

Council Meeting Agenda 11 March 2020

Meeting is held in the Council Chamber, Level 2, Philip Laing House
144 Rattray Street, Dunedin



Members:

Hon Marian Hobbs, Chairperson	Cr Gary Kelliher
Cr Michael Laws, Deputy Chairperson	Cr Kevin Malcolm
Cr Hilary Calvert	Cr Andrew Noone
Cr Michael Deaker	Cr Gretchen Robertson
Cr Alexa Forbes	Cr Bryan Scott
Cr Carmen Hope	Cr Kate Wilson

Senior Officer: Sarah Gardner, Chief Executive

Meeting Support: Liz Spector, Committee Secretary

11 March 2020 01:00 PM

Agenda Topic	Page
1. APOLOGIES No apologies were received prior to publication of the agenda.	
2. ATTENDANCE Staff present will be identified.	
3. CONFIRMATION OF AGENDA Note: Any additions must be approved by resolution with an explanation as to why they cannot be delayed until a future meeting.	
4. CONFLICT OF INTEREST Members are reminded of the need to stand aside from decision-making when a conflict arises between their role as an elected representative and any private or other external interest they might have.	
5. PUBLIC FORUM Members of the public may request to speak to the Council.	
6. CONFIRMATION OF MINUTES The Council will consider minutes of the 26 February 2020 Council Meeting as a true and accurate record, with or without changes.	3
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8.1	PROPOSED SUBMISSION ON DRAFT NATIONAL POLICY STATEMENT FOR INDIGENOUS BIODIVERSITY	14
	This report seeks the Council's approval of ORC's submission on the draft National Policy Statement for Indigenous Biodiversity (NPSIB) to be lodged with the Ministry for the Environment by 14 March 2020.	
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	The purpose of this report is to enable Council to approve the draft 2020-21 financial forecast and associated work programme as the basis for community consultation.	
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	This report is provided to receive PWC's strategic asset review of Port Otago Limited.	
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10.1	RECOMMENDATIONS OF THE FINANCE COMMITTEE 26 FEBRUARY 2020	121
11.	RESOLUTION TO EXCLUDE THE PUBLIC	123
	That the public be excluded from the following items under LGOIMA 48(1)(d), Sec 48(2)(a)(i): Water Permits Plan Change	
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12.	RESOLUTION TO RESUME IN PUBLIC	
	The Council will resolve to resume the meeting in public.	
13.	CLOSURE	



Minutes of an ordinary meeting of Council held in the
Council Chamber on
Wednesday 26 February 2020 at 1:00 p.m.

Membership

Hon Cr Marian Hobbs	<i>(Chairperson)</i>
Cr Michael Laws	<i>(Deputy Chairperson)</i>
Cr Hilary Calvert	
Cr Alexa Forbes	
Cr Michael Deaker	
Cr Carmen Hope	
Cr Gary Kelliher	
Cr Kevin Malcolm	
Cr Andrew Noone	
Cr Gretchen Robertson	
Cr Bryan Scott	
Cr Kate Wilson	

Welcome

Hon Marian Hobbs welcomed Councillors, members of the public and staff to the meeting at 1:04 p.m.

For our future

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1. APOLOGIES

There were no apologies. Cr Laws was in attendance via Skype.

2. ATTENDANCE

Sarah Gardner (Chief Executive)
Nick Donnelly (General Manager Corporate Services and CFO)
Gavin Palmer (General Manager Operations)
Richard Saunders (General Manager Regulatory)
Gwyneth Elsum (General Manager Policy, Strategy and Science)
Liz Spector (Committee Secretary)

Other staff present included Garry Maloney (Manager Transport), Steve Rushbrook (Harbourmaster), Anita Dawe (Acting Manager Policy), Kyle Balderston (Team Leader Urban Growth and Development), Eleanor Ross (Manager Communications Channels), Shayde Bain (Comms and Engagement Advisor), Ryan Tippet (Media Communications Lead).

3. CONFIRMATION OF AGENDA

The agenda was confirmed as circulated.

4. CONFLICT OF INTEREST

No conflicts of interest were advised.

5. PUBLIC FORUM

Mr Gerry Eckhoff spoke to the Council about conflicts of interest.

6. PRESENTATIONS

There were no presentations.

7. CONFIRMATION OF MINUTES

Resolution

That the minutes of the (public portion of the) Council meeting held on 22 January 2020 be received and confirmed as a true and accurate record.

Moved: Cr Hope
Seconded: Cr Forbes
CARRIED

Resolution

That the minutes of the (public portion of the) Council meeting held on 12 February 2020 be received and confirmed as a true and accurate record.

Moved: Cr Deaker
Seconded: Cr Noone
CARRIED

8. ACTIONS (STATUS OF COUNCIL RESOLUTIONS)

The Councillors were briefed on outstanding actions.

9. CHAIRPERSON'S AND CHIEF EXECUTIVE'S REPORTS

9.1. Chairperson's Report

Cr Hobbs reviewed her Chairperson's report with the Councillors.

Resolution

That the Chairperson's report be received.

Moved: Cr Hobbs
Seconded: Cr Forbes
CARRIED

9.2. Chief Executive's Report

Chief Executive Gardner reviewed her report with the Councillors.

Resolution

That the Council:

- 1) *Receives this report.*

Moved: Cr Hobbs
Seconded: Cr Noone
CARRIED

10. MATTERS FOR COUNCIL DECISION

10.1. Proposed Change to the Regional Public Transport Plan

Garry Maloney (Manager Transport) and Gavin Palmer (General Manager Operations) were present to answer questions about the report which was provided to allow the Council to adopt a variation of the RPTP post consultation to enable a ferry service trial for Lake Wakatipu. After a general discussion, Cr Forbes thanked staff for conducting a well-run and timely hearing process to enable the trial ferry service. Cr Wilson moved the motion.

Resolution

That the Council:

- 1) **Receives** this report.
- 2) **Adopts** the proposed variation to the Regional Public Transport Plan as consulted, to enable a Lake Wakatipu ferry service to be trialled.

Moved: Cr Wilson
Seconded: Cr Forbes
CARRIED

10.2. Navigation Safety Bylaw Update 2020

Cr Kelliher and Cr Robertson sat back from this item to avoid a conflict as they were being asked to hear the submissions on the Navigation Safety Bylaw update.

Steve Rushbrook (Harbourmaster) and Richard Saunders (General Manager Regulatory) were present to speak to the report and answer questions. Mr Rushbrook noted the Bylaws had been given a major update in 2019. He said the current amendment is required due to the transfer of harbourmaster delegations back to the ORC from Central Otago District Council per their request in September 2019. After a discussion, Cr Wilson made a motion.

Resolution

That the Council:

- 1) **Receives** the report
- 2) **Approves** the proposed Statement of Proposal for the amended Otago Regional Council Navigational Bylaw 2019 for public consultation.
- 3) **Approves** the Proposal to Reverse Transfer of Powers for consultation.
- 4) **Appoints** Councillor Robertson, Councillor Kelliher and the Southland Harbourmaster to hear from submitters, consider all submissions received, deliberate and make recommendations to Council in relation to the amended Otago Navigation Safety Bylaw.

Moved: Cr Wilson

Seconded: Cr Hope

CARRIED

Cr Kelliher and Cr Robertson returned to the table.

10.3. Taumata Arowai - The Water Services Regulator Bill Submission

Kyle Balderston (Team Leader Urban Growth and Development) and Gwyneth Elsum (GM Strategy, Policy and Science) were present to speak to the report and answer questions. The report was provided to seek Council endorsement of a submission to Taumata Arowai - the Water Services Regulator Bill. Mr Balderston noted the Bill proposes creation of a single national drinking water regulatory body as a Crown Agent and to establish objectives, functions, operating principles and governance arrangements. Mr Balderston said staff had written a submission in general support of the Bill, and offered suggestions for improvements and clarification of potential regional council function overlaps. A general discussion was conducted, with the Councillors indicating support for creation of a centralised regulator for drinking water. Cr Hobbs moved that the submission be lodged under delegation from the ORC and asked that Mr Balderston provide the submission with changes as discussed for her signature.

Resolution

That the Council:

- 1) **Receives** this report.
- 2) **Approves** the Chief Executive on or before 5pm on 4 March 2020 to lodge the attached draft submission, subject to any changes made today, under delegation from the Otago Regional Council.

Moved: Cr Hobbs

Seconded: Cr Calvert
CARRIED

10.4. ECO Fund Decision Panel - March 2020

Shayde Bain (Communications and Engagement Advisor) was present to answer questions about the report which was provided to inform timelines of the upcoming ECO Fund selection round and to request delegation be given to the Chair of the panel (Cr Deaker) to select the additional councillor panel members.

A discussion was held about ways to build connections with those awarded grants and whether this should be added to the Terms of Reference. It was decided to leave consideration of this to the future. There was no further discussion and Cr Deaker moved the recommendation.

Resolution

That the Council:

- 1) **Approves** a change to the ECO Fund decision panel Terms of Reference to allow the Chair of the ECO Fund to appoint a decision panel of three additional Councillors for each round of funding.
- 2) **Notes** that once the panel members have accepted their appointment, staff will contact the selected Councillors to initiate the process for the March 2020 funding round.

Moved: Cr Deaker
Seconded: Cr Wilson
CARRIED

*Cr Noone left the meeting at 02:07 pm.
Cr Noone returned to the meeting at 02:10 pm.*

10.5. Request for Ministerial Call-In

Gwyneth Elsum (General Manager Strategy, Science and Policy) and Anita Dawe (Acting Manager Policy) were present to answer questions about the report. The report was provided to give information to the Councillors to allow a decision to be made whether a Ministerial call in would be requested for the Water Permit Plan Change and Discharge Management Plan Change.

Cr Hobbs noted a call in of the plans would allow Minister Parker to choose for the plans to be considered by a Board of Inquiry or to be put directly to the Environment Court. She said if the Councillors make the decision to request a call in, it would save time and expense for both Council and submitters by bypassing the usual hearings and appeals process run by Council. She said a call in is not about determining the plans, but ensuring the process is professional, high quality and fair to all consented. Ms Dawe also noted there is a severe shortage of commissioners available to hear the plan changes and staff has been unable to find any.

Cr Noone said the Otago region has unique water issues and said he is concerned about making a decision which will have the plans be determined by people who may not have a good understanding of local issues. Chief Executive Sarah Gardner suggested Cr Noone's concerns are not uncommon, however, when people who have gone through the process have been surveyed, they reported positive experiences and were complimentary. She said the panels are

carefully put together to reflect specific representation, including scientific experts, Maori, people with local knowledge, and are gender balanced. Cr Forbes stated the plan change decisions met many of the criteria for a call in. She said she feels this is a pragmatic option which would remove polarisation and ease timing and resourcing concerns.

Cr Malcolm said if the Council decides to request a call in of the plans, the ORC website should be updated with clear information to explain to the public what the decision means and why it was chosen.

After further deliberation, Cr Hobbs asked that the draft letters to the Minister be amended to remove specific mention of either type of call in, allowing Minister Parker to determine what he feels would best suit each plan change. She then moved to receive the report and asked that each recommendation be taken separately.

Resolution

That the Council:

- 1) **Receives** this report.

Moved: Cr Hobbs
Seconded: Cr Robertson
CARRIED

Resolution

That the Council:

- 1) **Approves** the recommendation to request the Minister for the Environment call in Water Plan Change 7 – Water Permits, for the reasons set out in this report; and

Moved: Cr Forbes
Seconded: Cr Deaker
CARRIED

Resolution

That the Council:

- 1) **Approves** the recommendation to request the Minister for the Environment call in Water Plan Change 8 – Discharge Management and Waste Plan Change 1 – Dust Suppressants and Landfills.

Moved: Cr Forbes
Seconded: Cr Deaker
CARRIED

Resolution

That the Council:

- 1) **Recommends** that the Chair write to the Minister, requesting a call in of the Plan Change(s), in accordance with the letters attached to this report, and any amendments as a result of today's meeting.

Moved: Cr Deaker
Seconded: Cr Forbes
CARRIED

Resolution

That the Council:

- 1) **Requests** staff and Communications Working Party under matter of urgency, prepare communications to residents explaining the process and reasons why the Otago Regional Council is pursuing a Ministerial call in.

Moved: Cr Malcolm

Seconded: Cr Deaker

CARRIED

11. MATTERS FOR NOTING

11.1. Otago: UN Regional Centre of Expertise (RCE) for Sustainability

Cr Forbes did not participate in voting on this item due to a possible conflict of interest.

The report was provided to inform the Council that Otago was confirmed as a Regional Centre of Expertise (RCE) on education for sustainable development under the United Nations University in late January 2020 and note the Otago Regional Council will continue to be involved as a partner. Gwyneth Elsum (GM Strategy, Policy and Science) noted she had been asked to participate as co-chair of the Working Group on Water. She noted staff will keep Councillors up to date with the progress and activities of the RCE and advise of opportunities for Councillors to be involved in specific aspects of the work.

After a general discussion, Cr Wilson made a motion.

Resolution

That the Council:

- 1) **Receives** this report.
- 2) **Notes** the Otago region has been confirmed as a Regional Centre of Expertise (RCE) on education for sustainable development under the United Nations University.
- 3) **Notes** the Otago Regional Council will remain involved as a partner and will co-chair the Working Group on Water.
- 4) **Notes** that updates will be provided to Council, and there will be opportunities for Councillors to be involved if they wish.

Moved: Cr Wilson

Seconded: Cr Deaker

CARRIED

11.2. Strategic Plan Workshops

Gwyneth Elsum (GM Strategy, Policy and Science) was present to answer questions on the workshop process that would be initiated to develop the ORC Strategic Directions document. Ms Elsum noted the work programme being proposed is part of upcoming LTP work to feedback into community outcomes. The workshops are scheduled for the Strategy and Planning Committee members and will be conducted on 12 March, 30 April, 27 May and 22 July 2020. There were no questions and Cr Noone made a motion.

Resolution

That the Council:

- 1) **Receives** this report.
- 2) **Notes and Approves** the proposed process to develop ORC Strategic Directions document including Councillor participation in the process through a series of workshops.

Moved: Cr Noone
 Seconded: Cr Hope
 CARRIED

12. REPORT BACK FROM COUNCILLORS

Several Councillors updated the group on events and conferences they had attended during the previous month.

13. RESOLUTION TO EXCLUDE THE PUBLIC

Resolution

That the public be excluded from the following parts of the proceedings of this meeting, namely:

- **Minutes of the 11 December 2020 Public Excluded Council Meeting**
- **Minutes of the 22 January 2020 Public Excluded Council Meeting**
- **Minutes of the 29 January 2020 Public Excluded Council Meeting**

Moved: Cr Hobbs
 Seconded: Cr Kelliher
 CARRIED

The general subject of each matter to be considered while the public is excluded, the reason for passing this resolution in relation to each matter, and the specific grounds under section 48(1) of the Local Government Official Information and Meetings Act 1987 for the passing of this resolution are as follows:

General Subject of each matter to be considered	Reason for passing this resolution in relation to each matter	Ground(s) under section 48(1) for the passing of this resolution
<i>Minutes of the Public Excluded 11 December 2019 Council Meeting</i>	To protect the privacy of natural persons and to enable any local authority holding the information to carry out, without prejudice or disadvantage, commercial activities	Section 48(1)(a): Sec 7(2)(a), Sec 7(2)(h)
<i>Minutes of the Public Excluded 22 January 2020 Council Meeting</i>	To maintain legal professional privilege	Section 48(1)(a): Sec 7(2)(g)

<p><i>Minutes of the Public Excluded 29 January 2020 Council Meeting</i></p>	<p>Sec 48(2)(a)(i) - Paragraph (d) of subsection (1) applies to any proceedings before a local authority where (i) a right of appeal lies to any court or tribunal against the final decision of the local authority in those proceedings.</p> <p>To enable any local authority holding the information to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations) – Section 7(2)(i)</p>	<p>Sec 48(1)(d); Subject to subsection (3), a local authority may by resolution exclude the public from the whole or any part of the proceedings of any meeting only on one or more of the following grounds:(d) that the exclusion of the public from the whole or the relevant part of the proceedings of the meeting is necessary to enable the local authority to deliberate in private on its decision or recommendation in any proceedings to which this paragraph applies.</p> <p>Section 48(1)(a); 7(2)(i)</p>
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Resolution

That the Council move back into public session at 4:02 pm.

Moved: Cr Calvert

Seconded: Cr Hope

CARRIED

14. CLOSURE

There was no further business and Cr Hobs declared the meeting closed at 04:02 pm.

Chairperson

Date

Outstanding Actions from Resolutions of the Council Meeting

2019-2022 triennium	2016-2019 triennium
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REPORT TITLE	MEETING DATE	RESOLUTION	STATUS	UPDATE
11.3 Delegations	3 April 2019	Direct CE to bring a review of delegations for Council decision.	IN PROGRESS – Regulatory/Governance	Underway for reporting in early 2020.
11.3 Disposal of Poison Services Assets	15 May 2019	ORC to consult with community on proposed sale of poison services assets and include the Galloway land as part of a proposed sale	ASSIGNED - Operations	Part of 2020/21 Annual Plan process.
11.3 Finalise Biodiversity Action Plan	26 June 2019	Develop business case options for resourcing biodiversity and biosecurity activities to inform the next LTP (2021 - 2031) and enable implementation of the Biodiversity Action Plan.	IN PROGRESS - Operations	Underway for reporting in March 2020.
10.5 Lake Hayes Culvert	25 Sept 2019	Invite QLDC, DoC and NZTA to co-fund with ORC scoping investigation and establishment of a target water level range for Lake Hayes and scoping the investigation, consenting, design, construction, maintenance and funding of infrastructure to manage the lake level to that range. This will require incorporation of activity and funding of ORC's share of the costs into draft Annual Plans.	IN PROGRESS - Operations	Consultant preparing cost estimate for scoping exercise.
9.1 Decision Making Structure	13 Nov 2019	That a review of the committee structure including membership be reviewed at 6-months.	ASSIGNED - Governance	Report will be brought to Council in May 2020.
10.3 Ratifying Otago Local Authorities Triennial Agmt	29 January 2020	That issues for potential consideration by the Mayoral Forum be considered at the next Strategy and Planning meeting.	IN PROGRESS – Governance	Report will be included in the next Strategy and Planning Committee Agenda.

10.5 Request for Ministerial Call In	26 February 2020	That Staff and Communications Working Party prepare as a matter of urgency communications to all residents explaining the processes and reasons the ORC is pursuing a ministerial call-in, highlighting probable time frames along with consultation processes that will arise.	COMPLETED - Comms	Communications have been put on the ORC website, in On-Stream (distribution date Friday 28 Feb 2020) and on the ORC Facebook page. https://www.orc.govt.nz/news-and-events/news-and-media-releases/2020/february/our-decision-to-request-a-call-in-on-our-plan-changes?fbclid=IwAR2LtfpgHj99wLmIDztOtVtIgV8fhzPLy7yFvhUzZTAum_51FDCaxQz-eM
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8.1. ORC's proposed submission on the draft National Policy Statement for Indigenous Biodiversity

Prepared for:	Council
Report No.	P&S1829
Activity:	Environmental: Land
Author:	Rachael Brown, Senior Policy Analyst
Endorsed by:	Gwyneth Elsum, General Manager Strategy, Policy and Science
Date:	28 February 2020

PURPOSE

- [1] This report seeks the Council's approval of ORC's submission on the draft National Policy Statement for Indigenous Biodiversity (NPSIB) to be lodged with the Ministry for the Environment by 14 March 2020.

Executive Summary

- [2] A draft NPSIB from Central Government is out for consultation. This builds on an earlier draft that was developed through the cross-sectoral work of the *Biodiversity Collaborative Group* and published in October 2018. Since then Government departments have worked to refine the draft NPSIB.
- [3] The continued and ongoing loss of Aotearoa's indigenous biodiversity is an issue of national and, as a global biodiversity 'hotspot', international significance that detracts from the wellbeing of all New Zealanders. Addressing and reversing the decline requires a strategic, long term approach that enables partnerships across all levels of government, and with tangata whenua and communities.
- [4] Under the Resource Management Act 1991 (RMA) councils are required to maintain and protect indigenous biodiversity. However, the RMA does not provide clear direction to councils on how to achieve this. The draft NPSIB is intended to address this gap.
- [5] The draft NPSIB has significant potential resource implications for councils across the country and addressing this needs to be the subject of further detailed consideration by Central Government.
- [6] ORC's proposed submission provides general support for the draft NPSIB and focuses on the proposed implementation requirements. Key points are:
- the need for Central Government to partner with Local Government to ensure successful implementation of the NPSIB; and
 - that biodiversity is a regional priority for ORC and a future work programme needs to align with the direction of the draft NPSIB.

RECOMMENDATION

That the Council:

- 1) **Receives** this report.
- 2) **Notes** the ORC staff positions supports the NPSIB but records its limitations by excluding aquatic and coastal marine environments.
- 3) **Approves** the Chief Executive on or before 5pm on 14 March 2020 to:
 - a. Lodge the attached draft submission; or
 - b. Lodge the attached draft submission, subject to any changes made today, under delegation from the Otago Regional Council.

BACKGROUND

- [7] A draft NPSIB from Central Government is currently out for consultation (**Attachment 2**).¹ The draft builds on an earlier version that was developed through the cross-sectoral work of the *Biodiversity Collaborative Group*. Officers reported to the Policy Committee in January 2019 on the recommendations and implications of the *Biodiversity Collaborative Group*.² Since then the Ministry for the Environment (MfE) and the Department of Conservation (DoC) have worked together to refine the draft NPSIB, which is open for consultation until 14 March 2020. MfE intends to gazette a final version of the NPSIB in mid-2020.
- [8] The Biodiversity Collaborative Group recommended that the NPSIB should cover terrestrial, aquatic and coastal/marine environments to facilitate integrated management across these domains. Due to time constraints, this has not been possible. At this stage, the draft NPSIB is restricted in application to terrestrial environments, excluding wetlands, which are covered in Government's *Essential Fresh Water* package. ORC's proposed submission notes the limitations of this approach, while supporting the gazettal of the NPSIB focused on terrestrial environments by mid-2020.

ISSUES

- [9] Addressing and reversing the decline of New Zealand's indigenous biodiversity requires a strategic, long term approach that enables partnerships across all levels of government, and with tangata whenua and communities. The approach needs to consider the strengths, capabilities and access to resources of iwi and different sectors, so that these strengths and resources can be coordinated and leveraged. It also needs to consider where the costs and benefits of successfully implementing a NPSIB would lie and align the responsibility for regulation and resourcing accordingly.
- [10] Under the Resource Management Act 1991 (RMA) councils are required to maintain and protect indigenous biodiversity. However, the RMA does not provide clear direction to councils on how to achieve this. Government is currently consulting on a draft National Policy Statement for Indigenous Biodiversity (NPSIB) that seeks to address this gap. It would require councils to work closely with tangata whenua, landowners and communities to identify and look after significant indigenous biodiversity.

¹ <https://www.mfe.govt.nz/consultations/nps-indigenous-biodiversity>

² <https://www.orc.govt.nz/media/6403/policy-committee-agenda-jan-2019.pdf>

- [11] The draft NPSIB has significant potential resource implications for councils across the country and addressing this needs to be the subject of further detailed consideration by Central Government.

DISCUSSION

Effective implementation of the NPSIB by Councils requires investment by Central Government

- [12] As drafted, the proposed NPSIB would have significant resourcing implications for councils across the country. In particular, the requirement for TAs to identify, map and schedule Significant Natural Areas (SNAs) in their jurisdiction within five years, will be extremely challenging, especially for TAs with a small rating base and a large area of private land to survey. In resource consenting processes, both regional councils and TAs would be required to include additional assessments of effects on indigenous biodiversity.
- [13] The draft NPSIB proposes that regional councils lead the development of:
- regional biodiversity strategies with a focus on landscape scale restoration (within six years); and
 - monitoring plans for indigenous biodiversity (timeframes not specified).
- [14] To facilitate and enable territorial authorities (TAs) and regional councils (RCs) to effectively implement the NPSIB, ORC's proposed submission therefore advocates for Central Government investment and support in the following areas:
- national level investment in coordinating biodiversity data management and providing data standards and infrastructure;
 - identification and management of Significant Natural Areas³ (SNAs) on Crown Land to be the responsibility of the Department of Conservation;
 - expert technical/ecological advice made available to TAs to support the identification and assessment of SNAs on private land;
 - public engagement regarding the need for, intent of and implications for land managers of the NPSIB;
 - financial incentives to land managers e.g. for fencing and planting; and
 - resources to iwi to facilitate iwi engagement in indigenous biodiversity planning and management.
- [15] ORC's draft submission also notes that multiple national direction instruments currently frustrate the integrated management of indigenous biodiversity, and that a commitment is required from Central Government that it intends to address this barrier.

Biodiversity is a regional priority for ORC and a future work programme needs to align with the direction of the draft NPSIB

- [16] ORC's Biodiversity Action Plan (BAP) promotes regional collaboration consistent with the proposed requirements of the NPSIB. To enable implementation of the BAP, ORC initiated a *Biodiversity Otago* Iwi and Interagency group which aims to facilitate strategic regional partnerships and collaboration in relation to biodiversity. Recent meetings have confirmed support for this group across the region, including from the DoC. Preliminary

³ SNAs refer to significant areas of indigenous vegetation and significant habitats of indigenous fauna under section 6(c) of the RMA.

discussions have also included the development of criteria for collaborative land/seascape-scale regional biodiversity restoration projects. The group has articulated the issue of resources needed to support its operation and invest in and support a biodiversity data commons.

- [17] In anticipation of a regional approach to biodiversity, and to fulfil our obligations under section 6 of the RMA, ORC contracted mapping of potential/original ecosystems and the habitat of threatened and at-risk species in 2019. This mapping is being undertaken across terrestrial, freshwater and coastal environments to enable integrated management and will be delivered in mid-2020.
- [18] Given its current investment and potential future directions, ORC is actively considering how it should invest in biodiversity most effectively moving forward ahead of the long-term plan review. The direction of the draft NPSIB is an important consideration which will feed into this.
- [19] There is a clear need for partnerships between tangata whenua, Government agencies, councils, landowners and communities to enable regional biodiversity restoration projects. To better enable this collaboration the *Biodiversity Otago* group has identified an immediate need for a national biodiversity monitoring framework and a common data platform for sharing information on biodiversity across agencies and with communities.

OPTIONS

- [20] Council can choose to approve the submission to be submitted to the Ministry for the Environment (MfE), approve it with some amendments to be submitted to MfE, or not approve the submission and not make a submission on the proposed NPSIB. Given the potentially significant implications of the NPSIB, staff recommend that a submission is lodged. ORC has a clear interest and role in contributing to the development and implementation of New Zealand's inaugural NPSIB as well as statutory obligations under the RMA.

CONSIDERATIONS

Policy Considerations

- [21] ORC has a Biodiversity Strategy and Action Plan, however, implementation to date has been limited to the activities described above. While the Strategy and Action Plan ensures ORC is well placed in relation to the general direction of the draft NPSIB, the BAP may require review once the NPSIB is finalised. As mentioned above, ORC has commenced actively considering its role and resourcing to drive biodiversity outcomes ahead of the long-term plan review.

Financial Considerations

- [22] Financial implications are not certain until an NPSIB is gazetted, however it is likely that ORC will need to increase its investment in biodiversity and provide increased support for land management initiatives to successfully implement the NPSIB. Internal considerations of program design, desired outcomes and resourcing levels, in the context of ORC's existing activities and priorities, are needed to inform this investment.

Significance and Engagement

- [23] The financial implications of the final NPSIB will need to be incorporated and consulted on through ORC's 2021 Long Term Plan process.

Legislative Considerations

- [24] Once the NPSIB has been finalised, ORC will need to give effect to it through the Regional Policy Statement (2020) and new Land and Water Plan.

Risk Considerations

- [25] There are no risks associated with this submission.

NEXT STEPS

- [26] The next steps are to finalise the submission and provide it to the Ministry for the Environment by 14 March 2020.

ATTACHMENTS

1. ORC proposed submission on Draft NPSIB Feb 2020 [**8.1.1** - 10 pages]
2. Draft National Policy Statement for Indigenous Biodiversity [**8.1.2** - 45 pages]

Our Reference:

XX March 2020

Ministry for the Environment
PO Box 103623
Wellington 6143

indigenousbiodiversity@mfe.govt.nz

Dear Sir/Madam

Otago Regional Council:

Submission on the *Draft National Policy Statement for Indigenous Biodiversity (November 2019)*

Introduction

1. The continued and ongoing loss of Aotearoa's indigenous biodiversity is an issue of national and international significance that detracts from the wellbeing of all New Zealanders. Addressing and reversing the decline requires a strategic, long term approach that enables partnerships across all levels of government, and with tangata whenua and communities. This approach needs to consider the strengths, capabilities and access to resources available to iwi and different sectors, and how these strengths can be leveraged in a coordinated way. It also needs to consider where the costs and benefits of successfully implementing a National Policy Statement for Indigenous Biodiversity (NPSIB) would lie and align the responsibility for regulation and resourcing accordingly. As indigenous biodiversity is a public good of national significance, Central Government has a clear role, not just in regulation through an NPSIB, but also in resourcing its implementation both directly and through councils. This role is not clearly articulated or committed to in the draft NPSIB.

Part 1 – Key Messages

Overall support for the principles, intent and general content of the draft NPSIB

2. The Otago Regional Council (ORC) wishes to commend and support the significant work and extensive cross-sector engagement undertaken by Central Government to develop the draft NPSIB. The collaborative process on which it was based, and the imminent publication of our first NPSIB, are significant steps toward improving the management of indigenous biodiversity, particularly on private land.
3. ORC's Biodiversity Action Plan (BAP)¹ sets out a programme of work to be undertaken in partnership with others. This work programme aligns well with the draft NPSIB and its implementation will enable ORC to give effect to a NPSIB. The BAP has 5 key components:

1. *Active management based on ecological prioritisation and local aspirations*

¹ <https://www.orc.govt.nz/media/7034/final-orc-biodiversity-action-plan-july-2019.pdf>

2. *Regional leadership and coordination*
3. *Better information for better management*
4. *Education and community engagement*
5. *Rules and regulation.*

Roles and strengths of different government sectors need to be leveraged

4. ORC supports Hutia Te Rito as the fundamental concept underpinning the draft NPSIB, which recognises that the wellbeing of our indigenous biodiversity, our people and the wider environment are closely linked. These relationships mean that engaging tangata whenua and communities as kaitiaki and stewards is essential to improving indigenous biodiversity outcomes. Community engagement is a strength of local government, which can be leveraged for this purpose.
5. As emphasised in the *Report of the Biodiversity Collaborative Group*, which informed the draft NPSIB, Central Government investment in non-regulatory measures will be an essential part of any package to improve indigenous biodiversity outcomes.
6. The respective roles and strengths of government sectors within the biodiversity management system that can enable successful implementation of the NPSIB are outlined below.

Central Government

ORC supports:

7. *National level investment in coordinating data management and IT infrastructure*

This would enable:

- a consistent national monitoring programme - for regional data and assessments to wrap up into national data sets and reporting, a common data platform, standards and criteria are required.
- a common data platform that can be contributed to, accessed and used by all relevant sectors – this could form the platform for identifying regional priorities for land/seascape scale restoration programmes.

8. *Identification and management of SNAs on Crown Land*

The Department of Conservation (DoC) has the mandate, data and expertise to undertake this.

9. *Expert advice*

Ecology expertise to assist in identifying SNAs, particularly:

- for territorial authorities with a small rating base and a large area of private land to manage; and
- if all SNAs are to be identified within 5 years.

10. *Public engagement*

Engagement with the public about:

- the value of our unique biodiversity
- why we need an NPSIB
- the benefits that are intended from the NPSIB, and
- the support that will be provided to land owners and managers to implement it.

11. *Financial incentives*

For protection of indigenous biodiversity on private land, for example towards fencing, planting and management plans.

12. *Investment in capacity, capability, IT infrastructure and processes to facilitate iwi engagement in biodiversity management*

While councils can support joint forums (e.g. Biodiversity Otago) for engaging with tangata whenua, iwi/hapū/whānau are still likely to require additional resourcing to meaningfully participate in the processes proposed in the draft NPSIB.

Regional councils

13. Regional councils are best placed to:

- Facilitate regional level partnerships and coordination for biodiversity management across iwi and agencies to enable:
 - integration of the protection of biodiversity values as part of implementing regional statutory roles and functions under the RMA; and
 - collaboration to identify and manage regional priority areas for land/sea-scape scale restoration projects.
- Coordinate active biodiversity management on private land at a regional scale.
- Facilitate regional level partnerships and coordination across iwi and agencies to identify priority areas for land/sea-scape scale restoration projects.
- Engage with and advise land owners on biodiversity management.
- Map regional biodiversity values to inform tenure-neutral ecological prioritisation.²

Territorial authorities

14. Territorial authorities are best placed to:

- Engage with communities on how they can contribute to biodiversity management in a way that improves community wellbeing.
- Identify and regulate Significant Natural Areas (SNAs)³
(Noting that Central Government investment in technical support, e.g. ecological expertise would be required to map SNAs nationally within proposed timeframe.)

Support for regional biodiversity strategies being included in the NPSIB

² For a description of this process see the Otago Regional Council Biodiversity Action Plan, <https://www.orc.govt.nz/media/7034/final-orc-biodiversity-action-plan-july-2019.pdf> (Action 3.1, pp. 15-16)

³ SNAs as defined in section 6(c) of the Resource Management Act (1991).

15. ORC supports the inclusion of regional biodiversity strategies in the NPSIB because it is unclear how they would otherwise be mandated. The inclusion of Policy 3.18 will help to ensure that all regions have a regionally relevant and nationally consistent approach to biodiversity prioritisation and restoration. We note that the policy is consistent with the approach to regional strategies that most regions, including Otago, are already taking.

16. Case study: Biodiversity Otago Iwi and Interagency Group

ORC has initiated a process of regional coordination with Kai Tahu and public sector agencies (including DoC, LINZ and Otago TAs) to advance the implementation of its Biodiversity Action Plan.

The purpose of this work is to identify priority areas for, and work together on, land/seascape scale biodiversity restoration projects. It is aligned with the proposed direction and timeframes for regional strategies in the draft NPSIB. The group has identified that to be most effective its work requires strategic coordination across iwi and agencies, and effective engagement with land owners and communities.

To support this process, ORC has contracted mapping of potential/original ecosystems and the habitat of threatened and at-risk species. To facilitate and enable integrated management, this mapping is being undertaken across terrestrial, freshwater and coastal environments.

This work has identified a clear need for cross agency partnerships, which include Central Government agencies, and a data-commons to support successful implementation of the NPSIB.

ORC supports the balance of protection and restoration in the draft NPSIB

17. Protecting remaining indigenous ecosystems and species should be the priority, but restoration projects particularly in urban environments, are essential to engage the hearts, minds and hands of citizens. Connecting people and places is critical to garner the understanding, awareness and long-term political support for indigenous biodiversity protection and restoration that is required to address its decline. The draft NPSIB reflects the need for a higher priority based on protection/maintenance. However, overtime an increased focus on restoration will likely be required. It is therefore helpful to include restoration policies at this stage to signal the long-term action required to engage communities and land managers.

Integrated management is frustrated by multiple national direction documents

18. The objectives and policies of the draft NPSIB aim to improve the integrated management of indigenous biodiversity. However, currently the responsibility for such integration would rest solely with Local Government, while national direction on indigenous biodiversity will be split across at least four separate documents.⁴
19. Protecting indigenous biodiversity on private land has proved a challenging task and one that as a nation, we have not yet come to grips with. Partly this is because the roles and responsibilities of regional councils and territorial authorities in relation to indigenous biodiversity management have been poorly defined. While an NPSIB will help to address this, the levers for change sit with multiple agencies and under multiple and separate pieces of legislation. This implies that until and unless the legislative framework for the protection of indigenous biodiversity is rationalised

⁴ The NPSIB, the National Policy for Freshwater Management, the proposed National Environmental Standard for Freshwater and the New Zealand Coastal Policy Statement.

to enable, rather than frustrate, integrated management across agencies and land tenures, truly effective and integrated management will remain elusive.

20. While we appreciate that Government would like to get the NPSIB gazetted in this electoral term, and support the terrestrial component being advanced in this timeframe, recognition is required that integrated management requires coordinated policy frameworks at Central as well as Local Government levels. A commitment is required from Central Government that it intends to work towards improved integration of biodiversity policy at national level.

Part 2 - Comments on Specific Provisions

21. ORC is supportive of the intent, fundamental concepts, objectives and policies of the NPSIB. However, the wording of objectives and policies would generally benefit from further consideration. Our specific comments focus on the implementation requirements in Part 3, and on how central government can best support, enable and incentivise successful implementation of the NPSIB and improved outcomes for indigenous biodiversity.

3.3 Tangata whenua as kaitiaki

22. ORC supports the intent of this policy and notes that the existing *Biodiversity Otago* collective provides a forum for Otago councils and iwi to engage that is more efficient for iwi/hapū/whānau than bilateral engagement with councils. ORC also has two iwi representatives on its Policy and Strategy Committee to enable tangata whenua involvement in decision-making. However, we consider that the process for iwi engagement would add greater value if additional resourcing were provided to iwi for this purpose. This is an area where Central Government investment would add value.

3.5 Resilience to climate change

23. To be most effective, resilience to climate change requires integrated management across fresh water, terrestrial and coastal environments. Rivers provide natural corridors for links between the mountains and the sea. Adaption to climate change in coastal environments requires space for landwards migration of indigenous coastal ecosystems and species. This is problematic when coastal land is highly developed. Therefore, an integrated approach across land, water and the coast is essential and this needs to be enabled rather than frustrated by siloed national policy frameworks.

3.7 Social, economic and cultural wellbeing

24. In implementing this National Policy Statement, local authorities must recognise –

d) the importance of forming partnerships between local authorities, tangata whenua, landowners, people and communities in maintaining and enhancing indigenous biodiversity;

Consistent with Central government seeking to embed partnerships and collaboration in the NPSIB, it also needs to identify its own need to participate in that process and be included among the partners here.

3.8 Identifying significant natural areas

SNA identification on private land

25. ORC is supportive of clear and consistent national criteria for SNAs being included in the NPSIB. In principle, we support that territorial authorities are best placed to engage in this process with communities and landowners. If done well, SNA identification is an opportunity to invest in long term relationships and collaboration. We note however, that the 5-year timeframe will be challenging, particularly for territorial authorities with a small rating base and a large area of private land to manage. Central Government support and investment, particularly in providing technical support and ecological expertise, will be vital for such councils to successfully implement this policy.
26. ORC has mapping underway to identify habitat of threatened and at-risk fauna across Otago. Once complete this data will be shared with territorial authorities in Otago. IT infrastructure is required to enable such data sharing and integration.

SNA identification on Crown land

ORC considers that SNA identification on Crown land is clearly the responsibility of Central Government, led by DoC, which has the existing expertise and data.

3.10 Managing adverse effects in plantation forests

27. As drafted, it is unclear whether regional councils or territorial authorities would be responsible for this policy – this needs to be clarified.

3.13 General rules applying outside SNAs

28. ORC supports the proposal that the Regional Policy Statement can set the policy framework for managing the effects of activities on indigenous biodiversity when outside of a SNA.

3.14 Identified taonga

29. See comments above on Policy 3.3 (paragraph 19).

3.15 Highly mobile fauna

30. ORC supports the identification and protection of highly mobile fauna through the NPSIB but considers that a list of 'highly mobile fauna' needs to be included to clarify this policy. ORC has work underway to map the habitat of threatened and at-risk fauna (see paragraph 25). This includes mapping the habitat of long tailed bats, which we understand is the key (but currently unstated) concern of this policy.

3.16 Restoration and enhancement

31. ORC supports the intent of this policy, but notes identifying *former wetlands* will be problematic. It is unclear who would make this determination and against what criteria.

3.17 Increasing indigenous vegetation cover

32. As currently drafted, ORC does not support the policy on regional targets. We consider this needs further work and that there are more effective ways to achieve the restoration of threatened ecosystems (i.e. with less than 10% remaining). The tenure neutral ecological

prioritisation process that regional councils have, or are currently undertaking, across the country is more likely to achieve the intended outcome.⁵

33. More detailed comments on the drafting of this policy are in Appendix 1 to this submission.

3.18 Regional biodiversity strategies

34. As noted in paragraph 15 above, ORC supports the inclusion of regional biodiversity strategies in the NPSIB. The proposed purpose of regional strategies is *to promote a landscape-scale restoration and enhancement vision for the region's indigenous biodiversity*. This is consistent with the approach underway to promote regional biodiversity enhancement in Otago. An emerging regional partnership, the *Biodiversity Otago Iwi and Interagency Group*, has developed draft criteria to identify land/seascape scale projects for regional biodiversity restoration projects. These are in Table 1 below.

Table 1. Draft criteria to identify sites for regional restoration projects (rankings still to be discussed):

Question	Criteria	Description	Rank
Why?	Treaty partners	Project gives effect to the principles of the Treaty of Waitangi (kaitiakitanga, tikanga Māori, mātauranga Māori) and directly involves iwi/hapu/whanau.	
Why?	Environmental co-benefits	Project presents co-benefits to other spheres of environmental management e.g. freshwater quality, climate change mitigation or adaptation, improved urban development	
Why?	Biodiversity priority	Immediacy of threats to indigenous biodiversity and level of threatened and at-risk species and ecosystems present in the landscape. Threatened Environments Classification.	
Why?	Benefit for local communities	The projects potential to contribute to the wellbeing of the local communities.	
Who?	Range of agencies and land tenures	Project applies across a range of land ownership e.g. public conservation land, private land, leasehold land, local government land, Māori land; and strategically benefits a range of agencies.	
Who?	Involvement of local private landowners	The potential or actual involvement of local landowners who have 'skin in the game' and the potential to improve ecological sustainability.	
Where?	Building on existing initiatives	The presence of other biodiversity and environmental initiatives in the project area that can be leveraged to build a larger project and achieve scale.	
Where?	Equitable geographic distribution	Does the project add to the spread of projects across the region or further concentrate them in one area?	
When?	Partner and project readiness	The extent to which there is political and social appetite, and resourcing for the project.	
When?	Outcome horizon	How quickly can we expect to see measurable benefits?	

Rank: 1= low; 2 = medium; 3 = high

⁵ For a description of this process see the Otago Regional Council Biodiversity Action Plan, <https://www.orc.govt.nz/media/7034/final-orc-biodiversity-action-plan-july-2019.pdf> (Action 3.1, pp. 15-16)

3.19 Assessment of environmental effects

35. ORC supports the inclusion of this policy in the NPSIB, however, we note that:

- IT infrastructure to enable information sharing across agencies will be essential to support its implementation;
- guidance on standard assessment methods will be required; and
- additional resourcing will be required to identify and map the attributes that need to be assessed.

3.20 Monitoring by regional councils

36. ORC supports the Local Government New Zealand position on this policy and considers that Central Government needs to invest in, and support, this process for the following reasons:

- To ensure nationwide comparability of results and long term trends, the same methods, measures and nomenclature, analysis and interpretation of results must be developed and set at a national level.
- Methods and time frames for monitoring need to be standardised between councils and nationally to ensure robust nation-wide analysis can be undertaken.
- Resourcing at local government level will be severely constrained, both within Local Government and for iwi. There will be insufficient trained people to collaborate and to undertake this task.
- An adaptive management process is required to respond to monitoring results and put in place action plans – this will need to be co-designed with local government to ensure biodiversity targets are met.

Appendix 1.

Comments on the drafting of *Policy 3.17 Increasing indigenous vegetation cover*

While ORC does not support the inclusion of this policy in the NPSIB for the reasons outlined in paragraph 32 of its submission, our comments on issues with the current drafting are below.

While the purpose of this policy is to restore *ecosystems* that are depleted below 10% of their original extent, the Policy 3.17 itself focuses on increasing *indigenous vegetation cover* (IVC). These two concepts are not equivalent.

While IVC may be a proxy and a good start, pittosporum hedges or sedge planted traffic islands are not ecosystems, but they are vegetation cover and will likely be part of the accounting (as councils will want to ensure they are seen to contribute, and are likely to have this data to hand).

ORC suggests that the difference between the two terms be clarified and also explicitly identify that cover is a start, i.e. 10% IVC may be functionally 1% of an ecosystem.

A **definition** is needed for a number of terms which are bolded below.

Policy 3.17 Increasing indigenous vegetation cover

(1) Every regional council must assess the percentage of the urban and rural areas in its region that have indigenous vegetation cover

This sentence is poorly worded. Suggest *“Every regional council must assess the percentage of **indigenous vegetation cover** within **urban, Rural, and other non-urban areas** in its region”*

The definition of ‘areas’ also needs some serious consideration because there may be a number of urban areas in a region, the space between them will be one large contiguous rural area.

The ‘chopping up’ of areas will significantly impact the percentage cover resulting (a textbook modifiable area unit problem), and therefore requires guidance in the NPSIB. Urban Areas should also be able to be split up.

ORC suggests ecological district/catchments or former ecosystem type (or a combination thereof) be used to subset urban, rural and other areas into usefully functional ecological sub areas.

*(2) The regional council must specify which areas it will treat as **urban** for the purposes of this clause (which must be predominantly urban in character) and which it will treat as **rural**, (which must be predominantly rural in character) and **non-urban** (which must be predominantly non-urban and non-rural in character).*

Again, this sentence is poorly worded. ORC suggests the term urban be retained, but the opposite of urban is NOT rural, rural covers farming landscapes not natural ones. There needs to be three categories to separate urban, rural and other (which will be the conservation estate and therefore near 100%), reflecting that rural areas should not be ‘carried’ by the conservation estate.

(3) The assessment of the percentage of indigenous vegetation cover may be done by a desktop analysis, by ground truthing or both.

(4) For urban areas, if the assessment indicates an area has less than 10 per cent indigenous vegetation cover, the regional council must include in its regional policy statement a target

(expressed as a percentage figure within a specified time) for increasing indigenous vegetation cover in that area to at least 10 per cent of the area.

(5) For rural areas, if the assessment indicates an area has less than 10 per cent indigenous vegetation cover, the regional council must include in its regional policy statement a target (expressed as a percentage figure within a specified time) for increasing indigenous vegetation cover in the area.

Given the suggested separation between urban, rural and other areas, ORC does not agree with the distinction – rural area ecosystems less than 10% are by definition highly degraded – should they not also contribute to rectifying the problem?

New Zealand Government

Draft National Policy Statement for Indigenous Biodiversity

NOVEMBER 2019

This draft supports consultation on *He Kura Koiora i hokia: A discussion document on a proposed National Policy Statement for Indigenous Biodiversity*.

More information is available on the Ministry for the Environment website: www.mfe.govt.nz.

Draft National Policy Statement for Indigenous Biodiversity

Proposals for consultation November 2019

Authority

This National Policy Statement is issued by the Minister for the Environment under section 54 of the Resource Management Act 1991.

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Explanatory note to this NPS

This National Policy Statement (NPS) sets out objectives, policies and implementation requirements to manage natural and physical resources to maintain indigenous biological diversity (indigenous biodiversity) under the Resource Management Act 1991 (the Act).

Aotearoa has a unique natural heritage. New Zealand's isolation and geological instability means a unique ecology has evolved. We have high endemism (species found nowhere else) and, in the absence of native land mammals, highly distinct and internationally significant ecosystems.

Biodiversity has declined through our use of land and other natural resources and through our introduction (deliberate or otherwise) of exotic species that have become pests outside their natural environments. Many indigenous species and ecosystems have been lost and many that remain are now highly threatened or at risk of extinction.

Aotearoa New Zealand's indigenous biodiversity is in decline. The nationally coordinated response in this National Policy Statement ensures the decline is halted and indigenous species, habitats and ecosystems are supported to thrive. As such, it will promote the sustainable management of natural and physical resources as required by the Act.

This National Policy Statement uses *Hutia Te Rito* as the framework to achieve an integrated and holistic approach to maintaining indigenous biodiversity. This framework recognises that the health and wellbeing of our terrestrial environment, its ecosystems and unique indigenous vegetation and fauna, are vital for the health and wellbeing of the wider environment and communities.

Some of the most important ecosystems and habitats are located within Aotearoa's large area of public conservation land. However, much of Aotearoa's remaining indigenous biodiversity is on privately owned and Māori land, including many ecosystems that are poorly, if at all, represented within public conservation land. This National Policy Statement seeks actions from private landowners to recognise the vital role we all play in ensuring indigenous biodiversity is maintained. Partnerships and collaboration between landowners, communities and public agencies is critical to the success of this National Policy Statement.

This National Policy Statement ensures as many of our remaining species, habitats and ecosystems as possible persevere. This places value not only on the pristine, but also on the modified and degraded habitats and ecosystems that make an important contribution to maintaining indigenous biodiversity. Through the Significant Natural Area criteria, this National Policy Statement recognises the importance of species and ecosystems that are locally rare but nationally abundant, as well as those that are locally abundant but nationally rare. Similarly, the objective 'to maintain indigenous biodiversity' will require management and protection of species across their natural range.

Stopping loss and halting degradation will not be sufficient on their own. Maintaining indigenous biodiversity long term requires positive actions to more effectively manage the ongoing and pervasive threats from vegetation, animal pests and diseases, as well as the emerging threat of climate change. Meeting the obligations in this National Policy Statement

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will also need remaining ecosystems to be restored or enhanced and even reconstruction of indigenous vegetation cover in the most modified environments.

While it is important to identify and protect Significant Natural Areas (SNAs), it is also important to understand that informed and sympathetic management is required of all New Zealanders across the terrestrial environment – not just in defined SNAs.

Local authorities have statutory functions under the Act to maintain biodiversity. This is underpinned by Part 2 principles of the Act including the need to:

- safeguard the life-supporting capacity of ecosystems
- protect significant indigenous vegetation and significant habitat of indigenous fauna
- provide for the relationship of Māori and their culture and traditions with their taonga
- have particular regard to kaitiakitanga and the ethic of stewardship, and
- take into account the principles of Te Tiriti o Waitangi.

This National Policy Statement states objectives, policies and implementation requirements for those matters of national significance and acknowledges the role that Māori have as kaitiaki in all aspects of indigenous biodiversity management.

While this National Policy Statement supports local authorities' existing good practice, it seeks a step change in management, recognising the opportunity before us to better protect indigenous biodiversity and support New Zealand's identity for generations to come.

Part 1: Preliminary provisions

1.1 Title

This is the National Policy Statement for Indigenous Biodiversity 2019.

1.2 Commencement

This National Policy Statement comes into force [28 days after the date of its notification in the Gazette].

1.3 Purpose of National Policy Statement

The purpose of this National Policy Statement is to set out objectives and policies in relation to maintaining indigenous biodiversity and to specify what local authorities must do to achieve those objectives.

1.4 Matter of national significance

The matter of national significance to which this National Policy Statement relates is the maintenance of indigenous biodiversity.

1.5 Application

Geographic application

(1) This National Policy Statement applies to indigenous biodiversity throughout New Zealand, other than –

- a) indigenous biodiversity in the coastal marine area; and
- b) indigenous biodiversity in waterbodies and freshwater ecosystems (as those terms are defined in the National Policy Statement for Freshwater Management 2019).

(2) Except –

- a) provisions relating to restoration and enhancement (clauses 3.16 and 3.17) do apply to wetlands;
- b) the requirements relating to regional biodiversity strategies (clause 3.18) do apply to indigenous biodiversity in the coastal marine area and in waterbodies and freshwater ecosystems; and
- c) [geothermal ecosystems – see [discussion document He Kura Koiora i hokia](#) for options relating to geothermal ecosystems]

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Temporal application

(3) Plan or regional policy statement changes required by this National Policy Statement must be notified as soon as practicable, but no later than 31 December 2028.

(4) Plan or regional policy statement changes required for SNA identification/mapping must be completed according to the dates in Part 3.8.

(5) Regional biodiversity strategies must be made (or updated) according to the timeframes in Part 3.18.

(6) Part 3.19 specifies a policy that must be inserted into local authorities' plans in accordance with section 55(2A) of the RMA within one year of the commencement date.

1.6 Relationship with New Zealand Coastal Policy Statement

Both the New Zealand Coastal Policy Statement and this National Policy Statement apply in the terrestrial coastal environment. If there is a conflict between the provisions of this National Policy Statement and the New Zealand Coastal Policy Statement 2010 (or any later New Zealand coastal policy statement issued under the Act), the New Zealand coastal policy statement prevails.

1.7 Fundamental concepts

The following are descriptions of terms that cannot adequately be described by a short definition. To give effect to this National Policy Statement it is important to understand these concepts fully.

(1) Hutia Te Rito

Hutia te rito o te harakeke

Kei hea te kōmako, e kō?

Kī mai ki ahau

He aha te mea nui o te ao?

Māku e kī atu

he tangata, he tangata, he tangata

When the centre of the flax bush is picked

Where will the bellbird sing?

You ask me

What is the greatest thing in the world?

My reply is

It is people, it is people, it is people.

This whakatauki recognises the impact people have on our natural environment and its survival; our actions can determine whether it is destroyed or degraded or whether it thrives. It explicitly recognises the interconnected and whakapapa (familial) relationship between indigenous biodiversity and communities. People are part of and dependent upon, the natural environment and ecosystems. Our forests, shrublands, dune lands, indigenous vegetation, animals, invertebrates, birds and special places are essential to our wellbeing. In return, we have an obligation to care and protect our indigenous biodiversity.

The whakatauki is the basis of the concept of Hutia Te Rito as used in this National Policy Statement. It provides an overarching framework to achieve the integrated and holistic wellbeing of indigenous biodiversity.

In this National Policy Statement, Hutia Te Rito recognises the health and wellbeing of indigenous biodiversity in the terrestrial environment – its habitats and ecosystems and unique vegetation and fauna – is also vital for the health and wellbeing of our freshwater, coastal marine area and all of our communities.

It recognises we have a role as stewards or kaitiaki of indigenous biodiversity. This requires that when we undertake activities – such as subdivision, use and development – we have a responsibility to provide not only for te hauora o te tangata (the health of the people) but also for –

- te hauora o te koiora (the health of indigenous biodiversity), and
- te hauora o te taonga (the health of species and ecosystems that are taonga), and
- te hauora o te taiao (the health of the wider environment).

These elements are intrinsically linked. Any use and development that degrades the mauri and hauora of our indigenous biodiversity also degrades the hauora of the people.

Hutia Te Rito is an overarching concept that can incorporate the values of tangata whenua and the wider community into the way indigenous biodiversity is managed so that it is maintained. This National Policy Statement requires local authorities to work with tangata whenua and the wider community to

- protect, maintain and enhance indigenous biodiversity in a way that recognises that reciprocity is at the heart of the relationship between people and indigenous biodiversity; and
- develop meaningful and tailored objectives, policies and methods to operationalise Hutia Te Rito.

(2) Indigenous biodiversity

In this National Policy Statement, **biodiversity** has the same meaning as “biological diversity” in the Act: *“the variability among living organisms, and the ecological complexes of which they are a part, including diversity within species, between species, and of ecosystems”*.

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Indigenous biodiversity is biodiversity that is naturally occurring anywhere in New Zealand. It includes all New Zealand's ecosystems, indigenous vegetation, indigenous fauna and the habitats of indigenous vegetation and fauna.

(3) Maintenance of indigenous biodiversity

The maintenance of indigenous biodiversity requires at least no reduction, as from the commencement date, in the following:

- a) the size of populations of indigenous species:
- b) indigenous species occupancy across their natural range:
- c) the properties and function of ecosystems and habitats:
- d) the full range and extent of ecosystems and habitats:
- e) connectivity between and buffering around, ecosystems:
- f) the resilience and adaptability of ecosystems.

The maintenance of indigenous biodiversity may also require the restoration or enhancement of ecosystems and habitats.

(4) Adverse effects on indigenous biodiversity

References in this National Policy Statement to adverse effects on indigenous biodiversity include effects including, but not limited to, the following:

- a) loss of ecosystem representation or extent:
- b) disruption of sequences, mosaics or ecosystem function:
- c) fragmentation of loss of buffering or connectivity within and between habitats or ecosystems:
- d) the reduction in population size or occupancy of threatened species:
- e) the degradation of mauri:
- f) a reduction in the richness, abundance or viability of species in habitats and ecosystems:
- g) pest vegetation or fauna incursions and changes that result in increased risk of incursions:
- h) disruption to indigenous fauna by people and their pets and livestock and changes that increase the risk of disruption:
- i) a reduction in people's ability to connect with and benefit from, indigenous biodiversity including from benefits such as –

- i. the historical, cultural or spiritual relationship of tangata whenua with their taonga; and
- ii. the scientific, educational, amenity, historical, cultural, landscape or natural character values of indigenous species and indigenous habitats; and
- iii. ecosystem services.

1.8 Definitions

(1) In this National Policy Statement:

Act means the Resource Management Act 1991

administrative boundaries includes all the following:

- a) regional and district jurisdictional boundaries and functions:
- b) land administered by central government and land administered by local authorities:
- c) boundaries between public land and private land:
- d) where tangata whenua boundaries of rohe cross local authority boundaries

biodiversity compensation means a conservation outcome resulting from actions that comply with the principles in Appendix 4 and compensate for [more than minor] residual, adverse biodiversity effects from subdivision, use or development after all appropriate avoidance, remediation, mitigation and biodiversity offset measures have been sequentially applied

biodiversity offset means a measurable conservation outcome resulting from actions that comply with the principles in Appendix 3 and are designed to:

- a) compensate for [more than minor residual] adverse biodiversity effects arising from subdivision, use or development after appropriate avoidance, remediation and mitigation measures have been sequentially applied; and
- b) achieve a no net loss of and preferably a net gain to, indigenous biodiversity values.

buffer refers to the space around core areas of ecological value that help to reduce external pressures; and buffering has a corresponding meaning

commencement date means the date on which this National Policy Statement comes into force

connectivity refers to the links or connections between habitats and ecosystems that provide for the movement of species and processes among and between the habitats or ecosystems

ecological district means the ecological districts as shown in McEwen, W Medium (ed), 1987. *Ecological regions and districts of New Zealand*. Wellington: Department of Conservation

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ecological integrity means the extent to which an ecosystem is able to support and maintain its –

- a) composition (being its natural diversity of indigenous species, habitats and communities); and
- b) structure (being its biotic and abiotic physical features); and
- c) functions (being its ecological and physical processes)

ecosystem means the complexes of organisms and their associated physical environment within an area (and comprise: a biotic complex, an abiotic environment or complex, the interactions between the biotic and abiotic complexes and a physical space in which these operate)

ecosystem functions are the abiotic (physical) and biotic (ecological and biological) flows that are properties of an ecosystem

ecosystem services are the benefits obtained from ecosystems such as –

- a) supporting services (eg, nutrient cycling, soil formation, habitat creation);
- b) provisioning services (eg, food, freshwater, wood, fibre, fuel);
- c) regulating services (eg, water purification, climate regulation, flood regulation, disease regulation); and
- d) cultural services (eg, aesthetic, spiritual, educational, recreational)

effects management hierarchy means an approach to managing the adverse effects of subdivision, use and development that requires that –

- a) adverse effects are avoided where possible;
- b) adverse effects that cannot be demonstrably avoided are remedied where possible;
- c) adverse effects that cannot be demonstrably remedied are mitigated;
- d) in relation to adverse effects that cannot be avoided, remedied or mitigated, biodiversity offsetting is considered; and
- e) if biodiversity offsetting is not demonstrably achievable for any indigenous biodiversity attribute on which there are residual adverse effects, biodiversity compensation is considered

existing activity, in this National Policy Statement, means a subdivision, use or development that is –

- a) lawfully established at the commencement date; but
- b) not a land use covered by section 10 of the Act

fragmentation, in relation to indigenous biodiversity, refers to the fragmentation of habitat that results in a loss of connectivity and an altered spatial configuration of habitat for a given amount of habitat loss

[**geothermal ecosystems** – see [discussion document *He Kura Koiora i hokia*](#) for options relating to geothermal ecosystems]

habitat means the area or environment where an organism or ecological community lives or occurs naturally for some or all of its life cycle, or as part of its seasonal feeding or breeding pattern

highly mobile fauna means species that –

- a) are highly mobile;
- b) where some individuals move between different environments during their life cycle for reasons such as feeding, mating, nesting, moulting or in response to climatic conditions; and
- c) for the purposes of this National Policy Statement, include only threatened or at-risk species

Hutia Te Rito has the meaning given in clause 1.7(1)

identified taonga means indigenous species, populations or ecosystems that are identified by tangata whenua as taonga, as provided for in clause 3.14

improved pasture has the meaning in clause 3.12(4)

indigenous biodiversity has the meaning in clause 1.7(2)

indigenous vegetation means vascular and non-vascular plants that, in relation to a particular area, are native to the ecological district in which that area is located

land environment means a land environment identified in the Land Environments of New Zealand (LENZ) classification system (Leathwick et al, 2003, as maintained by Manaaki Whenua Landcare Research)

maintenance, in relation to indigenous biodiversity, has the meaning in clause 1.7(3)

Māori land means Māori customary land and Māori freehold land as defined in Te Ture Whenua Māori Act 1993

mātauranga Māori means Māori customary knowledge, traditional knowledge or intergenerational knowledge

mosaic means a pattern of two or more interspersed ecosystems, communities or habitats that contribute to the cumulative value of ecosystems in a landscape

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nationally significant infrastructure means any of the following:

- a) state highways:
- b) the national grid electricity transmission network:
- c) national renewable electricity generation facilities that connect with the national grid:
- d) major gas or oil pipeline services (such as the pipeline from Marsden Point to Wiri and high-pressure, gas transmission pipelines from Taranaki):
- e) any railway (as defined in the Railways Act 2005):
- f) rapid transit:
- g) airports that have a runway that is used for regular air transport services by aeroplanes that have a seating configuration of more than 30 passenger seats:
- h) commercial ports (as defined in Part A(6) of Schedule 1 of the Civil Defence Emergency Management Act 2002):

natural range, in relation to a species, refers to the geographical area within which that species can be expected to be found naturally (without human intervention)

new subdivision, use or development means a subdivision, use or development that is not an existing activity nor an activity captured by section 10 of the RMA

plantation forest has the meaning in the Resource Management (National Environmental Standard for Plantation Forestry) Regulations 2017

plantation forest biodiversity areas are deliberately established plantation forests which have been identified as containing significant indigenous vegetation and significant habitat of indigenous fauna using Appendix 1

policy statements and plans includes regional and district plans, proposed plans and regional policy statements and proposed regional policy statements

reconstruction means re-introducing and maintaining appropriate biota to recreate an ecosystem that would not regenerate or recolonise even with best practice restoration interventions

resilience, in relation to an ecosystem, means the ability of the ecosystem to recover from and absorb disturbances, and its capacity to reorganise into similar ecosystems

sequence means a series of ecosystems or communities, often physically connected, that replace one another through space

SNA or significant natural area, means –

- a) an area identified as an SNA in a district plan or proposed district plan in accordance with clause 3.8;
- b) an area identified, before the commencement date, in a policy statement or plan or proposed policy statement or plan, as an area of significant indigenous vegetation or significant habitat of indigenous fauna, regardless of whether the area is referred to as a SNA or in any other way; or
- c) an area identified as an area of significant indigenous vegetation or significant habitat of indigenous fauna as part of an assessment of environmental effects

species includes taxa

[**Taupō Volcanic Zone** – see [discussion document *He Kura Koiora i hokia*](#) for options relating to geothermal ecosystems]

terrestrial environment means land and associated natural and physical resources, above mean high-water springs, excluding land covered by water, waterbodies and freshwater ecosystems (as those terms are defined in the National Policy Statement for Freshwater Management 2019) and the coastal marine area

threatened or at-risk species are taxa that meet the criteria specified by Townsend et al. (2008) for the categories Threatened or At-risk (*Andrew J Townsend, Peter J de Lange, Clinton A J Duffy, Colin Medium Miskelly, Janice Molloy and David A Norton (2008). The New Zealand Threat Classification System Manual*, available at:

<https://www.doc.govt.nz/globalassets/documents/science-and-technical/sap244.pdf>.

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Part 2: Objectives and policies

2.1 Objectives

The objectives of this National Policy Statement are:

Objective 1: to maintain indigenous biodiversity:

Objective 2: to take into account the principles of the Treaty of Waitangi in the management of indigenous biodiversity:

Objective 3: to recognise and provide for Hutia Te Rito in the management of indigenous biodiversity:

Objective 4: to improve the integrated management of indigenous biodiversity:

Objective 5: to restore indigenous biodiversity and enhance the ecological integrity of ecosystems:

Objective 6: to recognise the role of landowners, communities and tangata whenua as stewards and kaitiaki of indigenous biodiversity by

- b) allowing people and communities to provide for their social, economic and cultural wellbeing now and in the future; and
- c) supporting people and communities in their understanding of and connection to, nature.

2.2 Policies

The policies that this National Policy Statement is intended to achieve are as follows:

Policy 1: to recognise the role of tangata whenua as kaitiaki of indigenous biodiversity within their rohe, providing for tangata whenua involvement in the management of indigenous biodiversity and ensuring that Hutia Te Rito is recognised and provided for:

Policy 2: to ensure that local authorities adopt a precautionary approach towards proposed activities with effects on indigenous biodiversity that are uncertain, unknown, or little understood but potentially significant:

Policy 3: to support the resilience of indigenous biodiversity to the effects of climate change:

Policy 4: to improve the integrated management of indigenous biodiversity within and between administrative boundaries:

Policy 5: to improve information on the effects of existing and proposed subdivision, use and development on indigenous biodiversity:

Policy 6: to identify and protect areas of significant indigenous vegetation or significant habitat of indigenous fauna by identifying and managing them as SNAs:

Policy 7: to manage subdivision, use and development outside SNAs as necessary to ensure indigenous biodiversity is maintained:

Policy 8: to recognise the locational constraints that apply to specific subdivisions, uses and developments:

[**Policy 9:** see [discussion document *He Kura Koiora i hokia*](#) for options relating to geothermal ecosystems]

Policy 10: to provide for appropriate existing activities that have already modified indigenous vegetation and habitats of indigenous fauna:

Policy 11: to provide for the restoration and enhancement of specific areas and environments that are important for maintaining indigenous biodiversity:

Policy 12: to identify and protect indigenous species and ecosystems that are taonga:

Policy 13: to identify possible presence of, and manage highly mobile fauna:

Policy 14: to require the development of regional biodiversity strategies:

Policy 15: to require the monitoring and assessment of indigenous biodiversity.

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Part 3: Implementation requirements

3.1 Overview

This Part sets out what local authorities must do to implement or give effect to the objectives and policies of this National Policy Statement.

3.2 Hutia Te Rito

- (1) Local authorities must recognise and provide for Hutia Te Rito in implementing this National Policy Statement.
- (2) This requires, at a minimum, that local authorities must –
 - a) recognise and provide for the interrelationships between te hauora o te tangata (the health of the people) and –
 - i. te hauora o te koiora (the health of indigenous biodiversity); and
 - ii. te hauora o te taonga (the health of species and ecosystems that are taonga); and
 - iii. te hauora o te taiao (the health of the wider environment); and
 - b) recognise the maintenance of indigenous biodiversity requires kaitiakitanga and stewardship; and
 - c) take steps to ensure indigenous biodiversity is maintained and enhanced for the health, enjoyment and use by all New Zealanders, now and in the future.

3.3 Tangata whenua as kaitiaki

- (1) When making or changing policy statements and plans to give effect to this National Policy Statement, every local authority must –
 - a) involve tangata whenua by undertaking consultation that is early, meaningful and (as far as practicable) in accordance with tikanga Māori; and
 - b) collaborate with tangata whenua to –
 - i. identify taonga, as required by clause 3.14, recognising tangata whenua have the right to choose not to identify taonga; and
 - ii. develop objectives, policies and methods that recognise and provide for Hutia Te Rito.

(2) Local authorities must, with the consent of tangata whenua and as far as practicable in accordance with tikanga Māori, take all reasonable steps to incorporate mātauranga Māori relating to indigenous biodiversity in implementing this National Policy Statement.

(3) Local authorities must take all reasonable steps to provide opportunities for tangata whenua to exercise kaitiakitanga over indigenous biodiversity, including through measures such as –

- a) bringing cultural understanding to monitoring;
- b) providing appropriate methods for managing and protecting identified taonga; and
- c) allowing for sustainable customary use of indigenous vegetation.

(4) Local authorities must take all reasonable steps to provide opportunities for tangata whenua to be involved in decision-making relating to indigenous biodiversity in implementing this National Policy Statement.

3.4 Integrated approach

Local authorities must manage indigenous biodiversity and the effects on it of subdivision, use and development, in an integrated way, which means –

- a) recognising the interactions ki uta ki tai (from the mountains to the sea) between the terrestrial environment, freshwater and the coastal marine area; and
- b) providing for the coordinated management and control of subdivision, use and development, as it affects indigenous biodiversity across administrative boundaries; and
- c) considering the requirements of strategies and other planning tools required or provided for in legislation and relevant to indigenous biodiversity.

3.5 Resilience to climate change

When making or changing policy statements or plans or regional biodiversity strategies, local authorities must promote the resilience of indigenous biodiversity to climate change, including at least by –

- a) providing for the maintenance of ecological integrity through natural adjustments of habitats and ecosystems; and
- b) considering the effects of climate change when making decisions on –
 - i. restoration and enhancement proposals; and
 - ii. managing and reducing new and existing biosecurity risks; and

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- c) maintaining and promoting the enhancement of, the connectivity between ecosystems and between existing and potential habitats, to enable migrations so that species continue to find viable niches as the climate changes.

3.6 Precautionary approach

Local authorities must adopt a precautionary approach toward proposed activities where –

- a) the effects on indigenous biodiversity are uncertain, unknown or little understood; but
- b) those effects are potentially significantly adverse.

3.7 Social, economic and cultural wellbeing

In implementing this National Policy Statement, local authorities must recognise –

- a) that the maintenance of indigenous biodiversity contributes to the social, economic and cultural wellbeing of people and communities; and
- b) that the maintenance of indigenous biodiversity does not preclude subdivision, use and development in appropriate places and forms, within appropriate limits; and
- c) that people are critical to maintaining and enhancing indigenous biodiversity; and
- d) the importance of forming partnerships between local authorities, tangata whenua, landowners, people and communities in maintaining and enhancing indigenous biodiversity; and
- e) the importance of respecting and fostering the contribution of landowners as stewards and kaitiaki; and
- f) the value of supporting people and communities in understanding, connecting to and enjoying indigenous biodiversity.

3.8 Identifying significant natural areas

(1) Every territorial authority must–

- a) undertake a district wide assessment in accordance with Appendix 1 to determine if an area is significant indigenous vegetation and /or significant habitat of indigenous fauna; and if it is,
- b) classify areas of significant indigenous vegetation and /or significant habitat of indigenous fauna as either High or Medium, in accordance with Appendix 2.

(2) Territorial authorities must use the following principles and approaches when undertaking the assessment and classification required by subclause (1).

- a) **partnership:** territorial authorities must seek to engage with landowners early and share information about indigenous biodiversity, potential management options and any support and incentives that may be available:
- b) **transparency:** territorial authorities must clearly inform landowners about how information gathered will be used and make existing information, draft assessments and other relevant information available to relevant landowners for review:
- c) **quality:** wherever practicable, the values and extent of natural areas assessed as potentially meeting the criteria in Appendix 1 for classification as an SNA should be verified by physical inspection:
- d) **access:** where permission to access a property on a voluntary basis is not given, territorial authorities should first rely on a desktop assessment by an ecological expert, and powers of entry under section 333 of the Act should be used only as a last resort:
- e) **consistency:** the identification of an SNA must be based on the indigenous biodiversity present, identified through the consistent application of the criteria in Appendix 1, and regardless of who owns the land
- f) **boundaries:** an area assessed as significant indigenous vegetation and significant habitat of indigenous fauna must be determined by the extent and ecological integrity of the indigenous vegetation or habitat as whole, unaffected by artificial margins such as property boundaries.

(3) Territorial authorities must comply with subclauses (1) and (2) within five years after the commencement date.

(4) Subclauses (1), (2) and (3) do not apply where territorial authorities have demonstrated that areas identified as significant indigenous vegetation and significant habitat of indigenous fauna in policy statements or plans, substantially conform with Appendix 1 through an assessment by a suitably qualified ecologist, within three years after the commencement date.

(5) Territorial authorities that demonstrate conformance as per subsection (4) must classify these areas as High or Medium in accordance with Appendix 2 within five years after the commencement date.

(6) Territorial authorities must notify any plan or plan change necessary to map areas identified in subclauses (1) and (2) and to give effect to subclauses (1), (2), (3), (4) and (5) within six years of the commencement date.

(7) Every 10 years, territorial authorities must update district plans, following subclauses (1) and (2).

(8) At least every two years after completing the requirements of subclause (6), every territorial authority must notify a plan change, where practicable, to add any area that has been identified as an SNA (in accordance with the criteria in Appendix 1) as a result of an

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assessment undertaken as part of a resource consent application, notice of requirement for designation or any other means, so that the plan –

- a) maps the area; and
- b) sets out its attributes; and
- c) records whether it is classified as High or Medium.

[Placeholder: see [discussion document *He Kura Koiora i hokia*](#) page 81 for options being considered for how this policy should apply to Crown Land and public conservation land.]

3.9 Managing adverse effects on SNAs

(1) Except as provided in subclauses (2), (3) and (4), local authorities must ensure that, in relation to any new subdivision, use or development that takes place in or affects, an SNA –

- a) the following adverse effects on the SNA are avoided:
 - i. loss of ecosystem representation and extent:
 - ii. disruption to sequences, mosaics or ecosystem function:
 - iii. fragmentation or loss of buffering or connectivity within the SNA and between other indigenous habitats and ecosystems:
 - iv. a reduction in population size or occupancy of threatened species using the SNA for any part of their life cycle; and
- b) the effects management hierarchy is applied to all other adverse effects.

(2) All adverse effects of a new subdivision, use or development must be managed using the effects management hierarchy if –

- a) the subdivision, use or development is to take place in, or affects, an SNA classified as Medium; and
- b) there is a functional or operational need for the subdivision, use or development to be in that particular location; and
- c) there are no practicable alternative locations for the subdivision, use or development; and
- d) the subdivision, use or development is associated with:
 - i. nationally significant infrastructure:
 - ii. mineral and aggregate extraction:
 - iii. the provision of papakainga, marae and ancillary community facilities associated with customary activities on Māori land:

- iv. the use of Māori land in a way that will make a significant contribution to enhancing the social, cultural or economic wellbeing of tangata whenua.

(3) All adverse effects of a new use or development associated with a single dwelling on an allotment created before the commencement date must be managed using the effects management hierarchy if –

- a) the use or development is to take place in, or affects, an SNA classified as Medium; and
- b) there is no location within the existing allotment where a single, residential dwelling and essential associated on-site infrastructure can be constructed in a manner that avoids the adverse effects specified in subclause (1)(a).

(4) Subclause (1) does not apply to managing adverse effects in the following circumstances:

- a) the adverse effects arising from a use or development that is for the purpose of protecting, restoring or enhancing an SNA:
- b) the adverse effects arising from a use or development that addresses a severe and immediate risk to public health or safety;
- c) an area comprising kānuka or mānuka and that is identified as an SNA solely because it is at risk from myrtle rust:
- d) indigenous vegetation or habitat of indigenous fauna established and managed for a purpose other than the maintenance, restoration or enhancement of indigenous biodiversity, and the use or development is necessary to meet that purpose.

(5) In subclause (2)(b) –

functional need means the need for a proposed activity to traverse, locate or operate in a particular environment because the activity can only occur in that environment

operational need means the need for a proposal or activity to traverse, locate or operate in a particular environment because of technical, logistical or operational characteristics or constraints.

3.10 Managing adverse effects in plantation forests

(1) Clause 3.9 does not apply to managing “plantation forest biodiversity areas”.

(2) Within a plantation forest biodiversity area that is a significant habitat for threatened or at-risk indigenous fauna, plantation forestry activities must be managed over the course of consecutive rotations to maintain long-term populations of indigenous fauna species present.

(3) Within a plantation forest biodiversity area that contains threatened or at-risk flora, the adverse effects to these flora from plantation forestry activities must be managed.

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Information note

The National Environmental Standards for Plantation Forestry has rules for indigenous biodiversity in plantation forests.

[3.11 Managing adverse effects on geothermal ecosystems]

[See [discussion document *He Kura Koiora i hokia*](#) for options relating to geothermal ecosystems.]

3.12 Existing activities in SNAs

Information note

Sections 10 and 20A of the Act apply according to their terms. See the [discussion document *He Kura Koiora i hokia*](#) for examples of situations in which this clause might apply.

- (1) This clause applies to the management of the effects of existing activities on SNAs.
- (2) Regional councils must make or change their policy statements to specify where, how and when plans must provide for existing activities that may adversely affect indigenous biodiversity.
- (3) In providing for existing activities in their policy statements and plans, local authorities must –
 - a) ensure the continuation of an existing activity will not lead to the loss, including through cumulative loss, of extent or degradation of the ecological integrity of any SNA; and
 - b) ensure the adverse effects of an existing activity are of no greater character, intensity or scale than they were before the National Policy Statement commencement date.
- (4) In regions and districts where pastoral farming is an existing activity, local authorities must ensure their policy statements and plans recognise that –
 - a) indigenous vegetation may regenerate in areas that have previously been cleared of indigenous vegetation and converted to improved pasture; and
 - b) as long as the regenerating indigenous vegetation has not itself become an SNA in the time since the last clearance event, the periodic clearance of indigenous vegetation as part of a regular cycle to maintain improved pasture is unlikely to compromise the protection of SNAs or the maintenance of indigenous biodiversity; and

- c) consideration of effects (under Schedule 1 of the Act or through a resource consent application) may be required in the following circumstances, to ensure the outcomes in subclause (2) are met:
- i) a proposed clearance is likely to have adverse effects that are greater in character, intensity or scale than the adverse effects of clearance that has previously been undertaken as part of a regular cycle to maintain improved pasture on the farm:
 - ii) there is inadequate information to demonstrate that a proposed clearance of regenerating indigenous vegetation is part of a regular cycle of clearances to maintain improved pasture:
 - iii) a clearance is proposed in an area that supports any threatened or at-risk species:
 - iv) a clearance is proposed in an area that supports alluvial landforms that have not been cultivated (ie, the land has not been disturbed for the purpose of sowing, growing or harvesting pasture or crops).

(5) In this clause –

clearance refers to the removal of indigenous vegetation by cutting, crushing, application of chemicals, drainage, burning, cultivation, over-planting, application of seed of exotic pasture species, mobstocking and/or changes to soils, hydrology or landforms

improved pasture means an area of land where exotic pasture species have been deliberately sown or maintained for the purpose of pasture production, and species composition and growth has been modified and is being managed, for livestock grazing

regular cycle means the periodic clearance of regenerating indigenous vegetation that is demonstrated to be part of a consistent management regime in place for the purpose of maintaining improved pasture.

3.13 General rules applying outside SNAs

- (1) Local authorities must take steps to maintain indigenous biodiversity outside SNAs, including by making or changing their policy statements and plans to do all the following:
- a) specify where, how and when controls on subdivision, use and development in areas outside SNAs are necessary to maintain indigenous biodiversity:
 - b) apply the effects management hierarchy to adverse effects, except that biodiversity compensation may be considered as an alternative to biodiversity offsetting (and not only when biodiversity offsetting is not demonstrably achievable):
 - c) specify where, how and when, for any area outside an SNA, the assessment and classification required by clause 3.8(1) is required.

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(2) If an area outside an SNA is assessed as significant indigenous vegetation and significant habitat of indigenous fauna following an assessment in accordance with Appendix 1, a local authority must manage the adverse effects on indigenous biodiversity in the area as if the area were an SNA.

(3) In preparing policy statements and plans giving effect to subclause (1), local authorities must have particular regard to the potential of Māori land to provide for the social, cultural and economic wellbeing of Māori.

3.14 Identified taonga

(1) Every regional council must work together with all the territorial authorities in its region and with tangata whenua (in the manner required by clause 3.3) to agree a process for –

- a) identifying indigenous species and ecosystems that are taonga; and
- b) describing the taonga; and
- c) mapping or describing the location of the taonga; and
- d) describing the values of each taonga.

(2) Local authorities must recognise tangata whenua have the right to choose not to identify taonga and to choose the level of detail at which identified taonga or their location or values, are described.

(3) Territorial authorities must make or change their district plans to include (to the extent agreed to by tangata whenua) the description of identified taonga and their values and a description or map of their location.

(4) Local authorities must manage identified taonga located in an SNA in accordance with clause 3.9.

(5) In relation to identified taonga located outside SNAs, local authorities must –

- a) manage them as necessary to protect the taonga and their values; and
- b) provide opportunities to restore and enhance them and their values.

3.15 Highly mobile fauna

(1) Every regional council must work together with the territorial authorities in its region to survey and record areas outside SNAs where highly mobile fauna have been, or are likely to be, sometimes present (in this clause referred to as highly mobile fauna areas).

(2) If it will help manage highly mobile fauna, a territorial authority must (where possible) include in its district plan a map or description of the location of highly mobile fauna areas.

(3) Local authorities must provide information to their communities about –

- a) highly mobile fauna and their habitats; and
- b) best practice techniques for managing adverse effects on any highly mobile species in their regions and districts, and their habitats.

(4) Local authorities must include objectives, policies or methods in their policy statements and plans for managing the adverse effects of subdivision, use and development in highly mobile fauna areas, as necessary to maintain viable populations of highly mobile fauna across their natural range.

3.16 Restoration and enhancement

(1) This clause applies to the following areas:

- a) wetlands:
- b) SNAs whose ecological integrity is degraded:
- c) areas that provide important connectivity or buffering functions:
- d) former wetlands.

(2) Territorial authorities must identify the location of areas referred to in subclause (1)(b) and (c) and regional councils must record those locations (with appropriate descriptions) in their regional policy statements.

(3) Local authorities must promote, through objectives, policies and methods in policy statements and plans, the restoration and enhancement (including through reconstruction) of areas to which this clause applies.

(4) The objectives, policies or methods must identify opportunities for restoration and enhancement of those areas, prioritising all of the following over other indigenous biodiversity restoration projects:

- a) wetlands whose ecological integrity is degraded or where the presence of indigenous species is reduced:
- b) SNAs whose ecological integrity is degraded:
- c) areas that provide important connectivity or buffering functions:
- d) former wetlands that no longer retain their indigenous vegetation or habitat for indigenous fauna, but where reconstruction is likely to result in that vegetation or habitat being regained:
- e) any national priorities for indigenous biodiversity protection.

(5) In areas to which this clause applies, local authorities may provide incentives for restoration and enhancement and in particular on Māori land, in recognition of the opportunity cost of maintaining indigenous biodiversity on that land.

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(6) Local authorities may impose or review restoration or enhancement conditions on resource consents and designations relating to activities in areas prioritised for restoration and enhancement.

Information note

Regional councils would be required by the draft National Policy Statement for Freshwater Management (proposal for consultation September 2019) to identify and map inland natural wetlands as defined by the NPSFM.

Examples of restoration and enhancement include the following:

- a) reconstruction of indigenous habitats and ecosystems:
- b) restoration, enhancement or reconstruction using local genetic stock, where practicable:
- c) encouraging natural regeneration of indigenous species, recognising the need for effective weed and animal pest management:
- d) removing redundant structures and materials, where appropriate and authorised:
- e) redesigning structures or activities that interfere with the ecological integrity of an area.

3.17 Increasing indigenous vegetation cover

(1) Every regional council must assess the percentage of the urban and rural areas in its region that have indigenous vegetation cover.

(2) The regional council must specify which areas it will treat as urban for the purposes of this clause (which must be predominantly urban in character) and which it will treat as rural (which must be predominantly non-urban in character).

(3) The assessment of the percentage of indigenous vegetation cover may be done by a desktop analysis, by ground truthing or both.

(4) For urban areas, if the assessment indicates an area has less than 10 per cent indigenous vegetation cover, the regional council must include in its regional policy statement a target (expressed as a percentage figure within a specified time) for increasing indigenous vegetation cover in that area to at least 10 per cent of the area.

(5) For rural areas, if the assessment indicates an area has less than 10 per cent indigenous vegetation cover, the regional council must include in its regional policy statement a target (expressed as a percentage figure within a specified time) for increasing indigenous vegetation cover in the area.

(6) For any urban or rural area where the assessment indicates the area already has 10 per cent or more indigenous vegetation cover, the regional council may include in its regional policy statement targets (expressed as a percentage figure within a specified time) for increasing indigenous vegetation cover in the area.

(7) Every regional council must include objectives, policies or methods for increasing indigenous vegetation cover in its region and for achieving the targets set under this clause, giving priority to all of the following:

- a) areas to which clause 3.16 applies:
- b) areas representative of ecosystems naturally and formerly present:
- c) ensuring species richness:
- d) restoration and enhancement at a landscape scale across the region.

Information note

The National Policy Statement for Urban Development 2020 may be helpful in deciding which areas should be treated as urban and which as rural, for the purposes of this clause.

3.18 Regional biodiversity strategies

- (1) Every regional council must prepare a regional biodiversity strategy in collaboration with territorial authorities, tangata whenua, communities and other identified stakeholders.
- (2) Local authorities must have regard to the relevant regional biodiversity strategy when developing restoration and enhancement objectives, policies and methods for inclusion in regional policy statements and plans.
- (3) Every regional biodiversity strategy must be prepared in accordance with Appendix 5 and any regional council that, at the commencement date –
 - a) has a regional biodiversity strategy, must update the strategy to comply with Appendix 5 within six years after the commencement date; or
 - b) is in the process of preparing a regional biodiversity strategy, must complete the strategy in a way that complies with Appendix 5 within six years after the commencement date.
- (4) Regional councils that, at the commencement date, do not have a regional biodiversity strategy must initiate preparation of a strategy within three years after the commencement date and must complete it within six years after the commencement date.

3.19 Assessment of environmental effects

- (1) Local authorities must change their plans to include a requirement that the following information be included in any assessment of environmental effects whether all or any part of the site covered by the application is in or affects –
 - a) an SNA; or

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- b) an area of indigenous vegetation; or
- c) a habitat of indigenous fauna; or
- d) an area identified as highly mobile fauna area (as described in clause 3.15), in which case it must include information about the use of the area by highly mobile fauna; or
- e) an area providing connectivity or buffering; or
- f) an area identified as or containing, identified taonga.

(2) Local authorities must make or change their policy statements and plans to include a requirement that the assessment of environmental effects required by clause 7(1) of Schedule 4 the Act –

- a) for the purposes of clause 7(1)(c) of Schedule 4 of the Act –
 - i. addresses effects of the proposal (if relevant) on the areas referred to in subclause (1)(a)(i) to (vi); and
 - ii. includes sufficient information to demonstrate the effective management of adverse effects as required by this National Policy Statement; and
- b) for the purposes of clause 7(1)(d) of Schedule 4 of the Act, addresses –
 - i. the effects on identified taonga; and
 - ii. ecosystem services associated with indigenous biodiversity at the site; and
 - iii. the site’s role in maintaining the ecological integrity of and connections between it and the wider ecosystem; and
- c) uses biodiversity methodologies consistent with best practice for the ecosystem types present at the site; and
- d) considers including mātauranga Māori and tikanga Māori assessment methodology where relevant.

(3) Local authorities must directly insert the following policy into their plans in accordance with section 55(2A) of the RMA within one year of commencement date:

“If the regional policy statement or this plan requires a site to be assessed to determine whether it is an area of significant indigenous vegetation of significant habitat of indigenous fauna:

- (a) the assessment must be done in accordance with Appendix 1 of the National Policy Statement for Indigenous Biodiversity 2020.; and*
- (b) any site confirmed as an SNA through that assessment must be classified as High or Medium in accordance with Appendix 2 of the National Policy Statement for Indigenous Biodiversity 2020.”; and*

(4) Local authorities may amend their plans to remove the policy in (3) when replacing with like-for-like content as part of a plan change to give effect to this National Policy Statement.

3.20 Monitoring by regional councils

(1) Regional councils must, by working with territorial authorities, relevant agencies and tangata whenua, develop a monitoring plan for indigenous biodiversity in their regions and each of their districts.

(2) Every monitoring plan must –

- a) establish methods and timeframes for monitoring the maintenance of indigenous biodiversity in, and the ecological integrity and physical extent of, SNAs, taonga outside SNAs, and other areas outside SNAs; and
- b) include methods and timeframes for monitoring progress towards, and achievement of, restoration and enhancement objectives established under clauses 3.16 and 3.17; and
- c) use best practice methods, or nationally agreed standards or methods, for monitoring areas that allow for comparability; and
- d) to the extent possible, where tangata whenua agree, use scientific monitoring methods and mātauranga Māori and tikanga Māori monitoring methods equally; and
- e) recognise the importance of long-term trends in monitoring results, and the relationship between results and the overall state of indigenous biodiversity; and
- f) establish methods, such as action plans, for responding to monitoring that indicates the objectives of this National Policy Statement will not be met.

(3) Methods and timeframes may include different methods and timeframes relating to SNAs, taonga outside SNAs, and other areas outside SNAs.

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Part 4: Effectiveness review

4.1 Ministry for the Environment monitoring and review

(1) In monitoring the effect and implementation of this National Policy Statement (as required by section 24(f) of the Act), the Minister for the Environment should –

- a) collect data for a nationally consistent monitoring and reporting programme that, as far as practicable, incorporates regional and district monitoring information; and
- b) undertakes other information gathering or monitoring that assists in providing a national perspective on indigenous biodiversity management trends, emerging issues and outcomes; and
- c) within 10 years of the National Policy Statement commencement date, undertakes a first assessment of its effect on regional policy statements and regional and district plans, resource consents, designation and other decision-making
- d) publishes a report and conclusion on the matters in (a) to (c) and specifies a new timeframe in which a further assessment must be undertaken.

(2) Clause 3.9(4)(c) (which provides that adverse effects in SNAs that comprise kānuka or mānuka and are identified as SNAs solely because of risk from myrtle rust, are not to be managed in the same way as other SNAs) must be reviewed within five years after the commencement date.

Appendix 1: Criteria for identifying significant indigenous vegetation and significant habitat of indigenous fauna

Direction on approach

1. This appendix sets out the criteria for identifying significant indigenous vegetation or significant habitats of indigenous fauna.
2. A significant natural area will meet any one of the attributes of the following four criteria:
 - a) representativeness:
 - b) diversity and pattern:
 - c) rarity and distinctiveness:
 - d) ecological context.
3. The context for any assessment of a significant natural area is the ecological district and, as part of the rarity assessment, the land environment in which it is located.
4. Every assessment must include at least –
 - a) a map of the significant natural area; and
 - b) a description of its significant attributes, including for each criterion a description of the attribute (as specified below) that applies; and
 - c) a description of the indigenous vegetation, indigenous fauna, habitat and ecosystems present
 - d) additional information such as the key threats, pressures and management requirements.
5. An assessment under this appendix must be conducted by a suitably qualified ecologist.

A Representativeness

- A1 Representativeness is the extent to which the indigenous vegetation or habitat of indigenous fauna is typical or characteristic of the indigenous biodiversity of the ecological district.

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Key assessment principles

A2 Representativeness includes commonplace indigenous vegetation and the habitats of indigenous fauna, which is where most indigenous biodiversity is present. It includes degraded indigenous vegetation, ecosystems and habitats that are typical of what remains in depleted ecological districts. It is not restricted to the best or most representative examples and it is not a measure of how well that indigenous vegetation or habitat is protected elsewhere in the ecological district.

Significant indigenous vegetation has ecological integrity typical of the indigenous vegetation of the ecological district in the present-day environment. It includes seral (regenerating) indigenous vegetation that is recovering following natural or induced disturbance, provided species composition is typical of that type of indigenous vegetation.

Significant indigenous fauna habitat is that which supports the typical suite of indigenous animals that would occur in the present-day environment. Habitat of indigenous fauna may be indigenous or exotic.

A3 The application of this criterion should result in identification of indigenous vegetation and habitats that are representative of the full range and extent of ecological diversity across all environmental gradients in an ecological district, such as climate, altitude, landform and soil sequences. The ecological character and pattern of the indigenous vegetation in the ecological district should be described in terms of the ecological units present, which are a combination of the indigenous vegetation types present plus the landform it occurs on.

Attributes

A4 **Significant Natural Areas** that qualify under this criterion will have at least one of the following attributes:

- a) ecological unit(s) present which has ecological integrity that is typical of the indigenous character of the ecological district;
- b) habitat that supports a typical suite of indigenous fauna that is characteristic of the habitat type in the ecological district and the range of species expected for that habitat type in the ecological district.

B Diversity and pattern

B1 Diversity and pattern is the extent to which the expected range of diversity and pattern of biological and physical components is present in the significant natural area, for the relevant ecological district.

Key assessment principles

- B2 **Diversity of biological components** is expressed in the variation of species, communities and ecosystems. Biological diversity is associated with variation in physical components, such as geology, soils/substrate, aspect/exposure, altitude/depth, temperature and salinity.
- B3 **Pattern** includes changes along environmental gradients such as ecotones and sequences.
- B4 **Natural areas** that have a wider range of species, habitats or communities or wider environmental variation due to ecotones, gradients and sequences in the context of the ecological district, rate more highly under this criterion.

Attributes

- B5 **Significant Natural Areas** that qualify under this criterion will have at least one of the following attributes:
- a) diversity of indigenous species, vegetation, habitats of indigenous fauna or communities in the context of the ecological district:
 - b) presence of ecotones, complete or partial gradients or sequences:

C Rarity and distinctiveness

- C1 Rarity and distinctiveness is the presence of rare or distinctive indigenous taxa, habitats of indigenous fauna, indigenous vegetation or ecosystems.

Key assessment principles

- C2 **Rarity** is the scarcity (natural or induced) of indigenous elements: species, habitats, vegetation or ecosystems. Rarity includes elements that are uncommon and things that are threatened.
- C3 **The list of threatened and at-risk species** is regularly updated by the Department of Conservation. Rarity at a regional or ecological district scale is defined by regional or district lists or determined by expert ecological advice. The significance of nationally-listed threatened and at-risk species should not be downgraded just because they are common within a region or ecological district.
- C4 **Depletion of indigenous vegetation or ecosystems** is assessed using ecological districts and land environments.
- C5 **Distinctiveness** includes distribution limits, type localities, local endemism, relict distributions and special ecological or scientific features.

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Attributes

C6 **Significant Natural Areas** that qualify under this criterion will have at least one of the following:

- a) provides habitat for an indigenous species that is listed as Threatened or At-risk in the New Zealand Threat Classification System lists:
- b) an indigenous vegetation type or an indigenous species that is uncommon within the region or ecological district:
- c) an indigenous species or plant community at or near its distributional limit:
- d) indigenous vegetation that has been reduced to less than 30 per cent of its former extent in the ecological district, region or land environment:
- e) indigenous vegetation or habitat of indigenous fauna occurring on sand dunes:
- f) indigenous vegetation or habitat of indigenous fauna occurring on naturally uncommon ecosystems:
- g) the type locality of an indigenous species:
- h) the presence of a distinctive assemblage or community of indigenous species:
- i) the presence of a special ecological or scientific feature.

D Ecological context

D1 Ecological context is the extent to which the size, shape and configuration of an area within the wider surrounding landscape contributes to its ability to maintain indigenous biodiversity or affects the ability of the surrounding landscape to maintain its indigenous biodiversity.

Key assessment principles

D2 **Ecological context** has two main attributes:

- a) the characteristics that help maintain indigenous biodiversity (such as size, shape and configuration); and
- b) the contribution the natural area makes to protecting indigenous biodiversity in the wider landscape (such as by linking, connecting to or buffering other natural areas; providing 'stepping stones' of habitat or maintaining ecological integrity).

Attributes

D3 **Significant Natural Areas** that qualify under this criterion will have at least one of the following attributes:

- a) moderate to large size and compact shape, in the context of the ecological district:
- b) well-buffered relative to remaining habitats in the ecological district:
- c) provides a full or partial buffer to or link between, other important habitat(s) of indigenous fauna or significant natural area(s):
- d) important for the natural functioning of an ecosystem relative to remaining habitats in the ecological district:
- e) supports large numbers of indigenous fauna:
- f) provides critical habitat for indigenous fauna, including feeding, breeding, refuge or resting habitat.

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Appendix 2: Tool for managing effects on significant natural areas

General

This appendix supports the application of Policy 7 of this National Policy Statement.

Pursuant to Appendix 1 and Policy 5, district councils are required to map Significant Natural Areas and include a description of the specific attributes that contribute to the areas qualifying as Significant Natural Areas. That description must include the relevant attribute from the 'attribute list' under each criterion.

This management tool allocates a 'High' or 'Medium' rating to each attribute. The rating applying to a particular Significant Natural Area will determine whether it is a Significant Natural Area where the limited exception to Policy 6 for specifically identified new activities applies.

A Significant Natural Area qualifies as having a 'High' rating if it has one or more attributes that rate as 'High' in respect of any one of the four criteria.

Mānuka and kānuka

The recent arrival of myrtle rust (*Austropuccinia psidii*) in New Zealand (April 2017) is anticipated to have significant, negative consequences for all New Zealand Myrtaceae taxa. However, precisely what those impacts will be is not yet known. As a result, a precautionary approach has been taken in the most recent New Zealand Threat Classification System lists for vascular plants and all Myrtaceae taxa have been classified as Threatened. However, some Myrtaceae taxa are relatively common in some areas, in particular mānuka and kānuka would classify as Threatened only due to the risk of myrtle rust.

If a Significant Natural Area is identified only because of the presence of mānuka and kānuka that is considered Threatened only because of the threat posed by myrtle rust, it should not be managed as if it is a Significant Natural Area. Assessment against the other criteria in Appendix 1 must also determine whether it is a Significant Natural Area. If it qualifies as significant for any other reason, then it should be managed as a Significant Natural Area.

This exception must be reviewed within five years of gazettal.

Management framework

Representativeness

Attributes	Rating
Ecological unit(s) present that is typical of the indigenous character of the ecological district and which retains a high level of ecological integrity in the context of what remains in the ecological district.	High
Habitat that supports a typical suite of indigenous fauna that is characteristic of the habitat type in the ecological district and retains the majority of species expected for that habitat type in the ecological district.	High
Ecological unit(s) present that is typical of the indigenous character of the ecological district and which retains a moderate level of ecological integrity in the context of what remains in the ecological district.	Medium
Habitat that supports a typical suite of indigenous taxa that is characteristic of the habitat type in the ecological district and retains a moderate range of species expected for that habitat type in the ecological district.	Medium

Diversity and pattern

Attributes	Rating
A high diversity of indigenous species, vegetation, habitats of indigenous fauna, or communities within the context of the ecological district	High
Presence of important ecotones and/or complete gradients or sequences.	High
A moderate diversity of indigenous species, vegetation, habitats of indigenous fauna, or communities within the context of the ecological district	Medium
Presence of ecotones and/or partial gradients or sequences.	Medium

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Rarity and distinctiveness

Attributes	Rating
Provides habitat for a nationally Threatened, or two or more At Risk indigenous species as identified in the New Zealand Threat Classification System lists.	High
An indigenous species or plant community at its distributional limit.	High
Indigenous vegetation that has been reduced to less than 20% of its former extent in the ecological district, region or land environment.	High
Indigenous vegetation or habitat of indigenous fauna occurring on sand dunes.	High
Indigenous vegetation or habitat of indigenous fauna occurring on naturally uncommon ecosystem types.	High
The type locality of an indigenous species	High
Provides habitat for an At Risk indigenous species as identified in the New Zealand Threat Classification System lists	Medium
An indigenous species or plant community near its distributional limit.	Medium
An indigenous vegetation type or an indigenous fauna species that is uncommon within the region or ecological district.	Medium
Indigenous vegetation that has been reduced to between 20% and 30% of its former extent in the ecological district or land environment.	Medium
The presence of a distinctive assemblage or community of indigenous species	Medium
A special ecological or scientific feature	Medium

Ecological context

Attributes	Rating
Large size and a compact shape in the context of the ecological district.	High
Well-buffered relative to remaining habitats in the ecological district.	High
Provides a full buffer to, or link between, other important habitats of indigenous fauna or Significant Natural Areas.	High
Is very important for the natural functioning of an ecosystem, relative to remaining habitats in the ecological district.	High
Supports large numbers of indigenous fauna.	High
Provides critical habitat for indigenous fauna, including important feeding, breeding, refuge or resting habitat.	High
Moderate size and a compact shape in the context of the ecological district.	Medium
Provides a partial buffer to, or link between, other important habitats of indigenous fauna or Significant Natural Areas.	Medium
Important for the natural functioning of an ecosystem, relative to remaining habitats in the ecological district.	Medium

Appendix 3: Principles for biodiversity offsetting

The following sets out a framework of principles for the use of biodiversity offsets. Principles 1–12 must be complied with for an action to qualify as a biodiversity offset. Principles 13–14 should be met for an action to qualify as a biodiversity offset.

1. **Adherence to mitigation hierarchy:** A biodiversity offset is a commitment to redress [more than minor] residual adverse impacts. It should only be contemplated after steps to avoid, remedy and mitigate adverse effects have been demonstrated to have been sequentially exhausted and thus applies only to residual indigenous biodiversity impacts.
2. **Limits to offsetting:** Many biodiversity values cannot be offset and if they are adversely affected then they will be permanently lost. These situations include where:
 - i) residual adverse effects cannot be offset because of the irreplaceability or vulnerability of the indigenous biodiversity affected
 - ii) there are no technically feasible or socially acceptable options by which to secure gains within acceptable timeframes
 - iii) effects on indigenous biodiversity are uncertain, unknown or little understood, but potential effects are significantly adverse.

In these situations, an offset would be inappropriate. This principle reflects a standard of acceptability for offsetting and a proposed offset must provide an assessment of these limits that supports its success.

3. **No net loss and preferably a net gain:** The values to be lost through the activity to which the offset applies are counterbalanced by the proposed offsetting activity which is at least commensurate with the adverse effects on indigenous biodiversity so that the overall result is no net loss and preferably a net gain in biodiversity. No net loss and net gain are measured by type, amount and condition at the impact and offset site and require an explicit loss and gain calculation.
4. **Additionality:** A biodiversity offset must achieve gains in indigenous biodiversity above and beyond gains that would have occurred in the absence of the offset, including that gains are additional to any remediation and mitigation undertaken in relation to the adverse effects of the activity. Offset design and implementation must avoid displacing activities harmful to indigenous biodiversity to other locations.
5. **Like-for-like:** The ecological values being gained at the offset site are the same as those being lost at the impact site across types of indigenous biodiversity, amount of indigenous biodiversity (including condition), over time and spatial context.
6. **Landscape context:** Biodiversity offset actions must be undertaken where this will result in the best ecological outcome, preferably close to the location of development or within

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the same ecological district, and must consider the landscape context of both the impact site and the offset site, taking into account interactions between species, habitats and ecosystems, spatial connections and ecosystem function.

7. **Long-term outcomes:** The biodiversity offset must be managed to secure outcomes of the activity that last as least as long as the impacts, and preferably in perpetuity.
8. **Time lags:** The delay between loss of indigenous biodiversity at the impact site and gain or maturity of indigenous biodiversity at the offset site must be minimised so that gains are achieved within the consent period.
9. **Trading up:** When trading up forms part of an offset, the proposal must demonstrate that the indigenous biodiversity values gained are demonstrably of higher value than those lost, and the values lost are not indigenous taxa that are listed as Threatened, At-risk or Data deficient in the New Zealand Threat Classification System lists, or considered vulnerable or irreplaceable.
10. **Offsets in advance:** A biodiversity offset developed in advance of an application for resource consent must provide a clear link between the offset and the future effect. That is, the offset can be shown to have been created or commenced in anticipation of the specific effect and would not have occurred if that effect were not anticipated.
11. **Proposing a biodiversity offset:** A proposed biodiversity offset must include a specific biodiversity offset management plan.
12. **Science and matauranga Māori:** The design and implementation of a biodiversity offset must be a documented process informed by science, including an appropriate consideration of matauranga Māori.
13. **Stakeholder participation:** Opportunity for the effective participation of stakeholders should be demonstrated when planning for biodiversity offsets, including their evaluation, selection, design, implementation and monitoring. Stakeholders are best engaged early in the offset consideration process.
14. **Transparency:** The design and implementation of a biodiversity offset and communication of its results to the public should be undertaken in a transparent and timely manner. This includes transparency of the loss and gain calculation and the data that informs a biodiversity offset.

Appendix 4: Principles for biodiversity compensation

The following sets out a framework of principles for the use of biodiversity compensation. Principles 1–11 must be complied with for an action to qualify as biodiversity compensation. Principles 12– 3 should be met for an action to qualify as biodiversity compensation.

1. **Adherence to mitigation hierarchy:** Biodiversity compensation is a commitment to redress [more than minor] residual adverse impacts. It must only be contemplated after steps to avoid, remedy, mitigate and offset adverse effects have been demonstrated to have been sequentially exhausted and thus applies only to residual biodiversity impacts.
2. **Limits to biodiversity compensation:** In deciding whether biodiversity compensation is appropriate, a decision-maker must consider the principle that many indigenous biodiversity values are not able to be compensated for because:
 - a) the indigenous biodiversity affected is irreplaceable or vulnerable
 - b) there are no technically feasible or socially acceptable options by which to secure proposed gains within acceptable timeframes
 - c) effects on indigenous biodiversity are uncertain, unknown or little understood, but potential effects are significantly adverse.
3. **Scale of biodiversity compensation:** The values to be lost through the activity to which the biodiversity compensation applies must be addressed by positive effects to indigenous biodiversity that are proportionate to the adverse effects on indigenous biodiversity.
4. **Additionality:** Biodiversity compensation must achieve gains in indigenous biodiversity above and beyond gains that would have occurred in the absence of the compensation, including that gains are additional to any remediation and mitigation undertaken in relation to the adverse effects of the activity. Compensation design and implementation must avoid displacing activities harmful to indigenous biodiversity to other locations.
5. **Landscape context:** Biodiversity compensation actions must be undertaken where this will result in the best ecological outcome, preferably close to the location of development or within the same ecological district. The actions must consider the landscape context of both the impact site and the compensation site, taking into account interactions between species, habitats and ecosystems, spatial connections and ecosystem function.
6. **Long-term outcomes:** The biodiversity compensation must be managed to secure outcomes of the activity that last as long as the impacts, and preferably in perpetuity.
7. **Time lags:** The delay between loss of indigenous biodiversity at the impact site and gain or maturity of indigenous biodiversity at the compensation site must be minimised.

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8. **Trading up:** When trading up forms part of biodiversity compensation, the proposal must demonstrate the indigenous biodiversity values gained are demonstrably of higher indigenous biodiversity value than those lost. The proposal must also show the values lost are not indigenous taxa that are listed as Threatened, At-risk or Data deficient in the New Zealand Threat Classification System lists, or considered vulnerable or irreplaceable.
9. **Financial contributions:** Financial contributions must only be considered when there is no effective option available for delivering indigenous biodiversity gains on the ground. These contributions must be related to the indigenous biodiversity impact. When proposed, financial contributions must be directly linked to an intended indigenous biodiversity gain or benefit.
10. **Biodiversity compensation in advance:** Biodiversity compensation developed in advance of an application for resource consent must provide a clear link between the compensation and the future effect. That is, the compensation can be shown to have been created or commenced in anticipation of the specific effect and would not have occurred if that effect were not anticipated.
11. **Science and matauranga Māori:** The design and implementation of biodiversity compensation must be a documented process informed by science, including an appropriate consideration of matauranga Māori.
12. **Stakeholder participation:** Opportunity for the effective participation of stakeholders should be demonstrated when planning for biodiversity compensation, including evaluation, selection, design, implementation and monitoring. Stakeholders are best engaged early in the process.
13. **Transparency:** The design and implementation of biodiversity compensation and communication of its results to the public should be undertaken in a transparent and timely manner.

Appendix 5: Regional biodiversity strategies

1. The purpose of a regional biodiversity strategy is to promote a landscape-scale restoration and enhancement vision for the region's indigenous biodiversity.
2. A regional biodiversity strategy restoration and enhancement vision must:
 - a) provide a comprehensive record of all areas identified for protection, restoration and enhancement; and
 - b) provide a comprehensive record of all actions being undertaken and all methods available, to achieve protection restoration and enhancement, as provided for by this National Policy Statement and undertaken or required by other legislation, strategies or by voluntary action;
 - c) recognise and provide for Hutia Te Rito;
 - d) provide for resilience to biological and environmental changes, including those associated with climate change;
 - e) recognise biological and physical connections within, and between, the terrestrial environment, freshwater and the coastal marine area; and support achievement of any national priorities for indigenous biodiversity protection.
3. To achieve its purpose regional biodiversity strategy of each region must:
 - a) spatially identify the components of the region's landscape-scale enhancement and restoration vision, including:
 - i. all SNAs, as per Part 3.8 of this National Policy Statement;
 - ii. all identified taonga, as per Part 3.14 of this National Policy Statement;
 - iii. All areas identified for restoration and enhancement in clause 3.16 of this National Policy Statement
 - iv. any other areas identified for protection, restoration or enhancement of indigenous biodiversity for the purposes of clause 3.17 or by means other than this National Policy Statement; and
 - v. all of the areas in (i)–(iv) which align with any national priorities for indigenous biodiversity protection.
 - b) record:
 - i. the actions and methods for achieving restoration and enhancement of identified areas provided for under this National Policy Statement and by any other means;

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- ii. actions that will be undertaken by local or central government;
 - iii. actions that the community, including tangata whenua, will be supported or encouraged to undertake; and
 - iv. how those actions will be resourced.
- c) specify milestones for achieving the strategy's purpose:
 - d) specify how progress on achieving the strategy's purpose is to be monitored and reported on and measures to be taken if milestones are not being met.
4. The following must be taken into account when developing a regional biodiversity strategy:
- a) opportunities to engage the community, including tangata whenua, in conservation and, in particular, to connect urban people and communities to indigenous biodiversity:
 - b) opportunities for partnerships with the QEII Trust, Ngā Whenua Rāhui and others:
 - c) considering incentive opportunities specific to Māori land:
 - d) co-benefits, including for water quality and freshwater habitats, carbon sequestration and hazard mitigation:
 - e) alignment with strategies under other legislation.
5. Regional biodiversity strategies may include measures that are intended to implement other objectives, such as biosecurity, climate mitigation, amenity or freshwater outcomes, where those measures also contribute to protection, restoration and enhancement of indigenous biodiversity.

8.2. Annual Plan 2020-21

Prepared for:	Council
Report No.	GOV1912
Activity:	Community: Governance & Community
Author:	Mike Roesler, Manager Corporate Planning
Endorsed by:	Nick Donnelly, General Manager Corporate Services
Date:	2 March 2020

PURPOSE

- [1] The purpose of this report is to enable Council to approve the draft 2020-21 financial forecast and associated work programme as the basis for community consultation. This includes consideration and approval of a consultation document.
- [2] The report also enables the Council to note some administrative adjustments to the Council Revenue and Financing Policy (RFP). These adjustments ensure Council's Annual Plan funding intentions align clearly with the RFP.

RECOMMENDATION

That the Council:

- 1) **Approves** the draft 2020-21 financial forecasts and associated Council activity as recommended by the Finance Committee at its 26 February 2020 meeting.
- 2) **Approves** changes to the Council's Revenue and Financing Policy as defined in the 'Financial Considerations' section of this report.
- 3) **Agrees** that the changes to the Council's Revenue and Financing Policy as defined in 'Financial Considerations' section of this report are not material or significant.
- 4) **Approves** the consultation approach as recommended by the Finance Committee at its 26 February 2020 meeting.
- 5) **Notes** the consultation document as the basis for communicating the Council's expenditure and funding intentions for the 2020-21 financial year and as circulated separately to this report.
- 6) **Notes** that this report corrects the rating information under paragraph 30 of the 'Annual Plan 2020-21' report as provided to the 26 February 2020 Finance Committee.

BACKGROUND

- [3] As part of the annual plan process the Finance Committee, at its 26 February 2020 meeting, considered and made recommendations on a draft financial forecast and associated work programme for the 2020-21 financial year. This consideration included activity expenditure, funding impacts and the proposed approach.

- [4] The above meeting also discussed and directed staff on the community consultation approach. Importantly the Committee agreed that the changes to year 3 of the Long-Term Plan 2018-28 were not material or significant. Based on this the Committee then recommended that the Council take an informal consultation approach involving:
- Consultation document outlining the Council's priorities for 2020-21
 - Communication-advertising campaign flagging the process and information
 - Online approach V's hardcopy letterbox drop
 - Online submission form including an option to verbally present to Council
 - Option for individuals to request a hard copy and submit in writing via post
 - Hearings committee (including all Councillors) that meets in Queenstown and Dunedin.
 - Finance Committee deliberate on a summary of the submissions and recommend to Council on the Annual Plan 2020-21

DISCUSSION

Consultation

- [5] Council staff have acted on the direction provided at the Finance Committee including:
- Drafting a consultation document.
 - Implementing the communication approach.
 - Planning the Council 'drop-in' sessions.
- [6] The consultation document (CD) has been circulated separately to the Council meeting agenda papers and forms Attachment 1 of this report. The CD is a draft and Council staff are fine tuning editorial (eg content corrections) and formatting (eg picture selections).
- [7] Importantly there is small window of time to consider how feedback from this Council meeting can be incorporated into the CD. The caveat is that at this late stage it is not practicable to redesign the document or change its overall structure. However, refinements to the content are practicable, particularly if it reduces the word count. It is suggested the Council Chair and CEO approve the final changes and that the final CD is circulated to Councillors in advance of the consultation start date, being 26 March.

CONSIDERATIONS

Financial Considerations

- [8] The recommendations in this report do not have any financial considerations other than those outlined in this paper and in the paper presented to the Finance Committee on 26 February 2020.
- [9] The proposed general rate increase for the 2020-21 financial year is \$1.017M (9.1%), as shown below:

LTP 2020/21 \$000s	General Rates Funding Summary	Draft Annual Plan 2020/21 \$000s	Annual Plan 2019/20 \$000s
20,817	General Rates (Gross)	27,212	20,201
	Less:		
(8,100)	Dividend as per LTP	(8,100)	(7,900)
(1,171)	Interest and Investment Income	(915)	(1,122)
11,546		18,197	11,180
	Less:		
-	Additional Ordinary Dividend	(2,000)	-
-	General Rate Offset	(4,000)	-
11,546	General Rates Payable	12,197	11,180
730	Increase \$	1,017	2,372
6.7%	Increase %	9.1%	26.9%

- [10] The LTP provided that general rates would be \$11.546M in the 2020-21 year. After accounting for the dividend, interest, investment income and general reserve offset the proposed 2020-21 general rate is \$12,197M which is \$650,000 higher than the LTP.
- [11] The LTP assumed general rates would increase \$730,000 (6.7%) in year 3. The proposed 2020-21 Annual Plan estimates an increase of \$1,017M (9.1%) from the current year (2019-20 Annual Plan).
- [12] The Annual Plan estimates assumes that \$15.015M (55%) of general rate activity will be subsidised and paid for by non-rate funding (dividends, interest, investment income and general reserve offset). This is 10% higher than the amount assumed in the LTP and current year (2019-20 Annual Plan).
- [13] An assessment of the proposed activities and funding against the Revenue and Financing Policy has been undertaken. As a result, minor changes to the Revenue and Financing Policy are proposed.
- [14] One change relates to allowing expanded Harbourmaster activity on Lake Dunstan to be funded via a sub-regional general rate in the same way current Harbourmaster activity is funded via sub regional rates across Dunedin, Waitaki and Clutha.
- [15] The remaining changes are administrative to align funding policies to reflect minor changes in the reporting / activity structure or to amend naming changes ie the Environmental Enhancement Fund is now the Eco Fund.

[16] A summary of the Revenue and Financing Policy changes is as follows:

Activity	Reason for Revenue and Financing Change	Funding Change	Overall Significant
Harbour Management – Lake Dunstan	Delegated functions being returned to ORC	Amend: Sub-regional general rate to include Central Otago	No
Plans, Policies and Strategies	Various plans etc are listed, this level of detail is not required and will be removed	Administrative: remains 100% general rate	No
Environmental Enhancement	Currently references the Environmental Enhancement Fund rather than the Eco Fund	Administrative: remains 100% reserves	No
	Predator Free Dunedin has moved from Biodiversity to Environmental Enhancement and needs to be noted separately	Administrative: remains 100% sub-regional Dunedin	No
Regulatory	Dairy inspections have moved from Freshwater Implementation to Regulatory	Administrative: remains 100% dairy targeted rate	No
	Oil spill response has moved from Incident Response to Harbour Management	Administrative: remains funded via Maritime NZ grants and general rates	No
Public Passenger Transport	Adds reference to fares and grants revenue providing funding with the remainder being targeted rate funded	Administrative: targeted rates remain unchanged	No

[17] These changes will be referenced in the consultation document and a draft revised Revenue and Finance Policy will be available online.

[18] At the Finance Committee meeting on 26 February 2020 the financial information provided in the Annual Plan 2020-21 paper included general rate examples by district. That table contained some errors and an updated version of that table is provided below.

- [19] The table below shows the general rates that we estimate are payable for the capital values shown within each district of Otago, inclusive of a UAGC of \$31.08, and GST.

General Rates Examples by District	Median Capital Value	Draft Annual Plan 2020/21	Annual Plan 2019/20
Residential			
Central Otago District	520,000 (380,000)	\$81.72	\$69.03
Clutha District	200,000	\$55.46	\$52.36
Dunedin City	420,000 (300,000)	\$89.75	\$80.80
Queenstown Lakes District	850,000	\$115.47	\$106.48
Waitaki District	250,000	\$59.53	\$59.15
Rural			
Central Otago District	1,500,000 (1,000,000)	\$176.52	\$134.23
Clutha District	1,000,000	\$151.66	\$145.51
Dunedin City	500,000 (400,000)	\$100.86	\$98.04
Queenstown Lakes District	2,000,000	\$229.19	\$211.21
Waitaki District	1,000,000	\$143.86	\$149.36

- [20] Both Central Otago and Dunedin capital values were revalued during the current year, so comparison for those districts is made against the pre valuation median CV in the 2019-20 year. That amount is shown in brackets in the table above.

Significance and Engagement

- [21] The adjustments to the Revenue and Financing Policy are administrative in nature. The adjustments do not change the incidence of rating to ratepayers in a material or significant way.
- [22] Importantly the adjustments do not trigger criteria defined in the Council's Significance and Engagement Policy.
- [23] Accordingly, Council staff recommend that Council formalise this understanding via recommendation 3 of this report. This recommendation will enable the Council to adopt an amended Revenue and Financing Policy prior to adoption of the Annual Plan 2020-21 at its 24 June 2020 meeting.

Policy Considerations

- [24] An assessment of Council's Revenue and Financing Policy against the funding intentions proposed in the 2020-21 Financial year has been completed.

Legislative Considerations

- [25] Council staff have provided the advice and recommendations included in this report with reference to, and compliance with the Local Government Act 2002.

Risk Considerations

- [26] The recommendations of this report ensure the Councils exposure to legislative risk and public perception risk is managed and that any residual risk is very low.

NEXT STEPS

- [27] The next steps include:
- Council staff finalise the Consultation Document, which will be about reflecting Council feedback where possible, and editorial corrections
 - Complete implementation of the communication approach.
 - Consultation start 26 March
 - Councillor 'drop-in' sessions to be communicated
 - Consultation close 24 April
 - Hearings and Deliberation
 - Council Adoption of the Annual Plan 2020-21 (24 June 2020)

ATTACHMENTS

1. Consultation Document Annual Plan 2020-21 [**8.2.1** - 1 page]

Consultation Document – Annual Plan 2020-21

This has been circulated separately to the 11 March Council Meeting Agenda Papers

9.1. Port Otago Strategic Asset Review

Prepared for:	Council
Report No.	CS1931
Activity:	Community - Governance and Democracy
Author:	Nick Donnelly, General Manager Corporate Services
Endorsed by:	Nick Donnelly, General Manager Corporate Services
Date:	4 March 2020

PURPOSE

- [1] To receive PWC's strategic asset review of Port Otago Limited.

EXECUTIVE SUMMARY

- [2] PWC has been engaged to undertake a strategic asset review of Port Otago Limited. That report is attached and PWC will be in attendance to present their report and answer questions.
- [3] The scope of the review covered three areas:
- A review of the historic returns received from Port Otago.
 - A review of the current dividend policy set out in the Port's Statement of Corporate Intent (SCI).
 - An overview of ownership models that could be considered for Council's investment in Port Otago.
- [4] It is noted that, as part of the Annual Plan 2020/21 process, discussion has commenced with the Board of Port Otago around increasing the level of dividends Council receives. This discussion will continue through the Annual Plan consultation period and forecast dividends will be confirmed as the Annual Plan and Port Statement of Corporate Intent are finalised in mid-2020.

RECOMMENDATION

That the Council:

- 1) **Receives** this report.
- 2) **Notes** that staff will report back to the Finance Committee regarding the information and options provided in the report.

BACKGROUND

- [5] Council owns 100% of Port Otago Limited. This shareholding is a strategic asset for Council.
- [6] Ownership originally vesting in Council as part of the Local Government reorganisation in 1989. At that time the Port had a valuation of \$20M. That valuation has risen over the last 30 years and the latest valuation, as at 30 June 2019, is \$534M. This forms a significant portion of Council's total assets of \$694M.
-

- [7] Over that time Port Otago has contributed dividends made up of ordinary and special (one-off) dividends. Ordinary dividends commenced at \$1.2M in 1990 and have risen to \$7.7M in 2019. Additional special dividends of \$19.75M have been paid up to the year ended 30 June 2019 and total dividends of \$173.4M have been paid to that date.
- [8] Council has previously indicated its 100% ownership of Port Otago Limited and the returns generated by that ownership should be independently reviewed. This was reiterated during the finalisation of the Long-Term Plan 2018-28 (LTP) and it was signalled that the review would be undertaken early in the LTP period to allow sufficient time for any proposed changes to be consulted on and incorporated in the next LTP.

CONSIDERATIONS

Policy Considerations

- [9] Council's shareholding in Port Otago is a strategic asset under the Significance and Engagement Policy therefore any proposed change to that shareholding will require consultation with the community.
- [10] Any change to the ownership structure of the Port may have implications for a number of policy areas including the financial strategy and revenue and financing policy contained within the LTP. Changes to these policies may also require consultation.

Financial Considerations

- [11] Immediate financial implications to an increased level of dividend are being considered by Council and Port Otago as part of the formulation of Council's Annual Plan 2020/21 and Port Statement of Corporate Intent for the three years to June 2023.

Significance and Engagement

- [12] As Port Otago is a strategic asset any proposed changes to the ownership structure of that shareholding will require consultation. Other financial policies may also be impacted and require consultation.

Legislative Considerations

- [13] There are no legislative considerations.

Risk Considerations

- [14] There are no risk considerations.

NEXT STEPS

- [15] Staff will review PWC's review and report back to the Finance Committee. This report will include an update on proposed dividend increases for the 2020/21 year.

ATTACHMENTS

1. Pw C - DRAFT - Port Otago Report - 2020 03 06 [9.1.1 - 38 pages]

Port Otago Strategic Asset Review

Otago Regional Council
9 March 2020





Otago Regional Council
70 Stafford Street
Dunedin 9054
Otago
New Zealand
Attention: Nick Donnelly

5 March 2020

Subject: Port Otago Strategic Review

In accordance with your instructions as confirmed in our engagement letter dated 10 December 2019, we present our view on the returns generated by Port Otago Limited (Port Otago or the Company) and the ownership models that Otago Regional Council (the Council) could consider. A valuation of Port Otago was not part of our scope.

This report should be considered only in its entirety, and was prepared solely to assist the Council. It is not to be relied upon for any other purpose. We consent to your providing copies of this report to third parties only in its entirety and on the basis that, to the fullest extent permitted by Law, we accept no duty of care to any such party in connection with the provision of this Report and/or any related information or explanation (together the Information). Accordingly, regardless of the form of action, whether in contract, tort (including without limitation negligence or otherwise) and to the extent permitted by applicable Law, we accept no liability to any third party and disclaim all responsibility for the consequences of any third party acting or refraining to act in reliance on the information. Notwithstanding the above, our consent to your distributing this report to third parties is given solely on the basis that you agree that, in the event such release leads to our incurring any costs or obligations to such third parties, we will rely on the indemnities which you have provided to us.

In preparing this report we obtained information from a variety of sources. While we have analysed financial information, we have not undertaken an audit or verified this information, and will not accept any responsibility for any errors contained in the information provided. The valuation figures presented are indicative and based on valuations prepared for Council by other third party valuers for the purposes of financial year end as at 30 June 2019. Accordingly, we accept no responsibility and make no representations with respect to the accuracy of, or completeness of, any information provided to us, except where otherwise stated and no assurance is given. Further detail on our key terms of business are provided at Appendix 1 of this Report.

Yours faithfully,

A handwritten signature in dark ink, appearing to read 'PricewaterhouseCoopers', is written over a light blue horizontal line.

PricewaterhouseCoopers

PricewaterhouseCoopers
188 Quay Street, Private Bag 92162,
Auckland 1142
T: +64 (9) 355 8000
F: +64 (9) 355 8001

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Executive summary

Background and scope

Background & purpose

The Council owns 100% of the shares in Port Otago and wish to undertake an independent review of that ownership and the returns generated by Port Otago. It also requires a high-level overview of other ownership models that could be utilised by Council if a change in the capital structure was to be considered.



Our scope



The scope of service is to provide our view on the returns generated by the Company and the ownership models that could be utilised. As instructed by you our report will include:

- review of the historical returns received from Port Otago;
- review of the current dividend policy set out in the Statement of Corporate Intent (SCI);
- an overview of ownership models that could be considered for Port Otago, including analysis of scenarios ranging from the status quo of retaining 100% ownership through to a minority sell down of part of its shareholding and other various mixed ownership models;
- analysis of each ownership model, including:
 - expected returns generated under that model including funds generated from any sell down of the investment and the ongoing returns expected from the retained investment in Port Otago;
 - risks associated with each model;
 - advantages and disadvantages of each model;
 - alignment of each model to Council's strategy of general rates subsidisation from the investment; and
 - consideration of the social and environmental implications to Council and the wider Otago region.



Access to management



We had access to Port Otago management in person and via email to discuss the Company and publicly available information. We have not been provided with the Company's year to date financial position, performance, forecasts, or any strategic or planning documents.



Access to information



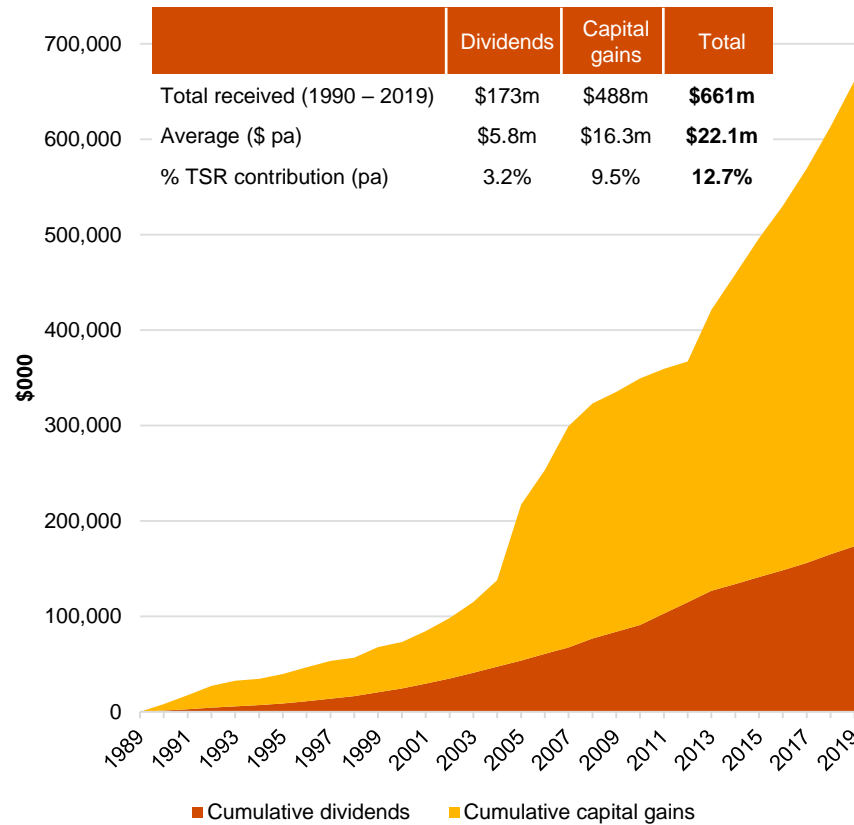
During the course of our work, we have relied solely on information and documentation provided by Council, all of which is publicly available. The scope of our review is limited, however we have been provided with all of the information required to carry out this scope. We have not audited or verified this information, and will not accept any responsibility for any errors contained in the information provided or misrepresentations by Council. We have restated only public information.



Total shareholder returns

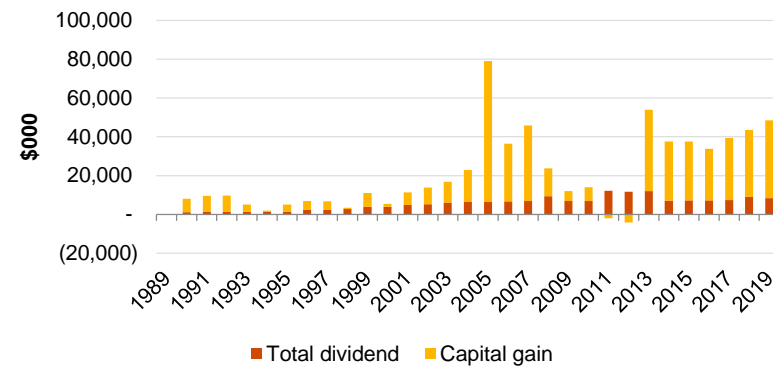
Total shareholder returns have largely been driven by unrealised gains on Port Otago’s property investment portfolio. Increases in dividends paid have been modest, particularly over the last ten years.

Cumulative shareholder returns*



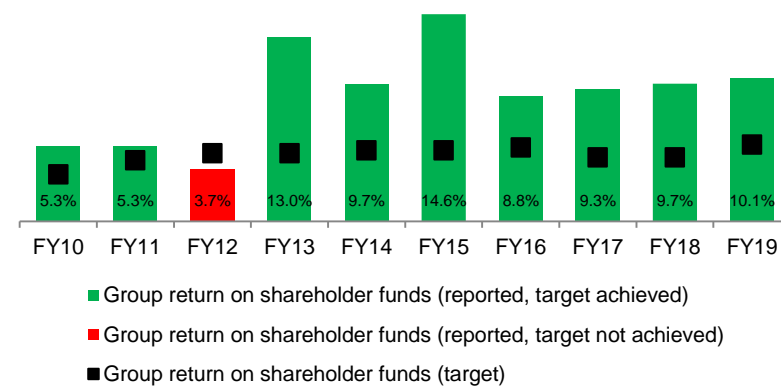
Source: Annual reports, Port Otago equity book value.

Annual shareholder returns*



Source: Annual Reports

Return on shareholder funds**

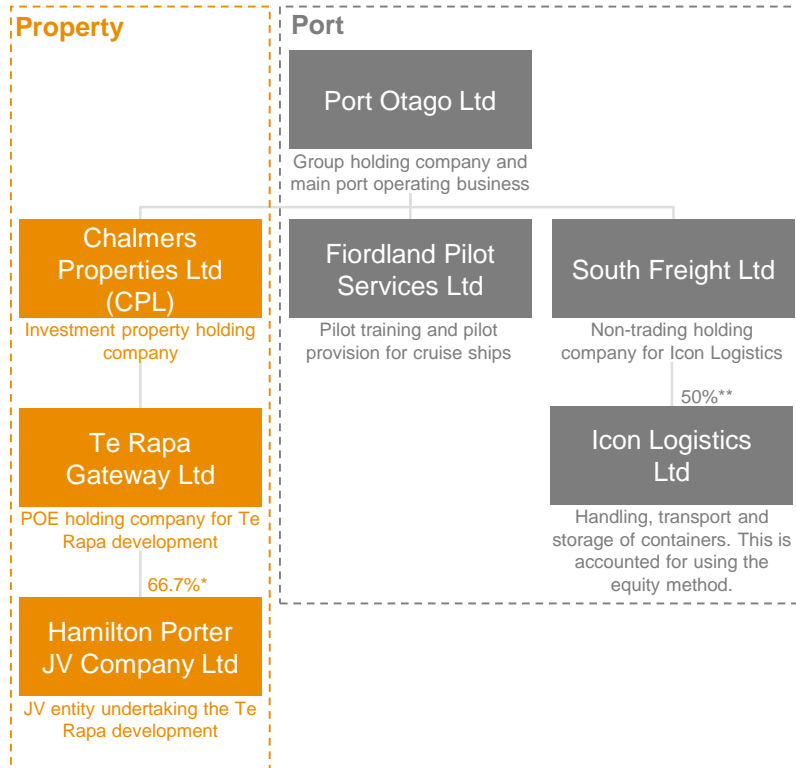


Source: Annual Reports

Port Otago structure

Along with its port operations, Port Otago has significant property investments through its subsidiary company Chalmers Properties Ltd. Property now contributes more than half of total EBIT.

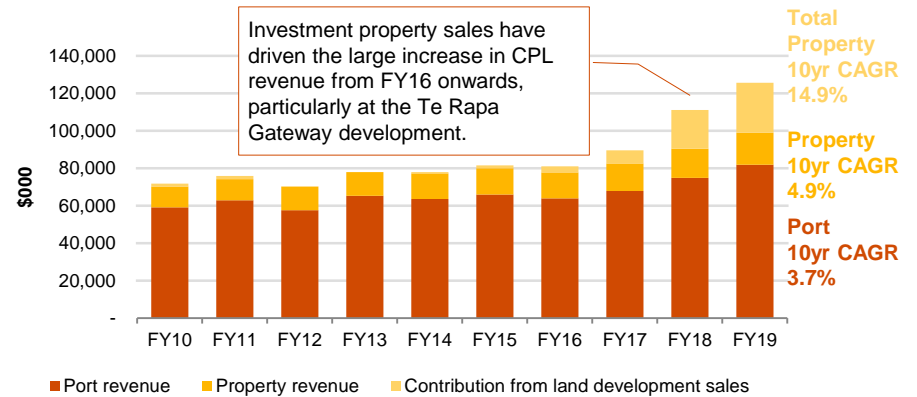
Port Otago company structure



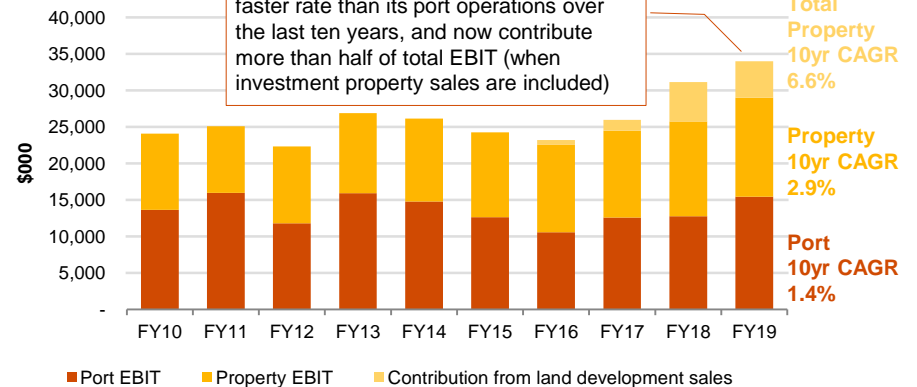
* The Te Rapa Gateway development is being undertaken as a JV between CPL and R&M Corporation Ltd (owned by the Porter family).

** Icon Logistics Ltd is 50% owned by a 50:50 JV between transport companies HW Richardson Group Ltd and Dynes Transport Tapanui Ltd.

Revenue contribution



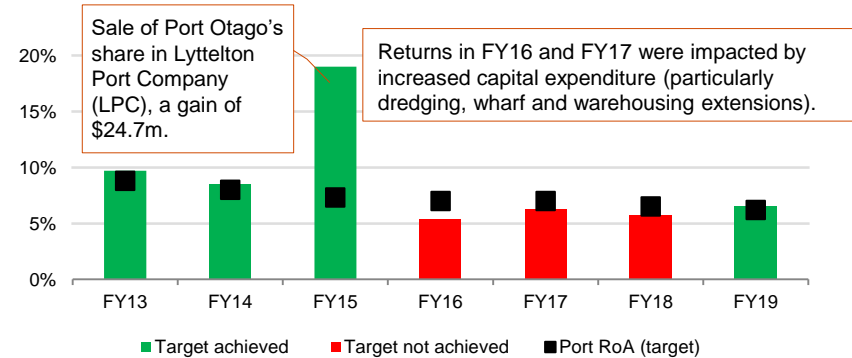
EBIT contribution



Return on assets

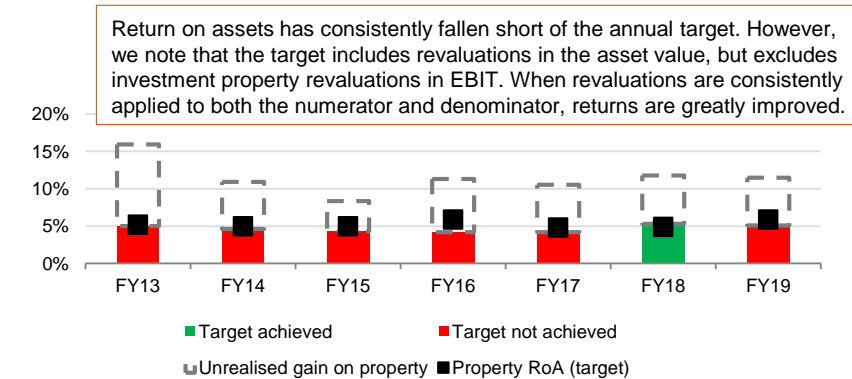
Return on assets for port activities is comparable to its main competitor, Primeport Timaru. Property returns are driven by strong growth in property asset valuations and investment in development properties.

Return on assets* – Port



Source: Annual Reports

Return on assets**, *** – Property



Source: Annual Reports

Port Otago Strategic Asset Review
PwC

* Port RoA calculated as port EBIT/port average assets

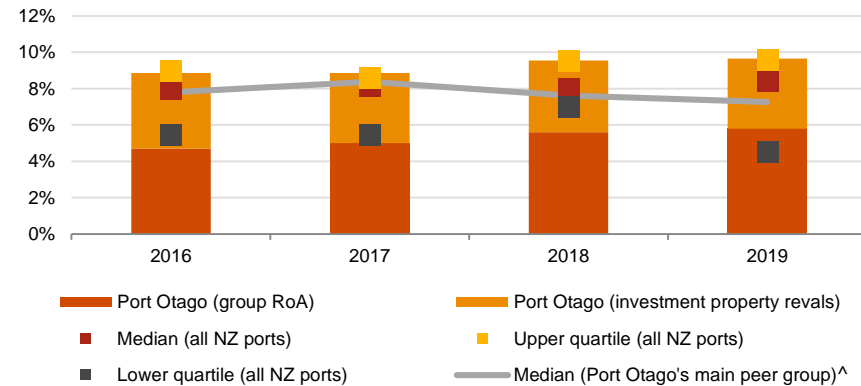
** Property RoA calculated as property EBIT/property average assets. Average assets includes revaluations, while EBIT does not include revaluations.

*** Unrealised gain on property calculated as unrealised change in investment property/property average assets. Average assets includes revaluations.

**** Group RoA calculated as total EBIT/total average assets. Investment property revaluations are included in EBIT for all peers.

^ Port Otago's main peer group consists of Lyttelton Port, Napier Port, Primeport Timaru and South Port.

Return on assets**** – New Zealand ports



Source: Annual Reports of NZ ports

When investment property revaluations are included in the return on assets calculation, Port Otago has been above the industry median, and in line with its regional competitor Primeport Timaru. We note Port Otago has a different asset mix than the other NZ ports given its higher weighting towards property investments and developments.

Our view

- Port performance is in line with its main container competitor, Primeport Timaru.
- When investment property revaluations are consistently applied in the return on assets calculation, returns have consistently exceeded targets.

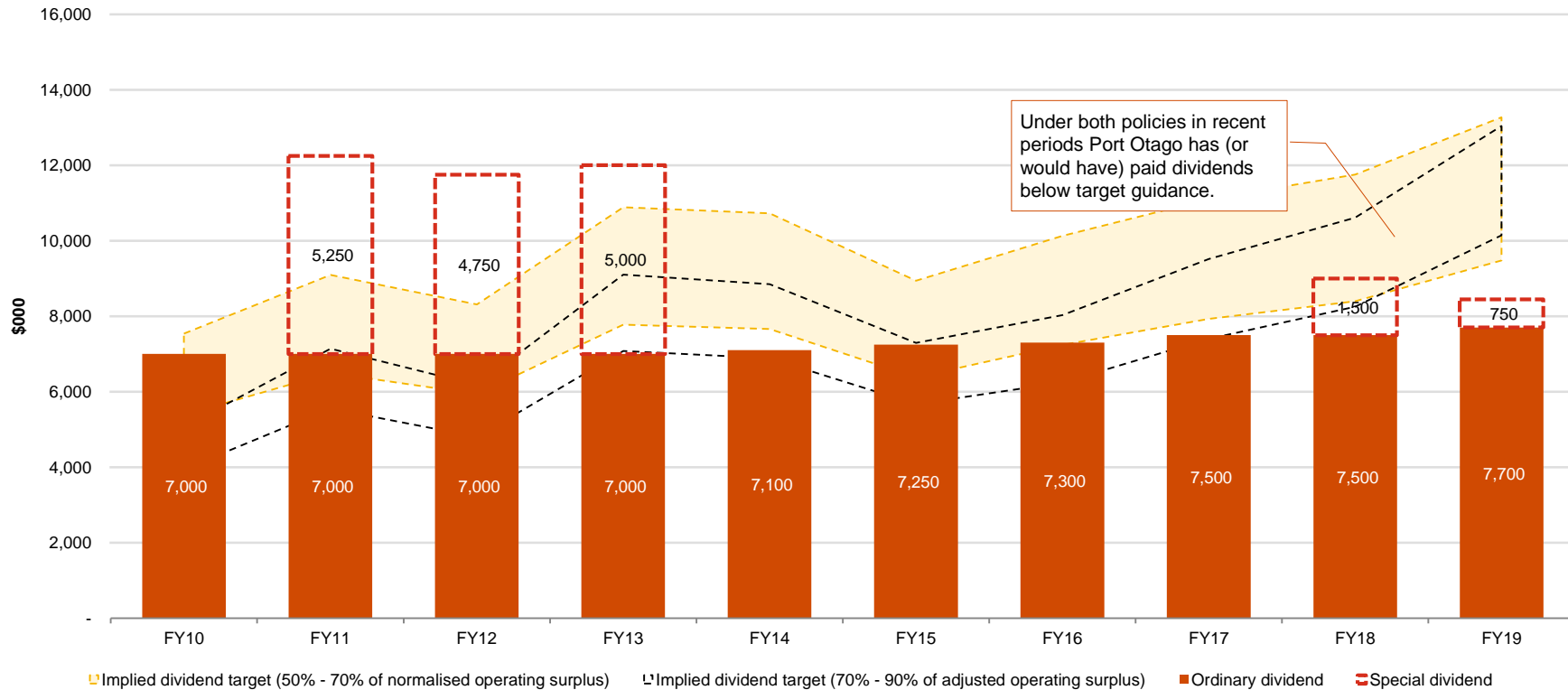
March 2020

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Dividend policy options

On a percentage of normalised operating surplus basis, over the last ten years Port Otago has been at the low end (or below guidance), however dividends paid have been consistent with those set out in the Council’s Long Term Plan. We propose adjusting Port Otago’s dividend payout ratio for “stay in business” capex which accounts for differences between depreciation and capex (refer grey lines).

Historical dividends declared vs dividend policy



Source: Annual Reports





Port Otago Strategic Asset Review

March 2020

PwC * Normalised Operating Surplus calculated as NPAT – gains and losses on assets (realised and unrealised) – less any tax adjustments. [Calculated in line with methodology provided by Council] 8
 ** Adjusted operating surplus calculated as normalised operating surplus + depreciation – stay in business capex.

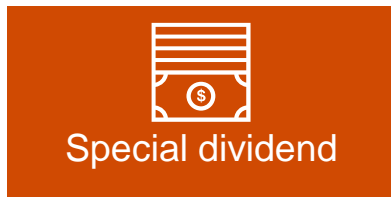
Ownership options

There are a number of options available to Council, each of which could result in upfront proceeds through either the sale of equity and/or special dividends paid.

Ownership options	Retains operating control	Retains majority ownership	Special dividend payable	Capital released for reinvestment	% of retained ownership	Maintains Council income	Environmental impact	Risks
 Status quo 1 Council to retain 100% ownership. Option to pay a special dividend and to revise Port Otago dividend policy, based on NZ port company benchmarking and consideration of capital expenditure requirements.	Yes	Yes	Yes	No	100%	Yes	No impact	Higher gearing Interest rate risk
 Initial public offering 2 Initial public offering (IPO) on the NZX. A partial listing of up to 49% shareholding (ie a free float of 49%) would allow Council to retain majority ownership and effective control. There are a number of examples of mixed ownership resulting in successful outcomes for both Crown and Council vendors.	Yes	Yes	Yes	Yes	51% - 75%	No	Yes Council will have control but significant minority shareholding influence	Market risk IPO discount Time and cost Stake to be sold
 Private sale 3 Private sale of Council shares in Port Otago. Similar to the IPO option, Council could retain effective control through the sale of up to 49% of shares in Port Otago. Also, similar to IPO, Council could sell more than 49%.	Yes	Yes	Yes	Yes	51% - 75%	No	Yes Council will have control but significant minority shareholding influence	Potential for misalignment of shareholder interests Minority discount Time and cost Stake to be sold
 Concession sale 4 Contracting for the operation of Port Otago to a private investor through a long term operating lease (typically 50 – 99 years) in exchange for an upfront fee. The Port would retain ownership of the land and assets, and operations would revert to the Council upon the conclusion of the lease period. There are no such models in operation in New Zealand, however it is common overseas (including Australia).	No	Yes After concession period	No	Yes Sale of lease	100% Ownership of equity retained but no dividends received over concession period	No	Yes Limited Council influence. Level of influence would depend upon lease agreement	Value uncertainty No operational control Time and cost No local precedents

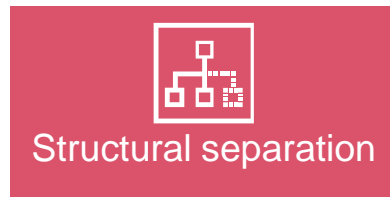
Other considerations

Prior to pursuing any of the ownership options there are a number of factors Council should consider, including payment of a special dividend, a detailed review of ownership models, likely transaction timeframes, and the implications of the current structure which includes both port and property operations.



Prior to any ownership change (if pursued) and irrespective of ownership, Port Otago could consider the payment of a special dividend to Council, as it has done in the past, based upon consideration of Port Otago gearing compared to its comparable companies.

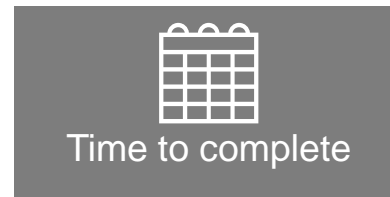
A special dividend could be paid through re-gearing Port Otago in line with New Zealand ports, and after taking into account forecast capital expenditure requirements.



Each option considered involving ownership change (ie 2 to 4) will require consideration of structural separation of CPL from the port business.

Both businesses also have different performance drivers, which may mean performance (and by association dividends) could be improved without the complication of managing both businesses.

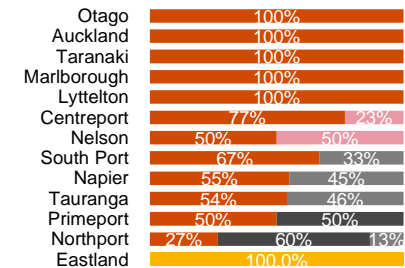
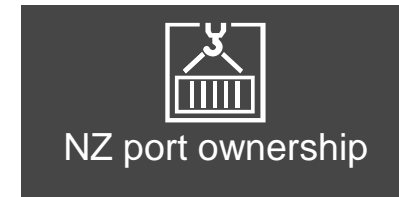
In addition, it is worth noting that each business may attract different investor interest and therefore may benefit from sale separately.



Council should keep in mind that a change of ownership process can be lengthy, particularly when all the stages are considered.

For example, the Napier Port IPO process took over two years to complete, starting with a capital structure review in 2017 and culminating in NZX listing in August 2019.

Transaction timeframes will also depend upon whether structural separation is decided upon, the extent to which Port Otago is prepared for sale/IPO and whether OIO approval is required.



Source: Annual Reports

The majority of New Zealand ports remain 100% council owned. However a number have shifted to a mixed ownership model, noting there are no privately owned or concession run ports.

Mixed ownership allows the release of capital through an upfront share sale and can drive improved returns due to market expectations of dividends. Noting that this can lead to under investment in capex.

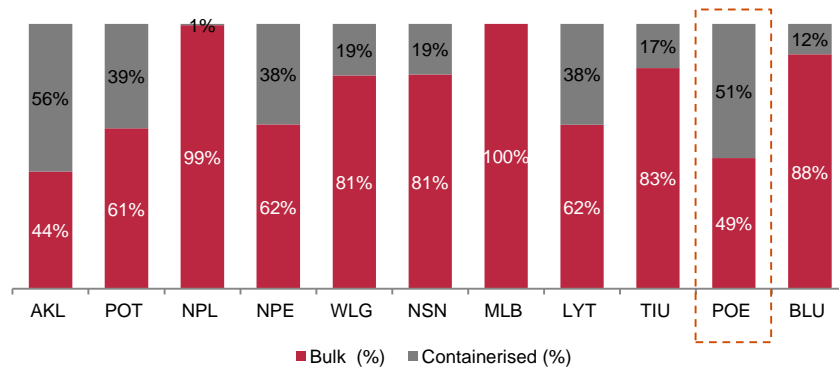
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Port overview

Port operations overview

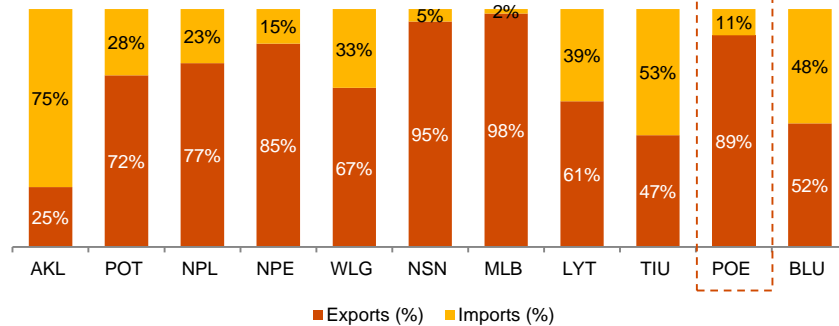
Port performance (ie excluding CPL) is primarily driven by Otago, Southland and South Canterbury export volumes, and in particular dairy, meat and forestry trade within these regions.

Port throughput NZ port comparison* (container vs bulk)



Source: FIGS (12mths to Jun-18)

Import vs export NZ port comparison*



Source: Infoshare (Stats NZ)

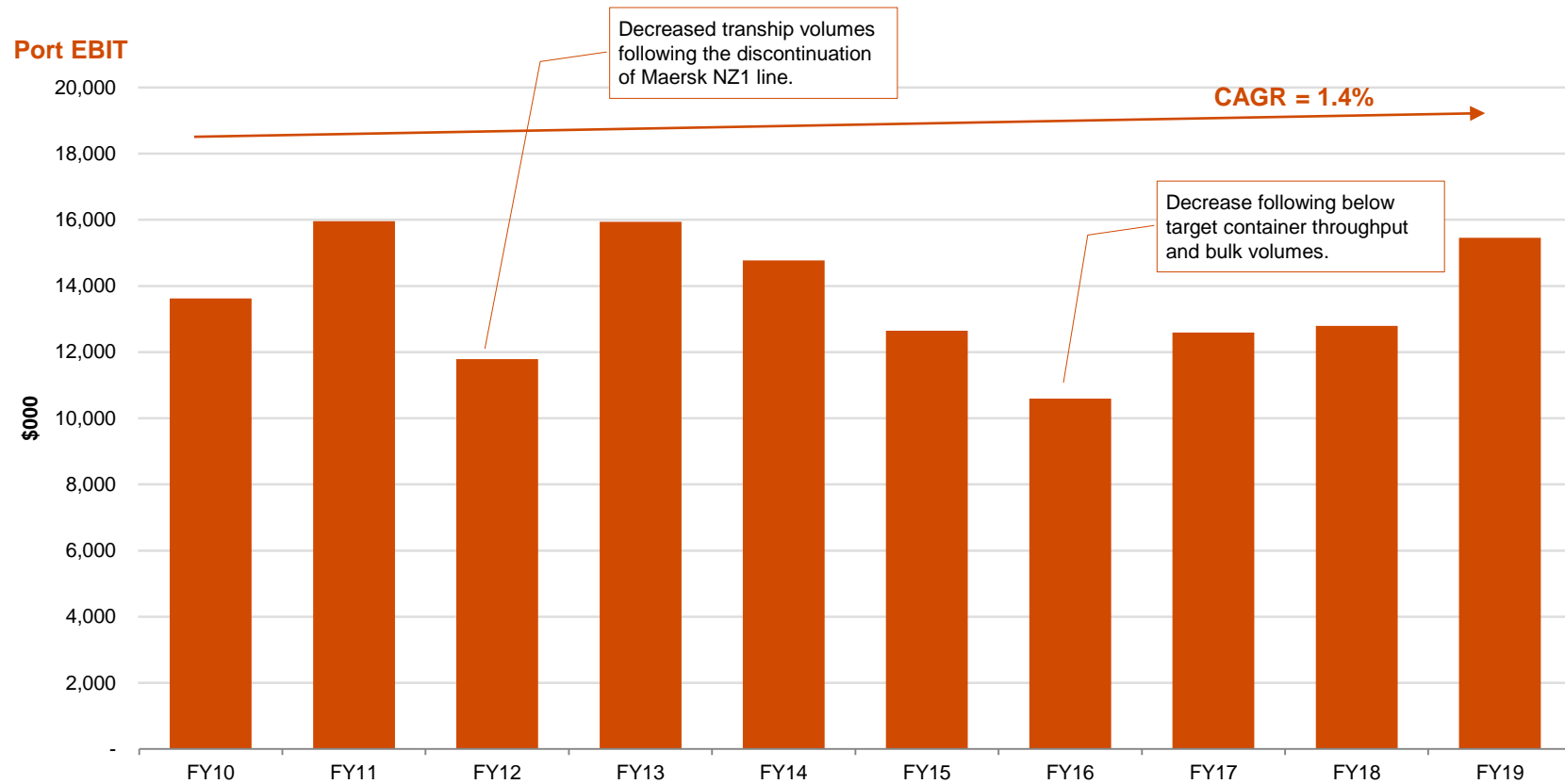
- Port Otago (POE opposite) is unique in that it is evenly split between containerised and bulk, whereas other New Zealand ports are weighted more heavily towards bulk. Container throughput is therefore a larger revenue driver than other New Zealand ports, such as Napier Port and South Port. Noting that Port Otago has also benefitted from increasing cruise ship arrivals.
- Throughput increases/declines are fundamentally driven by Otago and Southland regional growth/decline, but also South Canterbury. Demand from New Zealand's major trading partners, such as China, is also a factor in throughput.
- Port Otago has strong regional competitors in Primeport Timaru and South Port. Container throughput growth has been limited over the last ten years (even decreasing slightly), as a result of regional competition.

Our view

- Port Otago is primarily an export port and competes regionally with Primeport Timaru and South Port.

Port EBIT

Port EBIT has grown at a modest 1.4% over the past ten years. Port EBIT has fluctuated over the historical period, driven by movements in underlying container and bulk volume demand, as well as cruise ship calls.

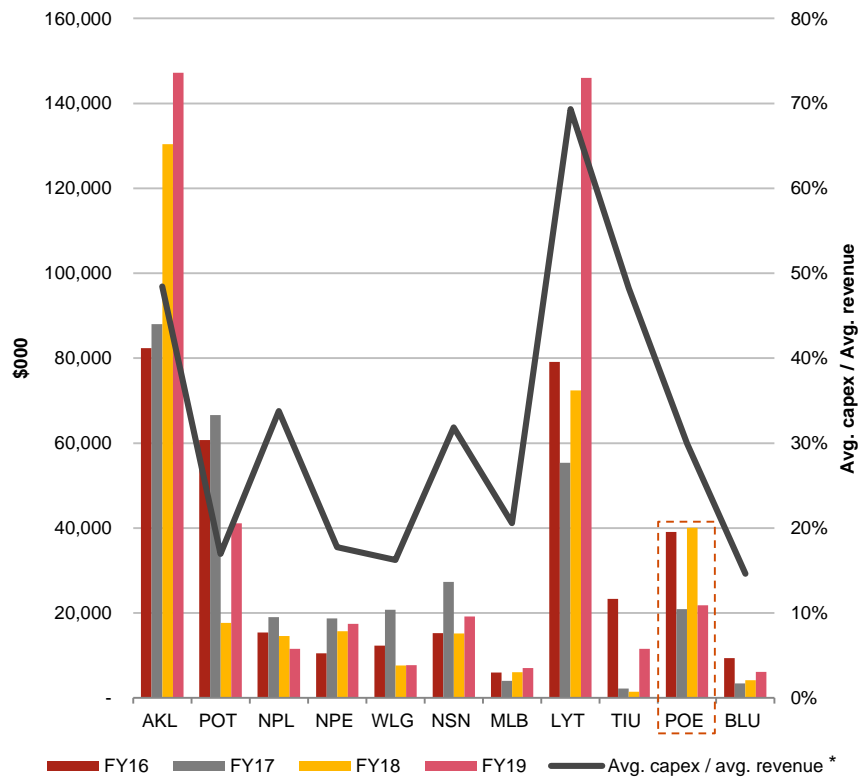


Source: Annual Reports

Port capital expenditure

Port Otago has invested significantly in port related capex relative to other New Zealand ports.

Port capital expenditure NZ port comparison



Source: Annual Reports of NZ ports

Port Otago Strategic Asset Review

PwC * Calculated as 4yr average of capex (FY16-19) divided by 4yr average of revenue (FY16-19).

- Port Otago port related capex compared with other NZ ports from FY16 to FY19 is presented opposite. Port Otago's capex has been significant over the last ten years as a result of its Next Generation project which was completed in FY19. FY18 port related capex, a particularly large expenditure year, included the purchase of the Takutai dredge, channel dredging, the 135 metre wharf extension at Port Chalmers, and log storage investment. FY16 also saw significant investment including channel deepening and the purchase of the Arihi tug.
- Port Otago has invested significantly in capex relative to its size compared with other New Zealand ports, particularly compared to South Port. Outside of 2016, in which Primeport Timaru invested in its No2 Wharf, Primeport Timaru's capital investment has been comparatively small over the last four years when compared to Port Otago. Lyttelton Port's capex was consistently large over the last four years, largely driven by its post earthquake recovery plan. In particular, expenditure was significant in 2019 due to the construction of a new cruise ship berth and further reclamation works.

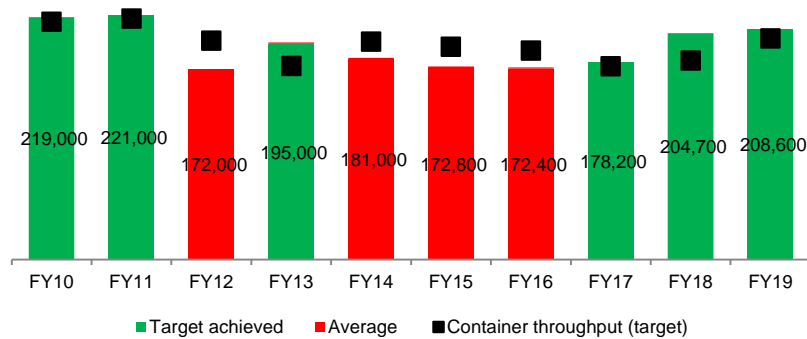
Our view

- Port Otago's capex spend over the last five years has been substantial and should improve the long term future competitiveness of Port Otago.

Performance drivers: Container throughput

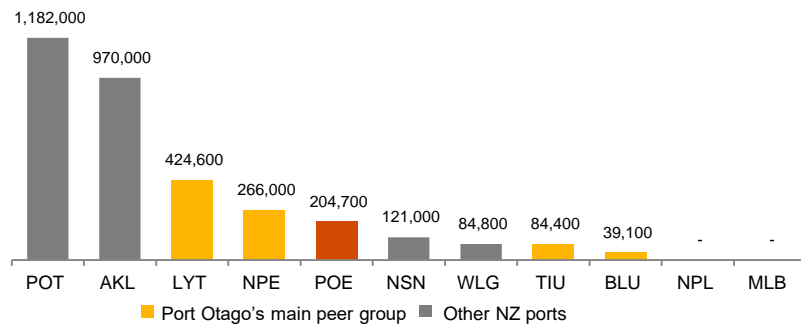
Over the last ten years, Port Otago has had strong regional competition from Primeport Timaru and South Port which has impacted its volumes. However, investment in dredging should drive increased container throughput given the trend towards larger shipping vessels.

Container throughput (TEUs)



Source: Annual Reports

Container throughput NZ port comparison (TEU, FY18)



Source: Annual Reports of NZ ports, Deloitte New Zealand Ports and Freight Yearbook 2019

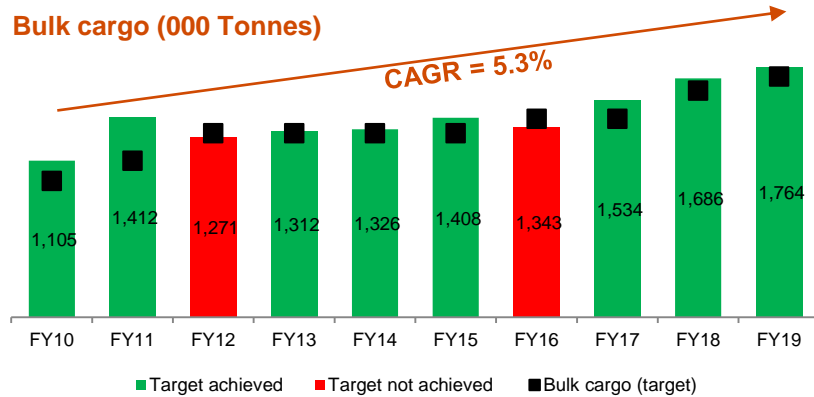
- Port Otago reports each year against its performance targets set out in the SCI. We present opposite Port Otago's performance against its container trade volume targets over the last ten years.
- Port Otago has mostly met its container targets over the last ten years, however there have been notable exceptions:
 - **FY12:** this decline was predominantly due to a decrease in tran-ship volume as a result of Maersk discontinuing the NZ1 service for which Port Otago acted as a hub, receiving cargo produced in other regions.
 - **FY14-FY16:** tran-ship and South Canterbury trade volumes decreased further as a result of competition from Primeport Timaru, which benefited from the ten year strategic freight agreement between Port of Tauranga, Kotahi (joint venture between Fonterra and Silver Fern Farms) and Maersk to ship freight through Primeport Timaru.

Our view

- Container throughput is driven primarily by economic activity within the wider region. We expect growth to be flat given strong competition.
- However, investment in dredging has allowed for larger container ships to make calls at Port Otago, therefore Port Otago is well positioned in the longer term given trends towards larger vessels within the global shipping industry.

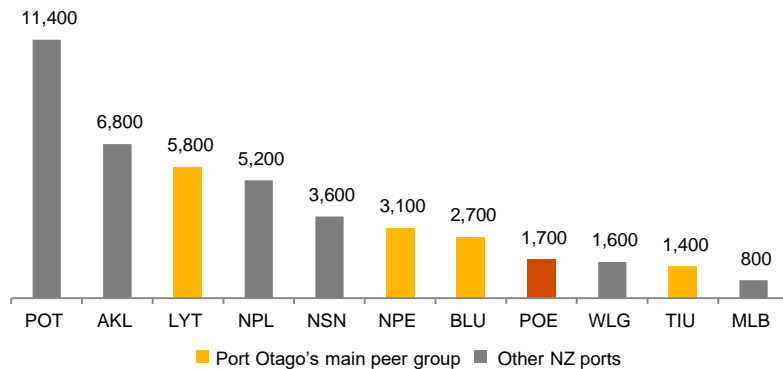
Performance drivers: Bulk volume

Log exports are the largest contributor to bulk cargo volumes each year. Tonnage has increased over the last ten years in line with harvest volume increases within the wider region.



- Bulk cargo has grown steadily over the last ten years and has met its targets in all but two years (refer above opposite). The main driver of this growth was log exports, which increased from ~508k tonnes in FY10 to 1.15m tonnes in FY19. Port Otago has invested in log storage to ensure it has capacity to meet increased harvest volumes in the future.
- We understand from management that, based on harvest forecasts received from customers, log volumes are expected to continue to grow in the near term (post Coronavirus disruption). This is driven by mid-1990s planting within the region. We present below opposite a comparison of Port Otago bulk volumes with other NZ ports.
- Other drivers of Port Otago bulk volume are fuel oil, cement and fertiliser. Bulk mix varies across New Zealand ports (eg coal at Lyttelton). Similar to container throughput, volume is largely driven by economic factors within the Otago, Southland and South Canterbury regions.

Bulk cargo NZ port comparison (000 Tonnes, FY18)



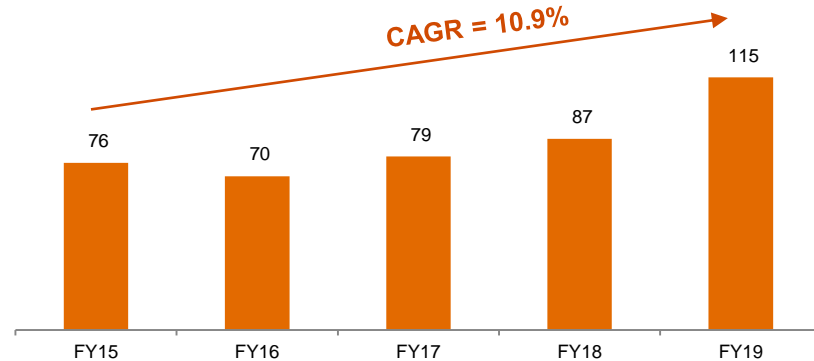
Our view

- Log volume will be a factor of both supply (driven by log harvests) and demand, particularly from China as the main trading partner for New Zealand logs. Demand continues to be strong from the Chinese construction industry but will be impacted by macro-economic factors, such as US-China trade tension. However, we expect volume to continue to increase in the near term (given demand and supply factors).

Performance drivers: Cruise ship calls

Cruise ship calls increased significantly in FY19 (115 from 87), bringing 238,000 passengers to the region (second only to Auckland).

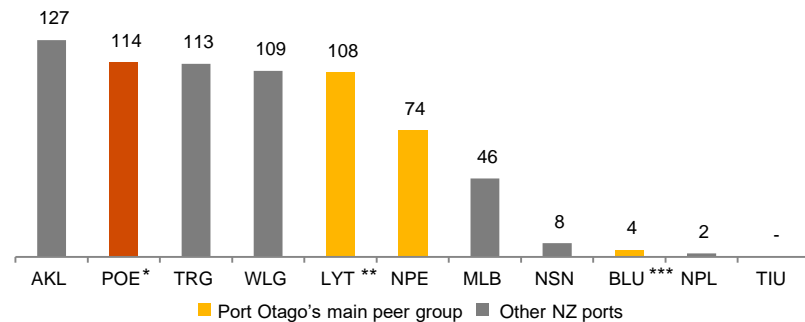
Cruise ship calls



Source: Annual Reports

- Cruise ship calls has grown at a CAGR of ~10.9% over the last four years reaching 115 in FY19. It is above its main peer group and second only to Auckland, although more competition is expected based on recent capex investments by its regional competitors.
- The recent increase was partly enabled by the \$23m investment in the wharf extension as part of the Next Generation project. As at 30 June 2019, 130 cruise ships bookings had been received. We note, however cruise ship calls may be impacted, at least in the short term, by the disruption caused by Coronavirus.

Cruise ship visits NZ port comparison (12mths to Sep-19)



Source: New Zealand Cruise Association, 2018-19 cruise ship schedule

Our view

- Statistics New Zealand estimate cruise ship spending in Dunedin for FY19 was ~\$60m, emphasising the importance of cruise ships to the region.

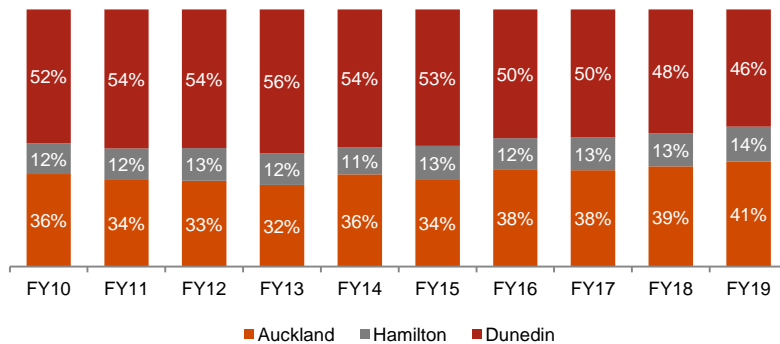
3

Property
overview

Property operations overview

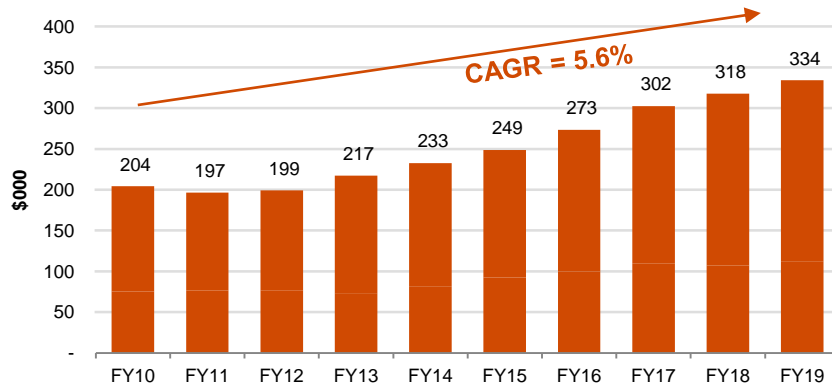
Port Otago’s property asset portfolio has increased by \$130m over the last ten years largely as a result of unrealised revaluation increases.

Investment property by region



Source: Annual Reports

Investment property (including revaluation)



Source: Annual Reports

Port Otago Strategic Asset Review
PwC

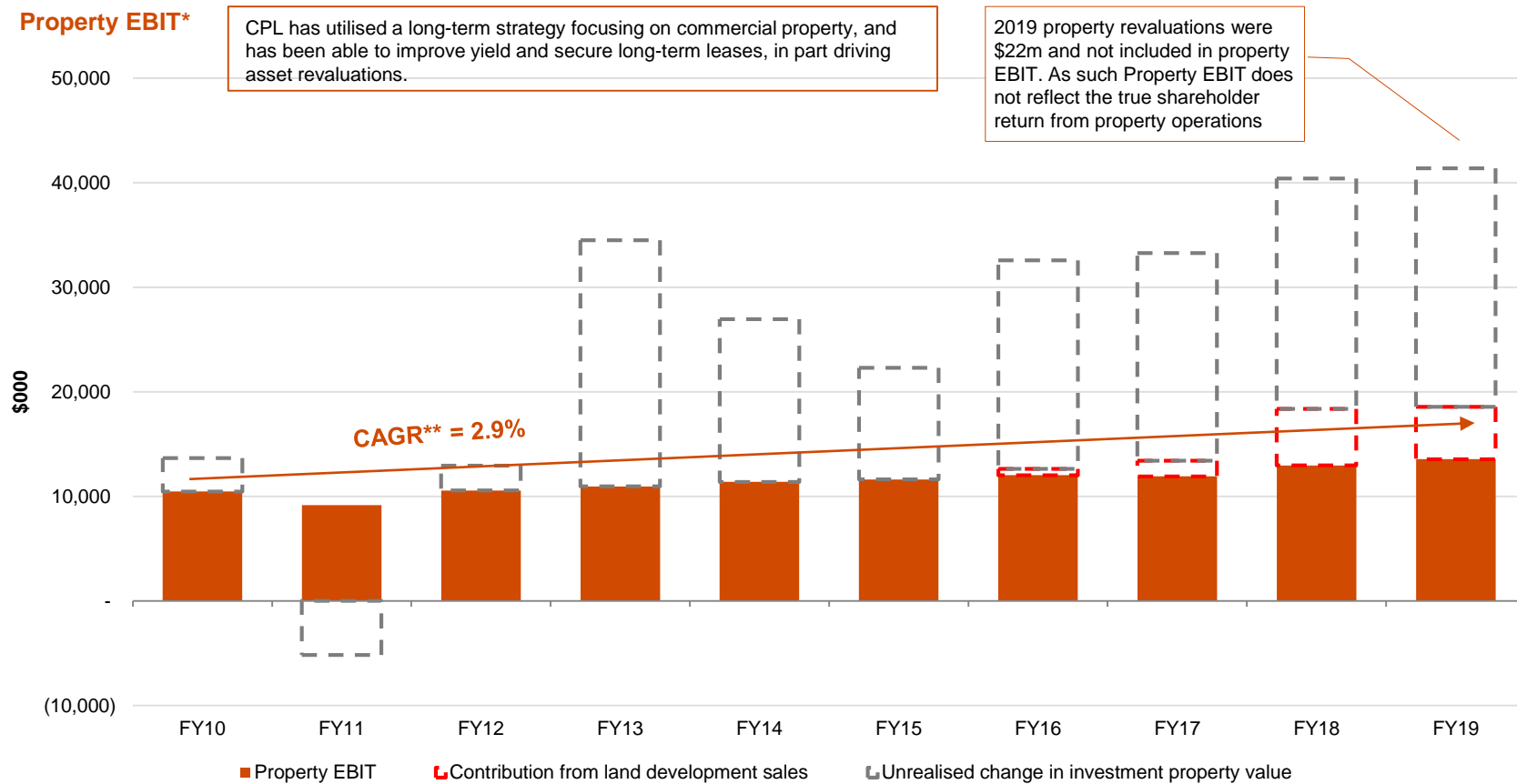
- Over the last ten years CPL’s property portfolio has shifted so the majority now sits outside of the Dunedin region. This trend is expected to continue with CPL currently developing land in Auckland (Oak Road Industrial Park) and Hamilton (Te Rapa Gateway) with the intention to design, build and lease the developments.
- The Te Rapa Gateway development is currently in progress with 13.5ha completed over last 18 months and 7ha currently under development. CPL is expecting to continue to sell excess land not planned for development.
- Investment property value has been primarily driven by revaluations, in particular Auckland and Dunedin.

Our view

- By asset value, CPL has increased its investment in the Auckland region relative to Dunedin and Hamilton.
- CPL has also increased the rate of sale of its development properties to drive new investments in these regions.

Property EBIT

Property EBIT has increased on average at over double Port EBIT's average growth rate per annum. Recent years have included an increase in the amount of investment properties due to more developments undertaken.



Source: Annual Reports

Port Otago Strategic Asset Review

PwC * EBIT does not include property revaluations or sale of investment property.
 ** CAGR does not include property revaluations or sale of investment property.

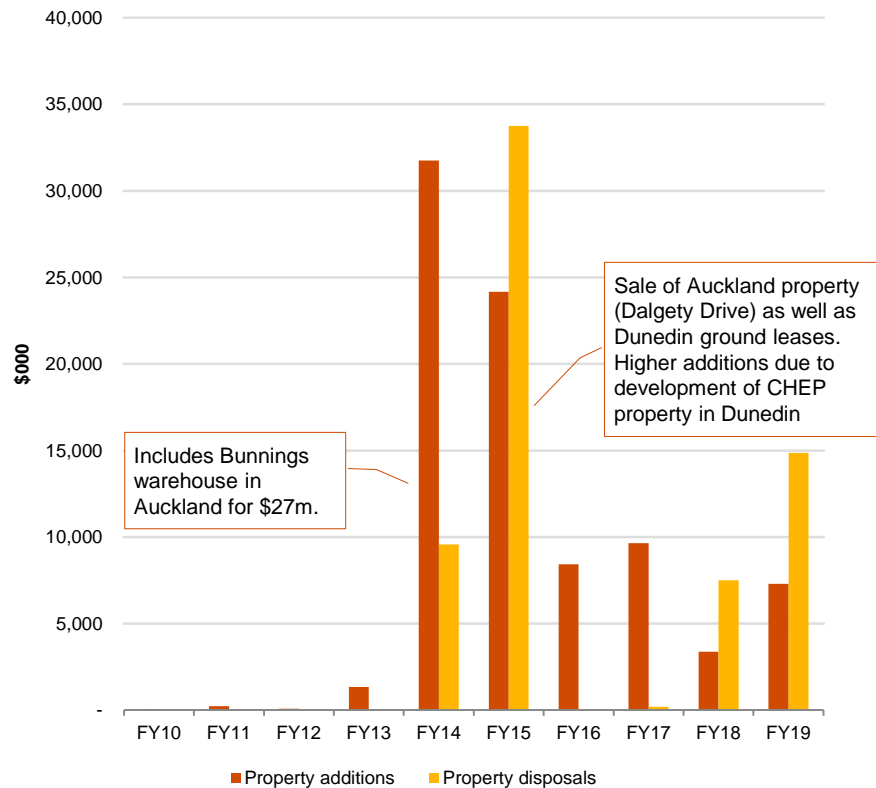
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Property Capital expenditure

Property related capex has been funded predominantly by recycling of funds from property disposals.

Property capital expenditure



Source: Annual Reports

- Property related capex from FY10 to FY19 is set out below opposite alongside property related disposals. Disposals have largely funded capex investment.
- FY14 capex included the purchase of a Bunnings warehouse in Auckland for \$27m. In FY16 and FY17 property related capex included construction of Steel & Tube premises in Dunedin, the Te Rapa Gateway development and refurbishment of Rosebank Rd.

Our view

- CPL has continued to invest in Auckland and Dunedin, as well as its Te Rapa Gateway development in Hamilton.

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Port Otago
dividend policy

Current dividend policy

Ordinary dividends paid have been at the low end of guidance over the last ten years but consistent with amounts agreed in the Council long term plan. Port Otago’s current policy is based upon a percentage of operating surplus adjusted for unrealised gains and one-off items, but makes no adjustment for differences between depreciation and amortisation and capex.

Overview of historical dividends and policy

Port Otago’s current dividend policy, as set out in the SCI is set out below:

“The intention is to maintain ordinary dividends at least at \$7.5 million, increasing over time to within the range of 50% to 70% of the group’s normalised operating surplus after tax.”

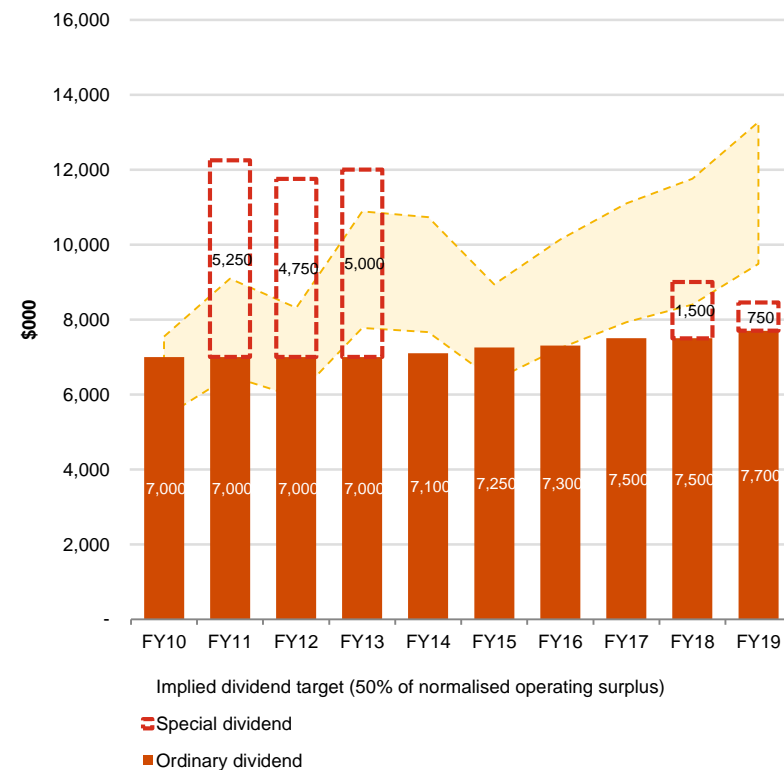
- Statement of Corporate Intent (June 2019)

Normalised operating surplus is calculated as net profit after tax excluding non-operating income and expenses, as well as profits from equity accounted investments. Normalised operating surplus therefore excludes gains and losses (realised and unrealised), property valuation increases, and one-off or non-recurring items which distort earnings available for ordinary distributions. However, the policy makes no adjustment for any differences between depreciation and amortisation and capital expenditure.

Port Otago is targeting to retain 30% to 50% of normalised operating surplus to grow its reserves and to help fund future capital expenditure requirements.

As demonstrated in the chart opposite, Port Otago has consistently paid out ordinary dividends of ~\$7m to ~\$7.7m, at the low end of dividends implied by its dividend policy (albeit this is current policy rather than the policy applicable at the time of payout). Port Otago has paid special dividends when requested by Council of ~\$17m in total over the ten year period.

Historical dividends declared

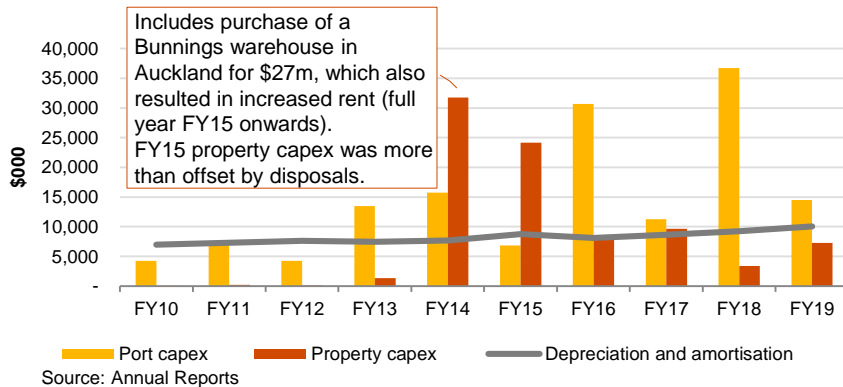


Source: Annual Reports

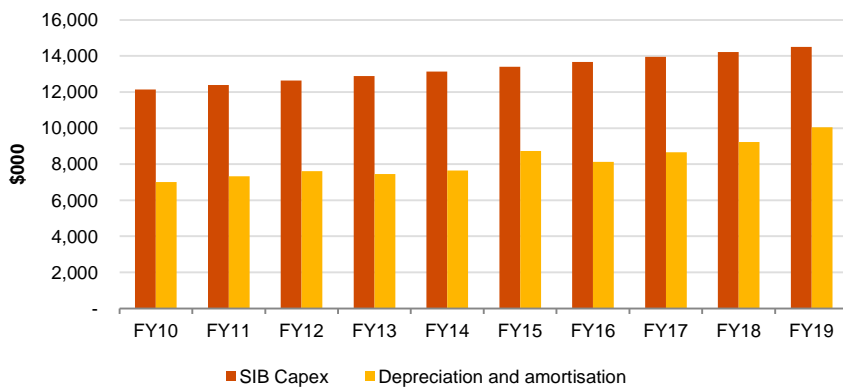
Capital expenditure and depreciation & amortisation

Port related capex has averaged ~163% of depreciation & amortisation over the last ten years, which reflects the high capital intensity of the business. Property related capex has fluctuated over this period and has been partially funded by recycling of funds from property investment disposals.

Capex and depreciation & amortisation



“Stay in business” capex*



Port Otago Strategic Asset Review

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* Stay in business capex calculated as ten year average in FY19 and deflated at 2% for prior years.

- Capex compared with depreciation and amortisation is presented opposite. We note that management guidance is that depreciation & amortisation relates primarily to the port business (investment properties are not depreciated).
- Port Otago has invested significantly in port related capex over the last ten years. Management do not view a portion of this expenditure as growth capex, but rather view all capex spent as “stay in business” (SIB) capex. Consistent with management guidance port related capex has averaged 163% of depreciation and amortisation over the last ten years, which is consistent with management guidance of tending to be between 150% and 200% of depreciation and amortisation. We would also typically expect capex to on average exceed depreciation with regard to the port business given assets are long lived.
- Given capex is cyclical in nature, we have normalised SIB capex by taking the ten year average of \$14.5m (and deflating this for prior years at 2% per annum in line with inflation).
- We have done this for discussion purposes, but Port Otago should review its forecast capex requirements in detail if it is to be factored in to dividend policy.
- We have not included property related capex in SIB capex given it is funded partially out of the recycling of funds received from disposals of investment property, and can be also funded through debt.

Our view

- With regard to dividend policy, in our view SIB capex is a better measure of capital investment requirements than depreciation & amortisation (and unadjusted capex, which fluctuates greatly from year to year).

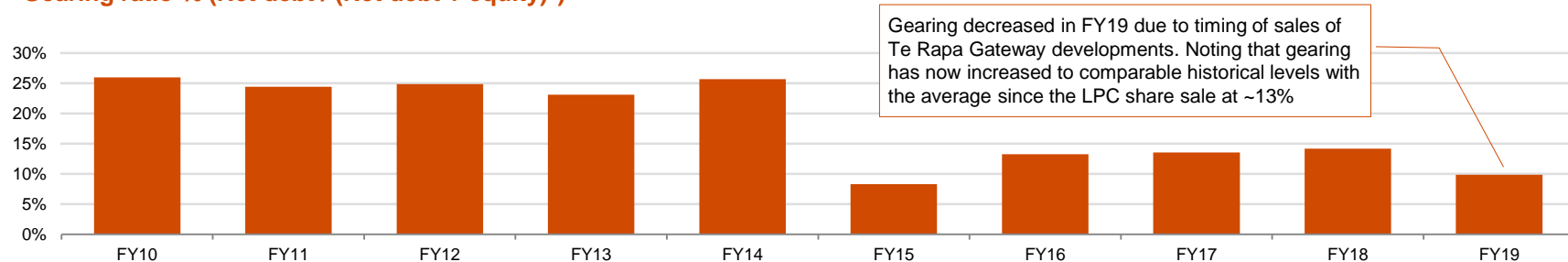
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Historical gearing

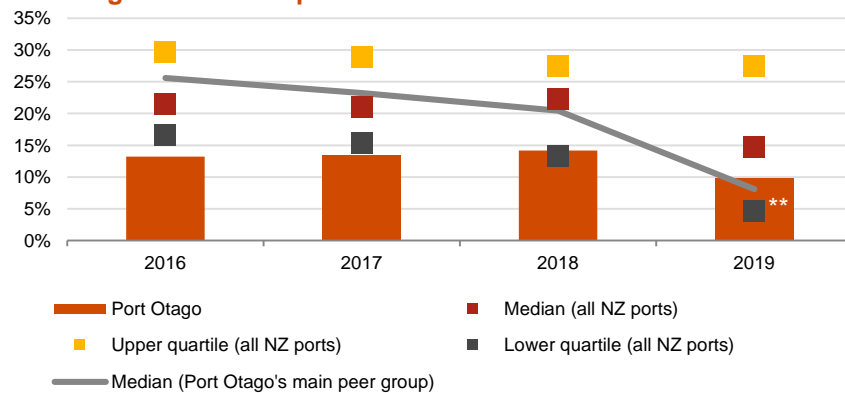
Gearing, ie debt borrowing relative to equity, is an important consideration with regard to the proportion of earnings paid out as dividends. Port Otago gearing has decreased significantly over time as a result of retention of proceeds from the LPC share sale in 2015 and retention of capital to fund Next Generation project.

Gearing ratio % (Net debt / (Net debt + equity)*)



Source: Capital IQ

Gearing ratio %* - NZ ports



Source: Annual Reports of NZ ports

Our view

- Port Otago gearing is low when compared with other NZ ports, suggesting that Port Otago could potentially utilise more debt in its capital structure to finance its capex requirements, particularly given the current low interest rate environment. However, we understand current gearing has increased subsequent to 30 June 2019, and as at 31 December had reached ~14%. The ten year average is ~18%.
- Re-gearing Port Otago to be more in line with other NZ ports could potentially allow the payment of a special dividend to Council without impacting Port Otago's ability to fund its future capex requirements. Setting an appropriate special dividend amount would require consideration of Port Otago's future capex requirements in detail.

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* Book value of equity.

** Napier Port paid and CentrePort Wellington had no debt as at their balance dates. We note Napier Port will be increasing borrowing to fund 6Wharf and has facilities of \$180m.

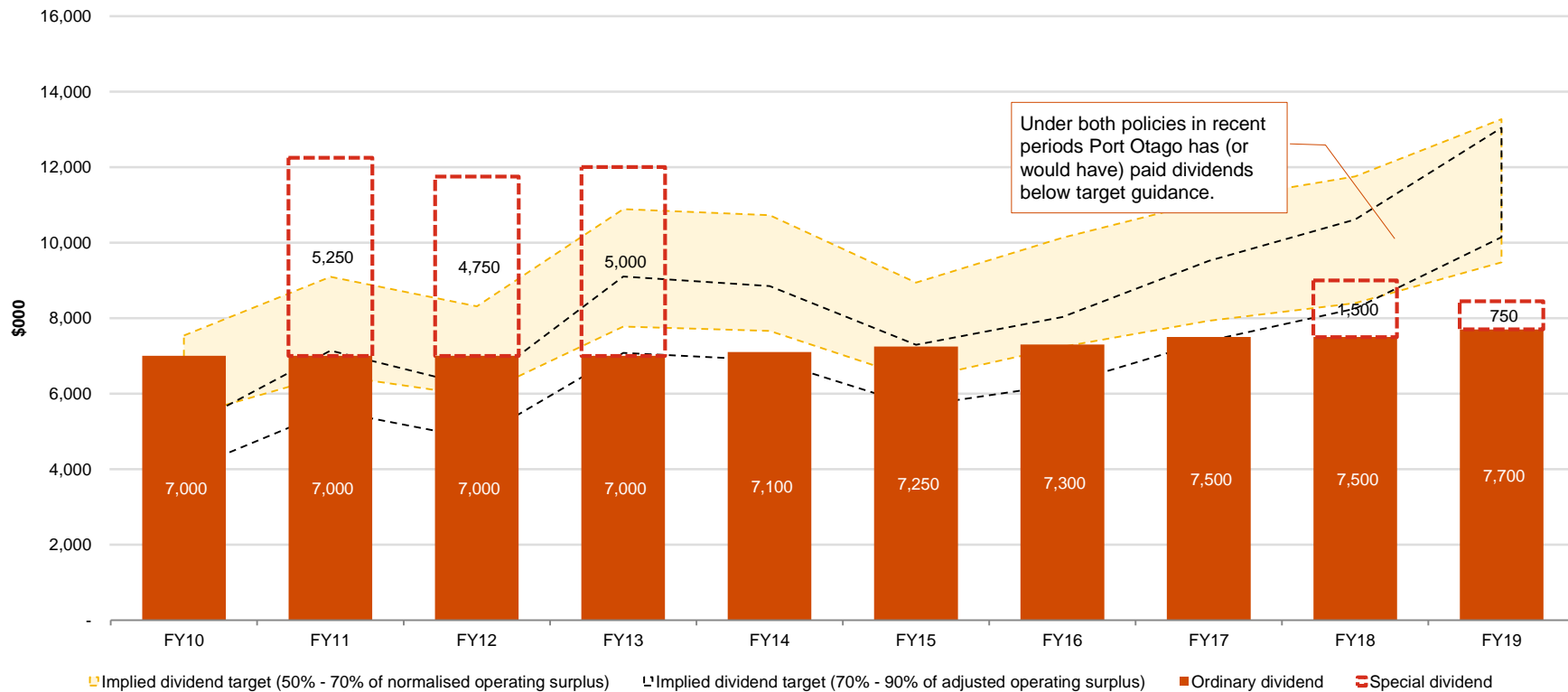
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Dividend policy options

We propose adjusting Port Otago’s dividend payout ratio for “stay in business” capex, which results in a normalised operating surplus that is more reflective of cash available for dividend payments, resulting in a tighter guidance band (refer dark grey lines).

Historical dividends declared vs dividend policy



Source: Annual Reports

5

Ownership
options

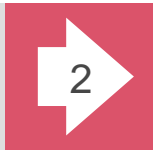
Ownership options considered

We have considered four ownership options from full Council ownership to partial and full sale of Council shares in Port Otago. All “change” options included consideration of separation of the port business and CPL.



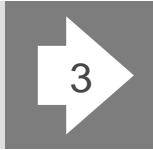
Status quo

Council to retain 100% ownership of Port Otago. Port Otago may revise its dividend policy based on NZ port benchmarking and after accounting for forecast capital expenditure requirements. The option is also available for Port Otago pays a special dividend to Council through re-gearing Port Otago in line with other NZ ports.



Initial public offering

Initial public offering (IPO) on the NZX. A partial listing of up to 49% shareholding (ie a free float of 49%) would allow the Council to retain majority ownership and effective control. There are a number of examples of mixed ownership resulting in successful outcomes for both Crown and Council vendors. As an option, the Council could sell more than 49% by way of IPO.



Private sale

Private sale of Council shares in Port Otago. Similar to the IPO option, Council could retain effective control through the sale of up to 49% of shares in Port Otago. Also, similar to IPO, Council could sell more than 49%.



Concession sale

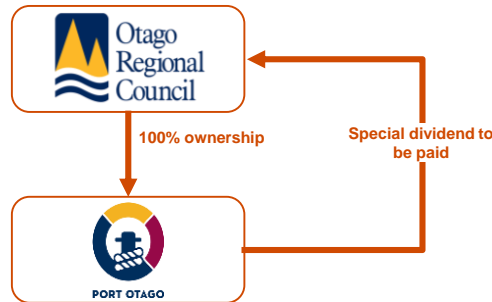
Contracting for the operation of Port Otago to a private investor through a long term operating lease (typically 50 – 99 years) in exchange for an upfront fee. Port Otago would retain ownership of the land and assets, and operations would revert to the Council upon the conclusion of the lease period. There are no such models in operation in New Zealand, however it is common overseas (including Australia). This model would likely require structural separation of the businesses given the likely different investor sets for CPL.



Option 1: Status quo

Council to retain full Port Otago ownership. Potential to adjust ordinary dividend policy and re-gearing of the Port to other NZ port equivalent levels could enable the payment of a special dividend.

Structure



No change to ownership structure. Consideration of a payment of a special dividend (through increased borrowing) and of ongoing dividend policy. However, we note increased gearing may lead to greater dividend volatility (given increased interest paid).

Qualitative considerations



Council to maintain complete control of Port Otago. This provides the greatest flexibility to alter key Port Otago operations and policies (ie dividends).



Able to maintain strong alignment between Port Otago and the Otago region, whilst enhancing returns to Council (via increased dividend payouts).



Council receives full dividend payments which could be used to fund other Council activities.



Reduced retained earnings and higher gearing **may increase the Port Otago's reliance on Council for funding capex intensive periods.**



Before proceeding, Council should determine how the special dividend proceeds will be used, for example HBRC created an equities portfolio. This is because raising debt at Port Otago (at a potentially higher cost than Council) to finance certain activities may not align with Council's intergenerational objectives. It may also be a better option that Council raises debt finance.



Level of control allows Council to implement key environmental initiatives without potential for over emphasis on commercial returns.

Quantitative considerations

Potential value released to Council



Upfront value released dependent upon special dividend. 100% of dividends, however paid out to Council.

Risks and other factors

Increased gearing. Higher gearing (if special dividend paid) is likely to reduce future ordinary dividends due to the increased interest costs.

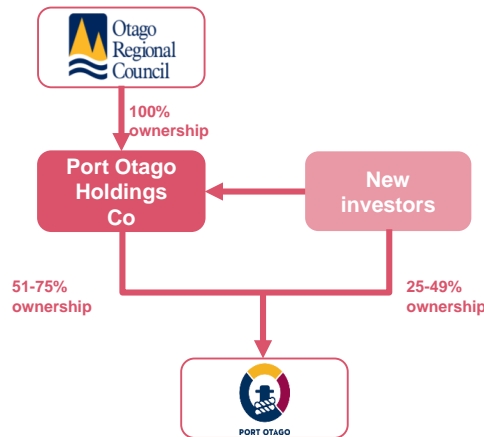
Interest rate risk. Increase in debt will increase Port Otago's exposure to market movements, which is likely to require larger hedging and may impact future returns.

Council debt funding. Cost of debt is a key consideration as Council may be able to borrow cheaper (eg under the LGFA).

Option 2: Initial public offering

An IPO would enable Council to retain control of Port Otago under a mixed ownership model that investors are familiar with. Ensuring Council is able to procure maximum value at the time of listing would be crucial as thereafter Council will be unable to realise any capital gains without sacrificing its majority stake.

Structure



New holdings company likely established to transfer Council's holding in Port Otago. This would receive consideration from investors purchasing shares in the Port.

Consideration of tax within Council group would be required given change of majority ownership (and also applicable to Options 4 and 5).

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Qualitative considerations



Widest investor universe. New Zealand retail and institutional investors will participate along with offshore institutional investors. All investors are familiar with the mixed ownership model proposed. Interest may be impacted if no broker coverage (size dependent).



As part of the IPO, a priority pool could be established for local residents. This would allow residents to continue to share in Port Otago's success.



Council will retain control of Port Otago through its majority shareholding but greater public scrutiny given reporting requirements.



On an ongoing basis, **Council's future dividends will be reduced.** To retain majority control, Council will be unable to realise any capital gains from share price appreciation.



Port Otago will retain flexibility. This will enable it to participate in future port consolidation (if considered desirable by Council).



Port Otago will be subject to NZX continuous disclosure requirements. This will introduce administrative complexity and require the establishment of an investor relations function.



Level of control allows Council to implement key environmental initiatives (albeit less than full ownership and with greater scrutiny over decision-making). Merging with other ports would require compliance with listing rules but listing also provides Council with greater liquidity.

Quantitative considerations

Potential value released to Council



Upfront value released to Council could consist of:

- a special dividend; and
- sale of shares on the NZX (25% to 49%).

The amount raised through listing will be subject to market risk and likely raised at a discount to encourage uptake.

Council would be entitled to ongoing dividend payments reflecting its shareholding (ie 51% to 75%).

Risks and other factors

Market risk. Port Otago value will now be subject to significant public scrutiny and potentially share price volatility as a result of external factors (e.g. Coronavirus).

IPO discount. Typically a discount is expected to encourage uptake. This reflects lack of control on shares sold and lack of trading history. However, we note that Napier Port listed at the top of its valuation range.

Time and cost of IPO. Adviser, legal and brokerage fees are expensive. Joint lead managers will take a % of total equity sold. There will also be additional or incremental ongoing listed company costs (NZX fees, board fees and insurance, management remuneration etc).

Stake to be sold. The proportion of equity sold will influence the potential demand for shares as well as the value of shares.

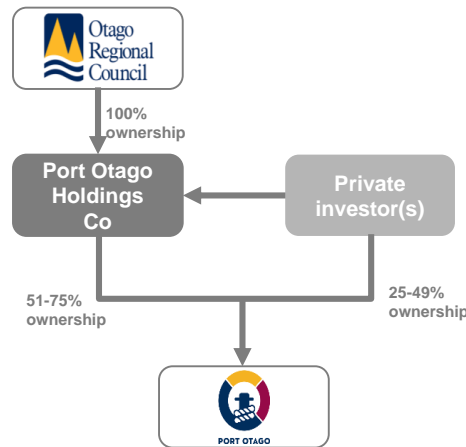
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Option 3: Private sale

Under a private sale investors will ascribe a minority discount of between 20% and 30% to reflect the lack of investment liquidity. Implementation of a robust shareholder’s agreement will reduce this discount but at the expense of Council’s future flexibility.

Structure



Large institutional investor(s) to purchase a minority equity stake in Port Otago.

A minority equity stake would likely be priced at a discount to reflect liquidity and the non-controlling interest. A stronger shareholders’ agreement outlining how key matters are resolved would help to reduce this discount, but would reduce Council’s ongoing influence.

Port Otago Strategic Asset Review
PwC

Qualitative considerations



Overseas investors are likely to be most interested in this type of transaction. Their involvement could have OIO implications, particularly given the port would be of national interest. Investor sets for port and property may differ.



Council will retain control of Port Otago but its influence will be curtailed by the shareholders’ agreement.



Option is unlikely to realise as much value as an IPO. Without a pressing requirement for additional capital, selling equity at a discounted rate may be considered inappropriate.



Retaining flexibility (via a majority holding) will enable Port Otago to participate in future port consolidation (if considered desirable).



When compared to an IPO, there are **less burdensome reporting requirements**.



Level of control allows Council to implement key environmental initiatives (albeit less than full ownership). Decision making process will also depend on the shareholders agreement. Merging with other ports would also be more complicated with a minority shareholder.

Quantitative considerations

Potential value released to Council



Upfront value released to Council could consist of:

- a special dividend; and
- sale of shares to a private investor (25% to 49%).

The amount raised through sale will be subject to a minority discount reflecting lack of marketability and control.

Council would be entitled to ongoing dividend payments reflecting its shareholding (ie 51% to 75%).

Risks and other factors

Misalignment of interests. Reduced control creates the potential for shareholder conflict.

Minority discount. Applied by investors to reflect lack of marketability and control. In particular, the size of discount will depend upon the shareholders’ agreement agreed.

Time and cost. Related to adviser and legal fees. Will also depend upon equity sold.

Stake to be sold. The proportion of equity sold will influence the potential demand as well as the value of shares. It will also impact the minority discount and cost of the process.

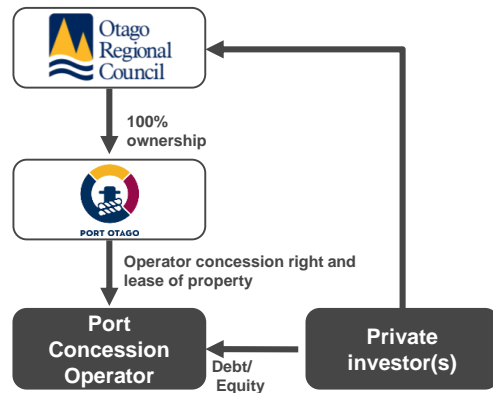
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Option 4: Concession

The concession model is likely to release the most capital to Council. However, the increased complexity and lack of Council control over the concession period may make this option unappealing, particularly given the lack of New Zealand precedents.

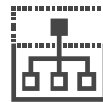
Structure



An unfamiliar model in New Zealand: Council would offer the right to a port concession to operate Port Otago under a fixed term concession (like a long term lease). Key assets, employees, contracts, liabilities and goodwill would be transferred via a concession agreement. In addition, Council would need to consider if the property business is included.

Port Otago Strategic Asset Review
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Qualitative considerations



The most structurally complex option, with operations separated from land and the property company. This will increase transaction costs.



Council has no influence over operations during the concession period, except through enforcement of the concession agreement. Council would not receive any dividends from the Port during this period either.



The operator will have **less incentive to invest in Port Otago**. However, asset handback provisions included in concession agreements provide some protection in ensuring an agreed level of asset quality at handover.



Unlikely that larger domestic parties will participate in a competitive process (although other port operators may have interest). Likely to attract significant overseas interest and this may add **OIO complexity**. Investor sets for port and property may differ.



To understand income tax payable from the transaction assets will need to be valued. Without existing precedent (eg tax rulings) this is likely to be a time consuming process.



Loss of influence will prevent Council from implementing sustainability initiatives at Port Otago. Reduced influence will also impede participation in any port consolidation (or other key sector changes) over the concession period.

Quantitative considerations

Potential value released to Council



Upfront value released to Council could consist of:

- a special dividend; and
- Consideration for the concession sold (50 to say 99 years).

The amount raised will be based upon the length of the concession.

Council would not be entitled to ongoing dividend payments.

Risks and other factors

Value uncertainty. Comparable Australian port transaction multiples have been at a significant premium to listed company trading multiples. These reflect the low cost of capital for these investors, but also the unique characteristics of Australian market (eg scale and geographic monopolies). While Port Otago will retain ownership, the value (and physical state of) the returned asset is uncertain.

No operational control. Council will no longer have control over Port Otago's operation during the concession.

Time and cost. A range of adviser and legal fees. Will depend upon the amount sold (ie if there is separation of the property business).

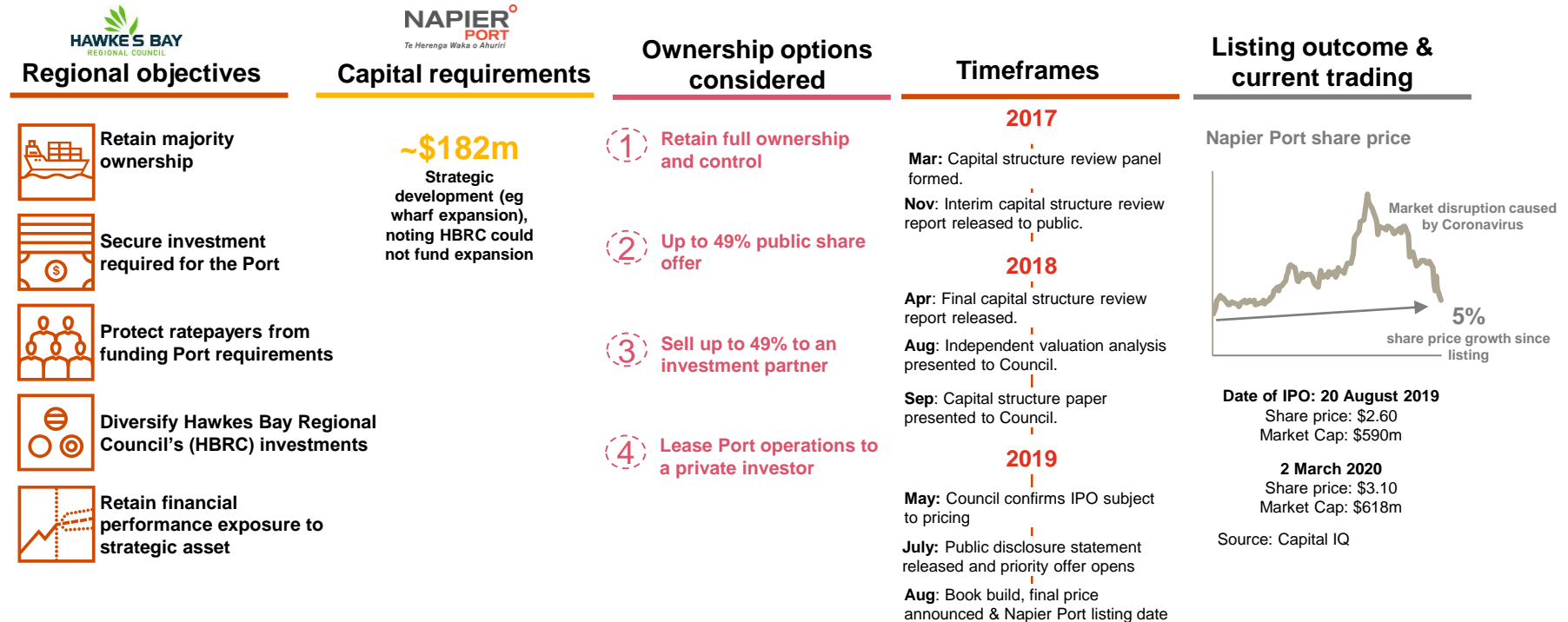
No local precedents. No New Zealand ports operate under this structure.

March 2020

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Case study: Napier Port

The Napier Port IPO demonstrates how an IPO can release capital back to Council.



Appendix

Appendix 1: Key terms of business and restrictions

This Report has been prepared solely for the purposes stated herein and should not be relied upon for any other purpose.

To the fullest extent permitted by law, PwC accepts no duty of care to any third party in connection with the provision of this Report and/or any related information or explanation (together, the "Information"). Accordingly, regardless of the form of action, whether in contract, tort (including without limitation, negligence) or otherwise, and to the extent permitted by applicable law, PwC accepts no liability of any kind to any third party and disclaims all responsibility for the consequences of any third party acting or refraining to act in reliance on the Information.

We have not independently verified the accuracy of information provided to us, and have not conducted any form of audit in respect of the Company. Accordingly, we express no opinion on the reliability, accuracy, or completeness of the information provided to us and upon which we have relied.

The statements and opinions expressed herein have been made in good faith, and on the basis that all information relied upon is true and accurate in all material respects, and not misleading by reason of omission or otherwise.

The statements and opinions expressed in this report are based on information available as at the date of the report.

We reserve the right, but will be under no obligation, to review or amend our Report, if any additional information, which was in existence on the date of this report was not brought to our attention, or subsequently comes to light.

Certain numbers included in tables throughout this report have been rounded and therefore may not add exactly.

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This report is issued pursuant to the terms and conditions set out in our engagement letter and the Terms of Business attached thereto.

Glossary of terms used in this document

Term	Definition
AFFO	Adjusted funds from operations
AKL	Ports of Auckland
BLU	South Port
CAGR	Compound annual growth rate
Capex	Capital expenditure
Council	Otago Regional Council
Crown	New Zealand Government
EBIT	Earnings before interest and tax
EBITDA	Earnings before interest, tax, depreciation and amortisation
Eg	For example
FY[xx]	Financial year ending 30 June
Ha	Hectares
HBRC	Hawkes Bay Regional Council
ie	For example
IPO	Initial public offering
LGFA	Local Government Funding Agency
LPC	Lyttelton Port Company
LYT	Lyttelton Port of Christchurch
MLB	Port Marlborough
NPAT	Net profit after tax
NPE	Napier Port
NPL	Port Taranaki
NPV	Net present value
NSN	Port Nelson

Glossary of terms used in this document (cont'd)

Term	Definition
NZ	New Zealand
NZX	New Zealand Exchange
POE / Port Otago	Port Otago Limited
POT	Port of Tauranga
ROA	Return on assets
ROIC	Return on invested capital
SCI	Statement of corporate intent
SIB	Stay in business
TEU	Twenty foot equivalent unit
TIU	Port of Timaru
TSR	Total shareholder returns
WACC	Weighted average cost of capital
WLG	CentrePort Wellington

Thank you

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**9.5. Recommendations of the Public Portion of the Finance Committee
FINANCE COMMITTEE RECOMMENDATIONS 26 FEBRUARY 2020**

9.1 Annual Plan 2020-21

That the Finance Committee directs staff to:

1. *Use all community newspapers available in Otago area to inform public of the annual plan submission process.*

Moved: Cr Calvert

Seconded: Cr Forbes

CARRIED

That the Finance Committee:

1. **Approves** the proposed adjustments to the 2018-28 Long-Term Plan as contained in Attachment 1 as providing the basis for engaging with the community.
2. **Approves** the proposed forecasted expenditure and funding requirements to deliver the proposed work programme for the 2020-21 financial year.
3. **Agrees** that the proposed adjustments provided in Attachment 1 do not represent significant or material differences from the 2018-28 Long-Term Plan.
4. **Approves** an 'informal consultation' approach as identified in the 'Community Consultation' section of this report.

Moved: Cr Malcolm

Seconded: Cr Forbes

CARRIED

10.1 Activity Review 2019

That the Finance Committee:

1. **Receives** the Council Activity Performance Report for the period 1 July to 31 December 2019 (Q2).

Moved: Cr Kelliher

Seconded: Cr Noone

CARRIED

10.2 Finance Report – 31 December 2019

That the Finance Committee:

1. **Receives** this report.

Moved: Cr Noone

Seconded: Cr Malcolm

CARRIED

10.3 Treasury Report – December 2019

That the Finance Committee:

1. **Receives** this report.

Moved: Cr Noone
Seconded: Cr Calvert
CARRIED

10.4 Rates Strike Collection 31 October Penalties

That the Finance Committee:

1. **Receives** this report.

Moved: Cr Noone
Seconded: Cr Scott
CARRIED

10.5 Port Otago Constitution

That the Finance Committee:

1. **Receives** this report.
2. **Approves** that the Chief Executive contacts the Board of Directors of Port Otago and request the company undertake a review of the companies Constitution for the approval by Council.
3. **Notes** specific items they wish the Board of Port Otago to consider in that review include but are not limited to:
 - a. Why impose limitation of age 70 for board members
 - b. Ensure constitution is current and fit for purpose
 - c. Consider staggering board member turnover
 - d. Maximum term of board members
 - e. Have a critical look at cl 10.1(c)

Moved: Cr Malcolm
Seconded: Cr Kelliher
CARRIED

The following resolution is made in reliance on sections 48(1)(a) of the Local Government Official Information and Meetings Act 1987 and the particular interest(s) protected by Section 7 of that Act.

On the grounds that matters will be prejudiced by the presence of members of the public during discussions on the following items, it is **resolved**:

That the following item is considered with the public excluded:

General subject of each matter to be considered	Reason for passing this resolution in relation to each matter	Ground(s) under section 48(1) for the passing of this resolution
<i>Water Permits Plan Change</i>	Sec 48(2)(a)(i) - Paragraph (d) of subsection (1) applies to any proceedings before a local authority where (i) a right of appeal lies to any court or tribunal against the final decision of the local authority in those proceedings.	Sec 48(1)(d); Subject to subsection (3), a local authority may by resolution exclude the public from the whole or any part of the proceedings of any meeting only on one or more of the following grounds:(d) that the exclusion of the public from the whole or the relevant part of the proceedings of the meeting is necessary to enable the local authority to deliberate in private on its decision or recommendation in any proceedings to which this paragraph applies.

This resolution is made in reliance on [section 48\(1\)\(a\)](#) of the Local Government Official Information and Meetings Act 1987 and the particular interest or interests protected by [section 6](#) or [section 7](#) of that Act or [section 6](#) or [section 7](#) or [section 9](#) of the Official Information Act 1982, as the case may require, which would be prejudiced by the holding of the whole or the relevant part of the proceedings of the meeting in public.