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Committee Council
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Wellington Regional Strategy Governance and Funding Proposal - Section 16 Mediation Agreement and Adoption of Amended LTCCP

1. Purpose

To approve final changes to the governance and funding proposal for the Wellington Regional Strategy (WRS).

2. Significance of the decision

The content of this report is the result of the Council's consultation with the public which took the form of submissions being made on the Wellington Regional Strategy and the governance and funding proposal and a subsequent mediation process with Upper Hutt and Hutt City Councils.

The proposed amendment to the 2006-16 LTCCP triggered section 76 (3)(b) of the Local Government Act 2002 and triggered the Council's own policy on significance. The formal submission process undertaken by the Council complied with the decision making and special consultative procedures set out in sections 76 to 79 and 83 to 85 of the Local Government Act 2002. The mediation process was undertaken in accordance with Section 16 of the Local Government Act. Section 16 enabled affected local authorities to refer the matter to mediation where agreement on the proposal could not be reached.

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 (r EDA) to deliver the economic growth initiatives in the WRS. Under the proposal the EDA is funded by a regional rate.

These recommendations were adopted by the Council at its meeting on 22nd 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. Council's Decision

The Wellington Regional Strategy Committee's Terms of Reference record that:

"4(a) The Council has agreed that it will not act independently of the Committee, so that any Committee recommendations that the Council is not prepared to accept will be referred back to the Committee for further consideration."

Therefore, if the Council does not agree with the recommendations of the Committee it will need to refer the matters back to the Committee.

5. Mediated Agreement

The agreement reached by the parties is in **Attachment 1**. The agreement included a number of changes to the governance and funding proposal. These changes were considered by the WRS Committee at its meeting on the 2nd May 2007. The Committee has agreed to the changes and is recommending that Greater Wellington adopt the changes, as set out below.

There were also a number of provisions in the mediated agreement 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. These are also outlined below.

5.1 Changes to the Governance and Funding Proposal Recommended by the WRS Committee

The matters set out in section 1 of the Mediated Agreement amend the proposal and therefore require approval by Greater Wellington.

5.1.1 Sunset Provision

It is recommended that the Greater Wellington WRS governance and funding activity cease at 30 June 2012. Greater Wellington could, prior to 30 June 2012, resolve to restart the activity. In order to do so the procedures set out in the Local Government Act will need to be followed. The recommendation notes that the process will be as set out in Section 16 of the LGA 2002 or such other process that applies at the time.

A process for making a decision to restart the activity is recommended and 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 EDA beyond the 2011/12 year.

5.1.2 Funding Community Facilities

The WRS Committee is recommending that the Regional EDA Ltd Statement of Corporate Intent explicitly states that the agency will not fund community activities and events. This is consistent with commentary included in the Statement of Proposal and therefore confirms a previous decision.

5.1.3 WRS Committee Voting

The WRS Committee is recommending changes to its Terms of Reference to require a 75% voting majority for a number of its decisions. 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. The Committee's amended Terms of Reference are in **Attachment 2**. The changes are shown in bold.

5.2 **Matters for the Multilateral Agreement (not requiring a Greater Wellington decision at this time)**

When the WRS Forum agreed to request Greater Wellington to 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 did not require a Committee decision. Greater Wellington, however, will be a party to the agreement.

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 of the Mediated Agreement provides for the Multilateral Agreement to show a cap applying to the regional rate to fund the EDA. This is consistent with the rate funding shown in the proposed amendment to the LTCCP.

Item 2.2 provides for the Multilateral agreement to include an explicit statement in relation to the Quality Regional Form part of the WRS.

Under the agreement Greater Wellington is to take the lead to ensure the Multilateral Agreement reflects the provisions outlined above when it is presented

to the Councils for signing. The process for signing the agreement is to be managed through the Chief Executives Group. To meet the Greater Wellington obligations under the mediated agreement it is appropriate that an explicit instruction is given to the Chief Executive to ensure the appropriate clause is included in the agreement.

It is expected that a draft agreement will be available for consideration by the Councils in May.

5.3 Matters for Greater Wellington LTCCP Process

Item 3 of the Mediated Agreement provides for Greater Wellington, when it reviews its Revenue and Funding Policy for its 2009/10 LTCCP, to review the economic development rate under Section 101(3) of the Local Government Act.

Section 101 sets out the financial management obligations of the Council:

101 Financial management

- (1) A local authority must manage its revenues, expenses, assets, liabilities, investments, and general financial dealings prudently and in a manner that promotes the current and future interests of the community.*
- (2) A local authority must make adequate and effective provision in its long-term council community plan and in its annual plan (where applicable) to meet the expenditure needs of the local authority identified in that long-term council community plan and annual plan.*
- (3) The funding needs of the local authority must be met from those sources that the local authority determines to be appropriate, following consideration of,—*
 - (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 was not required to make a decision on this as it does not have a role in the review of Greater Wellington's Revenue and Funding Policy. There is therefore no recommendation from the Committee on this matter.

The requirement to review the regional EDA rate in line with the mediated agreement is an obligation that exists under the Act irrespective of the Mediated Agreement. As a matter of good practice such a review will have been undertaken as part of the 2009/10 LTCCP process. The Mediated Agreement makes such a review explicit.

Officers have confirmed that such a review will be part of the 2009/10 LTCCP process.

6. Adoption of the Amended LTCCP

The Mediated Agreement records in item 6 that, if the Committee agrees with all the recommendations it is being asked to consider the matter will not be referred to the Minister.

The Committee confirmed all the changes arising from the agreement and therefore, subject to Greater Wellington adopting the recommendations, there will be no further section 16 processes and the amended LTCCP can be adopted.

The final Amended LTCCP is will be prepared for the Council's adoption in the 12th June 2007.

7. 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. A media statement was also released following the decision of the Committee on the 2nd May.

8. Recommendations

That the Committee recommends to Council that:

- 1. Receives the report.*
- 2. Notes the content of the report.*
- 3. Agrees to change the WRS Governance and Funding Proposal, as amended by Greater Wellington on 22nd 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 Greater Wellington will continue to carry out the function of regional economic development in accordance with clause 3(ii).*
 - ii. That Greater Wellington will cease to carry out the function of regional economic development on 30 June 2012. Prior to 30 June 2012, if Greater Wellington 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 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.*

4. ***Amends the Terms of Reference for the Wellington Regional Strategy Committee, as set out in Attachment 2.***

5. ***Amends the Greater Wellington Regional Council Standing Orders 2005 (as amended on 22 February 2007) as follows:***

Clauses 4.1 and 32.1 (“Decisions to be by Majority Vote”) are amended by adding the following text: “except that in the case of the Wellington Regional Strategy Committee the following decisions will require a three quarter majority:”

- i. *Recommended quantum of funding and funding policy.*
- ii. *Any decision resulting in a statutory consultation process under the LGA 2002 (such as establishing a new CCO).*
- iii. *Adoption of the statement of corporate intent for the EDA.*
- iv. *Appointment of directors of the EDA.*
- v. *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.*

vi. Any significant amendments to the Wellington Regional Strategy.”

7. **Notes** that the WRS Committee will require that the statement of corporate intent for the **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.
8. **Notes** that a Multilateral Agreement, recording how the Council will work together and setting out the collective expectations for Greater Wellington’s “keeper” role will be brought to the Council for signing.
9. **Instructs** the Chief Executive to ensure that the draft Multilateral Agreement referred to in (8) makes the following provisions:
 - caps the amount sought by GW rates for economic development for the WRS at \$5 million plus GST subject to CPI adjustments until 30 June 2012; and
 - the WRS contains guidelines to promote good Regional form. These will not override local communities' ability to influence outcomes important to their communities.
10. **Notes** that the economic development rate will be reviewed when the Revenue and Funding Policy is reviewed for the 2009/10 LTCCP, under Section 101(3) of the Local Government Act.

Report prepared by:



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- Attachment 1: Wellington Regional Strategy Section 16 - Mediated Agreement
Attachment 2: Amended Terms of Reference for the Wellington Regional Strategy Committee