

Open Meeting

To	Council
From	Tim Harty General Manager Service Delivery
Date	5 December 2016
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Chief Executive Approved	Y/N
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Report Title	Sub Regional Water CCO

I. EXECUTIVE SUMMARY

Since 2012 multiple independent reports have suggested water in the wider region could be far more cost-effectively and efficiently managed on behalf of ratepayers. Specifically, an independent report from Cranleigh in May 2015 recommended Waikato District, Waipa District and Hamilton City Councils form a Council Controlled Organisation (CCO) to manage water and wastewater across the sub-region. The report recommended the three councils retain ownership of urban stormwater assets, but outsource their management to the CCO.

All three Councils have since resolved to support the formation of an asset-owning CCO.

In June 2016 the three Councils unveiled a Record of Agreement (RoA) outlining how an asset-owning CCO might look, if one was formed. In June, Waikato District Council resolved to adopt and consult on the RoA, pending affirmation from the newly elected Council following the October 2016 elections. In July 2016, Waipa District and Hamilton City Councils resolved to do the same.

All three Councils noted that a final decision on whether or not to form a CCO could not be made until all three Councils formally proposed to form a CCO following the October 2016 local body elections, and until ratepayers and the general public had been consulted.

Since the election Waikato District Council has been briefed twice on the CCO and the RoA reached between all three Councils. Informal discussions between Mayors have continued and some potential changes have been discussed. To date, nothing has been formally tabled by either Hamilton City Council or Waipa District Council.

Waikato District Council must now consider whether to formally adopt the proposition of forming an asset-owning CCO. In doing so, it would signal its support for the existing Record of Agreement, with some minor amendments, as noted in this report. Major amendments to the RoA are likely to require a full rework of the proposal, with associated costs and timing.

If the proposal to form an asset-owning CCO is supported, further work will be required to plan the next stage of the project, including (among other tasks) developing a full Special Consultative Procedure (SCP) as per the Local Government Act 2002. This SCP is yet to be developed and will only be done once the position of all parties is better known.

2. RECOMMENDATION

THAT the report from the General Manager Service Delivery be received;

AND THAT Council formally support the formation of an Asset Owning Three Council Water CCO,

AND FURTHER THAT Council adopt the attached draft Record of Agreement, incorporating any necessary amendment in relation to any decision on water meters for Hamilton City being made by that council alone as the basis of the formation of a three council asset-owning Water CCO,

AND FURTHER THAT Council request staff to develop the plan to undertake the next stage of the project, including a full public consultative process and delegate the approval of this plan to the members of the Waters Governance Group.

3. BACKGROUND

Since 2012 multiple independent reports have suggested water in the wider region could be far more cost-effectively and efficiently managed on behalf of ratepayers. Specifically, an independent report from Cranleigh in May 2015 recommended Waikato District, Waipa District and Hamilton City Councils form a Council Controlled Organisation (CCO) to manage water and wastewater across the sub-region. The report recommended the three councils retain ownership of urban stormwater assets, but outsource their management to the CCO.

At an extra ordinary meeting of Council on 29 June this year, this Council adopted the Record of Agreement (attached) related to the formation of a CCO with Waipa District and Hamilton City Councils (the Councils).

The RoA was developed via a series of independently facilitated workshops with members of a representative Governance Group involving His Worship the Mayor and the previous Chair and Deputy Chair of the Strategy and Finance Committee.

As outlined within the June report, supporting the RoA did not mean a decision to form a CCO had been made. The formation of a Sub Regional Water CCO could not progress until:

- All three Councils formally proposed forming a CCO following the 2016 Local Government Elections,
- Formal public consultation had been carried out.

Council must now formally consider whether or not to confirm its support for an asset-owning CCO formed on the basis of the attached RoA. Doing so would signal Council wishes to progress to the next stage of the project; undertaking a Special Consultative Procedure process as outlined within the Local Government Act 2002.

4. DISCUSSION AND ANALYSIS OF OPTIONS

4.1 DISCUSSION

4.1.1 Council Briefings

Since the October 2016 election, Councillors have been formally briefed on two separate occasions on the history and the current status of the Sub Regional Waters CCO proposal. The first briefing was completed internally on 2 November and the second, at the sub regional Council meeting on the 23 November at Karapiro.

With this in mind, this report is not an in-depth review of the background of the project, the details of the analysis that recommended an asset-owning Waters CCO nor the details of the RoA. However, it is worth noting that multiple reports have been completed over the length of the project relating to these matters; all of which are available publicly. All have indicated that the formation of an asset-owning CCO provides the most advantages to ratepayers and the wider community, both financially and non-financially.

Notwithstanding this, it must be acknowledged that the formation of an asset-owning CCO will not be without its challenges. There are still a number of key and complex matters related to the formation of such an entity that need to be addressed prior to any “go live” date.

Some of these matters include (but are not limited to:

- Uncertainty of treatment of vested assets in current legislative framework
- Availability of a rates rebate scheme
- Managing growth across the sub region
- Certainty of asset condition information
- Agreement on process and timing of tariff harmonisation

This list of issues supports the current proposal that any asset-owning CCO will require a two year transition process the between formally being created and officially going live as an entity. This is considered sufficient time to allow these matters to be addressed.

Notwithstanding these complexities, should Council support the formation of an asset-owning Water CCO, the next step would be to develop and run a joint Special Consultative Procedure on that formal proposal, as soon as practicable. The exact timeframe would depend on the respective views of the councils and on an agreed consultation process.

4.1.2 Current status of RoA

The current RoA outlines a number of matters on which the Councils have already agreed to in principle. It represents how an asset-owning CCO would function, if formed. The RoA has been formally supported by all three Councils.

Since the elections informal discussions have been held between the Mayors of the Councils and further matters discussed. Hamilton City Council (HCC) representatives have outlined a preference that the decision to install water meters in the city, should meters be needed in the future, be solely a decision of HCC, should a CCO be formed. This is slightly different to what is outlined in the existing RoA.

The Cranleigh report did not assume that water meters would be installed for Hamilton and therefore this proposed change to the RoA would have no material effect on the benefits outlined in the report. It is recommended that, if this request is formally made by HCC, Waikato District Council support such an amendment.

Other minor amendments may need to be made to the RoA following further consideration by each Council. These can be considered through the Waters Governance Group (delegated through Council to be His Worship the Mayor, the Chair and Deputy Chair of the Strategy & Finance Committee.)

The RoA agreed to by all three Councils in June and July of this year represents the basis of the formation of a three-council asset-owning Water CCO. If any Council wished to fundamentally change any of the base assumptions underpinning the existing RoA, a new agreement would need to be developed. This would likely add significant further costs to the project and delay moving towards public consultation.

4.1.3 Local Government Amendment Bill

The June report noted that the introduction to the House of the Local Government Amendment Bill (the Bill) had occurred and that the Bill provided direction about the formation of CCOs in general. The Bill has since been delayed.

While this will impact on the process to potentially form a CCO, there is no material impact to this process as the work undertaken to date has largely assumed the current legislative operating framework.

4.2 OPTIONS

There are three options currently available to Council:

Option One: Formally support the formation of three council asset-owning Waters CCO. In doing this Council will need to formally adopt the draft RoA, noting the minor amendment outlined in this report in relation to water meters in Hamilton. This decision would signal Council's support for the proposal and an intention to undertake full public consultation.

This option is consistent with the Waters Governance Group's view and past discussions with Council.

Option Two: Reject the existing Record of Agreement and not support the formation of a three-council asset-owning Waters CCO.

This option is inconsistent with the Waters Governance Group's view and past discussions and resolutions made by Council.

Option Three: Look at other options such as a two council CCO or a non-asset owning CCO. Other options such as those indicated would require additional work and additional cost.

5. CONSIDERATION

5.1 FINANCIAL

At this stage there are no further direct financial impacts related to the decision to formally support the formation of an asset-owning CCO. Once the formal position of all three Councils has been determined, a formal project plan and associated costings will be developed and costed. This will follow appropriate Council processes and any funding requests will be brought to Council for approval. At this stage the work is unfunded in the 2015-25 Long Term Plan.

Works undertaken between the June report and now have all been undertaken within existing budgets and in accordance with approved project plans.

5.2 LEGAL

There are no known legal matters related to the adoption of the recommendations of this report. It should be noted, however, that the recent delay in the Bill may have some impact on the process moving forward.

5.3 STRATEGY, PLANS, POLICY AND PARTNERSHIP ALIGNMENT

The proposed formation of a three council Asset-owning Waters CCO aligns with a number of Councils Plans and Polices and is consistent with the requirements and intent of Section 17a of the Local Government Act.

5.4 IWI

Iwi engagement has been a vital part of the process to date. Council representatives on the Joint Management Committee continue to keep Iwi partners up to date with progress on the CCO.

Staff and members of the wider project team are continuing to work with Senior Iwi representatives on various matters related to the project. Once the next stage of the project is clear, staff will discuss next steps in this area.

5.5 ASSESSMENT OF SIGNIFICANCE AND ENGAGEMENT POLICY AND OF EXTERNAL STAKEHOLDERS

The recommendation of this report triggers the Significance and Engagement Policy and will require a full public engagement process to be undertaken. The manner and scope of this

engagement is yet to be determined and can only be done when there is clarity from all three Councils.

6. CONCLUSION

For more than six years Council has been working through the processes related to the formation of a Waters CCO. Over this time the work has been in front of Council on multiple occasions, the last being at a sub-regional briefing at Karapiro on 23 November.

This report recommends that Council supports the formation of a three council Waters CCO on the basis of the data and analysis undertaken over those six plus years, in line with the view of the Waters Governance Group members and discussions with Council. A review of one of the terms of the RoA may be necessary.

7. ATTACHMENTS

- Attachment I: Record of Agreement