

Thursday, 30 September 2021

Te Hui o Te Kaunihera ā-Rohe o Heretaunga
Hastings District Council
Council Meeting

Kaupapataka

Agenda

Te Rā Hui:
Meeting date: **Thursday, 30 September 2021**

Te Wā:
Time: **9.00am**

Te Wāhi:
Venue: **Council Chamber
Ground Floor
Civic Administration Building
Lyndon Road East
Hastings**

Te Hoapā:
Contact: **Democracy and Governance Services
P: 06 871 5000 | E: democracy@hdc.govt.nz**

Te Āpiha Matua:
Responsible
Officer: **Chief Executive - Nigel Bickle**

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HASTINGS DISTRICT COUNCIL
207 Lyndon Road East, Hastings 4122 | Private Bag 9002, Hastings 4156
Phone **06 871 5000** | www.hastingsdc.govt.nz
TE KAUNIHERA Ā-ROHE O HERETAUNGA

Thursday, 30 September 2021

Te Hui o Te Kaunihera ā-Rohe o Heretaunga

Hastings District Council

Council Meeting

Kaupapataka

Agenda

Tiamana

Chair: Mayor Sandra Hazlehurst

Mematanga:

Membership:

Ngā KaiKaunihera

Councillors: Bayden Barber, Alwyn Corban, Malcolm Dixon, Damon Harvey, Tania Kerr (Deputy Chair), Eileen Lawson, Simon Nixon, Henare O'Keefe, Peleti Oli, Ann Redstone, Wendy Schollum, Sophie Siers, Geraldine Travers and Kevin Watkins

Tokamatua:

Quorum:

8 members

Apiha Matua

Officer Responsible:

Chief Executive – Nigel Bickle

*Te Rōpū Manapori me te
Kāwanatanga*

Democracy and

Governance Services:

Louise Stettner (Extn 5018)

Te Rārangī Take

Order of Business

1.0 Opening Prayer – *Karakia Whakatūwheratanga*

2.0 Apologies & Leave of Absence – *Ngā Whakapāhatanga me te Wehenga ā-Hui*

At the close of the agenda no apologies had been received.

Request for leave of absence has been received from Councillor O’Keefe

3.0 Conflict of Interest – *He Ngākau Kōnatunatu*

Members need to be vigilant to stand aside from decision-making when a conflict arises between their role as a Member of the Council and any private or other external interest they might have. This note is provided as a reminder to Members to scan the agenda and assess their own private interests and identify where they may have a pecuniary or other conflict of interest, or where there may be perceptions of conflict of interest.

If a Member feels they do have a conflict of interest, they should publicly declare that at the start of the relevant item of business and withdraw from participating in the meeting. If a Member thinks they may have a conflict of interest, they can seek advice from the General Counsel or the Manager: Democracy and Governance (preferably before the meeting).

It is noted that while Members can seek advice and discuss these matters, the final decision as to whether a conflict exists rests with the member.

4.0 Confirmation of Minutes – *Te Whakamana i Ngā Minitī*

Minutes of the Council Meeting held Thursday 26 August 2021 and Thursday 9 September 2021.

(Previously circulated)

5.0 2021 Meeting Schedule Changes

7

6.0 Summary of Recommendations of the Hastings District Rural Community Board meeting held 6 September 2021

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7.0 Proposed Amendments to Schedule of Appointments to Committees, Subcommittees and other External Organisations

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8.0	Proposed Te Awanga Reserve Acquisition and Recreational Facility Developments	13
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9.0	Three Waters Reform - Feedback to Government	23
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10.0	Minor Items – <i>Ngā Take Iti</i>	
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11.0	Urgent Items – <i>Ngā Take Whakahihiri</i>	
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Thursday, 30 September 2021

Te Hui o Te Kaunihera ā-Rohe o Heretaunga
Hastings District Council: Council Meeting

Item 5

Te Rārangi Take

Report to Council

Nā:
From: Louise Stettner, Manager, Democracy & Governance Services

Te Take:
Subject: 2021 Meeting Schedule Changes

1.0 Executive Summary – *Te Kappa Me Te Whakarāpopototanga*

- 1.1 The purpose of this report is to consider amendments to the schedule of Council and Committee Meetings for the 2021 Meetings Calendar which was originally adopted by Council on 15 October 2020.
- 1.2 This report recommends that the 2021 Meeting Schedule as amended below be adopted.
- 1.3 The Local Government Act 2002, Schedule 7, Clause 19 states:
*“A local authority must hold meetings at the times and places that it appoints”.
If a local authority adopts a schedule of meetings-*
 - a) *The schedule-*
 - i) *may cover any future period that the local authority considers appropriate, and*
 - ii) *may be amended**Although a local authority must hold the ordinary meetings appointed, it is competent for the authority at a meeting to amend the schedule of dates, times and number of meetings to enable the business of the Council to be managed in an effective way.*
- 1.4 It is proposed that the meeting schedule be amended as follows:

Civic & Administration Subcommittee	Change of start time	Thursday 14 October 2021, 8.45am
Council Meeting	Change of start time	Thursday 14 October 2021, 9am
Council Meeting	New Meeting	Thursday, 28 October 2021, 1pm

2.0 Recommendations – *Ngā Tūtohunga*

- A) That Council receive the report titled 2021 Meeting Schedule Changes dated 30 September 2021.
- B) That Council adopt the schedule of meetings for 2021 amended as follows:

Civic & Administration Subcommittee	Change of start time	Thursday 14 October 2021, 8:45am
Council Meeting	Change of start time	Thursday 14 October 2021, 9am
Council Meeting	New Meeting	Thursday, 28 October 2021, 1pm

Attachments:

There are no attachments for this report.

Thursday, 30 September 2021

Item 6

Te Hui o Te Kāunihera ā-Rohe o Heretaunga
Hastings District Council: Council Meeting

Te Rārangi Take

Report to Council

Nā:
From: **Vicki Rusbatch, Senior Advisor Democracy & Governance Services**

Te Take:
Subject: **Summary of Recommendations of the Hastings District Rural Community Board meeting held 6 September 2021**

1.0 Summary

- 1.1 The purpose of this report is to advise that the recommendations from the Hastings District Rural Community Board held on 06 September 2021 require ratification by Council.
- 1.2 The Board's recommendations in relation to the Rating Area 2 surplus will be submitted for ratification to the Operations & Monitoring Committee meeting on 30 September 2021.
- 1.3 The relevant Hastings District Rural Community Board recommendations to be ratified are set out below.

2.0 Recommendation– *Ngā Tūtohunga*

- A) That the report of the Senior Advisor Democracy & Governance Services titled "Summary of Recommendations of the Hastings District Rural Community Board meeting held 6 September 2021" be received.
- B) The following recommendations of the Hastings District Rural Community Board meeting held 06 September 2021 be ratified:

4. RURAL COMMUNITY RECYCLING FACILITIES UPDATE

- A) That the Rural Community Board receives the report titled Rural Community Recycling Facilities Update.
- B) That the Board in principle supports the initiatives outlined in the report.
- C) That the Board requests final approval of recycling sites.
- D) That the Board notes the successes of any trial is measured on participation, contamination and illegal dumping at the site.

5. RURAL SECURITY CAMERAS TRIAL REVIEW

- A) That the Hastings District Rural Community Board receive the report titled Rural Security Cameras Trial Review dated 6 September 2021.
- B) That the Board ratifies the findings of the Hastings District Council Security Manager that the outcome of the trial of rural security cameras was not successful and that the costs and associated risks of further camera installations are too great compared to the benefits the cameras bring.
- C) That the Board will investigate, and may support, community led and funded proposals with the expectation that replacement cameras would be funded by the community.

6. GREAT COMMUNITIES STRATEGIC OVERVIEW

- A) That the Hastings District Rural Community Board receives the report titled Great Communities Strategic Overview dated 6 September 2021.
- B) That the Hastings District Rural Community Board notes that there is continued engagement with rural communities.
- C) That the Board requests that a Rural Community Board member be appointed to the Great Communities Subcommittee.

Attachments:

There are no attachments for this report.

Thursday, 30 September 2021

Te Hui o Te Kaunihera ā-Rohe o Heretaunga
Hastings District Council: Council Meeting

Item 7

Te Rārangi Take

Report to Council

Nā:
From: Louise Stettner, Manager, Democracy & Governance Services

Te Take:
Subject: Proposed Amendments to Schedule of Appointments to Committees, Subcommittees and other External Organisations

1.0 Purpose and summary - *Te Kaupapa Me Te Whakarāpopototanga*

- 1.1 The purpose of this report is for Council to approve proposed amendments to the Schedule of Appointments to Committees, Subcommittees and Other External Organisations.
- 1.2 At its meeting on the 6th of September 2021, the Hastings District Rural Community Board made the following recommendation 'that a Rural Community Board member be appointed to the Great Communities Subcommittee'. The Board also discussed Rural Community Board representation on the other subcommittees of the Strategy and Policy Committee, namely District Development and the Eco-District Subcommittees.
- 1.3 Consistent with the above recommendation and discussion; Council approval is sought for the following appointments:
 - Marcus Buddo as the Rural Community Board (non-voting) appointee to the District Development Subcommittee.
 - Jonathan Stockley as the Rural Community Board (non-voting) appointee to the Great Communities and Eco-District Subcommittees.

2.0 Recommendations – Ngā Tūtohunga

- A) That Council receive the report titled Proposed Amendments to Schedule of Appointments to Committees, Subcommittees and other External Organisations dated 30 September 2021.
- B) That Council approve the following appointments:
 - Marcus Buddo as the Rural Community Board (non-voting) appointee to the District Development Subcommittee
 - Jonathan Stockley as the Rural Community Board (non-voting) appointee to the Great Communities and Eco-District Subcommittees
- C) That the 2019-22 Schedule of Appointments to Committees, Subcommittees and other External Organisations and the Hastings District Council Committee and Rural Community Board Register of Delegations 2019 -22 be amended accordingly to reflect the changes outlined in B) above.

Attachments:

There are no attachments for this report.

Thursday, 30 September 2021

Item 8

Te Hui o Te Kaunihera ā-Rohe o Heretaunga
Hastings District Council: Council Meeting

Te Rārangi Take

Report to Council

Nā: Kirsty Oosterkamp, Public Spaces Policy Planner
From: Colin Hosford, Public Spaces and Building Assets Manager

Te Take: Proposed Te Awanga Reserve Acquisition and Recreational Facility
Subject: Developments

1.0 Executive Summary – *Te Kaupapa Me Te Whakarāpopototanga*

- 1.1 The purpose of this report is to seek a resolution from Council to (a) acquire a new reserve in the Te Awanga Terraces residential subdivision on Clifton Road and (b) to undertake the development of a hardcourt facility on the Te Awanga Terraces detention pond reserve and (c) to construct an upgraded playground at the Te Awanga Domain.
- 1.2 Council's Long Term Plan contains \$900,000 funding for reserve and recreational developments within the Te Awanga town ship. This report recommends a suite of actions to deliver desired environmental enhancements and recreational facilities for the enjoyment of the whole community.
- 1.3 Council engaged with the community via a public meeting on the 10th June 2021 on a suite of enhancements at Te Awanga. Among other issues raised, Council also asked the local community to indicate via a survey what their preferred site for an additional reserve is and what they would like with regard to reserve enhancements.
- 1.4 This report concludes by recommending that the Chief Executive Officer be authorised to enter into negotiations to purchase Lot 1 as a reserve and to undertake recreation developments as per the feedback from the community in Te Awanga township up to a maximum cost of \$900,000.

2.0 Recommendations - *Ngā Tūtohunga*

- A) That Council receive the report titled Proposed Te Awanga Reserve Acquisition and Recreational Facility Developments dated 30 September 2021.
- B) That the Chief Executive Officer be authorised to enter into negotiations to purchase Lot 1 as a buffer reserve and to undertake recreation developments in Te Awanga township up to a maximum cost of \$900,000.

- C) That the Council approve the use of up to \$900,000 of funds in the 2021/31 LTP to progress the suite of acquisitions and improvements to Te Awanga reserves.
- D) That Council amends the playground renewal programme to bring forward the \$150,000 funds allocated for the Te Awanga playground to Year 2 and defer the renewal of Ron Giorgi playground from Year 2 to Year 3 in the Long Term Plan.
- E) That Council amends the Cape Coast Reserve Management Plan's programme to bring forward the Te Awanga Domain hardcourt funding of \$30,000 from Year 6 to Year 2, and defer the remaining Cape Coast programme by one year.
- F) Council notes the design of the proposed Te Awanga Domain playground will be carried out in consultation with the Te Awanga community.
- G) That Council agree to the installation of hardcourt facilities on the Te Awanga Terraces detention reserve.

3.0 Background – *Te Horopaki*

- 3.1 The rezoning of subdivision at Te Awanga Terraces was subject to a rezoning application in 2015 which was considered by both Council and the Environment Court. The Environment Court directed Council and the community into mediation to resolve the design of the future residential development including lot sizes and open space provision.
- 3.2 The required reserve provision is shown on the map below in orange. It consists of a drainage reserve at the front with the smaller buffer/link reserves throughout.
- 3.3 In recent times a number of residents raised concerns over the height of the sections, particularly those fronting Clifton Road and requested Council consider an alternative site for a new reserve and suggested Council acquire the front lot (Lot 1) as a reserve that could help reduce the visual impact on the entrance into Te Awanga township.

- 3.4 Feedback from the 172 who submitted to a Council survey showed 98% support for the purchase of Lot 1 as an additional reserve space with the overwhelming support for upgrading the playground in the Te Awanga Domain.



- 3.5 Council has allocated a total of \$900,000 in the Long Term Plan (LTP) for the purchase and development of a new reserve within the Te Awanga Terraces subdivision and for renewing the playground and a half hardcourt at Te Awanga Domain. The budget allocations are as follows;
- Year 1 - \$720,000 – Te Awanga Terraces land purchase and playground
 - Year 3 - \$150,000 - Te Awanga playground renewal
 - Year 6 - \$30,000 – Cape Coast Reserve Management Plan (CCRMP) Te Awanga Domain improvements
- 3.6 The original site works caused some concern within the community which has been mediated by the final reshaping of the bund which has softened the look and with the establishment of the grass cover it has improved the streetscape (see image below). It should be noted that the bund itself will not be built on and the area of most concern to the nearby residents was the elevated front three lots and the front Lot 1 in particular.



3.7 Residents were presented three options via a public meeting and asked to complete a survey to gauge the preferred development option for reserve acquisition and playground provision in the wider Te Awanga area.

3.8 The three options offered at the time are outlined below:

Option	Purchase Reserve Area	Reserve Development Elements
Option A (Status Quo)	Area 1	<ul style="list-style-type: none"> Develop neighbourhood playground in Te Awanga Terraces. Current renewal of Te Awanga Domain playground as per LTP (23/24). No provision for expansion to Te Awanga Domain playground.
Option B	Area 2 (Lot 1)	<ul style="list-style-type: none"> Develop Lot 1 as landscaped buffer reserve. Small playground in large drainage reserve in Te Awanga Terraces. Small expansion to Te Awanga Domain playground. Current renewal of Te Awanga Domain playground as per LTP (23/24).
Option C	Area 2 (Lot 1)	<ul style="list-style-type: none"> No provision for a playground in Te Awanga Terraces. Develop Lot 1 as landscaped buffer reserve. Bring forward renewal of Te Awanga Domain playground to 21/22.

- Provision for expansion of Te Awanga Domain playground.

- 3.9 Feedback from the 172 returned survey forms received showed 83% for Option C, 14% for Option B and 2% for Option A. That's a total of 99% support for the purchase of Lot 1 for a new reserve and improvements to the Domain playground. The remaining 1% (one response) requested Council consider the purchase of all three lots fronting Clifton Road. However this would come at significant expense.
- 3.10 Since the public meeting, officers have been working with the developer to work up a solution to meet both the community's clear aspirations and those of the developer who wishes to provide some additional recreation facilities within Te Awanga Terraces for the benefit of both the new residents and the wider Te Awanga community.
- 3.11 The proposed new facilities would include a tennis court, half basketball court and cricket nets. These assets will be transferred to Council ownership and maintenance responsibility once the subdivision is complete.

4.0 Discussion – Te Matapakitanga

4.1 District Wide Reserve Management Plan/Reserves Strategy:

- 4.2 Under Objective 5.6.1 of the District Wide Reserve Management Plan it states "To acquire future reserve land in accordance with the Reserves Strategy, to provide quality reserve land for the community."
- 4.3 Currently there is approximately 2.7 ha of open space provision in Te Awanga. With the additional provision of a further 2.9 ha within Te Awanga Terraces in the form of the large drainage reserve and small buffer reserves this gives a combined open space provision of 5.6 ha in Te Awanga. This exceeds the current Reserve Strategy urban performance target of 4.9 ha/1000 residents.
- 4.4 While Lot 1 is approximately 1200 m², it wouldn't provide a particularly useful recreation space due to its sloping nature. It could however be landscaped to provide an attractive entry point to the township which could create an attractive reserve that would provide a restive park setting. In contrast the nearby detention reserve will create a large open space available for a wide range of public activities.
- 4.5 In summary the proposed acquisition and development of the reserves in Te Awanga meets the aims of both the Hastings Reserves Strategy and the District wide Reserves Management Plan.

Cape Coast Reserve Management Plan

- 4.6 One of the CCRMP key objectives is to improve recreational opportunities.
- 4.7 The proposed new facilities at Te Awanga Terraces will help deliver that objective by providing good quality tennis courts, half basketball court and cricket net, none of which are currently available within Te Awanga and only in part in nearby Haumoana.
- 4.8 The CCRMP also includes \$30,000 provision for the building of a small half court on the Domain in Year 6 of the LTP. If the proposed hard courts at Te Awanga Terraces are built as requested, there would be no need to squeeze the court into the Domain as originally planned. This allocation could be utilised to help offset the costs for the proposed courts on the Te Awanga Terrace's detention reserve.

5.0 Options – Ngā Kōwhiringa

Option One - Recommended Option - Te Kōwhiringa Tuatahi – Te Kōwhiringa Tūtohunga

- 5.1 As discussed earlier in the report, the process of reserve acquisition and development in Te Awanga has been much debated and has been the cause of widespread community concern. However a clear direction has emerged out of the community consultation. As such the preferred option put forward requires Council's and the developer's agreement to commit to multiple inter-related elements. These include;
- Council agrees to purchase Lot 1 as a landscaped buffer reserve
 - Council agrees to permit the construction of multiuse hardcourts on the detention reserve
 - Council agrees to take over the annual maintenance of the new hard courts at an annualised cost of \$7,000pa
 - Council commits to a \$300,000 upgrade of the Te Awanga Domain playground
 - That the developer commits to fund the shortfall in funding for the hardcourt area.
 - That Council's total funding expenditure is capped at \$900,000, being the funds set aside in the LTP for reserve acquisitions and reserve developments in the Te Awanga town ship.
- 5.2 Essentially this option meets the desires of the community through the purchase of a reshaped Lot 1 and by upgrading the Domain playground. It also importantly delivers all the actions within the LTP's budget umbrella. While it is noted that this facility will benefit the new residents it will also be available to the wider community. If Council declines the request for hardcourts on the detention reserve, the developers contributing funding is withdrawn. Council will also need to agree to utilise this year's CCRMP \$30,000 to help fund the new hard courts as proposed and defer this year's plantings until next year. The rest of the CCRMP programme would essentially be deferred by one year. Given the likely improvements to recreation facilities in the township, this minor change in priorities is unlikely to draw any negative feedback.
- 5.3 If Council adopts Option 1, and to ensure no additional funds are required, the playground renewal programme will require a minor reshuffle to deliver the Te Awanga recreation elements in 2022/23. Council will need to agree to defer the renewal of either the Chatham Park or Bridge Pa Domain playground for one year. Officers recommend delaying the Chatham Park upgrade on the basis that upgrading the Bridge Pa playground is arguably more needed and that the planned new skate park will be giving Flaxmere an additional improved facility within the next 12 months.
- 5.4 In order to deliver these projects, it is also proposed that Council will project manage all the works. This will include the building of the courts, managing the Lot 1 earthworks and the playground upgrade. Officers are confident this will ensure the full suite of actions can be delivered within the allocated budget.
- 5.5 Officers are aware that the Te Awanga community has shown a strong interest in being involved in the design of the upgraded playground. Officers are committed to full consultation during the design process to ensure the playscape meets with wide approval from this community. This engagement process is standard practice.

Advantages:

- Meets the community's desire to acquire Lot 1 and reshape it to create a softer entry point to Te Awanga and thereby help address visual amenity concerns raised by some residents.
- Meets the community desire to create an enhanced playground at the Domain.
- Delivers an additional new multi – hardcourt recreational facility for the Te Awanga community to utilise.
- Encourages an additional active use of the detention reserve.
- All work can be accommodated within Council's LTP budget and with additional funding provided by the developer.

- Council's reputation will be enhanced through it being seen to listen and respond proactively to the Te Awanga community.

Disadvantages:

- Lot 1 will have limited recreational value given its proximity to Clifton Road and its sloping nature.
- There will be no playground within Te Awanga Terraces subdivision itself.

5.3 Option Two – Status Quo - Te Kōwhiringa Tuarua – Te Āhuetanga o nāiane

Purchase future reserve site as part of Stage 2 of the Te Awanga Terraces development and develop a small neighbourhood playground on the site.

Advantages:

- Modest but increased playground provision within Te Awanga Terraces subdivision.
- The reserve and playground would be centrally located within the subdivision with good linkages for all residents.

Disadvantages:

- Lot 1 will be developed as a residential site contrary to community desires.
- Council may be seen to not acknowledge community feedback regards development preferences
- The acquisition of the reserve won't be available until Stage 2 progresses in approximately 2-3 years' time.
- No funding will be available for Te Awanga Domain playground extension as desired by the community.
- Renewal of Te Awanga Domain playground will remain at Year 3 in the LTP at the earliest.

6.0 Next steps – Te Anga Whakamua

- 6.1 If Council endorses the officer recommendation and adopts Option One, officers will commence the negotiation of the land purchase transactions. Once this purchase is successfully completed, planning and design work on the project tasks, including community engagement on the design of the Te Awaanga Domain playground will commence.

Attachments:

There are no attachments for this report.

Summary of Considerations - He Whakarāpopoto Whakaarohanga

Fit with purpose of Local Government - E noho hāngai pū ai ki te Rangatōpū-ā-Rohe

The Council is required to give effect to the purpose of local government as set out in section 10 of the Local Government Act 2002. That purpose is to enable democratic local decision-making and action by (and on behalf of) communities, and to promote the social, economic, environmental, and cultural wellbeing of communities in the present and for the future.

Link to the Council's Community Outcomes – Ngā Hononga ki Ngā Putanga ā-Hapori

This proposal promotes the social wellbeing of communities in the present and for the future, by delivering local infrastructure and recreation facilities that maintains places and spaces for the wellbeing of the whole community.

Māori Impact Statement - *Te Tauākī Kaupapa Māori*

There is no specific impact on tangata whenua however they will enjoy the community benefits of the proposed new and improved reserve offerings in Te Awanga.

Sustainability - *Te Toitūtanga*

The reserves will provide opportunity for improved native landscaping to help reduce our carbon footprint. The use of the detention reserve for alternative community uses is a better use of the open space.

Financial considerations - *Ngā Whakaarohanga Ahumoni*

The LTP has sufficient funds allocated for reserve acquisition and development s in Te Awanga to deliver the new reserve and recreational elements.

Significance and Engagement - *Te Hiranga me te Tūhonotanga*

This decision has been assessed under the Council's Significance and Engagement Policy as being of low significance and does not trigger Council's significance policy as no additional funding is sought.

Consultation – internal and/or external – *Whakawhiti Whakaaro-ā-roto / ā-waho*

- A well attended public meeting was held on 10th June where officers presented various options for additional reserve acquisition and the development of reserves in Te Awanga community. As a result the community was surveyed to vote on their preferred option and 172 responses were received. The preferred option from survey was to purchase Lot 1 as buffer reserve and to upgrade the Te Awanga Domain playground
- Discussion with 3 Waters Manager to determine whether the proposed new recreational facilities will impact on the stormwater detention properties of the reserve, has since confirmed there is no issue with them being located in the drainage reserve.
- Officers had ongoing discussions with the developer to achieve an affordable but attractive suite of recreation facilities for Te Awanga community.

Risks

Opportunity: This proposal offers a new reserve area that enhances the entrance to Te Awanga and provides a range of new recreation facilities within current budget allocations:

REWARD – <i>Te Utu</i>	RISK – <i>Te Tūraru</i>
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<ul style="list-style-type: none"> • The delivery of a new reserve that will help address address the concerns of local residents about the intrusive nature of of Lot 1 on the streetscape • The delivery of multiple new recreational facilities for the whole community to enjoy. • The project can meet the community's desires for an upgraded playground and new reserve within existing budget allocations • Council's reputation is likely to be strengthened by it positively responding to community wishes 	<ul style="list-style-type: none"> • There may be some in the community who seek more reserve space near lot 1 and there is no funding available to purchase more land.
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Rural Community Board – *Te Poari Tuawhenua-ā-Hapori*

The RCB is not impacted on by this proposal.

Thursday, 30 September 2021

Item 9

Te Hui o Te Kaunihera ā-Rohe o Heretaunga
Hastings District Council: Council Meeting

Te Rārangi Take

Report to Council

Nā: Nigel Bickle, Chief Executive
From: Craig Thew, Group Manager: Asset Management

Te Take:
Subject: Three Waters Reform - Feedback to Government

1.0 Purpose and Summary - *Te Kaupapa Me Te Whakarāpopototanga*

1.1 This report updates the Council on:

- the Government's 30 June 2021 and 15 July 2021 three waters reform announcements, which change the reform process previously outlined in 2020
- the specific data and modelling Council has received to date
- the implications of the revised three waters reform proposal for Council and alternative service delivery options
- the community feedback received
- next steps (including uncertainties)

1.2 This report does not require a decision from Council in regards to any opt in / opt out of the governments draft proposal for three waters service delivery.

1.3 This report does require a decision from Council to adopt its feedback to government on the current three waters service delivery proposal, including confirming its preferred position to advance the Hawkes Bay service delivery model option as an alternative to the government proposal.

2.0 Recommendations - *Ngā Tūtohunga*

- A) That the Council Meeting receive the report titled Three Waters Reform - Feedback to Government dated 30 September 2021.
- B) That Council directs the Mayor and Chief Executive to prepare and deliver a Submission Letter to The Minister and Central Government, from Hastings District Council that confirms and communicates Councils;

- Acknowledgement that there is a compelling case for change to ensure ongoing safe, efficient and affordable Three Waters Services delivery,
 - Premise that water is a taonga, the lifeblood of our people and our whenua,
 - Receipt of Community feedback giving a strong message and direction to Council that there has to be full consultation with the Community regards any proposed structural change to Three Waters Services and more factual information is required to inform Community Consultation, and
 - Preference for a Hawke's Bay Three Waters Services Entity, that will deliver scale and efficiency benefits for Hastings District, whilst producing a superior outcome for Hastings in terms of community voice and accountability, Iwi co-governance and management, and responsiveness to growth pressures and community needs.
- C) That Council **notes** the Government's 30 June and 15 July 2021 Three Waters Reform announcements.
- D) That Council **notes** officer's advice on the accuracy of the information provided to Council in June and July 2021 as a result of the Request for Information and Water Industry Commission for Scotland modelling processes.
- E) That Council **notes** that a decision to formally support the Government's preferred three waters service delivery option may not be lawful at present due to section 130 of the Local Government Act 2002 (LGA), which prohibits Council from divesting its ownership or interest in a water service except to another local government organisation.
- F) That Council **notes** that Council cannot make a formal decision on a regional option for three waters service delivery without doing a Long Term Plan (LTP) amendment and ensuring it meets the requirements of section 130 of the LGA.
- G) That Council **notes** that the Government intends to make further decisions about the three waters service delivery model after 30 September 2021.
- H) That Council **notes** the feedback received from community from a preliminary feedback process, and **agrees** that it would be desirable to gain further understanding of the community's views once Council has further information from the Government on the next steps in the reform process.
- I) That Council **notes** that the CEO will report back to Council once he has received further information and guidance from Government, Local Government New Zealand and Taituarā on what the next steps in the three waters reform process are and how these are to be managed.
- J) That Council **in resolving B through to I above, agrees** it has given consideration to sections 76, 77, 78, and 79 of the Local Government Act 2002 and in its judgment considers it has complied with the decision making process that those sections require (including, but not limited to, having sufficient information and analysis that is proportionate to the decisions being made).

3.0 Executive Summary – *Te Kaupapa Me Te Whakarāpopotanga*

- 3.1 Over the past four years central and local government have been considering the issues and opportunities facing the system for regulating and managing the three waters (drinking water, wastewater, and stormwater) – this work is known as the Three Waters Reform. The background regarding this work is provided in Attachment 1 including information on Taumata Arowai (will become the dedicated water services regulator when the Water Services Bill is passed).
- 3.2 The Government has concluded that the case for change¹ to the three waters service (3W) delivery system has been made (Attachment 2) and during June and July 2021 Government released information and made announcements in relation to:
- the direction and form of 3W Reform, including four proposed new Water Service Entities (WSE), their indicative boundaries, their governance arrangements, and a public ownership requirement.
 - individual Council data produced by the Water Industry Commission for Scotland (WICS) based on the information supplied by Council under the Request for Information (RFI) process.
 - a package of investment (\$2.5b) for councils to invest in the future for local government, urban development, the wellbeing of communities, and funding support for transition, ensuring no council is worse off as a result of the reforms.
 - an eight-week process for councils to understand the implications of the reform announcements, ask questions and propose solutions, and for Government to work with councils and mana whenua on key aspects of the reform (including governance, integrated planning and community voice).
 - Arrangements for each Council – Hastings District Council has been placed in Entity C, the better-off funding allocation from government to Council is noted as \$34.885m, and the indicative allowance for the no worse off package (stranded costs) is an additional \$5m.
- 3.3 While the Government and Local Government New Zealand (LGNZ) consider that the national case for change has been made, each Council will ultimately need to make a decision based on its local context if the process to join one of the four proposed entities remains voluntary (which the Government has not confirmed).
- 3.4 This report provides Council with the officer analysis of information provided to date, and assesses the Government's proposal and currently available service delivery scenarios.
- 3.5 This paper does not evaluate 'options' for consideration or decision making, instead it provides an overview of the possible/likely service delivery 'scenarios' and provides Council with information on each possible scenario so as to ensure Council is fully informed for potential future decision making.
- 3.6 In preparing this report, officers have used the LGNZ, Taituarā, and Te Tari Taiwhenua Internal Affairs guidance² to assist Council to understand the information that has been provided to date and enable Council to prepare for future decisions and consultation and engagement with communities.
- 3.7 Key risks (considered) are documented in the report.
- 3.8 The following bulleted points summarise the analysis completed by Officers:

¹ [Transforming the system for delivering three waters services \(dia.govt.nz\);](https://www.dia.govt.nz/diawebsite.nsf/Files/Three-waters-reform-programme/$file/transforming-the-system- for-delivering-three-waters-services-the-case-for-change-and-summary-of-proposals-30-june-2021.pdf)
[https://www.dia.govt.nz/diawebsite.nsf/Files/Three-waters-reform-programme/\\$file/transforming-the-system- for-delivering-three-waters-services-the-case-for-change-and-summary-of-proposals-30-june-2021.pdf](https://www.dia.govt.nz/diawebsite.nsf/Files/Three-waters-reform-programme/$file/transforming-the-system- for-delivering-three-waters-services-the-case-for-change-and-summary-of-proposals-30-june-2021.pdf)

² <https://www.lgnz.co.nz/assets/Three-Waters-Guidance-for-councils-over-the-next-eight-weeks-FINAL.pdf>

- The modelling of projected expenditure, future costs and possible savings through the Government's proposed reform package highlights that cost will increase, Councils 2021-31 LTP also notes that costs and charges will increase.
- Officer's review of the information related to Council highlights a key concern at the appropriateness/rationale of the non-growth enhancement investment identified by the WICS modelling for Council. Without further information to clarify the information, it is considered that the \$1.9b provided for and modelled over the next 30 years (\$63.3m per annum on enhancements) is overstated.
- When considering the sensitivity analysis and potential funding ranges it is clear that from a pure household cost perspective that the government proposal is almost certainly cheaper for households, followed by a Hawkes Bay regional scenario and the Status Quo. Whilst an economic efficiency rationale supports the larger entity it is important to note that this is only one part of the decision making framework. Effectiveness and accountability concerns (including local priorities, partnerships with mana whenua, achieving community outcomes, responsiveness to growth, etc) will also require consideration. Decisions between options will require understanding of the potential trade-offs (cost/benefits) and the implications for the current and future community outcomes and needs. This makes an improved confidence in the cost ranges important. Officers regard (further communication with the community on the differences between the options as critical. This communication should be based on robust information.
 - To support future communication and decision making government must review and update its forecasts at the local level, and provide information in regards to what that investment could provide.
- **Scenario 1** – Government-proposed reform to a four-entity structure: The financial capability, efficiency, affordability and technical delivery benefits (based on information published by Government) of delivering 3W to the community via the proposed new WSE are likely to be of significant value if they can be realised. Our analysis suggests there should be reduced risk to council (with respect to non-compliance with standards and processes, lower costs for delivery, procurement). In addition, Council would not be responsible if a non-council supplier couldn't meet standards. There are also key risks in the following areas that would need to be mitigated including:
 - unclear accountability to the community
 - unclear how local / community voice is provided for
 - unclear how Council and the community influence the potentially complex and disconnected governance structures
 - integration with spatial growth and local planning and meeting growth demands in an operational delivery sense
 - coordination of works and investments with Council activities
 - transparent prioritisation of community needs and work, including ability to be agile
 - role of the economic regulator and how it could influence funding and priorities
 - integration with wider Council activities (e.g. transport infrastructure works programmes)
 - clarification of the timing and nature of entity investments (how do these line up with planned council investments and will they meet the needs of the community)
 - understanding the interactions and effects of the suite of reforms being progressed by government (e.g. RMA reforms, Future for Local Government)
 - households' ability to pay, and
 - Council's longer term financial situation.
- **Scenario 2** - Continued delivery of three water services by Council: The potential benefits of this scenario include greater Council control and more certainty over local infrastructure

integration (planning and delivery) with land use plans, growth pressure, and council objectives. Council however faces significant risks over the medium and longer term, including;

- likely higher real costs, in meeting the new water standards, environmental requirements and achieving compliance
- additional liabilities if performance does not meet changing requirements
- ability to maintain and develop staff resources to meet the increasing demands
- the ability of non-Council water suppliers to meet standards and requirements which poses a medium risk to Council and the community (if Council has to take responsibility for these supplies).

Council is in a good position relative to some to understand the level of current and likely future asset/infrastructure and compliance risk in pursuing this scenario of retained control and delivery. Through Council's recent investment in drinking water upgrades, latest LTP work and associated planning, Council is largely aware of the current and future risks relating to delivery, compliance and funding. Council has in place existing consents and has a programme for reviews and replacement of those consents. The drivers of most of these risks are not within Council's direct control. This makes mitigation more difficult, and the potential mitigation scenarios (such as greater investment, larger costs than currently planned, lower levels of service, compliance risk) could become unpalatable in time to the community and Council.

- **Scenario 3 - Regional aggregation of 3W services in an asset owning Council Controlled Organisation (CCO):** While councils would still need to be satisfied that the changing regulatory environment was adequately provided for, including ensuring there was sufficient funding to meet legal and regulatory obligations due to scale, Hawke's Bay is well positioned to understand and evaluate this scenario due to the large amount of collaborative work completed in 2018/19/20 on reform scenarios for and within Hawke's Bay. This scenario is considered to be of potential benefit to Hawke's Bay water users and ratepayers while addressing some of the risks and concerns identified with the government reform proposal at a national scale. This scenario:
 - Mitigates a large part of the current risks identified with scenario A1, in particular the area covered is a more natural fit with communities of interest, the environment (and with one Regional Council partner), and local iwi and hapu.
 - Enables an organisation to focus on the 3W challenges and prioritise investment decisions across the region, which should lead to better environmental and community outcomes
 - Provides for greater strategic, management and operational capacity and capability, workforce development and planning over scenario 2, with stronger regional focus than could be expected from scenario 1.
 - Enables efficiencies (in planning, programming, procurement, sharing of specialist expertise and delivery) for the region, whilst also ensuring wider benefits for the region can be considered (e.g. career pathways for youth).
 - Provides a balance between scenarios 1 and 2. As with the government proposal additional work is required to further develop this proposal (noted in the Hawkes Bay three water service delivery business case³).

Based on current advice this scenario would require legislative changes to enable the benefits and efficiencies to be achieved.

³ <https://www.hb3waters.nz/full-report-and-cases/>

- 3.9 Under scenarios 2 and likely scenario 3, Council will continue to bear the risk of meeting the new water standards, environmental requirements and compliance obligations. There are also implications and challenges for non-Council supplies to meet water quality requirements, with the risk that these supplies might default to Council in the future.
- 3.10 Other Government reforms (e.g. Resource Management Act, Future for Local Government) pose opportunities and challenges for each scenario.
- 3.11 Managing the transition to any new model is likely more risky and a greater challenge for Council (and others in its grouping) than the risks associated with the Government proposal once in operation. If the Government's proposal were to proceed, effective management of the transition by Council, Government and partners will be critical.
- 3.12 The law currently prohibits Councils deciding to formally opt-in to the current proposal (given section 130 of the Local Government Act 2002 and the level of detail known about this scenario at present). Current decision-making requirements, including the need to take account of community views and the strategic nature of the assets involved, would also preclude Council deciding to formally opt-in at this time without consultation.
- 3.13 Similar consultation and decision making requirements apply if the council wishes to consider alternative arrangements that involve asset transfers, divestment, change in ownership and/or the setting up of a CCO to deliver water services in the future (i.e. a Hawke's Bay model).
- 3.14 There are a number of issues, concerns and uncertainties for the Government and councils to work through before a robust Council decision (and decision-making process) can be arrived at, including whether legislative change will enable or require the WSE or CCO approach to be adopted. Therefore, there has been no expectation that councils will have made a decision to opt-in (or out) or commence community engagement or consultation over the eight-week period.
- 3.15 Councils have been specifically asked to provide solutions to three outstanding issues during the past eight weeks:
- ensuring all communities have both a voice in the system and influence over local decisions
 - providing effective representation on the new water service entities' oversight boards, including preventing future privatisation
 - ensuring integration between growth planning and water services planning.
- 3.16 Officers therefore request Elected Members to consider the issues that arise from the Government's proposal and any potential solutions so these can be raised with Government and LGNZ before the end of September 2021.
- 3.17 Government decisions on entity boundaries, governance and transition and implementation arrangements will occur after the eight week-process ends (30 September 2021) however there is as at the time of writing no certainty on how this will occur.
- 3.18 On the assumption that some of the reform goes ahead, it is anticipated that councils will continue to deliver water services until at least mid-2024 and council involvement in transition will be required throughout.

4.0 Background – Te Horopaki

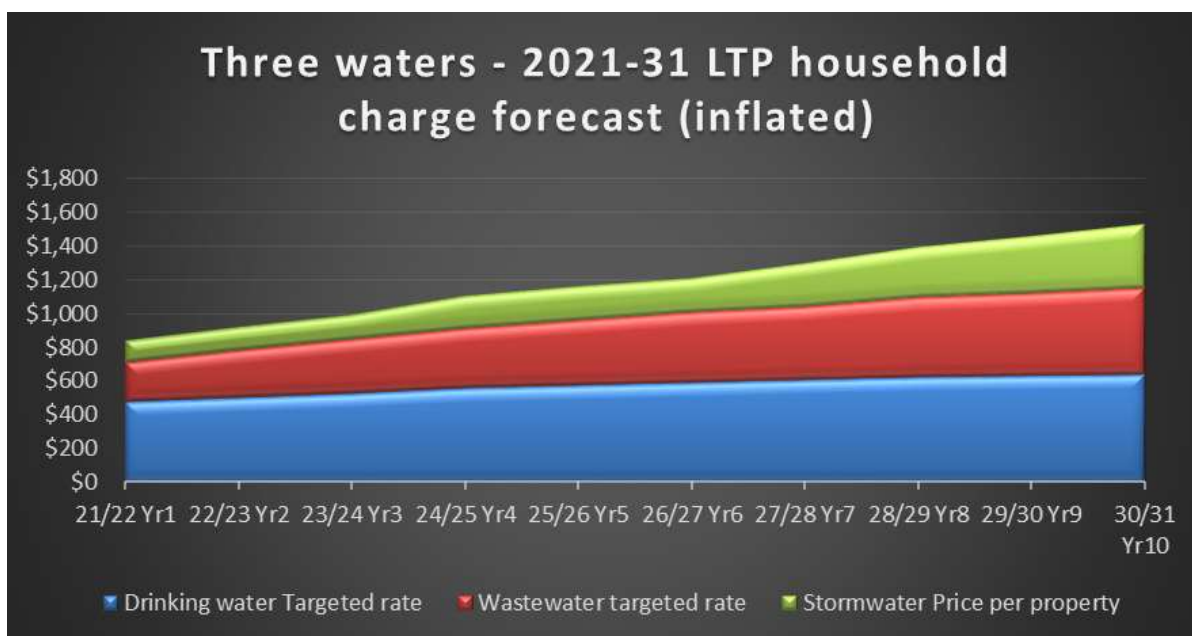
Hastings District Council context.

- 4.1 Hastings District Council (Council) provides the following:
- Drinking water to the main urban areas of Hastings City, Flaxmere, and Havelock North. It also provides drinking water to all, or parts, of the smaller communities of Bridge Pa, Paki Paki, Whakatu, Clive, Te Awanga, Haumoana, Omahu, Waimarama, Waipatiki, Whiranaki and Esk, and Te Pohue. All of these supplies have, or are in the process of having, upgrades to their treatment processes as part of the \$80m capital investment over last couple of years.

The LTP and Infrastructure Strategy signals the current and future renewal requirements, with the current increase in household connection renewals, and in later years increases in the renewals of AC pipes. Council is also at the start of a programme to upgrade and extend the backflow controls and has progressed with the regional Joint Working Group new provisions in the Draft Regional Plan change to give effect to the source water protection zones.

- Councils wastewater system includes a separated trade (clear) waste reticulation system along with a domestic waste system. The 2 waste systems are treated separately at the waste water treatment plant at East Clive, and then combined into the long outfall. The treatment plant has joint oversight via the Tangata Whenua Joint Waste Water committee, and operates to a current consent that expires in 2048, with a 9 year review period coming due in 2022. The domestic waste water service provides less coverage than the drinking water service with many of the small communities serviced via their own household effluent systems. In time a number of these communities are likely to desire/require community based solutions.
- Councils' stormwater service is predominantly based around the main urban area of Hastings City, Flaxmere, and Havelock North. All urban runoff makes its way into the Karamū Stream, via Council pipes and drains along with Hawkes Bay Regional Council (HBRC) drains. The Havelock North area also has a number of streams and dams that provide key flood control protections for the community, these are currently managed by Council, with active discussions underway to review the current agreements between the two councils. While stormwater quality and flood capacity are recognised as key challenges that need to be improved in the years ahead, the full scale of solutions and investment are not well defined at this point. From a quantity (flood mitigation) perspective the solutions will require a close working relationship between the 2 councils to find the optimal approach. The global consent council holds for the main urban areas is reaching the end of its term (2022), and preparation work is underway for the new consent application.

- 4.2 The total replacement value of the assets is currently valued at \$1.1b, with a current depreciated value in the order of \$0.62b.
- 4.3 Council current financial and investment forecasts see the cost of three water services for households increasing from \$840 in 2021 to \$1530 in 2031 (including inflation) for those receiving 3W services.



- 4.4 The stormwater price per property is shared across the entire rating area 1 (as part of the general rate), whilst the drinking water and wastewater rates are charged to those properties connected.
- 4.5 Council also included a \$10m expenditure allowance (in the stormwater cost centre) for undefined projects, as a placeholder for climate change response. This was a placeholder amount, with investigations over the next 3-5 years to better define the need for mitigation works and to update the scale of investment required.
- 4.6 A high level summary signalled in the 2021 LTP Infrastructure Strategy is included below, with indicative funding direction highlighted.
- 4.7 Drinking water

Key Matters	LTP Funding Impacts		
	3 Year	4-10 Year	11-30 Year
Operations and maintenance —Slight increases in the 1-10 year horizon due to O&M improvements and increasing compliance requirements to limit abstraction and demonstrate water efficiency.	Increasing	Increasing	Existing
Compliance and reporting —Slight increases in the 1-10 year horizon based on increasing water quality compliance costs and resource consenting requirements.	Increasing	Increasing	Existing
Renewals planning and investment —Large increases in the 1-3 year horizon to implement prioritised renewal works. The longer term horizon will also see slight renewals increases due to increasing asset information and renewals prioritisation.	Increasing	Increasing	Increasing
New Capital —Large increases in the 1-3 year horizon to complete backflow preventer installation and support the ongoing implementation of the Water Strategy.	Increasing	Increasing	Existing
Growth —Growth projects have been centrally coordinated through the Growth Projects Review Board. Iona and Howard Street residential developments in the first 3 years of the plan require escalated investment.	Increasing	Existing	Existing

4.8 Stormwater

Key Matters	LTP Funding Impacts		
	3 Year	4-10 Year	11-30 Year
Operations and maintenance —Significant increases in the 1-10 year horizon to maintain new storage basins and treatment areas in industrial zones. Slight increases over the medium term as part of the Three Waters Reform process.	Increasing	Increasing	Increasing
Compliance and reporting —Significant increase are anticipated based on increasing compliance costs for ongoing catchment monitoring and future resource consenting requirements.	Increasing	Increasing	Existing
Renewals planning and investment —Increases in the 1-10 year horizon and then significant increases over the longer term as improved asset information and prioritised renewals are confirmed.	Increasing	Increasing	Increasing
New Capital —Increases in the 1-10 year horizon. Timing of significant increase in the latter part of the 30 year horizon as future treatment and discharge arrangements are required to improve stormwater quality.	Increasing	Increasing	Increasing
Growth —Growth projects have been centrally coordinated through the Growth Projects Review Board. Iona and Howard Street residential developments in the first 3 years of the plan require escalated investment.	Increasing	Existing	Existing

4.9 Wastewater

Key Matters	LTP Funding Impacts		
	3 Year	4-10 Year	11-30 Year
Operations and Maintenance —Slight increases in the 1-10 year horizon due to greater focus on investigations and preventative maintenance.	Increasing	Increasing	Existing
Compliance and reporting —Initial compliance costs remain similar to previous with slight increase in the medium term due to potential increases in resource consenting standards and requirements.	Increasing	Increasing	Existing
Renewals planning and investment —Significant increase in the 1-3 year horizon which decreases over time due to increasing asset information and renewals prioritisation.	Increasing	Increasing	Existing
New Capital —Similar funding levels in the 1-10 year horizon and then significant increases in the latter part of the 30 years due to future treatment and discharge arrangements (ocean outfall).	Existing	Increasing	Increasing
Growth —Growth projects have been centrally coordinated through the Growth Projects Review Board. Iona and Howard Street residential developments in the first 3 years of the plan require escalated investment.	Increasing	Existing	Existing

- 4.10 One of the greatest uncertainties in forecasts are future regulatory requirements as these risks are difficult to quantify at this point. It is clear however that standards for both freshwater management and drinking water compliance are increasing, meaning a likely increase in costs.
- 4.11 Council is also in a position of strength in having formed close and effective working relationships with neighbouring councils in the Hawke's Bay region. These relationships have been leveraged specifically to investigate potential improvement opportunities for managing three waters assets and services across Hawke's Bay.
- 4.12 Council's current 3W debt position is in the order of \$140m.

The Three Waters Reform Programme

- 4.13 Following the serious campylobacter outbreak in 2016 and the Government's Inquiry into Havelock North Drinking Water, central and local government have been considering the issues and opportunities facing the system for regulating and managing the three waters (drinking water, wastewater, and stormwater).

- 4.14 The focus has been on how to ensure safe drinking water, improve the environmental performance and transparency of wastewater and stormwater networks and deal with funding and affordability challenges, particularly for communities with small rating bases or high-growth areas that have reached their prudential borrowing limits.
- 4.15 The Government's stated direction of travel has been to introduce publicly-owned multi-regional entities (with a preference for local authority ownership). The Department of Internal Affairs (DIA), in partnership with the Three Waters Steering Committee (which includes elected members and staff from local government) commissioned specialist economic, financial, regulatory and technical expertise to support the Three Waters Reform Programme and inform policy advice to ministers.
- 4.16 The initial stage (Tranche 1 - MOU, Funding Agreement, Delivery Plan and RFI process) was an opt in, non-binding approach. It did not require councils to commit to future phases of the reform programme, to transfer their assets and/or liabilities, or establish new water entities. The 2020 indicative reform programme and then anticipated next steps can be found in Attachment 2.
- 4.17 Council completed the RFI process over Christmas and New Year 2020/21. The Government has used this information, evidence, and modelling to make preliminary decisions on the next stages of reform and has concluded that the case for change has been made (Attachment 3).
- 4.18 In June 2021 a suite of information was released by Government that covered estimated potential investment requirements for New Zealand, scope for efficiency gains from transformation of the 3W service and the potential economic (efficiency) impacts of various aggregation scenarios.⁴
- 4.19 In summary the modelling indicated:
- a likely range for future investment in 3W infrastructure at a national level in the order of \$120 billion to \$185 billion,
 - an average household cost (for 3W only) for most councils on a standalone basis to be between \$1,910 and \$8,690 by 2051.
- 4.20 It also estimated these average household costs could be reduced to between \$800 and \$1,640 per household and efficiencies in the range of 45% over 15-30 years if the reform process went ahead.
- 4.21 An additional 5,800 to 9,300 jobs and an increase in GDP of between \$14b to \$23b in Net Present Value (NPV) terms over 30 years were also forecast (under this scenario).
- 4.22 As a result of this modelling, the Government has proposed to:
- establish four statutory, publicly-owned water services entities that own and operate three waters infrastructure on behalf of local authorities
 - establish independent, competency-based boards to govern these entities
 - set a clear national policy direction for the three waters sector, including integration with any new spatial / resource management planning processes
 - establish an economic regulation regime
 - develop an industry transformation strategy.
- 4.23 The newly established entities are designed to remain fully and purposefully in public ownership in perpetuity and protection mechanisms have been built through the entity design approach and through legislation to ensure this. The proposed safeguards against privatisation can be found on page 26 of the DIA's [summary of the case for change](#)

⁴ This information, including peer reviews and the Minister's briefing can be accessed at: <https://www.dia.govt.nz/Three-Waters-Reform-Programme> and [release-of-second-stage-evidence-base- released-june-2021](#).

- 4.24 Both DIA and LGNZ have produced two-page national overviews, available on the [DIA website](#)⁵ and [LGZ websites](#)⁶ respectively. Attachment 2 contains more detail on the national context and Attachment 3 provides the DIA/LGNZ overviews.
- 4.25 Council has been placed in Water Services Entity C which includes a geographic area covering the southern half of East Cape, down the east coast of the North Island, across into Manawatu, through Wellington and the Wairarapa and Nelson and Marlborough. The area would serve approximately 955,000 connected water users although the precise boundaries are still up for discussion.



Funding for Councils.

- 4.26 On 15 July, in partnership with LGNZ under a [Heads of Agreement](#)⁷, the Government announced a package of \$2.5 billion to support councils to transition to the new WGES and to invest in community wellbeing. This funding is made up of a 'better off' element (\$500 million will be available from 1 July 2022 with the investment funded \$1 billion from the Crown and \$1 billion from the new WGES) and 'no council worse off' element (available from July 2024 and funded by the WGES). The "better off" funding can be used to support the delivery of local wellbeing outcomes associated with climate change and resilience, housing and local place making, and there is an expectation that councils will engage with iwi/Māori in determining how to use their funding allocation.
- 4.27 Under the proposal Council will receive a better off funding allocation of \$35m, and an indicative no worse off package of \$5m (to cover stranded overheads). The detail of the funding (including expectations around the use of reserves) and the full list of allocations can be found in Attachment 4. Conditions associated with the package of funding have yet to be worked through.

The Reform Process Now

- 4.28 In addition to the funding announcements, the Government has committed to further discussions with local government and iwi/Māori on:
- the boundaries of the WGES

⁵ [2872-DIA-A3-A New Water with-without reform Map 20210526 v2.7](#)

⁶ [Three-Waters-101-Infographic.pdf](#) (lgnz.co.nz)

⁷ [https://www.dia.govt.nz/diawebsite.nsf/Files/Three-waters-reform-programme/\\$file/heads-of-agreement-partnering-commitment-to-support-three-waters-service-delivery-reform.pdf](https://www.dia.govt.nz/diawebsite.nsf/Files/Three-waters-reform-programme/$file/heads-of-agreement-partnering-commitment-to-support-three-waters-service-delivery-reform.pdf)

- how local authorities can continue to have influence on service outcomes and other issues of importance to their communities
 - ensuring there is appropriate integration between the needs, planning and priorities of local authorities and those of the WGES
 - how to strengthen the accountability of the WGES to the communities that they serve, for example through a water ombudsman
- 4.29 As a result, the original timetable for implementing the reform (outlined in Attachment 1) and for councils to consult on a decision to opt-in (or not), no longer applies. Further advice on the difficulties and risks of making a decision to opt-in or not is included in the scenario analysis section of this report.
- 4.30 Next steps are expected to be announced after 30 September 2021, which would include the timeframes and responsibilities for any community or public consultation.
- 4.31 It is also important to note that the Government has not ruled out legislating for an “all-in” approach to reform to realise the national interest benefits of the reform.
- 4.32 In the interim the DIA continues to engage with councils on transition matters in preparation should the reform proceed. These discussions do not pre-empt any decisions about whether to progress the reforms or whether any individual council will transition.
- 4.33 On the assumption that the reform goes ahead, it is anticipated that councils will continue to deliver water services until at least mid-2024 and council involvement in transition will be required throughout.

Council specific information and analysis

- 4.34 While the Government and LGNZ consider that the national case for change has been made, currently each council who chooses to engage in the process in any form must make its own assessment of the pros, cons and risks of reform based on its own unique local context.
- 4.35 Councils do not have a national interest test for their decision making. Councils are required to act in the interests of their communities and the community’s wellbeing (now and into the future), provide opportunities for Māori to contribute to their decision-making processes, ensure prudent stewardship and the efficient and effective use of its resources in the interests of the district or region (including planning effectively for the future management of its assets) and take a sustainable development approach⁸.
- 4.36 Council currently delivers three waters through a mix of in-house and contracted-out resources. These teams have built an understanding of Council’s asset base, service delivery challenges and opportunities and its community needs and expectations over an extended period of time. In many cases this understanding is tacit, but it is also leveraged highly through formal asset management practices.
- 4.37 The Government case for change is largely premised on the outcomes of economic modelling completed by DIA and WICS. This modelling considered the current and future investment needs of Councils to deliver services and compared these to expected costs under a reformed model. The outputs of this modelling/analysis are presented concisely in publicly available dashboards that can be found on the DIA [website](#). The dashboard for Council⁹ looks like this:

⁸ See for example sections 5 and 14 of the LGA.

⁹

<https://app.powerbi.com/view?r=eyJrIjoie0GE1OTJlYWUtZDZkNy00YWZjLTgzN2EtOTY1MzQxNGM5NzJmIiwidCI6ImY2NTIjYTVjLWZjNDctNGU5Ni1iMjRkLTE0Yzk1ZGYxM2FjYiJ9>



4.38 Council's analysis of the DIA projections raise some issues as to the accuracy of assumptions and models. The key aspects Council should note are detailed below.

4.39 Average cost of per household

- the DIA (based on several assumptions) models it at \$810; Councils own information, based on the 2021/22 Plan, currently would charge households in Rating Area 1 \$841.
- the DIA projection out to 2031 (again based on assumptions) is \$3,583 (inflation removed, and \$4,530 by 2051) and our council is \$1,400 (inflation removed, based on year 10 of the LTP 2021-31).
- the DIA's projection for reform (Entity C) is \$1,260 by 2051 (currently officers are uncertain as to the price path up to 2051).

4.40 Debt

4.41 Government has provided an indicative funding impact tool to review the current and potential future debt position (if the proposal proceeded)



4.42 The transfer of assets and the associated three waters debt is estimated to reduce Council debt from a forecasted level of \$253m to \$85m, whilst also reducing revenues by \$38m. If this transfer occurred it would increase Councils debt headroom by over \$100m, which would increase its ability to respond to unplanned events (i.e. earthquakes) or other issues and opportunities. Noting also that Council's responsibilities to which it is required to respond to will also be reduced without the 3 waters.

4.43 In reviewing the information from DIA, officers also believe that the household costs are artificially high due to an incorrect use of the 250% debt to revenue limit. Rather than use councils total debt to revenue the DIA modelling is only using 3W debt and 3W revenue which is in the order of 576%. The outcome of this for council is that household cost forecasts are higher than necessary (as the model is paying down debt to get to the 250% threshold). This is estimated to have an effect of

around \$800 per household in 2051 (correcting this is estimated to reduce the 2051 forecast from \$4,910 to \$4,127).

- 4.44 A further potential difference in modelled scenarios is the timing of capital investment. It is officers understanding that the Entity C model has a different timing of investment increases (delayed until around year 10 as efficiencies are realised) vs the Council model which spreads the capital investment evenly. We have not completed any analysis of the effect of this, but it does highlight a need to confirm when Entity C would actually deliver the forecasted increased spend across the District. Any actual delay in investment might have negative impacts in terms of growth responsiveness or the meeting of community need.
- 4.45 Council's debt is currently sourced 100% through the Local Government Funding Agency (LGFA) with varying maturity dates. Assuming that any maturing debt between now and mid-2024 and any new debt required was borrowed at short term maturities, Council would still have approximately \$138m of debt at 30 June 2024 with maturity dates out to 2029. It is currently unknown if any of this debt can be transferred to the new WSE or if Council will be required to hold funds received to clear debt on deposit until such time as it matures and can be repaid.
- 4.46 Council will also be in a position of holding \$69m of financial instruments in the form of interest rate swaps as at 30 June 2024 at an average interest rate of 3.8%. In addition to this Council has \$30m of fixed rate bonds with the LGFA with maturity dates in 2028 and 2029. The process of Council extracting itself from these fixed interest rate positions is complex and will come at a cost if it is possible. Council could be left with more expensive longer term fixed debt and consideration would be required under the "no worse off" criteria.
- 4.47 There is also likely to be operational debt held in the wastewater and water supply targeted rates accounts at June 2024 with Council using these reserves as a mechanism to smooth rate increases over time.
- 4.48 Capital Expenditure Forecast
- 4.49 Over the next 10 years the DIA are forecasting \$256m in renewals and \$633m in enhancements for Council. The DIA renewal amount is based on fully funding depreciation, which is using different assumptions to current practice and for an increasing asset base. The increased asset base comes from the \$63m per annum that DIA are modelling for Council, every year for the next 30years. Therefore by 2051 the DIA modelling is estimating that \$1.9b will be invested in new assets to deliver the 3W services. The model is made up of Councils growth figures (supplied in the RFI) plus the output of an economic model that the WICS provided. It is understood that this model uses a number of inputs, such as population, density, and land area to calculate an expected investment value.
- 4.50 Councils LTP includes allowance for ratepayer investment of \$139m in renewals and \$104m in enhancements and growth over the next 10 years. These amounts exclude carry forwards for works that are underway. The Infrastructure Strategy highlights that there will be further investment increases required, in both renewals and enhancements. Currently Council is not renewing assets at the rate of depreciation across all three water asset areas (as this can lead to wasted asset life), but the future investment plan includes increases where this gap will close (i.e. the stormwater network is only just getting to replacement age, with most investment in stormwater focused on service improvement at this stage).
- 4.51 The difference in capital investment forecasts are significant and contribute to the material difference in household costs that government is forecasting. To provide some context of value, the drinking water upgrades the community has invested in over the last few years is expected to cost \$80m. This investment will have added new treatment plants to all Council drinking water supplies, drilled a number of new public water supply bores, doubled the available potable water storage, and created a duplicate pipe connection between Hastings and Havelock North.

- 4.52 Officers have considered what other items could potentially be added to existing programmes to close the gap between Councils plan and the DIA figures. Officers considering current information and taking an unconstrained view (no restraint on funding, deliverability, consents, and land approvals) identified \$250-300m of investment over the next 10 years. This did not fully consider climate change effects (as it is understood the DIA figures also did not include this). A significant investment item could be the replacement of the wastewater treatment plant if the current treatment approach was made non-conforming by future standards and rules. This could potentially cost in the order of \$600-800m depending on the standard required.
- 4.53 Officers also looked to make comparison with our closet neighbour (Napier City Council), who has a similar population, size of urban form environment and source water. They do not have the same number of small communities, largely due to covering a smaller land area (primarily urban with coastal and small rural fringe, vs city and coastal with a large rural area and a number of village communities). The output of the DIA model for enhancements for Napier is \$0.7b, as compared to the \$1.9b forecasted for Hastings. It would be expected that there would be some difference but the magnitude of difference is difficult to reconcile. The current assumption is that this particular model is influenced by land area as that is the main difference between the councils. Most of the land area of Hastings District does not require 3W servicing.
- 4.54 Council investment in stormwater is one of the more uncertain areas with the full requirements in response to the National Environment Standards for Freshwater and the TANK plan change yet to be fully understood. There is also the possibility of new national standards in regards to the level of service minimum standards.
- 4.55 Council's operations and maintenance budgets have increased over time, and are forecasted to increase further as the scale and complexity of the assets, control systems, consenting, and compliance environment increase.
- 4.56 The future response to climate change and the coastal hazard strategy will in years to come create additional servicing challenges. The approach, scale and timing of required changes in this area will be dependent on national, regional and local decisions in the years to come – in particular how/if and where managed retreat is implemented.
- 4.57 Overall, it is difficult to reconcile the \$1.9b in investment signalled in the DIA modelling with the asset management-based forecasts and assumptions made by Council.

Private Drinking Water Supplies

- 4.58 The current Water Services Bill sets the new legislative environment for three waters, particularly for drinking water. Once passed, this will see Taumata Arowai take over from the Ministry of Health as the Drinking water regulator. Taumata Arowai then commence the formal release and consultation on proposed drinking water standards and acceptable solutions. Within the Water Service Bill are provisions that propose to extend drinking water oversight and requirements into significantly more private water supplies than required by the current Health Act 1956.
- 4.59 Hastings District has a small number of known private water supply schemes across the District. There are also likely to be a significant number that Council is not aware of that will likely fit within the proposed criteria for being covered by the new regulatory regime. While this reform proposal focusses on Council supplies, changing drinking water legislation and compliance standards will place an additional burden on these private supplies in the near future. There is potential for Council to have to work with and potentially take over these supplies if they are unable to meet quality standards and regulatory requirements. If Council had to assist these supplies this would create an additional burden on resources and potentially require additional funding. Under the reform proposal this obligation would transfer to the proposed entity.

5.0 Community feedback engagement

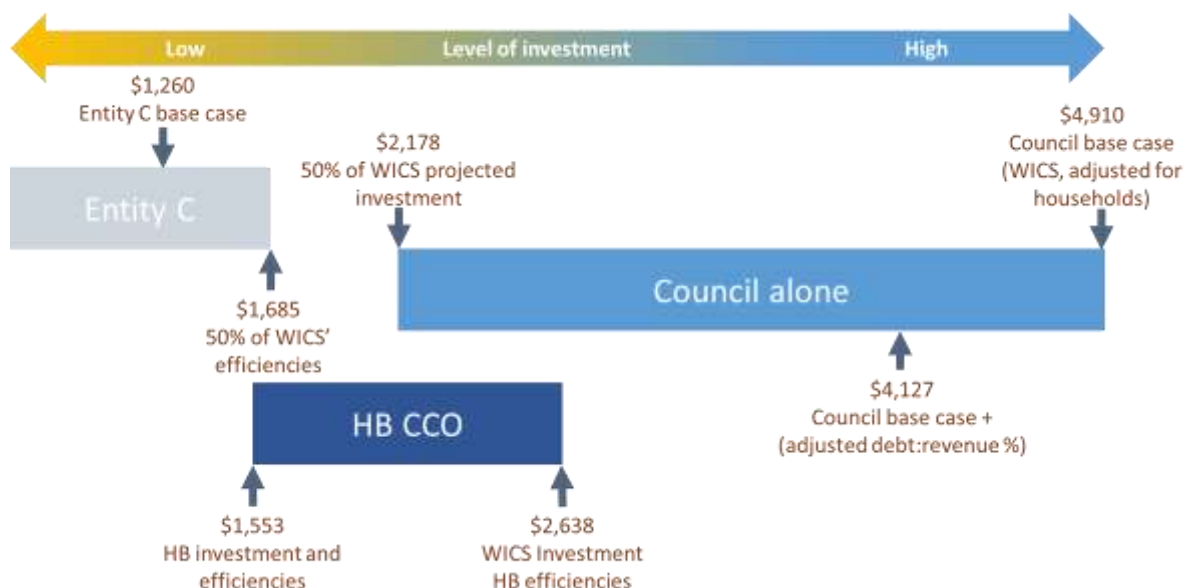
- 5.1 Although the Government's proposal is not owned by Council, Council has sought to gather the views of the community to help inform its submission to Government, particularly given its potential impact on the community.
- 5.2 Communication and engagement was undertaken during the first half of September and sought to provide information to the community on the current proposal, and on Council's participation in a regional review of three-waters, present Councils current views on the proposal, and provide an opportunity for the community to provide feedback to ensure Council's response would cover the key themes from the community.
- 5.3 Communications including establishment of a web page on the HDC website, media releases to print and radio, advertising feature in the HB Today (Saturday) paper, social media activity including promotion (paid promotional post) of and hosting of a Facebook Live Q&A session (Sept 16, 7pm) hosted by the Mayor, Chief Executive and GM Asset Management. As at 24 September the recording has reached 2,033 people, had 544 engagements, 4 shares and 75 comments (reviewed and/or answered during the hosted session).
- 5.4 Council also encouraged the community to share its views to assist with Councils feedback via an online survey. This survey collated just over 800 community responses, the wider results of the feedback are included as an Attachment 5 to this report, and will also be made available on the HDC Three Waters web page.
- 5.5 There were a number of key themes from this feedback:
 - Almost 90% of respondents noted that it was *Very Important* for government's final proposal to be fully consulted on with the community.
 - The top ranked priorities the community valued were *Affordability, Security and Safety of Supply, Local Service Delivery, and Local Ownership*. These items may be in conflict with each other and highlight the need for government to clearly communicate on how its proposals address these priorities. Working through the apparent tensions between these priorities will also be for Council if it is faced with a subsequent three waters reform.
 - When asked what aspects of the proposal the community wished to have more information from Government on, the top responses were *Costs to Individual Rate Payers, Governance Arrangements* and *How Local Voices Would Be Effectively Heard*.
 - Based on current information 72% of respondents were *Very Uncomfortable* with the current government proposal.

6.0 Discussion – Te Matapakitanga

- 6.1 While prepared at the national level, the government modelling has been peer reviewed by Farrierswier and Beca to ensure that both the modelling and underlying assumptions are reasonable in the New Zealand context. The modelling provided by Morrison Low (ML) for the regional scenario is directionally consistent, but different in the scale of the enhancement investment. The ML review has also highlighted differences in approach between the local specific analysis and the national/entity level analysis. Officers are uncertain as to whether the reviews of Farrierswier and Beca extended to reviewing the modelling at an individual council level, which we hypothesise as likely to have unders and overs across the country.
- 6.2 At this stage it is not possible to properly test the projections as the potential environmental and drinking water standards for Aotearoa/New Zealand out to 2051 are not known. However it is reasonable to assume that there will be greater community and mana whenua expectations around environmental performance and quality, tougher standards to meet for water quality (drinking and receiving environment) and that levels of monitoring, compliance and enforcement will be greater than they are now. This affects both operational and capital expenditure (costs will go up), including

the number of staff (or contractors) that will be needed to ensure required outcomes for water and community and legal requirements are met.

- 6.3 There is always a level of uncertainty and therefore risk around assumptions and forecasts, whether prepared by Council staff for LTPs or by others such as Government to facilitate policy decisions, such as the current Three Waters Reform process.
- 6.4 The uncertainty in the financials is demonstrated by the diagram below. This illustrates the potential range(s) of future costs for the different levels of service delivery. What is certain is that costs will increase for households and businesses, regardless of the option chosen. It is also likely that the larger the entity the less sensitive it is to future investment uncertainty.



- 6.5 At a Council specific level there is high uncertainty and low confidence in the DIA forecasted enhancement investment modelled for Council. Also, as previously mentioned the DIA modelling incorrectly applies the debt to revenue limit to just 3W revenue and debt rather than total Council revenue and debt.
- 6.6 Currently, it is the view of officer's that without very significant changes in standards and service requirements the full DIA modelled enhancement investment for Council is unlikely to be required. However it is clear that costs will increase and that the future state is uncertain. It would therefore be unwise and lacking in robustness to not consider the implications of some increases beyond that already included in Councils planning and regional modelling to date.
- 6.7 Officers consider that it would not be a good use of Council's limited resources to spend further time and money on a further detailed review of the assumptions and modelling. This should be a responsibility for Government as they are leading the reform agenda and should be leading the conversation with communities.
- 6.8 The analysis described only briefly above, along with knowledge of Council's own existing plans, as well as further specific work to understand the opportunities for a Hawke's Bay model have enabled officers to present the scenarios considered below.
- 6.9 To assess whether the proposed 'better off' and 'no worse off' funding to Council is sufficient, Council needs further information on the conditions that will be associated with that funding. For the purposes of the following scenarios analysis and commentary, it is assumed that the funding would provide Council with an opportunity to address a range of issues and opportunities to improve community wellbeing in partnership with mana whenua and the communities that Council serves.

7.0 Scenarios Available to Council for Three Waters Service Delivery

- 7.1 This section provides an overview of the scenarios available to Council and is followed by an analysis of the Council's reasonably practicable scenarios. In line with section 77 of the LGA, the following section presents other 'reasonably practicable' scenarios for 3W service delivery in order to assess the advantages and disadvantages of each scenario. Note though that Council is not being asked to decide on an alternative scenario to the government proposal at this point in time.

Scenario 1 - Government proposed reform to a four-entity structure:

- 7.2 Under this scenario, Council is placed in WSE, a publicly owned water services entity that owns and operates three waters infrastructure on behalf of councils, mana whenua and communities.
- 7.3 The greater financial capability, efficiency, affordability and technical delivery benefits (based on information published by Government) of delivering three waters to the community by the proposed new WSE are likely to be of significant value if they can be realised. Our analysis suggests there should be reduced risk to council (non-compliance with standards and processes).
- 7.4 The ownership and governance model is a bespoke model, with councils listed in legislation as owners, without shareholdings or financial interests, but an advocacy role on behalf of their communities. Iwi/Māori rights and interests are also recognised and representatives of local government and mana whenua will sit on the Regional Representative Group, issue a Statement of Strategic and Performance Expectations and receive a Statement of Intent from the WSE. Entities must also consult on their strategic direction, investment plans and prices / charges.
- 7.5 The law currently prohibits Council formally deciding to opt-in to the current proposal (given section 130 of the LGA, which prevents councils from divesting their ownership or interest in a water service except to another local government organisation such as a CCO. Given what we know about this scenario at present, there also appears to be insufficient information on which to base a decision.

Scenario 2 - Continued delivery of three water services by Council

- 7.6 The potential benefits of this scenario include greater Council control and more certainty over local infrastructure integration (planning and delivery) with land use plans, growth pressures, and council objectives. Council however faces significant risks over the medium to long term under this scenario, including potentially higher costs, in meeting the new drinking water and other standards, environmental requirements and achieving compliance. The ability of non- Council water supplies to meet standards and requirements, and the possible need for Council to assist, also poses a medium risk to Council and the community.
- 7.7 Council is in a good position relative to some others to understand the level of current and future asset/infrastructure investment required and the compliance risk associated with pursuing this scenario of retained control and delivery. Council also needs to be aware that workforce challenges exist and that these are forecast to get worse as Council and the wider industry lose valuable people and their knowledge due to retirements and staff seeking other opportunities.
- 7.8 Through Council's latest 2021 LTP work and associated planning, Council is largely aware of the current and future risks associated with delivery, compliance and funding. The causes of most of these risks are not within Council's control. This makes mitigation difficult. In addition, many potential mitigation scenarios (such as greater investment, larger costs than currently planned, lower levels of service, compliance risk) may not be palatable to Council or the community.

Scenario 3 – Regional aggregation of three waters services in an asset owning CCO

- 7.9 Council, as part of a regional working group working collaboratively since 2018 has formally and comprehensively investigated and assessed the opportunity to create an aggregated entity to deliver three waters services for Hawke's Bay via an asset owning CCO. Although both a management CCO and an asset owning CCO have benefits, the detailed analysis in the Hawkes Bay report demonstrates that a regional asset owning CCO is a more effective service delivery model

than the management CCO and best meets the investment objectives and principles set by the participants in that review. This scenario has therefore been developed assuming that assets are owned by a CCO.

- 7.10 There are existing examples of CCOs, WaterCare (water and wastewater services) and Wellington Water (who don't own but do manage all three waters on behalf of their owners) and studies such as the Hawkes Bay study that have considered this scenario.
- 7.11 Please note that both the Auckland Council and the owners of Wellington Water are affected by the Government's proposal and are assessing their scenarios (e.g. for Wellington Water to become an asset owning company).

8.0 Scenario Analysis

- 8.1 The analysis in the following section will provide some of the required information to enable Council to make future decisions and will inform feedback/questions to government.
- 8.2 Officers have used the Local Government New Zealand, Taituarā, and Te Tari Taiwhenua Internal Affairs guidance¹⁰ and our own analysis to understand the potential impact of reform and other practicable scenarios (both today and in the future) in terms of service, finance and funding, economic development and growth, workforce, delivery and capability and social, cultural and environmental wellbeing.
- 8.3 A significant aspect of the government reform agenda is focused on the important aspect of household costs (Economic Efficiency). It is highly unlikely that Council could deliver services at household cost lower than Entity C. The performance of the regional model will similarly have higher levels of household cost than Entity C, but be less sensitive to uncertainties than Council going alone. However economic efficiency is only one part of the considerations, as the service needs to be effective, and this will require interaction with local government to ensure communities are well served. Catering to growth, in particular, is an area that will require focus.
- 8.4 Council will also need to understand the effects of dis-aggregation of the current Council business approach from the current state where the three waters team is an integrated part of the wider delivery of growth planning and investment; consents processing and approval; physical works planning, coordination and integration; and community responsiveness and accountability arrangements.
- 8.5 The LGNZ guidance provides a simplified impact matrix. Council officers have considered this along with the risk assessment completed for different scenarios. The following diagram illustrates pictorially the relative differences between the different scenarios, noting the areas of reward and areas of potential risk
- 8.6 It is important to note that Council is not at a decision making point on whether to opt in to the Government reform proposal, nor is the information available significantly robust to support such a significant decision. What is important at this time is to seek information and provide feedback in order to reduce uncertainties and seek modifications in regards to the risks noted by Council.
- 8.7 The community feedback noted a key aspect to them is household affordability. Based on the available information that would support Scenario 1. However the feedback also highlighted a strong theme around local accountability and local ownership. This would support Scenario 2. Scenario 3 has the benefit that it sits between these 2 points of tension, having increased scale to



¹⁰ <https://www.lgnz.co.nz/assets/Three-Waters-Guidance-for-councils-over-the-next-eight-weeks-FINAL.pdf>

improve affordability and sensitivity to additional demands whilst still having strong local and regional connection.

8.8 Each scenario has its rewards and risks, a brief summary by scenario is provided below:

8.9 Scenario 1- Government proposed reform to a four-entity structure

- It provides greater financial capability, efficiency and affordability, and the community/water benefits (published by Government) of delivering three waters to the community are likely to be of significant value if they can be realised.



- The key opportunities our analysis identifies include reducing the Council's current risk profile including reduced liability and compliance risk and increased ability to improve outcomes and manage workforce risks. The separation of 3 waters debt from the Council balance sheet will improve the financial position of Council. The proposed reform programme also presents opportunity for a potentially more meaningful role for iwi/Maori in decision making.
- Our analysis suggests that the critical risk theme for this scenario is the loss of direct local accountability, reduction in community proximity and input views into decision making and prioritisation, and a related reduction in responsiveness to the community.
- Critical elements that are of concern and require mitigation include integration with spatial and local planning, responsiveness to growth and how community priorities will be reflected in prioritisation. There also remains a risk to households' ability to pay.

8.10 Scenario 2- Continued delivery of three water services by Council

- This scenario keeps local accountability directly in Council's lap. Council will continue to be able (within the restrictions of legislation) to direct and prioritise investment and priorities. Council has some headroom within its existing financial



strategy to absorb some additional requirements that may be placed on it from potential new regulations, it also has the ability to reduce its input into other areas of investment once this headroom is removed. However the ability of its ratepayers to pay could be severely threatened if significant changes were required, particularly at the level of enhancement forecasted by DIA (even 50% of the enhancement investment could be challenging). Councils debt limits would likely become a constraint which would limit Council's ability to deliver on other community objectives.

- If costs increase very significantly then it may become difficult to attract businesses and create jobs, as well as the risk of some of the large existing businesses choosing to relocate to other areas, creating loss of local employment.

- Council has got on with improvements to its drinking water treatment infrastructure and has increased the capacity and capability of its three waters team over recent years. This team utilises its relationships and networks to look for shared opportunities. Under this scenario it would be beneficial, if not essential, to enhance this fraternal approach to increase the sharing of procurement, planning, policy, and solution design with partners regionally and nationally where possible.
- The ability to achieve the rewards noted above will be subject to the ability to fund and resource required work.
- Council is likely to find it increasingly difficult to attract and maintain adequate resources to effectively manage and maintain the required services. Currently there are significant vacancies nationwide, with a significant retirement phase likely over the next 10-15 years. This will make competing for staff difficult in an environment that is likely to become increasingly complex. If Council was to stay stand-alone and others joined up into larger entities then this difficulty is likely to increase.
- Moving forward, compliance will become increasingly difficult with likely increases in standards. There is also likely to be a change in approach, more akin to Health and Safety obligations and risk mitigation. It will be a responsibility for governors and senior managers to continuously review and mitigate any risks.
- The ability of non-Council water supplies to meet standards and requirements also poses a risk to Council and the community. It is likely that this could add further demands on resources, both staff and funds.
- It is also unclear whether the economic regulator (ER) may exist regardless of changes to service delivery. If an ER existed in this scenario then council will need to meet their reporting and information requirements and may have limited ability to change three water investment, depending on the powers of an ER.
- There may also be wider implications in terms of relationships with iwi/ Māori, Central government and key stakeholders.

8.11 Scenario 3 – Regional aggregation of three waters services in an asset owning CCO

- Council is well-positioned to compare the scenario of a regional entity with other scenarios given the work completed by the collective Hawke's Bay Councils in 2018/19/20. This work found similar themes to those being identified



- by government - such as that affordability and delivery challenges will grow without reform and that aggregation can support the achievement of desired outcomes. An asset owning CCO model for the 4 Hawke's Bay councils was identified as the most beneficial approach based on this work.
- Under this scenario the entity and councils would still need to be satisfied that the changing regulatory environment was adequately provided for, including ensuring there was sufficient funding to meet legal and regulatory obligations.
- However, due to scale, this scenario (better) addresses the risk that the size of investment required to meet new standards and community expectations is greater than forecast by individual councils;

- it enables an organisation to focus on the group's three water challenges and prioritise investment decisions across the region, which should lead to better environmental and community outcomes
- it provides for greater strategic, management and operational capacity and capability, workforce development and planning
- it enables efficiencies (in planning, programming, procurement and delivery) and should as a result reduce household costs and increase affordability.
- As with the above scenarios, should one or more non-Council water supplies default to the CCO then this would need to be funded from the group or consumers.
- There are some integration risks with spatial and local planning, growth and ensuring transparent prioritisation, the achievement of Council objectives and ensuring there is sufficient funding and that costs are affordable.
- Council oversight and input considerations remain to be fully understood via the development of an agreed governance structure however the challenges identified with governance, local voice and community influence are considered less significant under this scenario than under Scenario 1.
- Typically, a statement of intent would be prepared by the CCO (and it would be best practice for the councils to prepare a letter of expectation to guide this) and half-yearly and annual reports would be prepared. Councils would need to monitor the performance of the CCO.
- As per scenario 1 it will be important for the CCO to appoint professional directors to provide focused and appropriate oversight of a HB regional three waters entity.
- The Hawkes Bay review included a Cultural case, significantly this highlighted the need to understand what co-governance / co management with iwi/Māori could look like. This work will be key to direct and inform potential governance arrangements, including iwi involvement in both decision making and governance, and how council, community and mana whenua aspirations and needs will be met.
- This scenario is still constrained in its ability to raise debt as the connection to Council balance sheets remains under the available funding models. Changing this would require legislative change which would require the support of government.
- There would also need to be agreement from all councils and each would need to undertake public consultation, which would take time and create uncertainty about the outcome.
- If a new CCO is to be set up this will require council(s) to use the Special Consultative Procedure (section 83 of the LGA) and arrangements (and a policy) for the appointment of directors or trustees will need to be developed (as the councils appoint the "board"). Transition arrangements (including workforce transition), prioritisation of investment and arrangements for integration with planning at the regional and local level would also need to be developed.
- Councils would need to adequately resource the establishment or transition process (if they are changing to an asset owning arrangement). The existing business case highlights a considerable work plan that Council, along with its regional peers, would need to commit to. It also provides a risk assessment for any transition process.
- The Government has stated that it is "not clear if sector-led reform under existing legislation would deliver the kind of transformation required to address the root causes of the challenges the sector is facing". Based on this statement, it cannot be assumed that the Government would be willing to financially support councils to transition to this model or change the law to enable different funding setting.

9.0 Transition

- 9.1 A high-level overview of what we know of the transition process is contained in Attachment 6, and Officers have previously presented an initial risk assessment of the transition scenario, this is included as part of Attachment 7.
- 9.2 The Risk Appetite Assessment summary notes that:
- The risk in transition is much greater than the risk profile for operation once Water Agencies are established and operating. In addition, many of the causes for the transition risks are outside Council's control, so minimal mitigation is possible.
 - Therefore, as the inherent exposure is well outside Council's normal risk appetite, focus should be put on effective management of the transition. In particular, Council will need to:
 - Work proactively with the Government in the development of the framework,
 - Ensure forward planning caters for any possible delays in transition, and
 - Adapt quickly and efficiently to handle new obligations that might arise.
- 9.3 It will also be critical to manage business as usual (BAU) services, including meeting other community commitments and legislative requirements (such as growth pressures and operating to health and environmental requirements).
- 9.4 Transitioning away from the status quo to any other option carries inherent risks. There are potential mitigations to reduce both impact and likelihood. These may have cost or effectiveness impacts. However residual risk in sticking with the status quo may not be sustainable in the medium to long term.
- 9.5 The early Hawkes Bay review work noted that a change from the status quo was likely a better option to the status quo. Similarly though the regional model approach also has similar risks. Whilst there are less parties involved the HB approach this transition could potentially be without government support, and potentially without the legislative changes and funding to assist. The assessed transition risks from the Hawkes Bay business case can be found on table 49 of the [management case](https://www.hb3waters.nz/assets/Uploads/Management-Case.pdf)¹¹).

10.0 Council decision making and consultation

- 10.1 Part 6 of the LGA, sections 76 to 90, provide the requirements for decision making and consultation, including the principles of consultation and information that needs to be provided. These requirements include the reasons for the proposal and the reasonably practicable options.
- 10.2 In particular, section 76 requires that in making a significant decision, which a decision on the future management and or ownership of three waters assets will be, councils must comply with the decision-making provisions. This is a 'higher bar' than the "promote compliance with" requirement that applies for ordinary decisions.
- 10.3 Section 77 states that councils must seek to identify all reasonably practicable options and then assess the advantages and disadvantages of each option.
- 10.4 Section 78 requires that in the course of making a decision a Council must consider community views but section 78(3) explicitly says that consideration of community views does not require consultation, which is reinforced by case law.
- 10.5 Section 79 gives Council discretion to decide how the above Part 6 requirements are met including the extent of analysis done, etc. Therefore, while a decision could be challenged, a judicial review is unlikely to be successful unless the decision made by council was manifestly unreasonable, the

¹¹ <https://www.hb3waters.nz/assets/Uploads/Management-Case.pdf>

process was flawed or the decision was beyond its powers (as given in law, i.e. the council did not act within the law).

- 10.6 However, despite section 79 of the LGA, a decision to transfer the ownership or control of a strategic asset from the council (or to it) must explicitly be provided for in the council's Long-Term Plan (and have been consulted on specifically in its consultation document).
- 10.7 Council's existing LTP and the consultation information and process used to develop it will not suffice to meet this test, as Council did not itself have adequate information on the options and the implications earlier this year when it consulted on the LTP. An LTP amendment and commensurate consultation process on the ownership and governance arrangements and asset transfers proposed would be necessary.
- 10.8 There are also provisions in the LGA that relate to unlawful decisions to sell or dispose of assets, which can be investigated by the Auditor-General.
- 10.9 A decision to opt-out would also be affected by the consultation and decision-making requirements set out in this report, including the need to follow a robust process that could survive a judicial review, as well as make a final decision that was not manifestly unreasonable in the circumstances.
- 10.10 Given the Government's 8 week period of engagement with mana whenua and councils, including;
 - it's commitment to explore issues such as council and community influence of service outcomes, integration with other reform proposals, spatial and local planning
 - it's request for councils to give feedback on the proposal, identify issues and solutions
 - and the uncertainty around next steps, including whether the reform may become mandatory or legislative change will remove legal barriers to opting in

it would be premature to make a decision to opt out of the reform process which may expose the Council to litigation risk.
- 10.11 A Government Bill to progress the reforms could address the issues raised above, for example removing the section 130 requirements has explicitly been raised.
- 10.12 At this stage, no decision is required on future delivery arrangements. Based on the analysis in this report, Council should wait until it has further information before consulting on and/or making a decision on the Government's proposal.
- 10.13 It is recommended that the Council therefore notes the options canvassed in this report, the [high-level] analysis of them and the information and decisions that are yet to be made.
- 10.14 If reform is not made mandatory, to ensure sufficient information is available to meet the requirements in Council decision-making, staff will further develop the analysis of options (based on further information from the Government, advice on next steps, and regional discussions) prior to Council decision making and consultation on future water services delivery. Whether this is ultimately required will be dependent on where the Government gets to with the reform process and the decisions it makes after 30 September 2021 (for instance a legislative mandate form reform measures).
- 10.15 Information that the Council requires or potential solutions to outstanding issues that it would like to convey to Government and LGNZ
- 10.16 Officers recommend that a submission be prepared on behalf of Council on the following Position principles, namely:
 - Acknowledgement that there is a compelling case for change to ensure ongoing safe, efficient and affordable Three Waters Services delivery,
 - Premise that water is a taonga, the lifeblood of our people and our whenua,

- Receipt of Community feedback giving a strong message and direction to Council that there has to be full consultation with the Community regards any proposed structural change to Three Waters Services and more factual information is required to inform Community Consultation, and
- Preference for a Hawke's Bay Three Waters Services Entity that will deliver scale and efficiency benefits for Hastings District, whilst producing a superior outcome for Hastings in terms of community voice and accountability, Iwi co-governance and management, and responsiveness to growth pressures and community needs.

Officers further recommend the Council submission traverses the following themes, namely:

- Community involvement in decision-making re: 3W reform
- Governance over and ownership of 3W assets
- Delivery on LTP and Key Council Strategies
- Financial Forecasts and Budgets
- Commercial and business community interests
- Prioritisation of communities and integration with Council planning
- Transition to new entities
- Engagement with Iwi and Hapū
- Growth implications
- Protections against privatisation

11.0 Conclusions

- 11.1 While there is uncertainty about the future steps in the Government's reform proposal, and current legislative impediments to it, Council has the opportunity to understand the information it has received (and will continue to receive) from the RFI and modelling processes, to understand its potential scenarios, including the financial, workforce and sustainability impacts for Council and the wider economic, social and cultural implications of each scenario. There is also an opportunity to engage in discussions with other councils in its entity grouping, share information and ask questions and propose solutions to the issues it sees to Government and LGNZ.
- 11.2 All of this information will be useful to inform future decision making by both Council and Government, as well as consultation and engagement with mana whenua and communities.

Attachments:

1⇒	Attachment 1 2020 Background Three Waters Reform Programme	ADM-01-6-7-21-371	Under Separate Cover
2⇒	Attachment 2 Government's conclusion that the case for change has been made	ADM-01-6-7-21-372	Under Separate Cover
3⇒	Attachment 3 DIA and LGNZ summaries	ADM-01-6-7-21-373	Under Separate Cover
4⇒	Attachment 4 Funding to invest in the future of local government and community wellbeing	ADM-01-6-7-21-374	Under Separate Cover

5⇒	Attachment 5 Summary of Community Feedback	ADM-01-6-7-21-377	Under Separate Cover
6⇒	Attachment 6 Transition process summary	ADM-01-6-7-21-379	Under Separate Cover
7⇒	Attachment 7 Summary of Risk Analysis of Government Proposal and Transition phase	ADM-01-6-7-21-375	Under Separate Cover

Summary of Considerations - *He Whakarāpopoto Whakaarohanga*

Fit with purpose of Local Government - *E noho hāngai pū ai ki te Rangatōpū-ā-Rohe*

The Council is required to give effect to the purpose of local government as set out in section 10 of the Local Government Act 2002. That purpose is to enable democratic local decision-making and action by (and on behalf of) communities, and to promote the social, economic, environmental, and cultural wellbeing of communities in the present and for the future.

Link to the Council's Community Outcomes – *Ngā Hononga ki Ngā Putanga ā-Hapori*

This proposal promotes the health, environmental and economic wellbeing of communities in the present and for the future.

Māori Impact Statement - *Te Tauākī Kaupapa Māori*

It is officers understanding that direct conversations are occurring between iwi leaders and government at this time. The current stage is not a decision point for Council, however in future if council is required to make decisions then detail and in depth discussions will be required to prior to any decisions could be taken.

Sustainability - *Te Toitūtanga*

This current decision relates to the provision of feedback so will have no material effect on sustainability outcomes.

Financial considerations - *Ngā Whakaarohanga Ahumoni*

At this stage there are no direct financial considerations as government is asking for feedback, and the feedback is not locking council into any position.

Significance and Engagement - *Te Hiranga me te Tūhonotanga*

This decision has been assessed under the Council's Significance and Engagement Policy as being of low significance for the provision of feedback. The topic and intent of the government proposal would be of high significance come any decision making process that may be placed on Councils.

Consultation – internal and/or external - *Whakawhiti Whakaaro-ā-roto / ā-waho*

To help inform the councils feedback various communication and engagement channels have been used, whilst these were not a formal requirement it was important to improve Councils understanding of the communities views.

Risks

Rural Community Board – *Te Poari Tuawhenua-ā-Hāpori*

The community board has been provided with an overview of the government's 3 water reform agenda, they have not been directly involved in the formation of the feedback.
