

# Emergency Regional Council Agenda

NOTICE IS GIVEN that an emergency meeting of the Regional Council will be held in Council Chambers, Regional House, 1 Elizabeth Street, Tauranga on:

**THURSDAY 15 AUGUST 2024 COMMENCING AT 9.00AM**

**This meeting will be recorded.**

The Public section of this meeting will be recorded and uploaded to Bay of Plenty Regional Council's website. Further details on this can be found after the Terms of Reference within the Agenda.

**Purpose of Meeting: For Council to approve commencing the process to set Minor River and Drainage Scheme rates again for 2024/25.**

# Council

## Membership

<b>Chairperson</b>	Chairman Doug Leeder
<b>Deputy Chairperson</b>	Cr Jane Nees
<b>Members</b>	All Councillors
<b>Quorum</b>	Seven members, consisting of half the number of members
<b>Meeting frequency</b>	Six weekly or as required for Annual Plan, Long Term Plan and other relevant legislative requirements

## Purpose

- Enable democratic local decision-making and action by, and on behalf of, Bay of Plenty communities.
- Meet the current and future needs of communities for good-quality local infrastructure, local public services, and performance of regulatory functions in a way that is most cost-effective for households and businesses.
- Set the overarching strategic direction for Bay of Plenty Regional Council as an organisation.
- Hold ultimate responsibility for allocating financial resources across the Council.

## Role

- Address Local Electoral Act matters and Local Government Rating Act matters.
- Oversee all matters relating to identifying and contributing to community outcomes.
- Consider and agree on matters relating to significant new activities or areas of involvement such as infrastructure which are not the responsibility of a specific committee.
- Provide regional leadership on key issues that require a collaborative approach between a number of parties.
- Review and decide the Council's electoral and representation arrangements.
- Consider issues of regional significance which are not the responsibility of any specific standing committee or that are of such regional significance/high public interest that the full Council needs to decide on them.
- Adopt Council's Policy on Significance and Engagement Policy.
- Develop, adopt and implement the Triennial Agreement, Code of Conduct and Standing Orders.

- Consider and agree on matters relating to elected members' remuneration.
- Appoint the Chief Executive, and review their contract, performance and remuneration at least annually.
- Approve all delegations to the Chief Executive, including the authority for further delegation to staff.
- Oversee the work of all committees and subcommittees.
- Receive and consider recommendations and matters referred to it by its committees, joint committees, subcommittees and working parties.
- Approve membership to external bodies and organisations, including Council Controlled Organisations.
- Develop, adopt and review policies for, and monitor the performance of, Council Controlled Organisations.
- Monitor and review the achievement of outcomes for the Bay of Plenty Community.
- Review and approve strategic matters relating to the sale, acquisition and development of property for the purposes of meeting Council's organisational requirements and implement Regional Council policy.
- Address strategic corporate matters including property and accommodation.
- Consider and agree on the process to develop the Long Term Plan, Annual Plan and Annual Report.
- Adopt the Long Term Plan, Annual Plan and budgets variations, and Annual Report.
- Adopt Council policies as required by statute (for example Regional Policy Statement and Regional Land Transport Strategy) to be decided by Council or outside of committee delegations (for example infrastructure policy).
- Develop, review and approve Council's Financial Strategy and funding and financial policies and frameworks.
- Institute any proceedings in the High Court that are not injunctive proceedings.
- Exercise the powers and duties conferred or imposed on Council by the Public Works Act 1981.

## Delegations from Council to committees

- Council has a role to monitor the functioning of all committees.
- Council will consider matters not within the delegation of any one Council committee.
- Council may at any time, revoke or modify a delegation to a Council committee, either permanently, for a specified time or to address a specific matter, if it considers there is good reason to do so.
- The delegations provided to committees may be further delegated to subcommittees unless the power of further delegation is restricted by Council or by statute.

- It is accepted in making these delegations that:
- The committees, in performing their delegated functions, powers or duties, may, without confirmation by the Council, exercise or perform them in a like manner and with the same effect as the Council itself could have exercised or performed them.
- The delegated powers given shall at all times be subject to their current policies and principles or directions, as given by the Council from time to time.
- The chairperson of each committee shall have the authority to exercise their discretion, as to whether or not the delegated authority of the committee be used where, in the opinion of the chairperson, circumstances warrant it.

## **Powers that cannot be delegated**

Under Clause 32 Schedule 7 of the Local Government Act 2002, Council must make the following decisions:

- Make a rate.
- Make a bylaw.
- Borrow money or purchase or dispose of assets, other than in accordance with the long-term plan.
- Adopt the long-term plan, annual plan, or annual report.
- Appoint a chief executive.
- Adopt policies required to be adopted and consulted on under the Local Government Act 2002 in association with the long-term plan or developed for the purpose of the local governance statement.
- Adopt a remuneration and employment policy.

## Livestreaming and Recording of Meetings

Please note the Public section of this meeting is being recorded and streamed live on Bay of Plenty Regional Council's website in accordance with Council's Live Streaming and Recording of Meetings Protocols which can be viewed on Council's website. The recording will be archived and made publicly available on Council's website within two working days after the meeting on [www.boprc.govt.nz](http://www.boprc.govt.nz) for a period of three years (or as otherwise agreed to by Council).

All care is taken to maintain your privacy; however, as a visitor in the public gallery or as a participant at the meeting, your presence may be recorded. By remaining in the public gallery, it is understood your consent is given if your image is inadvertently broadcast.

Opinions expressed or statements made by individual persons during a meeting are not the opinions or statements of the Bay of Plenty Regional Council. Council accepts no liability for any opinions or statements made during a meeting.

# Bay of Plenty Regional Council - Toi Moana

## Governance Commitment

**mō te taiao, mō ngā tāngata - our environment and our people  
go hand-in-hand.**

We provide excellent governance when, individually and collectively, we:

- Trust and respect each other
- Stay strategic and focused
- Are courageous and challenge the status quo in all we do
- Listen to our stakeholders and value their input
- Listen to each other to understand various perspectives
- Act as a team who can challenge, change and add value
- Continually evaluate what we do

**TREAD LIGHTLY, THINK DEEPLY,  
ACT WISELY, SPEAK KINDLY, JOURNEY TOGETHER.**

**Recommendations in reports are not to be construed as Council policy until adopted by Council.**

# Agenda

*E te Atua nui tonu, ko mātau ēnei e inoi atu nei ki a koe, kia tau mai te māramatanga ki a mātau whakarite mō tēnei rā, arahina hoki mātau, e eke ai te ōranga tonu ki ngā āhuatanga katoa a ngā tangata ki tō mātau rohe whānui tonu. Āmine.*

*“Almighty God we ask that you give us wisdom in the decisions we make here today and give us guidance in working with our regional communities to promote their social, economic, environmental and cultural well-being. Amen”.*

- 1. Opening Karakia**
- 2. Apologies**
- 3. Items not on the Agenda**
- 4. Order of Business**
- 5. Declaration of Conflicts of Interest**
- 6. There are no Minutes to be Confirmed at this Meeting**
- 7. Reports**
  - Decisions Required**
  - 7.1 2024/25 Minor River and Drainage Scheme Rates** **8**
- 8. Consideration of Items not on the Agenda**
- 9. Closing Karakia**



**Report To:** Emergency Regional Council

**Meeting Date:** 15 August 2024

**Report Writer:** Mark Le Comte, Principal Advisor, Finance; Gillian Payne, Principal Advisor; AJ Prinsloo, Finance Manager; Jo Pellew, Rates Manager and Kumaren Perumal, Chief Financial Officer

**Report Authoriser:** Mat Taylor, General Manager, Corporate

**Purpose:** For Council to approve commencing the process to set Minor River and Drainage Scheme rates again for 2024/25

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## 2024/25 Minor River and Drainage Scheme Rates

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### Executive Summary

As part of the Long Term Plan 2024-2034 rates setting process, Council set rates for Minor Rivers and Drainage Schemes on 26 June 2024. Several errors have been detected in which rates have been set at a higher amount than were required.

These rates can be set again by Council after a 14-day public notification period. Correcting these rates will also correct an over-budgeting for revenue of \$423,431 (including GST) in 2024/25, which is approximately 0.4% of total rates revenue. These corrections will result in lower rates for 342 ratepayers.

It is recommended that Council agrees to commence the process to set the Minor River and Drainage Scheme rates again, by giving public notice of its intention and meeting process requirements in the Local Government (Rating) Act and Council Standing Orders.

### Recommendations

**That the Emergency Regional Council:**

- 1 Receives the report, 2024/25 Minor River and Drainage Scheme Rates;**
- 2 Notes that several rates for the Minor River and Drainage schemes have been set at a higher amount than intended;**
- 3 Agrees that it is desirable to set the Minor River and Drainage scheme rates again to correct the error in the rates and to improve rates affordability;**
- 4 Directs staff to commence the process to reset Minor River and Drainage Scheme rates that have been set too high, including releasing a public notice;**



- 5 Notes that at the September 2024 Council meeting, a recommendation to re-set the Minor River Scheme Rates will be made to Council, in order to comply with the Local Government (Rating) Act 2002 and Council Standing Orders.**

## 1. Introduction

As part of the Long Term Plan 2024-2034 Rates setting process, Council set rates for Minor Rivers and Drainage schemes on 26 June 2024. Several errors have been detected in which rates have been set at a higher amount than were consulted on and agreed through river and drainage forums.

### 1.1 Legislative Framework

The legislative requirements for Rates are set in the Local Government (Rating) Act (LG(R)A). Section 119 outlines the requirements and process to set rates again as follows.

**119 Local authority may set rates again**

- (1) A local authority may set a rate again in the financial year in which the rate was set.
- (2) Subsection (1) applies if—
- (a) the local authority determines that it is desirable to set the rate again because of—
    - (i) an irregularity in setting the rate; or
    - (ii) a mistake in calculating the rate; or
    - (iii) a relevant change in circumstances; and
  - (b) setting the rate again will not increase the amount of rates assessed to any rating unit.
- (3) A local authority may set a rate again only if—
- (a) it has given 14 days' public notice of its intention to set the rate again; and
  - (b) it complies with the local authority's standing orders for the revocation and alteration of resolutions.
- (4) Notice under subsection (3) must include—
- (a) the information in relation to the rate that was, or would otherwise have been, required to be included in the local authority's long-term plan or annual plan; and
  - (b) a statement of the reason why the local authority has determined that it is desirable to set the rate again.
- (5) If setting the rate again results in a change to the amount of rates to be assessed to any rating unit,—
- (a) the rates record for the rating unit must be corrected as soon as practicable; and
  - (b) [section 41](#) applies.

Staff received legal advice in 2021 on the process to set rates again and have confirmed that there have been no legislative changes that impact the process since then.

Audit New Zealand has confirmed that they do not view this matter as material and are comfortable with Council following the process outlined in the legal advice received in 2021.

## 1.2 Alignment with Strategic Framework

<b>A Healthy Environment</b>
<b>Freshwater for Life</b>
<b>Safe and Resilient Communities</b>
<b>A Vibrant Region</b>
<b>The Way We Work</b> We deliver value to our ratepayers and our customers.

Council could choose to retain the Minor River and Drainage Scheme rates as originally set, however, this level of revenue is not required and staff recommend setting the rates again at the proposed lower levels.

### 1.2.1 Community Well-beings Assessment

Dominant Well-Beings Affected			
<input type="checkbox"/> Environmental	<input type="checkbox"/> Cultural	<input type="checkbox"/> Social	<input checked="" type="checkbox"/> Economic
			Low - Positive

The Minor River and Drainage Scheme rates are used to fund flood protection work. These rates have been set at a higher level than is required and could be reduced.

## 2. Minor River Scheme Rates 2024/25

As part of the Long Term Plan 2024-2034 rates setting process, Council set rates for Minor Rivers and Drainage schemes on 26 June 2024. Several errors have been detected in which rates have been set at a higher amount than were required. The list of affected rates is set out in section 2.1 of this report.

The total value of the errors is a revenue budget that is \$423,431 (including GST) too high. While this is a small amount relative to Council’s total rates requirement, the impact on individual ratepayers with large landholdings in affected areas could be several thousand dollars.

Staff sought legal advice in 2021 to confirm the process required to set these rates again to the correct level. This advice has confirmed that the rates can be set again following a 14-day public notice. There is no requirement to receive or hear submissions. The minor change required to the Rates Funding Impact Statement in the Long Term Plan 2024-2034 can be made as part of this process without separate consultation. There have been no legislative changes that impact the process since 2021.

Reducing the targeted rates as proposed does not breach any financial prudence benchmarks or result in an unbalanced budget.

### 2.1 Corrections

The tables below show the affected rates, the amounts of the adopted rates and the intended amounts for the rates to be reset to. In the following tables N/A means that there is no rate requirement and rates are \$0.

**Omeheu West Communal Pumped Drainage Scheme targeted rate**

Category	Adopted Rates		Intended reset Rates	
	Rate per hectare \$	Revenue sought \$	Rate per hectare \$	Revenue sought \$
A	69.55	2,431	N/A	N/A
B	61.83	1,051	N/A	N/A
C	15.46	658	N/A	N/A
<b>Total</b>		<b>4,140</b>		<b>0</b>

**Awaiti West Pumped Drainage Scheme targeted rates**

Category	Adopted Rates		Intended reset Rates	
	Rate per hectare \$	Revenue sought \$	Rate per hectare \$	Revenue sought \$
A	847.23	10,675	249.19	3,140
B	389.73	57,364	114.63	16,872
C	169.45	33,439	49.84	9,835
D	84.72	4,092	24.92	1,203
<b>Total</b>		<b>105,570</b>		<b>31,050</b>

**Withy Communal Pumped Drainage Scheme targeted rates**

Category	Adopted Rates		Intended reset Rates	
	Rate per hectare \$	Revenue sought \$	Rate per hectare \$	Revenue sought \$
A	861.72	56,839	763.11	50,335
B	517.03	24,063	457.87	21,309
C	172.34	7,533	152.62	6,671
<b>Total</b>		<b>88,435</b>		<b>78,315</b>

**Omeheu Adjunct Communal Pumped Drainage Scheme targeted rates**

Category	Adopted Rates		Intended reset Rates	
	Rate per hectare \$	Revenue sought \$	Rate per hectare \$	Revenue sought \$
A	93.08	957	65.16	670
B	69.81	5,670	48.87	3,969
C	51.20	2,901	35.84	2,031
D	27.92	2,439	19.55	1,707
E	13.96	763	9.77	534
F	4.65	109	3.26	76
URBAN	246.67	4,411	172.67	3,088
<b>Total</b>		<b>17,250</b>		<b>12,075</b>

**Lawrence Communal Pumped Drainage Scheme rates**

Category	Adopted Rates		Intended reset Rates	
	Rate per hectare \$	Revenue sought \$	Rate per hectare \$	Revenue sought \$
A	524.39	14,787	82.49	2,325
B	419.52	1,930	65.99	304
C	262.20	1,857	41.24	292
D	131.10	1,896	20.62	298
<b>Total</b>		<b>20,470</b>		<b>3,219</b>

**Minor Drainage Schemes targeted uniform rates**

Category	Adopted Rates		Intended reset Rates	
	Rate per hectare \$	Revenue sought \$	Rate per hectare \$	Revenue sought \$
Awakeri	126.05	35,765	110.65	31,395
Baird-Miller	198.89	27,370	134.54	18,515
Foubister	362.73	38,065	328.76	34,500
Gordon	446.59	43,930	277.07	27,255
Halls	255.04	61,755	N/A	N/A
Hyland-Ballie	661.16	155,940	470.03	110,860
Riverslea Road	209.48	6,440	52.37	1,610
Kuhanui	146.94	12,190	130.30	10,810
Luxton	277.52	60,720	223.91	48,990
Martin	55.06	7,360	45.60	6,095
Nicholas	117.97	34,155	86.19	24,955
Noord-Vierboon	171.19	20,010	90.52	10,580
Pedersen - Topp	236.02	26,450	N/A	N/A
Robins Road	507.57	94,875	339.61	63,480
Travurzas	243.92	48,300	157.97	31,280
Wyls	94.29	17,710	74.08	13,915
Poplar Lane	388.53	21,850	359.90	20,240
Awaiti East	377.67	53,820	N/A	N/A
<b>Total</b>		<b>965,079</b>		<b>652,854</b>

NOTE: The total row includes rates that are unchanged and not shown in rows above.

### 3. Considerations

#### 3.1 Risks and Mitigations

Council could choose to retain the Minor River and Drainage Scheme rates at the level originally set, however, this would pose a reputational risk by requiring more rates than required. Staff recommend that identifying and correcting the error is the preferred approach.

Rates assessments and invoices for the 342 affected ratepayers will be delayed until rates are set again at the 12 September Council Meeting.

#### 3.2 Climate Change

The matters addressed in this report are of a procedural/financial nature and there is no need to consider climate change impacts.

#### 3.3 Implications for Māori

The matters addressed in this report are of a procedural/financial nature and there is no need to consider climate change impacts.

#### 3.4 Community Engagement



**INFORM**  
Whakamōhio

To provide affected communities with balanced and objective information to assist them in understanding the problems, alternatives and/or solutions.

A public notice will be released to comply with requirements for re-setting rates pursuant to the LG(R)A s119. The affected ratepayers will also be informed directly.

### 3.5 **Financial Implications**

Correcting the Minor River Scheme Rates will also correct an over-budgeting for revenue of \$423,431 (including GST) for 2024/25, which is approximately 0.4% of total rates revenue.

## 4. **Next Steps**

The key next steps are:

- Release of the public notice required under the LG(R)A s119.
- Minor River Scheme Rates are re-set at the 12 September Council Meeting.
- Rates assessments and invoices for the 342 affected ratepayers are sent following the 12 September Council Meeting.
- Invoices will be delivered well in advance of the minimum legislative requirement, ensuring receipt before the payment due date of October 20, 2024