Meeting of the Hawke's Bay Regional Council

Date: Wednesday 19 December 2018

Time: 10.15am

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

Agenda

HAWKE'S BAY REGIONAL COUNCIL

Wednesday 19 December 2018

Item 4

Subject: FOLLOW-UP ITEMS FROM PREVIOUS REGIONAL COUNCIL MEETINGS

Reason for Report

1. On the list attached are items raised at Council Meetings that staff have followed up on. All items indicate who is responsible for follow up, and a brief status comment. Once the items have been report to Council they will be removed from the list.
2. Also attached is a list of LGOIMA requests that have been received since the last Council meeting.

Decision Making Process

3. Staff have assess the requirements of the Local Government Act 2002 in relation to this item and have concluded that, as this report is for information only, the decision making provisions do not apply.

Recommendation

That the Council receives and notes the "Follow-up Items from Previous Meetings" staff report.

Authored by:

Leeanne Hooper
PRINCIPAL ADVISOR GOVERNANCE

Approved by:

Joanne Lawrence
GROUP MANAGER OFFICE OF THE CHIEF EXECUTIVE AND CHAIR

Attachment/s

⇩**1** Follow-ups from Previous Regional Council Meetings

Follow-ups from previous Regional Council Meetings

Meeting held 28 November

	Agenda Item	Action	Responsible	Status Comment
1	Follow-ups from Previous meetings	Auditor General guidance and legal requirements relating to declaring conflicts of interest to be re-circulated to all councillors	J Lawrence	Documents on councillor portal and available in hard copy on request
2	Report from the Environment & Services Committee	Council resolutions relating to Napier City Council stormwater and wastewater system discharges to Ahuriri Estuary to be communicated to Napier City Council	J Palmer	The CE has verbally advised the NCC CEO that the resolutions had been made by the Council and will be following up in writing.
3	Clifton to Tangoio Coastal Hazards Strategy 2120 update	Updated Terms of Reference to be provided to HBRC for adoption and appointment of additional representative	C Dolley	Item on 19 December 2018 agenda

LGOIMA Requests Received between 23 November and 13 December 2018

Request Date	Request ID	Request Status	Request Subject	Request Summary	Requested By
27/11/2018	OIR-18-068	Completed	bore pumptest results	available groundwater/bore pumping test results (and reports if available) for bores within 500 m of the following 6 x locations (in NZTM format) Whakatu: 1934552, 5608812 Ferry Rd: 1936635, 5611352 Tuckers Lane: 1936403, 5610716 Waipatu: 1932395, 5606254 Omahu 8531: 1923212, 5611903 Omahu 10334: 1923219, 5611912	Kevin Ledwith, Tonkin & Taylor
23/11/2018	OIR-18-070	Active	Ngaruroro Karamu water allocation	1. all current low flow sites & their minimum flows for Ngaruroro, Raupare & total Karamu 2. remaining allocatable volume for surface & groundwater separately in Ngaruroro, Raupare & total Karamu catchments 3. number of current consents to abstract surface water from Clive River between Karamu/ Raupare confluence & Waitangi Estuary + the total maximum abstraction rate 4. total consented surface water abstraction from Ngaruroro River and its tributaries (not incl Clive, Karamu & Raupare catchments) & many consents make up that total	Sarah Eveleigh, Anderson Lloyd solicitors

Request Date	Request ID	Request Status	Request Subject	Request Summary	Requested By
23/11/2018	OIR-18-065	Completed	Koha	For the 2017-18 financial year, incl HBRIC: 1. The total amount spent on koha. 2. The names of all parties that received koha 3. The total amount spent on any other donations. 4. The names of all parties that received donations.	NZ Taxpayers Union Inc
				Following information emailed 3/12/18 in response. As per your LGOIMA Request (ref OIR-18-065), please find response following. 1. The total amount spent by Council on koha. $3,680.21 2. The names of all parties which received koha from Council. Please see attached. Please note that in the case of individual recipients of Koha, their initials have been provided only - as per LGOIMA S.7(2)(a) the withholding of the information is necessary to protect the privacy of natural persons 3. The total amount spent by Council on any other donations. $10,000 4. The names of all parties which received a donation from Council. Hawke's Bay Helicopter Rescue Trust	

HAWKE'S BAY REGIONAL COUNCIL

Wednesday 19 December 2018

Subject: CALL FOR ITEMS OF BUSINESS NOT ON THE AGENDA

Item 5

Reason for Report

1. Standing order 9.13 allows:

    1.1. "A meeting may discuss an item that is not on the agenda only if it is a minor matter relating to the general business of the meeting and the Chairperson explains at the beginning of the public part of the meeting that the item will be discussed. However, the meeting may not make a resolution, decision or recommendation about the item, except to refer it to a subsequent meeting for further discussion."

Recommendations

2. That Council accepts the following "***Minor*** Items of Business Not on the Agenda" for discussion as Item 17

Item	Topic	Raised by
1.		
2.		
3.		

Leeanne Hooper
PRINCIPAL ADVISOR GOVERNANCE

James Palmer
CHIEF EXECUTIVE

HAWKE'S BAY REGIONAL COUNCIL

Wednesday 19 December 2018

SUBJECT NAPIER PORT: ENGAGEMENT AND CONSULTATION UNDERTAKEN AS PART OF THE DECISION MAKING PROCESS

Item 7

Purpose of Report

1. This item outlines the steps taken by the Hawke's Bay Regional Council (Council) as part of its decision-making process in determining and then consulting on the options to fund the growth of the Port of Napier (Napier Port or Port). This paper focuses on the period in the run-up to the decisions to be undertaken by the Council at its meeting on 19 December 2018.

2. In particular, this paper provides an overview of the Council's engagement and consultation processes, including an overview of the special consultative procedure undertaken as required by the Local Government Act 2002 (LGA).

Step 1: Problem definition/identifying the Council's objectives

3. The Council initially identified the need to consider possible options for funding Napier Port's growth requirements as a result of the Council hosting a strategy session (in a workshop format) in relation to Napier Port on 24 January 2017 (Napier Port Strategy Session). The Napier Port Strategy Session involved all councillors, Council management, Hawke's Bay Regional Investment Company Limited (HBRIC) directors and representatives of the Port (including the Port Chief Executive, Chair, CFO and Port directors).

4. This workshop canvassed a number of matters including Wharf 6 operational, timing and funding requirements, as well as cargo volume and financial forecasts.

5. On 9 November 2017, the Port Chief Executive formally wrote to the CE of HBRIC outlining the Port's capital funding requirements, providing its assessment of options that could deliver against those funding requirements and expressing support to the Council in relation to it securing the required funding for Port development.

6. While there has been a high level of awareness around the future need for Wharf 6, trade volumes through the Port over the last two years in particular have exceeded forecasts, compressing the timeframe over which the Wharf 6 investment was required.

Step 2: Option identification, and clarification of objectives

Capital Structure Review

7. Following the 24 January 2017 Napier Port Strategy Session, Council approved the establishment of a Capital Structure Review Panel in March 2017 and the first meeting of the Capital Structure Review Panel was held in June 2017.

8. The purpose of the Capital Structure Review was to review the balance sheets and future requirements of all Council entities with the objective of recommending the optimal financial structure for the group's balance sheets in preparation for the development of the Council's 2018-2028 long-term plan. Napier Port was a significant consideration in the overall context of the group balance sheet and the strategic environmental and natural hazard challenges facing the Council and the region.

9. In outlining its purpose, the Interim Report of the Capital Structure Review Panel noted that the Council had determined that it needed to:

    9.1. Tackle increasing demands to protect and enhance the region's environment and improve resilience to natural events. Understanding the upcoming costs of providing services (existing and new) and how these will be funded is vital to Council's planning. Significant cost pressures and associated pressures on ratepayers are anticipated.

9.2. Explore options to optimise and reshape how it applies capital across its operational and investment portfolios to deliver more income and ensure it has enough capital to support Council's long term objectives for core services and enhancement initiatives.

9.3. Identify key risks to Council's income sources and capital base, including risks associated with its large investment in Napier Port.

10. The Capital Structure Review Panel comprised members representing Napier Port, the Council, Hawke's Bay Regional Investment Company Limited (HBRIC) and independent members with relevant skills and experience: Chris Tremain (Chair, HBRIC), Rex Graham (Chair, Council), Neil Kirton (Council), Alasdair MacLeod (Chair, Napier Port), Jim Scotland (former Port Chair) and David Shand (economist with experience in local government funding).

11. The Capital Structure Review Panel met 12 times, and procured independent commercial advice, in the course of preparing its advice to the Council.

12. The Council made the Capital Structure Review Panel's reports available to the public. The interim report was released publicly with an accompanying Council media statement on 12 December 2017 and the final report, again with accompanying media statement, was released on 28 March 2018.

Interim report

13. The interim Capital Structure Review Panel report released on 12 December 2017 considered nine possible options in relation to how the Council could fund the required development at Napier Port. These options were:

13.1. The Port does not invest, so it can keep paying dividends (do nothing)

13.2. The Port increases its debt levels to fund Port development needs (e.g. bank debt, shareholder loan or issuing a bond)

13.3. The Port increases its revenue and profit to fund Port development

13.4. HBRIC/the Port receives dividend relief for a defined period

13.5. Council invests more capital into HBRIC/Port

13.6. Council charges ratepayers a special targeted rate to fund the Port developments

13.7. Introduce a minority investment partner to the Port

13.8. The Port is listed on the New Zealand's Exchange (NZX), with the Council retaining majority ownership

13.9. The Port is leased to another party (with Council maintaining ownership of the Port assets)

14. The interim report determined that options 13.7, 13.8 and 13.9 could sufficiently meet the objectives of Council.

Final report

15. The final Capital Structure Review Panel report was released on 28 March 2018 and, in relation to the Port, narrowed the nine possible options identified in the interim report to the following recommendations.

15.1. Council rule out ratepayer funding of Port development

15.2. Support the Port's efforts to increase revenue and profits to ensure adequate return on capital (current and future).

15.3. Consider pursuing a minority sale to fund Port development and reduce Council's current exposure to commercial and natural disaster risk from this asset.

15.4. Consider pursuing a long term lease of the Port to fund Port development and reduce Council's current exposure to commercial and natural disaster risk from this asset.

16. Following the publication of the final Capital Structure Review Panel report, communications from the Council were sent to persons on a distribution list comprising several hundred of the Council's external stakeholders.

17. Generally, this external stakeholder distribution list comprises:

17.1. Local businesses

17.2. Business associations

17.3. Environmental organisations and regulatory authorities

17.4. Iwi and Māori organisations

17.5. Central and local government representatives, including officials

17.6. Local and national media

17.7. Groups with a particular interest in council issues.

18. The two Capital Structure Review Panel reports, media statements and Q&A have remained on the Council's website on a page dedicated to this review since publication.

Council identification of all reasonably practicable options for the achievement of its objective and consider advantages and disadvantages of options

19. Alongside the Capital Structure Review, councillors also sought feedback on possible solutions to funding the growth of Napier Port from external parties and advisors (who suggested other options or variations on options to those recommended by the Capital Structure Review Panel).

20. Following the final report from the Capital Structure Review Panel, the Council also sought and received detailed advice from professional advisors around the likely discount that would be applied to a minority share sale versus a minority Initial Public Offering (IPO) (with an IPO deemed to offer more competitive market tension and more accurately reflect the best possible value of the Port).

21. In informing themselves on the range of possible options, councillors held multiple workshops, public excluded Council meetings, a number of councillors visited ports in Australia to observe the leased port model in operation, and heard presentations from multiple advisors.

22. As covered in the decision paper, recognising upcoming capital demands and the effect they may have on the Port, Council, ratepayers and regional economy, the Council, HBRIC and Napier Port conducted an extensive analysis and due diligence on the Port's and Council's potential capital structure options over the last two years.

23. This work has included, but is not limited to:

23.1. Napier Port Strategy Session hosted by Regional Council – January 2017

23.2. Council establishing a Capital Structure Review Panel – March 2017

23.3. First meeting of Capital Structure Review Panel – June 2017

23.4. Napier Port presentation to Council 2018–28 Long Term Plan Workshop – October 2017

23.5. Capital Structure Review Decision Steps Paper to Council Workshop – November 2017

23.6. Capital Structure Review Interim Report – 12 December 2017

23.7. Councillors and Council, HBRIC and Port staff visit to Australia to meet with Regional Governments to observe the leased port model – January 2018

23.8. Capital Structure Review Final Report – 28 March 2018

23.9. Napier Port development options discussed at Council Workshop – May 2018

23.10. Napier Port Capital Raising Options paper presented – June 2018

23.11. Potential Port Transaction Approach paper presented to Council – July 2018

23.12. Independent Valuation Analysis presented to Council Workshop (Napier Port Summary Review of Capital Structure Options, PwC) – August 2018

23.13. Napier Port Capital Structure and Project Update presented to Council – August 2018

23.14. Napier Port Capital Structure Paper presented to Council – September 2018.

24. Following consideration and discussion of the Capital Structure Review Panel recommendations and other inputs from various experts, advisors – including independent peer review of professional advice – the Council decided on the options that it believed provided the only reasonably practicable options to deliver sufficiently against the Council's objectives (albeit that the options selected meet the objectives to varying degrees, for example, while each of the four Council options would provide the funding the Port requires, provide majority ownership and control of the Port and retain commercial exposure to the Port, Option A did not provide for any investment or risk diversification and exposed ratepayers to higher rates to cover the costs of borrowing.)

25. Following this engagement, the Council resolved to narrow options for consultation based on agreed strategic objectives. As confirmed in the audited consultation document 'Our Port – Have Your Say' – the Council's agreed objectives are to:

25.1. retain majority community ownership of the Port

25.2. secure the investment the Port requires

25.3. protect ratepayers from the costs of funding this development

25.4. diversify to de-risk the Regional Council's investments to better protect ratepayers

25.5. retain exposure to the future financial performance of a growing strategic asset.

26. In working through the process of determining its objectives and then seeking solutions that delivered against them, the Council determined that either:

26.1. Council is required to borrow and consequently increase rates to eliminate the Port's debt to enable it to reinvest in Wharf 6; or

26.2. external capital would be required – either via a minority IPO, minority share sale or a long-term lease to a third party.

27. These four final options for consultation were, as outlined in the consultation document.

27.1. Option A: Retain 100 per cent ownership and control of the Port and fund its growth via Council borrowing with the costs covered by ratepayers.

27.2. Option B: Float a minority stake – up to 49 per cent – in Napier Port on NZX.

27.3. Option C: Sell a minority stake – up to 49 per cent – in the Port to a cornerstone investment partner.

27.4. Option D: Lease the operation of the Port to a third party operator for a period of up to 50 years.

28. In considering the options available to satisfy its objectives, Council voted to adopt Option B (minority IPO of up to 49 per cent) as the preferred option for consultation at a Council meeting on 29 August 2018 as this option is the option (out of all options) that meets the objectives to the greatest extent.

29. The Council also actively considered the advantages and disadvantages associated with the four options and presented these in the consultation document.

Step 3: Understanding views: engagement / consultation

Pre-consultation stakeholder engagement

30. As the Council was going through the process of both selecting its preferred option upon which to consult and finalising consultation materials, the Council engaged proactively with a significant number of stakeholders to ensure understanding of the issues and the process the Council would be following. Very generally, these stakeholders were deemed to be interested or potentially interested parties in the Port, as follows.

Ministers, MPs and Central Government officials

31. Background meetings were held with six ministers, four local MPs from across the political spectrum, and a small number of officials and advisors at Central Government level. The purpose of these meetings was to provide clarity around the process the Regional Council was following, explain the reasons why this process was being followed, seek any feedback and ensure lines of communication were open between the Regional Council and potentially interested Central Government parties.

32. Meetings were held with the Ministers of Regional Development, Transport and Economic Development, among others. Key conversations were held around coastal shipping / Port strategy as well as the Provincial Growth Fund. See the Submission Analysis paper for more detail on both of these points.

Port staff

33. From early in the planning process, Port staff were identified as particularly important stakeholders and persons who would be particularly affected and interested in the matter. The Council Chair and Chief Executive spent three days – before, during and after the consultation period - based at the Port with staff as they changed through different work shifts to ensure that as many Port staff as possible were engaged with. The purpose of these sessions was to introduce and update staff on what was happening and to follow up and provide clarity on the Council’s preferred option. These sessions were conversational with opportunities to ask questions.

34. Additionally, these sessions gave staff the opportunity to provide feedback on the options under consideration. Generally, feedback was provided during these sessions in opposition to the potential for a long-term lease of the Port to a third party. Feedback from these sessions was communicated back by the Chair and Chief Executive to the Council, with the Chair noting in open session of the Council that the feedback from the Port staff had been useful and influential.

Unions

35. Throughout this process, both pre-consultation and during the consultation process, the Council, represented by the Chair, Deputy Chair and Chief Executive, engaged with local Rail and Maritime Union (RMTU) representatives from the Port and met with national RMTU representatives both in the Council offices, Wellington and Tauranga.

36. During the pre-consultation meeting with the RMTU, the Council expressed its commitment to continuing to engage directly and openly with Port staff and union representatives, and invited feedback on the proposals which were under development for consultation.

Other stakeholders

37. A wide range of other stakeholders have also been engaged with prior to formal consultation commencing:

    37.1. **Tangata whenua:** A letter was sent (on 9 August 2018) and a subsequent meeting was held with Hawke’s Bay iwi groups which have settled Treaty of Waitangi claims with the Crown. The purpose of this meeting was to acknowledge potential interest in the process, engage early in the process prior to consultation, outline the four options under development for consultation, ensure clarity on the rationale for the Council considering this course of action and seeking early feedback on the proposed consultation.

37.2. **Hawke's Bay Regional Council Māori Committee:** The Council's Māori Committee was originally established in the 1990s and its purpose is to ensure Māori input into the various activities of the Council, including active participation in the decision-making process and the development of sustainable relationships with Māori. The Committee makes recommendations to the Council on matters of relevance affecting the tangata whenua of the Hawke's Bay region, and provides a forum for the Council to receive input from Māori, in light of Council's obligations, particularly those deriving from the principles of the Treaty of Waitangi, the Local Government Act 2002 (LGA) and the Resource Management Act 1991 (RMA). The Māori Committee comprises 12 representatives appointed by each of the four Ngāti Kahungunu Taiwhenua / Executive in the region, being Te Taiwhenua o Tamatea, Te Taiwhenua o Te Whanganui-a-Orotū, Te Taiwhenua o Heretaunga and Wairoa Taiwhenua, plus up to three councillors.

37.2.1. To ensure that there is a current understanding of the Port considerations, the Māori Committee Chair attends all Council meetings and workshops with speaking (not voting) rights. As well, one tangata whenua representative is appointed to each of Council's Environment and Services and Corporate and Strategic Committee, and two RMA qualified representatives to Council's Hearings Committee.

37.2.2. Most recently, this Committee discussed the Port consultation process, including Council engagement with various stakeholders, on 27 November 2018. Wharf 6 and Port funding matters were discussed in this forum at the meetings held on 12 December 2017, 10 April 2018, 7 August 2018, 16 October 2018.

37.3. Depending on the Council's decisions regarding options on 19 December, Council will work closely with Māori and the post-settlement governance entities (PSGEs) on the detailed design and structure of any transaction.

37.4. **Local territorial authorities:** Letters were sent from the Chair and Chief Executive of the Regional Council offering briefings to the Napier City, Hastings District, Central Hawke's Bay District and Wairoa District Councils. High level presentations covering the reasons why the Council was considering the four options, with some analysis of the impacts of the four options were delivered to the Napier City Council, Hastings District Council and Central Hawke's Bay District Council over the consultation period. These were interactive engagements with feedback and questions taken. Regular updates were also provided by the Chair, to the HB Leaders Forum. More detailed, follow-up materials were requested and provided to the Napier City and Hastings District Councils to aid those councils in making submissions.

37.5. **Local interest groups:** Presentations and briefings were delivered – both before and during the consultation period – to organisations including Business Hawke's Bay, Hawke's Bay Chamber of Commerce, Karamu Rotary, Grey Power Hastings and Napier. High level presentations covering the reasons why the Council was considering the four options, with some analysis of the impacts of each option, were presented. These were interactive sessions with feedback provided.

37.6. **Local business representative bodies:** Background meetings / conversations were arranged and held with a range of other stakeholders representing local organisations with a likely interest in the Port and this process, including: Federated Farmers, Apples and Pears, Progressive Meats, Wine Hawke's Bay, Hawke's Bay Tourism, Business New Zealand.

37.7. **Other interested persons:** Background meetings / conversations were arranged and held with a range of other stakeholders with an interest in the Port or this process, such as: Local Government New Zealand, the Provincial Growth Fund, the New Zealand Securities Exchange (NZX), Pan Pac and Regional

Council staff. All of these engagements were interactive with feedback sought and provided.

Special consultative procedure

Formal consultation period

38. The decision was taken that while the formal consultation period would start as planned on 15 October 2018 and run until 15 November 2018, the consultation document and supporting material would be made publicly available and promoted immediately – effectively giving interested parties an additional 12 days to access and consider the information and then to submit.

39. When considered against a further week-long extension of the consultation period that was provided during the consultation period (as outlined below), the consultation document was publicly available and promoted for a period of over seven weeks.

Extension of consultation period

40. On 31 October 2018, upon becoming aware that distribution of the consultation document may not have delivered fully against the Council's expectations (see below), the Council decided to extend the consultation period by a further week, with submissions closing on 22 November 2018, instead of the previously planned 15 November 2018.

41. A media statement and Facebook post were released to announce this, with the Council Chair highlighting how copies of the consultation document could be sourced, stating that:

    41.1. *"No method of distribution is perfect and for those people who have not, for whatever reason, received a consultation document, this extension provides further time to digest the information and have their say."*

42. The Council subsequently posted twice more on its Facebook page promoting access to the consultation document.

43. Over this period consultation documents remained available through public libraries and Council offices, with Council staff routinely ensuring topped up supplies.

Preparation and initial electronic release of the consultation document

44. Informed by the interim and final Capital Structure Review Panel, independent expert advice and targeted stakeholder discussions, the Council deliberations concluded with the commitment to consult with the public through a special consultative procedure on four potential options that the Council had determined as being the reasonably practicable options for funding the growth of Napier Port (as identified above), these being:

    44.1. Retain 100 per cent ownership and control of the Port and fund its growth via Council borrowing with the costs covered by ratepayers.

    44.2. Float a minority stake – up to 49 per cent – in Napier Port on the New Zealand Securities Exchange (NZX).

    44.3. Sell a minority stake – up to 49 per cent – in the Port to a cornerstone investment partner.

    44.4. Lease the operation of the Port to a third party operator for a period of up to 50 years.

45. A consultation document and supporting information was carefully prepared which provided details of all reasonably practicable options and identified the Council's preferred option. All required information was provided, including in the required form, as specified in the LGA (including the additional detail required in relation to the adoption of a long-term plan amendment relating to divesting of ownership or control of a strategic asset).

46. A draft consultation document had been in development for several months prior to the decision to adopt it. It provided an overview of the issue, placing Napier Port into the

context of Hawke's Bay's economic growth. It explored why the Port requires the level of investment that it does and analysed in consistent detail each of the four options identified by Council as being the reasonably practicable options, including their potential impacts on the Council's 2018-2028 long-term plan.

47. The consultation document was reviewed by and received sign-off and approval from Audit New Zealand (and the required Auditor-General report was provided and included in the consultation document).

48. Stephen Lucy, on behalf of the Auditor-General stated in the audit opinion that:

"In my opinion: the information in the consultation document about the proposed amendment of the LTP provides an effective basis for public participation in the Council's decisions about the proposed amendment, because it:

48.1. *fairly represents the reasons for and implications of the proposed amendment;*

48.2. *identifies and explains the main issues and choices facing the Council and region, related to the proposed amendment; and*

48.3. *identifies and explains the main issues and choices facing the Council and the region, related to the proposed amendment; and*

48.4. *the information and assumptions underlying the information in the consultation document related to the proposed amendment are reasonable."*

49. The consultation document was also reviewed by external legal advisors prior to finalisation. Feedback from the Auditor-General, the legal review, councillors and key council advisors was incorporated into the document.

50. On 3 October 2018, the Council adopted and released a consultation document outlining these four options, with a Council preference stated for Option B – a minority share float on the NZX. The Council also adopted supporting information.

51. On 3 October 2018 the consultation document was uploaded to the Council's website on a dedicated page with a range of supporting materials including:

51.1. Video comments from the Chief Executive and Chair of the Council

51.2. Online submission form

51.3. Time lapse video of the Port in operation

51.4. Drop in session dates and details

51.5. Hearing dates

51.6. Independent PWC Review of Port Capital Structure Options

51.7. Wharf 6 Justification Report from Napier Port

51.8. Proposed amendments to the 2018 – 2028 long-term plan

51.9. Letter of support from Napier Port to the Council

51.10. All documents relating to the Capital Structure Review.

52. A video recording of a presentation from the Council and Port Chief Executives to a Hawke's Bay A&P Show lunch was also later uploaded to the site.

53. From 3 October to 13 December 2018, the dedicated Council Port consultation web page on which all material was hosted received 3,080 page views.

54. A media statement was issued and published on the Council's website, with the consultation document, and a media briefing was held in the Council offices involving the Chair and Chief Executive of the Council and the Chief Executive of the Port.

55. Multiple stakeholder emails were issued at this point, including to the Council's stakeholder database (as per point 17) and those stakeholders with which the Council had engaged prior.

Distribution of hard copy consultation document

56. Councillors adopted the consultation document on 3 October 2018 and printing and subsequent distribution of the hard copy document also started at that point.

57. In the interests of maximising the reach of the document, the decision was taken to use a distribution company to deliver the documents to as many household letterboxes in Hawke's Bay as achievable. This option was deemed to be more inclusive as the information would reach renters and the people of Hawke's Bay who were not property owners and therefore not on the Council's rating database.

58. During the consultation period, the Council became aware that the distribution of the hard copy consultation document to households across Hawke's Bay may not have reached the distribution levels indicated by the distribution company, being 90 per cent reach into rural letterboxes and 95 per cent reach into urban letterboxes. The Council took steps to address this. These steps included taking legal advice on the Council's obligations, extending the consultation period by a further week and posting on media and social media platforms. These latter steps are explained further below.

59. Over the course of the consultation period, Council staff have distributed copies of the consultation document to people who emailed or phoned in. Over this period, approximately 284 additional hard copy documents were distributed (and several more by email) following requests through channels promoted by Council.

60. Internet penetration in Hawke's Bay is estimated to be similar to the national average of around 70% of households and therefore availability of the consultation document online was widespread and Council mass media communications, outlined further below, directed the public to the Council website.

Targeted distribution of consultation document

61. During the consultation process, hard copy consultation documents and submission forms were delivered to the Port to encourage staff to have their say.

62. The Council's Chief Executive and Chair spoke with Port staff again on 26 November 2018, just post the closing of consultation, to further engage, share feedback received and to garner additional feedback and comment ahead of the beginning of hearings in early December 2018.

Promotion of consultation / further encouraging presentation of views

Summary flyer and postcard reminders distributed

63. With the release of the consultation document, a local campaign called for the Council to hold a referendum on the issue. Previous comments from the Council mistakenly indicated that if five per cent of registered electors signed a petition, a referendum was required to be held.

64. However, the Council subsequently determined that this was incorrect, with there in fact being no requirement that Council undertake a vote or referendum on this issue (albeit a discretion to do so if it wished). This was communicated to the primary proponent of a referendum on 15 October 2018 to clarify the statements previously made.

65. An additional letterbox drop of a one-page (double-sided) summary document reminding people to have their say and providing a submission form which could be free-posted back to Council was produced and distributed using the same method as the original consultation document from 24 October 2018.

66. Following distribution, a member of the public queried the fact that Option A was described as 'Ratepayer Pays' instead of 'Maintaining Ownership and Control' as it was described in the consultation document. The wording was changed as staff felt it was generating some confusion in which some people favouring Option A did not connect that with increased rates. Following receipt of the query and having considered and taken legal advice on the different wording, the Council's view is that the heading used for Option A in the summary document fairly described the substance of Option A.

67. The various methods of reaching the community proved successful in encouraging participation in the process, which was its intent. Of total submissions received, 1,975 submissions were received via the online submission form, 1,567 via email or hard copy submission form and 27 via text message.

68. Council management also decided, on 5 November 2018, to use the Council's rating database to mail a postcard reminder to every ratepayer in Hawke's Bay reminding them to have their say and pointing them to where they could access a copy of the consultation document and supporting materials.

69. Distribution of this postcard started around 9 November 2018 to the Council's rating database.

Advertising promotion

70. **Newspapers:** Eleven full page newspaper adverts were scheduled with Hawke's Bay Today and the region's community newspapers and ran in these publications from 16 October 2018 until 12 November 2018.

Publication	Date(s) advertisement ran
Hawke's Bay Today	16, 24 October; 7, 12 November
Napier Courier/ Hastings Leader	24 October, 7 November
Central HB Mail	23 October, 6 November
Wairoa Star	23 October; 1, 6 November

71. **Publications:** Two half-page print adverts appeared in local magazines.

BayBuzz	On sale 2 November
The Profit	On sale 5 November

72. **Radio:** 785 radio adverts were programmed to air on stations across the region, via NZME (448 - The Hits, Newstalk ZB, Coast, Radio Sport), MediaWorks (237 - the Breeze, Magic, Sound), Central FM (60) and Wairoa's More FM (40). The date range for these advertisements was 22 October – 21 November.

73. **Social media:** Between 1 October – 25 November, the Facebook social media channel sent 44 posts concerning Our Port – Have Your Say. Using this channel, HBRC was able to reach a considerable portion of the community. The following table demonstrates the social media reach:

Individuals reached	Post Engagements	Link Clicks
33091	**18369**	**610**

Media coverage

74. Alongside its advertising programme across print, radio and social media, Council committed to encouraging discussion and debate through conventional media, particularly local media.

75. This approach of proactively issuing statements and reports to the media has been in place since the first interim report of the Capital Structure Review Panel in December 2017 and continued throughout the consultation period. Council management had met the (relatively) new editor of *Hawke's Bay Today* in advance of the consultation process beginning, seeking to ensure this was an issue the paper would plan to cover.

76. There has been extensive engagement of this issue across a range of media, but particularly *Hawke's Bay Today*. Across all main media over the consultation period, there have been approximately 50 pieces of coverage published covering a range of topics and opinions around the Council's port funding options, including approximately 15 opinion pieces / Talking Points published in *Hawke's Bay Today*.

77. A number of submitters specifically referenced opinion pieces published in *Hawke's Bay Today* by others.

78. The opinions expressed in *Hawke's Bay Today* have come from a wide range of stakeholders, including members of the public, the CEO of the NZX, Apple and Pears, the local Member of Parliament, the Chair of the Council, other councillors and various other interested individuals and commentators.

Ways views could be presented

79. Consultation closed at 4.00pm on Thursday 22 November 2018. A total of 3,569 formal submissions were received (including late submissions which were accepted until 12pm on 3 December 2018) via a number of channels including online, email, posted hard copy and hand delivered. The submissions were published on-line on 28 November 2018. Council resolved to receive and consider all written and verbal submissions, including social media comments, at the start of the hearing on 4 December 2018.

80. Any person indicating a willingness to speak to their submission at a Council hearing was given the opportunity to use an interpreter. The opportunity was also available for any submitter to use sign language, with Council providing an interpreter. The opportunity was also available for any submitter to speak via video link.

Submission forms

81. Both hard copy and electronic submissions were promoted through the consultation document. The summary flyer with a submission form could be free-posted to the Council. Submission forms were also able to be delivered to the Council offices.

Online feedback

82. The Council made an online form available to persons who wished to provide feedback electronically and this went live on the dedicated Our Port – Have Your Say Council website on 3 October 2018.

Drop-in sessions and meetings

83. During the formal consultation period beginning on 15 October 2018, six public 'drop in' meetings were held in: Napier, Hastings, Central Hawke's Bay, Havelock North, Wairoa and Flaxmere. Each session was held between 3 – 6pm as part of an effort to enable people with various childcare / working committments to attend.

84. Each session was attended by a range of councillors and Council staff and each meeting was promoted via the Council's Facebook site and through the consultation document.

Date	Area	Venue	Attendance
25 October 2018	Central HB	Civic Theatre, Waipukurau	20
29 October 2018	Napier	HBRC Chamber	52
30 October 2018	Hastings	Baptist Church	16
1 November 2018	Havelock Nth	Community Centre	32
6 November 2018	Flaxmere	Community Centre	11
8 November 2018	Wairoa	Presbyterian Church	16
Total			147 +

85. In addition, a number of public events were held where the Port consultation was presented and discussed.

Date	Event	Venue	Attendance
5 October 2018	Grey Power Hastings	Baptist Church	60

16 October 2018	Grey Power Napier	St Columba's	190
17 October 2018	Our Port A&P Show luncheon	HB Showgrounds	42

86. Generally, feedback from the attendees at the drop-in meetings tended to favour support for continued 100 per cent community ownership, whereas feedback via the other forums was more balanced between Options A and B. Levels of support expressed throughout the consultation process for Options C and D were relatively limited.

Public hearings

87. Public hearings were held on 4, 5 and 6 December 2018 at which 54 people (out of the 91 who registered to present) spoke to the Council about their submission. These hearings were heard by the full Council, including the Chief Executive and key senior staff. The hearings were broadcast live on Facebook, with each submitter invited to speak and take questions for 10 minutes.

Conclusion

88. The Council has designed and executed a rigorous and multi-faceted community consultation programme that delivers against the requirements as set out in the LGA in relation to a special consultative procedure. The level of feedback received from across the community has shown a high level of engagement and consideration of the issue, the Council's objectives and the options it has consulted on.

Decision Making Process

89. This report forms part of the information to inform Council's overall decision on the capital restructure of the Napier Port.

Recommendations

That the Hawke's Bay Regional Council receives and notes the "*Napier Port: Engagement and consultation undertaken as part of the decision making process*" staff report.

Authored by:

Jessica Ellerm
GROUP MANAGER
CORPORATE SERVICES

Approved by:

James Palmer
CHIEF EXECUTIVE

Attachment/s

There are no attachments for this report.

HAWKE'S BAY REGIONAL COUNCIL

Wednesday 19 December 2018

SUBJECT ANALYSIS OF FEEDBACK AND OFFICERS' RESPONSES TO KEY THEMES

Purpose of Report

1. This report provides Council with officers' analysis of the feedback received from the community and other interested and affected persons on the options for funding the future growth of the Port of Napier Ltd (PONL). This feedback was provided to Council during Council's stakeholder engagement activities and its formal consultation on the options.
2. The purpose of this report is also to identify and respond to key themes, ideas and suggestions raised by persons who provided feedback to Council in order to assist Council to make a decision on which option (if any) to progress.

Officers' approach and process in preparing this report

3. Officers have carefully considered and analysed all feedback received (including all comments made by submitters) in order to compile this analysis and their responses.
4. Officers' analysis has included using the feedback to prepare statistics on both the options presented and the common themes raised by submitters through their comments.
5. This analysis has been undertaken and presented to assist Council in making an informed decision.
6. A significant amount of feedback was received from interested and affected persons. Officers determined that they best way to present this information to Council was to focus on key themes that have emerged from that feedback. In the course of analysing feedback received, officers have had to make judgement calls about what the key themes are and about how individual comments made fit within those key themes, in order to present the information in an accessible way, while still fairly representing the views that have been expressed.
7. Councillors have also had access to all individual written submissions received.

Stakeholder engagement and public forums

8. Prior to and during consultation Council held a number of meetings, briefings and presentations with a range of external stakeholders such as Ministers, MPs and central government officials, PONL staff, unions, local iwi, Territorial Authorities, interest groups, and businesses (Port users).
9. It also held six drop-in sessions and hosted a stand at the Hawke's Bay and Central Hawke's Bay A&P shows to further reach the general public. These are described in detail in the accompanying paper entitled "Napier Port: Engagement and consultation undertaken as part of the decision-making process."
10. Generally, feedback from the attendees at the drop-in meetings tended to favour support for continued 100 per cent community ownership, whereas feedback via the other forums was more balanced between Options A and B.
11. Concerns were expressed to the Council, particularly via Port staff and union representatives, around the perceived risks of ceding operational control of the Port via a lease (Option D) for such a long period of time.
12. A flavour of the feedback provided through these channels is described below under each theme where it differs from the written submissions received.

Social and conventional media

13. Between 1 October 2018 – 25 November 2018 the Regional Council's Facebook social media channel sent 44 posts concerning "Our Port – Have Your Say". Using this channel, HBRC was able to reach a considerable portion of the community. The following table demonstrates the social media reach:

Individuals reached	Post Engagements	Link Clicks
33,091	18,369	610

14. Council's goal was to direct traffic to the HBRC Facebook page rather than to attempt to follow threads and engage in closed groups. A total of 133 Facebook shares and 769 public comments were received. All feedback including the social media posts were published online as part of the Agenda for the Hearings on 4-6 December 2018. Generally the feedback on the Council's social media channel tended to reflect the feedback heard during Hearings, with the majority of questions or comments tending towards an Option A preference. A number of the more active social media posters on the Regional Council's Facebook site also presented their submissions in support of Option A at the Hearings. The social media posts included a number of questions, which Council responded to.

15. There has been extensive engagement of this issue across a range of media, but particularly in *Hawke's Bay Today*. Across all main media over the consultation period, there have been approximately 50 pieces of coverage published covering a range of topics and opinions around the Council's port funding options, including approximately 15 opinion pieces / Talking Points published in *Hawke's Bay Today*.

Written Submissions

16. A total of 3,569 written submissions were received. These included hard copy, on-line submissions and texts. This figure includes late submissions received until 12 noon on 3 December (the day before the start of hearings).

Option Analysis

17. Submitters were invited to indicate which option, of the four options presented, they supported (as well as being invited to make any general comments they wished to make).

18. The options selected by submitters was as follows

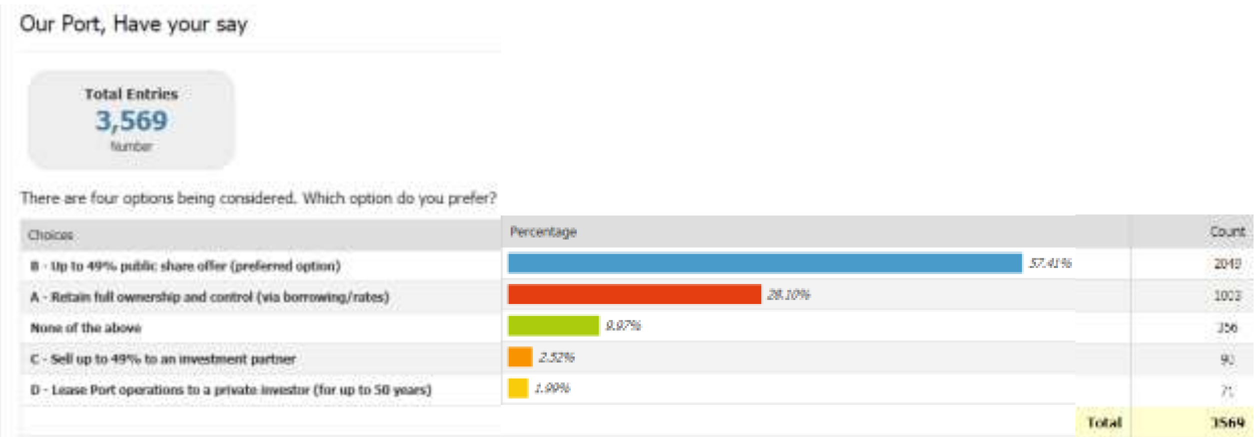
    18.1. Option A: 28.10% or 1003 submitters

    18.2. Option B: 57.41% or 2049 submitters

    18.3. Option C: 2.52% or 90 submitters

    18.4. Option D: 1.99% or 71 submitters

    18.5. None of the above: 9.97% or 356 submitters



Item 8

19. Of the 3,569 submissions, 1,316 made no comment (37 per cent). Where a comment was made, staff assigned a primary and then where appropriate, a secondary and third common reason. We then assigned the reasons to key themes.

20. It should be noted that of the 356 submitters shown as supporting “None of the above”, 100 submitters did not select “None of the above” but were give that option by default (i.e. a hardcopy or email submission was received with no option selected and no obvious preference given). Selecting an option was a mandatory field for online submissions. Council should be aware of this as the 9.97% presented above could materially overstate how many submitters do not support any of the options.

21. Submissions with comments were read and considered in whole by Councillors and staff. However, for the purposes of this analysis, the submissions are sorted and considered by reason. Submitters may have covered multiple topics within the same submission so the total number of reasons given is greater than the total number of submissions received. The analysis provides a general overview of the comments received and does not represent every comment made. A comprehensive breakdown of the options by reason is attached.

22. **The headline conclusions drawn from the officers’ analysis of the written submissions are:**

22.1. A majority of submitters support Council’s preferred option (option B). However, Council must take into consideration that many submitters selected “Option B” with conditions or caveated, such as wanting to see preferential shares for locals, floating less than 49 per cent or a staggered float.

22.2. Local ownership and the opportunity for locals to invest is an important theme. 521 of the 2049 who support Council’s preferred option said it ‘gives locals the opportunity to invest’. Council should reflect on this in making its decision.

22.3. 57% support for a minority IPO could be understated because some who did not select Option B commented that should certain conditions be met, Option B would then become acceptable. From the analysis of comments at least 103 submitters (who chose an option other than the preferred option), commented in support of selling down less than “up to 49%”. These 103 submitters choose option A (18), C (11), D (1) and None of the above (63).

22.4. Of the 2049 who support Council’s preferred option, 131 explicitly state a dislike of the concept of overseas ownership and 85 want to see sell-down at a level less than 49%. If the preferred option proceeded without addressing these comments, and it is assumed that the 207 submitters with these views would then no longer support this option on this basis, the analysis shows that the support for Option B would drop to 52% of all written submissions.**There were 207 unique submitters in these two categories (from 216 total comments)*

22.5. Roughly one in three submitters (1003) chose Option A. This demonstrates a strong desire and commitment to local ownership. At least 179 said that they were willing to pay for it via increased rates, in contrast at least 48 said they want to retain ownership but do not think ratepayers should be burdened with this cost.

22.6. There is limited public support for a minority strategic sale to an investment partner (Option C) or long term lease (Option D).

22.7. Around 10% of submitters did not support the four options consulted on. Of the 356 submitters who chose “none of the above”, at least 104 submissions made comment to "Option E" and / or “user pays”. The idea of an Option E was introduced by Cr Bailey in an editorial published in October 2018 in which he described a structure which allowed Council to retain 100% ownership via a Port user pays model.

22.8. There are a wide range of views held in the community, many of which directly contradict each other. An example of this is many people show support for the growth and development of the Port, saying “Port needs to grow. To have a vision. Embrace the future” while others are against change “Bigger is not necessarily better”.

Recurring themes

23. To summarise the commonly raised reasons and provide officers’ responses we have grouped the feedback into the following 9 themes. These themes were raised irrespective of the option selected and for the purpose of this analysis, officers have bundled similar sub-themes (or reasons given) together in the analysis under each theme (later in this report) to give a flavour of the comments received that support each theme.

Key theme		Comments received
1	Local ownership is important	1905
2	Protect ratepayers	513
3	PONL should self-fund	213
4	Sell down less than 49%	191
5	Minimise environmental impacts	87
6	Fit with national policy	23
7	No justified need	63
8	Proven model	277
9	Various	159

24. Each of the 9 key themes are covered in a section following. Each section notes how many submitters commented on that theme, gives some extracts from submission relevant to the theme and provides an officers’ response.

Key theme 1. Local ownership is important

25. “Keeping it in local hands” was the most common theme that emerged through submissions – both in the context of retaining 100 per cent ownership and control of the Port and, particularly, in support of locals having an opportunity to invest directly in the Port.

26. More than half of the comments related to this theme (54.45%). This sentiment was raised by submitters in favour of Options A, B, C and None of the Above.

27. The table below shows the range of comments related to local ownership.

Sub-theme	Comments received (all options)
Give local opportunity to invest	588
Ownership = control	277
Against overseas ownership	260
Retains majority ownership	209
Willingness to increase rates to retain full ownership	194
Retain 100% ownership but no impact on rates	78
Irreversible "gone for good"	69
Against change	69
Retains operational control	78
Retains exposure of future ownership to growing port	83
Total	**1905**

28. At least 521 of these comments were in support of Council's preferred option (Option B) and expressed a general view that the option of a minority IPO provided a positive opportunity for locals to invest in a growing strategic regional asset.

29. In this context, the opportunities for locals to invest directly and share in the results of a core regional asset are rare. Wide public participation in ownership of Napier Port was identified as an important attribute of Council's preferred option. As the Chair and Chief Executive noted in the consultation document around Option B: *"This will enable continued community ownership and control, fund the Port's growth, and give the people of Hawke's Bay, Port staff and tangata whenua the opportunity to invest in this core community asset."*

30. Through the submissions it is also evident that many people in the community see the Port as a strategic regional asset bestowed upon HBRC to act as the "steward", rather than as a commercially-run company that is a financial asset of the Council. A number of submitters stated their belief that the perceived public good of owning a strategic asset and enabling regional growth enabled the Council to "control our own destiny".

31. Submissions demonstrated a level of emotional connection to the Port. Some submitters expressed this connection as a desire not to sell their shares while some questioned the legality of HBRC selling shares to ratepayers.

32. Several submissions were fundamentally against any sale of community assets, or privatisation. Reasons given included perceived social polarisation when equity is transferred from public to private ownership, consolidation at the expense of local investors and evidence of bad outcomes from past experiences at the national or international level. During the Hearings, one submitter noted their view that the IPO listing for the Port of Tauranga has resulted in ownership consolidated into the hands of a small number of holdings, as opposed to so-called "Mum and Dad" investors.

33. At least 78 submitters expressed a desire to retain 100% ownership but did not want any impact on rates.

34. Another theme that emerged was in relation to the link between ownership and control of the Port, with a number of submitters urging the Council to maintain control of the Port either through retaining a majority stake or via 100 per cent continued ownership.

Quotes from submitters

35. "Give the Hawkes Bay / New Zealand public a chance to invest in their community" (sub#7).

36. "Having external input into the running of the port via shareholders should also increase the performance of the port. Still allows the council to have control and is a nice balance between those that want the port sold and those that want to retain the port" (sub#163)

37. "Keep the benefit in The Bay. Please give HB ratepayers the first opportunity to purchase and/or give them priority shares over other NZ residents and a third tier of international investors only if necessary" (sub#1114)

38. "Local Hawke's Bay residents should be offered first chance to buy shares in affordable blocks." (sub#2358)

39. "Option b means losing up to 49% profit forever. Use profit to pay debt when debt is repaid then rates can be reduced". (sub #2526)

40. "I like the thought of local people being able to buy shares and support the port. I would love to have the opportunity to invest in something local. The living costs in NZ are already too high and we struggle to pay our bills week-to-week. The thought of rates increasing is overwhelming and I'm sure many other people feel the same, therefore, I don't see this as a good option. I would hate for the local council to loose control over the port, or have a large overseas investor involved." (sub#2541)

41. "I support your preferred option with one proviso! Is it lawful to limit the number of shares any one individual, company or institution can purchase to reduce the likelihood of a takeover further down the track" (sub#2664)

42. "Hawke's Bay Regional Council's shares in the Port of Napier are our region's "family silver". They are an inheritance passed down to us by previous generations and it is essential that today's decision makers protect this inheritance for the benefit of future generations. Please reconsider the percentage of shares to be sold and leave the balance invested in the Port of Napier, our region's most significant strategic asset". (sub#3235)

43. "It has been proven in this country that selling assets does not work, think Kiwi Rail, Government sold it, then bought it back at twice the price & stripped of its assets, Air New Zealand sold then bailed out so not to go broke, Power generating companies de-regulated sold off and look at the price of power now!" (sub # 3237)

Officers' response to the key theme "Local ownership is important"

44. Staff have analysed the submissions related to local ownership. It is apparent that Hawke's Bay ownership of Napier Port is the most important issue for the local community. This is aligned with one of the Council's core objectives of retaining majority community ownership of the Port.

45. In light of the volume of submissions which reflect the high value placed on local ownership, Council should reflect on this when making its decision. For example, should the Council decide to proceed with a minority IPO, this sentiment should be reflected in the design of any IPO structure and share allocation decisions.

46. Option A provides the structure to retain 100% ownership, however other capital structure transaction options considered in the Consultation Document are also technically capable of being structured to enable some level of direct community ownership in addition to ongoing Council control on behalf of the region.

47. Some submitters appeared to be unaware that the Port is currently run as a profit-motivated company with a board of independent directors and no direct operational influence by the Council, and that the principal levers of control – board appointment and shareholder ordinary resolutions – would remain in the Council's control under Option B: sharemarket listing of a minority stake.

48. A number of submitters also compared the Council's proposal to historic Central Government privatisations where a full sale and consequential loss of control of the enterprise occurred, which is not comparable to that contemplated by the Council and indeed was ruled out by the Council's objectives. The 'mixed ownership model' involving a share market listing of a minority stake in three electricity companies by the Central Government was mistakenly conflated with increases in electricity charges. It is widely understood within the electricity sector that the overwhelming majority of increased electricity charges for residential customers occurred under full government ownership of these companies through the reform of the electricity sector and corporatisation, rather than privatisation. Anecdotal evidence suggests the rate of increase in residential electricity charges has decreased since the 'mixed ownership model' share market listings, while the returns on equity to Central Government have increased.

49. Notwithstanding the misunderstandings about the nature of the current Port enterprise and the Council's current control there are a number of options available for the Council to address this key theme within the preferred option to encourage and facilitate ongoing local investment beyond the Council's own majority. These include:

50. **Preference pools / Priority allocation** - In the context of an IPO the normal approach would be to structure an offering to enable Hawke's Bay residents to apply for a priority allocation of shares.

51. In New Zealand, priority allocations have typically been 1% - 3% of offer size, although there has been precedent as high as 6%. There is no limit to any priority allocation and Council or its delegated body will need to balance local priority share allocations with the need to deliver value to investors and any desire for liquidity in the stock.

52. The advantage of a priority allocation is that there is greater assured supply of shares to interest groups, including residents, and these groups are not crowded out by demand from other retail and institutional investors.

53. To the extent that demand is not taken up by those entitled under the priority allocation, demand is met by other retail and institutional investors.

54. Post IPO, all shares trade on the same basis in the after-market in a single share pool enabling residents to trade shares freely without trading restrictions in an open liquid market and at a transparent market price.

55. **Parcel size and ease of purchase –** New NZX Listing Rules (which come into force from 1 January 2019 and will apply) have a $1,000 minimum parcel size requirement. However, Council could seek a waiver from the NZX to use a lower value, to assist in encouraging local participation (although it is for the NZX to determine whether such a waiver would be granted).

56. **Allocation split between international and domestic markets –** It is the right of the Council or its delegated body to allocate shares as it sees fit, in-line with its strategic objectives. For example, in allocating shares, decisions will be taken around the split between retail and institutional investors as well as domestic versus offshore allocations. As per considering priority pools, the Council will have the opportunity to consider levels of local ownership alongside the need to create value and liquidity for investors.

57. In regards to restricting large international holdings it is recommended that expert advice be taken to consider any constitutional or share sale restrictions that may support local ownership. This should include the impact they may have on short and long term value to Council, risk to local investors and the ultimate distribution of shareholding amongst listed shares to support a successful listed company.

58. **Share Buy-Backs** – Council has the objective of raising capital over and above that required by Napier Port in order to diversify its investment and risk profile. If in the future, for whatever reason Council wished to purchase back shares in the Port it may be able to do so through the market. However, to effect this outcome, Council would need access to the available funds and would likely need to acquire shares at a material premium (20%-30%) to the prevailing market price, hence there would be a material transaction cost in doing so. Any share buyback would be subject to the decision of the selling shareholders (including major shareholders who have acquired material stakes) to participate in any offer for the shares by Council.

59. **Community shares** - A community listed share class could be considered to ensure a minimum enduring holding of shares owned by the community (port employees, iwi, residents). A separate community share class would have the same rights as an ordinary share (voting rights, dividend entitlement) however ownership would be restricted to community members (as defined).

60. The benefits of such a structure would be to ensure a portion of share ownership be reserved for community shareholders with these shares being able to be traded in a transparent observable manner on a listed exchange.

61. However, creating separate share classes would complicate the listed company's shareholding structure, particularly if preferential voting or other rights were offered to the community shares. In addition, community shareholders would be restricted on how they would be able to deal with their shares as trading would be restricted to other community members. Trading restrictions will necessarily reduce the liquidity and attractiveness of holding community shares, with the result that community shares would be expected to trade at a discount potentially significant, to unrestricted listed shares and thereby affect the value of the Port company and balance sheet strength.

62. **Increasing accessibility for the community to purchase shares –** There is no precedent over the last eight years for shares being sold to ratepayers and the issue price being levied against rates invoices, multi-year payment plans or something similar in a New Zealand IPO. Any deferred payment would represent a debt obligation of the shareholder to settle the future sum owing on the shares.

63. Instalment Receipts however are a common mechanism to enable shareholders to part pay for shares. Instalment receipts would allow investors to pay for their shares in two stages. An initial payment on application with a final payment at a nominated point in the future. This reduces the upfront cost and could provide for greater accessibility for community members to participate.

64. Instalment Receipts would typically trade at a discount to full share value, reflecting the future instalment owed. Once the final instalment is paid, the Offer shares relating to the instalment receipts would be allocated to investors.

65. **Local Cornerstone Investor** – across all options, 65 submitters made specific mention of Unison and several others talk about opportunity for iwi investment – only 90 submitters expressed support for Option C. However, having a local cornerstone investor is also something that could be possible under an IPO given the community support for this option.

66. The Council Chair has undertaken discussions with the Unison Chair and the CEO of the Council has also undertake discussions with the Unison CEO. These discussion have revealed that Unison sees little strategic alignment, and therefore synergistic benefits, between their electricity business and the port business. Discussions also highlighted that the current debt and leverage levels of Unison are a major constraint on Unison being able to take a major stake in the Port, and the current returns on capital being achieved by the Port – and ports in general – fall short of the return expectations of Unison. As option C has received very little support from community consultation these discussions have progressed no further.

67. During the consultation Council staff also had discussion with New Zealand's largest private infrastructure investor, which revealed that they would be seeking a shareholder's agreement with rights essentially equal to that of the Council. In this respect such a minority sale to such an investor should be seen as a partnership and not a scenario that retains Council control.

Key theme 2. Protect ratepayers from rate increases

68. Protecting ratepayers from significant rate increases was another key theme. Many submissions supported Council's preferred option, or one of mixed ownership, because it both funds the development of the Port and protects ratepayers from rate increases, while others wanted to retain ownership but did not want to pay for this. Those who wanted other funding options explored suggested alternatives such as the Government's Provincial Growth Fund or reallocation of Council's existing investments with a view this would avoid rates increases.

69. At least 29 submitters questioned why the forecast Council borrowing under option A could not be extended over a longer term to match the benefit of an intergenerational investment and reduce and smooth rates impacts.

70. The table below shows the range of comments related to protecting ratepayers

Sub-theme	Comments received
Protects ratepayers from increase	226
Central government should fund	88
Support mix of ownership	54
Diversifies and de-risks HBRC investments	63
HBRC should fund from investments (i.e. not rates)	53
Intergenerational loan - Extend term of loan to match period of benefit to community	29
Total	**513**

Quotes from submitters

71. "Having invested a small amount in Port of Tauranga many years ago I have watched it grow, with good returns for the shareholders and the local council to what it is today. This is the only way forward for the Port to grow with local shareholders and the council, and not the debt that would be otherwise inflicted on all ratepayers, with many years before ratepayers would see a return, or if. Every ratepayer would get a return with option B" (sub#13).

72. "I am concerned that the council has no interest in protecting the ratepayers interest in the Port of Napier why are you not waiting for the transport study of NZ results being released why are you not seeking development funds from minister Shane Jones why is the favoured option not seeking govt shareholder or any tom, dick or international harry why is loan only 9 years - why not a 30yr or 50yr loan from govt or other sources not considered = loan pa payment from ratepayers" (sub#751).

73. …" If future Port investment costs are to be passed on to ratepayers, Federated Farmers supports the use of a uniform charge, as this more fairly spreads the proposed rates increase across all ratepayers. Federated Farmers submits that any returns should be made via the same mechanism that rates are collected. I.e. if rates are struck using a uniform charge than the return should also be uniform across ratepayers. Similarly, if rates are struck via land value, we would expect to see the return to ratepayers also calculated using land value" (sub#3478).

74. "Option B is the standout option, floating up to 49% of the company as it is the only option to satisfy the Port's capital funding needs to enable growth, achieves the best outcome for diversification of investment risk, has no rate impact and provides a stable minority shareholding base…" (sub#1907)

Officers' response to key theme "Protect ratepayers from rate increases"

75. One of Council's five key strategic objectives is to protect ratepayers from rates increases as a result of funding Napier Port's development. This objective exists in light of significant recent and planned rate increases, and an expected longer-term increasing rate burden to address the environmental and natural hazard challenges facing the region.

76. When considering Council's preferred option this factor was taken into account and is a significant factor in the selection of Option B. The financial modelling undertaken in the preparation for the consultation document indicates that an IPO listing of between 33% and 49% would have a greater chance of protecting ratepayers from the costs of the Port development as well as the other objectives. An IPO listing of less than 33% runs a greater risk of impacting ratepayers given that the lower the percentage listed, the higher the discount may be on overall value.

77. Another primary theme to emerge from the submissions and other channels used throughout the consultation process – particularly for those submitters who supported Option A but did not want ratepayers exposed to the costs – was that the government should fund the Port development.

78. In particular, submitters suggested that the government's Provincial Growth Fund should fund the development of Wharf 6.

79. Prior to consultation, the Council's Chair and CEO met with both the Regional Development and Economic Development Ministers and outlined the issue the Council was looking to solve as well as providing some thinking around the possible solutions.

80. In addition, on 15 August 2018 the Council CEO had discussions with the Head of the Provincial Development Unit, which oversees the operation of the Provincial Growth Fund, and discussed the possibilities around the Central Government providing funding for the construction of Wharf 6.

81. Feedback has been received, in writing, confirming that the PGF would not provide grant funding as Napier Port is a commercial entity. Additionally, any support – if provided in the future – would likely be in the form of an interest-bearing loan which would be required to cover the Crown's cost of capital. For the Council to access such

a loan a case would need to be made for job creation and new economic activity, and would be subject to full Cabinet approval.

82. Furthermore, feedback received was that the Crown would not be looking to crowd out private capital from a Port solution and the Council would need to demonstrate that capital is not readily available from other sources.

83. There are additional sources of external capital available for the funding of the Port. The offer of any future support to be in the form of an interest bearing loan covering the Crown's cost of capital represents another form of Council debt and would likely be on similar terms to that which could be accessed via the wholesale interest rates offered to local authorities via the Local Government Funding Authority and as proposed under Option A.

84. The Council has explored the possibility of Central Government support for the funding of Wharf 6 but it is not aligned with Government's focus and nor is it a solution to this issue which protects ratepayers from rate increases.

85. Another of Council's objectives is to diversify and de-risk its investments to better protect ratepayers. Some submitters suggested the $50 million remaining on the Council's balance sheet from the abandoned Ruataniwha Water Storage Scheme be used to fund the Port development. These funds are forecast to deliver a 5% annual cash return from investment in a managed diversified investment portfolio from year two of the current 2018-28 Long Term Plan. This income is already accounted for in terms of funding the Council's core business. Investing this capital into the Port further intensifies the current risk profile of the Council and further reduces existing diversification. Using these funds to pay for Port development would also result in ratepayers having to pay for the shortfall in Council's revenue.

86. Another theme from the submissions in support of Option A was to retain 100% ownership but spread the Council's debt to reduce the financial impact on ratepayers. When considering the option of borrowing over longer durations, careful consideration must be given to the:

    86.1. financial position of the Council and burden of debt to both the Council and its ratepayers

    86.2. opportunity costs

    86.3. impact on Council's objective to diversify investments and risk.

87. Option A is intrinsically linked with Council borrowing and debt. While feedback questioned whether there were possible alternative structures, sources and duration of that debt, the impact on the Council's balance sheet under all debt scenarios is significant and is explored in more detail below.

88. In addition to finding funding solutions for Napier Port's growth, Council will also face the challenges of financing its response to climate change and significant weather events, as well as reversing our regional legacy of environmental degradation, in the coming decade. Debt funding the development of Napier Port would significantly reduce Council's flexibility to pursue other initiatives that are closer to its core legislative accountabilities such as managing and mitigating environmental impacts associated with a changing climate or any interest in commercial forestry ventures for erosion control.

89. The total cost to the ratepayer of extended debt terms is greater due to the cost of servicing debt for longer and the likely sources of debt over longer terms. Longer-term borrowing would require debt to be held with commercial lending facilities at higher interest rates as opposed to the Local Government Funding Authority's wholesale cost of debt. These costs would fall on the ratepayers.

90. Various debt metrics and policies are available to provide guidance as to suitable levels of borrowing for Council. These include:

    90.1. HBRC 2018-28 LTP Treasury Policy = Debt < 150% Total Revenue

90.2. LGFA Lending Policy = Debt < 175% Total Revenue (for an unrated local authority)

90.3. *LGFA Foundation Policy = Debt < 250% Total Revenue

90.4. ***** *Local Authorities with a long-term credit rating of 'A' equivalent or higher will not be required to comply with the lending policy covenants in the above and can have bespoke financial covenants that exceed the foundation policy covenants with the approval of an Ordinary Resolution of Shareholders.*

Item 8

	Total Cost of Borrowing - $86.6mil	Annual Repayments - $mil	Average Cost Per Ratepayer (over 9 years of LTP)	Rates Increase 2019/20
Option A - 10 years	$103m	10.3	$ 956.00	45.2%
Option A - 15 years	$120m	8.0	$ 664.61	35.0%
Option A - 20 years	$130m	6.5	$ 479.52	28.4%
Option A - 30 years	$187m	6.2	$ 448.02	27.3%

Average cost above is net impact to ratepayers taking into account increased dividend from PONL to HBRC

91. Option A – 10 years of borrowing - is used as the base case in the consultation document. It involves borrowing $86.6 million from the Local Government Funding Authority at a total cost of debt over the nine remaining years of the 2018-2028 long-term plan of $103 million. That assumes a 3.6 per cent interest rate.

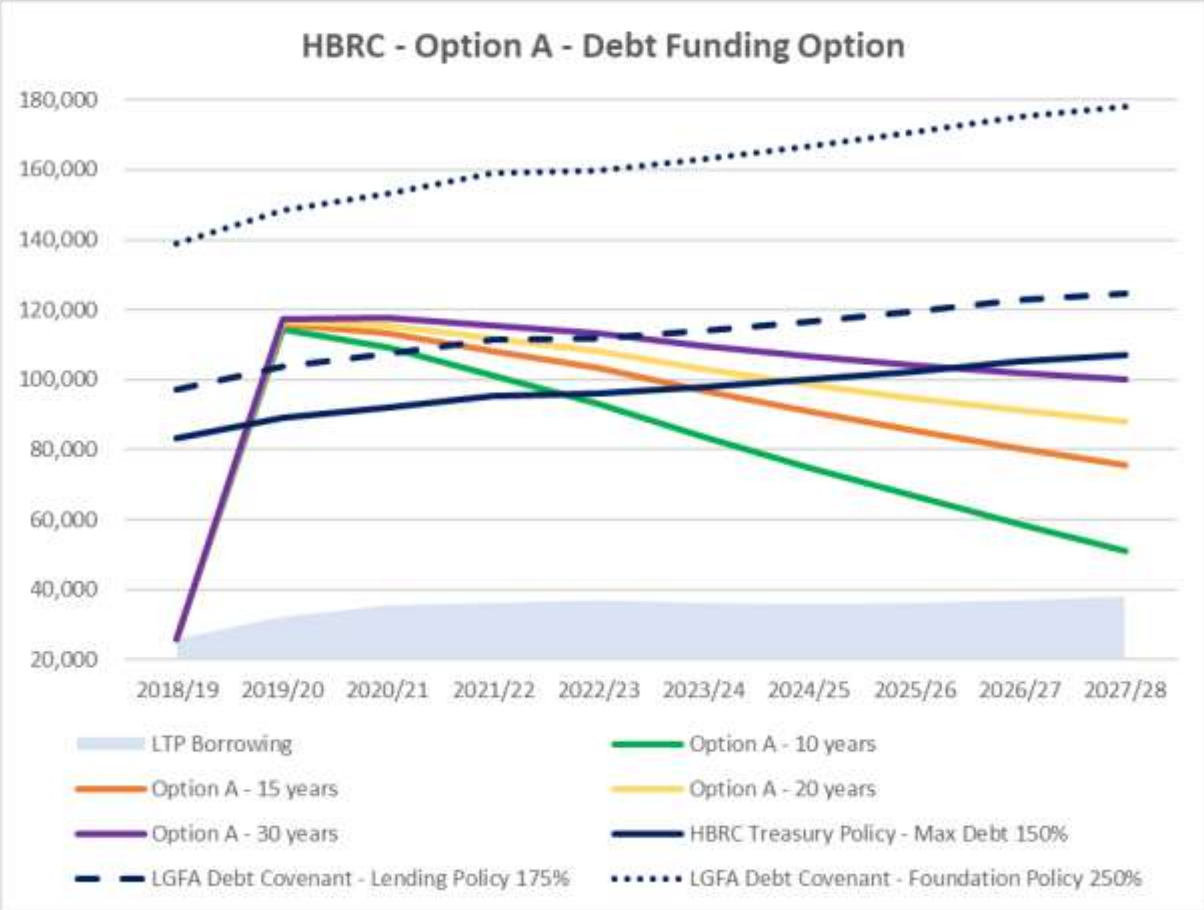
92. With the LGFA limited in its borrowing duration to 10 years, taking debt over longer durations (15, 20 and 30 year periods) would require lending from commercial institutions in order to borrow at a fixed rate or refinancing or rolling over debt every 10 years via the LGFA. This exposes the ratepayer to the possibility of increasing interest rates over this time - estimated interest rates range from 3.6% - 6%.

93. The Regional Council only forecasts for the duration of its long-term plan. Beyond that point it is more difficult to predict ratepayer impacts in dollar terms or Port performance in terms of dividend flow with any reliability.

94. Taking on additional debt beyond the 10 year period outlined in Option A in the consultation document would see total cost of borrowing range from the base of $103 million to $120 million over 15 years, $130 million over 20 years and $187 million over 30 years.

95. It is possible to borrow more money over longer-term horizons in order to retain 100 per cent community ownership and control, and to smooth out the financial impact on ratepayers.

96. Most of the implications come back to the impact on the Council's balance sheet. It is worth clearly understanding the impacts of longer-term debt funding options in terms of the Council's own policy and debt profile as illustrated in the graph below. Note this is a *cumulative* illustration of Council's total debt position – i.e. including forecast borrowing for environmental initiatives as outlined in the LTP.



97. A key point to observe here is that the Regional Council's own Treasury Policy, formed as part of the LTP financial strategy, sets a maximum debt level of 150 per cent of total revenue.

98. Even under the 10-year Option A scenario in which $86.6 million is borrowed from the LGFA, the Regional Council would need to amend this policy to allow for its self-imposed debt limit to be breached until 2022/2023. Again, this is on top of LTP borrowings.

99. Another important point to observe here is the LGFA Lending Policy for non-rated authorities (such as Hawke's Bay Regional Council) of 175 per cent of total revenue.

100. Borrowing the $86.6 million from the LGFA to satisfy the Option A base case would require the Regional Council to secure a credit rating, even on a short-term basis, to enable this borrowing.

101. The dotted line at the top of this graph shows the LGFA's Foundation Policy Debt Covenant for approved, credit-rated authorities of 250 per cent of total revenue.

102. The graph then illustrates the debt profile associated with borrowing the $86.6 million over different durations.

103. Borrowing $86.6 million to satisfy Option A, even under the 10-year base-case horizon, would have the effect of significantly reducing Council's flexibility to pursue other initiatives. If the Council wishes to pursue this Option it should consciously decide the funding the Port's development will be the centre-piece and priority of the Council's borrowing programme over the next decade.

104. Under this scenario, it would take several years for the additional debt to be paid down to again realise the Council's current debt policy level. Taking the debt over 30 years would see debt paid down to Council's current debt policy level by approximately 2026.

105. Borrowing to fund the Port further concentrates the Council's investment and income risk, rather than diversifying it as per Options B, C and D.

106. Option A would see the Council and ratepayers fully exposed to any negative impacts at the Port, including, for example, a major trade downturn or a natural disaster that damaged or destroyed the Port.

107. While the Port is insured for replacement, under all but the most severe of scenarios, dividend flows are not. In the instance of a natural disaster destroying the Port, dividend flows equalling 20 per cent of the Council's income would be disrupted at the same time as the call on Council services from across the Hawke's Bay would be increasing, potentially sharply.

108. While this is a theoretical argument until it occurs, Council should also consider ratepayers would be directly exposed through such a scenario if Council was to increase its exposure to the Port through Option A.

109. In conclusion, there are a range of debt outcomes that deliver 100 per cent community ownership and control that should be carefully considered. Without exception they require significant balance sheet leverage, they impact the ratepayer, take debt past Council's self-imposed policy levels and reduce opportunities to respond to unforeseen circumstances or to allow for further significant borrowing to advance the core business of Council.

Rating scenarios by property type for Option A

110. Option A as modelled in the consultation document demonstrates an average cost per rate payer of $956 over the next nine years of the current 2018-28 LTP. The rating allocation for such an expense would need to be thoroughly worked through to determine the best and fairest way of allocating this cost. The current method would be to distribute the cost through the general rate which is based on land value.

111. For the purposes of the consultation document, the Regional Council sought to outline the rates impact on an average basis or as a uniform charge: put simply, the quantum of the additional debt Council would have to take on, divided by the number of ratepayers. This indicates a cost of approximately $956 per average ratepayer over the remaining nine years of the Regional Council's 2018-2028 long-term plan.

112. This example has been for illustrative purposes. If Council decides to fund the Port's requirements through borrowing / rates staff will have to work through the appropriate rating mechanism and possible differentials to allocate the cost fairly.

113. It is possible the mechanism to allocate the cost of borrowing could be by Land Value, which is how the general rate is currently allocated. On this basis Council should expect larger and more valuable land holdings to pick up more of the costs of covering this debt - such as rural land, for example. It is not Council's preferred option to ask ratepayers to fund the development of the Port as it believes it may place a very real burden on some ratepayers whichever rating basis or mechanism is selected.

114. Below are examples of the impact to various groups of ratepayers in year two of the current LTP (including the increase in other Council activities and services consulted on). If the cost of borrowing $86.6 million, which has a $10.3 million impact on rates in year two, was allocated by Land Value, the following are indicative rating cost scenarios for just one year.

***OPTION A - 2018-28 LTP; Year 2 Rating Impact (incl existing LTP increase of 8%)**				
Suburb	**Property Type**	**Land Value**	**$ increase**	**% increase**
CHB	Rural	$ 1,500,000	$ 1,457	89%
Wairoa	Rural	$ 3,650,000	$ 3,509	61%
Hastings	Rural	$ 2,310,000	$ 1,951	104%
**Option A based on General Rate allocation by Land Value*				

Item 8

*OPTION A - 2018-28 LTP; Year 2 Rating Impact (incl existing LTP increase of 8%)				
Suburb	Property Type	Land Value	$ increase	% increase
Napier	Commercial	$ 1,200,000	$ 915	45%
Hastings	Commercial	$ 1,390,000	$ 1,175	33%
CHB (shop)	Commercial	$ 40,000	$ 39	26%
Wairoa (shop)	Commercial	$ 45,000	$ 44	19%
*Option A based on General Rate allocation by Land Value				

*OPTION A - 2018-28 LTP; Year 2 Rating Impact (incl existing LTP increase of 8%)				
Suburb	Property Type	Land Value	$ increase	% increase
Napier Hill	Urban	$ 375,000	$ 286	93%
Flaxmere	Urban	$ 50,000	$ 50	28%
Havelock North	Urban	$ 320,000	$ 271	54%
*Option A based on General Rate allocation by Land Value				

115. While the average cost in year two per ratepayer is $144 calculated as uniform charge, the tables above show that rural property owners would disproportionately be impacted if the cost was allocated through the general rate, with some rural property owners seeing an increase in rates of 104% or $1,195.

116. Deciding the appropriate rating mechanism for allocation of this expense will be challenging. The question becomes who should pay for the Port's development and what is fair.

Key theme 3. PONL should self-fund

117. A number of submitters expressed surprise and discomfort at the Port's level of debt and expressed a range of opinions including that the debt was too high, showed poor management and reflected Council taking too high a dividend from the Port over recent years.

118. In this context some submitters commented on an expectation for the Port to 'self fund' the Wharf 6 development itself via a combination of borrowing and reinvesting retained earnings.

119. In an editorial on 15 October 2018, Cr Bailey proposed a fifth option that he entitled "Option E". This option proposed debt funding $86 million to pay off PONL's current debt secured by a guarantee over Council assets (i.e. recourse to Council rather than Port assets) to be repaid through increased port charges on a "user pays" basis. This option was specifically referenced by some submitters in their commentary under option – None of the Above.

120. This sentiment was represented through commentary around greater levels of 'User Pays', with a view that those who are likely to benefit from the development, being the Port's customers, should finance the cost as opposed to ratepayers.

121. The table below shows the range of comments related to PONL should self-fund. About 5% of all comments related to user pays.

Sub-theme	Comments received
PONL should fund from retained earnings / user pays	176
Distrust of the management of the Port	37
Total	213

Quotes from submitters

122. "Stop drawing a dividend and use that money to reinvest in this magnificent asset that the rate payers all own". This may take a little longer but a far better outcome for all" (sub#3234).

Item 8

123. “It would appear that the Council has taken too much of the profit, for a number of years and now finds that they have no reserves. They wasted millions on the failed Dam project and now they are trying to force us to sell the Crown Jewels (sub#2896).

124. “I have major concerns about the way the Regional Council has made use of the Port to subsidise rates. Far too high a dividend has been demanded in recent years and this has prevented the Port from keeping down debt and financing necessary developments” (sub#2716).

125. “The port should stop paying a dividend to the council and more debt raised to fund the ports development. Some of this will be offset by the increased revenue created by the increase in shipping and cargo tonnage made possible by this investment and by increasing slightly the container handing charges.” (sub#96)

126. “We need to retain ownership the ward and the port are an investment for the future of hawkes bay it's time we started building a worthwhile return on our investment. We need to look at the charges for both freight ships and tourist boats and adjust them accordingly we need to retain this resource.” (sub#581)

127. “The port should run on a user pays basis and should be a bigger enough business to be able to support itself. The users costs should if required rise and if absolutely essential a small rate increase should be looked at as a last resort. I disagree that any part of the port should be sold off to any investor or public, looking at the consultation document what is required is a cash injection which the existing port business should be in a position to borrow off to get the required work completed so they can then allow the extra ships and therefore recoup the borrowed money”. (sub#1020)

128. “If the Port is not making enough money to operate and allow for future spending change the management.” (sub#504)

129. “I attended the meeting held 29 October 2018 and was disappointed that not one of the Port Directors was present. They want the money to build a new wharf to allow for increased work that will be happening in the very near future. It would be the best option for the area Rate payers to retain full ownership and not have any other interests involved. The attendees were not issued with the latest Balance Sheet to peruse the income and expenditure to see how all monies are spent. I was also amazed that loan money had not been repaid at intervals to reduce it the outstanding Loan! Why aren't Port profits used for this purpose? What are they being used for? I realize that ratepayers receive a subsidy off their Annual Fee paid to the Regional Council, however this money could be saved and put against Funds borrowed for the new wharf. The sooner a Loan is repaid the less interest paid and profits become available for re-investment and future requirements. More information is required in all areas of the port's functions including Board Members Salaries and dividends received. I await the outcome of all the submissions received as we do not want any more monies wasted like with the "Dam" fiasco!!” (sub#1749).

130. “If port owes money already - why was it paying dividend to Council and not paying off debt? Where is the prudence?” (sub#2197)

Officers’ response to the key theme “PONL should self-fund”

131. The graph below highlights the historical performance of the Port across the following measures:

    131.1. Debt

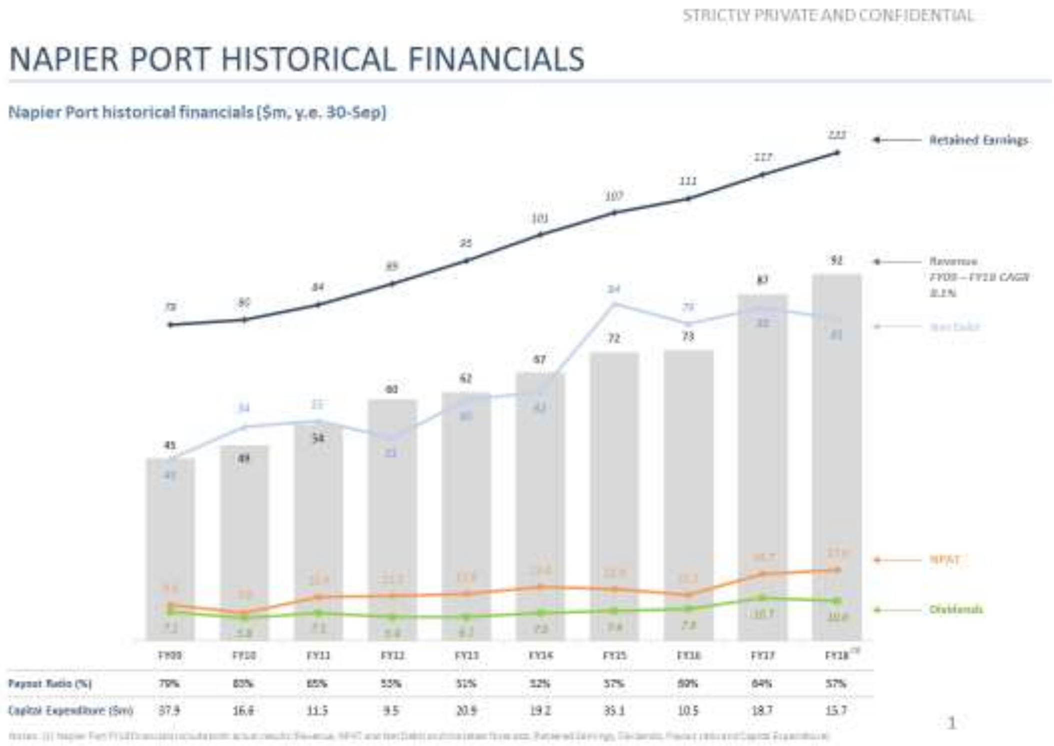
    131.2. Retained earnings

    131.3. Revenue

    131.4. Net Profit After Tax

    131.5. Dividends.

132. Across the bottom of the graph is the Port’s payout ratio in terms of the dividend paid to Council and the Port’s capital expenditure spend broken down by year.



133. This graph is a clear demonstration of the facts around Port debt, dividends and reinvestment in particular. It shows is that the Port is a well-managed asset that the Regional Council has actively supported over the last decade.

134. Since 2009, the Port's revenue has more than doubled and nearly $200 million of capital has been reinvested back into the Port. That reinvestment has come from Port profits and retained earnings, supplemented with borrowing and supported by modest dividends paid to Council.

135. The Port's debt position is fluid, using a revolving credit facility which moves with profit, capital expenditure and dividend payments, but within prudent guidelines. The Port's debt is roughly twice its annual earnings, which is a normal level of debt for a commercial entity to hold.

The dividend

136. The suggestion that the Council has taken too much out of the Port via dividends is addressed in this section. Last year the Port paid the equivalent of 57 per cent of the Port's profits as a dividend, which directly goes to offset rates. A payout ratio of 80 – 100 per cent would be considered high; a payout ratio of 50 – 60 per cent is modest on a commercial basis.

137. Put another way, over the last three years the Port's Net Profit After Tax has increased by more than 50 per cent and the percentage paid in dividend has *decreased* by 12 per cent.

138. The Port has been investing in a concerted way to cope with the continued growth in cargo volumes over the last five years. The Port has been supported in this by an owner that has received modest dividends.

139. Some submitters believe that HBRC should stop being paid a dividend to enable the Port to fund the new wharf and future capital requirements.

140. In effect, this course of action would increase HBRC's debt as the dividend currently covers approximately 20 per cent of Council's operating costs. Council would need to borrow this money to offset the loss of dividend income.

141. Funding the Port's capital requirements by way of a suspension of dividends would require Wharf 6 to be delayed for at least five to six years while the Port readjusted its balance sheet to fund new borrowing. With the benefit of hindsight the Port could be in

a debt free position today in order to now fund its growth had the Council not taken any dividends over the last decade and ratepayers funded around $80m in additional rates to fund council services.

Item 8

142. The rating subsidy enjoyed by all regional ratepayers, has in effect, contributed to the current circumstance but been deemed to be a prudent approach by successive councils, and presumably electors, noting the dividend expectations have been repeatedly consulted upon as part of long-term plans. It is worth noting the growth in the Port's business has exceeded forecasts and expectations as elaborated on below.

143. It should be clearly understood that equity injections into commercial enterprises facing step-changes in their operations is a normal commercial practice and strategies to fund growth from retained earnings alone will frequently constrain the growth opportunities of commercial enterprises.

Detail on Port debt

144. Some submitters questioned why the Port currently has debt of $86.6 million. Current debt reflects planning and investments made to cope with increasing demand. Over the last six years Napier Port has invested $120 million and over the same period experienced an increase in total cargo volumes of 37 per cent.

145. Additionally, a 30 per cent increase in cargo volumes over the last two years alone was higher than projected, and it was sustained investment from the Port – partially funded by debt – that has enabled the Port to successfully manage this increase in growth.

146. The Port's current debt levels have funded a range of operational and capital requirements that will enable the Port to successfully operate until a new wharf (6 Wharf) is commissioned, anticipated in 2022.

147. Tangible investments represented by current debt have been the purchase of items that enable the safe and efficient operation of an increasingly congested and constrained port. Additionally, they have been investments required to build future capacity so it is available when required to support regional trade, including:

147.1. New cranes

147.2. container handling plant and equipment

147.3. on and off-port cargo storage and handling facilities

147.4. cargo-moving equipment

147.5. resource consents

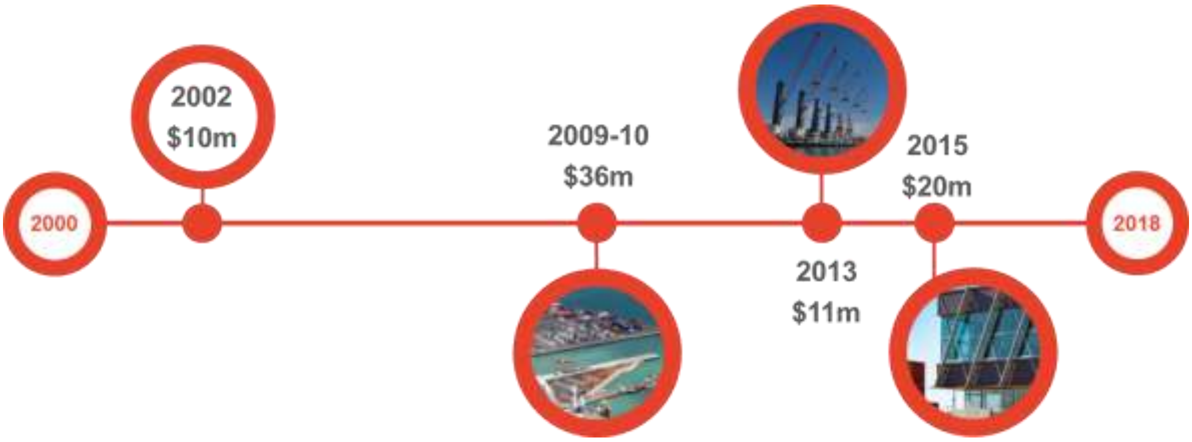
147.6. refrigerated container capacity

147.7. technology associated with ensuring the Port operates as efficiently as it can within current constraints.

148. All of these investments will support the operation of a new wharf within the overall Port footprint.

Item 8

Breakdown of major increases in debt to fund major capital works



149. Napier Port's increase in debt over the above period can be broken down broadly as follows:

149.1. ~ $10m in 2002 arising from $14m capex

149.2. ~ $36m in 2009/10 arising from $54m capex
including 4 Wharf reconstruction and reclaimed land

149.3. ~ $11m in 2013 arising from $20.9m capex
including 2 mobile harbour cranes, 4 forklifts, new cargo warehouse

149.4. ~ $20m in 2015 arising from $35m capex
including replacement of earthquake prone office building, developing an empty depot in Thames Street, new log area paving, entry gate rebuild, 2 new cranes, reefer towers and forklifts.

150. Council-owned ports in New Zealand are generally leveraged at 1x-2x Net Debt to EBITDA ratio. Noting that each Port will be at a different cycle in its long term asset development and experiencing different levels of trade growth trends. Napier Port is geared at just over 2x EBITDA, with $87m of net debt.

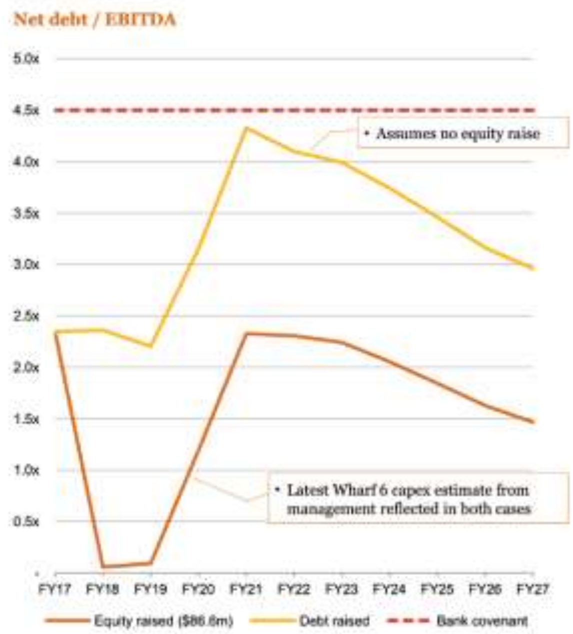
151. Without external capital – from either Council borrowing or private sources – the Port's debt to EBITDA ratio is projected to rise to 4x at its peak funding requirement in 2022 to fund the Wharf 6 development.

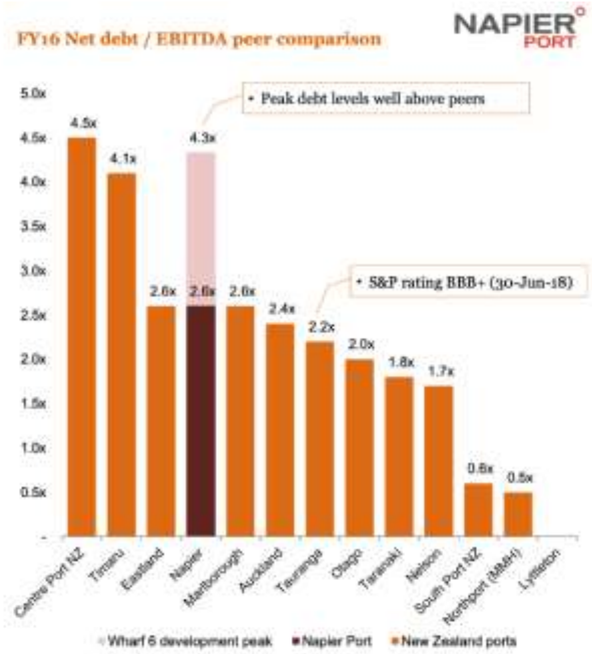
152. A 4x level of debt is above prudent levels for a Council or indeed a commercial investment. It is appropriate for Napier Port to target a modest financial risk profile or target net debt / EBITDA of 2x. Achieving this target leverage requires a capital reset with an equity injection of funds of $86.6m to clear the Port's current debt levels and maintain a prudent level of leverage over the term of the Port's strategic plan. (Refer chart below)

153. The consultation document makes it clear that in addition to the $142 million for a new wharf, the Port's capital requirements over the next decade will range between approximately $320 and $350 million. These estimates include an additional $139 million required for replacing existing assets as they come to the end of their operational lives, such as the container cranes, cargo-moving equipment, paving reconstruction and replacements, wharf improvements.

154. The document also mentions that an additional $38 million will be required over the next decade for new assets and increasing Port capacity, such as an additional tug and further refrigerated container capacity.

155. The following tables were produced by PWC as part of the independent analysis of the capital structure options for the Port and demonstrate debt profiles under two scenarios – with and without a capital injection – as well as benchmarking current Port debt against peer ports.





156. In the above bar graph the peak debt levels for Napier are well above peers assuming Napier Port borrowed all the required Wharf 6 funds.

157. The graph on the left shows two debt profiles for the Port out to 2027: the upper yellow line assuming additional borrowing for Wharf 6 without any external capital / funding injection takes the Port very close to its current banking covenant at 4.5x EBITDA.

158. The lower orange line shows how the Port's debt profile would move with an $86.6 million equity injection, consistent with the consultation materials; debt would be significantly reduced to enable fresh investment / borrowing, which would see debt peak again at current levels and start to reduce from approximately 2021.

159. A peak debt level of approximately 2x annual earnings during a period of sustained capital investment is a prudent debt level for a commercial entity, including Napier Port. A net debt reduction by 2027 to 1.5x EBITDA is a low level of debt by commercial standards, including within the New Zealand Port sector, as can be seen on the graph on the right. This graph shows current debt relative to other ports (lower portion of Napier Port bar) and highlights what debt would be (higher portion of the bar) if the new wharf was to be funded without a capital injection (at 4.3x earnings).

160. It's important to be clear that while the Port requires a capital injection to enable a large step-change in investment, primarily around 6 Wharf, the Port will self-fund the majority of its required capex through retained earnings, including $55m (or nearly 40% of wharf 6).

Bonds

161. During the consultation, some submitters have asked questions have been raised regarding the use of Bonds as a source of funding. Community bonds are merely another form of debt and meeting the funding burden with community bonds would not reduce the Port's debt levels. Readers should therefore refer to the above debt analysis.

162. Additionally, Council has previously indicated that Community Bonds would attract a 4%-5%pa interest coupon, compared to finance available under the LGFA of 3.6%

163. Given the lower cost of capital available to Council under the LGFA, on first principles it would be value dilutive to Council to issue debt via Community Bonds, with LFGA funding being the preferable debt source.

User pays

164. There has been feedback during the consultation process that the Port should pass on the costs of its required development to those that use it – the Port's customers.

165. It is important to note, that in all proposals presented, users will pay for all port investment over time through increased trade volumes and pricing.

166. The key issue to be addressed is how to fund the step change required for large capital investment without the Port first borrowing to imprudent levels to achieve this (even with higher user charges the Port must first borrow to build the wharf). Capital injection from the shareholder or new capital sources are the typical means to achieve this where borrowing is not a practical option.

167. Funding Napier Port's strategic plan through increased user charges would have the effect of increasing Port debt, creating financial risk to both the Port and Council as the upfront cost of capital development would need to initially be debt funded, to be recovered over a number of years by increased charges.

168. It would be highly unusual commercial practice, put trade at risk and potentially anticompetitive for the Port to seek to recover these costs in one pricing adjustment. As it stands, the Port needs to be careful in terms of how it approaches the regime of reflecting its costs in customers' pricing strategies over time. While it is sensible business practice to pass on costs, this needs to be done over-time and in the context of maintaining a competitive, cost effective operation. Napier Port's forward revenue projections contemplate this approach, resulting in an improved return on assets over the next 10 years, supported by trade growth and pricing.

169. Indicatively, should Napier Port seek to recoup the capital cost of Wharf 6 (plus funding costs) though container charges, Port container charges would need to increase by around 50 per cent over 10 years, or around $90 per TEU. This increase would be imposed on top of Port business-as-usual projected price increases.

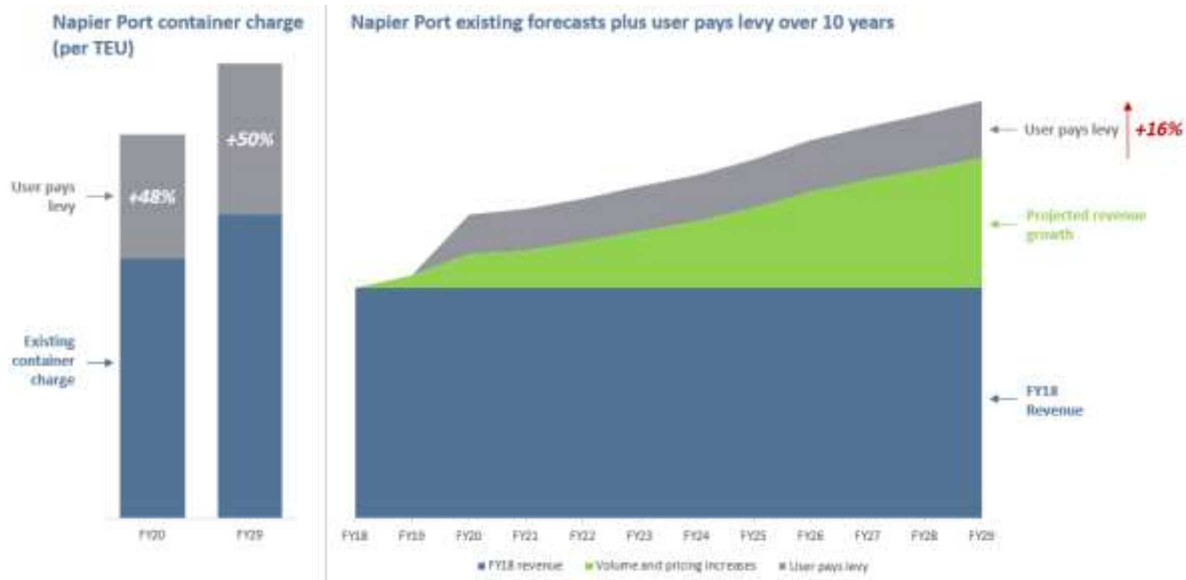
170. Price increases of this order represents a commercial risk to the port with risk to future trade volumes.

171. All trade is contestable when it comes to price. Trade will adopt the lowest cost logistics path, hence material price increases will reduce the competitiveness of Napier Port with an expectation that some trade would be placed at risk.

172. Any price increases, particularly for infrastructure assets, increase regulatory risk with the potential for a regulatory review of any levy which seeks to recover the capital cost of a long-term infrastructure asset over a short period.

173. The chart below illustrates the impact of a levy.

174. As the levy would recover income over a 10 year period as opposed to an upfront capital injection, the Port would need to recover more than its current net debt to service the funding cost of the development and return leverage to prudent levels after years of higher leverage than targeted.



Key theme 4. Sell down less than 49 per cent

175. In this section, where the term sell down is used, readers should also note this may include dilution of current shareholding versus the sale of shares (i.e. could mean Napier Port issues new shares to a new shareholder(s).

176. Some submitters commented that Council should sell less than the ‘up to 49 per cent’ as stated in the Consultation Document – both for the preferred option and for Option C. Three submitters favoured selling more than 49% per cent. About 5% of all comments related to selling down less than 49%.

177. Some submitters both in favour of and opposed to Council’s preferred option expressed a desire to see less than 49 per cent of Napier Port sold. (103 submissions who did not select the preferred option commented that they would prefer to sell down less than 49%)

178. The table below shows the range of comments related to selling down less than 49%.

Sub-theme	**Comments received**
Sell down less than 49% (all options)	188
Sell down more than 49%	3
Total	**191**

Direct quotes from submitters

179. “I prefer 40 - 45%, not 49%. Cover the debt and get the new wharf up and running asap. The council must find other ways of financing other issues (sub#211)” – option NOA

180. “I agree we need a strong port and that expansion is needed, but I would not like to see 45% - 49% sold off. I believe a maximum of 35% could be sold without it being too big a burden on rate payers. I would like to see an investor being part of the scheme as there is always risk with the Stock Exchange. Also please consider that the cost of borrowing is the lowest for many years which can be quite attractive (sub#229)” – option NOA.

181. “I agree with Martin William's article in HB Today, 11/11/18 P 11 where he suggests a 25-33% share float which would raise enough capital for the port's investment program without the possibility of losing control of the port.(sub#1494) – option NOA.

182. “Make the float less maybe up to 30% which would allow up to 19% to be used at a later time should it need be.” (sub#2046) – option B

183. “I favour floating some on the NZX But 49% is far too much. Float only what is needed and no more 30% might be enough” (sub#2411) – option B

184. “By selling 30%, not 49% to Staff and Locals to pay off current debt then raise loans to build new wharf.” (sub#1197) – option C

185. “The public share option percent should not be as high as 31% plus. The range you should sell is between 25% to 30% If you sell 31% and higher you could lose the control of the company. I want us (The Ratepayer) to retain majority ownership and control of the port!! In your options above, there should have been "Option E. Sell up to 30% public share offer. Your preferred option "B" is in the "higher" percentage range. If I had ticked option "B", it gives you the right to sell nearly 50% of OUR company which I am against! (sub#2949) – option NOA

186. “NO more than 25% of the port should be sold, maximum.To finance any more should be borrowed. This is a long term enterprise. Today’s public should not be paying for something now, it should be spread over a number of years. I would also like to see the rates rebate, off the port, continue.” (sub#3227) – option NOA

187. “I submit that I support a public share offer, but that that offer be limited to up to 30% public share offer. My main reason is that the prime reason for sale of shares is to

repay the Port Company debt, so that the company can re-borrow to fund its own expansion, NOT to fund unspecified investments in unspecified companies or funds. My second reason is that by selling up to 49% in the Port Company now, HBRC is leaving no room to protect its shareholders 51% ownership stake should the Port Company require a further increase in capital in the future. In summary, expanding the port is a priority to be funded now by sale of shares sufficient to clear the Port Companies Debt to allow that to occur. There is insufficient detail given in HBRC Capital Structure Review as to how and what any surplus money from a public share offer would be invested in after funding for the port development had been achieved. I believe this is a separate issue and must be considered separately from port development. By making a public share offer of up to 49% now, the HBRC is exposing its shareholders (The Ratepayers of Hawke's Bay) to having to raise further capital to maintain a 51% holding in the Port Company, should that company require to raise further capital on the share market, thereby freeing it borrow to fund the new wharf and other works." (sub#3350) – option NOA

188. "I would prefer to have the funding ceiling lowered to 40% if another cash injection is required in the future another 5% could be floated. Selling to ACC, NZ Superannuation, Unison would be more acceptable than the share market." (sub#3516) – option NOA

189. "I would prefer floating up to 45% on the NZX. If Port of Tauranga can limit the float to 45% Port of Napier should be able to work within the same parameter. Should shares be consolidated overtime in one shareholder 49% is too close to controlling. * If there is some way of keeping shares limited to New Zealanders I would prefer this. However not sure if this is possible." (sub#743) – option B.

Officers' response to the key theme – 'sell down than 49 per cent'

190. Council prepared the consultation document based on financial modelling at 45 per cent of shares in the Port being floated on the NZX but consulted on a minority IPO of up to 49 per cent.

191. There are a number of factors to consider in a reduced sell down:

  191.1. Potential benefits of a reduced percentage include greater Council ownership and voting control.

  191.2. Retaining a greater than 50 per cent shareholding would allow Council to control Ordinary Resolutions including the election and removal of Port Directors. There is no control benefit gained by holding more than 50% as far as ordinary resolutions are concerned.

  191.3. Retaining a 75 per cent shareholding would allow Council to control Special Resolutions including changes to the company's constitution, approval of a major transaction or an amalgamation. Practically, holding any majority stake gives significant influence over the passing of special resolutions.

  191.4. Greater Council economic exposure to Napier Port (albeit reduced investment diversification and lower returns than expected from diversified investments)

  191.5. Potential benefits of a reduced percentage include greater Council ownership and voting control.

  191.6. Retaining a greater than 50 per cent shareholding would allow Council to control Ordinary Resolutions including the election and removal of Port Directors. There is no control benefit gained by holding more than 50% as far as ordinary resolutions are concerned.

  191.7. Retaining a 75 per cent shareholding would allow Council to control Special Resolutions including changes to the company's constitution, approval of a major transaction or an amalgamation. Practically, holding any majority stake gives significant influence over the passing of special resolutions.

  191.8. Greater Council economic exposure to Napier Port (albeit reduced investment diversification and lower returns than expected from diversified investments)

191.9. A reduced sell down would result in greater economic exposure to the Port's financial performance and new capital needs in the future, including:

191.9.1..1. Increased dividend entitlement

191.9.2. Increased exposure to capital gains (and losses) over time.

191.10. Inversely, a reduced sell down would reduce Council's investment diversification objectives which is a core objective of the consultation process.

191.11. Provide greater flexibility for Council's shareholding to be diluted in any future capital raising while still retaining majority ownership.

192. The following table demonstrates the maximum future capital raising the Port could undertake while not diluting Council ownership below 50 per cent.

Selldown %	45%	33%	25%
Limit of future capital raising to not dilute Council ownership below 50%	$34m	$136m	$205m

Issues with a reduced sell down of Port shares

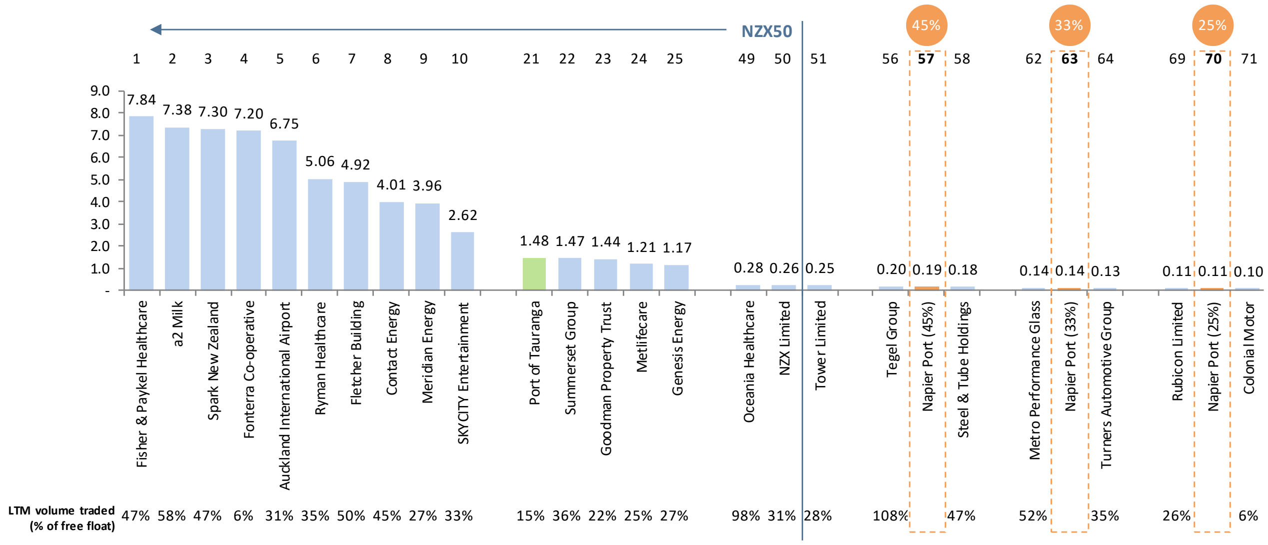
193. Reduced investor appetite to participate in an IPO

194. In the context of an IPO, creating maximum free float to encourage investor participation will be critical.

195. Listed companies with smaller free float are generally less liquid, and generally receive less broker and investor following / coverage than companies with larger free float, particularly stocks eligible for NZX50 index inclusion

196. As a listed company, Napier Port is expected to initially fall outside of the NZX50 in the range of 50-100 depending on the level of sell down, with a reduced sell down resulting in a lower index ranking

NZX Index ranking by free-float market capitalisation ($bn)



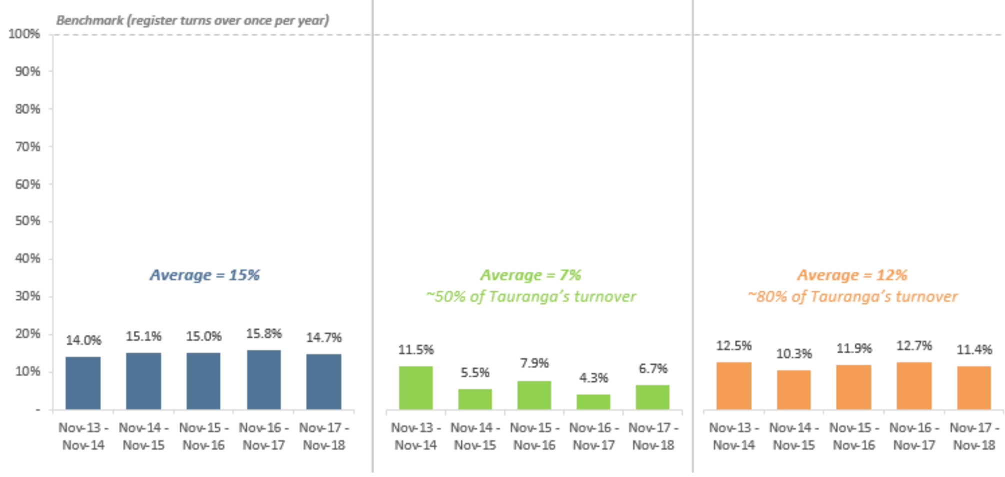
Source: Factset

Creating sufficient liquidity for IPO success

197. SouthPort and Marsden Maritime Holdings, both with broadly 20 per cent free float, are illustrations of listed port companies which have not illustrated strong aftermarket liquidity and have attracted no broker coverage to encourage strong investor following.

	Port of Tauranga	South Port	Marsden Maritime Holdings
Total Market Cap ($m)	3,442	184	215
Free Float (%)	43%	18%	22%
Free Float Market Cap ($m)	1,482	33	47
Broker coverage	7	*nil*	*nil*

Liquidity
(annual turnover last 5 years, % of free float shares)



Source: Factset

198. Lower valuation expectations resulting from reduced investor appetite

199. As a general principle, reduced investor appetite from a smaller investment stake, will result in a lower valuation of the shares

200. While difficult to assess with certainty, it could be assumed that the valuation discount applied for a 25 per cent – 33 per cent stake would be equal to or greater than the range assumed in the Consultation Document for a 45% stake

201. The following table provides an estimate of potential discount levels applied to shares at various levels of sell down.

Valuation Discount	45%	33%	25%
IPO	5-10%	10%	>10%

202. Nil or lower capital release to Council

203. A sell down of at least 25% (IPO) is required to raise the required capital to clear Napier Port's debt and fund Wharf 6

204. A 25% sell down or dilution would not release any capital to Council as under the IPO structure new shares would be issued to inject capital into the Port but there would be no ability for HBRIC to sell down its shares. In essence Council would be diluting its interest by 25% to fund the port with no capital release or new source of revenue.

205. Consequently, reducing the sell down below 45% would reduce the capital release to HBRIC/Council.

Capital release to HBRIC	45%	33%	25%(1)
IPO	$83m	$32m	($2m)

Notes: (1) 15% valuation discount applied for IPO. Further Council capital injection required to clear Port debt

Other considerations of a reduced sell down

206. Further review of tax implications will be required, particularly in relation to potential loss of HBRIC's access to imputation credits if a sell down or dilution takes Council's shares below 67% ownership.

207. In the context of an IPO, it will be important for Council to telegraph its intention to the market regarding its remaining stake. Appetite to participate in an IPO will be reduced if a further subsequent Council sell down is anticipated by the market in the short to medium term as any share “overhang” of a further Council sell down will reduce pricing tension and IPO valuation.

208. There is an upfront and ongoing cost implication in Council undertaking a smaller sell down as upfront transaction and ongoing compliance costs do not proportionately reduce.

209. Indicative compliance costs associated with a listed company in the order of $200,000 to $300,000 per year. These costs will be incurred in full regardless of the level of Council sell down.

210. Transaction costs to prepare and execute an IPO are in the order of $11m, with more than half of these costs being fixed, regardless of the level of sell down, being costs to prepare for the transaction.

Officers’ recommendation

211. Should an IPO be Council’s preferred option:

211.1. The mandate to pursue an IPO should include an objective to determine the ultimate sell down based on Napier Port’s capital needs and the minimum size to support trading liquidity

211.2. Accordingly, in all cases it is likely that a sell down of at least 33% would be required

211.3. A sell down of 25% does not achieve Council investment diversification with no capital released to Council.

The following table provides the financial impact based on scenarios of 45%, 33% or 25% - Using conservative discount advice as per advisors.
*****Discount advice is non-audited***

	IPO ($mil)		
% Sold / Shares Issued	**45%**	**33%**	**25%**
Equity Raised*	181	129	95
Less: Transaction Costs	(11)	(11)	(11)
= Equity Available	**170**	**118**	**84**
Less: Equity Injection to PONL	(87)	(87)	(87)
= Capital Released to HBRC	**83**	**32**	**(2)**
LTP Dividend for the 9 years 2019/20 - 2027/28	100	100	100
HBRC Dividend Post IPO (remaining shareholding) - 9 years of LTP	74	90	100
Return from funds invested (5% cash return + inflation)	40	15	0
Cost of servicing Debt if Capital Raised < $86.6m			
Net upside (downside) - Impact to Rate Payers vs 2018-28 LTP	**14**	**5**	**0**

Key theme 5. Minimise environmental impacts

212. At least 87 submissions noted environmental concerns. These included:

212.1. Noise

212.2. Volume of ships

212.3. Feeder infrastructure (rail, road, storage) including road safety and congestion

212.4. Amenity

212.5. Air pollution

212.6. Beach erosion

212.7. Effects of dredging and disposal of dredged material

212.8. Carbon emissions, climate change and sea level rise

212.9. Other (general concern about the environmental risks of port sale and/or expansion)

213. The table below shows the range of comments related to minimising environmental impacts.

Sub-theme	Comments received
Concerns about environmental/noise impact	87
Total	**87**

Quotes from submitters

214. "I saw recently 4-6 logging trucks banked up in Severn St awaiting processing to the Port and again there is often a line-up of logging trucks waiting to access the weighbridge opposite the National Tobacco Building. There is also often a queue to get into the Port gate itself. There is nothing in the plan for long term affects of the need for further increased Port infrastructure ie storage for containers, access to the Port either via rail or road." (sub#3312)

215. "What are the strategies in place for increased improvement in Environmental pressures the expansion of the port will most certainly create??" (sub# 3580)

216. "The expansion of the Port over the past 20 years has been an additional factor in the erosion of Westshore" (sub #299)

217. "How is the port planning taking into account climate change, sea level rise and increased storm events? With these future impacts maybe expansion in an inland site would be prudent?" (sub#3486)

218. "Hard enough to live with noise being council owned can only imagine what it would be like under private ownership". (sub #12)

219. "If it means more concrete poured into the ocean and more massive cruise ships ruining our FRAGILE ENVIRONMENT - then do nothing." (sub #1540)

220. "My partner and I are exposed to noise and light spill from Port activities and associated truck and rail traffic. The intensity increases as the Port throughput grows." (sub #3486)

221. "the dumping of the dredged material is an Environmental Hazard waiting the happen, there are concerns that it could prevent fishing in a large area of the Bay." (submission #299)

Officers' response to key theme "Minimise environmental impacts"

222. This paper covers the range of environmental issues raised by submitters, relevant regional plan rules, consent conditions (including those for the newly consented Wharf 6 project) and how some of the issues raised by submitters are currently being managed by PONL as the operator of the Port. The paper also discusses how some of the issues raised by submitters are currently managed by the regulators of the Port's activities including Hawke's Bay Regional Council and Napier City Council.

223. The submissions received raising concerns in relation to potential environmental effects can be grouped into two categories with some submitters' concerns relating to the sale of the Port and suggesting that there is potential for loss of control over the asset which could pose an environmental risk. The other distinct theme relates specifically to Port expansion and the potential for environmental effects as a result of Port growth and expansion.

224. There is an existing statutory framework in place to manage the effects of the Port's existing activities and the proposed expansion of Napier Port is to be managed by the Resource Management Act 1991 and in particular the Hawke's Bay Regional Coastal Environment Plan and the Napier District Plan.

Wharf 6 Project and Port Expansion

225. Napier Port applied for a suite of consents required for the Wharf 6 project from the Hawke's Bay Regional Council in January 2018. Napier Port requested public notification of the applications and therefore, the applications were notified in March 2018. 43 submissions were received in relation to the applications and the applications were formally heard by a panel of three independent commissioners in August/September 2018. The suite of six resource consent applications were granted by the independent commissioners in November 2018 and the applications were not appealed to the Environment Court by any individual or party. Therefore the suite of consents for the Wharf 6 project and associated dredging and disposal commenced on 27 November 2018. The consents include 113 consent conditions and a requirement to develop a selection of management plans to ensure that potential environmental effects are avoided, mitigated or remedied as required by the Resource Management Act. The management plans required in accordance with the conditions of the resource consents include the following.

225.1. Marine Wildlife Management Plan

225.2. Marine Cultural Health Programme

225.3. Construction Management Plan

225.4. Construction Noise Management Plan

225.5. Traffic Management Plan

225.6. Little Blue Penguin – Avian Management Plan

225.7. Dredging and Disposal Management Plan

225.8. Water Quality Management Plan

225.9. Biosecurity Management Plan

Officers' response

Statutory Context - Regional Plan Rules and Consent Conditions

226. The activities of the Napier Port are regulated by a a statutory framework that includes but is not limited to the following.

226.1. Resource Management Act 1991

226.2. Port Companies Act 1988

226.3. Civil Defence Emergency Management Act 2002

226.4. Marine and Coastal Area (Takutai Moana) Act 2011

226.5. Wildlife Act 1953

226.6. Building Act 2004.

Marine Cultural Health Programme

227. The protection of Māori culture and traditions is recognised under the RMA as a matter of national importance as is the protection of protected customary rights. Napier Port has recognised the need to recognise and provide for these matters and has provided evidence of genuine consultation throughout each stage of the Wharf 6 project.

228. Napier Port has consulted (through the consenting process) with mana whenua hapū to understand the history and importance of the coastal environment to Māori. Within the coastal environment, and within a hapū/iwi context, Hawke Bay contains taonga of significant cultural value to local Māori, particularly Pania Reef and Moremore Reserve at Tangoio. Evidence of iwi and hapu consultation was provided to Council as part of the Wharf 6 consent applications.

229. For the Wharf 6 project, the cultural setting lies with Ngati Kahungunu Incorporated having mana whenua. Specific hapū identified as mana whenua for the Port area by Ngati Kahungunu Incorporated are Ngati Pārau, Mana Ahuriri, Te Taiwhenua o

Whanganui a Orotu and Maungaharuru-Tangitū Trust. Napier Port sought the views of respective 'Customary Marine Tittle' and 'Protected Customary Rights' applicants under the Marine and Coastal Area (Takutai Moana) Act 2011. Furthermore, Council directly notified these parties of the applications at the time of public notification for the consent applicants.

230. Napier Port commissioned Mr Laurie O'Reilly to prepare a cultural impact assessment (CIA) on behalf of the four hapū identified above. The CIA was attached to the Wharf 6 consent applications as Appendix Q. The CIA describes the relevant planning framework and the aims and objectives of the document. The CIA offers a technical appraisal of Māori cultural values regarding the area and its resources. The report identifies the potential impact of the proposed activities on Māori values and Mauri.

231. The CIA does make two recommendations, one of these is to use the proposed offshore disposal site to ensure that Pania Reef is protected from additional sedimentation and the other recommendation is that mana whenua hapu be included in the assurance monitoring programme proposed by the applicant. In addition, a condition in relation to cultural monitoring and information sharing is recommended by the CIA. The CIA suggested there is potential for positive effects in relation to an overall increase in awareness of effects on cultural values.

232. The consents granted for the Wharf 6 project include two key conditions to recognise and provide for the protection of Māori culture values and traditions. Napier Port are required to partnership with mana whenua hapū to prepare a Marine Cultural Health Programme to ensure that the cultural health of the marine environment, and in particular Pania Reef is surveyed, monitored and reported upon. Napier Port are also conditioned to cease construction and dredging in the circumstance of any archaeological or cultural find. In the event of an archaeological site, archaeological or cultural taonga find, or kōiwi being discovered or disturbed during the activities authorised by this consent, Napier Port must immediately cease further work and inform the appropriate representatives of mana whenua hapū.

<u>Napier City Council – District Plan and Assessment of Existing and Potential Noise Effects</u>

233. The Napier Port land area is zoned 'Port Industrial' under the Napier City Council District Plan. Port Noise is regulated under Rule 28.15 of the Napier City Council District Plan through the establishment of a Port Inner Noise Boundary with specific requirements to be met on the basis of short-term and longer-term specifications. The District Plan rule also requires/provides:

233.1. Production and maintenance of a Port Noise Management Plan (with specifications)

233.2. The operation of a Port Noise Liaison Committee
Specific requirements for some activities within the Port Industrial Zone and triggers a set of specifications for the Port to assist with acoustic treatment if certain noise levels are reached (this sets out both Port and property owner obligations)

234. Napier Port provided an Assessment of Environmental Effects to HBRC in relation to the Wharf 6 project that was specific to existing and potential noise effects. The assessment provided identifies and explains both construction and ongoing (following Port expansion) operational noise effects. The assessment included noise evaluation, a noise report addressing, *inter alia*, construction activities and information on longer-term Port noise with the new Wharf 6 facilities in place. The assessment also included mapped outcomes of modelled noise of peak Port activities in 2026 with the new Wharf 6 facilities in place. The conclusion was that the Napier City Council District Plan requirements would be met for the foreseeable future.

235. In summary, the Wharf 6 project was consistent with district plan requirements and therefore, there were no consents necessary for the Wharf 6 project in terms of the operative Napier City Council District Plan.

Item 8

Coastal Erosion – Nourishment of Westshore Beach

236. In addition to the requirements of the resource consents summarised above, Napier Port have signed a 'Heads of Agreement' with Napier City Council that requires Napier Port (or any subsequent transferee, successor and assignee) to provide suitable material from its dredging activities for deposition in the nearshore area of Westshore Beach. This agreement requiring beach re-nourishment is consistent with the preferred pathway for managing beach erosion at Westshore Beach as identified by the Clifton to Tangoio Coastal Hazards Strategy (2017).

237. The 'Heads of Agreement' between Napier Port and Napier City Council requires a working group to be formed with agreed representatives of Napier Port, Napier City Council, Hawke's Bay Regional Council and Westshore Residents to manage the future deposition of sand at Westshore and to manage communications and stakeholder liasion. The terms of reference for this working group shall be developed jointly between the parties.

Climate Change and Natural Hazards Management

238. Recent changes to the RMA through the Resource Legislation Amendment Act 2017, have added the management of significant risks from natural hazards as a matter of national importance, serving to highlight the importance of natural hazards considerations in any use or development. Having regard to the effects of climate change has been a requirement for a number of years.

239. Climate change and sea level rise poses inundation risks and also risks of increased storminess that are faced by the whole Port and maritime industry. The current Napier Port wharf deck height provides for the currently-predicted best estimate sea level rise of in the order of one metre over the next 100 years. Being a piled structure, it will be possible to progressively raise the deck height over time. However, any such change would lead to changes to the whole of the container handling area.

240. Napier Port is excluded from the coastal hazard zones in the Hawke's Bay Hazards Report, and also in the HBRCEP, Maps 55 and 56, and from any coastal erosion areas, from present day, and 2065 and 2120. In accepting these regulatory exclusions, Napier Port has effectively undertaken the responsibility for its own natural hazards management. However, a building consent is needed for the wharf construction from Napier City Council and this will address earthquake and flooding risk.

241. Napier Port is a classified lifeline utility, with an essential role in any major natural hazard-based or other emergency event in the wider region and possibly beyond for the community. It is built into the Hawke's Bay Civil Defence and Emergency Management (CDEM) Plan. In 2001 the Port was part of the Hawke's Bay Engineering Lifelines Project and its importance and current risks were included in the report "Facing the Risks". Napier Port has continued to work towards addressing its own risk exposure, but also towards ensuring that it will be able to continue to function for the community's benefit within a CDEM situation.

Long Term Traffic Effects

242. Napier Port commissioned a report assessing the potential traffic effects of Port expansion in relation to the Wharf 6 project. The report looked at the implications of growth in container, log and cruise ship visits in terms of traffic impacts.

243. It was found that, even with amplified growth to reflect seasonal peaks, levels of service for traffic turning out of the Port at Gate 3 remain at level of service B (14 second delay). This allows for uninterrupted single-lane traffic flows on Breakwater Road in each direction. Stress testing was again undertaken and this indicated that growth can continue for about 30 years without Gate 3 dropping below level of service C. At that stage, these could be a three to four vehicle queue at times leaving the Port which would still be manageable.

244. Evaluating the system at the Gate 1 access using the same expansion parameters shows that all movements continue to operate satisfactorily and slightly better than for Gate 3.

245. Wider implications on the road network from expanded Port-related traffic have not been assessed as these implications are addressed by the New Zealand Transport Agency (NZTA) for State Highways and the Napier City Council as road controlling authorities. Similarly, the ability of the rail system to handle more Port-related transport was not assessed in relation to the Wharf 6 consenting process. NZTA were involved in the Wharf 6 consenting process and provided a submission in support of the consent applications made by Napier Port. The NZTA submission states:

245.1. *"The Transport Agency is generally supportive of planned and integrated growth. A planned and integrated approach often means that better planning outcomes are achieved.*
The Transport Agency agrees with the evaluation of the construction traffic effects that have been assessed in the Traffic Impact Assessment…
The Transport Agency requests that the Traffic Management Plan be provided to the Network Operations Contractor for comment and approval prior to lodgement with Hawke's Bay Regional Council.
The Transport Agency also note that it would be beneficial for ongoing discussions to occur to ensure the connection to the State Highway from the Port operates efficiency and adequate capacity is available within the Network in the foreseeable future."

245.2. Consent conditions were included in the consents granted for the Wharf 6 project requiring Napier Port to prepare a Traffic Management Plan in consultation with Napier City Council, KiwiRail and NZTA.

<u>Disposal of Dredged Material</u>

246. Napier Port undertake regular maintenance dredging to ensure that the Port access channel can provide for the safe navigation and manoeuvring of ships that use the Port of Napier. Some maintenance dredging activities undertaken by Napier Port are permitted under the Hawke's Bay Regional Coastal Environment Plan and other activities are provided for by existing consents held by Napier Port.

247. The Wharf 6 project includes five stages of capital dredging and the disposal of this material in a new 'offshore disposal site'. The consents granted in relation to these activities require monitoring and adaptive management techniques to ensure that the dredging and disposal activities do not adversely affect the coastal environment, including Pania Reef a Significant Conservation Area.

248. Napier Port are required to establish a 'Fisheries Liaison Group' prior to commencing any dredging and disposal for the Wharf 6 project. Furthermore, Napier Port have committed to working with Legasea, inshore commercial fishers and representatives of recreational fishers to ensure that their operation does not adversely affect the local fishery and its value to recreational and commercial fishers.

Key theme 6. Fit with national policy

249. At least 23 submitters commented on the question as to how a new wharf at the Port would fit into possible new transport, freight or coastal shipping policies. Some submitters suggested any further Port development should be delayed for any such policy initiatives.

250. The table below shows the range of comments related to fit with national policy.

Sub-theme	Comments received
Wait until freight transport policy "Sea Change" finalised	23
Total	23

Quotes from submitters

251. "I do not think that any significant expenditure should be carried out at the port until after New Zealand has conducted a comprehensive review of freight transport requirements by sea rail and road. Once an optimal system for New Zealand has developed then the Napier port should be developed as appropriate to meet New Zealand's needs. Once this review is complete then any development should be carried out maintaining 100% public ownership as per A as this will likely result in the lowest costs to the user. But port development should be coordinated throughout NZ Questions such as - should the Auckland Port continue to exist? , Should Whangarei be developed? What is the future of Wellington port? Should rail be used to feed any particular port? What is the impact of changing vessel sizes on sea transport for NZ overall? Should be asked I am not aware of any definitive answers to these questions. Therefore No action should be taken at this time" (sub#1945)

252. "I think the Council should hold off making any decisions until the current review of coastal shipping is completed & the year ending 30/9/18 financial report is received. The previous years report included additional cargo rerouted through Napier after Centreport Container Terminal was severely damaged in the 2016 Kaikoura earthquake. The loss of half a dozen visits from cruise liners will not harm the Port - Tourism is great for Hawkes Bay but the revenue from cruise ships would not justify building a new wharf. By the time the wharf is built the spike in log exports will have passed, allowing for an increase in other cargo should it eventuate. The expected increase in size of container vessels could lead to hubbing on smaller vessels. Discharge Auckland - load Christchurch & Tauranga with Hawkes Bay cargo transhipped to Tauranga, which is happening a fair bit now as it is" (sub#2260).

253. "Is it time to reassess how the port fits into the N.Z wide scheme. Has it reached its capacity? (sub#2896)

254. The decision about the port infrastructure needed in Napier needs to be part of a larger national transport strategy. Hawke's Bay would be foolish to invest in infrastructure that might not be ideal for purpose. How do we know mega-ships are going to come to Napier (as opposed to Tauranga, Auckland or Wellington.) We don't all need to build the infrastructure for these ships. Let's work with government and insist that there needs to be urgent work done on a national strategy. I am not suggesting we sit back and do nothing and miss the boat as it were. But let's be smart. We're a small country. A national transport strategy makes sense (sub#2957).

255. "My submission is a series of questions around the bigger picture and context of port expansion within the council's long term strategy which takes into account all four well beings. Although I would like the port to remain under public ownership and control none of the above options provide satisfactory answers to my questions. Is "expansion" really necessary? Are we going to continue to export high volume/ low value commodity goods? Surely we are not anticipating or promoting further "walls of wood" which are a direct legacy of historical poor planning and policy. Our export and trade mix could change substantially over the next 30 years as we respond and adapt to a low carbon economy and acknowledge limits to growth with higher value/lower volume goods. Do we have the feeder infrastructure and space to allow flow under the proposed expansion (rail/road/storage) of goods to/from the port. The minor side roads of Ahuriri are already clogged with queued, waiting logging trucks? Are cruise ships that beneficial to our community? I would like to see further full details of the revenue (including true cost accounting of the environmental impacts) they supposedly bring to the community. What has happened to the inland port concept at Whakatu? It would have been helpful to have had some of those earlier options acknowledged in the background information and the reasons that these options are no longer pursued. How does the Napier Port fit into government's long term coastal shipping strategy. It is unlikely to develop as a super port like Tauranga and it is not just a matter of "build it and they will come". I acknowledge the manipulation of shipping companies which is an unfortunate issue (sub#3486)

Officers' response to key theme "Fit with national policy"

256. A number of submitters raised the question as to how a new wharf at the Port would fit into possible new transport, freight or coastal shipping policies. Some submitters suggested any further Port development should be delayed for any such policy initiatives.

257. These are legitimate questions to ask and this was a theme that was considered and discussed at length both during and prior to the consultation process.

258. In May 2008, the government-of-the-day under Transport Minister Hon. Annette King published a coastal shipping strategy paper, titled 'Sea Change: Transforming Coastal Shipping in New Zealand.' The purpose of the paper was to promote the economic and environmental advantages of moving freight off roads and onto the country's domestic coastal shipping network. The Labour Party indicated that resurrecting this policy would be a priority on becoming part of the Government in 2017.

259. A focus of the document was how shifting freight transport modes onto the coastal shipping network could reduce the emission of greenhouse gases and reduce road congestion.

260. Political and public interest in the potential of coastal shipping in New Zealand has been fairly constant over the last two decades, as has the separate but interrelated idea of rationalising the country's ports in service of delivering more of a 'hubbing' approach to freight management, particularly for exports. Under a hubbing model, freight for export, for example, is trucked or shipped from one region to another, in order to be exported from a larger port.

261. On 13 June 2018 the Council Chair, Deputy Chair and CE met with the Transport Minister to provide an overview of the challenges facing Napier Port and outlining current thinking around possible funding solutions. In this conversation, the question was asked as to whether the Wharf 6 funding process should be delayed pending future policy developments. The response was that it was unlikely that there would be significant policy developments in the short term, with the possibility of a discussion document in 2019, and that any policy developments would not obviate the need for Wharf 6. The Council was encouraged by the Minister to continue on its path of consultation and decision-making.

262. The Regional Council's view is that future policy developments in relation to either port rationalisation or coastal shipping are more likely to advantage Napier Port and drive greater cargo volumes through it rather than disadvantage it and reduce volumes.

263. Given the current congestion at Napier port is a key driver for Wharf 6 and policy reform is intended to increase shipping volume it is difficult to see a viable future scenario which compromises or undermines the need for Wharf 6. Staff and Port management consider that any future port rationalisation is likely to focus on the country's smaller, non-export ports and would not negatively impact Napier. Napier Port is the country's fourth largest container port, servicing a central North Island economy valued at over $1 billion. The Port is very close to international shipping lines and many of the premium products it exports are time critical and high value, requiring direct access to international markets.

264. The stated policy intention at Central Government level is to favour a regime under which transport funding is 'mode neutral' with all means of freight transport eligible for public funding. Regardless of transport funding arrangements, potential for port rationalisation and coastal shipping policy changes there is no scenario under which Wharf 6 is not required and multiple scenarios which further require it. In the unlikely event that Napier Port received fewer large export vessels then it would receive a larger number of smaller vessels serving a hub, presumably in Tauranga.

265. Further, any rationalisation to reduce the number of ports in New Zealand would be politically complex and challenging, requiring a legislated regulatory intervention, given the assets do not belong to Central Government and the number of ports under mixed ownership models with existing private investment.

266. In light of the political and policy climate, and in discussion with transport policy makers, Council staff do not see a risk of Napier Port being negatively impacted by possible port rationalisation, a shift towards hubbing or coastal shipping policy developments that would justify deferral of the construction of Wharf 6.

267. All of these possible areas for policy development reinforce rather than weaken the case for Wharf 6 to be built within the Port's proposed timeframe.

Key theme 7. No justified need

268. At least 63 comments were made regarding a lack of business case, querying the need for the wharf or generally commenting that there was a lack of information on which to judge whether the wharf was needed.

269. During the consultation a number of letters to the editor and opinion pieces written by local members of the community were published in the local newspaper. Some of these questioned the existence of a solid business case and held personal opinions on the need for a new wharf and other issues such as whether the cost of later stage dredging was included in the $142 million

270. The table below shows the range of comments related to no justified need for wharf 6.

Sub-theme	Comments received
No justified need for wharf 6	63
Total	**63**

Quotes from submitters

271. Currently in the information you have provided you have not explained how adding additional wharves help The region as a whole rather than just in the context of the port. Having worked with the port, there needs to be some serious hard look at how port efficiency helps sustain economic growth. yes, there is an issue with cruise ships and log ship cross over it does not appear that the containers need to be increased. Has a proposal such as a dolphin(?) been looked for cruise ship berthing. Has the economy looked at as a whole rather than just in terms of port growth, Larger ships does not always mean better for the region!For example in Canterbury at Lyttelton port currently acts as a bottleneck this actially increases the economic activity of the region as more logs are processed in the region currently there are 8 domestic sawmills supplied from a forestry resource that is quarter of the size. Currently there are only 4 sawmills in the Hb. Having the port as the bottleneck means this resource is processed in the Canterbury region which employees people in local jobs, rather than exporting jobs to overseas……(sub#11)

272. I think there are too many unanswered questions and hidden agendas at stake here. The public does not have full disclosure and as they will be expected to fund this expansion through rates increases they have a right to have ALL the relevant information before making a decision. (sub#874)

273. The documents provided do not provide sufficient evidence that the new berth can be operated cost effectively. The layout behind the berth is shared with with berth 5. In order to operate a container berth cost effectively the cargo (containers) should be aggregated directly behind the berth. With the proposed layout this cannot be done hence reducing the efficiency…. (sub#1180)

274. I am not convinced we need a lot more space at the port - perhaps better organisation. As a regular walker on Bluff Hill the port is seldom "full". In addition selling assets to me is always the wrong solution, we need to retain these for the next generation. Borrow if you must be at least this will see a modest redevelopment. (sub#1417)

275. I'd want management to be sure the forecast volumes weren't influenced by the "blip" of freight diverted from Centreport after the Kaikoura earthquake. (sub#2249)

276. We do not need a special wharf for cruise ships anchor them out and use tenders for their transport in. This works very well around multiple countries and cities around the world…. (sub#2576)

Officers' response to key theme "no justified need"

277. Over the last two years, both through the Capital Structure Review process and through direct engagement between Council, HBRIC and Port governance and management functions, Council has satisfied itself of the requirement for Wharf 6 to be built within the timeframe outlined by the Port. The Council is unanimous on the need for Wharf 6 and in the view that doing nothing is not an option.

278. In reaching this consensus, there have been multiple presentations from the Port Chair, CEO and CFO to Council on Port performance, growth forecasts, operating constraints and capital expenditure requirements. The Port has prepared a Wharf 6 Justification Report to Council, which has been made publicly available through the consultation process. This report takes the form of a summary investment case and was presented to Council on 22 August 2018. This report has been updated in December 2018 and is included as 'Attachment 2' to the "Option Selection Decision on the capital restructure of the Napier Port" paper.

279. The Port has confirmed that a detailed business case for Wharf 6 is now in preparation following the approval of resource consents. Approval of this business case by the Port Board will occur prior to awarding design and construction contracts, and will be necessary prior to final execution of any of the capital funding options consulted on by Council.

280. While specific operational funding decisions are rightly the domain of the Board of Directors, it is clear from the analysis and advice provided to Council to date that Napier Port is a growing business with a strong trade and operating performance. The Port is essential to the Hawke's Bay Regional economy. In FY18 the Port achieved record cargo volumes (over 5 million tonnes) and delivered both solid revenue and profit growth. The Port is projecting a 30% volume increase over the next 10 years and these forecasts have been reviewed and supported by a preliminary independent trade and economic review.

281. As it stands today, the Port is constrained, congested and forced to turn away larger freight vessels. Napier Port has run out of wharf space. If a vessel is having to wait for a berth, the costs to the shipping company encourages them to look for other port alternatives. Requests to berth, from cargo vessels more than 300 metres long are being declined on a regular basis as they are too big to navigate in and out safely. In addition, the Port expects to turn away seven cruise ship visits next year.

282. Investment is required to accommodate the Port's growth and construct the new Wharf 6. The Port needs to spend $320–$350 million over the next decade to enable it to grow and meet Hawke's Bay's demand for its services, including the construction of Wharf 6 (to begin in 2020 and ready for use in 2022).

283. Ports commonly require major investment in waves as they reach capacity and then invest for the future. The Port's planned investment over the next decade represents a step change in capacity at the Port, enabling it to continue to serve a growing region.

284. An equity injection is required to significantly reduce its debt, thereby enabling the Port to resume investing in its future and self-fund its growth in a timely manner whilst maintaining prudent leverage levels. The Port does not have capacity to borrow to fund this future growth without requiring an additional capital injection from ratepayers (through dividend relief or capital injection), from sources of external capital, through taking debt to imprudent levels or deferring investment until such time as current debt has been repaid.

285. Doing nothing and not funding and building, or deferring a new wharf would put jobs and the Hawke's Bay economy at risk, placing an unacceptable burden on future Councils and generations.

286. The attached graph (pg 1 of attachment 1). of the Port's financial outlook, including the development of Wharf 6, illustrates positive improvement in commonly observed financial metrics such as improved return on assets, dividends and prudent debt levels.

286.1. Strong revenue growth of 4.1%p.a. from FY17 – FY28, above forecast GDP growth

286.2. Positive impact on return on assets (ROA), increasing to levels above FY17 by FY27 and improving thereafter

286.3. Total dividends increasing above historical levels and growing year on year post the Wharf 6 development

286.4. Net Debt / EBITDA remaining within prudent levels of less than 2x, excluding a short peak at 2.4x in FY22, and reducing back to conservative levels of less than 1x EBITDA by FY28.

Key theme 8. Use a proven model

287. Some submitters raised the fact that external capital is widely used in a range of companies and that mixed ownership models are relatively common in the New Zealand market. Additionally, 55 submitters made the case for a mixed ownership model in relation to the Port driving more commercial outcomes.

287.1. 131 submitters directly raised the comparison with the Port of Tauranga.

288. The table below shows the range of comments related to using a proven model.

Sub-theme	Comments received
Prefer commercial model (vs local govt)	40
Raises the most capital	30
It works for Tauranga	131
Drives efficiency and effectiveness of the port	55
Market determines the value of the port	3
Too risky	18
Total	**277**

Quotes from submitters

289. "This will reduce the pressure on the Regional Council to raise capital for the port and will give the public the opportunity to make a long term investment in a growing infrastructure asset. y retaining 51% the RC will retain overall control of the asset. This is a similar structure to the Port of Tauranga which has grown and prospered since it listed in the NZX. (sub#155)

290. "I think this is one of the most economically feasible and successfully implemented paths followed by many infrastructural development projects globally. This option B provides HBRC with adequate controls on the strategies, policies, and governance of the port's operations plus saves the rate payers from some extra financial burdens. This option also offers ample opportunity to HBRC to generate additional funding in future if needed for further expansion or refurbishments". (sub#3290)

Officers' response to key theme "Use a proven model"

291. This theme around using a proven model emerged most commonly in the context of support for the Council's preferred option of a minority share market listing of shares in the Port.

292. However, all of the options consulted on by the Council are proven models in their own right. For example, the long-term lease of Port operations is a commonly-used model in Australia; there are many wholly community owned assets, including Ports, around New Zealand; and many businesses have private cornerstone shareholders.

293. There are a wide range of ownership structures across New Zealand's ports, including a number with mixed ownership models. The Port of Tauranga most closely replicates the ownership structure proposed by the Regional Council in Option B.

294. There was a relatively high level of awareness of the Port of Tauranga under this ownership structure and this came through in submissions. The Port of Tauranga has been listed on the NZX since 1992.

295. The Port of Tauranga has rewarded both its Council shareholder and other investors and is a strong performer on the domestic market.

296. It is important to be clear that there are similarities and differences between Napier and the Port of Tauranga and there is no suggestion that the Port of Tauranga's success is exclusively due to its mixed ownership structure.

297. The Port of Tauranga is in a different location, it is a deep-water port and it occupies a large footprint. Napier will always operate at a significantly smaller scale than Port of Tauranga as it occupies a much smaller footprint and is not a deep-water port. Contrary to the sentiment expressed by some submitters, there is no proposal or intent for Napier Port to become a deep-water port or to attract 'megaships'.

298. Napier Port is not strategically located close to New Zealand's largest city, but it does support a thriving central North Island economy, particularly its primary production. Investing in additional wharf capacity to alleviate port congestion and accommodate larger ships at Napier will support direct, time critical market exports from Hawke's Bay and continue to maintain the most cost-effective shipping solution for local exporters. Napier Port is also within a short steaming distance from the main North-South shipping lane and so is well placed to continue to access export shipping services.

299. While Napier Port has a $320 - $350 million capital investment programme proposed over the next decade, including the $142 million cost for Wharf 6, the Port of Tauranga has recently completed its own $350 million investment programme which occurred between 2012 – 2017. Very generally, Tauranga's capex spend has focused on expanding wharves, new infrastructure and dredging.

300. There are a number of similarities with Napier's proposed capex requirements. On 24 August 2018, the Port of Tauranga reported a significant increase in profit which the Chair attributed to investment of $350 million:

   300.1. *"This growth is a direct result of Port of Tauranga's six-year investment in building capacity to accommodate larger vessels. We completed our capacity expansion programme in 2016 and the effects were almost immediate. We are seeing larger container vessels, as well as larger bulk cargo and passenger ships." (NZ Herald).*

301. Some submitters stressed that Napier Port should operate as a commercial entity. While the Port currently does operate as an arms-length commercial entity, the adoption of the preferred Option B would impose additional requirements on the operation of the Port as a commercial, publicly-listed company.

302. The most material of the additional requirements as a public company would be in terms of the Port's disclosures. The Port would be subject to the continuous disclosure obligations on all listed companies through which any material information must be immediately communicated to the market in the first instance.

303. Under a mixed ownership model as per Option B the Port would be required to make routine performance disclosures to the market, hold an annual meeting for shareholders, produce an annual report for shareholders and treat all shareholders equitably. Additionally, the Port would be expected to develop an internal capability around the management of a market listing, including the strategic management of an investor relations function.

Key theme 9. Various

304. This theme groups together a broad range of reasons and miscellaneous comments raised by a small number of submitters. This includes 97 comments from submitters wanting Council to be more "imaginative" with proposed solutions and to look beyond the four options provided in the Consultation Document. Some submitters favoured a hybrid or blend of options.

305. At least 66 submitters had concerns around previous experiences such as Ruataniwha Water Storage Scheme, and whether HBRC could be trusted to reinvest wisely based on the past. This includes comments around the ring-fenced investment fund.

306. The table below shows the range of comments included in this theme.

Sub-theme	Comments received
Explore other options	97
Distrust of HBRC	66
Want a referendum	27
Relocate the port	8
Easier to negotiate with less parties	2
Too expensive	2
Other	23
Total	**159**

307. The submissions coded to "other" were either asking questions, commented that there was not sufficient information on which to make a decisions or were unique points not previously raised.

Quotes from submitters

308. "There seems to be an important option missing. This would be to make all ratepayers shareholders, issuing a number of shares proportional to the rating of the property. Even if rates have to be raised to fund investment in the port, the HBRC ratepayers have a very real stake in the developments and would receive dividends in the same way that any other shareholders would. A public share offer will just end up with a significant minority shareholding of the port in the hands of large financial institutions rather than belonging to the people of Hawke's Bay." (sub#1306)

309. "Raising sufficient capital by the issue of debentures, commencing and maturing at different times as available funds are required or surplus thereof - for the construction of Wharf 6. There are no graphs to show the funds that would be generated by the new wharf to pay the costs of borrowing plus a good margin left over for capitol repayments or improvements - must be self funding." (sub#1687)

310. "Napier port airport trust for the people off HB. Combine the Napier Port /Napier Airport as one share offer. Give say 100 shares (estimate) each to Rate payers to keep or sell there choice.This way Rate payers can keep the Dividend to help pay the Yearly Rates,Offer the other shares if any to Rate payers they can can purchase if they wish. Shares not sold HBRC Retains shares and offers them at a later date (sub#2693)

311. "I agree that the Port needs to expand. However I cannot support any of the preferred options. What is wrong with a combination of the above?" (sub#2227)

312. "I don't think HBRC should sell some of the port to raise about $83m to invest in a "future investment fund". Even though the "future investment fund" would have the capital ring-fenced by the current council, the current council can't however bind future councils to this strategy. Future Councils could decide to use the capital for some big controversial project (e.g. a water storage scheme) and break the ring-fence. There is no guarantee the fund would get 5% return. Interest rates are low and are forecast to

stay low. The share/stock markets are volatile and equities have already had a good rise in recent years" (sub#2103).

313. "The consultation document gives no clear indication as to how the investment income might be spent. There have been various ideas mentioned such as environmental projects and /or stopbank / flood control replacements. These are worthy projects but they should stand alone and if they need to done they should withstand the scrutiny of the long term plan process and be either funded through rates or user pays. I urge the Council to rethink the percentage of Port shares to be sold and only sell the percentage required to raise sufficient funds to repay existing Port debt. Should Council continue with Option B then please do some homework and find a watertight mechanism for ring-fencing the "future investment fund" and tag the fund's income for future capital requirements for the Port. If you can't find a watertight mechanism don't sell the additional shares. Hawke's Bay Regional Council's shares in the Port of Napier are our region's "family silver". They are an inheritance passed down to us by previous generations and it is essential that today's decision makers protect this inheritance for the benefit of future generations. …" (sub#3235).

314. "Killing the goose that laid the Golden Eggs The purpose of the Council wanting to sell shares in the port should be to raise $86.6 million only, so the Port Company can repay existing debt. Why does the Council consider it necessary to raise $181m, give $86.6m to the Port to surrender their debt, and pocket an additional $83m themselves to 'invest' in a "future investment fund". The cost of raising that money is a $11.4m expense which is another unnecessary chunk of the port that has to be sold. One needs to ask why the Council recommends selling more of the Port than it has to. The Council is using this opportunity to strip $83m from the value of the Port and put it in a "Future Investment Fund", "in which the capital would be ring-fenced". This could be interpreted as 'ring-fenced' to HBRC Port investment, but it seems that is not the intention. even though that could be the prudent thing to do if the proposal to sell the port by IPO succeeds.. So the $83m capital in the 'future fund' would eventually be used on other pressing projects in the LTP. In the not too distant future, that "future fund" will be fully spent." (sub#949)

315. "Not sufficient financial information re: options to make a choice. eg: rate increase should 49% of rent be floated with council dividend halved, financial projections for each option" (sub#1701).

316. Is the 20% of annual income all dividends or does the council earn operational income from the Port. If it is dividend will the lag between selling 49% & future growth create a situation where the council has a short term reduction in income & therefore require a rate increase to cover it? (sub#1629).

317. "I don't support any of the above. Need more information on past spending and where has profits for port/land sales have gone. Why is the full story not being told?" (sub#1966.)

318. "I do not believe reliable information is given regarding the rates increases we could expect if full ownership is retained. The majority of my rates go to dredge Muddy Creek, why would this increase 45%. Surely the rate would be targeted as many are. I would like to know how much my rate would increase before making a decision" (sub#2995).

319. "Projected port income 2016-2028 is expected to increase by 57%.Your documents state that that will be sufficient to fund this development. Historically 49% shareholding has often resulted in 100% private ownership in a few short years. $86.6 million required for waterways/erosion controls should not influence decision concerning continued ownership of the port. The debt is not related.If option B is persued will this result in a reduction of 49-50% of the current rebate in our annual Regional Council rates?" (sub#3102)

Officers' response to key theme "Various"

<u>Explore other options</u>

320. Council has set clear objectives for the consideration of options. They are:

    320.1. Secure the investment the Port requires

    320.2. Retain majority community ownership of the Port

    320.3. Protect ratepayers from the cost of funding port development

    320.4. Diversify and de-risk the Regional Council's investment to better protect ratepayers

    320.5. Retain exposure to the future financial performance of a growing strategic asset.

321. During the Capital Structure Review, nine potential funding solutions were explored, with five ruled out by Council on the grounds they did not satisfy most or all of the above objectives (see table, pg 2 of attachment 1).

322. The ruled out options were:

    322.1. *The Port does not invest, so it can keep paying dividends (do nothing)*. This was ruled out on the grounds of the likely negative impact on the regional economy.

    322.2. The Port increases its debt levels to fund Port development needs (e.g. bank debt, shareholder loan or issuing a bond). This was ruled out on the grounds it is commercially imprudent.

    322.3. *The Port increases its prices or introduces a levy on Port users to fund Port development.* This was ruled out on the basis that users will pay over time and the risk of competitive and regulatory pressures the port could face.

    322.4. *HBRIC/the Port receives dividend relief for a defined period.* This was ruled out on the grounds that it reduces Council income and places a consequent burden on ratepayers.

    322.5. Council invests more capital into HBRIC/Port. This was ruled out on the basis that it increases Council costs or reduces income, placing a burden on the ratepayer, in addition to constraining Council funds for core environmental programmes.

323. The other four options were taken to consultation, as outlined in Consultation Document – 'Our Port – Have your Say'.

324. Throughout the consultation process Council was asked to consider other options. Variations of options were suggested through submissions which either fell into one of the above five categories already explored and ruled out, or a hybrid version thereof, e.g.

    324.1. *Council should borrow or invest some of the funds.* All variations that fall into this category either take the Council outside prudent debt levels as highlighted in other sections of this paper, and/or through increased costs or lost income, place a burden on the ratepayer. In addition, it is important that Council maintains adequate access to funds to invest in inter-generational environmental initiatives and core Council services by preserving capital funds and borrowing capacity. On this basis, they do not meet Council's objectives.

    324.2. *The Port should fund more through increased borrowing or reduced dividends.* It is important to note, that in all proposals presented, the Port, its users and shareholders will pay for all port investment over time through Port debt, increased trade volumes and pricing (users) and dividends (Port return to its owners).

    324.3. In most instances where variations seek to re-distribute the funding sources this results in some combination of imprudent debt levels; reduced income/increased costs to Council; burden on the ratepayer; restricted funds for Council to pursue core Council business.

325. The above factors have led to a clear finding that the introduction of external capital is the most effective means to balance both the Council's and the Port's needs.

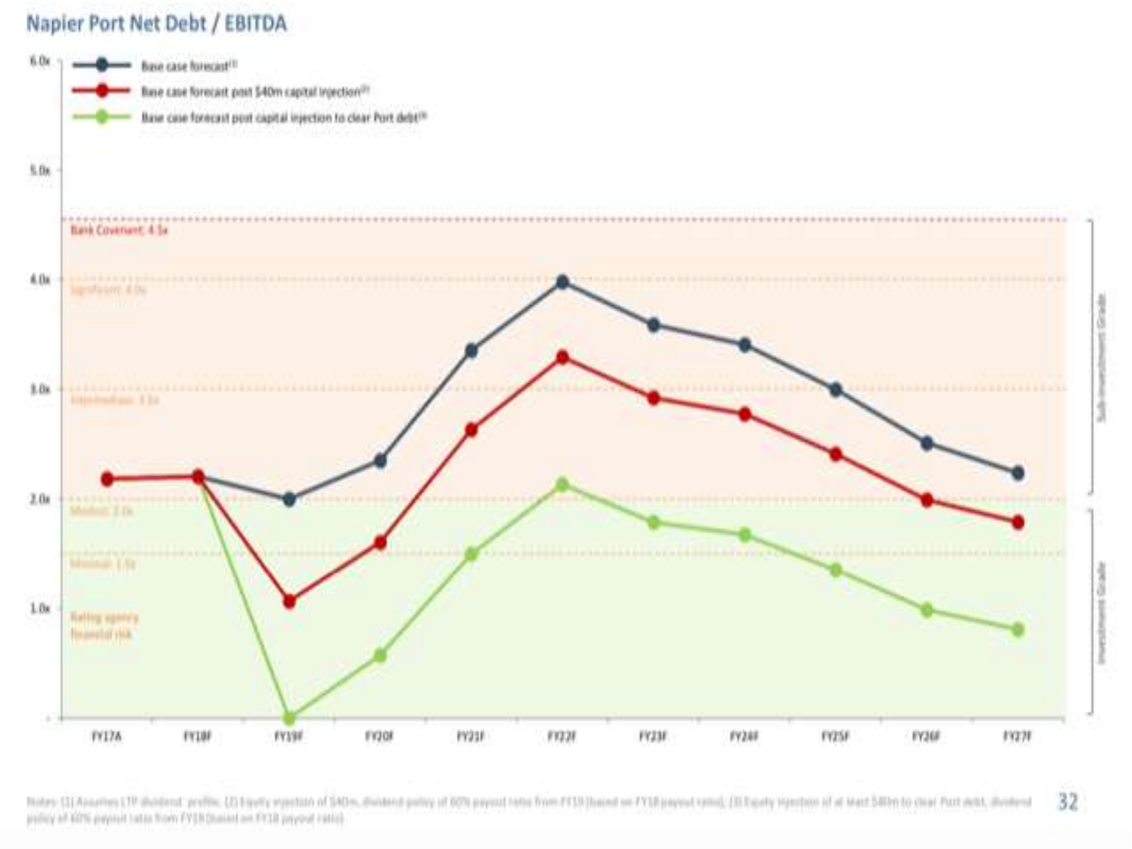
326. Council has retained option A on the basis of testing community appetite for maintaining 100% ownership. Should Council decide in favour of this option, further work would be undertaken in order to maintain 100% ownership, such as through securing a credit rating to enable higher borrowing. In all scenarios involving Council borrowing to fund the Port's growth, there is a significant cost to ratepayers.

327. Additionally, it should be noted that Council's preferred capital structure is already a variant on the option to retain or sell 100% of the Port. Under the preferred structure the Port will still borrow more/retain profits to fund Wharf 6.

328. Under the Port Companies Act 1988, Part 1 (5) the principal objective of every port company shall be to operate as a successful business. As a commercial entity required to operate as a successful business, the Port will also continue to pursue revenue growth through pricing and trade growth to achieve acceptable commercial returns, within a competitive context.

329. Council has also planned to maintain modest forward dividend expectations (i.e. supporting the Port to retain profits for investment). Council has planned for borrowing under its 2018-2028 Long Term Plan in order to fund its environmental work programme.

330. The graph below illustrates that even if Council could offer an equity injection to Napier Port of $40 million (for example of a hybrid option) imprudent levels of debt would be exceeded in order to fund the development of the wharf, which rules this option out. In order to recover this expense from its customers via a user pays type model, should it be viable, Napier Port first needs the borrowing capacity to raise the capital.



Ring fenced Investment Fund

331. The consultation focused on raising capital for the Port and proposed placing any additional capital raised for release to Council - the proceeds remaining after the Port debt has been cleared would be placed into the Council's existing diversified investment portfolio with investment returns offsetting the share of Port dividend that would go to other investors.

332. When preparing its annual and Long Term Plans, Council reviews its Investment Strategy and determines the optimal placement of investment funds. The current 2018-28 Long Term Plan states in its Investment Strategy that the diversified investment fund is a fund whereby the capital is protected and inflation proofed similar to the 'Future Fund' referred to in the consultation document.

Item 8

333. Some submitters expressed concern that capital raised and returned to Council for investment into a 'future fund' under Council's preferred option could too easily be reallocated for other projects or initiatives at the discretion of future Councils.

334. A significant change in financial or investment strategy such as reallocation of a large investment fund would require consultation with the community. This is the primary safeguard in protecting the asset.

335. Several submitters asked what kind of mechanisms could be put in place to ensure the funds invested in the Council's 'future fund' are protected from future councils that may wish to spend it on something else:

336. **Settlement of a trust** - It would be unusual to try and ring-fence Council assets so that future Councils could not access those assets to be used for purposes deemed appropriate by a future Council. However, in the event that Council did want to consider this option the most effective way to do this may be to settle a trust with the future fund.

337. The trust could provide for distributions to the Council from the assets of the trust during its life (to be used to offset against rates) but upon winding up, the proceeds would not be returned to Council (e.g., they could be applied for specified community purposes). Trustees could be appointed by Council, elected by ratepayers, a combination thereof or other means specified in the trust deed. Such a trust would act as a 'poison pill' where winding up the trust to attempt to access the capital of the future fund would lead to that capital being distributed to persons other than the Council.

338. If this option is to be considered further, careful thought will need to be given to whether the Council and Councillors would be acting appropriately and in accordance with their legal obligations in alienating Council capital in this way.

339. **Reserve funds** – An alternative mechanism for the Council could be to place the remaining proceeds in a reserve fund, in accordance with the Local Government Act 2002 (LGA). Council already uses reserve funds for a range of purposes. A reserve fund means money that is set aside by a local authority for a specific purpose. Any reserve fund must be identified in a local authority's long-term plan and annual plan, along with the following details:

339.1. the purpose of the fund;

339.2. the activities to which the fund relates;

339.3. the amount expected to be in the fund at—

339.4. the commencement of the year or first year to which the long-term plan relates (as applicable);

339.4.1. the end of the year or the last year to which the long-term plan relates (as applicable);

339.5. the amount expected to be deposited in the fund during the year or in the period to which the long-term plan relates (as applicable); and

339.6. the amount expected to be withdrawn from the fund during the year or in the period to which the long-term plan relates (as applicable).

340. The Council's current long-term plan would likely need to be amended if a new reserve fund was to be introduced. Ultimately, the purpose and activities of any reserve fund established by the Council could be changed by a future Council through making an amendment of the long-term plan. An amendment to the long-term plan would require the Council to follow the special consultative procedure. While this may serve as a

form of process constraint on future Councils, it would not entirely protect the funds from being directed towards a different use.

341. Reserve funds have been adopted by other regional councils as a means for setting aside money raised from share sales for future investment and/or development. For example: The Waikato Regional Council (WRC) has an investment fund which originated from the sale of its shares in the ports of Tauranga and Auckland in the early 1990s. Returns from the WRC investment fund "are used to inflation proof the fund to maintain the capital base, keep rates down via a rates subsidy, and build up the council's Development Fund which itself is used to contribute to significant one off projects that have regional benefit." The WRC has a policy for its Regional Development Fund and the WRC's long-term plan states that the purpose of the Regional Development Fund is "to recognise the provision for the regional development fund and implementation of the regional development fund policy" and the activities are listed as "science and strategy".

342. The Bay of Plenty Regional Council (BPRC) established an infrastructure fund reserve to fund infrastructure projects that benefit the wider regional community. The investment fund was established with the proceeds of the BPRC's sale of perpetual preference shares in Quayside Holdings Limited (the majority holder of Port of Tauranga Limited). BPRC oversees the performance of the fund and adopts an appropriate balance between capital risk accepted and the return received.

343. If this option is to be explored further, the Council would need to consider whether additional amendments would need to be made to the Council's current long-term plan, the process for any such amendments, and whether the Council would need to undertake further consultation before it could amend the long-term plan in this regard.

344. In summary the Council has a number of options available to formalise the purpose and reporting of its 'Future Fund' if desired.

Decision Making Process

345. This report forms part of the information to inform Council's overall decision on the capital restructure of the Napier Port.

Recommendations

That the Hawke's Bay Regional Council receives and notes the "*Analysis of Feedback and Officers' Responses to Key Themes*" staff report.

Authored by:

Desiree Cull
STRATEGY AND PROJECTS LEADER

Jessica Ellerm
GROUP MANAGER
CORPORATE SERVICES

Approved by:

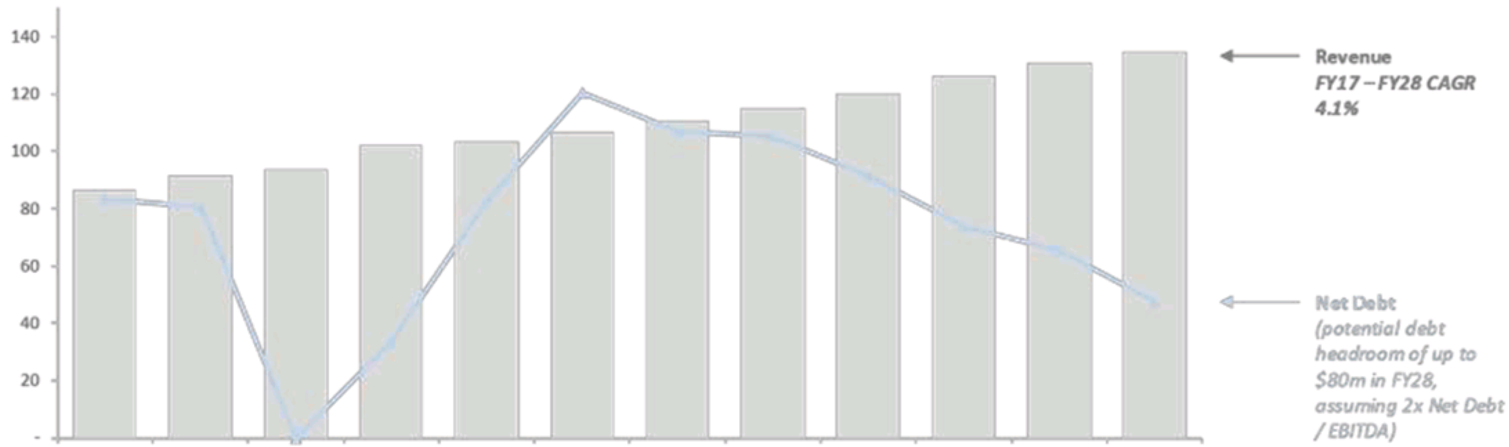
James Palmer
CHIEF EXECUTIVE

Attachment/s

⇩**1** Napier Port financial forecasts graph and CSRP table

⇩**2** Common Reasons by Option

Napier Port financial forecasts1 ($m, y.e. 30-Sep) – assumes FY19 capital injection to clear Port debt



	FY17A	FY18A	FY19F	FY20F	FY21F	FY22F	FY23F	FY24F	FY25F	FY26F	FY27F	FY28F	
Return on Assets	5.4%	4.9%	5.4%	6.6%	5.3%	4.5%	4.4%	4.6%	4.8%	5.4%	5.8%	6.0%	ROA
Total Dividends[2] ($m)	10.7	10.0	11.1	15.5	14.1	13.4	13.0	13.8	14.5	16.0	17.4	17.7	Dividends
HBRC 55% Dividends ($m)	-	-	-	8.5	7.8	7.4	7.2	7.6	8.0	8.8	9.6	9.7	
Net Debt / EBITDA	2.2x	2.1x	0.0x	0.7x	1.7x	2.4x	2.0x	1.9x	1.6x	1.2x	1.0x	0.7x	Net Debt / EBITDA

Appropriate to target a modest Net Debt / EBITDA ratio of <2x

The Port's financial outlook, including the development of Wharf 6 to facilitate the Port's growth, illustrates positive improvement in commonly observed financial metrics – improved return of assets, dividends and prudent debt levels

[1] Based on the latest Port forecasts, to be refined and updated based on adviser analysis in Phase 2

[2] Total dividend payable (100%) by Napier Port, assumes 60% payout ratio consistent with consultation materials

Option	Provides Council income	Provides Council with capital	Fund Port development	Support long term Port growth	Support Council strategy/LTP	Council ability to maintain control	Impact on portfolio risk profile	Comments
1. The Port delays investment, so it can keep paying dividends	Status quo, may reduce over time	No	No	No	No	Yes	Increased risk	Is Council prepared to put Port at risk?
2. The Port increases its debt levels to fund Port development needs (e.g. bank debt, shareholder loan, or issuing a bond)	Interest costs reduced port profits and dividents in short-medium term	No	Yes	No	No	Yes	High risk Port outside acceptable debt levels	
3. The Port charges its users a special price or levy	Status quo	No	Yes	Yes	Yes	Yes	Unchanged and still high exposure	Address port capital needs but not Council risk exposure.
4. Council provides dividend relief to the Port for a defined period	No Major loss of income	No	Yes	Yes	No	Yes	Council faces annual losses and large rates increases	Creates major income issues for Council
5. Council invests more capital into the Port	Loss of income for short-medium as council loses investment income or incurs interest costs + reduced Port returns.	No Reduces Council capital for other items	Yes	Yes	No	Yes	Increases Council risk exposure to one asset	

Option	Provides Council income	Provides Council with capital	Fund Port development	Support long term Port growth	Support Council strategy/LTP	Council ability to maintain control	Impact on portfolio risk profile	Comments
6. Council charges ratepayers a special levy to fund the Port developments	Yes	No	Yes	Yes	No	Y e s		Impact on ratepayers a key consideration
7. Minority share in the Port sold to another investor	Neutral if released funds reinvested (lose 25% of dividends, gain back if re-invested)	Yes approx. $50M+	Yes	Yes	Yes	Yes	Reduces risk exposure	
8. The Port is listed on theNZX, with HBRIC/Council retaining majority ownership	Higher price freeze up. More funds to invest at higher returns. Approx +$2M p.a.	Potentially – subject to price approx. $50M++	Yes	Yes	Yes	Yes	Initially reduced, however, value subject to share market movements	
9. The Port is leased to another party (with HBRIC/ Council maintaining ownership of the Port assets)	Yes options reinvest at higher levels approx. +$5-15M	Yes, if upfront lease payment approx. $50M+++	Yes	Yes	Yes	Largely, but through contractual agreement with leasee	Heavily reduced exposure to Port	Does the Council need to be the operator of the Port?

Options by reason

The following information represents a detailed breakdown of reasons given for each of the four options (A, B, C, D) presented to the public, along with None of the Above.

Option A – Retain 100 per cent ownership and control of the Port and fund its growth via Council borrowing with the costs covered by ratepayers.

Of those that preferred Option A (fund via rates/borrowing) the common reasons expressed (from highest to lowest) were:

Sub-theme	Comments Received
No Comment	287
Strategic public asset, ownership = control	197
Willingness to increase rates to retain full ownership	179
Against overseas ownership	88
PONL should fund from retained earnings/user pays	79
Irreversible "gone for good"	59
Retain 100% ownership but no impact on rates	48
Against change	44
Retains operational control	37
Central government should fund	37
Distrust of HBRC	33
Explore other options	33
HBRC should fund from investments (not rates)	27
Concerns about environmental/noise impact	26
Retains exposure of future earnings of a growing port	25
Intergenerational loan – extend term of loan	22
No justified need for wharf 6	21
Gives local opportunity to invest	20
Sell down less than 49%	18
Want a referendum	17
Distrust port management	14
Fit with national policy (sea change)	8
Retains majority ownership	6
Protects ratepayer from increase	6
Other	6
Relocate the port	3
Too risky	3
Diversifies and de-risks HBRC investments	2
Prefer commercial model (vs local govt)	2
It works for Tauranga	2
Support mix of ownership	1
TOTAL (includes No Comment figure)	**1350**

Option B – Float a minority stake – up to 49 per cent – in Napier Port on the New Zealand Securities Exchange (NZX)

Of those that preferred Option B the common reasons expressed (from highest to lowest) were:

Sub-theme	Comments Received
No Comment	964
Gives local opportunity to invest	521
Protects ratepayer from increase	197
Retains majority ownership	192
Against overseas ownership	131
It works for Tauranga	126
Sell down less than 49%	85
Retains exposure of future earnings of a growing port	54
Diversifies and de-risks HBRC investments	51
Drives efficiency/effectiveness of port	50
Strategic public asset, ownership = control	44
Support mix of ownership	43
Retains operational control	33
Concerns about environmental/noise impact	24
Prefer commercial model (vs local govt)	21
Raises the most capital	15
HBRC should fund from investments (not rates)	9
Central government should fund	8
No justified need for wharf 6	8
PONL should fund from retained earnings/user pays	7
Other	7
Distrust of HBRC	4
Explore other options	4
Distrust port management	4
Retain 100% ownership but no impact on rates	3
Market determines the value of the port	3
Intergenerational loan – extend term of loan	2
Sell down more than 49%	2
Relocate the port	2
Too risky	2
Easier to negotiate with less parties	2
Willingness to increase rates to retain full ownership	1
Irreversible "gone for good"	1
Against change	1
Too expensive	1
TOTAL (includes No Comment figure)	**2622**

Option C – Sell a minority stake – up to 49 per cent – in the Port to a cornerstone investment partner

Of those that preferred Option C the common reasons expressed (from highest to lowest) were:

Sub-theme	Comments Received
No Comment	28
Gives local opportunity to invest	14
Against overseas ownership	12
Sell down less than 49%	11
Protects ratepayer from increase	8
Strategic public asset, ownership = control	5
Prefer commercial model (vs local govt)	5
Central government should fund	4
Explore other options	4
Distrust port management	4
Retains majority ownership	4
Support mix of ownership	4
Retains operational control	3
Too risky	3
Drives efficiencies / competitiveness of port	2
Concerns about environmental/noise impact	2
Retains exposure of future earnings of a growing port	2
Diversifies and de-risks HBRC investments	2
It works for Tauranga	2
Raises the most capital	1
Sell down more than 49%	1
Distrust of HBRC	1
No justified need for wharf 6	1
TOTAL (includes No Comment figure)	**123**

Option D – Lease the operation of the Port to a third party operator for a period of up to 50 years

Of those that preferred Option D the common reasons expressed (from highest to lowest) were:

Sub-theme	Comments Received
No Comment	27
Raises the most capital	14
Protects ratepayer from increase	9
Distrust of HBRC	7
Prefer commercial model (vs local govt)	6
Strategic public asset, ownership = control	4
Too risky	4
Diversifies and de-risks HBRC investments	4
Retain 100% ownership but no impact on rates	3
Concerns about environmental/noise impact	3
Drives efficiencies / competitiveness of port	3
HBRC should fund from investments (not rates)	2
No justified need for wharf 6	2
Support mix of ownership	2
Willingness to increase rates to retain full ownership	1
Against overseas ownership	1
Irreversible "gone for good"	1
Retains operational control	1
Explore other options	1
Retains exposure of future earnings of a growing port	1
Sell down less than 49%	1
Distrust port management	1
Retains majority ownership	1
TOTAL (includes No Comment figure)	**99**

None of the Above

There were a number of submissions that did not select any of the above options. Of those that selected None of the Above the common reasons expressed (from highest to lowest) were:

Sub-theme	Comments Received
PONL should fund from retained earnings/user pays	90
Sell down less than 49%	63
Explore other options	55
Central government should fund	39
Gives local opportunity to invest	33
Concerns about environmental/noise impact	31
No justified need for wharf 6	31
Against overseas ownership	28
Strategic public asset, ownership = control	26
Retain 100% ownership but no impact on rates	24
Against change	24
Distrust of HBRC	21
HBRC should fund from investments (not rates)	15
Fit with national policy (sea change)	15
Distrust port management	14
Willingness to increase rates to retain full ownership	13
No Comment	12
Want a referendum	10
Other	10
Irreversible "gone for good"	8
Retains majority ownership	6
Protects ratepayer from increase	6
Too risky	6
Prefer commercial model (vs local govt)	6
Intergenerational loan – extend term of loan	5
Retains operational control	4
Diversifies and de-risks HBRC investments	4
Support mix of ownership	4
Relocate the port	3
Retains exposure of future earnings of a growing port	2
It works for Tauranga	1
Too expensive	1
TOTAL (Includes No Comment figure)	**610**

Overall comparison of reasons (by Option)

Key reason	Option A	Option B	Option C	Option D	None of the Above	TOTALS
Gives local opportunity to invest	20	521	14	0	33	588
Strategic public asset, ownership = control	197	44	5	4	26	276
Against overseas ownership	88	131	12	1	28	260
Protects ratepayer from increase	6	197	8	9	6	226
Retains majority ownership	6	192	4	1	6	209
Willingness to increase rates to retain full ownership	179	1	0	1	13	194
Sell down less than 49%	18	85	11	1	63	188
PONL should fund from retained earnings/user pays	79	7	0	0	90	176
It works for Tauranga	2	126	2	0	1	131
Explore other options	33	4	4	1	55	97
Central government should fund	37	8	4	0	39	88
Concerns about environmental/noise impact	26	24	2	3	31	86
Retains exposure of future earnings of a growing port	25	54	2	1	2	84
Retain 100% ownership but no impact on rates	48	3	0	3	24	78
Retains operational control	37	33	3	0	4	77
Irreversible "gone for good"	59	1	0	1	8	69
Against change	44	1	0	0	24	69
Distrust of HBRC	33	4	1	7	21	66
No justified need for wharf 6	21	8	1	2	31	63
Diversifies and de-risks HBRC investments	2	51	2	4	4	63
Drives efficiency / effectiveness of port	0	50	2	3	0	55
Support mix of ownership	1	43	4	2	4	54
HBRC should fund from investments (not rates)	27	9	0	2	15	53
Prefer commercial model (vs local govt)	2	21	5	6	6	40
Distrust port management	14	4	4	1	14	37
Raises the most capital	0	15	1	14	0	30

Key reason	Option A	Option B	Option C	Option D	None of the Above	TOTALS
Intergenerational loan – extend term of loan	22	2	0	0	5	29
Want a referendum	17	0	0	0	10	27
Fit with national policy (sea change)	8	0	0	0	15	23
Other	6	7	0	0	10	23
Too risky	3	2	3	4	6	18
Relocate the port	3	2	0	0	3	8
Market determine the value of the port	0	3	0	0	0	3
Sell down more than 49%	0	2	1	0	0	3
Too expensive	0	1	0	0	1	2
Easier to negotiate with less parties	0	2	0	0	0	2

Reasons by theme

The numbers below reflect the total number of comments entered for each of the 9 key themes per Option (A, B, C, D, None of the above)

Option A

Key theme		Comments received
1	Local ownership is important	703
2	Protect ratepayers	95
3	PONL should self-fund	93
4	Sell down less than 49%	18
5	Minimise environmental impacts	26
6	Fit with national policy	8
7	No justified need	21
8	Proven model	7
9	Various	92
	TOTAL	**1063**

Option B

Key theme		Comments received
1	Local ownership is important	981
2	Protect ratepayers	310
3	PONL should self-fund	11
4	Sell down less than 49%	97
5	Minimise environmental impacts	24
6	Fit with national policy	0
7	No justified need	8
8	Proven model	217
9	Various	20
	TOTAL	**1668**

Option C

Key theme		Comments received
1	Local ownership is important	40
2	Protect ratepayers	18
3	PONL should self-fund	4
4	Sell down less than 49%	12
5	Minimise environmental impacts	2
6	Fit with national policy	0
7	No justified need	1
8	Proven model	13
9	Various	5
	TOTAL	**95**

Option D

Key theme		Comments received
1	Local ownership is important	13
2	Protect ratepayers	17
3	PONL should self-fund	1
4	Sell down less than 49%	1
5	Minimise environmental impacts	3
6	Fit with national policy	0
7	No justified need	2
8	Proven model	27
9	Various	8
	TOTAL	**72**

None of the Above

Key theme		Comments received
1	Local ownership is important	168
2	Protect ratepayers	73
3	PONL should self-fund	104
4	Sell down less than 49%	63
5	Minimise environmental impacts	31
6	Fit with national policy	15
7	No justified need	31
8	Proven model	13
9	Various	100
	TOTAL	**598**

Overall comparison of reasons (by theme)

Key theme		Option A	Option B	Option C	Option D	None of the Above
1	Local ownership is important	703	981	40	13	168
2	Protect ratepayers	95	310	18	17	73
3	PONL should self-fund	93	11	4	1	104
4	Sell down less than 49%	18	97	12	1	63
5	Minimise environmental impacts	26	24	2	3	31
6	Fit with national policy	8	0	0	0	15
7	No justified need	21	8	1	2	31
8	Proven model	7	217	13	27	13
9	Various	92	20	5	8	100
	TOTAL	**1063**	**1668**	**95**	**72**	**598**

HAWKE'S BAY REGIONAL COUNCIL

Wednesday 19 December 2018

Subject: OPTION SELECTION DECISION ON THE CAPITAL RESTRUCTURE OF THE NAPIER PORT

Item 9

Reason for Report

1. This report provides an overview of the background that has led to the decisions that the Hawke's Bay Regional Council (Council) is being asked to make. This overview includes:
   1.1. outlining the objectives identified by the Council in relation to funding the future of Napier Port
   1.2. outlining the options identified by the Council as the reasonably practicable options to meet its objectives, and
   1.3. identifying why other options considered at an earlier stage were not progressed as being reasonably practicable options.
2. This report also:
   2.1. identifies the reasonably practicable options that the community has been consulted on through a special consultative procedure relating to the achievement of the Council's objectives, including the advantages and disadvantages of each of those options.
   2.2. provides an overview of the process that the Council has undertaken over the past two years, that has led to this point
   2.3. provides an overview of the views and preferences of persons likely to be affected by, or interested in, the matter, as well as considering Māori interests and views
   2.4. outlines other considerations that Council should be aware of and take into account in making its decisions, and
   2.5. makes recommendations to Council in relation to decisions that the Council is being asked to make in relation to addressing the future needs of Napier Port.

Scope of key decision

3. This report seeks what is effectively an **in-principle** decision from Council on which (if any) of the four options presented to fund the growth of Napier Port, recently consulted on by the Council through a special consultative procedure in "Our Port – Have Your Say", should be progressed. To do this, Council must agree on which of the options should be further refined or alternatively, that none of the options should be progressed and that Council should consider different options. In making this in principle decision, Council should note the extensive assessment of options undertaken to date and possibility that other options will also involve trade-offs which do not meet the Council's objectives.
4. This in-principle decision will enable Council staff, Hawke's Bay Regional Investment Company Limited (HBRIC) and Napier Port to progress further more detailed work on the chosen option in order to put the Council in a position to (at a future meeting of Council) finalise and adopt necessary amendments to the Council's current Long-Term Plan, and proceed to implement the chosen option.
5. This report is **not** seeking a decision to proceed to implement any of the options (i.e. it is not seeking a decision that shares in Napier Port may be sold or that Napier Port be leased under a long-term operating lease). Such a decision could only be taken if permitted in Council's Long-Term Plan. Rather, the adoption of any amendments required to Council's current Long-Term Plan to implement an option, would occur at a subsequent meeting of Council once further more detailed work on the chosen option

is progressed and presented to Council. It is expected that Council will consider such matters at a future meeting during the first quarter of 2019.

6. The recommendations for each option (and none of the options), including for Council's currently preferred option (Option B – up to 49% public share offer), have been drafted in a way that enables Council to provide some flexibility as to how the final option selected would be structured. This is to ensure that Council staff, HBRIC, Napier Port and their respective advisors, have room to advise Council on the best structuring for such a transaction/option.

Supporting reports and attachments

7. The body of this report should be read and considered in conjunction with the information outlined in the following supporting reports and attachments to this report (each of which are referred to in the body of this report), as well as the views and preferences expressed by persons interested in, or affected by, the decision to be made by Council, as expressed to Councillors first-hand.

Separate Reports

7.1. **Report 1:** Napier Port: Engagement and consultation undertaken as part of the decision-making process

7.2. **Report 2:** Analysis of Feedback and Officers' Responses to Key Themes

Attachments to this report

7.3. Consultation Document "Our Port – Have your say"

7.4. 6 Wharf Development Justification, Updated December 2018.

7.5. Napier Port: Summary Review of Capital Structure Options, PWC, October 2018.

Background: How has Council got here?

The need for a decision on funding the future growth of Napier Port

Napier Port itself

8. Napier Port is a growing business that is essential to the Hawke's Bay regional economy. The Port remains the region's single biggest economic enabler associated with around half of the region's economy and supporting about 27,000 full and part-time jobs.

9. Due to growth, the Port is becoming increasingly constrained, despite a strong capital development programme and the Council actively supporting the Port via modest dividend expectations, enabling over $120 million in retained earnings to date.

10. Through considered planning, Napier Port has identified that it needs $320–$350 million of further capital investment over the next decade to support continued growth and prosperity in the region and to meet demand for its services. This includes the construction of a new wharf, which during the last two years has become more urgently required due to cargo growth exceeding expectations.

11. Like any business facing rapid growth, the Port and its Council shareholder are confronted with the choice of funding increased operating capacity through retained earnings on a 'pay as you go' basis or through an injection of new capital. The scale and pace of recent growth in Napier Port is such that funding the 'lumpy' investment of Wharf 6 by retained earnings alone would necessitate a significant delay in construction, with associated impacts on port congestion and regional economic performance. The opportunity presented is for the Council and the region to maintain the ability of the Port to support the region's strong export growth by injecting more capital and expediting capital development.

Wider considerations

12. The Council is the region's primary environmental agency. The region faces a number of significant environmental challenges which require a step-change in commitment, leadership and resources from the Council to address.

Item 9

13. Coastal erosion, flooding, erosion of hill country, declining biodiversity and the degradation of rural and urban waterways are all pressing - and increasing - local concerns. All of these issues risk worsening as climate change brings rising sea levels and more extreme weather events to our region.

14. Charged with the responsibility of remediating our natural environment where it has already been damaged and future-proofing our region for future generations, the Council requires significant financial resources and flexibility to accelerate its environmental programme. The Council has refocused its commitment to its core purpose of environmental management through its 2017 - 2021 Strategic Plan and the 2018 - 2028 Long-Term Plan. It has requested increased funding support for its environmental programme from ratepayers and will also borrow within sensible limits over the next decade in order to protect and preserve Hawke's Bay's natural environment.

15. It is in the context of these pressing environmental challenges, and the core purpose of the Council in managing them, that decisions regarding Napier Port are now needed.In particular, the option of Council taking on more debt to fund the Port's growth, must be clearly seen in this context. Council borrowing to fund Port development as outlined in Option A in the consultation document (discussed below) would see Council debt not only breach its own self-imposed Treasury policy, but also the Local Government Funding Authority borrowing limits for non-rated borrowers. These issues could potentially be managed through revising the Council's own Treasury policy and securing a credit rating to enable more borrowing, but the impact of this approach on the core business of Council would be significant.

16. The impact on ratepayers would also be significant as the costs of covering this debt would need to be recouped over the next 10 years (nine of which are covered by the Council's current Long-Term Plan) in tandem with rates increases to fund the Council's core work. The consultation document presented the average impact across all ratepayers but further work would need to be undertaken by Council to determine the appropriate basis for rating, which may result in a much greater impact for some properties and less for others.

17. This approach would limit the options of the Council over the next decade in terms of its environmental management programme. Council knows there are some significant capital investments required in the short to medium-term, such as coastal hazard management and flood protection scheme upgrades. Borrowing to fund the Port's growth would constrain the activities that the Council is charged with undertaking and which ratepayers and residents of Hawke's Bay rightly expect.

18. As a result of the size of the Council's balance sheet, rating base and the extent of capital required by the Port there is a choice to be made between borrowing to fund the Port's growth or retaining financial headroom for the Council's core business of protecting, preserving and enhancing our natural environment. Borrowing to fund the Port's growth would not only place greater financial limitations on a strong environmental work programme but it would take Council debt to such a level that, in the event of a natural disaster such as an earthquake or tsunami, the Council may not have the financial flexibility to access all the necessary funds to effectively discharge its responsibilities to the region when they were needed the most.

Council's identified objectives

19. It is in the context of the above need and considerations that Council set the below objectives for Napier Port's capital structure during the course of the work undertaken in getting to this stage (as set out below) and prior to consulting on viable options:

    19.1. Secure the investment the Port requires

    19.2. Retain majority community ownership of the Port

    19.3. Protect ratepayers from the costs of funding Port development

    19.4. Diversify and de-risk the Regional Council's (Port) investment to better protect ratepayers

19.5. Retain exposure to the future financial performance of a growing strategic asset (Port)

20. The factors outlined above were also part of the considerations that led Council to express a preference for Option B (identified below). Option B best met the objectives of the Council in that it diversifies the Council's investment portfolio and risk profile; it funds the Port's growth; it protects majority ownership and control of a strategic regional asset and it protects ratepayers from funding the costs of Port expansion. Additionally, it enables the Council to concentrate its effort, attention and resources in providing the environmental leadership that Hawke's Bay needs now more than any other time in its history.

Work undertaken to determine need, define objectives and viable options

21. Recognising upcoming capital demands and the affect they may have on the Port, Council, ratepayers and regional economy, the Council, HBRIC and Napier Port have conducted an extensive analysis and due diligence on the Port's and Council's potential capital structure options over the last two years. This has included obtaining commercial advice from a number of qualified external advisers who have provided numerous reports and presentations to Council. This work has included but has not been limited to:

21.1. Napier Port Strategy Session hosted by Regional Council – January 2017

21.2. Council establishing a Capital Structure Review Panel – March 2017

21.3. First meeting of Capital Structure Review Panel – June 2017

21.4. Napier Port presentation to Council 2018–28 Long Term Plan Workshop – October 2017

21.5. Capital Structure Review Decision Steps Paper to Council Workshop – November 2017

21.6. Capital Structure Review Interim Report – 12 December 2017

21.7. Councillors and Council, HBRIC and Port staff visit to Australia to meet with Regional Governments to observe the leased port model – January 2018

21.8. Capital Structure Review Final Report – 28 March 2018

21.9. Napier Port development options discussed at Council Workshop – May 2018

21.10. Napier Port Capital Raising Options paper presented – June 2018

21.11. Potential Port Transaction Approach paper presented to Council – July 2018

21.12. Independent Valuation Analysis presented to Council Workshop (Napier Port Summary Review of Capital Structure Options, PwC) – August 2018

21.13. Napier Port Capital Structure and Project Update presented to Council – August 2018

21.14. Napier Port Capital Structure Paper presented to Council – September 2018

Options considered and discounted

22. The Capital Structure Review Panel analysis included a number of options for funding the Port's growth but progressively reduced these down over time to provide recommendations on the options that would be reasonably practicable options for funding the required growth of the Port. The Council also separately considered and took advice from professional commercial advisors on a number of potential options and also had this advice peer reviewed by external advisors to confirm the robustness of the forecasting and other assumptions made in respect of such options. An executive summary of the peer review by PWC is attached as Attachment 3: Napier Port: Summary review of capital structure options, 1 October 2018.

23. A number of options, including options that consultation feedback has identified, have previously been explored by Council. Many such options have already been determined to not sufficiently meet the Council's objectives to be progressed as

reasonably practicable options. Nor have the trade-offs that would need to be made if such options were progressed been considered acceptable, in light of the Council's objectives and wider considerations.

24. In particular, the following are options that were previously ruled out (due to not satisfying a number of key requirements as outlined in the Capital Structure Review Panel's interim report, with the relevant summary table being set out in the section on 'Explore Other Options' with in 'Key Theme 9: Various' of Report 2 (Analysis of Feedback and Officers' Responses to Key Themes):

    24.1. The Port does not invest, so it can keep paying dividends (do nothing)

    24.2. The Port increases its debt levels to fund Port development needs (e.g. bank debt, shareholder loan or issuing a bond)

    24.3. The Port increases its prices or introduces a levy on Port users to fund Port development

    24.4. HBRIC/the Port receives dividend relief for a defined period

    24.5. Council invests more capital into HBRIC/the Port.

25. Council has also expressed, in the consultation document, that it is unanimous that doing nothing is not an option as this would put jobs and the economy at risk and place an unacceptable burden on the region's children and grandchildren.

26. The overarching analysis concluded that the pace of recent and future growth at the Port means it does not have capacity to borrow to fund this growth without additional funding from Council/ratepayers or taking Port debt to imprudent levels. The capital structure options that have previously been reviewed by Council would seek (depending on the option and on the basis of a number of financial modelling assumptions) to provide up to $86.6 million of funding to the Port, in order to significantly reduce the Port's current debt and enable it to resume investing in its future and self-fund its growth.

Options identified as reasonably practicable options for meeting Council's objectives

27. Informed by the Capital Structure Review Panel's recommendations and its own rigorous analysis, the Council decided on the four reasonably practicable capital structure options to be considered further and upon which it should consult with persons that will, or may be, affected by, or have an interest in, the matter.

    27.1. **Option A**: Funding Port development via rates / borrowing

    27.2. **Option B**: Up to 49% Port sharemarket listing on the New Zealand stock exchange

    27.3. **Option C**: Minority sale (up to 49% sold to an investment partner)

    27.4. **Option D**: Long-term lease to operator (for up to 50 years)

28. Each of these four options have advantages and disadvantages when considered against the Council's and the Port's objectives which are set out in the consultation document and are also summarised below.

29. Although Option B was not one of the options expressly recommended by the Capital Structure Review Panel in its final report, it was one of the three viable options noted in the Capital Structure Review Panel's interim report and, having taking separate advice and considered relevant factors, Council considered that despite the transaction costs likely being higher for this option, the amount of capital that could be raised combined with the ability for Hawke's Bay residents and ratepayers to have the option of directly investing in the Port as shareholders, made this a reasonably practicable option. The option also best aligns with the Council's objectives as a whole and the Council considered that the level of control that Council could retain would be similar or greater to that of one of the Capital Structure Review Panel's other recommended options (now Option C).

30. Option A was also included as being a reasonably practicable option, notwithstanding that this option was not recommended by the Capital Structure Review Panel and does not meet two of the Council's objectives. However, this Option would provide capital funding for the growth of the Port and would enable 100% control to remain with the Council. Council felt it was important to present an option to the community that was still viable from the perspective of funding the growth of the Port yet would enable full retention of control by the Council, albeit that it acknowledged by the Council that this option has a number of disadvantages, as identified in the consultation document and below.

31. Associated considerations in respect of these options are also addressed in Report 2 (Analysis of Feedback and Officers' Responses to Key Themes).

32. On 29 August 2018 Council selected "minority Initial Public Offering, with Council maintaining majority ownership at a minimum of 55%" as its preferred option. Referred to as Option B in the consultation, it was considered to be the option that would best meet the objectives set by Council. This option would also offer the opportunity for participation by the local community as investors. This option was subsequently revised to "Option B: Up to 49% Port sharemarket listing" as part of adoption of the consultation document on the options.

33. Council undertook a comprehensive special consultative procedure from October to December 2018 outlining these capital structure options, including a preferred option, "Option B: Up to 49% Port sharemarket listing".

34. A copy of the consultation document is included in Attachment 1: Consultation Document "Our Port – Have your say".

Wharf 6

35. In parallel with the capital structure review and the consultation on the four options, and following extensive and separate consultation with relevant stakeholders, the Port has been granted resource consent to proceed with the construction of Wharf 6.

36. A 6 Wharf Development Justification report was presented to Council in August 2018 with Council confirming its satisfaction with the need for Wharf 6 to further develop and grow Port capacity. This paper was subsequently disclosed publicly as part of the Special Consultative Process and is attached as Attachment 2: 6 Wharf Development Justification, Updated December 2018.

37. The Port has determined, based on operational demands, that construction of the new wharf is urgent and needs to commence in 2020 to be ready to use in 2022. The detailed design and procurement work required ahead of construction commencing in 2020 are such that funding decisions need to be made in early 2019 for this timetable to be adhered to.

38. Having assessed the capital structure options, consulted the community and noting the need to progress with the development of Wharf 6, this necessitates a timely decision about how to fund the Port's growth and meet Council's capital structure objectives.

Options - Overview of advantages and disadvantages of reasonably practicable options

<u>Option A: Retain full ownership and control and funding Port development via rates / borrowing</u>

39. Option A involves retaining 100% ownership and control of the Port and funding the Port's development through a substantial ratepayer-funded Council borrowing programme.

Advantages

39.1. Generates funding needed to enable the Port to invest and fund its future growth.

39.2. Council retains 100% ownership and control of the Port thereby retaining majority community ownership and control of the Port (although retaining this level of ownership is also a disadvantage in terms of the Council meeting one of its objectives, as set out below).

39.3. Enables Council to retain full commercial exposure to a growing strategic asset.

Item 9

Disadvantages

39.4. No capital released to Council for reinvestment and accordingly further concentrates Council's investment risk and does not provide diversification of investment.

39.5. Increased burden on ratepayers of an additional $956 on average per ratepayer over the 2018 – 28 LTP and a 45.2% average rates increase next year (in addition to the 7.9% rates increases separately forecast for year two in the Council's current Long-Term Plan).

39.6. Additional debt would take Council very close to its maximum debt position, compromising the ability of the Council to manage unforeseen challenges in the future and/or pursue other priorities such as enhanced environmental improvement programmes.

<u>Option B: Up to 49% Port public share offer</u>

40. Council's preferred option is to offer shares on the New Zealand stock exchange through an Initial Public Offering (IPO) in a minority stake in the Port of up to 49%.

Advantages

40.1. Generates funding needed to enable the Port to invest and fund its future growth.

40.2. Council retains majority ownership and control of the Port.

40.3. Enables Council to retain commercial exposure to a growing strategic asset.

40.4. Provides an opportunity for Hawke's Bay residents, Port staff and tāngata whenua to invest directly in the Port by having the opportunity to subscribe for shares.

40.5. Capital released to Council of approximately $83m[1] for reinvestment and diversification.

40.6. Allows Council to better manage investment risk through diversification of investments, given the Port currently represents 76% of Council's revenue-generating assets.

40.7. Option B protects Council from raising additional debt and ratepayers from rate rises to fund the Port's development.

40.8. Keeps Council's income and balance sheet in a prudent position to pursue other initiatives (e.g. environmental programmes).

Disadvantages

40.9. Sell-down and dilution of minority interest in the Port which means that the Council does not retain 100% control (although the Port remains majority Council owned and controlled). It is also noted that diversification of investment is an objective so from that perspective, this is not a disadvantage as it allows one of the Council's objectives to be achieved.

40.10. Value of Council's remaining interest in the Port will be subject to share market volatility.

40.11. Lower valuation and capital release for Council reinvestment than Option D2.

40.12. Publicly listed shares able to be acquired by any party subject to regulatory requirements meaning that full regional ownership is unlikely.

[1] On the basis of the assumptions as outlined on page 15 of the consultation document in Attachment 1.

[2] On the basis of the assumptions as outlined on page 15 of the consultation document in Attachment 1.

Item 9

40.13. Increased regulatory compliance for a listed company.

Option C: Sell up to 49% to an investment partner

41. Option C involves the sale of up to 49% of the Port to an investment partner. This partner might be a single investor or a group of entities.

Advantages

41.1. Generates funding needed to enable the Port to invest and fund its future growth.

41.2. Council retains majority ownership and control of the Port.

41.3. Enables Council to retain commercial exposure to a growing strategic asset.

41.4. Capital released to Council of approximately $52m[3] for reinvestment and diversification.

41.5. Allows Council to better manage investment risk through diversification of investments, however less so than Options B and D due to the forecast level of investment capital that could be realised through this Option C[4].

Disadvantages

46.6 Sell-down and dilution of minority interest in the Port which means that the Council does not retain 100% control (although the Port remains majority Council owned and controlled). It is also noted that diversification of investment is an objective so from that perspective, this is not a disadvantage as it allows one of the Council's objectives to be achieved.

46.7 Small shortfall in revenue, with associated rating impact, over the 2018 – 28 Long-Term Plan based on financial modelling of reduced dividends substituted by returns on capital released[5].

46.8 The minority partner would likely expect protection rights on significant decisions, including around strategy, investments and director representation.

46.9 Lower valuation and capital release for Council reinvestment than Options B and D[6].

Option D: Long-term lease to operator (for up to 50 years)

42. Option D involves contracting the operation of the Port to a private investor through a long-term (up to 50-year-long) operating lease for an upfront fee.

Advantages

42.1. The new investor funds all of the Port's investment in its future growth (including Wharf 6) in addition to the upfront fee for the right to operate the Port.

42.2. The Council retains absolute ownership of the land and the assets, and at the conclusion of the lease period the Port assets are handed back to Council or re-leased.

42.3. After paying off the existing Port debt, capital released to Council of approximately $366m[7] for reinvestment and diversification (the greatest out of all options) – significant capital released to Council to diversify investment risk and more than offset the foregone dividend and thereby increased Council revenue.

---

[3] On the basis of the assumptions as outlined on page 15 of the consultation document in Attachment 1.

[4] On the basis of the assumptions as outlined on page 15 of the consultation document in Attachment 1.

[5] On the basis of the assumptions as outlined on page 15 of the consultation document in Attachment 1.

[6] On the basis of the assumptions as outlined on page 15 of the consultation document in Attachment 1.

[7] On the basis of the assumptions as outlined on page 15 of the consultation document in Attachment 1.

Disadvantages

42.4. Council would cede operational control of the Port, although would negotiate a range of conditions into the contract with the operating party – Council is concerned that the lease contract would bind future councils with changing commercial, environmental and social context.

42.5. While Option D would deliver the best short term capital release, Council wants to retain commercial exposure to a growing strategic asset and is concerned around alignment of values and the importance of ensuring a clear and direct connection between the Port, its staff, the local community and management.

Community views and preferences and consideration of Māori relationship

Community views and preferences

43. Report 1 (Napier Port: Engagement and consultation undertaken as part of the decision-making process), provides a comprehensive overview of the Council's engagement and consultation process in respect of the options to fund the growth of Napier Port, including an overview of the special consultative procedure undertaken as required by the Local Government Act 2002.

44. In summary, a formal consultation was undertaken between 15 October 2018 and 22 November 2018 (as detailed in Report 1, the Council decided to extend the consultation period by a further week from its initial closing date of 15 November 2018). A consultation document titled 'Our Port - Have Your Say' (included as Attachment 1) and supporting material were made publicly available online from 3 October 2018.

45. Copies of the consultation document, summary flyers and postcard reminders were distributed to households in the Hawke's Bay. Council promoted the consultation process through a range of means, including media briefings, radio and newspaper advertising, newspaper coverage, social media, library and event displays, public events, stakeholder meetings and through Council's website.

46. An analysis of the feedback received during engagement on the proposal to restructure Napier Port is covered in Report 2 (Analysis of Feedback and Officer's Responses to Key Themes). In summary, a total of 3,569 formal written submissions were received during the formal consultation period. The options selected by submitters were as follows (although a number of submitters made comments in relation to the option they had selected, some of which caveat or raise suggestions in relation to the option selected):

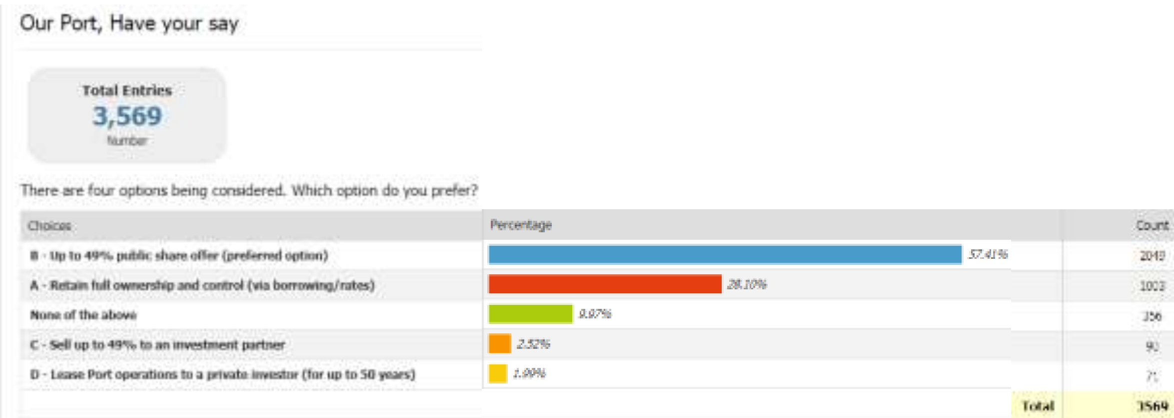
46.1. Option A: 28.10% or 1003 submitters

46.2. Option B: 57.41% or 2049 submitters

46.3. Option C: 2.52% or 90 submitters

46.4. Option D: 1.99% or 71 submitters

46.5. None of the above: 9.97% or 356 submitters



47. To summarise the commonly raised reasons and provide officers' responses, feedback has been grouped in Report 2 into the following 9 themes. These themes were raised irrespective of the option selected and bundle similar sub-themes (or reasons given) together to give a flavour of the comments received supporting that theme.

Key theme		Comments received
1	Local ownership is important	1905
2	Protect ratepayers	513
3	PONL should self-fund	213
4	Sell down less than 49%	191
5	Minimise environmental impacts	87
6	Fit with national policy	23
7	No justified need	63
8	Use a proven model	277
9	Various	159

48. "Local ownership is important" was a recurring theme that emerged through submissions – both in the context of retaining 100 per cent ownership and control of the Port and, particularly, in support of locals having an opportunity to invest directly in the Port. This theme featured in over half (54.5%) of formal written submissions received that were accompanied by comments. This sentiment was raised by submitters in favour of Options A, B, C and None of the Above.

49. Further detail on each of the themes including the Council officers' responses in relation to each key theme is provided in Report 2.

50. Public hearings were held on 4, 5 and 6 December 2018 at which 54 people (out of the 91 who registered to present) spoke to the Council about their submission. These hearings were heard by the full Council, including the Chief Executive and key senior staff. Councillors also have access to all of the submissions that were received during the formal consultation.

Māori views and relationship with Port site

51. Report 2 outlines the range of external stakeholders that the Council engaged with prior to and during the formal consultation process, which included tangata whenua. A letter was sent (on 9 August 2018) and a subsequent meeting was held with the Chairs of the Hawke's Bay post-settlement governance entities (these settlement entities representing iwi groups which have settled Treaty of Waitangi claims with the Crown). The purpose of this meeting was to acknowledge potential interest in the process, engage early in the process prior to consultation, outline the four options under development for consultation, ensure clarity on the rationale for the Council considering this course of action and seek early feedback on the proposed consultation.

52. In the context of ensuring current understanding of the Port considerations, the Māori Committee Chair attends all Council meetings and workshops with speaking (not voting) rights. As well, one tangata whenua representative is appointed to each of Council's Environment and Services and Corporate and Strategic Committee, and two RMA qualified representatives to Council's Hearings Committee. Most recently, the Maori Committee discussed the Port consultation process, including Council engagement with various stakeholders, on 27 November 2018.

53. As noted in the background section of this report, in parallel with the capital structure review and consultation on the four options, Napier Port has undertaken extensive and separate consultation with relevant stakeholders prior to being granted resource consent to proceed with the construction of Wharf 6. As part of this process, Napier

Port has consulted with mana whenua hapū to understand the history and importance of the coastal environment to Māori. Within the coastal environment, and within a hapū/iwi context, Hawke's Bay contains taonga of significant cultural value to local Māori, particularly Pania Reef and Moremore Reserve at Tangoio.

54. Evidence of iwi and hapu consultation was provided to Council as part of the Wharf 6 consent applications. While this consultation was not undertaken by, and provided to, Council for the purposes of the capital structure consultation process, it is acknowledged that wider work is being undertaken to engage with Māori who have interests in the Port area in order to understand what these interests are. More detail is provided in the accompanying Report 2 (Analysis of Feedback and Officers Responses to Key Themes).

55. Councillors should be aware that during the separate Wharf 6 consultation process, issues have been raised by Māori including iwi and hapū with interests in the Port area. These are issues that will need to continue to be worked through, including considering the implications of the proposed Treaty settlement with Ahuriri Hapū and applications under the Marine and Coastal (Takutai Moana) Act 2015, together with the Council's general obligations to engage with tangata whenua.

Option selection decision

The decision now before Council

56. Having undertaken an extensive nearly two year assessment of the capital structure options in order to identify the Council's objectives for the future of Napier Port, to identify the reasonably practicable options for meeting those objectives, and having undertaken a special consultative procedure to inform itself of the views and preferences of persons likely to be affected by or have an interest in, the matter, it is now open for Council to decide which, if any, of the four options outlined in the Consultation Document is to be progressed.

Key obligations of Council in making its decision

57. In making its decision, Council is required by the Local Government Act 2002 to:

57.1. consider the **advantages and disadvantages of** the reasonably practicable **options** identified in this report.

57.2. consider the **views and preferences** of all persons likely to be interested in or affected by the matter (such views and preferences having been summarised in Report 2 and also separately presented to Councillors by members of the community). This means:

57.2.1. giving due consideration and having regard to **all** views and preferences, and

57.2.2. giving due consideration and having regard to such views and preferences with an **open mind** (i.e. not having a predetermined view).

57.3. take into account the **relationship of Māori and their culture and traditions** with their ancestral land, water sites, waahi tapu, valued flora and fauna and other taonga in relation to the land or body of water the subject of the decision.

57.4. take account of:

57.4.1. the **diversity of the community**, and the community's interests within the Hawke's Bay region

57.4.2. the interests of **future as well as current communities**, and

57.4.3. the **likely impact of any decision** on the interests referred to in (57.2) and (57.3).

57.5. consider that Council is required to **ensure prudent stewardship and the efficient and effective use of its resources in the interests of its region**, including by planning effectively for the future management of its assets.

57.6. be cognisant that any commercial transaction to be undertaken is in undertaken in accordance with sound business practices, and

57.7. note that the Council's **Long-Term Plan will require amendment** before a final decision to proceed with any of the options can be made and that this would be progressed at a later date.

Additional considerations for Council to factor into its decision-making

58. The following considerations, which have formed part of Council's deliberations over the last two years, are also noted for Council's consideration as part of assisting the Council in making a decision (some of which have also been addressed above or are addressed further in the attached supporting documents).

What Council has previously said it wants to achieve and what the Port requires

59. Council has previously stated that doing nothing is not an option.

60. Port consent to construct wharf 6 has been granted, unchallenged but the Port has requested certainty around its funding before progressing with Wharf 6 investment.

61. Council has previously supported the justification case for Port investment in Wharf 6 and the need to advance construction without undue delay to protect the economic interests of the region. An updated version of this document is supplied in Attachment 2 to this report, outlining a positive financial/business case for the investment.

62. The Council's previously stated objectives are:

62.1. Secure the investment the Port requires

62.2. Retain majority community ownership of the Port

62.3. Protect ratepayers from the costs of funding this development

62.4. Diversify and de-risk the Regional Council's investments to better protect ratepayers

62.5. Retain exposure to the future financial performance of a growing strategic asset.

63. Council has previously identified all reasonably practicable options that it considered would sufficiently meet these objectives (being the four options consulted on).

64. Council's own income and balance sheet requirements means that some means of external funding will be necessary. However, any Council funded options would reduce Council income or increase costs which will result in a rates increase. Additionally there is opportunity cost for Council's other environmental and hazard initiatives should the Council fund some or all of the Port's capital needs.

65. The negative financial impact on ratepayers is material under Option A. The Council has previously agreed that it does not support an option that would lead to a significant increase in rates.

The impact and consequences of the decision or of no decision

66. Any decision will require trade-offs.

67. The negative impact on the Port and regional economy of making no decision.

Robust process run by the Council

68. Council has completed an extensive consultation in line with the requirements of Local Government Act 2002, which was endorsed by the Office of Auditor General (as outlined in Attachment 1 to this report).

69. Council has taken advice from a range of specialist advisors in the course of getting to this stage (including commercial and legal advice and has had commercial advice peer reviewed).

70. Extensive analysis has been undertaken by Council in relation to the possible options over the past 2 years.

71. Extensive analysis has been undertaken by Council officers in respect of all feedback received and documentation has been supplied in Report 2 Analysis of Feedback and Officers Responses to Key Themes.

Item 9

72. Formal written submissions (of which 3,569 were received) have identified that:

72.1. 57% of those formal written submissions received favour Option B (up to 49% sharemarket listing), with 28% favouring Option A (retaining full ownership/charging ratepayers).

72.2. There is limited public support for a minority strategic sale or long term lease (Options C and D).

72.3. A key theme across the Options A and B submissions as well as verbal feedback provided at hearings and other channels is a desire to see local ownership feature in the solution.

72.4. There are a range of community views around the appropriate percentage shareholding to be retained by Council under Options B and C.

72.5. 10% of submitters either elected to pick none of the options presented or did not expressly say which option they preferred.

73. During the consultation process, a number of alternative solutions were considered and assessed in terms of whether they sufficiently meet the Council's stated objectives, many of which had already previously been considered as part of the Capital Review Structure Panel's work. Report 2 (Analysis of Feedback and Officers Responses to Key Themes) provides Council officers' responses to consultation submissions on such options, which include many that have previously been considered and discounted by Council in confirming its shortlist of reasonably practicable options.

HBRIC's and the Port's view of the best option

74. Council's investment company and current owner of the shares in Napier Port, HBRIC, has recommended an up to 49% sharemarket listing, which has also been endorsed by Napier Port.

Council's previously stated preferred option

75. Councillors will note that Council's preferred option going into the special consultative procedure (up to 49% public share offer). If Council does decide that it wishes to advance this option, it is noted that there is scope for Council to make a decision that falls within the following parameters, without the need for further consultation to be undertaken:

75.1. the sell-down would not exceed a 49% sell-down of HBRIC's current equity interest in Napier Port (or be structured so that this could occur conceivably in the future, for example, through a dilution of HBRIC's shareholding)

75.2. majority ownership and control remains with the Council (via HBRIC's shareholding)

75.3. the amount raised, amount of debt reduced, sale costs, proceeds to invest and value of retained ownership (on a pro-rata basis relative to the percentage of sell-down) is not substantially different to what was forecast, such that the benefits as represented to the community would be expected to materialise

75.4. the level of sell-down is not so low that rates increases would still be required to fund the difference or that Napier Port would not be able to grow

75.5. the proceeds of sale are applied as represented to the community (i.e. to pay off a material amount of Napier Port's current debt, to pay sale costs and the remainder ring-fenced in a 'future investment fund')

75.6. the Council makes provision for consideration to be given to prioritising access to shares for the local community and Napier Port staff, and

75.7. the sell-down could be phased, provided it is still in line with the above parameters.

Recommendations

That Hawke's Bay Regional Council:

1. Receives the information provided in this decision report, including the information provided in the Attachments.
2. Notes that the Council is tasked with making an in-principle decision on which of the consulted options to fund the growth of Napier Port (if any) it wishes to progress further, and notes that this is not a final decision to proceed with one of the options.
3. Notes that an amendment will need to be made to the Council's current Long Term Plan before any final decision to transfer the ownership or control of the Napier Port from the Council, through its subsidiary, Hawke's Bay Regional Investment Company Limited, could be made.
4. Notes that each of the four options consulted on have various advantages and disadvantages when considered against the Council's and the Port's objectives.
5. Notes that an initial public offering (IPO) of up to 49% of Napier Port (Option B below) is currently Council's preferred option as outlined in the Special Consultative Procedure.
6. Notes that in deciding which option (if any) to progress, the selection of None of the Options (i.e. the decision not to proceed with any of the consulted options, which of itself was not an option consulted on) may result in a delay to the construction of Wharf 6 and that the selection of any option, other than Option B, may also have timing implications.
7. Agrees that the Council's staff are to make available to persons who made submissions, a record of the decisions made by Council in respect of the future of Napier Port, along with explanatory material, at an appropriate time.
8. Agrees to pass one of the following five possible sets of resolutions (Option A, Option B, Option C, Option D or None of the Options) in relation to the future of Napier Port (noting that None of the Options is not an option consulted on and is an therefore passing this set of resolutions will result in the Council needing to reconsider its previously stated objectives).

Option A: Retain full ownership and control and funding Port development via rates / borrowing

That Hawke's Bay Regional Council:

9. Agrees, in principle, that the Council should retain full ownership and control of Napier Port, through its subsidiary, Hawke's Bay Regional Investment Company Limited and that the Council should progress with, and further refine, this option.
10. Agrees that the final decision to provide the Port with funding will not proceed until such time as the Port's Board of Directors have approved the detailed business case for Wharf 6.
11. Agrees that the Council's staff be charged with developing a recommendation paper outlining options for the timing and implementation of a Napier Port funding strategy supported by Council capital, including providing a recommendation for implementation of an increase in Council rates, to be presented to and considered by Council at a future meeting of Council. This paper should also include any recommended changes to the Council's current Long-Term Plan.
12. Notes that progressing with this option may require further public consultation.

OR

Option B: Up to 49% Port public share offer

That Hawke's Bay Regional Council:

13. Agrees that the Council should, progress with, and further refine the option of its

subsidiary, Hawke's Bay Regional Investment Company Limited, offering shares on the New Zealand stock exchange through an Initial Public Offering (IPO) in a stake of Napier Port of up to 49% (the IPO Transaction).

14. Agrees that the structural outcomes that the Council will want the IPO Transaction to achieve, and against which Council's decision to given final approval to proceeding with the IPO Transaction will be determined, following consideration of further detailed advice (the Outcomes), include:

    14.1. Majority ownership and control of Napier Port is to remain with Hawke's Bay Regional Council (via appropriate investment structures, such as HBRIC), with no more than 49% shareholding to be sold or diluted at any point in the future, unless further special consultation is conducted.

    14.2. The initial sell-down is to be no less than 33% and no more than 45%, with the exact percentage to be determined following consideration by Council of expert advice and which will be based on Napier Port's capital needs, with the minimum initial offer size to support trading liquidity and long term share value, noting Council has a low risk appetite for:

        14.2.1. value destruction or share price volatility post-listing

        14.2.2. recourse to ratepayers or Council due to insufficient funds being raised

        14.2.3. additional capital calls from the Port in the next 10 years, and

        14.2.4. unpredictable income flows from investments in the next 10 years.

    14.3. Without compromising the short and long term success of the IPO Transaction, the IPO Transaction be structured with a view to maximising priority allocation to:

        14.3.1. constituents of Hawke's Bay

        14.3.2. employees of Napier Port, and

        14.3.3. local iwi.

    14.4. Without compromising the short and long term success of the IPO Transaction and timetable, the IPO Transaction is to be structured with a view to providing flexibility for Crown participation, with Council staff being charged with immediately engaging with Crown now that a decision on the preferred capital structure has been made.

    14.5. Surplus funds raised, following necessary investment in Napier Port and the payment of sale and transaction costs, are to be invested in a diversified investment fund preserved for long term capital growth, with appropriate governance, safeguards and investment objectives.

    14.6. The final IPO Transaction design not departing significantly from the bounds of content consulted on.

    14.7. The final IPO Transaction design being consistent with proven and established good commercial practice.

    14.8. An appropriate corporate and governance structure be established for the listed entity.

    14.9. Subject to market conditions, target completion of the offering by the 3rd Quarter of 2019.

15. Agrees that the final IPO Transaction not proceed until such time as the Port's Board of Directors have approved the detailed business case for Wharf 6.

16. Requests that Council's Chief Executive, HBRIC and Napier Port undertake further work and analysis, and seek advice from appropriately qualified experienced advisors, to progress the design and details of the IPO Transaction consistent with the Outcomes in order to enable Council's staff to report back to Council with recommendations, to put Council in a position to then be able to:

16.1. adopt any necessary amendments to the Council's current Long-Term Plan to give authority for a decision to proceed with the IPO Transaction, and

16.2. subsequently make a decision to implement the Transaction.

17. Requests that the Council's staff be charged with delivering, by no later than April 2019, a comprehensive proposal for implementing the IPO Transaction, including an analysis of how the Outcomes have been satisfied, with recommendation(s) for final Council approval or adoption (as applicable) of:

17.1. an amendment to the long-term plan

17.2. the decision to sell (or dilute) shareholding in Napier Port

17.3. the parameters for the share offer

17.4. the corporate and governance structure to be established for the listed entity, and

17.5. any delegation or approval framework necessary to complete the IPO Transaction.

18. Notes that HBRIC and/or Napier Port will incur costs necessary to progress the IPO Transaction, of approximately $5 million, which will be funded by the existing Council loan facility to HBRIC and Port dividends, which will need to be recovered through a capital transaction or Council contribution in due course.

OR

Option C: Sell up to 49% to an investment partner

That Hawke's Bay Regional Council:

19. Agrees that the Council should, progress with and further refine the option of its subsidiary, Hawke's Bay Regional Investment Company Limited, selling up to 49% of Napier Port to an investment partner.

20. Agrees that any sale to an investment partner will not proceed until such time as the Port's Board of Directors have approved the detailed business case for Wharf 6.

21. Agrees that the Council's Chief Executive be charged with further investigating this option, with a recommendation paper to be presented to and considered by Council at a future meeting of the Council. This paper should also include any recommended changes to the Council's current Long-Term Plan.

22. Notes that progressing with this option may require further public consultation.

OR

Option D: Long-term lease to operator (for up to 50 years)

That Hawke's Bay Regional Council:

23. Agrees that the Council should progress with and further refine the option of retaining full ownership of Napier Port, through its subsidiary, Hawke's Bay Regional Investment Company Limited, but leasing the operations of Napier Port to a private investor through a long-term operating lease.

24. Agrees that a lease will not proceed until such time as the Port's Board of Directors have approved the detailed business case for Wharf 6.

25. Agrees that the Council's staff be charged with further investigating this option, with a recommendation paper to be presented to and considered by Council at a future meeting of the Council. This paper should also include any recommended changes to the Council's current Long-Term Plan.

26. Notes that progressing with this option may require further public consultation.

OR

None of the Options: Does not proceed with any of the options

That Hawke's Bay Regional Council:

27. Agrees that it does not wish to proceed with any of the options that have been considered and consulted on in respect of Napier Port.
28. Agrees that the Council's staff be charged with undertaking further investigations and developing different options (acknowledging the extensive assessment of options undertaken to date and possibility that other options will also involve trade-offs which do not meet the Council's objectives objectives), to be provided to and considered by Council at a future meeting of the Council.
29. Notes that progressing with none of the options may require further public consultation.

Authored by:

Jessica Ellerm
GROUP MANAGER
CORPORATE SERVICES

Approved by:

James Palmer
CHIEF EXECUTIVE

Attachment/s

⇨**1**	Our Port - Have your say Consultation Document	Under Separate Cover
⇩**2**	6 Wharf Development Justification Updated December 2018	
⇩**3**	Napier Port Summary Review of Capital Structure Options	

NAPIER PORT

HAWKE'S BAY REGIONAL COUNCIL

HAWKE'S BAY REGIONAL INVESTMENT COMPANY LTD

6 Wharf Development Justification

Updated December 2018

1. EXECUTIVE SUMMARY

1.1. Napier Port is a growing business with strong trade and operating performance and is essential to the Hawke's Bay Regional economy

- Record cargo volumes (over 5 million tonnes)
- Solid revenue and profit growth delivered in FY18

1.2. The Port is projecting a 30% volume increase over the next 10 years, supported by Deloitte's preliminary independent trade and economic review

- Record cargo volumes in FY18 (over 5 million tonnes)

1.3. As it stands today, the Port is constrained, congested and forced to turn away larger freight vessels

- Napier Port has run out of wharf space – If a vessel is having to wait for a berth, the costs to the shipping company encourages them to look for other port alternatives
- Requests to berth from cargo vessels more than 300 metres long are being declined on a regular basis as they are too big to navigate in and out safely
- The Port expects to turn away seven cruise ship visits next year

1.4. Investment is required over the forward plan to accommodate the Port's growth and construct the new Wharf 6

- The Port needs to spend $320–$350 million over the next decade to enable it to grow and meet Hawke's Bay's demand for its services, including the construction of Wharf 6 (to begin in 2020 and ready for use in 2022)
- Ports commonly require major investment in waves as they reach capacity and then invest for the future
- The Port's investment over the next decade represents a step change in capacity at the Port, enabling it to continue to serve a growing region

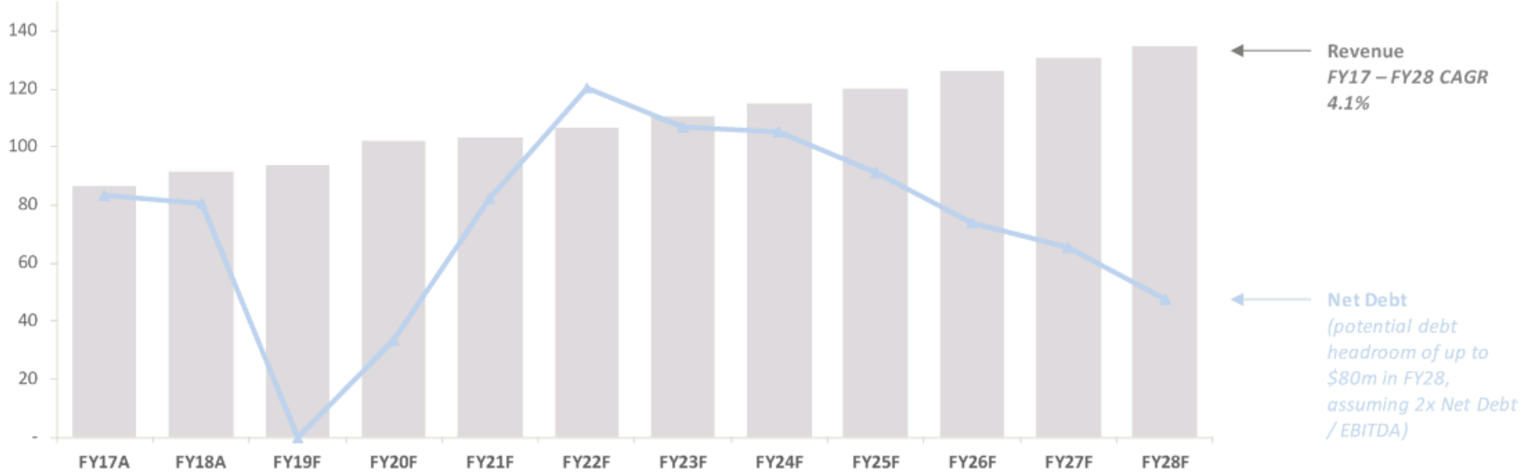
1.5. An equity injection is required to significantly reduce its debt and enable it to resume investing in its future and self-fund its growth whilst maintaining prudent leverage levels throughout

- The Port does not have capacity to borrow to fund this future growth without requiring additional funding from ratepayers or taking debt to imprudent levels
- Doing nothing would put jobs and the Hawke's Bay economy at risk, placing an unacceptable burden on future Councils and generations

1.6. The investment in the Port assists in delivering an improvement in dividends and return on assets supporting a stronger Council investment

- Strong revenue growth of 4.1%p.a. from FY17 – FY28, above GDP growth
- Positive impact on return on assets (ROA), increasing to levels above FY17 by FY27 and improving thereafter
- Total dividends increasing above historical levels and growing year on year post the Wharf 6 development
- Net Debt / EBITDA remaining within prudent levels of less than 2x, excluding a small breach in FY22, and reducing back to conservative levels by FY28

Napier Port financial forecasts[1] ($m, y.e. 30-Sep) – assumes FY19 capital injection to clear Port debt



	FY17A	FY18A	FY19F	FY20F	FY21F	FY22F	FY23F	FY24F	FY25F	FY26F	FY27F	FY28F	
Return on Assets	5.4%	4.9%	5.4%	6.6%	5.3%	4.5%	4.4%	4.6%	4.8%	5.4%	5.8%	6.0%	ROA
Total Dividends[(2)] ($m)	10.7	10.0	11.1	15.5	14.1	13.4	13.0	13.8	14.5	16.0	17.4	17.7	Dividends
HBRC 55% Dividends ($m)	-	-	-	8.5	7.8	7.4	7.2	7.6	8.0	8.8	9.6	9.7	
Net Debt / EBITDA	2.2x	2.1x	0.0x	0.7x	1.7x	2.4x	2.0x	1.9x	1.6x	1.2x	1.0x	0.7x	Net Debt / EBITDA

Appropriate to target a modest Net Debt / EBITDA ratio of <2x

1.7. The Port's financial outlook, including the development of Wharf 6 to facilitate the Port's growth, illustrates positive improvement in commonly observed financial metrics – improved return of assets, dividends and prudent debt levels

1.8. Paragraphs 1.1 to 1.7 in this document are drawn from analysis prepared for Council as part of its due diligence and supplied as additions to the 6 Wharf Development Justification report released as part of the Special Consultative Process at the request of submitters to the Special Consultative Process

[1] Based on the latest Port forecasts, to be refined and updated based on adviser analysis in Phase 2

2. INTRODUCTION

2.1. This document provides a high-level justification for the proposed 6 Wharf Development at Napier Port (The Port).

2.2. This report was originally developed in 2016 therefore this document has been updated to reflect changes resulting from new emerging issues such as greater than expected log volume growth, increasing port congestion and changes in the design for the proposed development.

2.3. Current forecasts are subject to further review including the results of the port master planning review, currently underway. This documents is not a full business case for the proposed 6 Wharf Development.

2.4. Napier Port is New Zealand's fourth largest container port – making a notable contribution to the national economy.

2.5. Napier Port is associated with 51% of the region's Gross Regional Product, with the port being at the heart of Hawke's Bay's $7.5 billion export economy.

2.6. Napier Port is a significant contributor to the local economy, with more than 500 people employed on-site and it is associated with 27,000 full and part-time jobs across the region in industries such as primary production, forestry and tourism.

2.7. Napier Port is owned by Hawke's Bay Regional Investment Company, which in turn is owned by Hawke's Bay Regional Council (HBRC). The regional ratepayers have a direct interest in the success of Napier Port as its dividend helps to fund the work HBRC carries out across the region.

2.8. Napier Port's main cargo trades include apples, logs and forestry products. Napier Port is also the gateway to the region's growing tourism industry with increasing numbers of cruise liners calling. While primarily servicing Hawke's Bay's export economy, there is a growing number of imports coming through the Port.

2.9. The Port is facing significant growth across its cargo trades.

2.10. While forecasting growth, Napier Port suffers from limitations on wharf space and capacity to take larger ships, which is already reducing the number of vessels the Port can accept. Unless addressed, this will lead to increasing inefficiencies and affect the flow of cargo in and out of the region, which in turn will have a detrimental effect on the Hawke's Bay economy.

2.11. Planning for how to accommodate that growth, as the existing infrastructure reaches its capacity, started in 2015. Napier Port began planning for how it could future-proof its infrastructure and, after looking at a range of options, commenced work on the 6 Wharf proposal - a 350m wharf on the northern edge of its container terminal (see appendix 1) and a staged dredging programme to widen and deepen the shipping channel.

2.12. The continued efficient operation and development of Napier Port is essential to employment and prosperity across the region.

2.13. At the commencement of the project, forecasts were for significant growth over a 10 year period, indicating an additional wharf would be needed somewhere between 2022 and 2028.

2.14. However, the growth curve has been steeper than predicted and the triggers, such as port congestion, for needing an additional wharf have brought forward demand to the beginning of this period, around 2022.

3. SIX WHARF DEVELOPMENT

3.1. The proposed 6 Wharf Development is an accumulation of significant consultation and design effort.

3.2. The final design for which resource consent has been sought is with no breakwater or land reclamation and hence provides significant cost savings compared to previous thinking.

3.3. Although conventional thinking in the past has been that a breakwater would be required, dynamic mooring analysis has shown that the location can be utilised, albeit with some surge effects that would impact vessel exchange rates.

3.4. It is recognised that an alternative mooring system will be required to maximise the utilisation of the proposed wharf.

3.5. The proposed wharf is 350m long, and provides 360m of new additional wharf capacity to the Port.

3.6. A pair of mooring dolphins are proposed to allow mooring of larger vessels which do not need to utilise the full length of the wharf deck. In particular this will allow the mooring of the larger cruise vessels expected to call in the near future, including the Oasis Class.

3.7. The proposed berth pocket is 14.5m deep and effectively future proofs the wharf in terms of vessel draft.

3.8. Due to the location the wharf can be extended in the future, providing greater flexibility in the future compared to other options considered.

3.9. The extra total wharf length will provide much greater flexibility to the Port, including the ability to handle two large cruise vessels simultaneously.

3.10. The wharf is designed to maximise the use of the current mobile harbour cranes (MHC's), and

3.11. future upgrades to facilitate effective loading and unloading of wide vessels. This will provide flexibility in the mode of operation into the future.

3.12. The location of the wharf allows easy integration with the existing container terminal, resulting in minimum additional investment in auxiliary infrastructure such as electrical (refrigerated container points).

3.13. Associated with the wharf is an expanded swinging basin (turning area for ships), and a widened and deepened approach channel. It is proposed to dredge these areas in a staged fashion, with stage 1 matching the current channel depth of -12.5m.

3.14. Further, future dredging stages allow the gradual deepening to 14.5m to match future demand.

3.15. Construction of the wharf and associated dredging will provide minimal impact to existing operations.

3.16. A total construction period, including mobilisation, of approximately 30 months is envisaged.

4. DEVELOPMENT CONTEXT

4.1. For a long term infrastructure provider, such as a port, to plan for the future, it is important to understand the type and size of vessels that will be servicing New Zealand over the next two or three decades. As experienced in the past, what the Port builds and operates from today will service the needs of the wider Hawke's Bay for many generations to come.

4.2. International shipping lines, ship owners and ship operators are multi-national operations driven by return on investment (ROI). The industry is global in nature, and New Zealand is subject to the whims of global supply and demand in any given year or cycle, in any given trade or sector.

4.3. The only stable driver in the shipping industry is generally the cargo interest i.e. cargo owner or shipper. In the Hawke's Bay context, long-term export trade is the 'life blood' of the region.

4.4. The Port has enjoyed a substantial period of growth in most trades for the past 10+ years. Since 2006, total tonnage has increased from 2.7 million tonnes to 4.75 million tonnes in 2017, an increase of 70%. (Figure 1). Much of this has been steady increases in log volume, expected to increase further in the coming years.

4.5. Container volumes have exceeded this growth increasing from 142,779 Twenty-Foot Equivalent Units (TEU) in 2006 to 288,000 TEU in 2017, up 102% (Figure 2).

Figure 1 - Growth in Overall Tonnage

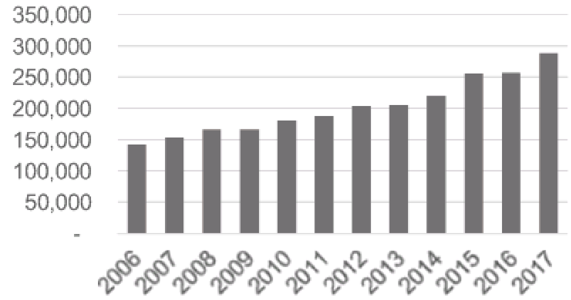


Figure 2 - Growth in Container TEU

4.6. From detailed trade analysis undertaken with key exporters and key commodity trades, and making allowances for natural growth, the Port expects cargo volumes to continue growing.

4.7. Estimated growth in the next 10 years sees overall tonnage increasing from 4.07 million tonnes in 2015 to 6.16 million tonnes in 2028, up 49% (Figure 3).

4.8. Container growth is forecast to see overall TEU volumes grow from 256,432 TEU (2015) to 313,000 TEU in 2028, up 22% (Figure 4).

4.9. In the next 10 years log volumes are expected to grow 42%, with a peak of 3.0 million tonnes in 2027 (Figure 5).

NAPIER PORT

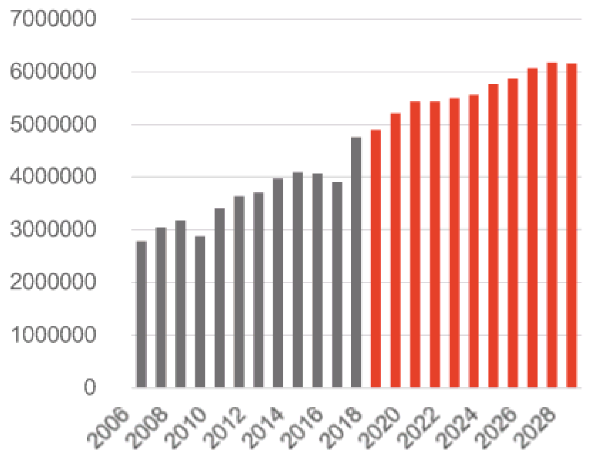


Figure 3 - Forecast Growth in Overall Tonnage (2006 - 2028)

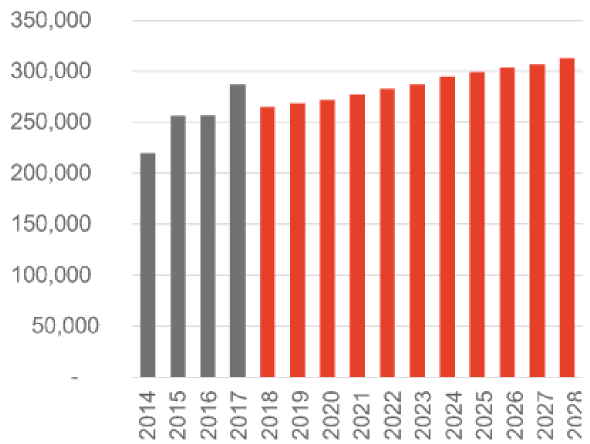


Figure 4 - Forecast Growth in TEU (2014 - 2028)

Figure 5 - Forecast Growth Logs (2014 - 2028)

4.10. Trade growth is linked to a number of key sectors (pipfruit, horticulture, viticulture, agriculture, forestry, pulp and cruise). The Port has worked closely with these sectors to understand their growth paths and their likely impacts on the Port, and the subsequent need for infrastructure. Forecasts have been made at the conservative end of the scale for projects that are likely to result in additional volumes in the future.

4.11. Overall trade growth is largely based on "In Region" volumes. The most economic method for these "In Region" exporters to move their products to international markets is via Napier Port, the next best alternative Port involves either additional road or rail transport, adding considerable costs (6-8 times greater).

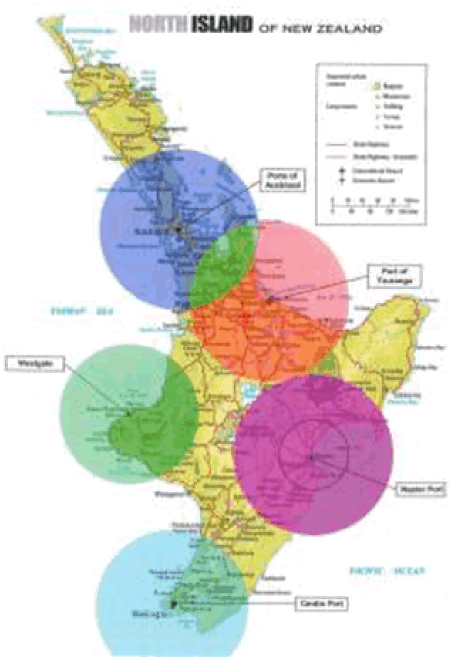


Figure 6 – Port Catchments

4.12. Out-of-region volumes represent less than 10% of total container volumes at year 10 of the forecast period.

Container Vessel Size

4.13. Since the introduction of containerised shipping into New Zealand, with the first call of the Columbus New Zealand in 1971, with a capacity of 1200 TEU, New Zealand has seen a steady increase in the capacity of container vessels calling. Most services calling New Zealand now deploy vessels between 3500-4500 TEU, but can be up to 5500 TEU (Maersk L-Class) (Figure 7).

4.14. The large vessel in Figure 7 represents Maersk's Aotea Maersk, currently only calling at Port of Tauranga (POT), and part of NZ cargo owners and Maersk Line's "pursuit of bringing larger ships to New Zealand"[1]. This size vessel currently does not call at other New Zealand Ports, and is a direct east-west service.

4.15. Lyttelton Port Company (LPC) has recently been granted consent for dredging their channels to become 'big ship capable', with dredging expected to start in August/September 2018.

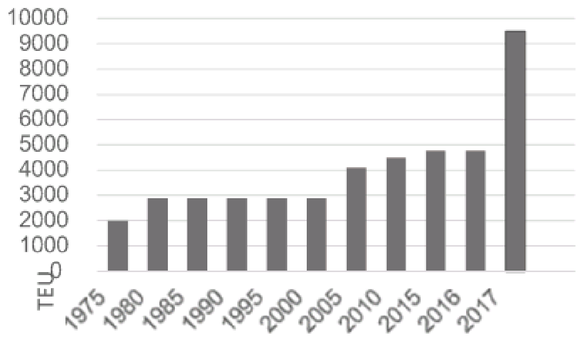


Figure 7 - Largest Container Vessels Calling New Zealand

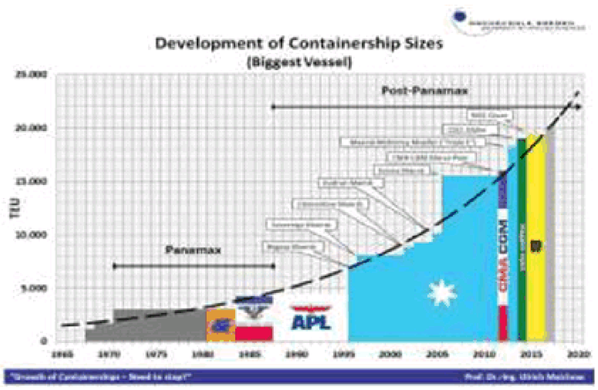


Figure 8 - Growth of Largest Container Vessels in the World

[1] Gerard Morrison, Bay of Plenty Times, 12th July 2016.

4.16. As vessels have increased their TEU capacities, their length and beam (width) have increased. The speed of this change is increasing as indicated in Figure 8.

4.17. As at February 2016, the global container fleet stood at 5162 vessels, with modest growth of 6% from February 2011. However, this represented a capacity of 20 million TEU, up 39% on 2011.

4.18. The growth in vessels over 5100 TEU was greater, with 1306 vessels - up 69% in the five year period. This represents approximately 25% of the global fleet.

4.19. We are now regularly rejecting requests from shipping lines for larger vessels to call due to a range of size-related restrictions.

4.20. Since February 2016, a net total of 132 vessels greater than 5100 TEU has been added, and this segment now makes up 25% of the global cellular fleet.

4.21. In 2015, six out of eight liner services needed to use the Port's main container berth due to their length. The same year seven out of eight liner services were gearless[2] and were reliant upon the integrated shore facilities to process containers on and off vessels.

4.22. Currently (2018) due to vessel length and demands for 1 Wharf, container operations are conducted almost exclusively on 5 Wharf.

4.23. Manoeuvres of container vessels up to 280m are able to be accommodated onto 5 Wharf without affecting vessels on 1 and 2 Wharves, in normal conditions. Vessels of between 280- 295m (the maximum length that can be manoeuvred onto 5 Wharf) can be accommodated, however, there are restrictions covering daylight hours and 1 and 2 Wharves being empty at the time. These restrictions will be more and more difficult to accommodate as vessel numbers and cargoes grow – creating more congestion

[2] Ship's gear are small cranes on-board a ship that allow a ship to load without land-based cranes. Gearless ships are those without on-board cranes.

4.24. Another key trend, is the cascading of larger vessels into smaller trades, such as New Zealand. As shipping lines continue to build larger and larger vessels, they cascade the older larger tonnage into smaller trade lanes. A 12,000 TEU vessel will now be used in a trade where 8,000 TEU vessels were once used, while those 8,000 TEU sized-vessels move to a trade that was serviced by 6,000 TEU vessels. There is a trend developing where vessels are starting to be allocated "where they fit" rather than "where they are needed". The key implication is ports that cannot handle larger vessels risk being omitted from these service strings, which would have serious implications on Hawke's Bay's export-dominated economy.

4.25. Figure 9 below shows the delivery breakdown by container vessel capacity (TEU) . This shows a clear trend toward the delivery of 10,000+ TEU vessels, which will displace lower capacity vessels, and reinforces the concept of the cascade effect.

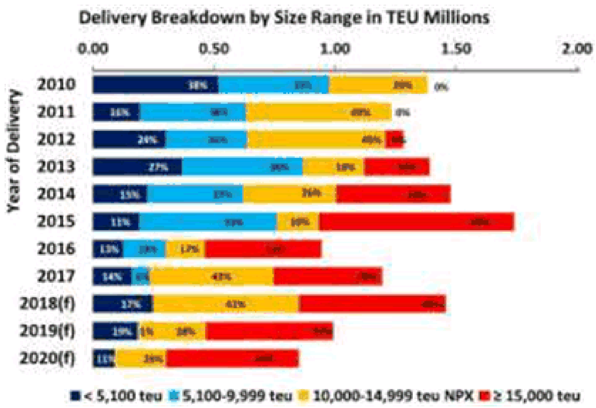


Figure 9 - Delivery Breakdown[3]

Cruise Vessels

4.26. Napier Port is the gateway for the cruise industry into the region. In the past 10 years, visitor numbers have grown significantly, with an average of approximately 125,000 per year (based on last 5 years). In the last 10 years, over 900,000 passengers and crew have disembarked at Napier Port (Figure 10).

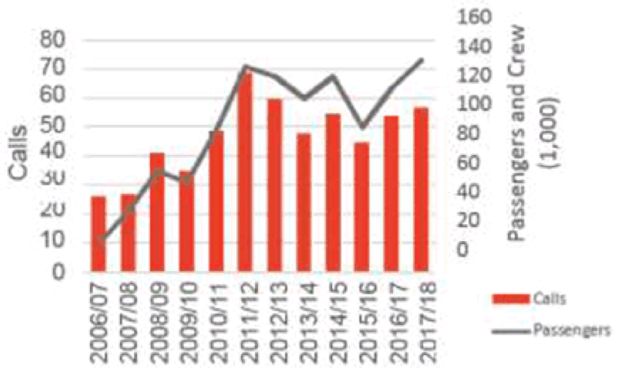


Figure 10 - Cruise Calls, Passengers & Crew (2006 - 2018)

4.27. The Port regularly rejects bookings for additional and dual vessel calls due to berths being unavailable (typically 4-7 per annum). This represents a significant loss of potential revenue to the Hawke's Bay economy.

4.28. Cruise vessels are increasing in size globally, including the Oceania market. See the graphic chart tracking growth.

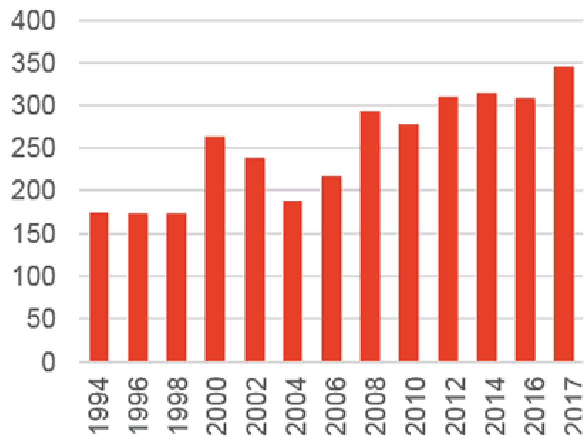


Figure 11 - Cruise Ship Length (LOA) Growth

4.29. The 'Ovation of the Seas' is currently the largest cruise vessel that can be handled by the Port. This has only been achieved through significant effort in pilot simulation and upgrade of wharf infrastructure to take the heavier bollard pull.

[3] Source: Alphaliner July 2018

4.1. The ability to handle the 'Ovation of the Seas' is subject to tight weather restrictions which mayimpact calls and hence potential lost opportunity to local business.

4.2. Royal Cruise Caribbean Ltd (RCCL) have advised that New Zealand ports, including Napier Port, should be planning now for the Oasis class of vessel – 360m Length Overall (LOA), which they foresee coming to Australasia within 5-10 years. The port is not currently able to accommodate such vessels.

Operational Capacity

4.3. The Port's container terminal is currently reliant on one 390 metre berth to work gearless vessels (5 Wharf). Most lines calling into the Port now operate gearless vessels. In the past, shorter vessel lengths meant two vessels could be accommodated simultaneously on 5 Wharf. However, container ship sizes are now of such size that this is uncommon – further reducing the Port's limited wharf space.

4.4. As shown in Figure 12, in 2014 the Port's average berth use over the full year, being the period (October to September), on the container terminal's 5 Wharf was 46%. This includes a peak utilisation of 73% in March corresponding with the peak season.

4.5. In 2015, Napier's average berth use over the full year in the container terminal was 48%, however, during the 2015 peak season (Feb to May) utilisation reached 60%.

4.6. This average utilisation has increased gradually to a point where, in 2018 (year to August), an average of 60% utilisation for the year has been reached for 5 Wharf.

4.7. This coincides with a dramatic increase in utilisation of 1 Wharf associated with the increase in log volume.

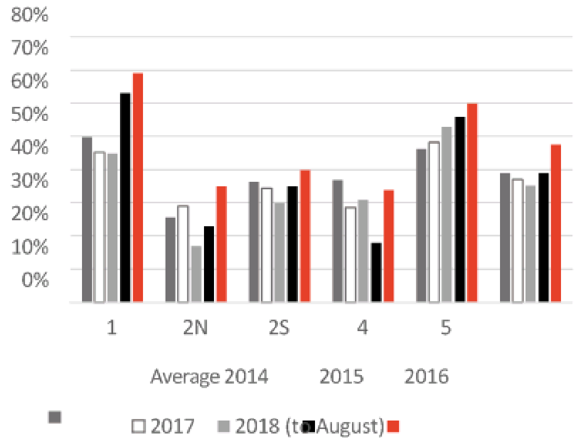


Figure 12 - Evolution of Berth Occupancy

4.8. Typically, the industry recognises that new berth capacity is required whenever utilisation of existing facilities exceeds 50%. This approach acknowledges that ships waiting for a berth incur non-productive time, sufficient to justify looking for alternative ports where they don't have to wait as long.

4.9. Vessels requiring the services of the container terminal have coped with high-berth utilisation to date because of Napier's approach to providing fixed-berth windows, which are pre- allocated time slots in which a shipping line must call each week to be guaranteed service.

4.10. An increase in vessel size results in larger exchanges. This will have the effect of providing less flexibility in providing pre-allocated windows.

4.11. Napier is focused on improving productivity per hour (the number of containers moved); this is another means of reducing working time at the berth. However, as the average size of cargo exchanges has risen, this has had the opposite effect of increasing time at the berth.

4.12. Effectively, 63% of peak season berth use in a 168-hour week converts to more than 105 hours of physical occupancy. Based on 12 hours for the movement of vessels to/from the berth, 6 weekly services x 2 hours to manoeuvre - occupancy exceeds 70%. That is significantly greater than the crossover point of 50% when it is generally accepted that a new berth is needed. Increases in cargo exchanges and ship numbers will exacerbate this situation during the peak season in particular.

4.13. Clearly, it is challenging to manage a scarce berth resource – particularly in the peak season – until such time as a new berth is available for terminal use.

4.14. While there is clear evidence that vessel sizes are increasing, the exact size and the timing into the Oceania (New Zealand) trades of vessels that are outside Napier Port handling parameters is uncertain. However, given the 24 to 30 month construction period, if a decision wasn't made to add capacity until such vessels started calling at NZ ports, Napier Port would be approximately two years behind the requirement for additional wharf space.

4.15. Operational capacity is tested every year at the Port due to the very pronounced export seasonality profile of the Hawke's Bay, typically at a peak from February to May. This is directly related to the type of products handled, such as apples, stone fruit and squash. This seasonal pattern has been part of the Port's core business for a considerable period of time.

4.16. The exact make-up and timing of the peak volumes is difficult to predict given it is dictated by climatic conditions for production in the first instance, and then by overseas market demand profiles in the second.

4.17. The Port's ability to defer peak season volumes is very limited as commodity based products (apples, squash and onions) target very particular markets for very specific timings. For example, when Northern Hemisphere growers can't provide supply i.e. Taiwan for apples in earlier February.

4.18. The Port is able to forecast overall volumes of production quite accurately, and using peak month factors, can estimate the size of the expected peaks in future years. The Port is then able to model its productivity against those volumes to estimate when current Port capacity will be exceeded.

4.19. In our modelling, we have factored in productivity improvements due to additional crane capacity (newer mobile cranes and experienced drivers), more continuous working and greater planning efficiencies with central planners providing greater crane utilisation.

4.20. In 2014, the Port achieved an average 38 moves per hour in the peak month. The Port's current service delivery to customers was not acceptable to the shipping lines when compared to other New Zealand ports.

4.21. In 2015, the Port achieved an average 46 moves per hour in the peak month (on a lower volume).

4.22. The Port has demonstrated that over 50 moves per hour is achievable when required.

Port Congestion

4.23. Port congestion is fast becoming one of the major issues for the port, with unproductive vessel shifts costing both the port and its customers in additional costs and lost productivity.

4.24. With the "Wall of Wood", berth utilisation on the General Cargo wharves is now very high, in particular 1 Wharf is now at 69% occupancy (2018 YTD).

4.25. The Port's strategy to incentivise log turnover will, together with the growth of log volume in the immediate future, result in an increase in berth occupancy.

4.26. The need to temporarily shift vessels to anchorage when larger container ships enter and leave the port is expected to cause significant issues for the Port's ability to meet the expected demands of the increased log volume.

4.27. Since 2015/16, with the regular call of the HS Beethoven (282m) and the CMA CGM Puget (282m), a total of 82 calls have required over 20 vessel to be shifted (25% of visits).

4.28. Depending on where they are in the loading process, at worst up to 24 hours can be lost due to the need for temporary lashing and unlashing. A minimum of four hours are lost during the shift. There are also operating implications, such as increased marine and mooring requirements, resulting in increasing operating costs.

4.29. Any increase in calls of container vessels of 280m and above will increase the frequency of shifts and hence impact the ability to meet the growing log volume demands.

4.30. Ships of 280m LOA and 40m beam also mean 4 Wharf, adjacent to 5 Wharf, becomes unavailable for use due to the lack of space to manoeuvre ships in and out.

5 Wharf Restrictions

4.31. Built in the 1960's and extended in the 1970s, 5 Wharf is getting closer to the end of its useful life as a container vessel berth.

4.32. Remedial work recently undertaken is expected to result in a 15 to 25 year life expectancy.

4.33. 5 Wharf was designed for a maximum 20,000 Dead Weight Tonnes (DWT) vessel. With vessels calling now regularly in excess of 50,000 DWT, 5 Wharf is at its limit in terms of maximum ship DWT it can take. Recently, the Port has had to reject the call of a large beam container vessel at over 90,000 DWT due to the limits of berthing capacity.

4.34. As with the design for vessel sizes; 5 Wharf was never envisaged to handle forklifts with 80-110 tonne per axle loads. It is a credit to the designers at the time that the wharf is handling these loads today, but this does come at the price of durability, decreasing the useful life and increasing on-going maintenance costs.

4.35. A maximum of 220 tonne pad load has been calculated for the use of MHCs (which have four pads). This results in the current 6 Series of MHCs being restricted. This results in limitation of crane reach or container weight that can be lifted onto the far side of vessels. A recent initiative to use technology to maximise lifting capacity will provide some increased capability, but ultimately there will still be restrictions on rows on the far side of vessels with larger beams visiting Napier Port.

4.36. At a declared depth of 12.6m, no further deepening at 5 Wharf can be undertaken due to the depth of the piles – meaning going deeper to accommodate deeper ships would effectively undercut the existing wharf piles.

4.37. The 95 tonne bollard capacity is not expected to meet the demands of the larger and heavier vessels expected and will require upgrades.

4.38. Built to 1960s technology, the wharf is more susceptible to earthquake damage than an equivalent modern design.

4.39. Currently, 5 Wharf is insured for replacement value, which will no longer be possible once the remaining functional life reduces to 15 years, when indemnity cover will be the only available option.

5. ALTERNATIVE OPTIONS

Status Quo (5 Wharf)

5.1. This option positions the Port to handle some limited growth long-term and would see Port management focusing on ways to reduce the impact of the peak season volume, while endeavouring to increase productivity past the 53 moves per hour mark.

5.2. Given Napier's mix of vessel sizes and capacities, increasing productivity on average over the peak period will remain challenging. However, working three cranes continuously at every opportunity and smaller vessels on 4 Wharf is expected to allow the achievement of the required productivity.

5.3. Port management do have a number of strategies available to influence the peak volume, however they come with downsides. A decision to stop seeking cargo from out-of-region customers, in doing so reducing the peak volumes, will also reduce overall volumes and be keenly felt in the off season months and through port returns to shareholders.

5.4. Where larger vessels, anything over 295 metres, were scheduled to call on New Zealand then the Port would not be considered. This is not to say Napier wouldn't continue to handle direct liner calls. However, Napier Port would likely lose fringe cargoes to Ports of Auckland and Port of Tauranga as they are capable of handling larger vessels and be in theory able to enjoy the benefits of the economies of scale these larger vessels provide shippers.

5.5. Wider vessels will continue to remain a challenge due to crane outreach and wharf capacity.

5.6. The key assumption for the status quo strategy is that there will always be a number of international lines whose strategy will be to call at multiple ports directly, to pick up cargo versus a hubbing strategy. This will have the effect of a decrease in choice for the region's exporters and importers, and may affect shipping rates.

5.7. Relying on the status quo would reduce the Port's ability longer term to grow its container base and to remain relevant to international shipping lines. As they continue to grow their capacity they are looking to ports to provide that cargo base. The Port would first and foremost focus on servicing the needs of local shippers to provide the best economic efficiency for shipment.

5.8. Maintaining the status quo, and maintaining our current infrastructure is an option that has the minimum CAPEX requirement, but that will in the longer term constrain the Port and the region's growth. More intensive use of labour to manage congestion issues over time adds to operating costs, resulting in higher prices and/or lower returns. As a long-term infrastructure provider, the Port needs to provide fit-for- purpose facilities for its customers to use, and to achieve the productivity required to be competitive.

5.9. This option does not address the age and limited lifespan of 5 Wharf.

Redevelopment of 5 Wharf to a Gantry Compatible Status

5.10. The redevelopment involves building new piles in front of the existing berth to accommodate the front gantry rail. The reason for building in front of the current wharf is that strengthening the current structure has too many unknown factors. In order to achieve the pile depth the existing pile would need to be removed. The removal of piles is costly and dangerous given they can and often break and have to be drilled out.

5.11. As new piles would be built in front of the current wharf, this has the effect of reducing the distance between berthed vessels at 5 and 4 Wharves.

NAPIER PORT

5.12. This option only accommodates the current maximum size of vessel (LOA) at 285 metres without affecting other vessels on 1 or 2 (North) Wharves. The 5 Wharf option will only be able to accommodate a maximum of 295 metres LOA, but at this length the Port would have to vacate and move more vessels on 2 (North) Wharf and 1 Wharf, which as noted earlier results in significant disruption.

5.13. With an estimated build time of between 12-18 months, container operations would need to move to an alternative working berth to ensure continued service levels.

5.14. The only practical option to accommodate the vessel LOA would be 2 Wharf (North).

5.15. 2 Wharf (North) represents a difficult working model for container operations, with a full truck and trailer operation required.

5.16. While the container terminal is operated from 2 Wharf (North), the Port would have to accommodate charter vessels that traditionally use the berth, namely cruise vessels, oil tankers and fertiliser vessels.

5.17. While fertiliser vessels can be accommodated at 1 Wharf and 4 Wharf, oil and cruise vessels are more problematic.

5.18. 1 Wharf could be used for cruise vessels, including the Ovation Class, but this would require investment into ground bollards or mooring dolphins. This would also significantly affect the ability to perform fumigation for logs, which require exclusion zones.

5.19. The temporary reduction in wharf availability would negatively affect the Port's ability to effectively handle the current and expected future log export business.

5.20. The operational model is in essence similar to our current mode of operation, with the inclusion of new shunt vehicles to move containers from the terminal stack to the vessel and visa-versa, and the addition of a hoist at shipside operations to feed containers to and from vehicles as it is not practical to expect the harbour mobiles to land directly to transport, impacting on operational performance.

5.21. Longer-term this option would not grow the Port's operational capacity. The Port would still be constrained in terms of maximum LOA without affecting other operations.

5.22. During the construction phase, this option would create operational displacement for multiple parts of our business. Service levels to all customers will be reduced for the period of construction.

5.23. This option, while providing a gantry crane ready container terminal, also requires a material investment and would reduce the operational effectiveness of 4 Wharf, as the extra area required to accommodate the front rail reduces the distance between berthed vessels.

100m Extension of Wharf 1 to a Gantry Compatible Status

5.24. The option to develop Wharf 1 in the short term is a workable alternative to the more comprehensive 6 Wharf Development.

5.25. Larger vessels will continually be added into the New Zealand trade over time. It is likely that with each service change, others will follow. This has been the trend over the last 25 years.

5.26. Extending 1 Wharf to accommodate one service in the first instance, via a truck and trailer operational model is a valid operational option. However, the longer term infrastructure needed when other services require the use of this wharf, become operationally and cost constrained.

5.27. To operate 1 Wharf as a sole container terminal would require considerable further investment in refrigerated (reefer) container facilities and double handling of containers. The suggested operational model would require 500 reefer plugs at 1 Wharf and a truck and trailer operation to clear empties from the berth operating 24 hours a day.

5.28. The current log volume would need to move to the current container terminal. Like for like, this would be 6.5 hectares, leaving only approximately 3.2 hectares for terminal use. The additional environmental factors would need to be considered as the log operation creates a consider amount of dust and debris.

5.29. The movement of the log operation into the current container terminal would see multiple operations in the same area, with traffic management and controls being critical to ensure all potential risks would be mitigated. It is likely that both log gantries would need to be moved or the option taken to cease offering this service.

5.30. The ability to fumigate deck cargoes of logs would also be reduced, unless the Port reconsidered its stance to allow this activity in the current container terminal. This would create a number of issues in terms of the proximity to residential areas.

5.31. 1 Wharf represents 6.5 hectares with a theoretical stacking capacity of 2,000 TEU. This represents three vessels in the peak season. Volume for the remaining 3-4 weekly calls would need to be stored in part of the current terminal that wouldn't be occupied by logs.

5.32. An alternative scenario is for all reefer cargo to continue to be received into their current locations (inside the current terminal) and trucked to ship side, allowing all dry containers to be stored on 1 Wharf. This has the benefit of reduced reefer capacity investment, however the downside would be double-handling all reefer containers and the risks associated with having chilled cargo off power for longer periods. Also, mixing log storage with reefer containers has considerable risks associated with it. This option has thus been discounted.

5.33. It was assumed that while the new extension is being built, the status quo would remain with logs receiving, storage and loading remain on 1 Wharf.

5.34. The targeted berth-side productivity required to handle the peak season container volume remains at 53 moves per hour. In order to achieve this critical productivity target, the operation would need to invest heavily in trucks and trailers (or Mafi and trailers).

5.35. When considering the operational model for 1 Wharf in year one, the underlying assumption has been that the terminal landside operations including road, rail, depot and container freight station (CFS) will continue as normal in the current container terminal footprint and movements will be undertaken directly to and from vessels berthed on 1 Wharf.

5.36. Whilst 4 Wharf has been used to accommodate smaller two gang density vessels in the past, this has been discounted as the area will be required for accommodating logs that would traditionally be stored on 1 Wharf.

5.37. The operational model is in essence similar to our current mode of operation with the inclusion of new shunt vehicles to move containers from the terminal stack to the vessel and vice versa and the addition of a hoist at shipside operations to feed containers to and from vehicles. It would considerably impact on operational performance.

5.38. Longer term this option does not significantly grow the port's operational capacity. It simply transfers the container operation to another part of the Port, with the ability to handle longer vessels.

5.39. This option requires a material capex investment and presents considerable risk in productivity performance. All operational rationale is to have cargo as close to the berth as possible to minimise the running distances. Given the Port's pronounced peak, the need to achieve maximum productivity is critical to handle the in-region freight task.

NAPIER PORT

6. SUMMARY

6.1. Napier Port has a strong stable base of in-region cargo. That base of cargo is underpinned by continuing investment in the business infrastructure and its capacity throughout the region.

6.2. Hawke's Bay is seeing substantial investment in new export ventures and regional infrastructure projects that will continue to see export freight grow.

6.3. The most cost effective method for Hawke's Bay and in-region shippers to access overseas markets is via Napier Port.

6.4. Maintaining and increasing port capacity is critical long term to the success of the Port's business offering.

6.5. Longer term, the Port will need to invest in wharf capacity and additional crane capacity to provide the level of productivity customers demand, and more importantly to be able to handle the volume required over the peak months.

6.6. Alternative development options are available, but none deliver a long term solution.

6.7. Providing the export dominated region with world-class shipping options and choices will increase the competitive options for Hawke's Bay industries.

6.8. The trend toward larger vessels (longer and wider) will continue at a faster pace than the previous 25 years.

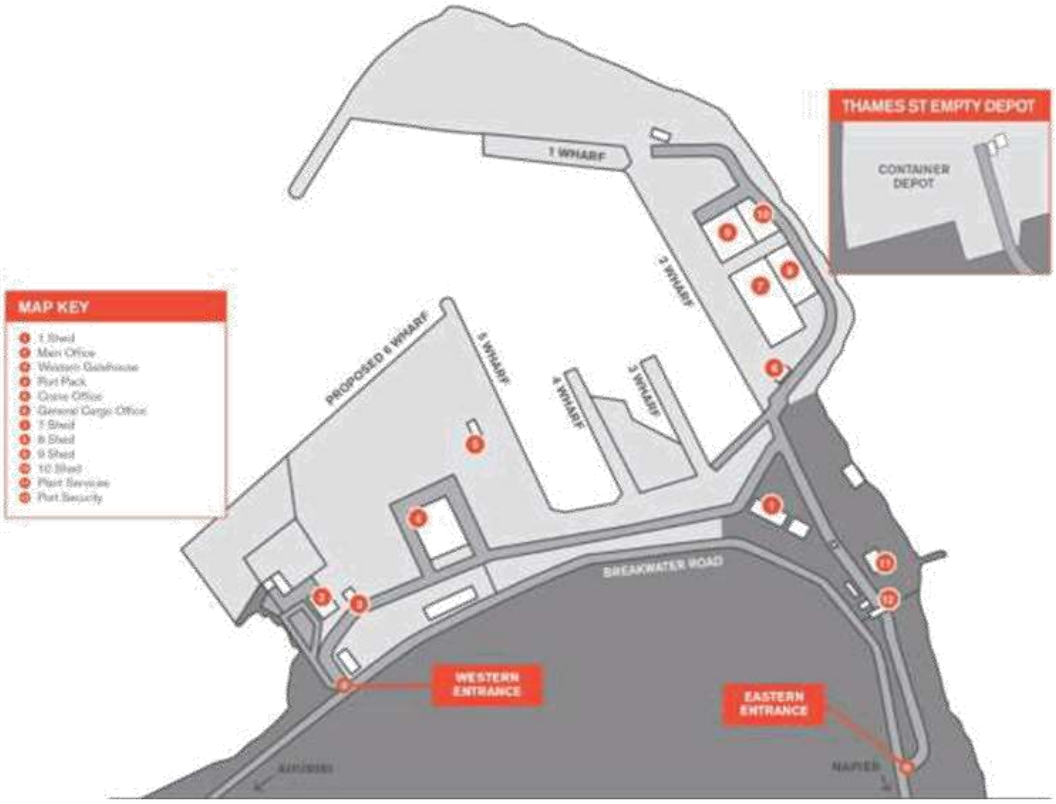
6.9. The Port is restricted by the maximum length of container vessels it can handle.

6.10. Handling vessels greater than 280m in length requires the shifting of vessels berthed at 1 Wharf and 4 Wharf, with associated costs and lost productivity, in particular for log exports.

6.11. The proposed 6 Wharf Development is the only option which adds capacity to the Port, and facilitates growth in trades, including log and cruise.

6.12. The proposed 6 Wharf development is the only option that 'Future Proofs" Napier Port, with the ability for further expansion

Appendix 1: Map of Napier Port and Thames Street Depot

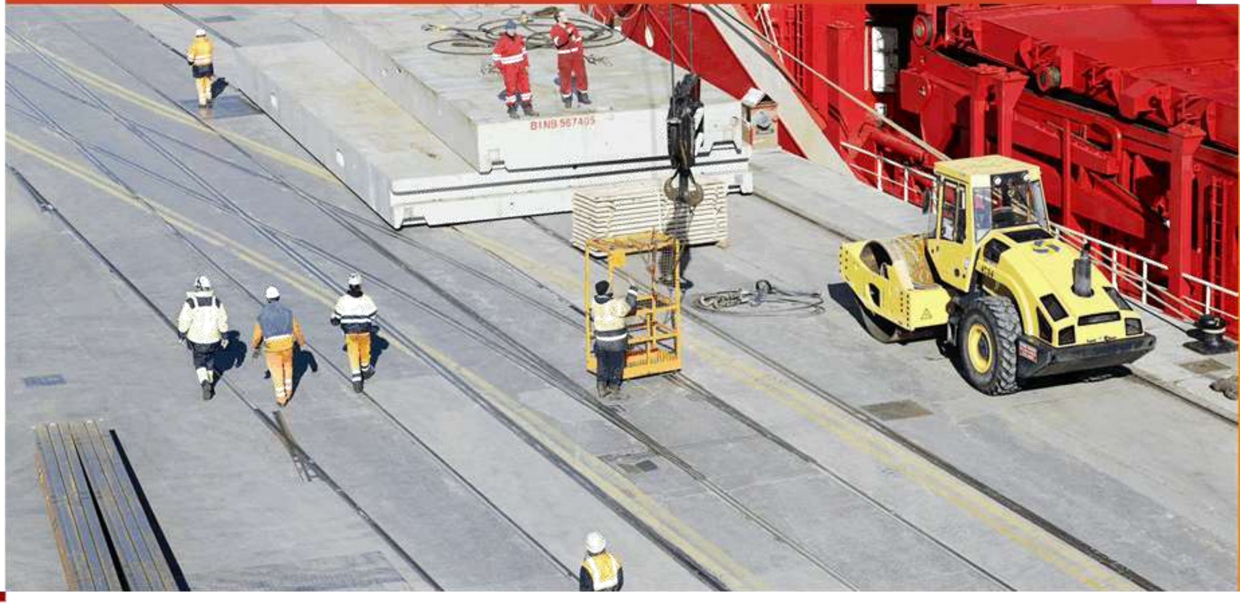


Corporate Finance

Hawke's Bay Regional Council
Napier Port: Summary review of capital structure options

HAWKE'S BAY
REGIONAL COUNCIL

1 October 2018



pwc

1 October 2018

In accordance with your instruction as confirmed in our letter of engagement dated 14 August 2018 (the Contract), we present a summary of the valuations adopted by Hawke's Bay Regional Council (HBRC) and Hawke's Bay Regional Investment Company Limited (HBRIC) in its consultation document dated October 2018 (the Consultation Document), including our views on the reasonableness of these valuations (the Summary Report), as HBRIC consider its ongoing ownership of the Port of Napier Limited (Napier Port or the Company).

This Summary Report should be considered only in its entirety.

This report was prepared solely to assist HBRC and HBRIC in assessing the merits of the capital structure options considered and is not to be relied upon for any other purpose. We consent to your providing copies of this Summary Report to third parties only in its entirety and on the basis that, to the fullest extent permitted by Law, we accept no duty of care to any such party in connection with the provision of this Summary Report and/or any related information or explanation (together the Information). Accordingly, regardless of the form of action, whether in contract, tort (including without limitation negligence or otherwise) and to the extent permitted by applicable Law, we accept no liability to any third party and disclaim all responsibility for the consequences of any third party acting or refraining to act in reliance on the information.

Notwithstanding the above, our consent to your distributing this Summary Report to third parties is given solely on the basis that you agree that, in the event such release leads to our incurring any costs or obligations to such third parties, we will rely on the indemnities which you have provided to us.

In preparing this Summary Report we obtained information from a variety of sources. While we have analysed financial information, we have not undertaken an audit or verified this information, and will not accept any responsibility for any errors contained in the information provided. Accordingly, we accept no responsibility and make no representations with respect to the accuracy of or completeness of any information provided to us, except where otherwise stated and no assurance is given. Further detail on our key terms of business are provided at Appendix 1 of this Summary Report.

Yours faithfully

Price Waterhouse Coopers

PricewaterhouseCoopers

PricewaterhouseCoopers, 188 Quay Street, Private Bag 92162, Auckland 1142

Item 9

Attachment 3

Contents

Introduction

Background

- Through HBRIC, HBRC owns Napier Port. Based on current forecasts Napier Port is expected to experience significant growth in cargo volumes and needs to invest in further infrastructure to support this growth. A new wharf (Wharf 6), estimated to cost around $142m, is the first step in a 10 year investment programme estimated to cost ~$320m to $350m.
- We take at face value Napier Port's view that Wharf 6 capital expenditure (capex) is required to sustain growth. Expansion capex is a necessary requirement to support growth; failure to spend that capex is likely to have adverse impacts to regional growth and hence HBRC's rating base.
- Consideration of options to fund the Napier Port infrastructure has prompted HBRC to review its ongoing ownership interest in the Company.

Scope

- The scope of our services is to carry out a review of the reasonableness of the valuations adopted by HBRC in the Consultation Document, including:
  - The valuation approaches adopted;
  - Key assumptions;
  - Sense checking of outputs; and
  - Views on the pros and cons of the approaches.

Capital structure options

- As instructed, we have first considered Napier Port's and HBRC's capacity to fund the expansion capex through debt. Our analysis is provided on the following pages 5 and 6.
- In addition, in this Summary Report we also consider the reasonableness of the valuations adopted by HBRC with regard to other funding options, specifically:
  - An Initial Public Offering (IPO) model;
  - A Concession/lease model; and
  - A Minority Share Sale.
- We provide a comparison of these options on pages 7 and 8. Each option is also discussed in separate sections of this Summary Report.

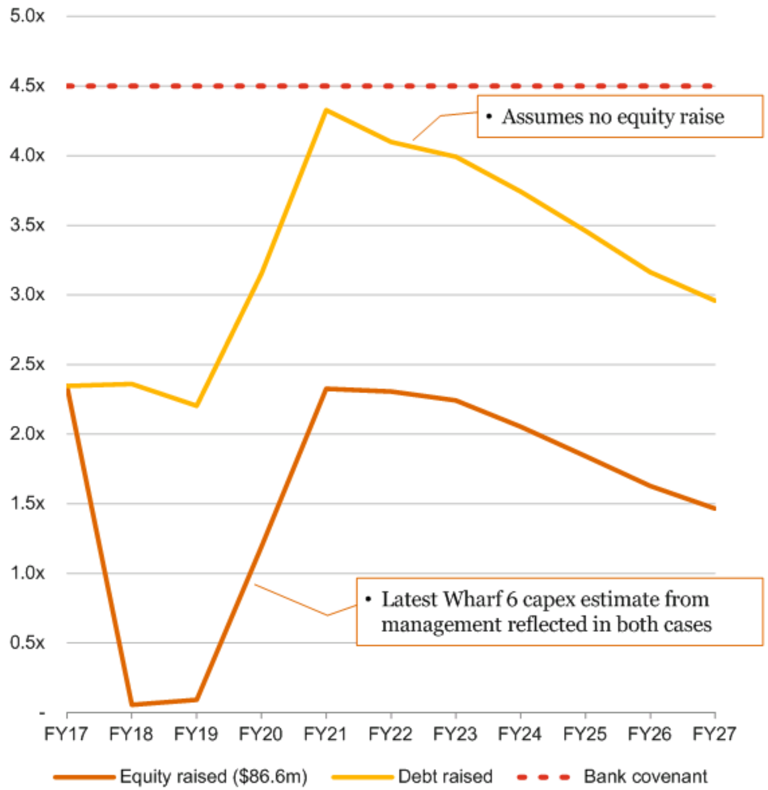
Other considerations

- The views contained in this report are as at the date of this report. Market conditions can change which may impact the conclusions contained.
- Transaction costs can vary, particularly as transaction costs can be linked to proceeds.
- The proceeds presented in this document are net of initial income tax estimates. We have provided this tax advice based on various assumptions for the purpose of presenting financial information for consultation net of income tax considerations. Once a decision has been made at the conclusion of this consultation process, further detailed tax advice on the preferred approach will need to be provided to confirm the position.

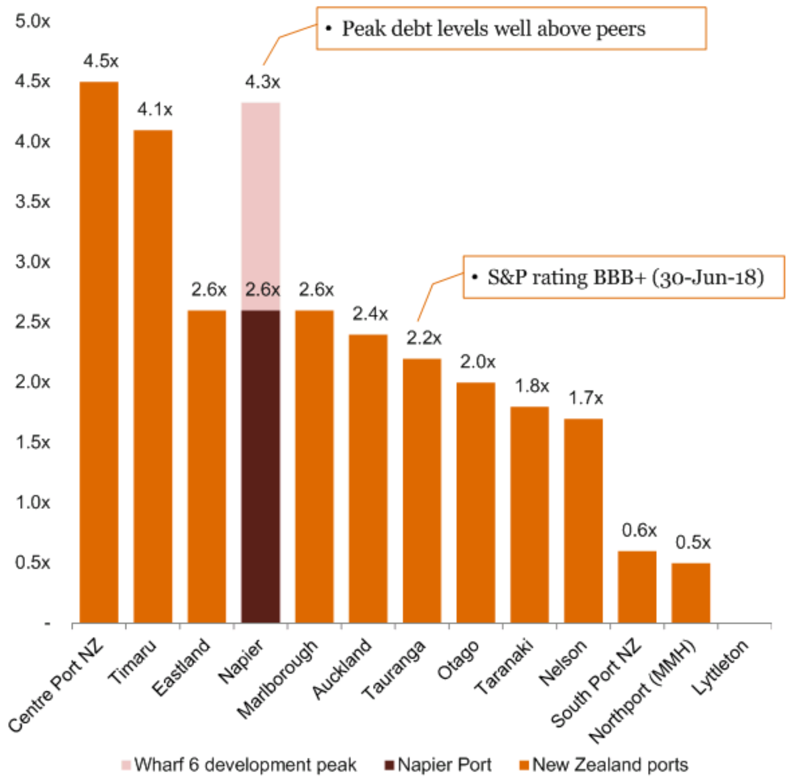
Debt Funding Option: Napier Port debt capacity

Based on analysis of current debt levels, Napier Port has limited capacity to debt finance the Wharf 6 port expansion in addition to its ongoing maintenance capex requirements

Net debt / EBITDA



FY16 Net debt / EBITDA peer comparison

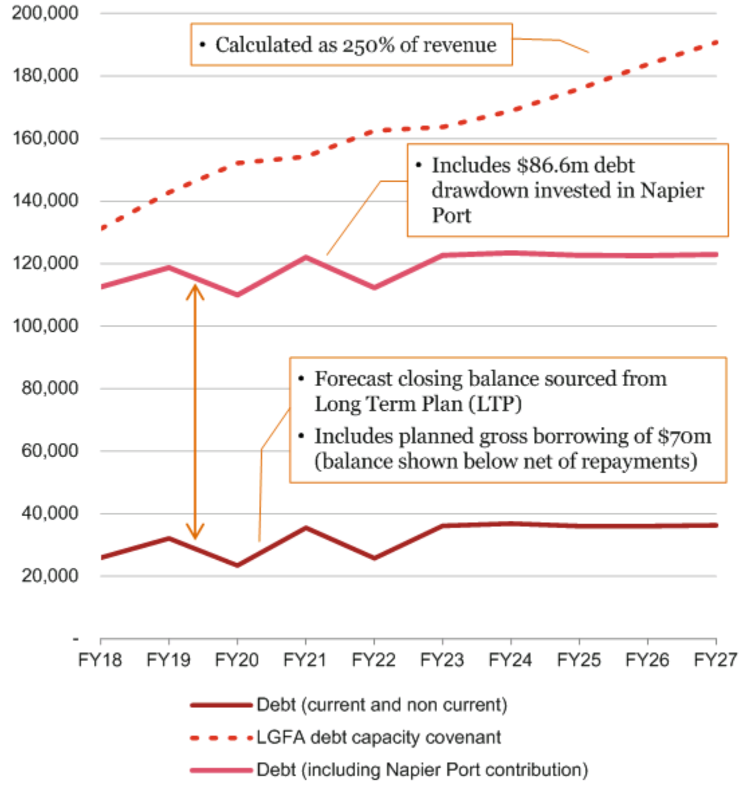


Source: HBRC, PwC Analysis

Debt Funding Option: HBRC debt capacity

We have also reviewed the debt finance option associated with HBRC using its own resources to finance Napier Port expansion. HBRC would also have limited capacity to increase debt levels

Forecast debt capacity



Comments

- As set out on the previous page, Napier Port does not have the capacity to fund the expansion on its own balance sheet given current debt levels. The only option to achieve this would be for HBRIC to inject capital of $86.6m to retire Napier Port debt, which may have implications for future dividends from Napier Port, which is consistent with the advice previously received by HBRIC.
- To execute the above, HBRC would have to borrow the $86.6m of new capital to be invested in Napier Port increasing net debt to $112.5m, leaving only $18.7m of headroom under LGFA guidelines (on the basis of maximum debt at 250% of revenue) and reducing flexibility to respond to future unexpected events. In addition HBRC may require a credit rating to receive such an increase in debt levels. We estimate that the cost of new debt to be in the range of $3m to $4m which would need to be funded by rates increases. The alternative of Napier Port not paying dividends will also likely have a rates impact.
- We note also that the above analysis has been undertaken on the debt balance net of repayments. Credit rating agencies may take into account gross borrowings.

Source: HBRC, PwC Analysis

Indicative valuation comparison summary

Comparison of transaction structure options

$m	IPO 45% sold Low	Mid	High	Concession / lease Low	Mid	High	Minority share sale 45% sold Low	Mid	High
Indicative valuation comparison									
Napier Port enterprise value	410	**435**	460	397	**466**	534	410	**435**	460
Less: Napier Port debt		(87)			(87)			(87)	
Equity value (100% of shares)	323	**348**	373	310	**379**	447	323	**348**	373
Indicative proceeds comparison									
Gross proceeds to HBRIC [1]	89	**94**	100	310	**379**	447	43	**60**	79
Additional equity raised [2]		87			n/a			87	
Total equity raised (incl new equity)	175	**181**	186	n/a	**n/a**	n/a	129	**147**	166
Indicative transaction costs		(11)			(13)			(8)	
Indicative retained equity comparison									
Value of retained equity	226	**239**	253	40	**49**	58	226	**239**	253

1. HBRIC sale of 45% of its existing equity shareholding.
2. Equity raised by Napier Port from new investors to pay down all outstanding debt.

Valuation comparison

- Improved operational efficiencies are expected to drive a higher valuation under the Concession/lease transaction structure.
- Based on comparable company trading and transaction multiples, the concluded value ranges appear reasonable.

Proceeds comparison

- A 45% share sale has been assumed under the IPO and Minority Share Sale structures (including new equity raised to pay down existing debt).
- Discounts have been applied to the IPO and Minority Share sale options consistent with those often observed in the New Zealand market.

Retained equity value comparison

- 55% equity retained by HBRIC under the IPO and Minority Share sale structures.
- Equity retained under the Concession/lease structure but lease runs for 50 years.

Contents | Introduction | IPO | Concession | Minority Sale | Conclusion | Appendices

Qualitative comparison summary

Key
✓ Advantage
– Neutral
✗ Disadvantage

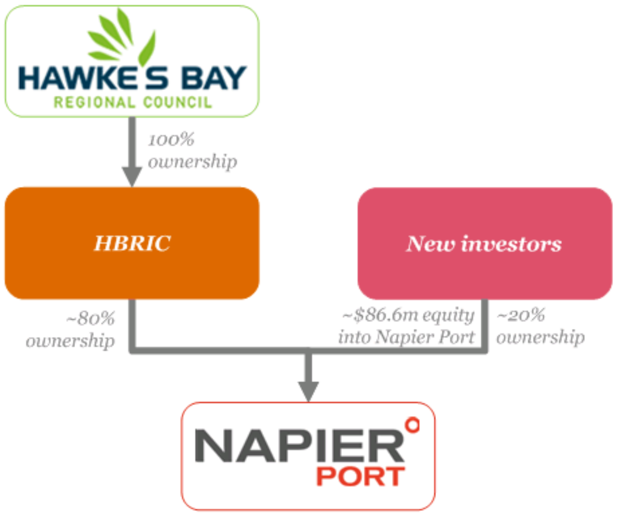
	Concession	IPO	Minority ordinary share sale
Structuring simplicity	✗	✓	✓
HBRIC future direct influence	✗	–✓	–✓
Future efficiency of port	✓✓	✓	–✓
Gross valuation of Napier Port	✓✓	✓	✓
Tax considerations regarding proceeds	–✗	✓	✓
OIO considerations	✗	✓	–
Complexity of future port consolidation	✗	✓	–
Transaction achievable by 1 July 2019	✗	✓✓	✓

IPO Option

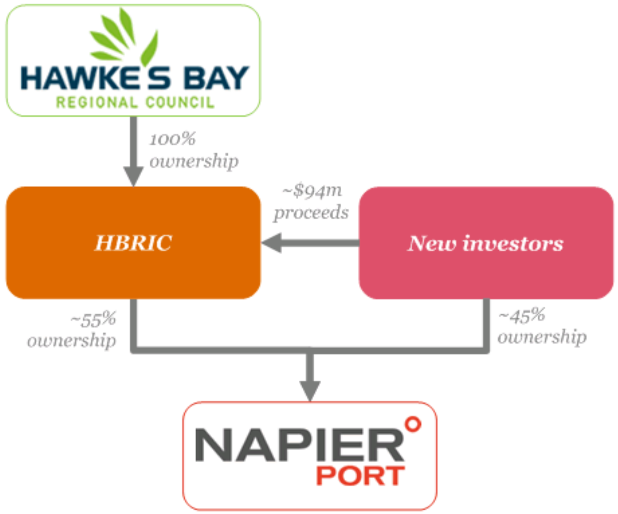
IPO Option: Proposed transaction structure

The IPO transaction structure considered by HBRC/HBRIC is presented below. Total raising $181m of equity (based on the midpoint valuation) consisting of $86.6m new equity and a $94m sale of existing equity by HBRIC is being considered. Upon completion of the IPO, HBRIC would have a 55% shareholding in Napier Port

IPO structure – Primary equity



IPO structure – Secondary equity



At listing, the following would occur simultaneously:

1 Primary Equity

IPO investors would subscribe for $86.6m of new shares in Napier Port, the proceeds will be used to reduce debt to nil.

2 Secondary Equity

HBRIC would divest its shares, reducing its shareholding to 55% and raising ~$94m of proceeds (based on the midpoint valuation).

Item 9

IPO Option: Indicative EV range

The IPO option valuation concluded on a range of $410m to $460m. Based upon analysis of comparable company trading multiples, the concluded value range appears reasonable

$m	IPO 45% sold Low	Mid	High
Indicative valuation comparison			
Napier Port enterprise value	410	**435**	460
Less: Napier Port debt		(87)	
Equity value (100% of shares)	323	**348**	373
Indicative proceeds comparison			
Gross proceeds to HBRIC[1]	89	**94**	100
Additional equity raised[2]		87	
Total equity raised (incl new equity)	175	**181**	186
Indicative transaction costs		(11)	
Indicative retained equity comparison			
Value of retained equity	226	**239**	253

Commentary

- As a cross-check to the concluded value range of $410m to $460m, trading multiples of comparable companies that are publicly traded were considered.
- We note that:
  - The comparable companies considered consisted of three listed New Zealand ports, listed Australasian infrastructure companies and listed overseas ports, logistics and stevedore companies;
  - Port of Tauranga Ltd (PoT) is the most comparable New Zealand listed port to Napier in terms of operations however it is much larger, has stronger growth prospects and therefore attracts a premium multiple; and
  - South Port is comparable in terms of scale to Napier Port, however it has less than half Napier Port's TEU throughput and EBITDA and lower growth prospects.

1. HBRIC sale of 45% of its existing equity shareholding.
2. Equity raised by Napier Port from new investors to pay down all outstanding debt.

Attachment 3

IPO Option: Qualitative observations

Upfront proceeds are relatively lower than the Concession/lease model given only 45% is sold. However, the option has precedents in New Zealand and HBRC would retain shareholding in a strong dividend yielding asset - proceeds and remaining shareholding should be considered together

Not as structurally complex as the Concession as new and existing shares are sold and there is a clear precedent of mixed ownership in New Zealand.

HBRIC will retain influence through majority shareholding but Napier Port must act commercially and be governed by an independent commercial board representing all shareholders. If new equity is required, HBRIC would need to participate to retain its majority shareholding.

An IPO should lead to **increased efficiency** (albeit less efficiency than under a Concession model), with historical government IPOs demonstrating this phenomena.

No material tax issues with an IPO, **valuation likely to be lower** than a gross concession valuation, influenced by future business prospects and investor views on the boards ability to act commercially (may need to consider board make up). IPO values are typically priced at a slight discount to expected trading value. Value to HBRC/HBRIC is in the form of upfront proceeds and remaining shares in Napier Port, which will continue to receive dividends.

Investors will be New Zealand retail, New Zealand institutional and off shore institutional; likely to need OIO exemption but hurdle is lower than for a concession.

Does not rule out future participation in port consolidation.

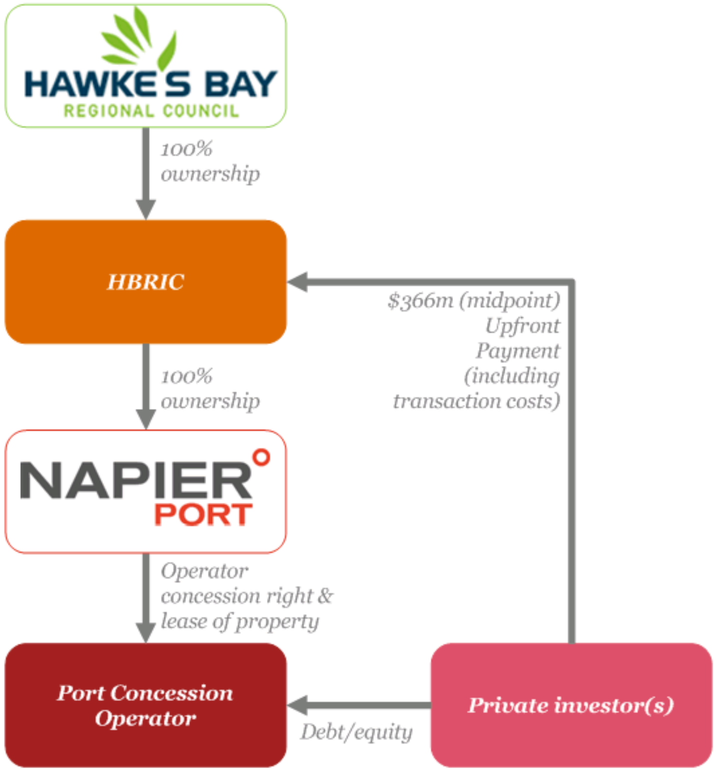
Timetable achievable by 1 July 2019 as advised.

Concession/lease Option

Concession/lease Option: Proposed transaction structure

The Concession/lease structure is effectively a finance lease of the existing Napier Port assets for a fixed concession term (50 years has been proposed)

Concession/lease structure



Commentary

- The operator concession model is new to New Zealand but there are a number of examples in Australia (refer to following page).
- HBRIC offers the right to a port concession operator to operate Napier Port under a fixed term concession, say 50 years. This involves the transfer of Napier Port assets, together with employees, key contracts (including supply agreements), liabilities (eg employee leave balances) and goodwill via a lease agreement.
- Consideration is received upfront by HBRIC.
- A lease agreement with relevant safeguards is required to ensure HBRIC and broader stakeholders' interests are protected. Some key aspects to be considered in the lease agreement include:
  - Transaction structure to ensure HBRIC influence;
  - Minimum investment requirements;
  - Share in future economic upside eg dividends (will reduce upfront payment);
  - Step in rights based on performance; and
  - Asset condition on handback.
- The concession will require property company (PropCo) and operating company (OpCo) separation whereby HBRIC will continue to own the assets leased to the 3rd party lessee/operator.
- The tangible and intangible assets will need to be valued as part of the transaction in order to ascertain total income tax payable resulting from the transaction. As a finance lease, income is taxable to the extent depreciation is recovered as part of the lease. Proceeds which exceed the asset cost are not taxable.
- In order to provide HBRIC and 3rd party operators with greater certainty regarding tax treatment, it would be prudent to seek binding tax rulings from the Inland Revenue Department prior to agreement signing.

Concession/lease Option: Indicative EV range

Australian Concession/lease transactions have transacted at EBITDA (LTM) multiples of between 17x and 28x

$m	Concession / lease Low	Concession / lease Mid	Concession / lease High
Indicative valuation comparison			
Napier Port enterprise value	397	**466**	534
Less: Napier Port debt		(87)	
Equity value (100% of shares)	310	**379**	447
Indicative proceeds comparison			
Gross proceeds to HBRIC	310	**379**	447
Additional equity raised		n/a	
Total equity raised (incl new equity)	n/a	**n/a**	n/a
Indicative transaction costs		(13)	
Indicative retained equity comparison			
Value of retained equity	40	**49**	58

Commentary

- Since 2010, there have been a number of port Concession/lease transactions in Australia, in particular:
  - Port of Brisbane (2010);
  - Port Botany/Kembla (2013);
  - Port of Brisbane (secondary sale) (2013);
  - Port of Newcastle (2014);
  - Port of Darwin (2015); and
  - Port of Melbourne (2016).
- These Australian ports are ports of significant scale and with the exception of Port of Darwin are all at least double Napier Port in size.
- In addition, each port has significant geographic monopolies.
- Given these factors (among others) the concluded value range, which applies a substantial discount to these multiples, appears reasonable.

Concession/lease Option: Qualitative Observations

Whilst likely to result in the best economic outcome of the options, there are a number of control and completion risks that need to be considered

The most structurally complex option, with operations separated from land and operations subject to a 50 year lease. Complexity likely to result in increased advisory fees, such as accounting, tax and legal. There are no existing New Zealand precedents which may impact timing (eg tax rulings).

HBRIC has no influence over operations for 50 years, except through enforcement of the lease agreement, but then operations are returned in 50 years.

Concession model likely to create a **highly efficient port**, although toward the end of the concession, the operator will have **less incentive to invest**. However, asset handback provisions are typically included in lease agreements and are designed to ensure an agreed level of asset quality at handover.

Subject to the consideration of tax, **likely to result in highest proceeds to HBRIC**.

Difficult to see how the 'public' could participate in OpCo alongside the leasee, and adds complexity to Napier Port participation in any future port consolidation.

Larger New Zealand parties typically do not participate in competitive processes. Likely to attract significant overseas interest and this may add **OIO complexity** and cause completion delays. We note, however that other New Zealand port operators (eg Port of Auckland Ltd and PoT) may also be interested in a concession.

Greatest timetable risk, difficult to see how proceeds could be received by 1 July 2019, particularly given the complexity and OIO considerations above.

Item 9

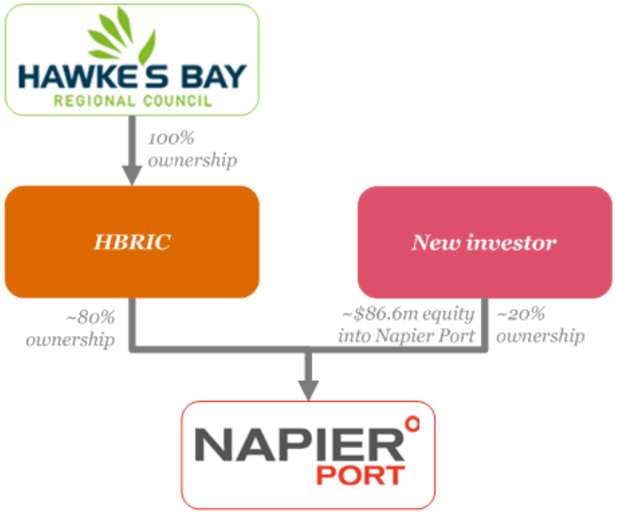
Minority Share Sale Option

Attachment 3

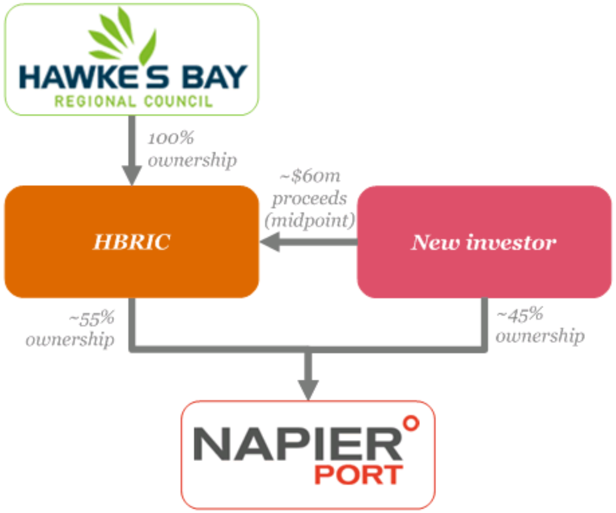
Minority Share Sale Option: Proposed transaction structure

The Minority Share Sale transaction structure considered by HBRC/HBRIC is presented below. Total raising $147m of equity (based on the midpoint valuation) consisting of $86.6m new equity and a $60m sale of existing equity by HBRIC (pre transaction costs) is being considered. Upon completion of the transaction, HBRIC would have a 55% shareholding in Napier Port

Minority Share Sale structure – Primary equity



Minority Share Sale structure – Secondary equity



Suggest both would occur simultaneously:

1 Primary Equity

The investor would subscribe for $86.6m of new shares in Napier Port, the proceeds will be used to reduce debt to nil.

2 Secondary Equity

HBRIC would divest its shares, reducing its shareholding to 55% and raising ~$60m of proceeds (based on the midpoint valuation).

Item 9

Minority Share Sale Option: Observations

With regard to a minority ordinary share sale to a trade party, a strong shareholders' agreement should result in a similar value to that achieved through an IPO, however the more control HBRC seek to retain the lower likely minority valuation

- The value range adopted by HBRC suggests a minority ordinary share sale would transact at a discount of 20% to 30% of the 100% equity value.
- A minority ordinary share sale may achieve a similar valuation to an IPO, however to achieve this the shareholders' agreement would need to specify shared control of key matters with the minority shareholder.
- Therefore prudently, we have adopted a lens reflecting a weaker shareholders' agreement which should see value reduce along the lines outlined including a limitation of buyer audience. Shareholders' agreement considerations include:
  - Director appointments, capex agreements and the ability to influence the Company's strategic direction; and
  - Exit provisions.
- After adjustment to allow for like for like comparison with the other options, the upfront proceeds expected from this option are $43m to $79m with a midpoint of $60m (pre transaction costs), and retained equity of ~$239m (based on a 45% sale).

Similar complexity to an IPO.

HBRIC will retain influence through majority shareholding; but shareholders' agreement will limit influence, likely retain the ability for future liquidity and require commercial action.

Introducing a minority partner should **increase efficiency** but would depend on the investing party.

No material tax issues with a minority sale. **Valuation is likely to be strongly influenced by a 'quality' shareholders' agreement** – with a quality shareholders' agreement, value is likely to be similar to an IPO.

Investors could be New Zealand based but more likely to be offshore, creating similar OIO considerations to a Concession/lease model.

Flexibility to participate in future port consolidation, however more complex than an IPO.

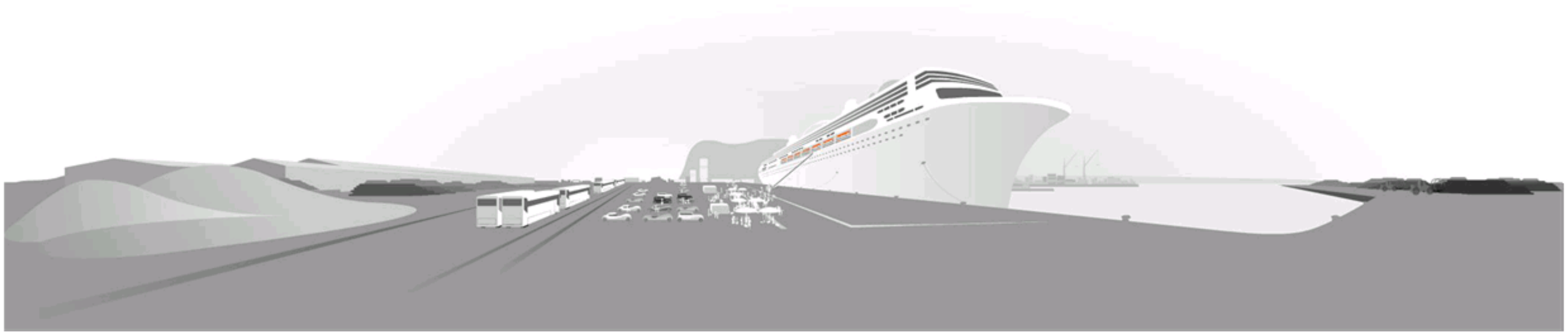
Sale achievable, subject to OIO, by 1 July 2019.

Attachment 3

Conclusion

Overall assessment

1. Napier Port is not in a position to fund Wharf 6 capex with debt given maintenance capex and dividend requirements, and based on our review of HBRC's debt capacity, if HBRC were to increase it's debt by $86.6m to provide as capital to Napier Port (to eliminate Napier Port's current debt) HBRC would be left with little debt capacity to cater for future unforeseen circumstances.
2. Therefore provision of external capital into Napier Port (such as through the three options considered) is an alternative to facilitate growth at Napier Port, and throughout the region.
3. At a high level, pre transaction costs and tax the valuations adopted by HBRC in the Consultation Document appear reasonable.
4. We note also that valuations are a best estimate, subject to market movements and market conditions on the day.



Appendices

Key terms of business and restrictions

- This Report has been prepared solely for the purposes stated herein and should not be relied upon for any other purpose.
- To the fullest extent permitted by law, PwC accepts no duty of care to any third party in connection with the provision of this Report and/or any related information or explanation (together, the “Information”). Accordingly, regardless of the form of action, whether in contract, tort (including without limitation, negligence) or otherwise, and to the extent permitted by applicable law, PwC accepts no liability of any kind to any third party and disclaims all responsibility for the consequences of any third party acting or refraining to act in reliance on the Information.
- We have not independently verified the accuracy of information provided to us, and have not conducted any form of audit in respect of the Company. Accordingly, we express no opinion on the reliability, accuracy, or completeness of the information provided to us and upon which we have relied.
- The statements and opinions expressed herein have been made in good faith, and on the basis that all information relied upon is true and accurate in all material respects, and not misleading by reason of omission or otherwise.
- The statements and opinions expressed in this report are based on information available as at the date of the report.
- We reserve the right, but will be under no obligation, to review or amend our Report, if any additional information, which was in existence on the date of this report was not brought to our attention, or subsequently comes to light.
- We have relied on forecasts and assumptions prepared by the Company about future events which, by their nature, are not able to be independently verified. Inevitably, some assumptions may not materialise and unanticipated events and circumstances are likely to occur. Therefore, actual results in the future will vary from the forecasts upon which we have relied. These variations may be material.
- This Summary Report is issued pursuant to the terms and conditions set out in our engagement letter and the Terms of Business attached thereto.
- In addition the following should be noted:
  - Certain numbers included in tables throughout this report have been rounded and therefore may not add exactly.
  - Reproduction of any information, data or material, including ratings (Content) in any form is prohibited except with the prior written permission of the relevant Content Provider. Such party, its affiliates and suppliers (Content Providers) do not guarantee the accuracy, adequacy, completeness, timeliness or availability of any Content and are not responsible for any errors or omissions (negligent or otherwise), regardless of the cause, or for the results obtained from the use of such Content. In no event shall Content Providers be liable for any damages, costs, expenses, legal fees, or losses (including lost income or lost profit and opportunity costs) in connection with any use of the Content. A reference to a particular investment or security, a rating or any observation concerning an investment that is part of the Content is not a recommendation to buy, sell or hold such investment or security, does not address the suitability of an investment or security and should not be relied on as investment advice. Credit ratings are statements of opinions and are not statements of fact.

Glossary

Term	Definition/Meaning
Capex	Capital expenditure
Company	Port of Napier Limited
EBIT	Earnings before interest and tax
EBITDA	Earnings before interest, tax, depreciation and amortisation
EV	Enterprise value
FY17	Financial year ending 30 September 2017
HBRC	Hawke's Bay Regional Council
HBRIC	Hawke's Bay Regional Investment Company Limited
IPO	Initial Public Offering
LTM	Last twelve months
LTP	Long Term Plan
Napier Port	Port of Napier Limited
NZ Ports	Port operations based in New Zealand
OIO	Overseas Investment Office
OpCo	Operating Company
PoA	Ports of Auckland Limited
PoT	Port of Tauranga Limited
PropCo	Property Company
S&P	Standard & Poor's
TEU	The twenty-foot equivalent unit

HAWKE'S BAY REGIONAL COUNCIL

Wednesday 19 December 2018

Item 10

Subject: REPORT AND RECOMMENDATIONS FROM THE CORPORATE & STRATEGIC COMMITTEE

Reason for Report

1. The following matters were considered by the Corporate & Strategic Committee meeting on 12 December 2018 and the recommendations agreed are now presented for Council's consideration.

Reports Received

2. **Bus Service Update and Review of Fares** – this item updated the Committee on the performance of the goBay bus service, the introduction of the new ticketing system and sought a decision on whether to review fares.
3. **Amendment to the Treasury Policy and Investment Funds Statement of Investment Policy Objectives** – sought agreement to an amendment to the Treasury Policy and the Statement of Investment Policy Objectives (SIPO).
4. **Regional Three Waters Review** – this item sought approval to work with the region's four territorial authorities to develop a regional business case assessing options to improve the management of drinking water, stormwater and wastewater (Three Waters) in the Hawke's Bay region. The Committee requested further detail in relation to the costs associated with the review, and this is provided following.
    - 4.1. Contribution of 15% was a negotiated outcomes based on ability to pay and direct influence to organisation. HDC and NCC are contributing 30% each and WDC and CHBDC are contributing 7.5% each.
    - 4.2. Funding source has been reviewed and following advice provided.
        - 4.2.1. Funding will sourced on a % basis across all schemes
        - 4.2.2. All schemes have general rates funded component
        - 4.2.3. There is sufficient budget available to carry out this work through the provision for consultancy and contingency.
5. **2018-19 Annual Plan progress report** – provided the committee with a financial progress report for the first four months of the 2018-2019 financial year to 31 October 2018.
6. **Report from the Finance Audit and Risk Sub-Committee** meeting held on 21 November – provided the Committee with an overview of the matters considered, including the Local Government Funding Agency Accession and Appointment of an Independent Member of the Finance, Audit & Risk Sub-committee recommendations to the 28 November Regional Council meeting.
7. **HB Tourism update** – provided the regular quarterly activities update and an update on investigation of alternative funding options for the long-term funding of Hawke's Bay Tourism (HBT), including an outline of initiatives HB Tourism would like to further explore.
8. **HBRC Works Group Six Monthly Update** – provided an update on the overall structure, performance and other areas of interest of Council's Works Group, including procurement procedures and processes.
9. **Human Resources and Health & Safety 2017-18 Annual Reports** – provided an overview of the key human resource metrics recorded for the year 1 July 2017 to 1 July 2018, along with an update of key health and safety information for the same period.
10. **HBRC Response to Water Management Internal Audit Recommendations** – provided a progress update on the response to the Crowe Horwath Water Management

Internal Audit report findings and recommendations as requested by the 13 June Corporate and Strategic Committee.

11. **Future Operational Performance Reporting** item provided an update of the initial findings of investigations into how to significantly improve the performance reporting capability across all levels of the Council, and the work underway to provide performance monitoring and reporting to support the Council, Chief Executive and Group Managers with timely data and analysis to oversee the organisation's delivery of community outcomes.
12. **PMO Pilot Update and Project Status Report** – provided the Committee with a status report on the 19 pilot projects being actively supported by the Project Management Office (PMO) and a general update of the progress of the roll-out of the PMO.

Decision Making Process

13. These items were specifically considered by the Committee.

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 Significance and Engagement Policy, and that Council can exercise its discretion 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.

Bus Service Update and Review of Fares

2. Agrees to maintain bus fares at current levels, with a further review in November 2019.

Amendment to the Treasury Policy and Investment Funds Statement of Investment Policy Objectives

3. Adopts the amended HBRC Statement of Investment Policy Objectives and Treasury Policy including the amendment to include carbon credits in the Forestry Assets.

Regional Three Waters Review

4. Having considered all matters raised in the "Regional Three Waters Review" staff report:
    4.1. Confirms its support for HBRC participating in the development of a regional business case on 3 Waters management.
    4.2. Notes the cost of the review is apportioned across the Hawke's Bay councils as being 35% Napier City Council, 35% Hastings District Council, 15% Hawke's Bay Regional Council, 7.5% Wairoa District Council, and 7.5% Central Hawke's Bay District Council.
    4.3. Agrees that HBRC's funding contribution come from the Drainage and River Control Consultancy Services budget.

Reports Received

5. Notes that the following reports were provided to the Corporate and Strategic Committee
    5.1. HB Tourism Update
    5.2. Report from the Finance, Audit and Risk Sub-committee
    5.3. Annual Plan Progress Report for the First Four Months of the 2018-19 Financial Year
    5.4. HBRC Works Group Six Monthly Update
    5.5. Human Resources and Health & Safety 2017-18 Annual Reports
    5.6. Future Operational Performance Reporting
    5.7. Project Management Office Pilot Update and Project Status Report.

Item 10

Authored by:

Manton Collings
CHIEF FINANCIAL OFFICER

Leeanne Hooper
PRINCIPAL ADVISOR GOVERNANCE

Approved by:

Chris Dolley
GROUP MANAGER
ASSET MANAGEMENT

Jessica Ellerm
GROUP MANAGER
CORPORATE SERVICES

Attachment/s

There are no attachments for this report.

HAWKE'S BAY REGIONAL COUNCIL

Wednesday 19 December 2018

Subject: REPORT AND RECOMMENDATIONS FROM THE REGIONAL PLANNING COMMITTEE

Item 11

Reason for Report

1. The following matters were considered by the Regional Planning Committee meeting on 12 December 2018, and are now presented to Council for consideration and approval.

Agenda Items

2. **TANK Plan Change (Version 8) Recommendation to Council –** presented the final details of the draft TANK Plan Change, addressing a number of minor and consequential amendments and previous directions by the Committee as well as a couple of unfinished aspects in relation to the Schedule 1 and 2 water quality objectives so that the RPC could make decisions about the next stage of the plan preparation process, being pre-notification consultation. The Committee resolved:
   - 2.1. receives and notes the staff report; TANK Plan Change (PC9 Version 8).
   - 2.2. makes an in-principle decision about the spatial extent of the SPZ for the draft TANK Plan Change 9 following a verbal report of the findings from the Drinking Water Joint Working Group.
   - 2.3. agrees that Draft TANK Plan Change 9 as provided, be recommended to the Council for adoption as a draft for targeted consultation with relevant iwi authorities, territorial local authorities, and relevant Ministers of the Crown.
   - 2.4. Recommends that Hawke's Bay Regional Council
     - 2.4.1. Agrees that pre-notification consultation should commence early in 2019, and
     - 2.4.2. Agrees to provide for a pre-notification consultation period of six weeks.
3. **Tangata Whenua Remuneration Review** – this item responded to a request from the Regional Planning Committee (RPC) tāngata whenua Co-Chair and Deputy Co-Chair that the level of the current remuneration for tāngata whenua representatives on the RPC be reconsidered due to concerns about workload and inequity with councillor remuneration, with the following resolution carried by the committee.
   - 3.1. The Regional Planning Committee instructs the Chief Executive to work collaboratively with the Regional Planning Committee Co-chairs to commission an independent review of the remuneration of RPC tāngata whenua members in accordance with the 2014 Regional Planning Committee Terms of Reference, for presenting to the Committee for agreement prior to the appointments of reviewers is made.
4. **RPC Performance Review – Summary of Feedback from Appointers** – this item was re-presented to the Committee after it was not formally considered at the 31 October RPC meeting due to lack of a Quorum. Staff sought a supporting resolution of the Committee to formally conclude the review. The Committee did not, however, agree the resolution "that the HBRPC Act Section 10(2)(a) review of the performance of the RPC has been completed".
5. **Request from the Tukituki Water Taskforce** – provided a request from the community led group for a delay of the effective dates for the Tukituki Plan Change 6 Minimum flow provisions, with the following resolutions being carried by the Committee.
   - 5.1. That the Regional Planning Committee receives and notes the request from the Tukituki Water Taskforce and the letter from the national office of the Royal Forest and Bird Protection Society.

Item 11

5.2. The Regional Planning Committee directs staff to scope and initiate a preliminary Tukituki plan change process.

6. **Draft TANK Plan Change (PC9) – Pre-Notification Planning Pathway** – focussed on the RMA consultative steps of the draft TANK Plan Change prior to public notification of the plan change, building upon earlier reports to the committee regarding PC9's pre-notification steps

7. **Draft TANK Plan Change (PC9) – Update on Supporting Documents** provided an update to the RPC on the status of the reports that support the draft TANK Plan Change, namely the Monitoring Plan, the s32 Evaluation Report and the Implementation Plan.

8. **Resource Management Policy Project Updates –** provided an outline and update of the Council's various resource management projects currently underway.

9. **Statutory Advocacy Update** – provided the proposals forwarded to the Regional Council and assessed by staff acting under delegated authority as part of the Council's Statutory Advocacy project since the last update in May 2018.

Decision Making Process

10. These items were specifically considered at the Committee level.

Recommendations

That the Hawke's Bay Regional Council:

1. Agrees that the decisions to be made are not significant under the criteria contained in Council's adopted Significance and Engagement Policy, and that Council can exercise its discretion 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.

2. That Hawke's Bay Regional Council receives and adopts the Report and recommendations from the Regional Planning Committee including the Regional Planning Committee resolutions as follows.

TANK Plan Change (Version 8) Recommendation to Council

3. Agrees that TANK Plan Change (PC9 Version 8) pre-notification consultation should commence early in 2019, and

4. Agrees to provide for a pre-notification consultation period of six weeks.

Reports

5. Notes that the following reports were provided to the Committee

   5.1. RPC Performance Review – Summary of Feedback from Appointers *(no resolution)*

   5.2. Request from the Tukituki Water Taskforce *(resolved: The Regional Planning Committee directs staff to scope and initiate a preliminary Tukituki plan change process.)*

   5.3. Draft TANK Plan Change (PC9) – Pre-Notification Planning Pathway

   5.4. Draft TANK Plan Change (PC9) – Update on Supporting Documents

   5.5. Resource Management Policy Project Updates

   5.6. Statutory Advocacy Update.

Authored by:	**Approved by:**
Leeanne Hooper **PRINCIPAL ADVISOR GOVERNANCE**	**Tom Skerman** **GROUP MANAGER STRATEGIC PLANNING**

Attachment/s

There are no attachments for this report.

HAWKE'S BAY REGIONAL COUNCIL

Wednesday 19 December 2018

Subject: CLIFTON TO TANGOIO COASTAL HAZARDS STRATEGY 2120 JOINT COMMITTEE TERMS OF REFERENCE

Reason for Report

1. To provide the means for Hawke's Bay Regional Council to agree the updated Clifton to Tangoio Coastal Hazards Strategy 2120 Joint Committee Terms of Reference and to appoint a third representative to that body.

Discussion

2. The amendments to the Terms of Reference (attached) were recommended to the participant councils at the Clifton to Tangoio Coastal Hazards Strategy 2120 Joint Committee meeting held on 10 December 2018.
3. The first suggested change in Section 3 of the Terms of Reference is to increase the number of Partner Council appointees to the Joint Committee from two per Council to three.
4. Increasing the number of Councillors on the Joint Committee is considered to be desirable at this stage of Strategy development given that much of the work in Stage 4 has direct implications for Council expenditure. For example, in Stage 4 the Joint Committee will be asked to consider and form recommendations on:
   - 4.1. The share of responsibilities for funding, consenting, construction and maintenance between the Partner Councils
   - 4.2. Detailed concept plans and costs for each of the recommended pathways, and
   - 4.3. The public / private apportionment of costs for each works programme.
5. Increased Councillor participation on the Joint Committee will assist with the development and delivery of recommendations to each Partner Council.
6. The suggested changes have been discussed with all Joint Committee member organisations.
7. The second suggested change is the addition of a new Section 7.5. This change provides an explicit role for the Joint Committee to engage in various public processes that may have implications for Strategy implementation.
8. In the past, this role has not been clearly defined, and has been variously taken up by TAG, individual Partner Councils, or the Joint Committee itself. Some examples of submissions that have been lodged by various entities involved in the Strategy include:
   - 8.1. Joint Committee Submission on the Hastings District Council Annual Plan (2016);
   - 8.2. Southern Cell Assessment Panel submission on the Hastings District Council Draft Cape Coast Reserves Management Plan (2017); and
   - 8.3. Napier City Council submission on the notified resource consent application by the Port of Napier (2018).
9. A submission from the Joint Committee may not always be appropriate, however the change to the Terms of Reference is intended to convey that the Joint Committee has this function and may, at its discretion, become involved in such processes to advocate for the outcomes sought by the Strategy.
10. Practically, given the Joint Committee only meets three or four times per year, it is suggested that any such opportunities to enter a submission are highlighted to the Chair. Where the Chair directs the Technical Advisory Group (TAG) to draft a submission, any such submission would be circulated electronically for Joint Committee approval prior to lodging.

11. An amendment to the definition of quorum. That going forward a quorum shall be 6 members with the requirement that at least one partner council member is present from each partner council.
12. Improvements to reporting to ensure consistency of message back to each partner council. That following each Joint Committee meeting that the Project Manager shall prepare a brief summary report to be tabled at the next Council meeting for each partner. A member of TAG will be available to support the presentation of the paper as required.
13. No other changes to the Terms of Reference are considered necessary at this stage to enable the Joint Committee to effectively govern Stage 4 of Strategy development.

Decision Making Process

14. Council is required to make every decision in accordance with the requirements of the Local Government Act 2002 (the Act). Staff have assessed the requirements in relation to this item and have concluded:
    - 14.1. The decision does not significantly alter the service provision or affect a strategic asset.
    - 14.2. The use of the special consultative procedure is not prescribed by legislation.
    - 14.3. The decision does not fall within the definition of Council's policy on significance.
    - 14.4. The decision is not inconsistent with an existing policy or plan.
    - 14.5. 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 Hawke's Bay Regional Council:

1. Agrees that the decisions to be made are not significant under the criteria contained in Council's adopted Significance and Engagement Policy, and that Council can exercise its discretion 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.
2. Receives the "Clifton to Tangoio Coastal Hazards Strategy Joint Committee Terms of Reference" staff report.
3. Approves the updated Terms of Reference for the Clifton to Tangoio Coastal Hazards Strategy Joint Committee dated 28 September 2018.
4. Nominates and appoints ________________________ as HBRC's third representative on the Clifton to Tangoio Coastal Hazards Strategy Joint Committee.

Authored by:	**Approved by:**
Chris Dolley **GROUP MANAGER** **ASSET MANAGEMENT**	**Chris Dolley** **GROUP MANAGER** **ASSET MANAGEMENT**

Attachment/s

⇩**1** Terms of Reference - Clifton to Tangoio Coastal Hazards Strategy

Terms of Reference for the Clifton to Tangoio Coastal Hazards Strategy Joint Committee

As at 28 September 2018

As adopted by resolution by:
Hastings District Council 23 March 2017
Napier City Council 31 May 2017
Hawke's Bay Regional Council 28 June 2017

1. Definitions

For the purpose of these Terms of Reference:

- "**Act**" means the Local Government Act 2002.
- "**Administering Authority**" means Hawke's Bay Regional Council.
- "**Coastal Hazards Strategy**" means the Coastal Hazards Strategy for the Hawke Bay coast between Clifton and Tangoio[1].
- "**Council Member**" means an elected representative appointed by a Partner Council.
- **"Hazards"** means natural hazards with the potential to affect the coast, coastal communities and infrastructure over the next 100 years, including, but not limited to, coastal erosion, storm surge, flooding or inundation of land from the sea, and tsunami; and includes any change in these hazards as a result of sea level rise.
- "**Joint Committee**" means the group known as the Clifton to Tangoio Coastal Hazards Strategy Joint Committee set up to recommend both draft and final strategies to each Partner Council.
- "**Member**" in relation to the Joint Committee means each Council Member and each Tangata Whenua Member.
- "**Partner Council**" means one of the following local authorities: Hastings District Council, Napier City Council and Hawke's Bay Regional Council.
- "**Tangata Whenua Appointer**" means:
  - The trustees of the Maungaharuru-Tangitū Trust, on behalf of the Maungaharuru-Tangitū Hapū;
  - Mana Ahuriri Incorporated, on behalf of Mana Ahuriri Hapū;
  - He Toa Takitini, on behalf of the hapū of Heretaunga and Tamatea.
- "**Tangata Whenua Member**" means a member of the Joint Committee appointed by a Tangata Whenua Appointer

2. Name and status of Joint Committee

2.1 The Joint Committee shall be known as the Clifton to Tangoio Coastal Hazards Strategy Joint Committee.

2.2 The Joint Committee is a joint committee under clause 30(1)(b) of Schedule 7 of the Act.

[1] The Coastal Hazards Strategy is further defined in Appendix 1 to these Terms of Reference.

3. Partner Council Members

3.1 Each Partner Council shall appoint three Council Members and alternates to the Joint Committee. If not appointed directly as Council Members, the Mayors of Hastings District Council and Napier City Council and the Chairperson of Hawke's Bay Regional Council are ex officio Council Members.

3.2 Under clause 30(9) Schedule 7 of the Act, the power to discharge any Council Member on the Joint Committee and appoint his or her replacement shall be exercisable only by the Partner Council that appointed the Member.

4. Tangata Whenua Members

4.1 Each Tangata Whenua Appointer may appoint one member to sit on the Joint Committee.

4.2 Each Tangata Whenua Appointer must make any appointment and notify all Tangata Whenua Appointers and Partner Councils in writing of the appointment.

4.3 The Tangata Whenua Members so appointed shall be entitled to vote.

4.4 Under clause 30(9) Schedule 7 of the Act, the power to discharge any Tangata Whenua Member on the Joint Committee and appoint his or her replacement shall be exercisable only by the Tangata Whenua Appointer that appointed the Member.

5. Purpose of Terms of Reference

5.1 The purpose of these Terms of Reference is to:

5.1.1 Define the responsibilities of the Joint Committee as delegated by the Partner Councils under the Act.

5.1.2 Provide for the administrative arrangements of the Coastal Hazards Strategy Joint Committee as detailed in Appendix 2.

6. Meetings

6.1 Members, or their confirmed alternates, will attend all Joint Committee meetings.

7. Delegated authority

The Joint Committee has the responsibility delegated by the Partner Councils for:

7.1 Guiding and providing oversight for the key components of the strategy including:

- The identification of coastal hazards extents and risks as informed by technical assessments;
- A framework for making decisions about how to respond to those risks;
- A model for determining how those responses shall be funded; and
- A plan for implementing those responses when confirmed.

7.2 Considering and recommending a draft strategy to each of the Partner Councils for public notification;

7.3 Considering comments and submissions on the draft strategy and making appropriate recommendations to the Partner Councils;

7.4 Considering and recommending a final strategy to each of the Partner Councils for approval;

7.5 Advocating for and/or advancing the objectives of the strategy by submitting on and participating in processes, including but not limited to:
- Council long term plans;
- Council annual plans;
- District and regional plan and policy changes;
- Reserve management plans;
- Asset management plans;
- Notified resource consent applications;
- Central Government policy and legislation.

7.6 Investigating and securing additional sources of funding to support strategy implementation.

8. Powers not delegated

The following powers are not delegated to the Joint Committee:

8.1 Any power that cannot be delegated in accordance with clause 32 Schedule 7 of the Local Government Act 2002.

8.2 The determination of funding for undertaking investigations, studies and/or projects to assess options for implementing the Coastal Hazards Strategy.

9. Remuneration

9.1 Each Partner Council shall be responsible for remunerating its representatives on the Joint Committee and for the cost of those persons' participation in the Joint Committee.

9.2 The Administering Authority shall be responsible for remunerating the Tangata Whenua Members.

10. Meetings

10.1 The Hawke's Bay Regional Council standing orders will be used to conduct Joint Committee meetings as if the Joint Committee were a local authority and the principal administrative officer of the Hawke's Bay Regional Council or his or her nominated representative were its principal administrative officer.

10.2 The Joint Committee shall hold all meetings at such frequency, times and place(s) as agreed for the performance of the functions, duties and powers delegated under this Terms of Reference.

10.3 Notice of meetings will be given well in advance in writing to all Joint Committee Members, and not later than one month prior to the meeting.

10.4 The quorum shall be 6 Members, provided that at least one Partner Council Member is present from each Partner Council.

11. Voting

11.1 In accordance with clause 32(4) Schedule 7 of Act, at meetings of the Joint Committee each Council Member has full authority to vote and make decisions within the delegations of this Terms of Reference on behalf of the Partner Council without further recourse to the Partner Council.

11.2 Where voting is required, all Members of the Joint Committee have full speaking rights.

11.3 Each Member has one vote.

11.4 Best endeavours will be made to achieve decisions on a consensus basis.

11.5 As per HBRC Standing Order 18.3: The Chairperson at any meeting does not have a deliberative vote and, in the case of equality of votes, has no casting vote.

12. Election of Chairperson and Deputy Chairperson

12.1 On the formation of the Joint Committee the members shall elect a Joint Committee Chairperson and may elect up to two Deputy Chairpersons. The Chairperson is to be selected from the group of Council Members.

12.2 The mandate of the appointed Chairperson or Deputy Chairperson ends if that person through resignation or otherwise ceases to be a member of the Joint Committee.

13. Reporting

13.1 All reports to the Committee shall be presented via the Technical Advisory Group[2] or from the Committee Chairperson.

13.2 Following each meeting of the Joint Committee, the Project Manager shall prepare a brief summary report of the business of the meeting and circulate that report, for information to each Member following each meeting. Such reports will be in addition to any formal minutes prepared by the Administering Authority which will be circulated to Joint Committee representatives.

13.3 The Technical Advisory Group shall ensure that the summary report required by 13.2 is also provided to each Partner Council for inclusion in the agenda for the next available Council meeting. A Technical Advisory Group Member shall attend the relevant Council meeting to speak to the summary report if requested and respond to any questions.

14. Good faith

14.1 In the event of any circumstances arising that were unforeseen by the Partner Councils, the Tangata Whenua Appointers, or their respective representatives at the time of adopting this Terms of Reference, the Partner Councils and the Tangata Whenua Appointers and their respective representatives hereby record their intention that they will negotiate in good faith to add to or vary this Terms of Reference so to resolve the impact of those circumstances in the best interests of the Partner Councils and the Tangata Whenua Appointers collectively.

15. Variations to these Terms of Reference

15.1 Any Member may propose a variation, deletion or addition to the Terms of Reference by putting the wording of the proposed variation, deletion or addition to a meeting of the Joint Committee.

15.2 Amendments to the Terms of Reference may only be made with the approval of all Members.

16. Recommended for Adoption by

16.1 The Coastal Hazards Strategy Joint Committee made up of the following members recommends this Terms of Reference for adoption to the three Partner Councils:

[2] A description of the Technical Advisory Group and its role is included as Appendix 2 to these Terms of Reference.

Napier City Council represented by Cr Tony Jeffery and Cr Larry Dallimore
Appointed by NCC resolution 2 November 2016

Hastings District Council represented by Cr Tania Kerr and Cr Ann Redstone
Appointed by HDC resolution 8 November 2016

Hawke's Bay Regional Council represented by Cr Peter Beaven and Cr Paul Bailey
Appointed by HBRC resolution 9 November 2016

Maungaharuru-Tangitū Trust (MTT) represented by Ms Tania Hopmans

Mana Ahuriri Inc represented by Ms Tania Huata

He Toa Takitini represented by Mr Peter Paku

Appendix 1 – Project Background

Project Goal

A Clifton to Tangoio Coastal Hazards Strategy is being developed in cooperation with the Hastings District Council (HDC), the Hawke's Bay Regional Council (HBRC), the Napier City Council (NCC), and groups representing Mana Whenua and/or Tangata Whenua. This strategy is being developed to provide a framework for assessing coastal hazards risks and options for the management of those risks for the next 105 years from 2015 to 2120.

The long term vision for the strategy is that coastal communities, businesses and critical infrastructure from Tangoio to Clifton are resilient to the effects of coastal hazards.

Project Assumptions

The Coastal Hazards Strategy will be based on and influenced by:

- The long term needs of the Hawke's Bay community
- Existing policies and plans for the management of the coast embedded in regional and district council plans and strategies.
- Predictions for the impact of climate change
- The National Coastal Policy Statement

Project Scope

The Coastal Hazards Strategy is primarily a framework for determining options for the long term management of the coast between Clifton and Tangoio. This includes:

- Taking into account sea level rise and the increased storminess predicted to occur as a result of climate change, an assessment of the risks posed by the natural hazards of coastal erosion, coastal inundation and tsunami.
- The development of a framework to guide decision making processes that will result in a range of planned responses to these risks
- The development of a funding model to guide the share of costs, and mechanisms to cover those costs, of the identified responses.
- The development of an implementation plan to direct the implementation of the identified responses.
- Stakeholder involvement and participation.
- Protocols for expert advice and peer review.
- An action plan of ongoing activity assigned to various Members.

The Strategy will:

- Describe a broad vision for the coast in 2120, and how the Hawke's Bay community could respond to a range of possible scenarios which have the potential to impact the coast by 2120.

- Propose policies to guide any intervention to mitigate the impact of coastal processes and hazards through the following regulatory and non-regulatory instruments:
  - Regional Policy Statement
  - District Plans
  - Council long-term plans
  - Infrastructure Development Planning (including both policy and social infrastructure networks).

Appendix 2 - Administering Authority and Servicing

The administering authority for the Coastal Hazards Strategy Joint Committee is Hawke's Bay Regional Council.

The administrative and related services referred to in clause 16.1 of the conduct of the joint standing committee under clause 30 Schedule 7 of the Local Government Act 2002 apply.

Until otherwise agreed, Hawke's Bay Regional Council will cover the full administrative costs of servicing the Coastal Hazards Strategy Joint Committee.

A technical advisory group (TAG) will service the Coastal Hazards Strategy Joint Committee.

The TAG will provide for the management of the project mainly through a Project Manager. TAG will be chaired by the Project Manager, and will comprise senior staff representatives from each of the participating councils and other parties as TAG deems appropriate from time to time. TAG will rely significantly on input from coastal consultants and experts.

The Project Manager and appropriate members of the TAG shall work with stakeholders. Stakeholders may also present to or discuss issues directly with the Joint Committee.

Functions of the TAG include:

- Providing technical oversight for the study.
- Coordinating agency inputs particularly in the context of the forward work programmes of the respective councils.
- Ensuring council inputs are integrated.

HAWKE'S BAY REGIONAL COUNCIL

Wednesday 19 December 2018

Subject: KAHUTIA – NGATI KAHUNGUNU IWI INCORPORATED CARBON CREDIT PROPOSAL

Reason for Report

1. This item reports back to Council on the proposed agreement with Kahutia Limited Partnership (Kahutia LP) for a ten year loan of up to 100,000 of Council's carbon units (NZUs) and seeks Council's agreement on whether to enter into the loan agreement in accordance with the contract's conditions and legal advice on same as resolved by Council on 28 November 2018, that Council:
   1.1. Approves the proposal in principle.
   1.2. Authorises the Chief Executive to finalise the terms of a loan to Kahutia Limited Partnership for a ten year loan of 100,000 NZUs consistent with the terms of the proposed contract and this paper, and including an appropriate repayment schedule
2. Agrees that the loan only be authorised subject to Kahungunu Asset Holding Company (KAHC) becoming a party to the loan agreement and providing security for the loan to the satisfaction of the Council's solicitor and subject to Council agreement at the 19 December 2018 Regional Council meeting.

Staff Recommendation

3. Staff recommend that Council, having considered and discussed the legal and financial advice attached and the staff advice contained within this item, authorises the Chief Executive to sign the loan agreement on Council's behalf.

Proposed Loan Agreement

4. Following Council's 28 November meeting, the Chief Executive, Council staff and Council's solicitors, Sainsbury Logan & Williams (SLW), engaged with Kahutia LP and their solicitors, Anderson Lloyd, to refine the terms of the contract. At the time of finalising this item the contract and associated legal advice had not been received but is expected to be provided prior to the Council meeting.
5. In the context of resolution 1.2 above, a performance clause will be included in the revised contract. The purpose of this is to ensure expenditure by Kahutia LP does not exhaust the loan from HBRC before sufficient land area, planting densities and survival rates have been achieved to sequester sufficient carbon within 10 years to repay the loan. The NZUs sequestered will be the primary assets of Kahutia LP and staff are seeking to ensure that there is sufficient asset backing to repay the loan without recourse to KAHC's assets. In practice this should mean careful cost control and risk management by Kahutia LP to ensure its expenditure of loan funds does not get too far ahead of planned afforestation.
6. With respect to resolution 1.3 above, Council has resolved that the loan can only be authorised subject to KAHC becoming a party to the loan agreement and providing security for the loan subject to the satisfaction of Council's solicitor. The loan proposal would be between the Hawke's Bay Regional Council and Kahutia Limited Partnership (Kahutia LP). At present Kahutia LP has no assets and Council needs to be assured that in the event of insolvency of Kahutia LP, Council can access the necessary assets. As the assets of KAHC are being offered as security, the most logical approach is for KAHC to directly provide this guarantee. The legal advisors for Council and Kahutia LP have worked together on the revised draft contract to this effect, and the revised draft contract will demonstrate this.
7. With regards to the inclusion of a repayment schedule in the contract, this will also be provided. It will confirm that this will be an interest only loan for the first four years and then interest at +1/6th of the principal for each of the next six years.

Legal Advice

8. The revised draft loan contract will be reviewed by SLW on the Council's behalf, and provided to the 19 December meeting.

9. SLW has also provided legal advice (attached) on the procedural and decision-making obligations under the Local Government Act 2002 and the Office of the Auditor-General. This advice states that, in their view, the process decision requires Council to determine which of the options previously identified in the 28 November agenda item, best meets its objectives. If Council continues with the agreement with Kahutia LP, it will have done so without exploring alternative counterparties that may be willing to pay a higher price or could achieve greater afforestation. Council needs to carefully consider the objectives of the transaction prior to making the process decision.

10. The proposed objectives for the loan agreement proposal are:

    10.1. Enhancing Council's afforestation programme

    10.2. Partnership with Kahutia LP as an example of putting the Kahutia Accord into action

    10.3. The recruitment of Māori owned land for this proposal that may not ordinarily be available to Council for forestation projects

    10.4. To preserve the value of Council's NZU holdings.

11. It is relevant for Council to consider the principle set out in section 14(1)(f) of the Local Government Act 2002 which states that "a local authority should undertake any commercial transactions in accordance with sound business practices". If the primary objective of the proposal is to achieve the highest return on Council's NZU portfolio, general practice would be to enter into some kind of tender or Request for Proposal (RFP) process in order to determine what the market considers to be the value of the transaction. However, if Council's primary objectives are those stated above, these broader considerations should be balanced against the need for Council to tender its NZUs through an RFP process to gain maximum financial gain.

12. Furthermore the objectives are consistent with the principles of the Kahutia Accord as agreed by Council resolution, with minor amendments, on 25 July 2018 and signed by the Chair and Ngati Kahungunu Iwi Incorporated on 24 August 2018.

13. If the outcome of the process decision is that Council determines that entering in to the transaction with Kahutia is the best option for meeting its objectives in accordance with LGA s.77 provisions, the key transaction considerations are whether the Kahutia transaction is being undertaken in accordance with sound business practices and being executed in a manner that minimises risk for Council.

14. It is the SLW legal view that it will be relatively straightforward for Council to satisfy itself that the LGA requirements are met and to date the risks have been identified and will be managed appropriately.

Financial Advice

15. The primary cost to the Council from this proposal is the administration and oversight of the contract with Kahutia LP and considered minor.

16. Council staff have confirmed with Crowe Horwath (advice attached) that because HBRC is a tax exempt entity and the limited partner of Kahutia LP (Ngati Kahungunu Iwi Incorporated) is an exempt entity (similar to HBRC), and the Kahutia LP is a look through for tax, the position for Kahutia is the same as for HBRC and therefor there is no sale tax issue for Council or Kahutia LP on this transaction to transfer Council's NZUs to Kahutia LP under the terms of the proposal.

Implications for Tangata Whenua

17. A loan of this nature to Kahutia Limited Partnership is an avenue for the Council to exercise partnership with regional iwi and assist in the development of afforestation on erosion prone Maori land. The Kahutia LP is owned by Ngati Kahungunu Iwi Incorporated, which has 31,241 members, and so working in partnership with Kahutia LP gives the Council the maximum indirect partnership with regional tangata whenua.

However, it should be noted that Treaty Settlement Entities within the region may also wish to enter into similar arrangements with the Council and maybe critical if the loan is made exclusively with Ngati Kahungunu Iwi Incorporated via Kahutia LP and an RFP process is not followed.

Item 13

Decision Making Process

18. Staff have assessed the requirements of the Local Government Act 2002 in relation to this item and have concluded that the decisions sought in this paper are not significant in terms of the Council's Significance and Engagement Policy. This assessment is based on the fact that the level of community interest and the impact on individuals or groups is likely to be considered low.
19. The proposal does not impact upon levels of service, rates or debts in the 2018-28 Long Term Plan, and the costs and financial implications for ratepayers are minor. The Council's carbon portfolio is not a strategic asset.

Recommendations

That Hawke's Bay Regional Council:

1. Agrees that the decision to be made is not significant under the criteria contained in Council's adopted Significance and Engagement Policy, and that Council can exercise its discretion and make this decision without conferring directly with the community and persons likely to be affected by or to have an interest in the decision.
2. Receives and confirms that the Sainsbury Logan & Williams legal, Crowe Horwath financial and HBRC staff advice contained within this report, and attached, fulfils Council's requirements, as resolved on 28 November 2018, to enable its decision on whether or not to enter into the Kahutia Limited Partnership Carbon Credit Loan agreement.
3. Agrees that the objectives for the loan agreement proposal are:
   - 3.1. Enhancing Council's afforestation programme
   - 3.2. Partnership with Kahutia Limited Partnership as an example of putting the Kahutia Accord into action
   - 3.3. The recruitment of Māori owned land for this proposal that may not ordinarily be available to Council for afforestation projects
   - 3.4. To preserve the value of Council's carbon unit (NZUs) holdings
4. Agrees that the proposal achieves the objectives stated above.
5. Agrees to enter into the Kahutia Limited Partnership Carbon Credit Loan agreement and authorises the Chief Executive to sign the loan agreement on Council's behalf.

Authored by:	**Approved by:**
Joanne Lawrence **GROUP MANAGER OFFICE OF THE CHIEF EXECUTIVE AND CHAIR**	**James Palmer** **CHIEF EXECUTIVE**

Attachment/s

⇩**1** Crowe Horwath Tax Advice

⇩**2** Sainsbury Logan & Williams - Carbon Credit Loan legal advice 13Dec18

Crowe Horwath.
PART OF FINDEX

Crowe Horwath (NZ) Limited
Member Crowe Horwath International

Building A, Level 1, Farming House
211 Market Street South
Hastings 4122
PO Box 941
Hastings 4156
New Zealand

Tel +64 6 872 9200
Fax +64 6 878 3953
www.crowehorwath.co.nz

12 December 2018

Jonathan Norman
Sainsbury Logan & Williams
61 Tennyson Street
PO Box 41
NAPIER 4140

Dear Jonathan

HAWKE'S BAY REGIONAL COUNCIL: EMISSIONS UNITS TRANSACTION

Overview

1. We refer to our recent discussions regarding a transaction that the Hawke's Bay Regional Council (**HBRC**) is considering with respect to its current balance of emissions units (or **NZUs**). You have asked us to provide high-level confirmation of the tax consequences of the proposed transaction.

2. In principle, the transaction involves a "loan" of certain NZUs to an unrelated limited partnership (**LP**). The LP will sell the NZUs in the market and use the proceeds to invest in forestry. As NZUs are derived from that forestry, the LP will repay the NZUs "borrowed" from HBRC. We have assumed this "loan" will involve an outright disposal of the NZUs and that the LP will have an obligation to transfer an equivalent or higher number of NZUs back to HBRC. We recommend that the tax position is confirmed by reference to specific transaction documentation when available.

Summary of tax position

3. HBRC is a "regional council" and a "local authority" for the purposes of the Local Government Act 2002. HBRC is therefore also a "local authority" for the purposes of the Income Tax Act 2007 (**Income Tax Act**). Consequently, any amount of income derived by HBRC is exempt income subject to certain exceptions that are not relevant here (Income Tax Act, section CW 39).

4. In relation to NZUs, the general position for tax purposes is that any disposal gives rise to assessable income (subject to certain exceptions). There are also certain rules in the Act that deem there to have been a disposal for market value where NZUs are transferred for nil consideration or otherwise for a below market price. For HBRC, however, given that any income derived by HBRC is deemed to be exempt, the proposed disposal of NZUs to the LP should not give rise to an income tax liability.

Crowe Horwath.
PART OF FINDEX

5. We note that the same income tax position does not apply to a "council-controlled organisation". It is therefore important in this case that HBRC is the transaction counterparty and not, for example, a newly established company wholly-owned by HBRC.

6. The transfer of NZUs from the LP back to HBRC as repayment of the "loan" should similarly not give rise to any income tax consequences. Any "interest" component on the loan should be exempt income for HBRC for the reasons given above. Again, if the transfer of NZUs were to occur at below market value, a disposal at market value would be deemed to occur for income tax purposes.

7. For GST purposes, the supply of emissions units by a registered person are generally zero-rated. This means that strictly GST does apply but at a rate of 0%.

Please do not hesitate to contact us if you have any questions regarding this letter.

Yours sincerely
CROWE HORWATH (NZ) LIMITED

GREG NEILL
Partner - Tax Advisory

Direct: +64 6 872 9250
Mobile: +64 21 0260 5417
greg.neill@crowehorwath.co.nz

SAINSBURY LOGAN & WILLIAMS
LAWYERS SINCE 1875

MEMO

To: Joanne Lawrence **Client:** Hawkes Bay Regional Council

From: Lara Blomfield and Jonathan Norman **Project:** Carbon Credit Loan

Date: 13 December 2018 **A/c No :**

Decision-Making Obligations under the Local Government Act 2002

1 Hawkes Bay Regional Council ("**HBRC**") are considering entering into a carbon credit loan agreement with Kahutia LP, a limited partnership of which Ngati Kahungunu Iwi Incorporated ("**NKII**") is the sole limited partner.

2 We have been provided with:

2.1 a copy of a memorandum of understanding entered into between HBRC and NKII dated 24 August 2018 ("**Kahutia Accord**");

2.2 a copy of a draft paper prepared for HBRC entitled Kahutia – Ngati Kahungunu Iwi Incorporated Carbon Credit Proposal ("**HBRC Paper**"); and

2.3 an extract from the significant forecasting assumptions in the HBRC Long Term Plan ("**LTP**").

3 We have also reviewed material published by the office of the Auditor General, the most relevant of these being a guide entitled "Public sector purchases, grants and gifts: Managing funding arrangements with external parties" dated 12 June 2008 ("**OAG Guide**").

4 It appears from the HBRC Paper that making the loan is intended to serve several purposes:

4.1 to monetise a portion of HBRC's safe carbon portfolio in the form of delivery of additional EMUs as interest on the loan;

4.2 to support regional afforestation as contemplated by the Kahutia Accord; and

4.3 to advance the relationship between HBRC and NKII more generally,

together, the "**Objectives**".

5 You have asked us to consider whether there are any requirements in the Local Government Act 2002 ("**LGA**") (or otherwise) that would require the HBRC to undertake a tender, RFP or other competitive process in connection with the use of HBRC's EMU portfolio. We note that as set out in paragraph 28 of the HBRC Paper that council staff have determined that the decisions sought are not significant in terms of the Council's Significance and Engagement Policy. *Prima facie* we also agree with that assessment, particularly given the use

JON-003502-340-46-V2:JON

61 Tennyson Street, PO Box 41, Napier 4140, New Zealand
Tel 06 835 3069, Fax 06 835 6746, www.slw.co.nz

Partners: Magnus Macfarlane, Gerry Sullivan, Stephen Greer, Andrew Wares, Adrian Barclay, Nathan Gray, Lara Blomfield, Lauren Hibberd, Lincoln Reid

of the EMU portfolio is not addressed in the LTP (although we have not undertaken a review of that policy).

Procedural Obligations

6 Section 14 of the LGA sets out a number of overarching principles that a local authority must have regard to in terms of decision-making. Section 14 is reproduced in the attached schedule. In our view, there are two separate decisions that HBRC is required to consider, and each of these need to be considered in accordance with the LGA and the Objectives. These are:

6.1 the decision as to how best to utilise HBRC's safe carbon portfolio to further the Objectives (the "**Process Decision**"); and

6.2 the decision to enter into the specific transaction with Kahutia LP (the "**Transaction Decision**").

7 We think this is important because HBRC can only agree to enter into the transaction with Kahutia LP (ie approving the Transaction Decision) without risk of challenge if it has complied with the LGA process in terms of making the Process Decision.

8 Section 76 of the LGA requires that all decisions made by HBRC are be made in accordance with sections 77 to 80.

9 Section 77 of the LGA imposes specific requirements on local authorities in terms of decision making, and is reproduced in the schedule.

10 Section 78 of the LGA deals with consultation obligations in relation to decision-making. Section 78 does not impose a specific duty to consult, but where a matter is significant within a community a court may find that a duty or legitimate expectation to consult applies. We understand that HBRC has determined that there is no obligation to consult as the decision is not significant.

11 Section 79 of the LGA qualifies the obligations under sections 77 and 78, and is set out in the schedule. Section 79 gives HBRC discretion to make judgements about how to achieve compliance with sections 77 and 78 that is proportionate to the "significance of the matters affected by the decision". As HBRC has determined that these matters are not "significant", that of course would suggest that the thresholds for satisfying the decision-making obligations under section 77, and the consultation obligations under section 78, will naturally be lower than for a decision relating to a significant matter.

Process Decision

12 The Process Decision requires HBRC to determine which of the options identified in the HBRC Paper to proceed with and which of those options best meets the Objectives. By definition, if HBRC decides to enter into the Kahutia transaction, it will have done so without exploring alternative counterparties that may be willing to pay a higher price or could achieve greater afforestation.

JON-003502-340-46-V2:JON

13 It is also worth noting that how the Objectives are defined will to some extent determine the outcome of the Process Decision. If greater emphasis is placed on the objective set out in clause 4.1, and the objectives in clause 4.2 and 4.3 are considered ancillary, then the outcome of the decision will likely be different. HBRC needs to carefully consider the objectives of the transaction prior to making the Process Decision.

14 The principle set out in section 14(1)(f) of the LGA that "a local authority should undertake any commercial transactions in accordance with sound business practices" is undoubtedly relevant here. As a general comment, if the primary objective is to achieve the highest return on the EMU portfolio, then sound business practice would generally be to enter into some form of tender or RFP in order to determine what the market considers to be the value of the transaction. However, if the objective is equally weighted between the three considerations outlined in paragraph four, and not solely focussed on the commercial return for HBRC, then there are other considerations that come into play. In balancing the Objectives, HBRC should give consideration to the principle set out in section 14(1)(a)(ii) which is "to give effect to its identified priorities in an efficient and effective manner". HBRC may determine that the entering into the Kahutia transaction is the most efficient way to meet all three of the Objectives, or that the Objectives can be met in some other manner.

15 In addition, section 77(1)(a) and (b) of the LGA will be relevant. These sections require HBRC to, when making a decision:

15.1 identify all reasonably practicable options for the achievement of the objective of the decision;

15.2 assess the options in terms of their advantages and disadvantages; and

15.3 assess those options by considering the factors set out in sub-sections (i) to (iv).

16 Paragraphs 22 – 25 of the Paper sets out various options for HBRC. It does appear to us that HBRC has given some consideration at a high level to a range of reasonably practicable options for use of the EMU portfolio, although we are not in a position to determine whether the options presented are "all reasonably practicable" options.

17 HBRC does also appear to have given some consideration to the advantages and disadvantages of each option. The one aspect of the various options which has not been truly quantified is the opportunity cost associated with the Kahutia transaction ie has any work been done to quantify the possible alternative price that other parties might be willing to pay for use of the portfolio, and what, if any additional afforestation could be achieved if the EMU portfolio was lent to an alternative counterparty.

18 In addition, HBRC does appear to have given some consideration to the alternative options in terms of section 77(1)(b)(i) to (iv). Different options have been identified and assessed. There has been some assessment of the costs and benefits of the different options, although those costs and benefits have not necessarily been quantified. And HBRC has recorded some of the relevant factors that have been considered in making the decision (noting of course that the decision has not yet been made).

JON-003502-340-46-V2:JON

19 However, it is important to note that section 79 does allows HBRC to make judgements about how it will comply with section 77 (and 78) in terms of the significance of the decision. As previously discussed, because HBRC has determined that the decision is not "significant" it is entitled to determine how it complies with section 77 in that context. Therefore, it is open to HBRC to determine that the significance (or otherwise) of this decision means that less exploration of the alternative options, and their strengths and weaknesses, is required. This is of course a balancing act, both between the requirements of the LGA, and also the weight that HBRC gives to each of the three Objectives.

Transaction Decision

20 If the outcome of the Process Decision is that HBRC determines that entering into the transaction with Kahutia is the best option for meeting the Objectives, then HBRC also needs to consider that transaction itself within the context of sections 14 and 77.

21 The key issues for HBRC are:

21.1 is the Kahutia transaction being undertaken in accordance with sound business practices; and

21.2 is the Kahutia transaction being executed in a manner that minimises risk for HBRC.

22 In our view, it will be relatively straightforward for HBRC to satisfy itself that these requirements are met and we consider that to date risks have been identified and (assuming the transaction is entered into as currently contemplated) will be managed appropriately.

23 The OAG Guide provides some general advice about considerations authorities should make when entering into any funding arrangement:

23.1 **What is the goal** – We think that HBRC has clearly stated intentions for this funding and the goal is clearly articulated.

23.2 **Simplicity and proportionality** – The requirements put in place should be as simple and practical as possible. HBRC does appear to have structured the transaction in a way which balanced the need to keep things simple while managing risk.

23.3 **The context** – The authority needs to consider the transaction within the context of the relationship between the parties. We believe that the Kahutia Accord is a relevant consideration for HBRC in determining whether to enter into the Kahutia transaction, and it is appropriate that HBRC considers its obligations under the Kahutia Accord in connection with making the Transaction Decision.

23.4 **The risks** – As discussed above, we believe that HBRC has considered the risks associated with the Kahutia transaction and has attempted to manage them.

23.5 **The nature of the parties** – To an extent, the nature of the parties is relevant to each of the above factors. In our view, the transaction has been structured in a way that does give due consideration to Kahutia as a party that is seeking to balance commercial, environmental and cultural concerns.

JON-003502-340-46-V2:JON

24 Overall, we consider that there is less risk associated with HBRC determining to enter into the Kahutia Transaction as the outcome of the Transaction Decision, than there is associated with the Process Decision.

JON-003502-340-46-V2:JON

SCHEDULE – RELEVANT SECTIONS FROM THE LOCAL GOVERNMENT ACT 2002

14 Principles relating to local authorities

(1) In performing its role, a local authority must act in accordance with the following principles:

(a) a local authority should—

(i) conduct its business in an open, transparent, and democratically accountable manner; and

(ii) give effect to its identified priorities and desired outcomes in an efficient and effective manner:

(b) a local authority should make itself aware of, and should have regard to, the views of all of its communities; and

(c) when making a decision, a local authority should take account of—

(i) the diversity of the community, and the community's interests, within its district or region; and

(ii) the interests of future as well as current communities; and

(iii) the likely impact of any decision on the interests referred to in subparagraphs (i) and (ii):

(d) a local authority should provide opportunities for Māori to contribute to its decision-making processes:

(e) a local authority should actively seek to collaborate and co-operate with other local authorities and bodies to improve the effectiveness and efficiency with which it achieves its identified priorities and desired outcomes; and

(f) a local authority should undertake any commercial transactions in accordance with sound business practices; and

(fa) a local authority should periodically—

(i) assess the expected returns to the authority from investing in, or undertaking, a commercial activity; and

(ii) satisfy itself that the expected returns are likely to outweigh the risks inherent in the investment or activity; and

(g) a local authority should ensure prudent stewardship and the efficient and effective use of its resources in the interests of its district or region, including by planning effectively for the future management of its assets; and

(h) in taking a sustainable development approach, a local authority should take into account—

JON-003502-340-46-V2:JON

(i) the social, economic, and cultural interests of people and communities; and

(ii) the need to maintain and enhance the quality of the environment; and

(iii) the reasonably foreseeable needs of future generations.

(2) If any of these principles conflict in any particular case, the local authority should resolve the conflict in accordance with the principle in subsection (1)(a)(i).

77 Requirements in relation to decisions

(1) A local authority must, in the course of the decision-making process,—

(a) seek to identify all reasonably practicable options for the achievement of the objective of a decision; and

(b) assess the options in terms of their advantages and disadvantages; and

(c) if any of the options identified under paragraph (a) involves a significant decision in relation to land or a body of water, take into account the relationship of Māori and their culture and traditions with their ancestral land, water, sites, waahi tapu, valued flora and fauna, and other taonga.

(2) This section is subject to section 79.

79 Compliance with procedures in relation to decisions

(1) It is the responsibility of a local authority to make, in its discretion, judgments—

(a) about how to achieve compliance with sections 77 and 78 that is largely in proportion to the significance of the matters affected by the decision as determined in accordance with the policy under section 76AA; and

(b) about, in particular,—

(i) the extent to which different options are to be identified and assessed; and

(ii) the degree to which benefits and costs are to be quantified; and

(iii) the extent and detail of the information to be considered; and

(iv) the extent and nature of any written record to be kept of the manner in which it has complied with those sections.

(2) In making judgments under subsection (1), a local authority must have regard to the significance of all relevant matters and, in addition, to—

JON-003502-340-46-V2:JON

(a) the principles set out in section 14; and

(b) the extent of the local authority's resources; and

(c) the extent to which the nature of a decision, or the circumstances in which a decision is taken, allow the local authority scope and opportunity to consider a range of options or the views and preferences of other persons.

(3) The nature and circumstances of a decision referred to in subsection (2)(c) include the extent to which the requirements for such decision-making are prescribed in or under any other enactment (for example, the Resource Management Act 1991).

(4) Subsection (3) is for the avoidance of doubt.

HAWKE'S BAY REGIONAL COUNCIL

Wednesday 19 December 2018

Subject: AFFIXING OF COMMON SEAL

Reason for Report

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

		Seal No.	Date
1.1	**Leasehold Land Sales**		
	1.1.1 Lot 1 DP 17492 CT K1/1047 - Transfer	4280	22 November 2018
	1.1.2 Lot 253 DP 10775 CT J4/1134 - Agreement for Sale and Purchase	4281	28 November 2018
	1.1.3 Lot 202 DP 6598 CT C2/396 - Transfer	4282	3 December 2018
	1.1.4 Lot 253 DP 10775 CT J4/1134 - Transfer	4283	5 December 2018

2. As a result of sales, the current numbers of Leasehold properties owned by Council are:
   2.1. 0 cross lease properties were sold, with 75 remaining on Council's books
   2.2. 1 single leasehold property was sold, with 109 remaining on Council's books.

Decision Making Process

3. 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 Significance and Engagement Policy 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

Item 14

likely to be affected by or to have an interest in the decision.

2. Confirms the action to affix the Common Seal.

Authored by:

Trudy Kilkolly
FINANCIAL ACCOUNTANT

Diane Wisely
EXECUTIVE ASSISTANT

Approved by:

Jessica Ellerm
GROUP MANAGER
CORPORATE SERVICES

James Palmer
CHIEF EXECUTIVE

Attachment/s

There are no attachments for this report.

HAWKE'S BAY REGIONAL COUNCIL

Wednesday 19 December 2018

Subject: REPORT FROM 27 NOVEMBER 2018 MĀORI COMMITTEE MEETING

Item 15

Reason for Report

1. To provide the opportunity for the Māori Committee Chairman to provide detailed context and feedback in relation to the discussions that took place at the Māori Committee meeting on 27 November 2018.
2. Agenda items included:
    2.1. A verbal report on the ***TANK Plan Change overview and next steps***.
    2.2. The Committee participated in a ***Natural Hazards 101*** workshop session.
    2.3. Regular updates on current issues and activities from the taiwhenua representatives as well as the HBRC Chairman and Chief Executive.

Decision Making Process

3. Staff have assessed the requirements of the Local Government Act 2002 in relation to this item and have concluded that, as this report is for information only, the decision making provisions do not apply.

Recommendation

That the Hawke's Bay Regional Council receives and notes the "***Report from 27 November 2018 Māori Committee Meeting"***.

Authored by:

Leeanne Hooper
PRINCIPAL ADVISOR GOVERNANCE

Approved by:

James Palmer
CHIEF EXECUTIVE

Attachment/s

There are no attachments for this report.

HAWKE'S BAY REGIONAL COUNCIL

Wednesday 19 December 2018

Item 16

Subject: REPORT FROM THE 7 DECEMBER 2018 REGIONAL TRANSPORT COMMITTEE MEETING

Reason for Report

1. The following matters were considered by the Regional Transport Committee on 7 December 2018.

Agenda Items

2. Provincial Growth Fund Opportunities provided an overview of transport-related Provincial Growth Fund applications and sought decisions from the Committee on what role the Committee can or should play in the development of the Region's applications. The Committee resolved:
   - 2.1. Endorses those transport related PGF applications currently in progress and agrees to provide letters in support of each application signed by the Chairperson when requested to do so.
   - 2.2. Agrees that the Provincial Growth Fund application to develop an integrated transport priority plan including updating the Transport Model be developed and submitted in the name of the Regional Transport Committee.
   - 2.3. Endorses a Provincial Growth Fund application from Hastings District Council for four laning the expressway.
   - 2.4. Endorses the approach by TLAs to prepare a joint application for HPMV capability on rural roads.
   - 2.5. Endorses the HPMV Capability through to Palmerston North freight hub access Provincial Growth Fund application for development by the Manawatu-Wanganui Transport Committee.
   - 2.6. Endorses the development of the Ahuriri Detailed Business Case – the investment case to improve safety, efficiency and community cohesion outcomes for State Highway 50 ***through*** Ahuriri.
3. Regional Public Transport Plan Review – provided the draft Regional Public Transport Plan 2019 and sought feedback from the committee on amendments to incorporate prior to seeking Council adoption for a public notification and consultation process, to provide the public with the opportunity to have input into the design and operation of the region's public transport network.
4. NZTA Central Region - Regional Relationships Director's Report December 2018 – provided a regular update from NZTA's Regional Relationships Director.
5. The Transport Manager's Update report provided the Committee with a snapshot of relevant transport matters, updates from the Transport Advisory Group (TAG) on issues raised at their regular meetings and outlined what is coming up within the transport sector.
6. The regular Roadsafe Hawke's Bay update provided the Committee with a snapshot of road safety activities undertaken under the Road Safety Action Plans.

Decision Making Process

7. These items were specifically considered at the Committee level.

Recommendations

That the Hawke's Bay Regional Council receives and notes the "Report from the 7 December 2018 Regional Transport Committee Meeting".

Item 16

Authored by:

Anne Redgrave
TRANSPORT MANAGER

Approved by:

Tom Skerman
GROUP MANAGER STRATEGIC PLANNING

Attachment/s

There are no attachments for this report.

Item 17

HAWKE'S BAY REGIONAL COUNCIL

Wednesday 19 December 2018

Subject: DISCUSSION OF ITEMS NOT ON THE AGENDA

Reason for Report

1. This document has been prepared to assist Councillors note the Minor Items of Business Not on the Agenda to be discussed as determined earlier in Agenda Item 5.

Item	Topic	Councillor / Staff
1.		
2.		
3.		

HAWKE'S BAY REGIONAL COUNCIL

Wednesday 19 December 2018

SUBJECT: CONFIRMATION OF THE PUBLIC EXCLUDED MINUTES OF THE REGIONAL COUNCIL MEETING HELD ON 28 NOVEMBER 2018

That the Council excludes the public from this section of the meeting being Confirmation of Public Excluded Minutes Agenda Item 18 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:

GENERAL SUBJECT OF THE ITEM TO BE CONSIDERED	REASON FOR PASSING THIS RESOLUTION	GROUNDS UNDER SECTION 48(1) FOR THE PASSING OF THE RESOLUTION
Confirmation of Public Excluded Meeting held on 24 October 2018	7(2)(a) 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 protect the privacy of natural persons	The Council is specified, in the First Schedule to this Act, as a body to which the Act applies.
Kahutia – Ngati Kahungunu Iwi Incorporated Carbon Credit Proposal	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	The Council is specified, in the First Schedule to this Act, as a body to which the Act applies.

Authored by:

Leeanne Hooper
PRINCIPAL ADVISOR GOVERNANCE

Approved by:

James Palmer
CHIEF EXECUTIVE