

Meeting of the Hawke's Bay Regional Council

Date: 26 Feb 2025
Time: 1.30pm
Venue: Council Chamber
 Hawke's Bay Regional Council
 159 Dalton Street
 NAPIER

Agenda

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1.	Welcome/Karakia/Housekeeping /Apologies/Notices	
2.	Conflict of interest declarations	
3.	Confirmation of Minutes of the Hawke's Bay Regional Council meeting held on 29 January 2025 and the Extraordinary Hawke's Bay Regional Council meeting held on 13 February 2025	
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Information or Performance Monitoring		
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Subject: Public Forum

Reason for report

1. This item provides the means for Council to give members of the public an opportunity to address the Council on matters of interest relating to the Council's functions.

Background

2. The Hawke's Bay Regional Council's Standing Orders (14.) provide for public forums which are run as follows.
 - 2.1. Public forums are a defined period of time of up to 30 minutes, usually at the start of a meeting, put aside for the purpose of public input. Public forums are designed to enable members of the public to bring matters to the attention of the local authority.
 - 2.2. Any issue, idea or matter raised in a public forum must fall within the terms of reference and ideally, relate to an agenda item for that meeting.
 - 2.3. Requests to speak at public forums are to be submitted to the HBRC Governance Team (06 88359200 or governanceteam@hbrc.govt.nz) at least 2 working days prior to the meeting it relates to.
3. Some time limits and restrictions apply, including:
 - 3.1. A period of up to 30 minutes will be set aside for the Public Forum and each speaker allocated up to 5 minutes to speak. If the number of people wishing to speak in the public forum exceeds 6 in total, the meeting Chairperson has discretion to restrict the speaking time permitted for all presenters.
 - 3.2. The meeting Chairperson has the discretion to decline to hear a speaker or to terminate a presentation at any time if:
 - 3.2.1. the speaker's topic / issue is not within the terms of reference for the Committee or on the Agenda for the meeting
 - 3.2.2. the speaker is repeating views presented by a previous speaker
 - 3.2.3. the speaker is criticising elected members and/or staff
 - 3.2.4. the speaker is being repetitious, disrespectful or offensive
 - 3.2.5. the speaker has previously spoken on the same issue
 - 3.2.6. the matter is subject to legal proceedings
 - 3.2.7. the matter is subject to a hearing, including the hearing of submissions where the local authority or committee sits in a quasi-judicial capacity.
4. At the conclusion of a speaker's time, the Chairperson has the discretion to allow councillors to ask questions of speakers to obtain information or clarification on matters raised by the speaker.
5. Following the public forum no debate or decisions will be made at the meeting on issues raised during the forum unless related to decision items already on the agenda.

Decision-making considerations

6. 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 *Public Forum speakers' verbal presentations*.

Authored by:

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Team Leader Governance

Approved by:

Desiree Cull
Strategy & Governance Manager

Attachment/s

There are no attachments for this report.

Hawke's Bay Regional Council

26 February 2025

Subject: Call for minor items not on the Agenda

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."

Recommendation

That Hawke's Bay Regional Council accepts the following *minor items not on the agenda* for discussion as item 10.

Topic	Raised by

Subject: Annual Plan 2025-2026 approach

Reason for Report

1. This item seeks a resolution from Council to formally approve the requirement for consultation on the Annual Plan 2025-2026.
2. Staff consider that consultation is warranted, because the proposed rates increase of 9.9% plus a new targeted rate to fund Mangarau Stream flood resilience is materially different to the 18.3% average rates increase forecast for 2025-26 (Year 2) of the Three-Year Plan 2024-2027.
3. Other changes affecting the Revenue and Financing Policy, Rates Remission and Postponement Policies and the Regional Public Transport Plan are proposed for concurrent consultation with the proposed Annual Plan.
4. This item also sets out the key dates to adoption of the Annual Plan under this approach.

Staff recommendations

5. Staff recommend that Council consults on the proposed Annual Plan 2025-2026 in accordance with the relevant provisions of the Local Government Act 2002 (LGA 2002).
6. Staff advice is that it is not necessary to consult on the Fees and User Charges Schedule and Policy. The Schedule and Policy will be presented for adoption with the final 2025-26 Annual Plan in June 2025.

Background

7. Annual plans are prepared and adopted under section 95 of the Local Government Act 2002 (LGA). Council is required to produce an annual plan in the years between long term plans. Long term plans are reviewed and adopted every three years. The Annual Plan 2025-2026 is Year 2 of the Three-Year Plan 2024-2027 (3YP). The LGA requires that an annual plan be adopted before the commencement of the year to which it relates.
8. An annual plan provides an opportunity for small adjustments or variances from the long-term plan to reflect changes since the plan was adopted.
9. Under the LGA, consultation is only required if there is a "significant or material difference from the content of the long-term plan" for that financial year. In other words, as long as budget adjustments do not significantly change total rates, rating impacts or levels of service then no consultation is required.
10. Council's Significance and Engagement Policy is the primary tool to determine the significance of Regional Council decisions and give clarity on when to engage. As outlined in the policy, significant means that the issue, proposal, decision or other matter is judged by Council to have a high degree of importance. This is typically when the impact on the regional community, or a large portion of the community, or where the financial consequences of a decision are substantial.

Discussion

11. The Three-Year Plan 2024-27 forecasts a total average rate increase of 18.3% for Year 2. Ratepayers are impacted differently based on the mix of general and targeted rates they pay.
12. Councillors have been involved in several workshops around the development of the Annual Plan and have been advised of the challenges and financial pressures that are being faced in

preparing this Annual Plan including significant additional costs.

13. Councillors requested that staff explore potential areas for cost savings and alternative funding options to reduce the average rates increase down from 18.3% and identify associated level of service impacts.
14. These adjustments have been incorporated into the draft Annual Plan. Although the cumulative impact of these changes is material, staff do not consider special consultation on each item is required. These adjustments include over \$4 million of total expenditure savings spread across the business offset by one-off additional costs – for example, implementing independent flood review recommendations and higher than expected additional costs to deliver existing work programmes.
15. The following proposed changes in the Annual Plan that trigger the need to consult are:
 - 15.1. Mangarau Streams – a new targeted rate, with the funds being passed to Hastings District Council who will undertake the work and maintain the asset. Options for consultation include the length of time for the rate to be collected.
16. The following are proposed changes to policies and plans that are being consulted on concurrently:
 - 16.1. Revenue and Financing Policy – amendments to two targeted rates, being Passenger Transport and the Upper Tukituki Flood Control Scheme, and other minor changes.
 - 16.2. Rates Remission and Postponement Policies.
 - 16.3. Hawke’s Bay Regional Public Transport Plan 2025-2035.

Fees and User Charges Policy and Schedule

17. As is normal practice, changes will be made to the Fees and User Charges *Schedule* (page 190 of the Three-Year Plan 2024-2027). As these align with the CPI, consultation is not required.
18. Staff are also proposing wording changes to the Fees and User Charges *Policy* related to the use of consultant planners when staff don’t have the internal capacity or necessary experience.
19. The policy’s current wording is *technical and cultural input*. It is proposed to add *planning* so it is explicit that consultant planners will be charged at their agreed contracted rates, and not necessarily at the rate of an internal planner. This is our current practice.
20. Staff propose that the following changes are made (marked-up in red) of the Policy:

Charging for consultants

Where the use of consultants are required to provide particular technical, **planning** or cultural input to the consent process, the applicant will be responsible for the actual costs charged by the consultant.

- 20.1.
- 20.2.

Note 1: Actual and reasonable costs include time spent by staff in receiving, processing, and deciding on the applications, hearing costs and any external disbursements (which shall include any external expert advice **and/or planning** from consultants at cost). Staff costs shall be calculated by multiplying the actual hours involved in receiving, processing and granting a consent by the hourly rates for the staff involved and adding any actual disbursements (as in Table 22); plus adding any hearing costs and any costs of consultants and commissioned reports; and then subtracting the fixed charge that was paid in advance. The total calculated amount shall then, if necessary, be adjusted to reflect HBRC’s actual and reasonable costs having regard to the factors referred to in section 36(4) of the RMA and any relevant discounts. (This does not apply to applications which are not subject to additional charges or refunds).

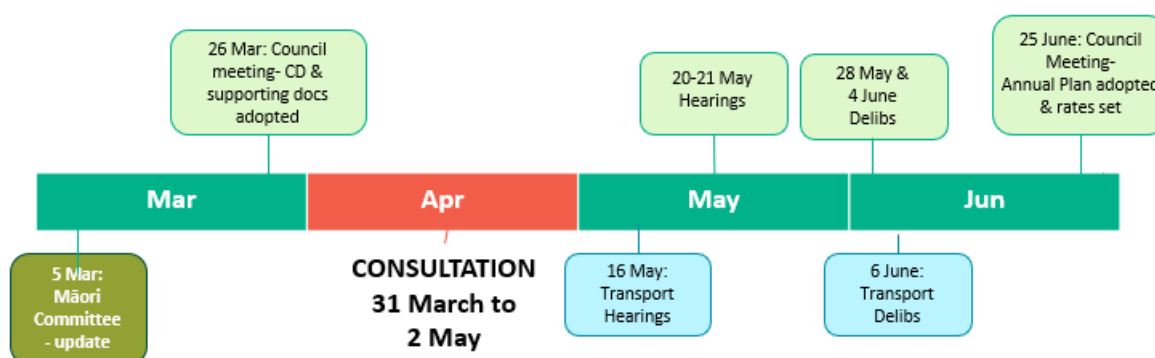
21. Staff do not consider that this wording change is significant so does not require consultation as it clarifies existing practice.

Significance and Engagement Policy assessment

22. This decision is whether to seek community views before adopting the 2025-26 Annual Plan. This decision is the responsibility of the Regional Council to make, in its discretion, based on the scale of change from what was forecast through the relevant year in the long-term plan, knowledge of the views and preferences of interested and affected parties and other considerations in sections 77, 78 of the Local Government Act 2002.
23. Staff have assessed the proposed budget and work programme changes from what was forecast for 2025-26 (year 2 of the Three-Year Plan 2024-2027) and consider that there are significant rating impacts, therefore it does trigger the need to consult the community.

Key dates to adoption

24. Key dates are outlined below.



Decision-making considerations

25. 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:
 - 25.1. The decision does not significantly alter the service provision or affect a strategic asset, nor is it inconsistent with an existing policy or plan.
 - 25.2. The use of the special consultative procedure is not prescribed by legislation.
 - 25.3. The decision is not significant under the criteria contained in Council's adopted Significance and Engagement Policy.
 - 25.4. The persons affected by this decision are ratepayers in the Hawke's Bay region.
 - 25.5. Given the nature and significance of the issue to be considered and decided, and also the persons likely to be affected by, or have an interest in the decisions made, Council can exercise its discretion and make a decision without consulting directly with the community or others having an interest in the decision.

Recommendations

That Hawke's Bay Regional Council:

1. Receives and considers the *Annual Plan 2025-2026 approach* staff report.
2. Agrees that the decisions to be made are not significant under the criteria contained in Council's adopted Significance and Engagement Policy, and that Council can exercise its discretion and make decisions on this issue without conferring directly with the community or persons likely to have an interest in the decision.
3. Agrees to consult on the Annual Plan 2025-2026, as the proposed annual plan includes material differences from the content for Year 2 of the Three-Year Plan 2024-2027.

4. Agrees to consult concurrently on changes to the Revenue and Financing Policy, Rates Remission and Postponement Policies and the Regional Public Transport Plan.
5. Agrees that minor clarifications to the wording of the Fees and User Charges Policy, and proposed 2025-26 Fees & User Charges Schedule which align to CPI increases do not require consultation.

Authored by:

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Approved by:

Nic Peet
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Attachment/s

There are no attachments for this report.

Subject: Council Officer Resource Management Act delegations

Reason for report

1. This item seeks Council's approval of delegations under the Resource Management Act 1991 (RMA) to the relevant staff roles as specified in **Attachment 1** by way of Council resolutions.

Staff recommendations

2. Staff recommend that Council delegates all the powers, functions and responsibilities under legislation and bylaws set out in as described in **Attachment 1**. Adoption of a Delegations Policy to inform the exercise of delegated powers on behalf of Council is also recommended.

Executive summary

3. Council officers have prepared an updated RMA Delegations Register (**Attachment 1**) in accordance with the requirements of the RMA and other relevant legislation, and the general applicable principles of delegation, and seek Council's approval for those delegations.
4. An overarching Delegations Policy has also been prepared (**Attachment 2**) to guide the delegation of powers within Council and the exercise of those powers in accordance with Council's statutory obligations and its expectations relating to the exercise of delegated powers.

Background

5. A delegation is the transfer of a responsibility, duty, or power from the Council to another subordinate decision-making body (e.g. committee), or to the CE or a Council officer. Any delegation includes the authority to make decisions under delegated authority on behalf of Council, unless expressly stated otherwise.
6. Typically, delegations to Council officers are made from the Chief Executive, sub-delegating from their general delegation of Council's powers and duties. However, there are instances where the legislation explicitly restricts sub-delegation and/or prescribes how delegations must be made.
7. Here, section 34A of the RMA allows for delegation of the Council's functions under that Act, but it does not authorise sub-delegation of powers. All delegations therefore need to be made directly by the Council to the relevant officer or person.
8. The RMA Delegations Register records all delegations to Council officers under the RMA, other than the CE, who has been delegated powers separately. The register also does not include delegations to Hearing Commissioners (which will be delegated on a case-by-case basis through Council) and enforcement officers (who hold powers once appointed as enforcement officers, as recorded through their warrants).
9. Where there are limits or conditions associated with the delegation of power, these are recorded in the Delegations Register.
10. A suite of principles inform the delegation of powers within the Council, as set out in the Delegations Policy. The principles reflect the legal requirements relating to the delegation of powers, as well as the expectations of Council in delegating and/or exercising any power.

Discussion

11. Delegating authority to Council officers where appropriate allows for administrative efficiency, and ensures timeliness in the conduct of the Council's daily business and statutory

responsibilities. It also provides the legal structure for the efficient and effective operation of the Council and its decision-making.

12. The Delegations Policy has been prepared to guide the delegation of powers within Council, as well as the exercise of those delegated powers by officers. Any delegated power needs to be exercised in accordance with the principles set out within the Delegations Policy.
13. Council has a wide range of statutory powers, duties, and responsibilities. Delegations from Council ensure that elected members can focus on governance/strategic issues, while management activities and related operational and administrative functions can be carried out by the CE and Council officers.
14. The Council's delegations to the CE and Council officers are monitored on a regular basis and reported back to Council for amendment as required in response to changes in legislation. This provides Council with the opportunity to regularly exercise oversight over the scope and use of delegated authority.
15. A delegated power must also be exercised in accordance with all statutory requirements and any relevant Council policies and conditions, such as financial limits and process and reporting requirements.
16. In some circumstances, limits have been proposed on the exercise of a delegated power – where certain steps must be taken before the exercise of power (consultation with legal counsel, or approval of a notice by a manager, for example). In other circumstances, a delegation is made subject to a particular matter (for example, the exercise of delegated power only where a particular event has occurred or set of circumstances exists).
17. It is therefore recommended that:
 - 17.1. Council delegates all responsibilities, duties, and powers to act under the RMA as set out in the schedule attached to this report (Attachment 1), subject to any restrictions imposed by Council or under legislation and excluding those matters in respect of which delegation is prohibited under the legislation, to the relevant Council officers.
 - 17.2. Adopts the Delegations Policy 2025, as set out in Attachment 2.
18. For the avoidance of doubt, all previous delegations to Council staff under the Resource Management Act 1991, other than the delegations to the current Chief Executive, will be superseded by the updated delegations, effective from the date of the Council resolution.

Strategic fit

19. Appropriate statutory delegations to Council officers enable the Council to undertake its core business delivering the roles and responsibilities required by law.
20. The CE is also required to ensure the Council is managed efficiently and effectively so that the Council may achieve the requirements set out above and in its Strategic Plan, Long Term Plan and Resource Management plans.

Significance and Engagement Policy assessment

21. The significance of this operational decision is very low according to Council's Policy.

Financial and resource implications

22. There are no financial or resource implications in relation to this item.

Decision-making considerations

23. 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:

- 23.1. the decision does not significantly alter the service provision or affect a strategic asset, nor is it inconsistent with an existing policy or plan.
- 23.2. the use of the special consultative procedure is not prescribed by legislation.
- 23.3. the decision is not significant under the criteria contained in Council's adopted Significance and Engagement Policy.
- 23.4. that, in preparing this agenda item, delegations have been reviewed and updated in accordance with legislative and operational changes.
- 23.5. the persons affected by this decision are all ratepayers of the Hawke's Bay region.
- 23.6. that, given the nature and significance of the issue to be considered and decided, Council can exercise its discretion and make a decision without consulting directly with the community or others having an interest in the decision.

Recommendations

That Hawke's Bay Regional Council:

1. Receives and considers the *Council staff delegations under the Resource Management Act* staff report.
2. Agrees that the decisions to be made are not significant under the criteria contained in Council's adopted Significance and Engagement Policy, and that Council can exercise its discretion and make decisions on this issue without conferring directly with the community.
3. Pursuant to s 34A of the Resource Management Act 1991, delegates to the relevant Council staff all the powers, functions and responsibilities set out in Attachment 1 to this report, subject to any restrictions or prohibitions imposed by Council or required by the legislation.
4. Notes that all previous delegations to Council staff under the Resource Management Act, other than the delegations to the current Chief Executive, will be superseded by the updated delegations, effective from the date of the Council resolution.
5. Adopts the Delegations Policy 2025, with a review date of February 2027.

Authored by:

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Matt McGrath
Chief Legal Advisor

Approved by:

Katrina Brunton
Group Manager Policy & Regulation

Attachment/s

- | | | |
|---|---|--|
| 1 | Proposed RMA Delegations for Council Approval | Under Separate Cover
– <i>online only</i> |
| 2 | draft CD0060 - Statutory (Non-Financial) Delegations Policy | Under Separate Cover
– <i>online only</i> |

Subject: Flood Protection Bylaw

Reason for report

1. As part of the initial decision-making for making any bylaw, the Council must first resolve that a bylaw is the most appropriate way to address the perceived problem (i.e., the need to appropriately protect the Council's flood protection schemes) and that the bylaw concerns a matter of significant interest to the public. These decisions must be made before proceeding with development of a bylaw.

Staff recommendations

2. Staff recommend that a draft bylaw is prepared in accordance with the bylaw-making procedure set in the Local Government Act 2002 (LGA), as the most appropriate way to address issues relating to the appropriate protection of Council's flood protection schemes.
3. Further, staff recommend that changes proposed in the TANK plan change (PC9) to Rule 71 and proposed new Rule 71A (activities affecting river control and drainage schemes) are withdrawn to avoid duplication of regulations for planting within the Heretaunga Plains Flood Control and Drainage Scheme area, and that complementary minor plan changes to update references, etc, in the Regional Resource Management Plan are made.

Executive summary

4. As part of implementation of the Independent Flood Review Implementation Plan, on 18 December 2024 Council resolved to proceed with the introduction of bylaws to protect flood infrastructure.
5. The first step to prepare a bylaw, in accordance with the bylaw-making provisions of Part 8 of the LGA, is to determine whether a bylaw made under this Act is appropriate (s155(1) LGA).
6. This report describes the perceived problem facing the Council with respect to maintaining the integrity and functioning of its flood protection schemes, considers options available for better management, and concludes that bylaws are the most appropriate way to address the problem.
7. A minor plan change will be needed to remove any overlapping provisions within the Regional Resource Management Plan. Likewise, Rules 71 and 71A should be formally withdrawn from Proposed Plan Change 9 (Tūtaekuri, Ahuriri, Ngaruroro and Karamū Catchments).

Background /Discussion

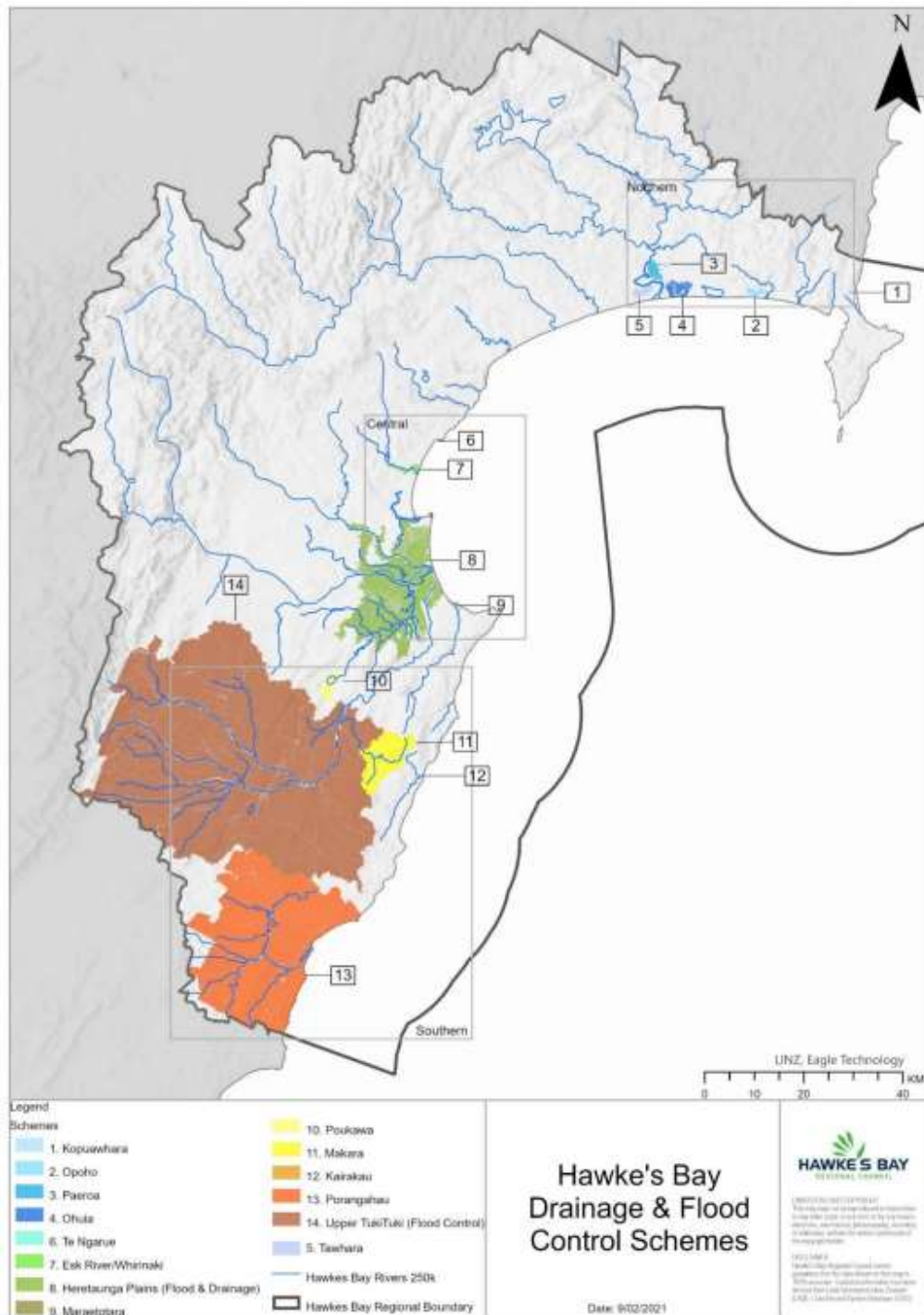
8. The Council has two major flood control schemes and a number of small flood control and drainage systems across the region. These are shown in Table 1 and Map 1 below, sourced from Council's Infrastructure Strategy 2024-2027.

Table 1: HBRC Flood Protection Scheme Summary

Infrastructure scheme grouping	Asset description	Quantity	Replacement value (June 2023 no cyclone impairment)	Critical assets*
Heretaunga Plains Flood Control and Drainage Scheme	Stopbanks	157 km	\$159M	Yes
	River channels & edge protection	129 km		
	Drainage channels	447 km		
	Pumping stations	18		
	Structures & culverts	217		
Upper Tukituki Flood Control Scheme	Stopbanks	76 km	\$42M	Yes
	River channels & edge protection	206 km		
	Drainage channels	12 km		
	Structures & culverts	44		
Small Schemes	Stopbanks	15 km	\$20M	Yes (specific asset classes)
	River channels & edge protection	31 km		
	Drainage channels	85 km		
	Pumping stations	4		
	Structures & culverts	37		

* Critical assets in terms of scheme operation

Map 1: Hawke’s Bay Drainage and Flood Control Schemes



9. The various flood control and drainage schemes cover substantial areas of Hawke’s Bay’s most productive lands, as well as protecting the main urban areas and smaller communities. While the schemes are important to each community, failure of the major schemes can be catastrophic for the whole region, as experienced through Cyclone Gabrielle. They provide significant public benefit and are identified as critical assets in the Infrastructure Strategy.
10. This is reflected in the capital and renewal programme over the next four years, with some \$250 million being invested in the Flood Resilience Programme for the region.

Perceived problem

11. Currently, Council has limited means to control works and activities on and in the vicinity of its flood protection infrastructure and systems where it is not the underlying landowner. These assets and features include stopbanks, pump stations, culverts and high ground forming part of

the flood protection scheme.

12. Examples of works and activities that risk system damage or could contribute towards system failure include:
 - 12.1. earthworks and planting of trees or building structures too close to stopbanks
 - 12.2. unauthorised removal of trees that form part of 'live edge protection'
 - 12.3. construction and use of vehicle paths, stock crossings and other accessways on stopbanks
 - 12.4. dumping of waste where it may impede flood scheme operation.
13. These types of activity create a vulnerability to the functioning and integrity of those flood control systems which could result in system failure, and subsequent flooding and other damage to people and property. Some activities may directly damage the flood infrastructure, for example, by cutting tracks across stopbanks. Other scheme risk arises from activities nearby, such as poorly designed earthworks which deflect floodwater in unintended ways or alter groundwater movement in ways that could weaken or undermine the stopbank during a flood event.
14. Currently, only Rule 71 of the Regional Resource Management Plan (RRMP) provides some degree of protection. This rule requires resource consents for six types of activity that may affect the schemes but does not address all activities with risk.
15. Proposed Plan Change 9 (Tūtaekurī, Ahuriri, Ngaruroro and Karamū Catchments) (TANK) introduces some provisions relating to the Heretaunga Plains Flood Control and Drainage Scheme only but does not address all the issues identified above.
16. The *Hawke's Bay Independent Flood Review Report (2024)* identified this vulnerability and made a suite of recommendations relating to structural works, including to ensure that flood management infrastructure and the natural high ground forming part of a flood management system are identified and protected appropriately from damage for flood protection and therefore reducing community risk. These included:
 - 16.1. *Recommendation 9: ...where natural high ground forms part of the flood management system, it is identified and protected appropriately so that it maintains its functionality over time...*
 - 16.2. *Recommendation 10: ...review activities allowed on river floodway berms and stopbanks to ensure that the flood management infrastructure is protected from damage and or ongoing maintenance requirements that would not otherwise be required...*
17. Accordingly, the December 2024 report to Council on *Implementation of recommendations from the flood reviews* recommended introduction of bylaws to protect its infrastructure assets from damage, or unintended consequences of activities undertaken on or close to those assets.

What is a bylaw?

18. Bylaws are secondary legislation made under the LGA and they have significant legislative effect. Effectively, they are rules about what people can and cannot do or may first require Council approval. The Council may take enforcement action when a bylaw is breached.
19. The Council already has one bylaw, the Navigation Safety Bylaw 2024, which addresses maritime safety and is administered by the Harbour Master.

Options assessment

20. The Council may use a range of methods to protect its flood management infrastructure and other features that form part of its flood management systems across the region. These are described in the following sub-sections. The advantages and disadvantages of each method are then considered as part of the final assessment on whether a bylaw is needed to address the perceived problem (as required under s155 LGA).

Option 1: Environmental Code of Practice

21. The Council's *Environmental Code of Practice for River Control and Waterway Works* (2017) (the Code) provides a comprehensive guide for work undertaken by the Council and its contractors in developing, managing and enhancing waterways, river control and drainage. It describes how works will be undertaken, addressing matters such as the environment, wildlife habitat and public access.
22. It provides useful information for others, but this 2017 Code does not have legal effect and is not enforceable if actions are taken which risk scheme integrity or functioning.
23. The Regional Plan incorporates reference to an earlier edition, the 1999 *Environmental Code of Practice for River Control and Waterway Works*. The RMA requires that a plan change is undertaken when updating material incorporated by reference, as there are potential impacts for people and activities arising from the update which can be assessed through the plan change process.
24. The Code is now being scoped for review, to be undertaken in the 2025-2026 year.

Option 2: Regional Plan

25. Regional council functions under the RMA are set out under Section 30 and include the control of the use of land for the purpose of the avoidance or mitigation of natural hazards (s30(1)(c)(iv) RMA).
26. Rule 71 of the Regional Resource Management Plan (RRMP) applies Discretionary Activity status to six specified activities undertaken within a land drainage or flood control area managed by a local authority exercising its powers, functions and duties under the Soil Conservation and Rivers Control Act 1941, the Land Drainage Act 1908, or the Local Government Act 1974. This rule applies to other persons than the local authority, and addresses these specified activities:
 - 26.1. planting
 - 26.2. erection of any building, fence or structure
 - 26.3. reposition of rock, shingle or other substance
 - 26.4. land disturbance impeding access
 - 26.5. reclamation or drainage of the beds of rivers, lakes and artificial watercourses within scheme areas
 - 26.6. erection of any structure and undertaking land disturbance which interferes with the integrity of any defence against water within scheme areas.
27. Four of those activities are tightly prescribed, being limited to activities occurring on or within 6 metres of the bed of any river, lake or artificial watercourse forming part of a flood control scheme. The sixth activity identified – 'the erection of any structure and the undertaking of any land disturbance activity which interferes with the integrity of any defence against water' – is written so broadly that it is almost unenforceable.
28. Some other rules for activities that require resource consent provide controls or discretions relating to flood conveyance and management, debris movement, erosion and scouring effects and damage or destruction to river control or flood protection works.
29. Proposed Plan Change 9 (TANK), currently under appeal, includes:
 - 29.1. A change to RRMP Rule 71 and new Rule 71A which relate to planting activities in the Karamū catchment/ Heretaunga Plains Flood Control and Drainage Scheme
 - 29.2. New guidance which takes into account relevant management objectives for land drainage and flood control.
30. The Council could initiate a plan change to better address the perceived problem or include

proposed rules when the Regional Resource Management Plan is reviewed (as part of preparing Kotahi). The normal plan-making process would be used, with submissions, further submissions, a public hearing and rights of appeal to the Environment Court.

31. The Consents Team would administer any new rules created, supported by enforcement by the Compliance Team.

Option 3: Designation (District Plan)

32. A designation is made in a district plan, in accordance with Part 9 of the RMA.
33. The effect of a designation is to ensure that the requiring authority (in this case, the regional council) must give prior approval before anyone can do anything in relation to the land designated, including:
 - 33.1. undertaking any use of the land
 - 33.2. subdividing the land
 - 33.3. changing the character, intensity or scale of the use of the land (s176 RMA).
34. Regional councils are requiring authorities and may designate in a district plan:
 - 34.1. public works for which they have financial responsibility
 - 34.2. land, water, subsoil or airspace where a restriction is reasonably necessary for the safe or efficient functioning or operation of the public work (s168 RMA).
35. With this option, the Council serves notice of its requirement on the relevant territorial authority. The territorial authority then follows the prescribed RMA process, which includes the opportunity to make submissions and be heard. The territorial authority determines whether to confirm, modify or request withdrawal of the requirement (s171 RMA). There are appeal rights to the Environment Court.
36. If the designation is confirmed, then it is included in the district plan as if it were a rule and administered through the territorial authority.
37. Designation is particularly useful when infrastructure is proposed but not yet in place, to ensure that potentially incompatible land use and development is controlled. Typically they are used when the designating authority would acquire the land, if necessary, should any other land owner consider their rights and ability to develop their property was being unduly restricted.

Option 4: Bylaw

38. A regional council may make bylaws in relation to flood protection and flood control works undertaken by, or on behalf of, the regional council (s149(1)(c) LGA). A bylaw can regulate activities taken by anyone that may affect the functioning and integrity of the flood control scheme. Coastal protection works can be included as they protect against flooding from the sea.
39. Bylaws can be made quite quickly following the LGA bylaw-making process and using the special consultation process (s156 LGA). There are five key steps:
 - 39.1. Initiation – is a bylaw the most appropriate way to address the perceived problem? (the purpose of this report)
 - 39.2. Preparation of proposed bylaw
 - 39.3. Assessment of the proposed bylaw against three criteria:
 - 39.3.1. Is the bylaw the most appropriate form of bylaw?
 - 39.3.2. Does it give rise to any implications under the NZ Bill of Rights Act 1990?
 - 39.3.3. Is the decision made inconsistent?
 - 39.4. Special consultation process with submissions and hearing

- 39.5. Council resolution to make the bylaw.
40. This process ensures that those potentially affected, including tangata whenua, can submit and be heard before the bylaw is made.
 41. A fee may be charged for an application where approval from the Council is required. This is set through the Fees and Charges section of the Annual Plan.
 42. A bylaw is enforceable, and the council may exercise a range of enforcement powers when the bylaw has been breached. Enforcement actions include requiring works in breach of the bylaw are removed or altered, property may be seized and impounded, the costs of damage from wilful or negligent behaviour may be recovered and a person may be required to remedy a bylaw breach.
 43. The Crown is bound by the bylaw if non-compliance would be likely to have an adverse effect on public health or safety (s153 LGA).
 44. A bylaw has a life of 10 years and must be reviewed every 10 years – otherwise it is revoked two years after the date the review is due.
 45. Bylaws are able to address the perceived problem and are efficient to develop and administer, with administration undertaken by the most directly affected team of Council, Regional Assets.

Assessment

46. Table 2 summarises the assessment of the four possible options: no change from current situation (Environment Code of Practice and operative RRMP), regional rule, designation and bylaw.

Table 2: Option assessment summary

Criteria	Option 1 Status Quo	Option 2 Regional rule	Option 3 Designation	Option 4 Bylaw
Effective - addresses the perceived problem	No	Yes	No	Yes
Effective – complexity of change	Not applicable	Most complex to make these provisions	Complex	Least complex to make these provisions
Effective – able to enforce	Rule 71 is difficult to enforce before the scheme is compromised	Yes	Cost consequences if people are limited too much – buy land or remove designation	Yes
Future proof protection for further schemes	Does not address	Possible, depending on scope of new provisions. Further plan change likely to be needed	Enables protection of future scheme footprints	Possible. Alterations to introduce new schemes and information may be made using bylaw process
Efficient – time to make change	Not applicable	Likely longest time to make new rules	Longer time than making a bylaw	Shortest time to make bylaw

Criteria	Option 1 Status Quo	Option 2 Regional rule	Option 3 Designation	Option 4 Bylaw
Efficient – cost of making change	No additional cost	Highest cost using RMA plan-making process	Higher cost using RMA designation process	Lower cost of consultation using LGA decision-making process BUT Rule 71 should also be revoked; and changes to Rule 71 and Rule 71A should be withdrawn from Plan Change 9 to avoid regulatory duplication.
Efficient – decision made by scheme operator	No (scheme operator has input to resource consent decision)	No (scheme operator has input to resource consent decision)	No (scheme operator has input to resource consent decision)	Yes
Efficient – cost to applicant reflecting administrative cost for Council	Rule 71 cost of resource consent, including possibility of additional notification and hearing costs	No cost if permitted activity. Otherwise, resource consent cost includes possibility of additional notification and hearing costs, together with appeal costs	No cost if permitted activity. Otherwise, resource consent cost includes possibility of additional notification and hearing costs, together with appeal costs	Least cost if activity must be authorised. Simple assessment by Assets Team, no other affected parties. NOTE Rule 71 should be revoked; and changes to Rule 71 and Rule 71A should be withdrawn from Plan Change 9 to avoid regulatory duplication.
Risks	Scheme risk remains as the perceived problem is not addressed	People need to be aware of how the new rules apply	Does not address risk from activities on land which Council has no intention of acquiring	People need to be aware of how the new bylaws apply
Overall	Does not address the perceived problem. Code references in the RRMP could be made easily be made if bylaw consultation reveals no opposition.	Possible option but more complex to prepare and administer. Deletion of Rule 71 could be done easily if bylaw consultation reveals no opposition	Does not address the perceived problem.	Preferred option to address the perceived problem.

47. The preferred option is to prepare new bylaws, which should be done alongside a minor plan change to remove duplication with any regional rule. If such a minor plan change is initiated, the reference to the latest Code could easily be included. This would ensure that the most coherent and comprehensive protection is provided for the flood protection schemes.
48. A minor plan change can be made quite easily if there is no opposition to the proposal. If there are no submissions, or no-one wishes to be heard, then an RMA hearing is not needed, and the Council can make the change operative without further ado. As any plan change proposed should be simple, staff consider it worthwhile doing at the same time as the bylaw, unless significant opposition is identified through consultation.
49. If the RRMP is changed, changes to Rule 71 and proposed new Rule 71A in Proposed Plan Change 9 should also be withdrawn. This can be done by Council resolution and requires public notification. The Council would also need to inform the Environment Court and appellants interested in this change. The Council may withdraw all or part of any proposed plan change before the Environment Court hearing commences (clause 8D Schedule 1 RMA). As appeal mediation is now in its final weeks, withdrawal should be done soon.

Strategic fit

50. The proposed bylaw contributes towards achieving two strategic goals:
 - 50.1. sustainable and climate-resilient services and infrastructure
 - 50.2. climate-smart and sustainable land use.

Significance and Engagement Policy assessment

51. The Significance and Engagement Policy assessment has concluded:
 - 51.1. The proposed bylaw will better protect the operation and integrity of two strategic assets (the Heretaunga Plains Flood Protection Scheme and the Upper Tukituki Catchment Control Scheme), as well as other smaller schemes under the Council's control.
 - 51.2. The community is interested in ensuring that flood protection schemes are not damaged by people's activities, either intentionally or unintentionally.
 - 51.3. Rights and interests of tangata whenua and other affected landowners and managers will be considered in preparing the bylaw.
 - 51.4. The Independent Flood Review Report recommended appropriate protection for flood scheme assets and features.
52. The consequence of not taking action to appropriately protect these assets and features is likely to be unacceptable to the community if any subsequent scheme failure was attributed in whole or in part to lack of such protection.
53. Accordingly, the bylaw does concern a matter of significant interest to the public, and is intended to ensure the level of service of the flood protection schemes, which are significant assets. However, staff do not consider formally commencing the bylaw process to be a significant decision.

Climate Change considerations

54. The bylaw adds an additional layer of regulatory protection to the integrity and operation of HBRC's flood control systems, which will become increasingly important for protecting the community in the face of climate change and the likelihood of more frequent severe weather events and flooding.

Considerations of tangata whenua

55. Consultation is required with tangata whenua, in particular those who are based within areas

protected by flood control systems.

56. At their meeting on 12 February 2025, the Regional Planning Committee will be informed of a possible minor plan change to the RRMP addressing duplication between that plan and any new bylaw 2025. The normal RMA plan-making process applies, including participation requirements with tangata whenua, even though this would be a small plan change.

Financial and resource implications

57. HBRC gave approval to allocate budget for bylaw consultation on 18 December 2024, with funding for consultation being allocated for the 2025-2026 year.

Consultation

58. Bylaws are prepared in accordance with the Local Government Act 2002. The special consultation process must be used when the matter is of significant interest to the public, or is likely to have a significant impact on the public (section 156(1) LGA). Otherwise, consultation must be undertaken in accordance with section 82 LGA.
59. Consultation will be undertaken as part of bylaw preparation and is expected to occur later in 2025 and early 2026.
 - 59.1. Previous consultation undertaken in the wake of the Cyclone Gabrielle will be reviewed.
 - 59.2. An engagement plan will be developed and will focus on affected communities, including with affected iwi and hapu.
 - 59.3. Where appropriate, consultation will be undertaken in tandem with that for the new flood protection scheme and review of the Code.
60. Staff recommend use of the special consultation procedure to ensure that the Council is able to make a sound decision on bylaw content. This was provided for in the budget allocation.

Other considerations

61. The bylaw will be prepared with input from Asset Management, Policy and Planning, Compliance, Māori Partnerships, and Communications and Engagement teams.
62. Implementation matters such as administration, fee charging and enforcement, will be considered as part of bylaw preparation.
63. As part of implementation, a further communication project will be required to make affected parties aware of what the new bylaw requires.

Decision-making considerations

64. 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:
 - 64.1. The decision does not significantly alter the service provision or affect a strategic asset, nor is it inconsistent with an existing policy or plan.
 - 64.2. The use of the special consultative procedure is not prescribed by legislation.
 - 64.3. The decision is not significant under the criteria contained in Council's adopted Significance and Engagement Policy.
 - 64.4. The persons affected by this decision are:
 - 64.4.1. landowners and managers of property that are close to waterbodies that are associated with the Council's flood protection schemes
 - 64.4.2. appellants to Rules 71 and 71A of Proposed Plan Change 9 (TANK)

- 64.4.3. mana whenua living within areas covered by those schemes
- 64.4.4. communities living within areas covered by those schemes.
- 64.5. Given the nature and significance of the issue to be considered and decided, and also the persons likely to be affected by, or have an interest in the decisions made, Council can exercise its discretion and make a decision without consulting directly with the community or others having an interest in the decision.

Recommendations

That Hawke's Bay Regional Council:

1. Receives and considers the Flood Protection Bylaw staff report.
2. Agrees that the decisions to be made are not significant under the criteria contained in Council's adopted Significance and Engagement Policy
3. Confirms that a bylaw is the most appropriate way to address the perceived problem relating to the appropriate protection of Council's flood protection schemes.
4. Confirms the withdrawal of part of Proposed Plan Change 9 (Tūtaekuri, Ahuriri, Ngaruroro and Karamū Catchments), namely changes proposed to Rule 71 and proposed new Rule 71A (activities affecting river control and drainage schemes) on Saturday 8 March 2025, to avoid duplication of planting regulations within the area of the Heretaunga Plains Flood Control and Drainage Scheme.
5. Requests that staff prepare:
 - 5.1. The draft bylaw in accordance with the bylaw-making procedure set in the Local Government Act 2002 and, in due course, present a proposed bylaw to Council for consultation in accordance with the special consultation process.
 - 5.2. A complementary minor plan change to the Regional Resource Management Plan to remove any duplicating rules and update references to the Environmental Code of Practice for River Control and Waterway Works, and present this proposed plan change to Council at the same time as the proposed bylaw, for consultation in accordance with the normal plan-making process under the Resource Management Act 1991.
 - 5.3. Public notice of the withdrawal of changes proposed to Rule 71 and proposed new Rule 71A (activities affecting river control and drainage schemes) from Proposed Plan Change 9 (Tūtaekuri, Ahuriri, Ngaruroro and Karamū Catchments), and notify the Environment Court and all appellants accordingly.

Authored by:

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Approved by:

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Attachment/s

There are no attachments for this report.

Subject: Report from the Risk and Audit Committee

Reason for report

1. The following matters were considered by the Risk and Audit Committee (RAC) on 12 February 2025 and are now presented for the Council's information and consideration.

Agenda items for Council decision

2. The RAC did not consider any items requiring recommendations to Council for decisions.

Risk Management update

3. The item covered:
 - 3.1. the strategic risk profile for HBRC, with an outline of the major areas of uncertainty/risk
 - 3.2. the sentiment of both the Executive Leadership Team and councillors as to the aggregate level of confidence/concern (i.e. risk rating) with respect to the strategic risk profile of HBRC
 - 3.3. the wider external environment and specific issues for the attention of the Risk and Audit Committee, as well as a draft forward work plan, for discussion and feedback
 - 3.4. results of assurance work undertaken across key controls including the external Crowe review of Data Analytics
 - 3.5. incidents and events raised for the attention of the Committee.
4. The Committee was provided with the following update.
 - 4.1. In January 2025, councillors were invited to provide their assessment of each of these areas. Of the 11 Councillors, 6 responses were received (compared to 5 from the September 2024 survey). The usefulness of this overall assessment is directly related to the completeness of responses received.
 - 4.2. Key themes emerging from the latest assessments were:
 - 4.2.1. While there is a relatively high degree of alignment in sentiment across the ELT, there is a relatively low degree of alignment in sentiment across councillors.
 - 4.2.2. *Effectiveness of Emergency Management, and Connectedness of decision-making* remain primary areas of uncertainty for Council staff. It is anticipated that the recently approved CDEM transformation strategy will ensure that appropriate controls, processes and mitigations are proactively and progressively put in place to manage this risk. In addition, steps have been taken internally to update HBRC Business Continuance Plan (BCP) documentation and ensure appropriate scenario-based training is completed.
 - 4.2.3. *Effectiveness of decision-making* reflects the current uncertainties as we head into the Annual Plan. Budget cuts and staffing holds are leading to uncertainty of programmes and how to ensure levels of service are achieved when facing internal constraints and rising public perception of minimum expectations.
 - 4.3. The Department of Internal Affairs (DIA) will publish a yearly report on key financial and delivery outcomes, helping ratepayers hold councils accountable. The first benchmarking report on local councils will be released in the middle of 2025 and is expected to include a number of key council performance metrics such as:

- 4.3.1. rates – so that ratepayers know the number of rates levied per unit, the change in rates since the previous year, and the forecast change in rates over the next 10 years
 - 4.3.2. Council debt – including debt per rating unit, percentage change in council debt since the previous year, and forecast change over the next 10 years
 - 4.3.3. a balanced budget – to show whether a council is balancing its budget or borrowing to support expenditure.
5. Assurance reviews were undertaken across:
- 5.1. Conflicts of Interest and Gift Registering – Results are positive, however, it is expected that there will be an increase in declared interests when further information is shared with staff. Staff are looking at implementing annual attestations pertaining to how HBRC can confirm that staff have read, understand and are complying with policies of this nature.
 - 5.2. Data Analytics – Each year the Regional Council, as part of the internal audit work programme, engages Crowe to conduct a review of our Data Analytics. This review is used primarily for identification of fraud or suspicious transactions across our business. Although historical, it provides management with assurances on processes followed throughout the reporting period.
 - 5.3. The report includes five high risk results pertaining to:
 - 5.3.1. purchase orders created after invoice date
 - 5.3.2. purchase order approvals
 - 5.3.3. payments to vendors approved by a related employee
 - 5.3.4. employees paid prior to start date
 - 5.3.5. employees paid after termination date.
6. The Risk and Audit Committee would like to draw Council’s focused attention to a high-risk event that occurred in November 2024 whereby two Microsoft Office accounts at Hawke’s Bay Regional Council were identified as having been signed into by an unauthorised malicious user. The Account Security Breach Incident Report was discussed with the public excluded.
- 6.1. Given the extent of information shared, Council staff immediately contacted high-risk individuals and a formal letter was subsequently sent to all other impacted individuals on 2 and 3 December. The Office of the Privacy Commissioner was notified and has since closed the case; however, RAC discussed whether or not HBRC should hold Cyber Security Insurance.
 - 6.1.1. Cyber Security Insurance has been difficult for councils to obtain in the past with the main issue being a requirement for a minimum level of security protocols to be in place before insurers will provide terms, including such things as multi-factor authentication, endpoint detection and response, security and privacy training, end of life and vulnerable systems analysis, incident response plans, patch management and PCI DSS compliance if applicable.
 - 6.1.2. AON has advised that cyber cover for councils normally (and does) includes:
 - 6.1.2.1. Limit of Indemnity (excluding Damages) \$2,500,000
 - 6.1.2.2. Damages \$2,500,000 including rectification, extortion business interruption, fines & penalties, third party liability and defence costs.
 - 6.1.2.3. Normal levels of policy deductible are around \$25,000.
 - 6.1.3. A further discussion on this will be held with the next Risk and Audit Committee.

External Audit Report - Control Findings for the year ended 30 June 2024

7. This item presented the finalised Control Findings Report from Ernst & Young (EY), which highlighted six low-rated and one medium-rated audit observations were raised for the June 2024 external audit.
8. One of the observations has been deemed as Medium-risk needing significant improvement, ideally within the next 6 months; this relates to the reconciliation of community loans, an ongoing issue that management is aware of. Due to system limitations, HBRC is currently unable to extract a report that details all outstanding loans to support the *total community loans balance* shown in the financial statements. HBRC has historically calculated a manual estimate using various data extracted from our systems; however, due to the level of estimation involved and the significance of the community loans balance, there is a greater risk that inaccuracies may not be identified. The reconciliation process at 30 June 2024 showed a variance of \$34k over a total balance of \$19.5m.
9. The remaining 6 observations have been deemed as low risk and needing some improvement ideally within the next 6-12 months. Management has no significant concerns about these observations and is comfortable that processes are underway to resolve them. The sensitive expenditure changes have already been implemented and the team is continuing to work on ensuring this risk is eliminated and / or minimised.

Legal update

10. The Committee also received an update on legal matters, in public excluded session, which covered:
 - 10.1. Wairoa Flood Litigation updates and other legal proceedings being brought against HBRC
 - 10.2. Cyclone Gabrielle Coronial process with the proposed scope relevant for HBRC – an extract of the proposed scope relevant to HBRC is outlined below.

1) CAUSES AND CIRCUMSTANCES OF DEATH

What were the causes and circumstances of the deaths of Mr Daniel Miller, Mr Daniel Newth, Mr David Lennard, Mr David Young, Mr David Van Zwanenberg, Mr Craig Stevens, Ms Ivy Collins, Ms Susane Caccioppoli, Ms Helen Street, Mr John Coates, Ms Shona Wilson, Ms Marie Greene, Mr Ian McLaughlan, Mr George Luke, Mr Brendan Miller, Mr Campbell Simmonds, Mr Robert Poulton and Mr Robert Liverton?

2) WEATHER FORECASTING

a) Was the weather forecasting of the weather events accurate, adequate and communicated to the public appropriately?

3) EMERGENCY RESPONSE

a) Was the emergency response adequate, timely and well-co-ordinated?

b) The efficacy of warnings issued to the public.

4) SPECIFIC ISSUES ARISING OUT OF THE LANDSLIDE DEATHS IN AUCKLAND:

a) What was the risk of landslides/soil instability at:

i) Shore Road, Remuera

ii) Muriwai.

5) SPECIFIC ISSUES ARISING OUT OF THE HAWKE'S BAY DEATHS:

Flooding deaths:

a) In light of the cause and circumstances of the flooding related deaths:

i) What was known about the flooding risk of the relevant locations?

ii) What (if any) flood mitigation measures were in place?

iii) In respect of the locations where the flooding deaths occurred, when were planning decisions made about the suitability of those locations for residential development or intensification of residential development (whether district plan zoning, resource consents or otherwise), and what was known about flooding risks at the time of those decisions?

iv) Did the presence of woody debris in the floodwaters contribute to any flooding deaths?

v) What future actions can be identified that would reduce the risk of similar deaths?

Landslide death:

b) What was the risk of landslides/soil instability, at Tūtira?

11. RAC discussed oversight and governance in relation to the implementation of recommendations from the independent review of the Hawke's Bay Civil Defence Emergency Management Group's response to Cyclone Gabrielle, noting challenges to understand where governance responsibilities and accountability lie, for the CDEM Group and HBRC.

Treasury Compliance Report for the period 1 October - 31 December 2024

12. This item presented the RAC with the compliance monitoring report for HBRC treasury activity and highlighted:
 - 12.1. On 31 December 2024 and during the preceding quarter, HBRC was compliant with all measures in its Treasury Policy.
 - 12.2. The effects of Cyclone Gabrielle and its recovery continue to impact both cash balances and borrowing requirements. Additional ongoing borrowing to fund recovery will continue over the next 3-4 years, while proceeds from insurance claims are slower than initially forecast.
 - 12.3. HBRC completed a tender process prior to Christmas and appointed ANZ as their new transactional bank. It is expected HBRC will commence operating ANZ bank accounts from the beginning of April and will hold BNZ accounts open through the next financial year.
13. The Risk and Audit Committee resolved to:
 - 13.1. Receive and note the *Enterprise Assurance update* staff report.
 - 13.2. Confirm that the *Internal Assurance Corrective actions update* report has provided adequate information on the status of the Internal Assurance Corrective Actions.

Decision-making considerations

14. 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 considers the *Report from the Risk and Audit Committee*.

Authored by:

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Chief Financial Officer

Aimee Sandilands
Chief Legal Advisor

Stephanie Maloy
RAC Independent Chair

Approved by:

Susie Young
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Attachment/s

- 1 HBRC Enterprise Dashboard - latest sentiment Under Separate Cover – [online only](#)

Hawke's Bay Regional Council

26 February 2025

Item 10

Subject: Update on the North Island Weather Events resilience programme

Reason for report

1. This item provides an update on the status of the North Island Weather Events (NIWE) Flood Resilience Programme.

Background

2. The Crown and Hawke's Bay Regional Council (HBRC) entered into the North Island Weather Events (2023) – Hawke's Bay Crown Funding Agreement on 10 October 2023 (the NIWE Agreement).
3. The NIWE Resilience Programme consists of a portfolio of initiatives to provide flood mitigation schemes to multiple communities across Hawke's Bay. It also incorporates upgrades to both pumpstations and stopbanks associated with existing schemes, as well as telemetry upgrades and scheme reviews.
4. The packages of work funded through this agreement are highlighted below.

Severely Affected Land Areas	Crown Funding	HBRC Funding	Total
Wairoa	\$70,000,000	0	\$70,000,000
Whirinaki	\$8,300,000	\$2,750,000	\$11,050,000
Waiohiki	\$7,500,000	\$2,500,000	\$10,000,000
Ohiti	\$7,500,000	\$2,500,000	\$10,000,000
Pākōwhai	\$37,600,000	\$12,400,000	\$50,000,000
Pōrangahau	\$9,800,000	\$3,200,000	\$13,000,000
Sub Total	\$148,200,000	\$25,850,000	\$174,050,000
Telemetry	\$3,800,000	\$1,200,000	\$ 5,000,000
Pumpstation upgrades	\$22,500,000	\$7,500,000	\$30,000,000
Scheme Reviews	\$2,300,000	\$700,000	\$ 3,000,000
Rapid Repair – Level of Service works	\$22,500,000	\$7,500,000	\$30,000,000
Total	\$191,800,000	\$40,200,000	\$232,050,000
Havelock North – Cat 2 HDC delivered	\$7,500,000	\$2,500,000	\$10,000,000
Total (incl Havelock North)	\$199,300,000	\$42,700,000	\$242,050,000

*For the purposed of this table the value for Tangoio (now Cat 3) has been excluded from these values. Values have been rounded to nearest \$100,000.

5. National Infrastructure Funding and Financing Limited (NIFF), formerly Crown Infrastructure Partners (CIP), is the appointed Administrator for our Crown Funding agreement and is mandated to distribute and manage the funding support under the NIWE Agreement and the Local Government Flood Resilience Co-Investment Fund.
6. The NIWE programme is being delivered by HBRC's Infrastructure Programme Management Office (IPMO).

NIWE Programme update

Summary

7. The Programme Director role change occurred on 20 January when Andrew Caseley stepped into the role vacated by Jon Kingsford. We have also this month onboarded our new dedicated Health & Safety Advisor and a Reporting Specialist into the NIWE Programme team.
8. Please refer to **Attachment 1** for our NIWE Programme Summary Dashboard for Project Status, Community Barometers, Project Delivery Plan Status, Key Programme Metrics and Programme Spend and Forecast Completion.

PDP & funding schedule updates

9. Project Delivery Plans (PDP) have been prepared and submitted for Pōrangahau, Pākōwhai, Scheme Reviews and Pump Stations and work is well advanced on the draft PDP's for Wairoa, Whirinaki and Stopbank Levels of Service.
10. We have four PDPs approved already which are for Waiohiki, Ōhiti, Telemetry and Havelock North.
11. The programme team are in the process of getting both Waiohiki and Havelock North agreed with NIFF and appropriate funding milestones confirmed. We will then look to closely follow with Ōhiti and Telemetry and then all remaining projects as and when the PDP is approved.
12. This is currently putting a lot of pressure on Council cashflows as we approach \$15m spend to date on the programme, yet no funding received from NIFF to date.
13. The current cost to Council of carrying the Crown funded portions is circa \$40k per month. This increases approximately \$4-6k per month for every \$1 to \$1.5million spent, which is the current rate of spending on the programme.
14. We are scheduled to begin the claims process in the next couple of weeks and we hope to have processed both claims for Waiohiki and Havelock North spend to date.

Other programme updates

15. The Project Management Lifecycle (Project Management Tool) process requirements are being reinvigorated as various key gateways are nearing and a more robust approach to good practice Project Management becomes more critical.
16. Part of this process will see a re-baseline of Project Schedules and Budgets completed over the next month with vigorous change processes required thereafter to ensure any variances and reasons for these are appropriately approved including the drawdown of project contingencies. It had been hoped to have completed this in January but other urgent matters have taken priority.
17. These processes will flow through to the Programme Steering Committee risk reporting summary and details, which will be regularly reviewed as part of monthly Project Reviews to provide added assurance.
18. Actions are also underway to standardise the programme approach to such matters as: contract documents for physical works including levels of insurance cover and retentions, procurement processes including design specifications to be included in tender documents and requirements around the Construction Environmental Management Plan. Consideration is also being given to the arrangements under the revised NZ3910:2023 form of contract for the respective roles of the Contract Administrator and Independent Certifier as well as appropriate arrangements for Management, Surveillance and Quality Assurance (MSQA) of each contract.

Order In Council update

19. Discussions have been on going with the Regional Recovery Agency and Cyclone Recovery Unit about revision to the Order In Council (OIC). At present it is proposed to have two updates to the OIC – one covering Ōhiti and Awatoto and one covering Wairoa. The process could take 4- 5 months each.
20. Consenting processes under the OIC are in full swing with a range of supporting reports for the consent applications underway or completed.
21. We will present a detailed report of Order in Council requirements to Council at March 2025 meeting including progress across the NIWE programme.

Critical programme risks update

22. Land access remains a critical project risk in most projects and especially those with land holdings of whenua Māori (Pōrangahau, Ōhiti and Wairoa). Key sessions are planned with the Māori Land Court whose involvement is critical as we navigate through the Whenua Māori land access issues. Property Specialists are presently being engaged for Pōrangahau, Pākōwhai and Wairoa.
23. Please refer to **Attachment 2** Land Access /Interest update for January 2025 for metrics regarding progress for land access across these projects.

What is coming up at programme level

24. Submission of Project Delivery Plans for the following projects by 7 March 2025:
 - 24.1. Wairoa
 - 24.2. Whirinaki
 - 24.3. Level of Service upgrades to Rapid Repair sites.
25. Progressing first claims for approved Projects, namely Waiohiki, Ohiti, Telemetry and Havelock North.
26. Preparation of re-categorisation for Waiohiki properties to Category 1.
27. Second step Closed Tender procurement for Main Contractor on Waiohiki.
28. Significant landowner engagement across Ōhiti, Pākōwhai and Pōrangahau projects.
29. Set up of Stakeholder Advisory Group (STAG) as required under the Order in Council.

Land Category Projects Updates

Wairoa

30. Significant activity has occurred on the Wairoa Project over recent months with Option 1C now endorsed as the preferred option.
31. Spend to January 2025 on this project is \$3m.

Project progress and engagement

32. Key workshops and meetings of the Tripartite Group occurred prior to consideration by the Regional Council of the preferred option on 13 February.
33. The major risk for this project is Land Access.
34. Substantial costs have been incurred to date and are continuing to be incurred which is a risk to the Crown should the land access not be secured necessary for the project to proceed.
35. The PDP will be submitted by 7 March as is required.

36. From an engagement perspective, engagement with potentially impacted owners of Option 1C and North Clyde residents continued throughout December and January. Two public hui were held in December, plus a Tātau Tātau o Te Wairoa cultural workshop. Other engagement including a drop-in session for engineers and site visits were held.
37. In January, an information evening for land owners on the southern side of the river was held. Workshops for Wairoa District Council, HBRC and TToTW elected officials were held.
38. The Cultural Impact Assessment was received which gives a sound roadmap for moving forward.
39. A dedicated website (www.wairoafloodproject.co.nz) and email address (info@wairoafloodproject.co.nz) have been created and are being well used by the community. The website houses all plans, information, maps, Stakeholder Group minutes and other information.

Whirinaki

40. This project has the large funding shortfall matter to resolve before a Project Delivery Plan can be submitted to Crown and the project progress in earnest. Updated total forecast final costs to include an appropriate contingency have been revised at \$29.6m.
41. Spend to January 2025 on this project is \$2.14m.
42. Indications from Kanoa (MBIE) are that only \$4.7m of funding is eligible to be applied for, therefore leaving a shortfall of at \$14m if we are successful in securing funding via Kanoa.
43. Pan Pac is eager for the project to proceed immediately but officers are not prepared to enter into any further large commitment until the funding matter is resolved.
44. The assessment of Category 3 voluntary buy out of the Cat 2C properties is \$46m and with additional protection still required for Pan Pac.
45. Therefore, the cost benefit assessment reinforces the need for this project to proceed as intended. The question being who is funding the current shortfall of circa \$14m.

Project progress and engagement

46. The team continues to look for value engineering solutions to reduce costs across the project components. Positive progress is being made on alternative material sourcing with lab testing being undertaken that could assist in reducing costs.
47. Updated Quantity Survey of costings has also been undertaken to provide better certainty around costs.
48. The Cultural Impact Assessment from Petane Marae was received and included a strong historical account and is being reviewed and amended by HBRC and Petane Marae.
49. Construction, including enabling works has been delayed further and we are looking at opportunities to bring this forward where possible.
50. Regular newsletters have been sent to the community detailing water sampling on the Esk River, ecology work, Petane Urupā, cone penetration testings, materials assessment (and what makes a good stopbank) and the upcoming community meeting on 26 February 2025.
51. Discussions with mana whenua continue around shortlisted options for flood protection for Petane Urupā and a productive hui was held with Maungaharuru-Tangitū Trust (MTT) and focused on information sharing and bringing everyone up to speed with the project and a potential Memorandum of Understanding to support ongoing engagement.

Waiohiki

- 52. Good progress is being made, with this Project our 'pioneer project' on all fronts.
- 53. Spend to January 2025 on this project is \$1.6m.

Project progress and engagement

- 54. Consent application will be lodged by 14 March with early enablement works underway and material stock piling due in March also.
- 55. Preparation for moving this community from Category 2C into Category 1 is underway.
- 56. Regular newsletters have been sent to the Waiohiki community, include hapū, with updates on Stage 1 enabling works, dust prevention measures, a cultural induction held for contractors and the traffic management. Also included was mention of concurrent work near the site – gravel extraction and Transpower site visit. Flyers and signage were produced with information on the enabling works.
- 57. We also have a signed memorandum of understanding with Ngati Pārau.

Ōhiti

- 58. This project is still going through a Community Engagement phase to determine the final mitigation option. The Community option will cost an additional \$3m which severely impacts the cost benefit assessment of the mitigation works. This matter is coming to a conclusion over the next month after completion of a peer review.
- 59. Spend to January 2025 on this project is \$1.15m.

Project progress and engagement

- 60. Some early works will be carried out in early March to the bridge area.
- 61. The Ohiti OIC defined area will require amendment.
- 62. Landowner engagement also continues with follow-ups to address any questions arising from the information packs delivered in December. Landowner negotiations are ongoing and progressing, with final agreements now dependent on the confirmed details of the design.
- 63. The establishment of the Community Advisory Group (CAG) has been actioned and community newsletters sent advising meeting dates and goals of the group and invited people to contact the CAG for updates.
- 64. We have shared information about the completion of hydraulic modelling for alternative solution and are progressing modelling on the potential impact of proposed solution in larger weather events. Peer review of additional modelling is underway, a 'save the date' for the upcoming community drop-in session and the planned erosion protection works for the Ohiwia Stream shared.
- 65. A hui was held with Te Piringa to discuss ongoing relationships.
- 66. This project is experiencing some delays due to further modelling required, confirmation of design and as landowner meetings and negotiations continue.

Pākōwhai

- 67. Concept design has now been approved and the project is moving into preliminary design. Land access has commenced.
- 68. Spend to January 2025 on this project is \$2.14m.

Project progress and engagement

- 69. There are some large and expensive parcels of land required and early enablement works being planned as part of this.

70. Borrow sites still need identifying and this will be a priority over coming months. The contaminated site issues are being worked through and some other tricky matters related to building proximity close to the alignment.
71. This project is on track.
72. Construction including enabling works is scheduled to start September 2025.
73. Project newsletters were sent to the community and reminders about community meetings scheduled were also sent. There were 70 attendees at the 17 December 2024 community meeting and we also sent a thank you note to attendees with the presentation, meeting FAQs, insurance information sheet and a Rates 101 document.
74. These newsletters included details of recent work from concept to preliminary design, expected timing and completion of geotechnical work, soil testing and ecological reports.
75. A mana whenua meeting is planned for February and the Cultural Impact Assessments have now been received accompanied by a cultural aspirations report.

Pōrangahau

76. Good progress is occurring on the project with land access now the key requirement. Several important tasks are now completed including geotechnical, ecology, contaminated land and rapid property elevation assessments. Draft reports are now available for review.
77. Spend to January 2025 on this project is \$759k.

Project progress and engagement

78. Design has moved to preliminary design with value engineering occurring across what is a challenging construction site being very close to the river and houses along much of the alignment.
79. There are four proposed options to mitigate potential flood impacts on the Marae. We are meeting with Marae members this month to discuss.
80. Monthly site visits and community engagement activities have been carried out and a meeting with landowners will take place in February.
81. Project newsletters were sent to the community which detailed geotechnical and PSI reports, visual assessments, finalising Environmental Impact Assessments, plans for upcoming landowner discussions and borrow pit investigations.
82. The Cultural Impact Assessment is due at the end of March and a scope of work provided.

Telemetry projects

Project progress and engagement

83. Good progress is being made with Telemetry upgrades with a positive budget revision imminent.
84. This project is on track and the delivery phase has now begun.
85. Resourcing and advertising has now begun for contract resources to deliver and manage this work.
86. We've started with our bulk and phased procurement of technical equipment.
87. A webpage for telemetry is now live.
88. Spend to January 2025 on this project is \$535k.

Pump Stations upgrades

Project progress and engagement

89. The Project Delivery Plan has been submitted to Crown and some very good interactive sessions have been held with the 3 Design-Build parties.
90. Ongoing communication has also been occurring with Department of Conservation (DoC) over fish passage and these conversations have been constructive.
91. Tenders are due in late March and an assessment panel is in place to evaluate each tender.
92. This project is on track.
93. We've progressed detailed site investigations on contaminated land matters. The ecology report indicated no significant high risk items, and the first cultural impact assessment was obtained.
94. Construction including enabling works is scheduled to start June 2025.
95. A communications and engagement plan for this project is underway
96. Spend to January 2025 on this project is \$1.1m.

Scheme Reviews

Project progress

97. A review of the HBRC flood and drainage schemes following Cyclone Gabrielle in February 2023 is crucial for assessing their effectiveness in achieving their intended objectives.
98. This review will evaluate the current level of service provided by all the schemes, other than the Upper Tukituki Flood Protection and Scheme and the Heretaunga Plains Flood Protection Scheme which are being reviewed separately.
99. The reviews will identify both strengths and weaknesses in their design and implementation. By analysing the performance during and after the cyclone, the review will uncover areas where improvements are necessary and recommend changes to enhance the overall efficacy of the schemes.
100. Additionally, the review will address emerging challenges such as climate change, land use changes, and over-design event mitigation, ensuring that the schemes remain relevant and adaptive to the evolving needs of stakeholders and the community. This evaluation will ensure that HBRC's flood protection and drainage efforts continue to safeguard the region effectively in the face of future challenges.
101. Spend to January 2025 on this project is \$1.567m.

Scheme Reviews Engagement

102. Engagement with key stakeholders and beneficiaries of the schemes is an essential component to the reviews. The planned engagements will provide an educational view of what a scheme is and then the details of the local scheme.
103. The engagement is using the same model as the IPMO Flood Resilience Projects with a 4 hour drop-in session in the locale and a coffee cart – Coffee and Korero. A survey and conversations between staff and interested beneficiaries and Stakeholders allow the gathering of feedback on what is good and not so good in the existing schemes and potential improvements. This information and the survey will also be replicated online.
104. The team is working closely with the Reimagining Flood Resilience, Kotahi, Rural Partnerships, Integrated Catchment Management and Works Group to ensure broad representation and access to existing community networks.

105. Hastings District Council staff have been forwarded the schedule (refer below) and will attend relevant events and inform Councillors. The conversation is yet to happen with CHBDC and WDC.

Mar-25	Apr-25	May-25	Jun-25	Jul-25
Haumoana/Te Awanga/Maraetotara Saturday 1 March 10 – 2 Haumoana School	Upper Makara Saturday 5 April 10 – 2 Elsthorpe Hall Esk/Whirinaki Saturday 12 April 10 – 2 Esk Church Hall	Raupare /Twyford Saturday 3 May 10 – 2 Venue TBC Karamu Saturday 10 May 10 – 2 Venue TBC Porangahau Wednesday 14 May 4 – 7 With planned NIWE	Nuhaka (Kopuawhara, Whakaki) Saturday 7 June 11 – 1 Venue TBC Wairoa (Paeroa, Tawhara) Saturday 7 June 2 – 4 Venue TBC Poukawa Saturday 21 June 10 – 2 Venue TBC	Puninga/Clive/Muddy Creek Saturday 5 July 10 – 2 Venue TBC

Stopbank Levels of Service Upgrades

106. PDP is being prepared with areas of work being finalised and associated early project level cost estimates which will see healthy contingencies as part of the project budget build.
107. The multi-criteria and prioritisation assessment has identified 5 potential sites. We are in the process of confirming these with the Assets team.
108. Spend to January 2025 on this project is \$340k.

Havelock North

Project progress and engagement

109. This project is being delivered by Hastings District Council and the Crown contract administered by HBRC and NIFF.
110. Early enabling works have commenced as well as required access arrangements underway and modelling in progress.
111. We are working with Hastings District Council currently to agree funding terms between NIFF and HDC and progress the first payment claim for this project.
112. Maintenance with the stream continues and landowner negotiations are expected to be secured ahead of forecast by end of March 2025.
113. Spend to January 2025 on this project is \$590k.

Decision-making considerations

114. 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 *Update on the North Island Weather Events (NIWE) resilience programme* staff report.

Authored by:

Andrew Caseley
Manager Regional Projects /
Programme Director IPMO

Jess Bennett
Programme Finance & Controls Manager

Approved by:

Chris Dolley
Group Manager Asset Management

Attachment/s

- 1 NIWE Programme Summary Dashboard Under Separate Cover – *online only*
- 2 NIWE Land Access Dashboard Jan 25 Under Separate Cover – *online only*

Hawke's Bay Regional Council

26 February 2025

Item 12

Subject: Confirmation of Public Excluded Minutes

That Hawke's Bay Regional Council excludes the public from this section of the meeting being Agenda Item 12 Confirmation of Public Excluded Minutes, 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 are:

General subject of the item to be considered	Grounds under section 48(1) for the passing of the resolution	Reason for passing this resolution
Heretaunga Water Storage Project	<p>s7(2)(f)(ii) Excluding the public is necessary to maintain the effective conduct of public affairs by protecting councillors and/or council employees and contractors/ consultants from improper pressure or harassment</p> <p>s7(2)(b)(ii) Excluding the public is necessary to prevent the disclosure of information which would unreasonably damage the commercial position of the person or company who supplied or who is the subject of the information</p> <p>s7(2)(i) Excluding the public is necessary to enable the local authority holding the information to carry out, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations)</p> <p>s7(2)(j) Excluding the public is necessary to prevent the disclosure or use of official information for improper gain or improper advantage</p>	Sensitive commercial and pricing information in the report has the potential to adversely impact commercial negotiations and, at this preliminary stage, may be misrepresented publicly and negatively impact the project's ongoing commercial discussions.

Authored by:

Leeanne Hooper
Team Leader Governance

Approved by:

Desiree Cull
Strategy & Governance Manager

Hawke's Bay Regional Council

26 February 2025

Item 13

Subject: HBRIC Chair succession

1. That Hawke's Bay Regional Council excludes the public from this section of the meeting, being Agenda Item 13 HBRIC Chair succession, 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 are:

General subject of the item to be considered	Grounds under section 48(1) for the passing of the resolution	Reason for passing this resolution
HBRIC Chair succession	s7(2)(a) Excluding the public is necessary to protect the privacy of natural persons.	In considering the appointment of the HBRIC Chair's successor, the experience and qualifications of the candidate will be discussed.

2. That Tom Skerman be permitted to remain at this meeting, after the public has been excluded, because of his role and expertise as an HBRIC board advisor.

Authored by:

Tom Skerman
HBRIC Ltd Commercial Manager

Approved by:

Wendy Harvey
Council Appointments Committee Chair

Subject: Regional Water Security

1. That Hawke's Bay Regional Council excludes the public from this section of the meeting, being Agenda Item 14 Regional Water Security, 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 are:

General subject of the item to be considered	Grounds under section 48(1) for the passing of the resolution	Reasons for passing this resolution
Regional Water Security	<p>s7(2)(f)(ii) Excluding the public is necessary to maintain the effective conduct of public affairs by protecting councillors and/or council employees and contractors/ consultants from improper pressure or harassment.</p> <p>s7(2)(i) Excluding the public is necessary to enable the local authority holding the information to carry out, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations).</p> <p>s7(2)(j) Excluding the public is necessary to prevent the disclosure or use of official information for improper gain or improper advantage.</p>	<p>Sensitive commercial and pricing information in the report has the potential to adversely impact commercial negotiations and, at this preliminary stage, may be misrepresented publicly and negatively impact the project's ongoing commercial negotiations.</p> <p>Further, deliberations have the potential to impact the privacy of landowners, and commercial arrangements between the Council and the Crown under current, amended or future funding proposals.</p>

2. That Amanda Langley be permitted to remain at this meeting, after the public has been excluded, because of her roles and expertise in the Regional Water Security Programme and its delivery.

Authored by:

Amanda Langley
ProjectHaus

Approved by:

Richard Wakelin
Acting Group Manager Integrated Catchment Management

Hawke's Bay Regional Council

26 February 2025

Item 15

Subject: Regional Deals - Expression of Interest for Hawke's Bay

That Hawke's Bay Regional Council excludes the public from this section of the meeting, being Agenda Item 15 Regional Deals - Expression of Interest for Hawke's Bay, 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 are:

General subject of the item to be considered	Grounds under section 48(1) for the passing of the resolution	Reason for passing this resolution
Regional Deals - Expression of Interest for Hawke's Bay	s7(2)(i) Excluding the public is necessary to enable the local authority holding the information to carry out, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations).	The information is the subject of further negotiations both regionally and with the Crown

Authored by:

Ross McLeod
Chief Executive, HB Regional Recovery Agency

Approved by:

Nic Peet
Chief Executive