

---

**MINUTES**  
of the  
**FULL COUNCIL MEETING**  
held  
**9.30am, Friday, 30 November 2018**  
at  
**Tasman Council Chamber, 189 Queen Street, Richmond**

---

**Present:** Mayor R Kempthorne, Councillors T King, S Bryant, P Canton, M Greening, K Maling, D Wensley, D McNamara, A Turley, S Brown, D Ogilvie, T Tuffnell, P Hawkes, P Sangster

**In Attendance:** Chief Executive (J Dowding), Executive Assistant (H Simpson)

**Part Attendance:** Community Development Manager (S Edwards), Corporate Services Manager (M Drummond), Engineering Services Manager (R Kirby), Environment and Planning Manager (D Bush-King), Principal Legal Advisor (L Clark), Communications Officer (B Catley)

Mei Fern Johnson, Gareth Worthington, Bevan Peachey – Russell McVeagh

Murray Harrington - Pricewaterhouse Cooper

James Winchester – Simpson Grierson

## **1 OPENING, WELCOME**

Mayor Kempthorne welcomed those present to the meeting. He acknowledged the presence of the media and advised that some media representatives would be filming during parts of the meeting. The Mayor also explained the guidelines for public forum and advised that because of the high level of interest in speaking at public forum and to enable the maximum number of people to speak, time per speaker would be limited to three (3) minutes.

## **2 APOLGIES AND LEAVE OF ABSENCE**

Nil.

---

### 3 PUBLIC FORUM

**Louise Coleman** spoke in opposition to the Waimea Dam. She said she believed the project was flawed. She urged Councillors to consider representation of the Tasman District when they exercised their vote and to value democratic process.

**Victoria Davis** said that the Golden Bay community were largely opposed to the project and did not support funding what was predominantly an irrigation scheme. Ms Davis alleged that the Mayor had used his casting vote to block a referendum on the Dam, but that the people of Golden Bay had a right to express their opinion.

Ms Davis said that people should be responsible for installing and paying for their own water tanks and irrigation systems.

**Maxwell Clark** tabled copies of a pamphlet that had been previously circulated within the Brightwater settlement. He also tabled copies of the notes from which he spoke.

He alleged that in the event of an earthquake, the Dam would fail and the effects on the Brightwater community would be catastrophic and potentially fatal. He urged Councillors not to support a project that posed such risks.

**Shona McBride** said that she no longer wished to use her reserved public forum speaking slot and that her thoughts had been expressed by the comments previously made by Maxwell Clark.

**Reg Turner** said that the majority of ratepayers were opposed to the Dam. He said that Councillors had a duty to honour the declaration they made when elected, to serve in the best interests of their community. He offered the opinion that Councillors have an obligation to be ruled by the will of the majority.

**Murray Dawson** spoke about aquifer recharge rates. He also talked about the difference between rationing and restricting, the latter of which he said could be avoided by actively reducing losses from the current water supply system.

**Roger May** said that he was not opposed to water augmentation for the purposes of irrigation. He said that there had been no full cost benefit analysis of the Dam project and that the proposed scheme was a large irrigation scheme and not core water supply infrastructure. He said the figures that formed the basis for allocating operational and capital expenditure for the Dam had been grossly exaggerated.

Mr May said there was also the issue of 144 unresolved risks in the risk register.

**Kevin Walmsley** said that everyone at the meeting was present to represent the best interests of ratepayers. He said that he was not 'anti Dam', but that he did not believe the Waimea Community Dam project was viable. Mr Walmsley suggested two measures be put in place to limit the risk to ratepayers. He said Council should undertake a full credit check of all WIL shareholders and that there should also be a capped, fixed price contract in place.

He urged that Council's decision must consider all ratepayers. Mr Walmsley tabled a copy of two proposed motions that covered the recommendations he had spoken to.

**Catherine Hughson** said that she was not opposed to Dams, but that the current scheme represented the privatisation of water. She said ratepayers were rightly concerned about the unaffordability of the Dam and asked what risk analysis had been undertaken. She talked to the effect of funding the Dam to the delivery of future infrastructure projects. She also suggested the consideration of smaller, more flexible water storage options.

Ms Hughson asked Councillors to delay the decision on whether to proceed with the Dam until the project could be independently reviewed under the Government's Three Waters Review.

**Colin Johnson** spoke about Pugh Road Holdings, which he said was held in the Maling Family Trust. He alleged that new titles were issued for land on 5 June 2018 and that as of 6 June 2018 land became owned by Valima. He said that the Maling family trust maintains 6.6 hectares.

He asked whether Cr Maling's interests had been appropriately captured in the Interests Register as at December 2017 and whether if a pecuniary interest did exist, this would affect the use of the Mayor's casting vote.

**Lew Solomon** said that he was not opposed to the Dam when it was estimated at \$82 million, but that at its current price, it exceeded other options. Bond Construction 2018 report?? Mr Solomon also alleged that he had been denied access to the 2018 Bond Construction report.

**Hon Dr Nick Smith** thanked Council for the opportunity to speak to such an important decision for the future of the region.

Dr Smith said that the Parliamentary Select Committee had heard submissions on the Local Bill, of which 18 had been from environmental scientists with technical backgrounds in river ecology. He said that all of these technical experts had agreed that the Dam scheme was the best option for the health of the river.

Dr Smith acknowledged every infrastructure scheme council takes on brings about challenges. He said that what was unique about the Dam scheme was the scale of funding that he been secured from other sources for the project, and the deadlines associated with that funding. He said it would be a huge travesty if those funds were lost.

Dr Smith reminded Councillors of the 17 years of debate that had gone into the lead up to today's decision. He said that those who claim there has not been consultation are wrong and that it would be a mistake and a disservice to the community to throw away the \$55m of private and government funding on offer.

He also noted that two Ministers for the Environment on opposite sides of the political fence were unified in their support for the project.

Dr Smith reminded Council that the Country was watching them. He said there are those that say Councils are not up to the challenge of making these significant decisions for the community and urged Council to send a powerful signal that this is not the case.

**Philip Malcolm** spoke as an orchardist in support of the Dam. Mr Malcolm said that he and his sons operated a family business and employed approximately 20 people. He said that water was essential to fruit growing, but that it was also needed for the town, as it continued to grow and water was vital for everyone. He said that the augmentation scheme was not just for the irrigators.

Mr Malcolm said that the Dam would also benefit the river and ensure its health for future generations. He implored the Council to be progressive in its thinking. He also said that 94% of New Zealand's politicians supported the scheme and that Council should to.

**Ursula O'Donohue** spoke on behalf of JS Ewers Limited. Ms O'Donohue said that her role as the Finance Manager for JS Ewers involved similar considerations as Councils around cost and risk. She said that the business faced many challenges but were invested in the community, employing over 170 staff including local residents as permanent staff. She said that they wanted a secure future for those staff and for the community. She also said that there are local businesses including retailers that rely on JS Ewers for their own operations. Without water these businesses cannot continue to operate or grow, or to employ or engage suppliers. Ms O'Donohue said that JS

Ewers believe the Dam is important for the whole community and while they understand this will come at a cost, they are so committed to the project that they are investing in 6 times the number of shares required. Additional investment in the Dam has meant deferring other investments in business, but such is their acknowledgement of the importance of the project.

**Max Spence** talked about the extensive growth that had occurred in Richmond in recent years. He said that the projection was for growth to continue into the future. The Dam was an investment in the future and if previous generations had taken an approach not to invest in future infrastructure, the region would not be in the position it was faced with today. He urged Council to make a decision in the interests of the future of the District for all of the community - urban, rural and irrigators alike.

**Daniel Mason** spoke on behalf of Heartland Fruit. He said that there was a team of over 50 permanent staff who were all locals and that the firm took pride in being able to offer the security of work to so many locals. He said in peak season they took on an additional 100 staff. Mr Mason said that water was critical to ensuring they could continue to grow their crops, supply their customers and employ their teams. He said the Dam would give their customers and staff security of supply long into the future.

**Mike Glover** spoke in support of construction of the Waimea Dam. Mr Glover said that infrastructure funding was about creating options for the future. He said that no one can be 100% sure exactly how much water the region will need in future, but what is known is that more water is needed to support the aspirations of a prosperous community. He reflected on what Nelson Tasman would be like today without investment in the past in the Port and Airport and other such projects.

**Pierre Gargiulo** spoke as the Chair of the Waimea East Irrigation Co. He talked about the effects of new consent regulations. He also talked about the value of the export revenue to Tasman and district brought by growers in the region.

Mr Gargiulo acknowledged that the Dam will come at a cost, but said that the costs to the region of not having the Dam will be greater.

Cr Maling spoke to the accusations levelled against him during public forum. Cr Maling said that earlier this week he had been advised by the Office of the Auditor General that a third allegation had been made against him. Cr Maling read the content of the letter provided by the Office of the Auditor General, following their investigation in response to this latest allegation. The letter surmised that the Office of the Auditor General were satisfied the allegation should not be upheld. Copies of that letter were also tabled for Councillors information.

Mayor Kempthorne thanked those who spoke during the public forum for their time. He advised that the meeting would break shortly for morning tea and would reconvene in committee. He said that anyone wishing to be contacted once the meeting would be resumed in open session should write their name and contact telephone number on the sheet provided.

*The meeting broke for morning tea at 10.41am and was reconvened at 10:55am.*

#### **4 DECLARATIONS OF INTEREST**

Nil.

**5 LATE ITEMS**

Nil

**6 CONFIRMATION OF MINUTES**

Nil

**7 PRESENTATIONS**

Nil

**9 CONFIDENTIAL SESSION****9.1 Procedural motion to exclude the public**

Moved Cr Tuffnell/Cr King  
CN18-11-17

Noting the presence of Council's legal advisers:

Mei Fern Johnson, Gareth Worthington, Bevan Peachey – Russell McVeagh

Murray Harrington - Pricewaterhouse Cooper

James Winchester – Simpson Grierson

That the public be excluded from the following part(s) of the proceedings of this meeting. The general subject of each matter to be considered while the public is excluded, the reason for passing this resolution in relation to each matter, and the specific grounds under section 48(1) of the Local Government Official Information and Meetings Act 1987 for the passing of this resolution follows.

This resolution is made in reliance on section 48(1)(a) of the Local Government Official Information and Meetings Act 1987 and the particular interest or interests protected by section 6 or section 7 of that Act which would be prejudiced by the holding of the whole or relevant part of the proceedings of the meeting in public, as follows:

**9.2 Confidential Waimea Community Dam - Project Agreements**

Reason for passing this resolution in relation to each matter	Particular interest(s) protected (where applicable)	Ground(s) under section 48(1) for the passing of this resolution
The public conduct of the part of the meeting would be likely to result in the disclosure of information for which good reason for withholding exists under section 7.	s7(2)(i) - The withholding of the information is necessary to enable the local authority to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations).	s48(1)(a)  The public conduct of the part of the meeting would be likely to result in the disclosure of information for which good reason for withholding exists under section 7.

**9.3 Tasman District Council - Appointment of Fourth Director**

Reason for passing this resolution in relation to each matter	Particular interest(s) protected (where applicable)	Ground(s) under section 48(1) for the passing of this resolution
The public conduct of the part of the meeting would be likely to result in the disclosure of information for which good reason for withholding exists under section 7.	<p>s7(2)(a) - The withholding of the information is necessary to protect the privacy of natural persons, including that of a deceased person.</p> <p>s7(2)(i) - The withholding of the information is necessary to enable the local authority to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations).</p>	<p>s48(1)(a)</p> <p>The public conduct of the part of the meeting would be likely to result in the disclosure of information for which good reason for withholding exists under section 7.</p>

**CARRIED**

*The meeting resumed in open session at 12.26pm and broke for lunch.*

*The meeting was reconvened at 1.01pm.*

Mayor Kempthorne acknowledged the CCO Board members elect in attendance, Karen Jordan, Ken Smales and Doug Hattersley and invited them to introduce themselves.

Councillors noted the credentials and extensive experience of the Board members Elect and commented on the high professional standard of the Board.

**Karen Jordan** said that in making their decision whether to take on the role, the prospective members had immersed themselves in the project to date. She said that she had been impressed with the rigour applied to the process to progress the project to the stage it was at now. She observed that to her mind, the project was light on contract management capabilities and that there would be a requirement on the supplier to deliver in this area. She said that this is why there have been recent changes to build that capability up with a lean, but necessary arrangement. She also commented that the funding arrangement with WIL was extraordinary in terms of providing value for money and noted that kind of funding support is unlikely to be offered again. She said that this presented an extraordinarily good opportunity and Council would need to be certain of its decision before letting that go. In summary, Ms Jordan said that she was keen to be involved in the project and felt like the Board have a good position to start from.

**Ken Smales** commented on the rigour applied to date with the contracting and tendering processes and the way in which the project will be delivered safely and efficiently. He said he had spent the last few weeks examining the contracts and the background and that 17 years of background work and research before committing to a project was unprecedented. Mr Smales said that he had been impressed by the depth of investigation of both the physical aspects and into how the project will run. He said that the depth and technical expertise of the project team were strong and that he was confident that a successful project can be delivered.

**Doug Hattersley** said he echoed the comments of the other two Board members in that he was very confident in the project being put forward. He said that expertise and experience would be sought for the construction team and that the level of forecasting gave confidence that any

eventualities could be mitigated should they arise. Mr Hattersley also reflected on the skill of the project team.

## 8 REPORTS

### 8.1 Waimea Community Dam Project

Chief Executive, Janine Dowding was present to speak to the report. Before inviting questions, she gave a brief statement to the current status of the project and the history that has led to this critical point. Ms Dowding talked about the significance both nationally and internationally of the decision before Council. She also said that the undertaking of the Board was to deliver the project to a high quality, on time and to budget.

As to the comments made around public consultation, Ms Dowding offered that the Mayor might like to invite Community Development Manager, Susan Edwards and Simpson Grierson Legal Advisor James Winchester to advise on that matter.

Ms Edwards said that the report contained detailed discussion about Councillors' obligations under the Local Government Act 2002 in relation to decision making and consultation. The particular sections of the report to refer to were 13 and 15.

Ms Edwards offered that Council had two key obligations:

- to consider the reasonably practicable options to address an issue; and
- to understand the views and preferences of their community and those with a particular interest in the matter.

She said that since 1991, Council had been involved in the investigation of water augmentation options for the Waimea Basin. The work has been designed to address the over allocation of the Waimea River and aquifers. During this time, Council has commissioned many reports outlining a range of options, covering 18 different sites. Following the investigations, Council decided that a dam in the Lee Valley was the preferred option to address the problem.

James Winchester endorsed the advice given by Ms Edwards as accurate and compliant with the Local Government Act 2002. Mr Winchester said that Simpson Grierson had reviewed the report (RCN18-11-16) and the consultation material since 2009. He referred to the advice in the letter from Simpson Grierson Partner, Jonathan Salter, to the Chief Executive dated 29 November 2019. In summary, he said that Simpson Grierson had concluded that there has been a high level of compliance in relation to this matter and to the statutory role of Council to meet the current and future needs of the community in terms of key infrastructure.

Councillors acknowledged the extensive time and effort by staff in reaching this point in the project.

The risk carried by Council in offering credit support was discussed. Mr Drummond advised that the ability of WIL to raise additional funds was a direct benefit of the confidence CILL had. He said that the irrigators were at their limit and that the additional Crown funding enabled WIL to improve its cash flow so that it could pay interest and bridge the gap. The revised proposal is in front of Council because the Crown has provided additional funding both directly and indirectly. Advice given to Council previously was correct at the time and the ability to increase was a direct result of the additional funding from the Crown.

Responding to a question around the Provincial Growth Fund application, the Mayor said that no definitive decision had yet been received.

Environment and Planning Manager, Dennis Bush-King advised that the Local Bill had received its second reading in the House. In its submission, the Council recommended a number of changes in relation to rites of first refusal. The Select Committee were of a view that iwi should confirm the drafting of the final Bill before it was returned to the house. The deadline for that feedback was today. Having progressed through two readings, Council can have confidence that the Bill will proceed to its Parliamentary reading.

Council sought clarification on its requirement to amend the Long Term Plan 2018-2028 (LTP), should it decide not to proceed with the Dam. Ms Edwards advised that the motion as moved and seconded complied with the current LTP. A decision not to proceed would be contrary to the levels of service provided for in the current LTP. A provision of the Local Government Act means that Council would have to make a decision in principal today and then consult with the community on that decision, which would fundamentally alter the levels of service previously consulted on. Furthermore, she said that all of the underlying documents would also need to be reviewed including the Growth Strategy and the Activity Management Plans.

In response to a question, Council were advised that rating impact and service impact were within levels contained in the Long Term Plan and close to those provided during consultation, and as such do not trigger a requirement for re consultation.

Councillors requested that the amendments that were made to the in committee motion be reflected in the motion currently on the table. The mover and seconder agreed to their inclusion.

Responding to a question around how the vegetation might affect the water quality, Mr Bush-King advised that the condition contemplated the removal of the vegetation from the footprint. Some of the vegetation will be mulched and left to decompose. Any material remaining will be removed. Responding to a follow up question, Mr Bush-King confirmed that there will be no standing vegetation left in the inundation footprint.

Responding to a question, Mr Drummond said that the project will involve approximately \$5m of additional funding not provided for in the Long Term Plan 2018-2028. He said that it was common for Councils to re organise their capital works programme depending on other more urgent or immediate issues, costs or works that arise and that while not anticipated in this instance, it may be necessary in order for Council to remain under its debt cap.

In response to a question, Council was advised that sampling of bedrock to date had shown that the appropriate levels are present and are consistent with modelling.

Council's commercial portfolio and risk to revenue and financing should Council lose some larger contracts was discussed. Mr Drummond advised that the process ends in 2020, at which point these contracts will be dealt with in the same way as other commercial users – i.e. Council is likely to enter in to new water agreements with those users. The risk of industrial users going with an alternative supply after 2020 was discussed and Council were advised that there was a prohibition in supplying industrial activities outside of the Council's reticulated network.

Councillors were advised that with the increase in price of the project, an increase in development contributions from \$1.9m to \$2.4m could be expected. This would help reduce the price increase in terms as these would not be diverted funds, but additional revenue. Councillors noted that development contributions could only be spent on the growth component to develop additional infrastructure, with which the Dam fits.

Funding from the Commercial Committee was discussed. Council were advised that repayment of the CIIL loan was to be funded from commercial activities and that originally this was a 10 year term loan. Because the term has been extended to 20 years, only \$5m is required each year. The remaining amount anticipated will be used to offset the cost to ratepayers. When



Council take over responsibility in 15 years, it will have built up a reserve and can repay its debt. It was confirmed that no change would be required to the Long Term Plan (2018-2028) as a result of the proposal before Council today.

The hydroelectric option was discussed. Council were advised that this would be a Council owned commercial function and was an option provided for in the agreements. It is a decision of Council how they want to own and operate any hydroelectric element and making provision for this within the project and beyond that it is a decision of Council.

The option of a capped fixed price overall contract was discussed. Mr Kirby advised that this was an option, but Council and irrigators decided last year that with the risk involved the price of a fixed price contracted would be beyond what could be afforded. The current contract price sees only \$9m of the \$66m subject to measure and value items that are not subject to fixed price. The rest is fixed. A complete analysis has been undertaken and the unfixed elements have been covered off in contingencies. The Mayor invited Karen Jordan to comment on this issue. Ms Jordan said that she supported Mr Kirby's statement. The key was delivering value for money. The second issue was around what could be sustained and there was now a much smaller margin of error and greater confidence in the costs given. A lot of work has been done including a full Monte Carlo risk analysis. This assumes all risks will eventuate, which is unlikely. The market will tolerate far less adoption of risk, which is why the staff involved have worked hard to define and quantify risk. Ms Jordan said that Council could be confident that as long as the project had a tough scrum on small part of variable cost, they will drive that to best value.

The total cost of a complete fixed price was not put to tender as it was determined that this would not be best value for money and the process outlined has been selected to ensure best value. Independent audit and estimates were undertaken to ensure a fair value price for project.

There being no further questions, the Mayor invited final comments from Councillors who would like to make them.

Cr Ogilvie made no further comments.

Cr Turley said she felt this was a complex issue with multiple risks. She did not feel that all alternatives have been investigated without bias and said that she would like to have heard more on small dams in the Redwood Valley and Moutere area. She noted that the average life expectancy of a dam is around 50 years, not 100, that the geology at the site is that of rotten rock and also noted that she felt the seismic risks to be significant.

Cr Greening said that he did not support the Dam proposal as it is currently structured. He said that he felt it was flawed on many levels, including in terms of cost, economics and a lack of mandate. He noted his concerns about what he felt was a lack of transparency from WIL around advice on subscribers. He said that some subscribers are industrial users and are not entitled to irrigator supply, but that they should be using urban supply. He also commented on WIL's reluctance to join equally in cost overruns and the risk of further increases. He said he thought there had been a lack of consultation on a go/no-go decision for the Dam. River quality was also not consulted on. Cr Greening made referenced Mike Joy's thoughts on dam flows. He also offered the opinion that earthquake risks were founded. He said that an option to be explored was to reduce extraction to a sustainable level so that the river is healthy and noted that there was no guarantee that businesses or irrigators would still be in the region in 50 years. He suggested a user pays model to encourage more efficient use of the water we do have and to reduce over extraction. He also suggested Council had exceeded its limits and should walk away from the project.

Cr Hawkes said that he took great comfort in the comments made by the Directors elect and that he had confidence in the end result from staff.

Cr Maling noted that the project commenced 17 years ago with a collaborative group and that at that time it had not been viewed as controversial. He said the project was not controversial until it came to working out how to pay for it. He noted that he had previously submitted against the project because he thought the funding model would not work, but that since then the model had evolved. He said that Council are partners in this project and that the irrigators are not the enemy. They are ratepayers and employers in the district. The impact of not proceeding with the Dam to the region will be huge and it was significant that such a large amount of funding from other sources had been committed. In a wet year, irrigators will pay the operating costs and the interest whether they use the water or not. For ratepayers, a significant amount of money goes towards the water they use. In a dry year, priority goes to urban use. He urged Councillors to support the project, reminding them that they had one chance to leave this legacy for future generations. He said that the Dam is the best option for the District, for the future. He concluded by reminding Councillors that if Nelson City did not have the Maitai, their situation would be grave today, noting that this was also a highly controversial project at the time.

Mayor Kempthorne said that he also supported the project. He said it was important to consider all of the comments of the community and that it was also important to look at the facts and basis behind any proposal. He said that the level of external funding committed to the project was outstanding, at \$64m plus concessionary loans. This level of funding will not be available or matched in the future. Mayor Kempthorne reflected that other significant infrastructure had been provided across the Country without controversy. He said that this is a highly controversial project, but that the risks have been rigorously explored and explained and that undertaking something of this nature is never without risk. Any plan B option for urban supply would be significantly more expensive. The Dam option also delivers for the environment. He also said that the Dam has been designed so that it does not collapse, even in the event of a 1 in 100 year earthquake. The Mayor thanked National, Labour and NZ First for their cross Government support. He thanked irrigators for their huge contribution to get to this point, noting that horticulture within the district is important for our economy and these irrigators are part of our community. He thanked WIL and John Palmer, CIIL and local MP Nick Smith for their work and support and Nelson City Council, Fish and Game and iwi for their initial involvement.

Cr King reflected that the project comes as a whole, with elements that are favourable and less so. He said that the most robust solutions are those that are arrived at collectively, involving central and local government, private enterprise and iwi. While this is the biggest project this Council has come across to date, it may not be in the future. There are parts of the project that are not liked, but it is and has been supported continuously for a long time by numerous parties including Fish and Game and Central Government. There will always be reasons not to do something on any project Council are faced with. Cr King said that the questions asked around the Council table and by members of the community have added to the rigour of processes to date and that he would disagree with anyone who says there has not been enough questioning or rigour around the project. He said that he was supportive of the project and of a cooperative approach.

Cr Sangster noted that he had been both supportive and unsupportive of the project through the years. He said that he had received a lot of feedback from the community recently and throughout the process. He was supportive of a commercial hydroelectric venture. While he still had some concerns about finance, he was supportive of the funding model. He urged Council to be progressive in its thinking and referenced the controversy at the time around previous projects that have been successfully completed and are now never mentioned.

Cr Brown said that this was not an easy project, but that she believes this model gives the best value for money for the community. She said that she takes confidence in the comments made by the Directors elect with their combined experience and expertise. She thanked those members of the community who have taken the time to contact her and other Councillors with their opinions. She also said that from the feedback she had received, it was not accurate to say that there is one voice in Golden Bay; many have contacted her with their comments of support.

Cr McNamara said that initially he had been supportive of the Dam, but that he had since changed his position. He said that he felt the project should have been parked when the irrigators advised they could not afford the Dam and questioned the affordability of the project for ratepayers. He said he thought that Council had still not secured a future supply of water, but that it had effectively over allocated the water supply. Debt does not give domestic water supply security and does not give domestic users priority.

Cr Wensley said that she was proud to be part of this Council and community. She said that Council could not be accused of not giving this project thought and analysis. She reflected that Councillors had exhausted themselves over consideration of this project. She said that she still had concerns around the risk of providing credit security. If the Dam does go ahead, she would urge those who oppose the Dam to have the grace and wisdom to accept the democratically made decision and to let the extremely experienced and competent Directors get on with their job. She also said that she would urge WIL to work collegially with Council in true partnership for the betterment of the community.

Cr Canton said that he supported the Dam, despite still having some reservations. He reflected on the 87% support from community through consultation and how Council had an obligation to act in the best interests of the whole community.

Cr Tuffnell acknowledged that there is a very definite need for water. He said that there will be risks, but the project before Council is the best option for the community. He commended staff for their work to get to this point and noted his confidence in the Directors elect. Cr Tuffnell said that he supported the project and believed it to be absolutely necessary for the irrigators and the Council to work together as joint venture partners.

Cr Bryant referenced the drought years in the District during his lifetime. He said that the 2001 drought was at the time a 1 in 100 year drought and the catalyst for starting this conversation. What has changed predominantly since then is the rapid increase in urban development and the expectation that water will come out of any urban tap, at pressure, at any time of day, every day. He said that it was disappointing to hear the negative comments targeted at irrigators, who were partners in this venture and who shared the burden. Their work stands to benefit the regional economy. He said it is important to remember that water is critical for life and is something that cannot be made. The cost sharing agreement between all parties is the best deal Council are going to get and further delays would only see the costs increase. Cr Bryant thanked the political parties involved and thanked staff for all of their work to date.

The Mayor returned to Councillor King for a right of reply. Cr King reminded Councillors that industry entities rely on one another. Primary, secondary and tertiary industries are all interrelated and are all important for our community and GDP. It cannot be determined whether the use of water further into the future will be in the same proportions it is today. It can be said that water is likely to be more valued in the future than it is today. Cr King said that the community view about the quality and availability of water has been heightened through this process. When the facts change, it is OK to change your position and the equanimity to do this is something that should be applauded.

**Moved Cr King/Cr Tuffnell  
CN18-11-18**

**That the Full Council:**

- 1. receives the Waimea Community Dam Project report RCN18-11-16; and**
- 2. agrees it is satisfied that it has considered the range of potential options for water augmentation in the Waimea Plains and notes that it has previously agreed that the Waimea Community Dam in the Lee Valley is the preferred solution to address problems of over allocation and future demand for water; and**
- 3. agrees it has a good understanding of the Tasman community's views and preferences on the Dam proposal and notes that there are widely varying views on the proposal within the community; and**
- 4. agrees to proceed with the Waimea Community Dam proposal, subject to the Waimea Irrigators Ltd and Crown Irrigation Investment Ltd also agreeing to proceed with the proposal; and**
- 5. agrees that the reasons for supporting the Dam proposal include:**
  - a. the broad range of benefits offered by the proposed Waimea Community Dam compared to the alternatives, including addressing Council's water management obligations under the Resource Management Act; the National Policy Statement on Freshwater Management; and the National Policy Statement on Urban Development Capacity; and providing a secure community water supply; and**
  - b. the costs, lower level of benefits, risks and uncertainty associated with the alternatives; and**
  - c. the obligation to provide good quality network infrastructure that is most cost effective for households and businesses; and**
- 6. confirms the Waimea Community Dam proposal will be delivered through Waimea Water Limited (a Council Controlled Organisation); and**
- 7. accepts the total project budget of \$105.9 million, including \$8.5 million of risk and contingency provisions; and**
- 8. notes the construction price for the Dam from the Fulton Hogan Taylor Joint Venture of \$66.3 million; and**
- 9. agrees to Council's total contribution to the project of \$53.7m made up of:**
  - a. Funding from the "Water club" \$12.11m; and**
  - b. District wide and Zone of Benefit Rates funding \$5.5m; and**
  - c. Funding from Development Contributions (Water Supply) \$2.4m; and**
  - d. Contribution from the Enterprise Activity balance of \$2.91m; and**
  - e. Pass through Contribution from Ministry for the Environment Freshwater fund grants \$7m; and**
  - f. Pass through Contribution from Nelson City Council \$5m; and**
  - g. Crown Irrigation Investments Limited /Council Environmental and Public Good Loan \$10m; and**

- h. Pass through funding from the Local Government Funding Agency to Waimea Water Limited \$ 8.75m; and

10. notes that its contribution outlined in 9. above will be funded in part by:

- a. borrowing through the Local Government Funding Agency of approximately \$26.4m and on-lending of \$8.75 m, under a 40 year table loan, to Waimea Water Limited (WWL), with the finance costs for that \$8.75m being included in the operating charge to Waimea Irrigators Limited (WIL) for the first 15 years and to Council for the remaining period of the loan; and
- b. accepting a 20 year zero interest rate Environmental loan of \$10m from Crown Irrigation Investments Limited (CIIL) with four equal \$2.5m repayments at five yearly intervals from financial close; and
- c. utilising approximately \$250,000 per annum of the money saved by the reduced repayments on the CIIL Environmental Loan, and any addition funds collected by the district wide rates for the environmental/public benefits to assist in building a specified reserve to assist Council in repaying the \$8.75m CCO loan when Council becomes responsible for that in 15 years time; and

11. notes that Council has previously approved the WWL company constitution on 8 November 2018 (RCN18-10-15) and there have been subsequent minor changes to align the document to the other project documents in particular the shareholders agreement prior to company registration; and

12. authorises the execution on behalf of Council of the following confidential agreements to which the Council is a signatory (contained as attachments to the confidential report RCN18-11-17), subject to any non material edits or changes cleared by Council's legal advisors:

- a. The Shareholders Agreement - Waimea Water Ltd; and
- b. The Project Deed - Waimea Community Dam Project; and
- c. The Wholesale Water Augmentation Agreement - Council; and
- d. The Facility Agreement (Waimea Community Dam - Environmental Term Loan); and
- e. The TDC/WWL Shareholder Loan Agreement; and
- f. The Ngati Koata Land and Water Use Partnering Deed; and
- g. The Hydro Power Term Sheet - Waimea Water Limited; and
- h. The Agreement to Acquire Interest in Crown Forest Licence - Tasman Pine Forests Ltd; and

13. authorises the Chief Executive to respond to Nelson City Council accepting the terms as set out in the 29 November 2018 letter from their Chief Executive.

14. authorises the execution on behalf of Council of the second ranking security documents covering the Tasman District Council/Waimea Water Ltd Shareholder Loan, to which the Council is a signatory (contained as attachments to the confidential report RCN18-11-17), subject to any non material edits or changes cleared by Council's legal advisors; and

15. notes the terms and conditions contained within the other confidential agreements to which Council is not a signatory (contained as attachments to the confidential report RCN18-11-17), but which may be subject to minor edits or changes:
  - a. The Project Facility Agreement (Waimea Community Dam); and
  - b. The General Security Deed - (Waimea Community Dam) Waimea Water Ltd; and
  - c. The Feather Weight Security Deed (Waimea Community Dam - Borrower) Waimea Water Ltd; and
  - d. The General Security Deed (Waimea Community Dam - Guarantor) Waimea Irrigators Ltd; and
  - e. The Wholesale Water Augmentation Agreement - Waimea Irrigators Ltd; and
  - f. The Shareholder Water Augmentation Agreement - Waimea Irrigators Ltd; and
16. authorises the execution on behalf of Council of the necessary agreements to transfer Council's interest in the land and access arrangements to Waimea Water Limited; and
17. authorises the execution on behalf of Council of the necessary agreements to transfer Council's interest in the resource consents for the Waimea Community Dam to Waimea Water Limited, subject to Waimea Community Dam Limited also agreeing to transfer its interest in the resource consents to Waimea Water Limited; and
18. notes that on the execution of the necessary agreements on behalf of the Council, Council is legally bound by the terms of those agreements; and
19. notes that pass through funding from Council to Waimea Water Ltd is excluded from Council net debt calculation and therefore does not impact on the current \$200m net debt limit; and
20. authorises the Mayor to vote Council's shares in Waimea Water Limited to give effect to any shareholders resolutions necessary to enable the project to proceed; and
21. acknowledges the support of many who have made it possible to get to this point in the proposal to address the water security issues on the Waimea Plains including the Waimea Water Augmentation Committee, and in the more recent negotiations, Ngati Koata Iwi Trust, Nelson City Council, Waimea Irrigators Limited, Crown Irrigations Investments Limited, and it looks forward to receiving financial sign off from WIL and CIIL our funding partners; and
22. acknowledges that the Waimea Water Augmentation Scheme has been contentious and challenging over its very drawn out life cycle and that there are still many in the community who believe it is not needed or is unaffordable, but that in making this decision today, the Council considers that the future environmental, economic, social, and cultural well-being of the community is best served by confirming the need for the Waimea Community Dam, and in working collaboratively with our funding partners, this is the only feasible way to ensure the Council meets its obligations to the Tasman community to provide necessary network infrastructure and meet its environmental management responsibilities into the future;
23. notes that the position of Waimea Irrigators Limited (WIL) has changed from 6 September 2018 and the institutional investor is no longer a contributor to WIL; and
24. accepts staff assurances that this change of investor does not increase credit risk to Council in relation to Tasman District Council's credit support of the lending to Waimea Water Limited to the benefit of Waimea Irrigators Limited.

Cr Greening called for a division.

<b>Brown</b>	<b>For</b>
<b>Bryant</b>	<b>For</b>
<b>Canton</b>	<b>Against</b>
<b>Greening</b>	<b>Against</b>
<b>Hawkes</b>	<b>For</b>
<b>Kempthorne</b>	<b>For</b>
<b>King</b>	<b>For</b>
<b>Maling</b>	<b>For</b>
<b>McNamara</b>	<b>Against</b>
<b>Ogilvie</b>	<b>For</b>
<b>Sangster</b>	<b>For</b>
<b>Tuffnell</b>	<b>For</b>
<b>Turley</b>	<b>Against</b>
<b>Wensley</b>	<b>Against</b>

**With 9 FOR and 5 AGAINST the motion was CARRIED**

The Mayor again noted his thanks to those who had attended and spoken during public forum. He also thanked staff for their huge efforts to date and their contribution to interrogating the issue of a secure water supply for the region, and leading the project to the stage it was at, along with the work of external advisors and directors, who he thanked for their expertise.

*The meeting concluded at 3.17pm.*

Date Confirmed:

Chair: