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## Christchurch City Council SUPPLEMENTARY AGENDA

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### Notice of Meeting:

An ordinary meeting of the Christchurch City Council will be held on:

**Date:** Thursday 9 December 2021

**Time:** 8.30am

**Venue:** Council Chambers, Civic Offices,  
53 Hereford Street, Christchurch

Under the current provisions of the Covid-19 Protection Framework (traffic lights) people holding a current vaccine pass may attend the meeting in person. The meeting will be broadcast live:

<http://councillive.ccc.govt.nz/live-stream>

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### Membership

|                    |                            |
|--------------------|----------------------------|
| Chairperson        | Mayor Lianne Dalziel       |
| Deputy Chairperson | Deputy Mayor Andrew Turner |
| Members            | Councillor Jimmy Chen      |
|                    | Councillor Catherine Chu   |
|                    | Councillor Melanie Coker   |
|                    | Councillor Pauline Cotter  |
|                    | Councillor Mike Davidson   |
|                    | Councillor Celeste Donovan |
|                    | Councillor Anne Galloway   |
|                    | Councillor James Gough     |
|                    | Councillor Yani Johanson   |
|                    | Councillor Aaron Keown     |
|                    | Councillor Sam MacDonald   |
|                    | Councillor Phil Mauger     |
|                    | Councillor Jake McLellan   |
|                    | Councillor Tim Scandrett   |
|                    | Councillor Sara Templeton  |

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**7 December 2021**

#### Principal Advisor

Dawn Baxendale  
Chief Executive  
Tel: 941 6996

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Council Secretary  
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Note: The reports contained within this agenda are for consideration and should not be construed as Council policy unless and until adopted. If you require further information relating to any reports, please contact the person named on the report.

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## 30. Resolution to Include Supplementary Reports

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### 1. Background

- 1.1 Approval is sought to submit the following reports to the Council meeting on 09 December 2021:
  31. Memorandum of Understanding
  32. Membership of Local Government New Zealand
  33. Co-Governance of Otakaro Avon River Corridor
  34. End of Cycle Performance Review – *Public Excluded*
  35. Report from the Chief Executive's Performance and Employment Committee – Remuneration – *Public Excluded*
  36. Employment Agreement – *Public Excluded*
- 1.2 The reason, in terms of section 46A(7) of the Local Government Official Information and Meetings Act 1987, why the reports were not included on the main agenda is that they were not available at the time the agenda was prepared.
- 1.3 It is appropriate that the Council receive the reports at the current meeting.

### 2. Recommendation

- 2.1 That the reports be received and considered at the Council meeting on 09 December 2021.
  31. Memorandum of Understanding
  32. Membership of Local Government New Zealand
  33. Co-Governance of Otakaro Avon River Corridor
  34. End of Cycle Performance Review – *Public Excluded*
  35. Report from the Chief Executive's Performance and Employment Committee – Remuneration – *Public Excluded*
  36. Employment Agreement – *Public Excluded*



## 31. Memorandum of Understanding

Reference Te Tohutoro: 21/1603370

Report of Te Pou Matua: Helen White, Head of Legal Services  
helen.white@ccc.govt.nz

General Manager  
Pouwhakarae: Dawn Baxendale, Chief Executive, dawn.baxendale@ccc.govt.nz

### 1. Purpose of the Report Te Pūtake Pūrongo

- 1.1 The purpose of this report is to respond to the Council's request for advice on signing a Memorandum of Understanding (MOU). This MOU seeks to provide a framework for a number of councils to campaign in relation to the government's policy announcement on Three Waters reform.
- 1.2 This report will also provide advice in relation to legal options in relation to this policy announcement.
- 1.3 The decisions in this report are of low significance in relation to the Christchurch City Council's Significance and Engagement Policy. The level of significance was determined by considering the direct impact of the officer recommendations on the community.

### 2. Officer Recommendations Ngā Tūtohu

That the Council:

1. Receive the report.
2. Notes that Attachment B will remain confidential until such time as the withholding grounds no longer apply as in the view of the Head of Legal Services

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

- 3.1 The decision to sign the Memorandum of Understanding is a matter for elected members.

### 4. Alternative Options Considered Ētahi atu Kōwhiringa

- 4.1 It is open to the Council to resolve to sign or not sign the Memorandum of Understanding.

### 5. Detail Te Whakamahuki

#### Background

- 5.1 On 27 October 2021, the Government announced that it would create publicly owned water entities, with responsibility to manage and operate the infrastructure assets for stormwater, drinking water and wastewater (Three Waters). One entity will cover 21 South Island Councils, including Christchurch.
- 5.2 The policy announcement was made following an engagement process. The Council made a submission in that process which is available here:  
<https://ccc.govt.nz/assets/Documents/Services/Water-Supply/Response-to-Government-on-Proposal-for-Water-Reform-September-2021.pdf>

- 5.3 In summary, the Council agreed with the need for increased investment across the country, but did not agree that the model now to be mandated by the Government would meet the needs of the communities of Christchurch.
- 5.4 A large number of Councils have expressed their concern about the Government's announcement. A Memorandum of Understanding (MOU) has been drafted for a campaign by signatory councils to oppose the government's policy announcement. The Council has been invited to join this campaign. The MOU is attached as A.

## **6. Detail**

- 6.1 MOUs in general, are a written record of intention, which are not enforceable in law. MOUs are a commitment to operate with a high level of trust and mutual goodwill.
- 6.2 21 partner councils that are signatories to the MOU are:
  - 6.2.1 Far North
  - 6.2.2 Whangarei
  - 6.2.3 Kaipara
  - 6.2.4 Matamata-Piako
  - 6.2.5 Waipa
  - 6.2.6 South Waikato
  - 6.2.7 Opotiki
  - 6.2.8 Kawerau
  - 6.2.9 South Taranaki
  - 6.2.10 Wairoa
  - 6.2.11 Napier City
  - 6.2.12 Manawatu
  - 6.2.13 Tararua
  - 6.2.14 Grey
  - 6.2.15 Westland
  - 6.2.16 Kaikoura
  - 6.2.17 Hurunui
  - 6.2.18 Waimakariri
  - 6.2.19 Ashburton
  - 6.2.20 Timaru
  - 6.2.21 Waimate
- 6.3 The Oversight Group is made up of the following:
  - 6.3.1 Mayor Helen Worboys, Manawatu DC, Chair (Provincial Sector)
  - 6.3.2 Mayor Dan Gordon, Waimakariri DC, (Provincial Sector)
  - 6.3.3 Mayor Nigel Bowens; Timaru DC, (Provincial Sector)
  - 6.3.4 Mayor Sheryl Mai, Whangarei DC (Metro Sector)

- 6.3.5 Mayor Craig Little, Wairoa DC, (Rural Sector)
- 6.3.6 Mayor Bruce Smith, Westland DC, (Rural Sector).
- There is one vacant spot on the oversight group that is being held open for Christchurch City Council should it chose to join.
- 6.4 The MOU requires its signatories to:
- 6.4.1 Join a campaign to advocate for a policy change on 3Waters reform.
- 6.4.2 Maintain the same policy line as agreed by the signatory councils (and as initially set out in the MOU itself).
- 6.4.3 Have one vote on matters that are considered by the governing Plenary group (which is made up of all signatory councils).
- 6.4.4 Day to day governance of the campaign is led by an oversight group of 7 councils.
- 6.4.5 The oversight group may appoint a group of advisors.
- 6.4.6 Inform the signatory councils if it intends to deviate from the strategy (which may lead to suspension by a majority vote of the Plenary group if not resolved).
- 6.4.7 A \$20 000. Contribution is payable on signing. But there is no detail on what the contributions will pay for.
- 6.4.8 If not a founder signatory, CCC may apply to join at a later date.
- 6.5 In addition:
- 6.5.1 While not legally binding there may be other implications if a council were to breach the agreement, such as a loss of trust or impact on reputation.
- 6.5.2 If a council were to choose not to follow the same policy line and leaves the campaign or is suspended, there is no mechanism in the MOU for a refund of any monies paid.
- 6.5.3 The MOU does not define the split of decisions that sit with the Plenary group and the oversight group, including which group agrees to spend funds. For example, it is not clear whether individual actions within the overall strategy are approved at Plenary or oversight group level.
- 6.5.4 It is unclear if the votes are by majority or a higher threshold as only the suspension vote is specified as requiring a majority of the Plenary.
- 6.5.5 It is unclear how the oversight group is appointed.
- 6.5.6 It is unclear what the process is for agreeing any further contributions or what happens if there are surplus funds at the end of the campaign.
- 6.6 It is noted in documents that other councils have published that the funds payable will cover the cost of legal action but the MOU is silent on legal advice or legal proceedings. As mentioned above, the MOU does not provide detail on what the funds will be spent on beyond to support the campaign. There is no link to the action taken in the High Court by Timaru DC, Waimakariri DC and Whangarei DC.
- 6.7 If the council were to sign the MOU, it would need to consider who should represent the council on the Plenary and determine, what level of decision-making would attach to the representative without reference back to the Council. It should formally resolve to make those decisions.
- 6.8 The benefits of joining a campaign with others include:

- 6.8.1 Display of strength of views and preferences beyond the Council's territorial area.
- 6.8.2 Strength is sharing a diverse range of skillsets from throughout the signatory councils.
- 6.8.3 Combined financial contributions.
- 6.9 The disadvantages of joining a campaign with others include:
  - 6.9.1 The Council is one vote around the table.
  - 6.9.2 Whilst it appears a number of councils have signed up, to date the three biggest councils, including Christchurch have not.
  - 6.9.3 The governance arrangements are not well defined.
  - 6.9.4 It may provide a distraction to the work undertaken to create modifications to the policy announcement, such as the Government's Three Waters working group.
- 6.10 The advisor to the Group has indicated that the budget will be spent on communications and advertising; alternative model development and project management.
- 6.11 **Legal advice**
  - 6.11.1 It is settled law that judicial review proceedings are not available when the intention is to seek to impede Parliamentary processes. This is known as the principle of non-intervention. Policy announcements by Government would fall into this category.
  - 6.11.2 Three councils have initiated legal proceedings for a declaratory judgment that reference the process that the Government has taken in relation to the 3Water reform.
  - 6.11.3 Declaratory judgments are available when there is a question of law that is in dispute. These actions do not change the law or resolve facts, but a declaratory judgment can clarify the law.
  - 6.11.4 Further advice in relation to legal options available to the Council is available at Attachment B.

## 7. Policy Framework Implications Ngā Hiraunga ā- Kaupapa here

### Strategic Alignment Te Rautaki Tīaroaro

- 7.1 This report is not inconsistent with the [Council's Long Term Plan \(2021 - 2031\)](#).

### Policy Consistency Te Whai Kaupapa here

- 7.2 The decision is consistent with Council's Plans and Policies.

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

- 7.3 The decision does not directly involve a significant decision in relation to ancestral land or a body of water or other elements of intrinsic value, therefore this decision does not in itself specifically impact Mana Whenua, their culture and traditions.

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

- 7.4 None direct.

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

- 7.5 None direct.

## 8. Resource Implications Ngā Hīraunga Rauemi

### Capex/Opex Ngā Utu Whakahaere

- 8.1 If the council signs the MOU it will cost \$20 000. The advisor of the group has included a contingency of \$2 000.00 per signatory council for cost overruns. This will be met by existing corporate budgets.

### Other He mea anō

- 8.2 None.

## 9. Legal Implications Ngā Hīraunga ā-Ture

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

- 9.1 The Council has the competence as a local authority to enter into an MOU and to initiate legal proceedings provided that it falls within its statutory purpose.



### Other Legal Implications Ētahi atu Hīraunga-ā-Ture

- 9.2 As contained within the report.

## 10. Risk Management Implications Ngā Hīraunga Tūraru

- 10.1 As contained within the report.

## Attachments Ngā Tāpirihanga

| No.   | Title   | Page |
|---|---|------|
| A   | Three Waters Memorandum of Understanding between Partner Councils November 2021 | 11   |
| B   | Confidential Legal Advice - <b>CONFIDENTIAL</b>                                 |      |

Additional background information may be noted in the below table:

| Document Name | Location / File Link |
|---------------|----------------------|
|               |                      |

## Confirmation of Statutory Compliance Te Whakatūrutanga 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.

## Signatories Ngā Kaiwaitohu

|                    |                                      |
|--------------------|--------------------------------------|
| <b>Author</b>      | Helen White - Head of Legal Services |
| <b>Approved By</b> | Helen White - Head of Legal Services |

**Memorandum of Understanding**  
*between*  
**Partner Councils**  
**In relation to their 3 Waters Campaign**

**Dated November 2021**

**1. Introduction**

The Government of New Zealand has announced that it will be introducing a Bill into Parliament before Christmas 2021 for passage into law in 2022. That Bill will compel territorial and unitary authorities (“councils”) in New Zealand to transfer their rights and interests in: drinking water assets; wastewater assets; and stormwater assets (together known as “3 Waters assets”), to four new entities who will henceforth own and operate those assets. This transfer is likely to occur without fair compensation being paid to councils for the compelled transfer of those assets.

The signatory councils (“Partner Councils”) to this Memorandum of Understanding (“MoU”) oppose the Government’s intention and have agreed to work cooperatively together to campaign to convince the Government to reconsider its position in favour of other options that better deliver a set of reform proposals that meet the needs of communities, councils and Government (“the Campaign”).

**2. Purpose**

The purpose of this MoU is to:

1. Set the objective of the Campaign;
2. Specify the governance arrangements in respect of the Campaign’s management and operation;
3. Specify the basis on which Partner Councils agree to participate, and continue to participate, in the Campaign;
4. Specify the cost-sharing arrangements; and
5. Set the process by which councils other than the initial Partner Councils may sign-up to join these arrangements.

**3. Campaign Objective**

The purpose of the Campaign is to convince the Government to alter its intention to proceed with legislation that will compel councils to transfer their 3 Waters assets into the ownership and/or operational control of another legal entity without the agreement of an affected council to that transfer. Campaign Partners will engage with their communities and the Government to reach an agreement on a reform package that can appropriately meet all parties objectives.

In pursuit of that objective, the Campaign will develop an overall strategy which will include actions to be undertaken both nationally and locally.

In developing and executing the Campaign strategy, Campaign Partners agree that:

1. Message and policy discipline is important and that any proposed departure by an individual Partner Council from agreed messaging and/or agreed policy positions, should be discussed first amongst Partner Councils;
2. Appropriate reform of the 3 Waters sector is required to meet health and environmental regulatory standards, and that there needs to be an ongoing obligation on 3 Waters asset owners to develop proposals in their respective areas that can credibly meet those standards over time;
3. They support the creation of Taumata Arowai to incentivise improved performance by 3 Waters asset owners;
4. Structural reform of 3 Waters assets should respect community property rights in those assets; and
5. They will not disparage or defame any natural person.

#### **4. Governance Arrangements**

All Partner Councils are members of the governing Plenary. Each Partner Council has one vote.

Day to day governance of the campaign will be overseen by an Oversight Group made up of up to seven representatives of Partner Councils. The Oversight Group shall regularly report to the Plenary to ensure all Partner Councils are fully informed about the status of the Campaign.

The Oversight Group may appoint a Small Group of Partner Council chief executives and consultants to assist it, and Partner Councils, in strategy development and tactical execution of the Campaign strategy.

#### **5. Basis of Participation**

Partner Councils agree to adhere to, and execute, the agreed Campaign strategy.

If a Partner Council chooses not to adhere to the Campaign strategy it will first advise the Plenary of its intentions before proceeding with any action that is at odds with the Campaign strategy. On such advice, the Plenary shall meet to discuss the matter and the Plenary shall use its best endeavours to resolve any dispute.

In the event the Plenary is unable to resolve the dispute, it may by majority vote suspend the Partner Council from further participation in the Campaign. Cost obligations for a suspended Partner Council will cease from the date of the suspension but previously incurred cost obligations must be met by the Partner Council.

Any Partner Council may, at any time, cease its participation in the Campaign with the provision of one week's notice in writing to the Plenary. Cost obligations for a retiring Partner Council will cease from the date that the one week's notice in writing takes effect but previously incurred cost obligations must be met by the Partner Council.



**6. Cost-sharing Arrangements**

Each initial Partner Council agrees to pay into the Campaign fund the following amount:

1. If it is a Metropolitan Sector council - \$20,000;
2. If it is a Provincial Sector council – \$15,000;
3. If it is a Rural Sector council – \$10,000.

The Campaign fund will be held in trust and administered by Timaru District Council under the oversight and direction of the Plenary.

**7. Additional Partner Councils**

Councils that wish to become a Partner Council after the date that this MoU has been agreed may do so by application in writing to the Plenary.

Applications must include:

1. Evidence of a clear mandate to become a Partner Council; and
2. An acknowledgment that the applying council agrees to abide by the objectives and principles of the Campaign, including the governance and cost-sharing arrangements;

If the Plenary approves an application, then the additional council must pay into the Campaign fund an amount relevant to its Sector status, as specified in Clause 6, in order to activate its Partner Council status.

**8. MoU Not Legally Binding**

Partner Councils agree that it is not the intention for any of the provisions of this MoU to be legally binding.

Signed by the following mandated representatives of each Partner Council:

Signature:

Signature

Position:

Position:

Council:

Council:

Date:

Date:



## 32. Membership of Local Government New Zealand

Reference Te Tohutoro: 21/1573978

Report of Te Pou Matua: Helen White, Head of Legal Services, [helen.white@ccc.govt.nz](mailto:helen.white@ccc.govt.nz) and  
Dawn Baxendale, Chief Executive, [dawn.baxendale@ccc.govt.nz](mailto:dawn.baxendale@ccc.govt.nz)

General Manager  
Pouwhakarae: Dawn Baxendale, Chief Executive, [dawn.baxendale@ccc.govt.nz](mailto:dawn.baxendale@ccc.govt.nz)

### 1. Purpose of the Report Te Pūtake Pūrongo

- 1.1 The purpose of this report is to respond to the Council's request for a staff report on an evaluation of benefits of membership of Local Government New Zealand (LGNZ) and the implications of cancelling membership and ceasing all payments to the organisation.
- 1.2 The decisions in this report are of low significance in relation to the Christchurch City Council's Significance and Engagement Policy. The level of significance was determined by considering the direct impact of the decision on the communities of Christchurch.

### 2. Officer Recommendations Ngā Tūtohu

That the Council:

1. Maintain its membership of Local Government New Zealand.
2. Engage with Local Government New Zealand (LGNZ) to ensure that Christchurch assumes a leadership position within LGNZ and beyond, commensurate with its position as New Zealand's second biggest city and the largest in the South Island.

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

- 3.1 This report responds to the 14 October 2021 Council meeting and request for staff advice on the benefits of membership of Local Government New Zealand (LGNZ) and implications of cancelling membership and ceasing all payments to the organisation. (Resolutions **CNCL/2021/00162** and **CNCL/2021/00163** refer.)
- 3.2 LGNZ is the only collaborative body for local government elected members. Its work programme priorities mirror those of the Council, and overall it is our assessment that it does relevant, useful work in the areas of advocacy, policy development, training and professional development. It facilitates regular access to Ministers and senior officials which a single council operating on its own could not hope to replicate.
- 3.3 The interface with central government via LGNZ allows Christchurch's perspective, as the second biggest city in New Zealand and the largest in the South Island, to have some influence on conversations and outcomes on the issues that impact the sector. However, staff recommend further work with LGNZ to strengthen the city's voice and ability to advocate for its unique perspective.
- 3.4 The Government's multi-faceted reform programme including Three Waters, RMA Reforms, the Future for Local Government and Climate Adaptation legislation represents a once in a generation transformation with wide-ranging implications for all territorial authorities. Should Christchurch choose to withdraw from membership at this critical point, the Council would need to consider alternative means to influence the reform agenda in a way that is

beneficial for the city and its communities which would not have the weight of the local government sector behind it.

- 3.5 We recognise the progress made by LGNZ in a number of areas including: strengthening engagement and communications with the sector and its networks (with networks like Young Elected Members and Te Maruata create a home for councillors who feel underrepresented); providing support for mayors and councillors, with confidential support and advice available; promoting local governance elections nationally with a new campaign to support this about to be rolled out with material councils can customise; to help engage people to vote; kickstart broader appreciation of local government by telling compelling stories about the value of the local government; and plans for coordinated work in the diversity and inclusion space.
- 3.6 Undoubtedly, there is scope for LGNZ's work in representing and being accountable to its members to strengthen, particularly where there is not one single collective view on matters of critical importance to the sector. LGNZ has identified its role within the reforms as being to ensure communities' many and diverse voices are heard during the reform process and to insist that it is "*at the table to help shape the policy and direction these reforms take*". It is critical that the organisation achieves this effectively. Staff recommend further dialogue with LGNZ on how to build its communication with the sector and better represent the diverse views emerging on matters such as Three Waters reform. Christchurch could both enhance our leadership and influence within LGNZ and continue to engage directly with government officials in order to help shape policy positions for the next phase of reform. Initiatives are already underway to advance these goals.

#### 4. Background on LGNZ role and activity

- 4.1 The Council engages with LGNZ across a range of elected member and staff processes. This engagement centres on the work of LGNZ in:
  - 4.1.1 advocacy and policy development
  - 4.1.2 securing intelligence, access to Ministers and other key decision makers
  - 4.1.3 training and professional development (Councillors and staff).
- 4.2 LGNZ is currently focussed on the unprecedented systemic change taking place across the local government sector. In addition to involvement in the future for local government, three waters and resource management reforms, LGNZ also prioritises work on housing and climate change issues.
- 4.3 Our Council has been involved in and benefitted from LGNZ work in all three areas of reform and in the housing and climate change areas, for example, within the work staff have undertaken on Coastal Hazards. Staff have worked with LGNZ through the policy development sharing stages and the information flow back to the Council has included information on how other councils are approaching the challenge and the current indications from government.
- 4.4 The President of LGNZ wrote to the Council on 6 December 2021 regarding its membership (Attachment A).

#### 5. LGNZ advocacy and policy development

- 5.1 LGNZ's advocacy priorities for the next twelve months are well aligned to the key issues our Council has identified as critical in its dialogue with central government. They are:
  - 5.1.1 Future for Local Government

- 5.1.2 Three Waters
- 5.1.3 Resource management
- 5.1.4 Housing
- 5.1.5 Climate Change.

#### Future for Local Government

- 5.2 LGNZ are developing a strategy for approaching this element of the reform agenda. Like this Council, LGNZ has questioned the order in which the reform agenda is proceeding and has argued that the outcome of the future for local government review should not be determined by default (as a result of what happens within three waters and resource management reforms).
- 5.3 LGNZ's National Council will have a key role in development of its Future for Local Government strategy, and will be advised in its work by its sub-committees.
- 5.4 These sub-committees include the Chief Executives' Forum, the purpose of which is to assist the National Council in its deliberations and ensure LGNZ strategy and positioning is tested at the senior management level. Our Chief Executive is a member of that Forum as well as the Policy Advisory Group, another National Council subcommittee.
- 5.5 The Policy Advisory Group includes a mix of elected members and senior council officers, with Canterbury represented by Councillors Shane Epiha (Selwyn District) and Lan Pham (Environment Canterbury), our Chief Executive and the Strategy Manager at Waimakiriri District Council.

#### Three water reform

- 5.6 These reforms have been a major focus for LGNZ and councils recently – LGNZ has also been involved in advocating for reform of three waters for some years. LGNZ lobbied for the formation of a steering committee to guide the reforms which resulted in the establishment of the joint Central/Local Government Three Waters Steering Committee. Our Chief Executive is a member of this committee which brings together key central government agencies driving the reforms and provides an opportunity to advance our council's views.
- 5.7 LGNZ has sought to assist councils to understand the reform model and implications of the reforms, providing analysis and information on reform progress and the draft legislation which our Three Waters staff have regularly drawn on.
- 5.8 In July 2021 LGNZ entered into a Heads of Agreement with the Government in which LGNZ acknowledged that it would endorse and support the Three Waters reforms package, the need for all-in participation of local authorities, and help build support for the reforms across the sector. The Heads of Agreement was express that it did not support mandatory reform.
- 5.9 The objectives and powers of LGNZ are set out in its Rules. One of these is to promote and facilitate regular dialogue with the Government on matters of national interest to local government, with a view to “enhancing and ensuring a long-term commitment to partnership” between them. LGNZ would have been pursuing this objective when LGNZ's National Council entered into the Heads of Agreement.
- 5.10 However, there was widespread concern among LGNZ members about LGNZ's approach, and the lack of debate on the matter before the organisation took this step. At the 2021 Annual General Meeting, held a few days after the Heads of Agreement was signed, members considered a number of motions that were put before them at the instigation of the Mayor of Whangārei. These were that:

- 5.10.1 LGNZ confirms that individual councils should be able to consider the impact of the Three Waters Reform proposals on their local community (carried).
- 5.10.2 LGNZ does not support the Three Waters Reforms being mandatory (carried).
- 5.10.3 LGNZ acknowledges that individual councils remain able to express their own views on the reforms and make their own decisions (carried).
- 5.11 LGNZ's National Council have recognised the concern expressed about how the Heads of Agreement were agreed and the need to have discussed both the approach and subsequent communications with the membership.
- 5.12 While LGNZ could have engaged with the sector differently, the organisation is continuing to look for and advocate ways in which the views of local government are heard and considered before the nature and structure of the Three Waters reforms are finalised. In this role, LGNZ is an established representative of the sector, but an important issue will be the level of consultation and accountability framework required to ensure the support of its members.
- 5.13 Working groups are now being established to look into the critical aspects of the Three Waters model.

#### Resource management reform

- 5.14 As with Three Waters reforms, LGNZ advocated for the formation of a steering group with oversight of the resource management reforms. On 12 October 2021, the Government confirmed this proposal would be going ahead. The Minister for the Environment has written to Mayors, Chairs and Chief Executives to announce the establishment of the Local Government RM Reform Steering Group as a key point of contact between central and local government. The Steering Group is to be co-chaired by the Mayor of Hauraki and Deputy Secretary of the Ministry for the Environment, and will include representation from the Greater Christchurch Partnership (the Mayor of Selwyn and the Chief Executive of Environment Canterbury). Christchurch City Council, with its in-depth experience of a fast-track replacement District Plan, would have relevant experience to share with this Steering Group.
- 5.15 LGNZ mechanisms are supporting the urgent work the council is undertaking to implement the National Policy Statement on urban development (NPS-UD). Council staff have this year used LGNZ's Metro Sector forum to initiate a conversation on how Metro councils will implement the NPS-UD and the extent to which consistency can be achieved amongst our councils. It was agreed LGNZ would continue to discuss this with the Government and that this would become part of LGNZ's work programme. Regular discussions between tier 1 council staff are continuing as these reforms accelerate, including following the recent release of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Bill.

#### Housing

- 5.16 LGNZ's business plan for 2021/22 sets out areas of focus for housing work which cover engagement in work on implementing the NPS-UD, development of new housing tools that support affordability, work with central government on funding and financing issues, and housing affordability partnerships.
- 5.17 LGNZ facilitate a cross-sector Housing Affordability Group which is a central and local government collaboration to work on potential tools for addressing the housing crisis. Our council is represented on this Group along with the Hamilton and Queenstown city councils and Community Housing Aotearoa.
- 5.18 The Housing Affordability Group works with government agencies directly involved in housing issues, including the Ministries of Housing and Urban Development, and Social Development,

and the Treasury. The Group is considering inclusionary zoning policies to help councils deliver more affordable homes and the capital structures of local government services and housing.

- 5.19 LGNZ continue to advocate for the right of councils to apply to become Community Housing Providers and access income related rents. This work is also relevant to the resource management reforms and Future for Local Government reform.

#### Climate change

- 5.20 LGNZ coordinated a Climate Adaptation Symposium earlier this year. Local government elected members presented issues facing their regions, alongside technical presentations from scientists and researchers.
- 5.21 Prior to the Symposium our council was a key contributor to LGNZ's case studies report on community engagement on climate change adaptation. Kaipara and Dunedin also contributed to the report which was produced in August 2020. The purpose of the report was to illustrate the challenges councils face in addressing adaptation issues without the policy tools and national guidance to do the job.
- 5.22 LGNZ supported earlier work on adaptation over 2017 and 2018, working with Tonkin & Taylor to develop a survey measuring the quantum of local government infrastructure exposed to sea level rise. NIWA contributed to the survey process which was sent to councils in February 2018.
- 5.23 The survey response rate was 97% and the results published in early 2019 in the report titled Vulnerable: the quantum of local government infrastructure exposed to sea level rise. LGNZ formed an At Risk Infrastructure Working Group to support the work, with representatives from 12 councils (including CCC). This report has been a valuable reference for the Council's resilience and adaptation work, and wider climate change programme.
- 5.24 LGNZ is engaging with the Council Climate Network, a network of council officers from across the country who are sharing information and best practice to support climate change adaptation and mitigation action. This Network was established by Christchurch City Council staff.

#### Other advocacy/policy development areas

- 5.25 LGNZ prepares formal submissions on a range of key issues on behalf of the sector, and Council staff both contribute to and draw on these, as we develop our own analysis. LGNZ Annual General Meetings (AGM) of member authorities consider major 'issues of the moment' for the sector and determine the organisation's collective view on them, through a remit process.

#### Financing

This section contains commercially sensitive information and is contained within Attachment B.

#### Freedom camping

- 5.26 LGNZ has advocated on behalf of councils on the freedom camping issues they face and supported establishment of the Responsible Camping Working Group, formed in early 2018 to bring together central and local government representatives. The Deputy Mayor was a member of this working group. The Government has this year announced proposals to improve freedom camping legislation.

#### Short-term visitor accommodation

- 5.27 LGNZ's 2019 AGM endorsed a remit that LGNZ advocate for legislation that would enable councils to more effectively deal with the advent of online providers supporting huge growth

in short-term visitor accommodation. LGNZ gathered information on this issue from across the sector and supported formation of a working group which also involved MBIE, MHUD and Hospitality New Zealand. Work on the issue was underway however the Minister of Tourism determined the issue was not a priority and no further work was to be done.

#### Mayor's Taskforce for Jobs

- 5.28 LGNZ coordinate this Taskforce which was established in Christchurch 20 years ago. The Taskforce receives central government funding in support of a range of projects, including partnering with other organisations to offer opportunities for education, training, work or other positive community activity to young people. The Taskforce is currently working with Outward Bound, MSD, Tuia Programme, Skills Highway and the Industry Training Federation.
- 5.29 The Canterbury Apprentices Graduation Ceremony, which annually recognises graduates of an industry training course or apprenticeship, is supported by this Council on behalf of the Taskforce. The Ceremony is attended by Canterbury Mayors to recognise the achievements of industry trainees and apprentices and acknowledge the contribution they make to their communities.

## 6. Access to ministers and decision makers, sector collaboration

- 6.1 LGNZ meetings provide regular opportunities to engage with Government Ministers and senior officials on issues that will have considerable impact on our sector. Government ministers often chose to engage via sectoral, regional and sub-regional groupings. This reflects the challenge for central government of engaging across 78 local, unitary and regional councils, while also working with iwi/Māori and the range of public and private sector organisations and individuals that are stakeholders in central government business.
- 6.2 We note that as there is no longer a Greater Christchurch Regeneration Minister that opportunity for regularly scheduled access to a senior Cabinet minister is gone. Without LGNZ membership Christchurch would be required to establish its own networks, intelligence gathering and opportunities to influence.
- 6.3 LGNZ sessions this year which have enabled access to and dialogue with Ministers include:
- 6.3.1 The Metro Sector meeting on 12 February 2021 was attended by the Deputy Prime Minister. At that meeting, Metro Mayors raised RMA reforms, funding challenges facing local government, implementation of the NPS-UD, decarbonisation issues including applying a climate lens to future projects, rate payer funding schemes, working with Kiwirail, skills gaps and partnering with the Infrastructure Commission.
- 6.3.2 The Central Government Local Government Forum in March 2021 was attended by the Prime Minister, Minister of Finance, Minister of Local Government, Minister of Housing and Minister for the Environment. It focused on housing issues generally and led to several new initiatives.
- 6.3.3 The Metro Sector meeting on 14 May 2021 was attended by the Minister of Transport. Metro sector representatives raised a range of transport issues with the Minister, including the National Land Transport Fund process and working collectively toward decarbonisation.
- 6.3.4 The Metro Sector meeting on 13 August was attended by the Minister of Immigration and considered border issues with implications for councils, including skills shortages in some centres and in critical sectors, the impact of COVID-19 on the international education sector and the wider importance of labour market factors for the reform agenda, including Three Waters and housing.



- 6.3.5 The most recent Metro Sector meeting on Friday 5 November was attended by the Minister for the Environment and was scheduled to discuss progress with the Natural and Built Environments Bill and the resource management reform programme more broadly, including the Resource Management (Enabling Housing Supply and Other Matters) Amendment Bill. The meeting was also to consider how the Government might resolve the tensions between democratic accountability and planning system efficiency, an issue raised in Select Committee.
- 6.4 LGNZ Zone 5, Metro Sector and Chief Executives meetings regularly provide opportunities to engage with senior Government officials on key issues such as three waters, RMA reforms and the work programmes of agencies like Waka Kotahi and Kainga Ora which have important implications for the city.
- 6.5 LGNZ's annual general meetings additionally support sector engagement with central government. The Prime Minister, Ministers of Finance, Local Government and Housing, Leader of the Opposition, and a range of other government agencies and partners participated in the 2021 LGNZ AGM.
- 6.6 Membership of LGNZ's National Council is drawn from sector and zone representatives. Christchurch was not elected to the National Council this council term however in May 2021, the Mayor was invited to informally sit on the National Council (in a non-voting capacity).
- 6.7 The Mayor participated in National Council's recent strategy day where they agreed a new strategic direction for LGNZ.
- 6.8 There is also a COVID-19 local government response unit, which brings together DIA, Taituarā and LGNZ representatives to assist the local government response to the pandemic, including via regular updates to councils.

## 7. Training and professional development

- 7.1 LGNZ provides training, resources and on-going support to elected representatives, and additionally consults them on the challenges they face and options for better enabling them to fulfil their elected member role. They provide a learning platform, EHUB, which includes a members' area with free registration for local government elected members and staff. Resources the Council has drawn on include guides (for example, for Standing Orders and Code of Conduct), webinars, District Licensing Committee resources and resource management resources. A small amount of information is publicly available on EHUB, however most of the content is only available to members.
- 7.2 LGNZ's EquiP programme provides professional development services to councils and elected members, including post-election induction training which is only available to LGNZ members. EquiP provides a toolkit to councils to help them run their elected member induction programme as well as national elected member induction workshops held throughout the country following local body elections. LGNZ members may also purchase the Grow Handbook which supplements induction training.
- 7.3 Our council did not attend the LGNZ regional induction courses following the most recent election in 2019. However, we did purchase the elected members handbook in 2019. In October 2020, we engaged EquiP to run a specialised meeting management workshop for Councillors, Community Board Chairs and Deputy Chairs. Such specialised training and support will not be available if the Council left LGNZ.
- 7.4 Some training is unique and will be difficult to source elsewhere, such as support for the delivery of local government elections and candidate resources.

- 7.5 Professional development, experience and the opportunity to engage across the sector is facilitated through LGNZ representative groups, which provide elected members with regular opportunities to meet and share best practice information and advice.
- 7.6 LGNZ events and groups in which this Council has been involved include the annual conference and AGM, the Zone Committee meetings, the Metro Sector forum, LGNZ Mayors Group, the LGNZ Community Board Executive, the LGNZ Young Elected Members network and annual Young Elected Members hui.
- 7.7 The Mayor, Deputy Mayor and Chief Executive participate in LGNZ Metro sector meetings. The Mayor, Deputy Mayor, Councillors and Chief Executive participate in Zone 5 and 6 meetings, which bring together representatives from all South Island councils.
- 7.8 The LGNZ Community Boards Executive Committee represents all community boards. Alexandra Davids, chair of the Linwood-Central-Heathcote Community Board, chairs the Executive Committee, in addition to being a member of the LGNZ Young Elected Members Committee. Through this role, Alexandra Davids is able to provide active wisdom, examples of good practise as well as act as a conduit back to the community boards in Christchurch.
- 7.9 A Young Elected Members representative attends National Council meetings and LGNZ runs a Governance Development Programme for young elected members to support development of their governance expertise and experience.

## 8. Alternative Options Considered Ētahi atu Kōwhiringa

- 8.1 If the Council were to consider alternatives to LGNZ membership, it would need to explore resourcing for at least two additional FTE roles plus additional costs, as set out below which collectively exceed the current investment in LGNZ membership. We note this additional staff time obviously would not replace the opportunities for advice, networking, discussion and training provided to elected members via LGNZ.
  - 8.1.1 Additional staff time for engagement with senior officials, building on existing engagement but replacing the dedicated briefings, background information and updates regularly provided via LGNZ channels and meetings. We estimate this would approximate at least one senior FTE plus regular travel to Wellington.
  - 8.1.2 Additional staff time for coordinating across the local government sector, building on existing engagement but replacing the opportunities provided by LGNZ's various representative forums, its working groups and project collaborations. We estimate this would approximate 0.5 of one senior FTE (in addition to the position in 8.1.1).
  - 8.1.3 Additional resources (financial and staff time) for travel to Wellington to meet Ministers as while they will visit Christchurch from time to time, the challenges of engaging with 78 local, regional and unitary authorities, plus iwi/Māori and a wide range of public and private sector stakeholders means the Government has limited scope to offer one-on-one briefings for, or dialogue with, one council. The schedules of the Mayor, Deputy Mayor and senior managers would need to be adjusted to provide time for this.
  - 8.1.4 Additional resourcing for communications and engagement support for the above work. We estimate this would approximate 0.5 of one senior communications FTE.
  - 8.1.5 Additional resourcing for privately sourcing policy and technical advice on key issues for councils, to replace advice secured via LGNZ. Hourly rates for public sector consultants vary. Individual policy consultancy charges are approximately \$130-\$150/hour,

however larger firms' rates are around \$220-\$250/hour (and potentially more), and rates for legal advice can range from \$190/hour to over \$400/hour.

## 9. Detail Te Whakamahuki

- 9.1.1 Should the Council decide to terminate its membership, this will also impact Community Board members' ability to participate in LGNZ representative bodies, such as the LGNZ Community Boards Executive Committee chaired by Alexandra Davids.

## 10. Policy Framework Implications Ngā Hiraunga ā- Kaupapa here

### Strategic Alignment Te Rautaki Tīaroaro

10.1 This report supports the [Council's Long Term Plan \(2021 - 2031\)](#):

10.1.1 Activity: Strategic Planning, Future Development and Regeneration

- Level of Service: 17.0.1.1 Advice to Council on high priority policy and planning issues that affect the City. Advice is aligned with and delivers on the governance expectations as evidenced through the Council Strategic Framework. - Triennial reconfirmation of the strategic framework or as required.

### Policy Consistency Te Whai Kaupapa here

10.2 The decision is consistent with Council's Plans and Policies.

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

10.3 The decision does not involve a significant decision in relation to ancestral land or a body of water or other elements of intrinsic value, therefore this decision does not specifically impact Mana Whenua, their culture and traditions.

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

10.4 Not applicable.

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

10.5 Not applicable.

## 11. Resource Implications Ngā Hiraunga Rauemi

### Capex/Opex Ngā Utu Whakahaere

- 11.1 Cost to Implement – our annual membership subscription to LGNZ is currently \$130,024.00 (with an additional \$825.00 for Community Boards' subscription fees).
- 11.2 Maintenance/Ongoing costs – ten Councillors have attended fourteen LGNZ meetings over this Council term, at a total cost of approximately \$12,288.00. Seven Community Board members have attended two New Zealand Community Board Conferences convened by LGNZ during this Council term, at a total cost of approximately \$5,379 plus GST.
- 11.3 Funding Source – the membership subscription and other costs such as conferences and training are included in operational expenditure and funded by rates.

## 12. Legal Implications Ngā Hiraunga ā-Ture

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

12.1 Not applicable.



### Other Legal Implications Ētahi atu Hiraunga-ā-Ture

12.2 None.

### 13. Risk Management Implications Ngā Hīraunga Tūraru

- 13.1 At a time of unprecedented change for the local government sector, staff advice is that there are far greater risks inherent in withdrawing from LGNZ membership, than in remaining a member. This is a time when we need to maximise opportunities to feed in our perspectives and experience. There is strength in numbers and we need to work with others across the sector to convey local government views to the Government, as well as advocating our own position individually. LGNZ need to support sector advocacy, which they have committed to doing, and they need to find new ways to effectively represent the diverse views emerging on matters such as Three Waters reform.

### Attachments Ngā Tāpirihanga

| No.   | Title                                     | Page |
|---|---|------|
| A   | Attachment A - Letter LGNZ Membership     | 25   |
| B   | Attachment B - LGNZ - <b>CONFIDENTIAL</b> |      |

Additional background information may be noted in the below table:

| Document Name | Location / File Link |
|---------------|----------------------|
|               |                      |

### Confirmation of Statutory Compliance Te Whakatūrutanga 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.

### Signatories Ngā Kaiwaitohu

|                    |   |
|--------------------|---|
| <b>Authors</b>     | Elizabeth Wilson - Team Leader Policy<br>Helen White - Head of Legal Services |
| <b>Approved By</b> | Lynn McClelland - Assistant Chief Executive Strategic Policy and Performance  |

Who's  
putting local  
issues on  
the national  
agenda?

**We are.  
LGNZ.**

Te Kāhui Kaunihera ō Aotearoa.

6 December 2021

Christchurch City Council  
By email

Dear Christchurch City Councillors

### **LGNZ Membership**

I understand you're discussing your membership of Local Government of New Zealand. I hope that after your discussion you'll decide to stay with us. Christchurch City Council is a significant leader in the sector and we would miss your presence and your vital input.

This is a critical time for the sector, as we face multiple reforms plus significant challenges in our broader environment, including Covid 19, natural hazards management and climate change, as you know all too well. What Christchurch can teach about resilience is something the whole sector can learn from. And the need for an aligned sector – even if not everyone agrees with each other 100% of the time – has never been more important. Collectively, we have the most impact.

I know your concern centres on LGNZ's agreement with the Government on three waters reform, and whether that has undermined our advocacy role and our ability to advocate on behalf of members. In particular, from Christchurch's perspective, I understand there is a view from some Councillors that we have compromised the ability to walk away from the reform, which a number of you feel passionate about.

I've heard the hurt and anger generated in the sector about our role with the Heads of Agreement, the Government's decision to mandate, and/or the model itself. In terms of the HoA, I know we could have done better in debating this and communicating the detail much earlier. I've apologised for that to Mayors and Chief Executives and I'm sorry about how this has played out. We could also have done a better job communicating the shift in our advocacy strategy that underlies the HoA, which started when I was Vice President under the late Dave Cull's watch – and we agreed to be at the table (as a sector) to influence the reform.

Our members' concerns, and local democracy, are at the heart of everything we do. This has driven us to engage with the Government on behalf of the sector. We know this Government is determined to pursue reform. The sector's voice, and the importance of baking in local democracy, is critical in how all reform is developed and implemented. Reform must reflect the actual reality being lived by the sector. Our shift in advocacy strategy is about recognising the complexity of reform and that this complexity can only be worked through robustly by being in the tent, rather than taking a binary and/or oppositional approach. That approach has seen us locked out of reform in the past. This approach is not about being hand in glove with the Government, but about having the debate and being at the table.

Through the HoA we secured a feedback period during which the sector's concerns came through loud and clear – so loudly that the Government is now taking concrete steps to address those

concerns and adapt the model. This will be seen in the legislation about to be tabled to enable the reform and also in the working group on governance, representation and accountability that will feed further changes into the legislative process. That group, of which Mayor Lianne is a member, is meeting twice in the next two weeks to examine alternative models to the one currently on the table, and will be working intensively in the New Year to formulate alternative recommendations for the Minister. It's important work – and it's important that Christchurch is represented.

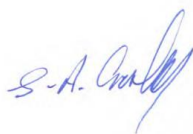
I know Christchurch is in a special position, with significant three waters investment post-earthquake. We have been advocating for your concerns, creating a regulatory carve out in terms of chlorination. In terms of the NPS-UD, we've promoted the important placemaking role that councils in urban areas must continue to play, and we've supported your work on managing climate change and natural hazards, by raising in our ongoing advocacy to Government the tools and support that you need to address these significant challenges with your community. We've heard loudly the need for Christchurch City Council to be represented at National Council – something we're actively working through.

We've learnt a lot from the three waters journey – including tough lessons about what not to do. Your voice will be a critical one as we form our position and advocate for members. We really want you to be part of that conversation and to strengthen the sector's collective voice. We won't repeat the mistakes we've made in terms of listening and communicating – and we'll be actively seeking member input, as well as better translating reform material so that people can actually engage with it and what it means for their community.

Beyond that, our team is working on supporting Councils and the sector in a range of other dynamic ways. We've heard feedback from members and the sector that our approach needs to be different, and we're now clear that our purpose is to be local democracy's vision and voice. We've created a new strategy that underpins this and will see us delivering for the sector. This means telling stories about the powerful role of local government that highlight its value, as well as better induction for new elected members, and campaigns such as Vote 22, to give just a few examples. All of this positions us to lead the critical conversation about how we together shape the future for local government, which is the ultimate prize.

I hope you'll decide to stay with us – and contribute to this important mahi.

Yours sincerely



Stuart Crosby  
President  
Local Government New Zealand

### 33. Co-Governance of Otakaro Avon River Corridor

Reference Te Tohutoro: 21/1571810

Andrew Rutledge - Head of Parks, [andrew.rutledge@ccc.govt.nz](mailto:andrew.rutledge@ccc.govt.nz)  
Shayne Te Aika - Principal Advisor Ngāi Tahu Relationship,

Report of Te Pou Matua: [shayne.teaika@ccc.govt.nz](mailto:shayne.teaika@ccc.govt.nz)

Mary Richardson - General Manager Citizens and Community,  
[mary.richardson@ccc.govt.nz](mailto:mary.richardson@ccc.govt.nz)

General Manager

Mary Richardson, General Manager Citizens and Community,

Pouwhakarae:

[mary.richardson@ccc.govt.nz](mailto:mary.richardson@ccc.govt.nz)

#### 1. Purpose of the Report Te Pūtake Pūrongo

- 1.1 The purpose of this report is to confirm the parameters and direction for the co-governance model for the Ōtākaro/Avon River Corridor (ŌARC). This report has been written in response to the Council resolution CNCL/2020/00139 from 12 November 2020 which agreed that Ngāi Tūāhuriri be invited to partner with the Council to investigate and develop options for the co-governance entity for the ŌARC.
- 1.2 Council direction will allow staff and partners to develop a detailed proposal which will be reported back to Council for formal decisions.
- 1.3 The decisions in this report are of low significance in relation to the Christchurch City Council's Significance and Engagement Policy. The level of significance was determined by a review of the financial implications, level of public consultation and the impact on the community. If any subsequent proposal is deemed to be of high significance and meets the requirements under the Local Government Act 2002, public consultation would occur.

#### 2. Officer Recommendations Ngā Tūtohu

That the Council:

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 establishing:
  - The co-governance entity by a local bill and/or a Trust Deed and
  - The inclusion of an enduring legal status for the Ōtākaro Avon River Corridor within a local bill.
3. Request that staff provide advice to the Council meeting in February 2022 on the terms of reference and funding requirements of an Establishment entity.

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

- 3.1 The Ōtākaro Avon River Corridor represents an extraordinary opportunity for the city and the region. The unique circumstances by which the ŌARC land came to be vacated and will be in eventual Council ownership has created a significant sense of the land as a "community asset"



or legacy. There is a strong expectation that the ŌARC will have a governance structure should reflect its unique history and place within the city.<sup>1</sup>

- 3.2 The Council has previously articulated its intention to establish a permanent community co-governance entity to make decisions on its behalf. The proposed entity would help to ensure that decisions regarding the land's future are made in line with long-term community and mana whenua aspirations.
- 3.3 This report seeks to confirm Council's intention and clarify the next steps.

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

- 4.1 An alternative option would be for Council to govern and manage ŌARC as a park or reserve. Under this model, decisions would be made by Council.
- 4.2 This option is not considered appropriate as prior commitments and stakeholder feedback have suggested a form of co-governance. The approach may not provide the agility necessary or enable mana whenua and communities to be involved in the future use and development of the ŌARC.

#### 5. Detail Te Whakamahuki

##### Background

- 5.1 As the predominant landowner, the Council will provide the land, funding and resources for implementing the Ōtākaro Avon River Corridor Regeneration Plan, and is the organisation with the obligation to establish the community co-governance entity.
- 5.2 The Council has previously articulated its intention to establish a permanent community co-governance entity to make decisions on its behalf.<sup>2</sup>
- 5.3 The Global Settlement Agreement, 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.
  - 5.3.1 In phase 1, while land ownership remains with the Crown, the Council and Land Information New Zealand (LINZ) has established Te Tira Kāhikuhiku: 'a consultative group comprising local stakeholders and community representatives to advise on transitional land use'. Te Tira Kāhikuhiku has delegations to make recommendations on transitional land uses and to grant funds from a Council provided Red Zones Transformative Fund. 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.
  - 5.3.2 In phase 2, the Council will own all or most of the river corridor land. It is in this phase that it was proposed that a community governance group/entity, with some delegated decision-making, could be established.

<sup>1</sup> Tau (2021) Moving forward on the Ōtākaro Avon River Corridor Principles for progress

<sup>2</sup> Global Settlement Agreement between the Council and the Crown, 23 September 2019, [www.ccc.govt.nz/assets/Documents/The-Council/Plans-Strategies-Policies-Bylaws/Strategies/Global-Settlement/CCC-Release-Global-Settlement-Agreement-23-Septmeber-2019.pdf](http://www.ccc.govt.nz/assets/Documents/The-Council/Plans-Strategies-Policies-Bylaws/Strategies/Global-Settlement/CCC-Release-Global-Settlement-Agreement-23-Septmeber-2019.pdf)



### Co-governance Arrangements

- 5.4 Council has worked with mana whenua and community stakeholders, and built upon the work undertaken at the co-governance symposium, hosted by the University of Canterbury and the community in 2019.
- 5.5 Hon. Christopher Finlayson has provided advice on co-governance arrangements involving local iwi and hapū in the administration of significant natural resources in conjunction with local government and other community groups as appropriate. Chrissie Williams and Te Marie Tau have also provided written advice. A subsequent co-governance workshop was held on 3 November 2021 to further explore options.
- 5.6 Hon. Christopher Finlayson advised that 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. Finlayson advised that some form of legislation will likely be necessary to provide certainty and clearly set out the powers and functions of any co-governance body. He suggested that this could be through a local bill, which can change or limit the effect of the general law in its application to a locality such as Christchurch.
- 5.7 Hon. Christopher Finlayson advised that the legal status of the land did not necessarily need to be addressed in the legislation, although there is no reason why it could not be. He suggested the land could be vested in the community itself, for example “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”.
- 5.8 This would not necessarily alter the underlying legal ownership of the riverbed and could have the effect of emphasising that the new entity/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.
- 5.9 Te Marie Tau identified that the symposium in 2019 looked at research conducted into a number of governance models for community assets and/or natural resources, and found successful models often had a mix of the following characteristics:
- 5.9.1 a strong vision that is specified clearly in bespoke legislation or a Trust Deed.
  - 5.9.2 co-governance with mana whenua, a proven and essential model in the post-Treaty settlement era.
  - 5.9.3 members appointed with a diverse range of skills and experience rather than based on representation, with a defined and transparent process for appointment.
  - 5.9.4 sustained support from local or central government independent of changing political priorities.
  - 5.9.5 accountability and responsiveness to the community and council.
  - 5.9.6 a balance between broader environmental and social goals.
  - 5.9.7 innovative funding approaches, often at arm’s length from central and local government.
- 5.10 Chrissie Williams, Independent Chair of Te Tira Kāhikuhiku identified that the Regeneration Plan and the Christchurch District Plan would together provide the strategic land-use 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. Williams suggested that to be effective and efficient, the

entity would need to have the mandate and delegation to make the policy decisions regarding the 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.

- 5.11 There was general agreement in the independent advice provided and workshops that:
  - 5.11.1 co-governance means equal membership of Ngāi Tūāhuriri and Christchurch City Council, noting the Council nominees would be drawn from the Council and the wider community.
  - 5.11.2 the roles and functions of the Entity need to be clearly articulated along with its relationship with Council.
- 5.12 The Entity/Board and Establishment Entity will be dependent on continued support and funding from Council. That has been the situation with most other co-governance bodies.
- 5.13 There are aspirations for the entity to eventually become self-funding and/or receive philanthropic or third party funding. Those options would need to be worked through by an Establishment Board/Entity. However, the entity would need funding from Council to cover its overheads and expenses. It is anticipated that Council would remain responsible for green space (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.

### **Establishment Entity**

- 5.14 This report suggests an Establishment Co-governance entity be established for up to two years, while the legal co-governance arrangements are formed. The Establishment Entity would be responsible for advising on the longer-term structure, roles and relationship as well providing day to day governance of the ŌARC.
- 5.15 The ŌARC workshop suggested that this could be a Trust. However, this report suggests that Council consider initially establishing this as a subordinate decision-making body as defined under the Local Government Act 2002 (LGA). A subordinate decision-making body would enable delegations from Council to be made directly to the entity without added bureaucracy of formal agreements, letter of expectation or statements of intent etc. It could also be formed quickly and could subsequently become a CCO or Trust if deemed necessary.
- 5.16 This report proposes that staff report back to Council in early 2022 with advice on :
  - 5.16.1 Terms of Reference for the Establishment entity, including objectives, roles, function, and powers /delegations
  - 5.16.2 Potential legal structure, including options for a Trust (under Charitable Trusts Act 1957 and Part 5 of LGA) or subordinate decision-making body (under LGA).
  - 5.16.3 Membership and appointment to the entity; noting the intent is half the members be nominated by Council and half by Te Rūnanga o Ngāi Tūāhuriri. It would be important to have some members who have strong links to the communities from the ŌARC.

## **6. Policy Framework Implications Ngā Hiraunga ā- Kaupapa here**

### **Strategic Alignment Te Rautaki Tīaroaro**

- 6.1 This report supports the [Council's Long Term Plan \(2021 - 2031\)](#):

6.1.1 Activity: Parks and Foreshore

- Level of Service: 6.8.12.2 Operational Co – Governance entity for the Residential Red Zone - Draft Options developed for public consultation

**Policy Consistency Te Whai Kaupapa here**

6.2 The decision is consistent with Council's Plans and Policies.

**Impact on Mana Whenua Ngā Whai Take Mana Whenua**

- 6.3 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.
- 6.4 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 Ngāi Tahu Claims Settlement Act 1998.
- 6.5 Williams (2021) identified, Te Rūnanga o Ngāi Tahu provided views on the draft Regeneration Plan in November 2018. 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.
- 6.6 The Regeneration Plan acknowledged 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.'
- 6.7 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.
- 6.8 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'.
- 6.9 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).
- 6.10 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. 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.
- 6.11 In establishing a governance entity for the ŌARC there is a 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.<sup>3</sup>

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

- 6.12 Proposals developed in the next stage will take into account climate change considerations. The evaluation of proposals will need to consider environmental impacts, and the effect on the environmental wellbeing of communities.

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

- 6.13 Proposal developed in the next stage will take into account accessibility considerations.

## **7. Resource Implications Ngā Hīraunga Rauemi**

### **Capex/Opex Ngā Utu Whakahaere**

- 7.1 Capex Costs – Included in the Long Term Plan.  
7.2 Maintenance/Ongoing costs – Included in the Long Tern Plan.

### **Other He mea anō**

- 7.3 Governance costs – estimated to be up to \$450k/annum. Detailed budget will be included in a subsequent report along with the detailed proposals on the establishment on the co-governance entity and any transitional arrangements

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

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

- 8.1 The Council has powers of general competence in section 12 of the Local Government Act 2002 for the purposes of performing its role. The role of the Council includes giving effect to the purpose of local government stated in section 10. The purpose of local government includes promoting the social, economic, environmental and cultural well-being of communities in the present and for the future.
- 8.2 Clause 32(1) of Schedule 7 of the Local Government Act 2002 also provides that
- “Unless expressly provided otherwise in this Act, or in any other Act, for the purposes of efficiency and effectiveness in the conduct of a local authority’s business, a local authority may delegate to a committee or other subordinate decision-making body, community board, or member or officer of the local authority any of its responsibilities, duties, or powers except—*
- ...
- (c) the power to borrow money, or purchase or dispose of assets, other than in accordance with the long-term plan; or*
- ...”.*

### **Other Legal Implications Ētahi atu Hīraunga-ā-Ture**

- 8.3 Detailed legal implications will be include for any subsequent proposal







## **9. Risk Management Implications Ngā Hīraunga Tūraru**

- 9.1 There is a risk that the Council will not have the resources required to support the development and evaluation of proposals. This risk is mitigated by the establishment of a dedicated team.

<sup>3</sup> Williams (2021) Governance of the Ōtākaro Avon River Corridor - Discussion paper

- 9.2 There is a risk that community confidence will decline if the next phase does not move at pace. This risk will be mitigated by the establishment of dedicated team and the Establishment entity.
- 9.3 There is a risk the funding has not be included in the LTP for the co-governance entity and the work associated with a local bill. This risk can be mitigated by full costings being presented to Council for inclusion in year 3 of the LTP once detailed work is completed.
- 9.4 The water reforms may impact on the future ownership of land associated with stormwater management.

### Attachments Ngā Tāpirihanga

| No.   | Title  | Page |
|---|--|------|
| A   | Advice from Hon Christopher Finalyson                                  | 34   |
| B   | Advice from Te Marie Tau   | 39   |
| C   | Advice from Chrissie Williams, Independent Chair of Te Tira Kāhikuhiku | 42   |

Additional background information may be noted in the below table:

| Document Name | Location / File Link |
|---------------|----------------------|
|               |                      |

### 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.

### Signatories Ngā Kaiwaitohu

|                    |  |
|--------------------|--|
| <b>Authors</b>     | Brent Smith - Principal Advisor Citizens & Community<br>Mary Richardson - General Manager Citizens & Community<br>Andrew Rutledge - Head of Parks<br>Brenden Winder - Manager Residential Red Zone |
| <b>Approved By</b> | Mary Richardson - General Manager Citizens & Community   |

— HON CHRISTOPHER FINLAYSON QC  
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

### Ōtākāro/Avon River Corridor Co-governance Options

1. Thank you for meeting with me earlier this month to discuss co-governance options for the Ōtākāro/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 Ōtākāro/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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2

- 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.

*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>



“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.

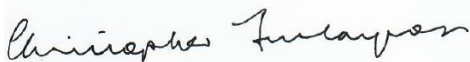
*Heritage status*

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**

## Memo: Moving forward on the Ōtākaro Avon River Corridor Principles for progress

**From: Dr. Te Maire Tau**  
**To: Her Worship Hon. Lianne Dalziel**  
**26 March 2021**

### Introduction & scope

1. This document follows on from our meeting late last year to discuss possibilities for the future ownership and governance of the Ōtākaro Avon River Corridor (“the Corridor”). The unique history of this land represents an extraordinary opportunity to create a lasting and one of a kind legacy that is an enduring gift for all the people of Christchurch-Ōtautahi.
2. My intention is to set out, based on our discussion, the Regeneration Plan for the area and work done by the Avon-Ōtākaro Network and other community representatives, principles for the future ownership and governance structure for the Corridor.
3. The full and enumerated principles for the management, development, regeneration and care of the Corridor are beyond the scope of this memo and must be carefully worked through in detail. However, broad fundamental principles are referred to where these would necessarily (or ideally) be incorporated into the structure of the governance.

### Background

4. Under the terms of the 2019 Global Settlement Agreement between the Crown and Christchurch City Council, ownership of residential red zoned land, including the Ōtākaro Avon River Corridor, is progressively passing to the Council as (re)configuration of land titles is completed. The unique circumstances by which this area came to be vacated and in Council ownership has created a significant sense of the land as a “community asset. As a result, there is a strong expectation that the Ōtākaro Avon River Corridor will not retain the status of a simple Council asset.
5. The symposium in 2019 looked at research conducted into a number of governance models for community assets and/or natural resources, and found successful models often had a mix of the following characteristics:
  - a strong vision that is specified clearly in bespoke legislation or a Trust Deed.
  - co-governance with mana whenua, a proven and essential model in the post-Treaty settlement era.
  - members selected with a diverse range of skills and experience rather than based on representation, with a defined and transparent process for appointment.
  - Sustained support from local or central government independent of changing political priorities.
  - Accountability and responsiveness to the community and council.
  - A balance between broader environmental and social goals.
  - Innovative funding approaches, often at arm’s length from central and local government.

6. A number of these features are complementary: independence from local and central government would best be achieved by making the Corridor area self-funding. Some of these features may initially seem in tension with each other – for example, accountability and responsiveness to the community and council, and sustained support independent of changing political priorities.
7. However, seemingly conflicting principles can be reconciled by other features: for example, ensuring that accountability and responsiveness to community values is enshrined in the governing documents or legislation.

### Principles for governance and ownership

8. I propose the following principles for governance and ownership.

- (i) **Community benefit**  
Because of the unique background of the Ōtākaro Avon River Corridor and its path to current Council ownership, the area is legitimately regarded as a community resource, distinct from an asset of local government (despite the legal ownership and status). The future ownership and governance structure should reflect that its ownership status reflects that it is an asset that exists for the sake of itself and for the benefit of the community as a whole, rather than any particular organisation or group.
- (ii) **Objectives, priorities and principles for governance should be clear and enduring**  
A strong vision in a foundation document or legislation is more likely to achieve objectives. This means setting out the principles for the governance, management and development of the Corridor as parameters with their own legal effect, to direct the representatives of the day. Governance and development of the Corridor should be for the sake of the area, as determined in its founding principles by mana whenua and the community, not contingent on political pressures or the needs of outside groups.
- (iii) **Genuine integration between the land and the river environment**  
The connection between the Ōtākaro Avon river and the Corridor is inextricable, and crucial to meeting the aspirations of the community and mana whenua for the area. Proper development and management of the Corridor should be linked to the river environment and water in the governance and ownership model to prevent regulatory or management misalignment between the land and water through atomised ownership and governance.
- (iv) **Co-governance with mana whenua must be meaningful, and respect and provide for Ngāi Tahu rangatiratanga over freshwater**  
Co-governance arrangements with Ngāi Tūāhuriri Ngāi Tahu must be given meaningful effect. This requires a governance model capable of recognising and aligning with Ngāi Tahu rangatiratanga over freshwater, as well as mana whenua values and practices being reflected in the foundational objectives and priorities in the governance structure (for example, providing for best practice in mahinga kai and environmental outcomes in the river environment).
- (v) **Accountability**  
Accountability through transparent publicly published accounts is important. Responsiveness to the community should be given effect through the principles enshrined in the governance structure and document to ensure no future capture or dilution of those principles.

(vi) ***Self-funding (as far as practicable)***

The Corridor should be self-funding, in order to limit any impediments to the execution of the vision that could be caused by reliance on central or local government, which are more responsive to three-yearly political cycles. This would likely mean the ability to sell, borrow against, charge concessions for, and potentially buy (contiguous) land to realise the vision in a fiscally, environmentally and socially sustainable way.

**Conclusion and next steps**

9. The Ōtākaro Avon River Corridor represents an extraordinary opportunity for the city and the region. The ownership and governance structure should be designed to reflect its unique history and place within the city and the community.
  
10. I propose that the Council contract Christopher Finlayson QC to meet with us and to provide some advice on options on co-governance for the Ōtākaro Avon River Corridor. As you will be aware, Chris has considerable expertise in models of co-governance, and is well-placed to advise on a model that recognises the relationship Ngāi Tūāhuriri holds with the Ōtākaro and the responsibilities of the Council to the city.

## 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  |
| 2  | The Regeneration Plan: Vision and objectives .....                | 2  |
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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*

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

- 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%20Otakar%20Avon%20River%20Corridor%20Regeneration%20Plan.pdf>

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

### 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-Septmeber-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



- 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

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

## 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

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

### 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.

- 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

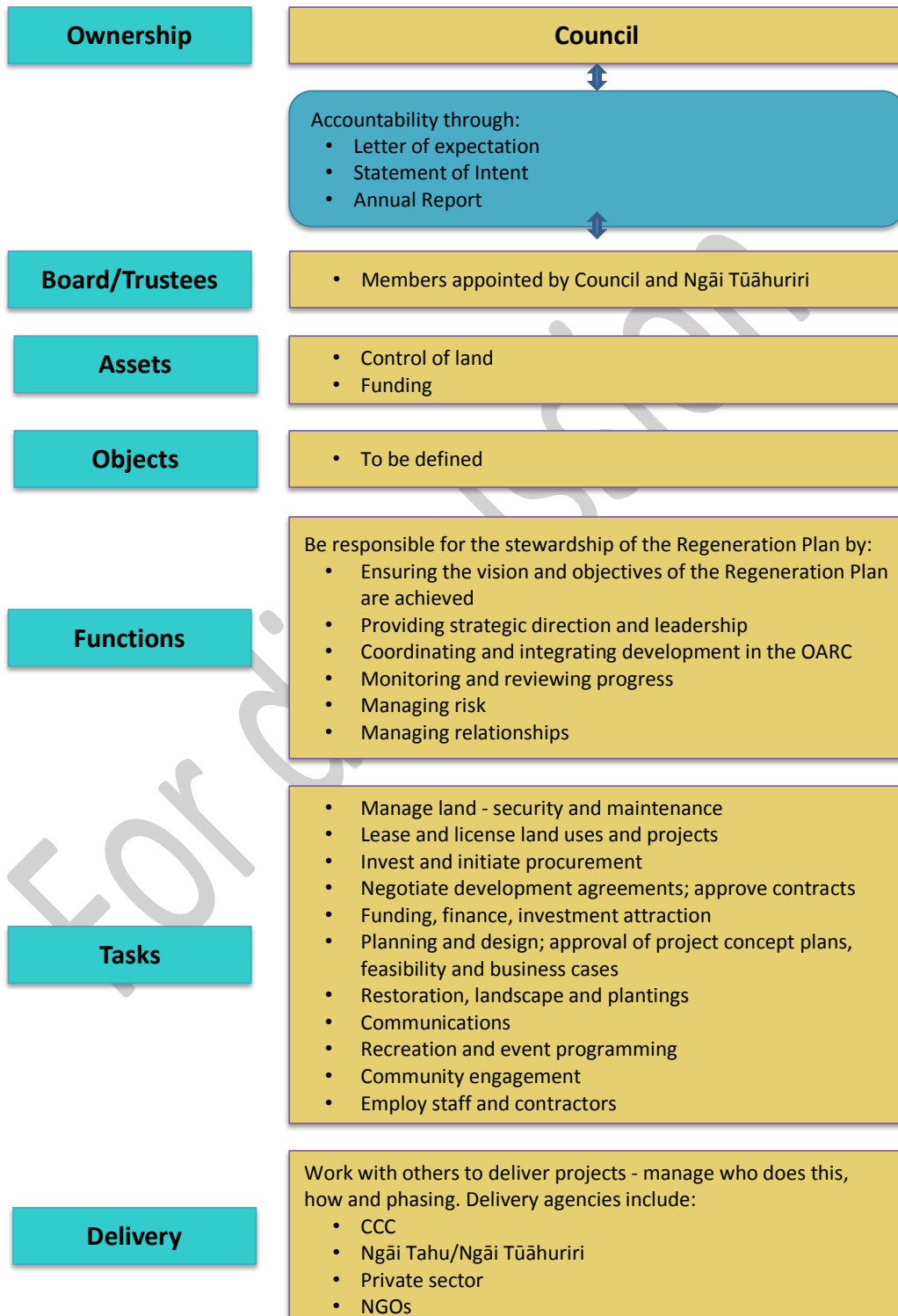
9.1 In the longer-term the entity could still be a Charitable Trust that would:

- 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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Governance Entity



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## 10 References

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**OAG 2016.** Office of the Controller and Auditor-General *Principles for effectively co-governing natural resources,* Report presented to the House of Representatives, Office of the Controller and Auditor-General, Wellington. Includes appendices based on six examples of co-governance.  
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<https://www.eds.org.nz/assets/Publications/Governance%20of%20the%20Hauraki%20Gulf%20WEB.pdf?k=855dd5f207>

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## 24. Resolution to Exclude the Public

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*Section 48, Local Government Official Information and Meetings Act 1987.*

I move that the public be excluded from the following parts of the proceedings of this meeting, namely items listed overleaf.

Reason for passing this resolution: good reason to withhold exists under section 7.

Specific grounds under section 48(1) for the passing of this resolution: Section 48(1)(a)

### **Note**

Section 48(4) of the Local Government Official Information and Meetings Act 1987 provides as follows:

“(4) Every resolution to exclude the public shall be put at a time when the meeting is open to the public, and the text of that resolution (or copies thereof):

- (a) Shall be available to any member of the public who is present; and
- (b) Shall form part of the minutes of the local authority.”

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



| ITEM NO. | GENERAL SUBJECT OF EACH MATTER TO BE CONSIDERED | SECTION  | SUBCLAUSE AND REASON UNDER THE ACT       | PLAIN ENGLISH REASON  | WHEN REPORTS CAN BE RELEASED   |
|----------|---|----------|--|---|--|
| 31.      | MEMORANDUM OF UNDERSTANDING                     |          |  |   |  |
|          | ATTACHMENT B - CONFIDENTIAL LEGAL ADVICE        | S7(2)(G) | MAINTAIN LEGAL PROFESSIONAL PRIVILEGE    | LEGALLY PRIVILEGED INFORMATION  | 7 DECEMBER 2022<br>2. NOTES THAT ATTACHMENT B WILL REMAIN CONFIDENTIAL UNTIL SUCH TIME AS THE WHEN THE GROUNDS FOR WITHHOLDING NO LONGER APPLY AS IN THE VIEW OF THE HEAD OF LEGAL SERVICES. |
| 32.      | MEMBERSHIP OF LOCAL GOVERNMENT NEW ZEALAND      |          |  |   |  |
|          | ATTACHMENT B - LGNZ                             | S7(2)(I) | CONDUCT NEGOTIATIONS                     | CONTAINS COMMERCIALY SENSITIVE INFORMATION REGARDING POTENTIAL BUSINESS OPPORTUNITY.                          | AFTER CONSIDERATION OR IMPLEMENTATION OF OPPORTUNITY.  |
| 34.      | END OF CYCLE PERFORMANCE REVIEW                 | S7(2)(A) | PROTECTION OF PRIVACY OF NATURAL PERSONS | THIS RELATES TO THE CHIEF EXECUTIVE'S PERFORMANCE AGREEMENT AND HER EMPLOYMENT RELATIONSHIP WITH THE COUNCIL. | WHEN, IN THE VIEW OF THE HEAD OF LEGAL SERVICES THE WITHHOLDING GROUNDS NO LONGER APPLY.   |

|     |   |          |  |   |   |
|-----|---|----------|--|---|---|
| 35. | REPORT FROM THE CHIEF EXECUTIVE'S PERFORMANCE AND EMPLOYMENT COMMITTEE - REMUNERATION | S7(2)(A) | PROTECTION OF PRIVACY OF NATURAL PERSONS | THIS REPORT RELATES TO THE CHIEF EXECUTIVE'S EMPLOYMENT RELATIONSHIP WITH THE COUNCIL.          | WHEN IN THE VIEW OF THE HEAD OF LEGAL SERVICES THE GROUNDS FOR WITHHOLDING NO LONGER APPLY.             |
| 36. | EMPLOYMENT AGREEMENT  | S7(2)(A) | PROTECTION OF PRIVACY OF NATURAL PERSONS | THIS REPORT RELATES TO THE EMPLOYMENT RELATIONSHIP BETWEEN THE COUNCIL AND THE CHIEF EXECUTIVE. | WHEN IN THE VIEW OF THE HEAD OF LEGAL SERVICES, THE GROUNDS FOR WITHHOLDING THE REPORT NO LONGER APPLY. |