



## Meeting of the Hawke's Bay Regional Council

**Date:** Wednesday 21 March 2012  
**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 29 February 2012	
4.	Matters Arising from Minutes of the Regional Council Meeting held on 29 February 2012	
5.	Action Items from Previous Regional Council Meetings	3
6.	Call for General Business Items	
<b>Decision Items</b>		
7.	Affixing of Common Seal	7
8.	Audited Draft Long Term Plan 2012-22 Adoption for Consultation	11
9.	Draft Long Term Plan 2012-22 Consultation Plan	19
10.	Recommendations from the Environmental Management Committee	23
11.	Recommendations from Corporate and Strategic Committee	25
12.	Formal Appointment of Regional Planning Committee Members	27
13.	Directors' and Officers' Insurance for HBRIC	37
<b>Information or Performance Monitoring</b>		
14.	Petition to Hawke's Bay Regional Council <b>(9.15am)</b>	39
15.	March 2012 Work Plan - Looking Forward	41
16.	General Business	49

**Decision Items (Public Excluded)**

- |     |  |    |
|-----|--|----|
| 17. | Confirmation of Public Excluded Meeting held on 29 February 2012                 | 51 |
| 18. | Matters Arising from Public Excluded Minutes of Meeting held on 29 February 2012 |    |
| 19. | Recommendations from Corporate and Strategic Committee                           | 53 |
| 20. | Port of Napier Limited Briefing <b>(1.00pm)</b>                                  |    |

**SUBJECT: ACTION ITEMS FROM PREVIOUS REGIONAL COUNCIL MEETINGS**

**Introduction**


1. **Attachment 1** lists items raised at previous 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. Once the items have been completed and reported to Council they will be removed from the list.

**Decision Making Process**

2. 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 report "Action Items from Previous Meetings".



**Andrew Newman**  
**CHIEF EXECUTIVE**

**Attachment/s**

- 1 Actions from Previous Council Meetings



## Actions from Regional Council Meetings

	Agenda Item	Action	Person Responsible	Due Date	Status Comment
1.	Ruataniwha Plains Water Storage Project	Provide councillors with a list of feasibility studies being done, when they are due for completion, dates peer reviews expected to have been completed and when the reports will be made available to the public.	AN/ GH	End of March 2012	
2.	Action Items	Wine Country brand ownership	AN	March	Paper to be presented at 18 April Council meeting
3.	Affixing the Common Seal	Is Council achieving what it set out to do through the sale of Napier leasehold properties? And are the methods used satisfying the needs of the leaseholders?	PD		
4.	Quarterly Significant Initiatives Update	Water meter installation programme – how to overcome any ‘hurdles’ to reaching the target number of metered wells within the timeframes	AN/KF	May	Paper to be presented at 9 May Environment & Services Committee

Item 5

Attachment 1



# HAWKE'S BAY REGIONAL COUNCIL

Wednesday 21 March 2012

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	<b>Leasehold Land Sales</b>		
1.1.1	Lot 235 DP 6421 CT E2/1427 - Transfer (discount 17.5% resides at property)	3235	24 February 2012
1.1.2	Lot 110 DP 12692 CT E1/69 - Agreement for Sale and Purchase (cross-lease 10% landlord and 17.5% resides at property)	3236	27 February 2012
	- Transfer	3237	27 February 2012
1.1.3	Lot 200 DP 6598 CT C2/394 - Transfer	3238	27 February 2012
1.1.4	Lot 98 DP 6481 CT C2/422 - Transfer	3239	28 February 2012
1.1.5	Lot 108 DP 2172 CT P3/1244 - Agreement for Sale and Purchase (cross-lease 1x 10% landlord and 3 x 17.5% resides at property)	3240	28 February 2012
1.1.6	Lot 373 DP 11103 CT B2/1282 - Transfer	3241	28 February 2012
1.1.7	Lot 13 DP 11027 CT B3/1374 - Transfer	3242	2 March 2012
1.1.8	Lot 188 DP 11149 CT B1/1217 - Agreement for Sale and Purchase (discount 17.5% resides at property)	3243	5 March 2012
1.1.9	Lot 88 DP 13696 CT F2/1337 - Agreement for Sale and Purchase (discount 17.5% resides at property)	3244	5 March 2012

	1.1.10 Lot 22 DP 14228 CT G1/44 - Agreement for Sale and Purchase (discount 10% overseas landlord)	3245	5 March 2012
	1.1.11 Lot 29 DP 6391 CT E2/144 - Agreement for Sale and Purchase (discount 10% landlord)	3250	7 March 2012
	- Transfer	3251	7 March 2012
	1.1.12 Lot 455 DP 11559 CT C1/1463 - Agreement for Sale and Purchase (discount 17.5% resides at property)	3252	7 March 2012
	1.1.13 Lot 43 DP 12692 CT E1/59 - Agreement for Sale and Purchase (discount 17.5% resides at property)	3254	13 March 2012
	1.1.14 Lot 485 DP 2451 CT 55/117 - Agreement for Sale and Purchase (discount 17.5% resides at property)	3255	13 March 2012
	1.1.15 Lot 66 DP12309 CT HB D2/510 - Transfer	3256	14 March 2012
	1.1.15 Lot 107 DP 6598 CT C2/379 - Transfer	3257	15 March 2012
	1.1.15 Lot 1 DP13384 CT F1/1022 - Agreement for Sale and Purchase (cross-lease 1x 10% landlord and 3 x 17.5% resides at property)	3258	15 March 2012
	1.1.15 Lot 22 DP 6391 CT D4/1432 - Agreement for Sale and Purchase (cross-lease 1x 10% landlord and 1 x 17.5% resides at property)	3259	15 March 2012
1.2	<b>Specification for:</b> Awanui Stream Stopbank Reconstruction Upstream Crystal Road Stage 4 Contract No: 11-03-4275C	3253	10 March 2012



1.3	<b>Staff Warrants</b>		
1.3.1	N. Heath	3246	5 March 2012
	L. Sadeghi	3247	5 March 2012
	J. Powrie	3248	5 March 2012
	(Delegations under Resource Management Act 1991; Soil Conservation and Rivers Control Act 1941; Land Drainage Act 1908 and Civil Defence Act 1983 (s.60-64); Civil Defence Emergency Management Act 2002 (s.86-91) and Local Government Act 2002 (s.174))		
1.3.2	A. McNatty	3249	5 March 2012
	(Delegations under Biosecurity Act 1993; Civil Defence Act 1983 (s.60-64); Civil Defence Emergency Management Act 2002 (s.86-91) and Local Government Act 2002 (s.174))		

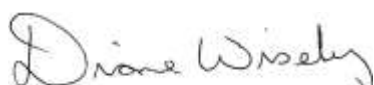
### Decision Making Process

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.

### 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. Confirms the action to affix the Common Seal.



**Diane Wisely**  
**EXECUTIVE ASSISTANT**



**Andrew Newman**  
**CHIEF EXECUTIVE**

### Attachment/s

There are no attachments for this report.



**SUBJECT: AUDITED DRAFT LONG TERM PLAN 2012-22 ADOPTION FOR CONSULTATION**

**Reason for Report**

1. Now that the audit of the Draft Long Term Plan 2012-22 (LTP) has been completed, Council needs to consider and adopt it so that it can be finalised, printed and distributed for public consultation by Monday 9 April 2012.

**Process**

2. Council has discussed the LTP 2012-22 at a number of Council meetings and workshops. The specific workshops put aside for the discussion of the LTP were held 12 September 2011, 10 November 2011, 31 January 2012 and 14 February 2012.
3. During the LTP workshops Council requested additional information on the proposed realisation of the value of the Napier Leasehold Land cashflows. The assumptions used to support the value of this realisation as included in the LTP including a report from Deloitte's to support these assumptions are set out in attachment 1.
4. The Environmental Management Committee, on Thursday 8 March, approved an increase of \$75,000 to be added to the year 2012/13 deficit in the draft LTP to cover science work that enables the scope of the Taharua Plan Change to extend to the whole of the Mohaka Catchment. As this decision was made by a Council committee and is subject to second debate and approval by Council at this meeting (21 March), the adjustments to the draft LTP to incorporate this resolution will be made subsequent to this meeting.
5. Council has also received input on various issues and feedback workshops with members of the public throughout the last 18 months.
6. The decisions made during these discussions have been included in the LTP and the associated rate impacts on any of these initiatives are clearly set out in part 2 of the plan under the Right Debate issues. Part 4 of the LTP analyses changes in total rates over the ten years of the LTP. A further analysis shows proposed rate impacts on specific properties in various districts.
7. This LTP, when adopted by Council, will be released for public consultation on 10 April 2012 for a consultation period of five weeks, submissions closing on 16 May 2012. The LTP, in part 2, provides guidelines for making submissions and submission forms are also included for those in the community wishing to make a submission on the LTP.

**Audit Requirements**

8. Section 94 of the Local Government Act 2002 sets out the requirement for audit of the Long Term Council Community Plan. This section of the Act states that a Long Term Council Community Plan must contain a report from the local authority's auditor on:
  - 8.1. *The extent to which the local authority has complied with the requirements of this Act in respect of the plan*
  - 8.2. *The quality of the information and assumptions underlying the forecast information provided in the plan*
9. The draft LTP 2012-22 was provided to the Audit office on Friday 24 February 2012 for a two week audit by Audit New Zealand. The LTP was then sent to the office of the Auditor General on Monday 12 March 2012 for the "hot" review.
10. A few adjustments were required to be made to the LTP by Audit New Zealand and these have now been made. The most significant of these adjustments covered the desirability of repeating in the financial strategy (part 2) the assumptions and mitigation strategies around the risks associated with the investments proposed by Council.

Further, it was recommended that it was stated in the LTP that these investments would not proceed without a strong business case and financial viability.

11. Given the large number of LTPs currently being processed by the Office of the Auditor General the "hot" review will not be completed until end of business Friday 16 March 2012. In the event that the Office of the Auditor General requires substantive amendments to the draft LTP as distributed to Council then the detail of any substantive amendments will be provided to Council at this meeting.
12. The Audit Office has undertaken to provide Council with a clearance from audit by the meeting date of 21 March 2012.

### **Document**

13. Attached under separate cover, (under separate cover) and for Councillors only, is the audited Draft Long Term Plan 2012-22. This document may still be edited for spelling, grammar and layout prior to being made available for distribution on 10 April 2012 to commence the public consultation phase.

### **LTP Summary**

14. The summary of the draft LTP as required by section 89 of the Local Government Act 2002 will be sent out to 53,000 households in the week commencing Monday 9 April 2012. The summary of the plan will be included in the "Our Place" publication and will predominantly include the issues raised in the Right Debate (part 2) section of the Long Term Plan.

### **Decision Making Process**

15. Council is required to make a decision in accordance with the requirements 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 concluded that the Long Term Plan as prepared under section 93 of the Act and subpart 2 of this section, states that the Council must use a special consultative procedure as set out in section 83 of the Act when adopting this Long Term Plan.

### **Recommendations**

That Council:

1. Confirms the decisions recommended in this paper are not able to be implemented until the effect of these decisions are included in the Long Term Plan 2012-22 and that the audited draft LTP be subjected to a special consultative procedure as required by section 93(2) of the Act.
2. Agrees to fund the underlying deficits in the years where the deficits are shown in the LTP, from cash operating balances which are estimated to be at a level which are sufficient to provide such funding.
3. Adopts the proposed scale and schedule of charges set out in the "Resource Management Charges" included in Part 4 of the audited draft Long Term Plan 2012-22, and submits to the special consultative procedure as set out in Section 83 of the Local Government Act 2002 (in conjunction with the draft LTP) and is part of the overall Statement of Proposal in accordance with Sections 36(2) of the Resource Management Act 1991.
4. Adopts the audited draft Long Term Plan 2012-22 incorporating the changes initiated by the Council at Council workshops on 12 September 2011, 10 November 2011, 31 January 2012 and 14 February 2012, and any changes made by the Council at their meeting held on 21 March 2012 under Sections 83 and 93 of the Local Government Act 2002 for the purposes of initiating the special consultative procedure and the audited draft Long Term Plan 2012-22 as adopted be part of the Statement of Proposal.

5. Agrees that where the special consultative procedure is required for any significant decisions that are included in the audited draft Long Term Plan 2012-22, the Statement of Proposal as required under Section 83 (1)(a)(i) of the Local Government Act 2002 is the audited draft Long Term Plan 2012-22, the proposed amendments to the Investment Policy, Liability Management Policy and the Revenue and Financing Policy and further, the policies set out in Part 4 of the LTP (excluding accounting policies) being open for review and public comment in line with Council's own policy to review, through a special consultative procedure, these policies every three years.
6. Agrees that the Summary of Information as required by Section 83 (1)(a)(ii) and Section 89 will be in the form of the draft Long Term Plan 2012-22 summary which will be included in the April issue of the Our Place.
7. Gives public notice pursuant to Section 83 (e), (f), and (g) of the Local Government Act 2002, to notify the adoption of the audited draft Long Term Plan 2012-22 with a closing date of submissions on 16 May 2012.



**Paul Drury**  
**GROUP MANAGER CORPORATE**  
**SERVICES**



**Andrew Newman**  
**CHIEF EXECUTIVE**

### **Attachment/s**

- 1 Leasehold Land Portfolio





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15 March 2012

Paul Drury  
Group Manager Corporate Services  
Hawkes Bay Regional Council  
Private Bag 6006  
NAPIER 4142

Dear Paul

**Re: Calculation of Possible Proceeds from Sale of Napier Land Leasehold Cash Flows**

#### **Introduction and Scope**

The Hawkes Bay Regional Council (HBRC) has engaged McDermott Miller Limited to estimate the net present value (NPV) of the projected future stream of net rents derived by HBRC from its leasehold land holdings in Hawkes Bay. The value calculated by McDermott Miller is referenced in the HBRC Long Term Plan (LTP).

You have subsequently engaged Deloitte to undertake a review of the McDermott Miller estimate. The Deloitte review was limited to the following procedures.

1. Review of the letter prepared by McDermott Miller setting out their conclusions as to value;
2. Review of the calculations performed by McDermott Miller which support their views on value;
3. Consideration of the methodology applied by McDermott Miller;
4. Discussion with McDermott Miller as to the reasoning behind their choice of valuation methodology;
5. Discussion with McDermott Miller as to the basis for the assumptions used when performing their calculations.

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Deloitte has not undertaken a valuation of the Napier Land Leasehold Cash Flows. Our review has been prepared with care and diligence and the statements and conclusions in this letter are given in good faith and in the belief, on reasonable grounds, that such statements and conclusions are not false or misleading. However, in no way do we guarantee or otherwise warrant that any forecasts of future profits, cash flows or financial position associated with the Napier Land Leasehold Cash Flows will be achieved. Forecasts are inherently uncertain. They are predictions of future events that cannot be assured. They are based upon assumptions, many of which are beyond the control of HBRC, its subsidiaries, and its management. Actual results will vary from the forecasts and these variations may be significantly more or less favourable.

#### McDermott Miller Calculation

The methodology applied by McDermott Miller was a discounted cash flow (DCF) approach. This approach involved the discounting of expected average future net rents (cash flows) from Napier leasehold properties owned by the HBRC over 50 years. The cash flows were discounted at yields judged by McDermott Miller to be currently attractive to institutional and large (non-retail) investors for their investment in well secured property assets.

For the purposes of the valuation calculation, projected rental flows were \$3.9 million per annum, with an effective valuation date of 31 December 2012. McDermott Miller estimated a value range of \$62 million to \$64 million, based on cash flows being discounted on a quarterly basis for a 50-year forecast period at a discount rate of 5.75% to 6.00%.

The estimated rental was based on projections of future leasehold land values made by Telfer Young (Hawkes Bay) Limited (Telfer Young) and consequent projections of future rents made by officers of the HBRC. These projections indicated nominal rentals would increase from \$2.5 million for the year ending 30 June 2013 to \$4.7 million for the year ending 30 June 2022 (an average of \$3.7 million per annum), the end of the LTP period. Cash flows were thereafter assumed to remain static in nominal terms (i.e. real decline) for the remainder of the forecast period. Over the projected 50 year period, the average Napier Land Leasehold Cash Flows would be \$4.5 million.

The yield range of 5.75% to 6.00% reflected rates judged to be marketable to institutional and large private (non-retail) investors for their investment in well-secured property assets, based on the HBRC's current credit rating. This yield range reflected the results of discussions with parties including Bank of New Zealand, ANZ Bank and First New Zealand Capital.

#### Deloitte Comment

The approach taken by McDermott Miller seems reasonable. We have cross-checked the calculations used, and find they are accurate. We note that the resulting value reflects the value of the cash flows to a potential investor.





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As noted by McDermott Miller, security for the cash flows over the land is not available to investors, and no charge may be given over the underlying land to a third party. However, the HBRC remains liable for the quantum of cash flows sold to investors drawn from the rents. Our understanding is that rentals received in excess of the projected rental figure are retained by the HBRC; the mechanism relating to any shortfall would be a matter for negotiation. We understand that while the HBRC may consider some annual rental top-up mechanism, no agreement exists with potential purchasers of these cash flows at this time.

We note that the rental projections made by Telfer Young assume significant rental increases during the LTP period, as shown in the table below.

Year	Rental (\$'000)	Annual increase (%)
2012	2,418	
2013	2,455	1.5%
2014	2,771	12.9%
2015	3,016	8.8%
2016	3,294	9.2%
2017	3,541	7.5%
2018	4,004	13.1%
2019	4,259	6.4%
2020	4,370	2.6%
2021	4,504	3.1%
2022	4,664	3.6%

These estimates were made 23 December 2011. Earlier estimates (22 February 2011 and 8 December 2011) provided higher projections for rental streams. However these earlier projections needed to be revised to take into account sales of leasehold land to existing leaseholders. We have not tested the basis for any of these projections with either Telfer Young or the HBRC. Discussions with McDermott Miller suggest that these projections incorporate increases in the market value of the land during the LTP period; and the effect of standardisation of lease contracts currently underway, which for some tenants will increase the rental paid as a percentage of the market value of the land.

If these increases are not achieved, this could reduce the ability of the HBRC to guarantee investors' cash flow streams. Depending on the nature of any contractual agreements between the HBRC and purchasers of the Napier Land Leasehold Cash Flows, this may impact on the sale value of rental streams to investors by the HBRC. This depends on the extent to which each party bears the risk of any rental shortfall. This ultimately defines the nature of the investment product being sold as it will determine whether the investor is fundamentally taking on a property risk or a local authority risk. While we agree that on the basis of the provided figures, McDermott Miller's approach represents a reasonably conservative view of value, the risk factors they identify in their advice could still result in downside risk.



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Effectively the yield on the leasehold land cash flows reflects a council-backed bond rate, with the council guaranteeing quarterly payments to the investors. The strength of this guarantee will depend in part on any top-up arrangements which may occur as part of any sale agreement. These yields are based on discussions with market participants on a no-commitment basis; we have not independently investigated the basis of these yields. They appear reasonable on the basis of this asset reflecting a rental stream underwritten by the HBRC.

Each \$100,000 reduction in annual average lease payments reduces the estimated sale proceeds by \$1.6 million dollars, while the change in yield from 5.75% to 6% decreased estimated sale proceeds by \$2.2 million. This latter figure represents the value range calculated by McDermott Miller; by using a midpoint estimate of this range, the LTP has effectively made provision for half of this variation.

### Conclusion

We consider that the approach undertaken by McDermott Miller is reasonable, and the associated calculations have been performed accurately. Lease cash flow assumptions have been based on input provided by Telfer Young and the HBRC. Yields were based on discussions with market participants on a no-commitment basis.

The resulting value reflects the value investors would place on this cash flow stream, backed by the HBRC. The HBRC is effectively guaranteeing a varying annual cash flow projected to average \$4.5 million over the 50 year forecast period, paid on a quarterly basis. The McDermott Miller estimate of value is based on a more conservative estimate of \$3.9 million per annum paid quarterly for the purpose of these calculations. The actual rental stream may be more or less than this figure depending on the market conditions that prevail during the forecast period.

In the view of HBRC and McDermott Miller this approach is reasonable conservative; over the 50 year period considered, leasehold rental streams are likely to increase significantly above this level. Any upside is captured by the HBRC, it is just not monetised at the commencement of the agreement, instead being realised as it arises in future years.

As noted by McDermott Miller, changes in market conditions and the economic environment, changes in legislation, or changes in market yields may affect the value of any cash flow stream. Any projections are inherently uncertain, and the actual results may vary significantly from the projections.

Yours sincerely  
DELOITTE

Alan Dent  
Partner

**SUBJECT: DRAFT LONG TERM PLAN 2012-22 CONSULTATION PLAN****Reason for Report**

1. The Draft Long Term Plan (LTP) enables the regional community to have their say on the work of HBRC proposed for 2012-2022. This item outlines how we plan to promote the Draft LTP and activate the community's response.

**Background**

2. For the 2009-2019 Draft LTP, HBRC focused on printed messages, advertising, media releases, HBRC's website and public expos to gather input and comment from the public.
3. This year, we propose a mix of print, online advertising, social media and video, supported by the traditional channels of press and radio.
4. In addition we propose presentations to groups, by request, to promote the Draft LTP and seek input from the Hawke's Bay community.

**Key Themes**

5. The strategic goals and enablers are the visual key to the Strategic Plan (2011) and Draft LTP. The themes below will be reinforced and used to draw attention to the key initiatives outlined in the Draft LTP Statement of Proposal, Chairman and Chief Executive's Introduction and The Right Debate.

Strategic Goals			Enabling Strategic Goals
<i>Resilient Ecosystems</i>	<i>Resilient Economy</i>	<i>Resilient Communities</i>	
-Land	-Water Security	-People & Communities	-Statutory Planning
-Water Quality	-Infrastructure & Natural Hazards		-Investment
-Water Allocation			-Strategic Alliances
			-Fit for Purpose Organisation

**Activate the Community****Long Term Plan Document**

6. The document will be printed and available on the HBRC website. Copies will also be mailed with a covering letter to key stakeholders including Territorial Local Authorities, the Port of Napier, central Government departments, Audit New Zealand and interest groups. Copies are also provided to public libraries throughout the region (8 in all) to have on display and so that the public can access them.

**Long Term Plan Summary**

7. The Local Government Act 2002 requires that a Summary of Information be prepared which should be a fair representation of the major matters in the Draft LTP. The Summary will be based on information in the Statement of Proposal, the Introduction and The Right Debate sections. It is proposed that the April issue of *Our Place* include a four-page feature containing a summary of the Draft LTP. *Our Place* will be delivered to approximately 53,000 households across the region in the week beginning 10 April 2012.

## Digital, Video and Social Media

8. HBRC will promote the Draft LTP and submissions using relevant email databases, the HBRC website, our facebook and LinkedIn pages. Staff will also engage online advertising in Hawke's Bay Today and investigate TradeMe. Digital channels for Maori will also be investigated.
9. An electronic version of the Draft Plan Summary will be emailed to stakeholder groups, for example iwi, Councillors, Maori Committee, sector, etc. HBRC will encourage this email to be forwarded to others. It will also contain a link to the Draft LTP video.
10. Staff will prepare a short video to cover key points in the Draft LTP and promote the consultation and submission process. This will be available online via the website and social media, uploaded to YouTube, visible on the HBRC reception TV, at the HBRC Open Day, and in 'shop front' sessions in Waipukurau and Wairoa.

## Advertising

11. The Local Government Act 2002 requires that public notice be given to advise the availability of the Draft LTP. Public notices will be placed in newspapers throughout the region noting the availability of copies of the Draft LTP and Summary of Information, the public opportunities organised for the area covered by the newspaper, and the closing date for submissions.

CHB Mail and Wairoa Star	Tuesday	10 April
Napier Mail and Hastings Mail	Wednesday	11 April
Hawke's Bay Today	Wednesday	11 April

12. Radio advertising on The Radio Network and MediaWorks selected stations will also promote the Draft Plan and the window for submissions.
13. An ad promoting the Draft Plan and window for submissions will feature in Hawke's Bay's business magazine *The Profit*, April-June issue. Additional editorial coverage is likely.
14. A reminder ad for the closing date for submissions will be placed in area-specific papers only, due to prior wider notification at the beginning of the consultation period. Closing of Submission Period Reminder ads will appear in Hawke's Bay Today, CHB Mail and Wairoa Star in the week beginning 7 May.

## News Media

15. News media will be invited to attend a presentation covering the key issues and proposals within the Plan. This will include a media briefing pack containing the Summary, Submission Form, relevant contact details and an outline of this programme. This will occur on 10 April 2012.
16. Media releases will also be issued to all local newspapers and radio news stations to coincide with the release of the Draft Plan. Maori media will be included.

## HBRC Open Day

17. An Open Day will be held for Napier and Hastings people to better understand the work of HBRC, to meet and speak with their local Councillors, and to learn about key issues in the Draft Plan. This will include the HBRC Operations Group with opportunity to include the Port of Napier Limited. A free bus day is also being investigated to coincide with this day, set for Thursday 12 April 2012.

## HBRC Shop Fronts – Waipukurau and Wairoa

18. HBRC will book a shop front or suitable venue in CHB and Wairoa to promote the Draft Plan, to enable locals to meet and speak with their local Councillor and answer any public queries. This will occur in the week beginning 17 April.

## Presentations to Groups

19. HBRC staff and Councillors will attend sector/ interest group by request. This offer will be promoted via email and/ or personal letters. Presentations are preferred due to the traditional low level of attendance at public meetings.

## Staff

20. Staff will receive a full briefing on the Draft Long Term Plan prior to its release, with opportunity for further comment in Snapshot or at a CE Briefing.

## Budget

21. Printing and promotion costs are estimated as follows.

Draft Long Term Plan print and digital	\$17,000
Final Long Term Plan print	\$14,000
Our Place feature pages	\$ 2,000
Advertising	\$ 3,000
Open Day and Shop Fronts	<u>\$10,000</u>
	<b>\$46,000</b>

## Decision Making Process

22. Council is required to make a decision in accordance with the requirements of the Local Government Act 2002 (the Act). Staff have assessed the requirements contained in Part 6 Sub Part 1 of the Act in relation to this item and have concluded the following:
  - 22.1. The decision does not significantly alter the service provision or affect a strategic asset.
  - 22.2. The decision does not fall within the definition of Council's policy on significance.
  - 22.3. The persons affected by this decision are all ratepayers in the region.
  - 22.4. The decision is not inconsistent with an existing policy or plan.
  - 22.5. Given the nature and significance of the issue to be considered and decided, and also the persons likely to be affected by, or have an interest in the decisions made, Council can exercise its discretion and make a decision without consulting directly with the community or others having an interest in the decision.

## 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. Endorses the proposed promotion and community engagement programme for the Draft Long Term Plan 2012-2022.



**Drew Broadley**  
**COMMUNITY ENGAGEMENT AND**  
**COMMUNICATIONS MANAGER**



**Liz Lambert**  
**GROUP MANAGER**  
**EXTERNAL RELATIONS**

**Attachment/s**

There are no attachments for this report.

**SUBJECT: RECOMMENDATIONS FROM THE ENVIRONMENTAL  
MANAGEMENT COMMITTEE**

**Reason for Report**

1. The following matters were considered by the Environmental Management Committee on Thursday, 8 March 2012 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**

The Environmental Management 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.

**Update on Appeal Costs**

2. Receives the further information about the specific costs of appeals and uses this to inform the discussion about the inclusion in the 2012-2013 Long Term Plan of budget for costs associated with appeals.
3. Instructs staff to use the criteria within the guidelines 1 or 2 and in exceptional circumstances 3 identified in this paper to guide decisions about whether or not a cost application is lodged with the Environment Court.
4. Agrees that the delegation for decisions regarding whether or not a cost application is lodged with the Environment Court is maintained at a Staff level.

**Taharua Mohaka Update**

5. Funds the Science work that enables the scope of the Taharua plan change to extend to the whole of Mohaka Catchment by way of a combination of:
  - 5.1 Section 36 charges where appropriate, and
  - 5.2 Approving a carry forward in June of any under-expenditure identified as a result of the April reforecasting exercise; and
  - 5.3 Approving an increase to the Year 2012-13 deficit of up to \$75,000 in the Draft Long Term Plan.

**Canadian Petrochemical Fact Finding Tour Report**

6. Contributes to a gap analysis of all regulations managing all of the aspects of the oil/gas industry to avoid a disjointed approach to this industry.
7. Agrees that New Zealand regulatory agencies should consider adopting overseas standards, where applicable, to ensure consistent regulations rather than develop our own standards
8. Notes that the British Columbia Oil and Gas Commission (BCOGC), Energy Resources Conservation Board (ERCB) and National Energy Board (NEB) have all offered ongoing support to assist the East Coast Councils and New Zealand as a whole, for development of policy, regulations and technical support.



**Helen Codlin**  
**GROUP MANAGER**  
**STRATEGIC DEVELOPMENT**



**Iain Maxwell**  
**GROUP MANAGER**  
**RESOURCE MANAGEMENT**

**Attachment/s**

There are no attachments for this report.



**SUBJECT: RECOMMENDATIONS FROM CORPORATE AND STRATEGIC COMMITTEE**

**Reason for Report**

1. The following matters were considered by the Corporate and Strategic Committee on Wednesday 14 March 2012 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**

The Corporate and Strategic 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.

**Environmental Awards**

2. Approves the proposal to continue partnerships with the Hawke's Bay Environmental Action Awards, the Westpac Chamber of Commerce Business Awards, the East Coast Ballance Farm Awards and the Eastern Horticultural Field Day.

**Kairakau Community Scheme**

3. Adopts the Statement of Proposal for the establishment of the Kairakau Community Scheme, subject to any changes Council may wish to make, for the purpose of distribution to the Kairakau Community and the special consultative process.
4. Requests that the Hearings Committee appoints a Hearing Panel to hear and consider all submissions received and report its decisions back to Council.
5. Instructs staff to liaise with the Hearing Panel members as appointed to set a date for hearing of submissions in accordance with the Local Government Act 2002.



**Andrew Newman  
CHIEF EXECUTIVE**



**SUBJECT: FORMAL APPOINTMENT OF REGIONAL PLANNING COMMITTEE MEMBERS**

**Reason for Report**

1. The Regional Planning Committee has been established by Council with membership comprising equal representation of Councillors, and non-Councillors from the Treaty claimant groups.
2. The role of the Committee is to develop statutory planning documents, namely regional policy statements, and regional plans, and changes and variations to these, required under the Resource Management Act 1991.
3. In December 2011 Council adopted the Terms of Reference for the Regional Planning Committee set out in Attachment 1.
4. The Committee will ultimately be permanently established through legislation to recognise the unique background to this committee arising from the recognition of cultural redress through Treaty claims. Until this process is completed Council has agreed to establish a "transitional" version of the Committee that can proceed to work on the current policy development initiatives.
5. The purpose of this paper is to appoint the members of the Regional Planning Committee, and the Chairman and Deputy Chairman of the Committee, so that the Committee can start its meetings.

**Discussion**

6. There are several matters to be discussed and these are set out below.

**Membership**

7. The principle of membership which it has been agreed shall apply is that of equal numbers of Councillors and Tāngata Whenua representatives on the Committee at any time.
8. To date, six of the nine Treaty claimant groups with interests in Hawke's Bay have formally agreed to be members of the Regional Planning Committee, and have undertaken to sign the Deed of Commitment.
9. There are signs that the balance of Tāngata Whenua representation may be sorted out within the next few months, or sooner. So, rather than create uncertainty among Councillors as to when they would be required to join the Regional Planning Committee, and in acknowledgement that policy development is a key governance function of councillors, the Tāngata Whenua representatives have agreed with a staff suggestion that all nine councillors be appointed to the Committee from the time of its establishment.
10. It would be helpful if there could be agreement by the councillors that, in the event of a requirement for a vote the principle of equal representation could be maintained and three councillors could abstain from voting. This is expected to be a very temporary situation.

**Inaugural Meeting**

11. The first meeting of the Regional Planning Committee is scheduled for Tuesday 10 April 2012 (just before Easter). As this first meeting is such a significant stepping stone for the region the Council has invited the Minister for Treaty of Waitangi Negotiations, the Hon. Christopher Finlayson, and the Minister of Māori Affairs, the Hon. Dr Pita Sharples, to attend a formal welcome for the Committee members at the start of the inaugural meeting.

12. At the time of writing the agenda paper confirmation had yet to be received on the attendance of either Minister. Nevertheless it is important to acknowledge the advancement to the relationship between HBRC and iwi that the Committee brings, and suitable recognition will be given to this at the beginning of the meeting. It is then proposed that, following refreshments, training is commenced for the Tāngata Whenua representatives and for any other Committee members who would like to participate.

### **Training**

13. In the Council schedule of meetings, the Regional Planning Committee meetings are set down for 4 April, 20 June and 11 July. Having discussed training requirements with the Tāngata Whenua representatives it is proposed that these three meetings focus on training for the Tāngata Whenua representatives in the following areas.
  - 13.1. Local government meeting processes and procedures
  - 13.2. The Resource Management Act, particularly as it applies to plan development
  - 13.3. HBRC plans and policy statements; HBRC policy development work programme and current issues.

### **Current Policy Programme**

14. It is important that the Tāngata Whenua representatives receive appropriate training for their committee roles. It is also important that Council's policy development work programme continues along its current timelines given the requirements to have plan changes in place prior to consent expiry dates.
15. It is suggested that in the interim the Environmental Management Committee continues with its responsibility for this work until the end of June and that the new Committee structure operates from 1 July, meaning that the first meeting of the Environment and Services Committee would be held on 15 August.

### **Financial and Resource Implications**

16. Cabinet has approved a Crown contribution to natural resource arrangement costs of \$100,000 to Hawke's Bay Regional Council for the following:
  - 16.1. pre-settlement iwi/claimant groups' costs during the transition period; and
  - 16.2. one-off set up cost of new arrangements to involve iwi in the management of natural resources; and
  - 16.3. ongoing costs in a transitional period up to a maximum of three years arising from implementation of new natural resource arrangements;
17. Hawke's Bay Regional Council will continue to meet the costs of agenda preparation and distribution, travel expenses and meeting expenses (other than meeting fees); and training costs as required

### **Decision Making Process**

18. Council is required to make a decision in accordance with the requirements of the Local Government Act 2002 (the Act). Staff have assessed the requirements contained in Part 6 Sub Part 1 of the Act in relation to this item and have concluded the following:
  - 18.1. The decision does not significantly alter the service provision or affect a strategic asset.
  - 18.2. The use of the special consultative procedure is not prescribed by legislation.
  - 18.3. The decision does not fall within the definition of Council's policy on significance.
  - 18.4. The persons affected by this decision are all persons with an interest in the region's management of natural and physical resources under the RMA.
  - 18.5. Options that have been considered include making alternative arrangements for the governance of natural and physical resources including the fragmentation of the region into catchments for governance purposes.
  - 18.6. The decision is not inconsistent with an existing policy or plan.

- 18.7. Given the nature and significance of the issue to be considered and decided, and also the persons likely to be affected by, or have an interest in the decisions made, Council can exercise its discretion and make a decision without consulting directly with the community or others having an interest in the decision.

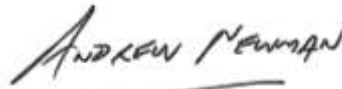
### Recommendations

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. Appoints all councillors to the Regional Planning Committee.
3. Appoints Councillor \_\_\_\_\_ as Chairman of the Regional Planning Committee.
4. Appoints the following persons as members of the Regional Planning Committee:
  - 4.1. Walter Wilson, representing Te Whakaemi o te Wairoa
  - 4.2. Nicky Kirikiri, representing Ruapani ki Waikaremoana
  - 4.3. Toro Waaka, representing Ngati Pahauwera Development Trust
  - 4.4. Karauna Brown, representing Ngati Hineuri Iwi Incorporated
  - 4.5. Tania Hopmans, representing Maungahururu-Tangitu Iwi Incorporated
  - 4.6. Rangi Spooner, representing Mana Ahuriri Incorporated.
5. Appoints \_\_\_\_\_ as Deputy Chairman of the Regional Planning Committee.



**Liz Lambert**  
**GROUP MANAGER**  
**EXTERNAL RELATIONS**



**Andrew Newman**  
**CHIEF EXECUTIVE**

### Attachment/s

- 1 Terms of Reference for Regional Planning Committee



## REGIONAL PLANNING COMMITTEE

### TERMS OF REFERENCE

#### a) Introduction

Through its Treaty of Waitangi settlement negotiations with the tāngata whenua of the Hawke's Bay<sup>1</sup>, in conjunction with the Council, the Crown has committed to introduce legislation to establish a permanent Regional Planning Committee (Permanent Committee) to draft and recommend to the Council plan and policy changes that affect natural resources in the Hawke's Bay region.

Legislation will be introduced to make the Permanent Committee permanent. Negotiations on terms of reference of the Permanent Committee are yet to be concluded. However, in the meantime, the Council and the Member Tāngata Whenua Groups have agreed to establish the Committee with interim terms of reference to begin working together on the matters set out at b) to d) below.

These terms of reference will be superseded by terms of reference of the Permanent Committee when legislation is enacted to give effect to agreements reached in respect of the Permanent Committee. These terms of reference may be amended by the Council and the Member Tāngata Whenua Groups in accordance with (n) below.

#### b) Purpose

To oversee the review and development of the Regional Policy Statement and Regional Plans for the Hawke's Bay region, as required under the Resource Management Act 1991.

#### c) Process

The Committee is responsible for preparing Proposed Regional Plans and Proposed Regional Policy Statements, or any Plan Changes or Plan Variations, and recommending to the Council the adoption of those documents for public notification, as provided for further in paragraph (d) below. In the event that the Council does not adopt all or any part of any Proposed Regional Plan, Proposed Regional Policy Statement, Plan Change or Plan Variation or other recommendation, the Council shall refer such document or recommendation in its entirety back to the Committee for further consideration, as soon as practicable but not later than two months after receiving a recommendation from the Committee.

<sup>1</sup> See Deed of Settlement with Ngāti Pāhauwera signed 17 December 2010, clause 5.22 and clauses 3.19-3.28 of the Provisions Schedule to the Deed; and Agreement in Principle with Maungaharuru-Tangitu Hapū signed 22 September 2011, clause 5.41 and Schedule 4. In addition, the Crown has made commitments to other Tāngata Whenua Representatives to establish the Committee, including Mana Ahuriri Incorporated (for the Ahuriri Hapū) and Ngāti Hineuru Iwi Incorporated (for Ngāti Hineuru).

**d) Specific Responsibilities**

- To implement a work programme for the review of the Council's Regional Plans and Regional Policy statements prepared under the Resource Management Act 1991.
- To prepare any changes to the Regional Resource Management Plan, including the Regional Policy Statement.
- To prepare any Plan Variations to the Proposed Regional Coastal Environment Plan.
- To prepare Plan Changes to the Regional Coastal Environment Plan as required, once it is operative.
- To oversee consultation on any draft Proposed Regional Plan, Proposed Regional Policy Statement, Plan Change or Plan Variation (prior to notification).
- To recommend to Council for public notification any, Proposed Regional Plans, Proposed Regional Policy Statements, Plan Changes or Plan Variations.
- In accordance with the process outlined above, to review any documents which the Council may refer back to the Committee for further consideration.
- To recommend to Council the membership of Hearings Panels, from appropriately trained and eligible commissioners, to hear and decide upon submissions on Proposed Regional Plans, Proposed Regional Policy Statements, Plan Variations and Plan Changes (which may include members of the Committee).
- To determine the scope for the resolution and settlement of appeals on Proposed Policy Statements, Proposed Regional Plans, Plan Variations and Plan Changes.
- When required, to recommend to Council that officers be delegated with the authority to resolve and settle any appeals and references through formal mediation before the Environment Court.
- To monitor the effectiveness of provisions of Regional Policy Statements and Regional Plans in accordance with section 35 of the Resource Management Act and incorporate the monitoring outcomes into a review of the Committee's work programme

**e) Membership**

- Tāngata Whenua Representatives, each appointed by Council on nomination by a Member Tāngata Whenua Group.
- Councillor members equal to the number of Tāngata Whenua Representatives appointed at any time.

The principle which applies is that there shall be equal numbers of Councillor members and Tāngata Whenua Representatives on the Committee at any time.



**f) Chairperson and Deputy Chairperson (Transition Period: April 2012 - December 2012)**

During the transition period the Chair of the Committee will be appointed by Council from Councillor members. The Deputy Chairperson will be appointed by Council on nomination from the Tāngata Whenua Representatives.

**g) Chairperson (January 2013 – enactment of legislation and establishment of the Permanent Committee)**

From the end of the transition period until the establishment of the Permanent Committee the Committee will have two Co-Chairs:

- a Councillor member of the Committee appointed by the Councillor members; and
- a Tāngata Whenua Representative appointed by Council on nomination from the Tāngata Whenua Representatives.

Each Co-Chair shall preside at meetings of the Committee on a pre-arranged basis. This arrangement will presume that the Co-Chairs will be responsible for separate areas of policy development and each will preside over a meeting as their relevant portfolio areas are discussed.

**h) Term of Membership**

Membership of the Committee (both Councillor members and Tāngata Whenua Representatives) shall be reviewed following the 2013 triennial election of Councillors, unless the Permanent Committee has already been established. The Council will review the appointment of its Council members and Member Tāngata Whenua Groups will review the appointment of their respective Tāngata Whenua Representatives. However, it is recognised that the Tāngata Whenua Representatives are nominated for appointment by their respective Member Tāngata Whenua Groups from time to time (and not necessarily triennially), and in accordance with the processes of their respective Member Tāngata Whenua Groups.

**i) Quorum**

75% of the members of the Committee.

**j) Voting Entitlement**

Best endeavours will be made to achieve decisions on a consensus basis, or failing consensus, the agreement of 80% of the Committee members in attendance will be required. Where voting is required all members of the Committee have full speaking rights and voting entitlements.

Standing Orders 2.5.1(2) and 3.14.2 which state: "The Chairperson at any meeting has a deliberative vote and, in the case of equality of votes, also has a casting vote" do **NOT** apply to the Regional Planning Committee

**k) Special Terms of Reference**

- The role of the Committee, and all members of the Committee, is to objectively overview the development and review of proposed policy statements, plans, variations and plan changes in accordance with the requirements of the Resource Management Act 1991. In particular the Committee must apply the purpose and principles of the Act and section 32 to its decision-making.

- The Committee, when recommending the appointment of hearings panels, shall recommend members for their particular skills, attributes or knowledge relevant to the work of the panel and shall so far as possible ensure that no member is open to perceptions or allegations of bias or predetermination.
- It is not intended that the participation of Tāngata Whenua Representatives on the Committee be a substitute for any consultation with iwi required under the First Schedule of the Resource Management Act 1991.

**l) Meeting Frequency and Notice**

As required in order to achieve the plan and policy development work programme.

Notice of meetings will be given well in advance in writing to all Committee members, and not later than 1 month prior to the meeting.

**m) Review of these Terms of Reference**

The Terms of Reference for the Committee will be reviewed by the Councillor members and the Tāngata Whenua Representatives in April 2013 to determine whether the Committee is fulfilling the objectives of the Council and Tāngata whenua.

**n) Amendments to these Terms of Reference**

The Councillor members or Tāngata Whenua Representatives may request changes to the Terms of Reference. Amendments to the Terms of Reference may only be made with the approval of:

- the Councillors at a Council meeting; and
- the Tāngata Whenua Representatives at a hui called for that purpose.

**o) Technical support**

The Committee will have full access to Council staff, through the relevant Group Managers, to provide any technical support required in order to achieve the Committee's purpose, as set out in paragraph (b) above.

**q) Terms of Reference Interim**

These Terms of Reference are interim only and will be superseded by the Terms of Reference for the Permanent Committee.

**r) Officer Responsible**

Group Manager: Strategic Development

## GLOSSARY

<b>Proposed Regional Plan / Proposed Regional Policy Statement</b>	A proposed regional plan or proposed regional policy statement is a document that has been issued by the Council and 'proposed' as the Council's official position. To be legally proposed, a document must be publicly notified so people can make submissions.
<b>Plan Variation</b>	A plan variation is when a Council proposes a further change to a plan or policy statement that is still in the 'proposed stage' and has yet to be finalised.
<b>Operative Regional Plan / Operative Regional Policy Statement</b>	In relation to a regional plan or a regional policy statement, means that it has been through the public submission, hearings and Court processes and has full effect.
<b>Plan Change</b>	Is when a Council proposes changes to an operative plan or policy statement.
<b>Hearings Panel</b>	Is a panel appointed to hear public submissions on any Proposed Plan, Proposed Policy Statement, Plan Change or Plan Variation. It may be made up of any number of people, and may include Committee members, independent commissioners, or a mix of the two.
<b>Member Tāngata Whenua Group</b>	<p>Means a Crown recognised mandated group representing tāngata whenua interests within the Hawke's Bay region, mandated for the purpose of negotiating with the Crown for a settlement of claims under the Treaty of Waitangi, being:</p> <ul style="list-style-type: none"> <li>• Mana Ahuriri Incorporated (representing the Ahuriri Hapū);</li> <li>• Maungaharuru-Tangitu Incorporated (representing the Maungaharuru-Tangitu Hapū);</li> <li>• Ngāti Hineuru Iwi Incorporated (representing Ngāti Hineuru);</li> <li>• on an interim basis and only to the extent set out in the the Deed of Commitment [ ] between HBRC, Tāngata Whenua Parties and the Crown, Te Toi Kura o Waikaremoana (representing Ruapani ki Waikaremoana); and</li> <li>• Any other group which becomes a Tāngata Whenua Party to the Deed of Commitment dated [ ] between HBRC, Tāngata Whenua Parties and the Crown by executing a Deed of Accession set out in Schedule 1 of that Deed.</li> </ul>

Item 12

Attachment 1

<b>PSGE</b>	Means a post settlement governance entity which has taken over responsibility from a Member Tāngata Whenua Group for representing tāngata whenua interests, being: <ul style="list-style-type: none"> <li>• The Trustees of the Ngāti Pāhauwera Development Trust (representing Ngāti Pāhauwera); and</li> <li>• Any other entity which becomes a Tāngata Whenua Party to the Deed of Commitment dated [ ] between HBRC, Tāngata Whenua Parties and the Crown by executing a Deed of Replacement set out in Schedule 2 of that Deed</li> </ul>
<b>Tāngata Whenua Representative</b>	Means each representative nominated by: <ul style="list-style-type: none"> <li>a. a Member Tāngata Whenua Group; or</li> <li>b. a PSGE.</li> </ul>
<b>The Council</b>	Means the Hawke's Bay Regional Council.
<b>The Permanent Committee</b>	Means the Permanent Regional Planning Committee referred to in the Deed of Settlement with Ngāti Pāhauwera signed 17 December 2010 (clause 5.22 and clauses 3.19-3.28 of the Provisions Schedule) and Agreement in Principle with Maungaharuru-Tangitu Hapū signed 22 September 2011 (clause 5.41 and Schedule 4).
<b>Regional Resource Management Plan</b>	Includes the Regional Policy Statement which relates to air, fresh water, gravel and land.
<b>Regional Policy Statement</b>	Is the document that sets the basic direction for environmental management in the region. This also includes the Māori Dimension. It does not include rules.
<b>Regional Plan</b>	A document that sets out how the Council will manage a particular aspect of the environment, like the coast, soil, rivers or the air. Can include rules.
<b>Regional Coastal Environmental Plan</b>	A document that sets out how the Council will manage the coast. Can include rules.

**SUBJECT: DIRECTORS' AND OFFICERS' INSURANCE FOR HBRIC**

**Reason for Report**

1. Hawke's Bay Regional Investment Company (HBRIC) wishes to effect a Directors & Officers liability insurance to cover any liability arising from the indemnification of all its directors (including all councillor directors, independent directors and the managing director) for any acts or omissions by them in their capacity as directors of the company.
2. HBRIC's Constitution (Clause 13.2) requires the Council, as the shareholder in HBRIC, to approve it contracting such insurance for directors.
3. This report outlines the situation giving rise to the need for this insurance and recommends the Council approve HBRIC contracting a suitable Directors & Officers liability insurance.

**Background**

4. In accordance with Clause 13.1 of its Constitution, approved by the Council on 14 December 2011, HBRIC provides an indemnity to its directors for costs and liability incurred as a result of any act or omission in their capacity as directors.
5. This indemnification complies with the Companies Act 1993 and is in respect of costs and liabilities of directors relating to:
  - 5.1. *liability for any act or omission in his or her capacity as a director* incurred in any proceeding against them [Section 162(3) of the Act]; and,
  - 5.2. *liability to any person other than the company [HBRIC] or a related company for any act or omission in his or her capacity as a director and costs incurred by that director or employee in defending or settling any claim or proceeding relating to any such liability- not being criminal liability or liability in breach, in the case of a director, of the duty specified in section 131 [to act in good faith and the best interests of the company] of this Act.*[Section 162(4) of the Act].
6. HBRIC wishes to insure its potential liability for the indemnification given to its directors and is permitted to do so by Section 162(5) of the Act, and its own Constitution, subject to the approval of its shareholder.
7. Indemnification of directors and insuring its potential liability is a common and prudent commercial practice, widely followed by limited liability companies in New Zealand.
8. Accordingly Council's insurance broker, Jardine Lloyd Thompson Limited, was asked to secure quotes and terms for an appropriate Directors' and Officers' liability insurance.
  - 8.1. Quotes and acceptable terms were received from two potential underwriters, QBE Insurance and Vero Liability.
  - 8.2. Jardine Lloyd Thompson recommends HBRIC effect insurance with Vero Liability.

**Council's Position**

9. Council is only being asked to approve HBRIC effecting insurance for a liability HBRIC has already contracted under its approved Constitution.
10. Council is not required to approve the underwriter or the terms of HBRIC's contract with the underwriter, but clearly HBRIC is expected to, and will, act prudently in effecting a particular contract.
11. Council is not being asked to provide any indemnities to HBRIC or any of HBRIC's directors in respect of this issue.
12. Nor is Council being asked to pay for any insurance that is effected by HBRIC. The annual premium payable for the insurance is an expense of HBRIC alone.

### **Decision Making Process**

13. Council is required to make a decision in accordance with the requirements of the Companies Act 1993 and HBRIC's constitution.

### **Recommendations**

That Council:

1. Notes that the decision is required under the Companies Act 1993 and HBRIC's constitution.
2. Approves HBRIC effecting directors' and officers' insurance to cover potential liabilities arising from indemnities given by HBRIC to its directors in accordance with its Constitution, on terms and conditions satisfactory to HBRIC.



**Paul Drury**  
**GROUP MANAGER**  
**CORPORATE SERVICES**

### **Attachment/s**

There are no attachments for this report.

**SUBJECT: PETITION TO HAWKE'S BAY REGIONAL COUNCIL**

**Reason for Report**

1. Council has received a petition from the community, the text of which states:
  - 1.1. We, the undersigned, request that Hawke's Bay Regional Council agree to make hydraulic fracturing (fracking) for petroleum (oil & gas) a prohibited activity in the Hawke's Bay Region until the Parliamentary Commissioner for the Environment reports to Parliament the findings of an inquiry into the practice of hydraulic fracturing in New Zealand.
2. Representatives of the petition will make a verbal presentation to Council at the meeting on Wednesday 21 March 2012, at 9.15am.

**Background**

3. While the Regional Resource Management Plan (RRMP) is silent on the specific activity known as hydraulic fracturing, there are currently a range of rules and policy in the RRMP that are in play when Council considers any consent application for bores that are used for petrochemical exploration and associated land based activities.
4. The assessment of the pre-application information that has been provided by the applicant to date has not revealed any activity that is not adequately controlled by provisions in the RRMP.
5. The consents required for petrochemical exploration range in status from controlled to discretionary activities. There are no prohibited activities.
6. The use of a prohibited activity status is very rare in a New Zealand context and is uncommon in the RRMP (only one prohibited activity exists now).
7. A resource consent application cannot be made for a prohibited activity and a consent cannot be granted. The prohibited activity status is the most restrictive of any activity status and therefore must be used with care. The decision to use it should be backed with strong evidence of its necessity, including justification through objectives and policies (see for example *Ngatiwai Trust Board v Whangarei District Council* [2004] A057/04).
8. Changing the status of any consents required for hydraulic fracturing would require a change in the RRMP. This would require a thorough and appropriate plan change process including, but not limited to, an assessment of the proposal against Part 2 of the Resource Management Act (RMA) and an associated background assessment process under section 32 of the RMA along with notification and submissions from the public. Depending on the outcome of this process a hearing may then also be required. These processes take on average 8 years in New Zealand at the moment.
9. While changing consent status to prohibited or creating a new consent requirement for hydraulic fracturing is possible, it is not possible in the current timeframes around the possible applications that are due to be lodged at any stage. Even if Council were to agree to begin a process today to change, this would not have any legal status in time to capture consent applications that were lodged over the next few months or longer.
10. So, to summarize, while Council could undertake to make any activity a prohibited one, they are not legally able to change the RRMP without following due process and this would not occur in time to capture current consent processing.
11. It is useful while considering this request to also reflect on what Council's functions are when considering this type of activity.
  - 11.1. HBRC is required to assess the effects of resource use activities and ensure that any effects are avoided, remedied or mitigated through appropriate conditions in resource consents.

- 11.2. The RRMP assists HBRC to carry out its functions to achieve the purposes of the RMA. The RRMP has a policy and rule framework for assessing resource use activities.
- 11.3. HBRC must have regard to the provisions of the RRMP when considering applications for resource consents
- 11.4. This gives the RRMP the force and effect of a regulation under the RMA
- 11.5. Council are obliged to receive any consent application but may or may not grant any application.
12. Council might also reflect that the current proposal from the applicant is one for an exploratory bore. It is possible that if an industry was to develop in the future and more bores were required, the tests and assessment process may become broader as a larger number of bores were considered.
13. It should also be noted that any applicant applying for a resource consent has legal rights under the process and Council must apply rigorous and fair processes to any application. Failure to do so may open avenues for legal challenge.
14. It is also useful to reflect on the fact there are a range of other agencies that also have a substantive role and statutory functions in regulating the petrochemical industry. They include;
  - 14.1. Department of Labour – administer the Health Safety and Employment Act, enforce the Hazardous Substances and New Organisms (HZNO) Act. Control well management in a manner that compliments Council's interests.
  - 14.2. Ministry of Economic Development – Issues permits to explore and extract petrochemicals. Manages royalty payments to the Crown
  - 14.3. Environmental Protection Authority – Administers the HZNO Act that controls products used in industrial processes that may affect the environment and humans
15. These agencies have complimentary regulatory requirements and we are actively working with them to ensure there is good overlap in their requirements and Councils.

### Decision Making Process


16. 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.

### Recommendation

1. That Council receives the report.



**Iain Maxwell**  
GROUP MANAGER  
RESOURCE MANAGEMENT



**Andrew Newman**  
CHIEF EXECUTIVE

### Attachment/s

There are no attachments for this report.



# HAWKE'S BAY REGIONAL COUNCIL

Wednesday 21 March 2012

## SUBJECT: MARCH 2012 WORK PLAN - LOOKING FORWARD

Item 15

### Reason for Report

1. This report is provided in order to update Councillors about significant work activities under way over the next month in each area of Council.

Group	Area of Activity	Activity Status Update
<b>Asset Management</b>	<ul style="list-style-type: none"><li>• Asset Management Plan reviews</li></ul>	Reviews of Asset Management Plans substantially complete for HPFCS and UTTS. Peer reviews and audit completed. Some modification required to align AMP's with LTP financials and levels of service.
	<ul style="list-style-type: none"><li>• Biosecurity</li></ul>	Regional Pest Management Strategy and Regional Phytosanitary Pest Management Strategy Hearing held 15 February 2012. Council adopted Hearings Panel recommendations 29Feb. If no references made to Environment Court final adoption of strategies to be put to Council April.
	<ul style="list-style-type: none"><li>• Land Management</li></ul>	A number of strategies to improve effectiveness of Council land management investment have been developed and included in the LTP 2012-22. An operational plan is being developed and will be presented for Council consideration in May 2012.
	<ul style="list-style-type: none"><li>• CHB District Council Wastewater project</li></ul>	Resource consent application notified 28 January 2012, submissions closed 29 February.
	<ul style="list-style-type: none"><li>• Mahia Beach wastewater project</li></ul>	Staff working with WDC, their consultants and other stakeholders on detailed design issues and catchment planning associated with the Whangawehi catchment as required by the resource consent conditions.
	<ul style="list-style-type: none"><li>• Infrastructure disaster insurance</li></ul>	A review of infrastructure disaster insurance arrangements is underway. An initial report to Council is planned for May 2012, to provide direction so that insurance negotiations for the 2012/13 year can be initiated.

Group	Area of Activity	Activity Status Update
Resource Management	<ul style="list-style-type: none"> <li>Appeal mediation processes underway for</li> <li>Large Consent processes/ applications</li> </ul>	<p><b>Twyford</b></p> <p>Court appointed mediation held on 2 November, attended by the appellants (Watering Society) HBRC, Fish and Game, DOC, and Te Taiwhenua of Heretaunga. Appellants advised that a report is being prepared for them by Aqualinc, but will not be ready until next year. Appellants will advise the Court before April 2012 if they intend to progress the appeals.</p> <p><b>AFFCO</b></p> <p>Further work and discussion is still ongoing, further mediation dates to be set by Court if required.</p> <p><b>Mexted &amp; Williams</b></p> <p>Mexted et al have proposed a reduced no of lots as a solution to resolve the appeal. This is awaiting a response from the appellants. If not accepted this will go to appeal.</p> <p><b>NCC BTF plant</b></p> <p>No appeals accepted or received by the Court.</p> <p><b>Bridgeman</b></p> <p>Application went to a hearing on 1 &amp; 2 February 2012, adjourned awaiting further information and applicants right of reply, decision late March/ early April.</p> <p><b>CHBDC waste water</b></p> <p>Application Notified and currently receiving submissions, submissions close 29 February 2012.</p> <p><b>Poukawa</b></p> <p>Discussions ongoing with applicants and stakeholders pre notification decision, notification likely April/May 2012</p>

Group	Area of Activity	Activity Status Update
<b>Resource Management</b>	<ul style="list-style-type: none"> <li>Science Activities</li> </ul>	<p><b>Groundwater</b></p> <p>Continuing to work closely with the planning team with policy development for water allocation and water quality. Work is underway to delineate capture zones for community drinking water supplies to support the Wastewater plan change.</p> <p>Staff are working closely with the consents team on draft consent application for Apache Oil drilling consent applications. Council is expecting consents to be lodge in March.</p> <p>Investigation work to support the extending the Taharua plan change to a wider Mohaka Catchment plan change is being fully scoped including discussions with Bay of Plenty Regional Council staff.</p> <p><b>Hydrology</b></p> <p>Allocation modelling for plan change and storage project still progressing with issues around back editing of data being resolved to ensure robust data quality. IFIM assistance on Makaroro and preliminary work for Tutaekuri underway.</p> <p><b>Ecology</b></p> <p>Work still to progress on the Ngaruroro with weather conditions unsuitable for aerial surveys over summer 2011/12. Work to resume on the Ngaruroro summer 2012/13.</p>
<b>Strategic Development</b>	<ul style="list-style-type: none"> <li>Land and Water Management Strategy</li> </ul>	Strategy implementation to be ongoing, including via 2012-22 LTP preparation.
	<ul style="list-style-type: none"> <li>Plan Change for freshwater management in Tukituki River catchment</li> </ul>	Ongoing. Technical reports being used to develop the water allocation framework. Stakeholder engagement as per adoption by Council in February.
	<ul style="list-style-type: none"> <li>Rivermouth Hazard Areas in proposed Regional Coastal Environment Plan (Variation 1)</li> </ul>	Schedule 1 RMA process. Officers' report being prepared. Hearing to be scheduled May 2012.
	<ul style="list-style-type: none"> <li>Onsite Wastewater change (Change 3 + Variation 3)</li> </ul>	Schedule 1 RMA process Officer's report being prepared. Hearing scheduled 19-20 April 2012.
	<ul style="list-style-type: none"> <li>RPS Change to incorporate HPUDS and wider infrastructure matters (Change 4)</li> </ul>	Change 4 (Managing the Built Environment) publicly notified 7 December 2011. 45 submissions received. Further submissions to be invited April 2012. Hearing by end of 2012.
	<ul style="list-style-type: none"> <li>Taharua Strategy and plan change.</li> </ul>	Ongoing. Broadened scope to cover whole Mohaka River catchment. Preliminary stakeholder engagement commenced with wider Mohaka River interests. Further liaison with Taharua Stakeholder Group on options.

Group	Area of Activity	Activity Status Update
<b>Strategic Development</b>	<ul style="list-style-type: none"> <li>Proposed Regional Coastal Environment Plan</li> </ul>	Ongoing. Environment Court to ratify settlement of all appeals in April. RCEP to be approved by Council, then referred to Minister of Conservation for approval of provisions relating to coastal marine area.
	<ul style="list-style-type: none"> <li>Heretaunga Plains Urban Development Strategy (HPUDS)</li> </ul>	Ongoing implementation as it relates to other actions where HBRC is a lead agency or a partner agency via HPUDS Working Group.
	<ul style="list-style-type: none"> <li>Regional Land Transport Programme and Regional Land Transport Strategy.</li> </ul>	The projects in the Regional Land Transport Programme have been confirmed by the Regional Transport Committee. This Programme will form part of the Regional Land Transport Strategy that will go out for public consultation in late April 2012.
	<ul style="list-style-type: none"> <li>Business Hawke's Bay</li> </ul>	Successful launch on 29 February.
	<ul style="list-style-type: none"> <li>Tech NZ R&amp;D funding as part of the Regional Business Partner partnership with HB Chamber of Commerce</li> </ul>	Ongoing - \$1,040,165.00 distributed to 20 companies, MSI are undergoing some restructuring and Hawke's Bay is seen as one of the leading regions in the country for assisting to model the change processes.
	<ul style="list-style-type: none"> <li>Strategic Farming Initiative</li> </ul>	Pan Sector cluster was successfully held in early March. The next meeting is planned for April and will focus on terms of reference and draft strategy and work programme.
	<ul style="list-style-type: none"> <li>Massey Strategic Relationship</li> </ul>	Projects ongoing.
<b>Corporate Services</b>	<ul style="list-style-type: none"> <li>Validation of assumptions made in the LTP to determine value of Napier leasehold sale of cash flows.</li> </ul>	March 2012.
	<ul style="list-style-type: none"> <li>Assessment of selling cash flows from Napier leasehold land.</li> </ul>	To be undertaken in August 2012.
	<ul style="list-style-type: none"> <li>Audited draft LTP for Council approval.</li> </ul>	Council meeting - March 2012.
	<ul style="list-style-type: none"> <li>New website go live date.</li> </ul>	Late May/early June 2012.
<b>External Relations</b>	<ul style="list-style-type: none"> <li>Freshwater Governance and Management – Collaborative sector approach to Implementation of NPS</li> </ul>	Development of paper on behalf of Regional Sector Group to Land and Water Forum, outlining sector work.
	<ul style="list-style-type: none"> <li>Discussions with Treaty claimant groups on development of Regional Planning Committee Terms of Reference</li> </ul>	Appointments being reported to Council in March. Inaugural meeting 10 April 2012.
	<ul style="list-style-type: none"> <li>Long Term Plan</li> </ul>	Implementation of consultation plan for LTP – HBRC Open Day 12 April.

Group	Area of Activity	Activity Status Update
<b>External Relations</b>	<ul style="list-style-type: none"> <li>Community engagement / environmental education</li> </ul>	<p>Planning underway for Home &amp; Garden Show (May)</p> <p>Next edition of 'Our Place' will be released in April</p>
<b>Operations/ Water Group</b>	<ul style="list-style-type: none"> <li>Ruataniwha Water storage</li> </ul>	<p>Work over the next month involves:</p> <ul style="list-style-type: none"> <li>Risk workshop for Dam and Reticulation refined design and costing</li> <li>Receiving all 7 environmental studies, reviewing findings and accommodating in final project description.</li> <li>Progressing Nutrient and Mitigation modelling works.</li> <li>Stakeholder and leadership meetings to host.</li> </ul>
	<ul style="list-style-type: none"> <li>Cycleways</li> </ul>	<ul style="list-style-type: none"> <li>Progress remaining Craggy Range section of trail.</li> <li>Progress Tiapo and Pondora sections of trail.</li> <li>Continue with Ngatarawa and Roys hill section of trail.</li> </ul>
	<ul style="list-style-type: none"> <li>Ngaruroro Water storage project</li> </ul>	<p>On farm Economic Analysis confirmed and will seek Council guidance on funding (for completion by March 2012), prior to seeking Council direction as to whether this project moves to a full feasibility study.</p>
<b>CE's Office</b>	<ul style="list-style-type: none"> <li>Represent Regional Sector on Land and Water Forum "Small Group"</li> </ul>	<p>Have had 3 meetings in March. Expect clear recommendations to be complete on limit setting and collaborative governance by end of March. More meetings are scheduled for April.</p>
	<ul style="list-style-type: none"> <li>Treaty Settlements – further work with Claimant Groups</li> </ul>	<p>Inaugural meeting of the Regional Planning Committee scheduled 10 April will be attended by Minister for Treaty Settlements</p>
	<ul style="list-style-type: none"> <li>Ongoing engagement in regional water strategy and Water storage feasibility projects</li> </ul>	<p>Ongoing</p>
	<ul style="list-style-type: none"> <li>Commence work with TLA CEs on Study of Local Government Efficiency and Effectiveness</li> </ul>	<p>Terms of Reference for the study have been finalised after comment and input from all Councils. Mayoral meeting 5 April to confirm options for Study Leader and timelines. If no agreement, recommend HBRC initiate own study.</p>

Group	Area of Activity	Activity Status Update
CE's Office	<ul style="list-style-type: none"> <li>Continue work with Regional Sector CEs at Horizons and Greater Wellington plus Government Department CEs as appropriate on southern North Island partnership</li> </ul>	Ongoing Initial due diligence due end of April.
	<ul style="list-style-type: none"> <li>Shared Services</li> </ul>	Council to consider the findings of the Shared Services report, and take part in appropriate discussions with Hawke's Bay TAs and Horizons Regional Council.
	<ul style="list-style-type: none"> <li>Continue involvement with Ministry of Agriculture and Forestry Peak Group for Implementation of the ETS</li> </ul>	Ongoing
	<ul style="list-style-type: none"> <li>Advisory Committee on Official Statistics</li> </ul>	Ongoing

### 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 to be made, the decision making provisions of the Local Government Act 2002 do not apply.

### Recommendation

- That Council receives the March 2012 Work Plan Looking Forward report.



**Mike Adye**  
**GROUP MANAGER**  
**ASSET MANAGEMENT**



**Helen Codlin**  
**GROUP MANAGER**  
**STRATEGIC DEVELOPMENT**



**Paul Drury**  
**GROUP MANAGER**  
**CORPORATE SERVICES**



**Graeme Hansen**  
**GROUP MANAGER**  
**WATER INITIATIVES**



**Liz Lambert**  
**GROUP MANAGER**  
**EXTERNAL RELATIONS**



**Iain Maxwell**  
**GROUP MANAGER**  
**RESOURCE MANAGEMENT**

A handwritten signature in dark ink that reads "Andrew Newman". The signature is written in a cursive style and is underlined with a single horizontal line.

**Andrew Newman**  
**CHIEF EXECUTIVE**

**Attachment/s**

There are no attachments for this report.





# HAWKE'S BAY REGIONAL COUNCIL

Wednesday 21 March 2012

## 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
1.		
2.		
3.		
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10.		



**HAWKE'S BAY REGIONAL COUNCIL**

**Wednesday 21 March 2012**

**SUBJECT: CONFIRMATION OF PUBLIC EXCLUDED MEETING HELD ON 29  
FEBRUARY 2012**

**Item 17**



# HAWKE'S BAY REGIONAL COUNCIL

Wednesday 21 March 2012

## SUBJECT: RECOMMENDATIONS FROM CORPORATE AND STRATEGIC COMMITTEE

Item 19

That Council excludes the public from this section of the meeting, being Agenda Item 19 Recommendations from Corporate and Strategic Committee 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

Recommendations from Corporate and Strategic Committee

### REASON FOR PASSING THIS RESOLUTION

7(2)(b)(ii) That the public conduct of this agenda item would be likely to result in the disclosure of information where the withholding of that information is necessary to protect information which otherwise would be likely unreasonably to prejudice the commercial position of the person who supplied or who is the subject of the information.

### GROUND UNDER SECTION 48(1) FOR THE PASSING OF THE RESOLUTION

The Council is specified, in the First Schedule to this Act, as a body to which the Act applies.



**Andrew Newman**  
**CHIEF EXECUTIVE**