



## MINUTES OF A MEETING OF THE REGIONAL COUNCIL

**Date:** Wednesday 28 August 2013

**Time:** 9.00 am

**Venue:** Council Chamber  
Hawke's Bay Regional Council  
159 Dalton Street  
NAPIER

**Present:** A J Dick  
T Gilbertson  
N Kirton  
E McGregor  
L Remmerswaal  
K Rose  
C Scott  
M Douglas  
F Wilson - Chairman

**In Attendance:** M Mohi – Chairman – Maori Committee  
E Lambert – Interim Chief Executive  
P Drury – Group Manager Corporate Services  
H Codlin – Group Manager Strategic Development  
M Adye – Group Manager Asset Management  
L Hooper – Governance & Corporate Administration Manager  
I Maxwell – Group Manager Resource Management

**1. Welcome/Prayer/Apologies/Notices**

The Chairman welcomed all present to the meeting and offered the prayer.

Mr Mohi advised he would need to leave at 12.30pm.

**2. Conflict of Interest Declarations**

There were no conflict of interest declarations.

**3. Confirmation of the Minutes of the Regional Council Meeting Held on 14 August 2013**

**RC61/13 Resolution**

Minutes of the Regional Council Meeting held on Wednesday, 14 August 2013, a copy having been circulated prior to the meeting, were taken as read and confirmed as a true and accurate record.

**Scott/Douglas  
CARRIED**

**4. Matters Arising From Minutes of the Regional Council Meeting Held on Wednesday 14 August 2013**

There were no matters arising from the minutes.

**5. Call for General Business Items**

Cr Remmerswaal - Andy Macfarlane meeting

Cr Gilbertson – Council response to signs on the Patangata Bridge

**6. Action Items From Previous Council Meetings**

Ms Lambert provided the updated status of items on the Actions list.

Mr Maxwell advised that much of the work in relation to irrigation and methods of managing irrigation during drought conditions is ongoing and that a report would be prepared for the November Environment and Services Committee. In response to suggestions that a report was needed sooner, Mr Maxwell stated that report covering the issues could be prepared in time for consideration at the 25 September Council meeting. It was suggested that the paper provide information including:

- 'work around' options within the existing consents and Rules that may allow grouping of consents for irrigators and irrigator groups to access to real time data to manage global allocations when lower flows are predicated
- processes and options to engage irrigators and irrigator groups in a staged reduction profile that minimise drought effects on land and water including proportionality alternatives
- Temporary allocation transfers within existing Rules to augment takes
- Sustainable augmentation options, particularly in streams where low flow was experienced in 2012/13, to minimise the effect of low flows
- Update of the water model using information from the 2012/13 season and advising on the issues around perceived over allocation to inform the TANK process
- the basis for a transitional 'drought' mitigation policy pending proposed Plan Change 7 via the TANK process.

In relation to a previous resolution requesting a report related to Climate Change, Ms Lambert advised that science staff responsible for providing such a report are currently committed to completing other work and intend to prepare the report for consideration at the first Environment and Services Committee meeting in the new triennium – when workloads allow.

RC62/13

**Resolution**

1. That the item is left to lie on the table for discussion later in the meeting.

**Kirton/Scott  
CARRIED**

**7. Verbal Update From The Maori Committee Chairman on the Maori Committee Meeting Held Tuesday 27 August 2013**

Mr Mohi provided a commentary on discussions traversed at the Maori Committee meeting.

The representatives at the meeting considered the Ngati Kahungunu Iwi Incorporated Marine and Freshwater Fisheries Strategic Plan and prepared their recommendation to Council to reflect their view that further consultation with the wider Maori community was required.

RC63/13

**Resolutions**

That Council:

1. Receives the “*Verbal Update From The Maori Committee Chairman on the Maori Committee Meeting Held Tuesday 27 August 2013.*”
2. Refers the *Kahungunu ki Uta, Kahungunu ki Tai, Marine & Freshwater Fisheries Strategic Plan* back to Ngati Kahungunu Iwi Incorporated for further widespread distribution amongst Taiwhenua and the Crown’s LNG (large natural treaty groups) to receive their input.

**Scott/Rose  
CARRIED**

**8. Affixing of Common Seal**

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.

		<b>Seal No.</b>	<b>Date</b>
1.1	<b>Leasehold Land Sales</b>		
	1.1.1 Lot 7 DP 14665 CT H2/147 - Transfer	3711	26 July 2013
	1.1.2 Lot 178 DP 12611 CT D4/1104 - Agreement for Sale and Purchase	3712	31 July 2013
	1.1.3 Lot 161 DP 12611 CT D4/1097 - Agreement for Sale and Purchase	3713	9 August 2013

	1.1.4 Lot 66 DP 13897 CT F4/392 - Agreement for Sale and Purchase	3714	13 August 2013
1.6	<b>Esplanade Strip Agreement</b> Lots 2-4 Deposited Plan 449565 CT 570009 (for the purposes of conservation over and along the strip)	3715	16 August 2013

RC64/13

## Resolutions

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.

**Gilbertson/Scott  
CARRIED**

## 9. HBRIC Ltd Board of Directors - Councillor Directors Perceived Conflict of Interest

Ms Lambert provided an introduction to the paper and invited Mr Stuart Webster, Council's legal advisor on this matter, to the table to assist in answering queries.

Mr Webster, in response to a query, provided a brief history of the issue and his previous legal advice advising his opinion that there is no 'legal' conflict of interest, but that there are a mix of political and perception issues.

Discussions traversed what constituted an actual conflict of interest, pecuniary interests, and how the 'perceived' conflict of interest issues in this case are not 'legal' conflicts of interest.

In moving the resolutions, Councillor Kirton highlighted the need for Councillor directors on the HBRIC Ltd Board, in his view, in order to provide crucial links and oversight by the Council to ensure that Council's environmental aspirations are furthered by the company.

Further discussions covered considerations of the role of Councillor Directors on the HBRIC Ltd board and what the appropriate number of elected representatives on that board might be, and what the Board composition might be going into the future 'after' the Ruataniwha Water Storage Project had been completed.

It was further noted that future considerations related to the HBRIC Ltd Board composition would include consideration of all relevant issues and re-set the permanent Board of the holding company to "*optimise the financial and strategic returns to Council from its allocated investment portfolio to assist Council achieve its vision of "a region with a vibrant community, a prosperous economy, a clean and healthy environment, now and for future generations."*

RC65/13 **Resolutions**

***Councillor Douglas moved an amendment, seconded by Councillor Rose; being the additional resolution:***

4. Recommends to the incoming Council that the number of Councillor Directors on the HBRIC Ltd Board of Directors be reduced to one.

**Douglas/Rose  
LOST**

***The amendment was lost and therefore the original resolutions became the substantive motion.***

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. Notes confirmation from legal advice that there is no actual conflict of interest for Councillor Directors on the Board of HBRIC Ltd at present.
3. Confirms that it has considered the potential solutions for the perceived conflict of interest issue in line with the request made at the July 2013 Council meeting, and recommends that the incoming Council considers the perceived conflict of interest issue during its consideration of the appointment of councillor directors for HBRIC Ltd following the local body elections.

**Kirton/Dick  
For: Dick, Remmerswaal, McGregor, Scott, Rose, Douglas, Kirton, Wilson  
Against: Gilbertson  
CARRIED**

***The meeting adjourned at 10.30am and reconvened at 10.50am.***

**10. HBRIC Ltd Independent Directors' Fees**

Mr Drury introduced the paper, providing the history leading to the considerations and decisions being made today. Mr Drury also covered the key points contained within the paper's contents.

Discussion covered the public good element of the directors' roles and how that had been assessed and weighted in the Institute of Directors' review.

RC66/13 **Resolutions**

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 Clause 12.1 of the HBRIC Ltd Constitution be amended to read:

*The remuneration of Independent Directors will be set by the Council*

*triennially (or such other times as the Council may, in its absolute discretion, resolve) on the recommendation of the Board based on market rates. No Directors Fees will be payable to any Councillor Directors.*

Noting that it is a resolution of the sole shareholder and therefore is a special resolution of the shareholder holding 100% of the shares of HBIRC Ltd.

**Remmerswaal/Douglas  
CARRIED**

3. Agrees that in recognition of the high workloads associated with the RWSS currently being undertaken by the HBRIC Ltd Board, that from 1 April 2013 until financial and contractual close of the RWSS has been achieved and Council approves moving from a Transition Board to a full Board, the base director fee be set at \$30,000 per annum and the base chair fee be set at \$54,000 per annum and further reviewed thereafter.

**Remmerswaal/Gilbertson  
For: Dick, Remmerswaal, McGregor, Gilbertson, Douglas, Wilson  
Against: Scott, Rose, Kirton  
CARRIED**

## **11. Recommendations From the Regional Planning Committee**

The paper was taken as read.

### **RC67/13 Resolutions**

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.

### **Change 5 Appeals**

2. Delegates to the Group Manager Strategic Development (and any legal counsel acting as the Group Manager's agent) the authority to sign, on behalf of Council, any mediated agreement in relation to the appeals on Change 5 to the Hawke's Bay Regional Resource Management Plan, providing such mediated agreement is consistent with the overall content of the Council's original decision.
3. That the Co-Chairs of the Regional Planning Committee liaise with staff and their team about the appeals on Change 5 to reinforce the link with the Regional Planning Committee.

### **Draft Annual Report For National Policy Statement (NPS) Freshwater Management Implementation Programmes**

4. Agrees that the content of the report's attachment be re-formatted and published as part of the Council's 2012/13 Annual Report.
5. Notes that the following reports were received by the Regional Planning Committee:
  - 5.1 Regional Planning Committee Draft Annual Report
  - 5.2 Update on RMA Reform.

**Scott/Douglas  
CARRIED**

## 12. Recommendations From the Environment and Services Committee

The paper was taken as read, however concern was expressed that verbal reports did not provide members of the public with all of the same information being provided to committee members and others in attendance at the meeting.

### RC68/13 Resolutions

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.

#### Notice of Motion: Cr M Douglas

2. Requests a staff report on stock exclusion issues in regard to the sites where Council permits stock into remaining areas where water access is possible. This report will propose a programme to exclude cattle as soon as possible from areas where access is possible, and the cost implications, allowing for a situation consistent with guidelines to farmers relating to stock exclusion.
3. Notes that the following information reports were received at the Environment and Services Committee meeting held on 14 August 2013:
  - 3.1 Verbal presentation from Peter Winder on Part 2 - Prosperity Report - Potential Costs and Savings of Local Government Reorganisation
  - 3.2 Verbal Update on Oil & Gas Exploration Discussions Throughout Hawke's Bay
  - 3.3 Open Spaces Projects and Funding
  - 3.4 Statutory Advocacy Update
  - 3.5 Verbal Update Coastal Water - Science Team
  - 3.6 Verbal Update on the Tukituki Water Permit Renewal Process.

Rose/McGregor  
CARRIED

## 16. Stock Grazing on HBRC Owned or Administered Land

Mr Adye noted the key points of the paper, which provided the Council's progress toward removing grazing stock from HBRC-owned riparian margins.

### RC69/13 Resolutions

That Council:

1. Receives and notes the "**Stock grazing on HBRC owned or administered land**" report.
2. Notes the areas currently grazed and unfenced from access to water in the Ngaruroro River and confluence will be secured in stages through the 2014/15 year, and financed within existing budgets.

- 3 Notes that the Karamu Stream areas will be addressed on a case by case basis with the licensees to ensure all grazing licences include stock exclusion from water or an alternative exclusion regime; or the licensee will not be renewed with other management options for the bank to be advised.

**Douglas/Remmerswaal  
CARRIED**

**13. Financial Report for 12 Months Ended 30 June 2013 - Draft Annual Report 2012/13 Adoption for Audit**

Mr Drury noted the key points covered by the paper.

***Councillors Kirton and Wilson left the meeting at 12.02pm and Cr McGregor assumed the Chair.***

***Councillors Kirton and Wilson re-joined the meeting at 12.10pm and Cr Wilson reassumed the Chair.***

Mr Drury explained the reasons for each of the favourable and unfavourable variances in the budgets and the purpose of the budget reforecast undertaken in April.

Mr Adye added comment relating to the flood and drainage scheme budgets.

***Mr Mohi left the meeting at 12.30pm.***

There was some discussion of the 'tone' of the Chairman and Chief Executive Commentary of the Annual Report document, as well as some suggestions for additional information that might be included.

It was suggested that the revenue from bus passengers should be transparently reported in the financials, and that the commentary on patronage figures be added to the Group of Activity Summaries. It was noted that the attendance of councillors at Hearings did not include attendance at paid resource consent hearings.

**RC70/13 Resolutions**

That Council:

1. Confirms the decisions to be made are not significant under the criteria contained in HBRC's adopted "policy on significance"; and HBRC can exercise its discretion under Sections 79(1)(a) and 82(3) of the Local Government Act 2002 and make decisions on those issues 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. Adopts the Draft Annual Report for the period 1 July 2012 to 30 June 2013, subject to any adjustments required by HBRC, for the purposes of audit, with a view to Council adopting the final report at its meeting on 25 September 2013.
3. Resolves that \$97,451 profit on external work undertaken by HBRC's Operations Group during the year ended 30 June 2013 be used by HBRC to increase the cash operating balances available to fund general funded operating expenditure.

**Gilbertson/Kirton  
CARRIED**

***The meeting adjourned at 12.55pm and reconvened at 1.25pm, with Mr Mohi absent***



## 14. Setting of 2013-14 Rates

The paper was taken as read.

### RC71/13 Resolutions

That Council:

- 1 Agrees that the decisions to be made on the setting and assessing of rates cover information that has been included in the Funding Impact Statement of the 2013/14 Annual Plan as required by Section 95 of the Local Government Act 2002 and further such decisions require special consultative procedures under Section 83 and 85 of the Act, such special consultative procedure having been previously carried out on the 2013/14 Annual Plan.
- 2 Sets and assesses the rates as included in the 2013/14 Annual Plan for the period 1 July 2013 to 30 June 2014 and set out in Attachment 1.
- 3 That the rates are due and payable on or after 1 October 2013. Pursuant to Section 57 of the Local Government (Rating) Act 2002 a penalty charge of 10% will be imposed on the current rates remaining unpaid as at 1 February 2014.

**Douglas/Scott  
CARRIED**

## 6. Action Items From Previous Council Meetings

Further discussion in relation to the report on the management of water for irrigation and the issues of low flow periods and periods of water take bans.

### RC72/13

#### Resolution

That Council:

- 1 Receives the report "Action Items from Previous Meetings"
- 2 In relation to the Action Item *"to provide an Update on Work Programmes associated with taking forward the use of alternative methods of managing irrigation water resources put forward by submitters to the Annual Plan – such as using rostering and rationing ,global consents, user groups, etc"* from the 31 July 2013 Regional Council meeting:
  - 2.1 Advises staff that the item is now considered to have a higher urgency and before the next season is to commence, a report is requested for the next Council meeting and to cover inter alia:
    - 2.1.1 'work around' options within the existing consents and Rules that may allow grouping of consents (Global consents or 'soft stops as option) for irrigators and irrigator groups to access to real time data to manage global allocations when lower flows are predicated to maintain crops and especially crop survival
    - 2.1.2 Processes and options to engage irrigators and irrigator groups in a staged reduction profile that minimise drought effects on land and water including proportionality alternatives
    - 2.1.3 Temporary allocation transfers within existing Rules to augment takes
    - 2.1.4 Sustainable augmentation options (using aquifer water or limited storage) particularly in streams where low flow was experienced in 2012/13 to minimise the effect of low flows

- 2.1.5 Update of the water model using information from the 2012/13 season and advising on the issues around perceived over allocation and informing the TANK process- and open information to irrigators to manage water needs

**Douglas/Gilbertson  
CARRIED**

**15. Collection of Rates**

Mr Keenan provided explanations for the figures reflected in the report. It was noted that, overall, the amount of arrears each year since 2008 had increased. There was some discussion of what impact the use of UAGC might have had on the amounts outstanding.

It was noted that Mr Keenan would be retiring in November, and is currently the longest serving member of Council's staff, having started with the Catchment Board in 1969. Council acknowledged his service, particularly in the management of the leasehold land portfolio and rates.

RC73/13 **Resolution**

1. That Council receives the report on the collection of rates in 2012/13 and rate arrears as at 30 June 2013.

**Gilbertson/Rose  
CARRIED**

**17. Significant Delegations Exercised**

Mr Maxwell provided an explanation of the intention of the paper.

RC74/13 **Resolution**

1. That Council receives the "**Significant Delegations Exercised**" report.

**Scott/Douglas  
CARRIED**

**18. Monthly Work Plan Looking Forward Through September 2013**

In relation to the progress of the Regional Planning Committee Bill through legislation, Ms Lambert was able to advise that Council had received a final draft which was currently with council's legal advisor on the matter.

In terms of science investigations that would inform the TANK plan change process, Mr Maxwell advised that aligning the science work programmes with the community expectations 'specific' to the catchment was a collaborative process requiring input from members of the TANK group to ensure the 'right' investigations were carried out.

Mr Adye advised that the community was being updated on the 'status' of the Makara Dam remediation works on an ongoing basis via letter.

RC75/13 **Resolution**

1. That Council receives the Monthly Work Plan Looking Forward Through September 2013 report.

**Scott/McGregor  
CARRIED**

**19. Chairman's Monthly Report**

Councillor Wilson provided additional detail about various meetings and discussions listed on his tabled report including meeting with the Minister of Transport in relation to funding of regional roading projects.

Councillor McGregor advised that he attended a 'Mayoral' function for Cricket NZ on behalf of the Chairman.

RC76/13

**Resolution**

That the *Chairman's monthly report for August 2013* be received.

**McGregor/Rose  
CARRIED**

**20. General Business**

ITEM	TOPIC	COUNCILLOR / STAFF
1.	Andy Macfarlane meeting The meeting time conflicts with the start time for the Corporate & Strategic Committee meeting.	Cr Remmerswaal
2.	Council response to signs on bridges Signs stating 'river water toxic' have been put up on some CHB bridges – suggests that Council refute the messages.	Cr Gilbertson

***Councillor Kirton left the meeting at 2.35pm***

**21. Proxy for the HBRIC Ltd Annual General Meeting**

RC77/13

**Resolution**

That Council excludes the public from this section of the meeting, being Agenda Item 21 Proxy for the HBRIC Ltd Annual General Meeting 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**

Proxy for the HBRIC Ltd Annual General Meeting

**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.

**Scott/Rose  
CARRIED**

22. **Confirmation of Public Excluded Minutes of the Regional Council Meeting Held on 14 August 2013**

**Resolution**

RC78/13 That Council excludes the public from this section of the meeting, being Agenda Item 22 Confirmation of Public Excluded Minutes of the Regional Council Meeting Held on 14 August 2013 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	GROUNDS UNDER SECTION 48(1) FOR THE PASSING OF THE RESOLUTION
Sale of Napier Leasehold Land Cash Flows	7(2)(i) That the public conduct of this agenda item would be likely to result in the disclosure of information where the withholding of the information is necessary to enable the local authority holding the information to carry out, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations).	The Council is specified, in the First Schedule to this Act, as a body to which the Act applies.

**Scott/Rose  
CARRIED**

***The meeting went into public excluded session at 2.35pm and out of public excluded session at 2.48pm***

**Closure:**

There being no further business the Chairman declared the meeting closed at 2.48pm on Wednesday, 28 August 2013.

Signed as a true and correct record.

**DATE:** .....

**CHAIRMAN:** .....