

Supplementary information for the Regional Council Meeting on:

Thursday, 2 August 2018 commencing at 9:30 am

Attachments:

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Thursday, 28 June 2018

BAY OF PLENTY REGIONAL COUNCIL TOI MOANA
ATTN: YVONNE TATTON
PO BOX 364
WHAKATĀNE 3158

Tēnā koe Yvonne,

Submission to the Bay of Plenty Regional Council Representation Review

Thank you for the opportunity to submit to the Bay of Plenty Regional Council Representation Review. The Whakatāne District Council (WDC) would like to reiterate the following three points made in our initial opinion on the Representation Review in March this year.

1. The Council supports retaining the 2012 boundary adjustment between Kōhī and Mauāo Māori Constituencies

Currently, the Kōhī and Mauāo Constituency boundary aligns with the Whakatāne District/Western Bay of Plenty boundary. Prior to this, the boundary sat further south, resulting in communities of interest in the Matatā area being split between Kōhī and Mauāo Constituencies. WDC supports retaining the current boundary alignment in order to retain the effective representation of communities of interest in that area. It is noted that the Māori Constituencies comply with the +/-10% fair representation requirement, which is supported in this instance.

2. Representation needs to reflect the needs and characteristics of the environment, rather than just overall population

WDC continues to support representation reflective of the needs and characteristics of the community, rather than aligned simply to overall population. WDC will not support any proposal that seeks greater representation for the Tauranga Constituency, particularly to the detriment of other Constituencies. The focus of Bay of Plenty Regional Council representation should be weighted towards communities of interest in particular, geographic and environmental characteristics.

3. The Council supports the proposed retention of two elected members to represent the Eastern Bay of Plenty

The Eastern Bay of Plenty Constituency represents the largest geographic area in the Bay of Plenty - about 60% of the region. The Constituency is comprised of a number of diverse

communities of interest including a commercial hub in Whakatāne, and significant isolated rural, coastal, and forestry communities. The Bay of Plenty Regional Council's vision, *Thriving together – mō te taiao, mō ngā tāngata*, clearly recognises the Council's role in protecting the land, stating 'our environment and our people go hand-in-hand. We need to protect and maintain our unique environment because natural resources, such as water, air and land, are vital to how we live. They are what give us sustenance, form the basis of our economy and generate our sense of community. We have an obligation to balance enjoying and using this environment now with protecting it for future generations.'

Given size of the Eastern Bay of Plenty relative to the Bay of Plenty region, the numerous and varied communities of interest in the area, and the vision of the Regional Council, in this instance it is not appropriate to base representation purely on population. At least two elected members are required to ensure effective representation for the people and land of the Eastern Bay of Plenty.

It should also be noted that while the current population of the Eastern Bay of Plenty falls outside the +/-10% fair representation requirement, population growth is expected in the coming years as key economic development opportunities progress across the Eastern Bay. These projects include the Ōpōtiki Mussel Farm, Kawerau Container Terminal, and the promotion of Whakatāne as the gateway to Whakaari/White Island. For these reasons, WDC strongly supports the proposed retention of at least two elected members to represent the Eastern Bay of Plenty Constituency.

We would like to be heard in support of this submission.

For specific enquiries related to the submission please feel free to contact the Strategic Policy Team at WDC on 07 306 0500 or StrategicPolicy@whakatane.govt.nz.

Ngā manaakitanga,



Tony Bonne

MAYOR



Report To: Regional Council

Meeting Date: 02 August 2018

Report From: Mat Taylor, General Manager, Corporate Performance

BOPRC Submission on Taxation (Annual Rates for 2018-19, Modernising Tax Administration, and Remedial Matters) Bill

Executive Summary

The Income Tax Act 2007 is updated annually via a Bill passed through the House. The 2018 bill is proposing an update to Schedule 29A, Portfolio Investment Entities: Listed Investors, by including Northland Regional Council.

It is recommended that Council submit on the Bill to also be included as a listed investor along with Northland. Being listed bears no obligation to invest and carries no cost. However it enables a more efficient vehicle for investing with a wider range of investment opportunities that can also provide a tax benefit.

The submission period for the Taxation (Annual Rates for 2018-19, Modernising Tax Administration, and Remedial Matters) Bill closes on 13 August 2018.

Recommendations

That the Regional Council:

- 1 Receives the report, BOPRC Submission on Taxation (Annual Rates for 2018-19, Modernising Tax Administration, and Remedial Matters) Bill;**
- 2 Approves a submission on the Taxation Bill be prepared and submitted;**
- 3 Agrees for the Chairman to approve and sign the submission on behalf of Council when it is finalised.**

1 The Taxation (Annual Rates for 2018-19, Modernising Tax Administration, and Remedial Matters) Bill background

The Taxation (Annual Rates for 2018-19, Modernising Tax Administration, and Remedial Matters) Bill (Taxation Bill) was introduced into the House on 28 June 2018 by Hon Stuart Nash (Revenue Minister); and referred to the Finance & Expenditure Select Committee.

This is an omnibus bill proposing to amend 15 Acts and 2 regulations of tax Acts. The Taxation Bill's proposals can be broken down into three categories. Broadly, these three categories are:

- setting the annual rates of income tax for the 2018/19 tax year
- introducing changes to help modernise, improve, and simplify the administration of individuals' income tax and aspects of the Tax Administration Act 1994
- introducing changes to improve current tax settings within a broad-base, low rate policy framework, to help maintain confidence that tax system is fair and encourage voluntary compliance.

The bill covers a wide range of taxation amendments, but the key matter for Council is that it proposes to include Northland Regional Council as a listed entity into Schedule 29 of the Income Tax Act 2007 as shown in Table 2. (Schedule 29 specifies the Portfolio Investment Entity (PIE) listed entities as shown in table 1 (PIE is defined in section 2)). It is proposed on the basis that they act on behalf of ratepayers and is effectively widely-held.

Table 1: Current Income Tax Act 2007: Schedule 29

Schedule 29	
Portfolio investment entities: listed investors	
Part A	
1	A PIE or an entity that qualifies for PIE status.
2	A foreign PIE equivalent.
3	A life insurer.
4	The Crown as owner of the New Zealand Superannuation Fund.
4B	A Fund investment vehicle, as referred to in section 59A of the New Zealand Superannuation and Retirement Income Act 2001, that is treated as being wholly owned by the Crown under section HR 4B .
4C	A company that is treated as being wholly owned by the Crown under section HR 4B .
5	The Accident Compensation Corporation, or a Crown entity subsidiary of the Corporation.
6	The Earthquake Commission.
7	Auckland Council.
8	A boutique investor class, treating interests combined under section HM 16 as held by 1 person.
9	A community trust.
10	Quayside Holdings Limited.

Table 2: Proposed amendment

217 Schedule 29 amended (Portfolio investment entities: listed investors)
In schedule 29, part A, after item 10, insert:
11 Northland Regional Council.

With the Bay of Plenty Regional Council taking a strategic group treasury function it is important to also seek insertion of Bay of Plenty Regional Council into Schedule 29 of the Income Tax Act 2007.

Quayside Holdings Limited (Quayside) was inserted into the PIE listed entities schedule through the November 2012 amendments to the principal Act.

2 Portfolio Investment Entity

A portfolio investment entity (PIE) is a type of entity, such as a managed fund (investment fund), that invests the contributions from investors in different types of investments.

It is a way of investing money alongside other investors in order to benefit from the inherent advantages of working as part of a group. These advantages include an ability to:

- hire professional investment managers, which may potentially be able to offer better returns and more adequate risk management;
- benefit from economies of scale, i.e., lower transaction costs;
- increase the asset diversification to reduce some unsystematic risk.

Portfolio investments can span a wide range of asset classes such as stocks, government bonds, corporate bonds, Treasury bills, mutual funds and certificates of deposit. Portfolio investments can also include options and derivatives such as warrants and futures.

The composition of investments in a portfolio depends on a number of factors. Some of the most important include the investor's risk tolerance, investment horizon and amount invested. For an investor with limited funds, mutual funds or exchange-traded funds may be appropriate portfolio investments. For a high net worth investor, portfolio investments may include stocks, bonds and commodities.

2.1 Tax rules

Tax rules have allowed eligible entities to become PIEs since 1 October 2007. Eligible entities that elect to become a PIE will generally pay tax on investment income based on the prescribed investor rate (PIR) of 28%, rather than at the entity's tax rate.

Investing in a PIE can provide tax advantages relative to direct investment. Capital gains made on most investments in New Zealand shares, and most Australian listed shares, are not taxable irrespective of the level of trading undertaken. In addition, because the prescribed investor rates at which tax is paid on PIE income are capped at 28%, and no other tax is generally payable by individual unitholders, there can be tax advantages if a unitholder is on a higher marginal tax rate.

3 Council's proposed submission

It is recommended that Council submit on the Taxation Bill to be included in Schedule 29 as a listed investor.

Council is not currently a listed investor under Schedule 29 and therefore can hold no more than 20% of a class within a PIE. As such only 19.9% of the Toi Moana funds could be held in any class of Quayside Investment Trust's (QIT) PIE.

Becoming a listed investor would allow Council to hold 100% of a class of a PIE. The investment manager would then be able to manage the full Toi Moana fund as part of a PIE.

For Quayside to comply with the Statement of Intent to Council, which offers capital security of the funds, they would be looking to invest the Toi Moana funds into income assets through a PIE in QIT. As such the \$45 million would currently pass the 20% limit, so the remaining funds likely being a loan and managed under a less efficient method due to missing the benefits of a PIE (set out in section 2).

A PIE is the most tax efficient way to get into the sharemarket, with returns fully imputed with only the income flowing to Council. Investing in a class of QIT's PIE Quayside could top the any tax short fall requirement.

Obtaining status on Schedule 29 provides Council with optionality when investing with no cost or obligation to invest.

4 Quayside Holdings Limited's submission

Quayside are also proposing to submit on the Taxation Bill to the Select Committee in support of the Northland application and also requesting the inclusion of the Bay of Plenty Regional Council. Part of the basis of the Northland's application was citing Quayside's presence on Schedule 29 and its desire to invest more than 20% in a PIE.

By Council gaining entry on the listed investors schedule it will provide Quayside with a more efficient investment vehicle to manage the Toi Moana fund and assist with gaining the average 5% return.

5 Next Steps

It is recommended that Council prepare a submission, based on Quayside's submission, on the Taxation Bill as it will provide an efficient investment vehicle for Quayside to obtain returns and pass onto to Council.

For the submission to be considered it must be submitted by 13 August 2018 per step (iii) below.

The full process for the Taxation Bill is;

- (i) The Revenue Minister, Hon Stuart Nash introduced the Bill into the House on 28 June 2018.
- (ii) First reading; was held on 3 July 2018 and the bill was referred to the Finance & Expenditure Select Committee.
- (iii) Select Committee; opened the bill for consultation with submissions due by the close date of **13 August 2018**.

What do you need to know about the submissions?

- Submissions are publicly released and published to the Parliament website. Only the organisation's name is required on a submission.
- Council can speak to the submission.

(The Committee will be sitting 14-16 August with the next sitting in September)

- (iv) Second reading: will be held in conjunction with the submissions at the earliest convenience
- (v) Committee of the House; the reverted bill will then be passed back to the House Committee
- (vi) Third reading: the House committee will hold the third reading
- (vii) Royal Assent; the report is due for royal consent on 3 January 2019

6 Council's Accountability Framework

6.1 Community Outcomes

This proposal directly contributes to all the Community Outcomes in the council's Long Term Plan 2018-2028.

Submitting on the Taxation Bill will put forward Council's case for a more efficient and tax beneficial group treasury position. This will enable Council in provide funding for projects that contribute the community outcomes.

6.2 Long Term Plan Alignment

This work is planned under the Finance Activity in the Long Term Plan 2018-2028.

Current Budget Implications

This work is being undertaken within the current budget for the Finance Activity in the Year 1 of the Long Term Plan 2018-2028.

The implications of the Taxation Bill could impact the group's attainable returns from investments. A PIE is an efficient investment vehicle for Quayside to obtain returns and pass onto to Council.

Future Budget Implications

Future work on taxation and group treasury is provided for in Council's Long Term Plan 2018-2028.

Andy Dixon

Management Accountant Team Leader

for General Manager, Corporate Performance

27 July 2018

