

# **ORDINARY MINUTES**

## **CORPORATE AND OPERATIONS COMMITTEE**

**DATE:** Wednesday, 14 December 2011

**TIME:** 9.15 am

**VENUE:** Council Chambers  
35 Kenrick Street  
TE AROHA

**MEMBERSHIP – Quorum (6)****Members:**

Mayor G W H Vercoe QSM, ED, JP  
Cr J E Barnes  
Cr T M Cornes  
Cr N C Goodger  
Cr C L Greenville JP  
Cr M L Gribble  
Cr P M Jager  
Cr R J McGrail  
Cr G R Stanley  
Cr M P Steffert  
Cr A B Tanner  
Cr L M Tisch

*Information and recommendations are included in the reports to assist Corporate and Operations Committee in the decision making process and may not constitute Corporate and Operations Committee's decision until considered by Corporate and Operations Committee.*

## TABLE OF CONTENTS

ITEM	SUBJECT	PAGE NO
<b>1</b>	<b>MEETING OPENING .....</b>	<b>1</b>
<b>2</b>	<b>PRESENT .....</b>	<b>1</b>
<b>3</b>	<b>APOLOGIES .....</b>	<b>2</b>
<b>4</b>	<b>NOTIFICATION OF URGENT BUSINESS .....</b>	<b>2</b>
<b>5</b>	<b>CONFIRMATION OF MINUTES .....</b>	<b>2</b>
<b>6</b>	<b>OFFICER REPORTS .....</b>	<b>3</b>
<b>6.1</b>	<b>CHIEF EXECUTIVE .....</b>	<b>3</b>
6.1.1	CHIEF EXECUTIVE OFFICERS REPORT NOVEMBER 2011 .....	3
6.1.2	HAURAKI RAILTRAIL - COUNCIL CONTROLLED ORGANISATION FORMATION .....	4
6.1.3	NOTICE OF MOTION .....	20
6.1.4	WAIKATO MUSEUM .....	22
6.1.5	RESOURCE CONSENT GRANT APPLICATION - TUI PARK BOWLING CLUB .....	23
6.1.6	STATUTORY DELEGATIONS .....	26
<b>6.2</b>	<b>ENVIRONMENTAL .....</b>	<b>30</b>
6.2.1	REGIONAL POLICY STATEMENT UPDATE .....	30
6.2.2	URBAN DESIGN GUIDELINES.....	33
	<b>INFRASTRUCTURE .....</b>	<b>36</b>
6.2.3	GRAFFITI EDUCATION PROGRAMME - MYTAGMYTOWN .....	36
6.2.4	MATAMATA COMMUNITY GARDEN .....	38
6.2.5	HETANA STREET UPGRADE, MATAMATA .....	41
<b>7</b>	<b>URGENT ADDITIONAL BUSINESS .....</b>	<b>45</b>
7.1.1	WAIHOU WASTEWATER TREATMENT PLANT CONTRACT .....	45
7.1.2	COUNCIL ISSUES OVER THE CHRISTMAS PERIOD.....	46
<b>8</b>	<b>EXCLUSION FROM THE PUBLIC .....</b>	<b>47</b>
<b>8.1</b>	<b>CHIEF EXECUTIVE .....</b>	<b>47</b>
8.1.1	MANAGHERO SUBDIVISION - SALE OF LOT 25.....	47
8.1.2	OWN YOUR OWN UNITS .....	49
<b>8.2</b>	<b>INFRASTRUCTURE .....</b>	<b>51</b>
8.2.1	PROCUREMENT OPTIONS FOR INTERIM WASTE MANAGEMENT CONTRACTS REPORT .....	51
<b>9</b>	<b>CLOSURE .....</b>	<b>53</b>

**MATAMATA-PIAKO DISTRICT COUNCIL**

**MINUTES** of an Ordinary Meeting of the Corporate And Operations Committee held in the Council Chambers, 35 Kenrick Street, Te Aroha on 14 December 2011 commencing at 9:15

**1 MEETING OPENING**

The Chair welcomed everyone to the meeting and declared the meeting open.

**2 PRESENT****MEMBERS PRESENT**

Mayor G W H Vercoe QSM, ED, JP  
Cr J E Barnes  
Cr T M Cornes  
Cr N C Goodger  
Cr C L Greenville JP  
Cr M L Gribble  
Cr P M Jager  
Cr G R Stanley  
Cr M P Steffert  
Cr A B Tanner  
Cr L M Tisch

**OFFICERS PRESENT**

Mr D McLeod	Chief Executive Officer
Mrs C Hubbard	Committee Secretary
Ms M Hawthorne (for items 6.1.2, 6.1.3, 6.1.5, 8.1.1, 8.1.2)	Corporate and Legal Services Manager
Mr N A Baker (for item 6.1.5)	Policy Planner
Ms A van Kuijk (for items 6.1.6, 6.2.1, 6.2.2)	District Planner
Mr M O'Hagan (for item 6.1.6)	Junior Legal officer
Mr P Clearwater (for item 6.1.6, 6.2.2)	Policy Planner
Miss C Smithers (for items 6.3.1, 6.3.2)	Parks & Property Planner
Mrs S Berry (for item 8.1.2)	Property Officer
Mr D Locke (for item 8.2.1)	Senior Projects Engineer - Utilities
Mrs F Vessey (for item 8.2.1)	Group Manager Service Delivery
Mrs S Kampshof (for item 6.3.3)	Asset Manager Strategy & Policy

**IN ATTENDANCE**

Mr S Edwards  
(out at 11.30 am)

Piako Post

**3 APOLOGIES****MEMBERS APOLOGIES**

Cr R J McGrail

**MOVED BY: Cr J E Barnes**

**SECONDED BY: Cr T M Cornes**

**CARRIED**

**4 NOTIFICATION OF URGENT BUSINESS**

Pursuant to clause 3.7.5 and 3.7.6 of the Standing Orders NZS 9202:2003 and Section 46A (7) of the Local Government Official Information and Meetings Act 1987, the Chairman enquired from members whether there were any additional items for consideration which qualify as extraordinary or urgent additional business.

Delegated Authority over Christmas Holidays

Waihou Wastewater Treatment Plant Contract

**MOVED BY: Cr L M Tisch**

**SECONDED BY: Cr J E Barnes**

**CARRIED**

**5 CONFIRMATION OF MINUTES**

Minutes, as circulated, of the Ordinary Meeting of the Corporate And Operations Committee, held on 23 November 2011.

[Minutes November 23 2011 Corporate and Operations Committee.doc](#)

**COMMITTEE RESOLUTION**

**That the Minutes of the Ordinary Meeting of the Corporate And Operations Committee held on 23 November 2011 be confirmed and signed as true and correct.**

**MOVED BY: Cr M P Steffert**

**SECONDED BY: Cr T M Cornes**

**CARRIED**

**6 OFFICER REPORTS****6.1 CHIEF EXECUTIVE****6.1.1 CHIEF EXECUTIVE OFFICERS REPORT NOVEMBER 2011**

**File No:** SUP164601  
**Attachments:** [CEOs Report For November 2011](#)  
**Responsible Officer:** D McLeod  
Chief Executive Officer  
**Author:** D McLeod  
Chief Executive Officer

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**EXECUTIVE SUMMARY**

A copy of the Chief Executive Officer's report for the period November 2011 is attached.

**POLICY AND BYLAW ISSUES**

There are no other Policy or Bylaw issues in relation to this matter.

**OFFICER RECOMMENDATION/COMMITTEE RESOLUTION**

That the report be approved.

**Moved by:** Cr N C Goodger

**Seconded by:** Cr A B Tanner

**CARRIED**

## 6.1.2 HAURAKI RAILTRAIL - COUNCIL CONTROLLED ORGANISATION FORMATION

**File No:** 11/1045

**Attachments:** [CyclewayAd-Final.pdf](#)  
[Hauraki Rail Trailv2.pdf](#)  
[MOU HRT v8 6 May 2011 clean copy.doc](#)  
[FRED n821147 v1 Hauraki Rail Trail - Trust Deed as at 25 October 2011.pdf](#)  
[FRED n818896 v2 Underwriting Agreement - Council s and HRT \(2\).doc](#)  
[FRED n818889 v1 Management Agreement - HRT and HDC.pdf](#)  
[FRED n818892 v1 Agreement - HRT and PTO.DOC](#)

**Responsible Officer:** **D McLeod**  
**Chief Executive Officer**

**Author:** **M Hawthorne**  
**Corporate and Legal Services Manager**

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### EXECUTIVE SUMMARY

As the development of the Hauraki Rail Trail proceeds a number of issues arise that need to be addressed by the Hauraki, Thames-Coromandel and Matamata-Piako District Councils (the Councils) in relation to the Hauraki Rail Trail's future governance.

This report provides:

- a brief summary of the history of the Hauraki Rail Trail to date
- the background to the proposals for the recommended Governance Structure and Governance Entity (a Charitable Trust)
- the establishment of the Hauraki Rail Trail Charitable Trust ("Trust") through the adoption of a Trust Deed;
- registration under the Charitable Trusts Act 1957 and the Charities Act 2005
- the possible exemption of the Trust from the Council Controlled Organisation requirements of the Local Government Act, 2002;
- the reasons for the Underwriting Agreement to be entered into between the Councils and the Trust;
- the background to the Management Agreement between Hauraki District Council and the Trust
- the background to the Principal Trail Operator Agreement between the Trust and the Principal Trail Operator
- a brief discussion on the current lease arrangements for the rail corridor from Kiwirail

## BACKGROUND

At the Corporate and Operations Committee meeting on 22 September 2010 Hauraki District Council Mayor, Mr John Tregidga and Chief Executive Officer, Mr Langley Cavers made a presentation on the proposed Hauraki Rail Trail project and the potential benefits of it linking with Te Aroha. Subsequent to this meeting Hauraki District Council secured government funding for the cycleway, and Matamata-Piako District Council resolved to undertake consultation with the community on whether to contribute funding to the project. Consultation ran from 20 October 2010 to 11 November 2010, a copy of the consultation advertisement is attached to this report.

The consultation documents identified the estimated increase in rates, and the possibility of Council having to underwrite the on-going costs of the Hauraki Rail Trail.

Staff reported to the Corporate and Operations Committee meeting on 24 November 2011 along with the submissions for Council's consideration. 773 submissions were made on the cycleway. Of these, 701 submissions supported the cycleway, 55 submissions did not support the cycleway and 17 submissions did not indicate a preference.

Following consideration of submissions the Corporate and Operations Committee resolved to

- agree in principle to accept the Hauraki District Council's offer to amend the Hauraki Rail Trail project by extending the route into Te Aroha.
- agree to provide Hauraki District Council a financial contribution of \$500,000.00 subject to:
  - a formal agreement between Hauraki District Council and Matamata-Piako District Council detailing Stage 1 scope of works, design and timings.
  - Hauraki District Council confirming that the Te Aroha extension will be completed in recognition of Council's \$500,000.00 contribution

In 2011 Thames-Coromandel District Council committed funding to the Hauraki Rail Trail project, and two separate Memorandums of Understanding (MOU) were executed by the Councils. A copy of the MOU between Council and Hauraki District Council is attached to this report.

Hauraki District Council has during 2011 obtained a lease of the rail corridor, resource consents, designations and building consents for its use as a cycleway, developed a proposed operating structure and commenced construction of the Hauraki Rail Trail. The length of the trail from Paeroa to Te Aroha is scheduled for completion in the 2011/12 summer and the remainder of the trail in April 2012.

The MOU between Hauraki District Council and Council required that a Joint Committee be established and this was subsequently done. Each Council appointed a representative to the Joint Committee and the Iwi of Hauraki holding Mana Whenua status in the area traversed by the Hauraki Rail Trail appointed three representatives giving a total of six members. The Joint Committee has appointed one of the

representatives, Hauraki District Council Mayor John Tregidga, as Chairman, the Chairman does not have a casting vote.

The role of the Joint Committee includes providing interim governance and guidance to the Hauraki Rail Trail and to make recommendations for the formation of a Council Controlled Organisation or other entity to operate the Hauraki Rail Trail once constructed.

The subject of this report is the formalisation of the governance and operating structure of the Hauraki Rail Trail. The Joint Committee has given consideration to the governance of the Hauraki Rail Trail after taking into account:

- the Memorandum of Understandings between the Councils
- the requirements for the on-going maintenance, renewal and further construction of the Hauraki Rail Trail
- advice from officers and legal advice from Harkness Henry on alternative instruments
- advice on taxation responsibilities

## ISSUES

### Recommended Governance Structure

Hauraki District Council currently holds or is obtaining the land access rights required for construction and use of the Hauraki Rail Trail. It is currently undertaking the construction process for the Hauraki Rail Trail between Thames, Paeroa, Waihi and Te Aroha. The Joint Committee proposes that when the Hauraki District Council has completed its construction work it transfer the land access rights and its other rights and responsibilities to the Trust. The Trust will then hold primary responsibility for managing and maintaining the Hauraki Rail Trail and for completing future development. This will ensure that the Hauraki Rail Trail is managed with appropriate representation from all three relevant Councils and the relevant iwi.

The Trust is primarily a mechanism for securing appropriate levels of oversight and control by relevant Councils and iwi. The Trust will be responsible for governance of the Hauraki Rail Trail. The Joint Committee anticipates that the Trust will want to delegate the day-to-day management of the Hauraki Rail Trail to a professional management company which will be the principal trail operator ("PTO").

The Joint Committee has recommended that the Council approve the following governance structure for the Hauraki Rail Trail:

Entity	Responsibilities/Obligations
Councils	Hauraki District Council will hold land access rights (including the lease from KiwiRail) and sub-lease those rights to the Trust. All three Councils will provide initial funding in accordance with the existing MOUs.
Trust	Governance responsibilities on the basis of input from Council and iwi appointed Trustees using funding from Councils and fees payable by the PTO.
PTO	Day-to-day management of the HRT.

To manage this structure the Joint Committee has prepared draft agreements to govern the relationships between the Councils and the Trust and between the Trust and the PTO. These agreements are:

- a draft Trust Deed for the Trust
- a draft Underwriting Agreement between all three Councils and the Trust in relation to funding
- a draft Management Agreement between the Hauraki District Council as holder of the land use rights and the Trust
- a draft Management Agreement between the Trust and the PTO in relation to the day-to-day management of the HRT

Copies of the draft documents and a diagram showing the proposed governance structure are attached to this report.

The rest of this report sets out the Joint Committee's reasons for these recommendations and explains the main terms of the draft agreements.

### **Governance Entity**

The governance entity for the Hauraki Rail Trail will need to meet the following requirements:

- allow for representation from the three relevant Council and iwi holding mana whenua status of the proposed Hauraki Rail Trail route
- be flexible enough to meet the requirements of the stakeholders
- reflect the fact that the Hauraki Rail Trail has been established to provide benefits to the wider community, not as a commercial, income earner for the Councils and iwi
- limit the liability of the individuals responsible for its governance, in order to attract high quality candidates
- ideally, have donee status for tax purposes in order to attract donations from other potential funding sources

The legal structures available are:

- a company, with each Council and Iwi holding shares and rights to appoint directors
- a partnership between the relevant parties
- a charitable trust structure with each Council and iwi group holding rights to appoint trustees

The following table sets out each of the requirements for the governance entity and identifies which of the available legal entities can satisfy those requirements.

Requirement	Company	Partnership	Charitable Trust
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<b>Representation</b>	Yes, with difficulty (shares would need to be issued to iwi groups - specific iwi interests would need to be identified and quantified)	Yes, again with difficulty (as the interests of the iwi would need to be identified to become a partner in the partnership).	Yes. A trust is controlled by trustees and an appointment process can be specified for the trustees which ensures appropriate representation.
<b>Flexibility</b>	Yes	Yes	Yes
<b>Community benefit purpose</b>	Not easily. Best suited to a commercial purpose.	Yes.	Yes
<b>Limited liability</b>	Yes	No	Yes, but only if the trust is registered under the Charitable Trusts Act 1957.
<b>Donee status</b>	Possible	Possible	Possible

From this table a charitable trust offers the best solution. It is the only option which satisfies all of the requirements for the governance entity. Most importantly, the charitable trust structure is designed to achieve charitable purposes with a wide community benefit rather than the more restricted, private benefits that companies and partnerships are designed for.

The Joint Committee has recommended that a charitable trust be formed to provide the governance entity for the HRT.

### **Draft Trust Deed**

The Joint Committee has prepared a draft Trust Deed (a copy of which is attached to this report) to create the charitable trust it proposes as the governance entity for the HRT.

The main terms of the draft Trust Deed are:

- The Trust will be created by Hauraki, Thames-Coromandel and Matamata-Piako District Councils.
- The trustees of the Trust will need to be named and added to the Trust Deed before the document can be signed and the Trust created.
- The Trust is designed to operate as a charitable trust and its purposes are specified in clause 5. Its purpose is generally to operate and facilitate the use and enjoyment of the Hauraki Rail Trail. The defined purposes include the specific objectives of expanding the cycleway where possible and maintaining the cycleway to appropriate standards. However, the Trust cannot do anything which is not charitable under New Zealand law (clause 6.1).
- The rights and responsibilities of the local iwi as mana whenua must be respected (clause 5.2). This obligation is similar to a duty to consult in that it imposes an obligation on the trustees to consider the interests of the local iwi but does not impose an absolute obligation to enforce or comply with any iwi requirements.

- Generally, the trustees have all the powers that they need to carry out their charitable purposes.
- The Trust is designed to operate with between three and six trustees. Three trustees will be appointed by the Councils (one by Hauraki District Council, one by Thames District Council and one by Council). Each Council can remove its appointee. Three further trustees can be appointed by the local iwi.
- Any trustee appointed (whether appointed by the iwi or by the Councils) must have at least one of the attributes listed in clause 9.3.
- Clause 9.4 establishes a rotation regime for trustees. After three years (and every two years after that) the longest serving Council trustee and the longest serving iwi representative trustee must retire (and if two of the relevant trustees have served for the same period of time, the trustee to retire will be decided by lot). Trustees who are required to retire as a result of the rotation policy can be reappointed and there is no limit on the number of times they can be reappointed.
- Trustees can be removed on the grounds set out in clause 9.5. Those grounds include being removed by the other trustees because the trustee has failed to meet their obligations as a trustee.
- The trustees as a group must appoint the chairperson but that chairperson will not have any casting vote. The trustees can (but are not obliged to) appoint a secretary and treasurer.
- Clause 11 sets out the duties and functions of the trust board. Clause 11.6 requires the board to prepare a report to the three Councils and any iwi which has asked for a copy of the report, on an annual basis. The report will need to include a copy of the annual return which must be filed with the Charities Commission, the Trust's proposed budget for the following year and the Trust's proposed work programme for the following year.
- In other respects the Trust is a reasonably standard charitable trust.

The Joint Committee has recommended that the draft Trust Deed be approved by the Councils and that the Councils each nominate a trustee for the Trust.

Council has yet to consider a candidate for a trustee; this will be the subject of a report to Council in the New Year.

### **Registration under the Charitable Trusts Act 1957**

Once the Trust is formed, it can seek registration under the Charitable Trusts Act 1957. This is not a legal requirement but an option available to the Trust.

Registering the Trust under the Charitable Trusts Act incorporates the Trust, creating an incorporated trust board. The incorporated trust board is similar to a company with the trustees being in a similar position to company directors. Incorporation has a number of advantages for the Trust and for its trustees. These advantages are:

- The incorporated trust board would hold title to any land or land interests and would be the contracting party for any Trust contracts. In contrast, an unincorporated Trust operates through its trustees personally.

- Any changes in trustees will not affect the Trust's land interests or contracts held by the Trust (which will be held by the incorporated trust board rather than by the trustees personally).
- As trustees will not be signing contracts or other legal documents personally they will not have personal liability for Trust contracts or for any other Trust liabilities (unless they act fraudulently). This makes trusteeship less risky for trustees and therefore more appealing to potential candidates.

The process for registration under the Charitable Trusts Act 1957 is reasonably straightforward and inexpensive.

The Joint Committee recommends that the Trust be registered under the Charitable Trusts Act once it has been established. Registration provides a number of benefits with little or no disadvantages.

### **Registration under the Charities Act 2005**

The Trust can also seek registration under the Charities Act 2005 by making an application to the Charities Commission. This is not a legal requirement but it provides a number of advantages. In particular:

- organisations registered as charities under the Charities Act 2005 are generally exempt from paying income tax; and
- individuals and organisations making donations to charities registered under the Charities Act are able to claim a tax deduction for their donation and this makes registered charities more appealing to potential donors (for example, most gaming trusts will only make donations to registered charities).

However, registering the Trust under the Charities Act 2005 also has some disadvantages. In order to be registered, the rules governing the Trust must meet some specific legal requirements. In particular:

- Assets transferred to the Trust cannot be transferred back into Council ownership. Assets held by charities can only be transferred to other charities unless they are sold at full market value. This could be a significant issue if the Councils are intending to transfer significant assets to the Trust. However, those issues can be dealt with by carefully managing the transfer process. For example, it may be more appropriate for the Councils to retain ownership of the relevant assets and to lease those assets to the Trust rather than transferring those assets absolutely to the Trust.
- There are specific restrictions on the ability of trustees to control how much they are paid.
- The purposes of the Trust must be legally acceptable charitable purposes.

These disadvantages are either manageable or are outweighed by the advantages previously outlined.

Registration under the Charities Act 2005 is only possible if the Trust's purposes are legally charitable. The Joint Committee has therefore obtained legal advice from Harkness Henry in relation to the Trust's purpose. Harkness Henry has advised that the Trust's purposes should be considered charitable and should enable the Trust to

be registered as a charitable organisation under the Charities Act. The Trust's purposes are arguably charitable at law because the HRT:

- will provide a benefit to the community (which is one of the legally recognised charitable purposes);
- will be a public amenity and providing public amenities has been accepted as a charitable purpose on the basis that such amenities provide a benefit to the community;
- will provide a facility for public recreation and providing facilities for public recreation has been accepted as a charitable purpose because such amenities provide a benefit to the community; and
- will be available to the general public (not a restricted group) and therefore provides a public (as opposed to private) benefit.

For these reasons, Harkness Henry's view is that the Trust should be able to obtain charitable status if it seeks registration as a charity under the Charities Act. Unfortunately, the Charities Commission does not review applications before they are made to give an opinion about whether a registration application will be successful. An application will therefore need to be made, once the Trust is formed.

The Joint Committee recommends that the Trust be registered as a charity under the Charities Act 2005 and that the Councils proceed on the basis that the Trust will obtain charitable status.

### **Local Government Act 2002 ("LGA") requirements (formation of a Council Controlled Organisation**

Section 6 of the LGA defines the entities which are deemed to be council-controlled organisations (CCOs). The section defines a CCO as:

An entity in respect of which one or more local authorities have, whether or not jointly with other local authorities or persons

- Control, directly or indirectly of 50% or more of the votes at any meeting of the members or controlling body of the entity; or
- The right, directly or indirectly to appoint 50% or more of the trustees, directors, or managers (however described) of the entity.

The Councils have previously agreed that the governance entity would need to include a representative from each Council and three (3) Iwi representatives selected from Iwi that have mana whenua status over the proposed path of the Hauraki Rail Trail. With the Trust as governance entity, this will mean that 3 trustees will be appointed by the Councils and 3 will be appointed by local Iwi. Consequently, 50% of the votes at Trust meetings will be indirectly controlled by Councils and this means that the Trust will be a CCO for the purposes of the LGA.

Part 5 of the LGA (sections 55 to 74 and Schedules 8 and 9) Act details the requirements for CCOs. These requirements are quite onerous. They include a range of reporting obligations and a requirement to prepare a statement of intent. The statement of intent needs to be prepared within a short timeframe of establishing the CCO. There is an entire schedule to the LGA devoted to the content and function of statements of intent (Schedule 8). CCOs must also provide half yearly and annual

reports. Furthermore, before a Council can establish a CCO, it must go through a special consultative procedure. The special consultative procedure prescribes the process for consultation and provides for a full submission process.

These requirements will impose a number of additional costs on the Trust and the Councils which will need to be funded either by the Councils or by the Trust itself. Given that the Trust is projected to make a loss for at least its first five years, the costs associated with the CCO regime will initially need to be funded by the Councils.

However, under section 7(3) of the LGA, Councils may exempt a CCO from the requirements generally imposed on CCOs provided that they first consider the factors listed in section 7(5) of the Act. Those factors are:

- the nature and scope of the activities provided by the CCO; and
- the costs and benefits of granting the exemption to Council, the CCO and the community.

Any decision to grant an exemption is required to be reviewed every three years. The Joint Committee has considered whether the Trust, as a CCO, should be granted an exemption by the Councils. It has considered the issues required by s 7 of the LGA and makes the following comments on the relevant factors:

#### Nature and Scope of Activities (s7(5)(a))

The nature and scope of the Trust's proposed activities are, under the proposed Trust Deed, relatively narrow and limited to governance of the HRT. The projected current total operational budget is approximately \$180,000 per annum.

The fact that the range of activities to be undertaken by the Trust is narrow and focussed suggests that it would seem reasonable for Council to agree to exempt it from being a CCO under section (7)(5)(a).

#### Costs and Benefits (s7(5)(b))

The CCO regime will impose costs on the Trust arising from:

- The costs associated with formation of the Trust by way of the special consultative procedure; and
- Ongoing administration and reporting costs.

The special consultative procedure is likely to cost \$20,000.00 per authority (or \$45,000 for a joint consultation). This procedure is time consuming and the delays will not be helpful for the Hauraki Rail Trail project.

The Trust will also need to appoint the Principle Trail Operator if this is not finalised by the Hauraki District Council before the Trust is formed.

The CCO regime will also impose significant ongoing costs on the Trust. On the basis of the Councils' experience with Local Authority Shared Services Ltd, these additional costs are estimated at approximately \$30,000 per annum.

The question that therefore needs to be considered is whether these costs and potential delays outweigh the potential benefits for the Councils in requiring the Trust to comply with the CCO regime. These potential benefits are:

- receiving regular reports which will allow the Councils to oversee the Trust's operations; and
- the democratic benefit of providing for public consultation in relation to the Trust's formation.

However, given the nature of the Hauraki Rail Trail project, both of these benefits are available to the Council without the costs and time delays associated with the CCO regime.

The Joint Committee proposes that the Hauraki District Council enter a Management Agreement with the Trust. This agreement will enable the Council to specify the reporting and other mechanisms that it considers appropriate for monitoring the Trust's performance and providing it with the direction that the Council considers appropriate. These arrangements will ensure that the Council is able to have sufficient control over the Trust and its reporting requirements without the need for the Trust to be bound by the CCO regime.

Furthermore, public consultation will be required as part of any process to designate the Hauraki Rail Trail under the Resource Management Act ("RMA"). The consultation requirements of the special consultative procedure, which would apply if the Trust is not exempt from the CCO requirements of the LGA, would lead to costly and unnecessary duplication given the consultation already required to comply with the RMA processes.

After considering these matters, the Joint Committee's recommendation is that the Councils should grant the Trust an exemption from the CCO regime. The reasons for this view are:

- the requirements imposed on CCOs under the LGA are unreasonably onerous for the Trust;
- under the Council's Determining Significance Policy, a decision in accordance with the recommendation(s) is not considered to have a high degree of significance;
- the Trust can be subject to sufficient Council oversight and control outside the CCO regime under the terms of the proposed Management Agreement;
- the Trust will have neither the funds nor the responsibilities that necessitate the reporting or consultation requirements imposed on CCOs, particularly once the HRT is constructed and operational;
- public consultation will be required as part of any process to designate the HRT under the RMA and the special consultative procedure would lead to costly and unnecessary duplication;
- there will be significant financial benefits and few, if any, costs to the local authority and the community from the exemption;
- the Trust will be a charity, not a profit making organisation and it will be dependent upon the Councils to meet the costs of the CCO requirements;
- the Trust will not be in a position to meet the reporting requirements attaching to statements of intent without professional assistance, creating further costs,

and those costs will outweigh any reporting benefits because of the small size of the organisation and its not for profit basis;

- the Trust will have to provide financial reports to the Charities Commission in order to maintain its status as a charitable organisation and those reports must also be provided to the Councils and to local iwi upon request so there will still be public transparency regarding its financial position; and
- In the event that the Trust's operations change over time, the Councils may revoke its status as an exempted organisation. In any event, the exemption must be reviewed within 3 years after grant and at a minimum of 3 yearly intervals thereafter. On that basis there is no disadvantage to the Councils by resolving to grant an exemption to the trust when it is first created.

In order for the Trust to be exempted from status as a CCO under s 7(3), each Council must grant the exemption by resolution. The Joint Committee recommends that the Councils agree to grant the Trust an exemption from the general CCO requirements of the LGA, under section 7(3) of that Act.

### **Underwriting Agreement**

The Joint Committee anticipates that the Hauraki Rail Trail will operate at a financial loss for the first five years of its operation. The Trust will not have any resources to absorb such losses and it will be difficult, if not impossible, to find trustees and operate the Trust unless it is provided with some guaranteed funding for at least its first five years. On that basis, the Memoranda of Understanding between the Hauraki, Thames-Coromandel and the Matamata-Piako District Councils all record that the Councils will provide funding for the HRT for at least the first five years of its operations. This funding should be applied to the Hauraki Rail Trail's establishment costs and provide some planning certainty to the Trust for its first five (5) years.

The Trust is not a party to any of the Memoranda of Understanding. It cannot rely on the funding recorded in those documents for planning purposes. To provide the Trust with certainty of funding, the Joint Committee proposes that the Councils and the Trust enter the Underwriting Agreement attached to this report.

The draft Underwriting Agreement provides that:

- the Trust must provide regular reports to the Councils;
- in addition to providing reports, the Trust can ask the Councils to contribute funding to cover any shortfall in the Trust's finances;
- each Council's liability to contribute funding to cover the shortfall is limited to specified monetary limits (which change each year);
- the arrangement will only last for five years;
- the Trust will have an obligation to maximise its income and minimise any shortfall; and
- if a Council is unsatisfied with the information provided by the Trust or by its efforts to minimise its funding shortfall, the Council can avoid making a payment to the Trust until the issues are resolved.

The Joint Committee expects that the income of the Trust will increase as the Hauraki Rail Trail becomes more established and utilised. Consequently, any call on underwritten costs should decrease over time. Consequently, the underwriting arrangement will only last for five years. Current planning and forecasting indicates that the Trust should be operating a surplus by the end of year five. If the Trust is not operating at a surplus by that time, it will need to enter into new negotiations with the Councils to extend the underwriting arrangements. No Council will be under any obligation to extend its underwriting obligations at that point unless required to meet other obligations (for example, any funding contract arrangements between the relevant Council and the Crown).

The Joint Committee recommended that the Council approve the proposed Underwriting Agreement.

Under the underwriting agreement Council is liable for either:

- One third of the Shortfall specified in the relevant Trust's Notice; or
- The following amount:
  - \$20,400.00 for establishment costs; or
  - \$17,500.00 for the year ended 30 June 2012; or
  - \$22,500.00 for the year ended 30 June 2013; or
  - \$25,500.00 for the year ended 30 June 2014; or
  - \$26,200.00 for the year ended 30 June 2015; or
  - \$27,000.00 for the year ended 30 June 2016.

These amounts have been calculated by Hauraki District Council as a proportion of the maintenance, Kiwirail lease and trust operating costs, based on the percentage of the Hauraki Rail Trail in the Matamata-Piako District.

When Council went out to consultation on the original proposal it indicated to the community that it could be required to underwrite up to \$30,000 for the Hauraki Rail Trail.

#### **Management Agreement between Hauraki District Council and the Trust**

The Joint Committee proposes that the Trust to have a wide range of responsibilities, including many of the responsibilities given to Hauraki District Council under its funding agreement with the Crown. The Joint Committee considered including these responsibilities in the Trust Deed. However, the Joint Committee has considered the options and obtained legal advice from Harkness Henry on this issue and its view is that such obligations be included in a separate contract between the Trust and the Hauraki District Council.

The reasons for this are:

- If the obligations are included in the Trust Deed but the Trust fails to comply with those obligations, the Hauraki District Council would need to apply to the High Court for orders confirming that the Trust is breaching its obligations and enforcing the terms of the Trust Deed. In contrast, if the obligations are included in a contract between the Trust and the Council, the Council will be

able to take direct action against the Trust in the event of any default (for example, it could stop making payments to the Trust or cancel the Trust's right to use the HRT). Any legal action required would be easier and cheaper to pursue.

- Funding will be provided from a variety of sources. Different funders will have different requirements. The Trust needs to have the flexibility to enter different funding arrangements with different funders and that should include the ability to negotiate a range of ongoing obligations in return for funding. This flexibility will be lost or at least reduced if the requirements of the initial funders (i.e. the Councils) are incorporated into the Trust Deed.
- Many of the obligations imposed by funders (reporting obligations for example) will only be relevant during the period that funding is provided. The Trust Deed should only include obligations that are intended to apply throughout the lifetime of the Trust. Short term obligations such as those imposed by funders should be created by way of specific agreements between the Trust and its funders.

For these reasons, the Joint Committee has prepared the attached draft Management Agreement. The draft Management Agreement is an agreement between the Hauraki District Council and the Trust because all of the existing land use rights are held by Hauraki District Council. Neither Thames-Coromandel or Matamata-Piako District Councils have any rights to give under the Management Agreement.

The main terms of the draft Management Agreement are:

- Hauraki District Council grants to the Trust a licence to use the HRT and its facilities, including all intellectual property relating to the HRT (which would include branding rights and the "Hauraki Rail Trail" name);
- the Trust will have obligations to maintain the cycleway and its facilities to the standards specified (which can be changed by Hauraki District Council at any time);
- the Trust will have the power to grant concessions and control commercial use of the cycleway;
- if the Trust fails to meet its obligations, Hauraki District Council can terminate the arrangement and re-take control of the HRT (this gives Hauraki District Council control of the cycleway and oversight of its maintenance);
- in carrying out its management activities, the Trust must take reasonable steps to protect any areas of spiritual and cultural significance to mana whenua on the Land;
- the Trust must use its best endeavours to obtain funding for and develop and construct extensions and additions to the HRT and facilities, including without limitation:
  - an extension to the Hauraki Rail Trail from Kaiaua to Kopu
  - additions and detours from the Hauraki Rail Trail to land of interest close to the Hauraki Rail Trail;
  - the Trust must develop and maintain a website for the purpose of promoting the Hauraki Rail Trail; and

- the Trust will have the right to grant concessions for the supply of commercial services to users of the Hauraki Rail Trail and facilities.

In general, the Management Agreement details what the Trust is able to do with and on the Hauraki Rail Trail including matters such as insurance, land management, structural and land matters, protection of the environment, advertising, track and structure development processes, inspection and maintenance requirements, relationships, dispute resolution and arbitration.

The Joint Committee recommends that the Council receive the proposed Management Agreement.

### **Management Agreement – Principal Trail Operator**

As previously noted, the Joint Committee anticipates that the Trust will appoint a Principal Trail Operator (“PTO”) to be responsible for day-to-day management of the HRT. The appointment of the PTO will need to include a sub licence to empower the PTO to use the Hauraki Rail Trail and its facilities and to grant concessions and carry out marketing and other matters.

The draft Management Agreement – Principal Trail Operator is attached as to this report.

The main terms of the draft Agreement are:

- many of the obligations imposed on the Trust under its proposed management agreement with Hauraki District Council are passed on to the PTO;
- the agreement will last for a term of five years but includes a right of renewal for a further term of five years;
- the PTO will have an obligation to develop and maintain the HRT in accordance with the operations plan to be attached to the agreement (that plan is currently being developed by Hauraki District Council);
- the PTO will be responsible for granting concessions to commercial users of the HRT;
- the PTO must prepare a marketing plan, health and safety plan and communications plan for approval by the Trust;
- the PTO must operate a booking system for the HRT and must pay 5% of the income generated from the booking fees to the Trust on a monthly basis; and
- the Trust will have rights to suspend or terminate the agreement in the event of any default by the PTO.

Following a tender process, the Joint Committee recommended a PTO to Hauraki District Council on the 15 November 2011, and Hauraki District Council appointed a PTO (Mike Barnett and Associates) on 16 November 2011.

The Joint Committee recommends that the Council receives the draft Management Agreement – Principal Trail Operator for use by the Trust.

### **MOU/Kiwirail Lease**

Under the MOU Council and Hauraki District Council contemplated the Council taking over the lease from Kiwirail. As the project moved forward and the governance structure has developed Kiwirail has given Hauraki District Council one lease for all of the rail corridor from Paeroa to Te Aroha.

If Council wished to sublease the portion of land within the district, that lease would need to be split and the lease area and costs apportioned. Assuming that Council accept the proposed governance structure it would need to enter in to a management agreement with the Trust to pass on its obligations and rental costs under the Kiwirail lease.

Staff understands that Hauraki District Council staff are currently seeking confirmation from Kiwirail as to whether it would consent to a sublease to Council. In the interim Council will need to consider whether it wishes to obtain the sublease and its effect on the proposed governance structure. If it does not wish to do so then it should consider requesting an amendment to the MOU to reflect the current arrangement.

### **COMMUNICATION AND CONSULTATION ISSUES**

Council has undertaken consultation on whether to be part of the Hauraki Rail Trail project. Consultation has also been taken by Hauraki District Council as part of the designation process under the Resource Management Act 1991. For the reasons stated above, this report recommends an exemption from the requirements for the formation of a CCO under the Local Government Act 2002.

### **SIGNIFICANCE POLICY**

This issue is not considered significant in terms of Council's Significance Policy.

### **FINANCIAL IMPLICATIONS**

Council has allocated \$500,000.00 under the Annual Plan 2011/12 for the Hauraki Rail Trail. Hauraki District Council has not yet called on these funds but its staff have indicated it will do so in the New Year. If Council accepts the Underwriting agreement it will need to make a provision for the underwritten amount in its accounts.

### **OPTIONS**

Council could:

- 1 approve the report and approve/receive the documents and grant an exemption to the CCO requirements
- 2 not approve the report, not approve/receive the documents and not grant an exemption to the CCO requirements and request further amendments be made to the governance proposal by Hauraki District Council

### **OFFICER RECOMMENDATION/COMMITTEE RESOLUTION**

**That Council:**

1. receives the report;

2. determines that it believes it has complied with the decision-making provisions of the Local Government Act 2002 to the extent necessary in relation to this decision; and in accordance with the provisions of Section 79 of the Act determines that it does not require further information prior to making a decision on this matter;
3. approves the formation of charitable trust to provide the governance entity for the Hauraki Rail Trail;
4. approves the draft Trust Deed attached to this report;
5. approves an application by the Trust to be registered under the Charitable Trusts Act once it has been established;
6. approves an application by the Trust to be registered as a charity under the Charities Act 2005 and for the Trust to proceed on the basis that the Trust will obtain charitable status;
7. grants the Trust an exemption from the general Council Controlled Organisation requirements of the Local Government Act 2002, under section 7(3) of that Act;
8. approves the draft Underwriting Agreement as attached to this report;
9. receives the draft Management Agreement, and Management Agreement – Principal Trail Operator, attached to this report, subject to deleting the wording; *“but excluding any land within the Matamata Piako District region”* from the definition of Land in those agreements.
10. requests an amendment to the Memorandum of Understanding between Matamata Piako District Council and Hauraki District Council to reflect the current lease arrangements between Hauraki District Council and Kiwirail for the rail corridor.
11. requests the Mayor and Chief Executive Officer to report back to Council at its meeting on 8 February 2012 with a short list of possible trustees for appointment by Matamata Piako District Council to the Trust.

Moved by: Cr N C Goodger

Seconded by: Cr T M Cornes

**CARRIED**

The meeting adjourned at 10.30 am for morning tea and reconvened at 10.40 am

**6.1.3 NOTICE OF MOTION**

**File No:** SUP561206  
**Responsible Officer:** D McLeod  
Chief Executive Officer  
**Author:** C Hubbard  
Committee Secretary

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**EXECUTIVE SUMMARY**

In accordance with Standing Order 3.10.1 a Notice of Motion has been received in writing as required. The notice proposed that the notice of motion be considered at the Corporate and Operations Committee meeting 14 December 2011. It was delivered to the Chief Executive at least 5 (five) clear working days before the meeting.

Notification has been given to all members by the Chief Executive as required.

**DISCUSSION**

The fund has not been performing as well as hoped. Get some options from the public as to how it is to be managed in the future. Leave invested as shares overseas or bring back as a lump sum, what other options are there?

Council resolved to bring the overseas investment back when it reached the 2007 level. It will be a matter of significance if we change our present position. The public will want to know how the Council arrived at their decision. Council will need to have very clear statements on the future management and consequences of any changes.

If Council gets professional advice it will be similar to what Council has already received. No guarantees as to when the fund will reach the level of 2007, three years if market continues to go well , ten years if market slower.

The public likes information so go to the community with several options.

The cost of consultation and an independent advisor is just extra costs to the ratepayer. Therefore leave funds where they are.

This is not the right time to bring the funds back, be patient and wait for the level to rise again.

What if the market keeps going down? How good has Council's independent advice been?

Council needs to show that it has taken prudent advice and taken prudent action. There is a potential for judicial review.

Bring the fund back and put into a local venture/business.

Any decision must be made after prudent advice or make clear statements as to why you would ignore advice in regard to all information supplied. Council can inform through newspaper, in annual report. Publicly consulting is different matter.

### **POLICY AND BYLAW ISSUES**

There are no policy or bylaw issues.

### **PROPOSED MOTION – CR A B TANNER**

**That Council consult with the community on how the PNZ (Power New Zealand) growth assets “overseas shares” fund will be managed in the future.**

**Moved by: Cr A B Tanner**

**Seconded by: Cr M P Steffert**

**LOST ON SHOW OF HANDS**

5 voted in favour of the motion

6 voted against the motion

This item was taken out of order and considered after Items 6.1.4 & 6.1.5

**6.1.4 WAIKATO MUSEUM**

**File No:** COM181202  
**Attachments:** [Waikato Museum Report](#)  
**Responsible Officer:** M Te Wiata  
Group Manager Business Services  
**Author:** C Hubbard  
Committee Secretary

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**EXECUTIVE SUMMARY**

10.30 am

Ms Kate Vusoniwailala was unable to make presentation to Council concerning the ongoing support for the Firth Tower, Te Aroha and Morrinsville museums.

Mr A Lowe, Acting Director of Waikato Museum attended the meeting with Mr N Algar, Mr C Thomas and Mr D Sing.

**DISCUSSION**

Mr A Lowe said the Waikato Museum is committed to providing ongoing support to Matamata Piako District museums and education of communities.

In Morrinsville the waka and its shed have been shifted. The landscaping around the new site is nearly completed. The Morrinsville Museum is in the process of setting up exhibitions. Mr C Thomas thanked all the councillors and Mayor Vercoe for their support towards the district museums.

The Madill shed in Matamata is well set up.

**POLICY AND BYLAW ISSUES**

There are no other Policy or Bylaw issues in relation to this matter.

**OFFICER RECOMMENDATION/COMMITTEE RESOLUTION**

**That the information be received.**

**Moved by:** Cr L M Tisch

**Seconded by:** Cr J E Barnes

**CARRIED**

This item was taken out of order and considered before item 6.1.3

### 6.1.5 RESOURCE CONSENT GRANT APPLICATION - TUI PARK BOWLING CLUB

**File No:** 11/1522  
[Application & Business Plan.pdf](#)

**Attachments:** [CommFunding for RC s Policy \(Adopted 27 July 2011\).pdf](#)  
[Application Form.pdf](#)  
[Application & Strategic Plan.pdf](#)

**Responsible Officer:** D McLeod  
Chief Executive Officer

**Author:** N Baker  
Policy Planner

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#### EXECUTIVE SUMMARY

An application for resource consent funding has been received from the Tui Park Bowling Club Incorporated ("Club") to install floodlights on the two bowling greens at Tui Park, Te Aroha so the club can use the greens in the evenings.

Council has provided an annual fund of \$25,000 to contribute towards the costs of processing resource consents for non-profit community organisations. A copy of the Council policy and the application is attached to this report.

This is the fifth application to be considered under this Policy. If Council approves this application, there will potentially be no further funds available.

#### ASSESSMENT - POLICY CRITERIA

Is the group a non-profit community organisation?

The Club is an incorporated society. The Companies Office states that an incorporated society is a group or organisation that has been registered under the Incorporated Societies Act 1908, any profits made must be used to run the society to achieve its purpose. Profits cannot be distributed to members. Incorporated societies may have a charitable purpose.

Has evidence of a formal organisational structure been provided?

The Tui Park Bowling Club is an incorporated society and has an established committee. The application identifies Ronald A. Finnegan as a Club president. While no indication of a formal organisational structure has been provided, by law any group of 15 or more people may apply to become an incorporated society. In addition, decision making must be made by members at general meetings and by the committee in accordance with the rules of the society.

Is the application for an activity within the Matamata-Piako District?

The application is for an activity within the District on one of Council's reserves, Tui Park, Te Aroha.

Will the project involve a commercial aspect?

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While no information has been provided by the applicant regarding the commercial nature of the Club or project, it is understood the floodlighting is not for a commercial purpose but rather to provide a better facility for users.

Does the project provide a community benefit?

By lighting the green and allowing for evening play, the club hopes to make the facilities available to a larger group of people and encourage all members of the community to be involved.

Has a business plan been included with the Application?

The club's five point strategic plan has been attached to this report. This strategic plan includes the lighting of the greens.

Consistency with Council plans and strategies:

The activity of the Tui Park Bowling Club has been identified in the Reserve Management Plan for Tui Park but the installation of lights has not been addressed. Consequently a request was taken to Council on 24 August 2011 and Council passed the resolution allowing the Club to proceed with a resource consent for the installation of floodlights on one of the bowling greens.

District Plan

The project carries discretionary activity status under the District Plan. This is because it is an activity on a public reserve not provided for within a Reserve Management Plan. The subject site is zoned residential; however the property already contains the established Tui Park Bowling Club and associated facilities.

Would notification of the consent be likely?

Limited notification under the Resource Management Act 1991 would not be required if the applicant can gain all appropriate written approvals from adjoining land owners. It is unlikely that public notification would be required in this instance.

Representatives from the Club have spoken to Council's planning department seeking advice on who would be deemed affected parties. Written approval from all of these parties has been obtained and will be included in the resource consent application when it is submitted.

What is the expected cost of the resource consent?

Application fees are set in the Council Fees and Charges 2011/12. The deposit for non-notified resource consent of this nature is \$2000. If the application required limited notification a deposit of \$4000 would be needed. The deposit fee for publicly notified applications is \$6000.00. While the processing cost cannot be determined until the resource consent process is underway, the required deposit fees provide an indication of the expected costs.

## **STATUTORY ISSUES**

There are no relevant statutory issues. The process relates to the Resource Management Act 1991.

## **SIGNIFICANCE POLICY**

This issue is not considered significant in terms of Council's Significance Policy.

**POLICY AND BYLAW ISSUES**

This process relates to the application of Council policy.

**DELEGATED AUTHORITY**

There is no delegated authority for staff to approve this grant on behalf of Council. Therefore this report seeks the Council's decision on the application.

**COMMUNICATION AND CONSULTATION ISSUES**

There are no communication or consultation issues. Comments from Council's Parks and Reserves Planner, Courtney Smithers and Senior Consent Planner, Lance Feaver have been included in this report.

**FINANCIAL IMPLICATIONS**

Resource requirements are in accordance with existing budgetary allocation of \$25,000. Council may grant up to \$5000 (inclusive of GST if any) under this policy. Council has committed \$20,000 of the grant fund to previous applicants, which leaves \$5,000 available for this applicant.

If Council approves this grant, there will potentially be no further funds available. As some of the previous applicants are currently working through the resource consent process it is unknown what funds are available.

**OPTIONS**

1. Council approves the grant application
2. Council declines the grant application

**OFFICER RECOMMENDATION/COMMITTEE RESOLUTION**

That:

1. the information be received
2. Council grants funding up to a maximum of \$5,000 (inclusive of GST if any) under the Policy on resource consent funding for non-profit community organisations to Tui Park Bowling Club Incorporated.

Moved by: Cr A B Tanner

Seconded by: Cr J E Barnes

**CARRIED**

This item was taken out of order and considered before item 6.1.3

### 6.1.6 STATUTORY DELEGATIONS

<b>File No:</b>	<b>RMR342401</b>
<b>Attachments:</b>	<a href="#"><u>Draft Delegations under the Trespass Act 1980</u></a> <a href="#"><u>Draft Delegations under the Resource Management Act 1991</u></a>
<b>Responsible Officer:</b>	<b>D McLeod</b> <b>Chief Executive Officer</b>
<b>Author:</b>	<b>M O'Hagan</b> <b>Junior Legal Advisor</b>

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### EXECUTIVE SUMMARY

Recent legislative changes and updates to Council's procedures to reflect current roles have necessitated that Council's delegation of powers under the Resource Management Act 1991 ("RMA") and the Trespass Act 1980 ("TA") be reviewed.

### BACKGROUND

#### Resource Management Act 1991

A number of changes to the RMA have necessitated a review of the powers delegated by Council under that Act. The RMA is a large and complex Act and because of this the delegations are not drafted in a table where each specific power is provided for; rather, they are drafted so as to delegate all powers subject to specific exceptions to those delegations. This is because more powers are delegated than are reserved by Council and it is much more efficient to draft the delegations in this manner. Council's existing RMA delegations are drafted in this form.

The draft delegations recommended below set out the statutory powers of Council which are proposed to be exercised by parties other than the full Council. The draft delegations largely reflect current practice and past delegations. However, it is proposed that the District Planner be granted new delegations in order to provide for more efficient resourcing and the streamlining of the Resource Consent approval process. The proposed changes to Council's delegations are:

- That the District Planner have the power to decide on an application for resource consent in respect of Controlled and Restricted Discretionary Activities;
- That the District Planner have the power to decide on time limit extensions in respect of Resource Consents but not those relating to District Plan changes; and
- That the power to determine requests to transfer decisions on resource consent applications directly to the Environment Court be kept with Council, the Corporate and Operations Committee and the Hearings Commission rather than be delegated to Council staff.

Existing delegations not subject to amendments have been restated in the draft delegations so as to keep all related delegations under the same Council resolution.

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## **Trespass Act 1980**

Council is an occupier of land and therefore has powers under the TA. In the past Council has delegated to staff its powers as an occupier of land under the TA by giving them the power to issue Trespass Notices on Council's behalf. Council's existing delegations under the TA were made on 27 November 2007. It is proposed that Council revoke any existing delegations under the TA and replace them with new delegations. Council staff are currently reviewing internal procedures for the issue of Trespass Notices and these new delegations are proposed in order to complement changes to internal procedures.

The proposed delegations differ from the existing delegations as follows:

- Rather than specify one general delegation of the power to issue trespass notices, it is proposed that two separate delegations are made under the terms of the TA:
  - the power to give a warning in accordance with section 4 of the TA and to require information in accordance with section 9 of the TA, in other words to issue a Trespass Notice; and
  - the power to lay an information for proceedings with the Court in accordance with section 10 of the TA.
- To restrict the staff positions holding delegations under the TA so as to have greater control and consideration over any Trespass Notices that may be issued.

## **STATUTORY ISSUES**

### **The Local Government Act 2002**

Section 48 of the Local Government Act 2002 ("LGA") provides that delegations must be carried out in accordance with Part 1 of Schedule 7 of the LGA. Clause 32(1) of Part 1 to Schedule 7 of the LGA provides that, for the purposes of efficiency and effectiveness in the conduct of a local authority's business, a local authority may delegate to a committee or other subordinate decision-making body, or member or officer of the local authority any of its responsibilities, duties, or powers excepting the powers specified under paragraphs (a)-(f) of that sub-clause. None of the powers proposed to be delegated in the attached draft delegations are powers that come within these exceptions and therefore these delegations comply with Section 48 of the LGA.

### **Resource Management Act 1991**

Section 34(1) of the RMA provides that a local authority may delegate to any committee of the local authority established in accordance with the LGA any of its functions, powers, or duties under the RMA. The Council has already provided a general delegation of the ability to exercise all of its powers (except those that cannot be delegated) to its Corporate and Operation Committee.

Section 34A(1) of the RMA provides that a local authority may delegate to an employee, or hearings commissioner appointed by the local authority (who may or may not be a member of the local authority), any functions, powers or duties under

the RMA except the approval of a proposed policy statement or plan under clause 17 of the 1<sup>st</sup> schedule to the RMA and the power of delegation under section 34A. The proposed draft delegations comply with the requirements of section 34A of the RMA and therefore it is open to Council to resolve to make them.

## **POLICY AND BYLAW ISSUES**

There are no policy or bylaw issues.

## **SIGNIFICANCE POLICY**

This issue is not considered significant in terms of Council's Significance Policy.

## **OPTIONS**

That:

1. The draft delegations under the Resource Management Act 1991 and the Trespass Act 1980 be adopted; or
2. The existing delegations under the Resource Management Act 1991 and the Trespass Act 1980 be retained.

## **OFFICER RECOMMENDATION**

That:

1. **The previous delegations for the Environmental Services Division under the Resource Management Act 1991 dated 12 August 2004 be revoked;**
2. **The previous delegations under the Trespass Act 1980 dated 27 November 2007 be revoked;**
3. **That pursuant to section 48 and clause 32 of the 7<sup>th</sup> schedule to the Local Government Act 2002 and sections 34(1) and 34A(1) of the Resource Management Act 1991, Council adopts the proposed Draft Delegations under the Resource Management Act 1991 as set out in the attached table.**
4. **That pursuant to section 48 and clause 32 of the 7<sup>th</sup> schedule to the Local Government Act 2002, Council adopts the proposed Draft Delegations under the Trespass Act 1980 as set out in the attached table.**
5. **That where any currently adopted delegations to Council staff refer to a position title and the name of the position title has subsequently changed without substantial changes being made to the position holder's job description (in respect of the function to which the delegation relates), that any current delegations in the name of the previous position title are and shall be effective for the position holder of the new position title.**

**Moved by: Cr L M Tisch**

**Seconded by: Cr G R Stanley**

**CARRIED**



## 6.2 ENVIRONMENTAL

### 6.2.1 REGIONAL POLICY STATEMENT UPDATE

**File No:** RMR202019  
**Attachments:** [RPS Update Report 10 Nov 11.doc](#)  
**Responsible Officer:** D Bellamy  
Group Manager Community Development  
**Author:** A van Kuijk  
District Planner

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### EXECUTIVE SUMMARY

Waikato Regional Policy Statement (RPS) review process has reached the stage where the Waikato Region's Policy and Strategy Committee are drafting the decision documents in response to all submissions and further submissions. Once the decision documents (Hearings report) are completed, a hearing will be held where all submitters have the opportunity to present their submission.

Given that the review of the RPS has reached a key milestone, it seems appropriate to present an update report to the Working Party Councils, with the purpose of updating current elected members on the process to date and where to from here.

The update report is attached.

### STATUTORY ISSUES

Resource Management Act 1991 (RMA)

Section 59 of the RMA sets out the purpose of a regional policy statement which is to *"achieve the purpose of the Act by providing an overview of the resource management issues of region and policies and methods to achieve integrated management of the natural and physical resources of the whole region"*.

The preparation of a regional policy statement must be in accordance with Section 60 of the RMA and must consider the matters outlined in Section 61. In addition, the regional policy statement must contain the matters listed in Section 62.

### POLICY AND BYLAW ISSUES

The Regional Policy Statement is a document that every Regional Council is required to prepare under the Resource Management Act 1991. Once the document is finalised through the Schedule 1 process then all District Council's within the region must undertake plan changes to give effect to the document. As a result, the outcome of this process may result in changes to the district plan.

### LONG TERM COUNCIL COMMUNITY PLAN

#### COUNCIL ACTIVITIES

#### *Community Development*

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*Community Development has a focus on economic, social, environmental and cultural well being and includes activities such as Democracy, District Plan, the Long Term Council Community Plan and generally increasing community input into Council decision making. Improving representation in Council's decision making and finding other ways to improve the process of democracy in our district is important.*

- *District Plan*
  - *Amenity*
  - *Development Contributions*
  - *Land and Development*
  - *Natural Environment and Heritage*
  - *Natural Hazards*
  - *Subdivision*
  - *Surface of Water*

The regional policy statement affects all parts of our District Plan.

#### **FOUR WELL-BEINGS**

##### **SOCIAL**

The regional policy statement affects all parts of our District Plan and as a result will impact on the social well-beings of our community.

##### **ENVIRONMENTAL**

The regional policy statement affects all parts of our District Plan and as a result will impact on the environmental well-beings of our community.

##### **ECONOMIC**

The regional policy statement affects all parts of our District Plan and as a result will impact on the economic well-beings of our community.

##### **CULTURAL**

The regional policy statement affects all parts of our District Plan and as a result will impact on the cultural well-beings of our community.

#### **COMMUNITY OUTCOMES**

- Belonging to our Community
- Community Safety and Support: Looking after People
- Economic Development: Prosperity
- Healthy Air, Water, Land: Healthy People
- Heritage: Our past
- Our Social Infrastructure
- Planning and Development
- Pride and Justice

- Transport: People Going Places

**SIGNIFICANCE POLICY**

This issue is not considered significant in terms of Council's Significance Policy.

**COMMUNICATION AND CONSULTATION ISSUES****FINANCIAL IMPLICATIONS**

Resource requirements are in accordance with existing budgetary allocation.

**OFFICER RECOMMENDATION**

**That:**

1. the information be received; and
2. Council staff progress the Regional Policy Statement Review in accordance with the updated report.

**Moved by: Cr L M Tisch**

**Seconded by: Cr J E Barnes**

**CARRIED**

## 6.2.2 URBAN DESIGN GUIDELINES

**File No:** 10/7675  
**Attachments:** [Urban Design Guidelines.pdf](#)  
**Responsible Officer:** D Bellamy  
Group Manager Community Development  
**Author:** P Clearwater  
Policy Planner

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### EXECUTIVE SUMMARY

Part of Plan Change 41 proposes to include urban design requirements within the Matamata-Piako District Plan (“the Plan”) to ensure that development within our towns occurs in an integrated manner. The urban design guidelines are intended to assist applicants and Council staff with the proposed urban design requirements. Submissions to the plan change requested that the Urban Design Guidelines be prepared and adopted to clarify the intent of the Plan rules.

The guidelines include principles that apply to all subdivision and development in the district including examples of 1 – 5 lot subdivisions. Key areas of focus of the guidelines are connected streets, design of accessways to rear lots, and efficient street and lot layout.

Attached are the draft guidelines for consideration by Council.

### BACKGROUND

#### WHY THE URBAN DESIGN GUIDELINES HAVE BEEN PREPARED

The urban design guidelines will support the implementation and people’s ability to comply with the requirements of Proposed Plan Change 41: Integration of the Development Manual and the District Plan, including Urban Design (PC41).

The proposed plan change requires that all applications for subdivision (except in the rural zone) must demonstrate that good urban design outcomes will be achieved. The criteria for this, are based on the seven “essential design qualities” of the New Zealand Urban Design Protocol. In total there are fourteen criteria that should be met, including integration with the existing physical local character, road and pedestrian connections, lots fronting streets, and potential for passive surveillance of public open space.

In addition, key stakeholders expressed concerns about the cost to small subdivision (1–5 lots) applicants to prove that they meet the proposed urban design requirements of the Plan. As a result it was agreed to prepare these guidelines with the intention that if small lot subdivisions complied with the guidelines then they met the requirements of the Plan and would not be required to engage an urban designer.

## **HOW THE GUIDELINES WILL BE USED**

The guidelines will be useful for small developments, where the resources of a professional architect or urban designer are unlikely to be used. The guidelines will provide basic knowledge of urban design principles. There is a specific section in the guidelines for 1–5 lot subdivisions.

The guidelines explain many of the urban design criteria in the Plan. Council staff will be able to use the document in providing advice to applicants on how the District Plan requirements might be met.

The guidelines may also act as a useful checklist for Council staff to point to when discussing resource consent applications with applicants, to critique any features or omissions of the proposal that will not promote good planning outcomes. They will provide something to refer back to and to provide solutions to any problems.

## **SOURCE AND DRAFTING**

The guidelines have been in draft form since Plan Change 24 was prepared (which was withdrawn, and then re-notified as Plan Change 41).

The guidelines were drafted by architecture and urban design firm Phillips Associates, with the text revised and amended by Council staff.

## **STRUCTURE**

The guidelines are in two parts. Part I comprises urban design guidelines for all subdivision and development in the district. The principles of the New Zealand Urban Design Protocol are defined, and there is other guidance on neighbourhood context analysis, road connections, lot layout and passive surveillance.

Part II comprises guidelines specific to 1–5 lot subdivisions. There is guidance on lot accessways, the public/private interface and site layout. At the end of Part II there are a number of examples showing possible scenarios for lot, building and landscape layout on 1000–2500 m<sup>2</sup> sites.

## **KEY PROVISIONS**

Some of the key provisions in the urban design guidelines include the following:

*Design of Accessways to Rear Sites.* There is a focus on small developments where the most common subdivision is long and narrow lots, occupied by a single dwelling. The easiest method of developing the site is creating rear lots accessed by independent driveways. This layout creates public/private interface issues and does not increase connectivity. The guidelines offer solutions which include creating a shared accessway, with landscaping. The guidelines also promote that buildings face this accessway as if it were a public street.

*Parks and Reserves.* The guidelines promote that parks and reserves should be planned and incorporated into central locations of the subdivision and not made up from left over or undevelopable land.

*Lot Design and Layout.* Rectangular lots that front streets are encouraged.

*Street Connectivity.* New development should physically connect with the existing structure of the town.

### **CONSULTATION**

As already stated a number of submissions to Proposed Plan Change 41 were received in regards to the Urban Design Guidelines. As a result, consultation on the draft guidelines has been undertaken with submitters which were predominately local surveyors. It is noted that the guidelines are only guidelines to assist applicants and are not the only means of compliance.

### **OPTIONS**

1. Not adopt the guidelines and require further work to be done.
2. Adopt the urban design guidelines as attached.

### **OFFICER RECOMMENDATION/COMMITTEE RESOLUTION**

**That Council adopt the Urban Design guidelines.**

**Moved by: Cr G R Stanley**

**Seconded by: Cr J E Barnes**

**CARRIED**

The meeting adjourned for lunch at 12.26 pm and reconvened at 12.50 pm.

## INFRASTRUCTURE

### 6.2.3 GRAFFITI EDUCATION PROGRAMME - MYTAGMYTOWN

**File No:** DBU181603  
**Responsible Officer:** M Te Wiata  
Group Manager Business Services  
**Author:** C Smithers  
Parks and Property Planner

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#### EXECUTIVE SUMMARY

On 24 August Council approved murals to be painted in Matamata, Morrinsville and Te Aroha. Staff are waiting on mural designs to be completed and are seeking approval for a working party who can approve the mural designs later in December so work can continue over the school holiday period.

#### BACKGROUND

One of the final projects identified for the MyTagMyTown anti-graffiti education programme was the painting of murals in Te Aroha, Matamata, Morrinsville. The mural designs will be based on the smaller murals completed by students and displayed at the Wallace Art Gallery in November.

A report was presented to Council on 24 August 2011 where Council approved the following sites for the murals:

- The boat ramp in Te Aroha
- The Matamata Hire Centre Wall in Matamata
- The Morrinsville Heated Pools in Morrinsville

Designs for these murals are currently being developed but were not complete in time to be included with this report. The murals are programmed to be painted over the school holiday period, so permission is sought for a working party to be put in place to approve these. The party would need to meet later in December to decide on the mural designs.

#### POLICY AND BYLAW ISSUES

There are no policy or bylaw issues.

#### LONG TERM COUNCIL COMMUNITY PLAN

##### COUNCIL ACTIVITIES

##### ***Community Facilities***

*Community Facilities are Council activities focused on recreational and cultural opportunities in the district. Previously, much of the work we have done in this area has been around the provision of services and assets, such as the libraries, swimming pools, parks and reserves and other public amenities. In the future, Council will be looking to see how it can enhance the provision of these services to*

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*the community through the forming of partnerships with other regional and national organisations focused on social and cultural wellbeing.*

- *Public Amenities*
  - *Identify opportunities for improvement and subsequent implications of those improvements*

#### **COMMUNITY OUTCOMES**

- Belonging to our Community
- Community Safety and Support: Looking after People
- Pride and Justice

#### **SIGNIFICANCE POLICY**

This issue is not considered significant in terms of Council's Significance Policy.

#### **FINANCIAL IMPLICATIONS**

Resource requirements are in accordance with existing budgetary allocation.

#### **DISCUSSION**

That the Councillor A B Tanner with Board Member Hunter form the working party for the mural at the boat ramp in Te Aroha

Cr G Stanley with a Board Member of the Matamata Community Board form a working party for the mural on the Matamata Hire Centre Wall in Matamata

Cr M Gribble with a Board Member of the Morrinsville Community Board form a working party for the mural at the Morrinsville Heated Pools in Morrinsville

#### **OFFICER RECOMMENDATION**

**That Council allocate a working party made up of a Councillor per ward to approve the mural designs on Council's behalf.**

#### **COMMITTEE RESOLUTION**

**That Council allocate a working party made up of a Councillor and a Community Board member per ward to approve the mural designs on Council's behalf.**

**MOVED BY: Cr T M Cornes**

**SECONDED BY: Cr A B Tanner**

**CARRIED**

## 6.2.4 MATAMATA COMMUNITY GARDEN

**File No:** PRE520409  
**Attachments:** [Proposed Community Garden Site](#)  
**Responsible Officer:** M Te Wiata  
Group Manager Business Services  
**Author:** C Smithers  
Parks and Property Planner

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### EXECUTIVE SUMMARY

Council has been approached by the community requesting land be made available for a community garden in Matamata. Staff have identified the vacant land opposite the Matamata Council office on Tainui Street as a suitable space for a community garden and are seeking approval for the site to be used for this purpose.

### BACKGROUND

Council has been approached by Jedidiah Jennings of the Choose Life Community Centre requesting that land be made available for a community garden in Matamata. At a health night at the Community Centre, there was interest from member of the community to be involved in the project to establish a community garden.

It is intended that a trust would be set up similar to the trust established for the Te Aroha Community Garden.

### ISSUES

Staff have assessed the property and found it to be suitable for use as a community garden but the following matters would need to be considered:

- The site would need to be physically defined to distinguish it from the residential section on one side and the access on the other.
- Any gardens should be constructed in the centre of the site, away from the drip line of the trees
- Prior to any works being carried out, the underground services on the site would need to be checked.
- Some consultation would be required with adjacent property owners.
- Council has previously discussed the site as an option for a new library (identified in the long term plan for 2015/2016).

A lease agreement would have to be created for a term of one year, with two rights of renewal, both one year terms.

The above issues will be addressed as part of the lease agreement.

### POLICY AND BYLAW ISSUES

There are no policy or bylaw issues.

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## LONG TERM COUNCIL COMMUNITY PLAN

### COUNCIL ACTIVITIES

#### ***Community Facilities***

*Community Facilities are Council activities focused on recreational and cultural opportunities in the district. Previously, much of the work we have done in this area has been around the provision of services and assets, such as the libraries, swimming pools, parks and reserves and other public amenities. In the future, Council will be looking to see how it can enhance the provision of these services to the community through the forming of partnerships with other regional and national organisations focused on social and cultural wellbeing.*

- *Housing and Other Property*
  - *Identify opportunities for improvement and subsequent implications of those improvements*

### COMMUNITY OUTCOMES

- Belonging to our Community
- Planning and Development

### SIGNIFICANCE POLICY

This issue is not considered significant in terms of Council's Significance Policy.

### FINANCIAL IMPLICATIONS

There are no current resources allocated. There will be no financial input from Council. All costs associated with the set up and maintenance will be the responsibility of the trust.

### OPTIONS

There are three options available for Council:

- Option One: Approve the Tainui Street site in Matamata for a community garden to be established for a maximum term of 3 years.
- Option Two: Approve an alternative site for a community garden in Matamata
- Option Three: Not approve any site for a community garden in Matamata

### OFFICER RECOMMENDATION

**That Council approve the Tainui Street site for a Community Garden in Matamata**

### COMMITTEE RESOLUTION

- 1. That Council do not approve the Tainui Street site for a Community Garden in Matamata**
- 2. That Council require further information on any proposed alternative site.**

**MOVED BY: Cr L M Tisch**

**SECONDED BY: Cr G R Stanley**

**CARRIED**

**6.2.5 HETANA STREET UPGRADE, MATAMATA**

**File No:** 10/224  
**Responsible Officer:** F Vessey  
Group Manager Service Delivery  
**Author:** S Kampshof  
Asset Manager Policy and Strategy

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**EXECUTIVE SUMMARY**

The Hetana Street Project is an approved 2010/2011 and 2011/2012 Annual Plan Project with an allocated budget of \$400,000.

The tender for the contract closed at the end of November 2011. We are currently in the process of negotiation with a preferred tender and expect to award the contract prior to Christmas.

A request has been raised by the Business Association to amend the colour of the pavers. After consideration the existing light/dark grey colour pattern should be maintained for consistency purposes. Additional enforcement of food premises will be required to maintain the pavers in a clean state.

Based on the tender evaluation and detailed project estimate, it is recommended that Council proceed with the full scope of the Hetana Street Project with a total cost of \$351,000. The project is to start on the 20 February 2012, and has an 8 week construction period.

**BACKGROUND**

Hetana Street has in the past taken on a similar use to that of a service lane, serving the back of the shops on Arawa Street. There are now a number of shops on the Eastern side of the street and directly opposite is the information centre and public toilets which are significant tourist stops. The upgrade of Hetana Street will provide additional car parking by narrowing the footpath to allow on-street angle parking to replace existing parallel parking. It will also improve the visual amenity of the existing space. The aim is to link Hetana Street to the remainder of the Central Business District and provide a welcoming interface for the community and tourists.

As part of the Annual Plan process, staff were requested to identify potential savings in the design. It was identified that an option for cost savings would be not to include the western side (Public Toilets/Info Centre) of the street in the upgrade. This approach was taken to ensure the project could be delivered within the approval budget.

On the 24 August 2011 Council decided to tender the work based on the original scope but encompassing the works on the western side as a provisional sum item. This would allow a decision to be made on whether to include these works when contract prices were received. The tender was advertised and four contractors submitted a price for the works. After the evaluation of the non-priced attributes, an assessment was completed and the tender prices opened. A preferred tender has

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now been notified and once a pre-tender meeting is held, the contract can be awarded. The total project cost is \$351,000.

It is still possible to reduce the scope of work by not renewing the footpath and kerb and channel on the western side of the street. This will reduce the project costs by \$34,000. but this work will need to be undertaken at a later date as the project will look uncompleted.

## **POLICY AND BYLAW ISSUES**

There are no policy or bylaw issues.

## **LONG TERM COUNCIL COMMUNITY PLAN**

### **COUNCIL ACTIVITIES**

#### ***Community Infrastructure***

*Community Infrastructure represents many of the responsibilities that Council has historically managed: maintenance and development of roads, stormwater, wastewater, water supply and waste (solid).*

- *Roading*
  - *To regularly assess the quality and adequacy of all road assets in the district*

### **COMMUNITY OUTCOMES**

- Economic Development: Prosperity
- Planning and Development
- Transport: People Going Places

### **SIGNIFICANCE POLICY**

This issue is not considered significant in terms of Council's Significance Policy.

## **COMMUNICATION AND CONSULTATION ISSUES**

The Matamata Community Board, Business Association and affected property owners have been consulted throughout the design process and further consultation will be undertaken with the wider community prior to Christmas and in the New Year.

An issue of deciding on the colour of the paving pattern has arisen. The current design uses the same colour for the 'chequer' paving pattern as Broadway. The business owners and Business Association have recommended that the colour be amended to use an autumn leaves colour with the dark grey instead of the light grey colour.

If the paving pattern is amended, the consistency and continuity of the pattern with the remainder of the central business district will be lost. If the existing colours are continued, a regime needs to be put in place to ensure food places are more strictly monitored to ensure the paving areas are kept clean. Staff are undertaking a review

of the trading in public places section of the bylaw. The recommended changes will require food premises to obtain licenses for the use of the footpath, clearly defining their responsibilities. It will allow Council to enforce cleanliness of the pavers throughout the Central Business District.

The contract works is programmed for the middle of February to ensure the Christmas rush is not affected. The contractors programme can now be discussed with affected property and business owners to ensure the works are managed in a way to cause the least interruption to business. Correspondence has also been received from the Transport Agency, stating they support the proposal and have no further comments.

### **FINANCIAL IMPLICATIONS**

This project was highlighted in the 2010/2011 and in the 2011/2012 Annual Plan with an allocated budget of \$400,000. The tender price received from the preferred contractor was just below the estimated cost and therefore a slight cost reduction has been achieved.

Both of the options are below the annual plan allocation.

### **OPTIONS**

The following are the options for the scope of the project:

#### Option 1

Maintain the original scope of the project. The total cost being \$351,000.

- New kerb and channel (both sides)
- Angled parking on the eastern side of the street
- New paved footpath, using the Broadway paving pattern (both sides)
- New street furniture, including street bins, seats and lights.
- Construction of pedestrian threshold to cross the road safely near the existing public toilets
- Undertaking landscaping to improve the visual amenity of the road
- Improving the visibility and surfacing of the existing walkway between Arawa and Hetana Streets
- Improve the drainage system along Hetana Street

#### Option 2

Reduce the scope of the project by removing the upgrade of the paving and kerb and channel on the western side of Hetana Street. Reducing the total cost by \$34,000, resulting in a total project cost of \$317,000.

<b>Pros</b>	<b>Cons</b>
Reduction in cost by \$34,000	The street will not look completed and work will need to be undertaken in the future.
	Costs can be saved by using the existing traffic management and already having the appropriate plant, labour and materials on site.

### **OFFICER RECOMMENDATION**

**That:**

1. Council approve Option 1 - to maintain the original scope of the project which includes the renewal of the footpath and kerb and channel on the western side, with a total cost of \$351,000.
2. Council maintain the existing chequered coloured light/dark grey pattern as used throughout the existing streetscape in Matamata.

Moved by: Cr G R Stanley

Seconded by: Cr L M Tisch

**CARRIED**

## **7 URGENT ADDITIONAL BUSINESS**

### **7.1.1 WAIHOU WASTEWATER TREATMENT PLANT CONTRACT**

**File No:** 10/224  
**Responsible Officer:** F Vessey  
Group Manager Service Delivery  
**Author:** S Kampshof  
Asset Manager Policy and Strategy

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#### **EXECUTIVE SUMMARY**

That the Chief Executive Officer D McLeod be authorised to accept the final tender for the installation of the Waihou Wastewater Treatment Plant as this is likely to come in to Council over the Christmas period.

#### **POLICY AND BYLAW ISSUES**

There are no issues.

#### **COUNCIL RESOLUTION**

**That Council give Chief Executive Officer Don McLeod delegation to accept the final tender for the Waihou Wastewater Project, subject to sighting tender if significantly over budgeted price.**

**Moved by:** Cr A B tanner  
**Seconded by:** Cr T M Cornes

**CARRIED**

**7.1.2 COUNCIL ISSUES OVER THE CHRISTMAS PERIOD**

**File No:** DEM021601  
**Responsible Officer:** D McLeod  
Chief Executive Officer  
**Author:** C Hubbard  
Committee Secretary

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**EXECUTIVE SUMMARY**

Council discussed the process required regarding urgent decisions that may need to be made during the holiday period.

It is suggested that the Mayor emails all Councillors and acts accordingly based on the responses received provided more than six members are in agreement with the decision. Councillors will then give formal approval to the decision at the following meeting.

**POLICY AND BYLAW ISSUES**

There are no issues.

**COUNCIL RESOLUTION**

**That any urgent issues arising during the holiday period be emailed to all Councillors with delegation to the Mayor to act on receipt of support from a majority of Councillors.**

**Moved by:** Cr J E Barnes  
**Seconded by:** Cr M P Steffert

**CARRIED**

## **8 EXCLUSION FROM THE PUBLIC**

### **8.1 CHIEF EXECUTIVE**

#### **8.1.1 MANAGHERO SUBDIVISION - SALE OF LOT 25**

**File No:** 05320/103.25  
**Responsible Officer:** D McLeod  
Chief Executive Officer  
**Author:** M Hawthorne  
Corporate and Legal Services Manager

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### **EXECUTIVE SUMMARY**

A local authority may by resolution exclude the public from the whole or any part of the proceedings of any meeting only on one or more of the grounds specified in Section 48 of the Local Government Official Information and Meetings Act 1987.

That the public be excluded from the following part of the proceedings of this meeting:

- An update to Council on the sale of Lot 25 of the Mangawhero Road subdivision

### **OFFICER RECOMMENDATION**

That the public be excluded from the following part of the proceedings of this meeting:

- An update to Council on the sale of Lot 25 of the Mangawhero Road subdivision

The general subject of the matter to be considered while the public is excluded, the reason for passing this resolution in relation to the 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:

Reasons for passing this resolution in relation to each matter:

- Good reason to withhold exists under Section 7

Ground(s) under Section 48 (1) for the passing of this resolution

- Section 48 (1)(a)

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

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- **7(2)(g) Maintain legal professional privilege.**
- **7(2)(i) Enable the local authority to carry out, without prejudice or disadvantage, negotiations.**
- **7(2)(h) Enable the local authority to carry out, without prejudice or disadvantage, commercial activities.**

**Moved by: Cr J E Barnes**

**Seconded by: Cr C L Greenville JP**

**CARRIED**

**8.1.2 OWN YOUR OWN UNITS**

**File No:** 11/922  
**Responsible Officer:** D McLeod  
Chief Executive Officer  
**Author:** M Hawthorne  
Corporate and Legal Services Manager

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**EXECUTIVE SUMMARY**

A local authority may by resolution exclude the public from the whole or any part of the proceedings of any meeting only on one or more of the grounds specified in Section 48 of the Local Government Official Information and Meetings Act 1987.

That the public be excluded from the following part of the proceedings of this meeting:

- Discussion on the future of the Own Your Own Unit scheme

**OFFICER RECOMMENDATION**

That the public be excluded from the following part of the proceedings of this meeting:

- Discussion on the future of the Own Your Own Unit scheme

The general subject of the matter to be considered while the public is excluded, the reason for passing this resolution in relation to the 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:

Reasons for passing this resolution in relation to each matter:

- Good reason to withhold exists under Section 7

Ground(s) under Section 48 (1) for the passing of this resolution

- Section 48 (1)(a)

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

- 7(2)(g) Maintain legal professional privilege.
  - 7(2)(i) Enable the local authority to carry out, without prejudice or disadvantage, negotiations.
-

**Moved by: Cr J E Barnes**

**Seconded by: Cr C L Greenville JP**

**CARRIED**

## **8.2 INFRASTRUCTURE**

### **8.2.1 PROCUREMENT OPTIONS FOR INTERIM WASTE MANAGEMENT CONTRACTS REPORT**

**File No:** SWM520402  
**Responsible Officer:** F Vessey  
Group Manager Service Delivery  
**Author:** D Locke  
Senior Project Engineer-Utilities

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#### **EXECUTIVE SUMMARY**

A local authority may by resolution exclude the public from the whole or any part of the proceedings of any meeting only on one or more of the grounds specified in Section 48 of the Local Government Official Information and Meetings Act 1987.

That the public be excluded from the following part of the proceedings of this meeting:

- Refuse and recycling, Refuse Transfer Station Management and Disposal

#### **OFFICER RECOMMENDATION**

That the public be excluded from the following part of the proceedings of this meeting:

- Refuse and recycling, Refuse Transfer Station management and disposal

The general subject of the matter to be considered while the public is excluded, the reason for passing this resolution in relation to the 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:

Reasons for passing this resolution in relation to each matter:

- Good reason to withhold exists under Section 7

Ground(s) under Section 48 (1) for the passing of this resolution

- Section 48 (1)(a)

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

- 7(2)(g) Maintain legal professional privilege.
  - 7(2)(h) Enable the local authority to carry out, without prejudice or disadvantage, commercial activities.
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**Moved by: Cr J E Barnes**

**Seconded by: Cr C L Greenville JP**

**CARRIED**

**9 CLOSURE**

The meeting closed at 2 20 pm.

**CONFIRMATION:** 22 February 2012

**SIGNED:** \_\_\_\_\_  
C L Greenville