

Notice of Meeting:

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

Date: Thursday 18 August 2022
Time: 9.30am
Meeting Room: Council Chamber and Audio Visual Link
Venue: Municipal Building, Garden Place, Hamilton

Lance Vervoort
Chief Executive

Council *Kaunihera* OPEN AGENDA

Membership

Chairperson Mayor P Southgate
Heamana

Deputy Chairperson Deputy Mayor G Taylor
Heamana Tuarua

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

Quorum: A majority of members (including vacancies)

Meeting Frequency: Monthly – or as required

Amy Viggers
Mana Whakahaere
Governance

10 August 2022

Telephone: 07 838 6727
Amy.Viggers@hcc.govt.nz
www.hamilton.govt.nz

Purpose

The Council is responsible for:

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

Terms of Reference

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

- f) Approval of the local governance statement required under the Local Government Act 2002.
- g) Approval of a proposal to the Remuneration Authority for the remuneration of Elected Members.
- h) Approval of any changes to the nature and delegations of the Committees.
- i) Approval of all Council and Committee Advisory Groups and their terms of reference.
- j) Appointments to, and removals from, CCO CCTO and CO boards;
- k) Approval of proposed major transactions or constitutional adjustments of CCOs, CCTOs and COs.
- l) Approval or otherwise of any proposal to establish, wind-up or dispose of any holding in, a CCO, CCTO or CO.
- m) Approval of city boundary changes, including in respect of Strategic Boundary Land Use Agreements.
- n) Approval Activity Management Plans.

Oversight of Policies and Bylaws:

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

ITEM	TABLE OF CONTENTS	PAGE
1	Apologies – <i>Tono aroha</i>	5
2	Confirmation of Agenda – <i>Whakatau raarangi take</i>	5
3	Declarations of Interest – <i>Tauaakii whaipaanga</i>	5
4	Public Forum – <i>Aatea koorero</i>	5
5	Confirmation of the Council Open Minutes of 29 June 2022	6
6	Confirmation of the Council Open Minutes of 30 June 2022	15
7	Confirmation of the Council Open Minutes of 20 July 2022	25
8	Confirmation of the Elected Member Open Briefing Notes - 28 June 2022	66
9	Chair's Report	69
10	Reform Response Programme - update	71
11	Update on building programme and policy	103
12	Recommendations from Open Committee Meetings	111
13	Resolution to Exclude the Public	113

1 Apologies – *Tono aroha*

2 Confirmation of Agenda – *Whakatau raarangi take*

The Council to confirm the agenda.

3 Declaration of Interest – *Tauaakii whaipanga*

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

4 Public Forum – *Aatea koorero*

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

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

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

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

Council Report

Item 5

Committee: Council

Date: 18 August 2022

Author: Tyler Gaukrodger

Authoriser: Michelle Hawthorne

Position: Governance Advisor

Position: Governance and Assurance
Manager

Report Name: Confirmation of the Council Open Minutes of 29 June 2022

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

Staff Recommendation - *Tuutohu-aa-kaimahi*

That the Council confirm the Open Minutes of the Council Meeting held on 29 June 2022 as a true and correct record.

Attachments - *Ngaa taapirihanga*

Attachment 1 - Council Unconfirmed Open Minutes - 29 June 2022

Council Kaunihera OPEN MINUTES

Minutes of a meeting of the Council held in Council Chamber, Municipal Building, Garden Place, Hamilton and via Audio Visual link on Wednesday 29 June 2022 at 9.31am.

PRESENT

Chairperson	Mayor P Southgate
Heamana	
Deputy Chairperson	Deputy Mayor G Taylor
Heamana Tuarua	
Members	Cr M Bunting Cr M Gallagher Cr D Macpherson Cr K Naidoo-Rauf Cr M Donovan Cr A O'Leary Cr Hamilton Cr S Thomson Cr M van Oosten Cr E Wilson (via audio visual link)

In Attendance	Lance Vervoort – Chief Executive David Bryant – General Manager People and Organisational Performance Blair Bowcott – General Manager Growth Helen Paki – General Manager Community Eeva-Liisa Wright – General Manager infrastructure Operations Sean Hickey – General Manager Strategy and Communication Andrew Parsons – Executive Director Strategic Infrastructure Maria Barrie – Parks and Recreation Manager Michelle Hawthorne – Governance and Assurance Manager Philippa Clear – Community and Social Development Manager Jamie Sirl – Team Leader City Planning Stephen Halliwell – Water Reform Financial Advisor Brendan Stringer – Consultant Peter van Hoven – Magical Bridge Trust NZ Gina Hailwood - Magical Bridge Trust NZ
----------------------	---

Governance Team	Amy Viggers – Governance Lead Carmen Fookes – Senior Governance Advisor Tyler Gaukrodger – Governance Advisor
------------------------	---

Tame Pokaia opened the meeting with a karakia.

Council 29 JUNE 2022 - OPEN

1. **Apologies – *Tono aroha***
Resolved: (Mayor Southgate/Cr van Oosten)
 That the apologies for absence from Cr Pascoe, and for partial attendance from Crs Naidoo-Rauf, Thomson, Hamilton, and O'Leary are accepted.
2. **Confirmation of Agenda – *Whakatau raarangi take***
Resolved: (Mayor Southgate/Cr van Oosten)
 That the agenda is confirmed noting that:
 - a) the order of items will be flexible to accommodate availability of presenters;
 - b) the late attachment 2 (Draft 2 Hamilton City Council Submission to the Future of Local Government Review) for item 14 (Reform Response Programme Update) is accepted. The attachment was circulated to Elected Members to enable the most up to date information to be incorporated in the draft submission;
 - c) the late attachment 1 (Plan Change 9 documentation) for item 21 (Recommendations from Open Committee Meetings) is accepted. The attachment was circulated to Elected Members under separate cover to enable the most up to date information to be included; and
 - d) that Item C1 (Confirmation of the Extraordinary Council (Recommendation from the CE Review Committee) Public Excluded Minutes - 25 May 2022) and Item C2 (Recommendations from Public Excluded CE Review Committee Meeting of 9 June 2022) are taken at 4pm 29 June 2022 to accommodate availability.
3. **Declarations of Interest – *Tauaakii whaipanga***
 Cr Wilson declared an perceived conflict in regards to Item 21 (Recommendations from Open Committee Meetings) regarding Plan Change 9. He noted he would not take part in the discussion or vote on the matter.
4. **Public Forum – *Aatea koorero***
 No members of the public wished to speak.
5. **Confirmation of the Council Open Minutes of 5 May 2022**
Resolved: (Mayor Southgate/Cr Wilson)
 That the Council confirm the Open Minutes of the Council Meeting held on 5 May 2022 as a true and correct record.
6. **Confirmation of the Council Open Minutes of 12 May 2022**
Resolved: (Mayor Southgate/Cr Wilson)
 That the Council confirm the Open Minutes of the Council Meeting held on 12 May 2022 as a true and correct record.
7. **Confirmation of the Council Open Minutes of 3 June 2022**
Resolved: (Mayor Southgate/Cr Wilson)
 That the Council confirm the Open Minutes of the Council Meeting held on 3 June 2022 as a true and correct record.
8. **Confirmation of the Council Open Minutes of 15 June 2022**
Resolved: (Mayor Southgate/Cr Wilson)
 That the Council confirm the Open Minutes of the Council Meeting held on 15 June 2022 as a true and correct record.

COUNCIL 29 JUNE 2022 -OPEN

Page 2 of 8

9. Confirmation of the Elected Member Open Briefing Notes - 23 May 2022

Resolved: (Mayor Southgate/Cr Wilson)
That the Council confirm the Open Briefing Notes of the Elected Member Briefing held on 23 May 2022 as a true and correct record.

10. Confirmation of the Elected Member Open Briefing Notes - 15 June 2022

Resolved: (Mayor Southgate/Cr Wilson)
That the Council confirm the Open Briefing Notes of the Elected Member Briefing held on 15 June 2022 as a true and correct record.

11. Chair's Report

The Mayor introduced the report and responded to questions from Members concerning consultation on Central Government three waters reform.

Resolved: (Mayor Southgate/Cr van Oosten)
That the Council receives the report, noting the removal of the following statement from the Chair's report: "This will allow us to relay to Government with confidence how Hamiltonians feel about their proposals at the Select Committee".

Cr Macpherson Dissenting.

Cr Hamilton joined the meeting (9.37am) during the discussion of the above item. He was present when the matter was voted on.

12. Magical Bridge Trust NZ Proposal

The Parks and Recreation Manager introduced the report, and Peter Van Vroonhoven and Gina Hailwood (Magical Bridge Trust NZ). They responded to questions from Members regarding the size of the playground during Phase 1 development, the funding plan, timing of the phases, specific playground elements, carparks, potential life of the asset, and future costs of renewal which would be addressed in a future Long Term Plan.

Resolved: (Cr Bunting/Mayor Southgate)
That the Council:

- a) receives the report;
- b) approves the development of a fully inclusive playground at Claudelands Park; and
- c) notes that the project is to be delivered in stages as external funding is secured and
 - i. each stage will not proceed until full funding is secured
 - ii. there is no obligation for council to fund the development beyond the initial \$1.4m contribution; and
 - iii. progress reports will be provided to the Community Committee.

13. Community Based Committees Report

Mr Stringer (consultant) introduced the report, and outlined the process followed by staff in the development of the report. The Community and Social Development Manager then spoke to the staff recommendation, noting that was formed based on feedback during the engagement phased and from community leaders. Along with staff, Mr Stringer responded to questions from Members concerning stakeholder feedback, the consultation process and findings, the resource and cost estimations, venues for meetings, potential structures and benefits from each structure, use of

Council 29 JUNE 2022 - OPEN

memorandum of understanding, the purpose and cost of the proposed independent review.

Resolved: (Cr O'Leary/Cr van Oosten)

That the Council:

- a) receives the report;
- b) recommends to the incoming Council after the October 2022 local authority elections that Council establish a trial for two new Community Committees as outlined in **Option 1** of the staff report;
- c) requests that as part of this work, staff also undertake work to offer enhanced support to existing community-based organisations to improve community engagement and advocacy; and
- d) requests the Chief Executive present Council's recommendation to the incoming Council as part of its consideration of governance and delegation arrangements for the 2022-25 triennium, together with any additional information including costs.

Crs Hamilton and Donovan Dissenting.

The meeting was adjourned 11.10am to 11.34am during discussion of the above item.

14. Reform Response Programme – Update

Future for Local Government Reform

The General Manager Strategy and Communication introduced the report and responded to questions from Members concerning proposed changes to the submission on the Future for Local Government Reform.

Resolved: (Mayor Southgate/Cr van Oosten)

That the Council:

- a) receives the report;
- b) approves the draft submission on the Future for Local Government Reform to the Future of Local Government Panel subject to changes agreed during the meeting; and
- c) notes the approved submission on the Future for Local Government Reform will be sent to the Future of Local Government Panel by the 30 June 2022.

Three Water Reform

The Executive Director Strategic Infrastructure then outlined the Three Waters of the report and the decisions sought that were being sought from the Council. Staff responded to questions from Elected Members concerning funding which included the No-Worse Off Package, transition funding, and the Better Off Fund, risk to Council, and engagement with iwi and the community.

The above item (item 14 Reform Response Programme – Update Three Water Reform) was adjourned during the discussion of the matter to accommodate external presenters availability.

22. Resolution to Exclude the Public

Resolved: (Mayor Southgate/Cr Hamilton)

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 (Recommendation from the CE Review Committee) Public Excluded Minutes - 25 May 2022) Good reason to withhold information exists under Section 7 Local Government Official Information and Meetings Act 1987	Section 48(1)(a)
C2. Recommendations from Public Excluded CE Review Committee Meeting of 9 June 2022		

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

Item C1.	to protect the privacy of natural persons	Section 7 (2) (a)
Item C2.	to protect the privacy of natural persons	Section 7 (2) (a)
	to prevent the disclosure or use of official information for improper gain or improper advantage	Section 7 (2) (j)

The meeting went into Public Excluded session at 1.03pm.

The meeting return to the Open session at 2.34pm.

15. Reform Response Programme – Update – *Continued*

Three Water Reform

Staff responded to further questions from Members concerning the contestable fund, Tranche 1 Funding, and political advocacy.

Resolved: (Cr O’Leary/Cr Donovan)

That the Council:

- a) does not approve the Tranche 1 Better Off Funding Process Plan as described in Option 1 of the report until public submissions have been received and considered and there is clarity over the following financial issues arising from the 3 Waters process;
 - i) clear direction on the extent and financial impact of the No Worse Off Funding;
 - ii) clear understanding of all Transitional Costs and associated funding;
 - iii) the level of Council 3 Waters debt to be transferred to the new water entity; and
- b) requests staff continue discussions with relevant Government authorities and report back a subsequent meeting prior to September 30, 2022.

16. Plan Change 7 - Rotokauri North Private Plan Change - approval to make operative

The Team Leader City Planning introduced the report noting the purpose of the report was to resolve that the Rotokauri North Private Plan Change become fully operative.

Resolved: (Mayor Southgate/Cr Bunting)

That the Council approves making Plan Change 7 – Rotokauri North Private Plan Change operative on 15 July 2022, in accordance with clause 20 of Schedule 1 of the Resource Management Act 1991 (RMA).

Cr Hamilton left the meeting (3.14pm) during the discussion of the above item. He was not present when the item was voted on.

17. Peacocke Contract Updates

The Executive Director Strategic Infrastructure introduced the report, and outlined the staff recommendation. Staff responded to questions from Members concerning the effect of the variation to the Housing Infrastructure Facility Agreement.

Resolved: (Cr van Oosten/Cr Macpherson)

That the Council:

- a) receives the report;
- b) approves, subject to the approval of the relevant budget provision in the 2022/23 Annual Plan, an increase to the Approved Contract Sum for Contract 142/2019 – Peacocke Waikato River Bridge and Strategic Services from \$140,000,000 to \$160,200,000 (excl GST). This increase of \$20,200,000 is comprised of the \$18.1m budget estimate to respond to cost escalation in the draft 2022/23 Annual Plan and, for the \$2.11m cost impacts of the August 2021 Covid-19 restrictions previously approved by the Finance Committee;
- c) approves, **Attachment 1** of the staff report, a timing variation for repayments under the Housing Infrastructure Facility Agreement and, requests the Chief Executive finalise and execute the variation;
- d) delegates to the Chief Executive authority to administer the Peacocke Housing Infrastructure Facility Agreement; and
- e) notes that staff are exploring innovative procurement via direct appointment for the Bikes on Pipes project.

18. 2022 LGNZ Remits for Consideration

The Mayor introduced the report, noting the previous letter send to Local Government New Zealand regarding the desire that they report back to members on the work undertaken on previous remits.

Staff Action: *The Mayor's office undertook to write to LGNZ again concerning reporting back to members on actions undertaken following remits approved during Local Government New Zealand Annual General Meetings.*

Resolved: (Mayor Southgate/Cr Donovan)

That the Council:

- a) receives the report; and
- b) notes that the Council has indicated to **support/not support** the following remits, to be voted on by the presiding HCC Delegate at the 2022 Local Government NZ AGM, and that the presiding delegate may duly take into consideration additional information received on the day to inform the final vote on behalf of the Council:

- i. Central government funding for public transport;
- ii. Review of Government transport funding;
- iii. Illegal street racing;
- iv. Bylaw infringements; and
- v. Density and proximity of vaping retailers.

Cr Thomson retired from the meeting (3.28pm) during the above item. She was not present when the item was voted on.

19. Recommendations from Open Committee Meetings

Financial Performance & Strategy Report to 31 March 2022

Resolved: (Cr van Oosten/Cr Bunting)

That the Council:

- a) approves the capital movement as identified in paragraph 32 of the 17 May 2022 Capital Portfolio Monitoring Report;
- b) approves the significant forecast adjustments as set out in paragraphs 54 to 55 of the staff report; and
- c) approves the revised Financial Strategy position for Debt to Revenue, Net Debt and Balancing the Books as set out in paragraphs 58 to 60 of the staff report.

Infrastructure Operation's General Managers Report

Resolved: (Cr O'Leary/Cr Thomson)

That the Council revokes the Hamilton City Speed Limits Bylaw 2018, effective 20 July 2022, as a result of the introduction of the Land Transport Rule: Setting of Speed Limits 2022.

Plan Change 9: Historic Heritage & Natural Environments - approval to notify

Resolved: (Cr O'Leary/Cr Donovan)

That the Council:

- a) approves public notification of Proposed Plan Change 9 – Historic Heritage & Natural Environments pursuant to clause 5 of Schedule 1 to the Resource Management Act 1991 ('RMA'), subject to the Plan Change 9 documentation being circulated alongside the recommendation to Council on 30 June 2022; and
- b) delegates its powers to hear, determine, and make decisions on all submissions and matters relating to Proposed Plan Change 9 – Historic Heritage and Natural Environment to a panel of five hearing commissioners.

Traffic, Speed Limit and Road Closure Hearings Panel Terms of Reference Proposed Amendment

Resolved: (Cr Wilson/Cr Donovan)

That the Council:

- a) approves the amendments to the Traffic, Speed Limit and Road Closure Panel Terms of Reference as outlined in Attachment 1 of the staff report; and
- b) notes that the amendments to the Terms of Reference do not change the powers of the Traffic, Speed Limit and Road Closure Panel but only reflect the recent change in process for setting Speed Limits.

Council 29 JUNE 2022 - OPEN

Procedural Motion

Resolved: (Cr Wilson/Cr Gallagher)

That the Council refers the remaining items on the agenda (listed below) to the 30 June 2022 Council Meeting:

- a) Item 16: Report from the Strategic Risk and Assurance Committee – Risk Management;
- b) Item 17: Report from the Strategic Risk and Assurance Committee – Safety and Wellness;
- c) Item 20: Climate Change Policy;
- d) Item C3: Confirmation of the Council Public Excluded Minutes of 12 May 2022;
- e) Item C4: Confirmation of the Council Public Excluded Minutes of 3 June 2022;
- f) Item C5: Watermain Renewals Contract Award;
- g) Item C6: Electricity Supply Contracts Award; and
- h) Item C7: Recommendations from Public Excluded Committee Meetings.

The meeting was declared closed at 3.32pm.

Council Report

Item 6

Committee: Council

Date: 18 August 2022

Author: Tyler Gaukrodger

Authoriser: Michelle Hawthorne

Position: Governance Advisor

Position: Governance and Assurance
Manager

Report Name: Confirmation of the Council Open Minutes of 30 June 2022

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

Staff Recommendation - *Tuutohu-aa-kaimahi*

That the Council confirm the Open Minutes of the Council Meeting held on 30 June 2022 as a true and correct record.

Attachments - *Ngaa taapirihanga*

Attachment 1 - Council Unconfirmed Open Minutes - 30 June 2022

Council Kaunihera OPEN MINUTES

Minutes of a meeting of the Council held in Council Chamber, Municipal Building, Garden Place, Hamilton and audio-visual link on Thursday 30 June 2022 at 9.31am.

PRESENT

Chairperson Mayor P Southgate

Heamana

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

Heamana Tuarua

Members

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

In Attendance

Lance Vervoort – Chief Executive
 Eeva-Liisa Wright – General Manager Infrastructure Operations
 David Bryant – General Manager People and Operational Performance
 Tracey Musty – Financial Director
 Michelle Hawthorne – Governance and Assurance Manager
 Dan Finn – People, Safety & Wellness Manager
 Andrew Judson – Rates Manager
 Charlotte Catmur – Sustainability and Climate Change Manager
 Tiki Mossop – Programme Manager Economics and Policy
 Julie Ambury – Enterprise Risk Lead
 Lachlan Muldowney – Barrister

Governance Staff

Amy Viggers – Governance Lead
 Carmen Fookes – Senior Governance Advisor
 Tyler Gaukrodger – Governance Advisor

Tame Pokaia opened the meeting with a karakia.

1. Apologies – *Tono aroha*

Resolved: (Mayor Southgate/Cr van Oosten)

That the apologies for absence from Cr Bunting and for partial attendance from Crs Hamilton, Pascoe, and Naidoo-Rauf are accepted.

2. **Confirmation of Agenda – *Whakatau raarangi take***

Resolved: (Mayor Southgate/Cr van Oosten)

That the agenda is confirmed noting that:

- a) the order of items will be flexible to accommodate availability;
- b) the late attachment (2022-23 Annual Plan) for item 7 (Adoption of the 2022-23 Annual Plan) is accepted. The attachment was circulated to Elected Members to enable the most up to date information to be included; and
- c) that the following items are accepted as part of the agenda. These item were originally circulated to members with the 29 June 2022 Extraordinary Council Agenda and referred to this meeting by resolution:
 - i. Report from the Strategic Risk and Assurance Committee – Risk Management;
 - ii. Report from the Strategic Risk and Assurance Committee – Safety and Wellness;
 - iii. Climate Change Policy;
 - iv. Confirmation of the Council Public Excluded Minutes of 12 May 2022;
 - v. Confirmation of the Council Public Excluded Minutes of 3 June 2022;
 - vi. Watermain Renewals Contract Award;
 - vii. Electricity Supply Contracts Award; and
 - viii. Recommendations from Public Excluded Committee Meetings.

3. **Declarations of Interest – *Tauaakii whaipanga***

No members of the Council declared a Conflict of Interest.

4. **Public Forum – *Aatea koorero***

No members of the public wished to speak.

5. **Development Contributions Policy 2022/23**

The Programme Manager Economics and Policy took the report as read. Staff responded to questions from Members concerning operation under past policy.

Resolved: (Cr Macpherson/Cr Donovan)

That the Council approves the Proposed Development Contributions Policy 2022/23 (**Attachment 1** to the staff report), to be operative from 1 July 2022.

6. **Rates Remissions and Postponements Policy - addition of remission for Maaori freehold land under development.**

The Rates Manager introduced the report noting the changes to the policy were regarding Maaori freehold land. Staff responded to questions from Members concerning the definition of under development and the statutory requirements.

Resolved: (Mayor Southgate/Cr Wilson)

That the Council:

- a) receives the report; and
- b) approves the addition of a remission for Maaori freehold land under development (**Attachment 1** to the staff report), to be included in the Rates Remissions and Postponements Policy (**Attachment 2** to the staff report), to be operative from 1 July 2022

10. Adoption of the 2022-23 Annual Plan

The Financial Director introduced the report noting that the financial position that was outlined in the report had positively change since last noted by the Council.

Resolved: (Mayor Southgate/Cr Thomson)

That the Council:

- a) receives the report; and
- b) adopts the 2022-23 Annual Plan.

Deputy Mayor Taylor, Crs Pascoe and Wilson dissenting.

Cr Naidoo-Rauf joined the meeting (10.14am) during the discussion of the above item. She was present when the item was voted on.

11. Rates Resolution to Set and Assess Rates for 2022/23

The report was taken as read. Staff responded to questions from Members concerning accounting for the governance compliance rate and targeted rate spend.

Resolved: (Mayor Southgate/Cr van Oosten)

That the Council:

- a) receives the report; and
- b) approves to set and assesses the rates for the 2022/23 financial year (1 July 2022 to 30 June 2023) in accordance with the **Rates Resolution for the 2022/23 Financial Year** (as required by the Local Government (Rating) Act 2002) as set out in paragraphs 7 - 62 of the staff report; and
- c) approves the due dates for payments and authorises penalties to be added to unpaid rates, as set out in paragraphs 58 - 62 of the staff report.

GENERAL RATE

7. *A general rate is set and assessed on the capital value of all rateable land in Hamilton.*
8. *General rates are set on a differential basis. The rating categories are defined in the Funding Impact Statement.*
9. *The differential bases are:*
 - *the use to which the land is put;*
 - *the provision or availability to the land of a service provided;*
 - *the activities that are permitted, controlled, or discretionary for the area in which the land is situated, and the rules to which the land is subject under the operative district plan; and*
 - *the location of the land.*
10. *This rate covers all of the services of Council.*
11. *The total revenue sought through the general rate is \$219,382,771.*

12. The general rate is set and assessed on a differential basis as follows:

SOURCE	DIFFERENTIAL CATEGORIES	DIFFERENTIAL FACTOR	PERCENTAGE OF TOTAL GENERAL RATES	RATE IN THE DOLLAR OF CAPITAL VALUE (GST INCL)	RATES REVENUE (GST INCL)
General Rate	Commercial	2.9765	34.37%	0.00711732	\$75,394,409
	BID Commercial	2.8277	6.99%	0.00676145	\$15,336,882
	Other	0.7400	2.06%	0.00176948	\$4,511,199
	Residential	1.0000	56.58%	0.00239119	\$124,140,281

13. Land described in Part 2 Schedule 1 of the Local Government (Rating) Act 2002 (broadly speaking, land owned or used by societies for arts or sports) will be assessed at 50% of the residential rate (General rate, UAGC and Government compliance rate) that applies to the land. This general rate revenue is included within the Residential category shown in the table above and within the targeted rates revenue where applicable.

UNIFORM ANNUAL GENERAL CHARGE

14. A Uniform Annual General Charge (UAGC) of \$613 per Separately Used or Inhabited Part of a Rating Unit (SUIP) is set and assessed on all rateable land in Hamilton.
15. We have determined the level of UAGC in order to distribute the allocation of the general rate at an appropriate level among all ratepayers.
16. The total revenue sought from the UAGC is \$43,455,570.

TARGETED RATES

17. Government compliance rate
18. This rate is set and assessed on the capital value of all rateable land in the city.
19. This rate is set on a differential basis on the categories of land identified below. The differential bases are the use to which the land is put, the provision or availability to the land of a service provided, the activities permitted, controlled, or discretionary for the area in which the land is situated and the rules to which the land is subject under the operative district plan, and in the case of the BID Commercial differential, the location of the land.
20. This rate provides funding to the Wastewater Treatment and Disposal, Wastewater Collection, Water Treatment and Storage, Water Distribution, Stormwater Network, and City Planning activities.
21. The total revenue sought is \$11,885,836.
22. This rate is set and assessed on a differential basis as follows:

SOURCE	DIFFERENTIAL CATEGORIES	DIFFERENTIAL FACTOR	PERCENTAGE OF TOTAL GOVERNMENT COMPLIANCE RATES	RATE IN THE DOLLAR OF CAPITAL VALUE (GST INCL)	RATES REVENUE (GST INCL)
Government compliance rate	Commercial	2.9765	34.37%	0.00038561	\$4,084,801
	BID Commercial	2.8277	6.99%	0.00036633	\$830,940
	Other	0.7400	2.06%	0.00009587	\$244,416
	Residential	1.0000	56.58%	0.00012955	\$6,725,679

23. *Land described in Part 2 Schedule 1 of the Local Government (Rating) Act 2002 (broadly speaking, land owned or used by societies for arts or sports) will be assessed at 50% of the residential rate that applies to the land. This Government compliance rate revenue for these rating units is included within the Residential category shown in the table above.*
24. Metered water rate
25. *The rate is set and assessed for metered and restricted flow water supply on a differential basis to all metered rating units (as defined by Hamilton City Council's Water Supply Bylaw 2013).*
26. *The rate is:*
 - i. *a fixed amount based on the nature of the connection as follows:*
 - *\$456 for all metered rating units (except those receiving a restricted flow supply);*
 - *\$456 for those rating units receiving a restricted flow supply.*
 - ii. *a charge per unit of water consumed or supplied on every metered connection in accordance with the following scale:*
 - *All metered rating units (except those receiving a restricted supply) - \$1.85 per kilolitre of water supplied after the first 60 kilolitres of consumption or supply per quarter;*
 - *those rating units receiving a restricted flow supply - \$1.65 per kilolitre of water supplied after the first 60 kilolitres of consumption or supply per quarter.*
27. *The rates contribute to the funding of the Water Distribution and Water Treatment and Storage activities.*
28. *The total revenue sought is \$9,925,310.*
29. Commercial and Other category non-metered water rate
30. *The rate is set and assessed on non-metered Commercial and Other category properties which are connected to the water network, but not provided with a metered connection. The rate is \$456 per rating unit.*
31. *The rates contribute to the funding of the Water Distribution and Water Treatment and Storage activities.*
32. *The total revenue sought is \$273,144.*
33. Business Improvement District (BID) rates
34. *This rate is set and assessed on all rating units defined within the BID Commercial general rate category and comprises both a fixed amount per SUIP and a rate in the dollar based on the capital value.*
35. *The Business Improvement District (BID) and Central City rating areas map is shown in Schedule 1 of the Rating Policy. The components of this rate are:*
 - i. *BID fixed rate: a fixed amount of \$240 per SUIP of a commercial rating unit within the defined area; and*
 - ii. *BID capital value rate: a rate per dollar of capital value required to meet the total revenue, after allowing for the total revenue raised by the BID fixed rate. The rate is \$0.00002482 per dollar of capital value.*
36. *The rate provides funding to the City Planning activity.*
37. *The total revenue sought is \$366,867.*

38. Central city rate
39. The rate is set on all rating units defined within the BID Commercial general rate category and is set as a fixed amount per SUIP.
40. The Business Improvement District (BID) and Central City rating areas map is shown in Schedule 1 of the Rating Policy.
41. The rate is a fixed amount of \$128 per SUIP.
42. The rate provides funding to the Transportation Network activity.
43. The total revenue sought is \$166,750.
44. Service use water rate
45. The rate is set and assessed on properties defined as Service Use Category (see Funding Impact Statement) and which are connected to our water network but are not provided with a metered connection.
46. The rate is a fixed amount of \$456 per SUIP.
47. The rate provides funding towards the Water Distribution and Water Treatment and Storage activities.
48. The total revenue sought is \$62,472.
49. Service use refuse rate
50. The rate is set and assessed on properties defined as Service Use Category (see Funding Impact Statement) and which are provided with refuse collection service.
51. The rate is a fixed amount of \$187 per SUIP.
52. The rate provides funding towards the Refuse Collection activity.
53. The total revenue sought is \$29,546.
54. Service use wastewater rate
55. The rate is set and assessed on properties defined as Service Use Category (see Funding Impact Statement) and which are connected to the wastewater network. This rate comprises two components. These are:
- i. a rate per dollar of land value set at \$0.00067276; and
 - ii. a rate per dollar of capital value set at \$0.00028288.
56. The rate provides funding towards the Wastewater Collection and Wastewater Treatment and Disposal activities.
57. The total revenue sought is \$1,684,704.

DUE DATES FOR PAYMENT OF RATES

58. Rates (other than for metered water) are payable in four equal instalments.
59. The due dates for rates for the period 1 July 2022 to 30 June 2023 are as follows:

Instalment 1	Instalment 2	Instalment 3	Instalment 4
1 September 2022	24 November 2022	23 February 2023	25 May 2023

60. DUE DATES FOR PAYMENT OF METERED WATER RATES

61. The due dates for metered water rates for the period 1 July 2022 to 30 June 2023 are as follows:

Month of Invoice	Invoice Due Date	Month of Invoice	Invoice Due Date
July 2022	20 August 2022	January 2023	20 February 2023
August 2022	20 September 2022	February 2023	20 March 2023
September 2022	20 October 2022	March 2023	20 April 2023
October 2022	20 November 2022	April 2023	20 May 2023
November 2022	20 December 2022	May 2023	20 June 2023
December 2022	20 January 2023	June 2023	20 July 2023

PENALTIES

62. Pursuant to Section 57 and 58 of the Local Government (Rating) Act 2002, the Council authorises the following penalties:

- a) A penalty of 10% of the amount due and unpaid on the due date to be added on the day after the due date.
The dates on which penalties will be added are 2 September 2022, 25 November 2022, 24 February 2023 and 26 May 2023.
- b) A penalty of 10% of the amount of any rates assessed in any previous year which remain unpaid on 7 July 2022 to be added on 8 July 2022.
- c) A penalty of 10% of the amount of any rates assessed in any previous year for which a penalty has been added under paragraph (b) and which remain unpaid on 8 January 2023 to be added on 9 January 2023.
- d) A penalty of 10% of the amount unpaid for water-by-meter rates charged to be added on the day after the due date.
- e) These dates are 21 August 2022, 21 September 2022, 21 October 2022, 21 November 2022, 21 December 2022, 21 January 2023, 21 February 2023, 21 March 2023, 21 April 2023, 21 May 2023 and 21 June 2023.

END OF 2022/23 RATES RESOLUTION

The meeting was adjourned from 10.25am to 10.36am.

5. Report from the Strategic Risk and Assurance Committee – Risk Management

The Governance and Assurance Manager and Enterprise Risk Lead introduced the report noting that there had been a workshop on strategic risks which included risks related to the Reform Programmes and significant cost escalation. Staff responded to questions from Members regarding various risks including volcanic activity and cyber security.

Resolved: (Mayor Southgate/Cr Donovan)

That the Council receives the report.

Cr Pascoe retired from the meeting (10.41am) during the discussion of the above item. He was not present when the item was voted on.

6. Report from the Strategic Risk and Assurance Committee – Safety and Wellness

The People, Safety & Wellness Manager introduced the report noting programmes of work and safety performance improvements.

Resolved: (Cr Wilson/Cr O’Leary)

That the Council receives the report.

5. Climate Change Policy

The Sustainability and Climate Change Manager introduced the report and outlined a further suggested change of wording to the Policy.

Resolved: (Cr Thomson/Cr Gallagher)

That the Council:

- a) receives the report; and
- b) approves the Climate Change Policy to be effective from 1 July 2022, noting change to Appendix A, Emission Assessment Step Two be updated to be “will the emissions impact increase or decrease the Council and City’s greenhouse gas emissions by:”.

Cr Hamilton joined the meeting (10.56am) at the conclusion of the above item. He was not present when the item was voted on.

6. Resolution to Exclude the Public

Resolved: (Cr van Oosten/Cr Naidoo-Rauf)

Section 48, Local Government Official Information and Meetings Act 1987

The following motion is submitted for consideration:

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

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

General subject of each matter to be considered	Reasons for passing this resolution in relation to each matter	Ground(s) under section 48(1) for the passing of this resolution
C1. Confirmation of the Council Public Excluded Minutes of 12 May 2022) Good reason to withhold) information exists under) Section 7 Local Government	Section 48(1)(a)
C2. Confirmation of the Council Public Excluded Minutes of 3 June 2022) Official Information and) Meetings Act 1987)	
C3. Watermain Renewals		

 Contract Award

- C4. Electricity Supply Contracts Award
- C5. Recommendations from Public Excluded Committee Meetings

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 enable Council to carry out negotiations	Section 7 (2) (i)
Item C4.	to enable Council to carry out commercial activities without disadvantage	Section 7 (2) (h) Section 7 (2) (i)
Item C5.	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) (j)

The meeting went into Public Excluded session at 11.10am.

The meeting was declared closed at 11.58am.

Council Report

Item 7

Committee: Council

Date: 18 August 2022

Author: Tyler Gaukrodger

Authoriser: Michelle Hawthorne

Position: Governance Advisor

Position: Governance and Assurance
Manager

Report Name: Confirmation of the Council Open Minutes of 20 July 2022

Report Status	Open
---------------	------

Staff Recommendation - *Tuutohu-aa-kaimahi*

That the Council confirm the Open Minutes of the Council Meeting held on 20 July 2022 as a true and correct record.

Attachments - *Ngaa taapirihanga*

Attachment 1 - Council Unconfirmed Open Minutes - 20 July 2022

Council Kaunihera OPEN MINUTES

Minutes of a meeting of the Council held in Council Chamber and Audio Visual Link, Municipal Building, Garden Place, Hamilton on Wednesday 20 July 2022 at 9.30am.

PRESENT

Chairperson Mayor P Southgate

Heamana

Deputy Chairperson Deputy Mayor G Taylor

Heamana Tuarua

Members

Cr M Bunting
 Cr M Gallagher (via Audio Visual Link)
 Cr R Hamilton
 Cr D Macpherson (via Audio Visual Link)
 Cr K Naidoo-Rauf
 Cr M Donovan
 Cr A O'Leary (via Audio Visual Link)
 Cr R Pascoe
 Cr S Thomson
 Cr M van Oosten (via Audio Visual Link)
 Cr E Wilson (via Audio Visual Link)

In Attendance

Sean Murray – General Manager Venues, Tourism and Major Events
 Chris Allen – General Manager Development
 Eeva-Liisa Wright – General Manager Infrastructure Operations
 Andrew Parsons – Executive Director Strategic Infrastructure
 Stephen Halliwell - Water Reform Financial Advisor
 Julie Clausen – Unit Manager, Strategy and Planning
 Tegan Andrews – Research Lead
 Michelle Hawthorne – Governance and Assurance Manager
 Maire Porter – Waters Manager
 Nigel Ward – Community and Relationship Manager

Governance Team

Amy Viggers – Governance Lead
 Narelle Waite and Tyler Gaukrodger – Governance Advisors
 Arnold Andrews – Governance Officer

The meeting was opened with karakia from Tame Pokaia.

1. Apologies - *Tono aroha*

Resolved: (Mayor Southgate/Cr Naidoo-Rauf)

That the apologies for early departure from Crs Naidoo-Rauf, Bunting and Donovan are accepted.

2. **Confirmation of Agenda - *Whakatau raarangi take***

Resolved: (Mayor Southgate/Cr Thomson)

That the agenda is confirmed noting that the late attachments (listed below) for item 5 (Three Waters Reform - Water Services Entities Bill - Submission) is accepted. The attachment was circulated to Elected Members to enable the most up to date information to be included.

- a) Attachment 1 – The Water Services Entities Bill Submission to the Finance and Expenditure Committee and Appendix A, the Detailed Technical Submission;
- b) Attachment 2 – Analysis of Submissions from the Three Waters Reform public consultation process;
- c) Attachment 3 – Copy of the general survey undertaken as part of the consultation;
- d) Attachment 6 – Copy of the representative survey submissions received as part of the public consultation process; and
- e) Attachment 7 – Analysis of representative survey submissions from the Three Waters Reform public consultation process.

3. **Declarations of Interest - *Tauaakii whaipanga***

No members of the Council declared a Conflict of Interest.

4. **Public Forum - *Aatea koorero***

Written submissions were circulated to members prior to the meeting and are attached to these minutes as **Appendix 1**.

5. **Three Waters Reform – Water Services Entities Bill – Submission**

The Executive Director Strategic Infrastructure outlined the report in particular; the purpose of the current bill which was to address the governance and organisational structure of the entities, that the subsequent bills were expected to address finance and process arrangements, and that the draft Council submission was in opposition of the bill. Staff responded to questions from Members concerning the deadlines for Council's submission, the public consultation undertaken by Council including the submissions received, membership of the Select Committee, the draft Council submission, the ability to include comments received through social media posts with the final submission to the Select Committee, alternative waters ownership models including the Tasmanian model, opportunities to engage with Select Committee members, the establishment period if all related bills were to be passed by Central Government, and clarifications of the Community's views received via Council consultation being included as part of the final submission to the Select Committee.

Resolved: (Cr Hamilton/Mayor Southgate)

That the Council:

- a) receives the submissions and analysis of submissions from the public consultation on Government's Three Waters Reform legislation (Analysis **Attachments 2 and 7**, Submissions **Attachments 3 and 6**)
- b) approves the Water Services Entities Bill Submission to the Finance and Expenditure Committee and Appendix A, the Detailed Technical Submission (**Attachment 1**), subject to inclusion of the changes agreed within the meeting
- c) notes the following information will be attached to the Water Services Entities Bill Submission:
 - i. Representative Survey Results from Hamilton's Three Waters Reform public consultation process (**Attachment 2**)
 - ii. General Survey Results from Hamilton's Three Waters Reform public consultation process (**Attachment 7**);

Council 20 JULY 2022 - OPEN

- iii. Representative Survey submissions received as part of the public consultation (**Attachment 3**);
- iv. General Survey submissions received as part of the public consultation (**Attachment 6**);
- v. Council's "Three Waters Reform Formal Feedback to Government" September 2021 (**Attachment 4**);
- vi. Council's previous submission to the "Working Group on Representation, Governance and Accountability of new Water Services Entities" (**Attachment 5**);
- vii. Comments (verbatim) received through Council Social Media platforms during the consultation period;
- a) notes the Chief Executive will sign and submit the resolution on Council's behalf prior to the 22 July 2022 closing date; and
- b) notes Mayor and Chair of Infrastructure Operations will speak to the submission at the Finance and Expenditure Select Committee on the Water Services Entities Bill.

The meeting was adjourned from 10.39am to 11.05am during discussion of the above matter.

The meeting was declared closed at 12.01pm.

Appendix 1

Feedback message

I'm opposing to the 3 waters bill, and want the Hamilton City Council to oppose it as well.

I know I'm probably writing this is the wrong place/form, but not sure where to find the correct slot to do that, but anyways, this is what I think and compelled to write.

1. HCC do not have my consent or permission, to sell my assets as a ratepayer. They are ours and you have no right to sell them unless we all agree.
2. You have not engaged with all ratepayers and not consulted over the proposed confiscation of ratepayer funded infrastructure and services. Again, you do not have my consent to sell our assets as a ratepayer.
3. The modelling and assumptions cannot be relied on.
4. The estimates of lower prices cannot be trusted.
5. The debt that will be generated will create a huge burden for future generations
6. The co-governance arrangements are discriminatory and anti-democratic.
7. This is a total money grab for elitist tribes and will make me a second-class citizen again.
8. I'm a New Zealand born citizen and this proposal absolutely saddens and disgusts me.
9. We are not separate peoples. We are one peoples!!!
10. HCC should resign from the LGNZ now!!! Then we no longer have to put up with their rubbish ideas and we get to look after the ratepayers of Hamilton how we want, and not how the Government wants us to. We know our City and I'm sure we also know how to look after it.

This Bill is NOT in the best interests of New Zealand, and I ask the HCC to recommend to the Government that the Bill be withdrawn.

Thank you for the opportunity to oppose the Water Services Entities Bill.

Yours sincerely,
Wilhelmina N Staheli

Council 20 JULY 2022 - OPEN

Subject: Three Waters I have paid rates for over 40yrs and part of those payments were to provide for the 3 waters services....and the council have done a good job doing so. These are the citizens assets and should remain so. Another level of snouts in the trough will be created and with it the ratepayer will suffer. Eventually the many committees formed will work their way around to needing the very people who know their business and are currently doing the job on behalf of the ratepayers through the Council. The many snouts will realise that they have little to contribute to any improvements but they will clap their hands as they are on the payroll. I recall when Waikato Regional Council went on their own and much was made of reducing our rates bill ...100 dollars off HCC rates but a \$350 bill from WRC. which is now at \$650. This will happen again it's unavoidable....the many snouts will need to be fed. If this slippery government think 3 waters is such a issue....make interest free loans

K Shearer

Mayor and Councillors,

I attach my submission on Three Waters. Following Mrs. Southgate's suggestion I will formally send this submission to Wellington. I may make a few minor changes but I will see how matters develop. If you have any suggestions please contact me.

In regard to Hamilton City I have read many recent press reports on your Council's debate.

My figures show Three Waters assets in Hamilton of about \$1.5 billion. Against this are borrowings of about \$370 million. Without deducting any compensation – if any – the net figure is a loss of about \$1.1 billion. I am incredulous to read that the City believes that it will be better off if everything goes ahead. Take this comment to its logical conclusion, the more assets you give away the better off the city is ! This sort of conversation only supports Government's rip-off.

In the commercial world if any CEO was looking at a billion dollar loss he/she would immediately be revising their career path.

This reduces the city's net assets by about one third and in addition the city is looking at this amount being a charge in Profit & Loss Account. Do not forget that over the years the ratepayers have paid for the capital expenditure and loan repayments through their rates. Even depreciation on the revaluation reserve has been charged to the P & L which ratepayers fund.

The main feature of my submission is that talk of Councils having ownership of Three Waters entities is a complete myth.

I believe that Government should at least pay the City a sum sufficient to pay off all the three waters debts.

Best regards,

John Aubrey

Council 20 JULY 2022 - OPEN

Subject: Re: Three Waters Reform consultation enters final week

Hi HCC,

I'm not bothered about doing some consultation/submission process. I'm busy enough running my business and servicing the inhabitants of the Waikato. I do however thank you for putting the effort in to consult with us civvys. So many many decisions made of late (that effect everyone) at both local and state level have not be made with any consultation whatsoever, and we are just expected to conform, with well reasoned feedback being seemingly ignored.

The Three Waters Paper is seemingly an information bomb too long winded and convoluted (likely intentionally) for the average civvy to be bothered reading, let alone submitting feedback on.

It is my vote that **WE DO NOT** loose our cities water asset account and that **WE DO NOT** entertain the idea of a co-governance model.

We are all New Zealanders and we all have (more or less) equal opportunity.

Our strength comes from unity and understanding of one another, not segregation and putting people into boxes.

Small business **MUST SURVIVE** else we are all screwed.

Sincerely

Daniel Walker

Small Business Operator/Owner, Hamilton East

Anonymous submitter

much more likely

slightly more likely

won't make a difference

slightly less likely

much less likely

don't know

Water services for Hamilton residents will be more affordable than they would be without the reforms	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Water services for New Zealand residents will be more affordable than they would be without the reforms	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Water services provided to Hamilton residents will be efficient and to a high standard	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Water services provided to New Zealand residents will be efficient and to a high standard	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Water services across New Zealand will be delivered more fairly and equitably	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

[illegible]

Section 3: Governance - How the entities are managed and governed

Government says communities, through their councils, are the owners of the assets via a shareholding based on population. Mana whenua have no ownership or shareholding in the structure.

Protections against privatisation

Government says the legislation provides safeguards against future privatisation.

Shares in the entities are held by councils on behalf of their communities. This share-holding model will help protect against privatisation, as all shareholders would have to unanimously agree to any privatisation proposal. Should this happen, there is provision for a public referendum with any future proposal for privatisation requiring 75 per cent of votes in favour to carry it.

What are your views on the Government's protections against privatisation?

There would have to be a referendum

Taking the Governance information above into consideration, do you think the proposed reforms will make it more likely or less likely that:

	much more likely	slightly more likely	won't make a difference	slightly less likely	much less likely	don't know
Any views or concerns I might have about the water services my household receives will be better heard	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Any views or concerns I have about water services in Hamilton will be better heard	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Do you think that the proposed make-up and roles of each of the following levels is appropriate or should be changed?

	appropriate	should be changed	no opinion.	don't know
Proposed entity board structure	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Proposed Regional Representation Group structure	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sub-regional representative groups structure	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

If you said that the make-up/roles of any of the levels should be changed, please write in how or why you think they should be changed below:

There is uncertainty on the detailed financial impact on Council. Government data indicates transfer of debt following reform may give Council \$256 million more borrowing capacity at the time of transfer. Government has also said it will provide \$67 million in extra funding to Council to offset transition costs and for projects which improve Hamilton's community wellbeing.

The current forecast figures will change depending on Council's actual financial position at 1 July 2024 and are subject to agreement with Government. Council is still working out what the full transition costs might be and is asking Government to commit to further funding if needed.

The new entity could borrow more than individual councils. This means it could invest more and sooner. It could spread these costs over a longer period to reduce the impact on customers.

Around 30 per cent of our rates income is allocated to water services. It is too early to predict council rates for Hamiltonians after reform, but the reform would remove water services costs, reducing rates.

Under the reform, water users would pay water services costs to the new entities, instead of through their council rates. Each entity will decide the best way to recover these costs for their region. Charging could be on a capital value rating system (like Hamilton's rates now), through a standardised charge, through metering as for business customers now, through a combination of these and other mechanisms. Those decisions are yet to be made.

In coming years Council will need to consider the needs of the community and other planned Government reforms to make sure it is best set up to deliver services to its community.

Taking the information above into consideration, do you think that the proposed reforms will make it more likely or less likely that, in future:

	much more likely	slightly more likely	won't make a difference	slightly less likely	much less likely	don't know
Costs of improvements to Hamilton's water services will be managed better	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Costs of improvements to New Zealand's water services will be managed better	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Hamilton City Council will be able to focus more on the services other than water that it delivers to the community	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Councils throughout New Zealand will be able to focus more on the services other than water that they deliver to their communities	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Overall - what are your views?

To what extent do you agree or disagree that the reforms will result in each of the following for Hamilton residents in the future

	agree strongly	agree	neither agree nor disagree	disagree	disagree strongly	don't know
Better environmental outcomes	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Better water quality	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Greater investment for growth and housing	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lower costs for communities than would be the case under the status quo	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

To what extent do you agree or disagree that the reforms will result in each of the following for New Zealand residents generally in the future

	agree strongly	agree	neither agree nor disagree	disagree	disagree strongly	don't know
Better environmental outcomes	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Better water quality	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Greater investment for growth and housing	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Reduced costs for communities	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Overall - what are your views?

Taking everything into consideration, do you *(please select one)*

- ☐ A. Support the Government's proposal for the three waters reform
- ☐ B. Mainly support the proposal, but would want to see some changes (please specify)
- ☒ C. Not support the proposal because you believe Hamilton City Council and other councils should keep control of their water assets
- ☐ D. Not support the proposal for another reason (please specify)

Please specify

If you don't support the proposal (you selected C or D above)

Government says one of the benefits of the reforms is saving on water costs. Government data shows Hamilton residents pay around \$1,000 annually for water services through their rates. Government data says these costs would more than double over the next 30 years without the reforms.

Would you be willing to give up any savings the reform might offer in exchange for Hamilton City Council continuing to deliver water services for its residents?

☐ Yes
 ☐ No
 ☒ Don't know

Please feel free to add any final comments here:

16 Three Waters Reform - Consultation Document
9

Hamilton City Council Three Waters Consultation – General Survey

Record: 2924

Name: Helena McKeever

Organisation: n.a

SECTION 1: The big picture – public health and the environment

What are your views on the public health and environment aspects of the Government's reform?

I live in Havelock North and the only effect of the Havelock North contamination to be was that I bought a water filter and went without water for a week 6 year ago. I don't like seeing Havelock North used as an excuse for these reforms. It is too much exaggeration and there have been more than four deaths for any other cause (eg car crash on faulty bridge) to justify this constant scare mongering over Havelock north 6 years ago. I lived it and it was an excuse to buy a water filter and take bottled water for a week that's it. We don't want Havelock North water owned by government we want less big government and local councils supported. We don't want Wellington Water to be an expense that damages public good and public health and public business and food businesses. We want nursing mothers in Auckland able to access free water for their infants. We want free water for drinking and we want councils to retain their full assets.

SECTION 2: Operations – services to customers and costs

What are your views on the services and costs aspects of the Government's reform?

The services of water to the New Zealand community should not be privatized, commercialized or taken from them. The cost will be too much and all profits instead of going back to council will be dispersed over the country meaning there is less incentive to be cost effective and this will damage the overall infrastructure. Water has been free to us from since the 18th century to current day 2022. It is an absolute betrayal of New Zealanders to centralise, and/or privatize Water services in New Zealand

SECTION 3: Governance – How the entities are managed and governed

What are your views on the governance aspects of the Government's reform?

Maori can not be defined ethnically. Just as Jewish people with 2 % heritage can not be allowed defining national rights. Even Indigenous Taiwanese share 60% DNA with modern Maori and definition of Maori as a race is not adequate to allow this governance of 50 % Maori. All board members to be democratically elected. with no UNited nations/ local government apartheid system

Council 20 JULY 2022 - OPEN

yesterday he announced he would not seek re-election to council, and will instead seek the National nomination for the parliamentary electorate of Northland.

His turning point came when he was sitting in Zoom meetings with council and iwi leaders from around the country, as a member of a working group to address concerns about the governance of the new water incorporations. "I had this moment of clarity," he tells Newsroom.

It was about the threat posed by the Three Waters changes to local control of their drinking water, wastewater and stormwater. "I looked this taniwha right in the eye, and it has a very cold heart," he says. "I was extremely frustrated and disillusioned at what was afoot, and just went 'New Zealand deserves better. And the people of Northland deserve better'."

He will make a submission to the select committee, saying that in the first instance he opposes the water reforms – but if they are to proceed, they should include a clause allowing as few as 25 percent of MPs to veto any proposal to privatise New Zealand's water infrastructure. "We need as great a privatisation protection as we can possibly have. The privatisation provisions should go back to at least 75 percent parliamentary approval for any sale."

Smith may have a more colourful turn of phrase than some, but he is not alone in his concerns about the Water Services Entities Bill, introduced to Parliament yesterday. Communities 4 Local Democracy, a makeshift coalition of Christchurch and 30 smaller district councils, says it too will oppose the Government's reforms at select committee hearings.

Manawātū District Mayor Helen Worboys, who chairs the lobby group, says the new bill will take community property with no compensation. "With the introduction of this bill we can see this set out in black and white."

That's not quite correct. Councils will continue to legally own the water assets; the question is just how meaningful that ownership is. So three councils in the group will go to the High Court at Wellington, next week, seeking declarations on the rights and interests that property ownership entails.

Timaru mayor Nigel Bowen, who is leading the court case, says: "If the Government can single-handedly redefine ownership of three waters infrastructure in this manner, then where else could it apply these concepts? Could roads or port companies be next?"

The new bill provides that the councils will retain ownership of their water assets through a "community share", but effective control will pass to the four new body corporates, each encompassing multiple councils and iwi. Council opponents express concern that this constitutes an effective expropriation of council property, they are unhappy at their limited oversight of the boards of the new entities, and they fear that future councils or governments might sell the water assets.

The council-iwi working group, on which Smith was a member, had recommended an entrenched clause to stop the water assets' privatisation. The sale or transfer of even a single pipe would require the agreement of at least 75 percent of all MPs.

The Government agreed. "Cabinet agrees that this provision would safeguard these services against privatisation for all New Zealanders into the future. The Government is seeking cross-party support to entrench these provisions to protect against privatisation of water services infrastructure – this will require a 75 percent majority by Parliament at the Committee of the whole House."

"Entity A includes Auckland, which is New Zealand's great global city. It will be the first of the opportunities to be cherry picked by an international buyer. That would be catastrophic."

– Jason Smith, Kaipara mayor

Constitutional law expert Professor Andrew Geddis, from the University of Otago, explains that in order to set in place a 75 percent Parliamentary support entrenchment provision, the Government needs 75 percent support in the first place.

He points to Parliamentary Standing Order 270, which says a proposal for entrenchment must itself be carried by the House by the majority that it would require for the amendment to be entrenched.

In April, Local Government Minister Nanaia Mahuta said she had written to all political parties to seek their support for entrenchment.

Infrastructure Minister Grant Robertson called on opposition parties to "step up" if they believed in public ownership. "We've heard certainly from the National Party that they've been throughout this process concerned about the loss of ownership in communities," he said. "Now they can step up and say 'we will agree that these assets won't be sold'."

But it's understood the National Party did not agree to support the entrenched clause, protecting against privatisation – it is ironic for Jason Smith that it is the party he has just joined that has effectively blocked the requirement for a super-majority.

Today National Party leader Christopher Luxon, in response to questions from Newsroom, says: "National's totally opposed to these reforms. We will never privatise three waters assets and that's because we want them to remain as assets owned by local councils and ratepayers. That's why we don't support the reforms, we will repeal them, and frankly the privatisation letter is just Labour playing politics."

To the question of who had blocked the recommended super-majority safeguard, a spokesperson for Mahuta will say only that "cross-party support for entrenchment of the privatisation provisions has not emerged".

"The Minister has not received written responses from other parties to her letter which sought agreement. However she will keep engaging across Parliament to secure the strongest possible protections against privatisation."

Andrew Geddis argues that either National or Labour could break that deadlock – if they were so inclined.

If National wished, it could support the 75 percent entrenchment requirement and yet still vote against the policy as a whole, as Jason Smith seems to advocate. The easiest way to do this would be through a Supplementary Order Paper requiring the 75% majority. "Then, National would be free to vote against the Bill as a whole at the third reading."

On the Government side, Labour could simply work the Greens to set in place a smaller entrenchment. Together, the parties have 62.5 percent of seats in the House, so they could put in place an entrenchment requirement saying that this proportion of MPs is needed to privatise in the future. "There's no magic around 75 percent," Geddis says.

Yet, with neither side of Parliament seemingly inclined to pursue such solutions, the Bill has now been introduced without any parliamentary entrenchment to protect against privatisation. There are other safeguards, though.

What are your views on the Government's protections against privatisation?

Privatization is currently not guaranteed
<https://web.archive.org/web/20220604120548/https://www.newsroom.co.nz/three-waters-entrenchment>. Council to seek 75% (not 50% to privatize) or even more if possible what can council vote for on this the higher the % required to vote in privatization the better.
 Government protections against privatization are too low. 12.5 % of profits should be returned to councils. 75% of Profits should be reinvested to upgrade infrastructure. 12.5 % of profits should be returned to local kiwi. All board members to be democratically elected . with no United nations/ local government apartheid system

SECTION 4: Financial structure – assets, debt and borrowing***What are your views on the financial structures of the reform?***

The structures for finance are too far removed from real households and affected people. The centralised bureaucracy will only worsen the cost of living crisis in New Zealand. The difference to households with reform and without reform over the next 5, 10, 15, 20 years is not very large. Particularly when you consider the changing makeup of council, government and boards over this amount of time. Lots of time to get this right rather than mess up households and costs of living for everyone.

Overall – what are your views?***Overall, what are your thoughts on the Government's Three Waters Reform?***

This reform brings in water charges for consumers, opens the threat of privatization and depletes councils of income and assets. The reform is unwanted and only has financial motives behind it that do not benefit most New Zealanders. Privatization must be avoided and the race based policy is merely a beginning of other race based policies and this is a dangerous precedent to take and should be debated and refuted vigorously.

Additional submission sent:

Jonathan Milne

Jonathan Milne is the managing editor for Newsroom Pro.

COMMENTS BY John Potter, Richard Hamilton, Bruce Rogan, Laurence Jenner & others

Infrastructure

New Three Waters bill fails to provide final privatisation safeguard

Government assurances that Three Waters assets would be protected from privatisation by a parliamentary super-majority have been foiled by political wrangling.

For Kaipara mayor Jason Smith, his involvement with central government in the Three Waters reforms has provided a defining political moment. This week he joined the National Party;

It does provide for local protections: for one of the four big water body corporates to divest any assets, or for its council owners to privatise it, would require the agreement of 75 percent of the council and iwi members of the regional representative body that appoints its board and signs off its strategy.

It would also require a local referendum – and that poll must achieve 75 percent support for the privatisation to proceed.

"The Bill still contains very strong safeguards that are significant obstacles to privatisation," Mahuta's spokesperson emphasises. "These protections will, in practical terms, make it very difficult for any privatisation proposal to proceed.

"Continued public ownership of water services is a bottom line for the Government. Safeguards against future privatisation are written into this legislation to maintain ongoing public ownership of the new entities."

Although the final protection of a parliamentary super-majority will not be there, the country's critical water assets should be better protected from privatisation than they are under existing law.

At present, under the Local Government Act 2002, a 75 percent majority at local referendum is required to completely shut down a small drinking water service, but just a 50 percent referendum vote to transfer its ownership.

So in requiring a 75 percent majority just to transfer ownership of water assets, Mahuta is upping the ante.

But the big change is from the perspective of small councils. Jason Smith points to so-called Entity A – the new water incorporation taking in all of the Far North, Whangārei, Kaipara and Auckland. He worries that with Auckland council and iwi holding a majority on the incorporation's regional representative body, they could run roughshod over his small district and privatise.

To be fair, it should be noted that the bill introduced this week does require all the shareholders to agree to any privatisation – so if the Entity A assets were to be divested, Kaipara would also have to sign off.

An example of the scale and value of the infrastructure is the new Central Interceptor wastewater pipe – the biggest tunnel ever bored in New Zealand, which will allow an additional 360,000 houses to be built in Auckland. Workers are beginning digging beneath Auckland's Manukau Harbour as they extend the tunnel from Māngere to Grey Lynn.

"Entity A includes Auckland, which is New Zealand's great global city. It will be the first of the opportunities to be cherry picked by an international buyer because entity A will be the largest," he says.

"That would be catastrophic for the water entities to be owned by offshore interests, especially for the vulnerable people in Northland and anywhere in New Zealand. This is not who we are, is New Zealanders."

Help us create a sustainable future for independent local

Council 20 JULY 2022 - OPEN

Hamilton City Council Three Waters Consultation – General Survey

Record: [2826](#)

Name: [Jackie Broughan](#)

Organisation: -

SECTION 1: The big picture – public health and the environment

What are your views on the public health and environment aspects of the Government's reform?

The existing provisions for public health are adequate and the Water Services Bill adds very little.

SECTION 2: Operations – services to customers and costs

What are your views on the services and costs aspects of the Government's reform?

[See my submission attached to my email](#)

SECTION 3: Governance – How the entities are managed and governed

What are your views on the governance aspects of the Government's reform?

They are disastrous [See my submission attached to my email](#).

What are your views on the Government's protections against privatisation?

The only initiator for privatization is the Entity - so they have all the ownership rights and can do what they want. They, including 50% iwi Maori, are the real owners. It seems wrong the HCC for example can no longer sell off land or facilities it no longer needs.

SECTION 4: Financial structure – assets, debt and borrowing

What are your views on the financial structures of the reform?

[See my submission attached my email](#). [See also the Castalia Report](#).

Overall – what are your views?

Overall, what are your thoughts on the Government's Three Waters Reform?

See my submission attached to my email. I strongly believe that the Hamilton City Council in its submission to the Select Committee should ask for the bill to be withdrawn.

Additional submission sent:

Jackie Broughan's Submission on the Three Waters Bill. ID: 2826

Firstly and frankly, I oppose Government taking over HCC 3-Water assets and the Four-Entity model.

Ownership: It seems clear that the HCC will not own the 3 waters assets. Shares do not carry rights and without rights you cannot have ownership. Along with the loss of the assets, the HCC will lose a large part of its links with the citizens and its abilities to work to meet the city's needs.

Human organisations do not hand over their communities to avoid the community's problems. Communities and individuals usually achieve change by looking at the needs and problems through local eyes and taking careful and well-planned steps to achieve suitable change. Radical and 'foreign' change rarely works – which citizen would manage his or her needs in this way? I believe that setting up of special groups like a Metro Advisory Group if put in place by Central Government would lead to so many differing set-ups, that Central Government would be more able to forcibly seize and completely control assets. On the other hand, an informal group (e.g. a Metro Advisory Group) could be formed by, e.g. similarly-sized communities that might be one very useful tool for the HCC

I think that technical representation on the Regional Representational Groups in the Big Water Entities is insufficient – Hamilton cannot be sure that it will obtain 1 of the 6 or 8 slots. (I think that the group who represent only the people with some Maori genes are vastly over-represented on the RRGs and I think that the HCC should protect the people without any Maori genes from the planned under-representation i.e. the HCC should serve all its citizens. The same applies to the mooted RRG sub-groups. Without protection, the citizens will be captive and the HCC powerless because if Co-Governance model proposed, further HCC responsibilities are liable to be stripped away.

I recognize that the HCC will be concerned by the big hurdles ahead of them. It will need to be careful and take suitable precautions. There are no free lunches and citizens will have to foot necessary bills with adjustment of priorities must take occur where necessary. (Even if unpopular)

I agree that the HCC must retain planning control over the new entities. Without that, I see that disastrous decisions will be made by Central Government/Entities because of their lack of local knowledge, or because of the usual small-large lack of competence that accompanies every new human project, and because they will likely have pre-conceptions of how an entity region should be shaped.

I do not believe that that water service costs can be reduced by losing the assets and their control. I quote the Castalia Report which states that the 3 Waters 'scenario is based on faulty assumptions and flawed analysis. Required investment for WDC and for New Zealand as a whole is overstated. I don't think that such precise changes claimed for the take-over can be

Council 20 JULY 2022 - OPEN

adequately assessed/calculated at this point. I think that the government will borrow to the hilt for the first few years and that when the time comes to repay these loans – in a yet unknown year, general taxpayers including those of Hamilton will face a big interest bill. Furthermore, I don't think Hamilton could expect to get more than the first instalment of the \$58 million that has been mentioned

As implied above, I do not believe that centralization - or rather four big 'entities' with an unproven success likelihood (and with the Minister having wide and possibly dictatorial powers), will provide economies of scale or adequate handling of local problems. Hamilton's growth and therefore its water systems and its needs will keep growing. And then there's all the new projects/repairs/extensions. And then here's the new 200 extra jobs promised, with regular wage increases, etc etc etc

Most importantly I think that city or town councils are an essential part of communities. Not all councillors or council staffs are perfect, but neither is the Public. To remove from the Public however, their lack of input into decision making is unthinkable. We need you.

Hamilton City Council Three Waters Consultation – General Survey

Record: 2371

Name: Garry Mohn

Organisation:

SECTION 1: The big picture – public health and the environment

What are your views on the public health and environment aspects of the Government's reform?

SECTION 2: Operations – services to customers and costs

What are your views on the services and costs aspects of the Government's reform?

SECTION 3: Governance – How the entities are managed and governed

What are your views on the governance aspects of the Government's reform?

What are your views on the Government's protections against privatisation?

SECTION 4: Financial structure – assets, debt and borrowing

What are your views on the financial structures of the reform?

Overall – what are your views?

Overall, what are your thoughts on the Government's Three Waters Reform?

To the HCC Three Waters Submission from xxxx xxxx : We all need to challenge (and stop) Nanaia Mahuta and this Labour government, with regards to the Three Waters Project that is being forced upon all New Zealanders. Somewhere, we as a nation need to rescue the democratic processes that we have enjoyed to date and not have it eroded as is happening at the present time. We all need to look further than the supposed water quality and infrastructure issues which are being used for another mandate ... and this is Maori ownership of water. The assets and water are owned by all New Zealanders and the Councils are the guardians on behalf of all. I'm against Labour's model of four water entities for several reasons: • Centralising local water assets into bureaucratic mega entities will take power away

Council 20 JULY 2022 - OPEN

from communities. • Ratepayers will no longer control the assets they have paid for decades to own. • Decisions will no longer be made by elected councillors who are directly accountable to their communities, but by unelected appointees and officials (No influence what's so ever). • The touted scale benefits are unrealistic. • Ratepayers will be put at risk of cross-subsidising neighbouring communities. Rate payers, those renting, will be hit with very high water bills. I was amused when I heard MP Mahutu clearly state "lower rates and council will retain ownership of the assets" ... These claims are a gross miss management of the truth and I repeat ... Rate payers, those renting, will be hit with very high water bills. • What is the effect of ownership of private assets? • What is the end game ... who will ultimately own the rights to all water? • Councils have little to no assets to borrow against. Labour's plans conflict with several core beliefs of limited government (creating large bureaucratic organisations), property rights (ratepayers will no longer own the assets they spent decades paying for), and loyalty to democratic principles (local people should decide, not the Beehive). For these reasons, government needs to leave the 3 waters in council control. While there is some investment needed to improve our water infrastructure, The four entity model is not the solution as those who can least afford it (and general rate payers), will be hit hard. While the Government has estimated a \$185 billion cost over the next 30 years, the Hastings/Havelock North water infrastructure was upgraded and brought up to standard with an \$80 million investment. A one-size-fits-all fix is inherently unfair because the problems and scale of investment needed are not uniform across the country – some councils manage their water services extremely well and have excellent infrastructure. In my view, Labour's model is fundamentally broken and unworkable, and I don't believe adequate consideration has been given to alternatives. Having a new water regulator (Taumata Arowai is mentioned) may help, as we've never had a body to both set and, importantly, enforce drinking water standards which would play a pivotal role. When councils fall short of the standards that a regulator (Taumata Arowai) set, there are a range of options and actions available including: • Some councils may choose to collaborate with other neighbouring councils to pool their water management resources and capabilities, and others (as they already do today) may contract high performing councils with good water management practice to manage their assets for them. • Various councils are proactively wishing to form Council Controlled Organisations (CCOs) with like-minded neighbouring councils, so they maintain local control of the assets and can also get some efficiencies too. • Co-funding partnerships between central government and local councils to fix specific water infrastructure challenges. This could be through ideas like "city deals" as seen in Australia and the UK; creating a National Infrastructure Bank. I am gravely concerned that the Three Waters Reforms would erode local accountability and be a continuation of the same centralisation and control agenda we have seen in other areas, like polytechnics and DHBs (Auckland and Tauranga mega councils have not been a runaway success). Surely protecting community decision-making is a priority for all parties and communities. We need to keep the 'local' in local government, and we need the Government to dump their Three Waters plans. 3Waters is an obvious "play" to give Maori (activists particularly), but notionally, all Maori control of our water resources and assets. What is ownership now? If Government can forcibly seize our/council 3water assets, what's to stop them seizing other privately owned assets? Summary: • Democratic process has been eroded/removed. • Ownership has been removed, assets stripped. • Gives councils little influence. • Councils need to be able to promote the best outcomes for the community but councils will have no confidence its concerns will be heard. • The proposal says councils still technically own the water assets but without the ability to influence, without the ability to hold the board to account, they have no teeth," "What good is owning an asset if you have no say over how it is managed?"

COUNCIL 20 JULY 2022 - OPEN

Page 23 of 40

Additional submission sent:

To the HCC

We all need to challenge (and stop) Nanaia Mahuta and this Labour government, with regards to the Three Waters Project that is being forced upon all New Zealanders.

Somewhere, we as a nation need to rescue the democratic processes that we have enjoyed to date and not have it eroded as is happening at the present time.

We all need to look further than the supposed water quality and infrastructure issues which are being used for another mandate ... and this is Maori ownership of water.

The assets and water are owned by all New Zealanders and the Councils are the guardians on behalf of all.

I'm against Labour's model of four water entities for several reasons:

- Centralising local water assets into bureaucratic mega entities will take power away from communities.
- Ratepayers will no longer control the assets they have paid for decades to own.
- Decisions will no longer be made by elected councillors who are directly accountable to their communities, but by unelected appointees and officials (No influence what's so ever).
- The touted scale benefits are unrealistic.
- Ratepayers will be put at risk of cross-subsidising neighbouring communities.

Rate payers, those renting, will be hit with very high water bills.

I was amused when I heard MP Mahutu clearly state "lower rates and council will retain ownership of the assets"... These claims are a gross mismanagement of the truth and I repeat ... Rate payers, those renting, will be hit with very high water bills.

- What is the effect of ownership of private assets?
- What is the end game ... who will ultimately own the rights to all water?
- Councils have little to no assets to borrow against.

Labour's plans conflict with several core beliefs of limited government (creating large bureaucratic organisations), property rights (ratepayers will no longer own the assets they spent decades paying for), and loyalty to democratic principles (local people should decide, not the Beehive).

For these reasons, government needs to leave the 3 waters in council control.

While there is some investment needed to improve our water infrastructure, The four entity model is not the solution as those who can least afford it (and general rate payers), will be hit hard.

While the Government has estimated a \$185 billion cost over the next 30 years, the Hastings/Havelock North water infrastructure was upgraded and brought up to standard with an

Council 20 JULY 2022 - OPEN

\$80 million investment. A one-size-fits-all fix is inherently unfair because the problems and scale of investment needed are not uniform across the country – some councils manage their water services extremely well and have excellent infrastructure.

In my view, Labour's model is fundamentally broken and unworkable, and I don't believe adequate consideration has been given to alternatives.

Having a new water regulator (Taumata Arowai is mentioned) may help, as we've never had a body to both set and, importantly, enforce drinking water standards which would play a pivotal role.

When councils fall short of the standards that a regulator (Taumata Arowai) set, there are a range of options and actions available including:

- Some councils may choose to collaborate with other neighbouring councils to pool their water management resources and capabilities, and others (as they already do today) may contract high performing councils with good water management practice to manage their assets for them.
- Various councils are proactively wishing to form Council Controlled Organisations (CCOs) with like-minded neighbouring councils, so they maintain local control of the assets and can also get some efficiencies too.
- Co-funding partnerships between central government and local councils to fix specific water infrastructure challenges. This could be through ideas like "city deals" as seen in Australia and the UK; creating a National Infrastructure Bank

I am gravely concerned that the Three Waters Reforms would erode local accountability and be a continuation of the same centralisation and control agenda we have seen in other areas, like polytechnics and DHBs (Auckland and Tauranga mega councils have not been a runaway success).

Surely protecting community decision-making is a priority for all parties and communities. We need to keep the 'local' in local government, and we need the Government to dump their Three Waters plans.

3Waters is an obvious "play" to give Maori (activists particularly), but notionally, all Maori control of our water resources and assets.

What is ownership now? If Government can forcibly seize our/council 3water assets, what's to stop them seizing other privately owned assets?

Summary:

- Democratic process has been eroded/removed.
 - Ownership has been removed, assets stripped.
 - Gives councils little influence.
 - Councils need to be able to promote the best outcomes for the community but councils will have no confidence its concerns will be heard.
 - The proposal says councils still technically own the water assets but without the ability to influence, without the ability to hold the board to account, they have no teeth,"
- "What good is owning an asset if you have no say over how it is managed?"

Hamilton City Council Three Waters Consultation – General Survey

Record: 2237

Name: Kevin Broughan (Prof)

Organisation:

SECTION 1: The big picture – public health and the environment

What are your views on the public health and environment aspects of the Government's reform?

The bill allows for the Mana Whenua as groups or individuals to make so-called Te Mana a Te Wai statements and claims to the Entities which must be answered. This gives rights to the Mana Whenua which are not held by other citizens of New Zealand and so is discrimination. This is in breach of the Bill of Human Rights Act of NZ. and so the bill is inconsistent with that Act. Crown Law, in its statutory advice to Parliament on the bill was in error when it stated the bill is apparently consistent with the Bill of Human Rights Act. Since Parliament has been misled in this important manner, the HCC in its submission must recommend to the Select Committee that the bill be withdrawn, since other serious flaws mention elsewhere in this submission are also present. Such flaws will be well know to the Minister of Local Government, who is an experienced politician. She should be called to account also.

SECTION 2: Operations – services to customers and costs

What are your views on the services and costs aspects of the Government's reform?

The government claims there will be a great savings in costs because of the oft repeated statement by the Minister there will be economies of scale. However the minister also said there would be 8,000 or so additional positions created, that is over and above the total water services positions we have currently in NZ. Not only that, even though it might be possible to pipe drinking water between towns, doing the same for wastewater will be not only very expensive, but also highly inefficient. The same applies to storm water. Thus there will be a much smaller set of opportunities for building fewer treatment plants. Then there are the costs of transferring and melding together the different LA's systems. Yes, there is a need for some amalgamations, but to merge 22 together, given the complexity of a city like Hamilton's 3 Waters infrastructure and assets, the setting up of this new system will involve NZ in an astronomical amount of unnecessary extra expense. This finance would be better spent on real needs. The real costs of the proposed system will be hidden, because borrowed money at a high level will be used through the early years of its establishment. This money will have to be paid back, and the bill clearly states consumers and users will need to cover all costs. The offers by government to the LA, including HCC, to enable funding of the entities using a higher loan threshold, is regarded as attractive. But that is an illusion, since the current LA threshold is an imposition which could be adjusted by central government through legislation and by enabling the LAs to offer, for example, infrastructure bonds, as do many states in the US. And lastly in

this box, we the people will have no say as the costs are adjusted upwards, and no ability to influence decision of the Entities re the scope of services. I will say it again because its of fundamental importance - we are losing constitutional democratic rights here, and the HCC as the local government arm of government must protect these rights, and be much more vocal in its opposition.

SECTION 3: Governance – How the entities are managed and governed

What are your views on the governance aspects of the Government's reform?

In summary: the governance structure changes the constitution of NZ from being a democratic nation state to an ethno state. It endangers our membership of the UN which requires democracy. The UN declaration on the rights of indigenous peoples requires in Article 46 that democracy of a state should not be impacted. There are no declaration obligations. The Crown and the non-Crown treaty parties are not treaty partners. These are not matters of opinion but of law, and the HCC should read carefully the notes I have made and attached to an email, explaining how the gross and dangerous misunderstandings of these concepts have come about. On average the Entities for their RRGs have more than 4 times the representation per capita as the LA representatives. A city such as Hamilton will have at most 1 representative on the RGG of Region B. That person will have to consider the needs of all the the LA so is not a true representative. Thus, effectively, HCC will have no democratic access to the RGG. Currently we elect or not elect counselors every 3 years, and part of our decision as citizens relates to their performance for as you say 40% of the provision of services. Under the proposals we lose this right. We expect HCC to protect this right, and to see this attempted protection in the HCC submission to the select committee and in a podcast of the xxxx presentation to that committee.

What are your views on the Government's protections against privatisation?

Its the RGG that could initiate privatisation proceedings, and there is I recall the need for all LA's to agree and 75% of the public in a referendum. That seems wise, but does it stop part of the assets being sold off? Does it stop the non-Crown treaty parties charging a royalty for drinking water and irrigation water or even water used to generate hydro power? Its interesting, but this question reveals the governments cynicism in the wording of the bill. All through there is the phrase local authority owners, except for one section where the minister has nodded off maybe and not see the legal drafters mistake in referring to the Entities as the owners. And so they are, since the have all of the rights of owners, with a restricted right to sell (all, part?) of the assets. The LAs are not the owners, since they have NO ownership rights. Finally HCC holds and manages these water assets in trust for we the people. They have been confiscated by the Crown, which creates a very large grievance. See my notes on ownership attached to the email sent to haveyoursay@hcc.govt.nz.

SECTION 4: Financial structure – assets, debt and borrowing

What are your views on the financial structures of the reform?

Why is it that central government (the Minister) first stated joining the proposed system would be optional and then made it compulsory? Why is it that the debt which LAs have with respect to water services is still at issue, namely whether or not it will be transferred to the Entity? Is central government acting in good faith here? I have made some comments on the financial structure in a box above, but one further comment is in order. Wellington and some other LAs have very large bills to come relating to delayed maintenance of their 3 waters infrastructure. Auckland also. Charging of users throughout regions is expected to be uniform, which means LAs which have been prudent and for which citizens have paid appropriate amounts, will have to subsidize LA's who have not made sensible earlier decisions. Is this fair? In addition, the costs of implementing these reforms is deeply troubling, around \$500M I believe. It may be, as I say attractive to HCC to be free of its water burden, but as taxpayers we are not and will be paying for these cost+ reforms. Remember you represent us, not just yourselves. How much do you care about the situation of the citizens in the HCC jurisdiction?

Overall – what are your views?

Overall, what are your thoughts on the Government's Three Waters Reform?

Overall the three waters reform, in particular the Water Services Entities bill, instigates significant constitutional change, without proper consultation with the citizens, so therefore without a mandate to do so. This is serious. The bill is undemocratic in that it gives to the non-Crown treaty parties more than 4 times on average the representation on the core RRG committee than the LAs which represent all citizens, including the non-Crown treaty parties. Both central and local government by our constitution and membership of the UN are absolutely required to be democratic, one person, one vote of equal value. This fracturing of democracy along racial lines introduces a racial divide which, scientifically, has no validity. It will introduce a dangerous divide where none exists. The mentioning of bad statistics for the non-Crown parties group is a red-herring if you read carefully He Puapua, where the goal is co-governance at the highest and lowest levels, plus self-determination of the nation state type. This is a quest for overarching political power by a minority. It is also undemocratic because it takes away the effective vote of citizens in their relationship with the water assets and services. It is also 'a taking' of rights in water assets and services without consent and intended to be a permanent. This relates to the Crimes Act 1961. More details on all of these points are in the attached documents. Because of these facts and the law, I hope that you will recommend in your Select Committee submission that the bill be withdrawn and that widespread community consultation and discussion be initiated.

Additional submission sent:

Dear Survey Management Team,

I have filled in the boxed for the survey, but need to give more explanation because of the importance of the issues. There are two attachments. The first is quite short, two pages. It covers important legal issues which have not been aired in the media, loss of democratic rights for citizens, and a personal anecdote from my working through the changes in the education sector reforms in 1989 to illustrate the difficulties in dealing with government. If you are too

Council 20 JULY 2022 - OPEN

busy or tired to read what I have written, you MUST read and think seriously about this short statement.

The second attachment goes into the direction of government controlled reform, including the notion of 'partnership' and '50/50'. How it came about, how it is not in accordance with legal presidents, and why it is bad for our country. The second part concerns 'ownership and democracy'. I have tried to make these readable. They are not compact like the short statement.

You put a lot of information in front of us on the web pages between the boxes of your survey. Lots of information from government. The main stream media has not helped us by giving a variety of opinions on the reforms, but seems to have taken on board the requirements of the Public Interest Journalism Fund of \$55M, and not reported the variety of view which are 'out there' regarding the assets and co-governance proposals. It is natural that you will have been influenced by this bias also, so please read what I have written as an antidote. I have tried to make it objective, evidence based.

Some legal, democracy and financial issues regarding the Water Services Entities bill

Legislation must be internally consistent and written according to existing law. The oath of office of all MPs requires this. However, the water services entities bill includes a taking of rights from existing local authority owners who administer the services on behalf of the citizens under their jurisdiction. This taking then is also from the citizens. The taking is in breach of section 219 of the NZ Crimes Act 1961. There is no formal consent process for the taking either from the local authorities or the citizens.

As well as the local authorities losing all ownership rights, the citizens lose all of their democratic rights. This is in breach of the NZ constitution which requires us to be a democratic nation state. This is in breach of article 46 part 3 of the UN Declaration of the Rights of Indigenous Peoples, which requires, in asserting indigenous rights, the rights must be interpreted in accordance with the principles of democracy. Because of these serious issues and underlying flaws, the bill must be withdrawn.

Unbridled power? One often hears that 'parliament is sovereign', so it can do what it wishes no matter what. All that is required to pass a bill effectively into law is a simple majority vote in the House of Representatives. In the words of Geoffrey and Mathew Palmer, they have "Unbridled power". However this is not completely so. MP's must act in accordance with their oath of allegiance, and not do anything which contradicts existing law or write a law which is self-contradictory. This would be "Ultra Vires".

Such errors might be deliberate, due to an oversight or be of minor consequence. However, if a significant error is pointed out, either by Crown Law, or by the Select Committee through a written and/or spoken submission from a citizen, or otherwise, then the error would need to be fixed, or the bill withdrawn if the error was fundamental to the bill's structure.

The law is paramount: The weighty requirement that MPs act 'according to law' is required by the oath of allegiance sworn by each new MP at the start of their first parliamentary session:

"I, [name], swear that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth

COUNCIL 20 JULY 2022 -OPEN

Page 29 of 40

the Second, Her heirs and successors, according to law. So help me God."

The bill initiates a taking: Currently the local authorities are the actual owners of the water services assets. Should the bill become law then all of their ownership rights will have been removed. Once all rights have been removed, they no longer can be validly called 'owners'. To call them 'local authority owners', as the bill so frequently does (except for the odd place where the Entities are called the 'owners' revealing the real intent of the Minister and Government), is *ultra vires*.

Since they could no longer be called owners, the true nature of the actions which would be initiated by the bill are immediate, using the phrase of the Crimes Act 1961 section 219, it is 'a taking'.

Intent is present: the Minister on behalf of the Crown has the mental purpose to take the water services, and to deprive the LAs, and the citizens of NZ permanently of their rights regarding the services.

Consent is not present: the Minister has not sought consent. If it is the Hamilton City Council that will be giving or not giving consent to the proposals it is invalid, because the formal seeking of consent is not part of the bill. In addition, there has been no consultation with the citizens other than during the short time before the select committee hearings, and other than with the major beneficiaries, the non-Crown treaty parties. The Select Committee hearings are not suitable for the government to obtain consent or otherwise.

Even so, the transfer of assets and services to the proposed Entities is very large, the loss of democratic rights very significant, and the consequences of the proposed actions very complex. Since what is proposed alters the NZ constitution in a major way, and could effect our standing with the UN, a major public debate accompanied by a Royal Commission, or referendum should be required.

The deprivation is intended to be permanent: By encoding the proposed changes in legislation and establishing the Entities, the Minister and Government intend the proposed structures to be permanent. Thus they intend a permanent loss of ownership rights and a permanent loss of democratic rights. That a future government might repeal the bill should it become law is not at all relevant to this deprivation and its permanency.

Individual Loss of interest in water services properties: My wife and I have paid rates to the Hamilton City Council for over 50 years. This rate has included a component for water services, which includes a part for the needed capital investment and part for the use of the services. In addition, when each of our several homes were built, a development fee was paid for the cost of reticulating water services in the related subdivision. This contribution was part of the cost of the land we bought, so we contributed that way as well. Thus, we have 'an interest' in the water services that we use which is being 'taken', it is being taken without our consent, and there is no part of the bill which would indicate that any rights in the water services, either ownership or democratic, will be returned. Thus, we are being permanently deprived of our interest in the water service properties.

In short, the bill for Water Services Entities has three ingredients: it is a taking, there is no consent, and the taking is permanent. Therefore, the bill is not according to law, so must be withdrawn. In addition, the proposed structures represent a loss of democratic rights for individual citizens of New Zealand. This loss is serious and significant and endangers our status

Council 20 JULY 2022 - OPEN

According to Justice Bisson in 1987, “it is in accordance with principles of the Treaty that the Crown should provide laws and make related decisions for the community as a whole, having regard to the economic and other needs of the day.” Bisson, G. NZLR [1987] 716.

Thanks to some loose wording by Judge Cooke in 1987, ‘partnership’ came to be used in a restricted informal sense

Legally, in English law and in NZ law, a partnership is a business agreement wherein the parties agree to work together to make profits. The parties have a fiduciary duty, to act in good faith towards each other. So the relationship between the parties to the Waitangi treaty created what the judges in the 1987 case said was ‘akin to a partnership’, i.e. it was like, but was not, a ‘partnership’. Using that word was the second error.

Very rapidly ‘partnership’ became - in many circles, ‘a 50/50 partnership’

According to Justice Richardson, “Regrettably, in some quarters, more was drawn from references in the judgements to ‘partners’ and ‘partnership’ as extending somehow to equal sharing, than was ever intended by the Judges.” Richardson, I. “In good faith” 2007 p16. The third error 50/50.

Cooke spells it out:

In a later case, Lord Cooke felt the need to spell out his notion but continued to use the misleading word ‘partnership’, rather than the correct ‘parties to the treaty’ designation, when he stated “Partnership certainly does not mean that every asset or resources in which the non-Crown parties (my words) have some justifiable claim to share must be divided equally. There may be national assets or resources as regards which, even if the non-Crown parties have some fair claim, other initiatives have still made the greater contribution.” Cooke, P. NZLR 1989 2 [NZLR] 142,152.

Having seen the way people were misunderstanding his words , Cooke repeated his view:

“As regard to those Crown assets to which the principles do apply, this Court has already said in the forests case, that partnership certainly does not mean that every asset or resource in which the non-Crown parties have some justifiable claim to share must be divided equally.” Cooke. P. 2 NZLR 1989 513, 527.

The above are all judgements, clarifying and qualifying the 1987 case use of the word ‘partnership’. The are all important presidents, but have been universally ignored. This needs to be fixed.

We need to undo Cooke’s rewriting of the Treaty/Te Tiriti – it is fracturing our society:

Dame Anne Salmond speaks out against ‘co-governance. “In very recent times, Sir Robin Cooke’s rewriting of Te Tiriti as a binary ‘partnership between races’ has been interpreted as a split in kawanatanga or governance at the national level. The division of populations into ‘races’ however is a colonial artefact that cuts across whakapapa and is scientifically obsolete. It is not a sound basis for constitutional arrangements in the 21st century.”

Can you answer the question, who is a Kiwi? Who is a Maori?

Dame Anne continues: “As human beings appear, whakapapa traces their migrations,

as a democracy. It also endangers our membership of the United Nations and is being done without a mandate. For this reason alone, the bill must be withdrawn, and that must be the main thrust of your submission.

Financial doubts: It is understandable that HCC will be focusing on the financial side of the proposals. Please beware. The 4th Labour government in 1989 promised universities a rolling triennium for funding, rather than a year by year 'adjusted for student numbers' structure. This was in exchange for removing the University Grants Committee and introducing a government controlled Tertiary Education Commission. The universities agreed then with the proposed changes, but never got the triennium, never in the last 30 years. In addition, the assets of the Grants Committee, built up from small student examination fees over many years and sufficient to run their operations, was used to pay off the redundancies of the closed Education Department, rather than given back to the students by way of scholarships for example. So please don't trust government promises, and concentrate on the loss of ownership rights and democratic rights. You hold these in trust for each of us. Again, say to government that in the opinion of HCC, the bill must be withdrawn.

Kevin Broughan (Prof) 7 July 2022

"The truth shall set you free"

The first problem: The direction of government controlled reform

I need to set out the background because it has been misunderstood by many leaders.

The Treaty:

At the heart of The Treaty is an exchange of gifts and the creating of a compact. The parties to the Treaty were the Crown represented by Governor Hobson, and each of the separate tribes or sub-tribes who signed one of the versions. We call these the "non-Crown parties". The gift given by the non-Crown parties was the ceding to the Crown of the right to govern all of New Zealand. In exchange, the non-Crown parties were granted the Crown's/Governor's protection of their chieftainships, lands, forests, fisheries, treasures, and all of the rights of British subjects. The settlers either already in NZ or expected to come, were already mainly British subjects. In this way the NZ became one people, in the form of at first a British colony and quite a lot later, an independent nation in the form of a sovereign democracy. There was no notion of partnership in the treaty. There are no immediately explicable principles underlying the treaty, which has the form of a domestic contract or compact. (NZ has signed almost 2000 treaties. It should not be called a treaty since it was not between sovereign states.)

Rights of the Crown:

The Crown has the right to govern – according to Chief Justice Cooke, (a judge in 1987). He said when the Appeal Court was asked to clarify some principles, that the principles of the treaty "do not authorize unreasonable restrictions on the right of a duly elected government to follow its chosen policy. Indeed, to try and shackle the government unreasonably would itself be inconsistent with those principles." He used the word "principles" because the government had used the word in legislation without saying what it meant. The first error. Cooke, P. NZLR [1987] 665-666.

There is to be no co-governance:

settlement and alliances. It focuses on complex networks animated by exchange, rather than by static binary oppositions; and is non-racial, constituting identities and groups through relationships based on descent, kinship, affiliations, and places of origin, rather than racial polarities." My paraphrasing of the findings of a landmark 2002 Stanford University study, there is so much variation with distinct social groups, that for example two people of European descent may be more genetically similar to an Asian person than they are to each other!

Clearly, you can't say who is in which group with any validity. The Government asks citizens to self-identify which group they are in, non-Crown parties or something else which cannot be named because it is not a party to the treaty. This is a nonsense, because under current approaches to legislation, one group has more rights than the other, so it is invalid and discriminatory. It cuts across human rights legislation in which all are equal. They translate to a real contradiction, especially when the Crown entered into prior, meaningful and effective consultations with the non-Crown parties, but does not include the rest of the citizens of NZ in similar consultations. Full consultations would have clearly revealed the contradictions which make the bill 'ultra vires'.

The problem with co-governance:

In conclusion, co-governance is invalid and unwise. The Crown cannot give away part of its right and duty to govern. There is no true partnership created by the treaty between the Crown and a subgroup of subjects. Co-governance represents a racial division which is both detrimental to our progress as a nation and invalid scientifically. Yet the racial divide is there practically on every page of the bill. This is not helpful for the future of the non-Crown parties and of New Zealand as a whole. It will deepen the divide between the peoples of our nation.

The second problem: ownership and democracy

New Zealand is a constitutional monarchy.

Sir Kenneth Keith in the Introduction to the Cabinet Manual, 2017 sets out the main components of the "Constitution of New Zealand", and states in the second paragraph, that one of the main features of our constitution is "that it is a democracy."

What does it mean to be a democracy?

In order for NZ to continue to be a member state of the United Nations, it must remain a democracy. Democratic rights, including the right to vote in elections where there is one person with one vote for every voter of sufficient age, and where every vote is of equal value. This right applies to both parliamentary elections and local authority elections. The loss or reduction of this right is a serious issue for our democracy, and should only occur after widespread consultation, discussion, and resolution. This has not occurred in the case of the Water Services Entities bill. The United Nations Charter starts with the phrase "We the peoples ..." reflecting that all political power in a democracy derives from the people.

Is He Puapua the path forward?

Looking at the present situation, the Three Waters plans, (including the bill for Water Services Entities), as part of the plan for constitutional change which is in the report He Puapua, represents significant change to the inherent democracy of our institutions. This has not been recognized either by the drafters of He Puapua in their advice to Cabinet regarding the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), or by Crown Law in their advice to Cabinet which states that the Water Services Entities bill is "apparently consistent with

the Bill of Rights act." This report (made in June 2022) has been described in non-government legal circles as "Extraordinary and disgraceful casuistry".

He Puapua does not mention democracy!

There are 103 references to 'constitution' or 'constitutional' in He Puapua, but, in the document body, 'democracy' in the body of the document. One has a sense that this fundamental right is somewhat 'in the way', as is the United Nations Declaration on Human Rights, which also does not get a single mention.

But UNDRIP requires adherence to democracy

In Article 46 part 2 of the United Nations Declaration on Indigenous Rights we read "In the exercise of the rights enunciated in the present Declaration, human rights, and fundamental freedoms of all shall be respected. The exercise of the rights set forth in this Declaration shall be subject to only such limitations as are determined by law and in accordance with international human rights obligations. Any such limitations shall be non-discriminatory and strictly necessary solely for the purpose of securing due recognition and respect for the rights and freedoms of others and for meeting the just and most compelling requirements of a democratic society."

And In part 3 we read "The provisions set forth in this Declaration shall be interpreted in accordance with the principles of justice, democracy, respect for human rights, equality, non-discrimination, good governance and good faith." Both parts 2 and 3, require states to be democratic and nothing to be done which would damage the unity of a state, whatever other rights are aspired to in the earlier part of the Declaration.

BUT The Water Services Entities Bill removes democratic rights

In all local authority jurisdictions, citizens vote every three years for members of the council of the area where they reside. They also through a rating system or otherwise pay for the three water services which they receive. These services are owned and maintained by the local authority on behalf of the residents. It is the residents democratic right to interact directly with the authority when there are issues, and to vote for or against individual councilors depending on their perceived performance. The water services are a very large part of the business of council, and thus an important part of the evaluation of performance of councilors. By taking these resources and giving them to a body which will have, at most one (in the case of where we live, Hamilton City) representative, who will need to consider the needs of 21 other local authorities, and whose ability to influence events is highly restricted by the need for the representative body to make decisions by consensus or a 75% majority vote, the democratic influence of all citizens of Region B is completely removed.

As of writing there has been very little consultation with the citizens of Hamilton, and the scheduled two-week period is much less than even adequate, given the complexity of the proposed changes and the difficulties of foreseeing their consequences. This should be compared with the non-Crown treaty parties who have had two rounds of consultation covering three waters reform and related matters, even though they would be gaining rights broader in scope than the local authorities.

And it is undemocratic in its administrative and effective ownership structures - for example the bill "Water Services Entities" would give the non-Crown parties more than 4 times on average the representation per capita as the Local Authorities, who in fact represent all of the people of NZ.

Council 20 JULY 2022 - OPEN

The bill plays fast and loose with the notion of ownership, by for example referring to the local authorities as owners but stripping away ownership rights, and here and there referring to the water services entities as owners. Whatever the fine distinctions applying here about \$150 billion dollars of peoples' assets are being taken despite having no mandate from the public. One poll put the opposition to Three Waters at 75%.

What is ownership?

So, the local authorities are to be called "owners" of the stripped assets. Ownership in English and NZ law is identified with "rights". These rights are for the "owners" specifying what they can do with a particular object or property and specifying what non-owners cannot do with that object or property. When all rights have been extinguished, then no ownership remains. It is debatable whether appointing a person to a Regional Representation Group is an ownership right, given that non-Crown treaty parties can appoint at more than 4 times on average the number of representatives per head of population as the local authorities. So, assuming that it is not then the local authorities cannot be called "owners". Assuming that it is so then the non-Crown parties group must also be called "owners". In either case the act of confiscation and transfer inherent in the bill is plain to see.

Now please go back and read "Cooke spells it out" again

To see that this confiscation and transfer is quite wrong, consider again the above finding of Chief Justice Cooke. 'Partnership certainly does not mean that every asset or resources in which Maori have some justifiable claim to share must be divided equally. There may be national assets or resources, as regards which, even if Maori have some fair claim, other initiatives have still made the greater contribution.' Then ask yourself, have the non-Crown parties made a comparable contribution to the development and maintenance of three waters assets compared with the local authorities or not?

Please read the quotes from Dame Anne Salmond again

Then decide whether or not the present Government is acting fairly, legally and in the best interests of all New Zealanders, and whether the Present Government is in grave danger of making the racial divide much worse.

As a local authority, the Hamilton City Council holds the water assets in trust for the ratepayers and rental users who have paid for them. Central Government knows there are other models than the one proposed. These proposals would give a greater share of taxpayer income to local authorities, so they could borrow to a higher level and build the infrastructure that is needed. They also might include facilities for local authorities to offer for example infrastructure bonds to fund major works. Central Government is spending many millions of taxpayer revenue to induce local authorities to cooperate with this process. It has no hesitation in allowing the entities to have high borrowing limits, even though the Entities are untried and the paying back of large loans would need to be accounted for.

Legal action against these reforms is underway.

The Timaru, Waimakariri and Whangarei District Councils have made an application to the High Court seeking a declaration on the rights and interests that property ownership entails. They have supported their citizens by employing a distinguished QC for this task. They are seeking legal clarity, because they take the view that under the three waters proposals, the government is expropriating council owned property without conceding that it is 'a taking', and without fair compensation being paid to communities for their property. In addition they are taking the

action because they believe the government's actions are incompatible with long standing and fundamental laws around property ownership and democratic accountability. The case has been heard and the outcome is reserved.

The Water Users Group have made an application to the High Court claiming that Cabinet was falsely advised by Crown Law that iwi/Maori have rights in water which they do not in fact have. As part of this they are seeking a reexamination of the 1987 "partnership" case, (but often called the "lands case") well covered above. They have employed two distinguished QC's for this task. A claim has been made, but a substantive hearing date not set.

It is a constitutional convention that an act should not be passed into law until all legal challenges have been discharged. Both of these challenges are important to clarify the law. It is not too late for the Hamilton City Council to support these efforts in some material way and either join with other local authorities or on its own slow the process so that the public can understand what is at stake sufficiently well to either give informed consent or support alternative models for reform if its needed. Our local authority might also consider seeking an injunction to ensure the cases are able to be completed and citizens have sufficient time and opportunity to consider the issues. A select committee process is far from adequate consultation, when such important and far-reaching constitutional issues are at stake.

Whatever decision you come to for your report, I plea with you to ensure there is no further attempt at a reduction in the democratic rights of individuals who are not in the non-Crown parties group, through the installation of co-governance at any level, or otherwise.

Forget the idea of opportunity - just to protect those democratic rights will be an achievement. If you are constrained, through financial inducements or otherwise, to agree to constitutional change, please ensure that it is put to the people as either a referendum, Royal Commission, or as an election manifesto promise, rather than being pushed through parliament as a Government bill. Please remember, all power in a democracy derives from the people, but at times like this it is hard to see, since substantial democratic rights are being removed without consent or even proper consultation. You will only meet everyone's needs fairly if you succeed in maintaining peoples direct democratic rights and protect their ownership rights.

If we cease to be a democracy, and He Puapua would have it so (I doubt many of you have read it – its not easily read being in the dialect Maori-English with no glossary, parts obscured with blue background, multiple footnotes and a telegraphic style), then we would potentially need to leave the UN, with many other impacts on our reputation internationally. This surely is more important than the relief you might be looking forward to not having to worry about all of the pipes, pumps, and plants!

Kevin Broughan (Prof)

7 July 2022

Council 20 JULY 2022 - OPEN

Hamilton City Council Three Waters Consultation – General Survey

Record: 658

Name: Ngawai Robinson

Organisation:

SECTION 1: The big picture – public health and the environment

What are your views on the public health and environment aspects of the Government's reform?

SECTION 2: Operations – services to customers and costs

What are your views on the services and costs aspects of the Government's reform?

xxxx Hamilton xxxx 24 June 2022 Re: Consultation on government's 3 water reform legislation. Thank you, xxxx and Hamilton City Councilors for the opportunity to present my whānau response to the 3 Water Reform debates. We are grateful for this speaking right today, mauri ora. For many uncivilized citizens, the 3 waters debate has brought to light the outright racist and misogynistic tantrums directed at our Prime Minister Jacinda Ardern, Minister Nanaia Mahuta, and members of government. The government is not at fault for everything under the sun including the current inflation problems. We'll likely be living with runaway inflation through to Matariki 2023. I trust the government will navigate us through the troubled waters we find ourselves in. Background The opponents to the 3 waters debate would have us believe that Councils rule by reason of infrastructure wealth is community-owned. Today we're seeing the kind of Harry Potter-themed powerplay by 4LD with its 27 strong council backers and 1.3 million group viewer likes. From a total population of 4,899,348 million people. That leaves us with 3 million six hundred and eighty thousand observers. The Opposition Applicants. I understand xxxx and Councilors that you are all united in your dissatisfaction with the 3 waters debate. A difference of opinion has escalated into something more than it needs to be. It has turned outright ugly. xxxx and Communities for Local Democracy xxxx acknowledges the Taumata Arowai Water Services Regulator Act 2020. The four Three Waters entities grew out of this progression. Alternative Models. "The council-owned enterprise model would see councils owning shares in a regional organisation that would own and manage the three waters services for the area. The councils would remain accountable to voters and water customers. It's our core business according to xxxx he believes they know this business best. The communities paid for it, our fathers and grandfathers paid for it, and in most places [the infrastructure] is in pretty good condition. Their alternative models would achieve better outcomes on accountability, iwi Maōri partnership, incentives of management and governance, access to financing, scale and scope efficiencies and flexibility for the future than the Government's four entities model." The Asset Sale Model Let's retrace the steps from where former Prime Minister John Key set the stage scene in 2011. National party fiscal policies led to some of our most disastrous Law and Order policy outcomes in recent times. A 1.5 billion dollar 4-year police budget freeze and

1.8 billion SFO budget cut-back sent shockwaves throughout our justice law and order budgets. A crummy 3 million dollar return led to the skyrocketing crime rates you see today. Nationals' preposterous use of blaming beneficiary beat-ups cascaded into other national portfolios. The partial sale of state-owned enterprises (SOEs) and MOMs (Mixed ownership models) in a broader three-to-five-year, \$7 billion dollar asset sale programme. Including other state-owned power companies, a coal mine, and the national airline continued under the watchful eyes of Matariki. Their economic management stripping of the country's wealth goes on and on. Yes, the political irony is staggering – the system-gaming by opposition National and Act parties and now the 27 local councils all engaged in a level of "social engineering" is unprecedented. It falls in line with our colonial history. The Supreme Court Decision Common sense prevails. The Government is no longer free to implement the asset sales without consideration for Māori rights to water but rather has to abide by the "concessions" made by the Supreme Court. Minister Mahuta has delivered on the Supreme Court Decision by removing the obstacle course of eroding pipelines and the cocktail of stagnant drinking water et al, to be replaced by a powerful new challenge to set things right. My Whānau Submission Response On the matter of the Labour government 3 water legislative reforms, we support the new legislation. We acknowledge and congratulate the outstanding body of work completed by the local government Minister Nanaia Mahuta and her teams. This mahi unites us all as we reach for the stars in celebration of Matariki season. We appreciate your time today. Please pass on our views to the government in the upcoming consultation process. Kia ora ra, have a good day everyone. Nga mihi xxx

SECTION 3: Governance – How the entities are managed and governed

What are your views on the governance aspects of the Government's reform?

What are your views on the Government's protections against privatisation?

SECTION 4: Financial structure – assets, debt and borrowing

What are your views on the financial structures of the reform?

Overall – what are your views?

Overall, what are your thoughts on the Government's Three Waters Reform?

I have submitted our full responses to the questionnaire in my letter in a previous section thank you

Council 20 JULY 2022 - OPEN

Additional submission sent:

Thank you, Mayor Paula Southgate and Hamilton City Councilors for the opportunity to present my whānau response to the 3 Water Reform debates. We are grateful for this speaking right today, mauri ora.

For many uncivilized citizens, the 3 waters debate has brought to light the outright racist and misogynistic tantrums directed at our Prime Minister Jacinda Ardern, Minister Nanaia Mahuta, and members of government. The government is not at fault for everything under the sun including the current inflation problems. We'll likely be living with runaway inflation through to Matariki 2023. I trust the government will navigate us through the troubled waters we find ourselves in.

Background

The opponents to the 3 waters debate would have us believe that Councils rule by reason of infrastructure wealth is community-owned. Today we're seeing the kind of Harry Potter-themed powerplay by 4LD with its 27 strong council backers and 1.3 million group viewer likes. From a total population of 4,899,348 million people. That leaves us with 3 million six hundred and eighty thousand observers.

The Opposition Applicants.

I understand Mayor Southgate and Councilors that you are all united in your dissatisfaction with the 3 waters debate. A difference of opinion has escalated into something more than it needs to be. It has turned outright ugly.

Manawatu District Council Mayor and Communities for Local Democracy chairwoman Helen Worboys acknowledges the Taumata Arowai Water Services Regulator Act 2020. The four Three Waters entities grew out of this progression.

Alternative Models.

"The council-owned enterprise model would see councils owning shares in a regional organisation that would own and manage the three waters services for the area. The councils would remain accountable to voters and water customers.

It's our core business according to Mayor Ash Tanner he believes they know this business best. The communities paid for it, our fathers and grandfathers paid for it, and in most places [the infrastructure] is in pretty good condition."

Their alternative models would achieve better outcomes on accountability, iwi Māori partnership, incentives of management and governance, access to financing, scale and scope efficiencies and flexibility for the future than the Government's four entities model."

The Asset Sale Model

Let's retrace the steps from where former Prime Minister John Key set the stage scene in 2011. National party fiscal policies led to some of our most disastrous Law and Order policy outcomes in recent times. A 1.5 billion dollar 4-year police budget freeze and 1.8 billion SFO budget cut-back sent shockwaves throughout our justice law and order budgets. A crummy 3 million dollar return led to the skyrocketing crime rates you see today.

Nationals' preposterous use of blaming beneficiary beat-ups cascaded into other national portfolios. The partial sale of state-owned enterprises (SOEs) and MOMs (Mixed ownership models) in a broader three-to-five-year, \$7 billion dollar asset sale programme. Including other state-owned power companies, a coal mine, and the national airline continued under the watchful eyes of Matariki. Their economic management stripping of the country's wealth goes on and on.

Yes, the political irony is staggering – the system-gaming by opposition National and Act parties and now the 27 local councils all engaged in a level of "social engineering" is unprecedented. It falls in line with our colonial history.

The Supreme Court Decision

Common sense prevails. The Government is no longer free to implement the asset sales without consideration for Māori rights to water but rather has to abide by the "concessions" made in the Supreme Court. Minister Mahuta has delivered on the Supreme Court Decision by removing the obstacle course of eroding pipelines and the cocktail of stagnant drinking water et al, to be replaced by a powerful new challenge to set things right.

My Whānau Submission Response

On the matter of the Labour government 3 water legislative reforms, we support the new legislation. We acknowledge and congratulate the outstanding body of work completed by the local government Minister Nanaia Mahuta and her teams. This mahi unites us all as we reach for the stars in celebration of Matariki season.

We appreciate your time today. Please pass on our views to the government in the upcoming consultation process. Kia ora ra, have a good day everyone.

Council Report

Item 8

Committee: Council

Date: 18 August 2022

Author: Tyler Gaukrodger

Authoriser: Michelle Hawthorne

Position: Governance Advisor

Position: Governance and Assurance
Manager

Report Name: Confirmation of the Elected Member Open Briefing Notes - 28 June 2022

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

Staff Recommendation - *Tuutohu-aa-kaimahi*

That the Council confirm the Open Briefing Notes of the Elected Member Briefing held on 28 June 2022 as a true and correct record.

Attachments - *Ngaa taapirihanga*

Attachment 1 - Elected Member Open Briefing Notes - 28 June 2022

Elected Member Briefing Notes – 28 June 2022 – OPEN

Time and date:	9.30am, 28 June 2022
Venue:	Committee Room 1, Hamilton City Council, and audio-visual link
In Attendance:	Mayor Southgate (via audio-visual link), Deputy Mayor Taylor (via audio-visual link), Crs Pascoe, O'Leary, Bunting, Hamilton, Macpherson, van Oosten, Thomson, Donovan, Gallagher, Wilson (via audio-visual link), Naidoo-Rauf
Apology for Full Session:	Maangai Maaori Kana, Hill, Te Ua, Thompson-Evans and Whetu
Apologies for lateness/early departure:	Mayor Southgate, Crs Wilson, Pascoe, Bunting, Naidoo-Rauf

Discussion

The briefing session covered in an open session.

- Hamilton Urban Growth Strategy (HUGS)
- Biking and Micro Mobility
- Cycle Safety

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

1. Hamilton Urban Growth Strategy (HUGS)

The Project Manager Growth Programmes and Programme Manager - Emerging Areas Growth Programmes explained that the purpose of the presentation was to update Members on the Hamilton Urban Growth Strategy which included the consultation process, transport corridors, liveability, and lifestyle, and city boundaries.

Members asked questions in relation to the following:

- timeframes and milestones;
- places of work;
- historic transport corridor locations and best placement;
- education facilities; and
- land value purchase opportunities and timeframes.

2. Biking And Micro Mobility

The Programme Delivery Lead City Transportation provided a presentation concerning Biking And Micro Mobility changes since April 2021, the transport network operation and getting more people involved with cycling, 30-year vision influence of emissions reduction plan and the metro plan, strategic network plan, transitional approach cost and funding, 2050 demand assessment, and the 10-year programme and cost.

Members asked questions in relation to the following:

- draft plan timeframe;
- current biking network and trends;
- longest biking connections;
- programme cost and allocation per km;
- biking uptake modelling;

- expectations for contract maintenance;
- program cost; and
- project naming and communications.

3. **Cycle Safety**

The Programme Delivery Lead City Transportation explained the purpose of the presentation was to update members on cycle safety issues including key points of obstruction, traffic management, vehicle speeds, lighting, cycle facility maintenance, bike path user speed, high risk locations and improvements, cycle etiquette, signage changes, and cycle bells.

Members asked questions in relation to the following:

- monitoring the current cycle routes;
- penalties for non-compliance;
- current reporting process;
- resourcing and road maintenance contractual requirements;
- cycle bells initiative implementation;
- cycle lane maintenance and separation;
- cycle safety education and communication.

Staff Action: *Staff undertook to provide an additional drop-in session for members to further participate in conversation on cycle safety.*

Council Report

Item 9

Committee: Council

Date: 18 August 2022

Author: Tyler Gaukrodger

Authoriser: Amy Viggers

Position: Governance Advisor

Position: Governance

Report Name: Chair's Report

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

Recommendation – *Tuutohu*

That the Council receives the report.

Attachments - *Ngaa taapirihanga*

Attachment 1 - Chair's Report



Chair's Report

It has been a busy few weeks for local government with recent events including the LGNZ Conference and Annual General Meeting where a number of member remits were passed, including those supported by this Council.

Key updates on resource management reform are being brought to us in this meeting. I note that the pace and scale of Government-proposed change has been unrelenting. This has put pressure on staff but also to elected members as we consider what this means for Hamilton.

We have known the Government's plans to repeal the Resource Management Act 1991 and replace it with three new pieces of legislation for some time now. However, another level of detail has been communicated recently, and is provided to us today. Some of the key issues I believe we must consider are:

- the ongoing role of local government – while information indicates that local government will continue to be the key institution, we are yet to understand what this practically means;
- the role and representation of Māori in the new system;
- the move to less consenting and how this will impact the level of compliance, monitoring and enforcement Council is responsible for;
- the process for developing regional scale plans and the opportunity to have a sub-regional response capable of taking into account disparate issues and opportunities across the region;
- ways in which the work Council has done through the Metro Spatial Plan and Future Proof should, and could, form as the basis for any future plans;
- the mechanisms proposed to ensure local voice, placemaking and the ongoing role for our local communities in planning; and
- practical elements including the transition, implementation, and funding for any system changes.

I would like to thank staff for their continued engagement with these reforms and identifying key information and decision points for Council. Sustaining our engagement with the Government in this process remains critical for us to continue to influence and provide key Hamilton City Council messaging on the proposals.

Chair's Recommendation

That the Council receives the report.

Paula Southgate

Mayor Hamilton City

Council Report

Item 10

Committee: Council

Date: 18 August 2022

Author: Justine Kennedy

Authoriser: Sean Hickey

Position: Project Manager

Position: General Manager Strategy and Communication

Report Name: Reform Response Programme - update

Report Status	Open
----------------------	------

Purpose - *Take*

1. To inform the Council on the status of central government reform and Hamilton City Council's Reform Response Programme.
2. To seek approval to request an extension of time or waiver on the 30 September 2022 deadline "Three Waters Reform - Better Off Funding Agreement".

Staff Recommendation - *Tuutohu-aa-kaimahi*

3. That the Council:
 - a) receives the report;
 - b) requests the Chief Executive seek an extension of time or deadline waiver from the Department of Internal Affairs to enable Council to be fully informed when considering the "Three Waters Reform - Better Off Funding Agreement"; and
 - c) notes the cost reimbursement contract "Three Waters Services Reforms - Transition Support Package (Tranche 1) Funding Agreement" will be signed under staff delegation.

Executive Summary - *Whakaraapopototanga matua*

4. The Reform Response Programme encompasses the Three Waters Reform, Future for Local Government and Resource Management Reform projects.
5. The three reforms are working to different timeframes and are of varying complexity. To enable informed decision-making, staff decided to bring them together for reporting and engagement purposes under the Reform Response Programme umbrella.
6. Staff consider the decisions in this report have low significance and that the recommendations comply with Council's legal requirements.

Three Waters Reform

7. This report provides an update of new and emerging matters since the 29 June 2022 meeting, noting Council also meet on 20 July 2022 to consider the Waters Services Entities Bill submission. This report:
 - i. approves that staff request an extension of time or deadline waiver for Council to consider the Three Waters Reform Better Off Package (Tranche 1 Funding) Agreement;

- ii. informs Council on the Three Waters Services Reforms- Transition Support Package (Tranche 1) and advise this is intended to be signed under delegation;
- iii. informs Council of the Department of Internal Affairs (DIA), National Transition Unit (NTU) workstream for People and Workforce activities.

Future for Local Government

- 8. The Panel's timeframes for their report have been extended. The Panel's draft report and recommendations are due to be released in October 2022 and will be open for submission until February 2023. The final report and recommendations are due to the Minister 19 June 2023.
- 9. Hamilton City Council, Waipā District Council, Waikato Regional Council and Co-Lab are commencing discussions on collaborating a joint response to the Panels draft report and recommendations.

Resource Management Reform

- 10. In February 2021, the Government announced it would repeal the RMA and enact new legislation based on the recommendations of the Resource Management Review Panel. The three proposed acts are:
 - i. Natural and Built Environments Act (NBA), as the main replacement for the RMA, to protect and restore the environment while better enabling development;
 - ii. Spatial Planning Act (SPA), requiring the development of long-term regional spatial strategies to help coordinate and integrate decisions made under relevant legislation; and
 - iii. Climate Adaptation Act (CAA), to address complex legal and technical issues as part of New Zealand's Response to the effects of climate change.
- 11. The Hon David Parker, Minister for the Environment, has provided additional information on the progress of the RM reform to several groups over the last quarter, including to the LGNZ Rural and Provincial Forum on 17th June 2022 and the LGNZ conference on 21st July 2022.
- 12. The Minister noted that reforming the resource management system remains a priority for the Government, and they have committed to repealing the Resource Management Act and enacting the Natural and Built Environments Act and Spatial Planning Act this parliamentary term.

Background - *Koorero whaimaarama*

- 13. Central government is undertaking a number of significant reform programmes that will have varying degrees of impact on local government. These cover three waters, resource management, local government, housing, climate change, health, and education.
- 14. Hamilton City Council has established a Reform Response Programme to ensure we take a holistic view of central government reform and coordinate our response on those matters most impacting local government.
- 15. There are three key workstreams that make up the proposed Reform Response Programme: Three Waters Reform, Future for Local Government Review; and Resource Management Reform.
- 16. The Resource Management Reform and the Future for Local Government Reform are still in much earlier stages than Three Waters. Each of the three workstreams is of differing complexity and on a different timeline:

</

	2023				2024	2025
	Q1	Q2	Q3	Q4		
				Central Govt election		
Future for Local Govt	<i>Formal consultation</i>	Apr: Review panel presents final report to the Minister and LGNZ				
Three Waters Reform	Water Services Entities (Implementation) Bill Economic Regulation (Water Services) Bill Transition				1 Jul: All water service entities operational	
Resource Management Reform	<i>Climate Change Adaptation Act introduced</i>		NBA* and SPA* expected to be passed into law			

° Strategic Planning Act

Δ Climate Change Adaptation Act

Note:

The italicised text in the table indicates that these timeframes and next steps have been assumed; staff are waiting on clarity from central government.

Discussion - *Matapaki*

Status Updates

Three Waters Reform

17. This report provides an update of new and emerging matters since the 29 June 2022, noting Council meet on 20 July 2022 to consider the Waters Services Entities Bill submission.

Water Services Entities Bill

18. Council approved its submission to oppose the Water Services Entities Bill on 20 July 2022 and staff submitted this to the Finance and Expenditure Select Committee on 21 July 2022. Council wished to speak to the select committee and approved Mayor Southgate and Chair of the Infrastructure Committee Councillor O’Leary to represent Council at the hearing. At the time of drafting this report we have no information on the select committees hearing intentions.
19. All submissions are available on the Parliamentary Website [here](#). The site shows 6,539 submissions have been received. The best way to find other submissions is to use the **keyword** filter. Council’s submission is loaded as the main submission and then each attachment is numbered and loaded separately as a Supp # (Supplementary submission).

Government Funding

20. There are three separate Government funding programmes for reform:
 - i. Better-off Funding – to enable investment into the future for local government and community wellbeing, to support the priorities of both central and local government. The total fund is \$2B.
 - ii. Transition Funding – to reimburse council for costs associated with transitioning assets, liabilities, revenues and staff. (more information see below)
 - iii. Worse-off Funding - to ensure no council is financially worse off in the short-term following the transfer of their three waters services to the new entities. The total fund is \$500M.

Better-off Funding Agreement

21. Council resolved on 29 June 2022. That it would not approve Tranche 1 Better Off Funding until after receiving and considering the public’s submissions to Council’s three waters reform consultation and there is clarity over financial issues:
 - i. Clear direction on the extent and financial impact of the No-Worse Off Funding;
 - ii. Clear understanding of all transitional costs and associated funding;
 - iii. The level of debt to be transferred to the new water entity.
22. As of the writing of this report we have received:
 - i. No new information on the No-worse Off Funding
 - ii. A clear understanding of cost reimbursement of transitional costs is announced as \$1.456M tranche 1 and \$1.39M est. tranche 2 (see below).
 - iii. Advice (27 July 2022) that *“The NTU is working through the detailed design of the three waters debt calculation...”* They will undertake a further data request in September and October, will then engage with Councils from November 2022 to March 2023, all based in year end June 2022.
23. Staff could have confirmation of the calculation methodology and any variance to Council’s waters debt anytime between November 2022 and March 2023.
24. Staff recommend that as Council’s reasonable request for essential information is unlikely to be satisfied by the 30 September 2022 that Council request an extension of time or deadline waiver. DIA FAQ’s state: *“Waivers are at the discretion of DIA and would need to be considered on a case-by-case basis. Councils should engage early if there is a risk to achieving the 30 September timeframe.”*

Costs Reimbursement - Transition Funding

25. On 19 July 2022 the Government announced a funding programme that reimburses Council's costs of transitioning.
26. Three Waters Services Reforms- Transition Support Package (Tranche 1). Council has been offered \$1.459M of tranche 1 funding (from a \$43.3M pool) and an estimated \$1.39M of tranche 2 funding (from a \$41.4M pool). The estimated amount is based on the assumption of the same allocation method.
27. This cost reimbursement is essential for staff to continue to advocate for the best interests of Hamilton. Over the next 10 months considerable staff costs are expected to:
 - i. support our staff that are affected by the reform and planning for their smooth transfer to the WSE or other change they might experience;
 - ii. influence the asset management planning and operational planning to ensure the best of what we do is absorbed into the new WSE and that our plans for investment and growth are recognised from day 1;
 - iii. ensure all stakeholders (including users of our waters services, the community and our business partners) are fully informed and have access to all they need from day one;
 - iv. unravel and transferring masses of data to the new WSE;
 - v. seek out many contracts, titles and easements that will in whole or in part need the legal profession to repack and transfer. This includes finance and DCs.
28. The following information was released by the Government.
 - i. Hamilton City Council - Three Waters Council Transition Support Package Funding Agreement (**Attachment 1**);
 - ii. Associate Minister of Local Government – Media Statement 19 July 2022 (**Attachment 2**);
 - iii. Transition Funding Support by Council (**Attachment 3**);
 - iv. Transition Funding FAQs for Councils (**Attachment 4**).
29. Key points of the funding package:
 - i. The funding is solely for reimbursement of the costs “that councils reasonably consider necessary to support transition” (source: HCC funding agreement schedule 1) or “any other purpose with DIA’s prior written approval” (source: HCC funding agreement Part 1 clause 4)
 - ii. The Funding Agreement **must be signed by 30 September 2022**.
 - iii. Tranche 1 (\$1.459M) is for up to 12 months.
 - iv. The amount allocated to HCC is based on the same methodology as the Better Off Funding.
 - v. Funding is the responsibility of DIA and will be paid quarterly in 25% increments.
 - vi. Two further funding instalments are proposed with more details to come.
 - vii. The second tranche is to support councils’ participation in Local Transition Teams (LTT) that will undertake the detailed planning required for day one of operation of the four new WSEs. It is estimated that would provide a further \$1.39M
 - viii. This cost reimbursement contract, unlike the Better-off Funding package, does not include any extraneous requirements for council to participate in reform activities or restriction on Council to comment on reform matters.

30. Staff note our uncertainty as to the allocation of tasks between NTU direct funded activities and activities undertaken by Council due to the lack of timelines and project information from the NTU. Staff intend to keep advocating for additional funding in future tranches.
31. Council has supported the need to participate and that the Government should reimburse the costs of participation in multiple resolutions.
 - i. 12 March 2022: resolutions confirm that staff will continue to participate and influence outcomes, responding to NTU data requests as resources allow and under LGMOIA.
 - ii. 30 March 2022: Council resolved in the Annual Plan Debate. *“That the Council notes the funding 3 Waters Reform transition planning to deliver the work required to ensure the smooth transition of Council’s three waters assets and operations to Entity B in years 2022-23 and 2023-24 is to remain unfunded until written confirmation from the Government that they will cover the cost in full, including the cost of borrowing to fund the work until reimbursed by Central Government.”*
 - iii. 29 June 2022: resolution requesting more information on transition costs and funding.
 - iv. 20 July 2022: the submission to the select committee made multiple requests for the need for the Government to fund its reform.
32. The “Three Waters Council Transition Support Package Funding Agreement” provides written confirmation of Tranche 1 and 2 cost reimbursement funding up to \$2.9M. Furthermore, the associate minister announced there would be a third tranche. The funding is 25% paid quarterly.
33. The contract is focussed on the reimbursement and has no extraneous requirements for Council to participate in reform activities or restriction on Council to comment on reform matters.
34. Staff have sought a legal opinion from Tomkins Wake on the funding agreement.
35. With the Council’s conditions met, staff intend to sign the contract under delegation.

NTU Workforce Activities

36. NTU People and Workforce have started recruiting for the WSE Chief Executive positions. Applications close on 12 August 2022, with appointments expected later this year.
37. Aside from CE recruitment the workstreams main focus is on establishing a workforce for the new WSE including preparing for the transfer of eligible staff and employment of staff.
38. Early this year they requested information from councils on waters job descriptions. Recently they have established a website [Te Rapunga Three Waters Staff Website](#) or Staff Room. This website is expected to go live in August after which staff will have individual logons and would be able to access personal information and receive direct communication from NTU Workforce.
39. Preparing staff for the challenges of change and the uncertainties this reform brings is a priority. Throughout this reform we have provided staff with regular updates and offered to answer any questions through a variety of mediums.

Future for Local Government

40. The Panel’s timeframes for their report have been extended. The Panel’s draft report and recommendations are due to be released in October 2022 and will be open for submission until February 2023. The final report and recommendations are due to the Minister 19 June 2023.

41. Hamilton City Council, Waipā District Council, Waikato Regional Council and Co-Lab are commencing discussions on collaborating a joint response to the Panels draft report and recommendations.

Resource Management Reform

42. The reform of the Resource Management system is based on the findings of the comprehensive review which were released in 2020.
43. The review was carried out by the independent Resource Management Review Panel led by Hon Tony Randerson, QC. It is the most significant, broad-ranging, and inclusive review of the resource management system since the Resource Management Act 1991 (RMA) was enacted.
44. In February 2021, the Government announced it would repeal the RMA and enact new legislation based on the recommendations of the Resource Management Review Panel. The three proposed acts are:
- i. **Natural and Built Environments Act (NBA)**, as the main replacement for the RMA, to protect and restore the environment while better enabling development
 - ii. **Spatial Planning Act (SPA)**, requiring the development of long-term regional spatial strategies to help coordinate and integrate decisions made under relevant legislation; and
 - iii. **Climate Adaptation Act (CAA)**, to address complex legal and technical issues as part of New Zealand's Response to the effects of climate change.
45. The Hon David Parker, Minister for the Environment, has provided additional information on the progress of the RM reform to several groups over the last quarter, including to the [LGNZ Rural and Provincial Forum](#) on 17th June 2022 and the [LGNZ conference](#) on 21st July 2022.
46. The Minister noted that reforming the resource management system remains a priority for the Government, and they have committed to repealing the Resource Management Act and enacting the Natural and Built Environments Act and Spatial Planning Act this parliamentary term.
47. They continue to follow the recommendations of the Randerson Report closely, which built on earlier work by the Productivity Commission, Local Government New Zealand, the Property Council, Infrastructure NZ, the EMA and the Environmental Defence Society.
48. The Government plan to introduce both the Natural and Built Environments Act and the Spatial Planning Act to Parliament in October following on from the Select Committee Inquiry into the Exposure Draft in 2021.
49. Council has contacted LGNZ to see whether there is the potential for a sector response to Government move this timing, as it potentially coincides with Local Government Elections, and induction of new councillors.
50. On 10 August, representatives from the Ministry for the Environment presented to elected members.

Key HCC messages to date

51. Although not in scope, this reform essentially reforms local government (especially when combined with the impacts of three waters reform).
52. Council has identified significant concerns regarding the reform, primarily related to the reduced role and function of local government in plan making.
53. Council notes that retaining local democratic input is critical.
54. There needs to be recognition of metro growth areas separate from wider regions due to our unique challenges and opportunities.

- 55. Council strongly believes that work undertaken to date needs to be incorporated in the new system – MSP/Future Proof etc.
- 56. Funding the new system, including delivering on RSS' needs to be addressed.

Updates of specifics of proposed legislation

- 57. The Spatial Planning Act (the SPA) provides for a mandatory spatial plan across all regions. Central Government has acknowledged councils that have been doing non-statutory spatial planning already – and has provided reassurance that learnings from this have informed the new legislation.
- 58. The Natural and Built Environments Act (the NBA) will be the primary piece of legislation to replace the Resource Management Act (the RMA). The NBA will be an integrated statute for land use and environmental protection. Government considered separate development and environment Acts but concluded that did not resolve the tension between the two objects. A key element of this legislation is the National Planning Framework (NPF) which will give consistent national direction.
- 59. The NPF will include an infrastructure chapter which will provide direction to regions on how to plan for and enable infrastructure in the Regional Spatial Strategies and Natural and Built Environment Act plans and resolve conflicts that arise.
- 60. The infrastructure chapter is expected to incorporate a suite of nationally consistent planning and technical standards for infrastructure that should be used in all plans and for consenting decisions.
- 61. NBA Plans will be given direction by the National Planning Framework and Regional Spatial Strategies. NBA plans will replace current RMA plans and cover both resource allocation and land use for a region.
- 62. Government is aiming to “front load” the system to reduce the need for consents. A more robust compliance monitoring and enforcement system will include new civil enforcement options used overseas.
- 63. Local government will continue to be the key institution, shaping and implementing the new system alongside a more effective role for Māori and central government in plan making processes.

Moving to a regional planning approach and a new governance model

- 64. The Randerson Panel recommended a regional approach to spatial and regulatory planning, and over 100 regional policy statements and regional and district plans will be consolidated into around 14 NBA plans.
- 65. The new legislation will establish a regional planning committee in each region who will make decisions on the RSS and NBA plan for each region and will include representatives from all local authorities in the region and representatives of Māori groups in a region.
- 66. When making decisions on Regional Spatial Strategies, the regional planning committees will have a representative from central government. The role of the central government representative will be to corral the multitude of central government agencies (eg NZTA and Kainga Ora) to engage in the process.
- 67. The committees will be established under the SPA and NBA and be autonomous in their decision-making.
- 68. The committees will govern the process of developing and deciding on strategies and plans.
- 69. There will be a host council, which we envisage will provide administrative support such as equipment, ICT and human resources support.

70. There will be a secretariat which will provide administrative and technical support, for example plan drafting, policy analysis and coordination of public engagement, sought by committees.

Local Government – role and functions

71. Central Government has signalled that local councils are the key institutions in the new system, and will continue to have critical roles.
72. Local government will contribute to RSS and NBA plan development and will continue to have significant responsibilities in helping draft the plans, working with the secretariat.
73. Local place-making will be part of the plan-development process. This could be through local plans, such as those developed under the Local Government Act 2002 including town centre plans, local community plans and structure plans.
74. As a result of recommendations from the Local Government Steering Group, central government has agreed, that two bottom-up mechanisms be added in the new system.
- Firstly, Statements of Community Outcomes setting out a district or city's vision and aspirations and secondly, Statements of Regional Environmental Outcomes. They are intended to be short documents that will be given to regional planning committees covering significant issues that face a region, district, or local community.
75. Local authorities will also be responsible for reviewing and providing feedback on draft strategies and plans.
76. Local authorities will remain responsible for implementing and administering them. Consenting and compliance monitoring and enforcement will stay with councils.
77. Central Government have also adopted the recommendation of the Randerson Panel to establish a new National Māori Entity, which will be an Independent Statutory Authority.
78. It will have input into the National Planning Framework and have the ability to provide advice to anyone working in the system. It will monitor Te Tiriti performance in the system to assess whether the new system are giving effect to the principles of Te Tiriti.

Role of central government in the new system

79. Central government will provide oversight of the future system, be responsible for the National Planning Framework, and will play an active role in the development of Regional Spatial Strategies.
80. The role of the central government representative on the committee making decisions on RSS will be to align central government agencies to engage with the SPA process and be the "voice" of central government.
81. Central government will have an oversight and stewardship role, alongside independent bodies such as the Parliamentary Commissioner for the Environment and the proposed national Māori entity.

Transition

82. To support implementation, Central Government are seeking to work closely with three regions to establish regional planning committees and develop a model Regional Spatial Strategy and NBA plan.
83. The goal of the model project is to provide practical templates and lessons for other regions across the country to follow.
84. The May Budget provides \$179 million over four years for implementation of resource management reform. This funding ensures completion of the National Planning Framework, the first Regional Spatial Strategies and NBA plans, and funds the National Māori entity.

Next Steps for Council**Three Waters Reform**

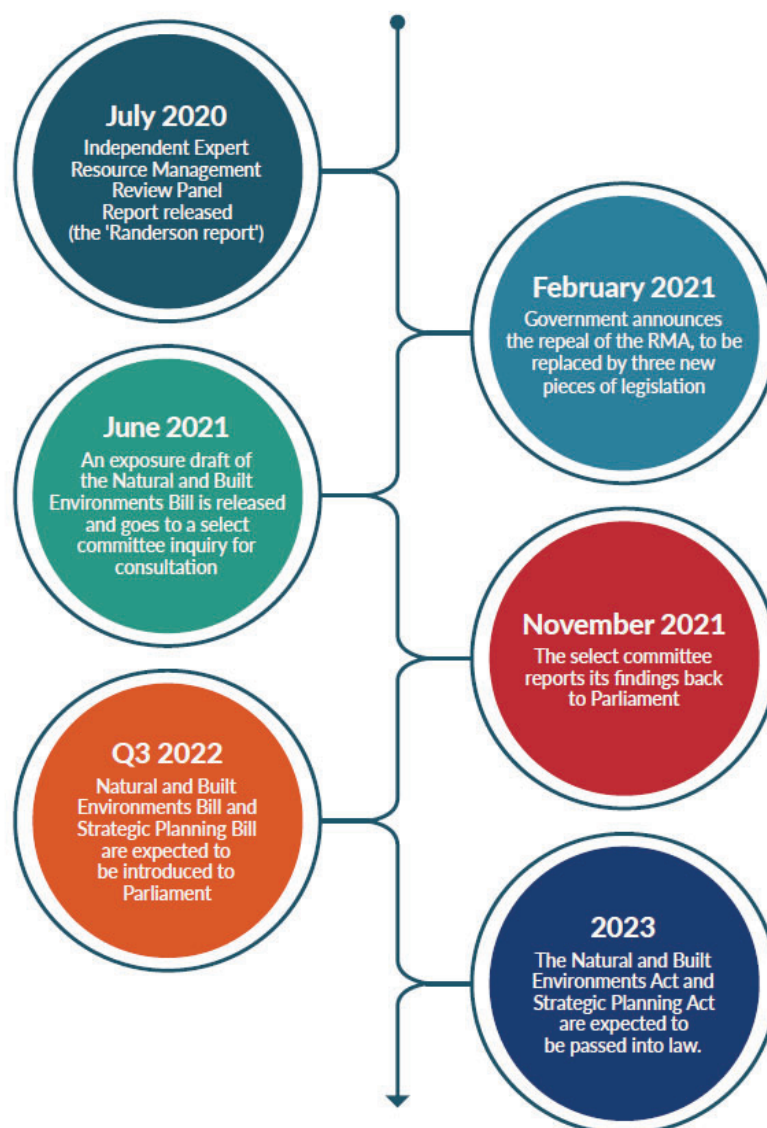
85. Staff await advice from the Finance and Expenditure Select Committee on hearings and anticipate transition activities of NTU to increase.

Future for Local Government

86. The Panel will provide their draft findings and recommendations to the Minister for Local Government in September 2022. The final stage of the review is the formal consultation where the Panel will undertake formal consultation on their draft report prior to providing the final report to the Minister for Local Government In April 2023.
87. Staff will review the Panel's draft report and prepare a response for Council to consider.

Resource Management Reform

88. The next steps in respect of Resource management Reform are:
- i. Continue staff engagement with MfE on the development of the Strategic Planning Act as legislation is drafted.
 - ii. Identify and confirm key HCC messaging on RM reform, building on our stated position in recent submissions.
 - iii. Work with our key partners for collaboration.
 - iv. Note that the Natural and Built Environments Bill and the Strategic Planning Bill will be formally introduced in October 2022.
 - v. A standard legislative and select committee process will follow with the aim of the NBA and SPA being passed into law in this parliamentary term.



Financial Considerations - *Whaiwhakaaro Puutea*

89. There are no financial implications in relation to the Reform Response Programme.

Waters Reform

90. The cost of participation and transition in the Government's Three Waters Reform from 1 July 2022 up to the value of \$1.459M is funded on the signing of the funding agreement.

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

91. Staff have considered the key considerations under the Climate Change Policy and have determined that an adaptation assessment and emissions assessment is not required for the matter(s) in this report.

Wellbeing Considerations - *Whaiwhakaaro-aa-oranga tonutanga*

92. 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').

93. 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.
94. The recommendations set out in this report are consistent with that purpose.

Risks - *Tuuraru*

95. Risks relating to specific options in this report are outlined in the relevant sections of the report.

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

Significance

96. 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

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

Attachments - *Ngaa taapirihanga*

Attachment 1 - Hamilton City Council - Three Waters Reform Transition Support Package Funding Agreement

Attachment 2 - Associate Minister of Local Government - Media Statement 19 July 2022

Attachment 3 - Transition Funding Support by Council

Attachment 4 - Transition Funding FAQs fo Councils



FUNDING AGREEMENT

BETWEEN

DEPARTMENT OF INTERNAL AFFAIRS

AND

HAMILTON CITY COUNCIL

FOR

**THREE WATERS SERVICES REFORMS –
TRANSITION SUPPORT PACKAGE (TRANCHE 1)**

Item 10

Attachment 1

AGREEMENT

The parties (identified below in Part 1) agree to be bound by the terms and conditions of this Agreement, as set out below in Part 1 (Key Details), Part 2 (General Terms), Part 3 (Definitions and Construction) and Schedule 1 (Permitted Funding Activities).

PART 1: KEY DETAILS

- | | | |
|---|-------------------|---|
| 1 | Parties | <p>The Sovereign in right of New Zealand, acting by and through the Deputy Chief Executive of the Department of Internal Affairs (DIA)</p> <p>Hamilton City Council (Recipient)</p> |
| 2 | Background | <p>The New Zealand Government is undertaking a reform programme for “Three Waters” (drinking water, wastewater and stormwater) service delivery for communities (Three Waters Reform Programme).</p> <p>The Crown entered into a Heads of Agreement with New Zealand Local Government Association Incorporated Te Kahui Kaunihera o Aotearoa (LGNZ) under which, amongst other things, the Crown and LGNZ proposed that a Three Waters Reform financial support package be provided to local authorities, comprising:</p> <ol style="list-style-type: none"> 1. a “no worse off” package which will seek to ensure that financially, no local authority is in a materially worse off position to provide services to its community directly because of the Three Waters Reform Programme and associated transfer of responsibility for the provision of water services (including the transfer of assets and liabilities) to the Water Services Entities; and 2. a “better off” package of \$2 billion which supports the goals of the Three Waters Reform Programme by supporting local government to invest in the wellbeing of their communities in a manner that meets the priorities of both the central and local government, and is consistent with the agreed criteria for such investment set out in the Heads of Agreement. <p>Under the Heads of Agreement, the Crown and LGNZ acknowledged that there are a range of other impacts for local authorities that may represent an adverse financial impact, which the support package outlined above does not take account of and are intended to be addressed (through a process to be agreed between the Crown (through DIA) and LGNZ) by alternative mechanisms. One such impact is the need for local authorities to incur or suffer additional costs (including the need to re-deploy personnel and seek to back fill roles) associated with facilitating the identification and transfer of assets, liabilities and revenue, including staff involvement in working with the establishment entities and transition unit, and legal, accounting, audit and specialist consultant costs.</p> <p>One of the objectives of the Transition Support Package is to ensure that affected local authorities are able to participate in the reform programme without putting at risk their delivery of water services during the transition and establishment period.</p> <p>The Crown (through DIA) has agreed to contribute to local authorities’ Eligible Costs, through the Transition Support Package. This package comprises:</p> <ol style="list-style-type: none"> 1. \$43.298m (in aggregate) available to councils to contribute towards direct Eligible Costs that councils will bear resulting from establishment and transition activities up to 30 June 2023, including funding councils’ information gathering and reporting requirements relating to the transfer of assets, liabilities, workforce and contracts to Water Service Entities and complying with any additional requirements or processes mandated by the Water Services Entities Bill (once enacted) and |

	<p>supplementary legislation (Tranche 1); and</p> <p>2. up to \$41.416m (in aggregate) available to councils to enable councils to contribute towards councils' participation in local establishment and transition teams, including covering the costs of seconded council staff and/or providing for staff backfill (Tranche 2).</p> <p>This Agreement relates to the provision of Funding to the Recipient from Tranche 1. Tranche 2 funding will either be made available as a mutually agreed supplement to this Agreement or via a separate funding agreement.</p> <p>The Recipient is a territorial authority with statutory responsibility for delivering Three Waters services within its own district or city.</p> <p>DIA has agreed to contribute funding to the Recipient on the terms and conditions of this Agreement (Agreement). This funding is being provided to enable the Recipient to undertake the Permitted Funding Activities.</p> <p>Key details of this Agreement are set out in this Part 1. The full terms and conditions are set out in Part 2. Defined terms and rules of interpretation are set out in Part 3.</p>
3 Condition Precedent	No Funding is payable under this Agreement until DIA has received this Agreement, duly executed by the Recipient, which must occur by 30 September 2022 (or such later date as DIA may agree).
4 Permitted Funding Activities	<p>The Recipient may only use the Funding:</p> <ol style="list-style-type: none"> for the purposes set out in Schedule 1; and for any other purpose with DIA's prior written approval, <p>(each a Permitted Funding Activity).</p> <p>The Recipient may at any time request DIA to approve other purposes or activities that relate to giving effect to the intent behind this Agreement (as expressed in Item 2 above) and DIA will act promptly and reasonably in considering such requests.</p>
5 End Date	The End Date is 30 June 2024, or such later date determined by DIA in its discretion.
6 Funding	<p>The total Funding available under this Agreement is up to NZ\$1,459,000 plus GST (if any). This is the Total Maximum Amount Payable.</p> <p>The first instalment of Funding under this Agreement is NZ\$364,750 plus GST (if any) subject to receipt of a duly completed Payment Request in accordance with clause 1 of Part 2.</p> <p>Subsequent instalments will be paid quarterly in three equal instalments, subject to:</p> <ol style="list-style-type: none"> Receipt of a duly completed Payment Request in accordance with clause 1 of Part 2. DIA receiving and being satisfied with the quarterly reports specified in the Key Details, together with the other information required in this Agreement. No Termination Event, or event entitling DIA to suspend Funding under this Agreement, subsisting. <p>Payment Requests</p> <p>The first Payment Request may be submitted upon the Commencement Date occurring. Each subsequent Payment Request may only be submitted at the same time as submission of a quarterly report in accordance with Item 7 (Reporting) of the Key Details, and no more than one such Payment Request</p>

Commented [A1]: [Mention was removed] Does this mean the funding is limited to 25% per quarter. That is if you understand you miss out?

	may be submitted in any Quarter, except to the extent agreed by DIA in its sole discretion.	
7 Reporting	<p>The Recipient will provide DIA via the DIA's Grant Management System portal with quarterly reports by the 15th Business Day following the end of Quarter, with effect from the Commencement Date, up to and including the Quarter ending on the End Date. Each quarterly report must include the information set out below, in the standard reporting form specified by DIA.</p> <p>Each report is to be in form and substance reasonably satisfactory to DIA.</p> <p>Each quarterly report must include the following information:</p> <ul style="list-style-type: none"> (a) a high level description of Permitted Funding Activities undertaken during the relevant Quarter and the associated Eligible Costs; (b) a summary of the amount actually expended (or committed) on account of Eligible Costs during the relevant Quarter; and (c) any other information relevant to this Agreement and/or DIA's involvement in connection with the Permitted Funding Activities that is notified by DIA in writing to the Recipient. 	
8 Representative	<p>DIA's Representative:</p> <p>Name: Heather Shotter</p> <p>Email: threewaters@dia.govt.nz</p>	<p>Recipient's Representative:</p> <p>Name: [name]</p> <p>Email: [email]</p>
9 Address for Notices	<p>To DIA:</p> <p>Three Waters Reform Level 7, 45 Pipitea Street Wellington 6011</p> <p>Attention: Heather Shotter</p> <p>Email: threewaters@dia.govt.nz, with a copy to legalnotices@dia.govt.nz</p>	<p>To the Recipient:</p> <p>[address]</p> <p>Attention: [name]</p> <p>Email: [email]</p>
SIGNATURES	<p>SIGNED by the SOVEREIGN IN RIGHT OF NEW ZEALAND acting by and through the Chief Executive of the Department of Internal Affairs or his or her authorised delegate:</p> <p>_____</p> <p>Name: Heather Shotter</p> <p>Position: Executive Director, Three Waters National Transition Unit</p> <p>Date:</p>	<p>SIGNED for and on behalf of HAMILTON CITY COUNCIL by the person(s) named below, being a person(s) duly authorised to enter into obligations on behalf of the Recipient:</p> <p>_____</p> <p>Name:</p> <p>Position:</p> <p>Date:</p>

END OF PART 1

PART 2: GENERAL TERMS**1 FUNDING**

- 1.1 DIA must pay the Funding to the Recipient, subject to the terms of this Agreement. The Recipient must use the Funding solely on Eligible Costs. The Funding may be paid in advance of the Recipient actually incurring (or suffering) costs or expenses that comprise Eligible Costs and the Recipient shall be entitled to reimburse itself for any such costs that it has paid for out of its own funds. DIA may request the Recipient to provide it with reasonable details (e.g. invoices or other cost details) in support of costs that the Recipient has treated as Eligible Costs for the purposes of this Agreement provided that DIA only expects to make such requests if it has reason to believe that the Recipient may not be applying sufficient rigour or discipline to the classification or quantum of costs it is treating as Eligible Costs. Before making such a request, DIA must first raise any concerns it has with the Recipient and provide the Recipient a reasonable opportunity to provide details or an explanation before DIA requests a fuller accounting for how Funding has been applied.
- 1.2 The Recipient must submit for DIA's approval a Payment Request via the DIA's Grant Management System portal at the time specified in, and otherwise in accordance with, Item 6 in the Key Details.
- 1.3 Each Payment Request must specify the amount of Funding requested (in the case of Tranche 1 Funding, each Payment Request shall be for 25% of its full Tranche 1 Funding entitlement), be authorised by the Chief Executive or an authorised representative of the Recipient, be in the form of a valid GST invoice complying with the Goods and Services Tax Act 1985, and (other than for the first instalment) be accompanied by the report for the preceding Quarter
- 1.4 DIA is not required to pay any Funding in respect of a Payment Request:
 - (a) if the Recipient has failed to respond (or respond adequately) to any information requests made by DIA under and in accordance with this Agreement (including under clause 1.1);
 - (b) if the conditions specified in Item 6 of the Key Details relating to that instalment have not been satisfied;
 - (c) if payment will result in the Funding exceeding the "Total Maximum Amount Payable" specified in the Key Details;
 - (d) if this Agreement has expired or been terminated; and/or
 - (e) while the Recipient is in material breach of this Agreement.

For the avoidance of doubt, DIA's obligation to make Funding available under this Agreement is strictly subject to clause 5.2.
- 1.5 Subject to the terms of this Agreement, DIA must pay each valid Payment Request by the 20th day of the month after the month the relevant Payment Request is approved by the DIA, and if such day is not a Business Day, on the next Business Day. DIA will pay the Funding to the Recipient's nominated Bank Account.
- 1.6 The Funding made available under this Agreement comprises grant funding and is not a loan. It is only repayable in the specific circumstances set out in this Agreement.

2 RECIPIENT'S RESPONSIBILITIES

Standards and compliance with laws

- 2.1 The Recipient must comply with all applicable laws, regulations, rules and professional codes of conduct or practice when engaging in activities that give rise to Eligible Costs that will be paid for by Funding made available under this Agreement.

Permitted Funding Activities

- 2.2 The Recipient must ensure that the Permitted Funding Activities are carried out:
- (a) with reasonable diligence, care and skill; and
 - (b) consistent with any plan or parameters agreed to between the Recipient and DIA.
- 2.3 The Recipient must use reasonable endeavours to ensure that the Permitted Funding Activities are completed by the End Date. DIA acknowledges that the cost of back-fill staff will continue to the end of any applicable fixed term or contract period and it may not be practicable for the Recipient to align such periods with the End Date.
- 2.4 The Recipient is solely responsible for the activities and matters carried out as Permitted Funding Activities, including being solely responsible for the acts and omissions of any contractors and subcontractors in connection with the same.
- 2.5 The Recipient must ensure that all agreements it enters into with any contractors or any other party in connection with the Permitted Funding Activities are on an "arm's length" basis, provide value-for-money and do not give rise to any Conflict of Interest that has not been appropriately managed. The Recipient must provide DIA with reasonable evidence of compliance with this clause 2.5 in response to any request by DIA from time to time provided that DIA only expects to make such a request if it has reason to believe that the Recipient is not complying with the standards referred to above.

Information Undertakings

- 2.6 The Recipient must provide DIA with the reports specified in the Key Details, in accordance with the timeframes and reporting requirements set out in the Key Details.
- 2.7 The Recipient must provide DIA with any other information about the Permitted Funding Activities requested by DIA within the timeframe set out in the request provided that, before making such a request, DIA must have due regard to (on the one hand) the nature of the activity and the likely quantum of the cost involved and (on the other hand) the administrative burden for the Recipient in responding to the request such that the former justifies the latter.
- 2.8 The Recipient must promptly notify DIA if:
- (a) the Recipient (or any of its personnel or contractors) becomes aware of, or subject to, a Conflict of Interest that is not subject to appropriate management; or
 - (b) the Recipient becomes aware of any matter that could reasonably be expected to result in a Termination Event or a breach of any term of this Agreement by the

Recipient, and if requested by DIA must promptly provide DIA with its plan to mitigate and manage such matter.

Funding, records and auditors

- 2.9 The Recipient must receive and manage all Funding in accordance with good financial management and accounting practices and to a high standard that demonstrates appropriate use of public funds.
- 2.10 The Recipient must keep full and accurate records (including accounting records) of the Eligible Costs and retain them for at least 7 years after the last payment of Funding under this Agreement. The Recipient must permit DIA (or any auditor nominated by DIA) to inspect all records relating to the Eligible Costs and must allow DIA and/or the auditor access to the Recipient's premises, systems, information and personnel for the purposes of this inspection. DIA shall bear any third party costs arising from such inspection, unless the inspection reveals a breach of this Agreement, in which case the Recipient shall bear such costs.

3 TERM AND TERMINATION

- 3.1 This Agreement will be effective on and from the Commencement Date, which will be the date this Agreement has been signed by both parties.
- 3.2 This Agreement will remain in force until the End Date, unless terminated in accordance with this Agreement. If an Eligible Cost relates to a period after the End Date then this Agreement (including the Recipient's reporting obligations under Item 7 (Reporting) of the Key Details) shall continue until such time as the Permitted Funding Activity or associated arrangement giving rise to that Eligible Cost has been completed.
- 3.3 DIA can terminate this Agreement with immediate effect, by giving notice to the Recipient, at any time:
 - (a) while DIA reasonably considers that the Recipient has become or is likely to become insolvent;
 - (b) while the Recipient is subject to the appointment of a liquidator, receiver, manager or similar person in respect of any of its assets or a Crown Manager or Commission is appointed in respect of the Recipient under Part 10 of the Local Government Act 2002; or
 - (c) subject to clause 3.4, while any one or more of the following events or circumstances remains unremedied:
 - (i) the Recipient is materially in breach of any obligation, or a condition or warranty, under this Agreement;
 - (ii) the Recipient has provided DIA with information in connection with or under this Agreement that (whether intentionally or not) is materially incorrect or misleading, and/or omits material information;
 - (iii) DIA reasonably considers that this Agreement or a Permitted Funding Activity has caused, or may cause, DIA and/or the New Zealand Government to breach any legal obligations (including its international trade obligations);

- (iv) the Recipient is involved in any intentional or reckless conduct which, in the opinion of DIA, has damaged or could damage the reputation, good standing or goodwill of DIA or the New Zealand Government, or is involved in any material misrepresentation or any fraud;
 - (v) the Recipient (or any of its personnel or contractors) is subject to a Conflict of Interest which cannot be managed to DIA's reasonable satisfaction; or
 - (vi) any change in law, regulations or other circumstances materially affects DIA's ability to perform its obligations under this Agreement.
- 3.4 However, where DIA considers that a Termination Event set out in clause 3.3(c) can be remedied, DIA must give notice to the Recipient requesting a remedy, and must not exercise its right of termination unless the relevant event remains unremedied for at least 14 days (or any longer period agreed with the Recipient) after that notice has been provided by DIA.
- 3.5 On expiry or termination of this Agreement, where the total Funding paid under this Agreement exceeds the aggregate amount incurred (or committed to) by the Recipient on account of Eligible Costs, the Recipient must upon request refund to DIA the excess amount.
- 3.6 At any time DIA may recover the amount of any Funding that has been spent or used other than to pay (including by reimbursement) Eligible Costs, together with interest on all such amounts calculated at 10% per annum from the date of the mispending to the date the money is repaid.
- 3.7 Clauses 1.2, 1.4, 1.5, 2.1, 2.6, 2.9, 2.10, , 3, 4, 5, 6, 7, 8, 9 and 10 survive expiry or termination of this Agreement, along with any other parts of this Agreement necessary to give effect to those provisions. Expiry or termination of this Agreement does not affect any accrued rights, including any rights in respect of a breach of this Agreement or Termination Event that occurred before expiry or termination.

4 WARRANTIES AND UNDERTAKINGS

- 4.1 The Recipient warrants that, as at the date of this Agreement:
 - (a) It has full power and authority to enter into and perform its obligations under this Agreement which, when executed, will constitute binding obligations on it in accordance with this Agreement's terms, and it has complied with the Local Government Act 2002 in entering into this Agreement;
 - (b) the Recipient is solvent and is not subject to the appointment of a liquidator, receiver, manager or similar person in respect of any of its assets or to the appointment of a Crown Manager or Commission under Part 10 of the Local Government Act 2002;
 - (c) all information and representations disclosed or made to DIA by the Recipient in connection with this Agreement are true and correct, do not omit any material matter, and are not likely to mislead or deceive DIA as to any material matter;
 - (d) it has disclosed to DIA all matters known to the Recipient (relating to the Permitted Funding Activities, the Recipient or its personnel) that could reasonably be expected to have an adverse effect on the reputation, good standing or goodwill of DIA or the New Zealand Government; and

- (e) it is not aware of any material information that has not been disclosed to DIA which would, if disclosed, be likely to materially adversely affect the decision of DIA whether to provide the Funding.
- 4.2 The Recipient warrants that the Funding has been or will be applied solely to Eligible Costs and such warranty will be deemed to be repeated continuously so long as this Agreement remains in effect by reference to the facts and circumstances then existing.
- 4.3 DIA warrants that, as at the date of this Agreement, it has full power and authority to enter into and perform its obligations under this Agreement which, when executed, will constitute binding obligations on it in accordance with this Agreement's terms.
- 4.4 The Recipient acknowledges that DIA has entered into this Agreement in reliance on these warranties and undertakings.
- 4.5 The Recipient acknowledges and agrees that DIA has made no warranty or representation that any funding or financial support is or will be available to the Recipient in respect of the Permitted Funding Activities, other than the Funding.
- 5 **LIABILITY**
- 5.1 The maximum liability of DIA under or in connection with this Agreement, whether arising in contract, tort (including negligence) or otherwise, is limited to the total amount of Funding paid or payable under this Agreement.
- 5.2 The Recipient shall remain responsible for meeting the cost of any Permitted Funding Activities the total cost of which exceeds the Funding contribution made available under this Agreement, and DIA and the New Zealand Government have no obligations or responsibility whatsoever in respect of such costs and accept no financial risk on account of the Permitted Funding Activities provided that this shall in no way reduce or limit the Recipient's entitlement to funding to be made available under the "no worse off" package referred to in Item 2 of the Key Details.
- 5.3 DIA is not liable for any claim under or in connection with this Agreement or the Permitted Funding Activities, whether arising in contract, tort (including negligence) or otherwise, where such claim is or relates to any loss of profit, loss of revenue, loss of use, loss of reputation, loss of goodwill, loss of opportunity (in each case whether direct, indirect or consequential) or any other indirect, consequential or incidental loss or damages of any kind whatsoever.
- 6 **CONFIDENTIALITY**
- 6.1 Subject to clause 6.2 and 6.3, each party must keep the other party's Confidential Information in confidence, and must use or disclose that Confidential Information only to the extent necessary to perform its obligations, and/or take the intended benefit of its rights, under this Agreement. However, this will not prohibit:
 - (a) either party from using or disclosing any information with the written prior consent of the other party;
 - (b) use or disclosure of information that has become generally known to the public other than through a breach of this Agreement;
 - (c) either party from disclosing information to its personnel, contractors or advisors with a need to know, so long as the relevant personnel, contractors and advisors

use the information solely to enable that party to perform its obligations and/or take the intended benefit of its rights under this Agreement, and so long as they are informed of the confidential nature of the information and, in the case of the Recipient, the Recipient receives an acknowledgement from its personnel, contractors or advisors that they acknowledge, and must comply with, the confidentiality obligations in this Agreement as if they were party to it;

- (d) disclosure required by any law, or any compulsory order or requirement issued pursuant to any law; or
- (e) DIA from using or disclosing to any party any documents, reports or information received in relation to this Agreement, provided that prior to any such disclosure DIA removes all information that is commercially sensitive to the Recipient from the relevant work.

6.2 The Recipient acknowledges and agrees that nothing in this Agreement restricts DIA's ability to:

- (a) discuss, and provide all information in respect of, any matters concerning the Recipient, the Permitted Funding Activities or this Agreement with any Minister of the Crown, any other government agency or any of their respective advisors;
- (b) meet its obligations under any constitutional or parliamentary convention (or other obligation at law) of or in relation to the New Zealand Parliament, the New Zealand House of Representatives or any of its Committees, any Minister of the Crown, or the New Zealand Auditor-General, including any obligations under the Cabinet Manual including the "no surprises" principle; and
- (c) publicise and report on the awarding of the Funding, including the Recipient's name, the amount and duration of the Funding and a brief description of the Permitted Funding Activities, on websites; in media releases; general announcements and annual reports.

6.3 The Recipient acknowledges that:

- (a) the contents of this Agreement; and
- (b) information provided to DIA (including the reports specified in the Key Details),

may be official information in terms of the Official Information Act 1982 and, in line with the purpose and principles of the Official Information Act 1982, this Agreement and such information may be released to the public unless there is good reason under the Official Information Act 1982 to withhold it.

6.4 DIA acknowledges that the Recipient is subject to the Local Government Official Information and Meetings Act 1987 and that its confidentiality obligations under this clause 6 are subject to its compliance with that Act.

7 MEDIA AND COMMUNICATIONS

7.1 The Recipient will keep DIA informed on a "no surprises" basis in relation to any media statements or press releases (including social media posts) to be made by the Recipient regarding this Agreement and/or DIA's involvement in connection with the Permitted Funding Activities.

- 7.2 The Recipient will refer any enquiries from the media or any other person about the terms or performance of this Agreement to DIA's Representative.
- 7.3 The Recipient will acknowledge the New Zealand Government as a source of funding that contributes towards the Recipient meeting the cost of the Permitted Funding Activities.
- 7.4 The Recipient does not have the right to enter into any commitment, contract or agreement on behalf of DIA or any associated body, or to make any public statement or comment on behalf of DIA or the New Zealand Government.
- 7.5 All correspondence with DIA under this clause 7 must be directed to DIA's Representative and copied to threewaters@dia.govt.nz.

8 DISPUTES

- 8.1 In the event of any dispute, controversy or claim arising out of or in connection with this Agreement, or in relation to any question regarding its existence, breach, termination or invalidity (in each case, a **Dispute**), either party may give written notice to the other party specifying the nature of the Dispute and requesting discussions under this clause 8 (**Dispute Notice**). As soon as reasonably practicable following receipt of a Dispute Notice, the parties must meet (in person, or by audio or video conference) and endeavour to resolve the Dispute by discussion, negotiation and agreement.
- 8.2 If the matter cannot be amicably settled within 20 Business Days after the date of the Dispute Notice then, at the request in writing of either party, the matter in respect of which the Dispute has arisen must be submitted, together with a report describing the nature of such matter, to the Representatives (or, if no such Representatives have been appointed, the respective Chief Executives of the parties) (together the **Dispute Representatives**).
- 8.3 Within 20 Business Days after the receipt of a request under clause 8.2, one individual (who does not act in his or her professional capacity as legal counsel for either party) selected by each of the Dispute Representatives, must make a presentation of no longer than 30 minutes to each of the Dispute Representatives (which may be by telephone or remotely), who will then attempt in good faith to reach a common decision within a half-day. The decision of the Dispute Representatives is binding on the parties.
- 8.4 In the case of a Dispute, if the Dispute Representatives have not met within 20 Business Days of receiving a request in accordance with clause 8.2, or if they fail to reach a common decision within the stated time period, either party may by notice in writing to the other party refer the Dispute to be referred to mediation before a single mediator appointed by the parties. Each party will bear its own costs of mediation and the costs of the mediator will be divided evenly between the parties.
- 8.5 If the parties are unable to agree on the appointment of a mediator within 5 Business Days of the notice requiring the Dispute to be referred to mediation, a mediator may be appointed at the request of any party by the Arbitrators' and Mediators' Institute of New Zealand Inc.
- 8.6 If the Dispute is not resolved within 20 Business Days of referral to mediation, the parties may commence court proceedings without further participation in any mediation.
- 8.7 Nothing in this clause 8 will prevent either party from seeking urgent interim relief from a court (or other tribunal) of competent jurisdiction.

9 **REPRESENTATIVES**

- 9.1 All matters or enquiries regarding this Agreement must be directed to each party's Representative (set out in the Key Details).
- 9.2 Each party may from time to time change the person designated as its Representative on 10 Business Days' written notice to the other parties.

10 **GENERAL**

- 10.1 Each notice or other communication given under this Agreement (each a **notice**) must be in writing and delivered personally or sent by post or email to the address of the relevant party set out in the Key Details or to any other address from time to time designated for that purpose by at least 10 Business Days' prior written notice to the other party. A notice under this Agreement is deemed to be received if:

- (a) **Delivery:** delivered personally, when delivered;
- (b) **Post:** posted, 5 Business Days after posting or, in the case of international post, 7 Business Days after posting; and
- (c) **Email:** sent by email:
 - (i) If sent between the hours of 9am and 5pm (local time) on a Business Day, at the time of transmission; or
 - (ii) If subclause (i) does not apply, at 9am (local time) on the Business Day most immediately after the time of sending,

provided that an email is not deemed received unless (if receipt is disputed) the party giving notice produces a printed copy of the email which evidences that the email was sent to the email address of the party given notice.

- 10.2 The Recipient agrees to execute and deliver any documents and to do all things as may be required by DIA to obtain the full benefit of this Agreement according to its true intent.
- 10.3 No legal partnership, employer-employee, principal-agent or joint venture relationship is created or evidenced by this Agreement.
- 10.4 This Agreement constitutes the sole and entire understanding with respect to the subject matter hereof and supersedes all prior discussions, representations and understandings, written or oral.
- 10.5 No amendment to this Agreement will be effective unless agreed in writing by both parties.
- 10.6 The Recipient may not assign or transfer any of its contractual rights or obligations under this Agreement, except with DIA's prior written approval.
- 10.7 DIA may assign or transfer any of its contractual rights or obligations under this Agreement without the Recipient's prior approval. DIA may at any time disclose to a proposed assignee or transferee any information which relates to, or was provided in connection with, the Recipient, the Permitted Funding Activities or this Agreement.
- 10.8 No failure, delay or indulgence by any party in exercising any power or right conferred on that party by this Agreement shall operate as a waiver. A single exercise of any of those

powers or rights does not preclude further exercises of those powers or rights or the exercise of any other powers or rights.

- 10.9 The exercise by a party of any express right set out in this Agreement is without prejudice to any other rights, powers or remedies available to a party in contract, at law or in equity, including any rights, powers or remedies which would be available if the express rights were not set out in this Agreement.
- 10.10 This Agreement is not intended to confer any benefit on or create any obligation enforceable at the suit of any person not a party to this Agreement.
- 10.11 Any provision of this Agreement that is invalid or unenforceable will be deemed deleted, and will not affect the other provisions of this Agreement, all of which remain in force to the extent permitted by law, subject to any modifications made necessary by the deletion of the invalid or unenforceable provision.
- 10.12 This Agreement is to be governed by the laws of New Zealand, and the parties submit to the non-exclusive jurisdiction of the courts of New Zealand.
- 10.13 This Agreement may be executed in any number of counterparts (including duly electronically signed, scanned and emailed copies). So long as each party has received a counterpart signed by each of the other parties, the counterparts together shall constitute a binding and enforceable agreement. This Agreement is intended to constitute a binding and enforceable agreement in accordance with its terms.

END OF PART 2

PART 3: DEFINITIONS AND CONSTRUCTION**Defined terms**

In this Agreement, unless the context requires otherwise, terms defined in the Agreement have the meaning set out therein and:

Business Day means any day other than a Saturday, Sunday or public holiday within the meaning of section 44 of the Holidays Act 2003.

Commencement Date has the meaning given in clause 3.1 of Part 2.

Confidential Information of a party (Owner), means any information in the possession or control of another party (Holder) that:

- (a) was originally acquired by the Holder in connection with this Agreement through disclosures made by or at the request of the Owner; and/or
- (b) was originally acquired by the Holder in connection with this Agreement through any access to, or viewing, inspection or evaluation of, the premises, facilities, documents, systems or other assets owned or controlled by the Owner; and/or
- (c) is derived from information of a kind described in paragraph (a) or (b) above;

but excludes any information which the Holder can show:

- (d) was lawfully acquired by the Holder, entirely independently of its activities in connection with this Agreement, and is free of any other obligation of confidence owed to the Owner; and/or
- (e) has been independently developed by the Holder without reference to the Owner's Confidential Information, and without breaching any other obligation of confidence owed to the Owner.

Notwithstanding the foregoing, the terms of this Agreement are not Confidential Information.

Conflict of Interest means any matter, circumstance, interest or activity of the Recipient, its personnel or contractors, or any other person with whom the Recipient has a relationship that:

- (a) conflicts with:
 - (i) the obligations of the Recipient (or its personnel or contractors) to DIA under this Agreement; or
 - (ii) the interests of the Recipient in relation to this Agreement and/or the undertaking of the Permitted Funding Activities; or
- (b) otherwise impairs or might appear to impair the ability of the Recipient (or any of its personnel or contractors) to carry out the Permitted Funding Activities.

Eligible Costs means the actual costs that have been (including before the Commencement Date) or will be reasonably incurred by the Recipient to undertake a Permitted Funding Activity in accordance with this Agreement, including overhead and management time that is directly attributable to undertaking a Permitted Funding Activity.

Funding means the funding or any part of the funding (as the context requires) payable by DIA to the Recipient in accordance with the terms of this Agreement, as described in the Key Details.

Key Details means Part 1 of this Agreement.

Payment Request means a request submitted to DIA by the Recipient seeking payment of Funding.

Quarter means a financial quarter, being a three monthly period ending on 30 June, 30 September, 31 December or 31 March.

Termination Event means any one or more of the events or circumstances set out in clause 3.3.

Water Services Entity means:

- (a) the new water services entities to be established by legislation giving effect to the Three Waters Reform Programme; and
- (b) the local establishment entities to be established by legislation in advance of the establishment of the new water services entities.

Construction

In the construction of this Agreement, unless the context requires otherwise:

Currency: a reference to any monetary amount is to New Zealand currency.

Defined Terms: words or phrases appearing in this Agreement with capitalised initial letters are defined terms and have the meanings given to them in this Agreement.

Documents: a reference to any document, including this Agreement, includes a reference to that document as amended or replaced from time to time.

Inclusions: a reference to “includes” is a reference to “includes without limitation”, and “include”, “included” and “including” have corresponding meanings.

Joint and Several Liability: any provision of this Agreement to be performed or observed

by two or more persons binds those persons jointly and severally.

Parties: a reference to a party to this Agreement or any other document includes that party’s personal representatives/successors and permitted assigns.

Person: a reference to a person includes a corporation sole and also a body of persons, whether corporate or unincorporate.

Precedence: if there is any conflict between the different parts of this Agreement, then unless specifically stated otherwise, the Key Details will prevail over Part 2.

Related Terms: where a word or expression is defined in this Agreement, other parts of speech and grammatical forms of that word or expression have corresponding meanings.

Statutes and Regulations: a reference to an enactment or any regulations is a reference to that enactment or those regulations as amended, or to any enactment or regulations substituted for that enactment or those regulations.

Writing: a reference to “written” or “in writing” includes email and any commonly used electronic document format such as .DOC or .PDF.

END OF PART 3

SCHEDULE 1: PERMITTED FUNDING ACTIVITIES**Permitted funding activities**

- Information gathering exercises relating to transition, including responding to requests for information from the DIA's Three Waters National Transition Unit.
- The supply of information and resource to support council's preparation for transition, including:
 - allocation schedules for the assets, liabilities, workforce and contracts to transfer to Water Services Entities;
 - Water Service Entity asset management plans; and
 - Water Service Entity funding and pricing plans.
- Participation in local transition activity and local transition teams.
- Complying with any additional requirements or processes mandated by the Water Services Entities Bill (once enacted) and supplementary legislation.
- Any other activities that councils reasonably consider necessary to support transition and that give effect to the intent behind this Agreement (as expressed in Item 2 of the Key Details).

Hon Kieran McAnulty

Associate Minister of Local Government



19 July 2022

PĀNUI PĀPĀHO
MEDIA STATEMENT

Government announces Three Waters transition funding

The Government is providing a further \$44 million to support councils transition to the Three Waters system, Associate Minister of Local Government Kieran McAnulty announced today.

“Since becoming Associate Minister of Local Government I’ve begun the process of meeting all rural and provincial councils and have heard consistently that councils are facing significant demand on their time and resources,” Kieran McAnulty said.

“Through this funding each council, regardless of their size, will receive \$350,000 over 12 months with further funding allocated based on the ‘Better Off’ funding method. This is the first of three funding instalments, with details of later instalments still to come.

“We recognise the challenges currently facing councils, especially rural and provincial councils who often have lower rating bases and limited resources. This funding will allow local authorities to draw in expertise to support councils through the Three Waters transition period.

“Councils are closely connected to their communities so it’s crucial they’re supported to contribute to ensure the Three Water system is positioned to meet the needs of New Zealanders.

“This transition funding is in addition to the wider Government support for the Three Waters Reform package, which includes \$500 million in Better Off funding to support councils to deliver wellbeing initiatives in their communities such as parks, gardens, and swimming pools.

“Throughout my visits I’ve heard a range of opinions on Three Waters, but despite where councils stand they understand the need to reform the current system as it is no longer fit for purpose. This transition funding will support Government and local councils to work together to ensure New Zealand’s three waters system meets the needs of our communities.

“Over the past two weeks I’ve met with 21 rural and provincial councils and the concern of resourcing has come through consistently, so I’m glad to support councils with funding certainty.

“I still have 34 councils to meet with and I’ll be looking for their insight as to the best way we can support councils as a Government, and how to target future transition funding support,” Kieran McAnulty said.

ENDS

Media contact: Elizabeth Mitchell 021 847 930

Council Transition Support Funding (Tranche 1) split by council

Council Transition Support Funding (\$m)		Council Transition Support Funding (\$m)	
Water Service Entity Summary		Entity C	
Entity A (4 councils)	6.655	Carterton District Council	0.350
Entity B (22 councils)	12.883	Central Hawke's Bay District Council	0.350
Entity C (22 councils)	12.705	Chatham Islands Council	0.350
Entity D (20 councils)	11.685	Gisborne District Council	0.732
TOTAL	43.928	Greater Wellington	0.523
		Hastings District Council	0.879
Entity A		Horowhenua District Council	0.515
Auckland	4.393	Kapiti Coast District Council	0.541
Far North District Council	0.886	Lower Hutt	0.844
Kaipara District Council	0.422	Manawatu District Council	0.395
Whangarei District Council	0.954	Marlborough District Council	0.590
Entity A total	6.655	Masterton District Council	0.407
		Napier City Council	0.659
Entity B		Nelson City Council	0.534
Hamilton City Council	1.459	Palmerston North City Council	0.825
Hauraki District Council	0.397	Porirua	0.556
Kawerau District Council	0.450	South Wairarapa	0.350
Matamata-Piako District Council	0.450	Tararua District Council	0.399
New Plymouth District Council	0.799	Tasman District Council	0.579
Opotiki District Council	0.485	Upper Hutt	0.409
Otorohanga District Council	0.350	Wairoa District Council	0.483
Rangitikei District Council	0.353	Wellington	1.436
Rotorua Lakes Council	0.814	Entity C total	12.705
Ruapehu District Council	0.430		
South Taranaki District Council	0.472	Entity D	
South Waikato District Council	0.481	Ashburton District Council	0.437
Stratford District Council	0.350	Buller District Council	0.369
Taupo District Council	0.509	Central Otago District Council	0.350
Tauranga City Council	1.210	Christchurch City Council	3.018
Thames-Coromandel District	0.423	Clutha District Council	0.350
Waikato District Council	0.797	Dunedin City Council	1.155
Waipa District Council	0.539	Gore District Council	0.350
Waitomo District Council	0.374	Grey District Council	0.350
Western Bay of Plenty District	0.549	Hurunui District Council	0.350
Whakatane District Council	0.580	Invercargill City Council	0.592
Whanganui District Council	0.612	Kaikoura District Council	0.350
Entity B total	12.883	Mackenzie District Council	0.350
		Queenstown Lakes District Council	0.421
		Selwyn District Council	0.574
		Southland District Council	0.496
		Timaru District Council	0.513
		Waimakariri District Council	0.569
		Waimate District Council	0.350
		Waitaki District Council	0.390
		Westland District Council	0.350
		Entity D total	11.685

FAQs for councils

1. *When will councils receive their share of the \$44m council transition support funding?*

The Department of Internal Affairs (the Department) will send funding agreements to councils shortly. Councils will receive funding in four equal quarterly payments, in advance over 12 months.

2. *What do councils need to do to get their share of the \$44m council transition support funding?*

Payments will be administered through the Department's Grants Management System. Details on this process will be provided by the Department to councils separately.

The first instalment will be paid to councils once the funding agreement is signed and provided to the Department with an accompanying payment request submitted into the Department's Grants Management System.

Subsequent payments will be made upon submission of quarterly payment requests with an accompanying high-level description of activities undertaken and spend incurred in the previous quarter.

3. *What accountability is in place to ensure councils are spending their share of the \$44m council transition support funding on three waters transition activity and not on other council priorities?*

The funding agreement specifies that expenditure must be related to three waters transition activity. This includes responding to requests from the National Transition Unit and the supply of information and resource to support councils' preparation for transition.

Under the agreement, any funding not expended on eligible transition related activity by the transition date (30 June 2024) will be repayable by councils to the Department.

4. *What about councils that are publicly/actively opposed to three waters reform – will they still receive their share of this funding?*

All councils will receive this funding as long as they complete the funding agreement. Nothing in the funding agreement prevents them from publicly offering their views on reform.

5. *How much is the second tranche of transition funding and why can't this be made available now?*

The focus has been on getting immediate funding support out to councils as fast as possible to reflect the costs they're incurring now in supporting the three waters transition process. The second tranche of transition funding will be to support councils' participation in Local Transition Teams that will undertake the detailed planning required for day one of operation of the four new WSEs. More detail will be provided on this in due course, and feedback will be sought from the sector on how best to target the further transition funding to drive transition outcomes.

6. *What is the funding allocation, by council?*

Councils will receive their share of the \$44m council transition support funding based on the 'better off funding' allocation methodology, amended to ensure that each council receives a minimum of \$350,000 over twelve months to reflect the proportionately relatively higher fixed costs smaller councils.

Council Report

Item 11

Committee: Council

Date: 18 August 2022

Author: Paul Gower

Authoriser: Chris Allen

Position: Programme Manager – Assets
Strategy

Position: General Manager
Development

Report Name: Update on building programme and policy

Report Status	Open
----------------------	------

Purpose - *Take*

1. To inform the Council on progress with the earthquake prone building framework and seismic building improvement programme.
2. To recommend that the existing Council Policy on Seismic Performance of Council Buildings be rescinded.

Staff Recommendation - *Tuutohu-aa-kaimahi*

3. That the Council:
 - a) receives the report;
 - b) notes that the Council's seismic programme has been continuing over recent years with upgrade being undertaken to a range of Council owned buildings;
 - c) notes that Earthquake prone building notices will be applied to the identified buildings over the coming months; and
 - d) rescinds the existing Seismic Performance of Council Buildings Policy as of 18 August 2022, noting that this is now being managed through comprehensive regulatory mechanisms.

Executive Summary - *Whakaraapopototanga matua*

4. The national earthquake prone building system is progressing to the next stage. By November 2022, buildings that are identified as earthquake prone (that is less than 34% of the New Building Standard - %NBS) will need to display a supplied notice at the building entrance.
5. There are currently 13 buildings within Council's building portfolio that are likely to be requiring notices to be displayed. Buildings that are identified as earthquake prone will need to be strengthened within either 12.5 or 25 years from the notice being issued.
6. In 2017, Council approved a policy that has been used to guide the seismic management of Council's building portfolio. Seismic assessments have been undertaken on buildings and a number of strengthening projects already undertaken.
7. The national earthquake prone building system continues to evolve and in July 2022 the Ministry of Building Innovation and Employment published guidelines on making decisions on continued use of buildings that are earthquake prone.

8. Staff recommend that the existing Seismic Performance of Council Buildings Policy is rescinded from 18 August 2022, given that this policy was designed to manage the seismic performance of Council buildings, and this is now being managed through other comprehensive regulatory mechanisms, as detailed in paragraphs 34-35 below.
9. Staff consider the decision in this report has a low significance and that the recommendations comply with the Council's legal requirements.

Background - *Koorero whaimaarama*

10. A national system ([Earthquake Prone Building System](#)) administered by the Ministry of Business, Innovation and Employment (MBIE) ensures the way our buildings are managed for future earthquakes is consistent across the country.
11. The new system came into force in July 2017. Existing buildings are compared to how a new building on the same site would perform if it was designed to meet the new Building Code requirements in place from July 2017. This rating is shown as a percentage of New Building Standard (%NBS).
12. For example, if a council determines an existing building meets 30% of the requirements of the new building code described above the earthquake rating of the building would be 30%. The rating is determined by a building's weakest element.
13. Buildings are regarded as earthquake-prone if they are assessed as being less than one-third (34%) of the strength required for a new build in the same location.
14. The rating does not mean the building is unsafe or cannot be used, it means it will not perform as well as a new building in a moderate earthquake. [Guidance](#) from MBIE, updated in July 2022, confirms it is not necessary to stop using a building solely on the basis of its NBS rating.
15. The national system includes requirements for councils to provide notices to be attached to buildings deemed earthquake prone, and those buildings are also listed on a national register. Notices are in a specified format and are required to be displayed at the entrance of a building or complex.
16. Council has been working with owners of buildings within the city identified as earthquake prone or potentially earthquake prone. There are different timeframes for building owners to strengthen or demolish the buildings, depending on where they are in New Zealand and what the buildings are used for.
17. In Hamilton, building owners have either 12 and a half or 25 years to do the work to improve building performance to greater than 33% of NBS. This is from when a notice is issued by Council's building unit and must be displayed on the building. The maximum timeframe to strengthen the building depends on the priority status of the building.
18. In recent years Council has completed the first two steps in a five-step process (identifying potential buildings and working with owners to get detailed information). From November 2022 Council will move to the third step, providing notices to be attached to buildings which are below 34% of NBS. The fourth step is for owners to complete remedial works and the final step is the issuing of a Code Compliance Certificate before removal of the notice.
19. There are thousands of buildings nationally which are going through this process. There are more than 600 in Wellington and around 2000 in Auckland. Council has identified 233 buildings in Hamilton which are likely to be determined as earthquake prone. Some territorial authorities have already advised building owners and requiring display of notices.

20. Council owns 13 of these buildings. Most of these sites (other than those not being used and scheduled for demolition) already have upgrades planned or underway. To do this work most efficiently, Council is planning seismic strengthening at the same time as scheduled upgrades or major maintenance. All buildings which are intended to remain in use will be strengthened within the required timeframes.
21. Information for building owners is available on their responsibilities and options on Council's [website](#).
22. In 2017, Council developed the [Seismic Performance of Council Buildings Policy](#) to provide direction and guide decision making with the management of Council's building portfolio in relation to seismic performance. Over recent years Council has been working on assessing its portfolio, strengthening some buildings and managing them based on the policy's direction.

Discussion - *Matapaki*

Update on Council's Seismic programme

23. Council has a sizeable building portfolio with over 300 buildings. Many of these are small but there are a number of large buildings and structures such as Council's stadia, Claudelands and major community facilities. Council has taken a performed a range of activities related to seismic performance of buildings. This has included:
 - i. Obtaining Initial Seismic Assessments
 - ii. Obtaining Detailed Seismic Assessments
 - iii. Temporary or permanent closure of buildings for use
 - iv. Demolition of buildings / parts of buildings
 - v. Strengthening of buildings
24. It is not feasible or appropriate for Detailed Seismic Assessments to be undertaken on all buildings by qualified structural engineers. These are reserved for those buildings that require a higher level of assurance, based on factors such as age, construction method and building use.
25. Initial and Detailed Seismic Assessment information is provided to Council's Building Control Unit to help inform their decision on whether a building is to be classified as EQP.
26. Under the direction of the policy, focus has increasingly moved from assessing buildings and identifying elements that may need strengthening to undertaking works on Council's buildings that require strengthening. Recent strengthening works undertaken are shown below.

Building	Previous NBS% Score	Nature of work undertaken (what and when)	Total Project costs (includes seismic works)	Updated NBS%
FMG Stadium – WEL Stand	20%	2021 - Seismic strengthening was undertaken in conjunction with an upgrade to the facilities of the WEL Stand in 2021	\$2.9m	34%
Citizens Advice Bureau	20%	2021 - The unreinforced masonry chimney was strengthened with steelwork	\$130k	50%
Wastewater Treatment plant (admin)	13%	2018 Seismic strengthening completed 2019.	\$1.1m for seismic project across treatment plants	34%

Water Treatment Plant (admin)	0%	2018 Seismic strengthening completed		38%
Water Treatment Plant (Low Lift)	20%	2018 Seismic Strengthening Completed		100%
Waterworld complex	30%	2018/2019 - meeting room and observation deck roof as part of refurbishment has been strengthened A further element still requires strengthening - the roof bracing above a Plant Room – refer to table in paragraph 27	\$880k for the roof replacement including seismic as part of major upgrade project	30%

27. Based on current information, the following list are the Council buildings that remain less than 34%NBS and are likely to be required to display an earthquake prone notice when these are issued before November 2022. These are the buildings that are the focus for improving the seismic performance of the Council building portfolio. This will be through making decisions on their long-term use and strengthening where appropriate.

Description	Address	NBS %	Work Scheduled/ funding year / Current State	Comments
Yendell Park - Waikato Outdoor Training Centre	Hillsborough Terrace	10% - 15%	Closed and Vacant	No immediate plans to reopen. Long-term future of building being considered in planning for community facility network
260 Victoria St - Victoria Buildings	260 Victoria Street	14%	Funding provision in LTP 28/29	Long-term use of buildings or site still to be determined. Short term lease arrangements
Recycling Facility (Building 3)	Lincoln Street Frankton	18%	Strengthening scheme being developed for project to be initiated	Structure is not large or complex and is not open to public. Used for storage activities
Metro Judo Clubrooms	9 Pembroke Street	Annex only 19%	A roofing renewal project to commence late 2022	Awaiting Consent for project and Annex (NBS%19%) will be removed as part of project. Remainder of building not earthquake prone
Artspost building	120 Victoria Street	20%	Funding provision in LTP 28/29 for seismic work	Options currently being considered for co-ordinated renewals and seismic upgrade. Other renewal work required on roof and lifts
Beale Cottage	11 Beale Street	20%	Strengthening Project in	Project is currently in consenting phase with strengthening occurring in

			progress	coming months
Claudlands Grandstand	800 Heaphy Terrace Fairfield	20%	Funding provision in LTP 28/29	Seismic upgrades will be considered as part of programme to be undertaken in conjunction with other renewals
Water treatment plant - storage building	1A Waiora Terrace Fitzroy	23%	Funding provision in LTP 22/23	Review of long-term function of building to be considered as now no longer required for storing chemicals. A new building exists for this purpose
Enderley Park Community Centre	66 Tennyson Road Enderley	25%	Funding provision in LTP 23/24	Long-term future of building being considered in planning for community facility network
Waterworld	Minogue Drive	30%	Funding provision in LTP 28/29	Remaining earthquake prone elements relate to plant/machinery areas
St Peters Hall	55 Victoria Street	30%	Funding provision in LTP 28/29	Seismic upgrades will be considered as part of programme to be undertaken in conjunction with other renewals
Caro Street administration complex - West Building	260 Anglesea Street	30%	Funding provision currently in LTP 28/29	Detailed seismic assessment being reviewed with latest methodology and building use information. Strengthening scheme and updated estimates being developed for strengthening
Founders Theatre	229 Tristram Street	15%	Scheduled for demolition	No seismic upgrade action required

Item 11

28. The three buildings comprising the Caro St administration complex (connected to the main Municipal tower) are currently being reassessed using latest methodology. Previous assessments have been based on a requirement for the buildings to be used as the Council Emergency Operations Centre immediately following an earthquake. This meant that the assessment used Importance Level 3 from the Building Code. Emergency operations are now based in the Genesis Building. The buildings comprising the Caro Street administration complex now meet the criteria for assessment as an Importance Level 2 and this is the basis of the updated assessments.
29. Any building that is identified as being earthquake prone and requiring strengthening, will have costs updated for the 2024-34 Long-Term Plan (LTP). Works that have been identified as being required and have funding provisions in the current 2021-31 LTP will have costs updated for inclusion in the 2024-34 LTP. Where appropriate these upgrade projects will be aligned with other scheduled renewals or upgrades. This may mean that forecasted upgrades may take place ahead of statutory deadlines to do so.
30. Costing of upgrade projects for the 2024-34 LTP will consider the necessary upgrades to achieve >34%NBS but also a higher level of >67%NBS where feasible.

Council's Policy – Seismic Performance of Buildings

31. In 2017 Council adopted the Policy entitled Seismic Performance of Council Buildings. The policy guided the management of building seismic performance through:
 - i. specifying when seismic assessments were to be obtained - through a prioritisation of the portfolio and,
 - ii. outlining how decisions would be made on the continued use of buildings following gaining seismic assessments.
32. At the time of adoption, Council's policy was relatively unique in the public sector. Few organisations had a public policy that outlined their systematic approach and framework for decision making on the issue. At the time, Council did not have a comprehensive view of the likely seismic performance of the portfolio. This is no longer the case. The size and scale of the EQP buildings is now known and, through the soon to be implemented requirement for EQP notices to be displayed, will be well disclosed and communicated with building users including public and staff.
33. As outlined above, there has been several legislative, regulation and guideline changes and improvements to the national earthquake prone building system since this policy was adopted. The most recent being the publishing of MBIE [guidance](#) on making decisions on continued use of earthquake prone buildings. This guidance expands on the basic approach outlined in Council's existing policy and would be adopted in any future decisions that may be required.
34. The table below outlines key aspects of the policy and how these matters are now managed through the various parts of the national earthquake prone building system.

Function of Seismic Performance of Council building policy	How matter is now managed in national EQP building system
Categorise Council buildings into levels of priority for assessment (Significant and non-significant buildings).	Building Act now requires Priority buildings to be identified and remediated within half the time available for other buildings in the same seismic risk areas. 12.5 or 25 years in Hamilton.
Timetable set for undertaking assessments on Council buildings to determine if they are earthquake prone	Assessments have now been undertaken and earthquake prone buildings will be required by November 2022 to display notices
Settings for decision making on use and management of buildings with less than 20%NBS and between 20%NBS and 34%NBS	Recent and comprehensive MBIE guidance including latest research on continued use of earthquake prone buildings has been published. EQP buildings (<34%NBS) will be required to be demolished or remediated to an appropriate level within a statutory timeframe (12.5 or 25 years in Hamilton)
Public disclosure of %NBS scores of Council buildings	EQP buildings will be required to be displaying notices advising users and these will be on a searchable public national register

Assumptions on Importance Levels that should be used for seismic assessments	Criteria for Importance Levels are contained in the building code based on characteristics and use of the building
--	--

35. Given that the key functions of Council's Seismic Performance of Council Buildings policy are now being managed more comprehensively by the national earthquake prone building system, Staff recommend that Council rescinds its current policy and simply relies on the legislative and regulatory frameworks for the managing the improvement of seismic performance of its building portfolio.
36. This will allow for a more simplified management of the Council building portfolio over coming years and remain aligned with other organisations and business owners.
37. If the recommendation to rescind the policy is not approved, then a review of the policy will be required. This would need to begin with defining the scope of any updated Council policy.

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

38. Staff confirm that the staff recommendation complies with the Council's legal and policy requirements and that there is not a requirement to have a policy on seismic performance of Council's buildings.

Wellbeing Considerations - *Whaiwhakaaro-aa-oranga tonutanga*

39. 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').
40. 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.
41. The impact on wellbeings of individual strengthening projects will be considered as part of the decision making on each project.

Social

42. Several Council buildings that will be required to display an earthquake prone notice are used by community organisations and groups. The ability of these groups to continue to have access to Council facilities is important. However, Council will have at 12.5 or 25 years of continued use available for these facilities if strengthening is not undertaken. This will allow sufficient time to understand and plan for any impacts.
43. Rescinding the Seismic Performance of Council Building Policy will simplify the understanding of seismic performance for Council buildings. The national framework will be increasingly understood as notices are used in all parts of the country. Individuals and communities will most likely refer to and understand these policy settings and be able to make decisions for themselves on appropriate responses.

Economic

44. The financial costs associated with strengthening Council's earthquake prone buildings are generally already included in funding provisions of the 2021-31 LTP. As part of future Long-Term Plans these estimated strengthening costs will be updated to reflect latest construction costs and assumptions. Some of the buildings require decisions on their long-term use and strengthening decisions will consider whether the building is fit for purpose and should be retained. Where possible, strengthening works will be undertaken alongside renewal of other building assets to ensure there is efficiency in delivery of projects and to minimise disruption to building users and surrounding area.

Environmental

45. Environmental performance of buildings that may need to be strengthened would be included in information on assessment of whether or not buildings are fit for purpose and impact decisions to strengthen and retain the building.

Cultural

46. A number of the Council buildings requiring strengthening are used by the community for cultural activities. Cultural wellbeing impacts will be considered when decisions are made on individual buildings or sites.

Risks - *Tuuraru*

47. There are no risks identified with rescinding the existing Council policy as the approach for management of seismic performance of Council buildings will be consistent with, and guided by the national framework.

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

There are no attachments for this report.

Council Report

Item 12

Committee: Council
Author: Carmen Fookes
Position: Senior Governance Advisor
Date: 18 August 2022
Authoriser: David Bryant
Position: General Manager People and Organisational Performance
Report Name: Recommendations from Open Committee Meetings

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

Purpose – *Take*

To seek the Council's approval of the following recommendations from Committee Meetings:

- a) Environment Committee meeting of 2 August 2022 (Agenda [Here](#), Minutes [Here](#)), in respect of:
 - i. Our Climate Future: Te Pae Tawhiti o Kirikiriroa - strategy approval.
- b) District Plan Committee meeting of 4 August 2022 (Agenda [Here](#), Minutes [Here](#)), in respect of:
 - i. Plan Change 12: Intensification Planning Instrument (IPI) - approval to notify; and
 - ii. General Manager's Report.
- c) Infrastructure Operations Committee meeting of 9 August 2022 (Agenda [Here](#), Minutes [Here](#)), in respect of:
 - i. Hamilton City Parking Policy – Approval; and
 - ii. Speed Management Plan review- Deliberations and Adoption report.

Recommendations from the Environment Committee meeting of 2 August 2022

Our Climate Future: Te Pae Tawhiti o Kirikiriroa - strategy approval

That the Council adopts the climate change strategy:

- a) 'Our Climate Future: Te Pae Tawhiti o Kirikiriroa'; and
- b) Next steps for Our Climate Future: Te Pae Tawhiti o Kirikiriroa - Our Plan for 2022-23;

Recommendations from the District Plan Committee meeting of 4 August 2022

Plan Change 12: Intensification Planning Instrument (IPI) - approval to notify

That the Council approves public notification of Proposed Plan Change 12 – Intensification Planning Instrument (IPI) pursuant to subpart 5A and Part 6 of Schedule 1 to the Resource Management Act (Enabling Housing Supply and other Matters) Amendment Act 2021, subject to the Plan Change 12 documentation being circulated alongside the recommendation to Council on 18 August 2022.

General Manager's Report

That the Council:

- a) appoint commissioners Bill Wasley (chair), Dr Lee Beattie and Cr Ewan Wilson and the delegation of its powers to hear, determine, and make decisions on all submissions and matters relating to the Tramway Block Private Plan Change;
- b) appoint commissioners Bill Wasley (chair), Dr Lee Beattie and Cr Mark Donovan, and the delegation of its powers to hear, determine, and make decisions on all submissions and matters relating to the Te Rapa Racecourse Private Plan Change;

Recommendations from the Infrastructure Operations Committee meeting of 9 August 2022

Hamilton City Parking Policy – Approval

That the Council approves for adoption the principles-based Hamilton City Parking Policy noting that:

- a) the policy guiding principles were developed by Members alongside the Access Hamilton Strategy refresh 2022;
- b) the guiding principles of the policy will be used in the development of any future parking management plans (area focused);
- c) the policy will be used to help make future decisions on the direction and approach of parking management in Hamilton city; and
- d) the policy will be reviewed every three years, in response to any issues that may arise, at the request of Council or in response to changed legislative and statutory requirements (whichever occurs first).

Speed Management Plan review- Deliberations and Adoption report

That the Council approves Option One of the staff report, adopt the Hamilton Speed Management Plan 2022 (**Attachment 1** of the staff report).

Attachments - *Ngaa taapirihanga*

Attachment 1 - Plan Change 12 Documentation (*Under Separate Cover*)

Resolution to Exclude the Public

Section 48, Local Government Official Information and Meetings Act 1987

The following motion is submitted for consideration:

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

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

General subject of each matter to be considered	Reasons for passing this resolution in relation to each matter	Ground(s) under section 48(1) for the passing of this resolution
C1. Confirmation of the Council Public Excluded Minutes of 30 June 2022) Good reason to withhold) information exists under) Section 7 Local Government) Official Information and) Meetings Act 1987)	Section 48(1)(a)
C2. Confirmation of the Elected Member Closed Briefing Notes - 28 June 2022		
C3. Confirmation of the Elected Member Closed Briefing Notes - 8 August 2022		
C4. Peacocke - Whatukooruru Drive - Contract Award		
C5. Recommendations from Public Excluded Committee Meetings		

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 enable Council to carry out commercial activities without disadvantage	Section 7 (2) (h) Section 7 (2) (i)
Item C5.	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) (j)