



NAPIER
CITY COUNCIL
Te Kaunihera o Ahuriri

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ORDINARY MEETING OF COUNCIL

Open Attachments (Under separate cover 2)

Meeting Date: Thursday 31 July 2025

Time: 9.30am

Venue: Large Exhibition Hall
War Memorial Centre
Marine Parade
Napier

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Date:

CONSTITUTION OF AHURIRI INVESTMENT MANAGEMENT LIMITED

Adopted by resolution of Napier City Council on 31 July 2025 as sole shareholder of Ahuriri Investment Management Limited.

Louise Miller
Chief Executive
Napier City Council

3459-7486-8026-V2 [9004013]

CONSTITUTION OF AHURIRI INVESTMENT MANAGEMENT LIMITED

Company Number: [xxxxxxx]

PART A - PRELIMINARY

1. Interpretation

1.1 Definitions

In this Constitution unless the context otherwise requires:

Act means the Companies Act 1993;

Board means Directors who number not less than the required quorum acting together as the board of directors of the Company or, if the Company only has one Director, that Director;

Company means Ahuriri Investment Management Limited;

Constitution means this constitution as it may be altered from time to time in accordance with the Act;

Council means Napier City Council (or any replacement or successor body);

Council CO Directors Policy means the Council's Appointments and Remuneration for Directors of Council Organisations Policy as amended from time to time and includes any policy adopted by Council in substitution for, or replacement of, the Council CO Directors Policy;

Director means a person appointed as a director of the Company in accordance with this constitution;

Elected Member Director means a Director appointed by the Council in accordance with clause 14.1 who holds office as a councillor of the Council.

Independent Director means a Director appointed by the Council in accordance with clause 14.1 who is independent of the Council.

Interested has the meaning set out in section 139 of the Act;

LG Act means the Local Government Act 2002;

Ordinary Resolution means a resolution passed by a simple majority of the votes of the Shareholders entitled to vote and voting on the resolution;

Share means a share in the Company;

Shareholder means a person whose name is entered on the Share register as the holder for the time being of one or more Shares;

Special Resolution means a resolution passed by a majority of 75% or more of the votes of the Shareholders entitled to vote and voting on the resolution;

Working Day(s) has the meaning specified in section 4 of the Property Law Act 2007.

1.2 Construction

In this Constitution, unless the context requires otherwise:

- (a) headings appear as a matter of convenience and do not affect the interpretation of this Constitution;
- (b) the singular includes the plural and vice versa, and words indicating one gender include the other genders;
- (c) reference to an enactment or any regulations is a reference to that enactment, or those regulations as amended, or to any enactment or regulations substituted for that enactment or those regulations;
- (d) **“written”** or **“in writing”** in relation to words, figures and symbols includes all modes of presenting or reproducing those words, figures and symbols in a tangible and visible form;
- (e) the Schedules form part of this Constitution.

2. Capacity

- 2.1 **Rights, powers and duties:** The Company, the Board, each Director and each Shareholder have the rights, powers, duties and obligations set out in the Act except to the extent that they are negated or modified by the Constitution.
- 2.2 **Full capacity:** Subject to this Constitution, the Act and any other enactment, the Company has full capacity, rights powers and privileges to carry on or undertake any business or activity, do any act, or enter any transaction.
- 2.3 **Decisions:** All decisions made by, or under authority of, the Board must be made in accordance with:
 - (a) this Constitution; and
 - (b) the Company’s Statement of Intent.

3. Alteration of this Constitution

- 3.1 Subject to the Act, the Shareholders may alter or revoke this Constitution by Special Resolution.

4. Conflict

- 4.1 Unless a requirement of the Act is mandatory, this Constitution prevails if there is a conflict with the Act.

PART B - SHARES

5. Rights Attaching to Shares

- 5.1 A Share is an ordinary share in the Company and confers on the holder:
 - (a) the right to one vote on a poll at a shareholder’s meeting of the Company on any resolution, including any resolution to:
 - (i) appoint or remove a Director;

- (ii) adopt or alter the Constitution;
- (iii) approve a major transaction (as that term is defined in the Act);
- (iv) approve an amalgamation of the Company under section 221 of the Act;
- (v) put the Company into liquidation;
- (b) the right to an equal share in dividends authorised by the Directors;
- (c) the right to an equal share in the distribution of any surplus assets of the Company in liquidation;
- (d) the right to receive notice of and attend every meeting of shareholders; and
- (e) all other rights attributed to ordinary shares except as otherwise set out in this Constitution.

6. Issue of Shares

- 6.1 **Board's powers to issue Shares:** Prior to the Board issuing any Shares, it must obtain the prior approval of the Shareholders by Special Resolution.
- 6.2 **Pre-emptive rights:** If the Board wishes to issue any new Shares, those Shares must be issued in compliance with section 45 of the Act.

7. Calls on Shares, Forfeiture and Lien

- 7.1 **Board's powers to make calls:** The Board may, following consultation with the Shareholders, make calls on any Shareholder for any money that is unpaid on that Shareholder's Shares and not otherwise payable at a specified time or times under this Constitution or the terms of issue of those Shares or any contract for the issue of those Shares. A call may be revoked or postponed.
- 7.2 **Payment:** Subject to receiving at least 15 Working Days' notice specifying the time and place of payment, each Shareholder must pay to the Company the amount called on that Shareholder's Shares, in the manner specified in the notice.
- 7.3 **Deduction from dividend:** The Board may, at its discretion, deduct from any dividend payable to any Shareholder any amount owed by the Shareholder to the Company on account of any call.
- 7.4 **Interest payable:** If an amount called is not paid in full at the time specified for payment, the person from whom the amount is due must pay the Company interest on the amount that remains unpaid at a rate determined by the Board and calculated from the time specified for payment until the day of actual payment. The Board may waive some or all of the payment of that interest.
- 7.5 **Forfeiture and lien:** The Board has the powers of forfeiture and a lien on all Shares, as set out in the First Schedule of this Constitution.

8. Company May Acquire and Hold Shares

- 8.1 **Purchase:** The Company may purchase or otherwise acquire Shares in accordance with the Act. The Company may make an offer to all Shareholders or to one or more Shareholders to acquire Shares.
- 8.2 **Hold:** The Company may hold any Shares it has purchased or acquired in accordance with the Act.

- 8.3 **Transfer:** If the Company intends to transfer any Shares that it has acquired and held, such transfer will be treated as a new issue of Shares and the Board must first comply with the requirements of this Constitution for issues of Shares.

9. Share Transfers

- 9.1 **Transfer of Shares:** Subject to the restrictions in this Constitution, a Shareholder may transfer any Share to any person by any usual or common form or transfer or any other form approved by the Board. The instrument of transfer must be executed by or on behalf of the transferor and, if required by the Act or the Board, by the transferee.
- 9.2 **Pre-emptive rights:** A Shareholder intending to transfer any of its Shares must comply with the pre-emption provisions in the Second Schedule of this Constitution. The restriction contained in this clause 9.2 shall also apply to any liquidator, official assignee or personal representative of any Shareholder.
- 9.3 **No undermining:** A Shareholder must not do anything that has the purpose or effect of undermining or circumventing the restriction on the transfer of Shares set out in clause 9.2.
- 9.4 **Share register:** Subject to clause 9.5, on receipt of an instrument of transfer, the Company will as soon as practicable enter the name of the transferee on the Company's share register as holder of the Shares.
- 9.5 **Power of Board to refuse registration:** The Board may within 20 Working Days of receipt of any transfer of Shares, resolve to refuse to register that transfer if:
- (a) the Company has a lien on the Shares; or
 - (b) the Shares are not fully paid up; or
 - (c) the transfer is not accompanied by such evidence as the Board may reasonably require to establish the right of the transferor to make the transfer; or
 - (d) the Board considers that the transfer is not in the best interests of the Company or the Shareholders.
- 9.6 **Requirement to refuse registration:** The Board must refuse the registration of any transfer of Shares if:
- (a) it is required to do so by law; or
 - (b) the requirements of this Constitution relating to the transfer of Shares have not been complied with.
- 9.7 **Board to give reasons for refusal:** If the Board resolves to refuse the registration of the transfer:
- (a) The resolution must set out the full reasons for doing so; and
 - (b) Notice of the resolution, including those reasons, must be sent to the transferor and to the transferee within 5 Working Days of the resolution being passed.
- 9.8 **Transfers to wholly-owned subsidiary or approved by all Shareholders:** The restrictions in clause 9.2 do not apply to any transfer of Shares that is:
- (a) approved in writing by Special Resolution; or

- (b) made to a wholly-owned subsidiary (as defined in section 5 of the Act) of the transferor Shareholder.

PART C – SHAREHOLDER’S RIGHTS AND OBLIGATIONS

10. Liability of Shareholders

10.1 The liability of a Shareholder to the Company is limited to:

- (a) any amount unpaid on a Share held by that Shareholder; and
- (b) any other liability expressly provided for in this Constitution or the Act.

To avoid doubt, other than as set out in this clause 10.1, no Shareholder can be required to provide further capital to the Company.

11. Powers of Shareholders

11.1 **Exercise of powers:** The powers reserved to the Shareholders of the Company by this Constitution, or the Act may be exercised only:

- (a) at a meeting of Shareholders pursuant to clauses 12.1 or 12.3; or
- (b) by a resolution in lieu of a meeting pursuant to clause 12.2.

11.2 **Exercise of power by Ordinary Resolution:** Unless otherwise provided in the Act or this Constitution, a power reserved to Shareholders may be exercised by an Ordinary Resolution.

11.3 **Alteration of Shareholder rights:** The Company must not take action that affects the rights attached to Shares unless that action has been approved by a Special Resolution.

12. Meetings of Shareholders

12.1 **Annual meeting:** An annual general meeting of Shareholders is to be held:

- (a) not later than 6 months after the balance date of the Company; and
- (b) not later than 15 months after the previous annual meeting.

12.2 **Resolution in lieu of meeting:** It will not be necessary for the Company to hold an annual general meeting of Shareholders if everything required to be done at that meeting (by resolution or otherwise) is done by resolution in accordance with clause 12.4.

12.3 **Special meeting:** A special meeting of Shareholders may be called at any time by the Board and must be called by the Board if requested by Shareholders holding Shares carrying together not less than 10% of the voting rights entitled to be exercised at a meeting of the Shareholders.

12.4 **Resolution in writing:** A resolution in writing signed in accordance with section 122 of the Act is as valid as if it had been passed at a meeting of Shareholders.

12.5 **Proceedings at meetings:** The provisions of Schedule 1 of the Act govern the proceedings at all meetings of Shareholders. Except as provided in Schedule 1 of the Act and in this clause, a meeting of Shareholders may regulate its own procedure through the chairperson.

- 12.6 **Corporate representative:** The representative of a corporate Shareholder is entitled to attend and be heard at a meeting of Shareholders as if the representative were the Shareholder.
- 12.7 **No postal vote:** A Shareholder may not exercise the right to vote at a meeting by casting a postal vote.

PART D - DIRECTORS

13. Number of Directors

- 13.1 The minimum number of Directors shall be 3 and the maximum number of Directors shall be 7. The Shareholders may change the minimum and/or the maximum number of Directors by Special Resolution.

14. Appointment and Removal of Directors

- 14.1 **Council to appoint Directors:** Subject to clause 14.2, the Council will appoint at least 3 and up to 7 Directors to the Board of the Company in accordance with the Council CO Directors Policy. Of those Directors appointed by the Council:

- (a) at least 1 and up to 3 will be an Elected Member Director; and
- (b) at least 2 and up to 4 will be an Independent Director

with the expectation that Independent Directors will outnumber Elected Member Directors on the Board.

- 14.2 **Temporary exception:** It is acknowledged that, from time to time, the composition of the Board may not meet the requirements of clause 14.1 above. Where that is the case, the Council will use all reasonable endeavours to promptly rectify any non-compliance provided that, nothing in this clause 14.2 shall require the Council to appoint an Elected Member Director where the Council determines that no suitable candidate can be found.
- 14.3 **Chairperson:** The Council shall appoint a chairperson from amongst the Independent Directors appointed pursuant to clause 14.1 above.
- 14.4 **Council may remove Directors:** The Council may remove any Director appointed by it under clause 14.1 above.
- 14.5 **Mayor not to be appointed a Director:** The Mayor of Napier may not be appointed as a Director of the Company. This clause 14.5 does not exclude a Councillor from being an Elected Member Director where that Councillor is acting as Mayor in the Mayor's absence and under delegation. If an Elected Member Director is elected as Mayor while serving on the Board, they must resign from the Board immediately.
- 14.6 **Directors appointed on adoption of Constitution:** The persons holding office as directors of the Company on adoption of this Constitution are deemed to have been appointed as Directors pursuant to this Constitution.
- 14.7 **Appointment by Ordinary Resolution:** Subject to clauses 13.1 and 14.1, any person who is not disqualified under the Act may be appointed as a Director by Ordinary Resolution.
- 14.8 **Removal by Ordinary Resolution:** Any Director not appointed by the Council under clause 14.1 may be removed from office by Ordinary Resolution.

14.9 **Term of appointments:** Subject to the provisions of this clause 14.9, a Director will be appointed for a period of up to 3 years. A Director may be reappointed for a second and third term of up to 3 years each, for a maximum of 9 years in aggregate with succession planning a priority. The Council may appoint a Director for a further specified period beyond 9 years where, in the Council's opinion, exceptional circumstances exist.

14.10 **Tenure:** A Director holds office until the expiry of their term (if not reappointed), their resignation, their disqualification or their removal in accordance with this Constitution and the Act.

15. Notices of Appointment or Removal of Directors

15.1 Any notice of appointment or removal of a Director may be comprised in one or more written notices. The notice takes effect from the time it is served on the Company in accordance with the Act, or from such later time as the notice states that it is to take effect.

16. Director ceasing to hold office

16.1 **Office vacated:** The office of Director is vacated if the person holding that office:

- (a) resigns in accordance with clause 16.2 below; or
- (b) is removed from office in accordance with the Act or this Constitution; or
- (c) becomes disqualified from being a Director in terms of section 151(2) of the Act; or
- (d) dies; or
- (e) becomes permanently incapacitated and the other Directors resolve that he or she is no longer capable of carrying out his or her powers and duties as a Director by reason of that incapacity; or
- (f) in the case of an Elected Member Director, ceases to hold office as a councillor of the Council, whether as a result of local government elections or otherwise; or
- (g) otherwise vacates office in accordance with this Constitution.

16.2 **Resignation:** A Director may resign office by signing a written notice of resignation and delivering it to the address for service of the Company. The notice is effective when it is received at that address or at a later time specified in the notice.

17. Meetings of the Board

17.1 The Third Schedule of this Constitution governs the proceedings at meetings of the Board, except where otherwise agreed by all Directors in relation to a particular meeting or meetings. Schedule 3 of the Act does not apply to proceedings of the Board.

18. Powers and Duties of Directors

18.1 **Board's powers:** Subject to the Act and this Constitution:

- (a) the business and affairs of the Company must be managed by, or under the direction or supervision of, the Board; and
- (b) the Board has all the powers necessary for managing, and for directing and supervising the management of, the business and affairs of the Company.

- 18.2 **Delegation:** The Board may delegate to a committee of Directors, a Director, an employee of the Company, or to any other person, any one or more of its powers, other than a power set out in the Schedule 2 of the Act. In exercising the Board's delegated powers, a delegate must comply with any requirement imposed on the delegate by the Board.
- 18.3 **Duty to act in best interests of Company:** Subject to clause 18.4, a Director, when exercising powers or performing duties must act in good faith and in what the Director believes to be in the best interests of the Company.
- 18.4 **Ability to act in the best interests of Council:** While the Company:
- (a) is wholly-owned by the Council, when exercising powers or performing duties as a Director, any Director may act in a manner which they believe is in the best interests of the Council even though it may not be in the best interests of the Company; and
 - (b) is a subsidiary (as defined in section 5 of the Act) of the Council but not wholly-owned, when exercising powers or performing duties as a Director, any Director may act in a manner which they believe is in the best interests of the Council even though it may not be in the best interests of the Company provided they have the prior agreement of all Shareholders.
19. **Interested Directors and Conflicts of Interest**
- 19.1 **Disclose interests:** A Director must comply with the disclosure of interest requirements of section 140 of the Act but failure to comply with that section does not affect the validity of any contract or arrangement entered into by the Company.
- 19.2 **Interested Director may vote:** A Director who is interested in a transaction entered into, or to be entered into, by the Company may vote on a matter relating to the transaction and otherwise act in his or her capacity as a Director in relation to the transaction as if he or she were not interested in the transaction.
- 19.3 **Register of interests:** All Directors:
- (a) will ensure the Company maintains a Register of Interests where the respective interests of each Director in other companies, trusts, business activities or public bodies as elected representative, director, owner, manager, trustee or appointed representative or agent will be recorded;
 - (b) are required to disclose all such interests and all changes in such interests, whenever they may occur, to the Company; and
 - (c) are required to declare their interests to the Board during the course of the Board's deliberations when a Director knows or believes their interests in other businesses and public activities could or would conflict with the interests of the Company.
20. **Remuneration and Other Benefits**
- 20.1 **Remuneration:** The Council will, annually, agree with the Board the pool of funding available for the remuneration of the Directors based on market rates and otherwise applying the principles set out in paragraph 3.6.1 of the Council CO Directors Policy. The Board will adopt a director's relativity scale in accordance with the requirements of the Council CO Directors Policy.
- 20.2 **Expenses:** All Directors will be entitled to be paid for all reasonable travel, accommodations and other expenses incurred by the Director in connection with the Director's attendance at meetings

or otherwise in connection with the Company's business and the Board may authorise such payments without Shareholder or Council approval.

21. Indemnity and Insurance

- 21.1 The Company may indemnify and effect insurance for a Director or employee of the Company in accordance with section 162 of the Act. The Board may determine the amounts and the terms and conditions of any such insurance.

PART E – ADMINISTRATION, FINANCIAL AND MISCELLANEOUS

22. Method of Contracting

- 22.1 **If required to be by deed:** An obligation which, if entered into by a natural person, would, by law, be required to be by deed, may be entered into on behalf of the Company in writing signed under the name of the Company by:

- (a) two or more Directors; or
- (b) one Director, or other person or persons authorised by the Board, whose signature must be witnessed; or
- (c) one or more attorneys appointed by the Company in accordance with section 181 of the Act.

- 22.2 **If required to be in writing:** An obligation or contract, which is required by law to be in writing and any other written obligation or contract which is to be entered into by the Company, may be signed on behalf of the Company by a person acting under the Company's express or implied authority.

- 22.3 **Company may appoint an attorney:** The Company may exercise the power conferred by section 181 of the Act to appoint one or more persons as its attorney either generally or in relation to a specific matter. An act of the attorney in accordance with the instrument of appointment binds the Company.

23. Reporting and Audit

- 23.1 **Half-yearly report:** Within 2 months after the end of the first half of each financial year, the Board must deliver to the Shareholders a half-yearly report that complies with the Company's obligations under section 66 of the LG Act.

- 23.2 **Quarterly report:** If requested by the Shareholders, within 2 months after the end of the first and third quarters of each financial year, the Board must deliver to the Shareholders a quarterly report that complies with the Company's obligations under section 66 of the LG Act.

- 23.3 **Annual report:** Subject to the provisions of this clause 23.3, within 3 months after the end of each financial year, the Board must deliver to the Shareholders a report that:

- (a) complies with its obligations under section 67 of the LG Act; and
- (b) includes the information required under section 211 of the Act,

provided that, where practicable, the Board will use its reasonable endeavours to deliver the annual report to the Shareholders within 2 months after the end of the financial year.

- 23.4 **Auditor:** The Company must, at each annual meeting, appoint the Auditor-General as its auditor in accordance with the Public Audit Act 2001 to audit the financial statements of the Company. Section 196(2) of the Act does not apply to the Company.

24. Statement of Intent

- 24.1 **Draft Statement of Intent:** The Board must provide a draft Statement of Intent for the Company to the Shareholders by 1 March 2026 and thereafter by 1 March each year. The Statement of Intent must comply with the LG Act and other applicable legislation.

- 24.2 **Board to consider comments:** The Board must consider any comments on the draft Statement of Intent that are made by any Shareholder to the Board:

- (a) in the case of the first Statement of Intent for the Company, within one month of the draft Statement of Intent being provided to the Shareholders; and
- (b) otherwise, by 1 May each year.

- 24.3 **Completed Statement of Intent:** The Board must deliver the completed Statement of Intent to the Shareholders by:

- (a) in the case of the first Statement of Intent for the Company, as soon as reasonably practicable after it has received comments on the draft Statement of Intent from the Shareholders; and
- (b) otherwise, on 30 June each year.

25. Reserved Matters

- 25.1 **Matters Requiring Special Resolution or Council Approval:** For ease of reference, those matters contained within this Constitution requiring a Special Resolution or approval of the Council are summarised in the Fourth Schedule (which is intended to be a summary only). The omission of any item from the Fourth Schedule will not affect the effectiveness and enforceability of any provision of this Constitution. The Fourth Schedule is not a summary of the requirement for Special Resolutions under the Act (e.g. for major transactions).

26. Distribution of Surplus Assets in Kind

- 26.1 If the Company is liquidated the liquidator shall, at the direction of Shareholders by Special Resolution, but subject to any other sanction required by the Act:

- (a) divide among the Shareholders in kind the whole or any part of the surplus assets of the Company and for that purpose the liquidator may:
 - (i) fix such values for surplus assets as the liquidator considers to be appropriate, and
 - (ii) determine how the division will be carried out as between Shareholders or different classes of Shareholder; and
- (b) vest the whole or any part of any such surplus assets in trustees upon such trusts for the benefit of such of those Shareholders as the liquidator thinks fit,

but so that no Shareholder is compelled to accept any shares or other securities on which there is any liability.

FIRST SCHEDULE

FORFEITURE AND LIEN ON SHARES

Forfeiture

1. If a Shareholder fails to pay any call, or instalment of a call or amount which (by the terms of issue of a Share) becomes payable at a fixed time, on the day appointed for payment the Board may serve notice (**Board Notice**) on that Shareholder requiring payment of:
 - (a) the unpaid call, instalment or amount;
 - (b) any interest accrued on that amount; and
 - (c) all expenses incurred by the Company by reason of the non-payment.

The Board Notice must:

- (d) name a further day (not earlier than the expiration of 10 Working Days from the date of service of the Board Notice) on or before which payment is to be made; and
 - (e) advise that if payment is not made by that date the Shares are liable to be forfeited.
2. If the requirements of any Board Notice served under paragraph 1 above are not complied with, any Share that is the subject of the Board Notice may, at any time after expiry of the term specified in the Board Notice and before payment, be forfeited by the Board. The forfeiture will include any distributions or interest relating to the forfeited Shares that have not actually been paid before the forfeiture.
3. If a Share is forfeited by the Board under paragraph 2, the Board must:
 - (a) give notice of the forfeiture to the Shareholder in whose name it stood immediately prior to the forfeiture; and
 - (b) enter the forfeiture and its date on the share register.

The Shareholder ceases to be a Shareholder in respect of the forfeited Shares but remains liable to pay all money payable to the Company at the date of forfeiture in respect of the Shares.

4. A Share forfeited by the Board under paragraph 2, is deemed the property of the Company and may be sold, reissued or otherwise disposed of on terms and in such manner (but subject to the terms of this Constitution governing the transfer of Shares) as the Board thinks fit. The Board may cancel any forfeiture at any time before a sale or disposition on such terms as the Board thinks fit.

Lien on Shares

5. The Company has a first and continuing lien on all Shares registered in the name of each Shareholder (whether solely or jointly) for that Shareholder's joint and several debts, liabilities and obligations to or with the Company on any account whatsoever. The lien is effective whether:
 - (a) the debts, liabilities or obligations were incurred before or after any notice of any equitable interest of any person other than the Shareholder;
 - (b) the period for payment, fulfilment or discharge of the debts, liabilities or obligations has actually arrived or not.

6. The lien extends to the sale proceeds of the Shares and all dividends and other distributions declared in respect of the Shares.
7. Unless otherwise agreed, the registration of a transfer of Shares by the Board operates as a waiver of the lien.
8. The Company may sell in such manner as the Board thinks fit (but subject to the terms of this Constitution governing the transfer of Shares) any Shares over which the Company has a lien if:
 - (a) an amount is presently payable to the Company on those Shares or by the holder of those Shares; and
 - (b) the Company has demanded the amount in writing and payment has not been made within 10 Working Days after the demand.

Sale of Forfeited Shares and Shares Over Which the Company Has a Lien

9. To give effect to the power of sale arising from the forfeiture of shares or a lien over shares the Company may:
 - (a) sign or authorise a Director to sign a transfer of the Shares in favour of the purchaser;
 - (b) receive the proceeds of sale (the receipt of a director being a sufficient discharge to the purchaser);
 - (c) enter the purchaser's name on the share register;
 - (d) issue a new share certificate for the Shares.
10. A certificate signed by a director that the power of sale has arisen and is exercisable by the Company is conclusive evidence of the facts stated in that certificate.
11. The purchaser is not bound to see to the application of the purchase money nor is the purchaser's title to the Shares affected by any irregularity or invalidity in the forfeiture of the Shares, the enforcement of the lien or the sale proceedings and the remedy of any person aggrieved by the sale is in damages only and against the Company exclusively.
12. The proceeds of sale must be applied:
 - (a) first, in payment of the costs and expenses in exercising the right of forfeiture or enforcing the lien and selling the Share;
 - (b) second, (in the case of a forfeited Share) in or towards satisfaction of any unpaid calls, instalment amounts, interest and expenses on that Share, or (in the case of a lien) in payment of the amount secured by the lien;
 - (c) the balance (if any) to the former Shareholder.

SECOND SCHEDULE

PRE-EMPTIVE RIGHTS

Definitions

1. In this Schedule, unless the context otherwise requires:

Additional Shares has the meaning given in paragraph 7.

Asking Price means the Seller's asking price specified in a Transfer Notice.

Fair Value means the value of the Share(s) for the purposes of a sale between a willing but not anxious Seller and a willing but not anxious Purchaser determined in accordance with paragraph 11.

Offer has the meaning given in paragraph 6.

Purchaser means any person who purchases Share(s) that are subject to an Offer.

Seller means a Shareholder proposing to transfer any Share(s).

Transfer Notice has the meaning given in paragraph 3.

2. Subject to clause 9.8 of this Constitution, no Share nor any rights attaching to a Share can be transferred until the following rights of pre-emption have been exhausted.

Transfer Notice Required

3. A Seller must give a written notice (**Transfer Notice**) to the Company advising the Company of the Seller's wish to transfer that Seller's Share(s). The Transfer Notice:
 - (a) must specify the number of Shares the Seller wishes to sell; and
 - (b) must specify the Asking Price; and
 - (c) constitutes the Company as the Seller's agent for the transfer of the Share(s) at the Asking Price.
4. If the Transfer Notice relates to several Shares, it will not operate as a separate Transfer Notice in respect of each Share and the Seller is under no obligation to sell or transfer part only of the Shares specified in the Transfer Notice.
5. Except as provided in paragraph 13, the Seller cannot revoke the Transfer Notice without the written approval of the Board.

Offer of Shares

6. Shares that are the subject of a Transfer Notice must be offered for sale (**Offer**) by the Board to each other Shareholder. The Offer must be in writing and specify:
 - (a) the number of Shares that Shareholder is entitled to, which will be in proportion to that Shareholder's existing shareholding; and
 - (b) the Asking Price; and

- (c) the date by which that Shareholder must notify the Board of its acceptance of the Offer, which date shall be at least 10 Working Days and no more than 20 Working Days from the date of the Offer.
- 7. If any of the Shareholders do not accept the Offer, then their allocation of Shares (**Additional Shares**) may be offered to the other Shareholders.
- 8. Where a Shareholder accepts an Offer, their notice of acceptance must be in writing and may:
 - (a) relate to all or part of the Share(s) offered for sale;
 - (b) say state the number of Additional Shares a Shareholder is prepared to purchase from declined Offers; and
 - (c) be conditional on the determination of a Fair Value for the Share(s).
- 9. Competing applications for Additional Shares are to be allocated pro-rata according to the number of Shares held by the applicant Shareholders.

Third Party Purchaser of Shares

- 10. If any of the Shares that are part of the Seller's Offer are not allocated to an existing Shareholder pursuant to paragraphs 6 to 9 (inclusive), the Seller may, within 2 calendar months from the date specified in the Offer pursuant to paragraph 6(c) above, sell or transfer all (but not part) of those unallocated Shares to a third party provided that:
 - (a) the price payable by the third party is not less than the Asking Price specified in the Offer to the other Shareholders; and
 - (b) the terms of sale are no more favourable than the terms offered to the other Shareholders; and
 - (c) the Board does not refuse registration pursuant to the terms of this Constitution.

Determination of "Fair Value"

- 11. If any acceptance is conditional on the determination of a Fair Value for the Shares, that value shall be determined by an independent expert:
 - (a) jointly appointed by the Seller and the relevant Purchaser; or
 - (b) if they are unable to agree, by a Chartered Accountant appointed by the President for the time being of the Institute of Chartered Accountants of New Zealand.
- 12. Except with the consent of the Seller, the Fair Value shall not be determined unless all Shares offered for sale in the Transfer Notice have been accepted (either unconditionally or subject only to the determination of a Fair Value) and allocated by the Board.

Revocation of the Transfer Notice by the Seller

- 13. The Seller may revoke the Transfer Notice (in whole but not in part) if the Board does not find a Purchaser or Purchasers for all the Shares within 3 calendar months from the date specified in the Offer pursuant to paragraph 6(c).

Settlement

14. The Seller is not bound to transfer any of the Shares that are subject to a Transfer Notice until a Purchaser (or Purchasers) has been found for all those Shares.
15. Once the Seller is bound to transfer the Shares, the Seller shall transfer, and the relevant Purchaser shall pay the price for the relevant Shares 20 Working Days after:
 - (a) if the Purchaser's acceptance is conditional on the determination of the Fair Value, such determination of Fair Value; or
 - (b) otherwise, the allocation of the Shares by the Board,
 and the price shall be:
 - (c) the Fair Value if the Purchaser's acceptance is conditional on the determination of Fair Value; or
 - (d) the Seller's Asking Price if the Purchaser unconditionally accepted the Offer.

Company May Effect Transfer

16. If the Seller, after becoming bound to sell the Shares, defaults in transferring the Shares the Board may:
 - (a) authorise a Director to sign a transfer of the Shares on behalf of the Seller;
 - (b) receive the purchase money (the receipt of a Director being a sufficient discharge to the Purchaser);
 - (c) enter the Purchaser's name on the share register; and
 - (d) hold the purchase money (subject to any lien in favour of the Company) in trust for the Seller.

Change in Control

17. If there is:
 - (a) a change in the legal or beneficial ownership of a Shareholder; or
 - (b) a change in the directors of that Shareholder; or
 - (c) any other change or alteration to the structure or affairs of that Shareholder,
 that has the direct or indirect effect of altering the effective control or management of that Shareholder, the Board may give written notice to that Shareholder deeming that Shareholder to have given a Transfer Notice. This paragraph 17 will not apply where the relevant Shareholder is the Council.
18. Notwithstanding any other provision in this Constitution, the Board may give written notice to any person becoming entitled to a Share as a result of the dissolution or winding up of any Shareholder, deeming that person to have given a Transfer Notice.

19. If the Board gives a deemed transfer notice in terms of paragraph 17 or 18, the Asking Price shall be deemed to be the Fair Value.

THIRD SCHEDULE

PROCEEDINGS OF THE BOARD

Director's Power To Convene Meetings

1. A Director, or any other person at the request of a Director, may convene a meeting of the Board by giving notice in accordance with this Schedule.

Notice to be Sent to Director's Address

2. The notice of meeting must be a written notice delivered by hand to the Director, or sent to the address, or sent to the electronic mail address, which the Director provides to the Company for that purpose.

Notice to Contain Certain Details

3. The notice of meeting must include the date, time and place of the meeting and the matters to be discussed and an indication of the matters to be discussed in sufficient detail to enable a reasonable Director to appreciate the general import of the matters.

Period of Notice Required to be Given to Directors

4. At least five Working Days' notice of a meeting of the Board must be given unless the chairperson (or, in the chairperson's absence from New Zealand, any other Director) believes it is necessary to convene a meeting of the Board as a matter of urgency, in which case shorter notice of the meeting of the Board may be given, so long as at least two hours' notice is given.

Directors May Waive Irregularities in Notice

5. Any irregularity in the notice of a meeting, or failure to comply with paragraphs 1 to 4 in this Schedule is waived if all Directors entitled to receive notice of the meeting attend the meeting without protest as to the irregularity or failure, or if all Directors entitled to receive notice of the meeting agree to the waiver.

Methods of Holding Meetings

6. A meeting of the Board may be held either:
 - (a) by a number of Directors who constitute a quorum, being assembled together at the place, date and time appointed for the meeting; or
 - (b) by means of audio, or audio and visual, communication by which a quorum of Directors participating can simultaneously hear each other throughout the meeting.

Quorum for Board Meeting

7. The quorum necessary for the transaction of business at a meeting of the Board is a majority of the Directors who are entitled to vote at that meeting to include not less than 3 Directors and at least 1 Elected Member Director (unless no Elected Member Director has been appointed to the Board) and at least 2 Independent Directors. The Shareholders may change the number of Directors

required for a quorum by Special Resolution. No business may be transacted at a meeting of the Board unless a quorum is present.

Meeting Adjourned if No Quorum

8. If a quorum is not present within 60 minutes after the time appointed for a meeting of the Board, the meeting will be adjourned automatically until the same day in the following week at the same time and place.

Chairperson to Chair Meetings

9. The chairperson of the Board appointed in accordance with this Constitution will chair all meetings of the Board at which he or she is present. If the office of chairperson of the Board is vacant, or if at a meeting of the Board the chairperson of the Board is not present within 10 minutes from the time appointed for the meeting, then the Directors present may elect one of their number to chair the meeting.

Voting on Resolutions

10. Each Director has 1 vote. A resolution of the Board is passed if it is agreed to by all Directors present without dissent or if a majority of the votes cast on it are in favour of it. A Director present at a meeting of the Board may abstain from voting on a resolution, and any Director who abstains from voting on a resolution will not be treated as having voted in favour of it for the purposes of the Act.

Chairperson Does Not Have Casting Vote

11. In the case of an equality of votes, the chairperson of the Board does not have a casting vote.

Board Must Keep Minutes of Proceedings

12. The Board must ensure that minutes are kept of proceedings at meetings of the Board. Minutes that have been signed correct by the chairperson of the meeting are evidence of the proceedings at the meeting unless they are shown to be inaccurate.

Written Resolutions of Board Permitted

13. A written resolution signed or assented to by a majority of the Directors then entitled to receive notice of a meeting of the Board and who together would constitute a quorum at a meeting is as valid and effective as if it had been passed at a meeting of the Board duly convened and held. Within 5 working days of a resolution being passed in accordance with this clause, the Company must send a copy of the resolution to every Director who did not sign the resolution or on whose behalf the resolution was not signed.
14. Any written resolution may consist of several copies of the resolution, each signed or assented to by one or more of the Directors. A copy of a written resolution, which has been signed and is sent electronically will satisfy the requirements of this clause.

Board May Regulate Other Proceedings

15. Except as set out in this Schedule, the Board may regulate its own procedure.

Committees

16. A committee of Directors must, in the exercise of powers delegated to it, comply with any procedural or other requirements imposed on it by the Board. Subject to any such requirements, the provisions of this constitution relating to proceedings of Directors apply to meetings of a committee of Directors.

FOURTH SCHEDULE**RESERVED MATTERS**

The following is a summary of the matters contained within the Constitution that require a Special Resolution and/or Council approval or consent:

1. Clause 3.1: Alteration or revocation of the Constitution.
2. Clause 6.1: Issue of Shares in the Company.
3. Clause 9.8: Transfer Shares other than in accordance with clause 9.2.
4. Clause 11.3: Take action that would affect the rights attaching to Shares.
5. Clause 13.1: Number of Directors.
6. Clause 14.1: Appointment of Directors.
7. Clause 20.1: Setting the pool of funding available for Director's remuneration.
8. Clause 24.2: Board to consider comments made by Shareholders on Statement of Intent.
9. Clause 26.1: Distribution of surplus assets.

PUBLIC POLICY



Investment Policy			
Adoption By	Council		
Department	Corporate Services - Finance		
Original Adoption Date	30 June 2015	Review Adoption Date	02 February 2024
Next Review Deadline	02 February 2027	Document ID	352769
Relevant Legislation	Section 102 and 105 of the Local Government Act 2002		
NCC Docs Referenced	Investment Property Portfolio Policy (Leasehold)	DocID 651838	
	Statement of Investment Policies and Objectives (Managed Funds)	DocID TBC	
	Significance and Engagement Policy	DocID 88316	
	Risk Management Policy	DocID1606053	
	Risk Management Framework	DocID TBC	

Purpose

The Investment Policy is adopted under Section 102(1) and 102(2)(c) of the Local Government Act (**LGA**) 2002.

LGA Section 105 requires an Investment Policy which “*must state the local authority’s policies in respect of investments, including:*

- *the mix of investments, and*
- *the acquisition of new investments, and*
- *an outline by which investments are managed and reported on to the local authority, and*
- *an outline of how risks associated with investments are assessed and managed”.*

The Investment Policy can be amended and adopted by resolution of Council at any time (LGA section 105 (2) (b)).

General Investment Objectives

Napier City Council ('**Council**') holds a broad mix of investment assets on behalf of ratepayers. Council seeks to ensure that the following objectives are met, namely that

- investment assets are managed to balance:
 - growth in an annual cash return for the benefit of today's Council and ratepayers; and
 - capital growth for the benefit of future Council and ratepayers;
- responsible investment standards are demonstrated in relation to the management of investment assets; and
- investment assets are managed in an active and prudent way to achieve the above objectives.

Council acknowledges that each investment asset, or group of investment assets, has different return targets and time horizons.

Council utilises experts to support it in the management of some or all its investments.

Scope

Council has two investment portfolios covered by this policy.

NCC Investment Portfolio

In 2025 Council ring-fenced some its investments assets (the **NCC Investment Portfolio**) with the purpose being "*an inter-generational investment portfolio that builds financial resilience and reduces future reliance on ratepayers for funding activities.*"

For reporting purposes, the formal start date of the NCC Investment Portfolio, as a ring-fenced investment portfolio is 1 July 2025. Schedule 1 sets out the Opening Statement of the NCC Investment Portfolio as at 1 July 2025.

Council Investments

All other investments held by Council that are not part of the NCC Investment Portfolio.

Council may decide to transfer assets from Council Investments to the NCC Investment Portfolio. Council will do this through a Council resolution and inform AIM in line with the terms of the Management Services Agreement between the two organisations.

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Mix of Investments

Council maintains a mix of investments.

The following table gives an indication of Council's investments and how they are managed. The list of assets defined is indicative and not exhaustive.

	NCC Investment Portfolio	Council Investments
Investment Manager	Ahuriri Investment Management Limited (AIM)	Council
Treasury Investments	Cash and Deposits Bonds and Fixed Interest Instruments	Cash and Deposits Bonds and Fixed Interest Instruments
Property and Land Investments	Leasehold Land Development Land Commercial Property Residential Property Other land-based activities (e.g. forestry)	Land and Buildings held for the operating purposes of Council.
Equity Investments	Listed Equities Private Equity	LGFA Shares
Equity Interests	Shareholding in Hawke's Bay Airport Shareholdings in various CCOs and CCTOs	Shareholding in Omarunui Landfill Shareholdings in various CCOs and CCTOs

Social Responsibility

Council recognises that as an owner of significant investment assets, social responsibility should be demonstrated in how investment assets are managed.

All assets must be actively managed, considering the social responsibility expected of a reasonable investor.

Externally managed investment assets (such as Managed Funds) must be undertaken with the same social responsibility standards as though the assets were managed directly.

No investment will be directly contrary to the objectives or well beings of the Council.

NCC Investment Portfolio

Investment Management

Council has created Ahuriri Investment Management Limited (**AIM**) and appointed AIM its Investment Manager for the NCC Investment Portfolio. AIM is a 100% owned subsidiary and a Council Controlled Trading Organisation (**CCTO**).

AIM must adhere to the Investment Policy in managing the NCC Investment Portfolio.

In developing the investment strategy for the NCC Investment Portfolio, the Investment Manager is expected to consider the NCC Investment Portfolio Purpose and Council's General Objectives as well as considering:

- the mix of assets to achieve growth and income objectives;
- assets being appropriately diversified to provide resilience and buffer Council from the impact of economic cycles and localised disasters; and
- a distribution policy that reflects the asset mix, potential volatility, and balances growth in the annual cash return for Council with capital growth of the NCC Investment Portfolio.

Regional Benefit

Council acknowledges that natural tension may arise between a commercial focus for the NCC Investment Portfolio and the ratepayer expectations regarding regional benefits and outcomes.

In this context, Council reaffirms the primary objective of the NCC Investment Portfolio, is to make a commercial return for Council. When considering the development and execution of the investment strategy for the NCC Investment Portfolio, the Investment Manager is to apply the following priority order:

1. Providing an annual cash return to Council equivalent to that set in the annual Statement of Intent.
2. Achieving long term capital growth and resilience of the NCC Investment Portfolio for the benefit of future generations of ratepayers.
3. Being a respected partner in the investment community.
4. Being a direct investor in Hawkes Bay (an example being the development of Parklands) and reporting on these regional benefits.

Financial Performance Measures

The following Financial Performance Measures apply for forecasting and performance reporting purposes.

- **Annual Cash Payment:** This is the payment that AIM will make from the NCC Investment Portfolio to Council. This is represented in dollars.
- **Portfolio Net Return:** This the net investment performance of the total NCC Investment Portfolio and is made up of the gross asset performance less all costs within the ring-fenced NCC Investment Portfolio. It is represented in both an annual dollar and percentage terms.
- **Asset Net Return:** This is like the Portfolio Net results but applied at an asset or asset class level. Costs included in the calculation would only be direct asset costs.

AIM will set out **Financial Performance Targets** against each Financial Performance Measure in its annual Statement of Intent. AIM will report on performance against the measures and targets in its regular reporting to Council.

Volatility, Valuations and Reserves

The **Inflation-Adjusted Net Value** of the NCC Investment Portfolio is a Strategic Asset under Council's Significance and Engagement Policy. This has been added to affirm the inter-generational purpose of the NCC Investment Portfolio. Being a Strategic Asset means Council cannot withdraw value from the Inflation-Adjusted Net Value NCC Investment Portfolio without considering of the Council's Significance and Engagement Policy.

Council acknowledges that, by their nature, investment portfolios can be volatile, and the value will naturally go up and down over time. This may mean that at points in time the **Total Net Value** is less than the starting value or the Inflation-Adjusted Net Value. This does not mean something is wrong or that the fund is failing - it's a normal part of investment cycles. The goal is to grow the value of decades not just year to year.

The distribution policy, that is to form part of the investment strategy, will consider volatility as part of balancing the growth in the annual cash return for Council with capital growth of the NCC Investment Portfolio.

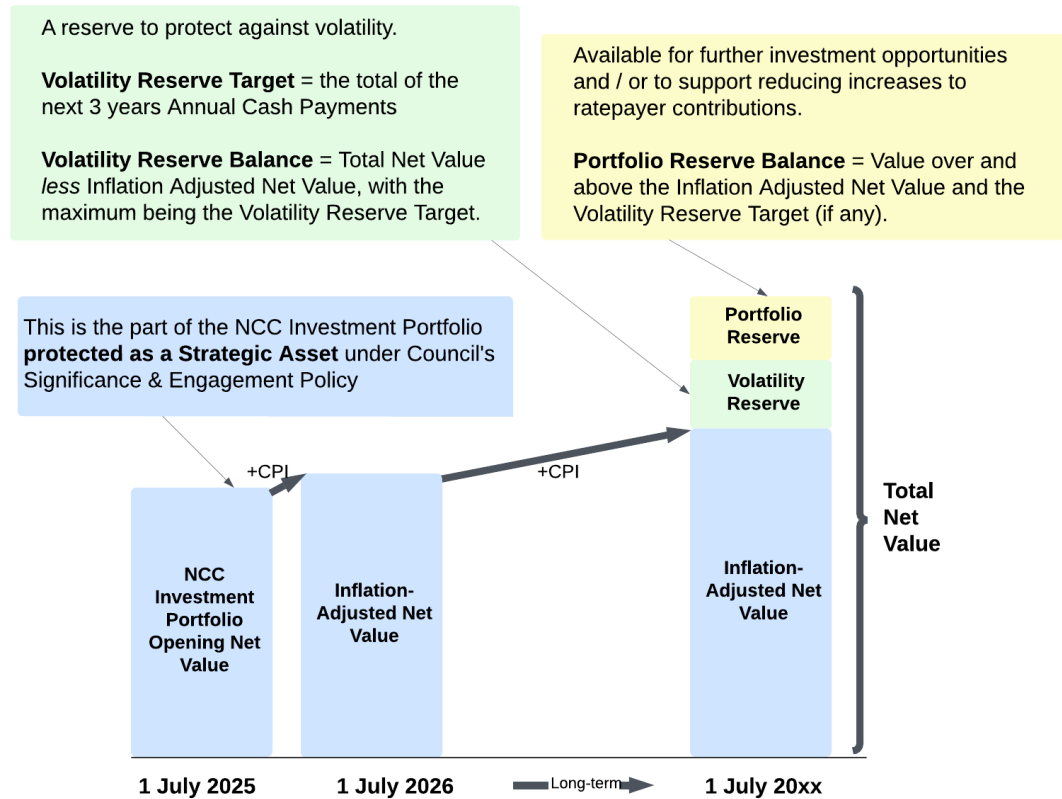
The Inflation-Adjusted Net Value is to be calculated annually as the opening Inflation-Adjusted Net Value at the prior 1 July plus annual inflation. Inflation is to be based on Statistics New Zealand Consumer Price Index (CPI) for the 12 months to 30 June. If a new asset is added to the portfolio part way through a year, the inflation adjustment for that asset is to be pro-rated.

To protect against a short-term volatility and create certainty for the **Annual Cash Payment** from the NCC Investment Portfolio to Council, a **Volatility Reserve** will be created. The **Volatility Reserve Target** will be equal to next three-years Annual Cash Payments, as set out in AIM's annual Statement of Intent.

Council acknowledges that it could take several years for the **Volatility Reserve Balance** to build up to achieve the Volatility Reserve Target. Council also acknowledges that if the Total Net Value is less than the Inflation-Adjusted Net Value, the Volatility Reserve Balance will be negative.

When the Volatility Reserve Target is achieved, any net value over and above this will be reported as a **Portfolio Reserve**.

Diagram 1: A summary of the NCC Investment Portfolio values and reserves.



Risk Management

To manage risk within the NCC Investment Portfolio, Council delegated its management to AIM and empowered AIM to manage risk. Council expects AIM to manage the NCC Investment Portfolio in accordance with the Risk Management Framework and Risk Management Policy.

Council expects risks to be managed by AIM, firstly at a whole of NCC Investment Portfolio level, and secondly at an asset class level. Risk management will form part of the reporting of AIM to Council for the NCC Investment Portfolio.

Acquisitions or Disposal Assets

Council has made AIM responsible for the investment decisions of the NCC Investment Portfolio.

AIM may diversify assets within the NCC Investment Portfolio to achieve the objectives set by Council. Through this the individual assets of the NCC Investment Portfolio are expected to change over time as individual assets are sold, and new assets are acquired.

In considering asset transactions for the NCC Investment Portfolio, AIM is expected to exercise sound commercial judgement, consider relevant Council policies, and consider the impact of a transaction in the context of the objectives of NCC Investment Portfolio as a whole.

Where a specific investment asset is named as Strategic Asset (e.g. Hawkes Bay Airport Shares) Council's **Significance and Engagement Policy**, then that Policy and the LGA must be followed in relation to any disposal.

Where commercial leasehold land is being sold the **Investment Property Portfolio Policy (Leasehold)** also applies.

Commercial leasehold

The commercial leasehold land set out in the Opening Statement (Appendix 1) is land transferred from the Hawke's Bay Harbour Board in 1989 as part of the local government reorganisation and Council, by virtue of the Hawke's Bay Endowment Land Empowering Act 2002.

To support Council's compliance with the Hawke's Bay Endowment Land Empowering Act 2002, it is necessary to track all operating income, sale income, and expenditure related to commercial leasehold land in a manner that meets the Act's provisions.

Managed Funds

Within the NCC Investment Portfolio, some of the assets and asset classes may be managed by a professional third-party fund manager. This Managed Fund arrangement may include directly held or pooled investments in various asset such as shares, bonds, and property and may include offshore investments and currency. Assets managed through this arrangement are subject to Council's Statement of Investment Policies and Objectives (**Managed Fund SIPO**)

Council Equity Interests

For Council Equity Interests within the NCC Investment Portfolio AIM will in line with the LGA:

- Write and issue a Statement of Expectations
- Respond to Draft Statement if Intent from the Entity
- Correspond as needed with the Entity
- Receive investment and strategic presentations from the Entity

- Vote at the Entity Annual General Meeting on matters not affecting the level of shareholding of Council.

Where AIM is the appointed investment manager for a CCO and CCOs AIM must consult Council where:

- There is a change affecting the Council shareholding in an Entity;
- AIM proposes a change in Council shareholding of an Entity,
- Where an Entity proposes a transaction impacting the level of investment by Council.

Council Investments

Risk Management

Council acknowledges that the holding of investment assets carries risk.

Council wishes to ensure that the returns provided by each asset adequately compensated Council for the risk taken in owning the asset.

Council will manage its investments in accordance with the Risk Management Framework and Risk Management Policy.

Acquisition or Disposal of Investments

Except for treasury investments, or where delegation has been given to Council officers new investments are acquired and divestment are made if an opportunity arises and approval is given by the appropriate Council committee, based on advice and recommendations from Council officers.

Before approving any new investments, Council gives due consideration to the contribution the transaction will make in fulfilling Council's strategic objectives, and the financial risks owning the investment or making the divestment.

Where a specific investment asset is named as Strategic Asset (e.g. Hawkes Bay Airport Shares) Council's **Significance and Engagement Policy**, then that Policy and the LGA must be followed in relation to any disposal.

Asset Specific Considerations

Set out below are some asset investment considerations that apply to Council Investments.

Council Equity Interests

Council holds Equity Interests in entities held for various strategic, economic development and financial objectives, as outlined in the Long-Term Plan (LTP).

Council's Equity Interests include:

- Shares in Omarunui Landfill Operation; and
- 100% shareholding in Ahuriri Investment Management Limited.

For Council Equity Interests classed as Council Investments except for specific ringfencing provisions for some assets (e.g. Omarunui Landfill), dividends received and proceeds from the disposition of equity investments are used to repay debt, to invest in new assets or investments or any other purpose that is considered appropriate by Council.

For Council Equity Interests Council will in line with the LGA:

- Write and issue a Statement of Expectations
- Respond to Draft Statement of Intent from the Entity
- Correspond as needed with the Entity
- Receive investment and strategic presentations from the Entity
- Vote at the Entity Annual General Meeting on matters not affecting the level of shareholding of Council.

New Zealand Local Government Funding Agency Limited (LGFA)

Council consulted on, and became a member of, the LGFA in March 2020.

Council may invest in shares and other financial instruments of the LGFA and may borrow to fund that investment.

Council's objective in making any such investment will be to:

- Obtain a return on the investment.
- Ensure that the LGFA has sufficient capital to remain viable, meaning that it continues as a source of investment and/or debt funding for the Council.

Council may invest in LGFA bonds and commercial paper as part of its financial investment portfolio.

As a borrower, Council's investment is recognised through shares and borrower notes. As an investor in LGFA shares and as a Guarantor, Council subscribes for uncalled capital in the LGFA.

Property Investments

Council owns property that is necessary to achieve its strategic or commercial objectives or deemed to be a core Council function. Council therefore may retain an investment in investment property, car parking, and rental and retirement housing.

Property purchases are supported by registered valuations and, where appropriate, a full business case analysis. Council does not purchase properties on a speculative basis.

Council provides car parking facilities which are operated on a commercial basis.

Property disposals are managed to ensure compliance with statutory requirements. Disposition proceeds from sale of property investments are treated according to each of the following classes of property:

General Land

Disposition proceeds from the sale of General Land (including Rooding Land) are used firstly to retire any debt related specifically to that investment prior to use for other purposes.

Investment Property

Outside of development property, Council may own property to generate commercial returns for the benefit of the city. Prior to acquisition of investment property, a financial assessment to determine reasonable price and likely returns generated from ownership must be conducted. Regular reviews of investment property must be conducted to ensure ongoing financial viability of ownership.

Treasury Investments – Cash & Fixed Interest Investments

Please note that Local Government Funding Agency borrower notes, bonds and commercial paper are discussed elsewhere in this policy.

Council maintains treasury investments for the following primary reasons:

- to invest amounts allocated to loan redemption reserves, trusts, bequests, and special funds.
- to invest surplus cash and working capital funds.

Treasury Investment Philosophy and Objectives

Council's philosophy in the management of treasury investments is to optimise its capital protection and liquidity objectives while balancing risk and return considerations. Council recognises that as a responsible public authority any investments that it does hold should be low risk. It also recognises that lower risk generally means lower returns.

To provide the greatest benefit, Council utilises its surplus internal funds for internal borrowing to reduce external debt, thus effectively reducing net interest costs.

Council's primary objective when investing is the protection of its investment capital and liquidity of its investment. Accordingly, only creditworthy counterparties are acceptable. Creditworthy counterparties are selected on the basis of their current Standard and Poor's (S&P) or equivalent rating, which must be A- rated or better. Exposure to investments below a strong rating (A rated) are not recommended due to Councils Risk Framework and financial risk appetite.

To avoid undue concentration of exposures, treasury investments/financial instruments should be used with a suitable range of counterparties as practicable. Where possible, transaction notional and principal sizes and maturities should be well spread.

Within allowable credit constraints, Council also seeks to:

- Ensure investments are liquid.
- Maximise investment return.
- Manage potential capital losses due to interest rate movements and interest break costs if investments need to be liquidated before maturity.

Cash

Cash is defined as money held (physical or in a NZ registered bank) and term deposits.

A cash balance is maintained for liquidity purposes to meet operational needs. Council has daily cashflow surpluses and borrowing requirements due to the mismatch of daily receipts and payments.

If practical, a targeted minimum of \$5,000,000 is held at call to meet day-to-day operational cashflow requirements.

Term deposits must be held with NZ registered banks. Maturities are staggered to provide day-to-day cashflow requirements and to avoid early break penalties. Not more than \$40,000,000 may be held with any one bank at any point in time.

Overdraft facilities are utilised as little as practical. Council maintains a \$300,000 committed bank overdraft facility to meet interim cash and liquidity requirements.

Cash Interest Rate/Maturity Guide

An important objective of the Council Investments portfolio is to match the portfolio's maturity term to planned expenditure, thereby ensuring that investments are available when required. This should be considered before applying the maturity guide (discussed below).

The following maturity guide is designed to manage interest rate risk and maturity risk on the treasury investment portfolio. The portfolio comprises both cash and fixed interest investments. Cash investments relate to matching investments with Council's working capital funding requirement and liquidity buffer amount requirements.

Period	Minimum	Maximum
0-6 months	30%	80%
6-12 months	20%	70%
1-3 years	0%	50%
3-5 years	0%	20%

Cash - Foreign Exchange Policy

Council has foreign exchange exposure through the occasional purchase of foreign exchange denominated assets approved through the capital planning process. Generally, all commitments over NZ\$100,000 equivalent are hedged using forward foreign exchange contracts, once expenditure is approved, the purchase order is placed, and the exact timing and amount is known. Council uses both spot and forward foreign exchange contracts.

Council does not borrow or enter into incidental arrangements, within or outside New Zealand, in currency other than New Zealand currency.

Fixed Interest

Fixed interest is defined as debt instruments (other than those defined as cash). Fixed interest can include, but is not limited to, bonds, commercial paper, etc.

Fixed interest may be used to supplement cash investments where terms are more favourable than those offered for cash investments or where timeframes are greater than 5 years.

Council preference is for plain vanilla bonds although other structures may be considered on a case-by-case basis. All secured and unsecured investment securities should preferably be senior in ranking. The following types of investment instruments are expressly prohibited:

- No asset-backed securities are allowed
- Structured debt (e.g; CDOs, CLOs or synthetic instruments)
- Subordinated debt or unsecured junior debt
- Perpetual notes
- Debt/equity hybrid notes such as convertibles

Fixed Interest - Credit, Liquidity and Interest Risk Management

- Credit risk is minimised by placing limits for each broad class of non-Government issuer.
- Liquidity / Maturity risk is minimised by managing maturity terms within policy limits and ensuring that all negotiable investments are capable of being liquidated in a readily available secondary market.
- Interest Rate risk is minimised by investing in fixed rate bonds and bank term deposits spread over a range of maturity terms.

Fixed Interest - Credit, Liquidity and Interest Risk Management

- Credit risk is minimised by placing limits for each broad class of non-Government issuer.
- Liquidity / Maturity risk is minimised by managing maturity terms within policy limits and ensuring that all negotiable investments are capable of being liquidated in a readily available secondary market.
- Interest Rate risk is minimised by investing in fixed rate bonds and bank term deposits spread over a range of maturity terms.

Fixed Interest - Counterparty Limits

Counterparty credit risk is the risk of losses (realised or unrealised) arising from a counterparty defaulting on a financial instrument where Council is a party. The credit risk to Council in a default event will be weighted differently depending on the type of instrument entered into. Limits should be spread amongst a number of counterparties to avoid concentrations of credit exposure. Credit ratings are as determined by Standard and Poor's, or equivalent rating. If any counterparty's credit rating falls below the minimum specified in the following table, then all practical steps are taken to eliminate the credit exposure to that counterparty as soon as practicable.

Fixed Issuers	Interest	Approved Instruments	Minimum Credit Rating (S&P)	Maximum per Counterparty	Maximum % of Total Fixed Interest Portfolio
NZ Government		Treasury bills Government stock	N/A	Unlimited	100%
NZ Local Government Funding Agency		LGFA Fixed and Floating Rate Bonds Promissory notes / Commercial paper Borrower Notes	N/A	\$40.0m	50%
State-Owned Enterprises and Local Authority		Promissory Notes / Commercial Paper, Fixed Rate Bonds	A-	\$5.0m	40%
Corporate Bonds	Listed	Commercial Paper, Fixed Rate Bonds	A-	\$5.0m	70%

Loan Advances

Council may provide advances to CCOs, charitable trusts and community organisations for strategic and commercial purposes only. New loan advances are by Council resolution only.

As outlined in Section 63 of the Local Government Act 2002, Council does not lend money, or provide any other financial accommodation to a CCO on terms and conditions that are more favourable to the CCO than those that would apply if Council were (without charging any rate or rate revenue as security) borrowing the money or obtaining the financial accommodation.

Loan advances are generally provided on an unsecured basis. Where possible, Council seeks security through a mortgage over land and buildings.

Council reviews performance of its loan advances on a regular basis to ensure strategic and economic objectives are being achieved.

Investment Management and Reporting Procedures

Council's investments are managed on a regular basis, with sufficient minimum immediate cash reserves and a cash buffer maintained. The daily cash position is monitored and managed through the Daily Cash Position Report, and long term cashflow through the annual Cashflow Forecast. To maintain liquidity, Council's short- and long-term investment maturities are matched with Council's known cashflow requirements.

The performance of Council investments is regularly reviewed to ensure Council's strategic objectives are being met. Both performance and policy compliance are reviewed. Internal investment reports are a vital management tool and, depending on their nature, are produced on a daily, weekly, monthly, quarterly, or annual basis. The results are summarised and reported to Council on a quarterly and annual basis.

Policy Review

The review timeframe of this policy will be no longer than every 3 years.

Document History

Version	Reviewer	Change Detail	Date
1	Investment and Funding Manager	NCC Long Term Plan 2015-2025, wording below was reviewed between March and May 2018, and published in the Long-Term Plan 2018-2028	2019
2	Investment and Funding Manager	No change	May 2020
3	Investment and Funding Manager	Significantly restructured with provision for SIPO added.	May 2022
4	Corporate Finance Manager	Significantly restructured with provision for a CCO/CCTO to invest and expansion of additional property assets for investment.	January 2024
5	Programme Manager– Transformation / Corporate Finance Manager	Simplification and more clearly integrate Ahuriri Investment Management Limited.	July 2025

Schedule 1:NCC Investment Portfolio Opening Statement at 1 July 2025

Note: Values shown are indicative only and will be updated by the Deputy Chief Executive following the approval of the 30 June 2025 Financial Statements and the completion of ring-fencing the NCC Investment Portfolio within Council's financial system.

Asset group	Component	Opening Value at 1 July 2025
Commercial Leasehold Land	Book value of assets set out in Table 1.	\$89.1m
	A ring-fenced revaluation reserve that reflects the variance between the book value and a market value on 30 June 2025.	Formal Valuation 30 June 2025
	Reserve 953 – Investment Property Portfolio Sale Account balance on 30 June 2025	~\$5.5m Indicative value at March 2025
	TOTAL	~\$94.6m

Surplus Land	Book value of assets set out in Table 2.	\$26.4m
	A ring-fenced revaluation reserve that reflects the variance between the book value and a market value on 30 June 2025	Formal Valuation 23 November 2024
	TOTAL	\$26.4m

Parklands Residential Development Area 3 and 4	Area 3 and 4 inventory values at 30 June 2025	\$26.2m
	A ring-fenced revaluation reserve that reflects the variance between the inventory value and a market value on 30 June 2025	TBC
	Reserve 888 – Parklands balance on 30 June 2025. This is expected to be negative and reflects the working capital debt for the development	~(\$12.5m) Indicative value at 30 June 2025
	TOTAL	\$13.7m + TBC

HB Airport Shares	26% Shareholding in Hawke's Bay Airport Limited	~\$14.6m B/Sheet value at 30 June 2024
	TOTAL	~\$14.6m

Managed Funds	Opening balance	\$0
	TOTAL	\$0

Working capital debt balance	Facility balance	\$30m
	Facility utilised by Parklands reserve 888	~(\$12.5m)
	Available Balance	\$17.5m

Indicative Total (excl. available debt balance)	\$149.4m
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Table 1: Commercial Leasehold Land

Set out below is a table of leasehold land addresses and their associated legal descriptions. This list was approved by Council on 12 December 2024 and endorsed on [date].

ADDRESS	LEGAL DESCRIPTION	ADDRESS	LEGAL DESCRIPTION
		ONEKAWA	
52- 54 West Quay / GO2 1 Lever Street	LOT 1 DP 321505	8 Austin Street	LOT 6 DP 8016
88 Meeanee Quay	SEC 6 SO 541581	16 Austin Street - title 1	PT LOT 1 DP 6211
10 West Quay	LOT 11 DP 11303	16 Austin Street - title 2	PT LOT 1 DP 8078
14 West Quay	LOT 1 DP 10748	39A Austin Street	LOT 2 DP 10199
26 West Quay	LOT 1 DP 27094	8 Cadbury Road	LOT 1 DP 10574
32 West Quay	TN SEC 767 NAPIER	34 - 36 Carnegie Road	LOT 2 DP 27597
34 West Quay	TN SEC 601 NAPIER	1 Dunlop Road	LOT 1 DP 8815
48 West Quay	LOT 1 DP 478162	2 Dunlop Road	LOT 7 DP 8953
56 West Quay	LOT 2 DP 6122	15 Dunlop Road	LOT 2 DP 8815
40 West Quay	LOT 2 DP 478162	33 Dunlop Road	LOT 2 DP 8553
60 Nelson Quay	LOT 1 DP 23082	53 Dunlop Road	LOT 2 DP 11357
AHURIRI OTHER		55 Dunlop Road	LOT 1 DP 11357
14 Bridge Street	LOT 2 DP 17631	57 Dunlop Road	PT LOT 1 DP 7860
16 Bridge Street	LOT 1 DP 17631	26 Edmundson Street	LOT 2 DP 11863
22 Bridge Street	TN SEC 610 NAPIER	6 Ford Road	LOT 3 DP 9474
72 Bridge Street	PT LOT 1 DDP 135	10 Ford Road	LOT 4 DP 9474
4 - 8 Hardinge Road	LOT 1 DP 26638	19 Ford Road	LOT 2 DP 14158
PANDORA		23 Ford Road	LOT 1 DP 14158
22 Thames Street	LOT 101 DP 12262	68 Wakefield Street	LOT 3 DP 10199
26 Thames Street	LOT 102 DP 12262	27 - 29 Cadbury Road	LOT 5 DP 9971
28 Thames Street	LOT 103 DP 12262	4 Cadbury Road	LOT 12 DP 10199
30 Thames Street	LOT 105 DP 12262	6 Cadbury Road	LOT 13 DP 10199
36 Thames Street	Lot 106 DP 12262	64 Wakefield Street	LOT 5 DP 10199
38 Thames Street	LOT 107 DP 12262	16 Austin Street - title 3	PT LOT 2 DP 8078
54 Thames Street	LOT 115 DP 12262	108 Niven Street	LOT 14 DP 12936
60 - 62 Thames Street	LOT 119 DP 12262	18 - 20 Austin Street	Section 4 SO 502169
64 Thames Street	LOT 120 DP 12262	29 Leyland Street	LOT 14 DP 10199
40 Thames Street - title 1	Lot 108 DP 12262	OTHER	
40 Thames Street - title 1	Lot 108 DP 12262	9 Owen Street	LOT 5 DP 5319
44 Thames Street	Lot 110 DP 12262	156 Wellesley Road	PT TN SEC 314 NAPIER
46 Thames Street	Lot 112 DP 12262	160 Wellesley Road	PT TN SEC 569 NAPIER
50 Thames Street	Lot 113 DP 12262		
52 Thames Street	Lot 114 DP 12262		
56 Thames Street	LOT 1 DP 14069		
68 Thames Street	LOT 1 DP 15012		
52 - 54 Pandora Road	LOT 1 DP 15945		
34 Thames Street	LOT 105A DP 12809		
66 Thames Street	LOT 2 DP 17336		
1-35 / 82 Thames Street	LOT 93 DP 16785		
84 Thames Street	LOT 94 DP 16785		
88 Thames Street	LOT 95 DP 16785		

Table 2: Surplus Land

Set out below is a table of leasehold land addresses and their associated legal descriptions. This list was approved by Council on 12 December 2024.

398 Prebensen Drive, Tamatea excluding land previously designated for	Lot 1 DP 14906
17 Allen Berry Avenue, Pirimai	Lot 126 DP 11689
11 Hospital Terrace, Napier Hill	Lot 100 DP 493568
5 Tangaroa Street, Ahuriri	Lot 2 DP 17736
115 Battery Road, Ahuriri	Lot 11 DP 556903
113 Battery Road, Ahuriri	Lot 158 DP 4703
111 Battery Road, Ahuriri	Lot 157 DP 4703

PUBLIC POLICY



Delegations to
Chief Executive Officer
and
Statutory Appointments Register

Dated: [date]

Delegation to Chief Executive Officer and Statutory Appointments Register			
Adopted by	Council		
Department	Corporate Services - Governance		
Original Adoption Date		Review Adoption Date	05 December 2019
Next Review Deadline	05 February 2023	Published Doc ID	1302792
Relevant Legislation	Local Government Act 2002		
NCC Documents Referenced	Financial Delegations Policy	446057	
	Financial Delegations Register	511833	
	Non-Financial Delegations Register	tba	
	Investment Policy	352769	

1 Purpose

The Council is an elected unit of local government that exists in perpetual succession unless that status is altered by statute. It acts by resolution and through its Chief Executive.

The delegations in this document formalise the powers and authority delegated by the Napier City Council to its Chief Executive.

2 Council Responsibility and Accountability

The Council has overall responsibility and accountability for the proper direction and control of the Council's activities in pursuit of community outcomes. This responsibility includes:

- Formulating the City Council strategic direction in conjunction with the community – particularly through the Long Term Council Plan (LTP);
- Setting policy frameworks for the community and the organisation;
- Determining the services and activities to be undertaken and setting the budget for the organisation;
- Striking the rates;
- Managing principal risks;
- Upholding the law and administering various laws and regulations;
- Monitoring the delivery of the LTP and Annual Plan;
- Ensuring the integrity of management control systems;
- Safeguarding the public interest;
- Ensuring effective succession of elected members;
- Reporting to ratepayers.

A key to the efficient running of any council is that there is a clear division between the role of elected members and that of management. The Local Government Act 2002 sets out a series of governance policies that support the principles of local government. The Council has adopted a Local Governance Statement. That statement clarifies the governance and the management responsibilities, the governance role and expected conduct of elected members, and describes the effective, open and transparent processes used by Council.

The delegations of powers and authority to committees or to the Chief Executive is an essential part of having effective and efficient governance and management systems in place.

While many of the Council's functions may be delegated, the overall responsibility for maintaining effective systems of internal control ultimately rests with the Council. Internal control includes the policies, systems and procedures established to provide measurable assurance that specific objectives will be achieved.

No delegation relieves the Council, an elected member, or officer of the liability or legal responsibility to perform or ensure performance of any function or duty.

3 Chief Executive's Role

The Chief Executive is appointed by the Council in accordance with section 42 of the Local Government Act 2002. The Chief Executive is responsible for implementing and managing the Council's policies and objectives within the budgetary constraints established by the Council.

In terms of section 42 the Chief Executive is responsible for:

- implementing the decisions of the Council;
- providing advice to the Council and its community board;
- ensuring that all responsibilities, duties and powers delegated to the Chief Executive or to any person employed by the Chief Executive, or imposed or conferred by any Act, regulation or bylaw are properly performed or exercised;
- managing the activities of the Council effectively and efficiently;
- maintaining systems to enable effective planning and accurate reporting of the financial and service performance of the Council;
- providing leadership for the staff of the Council;
- employing staff on behalf of the Council (including negotiating their terms of employment).

Clause 32 of Schedule 7 of the Local Government Act 2002 (the "Act"), authorises the Council, for the purposes of efficiency and effectiveness, to delegate to the Chief Executive, and, subject to any conditions, limitations, or prohibitions imposed by the Council, gives the Chief Executive the authority to subdelegate to council officers.

The Chief Executive is accountable to the Council, council committees, and subcommittees for the actions of all staff and contractors. Individual staff are accountable to the Chief Executive and are not directly accountable to the Council, council committees, subcommittees or individual councilors.

4 Delegation to the Chief Executive

Pursuant to the provisions of clause 32 of Schedule 7 of the Local Government Act 2002, Napier City Council delegates to the Chief Executive of the Napier City Council all powers and authority to act on any matter in respect of which the Council is empowered or directed by law to exercise or undertake, except those powers or authorities in respect of which delegation is prohibited by the Act, by any other statute or regulation, or expressly excluded from this delegation. This delegation does not preclude the Chief Executive from referring any such matter to the Council, or a committee of the Council for a decision.

The Council encourages the Chief Executive to report to Council if any matter is considered difficult, is of particular political importance or sensitivity, where there is special community interest in it, or where the matter relates to a subject area where council policy is unclear.

a. Matters not delegated

The Act prohibits the delegation of the following:

- the power to make a rate; or
- the power to make a bylaw; or
- the power to borrow money, or purchase or dispose of assets, other than in accordance with the long-term plan; or
- the power to adopt a long-term plan, annual plan, or annual report; or
- the power to appoint a chief executive; or
- the power to adopt policies required to be adopted and consulted on under this Act in association with the long-term plan or developed for the purpose of the local governance statement;

In addition, subject to the exceptions set out in paragraph 4b (specific matters delegated) below, the Council has not delegated the following powers or authorities to the Chief Executive:

- the power to compulsorily acquire land under the Public Works Act 1981;
- the power to set strategic policy direction;
- the power to enter into contracts for the supply of goods and services to a value exceeding \$5,000,000 (plus GST)
- the power to enter into unconditional contracts for the sale or purchase of land or an interest in land;
- the power to enter into unconditional leases whether as landlord or tenant for a term of 2 years or more, (with the exception of leases of clubrooms and other buildings on Council parks and reserves in accordance with the Council's established policy);
- the hearing of notified resources consents, designations and Heritage Order applications;
- any matter not permitted to be delegated by any other Act (for example the approval of a policy statement or plan under the Resource Management Act 1991 or the granting of special exemptions under s.6 of the Fencing of Swimming Pools Act 1987);
- any matter that can only be given effect by a Council resolution.

For the purposes of this delegation "unconditional" means "without a condition requiring an approval to be given by resolution of the Council, or Committee of the Council with authority to give that approval".

b. Specific matters delegated

The Council notes exceptions to the matters set out in paragraph 4a and specifically delegates the following:

Power to sub-delegate

The Council specifically delegates authority to the Chief Executive the power to sub-delegate to other officers any or all of the powers or authorities delegated to him or her. All sub-delegations must be given by the Chief Executive in writing.

Power to operate after triennial general election

In addition to the delegations made above, in relation to matters arising at the end of term of the Council, from the day of the declaration of the results of the triennial general election until the first meeting of the Council following the triennial general election, authority to make decisions on behalf of the Council, in respect of urgent matters arising during this time:

- a) in consultation with the Executive Director Water Services or Executive Director Strategy and Urban Development or Executive Director Corporate & Commercial Services in respect of Tenders and Contracts with delegated authority to award contracts up to \$500k in value;
- b) in consultation with the Executive Director Strategy and Urban Development in respect of Liquor Licensing and Regulatory matters;
- c) in consultation with the incoming Mayor, as may be appropriate, in respect of other matters;

with any decision made outside of the normal delegations to the Chief Executive to be reported to the first ordinary meeting of the incoming Council or to a meeting of the appropriate Standing Committee of the Council.

Small land transactions

That the Council delegate to the Chief Executive the authority to enter into agreements for the taking of land or easements where the compensation payable for the land or the interest in land, in each case does not exceed \$100,000 (plus GST) exclusive of disbursements.

NCC Investment Portfolio

Following the adoption of the 2024 – 2027 Three Year Plan Council ring-fenced a portfolio of investment assets, from 1 July 2025, to be known as the NCC Investment Portfolio.

The NCC Investment Portfolio is formally defined in Council's Investment Policy.

To enable the NCC Investment Portfolio to be managed on an arm's length and commercial basis, the following delegations along with associated restrictions and requirements apply to the ring-fenced NCC Investment Portfolio:

- The power to enter contracts for the supply of goods and services with the following limitations:
 - the power to enter into contracts for the supply of goods and services to a value less than \$5,000,000 (plus GST) may be sub-delegated to officers.
 - contracts for the supply of goods and services to a value exceeding \$5,000,000 (plus GST) must be accompanied by an Ahuriri Investment Management Limited company resolution; and
 - the power to enter contracts for the supply of goods and services to a value exceeding \$5,000,000 (plus GST) may only be sub-delegated to the Deputy Chief Executive.
- The power to enter unconditional contracts for the sale or purchase of land or an interest in land with the following with the following limitations:
 - the power to enter unconditional contracts for the sale and purchase of individual residential property sites within a land development project may be sub-delegated to officers; and

- unconditional contracts for the sale and purchase of land *excluding* individual residential property sites within a land development project must be accompanied by an Ahuriri Investment Management Limited company resolution.
- the power to enter unconditional contracts for the sale and purchase of land *excluding* individual residential property sites within a land development project may only be sub-delegated to the Deputy Chief Executive.
- The power to enter unconditional leases whether as landlord or tenant for a term of 2 years or more with the following limitations:
 - such leases must be accompanied by an Ahuriri Investment Management Limited company resolution; and
 - the power to enter such leases may only be sub-delegated to the Deputy Chief Executive.

5 Appointment of Enforcement Officers

The delegation to the Chief Executive includes a delegation of the power to warrant enforcement officers. The Council has determined that there are no circumstances in which the Council wishes to:

- a) limit or restrict the exercise of the power; or
- b) impose conditions on the exercise of the power; or
- c) prohibit, in specified circumstances, the exercise of the power;

on the basis that the Chief Executive will continue to implement auditable processes for the investigation of the background of officers prior to the granting of a warrant.

6 Document Review

The review timeframe of this document will be no longer than every three years, following the appointment of elected members in a new triennium Document History.

7 Document Review

Version	Reviewer	Change Detail	Date
1	Team Leader Governance		tba
2	Team Leader Governance	The power to enter into contracts for the supply of goods and services increased from \$500,000 to a value of \$1,000,000, as per Council adoption 05 December 2019	July 2021
3	Chief Financial Officer	The power to enter into contracts for the supply of goods and services increased from \$1,000,000 to a value of \$5,000,000 (plus GST)	March 2022
4	Programme Manager – Transformation	Amendments to enable Ahuriri Investment Management Limited	July 2025



Disposal of Surplus Assets Policy			
Approved by	Council		
Department	Property		
Original Approval Date	27 May 1991	Review Approval Date	28 May 2019
Next Review Deadline	28 May 2022	Document ID	217850
Relevant Legislation	Not Applicable		
NCC Documents Referenced	Not Applicable		

1. Purpose

The purpose of this policy is to establish clear guidelines for the disposal of surplus assets owned by the Council. This ensures that all disposals are conducted in a transparent, efficient, and financially responsible manner, maximizing value for the Council and the community.

2. Scope

This policy applies to all Council-owned assets including land, buildings, plant, vehicles, and IT equipment deemed surplus to requirement **excluding** all assets within the NCC Investment Portfolio. It outlines the procedures for determining surplus status, valuation, and appropriate disposal methods.

3. Principles

- **Maximizing Value:** All asset disposals should aim to achieve the maximum reasonable return while considering both financial and strategic outcomes for the Council and its constituents.
- **Transparency:** The disposal process must be conducted in a transparent manner, ensuring all transactions follow due process and are open to scrutiny.
- **Retention of Valuable Assets:** The Council should evaluate the potential future strategic value of assets before making a decision to dispose of them. Retention should be considered if assets may contribute to long-term objectives or provide ongoing benefits.
- **Conflict of Interest:** Staff members are prohibited from personally benefiting from the sale of Council assets to prevent conflicts of interest and unethical behaviour. While staff may purchase surplus assets through appropriate processes, all sales must be conducted at market value, and staff must not engage in on-selling for personal profit.
- **Compliance and Accountability:** All disposals must comply with relevant legislation and policies, with all actions documented for accountability.

4. Definitions:

- **Asset:** Any item owned by the Council that has value and can be used, sold, or otherwise disposed of, including but not limited to land, buildings, vehicles, equipment, and IT hardware.
- **Plant:** Machinery, tools, and equipment used in Council operations, including heavy machinery, construction equipment, and operational vehicles.
- **Surplus Asset:** An asset that is no longer required for the Council's operational needs or strategic objectives and is deemed to be excess, obsolete, underutilized, or no longer fit for purpose.
- **Market Value:** The estimated amount for which an asset would be exchanged in an open market transaction between a willing buyer and a willing seller, with neither party being under compulsion to buy or sell and both having reasonable knowledge of relevant facts. The market value should reflect the current conditions and demand for the asset, determined by an independent and professional valuation, if necessary.
- **NCC Investment Portfolio:** a ring-fenced portfolio of investment assets defined in Council's Investment Policy.

5. Policy Guidelines

5.1. Approval and Delegations

- **Council Approval:** The sale of land and buildings requires a formal resolution of the Council.
- **Chief Executive (CE) Authority:** The CE has the authority to approve the disposal of assets up to a value of \$100,000. For this purpose, the value is the higher of residual value in the fixed asset register or market value. Any disposal exceeding this amount requires Council approval, unless otherwise specified in Council's delegation framework.
- **Director-Level Authority:** Directors may approve the disposal of assets within their area of responsibility, up to a value of \$50,000. For this purpose, the value is the higher of residual value in the fixed asset register or market value.
- **Operational-Level Approval:** Managers may approve the disposal of low-value assets up to a value of \$5,000, such as IT equipment or minor plant, following internal approval processes.
- **Documentation and Compliance:** All disposals must be documented, and approval must be obtained in accordance with the Council's policies.
- **Asset or Asset Group Authority:** Through a Council resolution, delegation can be provided to an officer or a Council Controlled Organisation for decision making on a specific asset or group of assets, and this decision making can include decisions on disposing of the assets. The scope of the decision-making abilities must be explicitly stated in the Council resolution.

5.2. Land and Buildings

- The sale of Council-owned land and buildings requires a resolution from the Council.
- Sales should generally be conducted on the open market through land agents, tendering, auction, or private treaty.
- Land and buildings must be sold at no less than fair market value at the time of sale, as determined by an independent registered valuer.
- the Council resolution should specify the disposal method or delegate this decision, and delegate negotiation responsibilities to the Chief Executive (CE) or another designated officer. If negotiations may involve settlements outside market values, this must be explicitly authorized by the Council resolution.

5.3. Plant and Vehicles

- The Council must sell surplus plant and vehicles at current market values.
- The preferred disposal methods include tendering, trade-in, or auction.
- If no interest is received through tendering, auctioning should be pursued.
- The Director responsible for the asset is tasked with determining the most appropriate disposal method, considering factors like market value, urgency, and the asset's condition.
- All sales are conducted on an "as-is, where-is" basis with no warranty or right of return, unless required by law. The Director is responsible for ensuring the Council is not inadvertently committed to any warranty obligations during the sale process.

5.4. Information Technology Equipment

- Surplus Information Technology (IT) equipment must be disposed of in an environmentally responsible manner.
- Preferred disposal methods include recycling, donation, or sale.
- The IT Department is responsible for identifying surplus IT equipment and ensuring all data is securely erased before disposal.
- When IT equipment is sold, it may be offered to staff through arm's-length transactions, ensuring assets are sold at market value to maximize returns to the Council. The process must be transparent, ensuring that the transaction does not create any conflict of interest.
- All IT equipment sales are conducted on an "as-is, where-is" basis with no warranty or right of return.

5.5. Other Assets

- Any surplus assets not specifically covered under land, buildings, plant, vehicles, or IT equipment must be disposed of using the same principles outlined in this policy.
- The appropriate disposal method should be determined based on the asset type, market value, and potential for reuse within the Council.
- Disposal methods may include sale, auction, trade-in, donation, or recycling, ensuring the best outcome for the Council.
- The responsible department must assess and document the surplus status and ensure compliance with all relevant policies and regulations.

6. Policy Review

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

Document History

Version	Reviewer	Change Detail	Date
2.0.0	Bryan Faulknor	Minor wording changes	28 May 2019
3.0.0	Financial Controller	Wording amendments, inclusion of IT Assets and Other Assets sections, and addition of purpose/scope/principles/definitions sections	5 March 2025
4.0.0	Programme Manager – Transformation	Added exclusion for NCC Investment Portfolio	July 2025

Date:

MANAGEMENT SERVICES AGREEMENT

AHURIRI INVESTMENT MANAGEMENT LIMITED

(AIM)

NAPIER CITY COUNCIL

(Council)

3447-5969-8491-V1 [9004013]

MANAGEMENT SERVICES AGREEMENT**Date:****PARTIES**

1. **AHURIRI INVESTMENT MANAGEMENT LIMITED**
(AIM)
2. **NAPIER CITY COUNCIL**
(Council)

BACKGROUND

- A. AIM is a Council Controlled Trading Organisation which will commence operating from 1 August 2025.
- B. The Council has set up AIM for the purpose of commercially managing an inter-generational investment portfolio for the Council known as the NCC Investment Portfolio.
- C. This Agreement records the terms on which AIM is to provide management services to the Council and the Council is to provide support to AIM.

THE PARTIES AGREE AS FOLLOWS**PART A: INTRODUCTION****Definitions**

- 1.1 In this Agreement unless the context otherwise requires:

Accounting Period means a 12 month period ending on and including the Balance Date.

Agreement: means this management services agreement (including all schedules), as amended from time to time.

AIM means Ahuriri Investment Management Limited.

AIM's Representatives means those persons described as AIM's Representatives in Schedule 4.

Applicable Laws means all laws, statutes, regulations, by-laws, and other legislation in force in New Zealand from time to time which apply to the provision of the Services by AIM.

Asset(s) means any or all those assets that make up the NCC Investment Portfolio.

Asset Register means the register of Assets contained within the NCC Investment Portfolio as approved by Council and maintained by AIM.

Balance Date means 30 June in each year.

Board means the Board of AIM appointed in accordance with the Constitution

Chairperson means the chairperson of AIM appointed in accordance with the Constitution.

Commencement Date means 1 August 2025.

Constitution means the written constitution of AIM.

Council means the Napier City Council.

Council Contribution means the contribution payment to be made by Council in any given Accounting Period as set out in the Operating Budget for that Accounting Period and otherwise in accordance with the provisions of clause 9.0.

Council Controlled Trading Organisation has the meaning given to it in the LGA.

Council Notice means the notice of variation provided by the Council to AIM under clause 5.1.

Council Representatives means those persons described as Council Representatives in Schedule 4.

Council Support means the support provided by Council to AIM in accordance with the provisions of Schedule 3.

Dispute has the meaning assigned to it in clause 21.1.

Financial Performance Targets means the financial performance targets as defined in the NCC Investment Policy and set out in the annual Statement of Intent.

GST means goods and services tax chargeable, or to which a person may be liable, under the Goods and Services Tax Act 1985.

Intellectual Property means all intellectual and industrial property rights and interests (including common law rights and interests) owned or held by a person, or lawfully used by that person, including, without limitation, patents, trademarks, service marks, copyright, registered designs, trade names, symbols, logos, plans, database, specifications, designs, inventions, know-how and trade secrets.

LGA means the Local Government Act 2002.

Mayor means the Mayor of Napier (or such other territory that may incorporate Napier).

NCC Investment Portfolio means those assets (and any related liabilities) owned by the Council and described in the Asset Register.

Operating Budget means the annual operating budget set each year by the parties pursuant to the provisions of clause 9.0 incorporating provision for the Council Contribution (if any) and the Support Charge.

Operating Parameters means those operating parameters described in Schedule 2 as amended from time to time.

Operative Date means the date specified in a Council Notice or a Variation Notice from which any variation made to the Agreement will take effect. If no date is specified in a Council Notice or a Variation Notice, then the Operative Date will be deemed to be 20 Working Days from the date of issue of the relevant Council Notice or Variation Notice.

Review Date means all and any of the following dates:

- (a) 1 July 2026, 1 July 2027, and 1 July 2028; and

(b) 1 July bi-annually from 1 July 2028 (with the next Review Date after that being 1 July 2030).

Services means the management of the NCC Investment Portfolio in accordance with the provisions of this Agreement and Schedule 1.

Statement of Expectations means the statement of expectation provided by the Council to AIM in accordance with the requirements of the LGA.

Statement of Intent means AIM's Statement of Intent as provided by AIM to the Council in accordance with the requirements of the LGA.

Support Charge means the support charge payable by AIM to the Council in any given Accounting Period as set out in the Operating Budget for that Accounting Period and otherwise in accordance with the provisions of clause 9.0.

Variation Notice means the notice of variation provided by either party under clause 8.1.

Working Day(s) has the meaning specified in section 4 of the Property Law Act 2007.

Interpretation

2.1 In this Agreement unless the context otherwise requires:

- a) headings are to be ignored in construing this Agreement;
- b) the singular includes the plural and vice versa;
- c) references to individuals include companies and other corporations and vice versa;
- d) a reference to a statute or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments, or replacements of any of them (whether before or after the date of this Agreement);
- e) reference to any document includes reference to that document (and, where applicable, any of its provisions) as amended, novated, supplemented, or replaced from time to time;
- f) reference to a party, person or entity includes:
 - (i) an individual, partnership, firm, company, body corporate, corporation, association, trust, estate, state, government, or any agency thereof, local authority and any other entity, whether incorporated or not (in each case whether or not having a separate legal personality); and
 - (ii) an employee, agent, successor, assign, executor, administrator and other representative of such party, person, or entity;
- (g) "written" and "in writing" include any means of reproducing words, figures, or symbols in a tangible and visible form;
- (h) references to money are to New Zealand dollars;
- (i) reference to a clause, sub-clause, schedule, or a party is a reference to that clause, sub-clause, schedule, or party in this Agreement unless stated otherwise; and
- (j) reference to a clause, sub-clause or schedule in this Agreement is a reference to that clause, sub-clause or schedule as amended from time to time in accordance with the provisions of this Agreement.

PART B: ROLES AND RESPONSIBILITIES

AIM to Provide Services

- 3.1 **Services:** AIM will provide the Services to the Council in relation to the management of the NCC Investment Portfolio.
- 3.2 **Regular Review:** The Services provided by AIM under this Agreement and the content of the NCC Investment Portfolio will be regularly reviewed by the parties in accordance with the provisions of clause 14.

AIM'S Responsibilities

- 4.1 **Commercial Decisions:** Subject to the provisions of clause 4.2, AIM will act commercially and make independent and commercial decisions when providing the Services.
- 4.2 **Obligations:** For the duration of this Agreement, AIM will:
- (a) ensure compliance with:
 - (i) all Applicable Laws;
 - (ii) the Statement of Intent;
 - (iii) the Constitution; and
 - (iv) the Operating Parameters.
 - (b) endeavour to achieve the Financial Performance Targets;
 - (c) provide all personnel, processes, and resources required to provide the Services (if necessary, in addition to any Council Support);
 - (d) use appropriately skilled, qualified, and experienced personnel;
 - (e) not damage the reputation of the Council or the goodwill of its citizens, suppliers or other parties dealing with the Council;
 - (f) without limiting clauses 4.2(a) to 4.2(e), exercise that degree of skill, diligence, prudence, and foresight which would reasonably and ordinarily be expected from a skilled, reasonable and experienced operator in the same or similar circumstances, with reference to best international standards and practice.

Variations to the Services or the content of the NCC Investment Portfolio

- 5.1 **Variation:** The Council may:
- (a) increase, reduce, or otherwise vary the Services to be provided under this Agreement; or
 - (b) add or remove an Asset from the NCC Investment Portfolio,
- by providing notice in writing to AIM (**Council Notice**).
- 5.2 **Council Notice:** The Council Notice will outline the material details of the variation proposed, including a description of any proposed variation to the Services, the affected Assets, the impact (if any) on the Operating Budget or Financial Performance Targets and the Operative Date. Unless

agreed to by AIM, the Operative Date may not be earlier than 3 months from the date AIM receives the Council Notice.

- 5.3 **Consultation:** The Council will give AIM the opportunity to consult with the Council on any proposed variation to the Services or to the content of the NCC Investment Portfolio before that variation is finalised. The parties agree to act in good faith to ensure that consultation occurs no later than 20 Working Days from the date AIM receives the Council Notice.
- 5.4 **Confirmation:** Following consultation with AIM, the Council will confirm in writing the variation to the Services or the content of the NCC Investment Portfolio to be provided by AIM (and any applicable change to the Operating Budget) from the Operative Date. Where applicable, the provisions of Schedule 1 of this Agreement shall be deemed to have been amended as from the Operative Date to incorporate any variation.
- 5.5 **Must Comply with Obligations:** No variation proposed by the Council under this clause 5 will be implemented where that variation would require AIM to operate in breach of its obligations under clause 4.2(a).
- 5.6 **Previous Actions:** A variation to the Services or to the content of the NCC Investments Portfolio will not invalidate any decision made, or action taken, by AIM prior to receiving the Council Notice.
- 5.7 **No Trading After Notice:** Where a Council Notice is received by AIM notifying it that an Asset is to be removed from the NCC Portfolio, it will not, subsequent to receiving that Council Notice, take any action to sell, lease or otherwise dispose of that Asset prior to the Operative Date without the prior consent of the Council (received with or after the Council Notice).
- 5.8 **No Limit to Right of Termination:** Nothing in this clause 5 shall limit the Council's right to terminate this Agreement under clauses 12.1 or 12.2 and the rights and powers of the Council under this clause 5 shall be deemed to be in addition to those rights and powers of Council under clauses 12.1 and 12.2.

Amendments to the Operating Parameters

- 6.1 **Amendments:** It is acknowledged by the parties that the Operating Parameters may, from time to time, be amended by the Council and that such change could affect the Services provided by AIM under this Agreement. Where a change to any of the Operating Parameters is proposed, the Council will use all reasonable endeavours to consult with AIM prior to any change being finalised in relation to how such change might impact AIM's provision of the Services.
- 6.2 **AIM Obligations:** Where the Council wishes to implement a change to its Operating Parameters, it will endeavour to do so in a way that does not result in AIM being unable to comply with its obligations under clause 4.2(a).
- 6.3 **Council Discretion:** Nothing in clauses 6.1 or 6.2 above, or this Agreement generally, shall fetter the Council's discretion to amend and vary those Council policies that make up the Operating Parameters.
- 6.4 **Variation to Services:** If an amendment to the Operating Parameters results in it being necessary to vary the Services provided by AIM then that variation is deemed to have been made from the date the relevant Operating Parameter is changed and the provisions of clauses 5.4 and 5.6 (but no other provision of clause 5.0) shall apply accordingly.

Council to Provide Support

- 7.1 **Council Support:** To assist AIM with its provision of the Services under this Agreement, the Council will provide AIM with the Council Support.

- 7.2 **Review:** The Council Support provided by the Council to AIM will be regularly reviewed by the parties in accordance with clause 14.

Variations to the Council Support

- 8.1 **Variation:** Either Party may request the Council Support to be varied by notice in writing to the other party (**Variation Notice**).
- 8.2 **Variation Notice:** The Variation Notice will outline the material details of the proposed variation to the Council Support, the affected Assets, the impact (if any) on the Operating Budget and a suggested Operative Date.
- 8.3 **Good Faith:** The parties will act reasonably and in good faith to endeavour to come to agreement on the variation proposed within 20 Working Days of a party receiving a Variation Notice from the other party.
- 8.4 **Agreement:** Where a variation to the Council Support is agreed, such change will take effect from the agreed Operative Date and Schedule 3 will be deemed to have been amended accordingly to incorporate such variation.
- 8.5 **No Agreement:** Subject to clause 8.6, if the parties are unable to reach agreement on the proposed variation to the Council Support within the timeframes outlined in clause 8.3 then the Council Support shall remain as is without variation.
- 8.6 **Dispute:** Where AIM requests a variation to the Council Support and reasonably considers that without the said variation it will be unable to comply with its obligations under clause 4.2(a) then this matter shall be considered a Dispute and the provisions of clause 21 shall apply accordingly.

PART C: OPERATING BUDGET

Operating Budget

- 9.1 **Annual Operating Budget:** Each year AIM and the Council will develop an Operating Budget.
- 9.2 **Process:** Each year:
- (a) AIM will supply the Council with a proposed Operating Budget for the coming Accounting Period in line with Council's annual planning timeline.
 - (b) AIM and the Council will consult with each other on the proposed Operating Budget and the parties agree to act in good faith to ensure consultation occurs before 30 April in each year.
 - (c) The Operating Budget must be agreed by the parties and finalised before 30 June in each year.
- 9.3 **Contents of Operating Budget:** The Operating Budget will comprise all costs related to:
- (a) the provision of all of the Services by AIM;
 - (b) compliance with AIM's obligations under this Agreement;
 - (c) compliance with AIM's obligations under the Statement of Intent (including the Financial Performance Targets);
 - (d) the operation and administration of AIM;

- (e) the servicing of any debt facilities; and
 - (f) the Support Charge.
- 9.4 **Council Contribution:** The Operating Budget may include provision for a Council Contribution, to be paid from the Council to AIM during the relevant Accounting Period to assist with any or all of the matters referred to in clause 9.3. The amount (if any) of the Council Contribution must be agreed to by the Council prior to the finalisation of the Operating Budget in accordance with clause 9.2.
- 9.5 **Payment of Council Contribution:** If the Council agrees to make a Council Contribution, then the Council shall pay the Council Contribution quarterly to a bank account prescribed by AIM. Payment for each quarter shall be made on the later of:
- (a) the 20th day of the first month in each quarter (being July, October, January and March); and
 - (b) 5 Working Days after receipt by the Council of an invoice for that quarter.
- 9.6 **Invoice:** AIM shall, not later than the tenth day of the first month of each quarter, provide to the Council an invoice for the Council Contribution for that quarter. Each invoice shall:
- (a) contain sufficient information to enable the Council to establish the accuracy of the invoice; and
 - (b) be in the form of a tax invoice for GST purposes.
- 9.7 **Review of Council Contribution:** In addition to the process for setting the Operating Budget (including the Council Contribution) under clause 9.2, either party may, at any time during the relevant Accounting Period, request that the Council and AIM review the amount of the Council Contribution and whether there needs to be an adjustment made to the amount of that Council Contribution. The form used for any review of the Council Contribution will be agreed between the parties at the time or, if agreement can't be reached, determined by the Mayor.
- 9.8 **Support Charge:** The Operating Budget will provide for the amount of the Support Charge (or the means used to calculate it) payable by AIM to the Council during the relevant Accounting Period in consideration of the Council Support provided by the Council under this Agreement. The amount of the Support Charge (or the means used to calculate it) must be agreed to by the Council and AIM prior to the finalisation of the Operating Budget in accordance with clause 9.2.
- 9.9 **Payment of Support Charge:** AIM shall pay the Council the Support Charge quarterly to a bank account prescribed by the Council. Payment for each quarter shall be made on the later of:
- (a) the 20th day of the last month in each quarter (being September, December, March and June); and
 - (b) 5 Working Days after receipt by AIM of an invoice for that quarter.
- 9.10 **Invoice:** The Council shall, not later than the tenth day of the last month of each quarter, provide to AIM an invoice for the Support Charge for that quarter. Each invoice shall:
- (a) contain sufficient information to enable AIM to establish the accuracy of the invoice; and
 - (b) be in the form of a tax invoice for GST purposes.

Responsibility for Costs

- 10.1 **Council Ultimately Responsible for Costs:** While AIM is responsible for arranging the payment of certain costs, disbursements and expenses as part of its performance of the Services, the ultimate responsibility for any costs incurred by AIM in its capacity as manager of the NCC Investment Portfolio will be for the Council. AIM will not be ultimately liable for any costs, disbursements and expenses incurred by reason of its performance of the Services in accordance with the terms of this Agreement.

PART D: DURATION AND TERMINATION

Duration

- 11.1 This Agreement will come into force on the Commencement Date and shall continue until terminated in accordance with the terms of this Agreement.

Termination

- 12.1 **Termination:** The Council may terminate this Agreement, for any reason, in full by giving not less than 3 months' notice in writing to AIM.
- 12.2 **Default:** If either party breaches any obligation of that party (**defaulting party**) under this Agreement and fails, within 20 Working Days after receiving notice from the other party (**innocent party**) specifying the breach, to remedy the breach to the innocent party's reasonable satisfaction, the innocent party may, by notice to the defaulting party, terminate this Agreement with immediate effect.
- 12.3 **Accrued Rights:** Termination of this Agreement is without prejudice to any rights, powers or remedies accrued under this Agreement, at law, or otherwise by either party.
- 12.4 **Consequence of Termination:** If this Agreement is terminated for any reason:
- (a) The Council may (but shall not be compelled), by notice in writing within 20 Working Days of the date of termination, require AIM to assign to the Council the benefit of any agreement which AIM may have entered into with any third party to enable it to provide the Services. AIM will ensure any agreements it enters into with third parties will contain provisions to enable AIM to comply with its obligation under this clause 12.4(a).
 - (b) AIM will promptly (and in any case within 20 Working Days of the date of termination) return control of all:
 - (i) Assets;
 - (ii) materials and goods; and
 - (iii) funds,
 held by AIM in connection with the performance of the Services to the Council.
 - (c) AIM will promptly (and in any case within 20 Working Days of the date of termination) return to the Council all records (including financial records), documents, agreements and information held by AIM (electronically or otherwise) in relation to the NCC Investment Portfolio and the Services provided by AIM.

- (d) AIM will provide the Council with reasonable assistance to enable employees of the Council, or an alternative provider, to take over the management of the NCC Investment Portfolio.
- (e) The Council will cease to have any obligation to make payments with regard to the Council Contribution or any other amounts payable under this Agreement.

PART E: REPORTING, COMMUNICATION AND REVIEW

Reporting

- 13.1 **Half Yearly Reports:** Within 2 months after the first half of each Accounting Period, AIM will produce and provide the Council with a half yearly report (**Half Yearly Report**). The Half Yearly Report shall contain:
- (a) the information required to be included by the LGA and the Statement of Intent;
 - (b) a review of the year to date performance of the NCC Investment Portfolio with specific reference to the Financial Performance Targets and an explanation of any material variances;
 - (c) changes to the Assets Register since the last report as at the end of the quarter or half year (as relevant);
 - (d) a certificate from the Board confirming that it has operated, in the year to date, within the Operating Parameters; and
 - (e) other information reasonably requested by the Council.
- 13.2 **Annual Reports:** Within 2 months after the end of an Accounting Period, AIM will produce and provide the Council with an annual report (**Annual Report**). The Annual Report shall contain:
- (a) the information required to be included by the LGA and the Statement of Intent;
 - (b) a review of the performance of the NCC Investment Portfolio with specific reference to the Financial Performance Targets and an explanation of any material variances; and
 - (c) a copy of the Assets Register as at 30 June;
 - (d) a certificate from the Board confirming that it has operated during the Accounting Period within the Operating Parameters;
 - (e) audited financial accounts which include a statement of financial position and statement of financial performance and auditor's report; and
 - (f) other information reasonably requested by the Council.
- 13.3 **Presentations to Council:** AIM is expected to regularly present to Council. The number of presentations annually will be outlined in the Statement of Intent. Presentations may be in public or in public excluded sessions.
- 13.4 **Council Controlled Trading Organisation:** The parties acknowledge that, as AIM is a Council Controlled Organisation:
- (a) all reports provided to the Council under this clause 13 will be made public unless there is, in the opinion of the Council, a good reason for withholding all or part of a report in

accordance with the provisions of the Local Government Official Information and Meetings Act 1987; and

- (b) the Auditor General will be the auditor of AIM.

Review

14.1 Regular Review: The:

- (a) Services provided by AIM under this Agreement;
- (b) content of the NCC Investment Portfolio; and
- (c) Council Support provided by the Council,

will all be reviewed by the parties on each Review Date in accordance with the procedure described in clause 14.2 below (**the Review**).

14.2 Review Procedure: prior to each Review Date:

- (a) The parties will, unless agreed otherwise, meet for the purpose of conducting the Review at least 3 months prior to the relevant Review Date.
- (b) At least 10 Working Days prior to the parties meeting, each party will give notice to the other party of any changes it proposes to be made any of the items listed in clause 14.1.

14.3 Variation: If, following the Review, an agreement is reached which would result in the variation of any of the items listed in clause 14.1, that variation will:

- (a) take effect from the Review Date; and
- (b) be recorded in writing and the relevant provisions of this Agreement deemed amended as from the Review Date.

Communication and Notices

15.1 No surprises: In addition to the reporting requirements described in clause 13 and the Reviews required under clause 14, the parties acknowledge their relationship is to be conducted on a “no surprises” basis with two-way communication on both an executive and a governance basis.

15.2 Representatives: Communications (including any notices) between the parties must be made through the Council’s Representatives and AIM’s Representatives.

15.3 Notice: Every notice (**Notice**) for the purposes of this Agreement shall:

- (a) be in writing; and
- (b) be delivered in accordance with clause 15.4.

15.4 Method of Service: A Notice may be given by:

- (a) delivery to the physical address of the relevant party; or
- (b) posting it by pre-paid post to the postal address of the relevant party; or
- (c) sending it by email to the email address of the relevant party.

15.5 Time of Receipt: A Notice given in the manner:

- (a) specified in clause 15.4(a) is deemed received at the time of delivery;
- (b) specified in clause 15.4(b) is deemed received three Working Days after (but exclusive of) the date of posting;
- (c) specified in clause 15.4(c) is deemed received:
 - (i) if sent between the hours of 9 am and 5 pm (local time) on a Working Day, at the time of transmission; or
 - (ii) if clause 15.5(c)(i) does not apply, at 9 am (local time) on the first Working Day immediately after the time of sending.

15.6 Addresses: For the purposes of clause 15.4, the physical, postal and email addresses of the parties are those specified in Schedule 4 or as otherwise notified in writing from time to time by either party to the other party.**PART E: MISCELLANEOUS****Confidentiality****16.1 Confidentiality Obligation:** Subject to clauses 13.3, 13.4, 16.2 and 16.3, each party shall keep confidential, and make no disclosure of information related to any commercial transaction undertaken by AIM in its provision of the Services (the **Information**).**16.2 Voluntary Exceptions:** Information may be disclosed by a party if:

- (a) disclosure is agreed to by all parties;
- (b) disclosure is necessary to obtain the benefits of, and fulfil obligations under, this Agreement;
- (c) that Information already is, or becomes, public knowledge other than as a result of a breach of clause 16.1 by that party; or
- (d) disclosure is made to a professional services provider to that party (including financier's, lawyers and accountants).

16.3 Mandatory Exceptions: Information must be disclosed by a party if:

- (a) that party is required to disclose the Information pursuant to Parts 1 to 6 of the Local Government Official Information and Meetings Act 1987 or the Ombudsmen Act 1975;
- (b) disclosure is otherwise required by law, or necessary to comply with the listing rules of any recognised stock exchange; or
- (c) disclosure is necessary to comply with the reporting requirements for a Council Controlled Trading Organisation under the LGA (or any other Applicable Law),

provided that, the party intending to make disclosure under the provisions of this clause 16.3 will use its reasonable endeavours to first consult with the other party before making such disclosure.

Health and Safety

- 17.1 **Obligations:** The parties acknowledge their legal obligations under the Health and Safety at Work Act 2015 (**HSWA**) and must, to the extent that they have the capacity to influence or control the matter, ensure the health and safety of workers and others affected by the work carried out under this Agreement.
- 17.2 **Ensure Health and Safety:** Each party agrees to comply with all applicable health and safety laws, regulations and standards (including the HSWA) and to take all reasonably practicable steps to ensure the health and safety of workers and others.
- 17.3 **Consultation:** The parties shall, so far as is reasonably practicable, consult, cooperate and coordinate activities with each other to ensure compliance with their respective duties under the HSWA.
- 17.4 **Overlapping Duties:** Where the parties have overlapping duties in relation to health and safety, each party must promptly report any health and safety incidents, near misses, or hazards to the other party. The parties agree to cooperate in the investigation of any such incidents to identify causes and implement corrective actions.
- 17.5 **Co-operation:** The parties shall work together to continuously improve health and safety practices and performance, including regular reviews of health and safety policies and procedures.

Intellectual Property

- 18.1 **Ownership:** All Intellectual Property which is owned by, or is proprietary to, the Council as at the date of this Agreement shall remain the property of the Council.
- 18.2 **New Property:** Any new Intellectual Property which is created from the provision of the Services by AIM, or otherwise in connection with this Agreement, shall be the property of the Council.
- 18.3 **No Rights:** Unless otherwise expressly provided for in this Agreement, the Council's Intellectual Property is not part of the NCC Investment Portfolio and AIM will not deal with, or purport to deal with, the Council's Intellectual Property without the prior written consent of the Council.
- 18.4 **Non-exclusive Licence:** The Council grants AIM a non-exclusive licence to use the Council's Intellectual Property only to the extent required for AIM to give effect to this Agreement. That licence will expire immediately on termination of this Agreement.

Force Majeure

- 19.1 **Excusable Delay:** Neither party shall be liable for any failure or delay in the performance of its obligations under this Agreement if such failure or delay arises directly or indirectly from an event or circumstance reasonably beyond that party's control and not arising from the fault or insolvency of that party (**Event**). The following are included as, but not limited to, events or circumstances reasonably beyond a party's control:
- (a) act of God;
 - (b) earthquake, flood, fire, storm and adverse weather conditions or natural events for which provision could not reasonably have been made;
 - (c) interruption or failure of any utility services, or unpredictable delays which could not reasonably be prevented in delivery of materials, equipment or services necessary for the compliance by that party with an obligation under this Agreement;

- (d) sabotage, riot, civil disturbance, explosion, terrorist acts, insurrection, epidemic, national emergency (whether in fact or law) or act of war (whether declared or not);
- (e) act or omission of any authority not directly or indirectly arising from any act or omission by that party, its agents, representatives or advisors;
- (f) governmental restraint, sanction, expropriation, prohibition, intervention, direction, or embargo; and
- (g) strike, lockout, work stoppage or other labour hindrance.

19.2 **Notice:** A party which wishes to rely on clause 19.1 shall:

- (a) give the other party written notice as soon as practicable after becoming aware of the Event or likelihood of the Event; and
- (b) use its reasonable endeavours to mitigate the effects of the Event on that party's performance of its obligations under this Agreement.

Variations

20.1 Variations to the terms of this Agreement, where clauses 5 and 8 are not applicable, may be made by agreement between the parties. No variation to this Agreement will be valid unless it is made in writing.

Dispute Resolution

21.1 **Process:** If any dispute, difference, or claim arises between the parties out of or in connection with this Agreement (**Dispute**), either party may by written notice (**Dispute Notice**) inform the other party that a Dispute exists and invoke the dispute resolution process below:

- (a) The parties will first attempt to resolve the Dispute through good faith negotiations within 10 Working Days from the date the Dispute Notice is issued.
- (b) If the Dispute is not resolved under sub-clause (a) above, either party may refer the Dispute to the Chairperson and the Mayor who will attempt to resolve the Dispute using good faith negotiations within 20 Working Days from the date the Dispute Notice is issued.
- (c) If the Dispute is not resolved through negotiation under sub-clauses (a) or (b) above, the parties agree to attempt to resolve the Dispute through mediation. The mediator will be agreed to by the parties and if no agreement can be reached then either party may request the President of the Hawke's Bay branch of the New Zealand Law Society to nominate a mediator and the parties will accept the nominated mediator.
- (d) If the Dispute is not resolved through mediation within 20 Working Days of the commencement of mediation, the Dispute shall be finally resolved by arbitration. The arbitration will be conducted by one arbitrator, who is agreed to by the parties, in accordance with the Arbitration Act 1996. If the parties fail to agree on an arbitrator, then either party may request the President of the Hawke's Bay branch of the New Zealand Law Society to nominate an arbitrator and the parties will accept the nominated person as arbitrator. The decision of the arbitrator (including as to costs) will be final and binding on the parties.

21.2 **Costs:** The parties will bear their own costs (including legal costs) and an equal share of the costs in relation to the mediation and an equal share of the costs in relation to the arbitration (unless the arbitrator determines otherwise).

- 21.3 **Urgent Relief:** Nothing in this clause 21 shall prevent either party from seeking injunctive relief or urgent interlocutory relief from a court of competent jurisdiction.

Assignment and Subcontracting

- 22.1 **Assignment:** AIM will not directly or indirectly assign, transfer, or otherwise dispose of any of its rights or interests in, or any of its obligations or liabilities under, or in connection with, this Agreement without the prior written consent of the Council which consent may be withheld in the absolute discretion of the Council.
- 22.2 **Subcontracting:** AIM will not subcontract the performance of the Services or any other obligation of AIM under this Agreement except with the prior written consent of the Council which consent may be withheld in the absolute discretion of the Council. This clause 22.2 shall not apply to:
- (a) the provision of Council Support by the Council;
 - (b) the engagement by AIM of professional advisors; and
 - (c) the engagement by AIM of contractors for specific operating tasks related to the performance of the Services by AIM.

Conflict

- 23.1 **Priority:** Where any provision of this Agreement conflicts or is inconsistent with the Constitution or the Statement of Intent then priority shall be given (in descending order) to:
- (a) the Constitution;
 - (b) then the Statement of Intent; and
 - (c) then this Agreement.
- 23.2 **Rectify Conflict:** Upon becoming aware of any inconsistency, the parties will take such prompt action as is necessary to rectify any conflict or inconsistency between the documents listed in clause 23.1 above.

General

- 24.1 **Consent:** Whenever the Council's consent is required under this Agreement, the decision of whether to provide such consent will be at the sole discretion of the Council. In granting any consent under this Agreement, the Council is acting as the owner of an Asset and such consent shall not imply the consent of the Council as a regulatory authority.
- 24.2 **Costs:** Each party shall pay its own costs (including all reasonable legal costs) in respect of the entry into and negotiation of this Agreement and any subsequent review and variation of this Agreement.
- 24.3 **GST:** Unless specified otherwise, all amounts expressed in this Agreement are exclusive of GST. Where GST is payable in respect of any taxable supply made by a party under this Agreement, the party responsible for payment in relation to the taxable supply shall also be responsible for payment of the relevant GST.
- 24.4 **Entire Agreement:** This Agreement constitutes the entire agreement between the parties relating to the subject matter of this Agreement and supersedes and cancels any previous agreement, understanding or arrangement whether written or oral.

- 24.5 **Further Assurance:** Each party shall make all applications, execute all documents and do or procure all other acts and things necessary to implement and to carry out its obligations under, and the intention of, this Agreement.
- 24.6 **No Partnership, Joint Venture:** Nothing in this Agreement shall create or evidence any partnership, joint venture, agency, trust or employer/employee relationship between the parties, and a party may not make, or allow to be made, any representation that any such relationship exists between the parties. A party shall not have authority to act for, or to incur any obligation on behalf of the other party, except as expressly provided for in this Agreement.
- 24.7 **Severance:** If any provision of this Agreement is or becomes unenforceable, illegal, or invalid for any reason it shall be deemed to be severed from this Agreement without affecting the validity of the remainder of this Agreement and shall not affect the enforceability, legality, validity, or application of any other provision of this Agreement.
- 24.8 **Waiver:** No failure or forbearance by a party to exercise, or delay in exercising, (in whole or in part) any right, power or remedy under, or in connection with, this Agreement shall operate as a waiver of that right, power, or remedy. A waiver of any breach of any provision of this Agreement shall not be effective unless that waiver is in writing and is signed by the party against whom that waiver is claimed. A waiver of any breach shall not be, or be deemed to be, a waiver of any other or subsequent breach.
- 24.9 **Applicable Law:** This Agreement is governed by the laws of New Zealand and the parties submit to the exclusive jurisdiction of the courts of New Zealand in respect of any dispute or proceeding arising out of this Agreement.
- 24.10 **Counterparts:** This Agreement may be signed in any number of counterparts, including scanned PDF copies, all of which will together constitute one and the same instrument and a binding and enforceable agreement between the parties.

Executed as an Agreement

SIGNED for and on behalf of)
 AHURIRI INVESTMENT MANAGEMENT LIMITED)
 by two of its directors)
)

 Director

 Director

SIGNED by)
 LOUISE SYLVIA MILLER)
 Chief Executive of NAPIER CITY COUNCIL)
)

 Louise Sylvia Miller

SCHEDULE 1

SERVICES

The Services to be provided by AIM under this Agreement are as provided below in this Schedule 1.

1. **Management of Portfolio:** Management of the Assets contained within the NCC Investments Portfolio in a commercial and independent manner to achieve the objectives set out in the annual Statement of Intent which includes, but is not limited to, the Financial Performance Targets.
2. **Strategy:** Developing and executing a strategy for the management of the NCC Investment Portfolio in line with the purpose, objectives and guardrails set out in the Investment Policy. Such strategy to include seeking and considering opportunities to buy, sell or develop Assets within the NCC Investment Portfolio to achieve the Financial Performance Targets.
3. **Asset Management:** Overseeing the day-to-day management of the NCC Investment Portfolio. This includes, but is not limited to:
 - (a) Collecting Asset income;
 - (b) Undertaking rent or lease reviews and renewals;
 - (c) If applicable, ensuring Assets have an Asset Management Plan and that maintenance and repair of buildings and land is undertaken in accordance with these plans;
 - (d) Overseeing the operational risk management of the NCC Investment Portfolio;
 - (e) If applicable, ensuring Assets or any item used by AIM in providing the Services, are insured and any insurance premiums paid. Undertaking an annual review of such insurance policies.
4. **Resolutions:** In addition to the requirements of the Companies Act 1993, the Constitution and any other provision of this Agreement, a decision to undertake any of the following actions must only be made by resolution of the Board:
 - (a) entry into contracts for the supply of goods and services to a value exceeding \$5,000,000 (excluding GST);
 - (b) entry into unconditional contracts for the sale and purchase of land (excluding individual residential property sites that are part of a property development project); or
 - (c) entry into unconditional leases, whether as landlord or tenant, for a term of 2 years or more.
5. **Risk Management:** Ensure risk management is embedded into AIMs strategy development, strategy execution, decision making, and operating culture including:
 - (a) Applying Council's Risk Management Framework and Risk Management Policy to the NCC Investment Portfolio;
 - (b) Undertake a review of the Council risk register in line with the Council's continuous review cycle as documented in the Council Risk Management Policy; and
 - (c) Reviewing NCC risk register in relation to the NCC Investment Portfolio when undertaking a major transaction.

6. **Managing Debt Facility:** Managing the Council's debt facility made available to the NCC Investment Portfolio as part of the Council Support described in Schedule 3, including:
 - (a) Arranging servicing repayments; and
 - (b) Utilising the debt facility in the performance of the Services in accordance with:
 - (i) the terms of this Agreement including, but not limited to, the risk management requirements in clause 5 of this Schedule 1; and
 - (ii) the Statement of Intent to achieve the Financial Performance Targets.
7. **No Borrowing:** AIM may not enter into, or become responsible for, any debt facility unless agreed to by the Council in accordance with clause 8 below or exempted under clause 9 of this Schedule 1.
8. **Council Consent:** Before AIM enters into any debt facility, other than one expressly provided for by the Council under Schedule 3, it must provide the Council with a request that:
 - (a) Describes what the debt facility is for;
 - (b) Includes a business case (including financial projections) for the debt facility being requested;
 - (c) States what (if any) security is required; and
 - (d) Includes any other information the Council reasonably requires.
9. **Exemption:** The restrictions in clause 7 above and the requirements of clause 8 of this Schedule 1 do not apply to any debt facility:
 - (a) provided by the Council in accordance with the provisions of Schedule 3;
 - (b) incurred by AIM in relation to any asset or project not managed by AIM as part of the NCC Investment Portfolio and to which this Agreement does not apply.
10. **Strategic Assets:** AIM must not take any action in the performance of its Services that could be interpreted as a change of ownership or a change of control of a Strategic Asset (as identified within the Council's Significance and Engagement Policy) without the prior written consent of the Council and any such consent will always be conditional on the provisions of the Council's Significance & Engagement Policy and the requirements of the LGA being complied with.
11. **Asset Register:** AIM will maintain the Asset Register which is to include the legal description of all portfolio Assets at any point in time. AIM will, upon request, make the register available to any Council Representative.
12. **Accounting Standards:** When carrying out the Services, AIM will ensure all Assets contained within the NCC Investment Portfolio are managed and valued in a way that complies with International Public Sector Accounting Standards.
13. **Planning Input:** AIM will contribute to the Council's processes for cashflow forecasting, budgeting and forecasting, annual planning, and long-term planning in relation to the NCC Investment Portfolio.

The requirements of this Schedule 1 with regard to the provision of the Services are in addition to the requirements of this Agreement.

SCHEDULE 2
OPERATING PARAMETERS

1. AIM will provide the Services in a manner consistent with the following policies of the Council (including all such amendments to those policies as are made from time to time) and the following shall be considered the Operating Parameters for the purposes of this Agreement:
 - (a) Investment Policy;
 - (b) Investment Property Policy (Leasehold Land);
 - (c) Statement of Investment Policies and Objectives;
 - (d) Significance and Engagement Policy;
 - (e) Financial Delegations Policy;
 - (f) Sensitive Expenditure Policy;
 - (g) Risk Management Framework;
 - (h) Risk Management Policy;
 - (i) Health and Safety Policy;
 - (j) Sensitive Expenditure Policy; and
 - (k) Such other policy as is notified to AIM by the Council.
2. The Council will endeavour to inform AIM of any proposed amendment to any of the above policies.

SCHEDULE 3

COUNCIL SUPPORT

The Council Support to be provided by the Council to AIM under this Agreement is as provided in this Schedule 3.

Operating Parameters

1. The Council will, no later than 12 months from the Commencement Date, review those Council policies that make up the Operating Parameters set out in Schedule 2. The purpose of the review will be to identify elements of those policies that may unnecessarily or unreasonably hinder AIM in the performance of the Services in accordance with this Agreement. The Council will also use the said policy review to clarify how a policy might apply to AIM in circumstances where the application of a policy to AIM may be unclear.
2. In addition to the initial review, AIM may from time to time request the Council review any element of the Council policies that make up the Operating Parameters set out in Schedule 2 where AIM considers those policies unnecessarily or unreasonably hinder AIM in the performance of the Services in accordance with this Agreement. The Council will consult with AIM before deciding on whether to undertake a review of the relevant policy.
3. Nothing in this Schedule 3, or otherwise in this Agreement, will require the Council to make any amendments to any of the policies that make up the Operating Parameters set out in Schedule 2.

Support

4. The parties acknowledge that AIM will not have capacity to deliver the Services set out in Schedule 1 without Council Support. The parties also acknowledged that as the operating model and AIM matures the Council Support AIM needs may change. Any changes will be addressed through the Review undertaken in accordance with clause 14 of this Agreement.
5. The Council Support provided will include:
 - (a) **Transitional resources:** The Council will provide resources for the purpose of suitably inducting the Board, supporting the development of the investment strategy and initial reporting and supporting the transition of the management of the NCC Investment Portfolio from the Council to AIM.
 - (b) **Asset support:** The Council will provide resources to support the strategy development and execution, asset management, and performance reporting.
 - (c) **Administrative support:** Where requested by AIM, Council may supply administrative support such as technology, human resources, financial and accounting services and governance and administration services to the Board, in addition to the provision of support staff.
6. The parties acknowledge that the Council Support may be delivered by Council staff as part of their wider duties or may be delivered by staff that have no Council role outside of AIM (**Dedicated Support Staff**). The parties will work together to define the best resourcing model. Where it is agreed there will be Dedicated Support Staff:
 - (a) the parties will work together to source Dedicated Support Staff for AIM;

- (b) Dedicated Support Staff that are employed will be employees of the Council and the Council will have responsibility for all employment obligations related to such Dedicated Support Staff (including wages and salary, Kiwisaver contributions and all leave entitlements);
 - (c) if Dedicated Support Staff are contracted, rather than employed, the parties will work together to identify the most efficient contracting arrangement.
- 7. The parties will work together in good faith to manage and balance priorities for Council staff providing Council Support.
- 8. The Council, where required, will enter into agreements for the supply of goods and services from third parties where such goods and services are necessary or desirable to enable AIM to perform the Services and do so in a timely manner.

Debt Facilities

- 9. To assist with the provision of the Services, the Council shall provide AIM with access to a Council \$30,000,000 debt facility (debt facility). Such debt facility will be managed by AIM solely for the purposes of performing the Services in accordance with the terms of this Agreement and the Council's Financial Delegation Policy.
- 10. The provision of access to the debt facility under clause 9 of this Schedule 3 is not an advance from the Council to AIM and the Council shall remain solely responsible to the lender for all obligations (including repayment obligations) under that debt facility.
- 11. The Council may consider any request from AIM for the provision of further debt facilities where such request is made in accordance with the provisions of clause 8 of Schedule 1.

SCHEDULE 4
REPRESENTATIVES

Council's Representatives

1. Mayor
2. Deputy Chief Executive

AIM's Representatives

1. Chairperson
2. CCTO Transition Manager

Address Details (for Notices):

1. AIM:
 - (a) Physical address: 215 Hastings Street, Napier 4110
 - (b) Postal address: Private Bag 6010, Napier 4142
 - (c) Email address: chair@ahuririinvestment.co.nz
2. The Council:
 - (a) Physical address: 215 Hastings Street, Napier 4110
 - (b) Postal address: Private Bag 6010, Napier 4142
 - (c) Email address: mayor@napier.govt.nz; jessica.ellerm@napier.govt.nz



1 August 2025

The Board of Directors
Ahuriri Investment Management Limited
via email to Chair

RE: 2025/2026 Statement of Expectations

Tēnā koutou Directors,

Napier City Council (**Council**) is pleased to issue its foundation Statement of Expectations for Ahuriri Investment Management Limited (**AIM**).

This Statement of Expectations (**SOE**) sets out the priorities and expectations of Council to inform the development of AIM's first draft Statement of Intent (**SOI**).

As part of the 2024-2027 Three Year Plan (**TYP**) Council consulted with the ratepayers on the establishment of a council-controlled trading organisation (**CCTO**) as a commercial subsidiary, namely Ahuriri Investment Management Limited (**AIM**), to manage the investment assets of Council as an investment portfolio. The proposal was supported by the community and the decision is documented in the TYP.

The SOE has been prepared in accordance with the Local Government Act 2002 s.64B. To comply with the Local Government Act (**LGA**) an initial draft SOI is expected from AIM by 1 November 2025 with the objective of it being finalised by 15 December 2025.

History of Napier City Council Investments

In 1989, Local Authority reorganisation saw Council reallocated a portfolio of assets from the disbanded Hawkes Bay Harbour Board. These assets are largely the consequence of land risen from the seabed in the 1931 earthquake. Council has, and continues to have, obligations in relation to maintaining the inner harbour as a corresponding cost for the benefit these assets provide.

Today, Council's assets include leasehold developed land and bare land from the 1989, Local Authority reorganisation. Some of the bare land is being developed into the residential area now known as Parklands.

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Ahuriri Investment Management Limited is Napier's investment CCTO

From the date of this SOE, AIM is a NZ registered company and CCTO under the Local Government Act 2002, with Council as the sole shareholder. As a CCTO, AIM is expected to act commercially to achieve the objectives set by Council.

In preparation for the commencement of AIM, Council has:

- Developed and filed a Company Constitution,
- Identified and approval of the initial assets to form the NCC Investment Portfolio,
- Created, reviewed and adopted policies relevant to the operation and decision making of assets in the NCC Investment Portfolio,
- Identified and appointed foundation independent Board Members,
- Established and approved a Management Services Agreement to sit between AIM and Council.

Council expects AIM to manage the NCC Investment Portfolio to deliver Council's purpose, and for commercial gain to deliver the set financial performance targets, including the provision of an annual cash return to Council. Council will utilise the cash return to support delivering core services.

Council expects AIM to develop commercial relationships and partnerships and seek new investment opportunities to achieve its overarching purpose. In assessing the investment, return, and partnership expectations, the Board of AIM will recommend if the investment is better undertaken on the Council balance sheet or in an alternative structure, such as under AIM's own name and brand.

Council will always remain the ultimate owner of the NCC Investment Portfolio, whether the assets are on its own direct balance sheet or through an alternative structure.

NCC Investment Portfolio – Purpose

Council in its consultation documents noted:

“Managing the value of our investment assets as an inter-generational investment portfolio would benefit the residents and ratepayers of today, and those in generations to come. It will eventually give us extra income to fund more services and activities our residents want and need, without depending as much on rates funding. It will help to build our financial resilience to unexpected events, such as what we have experienced with Cyclone Gabrielle, the 2020 Napier flood, and Covid-19 lockdowns. It will help us diversify our investment types to lower our risks. It will also help us to protect the value of our cash assets against inflation.”

Council has simplified this into the following purpose of the NCC Investment Portfolio:

“To operate an inter-generational investment portfolio that builds financial resilience and reduces future reliance on ratepayers for funding activities.”

Council's Investment Policy documents the following General Investment Objectives:

- investment assets are managed to balance:
 - growth in an annual cash return for the benefit of today's Council and ratepayers; and
 - capital growth for the benefit of future Council and ratepayers;
- responsible investment standards are demonstrated in relation to the management

of investment assets; and

- investment assets are managed in an active and prudent way to achieve the above objectives.

NCC Investment Portfolio - Assets

The NCC Investment Portfolio consist of assets that Council has identified as being commercial in nature and would benefit from the commercially focused investment managed by AIM.

The current NCC Investment Portfolio assets will remain under Council ownership for the simplicity of both financial and operational management, however they will be ring-fenced to allow AIM to manage them in a commercial arm's length manner.

The NCC Investment Portfolio, on day one will consist of the following assets. In time Council may add further assets. Further detail of specific properties is set out in Council's Investment Policy.

Investment Property	<p>Asset Value c.\$89m.</p> <p>Council holds a portfolio of about 60 land investments predominantly in the Ahuriri, Pandora, and Onekawa suburbs of Napier. Council owns the underlying land with lessors owning the leasehold improvements and buildings on site. Councils earn lease income from enduring lease terms subject to periodic reset.</p> <p>Divestment of these titles is subject to Council's Investment Property Portfolio Policy (Leasehold Land).</p>
Parklands Residential Development	<p>Asset Value c.\$30m.</p> <p>Council has since the early 2000's been engaged in the development of residential land at Parklands. Limited sites in Area 3 remain for sale, while Area 4 (c.200 lots) is in early green field to brown field stage. Returns to Council from the sale of Parklands developed sites has supported Council income in the past.</p>
Surplus Land	<p>Asset Value c.\$20m.</p> <p>Council holds land blocks and buildings that are surplus to requirements. On day one the NCC Investment Portfolio will consist of 7 titles of surplus land.</p>
Airport Shares	<p>Asset Value c.\$15m.</p> <p>Council is a 26% shareholder in the Hawkes Bay Airport. The Crown and Hastings Council are the other shareholders. The airport is a Strategic Asset under the Local Government Act.</p>
Managed Fund	<p>~\$5.5m proceeds from Investment Property sold by Council prior to the establishment of AIM is being provided as seed capital for Managed Funds. Council recognises the value of a Managed Fund portfolio for both returns and diversity. Council has approved a Statement of Investment Policy and Objectives (Managed Fund SIPO) to set initial risk and return expectations.</p> <p>The AIM Board will appoint the Fund Investment Manager and recommend future changes in the Managed Fund SIPO to Council for approval.</p>

A Strategic Asset

Under legislation, Council is required to review and adopt a Significance and Engagement Policy. The policy determines what Council assets are considered Strategic Assets under the LGA section 5 and includes some of the assets within the NCC Investment Portfolio. The shareholding in the Airport is legislated as a Strategic Asset under the Local Government Act.

Council's purpose for the NCC Investment Portfolio is intergenerational. Reflecting this, and following public consultation in early 2025, Council has defined the inflation adjusted net value of the NCC Investment Portfolio as a Strategic Asset.

Council acknowledges that, by their nature, investment portfolios can be volatile, and the value will naturally go up and down over time. This may mean that at points in time the total net value is less than the starting value or the inflation adjusted net value. Council acknowledges this a normal part of investment cycles and that the goal is to grow the value over decades not just year to year.

The AIM Board

Council expects AIM to behave in a commercial and independent manner, while being aware of the values of Council. Council, as sole shareholder, will work with the Board to ensure that the Board has the appropriate blend of skills and succession planning in accordance with Council's Appointment and Remuneration of Directors Policy.

The initial AIM Board will be five members, including up to two Elected Members. Elected Member appointments will be made as soon as practicable after the 2025 Local Government elections. The Chair of AIM is to be an independent member of the Board, able to well represent the activities of AIM as a Council CCTO and investment manager in the local community.

The Board is responsible for ensuring that the CCTO is a 'good employer' and exercising 'sound business practice' under the LGA.

The formal interface with the Council will be as outlined in the 'Relationship with Council' and 'Reporting to Council' portions of this SOE. The Chair is expected to additionally interface with the Mayor on matters of public interest.

Relationship with Council

Council expects the relationship between AIM and Council to be on a 'no surprises' basis. The expectation of both entities should be of two-way open communication of material issues at both an Executive and Governance level.

Council will set an annual SOE to outline the broad objectives and mandate that Council expects from AIM and to be addressed in its Statement of Intent. Matters raised in the SOE are expected to be aligned with prior discussions between Council and AIM.

As the Investment Manager for the NCC Investment Portfolio, Council also will look to utilise the expertise held in AIM to support Council with matters of treasury or commercial business, on an as needed basis.

Council expects to work closely with the AIM Board in assessing other opportunities within Council where additional commercial value could be realised by moving the asset to the NCC Investment Portfolio and under AIM's management. These may be added as future tranches of assets.

Council would also benefit from AIM's commercial expertise on specific projects which have a commercial aspect or workstream which benefit from the skillsets and commercial lens that the board hold.

Reporting to Council

Council and the ratepayers have high interest in the successful development of the NCC Investment Portfolio and its management by AIM.

Specific details of reporting requirements are set out the Management Services Agreement. In addition to the formal reporting requirements Council expects a less formal quarterly update.

Council and AIM will work together to design performance reporting and communication that supports ratepayer awareness and understanding of the performance of the NCC Investment Portfolio, especially in the context of the potential volatility described earlier.

Both AIM and Council may request an audience with one another at times outside of formal reports to Council as required.

The New Zealand Government has passed legislation on Climate Reporting disclosures. Council expects AIM to support Councils compliance legislation and timeframes for the NCC Investment Portfolio, and to learn from lead Crown entities.

Investment Mandate

The specific details of the arrangements between Council and AIM are documented in the Management Services Agreement. As AIM settles into its work it is expected Council and AIM will work together to refine the services and expectations to enable AIM to be successful in operating in a commercial arm's length manner to deliver Council's purpose for the NCC Investment Portfolio.

Below is a summary of key expectations:

Strategy and Return Expectation

Council expects AIM to develop an Investment Strategy for the NCC Investment Portfolio which includes a distribution policy that balances growth in the annual cash return for Council with capital growth of the NCC Investment Portfolio.

The Investment Strategy will inform future SOE's, SOI's and AIM's contribution to the 2027-37 Long Term Plan.

When AIM develops and executes the Investment Strategy Council expects AIM to consider the Purpose of the NCC Investment Portfolio, the General Objectives as well as considering:

- the mix of assets to achieve growth and income objectives;
- assets being appropriately diversified to provide resilience and buffer Council from the impact of economic cycles and localised disasters; and
- a distribution policy that reflects the asset mix, potential volatility, and balances growth in the annual cash return for Council with capital growth of the NCC Investment Portfolio.

Council acknowledges that returns from both investment and development are volatile. Council is targeting a smoothed cash return to Council in line with the 'no surprises' expectation and expects AIM to in time be able to buffer Council from income volatility. In line with this Council has defined a volatility reserve in its Investment Policy.

It is the responsibility AIM to determine from where in the NCC Investment Portfolio the annual cash return is derived from.

The annual cash return set out below Council is based on the current returns of annuity assets and a contribution from land development had has been set in Councils 2024-27 Three Year Plan. Council will work with AIM to refine expectations as AIM settles into its work.

For the first three years the cash return to be supplied to Council is as follows:

LTP 2 (2025)	LTP 3 (2026)	LTP 4 (2027)
\$4.4m	\$4.8m	\$5.3m

Note: This is a revenue based forecast.

Management of Assets

Council expects AIM to manage the NCC Investment Portfolio for commercial gain. This may include the disposal or improvement of existing assets, or the acquisition of new assets, in line with General Objectives, to best achieve the Purpose of the NCC Investment Portfolio.

Where an asset within the NCC Investment Portfolio is deemed a Strategic Asset of Council (such as the Airport shareholding), AIM will need to engage with Council on its strategy for the asset to ensure obligations under the Local Government Act are met.

To support AIM in the day-to-day operational management along with the development and execution of the investment strategy for the NCC Investment Portfolio, the Council will make available the internal resources.

Regional benefit

Council acknowledges that natural tension may arise between AIM's commercial focus for the NCC Investment Portfolio and the ratepayer expectations regarding regional benefits and outcomes.

In this context, Council reaffirms AIM's primary objective as the Council's Investment Manager of the NCC Investment Portfolio, is to make a commercial return for Council and is to apply the following priority order to its focus:

1. Providing an annual cash return to Council equivalent to that set in the AIM Statement of Intent in line with Council's Annual Plan.
2. Achieving long term capital growth and resilience of the NCC Investment Portfolio for the benefit of future generations of ratepayers.
3. Council expects AIM to be a respected partner in the investment community.
4. Council supports AIM as a direct investor in Hawkes Bay (an example being the development of Parklands) and reporting on these regional benefits.

Social Responsibility

Council expects AIM to have social responsibility to be woven into AIM's fabric or culture, as determined and role-modelled by the Board.

AIM will demonstrate its social responsibility culture through the way it operates and manages the NCC Investment Portfolio and conducts itself in the community.

Council expects AIM to align with larger NZ investment entities like the New Zealand Super Fund on social responsibility but be reflective of the Council values and its place in the Hawke's Bay.

No investment will be directly contrary to the values or objectives of the Council.

Debt

Council accepts that as part of enabling AIM to operate commercial AIM will require access to debt facilities. An initial debt facility of \$30m has been approved to support the ongoing development of Parklands and to support other initial in line with AIM's

Statement of Intent and to achieve the financial performance targets.

As AIM matures and diversifies the NCC Investment Portfolio, Council anticipates discussion with the AIM Board on access to new facilities within Council's overall credit ratings and limits.

AIM will be responsible for capital repayments and interest for these debt facilities, and the facility is to be accounted for as part of the NCC Investment Portfolio performance.

Partnerships, Relationships and Co-Investment

AIM is expected to become a trusted partner and take a leadership role in the local investment community.

Council expects AIM will actively consider co-investment with other local investment entities, including local iwi settlement trusts, as appropriate. Looking wider than the region, AIM should create trusted partner relationships with exemplary Crown, Local Government, Community, and iwi investment entities.

Looking Ahead

The establishment of a commercially managed investment portfolio for Council is a significant milestone for our city. The decision to entrust the investment management of our intergenerational wealth within the NCC Investment Portfolio to AIM is exciting.

We look forwards to building and developing a strong relationship, based on trust and confidence, to the benefit of Council and its ratepayers.

Ngā mihi nui

Kirsten Wise Mayor

Napier City Council