



**CENTRAL  
HAWKE'S BAY**  
DISTRICT COUNCIL

18 October 2024

Trevor Le Lievre

C/- Email: [REDACTED]

Ruataniwha Street,  
PO Box 127, Waipawa 4240  
New Zealand

Phone: 06 857 8060  
Fax: 06 857 7179

info@chbdc.govt.nz  
[www.chbdc.govt.nz](http://www.chbdc.govt.nz)

Kia ora Trevor,

### LGOIMA 2024/52 re Community Trust for Ruataniwha Dam Consents

Thank you for your request for information dated 26 September 2024 under the Local Government Official Information and Meetings Act 1987.

Since receiving this request, I can now point you to the Council report provided publicly at Council's Strategy, Growth and Wellbeing Committee on 17 October 2024. This can be found on Council's website [here](#) at page 121 of the agenda onwards in Report Item 5.5 Establishment of Hawke's Bay Water Trust – endorsement and update. I also **attach** a copy of that report.

Council has set up a dedicated website page following the 17 October meeting, which is a forum for community to ask questions, access further information and share their views. Council will respond within business hours. There is also a function that allows community to provide comment, as in Council's resolutions of 17 October 2024. This page went live on 18 October 2024 ([www.letstalkchb.co.nz](http://www.letstalkchb.co.nz)). It has been signposted to the community through Council's normal channels.

While we have previously proactively published your LGOIMA request of 16 September 2024 on our website, we will also be adding your previous and this LGOIMA to our [letstalkchb page](#).

I note that you have raised in various public forums that there are unanswered questions relating to the proposed Trust. While you can request information at any time, I would encourage you to write to me about them as soon as possible to ensure that these points are clarified, if they are questions or matters that relate to the proposed Trust establishment or are material in nature.

Please send me your questions no later than **Thursday 24 October 2024**, if you wish to have clarifications ahead of the 31 October meeting. It would be helpful if your questions can be considered in preparation for the proposed public forum, particularly noting I have sought these in advance from you.

We take our responsibilities under the Local Government Official Information and Meetings Act 1987 and take allegations of secrecy or a lack of transparency seriously. I refute your view that Council has not been transparent in the development of the proposed Trust Deed and in the development of my advice, as you have publicly stated. Since late 2023, I have provided updates to Council publicly through the [Organisational Performance Report](#) available publicly through Council's agendas and website, outlining the process undertaken, consistent with other activities of Council.

The advice to Council was presented once due diligence had been completed on preparing it. Equally, other parties involved in the proposed Trust needed to be satisfied with the draft deed and their own due diligence before it could be presented as advice for Council to consider.

I respond to the points you seek information on below:

- 6.1 Please forward a copy of the draft trust deed formulated to date, as well as any instructions provided to CHBDC solicitors regarding the Trust:**

This information was provided in the agenda of 17 October 2024. I again note that this is the first time that Council had received this information.

- 6.2 Which law firm has been engaged to undertake work on developing the Community Trust?**

Simpson Grierson. This information has been made public and is available at the link: [Strategy Growth & Community Agenda 17 October 2024](#) from page 121 of the agenda.

- 6.3 If a Community Trust were to proceed, what would the criteria be for trustee eligibility, how broadly representative of affected communities would trustees be, and how would they be appointed/elected?**

The key information sought has been made public and is available at the link: [Strategy Growth & Community Agenda 17 October 2024](#) from page 121 of the agenda.

Following the item considered at the meeting on the 17 October, Council was directed to seek further information, which will be publicly available prior to the Council meeting on the 31 October 2024.

- 6.4 What undertakings, if any, have been made to iwi participants during discussions to date to provide positions related to the proposed Community Trust (e.g. trusteeship, management, employment positions etc.)?**

For clarity when you refer to iwi participants, we have been working with the Post Settlement Group Entity Tamatea Pōkai Whenua Trust, who are our legal Treaty partners under the Settlement Act.

Further, Council is not aware of, nor has it given any undertakings relating to roles or employment positions. The proposed Trust Deed and Council's role in the Trust does not provide for this level of direction or influence.

- 6.5 Is it the intention that a potential Trust would be a genuine Community Trust, or simply a vehicle for the Ruataniwha dam investors?**

As our report of 17 October 2024 states, the aim is to place community ownership and direction at the centre based on the proposed Trust Deed's purpose.

Again, this information has been made public and is available here: [Strategy Growth & Community Agenda 17 October 2024](#) from page 121 of the agenda.

- 6.6 Regarding work undertaken to date by Council on forming a Community Trust, can we receive:**

**6.6.1 Dates and times of all meetings held to discuss a Community Trust, and names of all attendees;**

We ask that you please refine your request to a specific timeframe that you seek information within. The report of the [Strategy Growth & Community Agenda 17 October 2024](#) begins to outline timeframes in which material action has been taken.

Please confirm this with us as soon as possible.

#### **6.6.2 Copies of all written communication pertaining to this matter;**

We ask that you please refine your request to a specific timeframe that you seek information within. The report of the [Strategy Growth & Community Agenda 17 October 2024](#) begins to outline timeframes in which material action has been taken.

Please confirm this with us as soon as possible.

#### **6.6.3 Summary of telephone conversations pertaining to this matter.**

We ask that you please refine your request to a specific timeframe that you seek information within. The report of the [Strategy Growth & Community Agenda 17 October 2024](#) begins to outline timeframes in which material action has been taken.

Please confirm this with us as soon as possible.

#### **6.7 How much staff time and ratepayer money has been expended on developing the Community Trust to date, and is there a Council budget for this work? If so, what is the budget amount and from which funding pool is the money being drawn?**

This information has been made public and is available here: [Strategy Growth & Community Agenda 17 October 2024](#) from page 121 of the agenda.

#### **6.8 Please provide reasons as to why Council lawyers are drafting a Trust Deed for the private company Water Holdings Hawkes Bay (WHHB) who own the consents and intellectual property, and advise whether WHHB are contributing to the work being undertaken?**

Council has taken a facilitation role in the development of the proposed Trust. Tamatea Pōkai Whenua Trust and Water Holdings Hawke's Bay have contributed to the work being undertaken. Again, this information has been made public and is available here: [Strategy Growth & Community Agenda 17 October 2024](#) from page 121 of the agenda.

#### **6.9 What would Council's ongoing role be in relation to a Community Trust?**

This information has been made public and is available here: [Strategy Growth & Community Agenda 17 October 2024](#) from page 121 of the agenda. Please see page 126.

#### **6.10 Please quantify the 'assets' relating to the Ruataniwha dam which it is intended will be placed into a Community Trust, and what other potential assets (i.e. municipal bores, MAR IP) is it anticipated that a Trust might hold?**

At this time, we anticipate this would only be the IP and consents relating to the Project, in the event the Deed of Transfer is executed.

This information has been made public and is available here: [Strategy Growth & Community Agenda 17 October 2025](#) from page 121 of the agenda.

#### **6.11 Would a Community Trust own the actual Ruataniwha dam infrastructure, or possibly just a percentage (or, as a possible alternative, own and lease the consents and IP)?**

No. This information has been made public and is available here: [Strategy Growth & Community Agenda 17 October 2024](#) from page 121 of the agenda.

- 6.12 Is it intended that WHHB will donate its assets to a Community Trust, or will those be purchased by the Trust? If the latter, how would the value be established, and where would the purchase funds come from?**

This information has been made public and is available here: [Strategy Growth & Community Agenda 17 October 2024](#) from page 121 of the agenda. This is specifically outlined on page 125 of the agenda.

- 6.13 If it is just the Ruataniwha dam consents and IP to be held by a Community Trust what would the Trust's future status be should the consents lapse in 9 months-time (in June 2025) without any progress having been made in exercising them, and hence nullifying any opportunity to renew them?**

Please see the purpose of the proposed Trust Deed, which speaks to the Trust being greater than your question on page 142 of the agenda available here: [Strategy Growth & Community Agenda 17 October 2024](#).

- 6.14 Who would assume the existing and ongoing financial liabilities of WHHB (e.g. annual science charges)? Have those liabilities been calculated and, if so, can you please provide these calculations?**

The Trust would, subject to agreements being finalised between the Trust and Water Holdings Hawke's Bay. We do not hold information relating to the liabilities.

Please refer to our [Strategy Growth & Community Agenda 17 October 2024](#) from page 121 of the agenda for additional context.

- 6.15 What financial liabilities would a Community Trust hold for water security projects that failed?**

The specific liability and risk allocation would need to be addressed between the Trust and the proposed commercial entity by way of agreement.

- 6.16 Would a Community Trust have any direct operational responsibility for water security projects? If not, what oversight/control would it have over implementation of such projects, including business case preparation?**

The proposed Trust Deed specifically excludes the Trust from being able to be directly involved in the commercial development, delivery or operation of water resource infrastructure.

It could reasonably be expected that any oversight/controls of the implementation would be developed between the Trust and any future Commercial Entity.

Please refer to our [Strategy Growth & Community Agenda 17 October 2024](#) from page 121 of the agenda for additional context.

- 6.17 Please supply a record of work that has been done to quantify the benefit for the community of establishing a Community Trust?**

We encourage you to revisit the Lewis Tucker Tukituki [Rescoping Report](#) available on our website.

The level of investment required to deliver a business case is also not relative to Council's role and the costs incurred in its role in the development of the proposed Trust.

I would also encourage you to contact Mike Petersen, Chair of the Tukituki Water Security Project.

**6.18 Will the potential formation of a Community Trust go to full public consultation and will ratepayer feedback be considered by Council prior to any decision about whether to proceed?**

As you are aware, I have assessed the significance of this matter in accordance with Council's Significance and Engagement Policy that full public consultation is not required. This has also been outlined in the report of the [Strategy Growth & Community Agenda 17 October 2024](#).

In accordance with Council's resolutions at the [Strategy Growth & Community Agenda 17 October 2024](#), a platform has been launched to allow for questions and answers to be provided along with people to give feedback. This is available at [www.letstalkchb.co.nz](http://www.letstalkchb.co.nz).

The opportunity to comment will remain open until 9am Tuesday 29 October 2024, to allow feedback to be incorporated into the Council report for its 31 October 2024 Agenda.

**6.19 Has Council investigated attaining water security through water savings such as might be achieved under Scenario 3 of the HBRC Regional Water Assessment Report 2023, as an alternative to facilitating the resurrection of the Ruataniwha Dam?**

This is outside the scope of establishing the Trust.

I reasonably expect that further clarifications sought by community will be proactively released on our website: [www.letstalkchb.co.nz](http://www.letstalkchb.co.nz) as further questions may be raised by community. I encourage you to actively share and comment further on this page.

If you are unsatisfied with my response, please contact me in the first instance. You also have the right to seek an investigation and review by the Ombudsman of this decision. Information about how to make a complaint is available at [www.ombudsman.parliament.nz](http://www.ombudsman.parliament.nz) or freephone 0800 802 602.

**Publication of responses to LGOIMA requests**

Please note as I have mentioned earlier, this LGOIMA response will be proactively published on the Central Hawke's Bay District Council website with your personal details withheld.

Yours sincerely



Doug Tate  
Chief Executive