

## Notice of Meeting:

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

**Date:** Thursday 28 November 2019  
**Time:** 9.30am  
**Meeting Room:** Council Chamber  
**Venue:** Municipal Building, Garden Place, Hamilton

Richard Briggs  
Chief Executive

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## Council OPEN AGENDA

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### Membership

Chairperson	Mayor P Southgate
Deputy Chairperson	Deputy Mayor G Taylor
Members	Cr M Bunting
	Cr M Forsyth
	Cr M Gallagher
	Cr R Hamilton
	Cr D Macpherson
	Cr K Naidoo-Rauf
	Cr A O'Leary
	Cr R Pascoe
	Cr S Thomson
	Cr M van Oosten
	Cr E Wilson

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

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

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Becca Brooke  
Governance Manager

**21 November 2019**

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## **Purpose**

The Council is responsible for:

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

## **Terms of Reference**

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

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

**Oversight of Policies:**

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

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**1 Apologies**

**2 Confirmation of Agenda**

The Council to confirm the agenda.

**3 Declaration of Interest**

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

**4 Public Forum**

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

**Committee:** Council

**Date:** 28 November 2019

**Author:** Amy Viggers

**Authoriser:** Becca Brooke

**Position:** Committee Advisor

**Position:** Governance Team Leader

**Report Name:** Confirmation of the Inaugural Council meeting Minutes 24 October 2019

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

That the Council confirm the Open Minutes of the Inaugural Council Meeting held on 24 October 2019 as a true and correct record.

## Attachments

Attachment 1 - Inaugural Council Open Unconfirmed Minutes 24 October 2019

## Inaugural Council Meeting OPEN MINUTES

Minutes of a meeting of the Council held in Reception Lounge and Council Chamber, Municipal Building, Garden Place, Hamilton on Thursday 24 October 2019 at 9.30am.

### PRESENT

Chairperson	Mayor P Southgate
Deputy Chair	Deputy Mayor G Taylor
Members	Cr M Bunting
	Cr M Forsyth
	Cr M Gallagher
	Cr R Hamilton
	Cr D Macpherson
	Cr K Naidoo-Rauf
	Cr R Pascoe
	Cr S Thomson
	Cr M van Oosten
	Cr E Wilson

In Attendance:	Richard Briggs – Chief Executive
	Lance Vervoort – General Manager Community
	Eeva-Liisa Wright - General Manager Infrastructure Operations
	David Bryant – General Manager Corporate
	Jen Baird - General Manager City Growth
	Natalie Palmer – Unit Manager Communications and Marketing
	Muna Wharawhara – Amorangi Maaori
	Tracey Wood – City Events Manager
	Laura Vidulich - Events Coordinator
	Mothla Majeed – Legal Services
	Michelle van Straalen - Official Information Advisor
	Maangai Maaori Ollie Te Ua, James Whetu, Bella Takiari-Brame, Te Pora
	Thompson-Evans and Norm Hill

Donna Flavell - Chief Executive Waikato Tainui  
Former Mayor Andrew King and Anne King  
Former Mayor Margaret Evans  
Freedom of the City award Holder Peter Bos  
Te Haa o te whenua o Kirikiriroa representatives  
Waikato Tainui representatives

Governance Staff:	Becca Brooke - Governance Manager
	Amy Viggers, Claire Guthrie, Rebecca Watson – Committee Advisors

*Prior to the swearing in ceremony Council Kaumatua Tame Pokaia blessed the Mayoral robes and Hamilton City Council Kō.*

## SWEARING IN CEREMONY

The Official Party and Elected Members entered the meeting.

A Whakatau (welcome and blessing) was given by Hamilton City Council Kaumatua Tame Pokaia followed by waiata by muna whenua.

The Inaugural Council Meeting was then opened by Chief Executive Richard Briggs. He welcomed everyone to the meeting, and acknowledged those were able to be a part of the ceremony including the newly Elected Members, former Mayor Andrew and his wife Anne, Freedom of the City Award holders. He noted that Angela O'Leary was unable to be a part of the ceremony today due to illness and would be sworn in at the next meeting of Council.

### Installation of Mayor Paula Southgate

Mayor Paula Southgate read and signed the Statutory Declaration required by the Local Government Act 2002, which was witnessed by the Chief Executive Richard Briggs.

Former Mayor Andrew King and his wife Anne King performed the ceremonial passing of the Mayoral and Mayoresses chains to Mayor Paula Southgate and her husband Greg Forsyth.

Following her declaration, the Mayor addressed the meeting.

### Installation of the Councillors

The Deputy Mayor Geoff Taylor, Councillors Mark Bunting, Margaret Forsyth, Martin Gallagher, Ryan Hamilton, Dave Macpherson, Kesh Naidoo-Rauf, Rob Pascoe, Sarah Thomson, Ewan Wilson and Maxine van Oosten read and signed the Statutory Declaration required by the Local Government Act 2002, which was witnessed by Mayor Paula Southgate. Following their declarations, each Councillor had the opportunity to address the meeting.

### Presentation of the Kō

Representatives from Te Haa o te whenua o Kirikiriroa presented the Kō to Mayor Paula Southgate who accepted it on behalf of Hamilton City Council. They noted that the Kō was to be known as 'te ara maamaa mo nga whanaketanga' which means to clear pathways for development.

The Official Party, Elected Members and all in attendance stood to sing the National Anthem.

Tame Pokaia and the Very Revered Reverend Phil Wilson closed the ceremony with a karakia and prayer.

### The meeting adjourned 11.20am to 1.00pm.

1. **Apologies**  
**Resolved:** (Mayor Southgate/Cr Wilson)  
 That the apologies for absence from Cr O'Leary be accepted.
2. **Confirmation of Agenda**  
**Resolved:** (Mayor Southgate/Deputy Mayor Taylor)  
 The Council to confirm the agenda.
3. **Declarations of Interest**  
 No members of the Council declared a Conflict of Interest.
4. **Public Forum**  
 No members of public wished to speak.

## 5. Inaugural and First Meeting Requirements

The Legal Services Manager and Governance Manager spoke to the report outlining the legal requirements for the first meeting of the Council.

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

That the Council:

- a) receives the report;
- b) notes that the first Council meeting will take place at 9:30am on Thursday, 28 November 2019;
- c) notes the Mayor's appointment of Deputy Mayor Geoff Taylor; and
- d) notes that the Mayor will present her Governance Structure to the Council at its 28 November 2019 meeting.

## 5. Explanation of Statutory Matters Affecting Elected Members

The Legal Services Manager and Governance Manager spoke to the report and outlined the attached letter from Tompkins Wake. They responded to questions from Elected Members concerning the Local Authorities (Members Interests) Act 1968 and conflicts of interest.

**Resolved:** (Deputy Mayor Taylor/Cr Bunting)

That the Council receives the report.

**The meeting was closed at 1.15pm.**

# Council Report

**Committee:** Council  
**Author:** Amy Viggers  
**Position:** Committee Advisor  
**Report Name:** Confirmation of the Extraordinary Council Open Minutes 15 November 2019

**Date:** 28 November 2019  
**Authoriser:** Becca Brooke  
**Position:** Governance Manager

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

That the Council confirm the Open Minutes of the Extraordinary Council Meeting held on 15 November 2019 as a true and correct record.

## Attachments

Attachment 1 - Extraordinary Council Open Unconfirmed Minutes 15 November 2019

## Extraordinary Council

### OPEN MINUTES

**Minutes of a meeting of the Council held in Council Chamber, Municipal Building, Garden Place, Hamilton on Friday 15 November 2019 at 9.31am.**

#### **PRESENT**

Chairperson	Mayor P Southgate
Deputy Chairperson	Deputy Mayor G Taylor
Members	Cr M Bunting
	Cr M Forsyth
	Cr M Gallagher
	Cr R Hamilton
	Cr D Macpherson
	Cr K Naidoo-Rauf
	Cr A O'Leary
	Cr R Pascoe
	Cr S Thomson
	Cr M van Oosten
	Cr E Wilson

In Attendance:	Richard Briggs – Chief Executive
	Lance Vervoort – General Manager Community
	David Bryant - General Manage Corporate
	Eeva-Liisa Wright – General Manager Infrastructure Operations
	Chris Allen – General Manager Development
	Sean Murray – General Manager Venues, Tourism and Major Events
	Sean Hickey – General Manager Strategy and Communication
	Blair Bowcott – Executive Director Special Projects
	Christie Harger – Corporate Business Manager

Olly Te Ua - Maangai Maaori  
Mark Butcher – Chief Executive Local Government Funding Agency

Governance Staff:	Becca Brooke – Governance Manager
	Amy Viggers and Rebecca Watson – Committee Advisors

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*The meeting was opened with a Karakia from Kaumatua Tame Pokaia.*

The meeting began with the swearing in of Cr Angela O'Leary.

Cr Angela O'Leary read and signed the Statutory Declaration required by the Local Government Act 2002, which was witnessed by Mayor Paula Southgate. Following her declarations she addressed the meeting.

**1. Apologies**

There were no apologies.

**2. Confirmation of Agenda**

**Resolved:** (Cr Wilson/Cr Thomson)

That the agenda is confirmed noting that Item 5 (Local Government Funding Agency Annual Meeting 21 November 2019) would be taken at 10.00am to accommodate external presenters.

**3. Declarations of Interest**

No members of the Council declared a Conflict of Interest.

**4. Public Forum**

No members of the public wished to speak.

*Item 6 (Governance Structure) and Item 7 (Elected Member Remuneration) were taken following item 4 (Public Forum) to accommodate external presenters.*

**5. Governance Structure**

Mayor Southgate and the Chief Executive spoke to the report and outlined the Governance Structure. They responded to question from Elected Members concerning the structure of committees, the draft terms of reference, expectations of Elected Members, and proposed draft appointments. It was noted that there would be a review of the Governance Structure after a year of it being in operation.

**Resolved:** (Cr Wilson/Deputy Mayor Taylor)

That the Council receives the Committee Structure and Chair/Deputy Chair Appointments for the 2019-2022 triennium as set out in attachment 1 of the staff report.

**6. Elected Member Remuneration**

Mayor Southgate spoke to the report and noted that the remuneration recommendations were in line with the flatter Governance Structure proposed, and addressed the intended allocation of roles and responsibilities in line with the Governance Structure.

**Resolved:** (Cr Wilson/Cr Forsyth)

That the Council:

- a) receives the report; and
- b) approves the remuneration allocation set out in attachment 2 of this report be submitted to the Remuneration Authority for determination before 20 November 2019.

**7. Local Government Funding Agency Annual Meeting 21 November 2019**

The General Manager Corporate spoke to the report, noting that the purpose of the Local Government Funding Agency (LGFA) was to enable councils access to cost effective long-term borrowing. Staff, along with Mark Butcher (LGFA Chief Executive), responded to questions from Elected Members concerning the capacity of LGFA to lend to Council Controlled Organisations (CCO's), the rotation of directors, remuneration review process, borrowing options, and the risks and benefits to Council of the borrowing via the LGFA.



**Staff Action:** Staff undertook to provide Elected Members with an update on the Local Government Funding Agency and board representation via a future Elected Member Briefing.

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

That the Council:

- a) receives the report;
- b) notes that the Local Government Funding Agency Annual Meeting will be held on 21 November 2019 in Wellington; and
- c) approves the following proposals which require ordinary shareholder resolutions:
  - i) Linda Robertson is re-appointed to the Local Government Funding Agency's board as an independent director;
  - ii) Michael Timmer is re-appointed to the Local Government Funding Agency's board as a non-independent director;
  - iii) Auckland Council is re-elected as a Nominating Local Authority to the Shareholders' Council;
  - iv) Western Bay of Plenty District Council is re-elected as a Nominating Local Authority to the Shareholders' Council;
  - v) increases to Directors' remuneration;
  - vi) changes to the Local Government Funding Agency's foundation policies; and
  - vii) changes to the Local Government Funding Agency's Shareholders' Agreement.

**Cr Forsyth Dissenting.**

**The meeting was declared closed at 10.33am.**

# Council Report

**Committee:** Council  
**Author:** Rebecca Watson  
**Position:** Committee Advisor  
**Report Name:** Confirmation of the Elected Member Open Briefing Notes - 15 November 2019

**Date:** 28 November 2019  
**Authoriser:** Becca Brooke  
**Position:** Governance Manager

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

That the Council confirm the notes of the Elected Member Open Briefing held on 15 November 2019 as a true and correct record.

## Attachments

Attachment 1 - Elected Member Open Briefing Notes - 15 November 2019

## Elected Member Briefing Notes –15 November 2019 – Open

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Item 7

<b>Time and date:</b>	11.16am, 15 November 2019
<b>Venue:</b>	Council Chamber, Hamilton City Council
<b>In Attendance:</b>	Mayor Southgate, Deputy Mayor Taylor, Crs Martin Gallagher, Ewan Wilson, Sarah Thomson, Maxine van Oosten, Ryan Hamilton, Mark Bunting, Dave Macpherson, Kesh Naidoo-Rauf, Angela O'Leary, Rob Pascoe, Margaret Forsyth
<b>Apology for Full Session:</b>	Nil
<b>Apologies for lateness/early departure:</b>	Cr Margaret Forsyth

### Discussion

The briefing session covered in an open session.

- Peacocke Programme and Property Process Overview
- Rubbish and Recycling
- Hamilton Airport and Board Appointments

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

#### 1. **Peacocke Programme and Property Process Overview** (Presentation was provided)

The Peacocke Programme Manager and the Strategic Development Manager introduced themselves and explained that there were more than a 100 staff across the organisation involved in the project. They provided an overview and current status of the Peacocke Programme.

Elected Members asked questions in relation to the following:

- futureproofing of the development, including the capacity on infrastructure outside of the immediate Peacocke area
- processing of grey water and impact of this process on infrastructure
- community amenities, such as sports parks
- multi use of green spaces and other facilities
- planned school facilities
- sub-urban business planning, such as cafes and dairies in the area
- proximity to the airport and possible restrictions on airspace usage
- transportation planning, including provision for future proofing of transportation methods
- process of planning for traffic and pedestrian flows

#### 2. **Rubbish and Recycling** (Presentation was provided)

The General Manager Infrastructure Operations introduced the rubbish and recycling team and explained that the purpose of the presentation was to provide Elected Members with an overview of the project.

Attachment 1

Elected Members asked questions in relation to the following:

- bylaw provisions
- timeframes and communications for the plan
- bespoke solutions due to space restrictions and special needs
- electric recovery trucks
- recovery of items process

**3. Hamilton Airport and Board Appointments**

*(Presentation was provided)*

The General Manager Venues, Tourism and Major Events explained that the purpose of the presentation was to provide an overview of the appointment process for the Waikato Regional Airport Board and the board terms of reference. He outlined the current board of directors, the planned rotation of directors and recruitment process.

Elected Members asked questions in relation to the following:

- appointment process
- timeframes for strategic direction setting
- sustainability initiatives being undertaken at the airport
- diversity opportunities and initiatives

# Council Report

Item 8

**Committee:** Council **Date:** 28 November 2019  
**Author:** Lee-Ann Jordan **Authoriser:** Lance Vervoort  
**Position:** Visitor Destinations Manager **Position:** General Manager Community  
**Report Name:** Draft Hamilton Gardens Management Plan

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

1. To inform the Council on the current status of the draft Hamilton Gardens Management Plan.
2. To seek the Council's approval to defer consideration of the draft Hamilton Gardens Management Plan until the new year in order for staff to provide appropriate advice regarding options to address the significant public interest in the Rhododendron Lawn and progress the draft plan.

## Staff Recommendation

3. That the Council:
  - a) receives the report;
  - b) defers further consideration of the draft Hamilton Gardens Management Plan to the new year;
  - c) requests staff provide Elected Members with information and advice on legal considerations relating to decision-making and the consultation process on the draft Hamilton Gardens Management Plan to briefings in December 2019 and February 2020 as appropriate; and
  - d) requests staff report to the Community Committee on this matter before March 2020.

## Discussion

4. The draft Hamilton Gardens Management Plan was prepared in accordance with the requirements of the Reserves Act (1977).
5. The purpose of a reserve management plan is to define the strategies, objectives and policies for the development, operation, management and public use of a reserve. Management plans provide a link between government legislation, wider Council plans and policies, and influence other planning and management processes.
6. The Community Services and Environment Committee approved the draft Hamilton Gardens Management Plan (the Draft Plan) for public consultation during the period 8 April to 9 June 2019.

## Item 8

7. Following the consultation period, the Regulatory and Hearings Committee meeting convened on 21 August 2019 to consider submissions received and hear verbal submitters. The Committee requested further information which was provided in the Deliberations Report to the Council meeting of 17 September 2019.
8. At the 17 September 2019 Council meeting, after discussion regarding points raised by Council members regarding submitters' comments and concerns, particularly in respect of the proposed repurposing of the Rhododendron Lawn for visitor parking, the Council resolved:  
*That the Council requests staff carry out targeted consultation with interested parties on the proposed changes to major event spaces in the Hamilton Gardens, and the final plan, including the outcomes of the consultation, be brought back to Council for consideration along with other staff recommendations to the 26 September 2019 Council meeting.*
9. At the 26 September 2019 Council meeting, staff provided a verbal report on the outcome of targeted consultation undertaken with interested parties. They also responded to Council Member's questions regarding emerging and potentially significant public interest in retaining the Rhododendron Lawn as a performance space and an open green space.
10. At that meeting the Council resolved to defer consideration of the Draft Plan until the first normal business meeting of the 2019-2022 Council. The Council resolved the following:  
*"In order for the community to have further input on this matter the report and recommendations on The Hamilton Gardens Management Plan be referred to the first normal business meeting of the 2019-2022 Council."*
11. This report responds to the Council resolution of 26 September 2019.
12. On Friday 15 November 2019, the Governance Unit received a Change.org petition from the Save the Rhododendron Lawn group with a total of 4747 signatures from all over the world. Under Hamilton City Council's Standing Orders the petition was unable to be validated as it did not meet the petition criteria as listed on our website [here](#).
13. Staff are currently working on options that respond to submitter feedback and the significant public interest in the Rhododendron Lawn including those raised in the petition. Staff seek the opportunity to prepare this information for presentation to an Elected Member briefing in December 2019.
14. Additionally, the Hamilton Gardens Project Governance Group has expressed a desire to be able to provide advice and/or recommendations to the Council on matters relating to the Draft Plan, including the future of the Rhododendron Lawn and options for the preservation or enhancement of green space and performance space.
15. Staff believe it is prudent to seek legal advice on the status of Council's legal obligations at this point in the reserve management plan process as well as the options legally available to the Council should further engagement with the community (to better understand their views and preferences on the Draft Plan) be considered.
16. In light of the points noted above, staff recommend that advice on legal considerations relating to the management plan process and potential options for responding to public interest and submitter comments is provided to an Elected Member briefing in December 2019 (and/or February 2020 if necessary).

17. Staff further recommend that a report on the Draft Plan is presented to the Community Committee for a decision before March 2020 as this is consistent with the Community Committee's proposed terms of reference and delegations.

### **Options**

18. Staff are unable to advise the Council on alternative options to the staff recommendation without legal advice. This is to ensure that any decisions taken by the Council on the Draft Plan comply with the Council's legal and policy requirements.

### **Financial Considerations**

19. The cost of developing the Draft Plan (including staff time) to time of the 17 September 2019 Council meeting was \$28,000, which included \$12,700 for pricing, displays etc and \$15,000 of staff time. Since that date approximately \$1,000 of staff time has been incurred.
20. The financial implications of the staff recommendation are estimated to be approximately \$15,000. This cost includes the provision for legal services and some expert consultancy services for desktop feasibility assessments on specific sites within the Hamilton Gardens as necessary and staff time.

### **Legal and Policy Considerations**

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

### **Wellbeing Considerations**

22. 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').
23. 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.
24. The recommendations set out in this report are consistent with that purpose.

### **Social**

25. Whilst consideration has been given social wellbeing through the process to this point, the staff recommendation provides for time to better assess the matters related to the Draft Plan in light of Council's obligations for this wellbeing.

### **Economic**

26. The staff recommendation provides for time to better assess the matters related to the Draft Plan in light of Council's obligations for economic wellbeing.

### **Environmental**

27. Whilst consideration has been given to environmental wellbeing through the process to this point, the staff recommendation provides for time to better assess Council's obligations for this wellbeing in respect of matters related to the Draft Plan.

### **Cultural**

28. Whilst consideration has been given to cultural wellbeing during the process of the Draft Plan to this point, the staff recommendation provides for time to better assess Council's obligations for this wellbeing in respect of the Draft Plan.

**Risks**

29. There is a risk of public and stakeholder concern and dissatisfaction both if consideration of the Draft Plan is deferred and if it is not.
30. There are no known legal or policy risks associated with the decisions required for this matter. Staff believe it is prudent to seek legal advice in relation to decisions related to either further consultation or the adoption of the Draft Plan.

**Significance & Engagement Policy**

31. Matters within this report are covered by a statutory requirement to consult and therefore, staff have not assessed the significance of these matters against the key considerations under the Significance and Engagement Policy significance.
32. However as already noted, staff recommend legal advice is sought on the status of Council's legal obligations at this point in the reserve management plan process as well as the options legally available to the Council should further engagement with the community to better understand their views and preferences on the Draft Plan be considered.

**Attachments**

There are no attachments for this report.



# Council Report

Item 9

**Committee:** Council

**Date:** 28 November 2019

**Author:** Beverly Petersen

**Authoriser:** Lance Vervoort

**Position:** Open Spaces and Facilities Manager

**Position:** General Manager Community

**Report Name:** Petition - Fenced Dog Exercise Area at Innes Common

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

1. To inform the Council of the petition received from the Lake Crescent Residents Group in regards to the proposed fenced dog exercise area for Innes Common.
2. To recommend to the Council that further community engagement is undertaken prior to a decision being made on the proposed fenced dog exercise area.

## Staff Recommendation

3. That the Council:
  - a) receives the petition from the Lake Crescent Residents Group;
  - b) formally puts the implementation of the fenced dog exercise area at Innes Common on hold;
  - c) requests that the matter relating to the location of the fenced dog exercise area be brought back to Council or appropriate committee in early 2020 for a decision; and
  - d) requests that staff bring this matter to a briefing where site options for a fenced dog exercise area and a community engagement plan will be discussed, prior to the matter coming back to Council or the appropriate committee for consideration.

## Executive Summary

4. During the 2018-28 10 Year Plan, funding was approved to develop one fenced dog exercise area in the City.
5. Staff followed the methodology from the Pooches and Parks Plan development to engage with Dog Owners and stakeholders to select a preferred site for implementation.
6. Just prior to physical works starting, letter drops advising of the proposed works caused neighbouring residents to voice concerns with Councils Parks and Recreation Team.
7. The project was put on hold while staff and Elected Members worked with residents to provide further detail of the proposal and understand community concerns.

8. Staff considered the concerns raised could be mitigated however, the project was put on hold when a petition was received on 31 July 2019, which was validated by the Governance team as per Standing Order requirements.
9. Due to timelines around the local government elections and Council meeting dates, the petition was deferred to the 28 November 2019 Council meeting.
10. Staff recommend that the project is put on hold pending further investigation on fenced dog exercise area location and full community engagement on options.
11. Staff consider the decision in this report to have medium significance and that the recommendations comply with the Council's legal requirements.

## Background

12. In May 2015 Council adopted the Pooches in Parks Plan. The plan was as a result of significant consultation and engagement led by Elected Members, Staff, Sport Waikato and Dr Clare Brown (PHD lecturer in dog training and behaviour) with dog owners in the community.
13. The Pooches in Parks Plan identified the community desire for off-lead, fenced dog exercise areas and recommended that there should be two built in the city – one at Innes Common and the other at Melville Park.
14. In 2015 the Council also adopted the Hamilton Dog Control Bylaw and Policy. This policy formally changed the boundaries of the 15 dog exercise areas existing at that time and introduced 7 new off-lead areas, including an off-lead area at Innes Common by the railway lines.
15. The Lake Domain Management Plan was adopted by Council in 2017. The Lake Domain Management Plan clearly identified the proposed fencing of the existing off leash dog exercise area at the Innes Common site adjacent to the Yacht Club.
16. There was significant public consultation on the Lake Domain Management Plan prior to adoption which included open days at the Innes Common site. 58 formal submissions were received on the plan with no objections relating to the Innes Common proposed fenced dog exercise area.
17. During the 2018-28 Long term Plan the Council approved funding for one fenced dog park. No site preference was indicated at this time.

## Discussion

18. During planning to implement the Fenced Dog Exercise Area staff identified 3 parks and sites within those parks as possible locations.
19. Tauhara Park, Resthills Park and Innes Common (Yacht Club) were selected on the following basis:
  - They were existing off lead dog exercise areas
  - An open area up to 1ha was available for a fenced area whilst leaving good access to the remaining open space.
  - The existing infrastructure necessary to support the development of a fenced dog exercise area was present, namely off-street parking, existing toilets, nearby water connections.
  - There were no known physical barriers with existing or proposed park infrastructure.
20. Between 12 March 2019 and 3 April 2019 an online questionnaire through the Council's 'Have Your Say' portal was opened. A link to the questionnaire is [here](#).

21. The fenced dog exercise area engagement was targeted to registered dog owners and stakeholders such as doggie day-cares who were notified of the consultation through email or post.
22. Local residents and park users were not directly engaged with as all the areas proposed in the consultation were existing off leash dog exercise areas, although the proposed area at Innes Common had been consulted on during the Lake Domain Management Plan process.
23. 1328 responses to the questionnaire were received. A link to summary results here: [Consultation Responses](#) and [Summary Report](#).
24. The results of the questionnaire showed a clear preference amongst respondents, with 50% indicating preference for the Innes Common site, 34% for Tauhara Park, Resthills Park 14% and 2% of respondents did not answer.
25. Based on clear preference for the Innes Common site and the previous indication in the Lake Domain Management Plan, staff purchased materials and began preparing to install the fence at Innes Common. (Concept image included as Attachment 1)
26. Works to construct the area were planned for June 2019. On 10 May 2019 staff hand delivered letters to neighbouring residents to inform them of pending works for the fenced dog park.
27. On 31 May 2019 the Lake Crescent Residents Group contacted Council's Parks and Recreation Unit staff to express their concerns about the dog park fence at this location.
28. Elected Members and staff met with members of the Lake Crescent Residents Group where they expressed their concerns. At this meeting staff acknowledged the gap in communication with neighbouring residents and agreed to put physical works on hold pending the outcome of further discussion.
29. Staff were in contact with and provided responses over the course of June/July 2019 to the Residents Groups concerns and considered that appropriate mitigations could be put in place to ensure the project could be successfully completed at the Innes Common Yacht Club site. (Attachment 2).
30. A hard copy petition was presented to the Governance Manager on 31 July 2019 with 684 signatures collected from park users and residents. The petition was validated, and the Lake Crescent Residents Group were informed that the report would be heard by the new Council on 28 November 2019, in line with Council's standing orders.
31. The petition's purpose was to bring to the attention of the Elected Members that in the view of the petition signatories, there was:
  - Lack of information regarding the justification for the project,
  - A flawed consultation process,
  - [that] Innes Common is an inappropriate site for a fenced dog exercise area.

### Options

32. Staff have assessed that there are four reasonable and viable options for the Council to consider.
33. **Option A: Do not proceed with a fenced dog exercise area.**
  - This option is not recommended due to the established community desire for a Fenced Dog Exercise Area.

34. **Option B: Put the project on hold pending further investigation on location and full community engagement.**
- This option provides an opportunity to re-visit the possible locations and ensure a wider community preference is known prior to construction.
  - It also provides an opportunity to fully brief elected members as well as Council having input into the community engagement process prior to a decision being made on a site.
  - The physical build would likely be delayed until next financial year which could pose a risk of registered dog owners being dissatisfied. This could be mitigated by implementing a comprehensive communications plan.
35. **Option C: Proceed with the planned fence dog exercise area at Innes Common.**
- This option delivers outcomes on the Pooches and Parks plan and Hamilton Lake Domain Management Plan along with meeting the expectations of the 660 residents who preferred the Innes Common location and the 1328 who participated in the community engagement.
  - This option could be delivered quickly and the fenced dog exercise area would be available during the summer months
  - The option does not meet the expectations of the Lake Crescent Residents Group or 684 signatories to the Petition.
36. **Option D: Install the fenced dog exercise area at either Resthills Park or Tauhara Park.**
- This option would require further engagement with the community on a preferred site including registered dog owners and neighbouring residents.
  - This option is likely to meet the expectations of the 684 signatories to the Lake Crescent Residents Group petition.
  - Similar objections could be raised by neighbouring residents to these parks resulting in the need to revisit site locations.
  - The physical build would likely be delayed until the next financial year which could pose the risk of registered dog owners being dissatisfied.
37. Staff recommend **Option B** because it provides the opportunity to fully test the whole community's preference at one time on the site for the fenced dog exercise area.

### Financial Considerations

38. The project funding of \$177,000 was funded as part of the 2018-28 Long term.
39. This funding was split into \$160,000 capital expenditure towards a fenced dog park and \$17,000 towards extra bins in year 1 of the 10 Year Plan.
40. \$82,000 was spent in the 2018/19 financial year on materials and bin installation prior to the project being put on hold.
41. The remaining \$95,000 was deferred and remains available to complete the project.
42. To implement the preferred **Option B** it is anticipated that the funding would need to be deferred again until the next financial year to enable proper planning and engagement with the community.

### Legal and Policy Considerations

43. Staff confirm that **Option B** complies with the Council's legal and policy requirements.

## Wellbeing Considerations

44. 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').
45. 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.
46. The recommendations set out in this report are consistent with that purpose.

### Social

47. Further engagement with the community on location of the fenced dog exercise area enables the community to have a say in the site that provides best the social connection opportunities and gives elected members assurance that the community goals in this area are achieved.

### Economic

48. There are no economic benefits related to this project.

### Environmental

49. The resident's group have raised concern about potential negative environmental impacts of proposed development at the Innes common site. Under option B these potential impacts could be explored fully, and council could be fully briefed.

### Cultural

50. Te Haa O Te Whenua O Kirikiriroa were consulted formally during the development of the Lake Domain Management Plan where the fenced dog exercise area was shown as a project. And were consulted again on 18 October 2019 and had no issues with the dog park being fenced.

### Risks

51. Risks of not implementing include failure to meet community expectations raised through development of the Dog Control Bylaw, the Pooches and Parks Plan and continued complaints from the community regarding lack of clear signage and dog friendly parks.
52. Registered Dog owners may perceive the delay as unnecessary which could be mitigated through a clear communication plan.

## Significance & Engagement Policy

### Significance

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

### Engagement

54. Community views and preferences are somewhat known to the Council through the separate engagement processes of The Pooches and Parks Plan, Hamilton Lake Domain Management Plan, Dog Control Bylaw, meetings with Lake Crescent Residents Groups.
55. Given the medium level of significance determined, the engagement level is medium. Engagement is required.

## **Attachments**

Attachment 1 - Innes Common Dog Park - Concept Design

Attachment 2 - Responses to Lake Crescent Residents Group

Attachment 3 - Front Page from Validated Petition - Fenced Dog Exercise Area Innes Common



CONCEPT PLAN

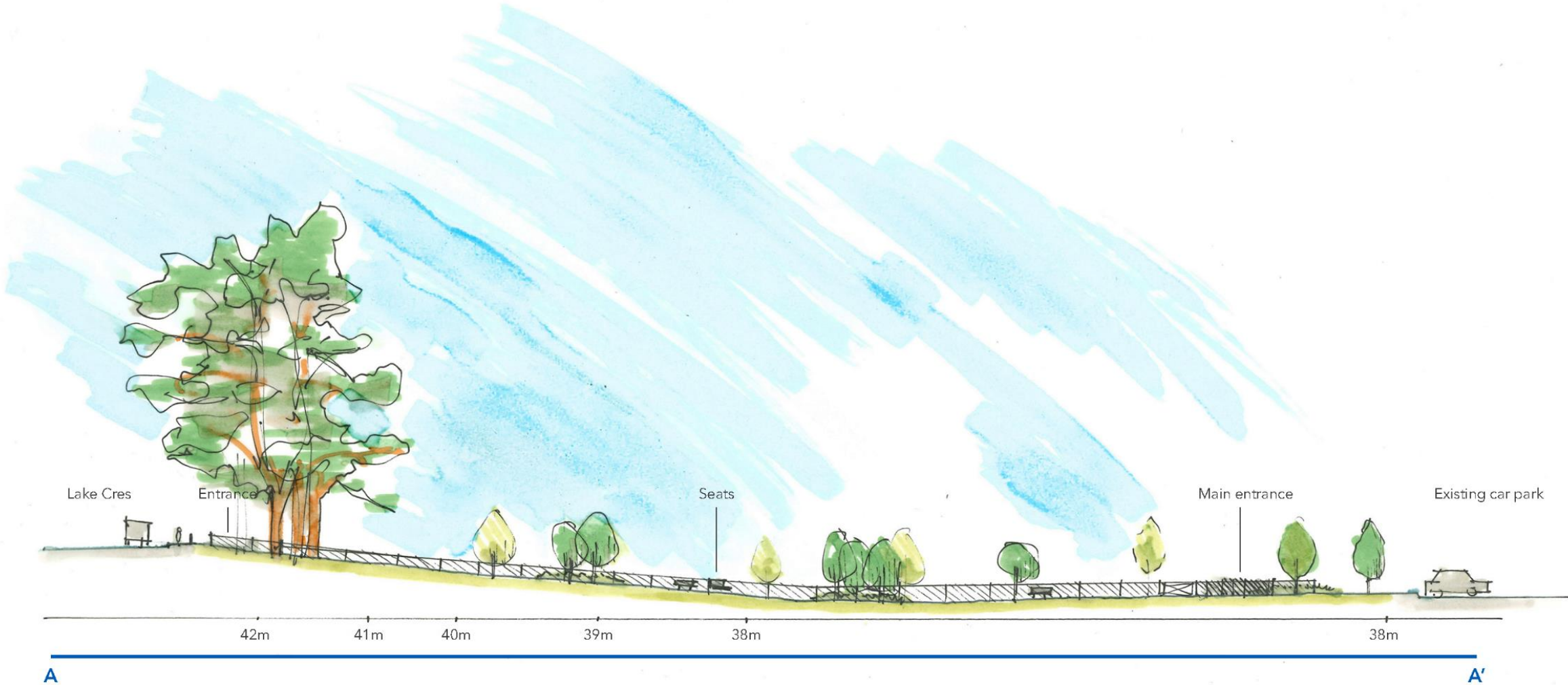




CROSS SECTION

Attachment 1

Item 9



SCALE 1:500 @ A3



CONCEPT PLAN - MAIN ENTRANCE



SCALE 1:100 @ A3

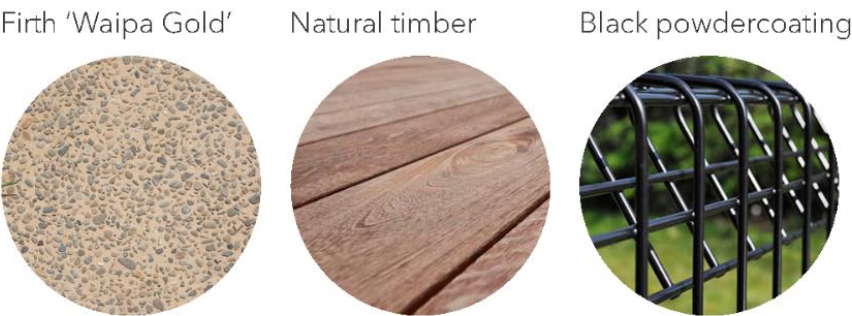


# PARK PALETTES

## OVERALL LOOK AND FEEL

- Integrated with the park
- Visually unobtrusive
- Safe and inviting
- Natural materials

## MATERIALS PALETTE



## FURNITURE PALETTE



## PLANT PALETTE

### TREES



### PERIMETER PLANTING



**Correspondence from Parks & Recreation Manager to Caroline Albon (Lake Crescent Residents Group Representative)**

**Initial response following staff attendance and Elected Member attendance at Residents Group meeting**

**Sent 19.06.19**

**Attachments: Summary of Engagement responses  
Full responses document**

Hi Caroline

Thank you again for the chance to meet last week with Lake Cres residents and discuss your community's observations and concerns regarding the fenced dog exercise area project at Innes Common.

We felt the conversation was valuable and took away a number of actions from the meeting. Of particular focus for us will be collating information on some of the matters you raised and then making it available to Elected Members, you and the other residents of Lake Cres who have an interest in this project.

Collating that information will take time, and our staff are treating this as a priority. I anticipate we will have responses to your questions and additional background information and data for you next week.

One aspect raised at the meeting which we can address at this point is the query regarding the engagement responses and the subsequent data we gleaned from that.

Attached to this email are two documents relevant to that topic:

- 1) an Excel spreadsheet including the commentary from those who responded to our engagement, and
- 2) the statistical analysis carried out by our staff on the engagement responses.

I will be in contact again next week with more information for you.

Kind regards  
Maria

**Response to provide full responses to concerns raised**

**Sent 02.07.19**

**Attachments: Concept Images**

Dear Caroline,

I am following up on our previous discussions regarding the Council's proposed fenced dog exercise area at Innes Common. You raised several matters which my staff have sought and compiled more information on.

**The proximity of the dog walking park from the playground:**

We do not anticipate any issues with the proximity of the fenced dog area to the playground. The two areas are approximately 60m from each other, and dog owners are required to keep their animals under control both in the carpark and within the fenced area. Similarly, parents/caregivers are expected to be actively supervising children while they in the playground. Dogs are prohibited within 10m of playgrounds and signage will be erected to inform park users of this.

Innes Common is already a popular destination for both families with children and dog owners. The area identified for the fenced dog area is already an off-leash dog area, and there was also an existing playground where the new playground is being developed. The Council has no recorded complaints or concerns from the community relating to dogs being exercised and families enjoying the nearby playground.

We anticipate the fenced dog area would in fact reduce any risk of conflict between dogs and other park users as off-lead dogs would be contained within the fenced area. Dogs being exercised in specific areas are generally focussed on enjoying the space allocated to them and their interactions with/commands from their owners. The Council's Animal Education and Control staff would respond to any complaints made.

#### Car parking capacity:

The Lake Domain Management Plan identifies an area for future carpark development at Innes Common. This has been taken into consideration during the design of the fenced dog area and playground development to ensure path and pedestrian connections to both. Funding for future carpark development will be considered as part of the Council's next 10-Year Plan, which includes a public consultation process – giving residents the opportunity to make submissions.

Should our project go ahead as proposed, we will monitor car park use and capacity and have the option to create an overflow parking area if demand for car parks exceeds what is available. With staff based at Hamilton Lake Domain, and a booking system in place for organised park activities, we can respond proactively and/or quickly to section off an area for vehicle parking if needed.

Parking on the grassed area is at the Council's discretion, and event organisers applying to use Innes Common/Hamilton Lake Domain for large-scale events are required to file a Traffic Management Plan showing how vehicles/roads will be managed.

Given the central location of the site and popular walk around the lake we would anticipate many dog owners will walk to the fenced area with their pets.

#### Underfoot/ground conditions in the proposed fenced dog exercise area:

The site analysis has taken this into consideration and the design includes dry areas in the upper slope of the fenced dog exercise area. We are aware there are some challenges with underfoot conditions in this part of the park, and we will be monitoring the situation.

There are options to mitigate boggy soil conditions – for example planting with certain species. We will monitor any wear and tear on the particularly damp parts of the proposed fenced dog exercise area, and grass length/mowing heights will be about 12cm to minimise wear and tear on the turf.

**The alternative location on the western side of Innes Common:**

My staff have looked at some of the logistics of this location, a narrow strip of land adjacent to the gum trees along the Main Trunk Line at the western boundary of the park.

Although the area allocated on the western side of Innes Common is slightly larger than the 8000sqm site behind the Yacht Club, if the fenced dog park to be constructed in this area, it would create conflicts:

- The fenced dog park would encroach on the outfield for one of the artificial cricket pitches.
- The Lake Domain Management Plan includes an anticipated expansion of the Waikato Hockey Centre, and we note the indicative footprint for the expanded hockey area will be in close proximity to the off-leash dog exercise area.

The shape of the area on the western side of the park lacks the functionality of our preferred location as it would concentrate dogs into a narrower area. I also note this particular area has not been through a public consultation process with a view to transforming it into a fenced dog exercise area.

I trust this explanation and information now addresses all the issues raised by the residents of Lake Cres in relation to our project. We believe the site behind the Hamilton Yacht Club is the best location for this fenced dog exercise area and I will be making a staff recommendation that this project continues as planned.

Our next step will be to discuss with Elected Members before beginning physical work at the site. The first opportunity for us to do this is in August.

We are aware you may wish to pursue the option to raise a petition and this timing would allow you the time to do this.

Kind regards  
Maria

**Response to further clarifications sought by residents group  
Sent 15.07.19**

Good afternoon Caroline

I hope you are well and enjoying the sunshine this afternoon?

I have attached as requested a requested plan which indicates the potential conflicts of the on the Western Side of Innes Common. It is worth noting that:

1. The eastern dog park is a much favourable shape. It provides plenty of open space to walk and run dogs compared to the proposed western dog park which is linear and doesn't provide sufficient open space for dogs and their owners to throw a ball/stick around.



2. The proposed western dog park is under a stand of significant mature vegetation. This will likely cause a multiple issues including maintenance of the site.
3. The future extension of the hockey fields and carpark as shown provisionally on the attached map and the location of the western dog park causes narrowing within this space.

In response to your other concerns, we are confident the perceived conflict between dogs and children on the playground is highly unlikely to cause issues. We have taken advice from our Animal Care & Control team who have confirmed this view and have let us know that if the proposed off lead area is fenced at Lake Domain they will have staff present there on a regular basis speaking with dog owners and educating them about their responsibilities when it comes to entering the park. Having a fenced dog park will make policing the area much easier for Animal Education & Control staff as the boundaries of the park are clearly defined by the fence therefore having a dog off lead outside this area is an offence under the Bylaw.

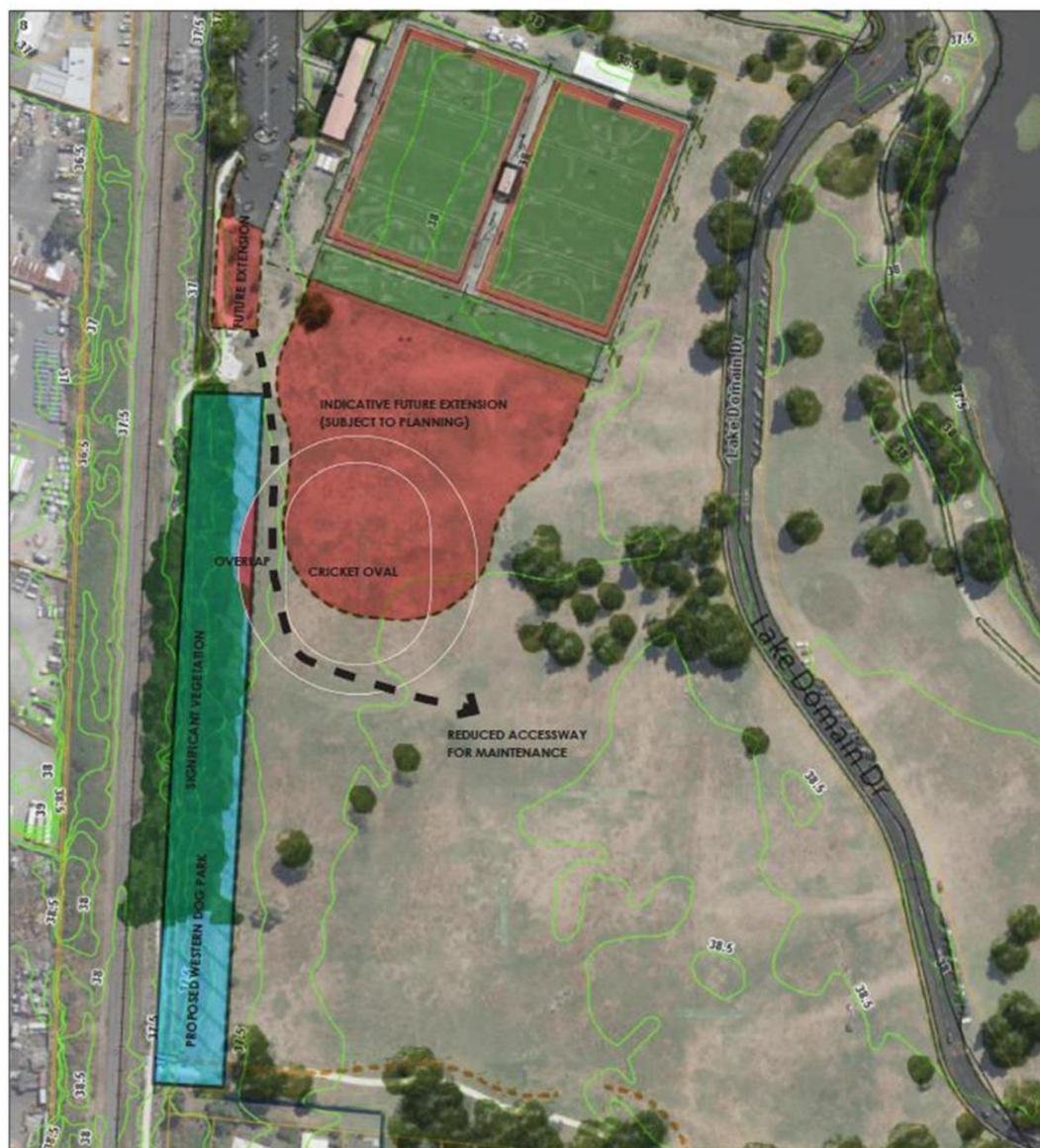
With regards to the potential negative effects on water quality, again we are confident that there is adequate maintenance budgets for this area and we can mitigate against concerns raised. There will be amenity and buffer planting around the proposed fence to:

1. Minimise the potential visual effects of this fenced area and
2. Create an biological filter strip to eliminate the movement of potential animal faecal contamination into nearby Rotoroa lake.

Rotoroa lake water quality will continue to be monitored (which is current practice) so we will be able to ascertain if there are any adverse effects and take appropriate action as necessary in the very unlikely event this occurs.

I understand you will be considering your options, did you have any further thoughts on the petition process?

Kind regards  
Maria



Print Size: A3 Landscape

Scale: 1 : 2000

Disclaimer: While considerable effort has been made to ensure that the information provided on this map is accurate, current and otherwise adequate in all respects, Hamilton City Council do not accept any responsibility for content and shall not be responsible for, and excludes all liability with relation to any claims whatsoever arising from the use of this map.

**NOT TO SCALE**  
**DOG PARK OPPORTUNITIES AND CONSTRAINTS**

**Response to Confirm receipt of petition and next steps**  
**Sent 23.08.19**

Apologies Caroline.

As discussed on Monday, I can confirm that the petition received on the 31<sup>st</sup> July from Lake Crescent Residents Group to oppose the siting of the proposed Dog Fenced Area on the parkland of Innes Common behind the Hamilton Yacht Club, Hamilton Lake, Hamilton has been validated by the Governance Lead.

The petition will be heard at the first meeting of the new council on the 28<sup>th</sup> November for the following reasons:

- Due to the timelines there has not been an opportunity between validating the Petition and the CS&E Committee for staff to prepare the comprehensive report required for this matter. The August CS&E Committee is the last one for this triennium.
- Due the October election, the last official meeting in this triennium is the full Council meeting on the 17<sup>th</sup> September (26<sup>th</sup> September is for end of triennium ceremony and urgent matters only).
- Staff are already committed to a full work programme for the August and September meetings.
- An urgent decision on this matter is not required as the project is currently on hold.
- A November report will enable time for a full comprehensive report to Council for decision on this matter whilst still allowing time for the physical construction of a fenced Dog exercise area at Innes Common or alternative location prior to the end of this financial year.

Please contact me to discuss if you have questions.

Regards  
Maria



## We Oppose the Fenced Dog Exercise Area-Innes Common

**Attention:** Becca Brooke Governance Lead- Governance- Hamilton City Council.

**Date presented:** 31<sup>st</sup> July 2019

**Summary of the petition** *'We oppose the Fenced Dog Exercise Area- Innes Common'*.

### Details

**Full title:** We, the undersigned, oppose the siting of the Fenced Dog Exercise Area, on the parkland area of Innes Common, behind the Hamilton Yacht Club, Hamilton Lake, Hamilton.

**Number of signatures:** 671 (please note further signatures to follow).

**Submitted by:** Lake Crescent Residents Group, Hamilton.

### Purpose of this Petition:

To bring the following to the attention of the Hamilton City Council:

- 1) Lack of information regarding the justification for this project;
- 2) Flawed consultation process;
- 3) Innes Common is an inappropriate location for a fenced dog exercise area.

**Petition to be referred to:** Community, Services, and Environment Committee.

**Date:** 31<sup>st</sup> July 2019.

### Decision:

- 1) Receive the information.
- 2) Agree that the Hamilton City Council reconsider the justification for the fenced dog exercise area- Innes Common.
- 3) Agree that the Hamilton City Council revoke the approval of the fenced dog exercise area -Innes Common.
- 4) Agree to refer the petition to Officers to inform their work.
- 5) Note that a report will be presented to the Community, Services, and Environment Committee on 22<sup>nd</sup> August 2019, that will include a response to the issues raised by this petition.



*[Handwritten signature]*  
C. ALLBON

1

# Council Report

**Committee:** Council **Date:** 28 November 2019  
**Author:** Trent Fowles **Authoriser:** Eeva-Liisa Wright  
**Position:** Compliance Manager **Position:** General Manager  
 Infrastructure Operations  
**Report Name:** Waste Management and Minimisation Bylaw 2019 - Deliberation and Adoption Report

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

- To seek the Council's approval for the proposed Waste Management and Minimisation Bylaw 2019; which would replace the current Solid Waste Bylaw 2012.

## Staff Recommendation

- That the Council:
  - receives the report; and
  - either:
    - Option 1** – adopts the proposed Waste Management and Minimisation Bylaw 2019 (Attachment 1)
 OR
  - Option 2** – does not adopt the proposed Waste Management and Minimisation Bylaw 2019 (no Bylaw)

## Executive Summary

- The purpose of the Waste Management and Minimisation Bylaw is to set controls and regulate waste material in the city.
- The existing Solid Waste Bylaw 2012 has been reviewed to include substantial new and amended controls needed to support the new service levels for the management, collection and disposal of rubbish and recycling being implemented in Hamilton City from 1 July 2020.
- The review has also been an opportunity to align the Bylaw with the 2018-2024 Waste Management and Minimisation Plan adopted by Council in September 2018.
- The proposed Waste Management and Minimisation Bylaw 2019 is substantially different from the existing Solid Waste Bylaw.

7. On [7 May 2019 the Growth and Infrastructure Committee](#) approved consultation on the renewal of the proposed Bylaw with two options for feedback from the community:
  - **Option 1** – that a Bylaw is the most appropriate way of addressing the perceived problems in relation to controlling waste issues in Hamilton.
  - **Option 2** – that a Bylaw is not the most appropriate way of addressing the perceived problems in relation to controlling waste issues in Hamilton.
8. The Council received 50 submissions during the consultation period of 7 June to 7 July 2019.
9. A majority of submitters (35 of 50 submitters) supported **Option 1**: that a Bylaw is the most appropriate way of addressing the perceived problems in relation to controlling waste issues in Hamilton.
10. The main points made in submissions are outlined below.

Support for Option 1	Support for Option 2
<ol style="list-style-type: none"> <li>1. <b>Support for more effective control of waste / more recycling</b></li> <li>2. <b>Support for protecting the environment</b></li> <li>3. <b>Option 2 is no Bylaw, which was not palatable to some submitters.</b></li> </ol>	<ol style="list-style-type: none"> <li>1. Support for greater manufacturer responsibility</li> <li>2. Comments unclear or appear in contradiction to the option chosen</li> </ol>

11. Some submitters commented on the new waste services commencing in July 2020. These comments will be considered during the implementation of the new services. They were not considered relevant to the review of the Bylaw.
12. During final legal and administrative checks of the proposed bylaw, several minor changes to wording have occurred to clarify controls; and grammatical errors have been corrected. These minor changes can be seen in Attachment 2 - tracked changes version of the proposed Bylaw.
13. The Staff recommendation of this report has two options for Council to consider:
 

**Option 1** – adopts the proposed Waste Management and Minimisation Bylaw 2019

OR

**Option 2** – does not adopt the proposed Waste Management and Minimisation Bylaw 2019 (no Bylaw)
14. Option 1 ensures that waste is managed and minimised in accordance with the Hamilton City Council Waste Management and Minimisation Plan 2018-2024 and supports the implementation of new waste services commencing in July 2020.
15. Staff consider the decision in this report has a low significance and that the recommendations comply with the Council's legal requirements.

## Background

16. Waste means anything disposed of or discarded; and includes a type of waste that is defined by its composition or sources (for example, organic waste, electronic waste, or construction and demolition waste); and to avoid doubt, includes any component or element of diverted material, if the component or element is disposed of or discarded.

17. The existing Bylaw refers to 'Solid Waste', to clearly differentiate it from 'trade-waste' (liquid waste managed through stormwater or wastewater systems). While used in the past, the term 'solid waste' is now not commonly used other than for differentiation from trade-waste. The change in the Bylaw's name to the Waste Management and Minimisation Bylaw 2019 reflects the changing attitudes towards waste.
18. The purpose of the Bylaw is to set controls and regulate waste in the city.
19. The existing Solid Waste Bylaw 2012 has been reviewed to include substantial new and amended controls needed to support the new service levels for the collection and disposal of rubbish and recycling being implemented in Hamilton City from 1 July 2020.
20. The review has also been an opportunity to align the Bylaw with the [Waste Management and Minimisation Plan 2018-2024](#) adopted by Council in September 2018.
21. The proposed Waste Management and Minimisation Bylaw 2019 is substantially different from the existing Solid Waste Bylaw.
22. The Local Government Act 2002 (LGA) requires the Council to consult the public on whether to continue the existing Bylaw without amendment (s160(3)(b), of the LGA) or amend, revoke or replace the Bylaw (ss160(3)(a) and 156(1), of the LGA).
23. A Special Consultative Process on the proposed Bylaw occurred in the period between 7 June and 7 July 2019.

## Discussion

24. On 7 May 2019 the Growth and Infrastructure Committee approved consultation of the proposed Bylaw with two Options for feedback from the community:
  - **Option 1** – that a Bylaw is the most appropriate way of addressing the perceived problems in relation to controlling waste issues in Hamilton.
  - **Option 2** – that a Bylaw is not the most appropriate way of addressing the perceived problems in relation to controlling waste issues in Hamilton.
25. Of the 50 submissions received via consultation, a majority (35 out of 50 submissions) of submitters supported approving the proposed Solid Waste Bylaw (**Option 1**: that a Bylaw is the most appropriate way of addressing the perceived problems in relation to controlling waste issues in Hamilton).

	Number	Percentage
<b>Yes</b>	35	70%
<b>No</b>	10	20%
<b>Not Answered</b>	5	10%
<b>Total</b>	50	100%

26. One submitter indicated that they would like to be heard in support of their written submission and was provided with the opportunity. The submitter did not attend the Regulatory and Hearings Committee meeting held on 29 August 2019.

### Support for Option 1 (support adopting the proposed Bylaw)

27. Most submitters (35 out of 50 submissions) supported approving the proposed Solid Waste Bylaw (**Option 1** – that a Bylaw is the most appropriate way of addressing the perceived problems in relation to controlling waste issues in Hamilton).

28. Key points raised by submitters supporting **Option 1** included:

- Support for more effective control of waste / more recycling
- Support for protecting the environment
- Preference for having a Bylaw (as opposed to no Bylaw)

**Support for Option 2 (do not support adopting the proposed Bylaw)**

29. Of the submissions received, 10 out of 50 submissions did not support adopting the proposed Solid Waste Bylaw 2019.

30. Key points raised by submitters supporting **Option 2** included:

- comments related to the roll out of new waste services in 2020
- comments related to support for increasing manufacturer responsibility

**Support not identified**

31. A small number of submitters did not indicate a preference for supporting or not supporting the proposed Bylaw (5 out of 50 submitters).

32. Analysis of comments suggests these submitters were either unclear of the details related to the Bylaw, or simply wished to express concerns related to waste services in general.

33. Submitters made a range of comments related to the new waste services including:

- Wheelie bin sizes inappropriate
- Concern for how multi-unit developments will store the new wheelie bins
- Concern for how people will transport new wheelie bins to kerb

34. Submitters concerns regarding Council waste services are not related to the Solid Waste Bylaw review process. Staff have noted submitters concerns and will use this information in the development of information and communications as part of the roll out of new services.

Concerns regarding transporting wheelie bins to the kerb

35. Councillors at the Regulatory and Hearings Committee on 29 August 2019, requested further information regarding the issue of people having difficulty moving wheelie bins to the kerb due to physical, neurological or intellectual impairment.

36. The new waste services contract addresses this issue through the provision of an assisted collection to eligible residents at no charge.

37. Staff have noted these concerns and will use this information during the development of information and communications as part of the roll out of the new services.

Road Corridor Width

38. One submitter raised concerns for how some aspects of the Bylaw would be enacted, and suggested amending the Bylaw as follows:

*... "request that the Proposed Bylaw be amended to include an additional clause in Section 5.15 General Controls on the collection, transportation and disposal of waste to ensure that where road corridors are narrowed to 9m for urban design outcomes that the size of refuse trucks used for collection by contractors may need to be reduced.*

*...The Proposed Bylaw can help ensure the emphasis for roading design is on urban design outcomes rather than waste collection contractor requirements in terms of truck size and manoeuvring ability." (abridged)*

39. Staff note that road corridor width is an ongoing issue for discussion. The issue of road corridor width is complex and needs to balance a range of factors including:
- Narrower roads require different truck sizes, and often a change from side-load to rear-load – with additional health and safety implications.
  - Smaller trucks cannot carry as much before needing to travel to the transfer station of landfill – increasing truck movements with associated emissions concerns, as well as increasing the time taken to collect waste (at increased cost).
  - Multiple service methodologies across the city, utilising different truck sizes and types, reduce the benefits of standardised waste contracts, increasing costs to Council over the lifespan of each development.
  - Fire engines, some ambulances and some utilities servicing trucks are the same size or larger than waste collection vehicles. Road corridor width therefore impacts multiple services.
40. Staff recommend the issue of road corridor width is best managed through the District Plan or the Regional Infrastructure Technical Specification (RITS); and is not appropriate to be included in the review of the Solid Waste Bylaw.

#### Multi-unit developments

41. One submitter opposed the requirement that any person who owns, occupies or manages a multi-unit development must prepare and comply with a waste plan. The submitter stated:
- “MUDs that front a road should not be required to have a waste plan as these properties can be adequately serviced by waste collection trucks. This provision should only apply to new MUDs that cannot be reached by waste collection trucks.”*
42. **Definition:** MUD means Multi-Unit Development – this is a property comprising three or more separately occupied residential units or business units, whether in the same building or in separate buildings, and held either in common ownership or in separate ownership.
43. Staff note that, while in most cases it is correct that a MUD with a road frontage will be able to use a Standard Collection Service provided by Council, MUD designs do not always adequately address this issue. There are many examples nationwide of existing MUDs where the road frontage is insufficient for the number of bins associated with separately used or inhabited parts of a rating unit (SUIPs) in the MUD.
44. For example, where an existing or proposed MUD is on a narrow property, there may be insufficient space for all the bins from the development to fit on the kerb frontage without causing street access issues.
45. In the case of future MUDs. The requirement for a MUD Waste Plan will identify this issue at an early stage of development – allowing Council to work with the developer to alleviate the issue in the design stage.
46. Council intends to ensure each future multi-unit property is individually considered in relation to waste service provision to avoid nuisance situations arising. Existing MUDs are also being assessed regarding this (see clause 53 below).
47. Staff note that MUD waste plans will only be required for *new developments* that apply for consent *after* the adoption of the Waste Management and Minimisation Bylaw 2019. Existing multi-unit developments do not require a waste plan (although they may voluntarily prepare one).
48. A set of Guidelines for multi-unit developments is currently under development, along with template waste plans.

49. A series of targeted meetings and workshops with staff and builders and developers of future MUDs is planned to explain the new Bylaw including the requirements for waste plans, and receive feedback, including feedback on the draft Guidelines and templates.
50. Staff will ensure submitters who commented on these issues are invited to be part of these discussions.

#### MUD Communication

51. Staff are aware that communicating with the owners, property managers and body corporates of existing multi-unit dwellings is crucial to the success of delivering the new service and new Bylaw.
52. Staff are working to identify existing multi-unit dwellings, private lanes, and retirement villages. They are currently working with the contractor to identify the appropriate service solution for these properties and are targeting an end of year completion for this. These solutions and options will be presented to Council in early 2020 prior to the service rollout.
53. Staff estimate there are approximately 10,000 separately used or inhabited parts of a rating unit (SUIPs) across the city that are classified as an existing multi-unit dwelling.
54. Affected owners, property managers and body corporates of existing MUDs will be contacted and offered opportunities to receive information about the new services and have staff answer their questions or concerns directly.

#### Amendments

55. Staff have made several minor grammatical changes post-consultation to the proposed Bylaw. These changes have been reviewed by the Councils in-house legal team and determined to be minor. One of these changes is to amend the title of the proposed Bylaw from Solid Waste Bylaw to the Waste Management and Minimisation Bylaw 2019 to align with the Waste Management and Minimisation Plan 2018-2024.
56. Amendments to the proposed Bylaw can be seen in the tracked changes version attached to this report.

### **Options**

57. Two options following the review of the Solid Waste Bylaw 2012 Bylaw are proposed:
  - **Option 1** – Council adopts the proposed Waste Management and Minimisation Bylaw 2019
  - OR
  - **Option 2** – Council does not adopt the proposed Waste Management and Minimisation Bylaw 2019 (no Bylaw).
58. Staff recommend **Option 1** to ensure that waste is managed and minimisation in accordance with the Hamilton City Council Waste Management and Minimisation Plan 2018 and supports the implementation of new waste services which will commence in July 2020.

### **Financial Considerations**

59. The total cost to complete the review on the Bylaw will be approximately \$20,000-\$25,000.
60. This includes consultants, four legal reviews and public consultation but does not include staff time.
61. This has been budgeted for through the 2018-28 10-Year Plan.

### **Legal and Policy Considerations**

62. There have been four legal reviews undertaken throughout the Bylaw review process.

63. Two reviews were undertaken by Council's internal lawyer and two reviews by Tompkins Wake. Feedback from these reviews were incorporated into the proposed Bylaw as it was developed.
64. Staff confirm that the review of the Solid Waste Bylaw complies with the Council's legal and policy requirements under the Waste Minimisation Act 2008 and the Local Government Act 2002.

## **Wellbeing Considerations**

### **Social Considerations**

65. An estimated total of 120,099 tonnes of solid waste was disposed of to landfill from Hamilton in 2016 (49% of total waste created in Hamilton). This is equivalent to approximately 780 kg per person in 2016.
66. Hamilton City Council directly manages only approximately 19% of the waste generated in Hamilton. Our ability to influence what happens with the other 81% of waste varies. This alone makes managing and minimising Hamilton's waste quite difficult.
67. The need to review our kerbside services was identified in the 2012-2018 Waste Management Minimisation Plan. Council undertook a detailed review of the services provides to the community and developed a range of options.
68. Consultation with the community in 2018 indicated overwhelming support for increased recycling.
69. Hamilton's waste to landfill is increasing, as are our overall volumes of waste. The City has a growing population, more houses and industry development, all these things will bring significant benefit to Hamilton but will also generate more waste to manage.
70. The controls in the proposed Waste Management and Minimisation Bylaw will encourage a reduction in waste, better manage the waste that is generated, and allow Council to better enforce the inappropriate disposal of waste – for example through better enforcement of illegal dumping.

### **Economic Considerations:**

71. Waste is often resources that have not be utilised. Improved management and minimisation of waste has the potential to protect businesses against scarcity of resources and volatile prices, help create new business opportunities and innovative, more efficient ways of producing and consuming.
72. Waste can create local jobs and opportunities while at the same time, save energy and help avoid the irreversible harm caused by using up resources at a rate that exceeds capacity to renew them in terms of climate and biodiversity, air, soil and water pollution.

### **Cultural Considerations**

73. Cultural well-being is defined as the vitality that communities have the freedom to retain, interpret and express their arts, history, heritage and traditions. It is broader than ethnic identity and includes values, shared beliefs, customs, behaviours and identity
74. Te Runanga o Kirikiriroa and Te Haa o te Whenua o Kirikiriroa were informed of the Council's review of the Bylaw and invited to provide feedback. No feedback was received.
75. Appropriate waste management and minimisation are important concerns to iwi in the Waikato region.



76. Waste management practices should appropriately reflect the cultural importance placed on maintaining separation between waste streams and the food chain – which is ultimately concerned with human health and well-being.
77. Waste disposal, if not managed properly, will threaten the mauri of the land and the surrounding water bodies, particularly the Waikato River. Waste deterioration and the inappropriate storage and use of chemicals can cause waste and chemical leaching into the environment.
78. The Hamilton City Council Waste Management and Minimisation Plan 2018-2024, and the supporting controls in the proposed Waste Management and Minimisation Bylaw 2019, are in alignment with Tai Tumu, Tai Pari, Tai Ao: Waikato-Tainui Environmental Plan.

### Environmental Considerations

79. The proposed Waste Management and Minimisation Bylaw 2019 is in alignment with the Hamilton City Council Sustainability Principle:
  - Sustainability Principle 10: *Council works with its communities to minimise the production of waste and maximise opportunities to recycle.*
80. The amended Bylaw is anticipated to improve sustainability outcomes by providing additional controls to avoid and manage waste and to provide increased incentive to divert waste from landfill.

### Risks

81. Given the robust legal review and consultation with stakeholders, there are no known risks associated with the staff recommendations that a Bylaw is the most appropriate way of addressing the perceived problems in relation to controlling waste issues in Hamilton.
82. If it is determined that a Bylaw is not required, there is risk that Council would have no enforcement of litter, illegal dumping or private waste operators and may fail to meet its obligations under legislation.
83. In addition, if it is determined that a Bylaw is not required; there is a risk that Council will fail to meet its obligations under the Waste Minimisation Act 2008 leading to a reduction or cessation of waste levy funding from the Ministry for the Environment. This funding is approximately \$154,000 per quarter allocated to waste minimisation projects).

## Significance & Engagement Policy

### Significance

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

### Engagement

85. Community views and preferences are already known to the Council through public consultation via a Special Consultative process between 7 June and 7 July 2019.
86. There is a statutory requirement to consult as per legislation outlined below.

87. On 7 May 2019 the Growth and Infrastructure Committee approved consultation on the proposed Solid Waste Bylaw with two Options for feedback from the community:
- **Option 1** – that a Bylaw is the most appropriate way of addressing the perceived problems in relation to controlling waste issues in Hamilton.
  - **Option 2** – that a Bylaw is not the most appropriate way of addressing the perceived problems in relation to controlling waste issues in Hamilton.
88. A Special Consultative Process on the proposed Bylaw occurred in the period between 7 June and 7 July 2019 where 50 submissions were received.
89. One submitter indicated that he would like to be heard in support of their written submission and was provided with the opportunity. The submitter did not attend the Regulatory and Hearings Committee meeting held on 29 August 2019.

### **Attachments**

Attachment 1 - Proposed Waste Management and Minimisation Bylaw 2019 - clean version

Attachment 2 - Proposed Waste Management and Minimisation Bylaw 2019 - Tracked changes

<b>Approved By:</b>	<b>Date Adopted :</b>
<b>Date In Force:</b>	<b>Review Date:</b>

## HAMILTON CITY WASTE MANAGEMENT AND MINIMISATION BYLAW 2019

This Bylaw is made by the Hamilton City Council under the powers given to it by the Waste Minimisation Act 2008, Local Government Act 2002, Health Act 1956, and the Litter Act 1979.

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## Hamilton City Council BYLAWS

### 1. PURPOSE

- 1.1. The purpose of this Bylaw is to support the management and minimisation of waste by:
- a) promoting and delivering effective and efficient waste management and minimisation in Hamilton City as required under the Waste Minimisation Act 2008;
  - b) supporting the implementation of the Council's Waste Management and Minimisation Plan;
  - c) upholding the purpose of the Waste Minimisation Act and the goals in the New Zealand Waste Strategy;
  - d) regulating the deposit, removal, collection, transport, and processing of waste;
  - e) enabling fees and charges for use of waste management and minimisation services and facilities provided, owned, or operated by the territorial authority;
  - f) protecting the health and safety of waste collectors, waste operators and the public; and
  - g) enabling the management of litter and nuisance in public places.

### 2. APPLICATION

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

### 3. DEFINITIONS

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

Term -	means:
Approved	Written authorisation from the Council
Approved container	Any container (including bags) that has been approved by the Council for the collection of any type of waste, with approval based on the following criteria: the prevention of nuisance, the protection of the health and safety of waste collectors and the public, and the achievement of effective waste management and minimisation.
Authorised Council officer	A person appointed by Hamilton City Council for the purposes of ensuring compliance with the Bylaw, as defined as an Enforcement Officer in the Waste Minimisation Act 2008 section 76, Local Government Act 2002 section 177 and as defined as Litter control officers under the Litter Act 1979 section 5.
Building work	means work— (a) for, or in connection with, the construction, alteration, demolition, or removal of a building; and (b) on an allotment that is likely to affect the extent to which an existing building on that allotment complies with the building code; and (c) includes sitework.
Bylaw	This Solid Waste Bylaw

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Class 1-5 landfills	Class	Common Name	Accepted Waste Material	Material Source
	1	Municipal Solid Waste Landfill	Non-hazardous waste. Typically, mixed waste from multiple sources and containing a high content of organic material; may include waste cited for classes 2, 3, 4 and 5. May be developed for specific industrial wastes (for example, monofills or residual waste sites)	Households, industry, institutions, construction sites, contaminated sites
	2	C&D Landfill	Unsorted/uncontrolled construction and demolition material. May be developed for specific industrial wastes (for example, monofills or residual waste sites)	Construction sites, demolition material, soil from areas with significantly different chemical properties
	3	Managed Fill	Inert material (e.g. selected inert construction or demolition material) or soils with specified maximum contaminant concentrations greater than applicable local background concentrations.	Selected materials from construction and demolition sites, earthworks and site remediation
	4	Controlled Fill	Inert material (e.g. selected inert construction or demolition material) or soils with trace element concentrations greater than applicable regional background concentrations	Selected materials from construction sites and demolition sites and earthworks
	5	Clean Fill	Virgin excavated natural materials (VENM) such as clay, soil and rock that are free of: <ul style="list-style-type: none"> <li>combustible, putrescible, degradable or leachable components;</li> <li>hazardous substances or materials (such as municipal solid waste) likely to create leachate by means of biological breakdown;</li> <li>products or materials derived from hazardous waste treatment, stabilisation or disposal practices;</li> <li>materials such as medical and veterinary waste, asbestos, or radioactive substances that may present a risk to human health if excavated;</li> <li>contaminated soil and other contaminated materials; and</li> <li>liquid waste.</li> </ul> <p>When discharged to the environment, clean fill material will not have a detectable effect relative to the background.</p>	Slips/road clearance, construction site clearance, earthworks surplus
Council	The Hamilton City Council or any person delegated or authorised to act on its behalf			
Council collection points	Places or containers approved by Council where approved containers may be left for collection or waste may be deposited if collection from a public place is unfeasible or impractical			
Cover material	Means material specified by the Council under clause 4.1.f as suitable for use as cover material at a class 1-4 landfill site			

## Hamilton City Council BYLAWS

Deposit	To cast, place, throw, drop or allow to escape any waste or diverted material  <i>depositing</i> , in relation to litter, includes— (a) casting, placing, throwing, or dropping litter; and (b) allowing litter to be cast, thrown, dropped, or to escape, from any motor vehicle or trailer
Disposal	As defined in the Waste Minimisation Act 2008
Donation collection point	A place approved by Council where reusable or recyclable types of waste may be deposited for the purposes of raising funds from the waste items
Event	An activity that is irregular or infrequent and does not require the construction of a permanent building, the installation of permanent infrastructure or services, or works such as vegetation clearing or other operational work. Events involve large groups of people either as participants or spectators and include carnivals, parades, concerts, markets, craft or trade fairs, field days, open days, displays and the like. This definition applies only where the activity is not covered by another definition/activity in the District Plan
Home composting	The activity of creating decaying organic matter from domestic green waste and/or food waste into compost
Illegal Dumping	Means the same as Litter
Licence	A licence, consent, permit or approval to do something under this Bylaw and includes any conditions to which the licence is subject
Litter	Any refuse, rubbish, animal remains, glass, metal, garbage, debris, dirt, filth, rubble, ballast, stones, earth or waste matter or any other thing of a like nature deposited in a public place
Litter receptacle	A receptacle provided for the collection of litter
Manager	A person who controls or manages any premises, activity, or event, regardless of whether that person has a proprietary interest in those premises or that activity or event. Includes a Body Corporate
Multi - Unit Development	A property comprising three or more separately occupied residential units or business units, whether in the same building or in separate buildings, and held either in common ownership or in separate ownership
MUD	Multi - Unit Development
Nuisance	A nuisance in terms of the Health Act 1956
Occupier	The inhabitant occupier of any property; and in relation to any land (including any premises and any coastal marine area), includes any agent, employee, or other person acting or apparently acting in the general management or control of the land, or any plant or machinery on that land
Packaging	Materials used to wrap or protect goods

## Hamilton City Council BYLAWS

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Person	An individual, a corporation sole, a body corporate, and an unincorporated body
Premises	A building or buildings and the land belonging to it or them
Public place	<p>As defined in the Litter Act 1979</p> <p>Includes—</p> <p>(a) every motorway, road, street, private street, footpath, access way, service lane, court, mall, and thoroughfare;</p> <p>(b) any public reserve within the meaning of section 2 of the Reserves Act 1977 to which the public generally has access, whether with or without payment of any fee, and any reserve under that Act classified as a nature reserve or a scientific reserve;</p> <p>(c) any park, garden, or other place of public recreation to which the public has access, whether with or without payment of any fee;</p> <p>(d) any beach or foreshore, or the bank of any river or stream, or the margin of any lake, to which the public traditionally has access, whether with or without payment of any fee;</p> <p>(e) any waters to which the public traditionally has access, whether with or without payment of any fee, for bathing or other recreational purposes;</p> <p>(f) every wharf, pier, or jetty (whether under the control of a harbour board or not) to which the public has access;</p> <p>(g) any conservation area within the meaning of the Conservation Act 1987;</p> <p>(h) any airport within the meaning of section 2 of the Airport Authorities Act 1966;</p> <p>(i) any cemetery within the meaning of section 2 of the Burial and Cremation Act 1964;</p> <p>(j) any land vested in or controlled by any local authority (within the meaning of section 5(1) of the Local Government Act 2002) or the Crown, being land that is not occupied pursuant to any lease, licence, or other authority by any private person;</p> <p>(k) any national park constituted under the National Parks Act 1980;</p> <p>(l) any other place whether public or private in the open air, including any walkway within the meaning of section 4 of the Walking Access Act 2008, to which the public has access, whether with or without payment of any fee,—but does not include any site for the disposal of litter, or any receptacle installed in any such public place pursuant to this Act or any other Act</p>
Public Notice	<p>To:</p> <p>(a) publish on an Internet site to which the public has free access a notice that—</p> <p>(i) includes all the information that is required to be publicly notified; and</p> <p>(ii) is in the prescribed form (if any); and</p> <p>(b) publish a short summary of the notice, along with details of the Internet site where the notice can be accessed, in 1 or more newspapers circulating in the entire area likely to be affected by the matter to which the notice relates. The notice and the short summary of the notice must be worded in a way that is clear and concise</p>
Recovery	The extraction of materials or energy from waste or diverted material for further use or processing; and includes making waste or diverted material into compost
Retail	The use of land or buildings where goods and services are offered or exposed to the general public for sale, hire or use, but excludes restaurants, licenced premises, offices or drive-through services
Solid Waste Storage Area	An on-site storage area for refuse, recyclable material and organic matter that is accessible for waste collection services
Treatment	Means subjecting waste to any physical, biological, or chemical process to change its volume or character so that it may be disposed of with no or reduced adverse effect on the environment; but does not include dilution of waste

# Hamilton City Council BYLAWS

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Waste

(a) means any thing disposed of or discarded; and  
(b) includes a type of waste that is defined by its composition or source (for example, organic waste, electronic waste, or construction and demolition waste); and  
(c) to avoid doubt, includes any component or element of diverted material, if the component or element is disposed of or discarded

Waste categories:

Related to the source of the waste	Related to the composition of waste	Related to restrictions applied to waste
Domestic Waste Commercial Waste Construction and Demolition Waste	Food Waste Green Waste Hazardous Waste Inorganic Material Recyclable Material Refuse Reusable Material Special Waste	Diverted Material Prohibited Waste

Category	Definition
Commercial waste	Waste that results from a commercial enterprise and includes waste generated by the carrying on of any business, manufacture, process, trade, market, or other undertaking
Construction and demolition waste	Waste generated from any building construction or demolition works; and includes any concrete, plasterboard, wood, steel, brick, cardboard, metals, plastic or glass
Diverted material	Any thing that is no longer required for its original purpose and, but for commercial or other waste minimisation activities, would be disposed of or discarded
Domestic waste	Waste consisting of refuse, recyclable material or organic matter (food waste and/or green waste) originating from any household or from the cafeteria, lunchroom or canteen of any commercial enterprise, but does not include commercial waste nor prohibited waste.
Food waste	Waste that is derived from any item of food and is organic in origin and includes fruit and vegetable scraps, meat, fish and bone discards, and any other similar food waste
Green waste	Compostable plant material
Hazardous waste	Waste that is reasonably likely to be or contain a substance that meets 1 or more of the classification criteria for substances with explosive, flammable, oxidising, toxic, corrosive or ecotoxic properties under the Hazardous Substances (Classification) Notice 2017
Inorganic material	Waste consisting of household equipment, furniture, appliances and material of a similar type that due to its nature or size cannot be collected as domestic waste in an approved container, and that is specified by the Council as suitable for:  a) collection from a public place by the Council; b) collection from any premises by the Council; or c) delivery to a resource recovery facility



## Hamilton City Council BYLAWS

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	Litter	Any refuse, rubbish, animal remains, glass, metal, garbage, debris, dirt, filth, rubble, ballast, stones, earth or waste matter or any other thing of a like nature deposited in a public place. For clarity, litter includes illegal dumping.
	Organic matter	Food waste and/or green waste that is specified by the Council under clause 5.15a4.1.a as organic matter
	Prohibited waste	<p>Waste containing-</p> <ul style="list-style-type: none"> <li>any material capable of causing injury to any person or animal unless the material is sufficiently contained to prevent injury;</li> <li>any material capable of causing damage to the approved container or likely to shatter in the course of collection material unless the material is sufficiently contained to prevent damage to the approved container or to prevent injury;</li> <li>any material that may endanger any person, animal or vehicle which may come in to contact with it prior to, during or following collection, transportation or disposal;</li> <li>any radioactive wastes, but excluding domestic smoke detectors;</li> <li>any used oil and lead-acid batteries;</li> <li>any hazardous waste;</li> <li>medical waste;</li> <li>any other material publicly notified as prohibited by the Council under clause 5.15h</li> </ul>
	Recyclable material	Waste specified by the Council under clause 5.15a as suitable for recycling
	Recycling	The reprocessing of waste or diverted material to produce new materials
	Refuse	<p>Waste which</p> <p>(a) subject to (b), is not organic matter, recyclable material, prohibited waste, construction and demolition waste or inorganic material;</p> <p>(b) may include organic matter and/or recyclable material that does not exceed the maximum allowable limits specified by the Council under clause 5.15 of this Bylaw</p>
	Reusable material	<p>Waste or diverted material that is further used in its existing form for the original purpose of the materials or products that constitute the waste or diverted material, or for a similar purpose</p> <p><i>reuse</i> means the further use of waste or diverted material in its existing form for the original purpose of the materials or products that constitute the waste or diverted material, or for a similar purpose</p>
	Special Waste	Any waste whether from a commercial premise or any other source which is hazardous, toxic or by its nature requires special disposal because of environmental considerations or landfill operational requirements. Examples of such are: asbestos, inflammable, explosive or corrosive substances and radioactive substances
Waste collector	A person who collects or transports waste and includes commercial and non-commercial collectors and transporters of waste (for example, community groups and not-for-profit organisations); but does not include individuals who collect and transport waste for personal reasons (for example, a person taking household garden waste to a landfill)	
Waste management facility	A facility which primarily provides waste management and disposal services or waste remediation and materials recovery services, in relation to solid waste	

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HAMILTON CITY WASTE MANAGEMENT AND MINIMISATION BYLAW 2019

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## Hamilton City Council BYLAWS

Waste management facility operator	A person who owns or manages a waste management facility
Waste management and minimisation plan	A waste management and minimisation plan adopted by a territorial authority under section 43 of the Waste Minimisation Act 2008
Waste Plan	A plan, required by the Council under this Bylaw, that sets out how waste is managed at a Multi – unit Development, Event or Site where building works are carried out
Waste operator	A person who is a waste collector or operates a waste management facility
Waste remediation and materials recovery services	The remediation and clean-up of contaminated buildings and mine sites, mine reclamation activities, removal of hazardous material and abatement of asbestos, lead paint and other toxic material. This also includes recovery, sorting, and/or storage services in relation to waste
Waste treatment and disposal services	The treatment or disposal of waste (including hazardous waste), including the operation of landfills, combustors, incinerators, compost dumps and other treatment facilities (except sewage treatment facilities), and waste transfer stations

#### 4. CONTROLS

- 4.1. Any control specified by the Council under s 151(2) of the Local Government Act 2002 to support the implementation of this Bylaw:
- a. must be made by a resolution and public notice; and
  - b. may:
    - i. prohibit, restrict, or control any matter or thing generally, for any specific category or case, or in a particular case;
    - ii. apply to all waste or to any specified category of waste; and
    - iii. apply to the City or to a specified part of the City; and
    - iv. apply at all times or at any specified time or period of time

#### 5. COLLECTION, TRANSPORTATION, PROCESSING, AND DISPOSAL OF WASTE

##### GENERAL RESPONSIBILITIES

- 5.1. The occupier and the manager of a premises must ensure that the domestic waste from the premises is separated into waste types as determined by the Council, and deposited for collection in the correct approved container.
- 5.2. No person may deposit in a container material that is not approved for that type of container.
- 5.3. The owner and/or the manager of any premises must ensure that approved containers are provided to tenants.
- 5.4. The owner, occupier and the manager of any premises must ensure that:

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- a. reasonable steps are taken to prevent the waste escaping from any waste container;
- b. waste from the premises has no more than a minimal adverse effect on neighbouring occupiers;
- c. any waste container is regularly emptied when it is full;
- d. the contents of any waste container, excluding containers for green waste, are protected from rain or ingress or egress of flies and animals;
- e. all dwellings contain a practical means and route of safe access and egress to any solid waste storage area for both residents and waste operators (where applicable); and
- f. steps are taken to ensure that no waste is deposited in or about any building or its surrounding area (including kerbside) except in accordance with this Bylaw;

5.5. The occupier and the manager of any premises who is in control of an approved container must ensure that:

- a. the container is kept in a safe location, hygienic, in good repair, and without any modifications or alterations to its appearance;
- b. if required, waste is deposited in the container in a manner that allows the whole of the contents to fall out easily and cleanly when the container is emptied;
- c. the container is placed for collection in an upright position off the road, in front of the premises from which the waste originated and as close to the kerbside as possible;
- d. reasonable steps are taken to prevent the container disrupting or obstructing pedestrian and vehicular traffic and to preserve access to the premises.

5.6. No person may:

- a. put waste into an approved container which has been provided to any other person, without that other person's consent;
- b. remove waste from, or interfere with any waste deposited in an approved container, except the Council, a licenced waste collector or the person who deposited the waste;
- c. remove or interfere with any mode of identification of any approved container, including electronic devices attached to the container;
- d. remove a container provided by the Council from the premises to which it has been allocated, except with the prior written approval of the Council.

5.7. The occupier and the manager of any premises is responsible for any waste generated on the premises until it has been collected.

### LICENSING OF WASTE COLLECTION AND WASTE MANAGEMENT FACILITY OPERATORS

5.8. The following waste operators must have a waste operator licence issued by the Council and must not collect waste if they do not hold such a licence:

- a. Any waste collector who collects and/or transports waste from land in the City:
  - i. in a quantity of at least 40 tonnes of waste in any twelve-month period; and / or
  - ii. at least 40 times in any twelve-month period
- b. Waste management facility operators with a facility in the City which handles more than 40 tonnes of waste in any twelve-month period.

## Hamilton City Council BYLAWS

- 5.9. An application for a waste operator licence must be made on the application form which is available from the Council, and must be accompanied by any application fee and the information required by the Council to process the application.
- 5.10. The holder of an existing licence may apply to the Council for a renewal of that licence.
- 5.11. A licence is personal to the holder and is not transferable.
- 5.12. A licence may be granted or refused at the discretion of the Council, and if granted may be on such terms and conditions as the Council deems appropriate.
- 5.13. When considering a licence application, the Council may take into account the following non-exhaustive list of factors:
- a. The extent to which the licenced activities will promote public health and safety;
  - b. The extent to which the licenced activities support achievement of the Council's waste management and minimisation plan, including goals and initiatives within that plan;
  - c. The quantity and type of waste to be handled;
  - d. The methods employed for the handling of the waste;
  - e. The frequency and location of the waste collection, removal and transportation services;
  - f. The specifications of the vehicles, equipment, and containers to be used for the handling of waste;
  - g. The applicant's experience, reputation, and track record in the waste and diverted material industry; and
  - h. The terms and conditions under which any disposal of waste is permitted and the existence of, or need for, any statutory approvals, authorisations, or consents required to be held or complied with in respect of such disposal.
- 5.14. A licenced waste operator must comply with all terms and conditions of the licence. These conditions may include, but are not limited to, the following matters:
- a. Term – a licence may be granted for a term of up to 5 years;
  - b. Licence fee – the licensee must pay an annual licence fee in an amount determined by the Council's annual fee and charges;
  - c. Bond – the Council may, on a case by case basis, require a licence holder to post a bank-guaranteed bond;
  - d. Compliance with standards – the licence holder must comply with any standards or policies the Council has set for waste handling such as:
    - i. Provision of waste collection services within reasonable times specified by the Council;
    - ii. The collection of any litter within a specified distance of an approved container awaiting collection and any litter spillage from the licence holder's vehicle during the collection, transportation or disposal process; and
  - e. Kerbside collections – restrictions on the timing and/or location of collections; and
  - f. Provision of information – the licence holder must provide data relating to waste they have handled to the Council during the term of their licence, in the form and at the times determined by the Council, which may include:

## Hamilton City Council BYLAWS

- i. the quantities of various waste categories that have been handled by the waste operator during a period of time;
- ii. waste log books for each vehicle operated in accordance with the licence recording the quantity, composition and destination of each waste type and the point in time when such data was recorded during the waste collection, transportation or disposal process;
- iii. weighbridge receipts;
- iv. gate records of waste tonnage.

### GENERAL CONTROLS ON THE COLLECTION, TRANSPORTATION AND DISPOSAL OF WASTE

5.15. The Council may specify controls for the following matters in relation to the collection, transportation or disposal of waste from any property:

- a. types of domestic waste that may be treated for all purposes (including deposit, collection, transportation, and disposal) as recyclable material, organic matter or refuse;
- b. maximum allowable limits of a specified waste type that may be collected or transported from a public place in an approved container for refuse and that subsequently may be disposed of;
- c. maximum allowable limits of a waste type that may be placed in a container approved for another waste type;
- d. the maximum number of hours prior to or following the collection period that a container may be placed in a public place; and
- e. the maximum weight of waste put in individual containers; and
- f. types of waste that may be handled at any class 1 – 4 landfill and material that may be used as cover material at any such site;
- g. materials that may be used as natural or other hardfill material at a Class 5 landfill;
- h. types of waste that are prohibited; and
- i. the locations where collections from a public place may occur;
- j. the types of waste that may be collected from a public place.

5.16. General controls on the collection, transportation and disposal of waste must be accordance with clause 4.

5.17. Any waste operator who collects or transports waste must:

- a. make available to the owner, occupier or manager of a premises one or more approved containers to enable separate collection of each of the waste types required to be separately collected from the premises; and
- b. not collect for disposal any domestic waste which has not been separated into refuse, recyclable material and organic matter and exceeds the maximum allowable limits specified by the Council under clause 5.15c; and
- c. not dispose to a class 1 – 4 landfills any waste type that could be reused or recycled.

### COLLECTIONS FROM A PUBLIC PLACE

5.18. Any person providing or using a waste collection service in or from a public place must comply with this Bylaw.

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- 5.19. Waste may not be placed on a public place for collection unless it is:
- domestic waste;
  - green waste;
  - any other type of waste determined by the Council in clause 5.15 as able to be placed on a public place for collection.
- 5.20. Prohibited waste, diverted material, construction and demolition waste or commercial waste may not be placed in a public place for collection unless authorised by the Council under this Bylaw.
- 5.21. Any waste operator who collects or transports waste from a public place must ensure waste containers provided clearly differentiate the waste operators' containers from the containers of other operators.
- 5.22. The Council may specify controls for the following matters in relation to the collection or transportation of waste from a public place:
- the area to which the control applies;
  - the type, size, colour, and construction of containers that may be used for the storage and collection of waste;
  - the types of waste that may be collected in various types of container;
  - the categories of waste that may be deposited at or collected from a public place;
  - the conditions applicable to any collection service from a public place;
  - the placement and retrieval of approved containers for collection, collection days and times, and restrictions on the number and weight of approved containers;
  - requirements to ensure the correct separation of categories of wastes into approved containers;
  - the locations, access times and conditions of use of Council collection points;
  - any other operational matter required for the safe and efficient operation of a collection service from a public place.
- 5.23. No person may deposit waste at a Council or donation collection point other than in accordance with clauses 5.25 to 5.27.
- 5.24. Controls in relation to the collection or transportation of waste from a public place must be accordance with clause 4.

### **COUNCIL COLLECTION POINTS**

- 5.25. The Council may specify:
- any place, or receptacle in a public place, as a Council collection point for the collection of domestic waste; and
  - controls relating to the deposit of waste at the Council collection point.
- 5.26. Controls in relation to Council collection points must be accordance with clause 4.

### **DONATION COLLECTION POINTS**

- 5.27. Anyone intending to provide a donation collection point must obtain Council approval in advance and must operate the donation collection point in compliance with any requirements the Council specifies including, but not limited to:

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- a. the location;
- b. vehicle access;
- c. the type of waste which may be deposited;
- d. the use of approved containers;
- e. the removal of deposited waste from the collection point; and
- f. a requirement to clean up or remove any litter or graffiti.

### INORGANIC MATERIAL

- 5.28. The Council may specify controls for the following matters in relation to the collection of inorganic material from a public place:
- a. the weight, size and nature of inorganic material that may be deposited for collection;
  - b. the categories of inorganic material that may be deposited for collection;
  - c. the times, locations and conditions applicable to the collection of inorganic material;
  - d. the methods by which the inorganic material may be collected;
  - e. any other operational matters required for the safe and efficient collection of inorganic material from a public place.
- 5.29. Any person who deposits inorganic material for collection on, or collects or transport inorganic material from, a public place must comply with the controls made by the Council.
- 5.30. Controls in relation to the collection of inorganic material from a public place must be accordance with clause 4.

### NUISANCE AND LITTER

- 5.31. No person may:
- a. allow any accumulation of waste or diverted material on or around any premises they own, occupy or manage to become offensive, a nuisance or likely to be injurious to health;
  - b. use an approved container in a manner that creates a nuisance, is offensive or is likely to be injurious to health.
- 5.32. Except as provided for under any Council Bylaw, no person may:
- a. burn or allow to be burnt on any property they own, occupy or manage any waste except organic matter;
  - b. bury or allow to be buried on any property they own, occupy or manage any waste except:
    - i. organic material;
    - ii. dead companion animals and nuisance pests; or
    - iii. for the purposes of home composting.
  - c. dispose of any waste on any premises except at:
    - i. a class 1-4 landfill, or
    - ii. any premises they own, occupy or manage, for the purposes of home composting.

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- 5.33. No person may:
- a. deposit any waste arising from that person's household or that person's business activities in any litter receptacle provided by the Council in any public place;
  - b. remove any waste from any litter receptacle provided by the Council in any public place, where this results in any waste being deposited outside the receptacle, unless authorised by the Council to do so;
  - c. deposit or attempt to deposit any waste in any receptacle provided by the Council in any public place if:
    - i. the receptacle is full; or
    - ii. the waste is likely to escape.
  - d. affix any item to any litter receptacle provided by the Council in any public place; or
  - e. damage any litter receptacle provided by the Council in any public place.
- 5.34. The owner, occupier or manager of any premises on which any item is affixed or displayed that is likely to become litter, must take all steps to the satisfaction of the Council to prevent it becoming litter, and to promptly remove it in the event that it does become litter.
- 5.35. The occupier of a retail premises must provide appropriate facilities so that customers can choose to remove packaging associated with products that they have purchased and leave that packaging at the retail premises at the point of purchase. For the purposes of this Bylaw, such packaging is the responsibility of the occupier of the retail premises unless and until it is removed from the premises by a purchaser.

### PROVISION OF MULTI-UNIT DEVELOPMENT WASTE PLANS

- 5.36. Any person who owns, occupies or manages a MUD must comply with any approved MUD Waste Plan required under this Bylaw.
- 5.37. From the date of adoption of this Bylaw, any person intending to construct a MUD must submit a MUD Waste Plan at the same time as the resource consent application for that MUD.
- 5.38. Any MUD Waste Plan must comply with 5.39 and 5.40 of this Bylaw and be approved by the Council.
- 5.39. A MUD Waste Plan must include, but is not limited to, the following:
- a. identification of an adequate area on the premises for the storage of containers that is readily accessible to the occupiers of units and to a licenced waste operator (where applicable) to enable separate collection and transportation of refuse, recyclable material and/or organic matter;
  - b. the methods to be used to minimise noise and odour and to keep the area hygienic, free from vermin or other infestations and protected from theft and vandalism;
  - c. identification of the practical means and route of safe access and egress to the solid waste storage area for both residents and waste operators (where applicable);
  - d. an estimate of the volumes of refuse, recyclable material and organic matter that will be generated;
  - e. how waste generated by the MUD is to be minimised;
  - f. how the collection and use of recyclables and reusable material will be maximised;



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- g. a statement that:
    - i. the MUD is able to be serviced via the notified standard Council-provided waste service; or
    - ii. the MUD requires a waste service which cannot be serviced via the notified standard Council-provided waste service. This statement must also include detail of the non-standard service requirements and whether the occupier will be expected to pay any servicing costs.
  - h. the steps which will be taken to ensure that no waste is deposited in or about the MUD or its precincts (including kerbside) in breach of this Bylaw; and
  - i. any other matter required by the Council to ensure MUD waste is managed in accordance with the Council Waste Management and Minimisation Plan.
- 5.40. The Council may specify controls for the following matters in relation to the collection or transportation of waste from MUD:
- a. the categories of recyclable material, organic matter and refuse that may be deposited at or collected from a Multi-unit Development;
  - b. the times, locations and conditions applicable to any collection service from a MUD, including the placement and retrieval of containers for collection, collection times and restrictions on the number and weight of approved containers;
  - c. requirements to ensure the correct separation of refuse, organic matter and recyclable materials into approved containers;
  - d. any other operational matter required for the safe and efficient operation of a collection service from a MUD.
- 5.41. Any person who manages a MUD or owns or occupies a unit in a MUD must comply with any controls for the deposit, collection, transportation and management of waste in the MUD made by the Council.
- 5.42. Controls on the collection or transportation of waste from MUDs must be accordance with clause 4.
- 5.43. The Council may, on application, grant a written exemption from compliance with all or any the requirements of this clause if:
- a. in the opinion of the Council, the costs of full compliance would be disproportionate to any resulting waste management and minimisation benefits; or
  - b. the manager or owner demonstrates to the satisfaction of the Council that refuse, recyclable material and organic matter are collected separately; and regularly.

### PROVISION OF EVENTS WASTE PLANS

- 5.44. Any organiser of any event must obtain prior approval from the Council for an Event Waste Plan for the event.
- 5.45. The Council may require an Event Waste Plan to meet requirements set out by the Council Event guidelines which may include:
- a. an estimate of the types and volumes of waste to be generated by the event;
  - b. how waste generated by the event is to be minimised;

## Hamilton City Council BYLAWS

- c. the steps to be taken to maximise the collection and re-use of recyclable material and reusable material;
  - d. the equipment to be provided for the storage, collection and transportation of waste and diverted material;
  - e. the method of and person responsible for the collection and disposal of waste generated by the event;
  - f. the provision of litter minimisation, collection, and removal from within the event site and its immediate surrounds; and
  - g. any other matters relating to event waste management and minimisation that may be specified by the Council.
- 5.46. The organiser of an event must comply with the approved Event Waste Plan.
- 5.47. On completion of the event, the organiser must provide the Council with a report on the implementation of the Event Waste Plan, including:
- a. a waste analysis which sets out the predicted and actual types and amounts of waste generated by the event; and
  - b. the waste management facilities used to recover, recycle, treat or dispose of waste generated by the event.

### PROVISION OF SITE WASTE PLANS FOR BUILDING WORK

- 5.48. Any person applying for a building consent must also submit a Site Waste Plan to the Council for approval.
- 5.49. A Site Waste Plan must comply with the Council guidelines which may include:
- a. the name of the client, principal contractor, and person who prepared the Site Waste Plan; and
  - b. the location of the site;
  - c. the estimated total cost of the building work;
  - d. a description of each type of waste expected to be produced;
  - e. an estimate of the quantity of each type of waste; and
  - f. the proposed method of waste management for each type of waste (e.g. recovery, recycling, disposal).
- 5.50. While the building work is being carried out, the principal contractor must:
- a. ensure that
    - i. reasonable steps are taken to prevent waste escaping from any waste container;
    - ii. waste from the site has no more than a minimal adverse effect on neighbouring occupiers;
    - iii. any waste container is regularly emptied when it is full;
  - b. review the Site Waste Plan as necessary;
  - c. record quantities and types of waste produced; and
  - d. record the types and quantities of waste that have been:

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- i. reused (on or off site)
- ii. recycled (on or off site)
- iii. sent to other forms of recovery (on or off site)
- iv. sent to landfill
- v. otherwise disposed of.

- 5.51. Within 90 days of completion of the building work the principal contractor must provide an updated Site Waste Plan to the Council that includes:
- a. confirmation that the plan has been monitored and updated;
  - b. a comparison of estimated quantities of each type of waste generated against the actual quantities of each waste type; and
  - c. an explanation of any deviation from the plan
- 5.52. The principal contractor must ensure that a copy of the plan is kept on site, and that every contractor knows where it can be found. It must be available to any contractor carrying out any work described in the plan.

### 6. GENERAL PENALTIES AND POWERS

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

### 7. OTHER ENFORCEMENT POWERS

#### GENERAL RESPONSIBILITIES

- 7.1. Where an owner, occupier or manager of a premises does not comply with any of clauses 5.1 to 5.7, the Council may:
- a. Notify the occupier, owner or manager that they have failed to comply with the Bylaw; and
  - b. Provide details of the failure to comply and information on how to comply; and
  - c. Inform the occupier, owner or manager:
    - i. that the breach shall be recorded against their property; and
    - ii. if the property receives three recorded breaches within a three-month period their waste service may be withdrawn; and
    - iii. specify the steps which the owner or manager will need to follow in order to appeal the decision or reinstate the service.
- 7.2. Any final notice of withdrawal of service shall also be sent to the postal address of the ratepayer for the property and shall specify:
- a. the date of service withdrawal; and
  - b. the steps which the owner or manager will need to follow in order to appeal the decision or reinstate the service.

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### LICENCED WASTE OPERATORS

- 7.3. Where a licence holder does not comply with the terms and conditions of a waste operator licence, the Council may:
- a. issue a written warning to the licence holder, which may be treated as evidence of a prior breach of a licence condition during any subsequent review of the licence;
  - b. review the licence, which may result in:
    - i. amendment of the licence; or
    - ii. suspension of the licence; or
    - iii. withdrawal of the licence.
  - c. have recourse to any bond where the Council has incurred any cost as a result of the breach of the licence condition. This includes where the Council has itself performed or arranged for the performance of any licenced activity on the default of the licence holder;
  - d. review the amount and nature of the bond, which may result in an increase of the amount of the bond;
  - e. enforce any offence that may have been committed under the Litter Act 1979; and
  - f. enforce any breach of this Bylaw, as provided for in the Local Government Act 2002 or other legislation.

### COLLECTIONS FROM A PUBLIC PLACE OR COLLECTION POINT

- 7.4. The Council may:
- a. remove the contents of any approved container left out for collection from a public place, where the contents or placement of the container do not comply with any aspect of clause 5.18 to 5.24;
  - b. suspend the use of any Council collection point service, where any aspect of clauses 5.25 or 5.27 have not been complied with;
  - c. withdraw approval for provision of a donation collection point, where any aspect of clause 5.27 has not been complied with;
  - d. enforce any offence that may have been committed under the Litter Act 1979;
  - e. enforce breach of this Bylaw, as provided for in the Local Government Act 2002 or other legislation.

### INORGANIC MATERIAL

- 7.5. Where a person does not comply with a control made by the Council under clauses 5.28 and 5.29, the Council (or a licenced waste operator where applicable) may:
- a. reject (i.e. not collect) the inorganic material, if the inorganic material or placement if any aspect of clauses 5.28 and 5.29, have not been complied with;
  - b. remove the inorganic material, where the inorganic material or placement if any aspect of clauses 5.28 and 5.29, have not been complied with;
  - c. enforce any offence that may have been committed under the Litter Act 1979; and
  - d. enforce breach of this Bylaw, as provided for in the Local Government Act 2002 or other legislation.

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### NUISANCE AND LITTER

- 7.6. Where a person does not comply with a control made by the Council under clause 5.31 to 5.35, the Council may:
- a. issue a notice requiring corrective action within a specified time period;
  - b. recover costs as set out in 9.3;
  - c. enforce any offence that may have been committed under the Litter Act 1979; and
  - d. enforce breach of this Bylaw, as provided for in the Local Government Act 2002 or other legislation

### WASTE MANAGEMENT AND MINIMISATION PLANS

- 7.7. Where a person does not comply with any Waste Plan required under this Bylaw for a MUD, Event or Building Work, the Council may:
- a. revoke the applicable Waste Plan and require a new Waste Plan to be submitted for approval, which may require a new application fee to be paid; and
  - b. impose a higher fee for Waste Plan applications following revocation, in accordance with the Local Government Act 2002; and
  - c. enforce any offence that may have been committed under the Litter Act 1979; and
  - d. enforce breach of this Bylaw, as provided for in the Local Government Act 2002 or other legislation.

### WASTE PLANS FOR MULTI-UNIT DEVELOPMENTS

- 7.8. Where a person does not comply with any of clauses 5.36 to 5.41, the Council may:
- a. issue a notice requiring corrective action within a specified time period; and
  - b. recover costs as set out in 9.3.
- 7.9. Where an owner, occupier or manager of a MUD does not comply with any of clauses 5.36 to 5.41, the Council may:
- a. notify the occupier, owner or manager that they have failed to comply with the Bylaw;
  - b. provide details of the failure to comply and information on how to comply; and
  - c. inform the occupier, owner or manager
    - i. that the breach shall be recorded against their property; and
    - ii. if the property receives three recorded breaches within a three-month period their waste service may be withdrawn; and
    - iii. specify the steps which the owner or manager will need to follow in order to appeal the decision or reinstate the service.
- 7.10. Any final notice of withdrawal of service shall also be sent to the postal address of the ratepayer for the address and shall specify:
- a. the date of service withdrawal; and
  - b. the steps which the owner or manager will need to follow in order to appeal the decision or reinstate the service.

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### WASTE PLANS FOR EVENTS

- 7.11. Where an applicant does not comply with any of clauses 5.44 to 5.47, the Council may:
- withhold or revoke consent for any event;
  - issue a notice requiring corrective action within a specified time period; and
  - recover costs as set out in 9.3.

### WASTE PLANS FOR BUILDING WORK

- 7.12. Where a person does not comply with any of clauses 5.48 to 5.52, the Council may:
- issue a notice requiring corrective action within a specified time period; and
  - recover costs as set out in 9.3.

### 8. EXCEPTIONS AND SAVING PROVISIONS

- 8.1. A person is not in breach of this Bylaw if that person proves that the act or omission was in compliance with the directions of an authorised Council officer.

### 9. FEES AND CHARGES

- 9.1. The Council may charge fees for licences or Waste Plans, including fees to process an application or carry out inspections as part of any waste collection or facility operator licence; or Waste Plan.
- 9.2. The Council may require waste collection and facility operators to provide a bond pursuant to s56(3) of the Local Government Act 2002.
- 9.3. The Council may recover costs associated with enforcement of this Bylaw in accordance with the Local Government Act 2002 or other legislation.

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

Councillor: .....

Councillor: .....

Chief Executive: .....

### EXPLANATORY NOTE

This note is for information purposes and does not form part of this Bylaw [Insert if required].

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

## HAMILTON CITY WASTE MANAGEMENT AND MINIMISATIONS~~SOLID WASTE~~

### BYLAW 2019

This Bylaw is made by the Hamilton City Council under the powers given to it by the Waste Minimisation Act 2008, Local Government Act 2002, Heath Act 1956, and the Litter Act 1979.

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## 1. PURPOSE

1.1. The purpose of this Bylaw is to support the management and minimisation of waste by:

- promoting and delivering effective and efficient waste management and minimisation in Hamilton City as required under the Waste Minimisation Act 2008;
- supporting the implementation of the Council's Waste Management and Minimisation Plan;
- upholding the purpose of the Waste Minimisation Act and the goals in the New Zealand Waste Strategy;
- regulating the deposit, removal, collection, transport, and processing of waste;
- enabling fees and charges for use of waste management and minimisation services and facilities provided, owned, or operated by the territorial authority;
- protecting the health and safety of waste collectors, waste operators and the public; and
- enabling the management of litter and nuisance in public places.

## 2. APPLICATION

2.1. This Bylaw applies to the ~~Distriet~~City of the Hamilton Council.

## 3. DEFINITIONS

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

Term -	means:			
Approved	Written authorisation from the Council			
Approved container	Any container (including bags) that has been approved by the Council for the collection of any type of waste, with approval based on the following criteria: the prevention of nuisance, the protection of the health and safety of waste collectors and the public, and the achievement of effective waste management and minimisation.			
Authorised Council officer	A person appointed by Hamilton City Council for the purposes of ensuring compliance with the Bylaw, as defined as an Enforcement Officer in the Waste Minimisation Act 2008 section 76, Local Government Act 2002 section 177 and as defined as Litter control officers under the Litter Act 1979 section 5.			
Building work	<p>means work—</p> <p>(a) for, or in connection with, the construction, alteration, demolition, or removal of a building; and</p> <p>(b) on an allotment that is likely to affect the extent to which an existing building on that allotment complies with the building code; and</p> <p>(c) includes sitework.</p>			
Bylaw	This Solid Waste Bylaw			
Class 1-5 landfills	Class	Common Name	Accepted Waste Material	Material Source
	1	Municipal Solid	Non-hazardous waste. Typically, mixed waste from multiple sources and containing a high content of organic material; may include waste cited for classes 2, 3, 4 and 5. May be developed for	Households, industry, institutions,

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		Waste Landfill	specific industrial wastes (for example, monofills or residual waste sites)	construction sites, contaminated sites
	2	C&D Landfill	Unsorted/uncontrolled construction and demolition material. May be developed for specific industrial wastes (for example, monofills or residual waste sites)	Construction sites, demolition material, soil from areas with significantly different chemical properties
	3	Managed Fill	Inert material (e.g. selected inert construction or demolition material) or soils with specified maximum contaminant concentrations greater than applicable local background concentrations.	Selected materials from construction and demolition sites, earthworks and site remediation
	4	Controlled Fill	Inert material (e.g. selected inert construction or demolition material) or soils with trace element concentrations greater than applicable regional background concentrations	Selected materials from construction sites and demolition sites and earthworks
	5	Clean Fill	<p>Virgin excavated natural materials (VENM) such as clay, soil and rock that are free of:</p> <ul style="list-style-type: none"> <li>combustible, putrescible, degradable or leachable components;</li> <li>hazardous substances or materials (such as municipal solid waste) likely to create leachate by means of biological breakdown;</li> <li>products or materials derived from hazardous waste treatment, stabilisation or disposal practices;</li> <li>materials such as medical and veterinary waste, asbestos, or radioactive substances that may present a risk to human health if excavated;</li> <li>contaminated soil and other contaminated materials; and</li> <li>liquid waste.</li> </ul> <p>When discharged to the environment, clean fill material will not have a detectable effect relative to the background.</p>	Slips/road clearance, construction site clearance, earthworks surplus
Council	The Hamilton City Council or any person delegated or authorised to act on its behalf			
Council collection points	Places or containers approved by Council where approved containers may be left for collection or waste may be deposited if collection from a public place is unfeasible or impractical			
Cover material	Means material specified by the Council under clause 4.1.f as suitable for use as cover material at a class 1-4 landfill site			
Deposit	<p>To cast, place, throw, drop or allow to escape any waste or diverted material</p> <p><i>depositing</i>, in relation to litter, includes—</p> <p>(a) casting, placing, throwing, or dropping litter; and</p> <p>(b) allowing litter to be cast, thrown, dropped, or to escape, from any motor vehicle or trailer</p>			
Disposal	As defined in the Waste Minimisation Act 2008			

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Donation collection point	A place approved by Council where reusable or recyclable types of waste may be deposited for the purposes of raising funds from the waste items
Event	An activity that is irregular or infrequent and does not require the construction of a permanent building, the installation of permanent infrastructure or services, or works such as vegetation clearing or other operational work. Events involve large groups of people either as participants or spectators and include carnivals, parades, concerts, markets, craft or trade fairs, field days, open days, displays and the like. This definition applies only where the activity is not covered by another definition/activity in the District Plan
Home composting	The activity of creating decaying organic matter from domestic green waste and/or food waste into compost
Illegal Dumping	Means the same as Litter
Licence	A licence, consent, permit or approval to do something under this Bylaw and includes any conditions to which the licence is subject
Litter	Any refuse, rubbish, animal remains, glass, metal, garbage, debris, dirt, filth, rubble, ballast, stones, earth or waste matter or any other thing of a like nature deposited in a public place
Litter receptacle	A receptacle provided for the collection of litter
Manager	A person who controls or manages any premises, activity, or event, regardless of whether that person has a proprietary interest in those premises or that activity or event. Includes a Body Corporate
Multi - Unit Development	A property comprising three or more separately occupied residential units or business units, whether in the same building or in separate buildings, and held either in common ownership or in separate ownership
MuD	Multi - unit Development
Nuisance	A nuisance in terms of the Health Act 1956
Occupier	The inhabitant occupier of any property; and in relation to any land (including any premises and any coastal marine area), includes any agent, employee, or other person acting or apparently acting in the general management or control of the land, or any plant or machinery on that land
Packaging	Materials used to wrap or protect goods
Person	An individual, a corporation sole, a body corporate, and an unincorporated body
Premises	A building or buildings and the land belonging to it or them
Public place	As defined in the Litter Act 1979  Includes—

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	<p>(a) every motorway, road, street, private street, footpath, access way, service lane, court, mall, and thoroughfare:</p> <p>(b) any public reserve within the meaning of section 2 of the Reserves Act 1977 to which the public generally has access, whether with or without payment of any fee, and any reserve under that Act classified as a nature reserve or a scientific reserve:</p> <p>(c) any park, garden, or other place of public recreation to which the public has access, whether with or without payment of any fee:</p> <p>(d) any beach or foreshore, or the bank of any river or stream, or the margin of any lake, to which the public traditionally has access, whether with or without payment of any fee:</p> <p>(e) any waters to which the public traditionally has access, whether with or without payment of any fee, for bathing or other recreational purposes:</p> <p>(f) every wharf, pier, or jetty (whether under the control of a harbour board or not) to which the public has access:</p> <p>(g) any conservation area within the meaning of the Conservation Act 1987:</p> <p>(h) any airport within the meaning of section 2 of the Airport Authorities Act 1966:</p> <p>(i) any cemetery within the meaning of section 2 of the Burial and Cremation Act 1964:</p> <p>(j) any land vested in or controlled by any local authority (within the meaning of section 5(1) of the Local Government Act 2002) or the Crown, being land that is not occupied pursuant to any lease, licence, or other authority by any private person:</p> <p>(k) any national park constituted under the National Parks Act 1980:</p> <p>(l) any other place whether public or private in the open air, including any walkway within the meaning of section 4 of the Walking Access Act 2008, to which the public has access, whether with or without payment of any fee,— but does not include any site for the disposal of litter, or any receptacle installed in any such public place pursuant to this Act or any other Act</p>																											
Public Notice	<p>To:</p> <p>(a) publish on an Internet site to which the public has free access a notice that—</p> <p>(i) includes all the information that is required to be publicly notified; and</p> <p>(ii) is in the prescribed form (if any); and</p> <p>(b) publish a short summary of the notice, along with details of the Internet site where the notice can be accessed, in 1 or more newspapers circulating in the entire area likely to be affected by the matter to which the notice relates. The notice and the short summary of the notice must be worded in a way that is clear and concise</p>																											
Recovery	The extraction of materials or energy from waste or diverted material for further use or processing; and includes making waste or diverted material into compost																											
Retail	The use of land or buildings where goods and services are offered or exposed to the general public for sale, hire or use, but excludes restaurants, licenced premises, offices or drive-through services																											
Solid Waste Storage Area	An on-site storage area for refuse, recyclable material and organic matter that is accessible for waste collection services																											
Treatment	Means subjecting waste to any physical, biological, or chemical process to change its volume or character so that it may be disposed of with no or reduced adverse effect on the environment; but does not include dilution of waste																											
Waste	<p>(a) means any thing disposed of or discarded; and</p> <p>(b) includes a type of waste that is defined by its composition or source (for example, organic waste, electronic waste, or construction and demolition waste); and</p> <p>(c) to avoid doubt, includes any component or element of diverted material, if the component or element is disposed of or discarded</p> <p>Waste categories:</p> <table><tr><th>Related to the source of the waste</th><th>Related to the composition of waste</th><th>Related to restrictions applied to waste</th></tr><tr><td>Domestic Waste</td><td>Food Waste</td><td>Diverted Material</td></tr><tr><td>Commercial Waste</td><td>Green Waste</td><td>Prohibited Waste</td></tr><tr><td>Construction and Demolition Waste</td><td>Hazardous Waste</td><td></td></tr><tr><td></td><td>Inorganic Material</td><td></td></tr><tr><td></td><td>Recyclable Material</td><td></td></tr><tr><td></td><td>Refuse</td><td></td></tr><tr><td></td><td>Reusable Material</td><td></td></tr><tr><td></td><td>Special Waste</td><td></td></tr></table>	Related to the source of the waste	Related to the composition of waste	Related to restrictions applied to waste	Domestic Waste	Food Waste	Diverted Material	Commercial Waste	Green Waste	Prohibited Waste	Construction and Demolition Waste	Hazardous Waste			Inorganic Material			Recyclable Material			Refuse			Reusable Material			Special Waste	
Related to the source of the waste	Related to the composition of waste	Related to restrictions applied to waste																										
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	Reusable Material																											
	Special Waste																											

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Category	Definition
Commercial waste	Waste that results from a commercial enterprise and includes waste generated by the carrying on of any business, manufacture, process, trade, market, or other undertaking
Construction and demolition waste	Waste generated from any building construction or demolition works; and includes any concrete, plasterboard, wood, steel, brick, cardboard, metals, plastic or glass
Diverted material	Any thing that is no longer required for its original purpose and, but for commercial or other waste minimisation activities, would be disposed of or discarded
Domestic waste	Waste consisting of refuse, recyclable material or organic matter (food waste and/or green waste) originating from any household or from the cafeteria, lunchroom or canteen of any commercial enterprise, but does not include commercial waste nor prohibited waste.
Food waste	Waste that is derived from any item of food and is organic in origin and includes fruit and vegetable scraps, meat, fish and bone discards, and any other similar food waste
Green waste	Compostable plant material
Hazardous waste	Waste that is reasonably likely to be or contain a substance that meets 1 or more of the classification criteria for substances with explosive, flammable, oxidising, toxic, corrosive or ecotoxic properties under the Hazardous Substances (Classification) Notice 2017
Inorganic material	Waste consisting of household equipment, furniture, appliances and material of a similar type that due to its nature or size cannot be collected as domestic waste in an approved container, and that is specified by the Council as suitable for: <ul style="list-style-type: none"> <li>a) collection from a public place by the Council;</li> <li>b) collection from any premises by the Council; or</li> <li>c) delivery to a resource recovery facility</li> </ul>
Litter	Any refuse, rubbish, animal remains, glass, metal, garbage, debris, dirt, filth, rubble, ballast, stones, earth or waste matter or any other thing of a like nature deposited in a public place. For clarity, litter includes illegal dumping.
Organic matter	Food waste and/or green waste that is specified by the Council under clause 5.15a4.1.a as organic matter
Prohibited waste	Waste containing- <ul style="list-style-type: none"> <li>• any material capable of causing injury to any person or animal unless the material is sufficiently contained to prevent injury;</li> <li>• any material capable of causing damage to the approved container or likely to shatter in the course of collection material unless the material is sufficiently contained to prevent damage to the approved container or to prevent injury;</li> <li>• any material that may endanger any person, animal or vehicle which may come in to contact with it prior to, during or following collection, transportation or disposal;</li> <li>• any radioactive wastes, but excluding domestic smoke detectors;</li> </ul>

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		<ul style="list-style-type: none"> <li>any used oil and lead-acid batteries;</li> <li>any hazardous waste;</li> <li>medical waste;</li> <li>any other material publicly notified as prohibited by the Council under clause 5.15h</li> </ul>
	Recyclable material	Waste specified by the Council under clause 5.15a as suitable for recycling
	Recycling	The reprocessing of waste or diverted material to produce new materials
	Refuse	Waste which (a) subject to (b), is not organic matter, recyclable material, prohibited waste, construction and demolition waste or inorganic material; (b) may include organic matter and/or recyclable material that does not exceed the maximum allowable limits specified by the Council under clause 5.15 of this Bylaw
	Reusable material	Waste or diverted material that is further used in its existing form for the original purpose of the materials or products that constitute the waste or diverted material, or for a similar purpose  <i>reuse</i> means the further use of waste or diverted material in its existing form for the original purpose of the materials or products that constitute the waste or diverted material, or for a similar purpose
	Special Waste	Any waste whether from a commercial premise or any other source which is hazardous, toxic or by its nature requires special disposal because of environmental considerations or landfill operational requirements. Examples of such are: asbestos, inflammable, explosive or corrosive substances and radioactive substances
Waste collector	A person who collects or transports waste and includes commercial and non-commercial collectors and transporters of waste (for example, community groups and not-for-profit organisations); but does not include individuals who collect and transport waste for personal reasons (for example, a person taking household garden waste to a landfill)	
Waste management facility	A facility which primarily provides waste management and disposal services or waste remediation and materials recovery services, in relation to solid waste	
Waste management facility operator	A person who owns or manages a waste management facility	
Waste management and minimisation plan	A waste management and minimisation plan adopted by a territorial authority under section 43 of the Waste Minimisation Act 2008	
Waste Plan	A plan, required by the Council under this Bylaw, that sets out how waste is managed at a Multi – unit Development, Event or Site where building works are carried out	
Waste operator	A person who is a waste collector or operates a waste management facility	

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Waste remediation and materials recovery services	The remediation and clean-up of contaminated buildings and mine sites, mine reclamation activities, removal of hazardous material and abatement of asbestos, lead paint and other toxic material. This also includes recovery, sorting, and/or storage services in relation to waste
Waste treatment and disposal services	The treatment or disposal of waste (including hazardous waste), including the operation of landfills, combustors, incinerators, compost dumps and other treatment facilities (except sewage treatment facilities), and waste transfer stations

#### 4. CONTROLS

4.1. Any control specified by the Council under s 151(2) of the Local Government Act 2002 to support the implementation of this Bylaw:

- a. ~~must, after consultation pursuant to the Local Government Act 2002,~~ be made by a resolution and public notice; and
- b. may:
  - I. prohibit, restrict, or control any matter or thing generally, for any specific category or case, or in a particular case;
  - II. apply to all waste or to any specified category of waste; and
  - III. apply to the ~~DistrictCity~~ or to a specified part of the ~~DistrictCity~~; and
  - IV. apply at all times or at any specified time or period of time

#### 5. COLLECTION, TRANSPORTATION, PROCESSING, AND DISPOSAL OF WASTE

##### GENERAL RESPONSIBILITIES

- 5.1. The occupier and the manager of a premises must ensure that the domestic waste from the premises is separated into waste types as determined by the Council, and deposited for collection in the correct approved container.
- 5.2. No person may deposit in a container material that is not approved for that type of container.
- 5.3. The owner and/or the manager of any premises must ensure that approved containers are provided to tenants.
- 5.4. The owner, occupier and the manager of any premises must ensure that:
  - a. reasonable steps are taken to prevent the waste escaping from any waste container;
  - b. waste from the premises has no more than a minimal adverse effect on neighbouring occupiers;
  - c. any waste container is regularly emptied when it is full;
  - d. the contents of any waste container, excluding containers for green waste, are protected from rain or ingress or egress of flies and animals;
  - e. all dwellings contain a practical means and route of safe access and egress to any solid waste storage area for both residents and waste operators (where applicable); and
  - f. steps are taken to ensure that no waste is deposited in or about any ~~residential~~ building or its ~~surrounding area precincts~~ (including kerbside) except in accordance with this Bylaw;

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5.5. The occupier and the manager of any premises who is in control of an approved container must ensure that:

- a. the container is kept in a safe location, hygienic, in good repair, and without any modifications or alterations to its appearance;
- b. if required, waste is deposited in the container in a manner that allows the whole of the contents to fall out easily and cleanly when the container is emptied;
- c. ~~unless the container is placed at a Council collection point,~~ the container is placed for collection in an upright position off the ~~public~~ road, in front of the premises from which the waste originated and as close to the kerbside as possible;
- d. reasonable steps are taken to prevent the container disrupting or obstructing pedestrian and vehicular traffic and to preserve access to the premises.

5.6. No person may:

- a. put waste into an approved container which has been provided to any other person, without that other person's consent;
- b. remove waste from, or interfere with any waste deposited in an approved container, except the Council, a licenced waste collector or the person who deposited the waste;
- c. remove or interfere with any mode of identification of any approved container, including electronic devices attached to the container;
- d. remove a container provided by the Council from the premises to which it has been allocated, except with the prior written approval of the Council.

5.7. The occupier and the manager of any premises is responsible for any waste generated on the premises until it has been collected.

### LICENSING OF WASTE COLLECTION AND WASTE MANAGEMENT FACILITY OPERATORS

5.8. The following waste operators must have a waste operator licence issued by the Council and must not collect waste if they do not hold such a licence:

- a. Any waste collector who collects and/or transports waste from land in the ~~City~~District:
  - I. in a quantity of at least 40 tonnes of waste in any twelve-month period; and / or
  - II. at least 40 times in any twelve-month period
- b. Waste management facility operators with a facility in the ~~District~~City which handles more than 40 tonnes of waste in any twelve-month period.

5.9. An application for a waste operator licence must be made on the application form which is available from the Council, and must be accompanied by any application fee and the information required by the Council to process the application.

5.10. The holder of an existing licence may apply to the Council for a renewal of that licence.

5.11. A licence is personal to the holder and is not transferable.

5.12. A licence may be granted or refused at the discretion of the Council, and if granted may be on such terms and conditions as the Council ~~deems appropriate~~ thinks fit.

5.13. When considering a licence application, the Council may take into account the following non-exhaustive list of factors:

- a. The extent to which the licenced activities will promote public health and safety;



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- b. The extent to which the licenced activities support achievement of the Council's waste management and minimisation plan, including goals and initiatives within that plan;
  - c. The quantity and type of waste to be handled;
  - d. The methods employed for the handling of the waste;
  - e. The frequency and location of the waste collection, removal and transportation services;
  - f. The specifications of the vehicles, equipment, and containers to be used for the handling of waste;
  - g. The applicant's experience, reputation, and track record in the waste and diverted material industry; and
  - h. The terms and conditions under which any disposal of waste is permitted and the existence of, or need for, any statutory approvals, authorisations, or consents required to be held or complied with in respect of such disposal.
- 5.14. A licenced waste operator must comply with all terms and conditions of the licence. These conditions may include, but are not limited to, the following matters:
- a. Term – a licence may be granted for a term of up to 5 years;
  - b. Licence fee – the licensee must pay an annual licence fee in an amount determined by the Council's ~~annual fee and charges from time to time~~;
  - c. Bond – the Council may, ~~from time to time and~~ on a case by case basis, require a licence holder to post a bank-guaranteed bond;
  - d. Compliance with standards – the licence holder must comply with any standards or policies the Council has set for waste handling such as:
    - I. Provision of waste collection services within reasonable times specified by the Council;
    - II. The collection of any litter within a specified distance of an approved container awaiting collection and any litter spillage from the licence holder's vehicle during the collection, transportation or disposal process; and
  - e. Kerbside collections – restrictions on the timing and/or location of collections; and
  - f. Provision of information – the licence holder must provide data relating to waste they have handled to the Council during the term of their licence, in the form and at the times determined by the Council ~~from time~~, which may include:
    - I. the quantities of various waste categories that have been handled by the waste operator during a period of time;
    - II. waste log books for each vehicle operated in accordance with the licence recording the quantity, composition and destination of each waste type and the point in time when such data was recorded during the waste collection, transportation or disposal process;
    - III. weighbridge receipts;
    - IV. gate records of waste tonnage.

### GENERAL CONTROLS ON THE COLLECTION, TRANSPORTATION AND DISPOSAL OF WASTE

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- 5.15. The Council may specify controls for the following matters in relation to the collection, transportation or disposal of waste from any property:
- a. types of domestic waste that may be treated for all purposes (including deposit, collection, transportation, and disposal) as recyclable material, organic matter or refuse;
  - b. maximum allowable limits of a specified waste type that may be collected or transported from a public place in an approved container for refuse and that subsequently may be disposed of;
  - c. maximum allowable limits of a waste type that may be placed in a container approved for another waste type;
  - d. the maximum number of hours prior to or following the collection period that a container may be placed in a public place; and
  - e. the maximum weight of waste put in individual containers; and
  - f. types of waste that may be handled at any class 1 – 4 landfill and material that may be used as cover material at any such site;
  - g. materials that may be used as natural or other hardfill material at a Class 5 landfill;
  - h. types of waste that are prohibited; and
  - i. the locations where collections from a public place may occur;
  - j. the types of waste that may be collected from a public place.
- 5.16. General controls on the collection, transportation and disposal of waste must be accordance with clause 4.
- 5.17. Any waste operator who collects or transports waste must:
- a. make available to the owner, occupier or manager of a premises one or more approved containers to enable separate collection of each of the waste types required to be separately collected from the premises; and
  - b. not collect for disposal any domestic waste which has not been separated into refuse, recyclable material and organic matter and exceeds the maximum allowable limits specified by the Council under clause 5.15c; and
  - c. not dispose to a class 1 – 4 landfills any waste type that could be reused or recycled.

### **COLLECTIONS FROM A PUBLIC PLACE**

- 5.18. Any person providing or using a waste collection service in or from a public place must comply with this Bylaw.
- 5.19. Waste may not be placed on a public place for collection unless it is:
- a. domestic waste;
  - b. green waste;
  - c. any other type of waste determined by the Council in clause 5.15 as able to be placed on a public place for collection.
- 5.20. Prohibited waste, diverted material, construction and demolition waste or commercial waste may not be placed in a public place for collection unless authorised by the Council under this Bylaw.
- 5.21. Any waste operator who collects or transports waste from a public place must ensure waste containers provided clearly differentiate the waste operators' containers from the containers of other operators.
- 5.22. The Council may specify controls for the following matters in relation to the collection or transportation of waste from a public place:
- a. the area to which the control applies;

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- b. the type, size, colour, and construction of containers that may be used for the storage and collection of waste;
  - c. the types of waste that may be collected in various types of container;
  - d. the categories of waste that may be deposited at or collected from a public place;
  - e. the conditions applicable to any collection service from a public place;
  - f. the placement and retrieval of approved containers for collection, collection days and times, and restrictions on the number and weight of approved containers;
  - g. requirements to ensure the correct separation of categories of wastes into approved containers;
  - h. the locations, access times and conditions of use of Council collection points;
  - i. any other operational matter required for the safe and efficient operation of a collection service from a public place.
- 5.23. No person may deposit waste at a Council or donation collection point other than in accordance with clauses 5.25 to 5.27.
- 5.24. Controls in relation to the collection or transportation of waste from a public place must be accordance with clause 4.

### COUNCIL COLLECTION POINTS

- 5.25. The Council may specify:
- a. any place, or receptacle in a public place ~~or on a barge in a freshwater area~~, as a Council collection point for the collection of domestic waste; and
  - b. controls relating to the deposit of waste at the Council collection point.
- 5.26. Controls in relation to Council collection points must be accordance with clause 4.

### DONATION COLLECTION POINTS

- 5.27. Anyone intending to provide a donation collection point must obtain Council approval in advance and must operate the donation collection point in compliance with any requirements the Council specifies including, but not limited to:
- a. the location;
  - b. vehicle access;
  - c. the type of waste which may be deposited;
  - d. the use of approved containers;
  - e. the removal of deposited waste from the collection point; and
  - f. a requirement to clean up or remove any litter or graffiti.

### INORGANIC MATERIAL

- 5.28. The Council may specify controls for the following matters in relation to the collection of inorganic material from a public place:
- a. the weight, size and nature of inorganic material that may be deposited for collection;
  - b. the categories of inorganic material that may be deposited for collection;
  - c. the times, locations and conditions applicable to the collection of inorganic material;
  - d. the methods by which the inorganic material may be collected;
  - e. any other operational matters required for the safe and efficient collection of inorganic material from a public place.
- 5.29. Any person who deposits inorganic material for collection on, or collects or transport inorganic material from, a public place must comply with the controls made by the Council.

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- 5.30. Controls in relation to the collection of inorganic material from a public place must be accordance with clause 4.

### NUISANCE AND LITTER

- 5.31. No person may:
- a. allow any accumulation of waste or diverted material on or around any premises they own, occupy or manage to become offensive, a nuisance or likely to be injurious to health;
  - b. use an approved container in a manner that creates a nuisance, is offensive or is likely to be injurious to health.
- 5.32. Except as provided for under any Council Bylaw, no person may:
- a. burn or allow to be burnt on any property they own, occupy or manage any waste except organic matter;
  - b. bury or allow to be buried on any property they own, occupy or manage any waste except:
    - I. organic material;
    - II. dead companion animals and nuisance pests; or
    - III. for the purposes of home composting.
  - c. dispose of any waste on any premises except at:
    - I. a class 1-4 landfill, or
    - II. any premises they own, occupy or manage, for the purposes of home composting.
- 5.33. No person may:
- a. deposit any waste arising from that person's household or that person's business activities in any litter receptacle provided by the Council in any public place;
  - b. remove any waste from any litter receptacle provided by the Council in any public place, where this results in any waste being deposited outside the receptacle, unless authorised by the Council to do so;
  - c. deposit or attempt to deposit any waste in any receptacle provided by the Council in any public place if:
    - I. the receptacle is full; or
    - II. the waste is likely to escape.
  - d. affix any item to any litter receptacle provided by the Council in any public place; or
  - e. damage any litter receptacle provided by the Council in any public place.
- 5.34. The owner, occupier or manager of any premises on which any item is affixed or displayed that is likely to become litter, must take all steps to the satisfaction of the Council to prevent it becoming litter, and to promptly remove it in the event that it does become litter.
- 5.35. The occupier of a retail premises must provide appropriate facilities so that customers can choose to remove packaging associated with products that they have purchased and leave that packaging at the retail premises at the point of purchase. For the purposes of this Bylaw, such packaging is the responsibility of the occupier of the retail premises unless and until it is removed from the premises by a purchaser.

### PROVISION OF WASTE PLANS

#### PROVISION OF MULTI-UNIT DEVELOPMENT (MuD) WASTE PLANS

- 5.36. Any person who owns, occupies or manages a MuD must comply with any approved MuD Waste Plan required under this Bylaw.
- 5.37. From the date of adoption of this Bylaw, any person intending to construct a MuD must submit a MuD Waste Plan at the same time as the resource consent application for that MuD.

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- 5.38. Any MuD Waste Plan must comply with 5.39 and 5.40 of this Bylaw and be approved by the Council.
- 5.39. A MuD Waste Plan must include, but is not limited to, the following:
- a. identification of an adequate area on the premises for the storage of containers that is readily accessible to the occupiers of units and to a licenced waste operator (where applicable) to enable separate collection and transportation of refuse, recyclable material and/or organic matter;
  - b. the methods to be used to minimise noise and odour and to keep the area hygienic, free from vermin or other infestations and protected from theft and vandalism;
  - c. identification of the practical means and route of safe access and egress to the solid waste storage area for both residents and waste operators (where applicable);
  - d. an estimate of the volumes of refuse, recyclable material and organic matter that will be generated;
  - e. how waste generated by the MuD is to be minimised;
  - f. how the collection and use of recyclables and reusable material will be maximised;
  - g. a statement that:
    - I. the MuD is able to be serviced via the notified standard Council-provided waste service; or
    - II. the MuD requires a waste service which cannot be serviced via the notified standard Council-provided waste service. This statement must also include detail of the non-standard service requirements and whether the occupier will be expected to pay any servicing costs.
  - h. the steps which will be taken to ensure that no waste is deposited in or about the MuD or its precincts (including kerbside) in breach of this Bylaw; and
  - i. any other matter required by the Council to ensure MuD waste is managed in accordance with the Council Waste Management and Minimisation Plan.
- 5.40. The Council may specify controls for the following matters in relation to the collection or transportation of waste from MuD:
- a. the categories of recyclable material, organic matter and refuse that may be deposited at or collected from a Multi-unit Development;
  - b. the times, locations and conditions applicable to any collection service from a MuD, including the placement and retrieval of containers for collection, collection times and restrictions on the number and weight of approved containers;
  - c. requirements to ensure the correct separation of refuse, organic matter and recyclable materials into approved containers;
  - d. any other operational matter required for the safe and efficient operation of a collection service from a MuD.
- 5.41. Any person who manages a MuD or owns or occupies a unit in a MuD must comply with any controls for the deposit, collection, transportation and management of waste in the MuD made by the Council.
- 5.42. Controls on the collection or transportation of waste from MuD's must be accordance with clause 4.
- 5.43. The Council may, on application, grant a written exemption from compliance with all or any the requirements of this clause if:
- a. in the opinion of the Council, the costs of full compliance would be disproportionate to any resulting waste management and minimisation benefits; or

## Hamilton City Council BYLAWS

- b. the manager or owner demonstrates to the satisfaction of the Council that refuse, recyclable material and organic matter are collected separately; and regularly.

### PROVISION OF EVENTS WASTE PLANS

- 5.44. Any organiser of any event must obtain prior approval from the Council for an Event Waste Plan for the event.
- 5.45. The Council may require an Event Waste Plan to meet requirements set out by the Council Event guidelines which may include:
  - a. an estimate of the types and volumes of waste to be generated by the event;
  - b. how waste generated by the event is to be minimised;
  - c. the steps to be taken to maximise the collection and re-use of recyclable material and reusable material;
  - d. the equipment to be provided for the storage, collection and transportation of waste and diverted material;
  - e. the method of and person responsible for the collection and disposal of waste generated by the event;
  - f. the provision of litter minimisation, collection, and removal from within the event site and its immediate surrounds; and
  - g. any other matters relating to event waste management and minimisation that may be specified by the Council.
- 5.46. The organiser of an event must comply with the approved Event Waste Plan.
- 5.47. On completion of the event, the organiser must provide the Council with a report on the implementation of the Event Waste Plan, including:
  - a. a waste analysis which sets out the predicted and actual types and amounts of waste generated by the event; and
  - b. the waste management facilities used to recover, recycle, treat or dispose of waste generated by the event.

### PROVISION OF SITE WASTE PLANS FOR BUILDING WORK

- 5.48. Any person applying for a building consent must also submit a Site Waste Plan to the Council for approval.
- 5.49. A Site Waste Plan must comply with the Council guidelines which may include:
  - a. the name of the client, principal contractor, and person who prepared the Site Waste Plan; and
  - b. the location of the site;
  - c. the estimated total cost of the building work;
  - d. a description of each type of waste expected to be produced;
  - e. an estimate of the quantity of each type of waste; and
  - f. the proposed method of waste management for each type of waste (e.g. recovery, recycling, disposal).
- 5.50. While the building work is being carried out, the principal contractor must:
  - a. ensure that
    - I. reasonable steps are taken to prevent waste escaping from any waste container;
    - II. waste from the site has no more than a minimal adverse effect on neighbouring occupiers;
    - III. any waste container is regularly emptied when it is full;
  - b. review the Site Waste Plan as necessary;

## Hamilton City Council BYLAWS

- c. record quantities and types of waste produced; and
  - d. record the types and quantities of waste that have been:
    - I. reused (on or off site)
    - II. recycled (on or off site)
    - III. sent to other forms of recovery (on or off site)
    - IV. sent to landfill
    - V. otherwise disposed of.
- 5.51. Within 90 days of completion of the building work the principal contractor must provide an updated Site Waste Plan to the Council that includes:
- a. confirmation that the plan has been monitored and updated;
  - b. a comparison of estimated quantities of each type of waste generated against the actual quantities of each waste type; and
  - c. an explanation of any deviation from the plan
- 5.52. The principal contractor must ensure that a copy of the plan is kept on site, and that every contractor knows where it can be found. It must be available to any contractor carrying out any work described in the plan.

### 6. GENERAL PENALTIES AND POWERS

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

### 7. OTHER ENFORCEMENT POWERS

#### GENERAL RESPONSIBILITIES

- 7.1. Where an owner, occupier or manager of a premises does not comply with any of clauses 5.1 to 5.7, the Council may:
- a. Notify the occupier, owner or manager that they have failed to comply with the Bylaw; and
  - b. Provide details of the failure to comply and information on how to comply; and
  - c. Inform the occupier, owner or manager:
    - I. that the breach shall be recorded against their property; and
    - II. if the property receives three recorded breaches within a three-month period their waste service may be withdrawn; and
    - III. specify the steps which the owner or manager will need to follow in order to appeal the decision or reinstate the service.
- 7.2. Any final notice of withdrawal of service shall also be sent to the postal address of the ratepayer for the property and shall specify:
- a. the date of service withdrawal; and
  - b. the steps which the owner or manager will need to follow in order to appeal the decision or reinstate the service.

#### LICENCED WASTE OPERATORS

- 7.3. Where a licence holder does not comply with the terms and conditions of a waste operator licence, the Council may:
- a. issue a written warning to the licence holder, which may be treated as evidence of a prior breach of a licence condition during any subsequent review of the licence;
  - b. review the licence, which may result in:

## Hamilton City Council BYLAWS

- I. amendment of the licence; or
- II. suspension of the licence; or
- III. withdrawal of the licence.
- c. have recourse to any bond where the Council has incurred any cost as a result of the breach of the licence condition. This includes where the Council has itself performed or arranged for the performance of any licenced activity on the default of the licence holder;
- d. review the amount and nature of the bond, which may result in an increase of the amount of the bond;
- e. enforce any offence that may have been committed under the Litter Act 1979; and
- f. enforce any breach of this Bylaw, as provided for in the Local Government Act 2002 or other legislation.

### **COLLECTIONS FROM A PUBLIC PLACE OR COLLECTION POINT**

7.4. The Council may:

- a. remove the contents of any approved container left out for collection from a public place, where the contents or placement of the container do not comply with any aspect of clause 5.18 to 5.24;
- b. suspend the use of any Council collection point service, where any aspect of clauses 5.25 or ~~5.26~~ 5.27 have not been complied with;
- c. withdraw approval for provision of a donation collection point, where any aspect of clause 5.27 has not been complied with;
- d. enforce any offence that may have been committed under the Litter Act 1979;
- e. enforce breach of this Bylaw, as provided for in the Local Government Act 2002 or other legislation.

### **INORGANIC MATERIAL**

7.5. Where a person does not comply with a control made by the Council under clauses 5.28 and 5.29, the Council (or a licenced waste operator where applicable) may:

- a. reject (i.e. not collect) the inorganic material, if the inorganic material or placement if any aspect of clauses 5.28 and 5.29, have not been complied with;
- b. remove the inorganic material, where the inorganic material or placement if any aspect of clauses 5.28 and 5.29, have not been complied with;
- c. enforce any offence that may have been committed under the Litter Act 1979; and
- d. enforce breach of this Bylaw, as provided for in the Local Government Act 2002 or other legislation.

### **NUISANCE AND LITTER**

~~7.6~~ Where a person does not comply with a control made by the Council under clause 5.31 to 5.35, the Council may:

- a. issue a notice requiring corrective action within a specified time period;
- b. recover costs as set out in 9.3;
- c. enforce any offence that may have been committed under the Litter Act 1979; and
- d. enforce breach of this Bylaw, as provided for in the Local Government Act 2002 or other legislation

### **WASTE MANAGEMENT AND MINIMISATION PLANS**

~~7.7~~ Where a person does not comply with any Waste Plan required under this Bylaw for a ~~Mu~~~~ulti-~~~~unit Development~~, Event or Building Work, the Council may:

- a. revoke the applicable Waste Plan and require a new Waste Plan to be submitted for approval, which may require a new application fee to be paid; and



## Hamilton City Council BYLAWS

Item 10

- b. impose a higher fee for Waste Plan applications following revocation, in accordance with the Local Government Act 2002; and
- c. enforce any offence that may have been committed under the Litter Act 1979; and
- d. enforce breach of this Bylaw, as provided for in the Local Government Act 2002 or other legislation.

### WASTE PLANS FOR MULTI-UNIT DEVELOPMENTS (MuD)

7.8 Where a person does not comply with any of clauses 5.36 to 5.41, the Council may:

- a. issue a notice requiring corrective action within a specified time period; and
- b. recover costs as set out in 9.3.

7.9 Where an owner, occupier or manager of a MuD does not comply with any of clauses 5.36 to 5.41, the Council may:

- a. notify the occupier, owner or manager that they have failed to comply with the Bylaw;
- b. provide details of the failure to comply and information on how to comply; and
- c. inform the occupier, owner or manager
  - I. that the breach shall be recorded against their property; and
  - II. if the property receives three recorded breaches within a three-month period their waste service may be withdrawn; and
  - III. specify the steps which the owner or manager will need to follow in order to appeal the decision or reinstate the service.

7.10 Any final notice of withdrawal of service shall also be sent to the postal address of the ratepayer for the address and shall specify:

- a. the date of service withdrawal; and
- b. the steps which the owner or manager will need to follow in order to appeal the decision or reinstate the service.

### WASTE PLANS FOR EVENTS

7.11 Where an applicant does not comply with any of clauses 5.44 to 5.47, the Council may:

- a. withhold or revoke consent for any event;
- b. issue a notice requiring corrective action within a specified time period; and
- c. recover costs as set out in 9.3.

### WASTE PLANS FOR BUILDING WORK

7.12 Where a person does not comply with any of clauses 5.48 to 5.52, the Council may:

- a. issue a notice requiring corrective action within a specified time period; and
- b. recover costs as set out in 9.3.

## 8. EXCEPTIONS AND SAVING PROVISIONS

- 8.1. A person is not in breach of this Bylaw if that person proves that the act or omission was in compliance with the directions of an authorised Council officer.

## 9. FEES AND CHARGES

- 9.1. The Council may charge fees for licences or Waste Plans, including fees to process an application or carry out inspections as part of any waste collection or facility operator licence; or Waste Plan.
- 9.2. The Council may require waste collection and facility operators to provide a bond pursuant to s56(3) of the Local Government Act 2002.
- 9.3. The Council may recover costs associated with enforcement of this Bylaw in accordance with the Local Government Act 2002 or other legislation.

Attachment 2

## Hamilton City Council BYLAWS

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

Councillor: .....

Councillor: .....

Chief Executive: .....

### EXPLANATORY NOTE

This note is for information purposes and does not form part of this Bylaw [Insert if required].

# Council Report

Item 11

**Committee:** Council

**Date:** 28 November 2019

**Author:** Laura Galt

**Authoriser:** Jen Baird

**Position:** Planner

**Position:** General Manager City Growth

**Report Name:** Making Plan Change 3 - Temple View Boundary Alteration Operative

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

1. To seek the Council's approval to make Plan Change 3 – Temple View Boundary Alteration operative.

## Staff Recommendation

2. That the Council approves Plan Change 3 – Temple View Boundary Alteration to be made operative on 12 December 2019, in accordance with clauses 17 and 20 of the First Schedule of the Resource Management Act 1991(RMA).

## Executive Summary

3. The final step in the plan change process is for the Council to make it operative, which completes the statutory requirements of the RMA.
4. Plan Change 3 was initiated by a resolution of Council on [7 February 2019](#) and has been through the RMA First Schedule process, including hearings by independent commissioners in June 2019 and their [decision](#) which was notified in September 2019. No appeals to the Environment Court were received on Plan Change 3.
5. Its objective is to rezone approximately 14 hectares of land at Temple View surrounding the former Church College Campus that was transferred from Waipa District Council to Hamilton City Council in 2014. The rezoning is a statutory requirement of the RMA.
6. Only the Council can resolve to make a plan change operative, which is a decision that is administrative in nature.
7. With the Council's approval, Plan Change 3 – Temple View Boundary Alteration will become operative on 12 December 2019.
8. This will provide certainty to the community about the planning framework for Temple View and will result in administrative efficiencies for the Council and community.

## Background

9. Councils who acquire new land through a boundary adjustment (under the Local Government Act) are required to make changes to its District Plan to include any new areas.

10. Temple View was transferred from Waipa District Council to Hamilton City Council in 2004. This included the land surrounding the Church of Jesus of Latter-Day Saints Temple and most of the former Church College campus. However, approximately 14ha of the Church College campus remained zoned as rural land in the Waipa District.
11. In 2014, the 14ha balance of the former Church College land became part of Hamilton through a boundary alteration under the Local Government Act.
12. Hamilton City Council was required under the RMA to undertake a change to its District Plan to ensure the acquired land is managed in accordance with its planning framework in the District Plan.
13. The purpose of Plan Change 3 is to align the 14ha with the existing Temple View Zone which already applies to the rest of the former Church College site. The Plan Change also amended the Significant Natural Areas in Temple View to reflect the actual extent, removed development plans from the Temple View Zone, made amendments to reflect the changes to the physical environment and administrative amendments to ensure consistency within the District Plan.
14. Plan Change 3 has been subject to the statutory RMA process for plan changes.
15. Independent hearing commissioners were appointed (Council resolution [7 February 2019](#)) to hear and make decisions on the plan change and their [decisions](#) were publicly notified on 11 September 2019. No appeals to the Environment Court were received.

## Discussion

16. To complete the plan change process it must be made operative which requires Councils approval and affixing the Council Seal to the plan change.
17. The manner in which a plan change is made operative is set out in clauses 17 and 20 of the First Schedule of the RMA.
18. Under clause 20 (2) the Council is required to publicly notify the date on which the plan change will become operative five working days before the plan change is made operative.
19. Should the Council endorse the staff recommendation in this report, the public notice will appear on 4 December 2019 and the plan change will become operative on 12 December 2019.
20. Following the Council resolution, the seal can be affixed to the plan change to show Plan Change 3 is operative. The seal can only be fixed with a resolution of the full Council.
21. If the recommendation is not approved, public confidence will be lost through the incompleteness of a statutory process.

## Financial Considerations

22. This is a regular operating activity funded through the Long-Term Plan.
23. The total cost to make Plan Change 3 operative is approximately \$2000, which is funded through the 2019/2020 Annual Plan as part of the regular operating activity for the on-going maintenance of the District Plan.

**Legal and Policy Considerations**

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

**Wellbeing Considerations**

25. 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').
26. The development of Plan Change 3 has taken the four wellbeings (social, economic, environmental and cultural) into account through the statutory process required under the RMA.

**Risks**

27. There are no known risks associated with the decision required for this matter.

**Significance & Engagement Policy****Significance**

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

**Engagement**

29. Community views and preferences are already known to the Council through the statutory plan change process required under the RMA.
30. The recommendation contained in this report meets the requirements of the RMA.

**Attachments**

There are no attachments for this report.

# Council Report

**Committee:** Council **Date:** 28 November 2019  
**Author:** Paul Blewman **Authoriser:** Jen Baird  
**Position:** City Safe Operations Manager **Position:** General Manager City Growth  
**Report Name:** Application for Temporary Extension to Hamilton Alcohol Control Bylaw 2015 (HSBC NZ Sevens)

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

1. To seek the Council's approval of a temporary alcohol ban in support of the HSBC NZ Sevens event to be held at the FMG Stadium on 25 and 26 January 2020 as requested by the Hamilton Police.

## Staff Recommendation

2. That the Council approves the creation of the HSBC NZ Sevens Temporary Alcohol Ban Area (the Area), pursuant to clause 8 of the Hamilton Alcohol Control Bylaw 2015 (the Bylaw), to which clause 5.1 of the Bylaw will apply from 6am on Saturday 25 January to 10pm on Sunday 26 January 2020 (inclusive), as if the area were included in Schedule 1 of the Bylaw, and will encompass the areas shaded in blue on the map at Attachment 2 of the staff report.

## Executive Summary

3. Hamilton will host the HSBC NZ Sevens tournament at the FMG Stadium on 25 and 26 January 2020. The tournament will operate throughout both these days between 8.45am and 10.30pm each day.
4. The public areas near FMG Stadium are currently subject only to a time-restricted alcohol ban that prohibits all alcohol in Hamilton public places between 10pm and 6am seven days a week.
5. Hamilton police have requested that the Council consider a resolution to create a temporary 24-hour alcohol ban in the areas surrounding the FMG Stadium for the duration of the tournament. The purpose of the ban would be to aid police in reducing crime, disorderly behaviour and alcohol related harm during the event (see Attachment 1).
6. To make a temporary alcohol ban by resolution it is necessary to:
  - a. Comply with the general decision-making requirements of the Local Government Act 2002;
  - b. Comply with the evidential requirements in relation to alcohol-related harm;
  - c. Satisfy the tests as to proportionality and rights protection;
  - d. Limit the ban to a specific event or time of the year and give seven days' public notice.
7. Staff consider the matter to have low significance and that the recommendation complies with the Council's legal requirements.

## Background

8. Hamilton FMG Stadium will host the HSBC NZ Sevens tournament on 25 and 26 January 2020. The tournament will operate throughout each day and is being marketed as a festival event and, in addition to a full two-day programme of rugby, will include a range of entertainment and food trucks.
9. The immediate public environs around the stadium are not included in the 24-hour central city alcohol ban area created pursuant to the Hamilton Alcohol Control Bylaw 2015. This area is subject only to the time-restricted alcohol ban that creates an alcohol ban for all public places within Hamilton between 10.00pm and 6am seven days a week.
10. Police have indicated that, based on their experience policing the 2018 and 2019 HSBC NZ Sevens events, they consider there is a high probability that some ticket holders will want to access cheaper alcohol during the day and then either bring alcohol in their cars for consumption (boot parties) or purchase it from local alcohol stores for consumption prior to entry at various times during the day.
11. Police have advised that the existence of the temporary 24-hour alcohol ban was central to the successful and effective cross-agency management of alcohol issues during the 2018 and 2019 events. It contributed to the low-manageable levels of disorder and general intoxication in the area around FMG Stadium and around the central city at large. A total of 55 written warnings and three infringements were issued in 2018, and 21 infringements issued in 2019, within the extended alcohol ban area during these events.
12. The application proposes to extend the current 24-hour central city alcohol ban boundary north along Waikato River into Victoria Street, Maeroa Road, Norton Road, Hall Street, Lake Road, Tainui Street until it connects back with the existing 24-hour ban area (see Attachment 2).

## Discussion

13. The Local Government Act 2002 prescribes a specific regime to be followed for alcohol control bylaws (sections 147 – 147C):  
<http://www.legislation.govt.nz/act/public/2002/0084/167.0/DLM170873.html>
14. Section 147B specifically relates to the use of a resolution power in respect of an existing alcohol control bylaw. Local Government Act 2002, Section 147B, provides that:  
*Before making a resolution relating to a bylaw under section 147, a territorial authority must be satisfied that –*
  - a) *there is evidence that the area to which the bylaw applies (or will apply by virtue of the resolution) has experienced a high level of crime or disorder that can be shown to have been caused or made worse by alcohol consumption in the area; and*
  - b) *the bylaw, as applied by the resolution, –*
    - i. *is appropriate and proportionate in the light of the evidence; and*
    - ii. *can be justified as a reasonable limitation on people's rights and freedoms.*
15. Clause 8 of the [Hamilton Alcohol Control Bylaw 2015](#) operates under the resolution power; it provides for the Council to create temporary alcohol bans by resolution.

Clause 8 imposes additional procedural requirements as follows:

- 8.1 *In addition to clause 5, the Council may from time to time, resolve under the Local Government Act 2002 to include additional area(s) as an alcohol ban area for a particular time period relating to a specific event or a particular time of the year.*

- 8.2 *If this is done Council will give the public at least 7 days' notice of the temporary ban. The details of the alcohol ban and when it will apply will also be made publicly available.*

### **Financial Considerations**

16. There are no financial considerations relevant to the decision.

### **Legal and Policy Considerations**

17. Staff confirm that the temporary extension to the Hamilton Alcohol Control Bylaw 2015 (HSBC NZ Sevens) complies with the Council's legal and policy requirements.

### **Wellbeing Considerations**

18. The purpose of Local Government changed on 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').
19. The subject matter of this report has been evaluated in terms of the four wellbeings during the process of developing this report as outlined below.
20. The recommendations set out in this report are consistent with that purpose.

### **Social considerations**

21. Police have previously reviewed their file records systems and intelligence databases and confirm that the area of the proposed ban has at various times in the past experienced high levels of both crime and disorder. There is compelling evidence that alcohol consumption has either contributed to or exacerbated these events. 22. Approving the resolution to create a temporary alcohol ban as outlined in paragraph 2 supports the safety of individuals and communities. **Risks**
23. There are no known risks associated with the decisions required for this matter.

### **Significance & Engagement Policy**

#### **Significance**

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

#### **Engagement**

25. Clause 8.2 of the Alcohol Control Bylaw 2015 requires Council to give the public at least seven days' notice of the temporary ban and to make details of the ban publicly available. A comprehensive communications plan is being developed which will include print media and radio adverts and extend to street signage and maps to inform both local residents and ticket holders alike of the existence of the temporary alcohol ban.
26. Given the low level of significance determined, the engagement level is low. No engagement is required.

### **Attachments**

Attachment 1 - Request from New Zealand Police for temporary alcohol ban 2020

Attachment 2 - Sevens temporary alcohol ban area





26 September 2019

Hamilton City Council  
Council Building  
Garden Place  
Hamilton

### **Request for Temporary Extension to Alcohol Ban**

On behalf of Waikato Police I request that Council consider a temporary extension to the Central City Alcohol Ban Area for the weekend of 25<sup>th</sup> and 26<sup>th</sup> January 2020 when the New Zealand Sevens Tournament takes place at FMG Stadium.

The Hamilton Alcohol Control Bylaw 2015, Clause 8, allows the Council to resolve under the Local Government Act 2002 to include additional area(s) as an alcohol ban area for a particular time period relating to a specified event or a particular time of year.

The area proposed for the extension encompasses the FMG Stadium's surrounding streets where it is deemed that ticket holders will likely park their vehicles. The ban will provide a deterrent for ticket holders to "preload" or leave the stadium to "side load". A map is attached of the proposed area which continues north from the current 24/7 ban boundary along the river bank onto Victoria Street, Maeroa Road, Norton Road, Hall Street, Lake Road, Tainui Street, connecting back to the current 24/7 ban area on Seddon Road.

The extension period sought is from 0600 hours to 2200 hours on Saturday 25<sup>th</sup> January 2020, and 0600 hours to 2200 hours on Sunday 26<sup>th</sup> January 2019. This in effect makes the current night time ban into a 24 hour ban over that weekend or extends the area for the current 24/7 ban.

Waikato Police are keen for the Sevens Tournament to be a success and are already working closely with event organisers to make this a positive and

memorable event for all involved, including the worldwide viewing audience. As such we want to encourage a festive atmosphere without high intoxication levels and arrest rates as seen at previous Wellington Sevens Tournaments.

The ultimate aim of the extension is to provide Police with extra powers to prevent alcohol harm over the period of the Sevens Tournament. Based on our experience in policing the 2018 New Zealand Sevens Tournament in Hamilton, we consider it a high probability that many ticket holders will want to access cheaper alcohol during the day and will either bring alcohol in their cars for consumption (boot parties) or purchase it from local liquor stores to consume outside the stadium.

A great deal of effort has gone into the planning of the alcohol management plan for the event which could be easily undone by this ability to "side load" during the event.

The exclusion was again used to good effect this year, with a total of 21 infringement notices issued in the extended alcohol exclusion zone during the period of the tournament. We are confident that this contributed to an effective cross-agency alcohol management plan.

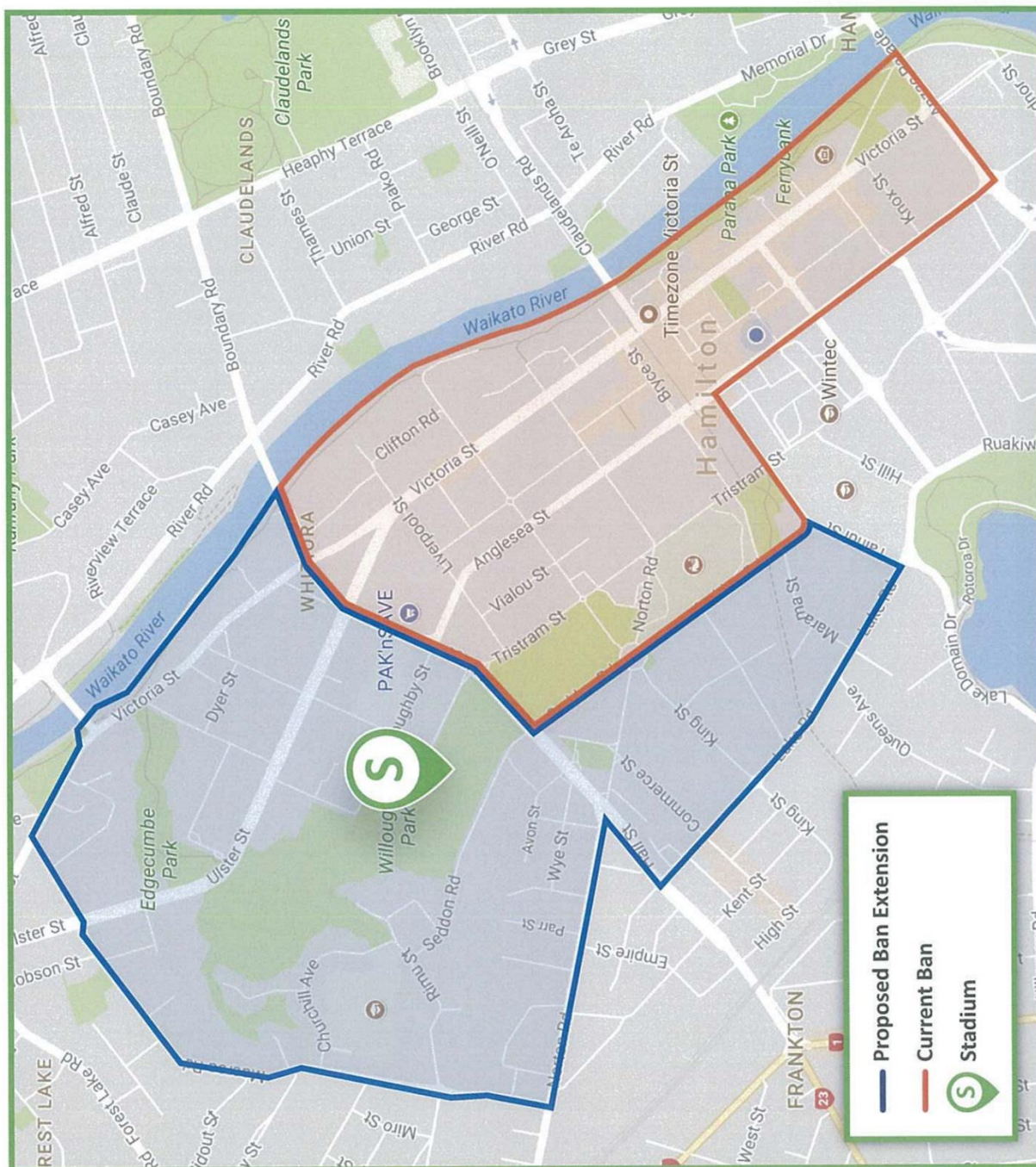
We do not see this as a great inconvenience for the general public and residents within the proposed extension, considering it is just for two days.

For Council consideration and approval.

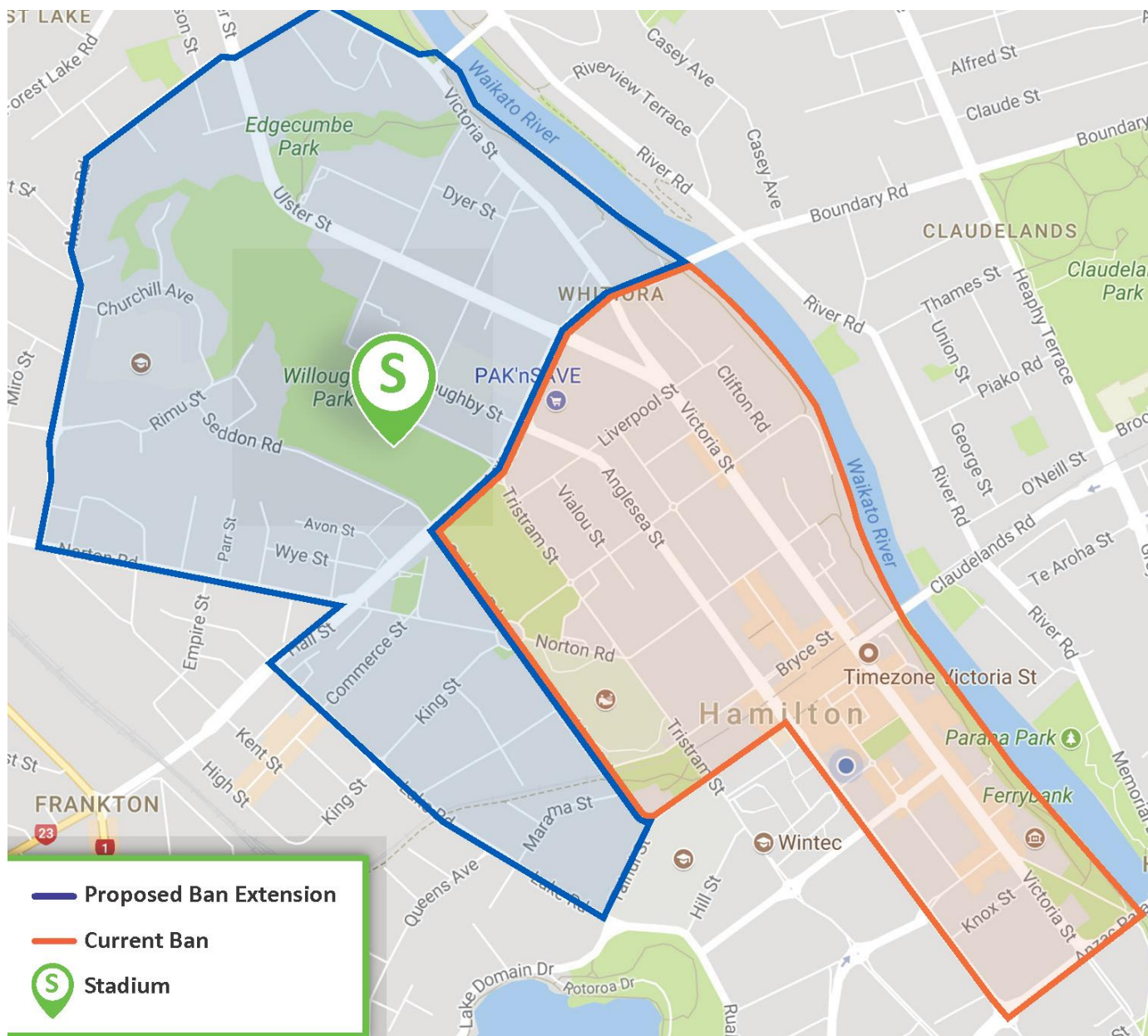
Yours faithfully



Detective Inspector Hywel Jones  
Operation Commander: New Zealand Sevens  
Waikato Police







# Council Report

Item 13

**Committee:** Council

**Date:** 28 November 2019

**Author:** Amy Viggers

**Authoriser:** Becca Brooke

**Position:** Committee Advisor

**Position:** Governance Manager

**Report Name:** 2020 Schedule of Meetings

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

1. To seek approval from the Council on the proposed Schedule of Meetings of Council and Committees for 2020.

## Staff Recommendation

2. That the Council:
  - a) receives the report; and
  - b) approves the proposed 2020 Schedule of Meetings (attachment 1 of this report).

## Background

3. It is good practice for Council to adopt a schedule of meetings for the following calendar year so that the business of the Council can be conducted in an orderly and transparent manner, and to allow public notification of meetings to be given in compliance with the Local Government Official Information and Meetings Act 1987.
4. The proposed 2020 Hamilton City Council Schedule of Meetings (attachment 1 of this report) sets out the meeting dates for the 2020 calendar year for Council and Committees of Council in line with the approved Governance Structure for the 2019-2022 triennium.
5. The following considerations informed the development of the proposed 2020 schedule of meetings:
  - i. Meetings will commence from February 2020
  - ii. Council and committee meetings of the whole will be held on a six-weekly cycle (approx.), commencing at 9.30am and are concentrated on Tuesdays and Thursdays where possible.
  - iii. The Economic Development, Environment, and Strategic Risk and Assurance Committees will be held quarterly or as required.
  - iv. Monthly hold dates for the Hearings and Engagement Committee have been scheduled to ensure dates are available when required. Holds will be cancelled in advance if they are not needed.

- v. Briefings have been scheduled fortnightly (mostly on a Wednesday) and will start at 9.30 and aim to be finished around 3pm (if not earlier).
  - vi. Additional council meetings and briefings have been scheduled in the first half of the year to accommodate annual plan discussions.
  - vii. Mondays and Fridays will generally be kept clear of Council and Committee meetings where possible to provide Elected Members with the opportunity to carry out portfolio and constituency work.
  - viii. The day before/after public holidays have generally been kept free where possible and a longer period of three weeks has been kept free from Council and Committee meetings in July to allow opportunities for break periods.
6. Once the 2020 schedule of meetings has been approved, the Governance Team will update members calendars accordingly and the meeting dates will be uploaded to the HCC website meetings calendar so the public have advance warning of meeting dates.
7. If there are any changes to dates during the year, all calendars will be managed and updated accordingly by the Governance Team as per normal process.

## **Attachments**

Attachment 1 - Proposed 2020 Schedule of Meetings .

# Hamilton City Council - Schedule of Meetings 2020 (DRAFT)

	January	February	March	April	May	June	July	August	September	October	November	December	
Mon						1 Queen's Birthday	Mon						Mon
Tues						2	Tues					1	Tues
Wed	1 New Years Day			1 Briefing		3 Briefing	Wed	1	2 Briefing			2	Wed
Thur	2 Day after New Year			2 Strategic Growth		4 Environment	Thur	2 Council	3 Strategic Risk and	1 Strategic Growth		3 S Risk & Assurance	Thur
Fri	3				1	5	Fri	3 Civic Awards	4	2		4 DLC (HOLD)	Fri
Sat	4	1		4	2	6	Sat	4	1	3		5	Sat
Sun	5	2		5	3	7	Sun	5	2	4		6	Sun
Mon	6	3	2	6	4	8	Mon	6	3	5	2	7 DLC (HOLD)	Mon
Tues	7	4 Council	3 Environment	7 Community	5 Tainui Co-Gov	9 Strategic Risk and	Tues	7	4	6	3 Finance	8 Environment	Tues
Wed	8	5 Hearings & Eng / R	4 Briefing	8 Briefing	6 Briefing	10 Briefing -AP	Wed	8	5 Briefing	7 Briefing	4 Briefing	9 Briefing	Wed
Thur	9	6 Waitangi Day	5 S Risk & Assurance	9	7 Council - AP	11 Hearings & Eng	Thur	9	6 Council	8 Infrastructure	5 Tainui Co-Gov	10 Council	Thur
Fri	10	7	6	10 Good Friday	8	12	Fri	10	7	9	6	11 Civic Awards	Fri
Sat	11	8	7	11	9	13	Sat	11	8	10	7	12	Sat
Sun	12	9	8	12	10	14	Sun	12	9	11	8	13	Sun
Mon	13	10 Citizenship / RMA	9	13 Easter Monday	11	15	Mon	13	10	12	9	14 Citizenship	Mon
Tues	14	11 Finance / RMA	10 Economic Dvlp	14	12 Economic Dvlp	16 Finance	Tues	14	11 Finance	13	10 Council LTP	15	Tues
Wed	15	12 Briefing	11	15	13	17 Briefing	Wed	15	12	14 Briefing -LTP	11 Council LTP	16	Wed
Thur	16	13 Strategic Growth	12 Council - AP	16 Infrastructure	14 Strategic Growth	18 Strategic Growth	Thur	16	13 Community	15	12 Strategic Growth	17	Thur
Fri	17	14 RMA	13	17	15 DLC	19 DLC	Fri	17	14	16 DLC	13	18	Fri
Sat	18	15	14	18	16	20	Sat	18	15	17	14	19	Sat
Sun	19	16	15	19	17	21	Sun	19	16	18	15	20	Sun
Mon	20	17 RMA	16	20 Citizenship	18	22 Citizenship	Mon	20	17	19 Citizenship	16	21	Mon
Tues	21	18 RMA	17 Hearings & Eng	21	19 Community	23 Community	Tues	21	18	20 Hearings & Eng	17 Community	22	Tues
Wed	22	19 Briefing AP / RMA	18 Briefing -AP	22	20 Briefing -LTP	24 DLC	Wed	22	19 Briefing	21 Briefing - LTP	18	23	Wed
Thur	23	20 Community	19 Council	23 Hearings & Eng	21 Council - AP	25 Council - AP	Thur	23	20 Strategic Growth	22 Council	19 Infrastructure	24	Thur
Fri	24	21 DLC	20 DLC	24 DLC	22	26	Fri	24	21	23	20 DLC	25 Christmas Day	Fri
Sat	25	22	21	25 Anzac Day	23	27	Sat	25	22	24	21	26 Boxing Day	Sat
Sun	26	23	22	26	24	28	Sun	26	23	25	22	27	Sun
Mon	27 Auckland Anniversary	24	23 Citizenship	27 Anzac Day observ	25	29	Mon	27	24 Citizenship	26 Labour Day	23 Citizenship	28 Boxing Day Observ	Mon
Tues	28	25 Hearings & Eng	24 Briefing -LTP	28 Finance	26 Infrastructure	30 Infrastructure	Tues	28	25 Hearings & Eng	27 Community	24 Economic Dvlp	29	Tues
Wed	29	26 Briefing	25 Briefing -LTP	29 Briefing -AP	27 Briefing		Wed	29	26 Briefing	28	25 Briefing	30	Wed
Thur	30	27 Infrastructure	26 Council - AP	30 Council	28 Council		Thur	30	27 Infrastructure	29	26 Hearings & Eng	31	Thur
Fri	31	28	27		29		Fri	31	28	30	27		Fri
Sat		29	28		30		Sat		29		28		Sat
Sun			29		31		Sun				29		Sun
Mon			30				Mon		31		30		Mon
Tues			31 Finance				Tues						Tues
	January	February	March	April	May	June	July	August	September	October	November	December	

Council
Finance
Infrastructure Operations
Strategic Growth
Environment
Community
Economic Development
Hearings and Engagement
Strategic Risk and Assurance
HCC & Waikato Tainui Co-Governance

Briefing
DLC
Zone 2
Public Holiday
No Meetings
Citizenship
Civic Awards

Annual Plan Council meetings -
12 Mar - AP Council meeting
26 Mar - Approval of AP consultation document
7 May AP Hearings
21 May AP Deliberations meeting
25 June Adoption of AP

10 Year Plan Council meetings 10-11 Nov -
10-Year Plan Deliberations
LTP EM Briefing 3 Feb 2021
Council meeting – Adoption of the consultation document 25 Feb 2021
LTP EM Briefing 21 Apr 2021
LTP Hearing via Council meeting 13-16 Apr 2021
LTP Deliberations Council meeting 4-6 May 2021
LTP EM Briefing 9 Jun 2021
LTP Adoption Council meeting 24 Jun 2021

RMA and Other Hearings -
10-14 Feb - DC Objections (Panama Square)
17-19 Feb - Rotokauri Greenway (Chamber)

Last updated: 21/11/2019 13:37

Item 13

Attachment 1

# Council Report

**Committee:** Council **Date:** 28 November 2019  
**Author:** Becca Brooke **Authoriser:** Richard Briggs  
**Position:** Governance Manager **Position:** Chief Executive  
**Report Name:** Governance Structure Terms of Reference and Delegations for Council, and Committees of Council 2019-22 Triennium

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

1. To approve the draft Governance Structure Terms of Reference and Delegations for Council, Committees of Council and Appointments for the 2019-22 Triennium (*attachment 1 of this report*).

## Staff Recommendation

2. That the Council:
  - a) approves the draft Governance Structure Terms of Reference and Delegations for Council, Committees of Council and Appointments for the 2019-22 Triennium (*attachment 1 of the staff report*);
  - b) notes that the Delegations to Positions Policy (*Council's delegations to the Chief Executive and other specified senior staff*) will be reviewed and updated to reflect the 2019-22 Governance Structure and will be presented to the February 2020 Council meeting for consideration;
  - c) notes that some minor changes, such as reference and name changes will be made by staff to relevant Council policies to reflect the 2019-22 Governance Structure. Any significant or material changes required to policies will be reported back to the Council in the new year;
  - d) notes that the Maangai Maaori Kawenata is currently being reviewed and that any recommendations relating to this review will be presented to the February 2020 Council meeting for consideration; and
  - e) notes that some Appointments in the 2019-22 Governance Structure may change in the coming months to align with the arrangements and terms of reference still to be confirmed/discussed with joint organisations.

## Executive Summary

3. Section 41A of the Local Government Act 2002 (LGA) provides for the Mayor to establish Committees of the Council and appoint Committee Chair's. At the 15 November 2019 Extraordinary Council Meeting, Mayor Southgate presented, and the Council received the 2019-22 Governance Structure.



4. It is the responsibility of the Council to approve the delegations and terms of reference that enable effective decision-making under the Governance Structure set out by the Mayor.
5. This report sets out the draft delegations and terms of reference for the Council and the Committees, based on the 2019-22 Governance Structure.
6. This report also notes some minor changes will be made to some Council policies and plans etc. to ensure alignment between strategic documents, should the draft Governance Structure Terms of Reference, Delegations for Council, Committees of Council and Appointments for the 2019-22 Triennium be approved.
7. Staff consider the matters in this report have low significance and that the recommendations comply with the Council's legal requirements.

## Discussion

### Governance structure

8. Under section 41A of the LGA, the Mayor has the power to appoint the Deputy Mayor, design a Committee structure and appoint Chair's to those Committees.
9. Mayor Southgate's proposed 2019-22 Governance Structure was received at the 15 November 2019 Extraordinary Council meeting.
10. Once the high level Governance Structure determined, it is then the responsibility of the Council to approve the delegations and terms of reference that enable effective decision-making under the Governance Structure set out by the Mayor (*as set out under clause 32, Schedule 7 of the LGA*).
11. It is intended that Maangai Maaori will continue as per the intent of maaori representation agreement approved in 2018, with minor changes to membership on committees as outlined in the draft Governance Structure Terms of Reference and Delegations for Council, Committees of Council and Appointments for the 2019-22 Triennium (*attachment 1 of this report*).
12. It is intended that the external appointees to the Strategic Risk and Assurance Committee (*previously the Audit and Risk Committee*) will continue through to the end of their contracts for the 2019-22 triennium in line with best practice.
13. A draft Governance Structure Terms of Reference and Delegations for Council, Committees of Council and Appointments for the 2019-22 triennium is attached (*attachment 1 of this report*) for the Council's consideration and approval.

### Consequential changes following approval of the Governance Structure

14. If the draft Governance Structure is approved, the Delegations to Positions Policy (*Council's delegations to the Chief Executive and other specified senior staff*) will subsequently be reviewed and updated to reflect the 2019-22 Governance Structure and will be presented to the February 2020 Council meeting for consideration.
15. Some minor reference, name and membership changes may be required to be made to some Council policies to reflect the 2019-22 Governance Structure. Staff will review and amend relevant Council policies to ensure alignment following approval of the new structure. If there are any significant or material changes required to any policies, these will be reported back to the Council in the new year.

16. In line with a previous Council resolution, the Maangai Maaori Kawenata is currently being reviewed to align with the new structure and to ensure that the intent and essence of the Maangai Maaori arrangements are reflected appropriately within the kawenata. As noted above (para 11), it is intended that Maangai Maaori will continue in line with the arrangements approved in 2018, and that any recommended amendments to the Kawenata following the review will be presented to the February 2020 Council meeting for consideration.
17. Some Appointments in the 2019-22 Governance Structure may change in the coming months to align with the arrangements and terms of reference still to be confirmed/discussed with joint organisations, for example, Waikato Regional Council Joint Committees.

### **Financial Considerations**

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

### **Legal and Policy Considerations**

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

### **Wellbeing Considerations**

20. 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').
21. The subject matter of this report has been evaluated in terms of the 4 wellbeing's during the process of developing this report as outlined below.
22. The draft Governance Structure Terms of Reference and Delegations for Council, Committees of Council and Appointments for the 2019-22 Triennium is an overarching strategic document of Council with the four wellbeing's threaded throughout.
23. The document sets out the governance structure with each committee or group responding to various aspects and requirements of the 4 wellbeing's. For example, environmental wellbeing's are responded to via the newly established Environment Committee, economic wellbeing's are addressed through the newly established Economic Development Committee. Maaori representation is one aspect of cultural wellbeing that is address through the Governance Structure and the Community Committee addresses numerous initiatives to do with social wellbeing's.
24. The recommendations set out in this report are consistent with that purpose.

### **Risks**

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

### **Significance & Engagement Policy**

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

### **Attachments**

Attachment 1 - Draft Governance Structure Terms of Reference and Delegations for Council, Committees of Council and Appointments for the 2019-22 Triennium



# **Governance Structure**

## **Terms of Reference and Delegations for Council, and Committees of Council**

**2019-22 Triennium**

**Received by Council on**

**XXXX**

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# Introduction

## Governance Structure

This document sets out the Governance Structure by which Hamilton City Council:

- carries out its governance functions; and
- formally delegates its powers and responsibilities.

The Governance Structure is developed in accordance with the provisions and requirements of the Local Government Act 2002 and is based on the following Governance principles:

1. To have as few governance levels as possible
2. The business of Council is transacted transparently and inclusively, whenever possible
3. There are no sub-committees
4. Decisions are made once, not twice
5. Committees are strategically aligned to Council's priorities
6. Delegations to Committees and the Chief Executive are optimised
7. All meetings of Council and its Committees observe family-friendly hours
8. The expectation of full attendance by Elected Members at Council, and Committee meetings (where membership applies)
9. Advisory groups or hearings panels are established as needed to address special or particular issues; these will report directly to Council or the relevant Committee but must be approved by Council

The Governance Structure for Hamilton City Council is adopted at the beginning of each triennium. It sets out in full the delegations to the Committees, including:

- **Common delegations**

There are a number of common delegations from Council to the following committees of the whole: Finance Committee, Strategic Growth Committee, Infrastructure Operations Committee and Community Committee. These common delegations are set out on page 9 and should be read in conjunction with the Terms of Reference for those committees.

- **Specific delegations**

There are specific delegations over and above the common delegations. These are set out for each Committee from page 11.

The Governance Structure may also be reviewed and amended as necessary throughout the triennium.

## **The Role of the Mayor**

Section 41A of the Local Government Act 2009 confers a number of powers and responsibilities to the Mayor. The Mayor may:

- Define and promote a vision for the advancement of Hamilton and the people of Hamilton, and to provide leadership to achieve that vision
- Lead the development of council plans, policies and budgets (including the Annual Plan and Long Term Plan) for consideration by the Council
- Ensure effective engagement between the Council and the people of Hamilton
- Appoint the Deputy Mayor
- Establish committees of the governing body (Council) and appoint the chairperson and deputy chairperson for each of those committees

## **Ambiguity and Conflict**

For clarity, matters that are not delegated by the Council to a committee or another subordinate decision-making body, or to the Chief Executive or other Council officer, are to be determined by the Council.

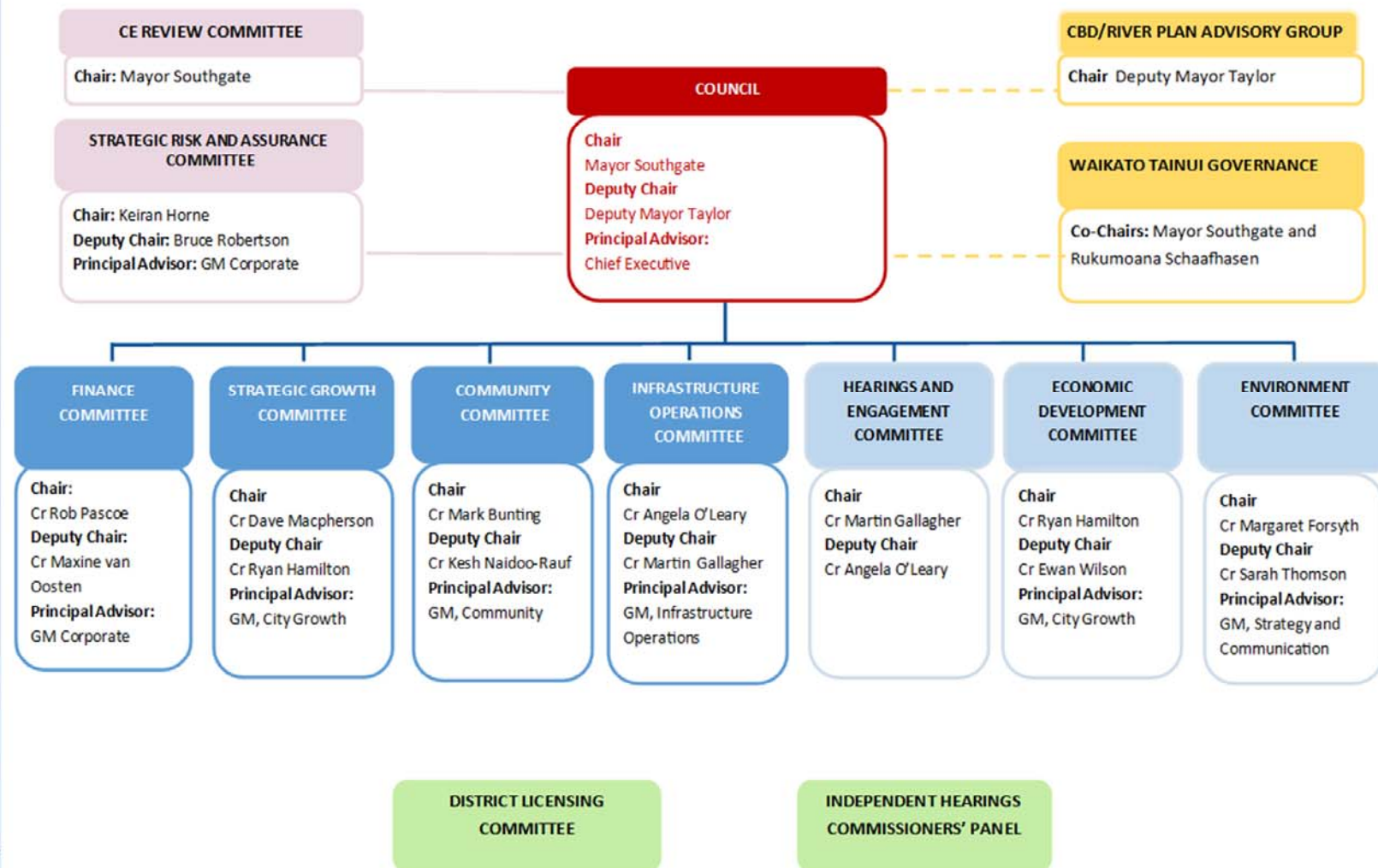
In the event of uncertainty or dispute as to which Committee is authorised to act in respect of a particular matter due to ambiguity or conflict between the provisions of the Terms of Reference, the Chief Executive will prepare a written report on the matter for Council's consideration. The decision of Council will be final and binding.

## **Interpretation**

References to legislation in this Governance Structure include its amendments, re-enactments and substitutions, as well as any regulations made under that legislation.



# Council and Committees of Council





## Council

<b>Chairperson:</b>	Mayor Paula Southgate
<b>Deputy Chairperson:</b>	Deputy Mayor Geoff Taylor
<b>Membership:</b>	The Mayor and all Councillors
<b>Meeting frequency:</b>	Monthly – or as required
<b>Quorum:</b>	A majority of members (including vacancies)

### 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*

## Common Delegations

The following delegations from Council are common to the Finance Committee, Strategic Growth Committee, Infrastructure Operations Committee and Community Committee within their respective areas of responsibility.

### General Principle

1. The work of these Committees will be in accordance with the priorities and work programme agreed by the Council.
2. These Committees have the powers necessary to perform the Committee's responsibilities, in accordance with the approved Long Term Plan and Annual Plan budgets. Subject to confirmation of compliance with the financial strategy.

These Committees will:

### Strategy, plans and policy

3. Develop and agree strategy, plans and policy for the purposes of consultation/engagement
4. Approve new or amended strategy or plans related to the committees terms of reference
5. Recommend to the Council new or amended policies for adoption/approval
6. Monitor and review strategy, plans and policy

### Bylaws

7. Develop and agree the statement of proposal for new or amended bylaws for consultation
8. Recommend to Council new or amended bylaws for adoption

### Consultation and engagement

9. Ensure appropriate, effective and transparent engagement with the community, tangata whenua and other stakeholders
10. Conduct any public engagement required on issues before the Committee, in accordance with Council's Significance and Engagement Policy
11. Conduct hearings, where appropriate, to consider submissions from members of the public and external organisations, making determinations on such matters unless they are reserved for Council to decide

### Submissions and legislation

12. Approve submissions to external bodies/organisations on legislation and proposals that impact governance policy or matters

**Projects and programmes**

13. Monitor and oversee strategic projects and programmes
14. Monitor Council's Asset Management Plans
15. Approve an increase in the budget level for a strategic project or programme provided that the overall budget for the relevant activity area is met, i.e. savings are found within the same activity area resulting in a financially neutral impact (where this is not the case the Committee must recommend to the Finance Committee that additional funding is approved (outside the Annual Plan or Long Term Plan process))

**Contracts**

16. Approve and monitor contracts and other legally binding arrangements provided that such contracts/arrangements:
  - a) Do not require the approval of Council
  - b) Fall within the budget approved under the Long Term Plan or Annual Plan and have a value exceeding the Chief Executive's financial delegation

**Other**

17. Consider and make decisions which are within the Chief Executive's delegations, and which the Chief Executive has referred to the Committee for decision making
18. Consider and make decisions on operational matters that fall within a Committee's area of responsibility that are outside of delegations to the Chief Executive or other Council officers
19. Commission new Committee reports and work required to respond to significant or compliance issues, or to complete the agreed programme of Council
20. Recommends the establishment of advisory groups or hearings panels and their terms of reference<sup>1</sup> to Council for approval.

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<sup>1</sup> A template for establishing an Advisory/Working Group or Hearings Panel is attached as Appendix A.

## Finance Committee

<b>Reports to:</b>	The Council
<b>Chairperson:</b>	Cr Rob Pascoe
<b>Deputy Chairperson:</b>	Cr Maxine van Oosten
<b>Membership:</b>	The Mayor and all Councillors Maangai Maaori Bella Takiari-Brame
<b>Meeting frequency:</b>	Six weekly
<b>Quorum:</b>	A majority of members (including vacancies)

### Purpose:

The Finance Committee is responsible for:

1. Monitoring Council's financial strategy, and financial performance against the Long Term Plan and Annual Plan.
2. Determining financial matters within its delegations and Terms of Reference and making recommendations to Council on financial matters outside its authority.

*In addition to the common delegations on page 9, the Finance Committee is delegated the following Terms of Reference and powers:*

### Terms of Reference:

1. To provide direction on Council's financial strategy and monitor performance against that strategy.
2. To monitor Council's financial performance against the Council's 10 Year Plan and the impact of the financial performance on services levels and rate payers' value.
3. To monitor deferred capital expenditure.
4. To develop and monitor policy related to the following matters:
  - a) financial management;
  - b) revenue generation; and
  - c) procurement and tendering.
5. To monitor the probity of processes relating to policies developed by the Finance Committee.

### The Committee is delegated the following powers to act:

- Approval of operating expenditure within the Long Term Plan or Annual Plan that exceeds the Chief Executive's delegation, excluding expenditure which:
  - contravenes the Council's Financial Strategy; or

- significantly alters any level of service outlined in the applicable Long Term Plan or Annual Plan; or
- impacts Council policy or practice, in which case the delegation is recommendatory only and the Committee may make a recommendation to the Council for approval.
- Approval of contractual and other arrangements for supply and services, and revenue generating contracts, which:
  - exceed the Chief Executive's delegations, but
  - exclude contracts or arrangements that are reserved for the Council or another Committee's approval.
- Approval to write-off outstanding accounts greater than \$10,000 (in accordance with the Debtor Management Policy).

**The Committee is delegated the following recommendatory powers:**

- To set the direction of Council's Financial Strategy.
- The Committee may make recommendations to Council.
- The Committee may make recommendations to other Committees.

**Recommendatory Oversight of Policies and Bylaws:**

- *Funding Needs Analysis Policy*
- *Investment and Liability Management Policy*
- *Rates Remissions and Postponements Policy*
- *Rating Policy*
- *Revenue and Financing Policy*

## Strategic Growth Committee

<b>Reports to:</b>	The Council
<b>Chairperson:</b>	Cr Dave Macpherson
<b>Deputy Chairperson:</b>	Cr Ryan Hamilton
<b>Membership:</b>	The Mayor and all Councillors Maangai Maaori James Whetu
<b>Meeting frequency:</b>	Six weekly
<b>Quorum:</b>	A majority of members (including vacancies)

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### Purpose

The Strategic Growth Committee is responsible for:

1. Guiding sustainable physical development and growth of Hamilton to meet current and future needs, including oversight of strategic land-use planning, boundary alignment, and existing and alternative planning, funding and financing models for growth-related projects.
2. Driving collaboration with neighboring Councils, Iwi, private sector and central government to meet Hamilton's growth ambitions.

*In addition to the common delegations on page 9, the Strategic Growth Committee is delegated the following Terms of Reference and powers:*

### Terms of Reference:

1. To monitor and provide advice on the overall development and implementation of urban growth and development strategies, strategic land use, and spatial plans (e.g. Hamilton to Auckland Corridor and Hamilton-Waikato Metropolitan Spatial Plan), and long-term network infrastructure planning in line with national policy requirements.
  2. To provide direction and monitor Council's approach to the levying and use of rates for growth, as well as development contributions.
  3. To develop, and monitor the implementation of the infrastructure Activity Management Plans to inform the 2021-31 Long Term Plan to ensure that Council looks after its existing assets and provides agreed levels of service.
  4. To provide direction on and assess proposals for seeking alternative funding models, such as special purpose vehicles and infrastructure funding and financing.
  5. To provide direction on strategic priorities for network infrastructure aligned to city development, and oversight of strategic projects associated with those activities.
  6. To provide advice on the development and implementation of the Long Term Infrastructure Strategy.
-

7. To assess proposals for Private Developer Agreements that exceed the Chief Executive's delegations for Unfunded Growth Projects<sup>2</sup> and, if appropriate for Unfunded Growth Projects<sup>2</sup>, to recommend such agreements to the Council for approval.
8. To provide direction regarding Council's involvement in and with Urban Development Authorities, regional alliances, plans, initiatives and forums for spatial planning (for example, Future Proof, strategic boundary land use agreements and joint council growth related discussions).
9. To consider the impacts of land use and urban development on the environment.
10. To provide clear direction on Council's strategic priorities to organisations and groups, for which Council facilitates funding, aligned with these Terms of Reference, and to oversee those funding arrangements and receive their strategic and business plans and annual performance reports.
11. To monitor and oversee the delivery of Council's non-financial performance and non-financial key projects, against the Long Term Plan, excluding key performance indicator reporting which is the responsibility of the Finance Committee.
12. To oversee the development of the City's Smart City Strategy.

**The Committee is delegated the following powers to act:**

- Approval of purchase or disposal of land for network infrastructure, or parks and reserves for works and other purposes within this Committee's area of responsibility that exceeds the Chief Executive's delegation and is in accordance with the Annual plan or Long Term Plan.

**The Committee is delegated the following recommendatory powers:**

- Adoption of the Long Term Infrastructure Strategy to the Council.
- Approval of additional borrowing to the Finance Committee.
- Approval of city boundary changes to the Council, including in respect of Strategic Boundary Land Use Agreements.
- Approval of infrastructure Activity Management Plans to inform the 2021-31 Long Term Plan to the Council.
- The Committee may make recommendations to Council and other Committees

**Recommendatory Oversight of Policies and Bylaws:**

- *Development Contributions Policy*
- *Growth Funding Policy*
- *Hamilton Gateways Policy*
- *Sale and Disposal of Council Land Policy*

<sup>2</sup> Unfunded Growth Projects are defined in the Growth Funding Policy as:

- a) Not funded projects
- b) Funded projects but which are proposed to commence earlier than the sequencing and timing established in the long term plan; and/or
- c) Funded projects but which are now proposed to occur beyond the scale, scope and cost prescribed or anticipated for those projects in the long term plan.



## Infrastructure Operations Committee

<b>Reports to:</b>	The Council
<b>Chairperson:</b>	Cr Angela O'Leary
<b>Deputy Chairperson:</b>	Cr Martin Gallagher
<b>Membership:</b>	The Mayor and all Councillors Maangai Maaori Norm Hill
<b>Meeting frequency:</b>	Six weekly
<b>Quorum:</b>	A majority of members (including vacancies)

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### Purpose

The Infrastructure Operations Committee is responsible for:

1. The execution of Council's infrastructure and operational plans and strategies across all asset classes.
2. To monitor and approve contracts relating to core infrastructure and provision of services.
3. To monitor and approve deferred capital relating to core infrastructure and provision of services.
4. Guiding and monitoring the provision of core infrastructure and services in particular relating to transport (including but not limited to public transport and cycleways), 3 waters and waste management, to meet the current and future needs of the city and to enhance the wellbeing of its communities.
5. Facilitating community and stakeholder involvement and discussion on core infrastructure provision and services.
6. Guiding discussion and implementation of innovative core infrastructure and service provision solutions.
7. To ensure that all infrastructure networks and service provisions are legally compliant and operate within resource consent limits.

*In addition to the common delegations on page 9, the Infrastructure Operations Committee is delegated the following Terms of Reference and powers:*

### Terms of Reference:

1. To provide direction on strategic priorities and resourcing for core infrastructure aligned to city development and oversight of operational projects and services associated with those activities.
  2. To develop policy, approve core-infrastructure related operational strategies and plans and monitor their implementation.
-

3. To receive and consider presentations and reports from stakeholders, government departments, organizations and interest groups on core infrastructure and associated services and wellbeing issues and opportunities.
4. To provide direction regarding Council's involvement in regional alliances, plans, initiatives and forums for joint infrastructure and shared services (for example Regional Transport Committee).
5. To monitor and oversee the delivery of Councils non-financial performance and non-financial key projects against the Long Term Plan, excluding key performance indicator reporting which is the responsibility of Finance Committee.

**The Committee is delegated the following powers to act:**

- Approval of capital expenditure within the Long Term Plan or Annual Plan that exceeds the Chief Executive's delegation, excluding expenditure which:
  - contravenes the Council's Financial Strategy; or
  - significantly alters any level of service outlined in the applicable Long Term Plan or Annual Plan; or
  - impacts Council policy or practice, in which case the delegation is recommendatory only and the Committee may make a recommendation to the Council for approval.
- Approval of any proposal to stop any road, including hearing and considering any written objections on such matters.
- Approval of purchase or disposal of land for core infrastructure for works and other purposes within this Committee's area of responsibility that exceed the Chief Executives delegation and is in accordance with the Annual Plan or Long Term Plan.

**The Committee is delegated the following recommendatory powers:**

- Approval of additional borrowing to Finance Committee.
- The Committee may make recommendations to Council and other Committees

**Recommendatory Oversight of Policies and Bylaws:**

- *Connections and Charging Policy for Three Waters Policy*
- *Earthquake-Prone, Dangerous & Insanitary Buildings Policy*
- *Seismic Performance of Buildings Policy*
- *Speed Limits Bylaw 2015*
- *Streetscape Beautification and Verge Maintenance Policy*
- *Traffic Bylaw 2015*
- *Solid Waste Bylaw 2012*
- *Stormwater Bylaw 2015*
- *Trade Waste and Wastewater Bylaw 2016*
- *Water Supply Bylaw 2013*

## Community Committee

<b>Reports to:</b>	The Council
<b>Chairperson:</b>	Cr Mark Bunting
<b>Deputy Chairperson:</b>	Cr Kesh Naidoo-Rauf
<b>Membership:</b>	The Mayor and all Councillors, Maangai Maaori Olly Te Ua and Te Pora Thompson-Evans
<b>Meeting frequency:</b>	Six weekly
<b>Quorum:</b>	A majority of members (including vacancies)

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### Purpose

The Community Committee is responsible for:

1. Guiding and monitoring the provision of strategic community infrastructure and services to meet the current and future needs of the city and the enhanced wellbeing of its communities.
2. Governance of recreational, community facilities, amenities, and events.
3. Facilitating community and stakeholder involvement and discussion on community infrastructure, community safety and community wellbeing matters.
4. Ensuring Hamilton is performing to the highest standard in the area of civil defence and emergency management.
5. Funding to benefit the social, cultural, physical and arts wellbeing of communities in Hamilton.

*In addition to the common delegations on page 9, the Community Committee is delegated the following Terms of Reference and powers:*

### Terms of Reference:

1. To provide direction on strategic priorities and resourcing for community infrastructure aligned to city's overall development and oversight of strategic projects associated with those activities.
  2. To develop policy, approve community-related strategies and plans, and monitor their implementation.
  3. To receive and consider presentations and reports from stakeholders, government departments, organisations and interest groups on community development and wellbeing issues and opportunities.
  4. To provide input on the allocation of Events Sponsorship funding to the Economic Development Committee.
  5. To monitor Hamilton's social demographics and social climate to assess current and future impacts on the Council and Hamilton communities.
-

6. To monitor the performance of Hamilton's civil defence and emergency management response against Council's requirements under the Civil Defence Emergency Management Act including:
  - a. implementation of Government requirements;
  - b. contractual service delivery arrangements with the Waikato Regional Group Emergency Management Office
6. To determine the funding priorities for the Community Grants Allocation Committees, in line with the Community Assistance Policy, Long Term Plan and Annual Plan.
7. To determine the priority of Council projects suitable for contestable and philanthropic funding, excluding NZTA funding.
8. To coordinate and make decisions on proposals, applications for external funding, and the distribution of Council funding and funding provided to Council for public art, recreational and community facilities and amenity.
9. To monitor and oversee the delivery of Council's non-financial performance and non-financial key projects against the Long Term Plan, excluding key performance indicator reporting which is the responsibility of the Finance Committee.

**The Committee is delegated the following powers to act:**

- Approval of Reserve Management Plans.
- Performing the Council's functions, powers and duties (excluding those matters reserved to the Council by law, by resolution of the Council or as otherwise delegated by Council) under the Burial and Cremation Act 1964 and the Reserves Act 1977.
- Approval of purchase or disposal of land for parks and reserves required for designated works or other purposes within the Committee's area of responsibility which exceeds the Chief Executive's delegations and is in accordance with the Annual Plan or Long Term Plan.
- Approval of applications for Council projects suitable for contestable and philanthropic funding.
- Approval of funding for recreational and community facilities and amenities in accordance with the Long Term Plan.
- Approval of public art proposals put forward by the community and/or Council in accordance with the Public Art Development Process and approved budget.

**The Committee is delegated the following recommendatory powers:**

- The Committee may make recommendations to Council.
- The Committee may make recommendations to other Committees.

**Recommendatory Oversight of Policies and Bylaws:**

- *Alcohol Control Bylaw 2015*
- *Animal Nuisance Bylaw 2013*
- *Citizens Initiated Referenda Policy*
- *City Honours Policy*
- *Class 4 Gambling Venue Policy*
- *Community Assistance Policy*
- *Community Occupancy Policy*
- *Cultural and Recreational Facilities Bylaw 2012*
- *Disability Policy*
- *Dog Control Bylaw 2015*
- *Dog Control Policy*
- *External Funding Applications Policy*
- *Hamilton City Smoke-Free Environment Policy*
- *Naming of Roads, Open Spaces and Council Facilities Policy*
- *International Relations Policy*
- *Provisional Local Alcohol Policy*
- *Psychoactive Substances (Local Approved Products) Policy*
- *Prostitution Bylaw 2019*
- *Public Places Bylaw 2016*
- *Public Places Policy*
- *Safety in Public Places Bylaw 2014*
- *TAB Board Venue Policy*

## Hearings and Engagement Committee

<b>Reports to:</b>	Council
<b>Chairperson:</b>	Cr Martin Gallagher
<b>Deputy Chairperson:</b>	Cr Angela O'Leary
<b>Membership:</b>	The Mayor and all Councillors and Maangai Maaori (the latter only attending meetings addressing matters relevant to another Committee they are a member of)
<b>Meeting frequency:</b>	As required
<b>Quorum:</b>	Three members (for matters relating to those functions in paragraph 3 and 4 below).  A majority of members (including vacancies) for all other functions.

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### Purpose

1. To conduct fair and effective hearings and make determinations on a range of the Council's quasi-judicial functions under legislation and other matters as referred to the Committee.
2. To convene and coordinate advisory groups on matters referred by other Committees.

<b>The Committee is delegated the following Terms of Reference and powers:</b>
--

### Terms of Reference:

1. Hear and determine any statutory or regulatory hearings under relevant legislation unless otherwise delegated by Council, including (but without limitation):
    - objections under the Dog Control Act 1996;
    - matters regarding drainage and works on private land under the Local Government Act 1974 and Local Government Act 2002;
    - proposals for temporary closure of any road.
  2. Consider and determine changes to the registers and restrictions in the Traffic Bylaw and Speed Limit Bylaw, including hearing any submissions relating to those proposed changes.
  3. Hear and determine matters arising under current bylaws and policies, including applications for dispensation from compliance with the requirements of bylaws or policies, unless such matters are otherwise delegated by Council.
  4. Hear and determine other matters that require hearings or submissions, as referred by Council or other Committees.
-

**The Committee is delegated the following powers to act:**

- Approval of matters determined by the Committee within its Terms of Reference.
- Approval of the establishment of hearings panels and their terms of reference.

**The Committee is delegated the following recommendatory powers:**

- The Committee may make recommendations to the Council.
- The Committee may make recommendations to Committees.

**Special Notes:**

- The Committee may request expert advice through the Chief Executive when necessary.
- The Committee may appoint additional members for hearings where the relevant terms of reference specify the requirement for expert or external representation.

## Strategic Risk and Assurance Committee

<b>Reports to:</b>	The Council
<b>Chairperson:</b>	External appointee – Keiran Horne
<b>Deputy Chairperson:</b>	External appointee – Bruce Robertson
<b>Membership:</b>	Mayor Paula Southgate Chairperson of the Finance Committee – Cr Rob Pascoe Chairperson of the Strategic Growth Committee – Cr Dave Macpherson Chairperson of the Infrastructure Operations Committee – Cr Angela O’Leary Chairperson of the Community Committee – Cr Mark Bunting Maangai Maaori Representative on the Finance Committee – Bella Takiari-Brame
<b>Meeting frequency:</b>	As required – no less than four times a year
<b>Quorum:</b>	Four members (including one external appointee)

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### Purpose:

The Strategic Risk and Assurance Committee is responsible for providing objective advice and recommendations to the governing body on the adequacy and functioning of the Council’s risk management and assurance framework and external reporting.

*In addition to the common delegations on page 9, the Strategic Risk and Assurance Committee is delegated the following Terms of Reference and powers:*

### Terms of Reference:

#### Risk

1. Review the effectiveness of the risk control environment established by management to safeguard Council’s financial and non-financial assets, including the adequacy and appropriateness of insurance policies in place and management’s actions to mitigate risks and report 6 monthly to Council.
  2. To review the Risk Management Policy and recommend to Council revisions to the policy for adoption.
  3. To review the Fraud and Corruption, Protected Disclosure, Conflict of Interest, and Sensitive Expenditure management policies to ensure appropriate guidance and processes are in place.
  4. Review Council’s strategic risk register and monitor existing and proposed controls
  5. Periodic in-depth reviews of specific, significant risks
  6. Monitor emerging risks
-



7. Review and monitor business continuity planning.
8. Oversight of risk management and assurance across Council's CCO's and CCTOs with respect to risks that may have a significant impact on Council

#### *Internal Audit*

9. In conjunction with the Chief Executive, agree the scope of the annual internal audit work programme, having regard to Council's significant risks.
10. Monitor the delivery of the internal audit work programme to ensure the effectiveness of the Council's internal control framework.
11. Assess whether Internal Audit's recommendations have been properly implemented by management.
12. Review the annual Internal Audit Plans to ensure appropriate organisational structures, authority, access, independence, resourcing and reporting arrangements are in place.

#### *External Audit*

13. Engage with Council's external auditors regarding the external audit work programme and agree the proposed terms and arrangements of the external audit.
14. Recommend to Council the terms and arrangements for the external audit programme.
15. Review the effectiveness of the Annual Plan audit and 10 Year Plan audit.
16. Assess management response to audit reports and the extent to which external audit recommendations concerning internal accounting controls and other matters are implemented.

#### *Statutory Reporting*

17. Review and monitor the integrity of the interim and annual report, focusing particularly on:
  - a. compliance with, and the appropriate application of, relevant accounting policies, practices and accounting standards
  - b. compliance with applicable legal requirements relevant to statutory reporting
  - c. The consistency of application of accounting policies as well as changes to accounting policies and practices that may affect the way that accounts are presented
  - d. Any decisions involving significant judgment, estimation or uncertainty
  - e. The extent to which financial statements are affected by any unusual transactions and the manner in which these are disclosed
  - f. the disclosure of contingent liabilities and contingent assets
  - g. the clarity of disclosures generally
  - h. The basis for the adoption of the going concern assumption
  - i. Significant adjustments resulting from the audit

*Other Matters*

18. Review the effectiveness of the systems for monitoring the Council's compliance legislation, regulation, policy and guidelines.
19. Review the adequacy and effectiveness of Council's health and safety programme and cybersecurity programme.
20. Engage with internal and external auditors on any specific one-off audit assignments.
21. Conduct and monitor special investigations in accordance with Council policy and approved budget or in response to material matters raised by staff or committee members, including engaging expert assistance, on matters within its Terms of Reference.
22. The Chairperson shall review the travel and other reimbursed expenses of the Chief Executive and confirm compliance with Council policies. This information will be provided to the Chairperson on a six-monthly basis.
23. Such other Matters referred to it by Council.

**The Committee is delegated the following recommendatory powers:**

- The Committee has no decision-making powers.
- The Committee may make recommendations to the Council and/or the Chief Executive, as appropriate.
- The Committee may request expert external advice through the Chief Executive where necessary.

**Special Notes:**

- In fulfilling their role on the committee, members shall be impartial and independent at all times.
  - Members are appointed for an initial term of no more than three years that aligns with the triennial elections, after which they may be eligible for extension or reappointment.
  - Council appoints two external members of the committee, one of whom shall be Chairperson. External members shall have a broad range of skills and experience including accounting or audit experience; the terms of the appointment to be recorded in a contract. External member contracts are to be reviewed and assessed six (6) months after each triennial election with no external members staying on Committee for longer than three (3) trienniums.
  - The Chief Executive and Internal Auditor are required to attend all meetings but are not members and have no voting rights. Other Council officers may attend the committee meetings, as required.
  - The Chief Executive and the Principal Advisor shall be responsible for drawing to the committee's immediate attention any material matter that relates to the financial condition of Council, any material breakdown in internal controls, and any material event of fraud, corruption or malpractice.
-

- The chairperson shall present an annual Audit and Risk Self Review to Council summarising the committee's activities during the year and any related significant results and findings.

**Recommendatory Oversight of Policies and Bylaws:**

- *Risk Management Policy*

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## Environment Committee

<b>Reports to:</b>	The Council
<b>Chairperson:</b>	Cr Margaret Forsyth
<b>Deputy Chairperson:</b>	Cr Sarah Thomson
<b>Membership:</b>	Cr Mark Bunting Cr Angela O’Leary Cr Kesh Naidoo-Rauf Cr Dave Macpherson Mayor Paula Southgate (Ex Officio) Maangai Maaori – Norm Hill
<b>Meeting frequency:</b>	As required – no less than four times a year.
<b>Quorum:</b>	A majority of members (including vacancies)

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### Purpose

The Environment Committee is responsible for:

1. Governance of strategies, policies and plans relating to the wellbeing, protection, enhancement and sustainability of Hamilton’s natural environment.

*In addition to the common delegations on page 9, the Environment Committee is delegated the following Terms of Reference and powers:*

### Terms of Reference:

1. To develop policy, approve strategies and plans concerning Hamilton’s contribution and response to climate change, and to monitor their implementation.
  2. To develop policy, approve strategies and plans for the sustainable use of Hamilton’s natural resources, and to monitor their implementation.
  3. To develop policy, approve strategies and plans for efficient and sustainable waste management and recycling, and to monitor their implementation.
  4. To develop policy, approve strategies and plans for Council’s corporate environmental sustainability and to monitor their implementation.
  5. To develop policy, approve strategies and plans for Council’s biodiversity, and to monitor their implementation.
  6. To develop policy, approve and monitor implementation of strategies in relation to the Climate Action Plan.
-

**Special Notes:**

- The Committee may request expert external advice through the Chief Executive as necessary.

**The Committee is delegated the following powers to act:**

- Approval of matters determined by the Committee within its Terms of Reference.

**The Committee is delegated the following recommendatory powers:**

- The Committee may make recommendations to Council.
- The Committee may make recommendations to other Committees.

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## Economic Development Committee

<b>Reports to:</b>	The Council
<b>Chairperson:</b>	Cr Ryan Hamilton
<b>Deputy Chairperson:</b>	Cr Ewan Wilson
<b>Membership:</b>	Deputy Mayor Taylor Cr Martin Gallagher Cr Rob Pascoe Cr Maxine van Oosten Mayor Paula Southgate (Ex Officio) Maangai Maaori - Olly Te Ua and Te Pora Thompson-Evans
<b>Meeting frequency:</b>	As required – no less than four times a year.
<b>Quorum:</b>	A majority of members (including vacancies)

---

### Purpose

The Economic Development Committee is responsible for:

1. Governance of Hamilton's economic agenda and investment development opportunities consistent with Council's vision for the city and to enhance the wellbeing of Hamiltonians.

*In addition to the common delegations on page 9, the Economic Development Committee is delegated the following Terms of Reference and powers:*

### Terms of Reference:

1. To drive and enhance Hamilton's economic position by actively promoting Hamilton.
  2. To promote investment and business attraction opportunities for Hamilton and the greater Waikato region.
  3. To provide advice on strategic initiatives, plans, projects and potential property developments that have a material impact upon the Hamilton economy.
  4. To develop, review and monitor the implementation of the Economic Development Agenda.
  5. To consider and recommend funding for Business Improvement District(s), Hamilton and Waikato Tourism and Te Waka through the Councils long-term plan process.
  6. To monitor the performance and provide guidance on Council's relationship with key stakeholders including, but not limited to Te Waka, Hamilton Waikato Tourism and Hamilton Central Business Association.
  7. To monitor the performance of Council's major event venues operation (H3).
  8. To review and monitor the implementation of Council's Event Sponsorship Policy.
-

9. To approve annual Event Sponsorship funding applications and monitor any grants made to external organisations under the terms of the Event Sponsorship Policy.
10. To support and assist with efforts for external partnerships on Council projects that will provide economic development opportunities for Hamilton and the region.
11. To develop and monitor policy related to the appointment and remuneration of directors of CCOs, CCTOs and COs.
12. To provide clear direction to Council's CCOs CCTOs and COs on Council's expectations, including feedback on draft statements of intent.
13. To receive six-monthly reports of Council's CCOs, CCTOs and COs, including on board performance.
14. To undertake any reviews of CCOs and CCTOs and agree CCO/CCTO-proposed changes to their governance arrangements, except where reserved for Council's approval by Council.
15. To develop policy, approve and monitor implementation of plans and strategies in relation to the performance of Council's investments in the Municipal Endowment Fund, the Domain Endowment Fund and strategic property.
16. To recommend to the Council approval of acquisition or sale or lease of properties owned by the Council, or owned by the Municipal Endowment Fund or the Domain Endowment Fund consistent with the Municipal Endowment Fund Investment Policy, for any endowment properties.

**The Committee is delegated the following powers to act:**

- Approval of event sponsorship applications annually in accordance with the Event Sponsorship Policy.
- Approval of letters of expectation for each CCO, CCTO and CO.
- To provide feedback on draft statements of intent for each CCO, CCTO and CO.

**The Committee is delegated the following recommendatory powers:**

- Appointments to, and removals from, CCO, CCTO and CO boards
- Approval of proposed major transactions or constitutional adjustments of CCOs, CCTOs and COs.
- Approval or otherwise of any proposal to establish, wind-up or dispose of any holding in, a CCO, CCTO or CO.
- Approval of acquisition or sale or lease of properties owned by the Council, or owned by the Municipal Endowment Fund or the Domain Endowment Fund consistent with the Municipal Endowment Fund Investment Policy, for any endowment properties.
- The Committee may make recommendations to Council.
- The Committee may make recommendations to other Committees.

**Recommendatory Oversight of Policies and Bylaws:**

- *Appointment and Remuneration of Board Members of COs, CCOs and CCTOs Policy*
- *Event Sponsorship Policy*
- *Freeholding of Council Endowment Land Policy*
- *Municipal Endowment Fund Investment Policy*
- *Business Improvement District (BID) Policy*

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## Chief Executive Review Committee

<b>Reports to:</b>	The Council
<b>Chairperson:</b>	Mayor Paula Southgate
<b>Membership:</b>	Deputy Mayor Geoff Taylor Cr Rob Pascoe Cr Margaret Forsyth Cr Ewan Wilson
<b>Meeting frequency:</b>	As required
<b>Quorum:</b>	Three members

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### **Purpose and Terms of Reference:**

To review the Chief Executive's performance and make recommendations to the Council about all matters relating to the employment of the Chief Executive and the Chief Executive's employment agreement.

### **The Committee is delegated the following recommendatory powers:**

- The Committee has no decision-making powers.
- The Committee must make recommendations to Council on all matters relating to the employment of the Chief Executive, including performance measures and remuneration.

### **Special Notes:**

- The Committee may request expert advice through the Governance Manager when necessary.
-

## District Licensing Committee

**Reports to:** The Council

**Chairperson:** External appointee – Sara Grayson

**Membership (external appointees):**

Patsi Davies

John Gower

Chrissy Hodkinson

Brett McEwan

Jennie McFarlane (Alternate Commissioner)

Tegan McIntyre (Alternate Commissioner)

**Meeting frequency:** As required

**Quorum:** Three members (with the exception of uncontested applications which can be considered by the Chairperson acting alone).

### Purpose

1. To administer the Council's alcohol licensing framework as determined by the Sale and Supply of Alcohol Act 2012 ('the Act')

### Terms of Reference:

1. To consider and determine applications for licences and manager's certificates
2. To consider and determine applications for renewal of licences and manager's certificates
3. To consider and determine applications for temporary authority to carry on the sale and supply of alcohol in accordance with certain requirements
4. To consider and determine applications for the variation, suspension, or cancellation of special licences
5. To consider and determine applications for the variation of licences (other than special licences)
6. With the leave of the chairperson of the Alcohol Regulatory and Licensing Authority ('the licensing authority'), to refer applications to the licensing authority
7. To conduct inquiries and to make reports as may be required of it by the licensing authority
8. Other functions conferred on the District Licensing Committee by the Act or other legislation

### The Committee is delegated the following powers to act:

- To make decisions on applications and renewals for licences and manager's certificates in accordance with its terms of reference, the Act and other relevant legislation

### The Committee is delegated the following delegatory powers:

- This Committee may make recommendations to Council

**Special Notes:**

- The Committee may request expert advice through the Chief Executive when necessary
- The licensing authority is the overarching national body set up to ensure that the Act is fairly applied

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## Independent Hearings Commissioners' Panel

**Reports to:** Council

**Chairperson:** As appropriate

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

William Wasley  
 Simon Berry  
 Murray Kivell  
 Rebecca Macky  
 Russell De Luca  
 Richard Knott  
 Alan Withy  
 Alan Bickers  
 Mark Farnsworth  
 Loretta Lovell  
 Any Hamilton City Councillor or Maangai Maaori who is a Ministry for the Environment accredited RMA Commissioner

**Meeting frequency:** As required

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**Purpose:**

To undertake certain hearings under the Resource Management Act 1991 ('RMA'), unless otherwise reserved by full Council.

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

1. The power to hear and decide any of the following RMA matters:
    - a) application for a resource consent or change to conditions of resource consent;
    - b) notice of objection; or
    - c) notice of requirement to designate land and alter a designation; for a heritage order and alteration to a heritage order.
  2. The power to exercise all procedural powers under the RMA relevant to the matter to be heard from the date selection being confirmed by the General Manager City Growth until the date the final decision is delivered by the hearings commissioner(s).
  3. The power to select a hearings chairperson; and give the chairperson, if one is selected, a casting vote.
-

**Special Notes:**

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

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# Appointments

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## Council Organisations and Council Controlled Organisations

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### **Waikato Local Authority Shared Services (WLASS)**

**Reports to:** Economic Development Committee

**Membership:** Blair Bowcott, Executive Director Special Projects

### **New Zealand Local Government Funding Agency (LGFA) Ltd**

**Reports to:** Economic Development Committee

**Membership:** David Bryant, General Manager Corporate

### **New Zealand Local Government Insurance Corporation Ltd**

**Reports to:** Economic Development Committee

**Membership:** No council Representation

### **Waikato Innovation Growth Ltd & NZ Food Innovation (Waikato) Ltd**

**Reports to:** Economic Development Committee

**Membership:** No Council representation

### **Waikato Regional Airport Ltd**

**Reports to:** Economic Development Committee

**Membership:** No Council Representation

## Joint Organisations and Advisory Groups

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### Reports to Council:

- CBD/River Plan Advisory Group

**Membership:** Deputy Mayor Geoff Taylor (Chair)  
 Cr Sarah Thomson  
 Cr Angela O'Leary  
 Cr Ewan Wilson  
 Cr Martin Gallagher  
 Cr Mark Bunting  
 Maangai Maaori Norm Hill

- Waikato-Tainui and Hamilton City Council Joint Management Agreement Governance Group

**Membership:** Mayor Paula Southgate (Co-Chair)  
 Deputy Mayor Geoff Taylor  
 Cr Martin Gallagher  
 Cr Margaret Forsyth

- LGNZ Zone Two

**Membership:** Mayor Paula Southgate  
 Deputy Mayor Geoff Taylor  
 Cr Martin Gallagher  
 Cr Kesh Naidoo-Rauf

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### Reports to Community Committee:

- Single-year Community Grants Allocation Committee

**Membership:** Cr Mark Bunting  
 Cr Kesh Naidoo-Rauf

- Multi-year Community Grants Allocation Committee

**Membership:** Cr Mark Bunting  
 Cr Kesh Naidoo-Rauf

- University of Waikato Animal Ethics Committee

**Membership:** Cr Rob Pascoe

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- **Waikato Region Civil Defence Emergency Management Group (Joint Committee)**

**Membership:** Cr Mark Bunting  
Cr Kesh Naidoo-Rauf (alternate)

- **Rototuna Indoor Recreation Centre Trust**

**Membership:** Cr Kesh Naidoo-Rauf  
Lance Vervoort, General Manager Community

- **People's Project**

**Membership:** To be decided

- **Creative Communities Scheme Assessment Committee**

**Membership:** Cr Kesh Naidoo Rauf  
Cr Mark Bunting

- **City Honours Assessment Panel**

**Membership:** Cr Martin Gallagher (Chair)  
Mayor Paula Southgate  
Deputy Mayor Geoff Taylor  
Cr Mark Bunting

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### **Reports to Infrastructure Operations Committee:**

- **Waikato Regional Transport Committee**

**Membership:** Cr Angela O'Leary  
Cr Dave Macpherson (alternate)

- **Regional Connections Committee**

**Membership:** Cr Dave Macpherson (Deputy Chair)  
Cr Angela O'Leary (alternate)

- **Start-up Passenger Rail Service Project Governance Group**

**Membership:** Cr Ewan Wilson

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- Traffic Institute of New Zealand (Trafinz)

*Membership: Cr Angela O'Leary*

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**Reports to Strategic Growth Committee:**

- Waikato Plan Leadership Committee

*Membership: Mayor Paula Southgate  
Cr Martin Gallagher (alternate)*

- Future Proof Implementation Committee (Joint Committee)

*Membership: Mayor Paula Southgate  
Cr Dave Macpherson*

- Waikato and Waipa District Council/Hamilton City Council Governance Group

*Membership: Mayor Paula Southgate  
Deputy Mayor Geoff Taylor  
Cr Dave Macpherson  
Cr Ryan Hamilton*

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**Reports to Environment Response Committee:**

- Waste Minimisation Contestable Fund Assessment Panel

*Membership: Cr Angela O'Leary*

### Schedule of Amendments to HCC Governance Structure 2019-22

Date	Section	Amendment/Addition/Deletion	Authorisation

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Item 14

Attachment 1

**Appendix A – Template for Establishing an Advisory Group or Hearings Panel****Advisory Group/Hearings Panel – *Insert Name***

<b>Chairperson:</b>	
<b>Elected Members:</b>	
<b>External Members:</b>	
<b>Support Staff<sup>1</sup>:</b>	
<b>Date Established<sup>2</sup>:</b>	
<b>Reporting Back Date:</b>	
<b>Appointing Committee<sup>3</sup>:</b>	
<b>Purpose<sup>4</sup>:</b>	
<b>Terms of Reference<sup>5</sup>:</b>	

**Notes:**

1. Support staff to include the General Manager (or Chief Executive) supporting the Advisory Group/Hearings Panel.
2. Refer to the Council or Committee meeting date that established the Advisory Group/Hearings Panel.
3. Identify the Committee (or Council) that established the Advisory Group/Hearings Panel.
4. The Council/Committee resolution that established the Advisory Group/Hearings Panel.
5. Detail the powers, duties and functions of the Advisory Group/Hearings Panel. This is not to include any decision-making powers.

## 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 Elected Member Briefing Notes - 15 November 2019	) Good reason to withhold information exists under Section 7 Local Government	Section 48(1)(a)
C2. Update on Stadia Facilities	) Official Information and Meetings Act 1987	
C3. Municipal Endowment Fund - Ward Street land, proposed Sale and Development	)	
C4. Lift Renewals		

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)
	to enable Council to carry out negotiations	Section 7 (2) (i)
Item C2.	to enable Council to carry out commercial activities without disadvantage	Section 7 (2) (h) Section 7 (2) (i)
	to enable Council to carry out negotiations	
Item C3.	to enable Council to carry out commercial activities without disadvantage	Section 7 (2) (h)
Item C4.	to avoid the unreasonably, likely prejudice to the commercial position of a person who supplied or is the subject of the information	Section 7 (2) (b) (ii)