

COUNCIL REPORT

Date : 18 January 2024

To : Ordinary Council Meeting, 7 February 2024

From : Chief Executive Officer, Stace Lower

Subject : **DEFERRAL OF ADOPTION OF LONG TERM PLAN 2024-2034**

File ID : A1200734

EXECUTIVE SUMMARY

- The Local Government Act 2002 requires every Council in Aotearoa New Zealand to have in place, at all times, a Long Term Plan. A Long Term Plan must cover a period of 10 years and must be reviewed every three years. It must be updated and adopted by the end of the current financial year (June 2024).
- The Government has signalled changes to water services entities legislation which will have an effect on the ability of the Council to deliver its Long Term Plan within current legislative timeframes.
- This report considers the transition arrangements available to the council from the government to defer the adoption of its Long Term Plan to 30 September 2024, and provides options for the council to choose with regard to its Long Term Plan 2024-2034, its 2023-2024 Annual Report and its Consultation Document.

RECOMMENDATIONS

- 1) **That the report titled "Deferral of Adoption Of Long Term Plan 2024-2034 " be received.**
- 2) **That Council directs the Chief Executive to**
 - a. **retain the current Long Term Plan 2024-2034 adoption date of 27 June 2024**
 - OR**
 - b. **defer the adoption of the Long Term Plan 2024-2034 to 30 September 2024**
- 3) **That Council directs the Chief Executive to**
 - a. **have an audited Consultation Document**
 - OR**
 - b. **not have an audited Consultation Document**
- 4) **That Council directs the Chief Executive to**

- a. retain the current Annual Report 2023-2024 adoption date of 31 October 2024**
- OR**
- b. defer the adoption of the Annual Report 2023-2024 to a date no later than 31 December 2024.**

PURPOSE

1. The purpose of this report is to seek direction with regard to the adoption date of the Long Term Plan 2024-2034 (LTP); the adoption date of the 2023-2024 Annual Report and the audit of the LTP Consultation Document.

STRATEGIC ALIGNMENT

2. The matters detailed in this report relate to the following priorities from Ōpōtiki District Council's Long Term Plan 2021-2031:
 - ☐ Development and protection of the natural environment.
 - ☒ Services and facilities meet our needs.
 - ☒ Fair and efficient leadership.
 - ☐ A strong and effective community spirit.
 - ☐ Purposeful work and learning opportunities.
 - ☐ Development supports the community.
 - ☐ Culture and history are treasured.

BACKGROUND

3. The Local Government Act 2002 (the Act) requires all councils to have in place, at all times, a Long Term Plan (LTP). The LTP sets the budget and activities for the organisation for the next 10 years, and it is required to be reviewed and updated every three years. The current LTP was adopted in June 2021 and the next LTP must be adopted by the end of June this year.
4. The ŌDC Long Term Plan 2024-2034 – Workplan (also referred to as the “Snake”) notes formal consultation for the LTP will begin 19 March 2024 and will run for a period of four weeks. Hearings and deliberations for the LTP are currently scheduled for 1 and 2 May.
5. In December 2022, the previous government passed the Water Services Entities Act 2022 which established four water services entities. The intention of establishing the entities was to transfer the ownership of built water infrastructure away from local government to one of four major entities. In April 2023, the previous government renamed and repackaged the water services legislation and introduced legislation to establish ten water services entities, different to the original four (Water Services Entities Amendment Act 2023 and Water Services Legislation Act 2023). These bills were enacted in August 2023.

6. In October 2023, a new Government was elected. The Government has announced cabinet will introduce a bill into the house early this year to repeal the existing water services entities and all associated legislation; reinstate all previous legislation related to the provision of water services and therefore reinstate Council ownership, control and responsibility of water services across the country. The Government will also require all Councils to add and integrate information about water services into their Long Term Plans.
7. The Minister for Local Government has directly communicated the announcement to Mayor Moore and provided a letter outlining the process the Government intends to follow (received 14 December 2023). The letter includes options available to Local Government to help complete the 2024-2034 LTP in light of the announcement and the forthcoming legislative changes.
8. Ōpōtiki District Council has been preparing its LTP based on the legislation as it is written which includes the legislation about the water services entities. What this means is Council has created the document to show all water services infrastructure transferring away from the Council to the Bay of Plenty entity at a date no later than June 2026.
9. The letter from the Minister indicates to Council the Government will be enacting legislation as soon as possible. This means Councils will be required to show water services in their LTP for the entire 10 year period, rather than for one or two years as currently stated in the water services legislation.
10. The options which have been made available to all Councils in the country are to defer the adoption of the LTP to a date no later than 30 September 2024 to provide additional time to include water services infrastructure in the document; defer the adoption of 2023-24 Annual Report as a run-on effect from the deferred LTP adoption date, and not have an audited Consultation Document.
11. All options have advantages and disadvantages for the LTP and the organisation. These are considered in the OPTIONS section.

OPTIONS

12. With regard to the deferral of the adoption date of the LTP, there are two options available.

OPTION 1: Maintain the current LTP adoption date of 27 June 2024

Description	<p><i>Council maintains the current workplan for the LTP, as described in the ŌDC Long Term Plan 2024-2034 – Workplan and adopts the LTP on 27 June 2024.</i></p> <p><i>Water services infrastructure would be included in the LTP and assumes legislation will be introduced and enacted before 27 June 2024, as the Minister for Local Government has indicated.</i></p> <p><i>The 2023-2024 Annual Report adoption date remains the same.</i></p>
Advantages	<ul style="list-style-type: none">• will complete LTP process within the statutory timeframes prescribed in the Local Government Act 2002• AuditNZ have allocated and confirmed resource to Ōpōtiki District Council for the LTP based on the current adoption date• the 2023-24 Annual Report is adopted by 31 October 2024• rates instalments for financial year 2024-2025 will be gathered based on usual processes which is predictable for staff and the community.
Disadvantages	<ul style="list-style-type: none">• higher workload than originally anticipated due to the inclusion of water infrastructure in the LTP• current resourcing may be insufficient to deliver LTP with water services legislation included which will affect other workstreams within the organisation.
Impact on mana whenua	No identified impact on mana whenua.
Strategic alignment	<p>Services and facilities meet our needs:</p> <ul style="list-style-type: none">• support and encourage effective planning for the future <p>Fair and efficient leadership:</p> <ul style="list-style-type: none">• have positive involvement in the day-to-day affairs of our community.
Associated risks	<ul style="list-style-type: none">• new water services legislation may require an amendment to the LTP after the 27 June 2024 adoption to meet new unknown legislative requirements• council staff are not able to deliver the LTP within the timeframes when water services in included due to the increased workload.

OPTION 2: Defer the adoption of the Long Term Plan 2024-2034 to 30 September 2024 (recommended option)

Description	<p><i>Council chooses to defer the adoption of the LTP to 30 September 2024. This decision is made based on an announcement from Government, and a letter received from the Minister for Local Government.</i></p> <p><i>Water services infrastructure is included in the LTP and it is assumed new water services legislation is enacted by 30 September 2024, and based on the principles outlined in the letter.</i></p> <p><i>Council is required to use the special consultative procedure in adopting the LTP. With a deferred adoption</i></p> <p><i>The 2023-2024 Annual Report adoption is deferred to a date no later than 30 December 2024.</i></p>
Advantages	<ul style="list-style-type: none"> • provides additional time for staff to create underlying documents and financial modelling showing water services infrastructure included in entire Long Term Plan • provides additional time to include water services infrastructure in the Consultation Document.
Disadvantages	<ul style="list-style-type: none"> • AuditNZ will reallocate and recommit resource for the LTP based on their current timeframes and workstreams • the 2023-2024 Annual Report adoption date is deferred to enable the audit of the LTP to progress adequately • the first rates invoice in year one of the LTP will be based on the current years rates instalment, not the new rates assessment for the LTP. This is not the standard process followed by staff and creates uncertainty for the community.
Impact on mana whenua	No identified impact on mana whenua.
Strategic alignment	<p>Services and facilities meet our needs:</p> <ul style="list-style-type: none"> • help agencies and organisations identify our specific needs • support and encourage effective planning for the future <p>Fair and efficient leadership</p> <ul style="list-style-type: none"> • have positive involvement in the day-to-day affairs of our community.
Associated risks	<ul style="list-style-type: none"> • Council is exposed to potential legal challenge as deferral decision is not based on legislation.

13. The deferral of the 2023-2024 Annual Report is linked with the adoption of the LTP. In order for staff and AuditNZ to provide adequate resource, deferring the adoption of the LTP creates the need to defer the adoption of the 2023-2024 Annual Report.
14. Irrespective of the option to not defer or defer the adoption of the LTP and the 2023-2024 Annual Report, there remains the option to have an unaudited Consultation Document.

OPTION 1: The Consultation Document is audited (recommended option)

Description	<p><i>The Consultation Document is created and provided to AuditNZ ahead of the formal consultation period.</i></p> <p><i>AuditNZ reviews the Consultation Document in line with the requirements of the Local Government Act, provides feedback, and is in a position to issue an audit opinion on the Consultation Document before formal consultation begins.</i></p> <p><i>AuditNZ also reviews the key underlying documents and financial models which inform the Consultation Document.</i></p>
Advantages	<ul style="list-style-type: none">• ŌDC is provided with assurance the Consultation Document is legislatively compliant prior to beginning the formal consultation period
Disadvantages	<ul style="list-style-type: none">• the Consultation Document must be compiled and ready for consultation one month prior to formal consultation.
Impact on mana whenua	No identified impact on mana whenua.
Strategic alignment	Fair and efficient leadership: <ul style="list-style-type: none">• have positive involvement in the day-to-day affairs of our community.
Associated risks	None identified.

OPTION 2: The Consultation Document is not audited

Description	<p><i>The Consultation Document is created and provided to the public for formal consultation.</i></p> <p><i>AuditNZ has not reviewed the consultation document, but still reviews the key underlying documents and financial models which inform the consultation document.</i></p> <p><i>AuditNZ does not issue an opinion on the Consultation Document.</i></p>
Advantages	<ul style="list-style-type: none">• provides additional time for staff to create the document at the same time as the key underlying documents and financial model.
Disadvantages	<ul style="list-style-type: none">• council would be required to seek an external review to a similar standard audit provides to gain assurance the Consultation Document is legislatively compliant.
Impact on mana whenua	Reduced assurance mana whenua can engage with LTP process genuinely, as council does not have the assurance the Consultation Document is adequate.
Strategic alignment	Not applicable.
Associated risks	<ul style="list-style-type: none">• Consultation Document still requires review and assurance it complies with the requirements of the Local Government Act 2002.

DISCUSSION

Defer the adoption of the Long Term Plan 2024-2034 to 30 September 2024 (recommended option)

15. Staff recommend the deferral of the adoption of the LTP to 30 September 2024. In order for public consultation of the LTP to proceed, Council must have the Consultation Document, all key underlying documents and all financial modelling completed. Since 29 May 2023, Council has developed the LTP and all key underlying documents on legislation as it is written (i.e., water services not shown in the LTP from Year 3 onward).
16. This will, by default, require the deferral of the 2023-2024 Annual Report. The letter received from the Minister enables this to happen.
17. Since the new Government was elected, it has been communicated to Councils in New Zealand all legislation related to water services is being repealed. Including water services in the Infrastructure Strategy, the Asset Management Plans, the Financial Strategy and the financial models requires additional work.
18. Staff will require more time than what is planned for in the current workplan in order to ensure water services are adequately included in the LTP, the Consultation Document and all other key underlying documentation. The deferral of the adoption of the LTP enables this to happen.
19. If Council choose to proceed with the recommended option, the new timeframes for the LTP will be adjusted to what is shown in the updated Ōpōtiki District Council Long Term Plan 2024-2034 – Workplan (also known as the “Snake”). An updated “Snake” is attached to this report as Appendix 1.

The Consultation Document is audited (recommended option)

20. Staff recommend the Consultation Document for the LTP is audited.
21. The Local Government Act 2002 requires every Council to create a Consultation Document which provides an effective basis for public participation in Local Government decision-making. It needs to present the overall objectives and proposals, and how rates, debt and levels of service might be affected.
22. When the Consultation Document is audited, Council is provided with assurance we have achieved this requirement.
23. Council does not have the capacity in-house to provide this assurance, so we would need to seek an external review of the Consultation Document if we do not provide it to our assigned auditors (Audit New Zealand).
24. Providing the Consultation Document to AuditNZ, alongside the other required documentation, provides assurance our documents are legislatively compliant.

Financial/budget considerations

25. Deferral of the adoption of the LTP to 30 September 2024 does not give rise to any significant cost implications for plan development.
26. Costs associated to the development of the LTP have been included in the 2023-2024 Annual Plan budget.

Policy and planning implications

27. Council is required to ensure it meets legislative requirements under the Local Government Act 2002 when developing the LTP.
28. The recommendations in this report enable the council to meet its decision-making requirements under the Local Government Act 2002.

Impact on mana whenua

29. There are no identified impacts on mana whenua in relation to the recommendations in this report.

Climate impact considerations

30. There are no climate impact considerations in relation to the recommendations in this report.

Risks

31. The Local Government Act 2002 requires Council to adopt its LTP by the end of June.
32. The new government has provided the option to councils to defer the adoption of its LTP to a date no later than 30 September 2024. There is a risk the council is open to legal challenge as the decision to defer does not comply with the relevant legislation. The letter provided by the Minister for Local Government states the repeal bill which cabinet intends to introduce will include temporary modifications to Local Government legislation.
33. Council does have the authority to make the decision to defer the adoption of the LTP instruct the Chief Executive to do so and the recommendations in this report enable this decision.

Community wellbeing considerations

34. The purpose of Local Government now includes promotion of social, economic, environmental and cultural wellbeing of communities in the present and for the future ('the 4 wellbeings').
35. The subject matter of this report has been evaluated in terms of the 4 wellbeings during the process of developing this report.
36. The LTP enables the purpose of local government as it sets the activities and budget for the organisation for the next 10 years. The activities of the Council enable all 4 wellbeings.

SIGNIFICANCE AND ENGAGEMENT ASSESSMENT

Assessment of significance

37. On every issue requiring a decision, Council is required to determine how significant a decision is to the community, and what the corresponding level of engagement should be. Council uses the Significance Flowchart in the Significance and Engagement Policy to determine the level of significance.
38. The level of significance related to the decision in this report is considered to be **medium**. Because the decision is determined to have **medium** significance in accordance with the policy, the corresponding level of engagement required is **Kōrero**.

Assessment of engagement

39. As the level of significance has been determined to be **medium**, the level of engagement required is **Kōrero** according to the Engagement Framework of the Significance and Engagement Policy:

KŌRERO

To ask the community for feedback, ideas, opinions, and information about the development process

40. The level of engagement required for the decision to defer the adoption of the LTP plan is **Kōrero**.
41. Council can use its social media platforms (Facebook, Antenno, Connect | Hono Mai) and press releases to communicate the decision to the community. Council can invite informal feedback on the decision as these platforms provide for informal two-way communication.
42. There has been community feedback and engagement carried out during the pre-engagement phase of the LTP so it would also be useful to communicate decisions to the individuals and groups in the community who have actively participated in the LTP process to date.

CONCLUSION

43. The recommendations in this report enable the Council to defer the adoption of its LTP and its 2023-2024 Annual Report.

Stace Lewer

CHIEF EXECUTIVE OFFICER

Ōpōtiki District Council Long Term Plan 2024-34 – Workplan

