



Meeting of the Hawke's Bay Regional Council

Date: Wednesday 28 April 2021
Time: 10.30am
Venue: Council Chamber
Hawke's Bay Regional Council
159 Dalton Street
NAPIER

Agenda

Item	Title	Page
1.	Welcome/Karakia/Apologies/Notices	
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13.	Discussion of Minor Items not on the Agenda	51
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HAWKE'S BAY REGIONAL COUNCIL**Wednesday 28 April 2021****Subject: FOLLOW-UPS 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 reported to Council they will be removed from the list.
2. Also attached is a list of LGOIMA requests that have been received since 1 February 2021.

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 Hawke's Bay Regional Council receives and notes the "Follow-up Items from Previous Regional Council Meetings".

Authored by:

Leeanne Hooper
TEAM LEADER GOVERNANCE

Approved by:

Desiree Cull
STRATEGY AND GOVERNANCE MANAGER

Attachment/s

- 1 [↓](#) Follow-ups for April 2021 Council Meeting

Follow-ups from previous Regional Council Meetings

Meeting held 24 March 2021

	Agenda Item	Action	Responsible	Status Comment
1	Significant Organisational Activities Looking Forward Through April 2021	Redistribute information about riparian high resolution photography project including how sites were selected.	I Maxwell	Circulated by email on 16 April 2021 (reference 1 following).
2	Significant Organisational Activities Looking Forward Through April 2021	Query when the next Benthic Survey results are due as a condition of the NCC wastewater discharge consent	M Miller /J Blunden	NCC consent AUTH-118503-02 condition 26 requires: The consent holder shall undertake surveys designed to show the impact of the discharge on the benthic fauna. The design of the survey shall be agreed between the consent holder and the Regional Council (Manager Science) before the survey is undertaken. Benthic surveys shall be undertaken between late December and late February (preferably in January) with the first survey undertaken within two years of the upgrade required in condition (6), and every five years after the date of that survey. The results of such surveys are to be provided to the Regional Council within three months of the surveys being undertaken. NCC has engaged NIWA to undertake the benthic study required by their resource consent. NIWA undertook the study over a few days in January 2021 and will be providing a report to NCC by April. The report will likely be peer reviewed and once accepted by HBRC can be circulated.
3	Discussion of Minor items not on the agenda	Feedlot on Awamate Stream – approach to be made to landowner about potential joint project to plant and fence the riparian margins	P Munro/ N Heath	Northern Catchment team to investigate
4	Discussion of Minor items not on the agenda	HBRC staff look into potential rates relief for Mangataniwha Station	J Ellerm	Finance/Rates team investigating options.

Reference 1

From: Iain Maxwell <iain@hbrc.govt.nz> **Sent:** Friday, 16 April 2021 2:08 pm
To: Rex Graham; Cr Charles Lambert; Cr Craig Foss; Cr Hinewai Ormsby; Cr Jerf VanBeek; Cr Martin Williams; Cr Neil Kirton; Cr Will Foley; Rick Barker
Subject: FW: Response to questions about riparian monitoring

Kia ora all

This original email was asked to be resent as part of a follow up from the last council meeting.

In addition, to answer Cr Ormsby's specific questions about site selection I can advise:

- This survey has employed a stratified random sampling design described in Kimberley (2018). In this survey design, strata is defined based on land use class, stream order and catchment boundary.
- A total regional sample size of 300 sampling units is used for this survey to achieve good precision with 95% confidence for various riparian characteristics. The sample size of 300 sites is expected to provide satisfactory level of precision both at regional and catchment level. Seventy out of the 300 sites have already been surveyed which leaves us with 230 sites to complete the regional picture.

We have come up with an alternate approach that doesn't require sending teams into the field over a period of five years in order to get a regional snapshot. We have commissioned some high resolution (2.5cm) aerial photography so we can assess the majority of sites using a desk top approach. We will still need to physically visit the few sites that can't be assessed from the air but we will now be able to capture and assess the whole region in less than a year.

Nga mihi
 Iain

From: Iain Maxwell **Sent:** Friday, 26 February 2021 8:36 AM
To: Chairman Rex Graham; Cr Charles Lambert; Cr Craig Foss; Cr Hinewai Ormsby; Cr Jerf VanBeek; Cr Martin Williams; Cr Neil Kirton; Cr Will Foley; Rick Barker
Subject: Response to questions about riparian monitoring

Mōrena all

Following up on the questions from Cr Foss on Wednesday in relation to the follow up item on our riparian monitoring.

2	Significant organisational activities	Are there any urban waterways included in the 217 sites being photographed as part of the High resolution photography to create the statistical model describing the condition of riparian margins across the region, plus how were sites chosen	B Lynch	All sites are on agricultural land. Recent LIDAR work (high resolution photography) coming soon will give some information on urban waterways but until this information is extracted from LIDAR we can't be sure what information it will provide.
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I can offer the following additional information that explains why we are not using aerial surveying for urban areas:

1. Urban waterways are relatively easy to access on the ground, being much smaller than rural catchments and we will be using ground based monitoring for those areas which has the additional advantage of helping keep costs down. However, use of the airplane in rural catchments is expected to reduce the time to complete that work throughout the entire region from five years, to a few days (plus a few months for analysis)
2. The recently flown LiDAR survey was undertaken with very high precision over urban areas (eight laser hits per square metre) and will provide rich information on the urban riparian areas, including fencing and vegetation. We are in the early stages of analysing the massive data set we have acquired from the LiDAR survey now.

Happy to provide any additional information if required.

Ngā mihi
Iain

LGOIMA Requests Received

The following LGOIMA requests were received between 19 March and 20 April 2021

Request Date	Request ID	Request Status	Request Subject	Request Summary	Requested By
13/04/2021	OIR-21-028	Active	water takes for commercial use	1. Details of all consents granted in last 2 years for water takes for commercial uses incl farming, horticulture, viticulture, water bottling in TANK catchments 2. Do consents incl a s128 review condition that enables Council to reduce takes following PC9 becoming operative 3. Does Council have a policy position on whether a review of all commercial water take consents in TANK catchments (s128(1)(b)) will be undertaken once PC9 is operative ?	Solicitor obo Ngāti Kahungunu Iwi Inc
7/04/2021	OIR-21-027	Active	Stay of WDC Abatement Notice	Stay of WDC abatement notices EAC 20483 & 20484 granted to 5 April 2021 - what has occurred since stay was granted?	Stuff Journalist
7/04/2021	OIR-21-026	Active	Council Legal Costs	for 2018-19 and 2019-20 1. spend on external legal services, by provider 2. internal legal team staffing 3. staff numbers	Individual
30/03/2021	OIR-21-025	Active	Resource Consent Iwi Engagement Processes	What formal and/or informal processes/agreements does council have to provide opportunities for iwi engagement in the resource consent process, incl for different consent types	Tonkin and Taylor
29/03/2021	OIR-21-023	Completed	Climate Change Commission submission	Submission HBRC made to Climate Change Commission and who prepared it	NZ Taxpayers' Union Inc
	OIR-21-023		Response emailed 1 April 2021	This email is acknowledgement that HBRC has received your LGOIMA request dated 29 March 2021, and that Hawke's Bay Regional Council did not make a submission to the Climate Change Commission.	

Request Date	Request ID	Request Status	Request Subject	Request Summary	Requested By
30/03/2021	OIR-21-024	Completed	HBRC LGOIMA policies and processes	<p>1. Does HBRC have a policy or guidelines for charging requestors for supplying LGOIMA information? If yes, provide a copy.</p> <p>2. How many LGOIMA requests did HBRC receive?</p> <p>3. Of these, how many were advised charges for supplying info?</p> <p>4. How many of those paid the costs for supplying the info?</p> <p>5. In total, how much did HBRC receive for supplying LGOIMA info?</p> <p>6. 10 largest amounts paid by requestors</p>	Massey University
	OIR-21-024		<p>Responses emailed 19 April 2021</p> <p>and 1 April 2021</p>	<p>Following is the remainder of the information you requested in your LGOIMA request dated 30 March 2021, with responses next to each of the questions.</p> <p>4. How many requests for information under the LGOIMA did your organisation receive? 80</p> <p>5. Of these, in how many was the requestor advised that they would incur charges for copying and staff time, or any other reason? 3</p> <p>6. In how many of these, did the requestor pay the required charge for supplying of information? 0</p> <p>7. In total, how much did your organisation receive in payments for supplying information under the LGOIMA? 0</p> <p>8. What were the largest 10 amounts paid by requestors in charges for fulfilling LGOIMA requests? 0</p> <p>This email is acknowledgement that HBRC has received your LGOIMA request dated 30 March 2021 and will provide the information as soon as practicable.</p> <p>As a start, Council's LGOIMA policy is attached in response to your questions 1-3 and the current relevant "fees and charges" can be found on Council's website, here.</p>	

HAWKE'S BAY REGIONAL COUNCIL

Wednesday 28 April 2021

Subject: SIGNIFICANT ORGANISATIONAL ACTIVITIES LOOKING FORWARD THROUGH MAY 2021

Item 5

Reason for Report

- The commentary following is for Councillors' information, to highlight significant areas of Council activity. Significant Council resources are being directed toward various initiatives, which reflect the Council's evolving agenda and it is considered important that Council is consistently informed on progress in areas that have or may create a high external profile.

Whole of Region																										
Project / Activity Description	Significant Upcoming Milestone(s)	Group /Team or Section																								
Incidents and Enforcement	1. Pollution Response and Enforcement received 664 incidents (Air 406, Land 119, Surface water 106, Coastal 29, Ground Water 4) logged through our hotline for the period 1 July 2020- 31 March 2021.	Regulation Compliance & Enforcement																								
	2. Total infringements for year to date 1/7/20 – 31/03/21 = 59																									
	<table><tr><th>Infringement no.</th><th>RMA section breached</th><th>Discharge of contaminants to:</th></tr><tr><td>12</td><td>15(1)(a)</td><td>Water</td></tr><tr><td>10</td><td>15(1)(b)</td><td>Land where may enter water</td></tr><tr><td>7</td><td>15 (1)(c)</td><td>Industrial or trade premises to air</td></tr><tr><td>5</td><td>15(1)(d)</td><td>Industrial or trade premises to land</td></tr><tr><td>21</td><td>15(2A)</td><td>Air or land where breaches our RRMP</td></tr><tr><td>1</td><td>22(2)</td><td>Failure to supply information (name and address) to an enforcement officer</td></tr><tr><td>3</td><td>338(1) (c)</td><td>Breach of Abatement Notice</td></tr></table>		Infringement no.	RMA section breached	Discharge of contaminants to:	12	15(1)(a)	Water	10	15(1)(b)	Land where may enter water	7	15 (1)(c)	Industrial or trade premises to air	5	15(1)(d)	Industrial or trade premises to land	21	15(2A)	Air or land where breaches our RRMP	1	22(2)	Failure to supply information (name and address) to an enforcement officer	3	338(1) (c)	Breach of Abatement Notice
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	1		22(2)	Failure to supply information (name and address) to an enforcement officer																						
3	338(1) (c)	Breach of Abatement Notice																								
3. Eleven active prosecutions-initiated year to date (18/02/21) at various stages, which we are unable to comment publicly on.																										
Resource Consent Compliance	4. 80% of programmed resource consent inspections have been completed for the year to date with 495 site inspections, 486 reports sent, and assessment of 138+677+356 environmental data returns	Regulation Consents & Compliance																								
	5. Of all consents monitored to 30 March 2021, 87% achieved full compliance. 24 were graded significantly non-compliant, 286 moderate and 138 low risk.																									
	6. All identified significant non-compliance has been resolved or is the subject of current enforcement action.																									
	7. Of the moderate non-compliant, 211 are water takes that have been identified through our pre-expiry program as requiring work done. We expect these to be resolved in the next quarter.																									

Whole of Region		
Project / Activity Description	Significant Upcoming Milestone(s)	Group /Team or Section
HAIL database upgrades	<p>8. The HAIL database upgrade into IRIS has been completed and a proposal for making the data more accessible for users is being scoped</p> <p>9. All known closed landfill sites have been spatially mapped and climate change risk assessment is currently being undertaken.</p>	Regulation Hazardous Waste and Contaminated Land
Events Napier Port Primary Sector Awards Field Days	<p>10. Silver Fern Farms Hawke's Bay Farmer of the Year (Andrew and Maddy McLean - Wanstead). The field day will be held on 14 May. Andrew and Maddy are members of the Porangahau Catchment Group. Maddy previously worked as a Catchment Advisor in the Southern Office.</p> <p>11. Pan Pac Hawke's Bay Farm Forester of the Year (Mark Warren – Omakere). The field day will be held on 27 May. HBRC are co-sponsors of this award and the Hawke's Bay Farm Forestry Association.</p>	ICM Catchment Delivery
Policy Implementation	12. Activities will be underway to communicate and help prepare farmers for nationwide expectations this season for improved practice for winter forage crop management. This continues to build on several years of work with farmers and industry groups and rural professionals on this issue.	Catchment Policy Implementation
Regional Land Transport Plan	13. The Regional Transport Committee heard 22 of the 67 submitters who made submissions on the Draft RLTP over two days. The Committee will deliberate on all the submissions at their meeting on the 14 May.	Transport

Northern Catchment		
Project / Activity Description	Significant Upcoming Milestone(s)	Group /Team or Section
Events	<p>14. An inaugural meeting of the Waikare River Catchment Group (20th April). This will be attended by the relevant Catchment management staff for the first meeting.</p> <p>15. A field day in Wairoa (a date in May yet to be set) to present up-to-date findings from the Sustainable Farming Fund funded 'Grazable Shrubs' project. This is open to anyone who is interested including staff and councillors.</p>	ICM – Catchment Delivery
Māori Partnerships	<p>16. A community working bee to clean up around Whakakī School as part of the Freshwater Improvement Fund project is being held 24 April, with a large turnout anticipated.</p> <p>17. Meeting with the Gisborne District Council Māori partnerships team this week to discuss cross boundary collaboration.</p> <p>18. Community partnerships group meeting occurring 5 May</p> <p>19. Engagement held with Tātau Tātau o Te Wairoa, Rongomaiwahine Iwi Trust, HBRC Māori Committee, Waikaremoana Tribal Authority, Ngāti Rakaipaaka, MPI.</p>	Māori Partnerships
River Parade Erosion Protection	20. Preliminary design for sheet piled wall has been completed. Wairoa District Council to undertake enabling works to relocate water mains imminently. Detailed design to start in May, lead time on steel sheet piles approx. 4 months. Site works due to commence August 2021.	Regional Projects
WDC Wastewater Consents	21. Application to upgrade the Opoutama treatment plant has been lodged and work is progressing as required by the abatement notice. Full plant upgrade is anticipated to be complete by October 2021.	Regulation Consents & Compliance

Central Catchments		
Project / Activity Description	Significant Upcoming Milestone(s)	Group /Team or Section
Events	22. The Landwise conference will be held in Havelock North on 19 & 20 May. HBRC is a Platinum sponsor for this event. The theme is "Working Smarter". Sessions focus on use of research and technology to improve environmental and economic performance in vegetable and cropping systems.	Catchment Policy Implementation
TANK Plan Change (PC9)	23. The S42a report has been released and posted on the Council website in advance of the Hearings scheduled for May/June 2021. The report and appendices can be found here .	Policy & Planning
Ngaruroro and Clive Rivers Water Conservation Order	24. Hearings have been rescheduled to commence 14 June 2021.	Policy & Planning
Omaranui Landfill expansion	25. The resource consent applications for the Omaranui Landfill expansion were notified on Tuesday 19 January 2021. Submissions closed Wednesday 17 February 2021. 26. HDC are currently meeting with all submitters individually and have asked for a time extension while they undertake this consultation. 27. Hearing to be scheduled, likely in July.	Regulation Consents
NCC and HDC Wastewater discharge Consents	28. The resource consent applications for the Omaranui Landfill expansion were notified on Tuesday 19 January 2021. Submissions closed Wednesday 17 February 2021. 29. HDC are currently meeting with all submitters individually and have asked for a time extension while they undertake this consultation. 30. Hearing to be scheduled, likely in July.	Regulation Consents
NCC and HDC Stormwater Consents	31. HDC and HBRC stormwater liaison meeting held to discuss upcoming reconsenting process and undertaking the final cultural impact study. 32. Liaison meetings with NCC 3 waters team around implementation timeframes for stormwater treatment and disposal options to be held.	Regulation Consents & Compliance
Clive River Dredging and discharge of dredge materials	33. Asset Management is planning to dredge the lower reaches of the Clive River and resource consent applications have been lodged for the dredging and the discharge of dredged material. The application has been assessed by external consultants. Further information has been requested for this application by the Consents section.	Asset Management Regulation Consents
Flood Control Schemes	34. Resilience Funding PDU projects: Taradale stopbank geotechnical testing has been completed; analysis of results will dictate scope for engineered strengthening required. 35. Moteo stopbank geotechnical assessments will follow on from the Taradale site, results from these assessments will form the basis of scope of works for engineered strengthening works at both sites. 36. Site prioritisation for HPFCS has been developed based on river modelling outputs, condition assessments and consequence of failure of assets. There are twelve proposed site which have been programmed into IRG project plan for years 2 and 3. 37. Preliminary design for two priority 1 locations, with design options will be completed by end of April.	Asset Management Engineering Regional Projects

Central Catchments		
Project / Activity Description	Significant Upcoming Milestone(s)	Group /Team or Section
Heretaunga Plains Scheme review	<p>38. Modelling of the Tūtaekurī and Ngaruroro Rivers complete. There are no significant issues to report on with regards to containing a 1 in 500-year event, however, this excludes the effects of climate change. Climate change effects will be assessed at a later date, allowing for additional data to minimise the risk of over design.</p> <p>39. The Lower Tukituki River hydrodynamic model is now calibrated, and results show the 1 in 500-year event is NOT contained within the existing stopbanks. Reprioritising of stopbank upgrades will include this new information.</p>	Asset Management Regional Projects
Gravel Management	<p>40. All contractors and industries have been updated on upcoming changes with global consent implementation. Asset Management team is working with consent authority to find a suitable solution for rivers which are not part of the global consent.</p> <p>41. A hearing will be scheduled for Jun/July.</p>	Asset Management Consents, Schemes
Lake Tūtira	<p>42. Kahikanui stream bridge is now in final stages of completion.</p>	Asset Management Regional Projects ICM -Freshwater quality and ecology
Waitangi Regional Park	<p>43. Stage 3 of the development including improvements to the overflow car park are underway in late April while the marquee area project is now complete. Extensive invasive tree removal completed on the Railway wetland in advance of the winter planting by HBRC, Fish and Game and Forest and Bird Napier Branch. Preparation is underway for the Matariki event in June as a partnership between HBRC, NCC, HDC, Napier Port, Sport Hawke's Bay and the National Aquarium of NZ.</p>	Asset Management Open Spaces
Tangoio and Tūtira Forestry	<p>44. Tangoio logging completed with no issues. Tangoio Walkway being rehabilitated and will be reopened by the end of April</p> <p>45. Logging at Tūtira to make room for road and skid construction completed, approximately one more month of road and skid construction before walkways reopened</p>	Asset Management Open Spaces Forestry
Hawea Historical Park / Karamu Stream Diversion	<p>46. Hawea Park Draft Management plan is drafted and under review with HBRC. Awaiting cultural information from committee.</p> <p>47. Stage 3 of the development is underway with detailed design for the widening of the confluence completed and waterway enhancement design completed and shared with the management committee.</p>	Asset Management Open Spaces Regional Assets
Bayview/ Whirinaki Cycleway	<p>48. Preferred route has been selected based on property easements, affected landowners, project risks and associated costs. Project brief to be provided to HBRC/NCC for acceptance in May 2021.</p>	Asset Management Regulation Regional Projects

Southern Catchments		
Project / Activity Description	Significant Upcoming Milestone(s)	Group /Team or Section
CHBDC Wastewater discharge consents	<p>49. Upgrades to be completed in 9 phases across 5 projects, more information can be found here.</p> <p>50. Porangahau and Te Paerahi replacement applications for the municipal wastewater systems have been lodged and formally accepted.</p> <p>51. Application to vary the discharge consent for the Otane treatment plant has been lodged with works to redirect wastewater to Waipawa for treatment currently underway.</p> <p>52. Submission of the ecological impact study for the Waipawa treatment plant discharge is expected.</p>	Regulation Consents & Compliance
Upper Tukituki Flood Control Scheme	<p>53. Waipawa river erosion above SH50. Left bank strengthening has been completed, channel diversion nearing completion, right bank earthworks due for completion next week and pole planting to commence in June 2021.</p> <p>54. Upper Tukituki gravel extraction. Consultation through LTP to determine co-funding contribution, decision expected by end of June 2021. Chilean needle grass study to be included as part of the works. Collaborative framework agreement and subsidisation incentive nearing completion.</p> <p>55. CHBDC Tukituki Trails PGF project – CHB MOU being drafted for the project and future maintenance. CHB is leading this project with some assistance from HBRC.</p>	Asset Management Regional Projects, Schemes
Silver Fern Farms Takapau consents	56. Consents for Silver Fern Farms to discharge process water from the Takapau Meat Processing Plant are in process. The applications were notified on 23 Jan 2021 and submissions closed 22 Feb. It is anticipated matters raised can be resolved without a hearing.	Consents
Ruataniwha Tranche 2 consents	57. Applicants seeking Tranche 2 water have submitted modelling results for taking and offsetting effects on the environment. HBRC has provided feedback on these. A further report has been submitted and is being reviewed externally.	Consents
Te Mata Mushroom Company, Waipukurau site	58. Te Mata Mushroom Company proposed compost production operation at a new site on Mt Herbert Road, Waipukurau. An updated application has been submitted. Further information has been requested. The application remains on hold until the further information has been received. The time for this has been extended. Consents are also required from CHBDC	Consents

Decision Making Process

- 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 **Significant Organisational Activities Looking Forward through May 2021** staff report.

Authored by:

Mike Alebardi
ACTING MANAGER COMPLIANCE

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ACTING TRANSPORT MANAGER

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**Craig Goodier
TEAM LEADER ENGINEERING**

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MANAGER REGIONAL ASSETS**

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GROUP MANAGER POLICY &
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**Chris Dolley
GROUP MANAGER ASSET
MANAGEMENT**

**Iain Maxwell
GROUP MANAGER INTEGRATED
CATCHMENT MANAGEMENT**

Attachment/s

There are no attachments for this report.

HAWKE'S BAY REGIONAL COUNCIL

Wednesday 28 April 2021

Subject: CALL FOR MINOR ITEMS NOT ON THE AGENDA

Item 6

Reason for Report

1. This item provides the means for councillors to raise minor matters they wish to bring to the attention of the meeting.
2. Hawke's Bay Regional Council standing order 9.13 states:
 - 2.1 "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."

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 Hawke's Bay Regional Council accepts the following "Minor Items Not on the Agenda" for discussion as Item 13.

Topic	Raised by

Authored by:

Leeanne Hooper
TEAM LEADER GOVERNANCE

Approved by:

Desiree Cull
STRATEGY AND GOVERNANCE MANAGER

Attachment/s

There are no attachments for this report.

Subject: ESTABLISHMENT OF TWO NEW COUNCIL CONTROLLED TRADING ORGANISATIONS (CCTOS) TO OPERATE FOODEAST

Reason for Report

1. This report provides the Regional Council with the submissions received from public consultation on the proposal to establish two new Council Controlled Trading Organisations (CCTOs) to operate FoodEast, along with officers' analysis of those submissions.
2. The purpose of this report is to identify and respond to key themes, ideas and suggestions raised by persons who provided feedback to assist the Regional Council's decision making.

Officers' Recommendations

3. Officers recommend that the Regional Council considers the written and verbal submissions and the officers' analysis of those submissions to enable an informed decision of whether to establish the two CCTOs to operate FoodEast.

Background

4. The opportunity to invest in a new innovation food hub, FoodEast, has been led by Hastings District Council. It was discussed at the Regional Council meeting on 24 February 2021 and the Regional Council resolved:
 - 4.1. Endorses Hawke's Bay Regional Investment Company Limited (HBRIC) investing in FoodEast, consistent with the terms outlined in the business case and terms sheet, and to the extent necessary authorises HBRIC to proceed and execute the transaction, noting:
 - 4.1.1. the recommendation of the HBRIC Board to invest in FoodEast
 - 4.1.2. HBRIC's authority to transact is within HBRIC's agreed financial targets
 - 4.1.3. Initiates consultation on the formation of a new Council Controlled Organisation.
5. The food hub proposition had been previously raised with the Regional Council through the quarterly update from HBRIC in late 2020.
6. HBRIC is interested in being the majority shareholder with a majority stake (66.6%) in the proposed FoodEast Limited Partnership. Hastings District Council and Progressive Meats will each hold a 16.7% share. The Provincial Growth Fund has committed \$12 million of the estimated \$18 million total cost.
7. In order for HBRIC to be the majority investor in FoodEast, the Regional Council must establish two CCTOs. The proposal is that the CCTOs take the form of a Limited Partnership (LP) and a General Partner (GP).
8. Section 6 of the Local Government Act 2002 (the Act) defines a CCTO as an entity in which 1 or more local authorities control, directly or indirectly, 50% or more of the votes at any meeting of the members or controlling body of the entity. This consultation to establish the CCTOs has been triggered by the proposed investment from HBRIC which brings the total investment from local authorities to over 50%. Had the local authorities' share remained below 50% in these new entities, they would not be deemed as CCTOs and no consultation would have been required.

9. Section 56 of the Act requires the Regional Council to consult before it can establish a CCTO and to undertake consultation in accordance with section 82. Section 82 of the Act requires consultation with “persons who will or may be affected by, or have an interest in, the decision or matter” and the consultation process ensured interested parties were advised appropriately.
10. The consultation sought community feedback on the proposal to establish the CCTOs to operate FoodEast and not on the investment itself.

Decision to Invest

11. The final decision on whether to invest in FoodEast will be made by HBRIC at the conclusion of a due diligence process.
12. HBRIC Limited is a wholly Regional Council owned Council Controlled Organisation established in 2012. HBRIC was set up to actively manage its allocated investment portfolio and any new investments it makes, including its shareholding in Napier Port Holdings Limited (Napier Port), and to identify on behalf of Council, and in conjunction with relevant parties, present and future regional infrastructural needs, and to support the establishment and maintenance of resilient infrastructure in the Hawke’s Bay region that has the potential to enhance the economic well-being of the region, and provide an adequate return.
13. HBRIC has a Board of Directors and every investment opportunity undergoes due diligence. Investment opportunities are further referred to Council for endorsement.
14. The 2021-31 LTP defined HBRIC’s role in the Regional Council’s Investment Strategy as being an enabler of regional growth and environmental outcomes. This means HBRIC will invest in the region as a commercial investor.
15. HBRIC’s investment controls and procedures are outlined in its Treasury Policy and Letter of Expectation. HBRIC is expected to manage its investment holdings in accordance with these documents and report to Regional Council on its compliance. Provided this occurs, HBRIC can manage its investment portfolio and determine how it meets Council’s yield requirements.

Submissions Process

16. The Statement of Proposal was publicly notified on Wednesday 24 March 2021. Notification and subsequent promotion included public notice in the newspaper, media release, social media, email targeted to relevant organisations and the Regional Council’s website.
17. Consultation closed on Monday 12 April 2021.
18. All submissions were received through online submission form although a downloadable form was also available on the Regional Council website.
19. Overall, the FaceBook social media channel sent two posts concerning this consultation which:
 - 19.1. Individuals reached: 4032
 - 19.2. Post engagements: 42
 - 19.3. Links clicked: 199
20. The two options presented were:
 - 20.1. To establish the two new CCTOs as presented in the consultation (preferred option)
 - 20.2. Do not establish the two new CCTOs.

Submissions Received

21. A total of 10 submissions were received, with 3 submissions supporting the proposal and 7 not supporting the proposal.

22. Key themes expressed by submitters include:
- 22.1. Not enough/no detail on investment, financial commitment and/or expected profit (most common theme)
 - 22.2. The Regional Council should not be investing in private enterprise
 - 22.3. Concern that rates may go up
 - 22.4. Concern that the Regional Council will use the CCTOs to invest in other ventures without ratepayer input
 - 22.5. A food hub suits Hawke's Bay agriculture, industry and population skillset
 - 22.6. A food hub will help address disparity in disadvantaged populations.

Verbal submissions

23. Of the total, 4 submitters indicated they wish to present their submission in person and the 2 who are available will speak as scheduled following.

Time	Name and organisation	Sub#
11.30am	Des Ratima on behalf of Whanautahi Charitable Trust	5
11.40am	Paul Bailey	7

Officer's Analysis of Submissions

Not enough/no detail

24. The majority of submitters opposing the proposal made reference to the fact that there was no financial information on the investment such as return on investment and how the investment hopes to make a profit.
25. At the 24 February 2021 public excluded meeting, the Regional Council was presented with the FoodEast business case which included the financial information relating to the investment. Following a review of the business case, Council endorsed HBRIC's intention to invest in FoodEast. The decision to not include financial information relating to the investment in the consultation document was in order to protect the commercial sensitivity of the investment, and because the investment itself was not the subject of the consultation.

Regional Council should not be investing in private enterprise

26. One submitter was of the view that the Regional Council should not be involved and to let private enterprises fund the FoodEast investment. Staff note that the Regional Council's involvement in the investment is that of an indirect nature, being the parent of the investor (HBRIC).
27. Staff further note that the proposed FoodEast investment aims to generate positive economic outcomes for the region, in addition to commercial returns for investors. The investment therefore aligns strategically to the role the Regional Council plays in the regional development. The investment is also consistent with HBRIC's mission as set out in its Statement of Intent, to optimise the financial and strategic returns to the Regional Council from its allocated investment portfolio to assist the Regional Council achieve its vision of "a healthy environment, and a resilient and prosperous community".
28. Staff consider that this proposal is consistent with HBRIC's role as an enabler of regional growth and environmental outcomes.

Concern that rates may go up

29. One submitter raised concerns on this being a 'rort' which will cause rates to increase. Staff note that the investment is projected to generate commercial returns to HBRIC. There is the potential for some of these returns from the investment to be distributed to the Regional Council as dividends from HBRIC, which will reduce future ratepayer burden.

While the decision of HBRIC to invest in FoodEast has no direct impact on rates, there is the opportunity cost of the funds used for the investment being distributed to the Regional Council to ease ratepayer burden. Forgoing access to funds at present in order to generate future earnings and capital gains is an opportunity cost that is common to most commercial investments.

30. It should be noted that the Regional Council has communicated dividend expectations to HBRIC as part of feedback provided on the 2021-22 HBRIC Statement of Intent and has built these dividend expectations into the 2021-31 Long Term Plan currently being consulted on.

Concern that the Regional Council will use the CCTOs to invest in other ventures without ratepayer input

31. The decision to invest will trigger the creation of the CCTOs. They will not be created unless the investment progresses.

A food hub suits Hawke's Bay agriculture, industry and population skillset

32. The purpose of FoodEast is to be a hub that will:
 - 32.1. facilitate innovation and collaboration
 - 32.2. be an innovation centre designed to promote more cost-effective food and beverage product innovation
 - 32.3. provide a base for clustering food technology firms, improving cooperation and bringing in scientific and technical expertise in all areas relating to food innovation (including research activity).

A food hub will help address disparity in disadvantaged populations

33. Submitters in favour of the proposal had views that a food hub will enable a market niche to be turned into an opportunity and that it will address disparity in disadvantaged populations. These views are consistent with the purpose of establishing FoodEast.

Financial and Resource Implications

34. If the investment goes ahead, the set-up costs to establish the CCTOs will be shared by all investors and are consistent with the costs for creating any limited company or partnership. There will be no direct cost implications to the Regional Council with the formation of the new CCTOs.
35. As a CCTO there will be ongoing costs associated with the annual audits conducted by the Office of the Auditor General. The Auditor General sets these fees, which are yet to be determined. These costs will be borne by the CCTOs.

Next Steps

36. The decision to progress as a majority investor will trigger the creation of the CCTOs. The target timeframe for the formation of the CCTOs is during May (subject to final due diligence).
37. The CCTOs need to be formed, like any other limited company or partnership, meeting all requirements of the Companies Office, Companies Act 1993, Limited Partnership Act 2008, Local Government Act 2002 and other relevant legislative requirements, including the appointment of Directors, which will occur in compliance with HBRIC and Regional Council policies.
38. Once the CCTOs are formed, contact will be made with the Office of the Auditor General, to request the appointment of an auditor who will conduct annual audits of the business in compliance with the Local Government Act.

Decision Making Process

39. The Regional Council and its committees are 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:
- 39.1. The decision does not significantly alter the service provision or affect a strategic asset, nor is it inconsistent with an existing policy or plan.
 - 39.2. The use of a consultative process is provided for by legislation. Section 56 of the Act states that consultation is required before Council controlled organisations are established.

Recommendations

That Hawke's Bay Regional Council:

1. Receives and considers the "Establishment of Two New Council Controlled Trading Organisations (CCTOs) to Operate FoodEast" staff report.
2. Receives and considers the verbal and written submissions on the proposal to Establish Two New Council Controlled Trading Organisations (CCTOs) to Operate FoodEast.
3. Agrees that the decisions to be made are informed by the written and verbal submissions made in accordance with Local Government Act and that these decisions can be made without further conferring directly with the community or persons likely to have an interest in the decision.

And either

4. Agrees to establish two new Council Controlled Trading Organisations (CCTOs) to Operate FoodEast.

Or

5. Does not agree to establish two new Council Controlled Trading Organisations (CCTOs) to Operate FoodEast.

Authored by:

Sarah Bell
TEAM LEADER STRATEGY AND
PERFORMANCE

Desiree Cull
STRATEGY AND GOVERNANCE
MANAGER

Leeanne Hooper
TEAM LEADER GOVERNANCE

Kishan Premadasa
MANAGEMENT ACCOUNTANT

Bronda Smith
CHIEF FINANCIAL OFFICER

Approved by:

Jessica Ellerm
GROUP MANAGER CORPORATE
SERVICES

Attachment/s

- 1 [📄](#) CCTO Submissions Received

Submissions received on
Establishment of two new Council Controlled Trading Organisations (CCTO) to operate FoodEast

Don't Support

Submitter ID: #2
Stu Burden

Comments/Reason/Feedback

The consultation documents provide ratepayers with no information (or references to information) about the financial commitment required by the council (or council entities) to the CCTOs, either initial or ongoing, or the likely returns (or losses). I therefore believe it would be financially imprudent to support the undertaking.

Don't Support

Submitter ID: #3
John McLean

Comments/Reason/Feedback

Don't believe HBRC should be involved let private enterprise fund food hub.

Don't Support

Submitter ID: #4
Catherine Warren

Comments/Reason/Feedback

-

Support

Submitter ID: #5
Des Ratima
Whanautahi Charitable Trust
To present at Hearing

Comments/Reason/Feedback

it provides a unique opportunity use food to bring settlement and gratitude to groups of people that would otherwise suffer disparity. in a country and a region where diversity of food and cuisine is available from food choice to cost I Proof of concept.

Don't Support

Submitter ID: #6
Kathryn Bayliss

Comments/Reason/Feedback

There is no information on how much it will cost to set up and run the Council Controlled Trading Organisations.

There is no information on how these Council Controlled Trading Organisations will earn an income to pay expenses and how they hope to make a profit.

Don't Support

Submitter ID: #7
Paul Bailey
To present at Hearing

Comments/Reason/Feedback

Whilst I agree with the proposal in principle there is no indication of an intended return on the \$4m investment. The proposal as presented is lacking in sufficient detail to make an informed decision.

Submissions received on
Establishment of two new Council Controlled Trading Organisations (CCTO) to operate FoodEast

Don't Support

Submitter ID: #9

Russell Green

Comments/Reason/Feedback

Another roort for ratepayers and another rate increase and are my rates going to go down?

Support

Submitter ID: #10

Brian Dew

Comments/Reason/Feedback

-

Support

Submitter ID: #11

Paul Harris

Tutira Heights Ltd

To present at Hearing

Comments/Reason/Feedback

yes ... if its the enabler for the food hub it is long overdue .. we have great raw material ... a new breed of people able turn a market niche into an opportunity ... its not going to happen any other way.

it would be great to see a strong independant governance group for the CCTO S that is not aligned to existing processing so fresh though floats through.

The Waikato initiative has been outstanding

Don't Support

Submitter ID: #12

James Crow

To present at Hearing

Comments/Reason/Feedback

Without any evidence of the financials that underpin this proposal, it would be reckless to allow the establishment of two CCTO's which, to my understanding can then go on to invest as they choose without Rate Payer control. If this is in fact the case then this is the only step at which Rate Payers can have input on the process of investment and thus the decline must occur at this point of the consultation process.

HAWKE'S BAY REGIONAL COUNCIL

Wednesday 28 April 2021

Item 8

Subject: AFFIXING OF THE 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 67 DP 1422 CT G1/6 - Agreement for Sale and Purchase	4445	1 April 2021
1.1.2	Lot 25 DP 10556 CT E2/377 - Agreement for Sale and Purchase	4446	1 April 2021
1.2	Staff Warrants		
1.2.1	K. Thompson L. Foulds (Delegations under the Civil Defence Emergency Management Act 2002 (s.86- 92 inclusive).	4444 4448	30 March 2021 20 April 2021
1.3	Application to have interest in Easement TE106910 registered against Records of Title 70400, 972595 and 972596 (Under Section 90 Land Transfer Act 2017 this is an application to have the easement updated to the name of Hawke's Bay Regional Council (from Hawke's Bay Catchment Board).	4447	14 April 2021

2. The Common Seal is used during a Leasehold Land Sale on the Sale and Purchase Agreement.
3. As a result of sales, the current numbers of Leasehold properties owned by Council are:
 - 3.1. 1 cross lease property was sold, with 79 remaining on Council's books
 - 3.2. 3 single leasehold properties were sold, with 66 remaining on Council's books.

Decision Making Criteria

4. 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:
 - 4.1 Sections 97 and 88 of the Act do not apply
 - 4.2 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

- 4.3 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 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 or persons likely to have an interest in the decision.
2. Confirms the action to affix the Common Seal.

Authored by:

Diane Wisely
EXECUTIVE ASSISTANT

Geoff Howes
TREASURY & FUNDING ACCOUNTANT

Approved by:

James Palmer
CHIEF EXECUTIVE

Attachment/s

There are no attachments for this report.

HAWKE'S BAY REGIONAL COUNCIL

Wednesday 28 April 2021

Item 9

Subject: REPORT FROM THE 22 MARCH 2021 HB CIVIL DEFENCE EMERGENCY MANAGEMENT GROUP JOINT COMMITTEE MEETING

Reason for Report

1. This item provides a summary of discussions at the 22 March 2021 HB Civil Defence Emergency Management Group Joint Committee (HB CDEMG JC) meeting along with the opportunity for the Chair, Rex Graham, to provide additional context as he wishes.

Agenda Items

2. **Amendments to the Hawke's Bay CDEM Group Plan: Controller and Recovery Manager Appointments** sought confirmation of the replacement of Malcolm Smith as a Napier City Council Local Controller Hawke's Bay CDEM Group with Russell Bond.
3. **Group Plan Review: Communications and Project Plan** sought the Joint Committee's approval for the approach to review the current Hawke's Bay CDEM Group Plan (2014-2019) as outlined in the Plan Review Communications and Project Plan, highlighting:
 - 3.1. initial preparations to review the HB CDEM Group Plan commenced in 2020, however had to be delayed due to the COVID-19 and Napier Flood responses
 - 3.2. the new iteration of the Group Plan will span 2022-2027
 - 3.3. next steps in the review include holding the Hazard Risk Register workshop (28 April 2021) – ranks hazards according to likelihood and consequence of occurring so that risks with a high likelihood and high consequence can be given priority; and seeking direction from the HBRC Māori Committee (7 April 2021) as to the best approach for iwi and hapū engagement.
4. **Hawke's Bay CDEM Group Draft Budgets 2021 Long Term Plan (LTP)** sought the Committee's endorsement of the proposed 2021-22 budgets as they currently move through HBRC's 2021-31 LTP process, noting:
 - 4.1. Additional costs budgeted within the existing budget limits include an additional \$70,000 for rental of the GECC and additional operational expenditure related to satellite phone cost increases and software licencing for warning systems and emergency management information systems
 - 4.2. Budgeted for a new staff resource in Lifelines and Recovery in Year 2 (2022-23) partially funded by an increase in the CDEM targeted rate and by a reallocation of the existing operational budget with the resource being funded from reserves and existing budgets in year 1
 - 4.3. CDEM reserves will be rebuilt up to about \$330,000 over the life of the LTP. This does not include the addition to the Reserve of any under expenditure that may occur. The purpose of this reserve is to fund operational response costs where this results in an overspend.
5. **COVID-19 Resurgence Planning Update** provided the Joint Committee with an update regarding COVID-19 Resurgence Planning as led by the Hawke's Bay CDEM Group, highlighting:
 - 5.1. Following consultation with regional response partners, the Hawke's Bay CDEM Group released the new version (v4.0) of the COVID-19 Regional Resurgence Plan on 9 March 2020

- 5.2. The purpose of the Hawke's Bay CDEM Regional Resurgence Plan is to record response arrangements and the shared understanding of regional response agency roles and responsibilities for a COVID-19 resurgence event in the Hawke's Bay
- 5.3. Regional response arrangements for COVID-19 resurgence must remain agile with updates to national response arrangements, planning, and changes to the risk posed by the virus (e.g., variant strains)
- 5.4. Monthly resurgence planning meetings with members of the Emergency Services, TLA Local Controllers and MSD are held, focused on agency updates and coordinating more detailed planning by different agencies.
6. **Hawke's Bay CDEM Group Financial Report 2020-21 to Feb 2021** informed the Committee of the status of the current CDEM Group budgets for 2020-21 for the first 7 months of the 2020-21 financial year, advising that a total under expenditure of \$5,303 for this period is a positive result considering the Group had ongoing additional operational expenditure for the last 6 months of 2020 in relation to the COVID-19, drought and Napier floods.
7. **Verbal Discussion on Tsunami Alert (5 March 2021)** provided an update and future actions as a result of the Tsunami Alert following an earthquake event on 5 March 2021. A presentation made to the Joint Committee will be made to the Council meeting.
8. **Verbal update from National Emergency Management Agency (NEMA)** on NEMA's current operations and activities, highlighting:
 - 8.1. Changes coming to the Civil Defence Act, Civil Defence National Plan and the Roadmap with the National Resilience Strategy, including to iwi engagement and how iwi fits into plans and strategies as well as potential changes to the powers of Controllers.

Decision Making Process

9. 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 notes the "*Report from the 22 March 2021 HB Civil Defence Emergency Management Group Joint Committee meeting*".

Authored by:

Annelie Roets
GOVERNANCE ADVISOR

Leeanne Hooper
TEAM LEADER GOVERNANCE

Approved by:

Ian Macdonald
GROUP MANAGER/CONTROLLER

Attachment/s

There are no attachments for this report.

HAWKE'S BAY REGIONAL COUNCIL

Wednesday 28 April 2021

Subject: REPORT FROM THE 29 MARCH 2021 HAWKE'S BAY DRINKING WATER GOVERNANCE JOINT COMMITTEE MEETING

Item 10

Reason for Report

1. This item provides an overview of the matters discussed at the Hawke's Bay Drinking Water Governance Joint Committee (HBDWGJC) meeting on 29 March 2021 for Council's information alongside any additional commentary the HBRC representatives who attended the meeting may wish to add.

Agenda Items

2. The **Further Submission on TANK Plan Change 9 Drinking Water Provisions** item updated Committee members on a submission (attached) made on their behalf to TANK drinking water provisions in December 2020, resulting in the Joint Committee resolving:
 - 2.1. Approves the further submission to TANK Plan Change 9 as lodged with the Hawke's Bay Regional Council on 8 December 2020.
3. The **Submission to the Water Services Bill** item presented a submission (attached) initially prepared by a sub-group of the Hawke's Bay Drinking Water Joint Working Group (JWG) which focussed on public health issues. Chair Garth Cowie and Dr Nick Jones presented the submission to the Health Select Committee on 22 March 2021, emphasising public health issues, rural community issues (including Marae) and other matters that had arisen since the submission date. The Chief Executive of Taumata Arowai has been invited to the next Joint Committee meeting on 2 July 2021. The Joint Committee resolved:
 - 3.1. Endorses the submission on the Water Services Bill as lodged with the Health Select Committee on 2 March 2021 and supports the additional information provided to the Select Committee by Garth Cowie in person.
4. The **Review of HB Drinking Water Governance Joint Committee Terms of Reference** item proposed the review of the role and Terms of Reference for the Joint Committee. Discussions on the day covered whether a review was the right way to approach the issues, whether Taumata Arowai could be included, potential to widen the scope of the Joint Committee, and being aware of the HB CEs working in this same area. The Joint Committee resolved:
 - 4.1. Agrees that the Terms of Reference for the HB Drinking Water Governance Joint Committee will be reviewed by a sub-committee comprising members of the Joint Working Group and Councillors Hinewai Ormsby and Nigel Simpson.
5. **Drinking Water Joint Working Group Work Plan Update** item sought agreement for changes to be made to the plan to align it with the review of the Terms of Reference being undertaken.
6. The **Roundtable Verbal Organisational Updates** item covered:
 - 6.1. A Three Waters Reform Update from Toni Goodlass following on from a Department of Internal Affairs hui held on 11 March 2021 highlighting \$110B cost estimate over 30 to 40-year period, and all Councils needing to decide, between September and December 2021, whether they wish to opt in or out of the reform process.
 - 6.2. Cathy Bayley, Napier City Council, presented the findings of NCC's Chlorine Free Review which examined Napier's drinking water issues, highlighting:
 - 6.2.1. Maintaining the status quo (chlorinated water) would cost approx. \$200 M over 20 years

- 6.2.2. Upgrading the water system to an ideal solution would cost approx. \$320 M over 20 years
- 6.2.3. Cast iron pipes are causing high leakage rates and will need to be replaced by 2030
- 6.2.4. Achieving a Chlorine Free water network is a major undertaking requiring a significant ongoing programme of waterpipe replacement and the introduction of water metering.

Decision Making Process

- 7. 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.

Recommendations

That Hawke's Bay Regional Council receives and notes the "*Report from the 29 March 2021 Hawke's Bay Drinking Water Governance Joint Committee Meeting*".

Authored by:



Peter Martin
SENIOR GOVERNANCE ADVISOR

Leeanne Hooper
TEAM LEADER GOVERNANCE

Approved by:

Katrina Brunton
**GROUP MANAGER POLICY &
REGULATION**

Attachment/s

- 1  HB Drinking Water Governance Joint Committee - Further Submission to TANK Plan Change 9
- 2  2 March 2020 HB Drinking Water Governance Joint Committee Submission to Water Services Bill



8 December 2020

Hawke's Bay Regional Council
Private Bag 6006
NAPIER

By email: eTANK@hbrc.govt.nz

FURTHER SUBMISSION: PLAN CHANGE 9

This further submission is lodged on behalf of the Hawke's Bay Drinking Water Governance Joint Committee, representing the agencies responsible for the provisions of safe drinking water in Hawke's Bay.

(A) The first submission we wish to support is:

- Submission no. 233 lodged by the Hawke's Bay District Health Board, PO Box 447, Napier 4140.

The particular point of the HBDHB submission we support is:

- Recommendation 10 in respect of Policy 6: to extend the definition of Water Source Protection Zone to all registered water supplies serving 25 persons or more.

The reasons for our submission of support are:

- The notified provisions in Plan Change 9 reflect the current thresholds set out in the current Resource Management (National Environmental Standard for Sources of Human Drinking Water) Regulations 2007 in respect of population thresholds. These thresholds are for registered suppliers supplying no fewer than 501 people. As the Policy and Schedule currently stand this limit applies in Plan Change 9.
- The NES regulations state that "Consent authority requirements may be more stringent than regulation requirements". Given the present review of drinking water legislation and standards it is the view of the Joint Committee that the TANK plan change should anticipate the pending updates and make provision for the protection of drinking water supplies serving 25 persons or more. In the case of the latter consent authorities are required under the NES

to include a consent condition for the consent holder to notify the water supplier in the event that an activity may adversely impact on the quality of the water at source.

- The HBDHB submission also highlights that many of the small supplies serving over 25 and fewer than 501 people are serving small predominantly Māori communities. There are many other registered supplies serving between 25 and 100, some of which supply schools. The Joint Committee shares the HBDHB's view that by applying the methods set out in schedule 35 default source protection zones could be defined for all supplies over the 25 person threshold.

(B) The second submission we wish to support is:

- *Submission no.207* from the Hastings District Council regarding the individual Council's Source Protection Zone maps attached to each Council's respective Submissions.

The reasoning for our support is that further independent advice from GNS about the science behind the different methodologies in calculating the Source Protection Zones needs to be conservative as per the approach established in the Six Principles of Safe Drinking Water from the Havelock North Government Inquiry. Until further evidence is available from the SkyTEM Airborne Aquifer Survey work, (due for completion in 2021) then the combined results of both the numerical and analytical methodologies should be used in calculating the Source Protection Zone maps.

(C) We wish to advise the Hearings Panel that there is significant legislative change underway, following the establishment of Taumata Arowai and the new Water Services Bill. These new regulatory and compliance provisions may necessitate further amendments to the TANK Plan Change 9 prior to the formal hearings process to ensure safe drinking water.

Our address for service is:

Hawke's Bay Drinking Water Governance Joint Committee
c/- Hawke's Bay Regional Council
Private Bag 6006
NAPIER
Email: lizlambert@outlook.co.nz

We wish to be heard in support of our further submission.

Yours faithfully



Garth Cowie
Independent Chairman
Hawke's Bay Drinking Water Governance Joint Committee



2 March 2021

Committee Secretariat
Health Select Committee
Parliament Buildings
Private Bag 18888
WELLINGTON 6160

Via email to: he@parliament.govt.nz

SUBMISSION ON WATER SERVICES BILL

1. Thank you for the opportunity to submit on the Water Services Bill. This submission is made on behalf of the following agencies under the auspices of the Hawke's Bay Drinking Water Joint Working Group:
 - a. Central Hawke's Bay District Council
 - b. Hastings District Council
 - c. Hawke's Bay District Health Board
 - d. Hawke's Bay Regional Council
 - e. Napier City Council
 - f. Wairoa District Council
2. The Hawke's Bay Drinking Water Joint Working Group (the "Working Group") is a group of public health and local government officials who report to the Hawke's Bay Drinking Water Governance Joint Committee (the "Committee"). Due to meeting schedules the Committee has not yet had an opportunity to formally consider the contents of this submission and we will notify you if there are any changes to the submission required as a result of their consideration. The Committee supports in principle the lodging of a submission to the Water Services Bill.

INTRODUCTION

3. The Hawke's Bay Drinking Water Group was established at the behest of the Board of Inquiry into the Havelock North Drinking Water Contamination Event. The Joint Working Group was formed to facilitate information sharing and collaboration among agencies involved in the safety of drinking water.
4. At the conclusion of the Government Inquiry the Hawke's Bay Drinking Water Governance Joint Committee was established to provide oversight and policy direction to the working group. The committee is made up of two elected officials from every member organisation. The purpose of the Committee is to strengthen relationships, collaboration and information sharing pertaining to drinking water.

GENERAL COMMENTS

5. The Hawke's Bay Drinking Water Joint Working Group **supports** the overall intent of the Water Services Bill and this submission is intended to assist in improving clarification and removing what we see as inconsistencies prior to the final legislation.
6. We supported the establishment of *Taumata Arowai*, and are pleased to now be able to consider the substantive legislation to guide the provision of safe drinking water for New Zealanders. We acknowledge that a third tranche of this reform –including the review of the National Environment Standard for Sources of Human Drinking Water (NESDW) – will further develop a more robust regulatory framework. A number of our outstanding concerns around the detail and implementation of the drinking water standards we expect will be addressed through this review but we will highlight some of these in this submission for the sake of context.
7. Our submission comprises a number of themes. These are:
 - a. A continued Public Health focus and Public Health Emergencies
 - b. Role clarification
 - c. Responsiveness in management of source drinking water
 - d. Source water risk management plans
 - e. Transition timing and planning
 - f. Industry capacity
 - g. Compliance and enforcement
 - h. Appointment of Compliance officers
 - i. Criminal Proceedings

KEY THEMES**A continued Public Health focus and Public Health Emergencies**

8. The Water Services Bill repeals Part 2A of the Health Act 1956 ("Drinking Water") and transfers the powers to Taumata Arowai. While we are not opposed to the transfer of the regulator function nationally we have some fundamental questions about the management of local Public Health aspects of drinking water in aspects of the Bill.
9. The Bill does not mandate consultation with health authorities (either the Ministry of Health or District Health Boards and local Public Health Units) except when the Chief Executive of Taumata Arowai uses their powers to declare a drinking water emergency (Subpart 9). In such an event the Chief Executive must consult the Minister prior to declaring an emergency but there is no guarantee that this would be the Minister of Health (it is the Minister responsible for administering the legislation).
10. The CEO of Taumata Arowai has the powers to declare a drinking water emergency under subpart 9 of Part Two of the Bill. This is where a serious risk to public health exists. ***We support the intent of these emergency powers and wish to see them clarified before they need to be used.***

11. We have reservations about the absence of any requirement for the CEO of Taumata Arowai to consult with other parties other than the Minister. We have noted ***that there should be an obligation to notify the relevant public health authority in the affected area.***
12. As the bill is currently drafted, there is no obligation on Taumata Arowai to consult with the drinking water supplier and the relevant local authority. In practice one of these two parties may have been the first to raise the risk but ***we believe it is prudent to include them on the list of people to consult, or at the very least, formally inform of the emergency.*** The provisions could be drafted to reflect the case by case nature of these events.
13. We note that in the event of a drinking water emergency arising from a water borne outbreak - such as occurred in Havelock North - it is likely that powers of Medical Officers of Health under section 70 and 71 of the Health Act would be activated. Clause 60 of the Bill sets out a hierarchy of command when emergencies have been declared under other Acts but is silent on the relationship between Taumata Arowai powers and those being exercised by a Medical Officer of Health. In our view any emergency powers exercised by Taumata Arowai must be exercised under the joint direction of a Medical Officer of Health and any other authority exercising powers under another Act.
14. We submit that in many areas of activity of Taumata Arowai the expertise in, and focus on, public health is being eroded through the absence of any reference to, or requirement for, Public Health input. While we assume that Taumata Arowai will employ a suite of compliance officers with public health backgrounds we are seeking a legislated requirement for communication directly between Taumata Arowai, water suppliers and local/regional health professionals when public safety is at risk.
15. ***We wish to see a requirement for Taumata Arowai to take advice from Medical Officers Of Health mandated in other sections of the legislation (for example, but not limited to, the process for consideration of water safety plans submitted by water suppliers, as well as proposals for source water protection).*** Health agencies need to remain connected as strategic advisers.
16. Similarly we believe that the provision of information by Taumata Arowai will be essential to the ongoing provision of Public Health functions by Medical Officers of Health and other designated officers under the Health Act. ***We request that the Act include a requirement for Taumata Arowai to provide advice on drinking water supplies on request of a Medical Officer of Health or Health Protection Officer.***
17. Another underlying concern is that the delegation of (former Health Act) powers to individuals who do not have health expertise which, while potentially providing greater consistency across the country, will lose the benefits of local knowledge and not guarantee safety for local supplies. The focus on compliance may well come at the expense of public health. We believe this has not been done intentionally but may instead become an unintended consequence of the legislation as drafted.
18. It is not only the relationship between those agencies with direct responsibilities for public health and Taumata Arowai that lack clarification in the Bill. We also have a concern about the absence of any mechanism between drinking water suppliers and Health. Taumata Arowai is placing the majority of responsibilities on to drinking water suppliers but there are no mandatory requirements for those suppliers to engage with authorities on public health matters. To resolve this we come back to a key learning from

the Government Inquiry process for Havelock North – the establishment of a collaborative group of key agencies with responsibility for the provision of safe drinking water from large suppliers in Hawke's Bay.

19. The Government Inquiry part two report devoted an entire chapter to the role of regional collaboration groups. It was clear that one of the key causes for the failure to recognise the risks in Havelock North's water supply was that there had been a failure of information exchange between agencies. ***It is our view that for the kind of collaboration envisaged by the Inquiry to be effective there needs to be participation by the regulator, public health agencies and local authorities in regional collaboration groups.***
20. Models already exist for the type of collaborative groups that could be formed to meet the Inquiry Panel's recommendations. Regional Transport Committees (RTCs) and Regional Coordination Groups for Civil Defence and Emergency Management (CEGs) already operate throughout New Zealand and provide a level of governance oversight for their respective functions. Two of the key features of these entities are the inclusion of representatives from relevant central government agencies and representation by iwi in the rohe they cover.
21. Several provisions in the Bill (clauses 44 and 45 for example) require the exchange of information between authorities or the provision of information from one authority to others. Collaborative groups based on regions, or ultimately multi-regional entities, can provide a valuable vehicle for information, sharing, discussion and importantly "no surprises". ***We support the development of a system by Taumata Arowai for efficient and effective information sharing to occur between Taumata Arowai, drinking water suppliers and local government.***
22. We note that section 69ZZP of the Health Act does not have any similar provision in the bill. This provision provides a safety mechanism whereby residents of self-supplied dwellings may be protected from drinking water sources. Given that Taumata Arowai will not have jurisdiction in this area we request that this provision of the Health Act is retained.
23. ***We support other submissions from the local government sector which highlight the unhelpful tension between the bill and requirements in other legislation to give effect to te mana o te wai.*** Te mana o te wai features a hierarchy in other legislation that places "health and well-being of water bodies and freshwater ecosystems" at the top. Whereas the Water Services Bill promotes "drinking water suppliers provide safe drinking water to consumers" as top priority, irrespective of what environmental limits apply at drinking water sources and the need for suppliers to operate within those environmental limits (e.g. quantities and rates of water abstracted from a water body for supply).

Role clarification

24. The Bill amends the existing Local Government Act 2002 through the inclusion of new responsibilities for territorial authorities to ensure that their communities continue to have access to drinking water, understand the risks to ongoing access, and plan to ensure that services continue to be available. The Bill also places new responsibilities on territorial authorities when supplies (even if not owned or managed by them) fail or are at risk of failing.

25. These provisions recognise the role that territorial authorities play in providing drinking water to their communities, and are contained in an amendment to the LGA 2002 that will—
- require territorial authorities to assess every three years the access that communities in their district have to drinking water services, and consider its implications for local government planning requirements; and
 - require territorial authorities to work with a supplier, consumers of a supply, and Taumata Arowai to find a solution if drinking water services fail, or are at risk of failing, and ensure that consumers continue to have access to drinking water services—whether provided by the territorial authority itself, or by another supplier.
26. In our view these provisions create potential for significant confusion between the regulator and territorial authorities. We are, of course, aware of the Government's preference to transfer water services to new multi-regional entities which may ultimately leave some councils with no responsibilities at all for water supplies. To then still require councils to actively work with, regulate and potentially manage small drinking water supplies, where they are not the supplier, will be challenging to say the least. ***We submit that the Bill needs to clarify what is meant by "communities", and consequent territorial authority responsibilities, in relation to access to safe drinking water.***
27. The Hawke's Bay Drinking Water Joint Working Group is strongly opposed to these provisions because of the unintended consequence of small suppliers having no incentives to bring their supplies up to scratch, as they know that if they fail the wider community will have to step in. Alternatively, and just as significantly, small drinking water supply schemes could fall over and the decision is made to revert back to individual self-supplies/rainwater tanks. This could result in adverse health outcomes which is clearly what the bill does not intend, as there is no obligation to continue to deliver a service in the way that it has been in the past.
28. There is no recourse to funding for the territorial authority to pay for these unbudgeted costs and a complete absence of any details around how the process would occur and how a council would take ownership away from the legal owner.
29. ***Our submission is that the regulator – Taumata Arowai - should be responsible for assessing any non-council private drinking water supplies.*** Territorial authorities should focus on council-owned supplies and not be directed to implement solutions by Taumata Arowai that they have not been a party to. ***We also seek clarity on the relationship between this requirement and that of the Building Act relationship with self suppliers.***

Responsiveness in Management of Source Drinking Water

30. The new arrangements related to the management of source drinking water and based on a preventative risk management approach, are supported by us. The multi-barrier approach to drinking water safety begins with the protection of source water in the catchment.
31. One of the key constraints to the successful management of source drinking water is the responsiveness of regulatory provisions to be able to manage these. Such provisions will be promulgated under the Resource Management Act and would typically comprise Source Protection Zones (mapped), rules and standards,

terms and conditions for resource consents for land use activities within SPZs. All of these would go through the Schedule One process under the RMA comprising proposed plan, submissions, further submissions, and appeals. As you are no doubt aware from the Randerson Report on RMA reform this can take a number of years.

32. The information included in RMA plans relies on science to provide the justification for zone boundaries. As further science becomes available (either for new zones or amended existing ones) the plan change process does not respond agilely enough under the current regime to allow for quick technical plan changes. While this will (hopefully) be addressed through resource management reform we respectfully suggest that consideration is given in the review of the National Environment Standard for Sources of Drinking Water to providing for technical plan changes to occur without the need for the Schedule One process. This has been allowed for in other National Environment Standards (e.g air quality, through the gazettal of air sheds).

Source Water Risk Management Plans

33. *We fully support the concept of source water risk management plans but seek that Taumata Arowai is very clear about what is needed based on scale, complexity and risk.* While the source water risk management plan may work for large-scale drinking water supplies (e.g urban groundwater supplies) we remain cautious about how practical this is for small drinking water supplies.
34. *We submit that the following highlighted additions should be made to clauses 42 (2) and 42 (4) to better reflect the multi-barrier approach to the provision of safe drinking water and to acknowledge that the primary barrier is an understanding of, and the management of, the drinking water source:*

42 Source water risk management plans

- (1) A drinking water supplier must prepare and implement a source water risk management plan based on the scale, complexity, and risk of the drinking water supply.*
- (2) A source water risk management plan must—*
 - a. identify the catchment zone for the water supply's source water*
 - b. any hazards that relate to the source water, including emerging or potential hazards; and*
 - c. assess any risks that are associated with those hazards; and*
 - d. identify how those risks will be managed, controlled, monitored, or eliminated as part of a drinking water safety plan; and*
 - e. have regard to any values identified by local authorities under the National Policy Statement for Freshwater Management that relate to a freshwater body that the supplier uses as a source of a drinking water supply.*
- (3) A source water risk management plan is part of the supplier's drinking water safety plan and, unless the context otherwise requires, references in this Act to a drinking water safety plan must be read as including a reference to a source water risk management plan.*
- (4) Local authorities must contribute to the development and implementation of source water risk management plans prepared by drinking water suppliers, including by—*

- (a) implementing Source Water Protection Zones and activity rules within regional plans*
- (b) providing information to suppliers in accordance with compliance rules issued by Taumata Arowai under section 48, including information about—*
 - (i) land-use activities, potential sources of contamination, and other water users that could directly or indirectly affect the quality or quantity of the source of a drinking water supply; and*
 - (ii) water quality monitoring of the source of a drinking water supply conducted by a regional council; and*
 - (iii) any known risks or hazards that could affect the source of a drinking water supply; and*
- (c) undertaking any actions including plan changes to address risks or hazards to the source of a drinking water supply that local authorities have agreed to undertake on behalf of a drinking water supplier, as specified in a schedule attached to a source water risk management plan or otherwise agreed in writing.*

35. Clause 42(4) requires that local authorities must contribute to the development and implementation of source water risk management plans prepared by drinking water suppliers including undertaking any actions to address risks or hazards to the source of a drinking water supply that local authorities have agreed to undertake on behalf of a supplier. This is an unfunded mandate for local authorities that has the potential to be significantly costly for them and ***we are seeking clarification from Taumata Arowai on how this will work in practice.***
36. An effective source water risk management plan (and Water Safety Plan) is dependent upon local authorities being resourced (both financially and in terms of capacity) to support water suppliers as required by the Bill. Unless proper support is provided by Taumata Arowai the failures that exist now will continue to prevail. ***We do not support any amendments to ‘upgrade’ the input of local authorities from ‘contributing to’ to ‘partnering in the development of’ source water risk management plans.***
37. ***We submit that Taumata Arowai should, as a priority, provide written guidance to drinking water suppliers on source water risk management plans based around the likely level of risk to drinking water safety.***
38. Clause 43 requires that a drinking water supplier must monitor the quality of the supplier’s source water at the abstraction point in accordance with their drinking water safety plan. We reiterate our concern that this function will be passed on to local authorities rather than the regulator or new water entities. Our ongoing issues around industry capacity, which are discussed later in this submission, are the basis for this concern. ***We support Clause 43 as proposed whereby the onus remains with the supplier to monitor source water quality.***

Transition timing and planning

39. The transition times provide for the change periods between the current regime and when the new provisions take effect once the Bill is passed into law. We have comments to make on four of these:

- a. Existing drinking water safety plans will continue to apply. In the case of larger drinking water suppliers (those serving more than 500 persons for at least 60 days per year) a period of 12 months is given to have a plan in place that complies with the new requirements. All other suppliers have five years.

While we understand that with larger supplies comes higher numbers of people at risk we consider that there should be a graduated period so that those who have just renewed their safety plans prior to the law change have up to five years to review them. Taumata Arowai could prioritise the larger suppliers as we are concerned that the national regulator will not be sufficiently resourced to review all the large supply drinking water safety plans within 12 months, and this provision is potentially setting them up to fail.

Some drinking water safety plans have already been reviewed in accordance with the Drinking Water Safety Framework from the Ministry of Health in 2018 and ***we seek greater flexibility around the requirement to review Drinking Water Safety Plans within 12 months of the Act coming into force.***

- b. Clause 45 (2) places obligations on regional councils to assess the effectiveness of regulatory and non-regulatory interventions to manage risks or hazards to source water in their region at least once every 3 years and make this information available to the public on internet sites maintained by or on behalf of the councils.

Section 35 (2) (b) of the RMA requires that all local authorities monitor the efficiency and effectiveness of policies, rules, or other methods in its policy statement or its plan; and publish a report on the findings at least once every five years. ***We request that the obligation set out in Clause 45 (2) be aligned with the RMA requirement and be at least once every five years.*** That would still leave discretion for each regional council to publish such reporting more frequently than a five-yearly statutory cycle.

It is worthwhile noting that “source water” in a region potentially runs into hundreds of sources/locations and water bodies. ***It would be helpful if the Water Services Bill differentiated between a large supply and a small (say two-property) source in relation to Clause 45 (2).***

- c. The amendments to the Local Government Act 2002 would require territorial authorities to assess all drinking water supplies other than domestic self-supplies within their districts once every three years. We understand the rationale for these amendments as they will ensure that oversight of community wellbeing and public health related issues with regard to water and wastewater are identified and considered. As stated elsewhere in our submission under role clarification ***we submit that Taumata Arowai is made responsible for assessing non-council water networks, leaving councils to work on meeting the new standards on their own networks. Should councils’ water services remain with territorial authorities, our view is that three years is unrealistic to carry it out.***

We note that in relation to self supplies the Building Act applies, and the amendments to the building act more directly align the definition of potable water to the drinking water standards which is an improvement on the current situation. What is less clear is what is required of the building regulatory system to demonstrate compliance of self supplies with the potable water requirement, both at application and on an ongoing basis.

- d. Clause 20 of the Bill sets out the duty to comply with drinking water standards. Recently revealed exposure drafts of the new standards and compliance rules do not include Bore Security Status

any more and future protozoa (and bacterial) compliance will require appropriate source water treatment. In our opinion it is unrealistic to implement appropriate treatment in *only 12 months transition period*.

Large water suppliers using groundwater usually use multiple bores in various locations, with some of them being located in developed urban areas, where it is not always physically possible to build a water treatment plant. Addressing this will most likely trigger the need to drill new bores in locations that will allow setting up appropriate treatment. The whole process of securing appropriate land, drilling exploratory bores to confirm appropriate quality of the new source, drilling new production bores, draw down tests, EAEs and modifying or reapplying for resource consent to take water, designing and building treatment plants and connecting them to the existing supply are just some of the major time-demanding processes to meet new requirements.

A lack of resources (human resources, consultants, building companies, skilled operators, etc.) and the unpredictable Covid-19 environment make the timing these tasks even more uncertain.

We submit that a more realistic transition time for compliance is set for suppliers with current Bore Security Status or where any non compliance has an agreed plan to transition to the end outcome. The transition and management of risk during the transition could be agreed between water suppliers and Taumata Arowai as part of the water safety plan.

Moving forward it will be important that Taumata Arowai can set and manage transitional arrangements with suppliers as new standards continue to be introduced over time. It is important the right standards are set (be it for reducing risks to health outcomes or to the environment) and an implementation period is practical, as different to settling on lower standards which maybe more that is achievable/affordable in the short term.

Industry capacity

40. In our March 2020 submission on the Water Services Regulator – Taumata Arowai Bill we commented in writing, and in our verbal presentation to the Select Committee, on our concerns around capacity within New Zealand to recruit sufficient technical expertise to meet the capability of both Taumata Arowai and drinking water suppliers, typically territorial authorities, to deliver to the required standards. This situation will have been further exacerbated by the limitations placed by COVID-19 on overseas recruitment.
41. While we accept that solutions to this issue may not be legislated for, other than generically, we highlight loss of capability by drinking water providers as a risk to achieving the outcomes sought by this legislation. For example clause 68 of the Bill requires that no person can test, or operate water and wastewater networks without the prescribed skills and experience or without being supervised by someone with the requisite skills. Across the local government sector there are very real concerns that there may not be a large enough pool or expertise and the age profile of this occupational grouping suggests a looming retention issue.
42. ***We support other submissions from the local government sector which seek the development of a skills strategy for the water services sector as a priority.*** Skills gaps will also be an important factor for Taumata Arowai to consider as it develops the compliance, monitoring and enforcement (CME) strategy.

Compliance, monitoring and enforcement

43. The compliance, monitoring and enforcement provisions within the Bill provide Taumata Arowai with a broad tool kit to undertake these functions. Taumata Arowai is tasked with preparing a Compliance, Monitoring and Enforcement (CME) Strategy (Clause 134) and this strategy must be reviewed at least once every three years.
44. *Our submission seeks that as part of the development of its strategy Taumata Arowai must consult with the Director-General of Health or the Director of Public Health, local government, Public Health services and representatives of non-council drinking water suppliers prior to its adoption.* This reflects the need to engage with the service deliverers as well as those with a primary public health focus. A public submission process should be utilised as this will provide greater transparency to decisions made by at a central level.
45. Clauses 38 and 39 of the Bill establishes a framework for customer complaints and provides Taumata Arowai with regulatory and review powers. These include
- a. requirements on suppliers to provide information, establish a customer complaints process, resolve complaints in accordance with that process, and in an efficient and effective manner. Each of these is subject to regulations under section 190;
 - b. a provision that provides customers who are not satisfied with the outcome of a complaint to seek Taumata Arowai's review of the complaint. Taumata Arowai may decline a review on a set of specified grounds.
46. Clause 39 specifically provides that:
- (1) *A drinking water consumer who is not satisfied with the outcome of a complaint under this subpart may, in the approved form, request Taumata Arowai to review the complaint.*
 - (2) *Taumata Arowai must investigate the drinking water supplier's handling of the complaint and take any action that Taumata Arowai considers necessary as a result of Taumata Arowai's findings.*
47. *Clarity is sought around these provisions, particularly around the intended scope of any review and what steps Parliament intends Taumata Arowai would take upon completion of the complaint investigation. Taumata Arowai should be given further discretion to reject requests for review where the complaint relates to a decision that gave effect to a direction from TaumataArowai, or where the supplier believed on reasonable grounds that the action was necessary to give effect to a direction of Taumata Arowai or to regulations made under the Act.*

Appointment of Compliance Officers

48. Clause 97 (1) of the Bill sets out the provisions for the appointment of compliance officers by Taumata Arowai. Clauses 1 (a) – (c) provide for the appointment of persons already employed by Taumata Arowai or by government departments or from within the state sector.

49. *We submit that for the sake of consistency with clause (d) (Other appointments that Taumata Arowai may make) that those persons appointed from clauses 1(a) – (c) should be required to satisfy Taumata Arowai that they are suitably qualified and trained and belong to a class of persons who are suitably qualified and trained to exercise any or all of the powers of, and carry out any or all of the duties of, a compliance officer.*
50. *We further seek inclusion in clause 97 of the legislation of requirements to address impartiality and management of conflicts of interest.*

Criminal Proceedings

51. The Water Services Bill replaces the provisions of Part 2A of the Health Act 1956 in most part. S.129 of the Health Act provides protection from criminal or civil liability for any person carrying out authority under that Act, except any person in connection with a duty, power or function under Part 2A (Drinking Water). In s.69ZZZD of the Health Act persons protected from civil or criminal liability under Part 2A include the Director-General of Health, a drinking water assessor, a designated officer and a local authority (other than when it is acting in its capacity as a drinking water supplier).
52. We note that in Clauses 160 and 161 of the Bill volunteers and elected officials (including local government elected representatives and board of trustees members) are exempt from any liability for any act or omission against any section of the Act. ***We support these provisions.***
53. However we note, from Clause 159 of the Bill, that employees, agents and officers of a drinking water supplier are liable under specified sections of the Bill. We have concerns around the anomaly this presents between governance and management of a drinking water supplier where the employee may be limited in their ability to act because of the constraints placed upon them by decision makers (including at a governance level) in providing the necessary resources within a reasonable timeframe to be able to act.
54. While Clause 156 (2) (a) does cover this in a sense:

The defendant has a defence if the defendant proves that—

(a) the commission of the offence was due to—

(i) the act or omission of another person; or

(ii) an accident; or

(iii) some other cause outside the defendant's control;

we submit that there should be an automatic positive defence for those persons in the employee/agent/officer category with the onus on it being proven by the prosecuting party that such situations as outlined in clause 156 (2) (a) did not occur.

55. There are two reasons for this specific request – the first of these is the presumption of innocence. In other words a person is innocent until proven guilty. Our proposal is consistent with this basic principle.
56. The second reason for proposing this approach is an underlying concern relating back to attracting and retaining suitably trained and qualified staff and the deterrent that the proposed approach outlined in the Bill will be for staff attraction and retention.


Conclusion

57. We thank the Committee for the opportunity to make this submission. We wish to be heard by the Select Committee in support of our submission.

58. The contact person for service is:

Hawke's Bay Drinking Water Joint Working Group
Hawke's Bay Regional Council
Private Bag 6006
NAPIER 4142
Attention: Liz Lambert
(Email and phone number provided separately)

Yours faithfully



Garth Cowie
Independent Chairman
Hawke's Bay Drinking Water Governance Joint Committee

HAWKE'S BAY REGIONAL COUNCIL

Wednesday 28 April 2021

Subject: REPORT FROM THE 7 APRIL 2021 MĀORI COMMITTEE MEETING

Item 11

Reason for Report

1. This item provides a summary of discussions at the 7 April 2021 Māori Committee along with the opportunity for the Co-chairs to provide additional context to Council as they wish.

Agenda Items

2. The regular **Take Ripoata Ā Takiwā – Taiwhenua Representatives' Updates** covered:
 - 2.1. The **Wairoa Taiwhenua** report highlighted the Māori Constituencies hui held on 29 March 2021 and subsequent distribution of 200 copies of the Consultation Document to the Community as well as advising that the NZ Māori Council will hold a submissions hui on RMA reform and Water Commission in Wairoa, the appointments by Tatau Tatau o Te Wairoa of Katarina Kawana, Michelle McIlroy and Elizabeth Palmer to sit on the Matangirau Reserves Board for a three-year term, and an update on Hinemihi Nursery.
 - 2.2. The **Te Taiwhenua o Tamatea** report highlighted the launch of Ngā Ara Tipuna - Storytelling Trail on 6 February (a cultural and education treasure that will showcase the shared history and stories of the people of Tamatea/Central Hawke's Bay) with construction work on Pukekaihou on track and potential for an official launch during Matariki 2021, the marae restoration of Te Whatuiāpiti Marae has started (the third of five CHB Marae being restored); notification that the Whatūma Management Group's "Jobs for Nature" application has been shortlisted; and concerns raised about gravel extraction and water security.
 - 2.3. The **Te Whanganui-ā-Orotu** report noted the state of Whitebait stands on the Ngaruroro River with a community meeting scheduled on 19 April and the presence of Dr Ashley Bloomfield at a recent hui.
 - 2.4. The **Te Taiwhenua o Te Heretaunga** report raised concerns around the Regional Council's Global consent application for Gravel Extraction, noted anticipation for the outcomes of the TANK Plan Change hearings and expressed their support for the establishment of Māori Constituencies for Hawke's Bay.
3. The **Whakatū Inland Port Development Presentation from Te Kaha Hawaikirangi and Tod Dawson** outlined the consultation and work undertaken to date to establish the inland port. Napier Port is committed to undertaking thorough, transparent consultation with the Whakatū community and mana whenua and marae. Currently developing Cultural Impact and Community Impact assessments as well as draft consent applications for Stormwater and Earthworks. Visual effects drawings and all information will be publicly available on a dedicated "Inland Port" page on the Napier Port website.
4. Napier Port invited Māori Committee and Regional Planning Committee members to its Marine Cultural Health Programme launch at Te Ara o Tāwhaki Marae on 14 April.
5. The **CDEM Tangata Whenua Engagement** item sought advice from the Committee on the engagement of the Hawke's Bay Civil Defence Emergency Management (CDEM) Group with tangata whenua on the review of the 5 year Group Plan and provided an opportunity for a wider discussion about how CDEM can better engage and partner with tangata whenua in the future.
6. The **Verbal eDNA Water Sampling Presentation** by Daniel Fake, Freshwater Ecologist, presented a new tool for biodiversity assessment (eDNA) and methods used to detect DNA in an aquatic environment.

7. The **Whakakī Catchment Pilot Project Case Studies and Findings** item provided an update and key findings of the Whakakī Catchment Pilot Project which concluded in February 2021.
8. The **Reports from Regional Council and Committee Meetings** provided an update from recent meetings attended by the Committee Co-chairs and representatives on Council committees during March.
9. The **Significant Organisational Activities Looking Forward through April 2021** item highlighted significant areas of Council activity as provided to the 24 February 2021 Regional Council meeting.

Decision Making Process

10. 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 the 7 April 2021 Māori Committee Meeting*"

Authored by:

Annelie Roets
GOVERNANCE ADVISOR

Leeanne Hooper
TEAM LEADER GOVERNANCE

Approved by:

Pieri Munro
TE POU WHAKARAE

Attachment/s

There are no attachments for this report.

HAWKE'S BAY REGIONAL COUNCIL

Wednesday 28 April 2021

Subject: COUNCILLOR'S REPORTS FROM APRIL 2021 MEETINGS OF OUTSIDE BODIES

Item 12

Reason for Report

1. This item provides the means and opportunity for Councillors appointed to Outside Bodies to bring issues of significant interest from recent meetings to the attention of Council.

Background

2. Each Triennium, Council appoints Councillor representatives on the following Outside Bodies. Appointees for this Triennium are noted beside each body.
 - 2.1. Local Government New Zealand (LGNZ) Zone 3 (Hinewai Ormsby and Martin Williams)
 - 2.2. HB TBFree Committee (Will Foley)
 - 2.3. Future Farming Trust (Will Foley)
 - 2.4. Tukituki Leaders Forum (Will Foley and Jerf van Beek)
 - 2.5. HB Drought Committee (Will Foley and Jerf van Beek, Rex Graham ex officio)
 - 2.6. HPUDS Implementation Working Group (Jerf van Beek and Martin Williams)
 - 2.7. HB Cycling Governance Group (Jerf van Beek)
 - 2.8. Te Komiti Muriwai o Te Whanga (Neil Kirton)
 - 2.9. HB Tourism Board of Directors (Craig Foss)
 - 2.10. HBRIC Ltd (Rick Barker, Craig Foss, Neil Kirton).

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 Hawke's Bay Regional Council receives and notes the "*Councillors' Reports from April 2021 Meetings of Outside Bodies*".

Authored by:

Leeanne Hooper
TEAM LEADER GOVERNANCE

Approved by:

James Palmer
CHIEF EXECUTIVE

Attachment/s

There are no attachments for this report.

HAWKE'S BAY REGIONAL COUNCIL

Wednesday 28 April 2021

Subject: DISCUSSION OF MINOR ITEMS NOT ON THE AGENDA

Item 13

Reason for Report

1. This document has been prepared to assist Councillors note the Minor Items Not on the Agenda to be discussed as determined earlier in Agenda Item 6.

Topic	Raised by

HAWKE'S BAY REGIONAL COUNCIL

Wednesday 28 April 2021

Subject: Confirmation of Public Excluded Minutes of the Regional Council meeting held on 24 March 2021

That Hawke's Bay Regional Council excludes the public from this section of the meeting being Confirmation of Public Excluded Minutes Agenda Item 14 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	GROUND UNDER SECTION 48(1) FOR THE PASSING OF THE RESOLUTION
Chief Executive's Performance and Remuneration Review	<p>7(2)(f)(ii) The withholding of the information is necessary to maintain the effective conduct of public affairs through the protection of such members, officers, employees, and persons from improper pressure or harassment</p> <p>s7(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</p>	The Council is specified, in the First Schedule to this Act, as a body to which the Act applies.

Authorized by:

Leeanne Hooper
TEAM LEADER GOVERNANCE

Approved by:

James Palmer
CHIEF EXECUTIVE