



Report 07.238  
Date 21 April 2007  
File WRS/09/01/01

Committee Wellington Regional Strategy Committee  
Author Ian Buchanan Chairman, Greater Wellington

## Wellington Regional Strategy Governance and Funding Proposal - Section 16 Mediation Agreement

### 1. Purpose

To seek the approval of the Wellington Regional Strategy (WRS) Committee to the proposed changes to the WRS governance and funding proposal agreed through mediation between Greater Wellington, Upper Hutt City Council and Hutt City Council.

### 2. Significance of the decision

The matters for decision in this report **do not** trigger the significance policy of the Council or otherwise trigger section 76(3)(b) of the Local Government Act 2002.

### 3. Background

The Interim WRS Committee (Interim Committee), on behalf of Greater Wellington, took the WRS and its governance and funding proposals through a special consultative process in late 2006.

The Interim Committee completed its work in January 2007 and recommended that the WRS be confirmed (with amendments) and that Greater Wellington take on the role of “keeper” of the WRS. The proposal included Greater Wellington establishing a standing committee with responsibility for the implementation and future development of the strategy and establishing a regional economic development agency (regional EDA) to deliver the economic growth initiatives in the WRS. Under the proposal the regional EDA is funded by a regional rate.

These recommendations were adopted by the Council at its meeting on 22<sup>nd</sup> February.

The process followed Section 16 of the Local Government Act 2002. Section 16 enables affected territorial authorities (or the regional council) to refer Greater Wellington’s intention to continue with the proposal to mediation

where agreement has not been reached between the parties. Upper Hutt City Council and Hutt City Council both referred the matter to mediation.

## **4. Mediation**

### **4.1 Process**

The parties (Greater Wellington, Hutt City Council and Upper Hutt City Council) appointed Geoff Sharp as the mediator.

A mediation meeting was held on Friday 20 April. The mediation was undertaken on a confidential and without prejudice basis.

### **4.2 Mediation Agreement**

The agreement reached by the parties is in **Attachment 1**. The agreement includes a number of changes to the governance and funding proposal that will require the consideration of the WRS Committee and the Committee's recommendation to Greater Wellington that it amends the proposal. There are also a number of provisions that are to be included in a Multilateral Agreement between the region's councils, and one matter to be implemented by Greater Wellington when it prepares its 2009/10 LTCCP.

The agreement items are discussed below.

#### **4.2.1 Matters for Consideration by the WRS Committee**

The matters set out in section 1 of the Mediation Agreement amend the proposal and therefore require approval by Greater Wellington. Greater Wellington will require a recommendation by the Committee to make the changes.

#### **Sunset Provision**

Items 1.1 and 1.2 provide for the Greater Wellington WRS governance and funding activity to cease at 30 June 2012. Greater Wellington could, prior to 30 June 2012, resolve to restart the activity. In order to do so it will need to follow the procedures set out in the Local Government Act. The agreement records that the process will be as set out in Section 16 of the LGA 2002 or such other process that applies at the time.

The process for making a decision to restart the activity includes a full independent review of the effectiveness of the strategy and then consideration of the findings of the review by the WRS Committee. The Committee will recommend to Greater Wellington whether or not it continues the activity. The review will need to be carried out prior to 30 June 2011, with a recommendation from the WRS Committee to Greater Wellington in time for a consultation process to be completed prior to 1 July 2012.

As a consequence of this change Greater Wellington's Long Term Council Community Plan (LTCCP) will not show any funding for the Regional EDA beyond the 2011/12 year.

## **Funding Community Facilities**

Item 1.3 will make explicit in the Regional EDA Ltd statement of corporate intent that it will not fund community activities and events. Such funding has previously been discussed by the Interim WRS Committee and agreed that such activities would not be funded.

## **WRS Committee Voting**

Item 1.4 specifies decisions of the WRS Committee that will require a 75% voting majority to succeed. Currently the Committee's Terms of Reference provide for a simple majority for all decisions except decisions on the recommended quantum of funding required for the WRS, recommended amendments to Greater Wellington's Revenue and Funding Policy and decisions on the recommended target rate.

### **4.2.2 Matters for the Multilateral Agreement**

When the WRS Forum agreed to request Greater Wellington act as "keeper" of the WRS it also decided that a Multilateral Agreement should be agreed by the participating Councils. The WRS Committee will not be a party to the Multilateral Agreement and therefore the provisions in the mediated agreement affecting the Multilateral Agreement do not require a Committee decision.

The purpose of the Multilateral Agreement is to record how the Councils will work together to promote the WRS. It will also record how the territorial authorities wish Greater Wellington to exercise its governance and funding role.

Item 2.1 provides for a cap to apply to the regional rate to fund the regional EDA. This is consistent with the rate funding shown in the proposed amendment to the LTCCP.

Item 2.2 makes an explicit statement in relation to the Quality Regional Form part of the WRS.

Greater Wellington, as one of the Councils that will be invited to sign the Multilateral Agreement, will ensure that the provisions are included in the document to be sent to the Councils for signing. This process is to be managed through the Chief Executives Group. It is expected that a draft Multilateral Agreement will be progressed in the couple of weeks that follow this WRS Committee meeting.

### **4.2.3 Matters for Greater Wellington LTCCP Process**

Item 3 provides for Greater Wellington, when it reviews its Revenue and Funding Policy for the 2009/10 LTCCP, to review the economic development rate under Section 101(3) of the Local Government Act. Section 101(3) sets out a number of matters a Council must consider when determining appropriate funding sources, including:

*(a) in relation to each activity to be funded,—*

- (i) *the community outcomes to which the activity primarily contributes; and*
  - (ii) *the distribution of benefits between the community as a whole, any identifiable part of the community, and individuals; and*
  - (iii) *the period in or over which those benefits are expected to occur; and*
  - (iv) *the extent to which the actions or inaction of particular individuals or a group contribute to the need to undertake the activity; and*
  - (v) *the costs and benefits, including consequences for transparency and accountability, of funding the activity distinctly from other activities; and*
- (b) *the overall impact of any allocation of liability for revenue needs on the current and future social, economic, environmental, and cultural well-being of the community.*

The Committee is not required to make a decision on this as it affects only Greater Wellington.

## **5. Comment**

The Section 16 process includes the ability of parties to refer the proposal to mediation and, if the mediation is unsuccessful, an option for one or more of the parties to request the Minister of Local Government make a binding decision on the matter.

The mediated agreement records in item 6 that, if the Committee agrees with all the recommendations it is being asked to consider (as set out in the recommendations below) the matter will not be referred to the Minister. The LTCCP amendment can then be adopted by Greater Wellington and Annual Plan provisions confirmed.

If, however, the Committee does not agree with all of the recommendations and an alternative agreement is not reached within 2 days of the Committee's meeting (i.e. by the end of the 4<sup>th</sup> May) one or more of the parties may refer the matter to the Minister. Parties have agreed that any referral will happen by the end of the 9<sup>th</sup> May.

If the Committee cannot agree to all the recommendations and no alternative agreement is reached within two days, none of the changes arising from the mediation will be recommended to Greater Wellington. The proposal either referred to the Minister or adopted by Greater Wellington will include only those amendments confirmed on the 22<sup>nd</sup> February following the special consultative process.

## **6. Communication**

A joint media statement is to be made by Greater Wellington, Hutt City Council and Upper Hutt City Council at the time this agenda is distributed.

An appropriate media statement will be released following the decision of the Committee.

## 7. Recommendations

*That the Committee:*

1. **Receives** the report.
2. **Notes** the content of the report.
3. **Agrees** to recommend to Greater Wellington changes to the WRS Governance and Funding Proposal, as amended by Greater Wellington on 22<sup>nd</sup> February 2007, as follows:
  - i. By 30 June 2011, a full and independent review of the effectiveness of the entire Wellington Regional Strategy be completed and reported to the WRS Committee. The WRS Committee must recommend whether or not GW will continue to carry out the function of regional economic development in accordance with clause 3(ii).
  - ii. That GW will cease to carry out the function of regional economic development on 30 June 2012. Prior to 30 June 2012, if GW wishes to carry out the function of regional economic development after 30 June 2012, it must undertake the process set out in section 16 of the LGA 2002 or such other process that applies at that time.
  - iii. That the WRS Committee will require that the statement of corporate intent for the Regional Economic Development Agency (EDA) will include an explicit statement to record that capital or operational expenditure of community facilities or events are not activities that can be funded by the EDA.
  - iv. That the terms of reference for the WRS committee (and any consequential changes required for the standing orders) will be amended so that the voting provisions for the following decisions will change from a simple majority to a 75% majority:
    - a. Any decision resulting in a statutory consultation process under the LGA 2002 (such as establishing a new CCO).
    - b. Adoption of the statement of corporate intent for the EDA.
    - c. Appointment of directors of the EDA.
    - d. The following decisions relating to the review referred to in clause 3(i) above:
      - Agreeing the terms of reference; and
      - Selecting the independent reviewer ;and

- *Decisions made on the recommendations following the review.*

*e. Any significant amendments to the WRS.*

***Note: the items in 3 must be agreed as a whole.***

Report prepared by:



**Ian Buchanan**

Chairman, Greater Wellington

**Attachment 1: Wellington Regional Strategy Section 16 - Mediated Agreement**