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## Workshop - Ōtākaro Avon River Corridor Co-governance Establishment Committee

### AGENDA

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#### Notice of Briefing:

A Workshop - Ōtākaro Avon River Corridor Co-governance Establishment Committee will be held on:

**Date:** Monday 12 February 2024  
**Time:** 10am  
**Venue:** Committee Room 2, Level 2, Civic Offices, 53 Hereford Street

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#### Membership

Co-Chairs	Lianne Dalziel and Dr Te Maire Tau
Members	Kelly Barber
	Julyan Falloon
	Hayley Guglietta
	Thomas Hildebrand
	Tutehounuku Korako
	Dr John Reid
	Dr Cynthia Roberts
	Tania Wati

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**7 February 2024**

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#### Please Note:

All information provided in briefings should be considered as confidential unless otherwise stated.

This forum has no decision making powers and is purely for the purpose of information sharing.

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## **1. Apologies Ngā Whakapāha**

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



## 2. Otakaro Avon River Corridor Enduring Governance Recommendation

Reference Te Tohutoro: 24/163871















Presenter(s) Te Kaipāhō: Andrew Rutledge (GM Citizens and Community – Acting)  
Brent Pizzey (Lawyer)

### 1. Detail Te Whakamahuki

<b>Timing</b>	This briefing is expected to last for two hours.
<b>Purpose / Origin of Briefing</b>	The Committee has previously considered options for its recommendations to Council on an enduring collaborative governance framework for the Ōtākaro Avon River Corridor (OARC). The workshop will discuss the attached draft report to the Committee in which staff make recommendations on the options. Staff will then finalise that report and present it to the Establishment Committee's at a subsequent Committee meeting.
<b>Confidentiality</b>	The briefing and any shared information are not confidential.
<b>Background</b>	<p>The Terms of Reference for the Establishment Committee relevant to collaborative governance advice are:</p> <p><i>Purpose:</i> 2.2 Provide advice on the development of the enduring co-governance entity/framework for the ŌARC.</p> <p><i>Function:</i> 3.4. Provide advice on roles and functions of the co-governance entity and the potential legal structure of the entity. 3.5. Investigate and develop advice on the development of a local bill to establish the entity and provide an enduring legal status for the Corridor within a local Act of Parliament.</p> <p>The Committee has had several workshops and meetings to discuss the advice. The attached draft staff report reflects the staff's current understanding of the outcome of those discussions.</p>
<b>ELT Consideration</b>	The draft report to the Committee has not been considered by ELT however, the Acting General Manager Citizens and Community is an author of the draft report.
<b>Key Issues</b>	<ul style="list-style-type: none"> <li>Whether the Committee seeks further advice or clarification on the recommendations in the draft report before staff present the report to the Establishment Committee.</li> </ul>

<b>Next Steps</b>	<ul style="list-style-type: none"> <li>• Council staff will finalise the report.</li> <li>• Staff will present the report at a formal Establishment Committee meeting.</li> <li>• The Establishment Committee will then make recommendations to Council.</li> <li>• Council will then decide whether to accept the Establishment Committee's recommendations.</li> </ul>
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## Attachments Ngā Tāpirihanga

No.	Title	Reference	Page
A  	Enduring Collaborative Governance Entity for the Ōtākaro Avon River Corridor - Draft Report	24/190591	7
B  	A Framework OARC Co-governance Project Assessment Framework Final - Co-governance Otakaro Avon River Corridor Decision Making	24/175059	20
C  	B Draft OARC Council Committee Terms of Reference	24/175061	22
D  	C Collaborative governance options table	24/175063	25
E  	D Christopher Finlayson KC advice June 2021	24/191839	31
F  	E Chrissie Williams discussion paper Oct 2021	24/191505	37
G  	F OARC land ownership options	24/175067	47

## Signatories Ngā Kaiwaitohu

<b>Authors</b>	Brent Pizzey - Senior Legal Counsel Andrew Rutledge - Acting General Manager Citizens and Community
<b>Approved By</b>	Andrew Rutledge - Acting General Manager Citizens and Community

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## 0. Enduring Collaborative Governance Entity for the Ōtākaro Avon River Corridor

Reference / Te Tohutoro: 23/1932729

Report of / Te Pou  
Matua:

Andrew Rutledge, Acting General Manager Citizens and Community

Senior Manager /  
Pouwhakarae:

Andrew Rutledge, Acting General Manager Citizens and Community  
(Andrew.Rutledge@ccc.govt.nz)

### 1. Purpose and Origin of Report Te Pūtake Pūrongo

- 1.1 To enable the Ōtākaro Avon River Corridor Co-Governance Establishment Committee to recommend to Council its preferred governance structure for implementing the Ōtākaro Avon River Corridor Regeneration Plan.
- 1.2 In 2019 Council set up the Establishment Committee (Committee of Council) to evaluate options and make a recommendation to Council for governance of the Ōtākaro Avon River Corridor (OARC).
- 1.3 The decisions in this report are to make recommendations to the Council. A decision to make a recommendation is not of high significance. The subsequent decisions of Council on whether to accept or reject those recommendations are of higher significance in relation to the Christchurch City Council's Significance and Engagement Policy. The level of significance was determined by assessing the community interest in the governance arrangements for the OARC, being a significant multi-purpose land holding which has significant cultural value to the people of Christchurch and in particular mana whenua, Te Ngāi Tūāhuriri.

### 2. Officer Recommendations Ngā Tūtohu

That the Ōtākaro Avon River Corridor Co-governance Establishment Committee:

1. Acknowledges that the regeneration programme for the Ōtākaro Avon River Corridor (OARC) is a 30-year programme.
2. Recommends that Council adopt the Ōtākaro Avon River Corridor framework collaboratively developed by the establishment committee members, attached as Attachment A, as the basis for all decisions impacting the corridor as detailed within this report.
3. Recommends that Council takes a two-stage approach to appropriate governance structure:
  - (a) first, establishes a Committee to govern the implementation of some aspects of the Ōtākaro Avon River Corridor Regeneration Plan and some activities set out within Council's Ōtākaro Avon River Activity Plan with the Terms of Reference and delegations in Resolution 4 below; and
  - (b) secondly, after significantly more development has occurred, establish an enduring entity as a charitable trust for the governance of the OARC at an appropriate time.
4. Recommends to Council that the Terms of Reference and delegated authority for the Committee be that set out in Attachment B. The delegated powers are:
  - (a) The Council delegates to the NAME Committee the following authority in relation to decisions concerning the use of land within the Otakaro Avon River Corridor (OARC),

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noting that all decisions should align with the OARC Assessment Framework and Regeneration Plan and be consistent with the Council's obligations under the global stormwater discharge consent:

- (b) Full decision-making powers of Council except for the following:
    - (i) Permanent disposal of any land within the OARC.
    - (ii) To decide whether some or all of the land in the OARC be a strategic asset.
    - (iii) The powers and duties of the Council under the Resource Management Act 1991.
  - (c) The powers of the Council under the Reserves Act 1977 and section 138(2) of the Local Government Act 2002, except the exclusions noted above and/or where limitations are specified with the Act.
  - (d) The powers of the Council under the Christchurch City Council Parks and Reserves Bylaw 2016 and the Christchurch City Council Marine, River, and Lake Facilities Bylaw 2017 except the where limitations are specified with the Bylaw.
  - (e) Authority to provide landowner approval for any new development plans provided the design is within the policy and does not negatively impact the budget set by the Council.
  - (f) Authority to provide landowner approval for any new third-party development plans, provided the initiative is within policy and does not negatively impact the budget set by the Council.
  - (g) Authority to grant leases, licenses, and access authorities for use of the OARC, where not otherwise covered by existing staff delegations.
  - (h) Authority to resolve that any land owned by Christchurch City Council within the OARC be a reserve subject to any conditions specified in the resolution, to be held for any of the purposes specified in sections 17 to 23 of the Reserves Act 1977.
- 5. Recommends that the Council Committee membership be three members appointed by Ngāi Tūāhuriri and three members appointed by the Council to ensure collaborative decision making with mana whenua, noting the LGA 2002 Schedule 7, clause 31(4)(a) requires that at least one member be an elected Councillor.
  - 6. Recommends that Council further consider the establishment of a charitable trust for the ongoing management of developed areas of the OARC in several years, after development has progressed, in alignment with Long Term Plan deliberations, to enable full consideration of the financial requirements associated to development of the Trust.
  - 7. Recommends that the Council dissolve the Establishment Committee when the Council Committee is operating.

### 3. Reason for Report Recommendations Ngā Take mō te Whakatau

- 3.1 The development of the Ōtākaro Avon River Corridor is a long term initiative with particular importance to mana whenua, Ngāi Tūāhuriri, and the citizens of Christchurch.
- 3.2 There is huge community and social interest and personal investment in this area. It was the location of peoples' homes and livelihoods. Red Zoning by central government left people with little or no choice but to leave the area. The Establishment Committee has emphasised that it seeks a governance structure that reflects and respects that legacy.



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- 3.3 The establishment of a collaborative governance entity and a partnership between Ngāi Tūāhuriri and the Council, provides for and enables the exercise of rangatiratanga and kaitiakitanga by mana whenua, and provides for the relationship of mana whenua and their cultures and traditions with their ancestral lands, mahinga kai, water, sites, wāhi tapu and other taonga.

- 3.4 The proposed resolutions are based on the governance framework being a two-stage process.

**First Stage**

- 3.5 The Establishment Committee sought advice from staff about whether the Council should transfer under section 33 of the RMA its RMA functions, powers and duties to the alternative governance body. The advice was that this is possible. However, it is complex, and would be duplication with other work by the Council, to establish a governance structure that has responsibility for the District Plan, RMA enforcement, and processing of resource consents.
- 3.6 Officers consider that Council is best placed to manage its consenting, planning, and regulatory functions under the RMA at least during this first stage of the governance arrangements. No other entity is likely to be able to accept these risks or have the expert staff and input needed to perform those roles. The Council's current governance structure is most appropriate for those functions.
- 3.7 Council is managing significant challenges in ensuring that the 2024-2024 Long Term Plan has a balanced budget that minimises cost risks to rate payers. Ratepayers may consider that establishing at this time a new governance entity, that Council is obliged to fund, is excessive when Council already has the ability to call on shared resources to adequately manage governance of the OARC in the short to medium term. The recommended option has a cost neutral impact on rate payers for governance.
- 3.8 A committee of Council with decision making powers aligns to management of those risks, in a manner that incorporates a Ngāi Tūāhuriri perspective with equal weight. A Committee of Council avoids any duplication of resources.

**Second Stage**

- 3.9 Use of another governance structure such as a Charitable Trust will be more achievable after areas of the Corridor have been developed and the Council has fulfilled its pre-existing obligations. Risk management requirements regarding critical infrastructure and flood protection will be better defined.

**4. Alternative Options Considered Ētahi atu Kōwhiringa**

Benefits and disadvantages for each of the following alternative governance and associated land ownership options structures have been explored. A summary of benefits and disadvantages is provided below with a full assessment within the Appendices.

**4.1 Memorandum of Understanding or Agreement to Co-operate**

- 4.1.1 *Benefits include:* no formal legal changes to each entity (CCC / Ngāi Tūāhuriri). Flexible to change methods, regularity, formality of co-operation as required. Can be managed by staff or escalated to Governance depending on the issue.

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- 4.1.2 *Disadvantages include:* No delegated decision making authority, Greater risk of misalignment and different positions by each participating party on an issue.
- 4.2 **Formation of a new Governance Entity in the form of a Company or Trust**
- Range of options to design a structure that best suits the parties, including ordinary Trusts, an Incorporated Trust (must be charitable), Ordinary partnership, Limited partnership or a company
- 4.2.1 *Benefits include,*
- Can be formally established with clear roles, rights and responsibilities.
- Range of options to design a structure that best suits the parties
- Can change any of the terms by agreement and reasonably promptly, e.g. delegated powers, membership rules, functions, reporting obligations.
- 4.2.2 *Disadvantages include*
- Creation of a whole new formal structure to be managed and funded, no funding currently exists. The new entity would be a CCO if CCC has 50% control.
- Will have accounting and reporting duties.
- Will have additional establishment costs to document and form up.
- Parties can influence and control by letter of expectation and appointment of representatives.
- Public influence would be contained to a letter of Intent to appointees (trustees)
- 4.3 **Local Act of parliament to establish a new governance arrangement**
- 4.3.1 *Benefits include:* Clear statutory creation of entity, roles and responsibilities incorporated into legislation.
- 4.3.2 *Disadvantages include:* Bound by parliamentary process and priorities, Future changes to the Act would require parliamentary approval and sponsorship from a local Member of Parliament. Past experience indicates this can often take considerable time.
- 4.4 **Legal Personality for the Ōtākaro Avon River Corridor**
- The OARC does not include the river. Other models of "legal personality" for natural resources have attached to the river, not the land. Creation of formal separate legal personality for the OARC with Trustees or the like to govern in the best interests of the OARC. Creating "legal personality" would require legislative change to support this.
- 4.4.1 *Benefits include,* provides a strong public message regarding the importance of the area.
- 4.4.2 *Disadvantages include:* As above. An Act of parliament is overall not required for effective co governance of the OARC, particularly in the transformative years of the land and associated public infrastructure installations.

## 5. Detail Te Whakamahuki

- 5.1 The Ōtākaro/Avon River is a taonga which has been enjoyed by the people of Ōtautahi/Christchurch for generations.

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- 5.2 Regenerating the 602-hectare OARC is a once in a life lifetime opportunity to create a legacy which benefits present and future generations. Stretching from the city to the sea the Corridor will provide a range of environmental, cultural, social, and economic benefits, focusing on the health and wellbeing of the Ōtākaro/Avon River (Te Mana O Te Wai) and ensure a healthier place for people, the natural ecosystem (Te taiao) and the natural security of the people of Ōtautahi/Christchurch in preparation for climate change and the environmental changes during the 21st century and beyond.
- 5.3 Ngāi Tūāhuriri is a principal hapū and Papatipu Rūnanga of Ngāi Tahu, and Ngāi Tahu recognise the tino rangatiratanga that resides within these bodies. The Ōtākaro Avon River Corridor (OARC, the Corridor) sits within Ngāi Tūāhuriri takiwā . Ngāi Tahu hapū have exercised rangatiratanga throughout its rohe for centuries. Its rangatiratanga existed before Te Waipounamu was colonised after 1840. Te Tiriti o Waitangi confirmed the right of Ngāi Tahu to its rangatiratanga, and the Crown reconfirmed Ngāi Tahu rangatiratanga in the Ngāi Tahu Claims Settlement Act 1998. That Act also provided that the Crown would enter a new era of cooperation with Ngāi Tahu.
- 5.4 The regeneration of the Corridor is also an opportunity for the Council and Ngāi Tūāhuriri to demonstrate genuine partnership in a collaborative governance arrangement.

**Development phases**

- 5.5 Due to its size, the Ōtākaro Avon River Corridor Regeneration Plan is being delivered as a series of discrete projects, encompassing Parks, Transport and Three Waters components within each project area as relevant. The Bexley estuarine wetland project is a good example of this, which includes:
- (a) Three Waters components (long term stopbank and a Stormwater Management Area);
  - (b) Parks components (walking/cycling path, wetland restoration works, terrestrial planting); and
  - (c) Transport components (removal of disused roads, possible changes to 'in service' roads).
- 5.6 Across each three year Long Term Plan cycle we run multiple coordinated projects in this manner, and over time more and more of the Parks, Three Waters and Transport works in the Corridor will be completed and the land returned to a delta, in line with the aims of the Regeneration Plan and the Ōtākaro Avon River Corridor Framework (Attachment A).
- 5.7 As substantive portions are completed (the Bexley wetland area for instance), the Council could transfer decision making for ongoing governance and management of the Parks components of areas to a Trust. These would exclude Three Waters and Transport assets, due to the liabilities involved.
- 5.8 This transfer could occur either:
- 5.8.1 At Final Completion of each project (the end of the planting maintenance period), or
  - 5.8.2 As part of the three yearly LTP cycle, transferred in tranches.
- 5.9 Funding of maintenance, levels of service and exact boundaries between the Trust and Council assets would need to be carefully considered if employing this approach.

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**Previous Council decisions**

5.10 In 2019, the Crown and the Council entered into the global settlement agreement on roles and responsibilities for completing the post-earthquake transition to local leadership. A redacted copy of that Agreement has been released to the public. The section of the Agreement on transition planning for governance arrangements for the Residential Red Zone provides:

- The Crown would transfer ownership of land in the OARC to the Council. When the Council owns all or most of the land, “A community governance group/ entity, with delegated decision-making powers, could be established” (p16);
- “The Council proposes establishing a community co-governance entity with the appropriate decision-making power to make decisions on the Council’s behalf” (p17);
- “The role Te Runanga o Ngāi Tahu as Treaty partner is recognised, with the Council committing to include Ngāi Tahu representation alongside other community representatives within the consultative group and in longer-term governance arrangements.” (p17 – the reference to “consultative group” is to the Phase 1 period in the Agreement which was while the land was still in Crown ownership. That no longer applies).
- “At the point that governance principles and/ or processes are established the Council agrees that it will take into account the principles of Te Tiriti o Waitangi/ the Treaty of Waitangi. For example, principles of partnership, rangatiratanga, active participation in decision-making and active protection may apply in the circumstances at the time.” (p17).
- “The parties agree the following in relation to funding: ... (iii) The Council will be responsible for all costs associated with the establishment and operation of the community governance entity (Phase 2)” (p17).

5.11 Council Resolution Nov 2020 CNCL/2020/00139:

1. Agree that staff will commence a process to implement the decision taken under the Global Settlement Agreement of 23 September 2019, to establish a permanent community co-governance entity for the Residential Red Zone (RRZ).
2. Agree that Ngāi Tūāhuriri will be invited to partner with the Council to investigate and develop options for the co-governance entity.

5.12 Council Resolution December 2021 CNCL/2021/00210:

1. Confirm the intent to establish a co-governance entity to govern the Ōtākaro Avon River Corridor comprising equal representation by Ngāi Tūāhuriri and Christchurch City Council, noting the Council appointees would be drawn from the Council and the wider community.
2. Request that staff provide advice regarding the process and timeframe for:
  - a. Establishing the co-governance entity by a local bill and/or a Trust Deed and
  - b. The inclusion of an enduring legal status for the Ōtākaro Avon River Corridor within a local bill.

5.13 Council Resolution April 2022:

1. Appoints the Ōtākaro Avon River Corridor Co-governance Establishment Committee as a Committee of Council.
2. Adopts the Terms of Reference for the Ōtākaro Avon River Corridor Co-governance

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*Establishment Committee.*

- 5.14 The Terms of Reference for the Establishment Committee approved by the Council in April 2022 relevant to the collaborative governance advice are:

*Purpose:*

- 2.2 *Provide advice on the development of the enduring co-governance entity/framework for the ŌARC.*

*Function:*

- 3.4. *Provide advice on roles and functions of the co-governance entity and the potential legal structure of the entity.*  
3.5. *Investigate and develop advice on the development of a local bill to establish the entity and provide an enduring legal status for the Corridor within a local Act of Parliament.*

## 6. Collaborative Governance Structure Options

- 6.1 The Establishment Committee has considered the collaborative governance options, and their pros and cons, that are set out in the Table in **Attachment C** and discussed in the advice by Mr Christopher Finlayson KC (**Attachment D**) and in the Discussion Paper by Ms Williams (**Attachment E**).
- 6.2 Council staff consider that at this stage a Council Committee is the most appropriate structure. That is for the reasons set out in Part 3 of this report.
- 6.3 It is consistent with the Global Settlement Agreement and with previous Council resolutions for the Committee to comprise equal membership of appointees by Council and appointees by Ngāi Tuāhuriri.

### Functions for the Council to delegate to the Committee

- 6.4 Council officers consider that it would be appropriate for the Council Committee to have the Terms of Reference and delegated functions in **Attachment B**.
- 6.5 Other possible delegated functions, not recommended by staff, are consenting, planning, and regulatory functions under the RMA. It is possible for the Council to transfer its RMA functions to another governance body; however, it appears that for the OARC, at least during the first stage described above, no other entity is likely to be able to accept these risks or have the expert staff and input needed to perform those roles. Officers consider that the Council's current governance structure is most appropriate for those functions for the first stage. The Council Committee could further consider this after pre-existing obligations are met and further development has occurred.

## 7. Protection of the land in perpetuity

- 5.11 Land ownership options are set out in **Attachment F**.

### "Green spine" reserve

- 5.12 A Council decision to classify the "Green Spine" land in the OARC as a reserve under the Reserves Act would mean that, so long as there was no change to that reserve status, the development and use of the land could only be for the purposes allowed by that reserve status.
- 5.13 The Reserves Act provides options for reserve classification that include (relevantly) recreation reserves, nature reserves, scientific reserves and local purposes reserves. If

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- identified as a local purposes reserve, the classification can further specify the local purpose, such as utility or esplanade.
- 5.14 Council officers consider that protection of the “Green Spine” in perpetuity is greatly assisted if the land is classified as a reserve, but that this should not occur until the collaborative governance body has given future consideration to appropriate land uses and reserve status. It may be appropriate for specific areas to have different classifications. The OARC Regeneration Plan describes uses of the Green Spine that include “*Up to 80% of the Green Spine could be set aside for ecological restoration*”, access to the river, recreation, stopbanks and stormwater treatment areas, and flatwater sports (p50). Decision making on uses of the area has not got far enough for the Council to yet decide on appropriate reserve classifications.
- 5.15 Moreover, there is still infrastructure provision by agencies within and through the Green Spine, and development of land adjacent to the Green Spine might rely on easements or access across the Green Spine. It is preferable for that use to be finished prior to Council resolutions that determine the area to be a reserve.
- 5.16 Land in the corridor that is outside of the “green spine” would retain its current Fee Simple status until its long term use is determined by the Council Committee or a subsequent trust set up by the Council.
- 5.17 The Council could consider deeming some of the non-“Green Spine” land in the OARC to be a “strategic asset”. The LGA 2002 defines this to be “*an asset or group of assets that the local authority needs to retain if the local authority is to maintain the local authority’s capacity to achieve or promote any outcome that the local authority determines to be important to the current or future well-being of the community*”. If the Council has identified land to be a strategic asset, it is listed as such in the Significance and Engagement Policy and the Council can decide to transfer ownership or control of that strategic asset only if the LTP consultation document expressly assesses it, and that decision is specifically provided for in the Long Term Plan (LGA 2002 sections 5, 76AA, 93E and 97).

**Local Act of Parliament**

- 5.18 Local Acts of Parliament change or limit the effect of the general law in its application to the particular locality concerned. A local Bill must be promoted by a local authority. The Council is responsible for drafting it, in consultation with the Parliamentary Counsel Office. The local member of Parliament is often the member in charge of a local Bill. Members in charge of a local Bill are not required to support the premise of the Bill. The Council must give public notice of intent to promote a local Bill. The MP who has agreed to be in charge of the Bill then introduces it to the House – at a time that is at the discretion of Parliament. The Bill then goes through standard parliamentary and Select Committee process.
- 5.19 **Attachments D and E** assess the merits of using a local Act of Parliament for the purposes of setting up a bespoke governance arrangement. But as noted in **Attachment D**, this might not be a government priority, might take considerable time, and the parties are able to set up an appropriate governance arrangement themselves without relying on an Act of Parliament. Mr Finlayson KC commented (**Attachment D**) that some form of legislation will probably be necessary; however, that was on the basis that he was suggesting that a bespoke governance entity other than a Committee of Council might be favoured by the Establishment Committee.

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- 5.10 That option of a Local Act could be further considered by the Council at the subsequent stages after development has occurred and when the Council is reconsidering whether a Trust structure might be appropriate. The Council could at that stage consider promoting that the local Act constrain the uses of the OARC Corridor or Green Spine areas. That would provide another degree of assurance that the land will be used for those purposes in perpetuity – or at least until the Council and Parliament change that legislation.

## 6. Policy Framework Implications Ngā Hīraunga ā- Kaupapa here

### Strategic Alignment Te Rautaki Tīaroaro

- 6.1 This report supports the [Council's Long Term Plan \(2021 - 2031\)](#):
- 6.2 Parks, heritage and coastal environment
- 6.2.1 Activity: Otakaro Avon River Corridor
- Level of Service: 6.8.12.2 Operational Co-governance entity for the Otakaro Avon River Corridor - Co Governance Group operational

### Policy Consistency Te Whai Kaupapa here

- 6.3 The decision is consistent with Council's Plans and Policies. It supports implementing the Ōtākaro Avon River Corridor Regeneration Plan. It recommends an efficient and effective governance arrangement that is suitable for these early stages of works in the OARC.
- 6.4 The proposed Council Committee structure is consistent with the Long Term Plan 2021-31, which sets out the Council's requirements from statute that *"Combined, these legislative documents set the basis of consultation with Iwi and mana whenua to ensure that the views and values of Māori are considered across Council activities as we make decisions about the city, its resources and the environment. Land, water (all forms) and the natural environment are of significant cultural value for Māori - similarly this is true for the wider Christchurch Community and are mutual areas of interest for Māori and Council"*. Council's retention of governance responsibility for infrastructure and flood protection work in the corridor is consistent with the LTP's capital programme for delivery of those assets.

### Impact on Mana Whenua Ngā Whai Take Mana Whenua

- 6.5 The decision involves a significant decision in relation to ancestral land or a body of water or other elements of intrinsic value, therefore this decision does specifically impact Mana Whenua, their culture and traditions.
- 6.6 The decision involves a matter of interest to Mana Whenua and will impact on our agreed partnership priorities with Ngā Papatipu Rūnanga.
- 6.7 The report recommends that the OARC Establishment Committee makes a recommendation to Council on a preferred collaborative governance model for the OARC. The preferred model has Ngāi Tūāhuriri and the Council being represented on a collaborative governance entity for the OARC.
- 6.8 It is expected that Ngāi Tūāhuriri representatives on the OARC Co-governance Establishment Committee (including representatives from other Papatipu Runganga) will describe the hapu views on a recommended governance model.

### Climate Change Impact Considerations Ngā Whai Whakaaro mā te Āhuarangi

- 6.9 The decisions in this report are likely to:

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- 6.9.1 Contribute positively to adaptation to the impacts of climate change.
- 6.9.2 Contribute positively to emissions reductions.
- 6.10 Improving environmental outcomes for the OARC will be a key focus for the enduring Collaborative Governance Entity.

**Accessibility Considerations Ngā Whai Whakaaro mā te Hunga Hauā**

- 6.11 These are not relevant at this time but will be considered in all decisions regarding the future use of the OARC when the Collaborative Governance Entity is in place and making decisions on the use of the land and water within the OARC.

**7. Resource Implications Ngā Hīraunga Rauemi**

**Capex/Opex Ngā Utu Whakahaere**

- 8.1 The Global Settlement agreement indicates that Council will be responsible for all costs associated with implementation of the Ōtākaro Avon River Corridor Regeneration Plan including operational costs. There is no fixed timeline for the completion of the Plan, but it is notionally understood that it is at least a 30 year plan. Third party funding is required for non-Council infrastructure developments. The costs associated with governance will remain with the landowner, Council.
- 7.2 Cost to Implement – there is no cost implications for Council if the recommended option of a Committee of Council is adopted.
- 7.3 If an alternative option is the preferred model, then operational budget would be required to support this in the form of
  - 7.3.1 Governance costs
  - 7.3.2 Operational administration costs including staff overheads etc

**8. Legal Implications Ngā Hīraunga ā-Ture**

**Statutory power to undertake proposals in the report Te Manatū Whakahaere Kaupapa**

- 8.1 In April 2022 the Council appointed the Ōtākaro Avon River Corridor Co-Governance Establishment Committee as a Committee of Council. It set the following terms of reference for the Establishment Committee:
  - Purpose:*
    - 2.2 *Provide advice on the development of the enduring co-governance entity/framework for the ŌARC.*
  - Function:*
    - 3.4. *Provide advice on roles and functions of the co-governance entity and the potential legal structure of the entity.*
    - 3.5. *Investigate and develop advice on the development of a local bill to establish the entity and provide an enduring legal status for the Corridor within a local Act of Parliament.*
- 8.2 The Establish Committee recommendations proposed in this report are consistent with that function.



Ōtākaro Avon River Corridor Co-governance Establishment  
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**Other Legal Implications Ētahi atu Hiraunga-ā-Ture**

- 8.3 The legal merits of various governance and land ownership options are set out in this report and its attachments.

**9. Risk Management Implications Ngā Hiraunga Tūraru**

- 9.1 No risks arise in relation to the Establishment Committee's function. The function of the Committee is set out in its terms of Reference:

*Purpose:*

- 2.2 *Provide advice on the development of the enduring co-governance entity/framework for the ŌARC.*

*Function:*

- 3.4 *Provide advice on roles and functions of the co-governance entity and the potential legal structure of the entity.*  
3.5 *Investigate and develop advice on the development of a local bill to establish the entity and provide an enduring legal status for the Corridor within a local Act of Parliament.*

- 9.2 The recommendations to Council proposed in this report are consistent with that function.
- 9.3 Collaboration between Council and Ngāi Tūāhuriri on a Council Committee with joint membership enables all people involved to demonstrate genuine partnership in a collaborative governance arrangement in the interests of the OARC and the community.

**10. Next Steps Ngā Mahinga ā-muri**

- 10.1 The Establishment Committee to present its recommendations to Council. Council will then resolve whether to accept the recommendations of the Establishment Committee. The role of the Establishment Committee will then be at an end.

Ōtākaro Avon River Corridor Co-governance Establishment  
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Attachments Ngā Tāpirihanga

No.	Title	Reference	Page
A	OARC Framework	<a href="#">24/14328424/14328424/14328424/14328424/143284</a>	
B	Draft Terms of Reference and Delegated Authority	<a href="#">24/15974924/15974924/15974924/159749</a>	
C	Collaborative governance options table	<a href="#">24/10711724/10711724/10711724/107117</a>	
D	Christopher Finlayson KC advice	<a href="#">24/10712324/10712324/10712324/107123</a>	
E	Ms Williams' Discussion Paper	<a href="#">24/10713224/10713224/10713224/107132</a>	
F	OARC Land Ownership Options	<a href="#">24/10713324/10713324/10713324/107133</a>	

In addition to the attached documents, the following background information is available:

Document Name – Location / File Link
Not applicable

Confirmation of Statutory Compliance Te Whakatūturutanga ā-Ture

Compliance with Statutory Decision-making Requirements (ss 76 - 81 Local Government Act 2002). (a) This report contains: (i) sufficient information about all reasonably practicable options identified and assessed in terms of their advantages and disadvantages; and (ii) adequate consideration of the views and preferences of affected and interested persons bearing in mind any proposed or previous community engagement. (b) The information reflects the level of significance of the matters covered by the report, as determined in accordance with the Council's significance and engagement policy.
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Ōtākaro Avon River Corridor Co-governance Establishment  
Committee  
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**Signatories Ngā Kaiwaitohu**

<b>Authors</b>	Andrew Rutledge - Acting General Manager Citizens and Community Brent Pizzey - Senior Legal Counsel
<b>Approved By</b>	David Little - Manager Residential Red Zone Andrew Rutledge - Acting General Manager Citizens and Community

Draft

[Residential Red Zone]

# Memo

Date: 11 September 2023

## Assessment Framework for projects in the Ōtākaro Avon River Corridor.

This Assessment Framework provides a template for members of the Ōtākaro Avon River Corridor Co-governance Establishment Committee to evaluate projects and proposals in alignment with the Regeneration Plan's intent. Applicants are to consider the requirements below, and carry out a self-assessment as part of their project planning.

### Underpinning statement

The Committee recognise that the Ōtākaro Avon River Corridor is a natural, dynamic river delta, which was traditionally used as a space for gathering and practicing mahinga kai. Its value as a resource gathering area is reflected in the name of the wider landscape Ka Whata Kai a Te Rakihouia (The Food Storehouse of Rakihouia). These underpinning aspects help us to understand the landscape, and give guidance for the future.

### Weighting and gateways

Due to the scope of each project, it may not be possible to meet all of the requirements in the Framework table overleaf, however each matter should be addressed, and an explanation be put forward for any that are not achievable.

The Framework has three 'gateways', however there is no ranking within these categories, beyond the categories themselves. Gateway one aspects are the most important, then gateway two and so on.

Most weight is put on 'biophysical' aspects, as these respond to environmental factors that are generally out of our control. Ecological restoration aspects are prioritised next, which relate to the ability for the area to function as a mahinga kai resource. Cultural and community factors follow, and these should be assessed with respect to their fit within the earlier biophysical and ecological parameters.



Assessment Framework table

The Rebuilding of Ka Whata Kai a Te Rakihouia (The Food Storehouse of Rakihouia)

Item	Gateway One: Biophysical factors
a.	How does the project take an intergenerational view into account, including the long-term impacts of climate change?
b.	How does the project avoid risk to life, property and the built environment?

Item	Gateway Two: Ecological factors
c.	How does the project enhance peoples' capacity to engage in mahinga kai practices?
d.	How does the project contribute to, or enhance, the regeneration and reconstruction of the ecosystems as an interconnected mosaic in a way that represents the former delta?

Item	Gateway Three: Cultural and Community factors
e.	How does the project enhance the connections that generations of communities hold to the area?
f.	How does the project test or provide innovative ideas or ways of living that may be transferred beyond the OARC, particularly relating to life on a floodplain?
g.	How do they support our local economy, either by attracting domestic and international visitors or by encouraging local manufacturing and innovation.
h.	How does the project support the growth of healthy communities, and encourage participation in recreation, leisure and learning?



## **[NAME] Committee - Terms of Reference / Ngā Ārahina Mahinga**

<b>Chair</b>	To be elected from within the Committee.
<b>Deputy Chair</b>	To be elected from within the Committee.
<b>Membership</b>	Three members to be appointed by Ngāi Tūāhuriri and three members appointed by the Council.
<b>Quorum</b>	Half of the members of the Committee.
<b>Meeting Cycle</b>	Quarterly (4 per calendar year).
<b>Reports To</b>	Council.

### **Purpose**

The purpose of the Committee is to provide strategic direction for the integrated development and implementation of the Ōtākaro Avon River Corridor Regeneration Plan and Council's Otakaro Avon River Corridor (ŌARC) Activity Plan, and implement the Council's global stormwater discharge consent, with reference to the Mahaanui Iwi Management Plan; the Christchurch District Plan; and other national, regional and Council policies and strategies.

### **Delegations**

The Council delegates to the NAME Committee the following authority in relation to decisions concerning the use of land within the Otakaro Avon River Corridor (ŌARC), noting that all decisions should align with the OARC Assessment Framework and Regeneration Plan and be consistent with the Council's obligations under the global stormwater discharge consent:

- Full decision-making powers of Council except for the following:
  - Permanent disposal of any land within the OARC.
  - To decide whether some or all of the land in the OARC be a strategic asset.
  - The powers and duties of the Council under the Resource Management Act 1991.
- The powers of the Council under the Reserves Act 1977 and section 138(2) of the Local Government Act 2002, except the exclusions noted above and/or where limitations are specified with the Act.
- The powers of the Council under the Christchurch City Council Parks and Reserves Bylaw 2016 and the Christchurch City Council Marine, River, and Lake Facilities Bylaw 2017 except the where limitations are specified with the Bylaw.
- Authority to provide landowner approval for any new development plans provided the design is within the policy and does not negatively impact the budget set by the Council.

- Authority to provide landowner approval for any new third-party development plans, provided the initiative is within policy and does not negatively impact the budget set by the Council.
- Authority to grant leases, licenses, and access authorities for use of the OARC, where not otherwise covered by existing staff delegations.
- Authority to resolve that any land owned by Christchurch City Council within the OARC be a reserve subject to any conditions specified in the resolution, to be held for any of the purposes specified in sections 17 to 23 of the Reserves Act 1977.

### **Recommendations to the Council**

The NAME Committee will have the ability to make recommendations to the Council on the following matters in relation to the use of land within the Otakaro Avon River Corridor (OARC):

- Any proposal that some or all of the land be recognised as a strategic asset.
- Requests to the Council's Chief Executive to investigate the merits of, and make a recommendation to Council on, a change to the District Plan for part or all of the OARC.
- To exchange publicly owned land within the OARC for any privately owned land within the OARC.

### **Functions**

The NAME Committee will hold the following functions in relation to the Otakaro Avon River Corridor (OARC)

#### *Engagement and consultation*

- Identify and understand stakeholder interests to be able to direct engagement for specific decisions.
- Establish and maintain effective dialogue and relationships with stakeholders to support the role of the Committee.
- Ensure appropriate engagement and consultation has occurred with communities and organisations.
- Provide information and report to the public using methods such as reports and meetings.

#### *Monitoring performance and reporting*

- Receive regular performance reports on the Activity Plan.
- Monitor the implementation of the Activity Plan including delivery of its Levels of Service.

- Consider and advise on conflicts and risks to achieving the Activity Plan.
- Report to Council annually, or more frequently if required.

### **Meetings and Membership**

- Committee membership will be three members appointed by Ngāi Tūāhuriri and three members appointed by the Council.
- The Committee will work to achieve consensus wherever possible, and work in a collaborative and cooperative manner taking into account the interests of all sectors of the community.
- A Chairperson shall be elected from with the Committee membership and that person shall have a casting vote to enable effective decision making should the need arise.
- The Committee will operate in accordance with the requirements of the Local Government Official Information and Meetings Act 1987.
- All meetings will be advertised, and an agenda published.
- The Committee will meet on a quarterly basis.
- The Committee may receive presentations by invitation or agreement of the Chair.

### **Committee remuneration**

- Remuneration for chairs and members will be set annually.
- The participation of an elected member in the Committee is part of their remunerated role as a councillor or Mayor.

### **Support for the Committee**

The Council and Te Rūnanga o Ngāi Tūāhuriri will provide support to the Committee including:

- An advisor from the Council and an advisor from Ngāi Tūāhuriri as Principal Advisors.
- The Council will provide secretarial administrative and procedural support to the Committee.
- Relevant staff from across the Council will provide advice to the Committee.



## Collaborative Governance Options - Benefits and Disadvantages

Option	Benefits	Disadvantages
<b>1 MOU or Agreement to Co-operate</b> <ul style="list-style-type: none"> <li>Retain separate structures and parties consult and co-operate as required in a documented agreement.</li> </ul>	<ul style="list-style-type: none"> <li>No formal legal changes to each entity.</li> <li>Flexible to change methods, regularity, formality of co-operation as required.</li> <li>Can be managed by staff, or escalated to Governance depending on the issue.</li> </ul>	<ul style="list-style-type: none"> <li>Not a separate structure from any existing party, and does not delegate decision making to a new entity as expected in the Global Settlement Agreement.</li> <li>Decisions may take time through each organisation.</li> <li>Greater risk of mis-alignment and different positions by each participating party on an issue.</li> <li>Possible perception land-owner has final say and is not true collaboration.</li> </ul>
<b>2 Establish Committee of Christchurch City Council</b> <ul style="list-style-type: none"> <li>Committee appointed by CCC.</li> <li>Can involve elected members of CCC and representatives of Ngāi Tūāhuriri, other representatives of community groups or community boards.</li> </ul>	<ul style="list-style-type: none"> <li>Tried and true structure of Local Government based on statute.</li> <li>Serviced and supported by CCC staff in usual way.</li> <li>Various parties can have appropriate representation on committee.</li> </ul>	<ul style="list-style-type: none"> <li>Decisions can be time consuming via committee structure, with public meetings, motions, voting, minutes etc.</li> <li>May not be seen as a co-governance entity if a committee of Council.</li> </ul>

Option	Benefits	Disadvantages
<ul style="list-style-type: none"> <li>Could/should have delegated authority to make decisions rather than report to Council.</li> </ul>	<ul style="list-style-type: none"> <li>Can have delegation from CCC to make specified decisions on behalf of CCC.</li> </ul>	
<p><b>3 Form a New Governance Entity</b></p> <ul style="list-style-type: none"> <li>Form a new collaborative governance entity with representation from CCC, Ngāi Tūāhuriri, and other representatives of community groups or community boards. Can be in a range of forms (if Council holds 50% of control would be a Council Controlled Organisation in any of these forms): <ul style="list-style-type: none"> <li>(a) Ordinary Trust</li> <li>(b) Incorporated Trust (only if it has a charitable purpose)</li> <li>(c) Ordinary Partnership</li> <li>(d) Limited Partnership</li> <li>(e) Company</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>Can be formally established with clear roles, rights and responsibilities.</li> <li>The new entity can be focused on its role to govern the OARC.</li> <li>Range of options to design a structure that best suits the parties.</li> <li>Can change any of the terms by agreement and reasonably promptly, e.g. delegated powers, membership rules, functions, reporting obligations.</li> </ul>	<ul style="list-style-type: none"> <li>Creation of a whole new formal structure to be managed.</li> <li>Needs formality to be clear about roles, rights and responsibilities.</li> <li>Will have accounting and reporting duties.</li> <li>Will have additional establishment costs to document and form up.</li> <li>Parties can influence and control by letter of expectation and appointment of representatives.</li> <li>Because of separation of powers and functions to a new entity there is a degree of loss of control for each entity depending on delegated functions to the representatives.</li> <li>The new entity will be a CCO if CCC has 50% control.</li> </ul>

Option	Benefits	Disadvantages
3(a) <i>Ordinary Trust</i>	<ul style="list-style-type: none"> <li>Is a suitable structure to enable parties to appoint specified numbers of trustees to a trust.</li> <li>The trustees can be provided clear delegation of powers.</li> <li>Reasonably flexible and trust deed can specify if changes can only be made by the original settlors (such as who can be a trustee and the powers or functions of trustees), or changes the trustees can make such as administrative matters.</li> </ul>	<ul style="list-style-type: none"> <li>Parties can appoint trustees in the trust deed, and have a letter of expectation but that is the extent of "control", so likely bound by trustees' decisions (if given authority to manage OARC).</li> <li>Is not a separate legal entity of its own from the trustees.</li> </ul>
3(b) <i>Incorporated Trust (if it has a charitable purpose and incorporated under the Charitable Trusts Act 1957)</i>	<ul style="list-style-type: none"> <li>Is a separate independent and incorporated legal entity of its own.</li> <li>Is a suitable structure to enable parties to appoint specified numbers of trustees to a trust.</li> <li>The trustees can be provided clear delegation of powers.</li> <li>An incorporated trust must be approved as having a charitable purpose to qualify.</li> <li>Reasonably flexible and trust deed can specify if changes can only be made by the original settlors (such as who can be a trustee and the powers or functions of trustees), or changes the trustees can make such as administrative matters.</li> </ul>	<ul style="list-style-type: none"> <li>Parties can appoint trustees in the trust deed, and have a letter of expectation but that is the extent of "control", so likely bound by trustees' decisions (if given authority to manage OARC).</li> </ul>

Option	Benefits	Disadvantages
3(c) <i>Ordinary Partnership</i>	<ul style="list-style-type: none"> <li>Governed by the Common Law on partnerships and a partnership agreement – both parties have fiduciary duties to each other.</li> </ul>	<ul style="list-style-type: none"> <li>Governed by Partnership agreement to set roles and responsibilities.</li> <li>Not well suited to arrangement between CCC, Ngāi Tūāhuriri and other entities because "partnership" is between entities not individuals.</li> <li>Parties are partners and responsible for the partnership.</li> <li>Not a true separate legal entity from the partners.</li> <li>Likely confusion of roles whether members or staff are acting for parties or "the partnership".</li> </ul>
3(d) <i>Limited Partnership (is more similar to a company structure with a general partner being an incorporated company)</i>	<ul style="list-style-type: none"> <li>Is a true separate legal entity.</li> <li>Usual reason for such a legal structure is to address taxation treatment of the limited partnership compared to the tax treatment of the entities forming it.</li> </ul>	<ul style="list-style-type: none"> <li>Governed by Limited Partnership Agreement to set roles and responsibilities.</li> <li>Likely complex decision making structures for carrying out a governance role. Seems unlikely taxation treatment would be a driver relevant for governance decisions.</li> </ul>
3(e) <i>Company</i>	<ul style="list-style-type: none"> <li>Governed by Company law, which is well established.</li> <li>Is a pure separate legal entity.</li> </ul>	<ul style="list-style-type: none"> <li>Governed by the Companies Act 1993 and its constitution.</li> </ul>

Option	Benefits	Disadvantages
	<ul style="list-style-type: none"> <li>Can be provided clear delegated power.</li> </ul>	<ul style="list-style-type: none"> <li>Has to be governed and administered as a separate company.</li> <li>Parties can appoint Directors and have a letter of expectation but that is the extent of "control", so likely bound by Directors' decisions (if given authority to manage OARC).</li> </ul>
<b>4 Local Act of Parliament</b> <ul style="list-style-type: none"> <li>A local Act can establish a new governance arrangement.</li> </ul>	<ul style="list-style-type: none"> <li>Clear statutory creation of entity, roles and responsibilities (in theory, and only if legislation does so).</li> </ul>	<ul style="list-style-type: none"> <li>Clarity, flexibility and any influence for parties is in the hands of Parliament to enact.</li> <li>Relies on Parliamentary process to establish as legislation.</li> <li>Likely will take a long time to enact (being not a high central government priority).</li> <li>Changes to empowering Act requires legislative change. This requires local MP to sponsor Bill and it to be passed. Experience shows such changes can take years to effect.</li> <li>Overall an Act is unnecessary to co-govern and the parties can achieve this themselves without relying on Parliament.</li> </ul>

Option	Benefits	Disadvantages
<p><b>5 Legal Personality for OARC</b></p> <ul style="list-style-type: none"><li>Creation of formal separate legal personality for the OARC with Trustees or the like to govern in the best interests of the OARC. Creating "legal personality" would require legislative change as above.</li><li>An example is Te Awa Tupua set out in Te Awa Tupua (Whanganui River Claims Settlement) Act 2017.</li></ul>	<ul style="list-style-type: none"><li>As above, but also provides a public symbol of the significance of the OARC.</li></ul>	<ul style="list-style-type: none"><li>As above but a step further to create legal personality and to publicly justify that.</li><li>Very hard to change arrangements in the future.</li><li>Legislation has done this in the past as part of a settlement with the Crown. Legislation is complex to cover off all implications of creating a legal entity. This includes status, powers, consequential changes to other Acts, and all other functions which much be in the Legislation to be authorised.</li><li>Overall an Act is unnecessary to co-govern and the parties can achieve this themselves without relying on Parliament, or the status of legal personality in land.</li></ul>

Council  
09 December 2021

Christchurch  
City Council

—[ HON CHRISTOPHER FINLAYSON q c  
BARRISTER

22 June 2021

Her Worship the Hon Lianne Dalziel  
Mayor of Christchurch  
PO Box 73016  
CHRISTCHURCH 8154

By email: [darel.hall@ccc.govt.nz](mailto:darel.hall@ccc.govt.nz)

Dear Lianne

**Ōtākaro/Avon River Corridor Co-governance Options**

1. Thank you for meeting with me earlier this month to discuss co-governance options for the Ōtākaro/Avon River corridor. Following our discussion, I updated several aspects of my draft opinion, which I now provide in its final form.
2. Co-governance agreements are a practical way of involving local iwi and hapū in the administration of significant natural resources in conjunction with local government and other community groups as appropriate.
3. This advice is intended to help scope out the metes and bounds of a co-governance body for the Ōtākaro/Avon River Corridor. In preparing it, I have read the background material provided to me, including the *Governance Case Studies* document and other information.
4. During my nine years as Minister for Treaty Negotiations, I negotiated a range of co-governance agreements with councils and iwi around the country. These ranged in their purpose, extent of their authority and the features of their membership:
  - a) At the strong end of the co-governance spectrum, settlements like the Whanganui River and Tūhoe settlements used the concept of legal personality, backed by unique (in the true sense of the word) governance arrangements.
  - b) Another example of a strong co-governance body is the Waikato River Authority, which exercises significant regulatory power over the Waikato River. The Waikato River arrangements have been acknowledged as a 'one-off' in terms of their scope.
  - c) A step further down the ladder, you find co-governance bodies like the Auckland Maunga Authority and the Te Oneroa-a-Tōhē / Ninety Mile Beach Board, where local councils co-govern those natural resources with local iwi but exercise slightly more limited powers than the Waikato River Authority.

—BANKSIDE CHAMBERS

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- d) After that, we have co-governance bodies like the Hawke's Bay Regional Planning Committee, Kaituna River Authority and Rangitikei River Authority, where councils and iwi jointly administer significant rivers.
  - e) Finally, at the weaker end of the spectrum, there are advisory boards such as the Manawatu River Advisory Board, which can offer advice to local government but exercise no greater powers than that.
- 5. Any arrangements for the Ōtākaro/Avon River Corridor will need to be positioned somewhere on this spectrum of co-governance agreements I have outlined above, but be tailored to fit the Christchurch context, including the Council's relationship with Ngāi Tahu and Ngāi Tūāhuriri, and the interest of third party groups and the general public in the Ōtākaro/Avon River Corridor.
  - 6. I think an option that sits in the middle of the spectrum of co-governance agreements is likely the most appropriate for an urban waterway like the Ōtākaro/Avon River Corridor.
  - 7. The following are some issues that will need to be considered in designing any arrangements, with my preliminary comments on each one:

*The form of a co-governance body*

- 8. It would be in line with other co-governance bodies that an Ōtākaro/Avon River Corridor co-governance body be established as an independent board which resembles, but is not, a joint committee.
- 9. A weaker form of co-governance would mean the Board was still responsible to the Council directly (i.e. it would be closer to a Council committee than an independent board).

*Who should serve on the co-governance body?*

- 10. This is a question for careful consideration, given the range of community interests involved. The usual model for co-governance bodies has become a 50/50 split between Council and iwi-appointed representatives.
- 11. The Council-appointed half of the body will usually consist of elected councillors, but provision can be made for the appointment of other people. I am unsure about whether you would want or need to include a representative from Environment Canterbury.
- 12. There is also room for the nomination of representatives by third parties, for example the Avon-Ōtākaro Network.
- 13. The precise make-up of the board will be a question for you to consider, but could look something along the following lines:
  - a) 4 appointees nominated by Ngāi Tūāhuriri;
  - b) 4 appointees nominated by the Christchurch City Council, including 1 appointee nominated by the Christchurch City Council after consultation with the Avon-Ōtākaro Network.



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*How should the co-governance body operate?*

14. A trend has emerged in the operation of co-governance bodies that they should strive to operate by consensus and, only if that fails, should issues be decided by a 75% rather than a 50% vote.
15. A number of co-governance bodies are chaired by an iwi/hapū representative, with the local body nominating the Deputy Chair. Alternatively, the positions can alternate.

*The authority for a co-governance body*

16. From where will the new body derive its authority? Legislation is not always necessary. Several boards, for example, were originally established under schedule 7, clauses 30, 30A and 31 of the Local Government Act 2002, which allows a local authority to appoint a joint committee. Another option is to use a trust.
17. In the case of the Ōtākaro/Avon River Corridor, however, I think some form of legislation will likely be necessary to provide certainty and clearly set out the powers and functions of any co-governance body.
18. As we discussed, it would probably make the most sense to see if we could do this through a local bill, which can change or limit the effect of the general law in its application to a locality such as Christchurch. While I do not think that will be necessary in this situation, a local bill may include consequential amendments to a public Act if that does turn out to be required.
19. As you will be aware, the local member of Parliament is often, but not always, the member in charge of a local bill. In this case, it would likely make most sense to see if Duncan Webb would promote any legislation as Member of Parliament for Christchurch Central.
20. There are various other rules for the introduction of local bills, which are summarised at the following link.<sup>1</sup>

*The legal status of the Ōtākaro/Avon River Corridor*

21. I do not think the question of legal status needs to be addressed in the legislation, although there is no reason why it could not be addressed were that desired. I do not, however, think importing the idea of 'legal personality' from the Whanganui River and Tūhoe settlements would be appropriate for the Ōtākaro/Avon River Corridor at this time. For one, it would be difficult to establish legal personality through a local bill. Most of all, however, I do not think it would add anything to the co-governance body or its operations.
22. One option to consider could be replicating the approach taken in the 2014 Treaty settlement with Ngāti Koroki Kahukura. That settlement involved the transfer of an area known as the Maungatautari Ecological Island to Ngāti Koroki Kahukura. Tensions emerged during negotiations because the area had been established by local farmers, who felt cut out by the transfer of the land back to Ngāti Koroki Kahukura.
23. The solution we found here was to, in effect, vest Maungatautari in the community itself. Section 73(1) of the Ngāti Koroki Kahukura Claims Settlement Act simply says:

<sup>1</sup> <https://www.parliament.nz/media/4600/introducing-local-and-private-bills.pdf>

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“Maungatautari Mountain Scenic Reserve is held for the use and enjoyment of the people of New Zealand.” A similar statement could be used in relation to the Ōtākaro/Avon River Corridor, without necessarily altering the underlying legal ownership of the riverbed. This could have the effect of emphasising that the new Board operates for the whole community, even though its membership reflects a balance between local government and Ngāi Tūāhuriri as the Crown’s Treaty partner in Christchurch.

*What should the objectives, functions and powers of the board be?*

24. The Maungatautari example could also be used to define the major objective of the new Board (“the role of the Ōtākaro/Avon River Corridor Authority is to administer, preserve and protect the Ōtākaro/Avon River Corridor for the common benefit, use and enjoyment of Ngāi Tūāhuriri, the people of Christchurch and wider community”). This approach was also used in the Tamaki Collective Claims Settlement Act to describe the duties of the Maunga Authority over the maunga and emphasise its duties to the broader community.
25. Another objective of the board could be to provide for the exercise by Ngāi Tūāhuriri of its rangatiratanga within its takiwā.
26. There are a range of further objectives we could look to import from other co-governance agreements depending on your views.
27. In terms of functions, the main purpose of most co-governance bodies is to produce a formal plan which is, at the weaker end of the spectrum, taken into account in local government planning processes or, at the stronger end of the spectrum, carries its own legal weight. This could provide an opportunity to develop a new plan, or incorporate the existing Ōtākaro Avon River Corridor Regeneration Plan. Many co-governance bodies also exercise further powers, including being the administering body for land and exercising functions under the Reserves Act 1977.
28. Depending on your views, we would need to look at the extent of how much of this we could enact through a local bill, however – if we want the plan to be recognised in statutory consenting and other processes, for example, we may need to look at a public bill.

*How should the co-governance body be accountable?*

29. At the least, the co-governance body should be required to prepare an annual report for each financial year, and provide them to the Council and the public. You could also look at options to require more frequent reporting to the Council.

*How should the co-governance body be funded?*

30. Realistically, the new body will likely need to be funded by the Council, at least at the start of its operations. That has been the situation with most other co-governance bodies, although there could be the opportunity to approach central government for a contribution to assist the functioning of the body.
31. I understand there are aspirations for the body to become self-funding. Those options would need to be worked through by a firm like PWC or Deloitte, and are outside the scope of this preliminary advice.

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*Heritage status*

32. At our meeting, I mentioned the possibility of seeking UNESCO world heritage status for the Corridor, particularly in light of the city's earthquake recovery and the plan to restore the riparian environment. New Zealand currently has three world heritage sites: Te Wahipounamu (several national parks in the south), Tongariro National Park and the Subantarctic Islands. There is not yet a world heritage site in an urban area although, at the time co-governance arrangements were established over the Auckland volcanic maunga in 2014, the government expressed a hope such status could be sought for the maunga. I understand work is currently underway towards such an application. As I said at your meeting, I think it could be worth exploring the possibility of seeking such status for the Ōtākaro/Avon River Corridor, which would further enhance the status of the new arrangements and create community buy-in.

*Next steps*

33. While much of what is included in this advice is hypothetical, I hope it will provide some assistance in defining the direction of travel for an Ōtākaro/Avon River Corridor co-governance board.
34. The positive thing with co-governance agreements is that we have the chance to tailor the arrangements to fit the political situation and various interests on the ground – there is no rulebook we have to stick to.
35. I am happy to provide any further advice once the Council and Ngāi Tūāhuriri have discussed further how they would like to progress this matter.

Yours sincerely



Christopher Finlayson



## Governance of the Ōtākaro Avon River Corridor - Discussion paper

*Prepared by Chrissie Williams, Independent Chair of Te Tira Kāhikuhiku,  
18 October 2021 - Updated from December 2020*

*With acknowledgement and thanks for the analysis and thought on the topic of governance by staff and consultants from Regenerate Christchurch, and the authors of the publications referred to in this paper.*

*This discussion paper has not directly included the advice from Te Maire Tau and the Honourable Chris Finlayson provided to the Mayor in March 2021 and June 2021. It is not inconsistent with that advice.*

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### 1 Background to governance of the Ōtākaro Avon River Corridor

- 1.1 The future governance arrangements for the Ōtākaro Avon River Corridor (ŌARC) have been considered, discussed, and researched by many people for a number of years.
- 1.2 It was anticipated in the *Outline for the Ōtākaro Avon River Corridor Regeneration Plan* that the Ōtākaro Avon River Corridor Regeneration Plan (Regeneration Plan) would 'confirm the funding responsibilities, delivery, and governance of the Regeneration Plan'.<sup>1</sup>
- 1.3 Regenerate Christchurch considered the governance of the ŌARC was a critical matter, and undertook considerable work defining the functions and structures of possible governance entities. However, on advice from the Department of the Prime Minister and Cabinet (DPMC) and the Christchurch City Council (the Council), Regenerate Christchurch did not include its advice on governance in the Regeneration Plan that was provided to the Minister for Greater Christchurch Regeneration (the Minister) in March 2019.<sup>2</sup> The Regeneration Plan however does indicate that in the short term governance arrangements for the ŌARC should be finalised.<sup>3</sup>

<sup>1</sup> *Outline for the Ōtākaro Avon River Corridor Regeneration Plan, March 2017*

<http://www.regeneratechristchurch.nz/assets/oarg-regeneration-plan-low-res.pdf>

<sup>2</sup> Letter from Chair of Regenerate Christchurch to Mayor and Minister for Greater Christchurch Regeneration, March 2019

<sup>3</sup> *Ōtākaro Avon River Corridor Regeneration Plan, page 65*

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- 1.4 When approving the Regeneration Plan in August 2019, the Minister stated the Global Settlement Agreement between the Crown and Council would consider the governance, management, and ownership of the area.<sup>4</sup>
- 1.5 The overarching and enduring purpose for a governance entity for the ŌARC should be to ensure the vision and objectives of the Regeneration Plan are upheld and achieved - the entity will be Kaitiaki of the Vision and objectives.

## 2 The Regeneration Plan: Vision and objectives

### 2.1 The Vision from the Regeneration Plan is:

The river is part of us, and we are part of the river.  
It is a living part of our city.

A place of history and culture  
where people gather, play, and celebrate together.

A place of learning and discovery  
where traditional knowledge, science and technology meet.

A place for ideas and innovation  
where we create new ways of living and connecting.

Our vision is for the river to connect us together –  
with each other, with nature and  
with new possibilities.

Nōku te awa. The river is mine.

We all share in the future of this river.  
Ōtākaro Avon River. Together we thrive.

### 2.2 The Objectives from the Regeneration Plan are:

#### For Christchurch:

- Support safe, strong and healthy communities that are well connected with each other and with the wider city.
- Provide opportunities for enhanced community participation, recreation and leisure.
- Create a restored native habitat with good quality water so there is an abundant source of mahinga kai, birdlife and native species.
- Create opportunities for sustainable economic activity and connections that enhance our wellbeing and prosperity now and into the future.

#### For New Zealand:

- Develop the Ōtākaro Avon River Corridor as a destination that attracts a wide range of domestic and international visitors.
- Establish a world-leading living laboratory, where we learn, experiment and research; testing and creating new ideas and ways of living.
- Demonstrate how to adapt to the challenges and opportunities presented by natural hazards, climate change and a river's floodplain.

<sup>4</sup> Report on Decisions made in approving the Draft Ōtākaro Avon River Corridor Regeneration Plan – DPMC  
<https://dPMC.govt.nz/sites/default/files/2019-08/MGCR%20Signed%20-%20Report%20on%20Decisions%20made%20in%20approving%20the%20Draft%20Otakaro%20Avon%20River%20Corridor%20Regeneration%20Plan.pdf>

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### 3 The Global Settlement Agreement

- 3.1 The Global Settlement Agreement<sup>5</sup>, signed by the Crown and the Council in September 2019, outlined a process of transition planning for governance arrangements for the ŌARC. It involved a phased approach to increasing community involvement in governance over time.
- 3.2 In phase 1, while land ownership remains with the Crown, the Council and Land Information New Zealand (LINZ) would establish 'a consultative group comprising local stakeholders and community representatives to advise on transitional land use'. Te Tira Kāhikuhiku is that consultative group. It has delegations to make recommendations on transitional land uses and to grant funds from a Council provided Red Zones Transformative Fund.
- 3.3 Te Tira Kāhikuhiku is a group of 13 with a mix of representatives and independent members, comprising elected representatives from Community Boards, representatives from Ngāi Tūāhuriri and Ngāti Wheke, and five community members. It is not intended that it be a model for the long-term governance entity.
- 3.4 In phase 2, once the Council owns all or most of the river corridor land, a 'community governance group/entity, with delegated decision-making powers, could be established'.
- 3.5 As the predominant landowner, the Council will provide the majority of land, funding and resources for implementing the Regeneration Plan, and is the organisation with the obligation to establish this community governance entity.

### 4 Ngāi Tahu/Ngāi Tūāhuriri

*Note: The content in this section is a brief summary that has been extracted from various documents. It is anticipated that the section will be amended or replaced during/after discussions between Te Rūnanga o Ngāi Tūāhuriri and Council.*

- 4.1 Ngāi Tahu's status and relationship with the Crown is established through Te Tiriti o Waitangi (Te Tiriti). Te Tiriti recognises and guarantees to Māori tino rangatiratanga and the protection of their taonga, including waters, lands, fisheries, and mahinga kai.
- 4.2 Council's responsibilities to Te Tiriti are defined in statute - the Local Government Act 2002 (LGA), the Resource Management Act 1991 (RMA), the Conservation Act 1987, Te Rūnanga o Ngāi Tahu Act 1996 and the Ngai Tahu Claims Settlement Act 1998.
- 4.3 Te Rūnanga o Ngāi Tahu provided views on the draft Regeneration Plan in November 2018<sup>6</sup>. Te Rūnanga o Ngāi Tahu expected that the Regeneration Plan would provide for and enable the exercise of tino rangatiratanga and kaitiakitanga by mana whenua, and provide for the relationship of mana whenua and their cultures and traditions with their ancestral lands, water, sites, wāhi tapu, and other taonga.

<sup>5</sup> Global Settlement Agreement <https://www.ccc.govt.nz/assets/Documents/The-Council/Plans-Strategies-Policies-Bylaws/Strategies/Global-Settlement/CCC-Release-Global-Settlement-Agreement-23-September-2019.pdf>

<sup>6</sup> Te Rūnanga o Ngāi Tahu views provided to Regenerate Christchurch on the Draft ŌARC Regeneration Plan, November 2018, under s33 of the GCRA Act.

Chrissie Williams, Ōtākaro Avon River Corridor Co-governance, Discussion paper, October 2021



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- 4.4 The Regeneration Plan does acknowledge mana whenua: 'Ngāi Tūāhuriri and the Ihutai Ahu Whenua Trust collectively represent mana whenua, and have property rights and interests that are established by the Ngāi Tahu Claims Settlement Act 1998'.<sup>7</sup>
- 4.5 When approving the Regeneration Plan in August 2019, the Minister noted that the Regeneration Plan did not incorporate some of the comments provided by Te Rūnanga o Ngāi Tahu, particularly those that related to future land ownership and governance. The Minister expected that the views that were not incorporated in the Regeneration Plan would be considered as part of future decision-making, including in the Global Settlement Agreement<sup>8</sup>.
- 4.6 The role of Te Rūnanga o Ngāi Tahu as Treaty partner is somewhat recognised in the Global Settlement Agreement through the Council's commitment to 'Ngāi Tahu representation alongside other community representatives within the consultative group and in longer-term governance arrangements'. In determining governance principles and processes, the Council agreed in the Global Settlement to 'take into account the principles of Te Tiriti o Waitangi', for example, 'principles of partnership, rangatiratanga, active participation in decision-making, and active protection'.
- 4.7 The amendments to the Christchurch District Plan introduced through the Regeneration Plan do require 'recognition of the Ōtākaro/Avon River as a taonga and a cultural landscape for which Te Ngāi Tūāhuriri exercise kaitiakitanga to ensure values of cultural importance are managed, enhanced and/or protected'; and 'the restoration of the Ōtākaro Avon River Corridor for mahinga kai and the improvement of water quality' (Policy 13.14.2.1.7).
- 4.8 The *Mahaanui Iwi Management Plan 2013* is recognised under the RMA – the Council must take it into account when preparing or changing a district plan<sup>9</sup>. The section on Ihutai includes the catchments of the Ōtākaro/Avon River and Ōpāwaho/Heathcote River and is an essential resource when making decisions on the ŌARC<sup>10</sup>.
- 4.9 In establishing a governance entity for the ŌARC there is now the opportunity to recognise and respect Ngāi Tahu's interests and rights in the Ōtākaro/Avon River, and for Ngāi Tūāhuriri as mana whenua to be a key partner in the implementation of the Regeneration Plan in a co-governance role.
- 4.10 An option for the governance entity is that it be a council-controlled organisation. If it was, it would be required 'before making a decision that may significantly affect land or a body of water, to take into account the relationship of Māori and their culture and traditions with their ancestral land, water, sites, wāhi tapu, valued flora and fauna, and other taonga'.<sup>11</sup>

<sup>7</sup> OARC Regeneration Plan page 66

<sup>8</sup> Report on Decisions made in approving the Draft Ōtākaro Avon River Corridor Regeneration Plan – DPMC  
<https://dpmc.govt.nz/sites/default/files/2019-08/MGCR%20Signed%20-%20Report%20on%20Decisions%20made%20in%20approving%20the%20Draft%20Otakaro%20Avon%20River%20Corridor%20Regeneration%20Plan.pdf>

<sup>9</sup> RMA s74(2A)

<sup>10</sup> <https://mahaanui.kurataiao.co.nz/iwi-management-plan/wahi-tuano/ihutai/>

<sup>11</sup> S60A Local Government Act 2002

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## 5 Governance defined

- 5.1 Governance in this context refers to the legal rules, institutional arrangements and practices which determine who controls the implementation of the Regeneration Plan and who gains the benefits that flow from it.
- 5.2 Governance is a process through which the Council, mana whenua, the community and the private sector articulate their interests, exercise their rights and obligations, and mediate their differences. Governance is about power, relationships and accountability – who has influence, who decides, and how decision-makers are held accountable<sup>12</sup>.
- 5.3 Collaborative governance or co-governance, is where a public agency directly engages those from non-government organisations in collective decision-making that is formal, consensual and deliberative, to make or implement public policy. The entity would be delegated decision making, be organised and meet collectively.
- 5.4 In New Zealand, co-governance may take a specific meaning where natural resources are managed as part of or after a Treaty settlement between the Crown and iwi, by an entity with equal numbers of iwi representatives and council or Crown members.

## 6 Literature and research

- 6.1 The approach to governance and co-governance of natural resources and of regeneration projects, for both New Zealand and international case studies, has been described and summarised in the literature. Key publications (included as references) are:
  - Pawson et al, 2019: *Ōtākaro Avon River Corridor Regeneration Plan Governance case*.
  - Peart, Raewyn, and Cox, Brooke, 2019: *Governance of the Hauraki Gulf, a review of options*.
  - Johnston, Laurie, 2016: *Moving regeneration forward in Waimakariri: A Casebook of adaptive reuse*.
  - Office of the Controller and Auditor General, 2016: *Principles for effectively co-governing natural resources*.
- 6.2 In May 2019, a symposium on the governance of the ŌARC was held at the University of Canterbury. The symposium was an opportunity for individuals and groups who had separately considered possible governance arrangements to discuss options with others.

## 7 Lessons and insights

Collating the lessons and insights from these publications and the 2019 symposium, a governance entity would need to demonstrate:

### 7.1 Co-governance

- An entity with members appointed by Council and mana whenua, including some members from the communities neighbouring the ŌARC
- Effective appointees from mana whenua would recognise and provide for Ngāi Tūāhuriri rangatiratanga over the ŌARC

<sup>12</sup> Peart and Cox 2019

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#### 7.2 Legitimacy

- A clear mandate provided by a special Act of Parliament and/or a Trust Deed, providing legal status that would be difficult to amend or dismantle.
- An Act to provide a mechanism to ensure the Regeneration Plan endures in the long-term.

#### 7.3 Capability

- The entity should include members to have a balance of skills, knowledge and leadership capabilities.
- Members would be selected and appointed through defined, transparent and independent processes.
- Members would need to understand the extent of their decision-making powers and have clearly defined responsibilities.

#### 7.4 A balance of support from Council while having independence/autonomy

- Ownership and control of the entity would rest with the Council as it will provide the majority of land and funding for implementation.
- The Council will remain responsible for parks and reserves within the ŌARC; infrastructure works including stormwater management areas and flood mitigation works; the transport network; and a large part of the ecological restoration.
- At the same time, to be effective and efficient, the entity would need to have autonomy to act with minimal external direction and to operate at arm's length from the Council. It would need the mandate and delegation to have control of the land to be able to develop the land in accordance with the Regeneration Plan. This would require the ability to licence, procure and divest delivery responsibilities of land uses or projects, and to hold those delivery agents to account.

#### 7.5 Accountability and transparency

- Monitoring and reporting on the achievements of the entity, the progress on achieving the vision of the Regeneration Plan, and the challenges would be necessary. This could be through reporting to the Council and public on progress, using methods such as annual reports, annual meetings, and newsletters.
- Stakeholder interests would need to be identified and understood, to be able to engage in the decision-making process, and be able to understand how, why and who made any decisions.

#### 7.6 Financial sustainability

- The entity needs certainty of operational funding, which is likely to require sustained support from local or central government independent of changing political priorities.
- Having the entity set up to have independence from Council would allow it to manage public funds and to seek private and non-profit sector grants and other charitable donations; and to partner directly with private corporations and philanthropic organisations.

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- Over time, the entity would aim to be self-financing, with any profits reinvested into the activities of the entity.

#### 7.7 Adaptability

- The two phases of governance provided for in the Global Settlement Agreement acknowledge that the form and membership of the governance entity will be different in the transition period compared to what is required for longer-term implementation of the Regeneration Plan.
- An additional step would be to set up an 'Establishment Board' prior to the form of the final entity being determined. This would help refine the functions and membership of the entity, and would allow for deeper discussion on how an Act of Parliament could protect the land in perpetuity.
- The entity may need to evolve over time as the vision for the ŌARC is realised, and to adapt to external changes such as new approaches to managing catchments; climate change and rising sea levels; change in surrounding communities; and legislative and policy changes.
- Implementing the Regeneration Plan will take many years to complete. The entity will need to be sustained over many years, even decades

#### 7.8 Strategic direction

- The Regeneration Plan and the Christchurch District Plan would together provide the strategic direction for the entity. The Regeneration Plan provides examples of preferred land uses, and the variability of land use in different parts / reaches of the ŌARC. The Christchurch District Plan provisions give further guidance.
- The Regeneration Plan requires the development of an Implementation Plan to provide greater certainty about the funding, sequencing and delivery of the Regeneration Plan, and ensure coherent and co-ordinated development of the ŌARC.

#### 7.9 Strong community engagement and collaboration

- A key consideration in the implementation of the Regeneration Plan is the effects and benefits of activities in the ŌARC on surrounding communities, and the impacts that those communities will have on the corridor.
- The successful implementation of the Regeneration Plan is dependent on continued community ownership and advocacy for the Vision and Objectives of the Regeneration Plan, requiring on-going effective community engagement and collaboration.
- The views of the community could be provided by having members appointed to the entity and strengthened through a community advisory panel, or similar.

### 8 An option for an 'Establishment Board'

- 8.1 Based on the above insights a suggested governance model for an Establishment Board would be a Charitable Trust that:
- Is established by Council in late 2021/early 2022, with significant decision-making delegated by Council,

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- Has a Trust Deed that complies with the Charitable Trusts Act 1957. The Trust Deed would define the purpose and objects of the Trust based on the Vision and Objectives of the Regeneration Plan. It would articulate a shared understanding of the role, functions and procedures of the entity.
- Is a Council Controlled Organisation that complies with Part 5 of the LGA.<sup>13</sup> This would acknowledge that the Trust is dependent on continued support and funding from Council but is able to operate at arm's length from the Council.
- Has about eight members selected for their relevant skill-sets, with half the members appointed by Council and half by Te Rūnanga o Ngāi Tūāhuriri, and an Independent Chair appointed jointly by Council and Ngāi Tūāhuriri. It would be important to have some members who have strong links to the communities from the ŌARC.

## 9 An option for longer-term governance

9.1 In the longer-term the entity could still be a Charitable Trust that would:

- Be established by Council under special/new legislation, such as a Local Bill
  - The legislation – and a Trust Deed derived from it – would define the objects based on the Vision and Objectives of the Regeneration Plan, and would articulate a shared understanding of purpose, functions and procedures of the entity.
- Be delegated significant decision-making by Council,
- Comply with the Charitable Trusts Act 1957.
- Be a Council Organisation or Council Controlled Organisation that complies with Part 5 of the LGA.<sup>14</sup> This would acknowledge that the Trust is dependent on continued support and funding from Council but is able to operate at arm's length from the Council.
- Have about eight members selected for their relevant skill-sets, with half the members appointed by Council and half by Te Rūnanga o Ngāi Tahu/Ngāi Tūāhuriri.
  - Those appointed would not necessarily be members of Council or of Te Rūnanga o Ngāi Tūāhuriri
  - It would be important to have some members who have strong links to the communities from the ŌARC.

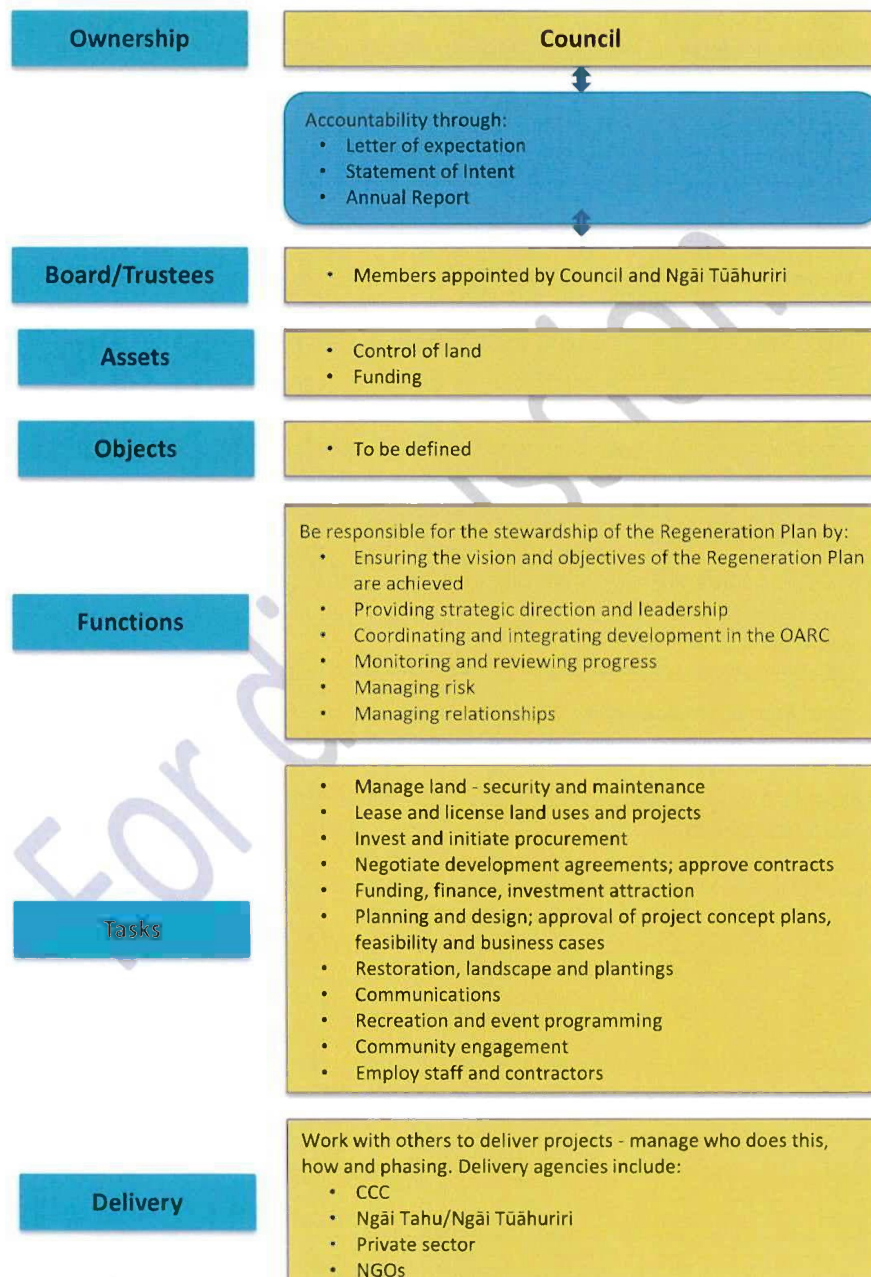
<sup>13</sup> A council organisation is an entity for which the Council has the right, directly or indirectly, to appoint 1 or more of the trustees. A council-controlled organisation is an entity for which the Council has the right, directly or indirectly, to appoint 50% or more of the trustees. (s6 LGA)

<sup>14</sup> A council organisation is an entity for which the Council has the right, directly or indirectly, to appoint 1 or more of the trustees. A council-controlled organisation is an entity for which the Council has the right, directly or indirectly, to appoint 50% or more of the trustees. (s6 LGA)

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## Ōtākaro Avon River Corridor Regeneration Plan Governance Entity



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<http://www.avonotakaronetwork.co.nz/f/10c7a321a765ea30.pdf>

**Peart, Raewyn, and Cox, Brooke 2019.** *Governance of the Hauraki Gulf: A Review of options.*

Investigates governance models operating in NZ and overseas, and identifies potential options for the future governance arrangements for Hauraki Gulf Marine.

<https://www.eds.org.nz/assets/Publications/Governance%20of%20the%20Hauraki%20Gulf%20WEB.pdf?k=855dd5f207>

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## Options to own land in the OARC

Option	Benefits	Disadvantages
<b>1 CCC Continue to Own Land in Fee Simple</b> <ul style="list-style-type: none"> <li>Currently CCC own this land in fee simple having received it from LINZ. One option is for CCC to retain public ownership of the land.</li> </ul>	<ul style="list-style-type: none"> <li>Retains land in public ownership.</li> <li>No further cost to transfer land to another entity.</li> <li>Decisions can be made by a collaborative governance body (however constituted) about the use of the land on behalf of CCC and the community without transferring the land away from CCC.</li> </ul>	<ul style="list-style-type: none"> <li>The collaborative governance body makes decisions about CCC owned land and would not own the land.</li> </ul>
<b>2 CCC Own Land as a Reserve</b> <ul style="list-style-type: none"> <li>CCC could own the land but declare it to be a reserve under the Reserves Act 1977. This would likely be a recreation, or local purpose reserve.</li> </ul>	<ul style="list-style-type: none"> <li>Provides statutory protection and limits on the use of the land.</li> <li>CCC would have to deal with public submissions, a hearing and the decision is for the Minister of Conservation to make to declare land a reserve (s14).</li> </ul>	<ul style="list-style-type: none"> <li>CCC as the statutory body would remain the administering body of the reserve. Not so well suited if the Council establishes a separate governance body. There is no clear power in the Reserves Act to delegate the statutory responsibility to manage the reserve to a collaborative governance group (there is for a Crown administered reserve). Potentially the most that could be delegated would be the power to recommend to CCC. But those issues are not present if the governance is by a Council Committee.</li> </ul>

		<ul style="list-style-type: none"> <li>Reserves Act is inflexible, dated, and limited in uses land can be put to. This is likely to be frustrating to the management of it over time.</li> <li>Requires a Management Plan, that may too become inflexible and difficult and time consuming to create and change.</li> </ul>
<b>3 Transfer Land to Governance Entity</b> <ul style="list-style-type: none"> <li>CCC could formally transfer land to be owned and managed by a separate governance entity.</li> </ul>	<ul style="list-style-type: none"> <li>Governance entity has full control as owner and manager of the land.</li> </ul>	<ul style="list-style-type: none"> <li>Costs to transfer land out of CCC ownership.</li> <li>Moves land out of formal public ownership into a new entity.</li> <li>Unnecessary for governance entity to also own land to be able to make governance decisions about its use.</li> <li>If entity is a normal Trust, owners would be the named Trustees in their capacity as Trustees. Any change to Trustees would require complex and costly transfers of the land to new Trustees.</li> <li>A registered charitable Trust could own the land in its name without needing any changes if Trustees change.</li> <li>Rates may become payable to CCC if land is owned by a separate legal entity.</li> </ul>