



Meeting of the Environmental Management Committee

Date: Wednesday 13 April 2011
Time: 9.00am
Venue: Council Chamber
Hawke's Bay Regional Council
159 Dalton Street
NAPIER

Agenda

ITEM	SUBJECT	PAGE
1.	Welcome/Notices/Apologies	
2.	Conflict of Interest Declarations	
3.	Confirmation of Minutes of the Environmental Management Committee held on 16 February 2011	
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Information or Performance Monitoring		
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Decision Items (Public Excluded)		
14.	Confirmation of Public Excluded Minutes for the Meeting held on Wednesday, 16 February 2011	59

**HAWKE'S BAY REGIONAL COUNCIL
ENVIRONMENTAL MANAGEMENT COMMITTEE**

Item 5

Wednesday 13 April 2011

**SUBJECT: ACTION ITEMS FROM ENVIRONMENTAL MANAGEMENT
COMMITTEE MEETINGS**

REASON FOR REPORT

1. All of the items raised at previous Environmental Management Committee meetings that required actions or follow-ups have been completed and reported to the Committee at or prior to the 10 November 2010 meeting, so have been removed from the list. As there were no items for Action arising from that meeting, there is no list of follow-ups.

DECISION MAKING PROCESS

2. Council is required to make a decision in accordance with Part 6 Sub-Part 1, of the Local Government Act 2002 (the Act). Staff have assessed the requirements contained within this section of the Act in relation to this item and have concluded that as this report is for information only and no decision is required in terms of the Local Government Act's provisions, the decision making procedures set out in the Act do not apply.

RECOMMENDATION

1. That the Environmental Management Committee receives the report "Action Items from Environmental Management Committee Meetings".



**Darryl Lew
GROUP MANAGER
RESOURCE MANAGEMENT**

Attachment/s

- 1 Actions from Environmental Management Committee Meetings

Actions from Environmental Management Meetings

The following is a list of items raised at Environmental Committee meetings that require actions or follow-ups. All action items indicate who is responsible for each action, when it is expected to be completed and a brief status comment for each action. Once the items have been completed and reported back to the Committee they will be removed from the list.

16 February 2011

Agenda Item	Action	Person Responsible	Due Date	Status Comment
10 Provision of Resource consent and Other Public Domain Information on the Internet	<ul style="list-style-type: none"> Staff asked to consider whether Project update papers, in future, could include financial information where available 	A Newman		Considered at Executive Team level and will be included as part of Council Paper Template Review
14 Statutory Advocacy	<ul style="list-style-type: none"> Number 2 on the table – Te Awa Structure Plan comment re four wellbeings not being adequately considered. Email Councillors re what comment was made and the basis for making it. Asked whether financial progress for the project could be included in future papers 	H Codlin A Newman		Considered at Executive Team level and will be included as part of Council Paper Template Review
15 General Business	<ul style="list-style-type: none"> Information on s36 charges to be provided to Councillors in hard copy to inform the workshop scheduled for 23 February and annual plan adoption at 16 March Council meeting. 	G Sevicke-Jones		Information presented and discussed at 23 February Council workshop

**HAWKE'S BAY REGIONAL COUNCIL
ENVIRONMENTAL MANAGEMENT COMMITTEE**

Wednesday 13 April 2011

**SUBJECT: SUBMISSION ON PROPOSED NATIONAL POLICY STATEMENT ON
INDIGENOUS BIODIVERSITY**

1. The Government has released the Proposed National Policy Statement on Indigenous Biodiversity ("NPS") and has invited submissions.
2. This paper presents an overview of the NPS's key features and proposes a submission be lodged before the closing date of 2 May 2011.

Background

3. The NPS sets out the objectives and policies that are "intended to guide decision-makers in drafting plan provisions that recognise and protect biodiversity values, and in making decisions under the Act in respect of activities that may affect indigenous biodiversity". The NPS applies to land owned by any person, with the exception of public conservation land, and land in the coastal marine area.
4. Decision making at a national level on how to deal with biodiversity has been a drawn-out affair. A national strategy in 2000 identified and sought to respond to a decline in indigenous biodiversity. One of the ways the government did this was to strengthen the RMA's role in biodiversity protection. Delivering on this has been challenging for local authorities for a range of reasons and the NPS seeks to:
 - 4.1. Bring more clarity to the role of local authorities in biodiversity management under the RMA than may be apparent on the face of the Act itself
 - 4.2. Support the existing good work of local authorities to date and secure the gains made in terms of regional and local planning responses
 - 4.3. Encourage local authorities that operate below best practice to enhance their efforts by introducing a "bottom-line" category of site whose values are to be recognised and protected through the RMA; and
 - 4.4. Help decision makers appropriately balance the protection of biodiversity, the interests and values of tangata whenua, the rights and responsibilities of landowners and the broader national interests that may be at stake in future resource management decision-making.
5. The role of the NPS within the RMA decision-making framework is that it is a relevant consideration to be weighed along with other considerations in achieving the sustainable management purpose of the Act.

Content of NPS

6. The objective of the NPS is to:

Promote the maintenance of indigenous biological diversity by protecting areas of significant indigenous vegetation and significant habitats of indigenous fauna, and to encourage protection and enhancement of biodiversity values more broadly, while:

Supporting best practice of local authorities

Recognising the positive contribution of land owners and guardians/kaitiaki of the land

Recognising that the economic, social and cultural wellbeing of people and communities depends on, amongst other things, making reasonable use of land.

7. The NPS contains eight policies covering the following six areas:
 - 7.1. Criteria to assist in the identification of areas of indigenous vegetation or significant habitat of indigenous fauna and inclusion of the criteria in regional policy statements
 - 7.2. Identification of areas of significant native vegetation and significant habitats of native fauna in district and regional plans
 - 7.3. Local authorities to ensure there is “no net loss” of biodiversity of areas of significant vegetation and significant habitats of indigenous fauna
 - 7.4. Maintenance of biodiversity outside the identified areas of significant vegetation and significant habitats of indigenous fauna
 - 7.5. Recognition and provision for the role of tangata whenua in biodiversity matters
 - 7.6. Consultation with landowners, the public and tangata whenua.

Council Submission

8. A draft of Council’s submission on the NPS is attached to this paper. During the preparation of this submission Council staff have liaised with Hastings District Council and with other regional councils to gauge a spectrum of views on the NPS within local government.
9. The Minister for the Environment, as he is entitled to, is using the powers granted to him under the 2009 amendments of the RMA and will make the final decision on the NPS without the hearing of submissions through a Board of Inquiry process. There is no opportunity for Council to present its submission in person.

DECISION MAKING PROCESS:

10. Council is required to make a decision in accordance with Part 6 Sub-Part 1, of the Local Government Act 2002 (the Act). Staff have assessed the requirements contained within this section of the Act in relation to this item and have concluded the following:
 - 10.1. Sections 97 and 98 of the Act do not apply as these relate to decisions that significantly alter the service provision or affect a strategic asset.
 - 10.2. Sections 83 and 84 covering special consultative procedure do not apply.
 - 10.3. The decision does not fall within the definition of the Council’s policy on significance.
 - 10.4. The persons affected by this decision are also entitled to make a submission on the National Policy Statement.
 - 10.5. The options considered are to make a submission on the Proposed National Policy Statement, or to not make a submission.
 - 10.6. Section 80 of the Act covering decisions that are inconsistent with an existing policy or plan does not apply.
 - 10.7. Council can exercise its discretion under Section 79(1)(a) and 82(3) of the Act and make a decision on this issue without conferring directly with the community or others having given due consideration to the nature and significance of the issue to be considered and decided, and also the persons likely to be effected by or have an interest in the decisions to be made.

RECOMMENDATIONS

The Environmental Management Committee recommends that Council:

1. Agrees that the decisions to be made are not significant under the criteria contained in Council’s adopted policy on significance and that Council can exercise its discretion under Sections 79(1)(a) and 82(3) of the Local Government Act 2002 and make decisions on this issue without conferring directly with the community and persons likely to be affected by or to have an interest in the decision due to the nature and significance of the issue to be considered and decided.

2. Agrees to lodge the attached submission to the Minister for the Environment, subject to any further amendments arising at the meeting.



Liz Lambert
GROUP MANAGER
EXTERNAL RELATIONS



Helen Codlin
GROUP MANAGER
STRATEGIC DEVELOPMENT

Attachment/s

- 1 Draft Submission on Proposed NPS for Biodiversity

2 May 2011

Our Ref POL

Ministry for the Environment
PO Box 10-362
WELLINGTON 6143

Dear Sir or Madam

PROPOSED NATIONAL POLICY STATEMENT: INDIGENOUS BIODIVERSITY

1. INTRODUCTION

The following submission by the Hawke's Bay Regional Council has been prepared in response to the *Proposed National Policy Statement on Indigenous Biodiversity*. Council considered this submission at a meeting on 27 April 2011.

As with many other parts of New Zealand before settlement Hawke's Bay was covered in dense native forest, wetlands and high country tussock. The removal of native forest and tussock and the draining of wetlands is typical of what has happened elsewhere wherever land has been developed for human settlement. It is unreasonable to expect revegetation of the landscape back to its pre-settlement state but it is important to value the areas of indigenous vegetation and habitat that remain, and encourage the establishment of other areas.

In our combined Regional Policy Statement/Regional Plans - *the Regional Resource Management Plan* (RRMP) (operative 2006) – Council has identified the following regionally significant issue:

"The scarcity of indigenous vegetation, wetlands and habitats of indigenous fauna as a result of vegetation modification or clearance and land drainage".

One of the objectives of the RRMP to address this issue is: "The preservation and enhancement of remaining areas of significant indigenous vegetation, significant habitats of indigenous fauna and ecologically significant wetlands".

2. GENERAL STATEMENT

Council supports the adoption of a National Policy Statement (NPS) that identifies and provides for nationally significant issues. In particular Council is supportive because the NPS will:

- Act as a "baseline" for regional policy statements in terms of fulfilling biodiversity obligations under the RMA (by essentially saying that councils cannot protect something without having first identified it)
- Fill a gap in the current hierarchy of policy documents relating to biodiversity
- Fulfil some of New Zealand's international obligations in relation to the Convention on Biological Diversity and will enhance the country's international reputation in this area
- Provide clarity and a clearer mandate that reinforces the RMA amendments.

3. STATEMENT OF NATIONAL SIGNIFICANCE

National policy statements are very powerful legal instruments because of their position in the hierarchy of RMA instruments. They state objectives and policies for matters of national significance that are relevant to achieving the purpose of the RMA and these guide subsequent decision making at national, regional and district levels.

There have been a number of iterations of biodiversity management documents over the years, one of the most notable being the New Zealand Biodiversity Strategy 2000. A goal of this strategy was to “halt the decline” in the country’s biodiversity. The Proposed NPS does not reflect this goal, nor acknowledge the further declines which have occurred in the succeeding ten years.

Council submits that a strong statement of the national values of biological diversity (a vision) should be included in section 5 of the Proposed NPS to support decision makers.

4. OBJECTIVE

The only objective in the NPS is “to promote the maintenance of indigenous biological diversity.....” (*our emphasis*). While Council supports the intention of the objective it is arguable whether or not the term “promote the maintenance of” will be very effective, but without a strong statement of national values it will be difficult to measure its success or otherwise in any event.

The objective goes on to signal that it will “support” local authority best practice and “recognise” the positive contributions of landowners and that community wellbeings depend on making reasonable use of land.

In Council’s view the wording of the objective indicates a weakness in its intent and the policies which follow do not always provide sufficient guidance to clearly define how it is intended that councils should implement this objective. The objective is not outcome focussed and this will impact on its effectiveness.

5. POLICY 1

Policy 1 is effectively a definition. As a policy it will not assist local authorities to promote the maintenance of biological diversity. The wording of Policy 1 is as follows:

For the purpose of this national policy statement, an area of significant indigenous vegetation or significant habitat of indigenous fauna is an area or habitat whose protection is important for the maintenance of indigenous biological diversity

As determined by who? And how will it be determined? It is our understanding that, in Hawke’s Bay at least, the Department of Conservation have little in the way of resources to assist councils to identify these areas. Our concern is that this policy opens up opportunities for significant litigation around the determination of “important”.

6. POLICY 2

Policy 2 provides the standard criteria for identifying significant vegetation and habitat. We support using the National Priorities as minimum criteria, recognising that habitat loss of threatened ecosystem types is the greatest threat to biodiversity on private land in a national context.

From an implementation point of view, however, we are concerned about Schedule 1 and its listing of “naturally uncommon ecosystems”. The classification appears to be based upon the underlying geology, soil type and morphology present rather than native vegetation and fauna. In our view it is inappropriate to use or classify physical

characteristics a "proxy" for biodiversity. As with Policy 1 this provides a level of uncertainty which is unacceptable in that it is unable to be of real benefit in its resource management application.

Policy 2(d) refers to the Land Environments of New Zealand at level IV (2003). The Minister may not be aware of the limitations of how useful this classification is given the inaccuracies at smaller scales particularly at cadastral property boundary levels. There are further issues with the interpretation of "*at least 20 per cent or less remaining in indigenous vegetation cover*". Does this 20% or less remaining refer to a on a property or to the LENZ class?

7. POLICY 3

This policy will implement Policy 2 through requiring regional councils to notify a change to the regional policy statement. This reinforces the need to address the clarity issues noted for Policy 2 above.

8. POLICY 4

Similarly to Policy 3 this will require territorial authorities to change their district plans in order to identify (preferably through mapping) specified areas. The comments regarding clarity around Policy 2 criteria are further underlined, as is the issue of sufficient resourcing being available within Hawke's Bay to undertake this work within five years of the NPS taking effect.

From our experience territorial authorities in previous identification and mapping exercises have faced significant opposition from private landowners through the formal plan change and appeals process. Further opposition has also been encountered through landowners denying access to property. This policy does not offer any alternative to this likely outcome again.

9. POLICY 5

Policy 5 requires local authorities (in addition to plan changes) to ensure "no net loss" of biodiversity of areas of significant indigenous vegetation and significant habitats of indigenous fauna. This policy will have the effect of requiring councils to consider the concept of biodiversity offsets, generally a concept not widely understood or used by many councils. This Council is concerned about the effectiveness of biodiversity offsetting given the lack of success of this method documented internationally. We believe that any increased emphasis on offsetting (as in Policy 5 and Schedule 2) must be accompanied by guidance and training, especially in relation to procedural application by council staff.

We do consider, however that the proposed process for managing effects (first avoid effects, then remedy, then mitigate and only then offset residual effects) offers some certainty around the management process, and we support the retention of this.

10. POLICY 6

Council endorses the use of non-regulatory methods in Policy 6. We do, however, note that our experience is that non-regulatory methods require a greater implementation period than regulatory responses and therefore require a far greater time before the effectiveness of this policy can be measured.

11. POLICIES 7 & 8

These policies – on the role of tangata whenua and on consultation – are supported. In effect they reflect best practice in the plan development process.

12. OTHER MATTERS

The focus of the Proposed NPS is clearly on terrestrial biodiversity. We seek clarification as to the relevance of the NPS to aquatic biodiversity and clarification around overlaps between this document and both the New Zealand Coastal Policy Statement and the Proposed National Policy Statement for Freshwater Management.

We note that the exclusion of Department of Conservation land from the NPS may create perverse outcomes, but also recognise that habitat loss which the NPS is essentially trying to manage is mostly occurring outside the DoC estate.

13. Thank you for the opportunity to lodge this submission. We would be happy to provide any further clarification or assistance prior to the Minister's final consideration of the NPS, if that was appropriate.

Yours faithfully

Fenton Wilson
CHAIRMAN

ADDRESS FOR SERVICE:

Hawke's Bay Regional Council
Private Bag 6006
Napier 4110
Attn: Liz Lambert

HAWKE'S BAY REGIONAL COUNCIL
ENVIRONMENTAL MANAGEMENT COMMITTEE

Wednesday 13 April 2011

SUBJECT: OVERALL STATUS REPORT ON PLAN CHANGE WORKSTREAMS

REASON FOR REPORT

1. This paper presents an outline of progress on a number of the plan changes currently being prepared. This paper should be read in conjunction with two separate reports elsewhere in this agenda relating to on-site domestic wastewater and the Taharua project.

Background

2. In February 2010, the Council endorsed an indicative work programme for various plan change workstreams. The plan changes currently under construction may relate to one or more of the following planning documents:
 - 2.1. Regional Policy Statement (within the Regional Resource Management Plan)
 - 2.2. regional plan parts of the RRMP
 - 2.3. proposed Regional Coastal Environment Plan (RCEP).
3. While all changes have implications for management of the region's natural and physical resources, changes to the RPS are much more influential given other agencies (territorial authorities in particular) must give effect to the RPS's direction in district plans and land use consent decisions.
4. This paper briefly updates the plan change workstreams for:
 - 4.1. Freshwater flows and allocation
 - 4.2. Growth management – includes Heretaunga Plains Urban Development Strategy (HPUDS) incorporation into RPS
 - 4.3. Urban stormwater
 - 4.4. Appeals on proposed Regional Coastal Environment Plan
 - 4.5. Appeals on Change 2 and Variation 2 relating to air quality
 - 4.6. RCEP Variation 1 – rivermouth hazard areas.
5. Separate papers in this agenda (Item 9: Domestic wastewater and Item 10: Taharua Strategy) provide similar updates on those plan change workstreams.

Freshwater

Recruitment

6. Councillors will recall approving 2010/11 budget for two new staff to assist with freshwater flows and allocation plan change project. Recruitment commenced last July/August and one position was filled in November. It was decided at the time to use unspent salary budget to engage a contractor to help us progress the 2010 Regional Water Symposium and to facilitate the development of the Regional Water Strategy, particularly the newly formed 'Reference Group' approved by Council in February 2011.
7. We have recently readvertised the position of Senior Planner. There were few applications. This position is critical to the delivery of the plan changes by the tight timeframes as determined by the consent expiry dates so it is important that the right person is recruited.

Water Strategy and Reference Group

8. Two meetings have been held to date as per the project plan. The reference group has considered vision statements, guiding principles, evaluation criteria and has drafted objectives under the working themes of Regional Governance, Water Allocation, Water Demand and Supply, Water Quality, Economy and Water Science, Information and Investigations, and Communication. The second meeting looked at revised objectives, policy approaches and possible actions for Regional Governance, Water Allocation and Water Demand and Supply.
9. A number of issues have been raised by the Reference Group to date.
10. Concern has been expressed that the focus is on water allocation and while they understand that Council will be looking at Land Use and Water Quality following this process, they are finding it difficult to separate out water quality.
11. A number of group members are finding the process rushed with many issues needing to be discussed and not enough time being provided to enable full discussion. Others indicate that the group needs to narrow its focus on key water allocation issues. They have confirmed that the length of the meeting is appropriate but need more of them. They recognise however that many members made themselves available because the four meeting time commitment was reasonable.
12. Council recognises that the four meetings do not necessarily represent the end of engagement with stakeholders, given the ongoing land use and water quality discussions and the development of policy provisions for the statutory resource management planning documents. Water allocation is the critical element of that policy development hence the need to focus on water allocation at this point of time with the stakeholders who make up the reference group.
13. We also recognise that the members need to feel that the time they are giving is worthwhile and not a waste of effort.
14. There is also a recognition that the level of knowledge of the participants with respect to water management issues and the knowledge of our water resources is different.
15. In response, the next meeting includes a number of presentations on water allocation issues in Hawke's Bay and on the basic hydrology of our river and groundwater systems. It will also provide an update on the Council's storage project. To progress meaningful discussion, we have put forward a Proposed Water Use Strategic Framework for discussion at the next meeting.
16. We will continue to be flexible about whether additional meetings may be required beyond the four that have been scheduled.

Regional Policy Statement and Regional Plan Changes

17. Where possible relevant water management policies will be included in the Growth management and Infrastructure section of the Regional Policy Statement changes proposed for notification in October.
18. July 2012 remains the date for notification of plan changes relating to Tukituki and Karamu catchment freshwater flows and allocation. This timing is purposefully targeted in order to have provisions in place for resource consent renewal processes in those catchments. A failure to recruit adequate staff or consultancy resources represents a significant risk to the delivery within that time frame.

Growth management and infrastructure

19. This is a bundle of potentially individual plan changes that covers a variety of themes. The predominant themes include:
 - 19.1. Embedding principles and direction of HPUDS into the RPS (these include greater clarity and direction regarding urban limits; protection of versatile soils; integration of development and infrastructure; compact city philosophy and urban form, etc)
 - 19.2. Integrated decision-making, particularly in relation to further subdivision, use and development and provision of adequate infrastructure

- 19.3. Integration of urban stormwater management and discharges
 - 19.4. Integration of on-site domestic wastewater treatment and disposal
 - 19.5. Clarity of references and concept of 'versatile soils' as highlighted through preparation of HPUDS
 - 19.6. A range of generic principles (applicable region-wide, and not only Heretaunga Plains specific), to guide good integrated and sustainable development
 - 19.7. Giving effect to national policy statements where relevant.
- 20. Preliminary drafting is progressing well. This has been assisted by the effort invested in HPUDS. Arrangements have been made for a consultant to continue progressing this work while a senior planner is on maternity leave from April. Next steps will include engaging with TLA and iwi stakeholders about the form and direction of the RPS amendments.
 - 21. Given the recent approval of the Triennial Agreement, 'principles' apply to how and when the regional council engages with territorial authorities on proposals to change the RPS. Those 'principles' include working together in good faith; supporting establishment of communications and collaboration to enhance performance of local government in the region; collaboration and cooperation should be strived for, but local solutions for local issues may still apply; and early involvement of TLAs in proposals that will affect them. Obviously, the principles will be observed during further preparation of the 'Growth Change' plus associated domestic wastewater and urban stormwater changes.
 - 22. October 2011 remains as the intended date for notification of a bundle of plan changes relating to growth management and infrastructure, and related changes for domestic wastewater and urban stormwater discharges. This means staff are aiming to present a first draft plan change document to a committee or Council meeting in July.

Stormwater

- 23. A plan change dealing with stormwater has been 'on the books' since 2004 when the Council decided to withdraw new stormwater provisions from the then proposed RRMP. In mid 2009, the Council endorsed establishment of a collaborative stormwater working group to work through a number of 'sticky' unresolved issues before commencing the RMA's formal plan change submission process.

Regional Stormwater Working Group

- 24. The stormwater working group met for the first time in August 2009. The Group consisted of representatives from each territorial local authority, Fish and Game Hawke's Bay, Department of Conservation and a cultural representative nominated by the Maori Committee Chairman. The Group's purpose was to develop an agreed approach to stormwater management and produce a Regional Stormwater Strategy.
- 25. The Group met initially to definitively identify regional stormwater issues. The Group agreed that stormwater discharges do impact the receiving environment in terms of water quantity and water quality and general ecosystem functioning. Attachment 1 highlights a number of stormwater issues that the draft Regional Stormwater Strategy proposes to address.
- 26. To date, collaborative work has resulted in the production of a draft Regional Stormwater Strategy and a complementary series of implementation methods. The Group has agreed in-principle to the objectives, key principles and implementation methods but has yet to formally sign-off on the Strategy. Currently, Council staff are engaging with regional taiwhenua groups to ensure Maori are informed and to seek support for the Strategy's vision and objectives. The Strategy is intended to be completed by June 2011.

Stormwater Plan Change

- 27. Staff have been drafting a plan change in parallel to preparation of the joint Stormwater Strategy. The work programme Council endorsed in February 2010 proposed notifying

a stormwater plan change in parallel to RPS changes for growth management. There are two clear 'layers' of plan changes relating to stormwater:

- 27.1. Changes to the RPS associated with growth management and integration of infrastructure.
 - 27.2. Changes to regional plan policies and rules associated with effects (quality and quantity) of stormwater discharges. This would apply to the RCEP and also regional plan parts of the RRMP.
28. These two 'layers' are linked, but it is not essential that their processes are synchronised. The RPS changes are anticipated to be generic to many types of infrastructure - not only stormwater systems, whereas the regional plan policies and rules would be more specific. Regional plan policies are anticipated to include such things as clearer decision-making criteria on stormwater discharge consents and associated rules, plus clearer definitions.
 29. The recent resource consenting process for Hastings District Council's urban stormwater network discharges was determined on the basis of the RRMP's existing rules and policies. In that instance, the applicant had proposed many initiatives (particularly the preparation of 'catchment management plans') that were ultimately embodied in the consent conditions. The Hearing Panel of three commissioners included a range of additional consent conditions.
 30. While that consent process was not without its challenges from plan interpretation and plan implementation perspectives, the commissioners' decision indicates that the current regional plan policy and rule framework was able to facilitate an acceptable outcome from consent staff perspective.
 31. Consent applications for stormwater discharges are currently being prepared by other territorial authorities and staff are confident that the current policy and rule framework is adequate.
 32. That is not to say that processes could not be further assisted by clearer plan definitions and policies. These elements are being focussed on by staff drafting changes for regional policies and rules, as opposed to being tackled within the RPS 'layer' of changes.
 33. In terms of timing, it certainly makes sense for growth management changes to the RPS to be notified before, or at the same time as, a change to the more stormwater discharge-specific regional policies and rules. By notifying the growth management component first, that change could (a) 'test the waters' and (b) lock in general management principles ahead of in-depth and specific stormwater discharge-related changes. Consequently, two timing options present themselves:
 - 33.1. notify changes to the RPS (growth) and regional plans (stormwater) at the same time; or
 - 33.2. notify a change to the regional plan's stormwater provisions after the RPS (growth) change has proceeded through submissions.
 34. There is merit in both timings, but in terms of managing staff workload through the formal part of the planning process (responding to public enquiries, summarising submissions, identifying individual submission points, preparing documentation for the further submission process, preparing officer reports and the associated administration that goes with that), staff recommend notifying the RPS components first, and then the notifying the regional plan provisions once it is clear what the issues may be on the stormwater related provisions of the Regional Policy statement.
 35. The regional plan changes are also complicated by the need to make changes in both the Regional Resource Management Plan and the Regional Coastal Environment Plan and that can significantly increase the administration of the process.

Appeals – coastal plan

36. At the time of writing, parts of four appeals (out of 12 originally) on the RCEP remain unresolved. In-principle agreements have been reached that would settle all the remaining appeals except for the following matters:
- 36.1. Coastal hazard zones at Ahuriri (Hardinge Road)
 - 36.2. Stock access in upper Ahuriri Estuary
 - 36.3. Rules for stormwater discharges.
37. Negotiations are continuing on these remaining matters with the appellants (Napier City Council, Minister of Conservation and Ngati Kahungunu Iwi Inc). Staff anticipate further Environment Court mediation in the coming months will be required to assist resolving matters, particularly those in Napier City Council's appeal. In the meantime, staff will continue negotiating with Napier City Council at various staff and political levels to resolve that appeal as swiftly as possible.

Appeals – air quality

38. One appeal (out of three) has been resolved in its entirety on the air quality plan change. Negotiations are continuing on the remaining two appeals. Resolution of the appeal by Napier City Council will be aided by the Government's review of the PM₁₀ NES anticipated to come into effect in April/May. Again, staff anticipate further Environment Court mediation in the coming months will be required to assist resolving the two remaining appeals by Napier City Council and Solid Energy Limited.

Rivermouth hazard areas

39. The period for lodging submissions and further submissions on Variation 1 has closed. 28 submissions were received, and there were no further submissions made. Hearing date(s) will now be scheduled (likely mid/late 2011) and officers will prepare reports and recommendations on the submissions received. It is intended that this matter will be heard by the Hearings Committee.

DECISION MAKING PROCESS

40. Council is required to make a decision in accordance with Part 6 Sub-Part 1, of the Local Government Act 2002 (the Act). Staff have assessed the requirements contained within this section of the Act in relation to this item and have concluded the following:
- 40.1. Sections 97 and 98 of the Act do not apply as these relate to decisions that significantly alter the service provision or affect a strategic asset.
 - 40.2. Sections 83 and 84 covering special consultative procedure do not apply.
 - 40.3. The decision does not fall within the definition of the Council's policy on significance.
 - 40.4. The persons affected by this decision in relation to timing of the regional plan change for stormwater are those persons will have the opportunity to make submissions on all of the plan changes once those changes are publicly notified.
 - 40.5. The options considered in relation to the regional plan change for stormwater are to proceed and (1) notify changes to the RPS (growth) and regional plans (stormwater) at the same time; (2) notify a change to the regional plans' stormwater provisions after the RPS (growth) change has proceeded through submissions.
 - 40.6. Section 80 of the Act covering decisions that are inconsistent with an existing policy or plan does not apply.
 - 40.7. Council can exercise its discretion under Section 79(1)(a) and 82(3) of the Act and make a decision on this issue without conferring directly with the community or others having given due consideration to the nature and significance of the issue to be considered and decided, and also the persons likely to be effected by or have an interest in the decisions to be made.

RECOMMENDATIONS

That the Environmental Management Committee:

1. Receives the report titled 'Overall Status Report on Plan Change Workstreams.'

The Environmental Management Committee recommends that Council:

2. Agrees that the decisions to be made are not significant under the criteria contained in Council's adopted policy on significance and that Council can exercise its discretion under Sections 79(1)(a) and 82(3) of the Local Government Act 2002 and make decisions on this issue without conferring directly with the community and persons likely to be affected by or to have an interest in the decision due to the nature and significance of the issue to be considered and decided.
3. Agrees that public notification of stormwater-related provisions be staggered, with the Regional Policy Statement (growth and infrastructure) provisions to be notified in October 2011 and the regional plan provisions notified following analysis of submissions received on the RPS change.



Gavin Ide
TEAM LEADER POLICY



Helen Codlin
GROUP MANAGER
STRATEGIC DEVELOPMENT

Attachment/s

- 1 Stormwater Issues and Explanations

The following table highlights a number of generic stormwater issues that the Stormwater Strategy seeks to address.

Issue	Explanation
People	Public health and wellbeing Food source and cultural harvesting (watercress, koura and kai moana) Recreation Mauri Potential for re-use for drinking, industrial, commercial, irrigation and amenity enhancement
Loss of Habitat	Reduced riparian vegetation (sedimentation, temperature) Loss of vegetation in catchment affects hydrology (sedimentation, quantity) Stream Connectivity (ecology, migration, increased impermeable surfaces) Altered salinity regimes in marine environments
Contamination of Stormwater	Discharge from onsite wastewater disposal systems Discharges from industrial, commercial and domestic activities Zoning of development Agriculture and Horticultural runoff (fertiliser, pesticides and insecticides) Runoff from industrial and commercial sites Sedimentation Impervious surfaces (car parks, roads and other paved surfaces)
Flooding	Risk to human health and property Risk to human life and other life. Costs of clean up and repair to public and private sector
Erosion and land instability	High sediment release potential Increased stormwater flow Stream bank erosion Risk to established development
Stormwater Management	Must expand to address quantity and quality issues Address source controls (LID)

HAWKE'S BAY REGIONAL COUNCIL
ENVIRONMENTAL MANAGEMENT COMMITTEE

Wednesday 13 April 2011

SUBJECT: WASTEWATER PLAN CHANGE

REASON FOR REPORT

1. Council has identified several issues regarding the current rule structure pertaining to on-site wastewater discharges. It is proposed that a number of individual plan changes that cover a range of issues including wastewater within the Regional Policy Statement (RPS), Regional Resource Management Plan (RRMP) and the Proposed Regional Coastal Environment Plan (PRCEP) be notified in October 2011. These plan changes deal with the strategic integration of land use and infrastructure. Staff believe that an additional limited scope plan change should be notified in early July to deal with some more pressing, but less contentious, issues with the on-site wastewater rules of the RRMP and PRCEP.

Background

2. The need for an improved policy framework for wastewater has been recognised for some time. The existing rule framework was developed in the late nineties to address an emerging problem with un-serviced subdivision in fringe areas. There had been a permitted activity rule relating to on-site wastewater discharges in the preceding Water Resources Plan but it did not target development in fringe areas. The on-site wastewater rules in the RRMP remained unchanged through the hearing and decision process, and therefore are as they were first proposed on 15 April 2000.
3. In January 2002 the sewage on-site group (SOS), comprised of TLA's and professionals working in the wastewater industry, requested guidance about the meaning of the phrase 'zoned for residential activity'. A table detailing those zones that were considered to fit within this definition was developed and agreed on by the SOS group, but there has been ongoing frustration with the ambiguity of condition (d) of Rule 37 for some time.
4. Another driver for this proposed limited scope plan change is the increasing number of resource consents. In 1999 when Rule 37 was drafted there were 10 resource consents issued by Hawke's Bay Regional Council for wastewater discharges. There are now over 530 discharge permits issued by the Regional Council. Staff now consider that the level of regulation imposed by parts of this rule are no longer appropriate.
5. On-site wastewater consents have generally been issued for a duration of 10 years. A large number of the resource consents that were required through the introduction of the current rule framework in early 2000 are now expiring, and the difficulties of the current rule framework with regard to renewals have become apparent.
6. The Council has long been aware of the need to progress a wastewater plan change. Papers brought to the Council in recent times have outlined the proposed accreditation scheme which is intended to streamline both the consenting and the compliance process for 'accredited installers'; and the proposed two category approach for processing replacement resource consents that make a distinction between low risk and high risk discharges.
7. To address these issues staff propose a limited scope plan change to the current rule structure of the RRMP and PRCEP in addition to the series of individual plan changes to both the Regional Policy Statement and Regional Plans is scheduled to be notified this October. These plan changes will deal with the following topics:
 - 7.1. Growth management and the built environment
 - 7.2. The strategic integration of land use and infrastructure, including wastewater and stormwater

8. As a result of the broad nature of these plan changes, they are likely to take some time to proceed through the process and become operative. The limited scope plan change proposed in this paper will address a significantly smaller range of issues, and focus solely on changes to rules, and will therefore progress through the plan change process and become operative significantly faster.

Problem definition

9. Before any plan change process is embarked upon it is first necessary to define the problems that it is intended to address. The two particular aspects that require attention are interpretation and an appropriate level of regulation.

Interpretation

10. The current interpretation of condition (d) of Rule 37 of the RRMP is that 'any land zoned for residential activity' includes rural residential properties. Rural residential properties can be large properties with a large amount of land (e.g. 5000 m²) suitable for wastewater discharge, or conversely large lots with a building platform and the remainder of the section steeply sloping land that is unsuitable for on-site wastewater disposal. The current drafting of the rule does not provide any definition of what 'any land zoned for residential activity' is, and current interpretation of the rule relies on the zone 'name' of the property as defined in the relevant district plan.
11. This condition adopts a risk based approach, but is limited in the risk factors it takes into account. In some instances properties over 3000 m² of flat to rolling topography with well drained soils require resource consent simply because they are zoned rural residential, despite complying with all other conditions of Rule 37 as it is currently drafted. This is an unintended consequence of the rule structure.

Level of regulation

12. In townships such as Waimarama and Haumoana the installation of a new wastewater system requires a resource consent. Most existing on-site wastewater systems have no consent, and therefore Council has no information about how well these systems are performing. Anecdotal evidence suggests that some existing wastewater treatment systems are not treating wastewater to a suitable standard.
13. The suitability of the current level of regulation is shown to be questionable when people who were required to get resource consent to install their on-site wastewater treatment system, and have installed it since April 2000 are required to replace their resource consents. The current rules classify any wastewater treatment system installed since 15 April 2000 (the date the Regional Resource Management Plan was notified) as a 'new' wastewater system which is subject to the conditions of Rule 37 of the RRMP, and Rule 27 of the PRCEP, rather than Rules 35 and 26 respectively.
14. Until recently people have been required to pay a deposit of \$1125 (excl GST) when they lodge their replacement resource consent application. This is a large sum of money and can seem unjustified to an applicant when their neighbour has an on-site wastewater system that produces effluent of a poorer quality, and has never had to pay to consent the discharge from it.
15. The larger issue of inequity with regards to consented and unconsented wastewater systems within communities is considered to be better addressed through the proposed changes to the Regional Policy Statement and the objectives and policies of both plans, scheduled to be notified in October. Staff consider it appropriate to rectify the issues raised above through an additional plan change. This limited scope plan change would focus solely on the rule framework of the RRMP and PRCEP and be notified in early July 2011.

Proposed Approach

16. To address the problems identified, changes are required to the rules of both the Regional Resource Management Plan and the Proposed Regional Coastal Environment Plan (version 2.2).
17. Staff propose only to draft changes to rules 35, 36 and 37 of the RRMP and rules 26, 27 and 28 of the PRCEP through this plan change process. A marked up draft of suggested amendments to the relevant rules of both the RRMP and PRCEP is attached as Attachment 1.
18. Rules 26 and 27 of the PRCEP to which changes are proposed are no longer under appeal and have been operative since January 2011, however there is one outstanding appeal on rule 28 of the PRCEP.
19. No changes are proposed to the objectives and policies of both plans and the Regional Policy Statement as part of this plan change. These will be made in the plan changes scheduled to be notified in October 2011/
20. Section 14 of the Resource Management (National Environmental Standards for Sources of Human Drinking Water) Regulations 2007 requires a condition to be inserted to ensure discharges upstream of registered drinking water supplies are policed. In addition to changes required to address the issues outlined above, this condition needs to be included in all relevant rules amended as a result of this plan change.

Key outcomes from proposed regional plan changes

21. It is proposed to address the problem definition outlined above by essentially permitting all discharges from individual on-site wastewater systems to land, except on sites where they may pose a potential risk to the environment.
22. It is proposed to achieve this through a permitted activity rule which allows new individual on-site wastewater discharges (less than 2 m³/d, averaged over any 7 day period) except where the site is:
 - 22.1. Sloping (greater than 15° from the horizontal)
 - 22.2. A small site when compared with the volume of the discharge proposed
 - 22.3. Located over the Heretaunga Plains Unconfined Aquifer
 - 22.4. Located in an area that experiences high seasonal groundwater levels (within 600 mm of ground level).
23. The setbacks already prescribed in the relevant rules (1.5 m from a property boundary, 20 m from any surface water body, 20 m from the coastal marine area and 30 m from any bore drawing water from an unconfined aquifer) are proposed to be maintained.
24. Of particular concern is the protection of existing groundwater and surface water quality, as well as potential nuisance effects of on-site wastewater discharges on neighbours.

Justification for key outcomes

25. Staff believe that the proposed amendments allow an effects based approach to be adopted, based on the level of risk that potentially exists on a particular site. The current rule structure is a very blunt approach which relies on the location of lines on district planning maps. It doesn't take into account the size of the property or the slope of the property which are both factors that can effectively mitigate, or alternatively increase the adverse effects of an on-site wastewater discharge.

Justification for Proposed Changes

Separation to groundwater

26. The proposed amendments to the 600 mm separation distance from groundwater condition recognise that if a 600 mm separation from ground level to the highest groundwater level cannot be achieved, then a raised bed has to be constructed to achieve this separation. Raised beds require appropriate design and ongoing maintenance and monitoring to ensure that they continue to operate effectively. They

are exactly the type of on-site wastewater systems that should be consented to allow their ongoing performance to be assessed.

Minimum Design Requirements

27. Given that Council Staff assess proposed designs against the recommendations of the Australia New Zealand Standard for On-site domestic wastewater management (AS/NZS 1547: 2000) it is considered appropriate to formally acknowledge this. There is an updated standard pending however, so reference to a particular version of the standard was not helpful and inclusion of the relevant design requirements in the plan a better long term option. This has resulted in the proposed changes to Figure 6 of the RRMP, and inclusion of a similar diagram in the PRCEP.
28. A condition has also been included in rule 37 of the RRMP and rule 27 of the PRCEP that requires systems to be designed in accordance with the requirements of Figure 6 which is based on the recommendations of AS/NZS 1547:2000. This was considered necessary because any on-site wastewater systems that have not been designed in accordance with the recommendations of the standard need to be assessed for their suitability for the proposed site. These designs are pushing the boundaries of appropriate design and if not checked could result in discharges that have adverse environmental effects.

Renewals

29. There seems little point in requiring people who are regularly maintaining their systems, and have not modified them in any way, to seek replacement discharge permits unless they are located in an area of high risk, such as over the Heretaunga Plains unconfined aquifer or in a location with high groundwater levels.
30. The ongoing discharge of on-site wastewater via spray irrigation is no longer considered to be a sustainable method of wastewater disposal due to potential adverse health effects. A condition has therefore been included in the permitted activity rules to ensure that consent holders who still utilise this method of irrigation are required to seek a replacement consent. One of the conditions of the replacement consent would require the installation of sub-surface irrigation within a set period of time.

Relationship with other Council initiatives

31. It is acknowledged that the proposed rules rely on an assessment of slope angle, and a calculation of the loading rate on the site. The assessment of slope angle relies on someone with the appropriate equipment and understanding to take a measurement. This fortunately coincides with the new accreditation scheme that the compliance team have scheduled to begin roll out in July 2011. The introduction of the accreditation scheme will create a greater incentive for members of the public to use an accredited designer/installer. The Council can educate the designers/installers about the right way to measure slope and calculate the proportion of net site area to discharge volume, and then through the proposed random audit process check these things.

Proposed Timeframes

32. Staff propose to consult with Councillors, territorial local authorities (TLAs), iwi and industry representatives (represented through the sewage on site (SOS) group prior to the plan change being notified in an effort to try and limit the number of submissions that this plan change attracts.
33. If Council supports the idea of a limited scope plan change, in addition to the broader plan changes for strategic integration of landuse, staff propose to prepare a draft plan change and brief this Committee at the meeting on 15 June 2011.

DECISION MAKING PROCESS

34. Council is required to make a decision in accordance with Part 6 Sub-Part 1, of the Local Government Act 2002 (the Act). Staff have assessed the requirements contained within this section of the Act in relation to this item and have concluded the following:
 - 34.1. Sections 97 and 98 of the Act do not apply as these relate to decisions that significantly alter the service provision or affect a strategic asset.

- 34.2. Sections 83 and 84 covering special consultative procedure do not apply.
- 34.3. The decision does not fall within the definition of the Council's policy on significance.
- 34.4. The persons affected by this decision are those persons who have on-site wastewater treatment systems.
- 34.5. The options considered are continuing with the current rule framework and including the proposed plan changes scheduled to be notified in October 2011, or progressing a plan change of limited scope that deals only with amendments to the current rule framework.
- 34.6. Section 80 of the Act covering decisions that are inconsistent with an existing policy or plan does not apply.
- 34.7. Council can exercise its discretion under Section 79(1)(a) and 82(3) of the Act and make a decision on this issue without conferring directly with the community or others having given due consideration to the nature and significance of the issue to be considered and decided, and also the persons likely to be effected by or have an interest in the decisions to be made.

RECOMMENDATIONS

The Environmental Management Committee recommends that Council:

1. Agrees that the decisions to be made are not significant under the criteria contained in Council's adopted policy on significance and that Council can exercise its discretion under Sections 79(1)(a) and 82(3) of the Local Government Act 2002 and make decisions on this issue without conferring directly with the community and persons likely to be affected by or to have an interest in the decision due to the nature and significance of the issue to be considered and decided.
2. Instructs staff to prepare a draft PRCEP and RRMP plan change to address on-site wastewater issues, consult with Sewage on Site (SOS) group and TLAs and present the draft plan change to the 15 June 2011 Environmental Management Committee meeting.



Charlotte Drury
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STRATEGIC DEVELOPMENT

Attachment/s

- 1 Draft Changes to Wastewater Rules Under Separate Cover

HAWKE'S BAY REGIONAL COUNCIL
ENVIRONMENTAL MANAGEMENT COMMITTEE

Wednesday 13 April 2011

Item 10

SUBJECT: TAHARUA UPDATE

REASON FOR REPORT

1. This report provides a progress update on Council's *Taharua Policy Development Strategy* (November 2009) to address water quality issues in the Taharua and upper Mohaka rivers. This builds on the previous update to the Council in November 2010.
2. Specifically, the report discusses:
 - 2.1. Provisional water quality guideline levels (targets and timeframe) agreed by the Taharua Stakeholder Group (TSG)
 - 2.2. Progress with catchment nutrient modelling to inform nutrient reductions to meet water quality targets
 - 2.3. Proposed economic modelling to inform on-farm and policy decisions
 - 2.4. Scoping of policy options for a Taharua policy framework
 - 2.5. Likely policy directions and reasons
 - 2.6. Next steps and proposed amendments to notification timeframes.
3. It would be helpful to get an indication from the Committee as to whether the provisional water quality targets and timeframe might be acceptable and that the policy options which staff are investigating are appropriate.

Background

4. The TSG has met twice since the last Council update in November 2010.
5. Group progress has been somewhat constrained by development complications with the catchment nutrient model, intended to inform the essential link between river "health" and required catchment nutrient yields. However, Council staff have been able to suggest provisional water quality guideline levels, which the TSG have agreed in principle. Initial TSG discussions of policy options have taken place and some principles and areas of contention identified.
6. Council's Taharua strategy emphasises partnership with the TSG to address water quality issues. The TSG vision, desired outcomes and values that were presented to Committee in November have informed the discussions of provisional water quality guidelines and initial debate on policy options.
7. The TSG vision and outcomes are included as Attachment 1. Figure 1 illustrates the "pillars" of the vision and outcomes.

Figure 1. TSG “pillars”



Translating river health outcomes into water quality guidelines

8. Since 2003 the Taharua River and downstream in the Mohaka River have experienced marked changes in their environmental character in response to land use change in the Taharua River catchment. In brief, the following effects are evident:
 - 8.1. Elevated nutrients in the Mohaka River including tributaries: Waipunga River and Taharua River – trout fishery affected
 - 8.2. Nitrate concentrations in the Taharua exceed toxicity guidelines
 - 8.3. Marked changes in the natural character of the upper Mohaka River downstream of the Taharua confluence
 - 8.4. Algal blooms at times observable 12 kilometres downstream in the Mohaka River from the Taharua confluence
 - 8.5. Marked increasing trend in nitrogen measured ~ 55 km downstream at Glenfalls – correlates with land use change in the Taharua catchment.
9. Broad water quality and ecology objectives identified by Council's science staff to meet the TSG's vision and outcomes are to:
 - 9.1. Promote biodiversity values of the Taharua River
 - 9.2. Provide suitable conditions for a high value fishery in the Taharua River
 - 9.3. Protect the 'pristine' natural character of the upper Mohaka River
 - 9.4. Reduce downstream impacts to an absolute minimum.
10. To help meet these objectives, Council staff identified guideline levels that, if met, have the potential to offset the effects of land use change.
11. Two guideline levels have been formulated separately for the Taharua River and the upper Mohaka River (downstream of the Taharua confluence) to take into account the different issues faced by the rivers:
 - 11.1. a nitrate toxicity guideline level that identifies the moderately disturbed nature of the Taharua catchment and the value of the Taharua as a trout fishery; and
 - 11.2. natural character guideline levels that identify the relatively pristine nature of the upper Mohaka River, such as identified by the Water Conservation Order (WCO).

Taharua Nitrate Toxicity Guideline Level

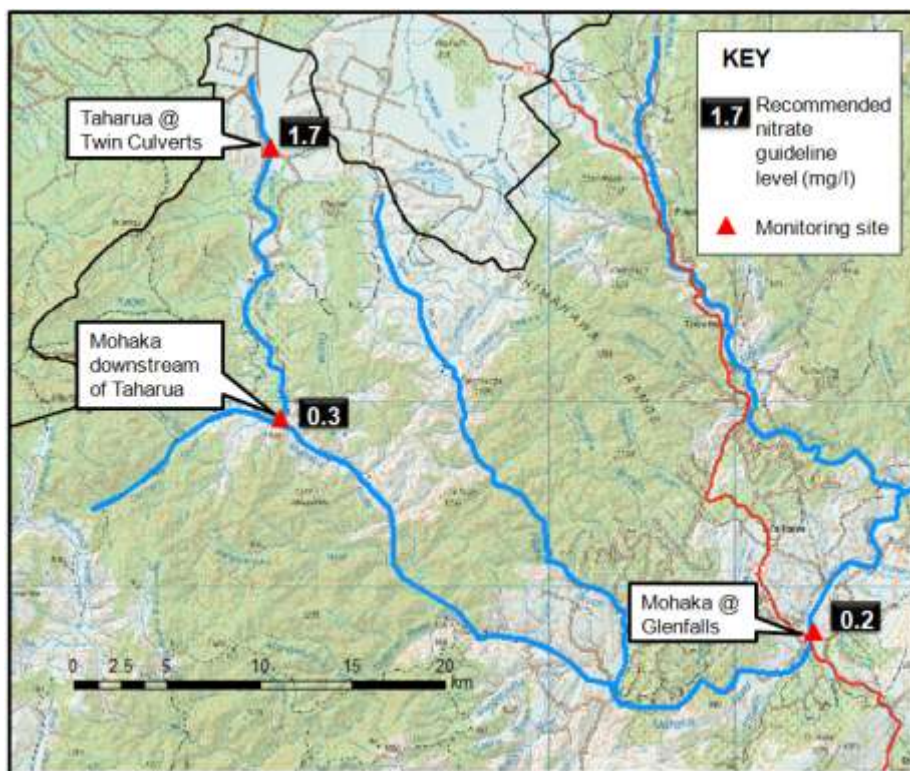
12. A '**nitrate toxicity guideline**' for the Taharua River of 1.7 mg/L (1700 mg/m³) of nitrate (NO₃⁻) is proposed. This equates to a level of total nitrogen of ~ 1.83 mg/L (1830 mg/m³). The guideline level is proposed for the Taharua River at Twin Culverts and thus provides protection for the lower, mid and upper reaches of the river.

13. The nitrate toxicity guideline is based on a detailed review by Hickey and Martin (2009) and aims to provide 95% species protection of aquatic animals. The review was commissioned by Environment Canterbury, and has been used for the New Zealand ANZECC review and as such is still relevant to Taharua/Mohaka. The guideline number is recommended for moderately disturbed systems, but provides a level of protection to mitigate the toxic effects of high nitrate levels on aquatic animals. Concentrations of nitrate below the guideline level are typical of the Taharua River in years prior to a marked reduction in the viability of the trout fishery that occurred around 2003/04, as identified by angling records.
14. A further level of protection (99% of species) of 1.0 mg/L (1000 mg/m³) of nitrate (NO₃⁻) is suggested by Hickey and Martin for managing pristine environments but the recommended guideline level of 1.7 recognises the modified nature of the Taharua catchment.

Upper Mohaka Natural Character Guideline Level

15. A **'natural character guideline level - upper Mohaka River below the Taharua confluence'** of 0.3 mg/L is proposed for total nitrogen. This value approximates the level of nitrogen currently measured at Glenfalls (~ 55 river kilometres downstream) over recent years. Glenfalls has good water quality with a high natural character and a limited occurrence of problematic algal growth. Achieving a comparable nutrient level in the Mohaka River directly downstream of the Taharua River should afford adequate protection to the Mohaka River but allows some increase in background nutrient levels.
16. A **'natural character guideline level - Mohaka River at Glenfalls'** of 0.2 mg/L is proposed for total nitrogen. The value is typical of nutrient conditions measured at Glenfalls during the 1990's prior to a marked increase in nitrogen from 2000 to the present time. Returning nutrient levels at Glenfalls to 0.2 mg/L would increase protection of the Mohaka River between the Taharua confluence and Glenfalls. The area upstream of Glenfalls is covered by the WCO.
17. At present, New Zealand has no information on the sensitivity of native fish species to nitrate levels (Hickey and Martin, 2009). However, Hickey and Martin (2009) make comment that some native invertebrate and fish species are more sensitive to some chemical contaminants than the standard test species included in their nitrate toxicity review.
18. In the absence of New Zealand specific data these guidelines are the most up to date and appropriate that we can utilise. Hickey is one of the lead scientists on the revision of the ANZECC guidelines and specifically toxicology limits. In this regard we can have confidence that the information is robust and been appropriately interpreted for New Zealand conditions. However, it is proposed that Council seek advice on the applicability of the guideline levels from the Hickey. It is expected we will have advice on the application to Taharua guidelines from Hickey within the next 2 weeks.
19. The guideline levels were provisionally agreed by TSG representatives at the 22 March meeting, along with a provisional timeframe of 15 years. This would require land management changes within 10 years, given a lag time of up to 5 years for nitrates lost from catchment land uses to reach the rivers. This timeframe may need to be reassessed once the scale of the task and economic implications are better understood.

Figure 2. Provisional TSG agreed guideline levels and timeframe



TSG Provisionally Agreed Timeframe

(subject to clarity on nutrient targets and financial implications)

- To meet water quality guidelines within 15 years
- To make land management changes within 10 years (5 year lag time)

Catchment nutrient model update

20. The model commissioned from NIWA to examine the effects of Taharua land use on the Taharua and Mohaka Rivers is now available. A recent workshop with NIWA clarified model assumptions and improved use for policy development. The 'nitrogen sub-model' connecting land use with river nutrient concentrations provides a good fit with observed data. The 'periphyton sub-model' linking effects of nutrient concentrations and flow on algal biomass has encountered problems, but does not hinder policy development.
21. The nitrogen sub-model will now be used to discuss land management scenarios with the TSG to meet the provisional water quality guidelines in Figure 2. This will indicate the scale of the task ahead. At present we can state with reasonable certainty:
 - 21.1. "Business as usual" is not an option. The current nitrogen (N) leaching load to the catchment is not low enough to achieve either water quality guideline.
 - 21.2. All other land uses remaining "as existing", dairy farms may need to be operating at around 24 kgN/ha/yr as a maximum to achieve the proposed nitrate toxicity guideline from Twin Culverts downstream.

Economic modelling to inform on-farm and policy decisions

22. Understanding economic implications for landowners of nitrogen reductions is essential for informed policy discussion. Providing for economic sustainability is a "pillar" of the TSG catchment vision. HBRC staff propose to engage Landcare Research to use an NZ-Farm model to examine:
 - 22.1. Impacts of nitrogen reduction scenarios on landowner profitability; and
 - 22.2. Identify the best mix of farm mitigation options to achieve reductions in N leaching while optimising catchment profitability.

23. Detailed discussions with Landcare Research have taken place, but use of this economic model will require information from the NIWA nutrient model. Landowners have agreed to work cooperatively with the regional council and Landcare Research to ensure the model is robust and meets needs. This is likely to take a few months, unless fast-tracked by engaging consultants to do upfront data gathering. This would double costs from \$20,000 to around \$40,000.

Policy framework options

24. An effective Taharua policy framework will require a range of complementary components. A range of possible options has been scoped and initially discussed with the TSG on 22 March. Options have been assessed against 8 criteria: Council’s initial resolution; TSG visions and goals (see Attachment 1); availability; contribution to outcome; opposition; complexity; risk; and cost.
25. The scoping exercise has identified the following range of options. Attachment 2 provides a more detailed summary. Careful selection and synthesis of options is needed to construct an effective and efficient framework. This process will continue at the next TSG meeting in late April.

Figure 3. Identified policy options

<p>Nitrogen Cap</p> <ul style="list-style-type: none"> ▪ Property ▪ Catchment only ▪ Reducing ▪ Level 	<p>Allocating N discharge rights</p> <ul style="list-style-type: none"> ▪ Grandparent ▪ Average ▪ Sector average ▪ Land capability ▪ Other 		
<p>Regulation</p> <ul style="list-style-type: none"> ▪ Outputs (effects) ▪ Point ▪ Inputs ▪ Land use type 	<p>Legal</p> <ul style="list-style-type: none"> ▪ Covenants ▪ Incorporated Society ▪ Contract 	<p>Hybrid (legal / rules)</p> <ul style="list-style-type: none"> ▪ DairyNZ “club” ▪ Audited Self-Man. / Environmental Man. Systems” 	<p>Tradable permits</p> <ul style="list-style-type: none"> ▪ Nitrogen trading ▪ Emissions Trading Scheme
<p>Subsidies</p> <ul style="list-style-type: none"> ▪ Deferred rates ▪ Loans ▪ RLS changes ▪ Grants ▪ Catchment fund 	<p>Charges</p> <ul style="list-style-type: none"> ▪ Differential rate / remission ▪ RMA S.36 charge ▪ N pollution tax ▪ Consent contributions ▪ Inputs tax 	<p>Treatment</p> <ul style="list-style-type: none"> ▪ Wetlands ▪ Wetland rafts ▪ Groundwater ▪ No water takes ▪ Treatment plant 	<p>Purchase</p> <ul style="list-style-type: none"> ▪ Targeted ▪ Farm

26. The TSG has identified 3 guiding “principles” for a policy framework: **maximum flexibility; results focussed; fair and equitable.**
27. The TSG has also identified 2 main “sticking points”: **the need for cost analysis; who should pay and how?**
28. Likely policy directions are outlined below. This may evolve with nutrient and economic modelling and ongoing TSG discussions.

Likely policy directions

29. **Effects based approach:** the TSG continues to support Council’s approach that focuses on limiting nutrient outputs to achieve water quality targets, while maximising landowner flexibility. Most of the science is now in place to support this approach, recognising a need for ongoing monitoring in the next few years to reduce uncertainty.
30. **Water quality targets and timeframe:** the TSG provisionally supports the water quality guideline levels and indicative timeframes set out in Figure 2. An interim milestone (e.g. 5 years) could be considered. Development of complementary guideline values for

clarity, habitat and biodiversity will need to be considered to give effect to the range of values identified by the TSG. This will be to ensure resilience and longevity to solutions enacted.

31. **Reducing catchment nitrogen cap:** a cap on cumulative nitrogen yield from all land uses is a minimum requirement to manage effects from the catchment as a whole. The TSG recognises that this cap will need to be reduced to ensure water quality targets. Many easier on-farm mitigations have already been used by dairy farmers to reduce from nitrogen yields from around 50 to 35 kgN/ha/yr. To reduce future yields will involve significant farm operational changes and costs.
32. While phosphorus is an important nutrient to manage, policy should seek to maintain existing good practice.
33. **Discharge rights allocated to properties:** a catchment-only cap would not provide enough certainty for stakeholders or Council. Fair and equitable allocation of nitrogen discharge rights among land users is highlighted by the TSG as a key principle and “sticking point”, exacerbated by the mix of catchment land users. There is no simple solution and all basic options have advantages and disadvantages.
34. Allocation based on averaging (“everyone gets the same per hectare”) or land use capability (everyone gets what their land is sustainably capable of”) may satisfy the “fair and equitable” test. A “needs tested” allocation on top could assist adjustment and economic sustainability. A composite arrangement is likely to be needed.
35. Poronui (6,500 ha) is unlikely to accept a cap that “locks” it at existing low nitrogen yields without compensation. Historically, Poronui had 3500 ha of sheep and beef, only recently moving into exotic forest. In short, the more freedom Poronui has, the more potential pain for dairy owners. Taharua landowners plan to meet among themselves to discuss possible ways forward.
36. Native vegetation (approx. 53% of catchment) could be capped at existing low nitrogen yields), providing a larger “pot” for productive land users and additional protection.
37. **Nitrogen offsetting provision:** provision for farmers to exceed nitrogen discharge allowances, if fully offset elsewhere in the catchment, would increase flexibility. A nitrogen trading scheme could create a market for individual surplus allowances, enabling Poronui and forestry owners to benefit from low nitrogen yield land uses. The feasibility of a formal or informal trading scheme needs assessment as: there are limited participants; set up and administration costs may be prohibitive; Taharua River “health” requires relatively even nitrogen concentrations; and a falling cap adds complexity. If trading is not an option, some other mechanism to accommodate landowner interests is needed.
38. **Policy suite for sustainable catchment management:** a policy framework for nitrogen alone is unlikely to ensure future river “health” and sustainable catchment management. Plan policies should address issues such as: phosphorus management; riparian areas and wetlands; and soil retention and health.
39. **Catchment entity and legal agreements:** a collective entity with a performance-related contract to meet targets, could offer a range of benefits including ownership of the process by an engaged community and more integrated management to address the range of TSG values. The DairyNZ “club” model being developed with Rotorua farmers may offer a “package” that could be tailored for Taharua.
40. A collective approach is likely to depend on Poronui and dairy interests agreeing a way forward. Other considerations are: wider TSG involvement; costs of setting up a collective; the role of supporting regulation; and liability and enforcement issues associated with any delegation of powers. Potential benefits of audited self-management approaches are increasingly recognised in water allocation management.
41. **Supporting regulation:** effects-based rules can provide a necessary “backstop” to ensure time-bound progress to achieve water quality targets and prevent slippage. Permitted activity status for intensive farming, subject to performance conditions, may

- be acceptable to Council and landowners. Permitted status could be an incentive for membership of a collective entity.
42. Existing point source rules will need to be reviewed to complement an effects-based framework being developed.
 43. **Financial incentives/disincentives:** Council's existing Regional Landcare Scheme (RLS) grants have already contributed significantly toward reducing nutrient loading within the catchment. This scheme could be extended and/or additional grants made offered for on-farm mitigation works (linked to restrictive covenants). Loans or deferred rates are also an option and may be more acceptable to the wider Hawke's Bay Community. Other forms of assistance can include: "tailored" monitoring to inform adaptive management and support for applied research or even land purchase. As Taharua Farm is for sale, the TSG proposes that Council explores a business case for purchase.
 44. The TSG wants to know whether Council expects landowners to meet all the costs of nitrate reduction, whether it will continue the RLS, perhaps under extended criteria, and whether it would even contemplate land purchase as an option.
 45. **Action/implementation plan:** the plan change should provide for a more detailed action/implementation plan. This can ensure a balance between flexibility to respond to uncertainty and a clear path forward. Issues such as riparian planting and wetland reinstatement/creation can be addressed in the action plan.
 46. **Other Mohaka sub-catchments:** it has been identified that there are other sub-catchments within the Mohaka that could contribute to a decline on the water quality and ecology. Although the Ripia quality is good, landuse change could affect the Mohaka. The Waipunga (which flows in downstream of Glenfalls) has been identified as having degraded in recent years. The effect on the Mohaka has yet to be investigated, although observations suggest a change in clarity and hue from its confluence with the Mohaka. Solutions for this sub-catchment will, if required, be cross boundary, as development is in the watershed of the catchment shared with Bay of Plenty Regional Council.
 47. Securing future "health" of the Mohaka River would require risks of intensification in the Ripia and Waipunga sub-catchments to be addressed. The TSG also have concerns that Taharua improvements to the Mohaka may be offset from downstream sub-catchments. Further policy consideration is needed, but a holding arrangement may be appropriate. For example requiring consent for land use changes that increase targeted outputs. This would impact on land owners beyond the TSG.

Next steps

48. Key steps are required to reduce current uncertainty for policy development. Outcomes of each step will have implications for the others. The policy development process will be iterative not linear:
 - 48.1. Water quality guidelines verification ("targets are scientifically appropriate")
 - 48.2. Modelling of land use/management scenarios to meet water quality guidelines ("the scale of the nitrogen reduction task")
 - 48.3. Economic modelling of profitability impacts and land management options ("ways to achieve reductions and what it will cost farmers")
 - 48.4. Understanding Council's level of commitment towards supporting different solutions (proposed Councillor field trip to meet TSG in May).
49. These steps are inputs into the policy framework. The policy framework in itself is complex, particularly if nitrate trading is part of the mix. The idea of a catchment based entity also has significant 'institutional type' processes and protocols to be established and the costs of such mechanisms need to be weighed up against the benefits. It could be, for example, that if the landowners can agree on a final allocation of nitrate across the catchment that individual consents might be a more efficient mechanism.

50. Given the delay in the catchment model and the work still required, it is now unrealistic to expect that a fully developed set of policies and rules, with an RMA Section 32 cost-benefit analysis, can be prepared by the scheduled notification date (July). It is proposed that an interim step is to prepare a draft strategy document, which puts together the vision, values, objectives, water quality targets and timeframes, and likely mechanism for meeting those targets and timeframes, for informal consultation. This strategy document could be presented to the Committee in a couple of month's time. In the meantime, work would continue with the catchment and economic modelling and cost-benefit analysis with plan change notification at the end of the year.

DECISION MAKING PROCESS

51. Council is required to make a decision in accordance with Part 6 Sub-Part 1, of the Local Government Act 2002 (the Act). Staff have assessed the requirements contained within this section of the Act in relation to this item and have concluded the following:
 - 51.1. Sections 97 and 98 of the Act do not apply as these relate to decisions that significantly alter the service provision or affect a strategic asset.
 - 51.2. Sections 83 and 84 covering special consultative procedure do not apply.
 - 51.3. The decision does not fall within the definition of the Council's policy on significance.
 - 51.4. The persons affected by this decision in relation to timing of the regional plan change for the Taharua Strategy are those persons who will have the opportunity to make submissions on all of the plan changes once those changes are publicly notified.
 - 51.5. The options considered in relation to the regional plan change for the Taharua Strategy relate to the timing of notification given the unavailability of critical information. Extending the time frame by 6 months to December 2011 will enable the required cost benefit analysis to be undertaken. The interim step of undertaking targeted consultation on the Draft Taharua Strategy will enable other stakeholders and interested groups to understand the development process supporting the final plan change.
 - 51.6. Section 80 of the Act covering decisions that are inconsistent with an existing policy or plan does not apply.

RECOMMENDATIONS

That the Environmental Management Committee:

1. Receives and notes the report titled '*Taharua update*';

The Environmental Management Committee recommends that Council:

2. Agrees that the decisions to be made are not significant under the criteria contained in Council's adopted policy on significance and that Council can exercise its discretion under Sections 79(1)(a) and 82(3) of the Local Government Act 2002 and make decisions on this issue without conferring directly with the community and persons likely to be affected by or to have an interest in the decision due to the nature and significance of the issue to be considered and decided.
3. Instructs staff to schedule a Councillor workshop to examine policy options in more detail.
4. Instructs staff to prepare a draft Taharua Strategy for informal consultation with other targeted stakeholders.
5. Approves the postponement of the notification date for the plan change to December 2011.



Brendan Powell
LAND MANAGEMENT ADVISOR



Chris Reed
SENIOR PLANNER

Adam Uytendaal
PRINCIPAL SCIENTIST, WATER QUALITY
& ECOLOGY



Graham Sevicke-Jones
MANAGER ENVIROMENTAL SCIENCE



Helen Codlin
GROUP MANAGER
STRATEGIC DEVELOPMENT

Attachment/s

- 1 Taharua Stakeholders Group Vision and Outcomes
- 2 Taharua Policy Options Summary

TSG Vision

- Protecting environmental values for future generations
- Providing economic sustainability
- Socially and culturally responsible



Outcomes

Healthy stream

All aquatic life
Reduced algal content
Reduced nutrient load in stream
Drinkable water

Economic

Build economically strong businesses

Social/cultural

We take collective responsibility
Turn negatives into positives (take action and advertise it)
Fair and equitable solutions



Taharua policy options (summary of detailed scoping exercise)			
Policy Type	Policy Option	Description	Suitability
Nitrogen cap	Catchment only	Nitrogen cap set only as cumulative catchment yield, not at property level	Possible. A catchment-only cap is unlikely provide enough direction
	Property	Catchment nitrogen cap is allocated at property level as a nitrogen discharge allowance	Essential? Catchment cap needs to be allocated among landowners to provide certainty for Council and stakeholders
	Level	Level cap to prevent increased nutrient losses only (unless offset elsewhere in catchment)	Inappropriate. Will not achieve water quality targets unless there is an alternative arrangement for nitrogen reductions (e.g. public funds for Taupo and Rotorua Lakes)
	Reducing	Cap lowered over time to reduce cumulative nutrient yield from the catchment	Essential? Necessary for certainty of progress required by Council, Hawke's Bay community and Taharua Stakeholder Group
Allocation of nutrient discharge allowances	“Grandparenting”	“You get what you have or used to have”	Possible. As a starting point for dairy farms, but won't achieve nutrient reductions. Not favoured by Poronui. Could apply to native vegetation areas.
	Averaging	“Everyone gets the same per hectare”	Possible. Simple approach to the “fairness and equity” issue. Adjustment period required unless nitrogen trading provision.
	Sector averaging	“Everyone within the same sector gets the same per hectare”	Possible. Reduces burden on dairy farms, but also reduces flexibility for other land owners
	Land use capability	“What you get reflects what your land is sustainably capable of”	Possible. Environmental logic, but LUC is not necessarily linked with nitrogen leaching potential. Economic implications need assessing.

Policy Type	Policy Option	Description	Suitability
Regulation	Effects-based	Reduce nutrient yield from catchment land uses to meet water quality target over time period. Focus on controlling outputs to address effects and maximise landowner flexibility to make land management decisions	Essential? Council’s initially preferred approach reflects purpose and principles of RMA. Key is to design an agreed package and learn process lessons from other regional councils.
	Specific to land use types	Apply rules to land use types (e.g. specific rules for dairy, forestry, sheep/beef etc). A hierarchy of rules might be created. Activities might be prohibited, restricted, controlled or permitted accordingly	Inappropriate. Both in terms outcomes and process. Poor fit with purpose and principles of RMA and TSG values, vision, and outcomes.
	Inputs	Control farming in inputs (for example stocking rates, fertiliser) as a way of reducing nitrogen outputs from land	Inappropriate. Both in terms outcomes and process. Poor “fit” with purpose and principles of RMA and TSG values, vision, and outcomes.
	Point sources	Point sources account for around 10% of nitrogen loss from land. Regulation of point sources could include: dairy shed effluent storage and application; feedlots/feed pads; stock in rivers; crossings; use of riparian margins	Possible. Opportunity to adopt a more risk-based approach. May be better to address in future region-wide plan change unless specific Taharua needs
Legal	Incorporated Society	An Incorporated Society with formalised objectives and rules of operation is an established means of creating a collective legal entity for catchment management. Must have 15 members (corporate body counts as 3).	Possible. Potentially useful way to provide for collective responsibility (DairyNZ “club” concept appears to incorporate this)
	Collective contract	A collective contract between landowners and Council could provide a legal means of establishing required performance	Possible. Potentially useful way to provide for collective responsibility (DairyNZ “club” concept appears to incorporate this)
	Covenants	Restrictive covenants are already used for sustainable land management in the Taharua catchment, linked to Regional Landcare Scheme grants (e.g. riparian fencing)	Essential? Continued role in securing sustainable management of identified “hotspots”, linked to financial assistance

Policy Type	Policy Option	Description	Suitability
“Hybrid” (legal / regulation)	DairyNZ “catchment club”	DairyNZ are leading development of a “catchment club” as a potential new way for Rotorua dairy farmers to ensure progress to water quality targets. The model would incorporate a collective charter and agreed performance contract with regional council. Preferential consenting arrangements could be an incentive for club membership.	Possible. In development in Rotorua catchment. Appears to fit effects-based regulatory approach and acceptable to landowners. Bay of Plenty Regional Council staff recognise potential benefits for process and outcomes. Tailored package for Taharua?
	Audited self-management (ASM)	ASM would involve delegation of responsibilities by Council to a collective legal entity under agreed terms. ASM can be extended to Environmental Management Systems (EMS) for sustainable management. ASM increasingly applied to water allocation in New Zealand	Possible. Potential to deliver greater benefits, coupled with supporting effects-based regulation. Part of DairyNZ catchment “club” approach
Market-based instruments (Tradable Permits)	Nitrogen trading	A nitrogen trading scheme could create a catchment market for buying and selling nitrogen discharge units as part of a “cap and trade” framework. It could increase landowner options.	Possible. Can increase land management flexibility and incentivise nutrient reductions. Potentially complex development and implementation. Applicability needs assessment
	Emissions Trading Scheme (ETS)	The Government’s emissions trading scheme may have implications for the mix of interventions	Part of the broader context with implications for Taharua interventions mix

Policy Type	Policy Option	Description	Suitability
Market-based instruments (Subsidies and Concessions)	Deferred rates	Postponement of rates payment until a certain time or events occur (e.g. sale of property)	Possible. Could be a useful process “sweetener”. Repayment makes it more acceptable Hawke’s Bay ratepayers than grants.
	Loans	Council loans for specific actions. Could be tied to legal agreements. Various repayment options	Possible. Targeted loans can assist collaborative process and secure wider benefits. Repayment makes it more acceptable to Hawke’s Bay ratepayers than grants.
	Regional Landcare Scheme (RLS)	Restructuring of Council’s RLS for sustainable land management could officially recognise Taharua as a priority catchment with higher level assistance	Possible. Established scheme. Adjustment would have impacts on the regional “pot”.
	Other Grants	Specific one-off grants towards key works offering significant benefits. Could be tied to legal agreements	Possible. To assist key interventions only and to secure a range of wider benefits. May be less acceptable to Hawke’s Bay ratepayers than loans.
	Catchment Fund	Joint central/local government fund to assist restoration of health of rivers (e.g. multi-million dollar packages for Taupe and Rotorua Lakes)	Possible / Unavailable at present. No fund at present, but if scale of task is great enough there may be a case for approaching Government.

Policy Type	Policy Option	Description	Suitability
Market-based instruments (Taxes and Charges)	Financial Contributions applied to Resource Consents	RMA S.108 makes provision for resource consents to include conditions requiring a financial contribution of money and/or land. The level of contribution would need to be linked directly to environmental damage	Unavailable? Would require expert legal opinion. Proving direct contribution to environmental damage is very difficult.
	Differential rates / remissions scheme	Bay of Plenty Regional Council have investigated this approach, but nutrient loss may not be a legal basis for a <u>targeted</u> rate. A differential <u>general</u> rate may need to be applied region-wide	Possible? Would require expert legal opinion.
	Nitrogen “pollution tax”	Tax applied based on level of environmental impact/ nutrient output. Used by certain countries as a primary instrument for nutrient management	Unavailable? No local government powers at present. In theory a primary alternative to effects-based regulation, but would require expertise and economies of scale
	Inputs Tax	Tax applied to farming inputs to influence nitrogen outputs (e.g. stocking rates, fertiliser use)	Unavailable? No local government powers at present. Similar shortcomings as regulation of inputs (see option above).
	RMA S.36 charge adjustment	Further adjustment of the existing “MOHAKA zone” RMA S.36 charge applied to consent holders for the cost of freshwater research, investigation and monitoring. This could reflect the level of HBRC science activity in the Taharua catchment	Possible. Additional complexity and unlikely to have a significant impact on outcomes

Policy Type	Policy Option	Description	Suitability
Water Treatment	Treatment Plant	Nitrate removal from Taharua River by treatment plant at bottom of catchment. Commonly used for removal from drinking water or wastewater, but not restoring quality river systems for ecosystem health	Inappropriate. High cost “ambulance at bottom of cliff” approach that ignores sustainable management of Taharua and TSG values, vision and goals
	Groundwater Barrier	Use of permeable reactive barrier to remove nitrate from shallow groundwater before entering river	Possible. Would require detailed feasibility assessment
	Wetlands (conventional)	Reinstate former wetland areas or potentially create new wetlands	Possible. Waitangi offers considerable opportunity. Elsewhere requires feasibility assessment
	Wetlands (Floating)	Artificial floating wetland rafts in river to strip nitrates from water	Unavailable. Present technology unsuitable for Taharua flows and Tulip Stream trial indicates limited performance to date
	Alternative water sources for dairy shed operation	The dairy farms have consented water takes for dairy shed operations. Additional river flow volume would dilute nitrate concentrations	Possible. Consenting did not raise environmental impacts. May need assessment.
Land Purchase	Whole farm	Purchase of dairy farm(s)	Unavailable at present. Would require a consortium approach. Useful to cost alongside other approaches.
	Targeted	Targeted land purchase (for example “hotspots” or land that could be managed for multiple benefits). Could include land for stock wintering outside catchment	Possible / Unavailable at present. Would require strong supporting argument.

HAWKE'S BAY REGIONAL COUNCIL
ENVIRONMENTAL MANAGEMENT COMMITTEE

Wednesday 13 April 2011

Item 11

SUBJECT: FISH BARRIERS

REASON FOR REPORT

1. Structures in the beds of rivers and streams can cause a barrier to migrating fish by preventing their upstream or downstream passage.
2. Pump stations designed to regulate stormwater flows and tide gates and flood gates at culvert openings when closed are a complete barrier to fish passage. Weirs are concrete, stone or stonemesh overflow walls or structures that are designed to raise upstream water level for the purpose of diverting flows or measuring the rate of flow. Weirs are a significant obstacle to fish passage.
3. The introduction of the Freshwater Fisheries Legislation in 1983 and the Resource Management reform of the late 1980s early 1990s. Act in 1991 highlighted fish passage as being a significant issue in New Zealand. The Hawke's Bay Regional Council sets out clear direction to address this issue through policies and rules in the Regional Resource Management Plan (RRMP).
4. The Hawke's Bay Regional Council fish monitoring strategy (2006) highlighted the need for an assessment of potential barriers to fish passage in the region. The project aimed to list the location of these potential barriers on public and HBRC managed land and assess each of the structures on the severity of the restriction to particular fish species with differing climbing abilities.

Background

5. New Zealand has a small number of native freshwater fish species compared to other countries in the world. Of the 35 native species included in the fauna, 18 of these spend part of their life in the sea as part of life cycle (diadromous). The presence of structures in waterways has become a problem for some species of fish to migrate between inland waters and estuarine and coastal waters to access suitable habitat to complete their life cycle.
6. The climbing ability of fish differs dramatically between species; the best climbers being the longfinned and shortfinned eels which can survive for extended periods out of water by absorbing oxygen through their skin. Some galaxiid species such as the Koaro and banded Kokopu have evolved with large pectoral fins enabling them to cling to moist surfaces of rocks and allow them to climb extensive waterfalls. The climbing ability of different fish species determines their ability to navigate barriers and penetrate inland.
7. Poor design and installation of culverts is a major problem for fish passage. Culverts installed higher than the natural stream level (perched) can pose a problem for fish to pass through due to the inability for fish to enter the culvert. These perched culverts become inaccessible for all species. Flow conditions inside the culverts can also present a problem for fish passage. Large culverts with a wide diameter become a barrier at low flow conditions due to shallow water depth.
8. A total of 88 structures in 82 separate locations were assessed as preventing the upstream and downstream migrations of the fauna. Of these culverts, storm water pumping stations and weirs make up the majority of the structures identified as causing a barrier to fish passage. Bridge aprons, dams, fords and a recently engineered fish pass at Pekapeka Swamp made up the remaining amount with only 1% of each contributing to the proportion of fish passage types.

Communication

9. Information contained in this report will be provided to TLAs, Transit and Department of Conservation to enable review of those structures that are currently inhibiting fish passage. The report will inform consenting to assist in the assessment of new or changes to existing culverts. The report has been provided to the engineering staff for consideration of management options within the environmental management review of council managed waterways.

DECISION MAKING PROCESS

10. Council is required to make a decision in accordance with Part 6 Sub-Part 1, of the Local Government Act 2002 (the Act). Staff have assessed the requirements contained within this section of the Act in relation to this item and have concluded that, as this report is for information only and no decision is to be made, the decision making provisions of the Local Government Act 2002 do not apply.

RECOMMENDATION

1. That the Environmental Management Committee receives the report and approves release of the report to those stakeholders responsible for existing structures.



Fiona Cameron
DATA ANALYST

Adam Uytendaal
PRINCIPAL SCIENTIST,
WATER QUALITY & ECOLOGY



Graham Sevicke-Jones
MANAGER ENVIROMENTAL SCIENCE

Attachment/s

There are no attachments for this report.

**HAWKE'S BAY REGIONAL COUNCIL
ENVIRONMENTAL MANAGEMENT COMMITTEE**

Wednesday 13 April 2011

Item 12

SUBJECT: STATUTORY ADVOCACY MATTERS

REASON FOR REPORT

1. This paper reports on proposals considered under Council's statutory advocacy project and the Resource Management Act 1991 for the period 27 January – 30 March 2011.

Background

2. The proposals on which Council has an opportunity to make comments or lodge a submission include, but are limited to:
 - 2.1 Notified Resource Consent Applications
 - 2.2 Plan Changes
 - 2.3 Private Plan Change Requests
 - 2.4 Notice of Requirement
 - 2.5 Non-statutory Strategies and Structure Plans.
3. The summary attached included an actual list and description of the proposals, whether submissions were lodged in support or opposition, and the reasons for lodging a submission. A location map is also attached.

DECISION MAKING PROCESS

4. Council is required to make a decision in accordance with Part 6 Sub-Part 1, of the Local Government Act 2002 (the Act). Staff have assessed the requirements contained within this section of the Act in relation to this item and have concluded that, as this report is for information only and no decision is to be made, the decision making provisions of the Local Government Act 2002 do not apply.

RECOMMENDATION

1. That the Committee receives the Statutory Advocacy Update report.



**Esther-Amy Bate
PLANNER**



**Helen Codlin
GROUP MANAGER
STRATEGIC DEVELOPMENT**

Attachment/s

- 1 Statutory Advocacy Update
- 2 Statutory Advocacy Map

Statutory Advocacy Update

Received	TLA	Map Ref	Activity	Applicant/ Agency	Status	Current Situation
10 March 2011	NCC	7	<p>Resource Consent – Subdivision</p> <p>The applicant seeks to subdivide subdivision of 16 McElwee Street, Jervoistown Certificate of Title HBD3/994 into two separate Lots. Proposed Lot 1 includes 1876m² and the existing dwelling and garage. Proposed Lot 2 includes 2315m² a travellers' accommodation building and the ability to construct a new dwelling onsite. Land use consent is also sought to increase permitted site coverage from 10% to 20%</p>	<p>Glenn Bowman</p> <p>Consultant – Consult Plus</p>	<p>Notified Restricted Discretionary</p>	<p>25 March 2011</p> <ul style="list-style-type: none"> The application proposes to store stormwater in underground tanks in rain event then discharge into the Jervois drain when the drains levels subside. The Council has submitted in opposition as the while the stormwater solution is technically feasible it is not failsafe in the long term.
31 January 2011	CHBDC	6	<p>Resource Consent – Subdivision</p> <p>The applicant seeks to subdivide Lot 2 DP 382037 at Pourerere Beach Road to create Lot 1 of 9730m² and Lot 2 of 12.293ha.</p>	<p>CHBDC</p>	<p>Pre Application</p>	<p>16 February 2011</p> <ul style="list-style-type: none"> The applicant has asked for comments from HBRC before CHBDC has made any decision regarding notification. Information provided to this Council shows the proposed subdivision boundary line will separate the effluent field (proposed Lot 1) from the septic tank and outlet (proposed Lot 2). Council has provided comment to the applicant suggesting that either the boundary line is moved to include the wastewater system or an easement is lodged against the Title of proposed Lot 2. It also appears that the system will not meet Rule 27(e)(v) of the RCEP.
5 November 2010	NCC		<p>Notice of Requirement – Te Awa Structure Plan</p> <p>Notice of requirement for designation to allow for the construction of public works in the Te Awa Structure Plan area by Napier City Council.</p>	<p>NCC</p>	<p>Notified by NCC</p>	<p>6 December 2010</p> <ul style="list-style-type: none"> The Council's Engineering Team has provided comment. The Engineering Team believes that the proposed second pump station is unnecessary due to sufficient infrastructure already available in that there is scope to utilise infrastructure previously built for the Cross Country drain. Council will submit in support but provide further comments on the above.
5 November 2010	NCC	5	<p>Plan Change 6 – Te Awa Structure Plan</p> <p>The purpose of the plan change is to rezone the area from Main Rural to Main Residential and incorporate the outcomes sought in the Te Awa Structure Plan into the District Plan.</p>	<p>NCC</p>	<p>Notified by NCC</p>	<p>6 December 2010</p> <ul style="list-style-type: none"> Engineering Team has provided comments. The proposed stormwater solution does not consider Low Impact Urban Design principles. It also appears that the four Wellbeings of Economic, Social, Cultural and Environment have not adequately been considered in the Structure Plan. Council will submit in support of the application but provide comment on the above.

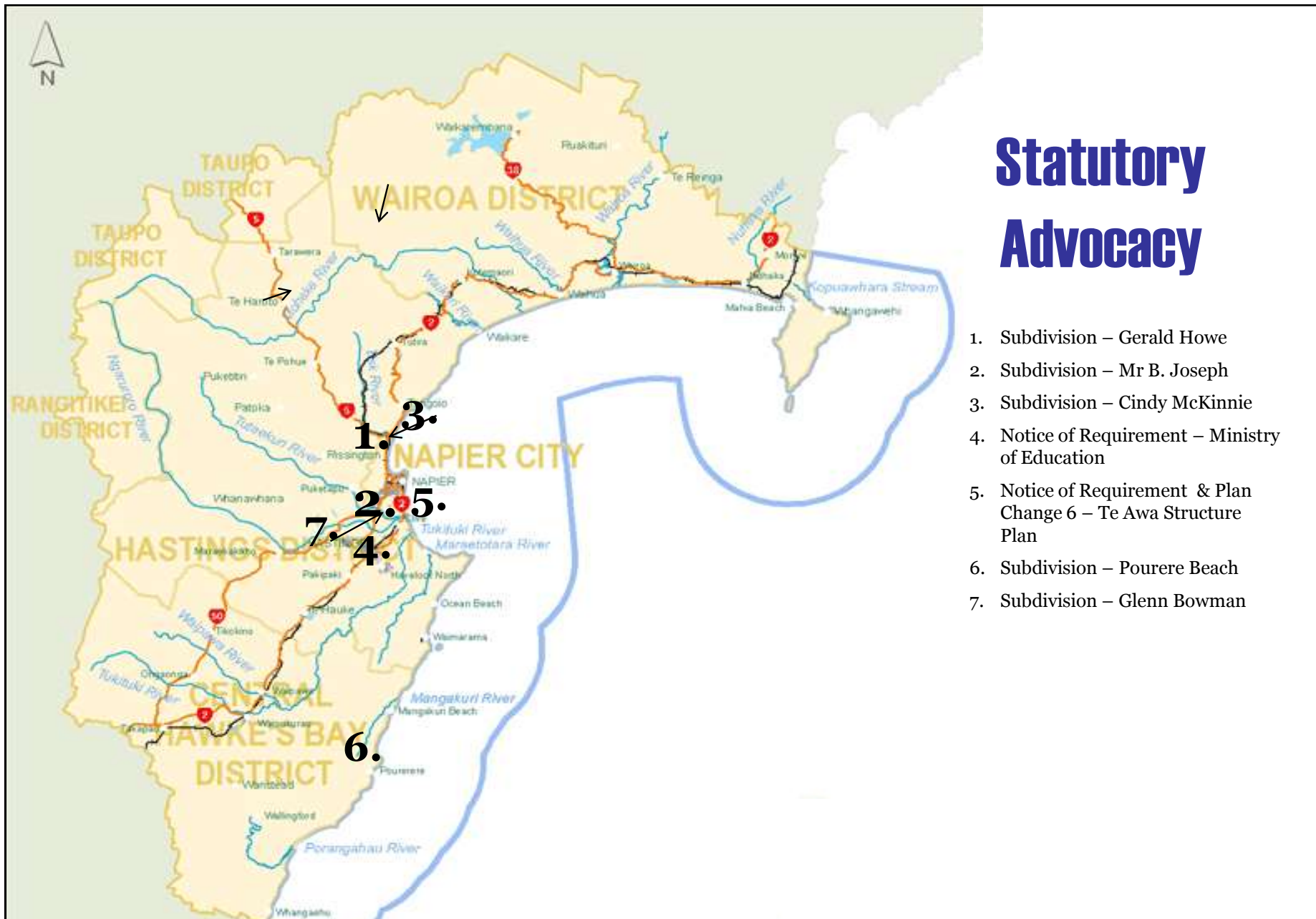
Received	TLA	Map Ref	Activity	Applicant/ Agency	Status	Current Situation
7 October 2010	HDC	4	<p>Notice of Requirement – Arataki School</p> <p>The applicant seeks to designate land at 139 Arataki Road for Education purposes. The designation will provide land to construct a Primary School and early childcare facility. The site is currently owned by the Arataki Campground.</p>	<p>Ministry of Education</p> <p>Consultant – OPUS International Consultants</p>	Notified by HDC	<p>15 October 2010</p> <ul style="list-style-type: none"> Proposal has been assessed. No issues warrant lodging a submission. Detailed site development plans for site layout and configuration yet to be prepared by MOE. Detailed plans to follow if designation approved.
9 September 2010	NCC	3	<p>Resource Consent - Subdivision</p> <p>The applicant seeks to undertake a 2 Lot subdivision to create one (1) 0.178 hectare residential Lot (being proposed Lot 1) and a balance Lot which will be 3.31 hectares (being proposed Lot 2). The address for the subdivision is 45 Rogers Road, Bay View, legal description Lot 4 DP 7344.</p>	<p>Cindy McKinnie</p> <p>Consultant – Consult Plus</p>	Notified Restricted Discretionary	<p>21 February 2011</p> <ul style="list-style-type: none"> Council joined as Party to Proceedings with the Environment Court opposing the applicants appeal that the NCC decision be overturned. <p>31 January 2011</p> <ul style="list-style-type: none"> Received notice of an appeal by applicant against NCC decision seeking that the NCC decision to decline the application be overturned. <p>7 December 2010</p> <ul style="list-style-type: none"> Application Hearing held on 24th November, Application declined by NCC. <p>8 October 2010</p> <ul style="list-style-type: none"> HBRC lodged submission opposing application. Consent should be declined unless the proposed 2 residential lots are fully serviced or sufficient information is provided to show that adverse effects of on-site wastewater discharges (particularly in combination with the proposed soak-pit means of stormwater disposal), will be adequately avoided, remedied or mitigated. Submission stated installation of a reticulated sewage system for the Bay View community to be a sustainable long-term solution for the treatment and disposal of wastewater. Submission also seeks clarification of floor level for flooding risk also requested.

Received	TLA	Map Ref	Activity	Applicant/ Agency	Status	Current Situation
23 August 2010	NCC	2	<p>Resource Consent – Subdivision</p> <p>The application seeks to subdivide 58 McElwee Street, Jervoistown Certificate of Title HBM2/1351 into two separate lots.</p>	<p>Mr B. Joseph</p> <p>Consultant – Consult Plus</p>	<p>Notified Restricted Discretionary</p>	<p>27 January 2011</p> <ul style="list-style-type: none"> • Council has become a party to the appeal lodged by the applicant under Section 274 of the Resource Management Act 1991. The Council is interested in all of the proceedings but in particular is interested in issues relating to the effects of increased site coverage and stormwater collection, treatment and disposal. <p>16 December 2010</p> <ul style="list-style-type: none"> • Council has received a Notice of Appeal from the applicant on the NCC decision. <p>17 November 2010</p> <ul style="list-style-type: none"> • Application was declined at Hearing held 17 November 2010 as it was decided that the creation of two 2000m² lots was contrary to the intent of the Napier District Plan. <p>20 September 2010</p> <ul style="list-style-type: none"> • HBRC lodged submission opposing application. • Reasons include: <ul style="list-style-type: none"> ○ No provision for stormwater disposal and will likely result in adverse conditions in terms of flood levels and duration of flooding at a local level and the wider Jervoistown community. ○ Proposal to increase maximum site coverage from 10% to 25%. Concern that this will also increase adverse conditions in terms of flood levels and duration of flooding. • A 2009 report prepared by this Council (<i>Jervoistown Drainage Analysis</i>, Hawke's Bay Regional Council, April 2009) outlines the drainage issues and provides the conclusion that incremental development at Jervoistown will continue to result in reduced drainage standard for the existing houses. A copy of this report was provided to Napier CC shortly after its publication.

Attachment 1

Received	TLA	Map Ref	Activity	Applicant/ Agency	Status	Current Situation
24 May 2010	NCC	1	<p>Resource Consent - Subdivision</p> <p>The application seeks to subdivide an area of land currently zoned as main rural on Franklin Road, Bay View into 6 lots and undertake earthworks.</p>	<p>Gerald Howe</p> <p>Consultant – Alan Petersen</p>	<p>Notified Restricted Discretionary</p>	<p>15 October 2010</p> <ul style="list-style-type: none"> No recent activity. <p>2 August 2010</p> <ul style="list-style-type: none"> Policy staff have met with the applicant's consultant. Options and scenarios for wastewater consenting and servicing are under consideration. <p>14 July 2010</p> <ul style="list-style-type: none"> Council submitted in opposition to the application seeking that the application be declined unless all of the 6 Lots were fully serviced. <p>12 June 2010</p> <ul style="list-style-type: none"> Comment has been sought from the Regulation and Engineering teams. The stormwater solutions for the site are acceptable due to the free draining nature of the soils. The same soil types present an issue with on-site wastewater disposal and insufficient treatment. Coupled with the proximity of the subdivision to the coastal marine environment it is likely that the Council will submit against the application. Submissions closed 24 June 2010.

Item 12



Statutory Advocacy

- 1. Subdivision – Gerald Howe
- 2. Subdivision – Mr B. Joseph
- 3. Subdivision – Cindy McKinnie
- 4. Notice of Requirement – Ministry of Education
- 5. Notice of Requirement & Plan Change 6 – Te Awa Structure Plan
- 6. Subdivision – Pourere Beach
- 7. Subdivision – Glenn Bowman

**HAWKE'S BAY REGIONAL COUNCIL
ENVIRONMENTAL MANAGEMENT COMMITTEE**

Wednesday 13 April 2011

Item 13

SUBJECT: GENERAL BUSINESS

INTRODUCTION:

This document has been prepared to assist Councillors note the General Business to be discussed as determined earlier in Agenda Item 6.

ITEM	TOPIC	COUNCILLOR / STAFF
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**HAWKE'S BAY REGIONAL COUNCIL
ENVIRONMENTAL MANAGEMENT COMMITTEE**

Wednesday 13 April 2011

Item 14

**SUBJECT: CONFIRMATION OF PUBLIC EXCLUDED MINUTES FOR THE
MEETING HELD ON WEDNESDAY 16 FEBRUARY 2011**

That the Council exclude the public from this section of the meeting being Agenda Item 14 Confirmation of Public Excluded Minutes for the Meeting held on Wednesday, 16 February 2011 with the general subject of the item to be considered while the public is excluded; the reasons for passing the resolution and the specific grounds under Section 48 (1) of the Local Government Official Information and Meetings Act 1987 for the passing of this resolution being as follows:

**GENERAL SUBJECT OF THE
ITEM TO BE CONSIDERED**

Confirmation of Public Excluded Minutes for the Meeting held on Wednesday, 16 February 2011

REASON FOR PASSING THIS RESOLUTION

7(2)(b)(ii) To protect information which otherwise would be likely unreasonably to prejudice the commercial position of the person who supplied or who is the subject of the information.

**GROUNDS UNDER SECTION 48(1) FOR
THE PASSING OF THE RESOLUTION**

The Council is specified, in the First Schedule to this Act, as a body to which the Act applies.