

Agenda for a meeting of the Waikato District Council to be held Audio Visually on **MONDAY, 20 SEPTEMBER 2021** commencing at **9.30am**.

*Information and recommendations are included in the reports to assist the Council in the decision making process and may not constitute Council's decision or policy until considered.*

- 1. APOLOGIES AND LEAVE OF ABSENCE**
- 2. CONFIRMATION OF STATUS OF AGENDA**
- 3. DISCLOSURES OF INTEREST**
- 4. CONFIRMATION OF MINUTES**
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*To be circulated under separate cover*
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GJ Ion  
**CHIEF EXECUTIVE**

## TERMS OF REFERENCE AND DELEGATION

<b>Chairperson:</b>	His Worship the Mayor
<b>Deputy Chairperson:</b>	Deputy Mayor
<b>Membership:</b>	The Mayor and all Councillors
<b>Meeting frequency:</b>	Six weekly – or as required
<b>Quorum:</b>	Half of the members (including vacancies)

### Purpose

1. To provide leadership to, and advocacy on behalf of, the people of the Waikato District.
2. To define and represent the total communities' interests, ensuring ongoing community and economic development, the effective stewardship of existing assets, sustainable management of the environment, and the prudent management of the communities' financial resources.

### Terms of Reference

The Council's terms of reference include the following powers which cannot be delegated to committees, subcommittees, officers or any other subordinate decision-making body:

1. The power to make a rate.
2. The power to make a bylaw.
3. The power to borrow money, or purchase or dispose of assets, other than in accordance with the Long-Term Plan.
4. The power to adopt a Long-Term Plan, Annual Plan, or Annual Report.
5. The power to appoint a Chief Executive.
6. 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 local governance statement, including the Council's Infrastructure Strategy.
7. The power to adopt a remuneration and employment policy.
8. The power to approve or amend the Council's Standing Orders.
9. The power to approve or amend the Code of Conduct for elected members, and consider any recommendations made in relation to a complaint lodged under the Code.
10. The power to appoint and discharge:
  - a. members (including chairpersons) of Council committees and subordinate decision-making bodies, subject to the Mayor's powers under section 41A Local Government Act 2002; and
  - b. elected member representatives on external organisations.
11. The power to establish a joint committee with another local authority or other public body, and appoint elected members as representatives on such committees or bodies.
12. The power to make the final decision on a recommendation from the Ombudsman where it is proposed that Council not accept the Ombudsman's recommendation.
13. The power to approve or change the District Plan, or any part of that Plan, in accordance with the Resource Management Act 1991.
14. The power to amend or replace the delegations in Council's Delegations Register (except where expressly permitted in the Delegations Register).

To exercise the following powers and responsibilities of Council, which the Council chooses to retain:

1. To approve a proposed policy statement or plan under the Resource Management Act 1991.
2. To approve changes to boundaries of the District under the Resource Management Act 1991 or any other legislation.
3. In respect of District Plan decisions:
  - a. To appoint independent commissioners to a panel for hearings of a Proposed District Plan;
  - b. To approve the recommendation of hearings commissioners on a proposed plan, plan change or variation (including private plan change); and
  - c. To approve a proposed plan or a change to a district plan under Clause 17, Schedule 1 of the Resource Management Act 1991.
4. To adopt governance level strategies, plans and policies which advance Council's vision and strategic goals (e.g. Hamilton to Auckland rail), other than where expressly delegated to a committee.
5. To approve Council's recommendation to the Remuneration Authority for the remuneration of elected members.
6. To approve the Triennial Agreement.
7. To approve 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.
8. To approve any changes to the nature and delegations of any Council committees or subordinate-decision making bodies.
9. To approve the Local Governance Statement.
10. To approve any additional funding decisions required for the Watercare Services contract.
11. To receive six-monthly reports from each Community Board on its activities and projects.



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### **Open Meeting**

<b>To</b>	Waikato District Council
<b>From</b>	Gavin Ion Chief Executive
<b>Date</b>	15 September 2021
<b>Prepared by</b>	Matt Horsfield Democracy Advisor
<b>Chief Executive Approved</b>	Y
<b>Reference #</b>	GOV1301
<b>Report Title</b>	Confirmation of Minutes

## **I. EXECUTIVE SUMMARY**

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To confirm the minutes of Council meetings held since 9 August 2021.

## **2. RECOMMENDATION**

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**THAT the Waikato District Council confirm the following minutes as a true and correct record:**

- i) Ordinary meeting held on Monday, 9 August 2021; and**
- ii) Representation Review Hearings & Deliberations held on 9-10<sup>th</sup> September and 14 & 16<sup>th</sup> September 2021.**

## **3. ATTACHMENTS**

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Open Minutes – Ordinary meeting held on 9 August 2021

Open Minutes – Representation Review Hearings & Deliberations held on 9-10<sup>th</sup> September and 14 & 16 September 2021 (*to be circulated under separate cover*)

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Minutes for a meeting of the Waikato District Council held in the Council Chambers, District Office, 15 Galileo Street, Ngaruawahia on **MONDAY, 9 AUGUST 2021** commencing at **9.30am**.

**Present:**

His Worship the Mayor, Mr AM Sanson (Chairperson)  
Cr AD Bech  
Cr JA Church  
Cr JM Gibb  
Cr SL Henderson  
Cr SD Lynch  
Cr RC McGuire  
Cr FM McInally  
Cr EM Patterson  
Cr JD Sedgwick  
Cr NMD Smith  
Cr LR Thomson

**Attending:**

Mr GJ Ion (Chief Executive)  
Mr TG Whittaker (Chief Operating Officer)  
Mr R MacCulloch (General Manager Service Delivery)  
Mrs S O’Gorman (General Manager Customer Support)  
Ms A Diaz (Chief Financial Officer)  
Mr V Ramduny (Strategic Projects Manager)  
Mr S Toka (Iwi Liaison Manager)  
Ms C Pidduck (Legal Counsel)  
Mrs GJ Kanawa (Democracy Team Leader)

**APOLOGIES AND LEAVE OF ABSENCE**

**Resolved: (Crs Thomson/Henderson)**

**THAT the apologies from Crs Eyre and Woolerton for non-attendance be received.**

**CARRIED**

**WDC2108/01**

## **CONFIRMATION OF STATUS OF AGENDA ITEMS**

**Resolved: (Crs Bech/Patterson)**

**THAT** the agenda for the meeting of the **Waikato District Council** held on **Monday, 9 August 2021** be confirmed and all items therein be considered in open meeting with the exception of those items detailed at agenda item 7 which shall be considered with the public excluded.

**AND THAT** all reports be received;

**AND FURTHER THAT** the **Waikato District Council** resolves that the following item be added to the agenda as a matter of urgency as advised by the Chairperson:

- **Item 6.2 Zero Harm Update**

**CARRIED**

**WDC2108/02**

## **DISCLOSURES OF INTEREST**

Cr Church advised that she would declare a conflict of interest for PEX Item 2.1 - Recommended appointment of two new District Licensing Committee Members to the list membership as she was Deputy Chairperson of the District Licensing Committee.

## **CONFIRMATION OF MINUTES**

**Resolved: (Crs McInally/Church)**

**THAT** the following minutes be confirmed as a true and correct record:

- a) minutes for the **Waikato District Council** meeting held on **Monday, 28 June 2021**; and
- b) minutes for the **Waikato District Council Extraordinary** meeting held on **Wednesday, 7 July 2021**.

**CARRIED**

**WDC2108/03**

## **COMMITTEE RECOMENDATIONS**

### **Infrastructure Committee – 28 July 2021**

Agenda Item 5.1

The report was received [*WDC2108/02 refers*]. No discussion was held.

*Adoption of Raglan Coastal Reserves Management Plan for Papahua, Wainui and Manu Bay (INF2107/05)*

**Resolved: (Crs Patterson/Thomson)**

**THAT the Waikato District Council adopts the Raglan Coastal Reserves Management Plan and Concept Plans for Papahua, Wainui and Manu Bay.**

**CARRIED**

**WDC2108/04**

### **Policy & Regulatory Committee – 21 July 2021**

Agenda Item 5.2

The report was received [*WDC2108/02 refers*]. No discussion was held.

*Fraud Prevention Policy Review (P&R2107/08)*

**Resolved: (Crs Sedgwick/Gibb)**

**THAT the Waikato District Council adopts the Fraud Prevention Policy, as amended.**

Note: Amendments made to the policy document were as follows:

- “Organization” was amended to read “Organisation”, and
- “Audit & Risk Subcommittee” was amended to read “Audit & Risk Committee”.

**CARRIED**

**WDC2108/05**

*Risk Management Policy (P&R2107/09)*

**Resolved: (Crs Sedgwick/Patterson)**

**THAT the Waikato District Council adopts the updated Risk Management Policy.**

**CARRIED**

**WDC2108/06**

**REPORTS**

Contract 14/079 Resolution Amendment  
Agenda Item 6.1

The report was received [*WDC2106/02 refers*]. No discussion was held.

**Resolved: (Crs Patterson/Bech)**

**THAT the Waikato District Council:**

- a) endorses the Infrastructure Committee Resolution 2106/06 for an extension to the contract term for Contract 14/079 – Arboriculture Services to 31 August 2021, to enable new contract negotiations to be completed; and
- b) approves an increase in the contract sum of \$172,000 (noting that this increases the total contract sum from \$1,950,724.68 to \$2,122,724.68).

**CARRIED**

**WDC2108/07**

Zero Harm Update  
Agenda Item 6.2

Tabled Item 6.2: Zero Harm Update Report

The report was received [*WDC2108/02 refers*]. The following discussion was held:

- Created new category for reporting hazards for minor uncontrolled issues as previously reported as near misses in the system.

**EXCLUSION OF THE PUBLIC**

Agenda Item 7

**Resolved: (Crs Gibb/Lynch)**

**THAT the public be excluded from the following parts of the proceedings of this meeting.**

**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 are as follows:**

General subject of each matter to be considered	Reason for passing this resolution in relation to each matter	Ground(s) under section 48(1) for the passing of this resolution
<b>Item 1</b> <b>Confirmation of Public Excluded Minutes for the meeting held on 28 June 2021</b>	<b>Good reason to withhold exists under Section 6 or Section 7 Local Government Official Information and Meetings Act 1987</b>	<b>Section 48(1)(a)</b>
<b>Item 2.1</b> <b>Recommended appointments of two new District Licensing Committee Members to the list membership</b>		

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 No.	Section	Interest
<b>Item 1</b> <b>Confirmation of Public Excluded Minutes for 28 June 2021</b>		<b>Refer to the previous Public Excluded reason in the agenda for this meeting.</b>
<b>Item 2.1</b> <b>Recommended appointments of two new District Licensing Committee Members to the list membership</b>	<b>7(2)(a)</b>	<b>Protect the privacy of natural persons, including that of deceased natural persons.</b>

**CARRIED**

**WDC2108/08**

*Resolutions WDC2108/09 – WDC2108/11 are contained in the public excluded section of these minutes.*



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### **Open Meeting**

<b>To</b>	Waikato District Council
<b>From</b>	Gavin Ion Chief Executive
<b>Date</b>	13 September 2021
<b>Chief Executive Approved</b>	Y
<b>Reference #</b>	CCL2021; GOV1318
<b>Report Title</b>	Actions Register – August

## **1. EXECUTIVE SUMMARY**

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Please find attached an update on the outstanding actions following the Council meeting in August 2021.

## **2. RECOMMENDATION**

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**THAT the report from the Chief Executive be received.**

## **3. ATTACHMENTS**

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Attachments:

- Action Register



13  
**Waikato District Council – Action Register (Open)**

Date	Action	Team Responsible	Status
August 2021	<p><b><u>District Licensing Committee</u></b></p> <ul style="list-style-type: none"> <li>▪ Chief Executive to approve appointments and advise applicants accordingly.</li> </ul>	Chief Executive	<p>The appointment by the Chief Executive of Mr Jason Howarth and Mr Barry Smedts as approved members of the Waikato District Council's District Licensing Committee under section 192 of the Sale and Supply of Alcohol Act 2021.</p> <p>Letter sent to confirm appointments.</p>
August 2021	<p><b><u>Chief Executive's Update</u></b></p> <ul style="list-style-type: none"> <li>▪ Council workshop to be held in mid-September on Reform once we have some more information.</li> </ul>	Chief Executive	<p>Workshops on the Waters Reform were held on 1 September and on 10 September. A further workshop is planned before the end of September.</p>

### Open Meeting

<b>To</b>	Waikato District Council
<b>From</b>	Gavin Ion Chief Executive
<b>Date</b>	9 September 2021
<b>Prepared by</b>	Lynette Wainwright Democracy Advisor
<b>Chief Executive Approved</b>	Y
<b>Reference #</b>	GOV1301
<b>Report Title</b>	Policy & Regulatory Committee Recommendations

## I. EXECUTIVE SUMMARY

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The purpose of this report is to seek the Council's approval of the recommendations from the Policy & Regulatory Committee meeting of Wednesday, 1 September 2021, as set out below.

The Policy & Regulatory Committee Agenda and Unconfirmed Minutes from its meeting of Wednesday, 1 September 2021 can be found on the Council website:

<https://www.waikatodistrict.govt.nz/your-council/council-committees-boards/council-committees/policy&regulatory-committee>

## 2. RECOMMENDATIONS FROM THE POLICY & REGULATORY COMMITTEE

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Adoption of the proposed Waikato District Council Stormwater Bylaw 2021 (P&R2109/06)

**THAT** subject to the following amendments, Council adopts the Proposed Waikato District Council Stormwater Bylaw 2021:

- a) Te Ture Whaimana o Te Awa o Waikato - the vision and strategy of the Waikato River to be placed with the Introduction in the bylaw document.
- b) remove the words "within the urban areas" in the introduction,

Adoption of the 2021 Proposed Amendments to the Waikato District Council Water Supply Bylaw 2014 and the Proposed Water Leak Relief Policy (P&R2109/07)

**THAT subject to the following amendments to Section 8.5.3 (a) of the Proposed Water Supply Bylaw 2014, Council adopts the Proposed Waikato District Council Water Supply Bylaw 2014 and the Water Leak Remission Policy 2021:**

- a) **Any property owner who receives written notice may make a written application within 10 working days of receiving such notice for an exemption, and**
- b) **Matters which will be taken into account when assessing an application for exemption include (but are not limited to):**
  - **Location of the property;**
  - **The basis on which the exemption is claimed;**
  - **Any other matter which the Council deems relevant.**

### **3. ATTACHMENTS**

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Nil

### Open Meeting

<b>To</b>	Waikato District Council
<b>From</b>	Gavin Ion Chief Executive
<b>Date</b>	9 September 2021
<b>Prepared by</b>	Lynette Wainwright Democracy Advisor
<b>Chief Executive Approved</b>	Y
<b>Reference #</b>	GOV1301
<b>Report Title</b>	Strategy & Finance Committee Recommendations

## I. EXECUTIVE SUMMARY

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The purpose of this report is to seek the Council's approval of the recommendations from the Strategy & Finance Committee meeting of Monday, 6 September 2021 as set out below.

The Strategy & Finance Committee Agenda and Unconfirmed Minutes from its meeting of Monday, 6 September 2021 can be found on the Council website:

<https://www.waikatodistrict.govt.nz/your-council/council-committees-boards/council-committees/strategy-and-finance-committee>

## 2. RECOMMENDATIONS FROM THE STRATEGY & FINANCE COMMITTEE

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### Changes to Default Growth – High Growth Projection from Waikato Projections 2018 - 2068 (S&F2109/04)

That Council adopts the Changes to Default Growth – High Growth Projection from Waikato Projections 2018-2068 as Council's default growth scenario from Tuesday, 21 September 2021.

### General Rate Position for the Year Ended 30 June 2021 (S&F2109/05)

THAT the 2020/21 general rate surplus of \$35,502 is transferred to the general accounting reserve fund.

## 3. ATTACHMENTS

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Nil

### **Open Meeting**

<b>To</b>	Waikato District Council
<b>From</b>	Gavin Ion Chief Executive
<b>Date</b>	9 September 2021
<b>Prepared by</b>	Lynette Wainwright Democracy Advisor
<b>Chief Executive Approved</b>	Y
<b>Reference #</b>	GOV1301
<b>Report Title</b>	Infrastructure Committee Recommendations

## **I. EXECUTIVE SUMMARY**

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The purpose of this report is to seek the Council's approval of the recommendations from the Infrastructure Committee meeting of Wednesday, 8 September 2021, as set out below.

The Infrastructure Committee Agenda and Unconfirmed Minutes from its meeting of Wednesday, 8 September 2021 can be found on the Council website:

<https://www.waikatodistrict.govt.nz/your-council/council-committees-boards/council-committees/infrastructure-committee>

## **2. RECOMMENDATIONS FROM THE INFRASTRUCTURE COMMITTEE**

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Norrie Avenue Walkway, Raglan – Electricity Easement in Gross (INF2109/04)

THAT:

- a) when the route alignment (Attachment 2 to the Committee report) has been defined by survey, an electricity easement in gross in favour of WEL Networks Limited be granted over the land within the Norrie Avenue walkway at Raglan, legally described as Part Lot 19 Section 10 Town of Raglan held in RT SA 17A/332;
- b) the applicants meet all costs incurred through the process; and
- c) the Chief Executive be delegated authority to execute all relevant documentation to give effect to this resolution.

Te Kauwhata Wastewater Treatment Plant Electricity Easement in Gross (INF2109/05)

THAT:

- a) Waikato District Council approves a grant of electricity easement in gross, in favour of WEL Networks Limited,
- b) when the electricity easement in gross has been defined by survey, that it be registered against Record of Title SA 55D/100, being the record of title for the parcels of land legally described as part Lot 2 DPS 69450 and Section 96 Block XV Maramarua Survey District, and
- c) the Chief Executive be delegated authority to execute all relevant documentation to give effect to the resolution.

Horsham Downs Hall Reserve – Right of Way Easement (INF2109/06)

THAT Waikato District Council confirms that:

- a) in lieu of compensation, any agreement to easement, be made conditional upon the benefited land providing a reciprocal easement for shared public use of the carparking facilities on its landholdings;
- b) in accordance with s.48(3) Reserves Act 1977 confirms that public notification of the proposed right of way easement (when defined by survey) over the Horsham Downs Hall Reserve (being the parcel of land legally described as being part Allotment 479 Kirikiriroa Parish, no Record of Title) is required as the proposal is considered to be detrimental to the reserve or its users; and
- c) if the public notification process does not result in objection/s or submission/s, that it exercises its delegated authority under s.48 Reserves Act 1977 to complete a grant of right of way easement over parts of the land legally described as part Allotment 479 Kirikiriroa Parish;

AND THAT the Village Church Trust:

- i. is to meet all Council costs incurred in the process including the issue of title for part Allotment 479 Kirikiriroa Parish, and public notification and legalisation actions; and
- ii. is to be responsible for survey definition, preparing and obtaining all consents including s348 Local Government Act 1974 approval, and LINZ registration;

AND FURTHER THAT the Chief Executive be delegated authority to execute all relevant documentation to give effect to the resolution.

Proposed Stopping of Unformed Road – Mangatawhiri (INF2109/08)

THAT Waikato District Council approves:

- a) the black cross-hatched section of unformed legal road on the Aerial Diagram (included as Attachment I to the staff report) be:
  - i. declared surplus to Council’s current and future roading requirements;
  - ii. legally stopped utilising the road stopping provisions within the Public Works Act 1981;
  - iii. be transferred, when stopped, at a price established by market valuation and to be within the Council Property Policy, for amalgamation with the adjacent title (Record of Title NA54C/436); and

AND THAT the Chief Executive be delegated authority to execute all relevant document to give effect to this resolution.

### **3. ATTACHMENTS**

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Nil

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### **Open Meeting**

<b>To</b>	Waikato District Council
<b>From</b>	Gavin Ion Chief Executive
<b>Date</b>	15 September 2021
<b>Prepared by</b>	Gaylene Kanawa Democracy Team Leader
<b>Chief Executive Approved</b>	Y
<b>Reference #</b>	GOV1301
<b>Report Title</b>	Submissions Forum – Submission on Changes to Maaori ward and constituency processes

## **I. EXECUTIVE SUMMARY**

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The purpose of this report is to receive the Council's submission to the Department of Internal Affairs regarding the Changes to Maaori ward and constituency processes.

The Submissions Forum consisted of Mayor Allan Sanson, Cr Bech, Cr Sedgwick and the two Maangai Maaori representatives (Mrs Tuwhangai-Moana and Mr Green). The forum was forwarded the discussion document and submission form for consideration before their meeting held on Wednesday, 4 August 2021.

The draft submission was forwarded to all members for any further feedback, for which there was none and the submission was then sent to the Department of Internal Affairs on Thursday 26 August 2021 (submissions closed on Friday, 27 August 2021).

The receipt of the Waikato District Council submission was received that day, but no further information has been provided by the DIA at this stage.

## **2. RECOMMENDATIONS FROM THE SUBMISSIONS FORUM**

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**THAT the Waikato District Council receives the submission made on their behalf to the Changes to Maaori ward and constituency processes.**

## **3. ATTACHMENTS**

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- A Submission to Department of Internal Affairs on Changes to Maaori ward and constituency processes





## Response form

# Changes to Māori ward and constituency processes

### Privacy statement

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Personal information you provide, including your name, email address, home location and Māori descent status, will be used to analyse submissions by location or Māori descent status and to follow up with you after submissions close.

Your name, home location, Māori descent status and the content of your submission will be published online. Your email address will not be published. It will be retained by the Department of Internal Affairs and used to send you updates about the outcome of the consultation. If you choose not to enter your email address, we'll be unable to follow up after the consultation has finished.

You have the right to ask for a copy of any personal information we hold about you, and to ask for it to be corrected if you think it is wrong. If you'd like to ask for a copy of your information, or to have it corrected, please contact us at [localelections@dia.govt.nz](mailto:localelections@dia.govt.nz).

### About you

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Name Mayor, AM Sanson

I am submitting as

- an individual
- on behalf of an organisation Waikato District Council

Email address if you wish to hear about the outcome of the consultation

Democracy@waidc.govt.nz

My home city, district or region is Waikato

I identify as being of Māori descent no





## Changes to Māori ward and constituency processes

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### Issue 1 – Requirement to consider

#### A) Should councils be required to consider Māori wards?

- Yes, every council (the same as general wards)
- Yes, but only councils that already have Māori wards
- Yes, but only councils that don't already have Māori wards
- No (the same as the current law)

#### B) If yes, how often?

- Every six years (the same as general wards)
- Another frequency  Every 2nd election cycle

#### C) Do you have any other comments about this issue?

The review of Māori wards needs to be aligned with whatever review timeline that general wards have - create consistency and have one inclusive process.

Waikato District believe the electoral cycle should move to a 4 year cycle to also enable consistency over a longer period. This will also enable a better opportunity for Council's to implement Long Term Plan goals/projects.

### Issue 2 – Timing of decisions

#### A) Should Māori ward decision-making continue to take place in two stages?

- Yes (the same as the current law)
- No – one stage (the same as general wards)

#### B) How should the time between 23 November and 1 March be filled?

- More time for councils to decide about Māori wards
- More time for councils to decide about general wards
- No changes (the same as the current law)

#### C) Do you have any other comments about this issue?

In September 2020 Waikato District Council commenced a bottom up review of the current wards and identified the communities of interest with residents from across the district. Sufficient time needs to be provided for this process in the reviews of any ward structure, including Māori representation to balance the community feedback with any ward structure. This then enables Councils' more time to develop ward structures in consultation with their communities rather than making a decision without that community feedback first.





### Issue 3 – Opportunities for public input

#### A) Should councils be required to engage with their community when considering Māori wards?

- Yes (the same as general wards)  
 No, but they must have regard for iwi/hapū/whanau perspectives  
 No (the same as the current law)

#### B) If yes, what type of engagement is best?

- Iwi/hapū dialogue  
 Targeted consultation with people of Māori decent or on the Māori electoral roll  
 Wider public consultation with the whole community  
 Council to decide on a case-by-case basis

#### C) If your council considered Māori wards in 2020 or 2021, what type of engagement approach was used and how effective do you think this was?

Waikato District Council engaged through both Joint Management Agreement with Waikato-Tainui and discussions with marae fora across the District.

#### D) Do you have any other comments about this issue?

Waikato District Council resolved in November 2020 to work with Waikato-Tainui and the Minister to change the legislation in regard to binding polls. When the legislation did change it enabled us to review the previous decision of utilising polls for the 2022 and 2025 elections, however a few councillors did not believe sufficient time had been provided for them to discuss within their communities and voted against the motion to implement Maaori ward(s) for the 2022 and 2025 elections and they still believed the polls were the best way to gauge this.

This is not the view of the majority of Waikato District councillors and we would prefer the option regarding polls be removed from the legislation all together. The reasoning for this is traditionally most people who have voted on polls have not been inclusive for Maaori and youth due to their lack of engagement with elections and council processes.





#### Issue 4 – Decision-making rights and role for Local Government Commission

##### A) What role should the Local Government Commission have in relation to Māori wards?

- People can appeal a council's decision to create / not to create Māori wards, and the Local Government Commission must decide
- No role and people cannot appeal a council's decision to create / not to create Māori wards (the same as the current law)
- No role but people can appeal a council's decision to create / not to create Māori wards to some other entity

##### B) If some other entity, then who should this be?

No other entity should be involved with this process it should remain as a Council decision to implement Maaori ward(s).

##### C) Do you have any other comments about this issue?

As previous stated the Maaori ward issue should align with the general ward reviews and once created should be out of scope for representation reviews other than boundaries and names of wards.





### Issue 5 – Discontinuance process and period in force

#### A) What should a council be required to do if it wishes to no longer have any Māori wards?

- The council should be able to decide this on its own (the same as the current law)
- The council must consult with its community (the same as general wards)

#### B) How long should council decisions to create Māori wards stay in place?

- Until the council decides otherwise, but at least 2 elections  
(the same as the current law)
- Until the council decides otherwise, but at least 1 election and must be reviewed after  
2 elections (the same as general wards)
- 1 election only
- 2 elections only

#### C) Do you have any other comments about this issue?

We reiterate our preference to have a four year election cycle for Local Government elections.

### Issue 6 – Types of polls

#### A) Should councils retain the ability to initiate binding polls on general wards?

- Yes (the same as the current law)
- No (the same as Māori wards)

#### B) Do you have any other comments about this issue?

Have consistency with both processes as previously submitted - which would mean removing polls from the legislation in regard to both general wards and Maaori wards.





## Further comments

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Do you have any further comments you would like to share about how the Māori wards process and general wards process can be brought closer together?

There is a prescriptive formula for how many Maaori wards there will be based on Maaori roll. Council support this formula as the number of seats should be reflective of the number on each roll and provides for fair representation of all.

The "Maaori option", i.e. the ability to change rolls should be aligned with elections not census timing, especially with the implementation of Maaori seats on a number of Councils for the 2022 elections.





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### **Open Meeting**

<b>To</b>	Waikato District Council
<b>From</b>	Gavin Ion Chief Executive
<b>Date</b>	September 2021
<b>Prepared by</b>	Lynn Shirley Zero Harm Manager
<b>Chief Executive Approved</b>	Y
<b>Reference #</b>	GOV1301
<b>Report Title</b>	Zero Harm Update

## **I. EXECUTIVE SUMMARY**

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The purpose of this report and its attachment is to provide an update on current health and safety performance. Council recognises that compliance is essential, but it aspires to achieve a sustainable zero harm culture, where everyone works safely and goes home safe every day.

Councils' zero harm culture shall be supported by a health and safety management system of policies, standards and procedures that eliminate or effectively manage risk and enable best practice.

## **2. RECOMMENDATION**

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**THAT the report from the Chief Executive be received.**

## **3. BACKGROUND**

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### **'Our People' - Safety Leadership and Engagement**

#### Zero Harm Engagement Conversations

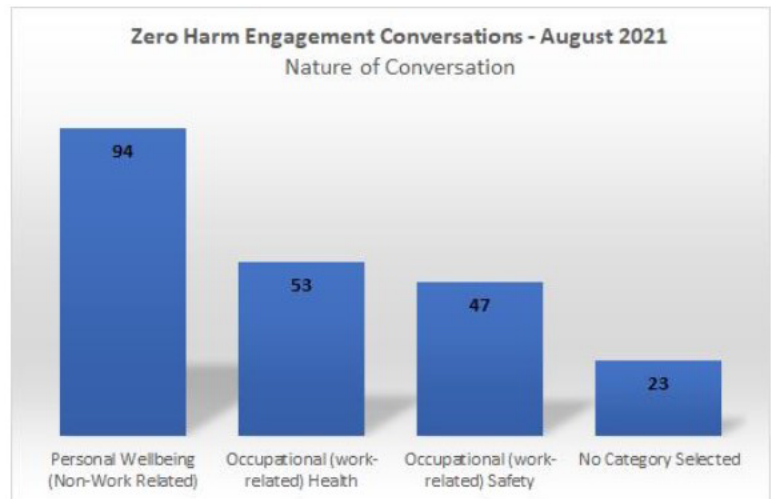
The Chief Executive, Executive Leadership Team (ELT) and People Leaders continue to undertake Zero Harm Engagement Conversations.

A total of 217 Zero Harm Engagement Conversations were recorded in BWare for August using the new form. This is a 23% decrease on the number recorded in July. Coaching and support with using the new form will continue to be provided to people leaders by the Zero Harm team.

As illustrated in the following table, Zero Harm Engagement Conversations will now be classified into one of three types (Occupational Health, Occupational Safety and Personal Wellbeing) using the new form. The people leader is also required to record the main topic of the conversation from the lists below. This will enable further data analysis to be undertaken.

Zero Harm Engagement Conversations		
Occupational Health Topics	Occupational Safety Topics	Personal Wellbeing Topics
<p><i>These are risks or situations the organisation reasonably ought to know about that or has control over that may impact a staff members health</i></p> <ul style="list-style-type: none"> <li>• Remote working</li> <li>• Using a computer workstation</li> <li>• Work-related stress</li> <li>• Work-related fatigue</li> <li>• Work-related pain or discomfort</li> <li>• Bullying or harassment</li> <li>• Drugs and/or alcohol</li> <li>• Work-life balance</li> <li>• Work task design</li> <li>• Workplace change</li> <li>• Work-related injury</li> <li>• Zero Harm culture</li> <li>• Mental wellbeing</li> <li>• Other</li> </ul>	<p><i>These are risks or systems the organisation reasonably ought to know about that or has control over that may impact a staff members safety</i></p> <ul style="list-style-type: none"> <li>• Workplace violence</li> <li>• On road driving</li> <li>• Working alone</li> <li>• Working with dangerous animals</li> <li>• Working with firearms</li> <li>• Working on or near roadways</li> <li>• Training and competency</li> <li>• Contractor management</li> <li>• Accident or near miss management</li> <li>• Hazard or risk management</li> <li>• Use of safety equipment or clothing</li> <li>• Unsafe work conditions</li> <li>• Unsafe work practices</li> <li>• Emergency response</li> <li>• Asbestos</li> <li>• Hazardous substances</li> <li>• Working at height</li> <li>• Other</li> </ul>	<ul style="list-style-type: none"> <li>• Non-work-related injury</li> <li>• Relationships/family</li> <li>• Personal medical issue</li> <li>• Personal stress</li> <li>• Personal health</li> <li>• Recreation/leisure</li> <li>• Other</li> </ul>

The following graph illustrates the type (or nature) of Zero Harm Engagement Conversations undertaken in August.



## Disciplined Management Systems

### Health and Safety Training and Competency

The delivery of specialised health and safety training remains a significant focus for the Zero Harm team. Several health and safety training courses are being planned or have been delivered. These are summarised in the following table;

Training delivered or planned	Number of workers required to complete training	Number of workers trained
Situational Safety and Tactical communications Training (1-day course delivered by CERT)	168	102 have completed course to date 4 more courses were booked for August/September and are now being rebooked for October/November due to Covid-19
Asbestos Awareness Training (Self-paced online course delivered by Safety N Action)	11	Is currently being arranged



### Standard Operating Procedures (SOPs)

During the recent Covid-19 Alert Level 4 lockdown the Zero Harm team supported a number of teams/workgroups to commence writing Standard Operating Procedures (SOPs) for their regular tasks. These teams/workgroups include:

- Woodlands Gardeners
- Council Facilities Maintenance

### Event Management

A total of 19 health and safety events were recorded in BWare Safety Manager during July 2021 and 12 in August 2021.

A Lost Time Injury (Severity 4) event was reported in August. A Council staff member strained their lower back while lifting a backpack weighing approximately 10kg. The backpack was filled with items for working from home during the Alert Level 4 lockdown. A structured problem solve (investigation) has been undertaken to identify the root cause(s) of the event.

There were three minor First Aid (Severity 6) injuries reported in July 2021 and three in August 2021. A review of the First Aid events that have occurred in July and August shows that the most common injury being reported is minor cuts to fingers from handling paper or packaging and when using scissors.

There were 13 Near Miss (Severity 7) events reporting in July 2021 and six in August 2021. The low number of events reports in August is because of the Alert Level 4 lockdown.

The attached Zero Harm Dashboard illustrates safety performance for July and August 2021.

### COVID-19 Risk Management

The Zero Harm team has spent most of their time over the last four weeks as part of the Incident Management Team (IMT) response to the recent Covid-19 Delta variant Alert Level 4 lockdown.

The Zero Harm team have been responsible for updating Council's *Covid-19 Safe Systems of Work Plan for Council Operations at Alert Levels 4, 3 and 2*. Other activities have also included supporting People Leaders to implement their Covid-19 business continuity controls and developing tools and processes to support the organisation to move safely from one alert level to another.

Customised on-line inductions were developed for all staff who were required to undertake field work at Alert Level 4 and 3 and for those staff that were required to work in the office at Alert Level 3. Another on-line induction was also developed for staff returning to the office at Alert Level 2. It is compulsory for all staff to watch the on-line induction and complete a questionnaire prior to returning to the office. To date 150 staff have completed the Alert Level 2 induction.

## **Managed Risks**

### Asbestos

Work is continuing on the management of the critical risk of asbestos. Asbestos management surveys have recently been completed at the Housing for Elderly units in the following locations;

- Henderson Ave, Tuakau
- Jellicoe Ave, Tuakau
- Paul Reeves Court, Ngaruawahia

This brings the number of completed Asbestos Management Surveys to 29 out of 124 (24%).

### **Hazardous Substances**

The six-monthly risk review for critical risk of using or handling hazardous substances was recently completed. The review identified no controls that have been implemented as weak. The risk control plan is currently 47% implemented. There were 23 actions identified during the risk review. These have been loaded into BWare Safety Manager for tracking to closeout.

Given the number of actions raised the ELT Risk Champion Vishal Ramduny requested another risk review be completed in three months to monitor progress. Key areas of focus for the next three months include;

- The development of Standard Operating Procedures (SOPs) for all tasks involving the handling/use of hazardous substances
- The review and updating of Emergency Response Procedures for a hazardous substances spill or leak event

## **4. DISCUSSION AND ANALYSIS OF OPTIONS**

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### **4.1 DISCUSSION**

This report is to assist Councillors with their due diligence requirements as Officers. The report should start the conversation and provide opportunities for Councillors to raise questions and discuss progress.

### **4.2 OPTIONS**

Council could choose to accept the report or not. Council could ask for additional information if needed.

## **5. CONSIDERATION**

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### **5.1 FINANCIAL**

There are no direct financial requirements identified in this report.

### **5.2 LEGAL**

This report is prepared as part of assisting Council to meet its duties in accordance with the Health and Safety at Work Act 2015 and associated regulations.

### **5.3 STRATEGY, PLANS, POLICY AND PARTNERSHIP ALIGNMENT**

Council has a Zero Harm Commitment (Policy) and Zero Harm Strategy which forms the basis of our health and safety philosophy and management system.

### **5.4 ASSESSMENT OF SIGNIFICANCE AND ENGAGEMENT POLICY AND OF EXTERNAL STAKEHOLDERS**

<b>Highest levels of engagement</b>	<b>Inform</b> <input type="checkbox"/>	<b>Consult</b> <input type="checkbox"/>	<b>Involve</b> <input checked="" type="checkbox"/>	<b>Collaborate</b> <input type="checkbox"/>	<b>Empower</b> <input type="checkbox"/>
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State below which external stakeholders have been or will be engaged with:

Planned	In Progress	Complete	
		✓	Internal
	✓		Community Boards/Community Committees
			Waikato-Tainui/Local iwi
			Households
			Business
			Other Please Specify

Council engages with our Community Boards and Community Committees to ensure they are clear on their obligations. Council also undertakes audits and safety engagement conversations in relation to our contractors.

## 6. CONCLUSION

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This report provides an update on our Zero Harm Safety Management System and monthly health and safety performance.

## 7. ATTACHMENTS

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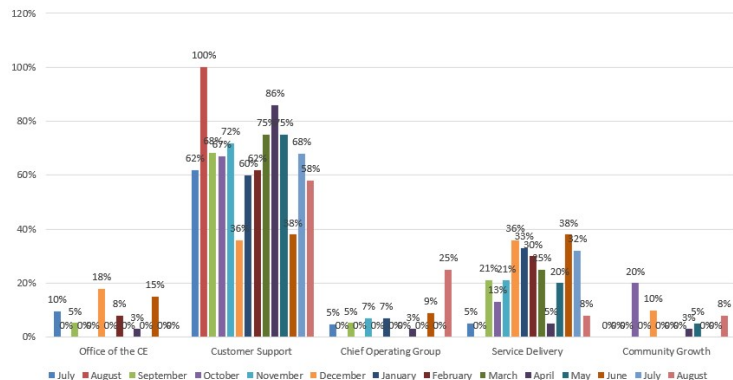
Zero Harm Performance Dashboard July/August 2021

# Zero Harm Performance Dashboard - August 2021

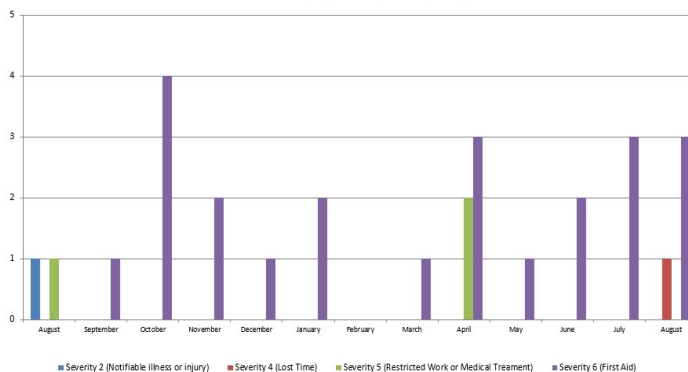


## Event Management

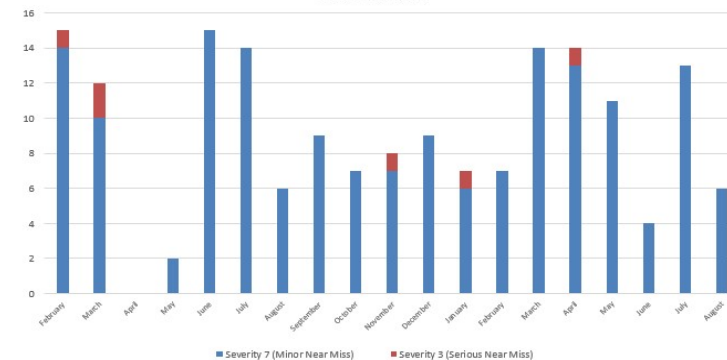
Percentage of Total Events Reported by Business Unit



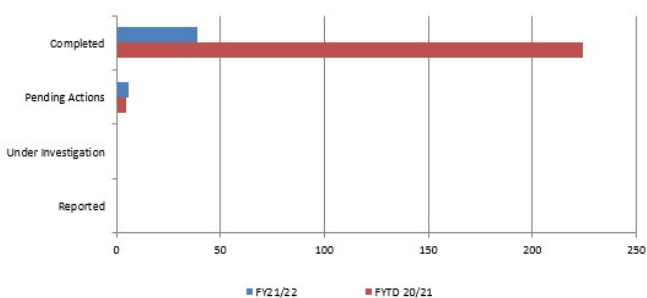
Personal Injury Events by Severity Rating



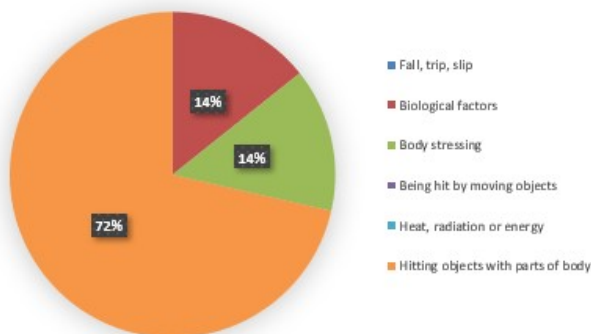
Near Miss Events



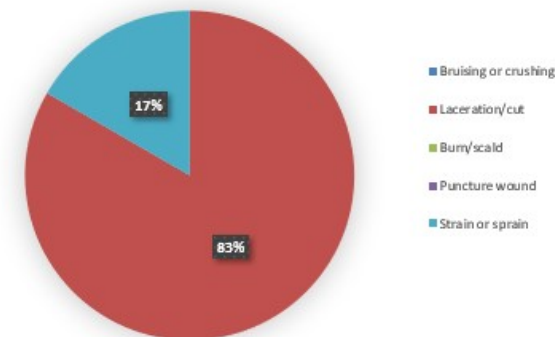
Event Management Status



Mechanism of Harm Year to Date

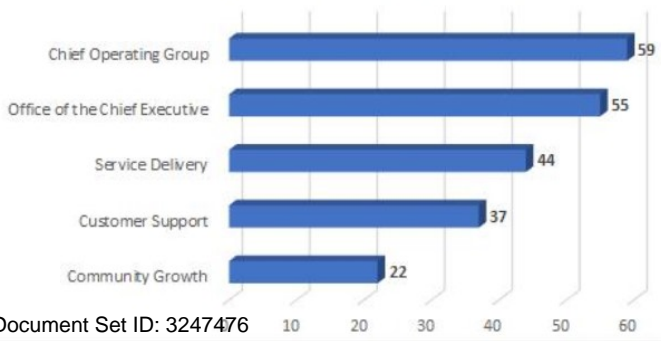


Nature of Injury Year to Date



## Zero Harm Engagement Conversations (Safety Leadership)

Zero Harm Engagement Conversations - August 2021  
Number of Conversations per Group

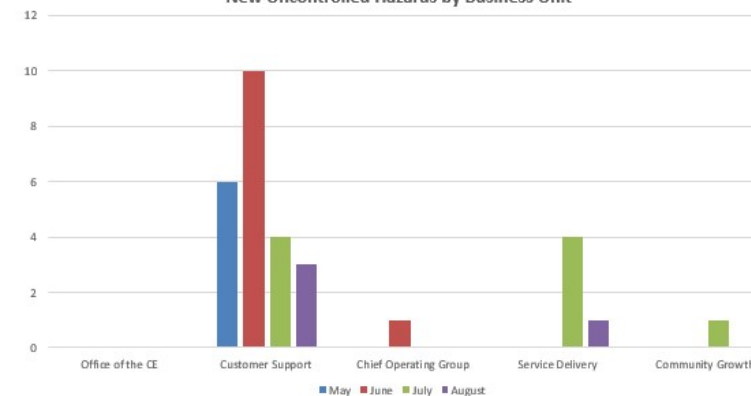


Zero Harm Engagement Conversations - August 2021  
Nature of Conversation



## Hazard & Risk Management

New Uncontrolled Hazards by Business Unit



# Zero Harm Performance Dashboard - August 2021



## Contractor Safety Management

Contractor Safety Management Activity Undertaken by the Zero Harm Team and Contract Managers	July	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug
Contracted Work H&S Risk Assessment	4	3	3		7		3	2	3					
Contract Manager H&S Advice and Support					5			3	3	3	2			
Contractor Site Visit or Inspection	1		9	2	11	1	2		4	15	15	3	1	
Contractor Pre-Start or Tool Box Meeting			1		2					2	1	1		
Contractor H&S Meeting			4	1	1	2	1	2		3		3		1
Contractor Task or JSA Review and Approval	2	1	4	5			3	3	3	1		2	1	
Contractor Task or JSA Field Audit		1	2							1	1			
Contracted Work Safety Plan Review and Approval	4	3	2	1		2	3	2	2	4	1	2	1	
Contracted Work Safety Plan (SSSP) Field Audit				1					1	2	1	1		
Contracted Work End of Project H&S Review				1	1								1	

## Key Take Outs

### A summary of key insights from the August's Zero Harm Performance

- There has been an increase in events reported in both the Chief Operating and Community Growth business units.
- A Lost Time Injury occurred in August when a staff member sustained a back strain while lifting a back pack weighing approximately 10kg. The back pack was filled with items for working from home during Alert Level 4.
- There has been a decline in recording contractor health and safety management activities in BWare Safety Manager over the past two months.
- A review of the personal injury events that have occurred in July and August shows that the most common injury being reported are minor cuts to fingers from handling paper or packaging and when using scissors.

## Critical Risk Management

Risk	Description	People Exposed	Risk Management Activities	Gaps/Improvements/Progress	Controls in Place	Controls to be Implemented	Level of Assurance	Incidents/Issues/Events
Hazardous substances	Exposure to hazardous substances both short or long term have the potential to result in harm to personnel, equipment and the environment. It is therefore essential that hazardous substances are used, stored and disposed of correctly to ensure minimum exposure and to prevent events occurring. Typical methods of exposure to personal may result from contact with the skin, mucus membranes or through inhalation of fumes released from the substances.  Examples of hazardous substances include cleaning products, agricultural chemicals, laundry chemicals etc.	Workers (ours and contractors), members of the public	PPE standards Standard Operating Procedures (SOPs) Worker Inductions Emergency Response Procedures (spills and leaks)	Focus over next three months is to develop Standard Operating Procedures (SOPS) for all tasks involving hazardous substances  The review and updating of emergency response procedures for hazardous substances spill or leak also be prioritised.	23	26	47%	The recently completed risk review identified no controls that have been implemented as weak. 23 actions were identified during the risk review. These have been loaded into BWare Safety Manager for tracking to closeout.

This was the first risk review for the Critical Risk of Hazardous Substances.

Prior to undertaking the risk review Zero Harm Advisor Neil Hancock undertook site inspections of all sites except Ngaruawahia Dog Pound. A documented audit of controls was completed at each site and the outcome of these inspections was used to inform the risk review.

The following are examples of two new hazardous substance hazards identified during recent site inspections. Control actions to manage these hazards were raised in BWare and have now been implemented.



### Open Meeting

<b>To</b>	Waikato District Council
<b>From</b>	Roger MacCulloch General Manager Service Delivery
<b>Date</b>	9 September 2021
<b>Prepared by</b>	Michelle Smart Senior Property Officer
<b>Chief Executive Approved</b>	Y
<b>Reference #</b>	CCL2021; ECM # 3243431; 06281/062.02
<b>Report Title</b>	Proposed Easement: Stormwater discharge through Council reserve to the Waikato River

## I. EXECUTIVE SUMMARY

Swordfish Properties Limited (“the Developer”) propose a Comprehensive Residential Development (“CRD”) producing around 50 lots, and dwellings, through staged development of its landholdings at 15 Galbraith Street Ngaruawahia.

The Developer proposes that stormwater treatment be managed onsite and distributed through a series of swales, along Galbraith Street to be discharged to the Waikato River over parts of the Local Purpose Reserves, situated at IB and IC Old Taupiri Road. In parallel Council’s Growth and Analytics, and Engineering Teams have been investigating options for an Integrated Stormwater Catchment plan to cater for all or parts of Ngaruawahia North, which may include all or parts of the Developer’s landholdings. Three of the six possible options for the residential-zoned sub-catchment include an outfall utilising the Local Purpose Reserves.

The Developer’s view is that a drainage feature in the reserves should be treated as if it were a public drain, however the correct legal interpretation is that an easement in gross would be required to provide legal protection for that feature to remain in situ (regardless of whether it primarily serves a private development or provides for a broader catchment).

The request received from the Developer for the proposed easement is primarily for the benefit of that developer, which is considered to be the permanent detriment of the reserve as it remains in place in perpetuity; and represents an immediate and ongoing disadvantage to the reserve users.

The Reserve Planner does not support the use of the reserve or this purpose, and the report would ordinarily recommend that the Developer’s request be declined if the request is on the basis of providing an easy, or cost-effective solution for the developer, or where an alternative stormwater management solution is available. However, the Growth and Analytics Team have requested that the proposed easement be approved on the basis that:

- The most viable of the six options considered for the sub-catchment includes an outfall in this location,
- The drainage feature can be engineered to provide a wider benefit in that it can accommodate stormwater from other properties in the sub-catchment that are not owned by the Developer (which are in fragmented ownership and which may be cost-prohibitive to develop without piggybacking onto infrastructure led by a larger developer),
- It will assist in the realisation of development capacity in that area – especially if the zone density were to increase through the Proposed District Plan,
- Mana Whenua preference is for the option that involves the use of the Reserves, as the proposed alignment of the pipeline and discharge point are within previously disturbed ground.

If Council were to approve this, there is still a public notification process to follow, to ensure due consideration is given to wider public interest in the Reserves.

## **2. RECOMMENDATION**

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**THAT the report from the General Manager Service Delivery be received;**

**AND THAT Council confirms:**

- i) **that provided that the proposed easement is engineered to accommodate stormwater from the identified catchment, that in accordance with s.48(3) Reserves Act 1977 that public notification of the proposed drainage easement in gross (when defined by survey) over the Reserves situated at IB and IC Old Taupiri Road Ngaruawahia (being the parcels of land legally described as being Lot 2 and 3 DP 448755 held in RT 567970 and 567971 respectively) is required as the proposal is considered to be detrimental to the reserve or its users;**
- ii) **if the public notification process does not result in objection/s or submission/s, that it exercises its delegated authority under s.48 Reserves Act 1977 to complete a grant of drainage easement in gross parcels of land legally described as being Lot 2 and 3 DP 448755 held in RT 567970 and 567971 respectively;**

**AND FURTHER THAT the Swordfish Properties Limited:**

- **is to note that any approval as to the easement cannot be used to bind any Agency or any Council (in its regulatory capacity) to consent;**
- **is to meet Council costs incurred in the process including public notification and legalisation actions;**
- **is to meet costs associated with survey definition, preparing and obtaining all approvals, authorities and consents; formation of the (waka shaped) drainage swale (to a Council approved engineered design which also meets with the approval of Mana Whenua) noting Council may contribute to upsizing;**

**AND FURTHER THAT the Chief Executive be delegated authority to execute all relevant documentation to give effect to the resolution.**

### 3. BACKGROUND

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#### **IB and IC Old Taupiri Road Ngaruawahia:**

Council purchased the site at 1 Old Taupiri Road, known colloquially as “the Flour Mill”, primarily with an original intent to protect the historic features of the site, with the further intention that the dwelling at 1A Old Taupiri Road be subdivided and sold to assist to offset the land purchase costs.

The site has direct frontage to the Waikato River, which is identified in the Waikato District Plan Appendix G to be a priority area for the creation of Esplanade Reserve/s upon subdivision.

It is for this reason that the parcel of land at (now) IC Old Taupiri Road (being the parcel of land legally described as being Lot 3 DP 448755 held in RT 567971) which accommodates the site of the former flax mill and the remnants of the flour mill structure is held in Council ownership as Local Purpose (Esplanade) Reserve, rather than as an Historic Reserve.

The parcel of land at (now) IB Old Taupiri Road (being the parcel of land legally described as being Lot 2 DP 448755 held in RT 567970) is held in Council ownership as Local Purpose (Community Use) Reserve.

Lots 2 and 3 DP 448755 (“the Reserves”) are subject to the provisions of the Reserves Act 1977. Refer Attachment 1: Location Diagram

#### **15 Galbraith Street Ngaruawahia:**

Swordfish Properties Limited (“the Developer”) propose a Comprehensive Residential Development (“CRD”) producing around 50 lots, and dwellings, through staged development of its landholdings at 15 Galbraith Street Ngaruawahia.

The dwellings will range from 2 to 3 bedroom adjoining units (duplexes) to the more traditional single separated dwellings of various sizes.

The development requires consents for subdivision, land use, earth works and discharge of stormwater.

### 4. DISCUSSION AND ANALYSIS OF OPTIONS

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#### 4.1 DISCUSSION

##### **Proposed discharge of stormwater through reserve to the Waikato River:**

The Developer proposes that stormwater treatment be managed onsite and distributed through a series of swales, along Galbraith Street to be discharged to the Waikato River through / over parts of the Reserves.

In discussions with Mana Whenua, the Developer has proposed the stormwater will filter through a feature on the Reserves which is set to be both an historical and a contemporary representation of a waka, which will extend from the edge of Old Taupiri Road to the Waikato River. The fall and flow of the water is proposed to be managed via a series of steps, set to represent the seats of the waka. Having the water go through the waka represents a culturally



appropriate manner for discharge as the water meanders through the waka, managing its energy and reverberating the mauri (life essence) of the water as it enters the river.

Refer Attachment 2: Design Concept

### **Integrated stormwater catchment management:**

The discharge to the river, via the reserve, will technically work for the developer's purposes.

Staff from Service Delivery, Community Growth and Watercare have been considering the integrated planning of this area of north Ngaruawahia (Old Taupiri Road to Festival Way) including options for an integrated stormwater catchment solution. Six options for stormwater management have been identified by engineering consultants CKL on behalf of Council (attached maps and table in Attachment 3). These are:

- All to Waikato River via Galbraith St
- All to Waikato River via Festival Way Outfall
- Split discharge to Waikato river via Festival Way Outfall and Galbraith St
- Split discharge to a) Festival Way (not Waikato River) and b) Waikato River via Galbraith St.
- Split discharge to a) North to Caleb Close as per existing situation, and b) Festival Way (not Waikato River)
- Split discharge to a) North to Caleb Close as per existing situation, and b) Waikato River via Festival Way

Watercare has advised that all six options would be acceptable in their view. Of the six Council-identified options, three would necessitate the use of the Local Purpose Reserve.

On Council's request, CKL further considered two of the options (All to Waikato River via Galbraith St, All to Waikato River via Festival Way Outfall) to identify whether the Galbraith outfall was indeed necessary.

To reach this conclusion the following criteria were considered:

1. Rough order costs
2. Strong consideration given to the long-term urban form and function of Festival Way
3. Maximise opportunity to utilise/leverage existing or developer-led networks/outfalls
4. Neutral/Positive impact on existing Caleb Close stormwater system
5. Complexity insofar as it affects timing – that is, the realisation of houses

The conclusion, influenced primarily by criteria 1, 3 and 5, is that, on balance, the Galbraith outfall is necessary. Further, it provides the opportunity to be upsized to accommodate further development in the catchment that would otherwise be difficult and expensive to achieve.

The Developer, along with Councils Growth and Analytics Team, seek to keep all options available. Both consider that an option that utilises the Reserves is likely to provide the most cost-effective engineered solution, in a shorter timespan than the other options under consideration. While the staging of the developer's landholdings has yet to be confirmed, it may mean that additional residential housing is brought to the market faster, and which will in a small way assist to address demand for residential housing supply. It will also enable the redevelopment of other properties within the sub-catchment in a significantly more cost-

effective manner. This will be particularly advantageous in enabling development if the zoning density of that area were to change with the Proposed District Plan.

Options that involve the use of the reserve for the sole benefit of the developer are not supported by the Reserve Planner on the basis that the proposal is detrimental to the reserve and its users. The costs, and physical works associated with any approval, for the sole benefit of the developer would need to be entirely funded by the developer.

The developer would only need to proportionally contribute to a Festival Way option. The additional costs would need to be sought/subsidised from contributions from the additional properties in the identified catchment area through Development Agreements and/or review of the Development Contribution catchments.

Approval to proceed with processes to secure an easement over the reserves does not presuppose that the regulatory approvals of both the Waikato District and Waikato Regional Councils (or bind them to that outcome), nor does it presuppose that this Council will assume ownership or ongoing maintenance for the stormwater features.

**Consultation and Further Authorities:**

The reserves are known to have had pre-1901 human habitation, and has an identified archaeological feature, both of which are triggers for obtaining further authority from Pouhere Taonga: Heritage New Zealand.

The reserves, being located within the environs of the pre- European Puke-i-ahua paa, and being on the bank of the Waikato River, near the confluence of the Waikato and Waipa Rivers, have had human habitation which is likely to extend back to the 1300's. From the 1800's, Ngaruawahia was a hub and a trading base from where products including flax, wheat and flour were traded up and down the river, and to the markets in Auckland.

The overarching purpose of the Waikato – Tainui Raupatu Claims (Waikato River) Settlement Act 2010 ('the Settlement Act') is to restore and protect the health and wellbeing of the Waikato River for future generations. Arising from the Settlement Act, Council has entered into a Joint Management Agreement which has resulted in a series of Schedules and commitments. These commitments, along with the longstanding human habitation of the wider locale, are triggers for consultation with Mana Whenua.

The developer (through external advisors) consulted in relation to the proposal to discharge stormwater. Consultation was with Ngaati Mahuta (Turangawaewae Marae) and Ngaati Tamainupoo and Waikato-Tainui (Iwi authority) to develop a Taangata Whenua Statement and Engagement Report that considered cultural, economic, social and/or environmental factors and which is intended to inform (regulatory) decision makers. Permission has not been given by the parties for that report to be used or released into the public space.

Of the solutions currently available, Mana Whenua preference is for the option that involves the use of the Reserves, as the proposed alignment of the pipeline and discharge point are within previously disturbed ground.

**Reserves Act 1977:**

The Reserves is subject to the provisions of the Reserves Act 1977.

The Act provides Council (acting as the Minister of Conservations delegate) the power to grant rights of way and other easements. The Act first requires Council to consider whether the proposed easement will materially alter or permanently damage the Reserve and also whether the rights of the public may be permanently affected.

If the proposed easement is considered detrimental to the Reserve, or to its users, then the Act requires public notification calling for objections and submissions against the proposal.

The proposal will materially alter and permanently damage the reserve, although the constructed feature may be viewed as a visual enhancement. The rights of the public to access and use of the reserve are likely to be permanently affected although there is a wider public benefit in that the stormwater solution will enable the development of land and the provision of housing in a time of high housing demand.

The applicants hold a view that an outlet within the reserve be treated as a drain and not as an easement. An easement provides legal protection for the feature to remain in situ in perpetuity. As the developer's intention is that the infrastructure will ultimately vest in Council ownership and maintenance responsibility, an easement in gross (i.e an easement over land in favour of an entity) is required.

As an easement is legally deemed to be an interest in land, a resolution is required to enable public consultation processes to commence, and to enable the execution of relevant documentation, in the event that no objections or submissions are received.

**4.2 OPTIONS****Option I: Council can exercise its delegated authority to grant a drainage easement in gross**

The Minister has delegated power to Council, which still requires Council to act in accordance with the requirements and processes as set out in the Act.

The Developer holds a view that the drainage swale should be treated as if it were a public drain and not as an easement, and as such has not offered monetary compensation for the permanent/ongoing impact that an easement would have on the reserves. Any agreement to easement would need to be made conditional upon all costs (as more fully set out in s5.1 of this report) being met by the developer.

In isolation, in terms of s48(3) of the Reserves Act, the proposal is likely to result in the Reserve being materially alerted and permanently damaged, and the rights of the public permanently affected, and on that basis the proposed easement is not supported by the Reserves Planner. When considered in the wider context of the integrated stormwater catchment planning being undertaken by the Growth and Analytics, and Engineering Teams the proposed easement assist with the enablement of a cost-effective solution,

may serve a greater public good by accommodating stormwater from a wider sub-catchment, and may assist to open up Ngaruawahia North to further residential development. The drainage swale may also represent a visual enhancement to the reserve.

**Option 1 is the recommended option.**

**Option 2: Council can decline to exercise its delegated authority to grant a drainage easement in gross.**

An integrated stormwater catchment management solution is being developed by Council, that has identified six possible options for stormwater management for the properties within the Ngaruawahia North residential area. Owner's/developers within this catchment would only need to proportionally contribute towards costs. Those options that do not utilise an outfall into the river are considered to be less viable and likely more expensive for the Developer and the community.

The proposed easement is primarily for the benefit of the developer, which is to the permanent detriment of the reserve as the drainage feature will remain in place in perpetuity and represents an immediate and ongoing disadvantage to the reserve users as that area, and setbacks can no longer be in active use.

## 5. CONSIDERATION

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### 5.1 FINANCIAL

In the event that the use of the reserves is for the sole benefit of the developer, the developer (as applicant) is to be responsible for entire costs, which includes but is not limited to: obtaining all necessary approvals, authorities, and consents; meeting Council's costs incurred in the public notification, survey and legalisation processes; formation of the (waka shaped) drainage swale (to a Council approved engineered design which also meets with the approval of Mana Whenua).

If the infrastructure is to serve a wider catchment, Council may need to consider contributing some 'upsizing' costs. Such costs could be recovered through Development Agreements or a review of the Development Contributions catchments.

### 5.2 LEGAL

The overarching purpose of the Waikato – Tainui Raupatu Claims (Waikato River) Settlement Act 2010 is to restore and protect the health and wellbeing of the Waikato River for future generations.

Part 5 of the Property Law Act 2007 provides for easements.

Section 61 of the Reserves Act 1977 ("the Act") specifies Council's powers (including leasing) in respect of Local Purpose Reserves.

Section 48 (1) (f) of the Act provides that the administering body, with the consent of the Minister, may grant an easement over a reserve (that is subject to the Act) for the purpose of providing or facilitating drainage of other land.

Section 48 (2) of the Act requires public notification calling for objections and submissions in respect of the proposed easement unless ground for an exemption exist as set out in s.48(3) of the Act.

Section 48(3) of the Act provides that public notification of the proposal to grant an easement is not required:

- (a) Where the reserve is vested in an administering body and is not likely to be materially altered or permanently damaged; and
- (b) The rights of the public in respect of the reserve are not likely to be permanently affected.

### **5.3 STRATEGY, PLANS, POLICY AND PARTNERSHIP ALIGNMENT**

In July 2013, the Minister of Conservation approved new delegations to local authorities under the Reserves Act 1977. It was envisaged that the changes would better enable local authorities to consider consent applications that previously had to be referred to the department of Conservation (“DoC”) for consent of the Minister or the Minister’s delegate, for matters such as the granting of leases, licences or easements over Council vested reserves.

The changes require that an appropriate record of any decision made under the delegations must be retained. In exercising the new delegation, local authorities must still act in accordance with the requirements of the Reserves Act; and the processes set out in the Act must still be complied with.

It is important to note that there is an expectation that local authorities will maintain a distinction between their role as administering body of a reserve and their role as delegate of the Minister. The decision-making function, whereby the merits of the proposal are considered, is a fundamental responsibility of the reserve administering body. The Minister is not the decision maker, but has, instead, a supervisory role ensuring that the necessary statutory processes have been followed; that the administering body has taken the functions and purposes of the Act into account in respect of the particular classification and purposes of the reserve; that it has considered any objections or submissions from affected parties; and that, on the basis of the evidence, the decision is a reasonable one.

### **5.4 ASSESSMENT OF SIGNIFICANCE AND ENGAGEMENT POLICY AND OF EXTERNAL STAKEHOLDERS**

The Significance and Engagement Policy provides at Schedule I, a list of Waikato District Council’s strategic assets.

The Policy requires Council to take into account the degree of importance and determine the appropriate level of engagement, as assessed by the local authority, of the issue, proposal, decision or matter in terms of the impact on and consequence for:-

- (a) The district or region;
- (b) Any persons who are likely to be particularly affected by, or interested in the issue, proposal, decision or matter;

- (c) The capacity of the local authority to perform its role, and the financial and other costs of doing so.

Reserves listed and managed under the Reserves Act 1977 are identified as strategic assets.

The proposed easement is not contemplated in the Reserve Management Plan, and request is primarily for the benefit of the developer, to the permanent detriment of the reserve and reserve users. This triggers the Reserves Act requirement for public notification.

## 6. CONCLUSION

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The proposed easement is to the permanent detriment of the reserve and its users. There may be a wider public benefit in the form of a visual enhancement to the reserve; and may serve a greater public good through contributing to an integrated stormwater catchment solution which will assist to open up the Ngaruawahia North to residential development.

Staff recommend that the proposed easement be approved on the basis that:

- The most viable of the six options considered for the sub-catchment includes an outfall in this location,
- The drainage feature can be engineered to provide a wider benefit in that it can accommodate stormwater from other properties in the sub-catchment that are not owned by the Developer (which are in fragmented ownership and which may be cost-prohibitive to develop without piggybacking onto infrastructure led by a larger developer),
- It will assist in the realisation of development capacity in that area – especially if the zone density were to increase through the Proposed District Plan,
- Mana Whenua preference is for the option that involves the use of the Reserves, as the proposed alignment of the pipeline and discharge point are within previously disturbed ground.

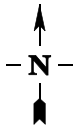
Should the recommendations of this report be approved, and provided that the public notification process does not result in objections or submissions, the easement documentation will provide the legal protection for drainage feature.

The Minister of Conservation has delegated powers to Council, which necessitates that a formal resolution be obtained to enable processes to commence and execution of the relevant documentation.

## 7. ATTACHMENTS

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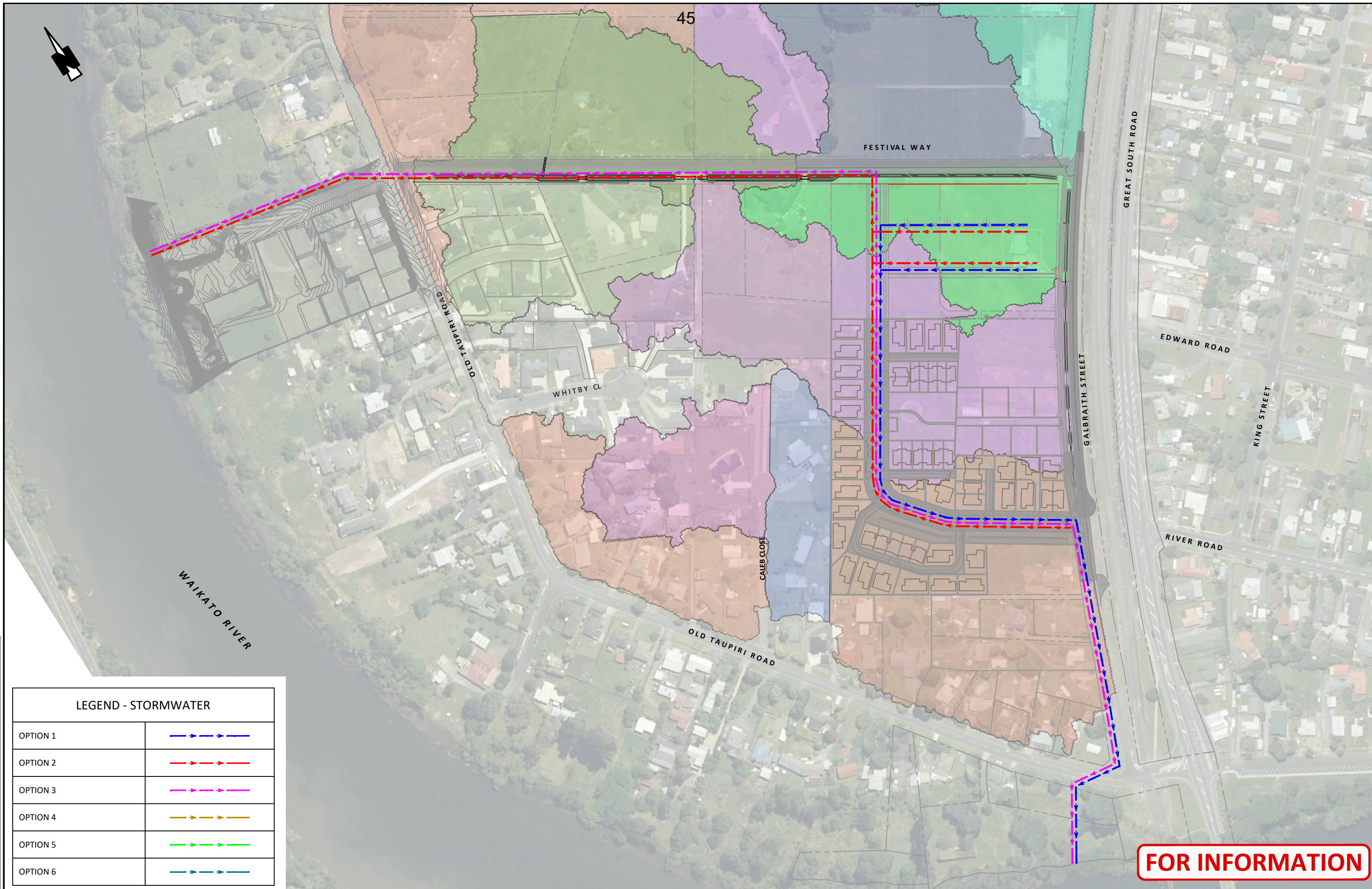
- Attachment 1: Location Diagram
- Attachment 2: Concept Design
- Attachment 3: High level option identification (map and table)











LEGEND - STORMWATER	
OPTION 1	
OPTION 2	
OPTION 3	
OPTION 4	
OPTION 5	
OPTION 6	

**FOR INFORMATION**



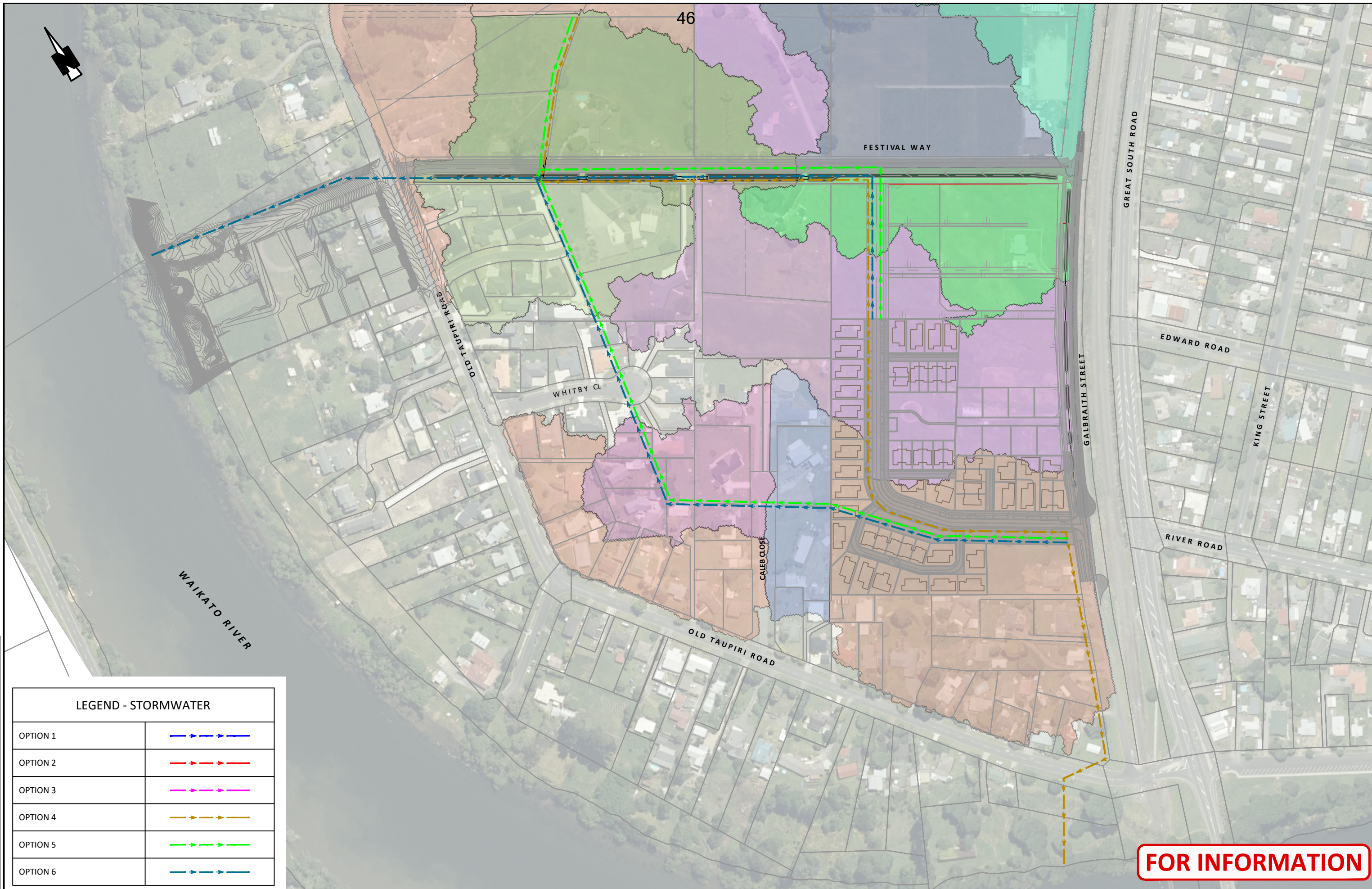
**Auckland Office:**  
 A: 25 Broadway, Newmarket  
 P: 09 524 7029  
**Hamilton Office:**  
 A: 58 Church Road, Hamilton  
 P: 07 849 9921  
**Te Awamutu Office:**  
 A: 103 Market Street, Te Awamutu  
 P: 07 871 6144

**FESTIVAL WAY LINK ROAD  
 WAIKATO DISTRICT COUNCIL  
 FESTIVAL WAY, NGARUAWAHIA**

**DEVELOPMENT  
 STORMWATER  
 OPTIONS**

Issue	Description	Checked	Date	Date	Scale:
01	FOR INFORMATION	J.B.	23/08/21	Designed: J.B. 23.08.21 Drawn: L.D. 23.08.21 Checked: J.B.	<b>1:2500</b> (A3 Original)
			Job No:	Dwg No:	Rev:
			<b>B20249</b>	<b>001</b>	<b>01</b>





LEGEND - STORMWATER	
OPTION 1	
OPTION 2	
OPTION 3	
OPTION 4	
OPTION 5	
OPTION 6	

**FOR INFORMATION**



**Auckland Office:**  
 A: 25 Broadway, Newmarket  
 P: 09 524 7029  
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				L.D.	23.08.21	(A3 Original)
				J.B.		

Job No: **B20249**    Dwg No: **002**    Rev: **01**



For discussion only

Galbraith Street/Festival Way Stormwater Strategy Overview

	15 Galbraith - 20 Lot	15 Galbraith - 54 Lot and 29/33 Galbraith St combined					
Main point of discharge	North to Caleb Close as per existing situation	Option 1 All to Waikato River via Galbraith St	Option 2 All to Waikato River via Festival Way Outfall	Option 3 Split discharge to Waikato river via Festival Way Outfall and Galbraith St	Option 4 Split discharge to a) Festival Way (not Waikato River) and b) Waikato River via Galbraith St.	Option 5 Split discharge to a) North to Caleb Close as per existing situation, and b) Festival Way (not Waikato River)	Option 6 Split discharge to a) North to Caleb Close as per existing situation, and b) Waikato River via Festival Way
Discharge	North to Caleb Close as per existing situation	Baseflows required to North to Caleb Close as per existing situation.  Baseflows required to North to 43B Galbraith St as per existing situation  Discharge to Waikato River via Galbraith St	Baseflow required to North to Caleb Close as per existing situation  Baseflows required to North to 43B Galbraith St as per existing situation  Waikato River via Festival Way Outfall	Baseflow required to North to Caleb Close as per existing situation  Baseflows required to North to 43B Galbraith St as per existing situation  Waikato River via Festival Way Outfall  Waikato River via Galbraith St	Baseflow required to North to Caleb Close as per existing situation  Baseflows required to North to 43B Galbraith St as per existing situation  Festival Way Swale (and then existing channel)  Waikato River via Galbraith St	North to Caleb Close as per existing situation  Baseflows required to North to 43B Galbraith St as per existing situation  Festival Way Swale (and then existing channel)	North to Caleb Close as per existing situation  Baseflows required to North to 43B Galbraith St as per existing situation  Festival Way Swale (and then existing channel)
Conveyance	2, 10 and 100 year conveyance to connect to existing drains and assessment of effects	10 year discharge to pipe network and swale (on 15 Galbraith St)  100 year capture in swale, conveyed through scruffy dome, piped to Waikato River via Galbraith St.  Culvert under road crossing (internal) will need to convey 100 year.  Existing swale, and designed swale for 20 Lot needs to be regraded to Galbraith St.	10 year discharge to pipe network, swale (on 15 Galbraith) and diversion conveyance.  100 year capture in swale, diversion conveyance and discharge to Festival Way swale.  Note: Diversion conveyance is to convey MPD 100 year 1m <sup>3</sup> /s. This could take the form of channel (7m wide, 0.6m deep, 1:4 slope) or X.	<u>For majority of lots (Refer to plan)</u> 10 year discharge to pipe network and swale (on 15 Galbraith St)  100 year capture in swale, conveyed through scruffy dome, piped to Waikato River via Galbraith St.  Culvert under road crossing (internal) will need to convey 100 year.  Existing swale, and designed swale for 20 Lot needs to be regraded to Galbraith St.  <u>For some lots (Refer to plan)</u> 10 year discharge to pipe network to Festival Way swale 100 year conveyance via road network and Festival Way swale	<u>For majority of lots (Refer to plan)</u> 10 year discharge to pipe network and swale (on 15 Galbraith St)  100 year capture in swale, conveyed through scruffy dome, piped to Waikato River via Galbraith St.  Culvert under road crossing (internal) will need to convey 100 year.  Existing swale, and designed swale for 20 Lot needs to be regraded to Galbraith St.  <u>For some lots (Refer to plan)</u> 10 year discharge to pipe network to Festival Way swale 100 year conveyance via road network and Festival Way swale	<u>For majority of lots (Refer to plan)</u> 10 year discharge to pipe network, swale (on 15 Galbraith St) and attenuation ponds. Outlets to North and Festival Way.  100 year capture in swale and attenuation ponds. Outlets to North and Festival Way.  Diversion conveyance from attenuation pond to Festival Way to be sized.  <u>For some lots (Refer to plan)</u> 10 year discharge to pipe network to Festival Way swale 100 year conveyance via road network and Festival Way swale	10 year discharge to pipe network or swale (on 15 Galbraith St). Outlets to North and Festival Way.  100 year capture in swale and Road. Conveyance via road network to Festival Way.

Attenuation	Attenuation in on-site swale and pond	No attenuation required.	No attenuation required.	No attenuation required.	Attenuation required for some lots that discharge to Festival Way	Attenuation required for all lots	No attenuation required
Initial abstraction	On lot tanks	Not required	Not required.	No required	On lot tanks for some lots that discharge to Festival way	On lot tanks	On lot tanks
Treatment	Swale	Swale and Proprietary Device	Swale, diversion conveyance (if open grassed channel)	Swale, Raingarden or proprietary device	Swale, Raingarden or proprietary device	Swale, Raingarden or proprietary device	Swale, Raingarden or proprietary device
O&M requirement	Swale and pond	Swale and Proprietary Device		Swale, raingarden or proprietary device	Swale, raingarden or proprietary device	Swale, Raingarden or proprietary device	Swale, Raingarden or proprietary device
Comments – design issues to be refined with project team	<ol style="list-style-type: none"> <li>If discharge is changed to Waikato River, the initial abstraction requirement could be removed.</li> <li>If discharge is changed the slope of swale may need to be changed.</li> </ol>	<ol style="list-style-type: none"> <li>Culvert crossing on on site swale will need to convey the 100 year</li> </ol>	<ol style="list-style-type: none"> <li></li> </ol>	<ol style="list-style-type: none"> <li>Number of lots discharged in each direction to be determined based on cost/benefit of earthworks, costs, and development contributions</li> </ol>	<ol style="list-style-type: none"> <li>Number of lots discharged in each direction to be determined based on cost/benefit of earthworks, costs, and development contributions</li> <li>Size of attenuation to be determined.</li> </ol>	<ol style="list-style-type: none"> <li>Size of attenuation devices to be determined</li> <li>Size of diversion conveyance to be determined.</li> <li>Outlet from attenuation pond within 15 Galbraith to Festival Way, will allow additional lots to discharge to attenuation pond.</li> </ol>	<ol style="list-style-type: none"> <li>Size of diversion channel to be determined.</li> <li>Outlet from swale within 15 Galbraith to Festival Way, will allow additional lots to discharge to swale.</li> </ol>

Please add comments and close out items using the comments.

Discussion:

- Option 2- 6 have discharge requirements to Festival Way, and therefore some DC requirements
- Options 4 and 5 have some attenuation requirements, and therefore some land requirements.
- Options for 100 year conveyance to Festival Way should incorporate some utilisation of road network.
- Option 6 likely has the least amount of earthworks and works with the existing catchments.
- A review of 20 lot design is required to understand what changes may be required for each of the options to progress.

For discussion only

Galbraith Street/Festival Way Stormwater Strategy Overview

### Open Meeting

<b>To</b>	Waikato District Council
<b>From</b>	Roger MacCulloch General Manager Service Delivery
<b>Date</b>	1 September 2021
<b>Prepared by</b>	Carole Nutt Waters Contract Relationship Manager
<b>Chief Executive Approved</b>	Y
<b>Reference #</b>	CCL 2021; 3242725
<b>Report Title</b>	Stormwater Delegations to Watercare Services Ltd

## I. EXECUTIVE SUMMARY

This report seeks Waikato District Council (“Council”) give delegations in relation to the Waikato District Council Stormwater Bylaw 2021 to Watercare Services Limited (“Watercare”) under the Agreement for Operation and Maintenance of Water, Wastewater and Stormwater Services (“the Agreement”).

## 2. RECOMMENDATION

**THAT** the report from the **General Manager Service Delivery** be received;

**AND THAT** under Clause 32(5) of Schedule 7 of the Local Government Act 2002 and Section 34A(2) of the Resource Management Act 1991, the Council resolves to delegate the functions and powers set out in the following delegations table to the noted delegated employees of Watercare Services Limited (each “the delegate”), subject to the conditions specified below:

Delegated functions and powers	Watercare delegate
<p>Carry out and undertake all the functions, powers, or duties of an Enforcement Officer under the Local Government Act 2002 to the extent they relate to:</p> <p>(a) offences under the Waikato District Council Stormwater Bylaw 2021;</p> <p>(b) an offence under the Local Government Act relating to water, water races, or private drains.</p>	<ul style="list-style-type: none"> <li>• Operations Manager Waikato</li> <li>• Stormwater Engineer - Waikato</li> </ul>

Delegated functions and powers	Watercare delegate
Administer and enforce the Waikato District Council Stormwater Bylaw 2021.	<ul style="list-style-type: none"> <li>• Operations Manager Waikato</li> <li>• Stormwater Engineer - Waikato</li> </ul>

The following conditions are to apply when exercising any of the above delegations:

- 1) In making a decision or carrying out a duty under delegated authority, the delegates must make themselves aware of and have regard to:
  - (a) Council's Long Term Plan and other relevant Council or committee approved plans, policies and strategies
  - (b) the political context in which they are working
  - (c) any statutory requirements
  - (d) possible conflicts of interest
  - (e) the materiality of the decision to be made
  - (f) short and/or long-term ramifications of the decision/choice to be made
  - (g) relative risk to Council of the decision/choice to be made.
- 2) The delegate shall abide by the principles of decision making as set out in the Local Government Act 2002.
- 3) Where a decision is politically sensitive, the delegate shall seek input from a higher organisational level, or committee, or the Council, whichever is the most appropriate.
- 4) The delegate must act within the law, Council policy (as approved by the Council from time to time) and the Long Term Plan.
- 5) The Council notes that position titles change from time to time and hereby records that these delegations are given to the holders of positions as they are named at the date of this resolution and to holders of equivalent, albeit re-named, positions in the future.
- 6) In making a decision or carrying out a duty under delegated authority, the delegate must comply with the Agreement for Operation and Maintenance of Water, Wastewater and Stormwater Services between Council and Watercare (as amended from time to time).
- 7) The delegate must not exercise any power under sections 172 or 182 of the Local Government Act 2002 unless authorised to do so pursuant to the Agreement for Operation and Maintenance of Water, Wastewater and Stormwater Services.
- 8) The delegate must not subdelegate any of the powers delegated to it. If any further delegation is required, it must be sought from the Council.

**AND FURTHER THAT Council notes that the Delegations Register will be updated to reflect the above delegations.**

### **3. BACKGROUND**

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In 2019, Council and Watercare entered into the Agreement to provide for Watercare to undertake the operation and management of certain facilities and assets owned by Council in order to deliver water, wastewater and stormwater services to customers within Council's district.

In accordance with Clause 13.2, the Agreement requires Council to take certain actions relating to delegating powers to Watercare to facilitate the performance of the services under the Agreement.

As the Chief Executive does not appear to have the authority to delegate powers or functions to persons who are not officers of Council under Council's current delegations, a resolution of Council is required to give the delegations to Watercare.

### **4. DISCUSSION**

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#### **4.1 DISCUSSION**

A new Stormwater Bylaw has been drafted and consulted on. A recommendation has been made by the Policy and Regulatory Committee for Council to be approve and adopt the Bylaw. It is anticipated that the Bylaw will come into force on 01 October 2021. It is recommended that Council delegate authority to Watercare to enable Watercare officers to undertake functions and provide the services under the Agreement in relation to the new Stormwater Bylaw.

These consist of the following functions:

- (a) administer and enforce the Stormwater Bylaw 2021; and
- (b) carry out and undertake all the functions, powers, or duties of an Enforcement Officer under the Local Government Act 2002 to the extent they relate to the Stormwater Bylaw.

#### **4.2 RELEVANT LEGISLATION**

The Local Government Act 2002 ("the LGA 2002") and Resource Management Act 1991 ("the RMA") permit Council to delegate certain functions to other persons. In particular:

- (a) Section 179 of the LGA 2002 provides that a local authority may contract out to any other local authority or other person the administration of its regulatory functions, including the operational aspects of enforcement, inspection, licensing, and other administrative matters.
- (b) Clause 32(5) of schedule 7 to the LGA 2002 similarly provides that a local authority may delegate to any other local authority, organisation, or person the enforcement, inspection, licensing, and administration related to bylaws and other regulatory matters.
- (c) Clause 34A of the RMA provides that a local authority may delegate to any other person any functions, powers, or duties under the RMA except the following:



- (i) the powers in section 34A(1)(a) and (b) of the RMA (being the approval of a proposed policy statement or plan and the power of delegation);
- (ii) the decision on an application for a resource consent;
- (iii) the making of a recommendation on a requirement for a designation.

A delegation made under section 34A of the RMA may be made on such terms and conditions as WDC thinks fit, and may be revoked at any time by notice to the delegate.

Council can also appoint persons to be enforcement officers in relation to any offence under the LGA 2002, including offences against bylaws (s177 of the LGA 2002). An enforcement officer is not required to be an employee of Council and therefore can include an employee of Watercare.

### 4.3 DELEGATION TABLE

It is proposed that Council resolve to give the following delegations to Watercare to enable Watercare to fulfil their obligations under the Agreement:

Delegated functions and powers	Watercare delegate
<p>Carry out and undertake all the functions, powers, or duties of an Enforcement Officer under the Local Government Act 2002 to the extent they relate to:</p> <p>(a) offences under the Waikato District Council Stormwater Bylaw 2021;</p> <p>(b) an offence under the Local Government Act relating to water, water races, or private drains.</p>	<ul style="list-style-type: none"> <li>• Operations Manager – Waikato</li> <li>• Stormwater Engineer - Waikato</li> </ul>
<p>Administer and enforce the Waikato District Council Stormwater Bylaw 2021.</p>	<ul style="list-style-type: none"> <li>• Operations Manager Waikato</li> <li>• Stormwater Engineer - Waikato</li> </ul>

General conditions that are to apply when exercising any of the above delegations:

- I) In making a decision or carrying out a duty under delegated authority, the delegates must make themselves aware of and have regard to:
  - (a) Council's Long Term Plan and other relevant Council or committee approved plans, policies and strategies
  - (b) the political context in which they are working
  - (c) any statutory requirements
  - (d) possible conflicts of interest
  - (e) the materiality of the decision to be made
  - (f) short and/or long-term ramifications of the decision/choice to be made
  - (g) relative risk to Council of the decision/choice to be made.

- 2) The delegate shall abide by the principles of decision making as set out in the Local Government Act 2002.
- 3) Where a decision is politically sensitive, the delegate shall seek input from a higher organisational level, or committee, or the Council, whichever is the most appropriate.
- 4) The delegate must act within the law, Council policy (as approved by the Council from time to time) and the Long Term Plan.
- 5) The Council notes that position titles change from time to time and hereby records that these delegations are given to the holders of positions as they are named at the date of this resolution and to holders of equivalent, albeit re-named, positions in the future. For noting, the delegations approved in Council report dated 21 October 2020 reference GOV1301 / 2921755 to the named position 'Business Manager Watercare Waikato' has since been renamed 'Operations Manager Waikato'.
- 6) In making a decision or carrying out a duty under delegated authority, the delegate must comply with the Agreement for Operation and Maintenance of Water, Wastewater and Stormwater Services between Council and Watercare (as amended from time to time).
- 7) The delegate must not exercise any power under sections 172 or 182 of the LGA 2002 unless authorised to do so pursuant to the Agreement for Operation and Maintenance of Water, Wastewater and Stormwater Services.
- 8) The delegate must not subdelegate any of the powers delegated to it. If any further delegation is required, it must be sought from the Council.

## **5. CONSIDERATION**

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### **5.1 FINANCIAL**

None of the delegations being requested are financial delegations.

### **5.2 LEGAL**

Legal advice was provided by Buddle Findlay (who were the provider of external legal services in the negotiation and drafting of the Agreement), and Council's Legal Counsel when delegation approval in relation to the existing Water Supply Bylaw 2016 and Wastewater and Tradewaste Bylaw 2014 were sought. This advice remains relevant to apply to the newly created Stormwater Bylaw 2021.

The table of proposed delegations is limited to those powers that Council can legally delegate in accordance with the LGA 2002. Functions and powers that cannot be delegated will remain with Council, and Watercare will follow the process set out in Schedule 13 of the Agreement.

### **5.3 STRATEGY, PLANS, POLICY AND PARTNERSHIP ALIGNMENT**

Council has a clear direction regarding three waters. This followed extensive analysis and decision making. Delegating the relevant functions and powers to Watercare enables the effective delivery of services within the Agreement.

#### 5.4 ASSESSMENT OF SIGNIFICANCE AND ENGAGEMENT POLICY AND OF EXTERNAL STAKEHOLDERS

(Ascertain if the Significance & Engagement Policy is triggered or not and specify the level/s of engagement that will be required as per the table below (refer to the Policy for more detail and an explanation of each level of engagement):

Highest levels of engagement	Inform <input type="checkbox"/>	Consult <input type="checkbox"/>	Involve <input checked="" type="checkbox"/>	Collaborate <input type="checkbox"/>	Empower <input type="checkbox"/>
<i>Tick the appropriate box/boxes and specify what it involves by providing a brief explanation of the tools which will be used to engage (refer to the project engagement plan if applicable).</i>	The delegations are a contractual requirement signed off by the Waters Governance Board as part of approval of the original Agreement				

State below which external stakeholders have been or will be engaged with:

Planned	In Progress	Complete	
		√	Internal
			Community Boards/Community Committees
			Waikato-Tainui/Local iwi (provide evidence / description of engagement and response)
			Households
			Business
		√	Waters Governance Board

## 6. CONCLUSION

To enable Watercare to fulfil their obligations under the Agreement and efficiently deliver the water, wastewater and stormwater services for Council's district, it is recommended that Council resolve to delegate the functions and powers in relation to Stormwater as listed in the table at 4.3 to Watercare.

## 7. ATTACHMENTS

N/A

### Open Meeting

<b>To</b>	Waikato District Council
<b>From</b>	Roger MacCulloch General Manager Service Delivery
<b>Date</b>	14 September 2021
<b>Prepared by</b>	Ross Bayer Team Leader Roothing
<b>Chief Executive Approved</b>	Y
<b>Reference #</b>	CCL2021; ECM # 3247469
<b>Report Title</b>	Petition for Roundabout - Horsham Downs Link

## I. EXECUTIVE SUMMARY

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Council has received a petition from The Horsham Downs Hall and Community Committee dated 26 August 2021 requesting Council revoke their decision in LTP deliberations that a roundabout on the Horsham Downs Link not be funded.

As Council no longer has a petitions policy, the document does not need to be assessed against the policy criteria as has been done so against petitions received in the past.

The petition, signed by 457 people, some who reside in Hamilton, requests that Council reconsider its LTP funding decision to proceed with construction of a Tee intersection in favour of a roundabout at the intersection of the Horsham Downs Link and Horsham Downs Road. To protect the privacy of petitioners the signed petition has not been attached to this report.

The prayer of the petition read:

*We, the residents and users of the Horsham Downs area wish to petition the Waikato District Council on the following:*

*We are asking the council to revoke their recent decision to construct a T-intersection at the Resolution Drive extension intersection at Horsham Downs Road and reinstate a roundabout as initially designed by NZTA-Waka Kotahi. As residents and users of this community we are deeply concerned about the safety impact and short-sightedness of this T-intersection decision. It is inevitable this intersection will exceed 'estimated' traffic numbers once commissioned and there has been no consultation around this. Our school children and local families travel this road most days and we do not want a serious accident or fatality to be the catalyst for changing to a roundabout in the future.*

This report has been written to inform Council of the petition, provide an update on the actions taken to date addressing the petition and to make a recommendation on how to proceed.

## 2. RECOMMENDATION

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**THAT the report from the General Manager Service Delivery be received;**

**AND THAT the Council confirms its decision to construct a Tee intersection at the intersection of Horsham Downs Link and Horsham Downs Road.**

## 3. BACKGROUND

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The Horsham Downs Link to the Waikato Expressway was a community driven project that sets out to provide a direct connection from Horsham Downs Road to State Highway One.

This project was originally to be constructed by the New Zealand Transport Agency (NZTA) as part of the Waikato Expressway (WEX) project. Due to the origins of the project, being a community driven link, NZTA expected the Waikato District Council to fund 52% of the cost under a Multi-Party Funding Agreement between NZTA, Hamilton City Council and Waikato District Council.

NZTA as the Principal for the WEX project consulted with the community regarding all aspects of the overarching project including sub-sections such as Horsham Downs link. This consultation included a roundabout at the intersection and extensive remodelling of Horsham Downs Road.

During negotiations to finalise the Multi-Party Funding Agreement with NZTA the cost of the project escalated and was estimated to be up to three times the original indicative costs. The final costs were difficult to identify as the City Edge Alliance was reluctant to provide a firm price. It became clear that Council would not be able to sign an agreement without an agreed price.

The Infrastructure Committee meeting on 29 November 2019 resolved that Council deliver the project, and increase the budget from \$2.089m to \$3.0m. With the involvement of the Waikato District Alliance, staff commenced a review of the scope with a focus on providing a value for money solution. This meant all aspects of the project were subject to re-engineering and the detailed design was awarded to WSP. The value engineering process identified some significant savings by lowering the height of the carriageway, changing the intersection at Horsham Downs Road and through working with adjacent landowners as a source of fill.

It was on this basis that the project proceeded, and a final design was completed late 2020. A public tender for construction of the project was advertised in January of 2021 and closed on 24 February 2021. A contract was entered into with Dempsey Wood Contractors as a result of this procurement process and works are planned to commence on 18 October 2021.

Council received a petition from the residents relating to Horsham Downs Link on 26 August 2012. The petition was signed by 457 residents, and was received via Gavin Ion, Chief Executive.

## 4. DISCUSSION AND ANALYSIS OF OPTIONS

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### 4.1 DISCUSSION

Council has a legally binding contract with Dempsey Wood for the construction of the Horsham Downs Link. This contract is based on a value engineered design which was developed to ensure the project was a value for money solution for the project.

The same group who presented the petition also made a submission during the consultation period of the LTP. This submission asked for Council to reconsider the intersection design. At that time Council confirmed the design as proposed due to the lack of funding for the more expensive roundabout option. This funding situation has not changed (ie the full roundabout would add approximately \$1.5-\$2 million dollars to the value of the works, which Council simply does not have given current LTP funding constraints).

In making this decision, Council was satisfied that the design of the Tee intersection meets all relevant safety standards and has adequate capacity to manage growth in traffic numbers over the next 15-20 years, based on current growth projections. It was also noted that there is sufficient land designated at the intersection to upgrade it to a roundabout when the need arises.

### 4.2 OPTIONS

**Option 1:** The Council resolves to construct a roundabout at the intersection on Horsham Downs Road at an additional estimated cost of between \$1.5m-\$2m.

This is **not** the preferred option.

**Option 2:** The Council declines this request to revoke its LTP decision to construct a Tee intersection at the intersection on Horsham Downs Road.

This **is the preferred** option. It is recommended that this happen.

## 5. CONSIDERATION

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### 5.1 FINANCIAL

An additional \$2m from what has been budgeted for would result in a general rate increase of about 0.9% increase. In addition to this, the extra \$2m required plus interest payable on the debt would increase our debt very close to Council's debt cap (175% of revenue) for year 2026/27 and 2027/28. This is a legislated limit which we cannot exceed, and capital expenditure would need to be reprioritised.

### 5.2 LEGAL

If Council resolve to construct a roundabout at the Horsham Downs Link intersection as per option 1, this would trigger the legislated debt cap limit.

There are no legal implications under option 2.

### **5.3 STRATEGY, PLANS, POLICY AND PARTNERSHIP ALIGNMENT**

Project costs for a Tee intersection have been included in the current Long Term Plan.

Should Council resolve to upgrade the Tee intersection at the Horsham Downs Link to a Roundabout, Council's debt cap, as included in the Finance Strategy, may be exceeded in years 2026/27 and 2027/28 therefore capital spend would need to be reprioritised to ensure this cap is not exceeded.

### **5.4 ASSESSMENT OF SIGNIFICANCE AND ENGAGEMENT POLICY AND OF EXTERNAL STAKEHOLDERS**

This decision does not trigger the Significance and Engagement Policy.

## **6. ATTACHMENTS**

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- AI – Infrastructure Report of 27 November 2018
  - Horsham Downs Link Progressing the Project

### **Open Meeting**

<b>To</b>	Infrastructure Committee
<b>From</b>	Ian Cathcart General Manager Service Delivery
<b>Date</b>	16 November 2018
<b>Prepared by</b>	Luke McCarthy Roading Asset Engineer
<b>Chief Executive Approved</b>	Y
<b>Reference #</b>	INF2018
<b>Report Title</b>	Horsham Downs Link Road – Progressing the Project

## **I. EXECUTIVE SUMMARY**

Waikato District Council (Council) has signalled their continued support of the Hamilton Section of the Waikato Expressway project by committing \$2.089M in the 2018-28 Long Term Plan (LTP) for the Horsham Downs Link (the project).

The Multi Party Funding Agreement (MPFA) which would have approved the CityEdge Alliance to carry out the works and it is being funded by Waikato District Council has not been approved. As such, the CityEdge Alliance has re-prioritised their works to achieve the 2020 completion date for the Hamilton Section of the Waikato Expressway. Horsham Downs Link remains unconstructed. Further to this the fill material that was to be utilised for Horsham Downs Link Road has been re-purposed elsewhere within the Hamilton Section.

This has added significant cost to the estimate as construction fill now needs to be imported. Despite repeated requests for a re-price from the CityEdge Alliance, none has been forthcoming. The Waikato District Alliance have been asked to re-price the project which has resulted in an overall project cost of approx. \$3.0M. This is \$911,000 over the amount approved in the LTP for the Horsham Downs Link Road.

The Horsham Downs Link is an important arterial route linking the eastern area of the district to Hamilton City via Resolution Drive. Staff are now requesting approval from Council to allow the Waikato District Alliance to commence preparations to undertake the construction and that a MPFA be approved that takes into account the use of the existing designation, resource consents and specifications and also allows for the future purchase of the underlying land.

## **2. RECOMMENDATION**

**THAT the report from the General Manager Service Delivery be received;**

**AND THAT Council approve the additional loan funding required of \$911,000;**



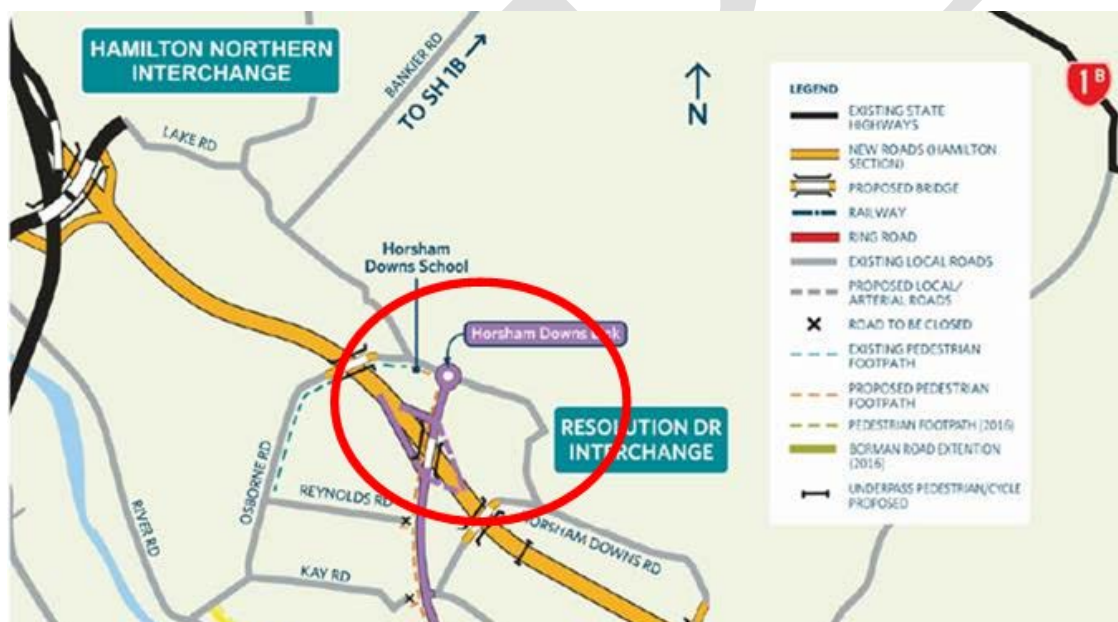
**AND FURTHER THAT Council approve the construction to be carried out by the Waikato District Alliance;**  
**AND FURTHER THAT Council grant the Waikato District Alliance dispensation against current variation approvals to allow the works to be undertaken.**

### 3. BACKGROUND

The purpose of this report is to update the Infrastructure Committee on the project and to introduce some logic as to how the project can be moved on from its current hiatus.

Construction is well underway for the Hamilton Section of the Waikato Expressway (the Hamilton Section) which comprises the design and construction of a 22km 4-lane expressway which creates a new eastern bypass of Hamilton City from Lake Road in the north to the Tamahere Interchange in the south. The Hamilton Section includes a number of interchanges providing connection between the Waikato Expressway and the local road network.

As the project gained momentum through its design phase it was considered sensible and desirable to alter the access configurations of the Waikato Expressway to accommodate the Resolution Drive Extension (Hamilton City Council) and Horsham Downs Link (Waikato District Council), in order to achieve a safe and efficient integrated transport network that enables and supports the economy (See map – Figure 1). The Horsham Downs Link provides an arterial connection to Horsham Downs Road and the Waikato District Council network to the east.



In May of 2017 it was agreed that Council enter into a Multi-Party Funding Agreement with the NZ Transport Agency (NZTA). The intention of this agreement would be that CityEdge Alliance would construct the Horsham Downs Link Road and that Council would meet its share. At this stage CityEdge Alliance had commenced works on the road. In June 2017 Council was advised by NZTA that works would be suspended until such time as the Multi-Party Funding Agreement was signed by the parties. Later in 2017 it was decided that south facing ramps were to be part of the interchange (not part of the Horsham Downs Link Road project), however this necessitated approval from the NZ Transport Agency Board, which was approved in early 2018.

Since July 2018, Council has continued to work with NZTA towards an agreement to get the project going again. Further analysis of the financial model has been required to obtain funding approval. This has meant a review of the economics and benefits provided by the project.

Unfortunately the delays have impacted on the availability of fill material that would have been used to construct the Horsham Downs Link, this has added significant cost to the project.

Further to this, prior discussions were based on the availability of the CityEdge Alliance to undertake the works, this option has all but been exhausted based on likely price increases and that CityEdge's focus is on completing the Hamilton Section for late 2020. Back in 2017 the Waikato District Alliance was provided the opportunity to price the project, however at the time were over the price estimate provided by the CityEdge Alliance.

Council has provisioned \$2.089M in the 2018/19 LTP. The Waikato District Alliance has repriced the project based on imported fill. The new revised price is approximately \$3.0M.

Further, Waikato District Council will need to purchase the land under the designation from NZTA, the value of this is to be confirmed. This land cost has not been budgeted in the 2018-2028 LTP and will require additional funding once a valuation has been complete and agreed to.

## **4. DISCUSSION AND ANALYSIS OF OPTIONS**

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### **4.1 DISCUSSION**

Council staff have recently proposed to the NZTA that the Waikato District Alliance undertake the works to construct the Horsham Downs Link. In addition, the Waikato District Alliance has proposed that appropriate construction fill could be available from jobs it is undertaking around the district. This presents a win for the Council as long as the fill material complies with the overall project specifications and has the potential to bring the cost of the build down.

Council would still need to enter into a Multi-Party Funding Agreement with NZTA so that funding assistance can be available for both the construction activity and the purchase of land.

The revised price estimate presents a substantial challenge for Council as it means a further \$911,000 is required to be funded in order to move the project to the construction phase within this current LTP. Given the Waikato District Alliance is looking to source construction and general fill material suitable for the project, this additional funding required for the project may reduce.

The land purchase in agreement with NZTA could be extended out to the next LTP. As per the draft MPFA, Waikato District Council can request funding assistance in accordance with the usual policy and procedures of the NZTA. This is applicable to construction costs and land costs. Council and its agents are currently working on information to support the increase in funding from NZTA.

### **4.2 PROCUREMENT**

The Hamilton Section was awarded to the CityEdge Alliance in November 2015. This contract included the establishment and construction of a full diamond interchange (originally it was just north facing ramps) at Resolution Drive. This allowed for the extension of Resolution Drive from Borman Road to the interchange and then provided the opportunity to construct the Horsham Downs Link which effectively provides an arterial link between Hamilton City and the eastern area of the Waikato District.

As alluded to earlier in this report the intention was for the CityEdge Alliance to construct the project as per the draft MPFA. The MPFA has not progressed and the opportunity has

now diminished. Further to this the cost estimate provided in the MPFA was based on costings completed in 2016 from the detailed design and the construction fill that was to be borrowed onsite has been utilised elsewhere in the expressway project.

Council staff have endeavoured to get a re-price of the works for Horsham Downs Link for a few months. To date, despite repeated requests staff have not as yet received a revised estimate from CityEdge Alliance. Staff acknowledge that this is required so that a value for money proposition can be realised.

The project has not been opened up to the open market as it is in essence a variation to the CityEdge Alliance under the Hamilton Section contract. The use of the Waikato District Alliance to construct the project has always been an option openly discussed and agreed with the NZTA and staff are now looking to further this option in agreement with Council.

Recently Council approved changes to the Waikato District Alliance variation limits to \$1.0M for a single project with a \$3.0M variation cap per annum. This project which would occur over a two year period falls outside of the current procurement limits for the Waikato District Alliance. Council staff are requesting that for this particular project, whereby Waikato District Alliance has prior knowledge and can source construction fill, that dispensation is provided for the Horsham Downs Link project. By approving the Waikato District Alliance to undertake the works, the Horsham Downs Link can be constructed in conjunction with the opening of the Hamilton Section which is targeting late 2020 for completion.

Council can elect to wait for the CityEdge Alliance, however at present there is no time guarantee or price guarantee.

### 4.3 OPTIONS

The options available are:

**Option 1:** Council enter into the MPFA with NZ Transport Agency for the purchase of the land and that CityEdge Alliance undertake the construction, however at this time the price and when construction will take place are unknown.

This option is not recommended.

**Option 2:** Council enter into the MPFA with NZ Transport Agency for the purchase of the land and that the Waikato District Alliance undertake the construction.

This option is recommended based on Council's ability to control risk around pricing as there are too many unknowns with the CityEdge as far as timing for the project and costing.

## 5. CONSIDERATION

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### 5.1 FINANCIAL

Council has included an amount of \$2.089M in the 2018/19 Financial Year. To undertake the works it is recommended that a budget of \$3.0M be allowed. This means that \$911,000 is required.

The Roading Replacement Fund can accommodate the principal repayments of the \$911,000 loan increase requested.

As the loan interest will be funded by General Rate, approval of additional general rate funding of approximately \$40,000 each year for the first three years is required. This is calculated on a 25 year loan with the loan interest reducing year on year over the term. The average interest cost over the 25 years is \$25,000 per year.

### **Finance Check**

The Council's Management Accountant has checked the funding option as available and correct.

## **5.2 LEGAL**

Council's Legal Counsel will continue to be involved as required for the development and finalisation of the MPFA once the details have been agreed to.

## **5.3 STRATEGY, PLANS, POLICY AND PARTNERSHIP ALIGNMENT**

This project directly aligns with Council's Roading objectives as follows:

- To ensure that the district is easy and safe to get around and alternative transport options are available.
- To ensure that transport infrastructure is planned at a rate to consider growth and demand in a cost effective manner.

## **5.4 ASSESSMENT OF SIGNIFICANCE AND ENGAGEMENT POLICY AND OF EXTERNAL STAKEHOLDERS**

<b>Highest levels of engagement</b>	Inform <input checked="" type="checkbox"/>	Consult <input type="checkbox"/>	Involve <input type="checkbox"/>	Collaborate <input type="checkbox"/>	Empower <input type="checkbox"/>
<i>Tick the appropriate box/boxes and specify what it involves by providing a brief explanation of the tools which will be used to engage (refer to the project engagement plan if applicable).</i>	The engagement with key project stakeholders is shared amongst WDC and NZ Transport Agency and has been occurring over the past 4-5 years culminating in the final form for the Horsham Downs Link.				

## **6. CONCLUSION**

Delays have caused additional cost to be incurred to the project. A shortfall of approximately \$911,000 is now evident based on a re-price from the Waikato District Alliance. The Waikato District Alliance has signalled an intent to undertake the works and as such have identified suitable fill material that can be utilised for the construction of the Horsham Downs Link Road. This has the potential to lower the funding shortfall.

The Horsham Downs Link Road is not a priority for the CityEdge Alliance as they strive to complete the Hamilton Section by the end of 2020.

In order to complete this project by the end of 2020, it is recommended that Council approve the construction to be undertaken by the Waikato District Alliance, acknowledging that the value of the works as it stands currently exceeds approved levels of variations between Waikato District Council and the Alliance.

## **7. ATTACHMENTS**

Nil.

### Open Meeting

<b>To</b>	Waikato District Council
<b>From</b>	Gavin Ion Chief Executive
<b>Date</b>	15 September 2021
<b>Prepared by</b>	Gaylene Kanawa Democracy Team Leader
<b>Chief Executive Approved</b>	Y
<b>Reference #</b>	GOV1318
<b>Report Title</b>	Exclusion of the Public

## I. RECOMMENDATION

THAT the public be excluded from the following parts of the proceedings of this meeting.

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 are as follows:

General subject of each matter to be considered	Reason for passing this resolution in relation to each matter	Ground(s) under section 48(1) for the passing of this resolution
Item 1 Confirmation of Public Excluded Minutes for the meeting held on 9 August 2021	Good reason to withhold exists under Section 6 or Section 7 Local Government Official Information and Meetings Act 1987	Section 48(1)(a)
Item 2.1 Water Governance Board recommendations for the Te Kauwhata Irrigation Association Incorporated Water Supply Agreement Update (WGB2109/01)		
Item 3.1 Waters Governance Board Membership		

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 No.	Section	Interest
Item 1 Confirmation of Public Excluded Minutes for 9 August 2021		Refer to the previous Public Excluded reason in the agenda for this meeting.
Item 2.1 Water Governance Board recommendations for the Te Kauwhata Irrigation Association Incorporated Water Supply Agreement Update (WGB2109/01)	7(2)(b)(ii)  7(2)(i)  7(2)(i)	Protect information where the making available of the information would be likely unreasonably to prejudice the commercial position of the person who supplied or who is the subject of the information  To enable any local authority holding the information to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations)  To prevent the disclosure or use of official information for improper gain
Item 3.1 Waters Governance Board Membership	7(2)(a)  7(2)(d)	Protect the privacy of natural persons, including that of deceased natural persons.  To enable the local authority to deliberate in private on its decision or recommendation in any proceedings to which this paragraph applies.