

Tauranga City Council Review and Observer Team Report

Report to Tauranga City Council

16 November 2020

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Introduction

1. At its meeting of 21 August 2020, the Tauranga City Council resolved to appoint a Review and Observer Team as the most appropriate pathway to seek to resolve the issue of Elected Member relationships.
2. At its meeting of 2 September 2020, the Council resolved:
 - a. To appoint Peter Winder as a member and Chair of the Review and Observer Team to the Tauranga City Council ("Council"); and
 - b. To approve Peter Winder to select up to two further members of the Review and Observer Team and to advise the Chief Executive of those appointees; and
 - c. To adopt the Terms of Reference for the Review and Observer Team.
3. The two other members of the Review and Observer Team who were subsequently appointed are Linda Tuhiwai Smith and Basil Morrison. The Terms of Reference for the Review and Observer Team are Attachment 1 of this report.
4. The role of the Review and Observer Team is to provide guidance and advice to elected Council members, collectively and individually, on matters of governance and the forging and maintenance of constructive and functional relationships with and amongst the elected members, including the Mayor. The Review and Observer Team may also provide advice and guidance to the Council Chief Executive and senior management team on how best to support elected Council members. The Review and Observer Team has the mandate to make recommendations to Council on matters within the scope of the Terms of Reference. The Review and Observer Team does not have a decision-making role and will not be involved in decision-making, other than offering guidance or advice.
5. This report of the Review and Observer Team addresses the problems that have been observed and provides a recommended action plan.

Background

6. The Terms of Reference note that:

"Recent events involving elected members have led to a high degree of media attention being focused on the Council, including the release of a significant volume of correspondence between members into the public realm following requests under the Local Government Official Information and Meetings Act 1987 (LGOIMA). This correspondence contained items that might generally be considered divisive and to reflect adversely on both the authors and the persons who were the subject matter of some of the comments involved.

This information, together with earlier media reports of tensions within the elected membership, is damaging to public confidence in Council. Equally importantly, those tensions are real, and are inhibiting the ability of elected members to act cooperatively, and potentially on their ability to focus on important issues, including decisions leading to the 2021/2031 Long-term Plan (LTP). Critical proposals relating to the LTP that affect the future of the city must be considered in the coming months and community consultation must occur ahead of the adoption of that Plan, midway through 2021.

These events have come to the attention of the Department of Internal Affairs (DIA). On 13 August 2020 the Director Ministerial Advice, Monitoring & Operations wrote to the Chief Executive citing “concerns raised through recent media articles and correspondence regarding significant conflict among elected members”. The letter sought assurance and evidence that the Council was taking proactive steps to “restore trust and confidence in its ability to meet the Crown’s expectations of a high-performing Council”.

The Council is conscious of the power of the Minister to take steps under Part 10 of the Local Government Act 2002 to act where a problem exists concerning the management or governance of a Council that detracts from, or is likely to detract from, its ability to give effect to the purpose of local government.

In the report prepared to enable Council to consider this matter (at its meeting on 21 August 2020), the problem to be addressed was described as that of dysfunctional governance arising from the breakdown of key relationships, including between the Mayor and councillors and between councillors or factions of councillors.”

Approach

7. The approach that the Review and Observer Team (the **Team**) has adopted so far has been to observe rather than to provide advice, although elected members have asked for advice. This report presents the conclusions that the Team has reached from its work to date. This report also presents recommendations on actions that it considers the Council should take to improve performance and ensure effective governance of the city.
8. There have been four prongs to the observations that the Team has undertaken. They are:
 - review of relevant information
 - face to face meetings with key people
 - observing the governance practice of the council
 - reflection and review on what has been observed.
9. The Team has been provided with and has reviewed a large amount of information relating to the period both before our appointment and after our work commenced. This has included: correspondence, reports, complaints, meeting Agendas and Minutes, recordings of meetings, media coverage, press releases, records of social media posts, and information that has been released as a result of requests under the Local Government Official Information and Meetings Act 1987. The Team has also received a small amount of unsolicited correspondence from some members of the public. As the work of the Team has progressed, we have received weekly reports on media coverage relating to the council and relevant social media activity. The Team has also received coverage and emails relating to the resignation of Councillor Abrie, and the health issues that the Mayor is dealing with.
10. The Team has met with each of the elected members at least once for a structured but rather open-ended discussion. The Team has also met with the Council’s Chief Executive and Executive Leadership Team as well as with some key staff who provide support to, or who regularly engage with the elected representatives. Not all members of the Team were able to be present for all face to face meetings. Face to face meetings with elected members, staff and others were conducted under an obligation of confidentiality. In order to ensure the receipt of free and frank advice, and to ensure that as the work of the Team continued people would continue to provide free and frank advice, the Team provided all those it heard from with an assurance that the information they

provided would be treated as confidential and that no comments or views would be attributed to an individual in any reports from the Team.

11. In order to gain a mix of both internal and external perspectives, the Team has also met with:
 - the external Chair of the Finance Audit and Risk Committee,
 - the iwi appointees to Council committees
 - the Chair of Smart Growth
 - the Mayor and Chief Executive of Western Bay of Plenty District Council
 - the Chair and Chief Executive of the Bay of Plenty Regional Council
 - the Chief Executive of Priority One
 - a number of key property developers
 - representatives of two iwi authorities.
12. The list of the people who the Team has engaged with is set out in Attachment 2 of this report.
13. The Chair of the Team has had a number of discussions with senior staff at the Department of Internal Affairs to understand the nature of their concerns and to make sure that the Team understood the relevant provisions of the Local Government Act 2002 relating to any possible Ministerial intervention in a local authority.
14. One or more members of the Team have observed most council and committee meetings since their appointment. They have also attended a number of briefing sessions. The list of meetings and briefings observed by the Team is set out in Attachment 3 of this report. In these meetings the members of the Team have sat separate from the members of the council / committee and supporting staff. The Team members have simply observed the meeting. Things that the Team Members have looked for include:
 - attendance and engagement in the meeting (i.e., is the member not just physically present, but engaged in the issues and the debate)
 - the level of preparation for the meeting
 - the nature of the interactions between elected members
 - the nature, level and tone of debate and the nature of the issues that have sparked debate
 - the way in which staff have supported decision-making, including the nature and level of information supplied
 - actual decision making and the frame of reference that is being applied to making decisions.
15. The Team has adopted an on-going process of reflection and review. This has involved developing and then re-testing a number of observations and conclusions. Over the period that the Team has been working our views have shifted and developed as we have seen more of the council in action and as we have used the comments that have been made in face to face meetings to inform our observation of governance practice.
16. This report represents the end of our initial observation activity. It presents the observations and conclusions reached by the Team and our recommendations for action in response to what we have observed.

Context

17. In any review of Tauranga City Council, it is important to understand the context within which the Council operates and the scale and importance of its decisions.
18. Tauranga is New Zealand's fifth largest city and is growing rapidly. In the past 30 years the population of the city has grown by more than 70,000 people. With a population of 135,000 in 2018 Tauranga City is forecast to grow to almost 193,000 by 2063.
19. Growth in the number of rating units (properties) goes hand-in-hand with population growth. From 54,901 rating units in 2019/20, Tauranga is expected to have 61,278 in 2020/23 – that is an increase of 11.6% in just 3 years. Every one of those new rating units needs to be serviced, provided drinking water and wastewater services, and will produce demand for travel on Tauranga roads and for the use of community services and facilities.
20. In 2019/20 the council budgeted to:
 - collect \$190m in rates revenue and water charges
 - receive total operating revenue of \$273m
 - undertake operating expenditure of \$277m (resulting in a budgeted operating deficit of \$3m)
 - undertake \$258m of new capital expenditure.
21. The 2019/20 annual plan expected that by the 30th of June 2020 Tauranga City would:
 - own total assets of \$4.293b, of which \$4.046b is property, plant and equipment
 - have total liabilities of \$0.682b.
22. The assets that Tauranga City Council owns¹ and for which it is responsible for the operation, maintenance and renewals include:
 - 1,574ha of parks, gardens, and reserves
 - 1,360km of water supply pipes, 2 water treatment plants and 15 reservoirs providing 14,150,000m³ of drinking water each year
 - 1,179km of wastewater pipes, 2 wastewater treatment plants and 160 pumping stations treating 10,767,543 m³ of wastewater each year
 - 883 km of stormwater mains and other related stormwater and drainage infrastructure.
23. By any measure, Tauranga City Council is a substantial undertaking with very significant responsibilities. The long-term well-being of the communities of the city depend on wise stewardship of significant assets and effective governance by elected representatives.
24. The Local Government Act 2002 requires that the Chief Executive of every local authority prepares a Pre-election Report. The purpose of a pre-election report is to provide information to promote public discussion about the issues facing the local authority². The Tauranga City Pre-election report from 2019 identifies the four key priority areas that are reflected in the 2019-2028 Long-term Plan:

¹ Tauranga City Long Term Plan 2018-28, Infrastructure Strategy

² Local Government Act 2002, Section 99A, (4)

- **Land supply and urban form** – making new land available for housing and enabling more housing to be developed on existing land
- **Connectivity** – how we keep our city connected and moving, ensuring efficient travel through roads, cycle ways, footpaths, and parking improvements
- **Resilience to environmental changes and natural disasters** – recognising the risks to our properties and infrastructure from changes in groundwater levels, flooding frequency, sea level rise, tsunamis, and earthquakes
- **Increased environmental standards** – aiming for improved water quality in our streams, rivers, and oceans.³

25. The Pre-election report then goes on to expand on a number of organisational challenges and risks (pages 12 and 13). These are critical issues that any elected council would need to address in the current term of office. In summary, the identified challenges and risks are:

- **Capital expenditure delivery** – the challenges of delivering a very large capital programme, delays and difficulty in obtaining the resources needed, and costs significantly higher than in the past
- **Managing and meeting community expectations** – including criticism of delivery, engagement, and non-delivery of expected outcomes across:
 - Greerton village roading improvement
 - Development of Te Papa o ngā Manu Porotakataka (former Phoenix Carpark)
 - Redevelopment of Kulim Park
 - Council's role in the Mount Maunganui Surf Club's new clubrooms
 - Some transport-related projects.
- **Risks associated with new buildings and development** – including the consequences of the failings at the Bella Vista subdivision and on-going weather-tightness issues and claims.
- **Land supply challenges** – including an identified and immediate undersupply of vacant land zoned for residential development equivalent to an undersupply of around 1,000 houses and forecast additional shortages in the medium term.
- **Connectivity challenges** – including the pressure on the road network and worsening congestion, as well as the historic lack of investment in other types of transport and the then government's priorities for investment in public transport, walking and cycling.
- **Transport funding challenges** – limited availability of funding for local transport projects from the National Land Transport Fund over the period 2018-21, and the likely delay or cancelation of some transport projects due to the inability of Waka Kotahi to fund the government's share of the projects.
- **Resilience to environmental changes and natural disasters** – including the need to do work to better understand these hazards and to be able to both respond to events and ensure that planning for new urban areas addresses potential risk.
- **Increased environmental standards** – noting that the introduction of new standards – and the strengthening of existing standards by central government – has shifted more responsibilities to local government, and the challenges of aligning the city's goals for urban development capacity with the Government's National Policy Statements.

³ Tauranga City Pre-election Report, p7

- **Council accommodation challenges** – including the need to find a long-term solution to the accommodation of council operations following the 2014 evacuation of part of the Council's Willow Street building.
26. All of these organisational challenges and risks need to be read in the context of the Council's financial position. As the Pre-election report states on page 7:
- The main issue highlighted in our 2019/20 annual plan consultation earlier this year was how we position ourselves financially for future years. New information has identified potential financial issues in a few years' time, partly due to a \$100 million increase in our capital programme over the remaining nine years of the current LTP. This increase, coupled with a reduction in proposed revenue, means that if we were to deliver everything proposed, we would likely exceed the debt limit set-out in our financial strategy by 2022/23. The incoming Council will need to consider to what extent we should start addressing that situation in the short- to medium- term, and how we should do that.*
27. The Pre-election report then goes on to state that "Issues the newly-elected Council will also need to consider include:
- *The level of rate rises in future years (our current LTP budgets for an 8.2% rates increase in 2020-21)*
 - *Reducing the capital expenditure proposed in the current LTP*
 - *Alternative infrastructure funding and financing models now being developed with central government, which may help keep Council's rates and debt levels to sustainable levels*
 - *Maintaining our current levels of service."*

Additional Observations Regarding Context

28. Having reviewed considerable background information and reflected on the comments made by many of the people who the Team has spoken with them, the Team has concluded that Tauranga City Council faces very significant issues and pressures. Many of the issues facing the city have their genesis in historic decisions (or the failure to make decisions) by previous councils. Some, like the inability of prior councils to resolve accommodation for the council operations, have been on-going for many years – in that instance since 2014.
29. For Tauranga City Council there is a significant element of 'chickens coming home to roost' that means that any elected council would have faced very significant and quite difficult decisions in the current term of office. Addressing these requires effective governance, able to make sound decisions in the long-term interests of the peoples and communities of the city. Or to put this in the words of the Local Government Act 2002, to "*promote the social, economic, environmental, and cultural well-being of communities in the present and for the future*"⁴
30. In the considered view of the Team, failure during this term of office to address, or at least make significant progress on the underlying problems, challenges and risks facing Tauranga City Council that were identified in the Pre-election report will result in:
- significant and on-going costs and lost opportunities for the people and communities of Tauranga; and
 - failure to meet the fundamental needs of one of New Zealand's fastest growing urban areas.

⁴ Local Government Act 2002, Section 10(1)(b)

31. In addition to the problems, challenges and risks identified in the Pre-election report, the Team has identified a number of other issues which pre-date the current council, but which any elected representatives would have needed to address in this term of office. They are discussed below.

(a) The need to rebuild trust and confidence in the Tauranga City Council

Public trust and confidence in the council has been seriously eroded by a succession of major and very public failures (Bella Vista, the failure of the Council's CBD car park development, the U-turn of the Willis-Bond development, the Head Office issues, etc.). In order for the institution to be effective as a unit of local government it needs to rebuild trust and confidence with the public that it serves. Rather than improving public confidence in the council, behaviours and actions during the current term of office appear to have directly contributed to a further decline in residents' rating of the reputation of the council in the most recent Residents' Survey.

(b) The need to address the historic under funding and delivery of critical infrastructure

It is clear to the Team that successive councils have identified a large amount of critical infrastructure that is needed to support growth that is known about, planned for, and expected. Equally, successive councils have failed to fund the delivery of that infrastructure. As time goes on the gap between the infrastructure that the council provides and what is required will result in both falling levels of service, and an inability to service growth, or the renewals of the council's existing infrastructure. The Team has been left with the clear message that successive councils have "kicked the can down the road" and/or have been looking for someone else to pay for the necessary infrastructure. Neither strategy has resulted in the infrastructure gap being closed, and growth pressures have not yet diminished.

(c) The need to increase revenue fast enough to support the increase in borrowing that will be required to deliver critical infrastructure and respond to growth pressures

Tauranga City Council has been at, or very close to its borrowing limits for some time. This puts a natural constraint on its ability to borrow to fund necessary long-life infrastructure. Unless someone else can be found to fund long-life infrastructure, council will need to increase its revenue fast enough to support the necessary increase in borrowing required.

(d) The need to quickly zone and provide services for land for development sufficient to address known and immediate supply shortages

The Team received a very clear message that expanded on the immediate lack of suitable land zoned and available for residential development. The Pre-election report noted this as an issue within the 1 to 3 year period of the 2018 Long-term plan. The developers, and the Smart Growth partners who spoke to the Team highlighted this an immediate and significant issue that would translate directly into house prices and even more restrictive availability of affordable housing.

- (e) **The need to provide the Chief Executive the support and resources necessary to build and cement in place a highly performing team and the changes in organisational culture, performance, systems, and practices necessary to ensure that historic failures will not be repeated.**

The current Chief Executive has been making excellent progress in developing a highly performing team and addressing historic performance issues – particularly in the regulatory areas of council. These changes take time and require the on-going attention and focus of senior leaders. The Team observed that with the current council the Chief Executive is needing to spend such a large amount of his time supporting the council that we are concerned about his ability to sustain the necessary change processes and performance improvement within the organisation.

- (f) **The need to complete the representation review**

The current council will need to complete a representation review prior to the next election. The council has to date dealt with the proposal to include separate Māori ward(s) but has not yet considered the broader basis of representation. The Team was advised that the current ward structure does not meet the requirements of Section 19V(2) of the Local Electoral Act 2001 relating to what is referred to as the 10% threshold (where the population of each ward divided by the number of representatives from that ward must not be more than 10% different from the equivalent ratio for each other ward). Representation reviews are difficult and complex. As is discussed below, the Team also considers that some of the issues and behaviours that the council is dealing with have their genesis in the particular representation arrangements that the city has.

Observations

32. All of the contextual issues, challenges and risks discussed above would have faced any elected council during this term of office. The combination of the scale of the city, its rapid growth and the deep-seated nature of the problems mean that, in the view of the Team, this term of office would have been amongst the most challenging of any of New Zealand's local authorities.
33. The Team has observed a number of positive aspects to the work and decision making of the current council. The Team has also observed additional issues, challenges and problems that have emerged during the current term. They relate in large part to the particular group of councillors who were elected, and their behaviours since they have been in office.
34. The Team has intentionally expressed these additional challenges and problems as general statements. The Team considers that to personalise, or attribute cause amongst the council would most likely get in the way of finding a constructive path forward. Rather than apportioning blame, the Team encourages the Council to accept collective responsibility both for the position that they find themselves in and for the solution.
35. The observations that the Team make about the current council and its progress (both positive and negative) are discussed below.

Many effective formal meetings

36. The Team has observed a number of effective formal council and committee meetings. Generally, the meetings that have been observed have been effectively chaired and decisions have been made. The Team has not observed in meetings that it has attended the sorts of behaviours that gave rise to the appointment of the Team. During the period of our work the Council has made a

number of significant decisions, including the adoption of plan change 26 (relating to the city living zone and the development of Te Papa) and plan change 27 designed to ensure that future land use, subdivision and development within Tauranga is planned to be resilient to flooding.

37. This year the council has also done the key things that all councils must do – adopted an annual plan and set the rates for the following year. The Team is not aware of any instance where the council has failed to perform one of its core statutory obligations.

A large intake of new councillors

38. A large number of new councillors were elected in 2019. This sort of change always brings with it the need for a significant effort to build the level of understanding and knowledge necessary to exercise effective governance. A significant staff effort has gone into briefing the council and trying to provide a comprehensive understanding of all of the activities, roles, and issues across all of the Council's activities. This has had considerable success, but the Team is concerned that one of the results of the current approach is a number of briefing meetings which tend to be pitched at a low level, and are not necessarily that effective in providing information, or understanding of the key issues that councillors need to address. This approach encourages a dive into detail and does not necessarily support a strategic focus.
39. The Team observed a number of briefing meetings where a number of councillors are present, but not necessarily engaged. Use of electronic devices during meetings is common. Councillors have been observed to be sending text messages and emails during briefing sessions, and during committee and council meetings. The Team consider that briefing sessions in particular would benefit from greater use of pre-circulated briefing material and a real focus on the key issues that councillors need to know in order to make effective governance decisions.

Understanding of governance roles limited

40. Overall, the Team considers that the current council has a relatively poorly developed understanding of the governance role of elected representatives and a limited understanding of governance practice in general. A number of councillors have also come been elected to council from a public position where they have had little trust or confidence in some of the decisions made by council. The consequence of these two factors is:
- a tendency to be focused on operational detail rather than to be operating at the more strategic level that is required of those in governance roles, and
 - to be reluctant to trust and accept professional advice and an inclination to want to dive into operational detail.
41. A good example of the tendency to dive into detail was the situation that the Team observed where councillors set out to re-design a pedestrian crossing, flying in the face of expert traffic engineering advice, and failing to recognise that only designs that have been certified by such professionals will pass the safety audit process that is an essential element of traffic engineering and road safety.
42. The Team also observed a very detailed debate over the future of 10 magnolia trees, and a half hour consideration of expenditure of around \$5,000 on pest control. This level of engagement does not reflect the governance role that is required of the city councillors.
43. The Team has also observed a marked tendency to respond to having to deal with a difficult decision by calling for further information. This practice is very costly, time consuming and the resulting pace of council decision-making is probably too slow to manage to make the critical decisions that will be necessary to complete the Long-term plan 2021-2031 by 30 June 2021.

Strategic direction not clear, U-turns possible

44. The Team has noted the absence of a clear strategic direction or common sense of direction across the council. Given the breadth and diversity of views from councillors it is perhaps unlikely that they would do so. However, the absence of a common sense of direction does mean that each issue tends to be dealt with in isolation. This approach runs a risk that the council will seem to flip flop with inconsistent decisions, depending on how the numbers might fall on any given day, on any given issue.
45. The notice of motion delivered on the 11th of November seeking referenda on kerb-side recycling, Māori wards, and STV is a clear example of on-going relitigation of issues and the potential for a flip flop based on who can get the numbers on the day. Such relitigation of issues will further undermine the credibility of the council as an institution and as a partner. A key issue for those working in partnership with the council, including iwi, is the level of confidence that they have that things that the council undertakes to do it will in fact do.

The battle for the mayoralty never ended

46. The current representation system for Tauranga City has the mayor elected at large across the whole of the city, four councillors elected at large from across the whole of the city and six councillors elected from three wards (with two members for each ward). Three of the four councillors who were elected at large contested the mayoralty. Through its observations the Team developed the strong impression that the contest for the mayoralty did not end with the election, and it continues. The Team considers that this is one of the significant contributors to the situation that the council now finds itself in. While it is to be expected that politics is about the contest of ideas, personality, and the way in which authority over others is exercised, the Team is left wondering if Tauranga wouldn't be far better off if the efforts that have been devoted to the continuing wrestle for pre-eminence were devoted to making the best possible decisions for the city.
47. Whilst technically beyond its brief, the Team has also been left wondering if the current basis of representation and the mix of at large and by ward election of councillors is a contributing factor to the current situation. Whilst all elected representatives need to act in the best interests of the whole of the city, the electoral mandate of a councillor who is elected at large is automatically different from that of a ward councillor. The Team was also left wondering if the current wards actually represent coherent local communities of interest. These are matters that the Team encourage the council to address through the representation review.

Poor behaviour, a lack of trust, and inability to work together

48. One of the key factors that led to the appointment of the Team was a series of events that called into question the behaviour of elected members. Paragraphs 5 and 6 of the Terms of Reference for the Team note:

“Recent events involving elected members have led to a high degree of media attention being focused on the Council, including the release of a significant volume of correspondence between members into the public realm following requests under the Local Government Official Information and Meetings Act 1987 (LGOIMA). This correspondence contained items that might generally be considered divisive and to reflect adversely on both the authors and the persons who were the subject matter of some of the comments involved.

This information, together with earlier media reports of tensions within the elected membership, is damaging to public confidence in Council. Equally importantly, those tensions are real, and

are inhibiting the ability of elected members to act cooperatively, and potentially on their ability to focus on important issues, including decisions leading to the 2021/2031 Long-term Plan (LTP). Critical proposals relating to the LTP that affect the future of the city must be considered in the coming months and community consultation must occur ahead of the adoption of that Plan, midway through 2021.”

49. So far during this term the Council has dealt with two complaints under the Code of Conduct and is currently addressing a third. In the experience of the Team, Code of Conduct complaints are relatively rare across local government. Few councils would deal with even one complaint during a three-year term. To have three complaints in the first year of the current term is most unusual. This is even more remarkable when it is considered that there are few practical sanctions available to the council if a code of conduct complaint is upheld. The fact that there have been three suggests that there is something wrong with the behaviour of councillors – but also something missing from the normal interpersonal relationships and engagement that moderate behaviour and seek constructive solutions to poor behaviour. In the experience of the Team, the adversarial nature and apportioning of blame that is inherent in the Code of Conduct process seldom contributes to the effective or constructive resolution of problems.
50. The Team has received a range of perspectives about the behaviour of councillors. The Team has received allegations of in-fighting, petty politics, bullying, concerns over personal safety, personality politics, what has been characterised as the illegal and secret recording of meetings, leaks of confidential information, abuse through social media, individual blame, and dysfunction.
51. Elected members expressed to the Team a fundamental lack of trust in other elected members and an inability, or unwillingness to work together. This extended to comments reflecting:
 - the circumstances that surrounded the efforts to remove Councillor Baldock as Deputy Mayor
 - a feeling of being personally unsafe and unable to be in the same room as another elected member
 - a recognition that relationships are broken and have little, or no chance of being made to work effectively
 - a feeling of being personally targeted or bullied by others
 - allegations of score settling and a reported eruption where elected members suggested settling their differences outside of the council chamber by means of physical violence.
52. The Team noted the public comments made by Councillor Arbie on his resignation and his stated view that he found the political environment “seriously dysfunctional”.
53. The Team has been informed of a significant number of LGOIMA requests originating from elected members, or in one instance from a lawyer acting for an elected member. Responding to these requests is tying up significant staff time. Some requests seem to be designed to identify ways to undermine people or relationships, rather than to address the business of council.
54. The Team also received a number of complaints over the performance of the Mayor ranging from failing to bring the council together, through to aggressive behaviour and a simple failure to front up to engagements that had been accepted and scheduled.

55. Other key features of many of the comments made to the Team were:
- a strong tendency to blame others for the current situation
 - a strong questioning of the ability of councillors to act in the best interests of the city, as opposed to the pursuit of personal wins.
56. The Team did not consider that it was necessary or appropriate for it to explore all of the allegations that it heard. Given the number of issues raised with the Team, the obvious negative impact that some behaviours have had on the operation of the council, the contribution that some behaviours had to Councillor Abrie's resignation, and the significant adverse media coverage that the behaviour of a number of councillors has had, it is clear that the behaviour of councillors has had a significant negative impact on the organisation. Some people (including the majority of the external parties that the Team spoke with) expressed to the Team the view that the level of dysfunction within the current council was of such significance that the Minister of Local Government should remove the council and appoint commissioners.
57. Whether the comments made to the Team are fair, or accurate, or quite wrong, the fact that they have been made, and that public trust and confidence in the council has fallen even further, means that at the very least the council has a major public perception issue to deal with. That calls into question the public mandate and social licence of the council to exercise governance.
58. In response to what it has heard and observed relating to the behaviour of elected members, the Team makes the following observations:
- There has been a significant break down in trust and confidence within the council between elected members.
 - There is a strong tendency to address political differences on a personal basis – attacking people rather than the substance of the issues or ideals that are in question.
 - The behaviour of the council is the collective responsibility of the council. All elected members have a responsibility to uphold the reputation and standing of the institution.
 - The current suite of behaviours and the apparent lack of collective responsibility to deal with them is a major impediment to re-building trust and confidence in the council and a major distraction from the very serious business of governing Tauranga.
 - If as much effort was devoted to actual governance responsibilities and finding ways to work together as has been given to what has been described to the Team as point scoring, code of conduct complaints and the relitigation of issues through both social and print media, the council would be making far better progress.
 - Failure to break out of the pattern of behaviours that has so far characterised this term of office will put in doubt the council's ability to deliver a sound Long-term Plan that addresses the needs of its community.
 - The Team has little confidence in the ability of the council to change without assistance.

Pressure on staff and significant key person risk

59. The Finance Audit and Risk Committee has discussed a very real risk relating to the health, well-being, and safety of staff. The Team considers that the current political environment at the council is putting considerable pressure on the staff of the organisation, and in particular on its Chief Executive and Executive Leadership Team. The Team observes that a very large proportion of executive time (possibly approaching 80%) is being spent supporting the council. This sort of effort is clearly unsustainable.

60. In paragraph 31 section e) above, the Team notes the need to provide the Chief Executive the support and resources necessary to build and cement in place a highly performing team and the changes in organisational culture, performance, systems, and practices necessary to ensure that historic failures will not be repeated. The current effort required to support the Council limits the ability of the Chief Executive his Executive Leadership Team to do this. This exposes the council and the community to significant risk.
61. In addition to the risks to the internal change programme, the current situation and behaviours are such that the burden on the Chief Executive could easily reach the point at which he and/or some other critical members of the Executive Leadership Team reconsider their position. Given the critical nature of the internal change process and the need to ensure that TCC does not repeat the sort of problems experienced through Bella Vista, a change in staff leadership at this time would be very damaging to the council and seriously impact on its performance. The Team considers that this risk is real and the council needs to consider how its behaviour impacts on its ability to be a good employer.

Too many meetings, too much in the detail

62. One of the Team's early insights was that the meeting schedule for councillors is overly full. There are meetings or briefings scheduled on many days of most weeks. The meetings are substantial, with extensive Agendas, requiring very significant pre-reading. Briefings are equally substantial but tend to be more weighted towards staff verbally briefing councillors using PowerPoint presentations and less pre-circulated written material.
63. The workload that results from the current meeting schedule is significant. It also means that Councillors spend a large amount of time physically in the same place – providing lots of opportunities for any more tense inter-personal relationships to escalate rather than have time to defuse.
64. The Team questions whether the amount and detail of briefing material being provided to Councillors is necessary, and whether it invites even more attention to operational detail, when the council would benefit from adopting a higher level, more strategic approach to governance.
65. The Team has concluded that the council would be more effective with fewer, more considered, and higher level briefings and more focused meetings. To get to this point the Chief Executive and Executive Leadership Team would need to play an important role in ensuring that Agendas and reports are pitched at the right level.

Impact of the by-election and the mayor's leave of absence

66. Following the resignation of Councillor Abrie the council is required to hold a by-election to fill the resulting vacancy. Over much of the same period as there is a Councillor vacancy the Mayor will also be away from council dealing with significant health issues. Ultimately, the Mayor's return will depend on the success of his treatment and recovery.
67. This means that the council will have two significant gaps during the period when it must substantially complete the draft Long-term Plan 2021-31 for public consultation. The gaps introduce significant new risks to the council, including:
 - the potential for the by-election to become a public contest of key aspects of the Long-term Plan, before the draft plan can be adopted, and without the context of the information that would normally accompany a raft Long-term Plan

- the potential for a shift in the balance and priorities of the council following the election of a new councillor and the return of the Mayor – resulting in relitigation of the draft Long-term Plan and in possible U-turns on significant issues. This could be very divisive and very public. A major discontinuity of policy direction in March could seriously impact on the council's ability to complete an adopt a Long-term Plan by 30 June 2021.
68. Most importantly the Team has concerns that, given the track record of the council to date, there may well be a continuing struggle for control of the council during this period. This key risk means that the Team has little confidence in the council's ability to constructively work through the period of the two absences and address the issues facing the city.

Conclusions

69. Having carefully considered what it has read, observed, and been told, the Team has reached the conclusion that the combination of underlying issues, challenges and risks and new issues identified in this report (including a range of poor behaviours from councillors, the current by-election and the necessary Mayoral leave of absence put the council) at have and/or are:
- further reducing public trust and confidence in the Council
 - preventing the Council from addressing the underlying problems, risks, and challenges that it faces
 - placing the council at risk of failing to meet the needs of its rapidly growing community, including a failure to adequately fund and resource the infrastructure and growth initiatives that have been agreed to through Smart Growth and as part of the government's urban growth agenda
 - placing at significant risk the council's ability to deliver a sound Long-term Plan
 - creating an environment that does not support the exercise of wise stewardship or sound decision making
 - adding significant and unnecessary costs to Council decisions and decision-making processes
 - requiring the Chief Executive and the Leadership Team to spend such significant effort to support Council decision making that the on-going change process and day to day management of staff is at risk
 - resulting in significant key-person risk within the staff of the organisation
 - been a major factor in the decision of one Councillor to resign.
70. The Team considers that for the Council to meet its statutory duties and deliver a Long-term Plan that addresses the underlying issues and challenges facing the city of Tauranga, its current behaviours and approaches need to significantly change. To be successful, such change will require all elected members to accept responsibility for the position that the council is now in and to make changes. The Team has little confidence that the council will be able to make that change without external help.

Possible Solutions

71. The Team has considered the range of options that may help the council to address the issues that it is facing and deliver the effective governance that the people of Tauranga need and deserve.
72. In considering possible solutions the Team has looked at the options that the Minister of Local Government has for intervention in a council. The Local Government Act 2002 (the Act) provides for intervention if the Minister considers that there is a significant problem relating to a local authority. For this purpose, the Act states that **problem**⁵ :
- (a) *means—*
 - (i) *a matter or circumstance relating to the management or governance of the local authority that detracts from, or is likely to detract from, its ability to give effect to the purpose of local government within its district or region; or*
 - (ii) *a significant or persistent failure by the local authority to perform 1 or more of its functions or duties under any enactment; or*
 - (iii) *the consequences of a state of emergency (within the meaning of [section 4](#) of the Civil Defence Emergency Management Act 2002) affecting, or recently affecting, the local authority's district or region; and*
 - (b) *includes—*
 - (i) *a failure by the local authority to demonstrate prudent management of its revenues, expenses, assets, liabilities, investments, or general financial dealings; and*
 - (ii) *a potential problem within the meaning of paragraph (a) (i) or (ii); and*
 - (iii) *to avoid doubt, 2 or more problems within the meaning of paragraph (a) or subparagraph (i) or (ii) of this paragraph*
73. The Act provides a graduated suite of possible interventions, from requesting information, to appointing a Crown Observer, to appointing a Crown Manager, to the appointment of Commissioners. The way in which the Act is constructed means that in order to intervene, the Minister must believe on reasonable grounds that a significant problem in relation to the local authority exists and there must be consequences arising from the problem.
74. While the definition of problem in the Act is such that an intervention is possible before the consequences of the problem actually detract from the ability of a local government to give effect to its purpose, on the few occasions that a Minister has intervened, it has been after both the problem and the consequences have clearly manifested themselves. The four most significant interventions in New Zealand have been the appointment of a commissioner at Rodney District Council, the appointment of Commissioners at both Environment Canterbury and Kaipara District Council and the appointment of a Crown Manager at Christchurch City Council following its loss of accreditation as a Building Consent Authority. In each of these Ministers acted to sort out a substantial failure rather to prevent the failure in the first instance. In the case of Kaipara District Council, an earlier intervention could have saved the ratepayers of the district several tens of millions of dollars.
75. Across the suite of possible interventions, the Act provides that the Minister may take action if the local authority requests an intervention.

⁵ Local Government Act 2002, Section 256

76. The Team has identified four different possible solutions. These possible actions and their relative merits are discussed below.

Remove the Council and appoint Commissioners

77. A number of the people who engaged with the Team (including the majority of the external parties who have spoken with the Team) were strongly of the view that the situation was so bad that the Minister of Local government should intervene and replace the Council with Commissioners. Such an intervention would never be taken lightly and as is noted above, such a nuclear option has only been used in New Zealand once a council has already demonstrably failed in its core responsibilities and the consequences of that failure are manifest.
78. Whilst there are clear problems within the Tauranga City Council, in the view of the Team the council has not yet reached the threshold that has previously been used to move to appoint commissioners. However, the Team considers that there is a significant risk that the council may fail to meet its statutory duties, and/or fail to address the key issues facing the city over the next 6 to 9 months. This is the critical period in which it must develop, consult on, and adopt its Long-term Plan.

Continued Role for the Review and Observer Team

79. When the Team was appointed it was intended that, after making an initial observation and assessment it work with the council to provide advice over a period of time – all designed to address the identified problems.
80. Having completed its initial observations and this report the Team is not convinced that it will be able to make a significant difference to the behaviour and performance of the council over a longer period. Key reasons for reaching this conclusion are:
- the way in which elected members have blamed others for the problems and behaviours
 - the lack of personal acceptance of the role that individual elected members have and are continuing to make to the situation
 - the apparent lack of collective responsibility for making changes.
81. One of the core tenets of behaviour change is that, in order for anyone to change their behaviour, they must first accept that they have a problem, and secondly take personal responsibility for making changes. To have confidence that the council can change, the Team would need to see evidence of this awareness and commitment.
82. Another factor that the Team has considered in terms of its ability to make a difference is how to tread a line between providing advice to improve performance and what would be, or could easily be perceived as being political advice. Given the nature of the behaviour issues facing the council it would be very difficult to provide advice and to maintain an independent and neutral position.

Council moves on by itself

83. The Team has considered the option of the council moving on by itself, without external assistance or intervention. The Team has little confidence that this approach will deliver change, or enable the council to address the issues facing the city. There are considerable risks with this approach, including the key person risk discussed above.

84. If the council was to continue without external assistance or intervention the Team strongly recommends a number of actions which could contribute to changes in behaviour and performance. These are:
- governance training for the elected members – we would recommend the full Institute of Directors residential course for directors and that, in order to get the most from the interaction with other directors, councillors do not attend the course together.
 - a revised protocol for elected members asking for information – designed to channel reasonable questions and requests for information out of the LGOIMA framework and to be aligned with making decisions
 - establishing a more effective and better resourced Office of the Mayor, designed to assist in exercising the leadership role of the mayor and effective engagement with elected members
 - a shift away from long briefing sessions toward greater reliance on pre-circulated written material and a deliberate effort from staff to identify and focus debate on the key strategic issues for council. This would be designed to help to lift the focus of the council out of the operational detail and onto the key strategic issues that only it can address and resolve
 - streamlining the meeting schedule to provide more time for reading and preparation and place far less reliance on lengthy verbal briefings.
85. The Team considered the potential for mentoring to support elected members. There may be merit in this. However, there is a considerable risk that mentoring becomes publicly funded political advice, and that would be an inappropriate use of public money. Any mentoring scheme for elected members would need to focus on improving the development of their governance practice and their effective contribution to decision-making.

Request Assistance – a Crown Manager and Observer

86. The option that the Team recommends to the council is that it seeks external assistance from the Minister of Local Government. The Team's considered view is that for the next period of time a mix of continued democratically elected representation and Crown assistance provides the best chance of addressing the behaviour and performance issues at the council and creating the circumstances in which the underlying issues facing the city can be addressed. This approach significantly reduces the risk of the failure of the council, particularly over the next period of time when there is a vacancy and the mayor is on sick leave.
87. The Team recommends that the council requests the Minister of Local Government to assist the council to address the behaviour issues and underlying growth management problems that it is facing by appointing a Crown Manager and Observer⁶ to:
- assist the Council to address the underlying growth and development issues and pressures facing the city through the development and adoption of its Long-term Plan 2021-31, including the preparation of the draft plan, consultation and community engagement on the draft plan and the significant issues facing the city, the hearing and determination of submissions, and the adoption of the Plan and the setting of rates in accordance with the plan for the 2021-22 financial year.

⁶ It is intended that one person perform both of these roles.

- act as an observer to assist the council to address its behaviour and performance issues and restore trust so that the community and the council can have confidence that it will function effectively after the term of the Crown manager has ended.
88. Such a request is not something to be taken lightly. A Crown Manager has significant authority, including the ability to direct the Council. However, the extent to which a Crown Manager exercises this authority would depend on the extent to which the Council is able to address the problem itself. The scope of the role of a Crown Manager is defined in Section 258D of the Local Government Act 2002 as set out in Attachment 4 of this report.
89. Most importantly, the recommended approach addresses the most significant risks to the community arising from the current situation – the preparation and adoption of a Long-term Plan that actually addresses the growth pressures facing the city. It also provides an Observer role so the person can work with the Council on the sorts of actions that are noted with respect to the option of council moving on by itself. All of the actions noted in paragraph 84 would also be relevant with this approach.

Recommendations

90. The Team strongly recommends:

A. Actions which could contribute to changes in behaviour and performance:

- (i) governance training for the elected members – we would recommend the full Institute of Directors residential course for directors and that, in order to get the most from the interaction with other directors, councillors do not attend the course together.
- (ii) a revised protocol for elected members asking for information – designed to channel reasonable questions and requests for information out of the LGOIMA framework and to be aligned with making decisions
- (iii) establishing a more effective and better resourced Office of the Mayor, designed to assist in exercising the leadership role of the mayor and effective engagement with elected members
- (iv) a shift away from long briefing sessions toward greater reliance on pre-circulated written material and a deliberate effort from staff to identify and focus debate on the key strategic issues for council. This would be designed to help to lift the focus of the council out of the operational detail and onto the key strategic issues that only it can address and resolve
- (v) streamlining the meeting schedule to provide more time for reading and preparation and place far less reliance on lengthy verbal briefings.

B. That the council requests the Minister of Local Government to assist the council to address the behaviour issues and underlying growth management problems that it is facing by appointing a Crown Manager and Observer to:

- (i) assist the Council to address the underlying growth and development issues and pressures facing the city through the development and adoption of its Long-term Plan 2021-31, including the preparation of the draft plan, consultation and community engagement on the draft plan and the significant issues facing the city, the hearing and determination of submissions, and the adoption of the Plan and the setting of rates in accordance with the plan for the 2021-22 financial year.

- (ii) act as an observer to assist the council to address its behaviour and performance issues and restore trust so that the community and the council can have confidence that it will function effectively after the term of the Crown manager has ended.

C. Convey this report to the Minister of Local Government and the Department of Internal Affairs.

Attachment 1 – Terms of Reference

Terms of Reference: Appointment of Review and Observer Team to the Tauranga City Council

1. At its meeting on 21 August 2020 the Tauranga City Council agreed to the appointment of a Review and Observer Team as the most appropriate pathway to address the issue of Elected Member relationships. It also resolved:
"That the Council requests the Chief Executive to report back to Council as soon as practicable with draft Terms of Reference, recommended appointees, cost estimate and budget approval request."
2. At its meeting on 2 September 2020 the Council resolved:
 - a) To appoint Peter Winder as a member and the Chair of the Review and Observer Team to the Tauranga City Council ("Council"); and
 - b) To approve Peter Winder to select up to two further members of the Review and Observer Team and to advise the Chief Executive of those appointees; and
 - c) To adopt these Terms of Reference for the Review and Observer Team.
3. The two further members subsequently appointed were Linda Tuhiwai Smith and Basil Morrison.
4. The role of the Review and Observer Team is to provide guidance and advice to elected Council members, collectively and individually, on matters of governance and the forging and maintenance of constructive and functional relationships with and amongst the elected members, including the Mayor. The Review and Observer Team may also provide advice and guidance to the Council Chief Executive and senior management team on how best to support elected Council members. The Review and Observer Team has the mandate to make recommendations to Council on matters within the scope of the Terms of Reference. The Review and Observer Team does not have a decision-making role and will not be involved in decision-making, other than offering guidance or advice.

Background Context for the Review and Observer Team

5. Recent events involving elected members have led to a high degree of media attention being focused on the Council, including the release of a significant volume of correspondence between members into the public realm following requests under the Local Government Official Information and Meetings Act 1987 (LGOIMA). This correspondence contained items that might generally be considered divisive and to reflect adversely on both the authors and the persons who were the subject matter of some of the comments involved.

6. This information, together with earlier media reports of tensions within the elected membership, is damaging to public confidence in Council. Equally importantly, those tensions are real, and are inhibiting the ability of elected members to act cooperatively, and potentially on their ability to focus on important issues, including decisions leading to the 2021/2031 Long-term Plan (LTP). Critical proposals relating to the LTP that affect the future of the city must be considered in the coming months and community consultation must occur ahead of the adoption of that Plan, midway through 2021.
7. These events have come to the attention of the Department of Internal Affairs (DIA). On 13 August 2020 the Director Ministerial Advice, Monitoring & Operations wrote to the Chief Executive citing *"concerns raised through recent media articles and correspondence regarding significant conflict among elected members"*. The letter sought assurance and evidence that the Council was taking proactive steps to *"restore trust and confidence in its ability to meet the Crown's expectations of a high-performing Council"*.
8. The Council is conscious of the power of the Minister to take steps under Part 10 of the Local Government Act 2002 to act where a problem exists concerning the management or governance of Council that detracts from, or is likely to detract from, its ability to give effect to the purpose of local government.
9. In the report prepared to enable Council to consider this matter (at its meeting on 21 August 2020), the problem to be addressed was described as that of dysfunctional governance arising from the breakdown of key relationships, including between the Mayor and councillors and between councillors or factions of councillors.

Purpose and Extent of Authority of Review and Observer Team

10. The purpose of the Review and Observer Team is to assist Council to address the problem of dysfunctional governance arising from the breakdown of key relationships, including between the Mayor and councillors and between councillors or factions of councillors.
11. In particular, the Review and Observer Team will provide support, assistance and guidance to ensure that the:
 - elected Council is able to function effectively as a governing body;
 - nature and extent of the issue of dysfunction governance is understood and addressed;
 - behaviours and relationships enable the elected members to collectively make decisions for the future wellbeing of the city;
 - Council has appropriate procedures and arrangements in place to manage decision-making and address future issues;
 - Mayor is able to provide leadership to (as per Section 41A of the Local Government Act), and to work cooperatively with, other elected members and the Council organisation;
 - elected Council members including the Mayor have the understanding required to carry out their local governance role;

- elected Council members including the Mayor have the capability and knowledge to make decisions effectively;
- Council provides a safe workplace, as provided for in the Health and Safety at Work Act 2015, for the elected Council members, including the Mayor;
- elected Council members, including the Mayor, are able to work effectively with the Chief Executive and senior management team; and that
- any related matter requested by the Council or the Department of Internal Affairs or the Minister of Local Government is addressed.

12. The Review and Observer Team:

- a) Will provide guidance and advice to elected Council members, including the Mayor, collectively and individually, on matters of governance;
- b) Will investigate, define and report upon the nature and extent of the problem of dysfunctional governance within Council;
- c) Will develop a recommended action plan with appropriate systems of measurement to assess progress;
- d) May provide advice and guidance to the Chief Executive and senior management team on how best to support elected Council members;
- e) Does not have a decision-making role and will not be involved in decision-making.

13. The Review and Observer Team will conduct its discussions with and provide its advice to elected members and the Mayor on a confidential basis and will generally not refer to any individual elected member by name in its reports to the Chief Executive, Council, DIA or the Minister.¹ This does not prevent the Review and Observer Team from being specific as to individuals should they consider it necessary to fulfil their role and/or deliver on the purpose (as specified in clause 9 above).

14. The Review and Observer Team will provide support to elected Council members, including the Mayor, the Council Chief Executive and senior management team, in any way deemed necessary to fulfil these Terms of Reference. This may include, but is not limited to:

- attending any Council and Council Committee meetings;
- meeting individually with the Mayor and elected Council members at their request or at the request of the Review and Observer Team;
- meeting with the Council Chief Executive and senior management team, as appropriate;
- receiving correspondence between elected members and providing advice on the appropriateness thereof;

¹ All information produced in the course of the Review and Observer Team fulfilling its role under this Terms of Reference will be held as official information and is subject to the LGOIMA 1987.

- monitoring and reviewing engagement with news media and social media by elected members on Council-related issues;
 - reviewing decision-making procedures and arrangements to ensure they are appropriate and fit for purpose;
 - providing such collective and/or individual feedback and advice throughout its term to elected members, the Mayor, and the Chief Executive as it sees fit on governance issues and changes designed to address dysfunctional governance arising from the breakdown of key relationships;
 - identifying elected member governance development needs and also attending and contributing to the Council's development programme for elected Council members; and
 - attending and contributing, as appropriate, to workshops and meetings (including informal briefings and meetings) where elected Council members are being briefed on, or meeting to discuss, significant or challenging matters.
15. The Review and Observer Team may, with the prior approval of the Chief Executive, work with or confer with the Department of Internal Affairs, or other parties it considers necessary to fulfil these Terms of Reference.
 16. If at any time the Review and Observer Team considers that insufficient progress is being made or is expected to be made to address the problem of dysfunctional governance it may, after giving no less than 7 days' notice to the Chief Executive of its intention to do so, report that conclusion to the DIA with such recommendations as it considers appropriate.
 17. The Review and Observer Team must ensure, as far as practicable, that the existing organisational capability of the Council is not diminished.
 18. The elected members of Council, including the Mayor, the Chief Executive and senior management team undertake, to:
 - co-operate with the Review and Observer Team, so that it may fulfil these Terms of Reference; and
 - comply with any reasonable request of the Review and Observer Team to provide relevant information.
 19. The Council will make available and accessible the resources required for the Review and Observer Team to fulfil these Terms of Reference.

Term of Appointment

20. The term for the Review and Observer Team appointment and the observation period starts on 7 September 2020 and will, unless sooner terminated by recommendation of the Chief Executive and resolution of the Council, end on 30 June 2021.
21. By the end of the first quarter of 2021 (31 March 2021), the Review and Observer Team, together with the Chief Executive, and in consultation with Elected Members, will complete an assessment on the appropriateness of

extending the continuation of the Review and Observer Team beyond 30 June 2021. That assessment will be reported formally to Council.

Remuneration and Costs

22. Costs associated with the Review and Observer Team will be paid by Tauranga City Council. Council has approved a budget and costs will be managed by the Chief Executive or his delegate. Actual costs will be reported transparently to Council.

Reporting

23. The Review and Observer Team members will, within four to six weeks of their appointment, produce a recommended action plan.
24. The Review and Observer Team must monitor the Council's response to the problem of dysfunctional governance arising from the breakdown of key relationships and provide quarterly reports to the Council and the Chief Executive on the progress in fulfilling its Terms of Reference, together with any interim recommendations it considers necessary.
25. The Review and Observer Team must provide a final report to the Council as soon as practicable after the observation period ends, which includes the following:
 - (a) a narrative description of the activities of the Review and Observer Team in relation to these terms of reference; and
 - (b) an assessment of progress in addressing the problem of dysfunctional governance arising from the breakdown of key relationships, including between the Mayor and councillors and between councillors or factions of councillors; and
 - (c) any final recommendations to the Council, or to the DIA or the Minister, or both, except that before making any such recommendations to the DIA or the Minister, the Council shall have not less than 14 days' notice of the content of those recommendations; and
 - (d) without limiting paragraph (c), any final recommendations to the DIA on whether the Minister should take action, pursuant to the powers contained in Part 10 of the Local Government Act 2002, in relation to the Council, including whether the Minister should appoint any Ministerial body to the local authority.



Dated at Tauranga this 2 September 2020

MARTY GRENFELL, Chief Executive Tauranga City Council.

Attachment 2 – Interviews

In undertaking their work to date the Review and Observer Team has met with the following people:

Mayor Tenby Powell	Marty Grenfell Chief Executive Tauranga City Council
Deputy Mayor Tina Salisbury	Tauranga City Council Executive Leadership Team
Cr Larry Baldock	Some TCC Support and Democracy Services Staff
Cr Steve Morris	Nigel Tutt Chief Executive Priority One
Cr John Robson	Matthew Wilson, AON Insurance (Council's Insurance Broker)
Cr Andrew Hollis	Bill Wasley Chair of Smart Growth
Cr Heidi Hughes	Garry Webber Mayor Western Bay District
Cr Kelvin Clout	Miriam Taris, Chief Executive Western Bay District Council
Cr Jako Abrie	Doug Leeder, Chair Bay of Plenty Regional Council
Cr Dawn Kiddie	Fiona McTavish, Chief Executive Bay of Plenty Regional Council
Cr Bill Grainger	Jeff Fletcher, Peter Cooney, Scott Adams and Grant Dowling, developers operating within Tauranga city
Bruce Robertson, Independent Chair of Finance, Audit and Risk Committee	Charlie Tawhiao and Paora Stanley, Ngaiterangi
Emily Godsell, Wayne Beilby and Te Pio Kawe iwi appointed voting members of council committees	Donna Gardner, Ngati Ranginui

Attachment 3 – Meetings Observed

In undertaking their work to date one of more members of the Review and Observer Team observed the following meetings

Meeting	Date
Executive briefing and Council workshop	5 October
Council meeting and Council workshop	6 October
Nga Poutiriao o Mauao meeting	7 October
Bay of Plenty Mayoral Forum meeting	9 October
Urban Form and Transport Development Committee	13 October
Executive briefing and Council workshop	15 October
Policy Committee	20 October
Tangata Whenua Committee	22 October
Projects, Services and Operations and Operations Committee	27 October
Wastewater Management Review Committee	28 October
Council meeting	28 October
Finance Audit and Risk Committee	3 November

Attachment 4 – Statutory Role of Crown Manager

258D Minister May Appoint Crown Manager

- (1) The Minister may appoint a Crown Manager to a local authority if—
 - (a) the Minister believes, on reasonable grounds, that a significant problem relating to the local authority exists, and—
 - (i) the nature or extent of the problem is such that the local authority is unlikely to effectively address the problem without the appointment of a Crown Manager; or
 - (ii) for no good reason, the local authority has not adequately implemented a recommendation of any other Ministerial body in relation to the problem; or
 - (iii) a Ministerial body currently or previously appointed to the local authority has recommended the appointment; or
 - (b) the Minister has received a written request from the local authority to do so.
- (2) Before the management period begins, the Minister must give notice of the appointment—
 - (a) to the local authority, in writing; and
 - (b) by notice in the *Gazette*; and
 - (c) by public notice.
- (3) Each notice must comply with [section 258S](#).
- (4) A Crown Manager must, to the extent authorised by his or her terms of reference, —
 - (a) direct the local authority to act to address the problem; and
 - (b) make recommendations to the Minister on whether the Minister should take further action in relation to the local authority, including whether the Minister should appoint any other Ministerial body to the local authority; and
 - (c) ensure, as far as practicable, that the existing organisational capability of the local authority is not diminished.
- (5) If applicable, and to the extent authorised by its terms of reference, a Crown Manager must also direct the local authority on any related matter as recommended by a Ministerial body currently or previously appointed to the local authority.
- (6) A local authority must—
 - (a) co-operate with a Crown Manager so that he or she may fulfil his or her terms of reference; and
 - (b) comply with the directions of a Crown Manager; and
 - (c) comply with any reasonable request of a Crown Manager to provide any relevant information that the local authority holds.
- (7) A Crown Manager must produce a final report that complies with [section 258U](#), as soon as practicable after a management period ends.