you all.

Teenaa koutou, teenaa koutou, teenaa koutou katoa.

E whakawhiti atu ai i te koopuu maania o Kirikiriroa

Me oona maara kai, te ngaawhaa whakatupu ake o te whenua moomona

Across the smooth belly of Kirikiriroa

Its gardens bursting with the fullness of good things.

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Item 18

Attachment 2

1. Introduction

All councils must adopt standing orders for the conduct of their meetings and the meetings of any subordinate bodies, (clause 27 Schedule 7 of the Local Government Act 2002).

The purpose of the Standing Orders is to enable Hamilton City Council to exercise its decision-making responsibilities in a transparent, inclusive and lawful manner for the benefit of Hamiltonians.

Standing orders are a means to enable both the orderly conduct of Council meetings and Council committee and subcommittee meetings, and an effective environment for good governance decision-making. They contain rules for the conduct of the proceedings of the Council and all subordinate decision-making bodies, and the conduct of members.

All members of the Council or any Council committee or subcommittee whether elected or appointed must abide by the standing orders.

These standing orders fulfil the requirements of the Local Government Act 2002 and the Local Government Official Information and Meetings Act 1987 with regard to the conduct of meetings.

1.1 Principles

Standing orders are part of the framework of processes and procedures designed to ensure that our system of local democracy and in particular, decision-making within local government, is transparent and accountable. They are intended to give effect to the principles of good governance, which include that a local authority should:

- conduct its business in an open, transparent and democratically accountable manner;
- give effect to its identified priorities and desired outcomes in an efficient and effective manner;
- make itself aware of, and have regard to, the views of all its communities;
- take account, when making decisions, of the diversity of the community, its interests and the interests of future communities as well;
- ensure that any decisions made under these standing orders comply with the decision-making provisions of Part 6 of the LGA; and
- ensure that decision-making procedures and practices meet the standards of natural justice.

These are reinforced by the requirement that all local authorities act so that “governance structures and processes are effective, open and transparent” (s. 39 LGA 2002).

1.2 Statutory references

The Standing Orders combine statutory provisions with guidance on their application. Where a statutory provision has been supplemented with advice on how it might be implemented, the advice is distinguished from the relevant legislative reference.

Standing Orders use the following acronyms:

LGA 2002	Local Government Act 2002
LGOIMA	Local Government Official Information Act 1987
LAMIA	Local Authority Members' Interests Act 1968

1.3 Application

For the removal of any doubt:

- these standing orders do not apply to workshops, briefings or meetings of working parties and advisory groups.
- during a meeting any statutory references in the standing orders apply throughout the period of the meeting, whether or not parts or all of the Standing Orders have been suspended. These provisions must also be carried through into any amendment of the standing orders that might be made. Please note, the word 'must', unless otherwise stated, identifies a mandatory legislative requirement.
- whenever a question about the interpretation or application of these standing orders is raised, particularly where a matter might not be directly provided for, it is the responsibility of the Chairperson of each meeting to make a ruling. The Chairperson may at any time seek the advice of the Governance Advisor, Chief Executive, or Principal Advisor to make a ruling.

2. Definitions

Adjournment means a break in the proceedings of a meeting. A meeting, or discussion on a particular business item, may be adjourned for a brief period, or to another date and time

Advisory group means a group of people convened by a local authority for the purpose of providing advice or information that is not a committee or sub-committee. These Standing Orders do not apply to such groups. This definition also applies to workshops, working parties, working groups, panels, taskforce groups, forums, portfolio groups, briefings and other similar bodies. **Agenda** means the list of items for consideration at a meeting together with reports and other attachments relating to those items in the order in which they will be considered. It is also referred to as an 'order paper'.

Amendment means any change of proposed change to the original or substantive motion.

Audio visual link means facilities that enable audiovisual communication between participants at a meeting when one or more of them is not physically present at the place of the meeting.

Briefing means in the context of these standing orders, a gathering of elected members to consider matters of importance to the local authority at which no decisions are made and therefore these standing orders do not apply. Briefings may include non-elected members. See definition of "advisory group". Briefings are also described as workshops.

Chairperson means the person presiding at a meeting – the presiding member.

Chief Executive means the Chief Executive of a territorial authority appointed under section 42 of the LGA 2002, and includes, for the purposes of these standing orders, any other officer authorized by the local authority.

Clear working days means the number of working days (business hours) prescribed in these standing orders for giving notice and excludes the date of the meeting and date on which the notice is served.

Committee includes, in relation to a local authority:

- (a) A committee comprising all the members of that authority;
- (b) A standing committee or special committee appointed by that authority;
- (c) A joint committee appointed under clause 30A of Schedule 7 of the LGA 2002; and
- (d) Any subcommittee of a committee described in (a), (b) and (c) of this definition.

Contempt means being disobedient to, or disrespectful of, the chair of a meeting, or disrespectful to any members, officers or the public.

Council means, in the context of these standing orders, the governing body of a local authority.

Electronic link means both an audio and audio visual link.

Extraordinary meeting has the same meaning as defined in cl. 22 of Schedule 7 of the LGA 2002.

Foreshadowed motion means a motion that a member indicates their intention to move once the debate on a current motion or amendment is concluded.

Joint committee means a committee in which the members are appointed by more than one local authority in accordance with clause 30A of Schedule 7 of the LGA 2002.

Karakia timatanga means an opening prayer.

Karakia whakamutunga means a closing prayer.

Lawfully excluded means a member of a local authority who has been removed from a meeting due to behaviour that a Chairperson has ruled to be contempt.

Local authority means in the context of these standing orders a regional council or territorial authority, as defined in s. 5 of the LGA 2002, which is named in these standing orders, and any subordinate decision-making bodies established by the local authority.

Mayor means the Mayor of a territorial authority elected under the Local Electoral Act 2001.

Meeting means any first, inaugural, ordinary, or extraordinary meeting of a local authority and subordinate decision-making bodies of the local authority convened under the provisions of LGOIMA.

Member means any person elected or appointed to the local authority. For clarity, member specifically includes ngaa Maangai Maaori (literally 'the voice of Maaori') - representatives appointed to committees of the Council by the Council in partnership with Waikato Tainui and Te Runanga o Kirikiriroa.

Mihi whakatau means a brief welcome typically delivered by one person without any further formalities.

Minutes means the record of the proceedings of any meeting of the local authority.

Motion means a formal proposal to a meeting.

Mover means the member who initiates a motion.

Newspaper means a periodical publication published (whether in New Zealand or elsewhere) at intervals not exceeding 40 days, or any copy of, or part of any copy of, any such publications; and this includes every publication that at any time accompanies and is distributed along with any newspaper.

Notice of motion means a motion given in writing by a member in advance of a meeting in accordance with, and as provided for, in these standing orders.

Open voting means voting that is conducted openly and in a transparent manner and may be conducted by electronic means. The result of the vote must be announced immediately as it has concluded. Secret ballots are specifically excluded.

Order paper means the list of items for consideration at a meeting together with reports and other attachments relating to those items set out in the order in which they will be considered. An order paper is also referred to as an agenda.

Ordinary meeting means any meeting, other than the first meeting, of a local authority publicly notified in accordance with sections 46(1) and (2) of LGOIMA.

Petition means a request to a local authority which contains at least 150 signatures.

Powhiri means a formal welcome involving a Karanga from the Tangata Whenua (the home people) followed by formal speech making. A Powhiri is generally used for formal occasions of the highest significance.

Presiding member means the person chairing a meeting.

Procedural motion means a motion that is used to control the way in which a motion or the meeting is managed as specified in standing orders 24.1 – 24.7.

Public excluded information refers to information which is currently before a public excluded session, is proposed to be considered at a public excluded session or had previously been considered at a public excluded session and not yet been released as publicly available information. It includes:

- any minutes (or portions of minutes) of public excluded sessions which have not been subsequently released by the local authority;
- any other information which has not been released by the local authority as publicly available information.

Public excluded session, also referred to as confidential or in-committee session, refers to those meetings or parts of meetings from which the public is excluded by the local authority as provided for in LGOIMA.

Public forum refers to a period set aside usually at the start of a meeting for the purpose of public input.

Publicly notified means notified to members of the public by a notice contained in a newspaper circulating in the district of the local authority, or where there is no such newspaper, by notice displayed in a public place. The notice may also be replicated on a council's website.

Qualified privilege means the privilege conferred on member by s. 52 and s. 53 of LGOIMA.

Quasi-judicial means a meeting involving the consideration of issues requiring the evaluation of evidence, the assessment of legal argument and/or the application of legal principles.

Quorum means the minimum number of members required to be present in order to constitute a valid meeting.

Resolution means a motion that has been adopted by the meeting.

Right of reply means the right of the mover of a motion to sum up the debate and reply to those who have spoken against the motion. (The right can also apply to an amendment.)

Second means the member who seconds a motion.

Sub judice means under judicial consideration and therefore prohibited from public discussion elsewhere.

Subordinate decision-making body means committees, subcommittees, and any other bodies established by a local authority that have decision-making authority, but joint committees.

Substantive motion means the original motion. In the case of a motion that is subject to an amendment, the substantive motion is the original motion incorporating any amendments adopted by the meeting.

Substantive resolution means the substantive motion that has been adopted by the meeting or a restatement of a resolution that has been voted on in parts.

Subcommittee means a subordinate decision-making body established by a council, or a committee of a council, local board or community board. See definition of "Committee".

Working day means any day of the week other than:

- (a) Saturday, Sunday, Waitangi Day, Good Friday, Easter Monday, Anzac Day, the Sovereign's Birthday, Auckland Anniversary Day and Labour Day and, if Waitangi Day or Anzac Day falls on a weekend, the following Monday.
- (b) A day in the period commencing with the 25th day of December in any year and ending with the 15th day of January in the following year.

Should a local authority wish to meet between the 25th of December and the 15th day of January in the following year any meeting must be notified as an extraordinary meeting unless there is sufficient time to notify an ordinary meeting before the commencement of the period.

Working party means a group set up by a local authority to achieve a specific objective that is not a committee or subcommittee and to which these standing orders do not apply.

Workshop means in the context of these standing orders, a gathering of elected members to consider matters of importance to the local authority at which no decisions are made and to which these standing orders do not apply. Workshops may include non-elected members. Workshops are also described as briefings.

General matters

3. Standing orders

3.1 Obligation to adopt standing orders

A council is required to operate in accordance with standing orders for the conduct of its meetings and the meetings of its committees and subcommittees. Standing orders must not contravene any Act.

cl. 27(1) & (2), Schedule 7, LGA 2002.

3.2 Process for adoption and alteration of standing orders

The adoption of standing orders and any amendment to standing orders must be made by the Council and by a vote of not less than 75 % of the members present.

cl. 27(3) Schedule 7, LGA 2002.

3.3 Members must obey standing orders

All members of the local authority, including members of committees and subcommittees, must obey these standing orders.

cl. 16(1) Schedule 7, LGA 2002.

3.4 Application of standing orders

These standing orders apply to all meetings of the local authority, its committees, subcommittees and subordinate decision-making bodies. This includes meetings and parts of meetings from which the public are excluded.

3.5 Temporary suspension of standing orders

Any member of the Council, committee, subcommittee or subordinate body may move a motion to suspend standing orders at a meeting of which they are a member. The motion must also include the reason for the suspension. If seconded, the Chairperson must put the motion without debate and at least 75 per cent of the members present and voting must support the motion for it to be carried. The Chairperson must respond to any questions for clarification of the process or the motion prior to putting a matter to the vote.

cl. 27(4), Schedule 7, LGA 2002.

A motion may also identify specific standing orders to be suspended. In the event of suspension of standing orders in whole or in part, any provisions within standing orders prescribed in statute will continue to apply, such as the quorum requirements.

3.6 Quasi-judicial proceedings

For quasi-judicial proceedings the local authority may adopt meeting procedures and practices in addition to or in substitution of these standing orders. For example, District Licensing Committee hearings. Resource Management Act hearings.

3.7 Physical address of members

Every member of a local authority, must give to the Chief Executive a physical residential or business address within the district or region of the local authority and, if desired, an electronic or other address, to which notices and material relating to meetings and local authority business may be sent or delivered. Members are to provide their address within 5 working days of the publication of the declaration of the election results.

4. Meetings

4.1 Legal requirement to hold meetings

The local authority must hold meetings for the good government of its city, district or region. Meetings must be called and conducted in accordance with:

- (a) Schedule 7 of the LGA 2002;*
- (b) Part 7 of LGOIMA; and*
- (c) These standing orders.*

A meeting can be adjourned to a specified time and day if required by resolution of the meeting.

4.2 Meeting duration

A meeting cannot continue more than eight hours from when it starts (including any adjournments), or after 10.30pm, unless the meeting resolves to continue. If there is no such resolution any business on the agenda that has not been dealt with must be adjourned, transferred to the next meeting or transferred to an extraordinary meeting.

The Chairperson should ensure that no meeting sits for more than three hours continuously without a break of at least ten minutes, and that meal breaks of at least 45 minutes are provided at appropriate times.

4.3 Language

A member or a presenter may address a meeting in English, te reo Māori or New Zealand Sign Language. A Chairperson may require any speech to be translated and printed in English or te reo Māori or both.

If a member or presenter intends to address the meeting in New Zealand Sign Language, or in te reo Māori when the normal business of the meeting is conducted in English, or in English when the

normal business of the meeting is conducted in te reo Maaori, and where translation is sought, they should give prior notice to the Chairperson, ideally not less than 2 working days before the meeting so that a translator can be provided.

4.4 First meeting (Inaugural)

The first meeting of the Council following a local authority triennial general election must be called by the Chief Executive as soon as practicable after the results of the election are known. The Chief Executive must give elected members not less than 7 days' notice of the meeting. However, in the event of an emergency the Chief Executive may give notice of the meeting as soon as practicable.

cl. 21(1) - (4), Schedule 7, LGA 2002.

4.5 Requirements for the first meeting

The Chief Executive (or, in the absence of the Chief Executive, their nominee) must chair the first meeting until the Chairperson has made an oral declaration and attested the declaration (*see cl. 21(4), Schedule 7 (LGA 2002)*).

The business to be conducted at the first meeting following a general election must include the following:

- (a) The making and attesting of the declarations required of the mayor (if any) and members under *cl.14, Schedule7, (LGA 2002)*, and
- (b) The election of the Chairperson (if any) and the making and attesting of the declaration required of the Chairperson under *cl. 14 Schedule7, (LGA 2002)*, and
- (c) A general explanation, given or arranged by the Chief Executive, of:
 - i. LGOIMA; and
 - ii. Other laws affecting members, including the appropriate provisions of the *Local Authorities (Members Interests) Act 1968*; and *sections 99, 105, and 105A of the Crimes Act 1961*; and *the Secret Commissions Act 1910*; and *the Financial Markets Conduct Act 2013*;
- (d) The fixing of the date and time of the first meeting of the local authority, or the adoption of a schedule of meetings; and
- (e) The election of the deputy Mayor or deputy Chairperson in accordance with *cl.17 Schedule7, (LGA 2002)*.

Please note that the election of a Deputy Mayor is not required if the Mayor has already made the appointment under s. 41A (3)(a) of the LGA 2002 prior to the meeting. Nothing limits a territorial authority from removing a Deputy Mayor from office in accordance with cl.18 of Schedule 7 LGA 2002.

cl. 21(5), Schedule 7, LGA 2002.

Adoption of Standing Orders: It is common for councils to adopt standing orders at the first meeting; however, current standing orders will remain in force after each triennial election until such time as they are amended and adopted by the Council.

5. Appointments and Elections

5.1 Mayoral appointment of Deputy Mayor, Committee Chairs and Members

A Mayor may appoint the Deputy Mayor, the Chairperson and the Members of each Committee of the Council. The names of any appointments made by the Mayor must be tabled at the first meeting of the Council after the appointments are made. The Mayor may also appoint him- or herself.

s. 41A (3) LGA 2002.

5.2 Council discharge of a Mayoral appointment

Nothing, however, limits or prevents a territorial authority from discharging a Deputy Mayor, a Chairperson or a Member of a Committee appointed by the Mayor. Any decision by the Council to discharge a Deputy Mayor shall follow the procedure in *standing order 5.5*.

If the Mayor declines to appoint a Deputy Mayor or Committee Chairpersons in accordance with s.41A LGA 2002, the Council (or a Committee, if so directed by the Council) must elect those positions in accordance with *standing order 5.4*.

cl. 31, Schedule 7 LGA 2002

5.3 Establishment of Committees by the Mayor

The Mayor may establish Committees of the territorial authority. Where a Mayor exercises this right a list of the Committees and their terms of reference must be tabled at the next following meeting of the Council. Should the Mayor decline to establish Committees under s. 41A then any decision to establish Committees must follow the processes set out in these standing orders.

Nothing, however, limits or prevents a territorial authority from discharging or reconstituting, in accordance with *cl. 30 of Schedule 7, LGA 2002*, a Committee established by the Mayor or appointing, more Committees in addition to any established by the Mayor.

s. 41A (3) and (4) LGA 2002.

5.4 Elections of Deputy Mayors and Deputy Chairperson/s

The council (or a committee responsible for making the appointment) must decide by resolution to use one of two voting systems (*see cl. 25 Schedule 7, LGA*) when electing people to the following positions:

- the Deputy Mayor;
- the Chairperson and Deputy Chairperson of a Committee; and
- a representative of a local authority.

Please note, this provision does not apply in situations where a Mayor has used their appointment powers under s.41A to appoint a Deputy Mayor or committee chairs.

cl. 25 Schedule 7, LGA 2002.

5.5 Removal of a Deputy Mayor

A Deputy Mayor, whether appointed by the Mayor under Standing Order 5.1 or elected by the Council, can only be removed in accordance with *cl. 18, Schedule 7, of the LGA 2002.*

cl. 18, Schedule 7, LGA 2002.

6. Delegations

6.1 Limits on delegations

Unless clearly stated in the LGA or any other Act, a Council may, for the purposes of efficiency and effectiveness, delegate to a Committee, Subcommittee, subordinate decision-making body, member, or officer of the local authority, any of its responsibilities, duties, or powers except:

- (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, 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 LGA in association with the long-term plan or developed for the purpose of the local governance statement;
- (g) *Repealed*;
- (h) the power to adopt a remuneration and employment policy.

cl. 32 (1) Schedule 7, LGA 2002.

6.2 Committees may delegate

A committee, subcommittee, subordinate decision-making body, or officer of the local authority, may delegate any of its responsibilities, duties, or powers to a subcommittee or person, subject to any conditions, limitations, or prohibitions imposed by the body that made the original delegation.

cl. (2) & (3), Schedule 7, LGA 2002.

6.3 Use of delegated powers

The committee, subcommittee, other subordinate decision-making body, or member or officer of the local authority to which or to whom any responsibilities, powers, duties are delegated may, without confirmation by the council, committee or body or person that made the delegation, exercise or perform them in the like manner and with the same effect as the local authority could itself have exercised or performed them.

cl. 32(2) & (3)(4) Schedule 7, LGA 2002.

6.4 Decisions made under delegated authority cannot be rescinded or amended

Nothing in these standing orders allows a council, committee and subcommittee to rescind or amend a lawfully made decision of a subordinate decision-making body carried out under a delegation authorising the making of that decision. The same requirement applies to a local board and community board in relation to any committees or subcommittees with delegated authority.

cl. 30 (6), Schedule 7, LGA 2002.

6.5 Committees and sub committees subject to the direction of the local authority

A committee, subcommittee or other subordinate decision-making body is subject in all things to the control of the local authority and must carry out all general and special directions of the local authority given to them.

cl. 30 (3) & (4), Schedule 7, LGA 2002.

7. Committees

7.1 Appointment of committees and subcommittees

The Council may appoint the committees, subcommittees, and other subordinate decision-making bodies that it considers appropriate. A committee may appoint the subcommittees that it considers appropriate unless it is prohibited from doing so by the Council.

cl. 30(1) & (2), Schedule 7, LGA 2002.

7.2 Discharge or reconstitution of committees and subcommittees

Unless expressly provided otherwise in legislation or regulation:

- (a) a local authority may discharge or reconstitute a committee or subcommittee, or other subordinate decision-making body; and
- (b) a committee may discharge or reconstitute a subcommittee.

A committee, subcommittee, or other subordinate decision-making body is, unless the Council resolves otherwise, discharged when members elected at a subsequent triennial general election come into office.

cl. 30 (5) & (7), Schedule 7, LGA 2002.

Please note: s.12 (2) of the Civil Defence and Emergency Management Act 2002 states that a Civil Defence and Emergency Management Group is not deemed to be discharged following a triennial election.

7.3 Local authority may replace members if committee not discharged

If a local authority resolves that a committee, subcommittee or other subordinate decision-making body is not to be discharged under *cl. 30 (7) Schedule 7, LGA 2002 (see standing order 7.2)*, the local authority may replace the members of that committee, subcommittee or subordinate decision-making body after the next triennial general election of members.

cl. 31(5) Schedule 7, LGA 2002.

7.4 Appointment or discharge of committee members and subcommittee members

The Council may appoint or discharge any member of a committee and, if established by the council, a subcommittee. A committee may appoint or discharge any member of a subcommittee appointed by the committee unless directed otherwise by the council.

cl. 31 (1) & (2), Schedule 7, LGA 2002

7.5 Members on committees and subcommittees

The members of a committee or subcommittee may be, but are not required to be, elected members of a local authority. The Council or committee may appoint a person who is not a member of the local authority to a committee or subcommittee if, in the opinion of the council or committee, the person has the skills, attributes or knowledge to assist the committee or subcommittee.

At least one member of a committee must be an Elected Member of the Council. A staff member of the local authority, in the course of their employment, can be a member of a subcommittee but not a committee.

cl. 31(4) Schedule 7, LGA 2002.

7.6 Membership of Mayor

The Mayor is an ex-officio member of every committee or sub-committee of the local authority.

s. 41A (5), LGA 2002.

7.7 Decision valid despite irregularity in membership

Under these standing orders a decision of a local authority, committee, is not invalidated if:

1. there is a vacancy in the membership of the local authority, committee, at the time of the decision; or
2. following the decision some defect in the election or appointment process is discovered and/or that the membership of a person on the committee at the time is found to have been ineligible.

cl. 29, Schedule 7, LGA 2002.

7.8 Appointment of joint committees

A local authority may appoint a joint committee with another local authority or other public body if it has reached agreement with each local authority or public body. The agreement must specify:

- (a) the number of members each party may appoint; and
- (b) how the Chairperson and deputy Chairperson are to be appointed; and
- (c) the terms of reference of the committee; and
- (d) what responsibilities, if any, are to be delegated to the committee by each party; and
- (e) how the agreement may be varied.

The agreement may also specify any other matter relating to the appointment, operation, or responsibilities of the committee agreed by the parties.

cl. 30A (1) & (2), Schedule 7, LGA 2002.

7.9 Status of joint committees

A joint committee is deemed to be both a committee of the Council and a committee of each other participating local authority or public body.

cl. 30A (5), Schedule 7, LGA 2002.

7.10 Power to appoint or discharge individual members of a joint committee

The power to discharge any individual member of a joint committee and appoint another member in their stead must be exercised by the Council or public body that made the appointment.

cl. 30A (6)(a), Schedule 7, LGA 2002.

Pre-meeting

8. Giving notice ordinary/extraordinary meetings

8.1 Ordinary meetings - public notice

All meetings scheduled for the following month must be publicly notified not more than 14 days and not less than 5 days before the end of every month, together with the dates on which and the times and places at which those meetings are to be held. In the case of meetings held on or after the 21st day of the month public notification must be given not more than 10 nor less than 5 working days before the day on which the meeting is to be held.

s. 46, LGOIMA.

8.2 Ordinary meeting - notice to members

The Chief Executive must give notice in writing to each member of the local authority of the time and place of any meeting. Notice must be given at least 14 days before the meeting unless the council has adopted a schedule of meetings, in which case notice must be given at least 14 days before the first meeting on the schedule.

cl. 19 (5), Schedule 7, LGA 2002.

8.3 Extraordinary meeting - call for meeting

Under these Standing Orders, an extraordinary meeting refers to any meeting outside of the adopted Schedule of Meetings. Additionally, any meeting within the Schedule of Meetings where the date of that meeting is brought forward such that the requirement for notice set out in 8.2 cannot be met is also to be treated as an Extraordinary meeting.

An extraordinary council meeting may be called by:

- (a) resolution of the Council, or
- (b) a request in writing delivered to the Chief Executive which is signed by:
 - i. the Mayor or Chairperson, or
 - ii. no less than one third of the total membership of the Council (including vacancies).

cl. 22 (1) Schedule 7, LGA 2002.

8.4 Extraordinary meeting - notice to members

Notice in writing of the time and place of an extraordinary meeting called under Standing Order 8.3 and of the general nature of business to be considered must be given by the Chief Executive to each member of the Council at least three working days before the day appointed for the meeting.

Where this is not possible, notice must be given to each member of the Council and the Chief Executive by whatever means is reasonable in the circumstances and at least 24 hours before the time appointed for the meeting.

If the meeting is called by a resolution then notice must be provided within such lesser period as is specified in the resolution, provided it is not less than 24 hours.

cl. 22 (3), Schedule 7, LGA 2002.

8.5 Extraordinary meetings inconsistent with notice requirements

If the nature of business requires a meeting to be held at an earlier time than is allowed by the notice requirements specified in standing order 8.4, a meeting may be called by the Mayor or Chairperson, or if the Mayor and Chairperson are not available, the Chief Executive.

Where an extraordinary meeting of the Council was called and notice of that meeting was inconsistent with these standing orders the Council must, as soon as practicable following the meeting, give public notice stating that:

- (a) the meeting has occurred;
- (b) the general nature of business transacted; and
- (c) the reasons why it was not correctly notified.

cl. 22 (2) Schedule 7, LGA 2002 and s. 46 (3) & (4), LGOIMA.

8.6 Chief Executive may make other arrangements

The Chief Executive is to make any other arrangements for the notification of meetings, including extraordinary meetings, as the Council may, from time to time, determine.

s. 46(5) LGOIMA.

8.7 Validity of meetings not correctly notified

The failure to notify a public meeting under these standing orders does not of itself make that meeting invalid. However, where a local authority becomes aware that a meeting has been incorrectly notified it must, as soon as practicable, give public notice stating:

- that the meeting occurred without proper notification;
- the general nature of the business transacted; and
- the reasons why the meeting was not properly notified.

s. 46 (6), LGOIMA.

8.8 Extraordinary meetings - resolutions passed

A local authority must, as soon as practicable, publicly notify any resolution passed at an extraordinary meeting of the local authority unless -

- (a) the resolution was passed at a meeting or part of a meeting from which the public was excluded; or
- (b) the extraordinary meeting was publicly notified at least 5 working days before the day on which the meeting was held.

8.9 Meeting schedules

Where the Council adopts a meeting schedule it may cover any period that the Council considers appropriate and may be amended. Notification of the schedule, or an amendment, will constitute notification to members of every meeting on the schedule or the amendment. This does not replace the requirements under LGOIMA to also publicly notify each meeting.

cl. 19 (6) Schedule 7, LGA 2002.

8.10 Non-receipt of notice to members

A meeting of the Council is not invalid if notice of that meeting was not received, or not received in due time, by a member of the local authority or board unless:

- (a) it is proved that the person responsible for giving notice of the meeting acted in bad faith or without reasonable care; and
- (b) the member concerned did not attend the meeting.

A member of a local authority may waive the need to be given notice of a meeting.

cl. 20 (1) & (2) Schedule 7, LGA 2002.

8.11 Meeting cancellations

The Chairperson of a scheduled meeting may cancel the meeting if, in consultation with the Chief Executive, they consider this is necessary for reasons that include lack of business, lack of quorum or clash with another event.

The Chief Executive must make a reasonable effort to notify members and the public as soon as practicable of the cancellation and the reasons behind it.

9. Meeting agenda

9.1 Preparation of the agenda

It is the Chief Executive's responsibility to prepare an agenda for each meeting listing and attaching information on the items of business to be brought before the meeting so far as is known, including the names of the relevant members.

When preparing business items for an agenda the Chief Executive should consult the Chairperson.

For clarity, the Chief Executive is not required to provide the meeting papers to the Chairperson for review prior to the agenda being circulated to members.

Reports that do not require decisions (information only reports) will be attached as appendices to Council/Committee agendas and will not be discussed/debated unless:

- a) the report concerns an upcoming decision of the Council/Committee; or
- b) with approval of the Chairperson and Principal Advisor prior to the meeting; or
- c) by resolution of Council/Committee at the time the agenda is confirmed.

9.2 Process for raising matters for a decision

Requests for reports may be made by a resolution of the Council, committee, subcommittee, or subordinate decision-making body and, in the case of all decision-making bodies other than the Council, must also fall within the scope of their specific delegations. A process for requesting reports is described below.

Matters requiring a decision may be placed on an agenda of a meeting by a:

- (a) report of Chief Executive
- (b) report of a Chairperson
- (c) report of a Committee
- (d) notice of motion from a member. *See SO 26*

Where a matter is urgent and has not been placed on an agenda, it may be brought before a meeting as extraordinary business by a:

- (a) report of Chief Executive
- (b) report of Chairperson

Although out of time for a notice of motion, a member may bring an urgent matter to the attention of the meeting through the meeting Chairperson. *(SO 9.4 applies)*

9.3 Chief Executive may delay or refuse request

The Chief Executive may delay commissioning any reports that involve significant cost or resources or are beyond the scope of the Council or committee that made the request. In such cases the Chief Executive will discuss options for meeting the request with the respective Chairperson and report back to a subsequent meeting with an estimate of the cost and/or resources involved and seek direction on whether the report should still be prepared.

If a member makes a direct request to a Chief Executive asking that a report is prepared the Chief Executive may refuse. In such cases an explanation should be provided to the member.

9.4 Order of business and confirmation of the agenda

At the meeting the business is to be dealt with in the order in which it stands on the agenda unless the Chairperson, or the meeting, decides by majority vote at the time of confirming the agenda.

Any late items must also be confirmed as part of the agenda at this time. (*see SO 9.12*)

The order of business for an extraordinary meeting must be limited to items that are relevant to the purpose for which the meeting has been called.

9.5 Chairperson's recommendation

A Chairperson, either prior to the start of the meeting and/or at the meeting itself, may include a recommendation regarding any item on the agenda brought before the meeting. Where a Chairperson's recommendation varies significantly from an officer's recommendation the reason for the variation must be explained.

9.6 Chairperson's report

The Chairperson of a meeting has the right, through a report, to direct the attention of a meeting to any matter which is on the agenda or which falls within the responsibilities of that committee. This may include a report informing the council/committee of:

1. a **minor** governance matter or decision sought which is directly related to the terms of reference, a previous resolution, or current area of work, and is not more appropriately addressed through a staff report.
2. a **critical** governance matter directly related to the terms of reference, a previous resolution, or current area of work, and that cannot or is yet to be addressed through a staff report. Such a matter should typically not require a decision of the Committee.

A Chairperson's report must acknowledge official Council and committee positions and may not criticise the validity of any resolution of the Council or Committee of Council except by notice of motion to amend or revoke the resolution. In the absence of a staff report, a Chairperson's report should not be used to express a purely subjective view on any matter.

9.7 Public availability of the agenda

All information provided to members at a local authority meeting must be publicly available except where an item included in the agenda refers to a matter reasonably expected to be discussed with the public excluded.

s. 5 & 46A, LGOIMA.

9.8 Public inspection of agenda

Any member of the public may, without payment of a fee, inspect, during normal office hours and within a period of at least 2 working days before a meeting, all agendas and associated reports circulated to members of the Council or committees of Council relating to that meeting. The agenda:

- (a) must be available for inspection at the public offices of the local authority (including service centres), at public libraries under the authority's control and on the council's website, and:
- (b) must be accompanied by either:
 - i. the associated reports; or
 - ii. a notice specifying the places at which the associated reports may be inspected.

s. 46A (1), LGOIMA.

9.9 Withdrawal of agenda items

If justified by circumstances an agenda item may be withdrawn prior to distribution by the Chief Executive. In the event of an item being withdrawn the Chief Executive should inform the Chairperson, if possible, prior to the relevant meeting.

Once the agenda has been distributed an agenda item may only be withdrawn by resolution of the Council or Committee of Council when the agenda is confirmed at the meeting.

9.10 Distribution of the agenda

The Chief Executive must send the agenda to every member of a meeting at least three clear working days before the day of the meeting, except in the case of an extraordinary meeting (*see standing order 8.4*).

The Chief Executive may send the agenda, and other materials relating to the meeting or other council business, to members by electronic means.

9.11 Status of agenda

No matter on a meeting agenda, including recommendations, may be considered final until determined by formal resolution of that meeting.

9.12 Items of business not on the agenda (late items) which cannot be delayed

A meeting may deal with an item of business that is not on the agenda where the meeting resolves to deal with that item and the Chairperson provides the following information during the public part of the meeting:

- (a) the reason the item is not on the agenda; and
- (b) the reason why the discussion of the item cannot be delayed until a subsequent meeting.

s. 46A (7), LGOIMA

Items not on the agenda may be brought before the meeting through a report from either the Chief Executive or the Chairperson.

Please note that nothing in this standing order removes the requirement to meet statutory requirements, including the provisions of Part 6, LGA 2002 with regard to consultation and decision-making.

9.13 Discussion of the Minutes

The only topic that may be discussed at a subsequent meeting, with respect to the minutes, is their correctness.

9.14 Discussion of minor matters not on the agenda

A meeting may discuss an item that is not on the agenda if it is a minor matter relating to the general business of the meeting and the Chairperson explains at the beginning of the public part of the meeting that the item will be discussed. However, the meeting may not make a resolution, decision or recommendation about the item, except to refer it to a subsequent meeting for further discussion.

Please note that a resolution, decision or recommendation is required about an item not on the agenda, *standing order 9.12* applies.

s. 46A (7A), LGOIMA.

9.15 Public excluded business on the agenda

Items that are likely to be discussed under public excluded must be indicated on each agenda and state the general subject of the item. The Chief Executive, however, may exclude public access to any reports, or parts of reports, which are reasonably expected to be discussed with the public excluded. See appendix 1 for the requirements for public excluded business

s. 46A (9), LGOIMA.

9.16 Qualified privilege relating to agenda and minutes

Where any meeting is open to the public and a member of the public is supplied with a copy of the agenda, or the minutes of that meeting, the publication of any defamatory matter included in the agenda or in the minutes is privileged. This does not apply if the publication is proved to have been made with ill will or improper advantage has been taken of the publication.

s. 52, LGOIMA.

9.17 Receiving a report

By receiving a report, the Council or committee is agreeing it is appropriate the report should form part of the official record of a Council or committee meeting. As with all decisions, Members must feel that the matter is consistent with the terms of reference for the Council or committee, and that they have sufficient information to make an informed decision, even if that decision is only to receive a report.

Meeting Procedures

10. Opening and closing meetings

The Council or committee, may, at the start of a meeting, choose to recognise the civic importance of the occasion through some form of reflection. This could be an expression of community values, a reminder of the contribution of members who have gone before or a formal welcome, such as a mihi whakatau. Options for opening a meeting could include a karakia timitanga, mihi whakatau, or powhiri as well as a karakia whakamutunga to close a meeting where appropriate. *(see Definitions for English translations)*

11. Quorum

10.1 Requirement for a quorum

A meeting is constituted where a quorum of members is present, regardless of whether or not they are all voting or entitled to vote. To conduct any business at a meeting, a quorum of members must be present for the whole time that the business is being considered.

cl. 23(1) & (2) Schedule 7, LGA 2002.

10.2 Council

The quorum for a meeting of the Council is:

- (a) half of the members physically present, where the number of members (including vacancies) is even; and
- (b) a majority of the members physically present, where the number of members (including vacancies) is odd.

cl. 23 (3)(a) Schedule 7, LGA 2002.

10.3 Committees and subcommittees

The Council sets the quorum for its committees and subcommittees, either by resolution or by stating the quorum in the terms of reference, provided that it is not less than two members. Committees may set the quorums for their subcommittees by resolution.

In the case of committees at least one member of the quorum must be a member of the Council.

cl. 23 (3)(b) Schedule 7, LGA 2002.

10.4 Joint Committees

The quorum at a meeting of a joint committee must be consistent with *standing order 10.1*. Local authorities participating in the joint committee may decide, by agreement, whether or not the quorum includes one or more members appointed by each local authority or any party.

cl. 30A (6)(c) Schedule 7, LGA 2002.

10.5 Quorum where member declares conflict

Where a member has declared a conflict of interest, such that they are not participating in the debate or vote of the matter but are required to be in the room for quorum, the meeting may decide by resolution that the member can remain in the meeting room to maintain quorum.

10.6 Meeting lapses where no quorum

A meeting must lapse, and the Chairperson vacate the chair, if a quorum is not present within 15 minutes of the advertised start of the meeting. Where members are known to be travelling to the meeting, but are delayed due to extraordinary circumstance, the Chairperson has discretion to wait for a longer period.

No business may be conducted while waiting for the quorum to be reached. Minutes will record when a meeting lapses due to a lack of a quorum, along with the names of the members who attended.

10.7 Business from lapsed meetings

Where meetings lapse the remaining business will be adjourned and be placed at the beginning of the agenda of the next ordinary meeting, unless the Chairperson sets an earlier meeting, and this is notified by the Chief Executive.

11. Public access and recording

11.1 Meetings open to the public

Except as otherwise provided by Part 7 of LGOIMA, every meeting of the Council, its Committees and subcommittees, must be open to the public.

s.47 & 49(a), LGOIMA.

11.2 Grounds for removing the public

The Chairperson may require any member of the public whose conduct is disorderly, or who is creating a disturbance, to be removed from the meeting.

11.3 Local authority may record meetings

Meeting venues should contain clear signage indicating and informing members, officers and the public that proceedings may be recorded by the local authority and may be subject to direction by the Chairperson.

11.4 Public may record meetings

Members of the public may make electronic or digital recordings of meetings which are open to the public. Any recording of meetings must be notified to the Chairperson at the commencement of the meeting, who must advise all members and public present at the start of the meeting of such recording(s).

The Chairperson must ensure that the recording does not distract the meeting from fulfilling its business. Where circumstances require the Chairperson may stop the recording for a period of time.

12. Attendance

12.1 Members right to attend meetings

A member of the Council, or of a committee of the Council, has, unless lawfully excluded, the right to attend any meeting of the Council or committee.

cl. 19(2), Schedule 7, LGA 2002.

If the member of the Council is not an appointed member of the meeting at which they are in attendance they may not vote on any matter at that meeting. However, they may, with the leave of the Chairperson, take part in the meeting's discussions.

A member attending a meeting of which they are not an appointed member is not a member of the public for the purpose of *s.48 LGOIMA*. Consequently, if the meeting resolves to exclude the public any members of the local authority who are present may remain unless they are lawfully excluded.

Please note: this section does not confer any rights to non-elected members appointed to committees of a local authority.

12.2 Attendance when a committee is performing judicial or quasi-judicial functions

When a committee is performing judicial or quasi-judicial functions members of the local authority who are not members of that committee are not entitled to take part in the proceedings.

12.3 Leave of absence

The Council may grant a member leave of absence following an application from that member.

In addition, the Council may delegate the power to grant a leave of absence to the Chairperson in order to protect a member's privacy. The Chairperson will advise all members of the council, local board or community board whenever a member has been granted leave of absence under delegated authority. Meeting minutes will record that a member has leave of absence as an apology for that meeting.

12.4 Apologies

A member who does not have leave of absence may tender an apology should they be absent from all or part of a meeting. The Chairperson must invite apologies at the beginning of each meeting, including apologies for lateness and early departure. The meeting may accept or decline any apologies.

For clarification, the acceptance of a member's apology constitutes a grant of 'leave of absence' for that meeting.

12.5 Recording apologies

The minutes will record any apologies tendered before or during the meeting, including whether they were accepted or declined and the time of arrival and departure of all members.

12.6 Absent without leave

Where a member is absent from the Council for four consecutive meetings without leave of absence (not including extraordinary meetings) then the office held by the member will become vacant. A vacancy created in this way is treated as an extraordinary vacancy.

cl. 5 (d) Schedule 7, LGA 2002.

13. Members attending by audio visual link

13.1 Right to attend by audio visual link

Provided the conditions in these standing orders are met members of the local authority or its committees have the right to attend meetings by means of an electronic link, unless they have been lawfully excluded or do not meet the requirements of SO 14.1 (Chairperson's duties).

Conditions for attending by audio visual link:

The Chairperson may give approval for a member to attend meeting by audio visual link, either generally or for a specific meeting. Examples of situations where approval can be given include:

- (a) where the member is at a place that makes their physical presence at the meeting impracticable or impossible;
- (b) where a member is unwell; and
- (c) where a member is unable to attend due to an emergency.

Request to attend by audio visual link:

Where possible, a member will give the Chairperson and the Chief Executive at least 2 working days' notice when they want to attend a meeting by audio or audio visual link. Should, due to illness or emergency, this not be possible the member may give less notice.

Where such a request is made and the technology is available, the Chief Executive must take reasonable steps to enable the member to attend by audio or audio-visual link. However, the council has no obligation to make the technology for an audio or audio-visual link available.

If the member's request cannot be accommodated, or there is a technological issue with the link, this will not invalidate any acts or proceedings of the local authority or its committees.

13.2 Member attending by audio visual link: quorum

Members who attend meetings by audio visual link will not be counted as present for the purposes of a quorum.

13.3 Member attending by audio visual link: voting

Where a meeting has a quorum, determined by the number physically present, the members attending by audio visual link can vote on any matters raised at the meeting, provided the requirements of SO 12.1 are met.

13.4 Chairperson's responsibility for audio visual attendance.

Where the technology is available and a member is attending a meeting by audio visual link, the Chairperson must ensure that:

- (a) the technology for the link is available and of suitable quality;
- (b) procedures for using the technology in the meeting will ensure that:
 - i. everyone participating in the meeting can hear each other;
 - ii. the member's attendance by audio visual link does not reduce their accountability or accessibility of that person in relation to the meeting;
 - iii. the requirements of Part 7 of LGOIMA are met; and
 - iv. the requirements in these standing orders are met.

If the Chairperson is attending by audio visual link then chairing duties will be undertaken by the Deputy Chair or a member who is physically present.

cl. 25A (3) schedule 7, LGA 2002.

13.5 Chairperson may terminate link

The Chairperson may direct that an electronic link should be terminated where:

- (a) use of the link is increasing, or may unreasonably increase, the length of the meeting;
- (b) the behaviour of the members using the link warrants termination, including the style, degree and extent of interaction between members;
- (c) it is distracting to the members who are physically present at the meeting; and
- (d) the quality of the link is no longer suitable.

Where an audio visual link is terminated, the link fails, or there are other technological issues that prevent a member who is attending by link from participating in a meeting, that member must be deemed to be no longer attending the meeting

13.6 Giving or showing a document

A person attending a meeting by audio visual link may give or show a document by:

- (a) transmitting it electronically;
- (b) using the audio-visual link; or
- (c) any other manner that the Chairperson thinks fit.

cl. 25(A) (6) schedule 7, LGA 2002.

13.7 Confidentiality

A member who is attending a meeting by audio visual link must ensure that the meeting's proceedings remain confidential during any times that the public are excluded. At such times, the Chairperson may require the member to confirm that no unauthorised people are able to view or hear the proceedings.

14. Chairperson's role in meetings

14.1 Application of standing orders

Whenever a question about the interpretation or application of these standing orders is raised, particularly where a matter might not be directly provided for, it is the responsibility of the Chairperson of each meeting to make a ruling.

The Chairperson may request the advice of the Governance Advisor on any matter or interpretation relating to these Standing Orders.

14.2 Council meetings

The Mayor or Chairperson of the Council must preside at meetings of the Council unless they vacate the chair for a part or all of a meeting. If the Chairperson is absent from a meeting or vacates the chair, the Deputy Mayor/Chair must act as Chairperson. If the Deputy Mayor/Chair is also absent the Council members who are present must elect a member to be Chairperson at that meeting. This person may exercise the meeting responsibilities, duties and powers of the Mayor/Chairperson for that meeting.

This provision also applies to committees, subcommittees and subordinate decision-making bodies.

cl. 26(1), (5) & (6) Schedule 7, LGA 2002.

14.3 Addressing the Chairperson

Members will address the Chairperson as 'Chair' except where the Chairperson has requested otherwise.

14.4 Chairperson's rulings

The Chairperson will decide all procedural questions where insufficient provision is made by these standing orders and rule on to all points of order. Any refusal to obey a Chairperson's ruling or direction constitutes contempt. (see SO section 19 – disrespectful conduct)

14.5 Chairperson standing

Whenever the Chairperson stands during a debate, members are required to sit down and be silent so that they can hear the Chairperson without interruption.

14.6 Member's right to speak

Members are entitled to speak in accordance with these standing orders. Members should address the Chairperson when speaking. They may not leave their place while speaking unless they have the leave of the Chairperson.

14.7 Chairperson may prioritise speakers

When two or more members want to speak the Chairperson will name the member who may speak first. Other members who wish to speak have precedence where they intend to:

- (a) raise a point of order, including a request to obtain a time extension for the previous speaker; and/or
- (b) move a procedural motion to terminate or adjourn the debate; and/or
- (c) make a point of explanation.

15. Public Forums

Public forums are a defined period of time, usually at the start of a meeting, which is put aside for the purpose of public input. Public forums are designed to enable members of the public to bring matters to the attention of the Council, committee or subcommittee. Any issue, idea or matter raised in public forum must fall within the terms of reference for the meeting the speaker is addressing and must relate to an item on the agenda for that meeting.

Public Forum does not apply to any sub-judice matters including but not limited to:

- (a) matters subject to an upcoming hearings process;
- (b) matters on which public consultation is occurring;
- (c) matters on which public consultation has closed and a decision is yet to be made.

15.1 Time limits

A period of up to 30 minutes, or such longer time as the meeting may determine by majority vote, will be available for the public forum at each scheduled local authority meeting. Requests are scheduled in the order they are received; ideally requests should be made to the Governance Advisor ahead of the meeting; however, requests may be made up until the meeting starts. This requirement may be waived by the Chairperson.

Speakers will be allowed up to five minutes to speak and respond to questions. Questions must be confined to obtaining information or clarification on matters raised by a speaker/s. Questions over the time limit are at the discretion of the Chairperson.

Where the number of speakers presenting in the public forum exceeds six in total, the Chairperson has discretion to restrict the speaking time permitted for all presenters or limit people speaking in support of or in opposition to the same matter.

15.2 Restrictions

The Chairperson has the discretion to decline to hear a speaker or to terminate a presentation at any time where:

- a speaker is repeating views presented by an earlier speaker at the same public forum;
- the speaker is criticising elected members and/or staff;
- the speaker is being repetitious, disrespectful or offensive;
- the speaker has previously spoken on the same issue;
- the matter is subject to legal proceedings.

15.3 Questions at public forums

At the conclusion of a presentation, with the permission of the Chairperson, elected members may ask questions of speakers.

15.4 No resolutions or debate following matters raised in public forum

Following the public forum, no debate or decisions will be made at the meeting on issues raised during the forum unless related to items already on the agenda.

16. Petitions

16.1 Presenting petitions

The Council will consider a petition on any matter relating to either the services it provides or may be provided by it, or any policy or intended policy of the Council at such times as the citizens of Hamilton request, subject to the provisions outlined below.

Petitions may be presented to the Council or any of its committees (ensuring it relates to matters within the terms of reference of committee).

16.2 Valid petitions

A valid petition will be considered by the Council or appropriate Committee, together with staff advice, within sixty days of receipt or two meeting cycles.

Petitions:

- must not be disrespectful, use offensive language or include malicious statements (see standing order 19.9 on qualified privilege).
- may be written in English or te reo Maaori. Petitioners planning to make a petition in te reo Māori or sign language should advise the relevant Chairperson at least two working days before the meeting to enable the petition to be translated and reprinted, if necessary.
- may be presented in hard copy or electronic form.
- must consist of fewer than 250 words (not including signatories).
- must contain at least 150 signatures of residents of Hamilton City, inclusive of the primary petitioner, all being on the Electoral Roll for Hamilton City and eligible to vote.
- must also contain the full name, physical address and signature for all signatories to the petition. In the case of an electronic petition, the signatory must provide their email address in place of their signature.

16.2 Petition presented by petitioner

A petitioner who presents a petition to Council or any of its committees and subcommittees, may speak for five minutes (excluding questions) about the petition, unless the meeting resolves otherwise. Questions of petitioners are at the discretion of the Chairperson and must comply with SO 20.3. The Chairperson must terminate the presentation of the petition if he or she believes the petitioner is being disrespectful, offensive or making malicious statements.

16.3 Petition presented by member

Members may present petitions on behalf of petitioners. In doing so, members must confine themselves to presenting:

- (a) the petition;
- (b) the petitioners' statement; and
- (c) the number of signatures.

17. Exclusion of public

17.1 Motions and resolutions to exclude the public

Members of a meeting may resolve to exclude the public from a meeting. The grounds for exclusion are those specified in section 48 of LGOIMA (see Appendix 1).

Every motion to exclude the public must be put while the meeting is open to the public, and copies of the motion must be available to any member of the public who is present. If the motion is passed the resolution to exclude the public must be in the form set out in schedule 2A of LGOIMA (see Appendix 1). The resolution must state:

- (a) the general subject of each matter to be excluded;
- (b) the reason for passing the resolution in relation to that matter; and
- (c) the grounds on which the resolution is based.

The resolution will form part of the meeting's minutes.

s. 48 LGOIMA.

17.2 Specified people may remain

Where a meeting resolves to exclude the public, the resolution may provide for specified persons to remain for those items where, in the opinion of the meeting, they will assist the meeting to achieve its purpose in relation to that item. Any such resolution must state, in relation to the matter to be discussed, how the knowledge held by the specified people is relevant and will be of assistance.

No such resolution is needed for people who are entitled to be at the meeting, such as relevant staff and officials contracted to the council for advice on the matter under consideration.

s.48 (6) LGOIMA.

17.3 Public excluded items

The Chief Executive must place in the public-excluded section of the agenda any items that he or she reasonably expects the meeting to consider with the public excluded. The public excluded section of the agenda must indicate the subject matter of the item and the reason the public are excluded.

s.46A (8) LGOIMA.

17.4 Non-disclosure of information

No member or officer may disclose to any person, other than another member, officer or person authorised by the Chief Executive, any information that has been, or will be, presented to any meeting from which the public is excluded, or proposed to be excluded.

This restriction does not apply where a meeting has resolved to make the information publicly available or where the Chief Executive has advised, in writing, that one or both of the following apply:

- (a) there are no grounds under LGOIMA for withholding the information;
- (b) the information is no longer confidential.

17.5 Release of information from public excluded session

A local authority may provide for the release to the public of information which has been considered during the public excluded part of a meeting.

Each public excluded meeting must consider and agree by resolution, what, if any, information will be released to the public. In addition, the Chief Executive may release information which has been considered at a meeting from which the public has been excluded where it is determined the grounds to withhold the information no longer exist. The Chief Executive will inform the subsequent meeting of the nature of the information released.

18. Voting

18.1 Decisions by majority vote

Unless otherwise provided for in the LGA 2002, other legislation or standing orders, the acts of and questions before a local authority (or local and community boards) must be decided at a meeting through a vote exercised by the majority of the members of that meeting voting.

cl. 24 (1), Schedule 7, LGA 2002.

18.2 Open voting

An act or question coming before the local authority must be done or decided by open voting.

cl. 24 (3) Schedule 7, LGA 2002.

18.3 Chairperson has a casting vote

The Mayor, Chairperson or any other person presiding at a meeting has a deliberative vote and, in the case of an equality of votes, has a casting vote. A Chairperson is not required to exercise their casting vote.

In the case of an equal vote, the motion is considered lost and the status quo prevails. *See also SO 24.4.*

cl. 24 (2) Schedule 7, LGA 2002.

18.4 Method of voting

The method of voting must be as follows:

- (a) the Chairperson in putting the motion or amendment must call for members to submit their vote by choosing FOR or AGAINST on the electronic voting system or by a show of hands, the result of either of which, as announced by the Chairperson or Governance Advisor, must be conclusive.
- (b) In the event that a member indicates an error in voting before the result of the vote has been announced or displayed, the Chairperson may call for the vote to be retaken.
- (c) the result of each vote including how members voted will be notified to the meeting and recorded in the minutes.

18.5 Members may not abstain

No member may abstain from voting UNLESS:

- (a) they have declared a direct or indirect financial interest in relation to an item that precludes them from voting on that matter; or
- (b) declared a non-pecuniary interest in relation to an item that they believe precludes them from voting on that matter.

Any declaration of interest and consequential abstention from voting under this clause must be recorded in the meeting minutes.

18.6 Members joining the meeting during debate may choose not to vote

A member may choose not to participate in a vote for an item where the member has been absent for that item and has only joined or rejoined the meeting after commencement of debate AND does not feel able to make an informed decision on the matter. In this situation the member may leave the table until the vote is completed.

The record of the meeting will show that the member was present but did not participate in the vote.

19. Meeting conduct

Members are expected to comply with the Council's Code of Conduct for Elected Members at all times. The Code (which can be found in Appendix 4) requires members to:

- (i) act with integrity and honesty (3.1)
- (ii) demonstrate accountability by complying with legislative requirements applying to their roles, acting in an open and transparent manner and ensuring the prudent use of Council resources (3.2)
- (iii) treat everyone with respect and respect other individuals' points of view and opinions, beliefs, and rights (3.3)
- (iv) show good faith, faithfully and impartially exercising their powers, authority and duties in the best interest of the community of Hamilton (3.4)

19.1 Code of Conduct

The Code of Conduct for Elected Members provides for perceived breaches of the code during meetings to be dealt with by the Chairperson of that meeting at the time the breach arises under SO 25.2. If and Elected Member believes an alleged breach of the code has not been dealt with adequately by the Chairperson at the meeting, that Elected Member may initiate the procedures set out in 6.2 in schedule 3 of the code.

19.1 Form of Address for Members

All members are to be addressed by their title and surname unless the member agrees to a different form of address. The appropriate form of address for a Chairperson is Chair or Chair [surname].

19.2 Calling to order

When the Chairperson calls members to order, they must be seated and stop speaking. If the members fail to do so, the Chairperson may direct that they should leave the meeting immediately for a specified time.

19.3 Disrespect

No member may speak or act in a manner which is disrespectful of other members, staff or other meeting attendees or inconsistent with the local authority's Code of Conduct at any meeting.

19.4 Retractions and apologies

In the event of a member or speaker who has been disrespectful of another member or contravened the Council's Code of Conduct, the Chairperson may call upon that member or speaker to withdraw the offending comments and may require them to apologise. If the member refuses to do so the

Chairperson may direct that they should leave the meeting immediately for a specified time and/or make a complaint under the Code of Conduct.

19.5 Recording objection to words

When a member objects to any words used by another member in a speech as part of a point of order which is upheld by the Chair and wants the minutes to record their objection, they must object at the time when the words are used and before any other member has spoken. The Chairperson must order the minutes to record the objection.

19.6 Disorderly conduct

Where the conduct of a member is disorderly or is creating a disturbance, the Chairperson may require that member to leave the meeting immediately for a specified time.

If the disorder continues:

- (a) The Chairperson may remove any member who refuses to leave the meeting when directed to do so by the Chairperson (see SO 19.7); and/or
- (b) The Chairperson may adjourn the meeting for a specified time. At the end of this time the meeting must resume and decide, without debate, whether the meeting should proceed or be adjourned; and/or
- (c) The Meeting may, by majority vote, resolve that a member is in contempt where that member has been subject to repeated cautions by the Chairperson for disorderly conduct. Any such resolution must be recorded in the meeting's minutes.

The Chairperson may also adjourn the meeting if other people cause disorder or in the event of an emergency.

19.7 Removal from meeting

A member of the police or authorised security personnel may, at the Chairperson's request, remove or exclude a member from a meeting.

This standing order will apply where the Chairperson has ruled that the member should leave the meeting and the member has refused or failed to do so; or has left the meeting and attempted to re-enter it without the Chairperson's permission.

19.8 Financial conflicts of interests

Every member present at a meeting must declare any direct or indirect financial interest that they hold in any matter being discussed at the meeting, other than an interest that they hold in common with the public.

No member may vote on, or take part in, a discussion about any matter in which they have a direct or indirect financial interest unless an exception set out in s.6 LAMIA applies to them, or the Auditor-General has granted them an exemption or declaration under s.6.

Members with a financial interest should physically withdraw themselves from the meeting room.

Neither the Chairperson nor the meeting may rule on whether a member has a financial interest in the matter being discussed. The minutes must record any declarations of financial interests and the member's abstention from any discussion and voting on the matter. (See also SO 18.5.)

s. 6 & 7 LAMIA.

19.9 Non-financial conflicts of interests

Non-financial interests always involve questions of judgement and degree about whether the responsibility of a member of a local authority (or local or community board) could be affected by some other separate interest or duty of that member in relation to a particular matter. If a member considers that they have a non-financial conflict of interest in a matter they must not take part in the discussions about that matter or any subsequent vote.

The member must leave the table when the matter is considered but does not need to leave the room. The minutes must record the declaration and member's subsequent abstention from discussion and voting (see also SO 18.5).

Neither the Chairperson nor the meeting may rule on whether a member has a non-financial interest in the matter being discussed.

19.10 Qualified privilege for meeting proceedings

Any oral statement made at any meeting of the local authority in accordance with the rules adopted by the local authority for guiding its proceedings is privileged, unless the statement is proved to have been made with ill will or took improper advantage of the occasion of publication.

s. 53, LGOIMA.

19.11 Qualified privilege additional to any other provisions

The privilege referred to above is in addition to any other privilege, whether absolute or qualified, that applies as a result of any other enactment or rule of law applying to any meeting of the local authority.

s. 53, LGOIMA.

19.12 Electronic devices at meetings

Electronic devices and phones can only be used to advance the business of a meeting.

Personal use may only occur at the discretion of the Chairperson. A Chairperson may require that an electronic device is switched off if its use is likely to distract a meeting from achieving its business or a member is found to be receiving information or advice from sources not present at the meeting which may affect the integrity of the proceedings.

20. Question Time

20.1 Members may ask questions of staff

The Chairperson will ensure that the opportunity is provided for members to ask questions of the Chief Executive and their staff on any item on the agenda for that meeting necessary to enable informed debate and decision-making provided that:

- (a) Questions demonstrate respect for staff and are put courteously;
- (b) A member does not use a question to state their point of view or enter into debate;
- (c) Questions raised by members are directly relevant to the item and are not repetitive;
- (d) Questions raised by members are succinct, clear and unambiguous;
- (e) Staff are not asked to comment on matters to which they have already responded or do not feel qualified to address.

20.2 Chairperson's discretion

The Chairperson may terminate a Member's question or questions, or question time altogether if in the Chairperson's view:

- (a) the rules of question time as set out in SO 20.1 are not being observed; and/or
- (b) the length of time being taken on questions is not proportionate to the importance of the item or the progress of the meeting.

The Chairperson's decision on such matters is final.

20.3 Questions of presenters other than staff

At the discretion of the Chairperson, members may ask questions of external presenters for items on the meeting agenda other than staff for the purpose of enabling informed debate and decision-making. The following provisions apply:

- a) questions demonstrate respect for presenters and are put courteously;

- b) members must not use a question to state their point of view or enter into debate;
- c) members must ask questions directly relevant to the item being discussed and not be repetitive;
- d) questions should be succinct, clear and unambiguous; and
- e) presenters should not be asked to comment on matters to which they have already responded or do not feel qualified to address.

20.4 Questions during Debate

No questions are allowed once debate has commenced, unless a member who has a question that relates to the accuracy of significant material facts informing decision-making or legal compliance. Such questions may be raised under SO 21.4.

21. General rules of debate

21.1 Chairperson may exercise discretion

The application of any procedural matters in this section of the standing orders, such as the number of times a member may speak, is subject to the discretion of the Chairperson.

21.2 Time limits on speakers

The following time limits apply to members speaking at meetings unless there is an exception provided for in SO 21.3 below.

- (a) movers of motions when speaking to the motion – not more than 3 minutes;
- (b) movers of motions when exercising their right of reply – not more than 3 minutes;
- (c) other members – not more than 3 minutes.

21.3 Exceptions to time limits on speakers

Time limits set out in SO 21.2 will not apply in the following circumstances:

- (a) 10 Year Plan meetings
- (b) Annual Plan meetings
- (c) for individual agenda items of any meeting of council or a committee where a simple majority of those members present resolve to exempt that item.

In these circumstances the following time limits apply:

- (a) movers of motions when speaking to the motion – not more than 5 minutes;
- (b) movers of motions when exercising their right of reply – not more than 5 minutes;

- (c) other members – not more than 5 minutes.

21.4 Questions of Significance to Staff during debate

A member who believes they have a necessary question regarding the accuracy of significant material facts informing decision-making or legislative compliance must:

- (a) wait until the member currently speaking has concluded their debate;
- (b) indicate to the Chairperson that they have a question of significance;
- (c) when asked by the Chairperson, put their question simply and clearly without commentary or opinion;
- (d) abide by the decision of the Chairperson as whether the question is sufficiently material to be put to staff;
- (e) accept the response provided by the Chairperson or staff, and not enter into further questions or debate.

The Chairperson's ruling on the materiality of a question is final and not open to challenge.

21.5 Limits on number of speakers

If three speakers have spoken consecutively in support of, or in opposition to, a motion, the Chairperson may call for a speaker to the contrary. If there is no speaker to the contrary, the Chairperson must put the motion after the mover's right of reply.

Members speaking must, if requested by the Chairperson, announce whether they are speaking in support of or opposition to a motion.

21.6 Secunder may reserve speech

A member may second a motion or amendment without speaking to it, reserving the right to speak later in the debate.

21.7 Speaking only to relevant matters

Members must confine their remarks strictly to the motion or amendment that is being debated. Otherwise Members may only speak during debate to raise a point of order or a question of significance.

The Chairperson's rulings on any matters arising under this standing order are final and not open to challenge.

21.8 Stating, Restating and Display of Motions and Amendments

A motion or amendment will generally be displayed on the electronic screen (where technology allows this) for the information of members prior to or at the commencement of debate. Members may ask the Chairperson for the motion or amendment to be read out in the meeting or, where the motion or amendment cannot be easily read on the screen, in writing. Members may also request the Chairperson restate a motion or amendment at any time but may not interrupt a speaker to do so.

21.9 Criticism of resolutions

A member speaking in a debate may not unduly criticise the validity of any resolution of the Council or Committee of Council except by a notice of motion to amend or revoke the resolution.

21.10 Right of reply

The mover of an original motion has a right of reply. A mover of an amendment to the original motion does not. In their reply, the mover of the motion must confine themselves to answering previous speakers and may not introduce any new matters.

A mover's right of reply can only be used once. The mover may reserve their right of reply and exercise it at the end of any debate:

- (a) on the original or substituted motion (where there is no amendment, or the motion and amendment are being debated separately); OR
- (b) on an amendment (where the motion and the amendment are being debated separately); OR
- (c) on the amendment as the substantive motion (where the amendment is won and becomes the motion); OR
- (d) on the motion and amendment where these are being debated together.

The mover of a motion is entitled to speak once to their motion and once to each amendment. If a closure motion (see SO 24.9) is carried the mover of the motion has the right of reply before the motion or amendment is put to the vote.

21.11 No other member may speak

No other member may speak:

- (a) after the mover has started their right of reply; OR
- (b) after the mover has indicated that they will forego their right of reply; AND
- (c) the Chairperson has indicated that he or she intends to put the motion.

22. Motions and amendments

22.1 General procedures for speaking to and moving motions

- (a) the mover and seconder of a motion cannot move or second an amendment. (This does not apply when the mover or seconder of a motion to adopt a report of a committee wants to amend an item in the report. In this case the original mover or seconder may also propose or second the suggested amendment).
- (b) only members who have not spoken to the original or substituted motion may move or second an amendment to it.
- (c) members can speak to any amendment and, provided they have not spoken to the motion or moved or seconded an amendment, they can move or second further amendments.
- (d) the meeting by agreement of the majority of members present may amend a motion with the agreement of the mover and seconder.

22.2 Proposing and seconding motions

All motions and amendments must have a mover and a seconder. The Chairperson may then state the motion and propose it for discussion.

Amendments and motions moved but not seconded are not in order and will not be discussed or entered in the minutes.

This requirement for a mover and a seconder also applies to notices of motion (see SO 26)

22.3 Motions in writing

The Chairperson may require movers of motions and amendments to provide them in writing, signed by the mover.

22.4 Motions expressed in parts

The Chairperson, or any member, can require a motion that has been expressed in parts to be decided part by part.

22.5 Substituted motion

Where a motion is subject to an amendment, the meeting may substitute the motion with the amendment, provided the mover and seconder of the original motion agree to its withdrawal. The substituted motion will be debated as the motion

22.6 Amendments to be relevant

Every proposed amendment must be relevant to the motion under discussion. Proposed amendments cannot be similar to an amendment that has already been lost.

22.7 Amendments cannot be direct negatives

An amendment which, if carried, would have the effect of defeating a previous resolution is a direct negative and is therefore not allowed.

An amendment which, if carried, would have the effect of negating the current motion or substituted motion AND PRESERVES the Status Quo is a direct negative and is therefore not allowed.

However, where an amendment which if carried, would have the effect of negating the current motion or substituted motion AND WOULD RESULT in a change to the Status Quo, it is not a direct negative and will be allowed.

22.8 Foreshadowed and Further Amendments

A member may indicate to the meeting that they intend to move a further amendment once the existing amendment in front of the meeting has been dealt with i.e. they foreshadow a further amendment. A member may do this at any time until the Chairperson calls for the existing amendment to be put to the vote provided they have not already spoken in the debate. They may but are not required to disclose the nature of a foreshadowed amendment.

Alternately, once the existing amendment has been dealt with and before the Chairperson calls for the vote on the motion (original, substituted or substantive), a member may move a further amendment. A further amendment requires both a mover and a seconder who have not already spoken in the debate.

22.9 Lost amendments

Where an amendment is lost, and the motion and amendment are being debated separately, the meeting will resume the debate on the original or substituted motion. Any member who has not spoken to that motion may speak to it and/or move or second a further amendment.

Where an amendment is lost, and the motion and amendment have been debated together, debate is concluded unless members who have not already spoken move and second a further amendment.

22.10 Carried amendments

Where an amendment is carried, and the motion and amendment debated separately, the meeting will resume the debate on the substantive motion (the amendment which has now become the motion). Members who have not spoken to the original motion may speak to the substantive motion and may move or second a further amendment to it.

Where an amendment is carried, and the motion and amendment (now the substantive motion) have been debated together, debate is concluded unless members who have not already spoken in the debate move and second a further amendment to it.

22.11 Where a motion is lost

In a situation where a motion that recommends a course of action is lost and the outcome of the vote results in a status quo situation that could or would mean that Council was not meeting its legal compliance requirements clause, the Chairperson may allow a procedural/motion as *per SO 24.4*.

22.12 Withdrawal and alteration of motions and amendments

A motion or amendment which has been seconded may be withdrawn, altered, or the motion substituted with the amendment with the consent of the mover and the seconder prior to it being put by the Chairperson to the meeting for the vote UNLESS a member requests it be retained as is. In this case a motion or amendment cannot be withdrawn or altered, or the motion substituted with the amendment without the consent of the majority of the members who are present and voting.

22.13 No speakers after reply or motion has been put

A member may not speak to any motion once:

- (a) the mover has started their right of reply in relation to the motion; and
- (b) the Chairperson has started putting the motion.

23. Revocation or alteration of resolutions

23.1 Member may move a revocation or alternation of a decision

A member may give notice to the Chief Executive of their intention to move a notice of motion for the revocation or alteration of all or part of a previous resolution of the Council or Council committee. This is called a Notice of Revocation or Alteration. The notice must set out:

- (a) The resolution or part of the resolution which the member proposes to revoke or alter;
- (b) The meeting date when the resolution was passed;
- (c) The motion, if any, which the member proposes to replace it with; and
- (d) Sufficient information to satisfy the decision-making provisions of sections 77-82 of the LGA 2002.

23.2 A Notice of Revocation or Alteration must be considered by the body responsible for the decision

Only the body that made the resolution for which a notice of motion has been received may revoke or amend their resolution, irrespective of whether the resolution was made under delegated authority, assuming the resolution is legally made.

This provision does not prevent the body that made the delegation from removing or amending a delegation given to a subordinate body.

cl. 32 (2)4 Schedule 7, LGA 2002.

23.3 Giving Notice of Revocation or Alteration

A member must give notice of their intention to move to revoke or alter all or parts of a resolution to the Chief Executive at least 5 working days before the meeting at which it is proposed to consider the motion. The notice of revocation or alteration must name a seconder and be signed by not less than one third of the members of the local authority, including vacancies. Notice can be sent via email and include the scanned electronic signatures of members. Once the motion is received the Chief Executive must give members notice in writing of the intended motion at least 2 clear working days' notice of the date of the meeting at which it will be considered.

(See also section 26 Notices of Motions).

23.4 Lost Notice of Revocation or Amendment

If the notice of motion is lost, no similar notice of motion which is substantially the same in purpose and effect may be accepted within the next six months.

23.5 Restrictions on actions under the affected resolution

Once a notice of motion to revoke or alter a previous resolution has been received no irreversible action may be taken under the resolution in question until the proposed notice of motion has been dealt with. Exceptions apply where, in the opinion of the Chairperson:

- (a) the practical effect of delaying actions under the resolution would be the same as if the resolution had been revoked;
- (b) by reason of repetitive notices, the effect of the notice is an attempt by a minority to frustrate the will of the local authority or the committee that made the previous resolution.

In either of these situations, action may be taken under the resolution as though no notice of motion had been given to the Chief Executive.

23.6 Revocation or alteration by resolution at same meeting

A meeting may revoke or alter a previous resolution made at the same meeting where, during the meeting, it receives fresh facts or information concerning the resolution. In this situation 75 percent of the members present and voting must agree to the revocation or alteration.

23.7 Revocation or alteration by report recommendation

The local authority, on a recommendation in a report by the Chairperson, Chief Executive, or any committee or subcommittee, may revoke or alter all or part of a resolution passed by a previous meeting. The Chief Executive must give at least two clear working days' notice of any meeting that will consider a revocation or alteration recommendation.

cl. 30 (6) Schedule 7, LGA 2002.

24. Procedural motions

24.1 Procedural motions must be taken immediately

A procedural motion to close or adjourn a debate will take precedence over other business, except points of order and rights of reply. If the procedural motion is seconded the Chairperson must put it to the vote immediately, without discussion or debate.

However, the Chairperson must respond to any questions regarding the members obligations under legislation and Standing Orders, prior to putting a matter to the vote.

24.2 Procedural motions to close or adjourn a debate

Any member who has not spoken on the matter under debate may move any one of the following procedural motions to close or adjourn a debate:

- (a) that the meeting be adjourned to the next ordinary meeting (unless the member states an alternative time and place);
- (b) that the motion under debate should now be put (a closure motion);
- (c) that the item being discussed should be adjourned to a specified time and place and not be further discussed at the meeting;
- (d) that the item of business being discussed should lie on the table and not be further discussed at this meeting;
- (e) that the item being discussed should be referred (or referred back) to the relevant committee.

A member seeking to move a procedural motion must not interrupt another member who is already speaking.

24.3 Voting on procedural motions

Procedural motions to close or adjourn a debate must be decided by a majority of all members who are present and voting. If the motion is lost no member may move a further procedural motion to close or adjourn the debate within the next 15 minutes.

24.4 Procedure if no resolution reached

Where the outcome of a vote results in a status quo situation that could or would mean that Council was not meeting its legal compliance requirements the Chairperson may accept a procedural motion to progress the matter under discussion.

24.5 Adjournment motions

The carrying of any motion to adjourn a meeting must supersede other business remaining to be disposed of. Any such business must be considered at the next meeting. Business referred, or

referred back, to a specified committee or local or community board, is to be considered at the next ordinary meeting of that committee or board, unless otherwise specified.

24.6 Debate on adjourned items

When debate resumes on items of business that have been previously adjourned all members are entitled to speak on the items.

24.7 Remaining business at adjourned meetings

Where a resolution is made to adjourn a meeting, the remaining business will be considered at the next meeting.

24.8 Business referred to the council or committee

Where an item of business is referred (or referred back) to a committee, the committee will consider the item at its next meeting unless the meeting resolves otherwise.

24.9 Chairperson's acceptance of closure motions

The Chairperson may only accept a closure motion where there have been at least two speakers for and two speakers against the motion that is proposed to be closed, or the Chairperson considers it reasonable to do so.

However, the Chairperson must put a closure motion if there are no further speakers in the debate. When the meeting is debating an amendment, the closure motion relates to the amendment. If a closure motion is carried, the mover of the motion under debate has the right of reply after which the Chairperson puts the motion or amendment to the vote.

24.10 Other types of procedural motions

The Chairperson has discretion about whether to allow any other procedural motion that is not contained in these standing orders.

25. Points of order

25.1 Members may raise points of order

Any member may raise a point of order when they believe these standing orders have been breached. When a point of order is raised, the member who was previously speaking must stop speaking and sit down (if standing).

25.2 Subjects for points of order

A member who is raising a point of order must state precisely what its subject is. Points of order may be raised for the following subjects:

- (a) disorder – bringing disorder to the attention of the Chairperson;
- (b) language – use of disrespectful, offensive or malicious language;
- (c) irrelevance – the topic being discussed is not the matter currently before the meeting;
- (d) misrepresentation – incorrect or misleading account of any statement made by a member or by an officer or council employee;
- (e) breach of standing order – the breach of any standing order while also specifying which standing order is subject to the breach;
- (f) breach of the Code of Conduct of Elected Members– see SO 19.1
- (g) to request the recording of words, such as a request that the minutes record words that have been the subject of an objection.

Having raised the subject of their point of order, a member may not explain further until invited by the Chairperson to do so.

25.3 Contradictions

Expressing a difference of opinion or contradicting a statement by a previous speaker is not a point of order.

25.4 Point of order once the Chairperson has called the vote

A member may not raise a point of order once the motion or amendment has been put for the vote by the Chairperson, except with the permission of the Chairperson.

25.5 Chairperson's decision on points of order

The Chairperson may either decide a point of order immediately after it has been raised or choose to hear further argument about the point before deciding. The Chairperson's ruling on any point of order, and any explanation of that ruling, is not open to any discussion and is final.

26. Notices of motion

26.1 Notice of intended motion to be in writing

Any member seeking to put a motion at an upcoming meeting may provide notice of their intended motion subject to the requirements of these Standing Orders. Notice of intended motions must be in writing signed by the mover, stating the meeting at which it is proposed that the intended motion be considered (see SO 26.6), the name of the seconder, and must be delivered to the Chief Executive at least 5 clear working days before such meeting.

[Notice of an intended motion can be sent via email and include the scanned electronic signature of the mover.]

Once the motion is received the Chief Executive must give members notice in writing of the intended motion at least two clear working days' notice of the date of the meeting at which it will be considered.

26.2 Refusal of notice of motion

The Chairperson may direct the Chief Executive to refuse to accept any notice of motion which:

- (a) is disrespectful or which contains offensive language or statements made with malice; or
- (b) is not related to the role or functions of the local authority or meeting concerned; or
- (c) contains an ambiguity or a statement of fact or opinion which cannot properly form part of an effective resolution, and where the mover has declined to comply with such requirements as the Chief Executive officer may make; or
- (d) is concerned with matters which are already the subject of reports or recommendations from a committee to the meeting concerned; or
- (e) fails to include sufficient information as to satisfy the decision-making provisions of s.77-82 LGA 2002; or
- (f) concerns a matter where decision-making authority has been delegated to a subordinate body.

Reasons for refusing a notice of motion should be provided to the mover. Where the refusal is due to (f) the notice of motion may be referred to the appropriate committee.

26.3 Mover of notice of motion

Notices of motion may not proceed in the absence of the mover unless moved by another member authorised to do so, in writing, by the mover.

26.4 Alteration of notice of motion

Only the mover, at the time the notice of motion is moved and with the agreement of a majority of those present at the meeting, may alter a proposed notice of motion. Once moved and seconded no amendments may be made to a notice of motion.

26.5 When notices of motion lapse

Notices of motion that are not put when called by the Chairperson must lapse.

26.6 Referral of notices of motion

Any notice of motion received that refers to a matter ordinarily dealt with by a committee of the local authority must be referred to that committee by the Chief Executive.

Where notices are referred the proposer of the intended motion, if not a member of that committee, must have the right to move that motion and have the right of reply, as if a committee member.

26.7 Repeat notices of motion

When a motion has been considered and rejected by the local authority or a committee, no similar notice of motion may be accepted within the next 12 months, unless signed by not less than one third of all members, including vacancies. The Chairperson will determine whether a repeat notice of motion is similar to one previously rejected.

Where a notice of motion has been adopted by the local authority no other notice of motion which, in the opinion of the Chairperson has the same effect, may be put while the original motion stands.

27. Minutes

27.1 Minutes to be evidence of proceedings

The local authority, its committees and subcommittees must keep minutes of their proceedings. These minutes must be kept in hard copy, signed and included in the council's minute book and, when confirmed by resolution at a subsequent meeting and signed by the Chairperson, will be prima facie evidence of the proceedings they relate to.

cl. 28 Schedule 7, LGA 2002.

27.2 Matters recorded in minutes

The Chief Executive must keep the minutes of meetings. The minutes must record:

- (a) the date, time and venue of the meeting;
- (b) the names of the members present;

- (c) the Chairperson;
- (d) any apologies or leaves of absences;
- (e) the arrival and departure times of members;
- (f) any failure of a quorum;
- (g) a list of any external speakers and the topics they addressed;
- (h) a list of the items considered;
- (i) the resolutions and amendments related to those items including those that were lost, provided they had been moved and seconded in accordance with these standing orders;
- (j) the names of all movers, and seconders;
- (k) any objections made to words used;
- (l) a record of each members' vote;
- (m) the names of any members requesting that votes or abstentions be recorded;
- (n) any declarations of financial or non-financial conflicts of interest;
- (o) the contempt, censure and removal of any members;
- (p) any resolutions to exclude members of the public;
- (q) the time at which the meeting concludes or adjourns;
- (r) the names of people permitted to stay in public excluded.

Please Note: hearings under the RMA, Dog Control Act 1996 and Sale and Supply of Alcohol Act 2012 may have special requirements for minute taking.

27.3 No discussion on minutes

The only topic that may be discussed at a subsequent meeting, with respect to the minutes, is their correctness.

27.4 Minutes of last meeting before election

The Chief Executive and the relevant Chairpersons must sign the minutes of the last meeting of the local authority and its local and community boards before the next election of members.

28. Minute books

28.1 Inspection

A hard copy of the local authority's minute books must be kept by the Chief Executive and be open for inspection by the public. This does not preclude the complementary use of electronic minutes in accordance with the Electronics Transactions Act.

s. 51 LGOIMA.

28.2 Inspection of public excluded matters

The Chief Executive must consider any request for the minutes of a meeting or part of a meeting from which the public was excluded as a request for official information in terms of the Local Government Official Information and Meetings Act 1987.

Referenced documents

- Commissions of Inquiry Act 1908
- Sale of Alcohol Act 2012
- Crimes Act 1961
- Financial Markets Conduct Act 2013
- Local Authorities (Members' Interests) Act 1968 (LAMIA)
- Local Electoral Act 2001 (LEA)
- Local Government Act 1974 and 2002 (LGA)
- Local Government Official Information and Meetings Act 1987 (LGOIMA)
- Marine Farming Act 1971
- Resource Management Act 1991 (RMA)
- Secret Commissions Act 1910
- Securities Act 1978

Appendix 1: Grounds to exclude the public

A local authority may, by resolution, exclude the public from the whole or any part of the proceedings of any meeting only on one or more of the following grounds:

- A1** That good reason exists for excluding the public from the whole or any part of the proceedings of any meeting as the public disclosure of information would be likely:
- (a) to prejudice the maintenance of the law, including the prevention, investigation, and detection of offences, and the right to a fair trial; or
 - (b) to endanger the safety of any person.
- A2** That the public conduct of the whole or the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information where the withholding of the information is necessary to:
- (a) Protect the privacy of natural persons, including that of deceased natural persons; or
 - (b) Protect information where the making available of the information would:
 - i. disclose a trade secret; or
 - ii. be likely unreasonably to prejudice the commercial position of the person who supplied or who is the subject of the information; or
 - (c) In the case only of an application for a resource consent, or water conservation order, or a requirement for a designation or heritage order, under the Resource Management Act 1991, to avoid serious offence to tikanga Māori i, or to avoid the disclosure of the location of waahi tapu; or
 - (d) Protect information which is subject to an obligation of confidence or which any person has been or could be compelled to provide under the authority of any enactment, where the making available of the information would:
 - i. be likely to prejudice the supply of similar information, or information from the same source, and it is in the public interest that such information should continue to be supplied; or
 - ii. be likely otherwise to damage the public interest; or
 - (e) Avoid prejudice to measures protecting the health or safety of members of the public; or
 - (f) Avoid prejudice to measures that prevent or mitigate material loss to members of the public; or
 - (g) Maintain the effective conduct of public affairs through –the protection of such members, officers, employees, and persons from improper pressure or harassment; or
 - (h) Maintain legal professional privilege; or
 - (i) Enable any Council holding the information to carry out, without prejudice or disadvantage, commercial activities; or
 - (j) Enable any Council holding the information to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations); or

- (k) Prevent the disclosure or use of official information for improper gain or improper advantage.

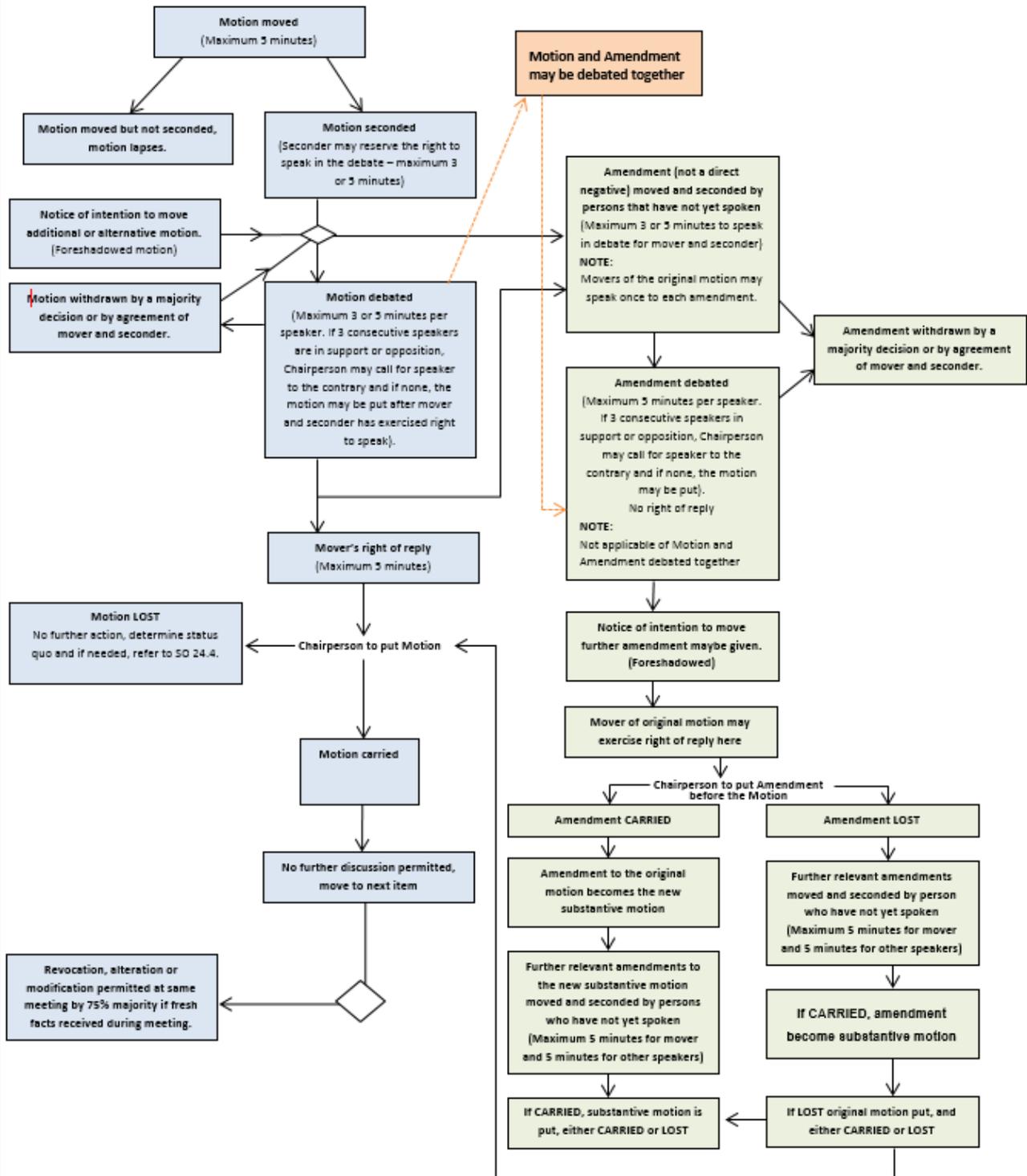
Provided that where A2 of this Appendix applies the public may be excluded unless, in the circumstances of the particular case, the exclusion of the public is outweighed by other considerations which render it desirable, in the public interest, that the public not be excluded.

- A3** That the public conduct of the whole or the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information, the public disclosure of which would:
 - (a) Be contrary to the provisions of a specified enactment; or
 - (b) Constitute contempt of Court or of the House of Representatives.
- A4** That the purpose of the whole or the relevant part of the proceedings of the meeting is to consider a recommendation made to that Council by an Ombudsman under section 30(1) or section 38(3) of this Act (in the case of a Council named or specified in Schedule 1 to this Act).
- A5** That the exclusion of the public from the whole or the relevant part of the proceedings of the meeting is necessary to enable the Council to deliberate in private on its decision or recommendation in:
 - (a) Any proceedings before a Council where
 - i. A right of appeal lies to any Court or tribunal against the final decision of the Council in those proceedings; or
 - ii. The Council is required, by any enactment, to make a recommendation in respect of the matter that is the subject of those proceedings; and
 - (b) Any proceedings of a Council in relation to any application or objection under the Marine Farming Act 1971.

Appendix 2: Motions and Amendments - see SO 22

Motions without amendments

Motions with amendment



Appendix 3: Webcasting protocols

The provisions are intended as a good practice guide to local authorities that are webcasting meetings or planning to do so.

- (a) The default shot will be on the Chairperson or a wide-angle shot of the meeting room.
- (b) Cameras will cover a member who is addressing the meeting. Cameras will also cover other key participants in a meeting, including staff when presenting a report and responding to questions, and members of the public when addressing the meeting during the public forum time.
- (c) Generally, interjections from other members or the public are not covered. However, if the Chairperson engages with the interjector, the interjector's reaction may be filmed.
- (d) PowerPoint presentations, recording of votes by division and other matters displayed by on the screens may be shown.
- (e) Shots unrelated to the proceedings, or not in the public interest, are not permitted.
- (f) If there is general disorder or a disturbance from the public gallery, coverage will revert to the Chairperson or a wide-angle shot of the meeting.
- (g) Appropriate signage will be displayed outside the meeting room alerting people that the proceedings are being web cast.
- (h) A recording of the meetings following the webcasting will be made available on Council's website for public record.

Code of Conduct for Elected Members



Adopted on: 15 March 2018

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1 & 2

Scope & Application

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

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

1. Scope

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

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

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

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

2. Application

The Code applies to Elected Members at all times.

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

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

External appointees of the Council’s Committees must also comply with the provisions of this Code as required under their individual agreements with the Council.

3 Principles of Governance

The Code gives effect to the following general principles of good governance with which Elected Members have agreed to comply:

3.1 Integrity and Honesty

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

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

3.2 Accountability

Elected Members will:

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

3.3 Respect

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

This includes:

- treating people, including other members, with respect and courtesy, regardless of their race, age, religion, gender, sexual orientation, or disability.
- recognising and encouraging ideas and contributions from others.
- being courteous and approachable.
- not engaging in aggressive, offensive, abusive or bullying behaviour.
- not making personal attacks.
- respecting the impartiality and integrity of staff.
- not interrupting when others are expressing their point of view.

3.4 Good Faith

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

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

3.5 Proper Use of Position

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

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

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

3.6 Leadership

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

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



4 Roles and Responsibilities

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

4.1 Elected Members

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

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

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

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

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

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

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

4.2 Mayor

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

- lead the development of the Council's plans (including long-term plan and annual plan), policies and budgets for consideration by members of the territorial authority;
- appoint the Deputy Mayor;
- establish committees of the Council and appoint the chairperson of each committee established. However, nothing limits or prevents the Council from discharging or reconstituting

committees or chairpersons of those committees established by the Mayor by way of Council resolution at a later date.

- presiding at Council meetings. The Mayor is responsible for ensuring the orderly conduct of business during Council meetings (as determined by Standing Orders);
- advocating on behalf of the community. This role may involve promoting the community and representing its interests. Such advocacy will be most effective where it is carried out with the knowledge and support of the Council;
- ceremonial head of the Council;
- providing leadership and feedback to other Elected Members on teamwork and chairing of committees; and
- keeping the Council informed of matters brought to his/her attention.

4.3 Deputy Mayor

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

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

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

4.4 Committee Chairpersons

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

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

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

4.5 Chief Executive

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

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

- implementing the decisions of the Council;
- providing advice to the Council and its committees;
- ensuring that all responsibilities, duties and powers delegated to him or her, or to any person employed by the local

authority, or imposed or conferred by an Act, regulation or bylaw, are properly performed or exercised;

- managing the Council's activities effectively and efficiently;
- maintaining systems to enable effective planning and accurate reporting of the financial and service performance of the Council;
- providing leadership for the staff of the Council;
- employing staff on behalf of the Council (including negotiation of the terms of employment for the staff of the local authority).

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

5 Relationships and Behaviours

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

5.1 Relationship with Other Members

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

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

5.2 Relationship with the Chief Executive and Staff

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

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

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

5.3 Relationships with the public

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

- interact with members of the public in a fair, respectful, equitable and honest manner;
- be available to listen and respond openly and honestly to community concerns;
- consider all points of view or interests when participating in debate and making decisions;
- treat members of the public in a courteous manner; and
- act in a way that upholds the reputation of the local authority and values community involvement in local democracy.

5.4 Contact with the Media

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

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

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

5.5 Information available to Elected Members

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

Confidentiality

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

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

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

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

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

Information received in capacity as an Elected Member

Members will disclose to other members and, where appropriate the CE, any information received in their capacity as an Elected Member that concerns the Council's ability to give effect to its responsibilities.

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

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

5.6 Gifts and Hospitality

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

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

As guidance:

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

5.7 Conflicts of Interest

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

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

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

The requirements cover two classes of conflict of interest:

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

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

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

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

5.8 Bankruptcy

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

5.9 Disqualification from Office

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

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



Item 18

Attachment 2

6

Breaches of the Code

Members must comply with the provisions of this Code (clause 15(4), Schedule 7, LGA). The exact nature of the action taken to resolve any allegations relating to misconduct of an Elected Member will depend on the nature of the alleged breach and whether there are statutory provisions dealing with the issue in question.

6.1 Principles

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

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

6.2 Complaints Process

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

Before making a complaint, members are encouraged to resolve the matter by discussion with the member alleged to have committed the breach.

All complaints made under this Code must be made in writing and addressed to the CE, setting out the alleged breach of the Code and providing corroborating evidence. On receipt of a complaint, the CE must follow the process set out in Schedule 3. For the purpose of the Code, (an) Elected Member(s) who is/are the subject of a complaint under the Code is/are 'the respondent'.

Panel of Independent Investigators

On behalf of the Council, the CE will, shortly after the start of a triennium, prepare, in consultation with the Mayor, a list of investigators for the purpose of undertaking an assessment of complaints (when required) and making recommendations to the Council. The CE may prepare a list specifically for the Council, prepare a list jointly with neighbouring councils or contract with an agency capable of providing appropriate investigators.

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

Materiality

An alleged breach under this Code is material if, in the reasonable opinion of an independent investigator, it would, if proven, bring an Elected Member or the Council into disrepute or, if not addressed, reflect adversely on another Elected Member of the Council.

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

6.3 Penalties and actions

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

Material breaches

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

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

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

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

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

Breaches of Legislation

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

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

leave the Elected Member liable for criminal prosecution.

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

Breaches of the Code during meetings

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

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

7 Review or Changes to the Code

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

The Council will formally review the Code as soon as practicable after the beginning of each triennium. The results of that review will be presented to the full Council for its consideration and vote.

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



Item 18

Attachment 2

Schedule 1

Summary of Legislation

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

Local Government Act 2002 ('LGA')

Governance Principles

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

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

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

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

- a local authority should ensure that the role of democratic governance of the community, and the expected conduct of elected members, is clear and understood by elected members and the community;
- a local authority should ensure that the governance structures and processes are effective, open and transparent;

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

Decision-Making Responsibility

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

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

Significance and Engagement

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

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

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

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

Personal liability of members

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

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

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

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

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

Local Authorities (Members' Interests) Act 1968 ('LAMIA')

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

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

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

Local Government Official Information and Meetings Act 1987 ('LGOIMA')

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

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

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

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

Secret Commissions Act 1910 ('SCA')

It is unlawful for an Elected Member (or officer) to advise anyone to enter into a contract with a third person and receive a gift or reward from that third person as a result. It is also unlawful for an Elected Member (or officer) to present false receipts to the local authority.

If convicted of any offence under the SCA, a person can be imprisoned for up to 7 years. Elected Members convicted of an offence will be removed from office.

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

Crimes Act 1961

It is a crime for any Elected Member to accept, or solicit for themselves (or anyone else), any gift or reward for acting or not acting in relation to the business of the local authority. It is also a crime for any Elected Member to use information acquired in his or her official capacity for monetary gain or advantage.

These offences are punishable by a term of imprisonment of 7 years or more. Elected Members convicted of these offences will be removed from office.

Financial Markets Conduct Act 2013 ('FMCA')

The FMCA regulates the offer, issue and re-sale of financial products, which includes shares, debt securities and derivatives.

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

Health & Safety at Work Act 2015 ('HSWA')

HSWA came into force on 4 April 2016. Its focus is the protection of workers and other people against harm to their health, safety and welfare by eliminating or minimising risks at workplaces.

The HSWA places obligations on four duty holders - a person conducting a business or undertaking ('PCBU'); officers of a PCBU; workers; and other people at a workplace. Council as a PCBU holds the primary duty of care under HSWA i.e. to ensure so far as is reasonably practicable, the health and safety of its workers and of other workers whose activities Council influences or directs.

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

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

Unlike the Chief Executive and Senior Leadership Team, Elected Members are not required to be directly involved in the day-to-day management of health and safety. They are, however, still required to take reasonable steps to understand Council's operations and health and safety risks, and to ensure that they are managed so that the organisation meets its legal obligations under the HSWA.

This duty does not extend to ensuring that a council controlled organisation ('CCO') complies with the HSWA, unless the Elected Member is also an 'officer' of that CCO.

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

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

Protected Disclosures Act 2000

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

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

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

The Council has a Protected Disclosure Management Policy, which applies to employees. For Elected Members, the default position requires a disclosure to be made to the CE or Deputy CE. If the employee considers the CE or Deputy CE may be involved in serious wrongdoing, the matter can also be escalated to an "appropriate authority". Appropriate authorities are defined in the Act and include the Commissioner of Police, the Controller and Auditor-General and the Parliamentary Ombudsman.

Conflicts of Interest

General

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

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

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

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

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

Conflicts of interest can be:

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

Financial conflicts of interest

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

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

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

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

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

The two specific rules in the LAMIA relate to:

1. Contracts

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

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

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

2. Participation in decision-making

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

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

How is bias determined?

Bias is determined by asking the following question:

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

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

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

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

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

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

Declarations of interest

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

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

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

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

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

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

General awareness and support

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

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

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

Relevant guidelines include:

- [‘Guidance for Members of Local Authorities about the Local Authorities’ \(Members’ Interests\) Act 1968’](#) – Office of the Auditor General 2010;
- [‘Managing Conflicting Interests in Local Government: The Local Authorities \(Members’ Interests\) Act 1968 and Associated Issues’](#) – Department of Internal Affairs August 2011;

Consequences of bias and/or breach of the LAMIA

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

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

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

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

Schedule 3

Process for the investigation and determination of complaints

Summary

There is a five-stage process for dealing with complaints under the Code of Conduct:

Stage 1: Acknowledgement of the complaint and the respondent is informed.

Stage 2: Preliminary assessment of the complaint – led by either the CE or an independent investigator.

Stage 3: Informal resolution of complaint (where alleged breach is considered non-material).

Stage 4: Independent investigator assessment where:

- the alleged breach is considered material;
- the complaint has not been able to be resolved informally; or
- the complaint is otherwise referred to an independent investigator by the CE.

Stage 5: The Council's consideration of the investigator's report.

A flowchart illustrating the complaints process is attached as an appendix to this Schedule.

Stage 1: Acknowledgment of complaint

1. Within two working days of receipt of a complaint, the CE will:

- a. acknowledge receipt and refer the complainant to the process for dealing with the complaint under this Code.
- b. inform the respondent that a complaint has been made against them and refer them to the process for dealing with the complaint under this Code.

Stage 2: Preliminary assessment of complaint

2. The CE, with the Mayor (or Deputy Mayor if the complaint involves the Mayor) will assess whether:

- a. the complaint is frivolous or without substance and should be dismissed;
- b. the complaint is outside the scope of the Code and should be redirected to another agency or process;
- c. the subject of the complaint has previously been assessed and actions have been completed in accordance with the Code to address the complaint;
- d. the complaint is not material and should progress to informal resolution (refer to Stage 3); or
- e. the complaint is material and a full investigation is required by an independent investigator (refer to Stage 4). An alleged breach of section 5.5 of the Code is deemed to be material.

3. The CE may request further information/evidence from the complainant in support of the complaint and, if considered appropriate, may also request a preliminary statement in response from the respondent.

4. Where the CE and the Mayor (or Deputy Mayor) determines the complaint falls under paragraphs 2(a) or (c) above, the CE will inform the complainant and the respondent directly. The CE will also inform other Elected Members of the decision, unless there are grounds for the matter to remain confidential.

5. If it is determined that the complaint involves a potential legislative breach and is outside the scope of the Code, the CE will forward the complaint to the relevant agency and inform both the complainant and respondent of the action.

6. Where the CE and Mayor (or Deputy Mayor) determine the complaint is material, the matter must immediately be referred to an individual investigator for assessment (Stage 4).

7. The CE has full discretion to refer any complaint to an independent investigator at any stage, even if it is considered not material.

8. The preliminary assessment of a complaint under Stage 2 will be completed within seven working days of receipt of the complaint. If additional time is required to complete the assessment, the CE must notify the complainant and respondent with the date when the preliminary assessment is expected to be completed.

Stage 3: Informal Resolution

9. Where the CE and the Mayor (or Deputy Mayor) determine the complaint falls under paragraph 2(d) (refer to Stage 2), they will endeavour to settle the matter informally between the parties within 10 working days from the completion of Stage 2. The process for informal resolution must be fair to, and include, the affected parties.

10. The outcome of this initial process may be that the parties reach an informal agreement to resolve the complaint, in which case no further action is required. A written record of the informal agreement must be kept by the CE's office.

11. If agreement is not possible between the parties under Stage 3, the CE will refer the complaint to an independent investigator for full investigation.

12. For clarity, Stage 3 is not available if the complaint has been assessed as material under Stage 2 or referred to an independent investigator under paragraph 7 above.

Stage 4: Independent Investigator Assessment

13. Where the CE and the Mayor (or Deputy Mayor) determines the complaint falls under paragraph 2(e) in Stage 2, or the complaint is not otherwise resolved, the CE will refer the complaint to an independent investigator selected from the approved Panel of Independent Investigators.

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

- a. the complaint is frivolous or without substance and should be dismissed;

- b. the complaint is outside the scope of the Code and should be redirected to another agency or process;
- c. the subject of the complaint has previously been assessed and actions have been completed in accordance with the Code to address the complaint;
- d. the complaint is non-material; or
- e. the complaint is material and a full investigation is required.

15. The investigator must carry out their assessment in accordance with the principles in section 6.1 and within the terms of engagement provided by the CE. The assessment must be completed and sent to the CE as soon as possible, no later than 20 working days from the date the complaint is referred to the investigator (unless otherwise agreed with the CE).

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

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

- a. where an investigator determines that a complaint is frivolous or without substance or previously been assessed and actioned under the Code, inform the complainant and the respondent directly and inform other Elected Members (if there are no grounds for confidentiality) of the investigator's decision; or
- b. in cases where the investigator finds that the complaint involves a potential legislative breach and is outside the scope of the Code, forward the complaint to the relevant agency and inform both the complainant and respondent of the action.

Stage 4A: Actions where a breach is found to be non-material

18. The investigator will inform the CE if they find the breach is non-material as part of their assessment (under Stage 4), and, if they choose, recommend a course of action appropriate to the breach, such as the respondent:

- a. receiving direction from the Mayor (or Deputy Mayor, as appropriate) regarding behaviour or conduct expected from Elected Members;
- b. attending appropriate training or counselling to better understand the behaviour or conduct that is expected from Elected Members in circumstances that led to the complaint.

19. The CE, in consultation with the Mayor (or Deputy Mayor, as appropriate) may determine which recommendation, if any, from the independent investigator's assessment should be actioned. The CE will advise both the complainant and the respondent of the investigator's findings, which are not open to challenge, and any recommendations to be actioned. The CE will also notify other Elected Members, unless there are grounds of confidentiality. A written record must be kept by the CE's office.

20. If the CE and Mayor (or Deputy Mayor) do not agree on the investigator's recommendations to be actioned, the CE must report the investigator's assessment to the Council for determination (refer to Stage 5).

Stage 4B: Actions where a breach is found to be material

21. The investigator will inform the CE if they find that the breach is material as part of their assessment (Stage 4). The CE will then inform the complainant and respondent. The investigator will then prepare a report for the Council on the seriousness of the breach.

22. In preparing that report the investigator must:

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

23. On receipt of the investigator's report, the CE will prepare a report for the Council, which will meet within a month of the CE receiving the investigator's report, to:

- a. consider the findings of the investigator's report; and
- b. determine whether a penalty, or some other form of action, will be imposed.

The CE's report will include the full report prepared by the investigator, including any recommendations.

24. The CE will share the investigator's report with the complainant and respondent under strict confidentiality inviting them to reply in writing as to whether they agree to the findings and whether they wish to make a written submission for consideration by the Council. The complainant and respondent must not disclose or discuss the investigator's report with any person other than the CE and/or the Mayor (or Deputy Mayor, as appropriate) prior to the Council meeting being held to determine the complaint.

Stage 5: The Council's consideration of an investigator's report

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

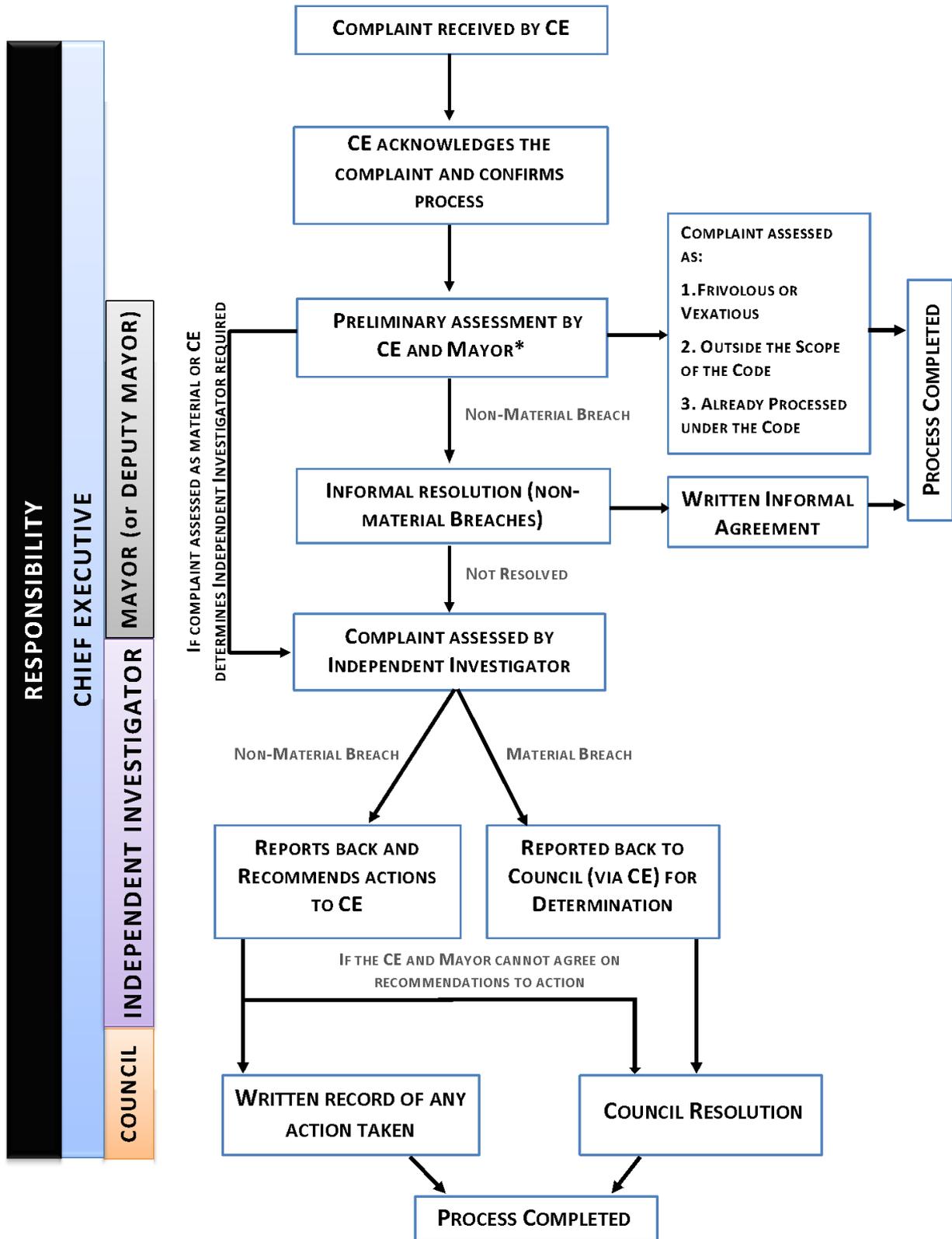
- a. the CE and Mayor do not agree on which recommendations from the investigator, if any, are to be actioned for a non-material breach (refer Stage 4A); or
- b. the breach is found to be material (refer Stage 4B).

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

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

28. The form of penalty that might be applied will depend on the nature of the breach and may include actions set out in section 6.3 of this Code.

Schedule 3 Appendix - Flowchart of Complaints Process



* OR THE DEPUTY MAYOR IF COMPLAINT IS AGAINST THE MAYOR

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Council Report

Item 19

Committee: Council **Date:** 14 March 2019
Author: Amy Viggers **Authoriser:** Becca Brooke
Position: Committee Advisor **Position:** Governance Team Leader
Report Name: Recommendations from the Growth and Infrastructure Committee

Report Status	<i>Open</i>
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Purpose

1. To seek the Council's approval of the recommendation from the Growth and Infrastructure Committee meeting on 12 February 2019, in respect of the following:
 - Sale and Disposal of Council Land Policy
 - Personal Use Transport Vehicles for Hire
2. The 12 February 2019 Growth and Infrastructure Committee agenda and minutes are available on the Council website or via the following link:
https://www.hamilton.govt.nz/our-council/Council_meetings_and_public_information/meetings-and-minutes/Pages/default.aspx

Recommendation from the Growth and Infrastructure Committee

Sale and Disposal of Council Land Policy

3. That the Council approves the Sale and Disposal of Council Land Policy.

Personal Use Transport Vehicles for Hire

4. That the Council:
 - a) approves the development of a draft code of practice to accompany a permit to trade under the Public Places Bylaw for operators of personal use transport vehicles for hire (Option 3 of this report);
 - b) approves the development of a new fee for the issue of a permit to trade for operators of personal use transport vehicles for hire; and
 - c) notes that fees and charges will be considered as part of the draft code of practice and brought back to Council through the Annual Plan process.

Attachments

There are no attachments for this report.

Council Report

Committee:	Council	Date:	14 March 2019
Author:	Rebecca Watson	Authoriser:	Becca Brooke
Position:	Committee Advisor	Position:	Governance Team Leader
Report Name:	Recommendations from the Community, Services & Environment Committee		

Report Status	<i>Open</i>
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Purpose

- To seek the Council's approval of the recommendation from the Community, Services & Environment Committee meeting on 19 February 2019, in respect of the following:
 - 2019 Smokefree and Vapefree Outdoor Areas Policy and Smokefree Plan
 - Draft Playgrounds of the Future Plan and playgrounds development programme
- The 19 February 2019 Community, Services & Environment Committee agenda and minutes are available on the Council website or via the following link:

https://www.hamilton.govt.nz/our-council/Council_meetings_and_public_information/meetings-and-minutes/Pages/default.aspx

Recommendations from the Community Services and Environment Committee:

2019 Smokefree and Vapefree Outdoor Areas Policy and Smokefree Plan

- That the Council approves the 2019 Smokefree and Vapefree Outdoor Areas Policy and Smokefree Plan.

Draft Playgrounds of the Future Plan and playgrounds development programme

- That the Council approves the Draft Playgrounds of the Future Plan and playgrounds development programme

Attachments

There are no attachments for this report.

Council Report

Item 21

Committee: Council **Date:** 14 March 2019
Author: Rebecca Watson **Authoriser:** Becca Brooke
Position: Committee Advisor **Position:** Governance Team Leader
Report Name: Recommendations from the Finance Committee

Report Status	<i>Open</i>
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Purpose

- To seek the Council's approval of the recommendation from the Finance Committee meeting on 21 February 2019, in respect of the following:
 - Municipal and Domain Endowment Funds Policy
 - Freeholding of Council Endowment Land Policy
 - Appointment and Remuneration of Board Members of COs, CCOs and CCTOs Policy
 - Vibrant Hamilton Trust
 - Financial Strategy Monitoring Report
- The 21 February 2019 Finance Committee agenda and minutes are available on the Council website or via the following link:
[https://www.hamilton.govt.nz/our-council/Council meetings and public information/meetings-and-minutes/Pages/default.aspx](https://www.hamilton.govt.nz/our-council/Council%20meetings%20and%20public%20information/meetings-and-minutes/Pages/default.aspx)

Recommendations from the Finance Committee

Municipal and Domain Endowment Funds Policy

- That the Council approves the Municipal and Domain Endowment Funds Policy.

Freeholding of Council Endowment Land Policy

- That the Council approves the Freeholding of Council Endowment Land Policy.

Appointment and Remuneration of Board Members of COs, CCOs and CCTOs Policy

- That the Council approves the revised Appointment and Remuneration of Board Members of COs, CCOs and CCTOs Policy

Vibrant Hamilton Trust

- That the Council notes the Vibrant Hamilton Trust has officially wound up and that the Hamilton City Council Governance Structure will be updated accordingly.

Financial Strategy Monitoring Report

7. That the Council:
- a) approves the rephrasing and delay deferrals of an additional \$10.7M capital projects from 2018/19 to 2019/20 as listed in the February 2019 Capital Portfolio Monitoring Report;
 - b) approves the significant forecast adjustments as set out in paragraphs 24 to 27 of the staff report; and
 - c) approves the revised forecast Financial Strategy graphs for Debt to Revenue, Net Debt and Balancing the Books as set out in paragraphs 31 to 37 of the staff report.

Attachments

There are no attachments for this report.

Resolution to Exclude the Public

Section 48, Local Government Official Information and Meetings Act 1987

The following motion is submitted for consideration:

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

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

General subject of each matter to be considered	Reasons for passing this resolution in relation to each matter	Ground(s) under section 48(1) for the passing of this resolution
C1. Confirmation of the Council Public Excluded Minutes 7 February 2019) Good reason to withhold information exists under Section 7 Local Government Official Information and Meetings Act 1987	Section 48(1)(a)
C2. Contract 17368 - Telecommunications Services)	

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

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