

Hawke's Bay Region Triennial Agreement

for the Triennium October 2022 - 2025



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1. Parties

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

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

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

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

- Rangitikei District Council
- Taupo District Council

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

2. Purpose

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

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

in order to meet the purposes of Local Government to:

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

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

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

3. Principles

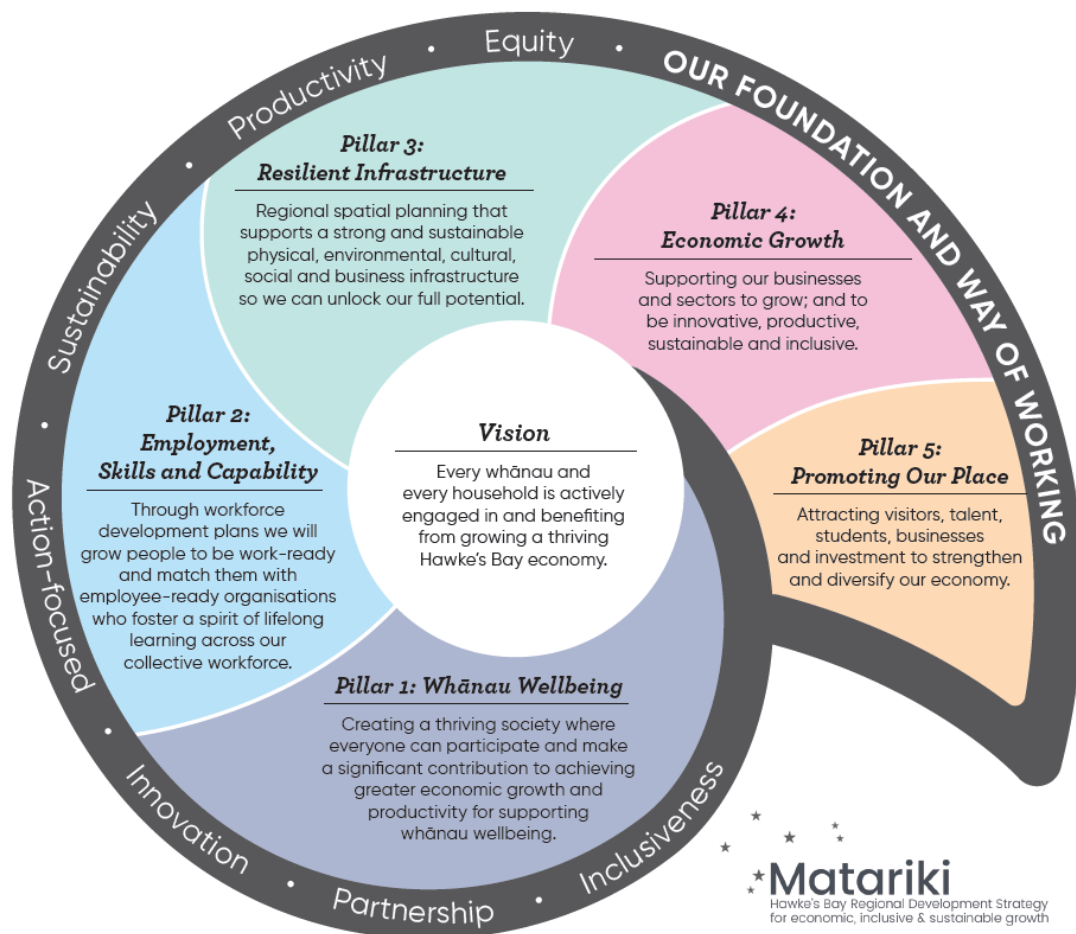
3.1 Parties to this Agreement agree to work together in good faith for the good governance of their local communities and the region; to develop our collective strategic capacity from available resources and achieve our strategies by working together, through co-design and partnership so every whānau and every household is actively engaged in growing a thriving Hawke's Bay economy to support inclusive and connected communities and sustainable and resilient environments.

3.2 In doing so, we:

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

4. Strategic Priorities

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



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

- Climate Change and Water
 - Climate Action Joint Committee (TBC)
 - Clifton to Tangoio Coastal Hazards Strategy Joint Committee
 - HB CDEM Joint Committee
 - Hb3waters.nz
- Transport
 - Regional Transport Committee

4.4 Any new priorities or services of significance to more than one district will be communicated to the Chief Executives by the Hawke’s Bay Leaders’ Forum for further development in accordance with the protocols in section 5 following.

5. Protocols for communication and coordination

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

6. Benefits Realisation

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

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

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

8. Consultation in Relation to the Regional Policy Statement

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

¹ Appendix Three

9. Dispute Resolution

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

10. Revision of the Agreement

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

11. Parties - Signatures

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

Primary Parties

Central Hawke's Bay District Council

.....

Mayor Alex Walker

.....

Chief Executive Doug Tate

Hastings District Council

.....

Mayor Sandra Hazlehurst

.....

Chief Executive Nigel Bickle

Hawke's Bay Regional Council

.....

Chair Hinewai Ormsby

.....

Chief Executive James Palmer

Napier City Council

.....

Mayor Kirsten Wise

.....

Chief Executive Richard Munneke

Wairoa District Council

.....

Mayor Craig Little

.....

Chief Executive Kitea Tipuna

Non-Primary Parties

Rangitikei District Council

.....

Mayor Andy Watson

.....

Chief Executive Peter Beggs

Taupo District Council

.....

Mayor David Trewavas

.....

Chief Executive Gareth Green

Appendix One: Meetings

Hawke's Bay Leaders' Forum

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

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

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

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

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

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

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

Appendix Two: Legislative Context

Local Government Act

Section 15 Triennial agreement

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

Section 14 Principles relating to local authorities

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

Resource Management Act 1991

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

3A Consultation in relation to policy statements

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

Appendix Three: Significant new activities proposed by regional Council

LGA Section 16 Significant new activities proposed by regional council

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

affected territorial authority means a territorial authority—

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

annual plan—

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

new activity—

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

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

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