

Notice of Meeting:

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

Date: Tuesday 17 September 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

Becca Brooke
Governance Lead

10 September 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*

ITEM	TABLE OF CONTENTS	PAGE
1	Apologies	5
2	Confirmation of Agenda	5
3	Declarations of Interest	5
4	Public Forum	5
5	Confirmation of the Extraordinary Council Minutes 1 August 2019	6
6	Confirmation of the Council Open Minutes 8 August 2019	9
7	Confirmation of the Extraordinary Council Open Minutes - 5 September 2019	17
8	Confirmation of Elected Member Briefing Open Notes - 25 June 2019	20
9	Confirmation of Elected Member Briefing Open Notes - 13 August 2019	22
10	Confirmation of Elected Member Briefing Open Notes - 28 August 2019	25
11	Deferral of Report for Adoption and Deliberation of Solid Waste Bylaw	28
12	Prostitution Bylaw - Deliberation and Approval Report	30
13	Class 4 Gambling Venue Policy - Deliberation and Adoption Report	60
14	City to City Relationship Agreement with Ieper	88
15	An Analysis of Council's Resilience to Higher or Lower growth	102
16	Strategic Considerations for Development Contribution Policy Reviews	117
17	Hamilton to Auckland Passenger Rail - Puhinui Station Study	161
18	Hamilton Public Transport Youth Concession	168
19	Risk Management Report - Six Monthly	173
20	End of Triennium Delegations	204
21	Waikato Community Lands Trust	213
22	Sale and Disposal of Council Land Policy - Approval	242
23	Notice of Motion - Security Guards Contract	251
24	Recommendation from the Community, Services & Environment Committee of 22 August 2019	253
25	Recommendation from the Finance Committee Meeting of 10 September 2019	254
26	Resolution to Exclude the Public	255

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 6727.

Council Report

Committee: Council

Date: 17 September 2019

Author: Amy Viggers

Authoriser: Becca Brooke

Position: Committee Advisor

Position: Governance Team Leader

Report Name: Confirmation of the Extraordinary Council Minutes 1 August 2019

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

That the Council confirm the Open Minutes of the Extraordinary Council Meeting held on 1 August 2019 as a true and correct record.

Attachments

Attachment 1 - Extraordinary Council Open Minutes - 1 August 2019

Extraordinary Council

OPEN MINUTES

Minutes of a meeting of the Council held in Council Chamber, Municipal Building, Garden Place, Hamilton on Thursday 1 August 2019 at 3.25pm.

PRESENT

Chairperson	Mayor A King
Deputy Chairperson	Deputy Mayor M Gallagher
Members	Cr M Bunting Cr J R Casson Cr S Henry Cr A O'Leary Cr P Southgate Cr G Taylor Cr L Tooman Cr R Hamilton
In Attendance	David Bryant – General Manager Corporate Sean Hickey – General Manager Strategy and Communications Tracey Wood – City Events Manager
Governance Staff	Becca Brooke – Governance Lead Rebecca Watson – Committee Advisor

1. Apologies

Resolved: (Mayor King/Deputy Mayor Gallagher)

That the apologies from Crs Pascoe, Mallett and Macpherson for absence are accepted.

2. Confirmation of Agenda

Resolved: (Mayor King/Deputy Mayor Gallagher)

That the agenda is confirmed.

3. Declarations of Interest

No members of the Council declared a Conflict of Interest.

4. Public Forum

No members of the public wished to speak.

5. Resolution to Exclude the Public

Resolved: (Mayor King/Deputy Mayor Gallagher)

Section 48, Local Government Official Information and Meetings Act 1987

The following motion is submitted for consideration:

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

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

General subject of each matter to be considered	Reasons for passing this resolution in relation to each matter	Ground(s) under section 48(1) for the passing of this resolution
C1. City Honours - Civic Awards August 2019) Good reason to withhold) information exists under) Section 7 Local Government) Official Information and) Meetings Act 1987)	Section 48(1)(a)

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

Item C1. to protect the privacy of natural persons Section 7 (2) (a)

The meeting went into a Public Excluded session at 3.26pm.

The meeting was declared closed at 3.30pm.

Council Report

Item 6

Committee: Council

Date: 17 September 2019

Author: Amy Viggers

Authoriser: Becca Brooke

Position: Committee Advisor

Position: Governance Team Leader

Report Name: Confirmation of the Council Open Minutes 8 August 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 8 August 2019 as a true and correct record.

Attachments

Attachment 1 - Council Open Unconfirmed Minutes 8 August 2019

Council

OPEN MINUTES

Minutes of a meeting of the Council held in Council Chamber, Municipal Building, Garden Place, Hamilton on Thursday 8 August 2019 at 9.37am.

PRESENT

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

In Attendance:	Richard Briggs – Chief Executive
	Lance Vervoort - General Manager Community
	Jen Baird – General Manager City Growth
	Chris Allen - General Manager Development
	Eeva-Liisa Wright - General Manager Infrastructure Operations
	David Bryant - General Manager Corporate
	Sean Hickey – General Manager Strategy and Communication
	Julie Clausen – Programme Manager Strategy
	Luke O'Dwyer – City Planning Manager
	Cory Lang – Building Control manager
	Andrew Parsons – Strategic Development Manager

Governance Staff:	Becca Brooke – Governance Lead
	Amy Viggers, Rebecca Watson and Claire Guthrie – Committee Advisor's

The meeting was opened with a Karakia from Muna Wharawhara and a reading from the Venerable Stephen Black.

1. Apologies

Resolved: (Mayor King/Deputy Mayor Gallagher)
There were no apologies.

2. Confirmation of Agenda

Resolved: (Mayor King/Cr Macpherson)

That the agenda is confirmed noting the following:

- a) that item 13 (Future proofing Puhinui Station for access by Hamilton-Auckland rail service – Verbal Report) be accepted as a late item. It is a late item as staff were only notified of it on 5 August 2019 and to ensure timely information is provided to Elected Members; and
- b) that Item C6 (Rotokauri North Development No 1 Limited - Private Developer Agreement) and item C7 (Recommendation from the Finance Committee Meeting of 1 August 2019) have been circulated as late items due to the timing of the Finance Committee Meeting and Elected Member Briefing on 1 August 2019.

3. Declarations of Interest

No members of the Council declared a Conflict of Interest.

4. Public Forum

Monica Lim, Hannah Huggan, Aimee Hudson, Bridie Case-Miller, Timi Barabas and Fern Melis Goodin (as Student Environment Leaders) spoke to Item 7 (*Implications of Council Declaring a 'Climate Change Emergency' for Hamilton. Consideration of Developing a Climate Change Action Plan for Council and Hamilton*). They thanked the Council for the opportunity to speak and requested some additional steps be taken by the Council to address climate change such as increased planting of trees, and greater access to public transport.

Joanna Macky (MSc) spoke to Item 7 (*Implications of Council Declaring a 'Climate Change Emergency' for Hamilton. Consideration of Developing a Climate Change Action Plan for Council and Hamilton*). She spoke to the level of emissions by New Zealand, the scientific understanding of climate change concerns, and asked that a 'Climate Change Emergency' not be declared in Hamilton.

Sarah Lorraine Thomson and Louise Hutt spoke to Item 7 (*Implications of Council Declaring a 'Climate Change Emergency' for Hamilton. Consideration of Developing a Climate Change Action Plan for Council and Hamilton*) in support of a 'Climate Change Emergency' being declared. They asked the Council to consider a greater number of strategies and projects such as increased planting of native trees.

Lauren Mclean spoke to Item 7 (*Implications of Council Declaring a 'Climate Change Emergency' for Hamilton. Consideration of Developing a Climate Change Action Plan for Council and Hamilton*) and the Intergovernmental Panel on Climate Change report which stated that a unprecedented change was required prior to 2030 to save the planet and asked that an emergency be declared.

Josh Nachowitz spoke to Item 7 (*Implications of Council Declaring a 'Climate Change Emergency' for Hamilton. Consideration of Developing a Climate Change Action Plan for Council and Hamilton*). He advised that a Climate Change Action Plan for Hamilton City was necessary, that there are large costs associated to climate change damages and that implementing change now would benefit the residents of Hamilton.

Russelle Knapp spoke to Item 7 (*Implications of Council Declaring a 'Climate Change Emergency' for Hamilton. Consideration of Developing a Climate Change Action Plan for Council and Hamilton*) in support of a 'Climate Change Emergency' being declared). She asked that an 'Climate Change Emergency' not be declared and spoke to the importance of democratic process.

Anna Casey-Cox and Jo Wrigley (representing Go Eco) spoke to Item 7 (*Implications of Council Declaring a 'Climate Change Emergency' for Hamilton. Consideration of Developing a Climate Change Action Plan for Council and Hamilton*) and asked that the Council declare a Climate Change Emergency and continue with work on sustainability projects that benefit the environment.

5. Confirmation of the Council Open Minutes 20 June 2019

Resolved: (Mayor King/ Deputy Mayor Gallagher)

That the Council confirm the Open Minutes of the Council Meeting held on 20 June 2019 as a true and correct record.

6. Confirmation of the Council Open Minutes 27 June 2019

Resolved: (Mayor King/ Deputy Mayor Gallagher)

That the Council confirm the Open Minutes of the Council Meeting held on 27 June 2019 as a true and correct record.

7. Implications of Council Declaring a 'Climate Change Emergency' for Hamilton. Consideration of Developing a Climate Change Action Plan for Council and Hamilton.

The General Manager Communication and Strategy spoke to the report. He noted that the cost of a Climate Change Action Plan was lower than originally reported and that it could be met through existing budget. Staff responded to questions from Elected Members concerning the following:

- the inclusion of sustainability principles in Council reports;
- the opinion of Waikato Tainui concerning climate change;
- the status of the Local Government New Zealand remit on Climate Change;
- implementation of additional climate change related projects;
- partnership opportunities between Hamilton City Council, Waikato Regional Council and Waikato Tainui in respect of the proposed action plan; and
- implications if Hamilton City Council was to declare a Climate Emergency and the scope of the proposed Action Plan.

Motion: (Mayor King/Cr Pascoe)

That the Council:

- a) receives the report;
- b) accepts that there is a need for Climate change issues to be considered urgently;
- c) in partnership with Waikato Tainui, Waikato Regional Council and our other strategic partners, Council develop a Climate Change Action Plan for Hamilton City (including an assessment of Hamilton's carbon foot print) to be funded from existing budgets;
- d) approves the draft supplementary information (Attachment 1) to form part of the Council's submission to the Climate Change Response (Zero Carbon) Amendment Bill that is to be presented at Parliament's Environment Committee's hearings for the Bill; and
- e) requests staff report back on progress with a draft plan for agreement at the April 2020 Council meeting.

Amendment: (Cr Southgate/Cr Macpherson)

That the Council:

- a) receives the report.
- b) resolves to declare a climate change emergency for Hamilton;
- c) in partnership with Waikato Tainui, Waikato Regional Council and our other strategic partners, Council develop a Climate Change Action Plan for Hamilton City (including an assessment of Hamilton's carbon foot print) to be funded from existing budgets; and
- d) approves the draft supplementary information (**Attachment 1**) to form part of the Council's submission to the Climate Change Response (Zero Carbon) Amendment Bill that is to be presented at Parliament's Environment Committee's hearings for the Bill.

The Amendment was put.

Those for the Amendment: Deputy Mayor Gallagher, Councillors Macpherson, Bunting, Southgate and Taylor.

Those against the Amendment: Mayor King, Councillors Pascoe, Mallett, Tooman, O'Leary, Casson, Henry and Hamilton.

The Amendment was declared LOST.

The Motion was put and declared CARRIED.

Resolved: (Mayor King/Cr Pascoe)

That the Council:

- a) receives the report;
- b) accepts that there is a need for Climate change issues to be considered urgently;
- c) in partnership with Waikato Tainui, Waikato Regional Council and our other strategic partners, Council develop a Climate Change Action Plan for Hamilton City (including an assessment of Hamilton's carbon foot print) to be funded from existing budgets;
- d) approves the draft supplementary information (Attachment 1) to form part of the Council's submission to the Climate Change Response (Zero Carbon) Amendment Bill that is to be presented at Parliament's Environment Committee's hearings for the Bill; and
- e) requests staff report back on progress with a draft plan for agreement at the April 2020 Council meeting.

Those for the Motion: Mayor King, Deputy Mayor Gallagher, Councillors Macpherson, Bunting, Southgate, Pascoe, O'Leary, Henry, and Taylor.

Those against the Motion : Councillors Tooman, Mallett, Hamilton and Casson.

The meeting was adjourned from 11.47am to 12.37pm.

8. Future Proof Implementation Committee – Agreement

The General Manager City Growth spoke to the report noting the minor change to the agreement, footnote 3, based on feedback from New Zealand Transport Agency. She responded to questions from Elected Members concerning the scope of responsibility of the Future Proof Implementation Committee.

Resolved: (Cr Macpherson/Mayor King)

That the Council:

- a) receives the report;
- b) approves the updated Futureproof Implementation Committee Agreement, with a wording change to footnote 3 to reflect that the noted constraint of legislation and decision making obligations applies to all Partners of Futureproof, not just NZTA, with the Chief Executive delegated the authority to agree the final footnote wording with the other Partners;
- c) delegates the Mayor or Councillor Macpherson to sign the updated Future Proof Implementation Committee Agreement on behalf of Hamilton City Council; and
- d) notes that the first meeting of the expanded Future Proof Implementation Committee in accordance with the updated agreement will occur on 15 August 2019.

9. Building Warrants of Fitness (BWOs) Current Process and BWOs Update

The Building Control Manager introduced the report and outlined the responsibilities of Council as the Territorial Authority under the Building Act 2004. He responded to questions from Elected Members concerning the definition of 'high risk', the BWO's process, how Governors would be updated on BWO's in the future and specific actions being taken by staff concerning buildings that have outstanding BWO within Hamilton City.

Resolved: (Cr Macpherson/Deputy Mayor Gallagher)

That the Council:

- a) receives the report; and
- b) refers the Building Warrants of Fitness issues raised in the report to the Audit and Risk Committee.

10. Peacocke Property Purchase

The Strategic Development Manager took the report as read and responded to questions from Elected Member concerning the proposed increase in delegation for the Chief Executive's and the reasons as to the size of the increase.

Staff action: *Staff undertook to provide additional information on the matter at the next Council meeting.*

Resolved: (Mayor King/Deputy Mayor Gallagher)

That the Council approves a temporary increase to the Chief Executive's Financial Delegation from \$3,000,000 (three million dollars) to \$10,000,000 (ten million dollars), per sale and purchase agreement, solely for the purchase of property related to the Peacocke Housing Infrastructure Fund programme of works subject to not exceeding the total approved property purchase budget of \$66,500,000.

11. Recommendation from the Finance Committee Meeting of 1 August 2019

Resolved: (Cr Mallett/ Cr Casson)

That the Council:

- a) approves the rephasing and delay deferrals of an additional \$6.53M capital projects from 2018/19 to future years as identified in the 1 August 2019 Capital Portfolio Monitoring Report;
- b) approves the additional funding of \$0.5M for the Central City Jetty as identified in the 1 August 2019 Capital Portfolio Monitoring Report;
- c) approves the significant forecast adjustments as set out in paragraphs 20 to 24 of this report; and
- d) approves the revised forecast Financial Strategy graphs for Debt to Revenue, Net Debt and Balancing the Books as set out in paragraphs 25 to 34 of the staff report.

13. Future proofing Puhinui Station for access by Hamilton-Auckland rail service – Verbal Report

The General Manager Development provided Elected Members with an update on the Puhinui Station following the Passenger Rail Working Group meeting on Monday 5 August 2019. He outlined the plans for the Puhinui Station. He noted that there were concerns that the upgrade would not enable any direct future connection for the Hamilton-Auckland passenger rail service, or for that matter, any other inter-regional rail services.

Resolved: (Cr Macpherson/Mayor King)

That the Council:

- a) receives the verbal report; and
- b) requests that Passenger Rail Working Group formally request central Government and Auckland Transport consider the Hamilton-Auckland passenger rail service and other regional rail services in the design of the Puhinui Station, including the third main rail track.

Cr Mallett Dissenting.

12. Resolution to Exclude the Public

Resolved: (Mayor King/Deputy Mayor Gallagher)

Section 48, Local Government Official Information and Meetings Act 1987

The following motion is submitted for consideration:

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

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

General subject of each matter to be considered	Reasons for passing this resolution in relation to each matter	Ground(s) under section 48(1) for the passing of this resolution
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C1. Confirmation of the Council Public Excluded Minutes 27 June 2019) Good reason to withhold) information exists under) Section 7 Local Government) Official Information and) Meetings Act 1987)	Section 48(1)(a)
C2. Sale of Land - Victoria on the River		
C3. Victoria Riverside - Property Purchase		
C4. Release of Public Excluded Report and Minutes		
C5. CE Employment Matters		
C6. Rotokauri North Development No 1 Limited - Private Developer Agreement		
C7. Recommendation from the Finance Committee Meeting of 1 August 2019		

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 to prevent the disclosure or use of official information for improper gain or improper advantage	Section 7 (2) (i) Section 7 (2) (j)
Item C3.	to enable Council to carry out negotiations to prevent the disclosure or use of official information for improper gain or improper advantage	Section 7 (2) (i) Section 7 (2) (j)
Item C4.	to prevent the disclosure or use of official information for improper gain or improper advantage	Section 7 (2) (j)
Item C5.	to protect the privacy of natural persons	Section 7 (2) (a)
Item C6.	to enable Council to carry out negotiations	Section 7 (2) (i)
Item C7.	to enable Council to carry out commercial activities without disadvantage	Section 7 (2) (h)
	to enable Council to carry out negotiations	Section 7 (2) (i)

The meeting went into a Public Excluded Session at 2.07pm.

The meeting was declared closed at 6.02pm.

Council Report

Item 7

Committee: Council
Author: Amy Viggers
Position: Committee Advisor
Report Name: Confirmation of the Extraordinary Council Open Minutes - 5 September 2019

Date: 17 September 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 Minutes of the Extraordinary Council meeting held on 5 September 2019 as a true and correct record.

Attachments

Attachment 1 - Extraordinary Council Open Unconfirmed Minutes 5 September 2019

Council

OPEN MINUTES

Minutes of a meeting of the Council held in Council Chamber, Municipal Building, Garden Place, Hamilton on Thursday 5 September 2019 at 9.31am.

PRESENT

Chairperson	Mayor A King
Deputy Chairperson	Deputy Mayor M Gallagher
Members	Cr J R Casson
	Cr D Macpherson
	Cr G Mallett
	Cr R Pascoe
	Cr P Southgate
	Cr G Taylor
	Cr L Tooman
	Cr R Hamilton

In Attendance:	Jen Baird - General Manager City Growth
	Eeva-Liisa Wright - General Manager Infrastructure Operations
	Luke O'Dwyer – City Planning Manager
	Andrew Parsons – Strategic Development Manager
	Paula Rolfe – Team Leader Implementation and Monitoring
	Lachlan Muldowney - Lawyer for Hamilton City Council
Governance Staff:	Amy Viggers and Rebecca Watson - Committee Advisors

- 1. Apologies**
Resolved: (Cr Macpherson/Cr Casson)
That the apologies for absence from Cr O'Leary, Henry, and Bunting is accepted.
- 2. Confirmation of Agenda**
Resolved: (Mayor King/Cr Hamilton)
The Council confirm the agenda.
- 3. Declarations of Interest**
No members of the Council declared a Conflict of Interest.
- 4. Public Forum**
No members of the public wished to speak.

5. Rotokauri North Private Plan Change Application

The report was taken as read.

Resolved: (Mayor King/Cr Taylor)

That the Council:

- a) receives the report;
- b) accepts the private plan change for the Rotokauri North development as outlined in Attachment 2 of this report pursuant to clause 25(2)(b) of the First Schedule of the RMA and delegates responsibility to the Chief Executive for processing the plan change in accordance with the First Schedule of the RMA;
- c) approves limited notification of the plan change to all persons directly affected by the plan change, pursuant to Clause 5A (2) of the First Schedule of the RMA;
- d) requires that limited notification of the plan change not proceed until such time as all staging infrastructure related requirements identified in the Private Development Agreement (PDA) between Hamilton City Council and Made Group Ltd, Green Seed Consultants Ltd and Green Seed Holdings Ltd dated 29 August 2019 (PDA) are included in a redraft of the plan change to the satisfaction of the Chief Executive;
- e) subject to recommendation (f) below, requests staff to convene a hearings panel to hear, determine and make decisions on all submissions and matters relating to the Rotokauri North plan change once notified. The hearings panel will comprise three independent commissioners who are accredited and hold qualifications and skills in land use planning and/or urban design/ infrastructure engineering. The panel will have expertise in tikanga Maaori and one member will be appointed as a chair;
- f) the delegated authority to hear and determine the plan change is subject to the performance of the PDA and in particular clause 12.1(b) and 12.8 of the PDA which requires that the plan change be withdrawn if the performance bond requirements are not met; and
- g) delegates authority to the Chief Executive to select and appoint three suitably qualified independent commissioners as per recommendation e).

6. Resolution to Exclude the Public

This item was not required.

The meeting was declared closed at 9.35am.

Council Report

Committee: Council

Date: 17 September 2019

Author: Claire Guthrie

Authoriser: Becca Brooke

Position: Committee Advisor

Position: Governance Team Leader

Report Name: Confirmation of Elected Member Briefing Open Notes - 25 June 2019

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

That the Council confirm the Open Notes of the Elected Member Briefing held on 25 June 2019 as a true and correct record.

Attachments

Attachment 1 - Elected Member Open Briefing Notes - 25 June 2019

Elected Member Briefing Notes – 25 June 2019 – Open

Time and date:	3.30pm, 25 June 2019
Venue:	Council Chambers, Hamilton City Council
In Attendance:	Mayor King, Deputy Mayor Gallagher, Crs Pascoe, Taylor, Bunting, Mallett, Casson, Hamilton, Macpherson Maangai Maaori Te Ua and Thompson-Evans
Apology for Full Session:	Crs Henry, O’Leary, Southgate, Tooman Maangai Maaori Takiari-Brame, Hill, Whetu
Apologies for lateness/early departure:	Mayor King, Crs Bunting, Bunting, Pascoe, Taylor and Maangai Maaori Te Ua and Thompson-Evans.

Discussion

The briefing session covered in an open session.

- West Town Belt Masterplan – Public Consultation Outcomes
- West Town Belt Masterplan – K’aute Pacifica Trust Proposal Update

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

1. **West Town Belt Masterplan (WTB) – Consultation Outcomes** (Presentation was provided)

The Parks Planner explained that the purpose of the presentation was to inform Elected Members about the West Town Belt consultation process and its outcomes to date. A summary of the four option outcomes and the public feedback from the consultation process was provided.

Committee Members asked questions in relation to the following:

- Number of respondents and ranking of priorities
- definition of active transport
- design options for Norris Ward park
- provision of a hard surface car park
- options for accommodating pedestrians
- carparking issues
- submissions from Hamilton Old Boys Rugby Club
- impact of the K’aute Pasifika development
- use of playing fields as temporary overflow space
- Founders Theatre and proposed rail station feedback
- public access to stadia
- promotion of cemetery signage and heritage

2. **West Town Belt Masterplan – K’aute Pacifica Trust Update** (Presentation was provided)

The Senior Planner, Business and Planning, updated Elected Members on progress to date, noting that the K’aute Pacifica design was in alignment with the Draft West Town Belt Masterplan and that this design would inform the upcoming resource consent and the land area to be re-classified. The timeline for this process was outlined.

Committee Members asked questions in relation to the following:

- relationship between the development of Hinemoa Park and K’aute Pacifica development.

Council Report

Item 9

Committee: Council

Date: 17 September 2019

Author: Claire Guthrie

Authoriser: Becca Brooke

Position: Committee Advisor

Position: Governance Team Leader

Report Name: Confirmation of Elected Member Briefing Open Notes - 13 August 2019

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

That the Council confirm the Open Notes of the Elected Member Briefing held on 13 August 2019 as a true and correct record.

Attachments

Attachment 1 - Elected Member Open Briefing Notes - 13 August 2019

Elected Member Briefing Notes – 13 August 2019 – Open

Time and date:	9.30am 13 August 2019
Venue:	Committee Room 1, Hamilton City Council
In Attendance:	Mayor King, Crs Pascoe, Taylor, Henry, Mallett, Hamilton, Tooman, Macpherson
Apology for Full Session:	Deputy Mayor Gallagher, Crs O’Leary, Casson, Southgate and Bunting
Apologies for lateness/early departure:	Mayor King, Cr Macpherson

Discussion

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

- Waikato Central Catchment Zone Committee
- Vesting of Christobel Circle and Associated Services
- Analytics Strategy – Elected Member Stakeholder Engagement

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

1. **Waikato Central Catchment Zone Committee** (Presentation was provided)

The City Waters Manager introduced staff from Waikato Regional Council, who explained that the purpose of the presentation was to give an update concerning the work being done by the Waikato Central Catchment Zone Committee, including some of the projects that have been funded and completed as part of the works programme.

Elected Members asked questions in relation to the following:

- cost of maintenance work required to the Waitawhiriwhiri stream and planting options to prevent erosion/damage
- options for gorse removal
- gully restoration programmes
- biodiversity and water quality improvements
- likely consequences when private land owners remove trees in the gully areas of their land

2. **Vesting of Christobel Circle and Associated Services** (Presentation was provided)

The Growth Team Leader explained that the purpose of the presentation was to get direction from Elected Members concerning Council’s options in relation to the vesting of Christobel Circle and associated infrastructure. It was noted that a report would be coming to the Growth and Infrastructure Committee meeting on 27 August 2019.

Elected Members asked questions in relation to the following:

- cost implications
- rating status of each property

3. **Analytics Strategy – Elected Member Stakeholder Engagement**
(Presentation was provided)

The Programme Manager Analytics and the Growth, Funding and Analytics Unit Manager explained that the purpose of the presentation was to present the Hamilton City Council analytics strategy and give an overview of the process of applying patterns towards effective decision making.

Elected Members asked questions in relation to the following:

- ability to break down data into specific sets
- primary customers/users of the data
- currency of the Infometrics subscription
- Power BI and the public availability of this information

Staff action: *Staff undertook to provide information in relation to questions raised about conditions in 1974 that triggered significant housing growth.*

Council Report

Committee: Council

Date: 17 September 2019

Author: Claire Guthrie

Authoriser: Becca Brooke

Position: Committee Advisor

Position: Governance Team Leader

Report Name: Confirmation of Elected Member Briefing Open Notes - 28 August 2019

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

That the Council confirm the Open Notes of the Elected Member Briefing held on 28 August 2019 as a true and correct record.

Attachments

Attachment 1 - Elected Member Open Briefing Notes - 28 August 2019

Item 10

Elected Member Briefing Notes –28 August 2019 – Open

Time and date:	10.30am, 28 August 2019
Venue:	Committee Room 1, Hamilton City Council
In Attendance:	Mayor King, Deputy Mayor Gallagher, Crs O’Leary, Henry, Tooman, Hamilton
Apology for Full Session:	Crs Mallett, Macpherson, Taylor, Bunting, Pascoe Maangai Maaori Takiari-Brame, Hill, Te Ua, and Whetu
Apologies for lateness/early departure:	Crs Hamilton, Casson

Discussion

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

- Infrastructure Funding and Financing (IFF) and Special Purpose Vehicle (SPV) work programme
- Development Contributions Policy Review — Strategic Roadmap and 2019/2020 Policy Submissions
- Your Neighbourhood Community Engagement Framework
- The Four Wellbeings and their consideration in decision making

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

1. Infrastructure Funding and Financing (IFF) and Special Purpose Vehicle (SPV) work programme

(Presentation was provided)

The Executive Director, Special Projects, and the Peacocke Programme Manager explained that the purpose of the presentation was to update the Elected Members on the proposed IFF and SPV structures. Staff outlined the project actions to date, including engagement with the Crown Infrastructure Partners (CIP) Board and discussions with Treasury.

Elected Members asked questions in relation to the following:

- the government department with responsibility for IFF
- role of the CIP in providing funding through the SPV
- relationship between development contributions (DCs) and IFF
- the infrastructure needed for the Te Awa Lakes development
- developers’ risk factors
- potential impact on the Development Contributions policy

2. Development Contributions Policy Review — Strategic Roadmap and 2019/2020 Policy Submissions

(Presentation was provided)

The Growth Funding and Analytics Unit Manager explained that the purpose of the presentation was to outline the strategic guidelines being developed by staff to assist with Development Contributions policy guidance, prudent decision-making and to reduce costs. The guidelines would consider if a review was mandatory, risk issues and cost and resource efficiency. The key principles

were outlined, and it was noted that CE review group was to be set up with senior developers and that this could include Elected Members.

Elected Members asked questions in relation to the following:

- implications of legal objections
- previous financial contributions
- options for a Memorandum of Understanding with Property Council

3. Your Neighbourhood Community Engagement Framework

(Presentation was provided)

The Unit Manager Communications & Marketing, and the General Manager, Strategy and Communications, explained that the purpose of the presentation was to inform Elected Members of the Framework and obtain their input for future actions. They noted the benefits with community engagement included obtaining data from events to shape planning documents and that an 'insight hub' was being established with data for reports and baseline information to frame council strategies and plans.

4. The Four Wellbeings and their consideration in decision making

(Presentation was provided)

The Programme Manager, Strategy and Communications, explained that the purpose of the presentation was to provide more information about the Four Wellbeings, and obtain feedback on potential outcomes, indicators and targets. It was noted that the Framework would look at outcomes for residents, how the outcomes could be measured and what targets should be set for Hamilton.

Elected Members asked questions in relation to the following:

- measurement of cost:benefit assessments for 'happiness'
- use of government data to support the benefits from the Four Wellbeings
- management of targets
- serious injury statistics to inform high level strategies
- distribution of information to residents

Council Report

Committee: Council
Author: Trent Fowles
Position: Compliance Manager
Date: 17 September 2019
Authoriser: Eeva-Liisa Wright
Position: General Manager
 Infrastructure Operations
Report Name: Deferral of Report for Adoption and Deliberation of Solid Waste Bylaw

Report Status	<i>Open</i>
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Purpose

1. To seek approval from the Council to defer the Solid Waste Bylaw – Deliberation and Adoption report to a future Council meeting.

Staff Recommendation

2. That the Council:
 - a) receives the report; and
 - b) defers the Solid Waste Bylaw – Deliberation and Approval Report to a future meeting of the Council.

Background

3. The Bylaw refers to “Solid Waste”, to clearly differentiate it from “Tradewaste” or liquid waste managed through stormwater or wastewater systems. Solid Waste means anything disposed of or discarded; and includes a type of waste that is defined by its composition or sources (for example, organic waste, electronic waste, or construction and demolition waste); and to avoid doubt, includes any component or element of diverted material, if the component or element is disposed of or discarded.
4. The purpose of the Bylaw is to set controls and regulate solid waste in the city.
5. The existing Solid Waste Bylaw 2012 has been reviewed to include substantial new and amended controls needed to support the new service levels for the collection and disposal of rubbish and recycling being implemented in Hamilton City from 1 July 2020.
6. The review has also been an opportunity to align the Solid Waste Bylaw 2019 with the [2018-2026 Waste Management and Minimisation Plan](#) adopted by Council in September 2018.
7. The proposed Solid Waste Bylaw 2019 is substantially different from the existing Bylaw.
8. The Local Government Act 2002 (LGA) requires the Council to consult the public on whether to continue the existing Bylaw without amendment (s160(3)(b), of the LGA) or amend, revoke or replace the Bylaw (ss160(3)(a) and 156(1), of the LGA).

9. On 7 May 2019 the Growth and Infrastructure Committee approved consultation on the proposed Solid Waste Bylaw with two Options for feedback from the community:
 - **Option 1** – that a Bylaw is the most appropriate way of addressing the perceived problems in relation to controlling waste issues in Hamilton.
 - **Option 2** – that a Bylaw is not the most appropriate way of addressing the perceived problems in relation to controlling waste issues in Hamilton.
10. A Special Consultative Process on the proposed Bylaw occurred in the period between 7 June and 7 July 2019.
11. On 29 August 2019 the Regulatory and Hearings Committee resolved to:
 - hear and consider the submissions for the Solid Waste Bylaw 2019; and
 - notes that a Deliberations Report for the Solid Waste Bylaw 2019 will be considered at the 17 September 2019 Council meeting.
12. Following this Regulatory and Hearings Committee and short timeframe required to consider the submissions and discussion to complete a comprehensive report including finalising the review of the Solid Waste Bylaw 2019, staff recommend that this matter be deferred to a future Council meeting in the new triennium.
13. The proposed delay in approval of the Solid Waste Bylaw is not expected to have any impact the implementation of the new rubbish and recycling service in July 2020.

Attachments

There are no attachments for this report.

Council Report

Committee: Council **Date:** 17 September 2019
Author: Sandra Murray **Authoriser:** Jen Baird
Position: Consultant **Position:** General Manager City Growth
Report Name: Prostitution Bylaw - Deliberation and Adoption Report

Report Status	<i>Open</i>
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Purpose

1. To seek a decision from the Council on the retention or amendment of the Prostitution Bylaw 2009.

Staff Recommendation

2. That the Council:
 - a) receives the report; and
 - b) approves **one** of the following:
 - Option 1** – the existing Bylaw unamended;
 - Option 2** – the existing Bylaw with minor amendments as follows:
 - i. amend the definition of Early Childhood Education Centre to refer to s310 instead of s308; and
 - ii. amend the term *District Plan* to *Operative Hamilton District Plan*; and
 - iii. align the existing Bylaw map with the Operative District Plan provisions.
 - Option 3** – the Prostitution Bylaw 2019 which removes the provisions that ban solicitation, and make minor amendments as follows:
 - i. amend the definition of Early Childhood Education Centre to refer to s310 instead of s308; and
 - ii. amend the term *District Plan* to *Operative Hamilton District Plan*; and
 - iii. align the existing Bylaw map with the Operative District Plan provisions.

Executive Summary

3. 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**).
4. 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.
5. 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.

6. At its 14 March 2019 meeting, the Council resolved that it:
 - a) *approves that the current Hamilton City Council Prostitution Bylaw is the most appropriate means of controlling the issue of prostitution services in Hamilton City; and*
 - b) *approves public consultation for one month, from 18 March to 18 April 2019, on the proposed continuation of the current Prostitution Bylaw.*
7. Public consultation opened on 18 March 2019 and closed on 18 April 2019 as per the resolution.
8. Following this consultation, a process error was identified in the consultation process and a decision was made to initiate a second consultation period to ensure correct process was followed. The second consultation period opened on 1 July 2019 and closed on 1 August 2019.
9. The Regulatory and Hearings Committee considered the written submissions received during both consultation periods at its meeting of 29 August 2019 and heard from 9 presenters.
10. The staff recommendation provides three options:
 - retain the existing Bylaw unamended;
 - make minor amendments to the existing Bylaw; or
 - adopt a Prostitution Bylaw which removes the provisions that ban solicitation, and make minor amendments.
11. Staff consider the matters have medium significance and that the recommendations comply with the Council's legal requirements.

Background

12. Under the Prostitution Reform Act 2003 (**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).
13. 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).
14. 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).
15. 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.

16. The Council's existing [Prostitution Bylaw](#) (**the existing Bylaw**) is required to be reviewed every 10 years to meet legislative requirements under the Local Government Act 2002 (s159, **the LGA**).
17. 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.
18. The purpose of the existing Bylaw is to support the intent of the Prostitution Reform Act 2003 (**the PRA**) while allowing for the management of commercial sexual service providers in relation to the community's concerns of exposure to commercial sexual activities.
19. 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).
20. The legislative requirement to review the Bylaw provides an opportunity for the Council to engage the community on how the existing Bylaw is working and to consider feedback.
21. On 27 February 2019, Elected Members were briefed 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.
22. At the 14 March 2019 Council meeting the Council resolved that it:
 - a) *approves that the current Hamilton City Council Prostitution Bylaw is the most appropriate means of controlling the issue of prostitution services in Hamilton City; and*
 - b) *approves public consultation for one month, from 18 March to 18 April 2019, on the proposed continuation of the current Prostitution Bylaw.*
23. In mid-April 2019, during the consultation period, the Council's lawyers reviewed the resolution and consultation process and advised that there was legal risk relating to the process. They advised that to be fully compliant, the Council should:
 - make a specific determination in relation to the Bylaw's interaction with the Bill of Rights Act 1990 (BORA);
 - include in the consultation the reasons the Council believes that the existing bylaw remains the most appropriate form of bylaw to regulate commercial sexual services in Hamilton;
 - include the determination in the consultation document.
24. At a Council meeting on 27 June 2019, staff requested direction from the Council on whether to accept the risk and continue the review or recommence the review process.
25. Council determined to address the procedural issues and undertake a second consultation process. This consultation opened on 1 July 2019 and closed on 1 August 2019.
26. Submitters from the first consultation were notified. Submissions from the first consultation were automatically accepted as submissions for the second consultation, unless the submitter wished to withdraw or amend or add to their submission.
27. An invitation to provide feedback was emailed to Maaori organisations, key organisations associated with the prostitution industry and contacts in the Council's consultation database.
28. The consultation was also advertised on the Council's social media pages and via a Council media release.

Historical information

29. Committee Members requested historical information relating to prior consultations on the Prostitution Bylaw. This information is set out below.

Previous Consultations	Supported Bylaw	Opposed Bylaw	Total Submitters
2004	unknown	unknown	1345
2009	265	2	267
2019 (combined submissions)	62	39	101

Discussion

Consultation

30. The two consultation processes resulted in a total of 101 submissions (86 from the first submission period carried over and 20 new/amended submissions). The total number includes submissions from 10 organisations.
31. 61% of submitters supported continuing the existing Prostitution Bylaw (no amendments); 39% did not support continuing the existing Prostitution Bylaw.
32. At the Regulatory and Hearings Committee meeting on 29 August 2019, 9 submitters presented to the Committee.
33. Excluding the 10 organisations, 52 submitters (62%) indicated they lived in Hamilton, and 35 submitters (38%) lived outside of Hamilton.
34. Of those who did not live in Hamilton, 31% were from the Waikato District; 9% from Waipa District; 34% from the rest of New Zealand and 26% did not answer this question.
35. Key themes from submitters were:

Submitters who support continuing the existing Prostitution Bylaw (no amendments)	Submitters who do not support continuing the existing Prostitution Bylaw
The Bylaw provides an appropriate balance already	The solicitation clauses in the Bylaw are likely to be invalid as they are repugnant to the Prostitution Reform Act 2003.
Children, men and neighbourhoods are protected under the Bylaw	The solicitation clauses are inconsistent with the Bill of Rights Act 1990
Solicitation is an unpleasant activity and the Bylaw helps prevent this	The Bylaw endorses vulnerability and creates negative consequences

36. A small number of submitters opposed all forms of prostitution and wanted prostitution to be illegal or requested that the Bylaw should be made stricter.
37. Ten organisations made submissions. Six organisations supported the existing Bylaw and four did not support the existing Bylaw.

Organisations that support continuing the existing Prostitution Bylaw (no amendments)	Organisations that do not support continuing the existing Prostitution Bylaw
<ul style="list-style-type: none"> • The Voice Waikato network • Family First NZ • National Council of Women - Hamilton Branch • Social & Ecumenical Action Committee, Parish Council of St Andrew's Presbyterian Church • Mothers for Safe Suburbs • Freedom Institute of Higher Education 	<ul style="list-style-type: none"> • New Zealand Prostitutes' Collective • Lee Salmon Long (Barristers & Solicitors) • Organise Aotearoa • New Zealand AIDS Foundation

38. Organisations in support of the existing Bylaw opposed suburban brothels and raised concerns including men seeking brothels knocking on the wrong doors, men visibly coming and going from brothels, lines of their cars waiting in the street, brothel noise intruding into adjacent units, parents feeling unable to let their children play on their front lawns, and lewd behaviour.
39. Regarding solicitation, Voice Waikato raised concerns related to the embarrassment of having to refuse what could be persistent advances; and parents and caregivers having to answer their children's questions about things they see happening when they are in town.
40. All four organisations highlighted that the non-solicitation provisions in the existing Bylaw are likely to be invalid as they are repugnant to the Prostitution Reform Act 2003, i.e. the Bylaw goes beyond what councils can legislate on under the Prostitution Reform Act 2003, as the Act does not empower councils to deal with street-based work or solicitation.
41. The New Zealand Aids Foundations (NZAF) expressed concern that the existing Bylaw makes sex workers vulnerable to exploitation, created barriers to accessing health services for HIV and STI prevention, treatment and support; and undermined the purpose of the PRA by not supporting welfare, occupational health and safety, and what is best for public health.
42. These organisations also raised a concern that the \$20,000 maximum fine for street-based sex work is excessive, noting that a \$200 fine was given under the pre-reform Prostitution Act. This is addressed later in the report.
43. The New Zealand Prostitutes' Collective (NZPC) felt the existing Bylaw endorses the criminalisation of sex work, contrary to the Prostitution Reform Act 2003.
44. Submitters suggested the following amendments to the Bylaw:
 - i. Revoke the "Soliciting of Commercial Sexual Services" section of the bylaw. This section of the bylaw bans sex workers from working in all public spaces of Hamilton.
 - ii. Increase the distance from schools and other sensitive sites to 250m.
 - iii. Include all registered educational institutions in the list of sensitive sites.
 - iv. Limit signage to 1sqm.
 - v. Replace the term "*controlled*" with "*managed*" to avoid an implied judgement of prostitution activities, for example: "*To control the soliciting of commercial sexual services in Hamilton*" would change to "*To manage the soliciting of commercial sexual services in Hamilton*".
45. A full copy of submissions is available online [here](#).

Solicitation

46. 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.
47. Hamilton is not alone; other council bylaws have also applied similar bans. This practice has been noted in the [Report of the Prostitution Law Review Committee 2008](#) (Section 8.7.1.)

48. The effect of this provision in the existing Bylaw means that currently a person is not permitted to approach another person and offer commercial sexual services.
49. The Council has no power to make a bylaw regulating solicitation under the PRA. The PRA restricts the Council to making a prostitution bylaw that regulates signage for commercial sexual services and the location of brothels (s12 and s14, the PRA).
50. 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.
51. 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). If that risk is realised, the bylaw would be inconsistent with the BORA and therefore unlawful under the LGA.
52. This matter was explained to Elected Members when the initial Prostitution Bylaw was created. Elected Members decided to include a clause relating to street solicitation as a signal to the industry to discourage this practise.
53. These prohibitions have not been tested in court. The Council's existing Bylaw was unsuccessfully challenged in the courts, but not on this aspect.
54. The Council can 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.
55. Other councils have appealed to central government for legislative change to enable their council to ban solicitation but were unsuccessful (view parliamentary report [here](#)).
56. Following legal advice, removing the legal risk to the Council therefore requires removing the solicitation clause.
57. Option 3 in the staff recommendation provides a decision pathway that removes this risk for Council.

Recommended Minor Amendments

58. In the existing Bylaw, the definition of Early Childhood Education Centre refers to s308; the reference should be to s310. The District Plan definition should state 'Operative Hamilton District Plan'.
59. Staff recommend that the existing Bylaw be amended to correct these references.

Alignment with District Plan

60. Committee Members requested additional information relating to how the Bylaw aligned with the District Plan.
61. The Bylaw must be read alongside the Council's current Operative District Plan (**the current District Plan**).
62. The existing Bylaw has a map which outlines where brothels are permitted to operate.
63. 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.
64. Since the Prostitution Bylaw review in 2009, the District Plan has changed to make brothels a non-complying activity in the Industrial Zone.

65. The change does not affect any existing brothels that are in the Industrial Zone; however, any new brothel operating in the Industrial Zone under the existing Bylaw map is no longer a permitted activity.
66. The legal review advised aligning the existing Bylaw map with the current District Plan provisions to ensure more transparency with the community around where brothels can be located under the District Plan.
67. Staff recommend aligning the existing Bylaw map with the current District Plan provisions (see Attachment 1).

Review by the High Court and Court of Appeal

68. Hamilton's Prostitution Bylaw has been the subject of review by the High Court and Court of Appeal.
69. Ellen France J in the High Court distinguished Auckland City Council's Bylaw from Hamilton City Council's Bylaw in that Hamilton's Bylaw does not amount to a total prohibition of brothels in Hamilton as brothels are permitted in quite a large area of the city.
70. Ellen France J therefore found the Bylaw to be reasonable and this was upheld by the Court of Appeal in 2007. Although this is a 2006 decision, the Permitted Areas are the same in both the 2004 and 2009 Bylaws.
71. In both the Hamilton and Auckland decisions, the Courts were concerned only with the permissiveness of the Bylaws themselves, not the corresponding District Plan framework.
72. The Courts did not consider the solicitation aspects of either Bylaw in this review.

Permitted Areas – process for selection

73. Committee Members requested additional information relating to how the Permitted Areas were selected.
74. Staff advise that the area was determined based on the existing District Plan zoning at the time, which then had a layer of sensitive sites placed across it. The approved area was the residual remaining area (the then City Centre Zone and Commercial Service Zone).
75. The Central City Zone is the central core of Hamilton. It is primarily used for commercial purposes. The Commercial Service Zone consisted of the remainder of the central city commercial area and also encompassed part of the suburb of Frankton. It was characterised by light industrial work, service businesses, warehousing and retail offices and was removed during the last District Plan Review.
76. The staff report to the Strategic Planning and Policy Coordination Committee (25-26 August 2004) specifically cautioned the Council that if it decided to exclude brothels from residentially- zoned areas of the city, then it needed to be assured that it was continuing to make adequate provision for the availability of commercial sexual services in Hamilton. The considered opinion of staff, as recorded in the report, was that the relatively large area of mixed-use commercial and industrially-zoned land within the permitted zone did provide adequate choice and opportunity for the wider sex industry.
77. The existing 2009 Bylaw does not amount to a total prohibition of brothels in Hamilton; brothels are permitted in quite a large area of the city. At the time of adoption, there were approximately 2596 occupation units (commercial and residential) in the CBD portion of the permitted zone.

78. Therefore, it was decided that the Bylaw did not amount to a prohibition on a statutorily permitted activity. A considerable area of the city fell within the permitted area and sex workers were able to provide “out services” in residential areas (out services are when a sex worker is engaged to visit a client at a specified address – such as visiting a person with a disability, in that persons home). Overall, the restrictions were not considered unreasonable.

Compliance

79. The Council has received 22 complaints since 2014 or 30 since records began in 2012. Of the 22 complaints, 15 were made by two complainants, one of whom works within the industry.
80. No locations have been closed by the Council’s compliance team and Council has not taken any prosecutions against anyone in relation to alleged offences against the Prostitution Bylaw.
81. The City Safe Unit Manager, confirms the Council has never had staff pose undercover as ‘clients’ to catch alleged offenders. On every occasion that a complaint has been received, staff have openly visited the alleged offender, always with two staff members present, identified themselves and acted to resolve the issue.
82. Staff use the *Compliance Graduated Response Model* approach and prefer to engage and then educate where any issues are identified. Enforcement is only taken as a last resort. This model is also used by the NZ Police in relation to enforcement of activities such as alcohol-related offending.
83. Staff note that many of the complaints relate to alleged prostitution activity outside the area permitted by the bylaw and tend to coincide with major events in the city – Fieldays, All Black tests, cricket test matches, etc.
84. The persons complained about are often from other parts of the country and are unaware of the restricted areas for operating a brothel. To date they have always been compliant following a visit from Council staff.
85. Staff were unable to identify any statistics relating to the number of prosecutions nationally for prostitution-related crimes or the number of breaches of the Bill of Rights in relation to prostitution.

Street Trading

86. Committee Members requested further information on how street trading is managed for activities other than sex workers. This information is provided below.
87. The Council allows traders to carry out certain activities on the street (mobile shops, hawkers, signs), if they have applied for and been granted a permit and paid any required permit fees. The fee is to recompense the Council for the use of the public spaces to conduct their trading business.
88. It is an offence to trade in a public place without a permit. With a couple of exceptions (alcohol and traffic matters principally) there is a standard penalty for breaches of any of the offences created under a bylaw.
89. That penalty is created by s 242 of the LGA and determines that any person who breaches the bylaw commits an offence and is liable on summary conviction to a fine not exceeding \$20,000.
90. There is no ability to issue an infringement notice of fine for breaches.
91. Staff were not able to find any record of the Council ever taking a prosecution under any of the bylaws that contain the generic \$20,000 penalty.

Policies of other city councils

92. Of 18 cities in New Zealand, 12 do not have a prostitution bylaw and rely on their District Plan or other bylaws (e.g. signage bylaws).

93. Except for Rotorua Lakes Council, Hamilton City Council and Lower Hutt City Council, the other three with prostitution bylaws (Christchurch, Tauranga and New Plymouth) allow for sex workers to operate in some form in the residential zones.
94. Rotorua Lakes Council resolved to consult on their existing bylaw this year but during deliberations on 14 March 2019, requested staff to report back on the implications of rescinding the bylaw. This report has not yet been taken back to Rotorua Lakes Council.
95. Tauranga City Council's Policy Committee approved on 7 May 2019 that the solicitation clause be removed and that small owner-operated brothels can operate without restriction in Tauranga.

Options

96. Three options are suggested to manage prostitution in Hamilton:

Option 1 – retain the existing Bylaw unamended;

Option 2 – retain the existing Bylaw with minor amendments as follows:

- amend the definition of Early Childhood Education Centre to refer to s310 instead of s308; and
- amend the term *District Plan* to *Operative Hamilton District Plan*; and
- align the existing Bylaw map with the Operative District Plan provisions.

Option 3 – adopt a Prostitution Bylaw 2019 which removes the provisions that ban solicitation, and make minor amendments as follows:

- amend the definition of Early Childhood Education Centre to refer to s310 instead of s308; and
- amend the term *District Plan* to *Operative Hamilton District Plan*; and
- align the existing Bylaw map with the Operative District Plan provisions.

97. Staff suggest **option 3** (suggested by some submitters) in order to remove legal risk to Council.
98. Staff consider the matters have medium significance and that the recommendations comply with the Council's legal requirements.

Financial Considerations

99. The review of the Bylaw is a regular operating activity funded through the 2018-28 10-Year Plan.
100. The approximate cost to complete the submission analysis and this report is \$14,000. This is higher than usual due to the legal review and the second consultation process.
101. Costs leading up to and including the deliberation report are estimated at an additional \$3,000-\$5,000.
102. The total costs to complete the review of the Bylaw are approximately \$25,000-\$30,000 including the original determination report of 14 March 2019.

Legal and Policy Considerations

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

Wellbeing Considerations

104. The purpose of Local Government changed on the 14 May 2019 to include promotion of the social, economic, environmental and cultural wellbeing of communities in the present and for the future ('the 4 wellbeings').
105. The subject matter of this report has been evaluated in terms of the 4 wellbeings during the process of developing this report as outlined below. The recommendations set out in this report are consistent with that purpose.

Social Considerations

106. The selling of sexual services is controversial. Views include beliefs that prostitution is immoral because it involves sex for money, or a sign of society's moral decay. Others may believe that prostitution is degrading to women or hold concerns that prostitution spreads sexually-transmitted infections.
107. There is widespread agreement that prostitutes are at increased risk for a host of negative health and social consequences, including assault, homicide, and sexually-transmitted infections. Complicating the debate is a lack of data on the percentage of those engaged in commercial sex who sell sex willingly, or who are coerced by force (i.e. trafficked) or by financial pressures.
108. There is some concern among submitters that prohibiting solicitation makes sex workers vulnerable to exploitation, and creates barriers to accessing health services for HIV and STI prevention, treatment and support. It may also create limitations to freely discuss sex with healthcare providers by having street-based workers working in contravention of the bylaw. This could lead to reduced awareness and therefore adoption of safe sex practices, and a decline in the uptake of sexual health services. It may also undermine the purpose of the PRA by not supporting welfare, occupational health and safety, and what is best for public health.
109. The limitation around solicitation may also create a negative impact on work options for sex workers who are unable to work for larger managed brothels. This is particularly the case for those who are older, male, gender diverse, transgender, or those who are limited to certain hours of work due to other commitments (such as study, family or other work).
110. Staff advise that, for some individuals and communities, strict regulation of prostitution and soliciting may have an adverse impact on social wellbeing and the extent to which individuals feel a sense of belonging and social inclusion.

Economic Considerations

111. Economic wellbeing is defined as the capacity of the economy to generate employment and wealth necessary for present and future financial security.
112. Prohibiting solicitation of commercial sexual services anywhere within the Hamilton City Council area may limit the range of work options for sex workers to large managed brothels, and small owner-operated brothels.
113. Staff advise that the existing Prostitution Bylaw, with current restrictions on prostitution, may have an adverse impact on the economic wellbeing of some Hamilton sex workers.

Cultural Considerations

114. Cultural wellbeing is defined as the vitality that communities have the freedom to retain, interpret and express their arts, history, heritage and traditions. It is broader than ethnic identity and includes values, shared beliefs, customs, behaviours and identity.

115. Te Runanga o Kirikiriroa and Te Haa o te Whenua o Kirikiriroa was informed of the Council's review of the Bylaw and both organisations will be invited to provide the Council feedback during any further public consultation.
116. Organisations representing Maaori in Hamilton were also given notice of the review process and their opportunity to provide feedback.
117. No cultural implications have been identified for this matter.

Environmental Considerations

No environmental considerations have been identified for this matter.

Risks

118. There are known risks associated with the solicitation clauses in the Bylaw as outlined earlier in the report.
119. Following legal advice, removing the legal risk to the Council requires removing the solicitation clause)

Significance & Engagement Policy

Significance

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

Engagement

121. Prior to consultation, 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.
122. Most of these stakeholders believed the Bylaw was operating as intended with only two stakeholders believing the Bylaw was too restrictive and should be revoked or amended.
123. There is a statutory requirement to consult as per legislation outlined below.
124. Sections 156 and 160 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.
125. Community views and preferences are already known to the Council through the consultation processes undertaken from 18 March 2019 to 18 April 2019 and 1 July 2019 to 1 August 2019.
126. The two consultation processes resulted in a total of 101 submissions (86 from the first submission period carried over; and 20 new/amended submissions). This number includes submissions from 10 organisations.

127. 61% of submitters supported the continuation of the existing Prostitution Bylaw (no amendments); 39% did not support the continuation of the existing Prostitution Bylaw.
128. At the Regulatory and Hearings Committee meeting held 29 August 2019, 9 submitters presented to Committee.

Attachments

Attachment 1 - Option 1 - Existing Prostitution Bylaw 2009

Attachment 2 - Option 2 - Proposed Prostitution Bylaw 2009 - with minor amendments

Attachment 3 - Option 3 - Proposed Prostitution Bylaw 2019 - no non-solicitation clause

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

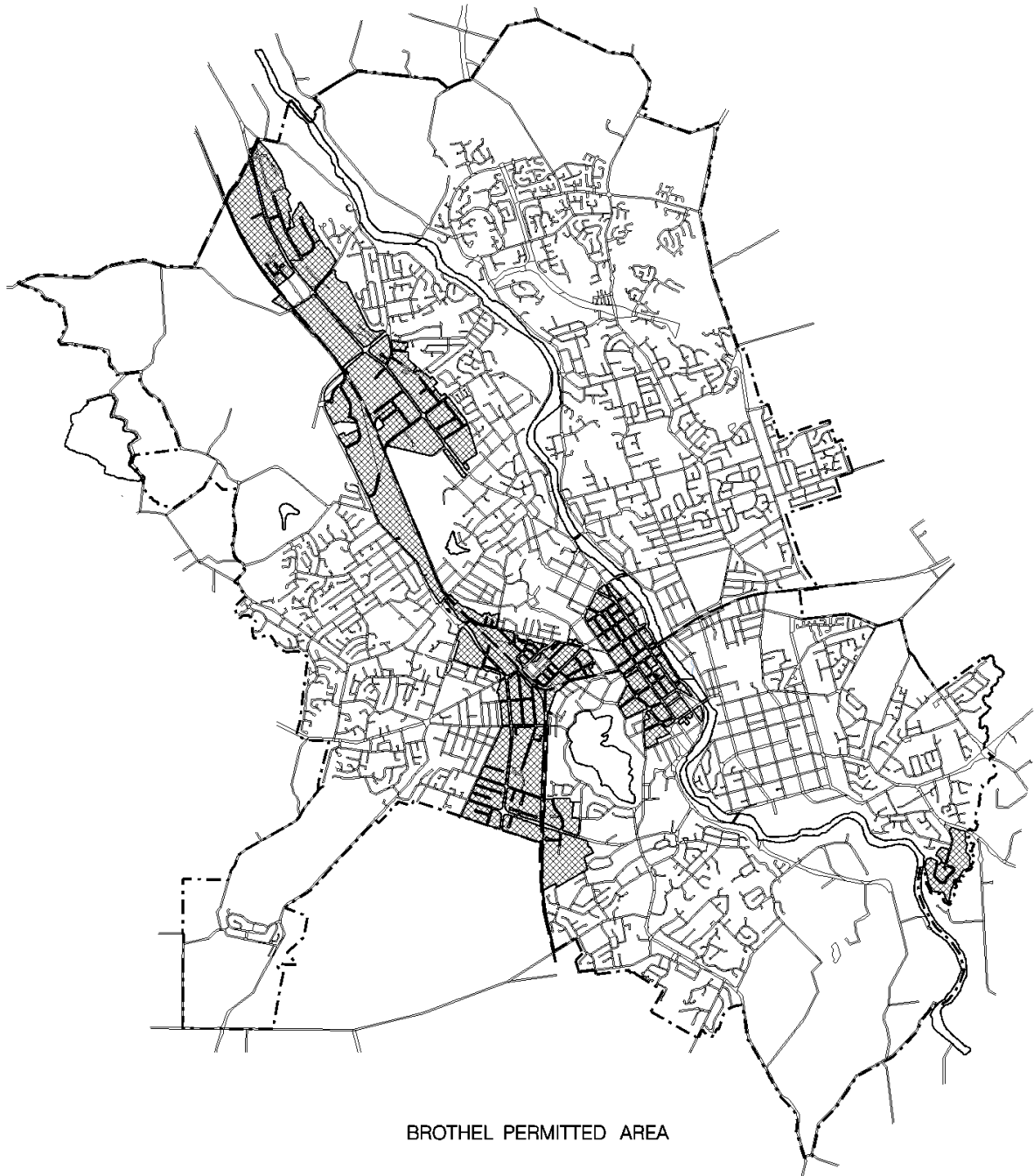
Any person who acts in breach of this Bylaw commits an offence and is liable upon summary conviction to a fine, as provided for under the Local Government Act 2002 (which specifies a fine not exceeding \$20,000), and may also be liable to penalties under other legislation.

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



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 _____

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.

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

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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 Hamilton City Operative District Plan (References version 18 October 2017) or any subsequent amendments. means the Operative 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 [308 310](#) 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.

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1. Permitted areas of operation

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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

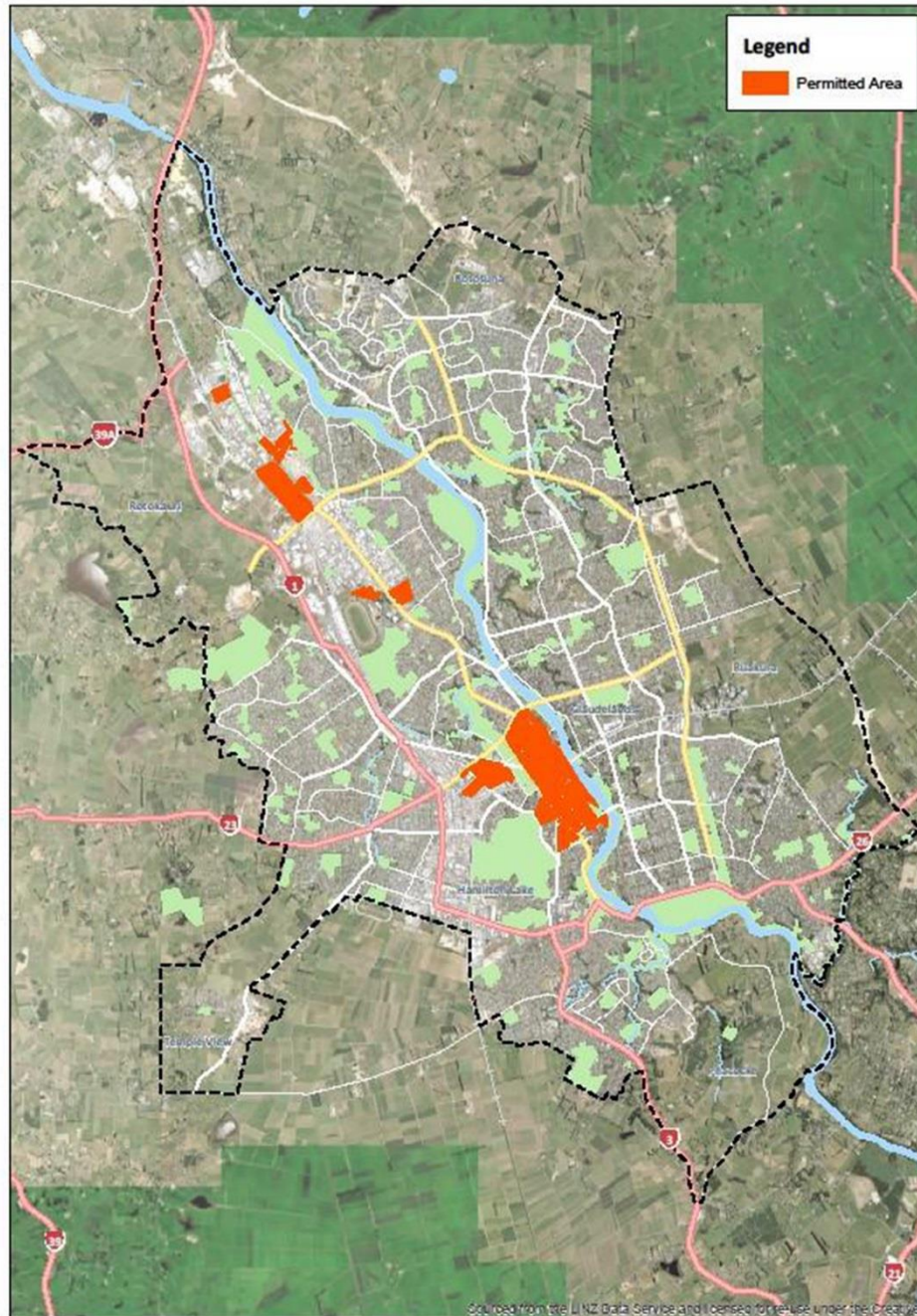
Any person who acts in breach of this Bylaw commits an offence and is liable upon summary conviction to a fine, as provided for under the Local Government Act 2002 (which specifies a fine not exceeding \$20,000), and may also be liable to penalties under other legislation.

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 City District Plan and both regulations must be complied with at all times.

MAP 1



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

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

Item 12

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

Attachment 3

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.

Trim ID

HAMILTON CITY COUNCIL | HAMILTON CITY NAME OF BYLAW AND YEAR ADOPTED

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: _____



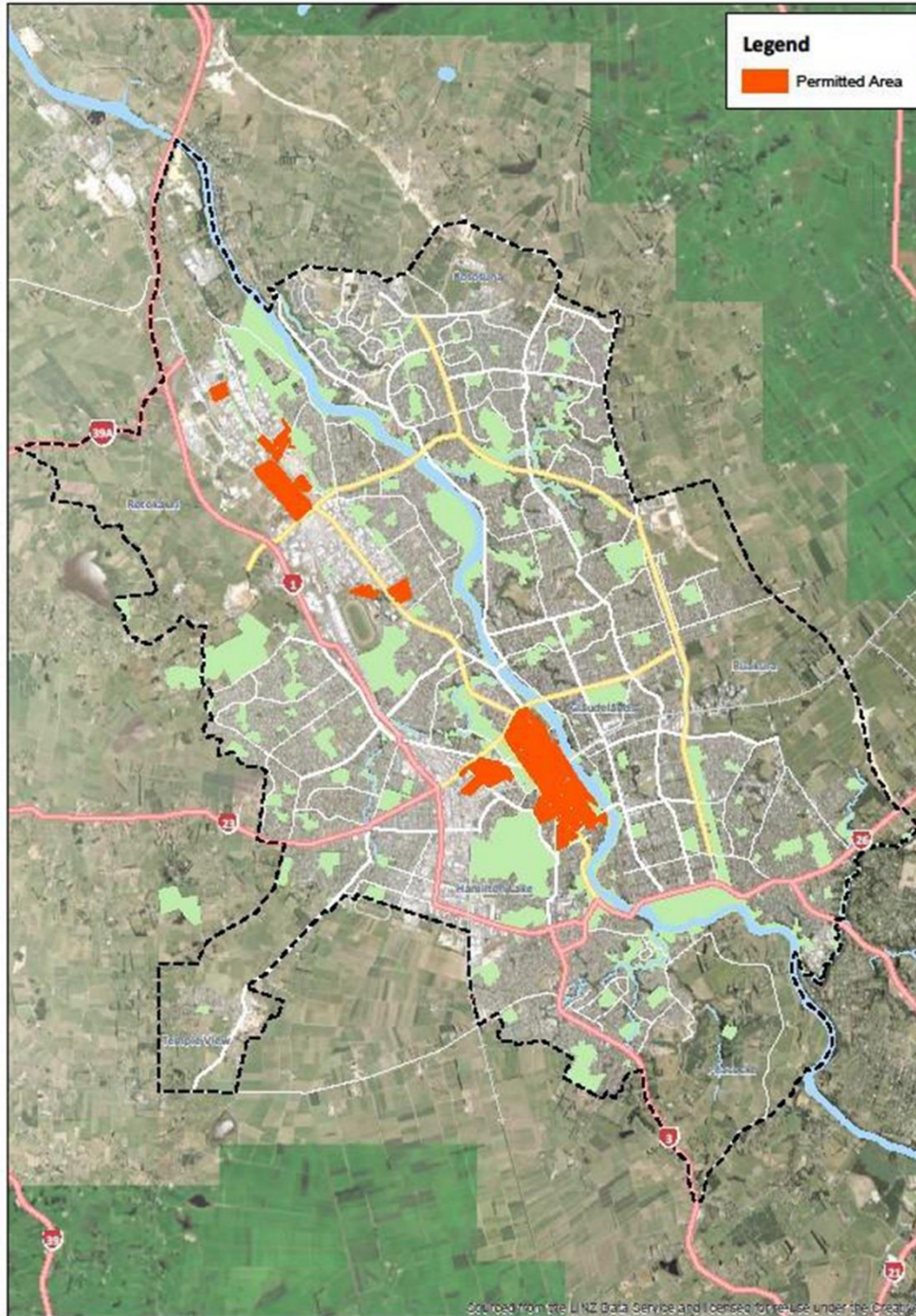
EXPLANATORY NOTE

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

Permitted Brothel Areas Map



Trim ID

HAMILTON CITY COUNCIL | HAMILTON CITY NAME OF BYLAW AND YEAR ADOPTED

Item 12

Attachment 3

Council Report

Committee: Council **Date:** 17 September 2019
Author: Sandra Murray **Authoriser:** Jen Baird
Position: Consultant **Position:** General Manager City Growth
Report Name: Class 4 Gambling Venue Policy - Deliberation and Adoption Report

Report Status	<i>Open</i>
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Purpose

1. To seek the Council's approval of either the existing or the proposed Class 4 Gambling Venue Policy.

Staff Recommendation

2. That the Council:
 - a) receives the report; and
 - b) approves **one** of the following:

Option A: the retention of the existing Class 4 Gambling Venue Policy, with a 'sinking lid' on venues and machines as well as limited relocations and mergers permitted;

Option B: the proposed Class 4 Gambling Venue Policy, with no relocations or mergers permitted (**Attachment 4**).

Executive Summary

3. A special consultative process on a proposed Class 4 Gambling Policy ('Class 4 Policy') occurred from 17 May 2019 to 17 June 2019, as required by the Local Government Act 2002 (**LGA**). The Council received 403 submissions.
4. Submitter support for the options was as follows:

Option A: Retain the existing Class 4 Gambling Venue Policy, with a 'sinking lid' on venues and machines as well as limited relocations and mergers permitted	93.8%
Option B: Adopt the proposed Class 4 Gambling Venue Policy, with no relocations or mergers permitted.	5.7%
Not Answered.	0.5%.

5. On 20 August 2019, the Regulatory and Hearings Committee received the submissions and heard from 34 submitters regarding the Class 4 Policy.

6. The main points made in submissions are outlined below:

Support for Option A	Support for Option B
<p>a) A perception that a reduction in gambling machine numbers will result in a reduction in funding allocated to community groups, with a concern that this will have an adverse impact.</p> <p>b) Support for the ability for venues to relocate.</p> <p>c) Support for the ability of venues to merge.</p> <p>d) The impact of online gambling.</p> <p>e) Commentary on the link between gambling machine numbers and problem gambling.</p> <p>f) Concerns regarding the frequency of review of the Hamilton City Council Class 4 Gambling Venue Policy review.</p>	<p>a) Discussion related to the harm caused to individuals and society from problem gambling.</p> <p>b) Discussion related to the addictiveness of Class 4 gambling machines.</p> <p>c) Support for the removal of relocations and mergers.</p> <p>d) Refutation that funding allocated to community groups would be adversely affected by removing the ability to relocate or merge venues.</p> <p>e) Refutation that stricter regulation around Class 4 venues would encourage people to move to online gambling.</p> <p>f) Discussion regarding what a 'sinking lid' policy meant to submitters.</p>

7. At the meeting of 20 August 2019, Committee Members requested further information on several topics; these are covered in the Discussion section of this report:
- i. The Gambling (Gambling Harm Reduction) Amendment Act 2013
 - ii. What happens to each dollar gambled?
 - iii. How many people are affected by gambling?
 - iv. The Problem Gambling Foundation
 - v. The policies of other Councils (provided in Attachment 2)
 - vi. The potential need for an organisation to raise its fees if Class 4 funding was to cease or reduce.
8. Staff consider the decision in this report has a medium significance and that the recommendations comply with the Council's legal requirements.

Background

9. The Gambling Act 2003 (**the Act**) allows for the growth of gambling to be controlled through councils' policy.
10. The Act requires councils to have a Class 4 Policy (s101(1) the Act).
11. A Class 4 Policy must specify whether new venues may be established and where they may be located, if venues can relocate, how many machines they may have, and what the primary activity of the venue must be.
12. The existing Class 4 Policy is a 'sinking lid' policy allowing for only limited relocations and mergers. This does not bind Council to decline all applications for relocations or mergers that it receives in future. The Council is entitled to make a decision inconsistent with an existing policy, provided it complies with legislative requirements relating to decision-making, including those set out at s80 of the LGA.
13. An amended Class 4 Policy (see **Attachment 4**) has been proposed that does not specifically allow relocations or mergers, other than as allowed under s80 of the LGA.

Identification of inconsistent decisions

- (1) *If a decision of a local authority is significantly inconsistent with, or is anticipated to have consequences that will be significantly inconsistent with, any policy adopted by the local authority or any plan required by this Act or any other enactment, the local authority must, when making the decision, clearly identify—*
- (a) the inconsistency; and*
 - (b) the reasons for the inconsistency; and*
 - (c) any intention of the local authority to amend the policy or plan to accommodate the decision.*
- (2) *Subsection (1) does not derogate from any other provision of this Act or of any other enactment.*
14. The purpose of s80 is to ensure robust decision-making by requiring the Council to clearly record that it has considered an application for relocation or merger in light of its policy but has decided to make a decision inconsistent with the policy.
 15. On 11 May 2019, the Regulatory and Hearings Committee approved consultation on a proposed Class 4 Gambling Policy, with two options for feedback from the community:
 - **Option A:** Retain the existing Class 4 Gambling Venue Policy, with a 'sinking lid' on venues and machines as well as limited relocations and mergers permitted
 - **Option B:** Adopt the proposed Class 4 Gambling Venue Policy, with no relocations or mergers permitted.
 16. A special consultative process occurred from 17 May 2019 to 17 June 2019 as required by the LGA. The Council received 403 submissions, including:
 - i. 27 submissions from individuals / householders
 - ii. 65 submissions from a representative of a business, organisation or community group
 - iii. 308 submissions provided via a template submission form of unknown origin
 - iv. 3 did not provide information on representation.
 17. Submitter support for the options was as follows:
 - **Option A:** 93.8%
 - **Option B:** 5.7%
 - **Not Answered:** 0.5%.
 18. On 20 August 2019, the Regulatory and Hearings Committee received the submissions and heard from 34 submitters regarding the Class 4 Policy.
 19. It is now the Council's responsibility to decide on the matter.

Discussion

20. To assist the decision-making process, staff have summarised the key points made by submitters and provided additional information. Submission points have been grouped into key themes. First, however, we discuss the current and proposed policies.

Current policy

21. The current Class 4 Gambling Venue Policy allows mergers and relocations with conditions:

Mergers are allowed where two or more private clubs merge and consolidate the operation of their Class 4 gambling activities at a single gambling venue that is located within a Gambling Permitted Area.

Relocations are allowed only where:

- i. a site has been rendered physically incapable of being reused for the purpose of the venue (meaning a fire, earthquake or similar event).
- ii. a landlord has refused to renew a lease of the premises; or
- iii. the building in which the venue is located is deemed to be earthquake-prone, dangerous or insanitary.

New venues are allowed only where an existing Class 4 venue located outside the Gambling Permitted Area is permanently closed and the proposed new Class 4 gambling venue is located within a Gambling Permitted Area.

- 22. The current Class 4 Policy allows venues to apply to move from high deprivation areas to low deprivations areas. However, in the time that the current policy has been in place, no venues have applied to move from a high deprivation area to a low deprivation area.
- 23. If a merger or relocation or new venue is sought that is inconsistent with the current policy, but which has a valid case for consideration, the Council retains the ability to approve that specific merger or relocation in accordance with its legislative obligations on decision-making, including s80 of the LGA (as noted in paragraph 13).
- 24. Any proposed merger, relocation or new venue requires approval via an application to the Council, as well as requiring a venue to surrender an existing venue licence with the Department of Internal Affairs and reapply, meeting all other provisions of the policy.

Proposed Policy

- 25. The proposed Class 4 Policy removes the ability for relocations and mergers to occur other than under the provisions of s80 of the LGA.
- 26. The proposed policy is provided in **Attachment 4**.

Impact of proposed policy on community grants

- 27. In written submissions, and in presentations to the Regulatory and Hearings Committee on 20 August 2019, many submitters stated opposition to the proposed policy based on a perception that removing the merger and relocation clauses would result in community funding being completely or substantially cut.
- 28. Staff note that there is no evidence that a reduction in community grants funding would occur in the short to medium term if the proposed policy were adopted. There is evidence that funding would remain at approximately the same level or decline very slowly, allowing considerable time for organisations to adapt and identify other sources of funding.
- 29. The available information related to funding generated for grants distribution includes Department of Internal Affairs (DIA) statistics showing that (in both Hamilton and nationally) venue and gambling machine numbers have declined since 2015, while total Gaming Machine Profit (GMP) has increased, and the total pool of community grants funding available has also increased.
- 30. This information and statistics are provided later in this report.

Analysis of submissions from a business, organisation or community group

- 31. During the consultation period, the Council received 65 written submissions from representatives of a business, organisation or community group. Staff undertook analysis to ascertain if this group of submitters provides a broad representation of these sectors.

Table 1: Types of submitting organisations

Type of Organisation	Support Option A	Support Option B
Class 4 Associated	8	0
Consultancy	1	0
Sport	41	0
Surf Lifesaving	5	0
Education & Research	0	0
Health & Social Services	0	5
Children	2	0
Development & Housing	0	0
Culture & Arts	0	0
Events	2	0
Other	1	0
Total	60	5

Note: Table updated from the report presented to the Regulatory and Hearings Committee on 20 August 2019, to more accurately represent submitter organisation type.

32. On 20 August 2019, the Regulatory and Hearings Committee received the submissions and heard from submitters regarding the Class 4 Policy. All 34 submitters presenting to the Committee represented a business, organisation or community group.
33. A significant percentage of organisations who submitted (63%) are associated with sport. If venues and organisations representing venues are excluded, 79% of submitting organisations are associated with sport.
34. To some extent, this reflects the proportion of Class 4 gambling funding allocated to organisations associated with sport, although it does not fully account for the over-representation of sporting organisations compared to other community organisations.
35. The Department of Internal Affairs Class 4 Gambling Report 2017 report indicates that 49% of Class 4 gambling funding was allocated to sport nationwide, with the remaining proportion allocated to all other funding recipient types.
36. The Problem Gambling Foundation submission provides additional information specific to Hamilton:

“the PGF Group database calculates that \$7,319,889.45 in pokie funding was returned directly to the Hamilton City area between 1 January 2018 and 31 March 2019. The losses to pokies from the City during this time come to \$30,707,144.02, making the measurable return 23.8% of the spend. The funding can be generally grouped into ‘Sports’, which gained 51% of the total, with ‘Community service’ receiving 34%, and ‘Community groups’, 15%.”
37. Most representatives of organisations opposing the proposed policy that presented verbal submissions were asked by Committee Members why they were concerned about a reduction in funding. Presenters responses were consistent in a belief that it seemed likely that a sinking lid policy would eventually mean there was no funding available to them (paraphrased).

38. Staff note that in their 2016 review of Class 4 gambling, the DIA highlighted the risk of venues using venue market power to effect 'grant capture', or improper inducements to attract a venue or support for a venue. For example, a venue hosting the gambling machines of a particular non-club society may have expectations that the society will give grants to groups associated with the venue owner.

Source: Discussion Document: Review of Class 4 gambling Department of Internal Affairs June 2016

39. Staff compiled publicly available information on 140 Trust grants received by submitting organisations. Due to the difficulty compiling this information, some individual grants may have been missed from the total identified. A table of grants received by organisations is provided in **Attachment 3**.
40. This information indicated that the 60 submitting organisations opposing the proposed policy received at least \$4,062,642.72 from Hamilton Trusts between the period 1 April 2018 to 31 March 2019, out of a grants pool of approximately \$10.3 million. Submitting organisations supporting the proposed policy did not receive funding from Hamilton Trusts in this time.

Gambling (Gambling Harm Reduction) Amendment Act (2013) (the Amendment Act)

Source: Regulatory Impact Statement, Government position on the, Gambling (Gambling Harm Reduction) Amendment Bill (2013); and DIA, Gambling (Gambling Harm Reduction) Amendment Act: Impact of relocation provisions on existing Class 4 venue policies.

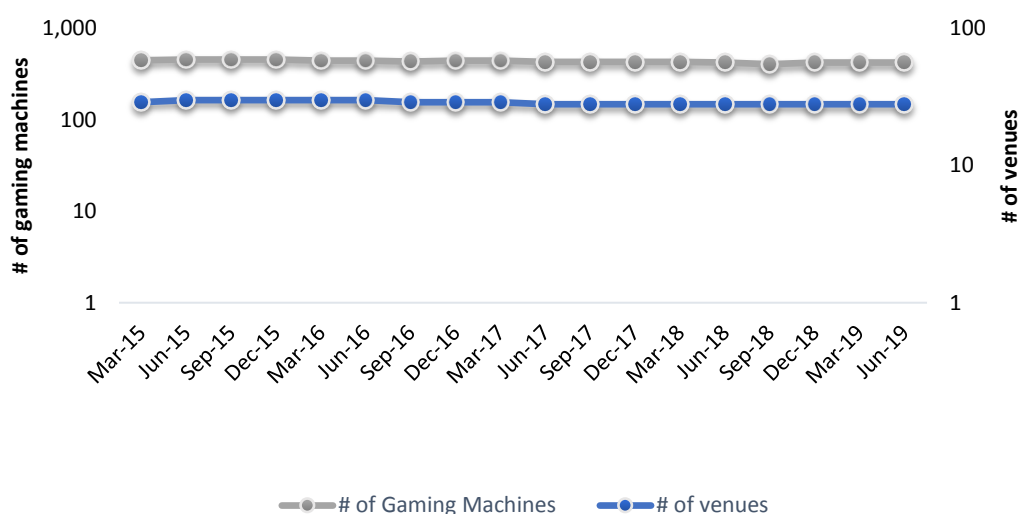
41. Committee Members requested information on the Amendment Act.
42. The Amendment Act originated as a Member's bill in the name of Te Ururoa Flavell, with the purpose of providing local communities with more power to determine where "pokie" machines may be sited, and in how the proceeds can be distributed.
43. The Select Committee that considered public submissions on the bill recommended the inclusion of the new provisions on relocation policies. The provisions, which came into effect on 14 September 2013, provided a tool for Territorial Authorities (TAs) to help address the concentration of gambling machine venues in high deprivation areas by allowing a mechanism for relocation into low deprivation areas.
44. The Amendment Act required all TAs to consider whether to adopt a relocation policy when the TAs next reviewed their Class 4 venue policies under section 102 of the Gambling Act 2003.
45. Hamilton City Council's review occurred in 2016, and relocations were added to the Hamilton Class 4 Venue Policy.
46. Provisions for relocations and mergers have not resulted in any venues moving from high deprivation areas to low deprivation areas since 2016 (one application was received, and one relocation was granted in 2018 where the new venue was very close to the initial venue – no change in deprivation rating).

Venues and Gambling Machines per Quarter (Hamilton)

Source: [Department of Internal Affairs Quarterly Dashboard – June 2019](#)

47. With 424 Class 4 gambling machines in total, and based on a current population of 169,300, Hamilton has an estimated 1 Class 4 gambling machine per 399 people (approximately 25 Class 4 gambling machines per 10,000). This figure excludes casino-based gambling machines.
48. From June 2019, compared to last quarter, the number of venues in Hamilton has not changed. Both Hamilton and New Zealand show similar downward trends for EGMs and venues.

Venues and gaming machines per quarter

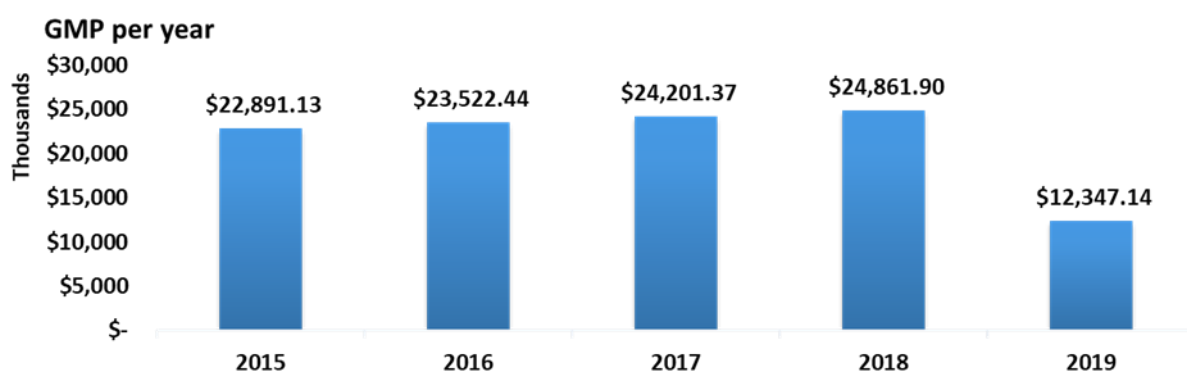


Yearly Gaming Machine Profit (Hamilton City)

Source: [Department of Internal Affairs Quarterly Dashboard – June 2019](#)

49. The Gaming Machine Profit (GMP) is all money spent by people playing Class 4 machines, less the amount returned to players in general.
50. To compare GMP expenditure in different areas, the DIA shows GMP as a proportion of the number of gambling machines. That way, when comparing areas, any difference in size is removed which allows Councils to compare GMP equally.
51. GMP per gambling machine in Hamilton has increased by \$3,857 since March 2015, which translates to a total of \$15,335 in June 2019 or a 33.6% change. As a comparison, New Zealand increased by \$3,972, which translates to a total of \$15,602 in June 2019 or a 34.2% change.

Figure 1 GMP per calendar year (Source: [Department of Internal Affairs Quarterly Dashboard – June 2019](#))

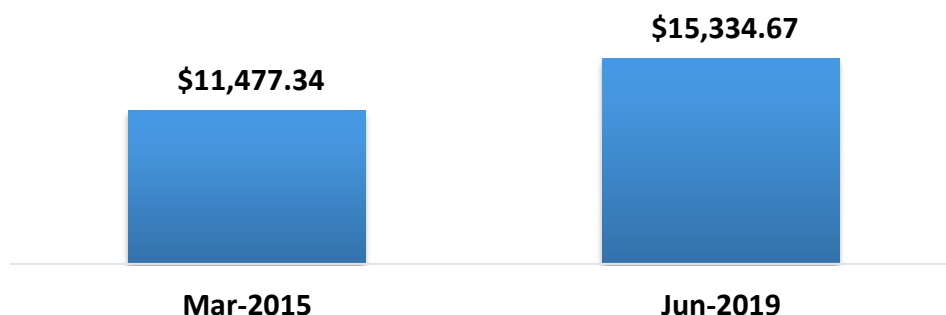


Gaming Machine Profit per Electronic Gaming Machine (Hamilton City)

52. GMP per electronic gaming machine has increased by \$3,857.33 (33.6%) since March 2015.

Figure 2 GMP per Electronic Gaming Machine (EGM) – (Source: [Department of Internal Affairs Quarterly Dashboard – June 2019](#))

GMP per EGM

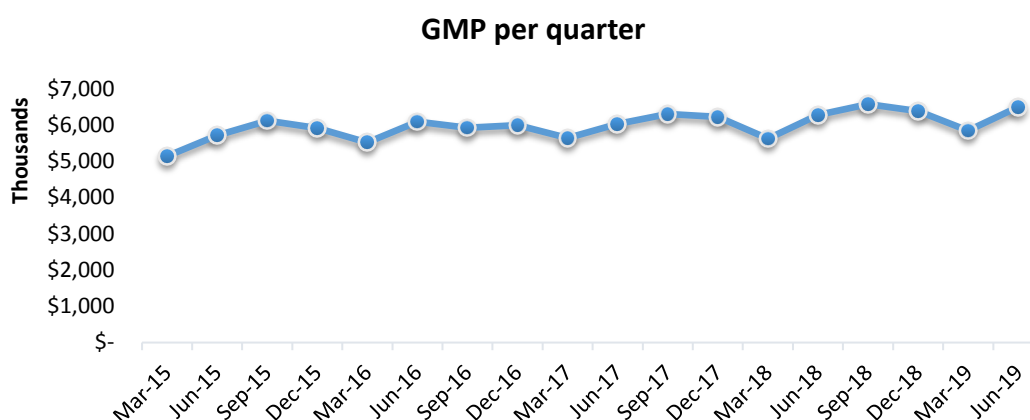


Gaming Machine Profit per Quarter (Hamilton)

Source: [Department of Internal Affairs Quarterly Dashboard – June 2019](#)

53. In a rolling 12-month period as at June 2019, GMP for Hamilton has increased by 0.89% or by \$224,059 compared to the prior quarter 12-month period. Quarterly GMP has increased by 11.23% or by \$656,655.
54. From March 2015 to June 2019 quarters GMP for Hamilton increased by 26.5% compared to New Zealand which increased by 21.2%.

Figure 3 GMP per Quarter



What happens to each dollar gambled via Electronic Gaming Machines in Class 4 Venues?

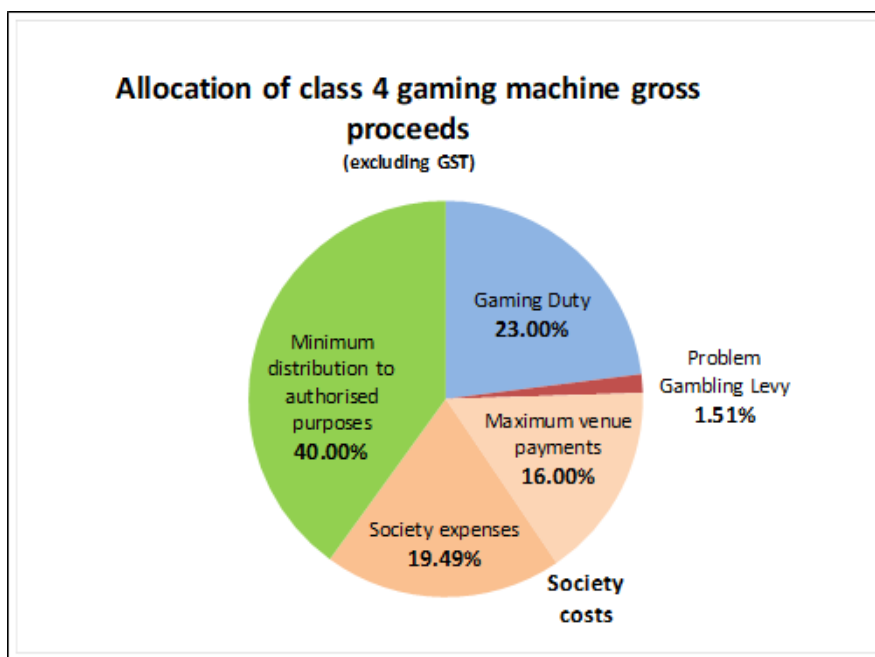
55. Committee Members requested information on what happens to each dollar gambled.
56. The Government imposes duties and levies on Class 4 gambling in New Zealand. These are:
 - Gaming machine duty – 20% of class 4 gaming machine profits (GMP)
 - Problem gambling levy – 0.78% of gaming machine profits (GMP)
 - Grants funding to communities – minimum of 40% of gross proceeds.

Source: [Online Gambling in New Zealand – Public Discussion Document](#).

Note: GMP is all money spent by people playing Class 4 machines, less the amount returned to players in general. Duties and levies are deducted from this amount. Gross proceeds are what is left of GMP after duties and levies are removed.

57. The DIA graph below shows a breakdown of the allocation of proceeds.
Note: this graph shows a breakdown of the allocation of gross proceeds not total player spend or GMP. For example, gaming duty is 20% of GMP but 23% of gross proceeds.

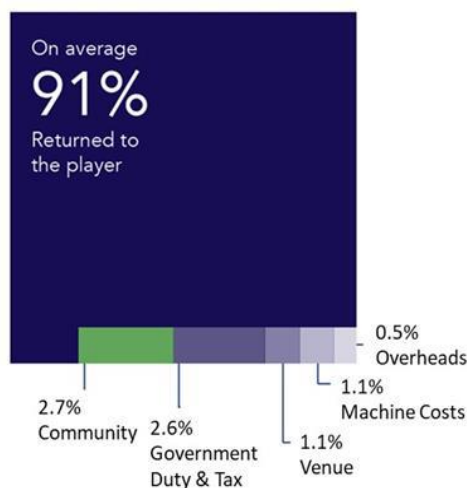
Figure 4 Allocation of Class 4 Gaming GMP



Source: Department of Internal Affairs, [Guide: Pokies in New Zealand a guide to how the system works](#)

58. In their submission, the Grassroots Trust provided a different breakdown of Class 4 gambling money. This figure is of the total gambling spend (i.e. a breakdown of every dollar gambled). It is not possible to verify the accuracy of the claim that 91% of gambling spend is returned to the player as staff do not have access to the full set of data related to Hamilton gaming machine spend. However, this figure appears comparable to other accounts of total gambling spend.

Figure 5 Breakdown of total gambling spend: Where does the money go? Source: Grassroots Trust



59. The theoretical return to player (RTP) must be set between 78% and 92%. This is a theoretical RTP over the life of the machine (millions upon millions of 'plays'). In theory, at a 90% RTP, a patron is only losing around 10 cents in each dollar (10%) wagered. However, a simple reading of this sentence does not consider the 'churn' factor. That is, someone puts a dollar into a machine, and after their first wager they get 90 cents back. Then they make another wager, and lose 10% of that, so have 81 cents left. Then they wager again and have 73 cents left and so on. People may wager their wins or chase their losses.

Source: Department of Internal Affairs

60. The minimum amount of money returned to player (MINRTP) is 78% of money played on non-casino gaming machines, with a maximum (MAXRTP) of 98%. The MINRTP for casino Class 4 machines is 87%.

Source: DIA, [Australian/New Zealand Gaming Machine National Standard 2016](#)

61. The term 'returned to player' does not necessarily mean the player that put the money into the machine received the returned funds. This term refers to funds returned to players in general in the form of 'winnings'.

Gambling spend per capita

Table 2 GMP per person in Hamilton City (2018)

Estimated Resident Population for Hamilton City, at 30 June 2018 (1996+) (Annual-Jun)	169,300 people
GMP as at 30 June 2018 (Source: DIA)	\$24,430,721.97
GMP per person (as at June 2018) (Staff calculation)	\$144.30 per person

62. The national average per capita gambling expenditure for each of the four main forms of gambling is shown in the table below. Note that actual expenditure levels are higher than the figure suggests, since the levels in the figure apply to all people in New Zealand, including the 30 percent of the population who report that they do not gamble.

Source: [Ministry of Health, Strategy to Prevent and Minimise Gambling Harm \(2019\)](#)

Figure 6 National inflation (2018)-adjusted expenditure per capita (adults aged over 18 years), by type of gambling, 2009/10–2017/18 Source: [Ministry of Health, Strategy to Prevent and Minimise Gambling Harm \(2019\)](#)



63. While gambling expenditure trends show an increase in real terms across all four gambling sectors, adjusting for inflation by type of gambling shows that spending levels for Class 4 gambling decreased in recent years.

Source: [Ministry of Health, Strategy to Prevent and Minimise Gambling Harm \(2019\)](#)

Funding allocated to the community per capita

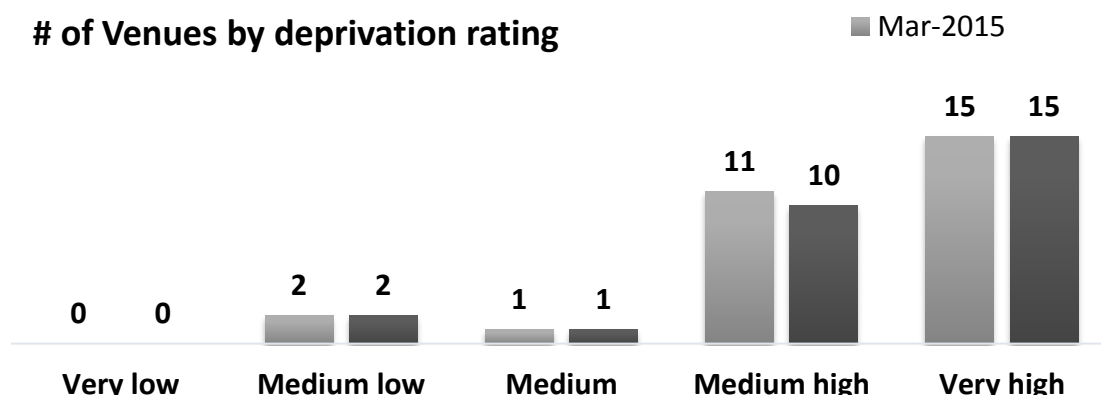
64. The Grassroots Trust provided information that \$10.3 million was distributed to sport, education and community groups by Class 4 gambling societies (trusts) in the 12-month period ending March 2019.
65. Using the Grassroots Trust figure, funding from Class 4 gaming allocated to the community would be \$60.84 per capita for Hamilton City for a 12-month period.

66. However, the Problem Gambling Foundation calculates that \$7,319,889.45 in Class 4 funding was returned directly to the Hamilton area between 1 January 2018 and 31 March 2019, and the losses to Class 4 machines from Hamilton during this time were \$30,707,144.02, making the measurable return 23.8% of the spend.
67. Using the Problem Gambling Foundation figure, funding from Class 4 gaming allocated to the community would be \$43.24 per capita for Hamilton for a 15-month period.

Venues by deprivation rating (Hamilton)

68. A list of current venues is provided in **Attachment 1**.
69. Venues in Hamilton are predominantly located in high and very-high deprivation areas.
70. Staff were unable to provide a list of each Hamilton venue by deprivation rate due to the timeframe available. However, the DIA provides total numbers of Hamilton by deprivation rating.

Figure 7 Number of venues by deprivation rating (Source: Department of Internal Affairs Quarterly Dashboard – June 2019)



Percentage of the adult population affected by gambling

71. Committee Members requested further information on how many people were affected by gambling.

Table 3 Statistics on adult population affected by gambling

	Statistics	Source
Participate in gambling	70 percent of respondents (about 2.7 million New Zealanders aged 15 years and older)	Ministry of Health, Strategy to Prevent and Minimise Gambling Harm (2019)
Estimated number of problem gamblers	Based on research using the Problem Gambling Severity Index (PGSI): <ul style="list-style-type: none"> 0.18% problem gamblers 0.37% were moderate-risk; and 1.8% were low-risk gamblers. 	Measuring the Burden of Gambling Harm in New Zealand 2017 pg 172
	Of the adult population sampled in a nationwide study: <ul style="list-style-type: none"> 0.2% problem gamblers: 1.8% were moderate-risk: and 4.6% were low-risk gamblers. 	New Zealand National Gambling Study: Wave 4 (2015). Report number 6.
	Approximately 5% of New Zealanders fit the criteria for mild, moderate or severe problem gambling.	Ministry of Health, Strategy to Prevent and Minimise Gambling Harm 2019/20 to 2021/22: Consultation document

	6.2% of Maaori adults are problem or moderate-risk gamblers compared to 2% of general population.	Problem Gambling Foundation, Fact sheet - Gambling in New Zealand
Estimated numbers of people who have experienced gambling related harm	5.5% of respondents to the National Gambling Study survey (approximately 5,780 adults the national proportion to Hamilton City is applied as a guide)	New Zealand National Gambling Study: Wave 4 (2015). Report number 6.
Wider impact	A single person's harmful gambling can affect five to ten people.	Ministry of Health (2010). Preventing and minimising gambling harm: six-year strategic plan 2010/11–2015/16.

72. The [Measuring the Burden of Gambling Harm in New Zealand 2017](#) study compared the harm to others with respect to harms from one's own gambling for each Problem Gambling Severity Index (PGSI) category. The study states:

'it is reasonable to conclude that proportionally more harm to quality of life is caused to others in the low-risk category than the moderate-risk and problem gambling categories. This accords with our theoretical perspective that individuals with low levels of gambling problems can 'pass on' a number of harms to those around them, but that gamblers with advanced problems tend to exhaust their avenues for support from their social network. To put this point another way, there appears to be a limit to which the friends and family will 'absorb' harms caused by a problem gambler.'

73. The Health and Lifestyle Survey was undertaken by the Health Promotion Agency in 2016, and part of this survey specifically focused on gambling behaviours. This survey found 70% of New Zealanders (about 2.7 million New Zealanders aged 15 years and older) had participated in at least one form of gambling in the previous 12 months. It also found that while just 0.1% of adults could be categorised as problem gamblers, around 5% of adult New Zealanders, or around 186,000 people, reported causing or experiencing some harm from gambling. Half of those who gambled on electronic gaming machines in pubs or clubs on a monthly basis reported experiencing some harm, while 26% of those who engaged in sports betting on a regular basis did so as well.

Source: [Are you well? Are we safe? State of the Nation Report 2019](#)

Definitions of gambling-related harm

74. Presently, there is a lack of a universal definition to describe gambling-related harm. The Ministry of Health document, *Measuring the Burden of Gambling Harm in New Zealand 2017* defines gambling-related harm as:

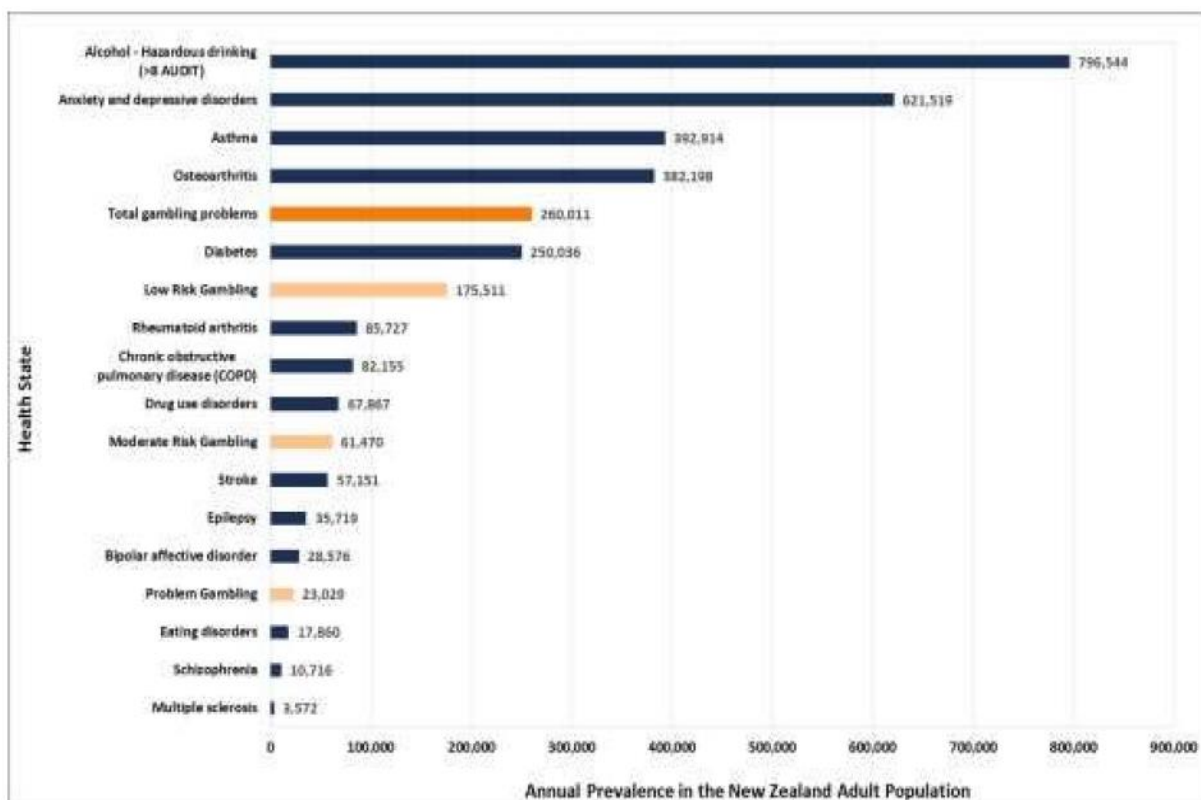
'Any initial or exacerbated adverse consequence due to an engagement with gambling that leads to decrement to the health or wellbeing of an individual, family unit, whānau, community or population.'

Gambling-related harm

75. Class 4 gambling (non-casino pokies) represents high risk, high-turnover gambling.
Source: Department of Internal Affairs, *Gambling Fact Sheet #3 Classes of Gambling*
76. Electric gaming machines give players unrealistic impressions of the odds of winning, confuse people about how much money they have lost, and encourage sustained periods of gambling – often in the hope of recovering losses. Electric gaming machines can be played at various betting amounts and when played at high intensity it is easy to lose \$1,500 an hour.
[Source: PGF, Why are pokies so harmful?](#)

77. Continuous gambling (such as Class 4 gambling) is more closely associated with harm. Problem gambling is measured on a continuum by the PGSI, which is a standardized measure of at-risk behaviour in problem gambling.
Source: Strategy to Prevent and Minimise Gambling Harm 2019/20 to 2021/22: Consultation document.
78. Gambling-related harm should be understood not only in terms of the effects on the person who gambles but impacts that can occur to family, friends, whānau (extended family), and the broader community.
79. Harmful gambling has historically been focused on the prevalence of 'problem gambling' identified through statistics collected by the Ministry of Health on the number of people seeking help through contracted services such as the Problem Gambling Foundation or the Gambling Helpline. Such measures miss those who do not seek help and so give a poor indication of the true scale of harm.
80. Harms include, but are not limited to financial hardships, poorer health, psychological and emotional distress, and impaired social and cultural relationships. Harms often escalate to a crisis point and continue to have an impact even after the problematic behaviour ceases.
Source: Ministry of Health, Measuring the burden of gambling harm in New Zealand (2017)
81. The [Measuring the Burden of Gambling Harm in New Zealand 2017](#) study found that the burden of harm is primarily due to relationship issues; emotional/psychological distress; disruptions to work/study; and financial impacts such as credit card debt, theft and fraud. A detailed analysis of harms is available in this report.
82. The report frames gambling harm in a health context stating that gambling causes over twice the amount of harm than chronic conditions such as osteoarthritis and diabetes and three times the amount of harm than from drug use disorders.

Figure 8 Annual prevalence of gambling problems (by PGSI category) and other health states in the New Zealand adult health populations (Source: [Ministry of Health, Measuring the burden of gambling harm in New Zealand \(2017\) page 184](#))



Note: the poor clarity of the above figure is unavoidable. The link in the caption will take you to the original version (page 184).

83. It is also important to note the link between socioeconomic deprivation and gambling harm and recognise the impact for both Maaori and Pacific peoples who disproportionately reside in high deprivation areas.

Source: Ministry of Health, Problem Gambling Geography of New Zealand 2005

84. Staff recommend that the benefits of community funding from Class 4 gambling need to be weighed against the social and financial costs of gambling harm in Hamilton.

Effects on Children

85. Children under the care of those experiencing problems with gambling can experience multiple forms of harm including neglect, staying up late, losing sleep, missing school, being hungry, eating more take away or convenience foods, and potential vulnerability to abuse through lack of supervision.

Source: The effect of pathological gambling on families, marriages and children, CNS Spectrums vol. 12, no. 8, pp. 615-622, 2007.

86. Young children can miss out on basics if a parent has gambled away household money. Gambling can lead to broken homes, damaged relationships, physical and emotional harm, and a higher risk of the children becoming problem gamblers themselves.

Source: Ministry of Health (2010). Preventing and minimising gambling harm: six-year strategic plan 2010/11–2015/16.

Social Benefits of Class 4 Gambling

87. Gambling can benefit communities by way of community funding, employment opportunities and simply as a form of entertainment.

Entertainment

88. Gambling is often a harmless entertainment activity from which people derive personal enjoyment and positive social effects. For a significant number of adults over the age of 65 years, gambling has become a form of recreation and entertainment.
89. Socialising, enjoyment and fun are directly related to communal activities such as housie and community raffles. Based on these findings, there is a clear view that people genuinely enjoy participating in gambling activities, and there are benefits of being able to socialise with others, particularly whānau members.

Employment opportunities

90. Each society's and venue's operating costs and maintenance of machines are paid from the proceeds of gaming machines (GMP). In addition, their costs to meet requirements of the Gambling Act are met from GMP. This includes the staff needed to carry out these functions.

Community funding

91. There are two types of society that operate class 4 gaming machines:
- Those that apply funds to their own purposes (e.g. clubs)
 - Those that make grants to other bodies for community purposes.
92. Currently, these societies are legally required to allocate a minimum of 40% of GMP back into the community. The societies do not necessarily advertise the availability of funding; however, they are required to advertise the beneficiaries annually. At the forum with stakeholders in 2014, it was noted that New Zealand is one of the only countries that has gambling funding for community gain, not commercial gain, as is the case in most other countries.

Online gambling

93. New Zealand *National gambling study: wave 4(2015)* published in 2018 reported:
- “Online/remote gambling occurred substantially less than the same gambling via land-based means. Total participation in New Zealand online gambling (Lotto and TAB) was 9% in 2015; this was similar to 2012 when it was 8%. In 2015, total participation in overseas online gambling was 0.7%; this was a decrease from 1.7% in 2012”*
94. The DIA is currently undertaking public consultation on online gambling. Submissions close on 30 September 2019. The information provided below is taken from this discussion document.
95. The only providers authorised to offer online gambling products in New Zealand are the Lotteries Commission (Lotto) and the Racing Industry Transition Agency (TAB).
96. The ban on operating online gambling does not stop New Zealanders from gambling online with operators based outside New Zealand (e.g. casino websites, sports betting applications). In the last 18 months, New Zealanders spent approximately \$381m million with offshore gambling providers. This is not illegal.
97. It can be difficult to predict the extent to which an increase in online gambling may result in an increase in problem gamblers and gambling-related harm. Overseas experience suggests there may be higher rates of gambling harm amongst online gamblers compared to offline gamblers. This was one of findings from a UK Government Review of Gambling in 2018.
98. We do know that several forms of online gambling are inherently addictive and often harmful. Several forms of online gambling, such as online pokies, can be described as “continuous” gambling which means any winnings can be immediately reinvested.
99. Overseas gambling websites do not contribute to or benefit New Zealand communities.

Problem Gambling Foundation

100. Committee Members requested additional information related to the Problem Gambling Foundation.
101. The Problem Gambling Foundation of New Zealand (trading as PGF Group, effective October 2018), is a Charitable Trust operating nationally. Services are delivered under contract to the Ministry of Health (MoH) and funded from the gambling levy.
102. They deliver treatment and public health services nationwide, including free counselling, advice and support to gamblers and their families.
103. In 2018 the PGF received \$4,835,858 in funding related to the MoH contract (funded by the gambling levy); and \$322,180 from other sources.
- Source: Problem Gambling Foundation of NZ – Report to Stakeholders 2018*

Club fees to players

104. Several submitters who presented to the Regulatory and Hearings Committee on 20 August 2019 stated a belief that they would need to raise fees charged to junior and senior players if Class 4 funding were to cease or reduce. Committee Members requested further information on this issue.
105. Assessing the need for a sporting organisation to raise its fees requires an analysis of financial information beyond that able to be undertaken in the time frame for this report. Such assessment would need to ascertain the:
- financial health of each club
 - relative ratio of different income categories in each club (for example: membership fees, sales, sponsorship and grants) ;

- relative ratio of different expenses in each club; and
 - composition of liabilities against total assets and the extent to which long-term borrowing (in the form of leases, loans and debentures) funds each organisation.
106. However, staff have provided an overview of the issues related to the setting of fees.
107. Sports NZ provides minimal guidance to clubs related to the setting of fees. In a template Fees Policy available for download, they suggest a club may set fees where the setting of fees is deemed essential to the future sustainability of the organisation; there is a specific need or intended application for the fees being set or the setting of fees is appropriately documented and in accordance with the organisation's constitution.
108. Sports NZ administrative guidance documents, available online, indicate that amateur sport is expensive to run: requiring good quality playing surfaces, coaching, equipment, well-maintained premises, and administration, to ensure that players' experiences are positive. They go on to suggest that members do not always appreciate the high costs of maintaining their sports facilities and may be unwilling to contribute to these costs.
109. A study in 2016 suggested that there is increased pressure for clubs to professionalise their administrative practice, and funding agencies, government departments and local councils are expecting a more formalised approach to governance from the groups they fund. The documentation and compliance reports required are making the job of a club committee volunteer much more difficult. This pressure is pushing clubs to move away from the historical 'kitchen table' approach to a more formalised professional approach of governance and management.
- Source: Simon Hill; Governance of small sports clubs in New Zealand: Existing structures, processes and potential models; Lincoln University; 2016*
110. Submitters' comments to the Regulatory and Hearings Committee on 20 August 2019 referred to the need to have professional equipment, marketing and uniforms to attract and retain players. For example, one submitter suggested sport is an entertainment, and clubs needed professional marketing, uniforms, better facilities, better services or they will get a drop off in participants; while another presenter suggested that without gambling funding they would struggle to operate at higher leagues, and that talented players would travel to Auckland clubs to play instead.
111. In general, it may be expected that any reduction in income may result in:
- i. additional fundraising activities identified
 - ii. a 'tightening of the belt', with clubs seeking efficiencies regarding activities, staff or equipment requirements
 - iii. a greater reliance on volunteers, as mentioned by Waikato Rugby in their written submission
 - iv. a reassessment of the level of quality expected from equipment
 - v. a reduction in the professionalism presented by the club
 - vi. some degree of consolidation among sporting clubs to achieve greater efficiency.
112. Staff note that sports fees are low in comparison to the fees charged for other junior level activities. For example, approximately \$75-\$85 for junior rugby or cricket per season as compared to \$165 for one term of children's art classes, or \$125 for a term of classical ballet.
113. In summary, staff find the setting fees is a complex issue. While a reduction in income may require clubs to increase fees, it is not as simple as fees increasing to cover the shortfall. Clubs have a range of mechanisms to utilise prior to increasing fees and are likely to take steps to reduce any fees increase to retain players.

Financial Considerations

- 114. The review of the Class 4 Gambling Venue Policy is a regular operating activity funded through the 2018-28 10-Year Plan.
- 115. The estimated cost of undertaking this review is \$13,000. This is comparable to previous reviews.

Legal and Policy Considerations

- 116. Staff confirm that the recommendation in this report complies with the Council's legal and policy requirements.

Wellbeing

- 117. The purpose of Local Government changed on the 14 May 2019 to include promotion of the social, economic, environmental and cultural wellbeing of communities in the present and for the future ('the 4 wellbeings').
- 118. The subject matter of this report has been evaluated in terms of the 4 wellbeings during the process of developing this report as outlined below. The recommendations set out in this report are consistent with that purpose.

Social Considerations

- 119. Social wellbeing is defined as the capacity of individuals, their families, whaanau, iwi, hapuu and a range of communities to set goals and achieve them.
- 120. The types of harms caused by Class 4 gambling include financial loss, relationship difficulties, distress, cultural harm, reduced performance and even crime. Problem gambling has been associated with major depressive disorder, and alcohol misuse and dependence. (New Zealand National Gambling Study Wave 4 (2015), AUT Gambling & Addictions Research Centre, 2018).
- 121. As discussed by some submitters, Class 4 gambling can have significant negative impact on the community and the social connections of problem gamblers. The adverse effects of gambling are widespread, contributing to family breakdown, criminal activity such as fraud, disruption to and loss of employment, social isolation, family violence and depression.
- 122. Problem gambling can lead to multiple forms of harm experienced by children under the care of those experiencing problems with gambling. Harm can include neglect; staying up late; losing sleep; missing school; being hungry; eating more take away or convenience foods, and potential vulnerability to abuse through lack of supervision.
- 123. Research suggests that it is not only the number of gaming machines or venues that impacts harm, but also factors such as the design of machines, and venues being designed to encourage solitary play, with minimal scrutiny partitioned away from the main space (in pubs and clubs) and with no tables to socialise in the area (Gambling Harm Reduction Needs Assessment, Sapere Research, 2018).
- 124. Class 4 gambling contributes to the funding of community groups, via grants schemes. The Gaming Machine Association of New Zealand submission states the total authorised purpose funding (including the non-published club authorised purpose payments) received from Hamilton-based venues is over \$10 million annually.
- 125. Staff advise that, for some individuals and communities, Class 4 gambling has a significant adverse impact on social wellbeing and the extent to which individuals feel a sense of belonging and social inclusion.

Economic Considerations

126. The burden of harm from problem gambling is mainly from financial problems, damage to health and relationships, emotional and psychological distress, and adverse effects on work and education (New Zealand National Gambling Study Wave 4 (2015), AUT Gambling & Addictions Research Centre, 2018).
127. The financial impacts of problem gambling contribute to child poverty and have an adverse impact on families at greater socio-economic risk.
128. From their submission, the Problem Gambling Foundation Group calculates that \$7,319,889.45 in gaming machine funding was returned directly to the Hamilton area between 1 January 2018 and 31 March 2019. The losses to gaming machines from Hamilton during this time is estimated at \$30,707,144.02, making the measurable return 23.8% of the spend.
129. Staff advise that Class 4 gambling has an adverse impact on the economic well-being of Hamilton, and the present and future financial security of some communities (particularly Maaori and Pacific communities); and a significant adverse impact on the financial security of some individuals and families.

Cultural Considerations

130. Maaori comprise around 20% of Hamilton's residents and it is estimated that 40% of those identifying as Maaori are from hapuu with close ties to the Hamilton area. Hamilton has one of the fastest-growing urban Maaori populations.
131. The Strategy to Prevent and Minimise Gambling Harm, released by the Government on 28 June 2019, states:

"... Māori and Pacific adults were more likely to develop problems from gambling (ie, to become a low-risk, moderate-risk or problem gambler) than European/other New Zealanders. Asian people also experienced a slightly higher risk. Importantly, while inequalities between population groups by age, social deprivation, gender and ethnicity have reduced in absolute terms, in relative terms, disparities in exposure to gambling and experience of gambling-related harm persist and have been relatively static over the past five years. Māori, Pacific peoples and Asian peoples are each more than twice as likely to experience moderate to severe gambling harm than the European/other population."
132. Information from the Problem Gambling Foundation indicates:
 - Maaori populations comprise 31% of problem gambling intervention service clients but make up only 15% of the population.
 - There has been a rise in the number of Maaori women seeking help for gambling problems. Maaori women seeking help for their gambling problems almost exclusively (85.6% in 2008) cite gaming machines as their problematic mode of gambling.
133. In the 2018 Health and Lifestyles survey, 7% of adults (268,000) reported experiencing at least one form of household-level gambling harm. Maaori respondents were most likely to be affected by household gambling harms.
134. In 2009 a study concerning gambling in Maaori communities ([The impact of gambling on Māori. Ngā Pae o te Māramatanga](#)) outlined how Maaori children are at risk if gambling is part of their young lives.
135. Organisations representing Maaori in Hamilton were given notice of the review process and their opportunity to provide feedback.

136. Staff advise that Class 4 gambling significantly and disproportionately impacts Maaori and Pacific communities. Greater consideration may need to be given to the impacts of Class 4 gambling on these communities compared to the general population in Hamilton. Culturally appropriate responses to this issue are advisable.

Environmental Considerations

137. The following Hamilton City Council Sustainability Principles are relevant to this issue:
- *Sustainability Principle 6:* Council works to improve the resource efficiency and health of homes, businesses and infrastructure in our city.
 - *Sustainability Principle 10:* Council works with its communities to minimise the production of waste and maximise opportunities to recycle.
138. Electricity used by Hamilton's gaming machines is roughly equivalent to 36-49 households.
139. New Zealand does not have an e-waste product stewardship scheme to manage the end-of-life electrical and electronic products.
140. It is unknown how end-of-life electronic gaming machines are disposed of.
141. Staff advise that Class 4 gaming machines have some environmental impact and it is likely the gaming machine industry could improve sustainability outcomes through improved energy efficiency and an industry product stewardship scheme for end-of-life gaming machines.

Risks

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

Significance & Engagement Policy

Significance

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

Engagement

144. There is a statutory requirement to consult.
145. Community views and preferences are already known to the Council through public consultation from 17 May 2019 to 17 June 2019.
146. The Council received 403 submissions, including:
- 27 submissions from individuals / householders
 - 65 submissions from a representative of a business, organisation or community group
 - 308 submissions provided via a template submission form of unknown origin
 - 3 did not provide information on representation.
147. Submitter support for the options was as follows:
- **Option A:** 93.8%
 - **Option B:** 5.7%
 - **Not Answered:** 0.5%.

Attachments

Attachment 1 - List of Class 4 Venues

Attachment 2 - Policies of Other Councils

Attachment 3 - Trust grants received by submitting organisations

Attachment 4 - Class 4 Gambling Venue Policy - Proposed Policy

Society Name	Venue Name	Venue Physical Address	Count of EGM
DRAGON COMMUNITY TRUST LIMITED	THE DINSDALE OFFICE	UNIT 40 DINSDALE SHOPPING CENTRE WHATAWHATA ROAD, HAMILTON CENTRA, HAMILTON 3204	18
FRANKTON RAILWAY BOWLING CLUB (INC)	FRANKTON RAILWAY BOWLING CLUB	51A RIFLE RANGE ROAD, FRANKTON, HAMILTON 3204	7
Glenview Club Incorporated	GLENVIEW CLUB	211-217 PEACOCKS ROAD, GLENVIEW, HAMILTON 2001	7
GRASSROOTS TRUST LIMITED	YARDHOUSE	GRANDVIEW MALL CORNER GRANDVIEW ROAD & HYDE AVENUE, NAWTON, HAMILTON 3200	18
GRASSROOTS TRUST LIMITED	Cook Street Social	7 COOK STREET, HAMILTON CENTRAL, HAMILTON 3204	9
GRASSROOTS TRUST LIMITED	5 CROSSROADS SPORTS BAR AND CAFE	5 CROSS ROADS SHOPPING CENTRE 236 PEACHGROVE ROAD, CLAUDELANDS, HAMILTON 3214	9
GRASSROOTS TRUST LIMITED	EASTSIDE TAVERN	CORNER COOK AND GREY STREETS, HAMILTON EAST, HAMILTON 3216	18
GRASSROOTS TRUST LIMITED	BAR 101	171 Victoria Street, HAMILTON CENTRAL, HAMILTON 3204	18
GRASSROOTS TRUST LIMITED	Hillcrest Haven	276 CAMBRIDGE ROAD, HILLCREST, HAMILTON 3216	18
GRASSROOTS TRUST LIMITED	THE RIV	CLYDE STREET SHOPPING CENTRE, HAMILTON CENTRAL, HAMILTON 3204	18
GRASSROOTS TRUST LIMITED	SMITH & MCKENZIE CHOPHOUSE	UNIT 1 13 LYNDEN COURT, CHARTWELL, HAMILTON 2001	18
GRASSROOTS TRUST LIMITED	The Local	36 BRYANT ROAD, TE RAPA, HAMILTON 3240	18
GRASSROOTS TRUST LIMITED	The Junction	165 COMMERCE STREET, FRANKTON, HAMILTON 3204	18
GRASSROOTS TRUST LIMITED	Lucky Finns	26-28 HOOD STREET, HAMILTON CENTRAL, HAMILTON 3204	18
GRASSROOTS TRUST LIMITED	Square Leg	38A Hood Street, HAMILTON CENTRAL, HAMILTON 3204	18
HAMILTON COMBINED RETURNED SERVICES CLUB INCORPORATED	HAMILTON COMBINED RETURNED SERVICES CLUB INCORPORATED	50 ROSTREVOR STREET, HAMILTON CENTRAL, HAMILTON 3204	18
HAMILTON COSMOPOLITAN CLUB	HAMILTON COSMOPOLITAN CLUB	CLAUDELANDS ROAD, CLAUDELANDS, HAMILTON 3214	15
HAMILTON WORKINGMENS CLUB	HAMILTON WORKINGMEN'S CLUB	20 KING STREET, HAMILTON CENTRAL, HAMILTON 3204	18
Masse Incorporated	Masse Hamilton	60-62 ROSTREVOR STREET, HAMILTON CENTRAL, HAMILTON 3204	18
New Zealand Community Trust	STILL WORKING	UNIT 12 13 LYNDEN COURT, CHARTWELL, HAMILTON 2001	9
Racing Industry Transition Agency	TAB TE RAPA	618 TE RAPA ROAD, HAMILTON CENTRAL, HAMILTON 3204	9
THE LION FOUNDATION (2008)	HILLCREST TAVERN	1 YORK STREET, CLAUDELANDS, HAMILTON 3214	18
THE LION FOUNDATION (2008)	DINSDALE TAVERN	140 WHATAWHATA ROAD DINSDALE, HAMILTON 2001	18
THE LION FOUNDATION (2008)	ALEWAYS HOTEL	40 HIGH STREET, FRANKTON, HAMILTON 3204	18
THE LION FOUNDATION (2008)	TE RAPA TAVERN	2 Mainstreet Place, TE RAPA, HAMILTON 3200	18
THE LION FOUNDATION (2008)	THE QUADRANT	391 Victoria Street, HAMILTON CENTRAL, HAMILTON 3204	12
TRILLIAN TRUST	THE COCK AND BULL (HAMILTON)	4 MAUI STREET, PUKETE, HAMILTON 2001	9
WAIKATO COMMERCE CLUB	WAIKATO COMMERCE CLUB	197 COLLINGWOOD STREET, HAMILTON CENTRAL, HAMILTON 3204	14

Source: List of venues Source: Department of Internal Affairs GMP Quarterly Dashboard June 2019

Council	New venues permitted	Cap on EGM numbers	Mergers permitted	Relocations permitted	Website
Ashburton District Council	Yes	Capped	Yes	Yes - restrictions	https://www.ashburtondc.govt.nz/SiteCollectionDocuments/Policies/Gambling%20Venue.pdf
Auckland Council	No	Capped	Yes - restrictions	No	https://www.aucklandcouncil.govt.nz/plans-projects-policies-reports-bylaws/our-policies/Documents/class-4-gambling-pokie-venue-policy.pdf
Buller District Council	Yes	Capped	Yes	Yes	http://bullerdc.govt.nz/wp-content/uploads/2013/07/Class-4-Gambling-and-TAB-Venue-Policy.pdf
Carterton District Council	No	Capped	Yes	Yes - restrictions	https://cdc.govt.nz/wp-content/uploads/2017/03/Gambling-Venues-Policy-revised-following-hearing.pdf
Central Hawke's Bay District Council	Yes	Capped	Yes	Yes	https://www.chbdc.govt.nz/assets/Document-Library/Policies/2.5-Class-4-Gambling-and-Board-Venue-Policy-20110623.pdf
Central Otago District Council	Yes	Capped	Yes - restrictions	Yes	https://www.codc.govt.nz/SiteCollectionDocuments/Policies/Regulatory/Class%204%20Gambling%20Venue%20and%20Board%20Venue%20Policy.pdf
Chatham Islands Council	Yes	Capped	N/A	N/A	https://www.cic.govt.nz/assets/CIC/Documents/Gambling-Venues-Policy-2020.pdf
Christchurch City Council	No	Capped	Yes	No	https://ccc.govt.nz/the-council/plans-strategies-policies-and-bylaws/policies/business-policies/gambling-and-tab-venues-policy
Clutha District Council	Capped	Capped	Yes - restrictions	N/A	https://www.cluthadc.govt.nz/publications/policies/Documents/GamblingVenues.pdf
Dunedin City Council	No	Capped	Yes - restrictions	Yes - restrictions	https://www.dunedin.govt.nz/_data/assets/pdf_file/0006/132756/FINAL-Adopted-Gambling-and-TAB-Venue-Policy-20-Mar-2018.pdf
Far North District Council	No	Capped	Yes	Yes	https://www.fndc.govt.nz/your-council/councils-bylaws/gaming-and-tab/Policy-3117-Class-4-Gaming-and-TAB-Venue-Policy-Sinking-Lid.pdf
Gisborne District Council	No	Capped	Yes	Yes - restrictions	http://www.gdc.govt.nz/gambling-venue/
Gore District Council	No	Capped	Yes	No - exceptions	http://www.goredc.govt.nz/assets/documents/policies/Class-4-Gambling-Policy-2016.pdf
Grey District Council	Capped	Capped	Yes - restrictions	Yes - restrictions	https://www.greydc.govt.nz/SiteCollectionDocuments/Our%20Council/Consultation/Class4GamingVenues/DraftClass4GamingVenuePolicyReview2018.pdf
Hastings District Council	Yes - restricted areas	Capped	Yes - restrictions	Yes - restrictions	https://www.hastingsdc.govt.nz/assets/Document-Library/Policies/Gambling-Strategy/Class-4-Gambling-Venue-Policy.pdf
Hauraki District Council	Yes	Capped	Yes	Yes - restrictions	https://www.hauraki-dc.govt.nz/assets/council_documents/Policies/GamblingRacingVenuePolicy2017.pdf
Horowhenua District Council	No	Capped	Yes	Yes - restrictions	https://www.horowhenua.govt.nz/Council/Local-Bylaws-Policies/Gambling-Class-4-Venue-Policy-2017
Hurunui District Council	Yes	Capped	N/A	N/A	https://www.hurunui.govt.nz/repository/libraries/id:23wyoavbi17q9ssstcd/hierarchy/Support_Services/Policies/Gambling/P20160602-Gambling.pdf

Hutt City Council	Capped + restrictions	Capped	Yes - restrictions	Yes - restrictions	http://portal.huttcity.govt.nz/Record/ReadOnly?Query=container:[uri:3677911]&Tab=31&Uri=4779275&Page=1
Invercargill City Council	No	Capped	Yes - restrictions	No - exceptions	https://icc.govt.nz/wp-content/uploads/2014/10/Class-4-Gambling-Venues-Policy.pdf
Kaikoura District Council	Yes	Capped	Yes	Yes	http://www.kaikoura.govt.nz/assets/Docs/Council/Publications/Policies/kaikoura-class-4-gambling-venue-policy-2013.pdf
Kaipara District Council	No	Capped	Yes - restrictions	Yes - restrictions	https://www.kaipara.govt.nz/uploads/documents/p/Class%204%20Gambling%20Venues%20Policy%20FINAL%2020122018.pdf
Kapiti Coast District Council	Capped	Capped	Yes - restrictions	Yes - restrictions	https://www.kapiticoast.govt.nz/media/34167/class-4-gambling-policy-2019-adopted-_.pdf
Kawerau District Council	No	Sinking cap	No	No	https://www.kaweraudc.govt.nz/sites/www.kaweraudc.govt.nz/files/documents/17.12.12_policy_-_gambling_venues_2017_28final29.pdf
Mackenzie District Council	Yes - restricted areas	Capped	N/A	Yes	http://www.mackenzie.govt.nz/Site/Documents_and_Policy/A-Z_of_Policies_and_Bylaws.aspx
Manawatu District Council	Yes - restricted areas	No	N/A	Yes	https://www.mdc.govt.nz/Services/Alcohol-Licensing/Gambling-Venues?BestBetMatch=gambling ab8081d3-bcb0-454e-85c7-ad98a040f549 9579e309-481d-436a-9608-9de7a412f807 en-AU
Marlborough District Council	Yes	Capped	Yes	Yes	https://www.marlborough.govt.nz/repository/libraries/id:1w1mps0ir17q9sgxanf9/hierarchy/Documents/Services/Class_4_Gambling_Venues_Racing_Board_Venues_Policy.pdf
Masterton District Council	No	Capped	Yes	Yes - restrictions	https://mstn.govt.nz/wp-content/uploads/2019/07/Wairapa-Class-4-Gambling-and-Standalone-TAB-Venues-Policy_Current.pdf
Matamata-Piako District Council	Yes - restricted areas	Capped	Yes	Yes - restrictions	https://www.mpdcc.govt.nz/?option=com_fileman&view=file&routed=1&name=Gambling_Venue_Policy_july2019.pdf&folder=CouncilDocuments%2FPolicies&container=fileman-files
Napier City Council	Capped	Capped	Yes	Yes - restrictions	https://www.napier.govt.nz/assets/Document-Library/Policies/Gambling-Venues-Policy-2017-WEB.pdf
Nelson City Council	Yes - restricted areas	Capped	N/A	N/A	http://www.nelson.govt.nz/assets/Our-council/Downloads/Plans-strategies-policies/2018/Gambling-Venue-Policy-2018.pdf
New Plymouth District Council	Yes	Sinking cap	Yes	Yes	https://www.newplymouthnz.com/-/media/NPDC/Documents/Council/Council%20Documents/Policies/New%20Plymouth%20District%20Class%204%20Gambling%20Venues%20Policy.ashx?la=en&hash=25FFFAA3B5BAF6CEB821510272BFE444668E5ED
Opotiki District Council	No	Capped	No	No - exceptions	https://www.odc.govt.nz/SiteCollectionDocuments/OUR%20COUNCIL/Policies%20Plans%20Bylaws/Policies/Class%204%20Gambling%20Venue%20Policy%202018.pdf
Otorohanga District Council	No	Sinking cap	Yes	Yes	http://www.otodc.govt.nz/assets/Uploads/Bylaws/Class-4-Gambling-Venue-Policy-2010-002.pdf

Palmerston North City Council	Yes - restricted areas	Capped	N/A	Yes	https://www.pncc.govt.nz/media/3129991/gambling-venue-policy-2017.pdf
Porirua City Council	Yes - restricted areas	Capped	N/A	Yes	https://porirua.govt.nz/your-council/policies-and-bylaws/policies/
Queenstown-Lakes District Council	Yes	Capped	N/A	Yes	https://www.qldc.govt.nz/services/permits/gaming/
Rangitikei District Council	Yes	Sinking cap	N/A	N/A	https://www.rangitikei.govt.nz/files/general/Policies/Gambling-venue-Class-4-policy.pdf#entry:5689
Rotorua District Council	Yes - restricted areas	Capped	Yes	Yes - restrictions	https://www.rotorualakescouncil.nz/our-council/PoliciesandBylaws/Policies/Documents/9_2-Class-IV-Gambling-and-Board-Venue-Policy.pdf
Ruapehu District Council	Yes - restricted areas	Capped	Yes - restrictions	Yes	https://www.ruapehudc.govt.nz/SiteCollectionDocuments/Policies%20and%20Bylaws/Policies/Class%204%20Venue/Class%204%20(Gambling)%20Venues%20Policy%20-%20Final%20Doc%202015.pdf
Selwyn District Council	Yes	Capped	N/A	Yes	Selwyn District Council emailed copy
South Taranaki District Council	Yes	Capped	Yes - restrictions	Yes	https://www.southtaranaki.com/uploaded_files/Bylaws-plans-policies-and-strategies/Policies/Class%204%20Gambling%20Venues%20Policy%20-%202016%20-%20pdf.pdf
South Waikato District Council	No	Capped	Yes - restrictions	Yes - restrictions	https://www.southwaikato.govt.nz/repository/libraries/id:24rtvarkd17q9s3wxfn/hierarchy/our-council/strategies-plans-policies-bylaws/policies/documents/Gambling%20Class%204%20and%20Racing%20Board%20Venue%20Policy.pdf
South Wairarapa District Council	No	Capped	Yes	Yes - restrictions	https://cdc.govt.nz/wp-content/uploads/2017/03/Gambling-Venues-Policy-revised-following-hearing.pdf
Southland District Council	No	Capped	Yes - restrictions	Yes - restrictions	https://www.southlanddc.govt.nz/assets/bylawspolicies/Final-Gambling-Venue-Policy-Adopted-21-August-2019.pdf
Stratford District Council	Yes	Capped	Yes - restrictions	Yes - restrictions	https://www.stratford.govt.nz/images/Policies/Policy_-_Gambling_Venues_-_June_2019.pdf
Taranui District Council	No	Capped	N/A	Yes - restrictions	https://www.taranuadc.govt.nz/Publications/Policies-Bylaws?BestBetMatch=policies b57590bc-71c5-46b0-b6e0-a1fd7f893158 1f15d3b3-e086-4c04-90c8-0f0ad4cae40e en-AU
Tasman District Council	Yes	Capped	N/A	N/A	https://www.tasman.govt.nz/my-council/key-documents/more/bylaws-and-regulations/gambling-venue-policy/
Taupo District Council	Yes - restricted areas	Capped	N/A	Yes - restrictions	https://www.taupodc.govt.nz/repository/libraries/id:25026fn3317q9slqygym/hierarchy/our-council/policies-plans-and-bylaws/policies/documents/Class%204%20Gambling%20and%20TAB%20Venue%20Policy%202017.pdf

Tauranga City Council	Yes - restricted areas	Capped	Yes	Yes	https://www.tauranga.govt.nz/Portals/0/data/council/policies/files/gamblingvenue_policy.pdf
Thames-Coromandel District Council	No	Capped	Yes	Yes	https://www.tdcd.govt.nz/Your-Council/Documents-incl-Bylaws-Policies-and-Strategies/Gambling-Policy/
Timaru District Council	Yes - restricted areas	Capped	N/A	N/A	https://www.timaru.govt.nz/council/publications/policies/class-4-gambling-venue-and-board-venue-policy
Upper Hutt City Council	Yes	Capped	Yes	Yes	https://www.upperhuttcity.com/Your-Council/Plans-policies-bylaws-and-reports/Policies-and-bylaws/Manual-of-Policies
Waikato District Council	Yes	Capped	Yes - restrictions	Yes - restrictions	https://wcdsitemfinity.blob.core.windows.net/sitefinity-storage/docs/default-source/your-council/plans-policies-and-bylaws/policies/gambling-venues-policy_b1601627-390b-40b0-8090-32168fa00eb5.pdf?sfvrsn=9bc8b9c9_6
Waimakariri District Council	Yes	Capped	N/A	N/A	https://www.waimakariri.govt.nz/_data/assets/pdf_file/0026/28448/S-CP-1851-Gambling-Venue-Policy.pdf
Waimate District Council	Yes - restricted areas	Capped	Yes	N/A	https://www.waimatedc.govt.nz/repository/libraries/id:21r92ideo17q9sg7je9s/hierarchy/Documents/Council/Publications/Policies%20-%20General/Gambling%20Venue%20Policy.pdf
Waipa District Council	Yes - restricted areas	Capped	N/A	Yes - restrictions	https://www.waipadc.govt.nz/our-council/Bylawsandpolicies/Policies/Documents/Class%204%20Gambling%20Venue%20Policy.PDF
Wairoa District Council	No	Capped	Yes - restrictions	Yes - restrictions	https://www.wairoadc.govt.nz/assets/Document-Library/Policies/Class-4-Gaming-Venue-Policy.pdf
Waitaki District Council	Yes - restricted areas	Capped	Yes - restrictions	Yes - restrictions	https://www.waitaki.govt.nz/our-council/policies-and-bylaws/policies/Documents/Class%204%20Gambling%20Venues%20Policy.pdf
Waitomo District Council	Yes - restricted areas	Capped	Yes - restrictions	Yes - restrictions	http://www.waitomo.govt.nz/Documents/Documents/Publications%20and%20Forms/Policy/Policy%20on%20Gambling%20Venues%202017%20(A359506).pdf
Wellington City Council	Yes - restricted areas	Capped	N/A	Yes - restrictions	https://wellington.govt.nz/~media/your-council/plans-policies-and-bylaws/plans-and-policies/a-to-z/gamblingvenues/files/gambling-venues-policy-2015.pdf?la=en
Western Bay of Plenty District Council	No	Capped	No	No	https://www.westernbay.govt.nz/repository/libraries/id:25p4fe6mo17q9stw0v5w/hierarchy/rules-regulations-licenses/bylaws-and-policies/documents/Class%204%20Gambling%20Venue%20Policy%202019
Westland District Council	No	Capped	N/A	Yes - restrictions	https://www.westlanddc.govt.nz/sites/default/files/Class%204%20GAMBLING%20VENUE%20POLICY%202018.pdf
Whakatane District Council	Yes	Capped	Yes - restrictions	Yes - restrictions	https://www.whakatane.govt.nz/sites/www.whakatane.govt.nz/files/documents/contact-us/have-your-say/Draft%20Gambling%20Policy%20%28Class%204%20Venue%20and%20Board%20Venue%29%202019.pdf

Whanganui District Council	No	Capped	Yes - restrictions	Yes - restrictions	https://www.whanganui.govt.nz/our-council/publications/policies/Documents/Gambling%20Venue%20Policy%202018%20FINAL%201.pdf
Whangarei District Council	Capped	Capped	Yes - restrictions	N/A	http://www.wdc.govt.nz/PlansPoliciesandBylaws/Policies/Documents/Class-4-Gambling-Venue-Policy-April-2013.pdf

Source: Staff viewed the policies held by other Councils as available on their Council websites. Staff note that several Councils were in the process of reviewing their policies and proposing no relocations or mergers, or relocations and mergers with strict conditions or exception based. However this list is based on the current policies.

Class 4 grants funding received by submitting organisations between the period 1 April 2018 to 31 March 2019.

Submitting Organisation	Grassroots Trust	NZCT	Lion Foundation	Dragon Community Trust	Trillian Trust	Total	# Grants
Ace Swimming Club Incorporated	\$50,000.00					\$50,000.00	2
Balloons Over Waikato Trust	\$80,000	\$5,000	\$10,000			\$95,000.00	4
Dynamo Cycling & Sports Club Incorporated	\$192,964	\$2,500				\$195,464.13	11
Eastlink Tennis Trust Incorporated	\$34,750	\$17,900	\$20,000	\$10,000		\$82,650.00	6
Frankton Rugby Sports Club Incorporated	\$8,030					\$8,030.00	1
Fraser Tech Netball Club Incorporated	\$17,158					\$17,157.67	2
Fraser-Tech Rugby Football Club Incorporated	\$44,906					\$44,905.74	3
Hamilton City Netball Centre Incorporated	\$43,662	\$5,000				\$48,662.00	2
Hamilton Cricket Association Incorporated	\$20,865	\$35,000				\$55,865.22	2
Hamilton Gardens Summer Festival Foundation	\$90,920	\$10,000				\$100,920.00	4
Hamilton Old Boys Rugby and Sports Club Inc	\$72,061	\$8,798	\$45,000			\$125,858.77	10
Hillcrest Amateur Swimming Club Incorporated	\$9,000		\$7,000			\$16,000.00	3
Hillcrest United Football Club Incorporated	\$8,000	\$2,000				\$10,000.00	2
Horsham Downs Golf Club Incorporated	\$7,000		\$15,000			\$22,000.00	2
Make A Wish Foundation of New Zealand Trust				\$14,000		\$14,000.00	9
Melville Cricket Club Incorporated	\$5,000	\$4,400	\$8,000			\$17,400.00	3
Melville Rugby & Sports Club Incorporated	\$43,806		\$7,500			\$51,305.50	3
Midlands Hockey Incorporated	\$100,913					\$100,913.34	2
Netball Waikato Bay of Plenty Zone Inc		\$250,000	\$50,000			\$300,000.00	2
New Zealand Harlequin Rugby Football Club Inc	\$10,807					\$10,806.61	2
Northern Districts Cricket Assn Inc		\$125,000	\$30,000			\$155,000.00	2
Perry Outdoor Education Trust Limited	\$33,667		\$60,000			\$93,666.67	3
Punjabi Knights Sports and Cultural Club Inc	\$39,503				\$14,612	\$54,114.56	2
Sport Waikato	\$59,000		\$32,173			\$91,173.00	2
StarJam Charitable Trust	\$10,000					\$10,000.00	2
Swim Waikato Incorporated	\$25,000	\$15,000	\$50,000			\$90,000.00	3
Te Rapa Rugby Club Incorporated	\$2,021		\$20,000			\$22,021.24	2
Te Tamawai Trust	\$17,000					\$17,000.00	1
Touch New Zealand Incorporate				\$1,000		\$1,000.00	1
True Colours Children's Health Trust	\$53,177		\$13,500	\$1,000		\$67,676.77	5
University of Waikato Sport	\$30,000	\$4,450				\$34,450.00	5

Waikato Badminton Assn Inc		\$20,000	\$5,000			\$25,000.00	3
Waikato Golf Association Incorporated	\$34,570		\$30,000			\$64,570.00	3
Waikato Rugby Union Incorporated	\$1,681,742		\$40,000			\$1,721,741.93	23
Waikato Touch Assn Inc			\$8,000			\$8,000.00	1
Wanderers Sports Club (Hamilton) Inc	\$237,055				\$3,235	\$240,289.57	7
						\$4,062,642.72	140

<i>First adopted:</i>	8 March 2004
Revision dates/version:	September 2019 / Revision 9
Next review date:	September 2022
Engagement required:	SCP
Document number:	
Associated documents:	Gambling Act 2003
Sponsor/Group:	City Growth

CLASS 4 GAMBLING VENUE POLICY

Purpose and Scope

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

Definitions

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

Policy

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

Monitoring and implementation

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

Council Report

Committee: Council **Date:** 17 September 2019
Author: Lance Vervoort **Authoriser:** Lance Vervoort
Position: General Manager Community **Position:** General Manager Community
Report Name: City to City Relationship Agreement with Ieper

Report Status	<i>Open</i>
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Purpose

1. To seek the Council's approval for the Mayor to sign the updated City to City Relationship Agreement with the City of Ieper.

Staff Recommendation

2. That the Council:
 - a) receives the report;
 - b) approves the updated City to City Relationship Agreement with the City of Ieper; and
 - c) requests the Mayor sign the updated agreement.

Executive Summary

3. The cities of Hamilton and Ieper have shared a unique and very closely aligned relationship with each other since 2007, founded through mutual respect and recognition emanating from historic events dating back to World War One.
4. This relationship has strengthened over time through various visits and initiatives both in Hamilton and Ieper, as well as the signing of a Memorandum of Understanding (MoU) in 2013.
5. Discussions during a visit by Hamilton City Council representatives to Ieper in July 2018 identified it would be an appropriate time to update the agreement between the two cities from an MoU to a City to City Relationship Agreement.
6. Staff recommend that the Council approves the updated agreement as detailed in paragraph 26 below.
7. Staff consider the matters in this report have low significance and that the recommendations comply with the Council's legal requirements and relevant policies.

Background

8. Ieper is home to the "Menin Gate Memorial to the Missing" which bears the names of around 54,896 missing British and Commonwealth soldiers who fell during World War One in the Ieper area but have no known grave. Many New Zealand soldiers fought and fell in and around Ieper, particularly during the Battle of Messines and at this battle New Zealand losses were greater than any other battle fought before or after this time.

9. The Menin Gate Memorial is the site for the nightly Menin Gate Ceremony that has been performed every night since 1928, except for a brief time during World War Two when Ieper was under German occupation.
10. Every night at 8pm the road is closed and buglers gather with Ieper locals and many visitors under the Menin Gate to play 'The Last Post'. Residents and the Commonwealth War Graves Commission staff also regularly tend to the graves of New Zealand and other British Empire soldiers to ensure they are immaculately maintained and cared for.
11. Ieper location, the city is also known as Ypres.



12. On ANZAC day 2006 former Councillor Peter Bos saw a TV programme on Ieper and Flanders Field, and he made contact with the then Mayor of Ieper, Luc Dehaene, to see if a relationship between Ieper and Hamilton could be built. He then found sponsorship to recreate the Menin Gate at Memorial Park, Hamilton in 2007
13. Since then a number of visits and initiatives to strengthen ties between the two cities have occurred.
14. In 2007 Mr Dehaene, along with three other delegates from Ieper – Chairman of the Last Post Association, Benoit Mottrie, and two buglers from The Last Post Association, Raf Decombel and Rick Vandekerckhove – visited Hamilton and recreated the Menin Gate Memorial during the city's ANZAC Day ceremony, marking the 90th anniversary of the Battle of Passchendaele.
15. In 2008 Councillor Bos visited Ieper as he continued to develop the relationships with both the Last Post Association and the City of Ieper. In 2012 Cr Peter Bos was made the first Honorary Board Member of The Last Post Association.
16. On the 9th February 2009 Hamilton Mayor Bob Simcock gave an Honorary Citizenship to the Mayor of Ieper in recognition for the Belgium city's ongoing generosity in caring for and remembering the large number of New Zealanders who fell in the battles around Ieper in World War One.
17. In 2010 the Mayor of Ieper and the Ieper office of the War Graves Commission presented to HCC a granite headstone which was then placed in Memorial Park. The presentation was made on Anzac Day. In December 2010 Chairman of The Last Post Association, Benoit Mottrie made his second visit to Hamilton and visited the council, exchanging city gifts with Mayor Hardaker.
18. The Mayor of Ieper visited Hamilton again in 2011 and was followed by a visit from Deputy Mayor Frans Lignel and bugler Raf Decombel in 2012 who attended both the dawn and civic Anzac Day ceremonies in Memorial Park. This visit included a meeting with the Maaori King.
19. The special relationship between Hamilton City and the City of Ieper was formally recognised in 2013 with the signing of a Memorandum of Understanding by Mayor Luc Dehaene and

Item 14

Mayor Julie Hardaker (attached). At the same ceremony the position of Chairman of The Last Post Association was given Honorary Citizenship of the City of Hamilton.

20. In 2014 a Trust, led by former Councillor Peter Bos, was established to raise funds to build a suitable memorial to be located in Memorial Park. The Ieper Memorial Garden (stage 1) was completed and unveiled by Mayor Hardaker, Dr Lisbeth Jacobs (Belgian Honorary Consul) and Peter Bos on 24 April 2015.
21. In 2017 stage 2 of the Garden was completed and unveiled by Mayor Andrew King, Willie Apiata VC, Peter Bos and the Hon. David Bennett on Armistice Day. The second stage includes a dedication to Ieper and musical notes to The Last Post.
22. In July 2018 Mayor Andrew King and Deputy Chief Executive, Lance Vervoort, visited Ieper and were hosted by Jan Durez, the Mayor of Ieper, staff of the City of Ieper and former Mayor Luc Dehaene. During the visit they attended the 90th Anniversary celebrations of The Last Post Association and the opening of Hamilton Park which is located on the ramparts and moat section of Ieper City. This park commemorates the special relationship between the two cities and features New Zealand native plantings.
23. Below, Hamilton Park in Ieper





Discussion

24. Prior to the 2018 visit to Ieper and as a consequence of the ongoing strengthening of the ties between the two cities staff reported to council that it was an appropriate time to review the 2013 MoU with Ieper with a view to possibly updating this. A resolution was passed at the April 2018 Council meeting that delegates authorisation for the Mayor to upgrade the current Memorandum of Understanding with Ieper to a Sister City Memorandum of Understanding if he reasonably believes it is beneficial to the city.
25. Discussions have been held with the City of Ieper during and since the 2018 visit, noting that the City of Ieper had a change of Mayor and some Aldermen (Councillors) earlier this year after their local government elections. A review of the MoU and the formulation of some minor adjustments to this has been completed by staff at both Council's.
26. Proposed changes to the MoU are as follows:
 - i. Lifting the status of the relationship to that of a sister city relationship (although Ieper did not want to use this actual wording). Therefore the MoU becomes a City to City Relationship Agreement.
 - ii. Updating and reflecting the history of events and recent relationship forging initiatives in the Agreement.
 - iii. Addition of how the relationship is acknowledged at Armistice Day and other military commemorations held in Hamilton (not just at Anzac Day commemorations).
 - iv. Removal of the requirement for each city to always provide a civic reception for official visits from the sister city. (Giving flexibility and ensuring prudence in keeping associated costs low).
 - v. Addition of what type of visits might be encouraged between the two cities (inclusion of cultural/museum, social, commemoration and education visits to civic and business visits).
 - vi. Management of the relationship is the responsibility of each city's Office of the Mayor. This avoids ambiguity.
27. The draft City to City Relationship Agreement is attached.
28. The City of Ieper approved the draft agreement on 1 July 2019 and have sent a signed copy to HCC for consideration.

Options

29. Staff have assessed that there are two reasonable and viable options for the Council to consider – to approve and sign the new agreement or not to sign the new agreement and let the current MoU remain.
30. Signing the new document would acknowledge the further enhancement of the relationship between the two cities and allow the minor tidy-ups to take effect. It would signal to the City of Ieper the high level of regard Hamilton has for the special historical ties that exist between the two cities and the desire to further develop these.
31. Not signing the new agreement may signal to the City of Ieper that Hamilton may not have the same level of desire as them to further enhance the relationship between the two cities.
32. Staff recommend that the Council approves the signing of the updated agreement as it will further enhance the relationship between the two cities and will ensure that this endures.

Financial Considerations

33. There are only minor costs, mainly staff time, associated with this ongoing relationship between the two cities. Costs related to visits have often been paid for by the Hamilton Ieper Trust and personally by those involved.
34. Any capital projects that have been completed in the past were approved projects in the 10 Year Plan and have also attracted external funding, thanks to the efforts of the Hamilton Ieper Trust.
35. Any possible capital projects in the future would be considered by Council via the LTP or Annual Plan process.

Legal and Policy Considerations

36. There are no legal matters to consider in relation to this report.
37. The proposed agreement is consistent with the International Relations Policy that enables the Council to enter into City to City Relationship Agreements.

Wellbeing Considerations

38. The purpose of Local Government changed on the 14 May 2019 to include promotion of the social, economic, environmental and cultural wellbeing of communities in the present and for the future ('the 4 wellbeings').
39. The subject matter of this report has been evaluated in terms of the 4 wellbeings during the process of developing this report as outlined below.
40. The recommendations set out in this report are consistent with that purpose.

Social

41. The proposed agreement enhances understanding and acknowledgement of a significant, influential event that changed New Zealand and Waikato society a hundred years ago and which many people have an affinity with through descendants who were involved in the World War One battles on the Western Front.

Economic

42. The agreement provides for the facilitation of business visits and promotion of tourism.

Environmental

43. This matter does not contribute anything to environmental wellbeing.

Cultural

44. The agreement provides for collaboration between cultural and educational institutes; and is a vehicle for providing awareness about a significant event in our history.

Risks

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

Significance and Engagement**Significance**

46. 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

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

Attachments

Attachment 1 - Memorandum of Understanding City To City Relationship (Ieper) - 2013-02-05

Attachment 2 - 2019 Proposed City to City Relationship Agreement



Memorandum of Understanding City to City Relationship

Parties

1. City of Hamilton, New Zealand
2. City of leper, Belgium

Purpose

1. The cities of Hamilton, New Zealand and leper, Belgium have been in a friendship relationship since 2007, formed from a unique and very close relationship founded through historic events dating back to the First World War.
2. On 27 September 2012 the Hamilton City Council resolved to enter into a formal relationship with leper.
3. The Parties now wish to formalize their relationship with this Memorandum of Understanding.
4. This Memorandum of Understanding sets out the scope of cooperation between Hamilton and leper and provides opportunities to build this city to city relationship.

Background

1. Ieper is a Belgian municipality located in the Flemish province of West Flanders with a population of around 35,000 residents. Hamilton is a city in the North Island of New Zealand with a population of 145,000.
2. Ieper is home to the Menin Gate Memorial to the Missing, which bears the names of around 54,896 missing British and Commonwealth soldiers who fell during World War One. Many New Zealand soldiers fought and fell in and around Ieper, particularly during the Battle of Messines, and at this battle New Zealand losses were greater than any other battle fought before or after this time.
3. Every night buglers gather with Ieper locals and visitors under the Menin Gate to play The Last Post. Residents also regularly tend to the graves of New Zealanders to ensure they are immaculately maintained and cared for.
4. Since 2007 Ieper and Hamilton have shared a unique and very closely aligned relationship emanating from historic events dating back to the First World War.
 - a. Official visits have been exchanged between Ieper and Hamilton.
 - b. In February 2009, the Burgemeester of Ieper was granted Honorary Citizenship of Hamilton.
 - c. The Chairman of the Last Post Association has visited Hamilton on two occasions and on ANZAC 2012, a bugler from the Last Post Association played at Hamilton's ANZAC Day ceremony.
 - d. Hamilton has officially acknowledged Ieper for the city's ongoing generosity in caring for and remembering the large number of New Zealanders who fell in the battles around Ieper in World War One.

5. Both cities have continued to foster their relationship and wish to formalize this relationship with a Memorandum of Understanding.

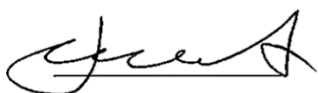
Agreement

1. The parties agree to continue building international cooperation at the municipal level, promoting cultural understanding and fostering education of our shared history.
2. Hamilton and Ieper agree to:
 - a. Support and encourage visits by the citizens of both cities;
 - b. Establish organizational affiliations (such as the museums and schools) of both cities;
 - c. Promote cultural exchanges in the fields of history and education;
 - d. Develop a mutual understanding of the citizens of both cities by exchanging information;
 - e. The position of Mayor of Ieper (Burgemeester) is an Honorary Citizenship of Hamilton;
 - f. The position of Chairperson of Last Post Association is an Honorary Citizenship of Hamilton;
 - g. Acknowledge the relationship at Hamilton Civic Anzac day celebrations held on 25 April each year;
 - h. Encourage official visits between representatives from each city. The representatives include, but are not limited to, civic, church, business, school and government officials. The host city will receive official visitors with an appropriate civic reception.
3. Each city will publicly acknowledge this city to city relationship by including reference to it on websites or official international relationships publications.

4. The success of this relationship will be the responsibility of the city council's of each city with the support of the citizens of Hamilton and leper.

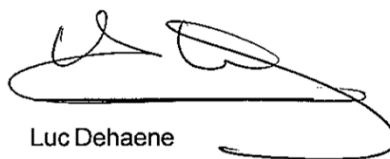
Signatures

1. This Memorandum of Understanding comes into force on 1 January 2013.
2. This Memorandum of Understand is signed by the Mayors of Hamilton and leper on behalf of their respective cities.



Julie M Hardaker
Mayor of Hamilton
New Zealand

Date: 5 February 2013



Luc Dehaene
Burgemeester of leper
Belgium

Date: 05/02/2013

Witnesses:



Name
Peter Bos -
Date: 5/2/2013



Name: Frans Lignel,
Voorzitter IFFM

Date:



Agreement to Establish a City to City Relationship

Parties

1. City of Hamilton, New Zealand
2. City of Ieper, Belgium

Purpose

1. The cities of Hamilton, New Zealand and Ieper, Belgium have been in a friendship relationship since 2007, formed from a unique and very close relationship founded through historic events dating back to the First World War.
2. On 27 September 2012 the Hamilton City Council resolved to enter into a formal relationship with Ieper.
3. The Parties formalized their relationship with a Memorandum of Understanding on the 5th of February 2013
4. The Parties now wish to enter into a City to City Relationship. The Ieper City Council granted approval of the Agreement on the 1st of July 2019. The Hamilton City Council granted approval on the 17th of September 2019.
5. This Agreement sets out the scope of cooperation between Hamilton and Ieper and provides opportunities to grow the Sister city relationship.

Background

1. Ieper is a Belgian municipality located in the Flemish province of West Flanders with a population of around 35,000 residents. Hamilton is a city in the North Island of New Zealand with a population of 170,000.
2. Ieper is home to the Menin Gate Memorial to the Missing, which bears the names of around 54,896 missing British and Commonwealth soldiers who fell during World War One. Many New Zealand soldiers fought and fell in and around Ieper, particularly during the Battle of Messines, and at this battle New Zealand losses were greater than any other battle fought before or after this time.
3. Every night buglers gather with Ieper locals and visitors under the Menin Gate to play The Last Post. Residents also regularly tend to the graves of New Zealanders to ensure they are immaculately maintained and cared for.
4. Since 2007 Ieper and Hamilton have shared a unique and very closely aligned relationship emanating from historic events dating back to the First World War.
 - a. Official visits have been exchanged between Ieper and Hamilton.
 - b. In February 2009, the Burgemeester of Ieper was granted Honorary Citizenship of Hamilton.
 - c. The Chairman of the Last Post Association has visited Hamilton on two occasions and on ANZAC 2012, a bugler from the Last Post Association played at Hamilton's ANZAC Day ceremony.
 - d. Hamilton has officially acknowledged Ieper for the city's ongoing generosity in caring for and remembering the large number of New Zealanders who fell in the battles around Ieper in World War One.
 - e. Hamilton has established the Ieper memorial garden which was opened

Page 2 of 4

in 2015 in Hamilton's memorial park.

- f. In July 2018 the Hamilton Garden was inaugurated in Ieper.
5. Both cities have continued to foster the city to city relationship and wish to promote this relationship further by a formal agreement.

Agreement

1. The parties agree to continue building international cooperation at the municipal level, promoting cultural understanding and exchanges in various fields, as well as fostering education of our shared history.
2. Hamilton and Ieper agree to:
 - a. Support and encourage visits by the citizens of both cities;
 - b. Establish organizational affiliations (such as the museums and schools) of both cities;
 - c. Promote cultural exchanges in the fields of history and education;
 - d. Develop a mutual understanding of the citizens of both cities by exchanging information;
 - e. The position of Mayor of Ieper (Burgemeester) has an Honorary Citizenship of Hamilton;
 - f. The position of Chairperson of Last Post Association has Honorary Citizenship of Hamilton;
 - g. Acknowledge the relationship at Hamilton's Civic Anzac day celebrations held on 25 April each year, Armistice day, and any other appropriate military commemorations held in the City.
 - h. Encourage visits between representatives from each city. These could be in the following fields, but not limited to, civic, business, culture/museums, social, commemoration, education.
3. Each city will publicly acknowledge this city to city relationship by including reference to it on websites or official international relationships publications.

4. The success of this relationship will be the responsibility of the city councils of each city with the support of the citizens of Hamilton and Ieper.
5. The management of the relationship will be the responsibility of the Office of the Mayor of Hamilton and the Office of the Burgemeester of Ieper with the support of the relevant staff.

Signatures

1. This City to City Relationship comes into force at the time of signing.
2. This Agreement is signed by the Mayors of Hamilton and Ieper on behalf of their respective cities.

 Andrew King
 Mayor of Hamilton, New Zealand

Date:

Witnesses:

Date:

 Emmily Talpe
 Burgemeester van Ieper, België

Date:

 Stefan Depraetere
 Chief Executive Stad Ieper

Date:

Council Report

Committee: Council **Date:** 17 September 2019

Author: Greg Carstens **Authoriser:** Jen Baird

Position: Growth Funding & Analytics Unit Manager **Position:** General Manager City Growth

Report Name: An Analysis of Council's Resilience to Higher or Lower growth

Report Status	<i>Open</i>
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Purpose

1. To inform the Council of the potential effect of higher or lower growth, than was forecast in the 2018-28 10-Year Plan, might have on the Council and Hamiltonians. As well as to test and evaluate the Council's resilience under each of these scenarios.

Staff Recommendation

2. That the Council:
 - a) receives the report; and
 - b) notes that an abridged version of this report will be prepared and approved by the Chief Executive for distribution.

Executive Summary

3. The Chief Executive has directed staff to deliver a report addressing the effect that higher or lower growth levels might have on the Council and Hamiltonians.
4. Three growth scenarios (high, low, and boom/bust) have been tested and evaluated against the current 10-Year Plan forecasts using growth and financial modelling, while keeping all other inputs fixed.
5. Impacts of the growth scenarios have been assessed over the medium term.
6. The capital programming decisions by the Council have long term implications for the city and transcend economic cycles so changes based on short-medium term economic changes should be approached with care.
7. This analysis provides evidence that:
 - Council is resilient to external growth shocks, particularly from a financial perspective.
 - Council is broadly and strongly buffered from the financial impacts of high or low growth because its revenue base is secure.
 - effects of high or low growth are experienced over multiple 10-Year Plan cycles, which gives Council the opportunity to plan and respond in a timely and effective way through its long-term planning process, including the benefits of comprehensive consultation with the public.
 - responding through 10-Year Plan processes, rather than during each plan's 3-year cycle, has other benefits including lower costs, integrated infrastructure planning, greater certainty for the community, and a more productive use of staff time and consultants' resources.

- the city's ongoing land capacity for new growth over the 10-Year Plan and beyond will be more than sufficient to cater for demand for developable land, even under a high growth scenario.

8. Summary findings under each scenario were:

Scenario	Upside/Benefits	Downside/Detriments
High growth	<ul style="list-style-type: none"> More people in the city – vibrancy, opportunity, options Positive impact on “Balancing the Books” Lower net debt Higher Development Contribution revenue No modelled breach of Council's debt to revenue limit Sufficient land capacity for new growth 	<ul style="list-style-type: none"> Will lead to a requirement for increased levels of infrastructure investment Questions arise as to whether the construction industry can support all the growth Upward pressure on house and rental prices Possible lack of employment opportunities to meet a growing population Possible increased congestion on key networks, such as arterial roads
Low growth	<ul style="list-style-type: none"> Reduced pressure on house and rental prices Reduced congestion pressures Reduced growth capex needs over the short to medium term Satisfies those Hamiltonians whose preference is for status quo and a lower investment in growth 	<ul style="list-style-type: none"> “Balancing the Books” deteriorates compared to forecasts Higher net debt Sunk costs in infrastructure not being utilised Lower DC revenue Higher interest costs
Boom/bust	<ul style="list-style-type: none"> Under this volatile scenario there are not many benefits, but ultimate recovery means the city will return to prosperous times, but not for several years Reduced pressure on house and rental prices Reduced congestion pressures Reduced growth capex needs over the short to medium term 	<ul style="list-style-type: none"> Lost jobs, investment contraction, uncertainty Lower growth revenue for Council earlier in the period, leading to deteriorated financial indicators

- None of the scenarios modelled breach the Council's self-imposed 230% net debt to revenue ratio.
- The analysis in this report focuses on residential dwelling growth because it represents the largest share of city growth. Non-residential growth is assumed to follow the same broad pattern as residential - a reasonable assumption given long-term historic trends.
- Modelling in this report was done in a way that would allow for broad conclusions to be drawn across a highly complex environment and is not intended for financial reporting purposes.
- 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

- The Chief Executive has directed staff to deliver a report addressing the effect that higher or lower than anticipated growth might have on Council and Hamiltonians.

14. A growth scenario exercise was undertaken as part of the 2018-28 10-Year Plan (10-Year Plan). A summary of this can be found in the Significant Forecasting Assumptions section.
15. The 10-Year Plan broadly said that should growth be lower than forecast, forecasted revenue from rates, building consents, resource consents and development contributions may not be met. It then says that if growth is higher than forecast, revenue would be higher than forecasted.
16. It concluded that in these circumstances the Council would need to consider the speed and timing of the capital programme to meet financial strategy requirements and to maintain the housing supply.

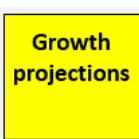
Discussion

Local authority planning cycles

17. In consultation with their communities, councils must prepare long-term plans every three years, and annual plans in the intervening two years. In addition, Council prepares detailed asset management plans and a 30-year infrastructure strategy.
18. Effects of high or low growth are experienced over multiple 10-Year Plan cycles, which gives Council the opportunity to plan and respond in a timely and effective way through its long-term planning process, including the benefits of comprehensive consultation with the public.
19. Responding through 10-Year Plan processes rather than in-between has other benefits including lower costs, integrated infrastructure planning, greater certainty for the community, and a more productive use of resources.
20. Making significant changes outside of this triennial process can trigger a 10-Year Plan amendment.
21. Due to the cross-organisational nature and the volume of work involved, the 10-Year Plan process starts roughly 18 months prior to its adoption/implementation.
22. Currently, Council is one year into this triennial process and will start early planning for the 2021-31 10-Year Plan over the next six months.

Testing growth scenarios

23. This report looks at three alternative “growth scenarios” and compares them to the 10-Year Plan forecasts.
24. There is no end to the number of scenarios one can test. We have chosen these three because they cover a broadly likely high and low scenario and include a “boom/bust” scenario too.



The four scenarios:

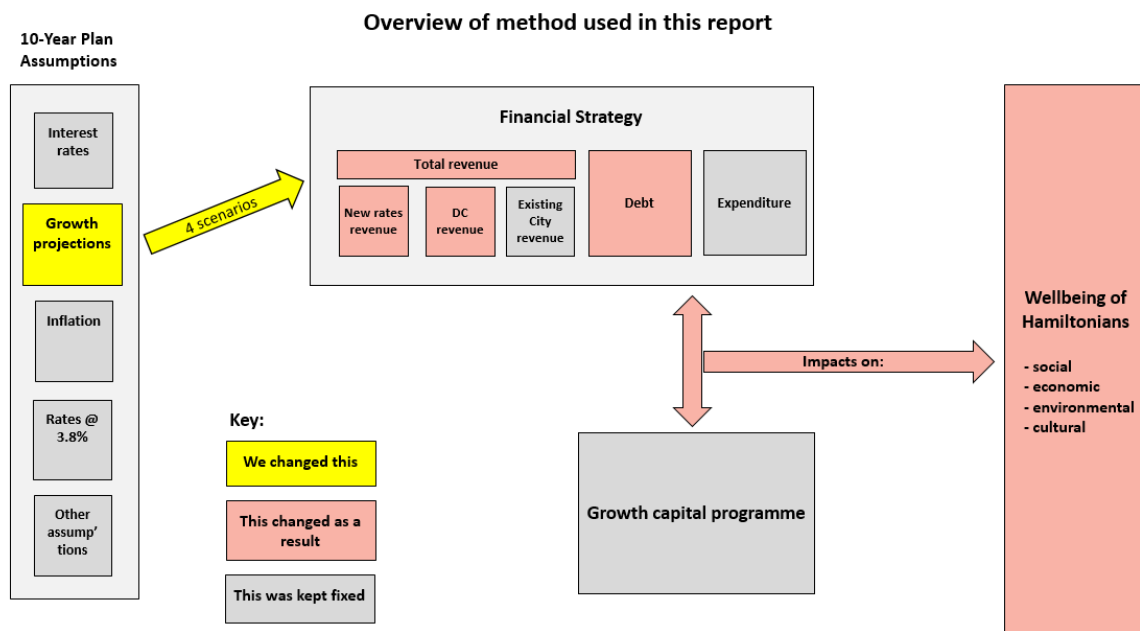


- A. **High growth** - Enduringly higher than forecast household growth - based off the Waikato University’s “NIDEA Medium” projections.
- B. **10-Year Plan forecasts** - This is our **base scenario** which uses the “NIDEA Low” household projections and is consistent with the six-weekly Finance Committee reporting.
- C. **Low growth** –It is as far below the 10-Year Plan forecasts as the High scenario is above it.
- D. **Boom/bust** - A market collapse in 2021, recovering in the latter years of the 10-Year Plan. It is modelled on the cycle which unfolded after the 2008 Global Financial Crisis (GFC). Unlike the others, this scenario is not a flat line.

How did we test these different growth scenarios?

25. We tested these different growth scenarios by keeping all other inputs to the 10-Year Plan fixed, and only changing the growth projections.
26. Local Government is a complex business with many moving parts, and it becomes more complicated when it is analysed over time. In order to make sense of what a change in growth projections might mean for the Council and Hamiltonians, we did not change any of the inputs into the 10-Year Plan except growth, then we ran the models to see what the changes might mean for our long-term planning.
27. We then analysed the effect from a city financial perspective in combination with other social and economic effects.
28. We could have varied more elements, for example interest rates or inflation, but if more variables are altered it becomes increasingly difficult or even impossible to separate out what is causing the observed effects. These other variables have been discussed below were but not modelled.
29. A high-level method for testing the effects of growth scenarios is shown in Figure 1 below. For more information, refer to Attachment 1 which has more detail about each step.

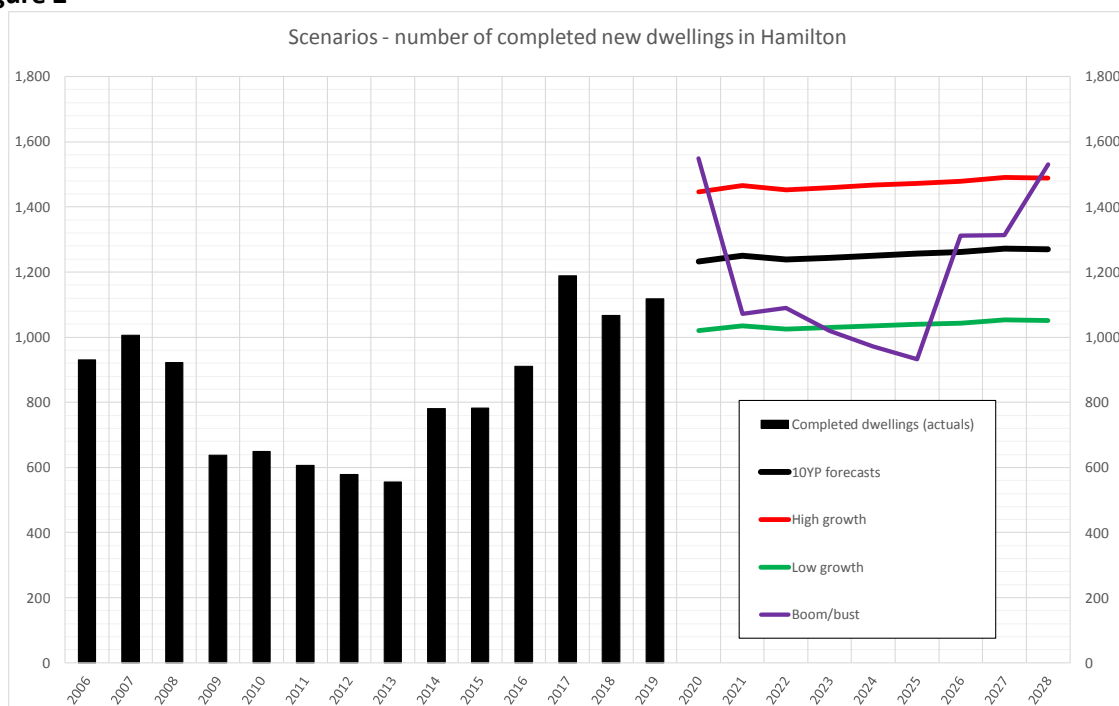
Figure 1



What do these scenarios look like?

30. The graph below shows actual new dwellings (black bars) alongside the current 10-Year Plan projections (black line) and the three growth scenarios (coloured lines) described above.

Figure 2



31. Things to note about this graph include:

- It shows completed dwellings. Record consenting numbers in the last 12 months are expected to become completed dwellings in 1-2 years.
- There has been a boom in residential construction over the last 3 years.
- Both the 10-Year Plan and the high scenarios project growth at a level higher than has ever been consistently achieved in Hamilton's history.
- There are about 200 more new dwellings per year in the high scenario and about 200 less in the low scenario, when compared to the 10-Year Plan new dwelling projections.
- The Boom/bust scenario represents a market collapse in 2021, recovering in the latter years of the 10-Year Plan. It is modelled on the cycle that unfolded after the 2008 GFC. Unlike the others, this scenario not a flat line
- While the boom/bust scenario is predominantly outside the bounds of the high and low scenarios it averages out to be a less significant deviation from the 10-Year Plan than the low scenario overall.

How many houses are we talking about?

32. The table below shows total projected new houses under each scenario across the remainder of the 10-Year Plan period and compares that to the current 10-Year Plan forecasts.

Scenario	New dwellings by 2028	Difference from 10YP forecast
High growth	13,218	1,944
10YP forecasts	11,274	-
Boom/bust	10,787	-487
Low growth	9,330	-1944

33. Under the high scenario there will be about 2000 more dwellings than the 10-Year Plan forecasts. Which is about 2/3 of the growth expected in Peacocke over the next 10 years, or about 2/3 of stage 1 Rotokauri (once the swale is completed).
34. However, the effects of this unanticipated growth is experienced across three 2018-28 10-Year Plan cycles, which gives the Council the opportunity to plan in a timely and effective way to respond.
35. The boom/bust scenario has financial effects rather than creating serviced land issues. It is volatile but across the 10-year period it is overall similar to the 2018-28 10-Year Plan (487 fewer houses).

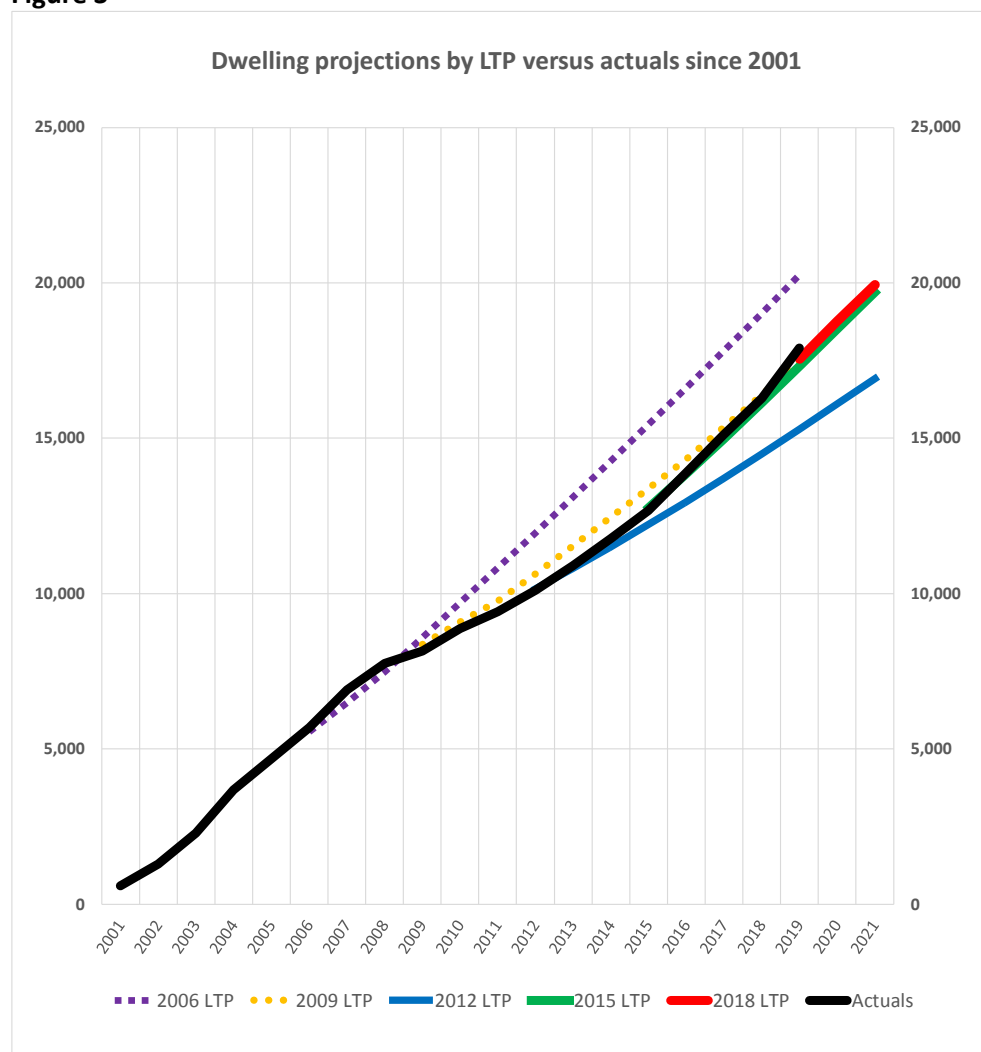
Long term growth projections

36. Projecting growth is a critical part of the Council's business, and has broad implications for the city's finances, planning decisions, and the wellbeing of Hamiltonians.
37. It is worth taking a closer look at what these growth projections are, and how accurate (or not) they have been in the past.
38. Demographic projections are designed to meet both short-term and long-term planning needs. They are not designed to be exact forecasts or to predict specific annual variation.
39. Projections are based on assumptions about future fertility, mortality, migration, and living arrangements. Although the assumptions are carefully formulated to represent future trends, they are subject to uncertainty because the future is uncertain.
40. We are still awaiting Census 2018 results to get an updated picture of how we have developed as a city over the last 6 years – until then we need to rely on 2013 based estimates.

How accurate (or not) have previous 10-Year Plan growth projections been?

41. Figure 3 below visualises the past 10-Year Plan growth projections against actual new dwellings consented, this is presented in the graph as cumulative growth starting in 2001. The graph shows the general inconsistency between the different 10-Year Plans, with each growth line being recalibrated significantly between 10-Year Plans.

Figure 3



42. The graph shows how growth projections from previous 10-Year Plans compared to what actually happened (black bar). It was a volatile last decade and the Council recalibrated its projections for each 10-Year Plan to reflect the most recent trends, with varying degrees of success.
43. **The 2006 10-Year Plan projections** reflected the preceding boom period and were far too high, failing (along with most of the rest of the world) to foresee the GFC.
44. **The 2009 10-Year Plan projections** reflected the beginning of the downturn and tracked the recovery quite well.
45. **The 2012 10-Year Plan projections** were made when the recession was well underway, and the Council scaled down its 10-Year Plan capital programme in response. The projections proved far too low, failing to anticipate the large-scale increase in immigration and capital flows from Asia, and the significant downturn in the Australian economy which drastically reduced the outflow of migrants from New Zealand.
46. **The 2015 10-Year Plan projections** were based on the newly released 2013 Census data and followed by strong sustained migration, and were generally predictive.

47. **The current 2018 10-Year Plan projections** are based on the Waikato University's NIDEA Low projections.

What tools does Council have to intervene with high or low growth?

48. The Council has many ways available to it to respond to changes in the level of growth, including amending its 10-Year Plan programme, pursuing government funding opportunities, deferring or bringing forward capex, or making no change at all, to name a few.
49. It is beyond the scope of this report to determine which courses of action provide the best long-term outcomes for the city, except to recommend where possible to use the tri-annual 10-Year Plan process to make any fundamental changes to its strategic capital programming.

Economic considerations

50. General economic reporting has noted that the current global economic cycle, since recovering from the GFC, has been more subdued and stable. Some commentators have inferred that this will lead to a longer more sustained period of growth than the turbulent high/low cycles of the past and that potential future downturns will also be more moderate.

Migration drives growth

51. Variation to growth is predominantly caused by both internal and international migration, not so much from a natural increase (births minus deaths).
52. International migration figures show New Zealand remaining an attractive destination for non-New Zealand citizens. The variability of New Zealand citizen arrivals and departures has historically been the driver of swings in net migration.
53. Broadly speaking, the underlying drivers of both international and internal migration is the difference in the quality of living between Hamilton and other destinations.
54. For international migration, this has been linked to employment opportunities. New Zealand currently has a strong demand for labour (reflected in low unemployment) but wages, while still going up, are not rising as quickly as in the past.
55. For internal migration (i.e. across regions and between towns and cities) there are more complex drivers including employment opportunities, education facilities, relative housing affordability, proximity to healthcare providers, and more.
56. New Zealand and Hamilton both remain attractive destinations for migrants. Typically, if the global environment deteriorates New Zealand would become an even more attractive destination for migrants as we have historically weathered recessions well (history being no guarantee for the future though).

Housing affordability

57. Housing affordability remains an issue for New Zealand, but Hamilton presents as an attractive option compared in particular to Auckland. The traditional migration destination of Australia also has housing affordability issues.
58. Underlying demand for dwellings persists as population growth continues, which has driven higher the number of people per dwelling. However, demographers expect the number of people per dwelling to fall in the future, and if that happens it will lead to the need for a greater number of dwellings.

The construction industry

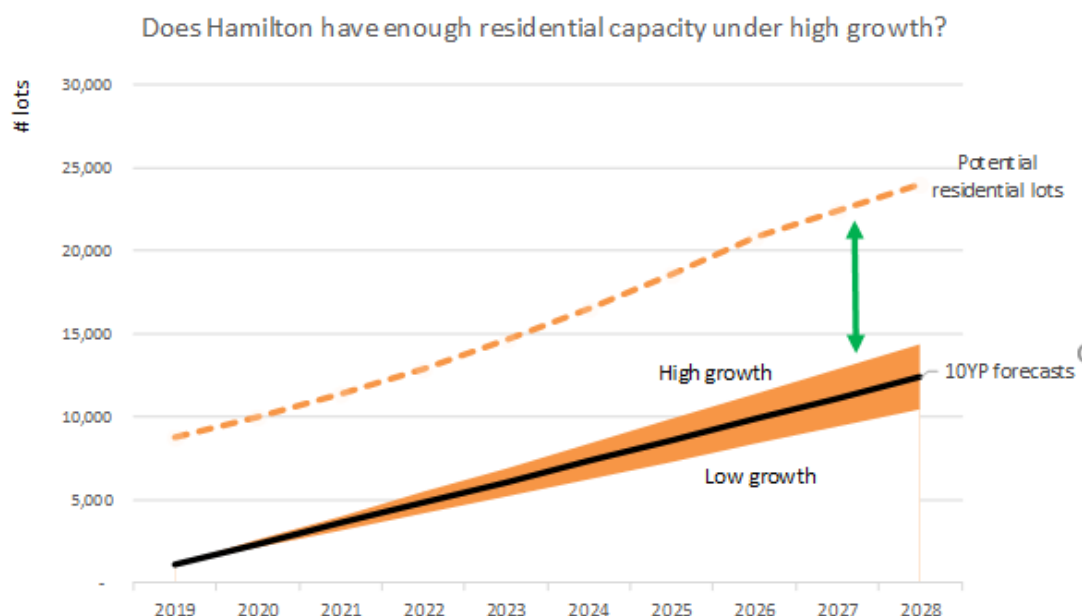
59. The 2018-19 financial year had the highest number of dwellings consented in Hamilton for over 40 years meaning the construction industry itself has positive intentions for the next year or more.
60. The number of completed dwellings (CCC issued) is tracking closely to the 10-Year Plan dwelling projections, validating the Council's chosen growth projections.
61. The historic cyclical nature of building suggests we won't have smooth growth forever, but stable economic forecasts provide some comfort.

62. However, there are challenges in the industry around availability of skilled labour, cost of materials, and the well-publicised financial problems of some of the sector's big players.
63. For more detail see the [2018 national construction pipeline report](#).

Will Hamilton have enough land for high growth?

64. Refer to Figure 4.
65. One of the main reasons growth councils need to keep a careful watch on the demand for new houses is that if growth accelerates for a sustained period of time, the city may run short of serviced land. Or, if growth drops away for a sustained period of time, it will have invested in infrastructure which isn't being used and is accumulating interest while costs are not being paid back through rates and DCs.
66. There are a number of other problems that might surface if the city cannot provide enough supply of land for growth, such as substandard private infrastructure provision, loss of control of strategic planning, excessive land price inflation, reduced housing affordability, and poor urban design outcomes.
67. This raises the question of how close will Hamilton run up against its available supply of land if growth accelerates?
68. The graph below shows that while the high growth scenario would require about 2000 more dwellings, compared to the existing and future capacity for housing in Hamilton it would not push us close to our capacity.

Figure 4



69. The graph above reflects feasible, developable residential land in both the infill and greenfield areas. It is based on the Council's National Policy Statement (NPS) capacity information, but only at a very high level to provide context for this report. Refer here for the detailed report <http://www.futureproof.org.nz/documents-and-submissions/documents/>.

What effect might high or low growth have on the Council's finances?

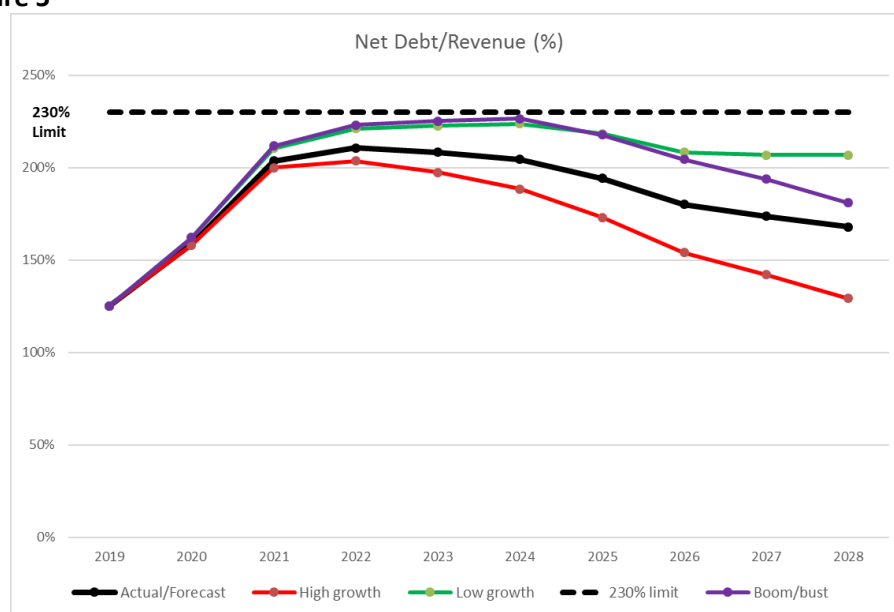
70. We tested three different growth scenarios putting each one through the Council's financial model. We kept all other inputs to the 2018-28 10-Year Plan fixed so we can see what the changes might mean for our long-term planning.

71. We looked at three financial indicators – debt to revenue percentage, net debt, and “Balancing the Books”. There are many financial indicators but these three are key ones.
72. We could have varied more elements, for example interest rates or inflation, but if more variables are altered it becomes increasingly difficult or even impossible to separate out what is causing the observed effects. These other variables have been discussed below but not modelled.

Debt to revenue ratio

73. Refer to Figure 5.
74. The debt to revenue ratio showed the same trend/shape as the 10-Year Plan forecasts across all scenarios, with the low and boom/bust scenarios varying more above and below the 10-Year Plan forecasts.
75. The sharp rise in year 1 and 2 reflects the Council’s investment in a transformative capital programme. When the next major growth cell opens, Council will need to make another major investment such as the one causing the graph to rise sharply.
76. The bell shape of the graph reflects a 2018-28 10-Year cycle in capital spending, which supports a strategy of leveraging the 10-Year Plan cycles to plan the Council’s growth capital programme. It shows the ratio dropping a lot in years 7-10.
77. Both the Boom/bust and low scenarios as modelled rise close to the 230% debt to revenue ceiling between years four through seven (2022 to 2024). The high growth scenario has significantly more breathing room below this measure, declining from a peak in year four (2022).
78. None of the scenarios breach the Council self-imposed debt to revenue ratio of 230%.

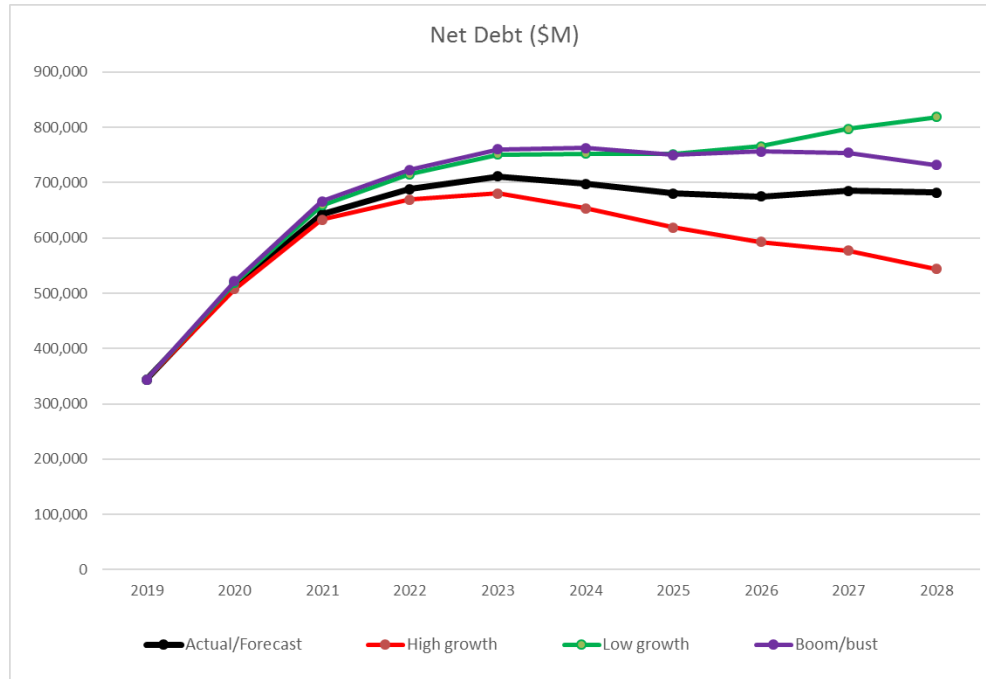
Figure 5



Net debt

79. Refer to Figure 6.
80. Similarly, total net debt trended in the same way as the 2018-28 10-Year Plan forecasts across all scenarios, with the low and boom/bust scenarios feeling most of the vertical variation.
81. The boom/bust scenario tracks with the low scenario but as the recovery kicks net debt falls back toward the 2018-28 10-Year Plan forecast level.
82. The low scenario tracks significantly higher than the 2018-28 10-Year Plan forecast and the high scenario which is getting lower DC and new rates revenue, which leads to a deterioration of income less expenditure (“Balancing the Books”), slower paydown of debt and higher interest costs.

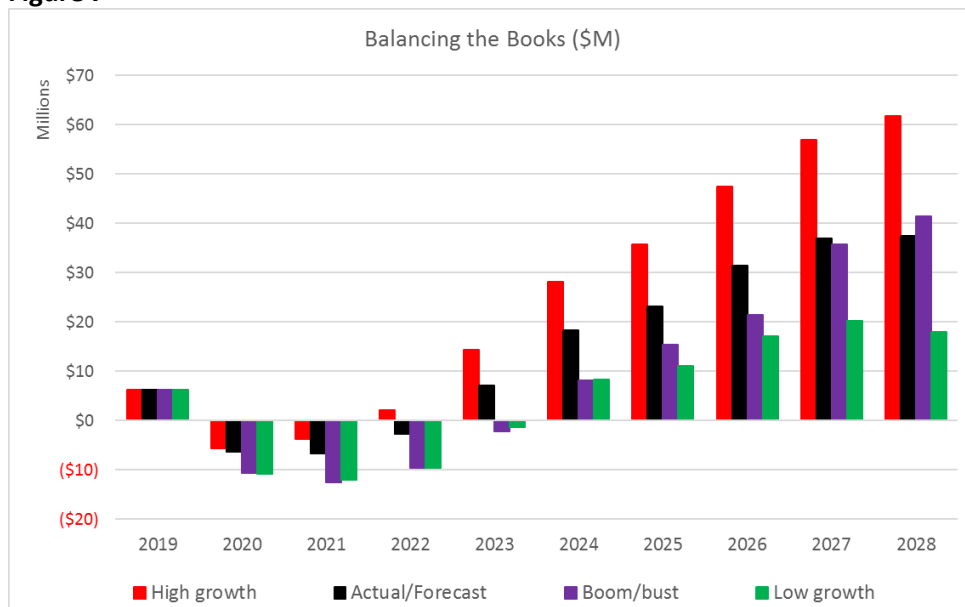
Figure 6



Balancing the books

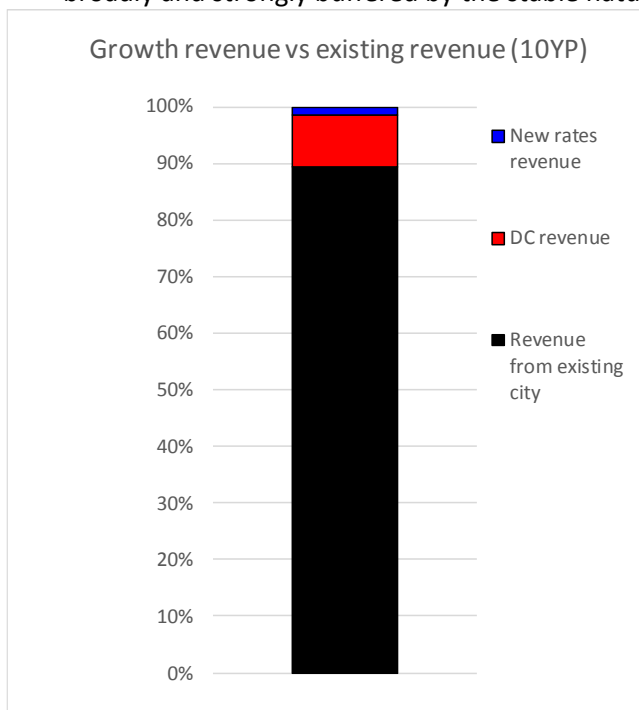
83. Refer to Figure 7.
84. In the three scenarios the books are in the red in years 2 and 3, with the low and boom/bust scenario taking the longest to return to surpluses in year 6.
85. The strong boom/bust recovery in that latter years has the books in a better position in years 9 and 10.
86. The low scenario has its most negative impact on the Council's books in the first three years. It also recovers more poorly than all other scenarios. The high scenario accelerates away from the other scenarios as high consistent growth delivers significant growth revenue.

Figure 7



Income resilience

87. Council's resilience to growth shocks is underpinned by its large general rates base. Nearly 90% of all 10-Year Plan revenue is generated from existing sources, with new revenue generated from new residents and DCs making up only about 10% (blue and red bars).
88. This is not to say that growth shocks will be funded by general rates, but rather that Council is broadly and strongly buffered by the stable nature of its revenue base.



Financial Considerations

89. This report has no direct financial implications for the Council and is for information purposes only.

Legal and Policy Considerations

90. This report is for information purposes only and presents no intrinsic legal risk to Council.

Wellbeing Considerations

91. The purpose of Local Government changed on the 14 May 2019 to include promotion of the social, economic, environmental and cultural wellbeing of communities in the present and for the future ('the 4 wellbeings').
92. The subject matter of this report has been evaluated in terms of the 4 wellbeings during the process of developing this report as outlined below. The recommendations set out in this report are consistent with that purpose.
93. There are no known social, economic, environmental or cultural considerations associated with this matter.

Risks

94. This report presents no intrinsic risk for the Council and is for information purposes only.

Significance & Engagement Policy

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

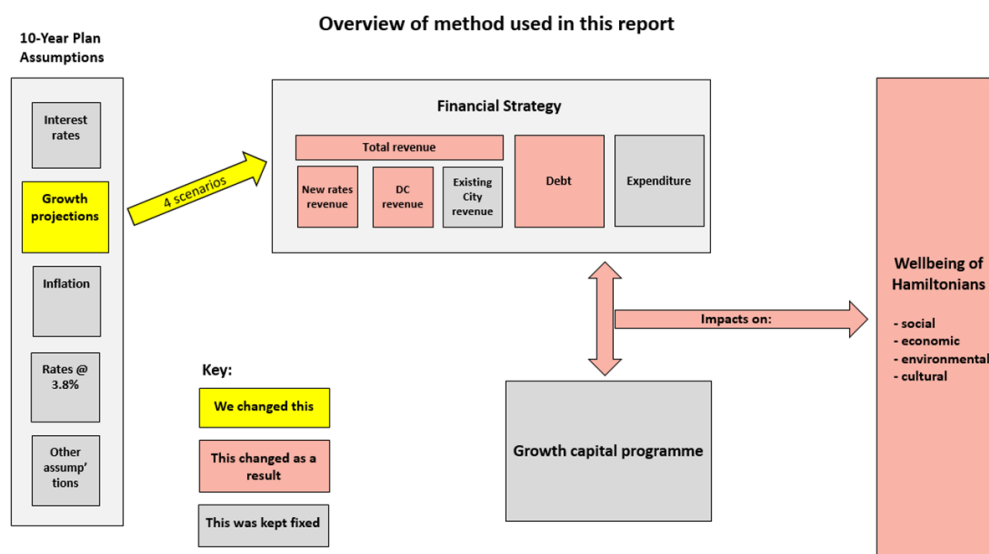
Attachments

Attachment 1 - Method used to test the selected growth scenarios

Attachment 1 - method used to model the growth scenarios

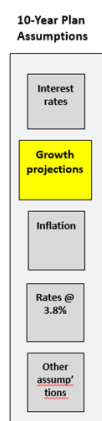
1. The following diagram attempts to provide a high level visual to describe the method used to do the core analysis in this report and its link to the wellbeing of Hamiltonians.
2. It shows what we changed, what changed as a result, and what we kept fixed so we could identify effects. The assumption with the biggest effect was keeping the capital programme fixed.

3. Figure 1



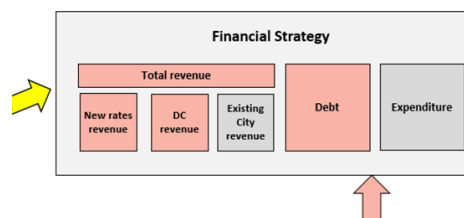
4. Below is a short explanation of each component:

a) Vary the growth inputs:



5. The variable which has been changed in each growth scenario is the **number of new dwellings we expect per year over the next ten years**, referred to as a “growth projections”.
6. Sometimes we talk about households rather than dwellings, but at this high level of analysis we can consider them interchangeable.
7. We have not separated out commercial/industrial growth for simplicity. Instead we assumed it will grow at the same rate as residential growth. This broad assumption will not hold up under a microscope, but it is satisfactory for this broad type of exercise. In any case non-residential growth only counts for a small percentage of revenue from new growth.)
8. All other inputs to the model have been fixed at what they are at in the 10-Year Plan (shaded grey). This includes fixing the inflation rate, interest rate, and the 3.8% general rate increases for all scenario model runs. Additionally, the Council’s total existing rates take, 10-Year Plan capital programme, and operational expenditure is kept fixed.

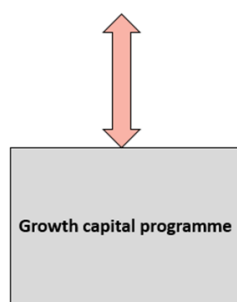
b) Run the financial model



9. Staff have run the Council's financial, rating and development contribution models with alternative growth scenarios
10. Growth revenue is rates from new rating units and DC revenue.

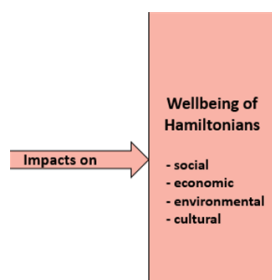
11. Rates from new rating units compound year on year as these new rating units pay rates in every subsequent year. Whereas, DC revenue is a one-off payment by developments.
12. New rates revenue and the interest portion of DC revenue is considered as revenue for the net debt to revenue ratio, whereas, the capital portion of DC revenue is excluded.

c) Keep the capital programme fixed (at first)



13. A fundamental assumption in modelling for this report is to keep the capital programme fixed.

d) Measure the impacts



14. What does each growth scenario mean for the finances, the capital programme, and Hamiltonians?
15. If the 10-Year Plan capital programme under a growth scenario is no longer affordable, then it may need to be reduced so it fits within the financial envelope.

Council Report

Item 16

Committee: Council

Date: 17 September 2019

Author: Greg Carstens

Authoriser: Jen Baird

Position: Growth Funding & Analytics
Unit Manager

Position: General Manager City Growth

Report Name: Strategic Considerations for Development Contribution Policy Reviews

Report Status	<i>Open</i>
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Purpose

1. To seek the Council's approval of a key principle and set of strategic considerations to inform future review of the Council's Development Contribution (DC) Policy.
2. To inform the Council of the outcome of the independent report, that was undertaken at the request of the Council, which analysed the impact of higher DC charges on development in Hamilton.
3. To inform the Council of the outcome of submissions from the 2019/20 DC consultation which were outside the scope of that policy review.

Staff Recommendation

4. That the Council:
 - a) receives the report;
 - b) approves the key principle of reviewing its Development Contributions policy once every three years with the 10-Year Plan, unless there are sound reasons to do otherwise; and
 - c) approves the following strategic considerations be considered when reviewing the Development Contributions policy;
 - i. alignment with the Council's 10-Year Plan capital programme
 - ii. integration with the Council's Growth Strategy and Financial Strategy
 - iii. early engagement with the development community and the ability to leverage the comprehensive 10-Year Plan consultation process
 - iv. alternative sources of growth infrastructure funding
 - v. the desired benefits of policy changes
 - vi. the all up cost of a policy review
 - vii. the overall impact on the community
 - viii. the impact on business certainty for developers including inflation increases only in interim years
 - ix. the Council's legal risk profile in regard to the Development Contribution policy process and substance.

Executive Summary

5. This report presents three separate items related to the review of the Council's DC policy.
6. Firstly, a key principle and set of strategic considerations to inform future review of the DC policy as set out in the staff recommendations section.
7. This principle and considerations are not intended to bind the Council or restrict its discretion, but rather provide a high-level framework to inform strategic decision making in future reviews of the DC policy.
8. Secondly, an updated report from Insight Economics (**refer Attachment 1**) which analyses the impact of the higher 2018/19 DC Policy charges on development in Hamilton.
9. Key findings from the Insight Economics report include:
 - i. Despite recent increases in the city's DCs, its residential charges are in-line with its peers
 - ii. Conversely, the city's new non-residential DCs represent a fundamental step change
 - iii. The higher DCs set from 2018/19 onward have not affected residential building consents, but there is evidence of a negative impact on non-residential building consents.
 - iv. Interviews with key stakeholders in Hamilton's development community reveal that development activity has started to slow down. However, DCs are not the only issue
 - v. The development sector is facing significant land price inflation, increased civil works costs, higher construction costs, and a lack of qualified tradespeople.
10. Thirdly, in accordance with the Council's resolution from the 21 May 2019 Council Meeting staff have prepared an explanation of certain submission points from the 2019/20 DC Policy review consultation which were outside the scope of that policy review.
11. These additional submission points include remissions, gross floor area (GFA) definition, milestones where DCs are paid, third party contributions, producers price index (PPI), refund of DC credits, growth pays for growth, the DC model, cost allocations and transparency. Each of these issues are individually addressed below.
12. The Chief Executive has also proposed a "DC review group" be established well prior to the 2021-31 10-Year Plan review. This group will take a principled approach to identify broader costs and benefits of growth, address issues with the DC policy and understand pressure points for developers while protecting the ratepayer.
13. Staff consider the decisions in this report have a low significance and that the recommendations comply with the Council's legal requirements.

Background

14. At the [26 February 2019 meeting](#) staff recommended the Council request staff prepare the DC Policy 2019/20 for public consultation in April 2019. A key driver for this review was to investigate capping Rotokauri non-residential charges, and to include identified capital projects that contain a component of growth but are not included within the 2018/19 Schedule of Assets.
15. At the [4 April 2019 meeting](#) the Council resolved to approve the draft DC Policy 2019/20 for the purposes of public consultation.
16. At the [9 May 2019 meeting](#) the Council resolved to approve, based on the consultation feedback received, the capital projects identified at the 4 April 2019 Council Meeting [item 12 resolution d) (ii) and Attachment 4] not be included in the DC Policy 2019/20 Schedule of Assets.

17. On 21 May 2019 staff presented to the Council a [Proposed Development Contribution Policy 2019/20 Deliberations Report](#) which was adopted and became operative as of 1 July 2019.
18. At the 21 May meeting, the Council requested staff to bring a report to the Council to address the information requests Elected Members made following verbal submissions on areas of the DC policy not addressed in the policy update.
19. The Council also requested an updated economic report assessing the economic impact the increase in DC charges have had on development since the adoption of the 2018/19 DC Policy.

Strategic considerations when reviewing the DC policy

20. The DC policy is fundamentally connected to the capital, growth and financial domains of Council, and to the community. Any review of the policy should take account of this.
21. While the Council can amend its DC policy at any time, robust DC policy development and review is best achieved by aligning it with the comprehensive 10-Year Plan process.
22. This report seeks endorsement of the following key principle and strategic considerations for the Council in evaluating the merits and costs of any review of the Council's DC policy.
23. **Key principle:**
 - to review the DC policy once every three years with the 10-Year Plan, unless there are sound reasons to do otherwise, and with consideration of the following strategic considerations.
24. **Strategic considerations:**
 - a. alignment with the Council's 10-Year Plan capital programme
 - b. integration with the Council's growth strategy and financial strategy
 - c. early engagement with the development community and the ability to leverage the comprehensive 10-Year Plan consultation process
 - d. alternative sources of growth infrastructure funding
 - e. the desired benefits of policy changes
 - f. the all up cost of a policy review
 - g. the overall impact on the community
 - h. the impact on business certainty for developers including inflation increases only in interim years
 - i. the Council's legal risk profile in regard to DC policy process and substance
25. These considerations are not intended to bind the Council or restrict discretion, but rather to provide prudent guidance to inform strategic decision making on its DC policy.
26. There are circumstances under which the Council may want to consider reviewing its DC policy within the 10-Year Plan period. It is recommended that the strategic considerations underpin the evaluation of doing so. Such circumstances might include:
 - i. a legislative change that does not require policy amendment before the next 10-Year Plan
 - ii. new Infrastructure Funding and Financing (IFF) levy under Kaianga Ora legislation
 - iii. an amendment to the Council's 10-Year Plan (especially an amendment to the capital programme)
 - iv. a change to the city boundaries
 - v. a change in policy direction led by Elected Members or the development community
 - vi. resolving a significant error in the Policy

27. There are other circumstances under which the Council may be faced with a mandatory review of its DC Policy e.g.:
 - i. a legislative change requires policy amendment before the next 10-Year Plan, or
 - ii. a decision by the High Court on judicial review that the Council undertake an immediate policy review.
28. The Council will need to consider the consultation requirements for each review.
29. The Council should weigh up the administrative costs of a policy review. For example, the 2018/19 DC Policy review cost \$277,000 in legal and consultant costs and used an estimated 2,000 hours of staff time. In addition, there is substantial Elected Member and submitter time required during the process which needs to be justified.

Independent report - Impacts of DCs on development

30. In March 2018, as part of the then DC policy review, the Council commissioned Insight Economics to produce a report analysing the likely sensitivity of property developers to proposed increases in the Council's DC charges. This prior report can be found [here](#).
31. The Council requested that a follow up report be commissioned. Accordingly, Insight Economics have produced an update to the initial report which reconsiders the possible impacts the 2018/19 DC Policy has had on development in the city.
32. Findings from the *"UPDATE: Likely Developer Reactions to Increased Development Contributions Charges"* report (refer **Attachment 1**) include:
 - i. Despite recent increases in the city's DCs, its residential charges are in-line with its peers
 - ii. Conversely, the city's new non-residential DCs represent a fundamental step change
 - iii. The higher DCs set from 2018/19 onward have not affected residential building consents, but there is evidence of a negative impact on non-residential building consents.
 - iv. Interviews with key stakeholders in Hamilton's development community reveal that development activity has started to slow down.
 - v. However, DCs are not the only issue. The development sector is facing significant land price inflation, increased civil works costs, higher construction costs, and a lack of qualified tradespeople.

Additional issues raised through the April 2019 DC consultation

33. The Chief Executive has proposed a "DC review group" be established prior to the 2021-31 10-Year Plan review which will help inform the next DC policy review. This group will address the submission points covered in this report and other areas of interest at a principled level. Staff are working with the a development community representative on the development of the group.
34. At the 21 May Council meeting, where the proposed policy was adopted, the Council requested staff to bring a report to the Council no later than 17 September 2019 to address the information requests Elected Members made following verbal submissions on areas of the DC policy not addressed in the policy update.
35. The DC policy was consulted on in April 2019, and the key changes proposed and consulted on were:
 - i. updating for actual 2018 DC revenue
 - ii. updating growth and capital costs - changing the timing of projects (deferrals), replacing estimate costs with actual costs, and making minor changes to growth projections in Te Rapa North
 - iii. including additional assets in the Schedule of Assets

- iv. CBD remission be retained at 66% reduction until 30 June 2021
 - v. provide capped development contribution charges for non-residential development in the Rotokauri general catchment
 - vi. clarification to 'gross floor area' definition.
36. Submissions raised a number of issues outside the scope of the consultation. Elected Members requested for these additional issues to be reported back to the 17 September 2019 meeting.

Remissions

37. It is not a legal requirement of the LGA that territorial authorities provide for remissions in their DC policy, but rather an option. The Council has had remissions provisions in its DC policy since it first adopted a DC policy in 2006. The current remissions provisions have been in the policy unchanged since 2013 and have been legally reviewed and tested at every policy review since then.

Remissions - Actual demand remission criteria

38. Some submitters raised concern about the criteria for actual demand remissions, citing the Council not wanting to use traffic count surveys, disagreeing with the Council's assessment of the potential impact of reduced demand on the overall capital programme, and the duplication of technical advice requested by the Council.
39. Technical reports used for determining demand are prepared by consultant engineers and peer reviewed by Council engineers. These are considered robust and are relied upon by the DC team for assessing remissions.

Remissions - Timeframes for remission decisions

40. Submitters requested timeframes for Council to meet when responding to remission/special assessment applications.
41. Staff acknowledge that response times can be long and has undertaken process improvements to address this. However, remissions are multi-disciplinarian, involve third parties, range into the millions of dollars, are contestable, and are typically for large and complex developments, and extended assessment timeframes are sometimes hard to avoid.

Remissions - CBD remission accounting

42. Through the consultation process multiple submitters suggested that CBD remissions should be separately budgeted and identified in Council's financial accounts, as it does for rates remissions.
43. All remissions including CBD remissions are reported to the Growth and Infrastructure committee in the Quarterly Remissions Report which is available to the public.

Remissions - 5 HUE threshold

44. The threshold for applying for an actual demand remission is five household unit equivalents (HUEs). There were eight submissions that raised concern about the 5 HUE threshold. The threshold was said to be inequitable for small to medium scale developments.
45. The Council reduced the threshold from 10 to 5 HUEs at its 2018/19 policy review in response to strong submissions from the development community.
46. The purpose of the Council's remissions policy is to deal with large outliers, not to discount any development which has lower demand characteristics than the average.
47. Remission applications can be expensive and time consuming for both the applicant and the Council. The threshold also ensures the Council is not being required to deal with remission applications where the difference between modelled demand and actual demand is marginal or insignificant.

Gross floor area (GFA) definition

48. Several developers suggested that canopies should be excluded from the GFA definition. Their main reasoning for this is that canopies do not generate additional site demand.
49. Canopies provide both additional storage space and space for activities. The additional functionality provided by canopies increases onsite demand and the inclusion of canopies in the GFA definition allow for Council to recognise this.
50. If canopies were to be excluded from the GFA definition then developments who run their main activities underneath canopies would not be paying a fair and equitable proportion of the cost of capital for growth that the site demand generates.
51. Including canopies in the GFA definition also prevents developers from avoiding their share of costs by constructing substantial canopies as a substitute for a building.
52. However, in response to the submitter points, the Unit Manager has directed staff to use more discretion in considering whether or not canopies should form part of the GFA calculation where they are clearly not demand generating.

Milestones where DCs are paid

53. Submitters suggested:
 - i. to release 224(c) and CCC where DCs are in dispute;
 - ii. to not use service connection when the development has not progressed past other milestones where Council has powers to enforce collection of DCs;
 - iii. provide provision for the deferral of DCs.
54. The Council's statutory ability to withhold 224(c) or CCC is fundamental to its financial security in the collection of DCs. Staff strongly recommend retaining those statutory levers.
55. The Council tries to align the invoicing of DCs with cashflows for developers. Council generally invoices just prior to 224(c) or CCC. This aligns with the sales transaction of titled sections or the finalisation of a building project. This position is more lenient than some other councils who invoice after the requirement to pay DCs arises.
56. By bypassing the Council's statutory powers to withhold 224(c), CCC and service connection the Council opens itself up to a risk of never collecting the DCs or at a much later date, as it foregoes exercising statutory leverage.
57. Deferral of DCs is effectively a financing arrangement which opens the Council up to risk of non-payment. Deferral of this revenue may also detrimentally affect the net debt to revenue ratio.

Third party contributions/PDAs

58. Council may enter into a private development agreement (PDA) with a developer in accordance with Section 207A-F of the LGA. These legal documents agree what infrastructure will be provided by the developer and how DCs for the developments will be assessed.
59. Some developers who have entered into these agreements are subsequently unhappy with the level of DC required on their developments and do not think the Council has adequately adjusted their required DC to reflect the infrastructure they have provided.
60. PDAs are binding, but Council DC staff continue to be available to discuss with developers any differing interpretations of these agreements and to resolve differences of opinions relating to DC assessments.

Producers price index (PPI)

61. Many submitters from the 2019 consultation suggested that the charges between 10-Year Plan reviews should be updated only by PPI as provided for by the LGA. PPI is a type of inflation which reflects the increase in costs for inputs into activities such as construction and the provision of public infrastructure. It differs from the Consumer Price Index (CPI) which reflects price changes for a specified basket of consumer goods.
62. Adjusting DCs by PPI is an option for the Council to consider as part of its strategic considerations for any proposed DC policy review.
63. The Council adjusted charges by PPI up until 2013.

Refund of DC credits

64. Submissions requested any overpayment, i.e. DC credits, be refunded once the development had been completed. Effectively this situation arises where the subdivision consent has a higher assessment for DCs than the subsequent building consent.
65. If the site is titled and sold, the building consent and subdivision consent would have different applicants. If a refund of DCs is required, it must be refunded to the party that paid the DCs. In the case where the subdivision consent DCs were higher than the building consent DCs, a refund would go to the applicant on the subdivision consent.
66. DCs are considered in development feasibility analysis and are typically included in the sale price of developed land. If the building consent developer has effectively paid DCs through the purchase of the property it presents an inequity if the credit were to be returned to the subdivision developer.

Growth pays for growth

67. Submissions questioned the “growth pays for growth” approach taken by the Council. Also, that DCs should be a ‘contribution’ towards capital costs and do not need to be cost covering. In addition, that it fails to recognise the complexities inherent in property development and the relationship between council, developers, and the end user. It was submitted that this principle requires further definition so that those subject to it can fully understand its meaning and impact.
68. The concept that growth should pay for growth was a guiding principle in Council’s decision-making in developing its 2018-28 10-Year Plan budget. This principle is not absolute and there is recognition that not all growth-related expenditure must be met by the development community due to the broader positive impact growth has for Hamilton.
69. The cost allocation process allocates a percentage of capex cost to “growth”. The remaining cost is recovered through general rates.
70. In allocating growth costs the Council has a legislative obligation to consider the broader impact on the community of the allocation of liability for capital expenditure across different parts of the community.
71. Intervention in the cost allocation process needs to consider the effects from all perspectives. For example, a reduction in a charge to developers would mean a replacement source of revenue is needed. This source of revenue may be rates. Impact on ratepayers is therefore a relevant consideration.
72. Ultimately, the Council must make its decision on how to fund its expenditure considering the overall impact on the community, but the maximum DCs the Council can require is limited by the DC principals written into law (s197AB LGA).

The DC model, cost allocations and transparency

73. Submissions broadly raised the concern that the DC policy, its cost allocations, the modelling which underpins the DC policy and the inputs to this model are not accurate, hard to understand and opaque.
74. DC policy and implementation are inherently complex and many elements of the DC policy are legislated.
75. The New Zealand Productivity Commission's draft report Local government funding and financing has commented that *"the DC policies for Auckland, Hamilton, and Tauranga represent sophisticated and well-written documents that reflect constant refinement over an extended period"*.
76. Staff welcome technical critique on the DC modelling and associated inputs. Staff are committed to improving transparency in relation to its DC policy and have and will continue to improve access to data and information with initiatives such as:
 - i. publishing the DC cost allocations methodology, all project data and the model inputs and parameters along with other supporting information
 - ii. published guidance material on a number of requested issues, and
 - iii. the establishment of a process improvement programme within the DC team.
77. To reiterate, staff will be engaging with the development community through the Working Group which may identify areas for change and improvement that make the policy and/or its application more efficient or relevant.

Financial Considerations

78. The recommendations in this report do not have any direct financial implications for the Council.

Legal and Policy Considerations

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

Wellbeing Considerations

80. The purpose of Local Government changed on the 14 May 2019 to include promotion of the social, economic, environmental and cultural wellbeing of communities in the present and for the future ('the 4 wellbeings').
81. The subject matter of this report has been evaluated in terms of the 4 wellbeings during the process of developing this report as outlined below. The recommendations set out in this report are consistent with that purpose.
82. There are no known social, economic, environmental or cultural considerations associated with this matter.

Risks

83. No risks associated with the information and recommendations in this report have been identified.

Significance & Engagement Policy

Significance

84. 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

85. Community views and preferences are known to the Council through the DC policy consultation April 2019.

Attachments

Attachment 1 - Insight Economics Report - Likely Developer Reactions to Increased DC Charges. September 2019.



Final Report: 5 September 2019

UPDATE: Likely Developer Reactions to Increased Development Contributions Charges

Prepared for:
Hamilton City Council

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Contents

1.	Key Findings	1
2.	Introduction	3
2.1.	Context and Purpose of Report	3
2.2.	Approach to Assessment & Limitations	3
2.3.	Key Findings of Previous Report	3
2.4.	Scope and Structure of this Report.....	4
3.	Introduction to DCs and the Building Process	5
3.1.	About the Building Process	5
3.2.	DC Assessment Triggers	6
3.3.	HCC's Approach to DC Assessment.....	6
3.4.	Implications for this Report	8
4.	Updated Benchmarking of Charges	9
4.1.	Overview	9
4.2.	Hamilton's Residential Charges	9
4.3.	Hamilton's Non-Residential Charges	10
4.4.	Residential Charges Comparison	11
4.5.	Box Plots.....	12
5.	Analysis of Building Consents	15
5.1.	Residential Consents.....	15
5.2.	Non-Residential Consents.....	16
6.	Analysis of Resource Consents.....	19
6.1.	Residential Subdivision Consents.....	19
6.2.	Non-Residential Subdivision Consents.....	20
7.	Findings of Stakeholder Interviews.....	21
7.1.	Overview	21
7.2.	Development Activity Has Slowed Down.....	21
7.3.	However, DCs are Only Part of the Picture	21
7.4.	Reactions to Higher Development Costs Differ	22
7.5.	The DC Policy Presents Several Challenges.....	23
7.6.	There is Strong Support for Delayed Charges in Lieu of DCs	24
8.	Review of Development Cost Trends.....	25
8.1.	Overview	25
8.2.	Land Prices	25
8.3.	Development Contributions	25
8.4.	Construction Prices	26
8.5.	Worked Example.....	26
9.	Impacts of Delayed Charges.....	28
9.1.	Overview	28
9.2.	Participants in the Property Market	28
9.3.	Supply-Demand Analysis.....	29
9.4.	Overall Impacts on Building Purchasers.....	31

1. Key Findings

This report uses a range of qualitative and quantitative information to assess likely market reactions to increases in Hamilton City's development contributions (DCs), which are used to help fund growth-related infrastructure such as roads and water networks.

The key findings of this report are that:

- Nearly \$200 million of DC revenues have been levied since the DC policy became operative in 2006, with about 80% raised at resource consent stage, and 20% at building consent.
- The revenue split between resource and building consents varies by building types, however, with a much higher proportion of residential DC revenues being collected at the resource consent stage compared to non-residential developments.
- As a result, the initial effects of higher DCs, if any, are more likely to manifest in the rate of resource consent lodgements, with impacts on building consents taking longer to filter through. That said, the initial effects on non-residential development (if any) may be visible in building consent data, with 45% of non-residential DCs collected at that stage.
- **Despite recent increases in the city's DCs, its residential charges are in-line with its peers. Indeed, the city's median residential DC is consistent with those of other high-growth areas, such as Auckland, Tauranga, Waikato, and Waipa.**
- **Conversely, the city's new non-residential DCs represent a fundamental step change, because caps that were previously in place since 2015/16 have now been removed. Consequently, the new DC charges for non-residential developments are nearly four times higher than before in certain areas, such as Rotokauri.**
- **The higher DCs set from 2018/19 onward have not affected residential building consents, but there is evidence of a negative impact on non-residential building consents. Specifically, there have been notable drops in the amount of new industrial, office, and retail floorspace consented since the new charges came into effect.**
- The new DCs have also not affected the average number of new residential lots for which resource consents have been lodged, but there was a massive spike in the month just prior to the new charges becoming operative.
- In fact, consents for more new residential lots were lodged in the one month prior to the new charges starting than in the 13 months since then. In our view, this is extremely likely to reflect strategic gaming by developers to avoid the new DC charges by lodging consents earlier than they had originally planned to.

- While resource consents for new non-residential lots have fallen since the new charges came into effect, this drop is not statistically significant. Further, while there is also some evidence of gaming (by lodging consents just before the new DC policy started), this effect is far less significant than for residential subdivision consents.
- Interviews with key stakeholders reveal that development activity has started to slow down. However, DCs are not the only issue. In addition, the sector is facing significant land price inflation, increased civil works costs, higher construction costs, and a lack of qualified tradespeople. Together, these various pressures have started to undermine the economics of development across the city.
- Our interviews also noted that reactions to higher DCs vary. For many developments, projects were too far advanced (with too much invested) to simply stop when the DCs increased. Accordingly, many simply paid the higher charges to maintain momentum.
- Some novel approaches to avoiding higher DCs were also reported, including lodging resource consents just before the new charges came into effect, or using temporary structures that do not require building consent and hence do not trigger a DC assessment.
- There is very strong sector-wide support for the use of delayed charges in lieu of DCs, such as those that have been recently proposed by Crown Infrastructure Partners (CIP). This provides a strong mandate for the Council to continue its discussions with CIP.
- To test the feedback from stakeholders about higher development costs affecting viability, we assessed a simple example for a hypothetical industrial development in Rotokauri – which is the area that has experienced the highest DC increases.
- According to our analysis, the cost of developing a typical industrial building of 2,500m² GFA on a 6,000m² section in Rotokauri (Mangaheka) has increased from about \$3.4 million in 2016/17 to nearly \$4.2 million in 2018/19.
- Because land prices have trebled over that period, the resulting land price inflation accounted for 48% of our modelled cost increase, with higher DCs accounting for a further 34%. Hence, in our view, it is likely that the combination of higher land prices *and* higher DCs are collectively undermining development viability in Rotokauri.
- Finally, this report uses economic theory to explain the likely impacts of moving away from DCs to some form of delayed charges. The analysis shows that effects will be shared amongst the participants in the property development process, and that the price of new building is likely to fall as a result.
- The analysis also shows that households tend to discount the future quite heavily, and thus are likely to require a relatively small discount on dwelling prices to endure delayed charges.

2. Introduction

2.1. Context and Purpose of Report

In March 2018, Hamilton City Council (HCC) commissioned us to assess the likely reactions of property developers to proposed increases in the city's development contributions charges (DCs). The new DC charges became operative on 1 July 2018, and have therefore been in effect for over a year now. Accordingly, HCC is keen to revisit the issue and reconsider the possible impacts of its DCs on development in the city. This report has been commissioned to assist with that task.

2.2. Approach to Assessment & Limitations

The purpose of this assessment is to test the predictions of our 2018 report to understand whether – or how – the recent increases in DC charges have affected development across the city. This is not easy, however, as the rate of city development is influenced by several supply and demand factors. As a result, the DC policy does not operate in isolation, and instead its effects are combined with those of numerous other regional, national, and global economic factors.

To help control for the confounding effects of these wider economic influences, this report uses a combination of quantitative and qualitative analysis to try and identify the possible impacts of DCs. However, even then, caution must be exercised when seeking to draw causal inferences from the information provided herein.

2.3. Key Findings of Previous Report

The key findings of our March 2018 report were that:

- The proposed new DC charges will probably have some impacts on development in most greenfield areas, but only at the margin. The most acute effects will be felt for developments whose viability was already marginal, and hence for which the higher DCs were the “straw that broke the camel’s back.”
- In most other cases, the proposed increases will likely manifest only as reductions in both raw land prices and the margins of developers, but not reductions in development activity itself. In addition, they will likely result in higher prices for completed buildings relative to the status quo. However, those increases would be difficult to detect given the sustained recent increases in prices for completed dwellings across the city anyway.
- The situation for Rotokauri is different, though. Its proposed new DCs charges are so much higher than ‘competing’ areas that marked reductions in development activity are expected to occur.
- The same is true for non-residential development across most of the city. The proposed new charges represent such high increases that they will likely also have material impacts on future development activity.

- The impacts of higher DC charges will be shared between participants in the property development process, including land owners, property developers, and building owners. The extent to which each bears the brunt will reflect their relative bargaining powers.
- Reactions to higher DCs will differ across several dimensions, including the type of development and its location. Higher DCs will also have greater impacts on companies with limited track records, who often find it harder to secure funding, and those with significant landholdings in the city (who are effectively a ‘captive’ market).
- Finally, our report noted that the proposed new DC charges would not exist in isolation, with several other factors also affecting the future supply and demand for new buildings. Along with higher DCs, these various other market forces could profoundly affect the rate and nature of future development in the city.

2.4. Scope and Structure of this Report

The remainder of this report is structured as follows:

- **Section 3** describes where DC charges fall in the overall building process, and explains the implications of that timing for this assessment;
- **Section 4** benchmarks the city’s current DCs against four other high growth areas;
- **Section 5** analyses building consents to look for possible impacts of the city’s DCs;
- **Section 6** analyses resource consents to also look for the possible impacts of DCs;
- **Section 7** summarises the findings of interviews conducted with key stakeholders;
- **Section 8** reviews recent development cost trends for industrial developments in Rotokauri, where the highest DC increases have occurred; and
- **Section 9** considers the likely impacts of delayed charges, which may be used in future in lieu of – or in combination with – DCs.

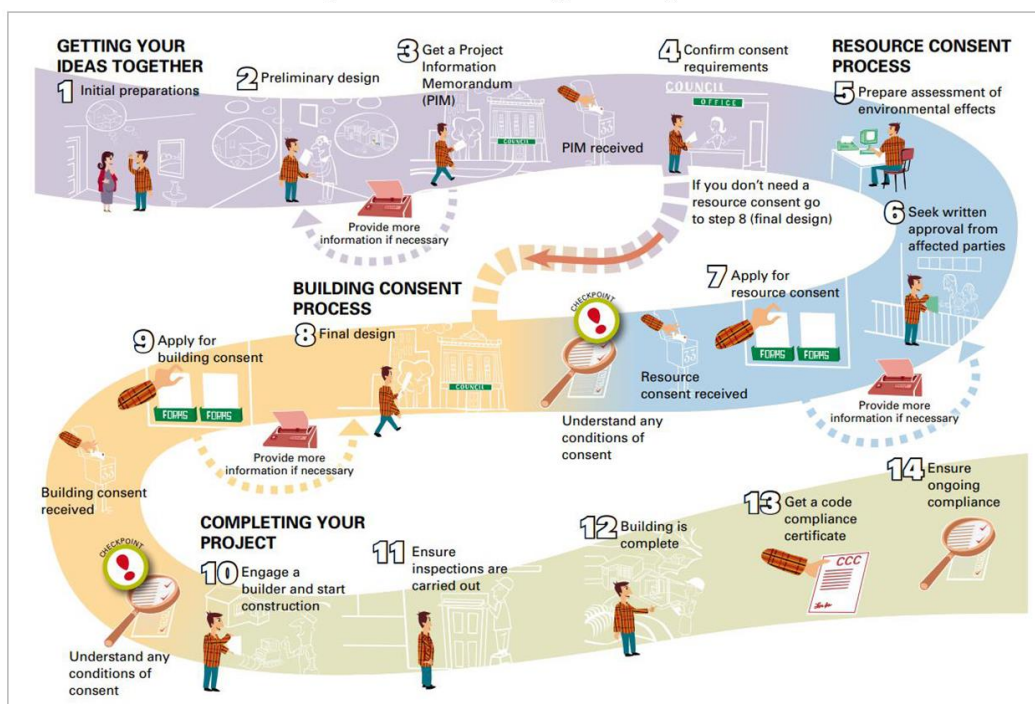
3. Introduction to DCs and the Building Process

This section explains the broader development process within which DCs are charged to provide important context for the remainder of the report.

3.1. About the Building Process

Figure 1 illustrates the steps in a typical building project, which comprises several stages, from initial ideas through to consents and then the construction process itself.¹

Figure 1: Illustration of the Typical Building Process



In summary: the building process starts with an idea, which is tested using information provided by the Council. Once finalised, the idea's consenting requirements are identified. If resource consent is needed because the idea is not a 'permitted activity' under the District Plan, an assessment of environmental effects must be prepared and submitted with the consent application. Once resource consent is granted (if needed), the applicant must next apply for a building consent. Once that is received, the applicant can contract a builder to commence construction. Upon completion of the building work, a Code Compliance Certificate (CCC) must be sought to confirm that all building work has been completed in accordance with the building consent issued for it.

¹ Reproduced from <https://www.kaikoura.govt.nz/assets/Docs/Services/Building-Consent/resource-and-building-consent-processes.pdf>

While it takes about 6 to 12 months to construct a new dwelling, the overall building process can take much longer, especially if resource consent is required.

3.2. DC Assessment Triggers

The Local Government Act 2002 (LGA) is the legislation via which DCs were enacted. It provides three steps in the building process where an assessment of DC liability can be made, namely when:

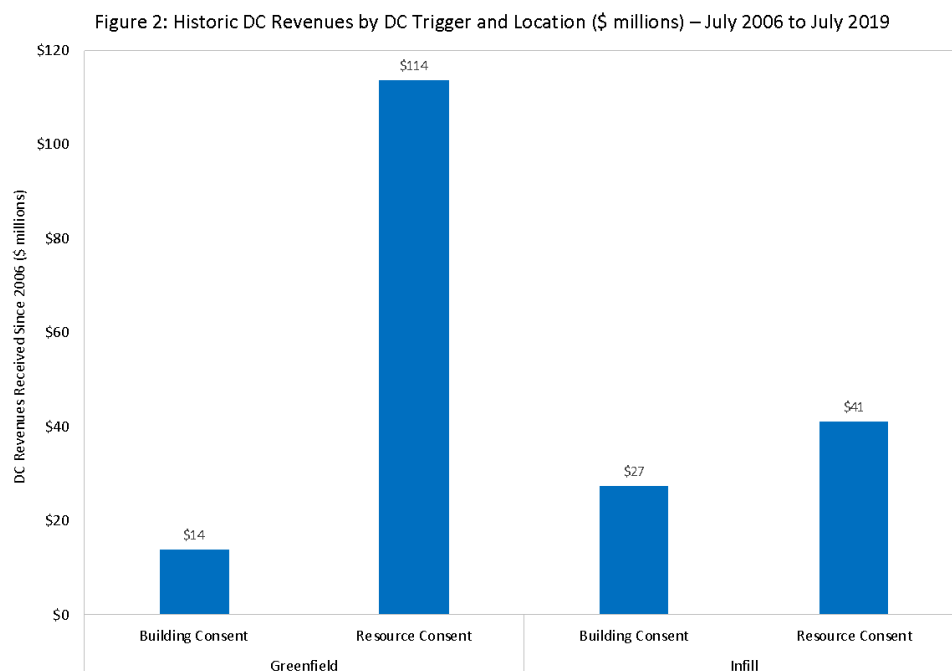
- a) a resource consent is granted under the Resource Management Act 1991;
- b) a building consent is granted under the Building Act 2004; or
- c) an authorisation for a service connection is granted.

Reassessments can also occur. For example, if a DC is paid at the resource consent stage, a reassessment will usually occur at building consent stage in case the level of demand is higher than expected at the initial assessment.

3.3. HCC's Approach to DC Assessment

HCC's DC policy, like most Councils, is to typically assess DCs at the earliest opportunity. In some cases, this means assessing at resource consent. However, for developments that do not require resource consent, building consent is usually the earliest opportunity. Accordingly, most developments in Hamilton city pay DCs at either the resource or building consent stage, with relatively few paying at the third trigger point - service connection.

To identify the proportion of DCs collected in Hamilton at each stage of the building process, we analysed revenue data provided by HCC between 2006 and July 2019. Figure 2 plots the split between building consent and resource consent for infill and greenfield developments separately.



Nearly \$200 million of DC revenues have been raised since HCC's policy became operative in 2006. Nearly 80% of that was levied at resource consent, and the other 20% at building consent.² This ratio differs between development locations, however, with nearly 90% of greenfield DCs being levied at resource consent compared to only 60% for infill.

This makes good sense. First, the high share of DCs revenues being levied at resource consent reflects HCC's policy of assessing DC liability at the earliest opportunity. Second, the higher share of DCs levied at resource consent for greenfield developments reflects the fact that nearly all of them would have required resource consent for subdivision and/or land use. Conversely, many infill developments do not require such consents, making building consent the first assessment trigger for many.

Next, we investigated the split between DC revenues by DC trigger and type of development (i.e. residential vs non-residential). The results are shown in the chart below.

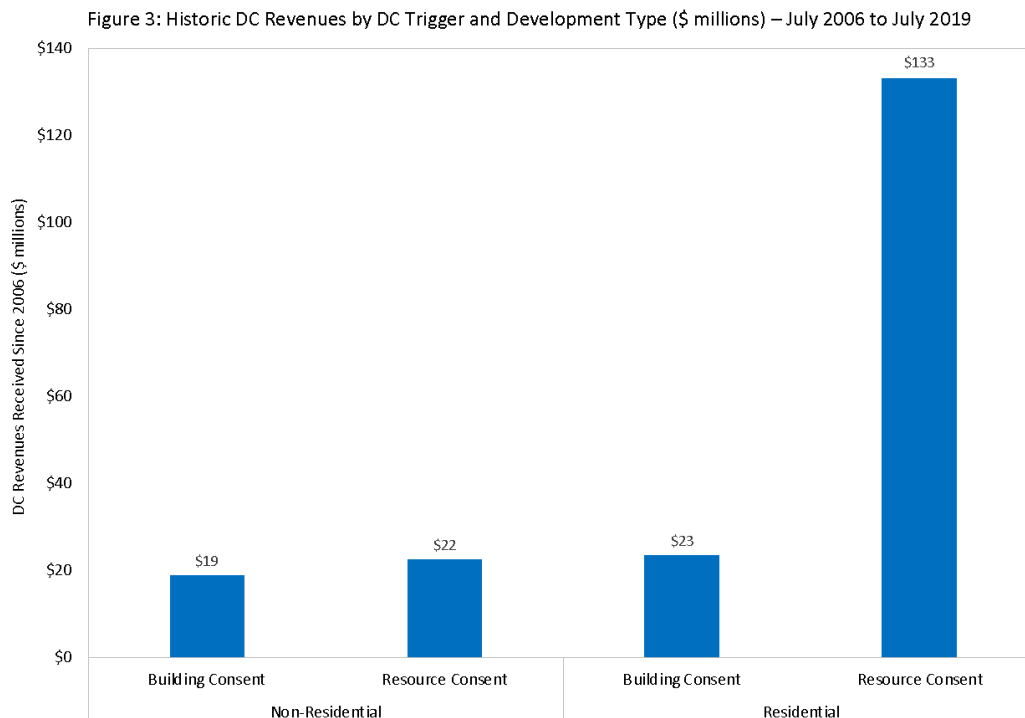


Figure 3 shows that non-residential developments have typically paid a higher proportion of DCs at building consent stage than residential developments (45% vs 15%). This is partly because a greater proportion of non-residential developments occur in the infill areas, where resource consents are not often required because they are permitted activities under the District Plan. Conversely, a relatively high proportion of residential development has occurred in greenfield areas since 2006, where DCs are commonly assessed at the resource consent stage on subdivision. As a

² The data provided by HCC did not distinguish DCs received at service connection from those received at building consent or resource consent, so we ignore them in the remainder of this assessment.

result, the split between DC revenues received at the resource consent and building consent stages differs by the type of development.

3.4. Implications for this Report

The information summarised above shows that the building process can take quite long, especially when resource consent is required. Further, it shows that most DCs are levied at the resource consent stage, particularly for residential developments. Together, these observations suggest that the initial effects of higher DCs, if any, are more likely to manifest in the rate of resource consent lodgements. Conversely, impacts on the rate of building consents will take longer to filter through. Accordingly, while we analyse both resource consents and building consents for completeness, resource consents are likely to shed the greatest light on any initial impacts of the city's higher DCs. That said, we also acknowledge that the initial effects, if any, on non-residential development are more likely to be observed at the building consent stage than for residential developments.

4. Updated Benchmarking of Charges

4.1. Overview

Before analysing the possible impacts of the city's DCs on development over the last year, we first benchmark its current charges against its peers for context. This is important, because markets tend to react to the *relative* prices of goods and services. And, for development, DCs comprise part of the relative costs of developing in different (competing) high growth areas, including Hamilton.

4.2. Hamilton's Residential Charges

We used GIS files provided by HCC to identify the various combinations of DC charges that exist in the city. Table 1 presents the results for 2017/18 and 2019/20 DC policies, which have been derived from different combinations of stormwater and wastewater catchments. However, the figures listed below cover all DC activities and represent the charges that apply to a standard (three-bedroom) dwelling.

Table 1: Hamilton City Total DCs in 2017/18 and 2019/20 per HEU excluding GST

DC Growth Cell	Stormwater Catchment	Wastewater Catchment	2017/18 Charge/HEU	2019/20 Charge/HEU	Change
Rotokauri	Lake Rotokauri	West	\$28,710	\$63,490	121%
Peacocke 2	Mangakotukutuku	East	\$15,770	\$36,990	135%
Rototuna	Te Awa o Katapaki	East	\$23,770	\$33,060	39%
Peacocke 1	Mangakotukutuku	West	\$21,370	\$31,000	45%
Rotokauri	Mangaheka	West	\$19,820	\$30,810	55%
Rototuna	Kirikiriroa	East	\$22,320	\$26,780	20%
Rototuna	Otama-ngenge	East	\$23,310	\$25,210	8%
Rototuna	River North	East	\$24,250	\$25,090	3%
Infill West	Mangakotukutuku	West	\$12,910	\$24,390	89%
Rotokauri	Rotokauri West	West	\$20,280	\$23,410	15%
Rotokauri	Ohote	West	\$20,120	\$21,900	9%
Infill West	Te Rapa Stream	West	\$14,190	\$20,600	45%
Temple View	Temple View	West	\$23,480	\$20,110	-14%
Infill West	City Centre	West	\$13,750	\$20,080	46%
Temple View	Waitawhiriwhiri	West	\$22,430	\$20,060	-11%
Infill East	Kirikiriroa	East	\$12,360	\$19,840	61%
Infill West	Waitawhiriwhiri	West	\$12,320	\$19,610	59%
Infill East	Mangaonua	East	\$11,930	\$19,580	64%
Ruakura	Kirikiriroa	East	\$11,770	\$19,350	64%
Infill West	Western Heights	West	\$11,680	\$19,250	65%
Infill West	St Andrews	West	\$11,800	\$19,240	63%
Ruakura	Mangaonua	East	\$11,340	\$19,090	68%
Infill East	City Centre	East	\$13,750	\$18,980	38%
Infill East	Waitawhiriwhiri	East	\$12,320	\$18,510	50%
Infill East	Hamilton East	East	\$11,920	\$18,440	55%
Infill East	Chartwell	East	\$12,950	\$18,270	41%
Ruakura	Hamilton East	East	\$11,320	\$17,950	59%
Te Rapa North	Te Rapa Stream	West	\$12,870	\$16,200	26%
Averages			\$16,600	\$23,830	44%

According to our analysis, there are 28 possible combinations of DC charges that exist in Hamilton City, which currently range from \$16,200 + GST in Te Rapa North to \$63,500 + GST in Rotokauri. The median charge is \$20,000, while the average is \$23,800. However, more than 70% of DC charges are less than the average figure. In other words, the city's average charge is skewed upwards by the presence of a few high values.³

This table also shows that the DC charges for new residential dwellings have increased significantly since the 2017/18 policy. For example, they have more than doubled in Rotokauri and Peacocke 2, but have declined slightly in Temple View. Overall, however, the average charge has increased by 44% between the 2017/18 policy and the current (2019/20) policy.

4.3. Hamilton's Non-Residential Charges

Next, we reviewed how the city's non-residential charges have changed between the 2016/17 and 2018/19 policy versions. This is an important consideration because, prior to the 2018/19 policy, the city's non-residential DCs had been capped at the same levels since 2011. Consequently, the city's non-residential DCs were "artificially suppressed" for several years, but they no longer are. This has resulted in most non-residential charges increasing significantly in recent times. This is shown in the tables below, which plot the 2016/17 and 2018/19 charges for commercial, industrial, and retail developments (respectively).

Table 2: Commercial DC Charges per 100m² ex GST

DC Growth Cells	2016/17	2018/19	Change
Infill East	\$4,710	\$13,000	176%
Infill West	\$5,350	\$14,430	170%
Peacocke 1	\$12,550	\$24,060	92%
Peacocke 2	\$11,660	\$30,770	164%
Rotokauri (Lake Rotokauri)	\$13,680	\$51,420	276%
Rotokauri (Mangaheka)	\$13,200	\$39,560	200%
Rotokauri (Ohote)	\$0	\$37,250	n/a
Rototuna	\$13,580	\$30,730	126%
Ruakura	\$8,570	\$15,020	75%
Te Rapa North	\$8,620	\$17,680	105%
Temple View	\$13,360	\$13,030	-2%
Average	\$9,570	\$26,090	173%

³ We also note that many new dwellings in greenfield areas will attract higher charges than the standard (3-bedroom) charges listed in this section as many will contain more than three bedrooms and hence incur the 4-bedroom charge.

Table 3: Industrial DC Charges per 100m² ex GST

DC Growth Cells	2016/17	2018/19	Change
Infill East	\$1,820	\$6,730	270%
Infill West	\$2,080	\$7,570	264%
Peacocke 1	\$5,840	\$12,390	112%
Peacocke 2	\$5,930	\$15,430	160%
Rotokauri (Lake Rotokauri)	\$7,150	\$28,020	292%
Rotokauri (Mangaheka)	\$6,750	\$19,350	187%
Rotokauri (Ohote)	\$0	\$17,660	n/a
Rototuna	\$7,000	\$15,260	118%
Ruakura	\$4,340	\$7,570	74%
Te Rapa North	\$4,320	\$9,560	121%
Temple View	\$5,920	\$6,790	15%
Average	\$4,650	\$13,300	186%

Table 4: Retail DC Charges per 100m² ex GST

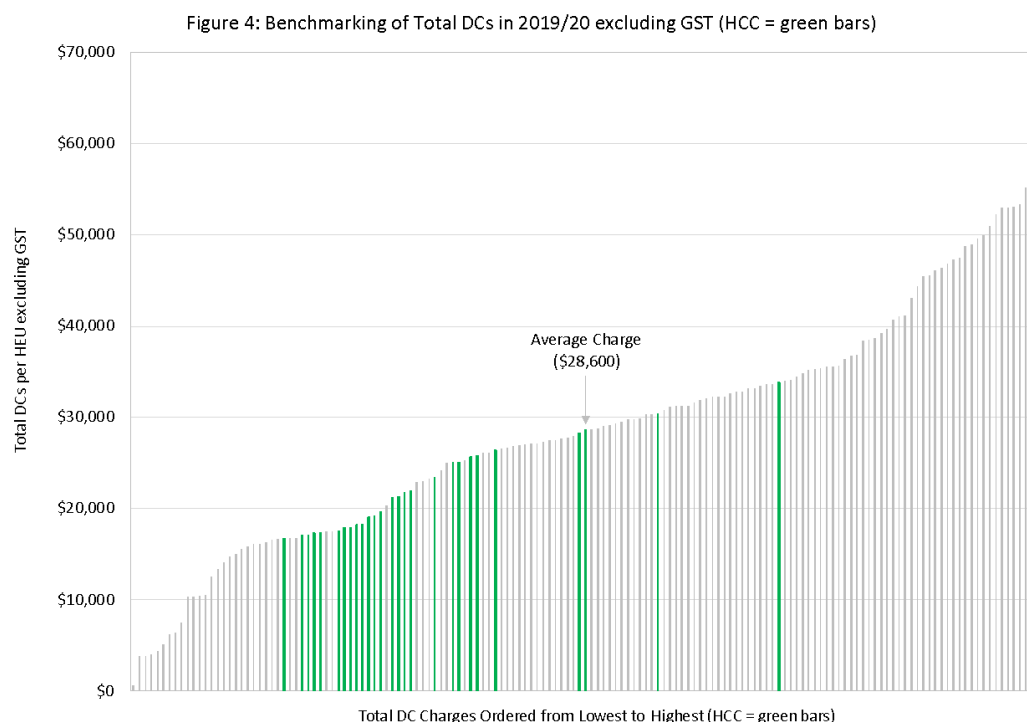
DC Growth Cells	2016/17	2018/19	Change
Infill East	\$6,440	\$13,940	116%
Infill West	\$7,080	\$15,110	113%
Peacocke 1	\$14,830	\$27,800	87%
Peacocke 2	\$12,970	\$36,970	185%
Rotokauri (Lake Rotokauri)	\$16,670	\$62,010	272%
Rotokauri (Mangaheka)	\$15,480	\$50,140	224%
Rotokauri (Ohote)	\$0	\$47,840	n/a
Rototuna	\$16,570	\$38,020	129%
Ruakura	\$9,440	\$17,340	84%
Te Rapa North	\$9,350	\$17,880	91%
Temple View	\$13,510	\$13,670	1%
Average	\$11,120	\$30,970	179%

The three tables above confirm that the city's non-residential charges have increased markedly between the 2016/17 and 2018/19 policies. In fact, they nearly quadrupled in Rotokauri, with significant increases also witnessed in most other areas. On average, they increased by around 180%, which is likely to have materially affected development viability and hence activity.

4.4. Residential Charges Comparison

Our 2018 report compared the city's then-proposed residential DC charges to those of four 'competing' high growth areas, namely Auckland, Tauranga, Waikato, and Waipa. Below we update that assessment to cover the current operative charges for each Council (excluding GST).

This process was relatively straightforward for Tauranga⁴, Waikato, and Waipa, whose DC policies identify the various charge combinations possible and publishes their total DCs. However, the same was not true for Auckland. Fortunately, HCC managed to obtain a spreadsheet that showed all the charge combinations possible for Auckland, including the IGCs set by Watercare in lieu of DCs for water and wastewater. We used these data to construct the chart below, which ranks the total DCs set for 2019/20 from lowest to highest. The green bars represent HCC's charges.



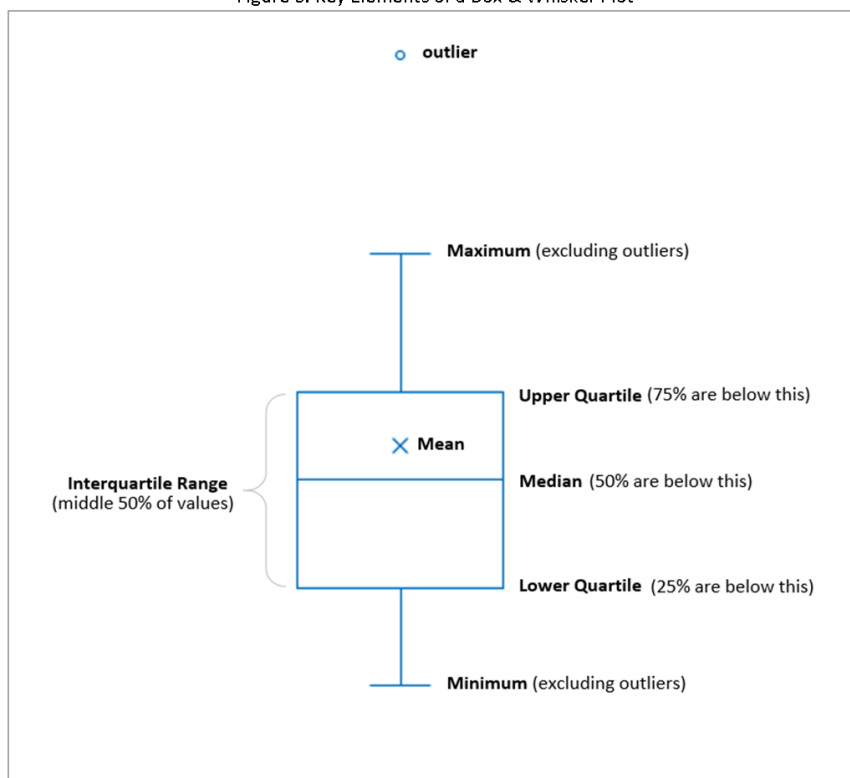
The chart above shows that nearly all the DCs set by HCC fall in the lower half of the pack, with only a few falling into the top half. In fact, only three of the 28 DC charges prevailing in Hamilton City were higher than the average across our sample (of \$28,600 + GST). However, HCC does have the highest charge in our sample, which applies to new developments in Rotokauri.

4.5. Box Plots

To provide a different perspective on these data, we next used a special type of graph called a box and whisker plot to analyse the distribution of charges for each Council. Before showing the results, we first explain the various elements of box and whiskers plot in the stylised example below.

⁴ Some of Tauranga's charges are set per hectare, rather than per household unit. We converted these to household equivalent charges by assuming an average yield of 15 dwellings per hectare, which is the same yield assumption used by HCC in previous comparisons performed between these areas.

Figure 5: Key Elements of a Box & Whisker Plot



In summary, a box and whisker plot summarises a distribution of values by identifying its:

- Mean (average) value;
- Minimum value (excluding outliers);
- Maximum value (excluding outliers);
- Lower quartile;
- Median value; and
- Upper quartile;

In addition, it identifies outliers as individual dots. Given that interpretation, Figure 6 presents the box and whisker plots for each Council's operative DC charges excluding GST.

Figure 6: Box & Whisker Plot for DC Charges Excluding GST in 2019/20

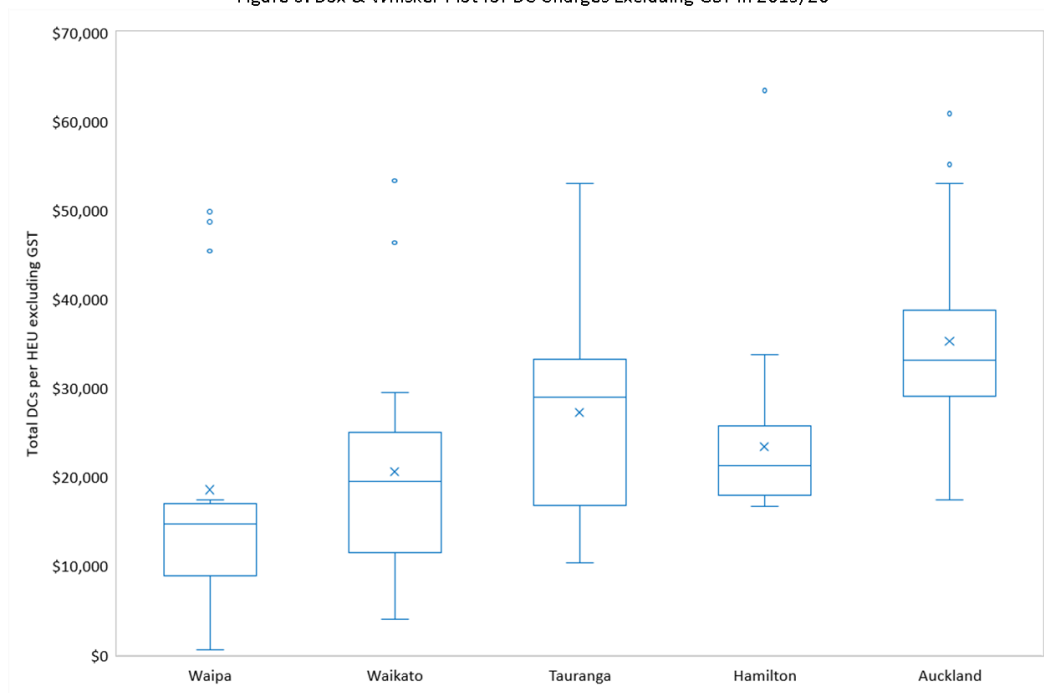


Figure 6 confirms that Hamilton's charges are broadly in-line with its peers. For example, HCC's median charge (the line through the middle of its box) is lower than Tauranga and Auckland, and only slightly higher than Waikato. Similarly with its mean value, which is represented by an x. It is also lower than Auckland and Tauranga, but slightly higher than Waikato.

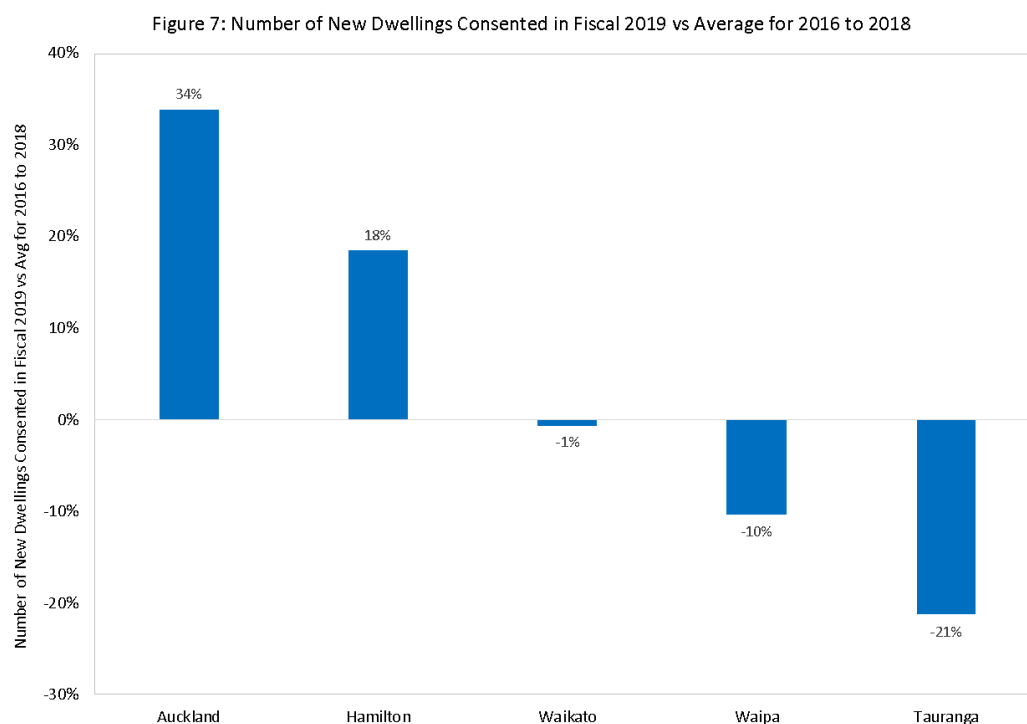
In addition, the small size of Hamilton's box means that the interquartile range (within which the middle 50% of values fall) spans a narrow range. This confirms that, while HCC has a few outlier charges that are significantly higher than its average, most are within a narrow range.

5. Analysis of Building Consents

This section analyses building consent data to investigate possible reactions to the new DCs.

5.1. Residential Consents

Figure 7 plots the number of new dwelling consented in the city (and other high-growth areas) during fiscal year 2019 compared to the annual average over the three years prior. The data show that residential building consents have increased strongly in both Auckland and Hamilton, but have declined elsewhere.



To better understand the recent upswing in city residential consents, particularly given the drops seen elsewhere, we delved deeper into the consent data to understand what is driving it. It turns out that the recent increase in city residential building consents has been driven by a massive increase in the number of new flats, units, and townhouses being built. This is demonstrated in Figure 8, which plots the number of new flats, units, and townhouses consented since 1991.

Figure 8: Number of New Flats, Units & Townhouses Consented (Years Ended 30 June)

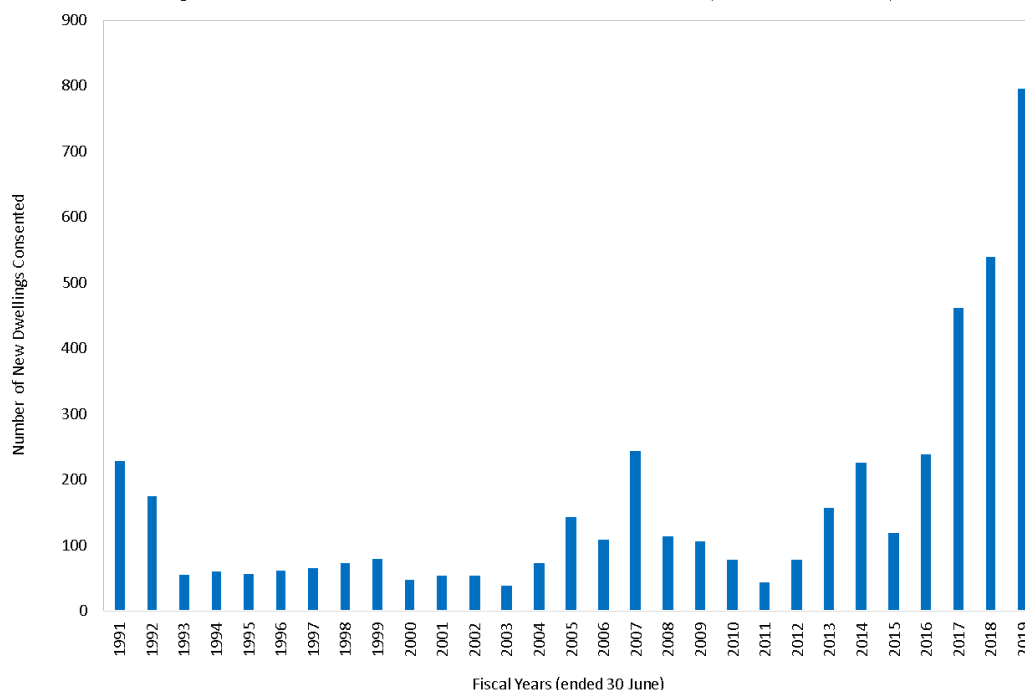


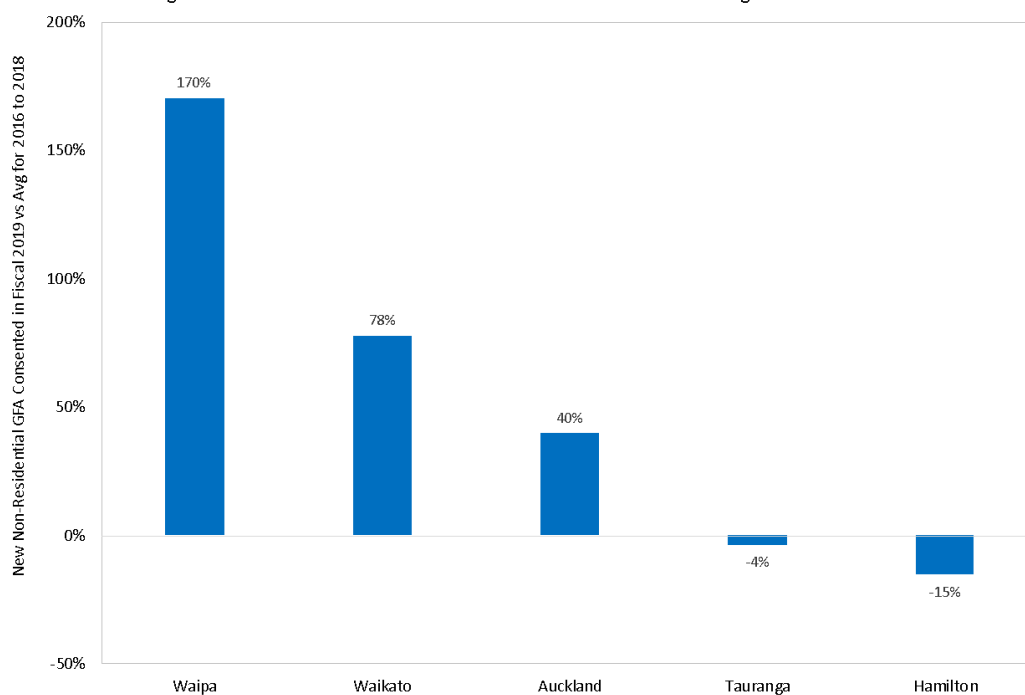
Figure 8 shows that consents for new flats, units, and townhouses have gathered significant momentum in recent years. In fact, they increased from an average of 194 per annum between 2014 and 2016 to nearly 600 per annum over the last three years. In other words, the average number of new flats, units, and townhouses consented in the city has trebled in just three years.

As a result, flats/units/townhouses are now the most common new dwelling type built in the city, having surpassed traditional (stand-alone) dwellings for the last two years running. And, as a result, the average size of new dwelling consented has fallen rapidly, from an average of 174m² in 2016 to 139 in 2019 – a 20% drop in just three years. Clearly, the city's residential building sector is evolving rapidly.

5.2. Non-Residential Consents

Figure 9 plots the GFA of new non-residential buildings consented in the city (and other high-growth areas) in fiscal 2019 compared to the three years prior. Unlike residential consents where the city performed strongly, it is the weakest performer here.

Figure 9: New Non-Residential GFA Consented in Fiscal 2019 vs Average for 2016 to 2018



Next, we disaggregated the city's non-residential consents by building type to identify the source of the observed drop illustrated above. The results are shown in the figure below.

Figure 10: New Non-Residential GFA Consented in Fiscal 2019 vs Average for 2016 to 2018 by Type

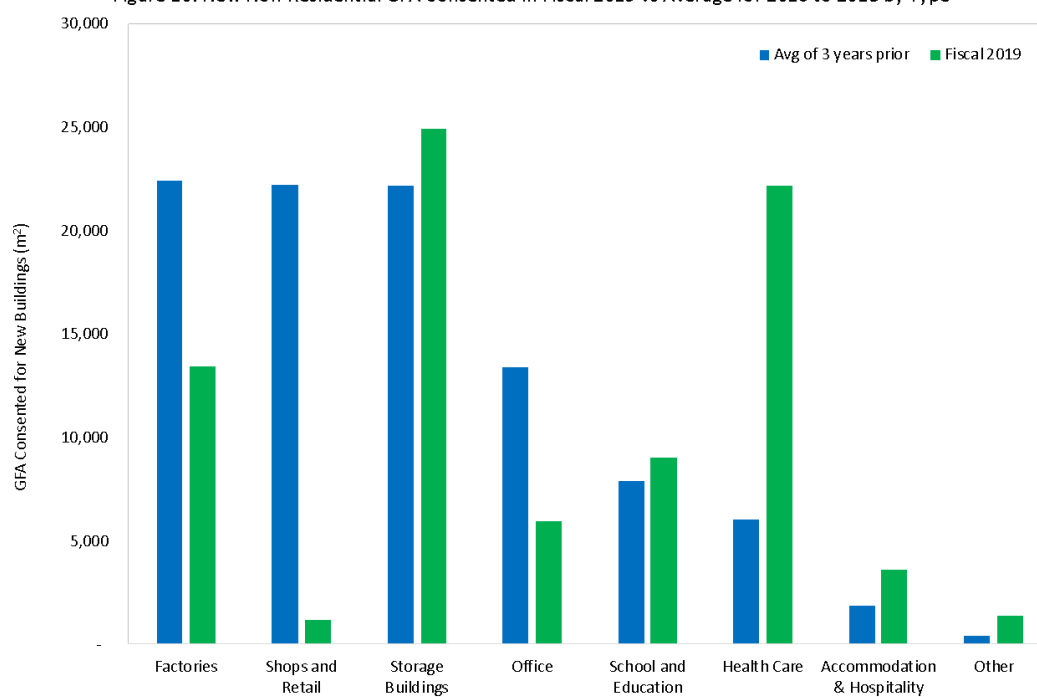
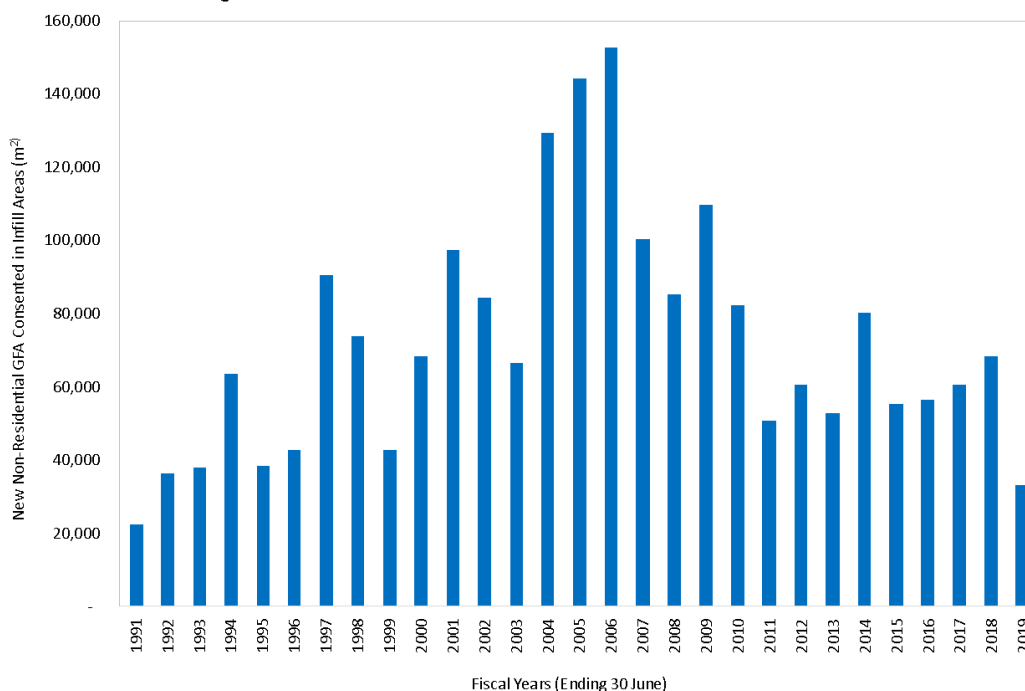


Figure 10 shows that there have been significant declines in the amount of new floorspace consented for factories, shops, and offices over the last 12 months. In fact, the amount of new factory floorspace dropped by 40%, while retail floorspace fell by 95%, and offices by 55%. These drops in office and retail floorspace appear to be the key driver of the citywide fall in non-residential GFA shown in Figure 9. However, they have been partially offset by significant increases in healthcare floorspace, which is up by 230%, and smaller but notable increases in storage buildings, school and educational buildings, and “other.”

Finally, we reviewed the data to identify whether the fall in non-residential consents was most pronounced in the city’s greenfield or infill areas. While both fell, the drop for infill was the most significant. In fact, the amount of new non-residential floorspace consented in the city’s infill areas during the 2018/19 fiscal year was less than half the year before, and the lowest that it has been in 28 years. Again, while we cannot attribute this impact just to higher DC charges, they are highly likely to be a contributing factor.

Figure 11: New Non-Residential GFA Consented in the Infill Areas since 1991



6. Analysis of Resource Consents

This section analyses resource consent data to investigate possible reactions to the new DCs.

6.1. Residential Subdivision Consents

Figure 12 plots the number of new residential lots for which subdivision consents were lodged (but not necessarily granted) since the start of 2016, with the data since the start of the 2018/19 fiscal year shown as the green bars.

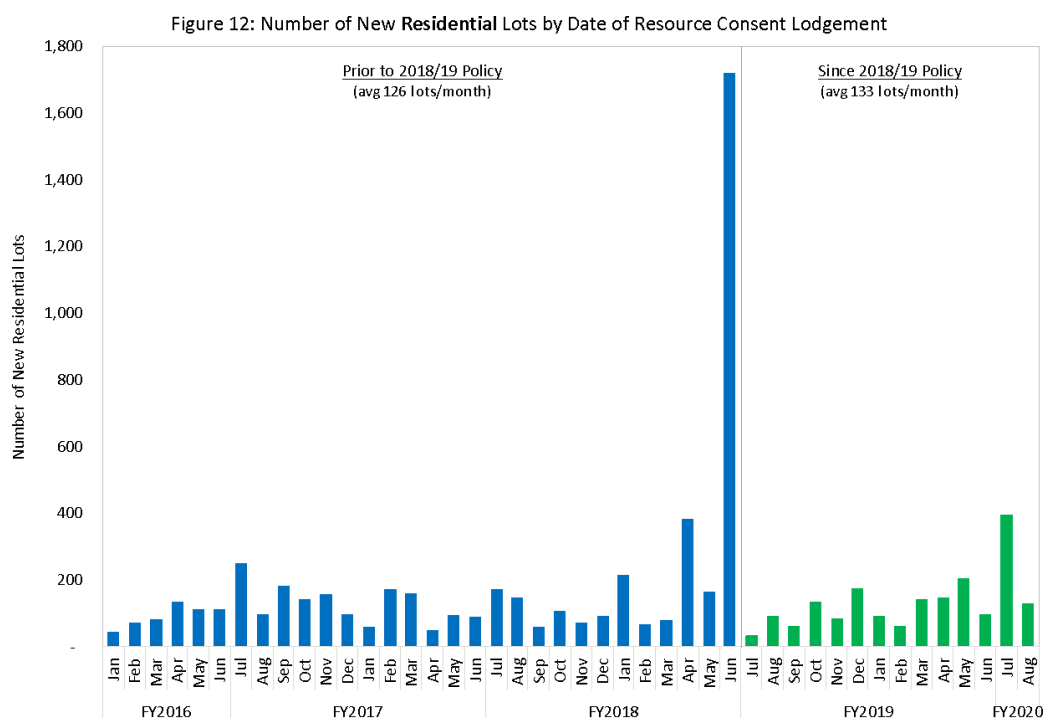
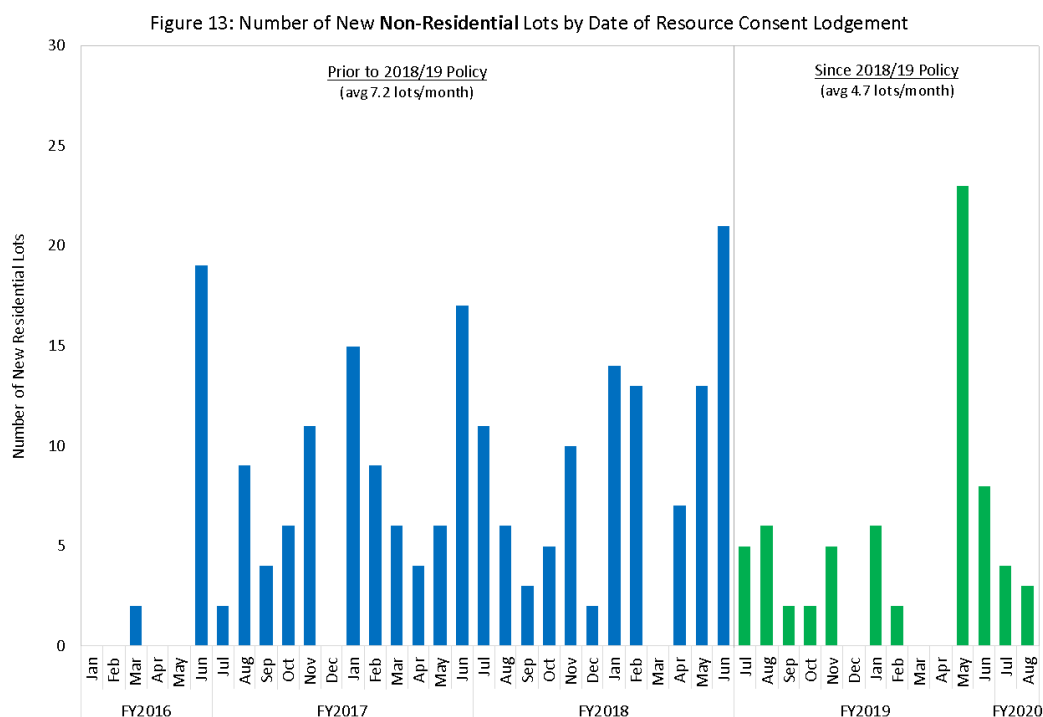


Figure 12 shows that the number of consents lodged for new residential lots has hovered within a relatively narrow range since the start of 2016, except for a notable spike in June 2018. Indeed, consents for more than 1,720 lots were lodged in the month just prior to the introduction of the new policy, compared to just 31 the following month. Consequently, consents for as many new lots were lodged in the one month just prior to the new charges coming into effect than the 13 months since then. In our view, this is extremely likely to reflect strategic gaming by developers to avoid the new DC charges by lodging consents earlier than originally planned.

Given that data for June 2018 are an outlier – which distorts the apparent impacts of the 2018/19 DC policy – we excluded it from the rest of the analysis. With that data point removed, we calculated that consents for an average of 126 new lots have been lodged each month prior to the 2018/19 DC policy, compared to 133 per month since then. In other words, when the outlier is removed from the data, there is no discernible impact of the new DC charges on the number of new residential sections for which subdivision consents have been lodged.

6.2. Non-Residential Subdivision Consents

Next, we analysed the number of new non-residential sections created by subdivision resource consents. Figure 13 plots the data.



According to Figure 13, an average of 7.2 new lots were created per month in the few years prior to the 2018/19 fiscal year. However, this has dropped to an average of 4.7 per month since then, which is a reduction of 34%. We used regression analysis to test the statistical significance of this reduction. It showed that there is a 78% chance that the fall in lots created is statistically significant, and that there is a 22% chance that it occurred purely by chance (rather than representing a fundamental decline in consent activity). Based on conventional thresholds for statistical significance, we conclude that the fall in the number of new lots lodged since the new policy came into effect reflects natural market variations, rather than being affected by the policy itself.

That said, there does appear to be a small spike in consents just prior to the introduction of the new charges, albeit much less than for residential sections. For example, consents for 21 new non-residential lots were lodged in June 2018, compared to only five in the month after (a drop of 76%). As a result., consents for more new lots were lodged during the 2 months just prior to the new DC policy coming into effect than the 10 months since then. In our view, this is (again) highly likely to represent strategic actions by developers to avoid the higher DC charges imposed since July 2018. However, the magnitude of this strategic gaming is clearly far less significant than for residential.

7. Findings of Stakeholder Interviews

7.1. Overview

We conducted phone interviews with various stakeholders in the city's property development market to complement our quantitative analysis of building consents and resource consents. At the time of writing, eight interviews had been completed. These comprised interviews with five local developers, two consultants, and one industry advocate. For the sake of confidentiality, we do not report their individual responses here, and instead compiled them to identify the key themes arising. Those themes are described below.

7.2. Development Activity Has Slowed Down

Respondents unanimously reported that development activity has begun to taper in recent times, and that the outlook for future development activity is more subdued than it was in 2018. This is consistent with the findings of our resource consent analysis, which identified a notable downturn in the quantum of subdivision consents. It is also consistent with our understanding of the broader macroeconomic environment at the time of writing, which has been weighed down recently by global economic uncertainty. For example, the USA-China trade wars, and the prolonged Brexit debate in the UK, have both undermined global economic sentiment. Further, given the increasingly globalised nature of modern economies, it is likely that these broader economic conditions have started to filter down and affect local economic sentiment too.

7.3. However, DCs are Only Part of the Picture

Respondents also unanimously agreed that, while the higher DCs have made development more challenging, they are not the only factor that has led to reductions in recent and likely future development activity.

For example, one respondent noted that land price inflation has been rampant over the last two years, with developed land prices in their locality increasing from about \$230/m² two years ago to about \$350/m² now. This alone would increase the cost of a 400m² section by nearly \$50,000. However, construction costs are also up at least 10% over that period, and there is protracted lack of qualified tradespeople available, which has put upwards pressure on wages too. As a result, this respondent noted that development margins have dropped from 20% to 25% previously to about 12% to 15% now.

Another respondent noted that civil costs (i.e. land development costs) have also increased markedly, from an average of around \$30k per lot in 2006 to about \$75k per lot today. Evidently, these costs increases are partly due to construction of the expressway, which has consumed the local supply of sand and aggregates, and caused developers to procure them from further away. Given the very heavy weights of these materials, the increased distance has resulted in much higher transport costs. In addition, this respondent also noted that the acute shortage of qualified contractors has further added to development cost pressures.

Thus, while higher DCs have affected development margins, they are only one part of a much bigger picture. In reality, the cumulative effects of higher DCs, higher land prices, increased civil costs, higher construction costs, and a shortage of skilled labour, have collectively conspired against development margins. Hence, it is not just a DC issue.

7.4. Reactions to Higher Development Costs Differ

Respondents described various reactions to higher development costs. For example, some noted that DCs had already been paid at earlier stages, so the increased charges had no direct effect, while others noted that projects were too far advanced – with too much money already invested – to simply stop now. Accordingly, many had simply paid the higher DC charges without much ado to maintain momentum.

Other respondents stated that they have managed to pass on most of the higher costs of development (including higher DCs) by charging more for new sections or completed buildings. In many cases, those higher costs have also been passed on further via higher rents (for leased buildings). However, increases in new building prices have outpaced rental growth, causing yields to firm. In fact, one respondent noted that despite commercial property rents increasing by about \$20/m² of floorspace over the last year or two, yields have fallen by up to 200 basis points. Accordingly, commercial property returns have been significantly affected.

The same respondent went on to note that prospective tenants have been surprised by the recent increases in rents, with some local businesses declaring them too expensive. However, there has been a corresponding increase in new interest from prospective tenants currently based in Auckland, for whom local rents remain relatively affordable. In effect, the higher costs of development (including higher DCs) have been shared between the participants in the wider property market, which has helped to diffuse their impacts.

Another respondent, who represents a range of developer interests across the city, provided several examples of how people have tried to avoid the higher charges. For example, they noted that some had lodged resource consents earlier than anticipated to precede the new policy start date. They went on to note that, given the significant sums involved with just the planning and design phases of many development projects, stopping now was simply not an option. Instead, consent applications were fast-tracked by their project teams to beat the start of the new DC policy. Our analysis of resource consents supports this hypothesis.

The respondent also noted that some developers – whose projects were still in the early stages – had deferred them to reconsider their options, particularly given recent skilled labour shortages and higher construction costs, which had collectively undermined returns.

The respondent also claimed that some developers have taken even more drastic action, and have opted to delay or defer the construction of warehouses and storage buildings and instead use temporary structures instead. Apparently, there is a perception that the DCs on such buildings are disproportionate to the infrastructure demand created, and that this can be overcome simply by

using temporary structures instead. The logic is that many temporary structures do not require resource consent or building consent, so they can be erected without triggering DCs.

Two respondents stated that they had moved their focus away from development in the city, but neither slated their decisions back just to DCs. One, who develops higher-density dwellings across the city, said that they had 100 units yet to complete in the city, but had started buying land in Auckland instead. In their view, this provided a better outlook.

The other has moved their focus to developments in Morrinsville, where the DCs are significantly cheaper. While the final selling prices of new buildings are much lower there, so too are land prices, which meant that they could earn a better return overall. The same respondent also stated that the greatest impacts had been felt on retail developments, where the DCs were higher per square metre of floorspace than the land price.

Finally, several respondents noted that it has been difficult to compete with Titanium Park which, under a special arrangement with Waipa District Council, does not pay DCs.

7.5. The DC Policy Presents Several Challenges

Respondents suggested that the DC policy, and its application, presented several challenges that need to be considered. They include that:

- The remissions process is expensive and, ultimately in some stakeholders' views, flawed. Specifically, there is a perception that the process is not only slow and expensive, but also largely futile. The greatest issues surround transport charges, which are considered difficult to challenge (even when all the necessary information is seemingly provided).
- Moreover, there is a feeling that the remissions team need to communicate more with other parts of the Council because information provided during the resource consent process does not always inform the remissions process. As a result, new information must be furnished at extra cost to the applicant. For example, one respondent said that the remissions process led to a peer review of the applicant's ITA, but that a peer review of that same document had already been done as part of the resource consent process. This unnecessary duplication has evidently caused some frustration and delay.
- When the exact nature of future tenants is unknown for non-residential developments, assessments must be made about likely future uses and hence corresponding infrastructure demands. This process is difficult and unreliable, and has led to a perception of inequity.
- The assessment of ancillary offices in industrial developments appears problematic. Apparently, ancillary offices (which comprise part of larger industrial developments) are assessed as being commercial (rather than industrial) when their GFA exceeds 250m². Respondents argued that, while that threshold is reasonable for smaller developments, it is not for larger industrial developments. Consequently, some suggested that the threshold be expressed as a percentage of total GFA, not an absolute amount.

- One respondent, who is a large-scale land developer, suggested that the policy does not adequately reflect the investment that is often made on infrastructure within the confines of each development. In their view, it is not fair for larger developers to fund and vest entire networks within their landholdings, only to then be required to help fund infrastructure that services other, smaller developments.
- Another large-scale land developer challenged the costings attached to some projects, and suggested that the Council work more closely with them to jointly agree infrastructure requirements and associated solutions for their land.
- Yet another respondent stated that the true costs to them of stormwater infrastructure may be higher than the Council realises. This is because not only are significant amounts of (often-developable) land lost to create stormwater solutions, but that there are also the associated costs of cutting, filling, and planting the areas. Consequently, the overall cost of stormwater requirements is high.
- They also stated that a demand for infrastructure is not created until a new building is occupied, so HCC should consider deferring DCs until the building consent stage. In their view, this would allow the costs to be spread more fairly between the various participants in the building process.
- Regarding consultation, an industry advocate felt that HCC has not been particularly responsive to DC issues raised in the past, but that this had improved recently. They also felt industry should be engaged earlier in the policy development process, as it seemed that key policy decisions had been largely “set in stone” when formal consultation began.
- Finally, one respondent noted that not all people who pay DCs are developers, with some being local businesses that want to grow. While the policy may be easy to understand for developers and regular users, others might find it less easy to use.

7.6. There is Strong Support for Delayed Charges in Lieu of DCs

Finally, we note that there was very strong, sector-wide support for the possible use of delayed charges in lieu of DCs, such as those recently proposed by CIP. Not only would these allow costs to be spread over time and hence reduce the initial financial hurdle for development, but they would also forge a more transparent link between charges and the infrastructure received for it. Under the current DC policy, these links are not as immediately clear.

The response to this question was overwhelming and, in our view, provides a clear mandate for the Council to continue its discussions with CIP to advance the introduction of delayed charges in lieu of some current DCs.

8. Review of Development Cost Trends

8.1. Overview

The stakeholder interviews summarised earlier indicated that recent increases in DCs were only one element of wider development cost pressures affecting the sector. Given the importance of these comments, we now briefly review cost trends for industrial developments in Rotokauri. These are the developments that we understand have experienced the greatest DC increases across the city, and hence are at greatest risk of being affected by the new DC charges.

8.2. Land Prices

First, we used detailed land value data provided by QV to examine how land prices have changed since 2012. This is important because land prices usually comprise a large share of total build costs. Accordingly, Table 5 shows the trends in land prices per square metre for land tagged as “vacant land for industrial uses.”

Table 5: Rotokauri Vacant Industrial Land Values

Year	Land Area (ha)	Land Value (\$m)	Average LV \$/m ²
2012	306	\$61m	\$20
2013	322	\$56m	\$17
2014	179	\$59m	\$33
2015	243	\$56m	\$23
2016	238	\$65m	\$27
2017	180	\$87m	\$48
2018	160	\$145m	\$90

Table 5 shows that the amount of vacant industrial land available in Rotokauri has nearly halved from 306 hectares in 2012 to 160 in 2018. At the same time, land values have more than quadrupled (from an average of \$20/m² in 2012 to \$90/m² in 2018).

8.3. Development Contributions

As noted earlier, the DCs for Rotokauri non-residential developments have increased significantly, partly because the earlier charges had been capped at earlier levels for several years. As a result, the new charges are much higher than before. Table 6 lists the charges that apply to Rotokauri industrial developments under the 2016/17 and 2018/19 policies, respectively.⁵

Table 6: Rotokauri (Mangaheka) Industrial DCs ex GST

DC Activity/Asset Types	2016/17	2018/19	Change
Stormwater (per 100m ² of site area)	\$0	\$0	0%
All Other Activities (per 100m ² of GFA)	\$5,820	\$16,107	177%

⁵ This example models the costs of a hypothetical industrial development in Mangaheka, which is within the Rotokauri growth cell. However, under an agreement with the Council, developments there are providing their own stormwater solutions and hence do not attract a stormwater DC. This is illustrated by the zeros for stormwater DCs in Table 6.

Table 6 shows that DCs for all activities (other than stormwater) have increased by 177%.

8.4. Construction Prices

We reviewed a range of data to understand how construction costs have evolved in the city. Unfortunately, it is difficult to find much localised data to inform such an exercise. For example, while building consent data provide rough estimates of the likely costs, the figures provided are very much ballpark estimates and unlikely to reflect true construction costs. Similarly, while the Producers Price Index (PPI) can be used to analyse trends in construction costs over time, these are national level data. Moreover, the PPI only measures construction costs as an index, rather than the actual costs per square metre of floorspace, which reduces its usefulness here.

These qualifications aside, our research suggests that current construction prices for industrial developments in Hamilton City are about \$1,250 per square metre, and that these have increased by about 4% over the last 12 months.

8.5. Worked Example

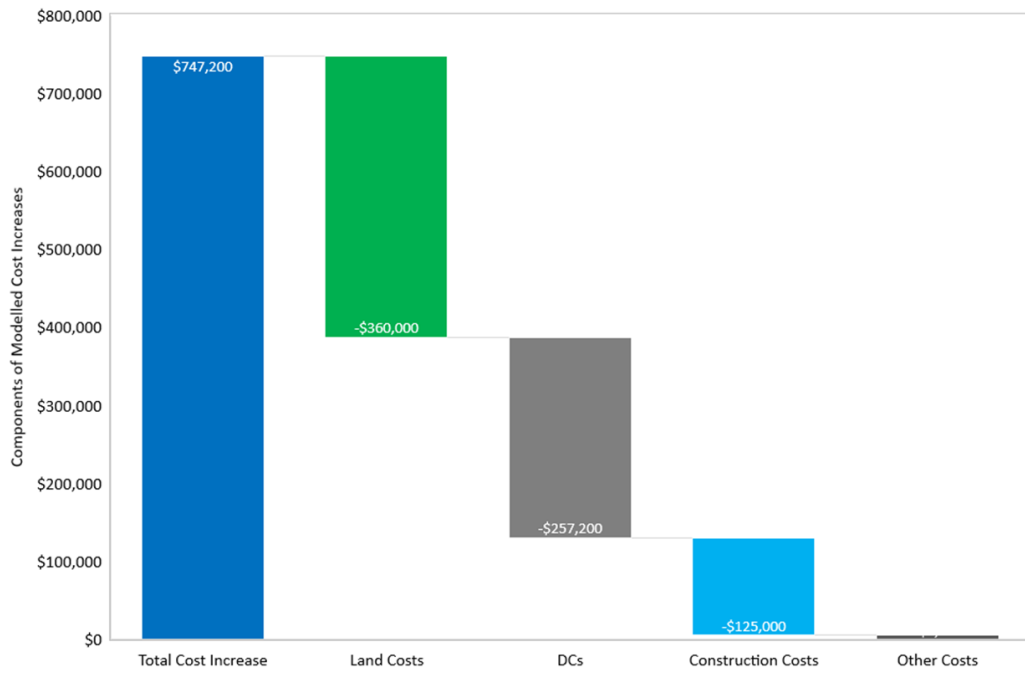
We now combine the various strands of information described above to consider the impacts on the cost of developing a typical industrial building in Rotokauri. According to valuation data provided by HCC, a typical industrial property in Rotokauri comprises a 2,500m² building on a 6,000m² section. We adopt those parameters to estimate the cost of developing such a building under the 2016/17 and 2018/19 DC policies. Our calculations are set out below, where we estimate all other costs (excluding land, DCs, and construction) to be roughly \$100,000 in 2016/17.

Table 7: Estimated Development Costs for Rotokauri Industrial in 2016/17 and 2018/19

Development Costs	2016/17	2018/19	\$ Change	% Change
Land Purchase	\$180,000	\$540,000	\$360,000	200%
Development Contributions	\$145,500	\$402,700	\$257,200	177%
Construction Costs	\$3,000,000	\$3,125,000	\$125,000	4%
Other Costs	\$100,000	\$105,000	\$5,000	5%
Total	\$3,425,500	\$4,172,700	\$747,200	22%

According to Table 7, the total costs of developing our hypothetical industrial building have increased from \$3.4 million in 2016/17 to nearly \$4.2 million in 2018/19. This represents an increase of almost \$750,000 (or 22%). To illustrate the contribution of each development element to our modelled cost increase, we created the waterfall chart below.

Figure 14: Breakdown of Modelled Cost Increases for Hypothetical Development



In summary: Because land costs have trebled during the last few years, the resulting land price inflation accounts for 48% of our modelled cost increase, with DCs accounting for a further 34%. Consequently, we conclude that the combination of higher land prices *and* higher DCs have collectively undermined the economics of industrial development in this location.

9. Impacts of Delayed Charges

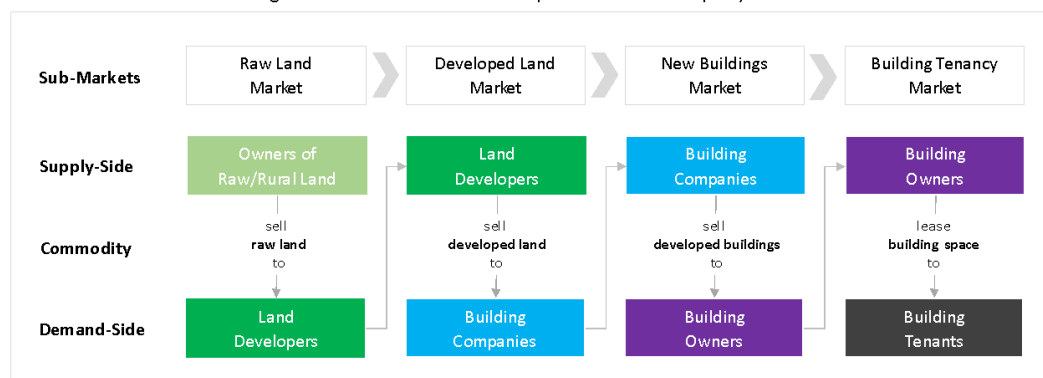
9.1. Overview

In section 7.3, we reported that there is very strong, sector-wide support for the use of delayed charges (such as those recently proposed by CIP) in lieu of DCs. We now use supply-demand analysis to describe the likely effects of a possible shift from DCs to delayed charges. First, however, we identify the various participants in the property market process, amongst whom the effects of such a change will resonate.

9.2. Participants in the Property Market

Figure 15 illustrates the participants and sub-markets that comprise the wider property market.

Figure 15: Sub-Markets that Comprise the Wider Property Market



As shown above, the property market starts with raw landowners, who sell bare land to developers. The land developer then rezones the land (if required), gains any necessary resource consents, subdivides it, and connects each parcel to essential services like power, water, and gas. Each development-ready parcel is then sold to a building company, who gains consent for – and erects – a new building. This is sold to an owner, who either occupies or leases it.

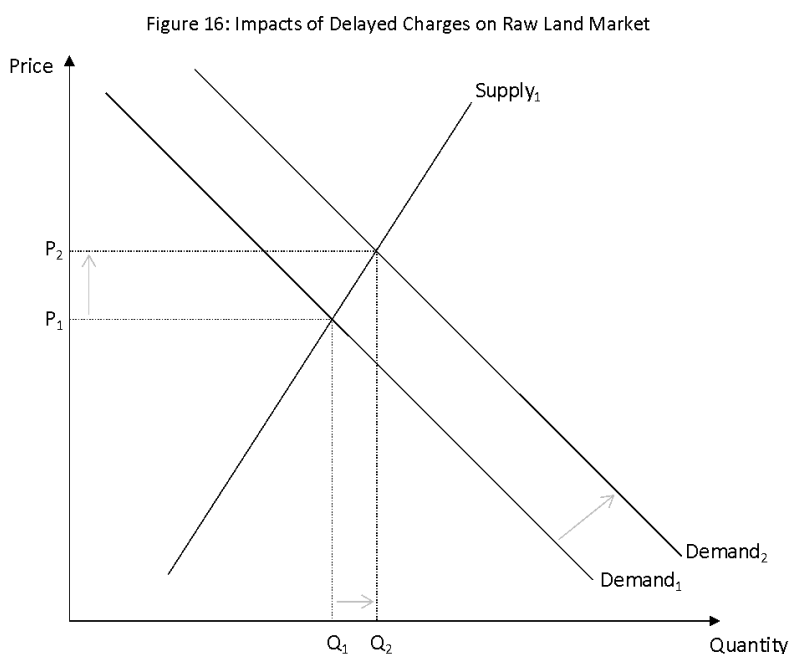
It is useful to note that, while market participants are often focussed on only one part of the wider value chain, others may span several. For example, raw landowners may sometimes also be land developers, and land developers may sometimes also construct buildings. Amongst other things, the degree to which participants are focussed in only one area of the process affects the incidence of DC charges across the market. Specifically, all other things being equal, the greater the number of participants in the development process, the greater the scope to spread DC impacts.

Finally, it is important to recall that DCs for greenfield developments – which are our focus here – are usually paid by the land developer at the subdivision stage. Bearing that in mind, we now consider the likely impact of imposing delayed charges in lieu of DCs.

9.3. Supply-Demand Analysis

To begin, Figure 16 demonstrates the market for raw land, which is initially in equilibrium where the demand curve ($Demand_1$) intersects the supply curve ($Supply_1$). This produces an initial equilibrium quantity of raw land equal to Q_1 , and a corresponding market price of P_1 . Now, consider the impacts of moving to delayed charges.

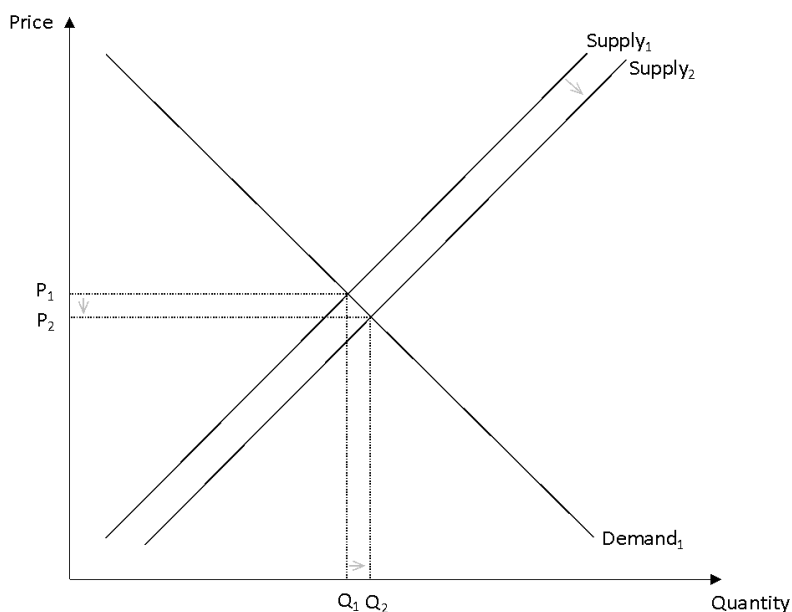
Because DCs are no longer charged on subdivision, the costs of land development fall and its profitability rises. Acknowledging these higher profits, the demand for raw land increases to enable more land development to occur. This causes the equilibrium price and quantity of bare land to rise to P_2 and Q_2 , respectively.⁶ This is illustrated in the figure below.



Although land developers are willing to pay more for bare land to reflect the absence of DCs, this cost increase is highly unlikely to offset the DCs avoided. As a result, the overall cost of land development falls, which causes its supply curve to move out. As the land development supply curve moves outward, its equilibrium price falls and the market quantity increases. This is shown in Figure 17.

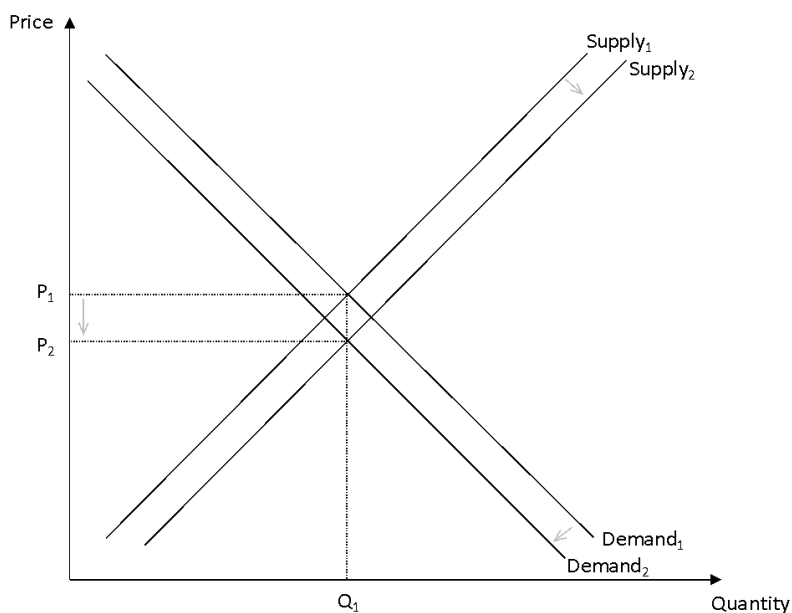
⁶ However, for land that has already been acquired by land developers, the price of the raw land has already been locked-in. Hence, land developers that already own land in the city are likely to be the greatest beneficiaries of the proposed move to delayed charges, as the price that they paid for the land would have been predicated on an expectation that DCs are paid at subdivision. When that obligation is lifted via the introduction of delayed charges, the costs of land development automatically fall below previous expectations, and hence give rise to unforeseen windfalls via higher returns on land development.

Figure 17: Impacts of Delayed Charges on Developed Land Market



Faced with lower land prices, building companies will also experience lower costs, which will push their supply curve outward too. However, at the same time, the new delayed charges will increase the future costs of building ownership. As a result, the demand for new buildings will fall. Together, these changes in the supply and demand for new buildings causes the market price to fall, but the overall impacts on the market quantity are indeterminate. They depend on the relative sizes of the falls in the market supply and demand curves. Figure 18 illustrates one potential outcome, where the demand and supply shifts perfectly offset to maintain the current quantity.

Figure 18: Overall Impacts on New Buildings Market



In summary: economic theory predicts that the effects of delayed charges in lieu of DCs will be shared across participants in the property market. Specifically:

1. Land developers may pay more for raw land to reflect the lower costs of development;
2. However, the overall cost of land development will fall due to the avoidance of DCs, which are normally paid by the land developer at the subdivision stage (for greenfields).
3. As the cost of land development falls, it becomes more profitable, so the quantity supplied will increase.
4. As the supply curve for developed land increases, the price falls. Hence, building companies will buy more, and pay less for, new sections due to the increase in supply.
5. Some of this lower developed land price will probably be passed on via the final price of new buildings.
6. Regardless, building owners will be willing to pay less for new developments, because they now come with a new stream of future costs in the form of delayed charges.

9.4. Overall Impacts on Building Purchasers

The theoretical analysis above showed that the purchasers of new buildings were likely to pay less for completed developments because the costs of ownership are higher due to the introduction of delayed charges. This raises the interesting question of how much less people might be willing to pay for new buildings that attract delayed charges in lieu of DCs?

The easiest way to advance the discussion is via a simple example. Consider a hypothetical development that would have previously attracted a DC of \$30,000, which is now replaced by a 30-year stream of delayed charges. Further, let us assume that the future stream of charges must have the same value as the replaced DC, and that the interest rate applying to the underlying loan is 5%. Finally, let us assume that the charges remain constant in nominal terms.

Using some intermediate algebra, we can calculate that the annual charge required to provide \$30,000 in NPV terms is just over \$1,858 per annum. Multiplying this figure by 30 (as it is paid once per annum for 30 years), we can calculate the total nominal cost of the delayed charges is about \$55,700. However, households will naturally discount future payments to reflect the time value of money, so they will perceive the future stream of charges to be less than the total nominal amount.

If the implicit discount rate applied by households to the future stream of charges matches the interest rate on the underlying loan, the household will seek a reduction of \$30,000 on the purchase price to reflect the move from DCs to delayed charges. However, there is a strong body of literature, which shows that households systematically over-discount future costs, and therefore place much more emphasis on today. When these higher discount rates are applied to the future stream of delayed charges, households will probably accept a much lower reduction in house prices than the \$30,000 present value of delayed charges associated with it.

To see the impacts of over-discounting on the amount that households might accept to pay delayed charges, we calculated the perceived total costs using a range of discount rates. The results are presented in the table below.

Table 8: Perceived Costs for Different Discount Rates

Implicit Discount Rate	Perceived Cost
0%	\$55,760
1%	\$48,450
2%	\$42,460
3%	\$37,520
4%	\$33,420
5%	\$30,000
6%	\$27,120
7%	\$24,680
8%	\$22,600
9%	\$20,810
10%	\$19,270
11%	\$17,940
12%	\$16,770
13%	\$15,740
14%	\$14,840
15%	\$14,030

Table 8 shows that the discount on the price of new dwellings required to offset the stream of future charges is sensitive to the implicit discount rate. According to the literature, the discount rate applied by most households when making such a decision will be considerably higher than current, actual interest rates. So, assuming an actual interest rate of 5%, households may apply an implicit rate of 10%. If so, they would seek a discount of about \$19,300 to accept the stream of delayed charges calculated in this example. However, if the implicit discount rate is pushed out to 15%, households might require a reduction of only \$14,000 in the price of new homes to accept a future stream of delayed charges in lieu of DCs.

Council Report

Item 17

Committee: Council

Date: 17 September 2019

Author: Chris Allen

Authoriser: Chris Allen

Position: General Manager
Development

Position: General Manager
Development

Report Name: Hamilton to Auckland Passenger Rail - Puhinui Station Study

Report Status	<i>Open</i>
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Purpose

1. To inform the Council on the status of the Hamilton to Auckland Start-Up Passenger Rail Service and to seek approval for a Council contribution to an addendum to the existing business case to consider the opportunity to enable the Puhinui rail station to accommodate regional rail.

Staff Recommendation

2. That the Council:
 - a) receives the report;
 - b) approves a contribution of up to \$25,000 from Hamilton City Council towards a business case to consider the implications of enabling regional rail at the Puhinui Station;
 - c) requests Waikato Regional Council to also contribute up to \$25,000 towards a business case to consider the implications of enabling regional rail at the Puhinui Station; and
 - d) notes that approval for a Hamilton City Council contribution is subject to the NZ Transport Agency confirming a subsidy to be a co-investor in the business case.

Executive Summary

3. Funding has been approved and work is underway to deliver Phase 1 of the Hamilton to Auckland Start-up Passenger Rail Service.
4. Auckland Transport are in the advanced stages of investigation and design work to upgrade the Puhinui rail station as part of their Airport to Botany Rapid Transit project. This upgrade will make Puhinui the major rail link interchange to the Auckland Airport.
5. Phase 2 of the Hamilton to Auckland Passenger Rail Service includes penetrating further into the Auckland metro and it is a logical step for the regional service to stop at Puhinui.
6. It is proposed that an addendum to the existing business case is undertaken to provide robust analysis of the infrastructure and operational requirements necessary for this to happen.
7. Approval is sought for a \$25,000 contribution towards this business case work.
8. Staff consider the decision in this report has a low significance and that the recommendations comply with the Council's legal requirements.

Background

9. The multi-agency Hamilton to Auckland corridor team is considering Hamilton to Auckland passenger rail in 3 phases:
 - Phase 1;** Hamilton to Auckland Start-up Passenger Rail Service
 - Phase 2;** Hamilton to Auckland Start-up Next Steps Passenger Rail service
 - Phase 3;** Hamilton to Auckland Rapid Rail
10. Growth and Infrastructure Committee received a Passenger Rail Project Update (Phase 1) at its 27 August 2019 meeting which was approved to be taken from public excluded to public (link [here](#)). The tenders are currently being evaluated for the Rotokauri Transport Hub.
11. At its 8 August 2019 meeting, Council received a verbal report on the future proofing of the Puhinui rail station for access by the Hamilton to Auckland Passenger Rail Service and resolved:

“Requests that the Passenger Rail Working Group formally request central government and Auckland Transport consider the Hamilton-Auckland passenger rail service and other regional rail services in the design of the Puhinui Station, including the third main rail track”
12. In giving the verbal update Council were shown a presentation that included the Auckland Rail Metro Network and Stage 1 and 2 of the Airport to Botany Rapid Transit project (Attachment 1). These slides show the significance of the Puhinui rail station being the future link for public transport services to Auckland Airport.
13. It was also noted that the current work proposed for Puhinui Station would future proof for regional rail but would not enable it. For example a third platform face would be provided but there is no provision for a third platform that would be required for regional rail.
14. Attached to the 27 August 2019 report was a letter that the Mayor sent to the Minister of Transport informing him of the 8 August 2019 resolution given that the Phase 3 business case for Rapid Rail is being led by his officials in the Ministry of Transport.
15. Access to Puhinui station for regional rail was raised at the growth corridor launch and was supported by the Minister of Transport who advised to work with the relevant officials.
16. Access to Puhinui rail station for regional rail should be seen as an important Phase 2, Hamilton to Auckland Start-up Next Steps Passenger Rail service initiative.
17. Stage 1 of the Auckland Transport Rapid Transit project includes the upgrading of the Puhinui rail station. Stage 2 of the Rapid Transit project includes the further upgrading of the Puhinui rail station, but this will be a number of years away.
18. There was a discussion at the 4 September 2019 Hamilton to Auckland Start-up Passenger Rail Project Governance Group informed by information from Auckland Transport in regard to the current Puhinui station and associated work and what additional work would be required to understand any regional rail needs. In particular;
 - It was noted that while the aspiration for the start-up service to penetrate further into the Auckland Metro Area is a logical next step (part of Phase 2), there has been no robust analysis of the infrastructure and operational requirements necessary for this to happen
 - It was noted that consideration will need to be given to a number of existing projects including 3rd main, Puhinui Station, Papakura to Pukekohe Electrification and Rapid Rail (Phase 3)
 - A Proposed Scope of Works on the basis of either a new business case or an addendum to the existing Phase 1 business case was discussed.

Discussion

19. There is merit in undertaking this work now to align with the Stage 1 Airport to Botany Rapid Transit project. This means that a business case decision is required now so that any work can align with the Auckland Transport work.
20. It is estimated that the business case work will cost up to \$200K on the basis that it is considered as an addendum to the existing Start-up Rail Phase 1 business case completed by Stantec in 2018 on behalf of HCC/WRC/WDC and approved by the NZTA Board in December 2018.
21. Approval is sought for Hamilton City Council to be a funding partner to the business case work which will need to be led by Waikato Regional Council as per the previous business case. We would request NZ Transport Agency to treat this work as an extension to the current Phase 1 work and attract the enhanced financial subsidy from NZ Transport Agency of 75.5%.
22. The balance of cost is proposed to be shared in equal portions between Hamilton City Council and Waikato Regional Council, also as per the previous business case.
23. Undertaking this business case work supports Hamilton's Access Hamilton Transport Strategy and is fully aligned with the Hamilton to Auckland corridor work.
24. This work is required now if there is to be a chance that access to Puhinui is to be achieved as part of the Puhinui rail station stage 1 works. If this work is not done now the next opportunity will be as part of the Puhinui rail station stage 2 work which will be many years away.

Financial Considerations

25. The business case work will detail any cost implications for the various parties if access to Puhinui rail station is to be progressed.
26. Funding for Councils \$25,000 will come from existing budgets for Mass Transit work.

Legal and Policy Considerations

27. Staff confirm that this project complies with the Council's legal and policy requirements.

Wellbeing Considerations

28. The purpose of Local Government changed on the 14 May 2019 to include promotion of the social, economic, environmental and cultural wellbeing of communities in the present and for the future ('the 4 wellbeings').
29. The subject matter of this report has been evaluated in terms of the 4 wellbeings during the process of developing this report as outlined below.
30. The recommendations set out in this report are consistent with that purpose.

Social

31. There are significant social benefits in providing a public transport system and encouraging walking and cycling which provide connectiveness to opportunities.

Economic

32. Economic considerations were considered as part of the Single Stage Business Case endorsed by Council on 13 December 2018 and subsequently approved by the NZ Transport Agency.
33. The incremental business case will determine the further economic considerations.

Environmental

34. The start-up passenger rail service contributes to a number of Hamilton City Councils sustainability principles, including;
- Principle 1 - HCC includes environmental, economic, social and cultural considerations in its decision making (taking a business case approach).
 - Principle 4 - HCC works with central government to deliver on national greenhouse gas emission reduction targets and supports resilience to climate change in our communities (encouraging use of public transport).
 - Principle 5 - HCC promotes walking, cycling, public transport and other low carbon transport options.

Cultural

35. The Hamilton to Auckland Corridor Plan is a government initiative, supported by Cabinet to progress the government urban growth agenda, being delivered in partnership with local government and iwi. It is overseen by a steering group which comprises senior officials from Waikato-Tainui, Auckland Council, Waikato Regional Council, Hamilton City Council, Waikato District Council, NZ Transport Agency, Ministry of Transport, Treasury and the new Ministry of Housing and Urban Development.
36. A project arising from the Corridor Plan is the Hamilton to Auckland Start-up Passenger Rail Service.
37. Hamilton's contribution to this service is to establish a new PT Hub at Rotokauri. The location of the facility was consulted on in the development of Hamilton's District Plan and through this consultation submissions were received from Tainui Group Holdings supporting the PT Hub in its current location.
38. The Hamilton to Auckland Start-up Passenger Rail Service has arisen from the Hamilton to Auckland Corridor Spatial Plan. The purpose of the Spatial Plan is to increase connectivity within the Auckland to Hamilton corridor in a way that realises its social, economic, cultural and environmental potential.

Risks

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

Significance & Engagement Policy

Significance

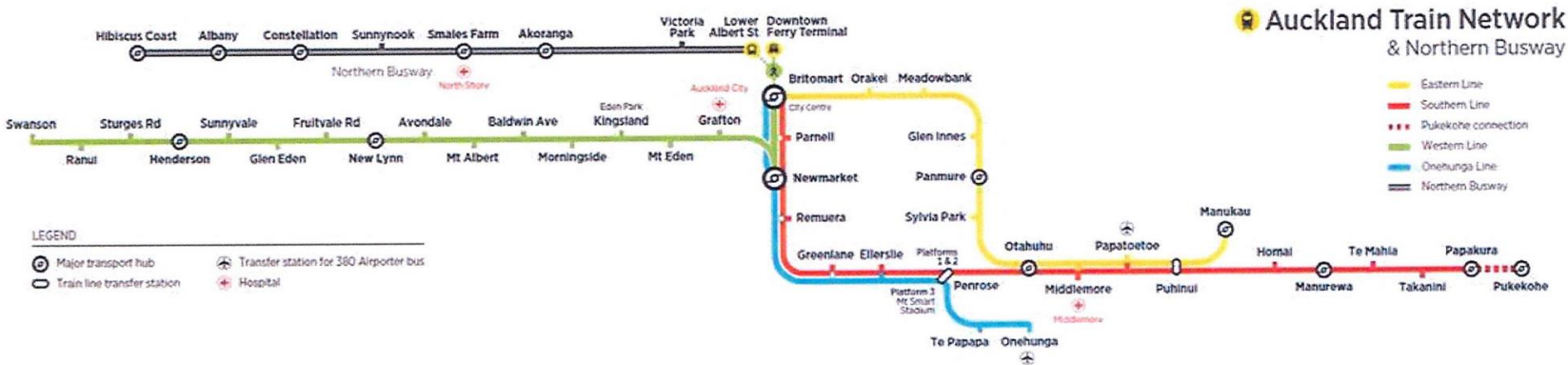
40. Staff have considered the key considerations under the Significance and Engagement Policy and have assessed that the matter(s) in this report has/have a low level of significance.

Engagement

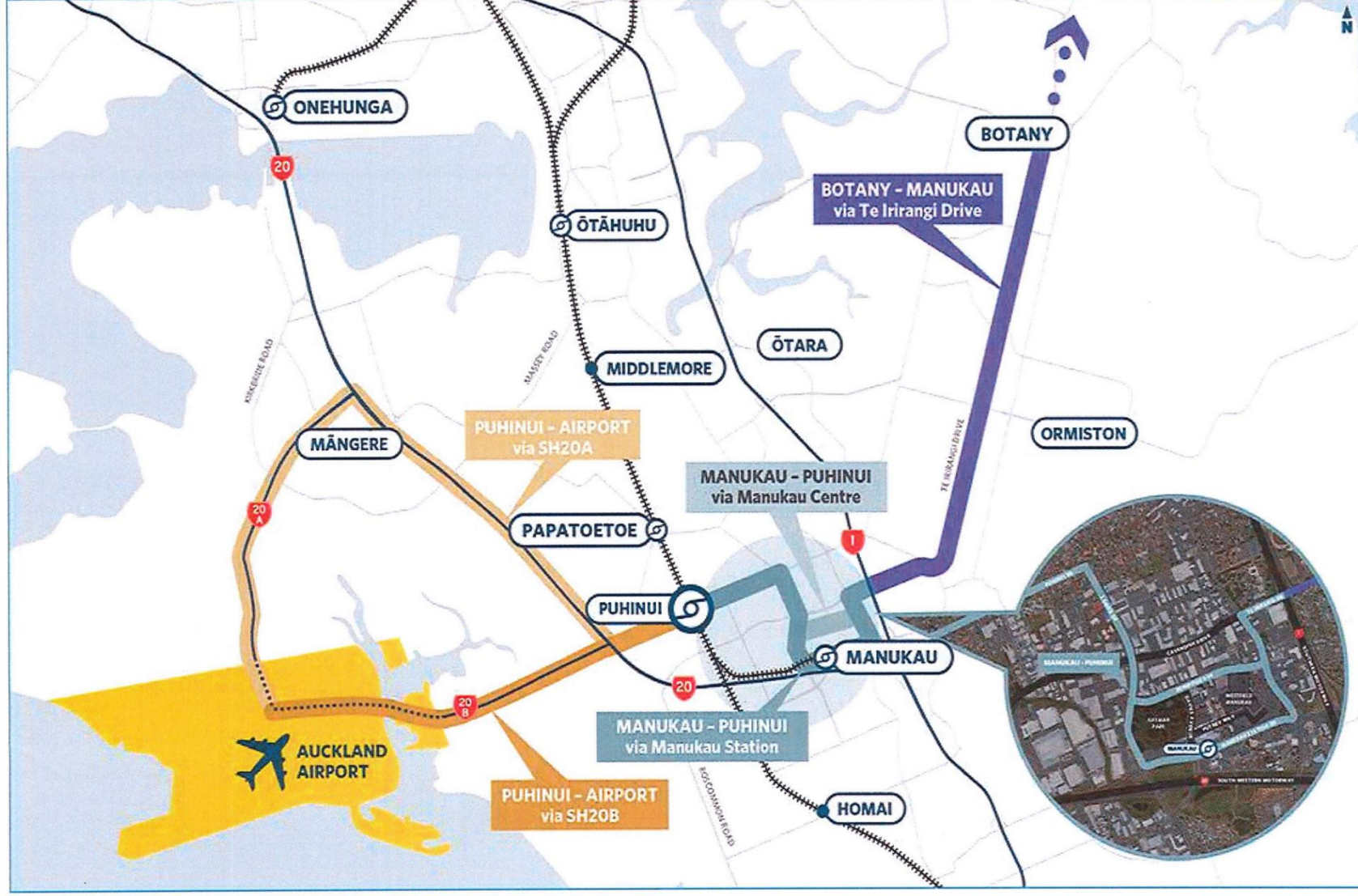
41. Community views and preferences are already known to the Council through the development of the previous business case.
42. Given the low level of significance determined, the engagement level is low. No engagement is required.

Attachments

Attachment 1 - Airport to Botany Project - Attachment 1







Council Report

Committee: Council **Date:** 17 September 2019
Author: Jason Harrison **Authoriser:** Eeva-Liisa Wright
Position: City Transportation Unit Manager **Position:** General Manager Infrastructure Operations
Report Name: Hamilton Public Transport Youth Concession

Report Status	<i>Open</i>
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Purpose

1. To seek approval for an extension to and reallocation of funding of the one-year trial for the public transport fare concession for youth (18 years and under) to include 2019/20 school holidays.
2. To request Waikato Regional Council, include funding provision to enable the extension of the one-year trial and future funding provision of free travel for youth (18 years and under) on weekends, public holidays and school holidays within Hamilton.

Staff Recommendation

3. That the Council:
 - a) receives the report;
 - b) approves an extension of the one-year trial for free public transport travel for youth (18 years and under) on weekends and public holidays to include 2019/20 school holidays including start up seed funding reallocated from favourable transport network (e.g bus shelter advertising) revenue received during 2019/20 as follows:
 - (i) Term 3 (September /October 2019) funding of \$17,180;
 - (ii) Term 4 (2019/20 Summer holiday) funding of \$17,097;
 - (iii) Term 1 (April 2020) funding of \$6,909; and
 - c) requests Waikato Regional Council fund the 50% balance remaining of the free youth (18 years and under) trial extension for School Holidays (ii) and (iii) and include funding provision from Financial Year 2020/21 onwards for the implementation of free travel for youth (18 years and under) on weekends, public holidays and school holidays within Hamilton.

Executive Summary

4. On the [20 June 2019](#), Council resolved to support the reallocation of Hamilton City Council's approved local share of \$25,000 to enable a Youth (18 years and under) one-year trial of free bus service travel within Hamilton on weekends and public holidays commencing in July 2019.

5. On the 6 July 2019 a trial for Free travel for youth (18 years and under) on weekends and public holidays in Hamilton commenced. Trial progress has been reported to the Growth and Infrastructure Committee [General Managers' Report 27 August 2019 - Page 203](#).
6. Since commencement, the free travel for youth (18 years and under) has seen an increase of up to 125% in youth boarding public transport during the weekend (Saturday and Sunday).
7. An opportunity exists to extend the existing trial to include the school holidays for Term 3 (September/October 2019), Term 4 (Summer Holidays 2019/20) and Term 1 (April 2020).
8. The Access Hamilton Taskforce, on the 9 September 2019 meeting, discussed the results of the trial. The Taskforce has proposed to extend the youth concession to include school holidays during the 2019/20 financial year, which enables detailed data to be included into a future business case.
9. Start-up seed funding from Hamilton City Council to include school holidays for Term 3 - \$17,180k, Term 4 - \$17,097k and Term 1 – \$6,909k during 2019/20 is requested. These costs can be funded from reallocation of 2019/20 additional revenue anticipated to be received from increased bus shelter advertising.
10. Waikato Regional Council (WRC), will be requested to fund the 50% balance remaining (total \$24k) of the free youth (18 years and under) trial extension for School Holidays for Term 4 2019/20 (\$17k) and Term 1 2020 (\$7k) and include funding provision from FY 2020/21 onwards for the implementation of free travel for youth (18 years and under) on weekends, public holidays and school holidays in Hamilton.
11. Staff consider the decisions in this report have low significance and that the recommendations comply with the Council's legal requirements.

Background

12. On the [23 October 2018](#), the Growth and Infrastructure Committee resolved to request Waikato Regional Council consider funding a business case for the implementation of a Free Youth (<18 years) concession fares for bus services in Hamilton City.
13. On the [15 November 2018](#), the Council resolved to approve funding of up to a maximum of \$25,000 as the Hamilton City Council local share for the development of a business case for Free Youth (18 Years and under) Concession bus services in Hamilton City. This was to be funded from existing 2018-28 10 Year Plan transport activity budgets, on the basis that the Waikato Regional Council would lead the business case and fund any remaining costs.
14. On the 7th of June 2019, the Waikato Regional Council - Hamilton Public Transport Joint Committee with Elected Member representatives Councillor Dave Macpherson and Councillor Leo Tooman in attendance, recommended a revised approach for developing a youth fare concession.
15. On the [20 June 2019](#), Council resolved to support the reallocation of Hamilton City Council's approved local share of \$25,000 for the business case, to enable a Youth (18 years and under) one-year trial of free bus service travel within Hamilton on weekends and public holidays commencing in July 2019.

Discussion

16. On the 6th July 2019 the one-year trial for free public transport travel for youth (18 years and under) on weekends and public holidays in Hamilton commenced.

17. The boarding results for the first two months (July and August 2019) of free weekend travel for youth 18 years and under is summarised in the table below:

	2018 Child*	2019 Youth 18 Years & under	% Increase
July Weekend Total	3,008	6,207	106%
Saturday	1,797	3,610	101%
Sunday	1,211	2,597	114%

August Weekend Total	4,059	9,673	138%
Saturday	2,726	6,347	133%
Sunday	1,333	3,326	150%

July and August 2019 Weekend Total	7,067	15,880	125%
Saturday	4,523	9,957	120%
Sunday	2,544	5,923	133%

*2018 Child – people 5 years to 15 years or still at high school

18. The Access Hamilton Taskforce, on the 9 September 2019 meeting, discussed the results of the trial. The Taskforce has proposed to extend the youth concession to include school holidays during the 2019/20 financial year.
19. Extending the trial to include school holidays will provide Hamilton City Council and Waikato Regional Council additional real time boarding data to analyse and understand the viability and funding requirements of free public transport travel for youth (18 years and under) after one year.
20. Regular reporting on the progress of the 'Free travel for youth' one-year trial will be provided to Council through appropriate future Council committee and taskforce structures.
21. Providing a fare concession for youth during all four school holiday terms is estimated to increase expected boarding's between 80-125% of youth using free travel. A total of \$83,784 in fare revenue to Waikato Regional Council will be foregone. This can be broken down by school holiday periods as follows:

NOTE: All figures include school holiday weekdays only (weekends already fall under the free youth concession).

Holiday	Expected Revenue from Child Fares	Expected Boarding's (no concession)	Expected Boarding's (free youth travel) 80% - 125% Demand Increase
Term 3 2019 (September/October Holiday)	\$17,180	9,488	17,000 - 21,000
Term 4 2019/20 (Summer Holiday)	\$34,193	18,667	33,500 - 42,000
Term 1 2020 (April Holiday)	\$13,817	7,571	13,500 - 17,000
Term 2 2020 (July Holiday)	\$18,593	10,204	18,500 - 23,000
Year Total	\$83,784	45,930	82,500 - 103,000

22. The upper limit for expected boarding's of 125% matches the demand growth in youth weekend patronage seen across the trials first two months of the concession. However, as weekends are typically the most variable days, this same level of demand growth is unlikely to be seen across extended weekday holiday timeframes – therefore a range has been provided.

23. The revenue detailed in the table above relates to fare revenue from child fares only (people 5 years to 15 or still at high school). The youth concession extends eligibility to those 18 years and under. The number of people in the 15 to 18 age group is difficult to estimate. Waikato Regional Council do not expect the revenue difference to be material.
24. HCC is proposing to contribute a start-up seed fund for a portion of the expected revenue from child fares with no concession as shown in the table above. The expected free youth demand increase in boarding's are filling capacity on existing services which would normally be in operation during the school term. No further funding is expected to run the service.

Financial Considerations

It is proposed that start-up seed funding for the introduction of school holidays into the current free youth trial is provided by Hamilton City Council and Waikato Regional Council and is anticipated to be split as follows to cover the revenue foregone during the trial:

- HCC 100% – Term 3 - 2019 Sept/Oct holidays - \$17,180.

- WRC/HCC 50% split – Term 4 – 2019/20 Summer Holidays - \$34,193.
- WRC/HCC 50% split – Term 1 – 2020 April holidays- \$13,817.
- WRC – Term 2 - 2020 and Future years –via annual plan/10-year plan.

School Holiday	Total Revenue Foregone from Child Fares	HCC share 2019/20	WRC share 2019/20	WRC 2020/21 onwards
Term 3 2019 (September/ October)	\$17,180	\$17,180	-	
Term 4 2019/20 (Summer Holiday)	\$34,193	\$17,097	\$17,097	
Term 1 2020 (April Holiday)	\$13,817	\$6,909	\$6,909	
2019/20 Year Total	\$65,190	\$41,186	\$24,006	
Term 2 2020 (July Holiday)	\$18,593	-	-	\$18,593
Full School Year Total	\$83,784	\$41,186	\$24,006	\$83,784*

The total cost to Hamilton City Council of this proposal is estimated as \$41,186 for 2019/20 and can be funded from reallocation of additional annualised revenue anticipated to be received from the transport network in 2019/20 – in particular a forecast increase in the revenue received from bus shelter advertising revenue as per table below:

Advertising Revenue 18/19 Budget	Advertising Revenue 18/19 Actual	Advertising Revenue 19/20 Budget	Advertising Revenue 19/20 Forecast*	Forecast Annual Variance Fav/(Unfav)
\$120,000	\$166,506	\$120,000	\$180,000	\$60,000

Hamilton City Council requests that Waikato Regional Council funds the 50% balance remaining for the extension of the free youth trial to include school holidays in Term 4- 2019/20 and Term 1- 2020. Funding provision for Term 2 -2020 and future years is also requested to be considered in the new triennium during annual plan/ 10-year plan processes including subsidy approval from the New Zealand Transport Agency (NZTA).

Legal and Policy Considerations

29. Staff confirm that the staff recommendation complies with the Council's legal and policy requirements.

Wellbeing Considerations

- 30. The purpose of Local Government changed on the 14 May 2019 to include promotion of the social, economic, environmental and cultural wellbeing of communities in the present and for the future ('the 4 well-being's').
- 31. The subject matter of this report has been evaluated in terms of the 4 well-being's during the process of developing this report as outlined below.
- 32. The recommendations set out in this report are consistent with that purpose.

Social

- 33. The recommendation supports removing barriers for youth to be engaged in social connections and/or employment activities that they may not previously have been able to access.

Economic

- 34. The recommendation also supports the principle of Access Hamilton of 'A balanced transport approach with a focus on safety, transport choice and supporting economic growth and development'.

Environmental

- 35. Sustainability Principle 4 Council promotes walking, cycling, public transport and other low carbon transport options.

Cultural

- 36. The recommendation considers the positive impact that access to public transport will have on rangatahi living in Kirikiriroa, enhancing their ability to engage in social, recreation and employment opportunities.

Risks

- 37. Staff have identified that if the anticipated revenue for the bus shelter advertising for 2019/20 is less than forecasted, this may have an impact on the delivery of the school holiday free bus travel. However, as this activity will be regularly monitored and reported, early indication of this will be identified as part of the free travel for youth one-year trial reporting to future Council committee structures.
- 38. It is anticipated that the Waikato Regional Council will discuss this proposal in the new triennium. If the Waikato Regional Council do not approve this additional funding to include youth concessions for school holidays in 2019/20 staff will report back to future Hamilton City Council committee structures.

Significance & Engagement Policy

- 39. 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.

Attachments

There are no attachments for this report.

Council Report

Item 19

Committee: Council
Author: Andre Chatfield
Position: Risk and Insurance Manager
Report Name: Risk Management Report - Six Monthly

Date: 17 September 2019
Authoriser: David Bryant
Position: General Manager Corporate

Report Status	<i>Open</i>
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Purpose

1. To inform the Council on the status of Council's eight strategic risks and three key organisational risks.

Staff Recommendation

2. That Council receives the report.

Background

3. At the 16 May 2019 Audit and Risk Committee meeting, the Committee approved, for monitoring purposes, eight strategic risks and three key organisational risks (see appendix one).
4. The management of these risks are reported and discussed quarterly at the Audit and Risk Committee.
5. The Audit and Risk Committee terms of reference require six monthly reporting of the management of these risks to Council.
6. Each of these risks are listed below along with key commentary provided by each General Manager risk owner for discussion.

Discussion

Risk 1 - A disaster event

7. This risk was previously reported as a material risk for Civil Defence effectiveness and has been expanded to include additional high-level triggers not considered previously. Hamilton is recognised to have a lower risk profile than other parts of NZ and a collective approach with neighbouring councils and agencies allows for a joint response to a disaster event. Hamilton may also be called upon during an event outside the city to support displaced people and/or as a coordinating centre for affected areas.
8. Councils emergency management framework is supported by Local Emergency Services, Ministry of Civil Defence and Emergency Management (MCDEM), Civil Defence Group, Regional Hazards Group and the local Emergency Operations Centre structure capable of responding to a variety of disasters.

9. HCC continues to have an active training programme in place with actions to create a mandatory training pathway for new employees.
10. Work has started on improving the documentation and socialisation of key plans for reduction, response and recovery activity.
11. While the residual rating for this risk remains very high, the rating is due to the unknown impact a disaster event could have on the city and the community.

Risk 2 - Major economic or financial shock

12. This strategic risk is similar to a key risk previously reported to the Audit and Risk Committee (under the title "Financial strategy failures").
13. There are no indicators showing any material or adverse change in this risk area.
14. This risk has been broadened to identify external factors that could significantly and negatively impact the Council and Hamilton City as well as including the relevant controls and mitigations in place.
15. The Council has some short term financial resilience should this risk materialise however the size of the shock will determine what actions the Council may take. A significant shock could require the Council to urgently review and reduce its capital and operating spending.

Risk 3 - Increasing compliance standards due to stakeholder expectations

16. This is a new strategic risk to be monitored by the Audit and Risk Committee.
17. While there are several risks in this area, Council already have in place a range of existing controls and mitigations to ensure the Council is reasonably ready to comply with changes in compliance standards.
18. There is always room for increased controls and mitigations to be put in place and staff are exploring options. Staff are reviewing the benefits of subscribing to the electronic platform 'ComplyWith', which could provide the Council with an independent report on key areas of compliance and could allow an efficient and effective approach to compliance management across Council. This could in turn allow us to minimise unforeseen impacts through legislative non-conformances and penalties.

Risk 4 - Cyber attack

19. The Cyber-attack risk was previously reported to the Audit and Risk Committee and is being continually managed. There are no indicators showing material or adverse change in this residual risk rating of high which is primarily due to the volatile environment of the internet and rapid changes occurring in technology.
20. The Council have recently improved its cyber detection and monitoring capabilities for adverse attacks and this is considered a continuing business as usual process with various levels of responses initiated when required.

Risk 5 - Growth

21. This strategic risk is similar to a key risk previously reported to the Audit and Risk Committee (under the title "Poor data, analysis and response").
22. There are no indicators showing any material or adverse change in this risk area however the growth market for Hamilton City is expecting higher levels of growth that initial modelling has indicated.
23. Growth in neighbouring regional areas, including Tauranga, is being monitored by the Council through local government information sharing initiatives.

Risk 6 - Political changes or decisions impact Council's strategic direction

- 24. This is a new strategic risk to be monitored by the Audit and Risk Committee.
- 25. This risk focuses on external stakeholder relationship management, monitoring of potential impacts to Council's strategic objectives and engagement/communication.
- 26. The risk has a Very High rating because of the dynamic and complex nature of Council's significant stakeholder relationships and the number of material issues which are progressing or under action at any point of time. Engagement, communication, executive team and elected member competency, and clarity of strategy are key factors in this risk.
- 27. Council needs to maintain close relationships with Government and its neighbouring Councils. These relationships are enhanced because of several collaborative forums (such as the Mayoral Forum, Futureproof and Chief Executive Forum).
- 28. These forums discuss strategic alignment between local and central government initiatives and the associated high-level risks managed between stakeholders. These forums are an important opportunity to influence and mitigate this risk.

Risk 7 - Significant shortage of key external resources

- 29. This is a new strategic risk to be monitored by the Audit and Risk Committee.
- 30. This risk focuses on the resources and materials strain across New Zealand and what impacts these will have on current or pending development across Hamilton city.
- 31. A recent government initiative called "Pipeline" provides visibility of the capital portfolio sub-regionally, regionally and nationally, as well as the resources required to deliver these projects. The initiative is aimed at providing transparency and shared capacity between government and local government.
- 32. In July 2018 the Chief Executive established a Development group within Council to provide specific focus on capital project delivery. Part of the Development group's responsibility is to have regular liaison with industry and to consider resourcing risks for delivery.
- 33. The new Development group is leading an initiative to provide pipeline visibility to the supply chain for the sub-region. This involves presenting an integrated programme of work arising out of Hamilton City Council, Waikato District Council, Waipa District Council and the NZ Transport Agency. This work will be a logical input to any national pipeline initiatives.
- 34. To secure professional services resource, Council has worked with Waikato LASS to re-tender a Professional Services Panel. This allows us to understand any resourcing issues in this important part of the supply chain.

Risk 8 - High level security threat or major emergency

- 35. This is a new strategic risk to be monitored by the Audit and Risk Committee.
- 36. To improve awareness of this risk and security management standards the Council are adopting the Central Governments Protective Security Requirement (PSR) framework. This framework improves governance and response capability through developing key internal and external stakeholder relationships.
- 37. A fixed term specialist security position was approved in Council's 2018-28 10 Year Plan and has been filled. This role has the responsibility of understanding Hamilton city's security risk profile and identifying key mitigations to support the city's response and recovery should there be a significant event. These works are underway and are expected to be fully implemented by June 2020.

Organisational Risks

38. Three key organisational risk commentaries have been included in the appendix to this report to provide visibility and assurance to the Audit and Risk Committee that safety risks and risks associated to Hamilton City's critical assets have mitigations in place and are being monitored by staff.
39. The Health and Safety Report relating to the *Health and Safety risk to staff, contractors and volunteers* is presented in more detail to the Audit and Risk Committee in a separate report. There is no material or adverse change in this risk since last reported on.
40. The *Safety and Wellbeing of the Community* risk was previously reported to the Audit and Risk Committee. After a discussion with senior management and key stakeholders it became apparent that this risk required further analysis to understand Council's risk mitigation assurance levels for public safety.
41. A deep dive management workshop is planned for late October 2019 to identify all known risks, controls and levels of mitigation to support assurance reporting. The participants in this workshop will come from primarily the Community, City Infrastructure, Development and Corporate Groups and led by GM of Community. Additionally, the workshop will review public safety incidents experienced across New Zealand to gain further insights into public safety risk exposures and lessons learnt.
42. The *Failure of Critical Assets* risk was previously reported to the Audit and Risk Committee and will continue monitoring of asset conditions via asset management plans which are on-going and considered business as usual.

Emerging Risks

43. Emerging risks are risks which may develop or which already exist and are difficult to quantify but may have a high consequence or high impact if they materialise.
44. Senior Leadership have identified two high level emerging risks – 'Climate Change' and 'Water quality and quantity supply to the City'.
45. The climate change is a current topic within the Council. A report was provided to elected members at the 8 August 2019 Council meeting.
46. The water quality and quantity supply to the City is monitored by staff with contingency and long-term development plans in place in the event this risk materialises.

Legal and Policy Considerations

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

Wellbeing Considerations

48. The purpose of Local Government changed on the 14 May 2019 to include promotion of the social, economic, environmental and cultural wellbeing of communities in the present and for the future ('the 4 wellbeings').
49. The subject matter of this report has been evaluated in terms of the 4 wellbeings during the process of developing this report as outlined below.
50. There are no known social, economic, environmental or cultural considerations associated with this matter.

Significance & Engagement Policy

51. Having considered the Significance and Engagement Policy, staff have assessed that the matters in this report have low significance.No engagement is required.









Attachments




Attachment 1 - Council Strategic Risk Register Sept 2019

Council Strategic Risk Register – August 2019

Attachment 1

Item 19

Risk Number	Strategic Risk Description	Risk Owner	Residual Risk Rating
1	A Disaster Event <i>A natural or man-made disaster event (excluding act of terrorism)</i>	Jen Baird	Very High 
2	Major Economic or Financial Shock <i>An external financial event impacts Council's financial strategy, fiscal and monetary position.</i>	David Bryant	Medium 
3	Increasing Compliance Standards due to Stakeholder Expectations <i>The risk of central government and regional council increasing compliance standards or changes in community expectations.</i>	David Bryant	High 
4	Cyber Attack <i>Unauthorised access to Council's IT infrastructure results in loss of service continuity that may lead to safety risks to Hamiltonians and relatable consequences of reputational, legal, and financial losses.</i>	David Bryant	High 
5	Growth <i>Significant change to/in growth demand and/or the consequences growth does not deliver positive outcomes for the community.</i>	Jen Baird	High 
6	Political changes impact Council's strategic direction <i>Political stakeholders make unpredictable decisions or take actions that significantly impact or contradict Council's strategic imperatives.</i>	Blair Bowcott	Very High 
7	Significant Shortages of Key External Resources <i>The market is unable to deliver necessary resources to achieve our strategy; including but not limited to people and material for projects</i>	Chris Allen	Very High 
8	High-Level security threat or major emergency <i>A safety, security or environmental attack materialises and impacts Council's strategic direction.</i>	David Bryant	High 

Risk Number	Organisational Risk Description	Risk Owner	Residual Risk Rating
1	H&S – Workers (incl. contracted workers & volunteer workers) <i>Failure to ensure the health and safety of council staff or workers whose activities are influenced or directed by council, while the workers are carrying out work.</i>	David Bryant	High  Medium
2	Safety and Wellbeing of the Community <i>Failure to create, provide and maintain a safe environment for the community leading to a serious injury incident or fatality.</i>	Lance Ver Voort	High  Medium
3	Failure of critical assets <i>Incorrect investment (timing and/or amounts) results in the unexpected failure of critical assets (loss of levels of service).</i>	Eeva-Liisa Wright	High 

* There is a very strong relationship between the likelihood and severity (consequence) of H&S incidents. The likelihood of minor injuries is much higher than an incident which could result in a death. (refer pages 17-20)

** Council takes the safety of our people and the community seriously and are working hard to reduce the likelihood of a serious harm incident. Due to the focus and definition of this risk relating to death or a serious injury, the risk rating (and by extension the target risk rating) can never reduce below 'High' because we consider the consequence to be 'catastrophic'. (refer pages 17-20)





Emerging Risks – verbal discussion topics

Emerging risks are risks which may develop or which already exist and are difficult to quantify but may have a high consequence or high impact if they materialise. The following identified risks are not ranked but monitored informally across Council and reported when appropriate. Analysis and mitigation identification have been conducted as operational and business as usual applications.

- Climate Change
- Water quality and quantity supply to the City

Risk Type	Definition
Strategic	The risk of an event or impact that is external to Council and could impact the organisation's strategies, including Council's Financial Strategy, Long Term Plan and 30 Year Infrastructure Strategy.
Organisational	The risk of an event or impact that is internal or external to Council and could impact the whole organisation.
Operational	The risk of an event or impact that is internal or external to Council and could impact one or more Operational activity.
Emerging	Emerging risks are risks which may develop or which already exist and are difficult to quantify but may have a high consequence, high impact if they materialise.

Residual rating legend

Indicator	Description	Indicator	Description
	No change – managed		Adverse change since previous
	New risk		Improved change since previous

Strategic Risk 1					
A Disaster Event <i>A natural or a man-made disaster event (excluding an act of terrorism)</i>					
Risk Owner – (GM Level)	Jen Baird	Category	Strategic Preparation and Disaster Recovery		
Risk Triggers <ul style="list-style-type: none">• Natural disaster event without warning or build up• Severe weather events that increase in intensity• Critical asset failure that impacts the safety of Hamiltonians – water, energy, telecommunications, financial, transportation• Civil unrest – political or social unrest resulting in a security or safety threat to people or assets• Disaster caused by failure of man-made structures					
Inherent Likelihood	Likely	Inherent Consequence Driver Strategic Safety & Wellbeing,	Catastrophic	Inherent Risk Rating	Rating Very High
Existing Controls and Mitigations <ul style="list-style-type: none">• Emergency Management Framework – MCDEM, Group, Local EOC structure• Emergency management training program TAKATU implemented for council staff• Co-location Emergency Operations Centre (EOC) in dedicated leading-edge emergency operating centre (GEMO) with built in redundancy• Robust exercise schedule in place to test preparedness and response functionality• HCC Crisis Management Plan• HCC Security review and establishment of PSR framework (underway)• Annual Capability Assessment – completed September 2019 (71% rating)• Stock piling resources or materials• Engineering standards identified and managed• Criticality assessments and asset identification ratings• Asset and Service monitoring capability• 3 yearly MCDEM Audits to assess response capacity.• Collaboration on emergency management response approach across agencies and the region.• Use opportunities nationally to build experience in real events where ever possible• Early warning processes are in place / will be considered					
Residual Likelihood	Likely	Residual Consequence Driver Strategic Safety & Wellbeing,	Major	Residual Risk Rating	Rating Very High

Improvement Plan	Update – August 2019	Action Owner	Mitigation
<ul style="list-style-type: none"> • Improve communication with the public in an emergency response. • Improve how strategic information is shared with key decision makers, spokespeople and the media. • Continue current work on improving the consistency of warnings to the public across all hazards. • Scope work needed to identify and upgrade suitable marae for emergency management purposes. • External capability assessment. • Monitoring of relevant call centre trends 	<ul style="list-style-type: none"> • Implementation of the Hamilton Community Resilience Implementation Plan is underway. • Implementation of the Waikato Group Community Engagement Strategy is underway. • Engaged with FENZ and a health provider in pilot programme Ngaa Marae Whakaritenga Ohotata – aimed at working with iwi, hapu and whanau at marae delivering emergency training and exercises. Also working with Waanaga O Aotearoa to consider their sites as potential civil defence centres. • Aligned with regional awareness. Final results are due for publication in September. • For future consideration 	Kelvin Powell	Mitigate

Item 19

Attachment 1

Strategic Risk 2

Major Economic or Financial Shock

An external financial event impacts Councils financial strategy, fiscal and monetary position.

Risk Owner (CE Level)	Richard Briggs	Category	Financial
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Risk Triggers

- Global Financial Crisis
- Rapid increases in inflation, interest rates, oil prices, rapid decline in NZD – leading to significantly higher construction input costs, debt costs, and significant pressure on household rates affordability
- Critical infrastructure failure
- Major construction industry failure
- Major government policy changes negatively impacting Council's income streams or cost base
- Natural disaster or Manmade disaster (deliberate attacks on Critical infrastructure)

Inherent Likelihood		Inherent Consequence Drivers Safety & Wellbeing, Financial, Service Delivery, Compliance Social and Cultural		Inherent Risk Rating	Rating
	Unlikely		Major		High

Existing Controls and Mitigations

- Monitoring of macro trends (Finance, Treasury, Economic Growth team)
- Financial Strategy resilience - excess LGFA borrowing headroom, additional \$60M bank facility
- Financial scenario modelling
- Council's ability to urgently reprioritise and reduce capital spending
- Council's ability to urgently reprioritise and reduce community levels of service spending
- Six weekly financial forecasting and planning cycles

Residual Likelihood		Residual Consequence Drivers Safety & Wellbeing, Financial, Service Delivery, Compliance Social and Cultural		Residual Risk Rating	Rating
	Unlikely		Serious		Medium

Improvement Plan	Update – August 2019	Action Owner	Mitigation
<ul style="list-style-type: none"> • The controls and mitigations applied to this risk are managed through BAU and reporting schedules to Council and the Finance Committee. 	<ul style="list-style-type: none"> • GM Corporate supports and accepts mitigations. 	David Bryant	Accepted

Strategic Risk 3

Increasing Compliance Standards due to Stakeholder Expectations

The risk of central government and regional council increasing compliance standards or changes in community expectations.

Risk Owner – (GM Level)	David Bryant	Category	Environment Strategic
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Risk Triggers

- Central government changes the regulatory standards for compliance: including resource management, environmental (including climate change), pollutant management, corporate (including health and safety, human resources and financial), growth, consultation requirements, health and infrastructural (including traffic and transport) compliance. This might also include changes to the required frequency of Council actions (such as the 10 Year Plan)
- Continual or serious breaches leading to increased compliance and regulation
- Community service-level expectations in management of water quality, recycling and other services not being met
- Failure to plan long term for consenting requirements (both as a regulator and a regulated entity)
- Regional Council changes its policies to ensure legislative compliance (e.g. Healthy Rivers policy)
- External audit identifying major non-compliance within HCC operations (e.g. by International Accreditation New Zealand)
- Legal challenge to HCC policy or practice resulting in findings of non-compliant practices
- Change in stakeholder partner expectations for environmental performance
- Changes to our own District Plan impacting other parts of the business (e.g. changes to resource consents affect consented Three Waters activities)

Inherent Likelihood		Inherent Consequence Drivers		Inherent Risk Rating	Rating
	Likely	Safety & Wellbeing, Financial, Service Delivery, Compliance	Major		Very High

Existing Controls and Mitigations

- Community consultation and being in tune with community needs
- Engagement with our iwi partner to understand expectations, including through the Joint Management Agreement
- Compliance Policy - D-2549537
- External monitoring services and advice (Tompkins Wake)
- Internal resources that analyse the impacts of compliance changes
- SLT and Elected Members – assurance requests
- HCC Compliance Management Group
- Key stakeholder engagement, including making submissions to central government on proposed changes affecting compliance requirements
- Infrastructure Strategy and 10 Year Plan ensure projects and resources are in place to deal with increasing compliance requirements
- HCC bylaws and policies ensure community expectations and regulatory standards are met in a consistent manner

Item 19

Attachment 1

Attachment 1

- Independent audits of HCC practice, including by the New Zealand Transport Authority and International Accreditation New Zealand, to ensure ongoing compliance
- Independent accreditation of HCC facilities (e.g. drinking water laboratory is accredited by International Accreditation New Zealand)
- Competency assessments for staff, including building officers
- Establishment of two new roles in the Building Control Unit to provide extra quality control
- HCC's Chief Executive is involved with the Construction Sector Accord which allows HCC to keep up to date with and influence changes in the sector
- Internal and external reporting (e.g. drinking water test results) ensures ongoing monitoring and compliance
- Notification protocols are in place in respect of various incidents, including wastewater overflow and drinking water concerns, which mitigate risk in the event of an incident

Residual Likelihood		Residual Consequence Drivers Safety & Wellbeing, Financial, Service Delivery, Compliance		Residual Risk Rating	Rating
	Likely		Serious		High

Item 19

Improvement Plan	Update – August 2019	Action Owner	Mitigation
<ul style="list-style-type: none"> • Council considers investing in technology to improve its approach to data and support the infrastructure of the compliance program. • Senior Management considers streamlining policy management to increase responsiveness and policy effectiveness. • Senior management to confirm key compliance monitoring on the following 7 topical areas are maintained: <ol style="list-style-type: none"> (1) Data privacy (2) Cyber security (3) Bullying and harassment (4) Conflicts of interest (5) Gifts and entertainment (6) Fraud (7) Bribery and Corruption 	<ul style="list-style-type: none"> • ComplyWith software was previously being considered – it is proposed this is reconsidered to support monitoring capacity. • A review of manual monitoring of legislative compliance requirements is required to confirm alignment to the Compliance Policy for council. • A review of these 7 topics are captured within the internal audit functions and reported at appropriate levels. 	Mothla Majeed	Mitigate

Strategic Risk 4

Cyber Attack

Unauthorised access to Council's IT infrastructure results in loss of service continuity that may lead to safety risks to Hamiltonians and relatable consequences of reputational, legal, and financial losses.

Risk Owner (GM Level)	David Bryant	Category	Disaster Recovery/ Business Continuity
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Risk Triggers

- IT technology advances – positive and negative
- Inadequate identification of IT security trends, themes, detection and responses
- Poor IT Security awareness / culture / practices
- Privacy Breach
- Outdated hardware and inadequate architecture
- Inadequate competency at organisational level
- Specific targeting and malicious exploitation of security vulnerabilities across Council IT asset infrastructure
- International trends and attacks not being considered in NZ

Inherent Likelihood	Likely	Inherent Consequence Driver Service Delivery	Major	Inherent Risk Rating	Rating Very High
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Existing Controls and Mitigations

- Risk based approach - 3 Lines of Defence
- National Cyber Security Centre (NCSC) monitoring and trend analysis reporting of local and international IT security challenges – internal and external
- Contractual service level agreements are monitored and maintained
- Department of Internal Affairs and All of Government (DIAAOG) desktop compliance
- Data and system backups – daily, weekly, monthly regime aligned to critical services list
- Disaster Recovery Plan (DRP – under review)
- Technical support from key vendors - Microsoft and Fujitsu
- External and internal security audit and reviews – (PwC, KPMG)

Residual Likelihood	Likely	Residual Consequence Driver Service Delivery	Serious	Overall Residual Risk Rating	Rating High
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Improvement Plan	Update – August 2019	Action Owner	Mitigate
<ul style="list-style-type: none"> • High level reviews on Councils IT infrastructure are conducted to improve detection and response capabilities. • National and International 	<ul style="list-style-type: none"> • IS are currently establishing and deploying three environments to improve IT security framework. Initial findings will be reported in PX. • Council is supported by 	Mike Lamb	Mitigate

Item 19

Attachment 1

Attachment 1

cyber-attack trends are monitored and assessed by the CIO and CTO to improve detection capabilities.	the NZ National Cyber Security Centre (NCSC) for response to attacks and receives quarterly trend updates for consideration. This is an on-going BAU process however recent activity will be reported in PEx.		
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Item 19

Strategic Risk 5

Growth

Significant change to/in growth demand and/or the consequences growth does not deliver positive outcomes for the community.

Risk Owner (GM Level)	Jen Baird	Category	Strategic, Service Delivery
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Risk Triggers

- Inadequate or inaccurate skills, dates or modelling and scenario planning
- Inadequate provisions in the District Plan to deliver positive outcomes for people / environment
- Inadequate application of the District Plan to deliver positive outcomes for people /environment
- Neighbouring Councils make growth decisions around Hamilton's border that are not aligned with Hamilton's desired growth strategy
- Wider economic down turn or boom to population growth
- Significant change in the market – either demand or supply side
- Significant change in public perception
- Council's decisions that impact growth or growth outcomes

Inherent Likelihood	Likely	Inherent Consequence Driver Service Delivery	Major	Inherent Risk Rating	Rating Very High
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Existing Controls and Mitigations

- Treasury forecasting and modelling integrity
- Future proof growth modelling
- Growth forecasts and modelling around developer contributions externally reviewed
- Quarterly reviews (part of the Hamilton Urban Growth Strategy) to monitor progress against the plan in terms of serviceable land availability.
- Core model inputs prepared by external experts *Market Economics* modelling-reviewed by BERL
- Engagement with neighbouring Councils
- Established data analytics
- Development Contribution model for improved data analysis.
- Hamilton Housing Market & Economy Growth Indicator Report Adopted across the sub- region – quarterly analysis of external housing and market drivers
- Scenario Management Process for DC Model, externally peer reviewed and auditable
- Growth Funding & Analytics Unit
- National Policy Statement - A sub-regional review of land use, demand and supply has now been completed.
- Analytics Strategy – collaborate growth planning environment created around the Hamilton to Auckland Corridor Plan and the reconfiguration of Future Proof.

Residual Likelihood	Likely	Residual Consequence Driver Service Delivery	Serious	Overall Residual Risk Rating	Rating High
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Item 19

Attachment 1

Improvement Plan	Update – August 2019	Action Owner	Mitigation
<ul style="list-style-type: none">• Scenario planning implemented.• Analytics strategy established• Developer relationships and understanding their drivers	<ul style="list-style-type: none">• DC Policy Strategic Roadmap is underway.• Developer Engagement Plan is underway	Greg Carsten	Mitigate

Strategic Risk 6

Political Changes or Decisions Impact Councils Strategic Direction

Political stakeholders make decisions or take actions that significantly impact or contradict Councils strategic direction.

Risk Owner (GM Level)	Blair Bowcott	Category	Executive Director of Special Projects
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Risk Triggers

- Political changes including Government strategic direction creating risk or opportunities
- Local political changes, misunderstanding of council's intent
- Political personalities, trust and relationships and change of key personnel – positive & negative
- Failure to manage stakeholder relationships, communication and engagement tactics
- Short term focus overshadows long term cost benefit outcomes
- Political sovereignty/patch protection, lack of alignment or willingness to compromise
- Financial strategy misaligned
- International events, trends or decisions influence NZ
- Major projects or initiatives for the benefit of Hamilton accelerating or slowing down

Note* Political risk is essentially the probability that a political action/decision will significantly affect Councils strategic direction – whether positively or negatively.

Inherent Likelihood		Inherent Consequence Driver		Inherent Risk Rating	Rating
	Likely	Strategic Political Service Delivery	Major		Very High

Existing Controls and Mitigations

- Regular engagement with stakeholders at political and executive level – shared responsibility to manage key relationships
- Regular meetings with Government Ministers and MPs
- Collaborative governance group meetings to progress alignment of strategic direction - Mayoral Forum, Future Proof, Waikato Plan, CEO Forum, WLASS, Regional Transport Committee and other strategic discussions externally
- Regular council briefings for sharing of information an alignment of thinking
- Monthly SLT strategic discussion to ensure awareness of strategic initiatives
- Culture, expectation and policies of HCC organisation regarding behaviours of political, executive and staff and Council Controlled Organisations.
- Participation in national and regional advisory groups

Residual Likelihood		Residual Consequence Driver		Overall Residual Risk Rating	Rating
	Likely	Strategic Political Service Delivery	Major		Very High

Improvement Plan	Update – August 2019	Action Owner	Mitigation
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Item 19

Attachment 1

Attachment 1

Item 19

<ul style="list-style-type: none">• Council lists major projects that could be subject to political changes or decisions with a material consequence	<ul style="list-style-type: none">• Council reviews its key stakeholder register against these projects to ensure effective communication and alignment plans maintained	SLT	Mitigate
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Strategic Risk 7

Significant Shortage of Key External Resources

The market is unable to deliver necessary resources to achieve our strategy; including but not limited to people and material for projects.

Risk Owner – (GM Level)	Chris Allen	Category	Development
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Risk Triggers

- Supply chain company failures
- Major skills/labour shortage
- Competitive market changes – including the cost of resources
- Regional or national event leads to fewer available resources
- International production costs become unfeasible
- International supply chain breakdown
- Market congestion (significant increase in capital portfolios nationally)
- Clients competing for the same resources
- Changes in external funding
- Political changes in the labour market (e.g. immigration policy changes, minimum wage changes)
- International political instability (resulting in, for example, oil price changes)

Inherent Likelihood	Inherent Consequence Driver	Inherent Risk Rating	Rating
Likely	Social, Cultural and Environment	Major	Very High

Existing Controls and Mitigations

- Pipeline visibility of the capital portfolio – sub-regionally, regionally, nationally
- Working with other councils + NZTA to coordinate and smooth the workload on the market
- Portfolio and project planning and execution
- Optimising the Procurement Strategy
- Understanding the market
- Identify strategies that are consider when planning – external contracting, internal resource identification
- Stakeholder and Relationship management
- Supply chain engagement

Residual Likelihood	Residual Consequence Driver	Overall Residual Risk Rating	Rating
Likely	Social, Cultural and Environment	Major	Very High

Improvement Plan	Update – August 2019	Action Owner	Mitigation
<ul style="list-style-type: none"> • Verbal report to be provided to ARC 		Chris Barton	Mitigate

Item 19

Attachment 1

Strategic Risk 8

High-Level security threat or major emergency

A safety, security or environmental attack materialises and impacts Councils strategic direction.

Risk Owner (GM Level)	David Bryant	Category	Strategy Safety and Security
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Risk Triggers

- Physical attacks on people at public events or gatherings
- Physical attack on city critical infrastructure – E.g. Waste Water Treatment Plant, Water Treatment Plant, Bridges
- Civil unrest – redirection of resources
- Refugee influx of people into the region from another location due to major event
- Failure to monitor and manage drinking water security and quality
- Chemical attack

Inherent Likelihood		Inherent Consequence Driver		Inherent Risk Rating	Rating
	Likely	Social, Cultural and Environment	Major		Very High

Existing Controls and Mitigations

- Regional and National Emergency Service Relationship Management – Elected Members and Executives
- Protective Security Requirements (PSR) Framework – Governance, Personal, Physical, IT
- Key positions and functions within HCC – Chief Security Officer (Executive)
- Communications and Training Strategy – PSR model

Residual Likelihood		Residual Consequence Driver		Overall Residual Risk Rating	Rating
	Unlikely	Social, Cultural and Environment	Major		High

Improvement Plan	Update – August 2019	Action Owner	Mitigation
<ul style="list-style-type: none"> • Adoption of the Protective Security Requirement (PSR) framework is to be established, implemented and communicated across Council. 	<ul style="list-style-type: none"> • To support the PSR implementation security risk assessments have been initiated across Council facilities by an external contractor and internal resource. The H3 Group – Seddon Park, FMG Stadium and Claudelands are first focus points due to high density events. 	Andre Chatfield	Mitigate

<ul style="list-style-type: none"> Identify the Waikato and Hamilton City security and threat environment through key stakeholder relationships. Establish governance level security management policy and standards and guidelines aligned to protective Security Requirements (PSR) standard. 	<ul style="list-style-type: none"> As part of the PSR establishment phases Hamilton City's risk profile is being established through key entities within Hamilton. These stakeholders have been identified and some relationships are already being developed. (NZ Police, Central Govt Agencies, Waikato University). Additional entities have been identified and liaison is expected to occur in the coming months (Local Iwi, Hamilton Business Community) in support of the risk profile works being conducted. The internal resource (Organisational Security Manager) has been identified and commenced works 15/07/2019. His function is to establish the governance level of the framework 		
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Organisational Risk

H&S – Workers (incl. contracted workers & volunteer workers)

Failure to ensure the health and safety and wellbeing of council staff or workers whose activities are influenced or directed by council, while the workers are carrying out work.

1

Risk Owner

David Bryant
(GM Corporate)

Category

Health & Safety

Risk Triggers

- Poor safety culture and/or behaviours across organisation
- Failing to understand duties and accountability relating to health and safety
- Critical health and safety risks not identified, assessed and mitigated adequately
- Safety Management System (SMS) ineffective or inefficient or implementation failures
- Inadequate contractor management frameworks, including procurement and assurance practices
- Not sharing or acting on information and lessons learnt – internal and external to Council
- Complacency leading to greater risks being taken
- Failure to properly engage with and listen to staff
- Staff under resourcing leading to identified risks not being mitigated appropriately
- Time pressures and or complacency leading to acceptance of high levels of risk

Inherent Risk

		CONSEQUENCE				
		Minor	Moderate	Serious	Major	Catastrophic
LIKELIHOOD	Almost certain	H		VH		E
	Likely	M	H	VH	VH	
	Possible	L	M	H	VH	VH
	Unlikely	L	M	M	H	VH
	Rare	L	L	L	M	H

There is a very strong relationship between the likelihood and severity (consequence) of H&S incidents. The likelihood of minor injuries is much higher than an incident which could result in a death.



Risk of serious injury, illness or death



Risk of other significant incidents as defined in the Health and Safety at Work Act).

Existing Controls and Mitigations

- Prequalification is in place but not always being used appropriately or consistently across Council
- We currently undertake engagement, wellness and safety culture surveys to assess the level of organisational maturity with regard to safety
- We are re-engaging with Health and Safety Reps to reset Committee structures and purpose, after benchmarking and learning from other high performing organisations
- We are Leading projects for Waikato Local Authority Shared Services and increasing engagement with similarly diverse organisations
- The Safety event triage procedure is ready for implementation as part of the SMS
- Business case is being prepared for the procurement of a more appropriate software solution due to the limitations of our current system – Vault, despite best efforts to re-

configure and provide extended applications to help modernise and improve user experience

- The governance framework in the SMS will address the level and visibility of leadership

Residual Risk

		CONSEQUENCE				
		Minor	Moderate	Serious	Major	Catastrophic
LIKELIHOOD	Certain	H	H	VH	E	E
	Almost certain	M	H	VH	VH	E
	Likely	L	M	H	VH	VH
	Unlikely	L	M	M	VH	VH
	Highly unlikely	L	L	L	M	H

There is a very strong relationship between the likelihood and severity (consequence) of H&S incidents. The likelihood of minor injuries is much higher than an incident which could result in a death.

- (A) Risk of serious injury, illness or death
- (B) Risk of other significant incidents (as defined in the Health and Safety at Work Act).

Improvement Plan	Update – August 2019	Action Owner
<ul style="list-style-type: none"> • A review of the governance levels of the safety management system is to be conducted with PCBU sign off. • A review of the Work Well Initiative is to be conducted and implemented across Council in support of staff. Progress is to be reported quarterly till completed and a monitoring regime implemented for reporting to this committee. • Assurance level reporting is to be conducted and reported with the H&S Report to the Committee and high-level issues are to be identified in this report. 	<ul style="list-style-type: none"> • Final draft of the high-level SMS principals and requirements will be forwarded to the Chief Executive and SLT for sign off in August. The supporting frameworks have also been drafted and will be rolled out using a phased approach • As part of our Work Well initiative, we have identified three areas of focus with action plans being finalised. Our key areas of focus include: <ul style="list-style-type: none"> - Mental health and Wellbeing - Physical activity - Whanau friendly • AUT have delivered a report into the psychosocial hazards and risks/Hamilton Zoo and this reflects our enhanced engagement with business units to improve the health and safety of our staff 	Dan Finn (People Safety & Wellbeing Manager)

Item 19

Attachment 1

Organisational Risk

Safety and Wellbeing of the Community

Failure to create, provide and maintain a safe environment for the community leading to a serious injury incident or fatality.

2

Risk Owner Lance Vervoort (Deputy CE / GM Community)

Category

People

Risk Triggers

- Poor HCC understanding of the H&S risks within the facilities and services Council provides and manages.
- Failures in safety-in-design planning for our amenities and services provided to the community
- Failure in due diligence on assets purchased for use by the community
- Human error / inappropriate behaviours / criminal behaviour or damage at Council assets
- Complacency leading to greater risks being taken by the community of public safety issues
- Failure to properly engage with and listen to the community
- Failure to act on staff and public information or lessons learned from near misses

Inherent Risk

		CONSEQUENCE				
		Minor	Moderate	Serious	Major	Catastrophic
LIKELIHOOD	Certain	H		VH	E	E
	Almost certain	M	H	VH	VH	
	Likely	L	M	H	VH	VH
	Unlikely	L	M	M	H	VH
	Highly unlikely	L	L	L	M	H

There is a very strong relationship between the likelihood and severity (consequence) of H&S incidents. The likelihood of minor injuries is much higher than an incident which could result in a death.

(A) Risk of serious injury or death

(B) Risk of other serious harm incidents (as defined in the Health and Safety at Work Act).

Existing Controls and Mitigations

- Emergency Management System with response processes i.e. Emergency response plans.
- Emergency response training drills
- Specific training programmes for staff within facilities and service management
- Subject matter expert support – internal and external
- Incorporated risk assessments and safety in design planning
- Traffic management plan adoption per requirement
- Maintenance and monitoring plans – built green or operational infrastructure
- Communication Plans and community education support

Residual Risk (expected rating)

		CONSEQUENCE				
		Minor	Moderate	Serious	Major	Catastrophic
LIKELIHOOD	Certain	H	H	VH	E	E
	Almost certain	M	H	VH	VH	E
	Likely	L	M	H	VH	VH
	Unlikely	L	M	M	VH	VH
	Highly unlikely	L	L	L	M	VH

There is a very strong relationship between the likelihood and severity (consequence) of H&S incidents. The likelihood of minor injuries is much higher than an incident which could result in a death.

- (A) Risk of serious injury or death
- (B) Risk of other serious harm incidents (as defined in the Health and Safety at Work Act).

Item 19

Improvement Plan	Update – August 2019	Action Owners
<ul style="list-style-type: none"> Identify the complexity of this risk of public to the community and Councils legal responsibilities and liabilities. Design and implement an appropriate monitoring approach (audits and reviews by internal/external parties, and leadership inspections) and reporting framework to ensure oversight and focus on resolving actions. Enhance understanding of key risk scenarios and commonality of critical controls. 	<ul style="list-style-type: none"> A management deep dive workshop is planned for mid-October with key internal stakeholders to identify all public safety and wellbeing risks across the organisation. The workshop will identify existing controls or gaps within management processes which will generate treatment plans. The assurance reporting levels have been identified in most areas of the organisation. The deep dive workshop is expected to confirm level of assurance reporting and address gaps identified. Case studies across NZ Councils is part of the works underway for the deep dive workshop. Rotorua, Napier, Auckland and Taupo are some examples being looked at and discussed during the workshop then tested against HCC management of similar services. <p>Note: A full understanding of this risk has not been analysed to this depth previously and is expected to provide the Dep CE with a higher level of assurance across the organisation relating the facilities and services provided to the community.</p>	Rebecca Whitehead (Business & Planning Manager)

Attachment 1

Organisational Risk					
Failure of critical assets <i>Incorrect investment (timing and/or amounts) results in the unexpected failure of critical assets (loss of levels of service).</i>				3	
Risk Owner	Eeva-Liisa Wright (GM City Infrastructure Operations)		Category	Financial	
Risk Triggers					
<ul style="list-style-type: none">• Inadequate budget allocated for maintenance and renewal of critical assets• Incorrect analysis in development of maintenance and renewal requirements• Poor or incomplete asset data• Failure to identify all critical assets• Failure to carry out planned maintenance and renewal of critical asset					
Inherent Likelihood	Likely	Inherent Consequence Drivers Safety & Wellbeing, Financial, Service Delivery, Compliance	Major	Inherent Risk Rating	Rating Very High
Existing Controls and Mitigations					
<ul style="list-style-type: none">• Asset Management Centre of Excellence is in place to drive organisational consistency of asset management overseen by the GM Development• Critical asset groups have been identified and management strategies for these assets are documented.• Activity Management Plan (AMP) renewals are fully funded over in the 10-Year Plan Budget and critical assets are given a higher priority for renewal.• Activity Management Plans were internally and externally reviewed to help identify if budgets are adequate.• Infrastructure Strategy is in place to identify significant infrastructure challenges over the next 30 years, and to identify the principal options for managing those challenges and the implications of those options.					
Residual Likelihood	Unlikely	Residual Consequence Drivers Safety & Wellbeing, Financial, Service Delivery, Compliance Social and Cultural	Major	Residual Risk Rating	Rating High

Improvement Plan	Update – August 2019	Action Owners
<ul style="list-style-type: none"> Identification of all critical assets and recording data in an asset management system (IPS and RAMM). Capital projects improving critical asset capacities and moving to an N+1 (redundancy) 	<ul style="list-style-type: none"> Initial workshops with City Waters team have been conducted to categorise criticality. Schedule of completion is expected end of financial year (June 2020). Maintenance and monitoring programme is established at operational levels and includes public notifications received at council. This is deemed BAU. 	<p>Paul Gower (Growth and Assets Manager)</p> <p>Maire Porter (City Waters Manager)</p> <p>Jason Harrison (Transportation Manager)</p>

Item 19

Attachment 1

APPENDIX A – RISK RATING AND REPORTING

The following tables provide the limits within Hamilton City Council's overall risk threshold which the organisation is expected to operate within and expected responses for each level of risk.

		CONSEQUENCE				
		Minor	Moderate	Serious	Major	Catastrophic
LIKELIHOOD	Certain	H	H	VH	E	E
	Almost certain	M	H	VH	VH	E
	Likely	L	M	H	VH	VH
	Unlikely	L	M	M	H	VH
	Highly unlikely	L	L	L	M	H

This matrix is used to map the likelihood and consequence levels of a risk and provide a pictorial representation of the relativity of that risk to other risks within an Activity Group or Project and can also be used for mapping key risks across Hamilton City Council.

Action Required Table

The following table details the required actions for each risk:

ACTION REQUIRED FOR RISK	
E	Extreme Risk – Immediate action required: risk escalated as appropriate. Action Plans and management responsibility specified with scrutiny required. Only the Chief Executive and/or Council can accept this level of risk.
VH	Very High Risk – Senior Leadership Team attention advised. Action Plans and management responsibility specified with periodic scrutiny required. The relevant GM, sponsor, risk manager and programme manager can accept this level of risk.
H	High Risk – Senior Leadership Team attention advised. Action Plans and management responsibility specified with periodic scrutiny required. The relevant General Manager (GM), sponsor, risk manager and programme manager can accept this level of risk.
M	Medium Risk – Management responsibility specified. Managed by specific monitoring and procedures. The relevant programme, unit manager or risk manager can accept this level of risk.
L	Low Risk – Manage by routine procedures. Unlikely to require specific application of resources. The relevant activity manager can accept this level of risk.

APPENDIX B – RISK REVIEW TABLE

The following table details the required level to which the different risk levels must be reviewed.

RISK LEVEL	ORGANISATIONAL RISKS	REVIEW PERIOD	PROJECT RISKS	REVIEW PERIOD
Extreme	Council	Monthly	Council	Per Project Plan
	Senior Leadership team	Monthly	Programme Manager Project Sponsor	Per Project Plan
Very High	Council	Monthly	Programme Manager Project Sponsor	Per Project Plan
	Senior Leadership Team	Monthly		
High	Senior Leadership Team	Quarterly	Programme Manager Project Sponsor	Per Project Plan
Medium	Wider Leadership Group*	Six monthly	Programme Manager	Per Project Plan
Low	Wider Leadership Group*	Six monthly	Programme Manager	Per Project Plan

**Wider Leadership Group is to be interpreted as any staff member with specific business responsibilities, including but not limited to, General Managers, Unit Managers, Team Leaders and Project Managers.*

By using this matrix, a decision can be made as to the level of escalation for management acceptance that is required and the frequencies with which accepted risks are to be reviewed.

Item 19

Attachment 1

APPENDIX C – RISK REPORTING TABLE

The following table details the required level to which the different risk levels must be reported

Attachment 1

Item 19

RISK LEVEL	ORGANISATIONAL RISKS	REPORTING PERIOD	PROJECT RISKS	REPORTING PERIOD
Extreme	Council	Audit and Risk quarterly	Council	Finances Committee Six weekly
	Senior Leadership Team	Monthly	Programme Manager Project Sponsor	Monthly
Very High	Council	Audit and Risk Committee quarterly	Council	Finances Committee Six weekly
	Senior Leadership Team	Monthly	Programme Manager Project Sponsor	Monthly
High	Council	Audit and Risk Committee quarterly	Council	Finances Committee Six weekly
	Senior Leadership Team	Monthly	Programme Manager Project Sponsor	Monthly
Medium	Senior Leadership Team	Monthly	Programme Manager	Monthly
	Wider Leadership Group*	As required		
Low	Senior Leadership Team	Monthly	Programme Manager	Monthly
	Wider Leadership Group*	As required		

**Wider Leadership Group is to be interpreted as any staff member with specific business responsibilities, including but not limited to, General Managers, Unit Managers, Team Leaders and Project Managers.*

By using this matrix, a decision can be made as to the level of escalation for management acceptance that is required and the frequencies with which accepted risks are to be reported

Council Report

Committee: Council

Date: 17 September 2019

Author: Becca Brooke

Authoriser: Richard Briggs

Position: Governance Team Leader

Position: Chief Executive

Report Name: End of Trienniem Delegations

Report Status	<i>Open</i>
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Purpose

1. To request that the Council extends the Chief Executive's existing delegations from 12 October 2019 polling day until the inaugural Council meeting that is proposed held on 24 October 2019 (the 'interim election period', otherwise known as the interregnum period), subject to certain limitations as set out in legislation and this report.
2. To update the Council on a number of procedural matters relating to the end of the triennium.

Staff Recommendation

3. That the Council:
 - a) receives the report;
 - b) extends the Chief Executive's current delegations (detailed in the Delegations to Positions Policy) to include all of Council's responsibilities, duties, and powers currently retained by the Council or delegated to the Council's standing Committees (except the District Licensing Committee), subject to the following conditions:
 - i. the extended delegations will have effect only for the period from the 12 October 2019 (polling day) until the swearing in of the new Council which is proposed to be 24 October 2019;
 - ii. the extended delegations do not include a delegation of any Council powers, duties and functions which are prohibited by law from delegation - including, without limitation, those set out in clause 32(1) of the Seventh Schedule to the LGA;
 - iii. the Chief Executive may only exercise the extended delegations for those matters that cannot reasonably wait until the first meeting of the new Council;
 - iv. the Chief Executive is not permitted to use the extended delegations in respect of any politically significant matters that require input from Elected Members;
 - v. where reasonably practicable, the Chief Executive must, before exercising an extended delegation power, duty or function, first consult with the Mayor-elect;
 - vi. the Chief Executive must report all matters relating to the exercise of an extended delegation to the incoming Council at the first meeting following the triennial general local election;
 - vii. should any urgent matters arise during the interim election period which require significant political input, or at law must be made by Council, the first meeting following the triennial general election must be called by the Chief Executive as an

‘emergency’ meeting under clause 21 of Schedule 7 to the LGA;

- c) delegates Council’s functions under clauses 5.1, 5.5, 11.2, 13.2 and 14.2 of the Hamilton Traffic Bylaw 2015 (Traffic Bylaw Functions) and the Local Government Act 1974 No 66, Schedule 10, Clause 11(e) (LGA 1974 Schedule 10 Function) to the Chief Executive, subject to the following conditions:
 - i. the delegation will have effect only for the period from the 12 October 2019 (polling day) until the Traffic Bylaw Functions are delegated by Council to an appropriate Committee in the new triennium, or the delegation is otherwise revoked by Council;
 - ii. the extended delegations do not include a delegation of any Council powers, duties and functions which are prohibited by law from delegation - including, without limitation, those set out in clause 32(1) of the Seventh Schedule to the LGA;
 - iii. the Chief Executive may only exercise the extended delegations for those matters that cannot reasonably wait until the Traffic Bylaw Functions are delegated by Council to a Committee;
 - iv. the Chief Executive is not permitted to use the extended delegations in respect of any politically significant matters that require input from Elected Members;
 - v. where reasonably practicable, the Chief Executive must, before exercising an extended delegation power, duty or function, first consult with the Mayor-elect;
 - vi. the Chief Executive must report all matters relating to the exercise of the Traffic Bylaw Functions to the incoming Council at the first meeting following the triennial general election, and to the first meeting of any Committee to which the Traffic Bylaw Functions are subsequently delegated;
- d) agrees that, as required under clause 30(7) of Schedule 7 to the LGA, the District Licensing Committee shall continue (and not be deemed to be discharged) on the coming into office of the members of the Council elected at the 2016 triennial general election of members.

Executive Summary

4. The Council needs to consider arrangements to ensure the effective and efficient conduct of the Council’s business during the interim election period – which is for the period from 12-24 October 2019 (both dates inclusive).
5. To this end, it is proposed that the Council extends the Chief Executive’s current delegations to undertake Council’s responsibilities, duties, and powers (except those that cannot be delegated) in respect of urgent matters for the period in question subject to certain conditions (‘extended delegations’).
6. It is also proposed that some of Council’s functions under the Hamilton Traffic Bylaw 2015 (Traffic Bylaw Functions) and Schedule 10, Clause 11(e) of the Local Government Act 1974 (LGA 1974 Schedule 10 function) are delegated to the Chief Executive to allow for applications for changes to parking restrictions, turning movements, cycle paths or special vehicle lanes associated with developments and temporary road closures for events to be considered and decided during the interim election period and until the new Council has delegated these functions to an appropriate Committee (if any) in the new triennium. It is proposed that this delegation will have effect for the period from 12 October 2019 until the delegated Committee (if any) is operational, or until Council otherwise revokes the delegation.
7. Council’s Committees and Subcommittees are deemed to be discharged on the coming into office of the newly elected Council unless Council resolves otherwise. There is no requirement for Council to resolve to retain any existing Committee or Subcommittee under the existing

Governance Structure, other than the District Licensing Committee which is a committee of Council by virtue of the Sale and Supply of Alcohol Act 2012 ('SSAA').

8. Minutes of this Council Meeting will be authenticated in accordance with the process set out in Standing Orders.

Discussion

Urgent Issues – General Delegation

9. Clause 14 of Schedule 7 to the LGA provides that a person newly elected to Council may not act until they have made the necessary declaration at the inaugural Council meeting. This provision combines with sections 86, 115 and 116 of the Local Electoral Act 2001 to the effect that, from the day after the declaration of election results (which is by way of public notice in a local newspaper), until the new members' declaration is taken at the inaugural Council meeting, neither the outgoing nor the incoming elected members can act in their capacity as members of the Council. Although subject to change, it is anticipated this will be for a period of 13 days – from Saturday 12 October 2019 until the inaugural Council meeting, which is proposed to be held on 24 October 2019.
10. It is important that Council puts a process in place by which urgent decisions may be made during the interim election period. It is recommended that the Council extends the Chief Executive's existing delegations, during this period, to undertake all of the Council's responsibilities, duties, and powers (except as prohibited by clause 32(1)(a) to (h) of Schedule 7 to the LGA and any other Act). The Chief Executive's current delegations are set out in the [Delegations to Positions Policy](#).
11. It is common practice for local authorities to authorise their Chief Executives to deal with such matters, and is consistent with the approach taken by the Council in previous triennia.
12. For clarity, on the swearing in of the new Council, the Chief Executive's delegated powers, duties and functions revert to those delegations set out in the Delegations to Positions Policy, together with any delegations on specific matters that have already been resolved by the Council or any of its standing Committees.
13. The recommended extended delegations are made subject to a number of qualifications (set out under paragraph 9(b) above) to ensure that these delegations only empower the Chief Executive to make such decisions as are necessary for the effective and efficient day-to-day conduct of Council's business during the period in question.
14. Relevant excerpts of legislation are set out in Attachment 1.

Delegation: Traffic Bylaw Functions and LGA 1974 Schedule 10

15. In the processing of development applications, there are often changes required to existing parking restrictions or turning movements, cycle paths or special vehicle lanes due to changes in locations of driveways. It is recommended that these are dealt with prior to the granting of a Resource Consent, so there is an need to be able to consider and approve changes in a timely manner.
 - Clause 5.1 – Parking Places – on-street parking
 - Clause 5.5 – Parking Places – metered parking
 - Clause 11.2 – Turning Restrictions
 - Clause 13.2 - Cycle Paths
 - Clause 14.2 – Special Vehicle Lanes
16. Temporary Road closures for events are normally processed under the Transport (Vehicular Traffic Road Closures) Regulations 1965 which requires 42 days public notice. Occasionally there are situations where the required timeframes are not able to be met and the approval by

Council for a temporary road closure for an event is granted under the Local Government Act 1974 No 66, Schedule 10, Clause 11(e).

17. As set out above, it is important that Council puts a process in place by which time sensitive decisions may be made during this period. It is recommended that the Council delegates the Traffic Bylaw Functions and LGA 1974 Schedule 10 Function to the Chief Executive from 12 October 2019 until the Council delegated Committee has been established, or otherwise revokes the delegation to the Chief Executive.

Discharging Committees

18. Following a triennial election, Clause 30(7) of Schedule 7 to the LGA deems all existing committees, subcommittees and other subordinate decision-making bodies to be discharged when newly elected members of the local authority come into office.
19. The Council may resolve to retain any existing Committee or Subcommittee under clause 30(7).

District Licensing Committee

20. The District Licensing Committee (DLC) is a committee appointed by Council under the SSAA to make decisions on, amongst other things, applications for licences and managers' certificates relating to the sale and supply of alcohol.
21. All members of the DLC are external appointees, appointed for a five year term (including the Commissioner and Alternate Commissioners). The Terms of Reference for the DLC are set out on page 11 of the [Council's Governance Structure](#).
22. The DLC is the only Committee of Council which consists solely of external appointees and that is required to continue to operate into the next triennium. Whilst established under the SSAA, section 200(1) of that Act states that the DLC is a committee of the Council. The provisions of the LGA relating to the discharge of Council committees therefore apply, which means that that unless Council resolves otherwise (under clause 30(7)), the DLC will be deemed to be discharged when the newly elected members come into office. To ensure that the DLC continues into the new triennium it is considered prudent for Council to resolve that the DLC continues (and is not discharged) on the coming into office of the newly elected members.

Minutes of last meetings before election

23. Standing Order 28.4 - 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."
24. With the exception of the Council meeting of 26 September 2019, the Minutes from the last meetings of all Committees will be presented to at the Council meeting of 26 September 2019.
25. The process for the approval of the Minutes of the final Council Meeting is as follows:
 - Copies of the Minutes will be circulated to Councillors as soon as possible following this Meeting.
 - Any comments from Councillors will need to be given to the respective Chairs and Governance by close of business on Friday 4 October 2019.
 - The respective Chairs of Council and the External Funding Subcommittee, with the Chief Executive, will make the final decision regarding any changes sought by Councillors.
 - The Minutes will then be signed by close of business Friday 11 October 2016.

26. The above process is in accordance with Standing Orders and must be completed prior to Election Day.

Financial Considerations

27. This is a regular operating activity funded through the 2018-28 10-Year Plan.

Legal and Policy Considerations

28. Staff confirm that the staff recommendation complies with the Council's legal and policy requirements.

Wellbeing Considerations

29. The purpose of Local Government changed on the 14 May 2019 to include promotion of the social, economic, environmental and cultural wellbeing of communities in the present and for the future ('the 4 wellbeings').
30. The subject matter of this report has been evaluated in terms of the 4 wellbeings during the process of developing this report as outlined below. The recommendations set out in this report are consistent with that purpose.
31. There are no known social, economic, environmental or cultural considerations associated with this matter.

Risks

31. If the recommended extended delegation is not approved, there is a risk of the Council not being able to undertake its business effectively and efficiently during the interim election period.
32. If the recommended resolution to retain the DLC is not approved, the DLC may be deemed discharged when the newly elected members come into office. This result would be inconsistent with decisions of Council on the establishment of the DLC and appointment of its members and could impede the DLC's work.

Significance & Engagement Policy

33. 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.

Attachments

Attachment 1 - Excerpts of legislation

Local Government Act 2002, Schedule 7

14 Declaration by member

- (1) A person may not act as a member of a local authority until—
- (a) that person has, at a meeting of the local authority following the election of that person, made an oral declaration in the form set out in subclause (3); and
 - (b) a written version of the declaration has been attested as provided under subclause (2).

Compare: 1974 No 66 s 114U

30 Power to appoint committees, subcommittees, other subordinate decision-making bodies, and joint committees

- (7) A committee, subcommittee, or other subordinate decision-making body is, unless the local authority resolves otherwise, deemed to be discharged on the coming into office of the members of the local authority elected or appointed at, or following, the triennial general election of members next after the appointment of the committee, subcommittee, or other subordinate decision-making body.

32 Delegations

- (1) Unless expressly provided otherwise in this Act, or in any other Act, for the purposes of efficiency and effectiveness in the conduct of a local authority's business, a local authority may delegate to a committee or other subordinate decision-making body, community board, or member or officer of the local authority any of its responsibilities, duties, or powers except—
- (a) the power to make a rate; or
 - (b) the power to make a bylaw; or
 - (c) the power to borrow money, or purchase or dispose of assets, other than in accordance with the long-term plan; or
 - (d) the power to adopt a long-term plan, annual plan, or annual report; or
 - (e) the power to appoint a chief executive; or
 - (f) the power to adopt policies required to be adopted and consulted on under this Act in association with the long-term plan or developed for the purpose of the local

Thursday, 08 September, 2016 at
10:30 NZST

Page 1

governance statement; or

(g) Repealed.

[(h) the power to adopt a remuneration and employment policy.]

- (2) Nothing in this clause restricts the power of a local authority to delegate to a committee or other subordinate decision-making body, community board, or member or officer of the local authority the power to do anything precedent to the exercise by the local authority (after consultation with the committee or body or person) of any power or duty specified in subclause (1).
- (3) A committee or other subordinate decision-making body, community board, or member or officer of the local authority may delegate any of its responsibilities, duties, or powers to a subcommittee or person, subject to any conditions, limitations, or prohibitions imposed by the local authority or by the committee or body or person that makes the [original] delegation.
- (4) A committee, subcommittee, other subordinate decision-making body, community board, or member or officer of the local authority to which or to whom any responsibilities, powers, or duties are delegated may, without confirmation by the local authority or 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.
- (5) A local authority may delegate to any other local authority, organisation, or person the enforcement, inspection, licensing, and administration related to bylaws and other regulatory matters.
- (6) A territorial authority must consider whether or not to delegate to a community board if the delegation would enable the community board to best achieve its role.
- (7) To avoid doubt, no delegation relieves the local authority, member, or officer of the liability or legal responsibility to perform or ensure performance of any function or duty.
- (8) The delegation powers in this clause are in addition to any power of delegation a local authority has under any other enactment.

Local Electoral Act 2001

86 Declaration of result

The electoral officer conducting an election or poll must give public notice declaring the official result of the election or poll in the prescribed manner as soon as practicable after—

- (a) Repealed.
- (b) the validity of all special votes has been determined; and
- (c) all valid votes have been counted.

115 When members come into office

- [(1) Candidates at a triennial general election who are declared to be elected come into office on the day after the day on which the official result of the election is declared by public notice under section 86.]
- (2) Repealed.
- (3) A person appointed to fill an extraordinary vacancy comes into office at the time of his or her appointment.

116 When members leave office

- (1) Every member of a local authority or [local board or] community board, unless vacating office sooner, vacates office,—
 - (a) in a case where the member's office is the subject of an election, when the members elected at the next election come into office;
 - (b) in a case where provision is made by any enactment to fill a vacancy by appointment, when the member's successor comes into office.
- [(2) Despite subsection (1)(a), if a member's office is the subject of an election, and neither the member nor any other person is elected at the election to that office, the member vacates office at the same time as any other member of the local authority who is not re-elected at the election.]

Sale and Supply of Alcohol Act 2012

186 Territorial authorities to appoint district licensing committees

Each territorial authority must appoint 1 or more licensing committees as, in its opinion, are required to deal with licensing matters for its district.

200 Application of Local Government Official Information and Meetings Act 1987

- (1) Every licensing committee is a committee of its territorial authority.
- (2) The provisions of the Local Government Official Information and Meetings Act 1987, other than Part 7, apply to every licensing committee.
- (3) Subsection (2) overrides subsection (1).

Council Report

Item 21

Committee: Council
Author: Andy Mannering
Position: Social Development Manager
Report Name: Waikato Community Lands Trust

Date: 17 September 2019
Authoriser: Lance Vervoort
Position: General Manager Community

Report Status	<i>Open</i>
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Purpose

1. To inform the Council on the formation of the Waikato Community Lands Trust.
2. To seek approval from the Council of the draft Trust Deed of the Waikato Community Lands Trust to be submitted for registration.

Staff Recommendation

3. That the Council:
 - a) approves the draft Trust Deed of the Waikato Community Lands Trust;
 - b) notes that the Appointments Panel will convene to appoint the foundational Trust Board as outlined in the draft Trust Deed;
 - c) delegates the Chief Executive to execute a grant agreement with the Waikato Community Lands Trust for \$1,000,000 in 2019/20 and a further \$1,000,000 in 2020/21 for purchasing land within Hamilton;
 - d) notes that the draft Trust Deed will be submitted for application of registration with Charities Services;
 - e) delegates the Chief Executive to work with Charities Services to finalise any minor amendments to the objects to secure registration as a charity; and
 - f) delegates the Chief Executive to consider and implement the incorporation as a non-charitable entity for the benefit of Waikato, in the event of the Trust being unable to secure registration as a charity.

Executive Summary

4. Following the 27 June 2019 Council meeting that endorsed the establishment of a new entity, to be called the Waikato Community Lands Trust (the Trust), Tompkins Wake have worked on a draft Trust Deed with input from stakeholders to futureproof the potential growth of the Trust and to enable it to partner with organisations working across the Waikato.
5. The primary purpose of the Trust outlined in the draft Trust Deed, is to provide and make the Trust Fund available for programmes which provide, affordable housing solutions to working people and their households who are in need, and who are unable to access meaningful government or other assistance to provide them and their households with safe, secure, and long term affordable housing.

6. The resolution from the 27 June 2019 Council meeting requires registration of the Trust with Charities Services to enact payment from the Council.
7. The Trust objects have been drafted with a view to obtain charitable status. There is a risk that Charities Services will not accept the desired housing outcomes as charitable, and registration may be declined, or the objects need to be modified to secure registration.
8. The Trust would be able to continue as a non-charitable entity and achieve the Trusts objectives if charitable status was not granted.
9. The Council has committed funding in 2019/20 and 2020/21 to support the Trust.
10. Potential Trustees have not been identified at this stage. The draft Trust Deed outlines the establishment of an Appointments Panel to evaluate and review the Trust Board composition.
11. Staff consider the matters in this report to have low significance and that the recommendations comply with the Council's legal requirements.

Background

12. Local community funders, accredited Community Housing Providers and the wider housing network of the region recommended to the Council the development a Community Lands Trust model.
13. At the 27 June 2019 Council meeting ([Agenda](#), [Minutes](#)), four viable options were discussed initially as possible community land trust models for Hamilton and the wider Waikato.
14. The supported model was for a new entity to be established that would:
 - a) acquire land and/or land and buildings;
 - b) hold the land in perpetuity; and
 - c) then work with existing housing providers to develop the sites and for housing providers to work with individuals or families to gain access to affordable home ownership.
15. The Council discussion centred on beneficiaries of the proposed Trust being community members who are experiencing ongoing housing stress, and are unable to enter the full market, but are excluded from central government housing support.
16. The following was resolved:

That the Council:

- a) approves the establishment of a new entity, to be called the Waikato Community Lands Trust, to hold land in perpetuity to provide access to affordable housing for the benefit of the community;*
- b) approves \$1,000,000 in 2019/20 and a further \$1,000,000 in 2020/21 for the Waikato Community Lands Trust for purchasing land to be paid upon approval of the draft Trust Deed and subsequent registration with Charities Services;*
- c) delegates the Chief Executive to undertake a selection process for Trustees for the Waikato Community Lands Trust in accordance with the composition of the Trust as set out in paragraph 34 and bring the recommended appointees to the Council meeting of 17 September 2019 for approval; and*
- d) delegates the Chief Executive to prepare a Trust Deed for approval at the Council meeting of 17 September 2019.*

Discussion

17. The draft Trust Deed reflects the intention of the Council discussion and has been produced to establish the Waikato Community Lands Trust, to futureproof the potential growth of the Trust and to enable it to partner with organisations working across the Waikato.

18. The draft Trust Deed recognises that the primary beneficiaries of the Trust are people who have working income and are locked out of the home ownership market. It is recognised that growing numbers of people are experiencing housing stress as house prices rise faster than household incomes.
19. The objects and mechanisms in clauses 3.1 and 3.2 of the Trust Deed are 'vision and purpose setting'. The mechanics of specific programmes will be worked out in future with providers which partner with the Trust, both in funding and supporting households.
20. The Council resolution of 27 June 2019 requires the Trust to gain registration with Charities Services to receive the Council funding.
21. Charities Services can only register an organisation that has primarily charitable purpose and is for public benefit. There are four categories that 'charitable purpose' can fall under:
 - a) relief of poverty
 - b) advancement of education
 - c) advancement of religion
 - d) other purposes beneficial to the community.
22. There is a tension in this area of charities law, where not all housing related purposes will be considered charitable, in particular if the purposes or activities of the relevant trust are not directed at those considered 'in poverty' or where private benefits accrue, without significant public benefit.
23. Tompkins Wake has sought to balance the issue of charitable status, with Council's intention that the Trust primarily benefit working households experiencing housing stress.
24. There is the possibility that Charities Services does not consider the Trust's stated objects as charitable, and they may require some amendment for the deed to be registered.
25. The benefits of the Trust being registered with the Charities Services includes:
 - a) Registration as a charity and the accompanying audit and reporting requirements are generally well understood and valued by donors and the public.
 - b) The availability of income tax exemptions - registered charities are GST exempt allowing private donors to receive donation rebates, while the Trust will not be required to pay income tax on regular grants and donations.
26. If the application for registration is not accepted by the Charities Services, the Trust can still function as a non-charitable entity. The Trust will be required to work through any tax implications and ongoing funding needs.

Trustees

27. In consultation with stakeholders, it is recommended that an Appointments Panel is created to establish the Trust Board's composition, by evaluating the competencies required of prospective trustees (both non-executive and executive).
28. The ongoing role of the Appointments Panel will be identifying prospective Trustees, establishing their degree of independence, and developing succession plans for the Trust Board.
29. The organisations identified in Schedule 1 of the Trust Deed have been approached to support the Trust as members of the Appointments Panel. Confirmation of support and willingness to participate on the Appointments Panel has been received from a number of organisations including Waikato-Tainui (**Attachment 2**).

30. The Trust Deed outlines the following regarding number of Trustees and the length of tenure:
- a) the number of Trustees shall be not less than five (5). The maximum number of Trustees shall be seven (7) or as determined from time to time by the Appointments Panel.
 - b) the term of office for a Trustee initially appointed will no more than three years. At the end of that time a Trustee may be appointed for a further term of up to four years. No person shall be a Trustee for more than seven consecutive years. Any person who has been a Trustee for seven consecutive years will be ineligible for reappointment as a Trustee until a year has elapsed from when he or she ceased to be a Trustee.

Financial Considerations

31. The total cost to finalise the draft deed is expected to be around \$25,000 and is being funded from existing operational budgets.
32. The Council has set aside \$1,000,000 in 2019/20 and a further \$1,000,000 in 2020/21 for the Waikato Community Lands Trust for purchasing land.

Legal and Policy Considerations

33. Staff confirm that the draft Trust Deed complies with the Council's legal and policy requirements.

Wellbeing Considerations

34. The purpose of Local Government changed on the 14 May 2019 to include promotion of the social, economic, environmental and cultural wellbeing of communities in the present and for the future ('the 4 wellbeings').
35. The subject matter of this report has been evaluated in terms of the 4 wellbeings during the process of developing this report as outlined below.
36. The recommendations set out in this report are consistent with that purpose.

Social

37. Social Wellbeing will be increased for those working with the Trust as security of housing allows individuals to invest their time and energy into the local community. Individuals and families that are constantly moving spend significant time addressing immediate needs.

Economic

38. The beneficiaries of the Waikato Community Lands Trust will be community members who are experiencing ongoing housing stress. International research demonstrates positive links between home ownership and the generation of employment and wealth outcomes.

Environmental

39. The draft Trust Deed speaks to the importance of the Trust to align with the United Nations Sustainable Development Goals to enhance environmental wellbeing, particularly in relationship to land use and potential developments.

Cultural

40. Before making an appointment to the Trust Board, the Appointments Panel will evaluate the diversity of the Trust Board, having regard to the demography of the Waikato region.
41. Waikato-Tainui are in support of having a representative on the Appointments Panel as outline in schedule 1 of the draft Trust Deed.

42. Clause 7 of the Trust Deed allows the Trust to set up Project Advisory Committees for specific projects. Any Project Advisory Committee will have access to relevant expertise relating to the project, diversity of thought, and appropriate representation from the relevant communities (including relevant iwi / hapu) in which a project is taking place.

Risks

43. The success and impact of the Trust will be influenced by several factors including the political support of the region, availability of land, security of adequate financial resources, the skills and abilities of Trustees, and the capabilities of the housing providers to deliver appropriate housing outcomes.

Significance & Engagement Policy

Significance

44. 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

45. Local community funders, accredited Community Housing Providers and the wider housing network of the region have partnered with the Council in the recommendations that have been connected to the 10-Year Plan funding.
46. The development of the Trust compliments the Waikato Plan Regional Housing Initiative.
47. The Waikato Mayoral Forum have received reports around the ongoing developments and support the intention of the Trust.
48. Ongoing community engagement will occur through the establishment of Project Advisory Committees from the relevant communities (including relevant iwi / hapu) in which a project is taking place.
49. Given the low level of significance determined, the engagement level is low. No engagement is required.

Attachments

Attachment 1 - Waikato Community Lands Trust - draft Trust Deed

Attachment 2 - Letter of support from Waikato-Tanui

WAIKATO COMMUNITY LANDS TRUST

TRUST DEED

CRS-348176-2814-21-6:crs

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TOMPKINS
WAKE

TABLE OF CONTENTS

	Page
1. DECLARATION OF TRUST	3
2. CONSTRUCTION.....	3
3. OBJECTS	4
4. TRUSTEES' POWERS.....	7
5. TRUST BOARD.....	7
6. APPOINTMENTS PANEL	10
7. PROJECT ADVISORY COMMITTEES	10
8. ADMINISTRATION.....	10
9. INTERPRETATION AND AMENDMENT	15
10. PERSONAL INTEREST.....	16
11. TRUSTEES' LIABILITY AND INDEMNITY	17
12. WINDING UP.....	18
APPOINTMENTS PANEL – TERMS OF REFERENCE.....	20

DEED dated

2019

PARTIES

- (1)
 - (2)
 - (3)
 - (4)
 - (5)
- ("Trustees")

BACKGROUND

- A. The Trustees wish to declare a charitable trust known as **Waikato Community Lands Trust** which will have as its objectives the objects described in clause 3.
- B. The Trustees have received an anonymous donation of \$100.00 to establish the Trust and it is anticipated that further money, property and investments may from time to time be paid or transferred to the Trust ("**Property**").
- C. The Trustees wish to set out and define the Trust and the conditions upon which the Trustees hold the Property and assets vested in them in their capacity as Trustees.

OPERATIVE PART:

1. DECLARATION OF TRUST

1.1 Declaration

The Trustees acknowledge and declare that they stand possessed of the Trust Fund on and subject to the trusts and objects expressed in this Deed with the powers detailed in this Deed or authorised by law.

1.2 Name

The name of the Trust shall be **Waikato Community Lands Trust** or such other name as the Trustees may from time to time resolve by Special Resolution.

2. CONSTRUCTION

2.1 Interpretation

- (a) Headings in this Deed are intended for location and reference purposes and shall not be looked to in the construction or interpretation of this Deed.
- (b) References to any statutory provision include any statutory provision which amends or replaces it and any subordinate legislation made under it.
- (c) Words importing the singular shall include the plural and vice versa and words importing one gender shall include all other genders and the following terms or

CRS-348176-2814-21-6:crs

expressions shall, unless the context otherwise requires, have the following meanings or definitions.

2.2 Definitions

- (a) **"Appointments Panel"** means the panel appointed in accordance with clause 6;
- (b) **"Charitable Purpose"** means every purpose, which in accordance with the law of New Zealand, is charitable;
- (c) **"Community Organisation"** means any trust, society or institution established exclusively for Charitable Purposes within New Zealand and not carried on for private pecuniary profit of any individual and whose income is exempt under either section CW41 or CW42 or both of the Income Tax Act 2007, or any subsequent enactment of similar effect for the time being in force;
- (d) **"Objects"** has the meaning given to that term in clause 3.1;
- (e) **"Special Resolution"** has the meaning given to that term in clause 8.1(d)(ii);
- (f) **"Trust Fund"** means:
 - (i) the Property; and
 - (ii) any property (real and personal) wherever situated, whenever acquired by the Trustees in any manner whatsoever for the purposes of the Trust; and
 - (iii) the moneys, property and investments from time to time representing such property including the income therefrom;
- (g) **"Trustees"** means:
 - (i) the trustee or trustees for the time being of the Trust, whether original, additional or replacement trustees; and
 - (ii) during any period in which the Trustees are incorporated as a board under the Charitable Trusts Act 1957, either the Trustees acting as a board or the Trustees for the time being constituting the board, as the context requires;
- (h) **"Trust"** means the trust established by this Deed; and
- (i) **"Trust Board"** and **"Board"** mean the board constituted pursuant to this Deed (clause 5).

3. OBJECTS

3.1 To hold and use land for the benefit of the Waikato community

The Trustees shall hold the Trust Fund, in perpetuity, for the following Charitable Purposes or objects (each being independent of any other) at all times being restricted to operation within New Zealand, and generally within the Waikato region (the **"Objects"**):

- (a) to provide, and make the Trust Fund available for programmes which provide, affordable housing solutions to working people and their households who are in need, and who are unable to access meaningful government or other assistance to provide

them and their households with safe, secure, and long term affordable housing (“Primary Purpose”);

- (b) in carrying out the Primary Purpose:
 - (i) to acquire, own, maintain, develop and manage land and buildings to provide housing and associated community facilities for the use and benefit of the people of the Waikato region;
 - (ii) to endeavour to eliminate inadequate housing in the Waikato region and increase the supply of quality housing for the benefit of the Waikato community;
 - (iii) to provide housing solutions (including forms of home ownership, where the fee simple interest in the land component of a home remains held in the Trust) that are focused on delivering long-term social, environmental and community benefits for the Waikato community, and to enhance social cohesion;
 - (iv) to encourage and provide opportunity for people in the Waikato region to contribute to beneficial social outcomes with a housing focus, and to receive education to build capacity to receive and contribute to those beneficial social outcomes; and
 - (v) to partner with and support the charitable purposes of other registered charities which carry out the Primary Purpose and objects set out above.

3.2 Implementation

The Trustees in addition to, and in order to achieve, the Objects set out in clause 3.1 may:

- (a) purchase, sell, own, maintain, develop and manage land and buildings, and undertake, support and promote initiatives and programmes to meet the Objects;
- (b) support, partner with and assist, financially or otherwise, other Community Organisations, bodies, groups, trusts, incorporated or not, whose objectives are similar to those of the Trust and/or whose existence could be deemed by the Trustees to be a help and benefit to the Trustees in achieving the objectives of the Trust;
- (c) recognise the views and aspirations of Maaori and abide by the applicable principles of Te Tiriti o Waitangi;
- (d) create investment funds to support the Objects, which may be specific to specific communities within the Waikato region having regard to the source of contributions to such funds and abide by the terms of any gifts made for a specific purpose or for use in a particular locality;
- (e) carry out the Objects in a manner which (where relevant) is consistent with the United Nations’ Sustainable Development Goals, and enhances social and environmental wellbeing;
- (f) make provision for and support such charities and Charitable Purposes as the Trustees in their absolute discretion shall from time to time think fit;

- (g) carry on any other object which is capable of being conveniently carried on in conjunction with the Objects which directly or indirectly advances the Objects of the Trust or any of them;
- (h) own, provide or maintain any facility, or corporate entity to meet or satisfy any or all of the Objects; and
- (i) to generally do all such acts matters and things to enter into and make such arrangements as are incidental to or conducive to the attainment of any or all of the Objects of the Trust.

3.3 Tax status

If by reason of any alteration in the law relating to income tax it is at any time necessary to amend the Objects outlined in clause 3.1 or clause 3.2 to preserve the right to exemption from income tax of the kind referred to in the Income Tax Act 2007 (or any re-enactment of that legislation) such objects shall thereupon be deemed to be amended to the extent necessary.

3.4 Directions

For the benefit of the implementation of the Objects of the Trust:

- (a) the Trustees are to exercise the powers, authorities and discretions in respect of the Trust as widely as possible and with the minimum of restriction or limitation;
- (b) the Trust may draw its support from anywhere the Trust Board considers appropriate, having regard to the Objects of the Trust; and
- (c) it is intended that this Trust will continue to qualify for an income tax exemption, under sections CW41 and CW42, and donee status under Subpart LD of the Income Tax Act 2007 (or any re-enactment of those provisions).

3.5 Limitations

To ensure that the Trust secures, and retains registration as a charitable entity in New Zealand (and without limiting the provisions of clause 10 (Personal Interest), the following limitations shall apply to the application of the terms of this Deed:

- (a) no part of the income or the capital of the Trust Fund shall be paid, or directly or indirectly transferred by way of profit, to any Trustee;
- (b) no part of the Trust Fund shall be applied for the benefit of any person or organisation outside of New Zealand, unless the Trustees have secured the express written approval of the Commissioner of Inland Revenue to so apply any part of the Trust Fund for a specific purpose outside New Zealand; and
- (c) the limitation set out in clause 10.3; and,
- (d) no Trustee shall be permitted to personally benefit directly or indirectly on or from the winding up of the Trust,

but nothing in these provisions shall prevent any payment (at no more than market rates) to any such person for:

- 7 -

- (i) services rendered, or
- (ii) goods supplied, or
- (iii) by way of interest on monies borrowed, or rent for premises let or leased to the Trust,

if that payment can be made without causing the income of the Trust, or any part of it, which would otherwise be exempt from income tax, to become liable for income tax.

4. TRUSTEES' POWERS

In carrying out the trusts contained in this Deed, the Trustees shall:

- (a) have the powers of a natural person (including powers to delegate, borrow, guarantee and indemnify) in respect of the Trust Fund;
- (b) be entitled to exercise those powers as if they were the absolute owners of the Trust Fund;
- (c) have no limitation on the exercise of their powers except as provided in this Deed; and
- (d) not be liable for any loss if it is considered that they have not acted 'prudently' in the exercise of their powers, notwithstanding any statutory provision or rule of law to the contrary.

5. TRUST BOARD

5.1 Establishment

There is established by this Deed a trust board to be known as **Waikato Community Lands Trust Board**.

5.2 Incorporation

In addition to and without limiting the other powers contained or implied in this Deed the Trust Board shall have power to apply for incorporation as a Trust Board under Part II of the Charitable Trusts Act 1957 (or any re-enactment of that legislation).

5.3 Membership and numbers

- (a) The Trust Board shall comprise the Trustees or any person appointed from time to time to hold office as a Trustee of the Trust.
- (b) The number of Trustees shall be not less than **five (5)**. The maximum number of Trustees shall be **seven (7)** or as determined from time to time by the Appointments Panel.

5.4 Eligibility for office

No person shall be eligible for appointment to the Trust Board unless that person:

- (a) has first been appointed as a trustee by the Appointments Panel;

CRS-348176-2814-21-6:crs

- (b) confirms his or her willingness to accept such appointment in writing prior to such appointment;
- (c) is not disqualified to be an officer of a charitable entity pursuant to the Charities Act 2005;
- (d) has good character and a true reputation for honesty and integrity;
- (e) is not a current member of the Appointments Panel;
- (f) subscribes, in writing, to the vision statement and core values of the Trust as determined and agreed to from time to time by the Trust Board (if any).

5.5 Term of office

Notwithstanding the term stipulated by the appointee at the time of appointment, no term of appointment shall be for more than three years. At the end of that time a Trustee may be appointed for a further term of up to four years. No person shall be a Trustee for more than seven consecutive years. Any person who has been a Trustee for seven consecutive years will be ineligible for reappointment as a Trustee until a year has elapsed from when he or she ceased to be a Trustee.

5.6 Retirement of Trustees

A Trustee shall hold office until his or her appointment is terminated on the happening of any one or more of the following events:

- (a) the Trustee is removed at the discretion of the Appointments Panel;
- (b) the Trustee retires at any time by giving written notice to the chairperson or secretary;
- (c) the Trustee becomes unsound of mind;
- (d) the Trustee becomes bankrupt or insolvent;
- (e) the Trustee is convicted of a criminal offence which, in the majority opinion of the other members of the Trust Board, warrants removal as a Trustee;
- (f) the Trustee dies;
- (g) the Trustee is unable to diligently and practically exercise the duties of a Trust Board member (including regular attendance at meetings) beyond any period of leave of absence granted by the Trust Board;
- (h) the Trustee becomes disqualified to be an officer of a charitable entity pursuant to the Charities Act 2005; and
- (i) the Trustee's term of appointment expires pursuant to clause 5.5 (subject to any reappointment pursuant to that clause).

5.7 **Appointment of members**

- (a) **Term**
Subject to clauses 5.5. and 5.6, each Trustee named in this Deed shall hold office for the term provided for in their respective letters of appointment.
- (b) **Appointment**
All Trustees shall be appointed by the Appointments Panel.
- (c) **Agreement**
Each nomination to fill a vacancy on the Trust Board (whether casual or arising by virtue of rotational retirement) shall be signed by the candidate who, at the same time, if required, shall subscribe his or her name in writing in accordance with clause 5.4(f) above.
- (d) **Vacancy**
Any casual vacancy in the membership of the Trust Board whether occurring among the members or by virtue of a resolution to increase the number of trustees comprising the Trust Board shall be filled by an appointment made by the Appointments Panel.

5.8 **Minute book entry**

Upon every appointment, re-appointment, retirement or cessation of office of any Trustee the Trust Board shall cause an entry to that effect to be recorded in the minute book of the Trust.

5.9 **Officers of the Trust Board**

The Trust Board shall have the following officers who shall be elected at the first meeting of the Trust Board in each year and in the event of there being an equality of votes for any election the matter shall be determined by lot:

- (a) **Officers & Roles**
 - (i) A **chairperson** who shall preside at all meetings at which the chairperson is present. In the absence of the chairperson, the members present shall appoint one of their number to act as chairperson at that meeting and that member whilst so acting shall have all the powers of the chairperson.
 - (ii) A **secretary** whose duties shall be to give notices of all meetings, to keep minutes and records of all meetings of the Trust Board, and of any committees, and to perform such other duties as the Trust Board may direct as are normally incidental to the office of a secretary. The secretary need not be a Trustee.
 - (iii) A **treasurer** who shall have the custody of the books of account and charge of the funds of the Trust. It shall be the duty of the treasurer to see that all statutory and other requirements with reference to the financial matters of the Trust are complied with and that provisions of the rules as to such matters are carried out so far as lies in his power and perform such other duties as the Trust Board may determine and as are normally incidental to the office of a treasurer.

(b) **Conditions**

- (i) The offices of the chairperson and treasurer shall be held by members of the Trust Board.
- (ii) The Trust Board may from time to time in its absolute discretion dismiss any person holding office as secretary or treasurer from that office without giving any reason for so doing.

6. **APPOINTMENTS PANEL**

The Appointments Panel shall be constituted, and have the composition, objectives, and responsibilities as set out in the Terms of Reference attached as Schedule One.

7. **PROJECT ADVISORY COMMITTEES**

7.1 **Establishment**

The Trust Board has the power to establish Project Advisory Committees for any projects it carries out, to provide the Trust Board with advice, and to vest and delegate such powers of management as the Trust Board sees fit in a Project Advisory Committee. A Project Advisory Committee may include both Trustees and non-Trustees.

7.2 **Membership**

The Trust Board has full power to determine the membership and powers of any Project Advisory Committee, and, in doing so, will seek to ensure the Project Advisory Committee has access to relevant expertise relating to the project, diversity of thought, and appropriate representation from the relevant communities (including relevant iwi / hapu) in which a project is taking place.

7.3 **Terms of appointment**

The Trust Board shall appoint members of the Project Advisory Committee on such terms as the Trust Board considers appropriate from time to time and may at any time remove any members of the Project Advisory Committee.

7.4 **Status of members**

Clauses 3.5, 10 and 11 of this Deed shall apply to every member of a Project Advisory Committee as though such members were Trustees.

8. **ADMINISTRATION**

8.1 **Meetings of the Trust Board**

(a) **Types of meetings**

- (i) Ordinary meetings of the Trust Board shall be held at such times and places as fixed by the Trust Board and the Trust Board shall regulate its own procedure;
- (ii) Annual general meetings of the Trust Board shall be held once a year on such days as shall be fixed by the Trust Board, notice of which shall be given to each member of the Trust Board in writing not less than fourteen (14) days prior to the scheduled date. Not more than 15 months shall elapse between the date of one annual general meeting of the Trust Board and that of the next; and

- (iii) Special meetings may be called at any time by the chairperson or by the secretary on a written request signed by any two (2) members. Three (3) days' notice of such special meeting shall be given in writing to each member and only the business stated in the notice shall be dealt with at the meeting

(b) **Notice**

Notice of each meeting of the Trust Board shall be given to all members of the Trust Board by the secretary:

- (i) posting a letter containing a copy of such notice and addressed to each member of the Trust Board at his or her last known address in New Zealand; or
- (ii) sending by email a copy of such notice addressed to each member of the Trust Board at his or her last known email address.

Every such notice must be at least seven (7) days prior to the date appointed for such meeting in the case of ordinary meetings, (fourteen (14) days in the case of annual general meetings, and three (3) days in the case of special meetings). The notice requirements may be waived with the approval (to be recorded in the minutes of such meeting) of not less than three (3) members of the Trust Board personally present at such meeting.

(c) **Quorum**

- (i) A quorum of members necessary for the transaction of the business of the Trust Board shall consist of not less than two thirds of the total number of members appointed to the Trust Board for the time being eligible to vote on the business being considered.
- (ii) Any commitment between the Trust Board and a third party that resulted from the acts and decisions of the Trust Board shall not be deemed to be invalid by reason of the fact that the number of members of the Trust Board is less than the number required by this Deed, provided that the third party has acted in reliance on that commitment in good faith and without notice of that fact.

(d) **Decisions**

- (i) Decisions on questions arising at any meeting of the Trust Board shall be determined by a majority of votes of the Trust Board members present and eligible to vote on the question (except where this Deed provides to the contrary) and in any case of an equality of votes the chairperson shall have a second or casting vote.
- (ii) Where it is provided that any question be determined by "**Special Resolution**" of the Trust Board that question shall be deemed to have been determined in favour of the affirmative if not less than three quarters of the Trust Board members present and eligible to vote on the question vote in favour of the affirmative. The chairperson shall not have a second or casting vote in respect of any question to be determined by Special Resolution.

- (e) **Minutes**
The Trust Board shall cause minutes to be duly entered in the minute book provided for that purpose recording details of all matters considered by the Trust Board at each meeting together with details of all decisions made and resolutions, whether passed or lost. Any minute of any meeting of the Trust Board if purporting to be signed by the chairperson of that meeting or by the chairperson of the next succeeding meeting shall be receivable as prima facie evidence of the matters stated in such minutes.
- (f) **Resolutions**
A resolution in writing signed by all the members of the Trust Board for the time being shall be valid and effectual as if it had been passed by a meeting of the Trust Board duly convened and held. Such a resolution may consist of several like documents each signed by one or more members.
- (g) **Telephone and/or video conferences**
The contemporaneous linking by telephone, video, and/or computer of a number of members constituting a quorum shall be able to constitute a meeting of the Trust Board so long as:
 - (i) all the members of the Trust Board have received notice of the meeting which may be given by telephone, video, and/or computer; and
 - (ii) each member of the Trust Board taking part can hear the others at the commencement of the meeting and so acknowledges.
- (h) **Leave of absence**
The Trust Board may grant a member leave of absence from time to time for such period or periods as the Trust Board may think fit.
- (i) **Rules**
The Trust Board may from time to time make, alter, vary, add to and revoke such rules as the Trust Board may from time to time think fit in respect of or in any way relating to, meetings of the Trust Board and of committees and proceedings at any such meetings of the Trust Board or committees.

8.2 Functions, powers and duties of the Trust Board

- (a) **Scope**
The Trust Board shall:
 - (i) have the government, control, direction and management of and responsibility for application of the Trust Fund and from time to time to make, amend and rescind rules and regulations for the conduct, management and administration of the Trust Fund and for all other similar matters necessary or proper to give effect to the Objects of the Trust;
 - (ii) carry out, effect and perform the Objects according to law and as provided in this Deed;

- (iii) do all such other things as, not being contrary to law and not prohibited by this Deed, shall or may be necessary or desirable for the carrying out and performance of the Objects;
- (iv) do all such other things as shall be necessary or desirable in order to comply with the provisions of the Charities Act 2005 and the Charitable Trusts Act 1957 (or any replacement legislation governing the conduct of charitable trusts) in their relation to the Trust.

(b) **Delegation**

The Trust Board may delegate any of the powers, authorities and discretions conferred upon it by these presents to any person or persons or committee or committees appointed by the Trust Board for that purpose whether or not any such person or member of a committee is a member of the Trust Board. Delegation may be with such functions and authority and subject to such restrictions as the Trust Board may think fit and from time to time direct or redirect.

8.3 **Accounts & audits**

(a) **Bank accounts**

The Trust Board shall operate such accounts with any registered bank as the Trust Board shall from time to time appoint, into which account or accounts shall be banked all moneys received by the Trust without exception.

(b) **Payments**

(i) All payments and withdrawals on any account or accounts with any bank or banks opened by the Trust Board, whether by way of internet banking or negotiable instruments (including cheques) shall be authorised and/or signed by any two (2) of the members of the Trust Board, or by any one member of the Trust Board and any one other person from time to time appointed by the Trust Board for that purpose.

(ii) The Trust Board may appoint different persons or sets of persons (being not less than two (2) in number) to authorise payments by internet banking and/or sign cheques on different accounts and the Trust Board may from time to time by notice in writing revoke any such appointment or appointments and make other appointments.

(iii) In respect of any account designated by the Trust Board as an imprest account for the payment of ordinary day to day accounts and wages and salaries payable in connection with any business, the Trust Board may authorise any one or more of the secretary, treasurer, or other person(s) whether or not members of the Trust Board to authorise payments by internet banking and/or sign cheques on that account within such limits and subject to such terms and conditions as shall be specified by the Trust Board.

(c) **Accounts systems**

(i) The Trust Board shall cause proper books of account to be provided and true and accurate entries to be made therein of the assets and liabilities of the

Trust Board and of all moneys received and paid by the Trust under the authority of this Deed and in pursuance of the Objects of the Trust Board.

- (ii) Such books shall at all times be open to the inspection of every member of the Trust Board or any person appointed by the Trust Board who may take extracts from the same.
 - (iii) All monies collected or raised by the Trust Board or otherwise belonging to the Trust Board which shall have come into the hands of the treasurer shall be paid into a current account in the name of the Trust Board at such Bank as the Trust Board shall from time to time appoint.
 - (iv) Immediately after the end of the Trust Board's financial year (the balance date being determined by the Trust Board from time to time) the treasurer shall cause to be prepared an annual balance sheet of the Trust Board as at the end of that financial year together with a statement of income and expenditure of the Trust Board during that year and such balance sheet and statement of income and expenditure shall be submitted to and approved by the Trust Board.
 - (v) A copy of such balance sheet and statement of income and expenditure shall be posted (or otherwise delivered by physical or electronic means) to each member of the Trust Board not less than seven (7) days prior to the meeting of the Trust Board at which it is to be considered.
- (d) **Audit / review**
Accounts of the trust shall be audited or reviewed if required by any member of the Trust Board at or before the meeting at which the same are first to be considered but not otherwise. Any auditor or reviewer shall be a Chartered Accountant who shall not be:
- (i) a member of the Trust Board or of the Appointments Panel; or
 - (ii) associated with a member of the Trust Board using the definition of associated person outlined in Subpart YB of the Income Tax Act 2007 (or any re-enactment of that section).

An auditor or reviewer may be appointed by resolution of the Trust Board or by the Appointments Panel at any time and will be appointed if required by the Charities Act 2005.

8.4 **Registered Office**

The Trust Board shall have a registered office which shall be at such place as appointed from time to time by Special Resolution of the Trust Board and the Trust Board shall (in the case of incorporation under the Charitable Trusts Act 1957) give notice of the place of the registered office to the Registrar of Incorporated Societies as and when required.

8.5 **Common Seal**

- (a) During any period of incorporation under the provisions of the Charitable Trusts Act 1957 (or any replacement legislation governing the conduct of charitable trusts) the Trust Board shall acquire and adopt a Common Seal which shall be kept in the

custody of the secretary or such other officer as shall be appointed by the Trust Board. The Common Seal shall only be used by the authority of the Trust Board and the Common Seal shall only be affixed to a document or instrument in the presence of two (2) members who shall also affix their signatures to every document or instrument so sealed.

- (b) As regards third parties, the Common Seal shall be deemed to have been duly affixed, if the affixing is attested by two (2) members of the Trust Board and that notwithstanding any invalidity in the appointment of any member or any irregularity in the meeting at which the same was authorised and/or affixed or in any other matter connected with the affixing of the same and as regards third parties the signature of the persons attesting to the affixing of the Common Seal shall be sufficient evidence that these persons are members of the Trust Board.

8.6 Reporting

As soon as practicable after the end of each of the Trust's financial years, the Trust Board will produce a report regarding the activities of the Trust for that year, to which the financial statements of the Trust for the year (audited or reviewed as applicable) will be attached, and shall provide such report to the Appointments Panel for distribution pursuant to clause 5(h) of Schedule One to this Deed.

9. INTERPRETATION AND AMENDMENT

9.1 Interpretation

The Trust Board may obtain and act upon the opinion of any Barrister and/or Solicitor enrolled and certified to practice in the High Court of New Zealand in relation to this Deed (as to interpretation or otherwise) or any other document or statute or as to the administration of the Trust without being liable to any of the persons beneficially interested in respect of any act done by the Trust Board in accordance with such opinion. However, nothing in this clause shall prohibit the Trust Board from applying to any Court of competent jurisdiction, if the Trust Board should think fit to do so.

9.2 Amendment

The Trust Board, by Deed approved by a Special Resolution of the Trustees, may make any alteration or addition to the terms and provisions of this Deed provided that:

- (a) the Trust Fund and income arising from the Trust Fund must always be held for Charities and charitable purposes according to the law of New Zealand; and
- (b) no variation, addition or deletion shall be made to the Objects (clause 3.1), the pecuniary profit provisions (clause 10), or the winding up provisions (clause 12), in each case, which could prejudice the charitable nature of the Trust or the Trust's ability to meet the requirements for any exemption available to charities under New Zealand revenue laws; and
- (c) no alterations shall be made to the provisions of this clause which would have the effect of defeating the limitations contained in clauses 9.2(a) and 9.2(b) above; and
- (d) no alterations may be made to those provisions numbered clause 6 (Appointments Panel) and Schedule One (Appointments Panel – Terms of Reference) at the date of this Deed, and no other alterations may be made to this Deed that have the effect of

changing the application of those provisions, in each case, without the prior unanimous approval of the Appointments Panel.

9.3 Implementation

Once the provisions in clause 9.2 above have been satisfied, the Trustees can effect the approved variation or variations by deed executed by all of the Trustees for the time being and the Trust Board under Common Seal.

9.4 General

All acts by the Trust Board or by a person acting as a Trustee shall notwithstanding that it be afterwards discovered that there was some defect in the appointment of any such Trustee or person acting or that they or any of them were for any reason disqualified be as valid as if such person had been duly appointed and was qualified to be a Trustee.

9.5 Application

All funds and assets of the Trust shall be applied within New Zealand towards the furtherance of the Objects of the Trust.

10. PERSONAL INTEREST

10.1 No private pecuniary profit

No private pecuniary profit shall be made by any person from the Trust Fund, except that:

- (a) any Trustee may receive full reimbursement for all expenses properly incurred by that Trustee in connection with the affairs of the Trust;
- (b) the Trustees may pay reasonable and proper remuneration to any officer or servant of the Trustees (whether a Trustee or not including any member of a Project Advisory Committee) in return for services actually rendered to the Trustees;
- (c) any Trustee may be paid all usual, professional, business or trade charges for services rendered, time expended and all acts done by that Trustee or by any firm or entity of which that Trustee is a member, employee or associate in connection with the affairs of the Trustee;
- (d) any Trustee may retain any remuneration properly payable to that Trustee by any company or undertaking with which the Trustee may be in any way concerned or involved for which that Trustee has acted in any capacity whatsoever, notwithstanding that Trustee's connection with that company or undertaking is in any way attributable to that Trustee's connection with the Trust.

10.2 Trustees to Comply with Restrictions

Trustees, in determining all reimbursements, remuneration and charges payable in terms of clause 10.1 above shall ensure that the restrictions imposed by clause 10.3 below, are strictly observed **PROVIDED ALWAYS** that any Trustee shall not be able to determine or materially influence in anyway whatsoever any income, benefit or advantage that they may receive as a result of their employment by the Trust Board and those persons shall not participate in any proceedings by which that income, benefit or advantage is being determined.

10.3 Recipient Not to Influence Benefit

Notwithstanding anything contained or implied in this Deed, any person:

- (a) who is a trustee of the Trust or any trust which carries on business for or on behalf of or for the benefit of the Trust; or
- (b) who is a shareholder or director of any company by which a business is carried on, on behalf of or for the benefit of the Trust; or
- (c) who is a trustee of a trust that is a shareholder of a company by which a business is carried on, on behalf of or for the benefit of the Trust; or
- (d) where that person and a trustee or shareholder or director as set out above are associated persons (as defined in Subpart YB Income Tax Act 2007) (or any re-enactment of that section)), of any settlor, trustee, shareholder or director,

shall not by virtue of that capacity in any way (whether directly or indirectly) determine, or materially influence in any way (except as allowed by section CW42 of the Income Tax Act 2007 (or any re-enactment of that section)) the determination of the nature or the amount of any benefit or advantage or income of, or the circumstances in which it is or is to be received, gained, achieved, afforded or derived by that person.

10.4 Professional Services

A person who in the course of and as part of the carrying on of his/her business as a professional service provider shall not, by reason only of his/her rendering professional services to the Trustees or to any company by which any business of the Trustees is carried on, be in breach of the terms of this Deed.

10.5 Interested Trustees

In this Deed an “Interested Trustee” means a Trustee who is or may be in any other capacity whatsoever interested or concerned directly or indirectly in any property or undertaking in which the Trust Board is or may be in any way concerned or involved. An Interested Trustee shall disclose the nature and extent of that Trustee's interest to the other Trustees and shall not take any part whatsoever in any deliberations of the Trustees concerning any matter in which that Trustee is or may be interested other than as a Trustee of the trust and shall not be included in the quorum for the purposes of a meeting in relation to that matter.

11. TRUSTEES' LIABILITY AND INDEMNITY

11.1 No Liability of Trustees with exceptions

No Trustee or former Trustee shall be liable for any loss incurred by or in respect of the Trust Fund not attributable to that Trustee's own dishonesty, or to the wilful commission or omission by that Trustee of an act known by that Trustee to be a breach of trust. No Trustee shall be bound to take any proceedings against a co-Trustee or former Trustee for any breach or alleged breach of trust committed by a co-Trustee or former Trustee.

11.2 Indemnity of Trustees

Each Trustee or former Trustee shall be entitled to a full and complete indemnity from the Trust Fund for any liability which that Trustee or former Trustee may incur in any way arising out of or in connection with that Trustee acting or purporting to act as, or on behalf of, a Trustee of the Trust, provided that liability is not attributable to that Trustee's own dishonesty,

or to the wilful commission or omission by that Trustee of an act known by that Trustee to be a breach of trust.

12. **WINDING UP**

If at any time the Objects of the Trust Board shall fail; or,

- (a) if for any reason the purpose of the Trust shall become wholly frustrated and incapable of being carried out, or
- (b) if at any time the Trust Board shall by Special Resolution resolve that in its opinion the Trust should be wound up,

then the Trust Board shall be wound up accordingly and the Trust Fund distributed after payment of all liabilities and expenses, to such organisation or organisations within the Waikato region which have charitable objects of a similar nature to the Objects of this Trust as directed by Special Resolution of the Trust Board and upon such terms and conditions as the Trust Board shall think fit. The Trust Board will require the recipient(s) of the Trust Fund to provide an acknowledgement that it/they will hold funds that are tagged for specific purposes for such purposes. If the Trust Board is unable to pass a Special Resolution, then the Trust fund will be distributed as directed by the High Court acting pursuant to section 27 of the Charitable Trusts Act 1957 (or any re-enactment of that section), provided that no resolution to wind up and no resolution to distribute the Trust Fund in accordance with the foregoing shall be effective until that resolution has been confirmed by Special Resolution of the Trust Board.

Executed as a deed.

SIGNED by)
in the presence of:)
.....

Witness signature

Witness name:

Occupation:

Address:

SIGNED by)
in the presence of:)

Witness signature

Witness name:

Occupation:

Address:

SIGNED by)
in the presence of:)

Witness signature

Witness name:

Occupation:

Address:

SIGNED by)
in the presence of:)

Witness signature

Witness name:

Occupation:

Address:

SIGNED by)
in the presence of:)

Witness signature

Witness name:

Occupation:

Address:

SCHEDULE ONE

APPOINTMENTS PANEL – TERMS OF REFERENCE

1. Constitution

The Appointments Panel shall be an independent panel, initially established as set out in clause 3.1 below.

2. Objectives

The objectives of the Appointments Panel are to establish the Trust Board's composition, by evaluating the competencies required of prospective trustees (both non-executive and executive), identifying those prospective trustees, establishing their degree of independence, developing succession plans for the Trust Board, and receiving recommendations from the Trust Board and administrative support from the Trust.

3. Membership

3.1 The Appointments Panel at the date of this Deed shall comprise:

- (a) [insert] (deemed to be appointed pursuant to 3.2(a));
- (b) [insert] (deemed to be appointed pursuant to 3.2(b));
- (c) The Mayor of Hamilton City (deemed to be appointed pursuant to 3.2(c));
- (d) [insert] (deemed to be appointed pursuant to 3.2(d));
- (e) [insert] (deemed to be appointed pursuant to 3.2(e));
- (f) [insert] (deemed to be appointed pursuant to 3.2(f)); and
- (g) [insert] (deemed to be appointed pursuant to 3.2(g)).

3.2 Membership of the Appointments Panel, other than the initial membership referred to in clause 3.1 above, will comprise:

- (a) the chairperson or nominee of **Trust Waikato** or, if Trust Waikato declines to appoint a member to the Appointments Panel, then the chairperson or nominee of such other significant community organisation based in the Waikato as determined by the balance of the Appointments Panel;
- (b) the chairperson or nominee of **Momentum Waikato**, or if Momentum Waikato declines to appoint a member to the Appointments Panel, then the chairperson or nominee of such other community trust or foundation based in the Waikato as determined by the balance of the Appointments Panel;
- (c) the chairperson or nominee of the **Waikato Mayoral Forum** and up to one additional representative of the Waikato Mayoral Forum appointed by that chairperson or nominee or, if the Waikato Mayoral Forum declines to appoint at least one member to the Appointments Panel, then the balance of the Appointments Panel will instead

select a minimum of one and maximum of two members with local government or similar experience.

- (d) the chairperson or nominee of the **Waikato Branch of the Property Council New Zealand** or any other appropriate body which represents the property development and investment community within the Waikato region, as determined by the balance of the Appointments Panel;
- (e) the chairperson or nominee of **Waikato Tainui (Te Whakakitenga O Waikato Incorporated)** or, if Waikato Tainui declines to appoint a member to the Appointments Panel, then the chairperson or nominee of such other appropriate body representing tangata whenua in the Waikato region, as determined by the balance of the Appointments Panel;
- (f) the chairperson or nominee of the **Institute of Directors, Waikato Branch** or, if the Institute of Directors declines to appoint a member to the Appointments Panel, then the chairperson or nominee of such other organisation supporting good and effective governance (or similar) in the Waikato region, as determined by the balance of the Appointments Panel; and
- (g) a minimum of one and a maximum of three **independent** members appointed by the balance of the Appointments Panel taking into account the skills, expertise, experience and community connections when reflected against the purposes of the Trust required for the Appointments Panel to function in a balanced and effective manner.

4. **Secretarial, meetings and voting**

- 4.1 The secretary of the Appointments Panel shall be provided by the Trust Board.
- 4.2 A quorum of members of the Appointments Panel shall be six.
- 4.3 Decisions of the Appointments Panel will be made by a majority of the members present and eligible to vote on any such decision at a meeting.
- 4.4 Reasonable notice of meetings and the business to be conducted shall be given to the members of the Appointments Panel.
- 4.5 Meetings shall be held not less than once per year having regard to the occurrence of panel vacancies, actual or anticipated. Any member of the Appointments Panel may request a meeting at any time if they consider it necessary.
- 4.6 Minutes of all meetings of the Appointments Panel shall be kept.

5. **Responsibilities**

The responsibilities of the Appointments Panel are as follows:

- (a) To identify and appoint external candidates as Trustees in order to fill Trust Board vacancies as and when they arise.

- (b) To receive and consider recommendations from the Trust Board via the Trust Board chairperson with respect to:
 - (i) the re-appointment, or not, of any Trustee at the conclusion of their specified term of office.
 - (ii) the degree of independence of any Trustee.
 - (iii) any other matters relating to the continuation in office of any Trustee at any time, including, where applicable, the removal of any trustee.
- (c) Before making an appointment, to evaluate, in consultation with the Trust Board, the balance of skills, knowledge, experience and community connections on the Trust Board and, in light of the evaluation, to determine the role and capabilities required for the appointment, including ensuring there is at least three members of the Trust Board with practical experience and success in property or development represented on the Trust Board. Where necessary, or appropriate, the Appointments Panel will also consider the previous governance experience and qualifications that are considered by the Appointments Panel to be necessary or desirable for appointees to the Trust Board. Where possible, the Appointments Panel will ensure that the Trust Board includes at least one practising lawyer and one practising accountant.
- (d) Before making an appointment, to evaluate the diversity of the Trust Board, having regard to the demography of the Waikato region.
- (e) To formulate succession plans for Trustees, taking into account the challenges and opportunities facing the Trust and the skills and expertise accordingly required on the Trust Board in the future.
- (f) To at least annually review the structure, size and composition (including skills, knowledge and experience) with the Trust Board and to make any changes as it considers necessary.
- (g) To keep under review the leadership requirements of the Trust, considering both the Trust Board and management, with a view to ensuring the continued ability of the Trust to maintain an exemplary level of integrity in delivering on the purposes of the Trust.
- (h) In undertaking the matters contemplated by clause 5(g), ensuring that the Trust Board, not less than annually, provides a written report to stakeholders (including the organisations represented by the appointees to the Appointments Panel), including (in addition where necessary) in a form which can be released to the public.
- (i) To consider such other matters relating to the Trust Board, including the removal of Trustees (under clause 5.6(a) of the main body of this Deed), together with nomination or succession issues as may be referred to it by the remaining Trustees (in the case of removal of a Trustee) or the Trust Board.

6. Authorities

- 6.1 Except as expressly provided in this Deed, the Appointments Panel's sole function is to evaluate candidates for vacancies on the Trust Board, in accordance with these Terms of

Reference, and where appropriate appoint the same as Trustees / members of the Trust Board.

- 6.2 The Appointments Panel is authorised by the Trust Board to consult with such outside services for information and advice, as it considers necessary for carrying out its responsibilities, and with pre-approval from the chairperson of the Trust Board, pass on all agreed reasonable costs to the Trust Board.

7. Review of the Appointments Panel

The Appointments Panel will undertake an annual self-review of its objectives and responsibilities and the extent to which they have been achieved and completed. Such objectives and responsibilities and their attainment will also be reviewed by the Trust Board and any other person the Trust Board considers appropriate.

8. Reporting procedures

- 8.1 After each meeting of the Appointments Panel, the chairperson will report the Appointments Panel's recommendations, findings and decisions to the Trust Board chairperson. The minutes of all Appointments Panel meetings will be circulated to members of the Trust Board and to such other persons as the Trust Board directs.
- 8.2 The chairperson will present an annual report to the Trust Board summarising the Appointments Panel's activities during the year and any related significant results and findings.



4 September 2019

The Chief Executive
Hamilton City Council
Via Email

*He hoonore he kororia ki te atua, he maungarongo ki te mata o te whenua, he whakaaro pai
ki ngaa tangata katora. Pai Maarire.*

Teenaa koe Richard

Thank you for sending us the draft Deed of Trust and Council report in regards to the Community Lands Trust.

I can confirm our support in principle and interest in being involved. We have some feedback on the Trust Deed that we are happy to discuss further.

I also wish to confirm that we do have an interest in appointing a representative on the Appointments Committee. Please let us know your timeframe to have the committee established.

Ngaa mihi

A handwritten signature in blue ink, appearing to read "M. Tukere".

Marae Tukere
Acting Chief Executive / GM Tribal Development and Wellbeing

Council Report

Committee: Council **Date:** 17 September 2019
Author: Sandra Murray **Authoriser:** Jen Baird
Position: Consultant **Position:** General Manager City Growth
Report Name: Sale and Disposal of Council Land Policy - Approval

Report Status	<i>Open</i>
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Purpose

1. To seek the Council's approval of the Sale and Disposal of Council Land Policy 2019.

Staff Recommendation

2. That the Council:
 - a) receives the report; and
 - b) approves either Option A or Option B:

Option A – approves the proposed Sale and Disposal of Council Land Policy 2019, with minor amendments (see Attachment 1);

Option B – approves the current Sale and Disposal of Council Land Policy 2019 (with no amendments).

Executive Summary

3. The Sale and Disposal of Council Land Policy (**the Policy**) sets out clear and consistent rules for the process to sell Council-owned land and buildings, and provides a transparent process for the community.
4. At the 12 February 2019 Growth and Infrastructure Committee meeting, the Committee recommended that the Council approve the Policy.
5. At the 14 March 2019 Council meeting, the Chair of Growth and Infrastructure Committee noted that the Policy needed to be further considered to ensure it aligned with the development of the proposed Social Housing Fund.
6. At the 27 June 2019 Council meeting, the Council endorsed the establishment of a new entity, to be called the Waikato Community Lands Trust (the Trust). This replaced the earlier proposed Social Housing Fund.
7. Staff have considered the alignment of the Policy with the Waikato Community Lands Trust and any impact related to other Council policies. No inconsistencies were identified.
8. Staff recommend Option A – that the Council approves the proposed Sale and Disposal of Council Land Policy 2019, with minor amendments.

9. 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, and that the recommendations comply with the Council's legal requirements.

Background

10. The Sale and Disposal of Council Land Policy (Attachment 1) sets out the process to sell Council-owned land and buildings. It requires that land to be sold is valued based on highest and best use and is sold for the highest possible price.
11. All Council-owned land to be sold requires a specific resolution from the Council or the Finance Committee (unless previously approved for sale by the Council and included in the adopted 10-Year Plan).
12. The Policy is required because it:
 - i. sets clear and consistent rules for the process to sell Council-owned land
 - ii. provides a transparent process for the community.
13. The Policy was comprehensively reviewed in 2016. On 30 August 2016 the Council approved a number of changes to the [policy](#).
14. At that time, the substantive change was to accept PricewaterhouseCoopers' recommendation that Council staff be given the delegated authority to complete the sale of land "for a sum not less than 90% of the current market valuation." Other minor changes clarified and simplified the Policy by writing in plain English and eliminating unnecessary content.
15. Council staff reviewed the Policy again in 2018/2019 and concluded that it was fit for purpose, working well, and did not require any further substantial alterations.
16. At the Growth and Infrastructure Committee meeting on 12 February 2019, the Committee recommended that the Council approve the Sale and Disposal of Council Land Policy.
17. At the Council meeting held 14 March 2019 the Chair of Growth and Infrastructure Committee introduced a report on the Policy noting that it needed further consideration to ensure it aligned with the development of the Social Housing Fund. The Council agreed to let the item lay on the table until the Social Housing Fund was developed.
18. The 27 June 2019 Council meeting endorsed the establishment of a new entity, to be called the Waikato Community Lands Trust (the Trust). This replaced the earlier proposed Social Housing Fund. Staff assessed the Policy against this new proposal.
19. Staff have considered the alignment of the Policy with the Waikato Community Lands Trust and any impact related to other Council policies. No inconsistencies were identified.
20. Staff have assessed a low level of significance related to the proposed amendments.

Discussion

21. The Policy allows the Council to consider alternative, or more appropriate methods of sale or disposal of land where the land (or improvement) is identified by the Council for some other use e.g. social housing.
22. An example may be to facilitate the Waikato Community Lands Trust to acquire land and/or land and buildings, hold the land in perpetuity, and work with existing housing providers to develop the sites and for those housing providers to work with individuals or families to gain access to forms of affordable home ownership.
23. The review of the Policy rectifies grammatical errors and proposes the following minor changes.

Due diligence

24. Include the following statement related to due diligence:
“Prior to sale or disposal, all land and buildings must be subject to a rigorous due diligence process which includes identifying all parties with any claim on the land and confirms whether any specific offer-back obligations exist.”
25. Offer-back means the requirement under s 40(2) of the Public Works Act 1981 to offer to sell land that is no longer required for a public work by private contract to the person from whom it was acquired or the successor of that person.

Culture and Heritage

26. Include the following statement related to culture and heritage:
“As a part of any land disposal process, staff will assess and identify cultural and heritage significance in relation to a site and engage with mana whenua where appropriate.”
27. If the Council does not approve the Policy, the existing policy would be retained.
28. There are no known risks associated with the decision required to approve the Policy.

Options

29. Staff have assessed that there are two reasonable and viable options for the Council to consider. This assessment reflects the low level of significance related to this policy. The options are:
Option A – approve the proposed Sale and Disposal of Council Land Policy 2019, with minor amendments
 OR
Option B – approve the current Sale and Disposal of Council Land Policy 2019 (with no amendments).
30. Staff recommend **Option A** to ensure the policy has a clear intent and aligns with other policies.

Financial Considerations

31. The review of the Policy is a regular operating activity funded through the 10-Year Plan.
32. The total cost to review the Policy is approximately \$2,000-\$3,000, including staff time.

Legal and Policy Considerations

33. The proposed Policy has been reviewed by Tompkins Wake. Their review clarified the Council’s obligations under the Waikato Raupatu Claims Settlement Act 1995 related to first right of refusal obligations for Council-owned land.
34. This advice clarified that the right of first refusal provision in the Waikato Raupatu Claims Settlement Act 1995 does not apply to land held by the Council. The right of first refusal provision applies only in relation to a proposed sale of land by a “Crown body”. As the Council does not come within the definition of “Crown body”, the right of first refusal provision does not apply.
35. Staff confirm that the staff recommendations comply with the Council’s legal and policy requirements.

Wellbeing Considerations

- 36. The purpose of Local Government changed on the 14 May 2019 to include promotion of the social, economic, environmental and cultural wellbeing of communities in the present and for the future ('the 4 wellbeings').
- 37. The subject matter of this report has been evaluated in terms of the 4 wellbeings during the process of developing this report as outlined below.
- 38. The recommendations set out in this report are consistent with that purpose.

Social

- 39. The Policy sets clear and consistent rules for the process to sell Council-owned land and provides a transparent process for the community.
- 40. The Policy allows the Council to consider alternative, or more appropriate methods of sale or disposal of land where the land (or improvement) is identified by the Council for some other use e.g. social housing.

Economic

- 41. There are no known economic considerations associated with the decision to approve the Policy.
- 42. It is likely that there will be economic considerations related to the sale or disposal of specific land or buildings. These should be considered as part of the sale or disposal process.

Environmental

- 43. There are no known environmental considerations associated with the decision to approve the Policy.
- 44. Any environmental considerations related to the sale or disposal of specific land or building should be considered during the process of approving the sale or other disposal.

Cultural

- 45. All Council-owned land to be sold is subject to a rigorous due diligence process which includes a legal review and status report. This identifies all parties with any claim on the land and confirms whether any specific offer-back obligations exist.
- 46. As a part of any land disposal process, staff assess and identify heritage and cultural significance in relation to a site and engage with mana whenua where appropriate.

Risks

- 47. There are no known risks associated with the decision required to approve the Policy.

Significance & Engagement Policy

Significance

- 48. 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

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

Attachments

Attachment 1 - Track Change - Proposed Sale and Disposal of Land and Buildings Policy - 2019

Attachment 2 - Final (Clean) Version - Proposed Sale and Disposal of Land and Buildings Policy 2019

First adopted:	24 May 2006
Revision dates/version:	29 September 2016; <u>17 September 2019</u>
Next review date:	<u>19-1 July 2022</u> 19
Engagement required:	No
Document number:	<u>D-2154480</u>
Associated documents:	None
Sponsor/Group:	General Manager City Growth Group

Sale and Disposal of Council Land Policy 2019

Purpose and Scope

1. This policy ~~outlines~~describes the process to sell or dispose of Council-owned land and buildings.
- ~~1.2. This policy applies to land, land improvements (including buildings and structures) and land covered by water.~~
- ~~2. This policy is to ensure that Council-owned land to be sold is sold for the highest possible price.~~
3. This policy requires that Council-owned land is sold for the highest possible price ~~except where special Council approved circumstances dictate otherwise.~~
- ~~4. This policy applies to land, land and improvements (including buildings and structures) and land covered by water.~~
- ~~5.4.~~ This policy does not apply to sale of Council plant (vehicles), equipment (machinery) or financial investments (shareholdings).

Policy

5. Prior to sale or disposal, all land and buildings must be subject to a rigorous due diligence process which includes identifying all parties with any claim on the land and confirms whether any specific offer-back obligations exist.
6. As a part of any land disposal process, staff will assess and identify cultural and heritage significance in relation to a site and engage with mana whenua where appropriate.
7. All land to be sold is to be valued ~~on the basis of~~based on highest and best use by a registered valuer.
8. The current market valuation must be completed within ~~two-three~~ months of the date of Council's decision to sell, where possible.
- ~~6.9.~~ Land and land improvements must be sold for a sum not less than 90% of the current market valuation.
- ~~7.10.~~ Land ~~to be sold~~ will be sold by the most appropriate sale method in each case. In the first instance, competitive open-market methods of sale will be considered and determined on merit.
- ~~8.11.~~ The Council may consider alternative, or more appropriate methods of sale or disposal of land where the land (or improvement) it including:
 - a. ~~Land that~~ does not comply with ~~the development requirements of~~ the District Plan
 - b. ~~Land that~~ has no legal access
 - c. ~~Land is~~ to be developed by another level of government
 - d. ~~is Land~~ identified by Council for some other use e.g. social housing
 - e. ~~is Land~~ of nominal value
 - f. ~~is Land~~ for inclusion with an adjacent holding

- g. ~~Land that~~ will complement a proposed [Council](#) development [or a development](#) on an adjoining site consistent with [the](#) Council's objectives.

9. [The](#) Council land ~~or improvements~~ to be sold will be disposed of in accordance with the relevant law.

Monitoring and Implementation.

- 10. The General Manager [City](#) Growth ~~Group Group~~ will monitor implementation of this policy.
- 11. The policy will be reviewed every three years, or at the request of Council, or in response to changed statutory requirements, or in response to any issues that may arise.

[Page 1 of 1](#)

First adopted:	24 May 2006
Revision dates/version:	29 September 2016; 17 September 2019
Next review date:	1 July 2022
Engagement required:	No
Document number:	
Associated documents:	None
Sponsor/Group:	General Manager City Growth Group

Sale and Disposal of Council Land Policy 2019

Purpose and Scope

1. This policy outlines the process to sell or dispose of Council-owned land and buildings.
2. This policy applies to land, land improvements (including buildings and structures) and land covered by water.
3. This policy requires that Council-owned land is sold for the highest possible price.
4. This policy does not apply to sale of Council plant (vehicles), equipment (machinery) or financial investments (shareholdings).

Policy

5. Prior to sale or disposal, all land and buildings must be subject to a rigorous due diligence process which includes identifying all parties with any claim on the land and confirms whether any specific offer-back obligations exist.
6. As a part of any land disposal process, staff will assess and identify cultural and heritage significance in relation to a site and engage with mana whenua where appropriate.
7. All land to be sold is to be valued based on highest and best use by a registered valuer.
8. The current market valuation must be completed within three months of the date of Council's decision to sell, where possible.
9. Land and land improvements must be sold for a sum not less than 90% of the current market valuation.
10. Land will be sold by the most appropriate sale method in each case. In the first instance, competitive open-market methods of sale will be considered and determined on merit.
11. The Council may consider alternative, or more appropriate methods of sale or disposal of land where the land (or improvement):
 - a. does not comply with the District Plan
 - b. has no legal access
 - c. is to be developed by another level of government
 - d. Is identified by Council for some other use e.g. social housing
 - e. is of nominal value
 - f. is for inclusion with an adjacent holding
 - g. will complement a proposed Council development or a development on an adjoining site consistent with the Council's objectives.
9. The Council land or improvements to be sold will be disposed of in accordance with the relevant law.

Monitoring and Implementation

10. The General Manager City Growth Group will monitor implementation of this policy.
11. The policy will be reviewed every three years, or at the request of Council, or in response to changed statutory requirements, or in response to any issues that may arise.

Council Report

Item 23

Committee: Council

Date: 17 September 2019

Author: Richard Briggs

Authoriser: Richard Briggs

Position: Chief Executive

Position: Chief Executive

Report Name: Notice of Motion - Security Guards Contract

Report Status

Open

1. A Notice of Motion was received by the Chief Executive on 26 August 2019.
2. The motion in question relates to contract 18146 General Security Services that was approved at the 1 August 2019 Finance Committee meeting (Attachment 1)
3. The Notice of Motion received is consistent with Standing Orders 27.7.

Motion: (Mayor King/Cr Macpherson)

4. That the Council:
 - a) approves a variation to contract 18146 General Security Services (approved at the 1 August 2019 Finance Committee meeting) to include provision for remuneration security staff a minimum of \$20.00 per hour, which will amount to \$13,330 in the first year (to take effect from the start date of the contract, increasing for subsequent years in line with Council staff minimum wage rate levels; and
 - b) that the Chief Executive bring a report back to Council no later than February 2020 on the minimum wage levels currently applicable in all Council contracts, to enable Council to consider the application of the above minimum wage level to all Council contracts during the 2020/21 Annual Plan.

Attachments

Attachment 1 - Notice of Motion - Security Guards Contract

Fair Pay agreement - Security Guards Contract**Notice of Motion** (Under Standing Order 27.7)


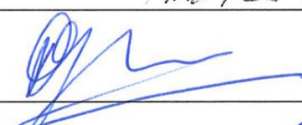



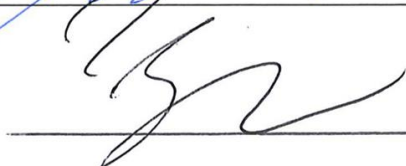
TO: Chief Executive
FROM: Signatories noted below
DATE: 22nd August 2019
RE: Notice of Motion – Council Meeting – 17 September 2019

In accordance with Standing Order 27.7, the Elected Members whose names and signatures appear below request that the following motion be considered at the Council Meeting to be held on 17 September 2019.

Motion: (Mayor King/Cr Macpherson)

- A. That the Council approves a variation to contract 18146 General Security Services (approved at the 1 August 2019 Finance Committee Meeting) to include provision for remunerating security staff a minimum of \$20 per hour, which will amount to \$13,330 in the first year (to take effect from the start date of the contract), increasing for subsequent years in line with Council staff minimum wage rate levels.
- B. That the Chief Executive bring a report back to Council no later than February 2020 on the minimum wage levels currently applicable in all Council contracts, to enable Council to consider the application of the above minimum wage level to all Council contracts during the 2020/21 Annual Plan.

Elected Member Name and Signature:

	KING
	MACPHERSON
	GALLAGHER
	HAMILTON
	TAYLOR
	Richard Briggs CHIEF EXECUTIVE 26 August 2019

Council Report

Item 24

Committee: Council
Author: Rebecca Watson
Position: Committee Advisor
Date: 17 September 2019
Authoriser: Becca Brooke
Position: Governance Team Leader
Report Name: Recommendation from the Community, Services & Environment Committee of 22 August 2019

Report Status	<i>Open</i>
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1. To seek the Council's approval of the recommendations from the Community, Services & Environment Committee meeting held on 22 August 2019, in respect of the West Town Belt Masterplan
2. The 22 August 2019 Community, Services & Environment Committee agenda is available on the Council website or via the following link:
<https://www.hamilton.govt.nz/AgendasAndMinutes/CommunityServicesandEnvironmentCommitteeOpenAgenda-22August2019.pdf>
3. The 22 August 2019 Community, Services & Environment Committee minutes are available on the Council website or via the following link:
<https://www.hamilton.govt.nz/AgendasAndMinutes/CommunityServicesandEnvironmentUnconfirmedOpenMinutes-22August2019.pdf>

Recommendation from the Community Services and Environment Committee Meeting of 22 August 2019:

West Town Belt Masterplan

That the Council approve the West Town Belt (WTB) Masterplan, noting the following changes;

- i in project 38, options relating to future pedestrian crossings on Mill Street;
- ii in Project 37, possible future Council decisions relating to car parking in the Pit Lane area;
- iii inclusion of specific reference to skate parks and play grounds in the WTB heart Character Area.

Attachments

There are no attachments for this report.

Council Report

Committee: Council **Date:** 17 September 2019
Author: Rebecca Watson **Authoriser:** Becca Brooke
Position: Committee Advisor **Position:** Governance Team Leader
Report Name: Recommendation from the Finance Committee Meeting of 10 September 2019

Report Status	<i>Open</i>
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1. To seek the Council's approval of the recommendation from the Finance Committee meeting on 10 September 2019, in respect of the Financial Strategy Monitoring Report.
2. The 10 September 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

Recommendation from Finance Committee Meeting of 10 September 2019:

Financial Strategy Monitoring Report

That the Council:

- a) approves the capital savings of \$8M in 2018/19 financial year, re-phasing and delay deferrals of an additional \$12.6M capital projects from 2018/19 to future years as identified in the 10 September 2019 Capital Portfolio Monitoring Report;
- b) approves the significant forecast adjustments as set out in paragraphs 22 to 25 of this 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 26 to 34 of this 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 Extraordinary Council Public Excluded Minutes 1 August 2019) Good reason to withhold information exists under Section 7 Local Government Official Information and Meetings Act 1987	Section 48(1)(a)
C2. Confirmation of the Council Public Excluded Minutes 8 August 2019)	
C3. Confirmation of Elected Member Briefing Closed Notes - 1 August 2019.		
C4. Confirmation of the Elected Member Briefing Closed Notes - 13 August 2019.		
C5. Wairere/Cobham Intersection - Approved Contract Sum Increase		
C6. Rototuna Village - Area Q		
C7. Rototuna Village - Private Development Agreement		

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

Item C1.	to prevent the disclosure or use of official information for improper gain or improper advantage	Section 7 (2) (j)
Item C2.	to prevent the disclosure or use of official information for improper gain or improper advantage	Section 7 (2) (j)
Item C3.	to prevent the disclosure or use of official information for improper gain or improper advantage	Section 7 (2) (j)

Item C4.	to prevent the disclosure or use of official information for improper gain or improper advantage	Section 7 (2) (j)
Item C5.	to enable Council to carry out commercial activities without disadvantage	Section 7 (2) (h) Section 7 (2) (i)
Item C6.	to enable Council to carry out negotiations	Section 7 (2) (i)
Item C7.	to enable Council to carry out negotiations	Section 7 (2) (i)