



## Extraordinary Meeting of the Hawke's Bay Regional Council

**Date:** Wednesday 9 October 2019  
**Time:** 10.00am  
**Venue:** Council Chamber  
Hawke's Bay Regional Council  
159 Dalton Street  
NAPIER

### Agenda

---

ITEM	SUBJECT	PAGE
1.	Welcome/Apologies/Notices	
2.	Conflict of Interest Declarations	
3.	Confirmation of Minutes of the Regional Council Meeting held on 25 September 2019	
4.	Call for Minor Items of Business Not on the Agenda	3
<b>Decision Items</b>		
5.	Report and Recommendations from the Regional Planning Committee	5
6.	Amendment to Significance and Engagement Policy to Ring Fence Napier Port IPO Proceeds	9
7.	Appointment of Hearing Panel for Wairoa District Council Wastewater Discharge Consent	19
<b>Information or Performance Monitoring</b>		
8.	2018-19 Annual Report and Summary	21
9.	Discussion of Minor Items Not on the Agenda	25
<b>Decision Items (Public Excluded)</b>		
10.	Confirmation of the Public Excluded Minutes from 25 September 2019 Regional Council Meeting	27

---



**HAWKE'S BAY REGIONAL COUNCIL**

**Wednesday 09 October 2019**

**Subject: CALL FOR MINOR ITEMS OF BUSINESS NOT ON THE AGENDA**

**Item 4**

**Reason for Report**

- 1. Hawke's Bay Regional Council 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 9:

<b>Item</b>	<b>Topic</b>	<b>Raised by</b>
1.		
2.		

**Leeanne Hooper  
PRINCIPAL ADVISOR GOVERNANCE**

**James Palmer  
CHIEF EXECUTIVE**



# HAWKE'S BAY REGIONAL COUNCIL

Wednesday 09 October 2019

Item 5

## Subject: REPORT AND RECOMMENDATIONS FROM THE REGIONAL PLANNING COMMITTEE

### Reason for Report

1. This item presents the recommendations arising from the 25 September 2019 extraordinary Regional Planning Committee meeting for Council's consideration and approval.

### Agenda Items

2. In the agenda published for the Regional Planning Committee meeting on 18 September 2019, there were four decision items of which, due to the quorum being lost, three were not resolved. As a result, an extraordinary meeting of the RPC was called for the morning of 25 September for resolution of two of the outstanding decision items, being:
  - 2.1. The **TANK Plan Change 9 Options for Notification and Beyond** decision item (7) sought the Committee's guidance on a preferred plan change track for notification, submissions through to decision-making.
  - 2.2. The **Hawke's Bay Regional Planning Committee Terms of Reference** decision item (8) presented an interim annotated version of the revised Terms of Reference (TOR), incorporating relatively minor amendments to align the TOR with the Hawke's Bay Regional Planning Committee Act 2015 for the Committee's agreement and subsequent referral to the Appointers for their agreement.
3. In relation to the **TANK Plan Change 9 Options for Notification and Beyond** decision item, the Committee was unable to reach agreement on a recommendation to the Council.
4. The staff report recommended that the Committee recommend the modified streamlined planning process (SPP) for notification and post-notification stages of the proposed TANK plan change (PC9) to Council. The modified SPP proposed by staff would feature an extended submission period, plus a round of further submissions and a hearing by a panel of accredited commissioners – all optional extras to more closely mimic the submissions phase of a standard Schedule 1 process. An application to use a modified SPP would require approval from the Minister for the Environment prior to public notification of PC9. The staff rationale for recommending the modified SPP rested on weighing the retention of submitters' substantive appeal rights against the depth of community engagement for TANK to date, alignment with the Government's proposed freshwater planning process in a Bill currently before a Select Committee, and the overall implications on HBRC's policy and planning work programme through to 2025.
5. At the Committee meeting a motion to use a modified SPP was lost. An alternative motion to use the RMA's standard Schedule 1 Part 1 process was also lost. Consequently, there are no recommendations from the Committee to the Council on this item nor is there a clear direction under the Committee's Terms of Reference for the item to be referred back to the Committee.
6. In relation to the **Hawke's Bay Regional Planning Committee Terms of Reference** decision item, the Committee received and accepted the recommendations as presented in the staff report. Consequently, the Committee's recommendations are now presented to the Council for its consideration.

### Decision Making Process

7. These items were specifically considered at the Committee level.

## 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. Notes that the Committee has not provided Council with a direction in respect of the two notification pathway options available under the Resource Management Act 1991.
3. Receives and accepts the Report and resolutions from the Regional Planning Committee, those resolutions being:

That the Regional Planning Committee:

- 3.1. Receives and notes the "*Hawke's Bay Regional Planning Committee Terms of Reference*" staff report.
- 3.2. 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.
- 3.3. Agrees that the preferred approach is to agree on amendments to the RPC's February 2014 version of Terms of Reference that:
  - 3.3.1. incorporates minor corrections, editorial improvements, and various other uncontentious amendments that improve alignment with the Hawke's Bay Regional Planning Committee Act 2015
  - 3.3.2. sets aside the following matters (which were within scope of the first statutory review of performance of the RPC):
    - 3.3.2.1. *Voting and Quorum*
    - 3.3.2.2. *The process by which the number of Council members eligible for voting will be reduced to ensure equal numbers of appointed tāngata whenua representatives*
    - 3.3.2.3. *The setting of the Quorum*
    - 3.3.2.4. *Consensus decision making and the 80% voting threshold.*
    - 3.3.2.5. *The presumption that the current Standing Orders of Council apply to the operation of the committee unless amended by the committee.*
    - 3.3.2.6. *Confirmation of functions and powers of the committee (noting the legal advice that the broader scope in draft terms of reference is not inconsistent with the specified legislation).*
    - 3.3.2.7. *Refer back provisions and clarification of the options available to Council in the event that no recommendation is received from the Committee. This issue relates in particular to section 12(4) of the Act which provides that "In the event of an inconsistency between the obligations of Council under the terms of reference and its obligations under the specified legislation, the specified legislation prevails.*
  - 3.3.3. Agrees to use best endeavours to seek resolution and agreement on those matters in recommendation 2.3.2 above, and then when agreement has been reached, thereafter agree that the RPC's terms of Reference be approved and referred to the Appointers (or their nominated delegate) for their written agreement.

- 3.3.4. Recommends that Hawke's Bay Regional Council:
- 3.3.4.1. writes to each of the RPC Appointers inviting them to consider and agree to the amended Terms of Reference for the RPC as proposed; and
  - 3.3.4.2. as an Appointer itself, Council agrees to the amended Terms of Reference for the RPC as proposed.

#### **Hawke's Bay Regional Planning Committee Terms of Reference**

- 4. Writes to each of the Regional Planning Committee Appointers inviting them to consider and agree to the amended Terms of Reference for the RPC as proposed; and
- 5. As an Appointer itself, Council agrees to the amended Terms of Reference for the Regional Planning Committee as proposed.

#### **Authored by:**

**Ceri Edmonds  
MANAGER POLICY AND PLANNING**

**Gavin Ide  
PRINCIPAL ADVISOR STRATEGIC  
PLANNING**

#### **Approved by:**

**Tom Skerman  
GROUP MANAGER STRATEGIC  
PLANNING**

#### **Attachment/s**

There are no attachments for this report.



# HAWKE'S BAY REGIONAL COUNCIL

Wednesday 09 October 2019

Item 6

## Subject: AMENDMENT TO SIGNIFICANCE AND ENGAGEMENT POLICY TO RING FENCE NAPIER PORT IPO PROCEEDS

### Reason for Report

1. This item provides an update to Council regarding the proceeds from the Napier Port Initial Public Offering (IPO) and suggests amendments to Council's Significance and Engagement Policy to qualify 'Napier Port Future Investment Fund' as a strategic asset.

### Background: Napier Port Initial Public Offering (IPO) transaction

2. On 19 August 2019, the Napier Port IPO transacted in line with agreed transaction proceeds agreements. This resulted in the Hawke's Bay Regional Investment Company Limited (HBRIC) receiving \$107,858,750 (\$107.9m) in cash proceeds, significantly greater than anticipated during the community consultation on options to fund the development of Napier Port.
3. After deduction of approximately \$600,000 (\$0.6m) of IPO associated transactions costs, the net proceeds from the IPO available for re-investment equates to approximately \$107.3m (subject to final reconciliation).
4. A commitment was made through the community consultation to establish a 'future investment fund' in which this capital is 'ring fenced' and the investment proceeds from it would, subject to market conditions, more than match the current dividend flow from the Port.
5. In order to begin achieving operating returns from the proceeds immediately, as resolved previously with Council, the net proceeds would be transferred to Council's designated investment fund managers for deployment.
6. The funds have been deployed in accordance with the Council's existing Statement of Investment Policy and Objectives (SIPO) which dictates, defines and mandates the parameters within which the investments and their ongoing management and reporting are to operate.
7. As at 25 September 2019, \$103m or 96% of the net proceeds from the transaction (subject to final reconciliation) have already been transferred to Council's fund managers.
8. The remaining \$4.3m is in short term deposit pending final reconciliation and definitive tax advice on dividend disbursements.
9. Staff believe the existing SIPO provides an appropriate and robust governance framework for the Napier Port Future Investment Fund. The SIPO is a dynamic document and is reviewed annually or sooner if market conditions warrant.
10. All numbers used in this report have been rounded to the nearest \$100,000.

### Background: Council's Statement of Investment Policy and Objectives (SIPO)

11. Effective as at 1 July 2018, the purpose of SIPO is to assist Councillors, Council staff and external Investment Managers in effectively supervising, monitoring and evaluating the management of all externally managed funds.
12. The SIPO outlines and encourages use of methodologies and processes that reflect industry best practice, encompass the principles of good governance, and reflect Council's vision and risk tolerances.
13. The SIPO clearly defines Council's investment structure for all externally managed funds. This structure includes various asset classes, investment management style(s), asset allocations and acceptable investment ranges that, in total, are expected to

produce an appropriate level of diversification and total return over the investment time horizon.

14. As a responsible public authority, Council is a risk averse entity. The SIPO dictates that Council investments must be prudent and the associated risks and returns balanced against the key aim of capital preservation. Council's investment framework is supportive of its intergenerational responsibilities to current and future ratepayers. The primary focus is capital protection, followed by an appropriate return and acceptable liquidity.

#### **Isolating, Preserving and Protecting (ring fencing) Napier Port IPO Proceeds**

15. Recognising the need and fulfilling the commitment to the community to protect net IPO proceeds (subject to final reconciliation), staff recommend the creation of an indefinite "Napier Port Future Investment Fund" providing a source of intergenerational capital reserves to support Council operating activities while maintaining a SIPO-mandated level of diversification and total return over the investment time horizon.
16. Staff also recommend that Council's Significance and Engagement Policy (attached) is amended to specifically include "Napier Port Future Investment Fund" as a strategic asset, listed as:
  - 16.1. Napier Port Future Investment Fund (inflation adjusted capital base retention of net proceeds from partial sell down of 45% ownership in Port of Napier Limited following Initial Public Offering).
17. This amendment is aimed to protect the inflation adjusted capital base of the "Napier Port Future Investment Fund" by requiring that any decision to expend or reduce any portion of the capital base would require community engagement or a formal special consultative process in accordance with LGA s83 provisions. It should be noted that a subsequent Council resolution may nullify this policy change, however staff believe this provides an immediate and necessary level of protection consistent with feedback from the Napier Port IPO consultation process.

#### **Current State: Napier Port IPO Proceeds**

18. In August 2019, HBRIC received a total of \$107.3m in net cash proceeds (subject to final reconciliation) from the Napier Port IPO after deduction of approximately \$0.6m of associated IPO transactions costs
19. This was paid as \$63.3m in proceeds from the sale of its 45% shareholding in Napier Port, along with a fully imputed special dividend of \$44m - to substantially utilise all of Port of Napier Limited's imputation credit balance which would have otherwise been lost due to change in ownership following the IPO.
20. As at 25 September 2019, \$103m (or 96%) of net proceeds from the Napier Port IPO transaction have been transferred to the aforementioned two external investment managers.
  - 20.1. Jarden (formerly First New Zealand Capital) and Mercer manage \$22m each as part of the "Napier Port Future Investment Fund" on behalf of the Council.
  - 20.2. Jarden (formerly First New Zealand Capital) and Mercer manage \$29.5m as part of the "Napier Port Future Investment Fund" on behalf of HBRIC.
21. The remaining \$4.3m is in short term deposit pending final reconciliation and definitive tax advice on dividend disbursements.
22. Upon final reconciliation and definitive tax advice, this remaining \$4.3m will be issued evenly to the external fund managers for deployment in the Napier Port Future Investment Fund in accordance with Council's SIPO bringing the total funds under management for the Napier Port Future Investment Fund to \$107.3m.
23. In order to fulfil the commitment to the community to 'ring fence' the capital base from IPO proceeds, a component of the Napier Port Future Investment Fund is likely to remain on HBRIC's balance sheet in order to maximise tax efficiencies.

24. All externally managed funds are subject to Council’s SIPO and associated investment mandates regardless of whether the funds are managed on behalf of the Council or HBRIC.
25. The diagram below provides a visual depiction of current state of “Napier Port Future Investment Fund” deployment amongst the investment managers as well as current state of future tax-efficient dividends to the Council from HBRIC (subject to final reconciliation).

## NAPIER PORT FUTURE INVESTMENT FUND - FUNDS DEPLOYMENT



Napier Port Future Investment Fund capital evenly allocated to external fund managers (Mercer and Jarden) in accordance with Council’s Statement of Investment Policy and Objectives (SIPO)

\*Subject to final reconciliation and external tax advice. \$107.3M net, \$107.9M gross proceeds

### Future State: Napier Port IPO Proceeds

26. Staff continue to evaluate tax-efficient and tax-neutral options to further return subscribed capital and/or dividend from HBRIC to Council subject to ongoing discussions with external tax advisor(s).
27. Staff expect to provide an update to the Council on this matter within the first or second quarter of FY 2019-20 noting that this is an indicative estimate subject to change.

### Future State: Napier Port IPO Proceeds under HBRIC’s management

28. Pending finalised transaction costs, a conclusive review of tax-efficient options of returning additional capital to the Council, it is estimated that HBRIC will continue to manage an investment portfolio of a yet to be determined amount of IPO proceeds as a result of its inability to fully repatriate IPO proceeds without negative tax consequences.
29. As indicated above, all IPO proceeds, including those managed by external fund managers on behalf of HBRIC are mandated to comply with Council’s SIPO.
30. Staff intend to evaluate the tax implications of any investment income derived from the “Napier Port Future Investment Fund” on behalf of HBRIC impacting Council’s ability to enhance its operating activities.
31. HBRIC will also continue to own a 55% share in Napier Port, currently valued at approximately \$340m at time of this report.

### Decision Making Process

32. 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:
  - 32.1. The use of the special consultative procedure is not prescribed by legislation.
  - 32.2. The decision is not inconsistent with an existing policy or plan.

- 32.3. 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. Receives and notes the "*Amendment to Significance and Engagement Policy to Ring Fence Napier Port IPO Proceeds*" staff report.
2. Establishes and maintains a dedicated 'Napier Port Future Investment Fund' comprised of:
  - 2.1. Net proceeds of the IPO transaction (approximately \$107.3m subject to final reconciliation) plus retention of investment income equivalent to the annual rate of inflation in order to maintain the real value of the IPO proceeds.
3. Amends the Significance and Engagement Policy to include Napier Port Future Investment Fund as a Strategic Asset.

#### **Authored by:**

**Shash Davé**  
**CHIEF FINANCIAL OFFICER**

#### **Approved by:**

**Jessica Ellerm**  
**GROUP MANAGER CORPORATE**  
**SERVICES**

### **Attachment/s**

- [!\[\]\(f2c2c2dbb0d10a8fdb824f6853376b23\_img.jpg\) 1](#) Proposed edits - Significance and Engagement Policy for 2018 - 2028 Long Term Plan

## Significance and Engagement Policy

| Page 1

### Significance and Engagement Policy

#### Purpose and Scope

Hawke's Bay Regional Council (HBRC, Council or 'we') has developed this policy to:

1. Enable Council and our communities to identify the degree of significance attached to particular issues, proposals, assets, decisions and activities
2. Provide clarity about how and when communities can expect to be engaged in decisions made by Council
3. Inform Council from the beginning of a decision-making process about the extent, form and type of engagement required.

The Local Government Act 2002 (the Act) has consultation principles to guide HBRC when making decisions. With this in mind, HBRC commits to:

- Identify and assess options
- Place a value on benefits and costs
- Consider an appropriate level of detail
- Show evidence of how we comply with this Significance and Engagement Policy
- Provide processes to encourage and engage with Māori.

#### Process

On every issue requiring a decision, Council will consider the degree of significance and the most appropriate level of engagement.

HBRC will refer to the *Criteria for significance* (page 2) to identify matters, issues or proposals that require a Council decision. Advice on significance and options will come from an HBRC officer or other professional. Council will consider and make decisions, taking into account the degree of significance of the issue and referring to the *Criteria for engagement* (page 3) to identify the appropriate level and type of engagement.

Advice from HBRC officers normally comes through the Council-approved report format. This format specifically alerts elected members to significant impacts and engagement considerations.

#### Our general approach to significance

**Significance** means the degree of importance of the issue, proposal, decision, or matter – determined by the local authority – relating to its likely impact on and likely consequences for:

- The district or region
- Any persons who are likely to be particularly affected by or interested in the issue, proposal, decision or matter
- The achievement of, or means to achieve, HBRC's stated levels of service as set out in the current Long Term Plan
- The capacity of HBRC to perform its role and carry out its activities, now and in the future
- The financial, resource and other costs of the decision, or that these are already included in an approved Long Term Plan.

Council will exercise its judgement when assessing the degree of significance for each decision to be made by Council.

**Significant** means that the issue, proposal, decision or other matter is judged by Council to have a high degree of importance. This is typically when the impact is on the regional community, or a large portion of the community or where the financial consequences of a decision are substantial.

If the issue, proposal, decision or related matters concerned involve a significant decision in relation to land or a body of water, Council will 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. Council will also take into account the values of the whole community.

When making decisions, Council will:

- Identify and assess as many options as are practical
- Evaluate the costs and benefits resulting from the decision/s to be made
- Provide detailed information, which will be accessible to the public
- Maintain clear and complete records showing how compliance with this Significance and Engagement Policy was achieved.

## Significance and Engagement Policy

| Page 2

As part of the engagement process for the adoption of this policy, and subsequent reviews, Council will ask people in the region their engagement preferences and will review those preferences each three-year term.

Council will also take into account views already expressed in the community and make judgements on the level of support for those views, when determining the significance of a decision.

### Criteria for Significance

When looking at the significance of a matter, issue, decision or proposal, elected members will assess:

- The likely level of community interest
- The likely impact or consequences for affected individuals and groups in the region
- How much a decision or action promotes community outcomes or other Council priorities
- The impact on levels of service identified in the current Long Term Plan
- The impact on rates or debt levels
- The cost and financial implications of the decision to ratepayers
- The involvement of a strategic asset.

### Strategic assets

Strategic assets are owned by Council and defined as 'an asset or group of assets that the local authority needs to retain to maintain its capacity to achieve or promote any outcome that it determines to be important to the current or future well-being of the community.' This does not include strategic natural resources managed by Council. Regionally significant natural resources are served by the Resource Management Act and Regional Resource Management Plan.

HBRC considers the following to be strategic assets:

- Napier Port
- Napier Port Future Investment Fund (inflation adjusted capital base retention of net proceeds from partial sell down of 45% ownership in Port of Napier Limited following Initial Public Offering)
- Heretaunga Plains Flood Control Scheme

- Upper Tukituki Catchment Control Scheme
- Tūtira Regional Park (excluding commercial forestry)
- Pekapeka Regional Park
- Pākōwhai Regional Park
- Waitangi Regional Park
- Hawke's Bay Regional Investment Company Limited.

HBRC owns a number of assets that, managed as a whole, we consider to be strategic. However not all trading decisions made regarding these assets are regarded as significant nor do they affect the asset's strategic nature, i.e. the Heretaunga Plains Flood Control Scheme is strategic, but small parcels of land that make it up may not be, and the purchase or sale of such parcels of land may not amount to a significant decision.

### Our general approach to engagement

Engagement is a term used to describe the process of seeking information from the community to inform and assist decision-making. There is a spectrum of community involvement, and HBRC follows these general principles:

- We conduct our business in an open, transparent, democratically accountable manner
- We stay aware of, and have regard to, the views of all of our communities
- When making a decision, we consider: the diversity of the community and the community's interests in its district or region; the interests of future as well as current communities; and the likely impact of any decision on these interests
- We provide opportunities for Māori to contribute to our decision-making processes.

HBRC seeks authentic engagement with our community and applies a *Criteria for engagement*. We acknowledge that "community" may be 'communities of place' or 'communities of issue' and will use appropriate tools and techniques to make meaningful and timely connections that result in feedback. Formal consultation is one of many approaches that can be used.

Guidance on obligations and timing to respond to public correspondence is addressed in the Local Government Official Information and Meetings Act 1987 (LGOIMA or OIA), which sets a maximum of 20 working days. HBRC will prepare an Engagement Plan for

## Significance and Engagement Policy

| Page 3

each major decision or group of interrelated decisions. Decisions are not usually delegated to those involved in the engagement processes, however they are likely to be informed by community and stakeholder engagement.

An Engagement Plan will outline:

- Engagement objectives – the feedback that is sought from communities
- Timeframe and completion date
- Communities to be engaged with
- Engagement tools and techniques to be used
- Resources needed to complete the engagement
- Communication planning needed
- Basis of assessment and feedback to the communities involved
- Project team roles and responsibilities.

Engagement is not solely about providing information, is not always about reaching an agreement or consensus and is not always about negotiation. Engagement is not appropriate when outweighed by commercial sensitivity or when there is a threat to public health and safety.

### Criteria for engagement

Community engagement is a process. It involves all or some of the public and is focused on decision-making or problem-solving. HBRC considers the significance of a decision to be made and uses a table of criteria to assess the approach we might take to engage the community.

In some circumstances HBRC is required to use the special consultative procedure, set out in section 83 of the Act and described in a separate section below.

Decisions will be “informed” as a minimum standard. Decisions of high significance will be at the very least informed to wider communities, and will use engagement tools and techniques beyond “inform” for affected communities.

While community and stakeholder engagement improves decision-making, it is not the sole input into a decision. There are a wide range of information sources and perspectives that will inform a council decision. All the input gathered is harnessed and collated to help make a ‘sustainable’ decision (i.e. unlikely to require re-visiting because it is well-informed and well-considered). Decisions made by Council may differ from the prevailing public opinion.

The level of engagement will be agreed on a case-by-case basis. The significance of the decision will guide the selection of appropriate engagement tools and techniques to be used. A low level of engagement does not mean that engagement is diminished, inappropriate or necessarily that a decision is of lesser significance. Time and money may limit what is possible on some occasions.

## Significance and Engagement Policy

Engagement Spectrum<sup>1</sup> – our approach

Level	1. Inform	2. Consult	3. Involve	4. Collaborate	5. Empower
What it involves	<i>One-way communication</i> - to provide public with balanced, objective information to assist them in understanding problems, alternatives, opportunities and/ or solutions	<i>Two-way communication</i> - to obtain public feedback on analysis, alternatives and/ or decisions	<i>A participatory process</i> - to work with public through the process to ensure that public concerns and aspirations are consistently understood and considered	<i>Working together</i> - to partner with public in each aspect of the decision including the development of alternatives and identifying the preferred solution	<i>Public empowerment</i> - to place final decision-making in public hands
Types of issues that we might use this for	- Report adoption - Algal bloom - Pest control - Access issue	- Annual Plan - Long Term Plan - Regional Land Transport Programme	- Flood & drain scheme review - Regional cycling plan	- Tukituki plan change - Taharua/ Mohaka plan change	- Election voting systems (STV or first past the post)
Tools Council might use	- Website - Media release - Brochure/ flyer - Public notice/s	Formal submissions & hearings, social media, email, focus groups, phone surveys, surveys, video	- Workshops - Focus groups - Citizens panel	- External working groups (involving community experts)	- Binding referendum - Local body elections (Special Consultative Procedure)
When the community can expect to be involved	Council will generally advise the community when a decision is made	Council will advise the community when a draft decision is made and generally provides the community with up to four (4) weeks to participate and respond	Council will generally provide the community with a greater lead-in time to allow the time to be involved in the process	Council will generally involve the community at the start to scope the issue, again after information has been collected and again when options are being considered	Council will generally provide the community with a greater lead-in time to allow them time to be involved in the process – typically a month or more

HBRC engages with communities in many ways, from face-to-face to meetings, forums and surveys. Preferences for community engagement are periodically evaluated through regional surveys<sup>2</sup>.

<sup>1</sup> Using the International Association of Public Participation (IAP2) Spectrum of Engagement

<sup>2</sup> 2013 Regional Resident Survey, SIL Research, confirmed post/ mail, phone, newspaper and email as most preferred

## Significance and Engagement Policy

| Page 5

### Special consultative procedure

In some cases, and as we are required under the Act, HBRC will use the special consultative procedure to issue a proposal. When that happens, the proposal will be open to the community to provide their views for at least a month. The process we will follow is to:

- Prepare and adopt a statement of proposal, and in some cases a summary of the statement of proposal which is:
  - a fair representation of the statement of proposal
  - in a form determined by HBRC, i.e. published online, in the newspaper and/ or in HBRC's regional newsletter, so long as it is distributed as widely as reasonably practical
  - indicates where it is available
  - states how long it is open for public submission.
- Make publicly available (at Council offices, through interest group distribution lists, at Public Libraries, on HBRC's website):
  - the statement of proposal
  - a description of how people can present their views
  - a statement of the period the proposal is open for comments.
- Make the summary of proposal widely available
- Allow people to present their views to HBRC ensuring that they have a reasonable opportunity to do so and know how and when this opportunity will be available to them
- Allow people to present their views by audio link or audio-visual link, or as agreed.

HBRC may also request advice or comment from a Council officer or any other person.

Where HBRC is required to use the special consultative procedure as part of making or amending bylaws, the statement of proposal must include:

- A draft of the proposed bylaw, or the proposed amendment of the bylaw
- The reasons for the proposal
- A report on any determinations made under the Act on whether a bylaw is appropriate.

Where HBRC is required to or chooses to use the special consultative procedure, the statement of proposal is a draft of any plan, policy or similar document or in any other case a detailed statement of the proposal which must include:

- The reasons for the proposal
- An analysis of options
- Any other relevant information.

### Review of Policy

This policy will be reviewed at least once every five years, when it will involve community engagement. It may also be amended from time to time. This policy was last adopted in [October 2019](#).



# HAWKE'S BAY REGIONAL COUNCIL

Wednesday 09 October 2019

Item 7

## Subject: APPOINTMENT OF HEARING PANEL FOR WAIROA DISTRICT COUNCIL WASTEWATER DISCHARGE CONSENT

### Reason for Report

1. To provide information relating to the upcoming resource consent hearing for Wairoa District Council and to enable the appointment of commissioners to the Hearing Panel.
2. The application is **APP-123774 – Wairoa District Council** – Activities and discharges associated with the receipt, treatment, storage and general management of wastewater received at the Wairoa Wastewater Treatment Plant
3. This application is to replace the expired resource consents for the Wairoa waste water treatment plant discharge.
4. The application was publicly notified in August 2019 and 22 submissions were received.
5. A pre-hearing meeting with submitters will take place on 17 October 2019. Provisional dates for the hearing are 5 and 6 December 2019 and these dates will be confirmed or amended following the pre-hearing meeting.
6. Three Hearing Panel members are proposed for this hearing.
7. The following people are recommended as commissioners for this hearing: Mr Bill Wasley (chair), Rauru Kirikiri and Dr Jim Cooke. Mr Wasley has chaired a number of resource consent hearings for the Regional Council recently. Rauru Kirikiri was on the Port of Napier consent hearing panel. Dr Jim Cooke has specialised experience in water, wastewater discharges, and water quality.
8. All the recommended commissioners are accredited RMA decision makers.

### Decision Making Process

9. Pursuant to Section 34(1) of the Resource Management Act (RMA) the Hawke's Bay Regional Council has delegated the following functions, powers and/or duties under the RMA<sup>1</sup>:
  - 9.1. The appointment of Hearings Committee members or independent commissioners to a Hearing Panel to undertake the functions pursuant to s 34A RMA and the appointment of the Chairperson of the Hearing Panel.

### Recommendations

That the Hearings Committee

1. Receives and notes the *“Appointment of Hearing Panel for Wairoa District Council Wastewater Discharge Consent”* staff report.
2. Makes the following appointments in accordance with its delegation to do so: Mr Bill Wasley (chair), Rauru Kirikiri and Dr Jim Cooke to act as commissioners to hear and decide resource consent applications (APP-123774) by Wairoa District Council to discharge waste water to the Wairoa River.

### Authored by:

---

<sup>1</sup> NOTE: For the avoidance of doubt, the Hearings Committee is not delegated the functions, powers and duties to hear and make decisions on submissions made in relation to a proposed plan, policy statement, plan change or variation under the RMA. Such functions, powers and duties are delegated to a Panel of accredited RMA hearings commissioners appointed by the Council on an as needed basis, based on recommendations from the Regional Planning Committee.

**Item 7**

**Malcolm Miller  
MANAGER CONSENTS**

**Approved by:**

**Liz Lambert  
GROUP MANAGER REGULATION**

**Attachment/s**

There are no attachments for this report.

# HAWKE'S BAY REGIONAL COUNCIL

Wednesday 09 October 2019

Item 8

## Subject: 2018-19 ANNUAL REPORT AND SUMMARY

### Reason for Report

1. To provide the Council with the 2018-19 Annual Report and Summary for review to enable adoption post audit clearance on 16 October 2019.

### Background

1. The proposed timeframes for development and adoption of the 2018-19 Annual Report were considered by Council on 31 July 2019. That item noted that the process was complicated this year by the Napier Port IPO Transaction which affected the Group Financials and the Local Elections.
2. Council's Auditor, Stephen Lucy from Audit New Zealand, attended the 11 September 2019 Corporate and Strategic Committee meeting to provide the Councillors with an opportunity to ask questions related to the audit. The 60 non-financial performance measures were also included on the Committee agenda for review and discussion prior to the completion of the audit.
3. Due to a number of contributing factors we do not believe audit clearance will be received before the Council meeting takes place on 9 October to enable the adoption of the 2018-19 Annual report. The Annual Report however, is largely complete and is attached, including your feedback on the non-financial performance measures, for your review.
4. Audit Director Stephen Lucy has recommended the existing Council meet on 16 October before the election results are officially declared to formally adopt the Annual Report. The same situation occurred in 2016, and while it's not ideal, it is preferred that the existing Council adopt the Annual Report given their understanding of the work which has been performed throughout the year and the substantial post balance date event being the Napier Port Initial Public Offer.
5. The statutory deadline for the adoption of the Annual Report is four months after balance date, being 30 October 2019.
6. Subsequent to Council approval and adoption, and in line with Section 98 of the Local Government Act, the 2018-19 Annual Report will be printed for distribution and published on the Council's website.
7. A summary document of the information contained in the Annual Report is also required under Section 98 of the Act. This summary is audited to ensure that it fairly and consistently represents the information regarding the major matters in the full Annual Report. The summary must be published on the Council's website no later than one month from adoption of the full Annual Report. This is being graphically designed and will be provided under a separate cover and in hard copy to Councillors only as soon as it's available.
8. The final Annual Report is provided under a separate cover. The final audit report has yet to be received from Audit NZ, and will be tabled at the Council meeting on 16 October 2019.

### Financial Performance

9. Year one of the 2018-28 Long Term Plan signalled a step change in activity particularly in the areas of land and water to achieve real results on-the-ground at pace and at scale.
10. This was in response to the challenge set by the Council's 2017-2021 Strategic Plan, which set ambitious timeframes to achieve strategic goals in the focus areas:
  - 10.1. Water quality, safety and certainty

- 10.2. Smart, sustainable land use
- 10.3. Healthy and functioning biodiversity
- 10.4. Sustainable services and infrastructure.
11. This is the first year of the new Financial Strategy set out in the 2018-28 Long Term Plan. The Financial Strategy aims to accelerate and scale up activity to influence behavioural change to achieve outcomes by front loading activity to have a greater impact sooner.
12. As a result, operating expenditure in 2018-19 was \$53m, an increase of \$5.1m or 10% compared to the previous year. External operating expenditure increased by \$3.2m and personnel costs increased by \$2.8m or 16%. This demonstrates the significant increase in capacity and capability required to carry out an ambitious work programme.
13. Total capital expenditure was budgeted at \$15.4m for the year. However, \$3.2m of this has been carried forward to 2019-20. Despite an increase in staffing numbers and cost, many vacancies were difficult to fill and were vacant for part or all of the year. This was particularly apparent in Asset Management where a lack of resource and capability resulted in an underspent in Infrastructure Asset Construction of \$2.2 million.
14. Another \$1m of capital carried forward represents IT project work or spend. Following a full review of the approach to IT transformation, greater priority has been placed on ensuring the organisation has the correct processes, resources and disciplines in place to warrant or benefit from system implementation before work begins. This should ensure that as projects are initiated, spend is maximised due to the organisation being ready, and the up-take of solutions is optimised.
15. We also saw longer than anticipated set up phase for policy design and implementation for some of the new initiatives. For the Catchment Management team, the design of the Erosion Control Scheme dominated most of the year, and is reflected through \$600k of the budget being carried forward. In total, approximately \$1m of budgeted operating expenditure has been carried forward to the 2019-20 year for a number of various work streams and as a result of resourcing challenges, difficulty gaining access to land, reliance on partnership or external funding or are reserve balances being carried over.
16. Overall, operating expenditure exceeds budget due to the re-allocation or prioritisation of internal work streams over debt fund capital projects which have been delayed or deferred to the new financial year.
17. The increased level of activity was funded through:
- 17.1. **Rates** – Rates revenue makes up 50% or less of annual revenue. The 2018-19 year saw an on average 19% increase in rates (including 5.3% related to the regional collection of Civil Defence Emergency Management). Rates revenue for the year was \$23.2m, an increase of \$3.7m from the previous year.
- 17.2. **Recovery of user charges via fees and charges** – Fees and charges provide around 20% of the annual funding requirement of the Regional Council. The 2018-19 year included a greater user-pays approach. Both consents and compliance were 80% chargeable to the consent holders (up from 60% and 70% respectively in previous years). A total of \$1.9m in revenue was collected from direct charges, which was an increase of \$520k from the previous year. This however was \$600k less than budget due to more time than anticipated spent responding to important but non-recoverable activity such as the pollution hotline.
- 17.3. **Investment income** – Total Investment income including \$10m dividends was \$13.7m. It included leasehold income of \$1.8m, forestry income of \$23k, returns from managed funds and cash on term deposit of \$1.8m.
18. Our investment strategy aims to maintain and grow investments for generating income, allowing general rates to continue being subsidised by investment income. During this year we received \$10m in dividends from the 100% ownership of Napier Port via HBRIC Ltd. Post balance date, ownership in this asset has been diluted to 55% via an Initial Public Offering, which is outlined in the attached full report. This post balance date

event has already had a significant impact on the valuation of the asset. HBRC valuation of assets has increased by over \$64m in the 2018-19 year including a revaluation of HBRIC.

19. Overall investment income was \$3.2m less than budget due to returns from managed funds being un-realised (they are balance sheet gains) and a delay in expected Forestry income, which will be recognised when the forests are harvested. During the course of the 2018-19 year \$40m of funds were placed into diversified investment portfolios managed by two separate fund managers. Appointment of the fund managers and subsequent establishment of the funds took longer administratively than anticipated which has an impact on the timing of the placement of funds (planned July 18, allocated in Nov 2018), however, the \$40m placed achieved overall gains of \$1.88m or 4.7% including adjustment for inflation. Forecast returns were 4.5% net of inflation which has resulted in a shortfall of investment income for this year. Gain on invested funds is recognised in the financial statements as an unrealised gain as the returns were not divested in the year due to favourable cashflow position.
20. **Debt** – The Long Term Plan outlines a preference for funding for intergenerational projects through debt. In 2018-19, we borrowed \$2.5m to fund regional infrastructure projects, work on regional parks and open spaces, and research and development projects.
21. **External grant funding** – Government grants are received from the New Zealand Transport Agency for bus services and road safety projects, New Zealand Trade and Enterprise for regional development projects, Ministry of Justice and the Ministry of the Environment for iwi initiatives, and the Ministry of Primary Industries for afforestation, environmental and water initiative projects.
22. The closing financial position for the year is an operating surplus of \$2.6m compared to a planned surplus of \$5.8m. The total comprehensive revenue and expense position is \$68.6m which exceeds the planned \$8.2m surplus. This significant increase is due to unrealised revaluation gains across all asset classes, most specifically a \$58m increase in the valuation of HBRIC (reflecting the value of ownership of Napier Port).

#### **Hawke's Bay Regional Investment Company Ltd (HBRIC)**

23. The HBRIC Ltd Board of Directors approved the HBRIC 2018-19 annual report on 30 September 2019.
24. HBRIC Ltd has been issued a qualified audit opinion, because the group financial statements include the financial statements for the group's subsidiary, Port of Napier Limited, for the year end 31 March 2019 rather than for the year end 30 June 2019. The HBRIC audit opinion is attached for reference.
25. This qualified option flows through to the HBRC Group accounts as this incorporates the same decisions made by the directors of HBRIC Ltd.

#### **Decision Making Process**

26. 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 Hawke's Bay Regional Council receives and considers the 2018-19 Annual Report and Summary.

#### **Authored by:**

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

**Desiree Cull**  
**STRATEGY AND PROJECTS LEADER**

**Item 8**

**Shash Davé**  
**CHIEF FINANCIAL OFFICER**

**Melissa des Landes**  
**SENIOR GROUP ACCOUNTANT**

**Brylee Finlayson**  
**FINANCIAL ACCOUNTANT**

**Approved by:**

**Jessica Ellerm**  
**GROUP MANAGER CORPORATE**  
**SERVICES**

**James Palmer**  
**CHIEF EXECUTIVE**

**Attachment/s**

- |                   |                                    |                      |
|-------------------|------------------------------------|----------------------|
| <a href="#">1</a> | Draft 2018-19 Annual Report        | Under Separate Cover |
| <a href="#">2</a> | 2018-19 Annual Report Summary      | Under Separate Cover |
| <a href="#">3</a> | HBRIC 2018-19 Annual Report signed | Under Separate Cover |

# HAWKE'S BAY REGIONAL COUNCIL

Wednesday 09 October 2019

**Subject: DISCUSSION OF MINOR ITEMS NOT ON THE AGENDA**

**Item 9**

## 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	Raised by
1.		
2.		



# HAWKE'S BAY REGIONAL COUNCIL

Wednesday 09 October 2019

Item 10

## SUBJECT:

That the Council excludes the public from this section of the meeting being Confirmation of Public Excluded Minutes Agenda Item 10 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

Napier Port IPO Proceeds  
Deployment

### REASON FOR PASSING THIS RESOLUTION

7(2)s7(2)(i) That the public conduct of this agenda item would be likely to result in the disclosure of information where the withholding of the information is necessary to enable the local authority holding the information to carry out, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations).

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

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

## Authored by:

**Leeanne Hooper**  
**GOVERNANCE LEAD**

## Approved by:

**James Palmer**  
**CHIEF EXECUTIVE**