



Meeting of the Hawke's Bay Regional Council

Date: Wednesday 28 July 2010
Time: 9.00am
Venue: Council Chamber
Hawke's Bay Regional Council
159 Dalton Street
NAPIER

Agenda

ITEM	SUBJECT	PAGE
1.	Welcome/Prayer/Apologies/Notices	
2.	Conflict of Interest Declarations	
3.	Confirmation of Minutes of the Regional Council Meeting held on 9, 10, 11, 17, 21 and 30 June 2010	
4.	Matters Arising from Minutes of the Regional Council Meeting held on 9, 10, 11, 17, 21 and 30 June 2010	
5.	Action Items from Meetings	3
6.	Consideration of General Business	
Decision Items		
7.	Affixing of Common Seal	7
8.	Leasehold Land - Issues and Options Covering Council's Leasehold Land Portfolio	9
9.	New Zealand Cycle Trail Project - Funding Approval	19
10.	Recommendations from Regional Transport Committee	25
11.	Recommendations from Environmental Management Committee	27
12.	Recommendations from Strategic Planning and Finance Meeting	29
Information or Performance Monitoring		
13.	Consents and Compliance 2009/10 Financial Performance	31
14.	Monthly Work Plan Looking Forward	35
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16.	General Business	39
Decision Items (Public Excluded)		
17.	Confirmation of Public Excluded Meeting Minutes held on 9, 10, 11, 17, 21 and 30 June 2010	41
18.	Matters Arising from Public Excluded Meetings held on 9, 10, 11, 17, 21 and 30 June 2010	
19.	Council's Investment Portfolio - Future Issues Port of Napier Ltd Strategy	43

HAWKE'S BAY REGIONAL COUNCIL

Wednesday 28 July 2010

Item 5

SUBJECT: ACTION ITEMS FROM MEETINGS

INTRODUCTION:

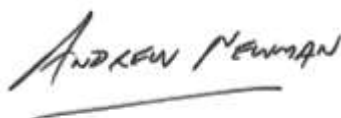
1. On the list **attached** as **Appendix 1** are items raised at Council meetings that require actions or follow-ups. All action items indicate who is responsible for each action, when it is expected to be completed and a brief status comment for each action. Once the items have been completed and reported to Council they will be removed from the list.

DECISION MAKING PROCESS:

Council is required to make a decision in accordance with Part 6 Sub-Part 1, of the Local Government Act 2002 (the Act). Staff have assessed the requirements contained within this section of the Act in relation to this item and have concluded that as this report is for information only and no decision is required in terms of the Local Government Act's provisions, the decision making procedures set out in the Act do not apply.

RECOMMENDATIONS

That the receives the report "Action Items from Council Meetings".



Andrew Newman
CHIEF EXECUTIVE

Attachment/s

- 1 Actions from Council Meetings

Actions from Council Meetings

Item 5

Attachment 1

	Agenda Item	Action	Person Responsible	Due Date	Status Comment
1.	Development of Regional and Unitary Council's website	Business plan to come to Council.	AN	July 10	Presentation included on July Council agenda.
2.	General Business – Rural Pathways	Financial information required to relate cost of grazing in relation to the cleaning of pathways	GH	July 10	Costs to be updated and circulated by memo for Councillor information
3.	General Business – Tutira Property	Update be given on what is happening with this property in particular the lease and what trees have been planted and are now established.	CP/MA	Aug 10	Going to Asset Management Meeting
4.	Looking Forward	Report be prepared on Taharua Strategy for Asset Management meeting	MA/CP/BP	Aug 10	Report and presentation made at 14 July Environmental Management Meeting.
5.	Annual Report Progress Report to 31 May 2010 – Outstanding Hearings Debts	Monitor the outstanding compliance and consent debt and provide an update at each Council meeting	AN	July 10	Consents/Compliance 2009/10 financial performance report for 28 July Council meeting.
6.	Venture Hawke's Bay Year End Forecast, Restructure and Budget process for 2010/11 year	An updated report be presented to Council	AN	July 10	Update included on SP&F agenda for July.
7.	Proposed Guppy Road Extensions	A business case be prepared for Council	MA/AN	July 10	
8.	General Business – Report on Leasehold Land Portfolio	An updated report be prepared on Council's leasehold land portfolio	PD	July 10	Report included on July Council agenda.

HAWKE'S BAY REGIONAL COUNCIL

Wednesday 28 July 2010

Item 7

SUBJECT: AFFIXING OF COMMON SEAL

COMMENT:

- The Common Seal of the Council has been affixed to the following documents and signed by the Chairman or Deputy Chairman and Chief Executive or a Group Manager.

		Seal No.	Date
1.1	Leasehold Land Sales		
	1.1.1 Lot 47 DP 4488 CT 55/173 - Agreement for Sale and Purchase	2972	28 June 2010
	1.1.2 Lot 2 DP 12209 CT D2/364 - Agreement for Sale and Purchase - Transfer	2973 2980	28 June 2010 19 July 2010
	1.1.3 Lot 56 DP 6481 CT C2/410 - Agreement for Sale and Purchase	2981	20 July 2010
1.2	Land Purchase Agreement Part Lot 1 DP 431741 (Left Bank Awanui Stream)	2974	28 June 2010
1.3	Agreement to Grant an Easement in Gross Awanui Stream Flood Protection	2975	28 June 2010
1.4	Lease Instrument Certificate of Title B2/1134 29 Magdalen Crescent	2976	29 June 2010
1.5	Agreements to Acquire Easements		
	1.5.1 Lot 1 DP 336752 CT 150381 (Clive River)	2977	1 July 2010
	1.5.2 Lot 1 DP 4882 CT 53/9 (Clive River)	2978	8 July 2010
1.5	Memorandum of Agreement Pursuant to the Public Works Act 1981 – Crown & HBRC Part Section 16 Survey Office Plan 6076 CT L4/1255 (Safety improvements guardrailed curve south of Waikoau River Bridge – SH2)	2979	19 July 2010

DECISION MAKING PROCESS

- Council is required to make every decision in accordance with the provisions of Sections 77, 78, 80, 81 and 82 of the Local Government Act 2002 (the Act). Staff have assessed the requirements contained within these sections of the Act in relation to this item and have concluded the following:

- 2.1 Sections 97 and 88 of the Act do not apply;
- 2.2 Council can exercise its discretion under Section 79(1)(a) and 82(3) of the Act and make a decision on this issue without conferring directly with the community or others due to the nature and significance of the issue to be considered and decided;
- 2.3 That the decision to apply the Common Seal reflects previous policy or other decisions of Council which (where applicable) will have been subject to the Act's required decision making process.

RECOMMENDATION:

That Council:

1. Agrees that the decisions to be made are not significant under the criteria contained in Council's adopted policy on significance and that Council can exercise its discretion under Sections 79(1)(a) and 82(3) of the Local Government Act 2002 and make decisions on this issue without conferring directly with the community and persons likely to be affected by or to have an interest in the decision due to the nature and significance of the issue to be considered and decided.
2. Confirm the action to affix the Common Seal.

Diane Wisely
EXECUTIVE ASSISTANT

Andrew Newman
CHIEF EXECUTIVE

Attachment/s

There are no attachments for this report.

HAWKE'S BAY REGIONAL COUNCIL

Wednesday 28 July 2010

Item 8

SUBJECT: LEASEHOLD LAND - ISSUES AND OPTIONS COVERING COUNCIL'S LEASEHOLD LAND PORTFOLIO

REASON FOR REPORT:

1. The purpose of this paper is to:
 - 1.1. Provide background to Council on the Council's leasehold land portfolio including Council's current policy on leasehold management.
 - 1.2. Provide commentary on some of the issues raised from the letters received from lessees in response to the article in the Napier Mail dated 9 June 2010 which sought the views of lessees who considered that they were experiencing financial hardship.
 - 1.3. Recommend to Council possible options for addressing a number of issues raised in these letters.

COMMENT

Background of Council's Leasehold Land Portfolio – Current Statistics and Policies

2. Number and Value of Leasehold Land

- 2.1. Table 1 below shows the freehold properties owned by Council as at 30 June 2009:

	Number of Properties	Number of Lessees
Standard residential	581	581
Cross-lease residential	188	498
Commercial with residences	6	6
TOTAL	775	1085

Note: 38 Leasehold properties were sold during the 2009/10 year.

- 2.2. An analysis has been undertaken to determine the number of lessees that are occupying their properties as compared to those lessees that, whilst they own the leasehold property, are not residing in such property. Most properties where the lessee's address differs from the leasehold property will be investors. Table 2 below sets out these figures.

	No of Lessees
Properties where the lessee resides	615
Properties with a different postal address	470
TOTAL	1085

- 2.3. Council's Valuers, Telfer Young, annually assess for Council the market value of leasehold land as well as Council's interest in this land (ie, the lessor's interest). This work is currently being undertaken for year end 30 June 2010, however the information for 30 June 2009 is available and is set out in Table 3 below:

Suburb	Market Value	Lessors Interest	No of Properties	No of Lessees
Hill/Ahuriri	\$2,820,000	\$2,224,890	15	15
Marewa	\$22,538,140	\$16,564,690	124	217
	\$4,226,500	\$3,564,690	30	30

Suburb	Market Value	Lessors Interest	No of Properties	No of Lessees
Napier South	\$14,504,000	\$10,385,030	82	144
Onekawa	\$3,715,000	\$2,564,550	22	37
Onekawa North	\$2,175,000	\$1,295,050	14	20
Onekawa South	\$6,103,680	\$3,586,620	48	66
Pirimai	\$20,380,100	\$14,880,930	149	193
Tamatea East	\$22,526,220	\$17,929,580	170	230
Tamatea West	\$14,802,500	\$11,079,720	115	127
Greenmeadows	\$130,000	\$105,660	1	1
Meeanee	\$930,000	\$551,110	3	3
Taradale	\$285,000	\$217,370	2	2
Net value of portfolio	\$115,136,140	\$84,949,890	775	1085

3. Lease Renewal Terms

3.1. Leasehold properties are leased in perpetuity (commonly known as Glasgow leases) with rental reviews (for most of these properties) for 21 years at either 5% or "fair market value" of the land valuation of the property.

3.2. Details of the renewals are shown in table 4 below:

Rental Contracts		5%	686
Rental Contracts	Fair Market Value	6.25%	399
			1085
Lease Term 21 Years			1080
Leases with 7 year review			5
			1085

3.3. All leases created prior to 1970 have the rent renewal based on 5% of the market value of the land, whereas, leases created after 1970, the rent renewal is based on the valuation of the Fair Annual Ground Rent of the land. Currently, this rate is 6.25% of the land market value.

3.4. At the Council meeting held on 27 September 2000, it was resolved that the annual rental will be set in accordance with the terms of the lease. Where the lease state "Fair Annual Ground Rental" the rental will be based on rates prevailing for similar leases in Napier and elsewhere in New Zealand which may exceed 5% of land value.

3.5. However, subject to the lessee's agreement, where lessees are renewed up to the end of 2011 and have the words "Fair Annual Ground Rental" included in their lease terms and conditions, these leases will be renewed for the period from the commencement of the new lease term to the end of 2011, at the lower of 5% of land value or "Fair Annual Ground Rental" and for the period thereafter (ie, from 1 January 2012 at "Fair Annual Ground Rental".

3.6. Currently, there are 52 lessees whose leases, subject to the above wording, have been renewed over the past 10 years who will have their annual rental increased from 1 January 2012 until the expiry of the 21 year period.

4. Lease Renewal Concessions to Single Residential Sites

4.1. Under the lease agreement, the rent must be determined by a registered valuer by providing a valuation of the market value of the land as a vacant site.

4.2. However, in the case of a single dwelling on a section sized over 600 square metres, the lessee does not utilise the full potential usage of the land.

- 4.3. Whereas with a smaller section or land used for cross-lease units, the potential availability is fully utilised.
- 4.4. The Regional Council has recognised that the lessee with a dwelling on a reasonable sized section may be unfairly burdened with land rent therefore, since 1990, the valuers have also been providing a lower land market value upon which the rents have been set.
- 4.5. During 2008/09 there were 35 sections in this category that came up for renewal and the valuer determined the following valuations on the land:

	Total Market Value	Adjusted Market Value
	\$5,391,600	\$5,085,000
At 5%	\$269,580	\$254,250

- 4.6. The Council sets the rent on the adjusted market value, contrary to the lease agreement, with an average annual reduction of rent of \$438 for each of the 35 lessees.

5. Analysis of Leasehold Arrears

- 5.1. Table 5 below shows the extent of leasehold debt payments in arrears along with the number of leaseholders that are affected.

	Table 5 - Leasehold Payments in Arrears					
	31/05/2008		31/05/2009		31/05/2010	
	Amount	Number	Amount	Number	Amount	Number
2 months	\$9,243	11	\$12,058	18	\$31,240	19
3-12 months	\$33,297	35	\$36,186	25	\$57,295	24
12 months plus	\$9,719	8	\$8,929	9	\$11,599	6
Deferred Rent	\$14,218	1	\$22,920	4	\$29,040	7
Arrangement for payments finalised with lessees by:	\$66,477	55	\$80,093	56	\$129,174	56
- Council		24		17		23
- Debt Collectors		25		31		20
Action Pending - with Debt Collectors		5		4		6

- 5.2. The number of lessees that have negotiated with Council and Council's debt collectors and have agreed to an arrangement for the payment over time of the leasehold arrears has not altered significantly over the last three years. The values, however, have increased due to higher levels of lease rentals set on lease renewals.
- 5.3. Over the last six years (up to 30 June 2010) approximately 420 leaseholders renewed their leases, and in the next eight financial years there will be approximately 500 further lessees to renew their leases.
- 5.4. Table 6 below shows the level of annual leasehold payments due by numbers of lessees:

Table 6	
Annual Rent	No of Lessees
Under \$1,000	221
\$1,000 - \$2,000	415
\$2,000 - \$3,000	155
\$3,000 - \$4,000	86

\$4,000 - \$5,000	36
\$5,000 - \$6,000	64
\$6,000 - \$7,000	68
\$7,000 - \$8,000	12
\$8,000 - \$9,000	18
\$9,000 - \$10,000	3
Over \$10,000	7
TOTAL	1085

5.5. Council's current policies and procedures for collecting lease payments are set out below:

5.5.1. Under the lease terms, lessees have 30 days after the due date for payment to be made on their leases. An invoice for the rent is issued in the month prior to the due date.

For example, a lease with an expiry date of 28 July will be invoiced for six months' rent on 20 June and payment is required by 28 August.

5.5.2. Staff are empowered to make payment arrangements with lessees and there are numerous discussions with lessees covering payment by instalment.

5.5.3. A number of lessees have automatic payments operating, however for those lessees that do not have such an arrangement reminder letters are issued.

5.5.4. If payment has not been received 30 days after the sending out of the reminder letters, then the details are forwarded to Council's debt collection agency.

5.5.5. Other methods that Council has used in order to secure payment of outstanding lease payments is to conduct a title search to determine other interested parties and, if practical, the Council will make a demand on the mortgagee for payment.

5.5.6. Finally, under the terms of the lease, when the lessee is in default of a lease, the Council can re-enter the property and from the disposal proceeds, recover the rent arrears. The Council has approved this option for only one property over the last 20 years.

6. **Arbitration Process**

6.1. Under the lease agreement and the leasehold freeholding legislation, the lessee has the ability to invoke the arbitration process for determining either rent renewals or freeholding prices.

6.2. In both cases the lessee must obtain a second valuation from another valuer for comparison purposes and, where there are major differences in valuations, the lessee can instruct their valuer to go to arbitration where both valuers prove the accuracy of their valuations before a referee.

6.3. There has been one arbitration process for rent renewal in 1998 where the referee actually ordered an increase in the annual rent. In that instance the Council's valuer provided a conservative valuation, whereas the lessee's valuer used an invalid method of valuation.

6.4. None of the freeholdings have been subject to the arbitration process.

7. **Council's Current Policies to Provide Relief to Lessees in Payment of Outstanding Lease Payments**

7.1. There have been two policies adopted by Council that are available for lessees to use to provide relief against outstandings on their lease. These two policies being the deferred rental option and the graduated payment scheme.

Deferred Rental Option

- 7.2. The deferred rental option is available to any lessee experiencing financial hardship whereby, the rent payable is reduced by a deferred amount which is held as a loan to be repaid at a later date. This option is more suitable to lessees on fixed income, especially retirees, because the loan is repaid from the sale proceeds of the property when the lessee no longer resides at the address.
- 7.3. The Council's current policy is that the minimum payable must be the greater of 50% of the annual rental or \$3,650 per annum. The lessee must also pay the legal fees to register the loan caveat on the property Certificate of Title. Interest at the 90 day investment rate is charged six monthly on the deferred amount balance. This rate is currently 5%.
- 7.4. Between 1990 and 2007, only three lessees had utilised the deferred rental option, however, since 2007, twenty-four lessees have requested calculation details and currently, there are only seven lessees signed up on the deferred rental scheme. None of the original three are numbered in the current eight lessees.
- 7.5. Length of time in the deferred rental option for the eight lessees:

3 years	1 lessee
2 ½ years	1 lessee
1 ½ years	2 lessees
1 year	3 lessees
½ year	1 lessee

Graduated Payment Scheme

- 7.6. The graduated payment scheme is a mechanism for stepping up annual rent payments every few years over the 21 year lease term. However by year nine, the annual payment starts to exceed the standard annual payment and continues to step up to repay the shortfall of rent paid in the first nine years of the term.
- 7.7. The scheme is open to any lessee and is not bound by the financial hardship condition.
- 7.8. There have been six inquiries for calculation details mainly from landlords who sublet their leasehold properties. Only two applications from landlords have been received but both cancelled prior to the lease renewal date. One lessee, after legal advice decided to renew and pay the normal annual rental and the other lessee has decided, instead, to freehold the property.
- 7.9. Those lessees seeking rental arrangements with the Council prefer the deferred rental option with manageable annual payments as opposed to the graduated payment scheme where the annual payments rise substantially over a period of years.

8. Freeholding of Leasehold Property

- 8.1. Under Section 6 (2) of the Hawke's Bay Endowment Land Empowering Act 2002 Councils can only sell to the lessee the fee simple estate in the land when there is a building on the land that is designed for residential purposes and occupied as a home, accommodation for the elderly or used as a church.
- 8.2. The Regional Council has disposed of leasehold land of a commercial nature and any future sales must be executed with the lessee or their nominee.
- 8.3. Further difficulties arise with freeholding cross-lease land where all the lessee unit owners must agree to freehold. With cross-lease land, the unit owners or occupiers only hold a proportional share in the land and not a specific square metre area. Also, there is only one Certificate of Title and Head Lease Agreement for the total area. Where one cross-lease unit is owned by an elderly lessee or is sub-tenanted by a landlord, there may not be the desire to freehold, thwarting any other unit owner's wish to freehold.

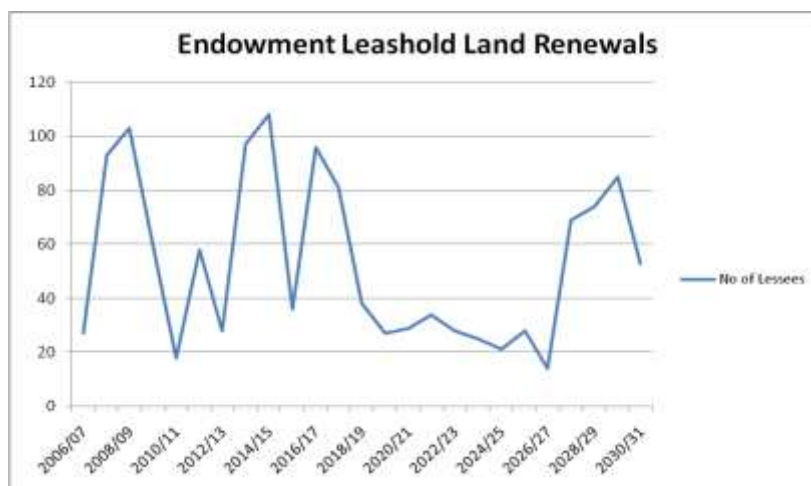
8.4. Set out below is a table detailing the large number of freeholdings over the last eight years:

Year	Number	Freeholding Price
2002/03	39	\$2,108,731
2003/04	227	\$10,007,168
2004/05	204	\$10,360,877
2005/06	63	\$5,626,840
2006/07	47	\$4,707,241
2007/08	33	\$3,521,689
2008/09	16	\$1,933,630
2009/10	38	\$3,935,110
TOTAL	667	\$42,201,286

8.5. Council approved a 5% discount on the purchase price for freeholding transactions initiated between October 2002 and October 2004. Over this period there were 345 freeholdings.

Impact of Current Economic/Social/Financial Trends on Council’s Leasehold Land

9. Council’s leasehold properties are leased by lessees in perpetuity (commonly known as Glasgow leases) which have rental reviews each 21 years at either 5% or “fair market value” of the land valuation of the property at the time of renewal. Set out below is a graph that shows the numbers of leases that mature at different time periods. It can be seen from this graph that the majority of these leases renew over a 12 year timeframe.



- 10. Media records show that the last major debate on the financial difficulties experienced by lessees when renewing their leases under the 21 year Glasgow lease can be found back in the early 1990’s. At that time there was considerable commentary on the financial plight of lessees at renewal time and the need to revise Council policies to provide relief for lessees. The debate during the 1990’s gave rise to this Council’s policy for a “deferred payment” option for lessees. This scheme is still available today.
- 11. The next major round of renewals under the Glasgow leases has been from 2005 and will move through to 2018. Approximately 420 leases have been renewed for the six years to 30 June 2010 resulting in lease payments increasing on average from \$1,000 - \$2,000 per annum to between \$6,000 - \$9,000 per annum. A further 500 will be renewed over the next eight years.
- 12. In order to best understand the impact of these large increases on lessees, it is important to consider a number of current social, economic and financial changes that have an effect on lessees:
 - 12.1. The leasehold renewals have coincided with large increases in property values throughout New Zealand, including Hawke’s Bay. The increases in value of the land has been much higher than the increases in improvements which, to some

extent, depreciate with age. Accordingly the trend results in the leasehold property having a higher land value due to its location in the inner suburbs of Napier, and a lower improvement value due to the condition, in many cases, of the improvements.

- 12.2. Over the last few years and continuing into the 2010/11 year, there has been a considerable financial downturn in the world economy and an increasing number of workers in Hawke's Bay have been exposed to job redundancies. This has impacted directly on their ability to pay the outgoings on their property, including lease payments to Council.
- 12.3. Lessees who have held lease properties for a significant number of years and who have not on-sold to younger employed people or to investors, are now entering their 70's and 80's. Their main source of income is either sickness or superannuation pensions which are not set at a level that allows servicing of large house mortgages and/or payments to Council for leasehold land that they do now own.
- 12.4. In the past, Banks have provided loan funding for the purchase of improvements for leasehold property, however there is now a greater awareness that with the high increase in lease payments required under the 21 year revisions, that loan funding for improvements require considerably more scrutiny on a case by case basis.
- 12.5. In the past, lessees have been able to on-sell their leasehold property which has provided them with flexibility to change their arrangements when they find that they cannot afford to continue with lease payments. The current trends are that the sale of such leasehold property is now a lot more difficult as the majority of enquiries for such leasehold property, if not from investors, are from buyers that are proposing to finance the purchase of the improvements through a bank mortgage. Banks realising that potential buyers can rarely fund both servicing of a large mortgage and the Council lease on the land which is not owned by the buyer, are taking the view in many cases that the buyer cannot afford such a property.
- 12.6. Accordingly for lessees to now be able to sell their property it would appear that they need to sell to an investor who can provide security for borrowings other than the property being purchased, or to a purchaser who is funding the improvements for predominantly cash.

Issues Raised by Current Leaseholders

13. Council's Chairman, Alan Dick, and Councillor Neil Kirton have, through media articles and public meetings, requested that lessee's write to them setting out their financial difficulties as they directly relate, in their opinion, to Council's policy on payments of lease rentals from Council's leasehold land. To this end 64 letters from lessees have been received as at 21 July 2010. All lessees have had a response to their letter which establishes that Council will be considering the whole issue of its leasehold land portfolio at the 28 July 2010 Council meeting and that their letter will be circulated to all Regional Councillors so that they are aware of these issues. These letters will not be copied and made available to the public or media as they refer to specific personal circumstances of lessees and accordingly, will be withheld under the Local Government Official Information Act, section 48(1)(a), the reason for this exclusion is contained in the Local Government Act 2002, section 7(2)(a) which refers to the need to protect the privacy of natural persons.
14. The issues raised in these letters are consistent with the comments made in the previous section of this paper which sets out the current social/economic/financial conditions and their impacts on leasehold property.
15. In summary, these letters raised the following issues:
 - 15.1. The majority of lessees that wrote into Council referred to the financial difficulties they are currently experiencing in paying the high lease payments to Council now that their leases have been renewed under the 21 year Glasgow lease renewal date. Many of these lessees are elderly and are on pensions, others have had changes in financial circumstances due to redundancy or sickness.

- 15.2. A number of the letters were from lessees who had decided to sell their property as they were unable to continue with the payment of the lease due to financial circumstances or decided that the leased property no longer fitted their circumstance. These lessees are experiencing considerable difficulty in the sale of their property due to the property market recession which meant that buyers were being more cautious and leasehold land had become unattractive. Furthermore, Banks are taking a cautious approach to lending to potential purchasers for the purpose of purchasing improvements to the property given that the land, which would not be owned by the purchaser, also had a lease payment that needed to be factored into the overall financial viability of the transaction.
- 15.3. A number of leaseholders included in their letters their desire to freehold, however were unable to do so at the current "lessor" price required by the Council under its current policy. Also the funding of such a purchase through a bank loan would attract an interest rate that would be higher than the 5% payable to Council under the lease. A number of these leaseholders owned properties that were subject to cross-lease and were having difficulty in gaining the acceptance of all cross-lease lessees which is required before the cross-leased land can legally be freeholded.
- 15.4. A number of lessees raised the issue of the deferred payment scheme which is made available by Council to assist lessees having difficulty in paying their lease payments. In most cases these lessees did not consider such a scheme to be relevant to their circumstances. No explanation was given by these lessees why this scheme would not be of assistance to them and this could be subject to further discussions with those lessees.
- 15.5. A few of the lessees that wrote to Council stated that as they had funded the purchase of the improvements through a bank loan, with minimum deposit, and that they were finding it very difficult or impossible to service both the bank loan and the lease payments. These lessees own between 5% - 20% of the property. The remaining 80% plus has been funded through a bank loan and a lease of the land from Council.

Options for Assisting Lessees

16. The letters from lessees outlining their difficult financial circumstances have come about due to the revision in lease rentals over the last three years. Given that a further 500 lessees will be renewing their leases to a higher lease payment over the next eight years, then it is important for Council, at this time, to assess workable options that can provide assistance to lessees when renewing at the higher rental levels.
17. Set out below are a number of areas that would benefit from further study:

17.1. Assistance from WINZ:

Research needs to be undertaken to determine allowances, if any, that would be available to lessees to assist their financial circumstances. The knowledge of these policies will allow Council staff to advise lessees, in certain circumstances, to approach WINZ for their consideration of assistance.

17.2. Means Tested Rebates:

The Government currently has a scheme to provide rebates to ratepayers that find themselves in financial hardship. The payment of these rebates are administered by the territorial local authorities in Hawke's Bay, are means tested, and the rebates are funded from Central Government.

An analysis needs to be undertaken to determine whether a lease rental rebate scheme similar to the rates rebate scheme can be introduced to assist Council's lessees. Such a scheme would be subject to means testing and would be of benefit to elderly lessees that are on superannuation pensions and lessees that are on other benefits including sickness and redundancy. Such a scheme, if introduced, would have an impact on Council's future income levels from the leasehold portfolio so an assessment would need to be carried out to determine the impact the

different policy options would have on Council's revenue flows and hence the ratepayers within the region.

17.3. **Deferred Payment Scheme:**

Council has had the deferred payment scheme available to lessees since 1990. Unfortunately only seven lessees are currently availing themselves of that scheme. An assessment needs to be made of the reasons why this scheme is not being used by Council's lessees that are in difficult financial circumstances. An assessment of options for the scheme need to be investigated including the reduction of the minimum payments required through the scheme.

17.4. **Freeholding Policies:**

There have been 667 properties freeholded over the last eight years. Currently 775 properties remain in Council's leasehold portfolio. Of these, 188 are cross-leases with multiple lessees.

Most of the lessees that are in a position to freehold have already done so. The difficulties Council has in continuing with this freeholding activity are due to:

- 17.4.1. The remaining lessees, for the most part, are not in a financial position to freehold.
- 17.4.2. A large number of leases are cross-leases with the current legal restrictions of all lessees needing to be party to a freeholding.
- 17.4.3. Over the last few years the value of the land for these leasehold properties has increased considerably making it more difficult to find funding to freehold the higher value of the land.

17.5. **Improved Communications:**

Given the content of some of the letters received from lessee's covering their financial circumstances, there is a need for Council staff to initiate a greater dialogue on a one-to-one basis with Council's lessees to assist them with understanding the assistance programmes that may be adopted by this Council subsequent to the finalisation of the abovementioned reviews. This would require additional staff input but would yield significant benefits for the elderly for example, who could be visited in their homes, and also for Council in resolving what is becoming an increasing debt collection problem.

18. **DECISION MAKING PROCESS:**

Council is required to make a decision in accordance with Part 6 Sub-Part 1, of the Local Government Act 2002 (the Act). Staff have assessed the requirements contained within this section of the Act in relation to this item and have concluded the following:


- 18.1. Sections 97 and 98 of the Act do not apply as these relate to decisions that significantly alter the service provision or affect a strategic asset.
- 18.2. Sections 83 and 84 covering special consultative procedure do not apply.
- 18.3. The decision does not fall within the definition of the Council's policy on significance.
- 18.4. The persons affected by this decision are the lessees of Council's leasehold properties and also ratepayers to the extent that the policies adopted will reduce the future revenues for Council.
- 18.5. A number of options have been set out in this paper and the decision in this paper is to approve an independent study so as these issues can be further investigated.
- 18.6. Section 80 of the Act covering decisions that are inconsistent with an existing policy or plan does not apply.
- 18.7. Council can exercise its discretion under Section 79(1)(a) and 82(3) of the Act and make a decision on this issue without conferring directly with the community or others having given due consideration to the nature and significance of the issue to

be considered and decided, and also the persons likely to be effected by or have an interest in the decisions to be made.

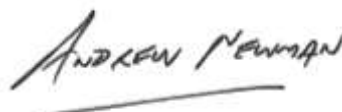
RECOMMENDATIONS:

That the Council :

1. Agrees that the decisions to be made are not significant under the criteria contained in Council's adopted policy on significance and that Council can exercise its discretion under Sections 79(1)(a) and 82(3) of the Local Government Act 2002 and make decisions on this issue without conferring directly with the community and persons likely to be affected by or to have an interest in the decision due to the nature and significance of the issue to be considered and decided.
2. Approve an independent comprehensive social impact study addressing the financial circumstances of Regional Council leaseholders, such study to also include:
 - 2.1. Assessing the financial circumstances of leaseholders as compared to others in the community that have freehold properties with mortgage responsibilities.
 - 2.2. Any assistance available from WINZ to leaseholders and in what circumstances such assistance would be available.
 - 2.3. Assess the effectiveness of Council's deferred payments scheme in addressing the financial hardship of Regional Council leaseholders and to make recommendations on adjustments to that scheme in order to increase its effectiveness and equity for Council's leaseholders.
 - 2.4. Report on the structure and effectiveness of the current rates rebate scheme and assess whether a similar scheme, the subsidies to be funded by this Council, could be implemented for Regional Council leaseholders and, further, comments are required on the social equity of such a scheme in relation to the financial impact that such a scheme would have on ratepayers who would be required to make up any revenue shortfall.
3. That an independent study be undertaken to assess the effectiveness of Council's current freeholding policies, recommending changes to these policies to achieve a balance between the lessees' willingness to freehold and Council's desire to reduce its ownership of leasehold properties. The issues covering the restrictions on freeholding leasehold land subject to cross-lease should also be covered. Further, this report should also cover the effects that any recommended changes in freeholding policies would have on ratepayers who would be required to make up any revenue shortfall which would result from reduced proceeds from freeholding.
4. Note that Council staff will be reviewing the debtor list for leasehold land and assessing cases of hardship and, in appropriate circumstances, recommending to the Chief Executive that such debts will not be referred to Council's debt collectors. Further, note that this change in policy is an interim measure pending Council's further consideration of establishing policies for assisting leaseholders who are experiencing financial hardship.



Paul Drury
GROUP MANAGER CORPORATE
SERVICES



Andrew Newman
CHIEF EXECUTIVE

Attachment/s

There are no attachments for this report.

SUBJECT: NEW ZEALAND CYCLE TRAIL PROJECT - FUNDING APPROVAL

REASON FOR REPORT:

1. Council considered a paper relating to the New Zealand Cycle Trail Project at the Strategic Planning and Finance Committee meeting of Tuesday 17th November 2009. At this meeting Council resolved to;
 - 1.1. Support the formal application of a bid for funding from the New Zealand Cycling fund.
 - 1.2. Subject to further evaluation against the Open Space investment policy and identification of other funding partners, supports in principle the use of Open Space funds in the order of \$1 million to \$1.5 million for this proposal.
2. Sections of the Hawkes Bay bid for the New Zealand Cycle Trail project have successfully progressed through Phase 2 of the bid process and now requires confirmation of local share funding commitments as part of the final Phase 3 stage.
3. This report seeks Council approval to commit up to \$1.5 million as a local share contribution toward the construction of the approved sections of cycleway in accordance with the indicative construction schedule.

Background

4. Council was notified of the outcome of their application to the New Zealand Cycle Trail Fund as part of the Phase 2 bid process on 6 July 2010. Funding of \$1,888,262 was approved for the "Landscapes" trail subject to agreeing terms and conditions of the funding agreement and responding to outstanding technical issues by 20 July 2010. The total estimated cost of this trail is \$2,517,683.
5. The funding committee has reserved a final decision on funding for the "Water" trail and requires further work on specific route details and landowner approvals. A progress report on this trail is due on 31 August 2010. The total estimated cost of this trail is \$1,817,936.
6. As part of the Phase 2 bid process the Hawkes Bay Regional Council offered the "Heretaunga – Ararau – Land of a Hundred Pathways" project as a genuine first start option for the Technical Assessment Groups consideration. This was based on three significant premises;
 - 6.1. That 90% of the proposed trails were on public or council owned or controlled land, so landowner approvals were well advanced.
 - 6.2. That extensive experience already established around the construction of existing pathway infrastructure could ensure confidence around estimates and key milestones.
 - 6.3. That local share funding provisions were in place subject to final approvals.
7. This offer has been recognised by the Funding committee and they are keen to see construction commence as soon as possible. They have decided to fast track the funding process by finalising the funding agreement at the same time as we complete the implementation plan (Phase 3). The original Phase 3 deadline was October 2010 but this has now been modified to the 20 July 2010 date relating to satisfying the outstanding technical issues and thereby receiving final approval. This will allow a Summer 2010 construction.
8. The following table from the Stage 2 bid document summarises the design and construction costs and the proposed funding splits. The total estimated cost for this project is **\$4,335,619** as detailed below:

Funding Proposal

Ride Name	Ride Length (km)	Estimate	National Fund	National Share	Local Fund	Local Share
"Landscapes"	50.0	\$2,517,683	\$1,888,262	75%	\$629,421	25%
"Water"	25.5	\$1,817,936	\$711,738	39%	\$1,106,198	61%
	Total	\$4,335,619	\$2,600,000	60%	\$1,735,619	40%

9. Local fund share sources include:

HBRC	\$1,478,619
Hastings Rotary Club	\$110,000
Napier Rotary Club	<u>\$147,000</u>
Total	<u>\$1,735,619</u>

10. The Hawke's Bay Regional Council has specifically identified the \$1,500,000 local share contribution to this project as part of the LTCCP process and is included in the 2010/11 annual plan as a provision within project 485: Open Spaces. Funding of this \$1.5m is to come from the \$7.5m loan approval to cover capital projects of regional significance. The drawdown against the \$7.5m as at 30 June 2010 is \$800,000. The Annual Plan 2010/11 also provides for the servicing of these loans to be from Council's Sale of Land Non-Investment Reserve.

Funding Partners

11. Funding partners identified for this project are the Napier and Hastings Rotary clubs. Funds to the amount shown above have already been allocated to specific sections of the proposed trails and included in the construction schedule.
12. Hastings District Council have recently been successful in winning \$4.1m from a national bid with the New Zealand Transport Agency to be a Walking and Cycling Model Community. This project requires a contribution from HDC of \$3.0m over the next 2 years. This project will have close linkages with our proposed trail project and will form part of a wider more integrated network within the Hastings District. Council has been involved in discussions with the HDC project team prior to and following their success, ensuring integration and collaboration between the two projects. HDC are also providing design and construction services as part of their 2010/11 programmed roading upgrade for Tukituki Road for the Landscapes ride. No additional funding contribution is being sort from HDC.
13. Napier City Councils involvement in the existing cycleway network is valued at approximately \$4.0m, with sections of this pathway having attracted subsidies. Taking account of this approximately \$2.5m has been contributed from NCC. Similarly no additional funding is being sought from NCC for the National project. They will however provide assistance with design, planning and supervision of the Water ride sections along the Westshore and inner harbour areas.

Summary

14. The National Cycleway bid project scored a credible 69.5% score (>65% required to proceed) as part of the evaluation criteria of Councils approved Open Space Investment policy.
15. Council has successfully passed stage 1 & 2 of a 3 stage process, albeit with some strings attached. Stage 3 now requires confirmation and validation of various aspects of the project to achieve final sign off and receive approval to move to the construction phase of Summer 2010. This process has been modified from the original October 2010 timeline to allow an early start option to be accommodated.

16. Outstanding technical issues for the Landscapes trail are likely to be resolved by the time Council consider this paper which will allow the early start envisaged.
17. Other local share contributions from Napier and Hastings Rotary clubs are confirmed and have been included in the relevant sections of the construction schedule.
18. While significant work is still required to resolve the outstanding issues identified by the Technical Assessment Group for the Water trail this ride is still considered achievable. Accordingly the timeline for this trail has been scheduled for Summer 2011 to allow this process to be completed.

DECISION MAKING PROCESS:

19. Council is required to make a decision in accordance with Part 6 Sub-Part 1, of the Local Government Act 2002 (the Act). Staff have assessed the requirements contained within this section of the Act in relation to this item and have concluded the following:
 - 19.1. Sections 97 and 98 of the Act do not apply as these relate to decisions that significantly alter the service provision or affect a strategic asset.
 - 19.2. Sections 83 and 84 covering special consultative procedure do not apply.
 - 19.3. The decision does not fall within the definition of the Council's policy on significance.
 - 19.4. The persons affected by this decision are all members of the regional community who will have the opportunity to access the cycleways and full consultation was carried out as part of the Annual Plan 2010/11 for this initiative.
 - 19.5. Section 80 of the Act covering decisions that are inconsistent with an existing policy or plan does not apply.
 - 19.6. Council can exercise its discretion under Section 79(1)(a) and 82(3) of the Act and make a decision on this issue without conferring directly with the community or others having given due consideration to the nature and significance of the issue to be considered and decided, and also the persons likely to be effected by or have an interest in the decisions to be made.

RECOMMENDATIONS:

That the Council :

1. Agrees that the decisions to be made are not significant under the criteria contained in Council's adopted policy on significance and that this project has been consulted on as part of the Annual Plan 2010/11. Further, that Council can exercise its discretion under Section 79(1)(a) and 82(3) of the Local Government Act 2002 and make decisions on this issue without conferring directly with the community and persons likely to be affected by or to have an interest in the decision due to the nature and significance of the issue to be considered and decided.
2. Approve the local share funding requirement for the Hawkes Bay Regional Council, up to \$1,500,000, subject to final approval of the Hawkes Bay bid by the Ministry of Tourism and in accordance with the indicative construction schedule for the Landscapes and Water trails. Further noting that the funding will be through loans as part of the "Capital projects of regional significance" programme. Loan servicing will be covered by Councils Sale of Land Non-Investment Reserve.



Graeme Hansen
GROUP MANAGER OPERATIONS

Attachment/s

- 1 Schedule Indicative 3 - Budget and Milestones

6 wmt1 Attachment 1

Attachment 1: Schedule Indicative 3 - Budget and Milestones

Milestone	Tasks	Monitoring/Key Performance Indicator	Start Date	End Date	Expenditure Breakdown	Total Cost	Maximum NZCT Fund Contribution	Co-Funding Contribution
Black Bridge to Te Awanga to Clifton Design & Contract Documents	Design & Contract Document Preparation	Specification completed	Mon 18/10/10	Fri 10/12/10	\$10,000	\$10,000	\$2,000	\$8,000
Black Bridge to Te Awanga to Clifton Tendering	Tendering Process	Contract awarded	Mon 13/12/10	Fri 07/01/11	\$5,000	\$5,000	\$3,000	\$2,000
Black Bridge to Te Awanga to Clifton Construction	Construction Phase	8.91km of track completed to standard	Mon 10/01/11	Fri 11/02/11	\$230,020	\$230,020	\$130,020	\$100,000
Moore Road to Black Bridge Design & Contract Documents	Design & Contract Document Preparation	Specification completed	Mon 22/11/10	Fri 14/01/11	\$10,000	\$10,000	\$7,500	\$2,500
Moore Road to Black Bridge Tendering	Tendering Process	Contract awarded	Mon 17/01/11	Fri 11/02/11	\$5,000	\$5,000	\$3,750	\$1,250
Moore Road to Black Bridge Construction	Construction Phase	5.72km of track completed to standard	Mon 14/02/11	Fri 18/03/11	\$120,454	\$120,454	\$105,000	\$15,454
River Road to Red Bridge Design & Contract Documents	Design & Contract Document Preparation	Specification completed	Mon 13/12/10	Fri 18/02/11	\$10,000	\$10,000	\$7,500	\$2,500
River Road to Red Bridge Tendering	Tendering Process	Contract awarded	Mon 21/02/11	Fri 18/03/11	\$5,000	\$5,000	\$3,750	\$1,250
River Road to Red Bridge Construction	Construction Phase	6.19km of track completed to standard	Mon 21/03/11	Fri 22/04/11	\$491,760	\$491,760	\$415,000	\$76,760
Red Bridge to Moore Road Design & Contract Documents	Design & Contract Document Preparation	Specification completed	Mon 31/01/11	Fri 28/03/11	\$10,000	\$10,000	\$7,500	\$2,500
Red Bridge to Moore Road Tendering	Tendering Process	Contract awarded	Mon 28/03/11	Fri 22/04/11	\$5,000	\$5,000	\$3,750	\$1,250
Red Bridge to Moore Road Construction	Construction Phase	8.44km of track completed to standard	Mon 25/04/11	Fri 27/05/11	\$357,755	\$357,755	\$310,742	\$47,013
Clifton via Maraetotara River to Craggy Range Road Design & Contract Documents	Design & Contract Document Preparation	Specification completed	Mon 07/03/11	Fri 29/04/11	\$25,000	\$25,000	\$15,000	\$10,000
Clifton via Maraetotara River to Craggy Range Road Tendering	Tendering Process	Contract awarded	Mon 02/05/11	Fri 27/05/11	\$5,000	\$5,000	\$3,750	\$1,250
Clifton via Maraetotara River to Craggy Range Road Construction	Construction Phase	13.63km of track completed to standard	Mon 30/05/11	Fri 05/09/11	\$1,077,694	\$1,077,694	\$870,000	\$207,694
Easements	Acquire Easements over private property	Easements signed	2010	2011	\$150,000	\$150,000	\$0	\$150,000
			Landscape	Subtotal	\$2,517,683	\$2,517,683	\$1,888,262	\$629,421

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Attachment 1 : Schedule Indicative 3 - Budget and Milestones

Ahuriri Estuary Design & Contract Documents	Design & Contract Document Preparation	Specification completed	Mon 02/05/11	Fri 08/07/11	\$20,000	\$20,000	\$7,800	\$12,200
Ahuriri Estuary Tendering	Tendering Process	Contract awarded	Mon 11/07/11	Fri 05/09/11	\$5,000	\$5,000	\$1,950	\$3,050
Ahuriri Estuary Construction	Construction Phase	21.68km of track completed to standard	Mon 08/08/11	Fri 30/09/11	\$627,000	\$627,000	\$206,000	\$321,470
Westshore Design & Contract Documents	Design & Contract Document Preparation	Specification completed	Mon 13/06/11	Fri 02/09/11	\$20,000	\$20,000	\$7,800	\$12,200
Westshore Tendering	Tendering Process	Contract awarded	Mon 05/09/11	Fri 30/09/11	\$5,000	\$5,000	\$1,950	\$3,050
Westshore Construction	Construction Phase	3.11km of track completed to standard	Mon 03/10/11	Fri 25/11/11	\$825,000	\$825,000	\$322,338	\$502,128
West Quay to Pandora Bridge Design & Contract Documents	Design & Contract Document Preparation	Specification completed	Mon 08/08/11	Fri 28/10/11	\$5,000	\$5,000	\$1,950	\$3,050
West Quay to Pandora Bridge Tendering	Tendering Process	Contract awarded	Mon 31/10/11	Fri 25/11/11	\$5,000	\$5,000	\$1,950	\$3,050
West Quay to Pandora Bridge Construction	Construction Phase	0.54 km of track completed to standard	Mon 28/11/11	Fri 23/12/11	\$405,936	\$405,936	\$160,000	\$246,000
		Water						
		Subtotal			\$1,817,936	\$1,817,936	\$711,738	\$1,106,198
		Totals			\$4,335,619	\$4,335,619	\$2,600,000	\$1,735,619

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HAWKE'S BAY REGIONAL COUNCIL

Wednesday 28 July 2010

SUBJECT: RECOMMENDATIONS FROM REGIONAL TRANSPORT COMMITTEE

Item 10

REASON FOR REPORT:

1. The following matter was considered by the Regional Land Transport Committee on Thursday 08 July 2010 and is now presented to Council for consideration and approval.

DECISION MAKING PROCESS:

2. This item has been specifically considered at the Committee level.

RECOMMENDATION:

Variation to Regional Land Transport Programme – Matahorua Gorge Realignment

Resolution:

1. That Council, Upon NZ Transport Agency's Regional Management Team and Value Assurance Committee sign-off, approves the variation to the Regional Land Transport Programme with respect to the Matahorua Gorge Realignment extension.



**Helen Codlin
GROUP MANAGER STRATEGIC
DEVELOPMENT**

SUBJECT: RECOMMENDATIONS FROM ENVIRONMENTAL MANAGEMENT COMMITTEE

REASON FOR REPORT:

1. The following matters were considered by the Environmental Management Committee on Wednesday 14 July 2010 and are now presented to Council for consideration and approval.
2. The following additional information is included as requested at the 14 July 2010 Committee meeting in relation to Options for Use of Water from Lapsed Consents.

Broad Analysis of the Regional Impacts of Lapsing Consents

3. There are currently four surface water stream management zones considered to be over-allocated. These are the Ngaruroro, Karamu, Tukituki and Maraetotara Stream Management Zones.
4. In the over-allocated Ngaruroro Stream Management Zone there are currently 170 water permits. In 2011, there are 20 water permits which may lapse as Council has not received any information to confirm that these water permits have been exercised to date. If the 19 irrigation permits lapsed (one consent is for frost protection, which does not specify a maximum weekly volume) 15,831 m³/wk would potentially become available.
5. In the Karamu Stream Management Zone there are currently 86 water permits. In 2013, 21 of these consents may lapse as Council has not received any information to confirm that these have been exercised. Council has received confirmation that the remaining 65 permits with the 2013 lapse date have been exercised.
6. In the Tukituki Stream Management Zone there are currently 110 water permits, of which two may lapse in 2011 due to Council not having received confirmation that they have been exercised yet.
7. In the Maraetotara Stream Management Zone there are currently 6 water permits and one of those, for a volume of 945 m³/wk, may lapse in 2011 if Council does not receive information to confirm that it has been exercised.
8. With regards to groundwater areas where there are concerns about the sustainability of the current allocation, the Ruataniwha Basin provides an example. In the Ruataniwha basin there are currently 97 consented groundwater takes. Of these 97 takes, 8 consents lapsed on 31 May 2010 and another 8 consents may potentially lapse over the next five years (2011-2015). If all of the 8 additional consents do lapse, 147,982 m³/wk of groundwater potentially becomes available. To date Council has not received any information confirming that these permits have been exercised.
9. While these figures provide some context for the potential volumes of water that may become available through the lapsing of water permits, it is not possible to definitely state what the impact will be, because Council cannot predict how many consent holders will allow their water permits to lapse.

DECISION MAKING PROCESS:

10. These items have all been specifically considered at the Committee level.

1. Options for Use of Water from Lapsed Consents

Resolutions:

The Committee recommends that Council:

1. Agrees that the decisions to be made are not significant under the criteria contained in Council's adopted policy on significance and that Council can exercise its discretion under Sections 79(1)(a) and 82(3) of the Local Government Act 2002 and make decisions on this issue without conferring directly with the community and persons likely to be affected by or to have an interest in the decision due to the nature and significance of the issue to be considered and decided.
2. Confirms that, as a matter of Council policy, any water that is made available as a result of a water permit lapsing, being surrendered or not being renewed in an over allocated stream management zone or aquifer where there is concern about its sustainability, remains in the said water body and is not re-allocated.

2. Variation 1 – River Mouth Hazard Areas

Resolutions:

The Committee recommends that Council:

3. Agrees that the decisions to be made are not significant under the criteria contained in Council's adopted policy on significance and that Council can exercise its discretion under Sections 79(1)(a) and 82(3) of the Local Government Act 2002 and make decisions on this issue without conferring directly with the community and persons likely to be affected by or to have an interest in the decision due to the nature and significance of the issue to be considered and decided, and in any case those people will have an opportunity to submit on Variation 1 following a decision by Council to publicly notify it.
4. Adopts Draft Variation 1 (Attachment 1), subject to any minor further amendments incorporating feedback from legal and proofing reviews, as Variation 1 to the Proposed Regional Coastal Environment Management Plan for public notification.
5. Adopts Draft 'Section 32 Evaluation Summary: Variation 1 – Proposed Regional Coastal Environment Plan: River Mouth Hazard Areas', subject to minor amendments, and make it available for public inspection.
6. Resolves to give public notice on 10 August 2010 that the Variation to the Proposed Regional Coastal Environment Plan has been released as Variation 1 and that submissions can be made until the closing date of 7 September 2010.



**Darryl Lew
GROUP MANAGER RESOURCE
MANAGEMENT**



**Helen Codlin
GROUP MANAGER STRATEGIC
DEVELOPMENT**

SUBJECT: RECOMMENDATIONS FROM STRATEGIC PLANNING AND FINANCE MEETING

REASON FOR REPORT:

1. The following matters were considered by the Strategic Planning and Finance Committee on Wednesday, 21 July 2010 and are now presented to Council for consideration and approval.

DECISION MAKING PROCESS:

2. These items have all been considered at the Committee level.

RECOMMENDATIONS:

1. Public Transport Update

That Council :

1. Agrees that the decisions to be made are not significant under the criteria contained in Council's adopted policy on significance and that Council can exercise its discretion under Sections 79(1)(a) and 82(3) of the Local Government Act 2002 and make decisions on this issue without conferring directly with the community and persons likely to be affected by or to have an interest in the decision due to the nature and significance of the issue to be considered and decided.'
2. Agrees that the Commuter Express Trial Service be made a permanent service and a variation of contract be issued to Go Bus Transport Limited to include the services as part of the current contract, noting that the 2010/11 Annual Plan budgets provide funding for this service to continue.
3. Receives the report "Update on Passenger Transport Issues".
4. Notes that a further report will be submitted to September Strategic Planning and Finance Committee meeting analysing patronage and financial trends and considering the margin cost of SuperGold services.

2. Future Scenarios Progress Report

That Council:

1. Agrees that the decisions to be made are not significant under the criteria contained in Council's adopted policy on significance and that Council can exercise its discretion under Sections 79(1)(a) and 82(3) of the Local Government Act 2002 and make decisions on this issue without conferring directly with the community and persons likely to be affected by or to have an interest in the decision due to the nature and significance of the issue to be considered and decided.
2. Endorses the launch of the scenarios at the Embracing Futures Thinking breakfast on Wednesday 22 September 2010

3. Venture Hawke's Bay (VHB):

- Financial Position Reforecast to 30 June 2010

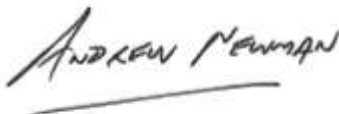
- Proposed Budget for the 2010/11 Financial Year

That Council:

1. Agrees that the decisions to be made are not significant under the criteria contained in Council's adopted policy on significance and that Council can exercise its discretion under Sections 79(1)(a) and 82(3) of the Local Government Act 2002 and

make decisions on this issue without conferring directly with the community and persons likely to be affected by or to have an interest in the decision due to the nature and significance of the issue to be considered and decided

2. That the remaining deficit of \$250,000 covering 2009/10 for VHB be funded by a loan of \$250,000 from the Council to VHB, such a loan to be repayable over a five year period at market interest.
3. Receive the proposed budget for 2010/11 for VHB noting that it is a balanced budget and noting that a further report will be brought back in September dealing with wider issues and matters of governance.



Andrew Newman
CHIEF EXECUTIVE

Attachment/s

There are no attachments for this report.

HAWKE'S BAY REGIONAL COUNCIL

Wednesday 28 July 2010

SUBJECT: CONSENTS AND COMPLIANCE 2009/10 FINANCIAL PERFORMANCE

Item 13

REASON FOR REPORT:

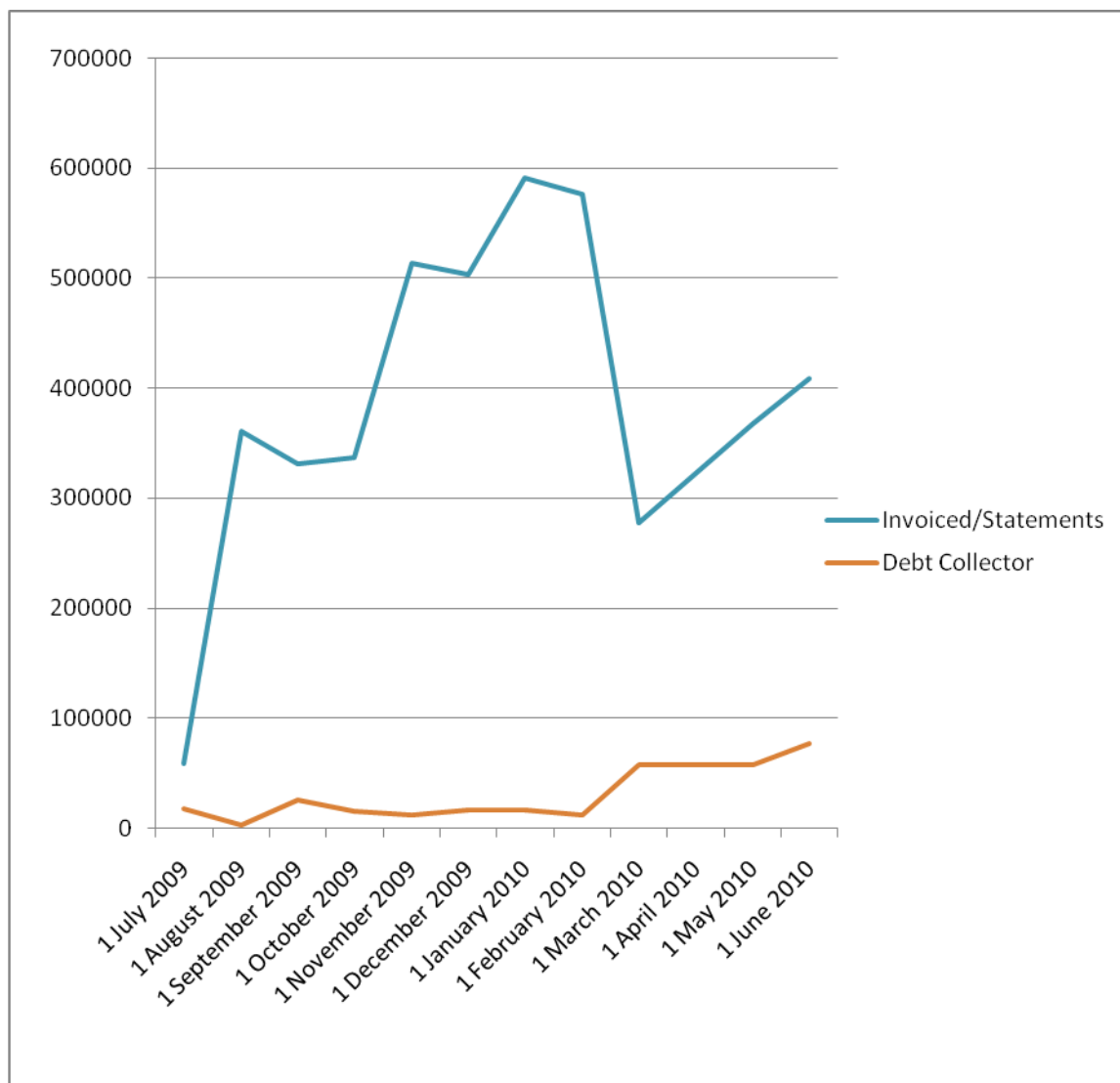
1. At the meeting held on 30 June 2010, Council requested that staff provide monthly updates on the financial position of the Environmental Regulation section, particularly in regards to accounts receivable.
2. This financial report is based on data up to the end of May (period 11 of the financial year) with adjusted forecast income up to 30 June. The final financial position will be presented as part of the Annual Report on 25 August 2010.

2009/10 Budget vs Actual Expenditure/Income for Project 402 Consents Processing

3. At the end of the first eleven months, actual expenditure was \$1,923,000 with actual income of \$717,000.
4. The Consents team estimated that it had \$592,000 of revenue yet to be invoiced or recognised as work in progress against costs incurred. This results in an expected total revenue for the year of \$1,309,000. Actual expenditure to 30 June 2010 is currently estimated at around \$2,070,000.
5. The financial performance requirement of the Consents Team is to recover 60% of expenditure from consent applicants. Based on the above figures the Consent Team is expected to exceed their performance target and recover approximately 63% of costs incurred.
6. This positive financial performance is primarily driven by the high individual productivity of Consent Officers, combined with a high workload and the increased number of complex and often notified consents.
7. The large number of significant consent applications, often for large infrastructure projects, is a positive indicator for the regional economy.

Outstanding Invoices – First/Second Statements

8. Council's standard practice is to issue invoices, followed by a first and then a second statement on the 20th of each successive month. The attached graph illustrates the amounts outstanding by date for approximately the last 12 months. This shows that outstanding invoices and first and second statements peaked at just under \$600,000 in January, but by March approximately half of this sum was paid. Amounts invoiced rose again toward the end of the financial year as significant billing was issued as part of year end.



Debt Collections

- The amount of debt collection referrals peaked at just below \$77,000 at the end of the financial year. This is a high level of bad debts compared to past years and is likely a result of the recession.

Bad Debts for 2009-2010

- As a result of two dairy company receiverships, Council has provided for \$70,000 for non-recoverable debts in the 2009/10 financial year as reported to Council at its meeting held 16 December 2009.

Consent Cost Appeals

- The RMA s357 allows any consent holder to appeal the costs levied by Council to process their applications.
- A cost objection by its nature does not infer an onerous or flawed consent process.
- For the 2009-2010 financial year \$91,000 was refunded to consent holders, as the costs charged were not considered 'actual or reasonable' by commissioners.
- The majority of this cost (\$89,000) was the result of only 2 cost objection hearings, with \$66k being for a number of Ngaruroro water take cost objectors being awarded by an independent commissioner.
- The issues that this decision created for Council have been well traversed in previous advice to Council and various steps have been taken to address them.

Consent Appeal Costs

16. To date \$101,000 has been spent defending appeals on Hearing Panel decisions.
17. Again, appeals on decisions do not indicate bad decisions as parties are legally entitled to exercise appeal rights under the RMA.

Summary

18. While the amount of outstanding invoices rose to very high levels during 2009-2010, this was the result of very high levels of resource consent activity. Despite an increasing trend of payment not being made on invoice, but on first or second statement, invoices are being paid with very few being referred to debt collectors.
19. Where appropriate, Council enters into arrangements for invoices to be paid off in acceptable instalments.
20. In terms of cost exposure to unrecoverable costs from cost objection hearings, appeals and receiverships staff consider that HBRC is not more exposed than any other Council nationally. Given the RMA makes the objection processes available and Council cannot control an applicant's / submitter's appeal rights, then such cost exposure is a cost of 'doing' RMA business within a process set down by successive governments.

Project 445 Pollution Response

21. The 2009-10 budgeted 'net funding requirement' for this project was \$412,000, however the preliminary period 13 reports reflect an actual 'net funding requirement' of \$318,000. These figures show that the funding requirement for this project was \$94,000 less than budgeted.

Project 450 Compliance Monitoring

22. The 2009-10 budgeted 'net funding requirement' for the Compliance project was \$235,000. The preliminary period 13 report reflects an actual 'net funding requirement' of \$133,000. These figures show that the funding requirement for this project was \$102,000 less than budgeted.
23. The financial performance requirement of this project is to recover 70% of expenditure from consent holders, excluding the costs of auditing domestic wastewater consents.
24. Based on preliminary period 13 (30 June) figures the compliance project is expected to have exceeded their performance target and recover approximately 80% of costs incurred. This percentage includes the cost of the wastewater audits but is likely to change +/-2% when the final project accounts are finalised.
25. Of the 10% income over the budgeted 70%, approximately 4% is a result of significantly less cost being incurred in the low flow project due to a 'wetter' summer creating less demand for low flow management resourcing.
26. The remaining 6% is due to staff/process efficiency gains, and the fact that this year's prosecution workload was not as high as previous years.
27. There are invoices totalling approximately \$8,000 still outstanding from the 2008/09 year due to four companies/individuals being declared bankrupt or in receivership.
28. In this project, less than \$1,000 from the 2009/10 year remains unpaid and has been referred for debt collection.

DECISION MAKING PROCESS:

29. Council is required to make a decision in accordance with Part 6 Sub-Part 1, of the Local Government Act 2002 (the Act). Staff have assessed the requirements contained within this section of the Act in relation to this item and have concluded that, as this report is for information only and no decision is to be made, the decision making provisions of the Local Government Act 2002 do not apply.

RECOMMENDATIONS:

1. That the Council receives the report titled "Consents and Compliance 2009/10 Financial Performance".



Darryl Lew
GROUP MANAGER RESOURCE
MANAGEMENT

John Peacock
CORPORATE ACCOUNTANT



Bryce Lawence
MANAGER COMPLIANCE

Attachment/s

There are no attachments for this report.

HAWKE'S BAY REGIONAL COUNCIL

Wednesday 28 July 2010

SUBJECT: MONTHLY WORK PLAN LOOKING FORWARD

Item 14

COMMENT:

The table below is provided for Councillors' information, to provide them with an indication of issues and activities coming up over the next month in each area of Council.

Group	Area of Activity	Report to go to Council or Committee as indicated
Asset Management	<ul style="list-style-type: none"> • Review of Heretaunga Plains Scheme • Operational Plan for land management activities • Establish forest for land based sewage disposal Central Hawke's Bay, and project manage CHBDC project 	<p>First project update to be presented to AM&B Committee in November.</p> <p>AM&B Committee in August</p> <p>Concept design substantially complete. Consultation with key parties initiated. Resource consent application programmed to be lodged early August.</p> <p>Forestry establishment for CHBDC properties underway.</p>
Resource Management	<ul style="list-style-type: none"> • RMA amendments implementation. • Replacement resource consent applications in the Twyford area. • Section 36 cost recovery options for science investigations re water allocation 	<p>Discount Policy implications presented at 14 July Environmental Management Committee meeting. Regulations take effect 30 July 2010.</p> <p>151 applications publicly notified, submission period closed 26 Feb, pre-hearing meetings under way and Hearings scheduled for 30 August 2010 start.</p> <p>Council adopted Charging Policies for inclusion in the 2010/11 Annual Plan. Staff focus now on implementing the scheme.</p>

Group	Area of Activity	Report to go to Council or Committee as indicated
	<ul style="list-style-type: none"> Odour issues at Clive wastewater treatment plant 	<p>HDC tenders for the BTF lids close 28 July. HDC provided affected residents with a July situation update newsletter. HBRC staff expect resolution of Abatement Notice appeal & resource consent application timeframes by mid August.</p>
Strategic Development	<ul style="list-style-type: none"> Scenario Development project still in Scenario Writing phase. Preparing the associated report and developing a communication strategy. Regional Economic Development Strategy – This is an NZTE funded project (78%). HBRC is the contract holder and VHB is the primary service provider. Project Steering Group to be established. Presentation of the Joint Committee Report on the hearings of submissions for the Heretaunga Plains Urban Development Strategy to Council workshop and Council meeting. Project manage the 2 year Heretaunga Plains Transportation Study and develop Project Brief for HB Rural Study -ongoing Initiate development of project scope for Regional Water Values Study Mediation meetings for the 3 appeals on Decisions on Plan Change 2 and Variation 2 – Air Quality Public notification of the plan variation for Proposed Regional Coastal Environment Plan to provide opportunity to public input into Coastal Hazard Zones around river mouth. Work on the development of an Issues and Options paper for on-site wastewater management. Delivery date to Committee slipped to September given RCEP plan variation, staff involvement with HPUDES hearing reports, and air quality plan appeals. Progress Taharua Strategy as per project plan. 	<p>Launch at Embracing Futures Thinking Breakfast on 22 September</p> <p>Joint Committee recommendations for Heretaunga Plains Urban Development Strategy to partner Councils in August</p> <p>Brief progress reports to Regional Transport Committee</p> <p>Ongoing</p> <p>Ongoing</p> <p>Report to September Environmental Management Committee meeting</p> <p>Possible presentation by stakeholder group at September Environmental Management Committee</p>

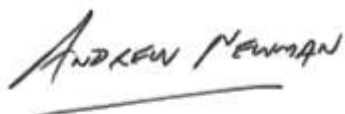
Group	Area of Activity	Report to go to Council or Committee as indicated
	<ul style="list-style-type: none"> Progress Regional Stormwater Strategy. There have been delays on this project due to staff illness. 	Ongoing
Corporate Services	<ul style="list-style-type: none"> Draft Annual Report. Audited Annual Report. Leasehold Land issues re policies on providing assistance to leaseholders 	<p>August Council meeting</p> <p>September Council meeting</p> <p>Ongoing</p>
External Relations	<ul style="list-style-type: none"> Development of template for strategic partnership agreements Preparation of paper on opportunities for co-ordination and rationalisation of environmental education programmes, both those provided by Council and also other agencies. Continue negotiations on gravel management with Ngati Pahauwera, in conjunction with Operations Group. Review of Healthy Homes Strategy priorities 	<p>September 2010</p> <p>EMC September 2010</p> <p>Ongoing</p> <p>Report to Healthy Homes Coalition October 2010.</p>
Operations Group	<ul style="list-style-type: none"> Pekapeka project – Planting complete with work on signage, site furniture and observation area to be completed over next 2 months prior to October opening. Native planting programme of 15,000 plants in Te Karamu, Pakowhai Country Park and Rivers continuing. Cycleways – Work on Phase 3 of the project is now underway which involves confirming funding agreements, completing landowner consultation and organising contracts for the Landscapes rides. More work to confirm an alignment and obtain landowner approvals for the Water ride needs to be undertaken by end of August 2010. A review of open space opportunities will be carried out over the next 2 months to determine alignment with the 2010/11 budget provision. 	<p>Ongoing</p> <p>Ongoing</p> <p>Ongoing</p>
CE's Office	<ul style="list-style-type: none"> Freshwater Governance and Management Treaty Settlements 	

DECISION MAKING PROCESS:

Council is required to make a decision in accordance with Part 6 Sub-Part 1, of the Local Government Act 2002 (the Act). Staff have assessed the requirements contained within this section of the Act in relation to this item and have concluded that as this report is for information only and no decision is required in terms of the Local Government Act's provisions, the decision making procedures set out in the Act do not apply.

RECOMMENDATION:

1. That Council receives the Monthly Work Plan Looking Forward report.



Andrew Newman
CHIEF EXECUTIVE

Attachment/s

There are no attachments for this report.

HAWKE'S BAY REGIONAL COUNCIL

Wednesday 28 July 2010

SUBJECT: GENERAL BUSINESS

Item 16

INTRODUCTION:

This document has been prepared to assist Councillors note the General Business to be discussed as determined earlier in Agenda Item 6.

ITEM	TOPIC	COUNCILLOR / STAFF
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HAWKE'S BAY REGIONAL COUNCIL

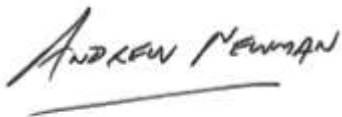
Wednesday 28 July 2010

**SUBJECT: CONFIRMATION OF PUBLIC EXCLUDED MEETING MINUTES HELD
ON 9, 10, 11, 17, 21 AND 30 JUNE 2010**

Item 17

That the Council exclude the public from this section of the meeting being Agenda Item 17 Confirmation of Public Excluded Meeting Minutes held on 9, 10, 11, 17, 21 and 30 June 2010 with the general subject of the item to be considered while the public is excluded; the reasons for passing the resolution and the specific grounds under Section 48 (1) of the Local Government Official Information and Meetings Act 1987 for the passing of this resolution being as follows:

GENERAL SUBJECT OF THE ITEM TO BE CONSIDERED	REASON FOR PASSING THIS RESOLUTION	FOUNDATIONS UNDER SECTION 48(1) FOR THE PASSING OF THE RESOLUTION
Confirmation of Public Excluded Meeting Minutes held on 9, 10, 11, 17, 21 and 30 June 2010	7(2)(a) Protect the privacy of natural persons	The Council is specified, in the First Schedule to this Act, as a body to which the Act applies.



**Andrew Newman
Chief Executive**

HAWKE'S BAY REGIONAL COUNCIL

Wednesday 28 July 2010

SUBJECT: COUNCIL'S INVESTMENT PORTFOLIO - FUTURE ISSUES PORT OF NAPIER LTD STRATEGY

Item 19

That the Council exclude the public from this section of the meeting being Agenda Item 18 Council's Investment Portfolio - Future Issues Port of Napier Ltd Strategy with the general subject of the item to be considered while the public is excluded; the reasons for passing the resolution and the specific grounds under Section 48 (1) of the Local Government Official Information and Meetings Act 1987 for the passing of this resolution being as follows:

GENERAL SUBJECT OF THE ITEM TO BE CONSIDERED	REASON FOR PASSING THIS RESOLUTION	GROUND'S UNDER SECTION 48(1) FOR THE PASSING OF THE RESOLUTION
Council's Investment Portfolio - Future Issues Port of Napier Ltd Strategy	7(2)(h) Enable the local authority holding the information to carry out, without prejudice or disadvantage, commercial activities	The Council is specified, in the First Schedule to this Act, as a body to which the Act applies.



**Andrew Newman
CHIEF EXECUTIVE**