

Information for council papers for signoff of updated WRLC Agreement and Terms of Reference (TOR)

Background

The Future Development Strategy

1. The Future Development Strategy is an updated version of the Wellington Regional Growth Framework. It is a statutory document, for “Tier 1 and 2” councils who are required to prepare a Future Development Strategy under the National Policy Statement – Urban Development in time to inform 2024 Long Term Plans (LTPs). This means we ideally need to complete and have signed off at least a draft Future Development Strategy by third quarter 2023 to enable councils to include any financial and other implications in the early drafts of their LTP.
2. In our region, Wellington, Porirua, Kāpiti, Hutt City, Upper Hutt and Greater Wellington are Tier 1 Councils and Horowhenua, South Wairarapa, Carterton and Masterton are Tier 3 Councils. These categories are assigned based on growth projections, where Tier 1 councils are considered “high growth”.
3. Officers from local government and central government have been working on the content of the Future Development Strategy since August 2022 and the list below outlines workshops and meetings that the Wellington Regional Leadership Committee (WRLC), councils, iwi and others have had on the Future Development Strategy:
 - a. Various presentations to incoming councils on the WRLC and the Future Development Strategy – though October to December 2023, in February 2023 and to the last council in June 2023.
 - b. A Future Development Strategy workshop with the WRLC – 1 February 2023
 - c. A Future Development Strategy update paper to the WRLC at its meeting - 7 March 2023
 - d. A combined Wellington City Council/Porirua City Council workshop – 29 March 2023
 - e. A combined Wairarapa councils workshop – 4 April 2023
 - f. A combined Upper Hutt City Council/Hutt City Council workshop – 5 April 2023
 - g. An iwi workshop – 11 April 2023 and various one on meetings with iwi
 - h. A combined Horowhenua District Council/Kāpiti Coast District Council workshop – 13 April 2023
 - i. Three separate workshops in the Wairarapa, one with each Council – 3 May 2023
 - j. A workshop with iwi members on the statement of iwi/hapu aspirations for urban development – 15 May 2023
 - k. A workshop with the WRLC on elements of the Future Development - 15 May 2023.
 - l. A Future Development Strategy update paper to the WRLC at its meeting - 13 June 2023
 - m. A booth on the Future Development Strategy and a workshop session on the Future Development Strategy at the WRLC Annual Partners Forum - 26 June 2023.

- n. A separate workshop in Martinborough for SWDC – 5 July 2023
4. The Future Development Strategy team has also been working with developers and infrastructure providers on the Strategy, as required under the National Policy Statement – Urban Development.
 5. The Future Development Strategy is nearing completion and is expected to be taken in draft to the WRLC meeting on 19 September 2023 for approval for consultation. This, however, cannot be done without signoff from all ten councils on changes to the WRLC Agreement and TOR as discussed below.

The WRLC Agreement and Terms of Reference (TOR)

6. The current Wellington Regional Leadership Committee (WRLC) Agreement and Terms of Reference (TOR) includes the development and implementation of the Wellington Regional Growth Framework, as a spatial plan for the region. At the time of developing the Agreement the Future Development Strategy was not contemplated as a tool and therefore, the WRLC Agreement and Terms of Reference do not give the WRLC the powers/functions relating to a Future Development Strategy.
7. The WRLC includes both the Mayor from each council as the substantive member and the Deputy Mayor from each council as the alternate member.
8. The WRLC Secretariat has received legal advice that states: *“It is beyond the scope of the WRLC powers to approve the Future Development Strategy, draft or final, on behalf of the member Councils at present. Those decisions on the Future Development Strategy currently must be made by each individual Council.”*
9. This is because the current WRLC Agreement and TOR identifies that the WRLC is responsible for the Wellington Regional Growth Framework (WRGF) specifically, rather than a more general responsibility for regional spatial planning, which is and has always been the intent for the WRLC.
10. As a comparison for instance the Agreement has the WRLC responsible for “regional economic development” in a more general term, rather than stating a specific document.
11. Therefore, for the WRLC to be involved in the Future Development Strategy process (in any manner), an update needs to be made to the WRLC Agreement and TOR.
12. This is being undertaken in two steps:
 - a. Step 1: The WRLC to agree which option for signoff of the draft Future Development Strategy, signoff of the final Future Development Strategy and the establishment of a Hearings Panel it endorses. This decision was made at the WRLC meeting on 13 June 2023 and discussion on the process for this is covered in this paper.
 - b. Step 2: As required by the Local Government Act, any changes to the WRLC Agreement and TOR, needs to be agreed by all ten councils that are party to the WRLC. This paper covers this step, and a similar paper is being considered during August and September 2023 by the other nine councils who are party to the WRLC.

Analysis

Step 1: WRLC consideration of the options for signoff of the Future Development Strategy

13. The WRLC was provided with a recommendation at its meeting in September 2022 as follows: ***“Agrees to support the option a. as outlined in paragraph 20 of this report and update the Agreement and Terms of Reference for the Wellington Regional Leadership Committee to enable the Committee to sign off the draft and final of the Future Development Strategy and form a subcommittee to undertake hearings on the Future Development Strategy.***
14. No decision was made at the September 2022 meeting due to the lack of local government representatives at the meeting. This recommendation was proposed to be raised at both the December 2022 and March 2023 WRLC meetings.
15. However, making a decision on the Future Development Strategy signoff and updated WRLC Agreement and TOR was put on hold and not taken forward at the December 2022 and March 2023 meetings as:
 - a. The WRLC requested in September 2022 that it be provided further information, regarding decision making on the Future Development Strategy (FDS) and any proposed amendments to the WRLC Agreement and TOR.
 - b. There were five new Mayors and many new councillors across the region following the local body elections in October 2022 and it was felt that these people needed to be bought up to speed on what regional spatial planning is, what a Future Development Strategy is and options and implications for the Future Development Strategy signoff by the WRLC.
 - c. Mana whenua had not had enough time (capacity related) to engage in the Future Development Strategy and signoff process as would be preferred.
16. To assist in b and c above a number of workshops were undertaken as outlined elsewhere in this paper. The workshops covered - what is regional spatial planning, what is the Future Development Strategy and the Future Development Strategy signoff options.
17. At its meeting on 13 June 2023 the WRLC was provided with a paper which outlined options for approval of the Future Development Strategy, both draft and final and establishment of a hearing subcommittee.
18. Four options were considered by the WRLC. These options had previously been explained and discussed at the workshops held with councils in March, April, May and July 2023 as noted elsewhere in this paper.
19. The four options are covered in the table below and Option 1 which was agreed to by the WRLC at its meeting on 13 June 2023 is covered in more detail below

Options	Ability to meet statutory timeframes?	Iwi partners involved?	Additional costs (staff time or budget)?	FDS reflects a joined-up vision for our region?	Alignment with future Spatial Planning Act (SPA)	Rating (out of 10)
1. WRLC signoff draft FDS and final FDS and undertake hearings	Yes - project plan in place that reflects this option.	Iwi part of WRLC Central government part of WRLC	Budget allocated and on track	Yes, through WRLC	Yes, SPA is likely to require a joint committee with mana whenua	10/10

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2. Set up a subcommittee or new committee of just Tier 1 councils and iwi	Maybe/ unlikely depending on time taken to set up new committee	Maybe dependent on being part of new committee	Slightly more legal costs to craft new agreement, but not significant	Mostly through new subcommittee representation	Somewhat i.e. does not include whole region	7/10
3. WRLC signoff the draft FDS and undertake hearings and each council signoff the final FDS	Delay likely if agreement can't be reached on final FDS (i.e. if 1 or more councils don't agree on content)	Not at final FDS stage unless allowed for in council standing orders	Iwi will need to attend multiple for final sign off meetings. Individual council officers to prepare and present reports for final FDS	Risk that agreement may not be reached on FDS. May in effect have 10 FDS documents.	No	5/10
4. Each council sign off the draft FDS, WRLC hold hearings and sign off the final FDS	Delays likely if agreement can't be reached on draft FDS (i.e. if 1 or more councils don't agree on content)	Worse than option 3 for iwi partners as key decisions will be made at the draft FDS stage	Slight increase in work for each council and dedicated staff will need to be available	Risk that agreement may not be reached on FDS. May in effect have 10 FDS documents.	Maybe	5/10

20. Option 1 (the option approved by the WRLC and included in the changes to the WRLC Agreement and TOR) includes:

- a. One on one workshops with each council and iwi entity on the content of the Future Development Strategy for their overview and comment – before the draft goes to the WRLC – underway.
- b. Engagement with certain parties and consideration of the matters as required by clauses 3.14 and 3.15 of the NPS-UD – before the draft goes to the WRLC – underway.
- c. The WRLC signing off the draft Future Development Strategy
- d. The WRLC Secretariat and Future Development Strategy Project lead managing the submissions hearings and report back process.
- e. A hearings panel consisting of one representative from each local government and iwi entities on the WRLC (if they choose to).

- f. Workshops/briefings to provide councils and iwi entities with an understanding of proposed changes from the submissions and hearings to the Future Development Strategy
 - g. The WRLC signing off the final Future Development Strategy
21. Assuming all councils approve changes to the WRLC Agreement and TOR by mid-September 2023 (the last likely council meeting timing) then the Future Development Strategy is likely to be finalised in early 2024 (i.e. Feb/March) with engagement and hearings being undertaken in 2023.
22. Option 1 was selected because:
- a. Regional spatial planning is a key function of the WRLC as it was initially set up. If other options had been selected, it raises a question about why have the WRLC in the first place. It should be noted that Ministers are on the WRLC for the regional spatial planning aspects only.
 - b. This option aligns strongly with the future direction given for the proposed Spatial Planning Act (SPA). The SPA will be replacing the RMA and will require regional level spatial strategies (called “RSS”) to be developed through regional committees made up of central and local government and mana whenua. Undertaking the Future Development Strategy process jointly through the WRLC will put this region in a good place to prepare future Regional Spatial Strategies which will be an update of the Future Development Strategy.
 - c. The WRLC generally works on a consensus model and it is expected that key decisions are made on this basis. So in effect if alignment cannot be achieved then decisions are brought back to the table for further discussion – for instance if there is a lack of agreement on the draft Future Development Strategy.
 - d. From an efficiency perspective option 1 would only require one resolution from each Council at the start of the process rather than needing to obtain multiple Council resolutions throughout the process (ie for the draft Future Development Strategy and the final Future Development Strategy).
 - e. This is the best option for iwi members on the WRLC
 - f. It is the preferred option of and has been endorsed by the WRLC Secretariat, the Future Development Strategy Core Team and Steering Group, the WRLC Senior Staff Group, the WRLC CEO Group and iwi members on the WRLC.
23. Reflecting the statutory context for the Future Development Strategy (required under the National Policy Statement on Urban Development), Central Government would not participate in the hearings or formally signoff the Future Development Strategy. This is the same for all the options.
24. The recommendation provided below was approved at the 13 June 2023 WRLC meeting:
“Agrees to support the progression of Option 1 as outlined in paragraphs 20-23 of this report which includes the Committee making decisions to commence the Future Development Strategy consultation and preparation process, approve the draft Future Development Strategy (statement of proposal) and commence special consultative procedure, to engage in consultation and set up a hearing panel to hear submissions on

the Future Development Strategy, and approve the final Future Development Strategy (with reporting to the Councils at relevant steps)."

25. Therefore Step 1 is now complete.

Step 2: Changes to the WRLC Agreement and TOR.

26. Each of the ten councils has previously approved an initial WRLC Agreement and Terms of Reference and then an updated one. This will be the second update to the WRLC Agreement and Terms of Reference.

27. The current WRLC Agreement and TOR has been updated to align with the recommendation at the 13 June 2023 WRLC meeting. A clean copy and a track changed copy of the updated WRLC Agreement and TOR are attached.

28. As required by the Local Government Act, any changes to the WRLC Agreement and TOR, need to be agreed by all ten councils that are party to the WRLC. This will be undertaken at council meetings which will be occurring between July and September 2023.

29. At a summary level the changes related to the WRLC undertaking the activity of the Future Development Strategy are:

- a. Adding the Future Development Strategy as a "Specific Responsibility" of the WRLC including the detailed actions of what this includes.
- b. The wording requirements, in a number of places, for the WRLC to set up a subcommittee to hear submissions and the delegations to do so – including what this means in terms of actions.
- c. Adding the Future Development Strategy and related activity such as the work to develop the Future Development Strategy, hold hearings and approve the Future Development Strategy into the delegations of the WRLC.
- d. The ability for the subcommittee to have an independent chair if needed (the subcommittee may decide not to do this but the changes allow for this in case).
- e. A new Appendix 2 which is the Terms of Reference for the Joint Committee Subcommittee for the Future Development Strategy (to undertake the hearings). This includes information on its purpose, responsibilities, membership and delegations.

30. As any change to the WRLC Agreement and TOR requires all ten councils to agree the changes and it a long and administratively heavy process, we are also taking the opportunity to make some other changes to the WRLC Agreement and TOR. These are:

- a. Some tidy ups in the document. For example the old version referred to both persons and Ministers when talking about the Crown members, the Administering Authority was noted but not explained
- b. Removing reference to an independent chair for the WRLC itself – there has been some comments about perhaps not having an independent chair in the future. We don't know if this will happen yet but to avoid having to go back to ten councils again if it was decided to not have an independent chair in the future, the language in the WRLC Agreement and TOR has been softened e.g. now an option rather than a must

31. If one or more councils does not pass the resolutions in this paper ie does not agree to the changes to the WRLC Agreement and TOR to enable the WRLC to carry out the stated activities for the Future Development Strategy, or wants to make large changes to the Agreement, then next steps would likely be:
- a. Hold an extraordinary meeting of the WRLC to understand its next preference for the signoff of the Future Development Strategy.
 - b. Make any further relevant changes to the WRLC Agreement and TOR
 - c. Set up dates for another ten council meetings
 - d. Prepare a new pack of background information/analysis for council papers
 - e. Have ten councils consider another paper with the new process.
32. We estimate that this would take us to the end of 2023 which means engagement on the draft Future Development Strategy cannot be undertaken until at least February 2024 with the final signed off mid-2024.

Hearings subcommittee

33. The updated WRLC Agreement and TOR provides for a Joint Committee Subcommittee for the purpose of hearing submissions on the Future Development Strategy. Some points about the subcommittee are:
- a. Appendix 2 of the updated WRLC Agreement and TOR provides all the information on the hearings subcommittee.
 - b. The new WRLC Agreement and TOR allows for each council and each iwi entity to have a member on the hearings subcommittee. This is reflected in the recommendations of this paper. It is not a must to appoint someone, but the option is provided to enable all parties to continue to be part of the process if so chosen.
 - c. At this stage we are not clear on how long the hearings will last. Our only reference point so far is the Nelson/Tasman Future Development Strategy where there was a week of hearings.
 - d. We are planning to hold hearings across the region e.g. Wellington city, the western corridor, the Wairarapa to make it easier for those who are wanting to make an oral submission. Those on the hearings subcommittee will need to attend all hearings across the region.
 - e. The hearings subcommittee will be provided with resource to manage submissions and submitters who want to be heard, an expert to write up the findings from the hearings and submissions and may have access to an independent chair for the hearings if required.
 - f. The hearings subcommittee will make recommendations for changes to the draft Future Development Strategy for the WRLC for consideration.

Consideration of Climate change

34. The Future Development Strategy includes objectives to create better climate change outcomes.

Options

35. The options with regards to the recommendations in this paper are:

- a. Approve the recommendations as written including nominating someone for the hearings subcommittee
- b. Approve the recommendations as written but do not nominate anyone for the hearings subcommittee
- c. Do not approve the recommendations

Implications for Māori

36. The decision making and hearing subcommittee option endorsed by the WRLC for the Future Development Strategy will enable iwi partners to the WRLC to participate in the Future Development Strategy decision making. This is the best option for iwi partners as:

- a. Iwi members of the WRLC will have an option just like councils do to put someone on the hearings subcommittee.
- b. Iwi members will be at the WRLC meetings when the draft and final Future Development Strategy is signed off.
- c. Other options considered by the WRLC where councils only signed off either the draft or final Future Development Strategy would rely on
 - I. Council standing orders enabling iwi members to sit at the council table and vote on either the draft and/or final Future Development Strategy
 - II. Iwi partners having to go to multiple council meetings in their rohe to participate in the signoff/s.

Consultation/engagement

37. Engagement and consultation has been undertaken with developers and infrastructure providers as required to by the National Policy Statement – Urban Development. We need to engage with them as part of developing the Future Development Strategy.

38. Internal engagement has included:

- a. Multiple discussions at WRLC Senior Staff Group meetings from September 2022 through to now. In all these discussions the preferred options as reflecting in the updated WRLC Agreement and TOR has been endorsed.
- b. Multiple discussions at WRLC CEO meetings from September 2022 through to now. In all these discussions the preferred options as reflecting in the updated WRLC Agreement and TOR has been endorsed.
- c. Discussion at workshops with WRLC iwi members on the Future Development Strategy with them endorsing the recommended changes and approach.
- d. Explanation and discussion at numerous council workshops as highlighted elsewhere in this report.
- e. Discussion at WRLC workshops since September 2022.

Legal considerations

39. Legal advice on this matter is attached.

40. Key points from this advice are:

- a. Our view is that it is beyond the scope of the WRLC powers to approve the FDS, draft or final, on behalf of the member Councils at present. All decisions on the FDS currently must be made by each individual Council.
- b. In order to streamline the process for the FDS across all 10 Councils, the Agreement could be amended in order to include the FDS within WRLC's specific responsibilities. Such an amendment should state that the WRLC has authority to make decisions to commence the FDS consultation and preparation process, approve the draft FDS (statement of proposal) and commence SCP, to engage in consultation and hear submissions on the FDS as part of the SCP, and approve the final FDS (with reporting to the Councils at relevant steps).
- c. Together with amendment to the Agreement, each Council would need to resolve to delegate its decisions on the FDS and its role in consultation and the SCP to the WRLC.
- d. Pursuant to clause 32 of Schedule 7 of the LGA, the delegation of a decision on the FDS is not prevented.

Financial

- 41. The costs of the Future Development Strategy have been budgeted at \$510,000 with these costs split between all council partners. The costs for the WRLC signing off the draft and final and undertaking hearings will be paid for from this budget.
- 42. By undertaking the process regionally, we will be able to stick to this budget and ensure that knowledge that is gained through this process stays in house.