



Agenda

**Notice is hereby given of
an Extraordinary Council Meeting**

Tuesday 15 December 2020

9.30am

Council Chamber
Waimate District Council
125 Queen Street
Waimate

www.waimatedc.govt.nz

Notice is hereby given that a meeting of the Council will be held in the Council Chamber, Waimate District Council, 125 Queen Street, Waimate, on Tuesday 15 December 2020, commencing at 9.30am.

Elected Members

Craig Rowley	Chairperson
Sharyn Cain	Deputy Chairperson
Fabia Fox	Councillor
Sandy McAlwee	Councillor
Miriam Morton	Councillor
Tom O'Connor	Councillor
David Owen	Councillor
Colin Pankhurst	Councillor
Sheila Paul	Councillor

Quorum – no less than five members

Significance Consideration

Evaluation: Council officers, in preparing these reports have had regard to Council's Significance and Engagement Policy. Council and Committee members will make the final assessment on whether the subject under consideration is to be regarded as being significant or not. Unless Council or Committee explicitly determines that the subject under consideration is to be deemed significant then the subject will be deemed as not being significant.

Decision Making

The Council, in considering each matter, must be:

- i. Satisfied that it has sufficient information about the practicable options and their benefits, costs and impacts, bearing in mind the significance of the decision;
- ii. Satisfied that it knows enough about and will give adequate consideration to the views and preferences of affected and interested parties bearing in mind the significance of the decisions to be made.

Stuart Duncan
Chief Executive

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OPENING

1 COUNCIL PRAYER

The Council prayer is not offered at this meeting.

2 PUBLIC FORUM

There is no Public Forum offered at this meeting.

3 APOLOGIES

The Chair will call for any apologies.

4 VISITORS

Nil

5 CONFLICTS OF INTEREST

As per the Local Authorities (Members' Interests) Act 1968 (as below), the Chair will enquire if there are any Conflicts of Interest to be declared on any item on the agenda, and if so, for any member to declare this interest.

Local Authorities (Members' Interests) Act 1968

Councillors are reminded that if they have a pecuniary interest in any item on the agenda, then they must declare this interest and refrain from discussing or voting on this item and are advised to withdraw from the meeting table.

6 IDENTIFICATION OF MAJOR (URGENT) OR MINOR ITEMS NOT ON THE AGENDA

1. The Chair will call for any major (urgent business) or minor items not on the agenda to be raised according to Standing Orders, as below:

- a. **Standing Orders 3.7.5 – Major Items**

An item not on the agenda for a meeting may be dealt with at the meeting if the local authority by resolution so decides, and the presiding member explains at the meeting at a time when it is open to the public –

- i. The reason why the item was not listed on the agenda; and
 - ii. The reason why discussion of the item cannot be delayed until a subsequent meeting.

- b. **Standing Orders 3.7.6 – Minor Items**

An item not on the agenda for a meeting may be dealt with at the meeting if –

- i. That item is a minor matter relating to the general business of the local authority; and
 - ii. The presiding member explains at the beginning of the meeting, at a time when it is open to the public, that the item will be discussed at the meeting; but
 - iii. No resolution, decision, or recommendation may be made in respect of that item except to refer that item to a subsequent meeting of the local authority for further discussion.

REPORTS

7 GENERAL REPORTS

7.1 ANNUAL REPORT FOR YEAR ENDED 30 JUNE 2020

Author: Tina Stevenson, Corporate Services Group Manager

Authoriser: Tina Stevenson, Corporate Services Group Manager

Attachments: 1. Annual Report 2019-20 (under separate cover) 

PURPOSE

1. To provide Council with the information necessary to approve and adopt the Annual Report for the Year Ended 30 June 2020.

BACKGROUND

2. Sections 98 and 99 of the Local Government Act 2002 require councils to prepare an Annual Report for the financial year just ended and in accordance with the information required by Part 3 of Schedule 10 of the same Act.
3. Councils are normally required to adopt the Annual Report within four months after the end of the financial year to which it relates, so by 31 October. However, due to the impact of COVID-19, legislation was enacted to temporarily extend this deadline to 31 December 2020.
4. The Annual Report is produced pursuant to the requirements of the Local Government Act 2002. The purposes of an annual report as per section 98 (2) are:
 - a. To compare the actual activities and the actual performance of the local authority in the year with the intended activities and the intended level of performance as set out in respect of the year in the long-term plan and the annual plan; and
 - b. To promote the local authority's accountability to the community for the decisions made throughout the year by the local authority.
5. A copy of the Annual Report 2019/20 has been made available to elected members prior to adoption.
6. Audit New Zealand have completed their audit of Council's financial results and performance measures for the year ended 30 June 2020, on behalf of the Office of the Auditor-General. Once the Annual Report has been approved by Council the Letter of Representation will be signed and forwarded to Audit NZ.
7. The Letter of Representation contains reference to uncorrected misstatements. The one matter detailed in this section is in relation to accounting for the former courthouse property at its fair value as at the historic vesting date. This is unable to be corrected in the 2019/20 financial year as the amounts cannot be quantified. The misstatement was deemed to be below the threshold of significance by Audit NZ so has no impact on the audit opinion.
8. Council is expecting to receive an unmodified audit opinion, with an emphasis of matter relating to the Covid-19 pandemic. This means that in the opinion of the auditors, the financial statements fairly reflect the financial performance and position of the Council and the Council activities performance reporting fairly reflects the levels of service for each group of activities for the year ended 30 June 2020.
9. Upon receipt of the Audit Opinion, Council may then adopt the Annual report.
10. In accordance with section 98 (4) of the Act within one month after adoption, the Annual Report and a summary of the information contained within must be made publicly available.
11. The Annual Report summary "must represent, fairly and consistently, the information regarding the major matters dealt with in the annual report" (section 98 (5)). The summary does not require Council resolution and will be made publicly available.

12. A high level summary of the financial results for the Annual Report and the related variance explanations were discussed at a Council Workshop held on 15 September 2020.
13. The Annual Report details a deficit of \$284,000, favourable in comparison to the budgeted deficit of \$326,000. The significant variations from the 2020 Annual Plan are detailed in Note 31 of the Annual Report with the narrative as follows:
 - a. Rates income exceeded budget due to a change in accounting treatment for Downlands Water Supply. Council's interest in the Downlands Water Scheme has been accounted for as a joint operation under PBE IPSAS 37, therefore Council has recognised in its financial statements its assets, liabilities, revenue and expenses relating to its share in the arrangement. The Annual Plan budget was based on the equity method.
 - b. NZ Transport Agency government grants income was less than the Annual Plan budget due to reduced capital spends.
 - c. Financial contributions exceeded budget due to increased economic activity.
 - d. Fees and charges income exceeded budget mainly due to increased camping revenue at the Waitaki Lakes, and also increased income for building consents and health and liquor licenses. The Waste Management activity had reduced fees and charges, compared to the Annual Plan budget, following Level 4 Covid.19 lockdown restrictions, however this was partially offset by reduced contractor costs over the lockdown period.
 - e. Gain on changes in fair value of forestry assets are the gains Council receive based on the Annual Forest Valuations, the gains on tree growth. This year saw a reduction in forest values due to price changes.
 - f. Council received a donation towards the build of a garage for the community vehicles at the Waimate Event Centre.
 - g. Employment Benefit Expenses were below budget due to vacant positions and the timing of staff replacements.
 - h. Councillor remuneration, determined by the Remuneration Authority, exceeded the Annual Plan forecast.
 - i. Depreciation and amortisation expenses exceeded budget, predominately due to the Roothing activity, where asset values and associated depreciation increased at 1 July 2019 compared to the basis for the Annual Plan forecast. The Downlands Water Scheme depreciation expense also exceeded budget, due to the change in accounting treatment (as noted above).
 - j. A reduction in the need for legal expertise and consultancy has resulted in expenditure favourable to budget.
 - k. There were no District Plan Review expenses incurred this year. The budget for this expenditure will be carried forward to the 2020/21 financial year.
 - l. Economic Development, Promotions and Council Initiatives expenditure is below budget, with the budget to be carried forward to the 2020/21 year for implementation of the Economic Development strategy and initiatives.
 - m. Electricity costs exceeded budget mainly in the Rural Water Schemes areas.
 - n. Some roading emergency works was completed during the year following rainfall events. Other roading operational scheduled maintenance exceeded budget due to increased focus on unsealed pavement maintenance and metalling.
14. The draft Waimate District Council Annual Report 2019/20 proposed for adoption is available to access on Council's website as a separate agenda document due to its size.

PROPOSAL

15. That Council, having completed and reviewed its Annual Report for the Year Ended 30 June 2020, approves and adopts the Annual Report.

16. This is the only option considered as adoption of the Annual Report is a statutory requirement.

ASSESSMENT OF SIGNIFICANCE

17. This matter is not deemed significant under the Council's Significance and Engagement policy.

FINANCIAL**Budget**

18. The costs for preparing the Annual Report are met from operating expenditure and provided for on an annual basis. No additional expenditure is required.

Cost-effectiveness

19. Cost-effectiveness consideration is not applicable.

RECOMMENDATION

- 1 That the Annual Report for the Year Ended 30 June 2020 report is accepted; and
- 2 That Council approves the Annual Report for the Year Ended 30 June 2020; and
- 3 That Council adopts its Annual Report for the Year Ended 30 June 2020; and
- 4 That the Chief Executive be provided with the authority to make typographical or formatting changes and corrections necessary for publishing the document.

7.2 MEMORANDUM OF UNDERSTANDING WITH WAIMATE MTB RIDERS INCORPORATED AND TRACK APPLICATION

Author: Dan Mitchell, Asset Group Manager

Authoriser: Stuart Duncan, Chief Executive

Attachments:

1. Draft Memorandum of Understanding [↓](#) 
2. Track application form [↓](#) 
3. Proposed track map [↓](#) 

PURPOSE

1. The purpose of this report is to seek Council approval to enter in to a Memorandum of Understanding with the Waimate MTB Riders Incorporated (see attachment 1). Additionally, a track application is attached for consideration (see attachments 2 and 3).

BACKGROUND

2. The Waimate MTB Riders Incorporated have approached Council for approval to install a mountain bike track along the true right of the Waimate Creek between the Point Bush Road bridge and the concrete ford located on Mount John Road.
3. The track follows a similar alignment to the Naylor's track and associated extension on the true left of the Waimate Creek.
4. The proposed track is to be located, predominantly, within Council controlled Local Purpose Reserve. Some sections of the track deviate within riverbed in a similar manner to sections of the existing Garlands Track walkway.
5. The Waimate MTB Riders Incorporated have indicated that the track will be formed entirely through existing scrub rather than useful grazing land.
6. Furthermore, a draft of the Memorandum of Understanding (as presented) has been already been approved by the Waimate MTB Riders Incorporated.

PROPOSAL

7. In order to formalise the arrangement a "licence to occupy" or similar was considered. Staff felt that this mechanism would suit singular applications such as fencing a section of road (whether formed or unformed), but did not provide for future instances of similar track applications.
8. Upon review, the Memorandum of Understanding between the Waimate District Council and Trackways Incorporated represented a useful template that could be modified to suit this particular application, and allow for future applications for the use of Council controlled land within the district.
9. However, no further applications / tracks are currently being considered.
10. A copy of the proposed Memorandum of Understanding is attached for consideration.

Options

11. Options available are:
 - a. Council enters into a Memorandum of Understanding with the Waimate MTB Riders Incorporated and considers the application to install a mountain bike track; or
 - b. Council considers the application to install a mountain bike track and enters in to an isolated agreement relating to construction, maintenance and operation of the track; or
 - c. Council considers the application and declines the application.

ASSESSMENT OF SIGNIFICANCE

12. This proposal is not deemed significant in terms of the Significance and Engagement Policy.

CONSIDERATIONS

13. Mountain biking has become an increasing popular sport within the Waimate District and is attracting riders from surrounding districts.
14. These riders are currently using the walkways and a separation of use would increase safety whilst also ultimately creating a “loop” from the Studholme car park through to the Point Bush Road car park. Both providing access to the network of walking and mountain biking tracks.

Legislation

15. Reserves Act 1977.

FINANCIAL

16. All work is to be funded by the Waimate MTB Riders Incorporated.

Budget

17. No council budget requirement.

Cost-effectiveness

18. Cost-effectiveness has been considered.

RECOMMENDATION

1. That the Memorandum of Understanding with Waimate MTB Riders Incorporated and Track Application report is accepted; and
2. That Council approves the Chief Executive to sign the Memorandum of Understanding between the Waimate District Council and the Waimate MTB Riders Incorporated with (or without) amendments; and
3. That Council approves the installation of a mountain bike track on the true right of the Waimate Creek between the Point Bush Road Bridge and the Mount John Road concrete ford within the Local Purpose Reserve.

MEMORANDUM OF UNDERSTANDING

Dated this day of 2020

PARTIES

The Waimate District Council at Waimate, a Local Authority under and by virtue of the Local Government Act 2002

and

Waimate MTB Riders Incorporated, acting independently through its committee, members, volunteers, and contractors.

PURPOSE

The purpose of this Memorandum of Understanding ("**the Agreement**") is to identify the respective roles and responsibilities of Waimate District Council ("**Council**") and Waimate MTB Riders Incorporated ("**the Group**") in relation to work undertaken at or on any areas owned or controlled by the Council in the Waimate District ("**the land**").

This Agreement is intended to record the mutual understanding and good faith of the parties. It is not intended to create a legally binding relationship.

GUIDING PRINCIPLES

1. Council agrees to the Group planning, developing and maintaining tracks on the land.
2. The Group will make formal application for pre-approval of any new tracks on the form provided in **Appendix 3**.
3. The Group will either use experienced or professional trail builders for the construction of new tracks or use uniform standards such as those standards stated in **Appendix 1**.
4. The Group agrees to maintain all tracks to the standards applicable to that track.
5. No structures are to be built on the land without prior written approval from Council. All structures will be required to meet the Council's standards and any consent requirements.
6. The Group will discourage inappropriate use of the facilities.

7. If the Group ceases to exist the Council is not obligated to continue to maintain any of the facilities developed or managed under this Agreement.
8. All tracks on the land will be non exclusive and the public will have free access unless specifically identified in **Appendix 2**.
9. All signage on the land will be to the Council's standard. The signage will identify those tracks maintained by the Group.
10. Both parties agree to acknowledge the other party in any media or publicity relating to the tracks covered by the Agreement.
11. The Council may enter similar agreements with other Groups over the land or part thereof.

TERMS OF AGREEMENT

The Council and the Group agree the following:

Administration and Management

12. The Council retains statutory responsibility for administration and management of the land through its Asset Group Manager.
13. The Council will, in consultation with the Group, monitor the effectiveness of this Agreement for the benefit of both parties.

Consultation

14. Upon receipt of any application for a concession to operate activities affecting the tracks covered under this Agreement (including any request for grant of licence, lease, permit or other approval) the Council shall consult with the Group. Consultation shall be undertaken in a manner which gives the Group the same opportunities as other effected parties to provide a response to Council prior to completion of the Council's consideration and determination of the concession application.

Health and Safety Plan

15. The Group shall prepare a Health and Safety Plan to cover all activities undertaken by its members, volunteers, and contractors who undertake work on the Group's behalf. This plan shall identify and take account of potential hazards that the members, volunteers, contractors, or the public may encounter and specify measures that will be taken to eliminate, isolate or minimise those hazards.
16. The Group shall ensure that its members, volunteers, and contractors working on the land under its direction are fully briefed and aware of the Group's Health and Safety Plan.
17. The Group will provide an updated copy of the Health and Safety Plan to the Council in March annually.

Insurance Cover

18. The Group or nominated contractor, is required to have and maintain Public Liability and Fire insurance cover to levels appropriate to the works being undertaken. The Council is to be provided with evidence of the cover on a yearly basis to coincide with the above.

Operational Management

19. Where any activity undertaken by the Council may affect the work of, or be of interest to the Group, the Council will consult with the Group or, where appropriate, its members, volunteers, and contractors.
20. Where any activity undertaken by the Group affects the operational management of the land by the Council, the Group shall obtain prior approval from the Asset Group Manager. Such activities shall include:
 - i. Expenditure of moneys on, or undertaking of any work, or the carrying out of any activity in or on the land unless in accordance with a concession granted to the Group or in accordance with an approved annual works programme.
 - ii. Entering into any agreement with any authority, obtaining any rights privileges or concession or exercising the same which may affect the operational management of the land.
 - iii. Publishing written material which refers to the Council or erecting any permanent sign or interpretive display at or on the land.
21. Both parties shall give priority to the sharing of relevant information which furthers the primary objectives of their relationship. Neither shall intentionally withhold information because it is not requested. Proactive volunteering of information shall characterise the co-operative nature of the relationship.

Land Use and Access

22. The Group acknowledges that all fixed assets on the land are part of the public estate for which the Council has administrative responsibility.
23. The Group acknowledges that where it provides any fixed assets then these will transfer to the public estate, unless otherwise agreed. Conversely the Council recognises that any movable assets brought to the land by the Group shall remain their property unless otherwise agreed.
24. The Asset Group Manager may approve in writing, or by contract or concession under any terms or conditions, the use by the Group of the land, or parts thereof for works, storage and/or educational purposes.
25. The Council will facilitate access to the land as required by the Group for the purpose of meeting their objectives. Requests for access shall not be denied without just cause.

Work Programmes

26. The Council and the Group jointly recognise the importance of the Group's ability to provide funds, labour, materials and organisational support for specific works on the land. In order to facilitate the planning and execution of such projects the Group will annually, on or before 31 March submit to the Asset Group Manager, a draft of its intended works programme for the following financial year, beginning 1 July. The draft works programme shall contain broad details of intended projects, describing indicative start and completion dates, and whether work will be done by the Group and its members, volunteers or an outside contractor.
27. No work will commence on the land until the work programme has been approved in writing by the Asset Group Manager. Applications to amend the annual works programme or any individual project must be made to, and approved in writing by the Asset Group Manager. No work involving any such amendment can commence until approval has been obtained.

Agreement Modifications and Disputes

28. This Agreement has been prepared to clarify the positions of the Council and the Group and to assist in their relative understanding between each other. Inevitably changes to the Agreement will be required. The Agreement can only be modified by written agreement between the two parties.
29. Any disputes or differences between the parties in relation to the interpretation or performance of this Agreement shall be raised in the first instance with the Asset Group Manager and secondly with Council's Chief Executive. If the dispute or difference is unable to be resolved through this process the parties may agree to refer the matter to an independent mediator.
30. Either party may withdraw from the Agreement by giving thirty (30) days notice in writing to the other party.

Media Interest and Publicity

31. The Group may make media releases about achievements made pursuant to this Agreement. Media releases will include acknowledgement of the support and involvement of the Council. The Group may also undertake media releases about achievements and develop promotional material in relation to this Agreement and these will also acknowledge the role of the Council.

Term of Agreement

32. The Council and the Group shall enter into this Agreement for an initial period of five (5) years subject to any mutually agreed amendments. At the end of this period this document shall be reviewed by both parties and may be renewed by mutual agreement.

SIGNED by:
Chief Executive
Waimate District Council

S Duncan

In the presence of:

Print Name

Date

SIGNED by:
Chairperson
Waimate MTB Riders Incorporated

Print Name

In the presence of:

Print Name

Date

APPENDIX 1

Agreed Standards:

When developing new tracks, the following publication is referred to, to ensure tracks are in keeping with current agreed standards:

- [Recreation Aotearoa New Zealand Mountain Bike Trail Design & Construction Guidelines \(July 2018\)](#)

This represents the minimum acceptable standard.

APPENDIX 2

Tracks identified as having restricted access:

None

APPENDIX 3

Application form for new tracks on land owned or controlled by Waimate District Council:

APPLICATION FORM

Part I – Applicant to complete

Waimate MTB Riders Incorporated applies to the **Waimate District Council** to establish a cycling track on land which is owned or controlled by the Council.

Legal Description of the property (*please complete*)

Physical address of the property (*please complete*)

Does this track adjoin any existing track(s)? If so, please provide details

Please provide a brief description of the project

Target start date for this project

Target end date for this project

- Please **attach** an aerial photograph of the land, clearly showing the proposed track and any other information which you believe would be helpful in considering this application.

Signed by _____
(Applicant)

Name _____

Title _____

Date _____

Note:

This application should be forwarded to the Asset Group Manager, Waimate District Council, as early as possible to ensure that an agenda item is able to be presented to council for consideration.

Part II - For Council's Internal Use

Application Received by

Name _____

Title _____

Date _____

Item considered at Council meeting on Date _____

Request Approved Yes / No

Reason _____

Applicant advised Yes / No Date _____

- Copies of decision and advice to applicant **attached**

APPLICATION FORM

Part I – Applicant to complete

Waimate MTB Riders Incorporated applies to the **Waimate District Council** to establish a cycling track on land which is owned or controlled by the Council.

Legal Description of the property (please complete)

Valuation No: 2515 037701

Physical address of the property (please complete)

Council Reserve between Point Bush Road & Mount John Road

Does this track adjoin any existing track(s)? If so, please provide details

Across the road from Gortlands Track at one end and across the road from the planned A+P Loop at the other end.

Please provide a brief description of the project

One way MTB Trail from Point Bush Road to Mount John Road. Grade 3. A trail that will make it easy for inexperienced riders to gain + practice new skills. By making it one way only it makes it safer as it removes the risk of colliding. Taylors track would be used for riders wanting to ride back up the river.

Target start date for this project

January 11th 2021

Target end date for this project

February 14th 2021

- Please **attach** an aerial photograph of the land, clearly showing the proposed track and any other information which you believe would be helpful in considering this application.

Signed by K. J. Bisset
(Applicant)
Name Kenneth Buckingham
Title Whitehorse MTB Riders Inc Past Presdt, current committee member
Date 6-12-2020

Note:

This application should be forwarded to the Asset Group Manager, Waimate District Council, as early as possible to ensure that an agenda item is able to be presented to council for consideration.

Part II - For Council's Internal Use

Application Received by

Name _____
Title _____
Date _____

Item considered at Council meeting on _____ Date _____

Request Approved _____ Yes / No

Reason _____

Applicant advised _____ Yes / No _____ Date _____

- Copies of decision and advice to applicant **attached**



MEETING CLOSURE