



## Meeting of the Regional Planning Committee

**Date:** Wednesday 20 May 2015  
**Time:** 1.00 pm  
**Venue:** Council Chamber  
Hawke's Bay Regional Council  
159 Dalton Street  
NAPIER

### Agenda

ITEM	SUBJECT	PAGE
1.	Welcome/Notices/Apologies	
2.	Conflict of Interest Declarations	
3.	Confirmation of Minutes of the Regional Planning Committee held on 18 February 2015	
4.	Matters Arising from Minutes of the Regional Planning Committee held on 18 February 2015	
5.	Follow-ups from Previous Regional Planning Committee Meetings	3
6.	Call for any Minor Items Not on the Agenda	5
<b>Decision Items</b>		
7.	Mana Ake – Collective Iwi Management Plan for Heretaunga Hapu	7
8.	Regional Planning Committee - Terms of Reference	9
<b>Information or Performance Monitoring</b>		
9.	Water Quantity Allocation Policy and Consenting Processes	17
10.	Tukituki Plan Change 6 – Update on Board of Inquiry Review Process	25
11.	Environment Court Decision on Change 5 Appeal	29
12.	State of Our Environment Five-yearly Summary Report	33
13.	May 2015 Resource Management Planning Project Update	37
14.	May 2015 Statutory Advocacy Update	41
15.	Minor Items Not on the Agenda	47

## Regional Planning Committee Members

Name	Represents
Karauna Brown	Ngati Hineuru Iwi Inc
Nicky Kirikiri	Te Toi Kura o Waikaremoana
Nigel Baker	Ngati Tuwharetoa Hapu Forum
Peter Paku	He Toa Takitini
Rangi Spooner	Mana Ahuriri Incorporated
Tania Hopmans	Maungaharuru-Tangitu Trust
Toro Waaka	Ngati Pahauwera Development and Tiaki Trusts
Walter Wilson	Te Tira Whakaemi o Te Wairoa
Alan Dick	Hawkes Bay Regional Council
Christine Scott	Hawkes Bay Regional Council
Dave Pipe	Hawkes Bay Regional Council
Debbie Hewitt	Hawkes Bay Regional Council
Chairman Fenton Wilson	Hawkes Bay Regional Council
Peter Beaven	Hawkes Bay Regional Council
Rex Graham	Hawkes Bay Regional Council
Rick Barker	Hawkes Bay Regional Council
Tom Belford	Hawkes Bay Regional Council

**HAWKE'S BAY REGIONAL COUNCIL**

**REGIONAL PLANNING COMMITTEE**

**Wednesday 20 May 2015**

**Item 5**

**SUBJECT: FOLLOW-UPS FROM PREVIOUS REGIONAL PLANNING COMMITTEE MEETINGS**

**Reason for Report**

1. There are no follow-up items from previous Regional Planning Committee meetings.

**Liz Lambert  
CHIEF EXECUTIVE**

**Attachment/s**

There are no attachments for this report.



**SUBJECT: CALL FOR ANY MINOR ITEMS NOT ON THE AGENDA**

**Reason for Report**

1. Under standing orders, SO 3.7.6:

“Where an item is not on the agenda for a meeting,

  - (a) That item may be discussed at that meeting if:
    - (i) that item is a minor matter relating to the general business of the local authority; and
    - (ii) the presiding member explains at the beginning of the meeting, at a time when it is open to the public, that the item will be discussed at the meeting; but
  - (b) No resolution, decision, or recommendation may be made in respect of that item except to refer that item to a subsequent meeting of the local authority for further discussion.”
2. The Chairman will request any items committee members wish to be added for discussion at today's meeting and these will be duly noted, if accepted by the Chairman, for discussion as Agenda Item 15.

**Recommendations**

That Regional Planning Committee accepts the following minor items not on the agenda, for discussion as item 15:

- 1.

**Liz Lambert**  
**CHIEF EXECUTIVE**



**Subject: MANA AKE – COLLECTIVE IWI MANAGEMENT PLAN FOR  
HERETAUNGA HAPU**

**Reason for Report**

1. The purpose of this paper is to introduce the report 'Mana Ake, an expression of Kaitiakitanga' – an iwi/hapu management plan prepared by a collective of Heretaunga hapu (Attachment 1).
2. The Te Manaaki Taiao Unit of Te Taiwhenua o Heretaunga have been working with Heretaunga hapu over the last two years in the development of the hapu management plan. Representatives from the Te Manaaki Taiao Unit will be giving a presentation on Mana Ake at the meeting.

**Relevance of this Iwi Management Plan**

3. This iwi/hapu management plan has been approved by Ngati Kahungunu Iwi Incorporated as an iwi authority under the RMA and it therefore has status under the Resource Management Act.
4. As part of the plan change process for the Greater Heretaunga / Ahuriri catchments, the Regional Planning Committee must 'take into account' iwi management plans that have been approved by an iwi authority and lodged with the Regional Council.
5. A Hapu/iwi Engagement Plan for the Greater Heretaunga / Ahuriri Catchment policy development process is currently under development based on the principles contained in Mana Ake.
6. How Mana Ake has been 'taken into account' will be demonstrated to the RPC through various planning reports that will be presented to it as part of the policy development process.

**Decision Making Process**

7. 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:
  - 7.1. The decision does not significantly alter the service provision or affect a strategic asset.
  - 7.2. The use of the special consultative procedure is not prescribed by legislation.
  - 7.3. The decision does not fall within the definition of Council's policy on significance.
  - 7.4. The persons affected by this decision are members of Heretaunga hapu.
  - 7.5. There are no alternative options. Iwi Management Plans that are approved by an iwi authority and lodged with Council must be taken into account in relevant planning processes so it is appropriate that it is presented to the Regional Planning Committee.
  - 7.6. The decision is not inconsistent with an existing policy or plan.
  - 7.7. 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**

1. That the Regional Planning Committee receives the presentation on 'Mana Ake – An Expression of Kaitiakitanga', an iwi/hapu management plan prepared by a collective of Heretaunga hapu.
2. The Regional Planning Committee recommends that Council:
  - 2.1 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.
  - 2.2 Acknowledges the role of Mana Ake in the Greater Heretaunga / Ahuriri policy development process under the Resource Management Act.

**Helen Codlin**  
**GROUP MANAGER STRATEGIC**  
**DEVELOPMENT**

**Attachment/s**

- 1 Mana Ake Under Separate Cover



**Subject: REGIONAL PLANNING COMMITTEE - TERMS OF REFERENCE****Reason for Report**

1. At the February meeting of the Regional Planning Committee, the Committee and subsequently the Council agreed that the terms of reference should be amended to include resource management functions that are currently undertaken by the Environment and Services Committee of Council.
2. At that meeting, the Committee and Council also agreed that the voting on the additional papers would retain an 80% majority voting.
3. It was also agreed that the Chairman of the Maori Committee should participate on an ex-officio basis.
4. The purpose of this paper to present the amendments to the Terms of Reference that are intended to give effect to the February decisions, for the Committee's consideration and agreement (subject to any further agreed changes).

**Proposed amendments**

5. The proposed amendments are shown in tracked changes in Attachment 1 on the latest terms of reference which was adopted by Council on 26 February 2014 to accompany the Hawke's Bay Regional Planning Committee Bill.
6. Under **clause c) Procedure**, the changes reflect that the process for referring recommendations back to the Committee for reconsideration applies to clauses d(i) to (vi) and do not apply to clauses d(viii) to (xv).
7. Under **clause d) Functions**, points (xi) to (xiv) reflect the addition functional areas that the RPC should be considering that the Environmental and Services Committee were undertaking. They relate to monitoring, research and investigation programmes, activity impact assessment and the need for new policy, effectiveness of compliance and enforcement activities and authorising appeals against territorial authority decisions.
8. New **clause dd)** provides for circumstances when an urgent decision of Council is required, by enabling the Committee to make its resolution a final decision of Council. This is a standard provision on Council Committee Terms of Reference but it requires the decisions to make the resolution a decision of Council to be carried unanimously.
9. Under **clause r) Officer responsible**, the addition of the Group Manager Resource Management reflects that many papers considered by this Committee will be produced by the Science, Consents and Compliance teams.

**Procedure for approving the amendments**

10. Clause o) **Amendments to these Terms of Reference** states:

**o) Amendments to these Terms of Reference**

*The Councillor members or Tāngata 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 Tāngata Whenua representatives at a hui called for that purpose.

11. The Hawke's Bay Regional Planning Committee Bill, which has passed its 1<sup>st</sup> reading without any changes, states in Section 12(2) that the Terms of References may be amended by the written unanimous agreement of the appointers.

12. Once agreement on the proposed amendments has been achieved by the RPC, it is intended that the tangata whenua members will seek ratification at a hui scheduled for this purpose, after which the Council will be asked to approve the final version (as agreed at the hui) at a Council meeting.

### **Decision Making Process**

13. 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:
  - 13.1. The decision does not significantly alter the service provision or affect a strategic asset.
  - 13.2. The use of the special consultative procedure is not prescribed by legislation.
  - 13.3. The decision does not fall within the definition of Council's policy on significance.
  - 13.4. The persons affected by this decision are all persons with an interest in the region's management of natural and physical resources.
  - 13.5. The Regional Planning Committee and the Council have already decided to broaden the terms of reference for this Committee and this decision gives effect to it in accordance with the provisions of the Terms of Reference.
  - 13.6. The decision is not inconsistent with an existing policy or plan.
  - 13.7. 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**

1. That the Regional Planning Committee receives the report on Amendments to the Regional Planning Committee Terms of Reference.
2. The Regional Planning Committee recommends that Council:
  - 2.1 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
  - 2.2 Agrees with the proposed amendments, and any further amendments agreed at the 20 May 2015 Committee meeting.
  - 2.3 Notes that the Amended Terms of Reference, as agreed, will be considered by the Tāngata Whenua representatives at a hui called for that purpose, before being considered at a Council meeting for formal adoption.

**Helen Codlin**  
**GROUP MANAGER STRATEGIC**  
**DEVELOPMENT**

**Liz Lambert**  
**CHIEF EXECUTIVE**

### **Attachment/s**

- 1 Amended Terms of Reference for Regional Planning Committee

## Regional Planning Committee Terms of Reference

*[adopted 6 November 2013]*

***[amended 26 February 2014]***

*[draft amendments to be considered at RPC meeting in May 2015]*

### **a) Introduction**

Through its Treaty of Waitangi settlement negotiations with the tāngata whenua of the Hawke's Bay<sup>1</sup>, 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.

These terms of reference will be amended by and therefore must be read in conjunction with legislation 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 Tāngata 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) Procedure**

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)(i) – (vi) below. 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 relevant to paragraphs (i) –(vi), 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. The Committee must take all steps reasonably necessary to enable the Council to meet any relevant statutory timeframes.

For recommendations to Council in relation to paragraphs d)(viii) to (xv) below, the decision of Council will be final.

### **d) Functions**

- i)** 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.
- ii)** To prepare any changes to the Regional Resource Management Plan, including the Regional Policy Statement.
- iii)** To prepare any Plan Variations to the Proposed Regional Coastal Environment Plan.

<sup>1</sup> See Deed of Settlement with Ngāti Pāhauwera 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 Hapū signed 22 September 2011, clause 5.41 and Schedule 4. In addition, the Crown has made commitments to other Tāngata Whenua Representatives to establish the Committee, including Mana Ahuriri Incorporated (for the Ahuriri Hapū) and Ngāti Hineuru Iwi Incorporated (for Ngāti Hineuru).

- iv) To prepare Plan Changes to the Regional Coastal Environment Plan as required, once it is operative.
- v) To oversee consultation on any draft Proposed Regional Plan, Proposed Regional Policy Statement, Plan Change or Plan Variation (prior to notification).
- vi) To recommend to Council for public notification any, Proposed Regional Plans, Proposed Regional Policy Statements, Plan Changes or Plan Variations.
- vii) In accordance with the process outlined above, to review any documents which the Council may refer back to the Committee for further consideration.
- viii) 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).
- ix) To determine the scope for the resolution and settlement of appeals on Proposed Policy Statements, Proposed Regional Plans, Plan Variations and Plan Changes.
- x) 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.
- xi) To consider and recommend to Council environmental monitoring strategies and research and investigation programmes, including the State of the Environment Reports
- xii) To consider technical reports on the findings of research and investigations into impact of activities and recommend to Council the development of new policy frameworks based around such information
- xiii) To consider reports on the effectiveness of Council's compliance monitoring and enforcement activities, and to recommend to Council the response to issues arising from such reports.
- xiv) To consider and authorise the lodging of an appeal or reference to the Environment Court against a decision of a territorial authority or an application or designation or proposed plan or plan change or variation on which the Regional Council had lodged a submission.
- xv) 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

??) **Use of Delegated Powers for the Regional Planning Committee**

This committee may, without confirmation by the local authority that made the delegations, exercise or perform them in the like manner and with the same effect as the local authority could itself have exercised and performed them, provided that the decision deserves urgency and the decision to make the resolution a decision of Council is carried unanimously.

**e) Membership**

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

The principle which applies is that there shall be equal numbers of Councillor members and Tāngata 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 Tāngata 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 Tāngata Whenua Representative appointed by Council on nomination from the Tāngata 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 Tāngata 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 Tāngata Whenua Groups will review the appointment of their respective Tāngata Whenua representatives. However, it is recognised that the Tāngata Whenua representatives are nominated for appointment by their respective Member Tāngata Whenua Groups from time to time (and not necessarily triennially), and in accordance with the processes of their respective Member Tāngata 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 Tāngata Whenua representatives on the Committee be a substitute for any consultation with iwi required under the First Schedule of the Resource Management Act 1991.

**l) 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) Costs of administering and operating Committee**

The costs of administering and operating the Committee will be met by the Council, including—

- The costs of any advice required by the Committee as agreed by the Committee; and
- Remuneration of Tāngata Whenua Representatives and Tāngata Whenua Co-Chair as follows:
  - The Tāngata Whenua Representatives and the Tāngata Whenua Co-Chair shall be remunerated for their services by the Council. The level of remuneration shall be determined promptly following each triennial election of Councillors by two independent persons (Appointees), one of which is appointed by the Council Co-Chair, and the other by the Tāngata Whenua Co-Chair. The Appointees must have regard to:
    - the need to minimise the potential for certain types of remuneration to distort the behaviour of the Tāngata Whenua Representatives and the Tāngata Whenua Co-Chair in relation to their respective positions on the Committee;
    - the need to achieve and maintain fair relativity with the levels of remuneration received by elected representatives in RMA policy development roles;
  - and
  - the need to be fair both:
    - to the persons whose remuneration is being determined; and
    - to ratepayers; and
  - the need to attract and retain competent persons.

**n) Review of these Terms of Reference**

The Terms of Reference for the Committee will be reviewed by the Councillor members and the Tāngata Whenua representatives in May 2016 to determine whether the Committee is fulfilling the objectives of the Council and Tāngata Whenua.

**o) Amendments to these Terms of Reference**

The Councillor members or Tāngata 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 Tāngata Whenua representatives at a hui called for that purpose.

**p) 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 until amended by legislation enacted to give effect to agreements reached in respect of the Permanent Committee.

**r) Officers Responsible**

Group Manager Strategic Development, Group Manager Resource Management.

**GLOSSARY**

<b>Proposed Regional Plan / Proposed Regional Policy Statement</b>	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.
<b>Plan Variation</b>	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.
<b>Operative Regional Plan / Operative Regional Policy Statement</b>	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.
<b>Plan Change</b>	Is when a Council proposes changes to an operative plan or policy statement.
<b>Hearings Panel</b>	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.
<b>Member Tāngata Whenua Group</b>	Means a Crown recognised mandated group representing tāngata 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: <ul style="list-style-type: none"> <li>• Mana Ahuriri Incorporated (representing the Ahuriri Hapū);</li> <li>• Maungaharuru-Tangitu Incorporated (representing the Maungaharuru-Tangitu Hapū);</li> <li>• Ngāti Hineuru Iwi Incorporated (representing Ngāti Hineuru);</li> <li>• on an interim basis and only to the extent set out in the Deed of Commitment [ ] between HBRC, Tāngata Whenua Parties and the Crown, Te Toi Kura o Waikaremoana (representing Ruapani ki Waikaremoana); and</li> <li>• Any other group which becomes a Tāngata Whenua Party to the Deed of Commitment dated [ ] between HBRC, Tāngata Whenua Parties and the Crown by executing a Deed of Accession set out in Schedule 1 of that Deed.</li> </ul>

<b>PSGE</b>	Means a post settlement governance entity which has taken over responsibility from a Member Tāngata Whenua Group for representing tāngata whenua interests, being: <ul style="list-style-type: none"> <li>• The Trustees of the Ngāti Pāhauwera Development Trust (representing Ngāti Pāhauwera); and</li> <li>• Any other entity which becomes a Tāngata Whenua Party to the Deed of Commitment dated [ ] between HBRC, Tāngata Whenua Parties and the Crown by executing a Deed of Replacement set out in Schedule 2 of that Deed</li> </ul>
<b>Tāngata Whenua Representative</b>	Means each representative nominated by: <ol style="list-style-type: none"> <li>a Member Tāngata Whenua Group; or</li> <li>a PSGE.</li> </ol>
<b>The Council</b>	Means the Hawke's Bay Regional Council.
<b>The Permanent Committee</b>	Means the Permanent Regional Planning Committee referred to in the Deed of Settlement with Ngāti Pāhauwera signed 17 December 2010 (clause 5.22 and clauses 3.19-3.28 of the Provisions Schedule) and Agreement in Principle with Maungaharuru-Tangitu Hapū signed 22 September 2011 (clause 5.41 and Schedule 4).
<b>Regional Resource Management Plan</b>	Includes the Regional Policy Statement which relates to air, fresh water, gravel and land.
<b>Regional Policy Statement</b>	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.
<b>Regional Plan</b>	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.
<b>Regional Coastal Environment Plan</b>	A document that sets out how the Council will manage the coast. Can include rules.



**Subject: WATER QUANTITY ALLOCATION POLICY AND CONSENTING PROCESSES**

**Reason for Report**

1. Questions around the Regional Council's management of the allocation and use of water across the Heretaunga Plains have been raised through recent media coverage of the allocation of water for water bottling purposes. This report has been prepared to inform Council of the Regional Council's resource management responsibilities and duties in relation to water quantity allocation and use.

**Background**

2. Water management in New Zealand is largely undertaken within the framework of the Resource Management Act 1991 (RMA). This paper does not dwell on revisiting the RMA's purpose and principles, etc.
3. The RMA establishes a hierarchy of legislation, policy statements and plans including the RMA itself, the National Policy Statement for Freshwater Management (NPSFM), Regional Policy Statements (RPS), regional plans and resource consents.
4. The following sections outline the role of each of the key planning instruments in relation to the allocation of water quantity.
5. In this paper, 'allocation' refers to a process whereby a total amount of water that may be extracted and/or used is divided and assigned to individuals, or groups of individuals, or broad uses (e.g. stock water) for their use. The term covers both formal allocation through the consent process, and also use through permitted activities such as stock water takes. The individual amounts are often referred to as 'allocations', and collectively referred to as the 'total allocation'. In freshwater management, the term 'allocation' can also sometimes refer to contaminant loadings and the assimilative capacity of waterbodies. That is not the meaning applied for the purposes of this paper.

**Context and scope**

6. Under common law, naturally flowing freshwater is not owned by anyone, but is treated as a public good. This is still the legal position today. There is an unresolved issue as to Māori rights to freshwater given Waitangi Tribunal findings, and a recent Supreme Court decision in relation to the Government's sale of some state owned assets.
7. Although councils are able to fix charges for consent processing, compliance monitoring costs and science work through S36 of the RMA, we cannot levy a charge for water. There is currently no legislative mechanism by which this might occur. If this was desired then it would require a legislative change to the RMA. This is an issue that would need to be advocated for through central government.
8. It is not the intention of this paper to discuss the legal arguments of water ownership. Rather, this paper outlines the legal and policy framework for freshwater allocation in Hawke's Bay applicable under the RMA and associated planning instruments.
9. All rights to use, dam, divert, or take water or discharge into water are vested in the Crown.<sup>2</sup> So strictly speaking, although the Crown does not own freshwater, it exercises the overall control on how freshwater in New Zealand can be used. The Crown has delegated much of the control of taking, use and pollution of freshwater to regional

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<sup>2</sup> refer s354 RMA.

councils.<sup>3</sup> The RMA states in section 30 that regional councils' roles and responsibilities include:

- 9.1. the control of the use of land for the purpose of the maintenance and enhancement of the quality of water in water bodies and coastal water<sup>4</sup>
- 9.2. the control of the use of land for the purpose of the maintenance of the quantity of water in water bodies and coastal water<sup>5</sup>
- 9.3. the control of the taking, use, damming, and diversion of water, and the control of the quantity, level, and flow of water in any water body, including:
  - 9.3.1. the setting of any maximum or minimum levels or flows of water
  - 9.3.2. the control of the range, or rate of change, of levels or flows of water
  - 9.3.3. the control of the taking or use of geothermal energy.<sup>6</sup>
10. In addition to these regulatory roles, it should be noted that regional councils also have responsibilities to decide, act, and operate in accordance with the Local Government Act 2002 and numerous other statutes.
11. The RMA requires regional councils to prepare a regional policy statement and a regional coastal plan for its region. Other regional plans are optional. Both the RPS and regional plans are prepared to assist the regional council fulfil its functions in order to promote the sustainable management of natural and physical resources (i.e. to achieve the RMA's purpose).
12. In Hawke's Bay, the Regional Coastal Environment Plan (RCEP) is the regional plan covering the region's coastal environment. The Regional Resource Management Plan (RRMP) includes regional plan provisions for those parts of the region not in the 'coastal environment'. The RRMP also incorporates the Hawke's Bay RPS.

#### **How does the RMA allocate water?**

13. Neither the RMA, nor the NPSFM prescribe how or to whom freshwater should be allocated. This means regional councils have a broad discretion to devise rules in regional plans to allocate the taking or use of water.<sup>7</sup> Those rules can retain or override the RMA's default position that water will be allocated only on a 'first come, first served' basis (sometimes referred to as the 'priority in time' method).
14. Section 14(2) of the RMA makes it illegal to take, use, dam or divert freshwater unless the take and use of freshwater is:
  - 14.1. expressly authorised by a national environmental standard, rule in a regional plan or a resource consent
  - 14.2. for an individual's reasonable domestic needs, so long as it does not or is not likely to have an adverse effect on the environment
  - 14.3. for the reasonable needs of an individual's animals for drinking water, so long as it does not or is not likely to have an adverse effect on the environment
  - 14.4. in accordance with tikanga Maori for the communal benefit of the tangata whenua in the area, so long as it does not have an adverse effect on the environment
  - 14.5. for fire-fighting purposes.

<sup>3</sup> National instruments such as National Environmental Standards and Regulations under s360 RMA may be introduced by Ministers to control aspects of water allocation decision-making.

<sup>4</sup> refer s30(1)(c)(ii) RMA.

<sup>5</sup> refer s30(1)(c)(iii) RMA.

<sup>6</sup> refer s30(1)(e) RMA.

<sup>7</sup> refer s30(1)(fa) RMA.

### What is the role of regional policy statements?

15. RPSs provide an overview of the key resource management issues of the region and policies and methods to achieve integrated management of the natural and physical resources of the region.<sup>8</sup> RPSs can contain objectives, policies and methods but cannot contain rules. RPSs enable regional councils to provide broad direction and a framework for resource management within their regions as regional and district plans must give effect to them.<sup>9</sup> Regional statements must give effect to national policy statements (including the New Zealand Coastal Policy Statement) and be consistent with water conservation orders.<sup>10</sup>
16. Regional and district plans must “give effect to” RPSs regional policy statements. The phrase “give effect to” means “actively implement.” It is a strong directive that creates a firm obligation on the part of those subject to it.
17. In the RPS for Hawke’s Bay, key objectives relating to water quantity allocation are set out in RRMP chapters 3.9 and 3.10. In brief, the RPS strives for:
  - 17.1. sustainable groundwater allocation and surface water allocation
  - 17.2. managing cumulative effects of groundwater takes on others and on the environment
  - 17.3. efficient use (i.e. reasonable needs for the end use) of water.
18. Similarly, key Regional Plan objectives and policies (in RRMP chapters 5.5 and 5.7):
  - 18.1. set minimum flows for surface water bodies (also refer Table 1 in this report)
  - 18.2. set allocation limits for surface water bodies (also refer Table 1 in this report)
  - 18.3. do not set allocation limits for groundwater
  - 18.4. manage stream depletion effects on rivers, lakes, springs and wetlands
  - 18.5. provide guidance that water takes are not to exceed rate of recharge
  - 18.6. provide guidance that new water takes are not to affect existing efficient groundwater takes.

### What are implications of the NPS for Freshwater Management on water quantity allocation?

19. Until 2011, successive governments since the RMA’s enactment in 1991 had not provided any further guidance or direction to regional councils about how the country’s freshwater resources should managed. The 2011 (and now 2014 version) of the National Policy Statement for Freshwater Management (NPSFM) supports improved freshwater management in New Zealand. It does this by directing regional councils to establish objectives and set limits (in terms of both quality and quantity) for fresh water in their regional plans. The 2014 version of the NPSFM outlines specific direction to regional councils on how this should be done, known as the National Objectives Framework (‘NOF’) as illustrated in Figure 1.

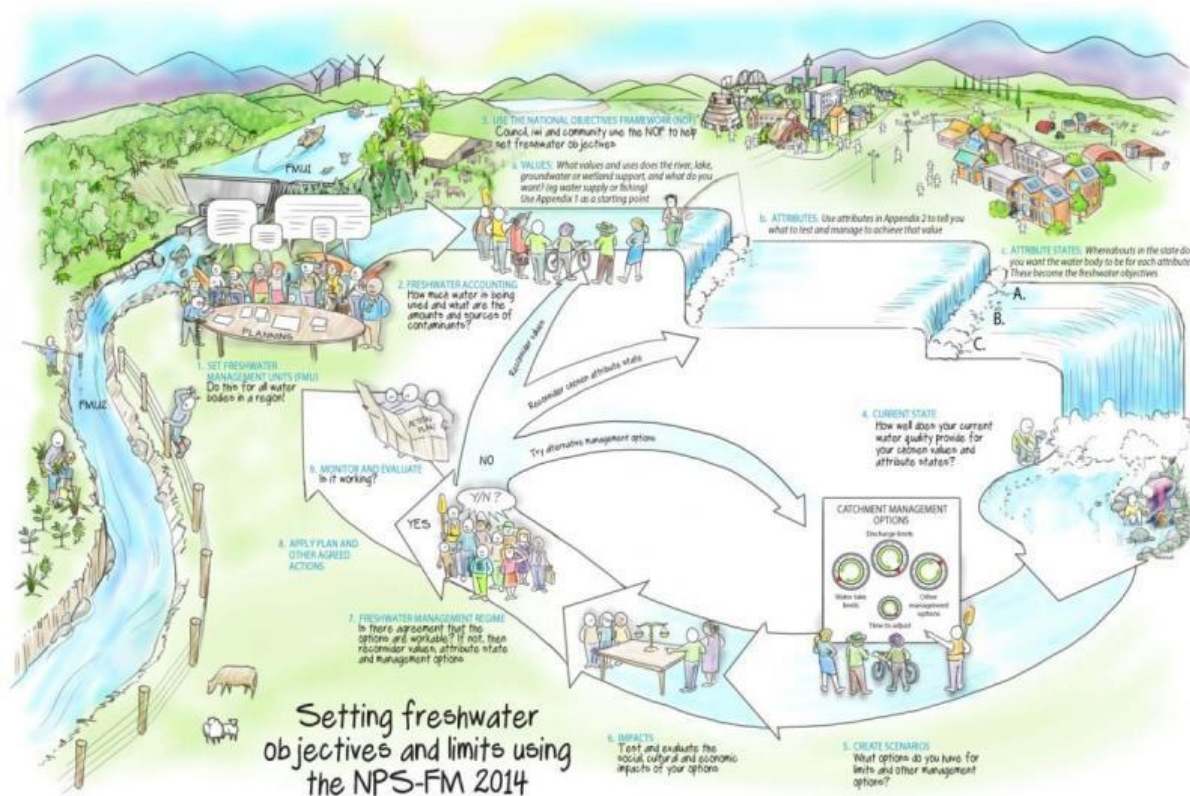
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<sup>8</sup> refer s59 RMA.

<sup>9</sup> refer s67(3) and s75(3) RMA respectively.

<sup>10</sup> refer s62(3) RMA.

Figure 1 - Schematic illustration of the National Objectives Framework's limit-setting process



20. The freshwater objectives and limits in regional plans must give effect to the objectives in the NPSFM. This means they must safeguard the life-supporting capacity, ecosystem processes and indigenous species of freshwater and, in relation to water quality, safeguard the health of people and communities. Regional Councils are also to have regard to the reasonably foreseeable impacts of climate change and the connection between water bodies when establishing objectives and setting limits.
21. However, as noted earlier, nothing in the NPSFM prescribes how or to whom freshwater should be allocated. Consequently, given the absence of any such prescription, water quantity allocation decisions are to be made:
  - 21.1. on the basis of existing policies and rules in regional plans; and
  - 21.2. in the future, on the basis of any policies and rules to be included in regional plans by a plan change process that has followed the NPSFM's objective and limit-setting process.
22. Every rule in a regional plan has the same force and effect of a regulation under the RMA. That is, they can be enforced and penalties apply for non-compliance.

### Regional Plan changes in Hawke's Bay

23. The RRMP was the first of the country's second generation combined regional plans to be made operative (in August 2006). The RCEP was also the first second generation regional coastal plan to become operative (in November 2014).
24. The Regional Council has adopted a programme to progressively implement the NPSFM so it is fully implemented by 2030. A revised programme needs to be adopted before 31 December 2015 about how the 2014 version of the NPSFM will be fully implemented by 2025 (i.e. now five years sooner).
25. The 2011 Hawke's Bay Land and Water Management Strategy (LWMS) is a non-statutory document prepared in liaison with a Stakeholder Reference Group. LWMS includes Policy 1.5 which anticipates land and water management is to be *"tailored and prioritised to address the key values and pressures of each catchment."*

26. The LWMS also includes Policies 3.2 to 3.9 particularly relating to future water allocation. However, none of those policies specify a prioritised list of whom or what should be allocated water before others. The closest it gets is in Policy 3.9 which says *“priority is [to be] given to the needs of people and animals during low flow and drought conditions.”*
27. Plan Change 6 has introduced new policies and rules for the Tukituki River catchment. Some of those policies and rules relate to allocation of water quantity. Similar, but not necessarily identical, provisions may be included in upcoming regional plan changes for other catchments in Hawke’s Bay.
28. The TANK Stakeholder Group and others are working on proposals for a plan change covering the Greater Heretaunga / Ahuriri catchment area. The TANK Group’s discussions will need to follow the NOF’s limit-setting process, but may or may not make a call on how or to whom water in the TANK catchments should be allocated in the future. That TANK plan change is intended to be publicly notified and public submissions invited in December 2017. The TANK project’s work programme also accommodates time for release of an informal draft plan change document for public comment prior to formal public notification. Release of draft plans is not a mandatory step in preparing plans under the RMA.
29. The Council’s progressive implementation programme outlines indicative timeframes for regional plan changes for the remaining catchments in Hawke’s Bay.

### What about imposing a moratorium?

30. Councils cannot impose a ‘moratorium’ merely by way of a Council resolution. A ‘moratorium’ requires some sort of statutory instrument to effect the temporary suspension of activity. The Regional Council could affect a ‘moratorium’ by way of a change to regional plans under the RMA. Alternatively, some sort of legislative change could be introduced by central government. In both cases, those changes are not instant – they are subject to a process involving, at least, an opportunity for submissions to be made by interested parties supporting or opposing any such proposal. In the absence of a statutory (i.e. legislative or regional plan) restriction, the Regional Council remains obliged to receive and process any resource consent applications it may receive.

### Resource Consents to take and use water

31. Whether there are Regional Plans or not, Council must process consent applications as they are received. There are tight statutory timeframes within which this should be done. In processing a resource consent, Council must have regard to the RMA and to NPSs, the RPS and regional plans that are in place or proposed.
32. The RMA sets out the procedures for processing resource consents in Part 6. The applicant should provide an assessment of environmental effects (AEE) and Council will assess the application against the effects (both positive effects and adverse effects). In doing this, officers will be guided by the matters identified in the RPS and regional plans. These include allocation limits and minimum flows, effects on other water takes, the reasonable needs for the intended use. There is no policy that directs the allocation of water to one use over another. What is required is that any activity should identify the intended use and, providing water is available, this will be allocated up to what is determined as reasonable.
33. Across the Heretaunga Plains there are a number of rivers and streams that have minimum flows and allocation limits set on them (RRMP Policy 74). Table 1 lists these rivers and streams.

Table 1: Heretaunga Plains Allocation status

Minimum flow site	Location	Minimum flow (L/s)	Allocatable volume (m3/week)	Allocation status
Awanui Stream	At the Flume	120	0	Full
Irongate Stream	At Clarke’s Weir	100	0	Full
Karamu	At Floodgates	1,100	18,023	Full

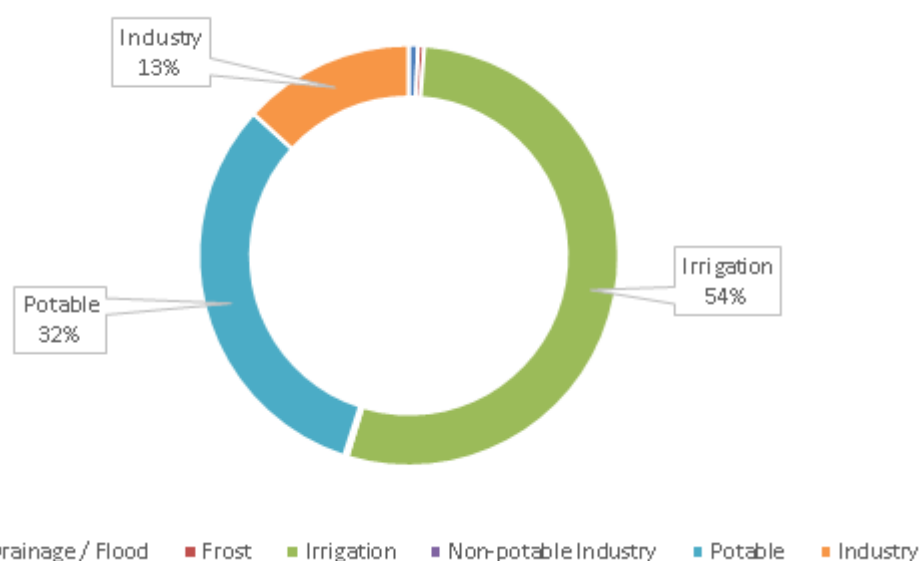
Karewarewa River	At Turamoe	75	-	Full
Louisa Stream	At Te Aute Rd	30	0	Full
Managatere Stream	At Napier Rd	100	0	Full
Maraekakaho River	At Tait's Rd	100	5,443	Full
Maraetotara	At Te Awanga Bridge	220	30,971	Full
Ngaruroro	At Fernhill Bridge	2,400	956,189	Full
Raupare Stream	At Ormond Road	300	83,844	Full
Tutaekuri River	At Puketapu	2,000	928,972	Water available
Tutaekuri-Waimate	At Goods Bridge	1,200	367,114	Full
Groundwater (not connected to surface)	14 zones	NA	No limit	Water available

34. For surface water takes a cumulative total is maintained and water is not allocated in excess of these limits, except with higher minimum flow conditions (as provided for in RRMP Policy 39(d)). As can be seen most of the rivers and streams across the Heretaunga Plains are fully allocated.
35. Where a groundwater take is considered to be hydraulically connected with surface water streams and rivers it will be allocated as part of the surface water regime. There are currently no allocation limits set for groundwater. So where a groundwater take is not considered to be hydraulically connected with surface water streams and rivers there are no allocation limits. Typically this is in areas where the groundwater is confined by a significant layer of silts or clay. These are more typically found in the lower Heretaunga Plains.

### Groundwater allocation

36. The total groundwater allocation across the Heretaunga Plains (including stream depleting takes) is approximately 161 million m<sup>3</sup>/yr. There are a total of 1,687 resource consents issued to take this water. Of this annual volume 26 million m<sup>3</sup>/year is managed as stream depleting (175 resource consents). The balance of groundwater taken is 135 million m<sup>3</sup>/yr.
37. Figure 2 shows the range of water use activities across the Heretaunga Plains. Water bottling takes make up approximately 2% of the current volume of water allocated.

Figure 2: Heretaunga Plains Aquifer Allocation April 2015

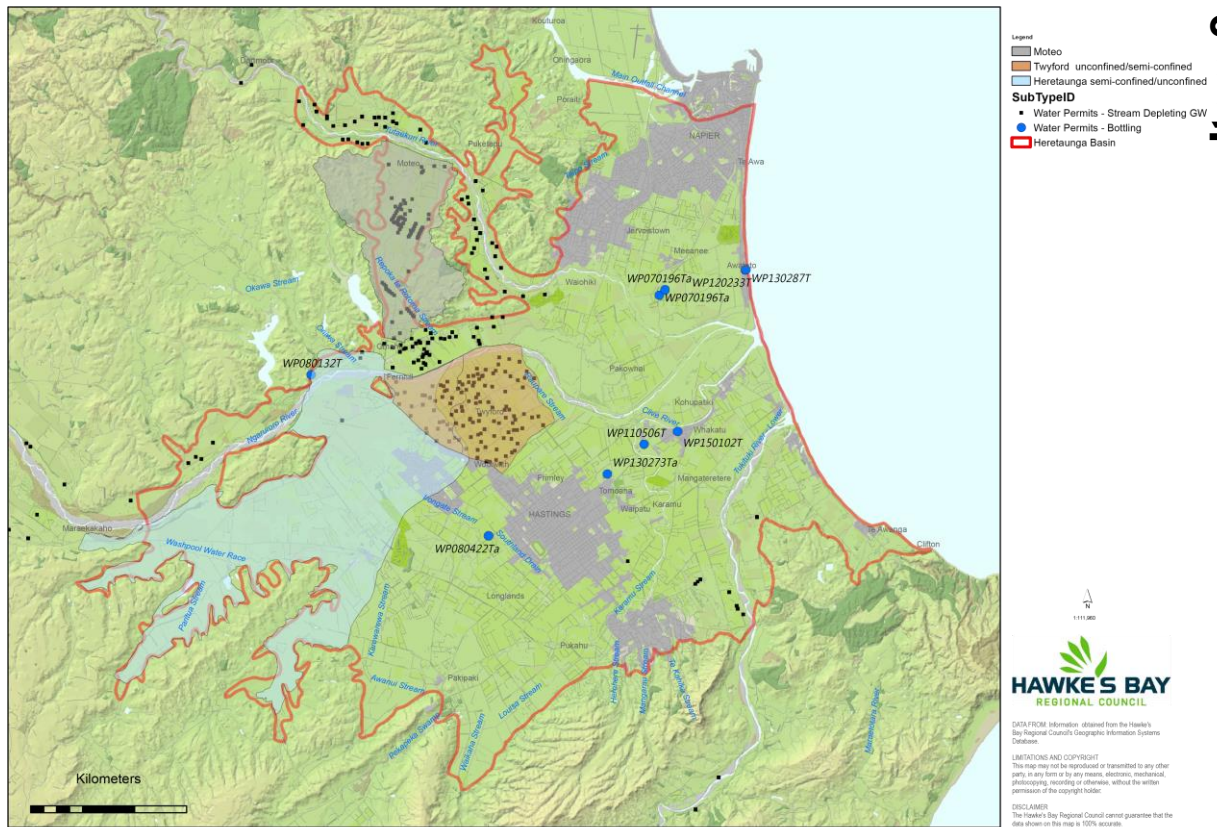


### Water Bottling

38. Across the Heretaunga Plains there are eight resource consents that include water bottling as a use. These can be seen on Figure 3.

Figure 3: Water Bottling takes from the Heretaunga Plains Aquifers





39. These takes are spread across the Plains and all are considered to be within confined groundwater areas and are not subject to minimum flow conditions. At the time of application they were assessed as having a no more than minor adverse effects on the environment and on other users. The groundwater areas from which they are taking water were considered to be able to sustain the take without affecting other users within the area.
40. As outlined above, the TANK project is reviewing the understanding of the entire Heretaunga surface and groundwater systems. And it is looking at how the community wishes to see water managed in the future. If this leads to changes to how water is allocated and managed, resource consents including those taking for water bottling purposes may need to be reviewed to bring them into line with these changes.

### Delegations

41. Staff exercise a number of delegations from Council when processing consents. These include:
  - 41.1. to accept the application (determine that the AEE is adequate)
  - 41.2. to require more information
  - 41.3. to notify or not
  - 41.4. to approve an application (non-notified).
42. Council has retained the discretion to decline an application. If the officer recommendation is to decline an application it must be decided on by the Hearings Committee. It is likely that applications that are recommended to be declined will, in the first instance, be notified (because they are considered to have a more than minor adverse effect on the environment).
43. Where an application is notified the matter will be heard by the Hearings Committee or a panel appointed by the Hearings Committee if there are objections. If there are no objections or the matter is resolved by a pre-hearing meeting then the delegation rests with the Group Manager Resource Management to approve the resource consent application.

### Other comments

44. Additional comments on matters raised in discussion of takes for water bottling use.
- 44.1. Plans do not currently limit what water can be used for and therefore Council staff do not direct what the water resource must be used for.
  - 44.2. There is no royalty charged or able to be charged for water that is taken or allocated.
  - 44.3. There is a charge for the processing of a water permit (actual and reasonable costs).
  - 44.4. There is a charge for recovering a share of the costs of the science associated with monitoring and managing the region's water resources.
  - 44.5. There is a charge for monitoring compliance with the resource consent conditions.
  - 44.6. There is provision for people to 'subscribe' to weekly email notices about new resource consent applications lodged.

### **Decision Making Process**

45. 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 “***Water Quantity Allocation Policy and Consenting Processes***” report.

**Gavin Ide**  
**MANAGER, STRATEGY AND POLICY**

**Malcolm Miller**  
**MANAGER CONSENTS**

**Iain Maxwell**  
**GROUP MANAGER RESOURCE**  
**MANAGEMENT**

### **Attachment/s**

There are no attachments for this report.



**Subject: TUKITUKI PLAN CHANGE 6 – UPDATE ON BOARD OF INQUIRY  
REVIEW PROCESS**

**Reason for Report**

1. The purpose of this report is to update the Committee on the Tukituki Plan Change 6 and the latest Board of Inquiry process.

**Background**

2. By way of summary, Tukituki Plan Change 6 and the consent applications for the Ruataniwha Water Storage Scheme together formed the Tukituki Catchment Proposal that was 'called in' in June 2013 by the Minister for the Environment as a Matter of National Significance to be determined by an independent Board of Inquiry.
3. Following submissions, hearings, the release of a draft decision and comments on that draft, the Board released its final decision in June 2014. That decision was appealed to the High Court on a number of points of law.
4. Following a High Court hearing in November 2014, the High Court released its decision in December 2014 which found that there were points of law to be addressed and it directed the Board to review a narrow element of its decision (Rule TT1(j)) and any consequential amendments to the RWSS consent conditions.
5. Following various meetings and exchanges of memoranda as to how the review process should be carried out, the scope of the review, implementation of the National Policy Statement for Freshwater Management 2014 and most latterly the relevance of the Change 5 decision on the review, the Board released its draft decision on 1 May 2015.
6. Parties had until 15 May 2015 to submit comments on the draft decision which the Board will consider before making a final decision.

**Draft decision**

7. The draft decision is 52 pages long and is to be regarded as an addendum to its final substantive decision dated 18 June 2014.
8. It reconsiders and amends Rule TT1(j) with a consequential amendment to Policy TT4(1)(g).
9. In essence, Rule TT1(j) determines which farming properties will need to obtain a resource consent if the limit for Nitrate-Nitrogen or Dissolved Inorganic Nitrogen (DIN) are still exceeded after 1 June 2020.
10. While there were a number of matters that parties had raised and the Board considered, the two key elements were:
  - 10.1. The exceptions - which farming properties should be excluded from requiring a resource consent under this rule and;
  - 10.2. The Sub-catchment vs Contributing Catchment approach - how farms causing or contributing to the exceedance should be identified.

*Exceptions*

11. In terms of the exceptions, there was a large amount of agreement between the parties following the conference held in late February, which the Board accepted.
12. This means that plantation forestry, and low intensity farming systems (defined as farm properties or farming enterprises that contain no more than 8 stock units per hectare including permanent horticultural and viticultural crops such as orchards and vineyards

and lifestyle properties; but not including a) Properties used for the production of rotational vegetable crops, b) dairy farms; and c) grazed forage crops) will be excluded from requiring a consent in the event that the Nitrate and Dissolved Inorganic Nitrogen limits are exceeded.

#### *The Sub-catchment vs Contributing Catchment approach*

13. HBRC advocated a 'contributing catchment' approach, reasoning that all farms above a monitoring point where the DIN level is exceeded contribute to that exceedance. HBRC acknowledged that this approach would likely require several hundred farms to obtain consent by 2020.
14. The Environmental Groups supported a sub-catchment approach, reasoning that it would capture those properties that are responsible for cumulatively causing an exceedance, would promote efficiency and fewer farms would need a consent.
15. The Board found that both of these approaches would be a significant departure from the Water Management Zone approach taken in the plan and considered it to be well beyond the scope of the matters referred back to it by the High Court.
16. The Board did however make a refinement to the condition to provide clarity as to where the limits should be measured.
17. Instead of the condition reading:  

'...any measured exceedance of the ... limits ... in the relevant mainstem or tributary of a river...'

it now reads

'...any measured exceedance of the ... limits ... **at the downstream HBRC monitoring site nearest to the farm property or farming enterprise** in the relevant mainstem or tributary of a river...'
18. The effect of this is that if the nearest downstream monitoring point does not indicate an exceedance but there is an exceedance at a monitoring point further down the catchment, only the farm contributing in between those sites would need a consent.
19. There is still the challenge of identifying the area of groundwater flow that contributes to any exceedance, and consequently the farm properties that lie above it. However, there is provision for a procedural guideline to be developed to work through that process.
20. Given the timing for lodging of comments to the Board of Inquiry this paper was also considered by the Environment and Services Committee meeting on 13 May. The Committee agreed that Council "lodges comments with the Board of Inquiry indicating its support for the Draft Decision as issued in relation to Rule TT(1)(j)

#### **Where to from here**

21. Comments on the draft decision were to be lodged by 15 May and the Board will consider them and issue a final decision. Staff will be able to give a summary of the comments received by the Board at the 20 May meeting.

#### **Decision Making Process**

22. 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 ***Tukituki Plan Change 6 – Update on Board of Inquiry Review Process*** report.

**Helen Codlin**

**Attachment/s**

There are no attachments for this report.



**Subject: ENVIRONMENT COURT DECISION ON CHANGE 5 APPEAL**

**Reason for Report**

1. The purpose of this report is twofold. Firstly, it outlines the Environment Court's key findings in a recent decision on parts of an appeal by Ngati Kahungunu Iwi Incorporated (NKII). NKII's appeal was against some of the Council's decisions on Change 5 to the Hawke's Bay Regional Resource Management Plan.
2. Secondly, the report provides some commentary about what those findings might mean for the planning process underway for the Greater Heretaunga/Ahuriri catchments (the 'TANK' catchments).

**Background**

3. The Council's decisions on Change 5 were issued on 5 June 2013. Four appeals were lodged (Fish and Game Council, Federated Farmers, Horticulture NZ and NKII), totaling over 150 individual appeal points. Four Court-assisted mediation sessions have been held since those appeals were lodged. Those negotiations have been successful in resolving approximately 140 of the total 150+ appeal points (including resolving two appeals in their entirety)<sup>11</sup> by way of an Environment Court-approved 'consent order' issued in September 2014.
4. The Environment Court's decision in NKII v HBRC (in full online [here](#)) was issued on 27 March 2015, following a hearing on 3-4 December 2014. The hearing and decision was in relation to the last two unresolved points in NKII's appeal.
5. NKII appealed HBRC's earlier decision to delete Objective 21 and amend Objective 22 in the RPS. NKII argued Objectives 21 and 22 should remain largely in their existing form, without amendment proposed by Change 5 as:

*"OBJ 21 No degradation of existing water quality in the Heretaunga Plains and Ruataniwha Plains aquifer systems.*

*OBJ 22 The maintenance or enhancement of groundwater quality in aquifers in order that it is suitable for human consumption and irrigation without treatment, or after treatment where this is necessary because of natural water quality."*

6. NKII argued that retaining the objectives would properly provide for the relationship of Māori and their culture and traditions with water, as required by s6(e) RMA. Expert evidence was given by NKII's witnesses on cultural value of the muriwaihou (aquifers). HBRC did not challenge that evidence.
7. HBRC's decisions upheld Change 5's original proposal as notified to delete Objective 21 and amend Objective 22. The Council's decisions reasoned in particular, that *"the deletion of Objective 21 needs to be seen in the light of the amendments proposed to Objective 22. We consider the proposed amendments to that objective protects the quality of the water quality in the two aquifers... We agree with the [reporting officers' remarks] that the inclusion of absolute statements such as 'no degradation' in an objective does not represent sound resource management practice."*<sup>12</sup>
8. HBRC's case (supporting its earlier decisions) traversed various matters. Those included:

<sup>11</sup> Appeals by NZ Federated Farmers and HorticultureNZ.

<sup>12</sup> Refer paragraph 315 of the Council's Decisions issued 5 June 2013 on submissions to proposed Change 5.

- 8.1. origins of Change 5 from the regional community's input and production of the 2011 HB Land and Water Management Strategy (LAWMS);
- 8.2. implications of the Supreme Court's ruling in the *New Zealand King Salmon* case about the need to give effect to absolute statements in national policy statements and, by extension, regional policy statements;
- 8.3. the need for a more achievable outcome-based objective for groundwater quality in context of NPSFM's objective and limit-setting processes;
- 8.4. that the absolute wording of "no degradation" made the objective impossible to achieve given the legacy and 'load to come' from past activities. Effectively, existing water quality somewhere in the aquifer systems will get worse (i.e. degrade) before it gets better, no matter what future interventions may be employed;
- 8.5. there can be 'hotspots' subject to near-land-surface contamination in a vast and complex aquifer system – is that 'degradation'?

### **What did the Court decide?**

9. Key findings in the Court's decision are outlined below.

#### Objectives as aspirational goes or realistic achievable outcomes?

10. The Court's decision suggests that a RPS objective can indeed be aspirational, and confirms there are no consequences in law for not achieving any such aspirational goals.<sup>13</sup> The possibility that an objective may be unfulfilled does not excuse a failure to try to achieve the objective. Striving to achieve the objective is sufficient.
11. 'Existing' water quality includes the load to come from past activities (i.e. the lag effect),<sup>14</sup> and so 'existing' is not only what is measured in-stream at present-day.
12. In relation to HBRC claiming 'no degradation' was too absolute for any activity which might result in contaminants entering the groundwater, the Court thought that HBRC "overstates both the issue and the possible consequences of adopting [NKII's] position."<sup>15</sup>

#### Functions of regional councils to maintain or improve water quality

13. The s30(1)(c)(ii) function of regional councils to control the use of land for purpose of the maintenance or enhancement of water quality is not optional, be it difficult or easy.<sup>16</sup>
14. The Court said HBRC's proposal "[fails] to even aspire to maintain, let alone improve, the quality of water in these aquifer [Heretaunga and Ruataniwha]" and in doing so fails to recognise and provide for s6(e) matters, and NPSFM Objective D1.<sup>17</sup>

#### Overall water quality

15. The Court did not see an 'overall' water quality management approach allowing for unders and overs as being compatible with at least the requirements of s30(1)(c) and s69.<sup>18</sup> An unders and overs approach involves having something lower in one area for having something higher in another area.

<sup>13</sup> Refer Court decision paragraph 78.

<sup>14</sup> Refer Court decision paragraph 41.

<sup>15</sup> Refer Court decision paragraph 37.

<sup>16</sup> Refer Court decision paragraph 29.

<sup>17</sup> Refer Court decision paragraph 104.

<sup>18</sup> Refer Court decision paragraph 56.

16. HBRC's interpretation of overall water quality to allow an unders and overs approach is "fundamentally flawed,"<sup>19</sup> – This is despite HBRC's interpretation being consistent with NPSFM Guidance documentation. The judgement's conclusions are also seemingly at odds with the Government's intentions documented in earlier Cabinet papers.

### **What is the legal effect of the Environment Court's decision?**

17. No party has lodged a High Court appeal against the Environment Court's decision. Consequently, the ruling stands and the amendments directed by the Court have legal effect. In practice, this means future decisions by the Council on regional plan changes and resource consents will need to consider the Court's version of Objectives 21 and 22, obviously alongside the numerous other provisions in the RPS and other planning instruments.
18. It is presently unclear if the Court's rationale extends to water quantity. Some will inevitably argue it does as s30(1)(c)(iii) is crafted almost identical to (ii). The judgement does not mention how those functions sit alongside other functions of regional councils, namely control of discharges of contaminants and the taking and use of water (ss30(1)(e) and (f) respectively).
19. Some have hailed this Decision is a "landmark," while others describe it as "unworkable" or "of concern" for future regional plan changes, district plan changes and resource consent decision-making. From both viewpoints, this is not so much about the final wording of provisions, but more due to some of the logic and reasoning expressed leading to it.
20. There will be other cases before the Environment Court that will test this decision, particularly in relation to the interpretation of the NPSFM and whether having unders in one area and overs in another remains a legitimate approach. A decision of the Environment Court does not bind any decision of another Environment Court division.

### **What are potential implications of the decision for NPSFM implementation in HB?**

21. The Decision largely reinstates the wording of Objectives 21 and 22 as it is in the operative RPS. Regional plans must give effect to RPSs so this will be a critical element of future policy development for the land and water resources of the TANK catchments and Heretaunga Plains aquifer.
22. While NKII and other parties will rely on the decision to support their position(s), other provisions in Change 5 set out a process and range of matters for consideration when preparing catchment-based regional plan changes. The TANK plan change process provides a comprehensive mechanism to work through the impact of the Decision on the TANK catchments and all the stakeholders. It's notable that:
  - 22.1. the collaborative TANK Stakeholder Group is committed to striving to reach consensus on as many aspects as possible and will no doubt have some challenging discussions about what 'no degradation' means in the context of that process;
  - 22.2. the Regional Planning Committee (RPC) is required to consider new policy in light of all aspects of the RMA requirements, planning instruments and assisted by relevant case law – not just this Decision;
  - 22.3. Council will be considering the recommendations for a proposed plan change from the RPC and if there are elements of the plan change that they disagree with, it is to be referred back to the RPC in the first instance as per RPC's Terms of Reference;
  - 22.4. Submissions on any proposed TANK plan change will inevitably be heard by a panel of accredited RMA hearings commissioners;
  - 22.5. Any appeal(s) on a future TANK plan change would be heard by the Environment Court – assuming RMA reforms do not remove that pathway.

<sup>19</sup> Refer Court decision paragraph 64.

23. While the decision effectively reinstates the existing objectives for groundwater quality, there may be some uncertainty or additional challenges to resource consent application for takes and discharges over the Heretaunga Plains. This may be the case for Hastings and Napier councils too as applications for land use consent are required to 'have regard to' the RPS. Both the Hastings and Napier district plans must also 'give effect to' the RPS.
24. The Decision confirms that future regional plan changes are the appropriate forum for community to consider groundwater quality objectives for inclusion in regional plan (whereas Change 5 relates to the RPS). The 'TANK' plan change covers catchments over Heretaunga aquifer. Collaborative TANK Group will need to consider the Decision's implications alongside various other RPS objectives and policies, while also giving effect to the NPSFM2014, etc.

#### **Remaining Change 5 matters under appeal**

25. As noted in a separate item on the Regional Planning Committee's agenda (refer Item 14), parts of the remaining 'live' appeal points by the Fish and Game Council (Hawke's Bay Branch) relate to a bundle of provisions relating to the definition of 'wetland.' Parties to that appeal have agreed that additional fieldwork surveying should be commissioned by the Regional Council to map the extent of six wetlands and their intermittently wet margins. That fieldwork is anticipated to be undertaken in the first half of 2015, subject to landholder access permissions and other logistical arrangements.
26. The Environment Court has requested a progress report on that initiative by 26 June 2015.

#### **Decision Making Process**

27. 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 ***Environment Court Decision on Change 5 Appeal*** report.

**Helen Codlin**  
**GROUP MANAGER STRATEGIC**  
**DEVELOPMENT**

#### **Attachment/s**

There are no attachments for this report.



**Subject: STATE OF OUR ENVIRONMENT FIVE-YEARLY SUMMARY REPORT**

**Reason for Report**

1. Every five years, Council is required by section 35(2)(a) of the Resource Management Act 1991 to report publicly on the State of the Environment in Hawke's Bay.
2. This reporting includes two levels of information – a summary report on the state and changes that have taken place in the region's environment, and technical reports that detail the data underlying the summary report.
3. This report deals with changes that have occurred in the period 2009 to 2014. The actual period of reporting varies with the topic being considered, as reporting 'seasons' sometimes run winter to winter and sometimes summer to summer, depending on the science discipline.
4. The summary report deals with all the areas of the environment monitored by Council, which are:
  - 4.1. Air quality and climate
  - 4.2. Surface water quantity and quality
  - 4.3. Groundwater quantity and quality
  - 4.4. Land science
  - 4.5. The coastal environment.
5. The report is published on Council's website, and available in hard copy format upon request.

**Summary of State of the Environment**

6. Some aspects of the Hawke's Bay environment have improved in the last five years. For example, air quality has been improving on the Heretaunga Plains; *Escherichia coli* (*E. coli*) levels in groundwater have generally improved; and nitrogen levels in streams and groundwater of the Taharua catchment have improved.
7. However, although levels of nitrogen and phosphorous are improving in some places, these nutrient levels are also getting worse in other locations. Excessive discharge of phosphorous to streams is often accompanied by high levels of sediment discharge, which has not improved at many sites monitored.
8. Coastal water quality has remained largely similar to previous periods of monitoring, but phosphorous levels have improved at one site. Metal contaminants are higher than background levels in parts of the Ahuriri estuary, and may affect biological processes at one site monitored.

*Air Quality and Climate*

9. Hawke's Bay has a usually temperate climate – neither too cold, nor too wet – but with occasional hot days in summer. In Napier the number of hot days each year has increased and the number of cold days has decreased in the last 75 years. Notable weather events in the last five years include the drought of 2012-2013, and the April 2011 storm, which affected the area of the southern Hawke's Bay coastline most severely.
10. Air quality has improved in Hastings and Napier over in the last five years, although domestic heating is still the major contributor of fine particulates in the air causing winter pollution. Open fires have been banned and older wood burners are progressively being

replaced with more efficient appliances, and HBRC provides funding assistance through the HeatSmart programme.

#### *Surface Water Quantity and Quality*

11. The drought of 2012-2013 was a low flow anomaly in an otherwise average to above average five years of river flows.
12. Our water quality monitoring shows phosphorus in surface water has improved at some sites, while declining at one site. Nitrogen has improved at more sites than phosphorus, but also declined at more sites. The rate of improvement for phosphorus is less than the national rate of improvement, but for nitrogen we have fewer sites declining than has occurred nationally. More Hawke's Bay rivers are getting muddier than is the case nationally, and no improvement was seen in the last five years at any site monitored.
13. The headwaters of most Hawke's Bay streams are healthy places for aquatic bugs – macroinvertebrates – but the modified lower catchments are often poor habitats particularly where water temperatures are high and dissolved oxygen low. Lower catchments experience high volumes of aquatic plant growth more frequently, particularly where the river contains high levels of nutrients and there are low levels of shading.
14. Eight of the seventeen native fish species found in Hawke's Bay rivers are threatened. Fifteen of these species spend time in the ocean, migrating to and from freshwater streams during their lives. Barriers to fish passage are being identified and improvements made to help fish climb during their migrations.

#### *Groundwater Quantity and Quality*

15. The long history of groundwater use in Hawke's Bay is driven in part by our dry climate and hot summers causing low flows in surface streams. About 89% of all water consented for taking is from groundwater, mostly from the Heretaunga and Ruataniwha plains.
16. Groundwater levels have declined about 1.5 m in part of the western Heretaunga Plains since reliable records began in the 1960s. However, artesian groundwater levels in the eastern Heretaunga Plains are similar to those encountered almost 150 years ago. Groundwater levels have declined in the west, but are rising in the east of the Ruataniwha Plains.
17. No groundwater quality monitoring sites exceed the NZ Drinking Water Standards (NZDWS) for nitrate, while the indicator species for faecal contamination, *Escherichia coli* (*E. coli*), improved over the last five years, with none detected in 2013. Iron, manganese and total hardness derived mostly from natural sources exceed the NZDWS at a significant number of monitored sites.
18. Managing land-use to improve groundwater and surface water quality has been effective in the Taharua catchment, where land retirement and planting has reduced nitrogen in streams and groundwater.

#### *Land Science*

19. The topography of Hawke's Bay has concentrated intensive horticulture and farming on the Heretaunga Plains around Hastings and Napier. Sheep and deer have declined in significance since 2007, while dairy and beef cattle have become more important. A large portion of our land is probably too steep to farm.
20. The Hawke's Bay landscape is highly erodible, as seen by the large number of landslips that developed in the eastern Tukituki catchment during the April 2011 storm. In parts of this catchment an estimated average 5,000 tonnes of soil is eroded from each square kilometre each year.
21. About a third of the sediment eroded in the Tukituki catchment is lost from stream-bank erosion. Keeping stock out of streams helps reduce the amount of sediment entering our waterways this way. Planting around rivers also assists in reducing sediment being lost to streams, and these approaches may also reduce the amount of phosphorus attached to that sediment which is lost to streams.

### *The Coastal Environment*

22. We monitor coastal water quality to help identify where land use affects fish and insect habitats. We also observe rates of erosion and accretion in the coastal environment, particularly because erosion affects settlements like Haumoana. Coastal studies use data from two offshore wave buoy, studies of river gravel supply to the coast, and onshore and submarine surveys.
23. Coastal water quality is monitored more closely at bathing beaches, in estuaries and in rivers during the months of summer recreation. In general, open-coast beaches have better water quality than estuaries and river swimming sites, because any contaminants are diluted by the ocean.
24. Long-term monitoring of near-shore water quality changes shows that turbidity has improved at one of the seven sites monitored, while it has declined at one site. Dissolved reactive phosphorus and total phosphorus levels have both improved at one monitored site.
25. Estuaries are the receiving environments for river processes, coastal processes and the products of land-use activities. For example, initial work in the Ahuriri estuary indicates its sediments are contaminated with metals delivered in stormwater.
26. The ecology of beaches is dominated by marine worms at places like Opoutama, where the organic material loved by worms washes ashore. Further south bivalves and crustaceans are more common. New programmes of work have been established to monitor the ecology of beaches and intertidal areas.

### **Decision Making Process**

27. The Regional Planning Committee 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.

### **Recommendations**

1. That the Regional Planning Committee receives the “***State of Our Environment Five-Yearly Summary***” report.

**Dr Stephen Swabey**  
**MANAGER, SCIENCE**

**Iain Maxwell**  
**GROUP MANAGER RESOURCE**  
**MANAGEMENT**

### **Attachment/s**

There are no attachments for this report.



**SUBJECT: MAY 2015 RESOURCE MANAGEMENT PLANNING PROJECT UPDATE**

**Reason for Report**

1. This report provides a brief outline and update of the Council's various resource management projects currently underway.

**Discussion**

2. The projects covered in this report are those involving reviews and/or changes under the Resource Management Act to one or more of the following planning documents:
  - 2.1. the Hawke's Bay Regional Resource Management Plan (RRMP)
  - 2.2. the Hawke's Bay Regional Policy Statement (RPS) which is incorporated into the RRMP
  - 2.3. the Hawke's Bay Regional Coastal Environment Plan (RCEP).
3. From time to time, separate reports additional to this one may be presented to the Committee for fuller updates on specific plan change projects.
4. The table in Attachment 1 repeats the relevant parts of the resource management planning work programme from the 2012-22 Long Term Plan and/or current 2014-15 Annual Plan.
5. Similar periodical reporting will also be presented to the Council as part of the 'Period 5', 'Period 9' and end of year Annual Plan reporting requirements.

**Decision Making Process**

6. 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 '**May 2015 Resource Management Planning Projects Update**' report.

**Gavin Ide**  
**MANAGER, STRATEGY AND POLICY**

**Helen Codlin**  
**GROUP MANAGER STRATEGIC  
DEVELOPMENT**

**Attachment/s**

- 1 Regional Plan Project Update



## ATTACHMENT 1 - RESOURCE MANAGEMENT PLAN CHANGE STATUS REPORT AS AT 1 MAY 2015

Current Project	Performance Target as per 2012-22 Long Term Plan or 2014/15 Annual Plan	Update
<u>Regional Coastal Environment Plan</u> ('RCEP')	<p><b>2014-15</b>, Develop plan change(s) to give effect to the 2010 NZ Coastal Policy Statement ('NZCPS').</p> <p><b>2014-15</b>, start review of the RCEP's coastal hazard zones for coastline between Tangoio and Clifton, as part of preparation of a hazard management strategy for that coastline (see Project 322).</p>	<p>RCEP and associated Variations 1, 2 and 3 became operative on 8 November 2014.</p> <p>Clifton to Tangoio Coastal Hazards Management Strategy project has commenced. Joint Committee of representatives from NapierCC, HastingsDC, HBRC and iwi has been formed and project work programme is underway with support from a consultant project manager and a Technical Advisory Group ('TAG'). Website dedicated to the project has also been established: <a href="http://www.hbhazards.co.nz">www.hbhazards.co.nz</a></p>
<u>'Change 5' to RRMP (land and freshwater management)</u>	<b>2014-15</b> , Appeals on Change 5 are resolved.	<p>Consent Order was issued by the Environment Court in September which settled approximately 90% of all appeal points and two appeals in their entirety (NZ Federated Farmers and HorticultureNZ). Environment Court hearing held on 3-4 December 2014 on two points in appeal by Ngati Kahungunu Iwi Inc. Court issued its decision on that matter on 27<sup>th</sup> March 2015. No party has appealed that decision to the High Court, so the decision stands. Also refer to separate RPC agenda item re Change 5 appeals.</p> <p>The remaining parts of Fish and Game's appeal relates to a 'bundle' of provisions relating to the definition of 'wetland.' Parties have agreed that additional fieldwork surveying should be commissioned by HBRC to map the extent of six wetlands and their intermittently wet margins. That fieldwork is anticipated to be undertaken in the first half of 2015, subject to landholder access permissions.</p>
<u>'Change 6' to RRMP (Tukituki River Catchment)</u>	<b>May 2013</b> , notify plan change for Tukituki River catchment.	<p>Proposed Change 6 is part of the 'Tukituki Catchment Proposal.' High Court redirected Board of Inquiry to reconsider two points (PC6's Rule TT1(j)) re surface water DIN limits and the corresponding DIN limit in consent conditions for the Ruataniwha Water Storage Scheme. The Board has heard arguments from parties on those two points and issued its Draft Decision on 1<sup>st</sup> May. Parties have until 15<sup>th</sup> May to make comments on the Draft Decision before the Board issues its final decision.</p> <p>Meanwhile, work continues across many HBRC teams on developing PC6 Implementation Plan.</p>
<u>Greater Heretaunga/Ahuriri catchment area plan change (a.k.a. 'TANK' project)</u>	<b>December 2016</b> , notify plan change for Greater Heretaunga/Ahuriri Catchment Area.	<p>Under preparation. Not yet notified.</p> <p>TANK Group meeting #15 held on 10th March. Discussion covered overall project progress and future work programme, topics for invited guest speakers, and science updates on the Heretaunga groundwater model plus nutrient monitoring and nutrient limitations. 'TANK Science Technical Advisory Group' continuing discussions on science scope, methodologies etc of the coupled groundwater/surface water model. Next TANK Group meeting (#16) tentatively scheduled for 23<sup>rd</sup> or 30<sup>th</sup> June. Also refer to separate item on RPC agenda re hapu/iwi engagement plan based on 'Mana Ake' principles.</p>

Current Project	Performance Target as per 2012-22 Long Term Plan or 2014/15 Annual Plan	Update									
<u>Taharua/Mohaka Catchment plan change</u>	<b>December 2014</b> , notify plan change for Taharua/ upper Mohaka River catchment.	Under preparation. Not yet notified.  For wider Mohaka catchment, supporting science continues to be progressed. A recreational use and values assessment has been completed for the Mohaka River catchment. A draft Stakeholder Engagement Plan was prepared and received in-principle agreement from the Regional Planning Committee in February. The 'Mohaka Consultation Group' is yet to be formed and Terms of Reference drafted.									
Natural hazards and land use management plan change	<b>July 2015</b> , notify plan change for natural hazards.	No further update since Feb 2015 report.  Project on hold pending shape of Resource Management reforms and prioritisation through 2015-25 Long Term Plan process.									
Outstanding freshwater bodies plan change	<b>July 2016</b> , notify change for outstanding freshwater bodies	No further update on plan change component since Feb 2015 report.  Meanwhile, setup phases are underway for the project funded by MFE's Community Environment Fund (\$80,000) to develop criteria and methodology for the identification of 'outstanding freshwater bodies' in the context of the NPSFM2014. The Project's draft work programme spans 12-15 months for delivery of all criteria and methodology outputs before Hawke's Bay-specific plan change preparation can commence.									
Oil and gas policy development	<b>2014-15</b> , initiate community engagement on oil and gas exploration policy development.	Community engagement not yet commenced. Parliamentary Commissioner for the Environment has been invited to visit HBRC and present her report findings/recommendations. Meanwhile, as a result of the Big Six consultation process, this is no longer an oil and gas policy development initiative. Rather, Council has committed to wider consultation on the broader subject of the region's "Energy Future." Council sought Expressions of Interest from a number of energy experts and selected consulting firm Worley Parsons to lead the first stage of the project. Worley Parsons have attended a briefing session at HBRC and conducted a number of interviews with regional energy stakeholders.									
<u>Statutory Acknowledgements of Treaty settlements</u>	n/a	<p>From time to time, Treaty settlement legislation requires local authorities to attach 'statutory acknowledgements' to RMA planning documents. These Statutory Acknowledgements are not part of the plans and policy statement per se and do not require prior adoption by Council. As at the date of reporting, the following Statutory Acknowledgements exist:</p> <table border="1"> <thead> <tr> <th>Iwi</th><th>Settlement date</th><th>Statutory Acknowledgments</th></tr> </thead> <tbody> <tr> <td>Ngati Pahauwera</td><td>June 2012</td><td>1</td></tr> <tr> <td>Maungaharuru-Tangitu</td><td>May 2014</td><td>30</td></tr> </tbody> </table>	Iwi	Settlement date	Statutory Acknowledgments	Ngati Pahauwera	June 2012	1	Maungaharuru-Tangitu	May 2014	30
Iwi	Settlement date	Statutory Acknowledgments									
Ngati Pahauwera	June 2012	1									
Maungaharuru-Tangitu	May 2014	30									



**SUBJECT: MAY 2015 STATUTORY ADVOCACY UPDATE**

**Reason for Report**

1. This paper reports on proposals forwarded to the Regional Council and assessed by staff acting under delegated authority as part of the Council's Statutory Advocacy project between 30 November 2014 and 20 May 2015.
2. The Statutory Advocacy project (Project 192) centres on resource management-related proposals upon which the Regional Council has an opportunity to make comments or to lodge a submission. These include, but are not limited to:
  - 2.1. resource consent applications publicly notified by a territorial authority
  - 2.2. district plan reviews or district plan changes released by a territorial authority
  - 2.3. private plan change requests publicly notified by a territorial authority
  - 2.4. notices of requirements for designations in district plans
  - 2.5. non-statutory strategies, structure plans, registrations, etc prepared by territorial authorities, government ministries or other agencies involved in resource management.
3. In all cases, the Regional Council is **not** the decision-maker, applicant nor proponent. In the Statutory Advocacy project, the Regional Council is purely an agency with an opportunity to make comments or lodge submissions on others' proposals. The Council's position in relation to such proposals is informed by the Council's own Plans, Policies and Strategies, plus its land ownership or asset management interests.
4. The summary plus accompanying map outlines those proposals that the Council's Statutory Advocacy project is currently actively engaged in.

**Decision Making Process**

5. 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 ***May 2015 Statutory Advocacy Update*** report.

**Esther-Amy Powell**  
**PLANNER**

**Helen Codlin**  
**GROUP MANAGER STRATEGIC  
DEVELOPMENT**

**Attachment/s**

- 1 Statutory Advocacy Update (as at 20 May 2015)
- 2 Statutory Advocacy Map



## Statutory Advocacy Update (as at 20 May 2015)

Received	TLA	Map Ref	Activity	Applicant/ Agency	Status	Current Situation
23 October 2014	HDC	1	<b>Resource Consent Application</b> Consent is sought to subdivide part of the property at 996 State Highway 2, Whirinaki into 15 residential sites.	<b>Applicant</b> The Evans Family Trust  <b>Agent</b> Cardno	<b>HDC decision issued, subject to appeal</b>	<b>20 May 2015</b> <ul style="list-style-type: none"> <li>HDC held a hearing on 15th December 2014 and HDC issued its decision on 19th January 2015. HDC decided to grant consent subject to various conditions and consequently declined HBRC's submission.</li> <li>HBRC lodged an appeal to the Environment Court against the HDC decision on 12<sup>th</sup> February 2015. All parties are willing to participate in Environment Court assisted mediation. No date has been set for any mediation.</li> <li>HBRC's submission and subsequent appeal opposes the application principally because the application site is in an area that has been determined as inappropriate for development in both the RPS and the 2010 Heretaunga Plains Urban Development Strategy. The precedent of HDC's decision is also a concern. A copy of the submission can be found at <a href="#">HBRC Submissions</a></li> </ul>
18 July 2014	HDC	2	<b>Notice of Requirement</b> A Notice of Requirement for the Whakatu Arterial Link project to provide a road between Havelock North, State Highway 2 North, Pakowhai Road, the Expressway and the Port of Napier.	HDC	<b>Notified</b>  <b>HDC decision pending</b>	<b>20 May 2015</b> <ul style="list-style-type: none"> <li>HDC held a hearing on 2<sup>nd</sup> -3<sup>rd</sup> February 2015. HBRC and Regional Transport Committee appeared at the hearing in support of the Notice of Requirement.</li> </ul> <b>30 November 2014</b> <ul style="list-style-type: none"> <li>Submissions closed Wednesday 20<sup>th</sup> August 2014.</li> <li>A submission was lodged supporting the Notice of Requirement and in support of the supporting submission lodged by the Regional Transport Committee. Both submissions can be found at <a href="#">HBRC Submissions</a></li> <li>Details of the application can be found here <a href="#">Notice of Requirement</a></li> </ul>
5 December 2013	NCC	3	<b>Plan Change 10 to the Operative City of Napier District Plan.</b> A community driven Plan Change to harmonise district wide provisions between the Napier District Plan with the Hastings District Plan, incorporate the Ahuriri Subdistrict Plan and update provisions as a result of recent Napier City Council policy changes and decisions into the Napier District Plan.	NCC	<b>Notified</b>  <b>NCC decision pending</b>	<b>20 May 2015</b> <ul style="list-style-type: none"> <li>NCC held a hearing on 23rd March 2015. HBRC appeared at the hearing in support of its submission.</li> </ul> <b>28 February 2015</b> <ul style="list-style-type: none"> <li>Submissions closed on Friday 14<sup>th</sup> February 2014. The HBRC submission can be found at <a href="#">HBRC Submissions</a></li> </ul>

Received	TLA	Map Ref	Activity	Applicant/ Agency	Status	Current Situation
8 November 2013	HDC	4	<b>Proposed Hastings District Plan</b>  Review of the Hastings District Plan in its entirety. Includes the harmonisation of district wide provisions between the Napier District Plan with the Hastings District Plan where relevant.	HDC	<b>Notified</b>  <b>HDC hearings in progress</b>	<b>20 May 2015</b> <ul style="list-style-type: none"> <li>HDC are continuing hearings on a topic by topic basis. HDC's <u>hearings programme</u> scheduled to run through first half of 2015.</li> <li>The HBRC Submission and Further Submission on the HDC Plan Review can be found here <u>HBRC Submissions</u> <a href="http://www.hbrc.govt.nz/HBRC-Documents/HBRC_Document_Library/20140214_Submission_HDC_District_Plan.pdf">http://www.hbrc.govt.nz/HBRC-Documents/HBRC_Document_Library/20140214_Submission_HDC_District_Plan.pdf</a></li> </ul>
1 August 2013	NA	5	<b>Application under Coastal and Marine (Takutai Moana) Act 2011</b>  Rongomaiwahine has made an application for a Protected Customary Rights Order and a Customary Marine Title Order in the general Mahia Peninsular area under section 100 of the Marine and Coastal Area (Takutai Moana) Act 2011.	Rongomaiwahine (Pauline Tangiora)	<b>Notified</b>  <b>High Court hearing pending</b>	<b>20 May 2015</b> <ul style="list-style-type: none"> <li>Applicant has filed revised details of the subject area and purpose of the application. Evidence for the applicant has also been circulated. Next step as directed by the High Court is for the other parties (including HBRC) to prepare evidence and circulate to parties by July. High Court yet to set hearing date.</li> <li>Council has opposed the grant of the orders unless the nature and geographical extent of the orders is specified with sufficient detail to enable the Council to appropriately understand the effect of the orders sought. Submissions were also made by the Crown and Gisborne District Council, both seeking clearer specificity of the scope and nature of the orders being applied for.</li> </ul>



## Statutory Advocacy

1. Evans Family Trust - Subdivision
2. Whakatu Arterial Link NOR - HDC
3. Proposed Plan Change 10 - NCC
4. Proposed District Plan - HDC
5. Takutai Moana Act 2011 - Rongomaiwahine



# HAWKE'S BAY REGIONAL COUNCIL

## REGIONAL PLANNING COMMITTEE

Wednesday 20 May 2015

Item 15

### SUBJECT: MINOR ITEMS NOT ON THE AGENDA

#### Reason for Report

This document has been prepared to assist Councillors note the Minor Items Not on the Agenda to be discussed as determined earlier in Agenda Item 6.

ITEM	TOPIC	COUNCILLOR / STAFF
1.		
2.		
3.		
4.		
5.		