
Strategic Risk and Assurance Committee

Komiti Whakamauru Tuuraru

OPEN MINUTES

Minutes of a meeting of the Strategic Risk and Assurance Committee held via Audio Visual Link on Thursday 18 November 2021 at 9.32am.

PRESENT

Chairperson	Ms Keiran Horne
<i>Heamana</i>	
Deputy Chairperson	Mr Bruce Robertson
<i>Heamana Tuarua</i>	
Members	Mayor P Southgate
	Cr R Pascoe
	Cr M van Oosten
	Cr Macpherson
	Maangai J Kana

In Attendance	Cr Mark Donovan
	Lance Vervoort – Chief Executive
	David Bryant – General Manager People and Organisational Performance
	Blair Bowcott – General Manager Growth
	Eeva-Liisa Wright – General Manager Infrastructure Operations
	Tracey Musty – Financial Controller
	Michelle Hawthorne – Legal Services Manager
	Murray Heke – Chief Transformation Officer
	Chris Barton – Capital Projects Manager
	Dan Finn – People, Safety and Wellness Manager
	Morva Kaye – Internal Auditor
	Cory Lang – Building Control Manager
	Marie Snowball – Safety and Wellness Lead
	Frances Cox-Wright – Policy and Bylaw Lead
	Julia Kofoed – Insurance Lead
	Aaron Steele – PricewaterhouseCoopers
	Matthew Wilson – Aon Insurance

Governance Staff	Narelle Waite – Governance Advisor
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1. **Apologies - *Tono aroha***

Resolved: (Ms Horne/Maangai Kana)

That the apologies for absence from Cr O'Leary (Council Business), Bunting and Macpherson are accepted.

Mayor Southgate joined the meeting (9.34am) during discussion of the above item. She was present when the matter was voted on.

2. Confirmation of Agenda - *Whakatau raarangi take*

Resolved: (Ms Horne/Mr Robertson)

That the agenda is confirmed.

Mayor Southgate left the meeting (9.36am) during discussion of the above item. She was not present when the matter was voted on.

3. Declarations of Interest - *Tauaakii whaipanga*

Cr van Oosten noted she has an interest in Item C2 (Legal Risks), she noted she was conflicted and would not participate in discussion nor vote on the matter.

4. Public Forum - *AAtea koorero*

No members of the public wished to speak.

5. Confirmation of the Strategic Risk and Assurance Committee Open Minutes - 14 September 2021

Resolved: (Ms Horne/Cr Pascoe)

That the Strategic Risk and Assurance Committee confirm the Open Minutes of the Strategic Risk and Assurance Committee Meeting held on 14 September 2021 as a true and correct record.

6. Confirmation of the Strategic Risk and Assurance Committee Open Minutes - 29 September 2021

Resolved: (Ms Horne/Mr Robertson)

That the Strategic Risk and Assurance Committee confirm the Open Minutes of the Strategic Risk and Assurance Committee Meeting held on 29 September 2021 as a true and correct record.

7. Chief Executive Report - Verbal Update

The Chief Executive provided a verbal report noting the Covid-19 response, the labour market and staff retention, staff wellbeing, staff vaccination policy and Council's support for the health response in the community, and central government legislative reforms. He responded to questions from Members concerning Council's Covid response in Level 2 to support the health of staff and the community, and staff wellbeing.

Resolved: (Ms Horne/Mayor Southgate)

That the Strategic Risk and Assurance Committee receives the verbal report.

Mayor Southgate re-joined the meeting (9.42am) during discussion of the above item. She was present when the matter was voted on.

8. Safety and Wellness Report - 1 August 2021 to 31 October 2021

The People, Safety and Wellness Manager took the report as read noting the safety management system update and safety reset activities. Staff responded to questions from Members concerning staff uptake of wellbeing resources including webinars and EAP, the Work Well Programme and the Safety Management System framework, wellbeing resources for the current political climate, near miss reporting, response processes for notifiable events, high performance targets, Council's staff engagement survey, and health and wellbeing reporting to Council.

Resolved: (Ms Horne/Cr van Oosten)

That the Strategic Risk and Assurance Committee receives the report.

9. Risk Management Report

The Legal Services Manager took the report as read noting key risks – recruitment, Covid-19, and supply chain in the capital works programme. Staff responded to questions from Members concerning the Critical Asset Failure risk when responding to the new Covid protection framework, supply chain, long-term contractor relationships, and the Cyber Attack risk profile.

Resolved: (Ms Horne/Mayor Southgate)

That the Strategic Risk and Assurance Committee receives the report.

10. PwC – Internal Audit Update and Report

Aaron Steele (PricewaterhouseCooper) took the report as read noting progress against the audit plan.

Resolved: (Ms Horne/Maangai Kana)

That the Strategic Risk and Assurance Committee receive the report.

11. HCC – Internal Audit Update and Report

The Internal Auditor took the report as read noting the progress on the capitalisation of assets and contracts register internal audits. She responded to questions from Members concerning the Contracts Register, and the timeline for the Committee to receive the Waka Kotahi report.

Resolved: (Ms Horne/Maangai Kana)

That the Strategic Risk and Assurance Committee receives the report.

12. Organisational Improvement Report

The Internal Auditor took the report as read noting outstanding recommendations from Audit NZ and the Office of the Auditor General and the timeline for the Committee to receive the Waka Kotahi report. Staff responded to questions from Members concerning outstanding recommendations and timeframes for implementation, and the Waka Kotahi report.

Resolved: (Ms Horne/Cr van Oosten)

That the Strategic Risk and Assurance Committee receive the report.

13. Annual Insurance Report

The Insurance Lead introduced Matthew Wilson (Aon). They took the report as read noting the renewal of Council's insurance policies, Council's insurance risk appetite and an upcoming workshop on the matter. They responded to questions from Members concerning professional indemnity insurance, and Council's decision against cyber insurance.

Resolved: (Ms Horne/Cr Pascoe)

That the Strategic Risk and Assurance Committee receives the report.

Cr Macpherson joined the meeting (11.05pm) during discussion of the above item. He was present when the matter was voted on.

14. Annual Credit Rating Report - S&P Global Ratings

The Financial Controller took the report as read noting Council's new credit rating and the effect of receiving a high rating. Staff responded to questions from Members concerning the risk of a rating downgrade considering debt-to-revenue and the Covid's effect on revenue, assessment of budgeting performance, potential impact of central government reforms.

Resolved: (Ms Horne/Cr Pascoe)

That the Strategic Risk and Assurance Committee receives the report.

15. Compliance Reporting Update

The Legal Services Manager took the report as read noting delays in Conflict of Interest Policy review and the provided policy review schedule. Staff responded to questions from Members concerning the Procurement Policy review, and monitoring processes for the policy review schedule.

Staff Action: *Staff undertook to review the appropriate level of policy ownership for the Health and Safety management policy.*

Resolved: (Ms Horne/Mr Robertson)

That the Strategic Risk and Assurance Committee receives the report.

16. Strategic Risk and Assurance Committee – Annual Self Review

The Chair introduced the report noting the purpose of the report to outline the work of the Committee and improvements in the reporting on Health, Safety and Wellness. Members provided feedback on the Committee's achievements this year.

Resolved: (Mr Robertson/Mayor Southgate)

That the Strategic Risk and Assurance Committee receives the report.

17. Draft Work Programme – 2022

The Legal Services Manager spoke to the report noting that next year is an election year, the key reports planned, and the allowance for flexibility in the work programme. She responded to questions from Members concerning reporting on the Policy Review schedule.

Staff Action: *Staff undertook to consider the appropriate future reporting for the Policy Review Schedule.*

Resolved: (Ms Horne/Cr van Oosten)

That the Strategic Risk and Assurance Committee:

- a) adopts the draft the draft work programme for the Strategic Risk and Assurance 2022; and
- b) notes that a wider Schedule of Reports for the Strategic Risk and Assurance Committee, Council and other committees for 2022 will be updated and provided to the Strategic Risk and Assurance Committee in 2022.

18. Resolution to Exclude the Public

Resolved: (Ms Horne/Mr Robertson)

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 Strategic Risk and Assurance Committee Public Excluded Minutes - 14 September 2021) Good reason to withhold information exists under Section 7 Local Government Official Information and Meetings Act 1987	Section 48(1)(a)
C2. Legal Risks - Committee Update)	
C3. Cyber Risks		

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

Item C1.	to prevent the disclosure or use of official information for improper gain or improper advantage	Section 7 (2) (j)
Item C2.	to maintain legal professional privilege	Section 7 (2) (g)
Item C3.	to prevent the disclosure or use of official information for improper gain or improper advantage	Section 7 (2) (j)

The meeting went into Public Excluded session at 11.36am.

The meeting was declared closed at 12.20pm.

Minute Note 21/12/2021:

On 21/12/2021 the following report and resolutions were determined to be released to the public via these minutes and the quarterly update.

Legal Risks – Committee Update

Resolved:

That the Strategic Risk and Assurance Committee:

- a) *receives the report: and*
- b) *notes that subject to any appropriate redactions, the information in relation to this matter may be released at an appropriate time, to be determined by the Chief Executive.*

Council Report

Committee: Strategic Risk and Assurance Committee
Date: 18 November 2021
Author: Michelle Hawthorne
Authoriser: David Bryant
Position: Legal Services Manager
Position: General Manager People and Organisational Performance
Report Name: Legal Risks - Committee Update

Report Status	<i>This report is taken as a publicly excluded item to maintain legal professional privilege.</i>
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Purpose - Take

1. To inform the Strategic Risk and Assurance Committee of significant legal matters that have a bearing on Council's strategic and emerging risks.
2. Tompkins Wake, James MacGillivray/Mark Renner, and Lachlan Muldowney will be in attendance to provide additional commentary on legal risks.

Staff Recommendation - Tuutohu-aa-kaimahi

3. That the Strategic Risk and Assurance Committee:
 - a) receives the report: and
 - b) notes that subject to any appropriate redactions, the information in relation to this matter may be released at an appropriate time, to be determined by the Chief Executive.

Executive Summary - Whakaraapopototanga matua

4. Council's legal advisors regularly report to the Strategic Risk and Assurance Committee on legal matters which are considered significant.
5. The report outlines current matters being reported relating to Strategic Risk 5 – Growth, Strategic Risk 3 – Increasing Compliance Standards, and the previously identified emerging risk on the availability of water (quantity) for Hamilton City.
6. Current matters concerning Strategic Risk 3 – Increasing Compliance Standards include:
 - i. Commercial Weathertightness Claims (Building Control)
 - ii. Residential Weathertightness Claims

iii. Defective Building Claims

7. Consideration will need to be given over the coming months to the legal risks presented by:
 - a. RMA reforms: this will have implications for the Planning Guidance Unit in particular.
 - b. Local Government re-organisation: The DIA launched a review of local government in April 2021.
 - c. Fresh water regulation: Three waters reforms are underway and ongoing. Following recent announcements by central government this will lead to a centralisation of waters assets into separate water entities.
8. Staff consider the matters in this report have a medium level of significance and that the recommendations comply with Council's legal requirements.

Discussion - Matapaki

Strategic Risk 5 - Growth

9. Strategic Risk 5 - significant change to/in growth demand and/or the consequences if growth does not deliver positive outcomes for the community. The outcomes of these proceedings may have an impact on the way in which Council funds, manages and plans for growth in parts of the city. The matters below are not necessarily significant in themselves; however, they assist the Strategic Risk and Assurance Committee in understanding some of the challenges of managing this strategic risk.

Shaws v Hamilton City Council

10. Objection to compulsory land acquisition – This proceeding was heard in the Environment Court on 24 May 2021 and adjourned to allow for a site visit planned for 25 June.

Strategic Risk 3 – Increasing Compliance Standards

11. Strategic Risk 3 concerns the risk of central government and regional council increasing compliance standards or changes in community expectations.
12. Building Control is the subject of regular claims for compensation and litigation across the local government sector. These matters present compliance and legal risk to Council, who is typically the 'last man standing'.
13. Building related claims are reported in aggregate as part of the contingent liability disclosures in the Annual Report.

Delia Court discharge investigation

14. There was an ongoing discharge of wastewater into the stormwater system. WRC has now charged Council under s 15 of the RMA. The first call was scheduled for 14 October.

Emerging Risks

15. Emerging risks are those that may develop, or which already exist and are difficult to quantify but may have a high consequence or high impact if they materialise.

City Water Supply – quantity of intake from the Waikato River

16. This continues to be reported to the Committee as an emerging risk. These matters below are not necessarily significant in themselves, however the management of these contribute to the understanding of the Committee of the legal matters that impact the management of this risk.

Watercare Board of Inquiry

17. Watercare is seeking additional water takes from the Waikato River.

Financial Considerations - Whaiwhakaaro Puutea

18. This is a regular operating activity funded through the Long-Term Plan.

Legal and Policy Considerations - Whaiwhakaaro-aa-ture

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

Wellbeing Considerations - Whaiwhakaaro-aa-oranga tonutanga

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 wellbeings during the process of developing this report.
22. There are no known social, economic, environmental or cultural considerations associated with this matter.

Significance & Engagement Policy - Kaupapa here whakahira/anganui

Significance

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

Engagement

24. Given the medium level of significance determined, the engagement level is medium. No engagement is required.

Attachments - Ngaa taapirihanga

There are no attachments for this report.