



PAPAIOEA
PALMERSTON
NORTH
CITY

PALMERSTON NORTH CITY COUNCIL

AGENDA

COUNCIL

9AM, WEDNESDAY 4 MAY 2022

COUNCIL CHAMBER, FIRST FLOOR,
CIVIC ADMINISTRATION BUILDING
32 THE SQUARE, PALMERSTON NORTH

MEMBERS

| | |
|--|------------------------------|
| Grant Smith (Mayor) | |
| Aleisha Rutherford (Deputy Mayor) | |
| Brent Barrett | Patrick Handcock ONZM |
| Susan Batty | Leonie Hapeta |
| Rachel Bowen | Lorna Johnson |
| Zulfiqar Butt | Billy Meehan |
| Vaughan Dennison | Orphée Mickalad |
| Renee Dingwall | Karen Naylor |
| Lew Findlay QSM | Bruno Petrenas |

AGENDA ITEMS, IF NOT ATTACHED, CAN BE VIEWED AT

pncc.govt.nz | Civic Administration Building, 32 The Square
City Library | Ashhurst Community Library | Linton Library

Chris Dyhrberg

Acting Chief Executive | PALMERSTON NORTH CITY COUNCIL

Te Marae o Hine | 32 The Square
Private Bag 11034 | Palmerston North 4442 | New Zealand
pncc.govt.nz

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CITY

COUNCIL MEETING

4 May 2022

ORDER OF BUSINESS

1. Apologies

2. Notification of Additional Items

Pursuant to Sections 46A(7) and 46A(7A) of the Local Government Official Information and Meetings Act 1987, to receive the Chairperson's explanation that specified item(s), which do not appear on the Agenda of this meeting and/or the meeting to be held with the public excluded, will be discussed.

Any additions in accordance with Section 46A(7) must be approved by resolution with an explanation as to why they cannot be delayed until a future meeting.

Any additions in accordance with Section 46A(7A) may be received or referred to a subsequent meeting for further discussion. No resolution, decision or recommendation can be made in respect of a minor item.

3. Declarations of Interest (if any)

Members are reminded of their duty to give a general notice of any interest of items to be considered on this agenda and the need to declare these interests.

4. Confirmation of Minutes

"That the minutes of the ordinary meeting of 6 April 2022 Part I Public be confirmed as a true and correct record."

Page 7

REPORTS

5. **Review of Appointment of Directors & Trustees Policy** Page 21
Memorandum, presented by Hannah White, Democracy & Governance Manager.

6. **Draft Palmerston North Stormwater Bylaw - Deliberations and Adoption** Page 53
Report, presented by Julie Macdonald - Strategy and Policy Manager.

7. **Elected Member Appointment to the Caccia Birch Trust Board** Page 111
Memorandum, presented by Hannah White, Democracy and Governance Manager.

8. **Work Schedule** Page 113

RECOMMENDATIONS FROM COMMITTEE MEETINGS

9. **Presentation of the Part I Public Arts, Culture & Heritage Committee Recommendations from its 13 April 2022 Meeting** Page 115

10. **Presentation of the Part I Public Planning & Strategy Committee Recommendations from its 13 April 2022 Meeting** Page 117

11. **Presentation of the Part I Public Finance & Audit Committee Recommendations from its 27 April 2022 Meeting** Page 119

12. **Presentation of the Part I Public Play, Recreation & Sport Committee Recommendations from its 27 April 2022 Meeting** Page 121

13. **Exclusion of Public**

To be moved:

"That the public be excluded from the following parts of the proceedings of this meeting listed in the table below.

The general subject of each matter to be considered while the public is excluded, the reason for passing this resolution in relation to each matter, and the specific grounds under Section 48(1) of the Local Government Official Information and Meetings Act 1987 for the passing of this resolution are as follows:

| General subject of each matter to be considered | | Reason for passing this resolution in relation to each matter | Ground(s) under Section 48(1) for passing this resolution |
|---|---|---|---|
| 14. | Minutes of the ordinary meeting - Part II Confidential - 6 April 2022 | For the reasons setout in the ordinary minutes of 6 April 2022, held in public present. | |
| 15. | Additional Director Appointment to Palmerston North Airport Limited | Privacy | s7(2)(a) |

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

Also that the persons listed below be permitted to remain after the public has been excluded for the reasons stated.

[Add Third Parties], because of their knowledge and ability to assist the meeting in speaking to their report/s [or other matters as specified] and answering questions, noting that such person/s will be present at the meeting only for the items that relate to their respective report/s [or matters as specified].

PALMERSTON NORTH CITY COUNCIL

Minutes of the Council Meeting Part I Public, held as an Audio-Visual meeting on 06 April 2022, commencing at 9.00am.

Members Present: The Mayor (Grant Smith) (in the Chair) and Councillors Brent Barrett, Susan Baty, Rachel Bowen, Zulfiqar Butt, Vaughan Dennison, Renee Dingwall, Lew Findlay QSM, Patrick Handcock ONZM, Leonie Hapeta, Lorna Johnson, Billy Meehan, Orphée Mickalad, Karen Naylor, Bruno Petrenas and Aleisha Rutherford.

Councillor Leonie Hapeta was not present when the meeting resumed at 11.26am. She was not present for clauses 21 to 33 inclusive.

Councillor Aleisha Rutherford left the meeting at 3.32pm at the conclusion of clause 30. She was not present for clauses 31 to 33 inclusive.

18-22 Notification of Additional Items

Moved Grant Smith, seconded Leonie Hapeta.

RESOLVED

1. That the following late item be received for the reasons given:
Council Chamber and Vaccine Pass Requirements

Reason for lateness - Central government announcement that Palmerston North remains in Red setting were confirmed following publishing of the Council's agenda.

Reasons for urgency – Delay of paper to the May Council meeting would mean that vaccine pass requirements would remain for committee meetings for the month of April without opportunity for discussion by Council.

Clause 18-22 above was carried.

Declarations of Interest

Councillor Vaughan Dennison declared a conflict of interest in item 14 of the Agenda and advised he would withdraw from discussion and voting.

19-22

Farewell to the Chief Executive, Heather Shotter

The Mayor and Deputy Mayor referred to the resignation of Chief Executive, Heather Shotter.

Ms Shotter was the city's ninth Chief Executive and the first female in that position. She served the city operationally as our management leader for four and a half years.

Through Ms Shotter's time at Council we have seen the creation of the Executive Leadership Team, aligning job titles and executive positions with colleagues in other cities; the beefing up of the Marketing and Communications team; a remuneration review and a major lift in capital works over the years, to name a few.

There have been many changes during her leadership with some highlights including:

- The Iwi Partnership - in 2019 we took a big step forward in recognising our relationship with mana whenua Rangitāne and signed the partnership agreement, which instigated the co-management of Te Motu o Poutoa.
- Led the rebrand and introduction of Palmy, claiming that as the city's identity and also a new strategic position focusing on food innovation, ensuring that we are known as the food innovation city of New Zealand and the world. Defining the work that we did under the Palmy branding brought clarity and life to the mahi that we as an organisation do and it encourages pride in our community.
- In terms of the city's reputation we have seen a significant change in the last few years in the perception and representation of the city, both as an organisation but also as Palmy locally and at a national level.
- Led the Regional Spatial Plan and initiated the Distribution Hub Master Plan.
- Carried out Streets for People.
- Led the organisation through a pandemic.
- Took challenges head on and encouraged staff in their roles and lifted standards across the organisation.

Ms Shotter was acknowledged for her contribution to the city, this organisation and our community and was wished all the very best in her new role.

Councillors spoke to the meeting giving their own words of farewell.

Moved Grant Smith, seconded Aleisha Rutherford.

RESOLVED

1. That the Council receive the presentation for information.

Clause 19-22 above was carried.

20-22 Confirmation of Minutes

Moved Grant Smith, seconded Aleisha Rutherford.

RESOLVED

1. That the minutes of the Council meeting of 2 March 2022 Part I Public, subject to the amendment to change Councillor Renee Dingwall's vote on clause 4.1-22 to 'against', and the extraordinary meeting of 16 March 2022 Part I Public be confirmed as true and correct records.

Clause 20-22 above was carried.

REPORTS

21-22 Draft Signs and Use of Public Places Bylaw Amendment (e-scooters) - Approval for Consultation

Report, presented by Julie Macdonald, Strategy & Policy Manager and Peter Ridge, Senior Policy Analyst.

Moved Renee Dingwall, seconded Karen Naylor.

RESOLVED

1. That we do not limit the amount of e-scooter operations, or the amount of scooters in the city this year, and that the Chief Executive report back in a years' time with more data and look at consulting then.

Clause 21-22 above was carried 11 votes to 5, the voting being as follows:

For:

The Mayor (Grant Smith) and Councillors Brent Barrett, Susan Baty, Rachel Bowen, Renee Dingwall, Lew Findlay QSM, Leonie Hapeta, Billy Meehan, Orphée Mickalad, Karen Naylor and Bruno Petrenas.

Against:

Councillors Zulfiqar Butt, Vaughan Dennison, Patrick Handcock ONZM, Lorna Johnson and Aleisha Rutherford.

Moved Lorna Johnson, seconded Brent Barrett.

Note:

On a motion that the Consultation Document – Signs and Use of Public Places Bylaw Amendment (e-scooters), as attached as Attachment 1, be approved for public consultation, subject to an amendment to the Administration Manual under Part five, Licensing terms, change the maximum licenses to three and the maximum number of devices that may be deployed to licence-holders to 1,200, the motion was tied 8 votes to 8. The chairperson declared the motion lost, the voting being as follows:

For:

Councillors Brent Barrett, Rachel Bowen, Zulfiqar Butt, Vaughan Dennison, Patrick Handcock ONZM, Lorna Johnson, Billy Meehan and Aleisha Rutherford.

Against:

The Mayor (Grant Smith) and Councillors Susan Baty, Renee Dingwall, Lew Findlay QSM, Leonie Hapeta, Orphée Mickalad, Karen Naylor and Bruno Petrenas.

The meeting adjourned at 11.10am.

The meeting resumed at 11.26am.

Councillor Leonie Hapeta was not present when the meeting resumed.

22-22

Infrastructure Capital Works Dashboard January 2022

Memorandum, presented by Sue Kelly, Acting Manager Project Management Office.

Moved Vaughan Dennison, seconded Karen Naylor.

RESOLVED

1. That Council receive the memorandum titled 'Infrastructure Capital Works Dashboard January 2022', presented to Council on 6 April 2022.

Clause 22-22 above was carried.

23-22

Deliverability Planning in Response to Covid - Briefing

Memorandum, presented by Sarah Sinclair, Chief Infrastructure Officer.

Moved Vaughan Dennison, seconded Karen Naylor.

RESOLVED

1. That Council note the update on actions undertaken to date to improve deliverability outcomes due to the impacts of Covid-19 and the resulting increased supply chain risks, particularly focussing on maintaining essential provision of services.
2. That Council note that should rapid approval of contract awards above the Chief Executive's delegation be needed, then an extraordinary meeting of Finance & Audit Committee or Council (depending on level of financial delegation required) will be called.

Clause 23-22 above was carried.

24-22

Update on the Main Street West Cycleway

Memorandum, presented by Adam Jarvis, Senior Climate Change Advisor and Sandra King, Acting Group Manager - Transport and Development.

Moved Brent Barrett, seconded Lorna Johnson.

RESOLVED

1. That the Chief Executive direct Officers to report back to the Infrastructure Committee on community feedback to a permanent design solution, and the final design detail, before implementation; and that all community feedback related to the permanent design solution be made publicly available.

Clause 24.1-22 above was carried.

Moved Grant Smith, seconded Karen Naylor.

RESOLVED

2. That Council removes the 'planter boxes' as soon as practicable and replaces immediately with an alternative solution before the permanent cycleway is in place.

Clause 24.2-22 above was carried 13 votes to 2, the voting being as follows:

For:

The Mayor (Grant Smith) and Councillors Susan Baty, Rachel Bowen, Zulfiqar Butt, Vaughan Dennison, Lew Findlay QSM, Patrick Handcock ONZM, Lorna Johnson, Billy Meehan, Orphée Mickalad, Karen Naylor, Bruno Petrenas and Aleisha Rutherford.

Against:

Councillors Brent Barrett and Renee Dingwall.

The meeting adjourned at 1.29pm.

The meeting resumed at 2.31pm.

25-22

Shareholding in FoodHQ Innovation Limited

Memorandum, presented by Sheryl Bryant, Assistant Chief Executive.

Moved Grant Smith, seconded Rachel Bowen.

RESOLVED

1. That the Council make application to be a shareholder of FoodHQ Innovation Limited as contemplated in the Memorandum of Understanding attached to the report "Shareholding in FoodHQ Innovation Limited" considered at the meeting of the Council on 6 April 2022.
2. That the Chief Executive be authorised to take all steps necessary to facilitate this including signing appropriate documentation.
3. That the Acting Chief Executive be appointed on an interim basis for a period of twelve months as the Council's nominated director for FoodHQ Innovation Limited with the position to be reviewed prior to the expiration of that period.

Clause 25-22 above was carried.

26-22

Trustee for Caccia Birch Trust Board

Memorandum, presented by Hannah White, Democracy & Governance Manager.

Moved Rachel Bowen, seconded Grant Smith.

RESOLVED

1. That the Council resolve to appoint one councillor onto the Caccia Birch Trust Board for a term ending 1 August 2022.
2. That expressions of interest from councillors interested in being appointed to the Caccia Birch Trust Board be sought, and recommendations be brought to Council on 4 May 2022.

Clause 26-22 above was carried.

27-22

Exemption of the Manawatū-Wanganui Disaster Relief Fund from being a Council Controlled Organisation

Memorandum, presented by Hannah White, Democracy & Governance Manager.

Moved Grant Smith, seconded Aleisha Rutherford.

RESOLVED

1. That Council exempt the Manawatū-Wanganui Disaster Relief Fund from being a Council Controlled Organisation for a further three years.

Clause 27-22 above was carried.

Note:

Councillor Vaughan Dennison declared a conflict of interest and withdrew from discussion and voting on the above clause.

28-22

Council Chamber and vaccine pass requirements

Moved Grant Smith, seconded Karen Naylor.

RESOLVED

1. That Council suspend Standing Order 2.24.4 Council may revoke or alter any previous decision for the duration of Item 26: Council Chamber vaccine pass requirements.

Clause 28.1-22 above was carried.

Moved Grant Smith, seconded Patrick Handcock ONZM.

2. That the vaccine pass requirement for access to the Council Chamber be removed.

Clause 28.2-22 above was carried.

29-22 Work Schedule

Moved Grant Smith, seconded Karen Naylor.

RESOLVED

1. That the Council receive its Work Schedule dated April 2022.

Clause 29-22 above was carried.

RECOMMENDATIONS FROM COMMITTEE MEETINGS

30-22 Community Development Committee Part I Public - 9 March 2022

Consideration was given to Community Development Committee recommendations as appended to these minutes.

Moved Lorna Johnson, seconded Rachel Bowen.

RESOLVED

1. Night Shelter – Options, costs and timeframes for a feasibility study

1. That the Council direct the Chief Executive to proceed with Option 1A in the 21-22 financial year with funding of \$100,000 for the Night Shelter feasibility study coming from the operational surplus and report back to Community Development Committee in the first quarter of the 22-23 year.

Clause 30-22 above was carried.

31-22 Planning & Strategy Committee Part I Public - 9 March 2022

Consideration was given to Planning & Strategy Committee recommendations as appended to these minutes.

Moved Aleisha Rutherford, seconded Patrick Handcock ONZM.

RESOLVED

1. Options to address 'street racer' issues

5. That Council endorse *Option 1: Limit access to Works Road through a bylaw* as described in the Memorandum dated 9 March and entitled 'Options to address 'street racer' issues.
6. That unbudgeted expenditure of \$30,000 be approved to enable a Traffic and Parking Bylaw review to be brought forward to 2021/2022 – 2022/2023.
7. That unbudgeted expenditure of \$50,000 be approved to enable the implementation of *Option 6a: Physical deterrent (installation of*

speed humps) at additional locations (where appropriate).

2. Infrastructure to support Proposed Plan Change G: Aokautere Growth

1. That the Committee receives the memorandum entitled 'Infrastructure to Support Proposed Plan Change G: Aokautere Growth' presented to the 9 March 2022 Planning & Strategy Committee.
2. That the Council endorses the need to fund and provide adequate infrastructure to support development of land in Aokautere in order to give effect to key strategy and policy documents including the Innovative and Growing City Strategy, the City Growth Plan and National Policy Statement on Urban Development 2020.
3. That if Proposed Plan Change G: Aokautere Growth is approved for consultation under the First Schedule of the Resource Management Act 1991, the Chief Executive be directed to prepare infrastructure work programmes required for land transport and stormwater to be included in the 2024 Long Term Plan prior to the hearing for Plan Change G: Aokautere Growth.
4. That the Chief Executive be directed to provide information relating to the description, timing and quantum of the infrastructure work programmes to enable growth in Aokautere at the 14 September 2022 Planning and Strategy Committee.
5. That in advance of the hearing for Proposed District Plan Change G: Aokautere Growth the Chief Executive be directed to explore opportunities for Waka Kotahi to fund and/or co-fund transport infrastructure upgrades to enable development in Aokautere.

3. Deliberations Report - Draft Support and Funding Policy 2022

1. That the Council adopt the Support and Funding Policy 2022, Attachment 2 of the Memorandum entitled 'Deliberations Report – Draft Support and Funding Policy 2022' dated 9 March 2022.
2. That the Support and Funding Policy 2022, Attachment 2 of the Memorandum entitled 'Deliberations Report – Draft Support and Funding Policy 2022' dated 9 March 2022, replaces the Community Funding Policy 2018.
3. That the Chief Executive Officer prepare an implementation and monitoring plan for the proposed Support and Funding Policy 2022.
4. That a Sector Lead Partnership Fund is referred to the 2024-2034 10-Year Plan process for consideration as a separate budget item.
5. That the Chief Executive trial the Sector Lead Partnership Agreements, using the funding that has already been assigned to these organisations through the 2022 allocations from the SPG fund,

and report back to Community Development Committee prior to the development of the next 10 year plan. And delete the line on top of page 89 'once Council has determined a funding source for any sector lead arrangements'.

Clause 31-22 above was carried.

Moved Grant Smith, seconded Vaughan Dennison.

Note:

On a motion that an amendment be made to clause 12-22, Deliberations Report – Draft Support Funding Policy 2022, recommendation 1 to add "subject to the words 'but not limited to' be added after the word '\$30,000' to section 7, clause 15 – Major Events Fund, of the Support and Funding Policy 2022 and that the words 'but not limited to' be added after the word '\$10,000' to section 7, clause 17 – Sponsorship Fund, of the Support and Funding Policy 2022." the motion was lost 6 votes to 9, the voting being as follows:

For:

The Mayor (Grant Smith) and Councillors Vaughan Dennison, Lew Findlay QSM, Billy Meehan, Orphée Mickalad and Bruno Petrenas.

Against:

Councillors Brent Barrett, Susan Baty, Rachel Bowen, Zulfiqar Butt, Renee Dingwall, Patrick Handcock ONZM, Lorna Johnson, Karen Naylor and Aleisha Rutherford.

Councillor Aleisha Rutherford left the meeting at 3.32pm.

32-22

Finance & Audit Committee Part I Public - 23 March 2022

Consideration was given to Finance & Audit Committee recommendations as appended to these minutes.

Moved Susan Baty, seconded Karen Naylor.

RESOLVED

1. Palmerston North Airport Ltd - Interim Report for 6 months to 31 December 2021

1. That Council receive the Interim Report and Financial Statements of Palmerston North Airport Ltd for the period ended 31 December 2021, presented to the Finance & Audit Committee on 23 March 2022.

2. Palmerston North Airport Ltd - Draft Statement of Intent for 2022/23

1. That Council receive the Palmerston North Airport Ltd (PNAL) draft Statement of Intent for 2022/23, presented to the Finance & Audit Committee on 23 March 2022, and PNAL be advised that Council supports the proposed direction and implementation strategy.

3. Debt funding arrangements for Palmerston North Airport Ltd - Loan Facility Agreement

1. That the loan facility agreement (attached) that would enable the

Council to borrow sums from the Local Government Funding Agency and on-lend to Palmerston North Airport Limited in the form of fixed rate unsecured debt be approved.

2. That the Chief Executive be authorised to approve amendments to the agreement (if required) to address the way in which Local Government Funding Agency Borrower Notes are treated between the parties, or as a consequence of annual reviews.
3. That the Chief Executive be authorised to enter transactions contemplated by the loan agreement of amounts not exceeding \$10 million in advance of the approval of the final Statement of Intent each year, and subsequently transactions not exceeding the maximum term debt for each year as outlined in the adopted Statement of Intent.

4. Fees and Charges Review

3. That Council receive the report titled 'Fees and Charges Review', presented to the Finance & Audit Committee on 23 March 2022, and that the current status of fees and charges be noted.

Trade Waste

4. That the proposal to adopt updated fees and charges for Trade Waste services effective from 1 July 2022 as attached in Appendix 2, be approved for public consultation and the Chief Executive be authorised to undertake the necessary consultative process under sections 82 and 150 of the Local Government Act 2002.

Environmental Health

5. That the fees and charges for Environmental Health Services (in terms of regulation 7 of the Health (Registration of Premises) Regulations 1966) as proposed in Appendix 5, be adopted and following public notification, take effect from 1 July 2022.

Animal Control

6. That the fees and charges for the Impounding of Animals (in terms of section 14 of the Impounding Act 1955) and for Dog Registration and Dog Impounding (in terms of sections 37 and 68 of the Dog Control Act 1996) as proposed in Appendix 6 be adopted, and following public notification, take effect from 1 July 2022.

Burial & Cremation

7. That the fees and charges for Burial and Cremation, as proposed in Appendix 7 be adopted and following public notification, take effect from 1 July 2022.

Service Connections

8. That the fees and charges for Service Connections, as proposed in Appendix 8 be adopted and take effect from 1 July 2022.

Resource Recovery/Waste Management

9. That the changes to fees and charges for Resource Recovery/Waste

Management relating to the recycling of tyres as proposed in Appendix 9 be adopted and take effect from 1 July 2022.

Sportsfields

10. That the fees and charges for Sportsfields as proposed in Appendix 10 be adopted and take effect from 1 July 2022.

Backflow Prevention

11. That the fees and charges for Backflow Prevention testing and maintenance as proposed in Appendix 11 be adopted and take effect from 1 July 2022.

Corridor Access Request

12. That the fees and charges for Corridor Access Requests as proposed in Appendix 12 be adopted and take effect from 1 July 2022.

5. Variations to Operating Budget

1. That Council receive the memorandum titled 'Variations to Operating Budget' presented to the Finance & Audit Committee on 23 March 2022.
2. That Council note and approve bringing forward capital expenditure of \$1m from 2022/23 into 2021/22 for Programme 1879 - Council's Plant and Vehicle Replacements.

6. Variations to Operating Budget

1. That Council receive the memorandum titled 'Variations to Operating Budget' presented to the Finance & Audit Committee on 23 March 2022.
2. That Council note and approve bringing forward capital expenditure of \$1m from 2022/23 into 2021/22 for Programme 1879 - Council's Plant and Vehicle Replacements.

7. Ashhurst Domain

1. That Council retain the ex-café building within Ashhurst Domain and seek to lease the building once the review of Ashhurst Domain Reserve Management Plan is completed.

Clauses 32-22 to 30.7-22 above were carried.

Moved Susan Baty, seconded Karen Naylor.

RESOLVED

8. Colquhoun Park - Proposal to grant a lease on reserve land to Manawatu Softball Association Incorporated and Freyberg Old Boys' Rugby Football Club Incorporated

1. That Council approve entering a new lease with Manawatu Softball Association and Freyberg Old Boys' Rugby Club Incorporated for part of the Colquhoun Park Pavilion, 134-136 Fairs Road, Palmerston

North, in accordance with Section 54 of the Reserves Act 1977.

Clause 32-22 above was carried.

Abstained:

Councillor Vaughan Dennison.

Moved Susan Baty, seconded Karen Naylor.

RESOLVED

9. Fees and Charges Review

Planning & Miscellaneous

1. That the Statement of Proposal (and the associated summary) to adopt updated fees and charges for Planning Services and Miscellaneous Services effective from 1 July 2022 as attached in Appendix 3, be approved for public consultation and the Chief Executive be authorised to undertake the necessary consultative process under sections 83 and 150 of the Local Government Act 2002.

Building

2. That the fees and charges for Building Services, as proposed in Appendix 4 be adopted and following public notification take effect from 1 July 2022.

Clause 32-22 above was carried.

Against:

Councillor Vaughan Dennison.

33-22

Environmental Sustainability Committee Part I Public - 30 March 2022

Consideration was given to Environmental Sustainability Committee recommendations as appended to these minutes.

Moved Brent Barrett, seconded Zulfiqar Butt.

RESOLVED

10. Confirmation of Gross vs Net Organisational Emissions Reporting

1. That the Eco City strategy target of a 30% reduction in citywide carbon emissions is confirmed to relate to 'net' emissions, inclusive of sequestered carbon.
2. That the Council's own organisational emission progress is confirmed to relate to 'net' emissions, inclusive of sequestered carbon.

11. Low Carbon Roadmap

1. That the Council endorse the flowchart detailed in the Low Carbon Roadmap attached to the memorandum titled 'Low Carbon Roadmap' presented to the 30 March 2022 Environmental Sustainability Committee.

2. That the Council endorse the three approaches (listed in 2.14):
 - Internal Asset Value Optimisation
 - Carbon Neutral Programme Development
 - Citywide Reduction Projects that complement National Direction
3. That the Chief Executive continues to develop the Low Carbon Roadmap and report to Council in 2023 with specific options and actions to achieve the city-wide goal of 30% reduction in emissions by 2031, and that the proposed scope and methodology for that report be presented to the Environmental Sustainability Committee in September 2022.

Clause 33-22 above was carried.

EXCLUSION OF PUBLIC

34-22 Recommendation to Exclude Public

Moved Grant Smith, seconded Vaughan Dennison.

RESOLVED

"That the public be excluded from the following parts of the proceedings of this meeting listed in the table below.

The general subject of each matter to be considered while the public is excluded, the reason for passing this resolution in relation to each matter, and the specific grounds under Section 48(1) of the Local Government Official Information and Meetings Act 1987 for the passing of this resolution are as follows:

| General subject of each matter to be considered | | Reason for passing this resolution in relation to each matter | Ground(s) under Section 48(1) for passing this resolution |
|---|---|--|---|
| 21. | Minutes of the ordinary meeting - Part II Confidential - 2 March 2022 | For the reasons set out in the ordinary minutes of 2 March 2022, held in public present. | |
| 22. | Minutes of the extraordinary meeting - Part II Confidential - 16 March 2022 | For the reasons set out in the extraordinary minutes of 16 March 2022, held in public present. | |
| 23. | Tender Award – Contract 04113 Transport and Three | Third Party Commercial and Negotiations | s7(2)(b)(ii) and s7(2)(i) |

| | | | |
|--|---------------------|--|--|
| | Waters Design Panel | | |
|--|---------------------|--|--|

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

Also that the persons listed below be permitted to remain after the public has been excluded for the reasons stated.

Clause 34-22 above was carried.

The public part of the meeting finished at 3.37pm

Confirmed 4 May 2022

Mayor

MEMORANDUM

TO: Council

MEETING DATE: 4 May 2022

TITLE: Review of Appointment of Directors & Trustees Policy

PRESENTED BY: Hannah White, Democracy & Governance Manager

APPROVED BY: Sheryl Bryant, Assistant Chief Executive

RECOMMENDATIONS TO COUNCIL

1. That Council adopt the Appointment of Directors and Trustees Policy 2022 (Attachment 1) to replace the Appointment of Directors and Trustees Policy 2018.
 2. That Council delegate authority to the Acting Chief Executive to make any minor amendments to the Appointment of Directors and Trustees Policy 2022.
-

1. ISSUE

- 1.1 The Appointment of Directors and Trustees Policy 2018 (Policy) is due for review. The purpose of this policy is to outline the process Council will follow to appoint directors to council organisations (COs), the expected skills or knowledge required and the remuneration of the various positions; in accordance with s57 (1) of the Local Government Act 2002 (LGA).
- 1.2 The current Policy outlines the appointments process to Boards of council-controlled organisations (CCOs) and council-controlled trading organisations (CCTOs).
- 1.3 To meet the expectations of the LGA, the proposed new Appointment of Directors and Trustees Policy 2022 (draft policy) (Attachment 1) covers appointments to all of Council's COs, it includes:
 - Council-controlled organisations and trading organisations
 - Community organisations
 - Steering groups and advisory panels, and
 - Selection panels to distribute funds on behalf of the Jaycee Trust and Creative New Zealand.

2. BACKGROUND

- 2.1 Council adopted the current Policy in April 2018. The policy outlines the process for how Council will appoint board members to Council's CCOs - Te Manawa Museums Trust, the Regent Theatre Trust and the Globe Theatre Trust, and for the council-controlled trading company, Palmerston North Airport Ltd. It explains the expected skills or knowledge required and the remuneration for the different Boards.
- 2.2 Appointments of directors to the Central Economic Development Agency are set out in the Appointment of Directors Policy of Central Economic Development Agency Ltd as agreed together with Manawātū District Council. Thus, although another CCO, this policy does not apply to the Agency.
- 2.3 Section 57(1) of the LGA is broader than CCOs and requires a policy that sets out the appointment process to all 'council organisations' (see Attachment 2). The LGA defines council organisations in Section 6 as any entity or company which Council either controls, directly or indirectly, one or more of the votes at any meeting of the controlling body or has the right to appoint one or more of the trustees, directors or managers (however described).
- 2.4 To fully comply with the LGA, the draft policy includes a new section which explains the process for making council appointments to the following bodies (council organisations):
 - Community organisations
 - Steering groups and advisory panels, and
 - Selection panels to distribute funds on behalf of the Jaycee Trust and Creative New Zealand.
- 2.5 Council appoints to several other bodies which have not been included in the draft policy, most notably the District Licensing Committee, assigning Appointed Members to Council committees and appointing Resource Management Act commissioners. Appointments to standing committees are specifically excluded in the definition of council organisation in the LGA. Whereas approving a list of commissioners to hear resource consent hearing is governed by the Resource Management Act 1991 and licensing committee appointments by the Sale and Supply of Alcohol Act 2012.

3. CHANGES MADE IN THE DRAFT APPOINTMENT OF DIRECTORS AND TRUSTEES POLICY 2022

- 3.1 Following a desktop review, officers have made the following changes to the draft Policy.
- 3.2 Officers conducted a desktop review which involved:
 - Reviewing the policy against legislative requirements and

- Collating the different types of council organisations Council appoints to, and the current practice of appointment to each.
- Reviewing the Policy against the current procedure for appointing board members to CCO Boards.
- Comparing the Policy to policies of other similar-sized councils

3.3 The draft policy contains the following changes:

Re-formatting to improve structure and readability.

- 3.4 The draft policy has been re-formatted into two parts, Part One outlines the process for appointing board members to CCOs and CCTOs, which are done annually; and Part Two explains the process for appointments to other COs (which tend to occur on a triennium or ad hoc basis).
- 3.5 Both parts explain the skills and experience required, term of appointment, eligibility requirement, appointment process and remuneration for the different appointments.

Revised wording and re-formatting of Part One – Appointments to CCOs & CCTO.

- 3.6 Part One has been re-formatted to set out the appointment process of CCO Boards in a systematic order, and to update the process to incorporate good practice.
- 3.7 Changes include:
- Explanation of the legal definition of a CCO/CCTO and which CCOs/CCTOs the policy applies to. It should be noted that the Central Economic Development Agency has its own appointment process.
 - Inclusion of additional requirement for applicant to agree to a police check and reference check.
 - Re-ordered the appointment process to clarify logic.
 - Emphasised that Council expects vacancies to be advertised, and that a report will only be presented to Council if the Board or officers can provide a compelling reason for a post to be renewed.
 - Strengthened the right of Trust Boards to seek specific skills or experience before vacancies are advertised.
 - Inclusion of knowledge of tikanga Māori, as a factor the Appointment Panel could consider when interviewing applicants. This is suggested by s 57 (3) of the LGA.

- Outlined the current remuneration rates for Council's cultural CCOs and added detail around setting remuneration for directors of the Palmerston North Airport Board as per their constitution.

Added Part Two – Appointments to Council Organisations.

- 3.8 Part Two outlines the current practice for appointments to community organisations, steering groups, advisory panels and selection panels during the council term. The majority of these appointments are made at the beginning of the triennium, or on an ad hoc basis depending on the creation of a new group, or resignation of the council appointee.
- 3.9 It sets out the eligibility requirements, and the appointment process for the Jaycee Trust Assessment Committee and the Creative NZ Assessment Committee.
- 3.10 Officers recommend changing the name of the Jaycee Trust Selection Panel to Jaycee Trust Assessment Committee to avoid confusion with the Appointments Panel of previously similar name.

4. NEXT STEPS

- 4.1 If adopted the Appointment of Directors and Trustees Policy 2022 will be published on the Council's website and the name of the Jaycee Trust committee will be updated in the Delegations Manual.
- 4.2 Officers to contact external organisations to confirm the status of current council appointments prior to the new triennium.





5. COMPLIANCE AND ADMINISTRATION

| | |
|---|------------|
| Does the Council have delegated authority to decide? If Yes quote relevant clause(s) from Delegations Manual | Yes |
| Are the decisions significant? | No |
| If they are significant do they affect land or a body of water? | No |
| Can this decision only be made through a 10 Year Plan? | No |
| Does this decision require consultation through the Special Consultative procedure? | No |
| Is there funding in the current Annual Plan for these actions? | Yes |
| Are the recommendations inconsistent with any of Council's policies or plans? | No |
| The recommendations contribute to Goal 5: A Driven & Enabling Council | |
| The recommendations contribute to the achievement of action/actions in Governance and Active Citizenship | |

The action is: Ongoing review of governance systems and structures to support Council's effectiveness and reputation.

| | |
|--|---|
| Contribution to strategic direction and to social, economic, environmental and cultural well-being | The Appointment of Directors and Trustees Policy sets out the process for council appointments to council organisations, as required by the Local Government Act. The proposed policy governs Council's formal interactions with community groups and ensures effective decision-makers are recruited to govern council-controlled organisations. |
|--|---|

ATTACHMENTS

1. Draft Appointment of Directors and Trustees Policy 2022 [↓](#) 
2. Current Appointment of Directors and Trustees Policy 2018 [↓](#) 
3. Extract from Local Government Act - definition of Council Organisation/ Council- controlled organisation [↓](#) 
4. List of Council appointments [↓](#) 

Draft APPOINTMENT OF DIRECTORS & TRUSTEES POLICY 2022

| | |
|--------------------------|---|
| Adopted by | Palmerston North City Council on XXX 2022 |
| Next review date | 2024 (every 3 years) |
| Relevant legislation | s57(1) Local Government Act 2020 |
| PNCC documents reference | |

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1. Introduction

Council makes appointments to a range of council organisations (COs), these include: council-controlled organisations (CCOs) and council controlled trading organisations (CCTOs), community organisations, steering groups, advisory panels and selection panels. This Policy outlines the different appointments and explains the appointment process and remuneration for each.

The Local Government Act 2002 (s57) requires Council to have a policy on the skills required for appointment to, and remuneration of directors of COs.

The purpose of this Policy is to provide an objective and transparent process for the:

- Identification, consideration and creation of the skills, knowledge and experience required of directors of a CO;
- Appointment of directors to a CO; and
- Remuneration of directors of a CO

In addition to this Policy, COs' trust deeds (or constitutions in the case of companies) often include provisions regarding appointments. In the event of a conflict, the deed/ constitution takes precedence over this Policy.

This Policy is in two parts – Part One explains the appointment of Board members to CCOs and CCTOs, and Part Two outlines Council appointment process to other COs.

2. Definitions

| | |
|--------------------------|---|
| Appointment Panel | <p>For the purpose of this Policy the term Appointment Panel or panel is a group of elected members and/or Council officers which has been delegated responsibility for making appointments to CCOs and CCTOs.</p> <p>On occasion, the Panel may also include a member of the CCO Board and/or an independent industry expert.</p> <p>Standing Orders do not apply to panel meetings.</p> |
|--------------------------|---|

| | |
|---|--|
| Board member | Includes directors, trustees, or office holders (however described by that organisation). |
| Candidate | Is a person who has been nominated, submitted a written application, or identified through search activities. |
| Council organisation (CO) | A council organisation (CO) is defined in section 6 of the LGA as an organisation in which the Council has a voting interest in, or the right to appoint a director, trustee or manager (however described). This is a broad term that covers a large number of bodies. |
| Council-controlled organisation (CCO) | A council-controlled organisation (CCO) is defined in section 6 of the LGA as an organisation in which the Council controls, directly or indirectly, 50% or more of the votes or has the right, directly or indirectly, to appoint 50% or more of the directors, trustees or managers (however described). |
| Council-controlled trading organisation (CCTO) | A council-controlled trading organisation (CCTO) is defined in Section 6 of the LGA as a CCO that operates a trading undertaking for the purpose of making a profit. |

PART ONE - Council Controlled-Organisations and Council Controlled Trading Organisations (CCOs and CCTOs)

3. Application

A CCO or CCTO is an organisation which Council (alone or with other councils) controls more than 50% of the voting rights or appoints more than 50% of directors or trustees. A CCTO has a trading function and is profit-driven.

This Policy applies to the appointment of board members for the following Council CCOs and CCTO:

- Te Manawa Museums Trust (five out of nine trustees appointed by Council)
- The Regent Theatre Trust (six out of nine trustees appointed by Council)
- The Globe Theatre Trust (five out of seven trustees appointed by Council)
- Palmerston North Performing Arts Trust (the Mayor and two trustees appointed by Council)



- Palmerston North Airport Limited (two out of five directors appointed by Council).

Council has two CCOs whose appointments are not covered by this Part.

- The Central Economic Development Agency (CEDA) (six out of nine directors appointed by Council) is jointly-owned with Manawatu District Council. Appointments of directors to CEDA are set out in the Appointment of Directors Policy of Central Economic Development Agency Ltd.
- The Manawatu-Wanganui Disaster Relief Fund (one out of eight trustees appointed by the Mayor) is jointly owned by the seven territorial authorities of the Manawātū-Whanganui region and Horizons Regional Council. Council's sole trustee is appointed alongside the community organisations at the beginning of the triennium (refer to Part Two).

4. Objectives

The objectives of Part One are to ensure:

1. That the process of appointing CCO or CCTO Board members is undertaken in an objective and transparent manner while protecting individual privacy.
2. That Board appointments:
 - Are made on the basis of an assessment of skills, knowledge and experience of the current Board and having regard to the nature of scope of the organisation's objectives and activities.
 - Consider the contribution that directors can make to the Board as a whole.
 - Enable continuity through ensuring succession planning of Board chairs.

5. Board diversity and inclusion

Palmerston North City Council values and supports the benefits that diversity of thought, experience and skills bring to our CCO Boards. We recognise that increasing diversity and fostering inclusive Board culture is an essential element in supporting high performing Boards, driving long-term success and delivering better outcomes for the communities of Palmerston North City.

A diverse Board will include and make good use of differences in the skills, experience, perspectives, backgrounds, demographics and other qualities of directors. These differences will be considered in determining the optimum composition of the Board and when possible should be balanced appropriately.



All Board appointments will be made to ensure that the skills, knowledge and experience allows the Board to be effective and continuous with due regard to the benefits of diversity on the Board.

Palmerston North City Council is committed to supporting and / or providing initiatives:

- That lead to an inclusive recruitment and selection process for Board appointments
- Support a diverse range of aspiring directors to develop skills, knowledge, Board room experience and to establish relationships and networks; and
- Build a diverse pool of experienced directors for Palmerston North City organisations and companies.

Board Competencies, Skills and Knowledge

Board members are expected to meet a number of core competencies as well as specialist skills or experience desired by that Board.

Core competencies expected of CCO/CCTO candidates are:

- Sound judgement and decision-making
- A high standard of personal integrity
- Clear communication skills and an ability to debate in a reasoned manner
- Ability to think strategically
- Appreciation of the wider public interest
- Understanding of governance issues
- An understanding and commitment to Council's obligation to Te Tiriti o Waitangi
- Effective teamwork and collaboration skills; and
- Risk assessment and contingency management

6. Eligibility for Appointment

The Council has a responsibility for monitoring performance of CCOs/CCTOs and so Elected Members of the Council should not serve on the Boards of CCOs/CCTOs, unless there is a compelling reason to do so. The reason would be needed to inform a council resolution to appoint such elected members.

Council officers are not normally eligible for appointment unless the nature of the appointment requires this. For example, the Local Government Funding Agency has Board positions which are required to be filled by officers of a local authority.

Board members should be independent from management and are not to be employed by the entity. In the event that a Board decides that one of its members should fill a staff vacancy



the Board member must stand down from their position on the Board while filling the vacancy on a non-permanent basis. If they are to be permanently appointed as an employee then they are to resign their position before starting their permanent role.

7. Term of Appointment

Board members will normally be appointed for a term of up to three years from the date of appointment. Upon expiry of that three-year term, the Board member retires from the Board and may be eligible for re-appointment.

A Board member who is retiring may be re-appointed for a further term of up to three years if deemed appropriate by the Council.

8. Appointment Process

Appointment Process for Board Members appointed directly by the Council (CCO/CCTO)

Council's expectation is that all CCO and CCTO Board vacancies will be advertised unless there are exceptional circumstances to re-appoint a Board Member expressed by the Board Chair or council officers, that is accepted by the Council.

The Council will use the following process for appointing a new Board Member:

Notification to Boards of retiring trustees/directors

The Democracy & Governance Manager will inform CCO/CCTO Boards of which Board Members' terms are expiring and offer Boards the opportunity to request to Council the re-appointment of any retiring members.

If a Trust Board recommends re-appointment of a retiring member, officers will present a report to Council seeking the re-appointment. Council will decide whether to re-appoint the retiring member or to advertise the position.

Advertising the vacancies

Upon being notified of the upcoming board vacancies, the Appointments Panel (the Panel) will discuss with the relevant Board Chair and the Democracy and Governance Manager the skills, knowledge and experience required for the vacant position(s). These skills will form the basis of the advertisement for the Board Member vacancies.

Candidates may be sought through advertising of the position.

Current Board members who are re-applying will still be required to provide an updated CV. Board members should not be given any expectation that they will be offered a subsequent term on the Board.



Application Process

Prior to being interviewed for a position on a Board, candidates will be required to agree to a police check, provide two references and declare any relevant interests, so that the potential for a conflict of interest can be assessed. In considering any appointment or re-appointment, where a potential conflict of interest has been identified, the Council needs to be confident that any such conflict can be managed.

The Appointments Panel and their Role

The Panel is responsible for recommending the appointment of Board members to Council. This also applies where the trust deed identifies the Mayor as responsible for making appointments; because the Mayor is acting on behalf of the Council. The Panel will be administered by the Democracy and Governance Manager.

Where there are one or more candidates per position, a short-list (if applicable) and interview process will be undertaken. This will be undertaken by the Panel set up at the beginning of the triennium. The Panel will consist of:

- Mayor or Deputy Mayor (as Chair)
- Chair or Deputy Chair of Finance and Audit Committee (or relevant committee)
- Chair or Deputy Chair of Arts, Culture and Heritage Committee (or relevant committee); and
- The Chief Executive (or their representative)

At times the Panel may include a member of the CCO Board and/or an independent industry expert, if the Panel considers it appropriate to do so.

Assessment of candidates

The Panel will assess candidates against the required board competencies, skills and listed above and will take into account other factors such as:

- Sector experience
- Alignment with the Council's objectives for that entity
- The capacity of candidates to attend regular Board meetings and fulfil other requirements;
- Chair and Deputy Chair succession planning; and
- Any particular skills identified by the Board and/or Panel as essential to the particular entity, including the relevance of tikanga knowledge



Finalisation of Appointments

Final approval of candidates will usually be made by Council in confidential session to protect the privacy of the individuals before releasing the decision publicly. The successful applicants will be sent a Letter of Appointment.

9. Appointments of Chair and Deputy Chair of the Board

Depending on the provisions of the trust deed or constitution, the Board of the CCO/CCTO will normally appoint the Chair and Deputy. The Chair will be expected to identify future successors, to provide for smooth transition in the event of a planned or unexpected retirement of an incumbent Chair.

10. Removal of Board Members

Council appointed Board members hold office at the pleasure of the Council and may be removed at any time by Council resolution.

Without limiting the rights of the Council, the likely reasons, which would justify removal of a Board member, would be where that Board member:

- Is regularly absent from Board meetings without good justification
- No longer has the confidence of the Board or the Council
- Has breached ethical standards
- Does not act in the best interests of the organisation
- Breaches the confidence of the Board in any way, including speaking publicly on Board issues without the authority of the Board
- Does not act in accordance with the principles of collective responsibility; and
- Is disqualified from being appointed or holding office as a director of a company under section 151(2) of the Companies Act 1993.

Where the Board has concerns regarding the behaviour of one of its members it should be considered by the Board in the first instance and, where necessary, the Board may recommend the removal of the Board member to the Council.

Palmerston North City Council will not make any payment by way of compensation to Board members who have been removed from Boards.



11. Board Members Standing for Political Office

Council appointed Board members who have been nominated to stand or be elected as a candidate in a local body or Parliamentary election should advise the Chair of their Board immediately.

Any Board member who is formally nominated to stand as a candidate for election at a local body or Parliamentary election, or placed on any political party's list, must stand down from his/her Board position from nomination day until the election results are notified or such earlier day as may be determined. This measure aims to ensure that governance of the organisation is not distracted by the Board member's election activity, and to prevent the possibility of any conflicts of interest – real or perceived. Any Board member who is subsequently elected to a local authority or the New Zealand Parliament shall resign from the Board of the CCO/CCTO.

12. Remuneration

Board members of CCOs are remunerated the following for their services to the Board:

| CCO | Remuneration |
|--|--|
| The Globe Theatre Trust ¹ | \$85 per meeting |
| The Regent Theatre Trust | \$85 per meeting |
| Te Manawa Museums Trust ² Board Members Chair | \$165 per meeting <i>plus</i> \$1000 for expenses per annum, OR \$5000 per annum |

CCOs pay Board Members meeting fees through their own budget.

Remuneration of CCTO directors of the Palmerston North Airport Ltd is set annually by a resolution of Council in line with their constitution.

¹ Council Resolution 173-17 24 October 2017

² Council Resolution 64-00 28 August 2000



PART TWO - APPOINTMENTS TO COUNCIL ORGANISATIONS (COs)

13. Application

Council organisation (CO) is a broad term that encompasses a wide range of different groups that Council appoints elected members and other representatives to.

These can include appointments to:

- Community and not-for profit organisations;
- Project Steering Groups;
- Advisory Panels; and
- Selection Committees – for the distribution of grant funding

PART 2.1: Appointments to Community Organisations/ Steering Groups/ Advisory Panels

14. Required Skills and Experience

Any person appointed to a CO should have knowledge or experience relevant to the activities of the organisation and familiarity with Council policy, programmes and activities.

15. Terms of Appointment

Most appointments are made by Council for the triennium and will be re-considered at the beginning of the Council term.

16. Conflict of Interest

Elected Members appointed as council representatives to COs should not hold other interests in the organisation they have been appointed to. They should identify, notify Council of, and manage any actual or potential interests appropriately.

17. Resigning from a Council Organisation

Elected members can resign from a CO at any time in writing to the Mayor.

18. Appointment Process of Elected Members to Community Organisations/ Steering Groups/ Advisory Panels

When a vacancy arises on a community organisation, steering group or advisory panel, the Mayor will call for expressions of interest from elected members. The Mayor will nominate councillors to fill each vacancy and final approval of representatives will be made by Council.

An expression of interest should explain why the member has the experience and/or knowledge and interest to contribute to the group on behalf of the Council.

Review of Council Appointments

When vacancies arise or new organisations seek a Council representative on their governing body, Council will consider what benefit a council representative could offer to the group before agreeing to appoint a representative. If Council agrees to filling a vacancy, the appointments process above will be followed.



19. Remuneration

No additional remuneration is paid to elected members who represent Council on community organisations, steering groups or advisory panels, however travelling costs might be claimed under the Elected and Appointed Members Expenses and Allowances Policy where applicable.

PART 2.2: Appointments to Assessment Committees

Council is responsible for appointing two selection committees³ to distribute grant funding for the Palmerston North Jaycee Trust Assessment Committee, and Creative Communities New Zealand/ Arts & Culture Fund Assessment Committee.

20. Palmerston North Jaycee Trust Assessment Committee

The Council is responsible for administering the Palmerston North Jaycee Trust. Every triennium, Council appoints the Jaycee Trust Assessment Committee to award two travelling grants of up to \$5,000 each per year to enable people to study, travel or engage in special projects abroad.

The Assessment Committee has delegated authority from Council to assess applications to the scheme and approve up to two travelling fellowships of not more than \$5,000 (including GST) each year, with discretion to grant more than two fellowships as long as the total amount of funding does not exceed \$10,000 per year.

Membership of the Jaycee Trust Assessment Committee will consist of the Chair of the Community Development Committee (or relevant committee) and two members of the public.

21. Eligibility and skills required of Appointments

Resident of Palmerston North city and involvement in the community sector.

22. Term of Appointment

The term of appointment will be for the Council triennium.

23. Appointment Process to the Jaycee Trust Assessment Committee

Advertising the vacancies

Candidates may be sought through advertising of the position.

³ These are not council standing committees.



New Appointments

The Appointments Panel is responsible for selecting two members of the public to sit on the Palmerston North Jaycee Trust Assessment Committee. The appointment panel comprises of:

- the Mayor,
- Chair of the Community Development Committee (or relevant committee chair) and
- Deputy Chair of the Community Development Committee (or relevant committee deputy chair)

The panel will interview applicants and recommends appointment based on criteria listed in the procedure above. Final approval of candidates will be made by Council.

24. Remuneration

No additional remuneration is paid to elected members who represent Council on the Jaycee Trust Assessment Committee, however travelling costs may be claimed under the Elected and Appointed Members Expenses and Allowances Policy where applicable.

Community Members are not remunerated for this role.

25. Creative Communities New Zealand/ Arts & Culture Fund Assessment Committee

On behalf of Creative New Zealand, Council is responsible for administering the Creative Communities Grant.

At the beginning of the triennium, Council sets up the CCNZ/ Arts & Cultural Fund Assessment Committee as a community-led body. The Assessment Committee is responsible for determining applications for the CCNZ/ Arts & Culture Fund annually.

26. Eligibility and Skills required for Appointment

Community members must reflect the diversity of the city. Candidates will have knowledge of the local art scene and communities of the city.

27. Term of Appointment

The term of appointment is for three years. Members can be appointed for a maximum of two consecutive terms.

28. Appointments Process

Council may appoint up to two elected members to the committee at the beginning of the triennium. Elected members must write an expression of interest to the Mayor, who will nominate two members to the Council for approval.

The remainder of the membership of the CCNZ/ Arts & Cultural Fund Assessment Committee will be appointed by the [appointment process](#) set out by Creative Communities New Zealand.



29. Remuneration

No additional remuneration is paid to elected members who represent Council on the Creative Communities New Zealand/ Arts & Culture Fund Assessment Committee, however travelling costs may be claimed under the Elected and Appointed Members Expenses and Allowances Policy where applicable.

Community Members are paid a meeting fee for attendance.



PALMERSTON NORTH CITY COUNCIL

APPOINTMENT OF DIRECTORS & TRUSTEES POLICY

Updated 30 April 2018 | PUBLISHED BY GOVERNANCE AND SUPPORT TEAM | CITY CORPORATE 2018

OA# 10123911

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1. PURPOSE

The purpose of this policy is to set out, in accordance with section 57(1) of the Local Government Act 2002 (LGA), an objective and transparent process for the:

- Identification, consideration and creation of the skills, knowledge and experience required of directors of a Council organisation
- Appointment of directors to a Council organisation
- Remuneration of directors of a Council organisation

2. POLICY OBJECTIVES

The objectives of this policy are to ensure:

- That the process of appointing Board members is undertaken in an objective and transparent manner while protecting individual privacy.
- That Board appointments:
 - Are made on the basis of an assessment of skills, knowledge and experience of the current Board and having regard to the nature of scope of the organisations objectives and activities.
 - Consider the contribution that directors can make to the Board as a whole.
- Continuity through ensuring succession planning of Board chairs.

3. DEFINITIONS

“Council organisation”

A Council Organisation (CO) is defined in section 6 of the LGA as an organisation in which the Council has a voting interest or the right to appoint a director, trustee or manager (however described). This is a wide-ranging definition, covering a large number of bodies.

“Council-controlled organisation”

A Council-Controlled Organisation (CCO) is defined in section 6 of the LGA as an organisation in which the Council controls, directly or indirectly, 50% or more of the votes or has the right, directly or indirectly, to appoint 50% or more of the directors, trustees or managers.

“Council-controlled trading organisation”

A Council-controlled trading organisation (CCTO) is defined in Section 6 of the LGA as a CCO that operates a trading undertaking for the purpose of making a profit.

“Board member”

The term Board member includes directors, trustees, or office holders (however described by that organisation).

“Candidate”

Is a person who has been nominated, submitted a written application, or identified through search activities.

“Panel”

For the purpose of this policy the term Panel refers to a Committee of the Council of Palmerston North City Council which has been delegated responsibility for making appointments to CCOs, CCTOs, COs. For avoidance of doubt, in the event that the Council of Palmerston North City chooses not to delegate this responsibility, the term Panel refers to the Council of Palmerston North City.

4. BOARD DIVERSITY AND INCLUSION

Palmerston North City Council values and supports the benefits that diversity of thought, experience and skills bring to our CCO Boards. We recognise that increasing diversity and fostering inclusive Board culture is an essential element in supporting high performing Boards, driving long-term success and delivering better outcomes for the communities of Palmerston North City.

A diverse Board will include and make good use of differences in the skills, experience, perspectives, backgrounds, demographics and other qualities of directors. These differences will be considered in determining the optimum composition of the Board and when possible should be balanced appropriately.

All Board appointments will be made on the basis of the skills, knowledge and experience which the Board as a whole requires to be effective with due regard to the benefits of diversity on the Board.

Palmerston North City Council is committed to supporting and / or providing initiatives:

- That lead to an inclusive recruitment and selection process for Board appointments
- Support a diverse range of aspiring directors to develop skills, knowledge, Board room experience and to establish relationships and networks; and
- Build a diverse pool of experienced directors for Palmerston North City organisations and companies.

5. CCOS

The policy needs to consider the particular needs of the organisation when making appointments. Recruitment of suitable Board members can be challenging. In addition, the trust deeds (or constitutions in the case of companies) often include provisions regarding appointments, but this policy will take precedence over any trust deed.

6. ELIGIBILITY FOR APPOINTMENT

6.1 Appointment of Elected Members of the Palmerston North City Council

The Palmerston North City Council has a responsibility for monitoring performance of CCOs and so Elected Members of the Palmerston North City Council should not serve on the Boards of CCOs, unless there is a compelling reason to do so. The reason would be needed to inform a Council Resolution to appoint such Elected Members.

6.2 Appointment of Palmerston North City Council Staff

Staff of the Palmerston North City Council are not normally eligible for appointment unless the nature of the appointment requires this. For example, the Local Government Funding Agency has Board positions which are required to be filled by staff of a Local Authority.

6.3 Appointment of Managers and Staff of CCOs

Board members should be independent from management and are not to be employed by the entity.

In the event that a Board decides that one of its members should fill a staff vacancy the Board member must stand down from their position on the Board while filling the vacancy on a non-permanent basis. If they are to be permanently appointed as an employee then they are to resign their position before starting up their permanent role.

7. BOARD COMPETENCIES, SKILLS AND KNOWLEDGE

Board members are expected to meet a number of core competencies as well as specialist skills or experience required for that Board.

7.1 Core competencies

The core competencies expected on CCO Boards are:

- Sound judgement and decision-making
- Public service ethos

- An understanding and commitment to Council's obligation to Te Tiriti o Waitangi
- A high standard of personal integrity
- Clear communication and an ability to debate in a reasoned manner
- Effective teamwork and collaboration
- Ability to think strategically
- Risk assessment and contingency management; and
- Commitment to the principles of good corporate citizenship.

8. TERM OF APPOINTMENT

Board members normally serve a three-year term. Palmerston North City Council's policy regarding Board tenure is as follows:

Tenure of three years: Board members shall hold office for a term of up to three years from the date of appointment.

Expiry of tenure: upon expiry of that three-year term, the Board member retires from the Board and may be eligible for reappointment.

Reappointment: a Board member who is retiring may be reappointed for a further term of up to three years if deemed appropriate and a recommendation is received to the Palmerston North City Council from the Panel.

9. BOARD APPOINTMENTS

9.1 Role of the Panel

The Panel is responsible for the appointment of Board members to CCOs. This also applies where the trust deed identifies the Mayor as responsible for making appointments; because the Mayor is acting on behalf of the Council.

9.2 Reappointments

Where a Board member's term of appointment has expired and they would like to be considered for reappointment, the Panel may offer a further term on the recommendation of the Board Chair. However, the expectation from Council is that all vacancies will be advertised unless there are exceptional circumstances as accepted by the Council. Current Board members who are re-applying will still be required to provide an updated CV.

Board members should not be given any expectation that they will be offered a subsequent term on the Board.

9.3 New Appointments

The Panel will identify the skills, knowledge and experience required for the position with the assistance of the Governance and Support Team Leader and the Board Chair.

Candidates may be sought through advertising of the position, and/or from nominations from elected members, and the Chair of the CCO.

Where there are one or more candidates per position, a short-list (if applicable) and interview process will be undertaken. This will generally be undertaken by the Panel consisting of:

- Mayor and/or Deputy Mayor (as Chair)
- Chair of Finance and Performance
- Chair of Arts, Culture and Heritage; and
- The Chief Executive (or their representative)

The Panel will be administered by the Governance and Support Team Leader.

At times the Panel may include a member of the CCO Board and/or an independent industry expert, if the panel considers it appropriate to do so.

The Panel will assess candidates against the required skills, knowledge and experience and may take into account other factors such as:

- Alignment with the Council's objectives for that entity
- A broad dynamics and stakeholder relationships
- The capacity of candidates to attend regular Board meetings and fulfil other requirements; and
- Chair and Deputy Chair succession planning.

9.4 Conflicts of Interest

Prior to being interviewed for a position on a Board, candidates will be required to complete a consent form and declare any relevant interests, so that the potential for a conflict of interest can be assessed. In considering any appointment or reappointment, where a potential conflict of interest has been identified, the Council needs to be confident that any such conflict can be managed.

9.5 Finalisation of Appointments

The successful applicants(s) will be offered a Letter of Appointment.

9.6 Appointments of Chair and Deputy Chair

Depending on the provisions of the trust deed or constitution, the Board of the CCO will normally appoint the Chair and Deputy. The Chair will be expected to identify future successors, to provide for smooth transition in the event of a planned or unexpected retirement of an incumbent Chair.

9.7 Removal of Board Members

Council appointed Board members hold office at the pleasure of the Council and may be removed at any time by Council resolution.

Without limiting the rights of the Council, the likely reasons, which would justify removal of a Board member, would be where that Board member:

- Is regularly absent from Board meetings without good justification
- No longer has the confidence of the Board or the Council
- Has breached ethical standards
- Does not act in the best interests of the organisation
- Breaches the confidence of the Board in any way, including speaking publicly on Board issues without the authority of the Board
- Does not act in accordance with the principles of collective responsibility; and
- Is disqualified from being appointed or holding office as a director of a company under section 151(2) of the Companies Act 1993.

Where the Board has concerns regarding the behaviour of one of its members it should be considered by the Board in the first instance and, where necessary, the Board may recommend the removal of the Board member to the Council.

Palmerston North City Council will not make any payment by way of compensation to Board members who have been removed from Boards.

9.8 Board Members Standing for Political Office

Council appointed Board members who have been nominated to stand or be elected as a candidate in a Local Body or Parliamentary election should advise the Chair of their Board immediately.

Any board member who is formally nominated to stand as a candidate for election at a Local Body or Parliamentary election, or placed on any political party's list, must stand down from his/her Board position from nomination day until the election results are notified or such earlier day as may be determined. This measure aims to ensure that governance of the organisation is not distracted by the Board member's election activity, and to prevent the possibility of any conflicts of interest – real or perceived.

Any Board member who is subsequently elected to Council or the New Zealand Parliament shall resign from the Board of the CCO.

10. REMUNERATION

Board members of CCOs are remunerated for their services to the Board at \$85.00 per normal monthly meeting and they may also be reimbursed for expenses as per any CCO Board Expenses policy.



Palmerston North City Council

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6 Meaning of council-controlled organisation and council organisation

(1) In this Act, unless the context otherwise requires,—

council-controlled organisation means a council organisation that is—

(a) a company—

(i) in which equity securities carrying 50% or more of the voting rights at a meeting of the shareholders of the company are—

(A) held by 1 or more local authorities; or

(B) controlled, directly or indirectly, by 1 or more local authorities; or

(ii) in which 1 or more local authorities have the right, directly or indirectly, to appoint 50% or more of the directors of the company; or

(b) an entity in respect of which 1 or more local authorities have, whether or not jointly with other local authorities or persons,—

(i) control, directly or indirectly, of 50% or more of the votes at any meeting of the members or controlling body of the entity; or

(ii) the right, directly or indirectly, to appoint 50% or more of the trustees, directors, or managers (however described) of the entity

council-controlled trading organisation means a council-controlled organisation that operates a trading undertaking for the purpose of making a profit

council organisation means—

(a) a company—

(i) in which equity securities carrying voting rights at a meeting of the shareholders of the company are—

(A) held by 1 or more local authorities; or

(B) controlled, directly or indirectly, by 1 or more local authorities; or

(ii) in which 1 or more local authorities have the right, directly or indirectly, to appoint 1 or more of the directors (however described) of the company; or

(b) an entity in respect of which 1 or more local authorities have, whether or not jointly with other local authorities or persons,—

(i) control, directly or indirectly, of 1 or more of the votes at any meeting of the members or controlling body of the entity; or

(ii) the right, directly or indirectly, to appoint 1 or more of the trustees, directors, or managers (however described) of the entity.

(2) For the purposes of subsection (1), **entity** means any partnership, trust, arrangement for the sharing of profits, union of interest, co-operation, joint venture, or other similar arrangement; but does not include a company, or a committee or joint committee of a local authority.

List of organisations Council appoints to as of March 2022

(covered by Appointment of Directors and Trustees Policy)

Council Controlled Organisations

- Central Economic Development Agency (CEDA) (six out of nine trustees appointed by Council) jointly owned with Manawātū District Council.
- Te Manawa Museums Trust (five out of nine trustees appointed by Council)
- The Regent Theatre Trust (six out of nine trustees appointed by Council)
- The Globe Theatre Trust (five out of seven trustees appointed by Council)
- Palmerston North Performing Trust (The Mayor and two trustees appointed by Council) **exempted from the reporting requirement of the LGA until June 2022.**
- The Manawātū-Wanganui Disaster Relief Fund (one out of eight trustees appointed by the Mayor). Jointly owned by the seven territorial authorities and Horizons Region Council, **exempted from the reporting requirement of the LGA until June 2022.**

Council Controlled Trading Organisation

- Palmerston North City Airport Limited (two out of five directors appointed by Council)

Council Organisations

Community Organisations:

- Age Friendly Palmerston North
- Community Arts Palmerston North
- Disability Coalition
- Disabled Persons Assembly
- Manawatu Multicultural Centre Inc (Mayor +1)
- Palmerston North Community Services Council
- Palmerston North Neighbourhood Support Group
- Safety Advisory Board

Steering Groups:

- Palmerston North City Housing Steering Group (HSG)
- Arena Masterplan Steering Group
- Hockey Turf Steering Group

Advisory Groups:

- Victoria Esplanade User Group
- Kotahitanga Alliance

- Manawatū Community Athletics Track Advisory Committee
- Palmerston North Defence Heritage Advisory Group
- Design Working Party for Te Motu o Poutoa
- Consent Phase Project Reference Group (BPO Wastewater)

Community Trusts:

Trusts:

- Wildbase Recovery Community Trust Board (one out of five trustees appointed by Council)
- Hoffman Kiln Trust (one out of seven trustees appointed by Council) – under the trust deed there is no obligation for Council to appoint to the Trust.

Grant Selection Committees

- Jaycee Trust Assessment Committee (Chair of Community Development and two panellists appointed by Council).
- Creative Communities New Zealand/ Arts & Culture Fund Assessment Committee (two elected members appointed by Council and community panellists selected according to Creative Communities NZ appointment criteria).

List of other external bodies Council appoints to as of March 2022

(NOT covered by Appointment of Directors and Trustees Policy)

Horizons Climate Action Joint Committee (Mayor)

Horizons Passenger Transport Committee

Horizons Regional Transport Committee

Manawatū River Accord

Manawatū – Whanganui Civil Defence Emergency Management Group

New Zealand Local Government Association (Zone 3) (5)

Palmerston North Public Transport Services Advisory Group (Mayor +2) (Horizons)

Regional Chief's Meeting (Mayor)(Horizons)

Te Apiti Governance Group (Mayor) (Horizons)

REPORT

TO: Council

MEETING DATE: 4 May 2022

TITLE: Draft Palmerston North Stormwater Bylaw - Deliberations and Adoption

PRESENTED BY: Julie Macdonald - Strategy and Policy Manager

APPROVED BY: David Murphy, Chief Planning Officer

RECOMMENDATIONS TO COUNCIL

1. That the Council confirms:
 - a. the Palmerston North Stormwater Bylaw 2022 is the most appropriate means of addressing the perceived problems of protecting the public stormwater network, and regulating inflows into the public stormwater network; and
 - b. the form of the Bylaw is the most appropriate form of bylaw; and
 - c. the Bylaw does not give rise to any implications under the New Zealand Bill of Rights Act 1990.
2. That the Council adopts the Palmerston North Stormwater Bylaw 2022 and the Palmerston North Stormwater Bylaw Administration Manual 2022 as attached to this report.

SUMMARY OF OPTIONS ANALYSIS FOR DELIBERATIONS AND ADOPTION OF THE DRAFT PALMERSTON NORTH STORMWATER BYLAW & ADMINISTRATION MANUAL

| | |
|-------------------------------|---|
| Problem or Opportunity | The Stormwater Drainage Bylaw 2015 expired in May 2020 and will be automatically revoked in May 2022 unless the Council adopts a new Stormwater Bylaw before that date. Consultation on the draft Bylaw is complete, and this report outlines advice on the issues raised by the submitters. The opportunity is to make final changes to the draft Bylaw and Administration Manual and recommend these for adoption by Council. |
| OPTION 1: | Adopt the draft Stormwater Bylaw and Administration Manual |
| Community Views | There was a range of views expressed by submitters with some opposition to the new clauses relating to the maintenance of private stormwater systems. A submission from Rangitāne o Manawatū has also raised some views on the purpose of the bylaw. Overall, the submitters are supportive of the proposal |

| | |
|------------------|---|
| | and have recommended changes to improve the draft Bylaw. |
| Benefits | Adopting the Bylaw will ensure that the Council can continue to protect the public stormwater network and regulate inflows into that network. |
| Risks | There are some identified risks given the nature of some of the submissions; officers have been assisted by Council's legal advisers with some of the responses to submissions to protect against the possibility of legal challenge on the new provisions introduced and associated costs. |
| Financial | There are no identified financial issues. |
| OPTION 2: | Do not adopt the draft Stormwater Bylaw and Administration Manual |
| Community Views | Overall, the submitters are supportive of the proposal and have recommended changes to improve the draft Bylaw. Deciding not to adopt the draft Bylaw would mean there would be no opportunity to respond to community views through this regulatory mechanism. |
| Benefits | There are no identified benefits of not adopting the Bylaw. |
| Risks | If the draft Bylaw is not adopted before 25 May 2022, then the current bylaw will automatically be revoked, and the Council will not be able to regulate and protect the public stormwater system network. |
| Financial | There are no identified financial issues. |

RATIONALE FOR THE RECOMMENDATIONS

1. OVERVIEW OF THE PROBLEM OR OPPORTUNITY

- 1.1 The Stormwater Drainage Bylaw 2015 expired in May 2020 and will be automatically revoked in May 2022 unless the Council adopts a new Stormwater Bylaw before that date.
- 1.2 Delays caused by the response to the Covid-19 pandemic in 2020 meant that the review was unable to be completed before the end of the five-year review period.
- 1.3 A draft revised Stormwater Bylaw, and Administration Manual, was approved for public consultation in September 2021. Consultation took place over October and November 2021 with ten submissions received, including a late submission from Rangitāne o Manawatū. Submissions were heard in February 2022 with three submitters presenting to the Committee.

- 1.4 Staff have now analysed the submissions made and present a new Palmerston North Stormwater Bylaw 2022 (attachment 1) and Administration Manual (attachment 2) for deliberation and adoption.

2. BACKGROUND AND PREVIOUS COUNCIL DECISIONS

- 2.1 The Council was required under the Local Government Act 2002 (LGA) to review the Stormwater Drainage Bylaw 2015 within five years of it being made or it is automatically revoked two years after it was due to be reviewed.
- 2.2 In September 2020, under s155 of the LGA, Council determined that a bylaw is the most appropriate way to address a range of perceived problems relating to the provision of a reliable and efficient stormwater network that maintains public health and safety and preserves the environment. Officers prepared a revised Bylaw following the s155 determinations made by the Council in September 2020.
- 2.3 The Bylaw is part of Council's suite of water and waste bylaws. It supports the Waters Plan by contributing to the protection of buildings from inundation from flooding in major events, as part of the City's provision of stormwater management activities.
- 2.4 Many of the changes proposed in the draft bylaw put out for consultation were made in response to emerging issues operational staff are experiencing with an increased number of private stormwater systems (required through land or building development); specifically, the concern that a lack of on-going operation and maintenance of these systems may impact on the public stormwater network. Staff also wanted to introduce changes to the Bylaw to better manage the risks associated with the discharge of contaminants into the public stormwater network.
- 2.5 This report was originally on the Planning and Strategy Committee order paper for 13 April 2022. Since that date, two additions have been made to the proposed bylaw (attachment 1). The first is an amendment to the definition of 'private stormwater system' in clause 5, and the second is a minor wording change to clause 9.3. These amendments have been made to ensure consistency with the analysis and conclusions already made within the report.

3. DESCRIPTION OF OPTIONS

- 3.1 There are two options – adopt the draft Stormwater Bylaw and Administration Manual as included as attachments one and two; or do not adopt the draft Stormwater Bylaw and Administration Manual.

Option One – adopt the draft Stormwater Bylaw and Administration Manual

- 3.2 This option involves adopting the changes to the Bylaw and Administration Manual that were approved for consultation, along with additional changes

recommended by officers following consideration of the issues raised by submitters.

3.3 Attachment three presents the various issues raised by submitters, provides a staff response to each of the submission points, and then describes the proposed changes to the Bylaw. The analysis also identifies which submission points are more appropriately addressed through RMA/District Plan processes, and which are operational matters for staff to action.

3.4 The main changes proposed to the Bylaw are outlined below:

3.4.1 **Part One – Introduction (clauses 1 to 5)**

- Amend the purpose of the Bylaw in clause 2:

2.1 This Bylaw is made under the authority of the Local Government Act 2002 for the purpose of ensuring that the public stormwater system network is protected and managed by Palmerston North City Council in such a manner that it:

- a) promotes a sustainable urban drainage systems (SUDS) water sensitive design (WSD) approach;
- b) while safeguarding safeguards public health and safety, property, and the environment;
- c) in order to minimises the impact of flooding, and erosion, and environmental pollution and regulates inflows into the public stormwater network to avoid nuisance and/or degradation of the receiving environment.

2.2 The Council in making this Bylaw, acknowledges the particular interest in this Bylaw of tangata whenua as kaitiaki of water, and particularly recognises the role of Rangitāne o Manawatū as mana whenua.

- Replace all instances of 'excavation' in Section 8 with 'Earthworks' and insert the following definition of "Earthworks" in clause 5:

"means any movement of earth, including the excavation or deposition of earth or cleanfill that results in changes to the existing ground level. This includes, but is not limited to, earth movement associated with subdivision and siteworks as defined by the Building Act 2004."

- Add a definition of "Watercourse" in clause 5:

"means every river, stream, passage, and channel on or under the ground, whether natural or not, through which water flows, whether continuously or intermittently."

3.4.2 **Part Two – Public Stormwater Network Connections (clause 6)**

- Only minor changes were proposed to this part of the draft Bylaw compared to the 2015 bylaw. No submissions were made on this part of the proposed bylaw therefore no changes are recommended.

3.4.3 Part Three – Protection of Stormwater Assets and The Public Stormwater Network (clauses 7 to 10)

- Amend clause 7.1(e) of the Bylaw to read:

7.1 No person may, unless specifically authorised by a resource consent or approval by the Council:

- (e) ~~Deposit- Locate~~ or permit any material, hazardous material, chemical, rubbish, litter or other substance, likely to cause a nuisance on entering the public stormwater ~~drainage~~ network, to be located or stored in such a manner that it could enter the public stormwater ~~drainage~~ network (directly or indirectly, in any storm event), unless it has first passed through an ~~industry standard oil separation or appropriate stormwater~~ treatment device, for instance at petroleum industry sites treatment shall include oil-water separation in accordance with the Environmental Guidelines for Water Discharges for Petroleum Industry Sites in NZ (Ministry for the Environment, 1998) or any superseding guidelines published by the Ministry for the Environment."

- Add a new sub-clause after clause 9.3:

9.3.1 A resource consent under the Resource Management Act 1991 from the Regional Council may be required for maintenance works under this clause. No owner or occupier is obliged to perform maintenance under this clause that would contravene the Resource Management Act 1991.

3.4.4 Part Four – Stormwater Contamination Mitigation (clauses 11 & 12)

- Amend clause 11.2 to read:

11.2 No person may discharge, deposit or permit any contaminants, material, chemical, rubbish, litter or other substance, likely to cause a nuisance on entering the public stormwater network, unless that discharge has passed through an appropriate (and if necessary) approved stormwater treatment ~~measure~~ device, for instance at petroleum industry sites treatment shall include oil-water separation in accordance with the Environmental Guidelines for Water Discharges for Petroleum Industry Sites in New Zealand (Ministry for the Environment, 1998) or any superseding guidelines published by the Ministry for the Environment.

- Amend clause 11.3 to read:

11.3 No person may store raw material, products or waste in a manner or location such that there is a more than minor risk of that material entering the public stormwater network if that material containsing corrosive, toxic, biocidal, radioactive, flammable, or explosive materials, or any material which, when mixed with the stormwater stream in the public stormwater ~~drainage~~-network, may:

- (a) generate toxic, flammable, explosive or corrosive materials in hazardous quantities, or
- (b) damage the public stormwater network, the environment or adversely affect the health and safety of Council staff ~~and or~~ the public ~~in a manner or location such that there is a more than minor risk of that material entering the public stormwater network.~~

3.4.5 **Part Five – Enforcement (clause 13) & Part Six – Bylaw Administration (clauses 14 to 17)**

- No submissions were made on this part of the proposed bylaw and therefore no changes are recommended.

3.4.6 **Administration Manual**

- Only minor changes were proposed to the Bylaw's Administration Manual. While there were submissions on the Administration Manual, either these were not considered to merit any changes, or the points through submissions made are addressed by proposed changes to the Bylaw. Some minor changes have been proposed to reflect updates to terminology (attachment 2).

3.5 Other changes proposed to the Bylaw are (see attachment 1):

- Delete the definition for "Certificate of Title" in clause 5 and replace it with "Record of Title". Replace all instances of "certificate" with "record" in the definition of "Premises".
- Amend the definition of "Private stormwater system" in clause 5.
- Amend the definition of "Stormwater contamination mitigation plan" in clause 5.
- Amend clause 7.1 (d) of the Bylaw (minor grammatical change).
- Amend clause 9.3 by changing "defence to water" to "defence against water".
- Amend clauses 11.3 and 12.1 so they read: "[...] Council staff ~~and~~ or the public [...]"

- Add a new clause 12 heading: "Avoiding and mitigating contaminant discharges" and add a new heading for clause 13: "Requirement to prepare a Stormwater contamination mitigation plan".

Option Two – do not adopt the draft Stormwater Bylaw and Administration Manual

- 3.6 This option would involve leaving the current bylaw review process incomplete. The current Bylaw would continue in effect until it is automatically revoked on 25 May 2022.

4. ANALYSIS OF OPTIONS

- 4.1 Option One – adopting the draft Stormwater Bylaw and Administration Manual has clear benefits with no significant disadvantages. The draft Bylaw has been through a formal consultation process which raised a wide range of issues on the proposed changes to the Bylaw. Following an analysis of the points raised by submitters (attachment 3) staff propose some relatively minor changes to assist with interpretation and readability of the Bylaw for adoption.
- 4.2 Adoption of the Bylaw and Administration Manual will enable Council to protect and manage the public stormwater network.
- 4.3 It is noted that many of the submission points are better addressed through other regulatory processes, such as changes to the District Plan, rather than the Bylaw.
- 4.4 The more significant changes suggested by submitters, but not proposed for inclusion in the draft Bylaw or Administration Manual, were:
- Inclusion of the concept of 'Te Mana o Te Wai' in the Bylaw's purpose (clause 2).
 - Defining 'maintenance' in relation to the new provisions introduced in clause 9.3 relating to privately-owned watercourses and stopbanks.
 - Introducing provisions that no changes be made to sites after the initial development phase occurs (such as increasing the area of impermeable surfaces) which would result in increased flows of stormwater from the property.
 - Changing the information requirements for Stormwater contamination mitigation plans.
 - Including a provision that stormwater discharges of a quality provided for as a permitted activity under the relevant regional plan will be accepted to the reticulated stormwater network without further water quality treatment.

- Prohibiting washing of cars on the street or in driveways where water runs into the stormwater network.
- Changes to the provisions in the Administration Manual regarding buildings being constructed over parts of the public stormwater network.
- Shifting the decommissioning costs to Council should an approved private stormwater installation become unacceptable to Council (to avoid nuisance); furthermore, that this obligation is extended to Council's vested infrastructure, and that Council's development and operation of its infrastructure will not occasion nuisance.
- Amending the Bylaw to clarify that the Council (or the causative developer) will be responsible to meet the costs of such additional maintenance and/or upgrade works, in situations where the need for that arises due to causes outside of the property owner's control.
- Extending the Bylaw to include an obligation on the Council not to create a nuisance and that Council meets the same criteria, i.e. that its vested infrastructure and its development and operation of its infrastructure will not result in nuisance.

4.5 The reasons for not recommending these changes to the Bylaw and Administration Manual are outlined in the analysis of submissions (attachment 3). Staff note that any additional changes to the Bylaw, and Administration Manual, at this part of the review process would result in re-notification of Bylaw as many of these suggested changes would likely attract additional community feedback.

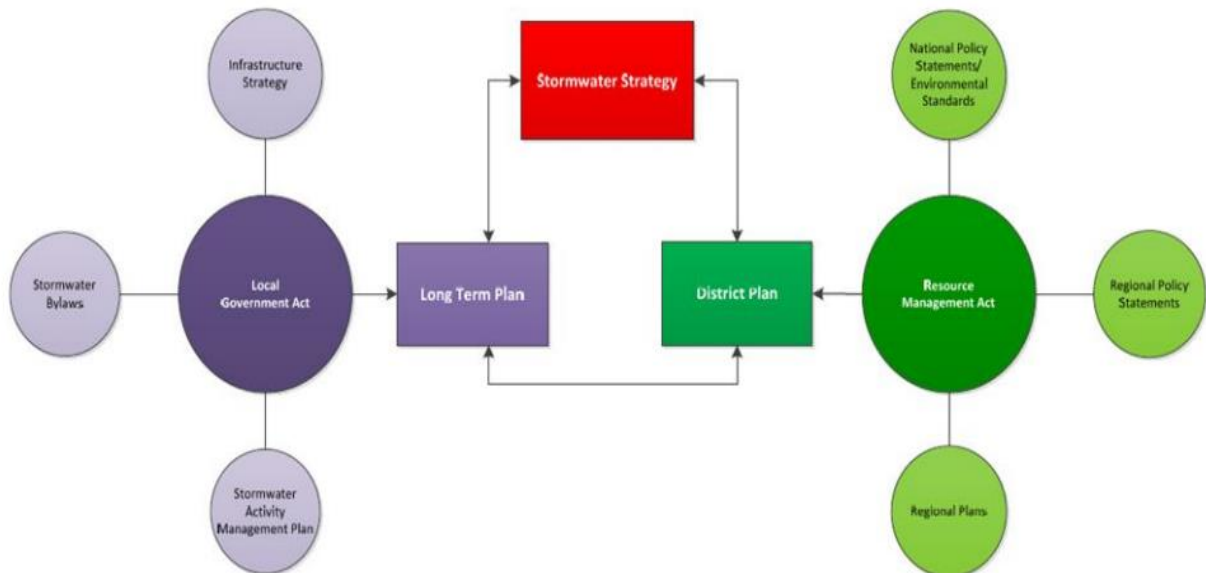
Option Two – not adopting the draft Bylaw and Administration Manual has disadvantages and no clear benefits. A range of views were expressed by submitters with some opposition to the new clauses relating to the maintenance of private stormwater systems. However, there were not any major concerns with the draft Bylaw as proposed. A decision to not adopt the draft Bylaw would leave the Council with no means to protect the public stormwater network through regulating connections, managing inflows from private stormwater systems, and potential discharge of contaminants into the network.

4.6 Finally, the Committee considered a report on 9 September 2020 under section 155 of the Local Government Act. That report assessed whether a bylaw was the most appropriate way of addressing the perceived problems, whether the form of the bylaw was the most appropriate form, and whether the bylaw gave rise to any implications under the New Zealand Bill of Rights Act 1990. The Council made those determinations in September 2020. No changes have been made to the draft Bylaw which alter that initial

assessment, and so it is also recommended that the Council confirm these determinations before adopting the Bylaw.

5. DISCUSSION

- 5.1 Staff note that the legislative, policy, and planning framework for stormwater management is complex and many of the submissions made reflect the overlaps between the regulatory powers in the Local Government Act 2022 (LGA) and the Resource Management Act 1991 (RMA). The diagram that follows aims to clarify the connections between these two pieces of legislation.



Source: WSP (2020) Stormwater Policy and Plan Provisions - Stocktake and Assessment – Figure 4.1: The Policy and Planning Framework (Source: Timaru District Stormwater Strategy. Note this is one council's example of how matters are connected and that Stormwater Strategies are not required documents).

This figure shows that the LGA and the RMA are the two central pieces of legislation governing stormwater management. Radiating from the central points are specific plans and policies that give effect to the legislation at the regional/local level. Stormwater bylaws are shown to the far left of the diagram and are enabled by the LGA. Bylaws therefore fulfil only a portion of the overall regulatory powers available to the Council and, in addition to the LGA and RMA, there are also powers in the Land Drainage Act 1908, Building Act 2004, and the Soil Conservation and Rivers Control Act 1941.

- 5.2 Council staff are developing a Stormwater Management Framework (that is essentially a Stormwater Strategy as shown in the red box in the above diagram; additionally the Council's Waters Plan (that has a specific chapter on stormwater) provides further strategic direction that ideally bridges the two

legal domains. While the review of the Stormwater Drainage Bylaw 2015 would have benefitted having this work finalised, the bylaw review process has had to proceed without it.

- 5.3 Once completed, the framework will help give effect to the National Policy Statement for Freshwater Management and the Horizons Regional Council's One Plan. It will guide land developers to implement best practice stormwater management approaches, set out catchment priorities and provide guidance in respect of design standards and approved solutions for stormwater runoff, as well as mitigate flood effects.
- 5.4 In turn, the framework will inform planned changes to the District Plan planned for 2023/2024 as described as an action in the Stormwater chapter of the Waters Plan 2021.

6. CONCLUSION

- 6.1 The Stormwater Bylaw and Administration Manual enables the Council to protect and manage the public stormwater network as provided for in the LGA. As outlined in the Bylaw's purpose, it aims to manage stormwater in a way to promote water sensitive design, protect people, property and the environment from the impacts of flooding and from any discharges of contaminants from the public network and then into receiving environments (such as waterways). The proposed changes provide for improved regulation of the maintenance of private stormwater systems and control of stormwater discharges to the public stormwater network.
- 6.2 The Bylaw is one of several mechanisms the Council uses to manage the overall stormwater activity. The District Plan is Council's key regulatory tool that manages stormwater through the provisions in the natural hazards, residential and subdivision chapters, including compliance with the Council's Engineering Standards for Land Development. Other management mechanisms include environmental education and the use of legal instruments such as the creation of easements and drainage reserves.

7. NEXT ACTIONS

- 7.1 Staff recommend that the draft Palmerston North Stormwater Bylaw 2022 and Administration Manual 2022 are adopted as presented in attachments 1 and 2 to this report.
- 7.2 Many of the issues raised by submitters are best addressed through other means, such as future changes to the District Plan or the provision of environmental education.
- 7.3 If the Council confirms the recommendations to this Committee to adopt the Stormwater Bylaw, then it will replace the current Stormwater Drainage Bylaw 2015.

- 7.4 A public notice will be published in the Manawātū Standard and the Guardian advising of the adoption of the new Bylaw, and that it will commence on 24 May 2022.

8. OUTLINE OF COMMUNITY ENGAGEMENT PROCESS

8.1 The key consultation activities were:

- Direct email contact with key stakeholders including Horizons Regional Council and Environment Network Manawātū.
- Public notices in the Manawātū Standard and the Guardian newspapers.
- The consultation document/statement of proposal was made available on the Council's website and printed copies were available at the Customer Service Centre and all Council libraries.
- Social media posts were made on Council's Facebook and LinkedIn accounts (with posts linking to Council's website page and the online submission form). Analytics from the two Facebook posts showed they reached a total of 5,931 people with a total of 111 engagements made.
- Emails to around 300 contacts in the building and development sector.
- Letters to around 500 property owners identified on Council's GIS as having 'hydraulic neutrality' and likely to have an on-site private stormwater system.
- Discussion at the Rangitāne o Manawātū bimonthly meetings in December 2020 and August 2021.




8.2 No further consultation is required. Submitters will be contacted and advised of the outcome of the consultation process.

COMPLIANCE AND ADMINISTRATION

| | |
|---|------------|
| Does the Council have delegated authority to decide? | Yes |
| Are the decisions significant? | No |
| If they are significant do they affect land or a body of water? | No |
| Can this decision only be made through a 10 Year Plan? | No |
| Does this decision require consultation through the Special Consultative procedure? | No |
| Is there funding in the current Annual Plan for these actions? | Yes |
| Are the recommendations inconsistent with any of Council's policies or plans? | No |
| The recommendations contribute to Goal 4: An Eco City | |
| The recommendations contribute to the achievement of action/actions in Waters | |
| The action is: Complete the review of the Stormwater Drainage Bylaw | |

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| Contribution to strategic direction and to social, economic, environmental and cultural well-being | The Stormwater Bylaw is part of Council's suite of water and waste bylaws. The Stormwater Bylaw and Administration Manual enables the Council to protect and manage the public stormwater network as provided for in the LGA. As outlined in the Bylaw's purpose, it aims to manage stormwater in a way to promote water sensitive design, protect people, property and the environment from the impacts of flooding and from any discharges of contaminants from the public network then into receiving environments. The changes provide for improved regulation of the maintenance of private stormwater systems and control of stormwater discharges to the public stormwater network. The Bylaw supports the Waters Plan by contributing to the protection of buildings from inundation from flooding in major events, which is part of the City's provision of stormwater management activities. |
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ATTACHMENTS

1. Palmerston North Stormwater Bylaw 2022 [↓](#) 
2. Palmerston North Stormwater Bylaw Administration Manual 2022 [↓](#) 
3. Analysis of submissions on the Palmerston North Stormwater Bylaw and Administration Manual 2022 [↓](#) 



PALMERSTON NORTH CITY

PALMERSTON NORTH STORMWATER BYLAW 2022

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PALMERSTON NORTH STORMWATER BYLAW 2022

PART ONE – INTRODUCTION

1 Title

- 1.1 The title of this Bylaw is the Palmerston North Stormwater Bylaw 2022.

2 Purpose

- 2.1 This Bylaw is made under the authority of the Local Government Act 2002 for the purpose of ensuring that the public stormwater system network is protected and managed by Palmerston North City Council in such a manner that it:
- a) promotes a sustainable urban drainage systems (SUDS) – water sensitive design (WSD) approach;
 - b) while safeguarding safeguards public health and safety, property, and the environment;
 - c) in order to minimises the impact of flooding, and erosion, and environmental pollution and – regulates inflows into the public stormwater network to avoid nuisance and/or degradation of the receiving environment.
- 2.2 The Council in making this Bylaw, acknowledges the particular interest in this Bylaw of tangata whenua as kaitiaki of water, and particularly recognises the role of Rangitāne o Manawatū as mana whenua.

3 Commencement

- 3.1 This Bylaw comes into force on 24 May 2022.

4 Repeal

- 4.1 The Palmerston North Stormwater Drainage Bylaw 2015 is repealed at the commencement of this bylaw.

5 Definitions

For the purpose of the Bylaw and Administration Manual, unless inconsistent with the context, the following definitions apply:

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| Administration manual | means the Administration manual for the Palmerston North Stormwater Bylaw 2022 as approved by the Council when the Palmerston North Stormwater Bylaw 2022 was made and as amended from time to time by delegated authority under the Bylaw. |
| Approval | means approved in writing by the Council, either by resolution of the Council or by an officer of the Council authorised for that purpose. |
| Authorised officer/agent | means an officer or an agent appointed by the Council and given powers to perform duties and functions under this Bylaw, and includes an enforcement officer appointed under section 177 of the Local Government Act 2002. |
| Bylaw | means the Palmerston North Stormwater Bylaw 2022. |
| Catchment | means the area of land within which stormwater flows (whether by gravity, pumping, piping or otherwise) to a given point. |
| Catchment management plan | means a plan prepared by or for Council for the understanding, control and management of stormwater and stormwater related hazards within a catchment. |
| Certificate of Title | means a certificate registering the freehold ownership of land available to any owner(s) under the Land Transfer Act 1952. |

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| Commercial premises | <p>means:</p> <ul style="list-style-type: none"> (a) Any premises used or intended to be used for any commercial, industrial or trade purpose; (b) Any premises used or intended to be used for the storage, transfer, treatment, or disposal of waste materials or for other waste management purposes, or used for composting organic materials; (c) Any other premises from which a contaminant is discharged in connection with any industrial or commercial process; or (d) Any other premises discharging other than domestic sewage; and includes any land or premises wholly or mainly used for agricultural or horticultural purposes, including composting organic materials. |
| Council | <p>means the Palmerston North City Council and includes any person or Committee acting under authority duly delegated by the Palmerston North City Council.</p> |
| Contaminant | <p>includes any substance (including gases, odorous compounds, liquids, solids, and micro-organisms but excluding precipitation) or energy (excluding noise) or heat, that either by itself or in combination with the same, similar, or other substances, energy, or heat—</p> <ul style="list-style-type: none"> (a) when discharged into water, changes or is likely to change the physical, chemical, or biological condition of water; or (b) when discharged onto or into land or into air, changes or is likely to change the physical, chemical, or biological condition of the land or air onto or into which it is discharged; or as described in the Resource Management Act 1991 |
| Council infrastructure | <p>any physical assets owned by Council, either above ground or buried, for the purpose of providing services e.g. water, wastewater, stormwater.</p> |

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| Customer | means a person who has obtained permission from the Council to connect their premises to the public stormwater network. |
| Development | in relation to any land means altering the stormwater runoff characteristics of that land including by stormwater drainage works, building work, subdivision or change of use or ground cover. |
| Dwelling | includes any house, tent, vehicle or other structure, whether permanent or temporary, and whether attached to the ground or not, used wholly or partly for human habitation, and includes the land accessory to a dwelling. |
| <u>Earthworks</u> | <u>means any movement of earth, including the excavation or deposition of earth or cleanfill that results in changes to the existing ground level. This includes, but is not limited to, earth movement associated with subdivision and siteworks as defined by the Building Act 2004.</u> |
| Engineering Standards for Land Development | means the current version of the Council's engineering standards detailing the standards to be achieved when carrying out land development. |
| Excessive load | means total volume or peak flow discharges to the network which exceeds the proportion of the available capacity within the network available to the site based on the impermeable site area. |
| Flood plain | means a low-lying area which is expected to or predicted to flood in a storm event usually described as an Average Return Interval (ARI) 20-year event. |
| Flood risk area | means an area which may be at risk of flooding in an (ARI) 20-year event. |

Memorandum of Encumbrance

means an agreement for the payment by any person or persons by yearly or periodical payments or otherwise of any annuity, rent charge, or sum of money other than a debt where land owned by the person or persons is legally defined and used as security should failure to pay occur.

Nuisance

has the same meaning as Section 29 of the Health Act 1956 and includes a person, thing, or circumstance causing distress or annoyance or unreasonable interference with the peace, comfort or convenience of another person; and in the context of this Bylaw also includes but is not limited to:

- (a) danger to life;
- (b) danger to public health;
- (c) flooding of any building floor or sub-floor, or public roadway;
- (d) damage to property;
- (e) damage to the public stormwater network;
- (f) erosion or subsidence of land;
- (g) long- or short-term adverse effects on the environment;
- (h) adverse loss of riparian vegetation;
- (i) wastewater overflow to land or water;
- (j) anything that causes a breach of any stormwater discharge consent condition binding the Council, (including an accumulation of chemicals causing a breach).

Occupier

means any person or company who occupies any land or building (including commercial premises) and, if the land or building is unoccupied, includes the owner or the owner's agent.

Overland flow path

means a path along or across any land where surface water is predicted or observed to flow and is likely to cause flooding of more than a minor nature.

Person

includes a corporation sole and a body of persons, whether incorporated or not.

Point of connection

means the boundary between the public stormwater ~~drainage~~ network and a private stormwater system. The point of connection is the point on the public stormwater ~~drainage~~ network which marks the boundary of responsibility between the owner of the premises and the Council, to the maximum distance of 30 metres from the relevant property boundary.

Premises

include the following:

- (a) a property or allotment which is held under a separate ~~certificate~~ Record of ~~T~~title or for which a separate ~~certificate~~ Record of ~~t~~title may be issued and in respect to which a building consent has been or may be issued;
- (b) a building that has been defined as an individual unit by a cross-lease, unit title or company lease and for which a ~~certificate~~ Record of ~~T~~title is available;
- (c) land held in public ownership (e.g. reserve) for a particular purpose;
- (d) individual units in buildings which are separately leased or occupied.

Private stormwater system

means a set of facilities and devices either natural or built which are used to convey run-off, reduce the risk of flooding and to improve water quality, ~~from premises on private land to a receiving environment or up to the point of service connection with the public stormwater network— not forming part of the public stormwater network.~~ This includes ~~s~~d but is not limited to pipes, gutters, downpipes, catchpits, swales, subsoil drains, stormwater treatment devices, rainwater tanks and any stormwater management device or redundant stormwater system.

Public stormwater network

means:

- (a) any stormwater pipes, channels, swales, detention or attenuation devices, wetlands, pump stations and embankments or treatment facility, vested in or under the control of the Council, which serves more than one freehold lot;
- (b) all drains, kerb and channels, storage and attenuation devices, pump stations or treatment facilities within legal road reserve or other public places;
- (c) any drain, channel, or treatment or attenuation facility declared to be a public drain under section 462 of the Local Government Act 1974.

Permit

means any approval or consent required or given by the Council under this Bylaw and includes any approval whether or not on a prescribed form including by electronic communication.

Record of Title

means a Record of Title created under section 12 of the Land Transfer Act 2017.

Redundant private stormwater system

means a system, structure or device that is part of a private stormwater system and has been replaced by another system, structure or device so as to be no longer necessary for the operation of that private stormwater system or required under any building or resource consent condition or engineering approval related to the site.

Road Controlling Authority

In relation to a road:

- (a) means the authority, body or person having control of the road; and
- (b) includes a person acting under and within the terms of a delegation or authorisation given by the controlling authority.

Service opening

means a means for gaining access for inspection, cleaning or maintenance of a public stormwater network.

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| Soakpit | means an underground storage compartment designed for the on-site retention of stormwater or other surface water flows that is emptied by soakage to the underlying material. |
| Stormwater Management Plan | means the plan required as a condition of subdivision consent which details specific management approaches and measures and/or devices to be constructed to mitigate both stormwater quantity and quality effects within the catchment and receiving environment. |
| Stormwater | means run-off that has been intercepted, channelled, diverted, intensified or accelerated by human modification of a land surface, or run-off from the surface of any structure, as a result of precipitation and includes any contaminants contained within. |
| Stormwater contamination mitigation plan | means a plan for commercial, or residential <u>or other</u> premises detailing specific management practices, measures and/or devices to be implemented and constructed to treat and manage stormwater on-site to prevent contamination of stormwater. The plan must include detail of the maintenance and operation requirements for the measures and/or devices. |
| Stormwater attenuation measure | means any measure or device designed to detain or attenuate stormwater on the premises and limit its peak outflow or volume or both from the premises into the public stormwater network. |
| Stormwater treatment measure <u>device</u> | means any measure or device designed to remove contaminants from stormwater on the premises prior to its discharge to the public stormwater network. |
| <u>Watercourse</u> | <u>means every river, stream, passage, and channel on or under the ground, whether natural or not, through which water flows, whether continuously or intermittently.</u> |
| Zone of influence | means waterway area or any overland flow path leading to or from the public stormwater network. |

PART TWO – PUBLIC STORMWATER NETWORK CONNECTIONS

6 Connections to the public stormwater network

- 6.1 No person other than the authorised officers and agents of the Council may carry out work on or connect to the public stormwater network or otherwise alter or modify with any part of that network unless the connection or work by the person is permitted in writing by the Council in which case all conditions in the permit must be met.
- 6.2 Every application for a connection to the public stormwater ~~drainage~~ network or work on the public stormwater network must be made in writing using the Council's prescribed form together with payment of the required fee. The applicant must provide all details concerning the connection or work required by the Council.
- 6.3 Council approval is required even if a pipe has already been laid up to the point of connection or proposed point of connection to the public stormwater network.
- 6.4 The Council may set and amend standard conditions for a stormwater connection to the public stormwater network in the Administration Manual. The conditions of consent for connection will be those recorded in the Administration Manual unless specifically varied in writing by the Council in which case the latter prevail over those in the Administration Manual where inconsistent but otherwise the standard conditions apply whether expressly stated or not.
- 6.5 Every owner or occupier of premises discharging into the public stormwater network may only do so on the basis of standard conditions for stormwater connection in the Administration Manual.

PART THREE – PROTECTION OF STORMWATER ASSETS AND THE PUBLIC STORMWATER NETWORK

7 Protection of the public stormwater network

7.1 No person may, unless specifically authorised by a resource consent or approval by the Council:

- (a) Stop, obstruct, alter, interfere with or divert any stormwater drain or any part of the public stormwater network in a manner that may cause blockage or nuisance to the public stormwater network;
- (b) Alter, interfere with or divert any stormwater via any private pipe, drain or overland flow path such that the discharge enters the public wastewater system;
- (c) Erect any defence, structure or stopbank, grow any vegetation, deposit any rubbish or other debris in any public stormwater drain, flood plain, flood risk area or overland flow path identified by the Council, or carry out any activity in a place or manner that affects the functioning of or causes nuisance to the public stormwater network;
- (d) Obstruct any overland flow paths identified by the Council, or flood plains, with any material or structures such as buildings, fences, retaining walls and rock gardens;
- (e) ~~Deposit~~ Locate or permit any material, hazardous material, chemical, rubbish, litter or other substance, likely to cause a nuisance on entering the public stormwater ~~drainage~~ network, to be located or stored in such a manner that it could enter the public stormwater ~~drainage~~ network (directly or indirectly), in any storm event), unless it has first passed through an ~~industry standard oil separation or appropriate stormwater treatment device, for instance at petroleum industry sites treatment shall include oil-water separation in accordance with the Environmental Guidelines for Water Discharges for Petroleum Industry Sites in New Zealand (Ministry for the Environment, 1998) or any superseding guidelines published by the Ministry for the Environment.~~
- (f) Carry out any of the above with the consequence that it adversely affects land or buildings including other land and buildings on other land.

7.2 No person may remove live vegetation from the drain margins of the public stormwater network without approval from Council, if that clearing may cause or worsen erosion or sedimentation of the drain.

- 7.3 No person may cause a temporarily or permanently sustained excessive load on the public stormwater network that is likely to result in damage to the network.

8 Working in close proximity to the public stormwater network

- 8.1 A person must obtain approval from Council before:

- | (a) undertaking any ~~excavation~~ earthworks that ~~is~~ are likely to result in damage to the public stormwater network;
- (b) removing any existing cover material or placing any additional material over or within the zone of influence of the public stormwater network specified in the Engineering Standards for Land Development that is likely to result in damage to the public stormwater network;
- (c) covering any stormwater inlet, outlet, treatment device, or service opening in a way that is likely to restrict access to the public stormwater network or detrimentally affect the performance of the public stormwater network.

- | 8.2 No person may carry out any ~~excavation~~ earthworks ~~work~~ within a road without permission in writing from the road controlling authority.

- | 8.3 Any person proposing to carry out ~~excavation~~ earthworks ~~work~~ must first view the as-built information on Council records concerning the location of Council infrastructure to establish whether Council infrastructure is located in the vicinity.

- | 8.4 At least five days' notice in writing must be given to the Council prior to the intended date of any ~~excavation~~ earthworks within two metres of the public stormwater network. Where appropriate, the Council will mark out to within $\pm 0.5\text{m}$ on the ground the location of its services and may require any restrictions on the work it considers necessary to protect its services particularly to the public stormwater network within overland flow paths. The Council may charge for this service.

- | 8.5 All persons performing ~~excavation~~ earthworks and working around buried services must ensure the buried services are not damaged, and that bedding and backfill is reinstated in accordance Council's Engineering Standards for Land Development.

- 8.6 Any person who damages any part of the public stormwater network must notify the Council immediately and will be responsible for the full cost of repair and reinstatement.

9 Operation and maintenance of private stormwater systems

- 9.1 Unless the Council approves otherwise, the owner of any private stormwater system is responsible for the operation and maintenance of that system.
- 9.2 The owner of a private stormwater system must ensure that the system:
- (a) is maintained in good operating condition; and
 - (b) does not cause or contribute to nuisance.
- 9.3 The owner or occupier of a premises on which there is a watercourse, stopbank, or other defence ~~to-against~~ water, must maintain that watercourse, stop bank, or other defence ~~to-against~~ water in an operational state which ensures the free flow of water.

9.3.1 A resource consent under the Resource Management Act 1991 from the Regional Council may be required for maintenance works under this clause. No owner or occupier is obliged to perform maintenance under this clause that would contravene the Resource Management Act 1991.

10 Removal of redundant private stormwater systems

- 10.1 The Council may require an owner of a private stormwater system, or any part of it, to remove or de-commission any Redundant Private Stormwater System at that owner's cost where that Redundant Private Stormwater System has caused, or is likely to cause, damage to the Public Stormwater Network.
- 10.2 The owner of a Redundant Stormwater System that has been removed or decommissioned under subclause 10.1 must ensure that the premises on which the system is located or was previously located is restored so as to not materially increase the flooding or contamination risks for neighbouring upstream or downstream properties.

PART FOUR – STORMWATER CONTAMINATION MITIGATION

11 Discharge of contaminants to the public stormwater network

11.1 No person may discharge or permit any contaminant to enter the public stormwater ~~drainage~~-network unless that discharge is approved by the Council.

11.2 No person may discharge, deposit or permit any contaminants, material, chemical, rubbish, litter or other substance, likely to cause a nuisance on entering the public stormwater network, unless that discharge has passed through an appropriate (and if necessary) approved stormwater treatment measure device, for instance at petroleum industry sites treatment shall include oil-water separation in accordance with the Environmental Guidelines for Water Discharges for Petroleum Industry Sites in New Zealand (Ministry for the Environment, 1998) or any superseding guidelines published by the Ministry for the Environment.

11.3 No person may store raw material, products or waste in a manner or location such that there is a more than minor risk of that material entering the public stormwater network if that material containing corrosive, toxic, biocidal, radioactive, flammable, or explosive materials, or any material which, when mixed with the stormwater stream in the public stormwater ~~drainage~~-network, may:

- (a) generate toxic, flammable, explosive or corrosive materials in hazardous quantities, or
- (b) damage the public stormwater network, the environment or adversely affect the health and safety of Council staff ~~and or~~ the public in a manner or location such that there is a more than minor risk of that material entering the public stormwater network.

12 ~~Requirement to prepare a Stormwater contamination mitigation plan~~ Avoiding and mitigating contaminant discharges

12.1 If any existing commercial, industrial, trade or other premise discharges contaminants to the public stormwater network in a manner that may damage the public stormwater network, the environment or adversely affect the health and safety of Council staff ~~and or~~ the public, the owner or occupier must verbally advise Council staff immediately and as soon as practically possible in writing thereafter.

12.2 The owner or occupier must make every effort to immediately contain, divert and/or terminate the contamination and put in place temporary measures to prevent a recurrence or a continuation of the

contamination. The owner or occupier shall be responsible for any costs incurred by Council in responding to and following up on the contamination.

13 Requirement to prepare a Stormwater contamination mitigation plan

13.1 The owner or occupier of the premises must, if requested by Council, prepare a Stormwater contamination mitigation Plan and submit the plan to Council for approval, to demonstrate to Council that its discharge is being managed and treated to avoid contaminants being discharged to the public stormwater network that would cause nuisance and/or degradation to the receiving environment.

13.2 The Stormwater contamination mitigation plan must include:

- (a) A suitably scaled drawing showing the site layout, boundaries, all private stormwater and wastewater drainage including the point or points of connection to the public stormwater network, relevant buildings and outdoor spaces (including their use);
- (b) A site assessment identifying all actual and potential sources of stormwater contamination;
- (c) Methods in place to prevent contamination of the public stormwater network;
- (d) Methods and timeframes proposed to control contamination of the public stormwater network;
- (e) A description of the maintenance procedures in place and proposed; and
- (f) Spill prevention and spill response procedures.

13.3 The owner or occupier must provide a Stormwater contamination mitigation plan to Council for review and approval within three months of a request.

13.4 Once the Stormwater contamination mitigation plan has been approved by Council, the owner or occupier must comply with all provisions, including timeframes specified, of the Stormwater contamination mitigation Plan.

13.5 The owner or occupier must review the Stormwater contamination mitigation Plan every three years and provide it to Council for review and approval.

- 13.6 The Council may require that any Stormwater contamination mitigation Plan be revised where there have been significant changes in the facility concerned or its operational procedures.

FOR ADOPTION

PART FIVE – ENFORCEMENT

14 Offences and penalties

14.1 Every person who:

- (a) Fails to comply or acts in contravention of any provision of this Bylaw;
- (b) Breaches the conditions of a permit granted under this Bylaw; or
- (c) Fails to comply with a notice served under this Bylaw;

commits an offence under section 239 of the Local Government Act 2002 (LGA), and is liable to a fine as specified in section 242 of the LGA, or the issue of an Infringement notice under section 245 of the LGA.

14.2 The Council may issue infringement notices, in such forms and for such amounts as are authorised in any regulations made under Section 259 of the LGA Act 2002. The Council may exercise any other statutory remedies available to the Council.

PART SIX – BYLAW ADMINISTRATION

15 Delegations

15.1 The following people are authorised delegates under this Bylaw:

- (a) The Council by resolution
- (b) the Chief Executive of the Council;
- (c) the person holding the office identified in Council's Delegations Manual as responsible for the administration of this Bylaw;
- (d) Any other person authorised to exercise a power under this Bylaw, pursuant to the Council's Delegations Manual or resolution of the Council.

15.2 Authorised delegated persons may exercise any power, function or duty under this Bylaw or carry out any act in order to achieve its effective administration on behalf of the Council other than those expressly required to be by Council resolution including, without limitation:

- (a) Specify the standard conditions that apply to stormwater service connections to the public stormwater network;
- (b) Specify forms and procedures for the effective administration of the Bylaw;
- (c) Make any decision or determination required in this Bylaw in order to administer it;
- (d) Decisions regarding whether or not a permit should be granted, and the terms and conditions of that permit including standard conditions and variations;
- (e) Decisions regarding approval, suspension, withdrawal or removal of an approval or permit or Stormwater Contamination Mitigation Plan.

15.3 The Council by resolution may amend the Administration Manual. Before amending the Administration Manual, the Council must consult appropriately and in accordance with the Local Government Act 2002 with any person that it considers may be affected by the proposed amendments and give those persons a reasonable opportunity to provide feedback on the proposed amendments before they come into effect. The Council must have regard to that feedback before making any final decision on the proposed amendments.

15.4 All, specifications, conditions or methods for this Bylaw must be in writing and kept in the Administration Manual for this Bylaw called the Stormwater Bylaw Administration Manual (except those contained in the Engineering Standards for Land Development) and shall be available to the public.

15.5 Every exercise of a power of delegation under this clause must be reported to Council if not exercised by Council by resolution provided that failure to report does not invalidate the exercise of the delegate's power.

16 Permits

16.1 Where an activity under this Bylaw requires a permit from the Council, the person seeking a permit must:

- (a) Complete the required application form;
- (b) Pay the applicable fee;
- (c) Comply with any requirements set as conditions of that permit.

16.2 A permit may include, in addition to conditions incorporated by this Bylaw, conditions that the Council considers are reasonably necessary to manage the effects of the activity, achieve the objectives of this Bylaw and minimise the risk of nuisance. A permit is only for the activity or work detailed in the application, subject to any limitations or controls set in conditions.

16.3 The Council may grant a permit for an activity that would otherwise contravene this Bylaw.

16.4 A permit is personal to the applicant and is not transferable.

16.5 An authorised officer may revoke or suspend any permit issued under this Bylaw at any time, or suspend for such periods of time, on such terms and conditions as the authorised officers may consider appropriate in the circumstances to protect public health and safety or to minimise nuisance.

17 Approvals

17.1 Where approval from the Council is required under this Bylaw, any application for such approval will be considered, and a decision made, within 15 working days, unless a different timeframe is explicitly provided for in the Bylaw.

- 17.2 Where further information is required to enable the application to be considered and a decision made, but is not supplied at the time of application, then the timeframe for making the decision will be suspended until such time as the information requested is supplied.

18 Fees and charges

- 18.1 The Council may set fees and charges in accordance with section 150 of the Local Government Act 2002 for the connection of stormwater and related services.
- 18.2 All fees and charges payable under this Bylaw shall be recoverable as prescribed by sections 57 to 82 of the Local Government (Rating) Act 2002.

FOR ADOPTION



PALMERSTON NORTH CITY

**PALMERSTON NORTH
STORMWATER BYLAW**

2022

Administration Manual

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FOR ADOPTION

FOR ADOPTION

PART ONE – INTRODUCTION

The purpose of this Administration Manual is to provide material complementary to the Stormwater Bylaw by bringing together those aspects which may otherwise be included in the Bylaw, but which are of a technical or administrative nature, or operational matters that are more likely to be amended before the Bylaw is reviewed. In taking this approach, it will simplify the administration of the Bylaw, allow for administrative and technical processes to be kept up to date, and assist in the interpretation of the bylaw.

The Administration Manual is made under the Bylaw, and it will govern the implementation and operation of the Bylaw. The Administration Manual is a public document, and will be made available on the Council's website alongside the Bylaws. A hard copy can be provided on request.

This Administration Manual will be updated from time to time, as necessary, to ensure that it is kept up to date and reflects current practice.

PART TWO – STANDARD CONDITIONS FOR STORMWATER CONNECTIONS

1 APPLICATION FOR CONNECTION

- 1.1 Any new stormwater connection to the public stormwater network, installed after the adoption of the Bylaw, must be located and installed in accordance with the Council's Engineering Standards for Land Development.
- 1.2 Where new extensions to the public stormwater network are required as part of a subdivision, the consent holder must construct all the drainage works in accordance with the Council's Engineering Standards for Land Development and any Council approved design.
- 1.3 Every application to carry out stormwater drainage under the Bylaw must include drawings and specifications for the proposed works. The drawings must show, to the satisfaction of Council, the proposed works and their effects on the subject site and surrounding land.
- 1.4 All proposed stormwater drainage works affecting or connected to the public stormwater network must be designed, constructed and operated:
 - (a) to Council's standards for corresponding public drainage works where they serve or may serve land or buildings in different ownership; and
 - (b) to minimise sediment or environmental pollutant discharge to the public stormwater network or receiving environment in accordance with any relevant industry standards or codes of practice;
 - (c) to comply with any written conditions imposed by Council when approving the works, and with any relevant building or resource consent; and
 - (d) to be consistent with foreseeable catchment-wide works (for example, extending a pipe upstream or downstream) so as to give a benefit to the catchment as a whole;
 - (e) comply with any Stormwater Management Plan approved as a condition of subdivision.
 - (f) comply with the Council's Engineering Standards for Land Development and any approved Council design.
- 1.5 Operation and maintenance of stormwater systems remains the responsibility of the owner of the land on which the works occur unless and until they are taken over and vested in Council.

- 1.6 The cost of the stormwater system for the purpose of land development will be at the landowner's cost unless the Council agrees in writing to share costs.
- 1.7 When the stormwater volume, flow or quality arising from a new connection results in the level of service not being met, Council may require the installation or construction of private stormwater management measures and/or devices or to mitigate the impact of the new connections or developments on the public stormwater network. Any such measures and/or devices must be constructed at the land owner's expense. The land owner must also meet the costs of the required maintenance and servicing of these measures and/or devices.

2 ACCESS

- 2.1 The owner or occupier of a premises must allow the Council, or its agents, together with any necessary equipment, access to any area of their premises served by or contributing stormwater to a public stormwater system for the purposes of:
 - (a) monitoring, testing, and maintenance work between 7.30 am and 6 pm on any day.
 - (b) ascertaining whether non-complying connections have been constructed.
 - (c) ascertaining whether any non-compliant activities are impacting on the public stormwater network.
 - (d) ascertaining whether overland flow paths have been compromised in any way.
- 2.2 The Council will give 24 hours' notice to the owner or occupier of the intended entry.
- 2.3 Under emergency conditions the owner or occupier must allow the Council free access to the point of connection at any time.

3 WORKS OVER OR NEAR PUBLIC STORMWATER NETWORKS

- 3.1 Building or loading over the public stormwater network, or excavation near such networks, is controlled by this section.
- 3.2 Buildings may be constructed over piped sections of the public stormwater network with the permission of the Council provided the following requirements are met:
 - (a) Sufficient investigation is undertaken to accurately determine the stormwater location and depth, and to establish that the stormwater pipe has a remaining life of at least 50 years. To verify the remaining life of the pipe the Council will require a CCTV video inspection to be undertaken at the applicant's cost;

- (b) Where the stormwater pipe is assessed to have a life of less than 50 years the applicant will be required to renew the pipe at their cost.
 - (c) Bore piling the building to a minimum 1.0 metre clear distance either side of the pipe to below the invert and ensuring that no building loads are transferred to the stormwater pipe and that it is possible to excavate down to the stormwater pipe without threat to the building;
 - (d) Providing two service openings into the pipe between 2.0 and 3.0 metres from the edge of the building at the point it enters and leaves the building (unless there is an existing service opening within 10 metres), provided that the stormwater pipe lies in a straight line and that there are no connections between these service openings;
 - (e) Carrying out all work on and around the public stormwater network in accordance with Council's Engineering Standards for Land Development; and
 - (f) Identifying and protecting the Council's interest in the stormwater pipe by a Memorandum of Encumbrance and Deed of Covenant against the [Certificate Record](#) of Title.
- 3.3 The requirements of sections 3.2 (d) and (e) may be relaxed for the construction of light weight buildings such as single car garages or utility sheds subject to the written approval of Council.
- 3.4 No person may cause the crushing load imposed on a public stormwater pipe to exceed that which would arise from the soil overburden plus a HN-HO-72 wheel or axle load (as defined by NZ Transport Agency Bridge Manual).
- 3.5 No person may place any additional load exceeding 2000 kg of material over or within 1 metre of a public stormwater [drainage](#) network without prior written Council approval.
- 3.6 No person may cover any service openings without prior written Council approval. The removal of any covering material or adjustment to service the openings as a result of covered materials may be at the land owner's expense.
- 3.7 No person shall excavate, or undertake piling or similar work within 1 metre of a stormwater pipe or culvert, without prior Council approval.
- 3.8 Other restrictions may be applied by the Council for the protection of the public [drainage](#) network, including overland flow paths or natural drainage features, after consideration of proposed work methods, depth of excavation, soil physical properties, and other site-specific factors.

4 POINT OF CONNECTION

- 4.1 Unless otherwise approved there shall only be one point of connection to the public stormwater network for each premises, and any private stormwater system shall not be extended by pipe or any other means to serve another premises unless it is a common private stormwater system
- 4.2 For single dwelling units the point of connection must be located at the boundary or as close as possible where fences, walls or other permanent structures make it difficult to locate it at the required position. The approval of other positions must be obtained in writing from the Council and recorded on the site drainage plan.
- 4.3 Where a private stormwater connection discharges into the public stormwater network on the same private property, the point of connection shall be the downstream end of the pipe or channel which forms the junction with the public network.
- 4.4 For multiple dwelling units or if more than one point of connection is required the point of connection for the different forms of multiple ownership of premises or land shall be as follows:
 - (a) For company share/block scheme (body corporate) - as for single ownership in section 4.2;
 - (b) For Leasehold/tenancy in common scheme (cross lease), strata title, and unit title (body corporate). Where practicable each owner shall have an individual drain with the point of connection determined by agreement with the Council. If not practicable there shall be a common private drain which shall be incorporated as an additional provision in the lease agreement;
 - (c) Recorded on the site drainage plan;
- 4.5 For stormwater connections in existence prior to this bylaw coming into effect, the point of connection shall be the existing point of connection;
- 4.6 Common private stormwater systems cannot serve more than a maximum of five single dwelling units, and must also have only one point of connection (in common). Common stormwater systems must be covered by a certificate recording the rights of each party, which shall be registered against the ~~certificate-Record~~ of ~~title~~ for each property.

5 LIABILITY

- 5.1 The Council shall not be liable for any losses, damages expenses or inconvenience including any consequential losses whatsoever and however caused which the customer may sustain as a result of any defects, deficiencies or inadequate

- | capacity in the public stormwater ~~drainage~~-network including where this interrupts stormwater drainage or causes surface flooding.

FOR ADOPTION

(deleted)

FOR ADOPTION

Analysis of Submissions – draft Stormwater Bylaw 2022

| GENERAL COMMENTS | SUBMISSION # | STAFF RESPONSE | RECOMMENDED CHANGE TO THE BYLAW |
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| Bylaw will be superseded by the Three Waters Reform making the (bylaw) process redundant. | 1 | Given the uncertainties about the timing of the Three Waters Reform Programme, and confirmation of the details about the arrangements for stormwater, the Council needs to have a bylaw in place to protect its network and have mechanisms in place to manage any non-compliances. | No change is recommended. |
| Stormwater management is a Council function and responsibility should not fall on homeowners (where the requirement was Council's without owner input). | 2 | Agree that it is a Council function, however, all private owners intending to develop and increase impermeable surface areas have a responsibility to ensure stormwater from their properties is not impacting neighbouring properties or the Council's stormwater network. | No change is recommended. |
| Concerns about increasing stormwater peak flows – unclear how existing discharge is measured. | 3 | Existing discharge, known as pre-development flow, is calculated based on existing land use and post-development flow will be capped to match pre-development flow. The balance will have to be attenuated before discharging to the public stormwater network. This issue is covered in the Council's Engineering Standards. | No change is recommended. |
| Limits in peak discharges through Stormwater Management Plan (SMP) and the engineering standards do not seem sufficient to limit the increase in stormwater generation associated with on-going urban development. | 3 | Water Sensitive (Urban) Design requirements and other planning tools are used to manage the volumetric increase, not the Bylaw. | No change is recommended. |
| A provision in the bylaw to require that no changes be made to properties after the initial development occurs, which would increase the flow of stormwater from the property would be beneficial to prevent the SMP and Stormwater Framework from being circumvented. | 3 | This issue is something that is more appropriately addressed through an RMA process than the bylaw. A future review of the District Plan will address this concern (either through permitted performance standards relating to land uses causing additional impermeable surface area, or consent notices). | No change is recommended. |
| Would like to see a reference to global warming in the bylaw's introduction. | 5 | In the Waters Plan, the Council acknowledges that global warming is contributing to climate change, bringing changes to long-term weather patterns and increasing the frequency of flooding. Climate change is expected to create significant challenges for the city, particularly in the areas of water supply resilience and stormwater management. Adapting to these challenges is covered in the Waters Plan, under which this bylaw sits. | No change is recommended. |
| The bylaw does not address the problem of excess stormwater run-off; run-off and contaminants are an increasing problem due to impermeable surfaces. Disappointed that this problem was not addressed in the District Plan. | 5, 6 | Excess stormwater run-off is dealt with under the RMA/District Plan. The creation of impermeable surfaces is a result of land use and therefore land use controls under the District Plan are the appropriate method of mitigating this effect. This issue will be addressed through an upcoming District Plan review, once the Stormwater Management Framework has been finalised. | No change is recommended. |
| Why was the word "perceived" used in reference to the problem of providing a reliable and efficient stormwater system? | 5 | When making a bylaw under the Local Government Act, a local authority is directed to identify under section 155 the 'perceived problem' and then assess whether a bylaw is the most appropriate way of addressing the perceived problem. | No change is recommended. |
| There is a reference to the NZ Bill of Rights Act 1990. Does this Bill have any place in a by-law? | 5 | The Council when considering whether to enact a bylaw must consider whether the proposed bylaw gives rise to any implications under the New Zealand Bill of Rights Act 1990, which protects the civil and political rights of all New Zealanders. It covers rights and freedoms such as democratic and civil rights, and the rights to justice. | No change recommended. |

| GENERAL COMMENTS | SUBMISSION # | STAFF RESPONSE | RECOMMENDED CHANGE TO THE BYLAW |
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| Requests that the bylaw is extended to include an obligation on the Council not to create a nuisance and that Council meets the same criteria, i.e. that its vested infrastructure and its development and operation of its infrastructure will not occasion nuisance. [This was expanded on in a tabled submission] | 6 | The Local Government Act 2002 already provides that the Council's bylaw-making powers do not allow it to create a nuisance, or to deprive any person of a right or remedy arising from a nuisance. It is not necessary to replicate that principle in the Bylaw. In any case, the Bylaw primarily works to protect the public stormwater network, and regulate inflows into that network, rather than discharges from it. Issues relating to discharges are regulated either under the RMA by Horizons Regional Council, or can be addressed under the general law of nuisance. | No change is recommended. |
| Supports the draft bylaw as taking a wider view of the management and regulation of stormwater, will provide a clear and robust direction within PNCC's overall framework and will be able to support and complement other tools (e.g. the District Plan). | 7, 10 | Noted. | No change is recommended. |
| It is worth considering if the policy can incorporate a strategy for reduction in stormwater litter? | 8 | The discharge of contaminants, including litter, is prohibited under clause 11.1 of the bylaw. However, as noted in the submission there is often difficulty in identifying who allowed the litter to enter the public stormwater network. Referred to appropriate staff. | No change is recommended. |
| Purpose - submitter considers there is a significant gap in the bylaw in that it does not recognise the concept of Te Mana o Te Wai ¹ or the role of tangata whenua as kaitiaki of water. | 10 | <p>Staff acknowledge the importance of Te Mana o Te Wai as a critical element in improving freshwater management as encapsulated in the NPSFM. Staff do not recommend a direct reference to Te Mana o Te Wai in the Bylaw, and instead propose that it is reflected through a direct recognition of the role of tangata whenua, and Rangitāne o Manawatū in particular, as kaitiaki of water (see below).</p> <p>The National Policy Statement for Freshwater Management 2020 (NPSFM) places the responsibility on the Regional Council to determine how to give effect to Te Mana o Te Wai for the Manawatū-Whanganui region, in consultation with iwi and other communities. It is not appropriate for the Council, prior to that process by Horizons, to try and determine how Te Mana o Te Wai applies to individual stormwater connections or the wider stormwater network through this bylaw process.</p> <p>Staff have included Te Mana o Te Wai in the draft Stormwater Management Framework (under development) in a section on Council's commitment to Rangitāne's vision, values and catchment-based priorities, where it states:</p> <p><i>"PNCC is committed to supporting the vision, values, and catchment priorities of Rangitāne. We believe in the importance of a clean and healthy environment, as these are tied to the culture and well-being of our people and land. We consider Te Mana o Te Wai in the form of holistic and catchment-based stormwater management to be the most effective way to uphold the future wellbeing of people and our unique ecosystems by protecting the mauri of our water."</i></p> | No change is recommended. |

¹ Te Mana o Te Wai is a concept meaning the fundamental importance of water and recognises that protecting the health of freshwater protects the health and well-being of the wider environment.

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| | | As the Stormwater Management Framework will guide a future regulatory response to freshwater management issues through the District Plan, Te Mana o Te Wai will be recognised and given effect to. | |
| Objectives - Council should also outline the objective of the bylaw at the start, including to "avoid or minimise the effect of stormwater discharges on the receiving environment" | 10 | <p>The Bylaw has a purpose statement rather than objectives. The submitter has raised some points that have caused staff to restructure the content of the purpose statement.</p> <p>Firstly, the bylaw has a purpose that focuses on the effects of stormwater on land, structures, and infrastructure (particularly the public stormwater network) as is the scope of the Council's bylaw-making powers under sections 145-146 of the Local Government Act 2002. From a closer analysis, we recommend that the purpose is changed to include references to 'protection' and 'safety' to mirror the LGA's bylaw-making powers. Furthermore, the addition of the phrase 'regulates inflows' responds in part to the submitter's point about the effects of stormwater discharges on receiving environments.</p> <p>Avoiding or minimising the effects of stormwater discharges on the receiving environment is supported by Council. However, it is not the Council's role, in its bylaw-making capacity, to regulate this as this is controlled by Horizons Regional Council in the One Plan and discharge consents made under the RMA. Consents can be required to regulate both the quality and quantity of stormwater discharges.</p> <p>Instead we recommend that the focus on 'avoiding or minimising the effects of stormwater discharges on the receiving environment' as proposed by the submitter, is not reflected in the purpose and instead is aligned to LGA matters and the avoidance of nuisance, along with a more generalised description of the impact of discharges on the receiving environment (refer to proposed 2.1(c)).</p> | <p>Amend the purpose of the bylaw in clause 2:</p> <p>2.1 This Bylaw is made under the authority of the Local Government Act 2002 for the purpose of ensuring that the public stormwater network is protected and managed by Palmerston North City Council in such a manner that it:</p> <ul style="list-style-type: none"> a) promotes a water sensitive design (WSD) approach; b) safeguards public health and safety, property, and the environment; c) minimises the impact of flooding, and erosion, and regulates inflows into the public stormwater network to avoid nuisance and/or degradation of the receiving environment. |
| Submitter considers there is a significant gap in the bylaw in that it does not recognise the role of tangata whenua as kaitiaki of water. | 10 | <p>The role of tangata whenua as the kaitiaki of water is recognised in the Council's Waters Plan through the acknowledgment of Rangitānenuiarawa² in the City's approach to water management. It is recommended to reinforce this in the purpose of the Bylaw noting the Council's responsibilities under section 4 of the Local Government Act 2002 regarding the Treaty of Waitangi and in honouring Council's partnership agreement with Rangitāne o Manawatū.</p> <p>The proposed inclusion of this new clause in the purpose statement of the Bylaw recognises that freshwater issues are of critical importance for iwi Māori. Te Mana o Te Wai is relevant to a Bylaw-making context given the LGA powers relate to water infrastructure, however, it is more meaningful to give effect to the concept through RMA planning processes such as the District Plan. The process to develop the NPSFM encompasses resource management principles as well as the relationship people have</p> | <p>Insert the following clause into clause 2:</p> <p>2.2 The Council, in making this Bylaw, acknowledges the particular interest in this Bylaw of tangata whenua as kaitiaki of water, and particularly recognises the role of Rangitāne o Manawatū as mana whenua.</p> |

² Rangitānenuiarawa is the Rangitāne expression of kaitiakitanga, or customary authority and guardianship, and affirms their customary leadership in ensuring the health and regeneration of their tribal rohe.

| GENERAL COMMENTS | SUBMISSION # | STAFF RESPONSE | RECOMMENDED CHANGE TO THE BYLAW |
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| | | with water. Endorsing Rangitāne's involvement in the NPSFM processes, including the Te Mana o Te Wai concept, provides a consistent thread to connect iwi Māori aspirations with operational management. As such through the inclusion of the proposed clause in the Bylaw's purpose referencing kaitiakitanga, there is an implied connection to the essence of Te Mana o Te Wai. | |
| Purpose - not clear what a 'Sustainable Urban Drainage System' is and no definition is provided; suggest a definition or the use of plain language. | 10 | The purpose of the 2015 bylaw included the promotion of a 'Sustainable Urban Drainage System' approach which is term used to describe a way of stormwater management (commonly used in the UK). This term should be updated to 'Water Sensitive Design (WSD)' ³ to align with the Council's Engineering Standards and what is proposed in the draft Stormwater Management Framework. | Amend part of the purpose (clause 2) by removing 'sustainable urban drainage (SUDS) approach' and replacing with 'water sensitive design (WSD)'. |
| Suggest additional public-facing resources be prepared to accompany the bylaw review | 10 | Educational tools are part of the Council's overall stormwater management response. Referred to operational staff. | No change is recommended. |
| Support changing the title to refer to 'Stormwater' rather than 'drainage' is much better use of plain language and consistent with language used in Government's 'Three Waters' reform. | 10 | Noted. | All references to drainage have been removed from the bylaw where it relates to the public stormwater network. |
| Comments on definitions (section 5) | | | |
| The definition of a 'Certificate of Title' needs to cover all categories of ownership, not just freehold title. | 3 | Staff agree that the definition needs to reflect other categories of land ownership. | Change recommended by deleting the definition for 'Certificate of Title' in clause 5 and replacing it with 'Record of Title'. |
| The definitions of 'Private and Public Stormwater Networks' don't seem to, collectively, cover Crown-owned land. | 3 | The submitter raises a valid point that has led to closer examination of the definitions for both private stormwater system and public stormwater network. 'Private stormwater system' is defined by whether the system is on 'private land'. 'Public stormwater network' captures everything 'within legal road reserve or other public places'. As the submitter notes, depending on the meanings of 'private land' and 'public place' this could create a loophole where systems installed on land which are not on 'private land' but also not on a 'public place', are not captured. | Change recommended by amending the definition in clause 5 of a 'private stormwater system' to read: "means a set of facilities and devices either natural or built which are used to convey run-off, reduce the risk of flooding and to improve water quality, not forming part of the public stormwater network. This includes but is not limited to pipes, gutters, downpipes, catchpits, swales, subsoil drains, stormwater treatment devices, rainwater tanks and any stormwater management device or redundant stormwater system." |
| The definition of 'Stormwater contamination mitigation plan' would be made comprehensive by inserting 'or other' after 'residential' so that facilities such as the public hospital, schools, the military camp and prison are covered. | 3 | Staff agree that the change recommended by the submitter broadens the definition to include Crown-owned premises. | Change recommended by amending the definition of 'Stormwater contamination mitigation plan' in clause 5 to read: "means a plan for commercial, residential, <u>or other premises [...]</u> " |
| Council needs to define maintenance and describe what an acceptable and unacceptable open watercourse looks like. Assume this rule also applies to the Council needing to maintain their own open-drain network? | 4 | This submission relates to clause 9.3 and the requirement to maintain privately-owned watercourse in an operational state to ensure the free flow of water. Educational material to assist | No change is recommended. |

³ From Section 6.7 of the Council's Engineering Standards for Land Development: *Water Sensitive Design (WSD) is an approach to land development and stormwater management that includes both an interdisciplinary planning and design process and a suite of structural techniques that utilise natural systems for stormwater management. WSD aims to use natural processes such as vegetation and soil media to provide stormwater management solutions as well as adding value to urban environments. The main principles of low impact design are reducing stormwater generation by reducing impervious areas, minimising site disturbance, and avoiding discharge of contaminants.*

| GENERAL COMMENTS | SUBMISSION # | STAFF RESPONSE | RECOMMENDED CHANGE TO THE BYLAW |
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| | | owners to understand their responsibilities may be provided by Council in future, and this suggestion is referred to relevant staff. | |
| Note a reference to "Stormwater attenuation measure" under Section 5 definitions of the Bylaw but there is no reference to this measure in the draft By-law. | 5 | Staff agree with the submitter and suggest that 'measure' is deleted and replaced with 'device' at this assists with the interpretation of 'Public stormwater network'. | Change recommended by amending the definition of 'Stormwater attenuation measure' to 'Stormwater attenuation device' in clause 5. |
| Clarify the private and public stormwater system definitions, and whether they include natural systems (e.g. wetlands). | 10 | Staff consider that the definitions for both private stormwater system (through including 'natural and built' facilities and devices) and public stormwater network (through including 'swales and wetlands') include natural systems. | No change is recommended. |
| Define watercourse (even if it is copied from the relevant Act). | 10 | Staff note that 'watercourse' is only used in clause 9.3 but agree that additional clarity through a definition would assist interpretation. | Change recommended by adding a definition of 'watercourse' to clause 5 with the definition from the Soil Conservation and Rivers Control Act 1941. "Watercourse means every river, stream, passage, and channel on or under the ground, whether natural or not, through which water flows, whether continuously or intermittently." |
| Insert list of potential stormwater attenuation devices. | 10 | These devices are identified in Council's 'Engineering Standards for Land Development in Part 6 Stormwater drainage' and staff do not consider it is necessary to replicate this list in the bylaw. | No change is recommended. |
| Useful to have a definition of "excavation". | 10 | 'Excavation' is used a number of times in section 8 of the proposed bylaw in relation to working in close proximity to the public stormwater network. It is only large-scale 'excavation' that is likely to disturb the public stormwater network that requires approval. Small-scale digging (excavation) is presumably unlikely to disturb the public stormwater network and approval would not be required. To achieve better clarity, it is recommended to replace 'excavation' with 'earthworks' and replicate the definition of that term from the District Plan. | Change recommended to section 8 by replacing all instances of 'excavation' with 'earthworks' and inserting the following definition of earthworks in clause 5: "Earthworks means any movement of earth, including the excavation or deposition of earth or cleanfill that results in changes to the existing ground level. This includes, but is not limited to, earth movement associated with subdivision and siteworks as defined by the Building Act 2004." |

| PROTECTION OF STORMWATER ASSETS AND NETWORK: PRIVATE STORMWATER SYSTEMS (PART THREE – SECTIONS 7 TO 10) | SUBMISSION # | STAFF RESPONSE | RECOMMENDED CHANGE TO THE BYLAW |
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| Operation and maintenance of Private Stormwater Systems (section 9) | | | |
| <p>Have an unwanted stormwater detention tank presume was a Council requirement to mitigate Council's failure to cope with flows from in-fill housing.</p> <p>Generally oppose the use of private attenuation systems – Council should bear the responsibility for managing stormwater off-site.</p> | 2, 4 | <p>Council has provided for the ability to require the installation of private stormwater attenuation measures where new connections exceed the defined level of service for the network through the Bylaw's Administration Manual (in the 2015 version – clause 1.7 and in proposed new clause 1.7 in the proposed Administration Manual 2022).</p> <p>This requirement has been introduced in the Bylaw because the existing piped network has limited capacity. Increased impervious hard-stand areas mean there is a need to mitigate the effects of high peak flows through attenuation means and to ensure that there is no decrease in levels of service. The Council could install stormwater pipes with greater capacity and does so in some places currently at a low level of service, however, this is an expensive option and can outweigh the benefits. The more cost-effective alternative is attenuating runoff at the source.</p> <p>Council hasn't yet undertaken a cost-benefit analysis to see whether it is better for Council or private landowners to manage stormwater. This matter will need to be addressed in the Stormwater Management Framework, District Plan update, and through Asset Management Plans/LTP. Council does not yet fully understand asset condition or capacity, and therefore has not been proactive about ensuring network infrastructure is sufficient to address urban growth. This is more of an issue in the existing built environment: significant intensification is anticipated in the short and medium terms. This will have an impact on the network and it is unlikely to be appropriate to rely on onsite detention as a long-term solution. Therefore, on-site attenuation may be necessary as an interim measure (or else development may be limited).</p> <p>Infill development tends to create small, localised impacts. If the Council did not require private owners to install private stormwater systems, such as detention tanks, then there would be an incremental loss of service and cumulative effects such as an increased risk of flooding in downstream areas. Therefore, the reduction in nuisance effects is reliant on both the public and private systems working together.</p> | No change is recommended. |
| Clause pushes costs of stormwater management onto developers and house owners; not prepared to maintain at own expense. | 2 | The responsibility for the maintenance and operation of stormwater systems are the landowners' unless and until they are taken over and vested in Council (refer clause 1.5 of the Bylaw's Administration Manual). Costs for stormwater systems required as part of land development are at the developer's costs as provided for under clause 1.6 of the Administration Manual. Under the Resource Management Act, developers and landowners have an obligation to avoid, remedy or mitigate any adverse effects on the environment. In the case of subdivision/development, the loss in permeable surface increases the risk of flooding, requiring stormwater controls. The Council imposes certain conditions on developers connecting to the public stormwater network, which reflects that the Council has costs in dealing with the stormwater and developers would otherwise need discharge permits (if not connecting to the reticulated stormwater network). As identified above, in certain cases of infill | No change is recommended. |

| PROTECTION OF STORMWATER ASSETS AND NETWORK: PRIVATE STORMWATER SYSTEMS (PART THREE – SECTIONS 7 TO 10) | SUBMISSION # | STAFF RESPONSE | RECOMMENDED CHANGE TO THE BYLAW |
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| | | development, the most cost-effective mechanism is to require stormwater retention devices. It is acknowledged that some costs for stormwater management are therefore being shifted to private landowners. | |
| Have no idea how it is set up or operates so how would we know if operating correctly | 2 | Council is planning on providing more education on operating requirements for the different types of tanks available. There is some user obligation to maintain private devices such as tanks, as they have the potential to impact the service provided by the Council. Referred to appropriate staff. | No change is recommended. |
| Stormwater issues are not new but in the last 5 years has been an ever-growing issue for developers with few solutions on offer. | 4 | Council is developing a Stormwater Management Framework that will provide direction and approach to manage development in high flood risk catchments. The Framework will also assist in strengthening regulation in the District Plan. | No change is recommended. |
| Bylaws won't help solve flooding risk, particularly the use of attenuation devices (tanks) on private property as this is a flawed philosophy. | 4 | The bylaw's key role is to protect the public stormwater network and to recognise the contribution private owners make to mitigating flooding risks. There are many other planning and engineering tools that also contribute to managing flood risk such as District Plan zoning and rules, and the use of Engineering standards. | No change is recommended. |
| Clarifying private stormwater systems' responsibilities will ensure the ongoing effectiveness of private systems and managing the volume and quality of stormwater entering ground and surface water. | 7 | Noted. | No change is recommended. |
| Concern there a shortcoming in the definition of "maintain", given that the costs of maintenance fall upon the property owner. | 6 | Clause 9.1 provides that unless the Council approves otherwise, the operation and maintenance requirements for a private stormwater system fall on the owner of the property in which it is installed. Staff consider that the common definition of 'maintenance' is sufficient to describe what is expected from private owners. Clause 9.2 of the Bylaw also expands on clause 9.1 and elaborates on what the task of "maintenance" of a private stormwater system entail. | No change is recommended. |
| Concerned that increased waterflow into upstream catchment properties due to new development, along with existing infrastructure capacity is exceeded, with the property owner being held responsible for maintenance/upgrade costs to manage the water not created by that property. The bylaw should be amended, to clarify that the Council (or the causative developer) will be responsible to meet the costs of such additional maintenance and/or upgrade works, in situations where the need for that arises due to causes outside of the property owner's control. | 6 | The Bylaw does not impose an obligation on owners to upgrade private stormwater systems – only to maintain them. The extent of the obligation to 'maintain' is described directly above. That obligation for a property owner to maintain private stormwater systems could conceivably change as land 'upstream' from their property is developed. However, the bulk of the stormwater requirements for those new developments will be managed by their own private stormwater systems, which will then discharge to the Council's public stormwater network. Excess stormwater run-off from new development is dealt with under the RMA/District Plan. Land use controls under the District Plan can be (and are) used to limit the impact on property owners 'downstream'. | No change is recommended. |
| It is not appropriate to utilise a bylaw in a manner which overrides private use rights. | 6 | It is not clear what the submitter's precise concern is. The Council has a power to make bylaws under the Local Government Act 2002, and under section 146 is specifically given the power to make bylaws for the purpose of "managing, regulating against, or protecting from, damage, misuse, or loss, or for preventing the use of, the land, structures, or infrastructure associated with [wastewater, drainage, sanitation, and land drainage]". That power is additional to Council's general power to make bylaws for the purposes of protecting the public from nuisance and protecting, promoting, and maintaining public health and safety. | No change is recommended. |

| PROTECTION OF STORMWATER ASSETS AND NETWORK: PRIVATE STORMWATER SYSTEMS (PART THREE – SECTIONS 7 TO 10) | SUBMISSION # | STAFF RESPONSE | RECOMMENDED CHANGE TO THE BYLAW |
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| | | As the submitter notes, the Council's enforcement officers have the power to enter onto land for the purpose of detecting the breach of bylaws. These two sets of statutory powers are designed to work in conjunction with one another. | |
| Clause 7.1(d) the words 'identified by Council' should be repositioned so that they cover both overland flow paths and flood plains, i.e. 'Obstruct any overland flow paths or flood plains identified by the Council or flood plains with any material...' | 3 | Staff agree in part with the submitter and recommend that a minor change is made so that the bylaw clarifies the role of the Council. | Minor change recommended to clause 7.1(d) of the bylaw: "Obstruct any overland flow paths identified by Council, or flood plains, with any material..." |
| Seeks clarity that Clause 7.1(e) applies more broadly than just during storm events and that treatment must be appropriate to the contaminants stored and used. Suggested amendment to the bylaw through the inclusion of specific industry guidelines for petroleum industry sites. | 9 | Staff agree that the submitter's recommended changes generally add clarity and better reflect the intention of the provision. It is also appropriate to align terms with those defined in the bylaw, include the submitter's recommended guidelines and, also future-proof the provision by including a reference to any updated version of the Ministry for the Environment's guidelines cited both in clause 7.1(e) and later in clause 11.2. | Change recommended to clause 7.1 (e) of the bylaw: Locate or permit any material, hazardous material, chemical, rubbish, litter or other substance, likely to cause a nuisance on entering the public stormwater network, to be located or stored in such a manner that it could enter the public stormwater network (directly or indirectly, in any storm event), unless it has first passed through an appropriate stormwater treatment device, for instance at petroleum industry sites treatment shall include oil-water separation in accordance with the Environmental Guidelines for Water Discharges for Petroleum Industry Sites in New Zealand (Ministry for the Environment, 1998) or any superseding guidelines published by the Ministry for the Environment. |
| Should include ensuring the Council keeps its gutters free from tree litter to prevent flooding. | 1 | Council aims to mitigate risks to the public stormwater network during periods of high leaf fall however this can sometimes be challenging. The Council appreciates local efforts to keep gutters free should any leaf debris block the stormwater grills. | No change is recommended. |
| Watercourses have to be fenced and, in some cases, planted which makes it difficult to get in and maintain them. | 3 | Noted. | No change is recommended. |
| No issues that stopbanks need to be maintained but not sure it is the landowner's responsibility in all cases to maintain them; agree that the landowner has a responsibility not to damage them. What maintenance is required and do stopbanks on private property need to be mowed for example? | 3 | Horizons Regional Council owns many stopbanks on behalf of ratepayers, having acquired or leased the land and constructed the stopbanks under the Soil Conservation and Rivers Control Act 1941. Horizons can maintain and repair the stopbanks, and also has powers to enter properties to charge occupiers for the cost of the repairs. Horizons has published a guide to assist landowners with maintenance of stopbanks ("Stopbank Grazing Rules" 2019) which is available on their website. Otherwise, if a stopbank is privately owned, it will be the property owner's responsibility to maintain it. | No change is recommended. |

| PROTECTION OF STORMWATER ASSETS AND NETWORK: PRIVATE STORMWATER SYSTEMS (PART THREE – SECTIONS 7 TO 10) | SUBMISSION # | STAFF RESPONSE | RECOMMENDED CHANGE TO THE BYLAW |
|---|--------------|--|---|
| With continued global warming, adverse weather events are becoming more frequent; more important that defences to water are maintained to cope with sudden heavy downpours of rain. Surplus runoff can cause flood damage to neighbouring properties. | 5 | Noted. This trend is acknowledged in Council's Water and Climate Change Plans. | No change is recommended. |
| The intensified urban development can exacerbate problems. As well, more buildings are being constructed on marginal land (either on a flood plain or steep slopes subject to slips). | 5 | Noted. The District Plan regulates land development and places various controls on where buildings can be constructed. | No change is recommended. |
| Concern around the direction that individuals are required to 'maintain' watercourses to allow for stormwater movement as this has significant implications for the protection/lack of protection) of physical habitat for indigenous species in rivers and streams, and needs to be reconsidered, particularly in light of the National Policy Statement for Freshwater Management (NPSFM) Policy 9 (the habitats of indigenous freshwater species are protected | 10 | While the status of the NPSFM is recognised, its implementation is primarily a function of Horizons Regional Council. Staff note that maintenance involving any works near, or in, the bed of watercourses may require resource consent from Horizons Regional Council. The requirement to maintain watercourses under the bylaw is subject to that requirement to be granted appropriate consents, if required. This could be made clearer. Making owners aware of the requirement for regional consent ensures that Horizons can oversee maintenance activity to ensure compliance with the NPSFM when necessary, while still providing for the protection of the public stormwater function of those watercourses. | Change recommended by inserting the following new clause: "9.3.1 A resource consent under the Resource Management Act 1991 from the Regional Council may be required for maintenance works under this clause. No owner or occupier is obliged to perform maintenance under this clause that would contravene the Resource Management Act 1991." Additionally, staff note that clause 9.3 uses the phrasing 'defence to water'. This is a reference in the Soil Conservation and Rivers Control Act 1941, but the term in that Act is 'defence against water'. This has been amended for tidiness. |
| Removing and decommissioning redundant private stormwater systems (clause 10) | | | |
| Could place more pressure on City's stormwater system. | 1 | This is not the intention of including these provisions in the bylaw. This provision will only be engaged if the private stormwater system is serving no practical function. | No change is recommended. |
| There are many historic 'soak holes' and would seem counter-productive to capture this stormwater for no real purpose. | 1 | There are only a few soak holes in the City with many of them not well maintained or performing well. They are only suitable in certain parts of the City. The Council plans to clarify design requirements for soak holes to achieve better results where they are considered appropriate. | No change is recommended. |
| Redundant private stormwater connections may be very difficult to locate; they may only manifest themselves when the public network is inspected, otherwise they will go undetected. | 5 | Noted. | No change is recommended. |
| Support in part. If redundant systems need to be cut and capped at the boundary then support this; if Council is suggesting that they need to be cut and capped at the main, then don't support due cost difference (unfair). The network in the road belongs to Council, if it needs to be disconnected at the main to maintain system integrity then Council needs to do it. | 4 | Noted. | No change is recommended. |
| If an approved installation becomes unacceptable to Council, then the obligation to meet the decommissioning costs should fall to Council (to avoid nuisance). The bylaw should be extended that this obligation is extended to Council's vested infrastructure, and its development and operation of its infrastructure will not occasion nuisance. | 6 | As noted elsewhere, the Bylaw does not require upgrading of private stormwater systems. It also does not require the removal of systems that are inadequate or "unacceptable to Council". Clause 10 specifically requires the removal of systems that are both redundant (by definition, "no longer necessary for the operation of [the relevant] private stormwater system"), and which have caused or are likely to cause damage to the public stormwater network. An example would be when owners apply for a new service connection because an old soakpit is no longer working and is | No change is recommended. |

| PROTECTION OF STORMWATER ASSETS AND NETWORK: PRIVATE STORMWATER SYSTEMS (PART THREE – SECTIONS 7 TO 10) | SUBMISSION # | STAFF RESPONSE | RECOMMENDED CHANGE TO THE BYLAW |
|---|--------------|---|---------------------------------|
| | | <p>decommissioned (at the owner's cost) before the new service connection is approved.</p> <p>Staff consider the apportionment of responsibilities in the Bylaw are appropriate given these narrow circumstances in which clause 10 will apply.</p> | |

| DISCHARGE OF CONTAMINANTS INTO THE PUBLIC STORMWATER NETWORK (PART FOUR – SECTIONS 11 AND 12) | SUBMISSION # | STAFF RESPONSE | RECOMMENDED CHANGE TO THE BYLAW |
|---|-----------------|--|---|
| Changes to mitigate the impacts of contaminants being discharged into the public stormwater network such as ensuring discharges are passed through an approved stormwater treatment measure (clause 11.2) | | | |
| Unknown source of water flowing into the stormwater system in Linton Street, suspect this to be drinking water. | 1 | Noted. Referred to relevant staff. | No change is recommended. |
| Not uncommon to see people letting contaminants enter the public stormwater network by washing vehicles on roads/ driveways or pouring contaminants into channels or stormwater sumps. | 3 | Noted. Referred to relevant staff. | No change is recommended. |
| Educational efforts have failed to make it known that stormwater is discharged to the river untreated so, besides increasing educational efforts, a regulatory backstop should be provided in the bylaw. | 3 | The bylaw provides the regulatory backstop (via Part Five – Enforcement provisions) for any contraventions or non-compliances. | No change is recommended. |
| Providing the definition of 'contaminants' remains this is acceptable. Problem is that most stormwater is contaminated in some way caused by the path it takes; care needs to be taken to ensure that this requirement is applied sensibly. | 4 | Noted. | No change is recommended. |
| Does the Council regularly monitor connections to detect contamination? Or is this a Regional Council responsibility? | 5 | Council does not continuously monitor all connections to detect contamination as only discharge points that require consent from Horizons are monitored. Urban water quality monitoring and a cultural monitoring programme (He Manga Ora) are in place to prepare Council for a global stormwater consent application for all discharges into the Manawatū River. | No change is recommended. |
| Horizons support the amendments as they provide clear regulatory expectations for contaminants entering the City's network which discharges to water and is subject to the Horizons' One Plan. | 7 | Noted. | No change is recommended. |
| Explicitly prohibit washing of cars on the street or in driveways where water runs into the stormwater network. | 10 | The submitter raises a valid point in terms of the potential for contaminants from car wash products to enter the stormwater network, and then into receiving environments such as waterways. Including a provision regulating this specific activity would likely attract interest from the broader community and therefore would require the Council to re-consult on the draft bylaw. Instead, it is recommended to cover this matter through education means and flag it as an issue for consideration in the next bylaw review. It is noted that the enforcement of such a provision would be an increased level of service. | No change is recommended. |
| Clause 11.2 - the wording of this clause implies that rubbish etc. can be discharged to a stormwater system after it has been through a treatment system. Recommended wording provided for clarity. | | Staff agree with the submitter that this could be confusing on first reading, although however, a 'stormwater treatment measure' as defined could include a grill/grate to stop rubbish or 'solid contaminants' from entering the public storm/water network. | Change to clause 11.2 is recommended: No person may discharge, deposit or permit any contaminants, material, chemical, rubbish, litter or other substance, likely to cause a nuisance on entering the public stormwater network, unless that discharge has passed through an appropriate (and if necessary) approved stormwater treatment device...[...] |

| DISCHARGE OF CONTAMINANTS INTO THE PUBLIC STORMWATER NETWORK (PART FOUR – SECTIONS 11 AND 12) | SUBMISSION # | STAFF RESPONSE | RECOMMENDED CHANGE TO THE BYLAW |
|--|-----------------|--|--|
| Clause 11.3 needs to be rearranged to achieve better meaning. | 3 | Staff agree that these changes suggested by the submitter are necessary to better clarify the intention of clause 11.3. | Change to clause 11.3 is recommended: No person may store raw material, products or waste in a manner or location such that there is a more than minor risk of that material entering the public stormwater network if that material contains corrosive, toxic, biocidal, radioactive, flammable, or explosive materials, or any material which, when mixed with the stormwater stream in the public stormwater network, may: (a) generate toxic, flammable, explosive or corrosive materials in hazardous quantities, or (b) damage the public stormwater network, the environment or adversely affect the health and safety of Council staff or the public. |
| Clause 12.1 , the 'and' between 'Council staff' and 'public' should be 'or' as action shouldn't require the health and safety of both staff and the public to be put at risk. Either one should be sufficient to trigger the requirement specified in the clause. | 3 | Staff agree and recommend changes to the relevant clauses accordingly. | Change to clauses 11.3 and 12.1 recommended to read: "[...] Council staff or the public [...]" |
| Clauses 12.1 and 12.2 are not about preparing a Stormwater contamination mitigation plan suggest a new heading 'Responding to contaminant discharges' or similar. | 3 | Staff agree with the submitter and recommend a more appropriate heading. | Add a new clause 12 heading: "Avoiding and mitigating contaminant discharges" |
| Request that the bylaw includes that stormwater discharges of a quality provided for as a permitted activity under the relevant regional plan will be accepted to the reticulated stormwater network without further water quality treatment. | 9 | Staff have reviewed the relevant rule in the One Plan and identified that the permitted activity standards replicate the requirements of clauses 7.1(e) and 11.2, which require stormwater treatment measures to be in place where stormwater is, or could be, contaminated by industrial or trade wastes (or other contaminants). Staff, therefore, consider that these conditions are not suitable for importation into the Bylaw, and prefer the treatment process-based approach set out in the Bylaw currently. | No change is recommended. |
| Clause 12.4 - amendments are sought to the content of what is required in a Stormwater contamination mitigation plan to ensure the provision focuses on stormwater, avoids unnecessary duplication between the provisions and recognises particular operational management plans for fuel company sites. . | 9 | The submitter suggests removing the requirement to show any wastewater connection points of connection and replacing the requirement to show buildings with a catchment plan. Although there is some merit in these changes, staff are comfortable with the provisions in clause 12.4 in terms of the level of information required to carry out a review and approval process. For example, in the case of a spill requiring a mitigation plan, staff need to know the location of the internal drainage and waste network. | No change is recommended. |
| Council to consider other useful bylaw provisions other Councils have adopted e.g. CHBDC and Hamilton City (see submission for details) | 10 | Many of the provisions are similar to those already in the bylaw. Comments are referred to the next bylaw review. | No changes recommended. |

| COMMENTS ON THE ADMINISTRATION MANUAL | SUBMISSIONS | OFFICER RESPONSE | RECOMMENDED CHANGE TO THE ADMINISTRATION MANUAL |
|--|-------------|--|---|
| Support section 2.0 Access which allows Council officers to inspect stormwater connections etc. on private property. | 5 | Noted. | No change is recommended. |
| Oppose Clause 3.2 - although there may be buildings constructed over parts of the public stormwater network, it seems unwise to allow any further such building because of the future liability this places on Council. | 3, 10 | <p>Staff note that there are a large number of stormwater pipes that are located within privately owned properties in industrial and commercial areas. Council does not have the ability to stop building development unless it fails to get building or resource consents.</p> <p>Before allowing buildings to be built over an existing stormwater pipe via an approval process, a number of actions are undertaken by staff guided by the Bylaw's Administration Manual:</p> <ul style="list-style-type: none"> • A condition assessment of the pipe to ensure the structural and remaining life of the pipe. • Proposed plans will be assessed and reviewed by a qualified structural engineer and endorsed by a Building Officer. • A covenant of gross will be put in place to ensure the property owner is responsible for any damage and remediation cost. <p>Through these actions, the liability to fix stormwater pipes shifts to the applicant rather than the Council.</p> | No change is recommended. |
| Owners of land under which run public stormwater network pipes should be required to either ensure any building footprint avoids overlying the pipes or be required to move the pipes so that this can be achieved. | 3 | Staff agree that where possible, buildings should not be constructed over the public network pipes. However, as outlined above, staff are satisfied that the actions described above are a practical approach. | No change is recommended. |
| <p>Part Two – clause 1.4: Add a requirement that stormwater drainage works must be designed, constructed, and operated so that Stormwater discharges from premises are in compliance with any relevant Council Catchment Management Plan and/or Council's discharge consent issued by the Regional Council under the Resource Management Act 1991, including its recommendations or conditions for the area concerned.</p> <p>Other points:</p> <ul style="list-style-type: none"> • to recognise the fundamental concept of Te Mana o Te Wai and the status of tangata whenua as Kaitiaki as far as reasonably practical. • to be consistent with water sensitive design principles • to maintain aquifer recharge and natural flow paths, and minimise impermeable surfaces • to incorporate attenuation devices, | 10 | <p>The points the submitter raised on the Administration Manual have been previously considered in this analysis of submissions on the bylaw.</p> <p>Changes have been recommended to the bylaw's purpose to recognise the status of tangata whenua as kaitiaki of water, however, the concept of 'Te Mana o Te Wai' is better reflected in Council's RMA planning processes. 'Water sensitive design (WSD)' is a proposed addition to the Bylaw's purpose to align with the Council's Engineering Standards and the draft Stormwater Management Framework.</p> <p>Specific design requirements for attenuation devices are set out in other documents, such as the Council's Engineering Standards for Land Development. Minimising impermeable surfaces is a District Plan matter.</p> | No change is recommended. |

MEMORANDUM

TO: Council

MEETING DATE: 4 May 2022

TITLE: Elected Member Appointment to the Caccia Birch Trust Board

PRESENTED BY: Hannah White, Democracy and Governance Manager

APPROVED BY: Sheryl Bryant, Assistant Chief Executive

RECOMMENDATION TO COUNCIL

1. That Councillor Vaughan Dennison be appointed as a trustee on the Caccia Birch Trust Board until 1 August 2022.
-

1. ISSUE

A vacancy on the Caccia Birch Trust Board ("the Trust Board") needs to be filled following the resignation of a Council appointed trustee in March 2022. This appointment is required to ensure the Trust Board maintains a minimum of 5 ordinary members, as stipulated by the Trust Deed.

Expressions of interest were sought from elected members willing to sit on the Trust Board for a term of 3 months, until 1 August 2022. This is to cover the interim period as the Trust Board evolves from a Council-Controlled Organisation following operations of Caccia Birch House and Gardens being brought in-house.

2. BACKGROUND

Council resolved at its meeting on 6 April 2022 to appoint an elected member to fill the vacancy and to seek expressions of interest from elected members for the position.

An expression of interest has been received from Councillor Vaughan Dennison.

Council-appointed trustees will have to manage any conflict of interests arising from being a trustee and an elected member. Conflicts are self-managed by elected members, under guidance from the Code of Conduct. Officers are also available for advice.

3. NEXT STEPS

Officers will inform the Trust Board of the appointment.

4. COMPLIANCE AND ADMINISTRATION

| | |
|---|---|
| Does the Council have delegated authority to decide? | Yes |
| Are the decisions significant? | No |
| If they are significant do they affect land or a body of water? | No |
| Can this decision only be made through a 10 Year Plan? | No |
| Does this decision require consultation through the Special Consultative procedure? | No |
| Is there funding in the current Annual Plan for these actions? | Yes |
| Are the recommendations inconsistent with any of Council's policies or plans? | No |
| The recommendations contribute to Goal 5: A Driven & Enabling Council | |
| The recommendations contribute to the achievement of action/actions in Governance and Active Citizenship | |
| The action is: Ongoing review of governance systems and structures to support council's effectiveness and reputation. | |
| Contribution to strategic direction and to social, economic, environmental and cultural well-being | Appointing an elected member as a trustee will ensure continuation of responsible governance in the period that the Trust changes from being a Council Controlled Organisation. |

ATTACHMENTS

NIL

COMMITTEE WORK SCHEDULE

TO: Council

MEETING DATE: 4 May 2022

TITLE: Work Schedule

RECOMMENDATION TO COUNCIL

1. That the Council receive its Work Schedule dated May 2022.

| COMMITTEE WORK SCHEDULE 2022 | | | |
|------------------------------|--|---------------------------|--|
| Estimated Report Date | Subject | Officer Responsible | Date of Instruction and Clause number |
| Wednesday, 4 May 2022 | Remits received from other Territorial Authorities | Assistant Chief Executive | Council 24 June 2020 Clause 67-20 |
| Wednesday, 1 June 2022 | Elected Members Code of Conduct | Assistant Chief Executive | Council 1 December 2021 Clause 141-21 |
| Wednesday, 7 September 2022 | Low Carbon Roadmap - options to achieve the city-wide goal of 30% reduction in emissions by 2031 | Chief Planning Officer | Environmental Sustainability Committee 30 March 2022 Clause 6-22 |

ATTACHMENTS

NIL

RECOMMENDATIONS FROM COMMITTEE

TO: Council

MEETING DATE: 4 May 2022

TITLE: Presentation of the Part I Public Arts, Culture & Heritage Committee Recommendations from its 13 April 2022 Meeting

Set out below are the recommendations only from the Arts, Culture & Heritage Committee meeting Part I Public held on 13 April 2022. The Council may resolve to adopt, amend, receive, note or not adopt any such recommendations. (SO 3.18.1)

5-22 The Regent Theatre Trust: Six Month Report 1 July - 31 December 2021 and Draft Statement of Intent 2022-25

Memorandum, presented by Hannah White, Democracy & Governance Manager.

Mr David Walsh, Manager, Regent Theatre presented The Regent Theatre Trust's Six Month Report 1 July – 31 December 2021 and Draft Statement of Intent 2022-25 to the Committee.

The **COMMITTEE RECOMMENDS**

1. That Council receive the Six-Month Performance Report 1 July - 31 December 2021 (Attachment 1) submitted by the Regent Theatre Trust.
2. That Council receive the draft Statement of Intent 2022-25 (Attachments 3 and 4) submitted by the Regent Theatre Trust.
3. That Council agree that the recommended comments on the draft Statement of Intent 2022–25 outlined in Table 3 be advised to the Regent Theatre Trust Board.

6-22 Te Manawa Museums Trust: Six Month Report 1 July - 31 December 2021 and Draft Statement of Intent 2022-25

Memorandum, presented by Hannah White, Democracy & Governance Manager.

Mr John Fowke, Board Chair and Acting Chief Executive, Te Manawa presented Te Manawa Museums Trust's Six Month Report 1 July – 31 December 2021 and Draft Statement of Intent 2022-25 to the Committee.

The **COMMITTEE RECOMMENDS**

1. That Council receive the Six-Month Performance Report 1 July - 31 December 2021 (Attachment 1) submitted by Te Manawa Museums Trust.
2. That Council receive the draft Statement of Intent 2022-25 (Attachment 3) submitted by Te Manawa Museums Trust.
3. That Council agree that the recommended comments on the draft Statement of Intent 2021–24 outlined in Table 3 be advised to Te Manawa Museums Trust.

7-22

The Globe Theatre Trust: Six Month Report 1 July - 31 December 2021 and Draft Statement of Intent 2022-25

Memorandum, presented by Hannah White, Democracy & Governance Manager.

Mr Gerry Keating, Manager, Globe Theatre presented The Globe Theatre Trust's Six Month Report 1 July – 31 December 2021 and Draft Statement of Intent 2022-25 to the Committee.

The **COMMITTEE RECOMMENDS**

1. That Council receive the Six-Month Performance Report 1 July - 31 December 2021 (Attachment 1) submitted by the Globe Theatre Trust.
2. That Council receive the draft Statement of Intent 2022-25 (Attachment 3) submitted by the Globe Theatre Trust.
3. That Council agree that the recommended comments on the draft Statement of Intent 2021–24 outlined in Table 3 be advised to the Globe Theatre Trust Board.

9-22

Caccia Birch Trust Board: Six Month Report 1 July - 31 December 2021

Memorandum, presented by Hannah White, Democracy & Governance Manager.

Mr Chris Smith, Strategic Facilities Manager presented Caccia Birch Trust Board's Six Month Report 1 July – 31 December 2021 to the Committee.

The **COMMITTEE RECOMMENDS**

1. That Council receive the Six-Month Performance Report 1 July - 31 December 2022 (Attachment 1) submitted by Caccia Birch Trust Board.

RECOMMENDATIONS FROM COMMITTEE

TO: Council

MEETING DATE: 4 May 2022

TITLE: Presentation of the Part I Public Planning & Strategy Committee Recommendations from its 13 April 2022 Meeting

Set out below are the recommendations only from the Planning & Strategy Committee meeting Part I Public held on 13 April 2022. The Council may resolve to adopt, amend, receive, note or not adopt any such recommendations. (SO 3.18.1)

1-22 Proposal from Ngati Hineaute Hapu Authority Kohanga Reo to relocate to Opie Reserve

The **COMMITTEE RECOMMENDS**

1. That the Council adopt option 3 – Exclusive use (Kohanga Reo) – all of Opie Reserve is leased to the Ngati Hineaute Hapu Authority Kohanga Reo, subject to the Reserves Act 1977 process.

19-22 Arena Master Plan Review: Process and Governance

The **COMMITTEE RECOMMENDS**

1. That direction on the Arena Master Plan review be provided by Council via Council workshops and reporting through the Planning and Strategy Committee.
2. Note that regardless of whether direction on the Arena Master Plan review is provided by the Arena Master Plan Steering Group or Council, final approval of the Arena Master Plan review will be a Council decision.

20-22 Draft Trade Waste Bylaw 2022 - Deliberations and Adoption

The **COMMITTEE RECOMMENDS**

1. That the Council confirms that:
 - a. the Palmerston North Trade Waste Bylaw 2022 is the most appropriate means of addressing the perceived problems of regulating the quality and rate of trade waste discharges; and
 - b. the form of the Bylaw is the most appropriate form of bylaw;

and

- c. the Bylaw does not give rise to any implications under the New Zealand Bill of Rights Act 1990.
2. That the Council adopt the Palmerston North Trade Waste Bylaw 2022 and Palmerston North Trade Waste Bylaw 2022 Administration Manual, as shown in attachments one and two.

RECOMMENDATIONS FROM COMMITTEE

TO: Council

MEETING DATE: 4 May 2022

TITLE: Presentation of the Part I Public Finance & Audit Committee Recommendations from its 27 April 2022 Meeting

Set out below are the recommendations only from the Finance & Audit Committee meeting Part I Public held on 27 April 2022. The Council may resolve to adopt, amend, receive, note or not adopt any such recommendations. (SO 3.18.1)

30-22 Waka Kotahi Recreation Pathways Fund Associated with Te Ahu a Turanga Highway

Report, presented by Aaron Phillips, Activities Manager – Parks.

The **COMMITTEE RECOMMENDS**

1. That the Chief Executive is authorised to prepare a bid to the Waka Kotahi Te Ahu a Turanga Recreational Paths Fund on behalf of the Council.
2. That the amount of the Council bid to the Waka Kotahi Te Ahu a Turanga Recreational Paths Fund is \$551,000, as described in Option 2 of this report and comprised of:
 - \$491,000 to enhance the existing pathways on the Ashhurst side of the river; and
 - \$60,000 to investigate the options and costs of addressing pedestrian, cycling and equestrian safety on the Saddle Road Bridge and equestrian facilities on the Pembroke Street rail overbridge.
3. That the Council note the funding application reflects the initial estimate of the cost to construct the chosen option, and further investigation is required before an engineer's estimate can be prepared.
4. That the Chief Executive report back to the Finance & Audit Committee on the outcome of the funding application, including any financial implications for consideration as part of the draft 2023/24 Annual Budget process.

31-22

Quarterly Performance and Financial Report - Quarter Ending 31 March 2022

Report, presented by Cameron McKay, Acting Chief Financial Officer and Andrew Boyle, Head of Community Planning.

The **COMMITTEE RECOMMENDS**

2. That Council note and approve that the capital expenditure and associated revenue values in the 2021/22 Long Term Plan Budget relating to the Three Water Reform funding will be changed as per the details in Appendix 4 of this report.
3. That 1888 – Low Carbon Fund budget be reduced by \$345,000, and 1847 – City Growth – City Reserves – Victoria Esplanade – Capital New budget be increased by \$115,000, and 1451 – Property – LED Lighting Upgrades be budget increased by \$230,000.
4. That the Chief Executive be given delegation to allocate 100% of funds from 1888 – Low Carbon Fund to other activities, as well as moving the fund between capital new and capital renewal for the financial year 2021/22.

33-22

Options for Reallocation of Events Related Budgets

Memorandum, presented by Anton Carter, Group Manager Community Services.

The **COMMITTEE RECOMMENDS**

1. That Council approve Option 1 – reduction of events and events related budgets by \$100,000 to top up programme 1675 – Covid Relief Fund with the addition of a proactive community events support criterion to the funding priorities for the Covid Relief Fund.

RECOMMENDATIONS FROM COMMITTEE

TO: Council

MEETING DATE: 4 May 2022

TITLE: Presentation of the Part I Public Play, Recreation & Sport Committee Recommendations from its 27 April 2022 Meeting

Set out below are the recommendations only from the Play, Recreation & Sport Committee meeting Part I Public held on 27 April 2022. The Council may resolve to adopt, amend, receive, note or not adopt any such recommendations. (SO 3.18.1)

12-22 Manawatū Gymsports' Regional Facility Proposal - Council land options

Memorandum, presented by Kathy Dever-Tod - Group Manager - Parks and Logistics.

The COMMITTEE RECOMMENDS

1. That Council note the identified Council land options for the Manawatū Gymsports' Regional Facility Proposal.
2. That Council include the list of identified Council land options in any future decision-making process for the Manawatū Gymsports' Regional Facility Proposal.

13-22 Results of the 2022 Audit of Shade Provision in Parks

Memorandum, presented by Kathy Dever-Tod, GM Parks and Logistics.

The COMMITTEE RECOMMENDS

2. That the funding for tree planting in programme 1099 be brought forward from years 4-10, to a maximum of \$40000 each year, and that this be referred to the annual budget deliberations.