



Meeting of the Environmental Management Committee

Date: Thursday 8 March 2012
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 8 February 2012	
4.	Matters Arising from Minutes of the Environmental Management Committee held on 8 February 2012	
5.	Action Items from Environmental Management Committee Meetings	3
6.	Call for General Business Items	
Decision Items		
7.	Update on Recovery of Appeal Costs	7
8.	Taharua Mohaka Update	15
Information or Performance Monitoring		
9.	Regional Sector Water Programme/LAWF - Verbal Update	
10.	Appeals Update: Proposed Regional Coastal Environment Plan - Verbal	
11.	Canadian Petrochemical Fact Finding Tour Report	19
12.	Statutory Advocacy Update	23
13.	General Business	25

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

Item 5

Thursday 08 March 2012

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

Introduction

1. **Attachment 1** lists items raised at previous 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. Once the items have been completed and reported to Council they will be removed from the list.

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 Previous Meetings".



**Helen Codlin
GROUP MANAGER
STRATEGIC DEVELOPMENT**



**Iain Maxwell
GROUP MANAGER
RESOURCE MANAGEMENT**

Attachment/s

- 1 Action Items

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.

8 February 2012

Agenda Item	Action	Person Responsible	Due Date	Status Comment
6	Recovery of Appeal costs A further report to be presented to Committee outlining costs	CD/MM	8 March	An agenda item for 8 March meeting
7	Tukituki Plan Change A further report outlining costs as part of the reforecasting process	HC	8 March	An agenda item for 8 March meeting
8	Update on Tahurua/Mohaka Strategy	CR/HC	8 March	An agenda item for 8 March meeting

10 August 2011

Agenda Item	Action	Person Responsible	Due Date	Status Comment
8	Draft Wastewater Plan Change This item was left to lie on the table. Councillors wanted more detailed information about what the options and the costs of those options might be before giving any indication of the direction they want staff to pursue.	HC		No further work has taken place with respect to the draft change for strategic management of onsite wastewater. Will review policy team workloads following notification of RPS Growth and Infrastructure plan change and receipt of submissions. Report of April EMC

HAWKE'S BAY REGIONAL COUNCIL
ENVIRONMENTAL MANAGEMENT COMMITTEE

Thursday 08 March 2012

SUBJECT: UPDATE ON RECOVERY OF APPEAL COSTS

Reason for Report

1. This paper is to provide the Environmental Management Committee with further information regarding the recovery of appeal costs. A paper was presented to this Committee on Wednesday 8 February 2012 and the Committee asked that Staff provide further information on a number of issues related to appeals.

Costs

2. Further detailed information was requested about the cost of appeals currently borne by this Council. The total cost to the Council of two of the three appeals currently on the books with this Council are detailed below. Details of the costs associated with all appeals in since July 2010 are also provided.

Mexted, Williams and Malherbe

3. The Mexted, Williams and Malherbe appeal was lodged on 19 February 2010. The decision to grant resource consents for a development at Mahanga was appealed by one of the submitters. Mediation with a court appointed mediator was held on 21 June 2010, at which the applicant's presented a revised development proposal, but this was not accepted by the appellants. An evidence exchange timetable has been set, and this appeal is likely to proceed to a Court hearing in mid to late 2012.

Year	Internal cost	External costs		Total
		Technical	Legal	
2009/2010	2,423.64*	0	11,313.22	13,736.86
2010/2011	1,755.10 [#]	513.75	5,917.18	8,186.03
2011/2012 [^]	671.56 ⁺	0	826.91	1,498.47
Total	4,850.30	513.75	18,057.31	23,421.36

*Internal costs are based on \$60.59/hr per consents officer except for 8 hours @ \$113.64 for members of the executive

[#]Internal costs are based on \$67.22/hr for consents officers except for 4 hours @ \$77.46 for GIS staff

⁺ Internal costs are \$70.69 per consents officer

[^] Costs are to 24 February 2012

AFFCO

4. An appeal was lodged by AFFCO against the conditions of their resource consent that was granted by a hearing committee in July 2009, allowing them to discharge treated effluent into the Wairoa River from their meatworks facility. The appeal was lodged on 17 August 2009. Mediation with a court appointed mediator has been held, in addition to a number of other informal meetings in an effort to try and resolve this appeal. A significant amount of progress has recently been made on this appeal, and it is hoped that a consent order can soon be lodged with the Court, which would resolve this appeal without a hearing.

Year	Internal cost	External costs		Total
		Technical	Legal	
2009/2010	\$10,263*	\$5,113	\$20,847	\$36,223
2010/2011	\$14,763 [#]	\$29,005	\$72,634	\$116,402
2011/2012 [^]	\$4,017 ⁺	\$14,420	\$13,929	\$32,366
Total	\$29,043	\$48,538	\$107,410	\$184,990

*Internal costs are based on 21 hours @ \$113.64 for members of the executive, 4.25 hr @ \$72.95 for admin, 5 hrs @ \$74.76 for science staff and the remainder at \$60.59/hr for consents officers

Internal costs are based on 12 hours @ \$116.18 for members of the executive, 5.5 hr @ \$67.22 for admin, 2.5 hrs @ \$64.56 for science data analyst time, 50.75 hrs @ \$80.44 for science staff and the remainder at \$67.22/hr for consents officers

* Internal costs are based on 1.5 hrs @ \$85.75 for science staff and the remainder at \$70.69/hr for consents officers

^ Costs are to 24 February 2012

5. Traditionally Council has taken a view that all appeals should be mediated. This despite the possibility that the points of difference between Council and the appellants were so far apart that mediation was costly and time consuming to find a resolution. An alternative approach is to mediate where the points of difference were such that the time and costs associated with mediation warranted the outcome, ie they were less than a court hearing, and when the points were significantly different to simply take the matter directly to court with limited, if any, mediation. An example of where this approach may have saved significant amounts of money is the AFFCO appeal. Given the significant differences between the appellant and Council a significant effort was required to mediate an outcome. Should this matter have gone directly to court it may well have taken less time, cost less and obtained the same environmental outcome.

Total costs

6. Attached as Appendix 1 is a summary of the cost of all appeals to Council in the 2010-2011 and 2011-2012 financial years (to 31 January 2012). There are some discrepancies between the individual costs of the AFFCO and Mexted appeals due to the different reporting dates. Information detailed in Appendix 1 is to 31 January 2012. The individual costs of the AFFCO and Mexted appeals were based on charges up to and including 24 February 2012.
7. Please also note that the information regarding costs associated with the Mahia direct referral are not actually appeal costs. A direct referral process is different to an appeal, however this information has been included because it was unbudgeted expenditure.

Advocate Reform

8. There are a number of avenues that this Council, and staff could use to advocate to Central Government reform of the legislation that governs the operation of the Environment Court. Local Government New Zealand is one organisation that this Council is a member of. The Regional sector group of Local Government NZ would potentially be a good group to start discussion with, but as territorial local authorities also deal with the same legislation, initiating discussion at the zone 3 (Central North Island Councils) meeting would also be worthwhile, and an effective means of gauging support for such reform at a local level.
9. There are a number of other groups that staff participate in which the issue could also be raised through. There are both Consents Manager and Group Manager Resource Management groups that meet regularly, whose membership is drawn from Regional Council's across the country. These groups have close ties with the Ministry for the Environment who regularly meet with members of parliament, and are also the agency responsible for the preparation of the recent simplifying and streamlining reforms to the Resource Management Act.
10. The New Zealand Planning Institute is another forum that staff, and some elected members are involved in which the issue could be raised, as well as the Resource Management Law Association.

Seeking Costs

11. Staff were instructed to prepare a draft guidance process on the circumstances that a cost application should be lodged with the Environment Court. We would note that it is difficult to be highly prescriptive in developing guidance for every situation as most cases are unique and have aspects that warrant individual consideration. However, based on case law, and discussions with Council's counsel, the following is suggested as a 'checklist' which staff could use to guide them in deciding whether an application for costs should be lodged. In order to make an assessment we must answer questions

1 and 2 in the affirmative, we would then expect to answer at least one other question in the affirmative in order for an application for costs to be considered. At the point an application for costs is suggested by the checklist, staff would consider the wider risks of success or failure of seeking costs. This would include, but not be limited to, the matters that could not be answered in the affirmative and any other matters relevant to the case. If questions 1 and 2 could not be answered in the affirmative, evidence suggests that a successful costs award would be unlikely, and given the costs that would be incurred as a result of lodging a cost application (legal fees and internal time), it would seem sensible to let costs lie where they fall.

Criteria

12.

Question	Yes/No?
1. Did the appeal proceed to a court hearing?	
2. Did Council begin to prepare evidence for a court hearing which was subsequently cancelled?	
3. Is there anything unusual or extraordinary about the appeal?	
4. Was an application for security of costs made?	
5. If the Council was awarded costs of 25-30%, would the Council be in a better financial position (taking into account the total cost to Council of the appeal, as well as the cost of legal fees incurred as a result of seeking a cost award)?	
6. Does the party against which the cost award has been made, seem to have the ability to pay?	

13. As noted in the previous paper on this issue, whether or not an appeal has proceeded to a hearing is one of the most important questions with regard to the likely success of any attempt to seek costs. If an appeal has been successfully mediated, and did not require a court hearing, it is unlikely that the Court will award costs.

Delegation

14. Given that a claim must be lodged with the Environment Court to seek costs within 10 working days of a decision being made, it is considered appropriate to leave the delegation regarding decisions about seeking costs at a staff level. The delegation for dealing with Environment Court appeals currently sits with the Manager Consents and Group Manager – Resource Management, although it should be acknowledged that the extent of this delegation is not clear, and a further paper clarifying delegations will be brought to this committee in the near future.

15. One of the disadvantages of having the delegation regarding whether or not an claim for costs sitting at a Council level is that such matters would invariably have to be dealt with in urgency. Staff believe that because the committee has had the opportunity to develop the criteria which will guide staff in determining whether or not making a claim for costs is appropriate, together with the limited time period in which a claim must be made, maintenance of delegation at a staff level is appropriate in this instance.

Financial and Resource Implications

16. The financial implications of dealing with appeals are set out in the section of this paper titled ‘costs’. It has been recommended by staff that the 2012-2013 Long Term Plan provides some budget for costs associated with appeals. The information provided in this paper is intended to provide further information about how these costs are incurred, and what the magnitude of them is.

17. Appeals are currently dealt with by consents officers within the consents team. Because time spent on appeal work is not recoverable, this does reduce the amount of chargeable time that an officer working on appeals will record. However, there is sufficient capacity within the consents team for this work to be undertaken.

Decision Making Process

18. Council is required to make a decision in accordance with the requirements of the Local Government Act 2002 (the Act). Staff have assessed the requirements contained in Part 6 Sub Part 1 of the Act in relation to this item and have concluded the following:
- 18.1. The decision does not significantly alter the service provision or affect a strategic asset.
- 18.2. The use of the special consultative procedure is not prescribed by legislation.
- 18.3. The decision does not fall within the definition of Council's policy on significance.
- 18.4. The persons affected by this decision are all the ratepayers in the region who ultimately bear the cost of any decisions issued by the Regional Council that are appealed.
- 18.5. Options that have been considered in the management of appeals include maintaining the status quo (not budgeting for the costs associated with appeals), seeking costs through the Environment Court budgeting for appeal costs or to seek reform to the processes of the Environment Court.
- 18.6. The decision is not inconsistent with an existing policy or plan.
- 18.7. Given the nature and significance of the issue to be considered and decided, and also the persons likely to be affected by, or have an interest in the decisions made, Council can exercise its discretion and make a decision without consulting directly with the community or others having an interest in the decision.

Recommendations

That the Environmental Management Committee recommend 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. Receives the further information about the specific costs of appeals and uses this to inform the discussion about the inclusion in the 2012-2013 Long Term Plan of budget for costs associated with appeals.
3. Instruct staff to use the criteria identified in this paper to guide decisions about whether or not a cost application is lodge with the Environment Court.
4. Agrees that the delegation for decisions regarding whether or not a cost application is lodged with the Environment Court is maintained at a Staff level.



Charlotte Drury
SENIOR CONSENTS OFFICER



Malcolm Miller
MANAGER CONSENTS



Iain Maxwell
GROUP MANAGER
RESOURCE MANAGEMENT

Attachment/s

- 1 Appeal Costs table

Appeal Summary As at 31 January 2012					
Appeal Name	Date of Council Approval to Defend Appeal	Estimated Cost of the Appeal as Advised to Council	Annual Cost of Appeal		Comments
			2010/11	2011/12 to 31/01/12	
Twyford / Raupare (402109)	Wed 25 May 2011	Noted \$150,000.00 on similar appeal	\$412 external \$22,506	\$24,325 Total external costs (\$22,987 Technical, \$1,338 Legal) \$18,520 Total internal costs \$42,845 Total costs	Appeal ongoing – mediation held on Nov 2 2011. Agreed to allow consents to commence. Appellants to initiate study and advise by Easter 2012 if they wish to continue with appeal. Legal and consultant costs will accrue this year.
Opoutama (402102)	Wed 16 Feb 2011	Noted \$5,000 - \$10,000 if mediated, significantly higher if not mediated	\$24,432 external \$35,317	\$13,160 Total external costs (\$12,300 Legal, \$860 Technical) \$2,489 Total internal costs \$15,649 Total costs	Appeal resolved 11 Aug 2011- upholding HBRC's decision. A Court hearing was required. Appeal was not able to be mediated.
AFFCO (402046)	Wed 23 Sept 2009	Not estimated	\$101,639 external \$116,402	\$27,597 Total external costs (\$14,420 Technical, \$13,177 Legal) \$4,304 Total internal costs \$31,901 Total costs	Appeal ongoing – differences are close to being resolved.
Mexted, Williams and Malherbe (402051)	Thurs 10 June 2010	Not estimated	\$6,431 external \$8,366	\$827 Total external costs (\$827 Legal) \$250 Total internal costs \$1,077 Total costs	Appeal ongoing. Evidence exchange timetable has been agreed and applicant has lodged evidence. No hearing date yet, although expected soon.

Item 7

Attachment 1

Attachment 7	Mahia Wastewater Disposal (402060)	17 Mar 2010	WDC were expected to pay all costs	\$131,176 external \$151,131	\$3,763 Total external costs (\$1,763 Technical, \$2,000 Legal) \$238 Total internal costs \$4,001 Total costs	Direct referral to the Environment Court (not an appeal). WDC has paid \$78,214 to date
	Napier City Council (402113)	NA (appeal not accepted by Court)	NA	NA	\$3570 Total external costs (\$3,570 Legal) \$431 Total internal costs \$4,001 Total costs	Appeal declined by Court. Appeal t was lodged out of time and the Environment Court has determined that the appeal is not to be proceeded with.
External costs				\$264,090	\$73,242	The sum to date for external legal and technical advice
Total costs				\$333,722	\$99,474	Total includes internal staff time plus external costs.

HAWKE'S BAY REGIONAL COUNCIL
ENVIRONMENTAL MANAGEMENT COMMITTEE

Thursday 08 March 2012

SUBJECT: TAHARUA MOHAKA UPDATE

Reason for Report

1. At its meeting on 8 February 2012, the Environmental Management Committee recommended to Council that:
 - 1.1. Subject to staff identifying appropriate funding methods, Council endorses the development of Option 2, being an integrated plan change for the Mohaka catchment.
2. Specifically, the Committee sought clarity as to whether the additional work required to support a plan change to cover the whole of the Mohaka catchment was included in the new 'science' budget already provided for the Draft Long Term Plan. If not, the Committee sought information as to how any additional costs would be funded.

Additional Science Costs and Priorities

3. A detailed analysis has been carried out by Council's science team of the additional resourcing required to support a Mohaka catchment plan change.
4. Costs have been spread over this financial year and next financial year. The scope of the work reflects a minimum requirement, based on the resource use pressure being reasonably low.
5. These costs are summarised in Table 1 below.

Table 1. Additional science resourcing for Mohaka catchment plan change

	Current Financial Year (2011/12)		Next Financial Year (2012/13)	
	External cost	Internal Time (weeks)	External cost	Internal time (weeks)
PRIORITY WORK				
Water Quality	\$23,400	2	\$23,700	15
Hydrology	\$20,000	10.5	\$0	4
Groundwater	\$11,575	9	\$61,616	20.5
Total	\$54,975	21.5	\$85,316	39.5
SUGGESTED WORK				
Water Quality	\$0	0	\$7,952	4.8
Land	\$0	0	\$0.00	2
Total	\$0	0	\$7,952	6.8
TOTAL (ALL)	\$54,975	21.5	\$93,268	46.3

6. Priority work includes:
 - 6.1. **Water quality** – additional analysis to understand the nature and extent of downstream impacts of a) Taharua land use on the upper Mohaka River and b) upper Waipunga and upper Rangitaiki (unconfirmed) land use on the Waipunga River;
 - 6.2. **Hydrology** – independent auditing to ensure the dependability of the two extensive Mohaka flow records (Glenfalls and Raupunga) and concurrent gauging (this

financial year) to establish a correlated flow record and flow statistics for tributaries of interest; and

- 6.3. **Groundwater** – undertaking a simple water balance exercise and water level and flow direction mapping to assist in establishing groundwater catchment boundaries and aquifer water quality characterisation in the Ripia and Waipunga catchments (this financial year). Based on that outcome, installing some shallow bores (budgeted for 3 bores) and monitoring water levels and water quality, including isotope analysis, to fill in any information gaps to better determine groundwater catchment boundaries and nutrient profiles.
7. The external costs for this current financial year will be addressed within current budgets.
8. The external costs for 2012-13 have not been included in the Draft Long Term Plan budgets that the Council has considered to date.
9. Limiting a plan change to the upper Mohaka catchment (Option 1) as opposed to the whole Mohaka catchment (Option 2) would not significantly reduce the costs of priority science work.

Funding Mechanisms

10. Existing funding mechanisms include
 - 10.1. Section 36 charges under the Resource Management Act; and/or
 - 10.2. Carry forward of any under-expenditure following the Council wide reforecasting exercise; and/or
 - 10.3. An increase in the deficit for 2012-13 year by \$75,000.
11. In the 2010-11 year, section 36 charges (science monitoring and investigations directly attributable to the 35 Mohaka consent holders) were in the order of \$25,000.
12. The proposed longitudinal survey (\$15,000 each year) to better determine the extent of the effect of the Taharua River discharge on the upper Mohaka River is work that could be directly attributable to the activities in that catchment for which there are consents.
13. However, there are no consent holders in the Ripia and Waipunga catchments that section 36 charges could be levied against for the groundwater catchment boundary investigations.
14. Council undertakes a reforecasting exercise in April. If as a result of that process, there is an anticipated under-expenditure, Council could determine that it is carried forward to meet the costs of the Mohaka work in the 2012-13 year.
15. Alternatively, Council could approve an increase to the proposed deficit for the 2012-13 year of \$75,000. This would provide certainty that the work can be undertaken.

Other Funding Sources

16. Other potential funding sources have also been investigated, but opportunities are limited.
17. Staff have informally approached Bay of Plenty Regional Council staff to consider a joint contribution to investigate the extent of upper Ripia and Waipunga groundwater catchments (upper Rangitaiki Plains). They have responded positively to this. It is likely that a modest contribution towards \$11,575 of work this financial year could be made under their staff delegated authority. Any larger contribution to priority work in the next financial year (\$61,616) would require their Council's approval.
18. The Crown's pending \$2 million "good governance initiative" funding to Ngati Pahauwera can be excluded, as this is to focus on tangible enhancement of the mauri ora and health of the rivers and catchments within their rohe. Payment is also dependent on prior development of an acceptable implementation plan.
19. Council has made an application for Government assistance from its *Fresh Start for Freshwater Clean-up Fund*. Ministry for the Environment staff have recently sought a

meeting with staff to discuss this application further so we are hopeful that some funding made be available for Taharua mitigation measures. However the work identified in this paper does not meet the criteria for that funding.

20. An application for *Envirolink* funding is currently being prepared with Landcare Research to quantify the risk of land use intensification in the Mohaka catchment.
21. Collaborative investigation of the effectiveness of the nitrification inhibitor Eco-n in the Taharua catchment is being set up by Ravensdown, Lincoln University and the Hawke's Bay Regional Council.

Decision Making Process

22. Council is required to make a decision in accordance with the requirements of the Local Government Act 2002 (the Act). Staff have assessed the requirements contained in Part 6 Sub Part 1 of the Act in relation to this item and have concluded the following:
 - 22.1. The decision does not significantly alter the service provision or affect a strategic asset.
 - 22.2. The use of the special consultative procedure is prescribed by the Local Government Act and any decision on funding this activity will be part of the Draft Long Term Plan consultation process.
 - 22.3. The decision does not fall within the definition of Council's policy on significance.
 - 22.4. The persons affected by this decision are all regional ratepayers and consent holders in the Mohaka catchment.
 - 22.5. Options that have been considered included limiting the geographical scope of the plan change to the Upper Mohaka. Council had already endorsed a full Mohaka plan change subject to understanding funding options. They include use of section 36 charges under the Resource Management Act, use of any 2011-12 under-expenditure and increasing the deficit for 2012-13.
 - 22.6. The decision is not inconsistent with an existing policy or plan.
 - 22.7. Given the nature and significance of the issue to be considered and decided, and also the persons likely to be affected by, or have an interest in the decisions made, Council can exercise its discretion and make a decision without consulting directly with the community or others having an interest in the decision.

Recommendations

That the Environmental Management Committee recommends 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. Funds the Science work that enables the scope of the Taharua plan change to extend to the whole of Mohaka Catchment by way of either:
 - Section 36 charges where appropriate, and /or
 - Approving a carry forward in June of any under-expenditure identified as a result of the April reforecasting exercise; or
 - Approving an increase to the Year 2012-13 deficit of \$75,000 in the Draft Long Term Plan.



Chris Reed
SENIOR PLANNER



Gavin Ide
TEAM LEADER POLICY



Helen Codlin
GROUP MANAGER
STRATEGIC DEVELOPMENT

Attachment/s

There are no attachments for this report.

HAWKE'S BAY REGIONAL COUNCIL
ENVIRONMENTAL MANAGEMENT COMMITTEE

Thursday 08 March 2012

Item 11

SUBJECT: CANADIAN PETROCHEMICAL FACT FINDING TOUR REPORT

Reason For Report

1. This report is a brief summary to inform the Council of the fact finding tour to Canada undertaken by the Bryce Lawrence (HBRC) and Trevor Freeman (Gisborne District Council) between 3 February and 13 February 2012.

Background

2. TAG Oil and Apache Corporation are in the process of undertaking an oil exploration programme in Central Hawke's Bay.
3. The next three phases of this programme require a number resource consents from Hawke's Bay Regional Council, as well as Central Hawke's Bay District Council.
4. Staff identified a knowledge gap around the industry and current perception of the industry held by a sector of the public. As a result staff recommended that fact finding tour be undertaken.
5. The following agencies/people were engaged during the tour for their views on oil exploration and hydraulic fracturing:
 - 5.1. British Columbia Oil and Gas Commission - BCOGC (BC Regulator)
 - 5.2. Energy Resources Conservation Board – ERCB (Alberta Regulator)
 - 5.3. National Energy Board – NEB (National Regulator)
 - 5.4. First Nation representatives
 - 5.5. Land Owner representatives
 - 5.6. Oil Company staff
 - 5.7. Canadian Association of Petroleum Producers – CAPP (Industry Organisation)
6. The primary hypothesis to be proved or disproved during the tour was "If the well completion is substandard, groundwater is at risk of contamination by gas, oil, and deep saline groundwater, regardless of whether hydraulic fracturing occurs, as well as at risk from hydraulic fracturing. Therefore if the well completion is done to best practice standard, and the well is proven to have good integrity, the risk to groundwater is minimal in the geological context of the proposed Hawke's Bay exploration zone."
7. At the conclusion of the tour, this hypothesis was considered to be correct by Bryce Lawrence and Mr Trevor Freeman of Gisborne District Council.
8. This is not intended to be a detailed report, but a key conclusions update that can be distributed as soon as practical. More detailed input will occur to inform the consent process and whole of government collaboration processes.
9. The key conclusions that have arisen from the tour are:
 - 9.1. Hydraulic fracturing of hydrocarbon bearing rock poses minimal risk to aquifers if the well is completed appropriately. The quality of well completion is able to be assessed prior to hydraulic fracturing occurring.
 - 9.2. If a well completion is not done to the appropriate standard, groundwater aquifers are at risk from gas, oil, and deep saline groundwater contamination, regardless of whether hydraulic fracturing is used to exploit the hydrocarbon resource.

- 9.3. The Canadian authorities advice is not to get too distracted by hydraulic fracturing as there more likely avenues for environmental pollution from related surface activities, than from hydraulic fracturing.
 - 9.4. The Canadian authorities are aware of the examples used by hydraulic fracturing opponents and have provided their understanding of the issues based on facts as viewed by the three regulators visited. Initially enquires to verify the regulators views, confirm that hydraulic fracturing opponents do not represent the facts of the issues presented to provide a balanced view.
 - 9.5. There is significant energy supply geopolitics, and climate change politics, occurring worldwide, which is creating anti-hydraulic fracturing messages that are not very accurate or even based on issues relating hydraulic fracturing.
 - 9.6. Where hydraulic fracturing has been shown to have caused a problem, it is important to put it in geological context, regulatory context and especially important to investigate the actual significance of the problem.
 - 9.7. British Colombia has had ~7500 wells hydraulically fractured in the last 5 years. The BCOGC has not found any evidence of hydraulic fracturing contaminating groundwater.
 - 9.8. As with all industries that manage liquid product, there are pollution incidents that occur in relation to surface activities around well sites and pipe lines. The oil companies are sensitive to these incidents and appear to respond very quickly to remediate spills. The attitudes towards such spills are such that the author believes their responses are likely to be more effective than what we could expect from a 'typical' New Zealand company responding to a similar sized pollution incident.
 - 9.9. The Canadian industry appears to see regulation of the industry/practices as a positive process to ensure that best practice does occur.
 - 9.10. Significant infrastructure issues will need medium to long term planning and financing consideration should the industry develop in Hawkes Bay. These include roading, pipeline, water sources, and wastewater disposal. These are a mixture of TLA and RC functions.
 - 9.11. It is recommended by staff that there should be a gap analysis of all regulation's managing all of the aspects of oil/gas industry. It appears that we have a disjointed approach to this industry. The issues identified may be able to be addressed through MOU's between the relevant agencies who are currently meeting to discuss a whole of government approach to the oil industry which HBRC instigated.
 - 9.12. New Zealand regulatory agencies should consider adopting overseas standards, where applicable, rather than develop our own standards if improvements need to be made. This is especially applicable to the local government sector to ensure we have consistent regulation that is based on risk not colloquial views of the oil industry.
 - 9.13. The BCOGC, ERCB and NEB have all offered ongoing support to assist the East Coast Councils and New Zealand as a whole, for development of policy, regulations and technical support. This support has come with a strong encouragement to engage in international networks for ongoing development.
10. In summary, the fact finding tour was a success. The key outcomes for HBRC from the tour are:
 - 10.1. Clarity of the issues around oil exploration/production, over and above hydraulic fracturing
 - 10.2. Understanding the background to anti-hydraulic fracturing movements and the impacts that has on public perceptions
 - 10.3. Identification of resource and technical support,

10.4. Gaining an international perspective

11. The information gained is being shared with Horizon's Regional Council, Tararua District Council, Central Hawke's Bay District Council, the District Health Board, the Ministry of Economic Development, the Ministry for the Environment, the Environmental Protection Authority and the Department of Labour.

DECISION MAKING PROCESS

12. 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 "*Canadian Petrochemical Fact Finding Tour Report*".



Bryce Lawrence
MANAGER - COMPLIANCE AND
HARBOURS



Iain Maxwell
GROUP MANAGER
RESOURCE MANAGEMENT

Attachment/s

There are no attachments for this report.

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

Thursday 08 March 2012

Item 12

SUBJECT: STATUTORY ADVOCACY UPDATE

Reason For Report

1. This paper is a regular report on proposals considered under Council's statutory advocacy project and the Resource Management Act 1991. Since the last report was presented to the Environmental Management Committee on 8 February, there have been no new matters arising for the statutory advocacy project.

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 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.



**Esther-Amy Bate
PLANNER**



**Gavin Ide
TEAM LEADER POLICY**



**Helen Codlin
GROUP MANAGER
STRATEGIC DEVELOPMENT**

Attachment/s

There are no attachments for this report.

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

Thursday 08 March 2012

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
1.		
2.		
3.		
4.		
5.		
6.		
7.		
8.		
9.		
10.		