



20 August 2020

EXTRAORDINARY MEETING

Notice is hereby given that an **Extraordinary Meeting of Council** will be held in the **Council Chambers, Stratford District Council, Miranda Street, Stratford** on **Tuesday 25 August 2020** at **2.00pm**

Timetable for 25 August 2020 as follows:

1.00pm	Workshop for Councillors - Property
1.45pm	Afternoon tea for Councillors
2.00pm	Extraordinary Meeting
3.00pm	Policy and Services Committee Meeting

Yours faithfully

Sven Hanne
CHIEF EXECUTIVE

2020 - Agenda - Extraordinary - August (25/08/2020)

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EXTRAORDINARY MEETING OF COUNCIL
TUESDAY 25 AUGUST 2020 AT 2.00 PM

A G E N D A

1. **WELCOME**
2. **APOLOGIES**
3. **ANNOUNCEMENTS**
4. **DECLARATIONS OF MEMBERS INTEREST**
Elected members to declare any real or perceived conflicts of interest relating to items on this agenda.
5. **DECISION REPORT - AMENDMENT TO MEETING SCHEDULE**
D20/22209 (Pages 6-13)

RECOMMENDATIONS

1. THAT the report be received.
2. THAT Council amend the 2020 Meeting Schedule to change the remaining two Audit and Risk Committee Meetings for the year to Tuesday 6 October 2020 and Tuesday 1 December 2020.

Recommended Reason

The meeting schedule was adopted by Council in November 2019 which sets the dates for the coming year. Due to the appointment of the new External Chair for the Audit and Risk Committee amendments are required to be actioned.

_____/_____
Moved/Seconded

6. **DECISION REPORT - THREE WATERS REFORM PROGRAMME**
D20/21944 (Pages 14-63)

RECOMMENDATIONS

1. THAT the report be received.
2. THAT Council note that:
 - in July 2020, the Government announced an initial funding package of \$761 million to provide a post COVID-19 stimulus to maintain and improve water networks infrastructure, and to support a three-year programme of reform of local government water services delivery arrangements; and

- initial funding will be made available to those councils that agree to participate in the initial stage of the reform programme, through a Memorandum of Understanding (MoU), Funding Agreement, and approved Delivery Plan.
- this initial funding will be provided in two parts: a direct allocation to individual territorial authorities, and a regional allocation. The participating individual authorities in each region will need to agree an approach to distributing the regional allocation
- the Steering Committee has recommended a preferred approach to the allocation of regional funding, being the same formula as was used to determine the direct allocations to territorial authorities

3. THAT Council:

- **Agree** to sign the MoU at **Appendix A** and Funding Agreement at **Appendix B**.
- **Agree** to nominate Sven Hanne, the Chief Executive of the Council as the primary point of communication for the purposes of the MoU and reform programme – as referred to on page 6 of the MoU.
- **Agree** to delegate decisions about the allocation of regional funding to Sven Hanne, the Chief Executive of the Council, with the understanding that the minimum level of funding to the Council be based upon the formula used to calculate the direct council allocations, and noting that participation by two-thirds of territorial authorities within the Taranaki region is required to access the regional allocation
- **Note** that the MoU and Funding Agreement cannot be amended or modified by either party, and doing so would void these documents.
- **Note** that participation in this initial stage is to be undertaken in good faith, but this is a non-binding approach, and the Council can opt out of the reform process at the end of the term of the agreement (as provided for on page 5 of the MoU).
- **Note** that the Council has been allocated \$1,194,945 of funding, which will be received as a grant as soon as practicable once the signed MoU and Funding Agreement are returned to the Department of Internal Affairs, and a Delivery Plan has been supplied and approved (as described on page 5 of the MoU).
- **Note** that the Delivery Plan must show that the funding is to be applied to operating and/or capital expenditure relating to three waters infrastructure and service delivery, and which:
 - supports economic recovery through job creation; and
 - maintains, increases, and/or accelerates investment in core water infrastructure renewal and maintenance.

Recommended Reason

Opting into the initial stage of the reform programme is a voluntary, non-binding commitment. It **does not** require councils to commit to future phases of the reform programme, to transfer their assets and/or liabilities, or establish new water entities. It does however enable access to a significant amount of government funding. The benefits outweigh the costs and risks associated with this proposal.

/_____
Moved/Seconded

7. **DECISION REPORT – PROPOSED LOCATION OF NEW AQUATIC CENTRE**

D20/ (Pages 64-76)

RECOMMENDATIONS

1. THAT the report be received.
- 2a. THAT Council reiterate its earlier decision to co-locate the new aquatic centre with the TET Multi Sport Centre and instruct staff to proceed with seeking the Minister of Conservation’s consent pursuant to the Reserves Act 1977,

OR

- 2b. THAT Council take public feedback into consideration as well as the pros and cons of the various site options and instruct staff to bring back a further report in order to reconsider the location of the new aquatic centre.

Recommended Reason

In view of the majority of the small number of submitters to the request for public feedback, Council may wish to reconsider its earlier decision to co-locate the new aquatic centre with the TET Multi Sport Centre.

Moved/Seconded



Health and Safety Message

In the event of an emergency, please follow the instructions of Council Staff.

Please exit through main entrance.

Once you reach the footpath outside please turn left and walk towards the Bell tower congregating on lawn outside the Council Building.

Staff will guide you to an alternative route if necessary.

If there is an earthquake – drop, cover and hold where possible. Stay indoors till the shaking stops and you are sure it is safe to exit or remain where you are until further instruction is given.

DECISION REPORT



TO: Council
FROM: Executive Administration Officer
DATE: 25 August 2020
SUBJECT: AMENDMENT TO 2020 MEETING SCHEDULE

F19/13/04-D20/22209

RECOMMENDATIONS

1. THAT the report be received.
2. THAT Council amend the 2020 Meeting Schedule to change the remaining two Audit and Risk Committee Meetings for the year to Tuesday 6 October 2020 and Tuesday 1 December 2020.

Recommended Reason

The meeting schedule was adopted by Council in November 2019 which sets the dates for the coming year. Due to the upcoming appointment of a new External Chair for the Audit and Risk Committee amendments are required to be actioned.

Moved/Seconded

1. PURPOSE OF REPORT

The purpose of this report is to recommend a change to the remaining two meetings of the Audit and Risk Committee for the 2020 year to align with the availability of the yet to be appointment Chair.

2. EXECUTIVE SUMMARY

Due to the upcoming appointment of the new Chair of the Audit and Risk Committee occurring after the meeting schedule has been set it is now required that the schedule be amended to suit the availability of the chair.

When the new dates are set for the 2021 year the Chair will be consulted prior to the dates being brought for approval by Council.

3. **LOCAL GOVERNMENT ACT 2002 – SECTION 10**

Under section 10 of the Local Government Act 2002, the Council’s purpose is to “enable democratic local decision making by and on behalf of communities; as well as promoting the social, economic, environmental, and cultural well-being of communities now and into the future”			
Does the recommended option meet the purpose of the Local Government 4 well-beings? And which:			Yes
Social	Economic	Environmental	Cultural
✓	✓	✓	✓

The presence of the Chair is crucial to ensure good governance of the meeting where recommendations are made to Council. This encourages democratic decision making.

4. **BACKGROUND**

4.1 Council’s Standing Orders, item 4.1 states:

The local authority must hold meetings for the good government of its city, district or region. Meetings must be called and conducted in accordance with:

- (a) *Schedule 7 of the Local Government Act 2002;*
- (b) *Part 7 of the Local Government Official Information and Meetings Act 1987; and*
- (c) *These standing orders.*

A meeting can be adjourned to a specified time and day if required by resolution of the meeting.

4.2 The meeting schedule was set in November 2019 with the Audit and Risk Committee Meetings to be held every second month on the third Tuesday of the month.

4.3 The last two for the 2020 calendar year were scheduled for Tuesday 15 September and Tuesday 17 November 2020. It is proposed that these be amended to Tuesday 6 October and Tuesday 1 December to ensure the Chair can attend the meetings.

4.4 The process of appointing a new Chair to the committee will be completed at the next ordinary meeting of council with a very high calibre of applicants expressing interest in the role. This process took longer than anticipated due to the exceptional quality of applicants. With the preferred candidate now chosen it is necessary to amend the meeting schedule to ensure his availability for these meetings.

4.5 This report has been brought to the Extraordinary Meeting of Council for approval so that public notification can be given within the statutory timeframes being:

“not more than 10 nor less than 5 working days before the day on which the meeting is held.”

5. CONSULTATIVE PROCESS

5.1 Public Consultation - Section 82

This does not require public consultation.

5.2 Māori Consultation - Section 81

No separate Māori consultation is required.

6. RISK ANALYSIS

Please refer to the Consequence and Impact Guidelines at the front of the reports in this agenda.

- Is there a:
 - financial risk;
 - human resources risk;
 - political risks; or
 - other potential risk?
- If there is a risk, consider the probability/likelihood of it occurring.
- Is there a legal opinion needed?

There is no risk associated with amending the meeting schedule as long as adequate public notification is able to be given.

7. DECISION MAKING PROCESS - SECTION 79

7.1 Direction

	Explain
Is there a strong link to Council's strategic direction, Long Term Plan/District Plan?	Yes decisions need to be made at meetings.
What relationship does it have to the communities current and future needs for infrastructure, regulatory functions, or local public services?	Meetings are key to having decisions made.

7.2 **Data**

- | |
|--|
| <ul style="list-style-type: none"> • Do we have complete data, and relevant statistics, on the proposal(s)? • Do we have reasonably reliable data on the proposals? • What assumptions have had to be built in? |
|--|

The schedule for the remainder of the 2020 year is attached as **Appendix 1**.

7.3 **Significance**

	Yes/No	Explain
Is the proposal significant according to the Significance Policy in the Long Term Plan?	No	Administrative matter only
Is it:	No	
• considered a strategic asset; or	No	
• above the financial thresholds in the Significance Policy; or	No	
• impacting on a CCO stakeholding; or	No	
• a change in level of service; or	No	
• creating a high level of controversy; or	No	
• possible that it could have a high impact on the community?	No	

In terms of the Council’s Significance Policy, is this proposal of high, medium, or low significance?		
HIGH	MEDIUM	LOW
		✓

7.4 **Options**

An assessment of costs and benefits for each option must be completed. Use the criteria below in your assessment.

1. What options are available?
2. For **each** option:
 - explain what the costs and benefits of each option are in terms of the present and future needs of the district;
 - outline if there are any sustainability issues; and
 - explain if the outcomes meet the current and future needs of communities for good-quality local infrastructure, local public services, and performance of regulatory functions?
3. After completing these, consider which option you wish to recommend to Council, and explain:
 - how this option is the most cost effective option for households and businesses;
 - if there are any trade-offs; and
 - what interdependencies exist.

Option 1

Council adopts the amended dates for the Audit and Risk Committee Meetings.

Option 2

The Council recommends alternative dates for the Audit and Risk Committee Meetings.

Option 1 is the preferred option as the new Chair has confirmed availability.

7.5 **Financial**

- Is there an impact on funding and debt levels?
- Will work be undertaken within the current budget?
- What budget has expenditure come from?
- How will the proposal be funded? eg. rates, reserves, grants etc.

There are no financial impacts.

7.6 **Prioritisation & Trade-off**

- Have you taken into consideration the:
- Council's capacity to deliver;
 - contractor's capacity to deliver; and
 - consequence of deferral?

Trade-offs are alternative dates and times for meetings, however if a decision is not made in time to meet the public notification deadlines the current dates will need to be adhered and held to without the Chair.

7.7 **Legal Issues**

- Is there a legal opinion needed?
- Are there legal issues?

There are no legal issues.

7.8 **Policy Issues - Section 80**

- Are there any policy issues?
- Does your recommendation conflict with Council Policies?

There are no policy issues.

Attachments:

Appendix A – 2020 Meeting Schedule



Erin Bishop
EXECUTIVE ADMINISTRATION OFFICER



Sven Hanne
CHIEF EXECUTIVE

DATE 20 August 2020

APPENDIX A**STRATFORD DISTRICT COUNCIL****MEETING SCHEDULE 2020****Council held 2nd Tuesday of the month****Policy and Services every 4th Tuesday of the month****Audit & Risk Meetings held every second month (3rd Tuesday in that month)**

All meetings are held in the Council Chambers unless otherwise stated

SEPTEMBER 2020

Workshop for Councillors	Tuesday 8 September	2.00 pm
Public Forum (by request)	Tuesday 8 September	3.30 pm
Council Meeting	Tuesday 8 September	4.00 pm

Audit & Risk Committee	Tuesday 15 September	4.00 pm
	Tuesday 6 October	

Workshop for Councillors	Tuesday 22 September	2.00 pm
Policy & Services Committee	Tuesday 22 September	3.00 pm

OCTOBER 2020

Workshop for Councillors	Tuesday 13 October	2.00 pm
Public Forum (by request)	Tuesday 13 October	3.30 pm
Council Meeting	Tuesday 13 October	4.00 pm

Workshop for Councillors	Tuesday 27 October	2.00 pm
Policy & Services Committee	Tuesday 27 October	3.00 pm

NOVEMBER 2020

Workshop for Councillors	Tuesday 10 November	2.00 pm
Public Forum (by request)	Tuesday 10 November	3.30 pm
Council Meeting	Tuesday 10 November	4.00 pm

Audit & Risk Committee	Tuesday 17 November	4.00 pm
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Workshop for Councillors	Tuesday 24 November	2.00 pm
Policy & Services Committee	Tuesday 24 November	3.00 pm

DECEMBER 2020

Audit & Risk Committee	Tuesday 1 December	
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Workshop for Councillors	Tuesday 8 December	2.00 pm
Public Forum (by request)	Tuesday 8 December	3.30 pm
Council Meeting	Tuesday 8 December	4.00 pm

PUBLIC FORUMS

Public forums are scheduled at 3.30pm prior to each Council meeting. These forums are by request and more information can be located on Council's website.

Meeting	Meeting Date
Sport NZ Rural Travel Fund Committee	
Opening date for applications	Monday 24 February 2020
Closing date for applications	Friday 20 March 2020
Sport NZ Rural Travel Fund Committee Meeting	Tuesday 7 April 2020 at 3pm
Opening date for applications	Monday 5 October 2020
Closing date for applications	Friday 30 October 2020
Sport NZ Rural Travel Fund Committee Meeting	Tuesday 17 November 2020 at 3pm
Creative Communities NZ	
Opening date for applications	Tuesday 10 March 2020
Closing date for applications	Thursday 9 April 2020
Creative Communities NZ Committee Meeting	Wednesday 29 April 2020 at 9.30am
Opening date for applications	Monday 3 August 2020
Closing date for applications	Friday 4 September 2020
Creative Communities NZ Committee Meeting	Wednesday 23 September 2020 at 9.30am
Citizen Awards	
Opening date for nominations	Tuesday 4 May 2020
Closing date for applications	Friday 29 May 2020
Citizen Awards Committee Meeting	Tuesday 9 June 2020 at 9.30am
Citizen Awards Presentation	Tuesday 21 July 2020 at 5.30pm
Other	
Trade Graduation Ceremony	Thursday 7 November 2019 at 5.30pm
Trade Graduation Ceremony	Thursday 5 November 2020 at 5.30pm
Mayoral Reception	Saturday 5 December 2020 at 5.30pm
LGNZ Conference	16 – 18 July 2020 in Blenheim
Citizenship Ceremonies	
Citizenship Ceremony	Wednesday 4 December 2019 at 2.30pm
Citizenship Ceremony	Wednesday 18 March 2020 at 2.30pm
Citizenship Ceremony	Wednesday 17 June 2020 at 2.30pm
Citizenship Ceremony	Wednesday 16 September 2020 at 2.30pm
Citizenship Ceremony	Wednesday 2 December 2020 at 2.30pm

DECISION REPORT



F19/13/04 – D20/21944

6

TO: Council

FROM: Chief Executive Officer

DATE: 25 August 2020

SUBJECT: THREE WATERS REFORM PROGRAMME

RECOMMENDATIONS

1. THAT the report be received.
2. THAT Council note that:
 - in July 2020, the Government announced an initial funding package of \$761 million to provide a post COVID-19 stimulus to maintain and improve water networks infrastructure, and to support a three-year programme of reform of local government water services delivery arrangements; and
 - initial funding will be made available to those councils that agree to participate in the initial stage of the reform programme, through a Memorandum of Understanding (MoU), Funding Agreement, and approved Delivery Plan.
 - this initial funding will be provided in two parts: a direct allocation to individual territorial authorities, and a regional allocation. The participating individual authorities in each region will need to agree an approach to distributing the regional allocation
 - the Steering Committee has recommended a preferred approach to the allocation of regional funding, being the same formula as was used to determine the direct allocations to territorial authorities
3. THAT Council:
 - **Agree** to sign the MoU at **Appendix A** and Funding Agreement at **Appendix B**.
 - **Agree** to nominate Sven Hanne, the Chief Executive of the Council as the primary point of communication for the purposes of the MoU and reform programme – as referred to on page 6 of the MoU.
 - **Agree** to delegate decisions about the allocation of regional funding to Sven Hanne, the Chief Executive of the Council, with the understanding that the minimum level of funding to the Council be based upon the formula used to calculate the direct council allocations, and noting that participation by two-thirds of territorial authorities within the Taranaki region is required to access the regional allocation

- **Note** that the MoU and Funding Agreement cannot be amended or modified by either party, and doing so would void these documents.
- **Note** that participation in this initial stage is to be undertaken in good faith, but this is a non-binding approach, and the Council can opt out of the reform process at the end of the term of the agreement (as provided for on page 5 of the MoU).
- **Note** that the Council has been allocated \$1,194,945 of funding, which will be received as a grant as soon as practicable once the signed MoU and Funding Agreement are returned to the Department of Internal Affairs, and a Delivery Plan has been supplied and approved (as described on page 5 of the MoU).
- **Note** that the Delivery Plan must show that the funding is to be applied to operating and/or capital expenditure relating to three waters infrastructure and service delivery, and which:
 - supports economic recovery through job creation; and
 - maintains, increases, and/or accelerates investment in core water infrastructure renewal and maintenance.

Recommended Reason

Opting into the initial stage of the reform programme is a voluntary, non-binding commitment. It **does not** require councils to commit to future phases of the reform programme, to transfer their assets and/or liabilities, or establish new water entities. It does however enable access to a significant amount of government funding. The benefits outweigh the costs and risks associated with this proposal.

Moved/Seconded

1. **PURPOSE OF REPORT**

This report asks Council to:

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

2. **EXECUTIVE SUMMARY**

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

- The reform programme is designed to support economic recovery, and address persistent systemic issues facing the three waters sector, through a combination of:
 - stimulating investment, to assist economic recovery through job creation, and maintain investment in water infrastructure renewals and maintenance; and
 - reforming current water service delivery, into larger scale providers, to realise significant economic, public health, environmental, and other benefits over the medium to long term.
- Initial funding from the stimulus package will be made available to those councils that agree to participate in the first stage of the reform programme, through a Memorandum of Understanding (MoU), Funding Agreement, and approved Delivery Plan. The MoU must be signed by the end of August 2020, with the Funding Agreement and Delivery Plan submitted and approved by the end of September 2020.

3. **LOCAL GOVERNMENT ACT 2002 – SECTION 10**

Under section 10 of the Local Government Act 2002, the Council’s purpose is to “enable democratic local decision making by and on behalf of communities; as well as promoting the social, economic, environmental, and cultural well-being of communities now and into the future”			
Does the recommended option meet the purpose of the Local Government 4 well-beings? And which:		Yes	
Social	Economic	Environmental	Cultural
✓	✓	✓	✓

4. **BACKGROUND**

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

- At the recent Central/Local Government Forum, central and local government leadership discussed the challenges facing New Zealand’s water service delivery and infrastructure, and committed to working jointly on reform. A Joint Central/Local Government Three Waters Steering Committee has been established to provide oversight and guidance to support this work. [Further details are provided in **Appendix E.**]
- Central and local government consider it is timely to apply targeted infrastructure stimulus investment to enable improvements to water service delivery, progress service delivery reform in partnership, and ensure the period of economic recovery following COVID-19 supports a transition to a productive, sustainable economy.

- In July 2020, the Government announced an initial funding package of \$761 million to provide post COVID-19 stimulus, support a three-year programme of reform of local government water service delivery arrangements, and support the establishment and operation of Taumata Arowai.
- The reform programme is designed to support economic recovery, and address persistent systemic issues facing the three waters sector, through a combination of:
 - stimulating investment, to assist economic recovery through job creation, and maintain investment in water infrastructure renewals and maintenance; and
 - reforming current water service delivery, into larger scale providers, to realise significant economic, public health, environmental, and other benefits over the medium to long term.
- While the Government's starting intention is for publicly-owned multi-regional models for water service delivery (with a preference for local authority ownership), final decisions on a service delivery model will be informed by discussion with the local government sector and the work of the Joint Steering Committee.
- Further information on the reform objectives, and the core design features of any new service delivery model, are provided in pages 3 to 4 of the MoU at **Appendix A**.

4.2 Reform process and indicative timetable

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



5. **CONSULTATIVE PROCESS**

5.1 **Public Consultation - Section 82**

A legal opinion by Simpson Grierson, commissioned by SOLGM on behalf of the Steering Committee, advises that the MoU **does not** contain any explicit triggers for consultation under the Local Government Act 2002. (REFER TO APPENDIX D)

5.2 **Maori Consultation - Section 81**

A legal opinion by Simpson Grierson, commissioned by SOLGM on behalf of the Steering Committee, advises that the MoU does not contain any explicit triggers for consultation under the Local Government Act 2002. (REFER TO APPENDIX D)

6. **RISK ANALYSIS**

Please refer to the Consequence and Impact Guidelines at the front of the reports in this agenda.

- Is there a:
 - financial risk;
 - human resources risk;
 - political risks; or
 - other potential risk?
- If there is a risk, consider the probability/likelihood of it occurring.
- Is there a legal opinion needed?

A legal opinion has been provided and is attached to this report. The matter at hand is not considered to expose Council to any significant risk.

7. **DECISION MAKING PROCESS - SECTION 79**7.1 **Direction**

	Explain
Is there a strong link to Council's strategic direction, Long Term Plan/District Plan?	No – it explores alternative delivery of services currently catered for by Council plans and strategies.
What relationship does it have to the community's current and future needs for infrastructure, regulatory functions, or local public services?	It explores alternative delivery of core council services.

7.2 **Data**

- | |
|--|
| <ul style="list-style-type: none"> • Do we have complete data, and relevant statistics, on the proposal(s)? • Do we have reasonably reliable data on the proposals? • What assumptions have had to be built in? |
|--|

Full information is available on this stage of the reforms for which Council is being asked to sign the MoU.

Information on the subsequent stages is still unclear, but signing of the MoU does not commit Council to proceed beyond this stage. While it would be desirable to have clarity over all stages of the reform programme, the data available is sufficient to make a decision on the MoU in front of Council.

7.3 **Significance**

	Yes/No	Explain
Is the proposal significant according to the Significance Policy in the Long Term Plan?	No	As per attached legal opinion.
Is it:	Yes	Water infrastructure assets are of strategic nature.
• considered a strategic asset; or	No	Not the current stage, but the overall programme has the potential to.
• above the financial thresholds in the Significance Policy; or	No	Model is not proposed to be a CCO, current arrangement is not a CCO.
• impacting on a CCO stakeholding; or	No	The content of this report would not alter the current LoS
• a change in level of service; or	No	Not the current stage, but the overall programme has the potential to.
• creating a high level of controversy; or	No	Not the current stage, but the overall programme has the potential to.
• possible that it could have a high impact on the community?	No	Not the current stage, but the overall programme has the potential to.

In terms of the Council's Significance Policy, is this proposal of high, medium, or low significance?		
HIGH	MEDIUM	LOW
		✓

7.4 **Options**

<p>An assessment of costs and benefits for each option must be completed. Use the criteria below in your assessment.</p> <ol style="list-style-type: none"> 1. What options are available? 2. For each option: <ul style="list-style-type: none"> • explain what the costs and benefits of each option are in terms of the present and future needs of the district; • outline if there are any sustainability issues; and • explain if the outcomes meet the current and future needs of communities for good-quality local infrastructure, local public services, and performance of regulatory functions? 3. After completing these, consider which option you wish to recommend to Council, and explain: <ul style="list-style-type: none"> • how this option is the most cost effective option for households and businesses; • if there are any trade-offs; and • what interdependencies exist.

Council has the choice to opt into the first stage of the reform and stimulus programme, or not.

Agreeing to sign the MoU is the 'opt in' to the first stage of the reform and stimulus programme. The MoU needs to be signed and submitted by the end of August 2020. The Funding Agreement and Delivery Plan need to be submitted by the end of September 2020, to access the stimulus funding. Councils that do not opt in by the end August 2020 deadline will not receive a share of the stimulus funding. Councils will still be able to opt in to the reform programme at a later date, but will not have access to the initial funding package, retrospectively.

7.5 **Financial**

<ul style="list-style-type: none"> • Is there an impact on funding and debt levels? • Will work be undertaken within the current budget? • What budget has expenditure come from? • How will the proposal be funded? eg. rates, reserves, grants etc.

Signing the MoU gives Council access to the associated investment package. This is structured into two components:

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

The relevant allocations for Stratford District Council are:

- \$1,194,945 (excluding GST) direct allocation for Stratford District Council
- \$8,945,175 (excluding GST) regional allocation for Taranaki

7.6 **Prioritisation & Trade-off**

Have you taken into consideration the:

- Council's capacity to deliver;
- contractor's capacity to deliver; and
- consequence of deferral?

Council capacity to deliver capital projects is stretched in light of the significant amounts of external funding allocations received and the tight timeframes attached to most of these. This will be addressed by external project management resource.

Early indications are that contractors are stretched, which is likely to impact negatively on price and timing of any works resulting from this funding. Officers will work through these matters with contractors and funders to achieve the intended outcomes.

While deferral is technically an option, access to the allocated funding, requires this decision to be made by the end of August – deferral would therefore result in not receiving the funding on offer.

7.7 **Legal Issues**

- Is there a legal opinion needed?
- Are there legal issues?

A legal opinion is provided with this report and no issues have been identified.

7.8 **Policy Issues - Section 80**

- Are there any policy issues?
- Does your recommendation conflict with Council Policies?

There are no policy issues with Council opting into the first stage of the reform and stimulus programme.

Attachments:

- Appendix A** Memorandum of Understanding
- Appendix B** Funding Agreement
- Appendix C** Delivery Plan (Template)
- Appendix D** Legal opinion provided by Simpson Grierson relating to consultation requirements
- Appendix E** Information on Joint Three Waters Steering Committee
- Appendix F** Hypothetical example

A handwritten signature in blue ink, appearing to read 'Sven Hanne', is positioned above a thin horizontal line.

[Approved by]
Sven Hanne
CHIEF EXECUTIVE

DATE 18 August 2020

Memorandum of Understanding Three Waters Services Reform

Between the Sovereign in right of New Zealand acting by and through the Department of Internal Affairs and

PURPOSE

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

BACKGROUND

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

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

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

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

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

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

PRINCIPLES FOR WORKING TOGETHER

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

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

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

REFORM OBJECTIVES AND CORE DESIGN FEATURES

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

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

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

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

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

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

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

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

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

FUNDING ARRANGEMENTS

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

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

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

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

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

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

FUTURE AGREEMENTS

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

PROGRAMME MANAGEMENT

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

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

TERM

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

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

INTERACTIONS, MONITORING, INFORMATION AND RECORDS

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

Government's representative	Territorial Authority's representative
<p>Allan Prangnell threewaters@dia.govt.nz CC. Chief Legal Advisor Legal.notices@dia.govt.nz</p>	

It is the responsibility of these representatives to:

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

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

CONFIDENTIALITY

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

DISPUTE RESOLUTION

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

.....
SIGNED by The Sovereign in right of New Zealand
acting by and through the Chief Executive of the
Department of Internal Affairs

Date

.....
SIGNED by

on behalf of

Date

.....
SIGNED by

on behalf of

Date

Witness signature

.....
Witness name

Witness occupation

Witness address

Date

APPENDIX B



6

FUNDING AGREEMENT

BETWEEN

DEPARTMENT OF INTERNAL AFFAIRS

AND

[NAME OF RECIPIENT]

FOR

THREE WATERS SERVICES REFORMS

AGREEMENT

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

PART 1: KEY DETAILS

- 1 **Parties** The Sovereign in right of New Zealand, acting by and through the Chief Executive of the Department of Internal Affairs (**DIA**)
- [NAME OF RECIPIENT] (**Recipient**)
- 2 **Background** The New Zealand Government is undertaking a reform programme for “Three Waters” (drinking water, wastewater and stormwater) service delivery for communities (**Three Waters Reform Programme**). In conjunction with the Three Waters Reform Programme, the New Zealand Government is investing in water service delivery. The investment’s objectives are to:
1. improve the safety and quality of drinking water services, and the environmental performance of drinking water and wastewater systems, by maintaining, increasing or accelerating investment in core water infrastructure renewals and maintenance; and
 2. support New Zealand’s economic recovery from the COVID-19 pandemic through job creation, by enabling investment to continue at a time when council revenues are uncertain and they face immediate cashflow challenges.
- The New Zealand Government has mandated DIA to manage the provision of Government funding to local authorities to support investment in water infrastructure that supports its public health and environmental management objectives. Provision of such funding supports the objectives of the reform programme, by creating positive momentum toward reform of delivery arrangements for drinking water and wastewater services and infrastructure (with stormwater as a secondary priority).
- The New Zealand Government has also mandated Crown Infrastructure Partners Limited (**CIP**) to assist in managing such funding by undertaking a monitoring role.
- The Recipient is a territorial authority with statutory responsibility for delivering Three Waters services within its own district or city. The Recipient will work collaboratively with the New Zealand Government in connection with the Three Waters Reform Programme.
- DIA has agreed to contribute funding to the Recipient on the terms and conditions of this Agreement (**Agreement**).
- Key details of this Agreement are set out in this **Part 1**. The full terms and conditions are set out in **Part 2**. Defined terms and rules of interpretation are set out in **Part 3**.
- 3 **Conditions Precedent** No Funding is payable under this Agreement until DIA has confirmed to the Recipient in writing that it has received, and found, in its sole discretion, to be satisfactory to it in form and substance, the following documents and evidence:
1. This Agreement, duly executed by the Recipient by 30 September 2020.
 2. The Memorandum of Understanding, duly executed by the Recipient by 31 August 2020.

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

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

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

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

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

- 4 **Expenditure Programme(s)** The Recipient may only use the Funding to complete the expenditure programme(s) described in the Delivery Plan (each an **Expenditure Programme**).
- 5 **Expenditure Programme Milestones and Completion Dates** The Recipient is to complete the Expenditure Programme Milestones set out in the Delivery Plan to the satisfaction of DIA by the Completion Dates dates set out therein.
- 6 **End Date** The End Date is 31 March 2022, or such later date determined by DIA in its discretion.
- 7 **Funding** The total Funding available under this Agreement is up to **NZ\$[INSERT HERE]** plus GST (if any). This is the Total Maximum Amount Payable.
- The first instalment of Funding under this Agreement is subject to satisfaction of the Conditions Precedent set out in Item 3 above and receipt of a duly completed Payment Request in accordance with clause 1 of Part 2.
- The balance of the Funding under this Agreement will be paid in instalments as specified in the Delivery Plan, subject to satisfaction of the conditions set out below and the other terms and conditions of this Agreement.
- Each instalment of Funding under this Agreement, following payment of the first instalment, is subject to:
- (a) Receipt of a duly completed Payment Request in accordance with clause 1 of Part 2.
 - (b) The Expenditure Programme(s) having commenced no later than 31 March 2021.
 - (c) DIA receiving and being satisfied with the quarterly reports specified in the Key Details, together with the other information required in this Agreement.
 - (d) No Termination Event, or event entitling DIA to suspend funding under this Agreement, subsisting.
 - (e) Any further conditions relating to that instalment of Funding as specified in the Delivery Plan.

The first Payment Request may be submitted upon the Commencement Date

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

8 Reporting

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

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

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

Each quarterly report must include the following information:

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

The final report must include the following information:

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

9 Special Terms

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

- | | | | |
|----|---------------------------------|---|---|
| 10 | Recipient's Bank Account | [xx-xxxx-xxxxxxxx-xxx] | |
| 11 | Representative | DIA's Representative:
Name: Allan Prangnell
Email: threewaters@dia.govt.nz | Recipient's Representative:
Name: [name]
Email: [email] |
| 12 | Address for Notices | To DIA:
Three Waters Reform
Level 7, 45 Pipitea Street
Wellington 6011
Attention: Allan Prangnell
Email: threewaters@dia.govt.nz , with
a copy to legalnotices@dia.govt.nz

To the Monitor:
Attention: Anthony Wilson
Email:
3waters@crowinfrastucture.govt.nz | To the Recipient:
[address]
Attention: [name]
Email: [email] |

SIGNATURES

SIGNED by the **SOVEREIGN IN RIGHT OF NEW ZEALAND** acting by and through the Chief Executive of the Department of Internal Affairs or his or her authorised delegate:

Name:
 Position:
 Date:

SIGNED for and on behalf of **[RECIPIENT NAME]** by the person(s) named below, being a person(s) duly authorised to enter into obligations on behalf of the Recipient:

Name:
 Position:
 Date:

Name:
 Position:
 Date:

END OF PART 1

PART 2: GENERAL TERMS

1 FUNDING

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

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

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

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

2 RECIPIENT'S RESPONSIBILITIES

Standards and compliance with laws

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

Expenditure Programme(s) and Contractors

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

Information Undertakings

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

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

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

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

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

Funding, records and auditors

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

Reform

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

3 INTELLECTUAL PROPERTY

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

4 TERM AND TERMINATION

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

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

5 **WARRANTIES AND UNDERTAKINGS**

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

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

5.3 The Recipient warrants that:

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

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

- 5.4 DIA warrants that, as at the date of this Agreement, it has full power and authority to enter into and perform its obligations under this Agreement which, when executed, will constitute binding obligations on it in accordance with this Agreement's terms.
- 5.5 The Recipient acknowledges that DIA has entered into this Agreement in reliance on these warranties and undertakings.
- 5.6 The Recipient acknowledges and agrees that DIA has made no warranty or representation that any funding or financial support is or will be available to the Recipient in respect of the Expenditure Programme(s), other than the Funding.

6 **LIABILITY**

- 6.1 The maximum liability of DIA under or in connection with this Agreement, whether arising in contract, tort (including negligence) or otherwise, is limited to the total amount of Funding paid or payable under this Agreement.
- 6.2 The Recipient undertakes to pay any and all cost overruns of the Expenditure Programme(s) and any funding shortfall, and DIA and the New Zealand Government have no obligations or responsibility whatsoever in respect of such cost overruns and funding shortfall and accept no financial risk in the Expenditure Programme(s).
- 6.3 DIA is not liable for any claim under or in connection with this Agreement or the Expenditure Programme(s), whether arising in contract, tort (including negligence) or otherwise, where such claim is or relates to any loss of profit, loss of revenue, loss of use, loss of reputation, loss of goodwill, loss of opportunity (in each case whether direct, indirect or consequential) or any other indirect, consequential or incidental loss or damages of any kind whatsoever.

7 CONFIDENTIALITY

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

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

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

8 MEDIA AND COMMUNICATIONS

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

9 DISPUTES

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

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

10 REPRESENTATIVES

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

11 GENERAL

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

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

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

END OF PART 2

PART 3: DEFINITIONS AND CONSTRUCTION**Defined terms**

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

Authorisation means:

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

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

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

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

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

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

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

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

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

but excludes any information which the Holder can show:

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

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

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

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

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

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

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

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

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

Key Details means Part 1 of this Agreement.

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

and the Recipient, in the form provided by DIA.

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

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

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

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

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

Construction

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

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

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

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

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

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

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

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

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

Precedence with Memorandum of Understanding: if there is any conflict

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

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

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

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

END OF PART 3

SCHEDULE: PAYMENT REQUEST

To: DEPARTMENT OF INTERNAL AFFAIRS

Dated: [•]

PAYMENT REQUEST

1. We refer to the Funding Agreement dated [•] 2020 between [•] as recipient (**Recipient**) and the Department of Internal Affairs (**DIA**) (the **Agreement**). Terms defined in the Agreement have the same meaning in this Payment Request.
2. This is a Payment Request for the purpose of clauses 1.2 and 1.3 of the Agreement.
3. Each of the Expenditure Programme Milestones that have been completed are:

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

By and on behalf of the Recipient by

NAME OF RECIPIENT

Chief Executive

Authorised Officer

THREE WATERS STIMULUS GRANT DELIVERY PLAN

6

Instructions for completion: A single Delivery Plan is to be completed for the full Expenditure Programme. Territorial Authorities may elect to provide appendices providing further detail of specific elements of the proposed expenditure programme.

The draft Delivery Plan must be submitted by the Territorial Authority as soon as possible and in any event by no later than 30 September 2020 to threewaters@dia.govt.nz, with a copy to 3waters@crowinfrastructure.govt.nz. The Delivery Plan will be assessed by the Department of Internal Affairs and Crown Infrastructure Partners Limited, who may elect to provide feedback and require further detail, additions or alterations. A revised version of the Delivery Plan, incorporating all agreed changes, must be submitted for approval thereafter, with the final Delivery Plan to be in an approved form by 31 October 2020.

Where the Department of Internal Affairs requires additional reporting or other assurance based on a specific Delivery Plan, this will be included in section 17 below following the Department of Internal Affairs/Crown Infrastructure Partners Limited review. Section 17 will form part of the Delivery Plan. All figures in this Delivery Plan should be GST exclusive.

Capitalised terms in this Delivery Plan have the meaning given to them in the Funding Agreement, where applicable.

Territorial Authority information

1. Programme Title:

2. Territorial Authority:

3. Total Maximum Amount Payable (NZ\$M): \$

4. Organisation Lead Contact:

Name:	<input type="text"/>
Position:	<input type="text"/>
Email:	<input type="text"/>

Expenditure Programme overview

5. Please provide a brief description of the expenditure programme to be undertaken:

6. Location/address of the programme:
(if this is a series of investments, please identify each location where relevant)

7. What is the **total** estimated cost of the programme (NZ\$M)?

8. If the total estimated cost exceeds the Total Maximum Amount Payable, please specify the funding source(s) and amount(s):

Funding Source	Amount (NZ\$M)
	\$
	\$
Total	\$

9. Please provide a high-level breakdown of the expenditure programme including a cost schedule identifying estimated costs for each major component:

10. What is the expected number of people employed, and net jobs created through the expenditure programme? How has this been estimated?

Expenditure Programme commencement

11. Please describe the initial activity to be undertaken on expenditure programme commencement:

Expenditure Programme completion

12. Please outline below the high-level plan that will ensure the expenditure programme is completed by 31 March 2022 (these should largely mirror the milestones below):

Expenditure Programme funding status

13. Please indicate below the expenditure programme funding status:

Included in LTP	Y/N	Amounts NZ\$	Year
Included in Annual Plan 2020/21	Y/N	Amounts NZ\$	N/A
Not funded in any plan	Y/N	Amounts NZ\$	Year
Was funded but COVID-19 deferred	Y/N	Amounts NZ\$	Year
Is any Territorial Authority co-funding being contributed?	Y/N	Amounts NZ\$	Year

14. Please set out the key milestones of the expenditure programme to be undertaken, and for each milestone the planned completion date and budget:¹

	Expenditure Programme Milestone (including a description of how the milestone is identified)	Completion Date	Maximum Funding instalment amount (NZ\$) ²	Budgeted costs to complete the expenditure programme (NZ\$)	[DIA USE ONLY] Funding Conditions
1.	Commencement Date occurring under the Funding Agreement	31 October 2020 (or such date agreed otherwise in writing with DIA under the Funding Agreement)	NZ\$[INSERT HERE] [Note: this is to be 50% of the Total Maximum Amount Payable]	Nil	
2.	[Commencement of expenditure programme]	[date] [To be no later than 31 March 2021]	NZ\$[INSERT HERE]	NZ\$[INSERT HERE]	
3.	[milestone]	[date]	NZ\$[INSERT HERE]	NZ\$[INSERT HERE]	
4.	[milestone]	[date]	NZ\$[INSERT HERE]	NZ\$[INSERT HERE]	
5.	[milestone]	[date]	NZ\$[INSERT HERE]	NZ\$[INSERT HERE]	
6.	[milestone]	[date]	NZ\$[INSERT HERE]	NZ\$[INSERT HERE]	
7.	[Completion of expenditure programme]	[date] [To be no later than 31 March 2022]	NZ\$[INSERT HERE] ³	NZ\$[INSERT HERE]	
	TOTAL		[Must be less or equal to Total Maximum Amount Payable]	[Must be equal to the total estimated cost of the expenditure programme]	

¹ All figures should be GST exclusive.

² You may choose to determine each maximum Funding instalment amount for a milestone on the basis of seeking funds either for application towards costs incurred for that milestone, or for application towards costs to be incurred for the following milestone.

³ The final Payment Request needs to be submitted with the quarterly report for the period ending 31 December 2021.

15. Briefly outline the final expected outcomes/objectives of the expenditure programme:

16. Briefly outline an assessment of how the expenditure programme supports the reform objectives set out in the Memorandum of Understanding relating to Three Waters Services Reform between you and the Sovereign in Right of New Zealand acting by and through the Minister of Local Government:

DIA USE ONLY

17. Additional requirements in respect of the Funding Agreement (such as specific reporting requirements):

The parties acknowledge and agree that this is the agreed Delivery Plan.

SIGNATURES

SIGNED by the **SOVEREIGN IN RIGHT OF NEW ZEALAND** acting by and through the Chief Executive of the Department of Internal Affairs or his or her authorised delegate:

Name:
Position:
Date:

SIGNED for and on behalf of _____
by the person(s) named below, being a person(s) duly authorised to enter into obligations on behalf of that territorial authority:

Name:
Position:
Date:

Name:
Position:
Date:

APPENDIX D



Our advice

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

PRIVILEGED AND CONFIDENTIAL

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

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

Our reasons

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

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

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

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

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

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

these do not strongly indicate that consultation is required

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

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

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

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

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

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

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


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

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

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

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

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APPENDIX E

Information on Joint Three Waters Steering Committee

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

APPENDIX F

6

Hypothetical scenario for agreeing regional funding allocation

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

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

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

Table 1 Funding Allocation for Bernicia Regional

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

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

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

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

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

- Discuss regional priorities and then allocate the monies based on the formula the Government used, as recommended by the Steering Committee.
- Discuss regional priorities and allocate the money in three equal shares.
- Allocate all the regional money to a single project of regional importance.

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

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

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

Table 2 Analysis of the Project Options

Project	Speed	Job Implications	Risk	Alignment with Regional Priorities	Overall Score
Shovel Ready project – new water treatment plant	Low as it requires resource and building consents and procurement. Overall a 3 year project.	Medium, creates 50 jobs directly	High, especially in an overheated construction market with extreme volatility	Low	4 out of 10
Upgrade of wastewater treatment plant from year 3 of LTP	Medium as it requires building consent and fresh procurement. Overall a 2-year project.	Medium, creates 50 jobs	Medium	High	6 out of 10
Renewal programme for the Central City's sewer	High as no consents or procurement required. Overall	High with 100 jobs largely from the local	Medium as the work is underground and we will	High	8 out of 10

network	an 18-month programme.	area	find things we did not expect to so a sensible contingency will be needed.		
Completely new project - a new reservoir	Low as is requires community consultation, consents and a fresh procurement.	Low as will take a good 18 months to be shovel ready	High due to seismic issues	Medium because improves long-term reliance	3 out of 10

Accelerating investment in the renewals and renewal upgrade programme for the Central City's sewer network is the preferred project. It can be done speedily. No resource consent is required. No fresh procurement is required either as the City Council already has a 5-year renewals partnership with Downers. It creates 100 direct jobs for 18 months whilst the network is upgraded. Moreover, it will enable significant expansion of activity in the Northern quarter of the CBD which could lead to 20000 square meters of new development and 2000 jobs. Work will begin on the ground by February 2021. Finally, it is a low risk project being contracted to a trusted partner. An appropriate contingency budget has been established and this will be the subject to a confidential pre-committee briefing with the CFO.

Through the Mayoral Forum, councils also agreed to progress further discussions on three water service delivery reform opportunities within the region.

Mayors of participating councils wrote to the Minister to communicate their decision on the regional allocation and the steps they were proposing to take to advance the objectives of the reform programme.

DECISION REPORT



F19/13-04 – D20/22233

TO: Council
FROM: Special Projects Manager
DATE: 25 August 2020
SUBJECT: PROPOSED LOCATION OF NEW AQUATIC CENTRE

7

RECOMMENDATIONS

1. THAT the report be received.
- 2(a). THAT Council reiterate its earlier decision to co-locate the new aquatic centre with the TET Multi Sport Centre,

or
- 2(b). THAT Council rescind its earlier decision and opt agree to locate the new aquatic centre on the sportsfield to the north of the hockey turf.

Recommended Reason

A decision in this matter is required as a matter of urgency to enable this project to move to the next stages.

Moved/Seconded

1. PURPOSE OF REPORT

The purpose of this report is to respond to elected members' request for additional information to enable Council to reconsider the location of the new aquatic centre development.

2. EXECUTIVE SUMMARY

Council's decision in April that co-location of the proposed new aquatic centre with the TET Multi Sport Centre is the preferred option was publically advertised inviting community feedback in order to comply with the Reserves Act 1977 and the King Edward Park Reserve Management Plan. This feedback was reported to Council in early August resulting in a call for a further report outlining the advantages and disadvantages of the two proposed sites within King Edward Park to enable reconsideration of the April decision.

This report hopefully meets that request, however the pros and cons of each option are capable of being bent, stretched or distorted in many ways to suit either argument so it depends on how much subjective weight one wants to put on them. Whichever decision is made there will be those who will say "wrong" based on their own perception of the benefits of each so its liable to be a no win situation.

3. **LOCAL GOVERNMENT ACT 2002 – SECTION 10**

Under section 10 of the Local Government Act 2002, the Council’s purpose is to “enable democratic local decision making by and on behalf of communities; as well as promoting the social, economic, environmental, and cultural well-being of communities now and into the future”			
Does the recommended option meet the purpose of the Local Government 4 well-beings? And which:			Yes
Social	Economic	Environmental	Cultural
x	x		

4. **BACKGROUND**

4.1 On 14 April 2020 Council adopted the following recommendation:

That following consideration of the four options for the location of the new swimming pool facility, Council adopt Option 2 being the co-location with the TET Multi Sports Centre.

The primary reason behind this decision was that, while the capital cost of this option is estimated to be higher than the other three options, the operational benefits and synergies that would be gained from this co-location make it a better long term location.

4.2 This decision was publically advertised seeking community feedback in order to comply with provisions of the Reserves Act 1977 and the Reserve Management Plan for King Edward Park that provides that, in respect of any future development not envisaged by the management plan (as is the case here) will be subject to public consultation. The feedback received was reported to Council on 11 August which resulted in the following resolution:

That Council take public feedback into consideration as well as the pros and cons of the various site options and instruct staff to bring back a further report in order to reconsider the location of the new aquatic centre.

4.3 In regard to the “various site options” (new facility on current site, co-locate with TET Multi Sport Centre, new facility on other Council land or new facility on non-Council land), these were extensively compared in terms of pros and cons in the report provided to Council ahead of the April decision referred to above and any subsequent debate has been around the merits or otherwise of co-location with the Multi Sport Centre or a stand-alone facility to the north of the hockey turf on King Edward Park. Accordingly, this report is limited to a comparison of these two site options.

- 4.4 The advantages and disadvantages of the two site options have been tabled in previous reports but this report takes on board and includes other considerations that emerged from the community feedback, expanding on all with officer comment. This is detailed in Section 7.4 below.
- 4.5 In regard to the aquatic components to be incorporated within the new facility, irrespective of the site chosen, these have been the subject of earlier workshops and elected members' wish list is reiterated here for reference in this discussion:
- 8 lane, 25 metre main pool (25 x 20m)
 - 20 x 15m learn to swim pool
 - 20 x 15m hydrotherapy pool/spa functionality
 - Toddler leisure pool and splash pad
 - Changing facilities
 - Clubroom for swimming club
 - Foyer and retail
 - Administration and staff room
 - Control/first aid room
 - Storage
 - Café
 - Gym (group fitness space)
 - Birthday party/meeting and/or function room(s)
- 4.6 Also attached at **Appendix 1** are floor plans for the TET Multi Sport Stadium to give elected members not that familiar with the facility some appreciation of how a co-location may or may not work.

5. CONSULTATIVE PROCESS

5.1 Public Consultation - Section 82

There has been extensive public consultation in relation to a new pool both through LTP processes and the more recent feedback request referred to above.

5.2 Maori Consultation - Section 81

Again, every opportunity has been afforded iwi to participate in this process.

6. **RISK ANALYSIS**

Please refer to the Consequence and Impact Guidelines at the front of the reports in this agenda.

- Is there a:
 - financial risk;
 - human resources risk;
 - political risks; or
 - other potential risk?
- If there is a risk, consider the probability/likelihood of it occurring.
- Is there a legal opinion needed?

It is imperative a quick decision is made in regard to this matter. Given the recent government funding made available to the project there is now an urgency to get construction underway, failing which there is a serious risk of the funding being withdrawn. It is acknowledged that there are also financial and political risks around making the right decision in respect of location.

7. **DECISION MAKING PROCESS - SECTION 79**

7.1 **Direction**

	Explain
Is there a strong link to Council’s strategic direction, Long Term Plan/District Plan?	Council resolved to build a new pool in the 2018 – 2028 LTP
What relationship does it have to the communities current and future needs for infrastructure, regulatory functions, or local public services?	This is a strongly supported project by the community that will provide much improved local public services.

7.2 **Data**

- Do we have complete data, and relevant statistics, on the proposal(s)?
- Do we have reasonably reliable data on the proposals?
- What assumptions have had to be built in?

The information provided herein does contain a number of assumptions, assertions and estimations as to financial options but these are considered to be reliable, emanating as they do from sources close to the operation of sports facilities, aquatic centres in particular or building industry professionals.

7.3 **Significance**

	Yes/No	Explain
Is the proposal significant according to the Significance Policy in the Long Term Plan?	Yes	Adopted during the LTP process and thus meets significance and engagement policy
Is it:	Yes	
• considered a strategic asset; or	Yes	
• above the financial thresholds in the Significance Policy; or	No	
• impacting on a CCO stakeholding; or	Yes	
• a change in level of service; or	No	
• creating a high level of controversy; or	Yes	
• possible that it could have a high impact on the community?		

In terms of the Council’s Significance Policy, is this proposal of high, medium, or low significance?		
HIGH	MEDIUM	LOW
	✓	

7.4 **Options**

<p>An assessment of costs and benefits for each option must be completed. Use the criteria below in your assessment.</p> <ol style="list-style-type: none"> 1. What options are available? 2. For each option: <ul style="list-style-type: none"> • explain what the costs and benefits of each option are in terms of the present and future needs of the district; • outline if there are any sustainability issues; and • explain if the outcomes meet the current and future needs of communities for good-quality local infrastructure, local public services, and performance of regulatory functions? 3. After completing these, consider which option you wish to recommend to Council, and explain: <ul style="list-style-type: none"> • how this option is the most cost effective option for households and businesses; • if there are any trade-offs; and • what interdependencies exist.

As mentioned above, at this strategic stage the perceived advantages and disadvantages of only two options are being considered:

Option 1: Co-locate the new aquatic centre with the TET Multi Sport Centre as decided in April,

or

Option 2: Construct the new aquatic centre on the alternative site to the north of the hockey turf on King Edward Park.

These pros and cons have been derived from earlier workshops and the later community feedback and have been consolidated where considered relevant. Further, advantages and disadvantages common to both options (such as car parking and the ability of keeping the current pool complex operating during construction of the new) have been ignored as they cancel each out in effective discussion.

Option 1: Co-locate with the Multi Sport Centre

Perceived Advantages	Comment
Ability of Council to manage both facilities jointly with one staff team from the one reception/customer service area.	This assumes Council will opt to manage the current Multi Sport Centre rather than outsource management or lease the facility, a decision yet to be made. This is likely to translate to \$90k-\$100k annual savings (salary & overheads)
Synergies of a multi-hub sport stadium and ability to expand this hub concept.	The synergies of water-based and land-based sports could be debated but it is worth noting that the Chairman of the Combined Sports Society that currently manages the stadium and someone who has been involved with the facility and sports management for over 20 years supports this concept.
Currently under-utilised floor space within the existing stadium could be used for the desired group fitness space, staff training, staff break room and potentially for birthday parties.	The gym area within the current stadium is allowed to a gymnastic club that only uses it for a limited period with the ability to leave its equipment in place at all times.
Existing café within the stadium could service the pool also avoiding a duplication of this component.	It could be argued that pool visitors would not avail themselves of the service given the distance of the café from the pool without some modification of the stadium layout to shorten the route. This would form part of the design brief.

Perceived Disadvantages	Comment
Netball courts (and potentially associated infrastructure of toilets, game-day office and lights) will need to be relocated to accommodate the pool	An impost on the budget leaving less available for aquatic centre
Potential disruption to the netball and/or tennis seasons or major delay in pool construction while new courts being built.	As the netball and tennis seasons follow each other and overlap to a degree, one or both will be disrupted unless pool construction is delayed until after the new courts are available.

Perceived Disadvantages	Comment
Use of the netball courts could be adversely affected by over-spray from the hockey turf unless relocated well towards Regan Street which would leave them out on a limb in terms of a sports hub.	Cricket players advise that, with a good southerly blowing the spray can reach the wicket currently located in the centre of the sportsfield. This could be mitigated through screens on the fence.
The cost of reconfiguring some of the internal components of the existing stadium to accommodate the pool may negate any savings from in terms of shared space	Refer Section 7.5 below.
The design of the new pool will be limited to a degree by the existing stadium configuration unless there is a major change to the latter.	The concept designs have demonstrated that there is sufficient room for the desired footprint, however a larger site may allow for a different configuration.
The sloping contour of the site will add to the overall cost of construction to some degree.	This perception is not shared by architects and building professionals involved to date
Aesthetic impact of a much larger building on this area of the park as a result of the co-location, particularly on the heritage structure of the Malone Gates	The question of aesthetics is somewhat subjective and the design of the new structure could very well complement the vista. However, the addition to the existing structure certainly would “close down” Portia Street and impact on sight lines. It is also hard to see how the Malone Gates are impacted when the principal sightline is from Fenton Street.

Option 2: Construct on sportsfield north of hockey turf

Perceived Advantages	Comment
No limitation on design other than budget.	A “greenfield” development.
No impact on other sports (netball and tennis) other than cricket which is impacted by either option.	
The full project budget can be devoted to the aquatic centre.	
Potential for numerous access points to the facility, both pedestrian and vehicular.	Ready access can be obtained directly from both Regan and Portia Streets and the driveway to the west of the sportsfield, used primarily by the primary school, adds another option.
More scope for sunlight and solar heating.	This can also be a disadvantage – see below. It should also be noted that the existing Multi Sport Stadium would provide even greater roof area to take advantage of this at the co-location site.
Mountain views available from this site.	Swimmers, the principal users of the facility, are unlikely to spend a lot of time admiring the view.

Perceived Advantages	Comment
Potential to incorporate some additional toilet/changing facility/first aid room for hockey, negating the need for players to circumnavigate the turf during play as at present.	Hockey have indicated previously the desirability of these facilities. However, this would require the pool to be located adjacent the hockey turf which could impact negatively on some of the other perceived advantages.
With further space available on the site there is more scope for future facility expansion to incorporate more aquatic features if the need arises.	The co-location site has some future expansion potential but is somewhat constrained by ground contour and other park features.

Perceived Disadvantages	Comment
Loss of green space/sportsfield land.	It could be argued there is already a shortage of available open sportsfield land, evidenced by the need to relocate the cricket wicket to the primary school rather than an alternative Council-owned site.
Loss of potential synergies with the Multi Sport Stadium and utilisation of its existing under-utilised floor space.	It could be argued that there is no need for dry land activities such as a fitness centre being allowed for in the new building when the Multi Sport Centre is a mere one hundred metres down the road. Similarly, it is questionable whether full café facilities need to be provided in the new building. Both these facilities are regarded as optional in the NZ Recreation Association aquatic facility guidelines.
Exposure to too much sun can be detrimental to the operation of an indoor pool complex in that sunlight makes the control of chlorine levels, air and water temperature more difficult. Further, glare from the sun reflecting off the water impairs the ability of lifeguards to see below the water surface, increasing the risk of drownings and have a detrimental health affect, particularly for lifeguards with long exposure.	Neither issue impossible to resolve through operational methods or building design but adds to the cost to some degree.

Taking into consideration the financial information below, it is quite clear the more costly option is to co-locate with the Multi Sport Centre, primarily given the need to relocate the netball courts. Any cost savings relative to components that can be utilised within the current building (eg. café, gym etc) are likely to be negated by the need to reconfigure the internal layout of that building in order to make the co-location functional so if the decision on the options is based entirely on budget considerations it's an easy decision.

From an operational, facility management perspective the co-location option is the more favourable obviously but whether this will solve the stadium's

current issues of under-utilisation is debateable and only the future will tell. In terms of potential synergies, the Chairman of the Combined Sports Society has offered the following comments:

- Additional pool memberships could come from dual membership of other sports and their teams
- Current TET sport users could combine their tournaments with pool use as part of their tournament entry fees (volleyball tournaments at Taupo do this and it is very popular)
- Could become a destination of choice because of the recreational options available
- Other functions outside of regular sports could be attracted with this multi-use, eg work, Christmas, birthday functions, “swim and a meal” deals.
- These scenarios would not be as appealing if the aquatic centre was located on the other side of the turf.

Co-management of the two facilities on separate sites would present more challenges and potentially involve additional staff. However, as mentioned above, a decision on whether Council will eventually take over management of the Multi Sport Centre has yet to be made.

Looking at it purely from an aquatic perspective, it can be argued that option 2 makes more sense given the space available and the unconstrained design options of a greenfield development. If we were starting from scratch there is no doubt a co-located multi sport facility would be the way to go but adding to an existing building when no prior consideration of this eventuality has been given does present some design challenges.

7.5 **Financial**

- | |
|---|
| <ul style="list-style-type: none"> • Is there an impact on funding and debt levels? • Will work be undertaken within the current budget? • What budget has expenditure come from? • How will the proposal be funded? eg. rates, reserves, grants etc. |
|---|

The table below provides an indication of likely costs relative to each option. Without a definitive design it is extremely difficult to provide any degree of accuracy however, while these figures are indicative only, they have been provided by Boon Architects based on concept plans or by engineers engaged by the Combined Sports Society in preparing a feasibility study relative to proposed additions to the Multi Sport Centre.

Option 1: Co-locate with the Multi Sport Centre

Relocation of netball courts	\$1,178,000
New facility build	\$18,817,000
Reconfiguration of Multi Sport Centre	\$768,000 - \$1,076,000
Total cost	\$20,763,000 - \$21,071,000

The netball court relocation cost includes for 6 courts (\$480,000), fencing (\$48,000), floodlighting (\$250,000), site services (\$150,000) and an ancillary building for toilet, changing, first aid, storage, match control (\$250,000). There has been some indication the netball association may accept 4 courts rather than 6 which would reduce this cost by \$160,000 potentially.

The new facility build cost is based on the wish list referred to in 4.5 above but does not include the fitness space, a café, clubrooms or meeting/birthday party space on the basis these are or would be provided in the existing building.

The figures for the reconfiguration of the Multi Sport Centre should be regarded as speculative only as without a proper analysis of the relative existing and new designs it is impossible to determine the exact requirements, thus the cost range. This also takes into consideration the question of whether a passenger lift for accessibility purposes is a bona fide part of the pool addition or a necessity in any event and thus a different project cost.

Option 2: Construct on sportsfield north of hockey turf

New facility build	\$19,444,000
--------------------	--------------

This cost does not include for a café but does include for an optional fitness space and clubrooms. In regard to the latter, it should be noted that the current lease to the Stratford Swimming Club provides that, in the event Council refurbishes or replaces the current pool complex they will be provided “with new premises of an equivalent floor area and to at least an equivalent standard within the refurbished or new swimming pool complex and granted a further lease of the new premises on the same terms and for the remainder of the term granted herein”.

With the recent promise of Government funding and if Council holds to its intended contribution by way of loan funding, the budget has increased from \$15 million to \$20 million. \$3 million of the original budget was intended to be grant funded. To date, this has not been confirmed with one of the major funders not accepting Council applications post-Covid19.

It should be noted that the above costs are at least 6 months old and inflation relative to construction industry costs is reportedly currently running at between 3.5% and 4% per annum.

7.6 Prioritisation & Trade-off

<p>Have you taken into consideration the:</p> <ul style="list-style-type: none"> • Council’s capacity to deliver; • contractor’s capacity to deliver; and • consequence of deferral?

With the Government funding provided, the capacity to deliver this project regardless of which option is preferred is greatly enhanced. The consequence of deferral will undoubtedly be withdrawal of the funding.

7.7 Legal Issues

<ul style="list-style-type: none"> • Is there a legal opinion needed? • Are there legal issues?

No legal opinion is considered necessary in this instance.

7.8 **Policy Issues - Section 80**

- | |
|---|
| <ul style="list-style-type: none">• Are there any policy issues?• Does your recommendation conflict with Council Policies? |
|---|

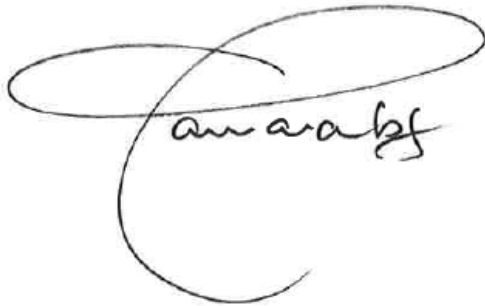
There are no policy issues inherent herein.

Attachments:

Appendix 1 - TET Multi Sports Centre Floor Plan



N Cooper
SPECIAL PROJECTS MANAGER



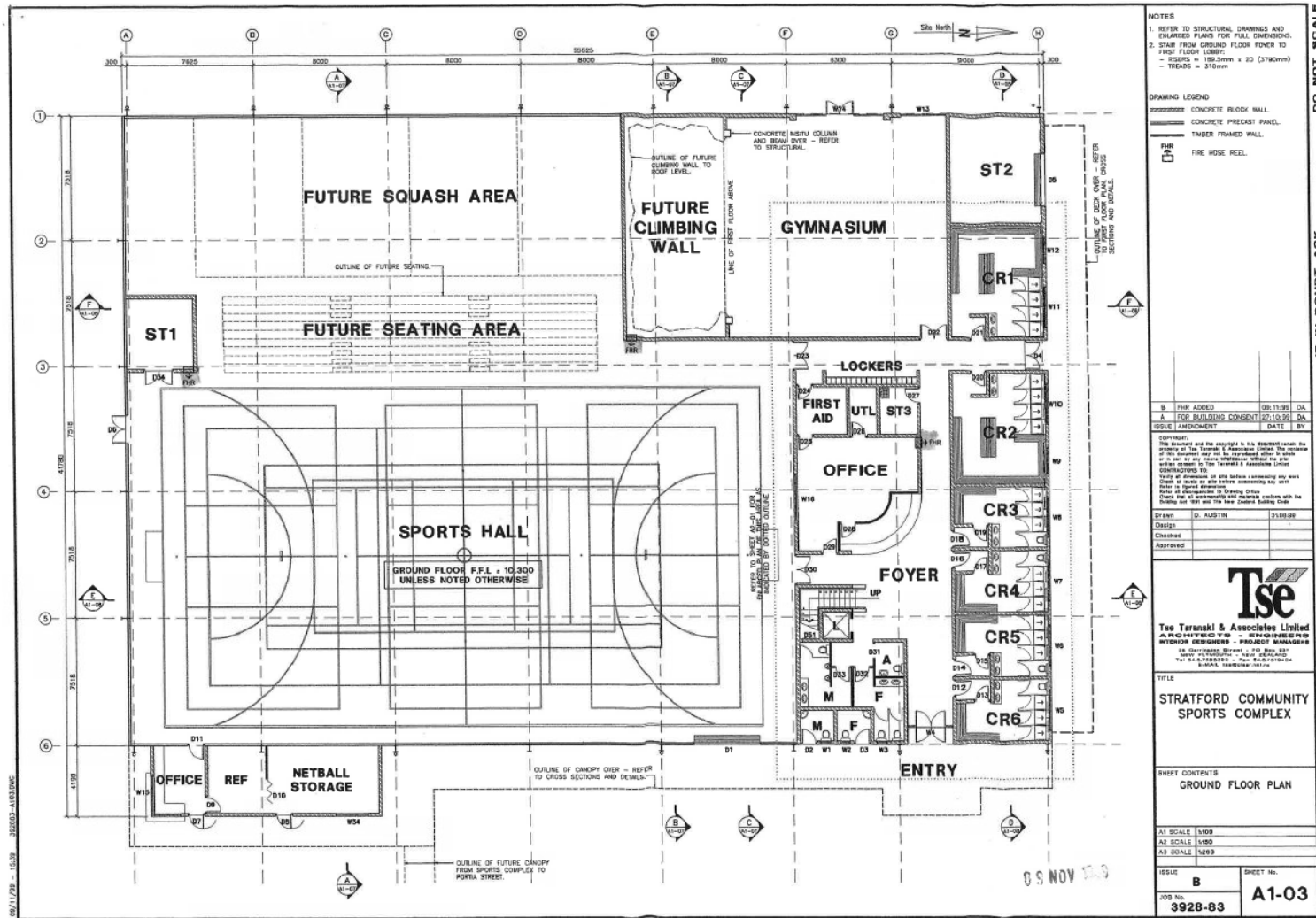
[Endorsed by]
V Araba
DIRECTOR ASSETS



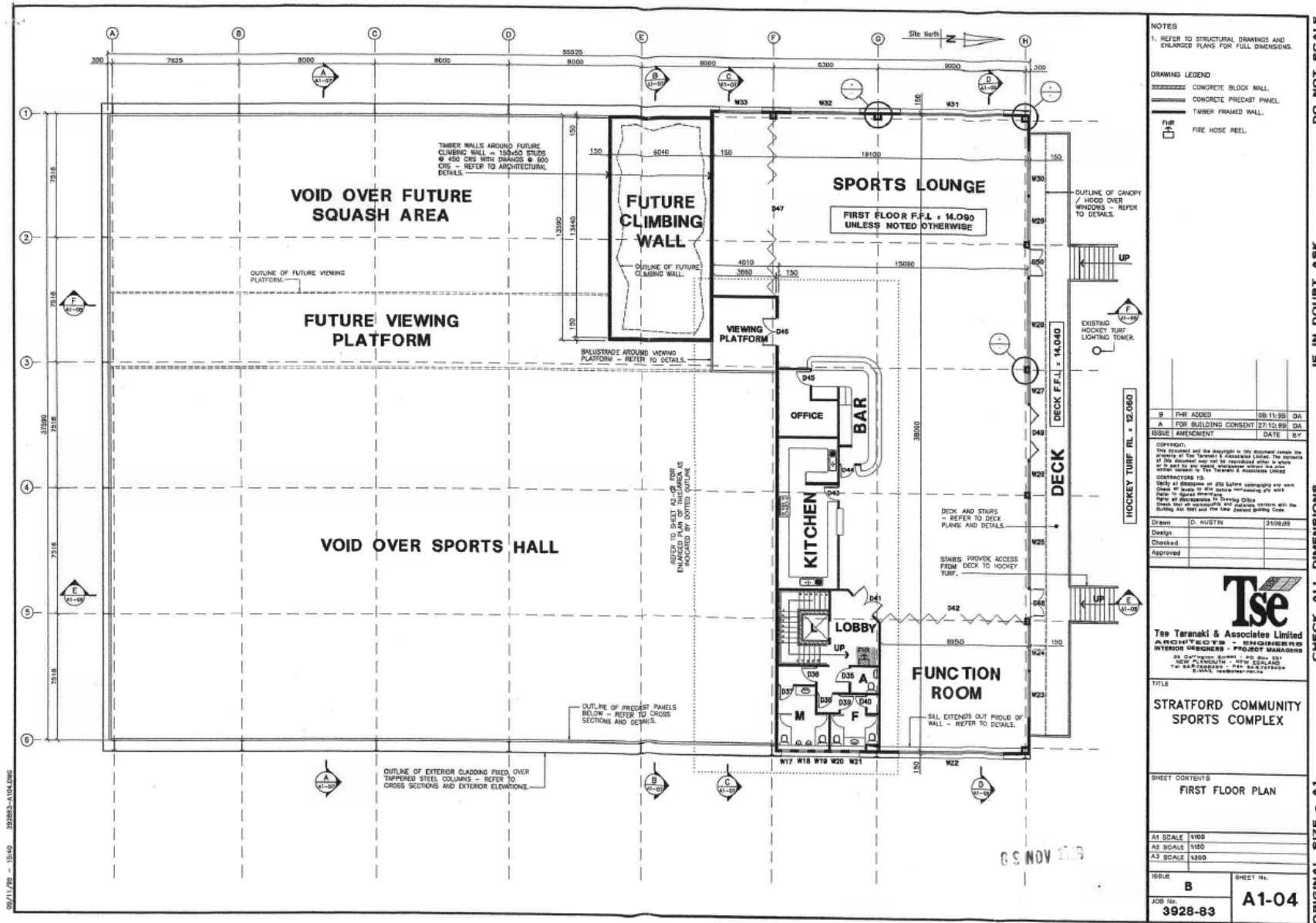
[Approved by]
S Hanne
CHIEF EXECUTIVE

DATE 20 August 2020

APPENDIX 1



7



NOTES
 1. REFER TO STRUCTURAL DRAWINGS AND ENLARGED PLANS FOR FULL DIMENSIONS.

DRAWING LEGEND
 [Symbol] CONCRETE BLOCK WALL
 [Symbol] CONCRETE PRECAST PANEL
 [Symbol] TIMBER FRAMED WALL
 [Symbol] FIRE HOSE REEL

DECK F.F.L. = 14.040
HOCKEY TURF RL. = 12.080

B	PHR ADDED	08/11/20	DA
A	FOR BUILDING CONSENT	27/10/19	DA
ISSUE	AMENDMENT	DATE	BY

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CONTRACTING TO:
 Verify all dimensions of site before commencing any work.
 Check all details to site before commencing any work.
 Refer to signed drawings.
 Check all dimensions in Working Office.
 Check that all dimensions and locations comply with the Building Act 2011 and the New Zealand Building Code.

Drawn: D. AUGUSTIN 31/09/09
Design:
Checked:
Approved:

Tse
Tse Taranaki & Associates Limited
 ARCHITECTS & ENGINEERS
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TITLE
STRATFORD COMMUNITY SPORTS COMPLEX

SHEET CONTENTS
FIRST FLOOR PLAN

A1 SCALE	1:500
A2 SCALE	1:500
A3 SCALE	1:500

ISSUE B **SHEET No.** A1-04
JOB No. 3928-83

DO NOT SCALE
 IF IN DOUBT ASK
 CHECK ALL DIMENSIONS
 ORIGINAL SIZE = A1