



I hereby give notice that an ordinary meeting of the Governing Body will be held on:

Date: Thursday, 30 January 2014
Time: 9.30am
Meeting Room: Reception Lounge
Venue: Auckland Town Hall
301-305 Queen Street
Auckland

Governing Body OPEN AGENDA

MEMBERSHIP

Mayor

**Deputy Mayor
Councillors**

Len Brown, JP

Penny Hulse

Cr Anae Arthur Anae

Cr Cameron Brewer

Cr Dr Cathy Casey

Cr Bill Cashmore

Cr Ross Clow

Cr Linda Cooper, JP

Cr Chris Darby

Cr Alf Filipaina

Cr Hon Chris Fletcher, QSO

Cr Denise Krum

Cr Mike Lee

Cr Calum Penrose

Cr Dick Quax

Cr Sharon Stewart, QSM

Cr Sir John Walker, KNZM, CBE

Cr Wayne Walker

Cr John Watson

Cr Penny Webster

Cr George Wood, CNZM

(Quorum 11 members)

**Elaine Stephenson
Democracy Advisor**

23 January 2014

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TERMS OF REFERENCE

Those powers which cannot legally be delegated:

- (a) the power to make a rate; or
- (b) the power to make a bylaw; or
- (c) the power to borrow money, or purchase or dispose of assets, other than in accordance with the long term council community plan; or
- (d) the power to adopt a long term plan, annual plan, or annual report; or
- (e) the power to appoint a Chief Executive; or
- (f) the power to adopt policies required to be adopted and consulted on under the Local Government Act 2002 in association with the long term plan or developed for the purpose of the local governance statement; or
- (g) the power to adopt a remuneration and employment policy.

Additional responsibilities retained by the Governing Body:

- (a) Approval of a draft long term plan or draft annual plan prior to community consultation
- (b) Approval of a draft bylaw prior to community consultation
- (c) Resolutions required to be made by a local authority under the Local Electoral Act 2001, including the appointment of electoral officer
- (d) Adoption of, and amendment to, the Committee Terms of Reference, Standing Orders and Code of Conduct
- (e) Relationships with the Independent Maori Statutory Board, including the funding agreement and appointments to committees.
- (f) Approval of the Unitary Plan
- (g) Overview of the implementation of the Auckland Plan through setting direction on key strategic projects (e.g. the City Rail Link and the alternative funding mechanisms for transport) and receiving regular reporting on the overall achievement of Auckland Plan priorities and performance measures.

ITEM	TABLE OF CONTENTS	PAGE
1	Affirmation	5
2	Apologies	5
3	Declaration of Interest	5
4	Confirmation of Minutes	5
5	Acknowledgements	5
6	Petitions	5
7	Public Input	5
8	Local Board Input	5
9	Extraordinary Business	5
10	Notices of Motion	6
11	Submission on draft regulations for exploratory oil and gas drilling under the EEZ Act	7
12	Auckland Airport Capital Return	21
13	Consideration of Extraordinary Items	
PUBLIC EXCLUDED		
14	Procedural Motion to Exclude the Public	29
C1	Further Appointments to Outside Organisations	29

1 Affirmation

His Worship the Mayor will read the affirmation.

2 Apologies

An apology from Cr GS Wood has been received.

3 Declaration of Interest

Members are reminded of the need to be vigilant to stand aside from decision making when a conflict arises between their role as a member and any private or other external interest they might have.

4 Confirmation of Minutes

That the Governing Body:

- a) confirm the ordinary minutes of its meeting, held on Thursday December 2013, including the confidential section, as a true and correct record.

5 Acknowledgements

At the close of the agenda no requests for acknowledgements had been received.

6 Petitions

At the close of the agenda no requests to present petitions had been received.

7 Public Input

Standing Order 3.21 provides for Public Input. Applications to speak must be made to the Committee Secretary, in writing, no later than **two (2)** working days prior to the meeting and must include the subject matter. The meeting Chairperson has the discretion to decline any application that does not meet the requirements of Standing Orders. A maximum of **thirty (30)** minutes is allocated to the period for public input with **five (5)** minutes speaking time for each speaker.

8 Local Board Input

Standing Order 3.22 provides for Local Board Input. The Chairperson (or nominee of that Chairperson) is entitled to speak for up to **five (5)** minutes during this time. The Chairperson of the Local Board (or nominee of that Chairperson) shall wherever practical, give **two (2)** days notice of their wish to speak. The meeting Chairperson has the discretion to decline any application that does not meet the requirements of Standing Orders.

This right is in addition to the right under Standing Order 3.9.14 to speak to matters on the agenda.

At the close of the agenda no requests for local board input had been received.

9 Extraordinary Business

Section 46A(7) of the Local Government Official Information and Meetings Act 1987 (as

amended) states:

“An item that is not on the agenda for a meeting may be dealt with at that meeting if-

- (a) The local authority by resolution so decides; and
- (b) The presiding member explains at the meeting, at a time when it is open to the public,-
 - (i) The reason why the item is not on the agenda; and
 - (ii) The reason why the discussion of the item cannot be delayed until a subsequent meeting.”

Section 46A(7A) of the Local Government Official Information and Meetings Act 1987 (as amended) states:

“Where an item is not on the agenda for a meeting,-

- (a) That item may be discussed at that meeting if-
 - (i) That item is a minor matter relating to the general business of the local authority; and
 - (ii) the presiding member explains at the beginning of the meeting, at a time when it is open to the public, that the item will be discussed at the meeting; but
- (b) no resolution, decision or recommendation may be made in respect of that item except to refer that item to a subsequent meeting of the local authority for further discussion.”

10 Notices of Motion

At the close of the agenda no requests for notices of motion had been received.

Submission on draft regulations for exploratory oil and gas drilling under the EEZ Act

File No.: CP2013/29429

Purpose

1. To present a draft submission on the draft regulations for exploration drilling for petroleum in the exclusive economic zone (EEZ). The draft regulations state that drilling will not be notified provided the application is within a geographical area where the applicant holds an exploration permit under the Crown Minerals Act.

Executive Summary

2. The Ministry for the Environment (MfE) released draft regulations for exploratory oil and gas drilling in the EEZ (12 to 200 nautical miles from shore) on 12 December 2013. Submissions on the draft regulations close on 31 January 2014.
3. Auckland Council made a submission to MfE in September 2013 on a discussion document which proposed that exploratory drilling in the EEZ be a non-notified discretionary activity. The council's submission did not support this proposal and stated that such applications should be notified.
4. The draft regulations take the same approach as that proposed in the discussion document. The draft council submission (Attachment A) reiterates that the council does not support a non-notified classification for this activity.
5. Deep water oil and gas exploration has a low probability of blow outs and oil spills. However, the significant consequences of such an event justify the additional costs and delays for applicants that notification would cause. Public input would enhance environmental protection through increased independent assessment of proposals and the conditions on their operation.

Recommendation/s

That the Governing Body:

- a) approve the submission on draft regulations for exploratory oil and gas drilling in the exclusive economic zone (Attachment A to the agenda report).

Discussion

6. There has been recent government and industry interest in expanding offshore petroleum drilling around New Zealand. The Taranaki Basin is currently New Zealand's only producing petroleum basin. A deep-sea drilling operation is currently underway 100 nautical miles offshore from Raglan in the Taranaki Basin. An exploration well was drilled off the East Cape last year but was abandoned due to poor survey results. Shell has announced that they will undertake exploration in the Great South Basin in the next two years. There has been considerable concern in the community regarding these developments.
7. Basins to the west of Auckland have similar geology to offshore Taranaki and it is possible that exploration may expand into this area in future. In December 2013, Norwegian firm Statoil were granted an exploration permit for an area to the west of Northland. This is in the northern part of the Reinga Northland basin which extends past Auckland. Also in December last year, MultiClient Geophysical Pte Ltd applied to New Zealand Petroleum and Minerals (NZPM) for a Crown Minerals Act permit to prospect for petroleum offshore of

Auckland in the EEZ. The permit is currently being processed by NZPM. Prospecting does not include drilling and there is no consultation process for prospecting permits.

8. The government has been promoting such expansion around New Zealand and has developed several work programmes to support exploration or to manage its environmental effects.
9. Auckland Council has been following these proposals and has provided feedback on several areas, either through formal submissions or through officer-level comments. A report with a summary of feedback provided in the last few months was presented to the Auckland Development Committee in November 2013.
10. There is significant potential for economic benefits for Auckland if oil or gas production wells were developed off our coast. This benefit would be from increased jobs and spending on infrastructure. Exploration activity may require new support bases that could be developed around the Manukau or Kaipara harbours.
11. In 2012 oil was New Zealand's fourth largest merchandise export (after dairy, meat and wood) at a value of over \$2 billion. The government receives around 42% of the profits of the petroleum industry in the form of company tax and royalties. At the current rate of exploration and production this equates to around \$400 million in royalties and \$300 million in company tax annually.

The draft regulations

12. Exploratory drilling in the EEZ requires a marine consent under the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 (EEZ Act) as well as an exploration permit under the Crown Minerals Act. The purpose of the EEZ Act is to promote the sustainable management of the natural resources of the EEZ and continental shelf. It is the equivalent of the Resource Management Act 1991 which applies to land and the territorial sea.
13. Under the EEZ Act, activities can be classified as either permitted, non-notified discretionary (inserted by the EEZ Amendment Act 2013), discretionary (must be notified) or prohibited. At present, exploratory drilling is classified as a discretionary activity as this is the default for activities not otherwise classified through regulations. The petroleum industry has argued that the notification process creates uncertainty, costs and delays and has no environmental benefit. The government has responded to these concerns and proposed that the activity be classified as non-notified.
14. Prior to the development of the EEZ Act, there was no specific environmental legislation applying to exploratory drilling in the EEZ. Environmental effects were managed through approvals under legislation such as the Crown Minerals Act 1991, Health and Safety in Employment Act 1992 and Maritime Transport Act 1994. The EEZ Act covers the gaps in existing legislation for the EEZ and provides an extra layer of environmental oversight that ensures a full assessment of impacts and conditions to mitigate impacts if required.
15. The non-notified classification was proposed in a discussion document on classifications under the EEZ Act in September 2013. That document included very little justification for the proposal and the Auckland Council submitted that it did not support the non-notified classification due to the lack of clarity on how risks associated with the activity would be assessed and managed.
16. The Ministry for the Environment received a total of 21,221 submissions in the September 2013 consultation process. The majority of submissions (21,102) were made using online template forms and were opposed to exploratory drilling as an activity generally. An additional 97 submissions that were unique opposed the proposed classification. Four submitters supported the classification and three supported it with amendments. Key issues raised in the consultation included: the ability for the public to participate in decision making; the risk associated with exploratory drilling and the probability of significant adverse environmental effects or effects to existing interests; and a lack of clarity about what activities were included in exploratory drilling.

17. The draft regulations classify exploratory drilling as a non-notified activity, include a definition of exploratory drilling, and list related activities that will also be non-notified (eg placing a rig, taking samples, seismic surveying down a well and capping a well). The only condition on the activity is that the application is within a geographical area where the applicant holds an exploration permit under the Crown Minerals Act or authorized by an existing privilege held under the Crown Minerals Act.

The draft submission

18. The attached draft submission reiterates the council's position from the September 2013 process and does not support the proposed non-notified classification for exploratory drilling. Some additional points are also made about aspects of the regulations that should be amended to improve their clarity.
19. The probability of an oil spill from exploration activities is low but could have significant consequences. Exploration in deep water is complex and relatively rare for New Zealand. It is appropriate that notification be required to ensure a robust assessment process is applied.
20. The supporting information for the draft regulations (MfE, 2013) includes a short summary of drilling in New Zealand and an assessment of the risk of spills. Since offshore drilling for oil and gas began in 1968, 177 wells have been drilled. There have been eight petroleum exploration wells drilled in deep water. The majority of offshore drilling has occurred in the territorial sea adjacent to Taranaki. The largest recorded spill from oil and gas drilling was a spill of 23 tonnes of oil from the Umuroa processing vessel on the offshore Tui field. By comparison, the spill from the cargo ship Rena grounding in Bay of Plenty in 2011 was 350 tonnes. A Maritime NZ review of international experience has suggested that a loss of well control event occurs in approximately 2.54 out of every 1000 deep offshore exploration wells drilled. The majority of events result in discharges that are contained and recovered without significant environmental effects. Of the over 2000 wells drilled in the Gulf of Mexico, five reported spills have been attributed to loss of well control. A spill such as the Deepwater Horizon blowout in the Gulf of Mexico in 2010 is unlikely in New Zealand because the geophysical situations are quite different and it would require multiple failures in multi-stage systems and planning. Based on this assessment, the Minister for the Environment concluded that the probability of significant adverse effects caused by exploratory drilling is low.
21. Although a drilling well blowout is unlikely, it must be managed cautiously due to the possible consequences. Oil spills could affect fishing and tourism activities, marine ecology and beach amenity.
22. A Greenpeace commissioned report (released on 23 October 2013) gauged the effects if a deepwater exploratory oil well blowout took place off Taranaki or Otago. The modelling used a lower rate of oil loss than the Mexico event. It found that about 80 percent of spills impacted the coastline between the Kaipara Harbour mouth and Raglan, while the entire coastline between Opononi and Cape Egmont would be affected in 50 percent of spills. It could take less than a week for an oil spill to reach the coastline at Muriwai, Piha or Manukau Harbour in a worst-case scenario.
23. Representatives of the oil industry and the government have refuted the study and noted that the Gulf of Mexico oil spill scenario is highly unlikely in New Zealand due to differences in the geology, type and pressure of oil likely to be found, and improvements in drilling processes. They stated that contingency plans are in place to respond to any spills should one occur.
24. Oil and gas exploration and production can also result in pollution and ecological effects from their general operations, including disposing of waste materials and discharges to the coastal marine area. Structures and sampling can disturb the seabed and affect the natural character of the coastal environment. Discharges could be from leaks in the well casing or from disposal of chemical substances used in drilling operations.
25. Many of the potential environmental effects of oil exploration, including drilling, can be adequately managed through processes that ensure well integrity and use appropriate

disposal of hazardous substances. Public notification is an important aspect of ensuring that such activities are managed robustly. Notification, submissions and a hearing allow independent experts to assess drilling proposals and whether they have adequate operational procedures, risk reduction plans and spill response capacity. It would also enhance integration of EEZ Act processes and RMA processes for the coastal marine area where proposed activities are close to the 12 nautical mile boundary. The cost reduction benefits for applicants do not appear to justify the exclusion of public participation in the approval process.

Consideration

Local Board Views

26. Local boards were notified of the draft regulations in late December 2013 and a draft of the submission was circulated mid-January. An update on any responses from the local boards will be provided at the Governing Body meeting.
27. The Waitakere Ranges Local Board wrote to the Minister of Energy and Resources in response to the Crown Minerals Act Block Offer 2014 consultation process in October 2013. This direct letter to the Minister occurred because the submission period coincided with the local government elections. There was not sufficient time to obtain and incorporate local board views in the council's submission. The board's letter opposed any offshore oil exploration off the west coast of Auckland and highlighted the values of the Waitakere Ranges coastline that would be affected by an oil spill. These points have been reflected in the attached draft submission on the draft EEZ regulations.

Māori Impact Statement

28. Feedback has been sought from local iwi on the classification of exploratory drilling in the EEZ in response to both the September 2013 discussion document and the draft regulations.
29. In September, responses were received from Te Rūnanga o Ngāti Whātua and Te Kawerau Iwi Tribal Authority. They both supported the council position that exploratory drilling should be a notified activity given the level of public interest and concern in this activity. Ngatiwai Trust Board advised the council that they were making a submission on the Government's proposals. Ngatiwai did not support the use of non-notified discretionary classification and sought greater iwi and public input into the process.
30. In response to the current process, Te Rūnanga o Ngāti Whātua repeated their agreement that exploratory drilling in the EEZ should be a notified activity. Support for the council's draft position was also received from Waikato Tainui. If any other responses are received from iwi, they will be reported at the Governing Body meeting.

General

31. There has been significant public and media interest in the proposals for oil and gas exploration around New Zealand.

Implementation Issues

32. The submission period for the draft regulations closes on 31 January 2014.

Attachments

No.	Title	Page
A	Draft Auckland Council submission on the consultation draft of proposed regulations for exploratory oil and gas drilling under the EEZ Act.	13

Signatories

Author	Kath Coombes - Principal Specialist Coastal
Authorisers	Ludo Campbell-Reid - Environmental Strategy & Policy Manager Roger Blakeley - Chief Planning Officer Stephen Town - Chief Executive



DRAFT

Submission to the
Ministry for the Environment
on the

**Consultation draft of
proposed regulations for exploratory oil and gas
drilling under the EEZ Act**

31 January 2014

Introduction

1. This is the Auckland Council's submission on the consultation draft of the Exclusive Economic Zone and Continental Shelf (Environmental Effects – Non-notified Activities) Regulations 2013.
2. This submission has been approved by the governing body of Auckland Council.
3. Please direct any enquiries to Dr Roger Blakeley, Chief Planning Officer – phone 09 307 6063 or email roger.blakeley@aucklandcouncil.govt.nz
4. Auckland Council thanks the Ministry for the opportunity to make a submission on the draft regulations. We have a strong interest in developments in this area due to our local communities' concerns and the linkages with our regulatory functions under the RMA for the coastal marine area.
5. Auckland Council is the unitary authority for Auckland, a region containing a third of New Zealand's population. Auckland has a significant amount of coastal marine area (11,000 km²) which is highly valued by the region's people.
6. The council would like to express concern regarding the timing of this consultation. The draft regulations were received on 12 December 2013 with submissions closing on 31 January 2014. Scheduling the submission period over the Christmas holiday period meant it was not possible to report to the usual council committee and local board meetings. Consultation with iwi, councillors and local board members has been constrained by this time frame.

General comments

7. Auckland Council understands that there are potential oil and gas reservoirs within and adjacent to Auckland's west coast coastal marine area. The Block Offer 2014 offshore areas in the Reinga Northland Basin, New Caledonia Basin and Offshore Taranaki Basin cover much of the EEZ and coastal marine area to the west of our region.
8. Exploration and production of these resources could bring significant economic benefits to Auckland, as it has done in Taranaki. The Manukau and Kaipara harbours could become support bases for exploration activities off the west coast.
9. There are, however, significant risks from offshore oil and gas exploration, particularly during well drilling operations. While the probability is low, the consequences of any incident or oil spill from exploratory drilling activities could have significant adverse impacts on extensive areas of the EEZ and the coastal marine area. Any well blowout or other major oil spill would have large and ongoing clean-up costs. Routine exploration activities also have lower level risks such as disturbance of seabed sediments and benthic communities, effects on marine mammals, and water quality impacts from discharges. Cumulative low level effects from multiple wells could have significant effects.

10. It is important that the exploration drilling is regulated and managed so that the environmental risks are minimised. This includes allowing for public input to appropriate permitting processes.

Council position

11. Auckland Council does not support the classification of exploratory drilling as a non-notified discretionary activity. We seek that the draft regulations be amended to classify exploratory drilling as a notified discretionary activity.
12. In September 2013 Auckland Council made a submission to MfE on the discussion document regarding activity classifications under the EEZ Act. That submission stated that the council did not support the proposed classification of exploratory drilling as a non-notified activity. That proposal has been carried through to the draft regulations.
13. The supporting information for the draft regulations provides a greater level of analysis on the regulation of exploratory drilling and provides responses to the key points raised in the earlier submissions¹. Following assessment of this additional information, the council's position remains the same.

Iwi and local board views

14. Auckland Council sought feedback from local iwi on the classification of exploratory drilling in the EEZ.
15. In the September 2013 process, responses were received from Te Rūnanga o Ngāti Whātua and Te Kawerau Iwi Tribal Authority. They both supported the council position that exploratory drilling should be a notified activity given the level of public interest and concern over this activity. Ngatiwai Trust Board advised the council that they were making a submission on the Government's proposals. Ngatiwai did not support the use of non-notified discretionary classification and sought greater iwi and public input into the process.
16. Feedback from iwi was again sought in response to the draft regulations. Support for the council's position was received from Waikato Tainui. [insert any other iwi responses here]
17. Input was also sought from Auckland's 21 local boards. [insert responses here]

Notification is justified by the environmental risks of drilling

18. Exploratory drilling has environmental risks that should be managed with the input of public submissions.
19. Relying on an EPA assessment has insufficient certainty regarding how risks associated with deep sea drilling would be assessed and managed. The consent process needs to include a robust assessment of the information provided and ensure that there is adequate monitoring and auditing of compliance with consent conditions, and of an operator's ability to respond to an oil spill.

¹ Ministry for the Environment, 2013, Supporting information for the exposure draft of proposed regulations for exploratory oil and gas drilling under the EEZ Act, Wellington: Ministry for the Environment.

20. Notification would allow councils and the public to review the operators' impact assessments and to make submissions on what appropriate conditions for consent are necessary for the activity to go ahead safely. Notification allows independent experts to cross-check an applicant's track record and to bring expert evidence on the adequacy of proposed oil spill mitigation measures. It would also provide transparency on the extent of exploratory drilling taking place in the EEZ.
21. The supporting information for the draft regulations recognises that there is a risk of oil spills from exploration drilling and states that the probability of a significant oil spill incident resulting from a loss of well control in deep water is low². Such an event would require the alignment of geophysical and operational circumstances that are unlikely but not impossible. Public input to the permitting process would help to ensure that there is an ongoing improvement process that ensures these circumstances continue to be unlikely.
22. The council agrees that the probability of a significant event is low but considers that the potentially significant consequences of such an event justify a notification requirement. Deep water drilling is a relatively rare operation in New Zealand and there is limited New Zealand based expertise in managing such activities. The geology and ecology of the EEZ has a relatively low level of assessment and significant sites may not be known to the EPA. A blowout or large oil spill could impact on large areas of the EEZ, coastal marine area and coastlines. The cost of any restrictions on fishing and tourism dependent on our coastal waters, and of clean-up operations, would outweigh the economic benefits of an exploration operation. Any major spill is likely to have delays before it can be fully contained. Marine wildlife, including marine mammals and seabirds, would be affected.
23. If such a spill reached Auckland's west coast, it would affect a highly sensitive ecological area that has high landscape, recreational and cultural values. This coast has breeding areas for several seabird species and is home to the endangered Maui's dolphin and New Zealand fairy tern. The importance of the area has been recognised in the Waitakere Ranges Heritage Area Act 2008. It would also be very difficult for response services to access this coastline due to the limited roading network and the high energy, rugged cliff nature of the coast. Dealing with an oil spill and bird rescue operation in this area would be highly problematic if not impossible.
24. A high reliance appears to be placed on oil spill prevention, contingency planning and response being managed under other legislation (the Maritime Transport Act, the Marine Protection Rules and the Health and Safety in Employment (Petroleum Exploration and Extraction) Regulations) rather than the EEZ Act. This diminishes the EEZ Act's role in ensuring the environmental effects of activities are considered and managed. If a regulator is focused on protecting human health and safety, it may allow oil spill responses that have unforeseen environmental effects.
25. The proposed approach makes a major distinction between exploration and production drilling. Any application for a production well will be a notified discretionary activity. The supporting information for the draft regulations states that this distinction is justified as exploratory drilling rigs are in place for only a single season whereas production wells may

² Pages 21 and 31.

operate for decades and may have additional support structures and pipelines back to shore with routine discharges over many years³.

26. We consider that exploratory and production wells should both be notified activities. Both have a level of environmental risk that should be open to public assessment. Exploration wells may later be converted to production wells and any site-specific issues will need to be assessed at the exploration stage.
27. The supporting information notes that some other countries have moved away from highly prescriptive regulatory regimes and put the onus on operators to manage the risks associated with an oil spill⁴. This is generally because those countries have a well developed set of standard conditions that must be met by applicants wishing to 'streamline' their applications. New Zealand should allow for non-notified exploration only when standard controls are developed, publicly reviewed and implemented first. Following recent events such as the Deepwater Horizon well blowout in the Gulf of Mexico and the Rena grounding near Tauranga, it is appropriate that a more precautionary approach is taken.
28. The draft regulations do not specify the number or size of exploratory wells or the length of time allowed for exploratory drilling to be undertaken as a non-notified activity. The only condition is that the geographical area covered by the application is the same as that covered by an exploration permit held by the applicant under the Crown Minerals Act. Such permits can cover areas of 10,000 km² in some areas⁵. Operators could be granted a permit for an undefined number of wells in an area unless the EPA decides to impose a limit on the number of wells in the consent conditions. Even if a maximum number of wells is specified, this approach could allow large scale activities with cumulative effects as a non-notified activity if multiple appraisal wells are drilled in the permit area.

Notification ensures integration with council processes under the RMA

29. The new non-notified classification could result in a lack of integration between the RMA and EEZ Act processes. The proposed non-notified discretionary classification would exclude involvement of regional councils and unitary authorities in the consent process. This means Auckland Council could be unaware of the full scope of activities in the EEZ, even if the proposal was adjacent to the territorial sea boundary or could impact on Auckland's coastal marine area. Councils could approve activities in the coastal marine area under the RMA without knowing that exploration had been approved in the adjacent EEZ. Management should be integrated across the 12nm border.
30. The recently notified Proposed Auckland Unitary Plan continues the approach of the operative Auckland Regional Plan: Coastal with regard to mineral exploration and extraction activities in the coastal marine area. In terms of disturbance of the seabed under RMA section 12(1)(c), exploration is a permitted activity provided various size and area controls are met⁶. Well drilling activities would generally exceed these controls; meaning they are a

³ Page 13.

⁴ Page 29.

⁵ Ministry of Business, Innovation and Employment, New Zealand Petroleum and Minerals, Block Offer 2014 consultation phase questions and answers, September 2013, section 2.

⁶ Proposed Auckland Unitary Plan, 3.1.6.2.7.1 The disturbance must be limited to:

a. removal of a maximum of 1m³ of uncompacted material, or 0.2m³ of compact material, in any 24-hour period

restricted discretionary activity. Oil and gas wells would be classified as a discretionary activity in terms of their construction and occupation by a structure and related discharges. Such consents are generally 'bundled' together in RMA processes and so would be treated as a discretionary activity as a whole.

Benefits of non-notification not sufficiently demonstrated

31. The supporting information notes that petroleum operators have requested a non-notified classification to give them greater certainty of timeframes for arranging drilling operations, and that they consider that it imposes high costs on the industry without achieving any environmental benefit⁷. Under the non-notified application process, the EPA would have 60 working days to assess the application and make a decision on whether to grant the consent, to impose conditions on the consent, or to decline the consent. A notified application process could take an additional 80 working days and has the potential to be appealed to the High Court by a submitter.
32. We acknowledge that petroleum exploration is an expensive activity and that development of a new field could have significant economic benefits for New Zealand. However, it is expected that such operations will take years to go through the relevant research, planning and development of measures necessary to meet all the regulatory requirements⁸. The difference in processing time does not appear to justify the exclusion of public participation in the permitting process.

Clarity regarding suspended wells, abandoned wells and appraisal wells

33. Temporarily suspended wells⁹ have not been included in the definition of exploration drilling in the draft regulations. The supporting information states that this will be reviewed in 2014 after further information is compiled on the probability of significant environmental effects relating to such wells¹⁰.
34. We consider that the regulations need to be clear on the status of suspended wells.
35. Once an exploration well is drilled and tested it has three options: either plugged and abandoned, suspended for later use as a production well, or converted straight to a production well.
36. The statement in the definition of exploration drilling that it 'does not include the drilling of wells that may be used for production' appears to exclude both suspending a well and drilling an exploration well that may become a production well. It appears that a non-notified consent can only be applied for if a company commits to plug and abandon the well from the outset. This approach does not enable efficient exploration or economic benefits. It also seems inefficient to require an applicant who finds a viable resource but wants to suspend

b. any drilling device must be no larger than 250mm (head size)

c. less than 5m³ of the foreshore or seabed must be disturbed.

⁷ Page 27.

⁸ Supporting information page 29.

⁹ Wells that are initially drilled for exploration and, in the event of a discovery of hydrocarbons, are then 'suspended' by being temporarily capped to enable them to be later developed for production, once a production permit (under the Crown Minerals Act) and marine consent (under the EEZ Act) are obtained.

¹⁰ Page 13.

the well, to apply for a second non-notified consent to suspend the well while they obtain financing and apply for production permits.

37. Confusion is also created by the inclusion of 'capping a well' in regulation 5(2) for related activities that will also be non-notified. This could be interpreted to include both a temporary cap and permanent capping and abandonment of the well.
38. We request clarification on the status of 'end of life' activities covered by the non-notified consent. This should include the specification of the status of suspended wells and amendment to the use of 'capping a well' in the definition of exploration drilling.
39. There is a minor inconsistency between the draft regulations and the supporting information regarding the status of appraisal wells. Regulation 5(2) includes a list of activities that is the same as the activities listed on page 12 of the supporting information but does not include the bullet point 'drilling an exploration well in a single permit area and any subsequent appraisal wells'. The list in regulation 5(2) should include 'drilling'. The definition of 'exploration drilling for petroleum' covers appraisal wells by including both drilling for identifying petroleum deposits and for evaluating the feasibility of mining particular deposits.

Summary of changes sought

40. Auckland Council seeks that the following changes be made to the draft regulations for exploratory oil and gas drilling under the EEZ Act:
 - a) Amend draft regulation 5(1) so that exploratory drilling is classified as a notified discretionary activity.
 - b) Clarify whether suspended wells are included in the definition of exploration drilling or require a notified consent.
 - c) Amend the definition of exploration drilling as follows '(c) does not include the drilling of production wells or the use of wells for production subsequent to exploration that may be used for production.
 - d) Amend draft regulation 5(2) to replace 'capping a well' with 'plugging and abandoning a well'.
 - e) Include 'drilling' in the list of activities in regulation 5(2).

Auckland Airport Capital Return

File No.: CP2014/00396

Purpose

1. To provide information on the proposed return of capital by Auckland International Airport Limited (AIAL) and direct Auckland Council Investments Limited (ACIL) to vote Auckland Council's shareholding in favour of the capital return.

Executive Summary

2. Council is AIAL's largest shareholder with a 22.37 per cent shareholding valued at approximately \$1.05 billion. The shareholding is held by ACIL and governed by the Auckland Airport Shareholding Policy.
3. AIAL has proposed a capital return to shareholders that requires approval by 75 per cent or more of shareholders in February 2014 and then High Court approval. The proposed capital return is due to the very strong operating performance of AIAL which has resulted in a less than optimal capital structure.
4. If the capital return proceeds, Council will receive \$101.5 million of cash in April 2014 which is \$83.9 million higher than budget.
5. The capital return will be on an equal basis to all shareholders so Council will retain its same proportionate shareholding.
6. Officers recommend ACIL be directed to vote in favour of the capital return. A separate report outlining the most appropriate use of proceeds will be tabled at a subsequent Governing Body or Finance and Performance Committee meeting.

Recommendation/s

That the Governing Body:

- a) direct Auckland Council Investments Limited to vote Auckland Council's shareholding in favour of the proposed capital return by Auckland International Airport Limited.
- b) note that if the capital return proceeds, a separate report outlining options for the use of the proceeds will be received by either the Governing Body or Finance and Performance Committee by April 2014.

Discussion

7. Auckland Council owns 295,921,014 shares or 22.37 per cent of AIAL, with a current market value of \$1.051 billion.
8. The shares are held on behalf of Council by ACIL.
9. The Auckland Airport Shareholding Policy (attached as Attachment A) outlines Council's strategy for managing the investment in AIAL.
10. On 28 November 2013, AIAL announced a proposal to return \$454 million of capital to shareholders by way of a Court approved arrangement resulting in cancellation of one in every 10 shares with shareholders receiving \$3.43 for each cancelled share, being the share price on 27 November 2013.

11. A shareholders meeting is scheduled for mid February 2014 to vote on the proposal. If the proposal is approved by 75 per cent or more of voting shareholders, then High Court approval will be sought in March 2014. The capital return payment will coincide with the expected timing of the 2014 interim dividend in April 2014. Therefore, there will be no interim dividend but a final dividend is expected in October 2014.
12. If the capital return proceeds, Auckland Council will receive a payment of approximately \$101.5 million in April 2014, with 40 per cent of the payment as a capital return for tax purposes and the remaining 60 per cent treated as a taxable dividend fully imputed at a 28 per cent tax rate. Council had forecast to receive an interim dividend of \$17.6 million so the additional proceeds will be \$83.9 million.
13. AIAL's recent strong financial performance has resulted in the company currently having a less than optimal capital structure with a higher level of equity and a lower level of debt than desired. The capital return will be funded by AIAL issuing long-term debt as the AIAL Board believes that their balance sheet can accommodate the extra debt. Council officers support this view, noting that while the additional debt will increase financial risk, the company remains conservatively geared as shown below.

	June 2009	June 2010	June 2011	June 2012	June 2013
Market Capitalisation (\$m)	\$1,972	\$2,450	\$2,935	\$3,240	\$3,927
Debt (\$m)	\$1,077	\$1,092	\$1,085	\$1,109	\$1,142
Enterprise Value (\$m)	\$3,049	\$3,542	\$4,020	\$4,349	\$5,069
Debt to Enterprise Value (\$m)	35.7%	31.1%	27.2%	25.8%	22.8%

14. Should the capital return proceed then the impact on AIAL is as follows (based upon November 2013 data)

	Pre capital return	Post capital return
Market Capitalisation (\$m)	\$4,537	\$4,083
Debt (\$m)	\$1,142	\$1,596
Enterprise Value (\$m)	\$5,679	\$5,679
Debt to Enterprise Value (\$m)	20.1%	28.1%

15. The current AIAL dividend policy to pay 100 per cent of underlying net profit after tax will remain. The additional long-term debt will lead to an increase in AIAL's interest expense. While this may modestly reduce future dividends paid by AIAL, a more efficient capital structure may lead to an increase in the value of Council's shareholding.
16. Voting in favour of the proposal (and assuming other shareholders vote accordingly) will result in a higher than budgeted cash receipt to Council in 2014 which could be utilised for repayment of debt and / or reinvestment into other assets or parts of the Council Group. Note that if the capital return proceeds, a report to Governing Body or the Finance and Performance Committee, outlining alternative uses of the proceeds will be tabled by April 2014. Council's shareholding in AIAL will remain at the 22.37 per cent level with no change in Council's proportionate shareholding or voting rights but the value of the investment decreases by approximately \$84 million. However, long term returns from AIAL should improve as a result of the company having a more efficient balance sheet.
17. Voting against the proposal would result in Council receiving a dividend payment in April 2014 in line with budget and the value of Council's investment would remain unchanged. However, the long term return to Council from its AIAL shareholding comprising dividends and capital gain may not be maximised as a result of a less than optimal capital structure.

18. Officers recommend Council directs ACIL to vote in favour of the capital return to ensure that AIAL operates in the most efficient manner possible in order to maximise our total return on our shareholding.

Consideration

Local Board Views

19. Local Boards have not been consulted on the proposed capital return.

Māori Impact Statement

20. This report does not raise any issues of significance or adverse impacts for Māori, nor does it raise any issues that will be of benefit to Māori.

General

21. This report does not involve decisions that will trigger the Council's significance policy.

Implementation Issues

22. Should the capital return proposal be approved by 75 per cent of AIAL shareholders in February 2014, then a report will be tabled to the Governing Body or Financial and Performance Committee by April 2014, outlining alternative uses of the proceeds.

Attachments

No.	Title	Page
A	Auckland Airport Shareholding Policy - Chapter 14 LTP 2012-22	25

Signatories

Authors	Mark Butcher - Treasurer Catherine Syme - Principal Advisor, CCO Governance and External Partnerships
Authorisers	Mark Butcher - Treasurer Andrew McKenzie - Chief Finance Officer Stephen Town - Chief Executive

Chapter 14: Auckland airport shareholding policy

14.1 Policy purpose and overview

The purpose of this policy is to set out the strategy for managing the council's investment in Auckland International Airport Limited (AIAL). The policy sets out the council's wider objectives for its shareholding in AIAL and how it will evaluate any proposals relating to this shareholding.

The policy does not provide for any sale of the council's current shareholding in AIAL although this may be considered in exceptional circumstances. The policy allows the council to undertake a technical transfer of its shareholdings as part of a restructuring transaction that will result in the council shareholding being no less than it was prior to the transaction.

14.2 Policy background

As at 15 June 2012, the council owns 295,921,014 shares in AIAL which equates to a 22.37 per cent shareholding⁽¹⁶⁾. These are held through its wholly-owned subsidiary Auckland Council Investments Limited (ACIL)⁽¹⁷⁾.

ACIL is the council's vehicle for managing its investment in the airport and implementing this policy as appropriate. ACIL is a CCO and its activities are governed by the council's CCO accountability policy and its Statement of Intent (SOI). The council's CCO accountability policy and ACIL's SOI includes a requirement that it manages its investment in accordance with this policy.

Section 5 of the LGA 2002 defines the council's shareholding in AIAL as a strategic asset. Under section 97 of the act, a transfer of ownership or control of a strategic asset can only occur if the decision to do so is provided for in the council's long-term plan.

14.3 Policy details

Objectives for shareholding

The objectives are to:

- maintain a strategic stake in Auckland Airport as an important national and regional asset
- ensure an appropriate annual financial return from the investment in the airport.

Strategy

The council's strategy is to:

- maintain its level of ownership where this does not require additional investment
- consider selling its shares only if the council would be substantially better off as a result or worse off by maintaining its holding

16. There has been a slight decrease in council's shareholding from the 2011/2012 year due to the council not participating in the company's Dividend Reinvestment Plan (DRP).

17. ACIL holds the shares via its subsidiaries Airport Shares (Auckland) Limited (165,501,630 shares) and Airport Shares (Manukau) Limited (130,419,384 shares). The shares are valued at \$731 million based on a price of \$2.47 as at close of business 15 June 2012.

- maintain a strong relationship with Auckland Airport directors and senior officers
- use the expertise of ACIL in managing its investment in the airport
- appropriately structure its investment in ACIL and its subsidiaries to take maximum advantage of any opportunities for the management of its debt portfolio
- monitor the risks associated with the airport both operationally and financially including the mix of debt and equity in the balance sheet.

Dividend reinvestment plan

The council will decide whether or not to participate in the Dividend Reinvestment Plan (DRP) on a case by case basis.

Rights and securities issues

The council will decide whether or not to participate in rights and securities issues on a case by case basis. In determining whether it will participate or not the council will take into account the:

- matters set out in this policy
- impact of funding an additional investment on the council's financial position in the short and long term
- extent of any discount to the market in the issue price, bearing in mind the likelihood of the council being able to realise this
- future prospects for the business
- economic effects of the rights or other securities issue structure.

Takeover offers, mergers and capital restructuring

The council on advice from ACIL will assess any options that may become available to it against the following seven general criteria. In applying these criteria, the council will follow the decision-making principles outlined in the LGA 2002.

1. Overall impact: the overall impact on the current and future social, economic, environmental and cultural well-being of the community. This assessment will include the likelihood of Auckland Airport's role as an integral part of the city's regional and national transport system being enhanced or compromised.
2. Feasibility: the likelihood of successfully implementing the option, as measured by the extent of tax, legal and other issues that would need to be worked through to successfully do so.
3. Strategic value: the impact in terms of the council's long-term objectives, desired community outcomes and the broader public interest. This would be reflected in factors such as:
 - a. the council's ability to have input into the appointment of directors to the board of Auckland Airport
 - b. the council's ability to have input into the management of Auckland Airport
 - c. the level of public scrutiny of the management of Auckland Airport
 - d. the level of council ownership and influence
 - e. the level of shareholding held by a single shareholder other than the council should not exceed 50 per cent
 - f. the level of New Zealand ownership of Auckland Airport
 - g. the commitment of new shareholders to the development of the airport.
4. The council's ability to block a full takeover of Auckland Airport or otherwise block ownership changes that could significantly impact on the business plan and operations of Auckland Airport.

5. Financial returns: the impact on the council's projected after tax cash flows over the remaining period of the LTP 2012-2022 and beyond.
6. Liquidity: the ability of the council to quickly change its shareholding to cash if required. This would be reflected in factors such as whether the council's shares can still be traded on the New Zealand Stock Exchange, the likely number of buyers for the council's shareholding, and any new procedures or restrictions that may be put in place in relation to the council's exiting its investment.
7. Risk: the likelihood and impact of negative consequences. This includes any operational risk associated with changes to the management or operation of Auckland Airport, as well as the financial risk associated with an increase in the level of debt funding of Auckland Airport. A higher level of debt would reduce the airport's capital expenditure flexibility and increase the risk associated with the airport's ability to make future distributions to shareholders.

The council recognises that, as AIAL is a widely held company, it may not in all circumstances be able to achieve all of the objectives above but will ensure that as many as possible are achieved. The council may consider selling its shareholding in the event of a takeover that would leave it as the only other remaining shareholder and hence lacking any influence over the direction of the airport.

Implementation options

A change in ownership or control of some or all of the council's shareholding in AIAL or a restructure of the council's interest may take place by any of the options listed below, or by a combination of those options, or in any other ways that satisfy the council's policy set out above.

- Option 1: The council joins a consortium, which will execute a full or partial takeover or otherwise acquire a substantial stake in Auckland Airport. The council would achieve an ultimate stake at least equivalent to its percentage holding in the Auckland Airport prior to the transaction in the airport by taking shares, or other securities, in the consortium.
- Option 2: The council agrees to AIAL merging with another company, exchanging the council's shares in the airport for shares or other securities in the new entity, provided the council would achieve an ultimate stake in the new entity at least equivalent to its percentage holding in the Auckland Airport prior to the transaction.
- Option 3: The council agrees to AIAL being restructured so that its business units separate into stand-alone entities, with the council receiving a proportionate equity stake in one or all of the stand-alone entities, provided that the council would achieve an ultimate stake at least equivalent to its percentage holding in the Auckland Airport prior to the transaction of the combined equity of the stand-alone entities.
- Option 4: The council sells shares, or other securities, in Auckland Airport for cash or some other form of consideration, provided that the council's ultimate stake in the airport is at least equivalent to its percentage holding in the Auckland Airport prior to the transaction.
- Option 5: The council buys shares or other securities in Auckland Airport.
- Option 6: The council transfers its ownership stake in Auckland Airport to a holding company.

Option 7: The council exchanges its share in the airport for other securities in the airport.

14.4 Adoption and amendment of this policy

The council must use the special consultative procedure set out in the LGA 2002 to adopt this policy and make any significant amendments to it.

Exclusion of the Public: Local Government Official Information and Meetings Act 1987

That the Governing Body:

- a) exclude the public from the following part(s) of the proceedings of this meeting.

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 follows.

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 which would be prejudiced by the holding of the whole or relevant part of the proceedings of the meeting in public, as follows:

C1 Further Appointments to Outside Organisations

Reason for passing this resolution in relation to each matter	Particular interest(s) protected (where applicable)	Ground(s) under section 48(1) for the passing of this resolution
The public conduct of the part of the meeting would be likely to result in the disclosure of information for which good reason for withholding exists under section 7.	s7(2)(a) - The withholding of the information is necessary to protect the privacy of natural persons, including that of a deceased person. In particular, the report contains the names of potential nominees.	s48(1)(a) The public conduct of the part of the meeting would be likely to result in the disclosure of information for which good reason for withholding exists under section 7.