

Meeting of the Regional Planning Committee

Date:	Wednesday 7 August 2013
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Time: 1.00 pm

Venue: Council Chamber

Hawke's Bay Regional Council

159 Dalton Street

NAPIER

Agenda

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1.	Welcome/Notices/Apologies	
2.	Conflict of Interest Declarations	
3.	Confirmation of Minutes of the Regional Planning Committee held on 5 June 2013	
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5.	Action Items from Previous Regional Planning Committee Meetings	3
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HAWKE'S BAY REGIONAL COUNCIL

REGIONAL PLANNING COMMITTEE

Wednesday 07 August 2013

SUBJECT: ACTION ITEMS FROM PREVIOUS REGIONAL PLANNING COMMITTEE MEETINGS

Reason for Report

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 Committee receives the report "Action Items from Previous Meetings".

Helen Codlin GROUP MANAGER STRATEGIC DEVELOPMENT Liz Lambert
GENERAL MANAGER (OPERATIONS)

E. a Ranbert

Attachment/s

1 Action Items

Attachment 1

Actions from Regional Planning Committee Meetings

Meeting Date	Agenda Item / Action	Person Responsible	Due Date	Status Comment
5 June 2013	9. Update on Taharua/Mohaka Policy Development – copies of relevant reports referring to native fish monitoring in the Mohaka to be distributed to Committee members who have requested it.	EL	7 August	Email with reports attached was sent on Monday 10 June
5 June 2013	5. Update on Greater Heretaunga/Ahuriri Policy Development – staff to clarify (1) how the values of the Ahuriri Estuary are identified and described in Change 5 as amended by Council's decisions on submissions and (2) what implications of that are for scope of TNK Group's policy development options	TS/HC	7 August	Change 5 adds a new chapter to the RPS and amends other existing provisions in the RPS. Table 1 in Change 5 identifies primary and secondary values and uses of freshwater whereas the middle and lower parts of the Ahuriri Estuary are marine environments. Interconnections between land, water and the coast is something that RMA decision-making must consider (eg. as in Change 5's Policy LW1.1(c)). Change 5's provisions are not automatically given any greater or lesser weight than other RPS provisions. The RPS and Change 5 need to be read and applied as a whole. In practice, some parts will inevitably be more relevant than others in any particular instance. Chapter 3.2 of the RPS sets out specific objectives relating to the region's coastal resources (which includes the Ahuriri Estuary). In addition to RPS Chapter 3.2, the Regional Coastal Environment Plan contains many more specific objectives, policies and rules to manage effects of activities on the Ahuriri Estuary (and other natural and physical resources within the coastal environment). The RCEP identifies the middle and lower parts of the Ahuriri Estuary (upstream of Pandora Road bridge) as a 'Significant Conservation

Meeting Date	Agenda Item / Action	Person Responsible	Due Date	Status Comment
				Area' within which certain effects and activities are restricted - or even prohibited.
				The TANK Group will need to consider the totality of the RPS's provisions (including Change 5's amendments) as well as the relevant parts of the RCEP. With this in mind, the TANK group's scope will obviously not start from a 'blank canvas' of planning provisions.
5 June 2013	12. General Business – Directory of RPC members	MD/HC	7 August	Completed and included in this agenda

HAWKE'S BAY REGIONAL COUNCIL

REGIONAL PLANNING COMMITTEE

Wednesday 07 August 2013

SUBJECT: CHANGE 5 APPEALS

Reason for Report

- Four appeals have been lodged with the Environment Court against the Council's decisions on Change 5 ('land and freshwater management') to the Hawke's Bay Regional Resource Management Plan (RRMP).
- 2. This report provides an overview of those four appeals lodged since Council's decisions were issued on 5 June 2013. The report also outlines options available regarding the Council's participation at any Court-assisted mediation of those four appeals.

Comment

- 3. Change 5 was proposed in order to provide enhanced guidance and direction to decision-makers about how future management decisions will be made in an integrated manner for the sustainable management of the region's land and fresh water resources. Change 5 did not start with a blank canvas as the RRMP already contains objectives and policies on the management of those resources.
- 4. The period for lodging appeals against Council's decisions on Change 5 closed in mid July. Appeals have been lodged by:
 - 4.1. Federated Farmers of New Zealand (FFNZ)
 - 4.2. Hawke's Bay Fish and Game Council (HBF&G)
 - 4.3. Horticulture New Zealand (HortNZ)
 - 4.4. Ngati Kahungunu Iwi Incorporated (NKII)
- 5. Full copies of the four appeals are attached. Copies have also been posted on the Council's Change 5 webpage. The appellants were obliged to send a copy of their appeals to all other submitters and further submitters.
- 6. The Environment Court has already instructed parties to provide a memorandum to the Court (due early September) regarding what steps have been taken to negotiate and/or mediate matters, as well as any jurisdictional matters arising, in each of the respective appeals.
- 7. It is difficult to summarise each of the appeals without potentially omitting or downplaying one or more individual matters that might prove more complex than the initial screening identifies. Instead, the following table identifies the number of discrete amendments requested by each of the appellants compared to the respective appellants' number of original submission points. This is provided to give a sense of the 'order of magnitude' of the appeals, nothing more.

Appellant name	# of appeal points (as summarised by staff)	# of original submission points
Federated Farmers of NZ	6	27
HB Fish and Game Council	81	83
Horticulture NZ	30	21
Ngati Kahungunu lwi Inc.	35	27

Options considered for appeal negotiations

8. At the Committee's meeting in June, staff presented a report relating to the single appeal received against decisions on Change 4 ('Managing the built environment').

That report outlined the following options for Council's participation in Court-assisted mediation:

- 8.1. Status quo (being planning staff attend mediation, but without authority to sign any agreements);
- 8.2. Senior staff having authority to negotiate and sign some mediated agreements; and
- 8.3. Senior staff having authority to sign all mediated agreements.
- 9. The options in relation to Change 5's appeals are no different. The 'status quo' is not favoured by the Environment Court. Instead, the Court prefers those persons attending mediation have the proper authority to settle there and then at mediation.
- 10. Authority to sign mediated agreements could be delegated to a staff level, but the use of that delegation could also be guided initial liaison with representative(s) of the decision-making body. However, the Change 5 hearing panel which reported its recommendations back to Council did not include any regional councillors or other members of the Regional Planning Committee.¹
- 11. Matters such as the following could be used to guide negotiations and settlements:
 - 11.1. scope of the appeal;
 - 11.2. relief sought in the appeal;
 - 11.3. number of parties to the appeal;
 - 11.4. Council's first instance decision(s) on the matter; and
 - opinions of any expert witness(es) that may be called to inform Council's case.
- 12. The approach whereby senior staff have authority to sign all mediated agreements is preferred by the Environment Court. This option is considered to be the most streamlined and cost effective because it would delegate to the Group Manager Strategic Development (and any legal counsel acting has the Group Manager's agent) the authority to sign, on behalf of Council, draft consent orders (i.e. agreements between parties to be presented to the Court of ratification). Any mediated agreement would be consistent with the overall intent of Council's first instance decision(s).
- 13. This option avoids the need for any specific papers to come back to Council to seek sign off of an in-principle agreement. This will significantly speed up the settlement of appeals.
- 14. It is clearly important to keep the Committee informed of the progress of appeals and this could be done through the regular appeal updates and through action items or full agenda items.
- 15. In the event of Court-assisted mediation being unable to settle all of the appeals, then a hearing before the Environment Court will be required.

Legal review

16. The four appeals have yet to be reviewed by legal counsel to assess whether or not there are aspects of the appeals that could be considered 'beyond the scope' of Change 5. If there are any such aspects, the Court could be requested to determine the legitimacy of the grounds for those appeals at the outset.

Financial and Resource Implications

17. The Council incurs costs as a result of its involvement with Environment Court appeals. Staff's proposal to streamline the process for appeals will result in cost and time savings, and therefore has a positive financial impact for Council.

Decision Making Process

TTEM 7 CHANGE 5 APPEALS PAGE 8

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The Change 5 hearing panel was comprised of three RMA-accredited hearing commissioners (Denis Nugent (Chair), Roger Maaka and Mike Mohi).

- 16. 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:
 - 16.1. The decision does not significantly alter the service provision or affect a strategic asset.
 - 16.2. The use of the special consultative procedure is not prescribed by legislation.
 - 16.3. The decision does not fall within the definition of Council's policy on significance.
 - 16.4. The persons particularly affected are parties involved in Change 5 to the Hawke's Bay Regional Resource Management Plan. The people of the Hawke's Bay region may also be affected but there has already been an opportunity (in accordance with the Resource Management Act 1991) for any person to make a submission or further submission on Change 5.
 - 16.5. Options that have been considered include maintaining the status quo, staff are authorised to attend mediation but delegation for settlement of appeals remains with Council, staff are authorised to attend mediation and settle some appeals, staff are authorised to attend mediation and sign mediated agreements for all appeals on Change 5 and any other future plan changes.
 - 16.6. The decision is not inconsistent with an existing policy or plan.
 - 16.7. 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 Regional Planning 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. Delegates to the Group Manager Strategic Development (and any legal counsel acting as the Group Manager's agent) the authority to sign, on behalf of Council, any mediated agreement in relation the appeals on Change 5 to the Hawke's Bay Regional Resource Management Plan, providing such mediated agreement as consistent with the overall content of the Council's original decision.

Gavin Ide
TEAM LEADER POLICY

Helen Codlin GROUP MANAGER STRATEGIC DEVELOPMENT

Attachment/s

- 1 HB Federated Farmers
- 2 HB Fish & Game Council
- 3 Horticulture NZ
- 4 Ngati Kahungunu lwi Inc.

BEFORE THE ENVIRONMENT COURT

ENV-2013-AKL-

IN THE MATTER of the Resource Management

Act 1991

AND

IN THE MATTER of an appeal pursuant to clause

14(1) of the First Schedule of

the Act

BETWEEN FEDERATED FARMERS OF

NEW ZEALAND

<u>Appellant</u>

AND HAWKE'S BAY REGIONAL COUNCIL

Respondent

NOTICE OF APPEAL TO ENVIRONMENT COURT AGAINST DECISION ON A PROPOSED CHANGE TO A REGIONAL POLICY STATEMENT

Clause 14(1) of First Schedule, Resource Management Act 1991

Federated Farmers of New Zealand

To: The Registrar
Environment Court
DX:SX10044
Wellington

Federated Farmers of New Zealand appeal against a decision of the Hawke's Bay Regional Council on the following Change:

Change 5 to the Hawke's Bay Regional Policy Statement

Federated Farmers of New Zealand made a submission and a further submission and presented before the Hearings Committee in respect of Change 5 to the Hawke's Bay Regional Policy Statement.

Federated Farmers of New Zealand is not a trade competitor for the purposes of Section 308D of the Resource Management Act 1991.

Pederated Farmers appeal to Change 5 of the Hawke's Bay Regional Policy Statement.

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Federated Farmers of New Zealand received notice of the decision referred to in this appeal on 5 June 2013.

The decision to reject or accept only in part Federated Farmers submissions and further submissions in respect of Change 5 to the Hawke's Bay Regional Policy Statement was made by Hawke's Bay Regional Council.

Federated Farmers is willing to undertake mediation.

The decisions (or parts of the decision) that Federated Farmers of New Zealand is appealing are:

1 <u>Summary of the decision specific provision or matter</u>

Objective LW1 Integrated management of freshwater and land use and development.

Summary of reasons for the appeal

- 1.1 Federated Farmers appeals in Objective LW1 for the reason that the objective should focus on the adverse effects of land use and development, and providing enablement of industry good practice in point 8.
- 1.2 The first paragraph of the objective should focus on the adverse effects of land use and development, rather than on land use and development itself. Although the RMA places obligations on the Regional Council to control land use under Section 30(1)(c) we consider that Section 5 of the RMA is the overarching directive to manage adverse effects in (1)(c) when achieving sustainable management. The overall purpose of the Change is the effect that landuse and development can have on freshwater, and Objective LW1 needs to encompass this concept. Point 3 of this objective also should be amended so that it focusses on recognising that adverse effects of land uses can impact on the receiving coastal environment, rather than land use activities themselves.

1.3 Relief Sought

- a) That Objective LW1 is amended to focus on effects of land use rather than on land use activities themselves, and
- b) Make any consequential amendment as to detail or substance throughout the Regional Policy Statement to give effect to this appeal point.

2 <u>Summary of the decision specific provision or matter</u>

Policy LW1 Problem solving approach- catchment-based integrated management.

Summary of reasons for the appeal

- 2.1 Federated Farmers appeals Policy LW1 for the reason that it will not achieve sustainable management as it goes beyond the intent of setting an impartial framework for decision-making, and does not focus on adverse effects.
- 2.2 The policy should focus on the adverse effects of land use and development, rather than on land use and development itself. The overall purpose of the Change is the effect that landuse and development can have on freshwater, and Policy LW1 needs to encompass this concept.
- 2.3 Federated Farmers considers that Policy POL LW1.3 in particular will prejudice the decision-making towards specific values rather than setting the framework and process on how values will be decided on, and is inconsistent with POL LW2. Specific values to be protected have been identified in POL LW1.3 as ecosystems, water quantity, quality and mauri, and contact recreational values, the policy does not allow for other values such as economic values to be considered when decision making, and takes away the ability for a community to decide what values are important to them and does not achieve sustainable management. We seek for POL LW1.3 to be deleted.

2.4 Relief Sought

- a) That Policy LW1 is amended to focus on adverse effects of land use and development, and
- b) That Policy LW1.3 is deleted, and
- Make any consequential amendment as to detail or substance throughout the Regional Policy Statement to give effect to this appeal point.
- 3 Summary of the decision specific provision or matter

Policy POL LW3 Problem solving approach – managing use of productive land use.

Summary of reasons for the appeal

- 3.1 Federated Farmers appeals Policy LW3 for the reason that it should focus on adverse effects arising from all land uses in order to meet objectives and achieve sustainable management.
- 3.2 The first paragraph and title of the policy should focus on managing the adverse effects of productive land use, rather than on managing productive land use itself. We do not consider that managing all aspects of land use will achieve sustainable management, a better approach is to manage adverse effects that lead to the issues that have been identified, and to meet objectives.
- 3.3 The specific focus on production land only is inconsistent with the integrated intent of Change 5 across all land uses. The policy will potentially ignore other land uses that can have adverse effects,

Pederated Farmers appeal to Change 5 of the Hawke's Bay Regional Policy Statement.

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and unless all land uses are included, objectives will be unachievable. The Section 42 Report stated that the intent was to manage non-point source discharges, we consider that this should be clearly stated in the policy and applies for all land uses, rather than seeking to manage use of productive land only.

3.4 Relief Sought

- a) That Policy POL LW3 is amended to focus on managing the effects of land use and on non-point source discharges from all land uses, and
- b) Make any consequential amendment as to detail or substance throughout the Regional Policy Statement to give effect to this appeal point.

4 <u>Summary of the decision specific provision or matter</u>

Policy POL 4A

Summary of reasons for the appeal

- 4.1 Federated Farmers appeals Policy POL 4A for the reason that it unsuitably prioritises regulatory methods over non-regulatory methods.
- 4.2 Non-regulatory methods can be appropriate and effective for protecting the significant values of wetlands. Change 5 and the inclusion of Policy POL 4A changes the direction by stating that non-regulatory methods are to be used only in support of regulatory methods.
- 4.3 Wetlands which are deemed sufficiently significant to be regulated should also be determined to be of sufficient priority for non-regulatory assistance with works and services. This policy unsuitably emphasises regulatory methods over non-regulatory methods.

4.4 Relief Sought

- a) That Policy POL 4A is amended so that non-regulatory methods are a primary means for protecting significant values of wetlands.
- b) Make any consequential amendment as to detail or substance throughout the Regional Policy Statement to give effect to this appeal point.

5 <u>Summary of the decision specific provision or matter</u>

Issue Statement in Chapter 3.10

Summary of reasons for the appeal

5.1 Federated Farmers appeals the Issue Statement in Chapter 3.10 for the reason that the new text in brackets is unnecessary, biased and will not achieve sustainable management.

5.2 The decision to specify that non-point source discharges include production land use activities in (b) is unnecessary, because the Regional Plan Glossary provides a definition of non point source (diffuse) discharges which clarifies that these arise from a wide and diffuse area. Obviously these may include production land use activities as well as diffuse discharges from other land uses. There is no need to specify in the Issue Statement that production land use is a source of non-point source discharges, particularly when this is the only source that is identified. This will create a bias against this activity at the risk of excluding other land use sources such as urban or industrial. Sustainable management will not be achieved if focus is on a single land use.

5.3 Relief Sought

a) That the Issue Statement in Chapter 3.10 is amended to read:

...

(b) Stock access to water bodies and nonpoint source discharges (including production land use activities) which cause contamination of rivers, lakes and wetlands, and degrade their margins.

....

b) Make any consequential amendment as to detail or substance throughout the Regional Policy Statement to give effect to this appeal point.

Pederated Farmers appeal to Change 5 of the Hawke's Bay Regional Policy Statement.

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I attach the following documents to this notice:

- (a) a copy of Federated Farmers submissions:
- (b) a copy of the relevant decision (or part of the decision):
- (c) any other documents necessary for an adequate understanding of the appeal:
- (d) a list of names and addresses of persons to be served with a copy of this notice.

Rhea Dasent

for Federated Farmers of New Zealand

Rhea Davent

15 July 2013

Address for service of appellant:

Ms Rhea Dasent Regional Policy Advisor Federated Farmers of New Zealand PO Box 715 WELLINGTON 6140

Tel No.: (04) 470 2173

Email: rdasent@fedfarm.org.nz

Advice to recipients of copy of notice of appeal

How to become party to proceedings

You may be a party to the appeal if you made a submission or a further submission on the matter of this appeal and you lodge a notice of your wish to be a party to the proceedings (in form 33) with the Environment Court within 15 working days after the period for lodging a notice of appeal ends.

Your right to be a party to the proceedings in the court may be limited by the trade competition provisions in section 274(1) and Part 11A of the Resource Management Act 1991.

You may apply to the Environment Court under section 281 of the Resource Management Act 1991 for a waiver of the above timing or service requirements (see form 38).

How to obtain copies of documents relating to appeal

The copy of this notice served on you does not attach a copy of the appellant's submission or the decision (*or* part of the decision) appealed. These documents may be obtained, on request, from the appellant.

The copy of this notice served on you does not attach a copy of any other documents necessary for the adequate understanding of the appeal (of which there were none), or a list of names and addresses of persons to be served with a copy of this notice. These documents may be obtained, on request, from the appellant.

Advice

If you have any questions about this notice, contact the Environment Court Unit of the Department for Courts in Auckland, Wellington or Christchurch.

Pederated Farmers appeal to Change 5 of the Hawke's Bay Regional Policy Statement.

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IN THE ENVIRONMENT COURT AT WELLINGTON

IN THE MATTER of an appeal pursuant to section 121 of the

Resource Management Act 1991 against the decision of the Hawkes Bay Regional Council on the Proposed Regional Policy Statement for the Hawkes Bay Region

"Change 5"

BETWEEN HAWKES BAY FISH & GAME COUNCIL

Appellant

AND HAWKES BAY REGIONAL COUNCIL

Respondent

NOTICE OF APPEAL TO ENVIRONMENT COURT AGAINST DECISION ON HAWKES BAY REGIONAL COUNCIL REGIONAL POLICY STATEMENT

Dated: 17 July 2013

NOTICE OF APPEAL TO ENVIRONMENT COURT AGAINST DECISION ON HAWKES BAY REGIONAL COUNCIL REGIONAL POLICY STATEMENT

Clause 14(1) of First Schedule, Resource Management Act 1991

To: The Registrar Environment Court Wellington

 The Hawkes Bay Fish & Game Council ("HBFG") appeals against parts of a decision of Hawkes Bay Regional Council ("HBRC") on the following Regional policy statement:

Change 5: Hawkes Bay Regional Resource Management Plan - Land use and freshwater management ("Proposed Change 5").

The Hawkes Bay Region Fish and Game council is public body established under the Conservation Act 1987, which has the statutory responsibility to "represent the interests and aspirations of anglers and hunters in the statutory planning process" (s26).

- 2. HBFG made a submission on that policy statement.
- HBFG is not a trade competitor for the purposes of section 308D of the Resource Management Act 1991.
- 4. HBFG received notice of the decision on 7 June 2013.
- 5. The decision was made by the Hawkes Bay Regional Council.
- 6. HBFG are interested in all of the Proceedings to the extent that resolution of them may affect or relate to the following matters of interest to me:

- (a) the provisions of the policy that deal with (or fail to adequately deal with) the protection of recreational fisheries and gamebird resources, including the protection of rivers, lakes, wetlands, and their margins;
- (b) maintenance and enhancement of the quality of freshwater environments, including wetland environments, as habitats for sports fish and gamebirds;
- (c) the maintenance and enhancement of amenity values, recreational values, and the intrinsic values of rivers, lakes, wetlands, and their ecosystems;
- (d) the preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development;
- the maintenance and enhancement of public access to and along the coastal marine area, lakes, rivers, and wetlands;
- (f) provisions relating to land use and development which have the potential to impact on the life supporting capacity, natural character, and amenity and recreation values of river lakes and wetlands and their intrinsic and ecosystem values;
- (g) the provisions of the plan that give effect to (or fail to adequately give effect to) the Purpose and Principles of the Resource Management Act.
- (h) the provisions of the plan that give effect to (or fail to adequately give effect to)

the National Policy Statement for Freshwater Management 2011

(i) the provisions of the plan that give effect to (or fail to adequately give effect to)the New Zealand Coastal Policy Statement 2010

7. The reason for the appeal is:

- (a) The decision is contrary to the purpose and principles of the Resource Management Act 1991, the National Policy Statement on Freshwater Management, the New Zealand Coastal Policy Statement, and sound planning practice;
- (b) The decision fails to adequately provide for/ or give effect to the: protection of outstanding natural features and landscapes; the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna; the maintenance or enhancement of amenity and recreational values; and the protection of the habitat of trout and salmon;
- (c) The decision fails to adequately provide for / or give effect to National Water Conservation Orders in the Region;
- (d) The decision fails to address the regionally relevant resource management issues in regards to ensuring land, freshwater, and coastal waters are sustainably managed in an integrated fashion:
 - to maintain their health where it is currently at a state to provide for ecosystem health, recreational, and intrinsic and amenity values;
 - ii. to improve their health by addressing over allocation of the resource where it is currently degraded such that ecosystem health, recreational, and intrinsic, and amenity values are compromised;
 - iii. To ensure that resource use is first necessary, secondly reasonable, and where it can be shown to be both necessary and reasonable to

ensure that the use of the resource including both quantity and quality is efficient;

8. Relief sought:

- (a) that "Proposed Change 5" give effect to the Resource Management Act 1991, the National Policy Statement on Freshwater Management, the New Zealand Coastal Policy Statement, and reflects sound planning practice;
- (b) that "Proposed Change 5" give effect to National Water Conservation Orders
- (c) that "Proposed Change 5" ensures that resource use (including the taking of water and use of the assimilative capacity of water) is necessary, reasonable, and where the take and use can be shown to be necessary and reasonable is also efficient;
- (d) that "Proposed Change 5" provides for the protection of recreational fisheries and gamebird resources, including the protection of rivers, lakes, wetlands, and their margins;
- (e) that "Proposed Change 5" provides for the maintenance and enhancement of the quality of freshwater environments, including wetland environments, as habitats for sports fish and game birds;
- (f) that "Proposed Change 5" provides for the maintenance and enhancement of recreational values, amenity values, and the intrinsic values of ecosystems;
- (g) that "Proposed Change 5" provides for the maintenance and enhancement of public access to and along the coastal marine area, lakes, rivers, and wetlands;
- (h) That provisions are included in "Proposed Change 5" to preserve the natural character of the coastal environment, wetlands, lakes and rivers and their margins and the protection of them from inappropriate subdivision, use, and development;

- (i) that "Proposed Change 5" adequately identifies and lists the values of freshwater in the region (in relation to the waterbody, reach, zone) including but not limited to: recreational salmonid fishery and spawning values, contact recreation values, amenity values, and aesthetic values;
- (j) that "Proposed Change 5" provides that all rivers in the region are identified as being valued for contact recreation, and amenity value. Access to healthy rivers by which to recreate in or just enjoy is a common good, as such it is the birthright of all New Zealanders and should be protected;
- (k) that "Proposed Change 5" sets/provides for the setting of numerical water quality and quantity limits to protect freshwater ecosystem, intrinsic, salmonid fishery, amenity and recreational values, and gives effect to the NPS Freshwater and Management, National Water Conservation Orders;
- (I) that "Proposed Change 5" sets/provides for the setting of numerical water quality limits and provisions to give effect to the New Zealand Coastal Policy Statement. In particular Policy 21 which requires priority to be given to improving water quality where it has "deteriorated so that it is having significant adverse effect on ecosystems, natural habitats..." and other values;
- (m) that "Proposed Change 5" ensures that land use activities and development are managed so that life supporting capacity of water is safeguarded; and freshwater values including trout fishery, trout spawning, recreational, and amenity values; areas of significant indigenous vegetation and significant habitats of indigenous fauna; and the natural character of waterbodies is protected;
- (n) that provisions are included within the "Proposed Change 5" to ensure that water quality and water quantity in the region is maintained, and where degraded is restored;
- (o) that "Proposed Change 5" ensures that land use activities and development

are managed so that water quality and quantity is maintained, and where degraded restored. Where numerical water quality and quantity limits are currently being achieved that they continue to be met, and where water quality and quantity limits are not met (currently degraded) that water quality and quantity is restored to met the limits.

- (p) provisions are included within the "Proposed Change 5" which identify that all remaining wetlands in the region are significant (s6c habitats under RMA) and should be protected;
- (q) provisions are removed from 'Proposed Change 5" which create conflict between consumptive and non consumptive values and which may result in consumptive values being provided for above the Life supporting capacity and ecosystem health of freshwater and marine environments, and which may significantly impact on recreational, amenity, and intrinsic values of freshwater and marine environments.
- (r) remove the pre-emption of the identification of values at a catchment level in the RPS (as in policy POL LW2 and POL LW2.1, and table 1); and
- (s) remove the pre-emption of the prioritisation of those values or the resolution of competing values to set a freshwater objective (as in policy POL LW2. POL LW2.1 and table 1):
- (t) provisions are included to ensure that all contaminant losses from land uses which impact on freshwater and marine environments are managed to ensure that water quality limits are achieved. These include nitrogen, phosphorus, sediment, and pathogens.
- (u) provisions are included to ensure that both nitrogen and phosphorus instream concentrations are set based on life supporting capacity, ecosystem health, and fishery values, and which provide for amenity and recreational values of

freshwater. These levels should be set at concentrations appropriate to mange undesirable periphyton and cyanobacteria blooms and ensure macroinvertebrate community health:

- (v) Such other or further relief as addresses the issues raised by this submission.
- 9. Without limiting the generality of the foregoing the particular reasons for the appeal are as follows.
- 10. I am interested in the following particular issues:
- 10.1 ISSUES (LW 1, LW2, and issue statements in chapter 3.10)
 - (a) Issue LW1, the new issue LW2, and amendments to issue statement in chapter 3.10 fails to identify the regionally relevant resource management issues in regards to ensuring the sustainable and integrated management of the land and water resources to safeguard the life supporting capacity and ecosystem health of freshwater and marine environments.
 - (b) The quality of freshwater and marine environments in some water catchments are degraded as a result of intensification of land uses. The principal causes of this degradation are:
 - nutrient enrichment caused by run off and leaching from agricultural land, stock access to waterbodies, and discharges of treated wastewater;
 - turbidity and deposited sediment caused by land erosion, river channel erosion, run off from agricultural land use, stock access to waterbodies, and point source discharges;
 - (iii) pathogens from agricultural run off, stock access to waterbodies, urban run off, and point source discharges

- (c) Shallow groundwater in areas of intensive rural land use has elevated nitrate levels which impact on human drinking water requirements, and surface waterbody life supporting capacity and ecosystem health along with amenity and recreational values.
- (d) The use of and demand for surface and groundwater is increasing and in some catchments already exceeds allocation limits. Use of water should be managed to ensure that it is firstly necessary, secondly reasonable, and where it can be shown is necessary and reasonable is used a manner which is efficient.
- (e) Fish and Game seeks the following relief:
 - (i) That ISS LW 1 is retained as amended by the decision
 - (ii) That new issue or issues are included, and that chapter 3,10 issue is amended, to more coherently expresses the significant resource management issues raised above, and requirements to ensure the sustainable and integrated management of the land and water resources. This should include requiring stock to be excluded from waterbodies, and land use to be managed to avoid either the direct or indirect discharges of contaminants to waterbodies.
 - (iii) Such other relief, including consequential relief, as may address the reasons for the appeal.

10.2 ISS LW 2

- (a) Fish and Game welcome the separation of the two issues into ISS LW 1 and ISS LW 2. However, ISS LW 2 as drafted does not describe a resource management issue.
- (b) Fish and Game's original submission sought that the issue as drafted be amended to more coherently express the significant resource management

issue the Region faces, in respect of achieving integrated management of freshwater and land use and development.

- (c) Fish and Game seeks the following relief:
 - (i) That ISS LW 2 is worded as follows:

There is inadequate lintegration of the management of land use and water quality and quantity, increases the and limited ability to promote ion of sustainable management of the region's natural and physical resources.

(ii) Such other relief, including consequential relief, as may address the reasons for the appeal.

10.3 OBJ LW 1, OBJ LW2, OBJ 25, OBJ 27 and supporting policies (POL LW1, POL LW2)

- (a) Fish and Game support in part the proposed objectives, policies and principles.
- (b) However the proposed Objectives and supporting policies are attempting to incorporate (sometimes within one Objective or Policy) numerous and sometimes competing concepts and management approaches. This results in unclear guidance on how these competing values and management approaches will be addressed to ensure that the life supporting capacity and ecosystem health of freshwater bodies and the marine environment will be safeguarded, and the regionally relevant resource management issues addressed.
- (c) Fish and Game seeks the following relief
 - (i) The Objectives and Policies should be amended to set out clearly:
 - 1. the principles for integrated management in the region

- the process for achieving those principals in the regional plan / plans which follow
- 3. sets out some bottom line objectives that must be achieved to ensure the sustainable use and development of the land and water resources to safeguard life supporting capacity and ecosystem health, protect natural character, and provide for amenity, recreational, and fishery values of waterbodies.
- bottom line objectives should include consideration of periphyton and cyanobacteria growth, macroinvertebrate community health, visual clarity, deposited sediment, and in regards to groundwater limits for human drinking water standards.
- address over allocation and degradation of water resources and provide for the enhancement of these resources

10.4 OBJ LW1

- (a) Objective LW1 Principles 1A is not supported. All Wetlands should be considered significant and be protected. It is not appropriate to just protect their significant values.
- (b) Objective LW1 Principals 3, 5, 6, 7, 8, and 8A, are not supported. These principles require 'recognising' of matters. It is Fish and Game's view that to simply 'recognise' a matter weakens the intent of the principle.
- (c) Objective 4 is supported in part. However the omission of the habitat of trout and salmon is opposed.
- (d) Natural character is not provided for. HBFGC note that OBJ LW 1 does not provide for the management of fresh water and land use and development that recognizes or provides for the natural character of wetlands, rivers, lakes and the coastal environment, and as such, fails to meet the requirements of Part II

matters of the RMA. Ensuring that adverse effects on natural character of the coastal environment, wetlands, rivers and lakes are avoided in areas or locations with a high degree of naturalness, and avoided, remedied, or mitigated in other areas, is critical to an integrated and sustainable approach to the management of freshwater and land use development.

- (e) The efficient use of freshwater is not provided for. Principle 2B requires the avoidance of any further over-allocation, and phasing out existing over allocation, but does not specifically address the matter of efficient use of freshwater. It is requested that principle 2B enables an assessment as to whether resource use and allocation is reasonable and justifiable.
- (f) The objective fails to provide for the maintenance of water quality and quantity across the region where it is sufficient to safeguard life supporting capacity and ecosystem health and provide for instream values
- (g) The objective fails to provide for the enhancement of water quality and quantity where it is not currently sufficient to safeguard life supporting capacity and ecosystem health and provide for instream values
- (h) Fish and Game seeks the following relief:
 - (i) New objective is included which recognises that Wetlands are significant habitats which should be protected;
 - (ii) New Objective which gives effect to the New Zealand Coastal Policy statement in particular Policy 21
 - (iii) Amend Objective LW1 so that the interconnected nature of natural resources including coastal environment within each catchment are recognised and managed
 - (iv) Ammend provision 4 to read "safeguard the life supporting capacity and ecosystem health of freshwater".
 - (v) Delete principles 3, 5, 6, 7, 8, and 12;

- (vi) Inclusion of an Objective or clause to ensure that the natural character of wetlands, river, and lakes is protected;
- (vii) Inclusion of a new Objective or amend clause 2B of OBJ LW 1 to enable an assessment as to whether resource use and allocation is necessary;
- (viii) Inclusion of a new Objective or amendments to Objective LW1 to ensure that resource use is reasonable;
- (ix) Inclusion of a new Objective or amendments to Objective LW1 to ensure that resource use is efficient where it has been shown to be both necessary and reasonable;
- (x) Inclusion of a new objective or amendment to LW1 to ensure that water quality and quantity are maintained where it is sufficient to safeguard life supporting capacity and ecosystem health and provide for instream values, or enhanced where degraded.
- (xi) That the objective statement, and the principles not specifically mentioned above, are retained as proposed in the decisions version of Plan Change 5.
- (xii) Such other relief, including consequential relief, as may address the reasons for the appeal.

10.5 OBJ LW 2

- (a) Fish and Game oppose the wording of OBJ LW 2, as it creates confusion as to management hierarchy. Consumptive values should only be provided for once life supporting capacity, ecosystem health, and natural character have been provided for.
- (b) Fish and Game seeks the following relief:

(i) That OBJ LW 2 is deleted or amended to ensure that the management of land use and freshwater use safeguards life supporting capacity and ecosystem health and protects natural character.

(ii) That OBJ LW 2 be amended as follows:

"OBJ LW 2 Integrated management of fresh water and land use and development

The management of land use and freshwater use that recognises and balances the multiple and competing values and uses of those resources within catchments. Where significant conflict between competing values or uses exists or is foreseeable, the regional policy statement and regional plans provide a clear framework priorities for the protection and efficient use of those freshwater resources".

(iii) Such other relief, including consequential relief, as may address the reasons for the appeal.

10.6 POL LW 1

- (a) Fish and Game support in part the proposed policy and clauses.
- (b) The policy is intended to provide a general management regime that is applicable in all instances. Consequently a policy clause providing for water storage or electricity generation would not be applicable in all instances. Large-scale community water storage infrastructure may be one way to provide increased security for water users, and may avoid remedy or mitigate some adverse effects on freshwater values. However, the current wording in clause k) (iC) and (iD) assumes that the benefits will accrue and the effects will be appropriate, when in fact this is only true if the infrastructure and any associated land uses are appropriately located, designed and managed, and the effects including cumulative effects are avoided, remedied, or mitigated. The wording should be changed to reflect this and to ensure that the objectives in OBJ LW1 are achieved.
- (c) It is not just appropriate to maintain water quality and quantity in outstanding waterbodies. Water quality and quantity should be maintained in all waterbodies where it currently provides for ecosystem health, safeguards life supporting capacity, and protect natural character. Water quality and quantity should be enhanced where degraded.
- (d) Clauses d) and dA) are not supported. In the original submission, HBFG sought the inclusion of the policies into the RPS that: identify criteria for recognition of freshwater bodies as outstanding; identify waterbodies that currently meet that criteria; and provide for the protection of water quality and other values within those waterbodies.
- (e) Clause e) and gA) have similar intent, and therefore to limit complexity, these two clauses should be combined.
- (f) Fish and Game seeks the following relief:

- (i) Include provisions which ensure that water quality and quantity is maintained where it is currently provides for ecosystem health, safeguards life supporting capacity, protects natural character, and provides for fishery, amenity, recreational, and intrinsic values.
- (ii) Include provisions which ensure that water quality and quantity will be enhanced where degraded.
- (iii) That clauses d) and dA) are removed, or amended so that the policy does not limit the maintenance or enhancement of water quality and protection of water quantity, to water bodies that have been assessed as outstanding.
- (iv) That clause k) (ic) and (iD) of POL LW 1.1 be deleted removed
- (v) That clause gA) be removed, and clause e) be amended as follows:

"promotes collaboration and information sharing between relevant management agencies, iwi, landowners and other stakeholders, and collaboration with catchment communities"

(vi) Include new Policy or provisions which set out criteria to determine freshwater bodies as 'Outstanding Waterbodies" and which identify waterbodies which currently meet that criteria.

Wording to provide the relief sought could include, but is not limited to, wording similar to the following:

Outstanding freshwater bodies are those freshwater bodies that:

- t. Are in their natural state; or
- 2. Are no longer in their natural state, but that support one or more of the following values and characteristics that stand out on a national or regional comparative basis:

- a. Biodiversity
- b. Habitat for indigenous fauna, wildlife, trout or salmon
- c. Values to tangata whenua
- d. Spiritual and cultural
- e. Recreation and amenity
- f. Community
- g. Landscape
- h. Natural character
- i. Scientific
- j. Historical

or

 are the best remaining example of a particular freshwater environment type remaining within the Region, as defined using the FWENZ data set.

The following waterbodies have been identified as outstanding in accordance with the criteria set out in Policy above:

- Lake Waikareiti
- Lake Waikaremoana
- Mohaka River catchment above Willow flat
- Ngaruroro, Tauarau River and their tributaries above Whanawhana cable way
- Tukituki River
- Tulaekuri River
- Maraetotara River

- Ruakituri River
- Waiau River
- Walkaretaheke River
- Hopuruahinem River
- Lake Whakaki complex
- Opoutama Swamp
- Maungawhio Lagoon
- Lake Poukawa,
- Pekapeka Swamp Lake Hatuma
- Lake Runanga
- Lake Oingo
- Waitangi wetlanmd,
- Ngamotu Lagoon
- Whakamahia Lagoon

To protect the water quality in waterbodies that meet the criteria for outstanding freshwater bodies set out in [Policy 1] and listed in Policy 2 and to recognise and provide for the other values that contribute to the outstanding nature of that waterbody.

- (vii) All other clauses are retained as proposed in Plan Change 5.
- (viii) Such other relief, including consequential relief, as may address the reasons for the appeal.

10.7 POL LW 1.2

- (a) Fish and Game support in part the proposed POL LW 1.2 policy and clauses.
- (b) Fish and Game prefer the wording for clauses d) and e) that was drafted by Helen Marr in her supplementary statement of evidence.
- (c) Fish and Game seeks the following relief:

- (i) That clauses d) and e) of POL LW 1.2 be amended as follows:
- d) where the limits set under c) are not met:
 - i) specify methods (including rules) to avoid any further over allocation
 ii) specify targets and timeframes by which targets and limits will be met
- e) where limits set under c) are met, set out methods (including rules) specifying how the limits will continue to be achieved.
- (ii) Such other relief, including consequential relief, as may address the reasons for the appeal.

10.8 POL LW 1.3

- (a) Fish and Game support in part the proposed policy and clauses.
- (b) Fish and Game request that Policy LW1.3 clause a) be amended to include salmonids. This amendment would align with the Resource Management Act 1991 where section 7(h) states that all persons 'shall have particular regard to... the protection of the habitat of trout and salmon.'
- (c) Policy LW1.3 Clause c) as it is worded is not supported. Clause c) refers to 'microbiological water quality', which is one of many factors relating to water quality that contribute to a waterbody's level of safety for swimmers and other recreational users. It is requested that the clause is amended so as not to limit the factors measured when assessing water quality. For a waterbody to be suitable for contact recreation including swimming, visual clarity, deposited sediment, periphyton, cyanobacteria, and microbacterial and toxin levels need to be set at appropriate limits.
- (d) Fish and Game seeks the following relief:
 - (i) That clause a) of POL LW 1.3 be amended as follows:

"the life supporting capacity, ecosystem processes, and indigenous and salmonid species including their associated ecosystems of fresh water are safeguarded";

(ii) That clause c) of POL LW 1.3 be amended as follows:

the microbiological water quality in rivers and streams provides for amenity values, and is safe suitable for people—to contact recreation including swimming.

- (iii) Such other relief, including consequential relief, as may address the reasons for the appeal.
- (iv) Such other relief, including consequential relief, as may address the reasons for the appeal.

10.9 POL LW 1.4

- (a) Fish and Game support the wording of POL LW 1.4.
- (b) Fish and Game seeks the following relief:
 - (i) That POL LW 1.4 be retained as written in decision proposed change5.
 - (ii) Such other relief, including consequential relief, as may address the reasons for the appeal.

10.10 POL LW 2

(a) Fish and Game have concerns that this policy goes further than setting clear priorities in the event of conflict. It also sets up a management regime for values, and in so doing creates conflict between consumptive and on consumptive values. The approach proposed within this policy and table 1 is inconsistent with purpose and principals of the RMA, fails to address the regionally relevant resource management issues, and is contrary to best

planning practices. The justification and reasoning for this is unclear. As written, POL LW2 establishes an inappropriate framework of priorities regarding freshwater values, that ultimately undermines the process of setting values, objectives, target and limits as envisioned by the NPSFM (and which is provided for in the recommended relief set out in this submission document).

- (b) The values identified in Table 1 can and should be identified with more precision, both defining what the value is and where it applies. The current identification of values in Table 1 does not state whether the values identified are existing values, or future values. This could mean that future out of stream uses are prioritised ahead of existing instream values. This is inappropriate.
- (c) In relation to instream values, the native fish and trout habitat values need further refinement. The locations and requirements of fish for spawning are quite different to that for adults. Some of the native fish are migratory and therefore use whole catchments, not just defined areas.
- (d) Fish and Game have some concerns about the method used to define the values, their locations and priorities. Fish and Game would like to be involved with the council to further refine and better define the values and their priorities. This is currently on going as part of catchment based consultations. Fish and Game are concerned that the listing of values at this time in the RPS will undermine that catchment based value setting and mean that those values cannot adequately be provided for in future plan change processes.
- (e) The use of maps and grid references to identify values and uses would aid interpretation and clarity. The approach used by Horizons Regional Council in Schedule AB of the Proposed One Plan is a good example of a useful method, and one which is supported by Fish and Game.
- (f) Fish and Game seeks the following relief:
 - (i) Delete POL LW2 in its entirety; or

- (ii) Delete Table 1 and refine the remainder of POL LW 2 to address the issues identified in this submission; or
- (iii) Amend Table 1 to address the issues identified in this submission, including, but not limited to the following types of changes:
 - Define values with more precision as to location and aspect that is valued.
 - 2. Ensure that values do not apply to future out of stream uses.
 - Better define and identify the instream fish values including trout fishery and trout spawning values. Fish and Game will provide a list of these values and sites for inclusion into the RPS.
 - Ensure that catchment values identified during current and future catchment based values identification processes can be incorporated into the RPS and Plan without being inconsistent with the policy approach in POL LW2
 - 5. Ensure that life supporting capacity and ecosystem health are safeguarded and natural character is protected, and that amenity, recreational and fishery values are provided for before providing for consumptive use values. Ensure that the framework meets the requirements of sustainable management.
- (iv) Grant other general or specific relief in order to address the matters raised in this submission, including but not limited to the relief raised in the following submission points related to POL LW2

10.11 POL LW 3

- (a) Fish and Game support in part the proposed policy POL LW 3 and clauses.
- (b) To improve the effectiveness in managing the use of productive land and its environmental effects. Fish and Game seek the use of more detailed decision-

making criteria, and the creation of a clearer link to impacts on water quality. This amendment will more effectively contribute to the Plan's goal of establishing integrated management of fresh water and land use and development.

- (c) All contaminants of concern from production land should be managed to either maintain water quality where it currently provides for ecoysystem health and recreational and intrinsic values or enhance water quality where it is currently degraded. Contaminants of concern include nitrogen, phosphorus, sediment, and pathogens. Nitrogen and phosphorus can be lost from the land both directly (overland flow patheways and stock access to waterbodies) and indirectly (leaching to groundwater). Pathogens and sediment are lost via overland flow pathways or direct inputs through stock access to waterbodies. Intensive and extensive land uses should be managed.
- (d) Clause b) is unclear on why the levels should only be set to levels suitable for human consumption and irrigation. Contact recreation levels should also be included in this consideration.
- (e) The Principle reasons and explanation for POL LW 3 states that phosphorous leaching and run off is primarily caused by soil loss, which is incorrect. Phosphorous can enter water bodies from intensive land use activities, including stock access to water, trampling of banks by stock causing erosion, inappropriate management of phosphorus fertiliser use, and poorly managed dairy shed effluent applications.
- (f) Fish and Game seeks the following relief:
 - Amend the policy to provide for a framework for identifying specified catchments.
 - (ii) Reword clause a) to recognise that the chief cause of nitrogen contamination of water caused by primary production activities is urine patches from animals. Amend provisions to ensure that Nitrogen

leaching will be managed to leaching standards set in regulation in order to ensure that water quality (groundwater and surface water) is maintained, or where degraded restored. Nitrogen limits should be set to ensure groundwater is safe for human drinking, and that instream nitrogen concentrations are set to protect ecosystem health, manage periphyton and cyanobacteria blooms, protect macroinvertebrate community health, and provide for recreational and amenity values.

- (iii) Amend clause b) to accurately characterise the pathways of contamination, i.e. these contaminants primarily travel directly from land to surface water by overland flow, rather than through groundwater to surface water. And amend the provision to ensure that best environmental management practice for reducing faecal run off to surface water is set through regulation
- (iv) Amend the Principle reasons and explanation for POL LW 3 to properly characterise the pathways for phosphorous contamination to water.
- (v) To exclude stock from waterbodies including ephemeral waterbodies.
- (vi) Address sediment
- (vii) Such other relief, including consequential relief, as may address the reasons for the appeal.

10.12 New Policy - regulatory methods to manage production land use

(a) Management of land use should not solely focus on non regulatory methods. Both sections 9 and 15 of the RMA 1991 should be used to manage land use within freshwater limits, not just section 9 of the Act. The Regional council cannot permit activities which breach s15 standards (see section 70 of the RMA). The Regional Council should also consider s107 of th Act in regards to the appropriateness of controlled activity status for activities which may breach s15 standards as set out in the Act

- (b) Fish and Game seeks the following relief:
 - (i) Include a new policy which sets out regulatory methods for managing production land to ensure that water quality is maintained or where degraded enhanced.
 - (ii) Regulatory should include establishment of nitrogen leaching allocations and standards per hectare of land use (Nitrogen leaching kg/ha/yr), along with input based best management practice standards to address sediment, pathogen and phosphorus losses to surface waterbodies. Ensure stock are excluded from waterbodies. That the assumptions made by OVERSEER or appropriate model are met. Industry codes are adhered to.

10.13 POL LW 4

- (a) Fish and Game support the proposed policy POL LW 4 and clauses.
- (b) Fish and Game seeks the following relief:
 - (i) That POL LW 4 be retained as worded
 - (ii) Such other relief, including consequential relief, as may address the reasons for the appeal.

10.14 AER

- (a) Fish and Game support in part the proposed AER. AER clauses 2, 5, 6, 7 are opposed as discussed in the body of this appeal. It is not sufficient to just maintain net water quality across the region. Water quality should be maintained in each waterbody to safeguard its life supporting capacity and protect ecosystem values. Degraded waterbodies should be enhanced.
- (b) Fish and Game seeks the following relief:

- (i) The AER's should be amended consistent with the other submissions made by Fish and Game in relation to the objectives and policies of introduced by RPS Change 5.
- (ii) Delete the Anticipated Environmental Results and develop new Anticipated Environmental Results to be consistent with the relief sought for other provisions of Change 5.

10.15 POL 4A

- (a) Fish and Game oppose the proposed policy POL 4A.
- (b) The policy as currently worded will result in only the 'significant values' of wetlands being protected. This would be inconsistent with s6(a) and (c) of the RMA, which require wetlands as a whole (not just their values) to be protected.
- (c) Fish and Game seeks the following relief:
 - (i) That POL 4A and the explanation for 4A be amended so that 'significant values of wetlands' is replaced with 'wetlands'.
 - (ii) Such other relief, including consequential relief, as may address the reasons for the appeal.

10.16 Definition of Wetland

- (a) The definition of wetland introduces an exclusion for "wet pasture or cropping land" as an exclusion to the definition. However, the region comprises ephemeral wetlands which can be grazed for part of the year but which still provide significant habitat values. These wetlands should be protected.
- (b) Fish and Game seeks the following relief:
 - (i) Amend the definition of 'wetland' to read:

"Wetland includes permanently or intermittently wet area, shallow water, and land water margins that support a natural ecosystem of plants and animals that are adapted to wet conditions. For the purposes of this Plan, a wetland is not/does not include:

 Damp gully heads subject to regular ponding, dominated by pasture or exotic species in association with wetland sedge and rush species.

Or

ii. Ditches or drains supporting raupo, flax or other wetland species (eg., Carex sp., Isolepis sp.), or populations of these species in drains or slumps associated with road reserves or rail corridors.

Or

- iii. Areas of wetland habitat specifically designed, installed and maintained for any of the following purposes:
- (a) stock watering (including stock ponds), or
- (b) water storage for the purposes of fire fighting or irrigation (including old gravel pits), or
- (c) treatment of animal effluent (including pond or barrier ditch systems), or
- (d) wastewater treatment, or
- (e) sediment control, or
- (f) any hydroelectric power generation scheme, or
- (g) water storage for the purposes of public water supplies.

Or

iv. Areas of wetland habitat maintained in relation to the implementation of any resource consent conditions or agreements relating to the operation of any hydroelectric power scheme currently lawfully established.

Or

iv. Open water and associated vegetation created for landscaping purposes or amenity values where the planted vegetation is predominately exotic, or includes assemblages of species not naturally found in association with each other, on the particular landform, or at the geographical location of the created site"

10.17 POL 4

- (a) Fish and Game oppose the proposed policy POL 4.
- (b) The policy as currently worded will result in only the 'significant values' of wetlands being protected. This would be inconsistent with s6(c) of the RMA.
- (c) Fish and Game seeks the following relief:
 - (i) That POL 4 and the explanation for POL 4 be amended so that 'significant values of wetlands' is replaced with 'wetlands'.
 - (ii) Such other relief, including consequential relief, as may address the reasons for the appeal.

10.18 OBJ 22

- (a) Objective 22 is opposed. Groundwater quality should be maintained. As currently worded this objective allows groundwater to be degraded.
- (b) Fish and Game seeks the following relief:
 - (i) Reject the proposed change to OBJ 22 and retain OBJ 22 as contained in the operative Regional Policy Statement.

10.19 OBJ 25

(a) Fish and Game support in part the proposed Objective 22. Fish and Game are concerned that the Objective as worded states that water quantity will be

provided for both ecosystem values and consumptive values. This may not always be the case. Where conflict arises, primacy should be given to safeguarding life supporting capacity and protecting ecosystem integrity.

- (b) Fish and Game seeks the following relief:
 - (i) Amend Objective 25 to provide for life supporting capacity and protect ecological integrity and natural character firstly and then secondly to provide for consumptive uses.

10.20 OBJ 27

- (a) Fish and Game support in part the proposed Objective 27 and clauses.
- (b) Fish and Game are concerned at the proposed deletion of the words 'The maintenance and enhancement of from the objective. A goal that seeks to maintain and enhance water quality would provide greater assurance that the management of the surface water resource is an environmental bottom line, and be in accordance with the requirements of the NPSFM. Fish and Game suggest that the words 'the maintenance and enhancement' be reinstated.
- (c) OBJ 27 also includes reference to POL LW2. This is unhelpful, as POL LW2 identifies freshwater values for specified catchments only. The current structure of and relationship between POL LW2 and POL LW1 will result in the freshwater values of unspecified catchments being unidentified.
- (d) Fish and Game has sought amendments to LW1 and LW2 and table 1.
- (e) Fish and Game seeks the following relief:
 - (i) Reinstate the words 'The maintenance and enhancement of water quality..." and;

- (ii) Delete reference to POL LW 1 and POL LW 2.
- (iii) Retain reference to recreational values and include reference to amenity values.
- (iv) Such other relief, including consequential relief, as may address the reasons for the appeal.

10.21 Policy 50

- (a) POL 50 cross references the values and uses identified in OBJ LW1 and POL LW2. This is problematic, as several clauses of OBJ LW 1 serve to reiterate the conflicts between some of the competing values and uses of freshwater (e.g. clauses 5, 6 and 7). Neither OBJ LW 1 nor the ensuing proposed policies (or proposed amendments to existing policies), including POL LW2, offer a management framework by which to effectively to resolve the conflicts. Furthermore, the current relationship between POL LW2 and POL LW1 results in a lack of provision for unspecified catchments.
- (b) Policy 50 does not ensure that natural character is protected. Gravel management should be undertaken in a manner that maintains diversity of pool/ run/ riffle habitats and bed configuration and prevents degradation of the river bed.
- (c) Fish and Game seeks the following relief:
 - (i) Remove reference to OBJ LW 1 and POL LW2.
 - (ii) Include provision which ensure that gravel management is sustainable and protect natural character.

10.22 Consequential Relief

(a) Summary of the part of the decision to which this appeal point relates together with the text of the relevant provision of the Proposed Change 5;

Throughout the Proposed Change.

(b) The reasons for the appeal are:

Amendment sought by HBFG may necessitate amendments to other parts of the Proposed Change 5.

(c) HBFG seeks the following relief:

Consequential amendments resulting from granting or partially granting the relief sought by HBFG elsewhere in this Appeal.

- 11. HBFG attaches the following documents to this notice:
 - (a) A copy of its submission;
 - (b) A list of names and addresses of persons to be served with a copy of this notice.

Signed

Pete McIntosh

Regional Manager - Hawkes Bay Fish and Game Council

P O Box 7345

Taradale

NAPIER 4141

DATED this 17 day of July 2013

Hawkes Bay Region Fish and Game New Zealand's address for service is at its offices at 22 Burness Road, Greenmeadows, Napier 4112, P O box 7345, Taradale NAPIER 4141, telephone 06 844 2460, fax 06 844 2461, pmcintosh@fishandgame.org.nz.

Note to appellant

You may appeal only if-

- you referred in your submission or further submission to the provision or matter that is the subject of your appeal; and
- in the case of a decision relating to a proposed policy statement or plan (as opposed to a variation or change), your appeal does not seek withdrawal of the proposed policy statement or plan as a whole.

Your right to appeal may be limited by the trade competition provisions in Part 11A of the Resource Management Act 1991.

The Environment Court, when hearing an appeal relating to a matter included in a document under section 55(2B), may consider only the question of law raised.

You must lodge the original and 1 copy of this notice with the Environment Court within 30 working days of being served with notice of the decision to be appealed. The notice must be signed by you or on your behalf. You must pay the filing fee required by regulation 35 of the Resource Management (Forms, Fees, and Procedure) Regulations 2003.

You must serve a copy of this notice on the local authority that made the decision and on the Minister of Conservation (if the appeal is on a regional coastal plan), within 30 working days of being served with a notice of the decision.

You must also serve a copy of this notice on every person who made a submission to which the appeal relates within 5 working days after the notice is lodged with the Environment Court.

Within 10 working days after lodging this notice, you must give written notice to the Registrar of the Environment Court of the name, address, and date of service for each person served with this notice.

However, you may apply to the Environment Court under section 281 of the Resource Management Act 1991 for a waiver of the above timing or service requirements (see Form 38).

Advice to recipients of copy of notice of appeal

How to become party to proceedings

You may be a party to the appeal if you made a submission or a further submission on the matter of this appeal and you lodge a notice of your wish to be a party to the proceedings (in Form 33) with the Environment Court within15 working days after the period for lodging a notice of appeal ends.

Your right to be a party to the proceedings in the Court may be limited by the trade competition provisions in section 274(1) and Part 11A of the Resource Management Act 1991.

You may apply to the Environment Court under section 281 of the Resource Management Act 1991 for a waiver of the above timing or service requirements (see Form 38).

* How to obtain copies of documents relating to appeal

The copy of this notice served on you does not attach a copy of the appellant's submission and (or or) the decision (or part of the decision) appealed. These documents may be obtained, on request, from the appellant.

Delete if these documents are attached to copies of the notice of appeal served on other persons.

Advice

If you have any questions about this notice, contact the Environment Court in Auckland, Wellington, or Christchurch.

Contact details of Environment Court for lodging documents

Documents may be lodged with the Environment Court by lodging them with the Registrar.

The Wellington address of the Environment Court is:

The District Court Building 43 – 49 Ballance Street Wellington 6011

And its telephone and fax numbers are:

Telephone: (04) 918 8300 Fax: (04) 918 8303

tem 7

UNDER THE RESOURCE MANAGEMENT ACT 1991

IN THE ENVIRONMENT COURT AT WELLINGTON

IN THE MATTER of a reference to the Environment Court under

Clause 14 of the First Schedule to the Resource

Management Act 1991

AND

IN THE MATTER of Proposed Plan Change 5 to Hawkes Bay

Regional Resource Management Plan

BETWEEN Horticulture New Zealand

Applicant

AND Hawkes Bay Regional Council

Respondent

TO:

The Registrar Environment Court PO Box 5027 Wellington

1. Name of applicant, along with a statement that this person made a submission or is the relevant territorial authority:

Horticulture New Zealand P.O. Box 10 232 Wellington

Attention: Mr Chris Keenan

Horticulture NZ made a submission and further submissions on the Proposed Plan Change 5.

2. Name of authority issuing the proposed policy or plan or making a decision on submissions:

Hawkes Bay Regional Council

3. Date of receipt or public notification of the decision (which ever is the latter):

6 June 2013

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4. Decisions appealed against:

Decisions on Objective LW1

4.1 Description of the subject-matter of the proposal or decision and specific provision, omission, or part of decision on submissions being referred:

Horticulture NZ made submissions and further submission on Obj LW 1. The decisions amend the objective but not as sought by Horticulture NZ, in particular changes to clauses 1B, 2, 2B, 5, 6, 8, 9, and 13.

4.2 Reason for appeal:

The decision has restructured the objective so that the matters are objectives, rather than policies. While this approach is supported other changes are significant to how the objective will provide guidance to the plan.

Clause 1B: The s42A report recommended that a new clause 1B be included to identify values and uses of freshwater and establishing objectives for those values. The decisions report considers that this is essentially a process matter, rather than an objective, so does not include it as an objective.

Horticulture NZ considers it is a relevant objective to identify values and uses of water. This should be an overarching objective in the RPS. The process of how the values and uses are identified and established is a policy matter but there needs to be an overarching objective to support the identification of values and uses of freshwater.

Clause 2: The notified plan had an objective that "specifies targets and implements methods to assist improvement of water quality in catchments to meet those targets within specified timeframes." The decisions change it to "the improvement of water quality in water bodies that have been degraded". There is no benchmark as to how 'degraded' would be defined. The benchmark should be where water bodies do not meet the limits established to give effect to the freshwater objectives. HBRC has not established limits according to the NPS yet, and is currently using pre – NPS derived standards from the last generation plan as a substitute. This is not an acceptable approach

Clause 2B: A new clause has been added by decision "avoiding any further over-allocation of freshwater and phasing out existing over-allocation." Before any actions to manage over-allocation can occur there needs to be identification of where there is over-allocation. The RPS is to give effect to the NPSFM and needs to demonstrate how that will be achieved, not simply repeating the NPSFM objective in the RPS.

Clause 5: The decisions add 'municipal water supplies' to Clause 5, hence giving such water uses the same status as human and animal drinking water. While human and animal drinking are recognised and provided for in s14 (3) b) municipal water supplies are not accorded the same status. Municipal water supplies can be used for a range of purposes, including industrial and primary production purposes. These uses should not be given a priority or status greater than other uses of water. It is important that there is provision for essential sanitary uses of water and an amendment to the clause is sought to reflect this use.

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Clause 6: The decision deletes the 'value' of fresh water for food, beverage and fibre production and replaces it with 'importance'. Food production is a 'value' identified in the NPSFM and therefore needs to be a 'value' in the RPS. The decision appears to consider that the change recommended in the s42A report was a 'grammatical amendment'. Horticulture NZ considers that the change is fundamental and seeks that 'value' be reinstated.

Clause 8: Horticulture NZ sought the inclusion of audited self- management in the Objective. This submission does not appear to be addressed in the decisions relating to Obj LW1. Recognition of the benefits of industry good practice is supported but audited self-management is a key component of such good practice and should be specifically recognised in the RPS.

Clause 9: The decision report deletes Clause 9 'the efficient allocation and use of water' as it is encompassed in new Clause 2B. Clause 2B only relates to the over-allocation of water. Efficient allocation and use relates to all use of water, regardless of whether it is over-allocated or not. It is essential that there is an objective which seeks efficient allocation and use of water so that it provides a platform for the policy framework.

Clause 13: The decisions add an additional clause 'recognising and providing for the recreational and conservation values of fresh water bodies'. The recreational and conservation values have not been specified so 'the' should be deleted. Such values should be identified so they are known.

4.3 Relief Sought:

Amend Objective LW 1 as follows:

1B Identify values and uses of freshwater and establish objectives for those values.

- 2: The improvement of water quality in waterbodies that do not meet freshwater objectives.
- 2B Establish where over-allocation of freshwater has occurred and phase out existing over-allocation.
- 5. Recognising the regional value of fresh water for essential human and drinking purposes and sanitary purposes.
- 6. Recognising the significant regional and national value of fresh water use for production and processing of beverages, food and fibre.
- 8. Recognising the benefits of industry good practice, including audited self-management programmes, to land and water management.
- 9. Ensures efficient allocation and use of water.
- 13. Recognising and providing for identified recreational and conservation values of fresh water bodies.

5. Decisions appealed against:

Decisions on Principal Reasons and explanation for Objectives

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5.1 Description of the subject-matter of the proposal or decision and specific provision, omission, or part of decision on submissions being referred:

The Horticulture NZ submission sought changes to the Principal Reasons and explanation for Objectives. The decisions report (Para 193) does not specifically consider the changes sought but states that it accepts the amendments recommended in the s42A Report.

5.2 Reason for appeal:

Horticulture NZ does not accept that RiVAS as a suitable tool for ascertaining values as it is not objective in the selection of values, and it has not been completed as an assessment tool. Therefore it was sought that the tool be deleted as a specific method in the RPS. In addition the process described for setting values in the Hawkes Bay has not been inclusive and should be deleted.

5.3 Relief Sought:

Delete Paragraph 4 of the Principal Reasons and explanation for Objectives.

6. Decisions appealed against:

Decisions on Policy LW 1

6.1 Description of the subject-matter of the proposal or decision and specific provision, omission, or part of decision on submissions being referred:

Horticulture NZ made a submission and further submission on Policy LW1.

The decision has restructured the policy so that the matters are clearly policies. While this approach is supported other changes are significant to how the policy will work to implement the objectives, in particular 1a), 1 gA) 1 iE), 2 b), 2c), 2 d), 2 e) and 4.

6.2 Reason for appeal:

The purpose for POL LW1 is to give direction for the preparation of regional plans. If that is the case then the heading to the policy should make that clear. A change is sought to include 'plans' in the heading of the policy.

Clause 1a): The decisions delete Clause 1a) which refers to the integrated management approach in Objective LW1. It is accepted that a policy implements an objective – not be consistent with the objective. The decision does not consider that it is necessary to refer to the objectives. However OBJ LW 1 and OBJ LW 2 are critical to how the policy will be implemented so it is important that they are specifically referred to. The aim is for the policy to achieve the objectives and a change is sought to provide this direction.

Clause 1 gA): The decision includes a new policy to work collaboratively with the catchment communities. Horticulture NZ supports this approach. However it needs to be clear that for a collaborative process to be effective communities need to choose their own representation so that it has the buy-in of the community.

Clause 1 iE): Horticulture NZ sought that a new policy be included to recognise and provide for existing use and investment including the production of food, fibre and beverages. This is needed to implement Objective LW 1 6). The decision does not add the policy sought.

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Other policies are included to provide for matters identified in Obj LW 1, such as infrastructure. To be consistent food production should also be included in the policy framework. The s42A Report recommended that a policy be included, but used essentially the same wording as OBJ LW 1. 6). The decision (Para 234) considers potential wording to include a policy regarding food production but considers that there was no jurisdiction for the proposed wording. The Horticulture NZ submission sought specific wording on this matter and this is sought to be included as Policy LW1 iE).

Clause 2 b): Policy 1.2b) has been added in the decision. It seeks to identify the values for freshwater and the spatial extent within each catchment. While this is supported ISS LW 1 and OBJ LW2 seeks to balance values and uses within a catchment so it is important that Policy LW1.2 b) also identifies values and uses. Policy LW2 and Table 1 also refer to values and uses so it is clear the intent of the RPS is to include both values and uses and POL LW 1 should be consistent with that approach.

Clause 2 c): Policies 1.2c) has been added in the decision. It seeks to establish freshwater objectives based on the values identified in clause b) and set priorities amongst those values. A change is sought to POL LW1.2 b) to refer to values and uses. Clause c) should be amended to be consistent with this change.

Clause 2 d): Policy 1.2 d) has been added by the decision. It seeks that water quality limits, targets and minimum flows, and water quantity allocation limits are set. Horticulture NZ seeks that the policy specifically states that both ground and surface water limits are set. It is important that both are set independently of each other.

Clause 2 e): Consistent with the changes sought to Clause 2d) clause e) should be amended to refer to ground and surface water quality and quantity limits and targets.

Clause 4: Policy LW1.4 has been added by the decision based on the notified POL LW1 j) which allowed for reasonable transition times and pathways. However the policy added by the decision only has to 'have regard to' allowing reasonable transition times and pathways. When developing regional plans it should be required to allow for reasonable transition times and pathways. Therefore a change is sought to Clause 4 to delete 'have regard to'. In addition clause 4b) refers to 'good land and water management practices' but does not provide guidance as to how such practices will be defined. It is important to recognised the role of industry in defining good land and water management practices.

6.3 Relief Sought:

Amend Policy LW 1 as follows:

POL LW 1 Problem Solving approach – catchment based integrated management plans

Add at the beginning of the POL LW 1.1 'In achieving OBJ LW 1 and LW 2, adopt an integrate management approach....

OR reinstate amended 1a) to achieve the integrated management approach in Obj LW1 and Obj LW2.

- 1 gA) Involves working collaboratively with the catchment communities, including allowing communities to choose their own representation in the collaborative process;
- 1 iE) Recognises and provides for existing use and investment including the production of

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food, fibre and beverages.

- 2 b) identify the values and uses for freshwater
- 2c) establish freshwater objectives based on the values and uses identified in clause b) above....
- 2 d) set ground and surface water quality limits, minimum flows and ground and surface water quantity allocation limits so as to achieve the freshwater objectives identified under clause c);
- 2 e) set out how the ground and surface water quality and quantity limits will be implemented....
- 4. When identifying methods and timeframes in regional plans to achieve limits required by Policy LW1.2 e):
- a) Allow reasonable transition times and pathways....; and
- b) promote and enable the adoption and monitoring of industry defined good land and water management practices

7. Decisions appealed against:

Decisions on Principal explanation and reasons Policy LW1

7.1 Description of the subject-matter of the proposal or decision and specific provision, omission, or part of decision on submissions being referred:

The decision adds reasons and explanation but does not provide any reasons or justification for the additional text.

7.2 Reason for appeal:

The text added to the Principal reasons and explanations identifies some values. By identifying some values, and not others, it effectively establishes a priority of values. This is inappropriate as the policy framework seeks to identify values for freshwater. The explanation it the RPS should not predicate or anticipate the values establishment process.

7.3 Relief Sought:

Delete Paragraph 2 of Principal reasons and explanation to POL LW1.

8. Decisions appealed against:

Decisions on Policy LW 2 Prioritisng values and Table 1

8.1 Description of the subject-matter of the proposal or decision and specific provision, omission, or part of decision on submissions being referred:

Horticulture NZ made submissions seeking addition of values to Table 1. Some changes have been made but not the addition of food production as sought.

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8.2 Reason for appeal:

The decisions amend Table 1. Horticulture NZ sought the addition of fresh water use for beverages, food and fibre production and processing as a primary value and use. The Notified OBJ LW1 6) identified the significant regional and national value of fresh water use for beverages, food and fibre production and processing. Therefore these values and uses should be included in Table 1. The Table includes water use associated with maintaining or enhancing land-based primary production but this does not adequately incorporate the production of food for social and economic wellbeing of the community.

8.3 Relief Sought:

Include as primary values in each catchment:

fresh water use for beverages, food and fibre production and processing.

9. Decisions appealed against:

Decisions on Policy LW3 Problem solving approach - Managing use of production land use

9.1 Description of the subject-matter of the proposal or decision and specific provision, omission, or part of decision on submissions being referred:

The decisions amend the focus of POL LW3 to now apply region wide and does not include all contributors of nitrogen. Horticulture NZ made submissions on POL LW 3 seeking changes to the policy.

9.2 Reason for appeal:

Policy LW 3 a) as notified addressed all forms of discharge of nitrogen. The decisions amended the discharges to only be only losses from crops and plants grown on production land. Therefore all other sources of nitrogen were excluded, such as urine from livestock and leachate from compost and silage. It is not clear whether it was the intent to specifically exclude some sources of nitrogen. Such an approach does not implement the objectives and should be amended.

As notified POL LW 3 applied to specified catchments. It was taken to mean the catchments specified in POL LW 2 and Table 1. However the decision deletes the specified catchments as it appeared unclear. This means that the policy is applied region wide, even though this approach was not considered as part of the notification of Change 5. The effects of applying the policy region wide need to be assessed, including costs and benefits. The policy should be amended so that it is clear that it refers to the catchments specified in POL LW 2, consistent with the notified intent.

Horticulture NZ sought recognition of existing investment and the ability of production land to meet nitrogen limits set in regional plans. The decision appears to consider that Horticulture NZ withdrew from that position at the hearing. That was not the case. Rather it was identified that inclusion of the loss of nitrogen below the root zone of the crops being grown was an effective mechanism to address issues raised, but that did not foreclose on recognition of existing investment.

Horticulture NZ also sought recognition of audited self-management programmes. The decision states that the Officers recommended that this could be included in the Principal

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Attachment 3

reasons and explanation, however no such change is included in the decision. It is important that industry good practice, in particular audited self-management programmes are includes as part of the policy for managing production land activities. Inclusion in an explanation is not sufficient. This would give effect to OBJ LW 1.8.

9.3 Relief Sought:

Rename POL LW 3 – Problem soliving approach – Managing production land use activities.

Amend POL LW 3.1 as follows:

To manage the use of and discharges from production land in the catchments specified in POL LW 2 and Table 1:

Amend POL LW 3 a): the loss of nitrogen from the root zone of crops and plants grown on production land, the discharge of urine from livestock to land, and the discharge of nitrogen from other sources, and thereafter to groundwater and surface water, does not cause catchment area or sub-catchment limits of nitrogen set out in regional plans to be exceeded, taking into account the existing investment (including investment in natural capital), and the ability of existing production land uses to meet those limits.

Provide for the use of audited self-management programmes to achieve good management of production land.

10. Decisions appealed against:

Decisions on Policy LW 4 Role of non-regulatoyr methods

10.1 Description of the subject-matter of the proposal or decision and specific provision, omission, or part of decision on submissions being referred:

Horticulture NZ made submissions on. POL LW 4. The decision adds a new clause relating to industry good practice as a non-regulatory method.

10.2 Reason for appeal:

While the addition of recognition of industry good practice as a non-regulatory method is supported it should not take the place of industry good practice as a regulatory tool. The policy sets out that HBRC will strongly encourage collaborative partnership initiatives through the Pan Sector Group and adds a footnote regarding the Pan Sector Group.

Horticulture NZ does not consider that the policy should be limited to implementation through one particular mechanism. The Pan Sector Group may cease to be in existence in the future and so limit the implementation of POL LW 4 e).

10.3 Relief Sought:

Delete the 2nd sentence of POL LW 4 e) and the footnote to the policy regarding the Pan Sector Group.

11. Decisions appealed against:

Definition efficient allocation

11.1 Description of the subject-matter of the proposal or decision and specific provision, omission, or part of decision on submissions being referred:

Horticulture NZ sought a definition for efficient allocation and use. The decision includes a definition for efficient allocation, but not use.

11.2 Reason for appeal:

Throughout the change the term 'efficient allocation and use' is used, such as OBJ LW 1 9) and POL LW 1 j). Therefore the term that should be defined in 'efficient allocation and use'. The definition is based on the definition in the NPSFM which is 'efficient allocation.' However in the RPS the term also incorporates 'use' so it is important that it is included in the definition. While the NPSFM can be used as a basis the Plan should specifically define the terminology that it uses.

11.3 Relief Sought:

Amend the definition of 'efficient allocation' to 'efficient allocation and use' as follows: Efficient allocation and use, for the puposes of this plans means

12. Decisions appealed against:

The decision to not inlcude a new issue, objective and policy to provide for how decisions on over-allcoated water resources should be made.

12.1 Description of the subject-matter of the proposal or decision and specific provision, omission, or part of decision on submissions being referred:

Horticulture NZ made a submission seeking new issue, objective and policy to provide for how decisions on over-allocated water resources should be made. The decision does not include the new framework.

12.2 Reason for appeal:

It is considered that the RPS and Change 5 do not adequately address how management decisions on over-allocated water resources should be made. It is appropriate that the RPS give direction for such decisions and establishes a framework for the work required to underpin such decisions. In the absence of such knowledge the decisions on over-allocation are compromised.

As the matter involves both land and water use it is appropriate that provisions are included in the new Chapter 3.x

12.3 Relief Sought:

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Attachment 3 Horticulture NZ

Add a new LW Issue as follows

ISS LW X1 Management decisions are being made under assumptions that some waterbodies are over-allocated, in the absence of completed water balance models, established limits for groundwater resources, established abstractive limits and methods for assessing the nature of takes, or their contribution to established limits.

Add a new LW Objective as follows

Ensure that there is adequate information available to establish limits for water quantity and water quality.

Principal reasons and explanation:

Establishing limits for waterbodies is dependent on adequate and robust information. Currently there is a lack of information, particularly on groundwater models and allocation volumes and methods for assessing the nature of takes, or their contribution to established limits. There is pressure on resources and the information is required to enable resource allocation decisions to be made.

Complete development of:

- 1. A groundwater model for the Heretaunga Plains by 2013;
- 2. Groundwater limits for Heretaunga Plains groundwater bodies by 2015;
- 3. Established groundwater management zones by 2015;
- 4. Transitional allocation volumes for surface and groundwater bodies by 2013;
- 5. Allocation volumes for surface and groundwater bodies by 2025;
- 6. Surface water quality limits by 2017:
- 7. Ground water quality limits by 2025;
- 8. Reassessment of allocation status by 2025.

Or provide similar relief through a policy suite tied back to an appropriate issue and objective.

Include a new POL LW X1 Resource assessment

- 1. Develop discreet water management zones or units and assign existing takes and uses to the appropriate water body management unit by 2013.
- 2. Prioritise completion of resource assessments for the Heretaunga Plains, to aid the establishment of limits and to determine the allocation status for the Heretaunga Plains water management zones by 2025.
- 3. Develop transitional allocation limits not less than the sum of paper allocation (consents), and modelled abstractions (permitted activities and other existing takes) for Heretaunga Plains water bodies by the dates specified in the Objective above.
- 4. Develop limits for water quality resources that provide for existing primary production activities.
- 5. Take a whole of catchment approach when establishing limits, to ensure that existing land use activities are not compromised by new or proposed land use activities.
- 6. Provide for transition to the limits based approach, by establishing transitional limits that protect efficient existing investment in the short term.
- 7. Develop priorities for management of water in times of restriction, including allowance for drought intolerant crops, water for production and processing of food post-harvest, stock drinking water and human health and sanitation requirements.
- 8. Develop methods for managing within limits, to detail how over-allocation will be managed once a limit has been established.

13. General Reasons

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Not withstanding the specific reasons stated for appeal Horticulture New Zealand considers that the Plan is not consistent with the Purposes and Principles of the Resource Management Act 1991.

14. General Relief Sought:

That consequential amendments be made as a result of relief sought above.



Chris Keenan

Manager – Resource Management and Environment

Horticulture New Zealand

Dated: 18 July 2013

Address for service of applicant:

Chris Keenan Manager – Natural Resources and Environment Horticulture New Zealand PO Box 10-232 WELLINGTON, 6143.

Tel: 64 4 472 3795 DDI: 64 4 470 5669 Fax: 64 4 471 2861

Email: chris.keenan@hortnz.co.nz

Attachment 3

Advice to recipients:

How to become a party to proceedings

You may be a party to the appeal if you made a submission or further submission on the matter of this appeal and you lodge a notice of your wish to be a party to the proceedings (in Form 33) with the Environment Court within 15 working days after the period for lodging of notice of appeals end.

Your right to be a party to the proceedings in the court may be limited by the trade competition provisions in section 274 (1) and Part 11A of the Resource Management Act 1991. You may apply to the Environment Court under section 281 of the Resource Management Act 1991 for a waiver of the above timing requirements or service requirements (see Form 38).

How to obtain copies of documents relating to the appeal

The copy of this notice served on you does not attach a copy of the appellant's submission or the decisions appealed. These documents may be obtained, on request, from the appellant.

Advice

If you have any question about this notice contact the Environment Court in Auckland, Wellington or Christchurch.

Contact details of Environment Court for lodging documents

5th Floor District Court Building Location:

49 Ballance St Wellington 6011

Postal: PO Box 5027

Wellington 6040

Telephone: 4 918-8300 Fax: 4 918-8303

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ITEM 7 CHANGE 5 APPEALS Page 66 1 July 2013



Ngāti Kahungunu lwi

The Chief Executive
Hawke's Bay Regional Council
Private Bag 6006
NAPIER
4142

Fax: 06 835 3601

Dear Sir,

We enclose by way of service, a copy of our notice of appeal to the Environment Court in relation to the Hawke's Bay Regional Council decisions on Proposed Plan Change 5 to the Regional Resource Management Plan (incorporating the Regional Policy Statement). We also include a copy of our-application to the Court for waivers and directions.

If you have any queries regarding the appeal or the application, please contact me in the first instance.

Yours faithfully

Dr Adele Whyte

For Ngāti Kahungunu lwi Incorporated

P O Box 2406

HASTINGS

4153

Ngāti Kahungunu lwi Inc Proposed PC5 Appeal 1 07 2013

304 FITZROY AVENUE, PO BOX 2406, HASTINGS, 4153 HAWKE'S BAY, NEW ZEALAND

PHONE 06 8762718 TOLL FREE 0800 524 864 FACSIMILIE 06 8764807 EMAIL: paatai@kahungunu.iwi.nz WEBSITE: www.kahungunu.iwi.nz

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IN THE MATTER OF THE RESOURCE MANAGEMENT ACT, 1991

AND IN THE MATTER OF

PROPOSED PLAN CHANGE 5 TO THE HAWKE'S BAY REGIONAL RESOURCE MANAGEMENT PLAN, AUGUST 2006

AN APPEAL UNDER CLAUSE 14 OF THE FIRST SCHEDULE TO THE ACT, IN LIKE MANNER TO FORM 7

FROM NGĀTI KAHUNGUNU ÌWI INCORPORATED

ADDRESS FOR SERVICE:

Dr Adele Whyte Acting Chief Executive Ngāti Kahungunu lwi Inc P.O. Box 2406 Hastings 4153

Phone: (06) 876-2718 Fax: (06) 876-4807

Email: adele@kahungunu.iwi.nz

TO:

The Registrar
The Environment Court
P O Box 5027
DX: SX10044
WELLINGTON

1. APPELLANT:

Ngāti Kahungunu lwi Incorporated (NKII)

2. AUTHORITY WHICH MADE THE DECISIONS SUBJECT TO THIS APPEAL:

Hawke's Bay Regional Council Private Bag 6006 Napier 4142

3. STATEMENT:

We are not a trade competitor for the purposes of section 308D of the Resource Management Act. We made submissions to proposed Plan Change 5 to the Hawke's Bay Regional Resource Management Plan (incorporating the Regional Policy Statement) and presented and spoke to our submissions at the relevant hearings.

4. DATE OF RECEIPT OF THE DECISIONS:

The decisions were publicly notified $5^{\rm th}$ June 2013 and we received hard copies of the decisions shortly thereafter.

5. RESOURCES AFFECTED BY THE DECISIONS:

The resources affected by the decisions are natural and physical resources within the Hawke's Bay region including land, ground water and surface water resources and the species they contain, and natural resources within the coastal marine area. Many of these are regarded by Ngāti Kahungunu as ngā taonga tuku iho.

6. DESCRIPTION OF THE SUBJECT MATTER:

The decisions reached by the hearings committee and adopted by Hawke's Bay Regional Council in relation to proposed Plan Change 5 and the statements, evidence and relief sought within our written and oral submissions.

7. RELIEF SOUGHT:

- (a) Amend provisions in Plan Change 5 so that it gives effect to Objective D1 and Policy D1 of the National Policy Statement for Fresh Water Management (NPS FWM).
- (b) The addition of a discrete tangata whenua objective and policy strand to provide surety that tangata whenua interests and values are catered for in a manner envisaged by the NPS FWM, the Land and Water Forum, and Treaty settlement agreements.
- (c) Classification of the Heretaunga aquifer system as an outstanding fresh water body, and support this through objectives and policies in proposed Plan Change 5.
- (d) Recognition of the cumulative effects of activities related to land and water management, on tangata whenua interests and values within the coastal marine area, including the significance of the coastal marine area to Ngāti Kahungunu whānau, hapū and iwi.
- (e) Better integration between proposed Plan Change 5 provisions and other Māori / tāngata whenua provisions within the rest of the Regional Policy Statement and Regional Plan.
- (f) Amend Objective 34 in Chapter 3.14 to read: "To recognise and provide for matauranga a hapu o Ngati Kahungunu and local tikanga Maori values and interests, and the contribution they make to sustainable management and the fulfillment of HBRC's role as established under the RMA, and tangata whenua roles as kaitiaki."
- (g) Add a new objective OBJ 34A: To recognise that the whole of the coastal marine area is of significance to Ngati Kahungunu and to reflect this significance in policies and plans.
- (h) Amend explanation and reasons in 3.8.2 (as proposed) by adding: "The Heretaunga Plains aquifer system is one of the region's outstanding freshwater bodies." Objective A2(a) of the National Policy Statement for Freshwater Management directs that the overall quality of freshwater within the region is maintained or improved while protecting the quality of outstanding freshwater bodies."

- (i) Retention of the operative (August 2006) version of Objective 21 and amend Objective 22 as specified in the original NKII submission.
- (j) Amend proposed Policy LW3 Managing use of production land, and the explanation and reasons statement so that they encompass the amendments specified in paragraphs 64.1 and 65.1 of the NKII submission, and change clause (a) to read: -

"the discharge of nitrogen to land, and thereafter to groundwater is restricted to minimise adverse effects on water quality;" and for clause (c)

"soluble reactive phosphorus limits set out in Policy 71 of this plan will be regulated through resource consent conditions."

Amend the reasons and explanation for Policy LW3 to read: --

"Policy LW3 makes it clear that HBRC will manage production land use activities to minimise the leaching of nitrogen, phosphorous and faecal coliform bacteria to groundwater and surface water under sections 9 and 15 of the RMA in order to ensure that groundwater and surface water values identified inspecified catchment areas are maintained or enhanced."

- (k) Amend Issue statement in RRMP Ch 3.10 (Surface Water Resources) by adding two new clauses to read:
 - (d) The potential contamination of aquifers and consequential degradation of surface water", and
 - (e) The relationship between ground water quality and surface water recharge."
- (I) Amend clauses in proposed POL LW1to include:
 - "(d) protects water quality and water quantity of outstanding freshwater bodies identified in Policy LW1.
 - (k) allows for large-scale community water storage infrastructure
 to provide increased security for water users in over-allocated catchments
 while avoiding, remedying or mitigating adverse effects on water resources,
 associated ecosystems, environments and tikanga Maori values;" and
 - "Takes into account cumulative effects when managing water quantity and quality."
- (m) Amend Table 1 in POL LW2 thus: -
 - to include as a primary value for each of the catchment areas: "the relationship of tangata whenua with the river;
 - separate the "Greater Heretaunga/Ahuriri Catchment Area" into separate parts, i.e. Karamu, Ngaruroro etc;
 - add the following as primary values / uses for each of the Catchment Areas: "tikanga Maori", "kaitiakitanga", "natural character" and "aquifer recharge zones;"

- relocated from secondary values / uses to primary values / uses for all catchment areas: "trout habitat", "native fish habitat" and "contact recreation;"
- add "water quality in the Heretaunga aquifer" as a Primary value i use for the Greater Heretaunga/Ahuriri Catchment Area;
- add "water quality in the Ruataniwha aquifer" as a Primary value / use for Tukituki Catchment Area.
- Transfer stock water use to the secondary value / use column
- (n) Amend AERs in Ch 3 to include: "tikanga Maori and the values therein are taken into account when managing freshwater" or words to like meaning and effect.
- (o) Deletion of the Issue LW1A as it lacks provenance due to no submitter having asked for it to be included.
- (p) Separation of land management and water management within the objectives and policies for Plan Change 5.
- (q) Add a new tāngata whenua objective and policy to the proposed plan as below, and make any consequential amendments to other objectives and policies within Plan Change 5: -

"OBJ LW3

Issue: Tāngata whenua cultural interests in natural resource management

- To recognise and provide for tangata whenua values and interests in integrated resource management matters associated with fresh water, associated ecosystems, land use and development, and for the coastal environment through:
 - a) ensuring the mana of hapū, whānau and iwi is appropriately acknowledged in all natural resource management matters throughout the region
 - b) endorsing Māori spiritual values including Wairuatanga, Mauri and Kaitiakitanga as fundamental values that contribute positively to sustainable resource management outcomes
 - c) ensuring further breaches of the Treaty of Waitangi are not created through local government decision-making
 - d) acknowledging Māori rights and interests in the management of taonga including wāhi tapu, wāhi taonga, fresh water resources including fresh water bodies of significance to Maori, and coastal waters and resources e) providing for appropriate access for tāngata whenua to nohoanga and those resources in d) above for cultural and traditional purposes

Policy LW3.1

Fresh water, land use and development

Fresh water quantity and quality will be managed in a manner that ensures: -

a) adverse effects on water resources and aquatic flora and fauna of significance to tāngata whenua are managed in a manner that avoids, remedies or mitigates adverse effects that are more than minor.
b) abstractions from aquifers and ground water zones are managed within sustainable limits and sustainable ground water levels to ensure total abstraction volume does not exceed average annual rates of recharge c) where relevant, the connectivity between ground and surface water is reflected in resource consent conditions, and surface water abstraction is restricted so as to maintain or enhance characteristics of significance to tāngata whenua

- d) discharges to surface water or to land will be managed in a manner that:
- acknowledges t\u00e4ngata whenua values and interests in the receiving environment
- ii) protects those characteristics of natural resources of significance to tāngata whenua
- iii) where appropriate, provides for cultural monitoring of fresh water resources
- e) community water schemes will be managed within limits that support the sustainable use and management of natural ecosystems, tāngata whenua interests and values, and the ecology of rivers, lakes, wetlands, estuaries and aquifers

Policy LW3.2

Issue: Tāngata whenua and management of the coastal environment.

The whole of the coastal marine area of Hawke's Bay is of significance to Ngāti Kahungunu. Management of the region's land and fresh water resources will take into account the potential for cumulative adverse effects of land use and fresh water use and development on the coastal marine area and ensure: -

- a) recognition of and provision for the interests of the coastal hapu of Ngāti Kahungunu who hold mana moana over the coastal environment and its natural resources.
- b) management of the coastal environment shall recognise and provide for the status and kaitiaki role that the coastal hapu of Ngāti Kahungunu have within each of their traditional rohe.

8. REASONS FOR OUR APPEAL:

(a) The section 32 analysis did not give due consideration to the hierarchy within resource management processes under the RMA 1991, and consequently the

ITEM 7 CHANGE 5 APPEALS PAGE 73

objectives and policies as proposed, and some of the decisions on submissions, do not give effect to the RPS FWM.

- (b) Inadequate consideration for the values and interests of tangata whenua in terms of how these were taken into account or recognised and provided for in decisions on proposed Plan Change 5 objectives, policies and other provisions.
- (c) Failure to give appropriate recognition to Treaty settlements around fresh water related issues
- (d) The decisions do not identify and protect outstanding fresh water bodies
- (e) The decisions on the proposed plan enable activities without taking into account the relationships of tangata whenua with the coastal marine area and resources therein.
- (f) The potential for the proposed plan to enable further degradation and unsustainable use of fresh water resources within Hawke's Bay.
- (g) Some decisions do not appear to have provenance from submissions.
- (h) Some of the decisions do not promote the sustainable management of natural resources.

SIGNED:

Dr Adele Whyte Acting Chief Executive

DATE: \/7/13. "

FOR: Ngāti Kahungunu lwi Incorporated

ATTACHMENTS:

- A: Original submissions lodged by the appellant
- B: Submissions presented at the relevant hearings
- F: Decisions of the Hawke's Bay Regional Council
- G: Application for waivers and directions
- H: List of parties to be served
- I: Filing fee of \$511.11
- J: Two copies of our appeal

ITEM 7 CHANGE 5 APPEALS PAGE 75

IN THE ENVIRONMENT COURT IN THE MATTER OF The enclosed appeal under Clause 14 of the First Schedule to the Resource Management Act, 1991 Ngāti Kahungunu lwi Incorporated **BETWEEN Appellant** Hawke's Bay Regional Council **AND** Respondent TO: The Registrar **Environment Court** P O Box 5027 Wellington 6040 Ngāti Kahungunu lwi Incorporated Proposed HBRC PC5 appeal 01072013 - Application for Waivers

APPLICATION FOR WAIVERS AND DIRECTIONS

1. Applicant:

Name:

Ngāti Kahungunu lwi Incorporated

Address:

PO Box 2406

Stortford Lodge HASTINGS

4153

Phone:

(06) 876 2718 (06) 876 4807

Fax: Email:

adele@kahungunu.iwi.nz

2. Statement:

We are a party who made submissions on proposed Plan Change 5 to the Hawke's Bay Regional Resource Management Plan, the subject matter of the enclosed Notice of Appeal.

3. Nature of proceedings:

The notice of appeal under the First Schedule of the Resource Management Act, 1991, in regard to the Hawke's Bay Regional Council's decisions on proposed Plan Change 5 to the Hawke's Bay Regional Resource Management Plan (Notice of appeal lodged with this application).

Ngāti Kahungunu Iwi Incorporated Proposed HBRC PC5 appeal 01072013 – Application for Waivers 2

4. Waivers and Directions Sought

In regard to the notice of appeal filed with this application, the applicant seeks the following waivers and directions pursuant to section 281 of the Resource Management Act, 1991: -

- i) The dispensing of the requirement for service on the Hawke's Bay Regional Council as decision-maker and on the submitters to the proposed plant change, of three of the attachments to the notices of appeal, being:
 - A copy of the appellant's (Ngāti Kahungunu lwi Incorporated's) initial submission
 - A copy of the additional submissions we presented at the hearings
 - The respondent's decisions on the proposed plan, and
- ii) That a copy of the notice of appeal, a copy of the application for waivers and directions and the list of those parties required to be served, be considered sufficient for service on the respondent and on submitters to the proposed plan.
- iii) If the Court sees fit not to grant this waiver of the requirements as requested, that the Court consider an extension of the time for service of these documents.

5. The grounds for this Application are:

The Hawke's Bay Regional Council and submitters at the relevant hearings for the proposed plan have already received copies of the appellant's submissions and the Regional Council distributed summaries of our initial submissions to all submitters prior to the hearings being held.

The relevant decisions of the Regional Council, which are the subject of this appeal, have likewise been supplied to all submitters who were party to the proceedings and these have been readily available on the council's website.

Ngāti Kahungunu lwi Incorporated Proposed HBRC PC5 appeal 01072013 – Application for Waivers

3

That the grounds for this application for waivers and directions are reasonable, will avoid unnecessary expense and will not result in any prejudice or inconvenience to any persons involved.

While awaiting the Environment Court's decision on this application, the appellant will serve on parties in the "List of Parties to be Served",: -

- . A copy of the notice of appeal
- A copy of this application for waivers and directions, and
- A list of the parties to be served

Signed:

Date: 1/7/13

Dr Adele Whyte

Acting Chief Executive

6. Address for Service

Ngāti Kahungunu lwi Incorporated P O Box 2406 HASTINGS 4153

Ngāti Kahungunu Iwi Incorporated Proposed HBRC PC5 appeal 01072013 – Application for Waivers

HAWKE'S BAY REGIONAL COUNCIL

REGIONAL PLANNING COMMITTEE

Wednesday 07 August 2013

SUBJECT: DRAFT ANNUAL REPORT FOR NATIONAL POLICY STATEMENT (NPS) FRESHWATER MANAGEMENT IMPLEMENTATION PROGRAMMES

Reason for Report

1. The purpose of this paper is to present a report on the Council's progressive implementation of the National Policy Statement for Freshwater Management ('NPSFM') covering the 2012-13 financial year period.

Comment

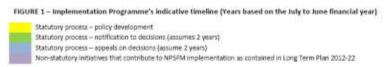
- 2. In September 2012, Hawke's Bay Regional Council adopted an Implementation Programme in accordance with Policy E1 of the NPSFM. The Programme outlines key activities that the Council will undertake to implement the NPSFM by 2030. Policy E1² of the NPSFM requires that Council annually report on the extent to which the Programme has been implemented. The Programme signals that this annual reporting will be published as part of the Council's 'Annual Report.'
- Annual reporting on the Programme is required until the programme is completed (i.e.
 until the NPSFM is fully implemented as relevant in Hawke's Bay's regional policy
 statement and regional plans).
- 4. Exactly how the Programme looked and what it contained was up to the Council's own discretion. Similarly, how annual reporting of implementation looks and what it contains is also up to the Council's own discretion.
- 5. Staff recommend that the Council's 2012/13 Annual Report include the content of Attachment 1 in two forms:
 - 5.1. Firstly, a brief bulleted list of key milestones and achievements as part of the Council's 2012/13 Annual Report 'performance overview'; and
 - 5.2. secondly, a fuller commentary of activities to implement the NPSFM as an appendix to the Council's 2012/13 Annual Report.
- 6. The fuller commentary in Attachment 1 is akin to a 'stocktake' of progress and status as set against the Programme's indicative timelines.

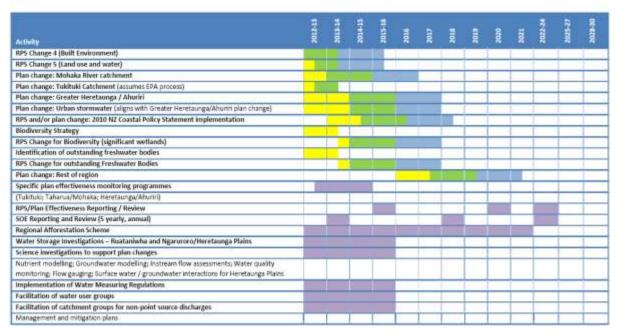
Programme revisions

- 7. The NPSFM does not specifically require the Programme to be updated, but staff think it would be beneficial to update the Programme from time to time to incorporate and changes or revisions. Revisions to the Programme should correspond to financial and resourcing requirements determined through the Council's annual plan and/or long term plan review processes. There may also be other factors that influence the timing and completion of implementation activities which warrant revisions to the Programme over time.
- 8. In the 2013/14 Annual Plan, the Council has already adopted revised timeframes for statutory plan change processes under the RMA for:
 - 8.1. public notification of a plan change for the Greater Heretaunga/Ahuriri area (and with it, the plan change for urban stormwater);
 - 8.2. public notification of a plan change for the Mohaka River catchment; and

² NPSFM Policy E1(e) reads:

- 8.3. completion of the Regional Biodiversity Strategy, which influences timing of any changes to the RPS and/or regional plans.
- 9. The Programme assumed Plan Change 6 (Tukituki River Catchment) would be called in via the Environmental Protection Authority. That is now indeed the case so the Programme's indicative timeframes still hold.
- 10. Staff recommend that the original 2012 Programme's Figure 1 (see below) should be revised to incorporate the 2013/14 Annual Plan timeframes. The Gantt chart should then be re-published as an addendum to the original 2012 Programme. Additional revisions arising from future annual reporting could be published in a similar fashion. This would provide a 'running tally' of versions compared against earlier versions.





Decision Making Process

- 11. 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:
 - 11.1. The decision does not significantly alter the service provision or affect a strategic asset.
 - 11.2. The use of the special consultative procedure is not prescribed by legislation.
 - 11.3. The decision does not fall within the definition of Council's policy on significance.
 - 11.4. The persons affected by this decision are all persons with an interest in the region's management of natural and physical resources under the RMA.
 - 11.5. Options that have been considered include preparing an annual report on implementation of the NPSFM, revising the original 2013 implementation programme and not revising the original 2012 programme.
 - 11.6. The decision is not inconsistent with an existing policy or plan.
 - 11.7. 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 Regional Planning Committee:

- Receives the "Draft Annual Report for NPS Freshwater Management Implementation Programme" report.
- 2. Recommends Council 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. Recommends Council agrees that the content of the report's attachment be re-formatted and published as part of the Council's 2012/13 Annual Report.

Gavin Ide TEAM LEADER POLICY Helen Codlin GROUP MANAGER STRATEGIC DEVELOPMENT

Attachment/s

Gar to

1 Draft 2012/13 annual report on progressive implementation of the National Policy Statement for Freshwater Management

Report on progressive implementation of the 2011 National Policy Statement for Freshwater Management

Freshwater is one of our region's most precious natural resources and much of the Regional Council's work revolves around it. In May 2011, the Government introduced the National Policy Statement for Freshwater Management (NPSFM). The NPSFM sets a new direction for maintaining and improving water quality and protecting life in our rivers, lakes, streams and aquifers. For the most part, it is the Hawke's Bay Regional Council's responsibility to implement the NPSFM as it relates to our region. The NPSFM does not specify exactly how it shall be implemented, nor how policy statements and plans should be amended, as that is for each regional community to determine for themselves.

In September 2012, Hawke's Bay Regional Council adopted an Implementation Programme in accordance with Policy E1 of the NPSFM. The Programme outlines the key activities that the Council will undertake to fully implement the NPSFM by 2030. Policy E1³ of the NPSFM requires that Council annually report on the extent to which the Programme has been implemented. The Programme does not start from a blank canvas. Even prior to the NPSFM coming into effect, the Regional Council had significant elements in place that align with and give effect to the NPSFM. Some of those key elements were identified in the NPSFM Implementation Programme. The Programme states that the Council will report annually on Programme implementation progress in its Annual Report.

Below is a brief outline of Council's key implementation achievements during the 2012/13 period. Appendix [X] provides a fuller description of these achievements and several other activities to implement the NPSFM.

Key achievements of NPSFM implementation during 2012-13 period

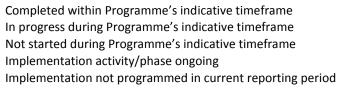
During the 2012-13 period, the Regional Council:

- 1. completed the policy development phase for both RRMP Change 5 (Land use and Freshwater) and Plan Change 6 (Tukituki Catchment). Both Changes have been publicly notified
- 2. heard submissions on Change 5 to the Hawke's Bay Regional Resource Management Plan and issued decisions on those submissions in June 2013
- 3. successfully requested that the Minister for the Environment call-in Plan Change 6 (Tukituki Catchment) as part of the Tukituki Catchment Proposal. Change 6 and associated submissions will be considered by a Board of Inquiry during the 2013/14 period as a proposal of national significance
- 4. assessed a variety of resource management policy options through the Council's Regional Planning Committee, for catchments including the Mohaka River, Tukituki River, and the Greater Heretaunga / Ahuriri catchment area
- 5. is on track to achieve 100% compliance with the first phase of the transitional Resource Management (Measurement and Reporting of Water Takes) Regulations 2010
- 6. facilitated the establishment of key water user groups to work towards efficient water use through alternative water management options

³ NPSFM Policy E1(e) reads:

Appendix [X] - Key milestones and activities for NPSFM Implementation progress

Status key (for 2012-2013 period)



Activity	Status	Comment on 2012 – 2013 progress
Change 4 (Built Environment) to Hawke's Bay Regional Resource Management Plan - Submissions, hearing and decisions phase		Change 4 was publicly notified on 7 December 2011 and 45 submissions were received. Hearings were held on 7 December 2012 and Council released its decisions 26 March 2013.
- Appeals on decisions phase		Transpower NZ Ltd lodged an appeal with the Environment Court against some of the Council's decisions on Change 4. Resolution of that appeal will be ongoing into the 2013/14 period.
Change 5 (Land use and Freshwater) to Hawke's Bay Regional Resource Management Plan - Submissions, hearing and decisions phase		Change 5 was publicly notified 2 October 2012. 29 submissions were received on Change 5 and hearings were held 10-12 April by a panel of RMA-accredited hearings commissioners. On 5 June 2013, Council issued its decisions on submissions.
- Appeals on decisions phase		Four appeals were lodged with the Environment Court against some of the Council's decisions on Change 5. Resolution of appeals will be ongoing into the 2013-14 period.
Plan Change 6 (Tukituki Catchment) - Stakeholder engagement and policy drafting		Stakeholder engagement on the Tukituki plan change and the Ruataniwha Water Storage project occurred via the Tukituki Choices discussion document. This set out four land and water management scenarios, with and without storage and the implications of those options. 3 public meetings and 2 breakfast meetings were held. 164 written responses on the Tukituki Choices discussion document were received. Council endorsed key approaches for the development of the plan change.
- Submissions, hearing and decisions phase		Change 6 was publicly notified on 4 May 2013 and 79 submissions were received. The Council requested the Environment Minister to call in proposed Plan Change 6 (via the Environmental Protection Authority) so it is part of the Tukituki Catchment Proposal (in conjunction with applications for the Ruataniwha Water Storage project). The Environment Minister has since determined that the Tukituki Catchment Proposal is to be called in. Change 6 and the RWSS applications were notified on 6 July 2013. Submissions on the proposal will be heard and decided by a Board of Inquiry during the 2013-14 period.

Activity	tatus	Comment on 2012 – 2013 progress
Plan Change: Mohaka River catchment - Stakeholder engagement and policy drafting		A project update was presented to Regional Planning Committee meeting on 5 September 2012. The Committee supported in-principle the concept of a 'catchment management plan' being a key component of the Taharua plan change. In late 2012 the Ministry for the Environment declined HBRC's application for funding from the Fresh Start for Fresh Water Cleanup Fund and nitrification inhibitors (Eco-N) were voluntarily and indefinitely withdrawn from market, due to dicyandiamide (DCD) traces in milk powder. These two events have had significant implications in arriving at a set of policy solutions for the Catchment. A further update report was presented to the Committee's 5 June 2013 meeting post withdrawal of Eco-N product from market. This reported on further focussed discussions between major landowners about N mitigation options and responsibilities; water quality monitoring trends, science work programmes and a preliminary plan for broader catchment stakeholder engagement.
		For the wider Mohaka catchment supporting science is progressing and stakeholder engagement commenced during the latter half of the 2012/13 period. This will be elaborated on in the 2013/14 period via a 'Mohaka choices' discussion document or similar. At this time Council has directed that staffing and financial resources are diverted into other priority work projects that are considered critical in the short-term.
Plan Change: Greater Heretaunga/Ahuriri - Stakeholder engagement and policy drafting		Council has resolved to take an integrated approach to managing the surface and groundwater resources of the Heretaunga zone which includes Tutaekuri and Ngaruroro rivers, Karamu and Clive rivers and the Heretaunga Plains groundwater system. The TANK stakeholder Group has met seven times to date and a field trip has been undertaken. Update report presented to Regional Planning Committee meeting on 5th June 2013. Group's terms of reference have been confirmed. Current science understanding of issues in the catchment area was presented to the second group meeting. Extension to the time frame for plan change notification is now signalled in the 2013/14 Annual Plan. Council has directed that staffing and financial resources be diverted into other priority work projects that are considered critical in the short-
Plan Change: urban stormwater		term. This Plan Change aligns with Greater Heretaunga/Ahuriri plan change and the policy development will stem from the
RPS and/or plan change: 2010 Coastal Policy Statement implementation		collaborative process being undertaken by the TANK Group. No specific investigations dedicated to solely the coastal environment have been necessary during the period. Gap analysis of RCEP against 2010 NZCPS is yet to be undertaken. Staff resources have been redirected to other projects. Nonetheless, a number of indirectly related investigations have been commissioned in relation to catchment-based regional plan changes (eg: Tukituki and Greater Heretaunga/Ahuriri areas) where the coast is ultimately those catchment areas' receiving environments.
Biodiversity Strategy		Project scoping commenced and completed. Terms of Reference for Working Group have been developed. Working Group's first meeting held in October 2012 focussing on gaining an understanding of what the individuals in the group were doing in the biodiversity area and how best to work as a group in the future. Steering group have met and begun developing the strategy objectives. Steering group members have been reviewed and Mana Whenua connections made to contribute to the development. Refinement of Biodiversity Accord complete with accord concepts to be further refined through the steering group. Inventory work is nearing completion to inform further field investigations in the coming 2013/14 summer period.

Activity	Status	Comment on 2012 – 2013 progress
		Due to staff focus on priority projects the timeline has been revised and the Strategy is now scheduled to be completed in 2014. A programme for work relevant to HBRC for inclusion in the next Long Term Plan will be prepared in 2014-2015.
RPS Change for Biodiversity (significant wetlands)		Policy development is subject to completion of the Regional Biodiversity Strategy.
Identification of outstanding freshwater bodies		Preliminary desktop review and scoping of information regarding possible evaluation criteria commenced. Further criteria development and waterbody assessment is pending development of national guidance on this issue by Ministry for the Environment.
RPS Change for outstanding freshwater bodies		Policy development is subject to timing of MFE's preparation of national guidance on this issue.
Plan change: rest of region		No specific policy development activity during the 2012-13 period.
Specific plan effectiveness monitoring programmes (Tukituki; Taharua/Mohaka; Heretaunga/Ahuriri)		Specific plan effectiveness monitoring and reporting not yet developed.
RPS/ Plan Effectiveness Reporting/Review		No specific plan effectiveness monitoring and reporting scheduled during the 2012-13 period.
SOE Reporting and Review (5 yearly, annual)		Council undertakes monthly and annual reporting on specific investigations carried out in that reporting period. Every five years Council undertakes State of the Environment Reporting to assess longer term trends. Council is currently compiling the five-yearly state of the environment report due for publication in the 2013/14 period.
Regional Afforestation Scheme		Council proposed to work in partnership with landowners with highly erodible land to promote afforestation of the steepest and least productive portion of their land in return for a share of carbon credit revenue. The afforestation of steep, highly erodible hill country would likely improve water quality in rivers due to reduced sediment from erosion. This project commonly known as 'Trees on Farms' has been put on hold indefinitely as the current down turn in carbon prices has significantly reduced the economic viability of the project as a working model. Council has instructed Staff to explore other options and seek other economic drivers for investment.
Water Storage Investigations – Ruataniwha & Ngaruroro/Heretaunga Plains		A pre-feasibility study was completed for the Ngaruroro/Heretaunga Plains catchment in 2011. An on farm economic assessment to determine the viability of water storage for the Ngaruroro catchment needs to be conducted. This will help to establish if the project should proceed to a feasibility investigation. This economic assessment was due for completion in 2012 however it has been deferred due to resource constraints. It is anticipated that recommendations will be made to Council in 2014. This is being considered as part o the Greater Heretaunga / Ahuriri policy development work.
		The feasibility investigations for the Ruataniwha Water Storage Scheme (RWSS) were completed in September 2012. Consent applications were lodged with the Environmental Protection Authority on May 2013 and have subsequently been called in by the Environment and Conservation Ministers as part of the 'Tukituki Catchment Proposal' (alongside Plan Change 6). The RWSS applications were notified by the EPA on 6 July 2013. Submissions on the proposal will be heard and decided by a Board of Inquiry during the 2013-14 period.

Activity	Status	Comment on 2012 – 2013 progress
Science investigations to support plan changes including Nutrient modelling; Groundwater modelling; Instream flow assessments; Water quality monitoring; Flow gauging; Surface water/groundwater interactions for the Heretaunga Plains		Targeted water quality investigations are on-going and feed into the Tukituki, TANK and Mohaka Plan Changes. This is over and above Council's statutory obligations for monitoring surface water quality throughout the region. The objectives of the work is to better define current state; define and understand ecological and physical-chemical conditions and dynamics; and allow for effective limit setting in relation to water quality limits.
Implementation of Water Measuring Regulations		The first phase of the transitional Resource Management (Measurement and Reporting of Water Takes) Regulations 2010 came into force on 10 November 2012. This affected approximately 950 consents of which 450 new water meter installations were required, for consented rates of at 20 litres/second or more. Currently Council is on track to reach 100% compliance with the Regulations by September 2013. The second phase of the transitional Regulations comes into force from 10 November 2014 for water takes of 10 litres/second or more, but less than 20 litres/second.
Facilitation of water user groups		Council is continuing to work with water users to establish efficient water use through alternative water management options. This is on a 'where and when' basis due to resourcing limitations (funding & staffing levels). Council has facilitated the establishment of key water user groups such as the Ngaruroro Irrigation Society and the Twyford Irrigators Group. Both of these water user groups are part of the TANK collaborative stakeholder group.
Facilitation of catchment groups for non-point source discharges		Council is working on an adaptive management framework to manage non point source discharges from land into water. A pilot is being developed for the Tukituki Catchment that will comprise an overall facilitation group informed by the primary industry pan sector which then supports six sub-catchment operational groups which comprises landowners, Hapu and HBRC. The objectives of the pilot are to build the capacity within the sub-catchment groups to enable them to self manage to reduce/mitigate contaminant discharges with a focus on nutrients.
Management and mitigation plans		Council is working towards an adaptive management framework with key stakeholders to achieve proposed targets in Tukituki Plan Change 6. Phosphorus management plans within priority sub-catchments are proposed to address phosphorus loads using specific mitigation methods suited to the situation. Methods could include afforestation of hill country to address sediment migration into waterways. The pilot is currently in a development phase.

HAWKE'S BAY REGIONAL COUNCIL

REGIONAL PLANNING COMMITTEE

Wednesday 07 August 2013

SUBJECT: REGIONAL PLANNING COMMITTEE DRAFT ANNUAL REPORT

Reason for Report

- 1. At the meeting of the Regional Planning Committee on 5 June 2013, Maungaharuru-Tangitu Incorporated through their representative Tania Hopmans, requested that a report be produced that Treaty claimant group representatives could provide to their respective lwi, reporting the Committee's proceedings over the previous year.
- 2. The attached Draft Report "Regional Planning Committee Annual Report for the April 2012 June 2013 period" provides an overview of the form and function of the Hawke's Bay Regional Planning Committee and reports on its activities over the period April 2012 to June 2013.
- 3. Comments are sought from Committee members on this draft Annual Report. A final report will be presented to the Committee at its next meeting in September for adoption. It is noted that Section 12 of the Report gives an overview of the anticipated workload for the Committee in the next 12 months.

Decision Making Process

- 4. 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:
 - 4.1. The decision does not significantly alter the service provision or affect a strategic asset.
 - 4.2. The use of the special consultative procedure is not prescribed by legislation.
 - 4.3. The decision does not fall within the definition of Council's policy on significance.
 - 4.4. The decision is not inconsistent with an existing policy or plan.
 - 4.5. 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 Regional Planning Committee:

- 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 draft report titled "Regional Planning Committee Annual Report for the period April 2012 June 2013.
- 3. Provides feedback on the content and scope of the draft report and any suggested amendments to it.
- 4. Instructs staff to present a final Annual Report at the September meeting.

Esther-Amy Bate PLANNER

Attachment/s

1 Draft Regional Planning Annual Report

Helen Codlin GROUP MANAGER STRATEGIC DEVELOPMENT

Regional Planning Committee – Annual Report

For the April 2012 – June 2013 period

HBRC Report No. SD 13/05 - Plan Number 4520

Strategic Development Group

HBRC Report No. SD 13/05 - Plan Number 4520

Regional Planning Committee – Annual Report

For the April 2012 – June 2013 period

Prepared By:
Esther-Amy Bate – Planner

Reviewed By:
Gavin Ide – Team Leader Policy

Approved By:
Helen Codlin – Group Manager Strategic Development

Signed:

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Executive summary

This Report provides an overview of the form and function of the Hawke's Bay Regional Planning Committee and reports on its activities over the period April 2012 – June 2013.

The Regional Planning Committee comprises equal membership of Regional Councillors and Treaty Claimant Group representatives and is the co-governance model of the management of natural and physical resources in the region. It is responsible for review and development of the Regional Policy Statement, the Regional Resource Management Plan and the Regional Coastal Environment Plan as the key resource management planning documents in the Hawke's Bay Region.

1 Background

Management of natural and physical resources is one of Hawke's Bay Regional Council's (Council) primary responsibilities. Māori have kaitiakitanga responsibilities relating to the region's resources and as Mana Whenua, are key stakeholders in the way our region's resources are managed now and for future generations. Treaty of Waitangi settlement negotiations resulting in cultural redress, require new partnerships between Hawke's Bay Treaty claimant groups and Council around the management of natural and physical resources and the exploration of sustainable economic opportunities. The Council is committed to working in partnership with Treaty claimant groups moving into the future.

Ongoing Treaty of Waitangi settlements with Hawke's Bay Treaty claimant groups have significant implications on Council's operations and have required a rethink about how we can best work together. Over the past few years, Council and Treaty claimant groups have worked collectively to build strong relationships and develop the capacity of Māori to contribute to decision making processes. One initiative to enable co-governance of the region's natural resources has been to collectively establish the joint Regional Planning Committee (the Committee). Another initiative is the signing of a Deed of Commitment between Council and Treaty claimant groups formalising the mutual respect and understanding between the parties. In addition, Council is also working with each Treaty claimant group individually, where the specific cultural needs of that group overlap or align with a Council activity.

The Regional Planning Committee will ultimately be permanently established through government legislation to recognise the unique background to the Committee arising from the recognition of cultural redress through Treaty claims. It has, however, been the Council and the Treaty claimant groups, without mandate from the Crown that has established the Committee and developed the Terms of Reference in Hawke's Bay.

2 Establishment of the Regional Planning Committee

The Council adopted its committee structure after the local body elections in October 2010, with the intention of reviewing that structure in the first half of 2011. Council considered several papers on this matter including papers establishing the Regional Planning Committee. The Committee was established by Council resolution on 27 April 2011. The Committee's inaugural meeting and Powhiri was held on 10 April 2012⁴. Unlike other Committee's the Regional Planning Committee will not be disestablished before the October 2013 local government elections and will continue as a permanent committee.

Table 1 shows the history of Council resolutions in the establishment of the Committee and Terms of Reference development.

3 Terms of Reference

The Terms of Reference (TOR) for the Regional Planning Committee specifically describe the purpose and structure of the Committee and the members' specific responsibilities. A notable difference in TOR from other Council Committees' Terms of Reference is that there is no provision for alternate members or short-term replacements. The main reason for this is the need to establish continuity and follow through in the policy programme. A copy of the Terms of Reference is included as Appendix A.

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⁴ The Powhiri was attended by the Honourable Christopher Finlayson Minister of Treaty of Waitangi Negotiations, Chief Crown Negotiators Pat Snedden and Paul Swain and members of the Regional Planning Committee.

Table 1: Council resolutions establishing the Committee.

Meeting date	Resolution
27 April 2011	Establishes a new Committee for Regional Planning, with membership comprising equal representation of councillors, and non-councillors from the Treaty claimant groups.
25 May 2011	Endorses the draft Terms of Reference as amended at this meeting, with the final wording to be brought back to the special meeting of the Strategic Planning and Finance Committee on 15 June 2011 as a basis for further negotiation with the Treaty Claimant groups.
29 June 2011	Endorses Draft Terms of Reference for the Regional Planning Committee, including amendments following discussion by Council on 25 May, as the basis for further discussion with Treaty claimant groups.
21 September 2011	 Resolves to adopt the Terms of Reference for the Regional Planning Committee as amended from discussions at the Corporate and Strategic meeting. Resolves to endorse the Deed of Commitment and authorises the Chairman of Council to sign it on Council's behalf. Invites the Treaty claimant group signatories to advise Council of their appointees to the Regional Planning Committee, for formal approval by Council. Instructs staff to bring back to Council, the proposals in relation to participation in voting.
14 December 2011	Resolves to adopt the attached revised Terms of Reference for the Regional Planning Committee, noting that this Terms of Reference is interim until the permanent Committee is established through legislation.

4 Role of the Regional Planning Committee

The role of the Regional Planning Committee is to oversee the review and development of the regional policy statement and regional plans for the Hawke's Bay region, as required under the Resource Management Act 1991. Membership of the Committee comprises equal numbers of elected members and Treaty claimant representatives and all Committee members have full speaking and voting rights. The Committee considers and recommends strategies, policies, rules and other methods for inclusion into the Regional Resource Management Plan (which includes the Regional Policy Statement) and Regional Coastal Environment Plan to Council. The Committee also makes recommendations to Council to ensure the effective implementation of plans, processes, research, monitoring and enforcement to satisfy the requirements of the Resource Management Act 1991, National Policy Statements, National Environmental Standards and relevant associated legislation.

As a co-governing body the Regional Planning Committee holds great Mana. Collectively the Committee has a very strong influence on the form of any Proposed Regional Plan, Coastal Plan, Plan Change or Variation may take and is responsible for recommending such documents to Council. Should the Council not adopt all or any part of the Committee's recommendations the Council must refer the document back to the Committee for further consideration. For this reason each member of the Committee, either Council or Treaty partner has input and influence on the strategic direction and management of regional resources in Hawke's Bay.

5 Membership Changes

The Committee comprises all nine of the Regional Councillors. Treaty claimant group representatives are nominated by the respective Groups and these are formally appointed to the Committee by Council. There are a total of 18 members of whom 9 are Regional Councillors and 9 are representatives from Treaty Claimant Groups. The principle applies that at any given time the ratio will be an equal number of Councillor to Tangata Whenua representation. However currently there are only 8 Treaty partners who

attend meetings as a representative is yet to be nominated by Ngai Tuhoe. While provision is being made in the draft legislation for Ngai Tuhoe to be represented on the Regional Planning Committee, to date they have not taken up a position as they are considering an alternative co-governance model for their rohe which covers a small geographical area of Hawke's Bay but large parts of other regional government areas. The Committee is serviced by the Council's secretariat and coordinated by Council's Group Manager External Relations. Appendix B shows the geographical location and areas of interest of Treaty Claimant Groups in Hawke's Bay.

The Committee has had a number of changes to its membership over the past 12 months. Two changes to Treaty partner representation occurred at the 10 December 2012 meeting when Peter Paku replaced Dr Roger Maaka as the representative for He Toa Takitini and Nigel Baker replaced Colin Rangi as the representative for Ngati Tuwharetoa Hapu Forum.

In April 2013 Councillor Eileen von Dadelszen, stepped down from her role in Council to take up a position as an Environment Court Commissioner. Mrs von Dadelszen's position within the Committee (and Council) has been filled by Murray Douglas who was officially sworn in to Council on 10 June 2013 to fill the vacancy left by the resignation of Mrs von Dadelszen.

Table 2 shows members of the Regional Planning Committee, past and present, their affiliation and the number of meetings attended.

Table 2: Committee members during April 2012 to June 2013 period

Name	Affiliation	Meetings attended
Nigel Baker	Ngati Tuwharetoa Hapu Forum	4 / 4
Karauna Brown	Ngati Hineuru lwi Incorporated	8/9
Alan Dick	Regional Councillor	6/9
Murray Douglas	Regional Councillor	0/0
Tim Gilbertson	Regional Councillor	7/9
Tania Hopmans	Maungaharuru-Tangitu Incorporated	8/9
Nicky Kirikiri	Te Toi Kura o Waikaremoana	9/9
Neil Kirton	Regional Councillor	8/9
Dr Roger Maaka	He Toa Takitini	1/2
Ewan McGregor	Regional Councillor	9/9
Peter Paku	He Toa Takitini	2/3
Colin Rangi	Ngati Tuwharetoa Hapu Forum	3/6
Liz Remmerswaal	Regional Councillor	7/9
Kevin Rose	Regional Councillor	8/9
Christine Scott	Regional Councillor	8/9
Rangi Spooner	Mana Ahuriri Incorporated	9/9
Eileen von Dadelszen	Regional Councillor (now resigned)	8/8
Toro Waaka (Co-Chair)	Ngati Pahauwera Development and Tiaki Trusts	9/9
Fenton Wilson (Co-Chair)	Regional Councillor (Chairman)	9/9
Walter Wilson	Te Tira Whakaemi o Te Wairoa	9/9

6 Deed of Commitment

The Council's Long Term Plan 2012 – 2022 identifies the forming of strategic alliances with Māori as critical for improving Council's performance and effectiveness.

During the development of the Committee's Terms of Reference, Council and Treaty claimant groups collectively agreed to a strategic alliance to work together for the benefit of the region. It was agreed that a fundamental requirement of any ongoing relationship required a formalising of that relationship. Subsequently and in tandem with the Terms of Reference for the Committee, a Deed of Commitment (included as Appendix C), was jointly agreed upon and signed in good faith by all parties. The Deed formalises the values, principles and protocols that each party will abide by in fulfilling their responsibilities in the sustainable management of regional resources (economic, social, environmental and cultural).

Provision was made to enable Crown recognised mandated groups currently not members of the Committee to become parties to the Deed and subsequently to gain membership of the Regional Planning Committee. These groups will then become part of the strategic alliance and join in the co-governance of regional resources. The Deed involves meeting quarterly to discuss matters of concern to any party in addition to the Committee meetings. The Deed of Commitment was endorsed by Council on 21 September 2011. During the April 2012 to June 2013 period, no meetings were held under the auspices of the Deed of Commitment.

7 Budgets

The Crown made a one-off payment of \$100,000 (excl GST) to cover Committee establishment costs and meeting expenses. Any unspent amount is to be transferred to the balance for the following year. Meeting fees for Treaty Claimant Group members is paid from this fund.

Remuneration for the Treaty Claimant Group members is based upon the Crown Fees Framework and particularly Group 4, level 4 (Fees framework for members appointed to bodies in which the Crown has an interest). For 2012/2013, this was a daily rate of \$400. In addition, Council meets the travel (standard mileage rate) and other appropriate expenses for all members to attend Committee meetings.

8 2012-2013 Meetings, workshops and topics considered

Between April 2012 and June 2013, the Committee met nine times including the Inaugural meeting. The Committee has also held five workshops which have covered a number of topics providing training to members of the Committee who are not familiar with resource management and regional planning. Appendix D shows the workshop and meeting schedule and gives an indication of the topics covered.

Appendix E shows the location of each of the major river catchments where the Council is currently engaged in resources and environmental planning activities and of which the Committee is actively considering work programmes.

8.1 Workshops and training

In total the Committee has held five workshop training sessions. These sessions are closed (not open to the public). Table 3 summarises the focus of each workshop.

Table 3: Committee workshop schedule.

Date	Workshop topic	Description
10 April 2012	The Resource Management Act 1991	A comprehensive overview of the RMA, process, principles and responsibilities under the Act.
28 May 2012	Standing Orders	An overview of Standing Orders to familiarise the RPC on the conduct and process rules to be followed during meetings including how to raise issues and get resolutions proposed and passed.
2 Nov 2012	Draft Tukituki Plan Change 6	Focus on the first draft changes to the RRMP to address land and water management issues in the Tukituki Catchment (Plan Change 6)
10 Dec 2012	Tukituki Catchment Proposal	Brief on the Tukituki Catchment Proposal (Ruataniwha Water Storage Project and the Tukituki Plan Change) and specifically to provide information underpinning the approach being taken for the Tukituki Plan Change. Brief on non-regulatory and regulatory approach in the Tukituki Catchment and its role in plan change implementation.
5 June 2013	Getting to know the Regional Policy Statement	A comprehensive overview of the issues and content of the Regional Policy Statement. Plan development and Plan change procedures. The Environment Court and Water Conservation Orders.

9 Regional Plan Changes

During the course of the year the Committee has considered and made recommendations to Council on the following Regional Plan Changes.

9.1 Tukituki Catchment

Key Issues and drivers:

- Over allocation of surface water based on current allocation limits
- Excessive periphyton growth adversely affecting swimming and fishing, particularly in the lower Tukituki
- Degraded mauri of the Tukituki River and its tributaries
- The need to understand the groundwater system and its surface water interactions
- Existing minimum flows may be too low to provide for native fish and trout habitat
- Reduced security of supply for existing irrigators if existing minimum flows need to be higher
- Economic impact of any reduced security of supply for irrigators
- Potential land development hindered by lack of water.

Since before 2008, Council has been working on a range of solutions for the Tukituki catchment to achieve positive environmental, social, cultural and economic outcomes that will give effect to the key principles of the Hawke's Bay Land and Water Management Strategy and the National Policy Statement for Freshwater.

In July 2012 the Committee first considered the delivery of the Tukituki Strategy and the proposed coordinated development of a Tukituki Plan Change and the Ruataniwha Water Storage project to achieve the objectives of that Strategy. Furthermore the Committee approved an approach to the Minister for the Environment seeking to have the proposed change for the Tukituki River Catchment and applications for all consents relating to the Ruataniwha Water Storage project considered as matters of national significance and to be determined by a Board of Inquiry. The Committee supported the preparation of the 'Tukituki Choices' document which identified different land and water management scenarios for the Tukituki catchment and instructed staff to undertake specific consultation with Te Taiwhenua O Tamatea and Te Taiwhenua O Heretaunga.

The Committee has had ongoing input into policy and strategic planning relating to the Tukituki catchment and has made decisions which have influenced and shaped the form of the "Tukituki Choices" document and Tukituki Plan Change 6 to the Regional Resource Management Plan. Plan Change 6 is part of the Tukituki Catchment Proposal which has been called in as a proposal of national significance to be heard and determined by a Board of Inquiry in 2014.

9.2 Taharua/Mohaka Catchment

Key Issues and drivers:

- Declining water quality of a nationally important river system and recognised water conservation order for outstanding fishery, scenic values and water based recreational activity
- Excessive nitrogen (N) loss from intensive land use (Taharua Catchment) adversely affecting outstanding fishery and causing excessive periphyton growth in the upper Mohaka River
- Highly erodible pumice soils in the Taharua Catchment contributing to sediment and phosphorus from land use activities resulting in a reduction of the clarity of the mid to lower Mohaka River.

In September 2012, the Committee gave in-principle support to an outlined Taharua management package and actions developed by major Taharua landowners with DairyNZ and Council staff. The Committee supported the development of a catchment-based plan change for a collaborative and adaptive approach to meet water quality objectives and targets within 15 years. This would be supported by "backstop" regulation (whole farm consenting) for landowners who are not part of the collaborative voluntary process and performance review. The Committee also supported an Eco-n partnership to trial nitrification inhibitors (as a key nitrogen mitigation tool of the Catchment Management Plan) and supported an application to access a Ministry for the Environment (MfE) Clean-up Fund. Late in 2012 MfE declined the Clean-up Fund application and nitrification inhibitors were voluntarily and indefinitely withdrawn from market, due to dicyandiamide (DCD) traces in milk powder. These two events have had significant implications in arriving at a set of policy solutions for the Catchment.

After considering further recommendations made by Council staff in June 2013, the Committee instructed staff to produce a "Taharua-Mohaka Choices" document for a public consultation process similar to, but learning from, the 'Tukituki Choices' process in 2012. The Choices document will assist policy-making through to 2014 and be an additional, non-statutory consultation stage.

9.3 Tutaekuri, Ahuriri, Ngaruroro, Karamu Catchment (TANK)

Key Issues and drivers:

- Balancing water demands across competing values and uses
- Setting water quantity and quality limits to meet community aspirations
- Managing water resources efficiently to maximise security of supply

The Committee was informed that a collaborative stakeholder process would be used to assist the Committee with its Plan Change decision making. This stakeholder group (the TANK Group) has now held 7 full day meetings and numerous small group meetings. Freshwater values, objectives, and policy options for the four catchments have been discussed and some interim agreements reached.

The Committee received further updates in February and June 2013 that provided further information on the National and Regional Water Management Context (RPS & NPSFM) and the challenges of balancing

competing water demands in the catchments. The Committee was also informed that Fish and Game New Zealand are drafting a Water Conservation Order (WCO) application for the Ngaruroro catchment. The WCO would cover the full Ngaruroro catchment including tributaries (and potentially the lower section of the Karamu). As yet Council staff have not seen any other the details of the WCO application. The TANK Group will publish a summary document of its findings and interim agreements for the Committee to consider before the end of year.

10 Regional Policy Statement

A regional policy statement (RPS) is a mandatory document that sets resource management directions for a region. An RPS identifies the significant regional resource management issues, and sets out objectives, policies and methods for addressing these issues to achieve integrated management of natural and physical resources within the region. Regional policy statements must give effect to national policy statements and be consistent with water conservation orders.

Through the course of the year the Committee has considered and provided recommendations on two changes to the Regional Policy Statement.

10.1 Change 4: Built Environment

Change 4 introduces new provisions relating to the built environment and infrastructure into the Regional Policy Statement parts of the Hawke's Bay Regional Resource Management Plan and assists in the implementation of the Heretaunga Plains Urban Development Strategy (HPUDS). Change 4 was notified on 7 December 2011 and decisions issued on 26 March 2013. One appeal was lodged against the Council's decisions.

The Committee only became involved with Change 4 at the appeals stage of the process and delegated to the Group Manager Strategic Development (and any legal counsel acting as the Group Manager's agent) the authority to sign, on behalf of Council, any mediated agreement in relation Transpower New Zealand Limited's appeal.

10.2 Change 5: Land Use and Freshwater Management

Change 5 relates to 'land use and freshwater management.' It incorporates relevant elements of the Hawke's Bay Land and Water Management Strategy to provide a framework for the integrated management of land and water on a catchment basis and sets the regional context for values associated with the region's freshwater resources. After a series of discussions the Committee recommended to Council that Change 5 and Section 32 report should be publicly notified.

At the Committee meeting in February 2013, Council staff sought the Committee's recommendations on appointments to form a Panel of accredited RMA hearing commissioners to hear submissions made to Change 5. Professor Roger Maaka and Mike Mohi were appointed as two of the RMA accredited hearings commissioners along with Dennis Nugent (independent Chairman) forming a Panel to hear submissions on Change 5. Council adopted the Panel's recommendations as its own decisions in May 2013 and these were released on 5 June 2013. As of 18 July 2013, four appeals⁵ against the Council's decisions had been lodged with the Environment Court.

11 Other matters considered during April 2012 to June 2013 period

Table 4 sets out a number of other matters that have been discussed and considered by the Committee during the April 2012 to June 2013 period.

⁵ Appeals lodged by Federated Farmers of NZ; Hawke's Bay Fish and Game Council; Horticulture NZ; and Ngati Kahungunu Iwi Incorporated.

Table 4: Ongoing Committee business.

Date	Topic	Description
ongoing	Commissioner training and accreditation for RMA hearings	The Regional Planning Committee's responsibilities include recommending to Council the membership of hearing panels to hear and decide upon submissions on proposed Changes to plans and policy statements. The Panel members must be appropriately trained and eligible (accredited) commissioners, which may include members of the Regional Planning Committee.
		At the Committee's meeting in September 2012, many members indicated a positive interest in participating in a programme for becoming certified resource management hearing commissioners. In December 2012, MfE awarded 'Making Good Decisions' (MGD) commissioner accreditation training programme to the Opus Business School. Opus has been approached to hold MGD introductory programme in Napier. No dates have been confirmed as yet.
Ongoing	Regional Planning Committee in legislation	The Ministry for the Environment is currently considering drafting legislation to require Joint Planning Committees be established nationally. It is not anticipated that this will have an impact on the Hawke's Bay RPC as it has already been established by Council as a permanent Committee.

12 Work Programme 2013-2014

The Regional Planning Committee's work programme for the coming year is dependent on when individual work streams complete phases compared to their indicative timeframes. Table 5 sets out the Committee's anticipated work programme for 2013-2014 based on the National Policy Statement for Freshwater Management Implementation Programme for Hawke's Bay Regional Council.

Table 5: Anticipated Work Programme 2013-2014

Торіс	Description
Regional Policy Statement Change 4 (Built Environment)	Appeals on decisions made in 2012-2013
Regional Policy Statement Change 5 (Land use and water)	Appeals on decisions made in 2012-2013
Plan Change: Taharua/Mohaka River catchment	Policy development
Plan Change: Tukituki Catchment (EPA Process)	Information only
Plan Change: Greater Heretaunga/Ahuriri (TANK)	Policy development
RPS and/or plan change: 2012 NZ Coastal Policy Statement implementation	Policy development
Biodiversity Strategy	Strategy development
RPS and/or plan change: Biodiversity (significant wetlands)	Policy development
RPS Change for outstanding freshwater bodies	Policy development

Appendix A Regional Planning Committee – Terms of Reference

REGIONAL PLANNING COMMITTEE

TERMS OF REFERENCE [adopted 21 March 2012]

a) Introduction

Through its Treaty of Waitangi settlement negotiations with the tangata whenua of the Hawke's Bay⁶, in conjunction with the Council, the Crown has committed to introduce legislation to establish a permanent Regional Planning Committee (Permanent Committee) to draft and recommend to the Council plan and policy changes that affect natural resources in the Hawke's Bay region.

Legislation will be introduced to make the Permanent Committee permanent. Negotiations on terms of reference of the Permanent Committee are yet to be concluded. However, in the meantime, the Council and the Member Tangata Whenua Groups have agreed to establish the Committee with interim terms of reference to begin working together on the matters set out at b) to d) following. These terms of reference will be superseded by terms of reference of the Permanent Committee when legislation is enacted to give effect to agreements reached in respect of the Permanent Committee. These terms of reference may be amended by the Council and the Member Tangata Whenua Groups in accordance with (n) following.

b) Purpose

To oversee the review and development of the Regional Policy Statement and Regional Plans for the Hawke's Bay region, as required under the Resource Management Act 1991.

c) Process

The Committee is responsible for preparing Proposed Regional Plans and Proposed Regional Policy Statements, or any Plan Changes or Plan Variations, and recommending to the Council the adoption of those documents for public notification, as provided for further in paragraph (d) following. In the event that the Council does not adopt all or any part of any Proposed Regional Plan, Proposed Regional Policy Statement, Plan Change or Plan Variation or other recommendation, the Council shall refer such document or recommendation in its entirety back to the Committee for further consideration, as soon as practicable but not later than two months after receiving a recommendation from the Committee.

d) Specific Responsibilities

- To implement a work programme for the review of the Council's Regional Plans and Regional Policy statements prepared under the Resource Management Act 1991.
- To prepare any changes to the Regional Resource Management Plan, including the Regional Policy Statement.
- To prepare any Plan Variations to the Proposed Regional Coastal Environment Plan.
- To prepare Plan Changes to the Regional Coastal Environment Plan as required, once it is operative.
- To oversee consultation on any draft Proposed Regional Plan, Proposed Regional Policy Statement, Plan Change or Plan Variation (prior to notification).

⁶ 1 See Deed of Settlement with Ngati Pahauwera signed 17 December 2010, clause 5.22 and clauses 3.19-3.28 of the Provisions Schedule to the Deed; and Agreement in Principle with Maungaharuru-Tangitu Hapu signed 22 September 2011, clause 5.41 and Schedule 4. In addition, the Crown has made commitments to other Tangata Whenua Representatives to establish the Committee, including Mana Ahuriri Incorporated (for the Ahuriri Hapu and Ngati Hineuru Iwi Incorporated (for Ngati Hineuru).

- To recommend to Council for public notification any, Proposed Regional Plans, Proposed Regional Policy Statements, Plan Changes or Plan Variations.
- In accordance with the process outlined above, to review any documents which the Council may refer back to the Committee for further consideration.
- To recommend to Council the membership of Hearings Panels, from appropriately trained and eligible commissioners, to hear and decide upon submissions on Proposed Regional Plans, Proposed Regional Policy Statements, Plan Variations and Plan Changes (which may include members of the Committee).
- To determine the scope for the resolution and settlement of appeals on Proposed Policy Statements, Proposed Regional Plans, Plan Variations and Plan Changes.
- When required, to recommend to Council that officers be delegated with the authority to resolve and settle any appeals and references through formal mediation before the Environment Court.
- To monitor the effectiveness of provisions of Regional Policy Statements and Regional Plans in accordance with section 35 of the Resource Management Act and incorporate the monitoring outcomes into a review of the Committee's work programme

e) Membership

- Tangata Whenua Representatives, each appointed by Council on nomination by a Member Tangata Whenua Group.
- Councillor members equal to the number of Tangata Whenua Representatives appointed at any time.

The principle which applies is that there shall be equal numbers of Councillor members and Tangata Whenua Representatives on the Committee at any time.

f) Chairperson and Deputy Chairperson (Transition Period: April 2012 - December 2012)

 During the transition period the Chair of the Committee will be appointed by Council from Councillor members. The Deputy Chairperson will be appointed by Council on nomination from the Tangata Whenua representatives.

g) Chairperson (January 2013 – enactment of legislation and establishment of the Permanent Committee)

From the end of the transition period until the establishment of the Permanent Committee the Committee will have two Co-Chairs:

- a Councillor member of the Committee appointed by the Councillor members; and
- a Tangata Whenua Representative appointed by Council on nomination from the Tangata Whenua Representatives.

Each Co-Chair shall preside at meetings of the Committee on a pre-arranged basis. This arrangement will presume that the Co-Chairs will be responsible for separate areas of policy development and each will preside over a meeting as their relevant portfolio areas are discussed.

h) Term of Membership

Membership of the Committee (both Councillor members and Tangata Whenua representatives) shall be reviewed following the 2013 triennial election of Councillors, unless

the Permanent Committee has already been established. The Council will review the appointment of its Council members, and Member Tangata Whenua Groups will review the appointment of their respective Tangata Whenua representatives. However, it is recognised that the Tangata Whenua representatives are nominated for appointment by their respective Member Tangata Whenua Groups from time to time (and not necessarily triennially), and in accordance with the processes of their respective Member Tangata Whenua Groups.

i) Quorum

75% of the members of the Committee.

j) Voting Entitlement

Best endeavours will be made to achieve decisions on a consensus basis, or failing consensus, the agreement of 80% of the Committee members in attendance will be required. Where voting is required all members of the Committee have full speaking rights and voting entitlements. Standing Orders 2.5.1(2) and 3.14.2 which state: "The Chairperson at any meeting has a deliberative vote and, in the case of equality of votes, also has a casting vote" do **NOT** apply to the Regional Planning Committee.

k) Special Terms of Reference

- The role of the Committee, and all members of the Committee, is to objectively overview the development and review of proposed policy statements, plans, variations and plan changes in accordance with the requirements of the Resource Management Act 1991. In particular the Committee must apply the purpose and principles of the Act and section 32 to its decision-making.
- The Committee, when recommending the appointment of hearings panels, shall recommend members for their particular skills, attributes or knowledge relevant to the work of the panel and shall so far as possible ensure that no member is open to perceptions or allegations of bias or predetermination.
- It is not intended that the participation of Tangata Whenua representatives on the Committee be a substitute for any consultation with iwi required under the First Schedule of the Resource Management Act 1991.

I) Meeting Frequency and Notice

As required in order to achieve the Plan and Policy Development work programmes. Notice of meetings will be given well in advance in writing to all Committee members, and not later than 1 month prior to the meeting.

m) Review of these Terms of Reference

The Terms of Reference for the Committee will be reviewed by the Councillor members and the Tangata Whenua representatives in April 2013 to determine whether the Committee is fulfilling the objectives of the Council and Tangata Whenua.

n) Amendments to these Terms of Reference

The Councillor members or Tangata Whenua representatives may request changes to the Terms of Reference. Amendments to the Terms of Reference may only be made with the approval of:

- the Councillors at a Council meeting; and
- the Tangata Whenua representatives at a hui called for that purpose.

o) Technical support

The Committee will have full access to Council staff, through the relevant Group Managers, to provide any technical support required in order to achieve the Committee's purpose, as set out in paragraph (b) above.

q) Terms of Reference Interim

These Terms of Reference are interim only and will be superseded by the Terms of Reference for the Permanent Committee.

r) Officer Responsible

Group Manager Strategic Development

GLOSSARY

Proposed Regional Plan / Proposed Regional Policy Statement

A proposed regional plan or proposed regional policy statement is a document that has been issued by the Council and 'proposed' as the Council's official position. To be legally proposed, a document must be publicly notified so people can make submissions.

Plan Variation A plan variation is when a Council proposes a further change to a plan or policy statement that is still in the 'proposed stage' and has yet to be finalised.

Operative Regional Plan / Operative Regional Policy Statement

In relation to a regional plan or a regional policy statement, means that it has been through the public submission, hearings and Court processes and has full effect.

Plan Change Is when a Council proposes changes to an operative plan or policy statement.

Hearings Panel Is a panel appointed to hear public submissions on any Proposed Plan, Proposed Policy Statement, Plan Change or Plan Variation. It may be made up of any number of people, and may include Committee members, independent commissioners, or a mix of the two.

Member Tangata Whenua Group

Means a Crown recognised mandated group representing tangata whenua interests within the Hawke's Bay region, mandated for the purpose of negotiating with the Crown for a settlement of claims under the Treaty of Waitangi, being:

- Mana Ahuriri Incorporated (representing the Ahuriri Hapu);
- Maungaharuru-Tangitu Incorporated (representing the
- Maungaharuru-Tangitu Hapu);
- Ngati Hineuru Iwi Incorporated (representing Ngati Hineuru);
- on an interim basis and only to the extent set out in the Deed of Commitment [] between HBRC, Tangata Whenua Parties and the Crown, Te Toi Kura o Waikaremoana (representing Ruapani ki Waikaremoana); and
- Any other group which becomes a Tangata Whenua Party to the Deed of Commitment dated [] between HBRC, Tangata Whenua Parties and the Crown by executing a Deed of Accession set out in Schedule 1 of that Deed.

PSGE Means a post settlement governance entity which has taken over responsibility from a Member Tangata Whenua Group for representing tangata whenua interests, being:

- The Trustees of the Ngati Pahauwera Development Trust (representing Ngati Pahauwera); and
- Any other entity which becomes a Tangata Whenua Party to the Deed of Commitment dated [] between HBRC, Tangata Whenua Parties and the Crown by executing a Deed of Replacement set out in Schedule 2 of that Deed

Tangata Whenua Representative

Means each representative nominated by:

- a. a Member Tangata Whenua Group; or
- b. a PSGE.

The Council Means the Hawke's Bay Regional Council.

The Permanent Committee

Means the Permanent Regional Planning Committee referred to in the Deed of Settlement with Ngati Pahauwera signed 17 December 2010 (clause 5.22 and clauses 3.19-3.28 of the Provisions Schedule) and Agreement in Principle with Maungaharuru-Tangitu Hapu signed 22 September 2011 (clause 5.41 and Schedule 4).

Regional Resource Management Plan

Includes the Regional Policy Statement which relates to air, fresh water, gravel and land.

Regional Policy Statement

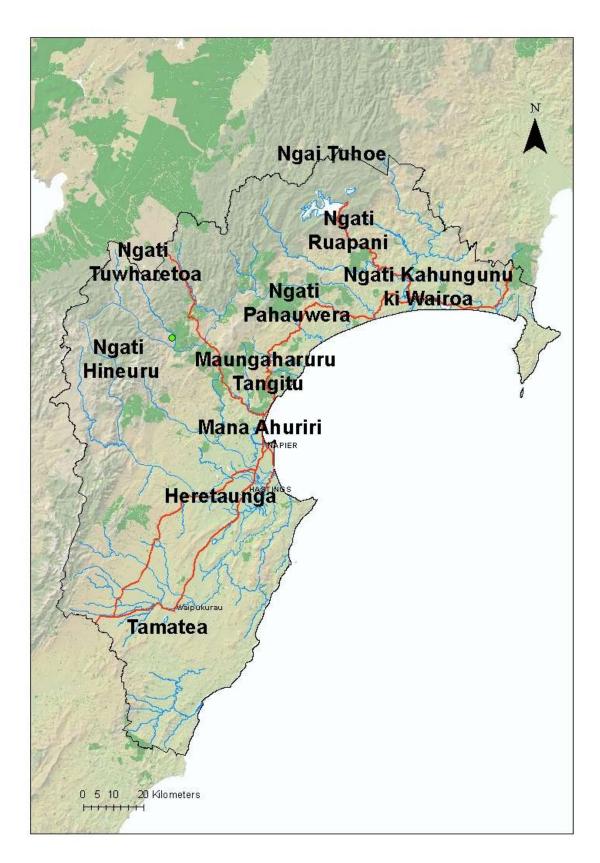
Is the document that sets the basic direction for environmental management in the region. This also includes the Māori Dimension. It does not include rules.

Regional Plan A document that sets out how the Council will manage a particular aspect of the environment, like the coast, soil, rivers or the air. Can include rules.

Regional Coastal Environment Plan

A document that sets out how the Council will manage the coast. Can include rules.

Appendix B Geographical Location of Treaty Claimant Groups



Appendix C Deed of Commitment



Proposed Deed of Commitment

Proposed

Deed of Commitment

BETWEEN

Hawke's Bay Regional Council ("HBRC")

AND

Mana Ahuriri Incorporated

Maungaharuru-Tangitu Incorporated

Ngāti Hineuru Iwi Incorporated

Ngāti Pāhauwera Development and Tiaki Trust

(each a "Tangata Whenua Party" and together the "Tängata Whenua Parties")

INTRODUCTION

The tangeta whenua of Hawke's Bay and the Hawke's Bay Regional Council care deeply about Hawke's Bay and its environment. We all have responsibilities around the management of resources that we believe are best met by working together.

The HBRC has delegated responsibility under legislation for various matters (as set out in clause 2.8 of this Deed), including the management of the natural and physical environment under the Resource Management Act 1991.

In recognition of the Treaty of Waitangi and the relationship between tangata whenua and the management of natural resources, a joint approach to that management is being developed by the parties. This joint approach includes the establishment of a committee of the HBRC to develop and review policy statements and plans prepared under the Resource Management Act.

This Deed of Commitment is prepared and agreed to by all parties in good faith as a measure of our commitment to working together for the long-term benefit of the Hawke's Bay region.

1 VISION

Ko te tohu Rangatira, ko te oranga o te Talao

Our achievement will be measured by how well we look after our environment

- 2 PRINCIPLES
- 2.1 The parties will abide by the following principles:

Tino Rangatiratanga and Kaitiakitanga

2.2 The HBRC acknowledges the tino rangatiratanga of the T\u00e4ngata Whenua Parties and their responsibility to exercise kaitiakitanga for the benefit of present and future generations.

Proposed Deed of Commitment



2.3 The T\u00e4ngata Whenua Parties recognise the role of the HBRC in representing the interests of the regional community.

Representation

2.4 The basis of the relationship between the parties will be between elected representatives of the HBRC and appointed representatives of the T\u00e4ngata Whenua Parties in the region.

Tikanga

2.6 In our relationship we will respect and observe tikanga.

Sustainable Management

2.7 We acknowledge the need for a strong regional economy and good social outcomes in decision making and recognise that such outcomes must be based on the sustainable management of the natural and physical environment.

Treaty of Waitangi and its principles

- 2.8 We also acknowledge the importance of the provisions relating to the Treaty of Waitangi and its principles in various legislation, and the need to give full effect to those provisions and principles in the management of our natural and physical environment. The functions, duties and powers of the Council are primarily contained within the following Acts:
 - Biosecurity Act 1993
 - Building Act 2004
 - Civil Defence Emergency Management Act 2002
 - Hawke's Bay Endowment Land Empowering Act 2002
 - Land Drainage Act 1908
 - Land Transport Management Act 2003, and Land Transport Management Amendment Act 2008
 - Local Electoral Act 2001
 - Local Government Act 2002
 - · Local Government Official Information Meetings Act 1987
 - Local Government (Rating) Act 2002
 - Maritime Transport Act 1994
 - Resource Management Act 1991
 - Soil Control and Rivers Conservation Act 1941
 - · Transport Services Licensing Act 1989

Mutual Respect and Understanding

2.9 Both parties are committed to quality engagement with each other and undertaking training to ensure that both parties understand each other and the processes of Council. To meet the cost of such training the Council will make provision annually in its budgeting processes.



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Proposed Deed of Commitment

Living Document

2.10 This Deed of Commitment is a living document and will evolve as the relationship between the parties evolves over time.

3 PROTOCOLS

3.1 In our relationship the following protocols will be observed.

Confidentiality and communications

- 3.2 We agree that all information communicated to one party by another party in any manner in connection with this Deed will be kept confidential and used by the recipient party only for the purposes of this Deed.
- 3.3 The consent of all parties will be required before any public announcement is made about any aspect of the relationship between the parties.

Hui

3.4 We will meet on a quarterly basis (in addition to any other committee meetings of the HBRC that we may be involved in). Until the proposed Regional Planning Committee is established, we agree to meet as frequently as is needed.

Representatives

- 3.5 Consistency of representation is preferred to enable the strengthening of relationships.
- 3.6 The HBRC representatives at the quarterly meetings will be the Chairperson, the Chief Executive Officer and the Group Manager: External Relations.
- 3.7 Each T\u00e4ngata Whenua Party will advise the other parties of the representative that party has appointed to attend the quarterly meetings on their behalf, and any changes to that appointment.

Disputes

3.8 Should any issue arise in relation to the subject matter of this Deed, the parties will consult in good faith with each other and attempt to resolve such issues.

Amendment

3.9 This Deed may be amended by agreement of the parties.

Changes or additions to parties

- 3.10 We note that there are various Crown-recognised, mandated groups with tangata whenua interests in the Hawke's Bay region, who may not currently be in a position to sign this Deed, even though they support its intention.
- 3.11 Each of those groups may be joined to this Deed at a later date by executing a Deed of Accession with the parties to this Deed, substantially in the form set out in Schedule 1 to this Deed.

3.12	When a group becomes a party to this Deed in accordance with clause 3.11, it shall be deemed to be a Tangata Whenua Party for the purposes of this Deed.		
3.13	Each Tāngata Whenua Party (other than the Ngāti Pāhauwera Development and Tiaki Trust is, or will be, negotiating the settlement of its Treaty of Waitangi claims with the Crown. As a result of their settlements, it is likely that a new post settlement governance entity (PSGE will be established which may assume some or all of the roles currently performed by that Tāngata Whenua Party. It is agreed that a PSGE may replace a Tangat Whenua Party and be joined to this Deed by such PSGE and Tāngata Whenua Party.		
3.14	Upon receipt of such Deed of Accession by the parties in accordance with clause 3.13, such angata Whenua Party shall cease to be a party to this Deed and the PSGE will be deemed to a Tangata Whenua Party for the purposes of this Deed.		
	Communications		
3.15	including the name of their contact p	arty will notify the others of their contact details erson, for the purpose of communications between the s to those contact details should be notified to all	
3.16	All communications made in relation	to this Deed shall be made in writing.	
Signed	for and on behalf of		
Hawke	's Bay Regional Council by		
insert	name and title]		
igned	for and on behalf of		
Mana A	Ahuriri Incorporated by		
insert	name and title]		
igned	for and on behalf of		
/launga	aharuru-Tangitu Incorporated by		
nsert	name and title]		
igned t	for and on behalf of		
gāti Hi	neuru lwi Incorporated by		

[insert name and title]

Ngāti Pāhauwera Development and Tiaki Trust by



Proposed Deed of Commitment

Schedule 1

Form of Deed of Accession (clause 3.11)

Deed of Accession relating to (insert name) Dated []

Background

We refer to the Deed of Commitment dated [] 2011 between the Hawke's Bay Regional Council and the Tangata Whenua Parties. Defined terms used in the Deed of Commitment have the same meaning in this deed.

[Insert name] is a Crown recognised, mandated group having tangata whenua interests in Hawke's Bay. [Insert name] wishes to become a party in accordance with clause 3.11 (changes or additions to parties) of the Deed of Commitment.

Accession

- The Hawke's Bay Regional Council and the Tangata Whenua Parties agree to the accession of [insert name] to the Deed of Commitment
- From the date of this Deed of Accession [insert name] shall be deemed to be a Tangata Whenua Party for the purposes of the Deed of Commitment.

Signed for and on behalf of Hawke's Bay Regional Council

Tangata Whenua Parties

New Party

ITEM 9 REGIONAL PLANNING COMMITTEE DRAFT ANNUAL REPORT

Attachment 1

Proposed Deed of Commitment

Schedule 2

Replacement of [insert name of Tangata Whenua Party] with [name of PSGE] Dated []

Background

We refer to the Deed of Commitment dated [] 2011 between the Hawke's Bay Regional Council and the Tangata Whenua Parties. Defined terms used in the Deed of Commitment have the same meaning in this deed.

[Insert name] is a party to the Deed of Commitment. In accordance with clause 3.13 (Changes or Additions to Parties) of the Deed of Commitment [Insert name of tangata whenua party] wishes to replace itself with [Insert name of PSGE] as a party to that Deed.

Accession

- By executing this Deed of Accession [insert name of PSGE] confirms that it wishes to become
 a party to the Deed of Commitment
- From the date of this Deed of Accession [insert name of PSGE] shall be deemed to be a
 Tangata Whenua Party, and [insert name of Tangata Whenua Party] shall cease to be a
 Tangata Whenua Party, for the purposes of the Deed of Commitment.

Signed for and on behalf of

Hawke's Bay Regional Council

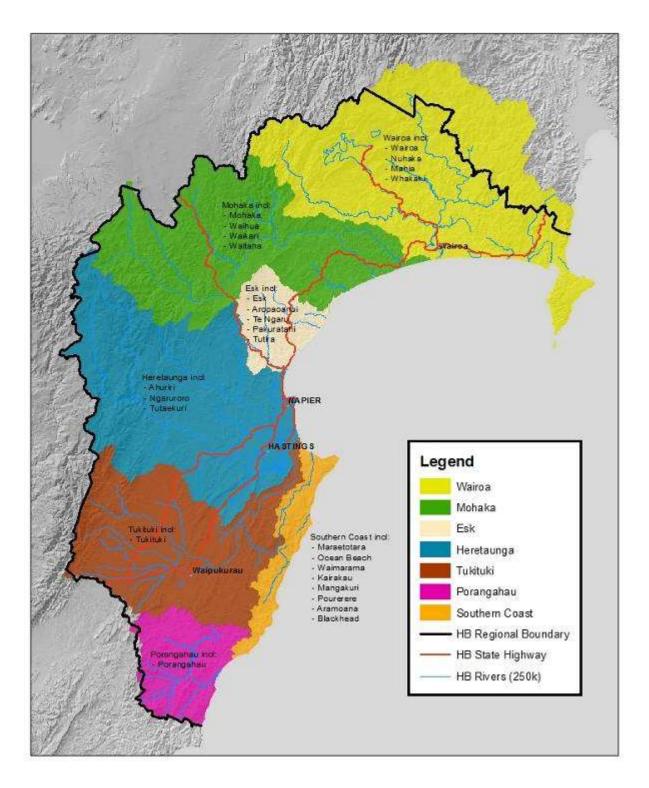
Tangata Whenua Parties

New Party

Appendix D Schedule of Meetings and Workshops April 2012 – June 2013

Meeting Date		Decision Items	Information & Performance Monitoring	General Business
10/04/12	Workshop	The Resource Management Act 1991		
10/04/12	Inaugural Meeting			
09/05/12	Committee Meeting		Joint Planning Committee - Proposed Legislation Policy Development Work Programme	
28/05/12	Workshop	Standing Orders	•	
11/07/12	Committee Meeting	Delivering the Tukituki Strategy	Introduction to Managing Non Point Source Discharge (using the Taharua/Mohaka Catchment as a case Study)	Tangata Whenua Consultation Process
05/09/12	Committee Meeting	Taharua Catchment Strategy	 Greater Heretaunga/Ahuriri Land & Water Plan Change Tukituki Choices Update Regional Policy Statement – Change 5 Update 	
19/09/12	Committee Meeting	Regional Policy Statement – Change 5		
01/11/12	Workshop	Draft Tukituki Plan Change 6		
07/11/12	Committee Meeting	Regional Policy Statement – Change 5 Tukituki Choices - Responses		7
10/12/12	Workshop	Tukituki Catchment Proposal		
10/12/12	Committee Meeting	Tukituki Choices - Responses		9
13/02/13	Committee Meeting	Regional Policy Statement Change 5 – Appointment of Commissioners	Tukituki Plan Change Update Heretaunga/Ahuriri Strategy Update	Taharua/Mohaka Update
05/06/13	Workshop	The Regional Policy Statement		Tamatea Taiwhenua Overview of the Ruataniwha Water Storage Scheme
05/06/13	Committee Meeting	Appeals on Change 4	 Taharua/Mohaka Policy Development Update Heretaunga/Ahuriri Policy Development Update Biodiversity Strategy Update 	

Appendix E Major River Catchments in Hawke's Bay



HAWKE'S BAY REGIONAL COUNCIL

REGIONAL PLANNING COMMITTEE

Wednesday 07 August 2013

SUBJECT: UPDATE ON RMA REFORM

Reason for Report

1. This report provides a brief update on the Government's work programme regarding reforms of the resource management system, particularly amendments to the Resource Management Act ('the RMA'). This paper does not attempt to describe the various proposals or their merits, but merely provide a 'situation report' of planning staff's understanding of the Government progressing further reforms.

Background

- 2. When the Government came into office in 2008 it began a significant programme of resource management reform. These have included improvements to streamline and simplify the resource management system such as establishing the EPA and a national consenting regime. Penalties for non-compliance and for delays in consent processing by councils have been increased. Disincentives for anti-competitive behaviours have been created. New national policies and/or standards are in place for freshwater management, renewable energy, electricity transmission and soil contaminants. Changes to the resource management system have also been required as part of establishing the Auckland Council and reforming the aguaculture regime.
- 3. More recently, the Government has focused on tackling more complex challenges, some of which are addressed in the 2012 Resource Management Reform Bill. Others are being addressed in a more systemic review of the RMA and New Zealand's freshwater management system.
- 4. These changes are being formed and released in a progressive fashion, consequently some of the Government's proposals have progressed further than others.

Resource Management Reform Bill 2012

- 5. This Bill was released in December 2012 and submissions closed on 28 February 2013. The Council did make a submission on elements of the Bill. The Bill's introductory commentary described itself as "an omnibus bill, which proposes amendments to the Resource Management Act 1991, the Local Government (Auckland Transitional Provisions) Act 2010, and the Local Government Official Information and Meetings Act 1987. The bill is intended to streamline the delivery of Auckland's first combined plan, streamline the resource consent regime, boost the quality of local decision-making, and generally improve the Resource Management Act."
- 6. The Local Government and Environment Select Committee has examined the Bill and reported back to Parliament. The Bill had its second reading on 25 June 2013. If the Bill passes its third reading (exact timing of this is not known), then the Bill would soon become law. The Bill proposes that some amendments would come into immediate effect, while others would come into effect after a 3-month lead-in period.

Section 32 proposals

- 7. Revisions to section 32 of the RMA are perhaps the amendments of most relevance to the Regional Planning Committee's purview. The Bill's proposed repeal and replacement of s32 would take effect three months after the Act receives royal asset (i.e. sign-off by the Governor General). At present, the Bill does not appear to apply retrospectively, so the new s32 provisions would not retrospectively apply to plan Changes 4, 5 and 6 that have been publicly notified, but are yet to complete their respective submission> hearing> decision> appeal> approval phases.
- 8. The following is an extract from Ministry officials' advice to the Select Committee regarding submissions on the Bill's proposed amendments to s32 of the RMA:

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- 9. "The key features of section 32 that remain unchanged are:
 - 9.1. an evaluation must examine whether an objective is most appropriate to achieve the purpose of the Act;
 - 9.2. an evaluation must examine whether provisions to achieve the objective are most appropriate having regard to efficiency and effectiveness;
 - 9.3. an evaluation must take into account the risk of acting or not acting where there is uncertain or insufficient information;
 - 9.4. the report must give reasons for the evaluation which is proposed to be expressed as a requirement to summarise the reasons for deciding on the provisions;
 - 9.5. further evaluations are required before final decisions are made; and
 - 9.6. reports must be made public.
- 10. Where clause 69 [of the Bill] differs is by:
 - 10.1. providing clarity that costs and benefits are environmental, economic, social and cultural with explicit reference that costs and benefits are inclusive the opportunity costs of economic growth and employment (32(2)(a));
 - 10.2. requiring the quantification, if practicable, of the costs and benefits that are identified under proposed 32(2)(a), in the proposed section 32(2)(b);
 - 10.3. including the requirement that evaluations must contain a level of detail that corresponds to the scale and significance of proposals (32(1)(c)); and
 - 10.4. expressly allowing for further evaluations to be referred to in the decision-making record (32AA(1)(d)(ii)).
- 11. The inclusion of scale and significance has near unanimous support [in submissions made on the Bill] while allowing the further report to be contained in the decision report removes uncertainty around current practice."
- 12. The Select Committee has recommended that s32 evaluation reports include reference to opportunities for economic growth that are "anticipated to be provided or reduced" rather than those that are expected to "cease to be available". The Select Committee anticipates this would cover both positive and negative change.
- 13. Council staff note that the Bill does not provide any additional legal weighting provided to economic issues compared to environmental, social and culture costs and benefits, however evaluations will be expected to include more detail than previously (and quantified if practicable) on economic issues. This alone will increase costs of RMA-related plan review and policy development which was not anticipated at the time of developing the 2012-22 Long Term Plan.
- 14. At this time, it is unclear what the implications of the new s32 requirements might be on the Council's increasing practice of collaborative planning processes with multi-stakeholder groups.
- 15. Officials' advice to the Select Committee also alluded to the preparation of guidance material to support Council's preparation of s32 reports. This guidance is essential, but timeliness of it is currently uncertain. Sooner rather than later is always preferable.

Proposals for improving the resource management system

- 16. In March 2013, the Ministry for the Environment released a discussion document proposing a package of six elements for reforming the resource management system in New Zealand. Due to the short submission period, the submission prepared and lodged on behalf of the Regional Council was unable to be put before the Regional Planning Committee or any other Council meeting.
- 17. The discussion document's package is proposed so that (in the discussion document's own words):
 - 17.1. central government makes clearer decisions about national issues and how the system should run
 - 17.2. regional and local government make fewer and better plans, with planning processes that are well-informed, identify the big questions and resolve the key tensions upfront to provide certainty for all parties
 - 17.3. clear rules determine what can be done so that fewer resource consents are needed, and can be processed more quickly where they are needed

- 17.4. iwi/Māori are enabled to engage more effectively in resource management processes
- 17.5. local councils are motivated to perform in a 'customer-centric' way with appropriate checks and balances in place
- 17.6. the regulatory environment (including national tools and rules in plans, and the resource consent process) is clearer and more predictable
- 17.7. natural hazards are better managed over time.
- 18. The six key elements of the proposed package looked like this:



- 19. An additional discussion document titled 'Freshwater reform 2013 and beyond' was released in March 2013 to outline measures that will be taken immediately and also signal reforms that will be progressed over time to improve the way fresh water is managed in New Zealand. The Regional Council's submission reflected the views of staff again, because of time constraints and Committee meeting schedules.
- 20. Following feedback on those discussion documents, on 10 July, Environment Minister Amy Adams and Primary Industries Minister Nathan Guy announced that the Government has finalised the first stage of an action plan to improve water quality and the way freshwater is managed. Fuller details on the action plan's first stage are not yet publicly available and so the following items have been taken from the Ministers' own media release. The announcements included:
 - 20.1. creation of a new freshwater collaborative planning option which will give communities and iwi a greater say in planning what they want for their local waterways and how they should be managed;
 - 20.2. improvements to the way in which iwi/Māori engage in freshwater planning, no matter whether councils decide to choose the collaborative option or the existing process:
 - 20.3. not to progress plans at this time to review how Water Conservation Orders work with regional planning processes and plans;
 - 20.4. immediate steps for the freshwater reforms include the creation of a National Objectives Framework (NOF) and better water accounting; and
 - 20.5. statements that the Government will work closely with regional councils to provide guidance and other support to help them implement the changes.
- 21. The Ministers' announcement on 10 July went on to say that other reforms in the freshwater package will be tackled over the next few years. These include:
 - 21.1. rules and tools to support the improved planning system and the National Objectives Framework (NOF)
 - 21.2. a review of the Water Research Strategy across the whole of Government
 - 21.3. national direction and guidance on accounting for sources of contaminants and the use of models for nutrient budgeting
 - 21.4. national guidance on dealing with over-allocation, transition issues, and compliance and enforcement; and

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- 21.5. more work on allocation of water on expiry of permits, the transfer and trade of water, and incentives for efficient water use.
- 22. Exact timing of when an 'omnibus' Bill containing these immediate reforms is not known, but the Environment Minister and her officials have indicated "later this year." When the Bill is released, staff will review it and (if timing of submission deadlines permit) prepare and present a draft submission for the Council's consideration in due course.

Decision Making Process

23. 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 Regional Planning Committee receives the report titled 'Update on Resource Management Reforms'.

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 REGIONAL PLANNING COMMITTEE

Wednesday 07 August 2013

SUBJECT: GENERAL BUSINESS

Reason for Report

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.		

ITEM 11 GENERAL BUSINESS PAGE 127