

Chairperson and Committee Members
OPERATIONS & FINANCE COMMITTEE

15 AUGUST 2019

Meeting Status: **Public**

Purpose of Report: For Information

REPORT BACK ON THE INSTALLATION OF THE ŌTAKI RIVER MOUTH TOILET

PURPOSE OF REPORT

- 1 The purpose of this report is to report back on the installation of the Ōtaki river mouth toilet and to consider how the Council could improve the process for receiving gifted assets.

DELEGATION

- 2 The Operations & Finance Committee has the delegated authority to consider this Report. The 2016-19 Governance Structure and Delegations, Section B.2, states that the key responsibilities of the Committee will include:
monitoring and decision-making on all broader financial management matters including financial policies and the approval of non-budgeted expenditure.

BACKGROUND

- 3 It had long been accepted that there was a need for a toilet facility in the general vicinity of the Ōtaki river mouth as there had been significant ongoing problems with the sanitary conditions of some areas around it. A toilet near the river mouth was part of a Greater Wellington Regional Council Ōtaki Estuary Plan but was the only part of the plan that did not get implemented.
- 4 After many years with no progress, locals began to ask Kāpiti Coast District Council to provide for the toilet. In 2014 the community approached the Friends of the Ōtaki River (FOTOR) to request a public toilet. Over the next 2-3 years FOTOR sought to move the project forward and engaged with the Ōtaki Community Board (the Community Board), the Council and the Greater Wellington Regional Council (GWRC).
- 5 The Community Board made a submission to the Council's 2016/17 Annual Plan to have toilets installed. The submission noted support from the community, FOTOR, and GWRC who also suggested that GWRC work with the Council to assess the feasibility of the project.
- 6 The Council's response to the submission noted that it would consider the placement of toilet facilities at the Ōtaki river mouth once the Community Facilities Strategy was completed, as part of the 2017/18 Annual Plan.

- 7 While there was no Annual Plan commitment to assist with funding of the toilet installation, Council officers supported the project in a facilitative capacity. In early 2017, Council officers met with the GWRC representative for the Kāpiti Coast, and members of FOTOR and the Community Board to discuss the location, needs and costings for a single toilet unit. At the meeting it was agreed that FOTOR would confirm the specific requirements in terms of the exact location and operational characteristics so officers could determine a more informed budget and better understand Resource Consent implications.
- 8 In 2017 the Community Board again made a submission to the Council, this time to its 2017/18 Annual Plan. While the project was still supported, the Council declined to allocate any funding to the project in its 2017/18 Annual Plan.
- 9 FOTOR also made a submission to the GWRC 2017/18 Annual Plan. GWRC responded, noting that its staff were working with the Council to find a solution to this issue and that some suitable areas for the toilets had been identified, one of which was on GWRC land. GWRC also stated its willingness to contribute to installation costs however it believed that ongoing servicing and maintenance of the toilets should be the Council's responsibility.
- 10 Subsequent to this, FOTOR confirmed that it was confident of getting funding for the capital cost of purchase and installation, and that GWRC were happy for the toilet to be installed on their land and that GWRC would also help with the preparation of the land. FOTOR approached the Council for assistance with cleaning, maintenance, water rates and ownership of the toilet facility, and felt that having more certainty around this would assist their funding proposal to the Philipp Family Foundation.
- 11 Over the next few months, the Council and GWRC entered into discussions around the practical issues of where to locate the toilet and the funding implications to everyone involved. In early 2018, agreement was reached that the Council and GWRC would pay for the ongoing operational costs of the toilet on a 50:50 basis.
- 12 At this time, it was thought by FOTOR that the total cost of purchasing and installing the toilets would be around \$50k, and that FOTOR would meet all this cost through funding from the Philipp Family Foundation.
- 13 Subsequently it became clear that FOTOR was unable to find the funds to meet their existing toilet purchase and install budget, and also that their existing budget of around \$50k was likely to be insufficient. Following further discussions, the Council and GWRC agreed to share equally in the additional costs of installing the toilet that were unable to be met by FOTOR.
- 14 Council officers started working on the resource and building consents and, as outlined below, this was a complex, time-consuming and costly exercise. This was due to the chosen location of the toilet being on a contaminated site, in a river corridor with a Waahi Tapu designation, as well as being an eco-site and situated 190 metres from the nearest sewer mains.
- 15 The consenting process concluded towards the end of 2018, with both the required resource consent and building consent achieved. Council officers then tendered for the main contract works for the installation of the toilet.
- 16 Construction started in February 2019 and the project was completed around the end of March.

ISSUES AND OPTIONS

Issues

- 17 The overall outcome was positive – a toilet was installed in the Ōtaki river mouth for use by the community. In addition, the toilet was part-funded externally by the Philipp Foundation through the efforts of FOTOR, and the Council and GWRC worked together to arrange the necessary license and consents and fund the remaining project costs.
- 18 However, the process was not a smooth one and resulted in the significant frustration of a community group and the Council spending money outside of the annual plan process.
- 19 Some of the key issues are discussed in more detail below.

Project costing

- 20 From the outset, in its approaches to the Council, the proponents of the project indicated that the Council would not be liable for the costs of purchasing or installing the toilets. Over time it became apparent that funding for ongoing maintenance would be difficult to find from within the community.
- 21 The FOTOR working budget remained at around \$50k for a significant period of time. The project had always been presented to the Council as being achievable for this amount, and that FOTOR would secure all the funding. Ultimately this didn't take account of many of the significant (and perhaps avoidable if a different location had been used) costs, for example, almost \$10k spent on consultants to achieve the required consents, in addition to the actual consent costs. It is also understood that the Philipp Foundation were open to providing funding for more than just the toilet, possibly up to the budgeted amount of \$50k.
- 22 The project was not fully costed at the outset. At the point at which FOTOR felt that it was not going to receive funding assistance from either council, it is understandable that they might seek to achieve the desired outcome on as small a budget as possible, to both increase their chances of getting external funding and also reducing their risk in the event of not securing funding.
- 23 The potential for final costs to exceed budgeted costs is an ever present risk in project management. While it is not unusual for project costs to increase during the development of a project, it is likely that a more thorough initial scoping and costing of this project would have revealed some of the higher than anticipated costs. For example, a better understanding of the site location, designation and condition – and their cost implications - at an earlier stage would have allowed all parties involved to consider alternative sites for the toilet and make more informed decisions.
- 24 There can be a mistaken perception that, when consenting and delivering its own projects, the Council can do this more cheaply than members of the public. This is incorrect as the Council is obliged to follow all of its own rules, completely and transparently.

Project costs

- 25 The final cost of the project was \$114k, which is made up as follows:

Design and engineering	\$4,920
Consultant costs (for consents)	\$9,645
Consent fees	\$4,813
Contractor installation	\$72,754
Toilet	\$17,541
Ducting	\$1,297
Staff time	\$3,023
Total costs	\$113,993

- 26 The project costs were split as per the below table:

Kāpiti Coast District Council	\$47k
Greater Wellington Regional Council	\$38k
Friends of the Ōtaki River	\$29k
Total cost	\$114k

- 27 This means that the Council had to find \$47k from its capex budget to cover its share. Almost certainly the staff time spent on the project was much higher than the actual recorded costs, due to the complexities of the project.
- 28 Furthermore, the ongoing maintenance costs for the toilet are estimated to be \$8-10k per annum. This cost will be shared equally between the Council and GWRC.

Toilet location

- 29 As noted earlier in the report, there were a number of issues with the chosen site which created complexities and resulted in significant additional time and cost to the project, as well as frustration to all concerned. At an officer briefing in 2018, it was noted that the chosen site was as difficult as was possible, given all of the accompanying constraints.
- 30 A brief summary of the main consenting issues, arising from the location of the toilet, is given below.
- 30.1 The distance from the site location to the nearest sewer main was 190m. The cost implications of trenching and plumbing to install a sewage pipe connection to the nearest sewer main was significant.
- 30.2 The toilet location is included within an ecological site listed in the Kāpiti Coast District Council Proposed District Plan (PDP) Heritage Register. Therefore, an assessment of ecological effects, undertaken by an external consultant was required as part of an assessment of environmental effects as part of the consenting process.

- 30.3 The location was on a contaminated site – assurances had to be sought from GWRC to ensure that there was no contamination that would constrain the proposed toilet installation.
- 30.4 As part of the resource consent process, the applicants consulted with Ngā Hapū o Ōtaki, as tangata whenua of the identified Waahi Tapu site, and written approval to the application had to be provided.
- 30.5 The chosen site is on Crown land managed by GWRC, meaning that significant officer time was needed to achieve the necessary easements and agree the details of a licensing agreement so that the Council could assume ownership of an asset on GWRC land.
- 30.6 The toilet location is also on a river corridor. As this means that nothing should be built there, this was a further complication in terms of being a non-complying activity.
- 31 While not all of the above issues resulted in additional external costs to resolve, all of the issues in aggregate meant that the resource consent was far from straight forward and required significant officer time, and in many cases additional external costs.

Annual plan process

- 32 For both the Council and GWRC, the annual planning process is the appropriate way to transparently introduce and consider projects. The annual plan already comprises projects that have been considered, consulted on with the community and approved.
- 33 The project was specifically considered by the Council as part of both the 2016/17 and the 2017/18 Annual Plans years, and in both years the Council decided not to financially support it. Therefore, there was no funding for the project and also no Council mandate to be involved. In fact, it would be acting contrary to a Council decision if funding was diverted into the project.
- 34 Annual plan-approved projects give Council officers greater ability to progress the project as they have greater assurance over the availability of funds and resources.
- 35 Projects that have not been agreed through an annual plan require additional, unplanned capacity and unbudgeted resource. So in order for these projects to proceed, it's quite likely that other projects have to be postponed or cancelled.
- 36 Once the Council has actively declined an annual plan bid, it is important that this decision is adhered to and that no attempt is made to re-introduce the project outside of the annual plan process. The appropriate process is to try again at subsequent annual plans.

Community initiatives

- 37 The project could have been an opportunity to showcase the Council working in harmony with the community that it serves. Unfortunately, this didn't eventuate and a lack of clarity and structure around the project processes resulted in frustration on both sides.

- 38 Significant ambiguity was created for Council officers with the different messages coming from Elected Members and the Ōtaki Community Board, and the lack of a clear mandate for them to progress the project. On the other hand, FOTOR felt unsupported by the Council and Council officers. They also felt they spent significant additional volunteer time unproductively dealing with the Council.

Options

Gifts to Council and the Community

- 39 It is not readily apparent from the available documentation when, through what forum and with what conditions the Council became financially committed to this project. While many informal and offline conversations could reasonably be expected to take place during the progress of such a project, the point at which the Council becomes committed should be formally recorded. This commitment must be by an individual or committee with the appropriate delegation and should be appropriately and transparently communicated.
- 40 Consequently, it is the officers view that a gifting policy, setting out the key information to be considered and the key criteria to be achieved before a gift can be formally accepted, could assist the decision-making around future gifting proposals.
- 41 A Council policy which outlines the conditions under which gifts to the Council may be accepted, and by whom they may be accepted would provide greater certainty for all parties.
- 42 The Council does not currently have a gifting policy, relating to the receipt of gifts by the Council or community. This can result in:
- a perception that receiving gifts come at no cost to the Council;
 - there is no clear accountability for the management of the gift;
 - unexpected current or ongoing costs to the Council;
 - significant staff time to administer the gift; and
 - the Council taking on liabilities without full consideration.
- 43 A well-written policy should detail what information is required before a gift can be accepted, for example, the costs of delivering, installing (where appropriate) and maintaining the gift.
- 44 Any such policy should also clearly show the delegations required for accepting a gift, and the roles and responsibilities for officers and officials in terms of administering the gift.
- 45 Council officers have started to look at a gifting policy, for gifts relating to the Council or the community. This is distinct from gifts made to individuals (members of staff, Councillors or Community Board members) which are covered in the existing Receipt of Gifts and Hospitality Policy.
- 46 Officers will report back with a draft gifting policy at a future Strategy and Policy and/or Operations and Finance Committee meeting.

CONSIDERATIONS

Policy considerations

- 47 As noted earlier in the report, Council officers are looking at drafting a new Council policy for gifts to be received by the Council or the community.

Legal considerations

- 48 There are no legal considerations arising from the matters in this report.

Financial considerations

- 49 The financial considerations have already been discussed earlier in the report.

Tāngata whenua considerations

- 50 As noted previously in this report, the chosen location for the toilet was a waahi tapu site. as part of the consenting process, the Council has consulted with Ngā Hapū o Ōtaki, as tangata whenua of the identified Waahi Tapu site, and written approval to the application has been provided.

Strategic considerations

- 51 The project directly contributes to the Council's three-year outcome(s) of improved accessibility of Council services by putting a toilet in a well-used area where there are few alternatives. In the same way, the installation of the toilet also contributes to the ten-year outcome of improving the environment through sustainable practices.

SIGNIFICANCE AND ENGAGEMENT

Significance policy

- 52 This matter has a low level of significance under Council's Significance and Engagement Policy.

Consultation already undertaken

- 53 There has been ongoing consultation with the community throughout this process through both FOTOR and the Community Board.

Engagement planning

- 54 An engagement plan is not required.

Publicity

- 55 There are no publicity considerations.

RECOMMENDATIONS

- 56 That the Operations and Finance Committee notes the contents of this report.
- 57 That the Operations and Finance Committee notes that Council officers will draft a gifting policy for consideration.
- 58 That the Operations and Finance Committee notes that the appropriate process for reconsidering previously declined annual plan bids is during subsequent annual plans.

Report prepared by

Approved for submission

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