



NAPIER
CITY COUNCIL
Te Kaunihera o Ahuriri

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EXTRAORDINARY MEETING OF COUNCIL

Open Agenda

Meeting Date: Thursday 23 February 2023

Time: 11.30am (Adopt Triennial Agreement)

Venue: Large Exhibition Hall
War Memorial Centre
Marine Parade
Napier

Livestreamed via Council's Facebook site

Council Members **Chair:** Mayor Wise

Members: Deputy Mayor Brosnan, Councillors Boag, Browne, Chrystal, Crown, Greig, Mawson, McGrath, Price, Simpson, Tareha and Taylor

Officer Responsible Acting Chief Executive (Richard Munneke)

Administrator Governance Team

Next Council Meeting
Tuesday 14 March 2023

2022-2025 TERM OF REFERENCE - COUNCIL

<i>Chairperson</i>	<i>Her Worship Mayor Kirsten Wise</i>
<i>Deputy Chairperson</i>	<i>Deputy Mayor Annette Brosnan</i>
<i>Membership</i>	<i>All elected members</i>
<i>Quorum</i>	<i>7</i>
<i>Meeting frequency</i>	<i>At least 6 weekly and as required</i>
<i>Executive</i>	<i>Chief Executive</i>

Purpose

The Council is responsible for:

1. Providing leadership to and advocacy on behalf of the people of Napier.
2. Ensuring that all functions and powers required of a local authority under legislation, and all decisions required by legislation to be made by local authority resolution, are carried out effectively and efficiently, either by the Council or through delegation.

Terms of Reference

The Council is responsible for the following powers which cannot be delegated to committees, subcommittees, officers or any other subordinate decision-making body¹:

1. The power to make a rate
2. The power to make a bylaw
3. The power to borrow money, or purchase or dispose of assets, other than in accordance with the long-term plan
4. The power to adopt a long-term plan, annual plan, or annual report
5. The power to appoint a chief executive
6. The power to adopt policies required to be adopted and consulted on under the Local Government Act 2002 in association with the long-term plan or developed for the purpose of the local governance statement, including the 30-Year Infrastructure Strategy
7. The power to adopt a remuneration and employment policy.
8. The power to establish a joint committee with another local authority or other public body².
9. The power to approve or change the District Plan, or any part of that Plan, in accordance with the Resource Management Act 1991.
10. The power to make the final decision on a recommendation from the Parliamentary Ombudsman, where it is proposed that Council not accept the recommendation.
11. The power to make a final decision whether to adopt, amend, revoke, or replace a local Easter Sunday shop trading policy, or to continue a local Easter Sunday shop trading policy without amendment following a review.³

1 Schedule 7, Clause 32. Local Government Act 2002.

2 Schedule 7, Clause 30A

3 Shop Trading Hours Act 1990, Section 5D.

Delegated Power to Act

The Council retains all decision making authority, and will consider recommendations of its committees prior to resolving a position.

Specific matters that will be considered directly by Council include without limitation unless by statute:

1. Direction and guidance in relation to all stages of the preparation of Long Term Plans and Annual Plans
2. Approval or amendment of the Council's Standing Orders⁴.
3. Approval or amendment the Code of Conduct for Elected Members⁵.
4. Appointment and discharging of committees, subcommittees, and any other subordinate decision-making bodies⁶.
5. Approval of any changes to the nature and delegations of any Committees.
6. Appointment and discharging of members of committees (as required and in line with legislation in relation to the role and powers of the Mayor) ⁷.
7. Approval of governance level strategies, plans and policies which advance council's vision and strategic goals.
8. Resolutions required to be made by a local authority under the Local Electoral Act 2001, including the appointment of an electoral officer.
9. Reviewing of representation arrangements, at least six yearly⁸.
10. Approval of any changes to city boundaries under the Resource Management Act.
11. Appointment or removal of trustees, directors or office holders to Council's Council-Controlled Organisations (CCOs) and Council Organisations (COs) and to other external bodies.
12. Approval the Local Governance Statement as required under the Local Government Act 2002.
13. Approval of the Triennial Agreement as required under the Local Government Act 2002.
14. Allocation of the remuneration pool set by the Remuneration Authority for the remuneration of elected members.
15. To consider and decide tenders for the supply of goods and services, where tenders exceed the Chief Executive's delegated authority, or where projects are formally identified by Council to be of particular interest. In addition, in the case of the latter, milestone reporting to Council will commence prior to the procurement process.

4 Schedule 7, Clause 27,

5 Schedule 7, Clause15,

6 Schedule 7, Clause30,

7 Schedule 7, Clause 30,

8 Local Electoral Act 2001, Section 19H.

ORDER OF BUSINESS

Karakia

Apologies

Nil

Conflicts of interest

Public forum

Announcements by the Mayor including notification of minor matters not on the agenda

Note: re minor matters only - refer LGOIMA s46A(7A) and Standing Orders s9.13

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.

Announcements by the management

Confirmation of minutes

That the Draft Minutes of the Ordinary Meeting of Council held on Thursday, 2 February 2023 be confirmed as a true and accurate record of the meeting.35

Agenda items

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Minor matters not on the agenda – discussion (if any)

Reports under delegated authority

Public Excluded

AGENDA ITEMS

1. 2022-2025 TRIENNIAL AGREEMENT

Type of Report:	Legal and Operational
Legal Reference:	Local Government Act 2002
Document ID:	1617692
Reporting Officer/s & Unit:	Anna Eady, Acting Team Leader Governance

1.1 Purpose of Report

To present the draft 2022-2025 Triennial Agreement to Council for adoption.

Officer's Recommendation

That Council:

- a. **Receive** the report titled 2022-2025 Triennial Agreement.
- b. **Adopt** the draft 2022-2025 Triennial Agreement (**Attachment 1**).
- c. **Authorise** the Mayor and Chief Executive to execute the draft Triennial Agreement 2022-2025 on behalf of the Napier District Council.

1.2 Background Summary

Section 15 of the Local Government Act 2002 requires that all local authorities in a region must enter into an agreement by 1 March following a triennial election, which includes:

- protocols for communication and co-ordination among the local authorities,
- a statement as to how the local authorities will comply with section 16 of the Local Government Act regarding proposals for new regional council activities (as these would potentially impact on all signatories), and
- processes and protocols through which all the local authorities can participate in identifying, delivering, and funding facilities and services of significance to more than one district.

For Hawke's Bay this Triennial Agreement must be considered, adopted and signed by the following councils:

Primary Parties

(those local authorities whose boundaries are completely encompassed within the Hawke's Bay Region)

- Central Hawke's Bay District Council
- Hastings District Council
- Hawke's Bay Regional Council
- Napier City Council
- Wairoa District Council

Non-Primary Parties

(those local authorities whose boundaries bisect the Hawke's Bay Region and whose principal identification is with another Region)

- Rangitikei District Council
- Taupo District Council

It is recognised that for Non-Primary Parties the degree of involvement in various aspects of the Agreement will be in proportion to the degree to which these parties assess how they will benefit or be affected by decisions, issues, proposals or other matters.

1.3 Issues

The development of the Triennial Agreement has been coordinated by the Hawke's Bay Regional Council (HBRC), with direction by the leadership of the various party Councils, to ensure that it accurately reflects and places appropriate emphasis on the regional priorities for the 2022-2025 triennium. Priorities for the next three years reflected in the agreement were also the subject of discussion at the Regional Collaboration Day in November 2022.

The strategic priorities in the draft Triennial Agreement remain aligned to the five pou of the Matariki Action Plan within the Hawke's Bay Regional Development Strategy:

- Whānau Wellbeing
- Employment Skills and Capability
- Resilient Infrastructure
- Economic Growth
- Promoting Our Place

1.4 Significance and Engagement

Triennial Agreements are guided by the Local Government Act 2002 and do not trigger Council's Significance and Engagement Policy or any other public consultation requirements.

1.5 Implications**Financial**

The Agreement outlines where shared services do or may occur, and these may have financial implications over the triennium which have been or will be negotiated amongst the party councils.

Social & Policy

Where a Council makes a decision which departs from anything agreed through this process, that Council must advise the other parties of the decision and reason for the departure.

Risk

Not applicable.

1.6 Options

Council, along with its neighbouring councils, must adopt a Triennial Agreement outlining the information required under section 15 of the Local Government Act 2022 by 1 March 2023.

1.7 Development of Preferred Option

The Regional Leaders Forum has endorsed the draft Agreement and recommends Councils in Hawke's Bay consider the agreement and adopt it before the 1 March legislated deadline.

1.8 Attachments

- 1 2022-2025 Triennial Agreement - draft for adoption (Doc Id 1635910) [↓](#)

Hawke's Bay Region Triennial Agreement

for the Triennium October 2022 - 2025



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1. Parties

1.1 The parties to this Triennial Agreement (the Agreement) are:

Primary Parties (those local authorities whose boundaries are completely encompassed within the Hawke's Bay Region)

- Central Hawke's Bay District Council
- Hastings District Council
- Hawke's Bay Regional Council
- Napier City Council
- Wairoa District Council

Non-Primary Parties (those local authorities whose boundaries bisect the Hawke's Bay region and whose principal identification is with another region)

- Rangitikei District Council
- Taupo District Council

1.2 This Agreement applies to all local authorities in the Hawke's Bay region. However, it is recognised that for Non-Primary Parties the degree of involvement in various aspects of the Agreement will be in proportion to the degree to which these parties assess how they will benefit or be affected by decisions, issues, proposals or other matters.

2. Purpose

2.1 The Triennial Agreement provides the framework for local government in the Hawke's Bay region to:

- work collaboratively
- improve communication and coordination at all levels, and
- maximise effectiveness and efficiency

in order to meet the purposes of Local Government to:

- enable democratic local decision-making by and on behalf of communities
- promote the social, economic, environmental and cultural wellbeing of our communities in the present and for the future.

2.2 This agreement is deemed to duly constitute fulfilment of the requirements of section 15 of the Local Government Act 2002.

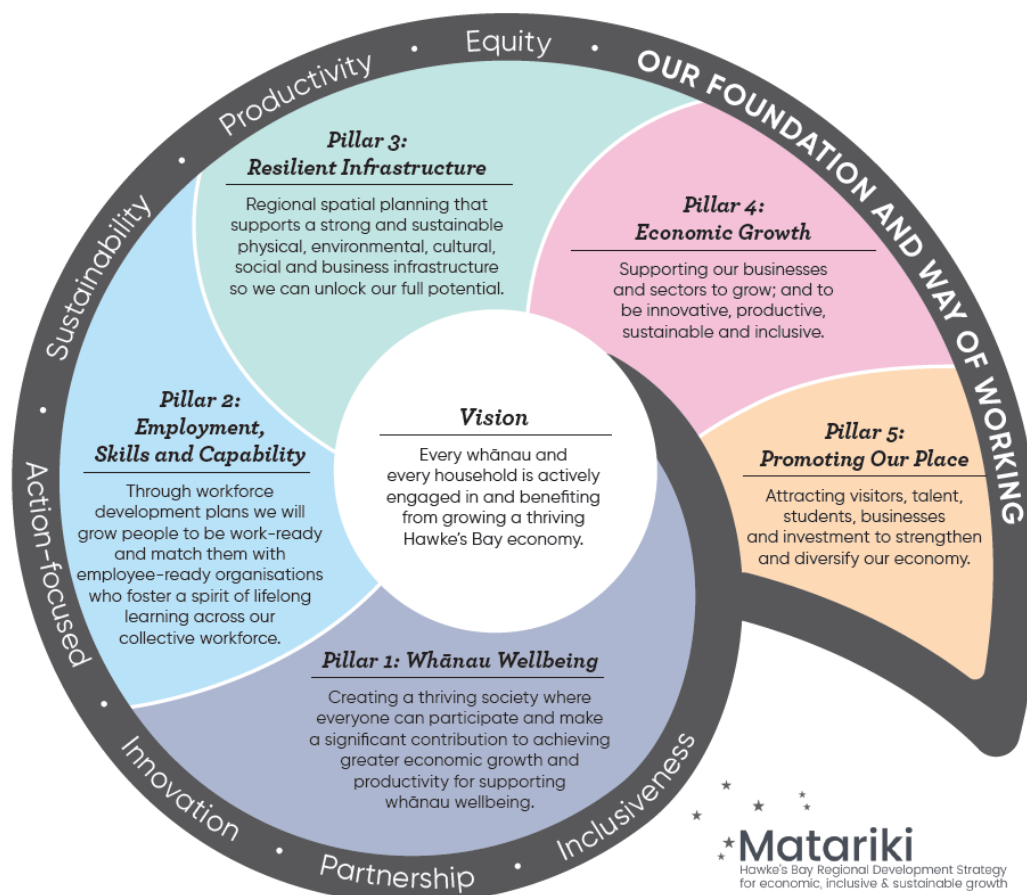
2.3 It should be noted that as well as the encouragement towards collaboration, the Local Government Act 2002 and other legislation recognises that regional councils and territorial authorities have different responsibilities. These differences provide an important context for collaboration between the councils. The requirements contained in legislation for collaboration between local authorities are contained in Appendix Two to this Agreement.

3. Principles

- 3.1 Parties to this Agreement agree to work together in good faith for the good governance of their local communities and the region; to develop our collective strategic capacity from available resources and achieve our strategies by working together, through co-design and partnership so every whānau and every household is actively engaged in growing a thriving Hawke's Bay economy to support inclusive and connected communities and sustainable and resilient environments.
- 3.2 In doing so, we:
- recognise that obligations to the Treaty of Waitangi – Te Tiriti, and to provide opportunities for Māori to contribute to local decision-making
 - acknowledge that the communities within the region are diverse and encompass a range of desired outcomes and objectives
 - support the establishment of processes for communication and collaboration at both governance and management levels in ways that will enhance the overall performance and reputation of local government in the region
 - recognise that collaboration and co-operation between local authorities of the region can bring efficiencies in terms of planning, administration costs and decision-making and consultation. There is also the potential to increase available resources and promote co-operative approaches in making strategic choices
 - will investigate further opportunities for collaboration, co-operation, regional funding and shared services between local authorities of the region in addition to those prescribed by statute or already being undertaken
 - agree that collaborative or shared services opportunities may occur between two or more parties to this Agreement, but not in every case between all parties to this Agreement. Although collaboration and co-operation are outcomes that should be strived for, each local authority has the legislative mandate to govern their own area as appropriate
 - will make every effort to accommodate, acknowledge, or at least fairly represent the dissenting view where some parties to this Agreement have a significant disagreement with the position of other parties to the Agreement
 - will show leadership to ensure the implementation of this Agreement makes a positive difference for Hawke's Bay.

4. Strategic Priorities

Hawke's Bay Regional Development Strategy Matariki Action Plan (MAP) Overview



- 4.1 Local Government priority areas for the 2022-25 triennium, remain aligned to the five pou of Matariki (above).
- 4.2 At the Hawke's Bay Councils' Regional Collaboration Day on 21 November 2022, elected members prioritised investment in the following areas (noting they are interrelated and the first two priority areas are necessary to support the achievement of the other three areas)
- Regional Spatial Planning
 - Collaboration
 - Climate Change and Water
 - Transport
 - Housing
- 4.3 Priority areas where formal cooperative approaches exist or are proposed include:
- Regional Spatial Planning
 - Future Development Planning Joint Committee
 - Collaboration
 - Matariki Governance Group

- Climate Change and Water
 - Climate Action Joint Committee (TBC)
 - Clifton to Tangoio Coastal Hazards Strategy Joint Committee
 - HB CDEM Joint Committee
 - Hb3waters.nz
 - Transport
 - Regional Transport Committee
- 4.4 Any new priorities or services of significance to more than one district will be communicated to the Chief Executives by the Hawke's Bay Leaders' Forum for further development in accordance with the protocols in section 5 following.

5. Protocols for communication and coordination

- 5.1 It is recognised that a significant level of formal and informal cooperation already exists between Hawke's Bay's local authorities. Further to this existing cooperation, parties to this Agreement will:
- Hold monthly meetings of the Mayors of the primary parties and the Regional Chair (aligned to the other Committee meetings as appropriate) to formally communicate and coordinate on matters of mutual interest, in accordance with arrangements detailed in Appendix Two.
 - Invite the Chief Executives of the primary parties to attend every Forum for a period of time.
 - At the first meeting following the local body elections, elect a Chair of the Forum from among the attendees. The Council whom the elected Chair represents will provide the administrative support for the Forum for that triennium.
 - Share resources where feasible for the purposes of preparing information on the various communities in the region. These resources may include information on demographics, survey data, scientific studies and the analysis of social, economic, environmental and cultural trends.
 - Develop joint approaches to the development of annual and long term plans and, where appropriate, to engagement with Central Government, iwi governance bodies and tribal entities, national agencies and community organisations.
 - Provide early notification of, and participation in decisions that may affect other local authorities in the region.
 - Make draft strategies, policies, and plans available to other local authorities in the region for discussion and development, where they may have regional implications or implications beyond the boundaries of the decision-making council.
 - Apply a "no surprises" policy whereby early notice will be given over disagreements between local authorities concerning policy or programmes before the matter is put out to the public.
 - Review the performance of the Triennial Agreement and benefits realised in the priority areas at least quarterly, as outlined in section 6 following.
 - Establish, as necessary, other forums including bi-lateral meetings, at both political and operational levels that will help enhance and achieve the purpose of this Agreement.
 - Provide a process for initiating reviews of regional forums that are not working optimally in the view of one or more parties.

6. Benefits Realisation

- 6.1 Achievements in each of the priority areas will be reported to the HB Leaders Forum quarterly, in a format to be agreed by the Forum.

7. Significant New Activities Proposed By Hawke's Bay Regional Council

- 7.1 If the Regional Council or a Regional Council controlled organisation proposes to undertake a significant new activity, and these activities are already undertaken or proposed to be undertaken by one or more territorial authorities within the region, Section 16 of the Local Government Act applies.
- 7.2 However, in the spirit of this Agreement, the parties agree to an expanded consultation and communication process which includes discussion of the issues involved at the first available monthly meeting (see 5.1 above), and to provide drafts of proposals to affected Councils for early comment in accordance with the requirements of sections 77-87 of the Local Government Act (decision-making and consultation).
- 7.3 The parties also agree that prior to implementing the formal provisions of section 16¹:
- the Regional Council will inform all territorial authorities within the region of
 - the nature of the activity proposed to be undertaken
 - the scope of the proposal (including size, districts covered, and why); and
 - the reasons for the proposal.
 - territorial authorities will be given a reasonable period of time, but no less than 40 working days, to respond to any such proposal. The Regional Council agrees to fully consider any submissions and representations on the proposal made by territorial authorities within the region.

8. Consultation in Relation to the Regional Policy Statement

- 8.1 The following consultation process will apply to any change, variation, or review of the Hawke's Bay Regional Policy Statement, and the preparation of any future Regional Policy Statement:
- The Regional Council will seek the input of territorial authorities into the review of the Regional Policy Statement
 - The Regional Council will make available to all local authorities, for discussion and development, draft copies of:
 - any change or variation of to the Regional Policy Statement
 - any proposed Regional Policy Statement.
 - Territorial authorities will be given a reasonable period of time, but no less than [20] working days, to respond to any such proposal. The Regional Council agrees to consider fully any submissions and representations on the proposal made by territorial authorities within the Region.
 - The parties to this agreement acknowledge their obligation to act in accordance with the principles of collaboration set out in the Local Government Act 2002.
- 8.2 Nothing in this Agreement shall interfere with the rights, functions or duties given by statute to any party.

¹ Appendix Three

9. Dispute Resolution

- 9.1 In the event of a disagreement between the Councils as to the interpretation or implementation of this Agreement the Councils commit to working in good faith to resolve the disagreement, if not then the matter in dispute will be referred to mediation.
- 9.2 If the Councils cannot agree on the appointment of a mediator, the President of the Hawke's Bay District Law Society will be requested to appoint the mediator. The costs of the mediation shall be borne by the Councils in equal shares.

10. Revision of the Agreement

- 10.1 The Agreement is effective from the date of signing until such time as the Agreement is either amended by the agreement of all parties or is renewed following the 2025 local authority elections (by 1 March 2026).
- 10.2 If a party to the Agreement requests a review of its terms within the triennium, such a review will begin within four weeks of the request being lodged. Otherwise the Agreement will be renewed following the local body elections as outlined in 10.1 above.
- 10.3 Hawke's Bay Regional Council will be the first Council responsible for servicing this Agreement.

11. Parties - Signatures

11.1 This Agreement is signed on this day **DDth day of MM YYYY** by the following on behalf of their respective authorities.

Primary Parties

Central Hawke's Bay District Council

.....

Mayor Alex Walker

.....

Chief Executive Doug Tate

Hastings District Council

.....

Mayor Sandra Hazlehurst

.....

Chief Executive Nigel Bickle

Hawke's Bay Regional Council

.....

Chair Hinewai Ormsby

.....

Chief Executive James Palmer

Napier City Council

.....

Mayor Kirsten Wise

.....

Chief Executive Richard Munneke

Wairoa District Council

.....

Mayor Craig Little

.....

Chief Executive Kitea Tipuna

Non-Primary Parties

Rangitikei District Council

.....

Mayor Andy Watson

.....

Chief Executive Peter Beggs

Taupo District Council

.....

Mayor David Trewavas

.....

Chief Executive Gareth Green

Appendix One: Meetings

Hawke's Bay Leaders' Forum

Meetings will be arranged and minutes kept by the appointed Chair - elected each three-year term - and minutes distributed to all parties to the Agreement. This does not preclude meetings being arranged, on request, by Councils other than that of the appointed Chair.

Given the importance accorded to this Agreement each Council will be represented by its Mayor/Chairperson and Chief Executive.

Where appropriate, and agreed, the Chief Executive of a Council Controlled Organisation (CCO) may attend on an item related to that CCO's activities.

Media and communications contact (including the provision of information to the public on request) in relation to matters covered in the Agreement shall be shared on a rotating basis.

All public communications from these meetings shall be approved by all participants prior to their release.

Where a significant decision or issue affects a particular Council, or its community, it should, in partnership with the other Councils of the region, have the lead role in formulating the collective response of the region's local authorities to this issue or decision.

Responsibility for servicing, and making media comment on behalf of, existing specific regional and sub-regional forums, will lie within those specific forums.

Appendix Two: Legislative Context

Local Government Act

Section 15 Triennial agreement

- (1) Not later than 1 March after each triennial general election of members, all local authorities within each region must enter into an agreement under this section covering the period until the next triennial general election of members.
- (2) An agreement under this section must include—
 - (a) protocols for communication and co-ordination among the local authorities; and
 - (b) a statement of the process by which the local authorities will comply with section 16 in respect of proposals for new regional council activities; and
 - (c) processes and protocols through which all local authorities can participate in identifying, delivering, and funding facilities and services of significance to more than 1 district.
- (3) An agreement under this section may also include—
 - (a) commitments by local authorities within the region to establish or continue 1 or more joint committees or other joint governance arrangements to give better effect to 1 or more of the matters referred to in subsection (2); and
 - (b) the matters to be included in the terms of reference for any such committees or arrangements, including any delegations.
- (4) An agreement under this section may be varied by agreement between all the local authorities within the region.
- (5) An agreement under this section remains in force until it is replaced by another agreement.
- (6) If a decision of a local authority is significantly inconsistent with, or is expected to have consequences that will be significantly inconsistent with, the agreement under this section that is currently in force within the region, the local authority must, when making the decision, clearly identify—
 - (a) the inconsistency; and
 - (b) the reasons for the inconsistency; and
 - (c) any intention of the local authority to seek an amendment to the agreement under subsection (4).
- (7) As soon as practicable after making any decision to which subsection (6) applies, the local authority must give to each of the other local authorities within the region notice of the decision and of the matters specified in that subsection.

Section 14 Principles relating to local authorities

- (1) in performing its role, a local authority must act in accordance with the following principles:
 - (e) a local authority should actively seek to collaborate and cooperate with other local authorities and bodies to improve the effectiveness and efficiency with which it achieves its identified priorities and desired outcomes.

Resource Management Act 1991

Schedule 1 Preparation, change, and review of policy statements and plans

3A Consultation in relation to policy statements

- (1) A triennial agreement entered into under section 15(1) of the Local Government Act 2002 must include an agreement on the consultation process to be used by the affected local authorities in the course of—
 - (a) preparing a proposed policy statement or a variation to a proposed policy statement; and
 - (b) preparing a change to a policy statement; and
 - (c) reviewing a policy statement.
- (2) If an agreement on the consultation process required by subclause (1) is not reached by the date prescribed in section 15(1) of the Local Government Act 2002,—
 - (a) subclause (1) ceases to apply to that triennial agreement; and
 - (b) 1 or more of the affected local authorities—
 - (i) must advise the Minister and every affected local authority as soon as is reasonably practicable after the date prescribed in section 15(1) of the Local Government Act 2002; and
 - (ii) may submit the matter to mediation.
- (3) If subclause (2) applies, the parts of the triennial agreement other than the part relating to the consultative process referred to in subclause (1) may be confirmed before—
 - (a) an agreement on the consultative process is reached under subclauses (4) and (5)(a); or
 - (b) the Minister makes a binding determination under subclause (5)(b).
- (4) Mediation must be by a mediator or a mediation process agreed to by the affected local authorities.
- (5) If the matter is not submitted to mediation or if mediation is unsuccessful, the Minister may either—
 - (a) make an appointment under section 25 the purpose of determining a consultation process to be used in the course of preparing a proposed policy statement or reviewing a policy statement; or
 - (b) make a binding determination as to the consultation process that must be used.
- (6) The consultative process must form part of the triennial agreement, whether or not the other parts of the triennial agreement have been confirmed, in the event that—
 - (a) an agreement is reached under subclause (4) or subclause (5)(a) as to a consultative process, as required by subclause (1); or
 - (b) the Minister makes a binding determination under subclause (5)(b).
- (7) In this clause, **affected local authorities** means—
 - (a) the regional council of a region; and
 - (b) every territorial authority whose district is wholly or partly in the region of the regional council.

Appendix Three: Significant new activities proposed by regional Council

LGA Section 16 Significant new activities proposed by regional council

- (1) This section applies if,—
 - (a) in the exercise of its powers under section 12(2), a regional council proposes to undertake a significant new activity; or
 - (b) a regional council-controlled organisation proposes to undertake a significant new activity; and
 - (c) in either case, 1 or more territorial authorities in the region of the regional council—
 - (i) are already undertaking the significant new activity; or
 - (ii) have notified their intention to do so in their long-term plans or their annual plans.
- (2) When this section applies, the regional council—
 - (a) must advise all the territorial authorities within its region and the Minister of the proposal and the reasons for it; and
 - (b) must include the proposal in the consultation document referred to in section 93A.
- (3) A proposal included in the consultation document referred to in section 93A must include—
 - (a) the reasons for the proposal; and
 - (b) the expected effects of the proposal on the activities of the territorial authorities within the region; and
 - (c) the objections raised by those territorial authorities, if any.
- (4) If, after complying with subsection (2), the regional council indicates that it intends to continue with the proposal, but agreement is not reached on the proposal among the regional council and all of the affected territorial authorities, either the regional council or 1 or more of the affected territorial authorities may submit the matter to mediation.
- (5) Mediation must be by a mediator or a mediation process—
 - (a) agreed to by the relevant local authorities; or
 - (b) in the absence of an agreement, as specified by the Minister.
- (6) If mediation is unsuccessful, either the regional council or 1 or more affected territorial authorities may ask the Minister to make a binding decision on the proposal.
- (7) Before making a binding decision, the Minister must—
 - (a) seek and consider the advice of the Commission; and
 - (b) consult with other Ministers whose responsibilities may be affected by the proposal.
- (8) This section does not apply to—
 - (a) a proposal by a regional council to establish, own, or operate a park for the benefit of its region; or
 - (b) a proposal to transfer responsibilities; or
 - (c) a proposal to transfer bylaw-making powers; or
 - (d) a reorganisation application under [Schedule 3](#); or
 - (e) a proposal to undertake an activity or enter into an undertaking jointly with the Crown.
- (9) For the purposes of this section,—

affected territorial authority means a territorial authority—

 - (a) the district of which is wholly or partly in the region of a regional council; and
 - (b) that undertakes, or has notified in its long-term plan or annual plan its intention to undertake, the significant new activity

annual plan—

- (a) means a report adopted under section 223D of the Local Government Act 1974; and
- (b) includes such a report that section 281 applies to

new activity—

- (a) means an activity that, before the commencement of this section, a regional council was not authorised to undertake; but
- (b) does not include an activity authorised by or under an enactment

regional council-controlled organisation means a council-controlled organisation that is—

- (a) a company—
 - (i) in which equity securities carrying 50% or more of the voting rights at a meeting of the shareholders of the company are—
 - (A) held by 1 or more regional councils; or
 - (B) controlled, directly or indirectly, by 1 or more regional councils; or
 - (ii) in which 1 or more regional councils have the right, directly or indirectly, to appoint 50% or more of the directors of the company; or
- (b) an organisation in respect of which 1 or more regional councils have, whether or not jointly with other regional councils or persons,—
 - (i) control, directly or indirectly, of 50% or more of the votes at any meeting of the members or controlling body of the organisation; or
 - (ii) the right, directly or indirectly, to appoint 50% or more of the trustees, directors, or managers (however described) of the organisation.

2. RATES REMISSION IN RESPONSE TO SIGNIFICANT EXTRAORDINARY CIRCUMSTANCES

<i>Type of Report:</i>	Legal and Operational
<i>Legal Reference:</i>	Local Government (Rating) Act 2002
<i>Document ID:</i>	1637917
<i>Reporting Officer/s & Unit:</i>	Garry Hrustinsky, Investment and Funding Manager Caroline Thomson, Chief Financial Officer

2.1 Purpose of Report

To seek delegation from Council to approve rates remissions in response to Significant Extraordinary Circumstances being the impact of Cyclone Gabrielle on Tuesday 14 February 2023.

Officer's Recommendation

That Council:

- a. **Approve** that the impact of Cyclone Gabrielle meets the requirements as set out in the Rates Remission Policy for Remission for Significant Extraordinary Circumstances, and will relate to those that have been displaced permanently from their household as a result of cyclone damage.
- b. **Approve** the remission for qualifying rating units for the full 2022/23 year (i.e. all instalments).
- c. **Approve** the delegation for the decision on the individual remission be provided to the Director Corporate Services and Chief Financial Officer.
- d. **Approve** unbudgeted funding up to \$200,000 for the purpose of Rates Remission for Significant Extraordinary Circumstances.
- e. **Note** that any relief package will be sourced from unbudgeted funding and will impact on Council's year-end position.
- f. **Note** that a form will be made available to those impacted following Council approval of the remission. The application form will be available on the Council website, Customer Services and our library network.

2.2 Background Summary

On Monday 13 and Tuesday 14 February 2023, Cyclone Gabrielle moved across the east coast of the North Island. The cyclone caused significant damage to infrastructure, flooding in a number of areas, landslips, and near-complete destruction of properties in the low lying areas of Eskdale.

2.3 Issues

Information on the number of properties in the greater Napier area classified as uninhabitable or condemned is yet to be sourced. During the November 2020 floods, approximately 100 properties were classified as uninhabitable or condemned in Napier. Civil Defence and the NCC City Strategy department are both working to provide a comprehensive list of properties impacted. The list will change daily over coming weeks.

2.4 Significance and Engagement

Civil Defence and Council officers are both working to provide a comprehensive list of properties impacted. Access is limited in some areas due to physical obstacles (e.g. damaged roads) and biohazards left from sewerage, ponding water, and airborne particulates.

2.5 Implications

Financial

At this early stage the financial impact is unknown. Council will be advised as the information becomes available. From prior experience with the Napier floods in November 2020, Council redirected \$200,000 for the purpose of rates remissions.

Please note that Council does not have any budget available to provide rates relief. Any relief package will be sourced from unbudgeted funding and will impact on Council's year-end position.

Social & Policy

Extract from the Rates Remission Policy:

“Remission of Rates in Response to Significant Extraordinary Circumstances being identified by Council.

Objective

To enable Council to provide rates remission to assist ratepayers in response to Significant Extraordinary Circumstances impacting Napier's ratepayers.

Definitions

Financial Hardship: for the purpose of this provision is defined as the inability of a person, after seeking recourse from Government benefits or applicable relief packages, to reasonably meet the cost of goods, services and financial obligations that are considered necessary according to New Zealand standards. In the case of a ratepayer who is not a natural person, it is the inability, after seeking recourse from Government benefits or applicable relief packages, to reasonably meet the cost of goods, services and financial obligations that are considered essential to the functioning of that entity according to New Zealand standards.

Conditions and Criteria

For this policy to apply Council must first have identified that there have been Significant Extraordinary Circumstances affecting the ratepayers of Napier, that Council wishes to respond to.

Once Significant Extraordinary Circumstances have been identified by Council, the criteria and application process (including an application form, if applicable), will be made available.

For a Rating Unit to receive a remission under this policy it needs to be an “Affected Rating Unit” based on an assessment performed by officers, following guidance provided through a resolution of Council.

Council resolution will include:

- 1. That the resolution applies under the Rates Remission Policy; and*
- 2. Identification of the Significant Extraordinary Circumstances triggering the policy (including both natural and man-made events); and*

3. *How the Significant Extraordinary Circumstances are expected to impact the community (e.g. financial hardship); and*
4. *The type of Rating Unit the remission will apply to; and*
5. *Whether individual applications are required or a broad based remission will be applied to all affected Rating Units or large groups of affected Rating Units; and*
6. *What rates instalment/s the remission will apply to; and*
7. *Whether the remission amount is either a fixed amount, percentage, and/or maximum amount to be remitted for each qualifying Rating Unit.*

Explanation

The specific response and criteria will be set out by Council resolution linking the response to specific Significant Extraordinary Circumstances. The criteria may apply a remission broadly to all Rating Units or to specific groups or to Rating Units that meet specific criteria such as proven Financial Hardship, a percentage of income lost or some other criteria as determined by council and incorporated in a council resolution.

Council will indicate a budget to cover the value of remissions to be granted under this policy in any specific financial year.

The types of remission that may be applied under this policy include:

- *The remission of a fixed amount per Rating Unit either across the board or targeted to specific groups such as:*
- *A fixed amount per residential Rating Unit*
- *A fixed amount per commercial Rating Unit"*

Risk

This is a community support measure.

2.6 Options

The options available to Council are as follows:

- a. Approve the Rates Remission for Significant Extraordinary Circumstances as a result of Cyclone Gabrielle.
- b. Do not approve the Rates Remission for Significant Extraordinary Circumstances as a result of Cyclone Gabrielle.

AND:

- c. Approve unbudgeted funding of \$200,000 for "Remission of Rates in Response to Significant Extraordinary Circumstances being identified by Council".
- d. Approve unbudgeted funding of a different amount for "Remission of Rates in Response to Significant Extraordinary Circumstances being identified by Council"
- e. Do not approve funding for the Remission for Significant Extraordinary Circumstances as set out in the Rates Remission Policy

2.7 Development of Preferred Option

Approve the cyclone event as being eligible for a Remission for Significant Extraordinary Circumstances under the Rates Remission policy for qualifying rating units. Provide \$200,000 to support those that have been impacted and displaced as a result of the cyclone.

2.8 Attachments

- 1 Rates Remission Policy (Doc Id 1638135) [↓](#)

RATES REMISSION POLICY



NAPIER
CITY COUNCIL
Te Kaunihera o Ahuriri

Rates Remission Policy



Adopted by	Napier City Council on 01 June 2021
Relevant Legislation	Local Government Act 2002, Local Government (Rating) Act 2002 Building Act 2004 Rating Valuations Act 1998
NCC Documents Referenced	Reviewed and amended as part of 2020/21 Annual Plan Reviewed and amended as part of Revenue & Financing Policy Review (adopted 11 February 2021). Reviewed and amended in preparation for the Long Term Plan 2021-2031.

Purpose

To enable Council to remit all or part of the rates on a rating unit under Section 85 of the Local Government (Rating) Act 2002 where a Rates Remission Policy has been adopted and the conditions and criteria in the policy are met.

Policy

1. Remission of Penalties

Objective

The objective of this part of the Rates Remission Policy is to enable Council to act fairly and reasonably in its consideration of rates which have not been received by the Council by the penalty date due to circumstances outside the ratepayer's control.

Conditions and Criteria

Penalties incurred will be automatically remitted where Council has made an error which results in a penalty being applied.

Remission of one penalty will be considered in any one rating year where payment has been late due to significant family disruption. This will apply in the case of death, illness, or accident of a family member, at about the times rates are due.

Remission of the penalty will be considered if the ratepayer forgets to make payment, claims a rates invoice was not received, is able to provide evidence that their payment has gone astray in the post, or the late payment has otherwise resulted from matters outside their control. Each application will be considered on its merits and remission will be granted where it is considered just and equitable to do so.

Remission of a penalty will be considered where sale has taken place very close to due date, resulting in confusion over liability, and the notice of sale has been promptly filed, or where the solicitor who acted in the sale for the owner acted promptly but made a mistake (e.g. inadvertently provided the wrong name and address) and the owner cannot be contacted. Each case shall be treated on its merits.

Penalties will also be remitted based on the application, by officers, of Council criteria established after Council has identified that Significant Extraordinary Circumstances have occurred that warrants further leniency in relation to the enforcement of penalties that would otherwise have been payable. The criteria to be applied will be set out in a council resolution that will be linked to the specific Significant Extraordinary Circumstances that have been identified by Council.

Penalties will also be remitted where Council's Chief Financial Officer considers a remission of the penalty, on the most recent instalment, is appropriate as part of an arrangement to collect outstanding rates from a ratepayer.

2. Remission for Farmland Under 5 Hectares

Objective

To provide rates relief for farms where a Rating Unit is less than 5 hectares.

Conditions and Criteria

- The Rating Unit must be used predominantly for land based agriculture or farming activities.
- Remission will be revoked where a change in land use has occurred.

The amount remitted will be the difference between the rates calculated on a Residential or Rural Residential differential and a Rural differential.

Ratepayers wishing to claim remission under this part of the policy must make an application in writing addressed to the Chief Financial Officer.

The application for rates remission must be made to Council by the 30th of April prior to the commencement of the rating year. Any remission for applications received during a rating year will be applicable from the commencement of the following rating year. Remissions will not be backdated. Declarations must be renewed every 3 years.

3. Remission of Refuse Collection and/or Kerbside Recycling Targeted Rates

Objective

To enable Council to provide rates remission where, refuse collection or kerbside recycling services are not able to be provided, or where a ratepayer receives a reduced service.

Conditions and Criteria

- Remission of part of the charge may be provided where a Council service is not provided or where Council officers have approved an alternative service.
- Remission of part of the charge be provided where a ratepayer applies for a reduced service, and a Council officer deems a reduced service to be appropriate. Under this condition, Refuse Collection may be reduced from a weekly service to a fortnightly service (or from a thrice-weekly service to a weekly service for properties within the CBD).
- Applications for remission must be made in writing by the ratepayer or their authorised agent.
- Remission may be revoked where a change in service has occurred.

Applications must be made to Environmental Solutions. Applications will be advised to the Chief Financial Officer for approval.

4. Remission for Residential Properties Used Solely as a Single Residence

Objective

To enable Council to provide rates remission where properties that are identified as having separately used or inhabited portions are used solely as a single family residence.

Conditions and Criteria

Applications for rates remission must be made in writing by the ratepayer or their authorised agent.

A signed declaration must be provided to Council stating that the properties are used as a single family residence. The application must be made to Council by the 30th of April prior to the commencement of the rating year. Any remission for applications received during a rating year will be applicable from the commencement of the following rating year. Remissions will not be backdated. Declarations must be renewed every 3 years.

Accommodation arrangements must not be for pecuniary benefit.

5. Remission for Water Rates (by meter)

Objective

To provide ratepayers with a measure of relief by way of partial rates remission where, as a result of the existence of a water leak on the Rating Unit which they occupy the payment of fuller rates is inequitable, or where officers are convinced that there are errors in the data relating to water usage.

Conditions and Criteria

- The existence of a significant leak on the occupied Rating Unit has been established and there is evidence that steps have been taken to repair the leak as soon as possible after the detection, or officers have reviewed the usage data and are convinced that the usage readings are so abnormal as to require adjustment.
- The Council or its delegated officer(s) as determined from time to time and set out in the Council's delegations register shall determine the extent of any remission based on the merits of each situation.

6. Remission to smooth the effects of change in rates on individual or groups of properties

Objective

To enable Council to provide rates remission where, as a result of a change in Council policy results in a significant increase in rates, Council decides it is equitable to smooth or temporarily reduce the impacts of the change by reducing the amount payable.

The Council considers a significant increase to be 25% or more over the current assessed rates for a single property.

Conditions and Criteria

- Remission of part of the value based rates to enable the impact of a change in rates to be phased in over a period of no more than 3 years.

To continue with any existing rates adjustment where, due to change in process, policy or legislation Council considers it equitable to do so subject to a maximum limit of 3 years to a remission made under this clause in the policy.

7. Remission for Special Circumstances

Objective

To enable Council to provide rates remission for special and unforeseen circumstances (including Significant Natural Areas (SNAs) where appropriate), where it considers relief by way of rates remission is justified in the circumstances.

Conditions and Criteria

Applications for rates remission must be made in writing by the ratepayer or their authorised agent.

Each circumstance will be considered by Council on a case by case basis. Where necessary, Council consideration and decision will be made in the Public Excluded part of a Council meeting.

The terms and conditions of remission will be decided by Council on a case by case basis. The applicant will be advised in writing of the outcome of the application.

8. Remission of Rates in Response to Significant Extraordinary Circumstances being identified by Council.

Objective

To enable Council to provide rates remission to assist ratepayers in response to Significant Extraordinary Circumstances impacting Napier's ratepayers.

Definitions

Financial Hardship: for the purpose of this provision is defined as the inability of a person, after seeking recourse from Government benefits or applicable relief packages, to reasonably meet the cost of goods, services and financial obligations that are considered necessary according to New Zealand standards. In the case of a ratepayer who is not a natural person, it is the inability, after seeking recourse from Government benefits or applicable relief packages, to reasonably meet the cost of goods, services and financial obligations that are considered essential to the functioning of that entity according to New Zealand standards.

Conditions and Criteria

For this policy to apply Council must first have identified that there have been Significant Extraordinary Circumstances affecting the ratepayers of Napier, that Council wishes to respond to.

Once Significant Extraordinary Circumstances have been identified by Council, the criteria and application process (including an application form, if applicable), will be made available.

For a Rating Unit to receive a remission under this policy it needs to be an "Affected Rating Unit" based on an assessment performed by officers, following guidance provided through a resolution of Council.

Council resolution will include:

1. That the resolution applies under the Rates Remission Policy; and
2. Identification of the Significant Extraordinary Circumstances triggering the policy (including both natural and man-made events); and
3. How the Significant Extraordinary Circumstances are expected to impact the community (e.g. financial hardship); and
4. The type of Rating Unit the remission will apply to; and
5. Whether individual applications are required or a broad based remission will be applied to all affected Rating Units or large groups of affected Rating Units; and
6. What rates instalment/s the remission will apply to; and
7. Whether the remission amount is either a fixed amount, percentage, and/or maximum amount to be remitted for each qualifying Rating Unit.

Explanation

The specific response and criteria will be set out by Council resolution linking the response to specific Significant Extraordinary Circumstances. The criteria may apply a remission broadly to all Rating Units or to specific groups or to Rating Units that meet specific criteria such as proven Financial Hardship, a percentage of income lost or some other criteria as determined by council and incorporated in a council resolution.

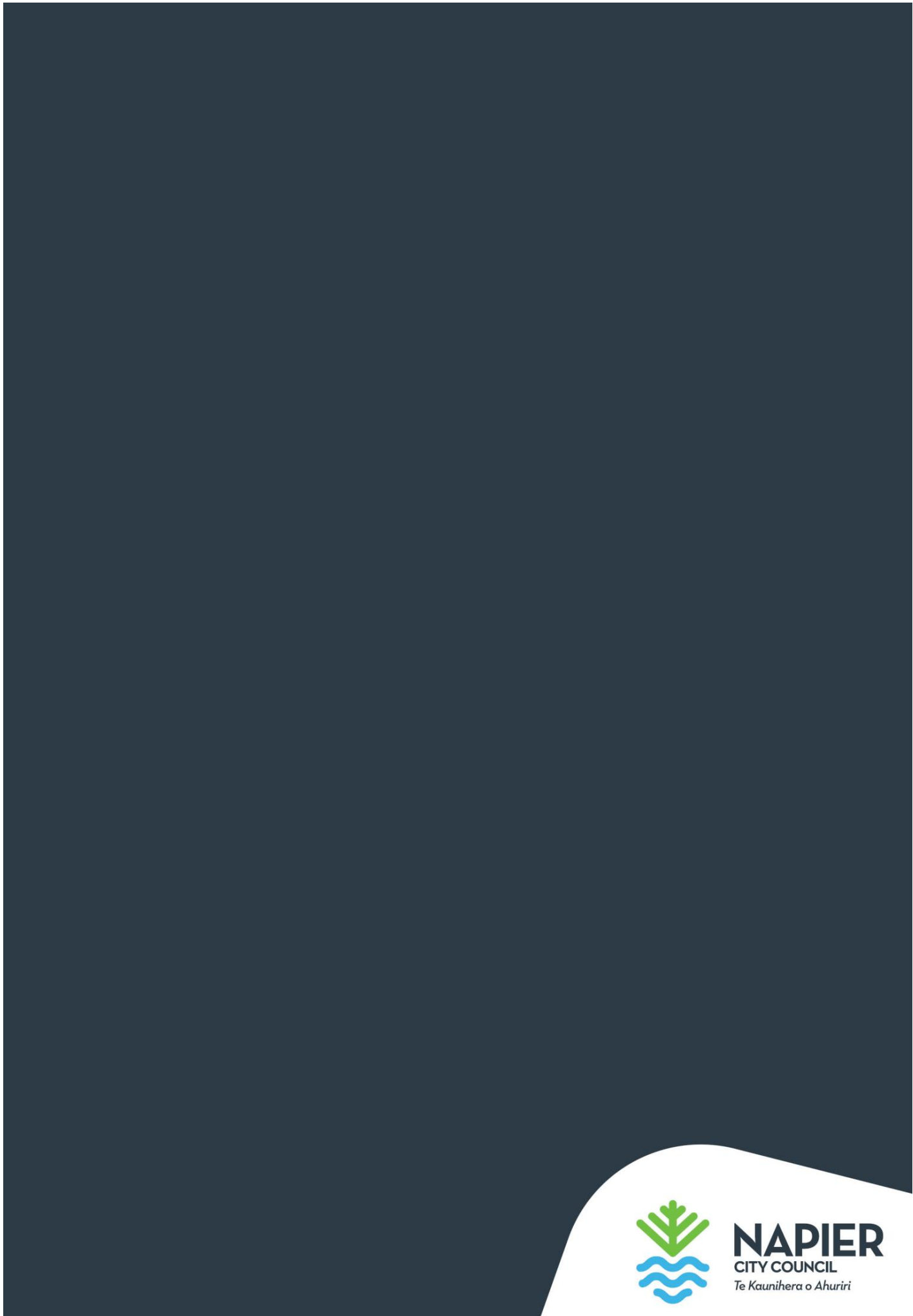
Council will indicate a budget to cover the value of remissions to be granted under this policy in any specific financial year.

The types of remission that may be applied under this policy include:

- The remission of a fixed amount per Rating Unit either across the board or targeted to specific groups such as:
 - A fixed amount per residential Rating Unit
 - A fixed amount per commercial Rating Unit

Policy Review

The review timeframe of this policy will be no longer than every three years.



NAPIER
CITY COUNCIL
Te Kaunihera o Ahuriri

3. CYCLONE GABRIELLE RESPONSE UPDATE

<i>Type of Report:</i>	Operational
<i>Legal Reference:</i>	Local Government Act 2002
<i>Document ID:</i>	1637901
<i>Reporting Officer/s & Unit:</i>	Richard Munneke, Acting Chief Executive Jessica Ellerm, Deputy Chief Executive / Executive Director Corporate Services Lance Titter, Executive Director City Services Julia Atkinson, Manager Communications and Marketing Rachael Bailey, Acting Executive Director City Strategy Thunes Cloete, Executive Director Community Services Mōrehu Te Tomo, Pou Whakarae Russell Bond, Acting Executive Director Infrastructure Services Caroline Thomson, Chief Financial Officer

3.1 Purpose of Report

To provide the basis for officers to provide a verbal update to Council on the Emergency Management and Organisational Response to Cyclone Gabrielle.

Officer's Recommendation

That Council:

- a. **Receive** the report titled "Cyclone Gabrielle Response Update" for information, dated 23 February 2023.

3.2 Cyclone Gabrielle Emergency Response

On Monday, 13 and Tuesday, 14 February 2023, Cyclone Gabrielle moved across the east coast of the North Island.

The Napier City and Hastings District mayors declared a local state of emergency, signing the declaration at 0431hrs on 14 February 2023. The declaration giving Civil Defence Emergency Management special powers to deal with the Cyclone Gabrielle situation.

The cyclone caused significant damage to infrastructure, flooding in a number of areas, landslips, and near-complete destruction of properties in the low lying areas of Eskdale.

Napier, and the Hawke's Bay Region remain in a state of emergency at the time of writing the report.

The organisational priority is on its Emergency Management Response, which is to co-ordinate the local response to Cyclone Gabrielle and to manage and monitor community

risks and needs. This includes supporting the wider regional response and more specifically those neighbouring communities that sit just outside of Napier's boundary.

A verbal update of the current Emergency Management Response priorities and status will be provided at the meeting.

3.3 Well-being of staff

The wellbeing of staff and their whanau comes first and there is a visible sense of community and support across Council workplaces. People leaders throughout Council are in regular contact with their teams and supporting them based on their individual situations.

The People & Capability Team are in contact with people leaders assessing individual needs and co-ordinating individualised and immediate wellbeing support required. This includes basics such as providing food, monitoring hours of work, access to showers, flexible working, taking leave and counselling support, through to sourcing accommodation for staff who have lost their homes.

Napier City Council are actively utilising specialist psychological services and counselling support for staff at this time and there is an increasing visibility of these services across Council workplaces, particularly in areas involved in the emergency response.

As the organisation transitions from reactive emergency response and as individual staff implications are further understood, Council will begin to shift its focus to supporting and addressing medium term wellbeing needs of staff.

3.4 Status of Critical Services and Infrastructure

Critical business services are being stood up, and the senior management team are transitioning the organisation through to a business as usual status as resources become available.

A verbal update will be provided at the meeting regarding the current status of critical infrastructure and services, including but not limited to:

- Wastewater Treatment Plan
- Power Supply restoration to Napier City District
- Rubbish and Recycling Services
- Community Services and Facilities

Financial

Rates remissions

Council is legally required to issue penalties for late rates payments. However, Council has some flexibility with the collection of penalties. Rates penalty letters were issued on Wednesday the 22nd of February as a reminder to pay rates. Rates officers will work with the community on a case-by-case basis to assess needs and provide relief as appropriate.

A separate paper is being presented to Council requesting a resolution to recognise Significant Extraordinary Circumstances. This will enable Council to provide a rates remission to assist impacted ratepayers.

Mayoral Relief Fund

Officers have submitted an application to the Inland revenue for "donee" status for a Council Mayoral Relief Fund (MRF). This means that anyone who donates to the MRF will

be able to claim a tax credit against their donation. This fund is specific to Napier City Council and separate to the Hawke's Bay Disaster Relief Fund that has been reactivated by the five Hawke's Bay Councils. The Mayoral Relief Fund is established with the following conditions:

- Established in relation to the Cyclone Gabrielle event of February 2023
- The funds will not be applied for any purposes outside New Zealand.
- No funds will be applied for the private pecuniary benefit or profit of any individual and any payment for goods, services or expenses incurred to Council or council members must be reasonable and relative to payments that would be made between unrelated parties.
- Council will not apportion any costs to the fund that would still have been incurred by the Council if the fund had not been established.
- If funds or assets held exceed the requirements of the flood event or the fund is to be dissolved/wound up, all surplus funds and assets are applied to charitable purposes within New Zealand or transferred to a charitable and donee organisation.
- No subsequent alteration to the documentation may detract from the above

A Disaster Relief Fund for the region is also being established. Criteria and eligibility for the regional fund are being discussed by the Hawke's Bay Civil Defence Emergency Management Joint Committee (HBCDEM) meeting.

A verbal update on the regional Disaster Relief Fund and the Council Mayoral Relief Fund will be provided at the meeting.

Recovery Phase

The recovery for Napier will be specific to us and different to other impacted areas, and the planning for our recovery should recognise this.

Council officers are working on a framework for recovery, which will ensure consideration is made for:

- The well-being and welfare needs of the community
- Working with tangata whenua/mana whenua partners
- Appropriate governance structures and decision making processes
- Economic assessment of Napier specific community and businesses but broader regional impacts of the event
- Impact to council owned and government owned infrastructure and assets
- Collaboration with other agencies
- Planning and consideration for neighbouring communities outside

Regional recovery will take a long time, but it is essential this work starts as early as possible. Additional and skilled resources may be required to assist in undertaking this work. The costs associated are yet to be understood but will be unbudgeted in the FY23/24 year.

A detailed report of the development of the recovery framework will be brought to Council as this work progresses, including the associated costs.

3.5 Attachments

Nil

ORDINARY MEETING OF COUNCIL

Open Minutes

Meeting Date: Thursday 2 February 2023

Time: 9.30am – 11.00am

Venue Council Chambers
Hawke's Bay Regional Council
159 Dalton Street
Napier

Livestreamed via Council's Facebook site

Present **Chair:** Mayor Wise
Members: Deputy Mayor Brosnan, Councillors Boag, Browne, Chrystal, Crown, Greig, Mawson, McGrath, Price, Simpson and Tareha

In Attendance Acting Chief Executive (Richard Munneke)
Deputy Chief Executive/ Executive Director Corporate Services (Jessica Ellerm)
Executive Director City Services (Lance Titter)
Acting Executive Director City Strategy (Rachael Bailey)
Acting Executive Director Infrastructure Services (Russell Bond)
Executive Director Community Services (Thunes Cloete)
Manager Communications and Marketing (Julia Atkinson)
Accounting Manager (Talia Foster)
Corporate Accountant (Heather Sharp)
Community Funding Advisor (Belinda McLeod) *[via Teams Link]*
Acting Team Leader Governance (Anna Eady)
Audit New Zealand (Karen Young)

Administration Governance Advisors (Carolyn Hunt)

Karakia

The meeting was opened with the Council karakia.

Apologies

COUNCIL RESOLUTION

Councillors Mawson / Boag

That the apology from Councillor Taylor be accepted.

Carried

Conflicts of interest

Nil

Public forum

Nil

Announcements by the Mayor

Auckland Flooding – Mayor Wise acknowledged that Council's thoughts were with the community of Auckland who had suffered severe flooding during the past week. There has been support from emergency services in Hawke's Bay travelling to Auckland to assist in working through issues caused by the flooding.

- **Waipureku Waitangi Commemoration** – 6 February 2023 commencing at 8.00am at Ātea a Rangi, Waitangi Regional Park, Awatoto a Hikoi (Walk of Unity) along the riverside to Farndon Park. The hikoi can also be joined at Clive Bridge.

Acknowledgement was made to Councillor Boag who was on the organising Committee for this celebration.

- **Waitangi Day Celebrations** - Together with Hastings District Council, Napier City Council, Central Hawke's Bay District Council, Hawke's Bay Regional Council and Ngāti Kahungunu Iwi Incorporated this Family Friendly Event would be held on 6 February 2023 from 10.00am to 4.00pm at the Mitre 10 Sports Park, Percival Road, Hastings for Waitangi Day celebrations.

Announcements by Management

The Acting Chief Executive, Mr Munneke acknowledged and thanked the efforts of Council staff during the latest heavy weather event.

Confirmation of minutes

COUNCIL RESOLUTION

Councillors Price / Crown

That the Draft Minutes of the Ordinary meeting held on 15 December 2022 be confirmed as a true and accurate record of the meeting.

Carried

COUNCIL RESOLUTION

Councillors McGrath / Tareha

That the Draft Minutes of the Extraordinary meeting held on 19 January 2023 be confirmed as a true and accurate record of the meeting.

Carried

Minor Matters not on the agenda (if any)

Nil

AGENDA ITEMS

1. ADOPTION OF ANNUAL REPORT 2021/22 AND SUMMARY ANNUAL REPORT 2021/22

Type of Report:	Legal
Legal Reference:	Local Government Act 2002
Document ID:	1594360
Reporting Officer/s & Unit:	Chief Financial Officer Talía Foster, Accounting Manager

1.1 Purpose of Report

To present the Napier City Council Annual Report 2021/22 and Summary Annual Report 2021/22 for adoption by Council.

At the meeting

The following documents had been circulated electronically and were tabled at the meeting:

- Annual Report Summary for Napier City for the year ended 30 June 2022 (*Doc Id 1634547*)
- Draft Annual Report which includes information regarding major matters dealt with in the Annual Report (*Doc Id 1634544*)
- Independent Auditor's report (*Doc Id 1635075*)

The Mayor thanked and acknowledged all staff involved in the compilation of the Annual Report which was an organisational wide effort and highlighted some of the key achievements during the year.

The Accounting Manager, Ms Foster advised the purpose of the report was to present the Annual Report and Summary Annual Report for 2021/22 for adoption, as required under the Local Government Act 2002.

As with all other Councils in New Zealand, the audit opinion also included an Emphasis of Matter (EoM) statement in regard to the Water Services Entities Bill of 14 December 2022. The impact of these proposed reforms meant that the City Council would no longer deliver three waters services or own the assets required to deliver these services.

Ms Foster highlighted the key issues as below:

1. Land and Buildings

- Regular valuations on Council's assets are undertaken, typically on a three yearly cycle, particularly the 3Water assets, land and buildings. In the years that full valuations are not undertaken, fair value assessments to confirm how accurate those values are completed.
- The FY21/22 year was an off year for the 3Waters, land and buildings valuations and fair value assessments were undertaken. At a late stage in the audit review, Audit NZ informed Council that the value of the assets had become material and a full valuation would be required to avoid a modified audit opinion on the financial statements.
- The Audit and Risk Committee considered the issue at its December meeting and instructed staff to undertake the valuations as soon as practically possible but accepted that a modified opinion would be received
- Ms Foster referred to page 152 of the Annual Report where further information was disclosed and the independent report contained a statement in regard to Land and Buildings, water, wastewater, stormwater, low ground and above ground assets as below:

"As at 30 June 2023, Council completed fair value assessment on these assets, including taking advice from independent expert valuers. These assessments showed that there was significant uncertainty over the asset values and the expected increase in fair value would be material. Council has not prepared an early revaluation due to time and resource constraints, and the significant financial cost to undertake this exercise. However, the full revaluation will be undertaken and completed for 30 June 2023.

It is for this reason that the Independent Auditor's Report contains a statement regarding the valuation of these assets".

2. Activity Group Statement

- Last year there were some issues with the attendance and resolution times of the water, wastewater and stormwater measures. These were unable to be accurately reported on and that has flowed through to this year due to time constraints on fixing the issues found.
- Also from the previous years there was an issue with the total number of complaints received on water supply, wastewater and stormwater. This was an issue that did carry over from previous years and therefore these issues have been resolved for the twelve months reported on in this report and accurate information could be provided. However, the previous years which are also reported on still need to be qualified because of the issue.

3. Adopting Annual Report late

- The Annual Report adoption date set out in the Local Government Act 2002 was extended to 31 December 2022 due to Covid and resourcing restrictions. This deadline was missed and Council was not alone in this.
-

Audit New Zealand Director Karen Young was present at the meeting to provide more detail on the issues raised in the audit opinion and responded to questions.

In response to questions the following points were noted:

- In regard to reporting of complaints the issues raised last year have now been resolved.
- There are some issues in regard to attendance and resolution times and that project is still ongoing and tracking to be ready for 30 June 2023. However, it would result in another year where Council have been unable to produce accurate data, due to some inconsistencies and manual data. It is expected that there would be one more year of a qualified audit note before it is removed.
- In regard to missing the deadline Ms Young provided further information on the process related to the fair value assessments advising that values used were based on indices but further information lead to changes in the indices after year end and that the fair value assessment had not been updated with these values.
- There has also been an auditor shortage not only with Audit New Zealand and some constraints in financial reporting teams, across the country and that had put pressure on the ability to complete audits. Auditor shortage has been an issue for last 3 years due to Covid.
- There is currently a shortage of persons able to complete revaluations combined with a change in service provider by the Minister of Health due to water. Napier had engaged water consultants early in the audit to provide advice.
- Council has self-disclosed missing the deadline in its Annual Report, although not significantly, Napier City Council was the first to sign in 2023.
- Officers noted that it was only brought to their attention in December 2022 when the auditors advised of the 3Water assets valuation issue. At that time officers believed they were in a position for the Annual Report to be adopted prior to Xmas. The Annual Report was on Audit and Risk Committee agenda for adoption at the 9 December 2022 meeting, however, due to revaluation issues being raised late, this was not achievable.
- Consideration of asset revaluation was discussed earlier with Audit New Zealand and it had initially been accepted that it would be below the level of materiality. However, it was later in the audit that it was found to be outside the level of materiality.

Ms Young provided a verbal summary of the audit opinion that was tabled at the meeting and highlighted the following:

- Audit opinion is a qualified audit opinion over financial and activity statements, with the exception of the qualification matters, the financial statement fairly reflects the financial position, performance, operation and cash flows of the Council and also its activities for year.
- Based on analysis and cost indices and reading of the independent valuer's assessment reasonable assurance has been gained that 3Water assets, land and buildings are not reflected at their fair values in the Annual Report. The issue is that because a full revaluation has not been completed Audit do not know what the uplift is to those values.
- Council has advised a revaluation will be performed by 30 June 2023 financial year. The other qualification relates to attendance, response times and resolutions as there were some deficiencies in Council systems. Those deficiencies have meant that capture and recording information accurately has not been possible. Council are working on rectifying these issues.

In response to questions it was noted:

- In regard to the revaluation process Council revalue every three years and was due to revalue in 2023. The 3 yearly cycle was considered best practise and by obtaining the

fair value assessment it was considered this had been met. This has been an issue for a lot of councils and possibly needs consideration as to whether it is still appropriate.

- Quite a few councils have been impacted in regard to this due to cost escalation in structural assets in particular, which are revalued using optimised replacement costs so relies heavily on unit costs etc.
- Ms Young advised that it would be prudent to complete a fair value assessment at the beginning of the financial year as this would provide Council time to consider engaging a valuer early, as completing later in the financial year could preclude being able to find a valuer to engage within the timeframe for the Annual Report.
- The implication for not having up-to-date asset valuations going forward could mean that Council was potentially not fully providing for depreciation. Depreciation was calculated on the fair value of the assets and would therefore affect Council's annual planning process and budgets.
- Officers were currently addressing the depreciation effects for the annual plan process and advised that provision for depreciation was appropriate.

COUNCIL Mayor Wise / Councillor Crown

RESOLUTION

That Council:

- a. **Receives** the report titled Adoption of Annual Report 2021/22 (*Doc Id 1635447*) and Summary Annual Report 2021/22 (*Doc Id 1634544*) dated 2 February 2023.
- b. **Note** the 2021/22 Annual Report was considered by the Audit and Risk Committee on 9 December 2022.
- c. **Note** the Auditor's report includes an emphasis of matter paragraph drawing attention to the Water Services Entities Bill which received Royal Assent on 14 December 2022.
- d. **Note** Council will receive a qualified Audit opinion on the activity group statements relating to incomplete information about response times and the number of complaints for the non-financial performance measures of some services.
- e. **Note** Council will receive a qualified Audit opinion on the financial statements relating to the carrying value of Council's water, wastewater and stormwater below and above ground assets.
- f. **Note** the Audit opinion (*1635075*) tabled at the Council meeting of 2 February 2023, with the Audit Director for Audit New Zealand present to speak to the opinion.
- g. **Adopt** the Annual Report and Summary Annual Report for Napier City Council for 2021/22 subject to any grammatical and minor changes and any changes due to the requirements of the audit process.

Carried

Attachments

- 1 Annual Report for Napier City for the year ended 30 June 2022 (*Doc Id 1634544*) - Tabled at Council meeting 2 February 2023
- 2 Annual Report Summary which includes information regarding major matters dealt with in the Annual Report (*Doc ID 1634547*) - Tabled at Council meeting 2 February 2023

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- 3 Independent Auditor's Report (*Doc Id 1635075*) Tabled at Council meeting - 2 February 2023
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2. 2023 DIVERCITY EVENT

<i>Type of Report:</i>	Operational
<i>Legal Reference:</i>	Local Government Act 2002
<i>Document ID:</i>	1626304
<i>Reporting Officer/s & Unit:</i>	Belinda McLeod, Community Funding Advisor Rebecca Peterson, Senior Advisor Policy

2.1 Purpose of Report

To seek approval to apply for external funding to support the 2023 Celebrate Cultural DiverCity Event to be held on 17 June 2023 at the Soundshell, Marine Parade, Napier.

At the meeting

The Executive Director Community Services, Mr Cloete spoke to the report advising that approval was sought to apply for external funding to enable this free community event that Celebrates Cultural DiverCity to take place.

Mr Cloete clarified that the total amount for the project was \$22,000, \$4,000 funded from Council and the balance of \$18,000 being sought from external funders. If full funding was not acquired the event may have to be cancelled or undertaken on a lesser scale.

COUNCIL Councillors Mawson / Boag

RESOLUTION

That Council:

- a. **Approve** the application to apply for external funding from the Ministry for Ethnic Communities Development Fund and Eastern and Central Community Trust Grassroots Fund, for the 2023 Celebrate Cultural DiverCity Event.

Carried

3. COUNCIL AND COMMITTEES OF COUNCIL TERMS OF REFERENCE AND DELEGATIONS

<i>Type of Report:</i>	Operational
<i>Legal Reference:</i>	Local Government Act 2002
<i>Document ID:</i>	1629528
<i>Reporting Officer/s & Unit:</i>	Anna Eady, Acting Team Leader Governance

3.1 Purpose of Report

To present the Council and committees of Council terms of reference (ToR) and delegations for the 2022-2025 triennium for approval.

At the meeting

The Acting Governance Team Leader, Ms Eady advised that she would take the report as read, highlighted the following and responded to questions.

It was noted:

- Hearings Committee – “Note” to be removed as was no longer applicable.
- Audit and Risk Committee – The Terms of Reference (ToR) and Charter will be reviewed in a separate process mid 2023
- Chief Executive Contract Committee – ToR are currently being reviewed by the Committee in conjunction with Sheffield Recruitment. The existing ToR presented at this meeting will be adopted and if there are new ToR in the future they will be presented to Council for consideration.
- Two Ngā Mānukanuka o te Iwi (Māori Committee) representatives would be appointed to the four Standing Committees with voting rights. Representation of mana whenua reflects Council’s commitment and obligations under the Treaty of Waitangi.
- One Ngā Mānukanuka o te Iwi (Māori Committee) representative will also be appointed to the Audit and Risk Committee with voting rights.
- There would be no representatives from the Ngā Mānukanuka o te Iwi (Māori Committee) or Audit and Risk Committee, with voting rights at Council meetings, only elected members.

The following points were highlighted:

- The Mayor’s new Governance Structure removes the double debate system for this triennium and provides delegation powers to the Standing Committees to make decisions rather than recommendations.
- Standing Committees will receive reports relevant to their area of responsibility and will be able to make the final decision, without having to go to Council. However in the Common Delegations Section for the Standing Committees it is made quite clear that if at the Standing Committee meeting a report was presented that the committee was not comfortable in making a decision a resolution referring it to Council can be made.
- The Mayor and Chief Executive will attend all Standing Committee preagenda meetings and if it is deemed that reports require double debate this will be specified at this time or moved to a Council meeting for decision making.

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- Concern was raised by some councillors of two Ngā Mānukanuka o te Iwi (Māori Committee) representatives being appointed as members to the Standing Committees and having voting rights.
 - No public consultation is required to appoint the Ngā Mānukanuka o te Iwi (Māori Committee) to Committees with voting rights and is quite common for some Councils throughout the country who have had this structure in place for some time, with no public consultation being undertaken.
 - The role of chair for Ngā Mānukanuka o te Iwi (Māori Committee) supports it being offered to a Kaumatua in the first instance and should the Kaumatua not wish to accept the role it would be offered to a mana whenua representative appointed to the committee.
 - Ngā Mānukanuka o te Iwi (Māori Committee) being a specialist committee, similar to the Audit and Risk Committee it will receive purposely written papers. Both committees are on a quarterly cycle as opposed to a six weekly timeframe. A quarterly cycle had proven to be frequent enough for the Audit and Risk Committee.
 - Standing Committees will either make a Decision or make a recommendation to Council to make the Decision.
 - As in the previous triennium, Ngā Mānukanuka o te Iwi (Māori Committee) and Audit and Risk Committees will provide recommendations to Council for decision making.
 - Any report addressed by Standing Committees could be referred to Council for a decision if at the Standing Committee members were not comfortable in making the decision. Any member of the committee could propose a recommendation to refer the matter to Council for a decision and put to the vote.
 - Although decisions at Committee could be made by appointed members, Council still retains all its tools and mechanisms within Standing Orders to ask for revocation and alteration of decisions and Notices of Motion to reconsider those decisions at committee. Council would still have the ability to influence a decision as whole if disagreed with the committee.
 - In regard to Council ToR, clause 15 of the delegated powers, this was added to the ToR as the Tenders Committee has been disestablished with the Chief Executive having a higher level delegation of \$5m. This clause provides Council an opportunity to have oversight and control of a project that is of particular interest and significance not only to Council but also the community. The War Memorial restoration project is an example which comes under the Chief Executive threshold of \$5m.
 - Following discussion the meeting agreed on the following Action Point which would provide Council an opportunity at that strategic level to set the parameters when Clause 15 would be applied

ACTION POINT *Request that Council's procurement strategy, which is currently in development, contain a section on tendering and the governance process.*

The Acting Chief Executive, Mr Munneke advised that officers sought clarity and appropriateness of the governance role in the tender process. Ideally, Governance would not be involved in the tendering process and would defer to the Audit and Risk Committee process, with overview of a major project being managed differently.

COUNCIL	Mayor Wise / Councillor Brosnan
RESOLUTION	That Council:
	a. Approve the Council and committees of Council terms of reference and delegations for 2022-2025 (<i>Doc Id 1629578</i>).
	Carried

4. 2022-2025 STANDING ORDERS

<i>Type of Report:</i>	Legal and Operational
<i>Legal Reference:</i>	Local Government Act 2002; Local Government Official Information and Meetings Act 1987
<i>Document ID:</i>	1617698
<i>Reporting Officer/s & Unit:</i>	Anna Eady, Acting Team Leader Governance

4.1 Purpose of Report

The purpose of this report is to present the proposed 2022-2025 Standing Orders for adoption.

At the meeting

The Acting Team Leader Governance, Ms Eady spoke to the report noting Council must adopt Standing Orders each triennium, which required 75% support to accept. Local Government New Zealand (LGNZ) can make changes to their template, and most Councils adopt the template as is, or with a few minor amendments.

The LGNZ amendments attached to the report (*Doc Id 1629482*) have been incorporated into the 2019 Napier City Council Standing Orders for the 2022-2025 triennium. A notable amendment is the incorporation of Te Reo in the headings of each section.

Ms Eady highlighted the following changes from the Napier City Council 2019-2022 Standing Orders as below:

- **Standing Order 9.10** - The chief executive must send the agenda to every member of a meeting at least two clear working days before the day of the meeting, except in the case of an extraordinary meeting or an emergency meeting (see Standing Orders 8.4 and 8.10).
- **Standing Order 19.3** - The Mayor, Chairperson, or any other person presiding at a meeting has a deliberative vote and, in the case of an equality of votes, has a casting vote.

In response to questions the following points were clarified:

- For ease of reading Governance would provide the Te Reo headings on a separate line in the contents pages of the Standing Orders in the final document.
- SO 9.1 specifically related to the publication of agendas and would not impact on Council's internal processes.

- Under the Local Government Official Information and Meetings Act 1987, Councils were only required to publish agendas two working days in advance of an ordinary meeting. Having the Standing Order with the two day requirement would accommodate any late or urgent reports to be included in an agenda. This will allow best practise, rather than adding late reports and breaching the previous 7 day requirement of the Standing Orders.
- This would also enable an ability to be current with agendas with reports being included rather than having to wait for a new cycle to address items.
- The Chief Executive agreed with the suggestion to setting strategic priorities, dovetailing into the Long Term Plan, with the next stage of that process being collaboration with the Executive Leadership Team and Chairs developing a work programme for the ensuing twelve months and reviewing it on an annual basis to complete the Triennium.

COUNCIL Councillors Price / Chrystal
RESOLUTION

That Council:

- Revoke** the Napier City Council 2019-2022 Standing Orders.
- Adopt** the proposed 2022-2025 Standing Orders (*Doc Id 1627887*), pursuant to Clause 27 of Schedule 7 of the Local Government Act 2002.

Carried

4. AMENDMENTS TO THE 2023 COUNCIL/COMMITTEE MEETING SCHEDULE AND THE RENAMING OF THE GRANTS ALLOCATION SUBCOMMITTEE

<i>Type of Report:</i>	Procedural
<i>Legal Reference:</i>	Local Government Act 2002
<i>Document ID:</i>	1620655
<i>Reporting Officer/s & Unit:</i>	Anna Eady, Acting Team Leader Governance

5.1 Purpose of Report

The purpose of this report is to consider amendments to the schedule of Council and Committee meetings for the 2023 Meetings Calendar, which was originally adopted by Council on 15 November 2022.

It is also proposed that the Grants Allocation Subcommittee is renamed the Community Services Grants Subcommittee.

At the meeting

The Acting Team Leader Governance, Ms Eady advised that it was proposed to rename the Grants Allocation Subcommittee to the Community Services Grants Subcommittee to mitigate the confusion that there were two subcommittees.

COUNCIL RESOLUTION

Mayor Wise / Councillor Mawson

That Council:

a) Adopt the following amendments to the schedule of meetings for 2022 as below:

- | | | |
|--|--|---|
| • Ahuriri Regional Park Joint Committee | New date | 24 February 2023 – 9.30am |
| • Chief Executive Contracts Committee | New date | 30 March 2023 – 9.30am |
| • Community Services Grants Subcommittee | New date | 26 June 2023 – 12.30pm |
| • Napier People & Places Committee followed by Prosperous Napier Committee | Date change
Due to meeting conflicts | 3 August 2023 – 9.30am
<i>(previously 27 July 2023)</i> |
| • Ngā Mānukanuka o te Iwi (Māori Committee) | Date change
due to venue restrictions | 15 September 2023 – 9.30am
<i>(previously 22 September 2023)</i> |
| • Sustainable Napier Committee followed by Future Napier Committee | Date change
Due to meeting conflicts | 9 November 2023 – 9.30am
<i>(previously 2 November 2023)</i> |

b) **Approve** the renaming of the Grants Allocation Subcommittee to the Community Services Grants Subcommittee.

Carried

6. ACTING CHIEF EXECUTIVE'S REPORT

Type of Report:	Information
Legal Reference:	N/A
Document ID:	1628228
Reporting Officer/s & Unit:	Richard Munneke, Acting Chief Executive

6.1 Purpose of Report

The Acting Chief Executive's Report will be brought to every second standard Council meeting (roughly every 12 weeks), for your information.

Councillors Brown and Mawson withdrew from the meeting at 10.45am and rejoined at 10.51am

At the meeting

The Acting Chief Executive, Mr Munneke took the report as read, circulated Strategic Priorities document (*Doc Id 16335631*) and highlighted the following:

- Four positions have been created in the People and Capability area which will enable thought and processes that will provide the step change in culture and wider people strategies. This is an opportunity for Council to make step change in moving the organisation forward.
- Focus was on the War Memorial Restoration to ensure ANZAC Day celebrations could be held there.
- The Te Pihinga Community Space project has a red traffic light in the report as clarity was required on how the Te Pihinga project fits in Maraenui. Kainga Ora were proposing 150 houses in Maraenui based on the \$12.5m fund to resolve stormwater and it was also contingent on the Te Pihinga project going ahead.

In responses to questions it was clarified:

- Council supported the Local Government New Zealand Submission on the Self Contained Motor Vehicle Legislation Bill. It was also unclear at this stage, if the Bill was passed whether it would result in more effluent dumping facilities being installed.
- It was noted that following Council's takeover of the Ocean Spa facility on 1 February 2023, with the closure of the heated pools for eight weeks everything had gone smoothly.

COUNCIL Councillors Brosnan / Boag

RESOLUTION

That Council:

- Receive** and **note** that Acting Chief Executive's Report for February 2023.

Carried

Attachments

- Strategic Priorities handout circulated at the meeting (Doc Id 1635631)

7. TENDERS LET

<i>Type of Report:</i>	Information
<i>Legal Reference:</i>	Enter Legal Reference
<i>Document ID:</i>	1630999
<i>Reporting Officer/s & Unit:</i>	Debbie Beamish, Executive Assistant to the Chief Executive

7.1 Purpose of Report

To report the Tenders let under delegated authority for the period 26 November 2022 – 20 January 2023.

At the meeting

There was no discussion on this item.

COUNCIL Councillors Price / Mawson

RESOLUTION

That Council:

- a. **Receive** the Tenders Let for the period 26 November 2022 – 20 January 2023.

Carried

The meeting closed with a karakia at 11.00am

Approved and adopted as a true and accurate record of the meeting.

Chairperson

Date of approval