



MINUTES OF AN EXTRAORDINARY MEETING OF THE REGIONAL COUNCIL

Date: Wednesday 9 October 2019

Time: 10.00am

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

Present: R Graham - Chairman
P Bailey
R Barker
T Belford
A J Dick
D Hewitt
N Kirton
F Wilson

In Attendance: J Palmer – Chief Executive
J Ellerm – Group Manager Corporate Services
I Maxwell – Group Manager Integrated Catchment Management
T Skerman – Group Manager Strategic Planning
E Lambert – Group Manager External Relations
S Davé – Chief Financial Officer
A Roets – Governance Administration Assistant

1. Welcome/ Apologies/ Notices

The Chairman welcomed everyone to the last Council meeting of the triennium.

Resolution

RC109/19 That the apologies for absence from Cr Peter Beaven and Mike Mohi be accepted.

**Barker/Bailey
CARRIED**

2. Conflict of Interest Declarations

There were no conflict of interest declarations.

3. Confirmation of Minutes of the Regional Council meeting held on 25 September 2019

RC110/19 Resolution

Minutes of the Regional Council meeting held on Wednesday, 25 September 2019, a copy having been circulated prior to the meeting, were taken as read and confirmed as a true and correct record.

**Bailey/Barker
CARRIED**

Call for Minor Items of Business Not on the Agenda

Recommendation

That Council accepts the following "Minor Items of Business Not on the Agenda" for discussion as Item 9:

Topic	Raised by
Plastic recycling	Cr R Barker
Kahutia nursery	Cr R Barker

4. Report and Recommendations from the Regional Planning Committee

Tom Skerman introduced the item, outlining the recommendations from the Regional Planning Committee in relation to the Terms of Reference. Mr Skerman also outlined the legal ambiguities in relation to what Council is able to resolve in the absence of a Committee recommendation for the TANK Plan Change notification pathway.

Discussions traversed:

- Three options for Council are to resolve a Schedule 1 Part 1 (traditional) process be followed, make no decision and refer back to RPC, or to resolve that an application be made to the Environment Minister to use a Schedule 1 Part 5 streamlined planning process
- Decision on TANK plan change notification pathway binds the incoming Council
- Pros and cons of the two potential notification pathways
- Staff's preferred option and recommendation remains to follow a modified streamlined planning process (SPP) due to the significant consequential impacts of a Schedule 1 Part 1 process on Council's wider planning work and given the significant ratepayer funded resources already expended on the seven years of community engagement with the TANK stakeholder group
- Staff advise that, notwithstanding the preference for the SPP process, an alternative Council decision to initiate the Traditional process is preferable to further delay
- Getting to this stage has taken much longer than anticipated when the Stakeholder

Group, in 2018, handed the plan change to the RPC due to the time the RPC has taken to resolve issues that did not achieve consensus by that Group and the number of RPC meetings that either failed due to lack of quorum or that deferred decisions at the request of tangata whenua

- No clear direction under the Committee's Terms of Reference nor the HB Regional Planning Committee Act around whether or not any refer back obligations exist in circumstances where there is no recommendation forthcoming from the RPC to Council
- argument that Council is entitled to make the notification pathway process decision
- if Council was to make a decision to use one particular notification pathway or another then it would not require a special consultative procedure under the LGA or Council's Significance and Engagement Policy as, in any event, the RMA has its own public submission process
- potential relationship challenges with tangata whenua based on their strongly held view that the Council should not embark on notifying any pathway other than Schedule 1 Part 1 process and also that the Environment Minister could decide to reject an application to use a modified SPP process being that it goes against tangata whenua views
- proposed to either adopt the Schedule 1 Part 1 process, with all the consequential resource implications and potential years of delays before the plan is made Operative, or to refer the matter back to the Regional Planning Committee for resolution
- counter proposal for Council to resolve to use the modified SPP process for the TANK plan change, acknowledging inability to reach consensus agreement with 80% of the RPC
- A motion to use a modified SPP process for the TANK plan change was lost.

Cr Debbie Hewitt left the meeting at 11.08am

- A motion to take the matter of TANK plan change notification pathways back to the RPC at a meeting date to be scheduled ASAP was carried.

RC111/19 Resolutions

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 and accepts the Report and resolutions from the Regional Planning Committee, those resolutions being:

That the Regional Planning Committee:

- 2.1. Receives and notes the "*Hawke's Bay Regional Planning Committee Terms of Reference*" staff report.
- 2.2. 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.
- 2.3. Agrees that the preferred approach is to agree on amendments to the RPC's February 2014 version of Terms of Reference that:
 - 2.3.1. incorporates minor corrections, editorial improvements, and various other uncontentious amendments that improve alignment with the Hawke's Bay Regional Planning Committee Act 2015

- 2.3.2. Recommends that Hawke's Bay Regional Council:
 - 2.3.3.1. 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
 - 2.3.3.2. as an Appointer itself, Council agrees to the amended Terms of Reference for the RPC as proposed.
- 3. 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
- 4. As an Appointer itself, Council agrees to the amended Terms of Reference for the Regional Planning Committee as proposed.

**Barker/Bailey
CARRIED**

RC112/19 Resolutions

That Hawke's Bay Regional Council:

- 5 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, noting that any person may make a submission on proposed TANK Plan Change 9 when it is publicly notified.
- 6 Notes that at its meeting on 25 September 2019, the Council accepted recommendations from the Regional Planning Committee that Council adopts and publicly notifies TANK Plan Change 9 (as amended) and also makes the section 32 report publicly available when TANK Plan Change 9 is notified.
- 7 Notes there are no recommendations from the RPC to the Council on this item regarding notification procedure, nor is there a clear direction under the Committee's Terms of Reference for this decision to be referred back to the Committee.
- 8 Subject to approval of the Minister for the Environment, agrees that a streamlined planning process, as provided for by [cite authority], be used for notification and post-notification stages of the proposed TANK Plan Change (Plan Change 9).
- 9 Subject to approval of the Minister for the Environment, agrees that the streamlined planning process include at least the mandatory steps, plus the following additional steps tailored for the TANK Plan Change's circumstances:
 - 9.1 a submission period of thirty working days
 - 9.2 further submissions in response
 - 9.3 hearing by panel of three to five suitably experienced and accredited RMA hearings commissioners to provide report and recommendations back to Regional Planning Committee and Council
 - 9.4 requirement for the panel to seek feedback from the Council on its draft report and recommendations prior to the panel finalising that report and recommendations.
- 10 Instructs the Chief Executive to prepare and lodge an application as soon as practicable to the Minister for the Environment for the TANK Plan Change to follow a streamlined planning process including those matters in recommendation 4 above.
- 11 In the event that the Minister for the Environment does not grant approval to use a modified streamlined planning process for the TANK Plan Change, directs the Chief Executive and/or Group Manager Strategic Planning to report back to the Council

at the earliest possible Council meeting following receipt of the Minister's decision.

- 12 Notes that a Streamlined Planning Process, if approved, will likely require some operational activities to be delegated to the Chief Executive and/or Group Manager Strategic Planning to further streamline new operational steps and milestones associated with the process tailored for the TANK Plan Change 9. Details of those will be in separate briefing update to be brought back to the Council by December 2019.

Belford/Kirton

For: Belford

Against: Dick, Barker Bailey, Wilson, Kirton, Graham

LOST

Councillor Debbie Hewitt re-joined the meeting at 11.11am

That Hawke's Bay Regional Council:

5. Requests that the Chief Executive convenes a meeting of the Regional Planning Committee as soon as practical, the meeting's purpose being to:
 - 5.1 receive legal advice on
 - 5.1.1 the Schedule 1 and Streamlined Planning Process notification pathways
 - 5.1.2 whether the decision-making delegation on the pathway for Plan Notification lies with the Regional Planning Committee or the Regional Council
 - 5.2 to determine the pathway for the TANK Plan Change's notification to the community.

Barker/Bailey

For: Dick, Hewitt, Barker, Bailey, Graham

Against: Wilson, Belford, Kirton

CARRIED

6. Amendment to Significance and Engagement Policy to Ring Fence Napier Port IPO Proceeds

The item was taken as read, with queries about levels of materiality requiring a special consultative procedure and whether Forestry Assets are meant to be on the Strategic Assets list.

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 Initial Public Offering proceeds.
 - 2.2 That the future balance sheets of HBRC and HBRIC show the Napier Port Future Investment Fund as a separate line item.
3. Amends the Significance and Engagement Policy to include Napier Port Future Investment Fund as a Strategic Asset.

Barker/Bailey

CARRIED

7. Appointment of Hearing Panel for Wairoa District Council Wastewater Discharge Consent

Recommendations

That Hawke’s Bay Regional Council leaves the matter to lie on the table.

**Bailey/Barker
CARRIED**

8. 2018-19 Annual Report and Summary

The item was taken as read.

Final modifications to correct errors in the current version will be made and the updated version provided electronically to councillors to enable its adoption on 16 October 2019.

Recommendation

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

**Kirton/Bailey
CARRIED**

9. Discussion of Minor Items Not on the Agenda

Item	Topic	Raised by
1.	Plastic recycling – visited the Plastic recycling plant in Wellington where learned they only recycle bottles and send everything else to landfill. Rubbish is a significant issue for Hawke’s Bay that may need attention from the regional council.	Cr R Barker
2.	Kahutia nursery - Ongoing discussions with NKII and HB Regional Prison Management about developing the business plan for presentation to Council’s Executive leadership team before the end of this year.	Cr R Barker

10. Confirmation of the Public Excluded Minutes of the Regional Council meeting held on 25 September 2019

RC113/19 Resolution

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)(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).

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

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

**Bailey/Barker
CARRIED**

10. Confirmation of Public Excluded Minutes of the Regional Council meeting held on 25 September 2019

RC114/19 Public Excluded Minutes of the Regional Council meeting held on Wednesday, 25 September 2019, a copy having been circulated prior to the meeting, were taken as read and confirmed as a true and correct record.

**Bailey/Barker
CARRIED**

Resolution

RC115/19 That the meeting moves out of Public Excluded session.

**Bailey/Barker
CARRIED**

The meeting went into public excluded session at 11.33am and out of public excluded session at 11.37am.

Closure:

There being no further business the Chairman declared the meeting closed at 11.37am on Wednesday, 9 October 2019.

Signed as a true and correct record.

DATE:

CHAIRMAN: