



Meeting of the Hawke's Bay Regional Council

Date: Wednesday 22 September 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 25 August 2010 | |
| 4. | Matters Arising from Minutes of the Regional Council Meeting held on 25 August 2010 | |
| 5. | Action Items from Meetings | 3 |
| Decision Items | | |
| 6. | Affixing of Common Seal | 7 |
| 7. | Adoption of Audited Annual Report 2009/10 | 9 |
| 8. | Central Hawke's Bay Waste Water Project | 17 |
| 9. | Code of Conduct | 21 |
| 10. | Appointment of Hearing Commissioners | 35 |
| 11. | Ratification of Outstanding Council and Committee Meeting Minutes | 39 |
| 12. | Recommendations from Environmental Management Committee | 41 |
| 13. | Recommendations from Strategic Planning and Finance Committee | 43 |
| 14. | Venture Hawke's Bay (to be distributed under separate cover) | |
| Information or Performance Monitoring | | |
| 15. | Chairman's Monthly Report (to be tabled) | |
| 16. | General Business | 47 |
| Decision Items (Public Excluded) | | |
| 17. | Confirmation of Public Excluded Meeting held on 25 August 2010 | 49 |
| 18. | Matters Arising from Minutes from PE Minutes 25 August 2010 | |

HAWKE'S BAY REGIONAL COUNCIL

Wednesday 22 September 2010

Item 5

SUBJECT: ACTION ITEMS FROM MEETINGS

INTRODUCTION:

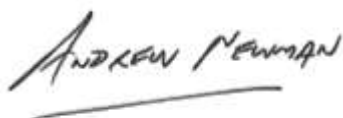
1. On the list **attached** as **Appendix 1** are items raised at Council meetings that require actions or follow-ups. All action items indicate who is responsible for each action, when it is expected to be completed and a brief status comment for each action. Once the items have been completed and reported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



Andrew Newman
CHIEF EXECUTIVE

Attachment/s

- 1 Action Items

Actions from Council Meetings

| | Agenda Item | Action | Person Responsible | Due Date | Status Comment |
|----|------------------------------------|---|--------------------|----------|---|
| 1. | General Business – Tutira Property | Update to be given on what is happening with this property with respect to property plan adopted by Council covering issues including forestry, demonstration trials, recreational opportunities. | MA | Nov 10 | Report to be brought to November meeting of AM&B Committee. |
| 2. | Invest in HBS/Southland Bank | Due to the merger is this bank's credit rating now at the position council could invest here? | PD | Nov 10 | Mr Drury to investigate for the November Council meeting. |

Item 5

Attachment 1

HAWKE'S BAY REGIONAL COUNCIL

Wednesday 22 September 2010

Item 6

SUBJECT: AFFIXING OF COMMON SEAL

COMMENT:

1. 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 162 DP 6598 CT C2/362 - Agreement for Sale and Purchase - Transfer | 2994 2992 | 17 August 2010 17 August 2010 |
| 1.1.2 | Lot 39 DP 9653 CT C2/438 - Transfer | 2993 | 20 August 2010 |
| 1.1.3 | Lot 10 DP 6391 CT D4/1420 - Agreement for Sale and Purchase | 2999 | 15 September 2010 |
| 1.2 | Staff Warrants | 2995 & 2997 | 6 September 2010 |
| 1.3 | Easement Instrument to Grant Easement Lots 6,7,11,14, 15 and 16 DP 431 824 CTs 526012, 526013, 526017 | 2996 | 8 September 2010 |
| 1.4 | Agreement to Acquire Easement Lot 1 DP 14152 CT F4/1444 (Clive River) | 2998 | 14 September 2010 |

DECISION MAKING PROCESS

2. 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 22 September 2010

Item 7

SUBJECT: ADOPTION OF AUDITED ANNUAL REPORT 2009/10

REASON FOR REPORT:

1. The purpose of this paper is for Council to resolve to adopt the 2009/10 audited Annual Report, to authorise the signing of this report, and to consider the impact on cash operating balances of the favourable operating position at year end 30 June 2010.

Background

2. The draft Annual Report 2009/10 was considered by Council on Wednesday 25 August 2010 and adopted for audit. Now that the audit is in the final stages of completion, it is necessary for Council to consider the 2009/10 Annual Report, for formal adoption and publication.
3. The draft "printer's proof" (**Attachment 2**) of the Annual Report, includes a shorter version of the Chairman and Chief Executive's report, as the progress against the main strategic issues are now included in the new section reporting on the "Right Debate" issues.
4. This draft "printer's proof" will be proof-read over the next week and subsequent to Council approval will be printed in-house, and will be covered and bound externally by a printer. About 100 copies will be sent out to interested parties during mid October 2010.
5. Section 98 of the Act states:
 - (4) *A Local Authority must, within one month of the adoption of its Annual Report, make publicly available:*
 - (a) *its Annual Report; and*
 - (b) *a summary of information contained in its Annual Report*
 - (5) *The summary must represent, fairly and consistently, the information regarding the major matters dealt with in the Annual Report.*
6. Section 99 (2) states that the summary Annual Report must contain the Auditor's report on whether the summary represents, fairly and consistently, the information regarding the major matters dealt within the Annual Report.
7. It is proposed to include the summary Annual Report in the Big Picture to be distributed to all households. It will be distributed from Monday 18 October 2009. The summary will be presented on the middle two pages of the Big Picture and will include a short Audit Report from the Audit Office as required by Section 99 of the Act.

Favourable Operating Variance 2009/10 and the impact on operating cash balances

8. The actual operating results covering the Council's general funded operations for the financial year ended 30 June 2010 was reported to Council at the meeting on 25 August 2010, as \$285,367. It was also stated in that Council paper considered at that meeting that this result was an interim result, and that adjustments may be needed after finalisation of the audit. One variation that was reported in those papers as needing to be made to the year-end deficit was an adjustment of \$38,000 for revenue being overstated for Project 484 – Externally Funded Water Projects. Accordingly the revised deficit as reported in this paper is \$322,000.

9. The accounts for Venture Hawke's Bay have now been finalised and audited and the contribution required by Council is a sum of \$247,700. At the meeting on Wednesday 28 July 2010, Council resolved that a loan of \$250,000 would be made from this Council to Venture Hawke's Bay to cover this remaining deficit.
10. When the year-end deficit of \$322,000 is compared to the Annual Plan budgeted deficit of \$787,000, it can be seen that the Council, for this year, is reporting a favourable variance against Plan of \$465,000.
11. Set out in **Attachment 1** to this paper is a table that covers how the favourable variance of \$465,000 for the year ending 30 June 2010 is proposed to be used.
12. The following points are worth noting after analysing the figures and notes in **Attachment 1**:
 - 12.1. Funds need to be set aside from the favourable operating position to fund the carry forward of expenditure of \$363,000 from 2009/10 to 2010/11.
 - 12.2. Council resolved at the meeting on Wednesday 25 August 2010 that \$139,000 representing the profit on external work undertaken by Council's Operations Group for the year ending 30 June 2010 be transferred to Council as a dividend. This amount increased the funding available in Council's cash operating balances.

DECISION MAKING PROCESS:

13. Council is required to make every decision in accordance with provisions of Part 6, sub-part 1 of the Local Government Act 2002 (the Act). Staff have assessed requirements contained in the sections of the Act in relation to this item and have concluded that the decision making provisions of the Act do not apply as the Annual Report is a statutory report required to be adopted by Council no later than 31 October 2010, under Section 98 of the Act.
14. The Council must, within one month after adoption of its Annual Report, make copies available to the public.

RECOMMENDATIONS:

That the Council :

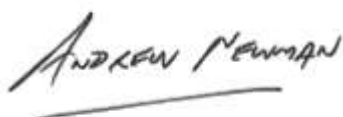
1. Adopt the 2009/10 Annual Report, under Section 98 of the Local Government Act 2002, and to authorise the Chairman and Chief Executive to sign the Annual Report on behalf of Council.
2. On receipt of the signed report from the Audit Office print and distribute the Annual Report.
3. Amend the Council's Policy Handbook Section 2.2.2 to reflect the above resolutions.



**John Peacock
CORPORATE ACCOUNTANT**



**Paul Drury
GROUP MANAGER CORPORATE
SERVICES**



**Andrew Newman
CHIEF EXECUTIVE**

Attachment/s

- 1** - Summary Operating Statement 12 Months Ended 30 June 2010
 - Reconciliation of Favourable Operating Variances for 2009/10
 - Cash Operating Balances

- 2** Draft "Printers Proof" of Annual Report 2009/10

Under Separate
Cover

HAWKE'S BAY REGIONAL COUNCIL

SUMMARY OPERATING STATEMENT

Twelve Months Ended 30 June 2010 (Pd 14 Final)

| GROUPS OF ACTIVITIES: | ANNUAL PLAN EXPENDITURE FULL YEAR | ACTUAL INCOME (*) After 12 Months | ACTUAL RESERVE MOVEMENT After 12 Months | NET FUNDING REQUIREMENT | | | ACTUAL / FORECAST (%) |
|--|---|---|---|---------------------------|---------------------|--------------------------|-----------------------------|
| | | | | ACTUAL After 12 Months | FULL YEAR BUDGET | FULL YEAR RE-FORECAST | |
| Environmental Management | (10,475,763) | 6,601,998 | 396,626 | (7,410,280) | (7,014,469) | (7,390,869) | 100% |
| Land Drainage & River Control | (6,189,096) | 3,663,204 | 905,309 | (1,191,500) | (1,277,120) | (1,256,620) | 95% |
| Biosecurity | (3,454,736) | 2,586,043 | (254,671) | (1,022,460) | (1,119,424) | (1,119,424) | 91% |
| Hazard Management | (1,184,545) | 206,942 | | (985,398) | (966,378) | (954,678) | 103% |
| Land Transport | (3,555,484) | 3,632,577 | (433,460) | (228,752) | (307,927) | (250,393) | 91% |
| Strategic Direction | (3,457,661) | 1,185,373 | 215,441 | (2,096,463) | (2,074,361) | (2,248,361) | 93% |
| Social & Cultural Wellbeing | (2,170,050) | 596,021 | 549,423 | (1,407,139) | (1,394,519) | (1,386,520) | 101% |
| Public Liability Insurance Calls | | | | | | (53,000) | |
| Other Changes to Cost Centres | | | | | | | |
| | (30,487,335) | 18,472,158 | 1,378,668 | (14,341,992) | (14,154,198) | (14,659,865) | 98% |
| BUSINESS UNIT ADJUSTMENTS: | | | | | | | |
| Notional Interest on Operations Group Fixed Assets | | 156,770 | | 156,770 | 156,000 | 156,000 | 100% |
| Operations Group Council Activities | (3,767,000) | 3,948,515 | | | | | |
| Operations Group External Activities | (331,000) | 787,854 | | 139,014 | 100,000 | 100,000 | 139% |
| Net Operations Group Activities | (4,098,000) | 4,736,369 | | 139,014 | 100,000 | 100,000 | |
| Venture Hawke's Bay Activities | (2,438,000) | 2,733,109 | 288,309 | (247,749) | | (250,000) | 99% |
| NET FUNDING REQUIREMENT | | 26,098,406 | 1,666,977 | (14,293,957) | (13,898,198) | (14,653,865) | 98% |
| General Funding Rates Levied (net of costs) | | 3,703,725 | | 3,406,251 | 3,379,126 | 3,379,126 | 101% |
| Port Dividends (net of costs) | | 5,531,050 | 1,445,000 | 6,933,292 | 5,990,500 | 6,956,500 | 100% |
| Operating Interest | | 1,623,895 | (254,101) | 1,369,794 | 629,873 | 1,273,873 | 108% |
| Endowment Leasehold Land Rental (Net of Cost) | | 2,519,209 | | 2,445,066 | 2,432,206 | 2,432,206 | 101% |
| Investment Property Rental (Net of Cost) | | 541,393 | | 527,668 | 577,986 | 577,986 | 91% |
| Disaster Reserve Interest & Dividends (Net of Cost) | | 169,964 | | 117,755 | 77,000 | 77,000 | 153% |
| Wastewater Disposal Investments | | | 49,391 | 47,652 | 235,999 | 86,425 | 55% |
| Broadband Investment | | | | | 60,000 | | |
| Carbon Sequestration Investment | | 15,290 | 33,162 | 23,177 | 157,600 | 93,426 | 25% |
| Regional Investment Company | | | | | (65,600) | | |
| Other Income | | 163,727 | | 163,727 | 170,000 | 170,000 | 96% |
| Gain / (Loss) on Disposal of Assets | | 6,454 | | 6,454 | | | |
| Transfer to Sale of Land Account | | | (590,000) | (590,000) | | (590,000) | 100% |
| REGIONAL INCOME | | 14,274,707 | 683,452 | 14,450,835 | 13,644,690 | 14,456,542 | 100% |
| OPERATING SURPLUS /(DEFICIT) | | 40,373,113 | 2,350,428 | 156,878 | (253,508) | (197,323) | (80%) |
| Environmental & Other Capital Projects | | 2,065,262 | 1,676,494 | (141,970) | (144,867) | (113,867) | 125% |
| Flood Protection & Drainage Capital Projects | | 2,672,645 | (373,987) | (336,966) | (389,263) | (394,425) | 85% |
| COUNCIL FUNDING REQUIRED FOR CAPITAL PROJECTS | | 4,737,907 | 1,302,507 | (478,936) | (534,130) | (508,292) | 94% |
| ANNUAL PLAN SURPLUS /(DEFICIT) | | 45,111,020 | 3,652,935 | (322,058) | (787,638) | (705,615) | 46% |

(*) Income includes Works Rates, Fees and Charges and Grants

Attachment 1

**Hawke's Bay Regional Council
 Reconciliation of Favourable Variance from Annual Plan to
 Actual Underlying Surplus / (Deficit) at 30 June 2010**

(Revised 9 September 2010)

| | Variance (\$'000) |
|---|----------------------|
| Budgeted underlying result / (deficit) | (787) |
| Actual underlying result / (deficit) | (322) |
| Underlying result variance [surplus / (deficit)] | 465 |
| | |
| Carry forward of expenditure from 2009/10 to 2010/11 (Approved 30 June 2010 Council Meeting) | 364 |
| | |
| Cash required to settle year-end net working capital payables and fund other reserve transfers | 263 |
| | |
| Decrease in available cash operating balances | (162) |
| | 465 |

Item 7

Hawke's Bay Regional Council Cash Operating Balances

(Revised 9 September 2010)

| | | Year 2 2010/11 Annual Plan (\$'000) | Year 3 2011/12 Forecast (\$'000) | Year 4 2012/13 Forecast (\$'000) | Year 5 2013/14 Forecast (\$'000) | Year 6 2014/15 Forecast (\$'000) | Year 7 2015/16 Forecast (\$'000) | Year 8 2016/17 Forecast (\$'000) | Year 9 2017/18 Forecast (\$'000) | Year 10 2018/19 Forecast (\$'000) |
|---|-----------|--|---|---|---|---|---|---|---|--|
| Opening Cash Operating Balance | 1. | 6,481 | 5,879 | 6,334 | 7,014 | 7,866 | 8,694 | 9,483 | 9,981 | 10,707 |
| Annual & 10 Year Plan Underlying Surplus / (Deficit) | 2. | (602) | 455 | 680 | 852 | 828 | 789 | 498 | 726 | 108 |
| Closing Cash Operating Balance (Excluding Contingency) | | 5,879 | 6,334 | 7,014 | 7,866 | 8,694 | 9,483 | 9,981 | 10,707 | 10,815 |

Notes:

1. Excludes all Reserves and Contingencies. The opening balance at 1 July 2010 is an actual position from the Annual Report 2009/10.
2. The 2010/2011 Annual Plan was approved by Council on 30 June 2010.

SUBJECT: CENTRAL HAWKE'S BAY WASTE WATER PROJECT

REASON FOR REPORT:

1. The concept design for the Waipukurau/Waipawa Waste Water Treatment project includes the use of an area of river berm land in the vicinity of the confluence of the Tukituki and Waipawa Rivers for the treatment of waste water and possibly the discharge of waste water at times of higher flows in the river.
2. The area of land in question is currently classified as a Crown derived local purpose reserve for soil conservation and river control purpose pursuant to the Reserves Act 1977. The Crown is therefore deemed the owner of the subject land with the Department of Conservation (DoC) administering the land, and the day to day management and control residing with this Council.
3. Due to this current status, a change of classification to the reserve is required to allow the secondary activity of waste water treatment. This requires the approval of DoC.
4. In order to initiate the approval process, an application is required to DoC seeking a change in classification. This must include a resolution of Council to this effect.
5. This paper seeks that resolution from Council.

Background

6. The concept design for the waste water treatment system includes irrigation of waste water on to two forest blocks owned by Hawke's Bay Regional Council, an area of privately owned pastoral land; and the area of land which is subject to this paper.
7. The proposed concept design will result in:
 - 7.1 No waste water entering the rivers during the summer months (1 October to 31 March) except during extended wet periods (over a 10 year period it is expected that 85% of waste water will be discharged to land for treatment during this period).
 - 7.2 69% of waste water will be discharged to land during the shoulder period (1 April to 31 May) and
 - 7.3 45% of waste water will be discharged to land during winter months (1 June to 30 September).
8. It is proposed that approximately 15 hectares of the river berm land be prepared and planted in a crop such as lucerne, which will be irrigated using the waste water and harvested for sale as stock fodder. The details of the impact of this activity on water quality within the Tukituki River will be outlined in detail as part of a resource consent application expected to be lodged with this Council shortly.

Process

9. If Council adopts the resolution proposed in this briefing paper, application will be made to Department of Conservation for that change in classification to allow for the secondary use to be made, the application will be forwarded to DoC with the draft resource consent conditions associated with the treatment and discharge of waste water on that land.
10. DoC will advise whether or not public notification of that change of classification will be required. If public notification is required this will be done through an advertisement through the local newspaper with an objection period of 1 month from the date of first publication of the notice. Any objections will be received by HBRC, evaluated and discussed by Council forming another resolution of Council as to whether or not to proceed with the process.

11. If Council agrees to proceed with the process then a copy of the objections and Council's resolution will be forwarded to DoC for consideration. DoC will then make a decision as to whether or not they will approve the classification.

DECISION MAKING PROCESS:

12. 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:
 - 12.1 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.
 - 12.2 Sections 83 and 84 covering special consultative procedure do not apply.
 - 12.3 The decision does not fall within the definition of the Council's policy on significance.
 - 12.4 This briefing paper seeks an administrative change to land use. The issues around persons affected will be dealt with through the RMA process.
 - 12.5 The options are for Council to support this recommendation or decline.
 - 12.6 Section 80 of the Act covering decisions that are inconsistent with an existing policy or plan does not apply.
 - 12.7 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 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. Resolves to seek a change of classification for part of an area of land in the Tukituki River described as Section 1 Block XVI Waipukurau Survey District SO Plan 7085 comprising 132.9418 hectares currently controlled and managed by Hawke's Bay Regional Council as local purpose reserve for soil conservation and river control purposes, to allow its secondary use for waste water treatment and discharge in accordance with a resource consent.



Mike Adye
GROUP MANAGER ASSET
MANAGEMENT

Attachment/s

- 1 CHB Waste Water Project Map



Item 8

Attachment 1

SUBJECT: CODE OF CONDUCT

REASON FOR REPORT:

1. Under Schedule 7 Part 15 of the Local Government Act 2002 Council, in August 2003 adopted a Code of Conduct for members of the Council and reviewed it in September 2007. It is again due for review and is now presented to the Council for comment. Any suggestions for improvement and recommended amendments will be noted and referred to the new Council.

Background

2. Schedule 7 Part 15 of the Local Government Act 2002 states the following:

'15. Code of conduct—

- (1) A local authority must adopt a code of conduct for members of the local authority as soon as practicable after the commencement of this Act.*
- (2) The code of conduct must set out—*
 - (a) understandings and expectations adopted by the local authority about the manner in which members may conduct themselves while acting in their capacity as members, including—*
 - (i) behaviour toward one another, staff, and the public; and*
 - (ii) disclosure of information, including (but not limited to) the provision of any document, to elected members that—*
 - (A) is received by, or is in the possession of, an elected member in his or her capacity as an elected member; and*
 - (B) relates to the ability of the local authority to give effect to any provision of this Act; and*
 - (b) a general explanation of—*
 - (i) the Local Government Official Information and Meetings Act 1987; and*
 - (ii) any other enactment or rule of law applicable to members.*
- (3) A local authority may amend or replace its code of conduct, but may not revoke it without replacement.*
- (4) A member of a local authority must comply with the code of conduct of that local authority.*
- (5) A local authority must, when adopting a code of conduct, consider whether it must require a member or newly elected member to declare whether or not the member or newly elected member is an undischarged bankrupt.*
- (6) After the adoption of the first code of conduct, an amendment of the code of conduct or the adoption of a new code of conduct requires, in every case, a vote in support of the amendment of not less than 75% of the members present.*
- (7) To avoid doubt, a breach of the code of conduct does not constitute an offence under this Act.'*

3. There are no changes proposed to the existing Code of Conduct, which is attached for Councillors' information.

DECISION MAKING PROCESS:

4. 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:
 - 4.1. 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.
 - 4.2. Sections 83 and 84 covering special consultative procedure do not apply.
 - 4.3. The decision does not fall within the definition of the Council's policy on significance.
 - 4.4. The persons affected by this decision are primarily the existing Councillors. The Draft Code of Conduct presented to Council for adoption includes a requirement under section 4.3 that a review occur at the end of each three year term and that any proposed amendments be presented to the new Council for their consideration. Therefore, there is this opportunity and at any other time for the Council to review the Code notwithstanding the fact that 75% have to agree to change parts of it. Therefore, the persons likely to be affected is relatively narrow although the community as a whole will have an ongoing interest in the behaviour and interaction of their representatives.
 - 4.5. Section 80 of the Act covering decisions that are inconsistent with an existing policy or plan does not apply.
 - 4.6. 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 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. Considers the attached Code of Conduct, which forms part of the Council's adopted Policy, and indicates any suggestions for improvement or recommendations for amendment which should be presented to the new Council for consideration and adoption, as is required by Schedule 7 Part 15 of the Local Government Act 2002 and include the Code in Council's Policy Handbook – Section 1.10.



Andrew Newman
CHIEF EXECUTIVE

Attachment/s

- 1 Code of Conduct

HAWKE'S BAY REGIONAL COUNCIL CODE OF CONDUCT

1.0 PART ONE: INTRODUCTION

- 1.1 Schedule 7 of the Local Government Act 2002 (the Act) requires each local authority to adopt a Code of Conduct. Once adopted, all elected members are required to comply with the code.

This Code of Conduct provides guidance on the standards of behaviour that are expected from the Chairman and elected members of the Hawke's Bay Regional Council. The Code applies to elected members in their dealings with:

- each other
- the Chief Executive
- all staff employed by the Chief Executive on behalf of the Council
- the media
- the general public.

- 1.2 **The objective of the Code** is to enhance:

- the effectiveness of the Council as an autonomous local authority with statutory responsibilities for the good governance of the Hawke's Bay Region
- the credibility and accountability of the Council within its community
- mutual trust, respect and tolerance among the elected members as a group and between the elected members and management.

- 1.3 **This Code of Conduct seeks to achieve its objectives** by establishing:

- an agreed statement of roles and responsibilities (recorded in **Part Two** of the code)
- agreed general principles of conduct (recorded in **Part Three** of the code)
- specific codes of conduct applying to particular circumstances or matters (also recorded in **Part Three** of the code).

- 1.4 Elected members are primarily accountable to the electors of the Region through the democratic process. Before taking office after election, each declares that he or she will *"faithfully and impartially, and according to my best skill and judgement, execute and perform in the interests of the Hawke's Bay Region the statutory powers, authorities and duties vested in or imposed upon me as a member of the Hawke's Bay Regional Council"*.

However members must note that the Auditor-General may hold them to account for unlawful actions or expenditure or for breaches of the Local Authorities (Members' Interests) Act 1968.

1.5 GENERAL PRINCIPLES OF GOOD GOVERNANCE:

This Code of Conduct is based on the following ten principles:

- **Public interest.** Members should serve only the interests of the region as a whole and should never improperly confer an advantage or disadvantage on any one person.
- **Honesty and integrity.** Members should not place themselves in situations where their honesty and integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour.
- **Objectivity.** Members should make decisions on merit including making appointments, awarding contracts, or recommending individuals for rewards or benefits. Elected members should also note that while representing their constituency, once elected their primary duty is to the interests of the entire region.
- **Accountability.** Members should be accountable to the public for their actions and the manner in which they carry out their responsibilities, and should cooperate fully and honestly with the scrutiny appropriate to their particular office.
- **Openness.** Members should be as open as possible about their actions and those of the Council, and should be prepared to justify their actions.
- **Personal judgment.** Members can and will take account of the views of others, but should reach their own conclusions on the issues before them, and act in accordance with those conclusions.
- **Respect for others.** Members should promote equality by not discriminating unlawfully against any person and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation, or disability.
- **Respect for staff.** Members should respect the impartiality and integrity of the Council staff.
- **Duty to uphold the law.** Members should uphold the law, and on all occasions, act in accordance with the trust the public places in them.
- **Stewardship.** Members must ensure that the Council uses resources prudently and for lawful purposes, and that the Council maintains sufficient resources to meet its statutory obligations.
- **Leadership.** Members should promote and support these proposals by example, and should always endeavour to act in the best interests of the region.

2.0 PART TWO: ROLES AND RESPONSIBILITIES

This part of the Code describes the roles and responsibilities of elected members, the additional roles of the Chairman and Deputy Chairman, and the role of the Chief Executive.

2.1 Elected Members

Elected members, acting as the Council, are responsible for:

- development and adoption of Council policy

- monitoring the performance of the Council against its stated objectives and policies
- prudent stewardship of Council resources
- employment of the Chief Executive
- representing the interests of the residents and ratepayers of the Hawke's Bay Regional Council. (On election, the primary responsibility of members is to the Region as a whole.)

Unless otherwise provided in the Local Government Act 2002 or in standing orders, the Council can act only by majority decisions at meetings. Each member has one vote other than in the situation where there is a deadlock in voting in which case the Chairman can exercise a casting vote if so provided. Any individual member (other than the Chairman who has authority to act on behalf of the Council as reasonable needs require) has no authority to act on behalf of the Council unless the Council has expressly delegated such authority.

2.2 Chairman

The Chairman is elected by the members of the Council at the first meeting following the triennial election. The Chairman may be removed from office by resolution of Council.

As one of the elected members the Chairman shares the same responsibilities as other members of Council. In addition to this the Chairman has the following roles as a:

- presiding member at Council meetings. The Chairman is responsible for ensuring the orderly conduct of business during meetings (as determined in standing orders)
- advocate on behalf of the community. This role may involve promoting the community and representing its interests. Such advocacy will be most effective where it is carried out with the knowledge and support of the Council
- ceremonial head of Council
- provider of leadership and feedback to other elected members on teamwork and Chairmanship of committees
- Justice of the Peace (while the Chairman holds office).

The Chairman is obliged to follow the same rules as other elected members in regard to making public statements and committing the Council to any particular course of action, unless acting in accordance with the rules for media contact on behalf of the Council under a delegation of authority from the Council.

2.3 Deputy Chairman

The Deputy Chairman must be elected by the members of Council, at the first meeting following the triennial election. The Deputy Chairman may be removed from office by resolution of Council.

The Deputy Chairman exercises the same roles as other elected members. In addition he or she must perform all the responsibilities and duties and may exercise all the powers of the Chairman (as summarised above), if the Chairman is temporarily absent, or is prevented by illness or other causes from performing duties, or while there is a vacancy in the office of Chairman.

2.4 Committee Chairman

The Council may create one or more committees of Council. A Committee Chairman presides over all meetings of the committee, ensuring that the committee acts within the powers delegated by Council, as set out in the Council's *Policy Handbook*. A

Committee Chairman may be called on to act as an official spokesperson on a particular issue. A Committee Chairman may be removed from office by resolution of Council.

2.5 Chief Executive

The Chief Executive is appointed by the Council in accordance with section 42 of the Local Government Act 2002. The Chief Executive is responsible for implementing and managing the Council's policies and objectives within the budgetary constraints established by the Council. In terms of section 42 of the Act, the responsibilities of the Chief Executive are:

- implementing the decisions of the Council
- providing advice to the Council and committees
- ensuring that all responsibilities, duties and powers delegated to the Chief Executive or to any person employed by the Chief Executive, or imposed or conferred by any Act, regulation or bylaw are properly performed or exercised
- managing the activities of the Regional Council effectively and efficiently
- maintaining systems to enable effective planning and accurate reporting of the financial and service performance of the Regional Council
- providing leadership for the staff of the Regional Council
- employing staff on behalf of the Regional Council (including negotiation of the terms of employment for the staff of the Regional Council).

Under section 42 of the Local Government Act 2002 the Chief Executive employs all other staff on behalf of the Regional Council.

3.0 PART THREE: ETHICS, RELATIONSHIPS AND BEHAVIOUR

This part of the Code sets out the Council's agreed standards of behaviour. Some of the matters described in this part of the Code reflect other legislation such as the Local Authorities (Members' Interests) Act 1968. The majority of the Code is material that the Council has decided to include on its own initiative.

3.1 Ethics

Hawke's Bay Regional Council seeks to promote the highest standards of ethical conduct amongst its elected members. Accordingly, elected members will:

- claim only for legitimate expenses as laid down by any determination of the Remuneration Authority then in force, and any lawful policy of Council developed in accordance with that determination
- not influence, or attempt to influence, any Council employee to take actions that may benefit the member, or the member's family or business interests
- not use Council resources for personal business (including campaigning)
- not solicit, demand, or request any gift, reward or benefit by virtue of their position
- where a gift to the value of \$100 or more is offered to a member, immediately disclose this to the Chief Executive for inclusion in the publicly available register of interests.
- be respectful when referring to each other or to other people
- not use offensive or derogatory language when referring to the Council, other Councillors, any employee of the Council or any member of the public.

3.2 Relationships with Other Members

Successful teamwork is a critical element in the success of any democratically elected organisation. No team will be effective unless mutual respect exists between members. With this in mind elected members will conduct their dealings with each other in ways that:

- maintain public confidence in the office to which they have been elected
- are open and honest
- focus on issues rather than personalities
- avoid aggressive, offensive or abusive conduct.

3.3 Relationships with Staff

The effective performance of Council also requires a high level of cooperation and mutual respect between elected members and staff. To ensure that level of cooperation and trust is maintained, elected members will:

- recognise that the Chief Executive is the employer (on behalf of Council) of all Council employees, and as such only the Chief Executive may hire, dismiss, instruct or censure an employee
- make themselves aware of the obligations that the Council and the Chief Executive have as employers and observe those requirements at all times
- treat all employees with courtesy and respect (including the avoidance of aggressive, offensive or abusive conduct towards employees)
- observe any guidelines that the Chief Executive puts in place regarding contact with employees
- do nothing which compromises, or could be seen as compromising, the impartiality of an employee
- avoid publicly criticising any employee in any way, but especially in ways that reflect on the competence and integrity of the employee
- raise concerns about employees only with the Chief Executive, and concerns about the Chief Executive only with the Chairman or the Executive Committee.

Elected members should be aware that failure to observe this portion of the Code of Conduct may compromise the Council's obligations to act as a good employer and may expose the Council to civil litigation and audit sanctions.

3.4 Relationships with the Community

Effective Council decision-making depends on productive relationships between elected members and the community at large.

Members should ensure that individual citizens are accorded respect in their dealings with the Council, and have their concerns listened to, and deliberated on in accordance with the requirements of the Act.

Members should act in a manner that encourages and values community involvement in local democracy.

3.5 Contact with the Media

The media plays an important part in local democracy. In order to fulfill this role the media needs access to accurate, timely information about the affairs of Council. The Hawke's Bay Regional Council will continue to be proactive in disseminating accurate and informative information through the Chief Executive to the media. From time to time, however, an individual member might be approached to comment on a particular issue either on behalf of Council, or as an elected member in his or her

own right. This part of the Code deals with the rights and duties of Councillors when speaking to the media on behalf of Council, or in his or her own right.

The following rules apply for media contact **on behalf of Council**:

The Chairman of the Council or of any Committee of the Council, is able to make media releases on behalf of the Council or the Council Committees. In order to ensure that:

- i) these are factually correct;
- ii) they send a consistent message so there is no confusion in the eyes of the public;
- iii) they reflect Council policy, or are sufficiently qualified where the Council may not have considered the matter;

all press releases and comments should be co-ordinated and developed through the Council's Communications Co-ordinator who will ensure the appropriate staff input is obtained and where appropriate the Chief Executive has input into the process.

Where the Communications Co-ordinator is not available, the Executive Assistant should be the point of contact.

The Councillor spokesman for the Committees of the Council should be the Chairman of the Committee concerned.

Elected members are free to express a **personal view** in the media, at any time, provided the following rules are observed:

- media comments must not state or imply that they represent the views of Council
- where an elected member is making a statement that is contrary to a Council decision or Council policy, the member must not state or imply that his or her statements represent a majority view
- media comments must observe the other requirements of this Code of Conduct. For example, they should not disclose confidential information, or compromise the impartiality or integrity of staff, and at all times should demonstrate respect for fellow Councillors and their views, opinions and lawful actions, and should not use language which might be deemed offensive, derogatory or embarrassing to the Council, other Councillors, any employee of the Council or any member of the public.

3.6 Representing the Council

Elected members who are invited or wish to represent the Council at an event such as a Seminar or Conference which will have a charge for attendance, must meet the following conditions:-

- The Chairman must approve the request.
- Following their attendance and upon request from the Chairman, the member must present a report to the Council, summarising the event, and including the Councillor's opinion of its potential significance to the Hawke's Bay Regional Council.

3.7 Confidential Information

Elected members have the responsibility to see whenever possible that business is conducted in "open" meeting. Powers to exclude the public should be used only when absolutely necessary and for the reasons permitted by law. Business conducted where the public is excluded remains confidential and should not be

disclosed to the public until either the Council decides by resolution to make it public or the Chief Executive determines in response to a request under the Local Government Official Information and Meetings Act 1987, or the Privacy Act 1993 that there is no longer good reason to withhold the information.

In addition during the course of their duties members will occasionally receive information that may need to be treated as confidential. This will generally be information that is either commercially sensitive or is personal to a particular individual or organisation.

Elected members must not use or disclose confidential information for any purpose other than the purpose for which the information was supplied to the elected member.

Elected members should be aware that failure to observe these provisions will impede the performance of Council by inhibiting information flows and undermining public confidence in the Council. Failure to observe these provisions may also expose Council to prosecution under the Privacy Act 1993 and/or civil litigation.

3.8 Conflicts of Interest

Elected members must be careful that they maintain a clear separation between their personal interests and their duties as an elected member. This is to ensure that people who fill positions of authority carry on their duties free from bias (whether real or perceived). Members therefore need to familiarise themselves with the provisions of the Local Authorities (Members' Interests) Act 1968 which concerns financial interests, and with other legal requirements concerning non-financial conflicts of interest.

The Act provides that an elected member is disqualified from office, or from election to office, if that member is concerned or interested in contracts under which payments made by or on behalf of the Council exceed \$25,000 in any financial year.

Additionally, elected members are prohibited from participating in any Council discussion or vote on any matter in which they have a pecuniary interest, other than an interest in common with the general public. The same rules also apply where the member's partner or spouse contracts with the authority or has a pecuniary interest. Members must declare their interests at Council meetings where matters in which they have a pecuniary interest arise.

Members shall annually make a general declaration of interest as soon as practicable after becoming aware of any such interests. These declarations are recorded in a register of interests maintained by Council. The declaration must notify the Council of the nature and extent of any interest, including:

- any employment, trade or profession carried on by the member or the member's partner or spouse for profit or gain
- any company, trust, partnership etc for which the member or their partner or spouse is a director, partner, trustee or beneficiary
- the address of any land in which the member has a beneficial interest and which is in the Regional Council's area.
- the address of any land where the landlord is the Hawke's Bay Regional Council and:
 - the member or their partner or spouse is a tenant, or
 - the land is tenanted by a firm in which the member or partner or spouse is a partner, or a company of which the member or spouse is a director, or a trust of which the member or spouse is a trustee or beneficiary

any other matters which the public might reasonably regard as likely to influence the member's actions during the course of his or her duties as a member.

If the member is in any doubt as to whether or not a particular course of action (including a decision to take no action) raises a conflict of interest, then the member should seek guidance from the Chief Executive *immediately*.

Members may also contact the Audit Office for guidance as to whether that member has a pecuniary interest. If there is a pecuniary interest, the member may seek an exemption to allow that member to participate or vote on a particular issue in which they may have a pecuniary interest. The latter must be done before the discussion or vote. The Chief Executive must also seek approval from the Audit Office for contractual payments to members, their spouses or their companies that exceed the \$25,000 annual limit.

Failure to observe the requirements of the Local Authorities (Members' Interests) Act 1968 could potentially invalidate the particular decision made, or the action taken, by Council. Failure to observe these requirements could also leave the elected member open to prosecution under the Local Authorities (Members' Interests) Act 1968. In the event of a conviction elected members can be removed from office.

3.9 Standing Orders

Elected members must adhere to any standing orders adopted by Council under the Local Government Act 2002. These standing orders are subject to the same legal requirements as a Code of Conduct with regard to their adoption and amendment.

3.10 Disqualification of Members from Office

Elected members are automatically disqualified from office if they are convicted of a criminal offence punishable by two or more years imprisonment, or if they cease to be, or lose their status as a parliamentary elector or if they are convicted of certain breaches of the Local Authorities (Members' Interests) Act 1968.

Under the Local Government Act 2002, local authorities, when adopting a Code of Conduct, must consider whether or not they will require members to declare whether they are undischarged bankrupts. This Council believes that it should not require a member or newly elected member to decide whether or not the member or newly elected member is an undischarged bankrupt.

4.0 PART FOUR: COMPLIANCE AND REVIEW

This part deals with ensuring that elected members adhere to the Code of Conduct and mechanisms for the review of the Code of Conduct.

4.1 Compliance

Elected members must note that they are bound to comply with the provisions of this Code of Conduct (Local Government Act 2002, Schedule 7, section 15(4)).

Members are also bound by the Local Government Act 2002, the Local Authorities (Members' Interests) Act 1968, the Local Government Official Information and Meetings Act 1987, the Secret Commissions Act 1910, the Crimes Act 1961 and the Securities Act 1978. The Chief Executive will ensure that an explanation of these Acts is made at the first meeting after each triennial election and that copies of these Acts are freely available to elected members. A brief explanation about the obligations that each of these has with respect to conduct of elected members is attached in the Appendix to this code.

Compliance will be monitored by the Council as a whole. All alleged breaches of the Code will be reported to the Chairman. Any allegation of a breach of this Code of Conduct must be in writing, make a specific allegation of a breach of the Code of Conduct, and provide corroborating evidence.

The Chairman will investigate the alleged breach and prepare a report for the consideration of Council. Before beginning any investigation, the Chairman will write

to the elected member(s) involved, advising about the complaint and will explain when and how there will be an opportunity to respond to the complaint.

The Council will consider the report in open meeting of Council, except where the alleged breach relates to the misuse of confidential information or could impinge on the privacy of an elected member, member of staff or of the general public.

4.2 Responses to Breaches of the Code

The exact nature of the action the Council may take depends on the nature of the breach and whether there are statutory provisions dealing with the breach.

Where there are statutory provisions:

- breaches relating to members' interests render members liable for prosecution by the Auditor-General under the Local Authority (Member's Interests) Act 1968
- breaches which result in the Council suffering financial loss or damage may be reported on by the Auditor-General under the Local Government Act 2002, which may result in the member having to make good the loss or damage
- breaches relating to the commission of a criminal offence may leave the elected member liable for criminal prosecution.

In these cases the Council may refer an issue to the relevant body, any member of the public may make a complaint, or the body itself may take action of its own initiative.

Where there are no statutory provisions, the Council may take the following action:

- censure
- removal of the elected member from Council committees and/or other representative type bodies
- dismissal of the elected member from a position as Deputy Chairman or Chairman of a committee.

A decision to apply one or more of these actions requires a Council resolution to that effect.

4.3 Review

Once adopted, a Code of Conduct continues in force until amended by the Council. The Code can be amended at any time but cannot be revoked unless the Council replaces it with another code. Once adopted, amendments to the Code of the Conduct require a resolution supported by at least 75 per cent of the members of the Council present.

Council will formally review the Code prior to the end of each three year term and any suggestions for improvement and recommended amendments will be noted and referred to the new Council. As soon as practicable after the triennial election, results of that review will be presented to the new Council for consideration and adoption.

APPENDIX TO THE CODE OF CONDUCT:**LEGISLATION BEARING ON THE ROLE AND CONDUCT OF ELECTED MEMBERS**

This is a summary of the legislation requirements that has some bearing on the duties and conduct of elected members. Copies of these statutes are available from the office of the Chief Executive.

Local Authority (Members' Interests) Act 1968

This Act regulates situations where a member's personal interests impinge, or could be seen as impinging on, his or her duties as an elected member.

The Act provides that an elected member is disqualified from office if that member is concerned or interested in contracts under which payments made by or on behalf of the regional Council exceed \$25,000 in any financial year.

Additionally, elected members are prohibited from participating in any Council discussion or voting on any matter in which they have a pecuniary interest, other than an interest in common with the general public. The same rules also apply where the member's spouse contracts with the authority or has a pecuniary interest.

Members may also contact the Audit Office for guidance as to whether that member has a pecuniary interest, and if so, may seek an exemption to allow that member to participate or vote on a particular issue in which they may have a pecuniary interest. The latter must be done before the discussion or vote. The Chief Executive must also seek approval from the Audit Office for contractual payments to members, their spouses or their companies that exceed the \$25,000 annual limit.

Failure to observe these requirements could also leave the elected member open to prosecution under the Local Authority (Members' Interests) Act 1968. In the event of a conviction elected members can be ousted from office.

(The Office of the Auditor-General publication *Guidance for members of local authorities about the law on conflicts of interest* (2007) provides further guidance on this Act).

Local Government Official Information and Meetings Act 1987

The Local Government Official Information and Meetings Act 1987 sets out a list of meetings procedures and requirements. Of particular importance for the roles and conduct of elected members is the fact that the Chairman has the responsibility to maintain order at meetings, but all elected members should accept a personal responsibility to maintain acceptable standards of address and debate. No elected member should:

- create a disturbance or a distraction while another Councillor is speaking
- be disrespectful when referring to each other or to other people
- use offensive language about the Council, other Councillors, any employee of the Council or any member of the public.

Secret Commissions Act 1910

Under this Act it is unlawful for an elected member (or officer) to advise anyone to enter into a contract with a third person and receive a gift or reward from that third person as a result, or to present false receipts to Council.

If convicted of any offence under this Act a person can be imprisoned for up to 2 years, or fines up to \$1000, or both. A conviction therefore would trigger the ouster provisions of the Local Government Act 2002 and result in the removal of the member from office.

Crimes Act 1961

Under this Act it is unlawful for elected members (or officers) to:

- accept or solicit for themselves (or anyone else) any gift or reward for acting or not acting in relation to the business of Council

- use information gained in the course of their duties for their, or another persons, monetary gain or advantage.

These offences are punishable by a term of imprisonment of 7 years or more. Elected members convicted of these offences will also be automatically ousted from office.

Securities Act 1978

The Securities Act 1978 essentially places elected members in the same position as company directors whenever Council offers stock to the public. Elected members may be personally liable if investment documents such as a prospectus contain untrue statements and may be liable for criminal prosecution if the requirements of the Act are not met.

HAWKE'S BAY REGIONAL COUNCIL

Wednesday 22 September 2010

Item 10

SUBJECT: APPOINTMENT OF HEARING COMMISSIONERS

REASON FOR REPORT

1. This item seeks Council's approval for the appointment of a Hearings Committee for any resource consent applications or cost objections that need to be heard post the October 2010 local body elections and prior to the swearing in of the new Council members and establishment of a new Hearings Committee.
2. There is an obligation to hold a Hearing in accordance with section 100 of the Resource Management Act 1991 (RMA) for a notified resource consent application, unless the Council considers it unnecessary or none of the submitters wish to be heard. Where a hearing is required, staff will issue a request to the Hearings Committee Chair to appoint an appropriate panel of commissioners, and for the majority of hearings the configuration of the panel will consist of those Councillors who are members of the Hearings Committee. With the impending elections, and the potential for subsequent changes to committee structure and configuration, it is important to appoint hearing commissioners to ensure that the statutory obligations for which the Consents Team is responsible can be fulfilled during this time of transition.

Background

3. Council is currently processing a number of applications that have either been publically notified under s95A or notice has been served on a limited notified basis under s95B of the RMA. There are also numerous s357 objections which could proceed to a hearing. The following table lists those applications that may proceed to a hearing prior to the establishment of a new Hearings Committee post elections.

| Applicant | Consent ID |
|--|--|
| M S Lawrence, T J Oliver, AM & RT Simcox | to construct a seawall along the seaward boundary of 23 & 25 Clifton Road, Te Awanga |
| Te Mata Mushrooms | to discharge contaminants (odour) into the air from a composting and mushroom growing operation, and associated activities and to discharge contaminants (odour) into the air from a composting and mushroom growing operation, and associated activitiesL |
| HB Protein | Discharge of contaminants into the air from a rendering plant and all other associated activities carried out on the site; including odour from three biofilters & to Discharge of products of combustion from two 6MW dual natural gas/tallow fired boilers |
| Whakaki 2N Incorporated | to construct a low level embankment to prevent the flow of floodwater from the Whakaki Lake onto Whakaki 2N property |
| J M C L Hudson | to take water from well no.5515 (300 mm diameter) to irrigate 207 hectares of pasture and 151 hectares of and to take water from well no.5515 (300 mm diameter) to frost protect 120 hectares of viticulture process crops |
| Te Awa Estates Limited | To divert and discharge stormwater from a residential sub-division |

| Applicant | Consent Type |
|---|---|
| Hastings District Council | Waimarama public water supply |
| Kahungunu Health Service Charitable Trust | to take water from well no. 15419 (150 mm diameter) adjacent to the Waingongoro Stream to provide water for two marae and 44 dwellings |
| Cabbage Tree Flat | to take water from the Waingongoro Stream to irrigate 16.3 hectares of crops |
| D T & M Huggins Partnership | to take water from well no. 9049 (100 mm diameter) to irrigate 2 hectares of pip fruit |
| M Mexted, P Williams & S V Malherbe | the development of property located at the northern end of Judges Parade, Mahanga |
| A Curtis | to take water from two wells adjacent to the Tutaekuri River to irrigate and frost protect viticulture |
| Arapata Trust (Higgins) | to discharge soil and demolition rubble into/onto land |
| AFFCO | to discharge treated meat works and fellmongery wastewater into the Wairoa River and to discharge stormwater the Wairoa River from three 600 mm pipes |
| Garrity Land Company Ltd | to take water from well no. 2015 (150 mm diameter) to irrigate 54 hectares of process crops |

4. This paper recommends that the current Hearings Committee members be appointed as an interim Hearings Committee until such time as a new Committee is ratified and, if necessary, members are accredited via the MfE "Making Good Decisions" certification programme. This would include a 'roll over' of existing delegations to sit as a Panel and make decisions on resource consent applications as they currently do, until such time as the delegation is rescinded.
5. It is also recommended that the interim Hearings Committee Chair be given the delegation to appoint any independent commissioner to a Hearing Panel as required until such time as the new Council is sworn.
6. Staff seek approval from Council for the Committee members to hear any consent application as provided for under clause 30(7) of Schedule 7 of the Local Government Act. This clause states that a committee, sub-committee or sub-ordinate decision-making body is deemed to be discharged on the coming into office of new members, unless Council resolves otherwise.

DECISION MAKING PROCESS

7. 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:
 - 7.1. 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.
 - 7.2. Sections 83 and 84 covering special consultative procedure do not apply.
 - 7.3. The decision does not fall within the definition of the Council's policy on significance.
 - 7.4. Council can decide to appoint members of the current Hearings Committee or, alternatively, the hearings could be heard by independent commissioners.
 - 7.5. Section 80 of the Act covering decisions that are inconsistent with an existing policy or plan does not apply.

- 7.6. 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 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. Approves delegation for the current Hearing Committee members, being Christine Scott (Chair), Eileen von Dadelszen, Liz Remmerswaal, Ewan McGregor, Mike Mohi and Morry Black, to sit under clause 30(7) of Schedule 7 of the Local Government Act as an interim Hearings Committee until such time as the incoming Council is sworn and a new Hearings Committee has been ratified.
3. Delegates current Committee members the necessary powers, functions and duties set out in sections 37, 39 to 42A, 92, and 99 to 108A of the Resource Management Act 1991.
4. Delegates to the interim Hearings Committee Chair, the power to appoint independent commissioners.



Annette Brosnan
CONSENTS ADMINISTRATOR



Dave Moule
MANAGER CONSENTS



Darryl Lew
GROUP MANAGER
RESOURCE MANAGEMENT

Attachment/s

There are no attachments for this report.

HAWKE'S BAY REGIONAL COUNCIL

Wednesday 22 September 2010

SUBJECT: RATIFICATION OF OUTSTANDING COUNCIL AND COMMITTEE MEETING MINUTES

Item 11

REASON FOR REPORT

1. With the Local Body Elections being held on 9 October 2010 Council needs to ratify various outstanding Committee Minutes. Under Schedule 7, Part 1, Section 30(7) of the Local Government Act 2002, Council Committees are automatically discharged upon the election of new members of the Local Authority.
2. For those meetings which have not yet had minutes confirmed, it is proposed the Chairman of those Committees approve and sign the minutes as a true and correct record.
3. Under Clause 36.2 of the Model Standing Orders the Chairman and the principal administrative officer shall be responsible for confirming the correctness of the minutes of today's meeting.
4. The Minutes of the meetings referred to in recommendation 2 have been previously distributed.

DECISION MAKING PROCESS

5. Council is required to make every decision in accordance with provisions of Part 6, sub-part 1 of the Local Government Act 2002 (the Act). Staff have assessed requirements contained in the sections of the Act in relation to this item and have concluded that the decision making provisions of the Act do not apply as the ratification of minutes following a triennial election is specifically provided for under Schedule 7, Part 1, Section 30(7) of the Local Government Act 2002.

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. Notwithstanding Clause 36.2 of Council's Standing Orders, that the Minutes of the Committees listed below be received, reviewed, and then signed by the Chairman of each Committee as a true and correct record.
 - Regional Transport Committee 8 July 2010
 - Environmental Management Committee (Public Excluded) 14 July 2010
 - Asset Management Biosecurity Committee 11 August 2010
 - Maori Committee 24 August 2010
 - Tenders Committee 10 March and 17 March 2010
 - Civil Defence Emergency Management Committee 17 May 2010
3. Notwithstanding Clause 36.2 of Council's Standing Orders, that the Minutes of the Committees listed below be received, reviewed and then signed by the Chairman of Council as a true and correct record when they are finalised:
 - Environmental Management Committee 8 September 2010

Item 11

- Environmental Management Committee (Public Excluded) 8 September 2010
- Strategic Planning and Finance Committee 15 September 2010
- Regional Council 22 September 2010
- Regional Transport Committee 23 September 2010



**Carol Gilbertson
GOVERNANCE AND PUBLIC
TRANSPORT MANAGER**



**Andrew Newman
CHIEF EXECUTIVE**

Attachment/s

There are no attachments for this report.

HAWKE'S BAY REGIONAL COUNCIL

Wednesday 22 September 2010

SUBJECT: RECOMMENDATIONS FROM ENVIRONMENTAL MANAGEMENT COMMITTEE

Item 12

REASON FOR REPORT

1. The following matters were considered by the Environmental Management Committee on Wednesday 08 September 2010 and are now presented to Council for consideration and approval.

DECISION MAKING PROCESS

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

RECOMMENDATIONS

Plan Effectiveness Reporting

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 report on effectiveness of the Regional Resource Management Plan be prepared with a focus on the theme of 'water quality and ecology' and not the effectiveness of the Plan in its entirety.

Approach for Processing Cost Objections Received Outside of Statutory Timeframes

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.
4. Adopts the approach for accepting late cost objections, as set out in this report, for implementation by staff. In particular:
 - 4.1 The legal requirement is that cost objections must be lodged with the Council in writing within 15 working days of the invoice being received by the consent applicant.
 - 4.2 Cost objections *may* be accepted if they are lodged between 15 and 30 working days after receipt of the invoice but only if exceptional circumstances apply, such as:
 - 4.2.1 The invoice was delivered to an incorrect address, or for some other legitimate reason the applicant did not receive the invoice.
 - 4.2.2 The consent applicant has been seriously ill, or other similar personal circumstances have inhibited their ability to meet the timeframe.

- 4.3 Once 30 working days (6 weeks) have passed from the delivery of the invoice, cost objections will not be accepted as a matter of policy.



**Darryl Lew
GROUP MANAGER RESOURCE
MANAGEMENT**

HAWKE'S BAY REGIONAL COUNCIL

Wednesday 22 September 2010

SUBJECT: RECOMMENDATIONS FROM STRATEGIC PLANNING AND FINANCE COMMITTEE

Item 13

REASON FOR REPORT:

1. The following matters were considered by the Strategic Planning and Finance Committee on Wednesday 15 September 2010 and are now presented to Council for consideration and approval.

DECISION MAKING PROCESS:

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

RECOMMENDATIONS:

RISK MANAGEMENT

That Council:

1. Notes the top ten risks currently facing Council; the current and planned future position of the risk issue; the current situation and risk; the proposed mitigation approach; and the impact that mitigation approach will have on the level of risk. Noting feedback from the meeting.
2. Approves the proposed risk mitigation approach to each of the ten risk issues as set out in the Strategic Planning and Finance Committee briefing paper, noting the comments made at that meeting.

PUBLIC TRANSPORT – FURTHER 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. Instructs the Chief Executive to write to the Ministry of Transport stating that Council will not accept the changes to the SuperGold Card scheme and the subsequent loss of revenue resulting from their review of the scheme.

VENTURE HAWKE'S BAY SUMMARY STRATEGIC PLAN AND BUDGET

This matter was left to lie on the table.

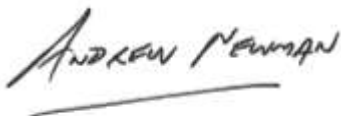
A paper providing year-to-date financials, a narrative on the 2010/11 budget, and the key items of operating expenditure that need approval for the first six months of the financial year, is to be circulated under separate cover.

PROPOSAL TO NEW COUNCIL FOR THE COMMITTEE STRUCTURE FOR NEXT TRIENNIAL TERM

That Council:

1. Propose to the incoming Council for the triennial term October 2010 to September 2013 to:

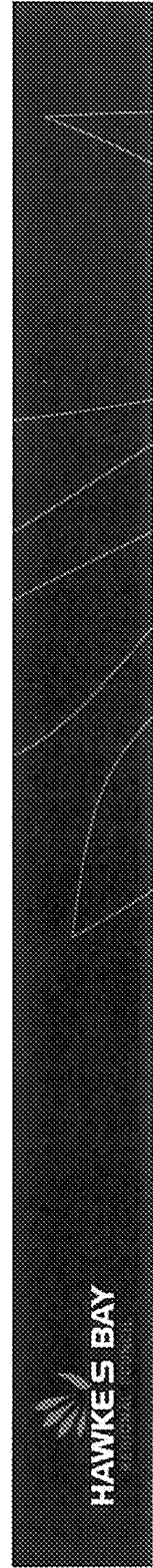
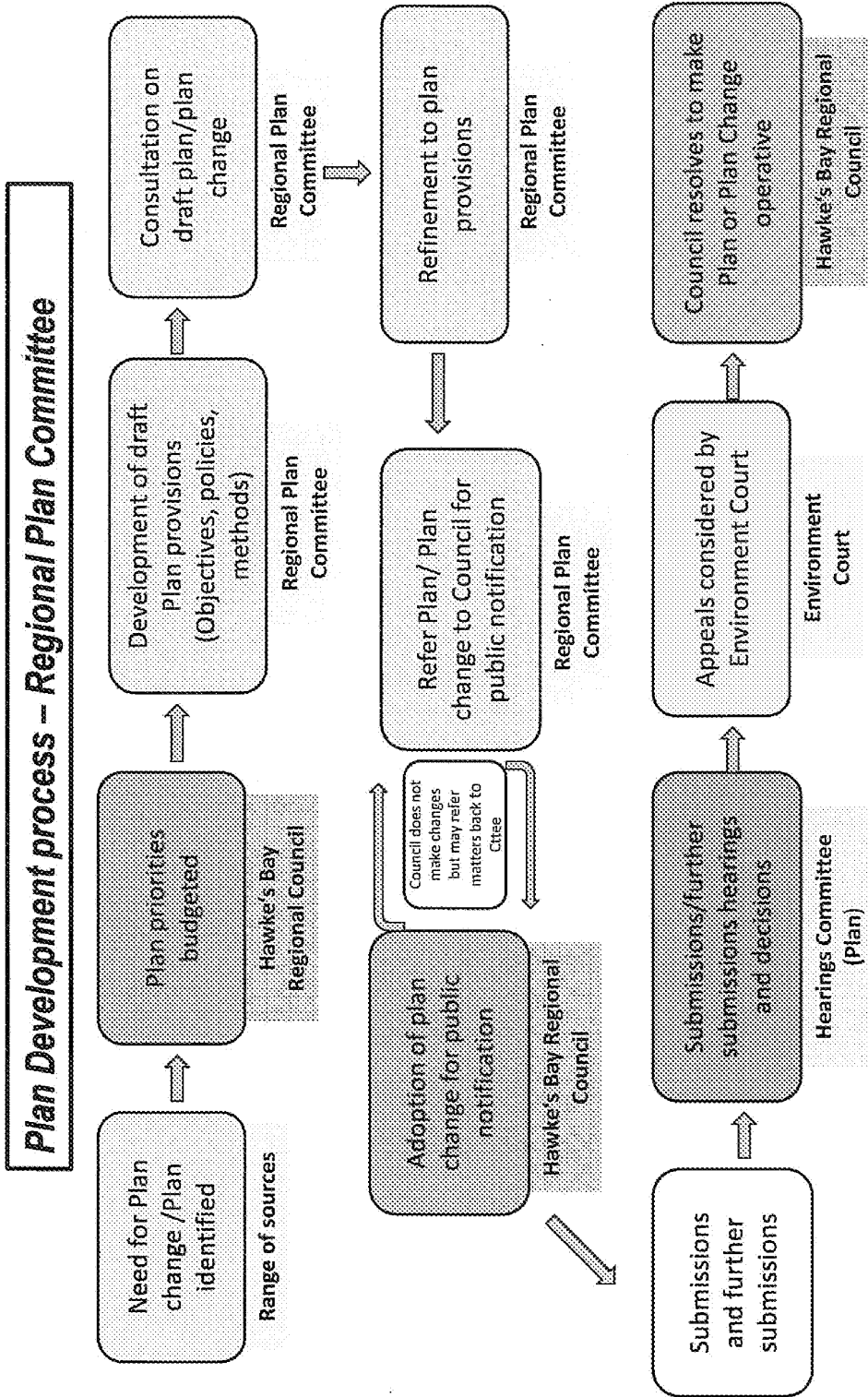
- 1.1 Establish a new joint Committee for Regional Planning, with membership comprising equal representation of Councillors, and non-Councillors from the Treaty claimant groups. *(Note: A chart detailing the plan development process is attached)*
- 1.2 Retain the Environmental Management and Asset Management and Biosecurity Committees.
- 1.3 Incorporate the reporting structures of Venture Hawke's Bay directly into Council, via the Strategic Planning and Finance Committee but establish industry advisory mechanisms to assist with direction setting.
- 1.4 Or, subject to the Tourism Sector demonstrating a genuine multi-year financial commitment to Tourism promotion, splitting the Tourism component from Venture Hawke's Bay and governing this activity through an industry led Board, noting however the following caveats; Regional Council would retain financial control via its finance function; and the staff would remain Regional Council employees.
- 1.5 Noting 1.3, review the performance and operation of Tourism sector activities specifically to establish what, if any, funding continues in the 2011/12 financial year.
- 1.6 Re-establish the Maori Committee, with a review of its role in twelve months.
- 1.7 Continue the other current committees of Council into the next term.
- 1.8 Continue with established industry and community groups including the Ruataniwha Water Storage Leadership Group, the Ruataniwha Stakeholder Group and the Dairy Liaison Group.



Andrew Newman
CHIEF EXECUTIVE

Attachment/s

- 1 Plan Development Process - Regional Plan Committee



HAWKE'S BAY REGIONAL COUNCIL

Wednesday 22 September 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 22 September 2010

**SUBJECT: CONFIRMATION OF PUBLIC EXCLUDED MEETING HELD ON 25
AUGUST 2010**

Item 17

Recommendation:

That the Council exclude the public from this section of the meeting being Agenda Item 16 Confirmation of Public Excluded Meeting held on 25 August 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 | 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**