

Mayor and Councillors
KAPITI COAST DISTRICT COUNCIL

Meeting Status: **Public**

Purpose of Report: For Decision

REPORT FROM THE CHARGING REGIME ADVISORY GROUP TO COUNCIL AND NEXT STEPS

PURPOSE OF REPORT

- 1 This paper introduces the Charging Regime Advisory Group's (CRAG) report to Council on a recommended formula for consumption based charging for water services, with consumption measured via water meters. It recommends that Council receives the Group's recommendations and uses the proposed formula as the basis for further consultation with the community, prior to making a final decision on the introduction of water meters. The paper sets out a proposed process for that consultation and seeks Council approval to proceed on that basis.

SIGNIFICANCE OF DECISION

- 2 The Council's significance policy is not triggered by this report.
- 3 In 2011/12 under its Significance Policy, the Council formally consulted via a Long Term Council Community Plan (LTCCP) Amendment on a proposed option to introduce water meters alongside the advancement of Stage 1 of the River Recharge Project, the latter addressing water supply matters for the Waikanae, Paraparaumu and Raumati communities (SP-11-168). The Council signalled at that time that it would establish a Charging Regime Advisory Group charged with the task of recommending a charging model to Council.
- 4 On the basis of that preferred model the Council would provide the community with information on the actual costs that a household would incur. This information would give people a clear understanding of the impacts of water services costs for a household under a water meters based charging system, in comparison with the alternative of a water supply investment model without significant constraints on water consumption. The Council stated in the 2011/12 LTCCP Amendment that it would then undertake further consultation based on this information before making a final decision.
- 5 This paper, the proposed consultation and the final decision by Council in June 2012 will proceed in accordance with the process outlined in that 2011/12 LTCCP Amendment. The draft 2012 LTP makes reference to this process and states that the proposed water consultation would proceed in parallel to the draft LTP consultation.
- 6 Notwithstanding the fact that the Special Consultative Procedure is not formally triggered by the Council's Significance Policy, the Council intends to use an extensive consultation process for this matter. This is addressed later in the report.

- 7 As noted above, the Council established a Charging Regime Advisory Group (CRAG) with Terms of Reference, to be chaired by Mr Don Hunn, to recommend to Council a charging formula for water under a consumption based charging regime. This Group was appointed in August 2011 (SP-11-299). The Terms of Reference for the Group are including in the attached CRAG report to Council.
- 8 It is important to note that CRAG was not asked to review or advise Council on the merits or otherwise of water meters and consumption based charging.

CONSIDERATIONS

Report from CRAG to Council

- 9 The report to Council from CRAG is attached at Appendix 1 of this report. The Chair of CRAG, Mr Don Hunn, will speak to the report at the Council meeting. Members of CRAG will also be present.
- 10 The CRAG report is the result of a large number of meetings undertaken by the members and represents very careful consideration of information and of scenarios designed to test impacts. The structure for assessing impacts was specified by CRAG, as were the scenarios that it wished to see tested.
- 11 Once these scenarios were developed and adopted, an independent modelling resource was commissioned on behalf of CRAG, to give it the means to independently test impacts using actual water services costs. The data on water services costs was provided by Council and is derived from the water asset management plan 20 year cost information. This information was independently audited and forms the basis for the water activity costs set out in the draft 2012 draft LTP.
- 12 The CRAG report includes a number of recommendations in addition to the recommended charging formula. The recommendations of this covering report are that Council:
 - receives the report from CRAG;
 - adopts the recommended charging formula and directs staff to immediately prepare information based on this charging formula and information provided in the report, showing the relative impacts for households and businesses, for use in the consultation process (see below);
 - receives the remaining recommendations and directs staff to report back on how these recommendations will be implemented, with that information to be provided at the time Council undertakes its final deliberations after the completion of the consultation process.
- 13 It should be noted that the Council has already approved a draft rates remission Policy – Financial Hardship for consultation as part of the 2012 draft LTP process.

Next Steps: Consultation Process

- 14 The 2011/12 LTP Amendment which proposed the introduction of water meters and consumption based charging recognised that people wished to know more about the impacts of a particular charging regime. The Council also wished to be clear about a charging system, the impacts on particular types of households and users and people's views on those impacts before it made its final decision.
- 15 The Council was also concerned that there was limited understanding by many people that the choice was not the status quo of no substantial increase in what people were paying for water through the current fixed charge and either having water meters or not water meters. It experienced difficulties in ensuring people clearly understood that the choice was either:
- water meters, a further water supply solution for the Waikanae, Paraparaumu and Raumati areas **and** the deferral of the cost impacts of \$36 million of unnecessary funding of increased pipe and system capacity as a consequence of reduced demand
- or:
- no water meters, a solution for the Waikanae, Paraparaumu and Raumati areas **and** an additional \$36 million of work needed to increase pipe and system capacity **because** water demand was unlikely to reduce to a level where that investment could be avoided.
- 16 It was of the view therefore, that further consultation needed to be carried out where people had all the information available on what they would be likely to pay under both scenarios.

The Question of a Referendum Process

- 17 On 17 November 2011 a petition was presented to Council seeking a referendum on water meters: there were 7,662 signatures. This petition has not been checked in terms of duplicate or out of district signatures but even if there are some instances of this happening, this is a substantial petition and the question of whether a referendum is an appropriate tool for Council to use is an important one.
- 18 Councillors are elected as representatives, to make decisions on behalf of the community. They have a responsibility or duty of care to make decisions in a considered way. Section 77 (1) sets out the requirements on Council in relation to decisions. It requires that:

A local authority must, in the course of the decision-making process,—

(a) seek to identify all reasonably practicable options for the achievement of the objective of a decision; and

(b) assess those options by considering—

(i) the benefits and costs of each option in terms of the present and future social, economic, environmental, and cultural well-being of the district or region; and

- (ii) *the extent to which community outcomes would be promoted or achieved in an integrated and efficient manner by each option; and*
- (iii) *the impact of each option on the local authority's capacity to meet present and future needs in relation to any statutory responsibility of the local authority; and*
- (iv) *any other matters that, in the opinion of the local authority, are relevant;*

- 19 The complexity of that task is evident under Section 14 of the Local Government Act which states that:

S 14 (1) In performing its role, a local authority must act in accordance with the following principles:

- (a) *a local authority should—*
 - (i) *conduct its business in an open, transparent, and democratically accountable manner; and*
 - (ii) *give effect to its identified priorities and desired outcomes in an efficient and effective manner:*
- (b) *a local authority should make itself aware of, and should have regard to, the views of all of its communities; and*
- (c) *when making a decision, a local authority should take account of—*
 - (i) *the diversity of the community, and the community's interests, within its district or region; and*
 - (ii) *the interests of future as well as current communities; and*
 - (iii) *the likely impact of any decision on each aspect of well-being referred to in [section 10](#):*
- (d) *a local authority should provide opportunities for Māori to contribute to its decision-making processes:*
- ...
- (g) *a local authority should ensure prudent stewardship and the efficient and effective use of its resources in the interests of its district or region; and*
- (h) *in taking a sustainable development approach, a local authority should take into account—*
 - (i) *the social, economic, and cultural well-being of people and communities; and*
 - (ii) *the need to maintain and enhance the quality of the environment; and*
 - (iii) *the reasonably foreseeable needs of future generations.*

- 20 The Act also provides very strong guidance on the need to ‘make itself aware of community views’ (S14 (1) (b), involve people in decision-making, consult and have, in some cases, clear formal consultation processes. (e.g. Sections 78, 82, 83 and 84).

- 21 The Local Government Act provides for a local authority to hold referenda which can either be binding or non-binding. For some matters, (for example, reorganisation proposals) a referendum must be held if a certain percentage of the voting population sign a petition supporting a referendum. In the case of the

water meter issue, the Council has the discretion as to whether it holds a referendum.

- 22 The Local Electoral Act does not regulate the form of a question that may be the subject of a referendum. However it is clear from the provisions around voting methods that the issue which is the subject of a referendum must be framed in such a way that electors can clearly vote in favour of or in opposition to the proposal. The Citizens Initiated Referenda Act 1993 goes further in providing that the question to be put to the voters 'shall be such as to ensure that only 1 or 2 answers may be given to the question'.
- 23 In its truest sense a referendum is where the power to make a decision is formally passed back to the electorate by those who have been elected to normally make decisions on behalf of that electorate. A non-binding referendum can be likened more to an information gathering exercise where a Council seeks to gauge the views of the community in a formal process where voting papers on a matter are used, rather than a submission process to express community views.
- 24 The Council therefore needs to consider the following:
- In the light of Council's responsibilities in relation to considered decision-making, is it appropriate for the Council to formally hand over its decision-making responsibilities on behalf of the community in a binding referendum?
 - Is a non-binding referendum, which is in practice an information gathering tool to inform Council decision-making, the most effective way to provide the Council with the quantitative and qualitative information it wants to assist its decision-making?
- 25 The key issues that need to be considered in answering the first question are:
- Is the issue complex?
 - Is it capable of being summarised down into a simple question which nonetheless clearly addresses the complexity of the matter?
 - Does the issue involve direct impacts on future generations and could a referendum question ensure this is explicitly addressed?
- 26 The water meters issue is undoubtedly complex. It requires an understanding of how infrastructure is designed and funded over time and the impacts of water consumption on design standards. It requires an appreciation of how water consumption and water supply systems can affect ecosystems and it requires an understanding of how a funding structure such as a flat charge or a consumption based charge affects different groups. It requires an understanding of how cross-subsidy is distributed and consideration of concepts of fairness and social impact. In this particular case it also requires a good understanding of the water supply options that Council has been working on. Water meters also has implications for future generations
- 27 All this information is capable of being provided to the community and Council has made considerable effort to do so in a situation where there has been misinformation about costs and impacts. A key point is people understanding the

relative costs of each scenario and understanding how different households and communities might be affected.

- 28 A more difficult issue is how a referendum question could be framed. In order for each person voting to clearly understand impacts and implications for themselves and others, the question would ideally be structured in a way that makes this clear. At the least it would need to be framed in a way that makes clear that the choice in terms of cost was between the likely household costs for a range of households and the higher known cost of river recharge or a dam on their own. That is, it is not a choice between the status quo and water meters.
- 29 A significant issue is that there was a clear indication from those presenting the request for a referendum that they simply wanted a yes/no question which did not ask the question in terms of relative costs for different households. They were clear that they would be unlikely to accept a referendum question which did not take their preferred approach.¹
- 30 In the context of this approach indicated by the presenters, the question of future generations arises; for example the issue of avoided expenditure (\$36 million) has implications for both present and future generations. The Local Government Act clearly requires this to be a consideration to be taken into account when making a decision. This is hard to convey in a referendum question which must also frame the question around immediate impacts.
- 31 For these reasons, it is not recommended that Council undertakes a binding referendum process. The Council must ensure a question is asked which clearly sets out the choices for present generations and implications for future generations. The petition's presenters were not supportive of a process which canvassed such matters. Council cannot be assured that a binding referendum satisfies its duty of care around responsible decision-making on such a complex and far-reaching matter.
- 32 The question then arises as to whether a non-binding referendum has merit in providing Council with a better understanding of the views of the community. The most important issues for Council in making its decision are:
- do voters understand the options?
 - do voters understand that consumption based charging will have different impacts for different users?
 - what are the voters' views in terms of impacts on their own circumstances? Of particular interest to Council is understanding people's views relative to the way they use water for outside use. This, followed by household size, is the major determinant of water consumption levels.
 - what are voters' view in relation to the long-term picture? Is it important to them?

¹ It was a notable aspect of some submitters to the hearings process for the 2011 LTCCP Amendment that they had chosen to not to read the extensive covering reports responding to questions they had raised. It is important that people are aware of the information that sits behind making a decision on such a complex issue.

- to what extent are voters' concerns coloured by the wider concern about potential loss of control of water management and infrastructure ownership? Are they aware of the Council's changes to standing orders and the significance policy to provide a higher level of protection in this area?
 - what other views or responses do voters have on the proposed charging formula recommended by CRAG?
- 33 A non-binding referendum will not provide Council with this depth of understanding. It cannot provide information on household type, for example, and assess people's views around social impacts, relative to this. There are alternative tools available to Council which will provide a better quality of information and for this reason a non-binding referendum is not recommended.

Recommended Approach

- 34 It is recommended that Council takes the following approach:
- distribution of information to all households and businesses on reticulated water supply who would be affected by introduction of water meters, setting out expected impacts of costs, and broken down by household type. CRAG's recommended charging formula would be used as the basis for showing those impacts.
- This will allow a single person household or a five person household, for example, to understand what it would be likely to face under either water meters or the non-water meters alternatives. This would involve a per household cost comparison between the option of water meters and Stage 1 River Recharge and the full River Recharge option which must include the additional \$36 million that would be incurred for supply capacity over twenty years.
- publication of this information in local newspapers.
 - a call for submissions in parallel to the draft LTP process with hearings held after the close of submissions.
 - undertaking of an independently run and analysed survey of 1,000 households, timed to be after the distribution of the information. This is a very high sample rate and would ensure a very low margin of error, providing Council with robust information.
 - the collation of any responses from the community on the actual funding formula for feedback and discussion by CRAG so that it can address any matters arising and advise Council prior to the latter making its final decision.
 - a report to Council on the results of the consultation processes as part of the final decision process.
- 35 This process would give the Council the best possible information from a good base of a well-informed community. The background information would be distributed in the third week of April and it is proposed that the survey would be

undertaken in early May so that it is as close as possible to the time of distribution and provides time for analysis prior to report back in early June 2012.

Financial Considerations

36 The proposed programme will be funded from existing budgets.

Legal Considerations

37 The Local Electoral Act does provide that a local authority may direct the electoral officer to conduct a referendum on any matter relating to any policy or intended policy. The Council has the discretion as to whether the results of the referendum are binding or not.

38 It is open to Council to decide not to hold a referendum on the basis that the information it would obtain from holding a referendum would not provide Council with high quality information from ratepayers on their views on water meters, given the constraints on framing any question to be put at the referendum. The Council is proceeding as per the intended process set out in the 2011/12 LTCCP Amendment and subsequent reports to Council. .

Delegation

39 Council has the authority to make a decision on the matters covered in this report.

Consultation

40 No consultation is required at this stage. The paper identifies a proposed consultation process for consideration by Council.

Policy Implications

41 There are no policy implications at this stage.

Tāngata Whenua Considerations

42 Representatives of Ngati Raukawa and Te Ati Awa ki Whakarongotai are part of the CRAG membership. They have participated in CRAG discussions.

Publicity Considerations

43 There is very strong community interest in this issue. There will be a programme of press releases and other communication material making people aware of the information and process and encouraging them to participate .

RECOMMENDATIONS

- 44 That the Council receives the report from the Charging Regime Advisory Group as set out in Appendix 1 SP 12-509 and thanks the Chair and the members for the time, effort and thoughtfulness they have put into reviewing and providing a recommendation to Council.
- 45 That the Council adopts the Charging Regime Advisory Group is recommended charging formula as the basis for the next stage of consultation and directs staff to immediately prepare information based on this charging formula and information provided in the report, showing the relative impacts for households and businesses, for use in the consultation process.
- 46 That the Council receives the remaining recommendations of the Charging Regime Advisory Group and directs staff to report back on how these recommendations will be implemented, with that information to be provided at the time Council undertakes its final deliberations, after the completion of the consultation process.
- 47 That the Council thanks the petitioners for the time and effort they took in preparing and participating in the petition received by Council on 17 November 2011 and informs them that it will not be proceeding with a referendum process and invites them to participate in the consultation process adopted by Council.
- 48 That the Council approves:
 - (a) the development and distribution of factual material to all households and businesses within the reticulated water network areas;
 - (b) a formal submission process to commence on 16 April 2012 and end on 23 May 2012, with hearings to follow;
 - (c) an extensive independent survey of 1,000 households.

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ATTACHMENTS:

Appendix 1: Report to Council from the Charging Regime Advisory Group