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# **PALMERSTON NORTH CITY COUNCIL**

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## **AGENDA COUNCIL**

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**9AM, WEDNESDAY 26 AUGUST 2020**

**ELWOOD ROOM, CONFERENCE & FUNCTION CENTRE  
354 MAIN STREET, PALMERSTON NORTH**

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## MEMBERSHIP

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**Grant Smith (Mayor)**

**Tangi Utikere (Deputy Mayor)**

**Brent Barrett**

**Susan Baty**

**Rachel Bowen**

**Zulfiqar Butt**

**Vaughan Dennison**

**Renee Dingwall**

**Lew Findlay QSM**

**Patrick Handcock ONZM**

**Leonie Hapeta**

**Lorna Johnson**

**Billy Meehan**

**Karen Naylor**

**Bruno Petrenas**

**Aleisha Rutherford**

**Agenda items, if not attached, can be viewed at:**

[pncc.govt.nz](http://pncc.govt.nz) | Civic Administration Building, 32 The Square  
City Library | Ashhurst Community Library | Linton Library

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**Heather Shotter**

**Chief Executive, Palmerston North City Council**

**Palmerston North City Council**

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Private Bag 11034, 32 The Square, Palmerston North



## **COUNCIL MEETING**

26 August 2020

### **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. Deputation – Mr Andrew Pearce**

Page 7

5. **Confirmation of Minutes** Page 9  
“That the minutes of the ordinary meeting of 24 June 2020 Part I Public be confirmed as a true and correct record.”

## **REPORTS**

6. **Memorandum of Understanding Three Waters Services Reform** Page 37  
Memorandum, presented by Heather Shotter Chief Executive.
7. **Delegation to New Zealand Transport Agency (NZTA) to Issue Permits** Page 83  
Memorandum, presented by Robert van Bentum, Manager - Transport and Infrastructure.
8. **Palmerston North Airport Limited - Final Statement of Intent for 2020/21** Page 115  
Memorandum, presented by Steve Paterson, Strategy Manager - Finance.
9. **Section 17A Review of Caccia Birch House** Page 133  
Memorandum, presented by Julie Macdonald, Strategy & Policy Manager.
10. **Resource Management Act Commissioner Schedule** Page 139  
Memorandum, presented by Hannah White, Democracy & Governance Manager.
11. **Request for Chairperson of Hokowhitu Village Centre** Page 143  
Memorandum, presented by Hannah White, Governance & Democracy Manager.
12. **Council Work Schedule August 2020** Page 147

## **RECOMMENDATIONS FROM COMMITTEE MEETINGS**

- 13. Presentation of the Part I Public Rangitāne o Manawatū Committee Recommendations from its 29 July 2020 Meeting** Page 149

“That the Committee’s recommendations be adopted or otherwise dealt with.”

- 14. Presentation of the Part I Public Community Development Committee Recommendations from its 5 August 2020 Meeting** Page 151

“That the Committee’s recommendations be adopted or otherwise dealt with.”

- 15. Presentation of the Part I Public Arts, Culture & Heritage Committee Recommendations from its 12 August 2020 Meeting** Page 155

“That the Committee’s recommendations be adopted or otherwise dealt with.”

- 16. Presentation of the Part I Public Planning & Strategy Committee Recommendations from its 12 August 2020 Meeting** Page 157

“That the Committee’s recommendations be adopted or otherwise dealt with.”

- 17. Presentation of the Part I Public Finance & Audit Committee Recommendations from its 19 August 2020 Meeting** Page 159

“That the Committee’s recommendations be adopted or otherwise dealt with.”

- 18. 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
19.	Minutes of the ordinary meeting - Part II Confidential - 24 June 2020	For the reasons setout in the ordinary minutes of 24 June 2020, held in public present.	
20.	Tender Award - Contract 3915 - Wastewater Pipe Relining and Rehabilitation 2020-2022	Third Party Commercial	s7(2)(b)(ii)
21.	Appointments to the Project Team for Te Ahu a Tūranga - Manawatū Taranui Highway - Joint Processing and Appointment of Commissioners	Privacy	s7(2)(a)
22.	Presentation of the Part II Confidential Infrastructure Committee Recommendations from its 5 August 2020 Meeting		

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.

## DEPUTATION

**TO:** Council

**MEETING DATE:** 26 August 2020

**TITLE:** Deputation – Mr Andrew Pearce

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## RECOMMENDATION TO COUNCIL

1. That Council receive the deputation for information.
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## SUMMARY

Mr Andrew Pearce, from Cooe Drycleaners, will make a deputation regarding the Cuba Street upgrades and parking in general.

## ATTACHMENTS

Nil





# **PALMERSTON NORTH CITY COUNCIL**

## **Minutes of the Council Meeting Part I Public, held in the Elwood Room, Conference & Function Centre, 354 Main Street, Palmerston North on 24 June 2020, 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, Karen Naylor, Bruno Petrenas, Aleisha Rutherford and Tangi Utikere.

### **Declarations of Interest**

Councillor Rachel Bowen declared an interest in Item 22, Appeal to Plan Change C: Kākātangiata Stage 1: Kikiwhenua Residential Area (Clause 78). She was a member of the Hearings Panel that determined this consent. She did not participate in discussion and left the room during the determination of this item.

Councillor Lorna Johnson declared an interest in Item 22, Appeal to Plan Change C: Kākātangiata Stage 1: Kikiwhenua Residential Area (Clause 78). She was a member of the Hearings Panel that determined this consent. She did not participate in discussion and left the room during the determination of this item.

Councillor Vaughan Dennison declared an interest in Item 18 Presentation of the Part 1 Public Finance and Audit Committee Recommendations from its 17 June 2020 Meeting (Clause 71). He works at the Homes for People Trust and abstained from the vote.

The Council noted the declarations of interest.

### **57-20 Notification of Additional Item**

Moved Grant Smith, seconded Tangi Utikere.

### **RESOLVED**

1. That the following late items be received.

- Item 26: Amendment to the Council and Committee Meeting Schedule for 2020.

The reason for lateness was a clerical error and the reason why it needed to be considered at this meeting was to ensure the public are notified of the meetings within the appropriate notice period.

- Tabled Item: Recommendations from Infrastructure Committee Part II –

3 June 2020.

The reason for lateness was to correct delegation to Committee and the reason it needs to be considered at this meeting was to allow the project to progress in a timely manner.

Clause **Error! Reference source not found.** above was carried 16 votes to 0, the voting being as follows:

**For:**

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

**58-20 Presentation - Queen's Birthday Honours**

Moved Grant Smith, seconded Tangi Utikere.

**RESOLVED**

1. That Council note that congratulations have been conveyed on behalf of the Council to the local recipients of the Queen's Honours 2020.

Clause 58-20 was carried 16 votes to 0, the voting being as follows:

**For:**

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

**59-20 Confirmation of Minutes**

The amended minutes were tabled at the meeting, which included the division of voting on clause 49-20.

Moved Grant Smith, seconded Tangi Utikere.

**RESOLVED**

1. That the minutes as amended of the ordinary meeting of 27 May 2020 Part I Public be confirmed as a true and correct record.

Clause 59-20 above was carried 16 votes to 0, the voting being as follows:

**For:**

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

## **REPORTS**

### **60-20**

#### **Revisions to Annual Budget (Plan) 2020/21**

Memorandum, presented by Steve Paterson, Strategy Manager - Finance.

Moved Grant Smith, seconded Tangi Utikere.

#### **RESOLVED**

1. That recommendation 3 from the Committee of Council meeting on 10 June 2020 be amended to update the figures shown as \$3.95m and \$6.84m to be \$3.6m and \$7.5m respectively.

Clause 60-20 above was carried 16 votes to 0, the voting being as follows:

#### **For:**

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

### **61-20**

#### **Committee of Council Part I Public - 10 June 2020**

Consideration was given to Committee of Council recommendations as appended to these minutes.

Moved Grant Smith, seconded Tangi Utikere.

#### **RESOLVED**

1. That clause 14.2 be adopted.

Clause 61.1 above was carried 13 votes to 3, the voting being as follows:

#### **For:**

The Mayor (Grant Smith) and Councillors Tangi Utikere, Susan Baty, Rachel Bowen, Zulfiqar Butt, Vaughan Dennison, Renee Dingwall, Lew Findlay QSM, Patrick Handcock ONZM, Leonie Hapeta, Billy Meehan, Karen Naylor and Bruno Petrenas.

#### **Against:**

Councillors Brent Barrett, Lorna Johnson and Aleisha Rutherford.

Moved Grant Smith, seconded Tangi Utikere.

2. That the balance of the Committee's recommendations and amendments be adopted.

Clause 61.2 above was carried 16 votes to 0, the voting being as follows:

#### **For:**

The Mayor (Grant Smith) and Councillors Tangi Utikere, Brent Barrett, Susan Baty, Rachel Bowen, Zulfiqar Butt, Vaughan Dennison, Renee Dingwall, Lew Findlay QSM, Patrick Handcock

ONZM, Leonie Hapeta, Lorna Johnson, Billy Meehan, Karen Naylor, Bruno Petrenas and Aleisha Rutherford.

**62-20**

**Setting Rates for 2020/21**

Memorandum, presented by Steve Paterson, Strategy Manager - Finance.

Moved Grant Smith, seconded Tangi Utikere.

**RESOLVED**

1. That the resolution to set the rates for the 2020/21 year (attached as Appendix One) be adopted.
2. That it be noted that the setting of rates is a significant decision within the parameters of the Local Government Act 2002 and that it is satisfied there has been compliance with the decision-making and consultation requirements of the Act.

Clause 62-20 above was carried 12 votes to 4, the voting being as follows:

**For:**

The Mayor (Grant Smith) and Councillors Tangi Utikere, Susan Baty, Rachel Bowen, Vaughan Dennison, Renee Dingwall, Lew Findlay QSM, Patrick Handcock ONZM, Leonie Hapeta, Billy Meehan, Karen Naylor and Bruno Petrenas.

**Against:**

Councillors Brent Barrett, Zulfiqar Butt, Lorna Johnson and Aleisha Rutherford.

**63-20**

**Resolutions to Authorise Borrowing**

Memorandum, presented by Steve Paterson, Strategy Manager - Finance.

Moved Grant Smith, seconded Tangi Utikere.

**RESOLVED**

1. That Council authorise the Chief Executive to borrow, in accordance with delegated authority, up to \$36 million ("the Borrowing") of additional term debt by way of bank loan or loans or credit facilities or other facilities or the issue of stock for the Borrowing secured by the Debenture Trust Deed.
2. That Council note that the purpose of the Borrowing is the carrying out or continuing of programmes identified in the Annual Budget for the 2020/21 year.
3. That Council note that the security for the Borrowing may be the charge over rates under the Debenture Trust Deed if the Chief Executive considers appropriate.
4. That Council note that the benefits of the Borrowing are that it will enable the Council to carry out the programmes identified in the Annual Budget while spreading the costs for those programmes over time to recognise future benefits. The risk is that interest rates may vary in the future resulting in higher debt servicing costs to the Council.

5. That Council approve that having regard to the Council's financial strategy, it is prudent and reasonable to enter into the proposed borrowing for the reasons set out in this report.
6. That Council note that the raising of the Borrowing will comply with the Council's Liability Management Policy.
7. That Council note that the decision to borrow up to \$36 million is a significant decision within the parameters of the Local Government Act 2002 and is satisfied that there has been compliance with the decision-making and consultation requirements of the Act.

Clause 63-20 above was carried 16 votes to 0, the voting being as follows:

**For:**

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

## 64-20 **Proposed changes to foundation policies for Local Government Funding Agency (LGFA)**

Memorandum, presented by Steve Paterson, Strategy Manager - Finance.

Moved Grant Smith, seconded Tangi Utikere.

### **RESOLVED**

1. That Council support the Local Government Funding Agency (LGFA) proposal as follows:
  - To increase the foundation policy financial covenant net debt/total revenue from the current 250% to 280% for local authorities with a long-term credit rating of 'A' equivalent or higher;
  - That until 2025/26, local authorities with a long-term credit rating of 'A' equivalent or higher must comply with the "Alternate Net Debt/Total Revenue covenant" as below:

Alternative Net Debt / Total Revenue Covenant	
Financial Year (Test Date)	Net Debt / Total Revenue
30 June 2020	<250%
30 June 2021	<300%
30 June 2022	<300%
30 June 2023	<295%
30 June 2024	<290%

30 June 2025	<285%
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- That the amended foundation policy covenant of 280% will apply in the 2025/26 financial year and annually thereafter.

Clause 64-20 above was carried 16 votes to 0, the voting being as follows:

**For:**

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

**65-20**

**Alteration to Standing Orders - remote participation**

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

Council discussed how much discretion the Chair should have to refuse a member from participation electronically in a meeting. Council amended the proposed changes to Standing Orders to stipulate that Chairs must advise the committee of any requests to participate remotely and the reasons for their decision.

The meeting adjourned at 10.25am.

The meeting resumed at 10.45am.

Moved Aleisha Rutherford, seconded Lorna Johnson.

**RESOLVED**

1. Receive the report titled "Alteration to Standing Orders – remote participation" dated 24 June 2020.
2. Amend the Standing Orders to include Part 4 Remote Participation (Appendix 1 of the "Alteration to Standing Orders – remote participation" report dated 24 June 2020) with the following changes:
  - 4.6 – Conditions for attending by audio or audio visual link  
Noting Standing Order 4.7, members have the right to attend meetings by electronic link, with the approval of the Chairperson. Such approval is not to be unreasonably withheld.  
  
At the commencement of a meeting the Chairperson will advise of any decisions made regarding any requests for the remote participation of a member, along with the reason(s) for the decision that the Chairperson has taken.
  - 4.4 – Member's status: voting  
  
Where a meeting has a quorum, determined by the number physically present, the members attending by electronic link have full participation rights, with the exception of being counted towards the

quorum.

- 4.6 and 4.8 – “and” to be replaced with “or”.

3. That Council and committee meetings in the 2019-2022 triennium be webcast and recorded.
4. Note that the Council Chamber will need the appropriate technology to be in place to allow remote participation.

Clause 65-20 above was carried 16 votes to 0, the voting being as follows:

**For:**

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

**66-20**

**Review of Standing Orders**

Report, presented by Hannah White, Democracy and Governance Manager.

Moved Grant Smith, seconded Leonie Hapeta.

**RESOLVED**

1. That the report “Review of Standing Orders”, presented to Council 24 June 2020 be received.
2. That Council appoint a Standing Orders Working Group (Option 2) consisting of the Deputy Mayor (lead), Councillor Handcock, Councillor Naylor and Councillor Rutherford to conduct a comprehensive review of the Council’s Standing Orders.
3. That Council approve the Terms of Reference of the Standing Orders Working Group (as attached in Appendix 1).
4. That Council notes the Standing Orders Working Group will report their recommendations back to Council in October 2020.

Clause 66-20 above was carried 16 votes to 0, the voting being as follows:

**For:**

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

**67-20**

**Remits to Local Government New Zealand 2020 Annual General Meeting**

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

The Council queried how Council’s own remits had progressed and were informed that the process had stalled due to the Covid-19 lockdown. Council asked officers to produce a clearer timeframe for submitting future remits and requested that remits be added as a standing item on the Council’s work

schedule.

Moved Grant Smith, seconded Tangi Utikere.

**RESOLVED**

1. That the Council endorses the following remits to be submitted by Whanganui District Council to the Local Government New Zealand Annual General Meeting on 21 August 2020

- 1) Four-year election cycle
- 2) Loans for low-cost housing
- 3) Measuring and reporting on Local Government's CO2 emissions
- 4) Rates rebates for low income property owners

Clause 67-20 above was carried 16 votes to 0, the voting being as follows:

**For:**

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

**68-20**

**Amendment to the Council and Committee Meeting Schedule for 2020**

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

Moved Vaughan Dennison, seconded Aleisha Rutherford.

**RESOLVED**

1. Agree that the Rangitāne o Manawatū Committee will meet at 2pm on 29 July 2020 in the Function and Conference Centre.

Clause 68-20 above was carried 16 votes to 0, the voting being as follows:

**For:**

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

**69-20**

**Council Work Schedule**

Moved Grant Smith, seconded Tangi Utikere.

**RESOLVED**

1. That the Council receive its Work Schedule dated 24 June 2020.
2. That the LGNZ Remit item be added to the Work Schedule as a standing item.



Clause 69-20 above was carried 16 votes to 0, the voting being as follows:

**For:**

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

## **RECOMMENDATIONS FROM COMMITTEE MEETINGS**

### **70-20 Economic Development Committee Part I Public - 3 June 2020**

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

Moved Tangi Utikere, seconded Leonie Hapeta.

#### **RESOLVED**

1. That the Committee's recommendations be adopted.

Clause 70-20 above was carried 16 votes to 0, the voting being as follows:

**For:**

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

### **71-20 Planning & Strategy Committee Part I Public - 10 June 2020**

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

Moved Aleisha Rutherford, seconded Patrick Handcock ONZM.

#### **RESOLVED**

1. That the Committee's recommendations be adopted.

Clause 71-20 above was carried 15 votes to 0, with 1 abstention, the voting being as follows:

**For:**

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

**Abstained:**

Councillor Leonie Hapeta.

### **72-20 Arts, Culture & Heritage Committee Part I Public - 10 June 2020**

Consideration was given to Arts, Culture & Heritage Committee recommendations as appended to these minutes.

Moved Rachel Bowen, seconded Brent Barrett.

**RESOLVED**

1. That the Committee's recommendations be adopted.

Clause 72-20 above was carried 14 votes to 0, with 2 abstentions, the voting being as follows:

**For:**

The Mayor (Grant Smith) and Councillors Tangi Utikere, Brent Barrett, Susan Baty, Rachel Bowen, Zulfiqar Butt, Vaughan Dennison, Renee Dingwall, Lew Findlay QSM, Patrick Handcock ONZM, Lorna Johnson, Billy Meehan, Karen Naylor and Bruno Petrenas.

**Abstained:**

Councillors Leonie Hapeta and Aleisha Rutherford.

**73-20**

**Finance & Audit Committee Part I Public - 17 June 2020**

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

Moved Susan Baty, seconded Karen Naylor.

**RESOLVED**

1. That the Committee's recommendations be adopted.

Clause 73-20 above was carried 15 votes to 0, with 1 abstention, the voting being as follows:

**For:**

The Mayor (Grant Smith) 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, Karen Naylor, Bruno Petrenas and Aleisha Rutherford.

**Abstained:**

Councillor Tangi Utikere.

**Note:**

Councillor Vaughan Dennison declared a conflict of interest and withdrew from the discussion.

**74-20**

**Play, Recreation & Sport Committee Part I Public - 17 June 2020**

Consideration was given to Play, Recreation & Sport Committee recommendations as appended to these minutes.

Moved Leonie Hapeta, seconded Billy Meehan.

**RESOLVED**

1. That the Committee's recommendations be adopted.

Clause 74-20 above was carried 15 votes to 0, with 1 abstention, the voting being as follows:

**For:**

The Mayor (Grant Smith) 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, Karen Naylor, Bruno Petrenas and Aleisha Rutherford.

**Abstained:**

Councillor Tangi Utikere.

## EXCLUSION OF PUBLIC

### 75-20 Recommendation to Exclude Public

Moved Grant Smith, seconded Karen Naylor.

#### 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 - 27 May 2020	For the reasons set out in the ordinary minutes of 27 May 2020, held in public present.	
22.	Appeal to Plan Change C Kākātangiata Stage 1: Kikiwhenua Residential Area	Negotiations	s7(2)(i)
23.	Rotation of Trustees on Council Organisations	Privacy	s7(2)(a)
24	Presentation of the Part II Confidential Infrastructure Committee Recommendations - 3 June 2020	Commercial Activities	s(7)(2)(h)

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.

Clause 75-20 above was carried 16 votes to 0, the voting being as follows:

#### For:

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

The public part of the meeting finished at 11.31am.

Confirmed 26 August 2020

**Mayor**

**Appendix One**

**Palmerston North City Council**

**Resolution to Set Rates for the 2020/2021 year**

The Palmerston North City Council resolves to set rates for the financial year commencing on 1 July 2020 and ending on 30 June 2021 in accordance with the Rating Policies and Funding Impact Statement contained in its Annual Budget (Plan) 2020/21 as follows:

**1 Details of rates to be set**

**Notes**

- *All rates and charges shown are inclusive of Goods and Services Tax.*
- *References to the 'Act' relate to the Local Government (Rating) Act 2002.*

**1.1 Uniform Annual General Charge**

A Uniform Annual General Charge of \$500 on each rating unit pursuant to section 15 of the Act.

**1.2 Water Supply Rates**

A targeted rate for water supply, set under section 16 of the Act, of:

- \$255 per separately used or inhabited part of a residential rating unit which is connected to a Council operated waterworks system. This charge is not made where water supply is invoiced on the basis of water consumed.
- \$255 per rating unit for all other rating units which are connected to a Council operated waterworks system. This charge is not made where water supply is invoiced on the basis of water consumed.
- \$127.50 per rating unit which is not connected to a Council operated waterworks system but which is serviceable (i.e. within 100 metres of such waterworks system) and the Council would allow a connection.

Instead of the above targeted rates for metered water supply, targeted rates set under sections 16 and 19 of the Act, of \$1.265 per cubic metre of water supplied to any rating unit that is invoiced on the basis of water supplied plus a fixed amount of

\$172.50 per metered connection for connections of 25mm or less and \$375 for connections greater than 25mm.

### **1.3 Wastewater Disposal Rates**

A targeted rate for wastewater disposal, set under section 16 of the Act, of:

- \$241 per separately used or inhabited part of a residential rating unit which is connected to a public wastewater drain.
- \$241 per rating unit for all other rating units which are connected to a public wastewater drain.
- \$241 per pan (i.e. water closet or urinal) for all pans in excess of three for non-residential rating units connected to a public wastewater drain.
- \$120.50 per separately used or inhabited part of a residential rating unit which is not connected to a public wastewater drain but which is serviceable (i.e. within 30 metres of such a drain) and the Council would allow the connection.
- \$120.50 per rating unit for all other rating units which are not connected to a public wastewater drain but which is serviceable (i.e. within 30 metres of such a drain) and the Council would allow the connection.

### **1.4 Rubbish and Recycling Rates**

#### **1.4.1 Kerbside Recycling**

A targeted rate for kerbside recycling set under section 16 of the Act of:

- \$126 per separately used or inhabited part of a rating unit for residential properties receiving the Council's kerbside collection service.
- \$126 per rating unit for non-residential and rural/semi-serviced properties receiving the Council's kerbside collection service.

Where ratepayers elect, and the Council agrees, additional levels of service may be provided. These additional services could be by way of provision of more recycling bins or more frequent service. Each additional level of service will be charged a rate of \$126. This may include charges to non-rateable rating units where the service is provided.

#### **1.4.2 Rubbish and Public Recycling**

A targeted rate for rubbish and public recycling set under section 16 of the Act of \$64 per separately used or inhabited part of each residential rating unit and \$64 per rating unit for all other rating units. Rating units which are vacant land will not be liable for these rates.

## 1.5 Warm Palmerston North

A targeted rate set on all properties that have benefited from the installation of insulation through the Warm Up Palmy Home Insulation Scheme. The rate is calculated as a percentage of the service amount (the cost of the installation) until the service amount and the costs of servicing the serviced amount are recovered. For 2020/21 the rate will be 16%.

## 1.6 General Rate

A general rate pursuant to section 13 of the Act set on all rateable land on the basis of land value and assessed differentially (based on land use) against each property group code at the rate of cents in the dollar set down in the following schedule:

Differential Group		Differential Factor (expressed as % of Group Code MS)	Rate (cents in \$ of LV)
Code	Brief Description		
R1	Single unit residential	Balance (approx. 78)	0.5978
R2	Two unit residential	115	0.8766
R3	Three unit residential	125	0.9529
R4	Four unit residential	135	1.0291
R5	Five unit residential	145	1.1053
R6	Six unit residential	155	1.1816
R7	Seven unit residential	165	1.2578
R8	Eight or more unit residential	175	1.3340
MS	Miscellaneous	100	0.7623
CI	Non-residential (Commercial/Industrial)	265	2.0201
FL	Rural & Semi-serviced (5 hectares or more)	20	0.1525
FS	Rural & Semi-serviced (0.2 hectares or less)	60	0.4574
FM	Rural & Semi-serviced (between 0.2 & 5 hectares)	45	0.3430

## 2. Due Dates for Payment of Rates

Rates (other than metered water targeted rates) will be payable at the offices or agencies of the Council in four quarterly instalments on 1 August 2020, 1 November 2020, 1 February 2021 and 1 May 2021.

The due dates (i.e. final day for payment without incurring penalty) shall be:

Instalment One	28 August 2020
Instalment Two	27 November 2020
Instalment Three	26 February 2021
Instalment Four	28 May 2021

## 3. Due Dates for Payment of Metered Water Targeted Rates

Properties which have water provided through a metered supply will be invoiced either monthly or two monthly at the discretion of the Council.

The due date for metered water targeted rates shall be the 20<sup>th</sup> of the month following invoice date as follows:

Monthly invoicing					
Instalment	Date meter read & invoice issued	Due date	Instalment	Date meter read & invoice issued	Due date
1	June 2020	20 July 2020	7	December 2020	20 January 2021
2	July 2020	20 August 2020	8	January 2021	20 February 2021
3	August 2020	20 September 2020	9	February 2021	20 March 2021
4	September 2020	20 October 2020	10	March 2021	20 April 2021
5	October 2020	20 November 2020	11	April 2021	20 May 2021
6	November 2020	20 December 2020	12	May 2021	20 June 2021

Two monthly invoicing					
Linton, East & North Rounds			Ashhurst, South West, PNCC & Central Rounds		
Instalment	Date meter read & invoice issued	Due date	Instalment	Date meter read & invoice issued	Due date
1	June 2020	20 July 2020	1	July 2020	20 August 2020
2	August 2020	20 September 2020	2	September 2020	20 October 2020
3	October 2020	20 November 2020	3	November 2020	20 December 2020
4	December 2020	20 January 2021	4	January 2021	20 February 2021
5	February 2021	20 March 2021	5	March 2021	20 April 2021
6	April 2021	20 May 2021	6	May 2021	20 June 2021



**4. Penalties on Unpaid Rates (excluding metered water)**

A penalty charge of 10% will be added on the following dates to any portion of an instalment remaining unpaid after the due dates:

Instalment One	1 September 2020
Instalment Two	1 December 2020
Instalment Three	1 March 2021
Instalment Four	1 June 2021

Any penalty charge imposed on the outstanding first instalment will be automatically remitted provided payment of the full year's rates is made by 27 November 2020.

A penalty charge of 10% will be added to any outstanding rates (including penalties) assessed in previous years and remaining outstanding at 2 July 2020 (penalty applied on 3 July 2020) and again on 4 January 2021 (penalty applied on 5 January 2021).

Penalties will not be applied to the metered water targeted rate.

24 June 2020

## RECOMMENDATIONS FROM COMMITTEE

**TO:** Council

**MEETING DATE:** 24 June 2020

**TITLE:** Presentation of the Part I Public Committee of Council Recommendations from its 10 June 2020 Meeting

Set out below are the recommendations only from the Committee of Council meeting Part I Public held on 10 June 2020. The Council may resolve to adopt, amend, receive, note or not adopt any such recommendations. (SO 3.18.1)

### **14-20 Finalising the Annual Budget (Plan) for 2020/21**

Memorandum, presented by Stuart McKinnon, Chief Financial Officer.

#### The **COMMITTEE RECOMMENDS THAT COUNCIL**

2. Adopt the Amended Annual Budget 2020/21, with the report titled "Finalising the Annual Budget (Plan) 2020/21"
3. Acknowledge that the Prospective Statement of Comprehensive Revenue and Expense for the Annual Budget shows a budgeted deficit of \$3.6m for the 2020/21 year, and that using the calculation required by the Local Government (Financial Reporting and Prudence) Regulations 2014, projects a deficit of \$7.5m. For the reasons outlined in the memorandum the Council resolves this outcome is financially prudent having regard for the matters contained in Section 100 of the Local Government Act 2002.
4. Delegate Authority to the Mayor and Chief Executive to approve the final Annual Budget (Plan) document for publication.
5. Acknowledge that the adoption of the Annual Budget (Plan) 2020/21 be confirmed as a significant decision within the parameters of the Local Government Act 2002 and that the Council is satisfied that all submissions have been considered and that there has been compliance with the decision-making and consultation requirements of the Act.
6. Delegate Authority to the Chief Executive to authorise payments to Council-controlled organisations and other external organisations in accordance with their respective service level agreements.

### **ATTACHMENTS**

Nil

## RECOMMENDATIONS FROM COMMITTEE

**TO:** Council

**MEETING DATE:** 24 June 2020

**TITLE:** Presentation of the Part I Public Economic Development Committee Recommendations from its 3 June 2020 Meeting

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Set out below are the recommendations only from the Economic Development Committee meeting Part I Public held on 3 June 2020. The Council may resolve to adopt, amend, receive, note or not adopt any such recommendations. (SO 3.18.1)

### **17-20 Business Improvement District Policy**

Memorandum, presented by David Murphy, City Planning Manager.

#### **The COMMITTEE RECOMMENDS**

1. That the Business Improvement District Policy (2020), as attached to the memorandum reported to the 3 June 2020 Economic Development Committee titled "Business Improvement District Policy", be received.
2. That the last paragraph of Section 9 of the BID policy be revised to state "The Council will prepare and require the BID Association to complete an annual accountability agreement on terms satisfactory to the Council."
3. That Council not be included on the voting register, but will be liable for the targeted rate.
4. That the Business Improvement District Policy (2020) as attached to the memorandum reported to the 3 June 2020 Economic Development Committee be adopted as amended.
5. That the Mayor and Chairperson of the Economic Development Committee be authorised to make minor amendments to the Business Improvement District Policy (2020), as attached to the memorandum reported to the 3 June 2020 Economic Development Committee titled "Business Improvement District Policy", prior to a Business Improvement District proponent putting forward a proposal to Council under the Business Improvement District Policy (2020).

### **ATTACHMENTS**

Nil

## RECOMMENDATIONS FROM COMMITTEE

**TO:** Council

**MEETING DATE:** 24 June 2020

**TITLE:** Presentation of the Part I Public Planning & Strategy Committee Recommendations from its 10 June 2020 Meeting

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Set out below are the recommendations only from the Planning & Strategy Committee meeting Part I Public held on 10 June 2020. The Council may resolve to adopt, amend, receive, note or not adopt any such recommendations. (SO 3.18.1)

**17-20 Consultation on Draft Auahi Kore Smokefree and Vapefree Policy 2020**

Report, presented by Lili Kato, Policy Analyst, Julie Macdonald Strategy and Policy Manager.

The **COMMITTEE RECOMMENDS**

1. That the proposed Auahi Kore Smokefree and Vapefree Policy 2020 be approved for consultation (included in attachment 1 of the report titled 'Consultation on Draft Auahi Kore Smokefree and Vapefree Policy 2020' reported to the Planning & Strategy Committee on 10 June 2020).
2. That the Chairperson and Deputy Chairperson of the Planning & Strategy Committee be authorised to approve any minor amendments to the Consultation Document of the draft Auahi Kore Smokefree and Vapefree Policy 2020.

**19-20 Council Commitment to Deliver Safe Drinking Water**

Memorandum, presented by Robert van Bentum, Manager - Transport and Infrastructure.

The **COMMITTEE RECOMMENDS**

1. That the report titled "Council Commitment to Deliver Safe Drinking Water", reported to the Planning & Strategy Committee on 10 June 2020, be received.
2. That the Commitment Statement included as an attachment to the report titled "Council Commitment to Deliver Safe Drinking Water", reported to the Planning & Strategy Committee on 10 June 2020, be formally adopted.
3. That Council delegate the Chief Executive to sign the Commitment Statement to be included in all Water Safety Plans to be submitted to the

Drinking Water Assessor.

**ATTACHMENTS**

Nil

## RECOMMENDATIONS FROM COMMITTEE

**TO:** Council

**MEETING DATE:** 24 June 2020

**TITLE:** Presentation of the Part I Public Arts, Culture & Heritage Committee Recommendations from its 10 June 2020 Meeting

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Set out below are the recommendations only from the Arts, Culture & Heritage Committee meeting Part I Public held on 10 June 2020. The Council may resolve to adopt, amend, receive, note or not adopt any such recommendations. (SO 3.18.1)

### **10-20 Cultural CCOs Draft Statements of Intent 2020-23**

Memorandum, presented by Julie Macdonald, Strategy & Policy Manager.

#### **The COMMITTEE RECOMMENDS**

2. That the Globe Theatre Trust is advised of the recommended changes to the final Statement of Intent 2020–23 outlined in Table 1 of this memorandum entitled ‘Cultural CCOs Draft Statements of Intent 2020-23’.
3. That Caccia Birch Trust Board is advised of the recommended changes to the final Statement of Intent 2020–23 outlined in Table 3 of this memorandum entitled ‘Cultural CCOs Draft Statements of Intent 2020-23’.
4. That the Regent Theatre Trust is advised of the recommended changes to the final Statement of Intent 2020–23 outlined in Table 5 of this memorandum entitled ‘Cultural CCOs Draft Statements of Intent 2020-23’.
5. That Te Manawa Museums Trust is advised of the recommended changes to the final Statement of Intent 2020–23 outlined in Table 7 of this memorandum entitled ‘Cultural CCOs Draft Statements of Intent 2020-23’.
6. That the proposal in the Globe Theatre Trust draft Statement of Intent for an increase of \$50,000 per year to the Globe Theatre Trust operating grant be referred to the 10 Year Plan 2021–31 process.
7. That the proposal in the Caccia Birch Trust Board draft Statement of Intent for an increase of \$40,000 per year to the Caccia Birch Trust Board operating grant be referred to the 10 Year Plan 2021–31 process.

**11-20 Maintenance and Renewal Plans and Budgets for Cultural Facilities**

Memorandum, presented by Bryce Hosking, Manager - Property.

The **COMMITTEE RECOMMENDS**

2. That Council approve the consistent capital renewal and maintenance approach in the cultural facilities portfolio (excluding the library) whereby Council only maintains the fixed assets and those that are part of the building fabric, and the balance of works would be the tenant's responsibility and at their cost.

**12-20 Options for formalising the relationship between Palmerston North City Council and the NZ Rugby Museum**

Report, presented by Joann Ransom, Community Development Manager.

The **COMMITTEE RECOMMENDS**

2. That the Chief Executive be instructed to develop a proposal for an annual grant to the NZ Rugby Museum for Councillors to consider in the Long Term Plan process, as per Option 1 in the report titled 'Options for formalising the relationship between Palmerston North City Council and the NZ Rugby Museum' presented to the Arts, Culture and Heritage Committee on 10 June 2020.
3. That the Chief Executive provide assistance to NZ Rugby Museum if it chooses to seek funding through the central government Museum Hardship Fund.

**ATTACHMENTS**

Nil

## RECOMMENDATIONS FROM COMMITTEE

**TO:** Council

**MEETING DATE:** 24 June 2020

**TITLE:** Presentation of the Part I Public Finance & Audit Committee Recommendations from its 17 June 2020 Meeting

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Set out below are the recommendations only from the Finance & Audit Committee meeting Part I Public held on 17 June 2020. The Council may resolve to adopt, amend, receive, note or not adopt any such recommendations. (SO 3.18.1)

**21-20 Palmerston North Airport Limited - Updated draft Statement of Intent for 2020/21**

Memorandum, presented by Steve Paterson, Strategy Manager - Finance.

The **COMMITTEE RECOMMENDS**

1. That the Palmerston North Airport Ltd updated draft Statement of Intent for 2020/21, presented to the Finance & Audit Committee on 17 June 2020, be received and the Company be advised that:
  - Council supports the draft SOI recognising the uncertainty of significant assumptions that have had to be made in its preparation
  - Council requests an updated company position be provided (in October) and if changes have been significant that an amended SOI (including projections for 2021/22 and 2022/23) be provided to the Council for consideration
  - Council encourages the Board to progress its capital development programme when financially prudent.



**22-20 Fees and Charges - Confirmation Following Public Consultation**

Memorandum, presented by Steve Paterson, Strategy Manager - Finance.

The **COMMITTEE RECOMMENDS**

1. That the submission relating to planning fees, as attached in Appendix A of the memorandum titled 'Fees and Charges – Confirmation Following Public Consultation' presented to the Finance & Audit Committee on 17 June 2020, be received.
2. That the fees and charges for Trade Waste Services, as scheduled in Appendix C of the memorandum titled 'Fees and Charges – Confirmation Following Public Consultation', presented to the Finance & Audit Committee on 17 June 2020, be approved, effective from 1 July 2020.
3. That the fees and charges for Planning & Miscellaneous Services, as scheduled in Appendix B of the memorandum titled 'Fees and Charges – Confirmation Following Public Consultation' presented to the Finance & Audit Committee on 17 June 2020, be approved, effective from 1 July 2020.

**24-20 CET Arena - Commercial Building Opportunity**

Report, presented by Bryce Hosking, Manager - Property.

The **COMMITTEE RECOMMENDS**

1. That Council does not proceed with the balance of programme #1514 – Central Energy Trust Arena Manawatu – Commercial Building in the current financial year.

**ATTACHMENTS**

Nil



## RECOMMENDATIONS FROM COMMITTEE

**TO:** Council

**MEETING DATE:** 24 June 2020

**TITLE:** Presentation of the Part I Public Play, Recreation & Sport Committee Recommendations from its 17 June 2020 Meeting

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Set out below are the recommendations only from the Play, Recreation & Sport Committee meeting Part I Public held on 17 June 2020. The Council may resolve to adopt, amend, receive, note or not adopt any such recommendations. (SO 3.18.1)

**16-20 Victoria Esplanade Park Road entrance and Cook Street/Park Road Intersection options**

Report, presented by Kathy Dever-Tod - Manager Parks and Reserves.

The **COMMITTEE RECOMMENDS**

1. Receive the report entitled "Victoria Esplanade Park Road entrance and Cook Street/Park Road intersection options, dated 17 June 2020".
2. Recommend that Council approve Scenario A for the controlled intersection upgrade of Cook Street and Park Road, which includes a traffic signal upgrade and closing the access from Nathan Place to Park Road on a temporary basis to assess the impacts, before a decision is made to proceed with the permanent closure.
3. That Council approve Option One for the Park Road entrance reconfiguration to the Victoria Esplanade, which includes a replacement car park, as detailed in this report.
4. That Council note that Victoria Esplanade Park Road entrance and Cook Street/Park Road intersection projects will be tendered together to try and obtain cost savings for both projects, to remain with the current budget provision.
5. That Council note that the results of the tender will be reported to the Finance and Audit Committee.

### **ATTACHMENTS**

Nil



## MEMORANDUM

**TO:** Council

**MEETING DATE:** 26 August 2020

**TITLE:** Memorandum of Understanding Three Waters Services Reform

**PRESENTED BY:** Heather Shotter Chief Executive

**APPROVED BY:** Heather Shotter, Chief Executive

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### RECOMMENDATIONS TO COUNCIL

1. Note that in July 2020, the Government announced an initial funding package of \$761 million to provide a post COVID-19 stimulus to maintain and improve water networks infrastructure, and to support a three-year programme of reform of local government water services delivery arrangements; and
2. Note that initial funding will be made available to those councils that agree to participate in the initial stage of the reform programme, through a Memorandum of Understanding (MoU), Funding Agreement, and approved Delivery Plan.
3. Note that this initial funding will be provided in two parts: a direct allocation to individual territorial authorities, and a regional allocation. The participating individual authorities in each region will need to agree an approach to distributing the regional allocation.
4. Note that the Steering Committee has recommended a preferred approach to the allocation of regional funding, being the same formula as was used to determine the direct allocations to territorial authorities.
5. Agree to sign the MoU attached as Appendix A and Funding Agreement attached as Appendix B to the report titled "Memorandum of Understanding Three Waters Services Reform".
6. Agree to nominate the Chief Executive of the Council, as the primary point of communication for the purposes of the MoU and reform programme – as referred to on page 6 of the MoU.
7. Agree to delegate decisions about the allocation of regional funding to the Chief Executive of the Council, with the understanding that the minimum level of funding to the Council be based upon the formula used to calculate the direct council allocations, and noting that participation by two-thirds of territorial authorities within the Manawatū-Whanganui region is required to access the regional allocation.
8. Note that the MoU and Funding Agreement cannot be amended or modified by either party, and doing so would void these documents.

9. Note that participation in this initial stage is to be undertaken in good faith, but this is a non-binding approach, and the Council can opt out of the reform process at the end of the term of the agreement (as provided for on page 5 of the MoU).
10. Note that the Council has been allocated \$4.67m of funding, which will be received as a grant as soon as practicable once the signed MoU and Funding Agreement are returned to the Department of Internal Affairs, and a Delivery Plan has been supplied and approved (as described on page 5 of the MoU).
11. Note that the Delivery Plan must show that the funding is to be applied to operating and/or capital expenditure relating to three waters infrastructure and service delivery, and which:
  - a. supports economic recovery through job creation; and
  - b. maintains, increases, and/or accelerates investment in core water infrastructure renewal and maintenance.
12. Authorise the Chief Executive to develop and finalise the Delivery Plan including to address any feedback from Government and obtain the approval needed to release the funding.

## 1. PURPOSE

- 1.1 This report asks the Council to sign a Memorandum of Understanding (MoU) with the Crown, agreeing to participate in the initial stage of a central/ local government three waters service delivery reform programme (Appendix A) and to authorise the Chief Executive to enter into a Funding Agreement to accept a grant from the Crown to spend on operating and/ or capital expenditure relating to the three waters infrastructure and service delivery (Appendix B).

## 2. SUMMARY

- 2.1 In July 2020, the Government announced a \$761 million funding package to provide post COVID-19 stimulus to maintain, improve three waters infrastructure, support a three-year programme of reform of local government water service delivery arrangements (reform programme), and support the establishment of Taumata Arowai, the new Waters Services Regulator.
- 2.2 A Joint Central/Local Government Three Waters Steering Committee has been established to provide oversight and guidance to support progress towards reform, and to assist in engaging with local government, iwi/Māori, and other water sector stakeholders on options and proposals.
- 2.3 The reform programme is designed to support economic recovery, and address persistent systemic issues facing the three waters sector, through a combination of:

- stimulating investment, to assist economic recovery through job creation, and maintain investment in water infrastructure renewals and maintenance; and
- reforming current water service delivery, into larger scale providers, to realise significant economic, public health, environmental, and other benefits over the medium to long term.

2.4 Initial funding from the stimulus package will be made available to those councils that agree to participate in the first stage of the reform programme, through a Memorandum of Understanding (MoU), Funding Agreement, and approved Delivery Plan. The MoU must be signed by the end of August 2020, with the Funding Agreement and Delivery Plan submitted and approved by the end of September 2020.

### 3. BACKGROUND AND CONTEXT

#### *Issues facing the three waters system, and rationale for reform*

- 3.1 Over the past three years, central and local government have been considering the issues and opportunities facing the system for regulating and managing the three waters (drinking water, wastewater, and stormwater).
- 3.2 The Government Inquiry into Havelock North Drinking Water – set up following the serious campylobacter outbreak in 2016 – identified widespread, systemic failure of suppliers to meet the standards required for the safe supply of drinking water to the public. It made a number of urgent and longer-term recommendations to address these significant systemic and regulatory failures.
- 3.3 The Government’s Three Waters Review highlighted that, in many parts of the country, communities cannot be confident that drinking water is safe, or that good environmental outcomes are being achieved. This work also raised concerns about the regulation, sustainability, capacity and capability of a system with a large number of localised providers, many of which are funded by relatively small populations.
- 3.4 The local government sector’s own work has highlighted similar issues. For example, in 2014, LGNZ identified an information gap relating to three waters infrastructure. A 2015 position paper, argued for a refresh of the regulatory framework to ensure delivery of quality drinking water and wastewater services, and outlined what stronger performance in the three waters sector would look like.
- 3.5 Both central and local government acknowledge that there are many challenges facing the delivery of water services and infrastructure, and the communities that fund and rely on these services. These challenges include:

- Underinvestment in three waters infrastructure in parts of the country, and substantial infrastructure deficits. For example, it is estimated that between \$300 to \$570 million is required to upgrade networked drinking water treatment plants to meet drinking water standards; and up to \$4 billion is required to upgrade wastewater plants to meet new consent requirements. These deficits are likely to be underestimates, given the variable quality of asset management data.
- Persistent funding and affordability challenges, particularly for communities with small rating bases, or high-growth areas that have reached their prudential borrowing limits.
- Additional investment required to increase public confidence in the safety of drinking water, improve freshwater outcomes, and as a critical component of a collective response to climate change and increasing resilience of local communities.

3.6 COVID-19 has made the situation even more challenging. Prior to COVID-19, territorial authorities were planning on spending \$8.3 billion in capital over the next five years on water infrastructure. However, COVID-19 is likely to cause significant decreases in revenue in the short term. As a result, borrowing will be constrained due to lower debt limits that flow from lower revenues, and opportunities to raise revenue through rates, fees and charges will be limited.

***Progress with three waters regulatory reforms***

3.7 Good progress is already being made to address the regulatory issues that were raised by the Havelock North Inquiry and Three Waters Review. The Government is implementing a package of reforms to the three waters regulatory system, which are designed to:

- improve national-level leadership, oversight, and support relating to the three waters – through the creation of Taumata Arowai, a new, dedicated Water Services Regulator;
- significantly strengthen compliance, monitoring, and enforcement relating to drinking water regulation;
- manage risks to drinking water safety and ensure sources of drinking water are protected;
- improve the environmental performance and transparency of wastewater and stormwater networks.

3.8 Legislation to create Taumata Arowai had its third reading on 22 July 2020. This new Crown entity is currently being built, and will become responsible for drinking water regulation once a separate Water Services Bill is passed (anticipated mid 2021).



- 3.9 However, both central and local government acknowledge that regulatory reforms alone will not be sufficient to address many of the persistent issues facing the three waters system. Reforms to service delivery and funding arrangements also need to be explored.

#### 4. **PROPOSAL – CENTRAL/LOCAL GOVERNMENT THREE WATERS REFORM PROGRAMME**

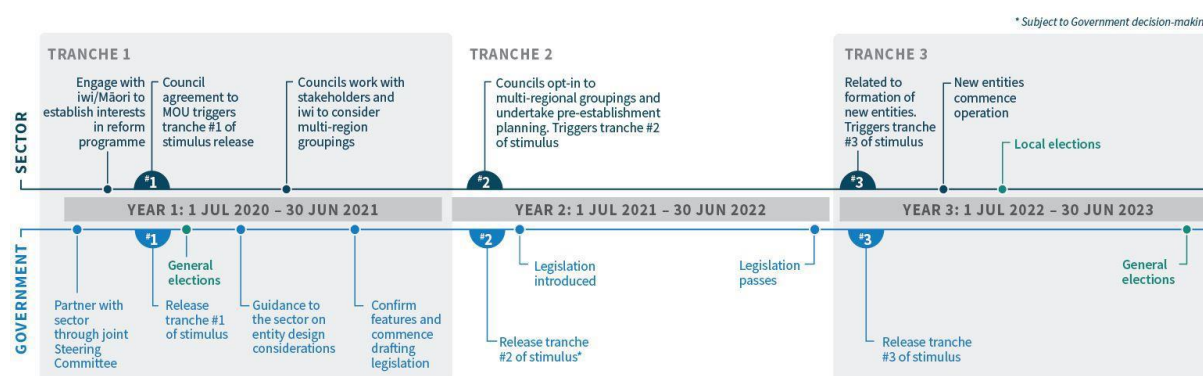
##### ***Overview of proposed approach to three waters investment and service delivery reform***

- 4.1 At the recent Central/Local Government Forum, central and local government leadership discussed the challenges facing New Zealand's water service delivery and infrastructure, and committed to working jointly on reform. A Joint Central/Local Government Three Waters Steering Committee has been established to provide oversight and guidance to support this work. (Further details are provided in Appendix D.)
- 4.2 Central and local government consider it is timely to apply targeted infrastructure stimulus investment to enable improvements to water service delivery, progress service delivery reform in partnership, and ensure the period of economic recovery following COVID-19 supports a transition to a productive, sustainable economy.
- 4.3 In July 2020, the Government announced an initial funding package of \$761 million to provide post COVID-19 stimulus, support a three-year programme of reform of local government water service delivery arrangements, and support the establishment and operation of Taumata Arowai.
- 4.4 The reform programme is designed to support economic recovery, and address persistent systemic issues facing the three waters sector, through a combination of:
- stimulating investment, to assist economic recovery through job creation, and maintain investment in water infrastructure renewals and maintenance; and
  - reforming current water service delivery, into larger scale providers, to realise significant economic, public health, environmental, and other benefits over the medium to long term.
- 4.5 While the Government's starting intention is for publicly-owned multi-regional models for water service delivery (with a preference for local authority ownership), final decisions on a service delivery model will be informed by discussion with the local government sector and the work of the Joint Steering Committee.

- 4.6 Further information on the reform objectives, and the core design features of any new service delivery model, are provided in pages 3 to 4 of the MoU attached as Appendix A.

### ***Reform process and indicative timetable***

- 4.7 As noted above, this is a three-year programme to reform three waters service delivery arrangements, which is being delivered in conjunction with an economic stimulus package of Crown investment in water infrastructure. The reform programme will be undertaken in stages.
- 4.8 The initial stage is an opt in, non-binding approach, which involves councils taking the actions and signing the documents described below (MoU, Funding Agreement, and Delivery Plan).
- 4.9 Councils that agree to opt in by the end of August 2020 will receive a share of the initial funding package.
- 4.10 Any further tranches of funding will be at the discretion of the Government and may depend on progress against reform objectives.
- 4.11 An indicative timetable for the full reform programme is provided below. While this is subject to change as the reforms progress, and subject to future Government budget decisions, it provides an overview of the longer-term reform pathway.



## **5. ALLOCATION OF THE INVESTMENT PACKAGE**

- 5.1 The Government has determined a notional allocation framework based on a nationally-consistent formula.
- 5.2 The general approach to determining each authority's notional allocation is based on a formula that gives weight to two main factors:

- The population in the relevant council area, as a proxy for the number of water connections serviced by a territorial authority (75 per cent weighting)
- The land area covered by a local authority excluding national parks, as a proxy for the higher costs per connection of providing water services in areas with low population density (25 per cent weighting).

5.3 The investment package is structured into two components:

- A direct allocation to each territorial authority, comprising 50% of that territorial authority's notional allocation; and
- A regional allocation, comprising the sum of the remaining 50% of the notional allocations for each territorial authority in the relevant region.

5.4 The relevant allocations for Palmerston North City Council are:

- \$4.67 million (excluding GST) direct allocation for Palmerston North City Council
- \$20.27 million (excluding GST) regional allocation for Manawatū-Whanganui.

5.5 The purpose of the Government's regional allocation is to establish collective participation by councils in the reform programme. Each regional group of councils has until 30 September to agree on how best to apportion the regional funds to the individual territorial authorities that make up the region. Appendix E includes a hypothetical example of how a regional allocation decision-making process could work.

5.6 The Steering Committee has recommended a preferred approach to the allocation of regional funding, being the same formula that is used to determine the direct allocations to territorial authorities.

5.7 It is recommended that decisions about the allocation of regional funding are delegated to the Chief Executive of the Council, with the understanding that the minimum level of funding to the Council be based upon the formula used to calculate the direct council allocations, and noting that participation by two-thirds of territorial authorities within the Manawatū-Whanganui region is required to access the regional allocation.

## 6. WHAT ACTIONS ARE THE COUNCIL BEING ASKED TO TAKE AT THIS POINT?

6.1 The initial stage of the reform programme involves three core elements:

- Memorandum of Understanding (Appendix A);
- Funding Agreement (Appendix B);
- Delivery Plan.

- 6.2 Initial funding will be made available to those councils that sign the MoU, and associated Funding Agreement, and provide a Delivery Plan.
- 6.3 This initial funding will be provided in two components: a direct allocation to individual councils, and a regional allocation. The participating councils in each region are required to agree an approach to distributing the regional allocation.
- 6.4 The MoU is the 'opt in' to the first stage of the reform and stimulus programme. The MoU needs to be signed and submitted by the end of August 2020. The Funding Agreement and Delivery Plan need to be submitted by the end of September 2020, to access the stimulus funding.
- 6.5 Councils that do not opt in by the end August 2020 deadline will not receive a share of the stimulus funding. Councils will still be able to opt in to the reform programme at a later date, but will not have access to the initial funding package, retrospectively.

#### ***Memorandum of Understanding***

- 6.6 A MoU has been developed by the Steering Group, for each council to enter into with the Crown. This is a standardised document, which cannot be amended or modified by either party.
- 6.7 Signing the MoU commits councils to:
- engage in the first stage of the reform programme – including a willingness to accept the reform objectives and the core design features set out in the MoU;
  - the principles of working together with central government and the Steering Committee;
  - work with neighbouring councils to consider the creation of multi-regional entities;
  - share information and analysis on their three waters assets and service delivery arrangements.
- 6.8 At this point, this is a voluntary, non-binding commitment. It **does not** require councils to commit to future phases of the reform programme, to transfer their assets and/or liabilities, or establish new water entities.
- 6.9 The MoU is effective from the date of agreement until 30 June 2021, unless terminated by agreement or by replacement with another document relating to the reform programme.
- 6.10 A legal opinion by Simpson Grierson, commissioned by SOLGM on behalf of the Steering Committee, advises that the MoU **does not** contain any explicit triggers for consultation under the Local Government Act 2002. (Refer to Appendix C).

### ***Funding Agreement***

- 6.11 This Council has been allocated \$4.67 million by the Crown, if it opts in to the reform programme. A further \$20.27 million has been allocated to the Manawātū-Whanganui region to agree an appropriate distribution between participating councils. This funding will be provided as a grant, which does not need to be repaid if the Council does not ultimately commit to reform at later stages of the process.
- 6.12 There are several options for how the regional funding could be allocated between councils. The joint central-local government Three Waters Steering Committee preferred approach is to apply the same formula<sup>1</sup> used to calculate the direct allocations. Under this approach, the Council would receive an additional \$4.67 million, contributing to a total funding allocation of \$9.34 million.
- 6.13 It is recommended that the Council delegates authority to the Chief Executive to agree an appropriate allocation with other participating councils, with the understanding that the Council share of the regional allocation should be \$4.67 million at a minimum, noting that participation by two thirds of territorial authorities within the region is to access the regional funding. The Funding Agreement is one of the mechanisms for accessing the funding package. Like the MoU, it is a standardised document, for agreement between each council and the Crown. It cannot be amended.
- 6.14 The Funding Agreement guides the release and use of funding. It sets out:
- the funding amount allocated to the Council;
  - funding conditions;
  - public accountability requirements, including the Public Finance Act;
  - reporting milestones.
- 6.15 While there is some local flexibility around how the funding can be applied, the Government has indicated that this investment is intended to support economic recovery, enable improvements in water service delivery, and progress the service delivery reform programme.
- 6.16 The Funding Agreement will be supplemented by a Delivery Plan, which is the document that sets out how the grant funding is to be applied by the Council.

### ***Delivery Plan***

- 6.17 The Delivery Plan is the other mechanism for accessing the funding package.

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<sup>1</sup> Applying a 75% weighting for population and a 25% weighting for land area, excluding national parks.

- 6.18 This Delivery Plan must show that the funding allocation is to be applied to operating and/or capital expenditure relating to three waters infrastructure and service delivery, and which:
- supports economic recovery through job creation; and
  - maintains, increases, and/or accelerates investment in core water infrastructure renewal and maintenance.
- 6.19 The Delivery Plan is a short-form template, which sets out:
- a summary of the works to be funded, including location, estimated associated costs, and expected benefits/outcomes;
  - the number of people to be employed in these works;
  - an assessment of how the works support the reform objectives in the MoU;
  - reporting obligations.
- 6.20 The Delivery Plan will be supplied to Crown Infrastructure Partners (and other organisations as agreed between the Council and Crown), for review and approval. Crown Infrastructure Partners will monitor progress against the Delivery Plan, to ensure spending has been undertaken with public sector financial management requirements.

## 7. NEXT STEPS






- 7.1 The MOU will need to be signed and returned by the end of August 2020.
- 7.2 The Funding Agreement and Delivery Plan will need to be completed submitted and approved by the end of September 2020 to receive a share of the stimulus funding.

## 8. COMPLIANCE AND ADMINISTRATION

Does the Council have delegated authority to decide?	<b>Yes</b>
Are the decisions significant?	<b>No</b>
If they are significant do they affect land or a body of water?	
Can this decision only be made through a 10 Year Plan?	<b>No</b>
Does this decision require consultation through the Special Consultative procedure?	<b>No</b>
Is there funding in the current Annual Plan for these actions?	<b>No</b>
Are the recommendations inconsistent with any of Council's policies or plans?	<b>No</b>

The recommendations contribute to Goal 5: A Driven and Enabling Council	
The recommendations contribute to the outcomes of the Driven and Enabling Council Strategy	
The recommendations contribute to the achievement of action/actions in Not Applicable	
Contribution to strategic direction and to social, economic, environmental and cultural well-being	Participating in the Three Waters Reform will enable the Council to collaborate with central and local government in supporting the improvement of the three waters service delivery for communities with the aim of realising significant public health, environmental, economic, and other benefits over the medium to long term.

## ATTACHMENTS

1. Memorandum of Understanding [↓](#) 
2. Funding Agreement [↓](#) 
3. Legal Opinion from Simpson Grierson [↓](#) 
4. Information on Joint Three Waters Steering Committee [↓](#) 
5. Hypothetical Example [↓](#) 

## MODEL

# Memorandum of Understanding Three Waters Services Reform

Between the [Sovereign in right of New  
Zealand acting by and through the Minister of  
Local Government] and

[Territorial Authority]

Date



## PURPOSE

This Memorandum of Understanding (Memorandum) sets out the principles and objectives that the Parties agree will underpin their ongoing relationship to support the improvement in three waters service delivery for communities with the aim of realising significant public health, environmental, economic, and other benefits over the medium to long term. It describes, in general terms, the key features of the proposed reform programme and the Government funding arrangements that will support investment in three waters infrastructure as part of the COVID 19 economic recovery.

## BACKGROUND

Over the past three years central and local government have been considering solutions to challenges facing the regulation and delivery of three water services. This has seen the development of new legislation to create Taumata Arowai, the new Water Services Regulator, to oversee and enforce a new drinking water regulatory framework, with an additional oversight role for wastewater and stormwater networks.

While addressing the regulatory issues, both central and local government acknowledge that there are broader challenges facing the delivery of water services and infrastructure, and the communities that fund and rely on these services. There has been regulatory failure, underinvestment in three waters infrastructure in parts of the country, and persistent affordability challenges, and additional investment is required to increase public confidence in the safety of drinking water and to improve freshwater outcomes. Furthermore, investment in water service delivery infrastructure is a critical component of a collective response to climate change and increasing resilience of local communities.

The Parties to this Memorandum consider it is timely to apply targeted infrastructure stimulus investment to enable improvements to water service delivery, progress reform in partnership, and ensure the period of economic recovery following COVID-19 supports a transition to a productive, sustainable economy. Additional funding will be subject to Government decision-making and reliant on the Parties demonstrating substantive progress against the reform objectives. The quantum, timing, conditions, and any other information relating to future funding will be advised at the appropriate time but will likely comprise additional tranches of funding and more specific agreement to key reform milestones.

The reform process and stimulus funding, proposed by Government, is designed to support economic recovery post COVID-19 and address persistent systemic issues facing the three waters sector, through a combination of:

- stimulating investment, to assist economic recovery through job creation, and maintain investment in water infrastructure renewals and maintenance; and
- reforming current water service delivery, into larger scale providers, to realise significant economic, public health, environmental, and other benefits over the medium to long term.

There is a shared understanding that a partnership approach will best support the wider community and ensure that the transition to any eventual new arrangements is well managed and as smooth as possible. This requires undertaking the reform in a manner that enables local government to continue and, where possible, enhance delivery of its broad “wellbeing mandates” under the Local Government Act 2002, while recognising the potential impacts that changes to three waters service delivery may have on the role and functions of territorial authorities.

## PRINCIPLES FOR WORKING TOGETHER

The Parties shall promote a relationship in their dealings with each other, and other Parties related to the three waters services reform, based on:

- mutual trust and respect; and
- openness, promptness, consistency and fairness in all dealings and communication including through adopting a no-surprises approach to any matters or dealings related to the reform programme; and
- non-adversarial dealings and constructive problem-solving approaches; and
- working co-operatively and helpfully to facilitate the other Parties perform their roles; and
- openly sharing information and analysis undertaken to date on the state of the system for delivering three waters services and the quality of the asset base.

This Memorandum is intended to be non-binding in so far as it does not give rise to legally enforceable obligations between the Parties.

## REFORM OBJECTIVES AND CORE DESIGN FEATURES

By agreeing to this Memorandum, the Parties agree to work constructively together to support the objectives of the three waters service delivery reform programme.

The Parties agree that the following objectives will underpin the reform programme and inform the development of reform options/proposals:

- significantly improving the safety and quality of drinking water services, and the environmental performance of drinking water and wastewater systems (which are crucial to good public health and wellbeing, and achieving good environmental outcomes);
- ensuring all New Zealanders have equitable access to affordable three waters services;
- improving the coordination of resources, planning, and unlocking strategic opportunities to consider New Zealand's infrastructure and environmental needs at a larger scale;
- increasing the resilience of three waters service provision to both short- and long-term risks and events, particularly climate change and natural hazards;
- moving the supply of three waters services to a more financially sustainable footing, and addressing the affordability and capability challenges faced by small suppliers and councils;
- improving transparency about, and accountability for, the delivery and costs of three waters services, including the ability to benchmark the performance of service providers; and
- undertaking the reform in a manner that enables local government to further enhance the way in which it can deliver on its broader "wellbeing mandates" as set out in the Local Government Act 2002.

In addition to these objectives, the Parties recognise that any consideration of changes to, or new models for, water service delivery arrangements must include the following fundamental requirements and safeguards:

- mechanisms that provide for continued public ownership of water service delivery infrastructure, and protect against privatisation; and
- mechanisms that provide for the exercise of ownership rights in water services entities that consider the interests and wellbeing of local communities, and which provide for local service delivery.

The Parties also recognise the reform programme will give rise to rights and interests under the Treaty of Waitangi and both Parties acknowledge the role of the Treaty partner. This includes maintaining Treaty settlement obligations and other statutory rights including under the Resource Management Act 1991 and the Local Government Act 2002. The outcome of discussions with iwi/Māori will inform design of appropriate mechanisms to reflect Treaty interests. This will include clarity of roles and responsibilities.

The Parties agree to work together to identify an approach to service delivery reform that incorporates the objectives and safeguards noted above, and considers the following design features as a minimum:

- water service delivery entities, that are:
  - of significant scale (most likely multi-regional) to enable benefits from aggregation to be achieved over the medium to long-term;
  - asset owning entities, with balance sheet separation to support improved access to capital, alternative funding instruments and improved balance sheet strength; and
  - structured as statutory entities with appropriate and relevant commercial disciplines and competency-based boards;
- delivery of drinking water and wastewater services as a priority, with the ability to extend to stormwater service provision only where effective and efficient to do so; and
- publicly owned entities, with a preference for collective council ownership;
- mechanisms for enabling communities to provide input in relation to the new entities.

The Parties acknowledge that work will also be undertaken to develop a regulatory framework, including mechanisms to protect the interests of consumers.

## FUNDING ARRANGEMENTS

The Government has indicated its intention to provide funding to stimulate investment to enable improvements in water service delivery, support economic recovery and progress Three Waters Services Reform. The quantum of funding available for the Council (and each participating Council) will be notified by Government prior to signing this Memorandum.

Funding will be provided as soon as practicable following agreement to this Memorandum and the associated Funding Agreement and Delivery Plan. The Delivery Plan will need to show that the funding is to be applied to operating or capital expenditure on three waters service delivery (with the mix to be determined by the Council) that:

- supports economic recovery through job creation; and
- maintains, increases and/or accelerates investment in core water infrastructure renewals and maintenance.<sup>1</sup>

The Delivery Plan will be based on a simple template and will include a summary of projects, relevant milestones, costs, location of physical works, number of people employed in works, reporting milestones and an assessment of how it supports the reform objectives set out in this Memorandum.

The Delivery Plan will be supplied to Crown Infrastructure Partners, and other organisations as agreed between the Parties, who will monitor progress of application of funding against the Delivery Plan to ensure spending has been undertaken consistent with public sector financial management requirements.

Agreement to this Memorandum and associated Funding Agreement and Delivery Plan are required prior to the release of Government funding. The Council will have the right to choose whether or not they wish to continue to participate in the reform programme beyond the term of the Memorandum.

## FUTURE AGREEMENTS

The Parties may choose to enter other agreements that support the reform programme. These agreements will be expected to set out the terms on which the Council will partner with other councils to deliver on the reform objectives and core design features, and will include key reform milestones and detailed plans for transition to and establishment of new three waters service delivery entities.

## PROGRAMME MANAGEMENT

The Government will establish a programme management office and the Council will be able to access funding support to participate in the reform process.

The Government will provide further guidance on the approach to programme support, central and regional support functions and activities and criteria for determining eligibility for funding support. This guidance will also include the specifics of any information required to progress the reform that may be related to asset quality, asset value, costs, and funding arrangements.

## TERM

This Memorandum is effective from the date of agreement until 30 June 2021 unless terminated by agreement or by replacement with another agreement related to the reform programme.

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<sup>1</sup> Maintains previously planned investment that may have otherwise deferred as a result of COVID-19.

## INTERACTIONS, MONITORING, INFORMATION AND RECORDS

The Parties nominate the following representatives to act as the primary point of communication for the purposes of this Memorandum and any other purpose related to the reform programme.

Government's representative	Council
[As delegated]	[Chief Executive of the Council]

It is the responsibility of these representatives to:

- work collaboratively to support the reform objectives;
- keep both Parties fully informed;
- act as a first point of reference between Parties and as liaison persons for external contacts; and
- communicate between Parties on matters that arise that may be of interest to either party.

If the contact person changes in either organisation, the other party's contact person must be informed of the new contact person immediately and there should be an efficient transition to ensure the momentum of the reform process is not undermined.

## CONFIDENTIALITY

Neither of the Parties is to disclose, directly or indirectly, any confidential information received from the other party to any third party without written consent from the other party, unless required by processes under the Official Information Act 1982 or the Local Government Official Information and Meetings Act 1987 (whichever applies), or under a Parliamentary process- such as following a Parliamentary question, in which case the relevant party is to inform the other party prior to disclosure. Protocols will be established to enable exchange information between Councils where that is consistent with progressing reform objectives.

## DISPUTE RESOLUTION

Any dispute concerning the subject matter of this document is to be settled by full and frank discussion and negotiation between the Parties.

<p>.....</p> <p>SIGNED on behalf of the Crown</p> <p>by [insert name - DELETE TEXT]</p> <p>[Sovereign in right of New Zealand acting by and through the Minister of Local Government]:</p>	<p>.....</p> <p>SIGNED by [insert name of the Mayor of the Territorial Authority signing - DELETE TEXT] on behalf of [Territorial Authority]</p> <p>.....</p> <p>SIGNED by [insert name of the Chief Executive of the Territorial Authority signing - DELETE TEXT] on behalf of [Territorial Authority]</p>
<p>.....</p> <p>Witness signature</p> <p>Witness name [insert name - DELETE TEXT]</p> <p>Witness occupation [insert occupation - DELETE TEXT]</p> <p>Witness address [insert address - DELETE TEXT]</p>	<p>.....</p> <p>Witness signature</p> <p>Witness name [insert name - DELETE TEXT]</p> <p>Witness occupation [insert occupation - DELETE TEXT]</p> <p>Witness address [insert address - DELETE TEXT]</p>

# **FUNDING AGREEMENT**

**BETWEEN**

**DEPARTMENT OF INTERNAL AFFAIRS**

**AND**

**[NAME OF RECIPIENT]**

**FOR**

**THREE WATERS SERVICES REFORMS**

## AGREEMENT

The parties (identified below in Part 1) agree to be bound by the terms and conditions of this Agreement, as set out below in Part 1 (Key Details), Part 2 (General Terms), Part 3 (Definitions and Construction) and the Schedule (Payment Request).

### PART 1: KEY DETAILS

- 1 **Parties**

The Sovereign in right of New Zealand, acting by and through the Chief Executive of the Department of Internal Affairs (**DIA**)

[NAME OF RECIPIENT] (**Recipient**)
- 2 **Background**

The New Zealand Government is undertaking a reform programme for “Three Waters” (drinking water, wastewater and stormwater) service delivery for communities (**Three Waters Reform Programme**). In conjunction with the Three Waters Reform Programme, the New Zealand Government is investing in water service delivery. The investment’s objectives are to:

  1. improve the safety and quality of drinking water services, and the environmental performance of drinking water and wastewater systems, by maintaining, increasing or accelerating investment in core water infrastructure renewals and maintenance; and
  2. support New Zealand’s economic recovery from the COVID-19 pandemic through job creation, by enabling investment to continue at a time when council revenues are uncertain and they face immediate cashflow challenges.

The New Zealand Government has mandated DIA to manage the provision of Government funding to local authorities to support investment in water infrastructure that supports its public health and environmental management objectives. Provision of such funding supports the objectives of the reform programme, by creating positive momentum toward reform of delivery arrangements for drinking water and wastewater services and infrastructure (with stormwater as a secondary priority).

The New Zealand Government has also mandated Crown Infrastructure Partners Limited (**CIP**) to assist in managing such funding by undertaking a monitoring role.

The Recipient is a territorial authority with statutory responsibility for delivering Three Waters services within its own district or city. The Recipient will work collaboratively with the New Zealand Government in connection with the Three Waters Reform Programme.

DIA has agreed to contribute funding to the Recipient on the terms and conditions of this Agreement (**Agreement**).

Key details of this Agreement are set out in this **Part 1**. The full terms and conditions are set out in **Part 2**. Defined terms and rules of interpretation are set out in **Part 3**.
- 3 **Conditions Precedent**

No Funding is payable under this Agreement until DIA has confirmed to the Recipient in writing that it has received, and found, in its sole discretion, to be satisfactory to it in form and substance, the following documents and evidence:

  1. This Agreement, duly executed by the Recipient by 30 September 2020.
  2. The Memorandum of Understanding, duly executed by the Recipient by 31 August 2020.



3. The final Delivery Plan prepared by the Recipient, in a form approved by DIA and duly executed by the Recipient by 31 October 2020.

A draft of the Delivery Plan must be submitted by no later than 30 September 2020 to [threewaters@dia.govt.nz](mailto:threewaters@dia.govt.nz) (copied to the Monitor) for review and comment by DIA (and/or the Monitor as its nominee).

Once DIA (or the Monitor) responds to the draft Delivery Plan, the Recipient must promptly engage with DIA (or the Monitor), seek to resolve such comments, and submit a final Delivery Plan for DIA's approval.

The Recipient is responsible for the content of the Delivery Plan and approval by DIA for the purposes of this Agreement shall not impose any obligations on DIA in respect of the Delivery Plan other than as expressly set out in this Agreement.

These conditions precedent must either be satisfied (in the opinion of DIA) or waived by DIA (at its sole discretion) by 31 October 2020, unless a later date is agreed otherwise in writing with DIA. In the event that they are not satisfied or waived within that time, DIA may notify the Recipient that this Agreement has not come into effect and is null and void.

- |   |  |  |
|---|--|--|
| 4 | <b>Expenditure Programme(s)</b>                              | The Recipient may only use the Funding to complete the expenditure programme(s) described in the Delivery Plan (each an <b>Expenditure Programme</b> ).  |
| 5 | <b>Expenditure Programme Milestones and Completion Dates</b> | The Recipient is to complete the Expenditure Programme Milestones set out in the Delivery Plan to the satisfaction of DIA by the Completion Dates set out therein.   |
| 6 | <b>End Date</b>  | The End Date is 31 March 2022, or such later date determined by DIA in its discretion.   |
| 7 | <b>Funding</b>   | <p>The total Funding available under this Agreement is up to <b>NZ\$[INSERT HERE]</b> plus GST (if any). This is the Total Maximum Amount Payable.</p> <p>The first instalment of Funding under this Agreement is subject to satisfaction of the Conditions Precedent set out in Item 3 above and receipt of a duly completed Payment Request in accordance with clause 1 of Part 2.</p> <p>The balance of the Funding under this Agreement will be paid in instalments as specified in the Delivery Plan, subject to satisfaction of the conditions set out below and the other terms and conditions of this Agreement.</p> <p>Each instalment of Funding under this Agreement, following payment of the first instalment, is subject to:</p> <ul style="list-style-type: none"> <li>(a) Receipt of a duly completed Payment Request in accordance with clause 1 of Part 2.</li> <li>(b) The Expenditure Programme(s) having commenced no later than 31 March 2021.</li> <li>(c) DIA receiving and being satisfied with the quarterly reports specified in the Key Details, together with the other information required in this Agreement.</li> <li>(d) No Termination Event, or event entitling DIA to suspend funding under this Agreement, subsisting.</li> <li>(e) Any further conditions relating to that instalment of Funding as specified in the Delivery Plan.</li> </ul> |

The first Payment Request may be submitted upon the Commencement Date

occurring. Each subsequent Payment Request may only be submitted at the same time as submission of a quarterly report in accordance with item 8 (Reporting) of the Key Details, and no more than one such Payment Request may be submitted in any Quarter, except (in each case) to the extent agreed by DIA in its sole discretion.

## 8 Reporting

The Recipient will provide DIA (copied to the Monitor) with quarterly reports by the 10<sup>th</sup> Business Day following the end of each Quarter, with effect from the Commencement Date. Each quarterly report must include the information set out below, in the standard reporting form specified by DIA.

The Recipient will also provide DIA (copied to the Monitor) with a final report by the 10<sup>th</sup> Business Day following the date on which the Expenditure Programme(s) are completed. The final report must include the information set out below, in the standard reporting form specified by DIA.

Each report is to be in form and substance satisfactory to DIA in its sole discretion.

**Each quarterly report** must include the following information:

- (a) Description and analysis of actual progress of the Expenditure Programme(s) against planned progress for the relevant Quarter;
- (b) A summary of expenditure, actual against budgeted (including underspend and cash float), for the relevant Quarter;
- (c) Plans for the next Quarter;
- (d) Forecast cashflows and forecast of the costs to complete the Expenditure Programme(s);
- (e) Any major risks arising or expected to arise with the Expenditure Programme(s), costs or performance of this Agreement, together with actual or proposed mitigations for those risks (including, where the actual Expenditure Programme(s) costs are forecast to exceed budgeted costs, how the shortfall is to be funded);
- (f) A summary of the number of jobs created, actual against expected, through people employed in the Expenditure Programme(s);
- (g) Any specific reporting requirements set out in the Delivery Plan; and
- (h) Any other information that is notified by DIA in writing to the Recipient.

**The final report** must include the following information:

- (a) Description and analysis of completion of the Expenditure Programme(s) against the original programme;
- (b) A summary of expenditure, actual against budgeted (including underspend), for the full Expenditure Programme(s);
- (c) Detail of the Recipient's proposed next steps;
- (d) An update on media, marketing and communication activities for the Expenditure Programme(s);
- (e) A summary of the number of jobs created, actual against expected, through people employed in the Expenditure Programme(s);
- (f) Any specific reporting requirements set out in the Delivery Plan; and
- (g) Any other information that is notified by DIA in writing to the Recipient.

## 9 Special Terms

[None] / [*Special terms to be added*]

10	<b>Recipient's Bank Account</b>	[xx-xxxx-xxxxxxxx-xxx]	
11	<b>Representative</b>	DIA's Representative: Name: Allan Prangnell Email: <a href="mailto:threewaters@dia.govt.nz">threewaters@dia.govt.nz</a>	Recipient's Representative: Name: [name] Email: [email]
12	<b>Address for Notices</b>	To DIA: Three Waters Reform Level 7, 45 Pipitea Street Wellington 6011 Attention: Allan Prangnell Email: <a href="mailto:threewaters@dia.govt.nz">threewaters@dia.govt.nz</a> , with a copy to <a href="mailto:legalnotices@dia.govt.nz">legalnotices@dia.govt.nz</a>  To the Monitor: Attention: Anthony Wilson Email: <a href="mailto:3waters@crowinfrastucture.govt.nz">3waters@crowinfrastucture.govt.nz</a>	To the Recipient: [address] Attention: [name] Email: [email]
<b>SIGNATURES</b>		<b>SIGNED</b> by the <b>SOVEREIGN IN RIGHT OF NEW ZEALAND</b> acting by and through the Chief Executive of the Department of Internal Affairs or his or her authorised delegate:  _____ Name: Position: Date:	<b>SIGNED</b> for and on behalf of <b>[RECIPIENT NAME]</b> by the person(s) named below, being a person(s) duly authorised to enter into obligations on behalf of the Recipient:  _____ Name: Position: Date:   _____ Name: Position: Date:

END OF PART 1

## PART 2: GENERAL TERMS

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### 1 FUNDING

- 1.1 DIA must pay the Funding (up to the "Total Maximum Amount Payable" specified in the Key Details) to the Recipient, subject to the terms of this Agreement. Unless stated otherwise in this Agreement, the Recipient may only claim the Funding to the extent necessary to cover Eligible Costs that have been or will be incurred by the Recipient, and the Recipient must use the Funding solely on Eligible Costs.
- 1.2 The Recipient must submit a Payment Request to [threewaters@dia.govt.nz](mailto:threewaters@dia.govt.nz) and copying in DIA's Representative and the Monitor on completion of one or more Expenditure Programme Milestones specified in the Delivery Plan. Such Payment Request must be submitted at the time specified in, and otherwise in accordance with, item 7 (Funding) in the Key Details.
- 1.3 Each Payment Request is to be signed by the Chief Executive and an authorised signatory of the Recipient and must be in the form set out in the Schedule and include the confirmations set out therein, and must include:
  - (a) the amount of Funding requested, which must not exceed the aggregate maximum Funding instalment amounts set out in the Delivery Plan for the Expenditure Programme Milestone(s) to which that Payment Request relates; and
  - (b) contain any other information required by DIA.
- 1.4 Once DIA has reviewed the Payment Request and the information enclosed with it, it will request the Recipient to provide (and the Recipient will provide) a valid GST invoice complying with the Goods and Services Tax Act 1985.
- 1.5 DIA is not required to pay any Funding in respect of a Payment Request:
  - (a) if any Expenditure Programme Milestone(s) have not been completed by the relevant "Completion Date" specified in the Delivery Plan;
  - (b) if any reports specified in the Key Details have not been provided or are not in form and substance satisfactory to DIA in its sole discretion;
  - (c) if the Conditions specified in Item 7 of the Key Details relating to that instalment have not been satisfied;
  - (d) if payment will result in the Funding exceeding the "Total Maximum Amount Payable" specified in the Key Details;
  - (e) if this Agreement has expired or been terminated; and/or
  - (f) while the Recipient is in breach of this Agreement.

For the avoidance of doubt, DIA's obligation to make Funding available under this Agreement is strictly subject to clause 6.2.

- 1.6 Subject to the terms of this Agreement, DIA must pay each valid Payment Request by the 20th day of the month after the month the GST invoice referred to in clause 1.4 is dated, and if such day is not a Business Day, on the next Business Day. DIA will pay the Funding to the Bank Account of the Recipient specified in Item 10 of the Key Details.

- 1.7 The Funding made available under this Agreement comprises grant funding and does not comprise an equity investment or loan. It is only repayable in the specific circumstances set out in this Agreement.
- 1.8 DIA may, at its discretion, notify the Recipient in writing that it wishes to enter into a GST Offset Agreement in connection with the payment of GST on any Funding. The Recipient must, where applicable, take all such steps as are reasonably required to achieve that GST offset in accordance with the Goods and Services Tax Act 1985.

## 2 RECIPIENT'S RESPONSIBILITIES

### Standards and compliance with laws

- 2.1 The Recipient must comply with all applicable laws, regulations, rules and professional codes of conduct or practice.

### Expenditure Programme(s) and Contractors

- 2.2 The Recipient must not, without DIA's prior written consent, make any Material Variation to the Expenditure Programme(s) (including its description and scope) as set out in the Delivery Plan.
- 2.3 The Recipient must ensure that the Expenditure Programme(s) are carried out:
- (a) promptly with due diligence, care and skill, and in a manner that meets or exceeds Best Industry Practice;
  - (b) by appropriately trained, qualified, experienced and supervised persons; and
  - (c) in accordance with any directions of DIA, notified by DIA in writing from time to time.
- 2.4 The Recipient must use reasonable endeavours to ensure that the Expenditure Programme Milestones are completed by the relevant "Completion Date" specified in the Delivery Plan.
- 2.5 The Recipient is responsible for the acts and omissions of any contractors and subcontractors.
- 2.6 The Recipient must ensure (and will procure that the head contractor when engaging with any other contractor ensures) that all agreements it enters into with any contractors or any other party in connection with the Expenditure Programme(s) are on an "arm's length" basis, provide value-for-money and do not give rise to any Conflict of Interest. The Recipient must provide DIA with reasonable evidence of compliance with this clause 2.6 in response to any request by DIA from time to time.

### Information Undertakings

- 2.7 The Recipient must provide DIA with the reports specified in the Key Details, in accordance with the timeframes and reporting requirements set out in the Key Details.
- 2.8 The Recipient must provide DIA with any other information about the Expenditure Programme(s) requested by DIA within the timeframe set out in the request.
- 2.9 The Recipient must promptly notify DIA if:

- (a) the Recipient (or any of its personnel or contractors) becomes aware of, or subject to, a Conflict of Interest; or
- (b) the Recipient becomes aware of any matter that could reasonably be expected to have an adverse effect on an Expenditure Programme and any related programme, or result in a Termination Event or a breach of any term of this Agreement by the Recipient,

and if requested by DIA must promptly provide DIA with its plan to mitigate and manage such Conflict of Interest or such matter.

- 2.10 The Recipient must not at any time do anything that could reasonably be expected to have an adverse effect on the reputation, good standing or goodwill of DIA or the New Zealand Government. The Recipient must keep DIA informed of any matter known to the Recipient which could reasonably be expected to have such an effect.
- 2.11 The parties acknowledge and agree that CIP (or any other Monitor) may, to the extent directed by DIA, undertake a reviewing and monitoring role under this Agreement, including by:
  - (a) reviewing and confirming satisfaction with the Delivery Plan and with the reports specified in the Key Details;
  - (b) seeking, reviewing and confirming satisfaction with further information from the Recipient; and
  - (c) making recommendations to DIA and the New Zealand Government in respect of the Funding and the Agreement.

The Recipient agrees that all its communications and correspondence under this Agreement may be made with DIA or, to the extent directed by DIA, the Monitor.

#### **Funding, records and auditors**

- 2.12 The Recipient must receive and manage all Funding in accordance with good financial management and accounting practices and to a high standard that demonstrates appropriate use of public funds.
- 2.13 The Recipient must keep full and accurate records (including accounting records) of the Expenditure Programme(s) and retain them for at least 7 years after the last payment of Funding under this Agreement. The Recipient must permit DIA (or any auditor nominated by DIA) to inspect all records relating to the Expenditure Programme(s) and must allow DIA and/or the auditor access to the Recipient's premises, systems and personnel for the purposes of this inspection. DIA shall bear any third party costs arising from such inspection, unless the inspection reveals a breach of this Agreement, in which case the Recipient shall bear such costs.

#### **Reform**

- 2.14 The Recipient agrees to work constructively together with DIA and the New Zealand Government to support the objectives of the Three Waters Reform Programme pursuant to the Memorandum of Understanding. The parties acknowledge that the undertaking set out in this clause 2.14 is intended to be non-binding.

### 3 INTELLECTUAL PROPERTY

- 3.1 DIA acknowledges that the Recipient and its licensors own all pre-existing intellectual property which they contribute to the Expenditure Programme(s), and all new intellectual property which they create in the course of the Expenditure Programme(s).
- 3.2 The Recipient grants an irrevocable, perpetual, royalty-free, sub-licensable licence to DIA and the Monitor to use all reports, documents, information and other materials created or provided by the Recipient to DIA or the Monitor under or in connection with the Expenditure Programme(s) and this Agreement.
- 3.3 The Recipient warrants that it has obtained (or will obtain, prior to creation of each relevant work) all rights and permissions necessary to enable the grant and exercise of the licence in clause 3.2 without infringing the intellectual property rights of any third party.

### 4 TERM AND TERMINATION

- 4.1 This Agreement will be effective on and from the Commencement Date, which will be the latest to occur of:
- (a) the date this Agreement has been signed by both parties; and
  - (b) the date on which DIA has provided written notice to the Recipient that the Conditions Precedent specified in the Key Details have either been satisfied (in the opinion of DIA) or waived by DIA (at its sole discretion).
- 4.2 This Agreement will remain in force until the End Date, unless terminated in accordance with this Agreement.
- 4.3 DIA can terminate this Agreement with immediate effect, by giving notice to the Recipient, at any time:
- (a) while DIA reasonably considers that the Recipient has become or is likely to become insolvent;
  - (b) while the Recipient is subject to the appointment of a liquidator, receiver, manager or similar person in respect of any of its assets or a Crown Manager or Commission is appointed in respect of the Recipient under Part 10 of the Local Government Act 2002;
  - (c) if the Expenditure Programme(s) have not commenced by 31 March 2021; or
  - (d) while any one or more of the follow events or circumstances remains unremedied:
    - (i) the Recipient is materially in breach of any obligation, or a condition or warranty, under this Agreement;
    - (ii) the Recipient has provided DIA with information in connection with or under this Agreement that (whether intentionally or not) is materially incorrect or misleading, and/or omits material information;
    - (iii) DIA reasonably considers that this Agreement or an Expenditure Programme has caused, or may cause, DIA and/or the New Zealand Government to breach any legal obligations (including its international trade obligations);
    - (iv) the Recipient abandons an Expenditure Programme;

- (v) the Recipient is involved in any intentional or reckless conduct which, in the opinion of DIA, has damaged or could damage the reputation, good standing or goodwill of DIA or the New Zealand Government, or is involved in any material misrepresentation or any fraud;
  - (vi) the Recipient (or any of its personnel or contractors) is subject to a Conflict of Interest which cannot be managed to DIA's satisfaction; or
  - (vii) any change in law, regulations or other circumstances materially affects DIA's ability to perform its obligations under this Agreement.
- 4.4 However, where DIA considers that a Termination Event set out in clause 4.3(d) can be remedied, DIA must give notice to the Recipient requesting a remedy, and must not exercise its right of termination unless the relevant event remains unremedied for at least 14 days (or any longer period agreed with the Recipient) after that notice has been provided by DIA.
- 4.5 On expiry or termination of this Agreement, where the aggregate of (a) the total Funding paid under this Agreement and (b) any other money received or allocated by the Recipient, in each case to carry out an Expenditure Programme, exceeds the amount required to perform the Expenditure Programme, the Recipient must upon request refund to DIA the excess amount.
- 4.6 At any time DIA may recover the amount of any Funding that has been spent or used other than in accordance with this Agreement, or not applied to Eligible Costs by the End Date, together with interest on all such amounts calculated at 10% per annum from the date of the mispending to the date the money is repaid.
- 4.7 Clauses 1.5, 2.1, 2.12, 2.13, 3, 4, 5, 6, 7, 8, 9, 10 and 11 survive expiry or termination of this Agreement, along with any other parts of this Agreement necessary to give effect to those provisions. Expiry or termination of this Agreement does not affect any accrued rights, including any rights in respect of a breach of this Agreement or Termination Event that occurred before expiry or termination.

## 5 WARRANTIES AND UNDERTAKINGS

- 5.1 The Recipient warrants that, in the course of its activities in connection with the Expenditure Programme(s), it will not infringe any intellectual property or other rights of any contractor or any other third party.
- 5.2 The Recipient warrants that, as at the date of this Agreement:
- (a) It has full power and authority to enter into and perform its obligations under this Agreement which, when executed, will constitute binding obligations on it in accordance with this Agreement's terms, and it has complied with the Local Government Act 2002 in entering into this Agreement;
  - (b) the Recipient is solvent and is not subject to the appointment of a liquidator, receiver, manager or similar person in respect of any of its assets or to the appointment of a Crown Manager or Commission under Part 10 of the Local Government Act 2002;
  - (c) all information and representations disclosed or made to DIA by the Recipient in connection with this Agreement are true and correct, do not omit any material matter, and are not likely to mislead or deceive DIA as to any material matter;



- (d) it has disclosed to DIA all matters known to the Recipient (relating to the Expenditure Programme(s), the Recipient or its personnel) that could reasonably be expected to have an adverse effect on the reputation, good standing or goodwill of DIA or the New Zealand Government; and
- (e) it is not aware of any material information that has not been disclosed to DIA which may, if disclosed, materially adversely affect the decision of DIA whether to provide the Funding.

5.3 The Recipient warrants that:

- (a) the Funding has been or will be applied solely to Eligible Costs; and
- (b) the Expenditure Programme(s) will take into account the parties' shared intention to:
  - (i) support economic recovery through job creation; and
  - (ii) maintain, increase and/or accelerate investment in core water infrastructure renewals and maintenance,

and such warranty will be deemed to be repeated continuously so long as this Agreement remains in effect by reference to the facts and circumstances then existing.

5.4 DIA warrants that, as at the date of this Agreement, it has full power and authority to enter into and perform its obligations under this Agreement which, when executed, will constitute binding obligations on it in accordance with this Agreement's terms.

5.5 The Recipient acknowledges that DIA has entered into this Agreement in reliance on these warranties and undertakings.

5.6 The Recipient acknowledges and agrees that DIA has made no warranty or representation that any funding or financial support is or will be available to the Recipient in respect of the Expenditure Programme(s), other than the Funding.

## 6 LIABILITY

6.1 The maximum liability of DIA under or in connection with this Agreement, whether arising in contract, tort (including negligence) or otherwise, is limited to the total amount of Funding paid or payable under this Agreement.

6.2 The Recipient undertakes to pay any and all cost overruns of the Expenditure Programme(s) and any funding shortfall, and DIA and the New Zealand Government have no obligations or responsibility whatsoever in respect of such cost overruns and funding shortfall and accept no financial risk in the Expenditure Programme(s).

6.3 DIA is not liable for any claim under or in connection with this Agreement or the Expenditure Programme(s), whether arising in contract, tort (including negligence) or otherwise, where such claim is or relates to any loss of profit, loss of revenue, loss of use, loss of reputation, loss of goodwill, loss of opportunity (in each case whether direct, indirect or consequential) or any other indirect, consequential or incidental loss or damages of any kind whatsoever.

## 7 CONFIDENTIALITY

- 7.1 Subject to clause 7.2 and 7.3, each party must keep the other party's Confidential Information in confidence, and must use or disclose that Confidential Information only to the extent necessary to perform its obligations, and/or take the intended benefit of its rights, under this Agreement. However, this will not prohibit:
- (a) either party from using or disclosing any information with the written prior consent of the other party;
  - (b) use or disclosure of information that has become generally known to the public other than through a breach of this Agreement;
  - (c) either party from disclosing information to its personnel, contractors or advisors with a need to know, so long as the relevant personnel, contractors and advisors use the information solely to enable that party to perform its obligations and/or take the intended benefit of its rights under this Agreement, and so long as they are informed of the confidential nature of the information and, in the case of the Recipient, the Recipient receives an acknowledgement from its personnel, contractors or advisors that they acknowledge, and must comply with, the confidentiality obligations in this Agreement as if they were party to it;
  - (d) disclosure required by any law, or any compulsory order or requirement issued pursuant to any law; or
  - (e) DIA from using or disclosing to any party any documents, reports or information received in relation to this Agreement, provided that prior to any such disclosure DIA removes all information that is commercially sensitive to the Recipient from the relevant work.
- 7.2 The Recipient acknowledges and agrees that nothing in this Agreement restricts DIA's ability to:
- (a) discuss, and provide all information in respect of, any matters concerning the Recipient, the Expenditure Programme(s) or this Agreement with any Minister of the Crown, the Monitor, any other government agency or any of their respective advisors;
  - (b) meet its obligations under any constitutional or parliamentary convention (or other obligation at law) of or in relation to the New Zealand Parliament, the New Zealand House of Representatives or any of its Committees, any Minister of the Crown, or the New Zealand Auditor-General, including any obligations under the Cabinet Manual including the "no surprises" principle; and
  - (c) publicise and report on the awarding of the Funding, including the Recipient's and any of its contractor's names, the amount and duration of the Funding and a brief description of the Expenditure Programme(s), on websites; in media releases; general announcements and annual reports.
- 7.3 The Recipient acknowledges that:
- (a) the contents of this Agreement (including the Delivery Plan); and
  - (b) information provided to DIA and the Monitor (including the reports specified in the Key Details),

may be official information in terms of the Official Information Act 1982 and, in line with the purpose and principles of the Official Information Act 1982, this Agreement and such information may be released to the public unless there is good reason under the Official Information Act 1982 to withhold it.

- 7.4 DIA acknowledges that the Recipient is subject to the Local Government Official Information and Meetings Act 1987 and that its confidentiality obligations under this clause 7 are subject to its compliance with that Act.

## 8 MEDIA AND COMMUNICATIONS

- 8.1 Before making any media statements or press releases (including social media posts) regarding this Agreement and/or DIA's involvement with the Expenditure Programme(s), the Recipient will consult with DIA, and will obtain DIA's prior approval to any such statements or releases.
- 8.2 The Recipient will refer any enquiries from the media or any other person about the terms or performance of this Agreement to DIA's Representative.
- 8.3 The Recipient will acknowledge the New Zealand Government as a source of funding in all publications (including any digital presence) and publicity regarding the Expenditure Programme(s) in accordance with funding acknowledgement guidelines agreed with DIA. The Recipient must obtain DIA's approval of the form and wording of the acknowledgement prior to including the acknowledgement in the publication or publicity (as the case may be).
- 8.4 The Recipient does not have the right to enter into any commitment, contract or agreement on behalf of DIA or any associated body, or to make any public statement or comment on behalf of DIA or the New Zealand Government.
- 8.5 All correspondence with DIA under this clause 8 must be directed to DIA's Representative and copied to [threewaters@dia.govt.nz](mailto:threewaters@dia.govt.nz) and the Monitor.

## 9 DISPUTES

- 9.1 In the event of any dispute, controversy or claim arising out of or in connection with this Agreement, or in relation to any question regarding its existence, breach, termination or invalidity (in each case, a **Dispute**), either party may give written notice to the other specifying the nature of the Dispute and requesting discussions under this clause 9 (**Dispute Notice**). As soon as reasonably practicable following receipt of a Dispute Notice, the parties must meet (in person, or by audio or video conference) and endeavour to resolve the Dispute by discussion, negotiation and agreement.
- 9.2 If the matter cannot be amicably settled within 20 Business Days after the date of the Dispute Notice then, at the request in writing of either party, the matter in respect of which the Dispute has arisen must be submitted, together with a report describing the nature of such matter, to the Representatives (or, if no such Representatives have been appointed, the respective Chief Executives of the parties) (together the **Dispute Representatives**).
- 9.3 Within 20 Business Days after the receipt of a request under clause 9.2, one individual (who does not act in his or her professional capacity as legal counsel for either party) selected by each of the Dispute Representatives, must make a presentation of no longer than 30 minutes to each of the Dispute Representatives (which may be by telephone or remotely), who will then attempt in good faith to reach a common decision within a half-day. The decision of the Dispute Representatives is binding on the parties.

- 9.4 In the case of a Dispute, if the Dispute Representatives have not met within 20 Business Days of receiving a request in accordance with clause 9.2, or if they fail to reach a common decision within the stated time period, either party may by notice in writing to the other party refer the Dispute to be referred to mediation before a single mediator appointed by the parties. Each party will bear its own costs of mediation and the costs of the mediator will be divided evenly between the parties.
- 9.5 If the parties are unable to agree on the appointment of a mediator within 5 Business Days of the notice requiring the Dispute to be referred to mediation, a mediator may be appointed at the request of any party by the Arbitrators' and Mediators' Institute of New Zealand Inc.
- 9.6 If the Dispute is not resolved within 20 Business Days of referral to mediation, the parties may commence court proceedings without further participation in any mediation.
- 9.7 Nothing in this clause 9 will prevent either party from seeking urgent interim relief from a court (or other tribunal) of competent jurisdiction.

## 10 REPRESENTATIVES

- 10.1 All matters or enquiries regarding this Agreement must be directed to each party's Representative (set out in the Key Details).
- 10.2 Each party may from time to time change the person designated as its Representative on 10 Business Days' written notice to the other Party. Any such change will also take effect as a change of the relevant Representative for the purposes of the Memorandum of Understanding.

## 11 GENERAL

- 11.1 Each notice or other communication given under this Agreement (each a **notice**) must be in writing and delivered personally or sent by post or email to the address of the relevant party set out in the Key Details or to any other address from time to time designated for that purpose by at least 10 Business Days' prior written notice to the other party. A notice under this Agreement is deemed to be received if:
- (a) **Delivery:** delivered personally, when delivered;
  - (b) **Post:** posted, 5 Business Days after posting or, in the case of international post, 7 Business Days after posting; and
  - (c) **Email:** sent by email:
    - (i) If sent between the hours of 9am and 5pm (local time) on a Business Day, at the time of transmission; or
    - (ii) If subclause (i) does not apply, at 9am (local time) on the Business Day most immediately after the time of sending,

provided that an email is not deemed received unless (if receipt is disputed) the party giving notice produces a printed copy of the email which evidences that the email was sent to the email address of the party given notice.
- 11.2 The Recipient agrees to execute and deliver any documents and to do all things as may be required by DIA to obtain the full benefit of this Agreement according to its true intent.

- 11.3 No legal partnership, employer-employee, principal-agent or joint venture relationship is created or evidenced by this Agreement.
- 11.4 This Agreement constitutes the sole and entire understanding with respect to the subject matter hereof and supersedes all prior discussions, representations and understandings, written or oral.
- 11.5 No amendment to this Agreement will be effective unless agreed in writing and signed by both parties.
- 11.6 The Recipient may not assign or transfer any of its contractual rights or obligations under this Agreement, except with DIA's prior written approval.
- 11.7 DIA may assign or transfer any of its contractual rights or obligations under this Agreement without the Recipient's prior approval. DIA may at any time disclose to a proposed assignee or transferee any information which relates to, or was provided in connection with, the Recipient, the Expenditure Programme(s) or this Agreement.
- 11.8 No failure, delay or indulgence by any party in exercising any power or right conferred on that party by this Agreement shall operate as a waiver. A single exercise of any of those powers or rights does not preclude further exercises of those powers or rights or the exercise of any other powers or rights.
- 11.9 The exercise by a party of any express right set out in this Agreement is without prejudice to any other rights, powers or remedies available to a party in contract, at law or in equity, including any rights, powers or remedies which would be available if the express rights were not set out in this Agreement.
- 11.10 This Agreement is not intended to confer any benefit on or create any obligation enforceable at the suit of any person not a party to this Agreement.
- 11.11 Any provision of this Agreement that is invalid or unenforceable will be deemed deleted, and will not affect the other provisions of this Agreement, all of which remain in force to the extent permitted by law, subject to any modifications made necessary by the deletion of the invalid or unenforceable provision.
- 11.12 This Agreement is to be governed by the laws of New Zealand, and the parties submit to the non-exclusive jurisdiction of the courts of New Zealand.
- 11.13 This Agreement may be executed in any number of counterparts (including duly electronically signed, scanned and emailed copies). So long as each party has received a counterpart signed by each of the other parties, the counterparts together shall constitute a binding and enforceable agreement. This Agreement is intended to constitute a binding and enforceable agreement in accordance with its terms.

*END OF PART 2*

## PART 3: DEFINITIONS AND CONSTRUCTION

**Defined terms**

In this Agreement, unless the context requires otherwise, terms defined in the Agreement have the meaning set out therein and:

*Authorisation* means:

- (a) any consent, authorisation, registration, filing, lodgement, agreement, notarisation, certificate, permission, licence, approval, authority or exemption from, by or with a governmental agency or required by any law (including any consent under the Resource Management Act 1991); or
- (b) in relation to anything which will be fully or partly prohibited or restricted by law if a governmental agency intervenes or acts in any way within a specified period after lodgement, filing, registration or notification, the expiry of that period without intervention or action.

*Best Industry Practice* means that degree of skill, care and foresight and operating practice that would reasonably and ordinarily be expected of a skilled and competent supplier of services engaged in the same type of undertaking as that of the Recipient or any contractors (as applicable) under the same or similar circumstances as those contemplated by this Agreement.

*Business Day* means any day other than a Saturday, Sunday or public holiday within the meaning of section 44 of the Holidays Act 2003.

*Commencement Date* has the meaning given in clause 4.1 of Part 2.

*Completion Date* is the date that the relevant Expenditure Programme Milestone is to be completed by the Recipient, described in the Delivery Plan, and includes any amendment to the date which may be agreed in writing (including by email but only when DIA's Representative expressly confirms in writing

that they have received approval of the change from the correct DIA delegation holder) between the parties from time to time.

*Conditions* means the conditions to the payment of a Funding instalment as specified in Item 7 of the Key Details.

*Confidential Information* of a party (Owner), means any information in the possession or control of another party (Holder) that:

- (a) was originally acquired by the Holder in connection with this Agreement through disclosures made by or at the request of the Owner; and/or
- (b) was originally acquired by the Holder in connection with this Agreement through any access to, or viewing, inspection or evaluation of, the premises, facilities, documents, systems or other assets owned or controlled by the Owner; and/or
- (c) is derived from information of a kind described in paragraph (a) or (b) above;

but excludes any information which the Holder can show:

- (d) was lawfully acquired by the Holder, entirely independently of its activities in connection with this Agreement, and is free of any other obligation of confidence owed to the Owner; and/or
- (e) has been independently developed by the Holder without reference to the Owner's Confidential Information, and without breaching any other obligation of confidence owed to the Owner.

Notwithstanding the foregoing, the terms of this Agreement (excluding the Delivery Plan) are not Confidential Information.

*Conflict of Interest* means any matter, circumstance, interest or activity of the Recipient, its personnel or contractors, or any other person with whom the Recipient has a relationship that:

- (a) conflicts with:
  - (i) the obligations of the Recipient (or its personnel or contractors) to DIA under this Agreement; or
  - (ii) the interests of the Recipient in relation to this Agreement and/or the procuring of the Expenditure Programme(s); or
- (b) otherwise impairs or might appear to impair the ability of the Recipient (or any of its personnel or contractors) to diligently and independently carry out the Expenditure Programme(s) in accordance with this Agreement.

*Delivery Plan* means the delivery plan setting out the scope of the Expenditure Programme(s) to which Funding is to be applied, based on the template provided by and in the form approved by DIA and executed by DIA and the Recipient.

*Eligible Costs* means the actual costs that have been or will be reasonably incurred by the Recipient on or after the Commencement Date and no later than the End Date to deliver an Expenditure Programme in accordance with the Delivery Plan.

*Expenditure Programme Milestone* means, in respect of an Expenditure Programme, a milestone for that Expenditure Programme, as set out in the Delivery Plan.

*Funding* means the funding or any part of the funding (as the context requires) payable by DIA to the Recipient in accordance with the terms of this Agreement, as described in the Key Details.

*GST Offset Agreement* means a deed of assignment between DIA as Assignor and the Recipient as Assignee providing for the offset of the amount of GST in accordance with the Goods and Services Tax Act 1985.

*Key Details* means Part 1 of this Agreement.

*Memorandum of Understanding* means the memorandum of understanding relating to Three Waters Services Reform between DIA

and the Recipient, in the form provided by DIA.

*Material Variation* means, in respect of an Expenditure Programme, any variation which on its own or together with any other variation or variations results in, or is likely to result in the budgeted expenditure (taking into account all variations) being exceeded or an Expenditure Programme being materially delayed, or any variation that materially amends the scope, specifications or function of an Expenditure Programme.

*Monitor* means CIP, or any other entity appointed by DIA in its sole discretion to assist in managing the Funding by undertaking a monitoring role.

*Payment Request* means a request submitted to DIA by the Recipient seeking payment of Funding substantially in the form set out in the Schedule to this Agreement.

*Quarter* means a financial quarter, being a three monthly period ending on 30 June, 30 September, 31 December or 31 March.

*Termination Event* means any one or more of the events or circumstances set out in clause 4.3.

#### **Construction**

In the construction of this Agreement, unless the context requires otherwise:

*Currency:* a reference to any monetary amount is to New Zealand currency;

*Defined Terms:* words or phrases appearing in this Agreement with capitalised initial letters are defined terms and have the meanings given to them in this Agreement;

*Documents:* a reference to any document, including this Agreement, includes a reference to that document as amended or replaced from time to time;

*Inclusions:* a reference to "includes" is a reference to "includes without limitation", and "include", "included" and "including" have corresponding meanings;

*Joint and Several Liability:* any provision of this Agreement to be performed or observed by two or more persons binds those persons jointly and severally;

*Parties:* a reference to a party to this Agreement or any other document includes that party's personal representatives/successors and permitted assigns;

*Person:* a reference to a person includes a corporation sole and also a body of persons, whether corporate or unincorporate;

*Precedence :* if there is any conflict between the different parts of this Agreement, then unless specifically stated otherwise, the Key Details will prevail over Part 2, and Part 2 will prevail over the Delivery Plan;

*Precedence with Memorandum of Understanding:* if there is any conflict

between this Agreement and the Memorandum of Understanding, then unless specifically stated otherwise, this Agreement will prevail;

*Related Terms:* where a word or expression is defined in this Agreement, other parts of speech and grammatical forms of that word or expression have corresponding meanings;

*Statutes and Regulations:* a reference to an enactment or any regulations is a reference to that enactment or those regulations as amended, or to any enactment or regulations substituted for that enactment or those regulations;

*Writing:* a reference to "written" or "in writing" includes email and any commonly used electronic document format such as .DOC or .PDF.

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END OF PART 3



**SCHEDULE: PAYMENT REQUEST**

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To: DEPARTMENT OF INTERNAL AFFAIRS

Dated: [•]

**PAYMENT REQUEST**

1. We refer to the Funding Agreement dated [•] 2020 between [•] as recipient (**Recipient**) and the Department of Internal Affairs (**DIA**) (the **Agreement**). Terms defined in the Agreement have the same meaning in this Payment Request.
2. This is a Payment Request for the purpose of clauses 1.2 and 1.3 of the Agreement.
3. Each of the Expenditure Programme Milestones that have been completed are:  
  
*[insert description of each of Expenditure Programme Milestones completed, including the date of completion]*
4. The amount of Funding requested is \$[•] plus GST if any.
5. The Funding requested in this Payment Request has been or will be required to meet the Eligible Costs.
6. We enclose with this Payment Request:
  - (a) a breakdown / total transaction listing of total Eligible Costs that have been or will be incurred to deliver the completed Expenditure Programme Milestone(s);
  - (b) the conditions to the applicable Expenditure Programme Milestone(s) as set out in the Funding Agreement and the Delivery Plan;
  - (c) a quarterly report; and *\*Note: (c) is not applicable for the first Payment Request, or where DIA has agreed under item 7 of the Key Terms that a Payment Request does not need to be provided alongside a quarterly report*
  - (d) any other reasonable information or evidence requested by DIA or the Monitor in relation to Eligible Costs that have been incurred or will be incurred.
7. We confirm that:
  - (a) no Termination Event is subsisting; and
  - (b) each of the warranties set out in the Agreement are correct as at the date of this Payment Request.

By and on behalf of the Recipient by

NAME OF RECIPIENT

\_\_\_\_\_  
Chief Executive\_\_\_\_\_  
Authorised Officer

## Our advice

**Prepared for** SOLGM  
**Prepared by** Jonathan Salter and Lizzy Wiessing  
**Date** 31 July 2020

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### Three waters services reform MOU - no explicit triggers for consultation before territorial authorities sign

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- |                   |   |
|-------------------|---|
| <b>Background</b> | <ol style="list-style-type: none"> <li>1. You have asked us to prepare advice to be circulated to territorial authorities with the draft memorandum of understanding for three water services reform (<b>MOU</b>).</li> <li>2. Our advice proceeds on the presumption that councils will enter into the MOU after their annual plan for 2020/21 has been adopted.</li> </ol>  |
| <b>Question</b>   | <ol style="list-style-type: none"> <li>3. Do territorial authorities need to consult their community before entering into the MOU?</li> </ol>   |
| <b>Answer</b>     | <ol style="list-style-type: none"> <li>4. Generally, no. There are no explicit triggers for consultation before entering into the MOU. The decision to enter into it is of course subject to the general requirements relating to decision-making in Part 6 of the Local Government Act 2002 (<b>LGA 02</b>). If councils consider they do not have a reasonable understanding of community views in relation to the commitments arising from the MOU then they could choose to consult their communities about the decision. We expect this will be the exception not the norm.</li> <li>5. Certain choices made subsequently as to what projects to advance or steps to take might trigger consultation requirements at that time.</li> </ol> |

Our reasons

		Page
<b>Summary</b>	<ul style="list-style-type: none"> <li>The obligations assumed on upon entry into the MOU do not trigger any explicit requirements to consult in the LGA 02. 2</li> <li>The decision is subject to the general requirements relating to decision-making in Part 6 of the LGA 02, meaning local authorities may choose to consult. 3</li> <li>Subsequent decisions relating to either the reform or projects/funding aspects may trigger consultation requirements at that time. 3-4</li> </ul>	
<b>The obligations assumed upon entry into the MOU have no explicit consultation triggers</b>	<ol style="list-style-type: none"> <li>The key commitment in the MOU is to working constructively together to support the objectives of the the three waters service delivery reform programme (page 3). The MOU contains objectives that will underpin the reform programme and inform the development of reform options/proposals and core reform design features (pages 3 and 4). We refer to this as the reform commitment.</li> <li>It is fundamental to the reform commitment that there is acknowledgement by both parties to the MOU that there are challenges facing the delivery of water services and infrastructure and the communities that fund and rely on those services, that are in need of solutions. These challenges are set out in summary form in the Background section. This section also makes it clear that the reform process and stimulus funding proposed by government is designed to support economic recovery post COVID-19 and address persistent systemic issues facing the three waters sector through a combination of: <ul style="list-style-type: none"> <li>Stimulation investment, to assist economic recovery through job creation and maintain investment in water infrastructure renewals and maintenance; and</li> <li>Reforming current water service delivery, into larger scale providers, to realise significant economic, public health, environmental, and other benefits over the medium to long term.</li> </ul> </li> <li>The Background refers to a shared understanding that a partnership approach will best support the wider community and ensure that the transition to any eventual new arrangements is well managed and as smooth as possible. This partnership approach is set out more fully in the section “Principles for Working Together” as a relationship based on mutual trust and respect, openness, non-adversarial dealings and constructive problem-solving, co-operation and information sharing. As principles to underpin dealings between local authorities and the Crown, these are uncontroversial.</li> </ol>	

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9. The reform objectives which “inform the development of reform options/proposals” are similarly self-evident with the possible exception of the objective of:

“Improving the co-ordination of resources, planning, and unlocking strategic opportunities to consider New Zealand’s infrastructure and environmental needs at a larger scale.”

10. This is offset to some extent by the objective of “undertaking the reform in a manner that enables local government to further enhance the way in which it can deliver on its broader “wellbeing mandates” as set out in the Local Government Act 2002.”
11. The parties to the MOU agree to consider minimum design features which include water service delivery entities of significant scale (most likely multi-regional) to enable benefits from aggregation to be achieved over the medium to long-term, structured as statutory entities.
12. Funding from central government to councils is available in three tranches. Tranche one funding will be provided following entry into the MOU and agreement to an associated funding agreement and delivery plan. The delivery plan will need to show that the funding is to be applied to opex or capex that supports economic recovery through job creation and maintains, increases or accelerates investment in core water infrastructure renewals and maintenance (page 5). The funding cannot be applied to projects already in a council’s annual plan. We refer to this as the projects commitment.
13. The MOU is effective from the date of signing until 30 June 2021, unless terminated earlier or extended.
14. Neither the reform commitment nor projects commitments bind councils to specific three waters projects. Rather, councils are committing to participate in a reform process looking at changes to three waters delivery and identify possible projects that are eligible for funding. The obligations are exploratory/investigative in nature.
15. The MOU cannot, and does not, supplant the planning, accountability and associated consultation obligations of local authorities in the LGA 02. These continue to apply when there is a relevant trigger.
16. Decisions on three waters projects are the likely outcome of the reform process and funding provided, after participation in the process, after entry into the MOU. The consultation can be undertaken at that time.

**The decision to enter the MOU is subject to the Part 6 LGA 02 decision-making obligations –**

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17. Whether or not to enter into the MOU will be at councils’ discretion. As a decision, the decision will be subject to the general decision-making obligations in Part 6 of the LGA 02.
18. The Part 6 LGA 02 obligations include the section 78 obligation to consider the views and preferences of interested and affected
-

these do not strongly indicate that consultation is required

persons when making this decision, and determine whether consultation is needed or appropriate in order to identify those views and preferences.

19. This determination as to extent of compliance with section 78 will be a judgement for each council to make under section 79, and will depend in part on the particular council's significance and engagement policy (**SEP**), and its 2020/21 annual plan and current LTP.
20. The availability of Crown funding for core water infrastructure (at an amount disclosed before the MOU is entered into) is a unique opportunity to relieve local funding pressures that councils might reasonably expect their communities to support. The associated commitment to cooperate in a consideration of structural water reform is a subject on which councils may have limited understanding of community views. However, the exploratory/investigative nature of the reform commitment and the express provision in the MOU that it does not give rise to legally enforceable obligations, suggest the ready application of section 79(2) as a justification for not undertaking specific community engagement at this time.
21. Councils should check out of an abundance of caution that their SEP does not indicate a need to consult before entering the MOU. We expect it to be very unlikely that many policies will indicate consultation is required, including because of the nature of the obligations assumed upon entry into the MOU and that the decision is not irrevocable. Also potentially relevant is that the timeframes imposed by central government do not permit sufficient time to consult.
22. If councils enter into the MOU, they may want to consult subsequently on whether to continue their support of reform. LTP consultation in 2021 would be the obvious opportunity, and would provide timely information about whether to participate in tranche two.

Consultation triggers for decisions on three waters reform (post entry into the MOU)

23. Some specific LGA 02 consultation triggers that may be relevant to decisions on three waters reform (after participation in the reform process in the MOU) are:
  - 23.1 **Section 56** – councils must consult before becoming a shareholder in a council controlled organisation (**CCO**). If the reformed service delivery approach leads to councils being shareholders in new multi-regional providers (which seem likely to be CCOs), then section 56 may be triggered.
  - 23.2 **Section 97(1)(b)** – if the reformed delivery approach amounts to a “decision to transfer the ownership or control of a strategic asset to or from the local authority”, then it would be necessary to amend the council's LTP to explicitly provide for this decision, which requires consultation under section 93E. Water network assets are almost always listed as a strategic asset in SEPs.

**Consultation triggers for decisions on three waters projects (post entry into the MOU)**

23.3 **Section 137(3)(a)** – councils must consult before entering into a “joint arrangement”, which is an arrangement between a council and another party “for the purpose of providing water services or any aspect of a water service”. This trigger may be remote, particularly if central government in providing funding is not also seeking to provide any aspect of a water service.<sup>1</sup>

24. One specific consultation trigger that needs to be considered is section 97(1)(a) of the LGA 02. If the projects being funded would significantly alter levels of service for three waters activities, then it would be necessary to amend the council's LTP to explicitly provide for this decision, which requires consultation under section 93E.
25. It will depend on particular councils' LTPs, but this trigger can likely be avoided by councils selecting appropriate projects. (This was generally achieved by councils as they responded to the impacts of COVID-19 during the annual plan process for 2020/21).
26. Leaving aside section 97(1)(a), section 78 will still be relevant. It should be reasonably safe for councils to not consult to address section 78 where projects are brought forward from future work programmes and the combined effect of these projects is not a significant or material variation from the 2020/21 annual plan or LTP.
27. As to whether the combined effect of projects brought forward is a significant or material variation from the 2020/21 annual plan or LTP will depend on the degree to which the projects are already provided for in the annual plan or LTP and what, if any, financial impact there may be on the particular council. If projects are already provided for in the infrastructure strategy (in the LTP) and they can be entirely funded from central government (meaning no negative financial impact on the council), it seems very unlikely that there will be a significant or material variation from the annual plan or LTP of any consequence to the community. On this basis, consultation is unlikely to be indicated.
28. Strictly, the provision of central government funding could create a material change to revenue commitments (even if it is downward rather than upward) that reflect in a change to financial statements included in an annual plan, that, given the degree of change, could be expected to be consulted on before being adopted. Councils encountered similar issues in preparing their annual plans to respond to COVID-19 where different funding sources (for example borrowing or reserve funds) have had to be employed from what was anticipated. These decisions tended to be made without further consultation if the council assessed that it did not affect levels of service with reference to section 97 or was within the scope of rate change consulted on. In the current circumstances, we consider that the fact that the change is not detrimental lessens the risk of not consulting and (having occurred after the annual plan has been

<sup>1</sup> Section 17A requires periodic reviews of service delivery, but this section in itself does not contain a trigger for consultation.

adopted) makes it something that is duly reported on in the annual report and treated as an operating surplus.

29. We note that councils are not absolutely bound by their plans or policies (under sections 96 and 80), but this does not remove the need to assess whether consultation is appropriate when departing from them. Consistency with plans and policies is often a criterion for significance in SEPs. Where consultation does not occur, relevant statutory compliance will likely include disclosure in the annual report, and perhaps resolving in accordance with section 80 (where the departure from the annual plan is significant).

**Please call or  
email to discuss  
any aspect of this  
advice**

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**Appendix D – Information on Joint Three Waters Steering Committee**

- The Joint Three Waters Steering Committee has been established to provide oversight and guidance to support progress towards reform, and to assist in engaging with local government, iwi/Māori and other water sector stakeholders on options and proposals.
- The Steering Committee comprises independent chair Brian Hanna, local government mayors, chairs and chief executives, representatives of Local Government New Zealand (LGNZ) and the Society of Local Government Managers (SOLGM), and officials and advisors from the Department of Internal Affairs (DIA), Taumata Arowai, and the Treasury.
- The Steering Committee will ensure that the perspectives, interests and expertise of both central and local government, and of communities throughout New Zealand are considered, while the challenges facing water services and infrastructure are addressed. This will include periods of engagement, in the first instance with the local government sector. an overview is provided below.
- The Steering Committee is supported by a secretariat made up of advisors and officials from LGNZ, SOLGM, DIA and the Treasury. This secretariat is hosted by DIA.
- The terms of reference for the Steering Committee is available on the DIA Three Waters website.



### Appendix E – Hypothetical scenario for agreeing regional funding allocation

*The following is a hypothetical, worked example of how the funding allocation approach could work for a mythical Council and region*

This is for Monkchester City Council in the Bernicia Region of New Zealand. Monkchester is a small city with a population of 80,000 in a region of 140,000. The rest of the Region is made up by Bidchester with 30,000 residents and Smithchester with 30,000 residents.

The notional funding allocated for the Bernicia Region, based on the national formula, is set out in Table 1.

**Table 1 Funding Allocation for Bernicia Regional**

Area	Direct council allocations \$ Millions	Regional allocation \$ Millions
Monkchester	5	10 (to be allocated to territorial authorities by agreement through a regional process)
Bidchester	2.5	
Smithchester	2.5	
Bernicia Region	10	
Total direct and regional allocation	20	

Council officers looked at a range of projects as candidates for the stimulus funding:

- An unsuccessful bid for the 'Shovel Ready' programme
- Projects the Long-Term Plan
- Accelerating planned maintenance, renewals and renewals upgrades
- A new project.

Projects already fully-funded in the Annual Plan were excluded for obvious reasons.

A discussion was also held at regional level to agree how to allocate the regional element of funding. Three options were considered:

- Discuss regional priorities and then allocate the monies based on the formula the Government used, as recommended by the Steering Committee.
- Discuss regional priorities and allocate the money in three equal shares.

- Allocate all the regional money to a single project of regional importance.

After two meetings the Mayors and Chief Executives agreed two regional priorities for accelerating renewals and improving resilience for earthquakes. They decided against pursuing a new regional project because it required considerable preparatory work, design work, consents and a procurement programme. This would mean in practice a 4-year timescale and high risks and this would not meet the economic stimulus objective.

They also agreed to allocate the regional fund to territorial authorities using the Government's formula. This means Monkchester's overall allocation is \$10 Million.

The criteria used to identify the best use of the investment were – priority for water and wastewater services, speed of delivery, job creation in the City and the risk profile of the project. An analysis of the candidates is set out below in Table 2.

**Table 2 Analysis of the Project Options**

Project	Speed	Job Implications	Risk	Alignment with Regional Priorities	Overall Score
Shovel Ready project – new water treatment plant	Low as it requires resource and building consents and procurement. Overall a 3 year project.	Medium, creates 50 jobs directly	High, especially in an overheated construction market with extreme volatility	Low	4 out of 10
Upgrade of wastewater treatment plant from year 3 of LTP	Medium as it requires building consent and fresh procurement. Overall a 2-year project.	Medium, creates 50 jobs	Medium	High	6 out of 10

## MEMORANDUM

**TO:** Council

**MEETING DATE:** 26 August 2020

**TITLE:** Delegation to New Zealand Transport Agency (NZTA) to Issue Permits

**PRESENTED BY:** Robert van Bentum, Manager - Transport and Infrastructure

**APPROVED BY:** Tom Williams, Chief Infrastructure Officer

### RECOMMENDATIONS TO COUNCIL

1. That the report titled Delegations to New Zealand Transport Agency (NZTA) to Issue Permits dated 26 August 2020 be received.
2. That Council – pursuant to clause 32(5) of Schedule 7 of the Local Government Act 2002 – delegates to the NZ Transport Agency the authority to issue overweight permits in respect of the Land Transport Act: Vehicle Dimensions and Mass 2016 on behalf of Council for local roads as set out in the report ‘Delegation to NZTA to Issue Permits’ dated 5 August 2020.
3. That Council authorises the Chief Executive to sign the Delegation Memorandum of Understanding for issuing overweight permits included as Attachment 1 to this report.
4. That Council – pursuant to clause 32(5) of Schedule 7 of the Local Government Act 2002 – delegates to the NZ Transport Agency the authority to issue HPMV permits in respect of the Land Transport Act: Vehicle Dimensions and Mass 2016 on behalf of Council for local roads as set out in the report ‘Delegation to NZTA to Issue Permits’ dated 5 August 2020.
5. That Council authorises the Chief Executive to sign the Delegation Memorandum of Understanding for issuing HPMV permits included as Attachment 2 to this report.

### 1. PURPOSE OF REPORT

- 1.1 Vehicles travelling on New Zealand roads must be within certain size and weight limits. This is so they can be accommodated on the road safely and they can traverse under or over bridges safely without causing damage to the asset.
- 1.2 The maximum size and weight dimensions for vehicles are set out in the Land Transport Rule: Vehicle Dimensions and Mass 2016. The vehicle dimension and mass

permitting manual (the VDM manual) details NZTA's policies, standards, processes and procedures for the permitting of vehicles exceeding standard dimension and mass limits, to be followed by both the NZTA and Councils as Road Controlling Authorities.

- 1.3 The responsibility for permitting management of vehicles which exceed standard weight and dimensions on the roading network is shared between NZTA and Palmerston North City Council (PNCC) depending on the type of permit and impact on the network.
- 1.4 NZTA has developed a comprehensive permitting system which uses data on the condition of the network and strength of bridges and structures to efficiently determine the appropriate route and weight or dimension limits. NZTA has encouraged local councils as Road Controlling Authorities to delegate their responsibility for issuing permits over their local roading networks.
- 1.5 PNCC has previously delegated to NZTA responsibility for one class of permit and this report seeks Palmerston North City Council (Council's) approval to delegate two further classes of permit required under the Land Transport Rule to the New Zealand Transport Agency (NZTA).

## 2. BACKGROUND

- 2.1 Sometimes, larger or heavier vehicles need to use the road. These could include farm vehicles or vehicles used in house relocation, or an operator may wish to use larger or heavier vehicles to achieve more efficient transportation of freight. In these cases, it is likely that additional requirements may apply to their travel, and a permit needs to be obtained. The purpose of permitting heavy commercial vehicles is to ensure that these movements don't pose a risk to other road users or damage road infrastructure and capable vehicles are used.
- 2.2 Historically there have been two types of permits for vehicles exceeding the standard maximum vehicle size i.e.
  - over dimension permits for vehicles exceeding maximum width, height and/or length (e.g. house or wind turbine) and
  - overweight permits for vehicles or loads exceeding the current maximum standard weight limits (e.g. mobile crane)
- 2.3 In 2010, government introduced a new category of heavier and slightly longer vehicle to provide opportunities for freight companies to increase the loads and volumes of freight carried, so reducing the number of trips and the cost of freight. This class of vehicles was called High Productivity Motor Vehicles (HPMV) and three specific permits were created to support this change. HPMV vehicles cannot exceed

62 tonnes, 25 m in length and must confirm to maximum axle weights and width and height restrictions of standard maximum vehicle size.

2.4 There are now 6 types of permits issued under the VDAM manual:

- Over dimension permits – loads which exceed maximum vehicle height, width or length
- Overweight Permits – loads which exceed the total maximum permitted weight or individually permitted axle loadings
- HPMV – over-length – specific sub-category for extra-long vehicles under HPMV to travel anywhere in the network
- HPMV – 50 Max Permits – specific sub-category to a set of approved combinations with weights up to 50 tonnes maximum to travel on the specific network
- HPMV – High Mass Permits – specific category of permits created in 2010 to permit some overweight and over-length vehicles to travel on specific routes with the following restrictions:
  - Additional length does not exceed 25m
  - Weight does not exceed 58 to 62 tonnes depending on number of axles
  - Specific axles loads do not exceed standard maximums
  - Vehicles travel on a specific route and
  - Vehicles displays yellow H symbol
- Specialist Vehicle Permits- enables buses, concrete trucks, garbage trucks and ground spreaders to exceed standard weights

2.5 Council is the Road Controlling Authority (RCA) in respect of roads under its control while NZTA is the RCA for the State Highway Network. Currently permitting arrangements for the various permits are as follows:

- Over dimension permits – issued by NZTA for the entire State Highway and local authority network
- Overweight permits – issued by NZTA for State Highway and PNCC for local network (any trip is likely to require 2 permits)
- HPMV – over-length – (HPMV over-length) issued by NZTA for the entire State Highway and local authority network

- HPMV – 50max permits (HPMV 50max) – issued by NZTA for the entire network following earlier delegation by PNCC of responsibility for the local network
  - HPMV – High Mass permits (HPMV) – issued by NZTA for State Highway and PNCC for local network (any trip is likely to require 2 permits)
- 2.6 Over-dimension permits and HPMV over length permits must be issued by NZTA regardless of the network. Overweight permits, HPMV 50 max (50 max) and HPMV higher mass (HPMV) permits are issued by the relevant RCA (NZTA/Council). However local RCAs can delegate the issuing of Overweight, HPMV 50 max and HPMV higher mass (HPMV) permits to NZTA if it so desires.

### 3. PROPOSAL

- 3.1 The issuing of permits for heavy and over-dimension vehicles can be complicated for operators given that they may need to apply to multiple agencies for permits to transit across multiple networks. Currently while for over-dimension loads, NZTA can issue permits for an entire journey this is not possible for over-weight vehicles.
- 3.2 HPMV permits are route specific permits, which means that operators are not permitted to use routes where structures have been identified that have weight restrictions. Issuing permits requires that the permitting authority has access to good data about the condition of structures and pavements so that permits can be safely issued in the knowledge that the network is protected. The NZTA RAMM database provides the source for this robust information.
- 3.3 The Council and NZTA agree that it would be simpler for customers if they were only required to deal with one agency. This would also be more cost effective and efficient for processing.
- 3.4 Currently PNCC process Overweight and HPMV permits for all vehicles travelling on the local road network. Typically, Council staff process anything up to 10 permits per week or 500 annually. The time taken to process the permits varies but can range from 1 to 3 hours per permit. Council charge applicants for the issuing of permits based on a schedule of charges set by statute with fixed charges ranging from \$9.90 to \$54.55 per permit depending on whether the permit is for a single trip for multiple trips within a year.
- 3.5 Based on an internal charge out rate for staff time of \$200/hr the estimated cost to Council is approximately \$200 per permit allowing for the NZTA subsidy of 51%. The net cost to Council allowing for the fees charged is an operational cost. In addition, the permit processing ties up design staff time which could be utilised for other design work. Delegating permit processing to NZTA will enable in a saving in operating expenditure and the reallocation of approximately 0.2 Full Time Equivalent

(FTE) in staff resource to complete design work, currently being undertaken by external consultants.

- 3.6 Officers have confirmed that the obligation to process the permits can be delegated to NZTA. While it is likely that the original drivers around managing permit processing in-house would have been to better manage and protect the network, Officers consider that the risk to the network of delegating this role to NZTA is low provided PNCC maintain up to date records in RAMM of all critical structures and routes to inform any permit process. There is also a precedent in that issuing of HPMV -50 max permits has already been delegated by PNCC to NZTA.
- 3.7 To facilitate the delegation of permit processing, NZTA has provided two draft Memorandums of Understanding (MoUs) of which one covers the delegation from Council to NZTA to issue overweight permits (attachment 1) and the other covers the issuing of HPMV (higher mass) permits (attachment 2) on behalf of Council.
- 3.8 It is proposed that Council delegates the authority to issue Overweight and HPMV permits as set out in the MoUs to NZTA.

#### 4. CONSIDERATIONS

- 4.1 Pursuant to clause 32(5) of Schedule 7 of the Local Government Act 2002 Council may delegate the enforcement, inspection, licencing, and administration related to bylaws and other regulatory matters to any other local authority, organisation or person.
- 4.2 Council has delegated to the Chief Executive the authority to make any decisions in respect of the Land Transport Act (and any regulations or Land Transport Rules including the VDAM rule). The Chief Executive has also been delegated the authority to sub-delegate to officers but not to other local authorities, organisations or persons.
- 4.3 Therefore, it is recommended that Council resolves to delegate the authority to issue 50 max and HPMV under the Land Transport Rule: Vehicle Dimensions and mass 2016 to NZTA.
- 4.4 For the purpose of signing the MoUs it is recommended that Council authorises the Chief Executive to sign the MoUs on Council's behalf, to provide for any minor amendments to the MOUs recommended by Council's legal advisers.

## 5. FINANCIAL CONSIDERATIONS

- 5.1 Delegating the authority to issue these permits to NZTA means that NZTA will be responsible for all costs associated with processing these permits. This is expected to result in a net saving to Council in terms of operating costs.
- 5.2 Council will remain responsible for the ongoing costs of assessing the roads, routes and structures in the network, which costs are already covered in current budgets.
- 5.3 Council will remain responsible for the accuracy of data provided to NZTA for the permitting process, which costs are already covered in current budgets.

## 6. ENGAGEMENT

### Consultation

- 6.1 No specific consultation is planned to be undertaken as this is considered to be a procedural change with no material change to the level of service.

### Communication

- 6.2 Council's website information will be updated to provide operators with the correct information and provide the correct link to the NZTA website. Council will also contact all recent applicants to advise them of the change in process.



## 7. COMPLIANCE AND ADMINISTRATION

Does the Council have delegated authority to decide?	<b>Yes</b>
Are the decisions significant?	<b>No</b>
If they are significant do they affect land or a body of water?	<b>No</b>
Can this decision only be made through a 10 Year Plan?	<b>No</b>
Does this decision require consultation through the Special Consultative procedure?	<b>No</b>
Is there funding in the current Annual Plan for these actions?	<b>Yes</b>
Are the recommendations inconsistent with any of Council's policies or plans?	<b>No</b>
The recommendations contribute to Goal 1: An Innovative and Growing City	
The recommendations contribute to the outcomes of the City Development Strategy	
The recommendations contribute to the achievement of action/actions in the Strategic Transport Plan	
The action is:	



Improve intersection safety, structural integrity and traffic flow on primary freight, over-dimension, overweight and emergency service routes with context sensitive design and improve efficiency of staff resource in processing the permits	
Contribution to strategic direction and to social, economic, environmental and cultural well-being	Efficient and integrated management of over-dimension and overweight loads on the State Highway and local road network will minimise damage and pre-mature failure of the traffic network assets, contributing to lower lifecycle costs and higher levels of compliance by freight and over-sized vehicle operators.

### **ATTACHMENTS**

1. Memorandum of Understanding - Overweight Permits [↓](#) 
2. Memorandum of Understanding - HPMV Permits [↓](#) 

# **Memorandum of Understanding - Overweight Permits**

Between

**PALMERSTON NORTH CITY COUNCIL**

And

**New Zealand Transport Agency**

## PARTIES

**New Zealand Transport Agency**, a Crown entity established under the Land Transport Management Act 2003 of 50 Victoria Street, Wellington (the “**Transport Agency**”)

AND

**Palmerston North City Council** a Territorial Authority established under the Local Government Act 2002 (the “**Council**”).

## BACKGROUND

- A. The Land Transport Rule: Vehicle Dimensions and Mass 2016 (“VDAM”) requires operators of certain vehicles to obtain a permit.
- B. **Under clause 5.8(1)** of VDAM a Road Controlling Authority may, in accordance with the requirements of VDAM, issue Overweight Permits for heavy motor vehicles transporting indivisible loads that exceed the mass limits prescribed in Parts 1 or 2 of Schedule 3 of VDAM and are not high-productivity motor vehicles (“HPMV”s).
- C. “Road Controlling Authority” is defined under VDAM as follows:  
*“Road controlling authority in relation to a road, means the authority, body or person having control of the road; and includes a person acting under and within the terms of a delegation or authorisation given by the controlling authority.”*
- D. Both the Council and the Transport Agency are Road Controlling Authorities in respect of roads under their control and neither party may issue **Overweight** Permits with regard to roads under the control of the other party **unless they have obtained the written approval of that other party in accordance with clause 5.8 of VDAM.**
- E. The Council has requested the Transport Agency to issue **Overweight** Permits in respect of the Council’s roads on its behalf, and the Transport Agency has agreed to do this.
- F. The Transport Agency does not have authority to issue **Overweight** Permits for travel on the Council’s roads without the Council’s specific **written approval**. The Council, by this Memorandum, gives the Transport Agency that approval.
- G. Although the Transport Agency has been given **written Approval** to issue **Overweight** Permits, the Council will continue to **comply with clause 5.3(2) of VDAM and to provide the Transport Agency with all relevant route and structure information necessary for the Transport Agency’s evaluation and approval of applications for Overweight Permits.**
- H. This Memorandum sets out the understandings of the Parties and the Parties agree to be bound by it.

## 1. INTERPRETATION

1.1 For the purpose of the interpretation or construction of this Memorandum, unless the context provides otherwise:

- (a) terms defined in VDAM will have the same meaning in this Memorandum;
- (b) references to clauses are references to clauses of this Memorandum and references to Parties are references to the parties in this Memorandum;
- (c) references to Appendices, are references to Appendices to this Memorandum;
- (d) references to any statute include all legislative instruments or other subordinate legislation made under that statute. A reference to a statute, legislative instrument, subordinate legislation or manual is deemed to include all amendments, revisions, substitutions or consolidations made from time to time to that statute, legislative instrument, subordinate legislation or manual;
- (e) references to this Memorandum include all variations made in accordance with this Memorandum;
- (f) the invalidity of any part or provision of this Memorandum shall not affect the enforceability of any other part or provision thereof; and
- (g) the word including and other similar words do not imply any limitation.

1.2 In this Memorandum, unless the context otherwise requires:

**"Approval"** means the written approval given in clause 2.1 of this Memorandum by the Council in accordance with clause 5.3 of VDAM.

**"Commencement Date"** means the date on which this Memorandum is signed by Agency and the Council.

**"Confidential Information"** means all information obtained as a result of performing this Memorandum, information which relates to the subject matter of this Memorandum or another Party or is by its nature confidential to another Party. To avoid any doubt Route and Structure Information is not Confidential Information and may be published as open source information by either Party in accordance with this Memorandum.

**"Overweight Permit"** means an Overweight Permit for a heavy motor vehicle that exceeds the mass limits prescribed in Part 1 or Part 2 of Schedule 3 of VDAM and transports an indivisible load and is not a high productivity motor vehicle.

**"VDAM Permitting Manual"** means the current version of the manual, issued and maintained by the Transport Agency, which specifies the requirements for Overweight Permits. It is published on the Transport Agency's website.

**"Memorandum"** means this memorandum between the Parties.

**Overweight Motor Vehicle** has the same meaning as in VDAM.

**"Parties"** means the Transport Agency and the Council.

**"Personal Information"** has the same meaning as in section 2 of the Privacy Act 1993.

**"Road Controlling Authority"** has the same meaning as in VDAM.

**"Route and Structure Information"** means that information provided to the Transport Agency by the Council in accordance with clause 3 of this Memorandum.

**"Structure"** includes a bridge, culvert, tunnel, underpass and overpass.

**"VDAM"** means the Land Transport Rule: Vehicle Dimensions and Mass 2016 and any amendments to that Rule.

**"VDAM Permit"** means a permit issued by the Transport Agency in accordance with VDAM and with this Memorandum in respect of roads under the control of the Council.

**"VDAM Permitting Manual"** means the current *Vehicle Dimension and Mass Permitting Manual* available on the Transport Agency's website.

## 2. ISSUE OF PERMITS UNDER VDAM

- 2.1 The Council in accordance with clause 5.3 of VDAM approves the Transport Agency to issue permits pursuant to clause 5.8(1) of VDAM to allow Overweight Motor Vehicles to travel on certain roads and Structures under the Council's control.
- 2.2 The Transport Agency may, under the Approval, issue Overweight Permits in respect of the particular roads and Structures that the Council notifies the Transport Agency of from time to time in accordance with the VDAM Permitting Manual.

## 3. COUNCIL'S ROLE AND RESPONSIBILITIES

- 3.1 In accordance with clauses 5.2(1)(b) & (c) and 5.3(2) of VDAM the Council will duly consider the safety of road users and the durability of roads and bridges on which any vehicle for which an **Overweight Permit** may be issued in accordance with this Memorandum may operate.
- 3.2 Based on its consideration of the matters referred to in clause 3.1 above, the Council will from time to time provide the Transport Agency with all relevant route and structure information necessary for the Transport Agency's evaluation and approval of applications for **Overweight Permits**. Such information must indicate the roads, routes and structures suitable for vehicles travelling at the maximum limits for the type of vehicle set out in VDAM and must include both a list and a map of all roads and structures on which such vehicles are permitted to travel. The information will be provided in a format consistent with the Transport Agency's Geospatial mapping processes and include any reasonable conditions required by the Council
- 3.3 In particular the Council will provide the Transport Agency with its list of Structures in a format agreed by the Parties. The Council is responsible for ensuring that all such lists are accurate and up to date and include all current restrictions imposed by the Council as a Road Controlling Authority.

- 3.4 In accordance with clause 5.3 of the VDAM Rule, the Council must ensure that all lists and maps of restricted structures that it provides to the Transport Agency reflect the Council's consideration of the matters set out in clause 5.3(2) of VDAM.
- 3.5 The Council will immediately notify the Transport Agency of any changes to the lists and maps referred to in clauses 3.2 and 3.3. This includes by adding any structures that were not included in previous data, but, having regard to the matters set out in clause 5.3(2) that the Council considers should be included or excluded.
- 3.6 The Council will, on request, provide the Transport Agency with any additional information the Transport Agency reasonably requires to assess an application for an Overweight Permit.
- 3.7 The Council will promptly notify the Transport Agency if:
  - (a) in its opinion, the continued operation of a vehicle that is the subject of an Overweight Permit may cause extraordinary damage to the road infrastructure; or
  - (b) it considers that any of the conditions of an Overweight Permit have not been complied with; or
  - (c) it considers there is a significant risk to public safety, so that the Transport Agency can consider revocation under 5.7(2) of VDAM.
- 3.8 The Council must ensure that all of information it provides to the Transport Agency under or in relation to this Memorandum will be true, accurate and up-to-date to the best of its knowledge.
- 3.9 The Council will refer any customers who wish to apply for an Overweight Permit to the Transport Agency's website and application process.

#### 4. TRANSPORT AGENCY'S ROLE AND RESPONSIBILITIES

- 4.1 The Transport Agency will incorporate the information provided by the Council in accordance with clause 3 above into its route network and VDAM Permitting processes. Conditions imposed by the Council relating to roads or structures will be included as critical conditions.
- 4.2 The Transport Agency will process all Overweight Permit applications falling within the parameters of Schedule 1 relating to roads under control of the Council, and the Transport Agency will issue Overweight Permits, together with any conditions it considers appropriate, where the requirements of VDAM are met.
- 4.3 The Transport Agency will ensure that each Overweight Permit issued is conditional on the operator of the vehicle complying with all applicable route restrictions. The Transport Agency will include as a condition of any Overweight Permit issued a condition that the operator must ensure compliance with clauses 3.1(1), (2) and (3) of VDAM. The condition will state that - ***"A vehicle and its load must comply with the dimension and performance requirements in the Rule ,must be manoeuvrable, fit safely on a road and interact safely with road users for the route on which it operates. and must not be operated on a road if it or its load is likely to damage any wires, cables or***

*construction on, over or alongside that road. It is always the responsibility of the operator to ensure compliance with these requirements. If a vehicle cannot for any reason relating to the vehicle or wider circumstances (including atmospheric conditions) be operated safely, then that vehicle must not be operated even though a permit may be held.*

- 4.4 The Transport Agency will, on reasonable request, and to the extent it is permitted to do so by law, provide the Council with information it holds relating to Overweight Permits it has issued.
- 4.5 The Transport Agency will use its best endeavours to meet the processing time expectations set down in the VDAM Permitting Manual. Processing times will commence from the date the Transport Agency receives all of the information required to process the permit as set out in the VDAM Permitting Manual.
- 4.6 The Transport Agency is responsible for the operation and maintenance of its Overweight Permit issuing system.
- 4.7 The Transport Agency will operate in accordance with the VDAM Permitting Manual when evaluating applications for, and issuing, Overweight Permits.
- 4.8 The Transport Agency will only issue an Overweight Permit to a vehicle where the Transport Agency considers (taking into account the information provided by the Council in accordance with clause 3 of this Memorandum) that the relevant requirements of VDAM are satisfied.
- 4.9 For the avoidance of doubt, the Council acknowledges that the Transport Agency may revoke Overweight Permits issued by the Transport Agency under this Memorandum in accordance with the requirements of clause 5.7 of VDAM. Where the Transport Agency intends to make such a revocation the Transport Agency will take into account any information provided to the Transport Agency by the Council in accordance with clause 3 of this Memorandum.
- 4.10 The Transport Agency will promptly consider and respond appropriately to any notification from the Council under clause 3.7.

## **5. ACKNOWLEDGEMENT**

- 5.1 The Parties acknowledge that each has powers, functions and obligations under law. The performance by each Party of its obligations under this Memorandum is subject to such powers, functions and obligations under law.

## **6. COSTS AND REVENUE**

- 6.1 The Transport Agency will be responsible for all costs associated with receiving, processing and issuing Overweight Permits under this Memorandum.

6.2 The Council will be responsible on an on-going basis for the costs of assessing the roads routes, and Structures in its network or under its control and for communicating the information to the Transport Agency under this Memorandum.

6.3 Any costs not covered by clauses 6.1 or 6.2 above will lie where they fall.

6.4 The Transport Agency will be entitled to retain any revenue generated by issuing Overweight Permits under this Memorandum.

## **7. REVIEW AND VARIATION OF DELEGATION MEMORANDUM**

7.1 The Parties will, upon written request by either party, review this Memorandum from time to time

7.2 Every review required by clause 7.1 above must include consideration of:

- (a) the Transport Agency's performance of its obligations described in clause 4;
- (b) the Council's performance of its obligations described in paragraph 3.
- (c) the resources and capacity of the Transport Agency to continue to issue Overweight Permits under this Memorandum; and
- (d) any issues relating to costs.

7.3 Any amendments to this Memorandum must be recorded in writing and signed by both Parties.

## **8. TERM**

8.1 This Memorandum commences on the Commencement Date and will continue until terminated by either Party giving the other Party one month's notice in writing.

8.2 Termination of this Memorandum shall not affect any Overweight Permits issued prior to the date of such termination, which shall remain in effect until their expiry or revocation.

## **9. PROBLEM RESOLUTION**

9.1 The Parties will work together in good faith with a view to resolving any problems or differences between the Parties in relation to the interpretation or performance of this Memorandum.

9.2 If the problem or difference cannot be settled in this way, it will be referred to the Representatives listed in paragraph 12. The Representatives will in good faith meet and negotiate with a view to resolving the dispute or difference as quickly as possible.

9.3 If the problem or difference cannot be settled by the Representatives within 10 working days, it will be referred to the Chief Executives or Regional Managers of the Parties or their approved delegates. The Chief Executives or Regional Managers or their approved delegates will in good faith meet and negotiate with a view to resolving the problem or difference as quickly as possible.



## **10. OFFICIAL INFORMATION ACT 1982 REQUESTS**

- 10.1 The Parties will consult each other on any request for information under the Official Information Act 1982 or the Local Government Official Information and Meetings Act 1987 that relates to this Memorandum.

## **11. CONFIDENTIALITY**

- 11.1 Except as permitted by the exceptions in clause 11.2 or otherwise expressly permitted in this Memorandum, each Party shall keep Confidential Information confidential and shall not disclose such Confidential Information to any person or use such Confidential Information for any purpose other than the purpose of this Memorandum.
- 11.2 Notwithstanding clause 11.1, either Party may disclose any Confidential Information:
- (a) to its board members, employees or contractors who need to know such information for the purposes contemplated in this Memorandum, or to its professional advisers, auditors or bankers for a proper purpose, provided that the Party disclosing the Confidential Information ensures that each such person to whom it discloses Confidential Information complies with the restrictions in this clause as if such person were a Party to this Memorandum;
  - (b) if and to the extent disclosure is required by law, or any Governmental Agency, Minister of the Crown or parliamentary officer or body, provided that the Party disclosing the Confidential Information gives the affected Party notice of the requirements as soon as practicable before such disclosure is made, and works collaboratively with the affected Party in respect of any such disclosure; or
  - (c) if and to the extent the Confidential Information:
    - (i) was known to the receiving Party before the Confidential Information was disclosed to it;
    - (ii) is disclosed to the receiving Party on a non-confidential basis by a third party who has the right to make such disclosure;
    - (iii) is generally available to the public through no fault of the receiving Party; or
    - (iv) is developed by the receiving Party independently of the Confidential Information disclosed by the disclosing Party.
- 11.3 Each Party acknowledges their respective obligation to deal with Personal Information in accordance with the provisions of the Privacy Act 1993.

## **12. DATA SHARING**

- 12.1 The parties acknowledge that the Route and Structure Information provided to the Transport Agency by the Council in accordance with this Memorandum is not Confidential Information. As a consequence that Information may be freely shared by either party as open source information and may be accessed by third parties at no cost. In particular,

the Transport Agency may make such Information freely available to third parties on its website or through other means.

### 13. REPRESENTATIVES

The representatives for the Transport Agency and the Council are as follows:

The Transport Agency	Palmerston North City Council
Senior Network Manager	
<b>Riccardo Areosa</b>	<b>Riaan Grobbelaar</b>
Manager, Permitting Assessments	Activity Manager - Transport

13.1 Changes to Representatives must be notified in writing to the other Party.

13.2 The Representatives are responsible for:

- (a) Dealing with day-to-day matters relating to the administration and operation of this Memorandum;
- (b) Keeping the Memorandum current;
- (c) Monitoring the application of the provisions of this Memorandum;
- (d) Managing any review and/or variation process of this Memorandum; and
- (e) Working together to settle any disputes or differences in accordance with 9.

### 14. SUBCONTRACTING

14.1 Either party may with the prior written agreement of the other party (not to be unreasonably withheld), subcontract, some or all of its obligations under this Memorandum to a third party.

14.2 The entry by either party into a subcontract will not relieve that party from liability for the performance of any obligations under this Memorandum. Each party is liable to the other party for the acts and omissions of each of its subcontractors as if they were acts or omissions of that party.

### 15. NOTICES

15.1 Each notice given under this Memorandum (each "**notice**") shall be in writing and delivered personally or sent by post, email or facsimile.

15.2 Each notice shall be delivered to the address of the relevant representatives set out in clause 13, or to any other address from time to time designated for that purpose by at least 5 working days' prior notice to the other Party.

15.3 A notice under this Memorandum is deemed to be received if:

- (a) **Delivery:** delivered personally, when delivered;
- (b) **Post:** posted, 3 working days' after the date of posting;
- (c) **Email:** sent by email, on the next working day after the day on which the email is sent (unless sooner acknowledged by the recipient); but it is not deemed to be received if the sender receives notification of failure of delivery (including an "Out of Office" response). ;
- (d) **Facsimile:** sent by facsimile, upon production of a transmission report by the machine from which the facsimile was sent which indicates the facsimile was sent in its entirety to the facsimile number of the recipient designated for the purposes of this Memorandum,

provided that any notice deemed received after 5 pm on a working day or on a non-working day shall be deemed to have been received on the next working day.

## 16. GENERAL

16.1 **Survival:** Following expiry or termination of this Memorandum, clauses 8 (Term), 9 (Problem Resolution), 10 (Official Information Act 1982 Requests) and 11 (Confidentiality), together with other provisions that are by their nature intended to survive, will remain in effect.

16.2 **Counterparts:** This Memorandum may be executed in any number of counterparts (including facsimile or scanned PDF counterpart), each of which shall be deemed an original, but all of which together shall constitute the same instrument. No counterpart shall be effective until each Party has executed at least one counterpart.

EXECUTED as a binding Memorandum

SIGNED for and on behalf of	)	
NEW ZEALAND TRANSPORT	)	
AGENCY by	)	
	)	Signature
	)	
	)	
_____ [Print Name]	)	Position

Date:

SIGNED for and on behalf of	)	
Palmerston North City Council	)	
	)	
	)	Signature
	)	
	)	
[Print Name]	)	Position

Date:

APPENDIX 1

Road Sections Approved for Access by HPMV with Overweight Permits

As at ..... Date....

Road Name	From	To

1.

## **Memorandum of Understanding - HPMV Permits**

Between

**Palmerston North City Council**

And

**New Zealand Transport Agency**

## PARTIES

**New Zealand Transport Agency**, a Crown entity established under the Land Transport Management Act 2003 of 50 Victoria Street, Wellington (the “**Transport Agency**”)

AND

**Palmerston North City Council** a Territorial Authority established under the Local Government Act 2002 (the “**Council**”).

## BACKGROUND

- A. The Land Transport Rule: Vehicle Dimensions and Mass 2016 (“VDAM”) requires operators of certain vehicles to obtain a permit.
- B. **Under clause 5.9** of VDAM a Road Controlling Authority may, in accordance with the requirements of VDAM, issue high-productivity motor vehicle (“HPMV”)Permits for heavy motor vehicles transporting divisible or indivisible loads that exceed the mass limits prescribed in clause 5.9 and Parts 1 or 2 of Schedule 3 of VDAM.
- C. “Road Controlling Authority” is defined under VDAM as follows:  
*“Road controlling authority in relation to a road, means the authority, body or person having control of the road; and includes a person acting under and within the terms of a delegation or authorisation given by the controlling authority.”*
- D. Both the Council and the Transport Agency are Road Controlling Authorities in respect of roads under their control and neither party may issue **HPMV** Permits with regard to roads under the control of the other party **unless they have obtained the written approval of that other party in accordance with clause 5.3 of VDAM.**
- E. The Council has requested the Transport Agency to issue **HPMV** Permits in respect of the Council’s roads on its behalf, and the Transport Agency has agreed to do this.
- F. The Transport Agency does not have authority to issue **HPMV** Permits for travel on the Council’s roads without the Council’s specific **written approval**. The Council, by this Memorandum, gives the Transport Agency that approval.
- G. Although the Transport Agency has been given **written Approval** to issue **HPMV** Permits, the Council will continue to **comply with clause 5.3(2) of VDAM and to provide the Transport Agency with all relevant route and structure information necessary for the Transport Agency’s evaluation and approval of applications for HPMV Permits.**
- H. This Memorandum sets out the understandings of the Parties and agree to be bound by it.

## 1. INTERPRETATION

- 1.1 For the purpose of the interpretation or construction of this Memorandum, unless the context provides otherwise:
- (a) terms defined in VDAM will have the same meaning in this Memorandum;
  - (b) references to clauses are references to clauses of this Memorandum and references to Parties are references to the parties in this Memorandum;
  - (c) references to Appendices, are references to Appendices to this Memorandum;
  - (d) references to any statute include all legislative instruments or other subordinate legislation made under that statute. A reference to a statute, legislative instrument, subordinate legislation or manual is deemed to include all amendments, revisions, substitutions or consolidations made from time to time to that statute, legislative instrument, subordinate legislation or manual;
  - (e) references to this Memorandum include all variations made in accordance with this Memorandum;
  - (f) the invalidity of any part or provision of this Memorandum shall not affect the enforceability of any other part or provision thereof; and
  - (g) the word including and other similar words do not imply any limitation.

- 1.2 In this Memorandum, unless the context otherwise requires:

**“Approval”** means the written approval given in clause 2.1 of this Memorandum by the Council in accordance with clause 5.3 of VDAM.

**“Commencement Date”** means the date on which this Memorandum is signed by Agency and the Council.

**“Confidential Information”** means all information obtained as a result of performing this Memorandum, information which relates to one of the Parties or is by its nature confidential to another Party. To avoid any doubt Route and Structure Information is not Confidential Information and may be published as open source information by either Party in accordance with this Memorandum.

**“HPMV”** has the same meaning as in VDAM.

**“HPMV Permit”** means a permit for a high-productivity motor vehicle that carries a divisible or indivisible load to operate with a gross mass exceeding 44,000 kg and/or operate with a variation from a dimension requirement in Schedule 2.

**“Memorandum”** means this memorandum between the Parties.

**“Parties”** means the Transport Agency and the Council.

**“Personal Information”** has the same meaning as in section 2 of the Privacy Act 1993.

**“Road Controlling Authority”** has the same meaning as in VDAM.



**“Route and Structure Information”** means that information provided to the Transport Agency by the Council in accordance with clause 3 of this Memorandum.

**“Structure”** includes a bridge, culvert, tunnel, underpass and overpass.

**“VDAM”** means the Land Transport Rule: Vehicle Dimensions and Mass 2016 and any amendments to that Rule.

**“VDAM Permit”** means a permit issued by the Transport Agency in accordance with VDAM and with this Memorandum in respect of roads under the control of the Council.

**“VDAM Permitting Manual”** means the current *Vehicle Dimension and Mass Permitting Manual* available on the Transport Agency’s website.

## 2. ISSUE OF PERMITS UNDER VDAM

- 2.1 The Council, in accordance with clause 5.3 of **VDAM** approves the Transport Agency to issue permits pursuant to clause 5.9 of VDAM to allow HPMVs to travel on certain roads and Structures under the Council’s control.
- 2.2 The Transport Agency may, under the Approval, issue HPMV Permits in respect of the particular roads and Structures that the Council notifies the Transport Agency of from time to time in accordance with the VDAM Permitting Manual.

## 3. COUNCIL’S ROLE AND RESPONSIBILITIES

- 3.1 In accordance with clauses 5.2(1)(b) & (c) and 5.3(2) of VDAM the Council will duly consider the safety of road users and the durability of roads and bridges on which any vehicle for which an **HPMV Permit** may be issued in accordance with this Memorandum may operate.
- 3.2 Based on its consideration of the matters referred to in clause 3.1 above, the Council will from time to time provide the Transport Agency with all relevant route and structure information necessary for the Transport Agency’s evaluation and approval of applications for **HPMV Permits**. Such information must indicate the roads, routes and structures suitable for vehicles travelling at the maximum limits for the type of vehicle set out in VDAM and must include both a list and a map of all roads and structures on which such vehicles are permitted to travel. The information will be provided in a format consistent with the Transport Agency’s Geospatial mapping processes and include any reasonable conditions required by the Council.
- 3.3 In particular the Council will provide the Transport Agency with its list of Structures in a format agreed by the Parties. The Council is responsible for ensuring that all such lists and maps are accurate and up to date and include all current restrictions imposed by the Council as a Road Controlling Authority.

- 3.4 In accordance with clause 5.3 of the VDAM Rule, the Council must ensure that all lists and maps of restricted structures that it provides to the Transport Agency reflect the Council's consideration of the matters set out in clause 5.3(2) of VDAM.
- 3.5 The Council will immediately notify the Transport Agency of any changes to the lists and maps referred to in clauses 3.2 and 3.3. This includes by adding any structures that were not included in previous data, but, having regard to the matters set out in clause 5.3(2) that the Council considers should be included or excluded.
- 3.6 The Council will, on request, provide the Transport Agency with any additional information the Transport Agency reasonably requires to assess an application for an Overweight Permit.
- 3.7 The Council will promptly notify the Transport Agency if:
  - (a) in its opinion, the continued operation of a vehicle that is the subject of an HPMV Permit may cause extraordinary damage to the road infrastructure; or
  - (b) it considers that any of the conditions of an HPMV Permit have not been complied with; or
  - (c) it considers there is a significant risk to public safety, so that the Transport Agency can consider revocation under 5.7(2) of VDAM.
  - (d)
- 3.8 The Council must ensure that all of information it provides to the Transport Agency under or in relation to this Memorandum will be true, accurate and up-to-date to the best of its knowledge.
- 3.9 The Council will refer any customers who wish to apply for an HPMV Permit to the Transport Agency's website and application process.

#### 4. TRANSPORT AGENCY'S ROLE AND RESPONSIBILITIES

- 4.1 The Transport Agency will incorporate the information provided by the Council in accordance with clause 3 above into its route network and VDAM Permitting processes. Conditions imposed by the Council relating to roads or structures will be included as critical conditions.
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*safely with road users for the route on which it operates and must not be operated on a road if it or its load is likely to damage any wires, cables or construction on, over or alongside that road. It is always the responsibility of the operator to ensure compliance with these requirements. If a vehicle cannot for any reason relating to the vehicle or wider circumstances (including atmospheric conditions) be operated safely, then that vehicle must not be operated even though a permit may be held.*

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## **5. ACKNOWLEDGEMENT**

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7.1 The Parties will, upon written request by either party, review this Memorandum from time to time

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The Transport Agency	Palmerston North City Council
Senior Network Manager	
<b>Riccardo Areosa</b>	<b>Riaan Grobbelaar</b>
Manager, Permitting Assessments	Activity Manager - Transport

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15.1 Each notice given under this Memorandum (each "notice") shall be in writing and delivered personally or sent by post, email or facsimile.

15.2 Each notice shall be delivered to the address of the relevant representatives set out in clause 13, or to any other address from time to time designated for that purpose by at least 5 working days' prior notice to the other Party.

15.3 A notice under this Memorandum is deemed to be received if:

- (a) **Delivery:** delivered personally, when delivered;
- (b) **Post:** posted, 3 working days' after the date of posting;
- (c) **Email:** sent by email, on the next working day after the day on which the email is sent (unless sooner acknowledged by the recipient); but it is not deemed to be received if the sender receives notification of failure of delivery (including an "Out of Office" response).
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provided that any notice deemed received after 5 pm on a working day or on a non-working day shall be deemed to have been received on the next working day.

## 16. GENERAL

16.1 **Survival:** Following expiry or termination of this Memorandum, clauses 8 (Term), 9 (Problem Resolution), 10 (Official Information Act 1982 Requests) and 11 (Confidentiality), together with other provisions that are by their nature intended to survive, will remain in effect.

16.2 **Counterparts:** This Memorandum may be executed in any number of counterparts (including facsimile or scanned PDF counterpart), each of which shall be deemed an original, but all of which together shall constitute the same instrument. No counterpart shall be effective until each Party has executed at least one counterpart.

**EXECUTED** as a binding Memorandum

**SIGNED** for and on behalf of )  
**NEW ZEALAND TRANSPORT** )  
**AGENCY** by ) \_\_\_\_\_  
) Signature  
) \_\_\_\_\_  
) Position  
\_\_\_\_\_  
[Print Name] )

Date:

SIGNED for and on behalf of  
Palmerston North City Council

)  
)  
)  
)  
)  
)  
)

Signature

[Print Name]

Position

Date:



**APPENDIX 1**

**Road Sections Approved for Access by HPMV with HPMV Permits**

**As at ....Date....**

Road Name	From	To

1.



## MEMORANDUM

**TO:** Council

**MEETING DATE:** 26 August 2020

**TITLE:** Palmerston North Airport Limited - Final Statement of Intent for 2020/21

**PRESENTED BY:** Steve Paterson, Strategy Manager - Finance

**APPROVED BY:** Stuart McKinnon, Chief Financial Officer

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### RECOMMENDATION TO COUNCIL

1. That the report titled Palmerston North Airport Limited – Final Statement of Intent for 2020/21 dated 26 August be received.
2. That the Statement of Intent for Palmerston North Airport Limited for 2020/21 be agreed.

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### 1. ISSUE

- 1.1 Palmerston North Airport Ltd (PNAL) has provided its final version of the Statement of Intent (SOI) for 2020/21 and this is attached for acceptance by the Council.

### 2. BACKGROUND

- 2.1 PNAL provided a first draft of its SOI for 2020/21 in February and as a consequence of the COVID-19 pandemic, provided an updated draft in May. The Council endorsed the revised draft at its meeting on 24 June.
- 2.2 The Local Government Act requires that the final versions of SOIs adopted by the Boards of council-controlled organisations be delivered to the shareholder by 30 June. PNAL has met that requirement.
- 2.3 The final version (attached) is unchanged from that which was endorsed by the Council in June apart from an update the performance measure for the Net Promoter Score from 55 to 50 and an updated forecast for the current 2019/20 year. These changes were signalled at the June meeting of the Finance and Audit Committee.

### 3. NEXT STEPS

- 3.1 The SOI will be published on websites of the Council and PNAL. PNAL are scheduled to present an updated version of the SOI in October once they better understand the on-going impacts of COVID-19 on their financial position.

### 4. COMPLIANCE AND ADMINISTRATION

Does the Committee 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 1: An Innovative and Growing City	
The recommendations contribute to the outcomes of the City Development Strategy	
The recommendations contribute to the achievement of action/actions in the Strategic Transport Plan	
The action is: Work with the airport company to ensure the airport's strategic intent aligns with the City's aspirations	
Contribution to strategic direction and to social, economic, environmental and cultural well-being	The airport is a key strategic gateway to the City

### ATTACHMENTS

1. Palmerston North Airport Ltd - Final Statement of Intent for 2020/21 [↓](#)



# **STATEMENT OF INTENT**

**FOR THE YEAR ENDING 30 JUNE 2021**

**FINAL**

**17 June 2020**

## INTRODUCTION

This Statement of Intent is presented by the Directors of Palmerston North Airport Limited ("PNAL") in accordance with section 64 of the Local Government Act 2002.

PNAL falls within the definitions of both a Council-Controlled Organisation and a Council-Controlled Trading Organisation pursuant to section 6 of the Local Government Act 2002 as a consequence of the Palmerston North City Council's shareholding.

The purpose of the Statement of Intent is to publicly declare the activities and intentions of PNAL, and provide an opportunity for shareholders to influence its direction.

It also provides a basis for accountability of Directors of PNAL to the Shareholder for performance. It is intended to comply with Schedule 8 of the Local Government Act, and be consistent with PNAL's Constitution.

The COVID-19 impact on PNAL's major scheduled passenger service customer Air New Zealand is wide-reaching across most areas of PNAL's activities, and a recovery profile is inherently difficult to forecast. Consequently, this revised Statement of Intent relates only to the F2020/21 financial year ending 30 June 2021. It is PNAL's intention to provide the Shareholder with a further update in Q2 of F20/21 which may include forecasts for the F21/22 and F22/23 years.

It has been prepared under the Public Benefit Entity (PBE) Standards based on International Public Sector Accounting (IPSAS) Standards.

Directors and team members of PNAL respectfully acknowledge local iwi Rangitāne and their customary relationship to this area. PNAL appreciates their manaakitanga shown towards the airport and all airport users. PNAL looks forward to further enriching its partnership with Rangitāne over the coming years.

## CONTACT DETAILS

Contact details for both the Chair and the Chief Executive are:

Palmerston North Airport Limited  
First Floor, Terminal Building  
Palmerston North Airport  
Airport Drive  
P O Box 4384  
Palmerston North 4442

Phone: +64 6 351 4415  
Email: [info@pnairport.co.nz](mailto:info@pnairport.co.nz)  
Web: [www.pnairport.co.nz](http://www.pnairport.co.nz)

## NATURE AND SCOPE OF ACTIVITIES

PNAL owns and operates Palmerston North Airport, having purchased the airport business on 30 January 1990.

Palmerston North Airport is a major regional airport and a key asset of both regional and national importance. It provides terminal and associated services for the air transport of passengers and freight from a catchment that encompasses the Ruapehu, Whanganui, Rangitikei, Manawatū, Horowhenua, Wairarapa, Tararua and Southern Hawkes Bay districts. These regions make up a population base of almost 1 million people that live within 2 hours drive of Palmerston North Airport.

In addition to its aeronautical activities PNAL's medium-term objectives include the recommencement of investment in Ruapehu Business Park, currently on hold due to the impact of COVID-19 on PNAL's financial position and access to capital. Given Palmerston North's position as a major regional logistics and distribution hub, Ruapehu Business Park provides small to medium sized operators direct access to the airport, North Eastern Industrial Zone, and major arterial routes.

## STRATEGIC FRAMEWORK

The vision of being New Zealand's leading regional airport, while aspirational, continues to remain relevant.

In addition, a purpose statement has been developed "*Launching our communities into a promising future*". The statement reflects our true reason for being, that is to play our role in facilitating regional growth in social, economic and environmental terms. It also reflects the fact that we serve multiple communities whether they be defined in terms of geographical location, ethnicity, or socially, and include mana whenua, Rangitāne and other local iwi.

The Mission and Strategic Objectives have been combined and refreshed. The Four Cs – Compliance, Community, Customer and Commercial were updated and extended to include Culture. The Fifth C reflects PNAL's focus on our organisational culture, well-being and team work.

### Our Vision

*New Zealand's leading regional airport.*

### Our Purpose

*Launching our communities into a promising future.*

## STRATEGIC OBJECTIVES – THE FIVE Cs

### Customer

*We will treat all Airport users as our customers.*

- ➔ Our Airport customers are all Airport users; contractors, tenants, staff, passengers, meet and greeters.
- ➔ We will deliver a high quality and efficient regional airport experience.
- ➔ We will promote Palmerston North Airport as the gateway and lower North Island commercial hub to our 90-minute drive market.

### Community

*We will be a leader for regional prosperity including environmental guardianship and engagement with iwi and communities.*

- ➔ We will be a guardian for the environment by operating in a sustainable manner in all of our business activities.
- ➔ We will be actively engaged with and supportive of the region's communities and iwi.
- ➔ We recognise our community is multi-cultural and will engage with all ethnic groups.
- ➔ We will facilitate regional economic development by growing passenger and airfreight volumes.



## Culture

*We are one-team working together to achieve a common goal.*

- Our People are the key to our success. We will care for each other's well-being, and develop skills, commitment and resourcefulness across our team recognising achievement.
- Our one-team ethos is supported by five pillars of Leadership, Trust & Respect, Communication, Empowerment and Celebrating Success.

## Compliance

*We will maintain a safe and secure operation through a culture of ongoing compliance with all standards and regulations.*

- The safety and security of all Airport users is our critical concern. We have a Zero Harm approach to those who visit and work within our airport community.
- We will continue to meet our regulatory and statutory obligations including Civil Aviation Rule Part 139, Resource Management Act, Palmerston North and Manawatu District Plans.

## Commercial

*We will operate a sustainable business to enable long-term success.*

- We will maintain and develop core infrastructure that is business critical.
- We will diversify and grow revenue streams through a focus on both aeronautical and non-aeronautical revenue sources.
- We will operate a successful enterprise that enables us to distribute shareholder funds surplus to our on-going investment and operating requirements.

## KEY OBJECTIVES – SUMMARY

### COVID-19 Impacts / Provincial Growth Funding and Shovel Ready Applications

At the time of finalising this SOI update PNAL faces significant uncertainty in relation to future aeronautical and non-aeronautical revenue streams in the budget year F20/21 and onwards. The impact of COVID-19 on PNAL's major customer Air New Zealand is wide-reaching across most areas of PNAL's activities, and a recovery profile is inherently difficult to forecast.

Notwithstanding PNAL's medium term outlook which remains positive in view of the region's economic diversity and major planned infrastructure projects including the KiwiRail freight hub, and NZTA's Te Ahu a Turanga: the Manawatū-Hawke's Bay highway and regional freight ring road, in the short-term PNAL's commercial decisions must be guided by the current economic environment, Air New Zealand's likely position, and PNAL's financial strength.

This revised view on F20/21 reflects an overarching goal of preserving capital, a prudent approach to lending, and related ratios, means PNAL will be postponing or cancelling previously planned capital activities. It also reflects a conservative view on Air New Zealand's recovery profile, potential ongoing weakness in domestic travel, weakened retail, rental car and café business activity, and suppressed demand for property within Ruapehu Business Park.

Funding applications remain live for both the Terminal Development Plan (Provincial Growth Fund 2019, Shovel ready April 2020), and a suite of airside and landside pavement upgrades. Should funding be received on a grant basis for the entire value of these projects then PNAL would be in a position to re-consider the inclusion of these projects in the F20/21 year.

### Compliance

Ongoing compliance with CAA Part 139 and Zero harm objectives are our highest priorities.

The achievement of Safety Management System (SMS) certification in early 2020/21, and continued compliance with PNAL's SMS is the primary objective for the financial year.

The development of PNAL's second generation Asset Management Plan (AMP) will progress. The AMP will continue to assist PNAL to improve its management of critical assets located both airside and landside and to prioritise maintenance and capital investments.

A modest range of essential capital expenditure programmes are now planned for 2020/21 to ensure airside and landside infrastructure remains compliant with Part139 requirements, and also ensures PNAL's facilities meet our customers expectations. Capex plans include ongoing airside pavement rejuvenation programmes, and the acquisition of two Rescue Fire vehicles.

Planned capex on essential infrastructure is \$4.7 million in F20/21.

### Terminal Development Plan / Customer

Sustainable air service development remains a key priority for PNAL, with the global impact of the COVID-19 pandemic highlighting the vulnerability of air services and the need to ensure route are sustainable in the medium to long-term. PNAL will work collaboratively with airline partners to sustainably recover both frequency and capacity on strategic routes.

The airport has experienced high passenger growth in the past five years, and while a downturn has been experienced due to COVID-19, a further surge from a lower base is anticipated as major regional infrastructure projects create additional passenger demand.

A revised passenger forecast of 265,000 passenger movements in F20/21 is 60% or 400,000 passenger movements below the previous SOI forecast of 665,000, and assumes Air New Zealand recovers to 50% of the prior year's capacity and passenger volumes by Calendar Year 2021.

While the significantly lower passenger forecasts reduce the pressure on PNAL's terminal (a major driver of terminal expansion plans), the likelihood of passenger and hold bag screening being mandated remains a very real likelihood in the medium term. Furthermore, a Jet strategy for Palmerston North – Auckland route may also remain a viable medium-term opportunity for Air New Zealand.

For these reasons the \$15 million Terminal Development Plan (TDP), while on hold, remains in PNAL's medium-term planning subject to appropriate funding being available.

Plans for the terminal – car park interface will continue to be progressed, albeit at a slower pace. The plan includes an enhanced experience for passengers picking up and dropping off within the General Car Park, and improved pedestrian safety.

### **Community**

PNAL will continue modest support for communities by identifying opportunities to engage with local groups and iwi. Community engagement plans focussed on our geographical, ethnic and social communities will be refreshed. Engagement opportunities include a focus on our iwi, regional schools and the promotion of healthy lifestyles and environmental sustainability.

PNAL will continue to strive towards achieving carbon neutrality. Having received ACA Level 1 accreditation in 2019, PNAL is now focussed on achieving Level 2 certification. Energy, water consumption and waste to landfill reduction programmes have been established.

### **Culture**

At the forefront of our organisational culture objective is a desire to further improve staff engagement levels.

Initiatives planned include the ongoing development of programmes associated with PNAL's One-team ethos as we continue to build team work and communications within our rapidly expanding team.

A well-being programme, that supports the health and well-being of PNAL team members will have been introduced by the commencement of the financial year.

### **Commercial**

Commercialisation of Ruapehu Business Park in line with PNAL's Property Masterplan has been deferred beyond F20/21 on the basis of its capital-intensive nature and likely suppressed demand for sites within the park.

Ruapehu Business Park while on hold, remains in PNAL's medium-term planning subject to appropriate funding being available.

## Performance Metric targets 12 Months to 30 June

PERFORMANCE METRIC		2019/20 Forecast	2020/21 Forecast
I.	A ratio of surplus before interest/tax/depreciation to total assets.	4%	2%
II.	A ratio of net surplus after tax to consolidated shareholders' funds inclusive of revaluation reserve.	1%	-1%
III.	To maintain a ratio of consolidated shareholders funds to total assets of at least 40%	78%	74%
IV.	To maintain an interest coverage ratio of surplus before interest to interest, of at least 2.25 as per BNZ Loan Covenants.*	3.5	-1.6
V.	To maintain a tangible net worth (total tangible assets after revaluations less total liabilities) above \$50 million dollars.	\$68.4m	\$67.6m
VI.	Maintain a Net Promoter score of 55 or above	45	50
VII.	Total passenger movements	473,500	265,500
VIII.	Maintain CAA Part 139 certification	Maintain	Maintain
IX.	Zero lost time injuries.	Zero	Zero
X.	Roadmap to carbon neutrality	Complete	Implement
XI.	Safety Management System audited and certified^	Develop	Certify

\* Discussions ongoing with BNZ.

^ Certification deferred to September 2020.

## GOVERNANCE

The Board's approach to governance of PNAL is to preserve and enhance Shareholder value.

The Board is responsible for the proper direction and control of PNAL's activities and is accountable to the shareholder within the strategic framework set out in this Statement of Intent, PNAL's Constitution, and the provisions of the Local Government Act 2002, and the Companies Act 1993.

The Board comprises five Directors appointed by the Shareholder in accordance with PNAL's Constitution.

Fees for the Board are reviewed annually. The Board recommends fee levels to the Shareholder based on commercial or near-commercial rates.

PNAL has an Audit & Risk Committee comprised of three directors of the PNAL Board. The Committee is responsible for overseeing the financial accounting, financial statement and audit activities of PNAL including the adequacy and effectiveness of internal controls, external auditor performance, and financial and accounting policies.

## SHAREHOLDERS EQUITY IN PNAL

PNAL's land, building, and infrastructure assets were revalued as at 30 June 2019, in line with PNAL's three-yearly asset revaluation policy. Shareholder equity as shown in the Statement of Financial Position as at 30 June 2019 is \$67.5 million. The Directors have requested that revaluations be undertaken at 30 June 2020 given current economic conditions and potential material impacts on valuations.

The ratio of consolidated shareholder's equity to total assets will be maintained at no less than 40%. For the purposes of this ratio, 'consolidated shareholder's equity' is total shareholder funds inclusive of retained earnings and revaluation surplus, and 'total assets' are current assets plus net book value of fixed assets plus future tax benefit (if any).

## INFORMATION TO BE PROVIDED TO THE SHAREHOLDER

The Shareholder will receive:

- ➔ An Annual Report including audited financial statements within 3 months of balance date.
- ➔ A summary of PNAL's achievements of the Key Objectives and its performance against the metric targets as outlined in this SOI.
- ➔ An Interim Report including non-audited financial statements within 2 months of the end of the first half of the financial year.
- ➔ A Statement of Intent submitted for shareholder consideration in accordance with the Local Government Act 2002.
- ➔ Other interim reports as agreed with the Shareholder.

Timeframes for the Interim and Annual Reports are legislative maxima. However, PNAL will meet the reporting and governance requirements of the Shareholder.

## ACCOUNTING POLICIES

The accounting policies adopted by PNAL are consistent with New Zealand's Financial Reporting Standards, with PNAL designated as a Public Benefit Entity (PBE) for financial reporting purposes.

The policies are included in PNAL's Annual Report which is available on PNAL's website: [www.pnairport.co.nz/corporate/corporate-profile](http://www.pnairport.co.nz/corporate/corporate-profile).

## FORECAST FINANCIAL STATEMENTS

The financial information contained in the SOI is a forecast for the purposes of the PBE financial reporting standard (FRS) 42. This information may not be appropriate for purposes other than those described. It has been prepared on the basis of assumptions as to future events that PNAL reasonably expects to occur, associated with the actions it reasonably expects to take, as at the date the forecast was prepared. The actual results are likely to vary from the information presented and may vary materially depending on the circumstances that arise during the period.

## COMPENSATION SOUGHT FROM THE SHAREHOLDER

PNAL acknowledges that the Palmerston North City Council holds shares in PNAL for strategic reasons and that PNAL needs to facilitate the development and promotion of both aeronautical and complimentary non-aeronautical business activities. As well as direct benefit to PNAL this impacts through to the economic development of the city and the wider region.

At the request of the shareholder, PNAL may undertake activities that are not consistent with normal commercial objectives subject to the Shareholder providing a specific subsidy to meet the full commercial cost for providing such activities.

## DIVIDEND POLICY

PNAL faces significant uncertainty in relation to future aeronautical and non-aeronautical revenue streams in the budget year F20/21 and onwards. In order to preserve capital PNAL advises that the dividend policy is suspended and that no dividend payment is planned in the 2020/21 financial year.

PALMERSTON NORTH AIRPORT LIMITED  
STATEMENT OF FINANCIAL PERFORMANCE  
For the 12 Months to 30 June

	<u>2019/20</u> <u>Forecast</u>	<u>2020/21</u> <u>Budget</u>
<b><u>PROFIT &amp; LOSS ACCOUNT</u></b>		
<b>REVENUE</b>	<b>8,929,382</b>	<b>6,253,088</b>
TOTAL OPERATING EXPENDITURE	2,339,754	2,480,544
TOTAL ADMINISTRATIVE EXPENDITURE	2,683,023	2,142,250
<b>TOTAL EXPENDITURE</b>	<b>5,022,778</b>	<b>4,622,794</b>
<b>EBITDAE</b>	<b>3,906,604</b>	<b>1,630,295</b>
EXTRAORDINARY ITEMS *	36,013	50,000
<b>EBITDA</b>	<b>3,870,592</b>	<b>1,580,295</b>
DEPRECIATION	1,961,772	2,075,421
FINANCE COSTS	531,307	309,235
(PROFIT)/LOSS ON SALE OF ASSETS	(993)	0
<b>SURPLUS BEFORE TAXATION</b>	<b>1,378,506</b>	<b>(804,361)</b>
INCOME TAX	387,754	0
<b>NET OPERATING SURPLUS</b>	<b>990,752</b>	<b>(804,361)</b>

\* The Extraordinary Items are soil, sediment, surface and ground water sampling for PFAS at Palmerston North Airport and adjacent sites including the Mangaone Stream.

**PALMERSTON NORTH AIRPORT LIMITED**  
**STATEMENT OF FINANCIAL POSITION**  
For the 12 months to 30 June

<b>BALANCE SHEET</b>	<b><u>2019/20</u></b>	<b><u>2020/21</u></b>
	<b><u>Forecast</u></b>	<b><u>Budget</u></b>
<b><u>CURRENT ASSETS</u></b>		
BANK & SHORT TERM DEPOSITS	50,000	50,000
TRADE DEBTORS	436,155	512,487
DOUBTFUL DEBT PROVISION	(4,362)	(5,125)
ACCRUED INCOME	962	1,173
PREPAID EXPENDITURE	(0)	0
ASSETS HELD FOR SALE	0	0
<b><i>TOTAL CURRENT ASSETS</i></b>	<b><i>482,755</i></b>	<b><i>558,536</i></b>
<b><u>CURRENT LIABILITIES</u></b>		
TRADE CREDITORS	374,113	418,335
INCOME RECEIVED IN ADVANCE	49,268	85,414
ACCRUED EXPENDITURE	82,560	89,980
TAXATION	(138,703)	(541,654)
OTHER PROVISIONS	325,000	325,000
SHORT TERM LOAN	0	0
<b><i>TOTAL CURRENT LIABILITIES</i></b>	<b><i>692,239</i></b>	<b><i>377,076</i></b>
<b><i>WORKING CAPITAL</i></b>	<b><i>(209,484)</i></b>	<b><i>181,460</i></b>
<b><u>NON CURRENT ASSETS</u></b>		
LAND	32,004,350	32,004,350
BUILDINGS	13,504,382	13,589,760
INFRASTRUCTURAL - LAND	7,527,558	7,728,290
INFRASTRUCTURAL - AIR	26,181,961	27,774,541
PLANT & EQUIPMENT	1,433,594	1,590,105
FURNITURE & FITTINGS	105,253	102,845
COMPUTERS	75,803	59,237
FIRE APPLIANCES	3,907	725,805
INVESTMENT PROPERTY	6,813,354	6,813,354
INTANGIBLE ASSETS	7,788	4,673
<b><i>TOTAL NON CURRENT ASSETS</i></b>	<b><i>87,657,949</i></b>	<b><i>90,392,962</i></b>
<b><u>NON CURRENT LIABILITIES</u></b>		
TERM LOAN	10,921,013	14,851,329
DEFERRED TAX	8,056,032	8,056,032
<b><i>TOTAL NON CURRENT LIABILITIES</i></b>	<b><i>18,977,045</i></b>	<b><i>22,907,361</i></b>
<b><i>NET ASSETS</i></b>	<b><i>68,471,421</i></b>	<b><i>67,667,060</i></b>
<b><u>SHAREHOLDERS' FUNDS</u></b>		
PAID UP SHARE CAPITAL	9,380,400	9,380,400
ASSET REVALUATION RESERVE	36,590,833	36,590,833
RETAINED EARNINGS	21,509,436	22,500,188
SHAREHOLDERS DIVIDEND	0	0
CURRENT YEAR SURPLUS	990,752	(804,361)
<b><i>TOTAL SHAREHOLDERS' FUNDS</i></b>	<b><i>68,471,421</i></b>	<b><i>67,667,060</i></b>



**PALMERSTON NORTH AIRPORT LIMITED**  
**STATEMENT OF CHANGES IN EQUITY**  
For the 12 months to 30 June

	<u>2019/20</u> <u>Forecast</u>	<u>2020/21</u> <u>Budget</u>
<b>Equity at the beginning of the year</b>	<b>67,480,669</b>	<b>68,471,421</b>
Asset Revaluation Reserve Movement	0	0
Total Comprehensive (Loss)/Income	990,752	(804,361)
Dividends Paid	0	0
<b>Equity at the end of the year</b>	<b>68,471,421</b>	<b>67,667,060</b>

PALMERSTON NORTH AIRPORT LIMITED  
STATEMENT OF CASHFLOWS  
For the 12 Months to 30 June

CASH FLOW STATEMENT	<u>2019/20</u>	<u>2020/21</u>
	<u>Forecast</u>	<u>Budget</u>
<u>CASH FLOW FROM OPERATING ACTIVITIES</u>		
<b><i>Cash Was Provided From</i></b>		
Receipts from Customers	9,533,934	6,182,794
Tax Refund	0	0
Interest Received	1,472	0
<b><i>Cash Was Disbursed To</i></b>		
Payment to Suppliers	5,938,382	4,461,420
Payment of Tax	881,812	346,424
Interest Payments	531,307	309,235
<b><i>Net Cash Flow From Operating Activities</i></b>	<b><u>2,183,905</u></b>	<b><u>1,065,716</u></b>
<u>CASH FLOW FROM INVESTING ACTIVITIES</u>		
<b><i>Cash Was Provided From</i></b>		
Sale of Fixed Assets	993	0
<b><i>Cash Was Applied To</i></b>		
Land and Developments	0	0
Buildings	4,069,552	545,000
Infrastructure - Land	359,816	620,000
Infrastructure - Air	20,631	2,285,000
Plant and Equipment	153,130	455,000
Investment Property	(3,467,420)	0
Furniture and Fittings	57,378	20,000
Computers	(1,003)	15,000
Fire Appliances	3,973	775,000
Intangible Assets	1	(0)
PNCC Contribution	0	0
<b><i>Net Cash Flow From Investing Activities</i></b>	<b><u>(1,174,469)</u></b>	<b><u>(4,715,000)</u></b>
<u>CASH FLOW FROM FINANCING ACTIVITIES</u>		
<b><i>Cash Was Provided From</i></b>		
Term Loan Draw Downs	959,670	3,659,584
<b><i>Cash Was Applied To</i></b>		
Term Loan Repayments and Dividend Payment	2,046,031	10,299
<b><i>Net Cash Flow From Financing Activities</i></b>	<b><u>(1,086,361)</u></b>	<b><u>3,649,285</u></b>
<b>NET INCREASE/(DECREASE) IN CASH HELD</b>	<b>(76,925)</b>	<b>1</b>
Opening Cash Balance	126,924	49,999
<b>Closing Cash Balance</b>	<b><u>49,999</u></b>	<b><u>50,000</u></b>

**PALMERSTON NORTH AIRPORT LIMITED**  
**CAPITAL EXPENDITURE PROGRAMME**  
For the 12 months to 30 June

	<u>2019/20</u>	<u>2020/21</u>
	<u>Forecast</u>	<u>Budget</u>
<b>CAPITAL EXPENDITURE PROGRAMME</b>		
LAND	0	0
BUILDINGS	417,609	545,000
INFRASTRUCTURAL - LAND	363,843	620,000
INFRASTRUCTURAL - AIR	17,270	2,285,000
PLANT & EQUIPMENT	329,507	455,000
FURNITURE & FITTINGS	22,617	20,000
COMPUTERS	38,293	15,000
FIRE APPLIANCES	3,973	775,000
INVESTMENT PROPERTY	0	0
INTANGIBLE ASSETS	0	0
	<u><b>1,193,111</b></u>	<u><b>4,715,000</b></u>
 <b>CAPITAL SALES PROGRAMME</b>		
Total Sales - RBP	<u><b>0</b></u>	<u><b>0</b></u>



## MEMORANDUM

**TO:** Council

**MEETING DATE:** 26 August 2020

**TITLE:** Section 17A Review of Caccia Birch House

**PRESENTED BY:** Julie Macdonald, Strategy & Policy Manager

**APPROVED BY:** Sheryl Bryant, General Manager - Strategy & Planning

### RECOMMENDATIONS TO COUNCIL

1. That the report titled Section 17A Review of Caccia Birch House dated 26 August 2020 be received.
2. That the Council undertake a review of Caccia Birch House under section 17A of the Local Government Act 2002.

### 1. ISSUE

This report provides Elected Members with the opportunity to formalise their request to review Caccia Birch House under section 17A of the Local Government Act 2002 (LGA) (attachment one).

### 2. BACKGROUND

Under section 17A the Council is required to “review the cost-effectiveness of current arrangements for meeting the needs of communities within its district or region for good-quality local infrastructure, local public services, and performance of regulatory functions.” A review is required at least every six years.

Council undertook a review of Caccia Birch House, alongside its other arts and cultural facilities managed by Council-Controlled Organisations (CCOs), in 2019. The main purpose of the review was to look at how the arts and cultural facilities could most cost effectively contribute to Council’s strategic direction.

PricewaterhouseCoopers (PwC) were engaged to assist with the review. PwC looked at the best forms of governance, funding and service delivery for the facilities. The main options were:

- Maintain the status quo.

- Set up new CCO(s).
- Full governance and service delivery by Council (in-house).

The review was concluded in September 2019 with a Council resolution that the status quo remains for all facilities, and that staff work closely with each CCO on suggested improvements raised during the review.

During discussions on the upcoming Statement of Expectations for the Caccia Birch Trust Board (the Board), Elected Members requested that another section 17A review be undertaken on Caccia Birch House. This report formalises that request.

A second review has been requested because:

- Examining Caccia Birch House separately, rather than alongside three other arts and cultural facilities, will allow Council to focus on the matters unique to the facility.
- The Board has requested additional operational funding to run Caccia Birch House to its full potential. Elected Members have indicated that they require additional information on options for governance and service delivery to inform a decision on whether the requested funding is provided through the 10 Year Plan.

### 3. PROPOSED REVIEW PROCESS AND NEXT STEPS

This timeframe is designed to progress the review quickly to provide certainty for the Board and to allow decisions made as a result of the review to be incorporated into Council's next Long Term Plan, if necessary.

The Board will be involved throughout the process.

Step	Date
Section 17A review begins	26 August 2020
Work with the Board and stakeholders to discuss options	September 2020
Report to Council on result of the review and any further steps required	28 October 2020

### 4. COMPLIANCE AND ADMINISTRATION

Does the Committee 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?	<b>No</b>
Can this decision only be made through a 10 Year Plan?	<b>No</b>
Does this decision require consultation through the Special Consultative procedure?	<b>No</b>
Is there funding in the current Annual Plan for these actions?	<b>Yes</b>
Are the recommendations inconsistent with any of Council's policies or plans?	<b>No</b>
The recommendations contribute to Goal 5: A Driven and Enabling Council	
The recommendations contribute to the outcomes of the Driven and Enabling Council Strategy	
The recommendations contribute to the achievement of action/actions in Not Applicable	
Contribution to strategic direction and to social, economic, environmental and cultural well-being	A review of Caccia Birch under section 17a of the Local Government Act will assist Council's decision-making about how it will be supported in future.

## **ATTACHMENTS**

1. Extract Local Government Act 2002 Section 17A [↓](#) 

## Local Government Act 2002

### 17A Delivery of services

(1) A local authority must review the cost-effectiveness of current arrangements for meeting the needs of communities within its district or region for good-quality local infrastructure, local public services, and performance of regulatory functions.

(2) Subject to subsection (3), a review under subsection (1) must be undertaken—

- (a) in conjunction with consideration of any significant change to relevant service levels; and
- (b) within 2 years before the expiry of any contract or other binding agreement relating to the delivery of that infrastructure, service, or regulatory function; and
- (c) at such other times as the local authority considers desirable, but not later than 6 years following the last review under subsection (1).

(3) Despite subsection (2)(c), a local authority is not required to undertake a review under subsection (1) in relation to the governance, funding, and delivery of any infrastructure, service, or regulatory function—

- (a) to the extent that the delivery of that infrastructure, service, or regulatory function is governed by legislation, contract, or other binding agreement such that it cannot reasonably be altered within the following 2 years; or
- (b) if the local authority is satisfied that the potential benefits of undertaking a review in relation to that infrastructure, service, or regulatory function do not justify the costs of undertaking the review.

(4) A review under subsection (1) must consider options for the governance, funding, and delivery of infrastructure, services, and regulatory functions, including, but not limited to, the following options:

- (a) responsibility for governance, funding, and delivery is exercised by the local authority;
- (b) responsibility for governance and funding is exercised by the local authority, and responsibility for delivery is exercised by—
  - (i) a council-controlled organisation of the local authority; or
  - (ii) a council-controlled organisation in which the local authority is one of several shareholders; or
  - (iii) another local authority; or
  - (iv) another person or agency;
- (c) responsibility for governance and funding is delegated to a joint committee or other shared governance arrangement, and responsibility for delivery is exercised by an entity or a person listed in paragraph (b)(i) to (iv).

(5) If responsibility for delivery of infrastructure, services, or regulatory functions is to be undertaken by a different entity from that responsible for governance, the entity that is responsible for governance must ensure that there is a contract or other binding agreement that clearly specifies—

- (a) the required service levels; and
- (b) the performance measures and targets to be used to assess compliance with the required service levels; and
- (c) how performance is to be assessed and reported; and
- (d) how the costs of delivery are to be met; and
- (e) how any risks are to be managed; and
- (f) what penalties for non-performance may be applied; and
- (g) how accountability is to be enforced.

(6) Subsection (5) does not apply to an arrangement to the extent that any of the matters specified in paragraphs (a) to (g) are—

- (a) governed by any provision in an enactment; or



(b) specified in the constitution or statement of intent of a council-controlled organisation.

(7) Subsection (5) does not apply to an arrangement if the entity that is responsible for governance is satisfied that—

(a) the entity responsible for delivery is a community group or a not-for-profit organisation; and

(b) the arrangement does not involve significant cost or risk to any local authority.

(8) The entity that is responsible for governance must ensure that any agreement under subsection (5) is made publicly available.

(9) Nothing in this section requires the entity that is responsible for governance to make publicly accessible any information that may be properly withheld if a request for that information were made under the [Local Government Official Information and Meetings Act 1987](#).

Section 17A: inserted, on 8 August 2014, by [section 12](#) of the Local Government Act 2002 Amendment Act 2014 (2014 No 55).



## MEMORANDUM

**TO:** Council

**MEETING DATE:** 26 August 2020

**TITLE:** Resource Management Act Commissioner Schedule

**PRESENTED BY:** Hannah White, Democracy & Governance Manager

**APPROVED BY:** Sheryl Bryant, General Manager - Strategy & Planning

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### RECOMMENDATIONS TO COUNCIL

1. That the Resource Management Act 1991 Commissioner Schedule be reviewed in the manner described in the memorandum titled “RMA Commissioner Schedule” dated 26 August 2020.
2. That a selection panel consisting of Chairperson of the Hearings Committee, the Chairperson of the Planning and Strategy Committee, Legal Counsel, City Planning Manager and Head of Planning Services be appointed to consider applications and bring recommendations to Council.

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### 1. ISSUE

- 1.1 The Resource Management Act (RMA) Commissioner Schedule is up for regular review. At the Council meeting of 27 November 2017, it was resolved “that the Resource Management Act 1991 Commissioner Schedule be reviewed in 2020 after the 2019 Local Government Elections”.
- 1.2 To meet that deadline, the following process for review of the RMA Commissioner Schedule and subsequent appointments of commissioners is recommended.

### 2. BACKGROUND

- 2.1 Commissioners are engaged to hear matters and/or make decisions when the Council itself is an applicant or the application is one in which the Council has a significant and/or pecuniary interest. Commissioners may also be engaged to consider matters which are highly complex or technical, or if parties involved request hearings to be run by Commissioners.
- 2.2 At the Planning and Policy Committee meeting of 2 August 2010 it was recommended that the RMA Commissioner Schedule would be reviewed every three

## PALMERSTON NORTH CITY COUNCIL

years, after each Local Authority election. At the Council meeting of 27 November 2017, the current RMA Commissioner Schedule was approved.

### 2.3 The proposed review will involve:

- Advertising for new registrations of interest for appointments until 31 December 2023 (or to an earlier date in 2023 if a review is completed earlier that year) and, in particular, seeking commissioners with tikanga knowledge and/or those interested in participating as Chair or Deputy Chair of District Plan hearings.
- Canvassing all current external appointees to see if they wish to remain on the RMA Commissioner Schedule.
- Actively approaching commissioners not currently on the Palmerston North City Council schedule, but who are known to be active regionally.
- Checking current accreditation status of all applicants.
- Ensuring persons recommended for appointment are agreeable to the Council's payment and taxation procedures.
- A selection panel consisting of Chairperson of the Hearings Committee, the Chairperson Planning and Strategy Committee, Legal Counsel, City Planning Manager and Head of Planning Services to consider the applications and bring recommendations to Council.

## 3. NEXT STEPS

- 3.1 A review of the RMA Commissioner Schedule will be undertaken according to the above process.

## 4. COMPLIANCE AND ADMINISTRATION

Does Council have delegated authority to decide?	<b>Yes</b>
Are the decisions significant?	<b>No</b>
If they are significant do they affect land or a body of water?	<b>No</b>
Can this decision only be made through a 10 Year Plan?	<b>No</b>
Does this decision require consultation through the Special Consultative procedure?	<b>No</b>
Is there funding in the current Annual Plan for these actions?	<b>Yes</b>
Are the recommendations inconsistent with any of Council's policies or plans?	<b>No</b>
The recommendations contribute to Goal 5: A Driven and Enabling Council	

The recommendations contribute to the outcomes of the Driven and Enabling Council Strategy	
The recommendations contribute to the achievement of action/actions in a plan under the Driven and Enabling Council Strategy	
Contribution to strategic direction and to social, economic, environmental and cultural well-being	Timely and regular review of the Schedule of RMA Commissioners ensures that Council hearings benefit from current and wide knowledge and experience.

#### **ATTACHMENTS**

Nil



## MEMORANDUM

**TO:** Council

**MEETING DATE:** 26 August 2020

**TITLE:** Request for Chairperson of Hokowhitu Village Centre

**PRESENTED BY:** Hannah White, Governance & Democracy Manager

**APPROVED BY:** Sheryl Bryant, General Manager - Strategy & Planning

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### RECOMMENDATIONS TO COUNCIL

1. That the report titled Request for Chairperson of Hokowhitu Village Centre dated 26 August 2020 be received.
2. That Council appoint Councillor Patrick Handcock to the Hokowhitu Village Centre Committee as Chairperson for a maximum period of 12 months.

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### 1. ISSUE

- 1.1 The Mayor has received a request from the Interim Chairman of the Hokowhitu Village Centre requesting a chairperson urgently while the organisation builds capacity.
- 1.2 Council's Community Advisor has been working with the organisation to help it to function sustainably.

### 2. BACKGROUND

- 2.1 Council has appointed several Elected Members to external bodies for the 2019-2022 at the request of those organisations. It is considered that this particular request is a genuine and temporary need to aid the Hokowhitu Village Centre to continue its operations for the community.
- 2.2 Councillor Patrick Handcock has been recommended by the Mayor following an Expressions of Interest process.

### 3. NEXT STEPS

- 3.1 Hokowhitu Village Centre Committee will be informed of the appointment.

#### 4. COMPLIANCE AND ADMINISTRATION

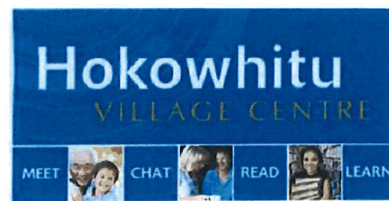
Does the Council have delegated authority to decide?	<b>Yes</b>
Are the decisions significant?	<b>No</b>
If they are significant do they affect land or a body of water?	<b>No</b>
Can this decision only be made through a 10 Year Plan?	<b>No</b>
Does this decision require consultation through the Special Consultative procedure?	<b>No</b>
Is there funding in the current Annual Plan for these actions?	<b>No</b>
Are the recommendations inconsistent with any of Council's policies or plans?	<b>No</b>
The recommendations contribute to Goal 3: A Connected and Safe Community	
The recommendations contribute to the outcomes of the Connected Community Strategy	
The recommendations contribute to the achievement of action/actions in the Community Support Plan	
<p>The action is:</p> <ul style="list-style-type: none"> <li>• Broadens Council's community support focus to include building community, neighbourhood and organisational resilience, capacity and capability</li> <li>• Work with community organisations and relevant partners to investigate/evaluate organisational issues that exist in their structures and processes and identify solutions that could be implemented by each community organisation.</li> <li>• Strengthen relationships with voluntary/not-for-profit organisations that are not funded by Council.</li> </ul>	
Contribution to strategic direction and to social, economic, environmental and cultural well-being	Building capacity in this community organisation will contribute to the social wellbeing and connectedness of the communities in Hokowhitu.

#### ATTACHMENTS

1. Letter of Request from Hokowhitu Village Centre  



Hokowhitu Village Centre  
 C/-The Chairman  
 1 Caccia Birch Lane  
 HOKOWHITU  
 Palmerston North 4410  
 Email mefsmith@xtra.co.nz



10 July 2020

Grant Smith  
 Mayor  
 Palmerston North City Council  
 Private Bag 11 034  
 PALMERSTON NORTH.

Dear Madam/Sir,

Re Request for an elected member of Council to act as Chairman.

The Hokowhitu Village Centre was started 10 years ago with the intent to create a local suburban library and drop in centre in the Hokowhitu Village. The Centre has gradually grown, and the Centre has become the focal point of the Village.

The Centre hosts a Scrabble group, Knit and Natter and a JP Service. It also hosts medical Students from the Otago Medical School during their visits to the city.

The Centre has also had a Fee for Service relationship with PNCC up until this form of funding changed.

We have a membership of approximately 240. At our recent AGM on 9<sup>th</sup> July 2020 we had a good turn out and were able to secure a Secretary, Treasurer, and a Committee of four. However, we lack a Chairman and my circumstances are such that I wish to retire immediately.

We are working with Norelle Ward in the Community team to help strengthen and refocus our Society, hence our request for support of an elected member from the Palmerston North City Council to be appointed to our Committee for a period of 6 to 12 months to help us move forward.

We hope that such an appointment would prove mutually beneficial with the additional skills and guidance this appointment could bring.

Should you require further information please do not hesitate to contact the writer at your earliest.

Yours faithfully,

M.E.F.(Mike) Smith  
 Interim Chairman

Tel (06) 355 5075



## COMMITTEE WORK SCHEDULE

**TO:** Council

**MEETING DATE:** 26 August 2020


**TITLE:** Council Work Schedule August 2020

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### RECOMMENDATION TO COUNCIL

1. That the Council receive its Work Schedule dated August 2020.

### ATTACHMENTS

1. Council Work Schedule August 2020 [↓](#) 

## COUNCIL

### WORK SCHEDULE – AUGUST 2020

Item No.	Estimated Report Date	Subject	Officer Responsible	Current Position	Date of Instruction/ Point of Origin
1.	TBC 2020	Manawatu Residents' card	General Manager – Marketing and Communications		Council 25 May 2020 Clause 48-20
2.	September 2020	Council Organisation Appointments	General Manager – Strategy & Planning	Interviews scheduled for September	Council 24 June 2020 Clause 79-20
3.	March 2021	Remits from PNCC	General Manager – Strategy & Planning		Council 24 June 2020 Clause 69-20
4.	May 2021	Remits received from other T/As	General Manager – Strategy & Planning		Council 24 June 2020 Clause 69-20

## RECOMMENDATIONS FROM COMMITTEE

**TO:** Council

**MEETING DATE:** 26 August 2020

**TITLE:** Presentation of the Part I Public Rangitāne o Manawatū Recommendations from its 29 July 2020 Meeting

Set out below are the recommendations only from the Rangitāne o Manawatū meeting Part I Public held on 29 July 2020.

The Council may resolve to adopt, amend, receive, note or not adopt any such recommendations. (SO 3.18.1)

**1-20 Appointment of Chair and Deputy Chair for the Rangitāne o Manawatū Committee for 2020.**

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

The **COMMITTEE RECOMMEND**

2. That Council appoint Wiremu Te Awe Awe to be the Chair of the Rangitāne o Manawatū Committee for 2020.
3. That Council appoint Grant Smith, (the Mayor) to be the Deputy Chair of the Committee for 2020.

**2-20 Name of the Committee**

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

The **COMMITTEE RECOMMEND**

1. That the name “Rangitāne o Manawatū Committee” be confirmed for the 2019-2022 triennium.

5-20

**Te Motu o Poutoa Development Plan**

Report, presented by Jason Pilkington, Parks Planner.

**The COMMITTEE RECOMMEND**

1. That Council resumes development planning for Te Motu o Poutoa, as described in Option 1 of the report titled *Te Motu o Poutoa Development Plan*.
2. That the Council adopts the general planning timeframe and process for the Te Motu o Poutoa Development Plan described in the *Outline of Community Engagement* Section in the report titled *Te Motu o Poutoa Development Plan*.

## RECOMMENDATIONS FROM COMMITTEE

**TO:** Council

**MEETING DATE:** 26 August 2020

**TITLE:** Presentation of the Part I Public Community Development Committee Recommendations from its 5 August 2020 Meeting

Set out below are the recommendations only from the Community Development Committee meeting Part I Public held on 5 August 2020. The Council may resolve to adopt, amend, receive, note or not adopt any such recommendations. (SO 3.18.1)

### **30-20 COVID-19 Relief Fund Guidelines**

Memorandum, presented by Joann Ransom, Community Development Manager..

#### The **COMMITTEE RECOMMENDS**

1. That the draft guidelines for the COVID-19 Relief Fund, as appended to the report entitled "COVID-19 Relief Fund Guidelines", presented to the Community Development Committee meeting on 5 August 2020, be approved, subject to an addition to the guidelines of a funding cap of \$5,000 per application.
2. That, as a result of implementing the fund, if there is a need to make any significant changes to the guidelines, this will be brought back to Council for approval.

### **31-20 2019/2020 Summary of Celebrating Communities and Local Initiatives Fund**

Memorandum, presented by Joann Ransom, Community Development Manager.

#### The **COMMITTEE RECOMMENDS**

1. That the memorandum entitled "2019/2020 Summary of Celebrating Communities Fund and the Local Initiatives Fund" presented to the Community Development Committee on 5 August 2020, be received.
2. That the Chief Executive review the administration of the Local Initiatives Fund and that applications are put on hold until this is completed.

34-20

**Feasibility of introducing a companion card for those with permanent disabilities**

Report, presented by Joann Ransom, Community Development Manager.

**The COMMITTEE RECOMMENDS**

1. That the report entitled “Feasibility of introducing a companion card for those with permanent disabilities” presented to the Community Development Committee on 5 August 2020, be received.
2. That Council approve undertaking a partnership with Mana Whaikaha to implement a local Companion Card Scheme (Option 1).
3. That Council approve a \$10,000 unbudgeted expense to implement such a scheme.
4. That the scheme be reviewed after 12 months as to its effectiveness and report back to the Community Development Committee.
5. That, at the appropriate time, the Chief Executive write to the cultural CCOs and Council funded ticketed activity providers encouraging them to support the companion card scheme.
6. That the Chief Executive write to the Ministry of Culture and Heritage advocating for the introduction of a nationwide Companion Card scheme and offering the Council and Mana Whaikaha a pilot scheme for their evidential base.

35-20

**Papaioea Park Sports Pavilion - Tenant Lounge Option Analysis**

Memorandum, presented by Bryce Hosking, Manager - Property

**The COMMITTEE RECOMMENDS**

1. That the memorandum entitled “Papaioea Park Sports Pavilion – Tenant Lounge Option Analysis” presented to the Community Development Committee on 5 August 2020, be received for information.
2. That Stage 3 of the Papaioea Place Redevelopment be referred to the 2021-31 Long Term Plan process.



36-20

**Draft Local Alcohol Policy - Deliberations on Submissions**

Report, presented by Julie Macdonald, Strategy & Policy Manager.

The **COMMITTEE RECOMMENDS**

1. That the Statement of Proposal incorporating the revised draft Local Alcohol Policy 2020 (as attached as attachment one to the report entitled "Draft Local Alcohol Policy – Deliberations on Submissions" presented to the Community Development Committee on 5 August 2020) be approved for public consultation.
2. That the Mayor and Chairperson of the Community Development Committee be authorised to make minor amendments to the Statement of Proposal prior to public consultation.



## RECOMMENDATIONS FROM COMMITTEE

**TO:** Council

**MEETING DATE:** 26 August 2020

**TITLE:** Presentation of the Part I Public Arts, Culture & Heritage Committee Recommendations from its 12 August 2020 Meeting

ITEM 15

Set out below are the recommendations only from the Arts, Culture & Heritage Committee meeting Part I Public held on 12 August 2020. The Council may resolve to adopt, amend, receive, note or not adopt any such recommendations. (SO 3.18.1)

### 19-20 Cultural CCOs Final Statements of Intent 2020-23

Memorandum, presented by Julie Macdonald, Strategy & Policy Manager.

During discussion Elected Members requested that the Statement of Intent for Te Manawa Museums Trust Board be considered separately.

#### The COMMITTEE RECOMMENDS

1. That the memorandum entitled 'Cultural CCOs Final Statements of Intent 2020-23' reported to the Arts, Culture & Heritage Committee on 12 August 2020, be received.
2. That the final Statements of Intent 2020–23 submitted by the Regent Theatre Trust, Caccia Birch Trust Board, and Globe Theatre Trust (Attachments 2–4 of the memorandum entitled 'Cultural CCOs Final Statements of Intent 2020-23' presented to the Arts, Culture & Heritage Committee on 12 August 2020), be approved.
3. That the final Statement of Intent 2020–23 submitted by the Te Manawa Museums Trust Board (Attachment 1 of the memorandum entitled 'Cultural CCOs Final Statements of Intent 2020-23' presented to the Arts, Culture & Heritage Committee on 12 August 2020), be approved.



## RECOMMENDATIONS FROM COMMITTEE

**TO:** Council

**MEETING DATE:** 26 August 2020

**TITLE:** Presentation of the Part I Public Planning & Strategy Committee Recommendations from its 12 August 2020 Meeting

Set out below are the recommendations only from the Planning & Strategy Committee meeting Part I Public held on 12 August 2020. The Council may resolve to adopt, amend, receive, note or not adopt any such recommendations. (SO 3.18.1)

### **26-20 Deliberations on Submissions to the Amendment to the Cemeteries and Crematorium Bylaw 2018**

Report, presented by Julie Macdonald, Strategy and Policy Manager.

#### The **COMMITTEE RECOMMENDS**

1. That the Council approves the Amendment to the Cemeteries and Crematorium Bylaw 2018 by specifically revoking clause 11.7 as stated on Attachment 1 to the report titled "Deliberations on Submissions to the Amendment to the Cemeteries and Crematorium Bylaw 2018".

### **27-20 Review of the Trade Waste Bylaw 2015 - S155 Determination**

Report, presented by Julie Macdonald - Manager Strategy & Policy.

#### The **COMMITTEE RECOMMENDS**

1. That pursuant to s 155(1) of the Local Government Act 2002, the Council determines that a bylaw is the most appropriate way of addressing the perceived problem of regulating the quality and rate of trade waste discharges.
2. That pursuant to s 155(2)(a) of the Local Government Act 2002, the Council determines that a standalone bylaw is the most appropriate form for a trade waste bylaw.
3. That pursuant to s 155(2)(b) of the Local Government Act 2002, the Council agrees that it is not anticipated that a revised bylaw would give rise to any implications under the New Zealand Bill of Rights Act 1990.
4. That the Chief Executive be instructed to draft a revised Trade Waste

Bylaw which addresses the perceived problem of regulating the quality and rate of trade waste discharges.

**28-20 Transport Portfolio Update (August 2020)**

Memorandum, presented by Councillor Brent Barrett.

The **COMMITTEE RECOMMENDS**

1. That the Transport Portfolio update report for August 2020 be received for information.
2. That a plan to deliver pedestrian network improvements be referred to the 2021 Long Term Plan process.

## RECOMMENDATIONS FROM COMMITTEE

**TO:** Council

**MEETING DATE:** 26 August 2020

**TITLE:** Presentation of the Part I Public Finance & Audit Committee Recommendations from its 19 August 2020 Meeting

Set out below are the recommendations only from the Finance & Audit Committee meeting Part I Public held on 19 August 2020. The Council may resolve to adopt, amend, receive, note or not adopt any such recommendations. (SO 3.18.1)

### 29-20 S17A Review of Economic Development

Memorandum, presented by Sheryl Bryant, General Manager - Strategy & Planning.

#### The COMMITTEE RECOMMENDS

1. That Council undertake a Section 17A review under the Local Government Act 2002 of Economic Development and that an unbudgeted expense of \$15,000 be approved for the review.

### 30-20 Reserve land acquisition - unbudgeted proposals - Whakarongo Lagoon and Greens Road

Report, presented by Kathy Dever-Tod, Manager - Parks and Reserves.

#### The COMMITTEE RECOMMENDS

1. That the report entitled 'Reserve land acquisition – unbudgeted proposals – Whakarongo Lagoon and Greens Road' presented to the Finance & Audit Committee on 19 August 2020, be received.
2. That Council approve acquisition of approximately 3,300m<sup>2</sup> of part of Lot 1 DP 467810, east of the Whakarongo Lagoon, from the Etheridge family, noting that new operational funding of \$10,000 per year for three years, and \$8,000 per annum thereafter, will be required to maintain this land.
3. That subject to acquisition of the Whakarongo land being approved, Council approve utilisation of Programme 144 Urban Growth – Whakarongo – Reserve Land Purchase in the 2020/21 financial year to fund costs associated with the land acquisition, which are estimated to be \$10,000.

4. That Council approve acquisition of approximately 1.19ha, being part of Lot 1 DP 541201, adjacent to Greens Road, noting that new operational funding of \$1,600 per annum will be required to maintain the land.
5. That subject to acquisition of the Greens Road land being approved, Council approve expenditure of up to \$27,000 in the 2020/21 financial year to purchase the property.
6. That Council note that operational costs associated with land acquisitions approved by Council, as part of report entitled 'Reserve land acquisition – unbudgeted proposals – Whakarongo Lagoon and Greens Road', will be added to existing operating budgets as part of the development of the draft 2021/31 Ten Year Plan.

### **32-20 Quarterly Performance and Financial Report - Quarter Ending 30 June 2020**

Memorandum, presented by Stuart McKinnon, Chief Financial Officer and Andrew Boyle, Head of Community Planning.

#### **The COMMITTEE RECOMMENDS**

1. That the memorandum entitled 'Quarterly Performance and Financial Report – Quarter Ending 30 June 2020' presented to the Finance & Audit Committee on 19 August 2020 be received, and that Council note the following:
  - a. The June 2020 financial performance and operating performance.
  - b. The June 2020 capital expenditure programme progress together with those programmes identified as unable to be completed this financial year.
2. That Council note that the capital expenditure carry forward values in the 2020/21 Annual Budget will be increased by a net \$3,822,000 and capital revenue will increase by \$384,000.

### **33-20 Update of Treasury Policy (including Liability Management & Investment Policies)**

Memorandum, presented by Steve Paterson, Strategy Manager - Finance.

#### **The COMMITTEE RECOMMENDS**

1. That the memorandum entitled 'Update of Treasury Policy (including Liability Management & Investment Policies)' presented to the Finance & Audit Committee on 19 August 2020, be received.
2. That the updated Treasury Policy (incorporating the Liability Management



and Investment Policy pursuant to section 102 of the Local Government Act 2002) as attached to this report be adopted.

3. That it be noted Council will be reviewing the specific borrowing limits contained in clause 3.6.1 of the Policy as part of the process of developing its Financial Strategy for the 2021-31 10 Year Plan, and that if the outcome of this is that there are changes to these limits, the Policy will be updated to include them.