



Meeting of the Regional Planning Committee

Date: Wednesday 7 June 2017
Time: 1.00pm
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 3 May 2017	
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Decision Items (Public Excluded)		
11.	Confirmation of the Public Excluded Minutes of 3 May 2017	75

Parking

There will be named parking spaces for Tangata Whenua Members in the HBRC car park – entry off Vautier Street.

Regional Planning Committee Members

Name	Represents
Karauna Brown	Ngati Hineuru Iwi Inc
Tania Hopmans	Maungaharuru-Tangitu Trust
Nicky Kirikiri	Te Toi Kura o Waikaremoana
Liz Munroe	He Toa Takitini
Joinella Maihi-Carroll	Mana Ahuriri Trust
Apiata Tapine	Tātau Tātau O Te Wairoa
Matiu Heperi Northcroft	Ngati Tuwharetoa Hapu Forum
Peter Paku	He Toa Takitini
Toro Waaka	Ngati Pahauwera Development and Tiaki Trusts
Paul Bailey	Hawkes Bay Regional Council
Rick Barker	Hawkes Bay Regional Council
Peter Beaven	Hawkes Bay Regional Council
Tom Belford	Hawkes Bay Regional Council
Alan Dick	Hawkes Bay Regional Council
Rex Graham	Hawkes Bay Regional Council
Debbie Hewitt	Hawkes Bay Regional Council
Neil Kirton	Hawkes Bay Regional Council
Mike Mohi	Hawkes Bay Regional Council - Maori Committee Chair
Fenton Wilson	Hawkes Bay Regional Council

Total number of members = 19

Quorum and Voting Entitlements Under the Current Terms of Reference

Quorum (clause (i))

The Quorum for the Regional Planning Committee is 75% of the members of the Committee

At the present time, the quorum is 15 members.

Voting Entitlement (clause (j))

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.

Number of Committee members present	Number required for 80% support
19	15
18	14
17	14
16	13
15	12
14	11

HAWKE'S BAY REGIONAL COUNCIL

REGIONAL PLANNING COMMITTEE

Wednesday 07 June 2017

Subject: FOLLOW-UPS FROM PREVIOUS REGIONAL PLANNING COMMITTEE MEETINGS

Item 4

Reason for Report

1. On the list attached are items raised at Regional Planning Committee meetings that staff have followed up. All items indicate who is responsible for follow up, and a brief status comment. Once the items have been reported to the Committee they will be removed from the list.
2. Also attached is a list of LGOIMA requests that have been received since the last Council meeting.

Decision Making Process

3. Staff have assessed the requirements of the Local Government Act 2002 in relation to this item and have concluded that, as this report is for information only, the decision making provisions do not apply.

Recommendation

That the Regional Planning Committee receives the report "Follow-up Items from Previous Meetings".

Authored by:

**Leeanne Hooper
GOVERNANCE MANAGER**

Approved by:

**Liz Lambert
GROUP MANAGER
EXTERNAL RELATIONS**

Attachment/s

- [!\[\]\(a16a19bbc0e991a431a3f945e52ea4ee_img.jpg\) 1](#) Follow-ups from Previous Regional Planning Committee meetings

Follow-ups from Previous Regional Planning Committee Meetings

Meeting held 3 May 2017

	Agenda Item	Action	Person Responsible	Status Comment
1	Minor Item not on the agenda	What is being done to support Marae in emergencies? How do Councils support marae? Questions to be directed to the CDEM Joint Committee.	I Macdonald	Councillor Graham will take this to the CDEM Joint Committee.
2	Plan Change 5 Appeal - Confidential Settlement Offer	Recommendation to Council	L Hooper	Resolved by Council as recommended by PC, on 10 May 2017

Meeting held 5 April 2017

	Agenda Item	Action	Person Responsible	Status Comment
1	Recommendations to Council	Recommends that Council: 1. Contacts the Ministry for the Environment to request an extension of time for the submission, from 28 April to a date following the RPC meeting on 3 May 2017, so that the RPC can meet again to discuss and finalise the submission. 2. Requests that staff work with the Tangata Whenua representatives to incorporate their comments into the draft submission for approval by the RPC on 3 May 2017. 3. Delegates the final decision on the "Clean Water" submission, and the lodging of that submission to the Ministry for the Environment, to the RPC on 3 May 2017.	L Hooper	Resolved as recommended on 26 April 2017. Final submission lodged and also published on HBRC Submissions webpage
2	Follow-ups	Replacement for Dr Roger Maaka for the duration of his time on the Water Conservation Order Special Tribunal from He Toa Takitini.	E Lambert	Liz Munroe has been appointed as the temporary replacement for Dr Maaka
3	Follow-ups	Report on alternative approaches for identification of outstanding freshwater bodies incorporating feedback from tangata whenua members' hui held 4 April.	G Ide	7 June 2017 workshop & agenda item.
4	April 2017 Resource Management Planning Project Update	Request for a report to June RPC meeting outlining the scope of the RRMP effectiveness review.	J Palmer	7 June RPC Agenda item June 2017 Resource Management Planning Project Update

	Agenda Item	Action	Person Responsible	Status Comment
5	April 2017 Statutory Advocacy Update	Request for a report to RPC outlining the current stormwater consents held by Napier and Hastings councils; the current water quality state of urban waterways in and around Napier/Hastings; and an outline of potential future policy setting for management of urban stormwater arising from TANK stakeholder group discussions held to date.	I Maxwell	Given the scope and scale of this request a future RPC agenda item will focus on existing RRMP rules and relevance of upcoming catchment based plan changes.
6	Minor Items not on the agenda	Environment Court Declaration on application by Fish and Game & Environmental Defence Society re Horizons One Plan. Request staff provide advice on implications of the Court's Decision as it relates to resource consenting and freshwater management in Hawke's Bay.	J Palmer/ I Maxwell	Horizons Regional Council is leading this on behalf of the Regional Sector - obtaining extensive legal advice and will share this when available to enable staff to provide advice to RPC.

Meeting held 23 November 2016

	Agenda Item	Action	Person Responsible	Status Comment
9	Water Conservation Order Application (Ngaruroro and Clive Rivers)	Copy of final submission to the Special Tribunal to hear the Water Conservation Order application for the Ngaruroro and Clive Rivers	J Palmer	Still awaiting information from the Special Tribunal

HAWKE'S BAY REGIONAL COUNCIL

REGIONAL PLANNING COMMITTEE

Wednesday 07 June 2017

Item 5

Subject: CALL FOR ITEMS OF BUSINESS NOT ON THE AGENDA

Reason for Report

1. Standing order 9.12 states:

“A meeting may deal with an item of business that is not on the agenda where the meeting resolves to deal with that item and the Chairperson provides the following information during the public part of the meeting:

(a) the reason the item is not on the agenda; and

(b) the reason why the discussion of the item cannot be delayed until a subsequent meeting.

Items not on the agenda may be brought before the meeting through a report from either the Chief Executive or the Chairperson.

Please note that nothing in this standing order removes the requirement to meet the provisions of Part 6, LGA 2002 with regard to consultation and decision making.”

2. In addition, standing order 9.13 allows *“A meeting may discuss an item that is not on the agenda only if it is a minor matter relating to the general business of the meeting and the Chairperson explains at the beginning of the public part of the meeting that the item will be discussed. However, the meeting may not make a resolution, decision or recommendation about the item, except to refer it to a subsequent meeting for further discussion.”*

Recommendations

1. That the Regional Planning Committee accepts the following “Items of Business Not on the Agenda” for discussion as Item 10:

1.1. **Urgent** items of Business (*supported by tabled CE or Chairpersons’s report*)

	Item Name	Reason not on Agenda	Reason discussion cannot be delayed
1.			
2.			

1.2. **Minor** items for discussion **only**

Item	Topic	Councillor / Staff
1.		
2.		
3.		

Leeanne Hooper
GOVERNANCE & CORPORATE
ADMINISTRATION MANAGER

Liz Lambert
GROUP MANAGER
EXTERNAL RELATIONS

HAWKE'S BAY REGIONAL COUNCIL

REGIONAL PLANNING COMMITTEE

Wednesday 07 June 2017

Subject: FRAMEWORK FOR OUTSTANDING WATER BODIES IN HAWKE'S BAY

Item 6

Reason for Report

1. This report sets out the options to identify outstanding freshwater bodies (OFWB) in Hawke's Bay.
2. At the March RPC meeting, staff presented several options for the preparation of a plan change identifying OFWB's in Hawke's Bay. The Committee did not agree on any of the options presented, and asked if staff could recommend a short list of potential OFWB in Hawke's Bay.
3. Key concerns were also raised at the March RPC meeting around whether it was necessary to create a legally defensible framework to identify waterbodies which were 'obviously outstanding', and if the proposed approach adequately took tāngata whenua values into account.
4. Following discussions at the meeting in March, the committee members indicated a clear preference for an all-inclusive approach that identifies outstanding waterbodies across the region for all values¹, at the same time. The committee asked staff to come back with an alternative to addressing OFWB in the region and associated cost estimates.
5. This report has been co-authored by Belinda Harper and Billy Brough² in order to provide co-ordinated advice to the RPC to identifying OFWBs in a way that ensures all values³ (including Tāngata whenua values), are appropriately addressed during its development.
6. Since the March RPC meeting the RPC Tāngata whenua representatives have discussed the OFWB topic further during their April and May hui. Staff members were not present at those hui, but the two tāngata whenua representatives were present and together with Staff have identified a preferred approach to identifying OFWB in Hawke's Bay.

Summary of Report

7. Freshwater is one of our region's most precious natural resources and much of HBRC's work revolves around how it is managed. The Council is in the process of undertaking a broader package of plan changes to improve the overall management of waterbodies in the region.
8. The OFWB Plan Change is a small but important plan change which provides stakeholders and the community with an assurance that those special and exceptional waterbodies within the region will be protected and provided for in the future.

Identifying OFWB in Hawke's Bay is a requirement of the NPSFM and does not lessen the importance of, or values associated with, other waterbodies. The management of all other waterbodies remains the same regardless of the OFWB plan change, including through current and future catchment-based plan changes that will be undertaken by the Council.

¹ Note: All values means those values which have the potential to be outstanding, specifically ecological, cultural, recreational, landscape and spiritual values.

² Billy Brough is a resource management consultant engaged by HBRC to provide independent advisory services to the RPC's Tāngata whenua representatives.

³ Note: All values means those values which have the potential to be outstanding, specifically ecological, cultural, recreational, landscape and spiritual values.

9. This report sets out the Council's past, current and planned freshwater programmes to improve water quality and protect the life supporting capacity of our rivers, lakes, streams, wetlands and aquifers. It will answer a number of questions raised at the March 2017 RPC meeting, cover past work which has been undertaken on OFWBs at a national level and present the various options available to the RPC to progress this matter in Hawke's Bay.

Summary of Direction Requested

10. Other than presenting advice about process options going forward, staff have deliberately not advanced any further work on this plan change project, until a clear agreed direction is reached by the Committee. Consequently, this report seeks direction from Committee members on their preferred approach, particularly in relation to:
 - 10.1. the process to identify outstanding waterbodies in Hawke's Bay
 - 10.2. the meaning of outstanding
 - 10.3. whether economic and consumptive use values should be adopted as values which can potentially make a waterbody outstanding for the purposes of the NPSFM.

Summary of Key Options

11. Following discussions at the Committee meeting in March, six principal options have been developed for consideration by the RPC to identify outstanding waterbodies in Hawke's Bay. A detailed analysis of each option is contained in **Attachment 1**.
12. Option 3 is the default option, which will occur if the RPC cannot come to a consensus on how to address OFWB in Hawke's Bay. Option 3 has limited direct input by the RPC, with OFWB being determined on an adhoc basis between 2017 and 2022. Option 3 does not guarantee any consistency to the identification of OFWB throughout the region, nor any certainty that cultural values will be robustly assessed or that OFWB will be adequately protected during the development of each catchment based management plan.
13. Options 4 and 5 involve a comprehensive initial list of approximately 130 waterbodies, followed by a high level review and subsequent further short listing for detailed analysis. Options 4 and 5 have been specifically developed in response to advice from the RPC Tāngata whenua representatives from the April and May hui, and ensure the OFWB plan change process adequately addresses all values⁴ (including cultural values) at the same time.
14. Option 6 skips the comprehensive initial list and high level review, and develops a short list based on Draft Change 5 (approx. 10 waterbodies) and any other waterbodies as agreed by the RPC for detailed analysis. Option 6 has been specifically developed in response to questions raised at the March RPC meeting around whether a short list of 'obviously outstanding' waterbodies could be compiled for consideration to the RPC.
15. Staff have attempted to estimate the likely financial costs of Options 4, 5 and 6⁵. There is significant uncertainty around the financial estimates associated with Option 3 at this stage. In the short term Option 3 is cost effective as no immediate direct action is required. However in the long term Option 3 may be more costly than the other options, as each catchment group will debate and re-debate the topic and come up with an independent plan to address OFWB in their catchment. In brief, the broad financial cost estimates for Options 4, 5, and 6 are between \$100,000 and \$175,000.

⁴ Note: All values means those values which have the potential to be outstanding, specifically ecological, cultural, recreational, landscape and spiritual values.

⁵ If the RPC decides economic and consumptive use values can potentially make a waterbody outstanding for the purposes of the NPSFM, then the associated financial estimates with each of these options will increase.

16. Despite the broad financial estimates being higher than Option 6, in order to ensure cultural values are adequately assessed, the authors of this report are recommending that Option 4 be adopted by the RPC. Option 4 ensures any waterbodies which may be potentially outstanding for cultural values are identified in the short list and allows the RPC to decide on what waterbodies are outstanding in the region in both the coastal⁶ and freshwater areas, and allows the RPC to take a range of information into account in their final decision, rather than focusing solely on Gisborne District Council's narrative criteria.
17. Table 1 in **Attachment 1** sets out a detailed analysis of each option, noting the key steps and broad financial cost estimates associated with each option. The RPC is asked to provide direction on their preferred approach.

Overview of Current Work Programmes

18. The OFWB Plan Change is just one of a number of work programmes proposed as part of the Council's overall NPSFM progressive implementation package. **Attachment 2** contains a Regional Catchment Map which is a geographic representation of the catchments grouping and sequencing as part of the programme to progressively implement the NPSFM by 31 December 2025.
19. There are a number of catchment-based work programmes which are focusing on improving the management of freshwater to protect the life supporting capacity of our rivers, lakes, streams, wetlands and aquifers. These programmes will identify values, set objectives and develop policies and methods (including rules) for managing all waterbodies – regardless of 'outstanding-ness' to ensure overall water quality is maintained or improved. Degraded waterbodies will be addressed during those catchment based processes.
20. The current catchment-based work programmes are focused in the Greater Heretaunga, Ahuriri and Mohaka Catchments. Future programmes that will be undertaken include Esk-Tutira, Wairoa, Porangahau, and Southern Coast catchment areas. These latter ones are intended to be undertaken in parallel, rather than in any particular sequence.
21. Each of these catchment based plan changes will be guided and directed by a range of provisions already existing in national policy statements, national environmental standards, plus the Regional Policy Statement (including recent amendments added by Plan Change 5). The information gathered on each value (including Tāngata Whenua values) has the added benefit of informing the development of the catchment based plan changes.
22. **Attachment 3** outlines Council's current and future work programmes.

Key questions: March 2017 - RPC Meeting

23. In March 2017, two key questions were raised by RPC members. These were:

23.1. **What extra protection do OFWB have over other waterbodies in the region?**

Summarised answer: The protection of OFWB is greater than that given to waterbodies with WCOs and other waterbodies in the region. All significant values of OFWB are to be protected (i.e. no trade-offs between values), while the values of other waterbodies within the region are managed (i.e. trade-offs can occur between values). The NPSFM effectively limits the development potential of OFWBs.

⁶ NOTE: If the identification of outstanding waterbodies in coastal areas are progressed, the name of the plan change will become outstanding water bodies (OWB) (as opposed to outstanding freshwater bodies (OFWB)).

23.2. **Are there any consequences of not notifying an OFWB Plan Change prior to the TANK plan change?**

Summarised answer: There are several potential outcomes if a catchment-specific plan change (e.g. TANK) is notified prior to an OFWB plan change: 1. Nothing, 2. strong dissatisfaction expressed by parties previously involved in Change 5, and 3) a judicial review could be lodged in the High Court against any catchment based plan changes which occur prior to notification of an OFWB plan change.

24. Those questions, and others, are discussed in detail in **Attachment 6**.

MfE's Community Environment Fund – Outstanding Freshwater Bodies

25. In July 2015, HBRC formed a project group with Auckland Council and Ministry for the Environment officials to provide clarification around the intent of the NPSFM's OFWB provisions and develop a set of criteria to identify OFWBs across New Zealand.

26. This project was largely funded by MfE (up to \$80,000). The driver for the project was unhelpful ambiguities in the (then) wording of the 2011 NPSFM OFWB provisions. The 2014 version did little to remove the ambiguity.

27. The final report for this project is now complete and its executive summary and frequently asked questions are contained in **Attachment 7**. The FAQs provide a good overview of the findings and scope of the project. A copy of the full report can be found at <http://www.hbrc.govt.nz/hawkes-bay/projects/freshwater-body-project/> (click on 'final project report').

28. The key findings from the CEF project are:

28.1. the term 'outstanding' distinguishes something from others based on its exceptional qualities and is typically used to describe the 'best of the best'

28.2. only a small number of waterbodies should be identified as outstanding throughout the country

28.3. despite nearly 40 years of research and investigations no nationally accepted criteria for the assessment of OFWB exists

28.4. The NPSFM never intended economic and consumptive use values be classed as outstanding. However, legal advice confirms the current wording of the NPSFM makes it theoretically possible for Councils to recognise economic and consumptive use values as 'outstanding' values if they wish to do so⁷.

28.5. Water Conservation Orders, case law and international literature such as RAMSAR appear to contain a number of accepted criteria and thresholds which have been used in the past to determine whether Tikanga Māori, ecology, landscape, natural character and recreational value sets are outstanding.

Economic and consumptive use values

29. The RPC is asked to provide direction on the following matter.

30. The NPSFM is not clear on whether outstanding values are restricted to only spiritual ecological, landscape and recreational values; or if they can they include consumptive and economic use values such as irrigation, hydroelectricity-generation and tourism.

31. There is no question that a number of waterbodies within the Hawke's Bay region are of such huge economic value to the point they would likely be classed as outstanding (e.g. Heretaunga Plains unconfined aquifer). The key question is whether the NPSFM's OFWB provisions are the correct tool to use to recognise and protect economic values, given their likely direct conflict with most other freshwater values.

⁷ Note: legal advice confirms this advice is untested, and such an approach will likely be subject to future litigation, and the implications of such an approach are unknown.

32. Careful consideration needs to be made of the consequences of some economic uses (such as irrigation and hydro power-generation) having the ability of being recognised as outstanding values under the NPSFM.

What is causing the lack of clarity?

33. The lack of clarity is due to the NPSFM's definition of OFWB which states:
- 33.1. *“Outstanding freshwater bodies: are those water bodies identified in a regional policy statement or regional plan as having outstanding values, **including** ecological, landscape, recreational and spiritual values”.*
34. While the NPSFM does not specifically refer to economic use values in the definition of 'outstanding freshwater bodies', the word 'including' allows for other freshwater values to be considered outstanding in addition to those specified.

Did the NPSFM intend economic and consumptive use values to be classed as outstanding?

35. It is the view of staff, having completed a comprehensive review of key background literature to the NPSFM, that the NPSFM never intended for economic and consumptive use values be classed as outstanding. This conclusion is based on the following two key factors:
- 35.1. The proposed 2008 NPSFM clearly did not allow for the recognition of economic and consumptive use values under the OFWB provisions. It is unlikely that subsequent versions of the NPSFM inserted the word 'including' into the definition of OFWB to allow for economic and consumptive use values to be classed as outstanding, without discussing the consequences of these changes.
- 35.2. The Government's latest proposed amendments to NPSFM Objective A2⁸ are proposing that councils be required to consider economic opportunities after environmental limits and protection measures are in place. Economic opportunities are not mentioned in this Objective as currently written. This further implies economic uses were not expected to be provided for within the OFWB provisions.
- 35.3. For further information see Appendix 5 which discusses this conclusion in detail.
36. Notwithstanding this and regardless of the intent of the NPSFM, its current wording does seem to allow for consumptive and economic uses to potentially be classed as outstanding if the RPC chooses to do so. However, given the uncertainty such a policy position could be subject to litigation in future.

What does the legal advice say?

37. In 2016 as part of the MFE-sponsored Community Environment Fund project, Simpson Grierson provided legal advice confirming it was theoretically possible to recognise economic and consumptive use values as 'outstanding' values for the purposes of the NPSFM.
38. However, the legal opinion is clear that this view is untested, and no case law precedent has been identified to support such an approach. Simpson Grierson further note that while it potentially may be possible to recognise an economic value as outstanding, such an approach will be contentious and could be difficult to justify as being consistent with the objectives of the NPSFM.

What are the implications of classing an economic or consumptive use outstanding?

39. The recognition of economic or consumptive use values as outstanding is likely to be contentious. This is because consumptive uses almost always have an effect on intrinsic and instream values of a waterbody often resulting in a conflict between values.

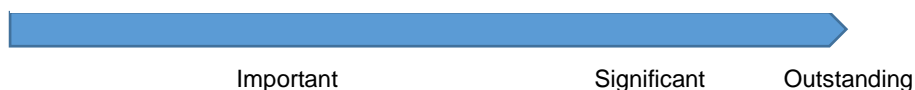
⁸ Proposed NPSFM amendments in the Government's February 2017 'Clean Water' discussion document.

40. As far as the authors of this report are aware, there are currently no examples where economic and consumptive use values have been recognised as outstanding through NPSFM provisions, and so no lessons can be taken from other examples about exactly what the outcomes might be of giving economic and consumptive values priority over other values.
41. The following example is provided to demonstrate this uncertainty.
- 41.1. *“A river in Hawke’s Bay has been identified as having an outstanding irrigation value. The river has no other outstanding or significant values”.*
42. In this example, the NPSFM would require the outstanding irrigation value of the waterbody to be protected. This would present some conflict with the need to identify water quantity limits (.e.g. minimum flows). It is unclear whether a minimum flow could be increased to improve the ecological condition of the river, if doing so would compromise the outstanding value for irrigation.
43. Additionally, if economic values such as irrigation or tourism can be identified as outstanding, this could also mean that the likes of stormwater and water storage values can also be deemed to be outstanding values. It is currently unclear what the policy implications would be if this occurred.

The meaning of ‘outstanding’

44. Being outstanding is a high test. The term ‘outstanding’ distinguishes something from others based on its exceptional qualities and is typically used to describe the ‘best of the best’. Figure 1 is an illustration of where ‘outstanding’ rests on a spectrum of importance.

Figure 1 - conceptual illustration of 'outstanding' on value spectrum



45. While the NPSFM does not provide guidance on how those values should be assessed, it appears to have been widely accepted in case law that:
- 45.1. *“the test as to what is outstanding is a reasonably rigorous one and that to qualify as outstanding a characteristic would need to be quite out of the ordinary on a national basis”⁹* and
- 45.2. *“In an RMA context outstanding means ‘out of the ordinary’ or ‘standing out’¹⁰.*
46. It is generally accepted that the test for outstanding sets a high bar. This indicates in order to be classed as outstanding a water body must be exceptional in some way, with the values or attributes related to it standing out from the rest on a national basis. For this reason it is expected that only a small number of OFWB will be identified across the country.

Implications for Tāngata whenua

47. Tāngata whenua have special cultural, spiritual, historical and traditional associations with freshwater. The relationship between Tāngata whenua and freshwater is founded in whakapapa, which is the foundation for an inalienable relationship between Māori and freshwater that is recorded, celebrated and perpetuated across generations. Freshwater is recognised by Māori as a taonga of paramount importance.
48. All waterbodies are important for spiritual, physical and customary reasons.
49. All Options will address tāngata whenua values to varying degrees. Options 4 and 5 will ensure tāngata whenua values are addressed as part of a robust process to identify OFWB.

⁹ Rangitata South Irrigation Ltd v NZ and Central South Island Fish and Game Council EnvC C109/04.

¹⁰ Philip Milne’s opinion piece; Resource Management Journal.

50. The OFWB plan change does not act to lessen the importance of waterbodies that are not labelled 'outstanding' or change the way in which these waterbodies are managed. The plan change is one of a number of work programmes proposed as part of the Council's overall NPSFM progressive implementation package that focuses on improving the management of freshwater to protect the life supporting capacity of our rivers, lakes, streams, wetlands and aquifers.

Financial and resource implications

51. The associated broad financial estimates (including staff time) associated with Options 4 to 6 are:
- 51.1. Option 4: \$150,000 - \$175,000
 - 51.2. Option 5: \$130,000 - \$150,000
 - 51.3. Option 6: \$100,000 - \$130,000.
52. If the RPC decides economic and consumptive use values can potentially make a waterbody outstanding for the NPSFM, then the associated financial estimates for each of these options will increase.
53. There is significant uncertainty around the financial estimates associated with Option 3 at this stage. In the short term, Option 3 is cost effective as no immediate direct action is required. However in the long term Option 3 may be more costly than the other options, as each catchment group will debate and re-debate the topic and come up with an independent plan to address OFWB in their catchment. Independent appeals may also occur on this topic on a catchment by catchment basis, further exacerbating costs.
54. In order to ensure cultural values are adequately assessed, the authors of this report are recommending that Option 4 be adopted by the RPC, despite the financial estimates being higher than Option 6.
55. Option 4 ensures any waterbodies which may be potentially outstanding for cultural values are identified in the short list and allows the RPC to decide on what waterbodies are outstanding in the region in both the coastal¹¹ and freshwater areas, and allows the RPC to take a range of information into account in their final decision, rather than focusing solely on GDC's narrative criteria.

Decision Making Process

56. Council is required to make every decision in accordance with the requirements of the Local Government Act 2002 (the Act). Staff have assessed the requirements in relation to this item and have concluded:
- 56.1. The decision does not significantly alter the service provision or affect a strategic asset.

Recommendations

1. That the Regional Planning Committee receives and notes the "Framework for Outstanding Water Bodies in Hawke's Bay" report.
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 Significance and Engagement Policy, and that Council can exercise its discretion 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.

¹¹ NOTE: Any outstanding waterbodies identified in coastal areas would result in amendments to the Regional Coastal Environment Plan. If the identification of outstanding waterbodies in coastal areas are progressed, the name of the plan change will become outstanding water bodies (OWB) (as opposed to outstanding freshwater bodies (OFWB)).

- 2.2. Supports Option [] as the preferred approach to the preparation of the plan change to assess and identify outstanding [water/freshwater] bodies in Hawke's Bay. This option [includes/excludes] coastal areas.
- 2.3. Agrees that for the purposes of drafting the outstanding [water/freshwater] body plan change, either:
 - 2.3.1. values which can potentially make a waterbody outstanding are limited to ecological, cultural, recreational, landscape and spiritual values/ **OR**
 - 2.3.2. all values have the potential to make a waterbody outstanding including economic and consumptive use values. For clarification, economic use and consumptive use values, may include activities such as irrigation, hydro-generation, tourism, water storage and stormwater discharges.
- 2.4. Agrees that in order for a waterbody to be classed as outstanding, it must contain at least one value which stands out from the rest on a national basis.
- 2.5. Acknowledges the potential risk to the policy work programme if OFWB are not identified in the region prior to the notification of the next catchment management plan in accordance with Change 5, however Council considers this risk to be minimal and are comfortable with staff not adhering to this timeframe.
- 2.6. Acknowledges that in not agreeing on any options, then by default OFWB within the region will be identified via Option 3 which identifies OFWB as part of catchment based future plan changes that implement the NPSFM.

Authored by:

Belinda Harper
SENIOR PLANNER

Billy Brough
INDEPENDENT ADVISOR TO TANGATA
WHENUA REPRESENTATIVES

Approved by:

James Palmer
GROUP MANAGER
STRATEGIC DEVELOPMENT

Attachment/s

- [1](#) Table 1
- [2](#) Regional Catchment Map
- [3](#) HBRC Work Programme
- [4](#) Template Example for Advanced Assessment of Short Listed Waterbodies
- [5](#) Narrative Criteria used by Gisborne District Council to assess OFWB
- [6](#) Key Questions raised at March 2017 RPC Meeting
- [7](#) Community Environment Fund Outstanding Freshwater Body Project

Table 1: Options available to address OFWB in Hawke's Bay

Option	Brief summary	Pros	Cons	INDICATIVE financial cost of OFWB plan change
Option 1: Status quo/do nothing.	In the event the RPC does not make a resolution to proceed with a specific option, the identification of OFWB would occur through the development of catchment based management plans (Option 3).	Same as Option 3	Same as Option 3	N/A – no OFWB plan change prepared
Option 2: Resolution by RPC that there are no OFWB in Hawke's Bay.	RPC recommend to Council that a resolution is passed which states the region does not contain any outstanding waterbodies. NOTE: this could be potentially difficult to justify given the Mohaka River has an existing Water Conservation Order identifying some outstanding values.	Would likely resolve the risks associated not meeting the requirements of Change 5 to notify an OFWB plan change prior to notification of the next catchment based management plan. OFWB plan change work stream ceases, meaning staff resources can be utilised in other resource management policy projects.	Difficult to justify given parts of the Mohaka River have an existing Water Conservation Order identifying some outstanding values. Parties previously involved in Change 5 would likely challenge a resolution by Council, particularly as no detailed background work was undertaken to support the decision.	N/A – no OFWB plan change prepared
Option 3: (default option) Identify OFWBs during the development of each catchment based plan development process on an adhoc basis.	This option will see the stakeholders of each catchment determine on behalf of the region whether there are any OFWB in their catchment. I.e. in 2018 the TANK and Mohaka stakeholder groups, and in 2021/22 the remaining stakeholder groups ¹ , will decide if there are any OFWB in their respective catchments.	No immediate financial costs	Unequal regional input: The identification of OFWB on a catchment by catchment basis, means not everyone within the region has an equal opportunity to provide input into identifying outstanding waterbodies across Hawke's Bay. For example, the TANK collaborative catchment group would decide on behalf of the region if there are/are not any OFWB in the TANK catchment area. Additionally, for a water body to be identified as outstanding through this process, the collaborative catchment group needs to collectively agree. For example, some stakeholders may resist identifying a river as outstanding, solely on the basis that it may restrict their ability use the river for economic gain (i.e. to take water or discharge	N/A – no OFWB plan change prepared

¹ Esk- Tutira, Wairoa, Porangahau, Southern Coast catchment areas. NOTE: None of these stakeholder groups have yet been formed.

			<p>contaminants into the river). A good example of this is Napier City Council's submission on draft Change 5 re. Ahuriri Estuary. Specifically NCC then requested the Ahuriri Estuary be re-classified as 'important' (rather than outstanding) due to its location in an urban environment and because it is the long established discharge point for half of the city of Napier's stormwater.</p> <p>Enables 'Trade-offs' on OFWB: If OFWB are not identified and protected before catchment management plans are developed, the values that make them outstanding may be 'traded' when the stakeholder group is trying to find an appropriate balance for the managing water quality in their catchment. This means a stakeholder group may purposely allow the water quality of OFWB to decline in order to improve water quality elsewhere in the catchment².</p> <p>Lack of consistency: There is likely to be inconsistent assessment of OFWB throughout the region with different catchment groups applying different reasoning as to why a value is/is not outstanding.</p> <p>Lack of certainty for stakeholder groups: No certainty for stakeholder groups around what makes a value outstanding and what waterbodies' values must be protected when developing the management regime for the catchment</p> <p>Lack of certainty around protection of OFWB: No certainty that significant values of OFWB within the region will be protected and provided for in the future.</p> <p>Inefficient use of resources/increased costs over the long term: The same discussions and work to assess and identify OFWB would be repeated on a catchment by catchment basis during different time periods, likely re-litigating principles.</p>	
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² There are further limitations on this in relation to specific water quality attributes and bands specified in the NPSFM Appendix 2, but for the purposes of this paper, those details are not described any further. Note: NPSFM amendments propose allowing an 'overall' water quality trade off to occur within a 'Freshwater Management Limit' when dealing with water quality attributes not identified in Appendix 2 of the NPSFM.

<p>Option 4: Identify OFWB via a dedicated plan change (freshwater and/or coast)</p> <ul style="list-style-type: none"> Comprehensive initial list (approx. 130 waterbodies) with high level review, then short list, then desk top assessment using the template in Attachment 3. 	<p>a. Comprise an initial list of named waterbodies from Draft Change 5 and those waterbodies of significance to Tāngata whenua as listed in deeds of settlement, statutory acknowledgements, treaty settlements and three court cases³ (approx. 130 named waterbodies).</p> <p>b. Undertake a high level review of all waterbodies on the 'initial list', presenting the findings in a table format featuring the following value headings for each waterbody: importance to Tāngata whenua, water quality, recreation, ecology, natural features, landscape and scientific.</p> <p>c. Report findings of high level review to RPC, together with a recommended short list of waterbodies to move through to a secondary analysis stage.</p> <p>d. Undertake a secondary analysis on the confirmed 'short list' of waterbodies using the template contained in Attachment 3.</p> <p>e. Consultation with iwi authorities and district councils</p> <p>f. Report findings back to RPC of the secondary analysis on short listed waterbodies, plus comments from consultation with iwi authorities and district councils.</p> <p>g. RPC decides on those waterbodies which are outstanding in Hawke's Bay for the purposes of the NPSFM. Draft a plan change accordingly.</p> <p>h. Consultation with iwi authorities and district councils</p>	<p>Allows RPC to identify outstanding waterbodies in the freshwater and coastal environment using a robust process.</p> <p>Uses existing published information and studies which have already been undertaken.</p> <p>Comprehensively addresses all values⁴ (including cultural values).</p> <p>Provides clarity for stakeholders involved in the development of current and future catchment-based plan changes through identification of OFWB.</p> <p>The information gathered through the high level review can be used to inform the development of future catchment based plan changes.</p> <p>The analysis is more objective than Option 3 and 5. The template in Attachment 3 will be populated using existing published information.</p>	<p>Selection of outstanding waterbodies does not rely on a set of established criteria and thresholds, which means that additional work may be required at the hearing stage to address submitters concerns and justify selection of OFWB.</p>	<p>\$150-175K</p>
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³ Board of Inquiry decisions: Plan Change 6 to the Hawke's Bay Regional Resource Management Plan/Ruataniwha Water Storage Scheme; Environment Court Decision: Plan Change 5 to the Hawke's Bay Regional Resource Management Plan NKII vs HBRC and Mohaka River Water Conservation Order decision.

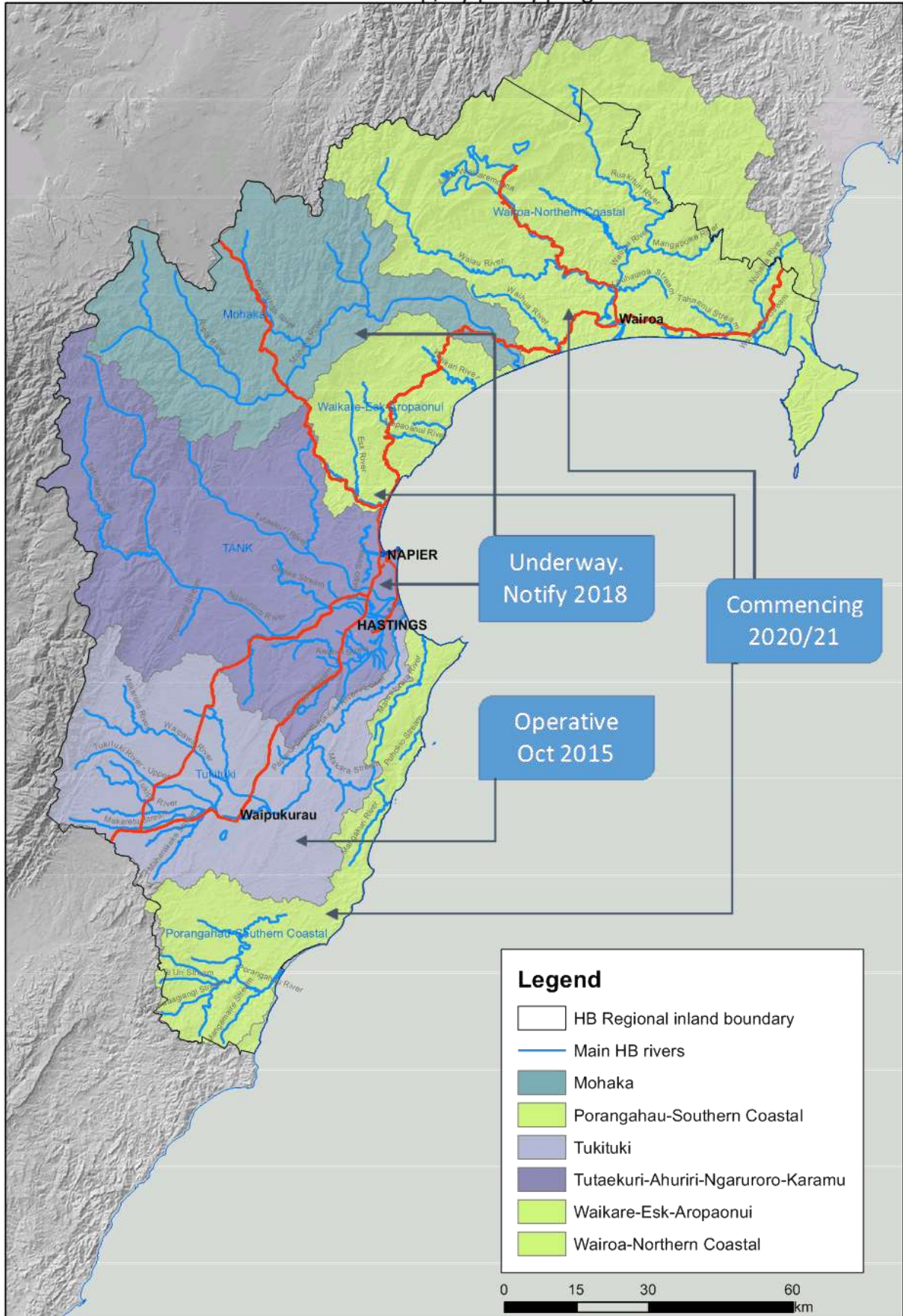
⁴ Note: All values means those values which have the potential to be outstanding, specifically ecological, cultural, recreational, landscape and spiritual values.

	<p>i. Present draft OFWB plan change to RPC for adoption and notification.</p> <p><i>NOTE: This option would be informed using published literature, deeds of settlement of historical claims, statutory acknowledgements, treaty settlements and pre-existing assessments and data (i.e. no new research and investigations). Site visits may occur for shortlisted waterbodies.</i></p>			
<p>Option 5: Identify OFWB via a dedicated plan change (freshwater only)</p> <ul style="list-style-type: none"> Comprehensive initial list (approx. 130 waterbodies) with high level analysis, then short list, then desk top assessment using Gisborne District Council's (GDC) narrative criteria (Attachment 4). 	<p>Same as Option 4, except:</p> <ul style="list-style-type: none"> only identifies outstanding <u>freshwater</u> bodies (i.e. not coast), and The RPCs final decision is based on the criteria used by Gisborne District Council (instead of the RPC taking in to account a range of factors as identified on the template in Attachment 3). <p>See Attachment 4 for criteria and thresholds used by Gisborne District Council.</p>	<p>Provides clarity for stakeholders involved in the development of current and future catchment-based plan changes through identification of OFWB.</p> <p>Uses existing published information and studies which have already been undertaken.</p> <p>Provides a transparent framework as to why a waterbody was identified as outstanding (i.e. each short listed waterbody will be assessed against GDCs narrative criteria).</p>	<p>Does not include outstanding waterbodies in the coastal environment (GDC criteria does not apply to coastal waters).</p> <p>Selection of outstanding waterbodies does not rely on a set of nationally established criteria and thresholds, which means that additional work may be required at the hearing stage to address submitters concerns and justify selection of OFWB.</p> <p>Potential to be very subjective because criteria is narrative.</p>	\$130-150K
<p>Option 6: Identify OFWB via a dedicated plan change (freshwater and/or coast)</p> <ul style="list-style-type: none"> Shortlist (approx. 10 waterbodies + those agreed by RPC) then desktop assessment (i.e. no high level analysis to develop short list). 	<p>The RPC decide on a short list of waterbodies based on the waterbodies identified in draft Change 5 and any others as agreed by RPC</p> <p>a. Short list: Lake Waikareiti; Lake Waikaremoana; Lake Tutira⁵; Upper Mohaka River catchment (above Willow Flat); Upper Ngaruroro River and Taruarau River above Whanawhana cableway; Ahuriri Estuary; Maungawhio Lagoon; Porangahau</p>	<p>Significant time savings. The plan change drafting can be progressed quickly due to clear direction from RPC members.</p> <p>Allows RPC to identify outstanding waterbodies in the freshwater and coastal environment.</p> <p>Avoids resourcing being spent on assessment on dozens of waterbodies that might never be</p>	<p>Selection of outstanding waterbodies does not rely on a set of nationally established criteria and thresholds, which means that additional work may be required at the hearing stage to address submitters concerns and justify selection of OFWB.</p> <p>Does not comprehensively assess every waterbody in the region that may be potentially outstanding for cultural values.</p>	\$100-130K

⁵ Note: Lake Tutira was not specifically identified in Draft Change 5, however supporting documentation for the draft plan change shows this waterbody warrants further assessment as a potential OFWB.

	<p>Estuary; Whakaki Lagoon complex (including neighbouring Ngamotu Lagoon, Ohuia Lagoon, Wairau Lagoon and Te Paeroa Lagoon as part of the greater Whakaki system); + those agreed by RPC.</p> <p>b. Undertake a secondary analysis on the confirmed 'short list' of waterbodies using the template contained in Attachment 3/or GDC narrative criteria (Attachment 4).</p> <p>c. Consultation with iwi authorities and district councils</p> <p>d. Report findings back to RPC of the secondary analysis on short listed waterbodies, plus comments from consultation with iwi authorities and district councils.</p> <p>e. RPC decides on those waterbodies which are outstanding in Hawke's Bay for the purposes of the NPSFM. Draft a plan change accordingly.</p> <p>f. Consultation with iwi authorities and district councils</p> <p>g. Present draft OFWB plan change to RPC for adoption and notification.</p> <p><i>NOTE: This option would be informed using published literature, deeds of settlement of historical claims, statutory acknowledgements, treaty settlements and pre-existing assessments and data (i.e. no new research and investigations). Site visits may occur for shortlisted waterbodies.</i></p>	<p>candidates for truly exceptional outstanding waterbodies.</p>	<p>May be subject to challenge from parties who don't believe the Council followed a robust process to identify OFWB.</p>	
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Attachment 1: HB catchment area map, by policy programme



Item 6

Attachment 2

HBRC’s Work Programmes

NPSFM: 2015 Progressive Implementation Programme for Hawke’s Bay

1. The NPSFM is a significant national driver and requires management objectives to be set for all freshwater bodies and associated ecosystems, water quality and allocation limits.
2. The progressive implementation programme, together with the 2015-25 Long Term Plan, outlines the staged implementation of key projects that HBRC will undertake to fully implement the NPSFM by 31 December 2025.
3. A new chapter has been inserted into the Regional Policy Statement¹ which sets out the process for integrating land and freshwater management at a catchment level. Land management practices will need to be continually improved to reduce impacts on water quality.
4. The Council’s NPSFM progressive implementation plan is contained over page.

2017-18 Annual Plan

5. The Council’s 2017/18 Draft Annual Plan proposes setting aside \$1.22 million to clean up six of the region’s environmental ‘hot spots’. Details are outlined in Table 1 below.

Table 1: Environmental ‘hot spots’ identified in the Annual Plan

Environmental ‘hot spot’.	Outcome
Lake Tutira	Develop a comprehensive action plan to restore the lake and prevent future contamination from the wider landscape
Ahuriri Estuary	Work with Napier City Council, Māori, Department of Conservation, other landowners and businesses in this area - a national treasure – to clean up water entering the estuary, remove pests and restore the environment to good health
Whakaki Lake and Wairoa River	Develop a catchment enhancement plan to improve land use opportunities and reduce sediment from erosion choking the lake and aquatic life.
Lake Whatuma and Tukituki Catchment	Develop an environment enhancement plan for riparian, wetland and biodiversity improvement.
Karamu Stream	Accelerate the current riparian enhancement programme. It wants to improve in-stream ecology and reduce contaminants entering the water.
Marine Environment	Development of a marine research programme.

6. Additional projects are proposed as part of the Draft Annual Plan.

¹ By Plan Change 5.

Attachment 3

Item 6

HBRC Activity	2012-13	2013-14	2014-15	October 2015	2015-16	2016-17	2017-18	2018-19	2019-20	2020-21	2021-22	2022-24	2025-27	2028-30
RPS Change 4 (Built Environment) – OPERATIVE*														
RPS Change 5 (Land and Fresh water management) – SUBJECT OF APPEAL														
Plan change 6 (Tukituki Catchment) – OPERATIVE*														
Plan change: Mohaka River catchment														
Plan change: Greater Heretaunga / Ahuriri Catchment Area (a.k.a. 'TANK catchments')														
Plan change: Urban stormwater														
Commence review of Regional Coastal Environment Plan														
Plan Change: Outstanding freshwater bodies														
Plan Change: Remaining catchment areas (Esk-Tutira, Wairoa, Porangahau, and Southern Coast)														
Commence review of RRMP and RPS content not previously amended since becoming operative														
Statutory Advocacy and reporting (ongoing)**														
Plan Change 6 Tukituki catchment implementation annual reporting**														
Heretaunga Plains Urban Development Strategy review**														
State of the Environment monitoring and reporting (5 yearly, plus annual reporting)**														
Regional Energy Strategy preparation**														
River Ecological Management and Enhancement Plans**														
East Coast Hill Country Strategy preparation**														
Facilitation of Water user groups**														
Land Management Operational Plan (with integrated monitoring)**														
Land Management sub catchment plans (for priority hotspots)**														
Land Management collaborative initiatives (including non-regulatory implementation plans)**														
Regional wetland inventory and monitoring strategy**														
Regional Afforestation Scheme**														

Associated science investigations to support RMA plan change policy decision-making
 Statutory process – policy development
 Statutory process – notification to decisions (assumes up to 2 years)
 # Related milestone specified in Long Term Plan/Annual Plan

* These workstreams/activities have been completed. They are included in the Programme for reference purposes only and will not be reported on annually.
 ** These workstreams/activities may have some components that are directly or indirectly related to freshwater management planning and policy development. They are included in the Programme for reference purposes only and will not be reported on annually.

Template Example for Advanced Assessment of Short Listed Waterbodies

Template example.

<Waterbody>

Publications between 1975 and 2017

Year	Name	Author	Listed values	Grading (if applicable)
Year published	Name of publication	Author	Values listed in publication	Associated grading /out of how many waterbodies

Discussion

1. Purpose of report

This report provides a desktop analysis on the values attributed to <waterbody> in literature published between 1975 and 2017.

The purpose of this analysis is to assist RPC members to determine whether any of the values of <waterbody> outstanding for the purposes of the outstanding waterbodies plan change.

2. Background

General information about waterbody, size, uses, surrounding land etc.

3. Location

Location of waterbody / photo of waterbody



4. Cultural

- History of waterbody

- Importance to Tāngata whenua
- Spiritual values
- Mahinga Kai
- Wahi tapu
- Wahi Taonga
- Ceremonies and rituals
- Taonga
- Archaeological sites
- Any other cultural values

Discuss findings of any studies

5. *Recreational*

Recreational values associated with waterbody

- fishing,
- camping
- swimming
- boating
- Any other recreational values

Discuss findings of any studies

6. *Ecological*

Ecological values associated with waterbody

- Wildlife
- Fisheries
- Aquatic organisms
- Biological and Hydrological features
- Any other ecological values

Discuss findings of any studies

7. *Water Quality*

Current water quality of the waterbody

Discuss findings of any studies

8. *Naturalness/intactness of waterbody*

Current state of the waterbody/ surrounding land uses

Discuss findings of any studies

9. *Scientific*

List any outstanding scientific value associated with the waterbody

Discuss findings of any studies

10. *Outstanding Natural Features*

List any outstanding natural features

Discuss findings of any studies

11. *Landscape*

Landscape assessments

Discuss findings of any studies

12. Economic

Economic values associated with the waterbody

Discuss findings of any studies

13. Consumptive uses

Consumptive use values associated with the waterbody

Discuss findings of any studies

14. Management programmes

Management programmes associated with the waterbody

15. Funding programmes

Funding programmes associated with the waterbody

16. Additional information

Additional information associated with the waterbody

17. Values Summary (using an overall judgement based approach)

Note: the assessment is not limited to the following sub-values. This is an example only - additional values may be added as literature is reviewed.

Overarching Value	Sub-value	Description	Outstanding Yes/no	Comments
Cultural	Tāngata Whenua Spiritual Historical			
Recreational	Fishing Whitewater recreation Boating General recreation (swimming, camping, tramping, biking hunting)			
Ecological	Wildlife Fisheries Biodiversity Biological features (braids deltas) Hydrological features (waterfalls, rapids, pools, springs) Scientific value Naturalness/intactness Aquatic organisms			
Landscape	Scenic Geological features Natural features			
Following values will be included/excluded depending on the decision of the RPC				
Economic	Tourism (sightseeing, commercial activities i.e. rafting)			

Attachment 4

	Stormwater Water storage Electricity generation			
Consumptive use	Irrigation Water supply (municipal & domestic) Commercial and industrial Stock water Commercial fishing			

Item 6

Key questions raised at March 2017 RPC meeting

Q. *What additional protection do Outstanding Fresh Water Bodies get over and above other waterbodies in the region?*

1. Identifying a waterbody as an OFWB prioritises protection of its important values over others in the region. The NPSFM ensures its protection by effectively limiting its potential for further development.
2. Once a waterbody has been identified as outstanding, the Council is required to protect all features which make its values significant. This protection is greater than that given to waterbodies with WCOs and other waterbodies in the region. Figure 1 illustrates the additional protection OFWB have over other waterbodies.

Figure 1 - protection of OFWB relative to other waterbodies

	Waterbodies with WCOS	'Outstanding' freshwater bodies	All other waterbodies
'Outstanding' values	Protect	Protect	N/A
'Significant' values	Not protect, but manage nonetheless	Protect	Not protect, but manage nonetheless
Other values	Not protect, but manage nonetheless	Not protect, but manage nonetheless	Not protect, but manage nonetheless

Outstanding Fresh Water Bodies and Water Conservation Orders

3. The NPSFM provisions are powerful and in some instances provide greater protection than a water conservation order (WCO). This is because a WCO protects outstanding values of a waterbody, while the NPSFM requires protection of the outstanding values **and** the significant values of an outstanding waterbody.
4. Below is an example to demonstrate the different protection offered by a WCO and the OFWB provisions.
 - 4.1. *"An application is lodged with Council for irrigation from a waterbody with rafting as a named outstanding value. This waterbody has significant native fish values but those values are not classed as outstanding themselves. The irrigation will have adverse effects on the native fish population, but not the rafting value."*
5. If this waterbody has a WCO, the water take may still proceed despite its impact on native fish populations. This is because the water take is not affecting the waterbody's outstanding value of rafting.
6. If this waterbody is an OFWB, the water take is unlikely to proceed given its impact on native fish populations, even though outstanding rafting values are not adversely impacted. The outcome in this example arises because the water take is affecting the water body's significant value of native fish, which must be protected under the NPSFM.

Q. *Outstanding Fresh Water Bodies compared to other waterbodies - how is the protection different (NPSFM wording)?*

7. The wording of NPSFM Objectives A2 and B4 requires the protection of significant values of OFWB, not just the quantity or quality of water in that waterbody. The key difference being that overall, the water quality in waterbodies within the region¹ must be maintained or improved, whereas the significant values of OFWB must be protected.
8. The change in language is important. It signals an intention to protect all features and factors of these waterbodies which make these values significant, not only its water quality. For example,

¹ Proposed amendments to the NPSFM would alter this to be within a freshwater management unit, rather than region.

the retention of riparian vegetation may protect wildlife values, or say, the prevention of damming structures on rivers and streams may protect significant and outstanding native fish values.

Procedural requirements

9. Change 5 requires the notification of an OFWB plan change prior to the notification of the next catchment-based plan change. The Mohaka Plan Change is exempt from this requirement. The TANK plan change is the next most imminent plan change that would encounter Change 5's procedural requirement.
10. There are several potential outcomes if a catchment-specific plan change (e.g. TANK) is notified prior to an OFWB plan change.
 - 10.1. Nothing. The catchment plan change follows the standard RMA Schedule 1 process and gets adopted into the Hawke's Bay Regional Management Plan.
 - 10.2. Parties previously involved in Change 5 express strong dissatisfaction that identification of OFWB has not progressed and request urgent prioritisation.
 - 10.3. A judicial review could be lodged in the High Court against any catchment based plan changes which occur prior to notification of an OFWB plan change. Note: A judicial review may or may not have merit and if this occurred would likely either be by:
 - 10.3.1. a member of the community who disagrees with the provisions of the catchment plan change rather than what Council has or hasn't been identified as an OFWB.
 - 10.3.2. a party previously involved in Change 5 who is not happy with an outcome or management regime from the TANK process for a value they consider to be outstanding.

Q. Did the NPSFM intend economic and consumptive use values to be classed as outstanding?

11. After further reviewing the relevant key documents used in developing the NPSFM, it is clear that the NPSFM never intended to class economic and consumptive use values as outstanding. The amendments to Objective A2 in the 2014 NPSFM, which potentially allows for the protection of economic and consumptive use values, were unintentional.
12. This conclusion is based on the following findings:
 - 12.1. In 2011, the protection of OFWBs was identified as one of the six key areas of direction of the NPSFM. All versions of the NPSFM have recognised that OFWBs are a limited class of water bodies which warrant special protection. As such, any major changes around the identification and management of OFWBs would have warranted significant discussion in supporting NPSFM documents. This has not occurred.
 - 12.2. The proposed 2008 NPSFM quite clearly did not allow for the recognition of economic and consumptive use values under the OFWB provisions. It is unlikely that subsequent versions of the NPSFM deliberately inserted the word 'including' into the definition of OFWB to allow economic and consumptive use values to be classed as outstanding, without discussing the consequences of these changes in any of the associated cabinet papers, regulatory impact statements, section 32 summary reports, hearing reports, or decision documents.
 - 12.3. In the gazetted 2011 version of the NPSFM, Objective A2 protects the quality of OFWB. This seemingly narrowed the protection of OFWB to water quality only. This amendment does not protect consumptive and economic use values, which indicates there was no intent to protect these values through the OFWB provisions.
 - 12.4. In 2014, a new Objective B4 was inserted into the NPSFM and Objective A2 was amended to protect the significant values of OFWB. It is these amendments which potentially allow for the protection of the economic and consumptive use values through the OFWB provisions². There are no discussions in any supporting

² E.g. 2011 NPSFM required "...protecting the quality of OFWB"; 2014 NPSFM required "...protecting the significant values of OFWB".

documents about these amendments except to say, “the amendment to Objective A2 referencing significant values is minor”. If the amendments to Objectives A2 and B4 were deliberately made to protect economic and consumptive use values through the OFWB provisions, significant discussion would have occurred around this issue and the changes would not have been referred to as ‘minor’.

- 12.5. The supporting documents to the NPSFM are consistently clear that only a small number of OFWB should be identified across the country, with cabinet papers and regulatory impact statements stating “if too many water bodies are considered outstanding there will be missed development opportunities”. This indicates that there was never any intent to protect economic and consumptive use values through the OFWB provisions, because protecting economic and consumptive uses would not result in “missed development” opportunities, it would likely create them.

Conclusion

13. It is clear that the NPSFM never intended to class economic and consumptive use values as outstanding. However, regardless of the intent of the NPSFM, legal advice confirms the current wording of the NPSFM means it is theoretically possible to recognise economic and consumptive use values as ‘outstanding’ values for the purposes of the NPSFM, if councils choose to do so.
14. Notwithstanding, such an approach will likely be contentious and potentially difficult to justify as being consistent with the objectives of the NPSFM and may be subject to future litigation.

What are the implications of classing an economic or consumptive use outstanding?

15. The recognition of economic or consumptive use values as outstanding will generally be contentious. This is because consumptive uses and most economic uses usually have an effect on the intrinsic values and other non-consumptive values of a waterbody. This typically results in a conflict between values.
16. As far as the author of this report is aware, there are currently no examples where economic and consumptive use values have been recognised as outstanding through NPSFM provisions. This means no lessons can be taken from other examples around exactly what the outcomes might be of giving economic and consumptive use values priority over other values.
17. This means the outcome of such an approach is uncertain. For instance, it is unclear if a river had an outstanding irrigation value, whether a minimum flow could then be increased to improve the ecological condition of the river, if doing so would compromise the existing outstanding value for irrigation.
18. While there are some economic uses, such as tourism, which typically do not directly conflict with other values and would therefore be less contentious, it is difficult to justify the inclusion of some economic values and not others given the lack of direction on this matter in the NPSFM. To this end, additional values such as stormwater, water storage and commercial fishing values may also have the potential to be outstanding economic or consumptive use values if councils undertake such an approach.

Key questions raised at March 2017 RPC meeting

Q. What additional protection do Outstanding Fresh Water Bodies get over and above other waterbodies in the region?

1. Identifying a waterbody as an OFWB prioritises protection of its important values over others in the region. The NPSFM ensures its protection by effectively limiting its potential for further development.
2. Once a waterbody has been identified as outstanding, the Council is required to protect all features which make its values significant. This protection is greater than that given to waterbodies with WCOs and other waterbodies in the region. Figure 1 illustrates the additional protection OFWB have over other waterbodies.

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Outstanding Fresh Water Bodies and Water Conservation Orders

3. The NPSFM provisions are powerful and in some instances provide greater protection than a water conservation order (WCO). This is because a WCO protects outstanding values of a waterbody, while the NPSFM requires protection of the outstanding values **and** the significant values of an outstanding waterbody.
4. Below is an example to demonstrate the different protection offered by a WCO and the OFWB provisions.
 - 4.1. *"An application is lodged with Council for irrigation from a waterbody with rafting as a named outstanding value. This waterbody has significant native fish values but those values are not classed as outstanding themselves. The irrigation will have adverse effects on the native fish population, but not the rafting value."*
5. If this waterbody has a WCO, the water take may still proceed despite its impact on native fish populations. This is because the water take is not affecting the waterbody's outstanding value of rafting.
6. If this waterbody is an OFWB, the water take is unlikely to proceed given its impact on native fish populations, even though outstanding rafting values are not adversely impacted. The outcome in this example arises because the water take is affecting the water body's significant value of native fish, which must be protected under the NPSFM.

Q. Outstanding Fresh Water Bodies compared to other waterbodies - how is the protection different (NPSFM wording)?

7. The wording of NPSFM Objectives A2 and B4 requires the protection of significant values of OFWB, not just the quantity or quality of water in that waterbody. The key difference being that overall, the water quality in waterbodies within the region¹ must be maintained or improved, whereas the significant values of OFWB must be protected.
8. The change in language is important. It signals an intention to protect all features and factors of these waterbodies which make these values significant, not only its water quality. For example,

¹ Proposed amendments to the NPSFM would alter this to be within a freshwater management unit, rather than region.

the retention of riparian vegetation may protect wildlife values, or say, the prevention of damming structures on rivers and streams may protect significant and outstanding native fish values.

Procedural requirements

9. Change 5 requires the notification of an OFWB plan change prior to the notification of the next catchment-based plan change. The Mohaka Plan Change is exempt from this requirement. The TANK plan change is the next most imminent plan change that would encounter Change 5's procedural requirement.
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 - 10.1. Nothing. The catchment plan change follows the standard RMA Schedule 1 process and gets adopted into the Hawke's Bay Regional Management Plan.
 - 10.2. Parties previously involved in Change 5 express strong dissatisfaction that identification of OFWB has not progressed and request urgent prioritisation.
 - 10.3. A judicial review could be lodged in the High Court against any catchment based plan changes which occur prior to notification of an OFWB plan change. Note: A judicial review may or may not have merit and if this occurred would likely either be by:
 - a member of the community who disagrees with the provisions of the catchment plan change rather than what Council has or hasn't been identified as an OFWB.
 - a party previously involved in Change 5 who is not happy with an outcome or management regime from the TANK process for a value they consider to be outstanding.

Community Environment Fund: Outstanding Freshwater Body Project

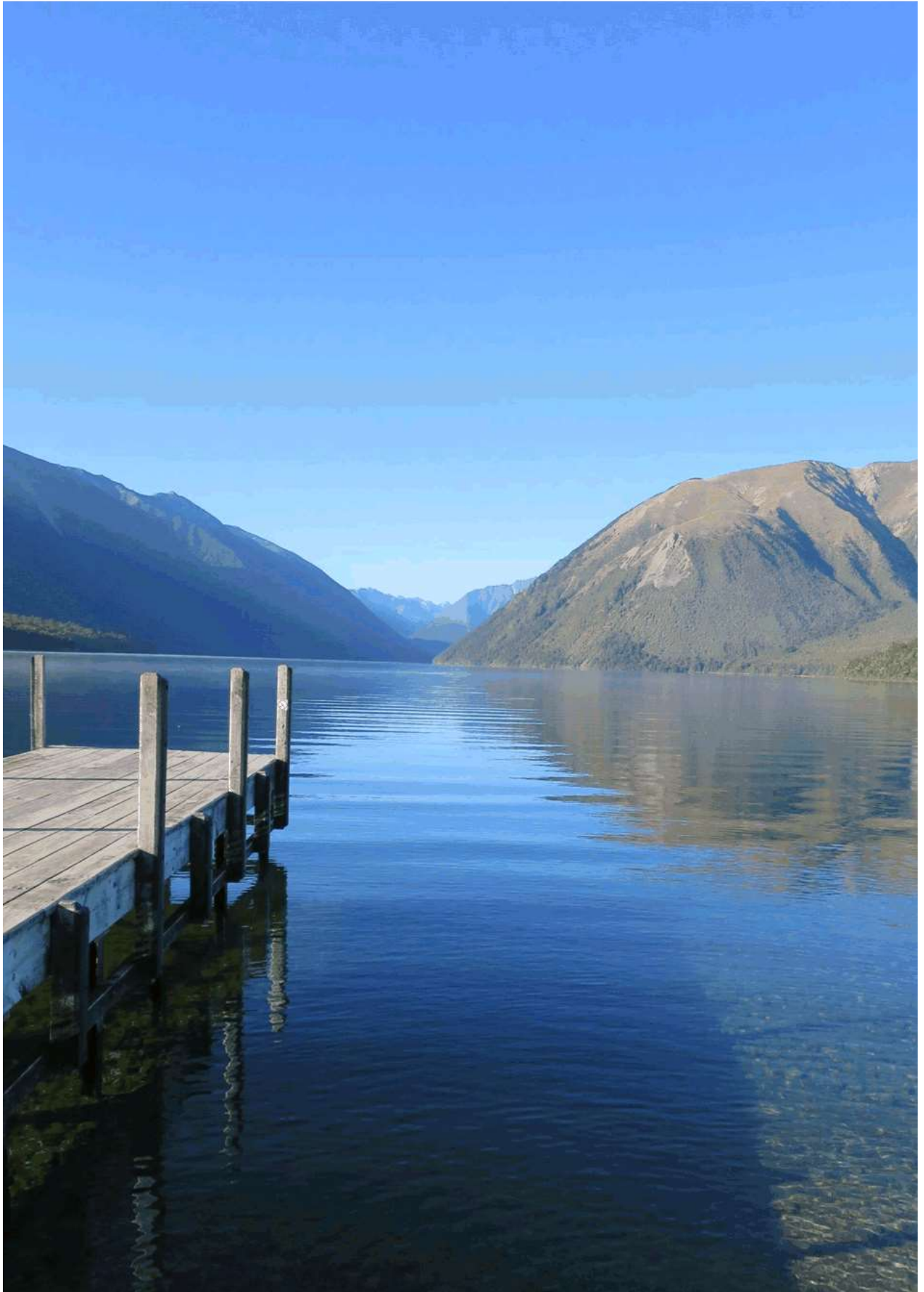
The full report can be found at <http://www.hbrc.govt.nz/hawkes-bay/projects/freshwater-body-project/>.

Item 6

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159 Dalton Street + Private Bag 6006 + Napier
Telephone (06) 835 9200
Fax (06) 835 3601
Regional Freephone (06) 0800 108 838

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Item 6

Strategic Development Group

Community Environment Fund Project Report - Outstanding Freshwater Bodies Project Overview

Prepared by:

Belinda Harper, Senior Planner at Hawke's Bay Regional Council

Reviewed by:

Gavin Ide, Hawke's Bay Regional Council

Mary-Anne Baker, Hawke's Bay Regional Council

David Allen, Auckland Council

Simon Wegner, Ministry for the Environment

Approved for final release by:

Gavin Ide, Manager – Strategy & Policy, Hawke's Bay Regional Council

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The Ministry for the Environment does not necessarily endorse or support the content of the publication in any way.

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Glossary of Commonly Used Abbreviations

A number of abbreviations and terms are frequently used. The following provides clarification of commonly used abbreviations for easy reference.

AC	Auckland Council
GDC	Gisborne District Council
HBRC	Hawke's Bay Regional Council
MfE	Ministry for the Environment
NES	National Environmental Standard
NPS	National Policy Statement
NPSFM	National Policy Statement for Freshwater Management 2014
OFWB	Outstanding Freshwater Body
RiVAS	River Values Assessment System
RMA	Resource Management Act 1991
TRC	Taranaki Regional Council
WCO	Water Conservation Order
WONI	Water Bodies of National Importance

Executive Summary

1. Since the late 1970's, governments have been consulting with the public, undertaking research and investigations and introducing legislation to protect those lakes and rivers in New Zealand which have outstanding characteristics.
2. Despite nearly 40 years of research and investigations, there are no nationally accepted criteria that can be used to assess the specific values of freshwater bodies and determine whether they are outstanding. This has resulted in many of New Zealand's special water bodies not being recognised or protected in an appropriate manner.
3. In 2014, the Government amended the National Policy Statement for Freshwater Management (NPSFM). The 2014 NPSFM specifically requires regional councils to protect the significant values of outstanding freshwater bodies. However, it stops short of providing a definition around what constitutes an outstanding characteristic, feature or value, meaning it is not clear when a water body should be regarded as outstanding.
4. This led HBRC and Auckland Council to apply to the Community Environment Fund Round 6 on outstanding freshwater bodies (OFWB). The OFWB project proposed to develop criteria and a methodology for the assessment of OFWB. It also sought to confirm the intent of the NPSFM OFWB provisions, and carry out a review and stocktake of the existing research and investigations on outstanding values that has occurred over the last 40 years, identifying the best approaches.
5. While the project successfully made some conclusions around the intent of the NPSFM's outstanding freshwater body provisions, the project was ultimately not successful in developing a set of criteria and thresholds for identifying outstanding freshwater bodies across New Zealand.
6. During the project, two consultants¹ were engaged to review existing literature and make recommendations on a set of criteria and thresholds to enable the identification of OFWB. On finding they were unable to complete the work, both made recommendations on alternative ways to identify OFWB without developing a set of 'outstanding' criteria and thresholds for each value set.
7. The consultants' recommendations included: a) the use of the RiVAS framework for determining OFWB either on a regional or national basis; b) the creation of a 'no brainer' national OFWB list using existing data sets and methodologies; c) amendments to the wording of the NPSFM OFWB provisions to require the identification of outstanding values²; and d) the deletion of the NPSFM OFWB provisions in favour of strengthened WCO provisions in the RMA.
8. While each of the recommendations have various merits, ultimately whatever route is taken, the creation of a list of criteria and thresholds to identify outstanding water bodies cannot be avoided.
9. This is because RiVAS relies on an agreed set of values and associated significance criteria, which in the first instance requires the use of established criteria thresholds where available. As such, if local RiVAS panels are convened in each region, without a set of national criteria and thresholds, there will be an unfavourable degree of inconsistency when applying the OFWB provisions across the country. I.e. each local panel will use different criteria and thresholds for their assessments.

¹ Golder Associates; The Catalyst Group.

² Instead of outstanding water bodies as currently required by the NPSFM.

10. If a national panel is formed to carry out RiVAS assessments across the country, a literature review of established criteria and thresholds for 'outstandingness' would likely be their first action taken to understand exactly what established thresholds already exist.
11. Similarly, if the NPSFM was amended to require the identification of outstanding values (instead of outstanding freshwater bodies) a list of criteria and thresholds would need to be developed before the outstanding values could be identified. Likewise, the creation of a 'no-brainer' list of outstanding water bodies would still need a sound set of criteria and thresholds to provide simple justification around why a particular water body has been chosen to be outstanding and not another.
12. Without the backing and agreement of experts within each value field, progress is difficult. The call for more investigations, more information to fill the 'data gaps' only further delays the identification and protection of those exceptional water bodies which the majority of New Zealanders want to see protected.
13. As a minimum case law, water conservation orders and international literature (e.g. Ramsar) contain a number of previously accepted 'outstanding' thresholds. Yes, the thresholds are high and in many cases may exceed an 'appropriate' outstanding threshold. However, from these documents a list of criteria and thresholds can quickly be developed, adopted and supported by experts. In turn, councils could use this list to quickly identify outstanding water bodies which would result in little challenge. The key to this approach is the support from experts in each value field.
14. It is recognised that not every value can be progressed using this approach, but many will and should be progressed now. A list of criteria and thresholds based on these documents would assist regional councils to partly progress the issue within the broader context of implementing the NPSFM.
15. While 'borderline' outstanding water bodies may not be captured via this approach, it is a start and will result in at least some OFWB being identified sooner rather than later throughout the country. This approach would initially result in some values being favoured for protection i.e. those values commonly debated in case law and WCO decisions; however, providing a work programme is in place to address the remaining values, this issue can be overcome.
16. Further, there is no good reason to defer the identification of 'outstanding water bodies' for established values because the newer or more contentious values have not been covered in literature. To this end, it is recommended that the tikanga Māori, ecology, landscape, natural character and recreational values be progressed now, with the identification of historical, cultural values³, and economic/consumptive use values (if deemed appropriate) at a later date.
17. To further progress the set of criteria and thresholds for outstanding tikanga Māori values, it is recommended that a Māori reference group be convened immediately to assist with the identification of appropriate thresholds for outstanding tikanga Māori values.
18. This work could be combined with the creation of a 'screening technique' which provides guidance to councils around how they might assemble a short list of candidate water bodies for further assessment as OFWB.

³ For clarity: it is recommended that historical and cultural characteristics not related to tikanga Māori values are progressed at a later date.

Frequently Asked Questions

1. What was the purpose of the OFWB project?

The aim of the OFWB project was to develop a set of criteria, and associated thresholds, for identifying outstanding water bodies across New Zealand for the purposes of the NPSFM, and a methodology for applying the criteria.

This project was initiated to provide better guidance for councils, ensuring they could easily identify what constitutes an outstanding characteristic. Its purpose was to reduce debate on what 'outstanding' means for communities involved in freshwater planning, and offer a consistent approach that could be used throughout the country.

2. What does the term 'outstanding' mean?

Being outstanding is a high test. The term 'outstanding' distinguishes something from others based on its exceptional qualities and is typically used to describe the 'best of the best'.

This is consistent with the findings in Literature Review 1 (Appendix 2) which confirmed a key intent of the NPSFM was that only a small number of water bodies should be identified across the country as 'outstanding water bodies'. This indicates that the 'outstanding' thresholds developed for each value should be extremely high.

3. How did the project identify 'outstanding' criteria and thresholds for each value?

Initially, the project focused on the identification of a wide range of values and potential characteristics discussed in all literature that had the potential to be outstanding. This reflected the NPSFM's broad meaning of freshwater 'value.'

However, the focus of the project changed over time to concentrate on identifying those values and associated criteria that have been tested and proven in courts and other rigorous fora for examining criteria (i.e. defensible literature such as case law, WCOs, international literature). The project's next step was to develop a framework which could be used to identify those water bodies which are definitely outstanding and would result in little challenge.

Many of the natural and intrinsic values have been discussed over many years in WCO decisions and case law i.e. recreational, ecological, landscape, more so than economic and consumptive use values. As such, there are gaps in 'defensible' literature where these values have not been discussed.

Those values which are not discussed in 'defensible literature' have not been specifically researched as part of this work. Once additional values, which have the potential be outstanding in their own right, have been identified, then an appropriate expert in that particular field should be engaged to develop criteria and thresholds for those remaining values.

4. Did the OFWB project produce a list of outstanding NZ water bodies?

No. It was never contemplated that this project would identify freshwater bodies which are outstanding in New Zealand. The project solely focused on developing a set of usable criteria which could then be used by councils to identify OFWB in their region.

Ultimately, if developed, each individual council can choose to use (or not) the criteria and associated methodology to identify which water bodies are outstanding (if any) for the purposes of the NPSFM within their own region. This allows councils to accommodate exceptions to the criteria or undertake further data collection if necessary, or apply discretion to suit their own local circumstances and communities.

5. Are outstanding values limited to the National Values identified in the NPSFM?

No. There is nothing in the NPSFM stating that outstanding assessments should be limited to the values identified in Appendix 1 of the NPSFM; or that all values identified in Appendix 1 of the NPSFM have the potential to be outstanding.

While all values in Appendix 1 of the NPSFM are important, many are unlikely to be outstanding as a standalone value for the purposes of the NPSFM.

6. Are outstanding and significant the same?

No. An outstanding value has a higher threshold than a significant value. An outstanding value will always be significant, but a significant value will not necessary be outstanding (based on legal advice and case law in context of s6 RMA). The legal opinion can be found in Appendix 5.

The project did not attempt to identify the significant values of water bodies. Significant values of outstanding water bodies are different from outstanding values and it is more appropriate that these be determined by councils during the RMA Schedule 1 plan change process with community input.

7. Are outstanding and nationally important the same?

No. Being nationally important is not the same as being outstanding for the purposes of the NPSFM. The objectives of each are different. For example: the New Zealand biodiversity strategy suggests it is nationally important to retain a representation of 100% of the river classes across the county for biodiversity; however, this is not the same as being outstanding which is looking to identify a relatively small number of water bodies which are the best of the best for a particular value.

Additionally, municipal and domestic water supplies could be argued as being of national importance, but this does not make the water body they are sourced from an outstanding water body for the purposes of the NPSFM.

8. Did the OFWB project address the lack of data available for many water bodies?

No. The lack of available data and how to address this issue was not part of the project scope. The OFWB project was solely attempting to identify a set of criteria and thresholds for certain key values, which indicate when a value is outstanding.

A lack of data is not a good reason to delay the development of a set of 'outstanding' criteria and thresholds. There will always be data limitations for some values, the criteria and thresholds need to be identified first and the data collected accordingly. This also enables the appropriate data to be collected which correctly informs the adopted criteria and thresholds.

Once the criteria and thresholds have been developed, the data gaps will be identified, and the council and/or community can choose to collect the data on those water bodies they suspect may be outstanding, to further assess their potential levels of significance.

WCO decisions are clear that where sufficient data about a particular value of a water body is not available, then the value is not outstanding until the appropriate evidence is provided.

9. What if there is no data on my water body but I think it is outstanding?

As stated in FAQ 8, the lack of available data is not part of the project scope. Each council has the freedom and discretion to choose the most appropriate way to address the lack of data in their region.

For example, it may be known that a water body has a large population of a rare frogs which reside at the site; however, no conclusive evidence has been collected in support of this claim. The council may choose to undertake investigations to ascertain rare frog populations at the water body, and if the appropriate threshold identified in the OFWB project is met. At this point the council could still choose to identify the water body as an OFWB for the purposes of the NPSFM.

Water Conservation Orders deal with a lack of data in a similar manner. Where there is a lack of evidence to prove a water body is outstanding then it isn't until such time adequate data is collected and evidence can be provided demonstrating the value is indeed outstanding.

Notwithstanding, the suspected value can still be protected in other ways (e.g. through the normal regional plan process, or incorporated as an 'exception' as discussed in FAQ 19).

10. Can a 'sum of significant' values (but none outstanding in their own right) enable the water body to qualify as an OFWB under the NPSFM?

A water body needs to have at least one outstanding value before qualifying as an OFWB under the NPSFM. A sum of significant values is not enough to qualify the water body as outstanding (based on legal advice and case law regarding s6 RMA). The legal opinion can be found in Appendix 5.

While this is a key assumption of the project, as stated in FAQ 19 there will be exceptions and a water body with a sum of significant values (none alone individually outstanding) could potentially be incorporated this way. However, this would be done by the relevant council on a case by case basis, not via any criteria and thresholds developed as part of this project.

Notwithstanding, it is expected that future work beyond this project will develop a methodology and approach which guides the assessment of these types of water bodies.

11. Can a water body which has a number of significant values (but none alone individually outstanding values) still qualify as an OFWB under the NPSFM?

If a water body has a number of significant values, but no outstanding values, then based on the underlying assumptions determined by this project the water body would not qualify as an OFWB for the purposes of the NPSFM (based on legal advice).

Nonetheless, as discussed in FAQ 19, a water body with a number of significant values (none alone individually outstanding) could potentially be identified as outstanding and incorporated as an 'exception' by the relevant council. However, this would be done by the relevant council on a case by case basis, not via any criteria and thresholds developed as part of this project.

The legal opinion can be found in Appendix 5.

12. Did the OFWB project attempt to rank values?

No. The OFWB project did not attempt to weight or rank values against one another, all values are considered to be equal.

The subsequent ranking and resolution of any conflict between values is better determined according to community preferences during the RMA Schedule 1 plan change process. At this point in time the appropriate management response for each value can also be determined.

13. Why were wetlands taken out of the OFWB project scope?

Wetlands were excluded from examination during this project because of their special treatment in the NPSFM (Objectives A2 (b) and B4). The significant values of all wetlands are already protected in a similar way as the significant values of OFWB and therefore a process for determining outstanding wetlands is not required.

14. Did the OFWB project attempt to assess Tāngata Whenua Values?

Yes. Initially the project attempted to identify a range of Mana Whenua values for OFWBs. However, this value has a number of challenges particularly, in that the identification of individual water bodies is inconsistent with the view that all water bodies are important to Māori for spiritual, physical and customary reasons.

This value requires considerably more resources than that available for this project. As such, it is recommended that MfE convene a Māori reference group to assist with the identification of a set of criteria and thresholds for outstanding tikanga Māori values. Work in this area should be progressed immediately.

15. Can an aquifer be classed as an OFWB?

Yes. The NPSFM specifically includes aquifers (within the meaning of a water body) so it is possible that an aquifer system, or part thereof can be potentially identified as outstanding freshwater body.

16. Why was a Technical Advisory Group established?

A technical advisory group (TAG) was established in December 2015 to provide expertise on the range of values and associated characteristics/thresholds that could be utilised to assess whether or not a given water body is 'outstanding'.

Each TAG member was asked to undertake a review of existing literature for their value set (specifically looking at case law, WCOs, MfE reports and other significance assessments that have taken place nationally or internationally), summarise the pros and cons of each approach and recommend a list criteria and thresholds that have been used in the past to determine what is outstanding.

The TAG reports can be found in Appendix 6.

17. Can an economic value be recognised as an outstanding value under the NPSFM?

While the NPSFM never intended that economic and consumptive use values be classed as outstanding, the current wording of the NPSFM does seem to allow economic and consumptive use value such as such as tourism, irrigation or energy to potentially be classed as outstanding if a Council choose to do so.

However, doing so comes with risks and such a policy position could be subject to litigation in future. Legal advice is clear that while it is theoretically possible to recognise economic and consumptive use values as 'outstanding' values for the purposes of the NPSFM, this approach could be difficult to justify as being consistent with the objectives of the NPSFM. The legal opinion can be found in Appendix 5.

18. Are water bodies that do not gain an outstanding status important?

Yes. Just because a water body does not meet an 'outstanding' threshold, does not mean it is not important or has no value. These high value water bodies are likely to be managed in other ways as determined by regional plan policies and processes.

19. In the longer term, could the OFWB project create criteria and thresholds to identify 100% of outstanding water bodies across New Zealand?

No. It was recognised early in the project, that the final set of criteria and thresholds would not be able to capture all outstanding water bodies. The OFWB project will only ever be able develop criteria and thresholds which capture the bulk of outstanding freshwater bodies across the country.

The reality is, there will always be some water bodies which do not fit into an 'OFWB' framework – it is expected these water bodies will be added as 'exceptions' by the relevant council on a case by case basis.

Notwithstanding, as discussed in FAQ 10 it is expected that future work as part of this project develops a methodology and approach which guides the assessment of these 'exceptions'.

20. Can a past or potential value be classed as outstanding?

No. A water body can only be reviewed in the context of its present condition, it cannot be assessed on its past condition or its potential.

The definition of OFWB is clear in that it refers to those outstanding water bodies which have an outstanding value, not those water bodies which potentially have an outstanding value, nor had high value. The purpose of the NPSFM OFWB provisions is to identify water bodies that currently have outstanding qualities.

Notwithstanding, there are many 'potential values' for each water body, this is better determined by the relevant local authority and community and addressed via an alternative process so that costs and benefits of regaining such values are fully assessed. Note however, that in meeting the 'bottom lines' specified for water quality, some ecosystem values might be 'regained' and potential fishery values for example might be realised.

21. Does the wording of the NPSFM OFWB provisions need amending or deleting altogether?

There are differing opinions on this matter. Notwithstanding, the development of a set of criteria and thresholds to determine outstanding values for water bodies is still necessary regardless of the framework of the NPSFM and the links with other elements of the RMA. For example, even if the OFWB provisions were deleted from the NPSFM, New Zealand's OFWB would still need to be identified and protected.

HAWKE'S BAY REGIONAL COUNCIL

REGIONAL PLANNING COMMITTEE

Wednesday 07 June 2017

Subject: OECD ENVIRONMENTAL PERFORMANCE REVIEW AND PUBLIC PERCEPTION SURVEY OF NZ'S ENVIRONMENT 2016

Item 7

Reason for Report

1. Two recently released reports provide commentary on the management of natural resources and the environment in New Zealand. Given the role of the Council, and the Regional Planning Committee in particular, in managing and protecting the environment in Hawke's Bay, a summary of the key findings of these reports is provided for the Committee's information.
2. The first of these reports, released on 17 February 2017 and entitled *Public Perceptions of New Zealand's Environment: 2016*, is produced by Lincoln University and is based on a biennial survey of New Zealanders that has been running since 2000.
3. The second report, produced by the Organisation for Economic Cooperation and Development (OECD), summarises the findings of an independent review of the performance of New Zealand's environmental management system, undertaken approximately every 10 years.

Public Perceptions of New Zealand's Environment: 2016

4. Since 2000 a team of researchers at Lincoln University has been undertaking a survey every two years of public perceptions to provide insights into the level of understanding among the general public of the current state of, and pressures on, the natural environment. The survey also provides data on perceptions of the adequacy of management responses to these issues.
5. The most recent survey in 2016, the eighth in the series, has been led by Professors Ken Hughey, Geoff Kerr and Ross Cullen. For the last three surveys the approach has been to use online surveying, as opposed to written postal surveys used previously, and as a consequence of this change in methodology trends dating back to the early 2000s need to be treated with some caution.
6. The 2016 survey sample was drawn from 7000 volunteers held on the database of a market research firm and in the 2016 survey a total of 2468 responses were received giving a margin of error of 3% at the 95% confidence level. When compared to 2013 Census data the sample has some bias, which is discussed further following.
7. Overall themes suggest New Zealanders consider themselves to be increasingly informed about environmental issues and perceive the environment to be in worse shape than was the case in the early 2000s. There are increasing perceptions of poor management of a number of key natural resources, particularly freshwater and marine, and unsurprisingly the effects of farming and farm runoff are cited as a top issue for water quality.
8. Māori have more negative perceptions of the state of the New Zealand environment and are far more likely to report participation in 'pro-environment behaviour' than are NZ Europeans or those of other ethnicities.
9. Key findings from the survey of note for the committee include:
 - 9.1. Since 2000 there has been an increase in the number of people who consider they have a "very good" (6.5% in 2000 and 11.1% in 2016) or "good" (29.4% in 2000 and 32.6% in 2016) knowledge of environmental issues, and a corresponding decline in the number of people who considered they only had "adequate", "bad" or "very bad" knowledge (62.4% combined in 2000 and 54.8% in 2016).

- 9.2. Since 2004 there has been a steady decline in the number of people who consider the “standard of living in New Zealand” to be “very” or “good” (72.5% combined in 2004 to 53.3% in 2016) and a corresponding increase in the number of people who considered it to be “bad” or “very bad” (3.1% combined in 2004 to 11.7% in 2016).
- 9.3. Perceptions of the overall state of the natural environment in New Zealand have fallen from “very” or “good” (58.3% combined in 2006 to 37.1% in 2016) and a corresponding increase in the number of people who considered it to be “bad” or “very bad” (6.9% combined in 2004 to 24.7% in 2016).
- 9.4. In 2016 “water” was cited as the most important environmental issue facing New Zealand (31.1% of respondents), with agriculture related issues cited by 9.9%. Greenhouse gases, climate change and ozone were cited most frequently as the biggest environmental issues facing the world (33.5%).
- 9.5. Rivers and lakes are perceived to be in the worst state, with 45.4% of respondents considering them to be in a “bad” or “very bad” state. This is a marked shift from 2004 when only 23.6% considered this to be the case. Air quality is perceived to be in the best state with only 8.1% considering it to be “bad” or “very bad”.
- 9.6. Of the natural resource management practices surveyed “farm effluent and runoff” was perceived most negatively with 65.5% of respondents considering this to be managed “badly” or “very badly”. 59% of respondents consider farming to be one of three biggest sources of damage to freshwater, followed by sewage and stormwater cited by 43.5% of respondents.
- 9.7. The management of rivers and lakes was perceived to be poor or very poor by 47.2% of respondents, which is well up from a low in 2008 of 20.9%. Correspondingly only 16.5% of respondents consider rivers and lakes to be well or very well managed. There is slightly less concern evident with the management of groundwater with 32.4% of respondents stating they felt this area is poorly or very poorly managed and 16.4% of respondents consider groundwater to be well or very well managed.
- 9.8. Marine fisheries are also cited as an area of management concern with 35.2% of respondents in 2016 perceiving these to be poorly or very poorly managed. This figure had been as low as 18.3% in 2008. 78% of respondents cited commercial fishing as being one of the three biggest sources of damage to marine fisheries.
- 9.9. There appears to be increasing concern about the management of soils with those considering these to be poorly or very poorly managed rising from 17.1% in 2000 to 29.4% in 2016. 48% of respondents considered farming to be one the three biggest causes of damage to soil.
- 9.10. Actions taken by individuals such as making submissions, recycling, buying environmentally friendly products etc. has remained broadly consistent over the 8 surveys. However, participation in environmental organisations has hit an all-time high at 20.1% “in the last year” and 4.8% “regularly”.
10. When comparing the survey sample to the whole of population data of the 2013 Census, there are some differences that may affect the data. Women, older people, middle-income earners and people with university qualifications appear to be over-represented in the survey group. This likely reflects the demographics of the volunteers being weighted toward retired people and less likely to involve lower income workers. Notably the urban/rural split was representative, although respondents from Wellington were over-represented and from Auckland under-represented.
11. The full survey can be read at:
http://www.lincoln.ac.nz/Documents/LEaP/perceptions2016_feb17_LowRes.pdf

OCED Environmental Performance Review

12. The OECD, based in Paris, is a member-based organisation, to which New Zealand belongs, that promotes the sharing of policies and mutual-cooperation for economic, social and sustainable development. The OECD includes an Environment Directorate which promotes debate and policy development on environment-related matters. This directorate is headed by former New Zealand Environment Minister, the Rt Hon Simon Upton, who is soon to take up the role of Parliamentary Commissioner for the Environment back here in New Zealand. In the last year New Zealand held the chair of the Environmental Policy Committee of the OECD. Prior to joining HBRC, the Council's Group Manager Strategic Development was responsible for New Zealand's involvement in the OECD Environmental Policy Committee and in the performance review commented on below.
13. The OECD attempts to develop and promote best practice in public policy and public management practice. Every year it conducts reviews on aspects of the public policy and performance of public institutions of its member countries across economic, social and environmental matters. New Zealand was previously reviewed by the OECD for its environmental performance in 1996 and 2007.
14. The OECD states that "New Zealand's growth model is approaching its environmental limits. Greenhouse gas (GHG) emissions are increasing. Pollution of freshwater is spreading over a wider area. And the country's biodiversity is under threat." As such the review has focussed on particular topic areas of 'green growth', water resources management and urban development.
15. Opportunities for New Zealand cited by the OECD include:
 - 15.1. an international reputation as a green and clean country
 - 15.2. an advanced and comprehensive natural resource management system
 - 15.3. a long tradition of public participation in decision making
 - 15.4. a well-developed research and innovation system with competitive advantage in several environmental technologies
 - 15.5. a low-carbon energy mix with 80% of power generated from renewables
 - 15.6. a major reform of national freshwater policy to safeguard water quality and availability
 - 15.7. a major reform of governance for Auckland, the largest city.
16. Challenges for New Zealand cited by the OECD include:
 - 16.1. the largest share of GHG emissions from agriculture in the OECD
 - 16.2. a transport system highly dependent on roads and in need of coherent taxes
 - 16.3. local governments lacking national guidance in many environmental policy areas and struggling with insufficient resources
 - 16.4. rising freshwater pollution and scarcity in some regions
 - 16.5. complex urban planning that makes it difficult to reduce pressure on land use, housing and infrastructure from population growth.
17. On climate change the OECD notes that New Zealand remains among the ten most energy-intensive OECD economies and New Zealand's car ownership rate is the highest in the OECD. Further, it is noted that the fleet is relatively old and inefficient. Work by the Council's Regional Transport Committee to promote public transport, cycling and efficient transport networks all play an important part in managing these pressures. Current work exploring the role of the Council in promoting electric vehicles may play a further part.

18. The OECD notes that the Emissions Trading Scheme currently excludes biological emissions from agriculture and states that, “pricing or regulations are needed to curb these emissions”. Greenhouse gas mitigation (reduction) is primarily the purview of central government under the Climate Change Response Act. However, afforestation of erosion prone land within the region can play a useful role in offsetting on-farm GHG emissions with co-benefits for water quality. Re-consideration of the previous ‘Trees for Farms’ carbon funding mechanism, or a similar concept, as part of the upcoming 2018-2028 Long Term Plan is proposed by staff.
19. Freshwater reforms are likely to constrain the growth in animal-based agriculture in most places and in some areas reductions in the current extent of animal agriculture may be required. Rules within the Regional Resource Management Plan to control land use for water quality outcomes are likely to tilt incentives for land use away from intensive animal-based farming to land use with lower greenhouse gas footprints. Therefore, there are some synergies between the land and water regulatory reform programme the Council is currently pursuing and lower greenhouse gas emissions from agriculture. The Council should be mindful that pricing or regulatory controls of farm greenhouse gas emissions by central government could come on top of significant increases in farm costs to meet water management requirements.
20. The OECD note that local authorities are required to consider the effects of climate change in their decisions, but consider that “many struggle to plan effectively”. They go on to say that the “first vulnerability assessments have yet to be translated into sectoral adaptation strategies”. The Hawke’s Bay Coastal Hazards Strategy currently under development is an example of where the assessments have been undertaken but the adaptation strategy is still a work in progress. Hawke’s Bay is at the leading edge of this nationally and moving ahead in a timely manner, albeit with the more difficult decisions for the community lying ahead. Climate change impacts are already considered in the water planning work of the Council.
21. The OECD notes that air quality in New Zealand “is generally good”. However, emissions from road transport have steadily risen since 2000 and we do not compare favourably on a per capita basis. Our winter pollution from home heating remains an issue, including in Hawke’s Bay, and is a work in progress with air quality limits currently being exceeded in the Hastings area during winter. The National Environment Standard on Air Quality is scheduled for review in the coming year and this may well necessitate further changes to the Council’s approach to managing air quality in the region.
22. Unsurprisingly water management was a major topic focus for the review. Co-governance with tangata whenua and collaborative approaches to planning were highlighted as important innovations in water management. In light of the Regional Planning Committee and the TANK Plan Change, Hawkes Bay can be considered to be at the more progressive end of these approaches nationally.
23. The OECD suggests expansion in “the use of economic instruments to internalise environmental and opportunity costs, promote innovation and encourage efficient use of water.” While there are legislative constraints to the economic instruments the Council can use to incentivise better water management the recent ‘efficiency review’ conducted by the Acting Chief Executive has highlighted the scope to review current charges for water use to alter the balance between ratepayers and water users in funding water management.
24. The OECD is critical of regional councils for being “slow to put the freshwater management policy into action” and identify the need to “Increase financial support and capacity for regional councils to deliver on the National Policy Statement on Freshwater Management. The Council has increased its resources and internal capability for freshwater reform significantly in recent years and the proposed increase in funding for water management hot spots through the 2017/18 Annual Plan continues to build on this. Determining the scale and nature of resources required for effective NPSFM implementation over the longer-term is a key priority for the upcoming 2018-2028 Long Term Plan process.

25. The OECD notes New Zealand has very high volumes of freshwater abstracted from irrigation on a per capita basis. This is not surprising given our comparatively low population and high dependence on agriculture for exports. A more useful comparison would be irrigation volumes proportionate to farm output if a measure of our efficiency of use was being considered. The OECD recommend that central government reviews its “support for irrigation to ensure funding is only provided for projects that would not proceed otherwise, and that have community wide benefits.” The recent review of the Ruataniwha Water Storage Scheme has highlighted the necessity of the public investment in the scheme’s early years to enable the scheme to become established, and also highlighted the importance of ensuring the scheme delivers a net improvement in environmental outcomes. To this extent the Council’s approach to supporting irrigation development is consistent with the approach suggested by the OECD.
26. The OECD recommends the development of a “whole-of-government long-term strategy to increase the added value of export products within climate and freshwater quality and quantity objectives.” As part of the Council’s intended contribution to the Matariki Regional Economic Development Strategy the Council has proposed leadership of the following actions:
 - 26.1. 5.4 Work with primary producers to ensure productivity gains deliver the improved environmental performance required for freshwater reform; and
 - 26.2. 5.5 Support natural resource users to identify and proactively manage business risks and opportunities arising from a changing climate.
27. Pilot work is currently underway in the Whakaki catchment on action 5.4 and an initial stock-take project is underway to inform action 5.5. However, considerably more work needs to be undertaken on the opportunities that exist for the Council in driving better economic outcomes from the way in which land, water and climate are managed. This analysis is a priority for this year and will form part of the advice to the Council on the 2018-2028 Long Term Plan.
28. A key element of the Council’s Strategic Plan refresh is that the Council takes a stronger outcomes focus, with a more holistic ‘systems’ approach to its work. The proposed approach is to align the council’s activities more strongly behind core business. These elements of the Council’s proposed refreshed Strategic Plan provides a good foundation for ensuring the Council’s large freshwater reform effort aligns with climate change objectives and that the Council’s economic development effort is similarly aligned to, and is mutually reinforcing with, better land and water management outcomes. Precisely how the Council gives effect to this more integrated approach to its work is currently the subject of discussion among the Council’s executive team and is a key element of the soon-to-be-commenced review of land management functions, which will also feed into the 2018-2028 Long Term Plan.
29. The OECD also had a focus on urban development, and while the issues examined are of greater relevance to territorial and unitary authorities, the OECD has highlighted the need for better integration in the planning of transport, land use and urban development. The recently promulgated National Policy Statement on Urban Development goes some way toward this more integrated approach, as does the Heretaunga Plains Urban Development Strategy. Work with Napier and Hastings councils on stormwater as part of the TANK plan change also seeks a more integrated approach to urban planning. This may be an area for further exploration by the Regional Transport Committee.
30. Overall, the Council can be satisfied that the issues identified by both the Public Perceptions Survey and the OECD Review are currently high priorities for the Council and work is underway to enhance the Council’s and the region’s performance in meeting the challenges identified. Further consideration of much of this effort will be a key part of the development of the 2018-2028 Long Term Plan.

Decision Making Process

31. Staff have assessed the requirements of the Local Government Act 2002 in relation to this item and have concluded that, as this report is for information only, the decision making provisions do not apply.

Recommendation

That the Regional Planning Committee receives and notes the “*OECD Environmental Performance Review and Public Perception Survey of NZ’s Environment 2016*” report.

Authored and Authorised by:

James Palmer
GROUP MANAGER
STRATEGIC DEVELOPMENT

Attachment/s

There are no attachments for this report.

HAWKE'S BAY REGIONAL COUNCIL

REGIONAL PLANNING COMMITTEE

Wednesday 07 June 2017

SUBJECT: JUNE 2017 STATUTORY ADVOCACY UPDATE

Item 8

Reason for Report

1. To report on proposals forwarded to the Regional Council and assessed by staff acting under delegated authority as part of the Council's Statutory Advocacy project since the last update in April 2017.
2. The Statutory Advocacy project (Project 196) 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.

Marine and Coastal Areas (Takutai Moana) Act applications

5. In this June 2017 edition of the regular Statutory Advocacy Update report, staff have assembled a working stocktake of applications lodged for customary recognition under the Marine and Coastal Areas (Takutai Moana) Act. The final day for filing applications was 3 April 2017. Under the Act an iwi, hapu or whanau could apply to enter into direct engagement with the Crown for a recognition agreement or apply to the High Court for a recognition order. After 3 April 2017, these groups were no longer able to apply to have customary rights recognised.
6. According to the Minister of Treaty Negotiations, the Crown has received approximately 380 applications to enter into direct engagement and that the High Court has received over 200 applications. Many groups are likely to have applied both to the Crown and to the High Court. These numbers are subject to change as officials in the Office of Treaty Settlements' Marine and Coastal Area (MACA) team and at the High Court continue to process and confirm details of the applications received.
7. Applicant groups are supposed to send copies of their application(s) to the respective council(s), but not all groups have done this. This has certainly not helped staff in attempts to compile a list of applications relating to the Hawke's Bay region.

8. Notwithstanding difficulties associated with applications not being copied to HBRC and government agencies still working through documentation before confirming their own lists of applications received, HBRC policy staff have endeavoured to assemble a working list of applications relating to the Hawke's Bay region (refer attachment). Staff intend that the list will be confirmed once the MACA team and High Court officials advise us of their complete list. Relevant details of the applications (e.g. the area - where this is sufficiently clearly described; the type of application; the applicant group etc) will be translated into data suitable for displaying in HBRC's online 'Pataka'¹² mapping tool. Pataka already displays information about the six or seven earlier applications lodged.

Decision Making Process

9. Staff have assessed the requirements of the Local Government Act 2002 in relation to this item and have concluded that, as this report is for information only, the decision making provisions do not apply.

Recommendation

That the Regional Planning Committee receives and notes the **June 2017 Statutory Advocacy Update** staff report.

Authored by:

Gavin Ide
MANAGER, STRATEGY AND POLICY

Approved by:

James Palmer
GROUP MANAGER
STRATEGIC DEVELOPMENT

Attachment/s

[!\[\]\(6a9b39b98eb945faa14c645ec99e4eaa_img.jpg\) 1](#) Statutory Advocacy Update

¹² <http://maps.hbrc.govt.nz/IntraMaps80/?project=HBRC&module=Pataka&configId=497c9efb-a430-4c9f-badb-da35f90c4a7d>

Update of applications lodged under Marine and Coastal Area (Takutai Moana) Act 2011 relevant to Hawke's Bay.

Row ID	Applicant Name	High Court / direct Crown engagement	Customary Marine Title appl'n ?	Protected Customary Right appl'n ?	HBRC joined High Court proceedings?	Other Notes	Area description
1	Malcolm J Kingi on behalf of Ngai Tahu o Mohaka-Waikare	High Court	Yes notice published	Yes notice published	Yes	Application lodged in Wellington High Court. Public notice 25/4/17. Copy rec'd by HBRC 16/5/17.	Mohaka River mouth in the north to mouth of Waiohinganga River or Esk River in the south, out to 12 nautical mile limit.
2	Ngati Kere	High Court	Yes notice published	Yes notice published	Yes	Application lodged in Wellington High Court. Public notice 25/4/17. Copy yet to be rec'd by HBRC.	Dueptoto Stream in the north to Akitio River [in Horizons region] in the south, out to 12NM limit.
3	Cletus Maanu Paul on behalf of all Maori	High Court application	Yes notice published	Yes notice published	TBC, subject to Applicant's late lodgement being accepted	<i>Application lodged in Rotorua High Court after statutory deadline. High Court Judge reviewing validity of application. Public notice 30/4/17. Copy yet to be rec'd by HBRC.</i>	<i>"Entire area of Aotearoa New Zealand, including ... surrounding all islands and reefs..."</i>
4	Rihari Dargaville on behalf of NZ Maori Council members All Maori	High Court application	Yes notice published	Yes notice published	Yes	Application lodged in Wellington High Court. Public notice 1/5/17. Copy rec'd by HBRC from 3 rd Party – not directly from applicant.	<i>"All the coastline of New Zealand including off shore islands from to [sic] including adjacent islands"</i>
5	Maungaharuru-Tangitu Trust	High Court application	Yes notice published	Yes notice published	Yes	Application lodged in Wellington High Court 3/4/2017. Public notice 29/4/17. Copy rec'd by HBRC 10/4/17.	Waitaha Stream in the north to Keteketerau (Bay View) in the south out to 12NM limit
6	Ngati Pahauwera	High Court application	Yes, amending earlier appl'n. Notice published	Yes, amending earlier appl'n. Notice published	Yes	Also applied for wahi tapu protection in subject area. Amended application lodged in Wellington High Court 15/3/2017. Public notice 7/4/17. Copy rec'd by HBRC 27/3/17.	Poututu Stream in the north to Esk River in the south, out to 12NM limit.
7	Tamanuhiri Tutu Poroporo Trust	High Court application	Yes notice published	Yes notice published	Yes	Application lodged in Gisborne High Court 3/4/2017. Public notice 29/4/17. Copy rec'd by HBRC 5/4/17.	Kopututea in the north [in Gisborne District] to Paritu in the south, out to 12NM limit.

Row ID	Applicant Name	High Court / direct Crown engagement	Customary Marine Title appl'n ?	Protected Customary Right appl'n ?	HBRC joined High Court proceedings?	Other Notes	Area description
8	Wayne Taylor for Moeangiāngi 42N	High Court application	Yes, but discontinued	Yes, but discontinued	No	Discontinued 11/6/2015.	Waikari River mouth in the north to Waipapa Stream in the south out to 12NM limit.
9	Pauline Tangiora for Rongomaiwahine Iwi	High Court application	Yes On hold at applicant's request	Yes On hold at applicant's request	Yes	On hold at applicant's request pending Crown engagement application process.	Between Paritū [in Gisborne district] in the north and the mouth of the Nūhaka River in the south, including areas surrounding Te Māhia Peninsula out to 12NM limit.
10	Catherine Clarkson for Poronina Hineana Te Rangī Whanau	High Court application	Yes Pending	No	No	Lodged c.2013.	Whangaehu in the north to Poroporo [in Horizons region] in the south, including Cape Turnagain out to 12NM limit.
11	Rangitāne Tū Mai Rā Trust	High Court application	Yes	Yes	Yes	Application lodged in Wellington High Court 31/3/17. Public notice 26/4/17. Copy rec'd by HBRC 21/4/17	Arataua (Poroporo) in the north to Turakirae Point [in Wellington Region] in the south out to 12NM limit.
12	Kahukura Whanau Trust	Crown engagement	Yes, pending	Yes, pending	n/a	OTS have asked for advice from HBRC about resource consents etc granted in area between 10/3/17 and 4/4/17.	Nuhaka River mouth in the north to Wairoa River mouth in the south, out to 12NM limit.
13	Maungaharuru-Tangitu Hapu	Crown engagement	Yes, declined	Yes, pending	n/a		Pōnuī Stream in the north to Keteketerau (Bay View) in the south out to 12NM limit.
14	Ngati Pahauwera	Crown engagement (one of two)	Yes, pending	Yes, pending	n/a		From Poututu Stream in the north to Pōnuī Stream in the south out to 12NM limit.
15	Ngati Pahauwera	Crown engagement (two of two)	Yes, amending earlier appl'n.	Yes, amending earlier appl'n.	n/a		Pōnuī Stream in the north to Esk River in the south, out to 12NM limit.
16	Rongomaiwahine Iwi	Crown engagement	Yes, pending	Yes, pending	n/a		Between Paritū [in Gisborne district] in the north and the mouth of the Nūhaka River in the south, including areas surrounding Te Māhia Peninsula out to 12NM limit.

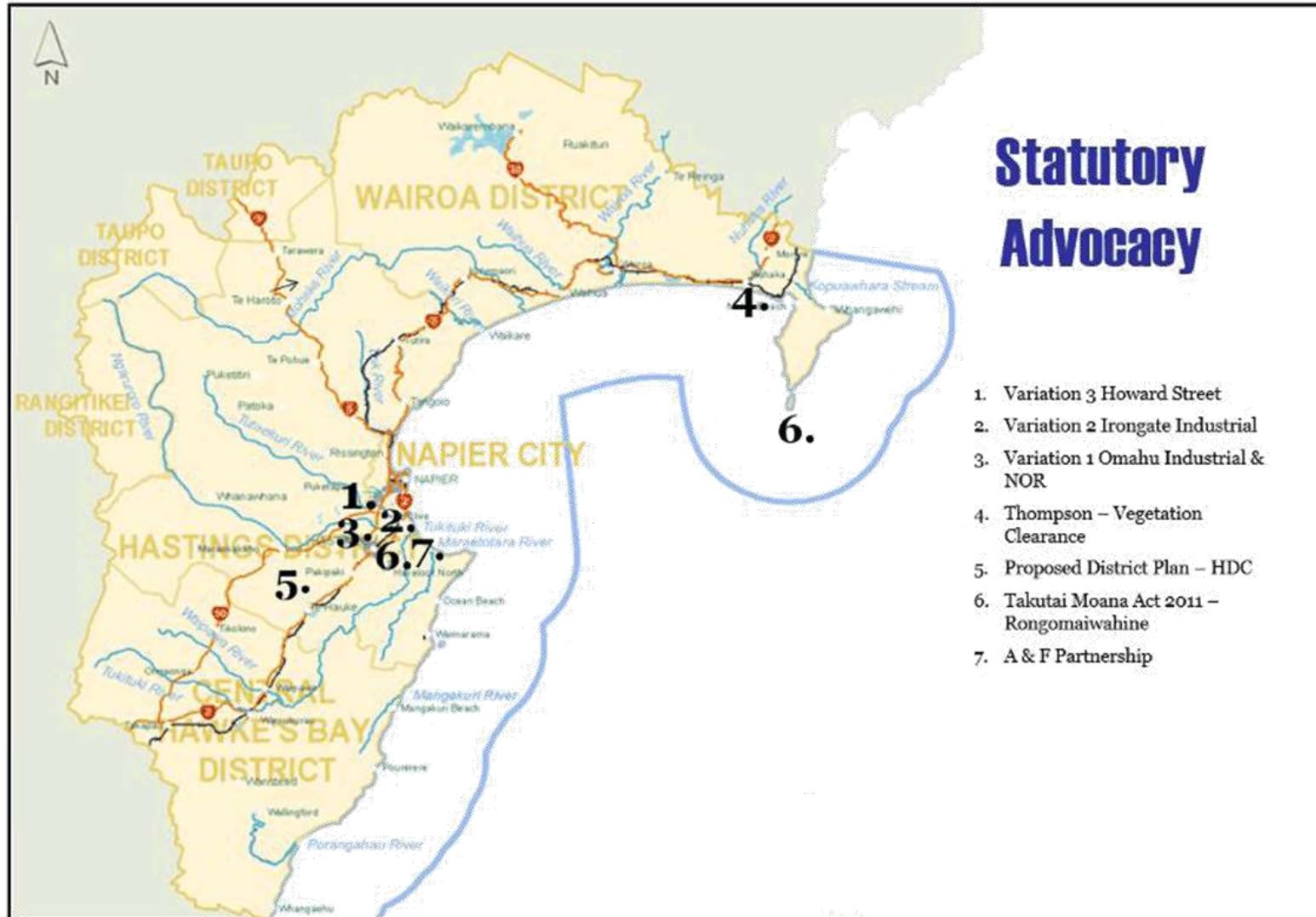
Row ID	Applicant Name	High Court / direct Crown engagement	Customary Marine Title appl'n ?	Protected Customary Right appl'n ?	HBRC joined High Court proceedings?	Other Notes	Area description
17	Mana Ahuriri Inc.	Crown engagement	Yes, pending	Yes, pending	n/a		Panepaua (near Tangoio) in the north to Ngaruroro rivermouth in the south, including the Ahuriri Estuary, out to 12 NM limit.
18	<i>Nga Hapu Kairakau me Pourerere</i>	<i>Crown engagement</i>	<i>TBC</i>	<i>TBC</i>	<i>TBC</i>	<i>Copy yet to be rec'd by HBRC</i>	<i>TBC</i>
19	<i>Nga Hapu o Iwitea Marae</i>	<i>Crown engagement</i>	<i>TBC</i>	<i>TBC</i>	<i>TBC</i>	<i>Copy yet to be rec'd by HBRC</i>	<i>TBC</i>
20	<i>Mga Hapu o Te Whakaki</i>	<i>Crown engagement</i>	<i>TBC</i>	<i>TBC</i>	<i>TBC</i>	<i>Copy yet to be rec'd by HBRC</i>	<i>TBC</i>
21	<i>Nga Kaahu and others</i>	<i>Crown engagement</i>	<i>TBC</i>	<i>TBC</i>	<i>TBC</i>	<i>Copy yet to be rec'd by HBRC</i>	<i>TBC</i>
22	<i>Ngati Rahui – Ngati te Apatu</i>	<i>Crown engagement</i>	<i>TBC</i>	<i>TBC</i>	<i>TBC</i>	<i>Copy yet to be rec'd by HBRC</i>	<i>TBC</i>
23	<i>Rangitane o Wairarapa me Tamaki nui-a-Rua</i>	<i>Crown engagement</i>	<i>TBC</i>	<i>TBC</i>	<i>TBC</i>	<i>Copy yet to be rec'd by HBRC</i>	<i>Likely to be same as applications by Rangitāne Tū Mai Rā Trust (refer Row 11)</i>
24	<i>Rongomaipapa Marae</i>	<i>Crown engagement</i>	<i>TBC</i>	<i>TBC</i>	<i>TBC</i>	<i>Copy yet to be rec'd by HBRC</i>	<i>TBC</i>
25	<i>Te Aitanga a Puta, Ngati Kurupakia Ngai Tauria</i>	<i>Crown engagement</i>	<i>TBC</i>	<i>TBC</i>	<i>TBC</i>	<i>Copy yet to be rec'd by HBRC</i>	<i>TBC</i>
26	<i>Heretaunga Tamatea</i>	<i>Crown engagement</i>	<i>TBC</i>	<i>TBC</i>	<i>TBC</i>	<i>Copy yet to be rec'd by HBRC</i>	<i>TBC</i>
27	<i>Ngati Parau</i>	<i>Crown engagement</i>	<i>TBC</i>	<i>TBC</i>	<i>TBC</i>	<i>Copy yet to be rec'd by HBRC</i>	<i>Ahuriri Estuary mouth at Scapa Flow in the north to Awatoto in the south out to 12NM limit.</i>

Statutory Advocacy Update (as at 31 May 2017)

Received	TLA	Map Ref	Activity	Applicant/ Agency	Status	Current Situation
13 July 2016	HDC	1	<p>Howard Street Rezoning Variation 3</p> <p>Variation to rezone 21.2 hectares of land from its current Plains zone to General Residential zone in between Howard Street and Havelock Road.</p>	Hastings District Council	<p>HDC Decisions issued</p> <p>Appeals closed 10 May 2017</p>	<p>Current...</p> <ul style="list-style-type: none"> HDC issued its decisions on 25th March. Decisions adopt recommendations made by Hearings panel. Staff have assessed merits of decisions on HBRC's submissions and concluded appeal was not warranted. Meanwhile an appeal has been lodged by Karen Cooper (a landholder in the Howard Street rezoning area). Key matters raised in that appeal relate to methods of stormwater collection, treatment and disposal from new development in the rezoned area, so staff have applied to Environment Court to join those appeal proceedings as an interested party (28th May 2017). <p>Previously...</p> <ul style="list-style-type: none"> HBRC had lodged a further submission on four submissions in relation to Chapter 3.1B of the Regional Policy Statement and stormwater management. Further submission can be found at HBRC Submissions. HBRC staff considered that a submission was not required as the site is identified in the Regional Policy Statement as an appropriate Greenfield growth area and the proposal is consistent with RPS Policy UD12 and Policy UD10.4 and the relevant RPS Anticipated Environmental Outcomes UD1 – UD13.
13 July 2016	HDC	2	<p>Irongate Industrial Variation 2</p> <p>Variation to rezone 118 hectares of land from current Deferred Industrial (70 hectares) and Plains zone to a General Industrial zone.</p>	Hastings District Council	<p>HDC Decisions issued</p> <p>Appeals closed 10 May 2017</p>	<p>Current...</p> <ul style="list-style-type: none"> HDC issued its decisions on 25th March. Decisions adopt recommendations made by Hearings Commissioners. Staff have assessed merits of decisions on HBRC's submissions and concluded appeal was not warranted. Meanwhile, an appeal has been lodged by Navilluso Holdings Ltd et al (several landholders in the Irongate industrial area). Some matters raised in that appeal relates to HBRC's interests in the Irongate area, so staff have applied to Environment Court to join those appeal proceedings as an interested party (28th May 2017). <p>Previously...</p> <ul style="list-style-type: none"> HBRC opposed the Variation in its [then] proposed form primarily because on balance HBRC was not satisfied that the Variation gives effect to Chapter 3.1B of the Regional Policy Statement (RPS) and the proposed stormwater solution does not give effect to other policies in the RPS particularly Objectives 21 and 22. A copy of the submission can be found at HBRC Submissions

Received	TLA	Map Ref	Activity	Applicant/ Agency	Status	Current Situation
18 May 2016	HDC	3	<p>Omahu Industrial Variation 1 and Notice of Requirement</p> <p>Variation to rezone 63 hectares of land from Plains zone to General Industrial zone on the northern side of Omahu Road, Hastings.</p>	Hastings District Council	<p>HDC Decisions issued</p> <p>Appeals closed</p>	<p>Current...</p> <ul style="list-style-type: none"> HDC issued its decisions on 25th March. Decisions adopt recommendations made by Hearings Commissioners. Staff have assessed merits of decisions on HBRC's submissions and concluded appeal was not warranted. Meanwhile an appeal has been lodged by a landholder in the Omahu industrial area challenging standards for vehicle accessways. Staff have assessed that appeal and concluded it is not necessary to join those proceedings as an interested party. <p>Previously...</p> <ul style="list-style-type: none"> HBRC supported the Variation in part, principally because HDC has worked closely with HBRC engineers to resolve asset management concerns. However the location of the subject area is in part over the Heretaunga Plains unconfined aquifer and triggers Chapter 3.8 of the Regional Policy Statement. On balance council staff are satisfied that the Variation gives effect to the RPS, however staff have some concern regarding the discharge of stormwater from the proposed industrial sites over the Heretaunga Plains unconfined aquifer. Submission can be found at HBRC Submissions.
18 January 2016	WDC	4	<p>Resource Consent Application</p> <p>Consent is sought to clear 248 hectares of Manuka and Kanuka on Part Umumanfo 2 Block on Kopuawhara Road, Mahia.</p>	<p>Applicant R & L Thompson</p> <p>Agent Insight Gisborne Ltd</p>	<p>Limited Notified</p> <p>WDC hearing pending</p>	<p>Previously...</p> <ul style="list-style-type: none"> HBRC has opposed the application based on concerns relating to the loss and degradation of soil (erosion) and water quality. A copy of the submission can be found at HBRC Submissions HBRC staff and applicants have held discussions about potential alternative clearance proposals.
8 November 2013	HDC	5	<p>Proposed Hastings District Plan</p> <p>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.</p>	Hastings District Council	<p>Notified</p> <p>HDC decisions issued, subject to appeals</p>	<p>Previously...</p> <ul style="list-style-type: none"> Over 40 separate appeals were lodged against HDC's decisions by other groups and individuals. HBRC has joined as a section 274 interested party to proceedings on eleven (11) of those appeals. To date seven (7) appeals to which HBRC is a s274 party to proceedings have been resolved. It is anticipated that any final mediation of appeals will occur during 2017 – many following completion of the 2016 HPU DS Review process. HDC issued its decisions on 12 September 2015. Council staff have reviewed the decisions and are satisfied that HBRC's submission has been appropriately reflected.

Received	TLA	Map Ref	Activity	Applicant/ Agency	Status	Current Situation
1 August 2013	NA	6	<p>Application under Coastal and Marine (Takutai Moana) Act 2011</p> <p>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.</p>	Rongomaiwahine (Pauline Tangiora)	<p>Notified</p> <p>High Court proceedings on-hold at applicant's request</p>	<p>Previously...</p> <ul style="list-style-type: none"> The Office of Treaty Settlements has confirmed that Rongomaiwahine Iwi are pursuing their application in direct negotiation with the Minister. Consequently, the High Court proceedings remain on hold at the Applicant's request. Originally, Council 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.
9 June 2015	NCC	7	<p>Resource Consent Application</p> <p>Consent is sought to create four additional lots (total 5) to subdivide Lots 7-10 Deeds Plan 96 (1.8919 ha) into five (5) lots at 258 Meeanee Road.</p>	<p>Applicant</p> <p>A & F Partnership</p> <p>Agent</p> <p>OPUS</p>	<p>Notified</p> <p>NCC hearing pending</p>	<p>Previously...</p> <ul style="list-style-type: none"> HBRC opposed 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 and it is in an area with limiting physical characteristics and limited infrastructure and servicing A copy of the submission can be found at HBRC Submissions



Item 8

Attachment 1

HAWKE'S BAY REGIONAL COUNCIL

REGIONAL PLANNING COMMITTEE

Wednesday 07 June 2017

Item 9

SUBJECT: JUNE 2017 RESOURCE MANAGEMENT PLANNING PROJECT UPDATE

Reason for Report

1. To provide 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 2015-25 Long Term Plan.
5. Similar periodical reporting will also be presented to the Council as part of the quarterly reporting 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

That the Regional Planning Committee receives and takes note of the '**June 2017 Resource Management Planning Projects Update**' staff report.

Authored by:

Gavin Ide
MANAGER, STRATEGY AND POLICY

Approved by:

James Palmer
GROUP MANAGER
STRATEGIC DEVELOPMENT

Attachment/s

- [1](#) Resource Management Planning

Status Report on HBRC Resource Management Plan Change Preparation & Review Projects

as at 31 May 2017

Current Project	Performance Target as per 2015-25 Long Term Plan	Update
Regional Coastal Environment Plan (RCEP)	2015-17 , prepare and complete Coastal Hazards Management Strategy for coastline between Tangoio and Clifton (see Project 322). Coastal Hazard Management Strategy (Phase1) to be adopted by Council by June 2016.	Previously, Stage 3 of Strategy 'launched' at event on 31 st January. Two community panels have been formed and have each met on several occasions already to consider information, options and preferences to recommend back to the Joint Committee overseeing preparation of the Strategy. Website dedicated to the project has also been established: www.hbcoast.co.nz
Implementation of, and reporting on, NPS for Freshwater Management (NPSFM)	Each year , prepare report on implementation of NPSFM	Revised progressive implementation programme ('PIP') was notified in November 2015. This can be viewed on HBRC's website . Annual progress reporting on implementation will feature as part of the Council's Annual Report.
Oil and gas regulation	2016-17 n/a 2015-16 1. Complete report on effectiveness of the RRMP and RCEP in relation to managing the effects of oil and gas exploration and development 2. Complete a report for RPC to consider whether a limited scope regional plan change is necessary and appropriate to address any relevant recommendations from the Parliamentary Commissioner for the Environment's June 2014 report 'Drilling for oil and gas in NZ: environmental oversight and regulation.'	Workshop to be held in early June with RPC members facilitated by the Opus consultants. Workshop's purpose is to obtain greater clarity of the RPC's intent and scope of the plan change project before evaluation, stakeholder consultation and drafting commences. Previously... At its meeting on 1 st March 2017, the RPC agreed to indicative work programme for preparation of regional plan change to regulate oil and gas activities. This followed prior agreement at the RPC's meeting on 23 rd November 2016, that a plan change should be prepared to prohibit the drilling for oil and gas within the region's productive aquifers, aquifer recharge zones and surface water bodies.
Greater Heretaunga/ Ahuriri catchment area plan change (a.k.a. TANK project)	December 2017 , plan change for Greater Heretaunga / Ahuriri catchment area adopted for public notification.	Under preparation. Not yet notified. TANK Group meeting #28 was held on 27 th April and Meeting #29 is scheduled for 14 th June.
Taharua/Mohaka Catchment plan change	December 2017 , plan change for Mohaka River catchment adopted for public notification.	Under preparation. Not yet notified. Draft Mohaka plan change work programme prepared and was presented to RPC's 21 Sept 2016 meeting. Meeting of Stakeholder Reference Group scheduled for 6 th March 2017 was postponed due to other staff commitments and priorities. Intending on re-scheduling in next few months.
Outstanding freshwater bodies plan change	July 2017 , notify plan change for outstanding freshwater bodies.	MFE-funded project aiming to develop criteria and methodology for assessing outstanding freshwater bodies (nationally) has been completed. Targeted work has commenced on preparation of HBRC's own plan change identifying any outstanding freshwater bodies in Hawke's Bay. Initial report was presented to RPC on 1 st March. Further follow-up report set out in separate item in 7 June RPC meeting agenda.

Current Project	Performance Target as per 2015-25 Long Term Plan	Update
Change 5 to Regional Resource Management Plan	n/a	Part of the last remaining appeal (by Fish and Game) relating to wetlands in the RRMP and Plan Change 5 is unresolved. Parties have prepared and exchanged experts' evidence and continue to await notice from the Environment Court regarding actual date(s) being set for Court hearing.
Regional Resource Management Plan effectiveness reporting	2016-17 Prepare report on effectiveness of the RRMP where this is not otherwise being reviewed through the policy work programme	<p>Project has just commenced having been deferred in the work programme given other commitments facing Policy Team. At RPC meeting in April, Committee members asked staff for some clarification of what might be the scope of this plan effectiveness reporting.</p> <p>The intent is not a review of the entire RRMP. The plan effectiveness review can be thought of as a precursor assessment of what works well, what could be done slightly better (or differently) in the RRMP; and what is not working as originally intended. It also needs to be borne in mind that the RRMP's effectiveness (or at least its influence) does not occur in a vacuum. A range of other policy instruments (both local and national) exist – some of which have emerged and/or been altered during the time since the RRMP became operative in 2006.</p> <p>Scope of the RRMP effectiveness review can be reduced in a number of ways, including by not revisiting provisions that have been the subject of recent amendments since RRMP became operative in 2006. Looking back to past plan changes since the RRMP became operative in 2006, the policy work programme has featured:</p> <ol style="list-style-type: none"> 1. PC 1 (altered geographic coverage of RRMP's regional plan parts in reference to the Regional Coastal Environment Plan being the regional plan for the Coastal Environment – but not overriding the RPS which remains whole-of-region). 2. PC 2 (Air Quality – principally introduced policies and methods for ambient air quality, esp. PM10, but also some other contaminants/air discharge activities too) 3. PC 3 (rules for wastewater systems and on-site discharges) 4. PC 4 (Managing the Built Environment) – one I assume you're fairly familiar with already. 5. PC 5 (land and freshwater integrated management to set overarching scene for catchment-based regional plan changes) 6. PC 6 (Tukituki River catchment) 7. Plus several other amendments that were done without Schedule 1 formalities <ol style="list-style-type: none"> a. Interim policies re NPSFM 2011 and 2014 b. Removing conflict/duplication with NES Air Quality c. Removing conflict/duplication with NES Electricity Transmission activities d. Appending Statutory Acknowledgements to the RRMP as and when emerging from Treaty settlement legislation. <p>Looking forward, the policy work programme features the following (in no particular order):</p> <ol style="list-style-type: none"> 1. Regional plan change enhancing regulation of oil and gas exploration activities 2. Plan change (most likely to RPS) identifying regionally outstanding waterbodies in Hawke's Bay 3. Regional plan changes to implement NPSFM2014 in the following: <ol style="list-style-type: none"> a. Mohaka River catchment b. TANK catchment area (i.e. Tutaekuri, Ahuriri, Ngaruroro and Karamu catchments, plus interconnected aquifer system)

Current Project	Performance Target as per 2015-25 Long Term Plan	Update
		<p>c. Rest of region (including Wairoa and northern Hawke's Bay catchments; Waihua, Waikari, Aropanui, Esk, Porangahau and southern coastal catchments).</p> <p>4. Implicit activity in supporting implementation of Heretaunga Plains Urban Development Strategy (and now by association, implementing relevant parts of the 2016 NPS on Urban Development Capacity).</p> <p>5. Imminent release of a new national environmental standard for plantation forestry.</p> <p>6. Anticipated release of further national direction in 2017 including:</p> <ol style="list-style-type: none"> a. Stock exclusion regulations b. Proposed review of air quality NES involving ambient limits on PM10 in Napier & Hastings Airsheds c. Proposals for a NES on aquaculture d. Proposals for a NES on storage of end-of-life-tyres e. Proposals for national regulations on dam safety f. Amendments to NPSFM. <p>7. Likely release of proposed national direction in 2018 including:</p> <ol style="list-style-type: none"> a. NPS for national hazards b. NPS for indigenous biodiversity c. Proposed national planning standards (aka national planning 'template') for structure and some content of RPSs, regional plans and district plans. <p>Looking at current works in progress (or will potentially be) exploring the following:</p> <ol style="list-style-type: none"> 1. Effectiveness of RRMP's rules re effects of feedlots 2. HBRC's policy plan-making responsibilities regarding NES for Human Drinking Water Sources 3. HBRC's abilities to implement PC6 (Tukituki River Catchment) in its current form (as emerging from findings of the RWSS Review project). <p>At the RPC meeting in May, a suggestion was made by one Committee member inferring that this RRMP plan effectiveness review needs to address urban stormwater management. With respect, that is an issue which will be addressed within the TANK and Wairoa catchment plan changes in due course.</p> <p>Due to existing policy planning staff commitments, a Consultant will need to be engaged to undertake this effectiveness review work. An external expenditure budget figure of \$25,000 was earmarked for this work from the broader 2016/17 'Project 192' Resource Management planning projects budget. With this limited budget, the review will likely be at the 'lighter' end of the spectrum than a full in-depth details analysis involving extensive surveying of various plan-user and the like.</p>

Current Project	Performance Target as per 2015-25 Long Term Plan	Update
Responsiveness to 'National Direction' (i.e. legislation incl NPSs, national Regulations, national standards, etc).	<p>n/a</p> <p><i>NB: Instead, this update serves as a brief description of responses to:</i></p> <p>a) <i>Recent past national direction;</i> b) <i>Anticipated imminent proposals for new or revised national direction.</i></p> <p><i>The update is not intended as an exhaustive list of responses to all past or foreseeable national instruments.</i></p>	<p>NES for Plantation Forestry - MPI invited comment by 16 June on a proposal to amend the draft NES for Plantation Forestry to enable councils to charge for monitoring of activities permitted under the NES. Other elements of the NESPF are not open for comment as those have been subject to previous opportunities for public & sector input.</p> <p>Review of NES on Air quality – no proposal released yet. MFE officials have indicated a proposal likely to be released mid 2017.</p> <p>Resource Legislation Amendment Act ('RLAA') – legislation passed early 2017. Some amendments have immediate effect, others have transitional arrangements or 6 months deferral before coming into full effect. A RLAA overview is intended to be presented at the RPC members at meeting on 4 July.</p> <p>NPS on Urban Development Capacity – in effect Dec 2016. Will likely influence HBRC's role in ongoing implementation of the Heretaunga Plains Urban Development Strategy ('HPUDS') and also the RPS. NPSUDC will also have implications for all TLAs, irrespective of projected rates of residential and business land growth demands.</p> <p>'Clean Water' discussion document – submission lodged following RPC's meeting on 3 May. Technical document on 'swimmability' was open for further input until 26 May. At meeting on 31 May, Council considered further submission on 'swimmability' proposals and agreed to endorse draft submission that had previously been lodged by staff to meet the 26 May deadline.</p>
Statutory Acknowledgements of Treaty settlements	n/a	<p>Several Deeds signed/to be signed, but Treaty settlement legislation still to be passed by Parliament before Statutory Acknowledgements in effect. As at 31 January 2017, Treaty Settlement legislation in effect for parts of Hawke's Bay region are:</p> <ul style="list-style-type: none"> • Ngati Pahauwera Treaty Claims Settlement Act 2012 • Rongowhakaata Claims Settlement Act 2012 • Ngāti Manuhiri Claims Settlement Act 2012 • Ngāti Manawa Claims Settlement Act 2012 • Ngāti Whare Claims Settlement Act 2012 • Ngai Tāmanuhiri Claims Settlement Act 2012 • Maungaharuru-Tangitu Claims Settlement Act 2014 • Tuhoe Claims Settlement Act 2014 • Te Urewera Act 2014 • Hineuru Claims Settlement Act 2016 <p>Refer to Pātaka online mapping tool for further information [website link].</p>

HAWKE'S BAY REGIONAL COUNCIL

REGIONAL PLANNING COMMITTEE

Wednesday 07 June 2017

Subject: ITEMS OF BUSINESS NOT ON THE AGENDA

Item 10

Reason for Report

1. This document has been prepared to assist Committee Members to note the Items of Business Not on the Agenda to be discussed as determined earlier in Agenda Item 5.

1.1. **Urgent** items of Business (*supported by report tabled by CE or Chair*)

	Item Name	Reason not on Agenda	Reason discussion cannot be delayed
1.			
2.			

1.2. **Minor** items (*for discussion only*)

Item	Topic	Councillor / Staff
1.		
2.		
3.		
4.		
5.		

HAWKE'S BAY REGIONAL COUNCIL

REGIONAL PLANNING COMMITTEE

Wednesday 07 June 2017

SUBJECT: Confirmation of the Public Excluded Minutes of the Regional Planning Committee meeting held on 3 May 2017

Item 11

That the Council excludes the public from this section of the meeting being Confirmation of Public Excluded Minutes Agenda Item 11 with the general subject of the item to be considered while the public is excluded; the reasons for passing the resolution and the specific grounds under Section 48 (1) of the Local Government Official Information and Meetings Act 1987 for the passing of this resolution being:

GENERAL SUBJECT OF THE ITEM TO BE CONSIDERED	REASON FOR PASSING THIS RESOLUTION	FOUNDATIONS UNDER SECTION 48(1) FOR THE PASSING OF THE RESOLUTION
Plan Change 5 Appeal - Confidential Settlement Offer	<p>7(2)(c)(ii) That the public conduct of this agenda item would be likely to result in the disclosure of information where the withholding of that information is necessary to protect information which is subject to an obligation of confidence or which any person has been or could be compelled to provide and would be likely otherwise to damage the public interest.</p> <p>7(2)(g) That the public conduct of this agenda item would be likely to result in the disclosure of information where the withholding of the information is necessary to maintain legal professional privilege.</p> <p>7(2)(i) That the public conduct of this agenda item would be likely to result in the disclosure of information where the withholding of the information is necessary to enable the local authority holding the information to carry out, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations).</p>	The Council is specified, in the First Schedule to this Act, as a body to which the Act applies.

Authored by:

**Leeanne Hooper
GOVERNANCE MANAGER**

Approved by:

**Liz Lambert
GROUP MANAGER
EXTERNAL RELATIONS**