



Meeting of the Regional Planning Committee

Date: Wednesday 21 March 2018
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 meeting held on 7 February 2018	
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Decision Items		
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12.	Verbal update on Ahuriri Estuary	
13.	Discussion of Items of Business Not on the Agenda	121

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	Te Kopere o te Iwi Hineuru
Tania Hopmans	Maungaharuru-Tangitu Inc
Nicky Kirikiri	Te Toi Kura o Waikaremoana
Jenny Nelson-Smith	Heretaunga Tamatea Settlement Trust
Joinella Maihi-Carroll	Mana Ahuriri Incorporated
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
Fenton Wilson	Hawkes Bay Regional Council

Total number of members = 18

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 14 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
18	14
17	14
16	13
15	12
14	11

HAWKE'S BAY REGIONAL COUNCIL

REGIONAL PLANNING COMMITTEE

Wednesday 21 March 2018

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.

Decision Making Process

2. 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:

**Gavin Ide
MANAGER, STRATEGY AND POLICY**

Approved by:

**Liz Lambert
GROUP MANAGER
EXTERNAL RELATIONS**

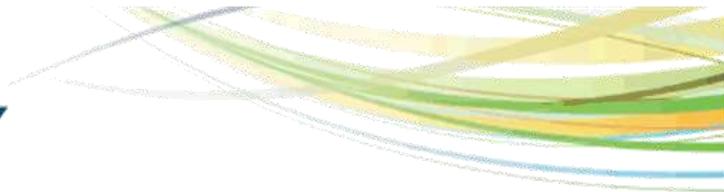
Attachment/s

- [↓](#)1 Follow-ups from Previous Regional Planning Committee meetings

Follow-ups from Previous Regional Planning Committee Meetings

Meeting held 7 February 2018

	Agenda Item	Action	Responsible	Status Comment
1	Update on Oil & Gas Plan Change Work Programme	Circulate the Opus Oil & Gas Report & Background information to RPC members	G Ide	Refer to item and attachments on 21 March RPC agenda.
2	Update on Oil & Gas Plan Change Work Programme	Co-Chairs accept offer from PEPANZ Chief Executive to attend and present to next RPC meeting on PEPANZ's issues regarding oil & gas plan change.	G Ide	Refer to item and attachments on 21 March RPC agenda. Mr Cameron Madgewick is scheduled to give presentation at the 21 March RPC meeting.
3	Update - Outstanding Water Bodies Plan Change	Feedback provided by tangata whenua will enable short list of 'candidate outstanding waterbodies' and then secondary analysis will be undertaken on those	B Harper	Workshop (10.15am) and item on 21 March RPC agenda. RPC Tāngata whenua representatives to also discuss at pre-meeting hui.
4	February 2018 Statutory Advocacy Update	Staff to reconsider whether a submission is required on NCC Plan Change 11 – if inconsistent with HBRC plans and policies	G Ide	Submission lodged on PC11 (Park Island reconfiguration rezoning). Copy of submission follows.



9th February 2018

Dean Moriarity
Team Leader Policy Planning
Napier City Council
Private Bag 6010
NAPIER 4182

Dear Mr. Moriarity

Notification of Plan Change 11 to the Operative City of Napier District Plan: Park Island Reconfiguration

Thank you for the opportunity to make a submission on Plan Change 11 to the Napier District Pan. As you will be aware, we had previously provided comment on an earlier draft version of Plan Change 11 in October of 2017.

HBRC support in part the proposed Plan Change 11. We have a clear understanding of the key drivers for Plan Change 11, particularly those regarding the need to provide for demand in residential housing and enhanced sporting facilities. Our understanding is in part informed by our mutual roles as joint partners in the Heretaunga Plains Urban Development Strategy and as managers of stormwater and drainage assets in the Ahuriri Estuary catchment. However, we are not currently convinced that the rezoning and associated infrastructure planning in place is sufficiently sound.

We accept that the rezoning is not yet the time or stage for fully fledged infrastructure design effort to accommodate the needs of development within the proposed rezoned areas. However, we cautiously approach this proposal given recent events and in having regard to our fundamental responsibilities for the environment under the Resource Management Act.

Due regard to the Regional Policy Statement

It was highlighted by HBRC during pre-notification consultation that Section 5.5 of the s32 Evaluation report was lacking detail in its assessment. Whilst we appreciate that the proposed plan change is largely influenced by the RPS's policies pertaining to the built environment and the Park Island/Parklands greenfield growth area, we remain of the opinion that a fuller assessment of policies in at least the following RPS chapters was warranted:

- 3.2 The sustainable management of coastal resources
- 3.5 Effects of conflicting land use activities
- 3.9 Groundwater quantity
- 3.10 Surface water resources
- 3.12 Natural hazards
- 3.13 Maintenance and enhancement of physical infrastructure

We appreciate that additional text has been provided in the s32 report to justify why this assessment has been limited, however the argument that *'the same land use activities will essentially occur within the same overall footprint'* does not seem a well-reasoned justification to essentially cherry-pick which parts of the RPS should be considered. Following this line of thought one could argue that given there is no change in land use there ought not to be an assessment of RPS Chapter 3.1B 'Managing the Built Environment'. However we disagree. We highlight that it is the extent and robustness of the assessment which is currently lacking, rather than the conclusion itself.

Hawke's Bay Regional Council

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Stormwater collection, treatment and disposal

Based on the information provided within the proposal it appears that stormwater runoff from development is likely to be able to be accommodated within the existing drainage network, however, there is a lack of detail around the proposed runoff, consequently until such a time that detail is provided HBRC are not in a position to provide fuller support in favour of the Plan Change.

The s32 Evaluation Report highlights in chapter 5.3.3 how stormwater is proposed to be addressed within the identified zoned areas for residential use. The document notes that *'ultimately, runoff from the proposed re-configuration will be managed in the same manner i.e. primary runoff piped to the overflow channel on the northern side of Prebensen Drive and secondary runoff conveyed to the same channel via the open swale drain along Orutu Drive with eventual discharge via the Purimu Pump Station ...'*

Upon review of the supporting information it appears that no runoff from the developed area will enter the Taipo Stream, as it is generally directed to the Purimu system. As can be seen in the image below, there is a natural overflow path from the Taipo towards the development area, which needs to be kept available if levels in the Taipo Stream are to remain as they are presently i.e. without the overflow, flood levels in the Taipo Stream would be higher. We wish to highlight that HBRC have never examined the impact of such an overflow, and it was suggested this be examined in the earlier 2012 report (by HBRC).

Proposed Development

A plan showing the draft proposed development concepts is shown in Figure 2.

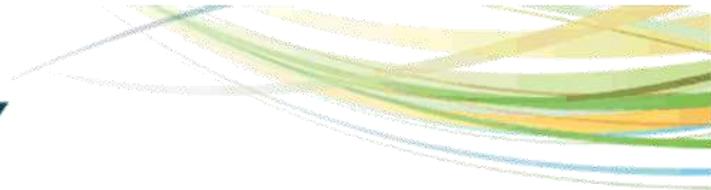


Figure 2: Proposed Development (DRAFT)

Whilst the changes to the plan appear to be able to be accommodated within the existing framework, HBRC drainage asset managers have not been party to any analysis or design work as part of the rezoning development proposals. Consequently we cannot comment of the potential impacts on the system as a result of the cumulative impact the reconfiguration of the zones and the additional 150 homes would have on the quantity of stormwater runoff and water quality of receiving environments.

Wastewater

There is also a question around the capacity of the infrastructure to cope with the additional wastewater as a result of the potential increase in the number of homes.



Both councils are well aware of a recent overflow of contaminated stormwater into the Ahuriri Estuary. We understand NCC saw fit to discharge that contaminated stormwater because of existing network capacity issues. Given there are already capacity issues within the existing network, we would caution against allowing further development (housing, sportsgrounds and increased impermeable areas) which would exacerbate existing deficiencies with the City Council's stormwater and wastewater networks.

We trust the City Council will see fit to undertake a detailed assessment of the capability of the existing infrastructure to ensure further incidences do not occur and we would ask that these findings be shared with HBRC so that we might make an informed comment in this regard.

Water management and limits in the Ahuriri Estuary catchment area

As noted above the secondary runoff is to be piped to the Ahuriri Estuary via the Purimu pump station through the existing consent for discharge. As a joint consent holder HBRC needs to understand what implications this could have on the Estuary.

The Draft Ahuriri Masterplan 2017 states that 'The Ahuriri Estuary is a nationally significant ecological environment' and due to its importance the health of the Estuary is at the heart of the plan, bringing a multi-layered approach to improving water quality and 'focusing on at-source treatment by end-of-line systems'. We are unclear how this objective is being delivered effectively through the Plan Change.

The TANK stakeholder group are currently in the process of developing a Regional Plan Change for the Tutaekuri, Ahuriri, Ngaruroro and Karamu catchments. Urban and industrial discharges of stormwater is an issue specifically considered by the TANK stakeholder group. In addition to this the Ahuriri Estuary has been identified by the Regional Council as one of its six 'hotspots' for targeted funding in its \$1 Million kick-start clean-up fund through the Annual Plan 2017-18.

Given the significance of the Estuary both at catchment and region level, it is imperative that its improved health is at the fore of decision making.

We suggest that discussions be held with HBRC's drainage asset managers regarding the conditions of the existing subdivision consent and what requirements have been (or anticipated to be) put in place from NCC (engineering code of practice), what is required in terms of stormwater design and treatment, and what low impact design principles will be applied within the subdivision development - for example, non-zinc roofing, appropriate treatment of stormwater from car park areas and roads etc. to reduce the potential contribution of contaminants to receiving environments, including the highly valued Ahuriri Estuary. Our highly experienced team of water quality scientists can also assist informing those discussions.

Natural Hazards

Since our previous correspondence to you in October 2017, the review of the region's liquefaction risk was adopted by the HB Liquefaction Risk Review Steering Group on the 2nd November 2017. Plan Change 11 has been reviewed by the Hawkes Bay Civil Defence Emergency Management Advisor, who has made the below advisory comments:

1. Liquefaction risk: The site is classified as having high liquefaction vulnerability. There is a probability of more than 50 percent that liquefaction-induced ground damage will be; moderate to severe for 500-year shaking, and; minor to moderate (or more) for 100-year shaking. Under the MBIE "Planning and engineering guidance for potentially liquefaction prone land" dated September 2017 Section 6.10 in areas assigned a liquefaction

category of high, it is recommended that a geotechnical engineer should provide input into the design of all buildings. This should include a site specific assessment of liquefaction issues, including assessment of new or existing subsurface ground investigations.

2. Tsunami inundation risk: The Hawke's Bay joint hazard strategy for local authority land-use planning (adopted by the HBCDEM Joint Committee) recommends provisions that support minimising risk to human lives including restricting location of critical facilities within these areas, and design, enhancement and protection of evacuation routes taken into account during new development such as roading infrastructure.

I would refer you to the Natural Hazards Property Report on the HB Hazard Portal should you require further information <https://hbhazards.intramaps.co.nz/IntraMaps/MapControls/HBHazards/NHDB/>

Closing comment

Thank you for the opportunity to make a submission on Plan Change 11. The Regional Council does wish to be heard in support of this submission, but do not wish to present a joint case with other submitters.

Regional Council representatives would welcome further discussion with Napier City Council to continue better alignment of our relative positions on land use and water management in the Ahuriri catchment, particularly those raised in our submission above.

The Regional Council's address for service in relation to this submission is:

Hawke's Bay Regional Council
159 Dalton Street
Private Bag 6006
Napier 4110
Attention: Ceri Edmonds
Phone: 06 835 2952
Email: ceri.edmonds@hbrc.govt.nz

Should you have any queries with regards to the content of this submission please do not hesitate to contact Ceri Edmonds, as above.

Yours sincerely

TOM SKERMAN
GROUP MANAGER STRATEGIC DEVELOPMENT
Phone: (06) 833 5649
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HAWKE'S BAY REGIONAL COUNCIL

REGIONAL PLANNING COMMITTEE

Wednesday 21 March 2018

Subject: CALL FOR ITEMS OF BUSINESS NOT ON THE AGENDA

Item 5

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 13.

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 MANAGER

Liz Lambert
GROUP MANAGER
EXTERNAL RELATIONS

HAWKE'S BAY REGIONAL COUNCIL

REGIONAL PLANNING COMMITTEE

Wednesday 21 March 2018

Subject: REMUNERATION REVIEW

Item 6

Reason for Report

1. The Hawke's Bay Regional Planning Committee Act 2015 (the Act) established the Regional Planning Committee in statute.
2. Section 12 of the Act requires that the Committee must have Terms of Reference and that these Terms of Reference must provide for :
a procedure for determining the remuneration to be paid to tāngata whenua members and reimbursement of their expenses.
3. Any amendments to the Terms of Reference must be with the written unanimous agreement of the appointers (this includes tāngata whenua appointers and the Council).
4. When the Regional Planning Committee first began to operate ahead of the passing of the legislation payment of tāngata whenua members was based on a Cabinet Office Circular on the Fees Framework for Members of Statutory and Other Bodies appointed by the Crown.
5. The intent of the review of the Terms of Reference included a review of the procedure for determining payment. On the advice of the tāngata whenua Chair and Co-Chair of the Committee, Mr. David Shannon was appointed to undertake the remuneration review.
6. A copy of Mr Shannon's report is attached. It has previously been provided to all members of the Regional Planning Committee for discussion at workshops.
7. Mr. Shannon's report provides recommendations for both the Regional Planning Committee and the Maori Standing Committee. For the purpose of this paper the proposed remuneration for the tāngata whenua members of the Regional Planning Committee is the only matter for discussion.

Discussion

8. The requirement for the Terms of Reference is that it must identify a procedure for determining the remuneration to be paid to tāngata whenua members and the reimbursement of their expenses.
9. The Shannon Report utilised market data broadly comparable to fulltime local government and public sector positions, Cabinet Office Circulars, professional salary surveys and personal experience to correlate the payment for tāngata whenua RPC members broadly to Senior Policy Advisors in a local Council. Mr. Shannon recommended that this equated to \$500 per meeting day for members (plus \$500 per tāngata whenua hui day, prior to the formal RPC). The estimated income from this per member is \$8,000 per annum based on the number of meetings held. His report also acknowledged the need for additional remuneration to the Co-Chair in recognition of the additional responsibilities.
10. Feedback from a workshop of the tāngata whenua members of the Regional Planning Committee indicated a level of disappointment in the findings and a request for more information. Following discussions between the Co-Chairs, Deputy Co-Chairs and HBRC staff an offer has been provisionally made to the tāngata whenua members and they will have considered this offer by the time of the Regional Planning Committee meeting (but after the agenda is published).

11. A summary of the proposal for remuneration for 2018/19 (and the remainder of 2017/18) is as follows:
 - 11.1. Payment of \$12,000 per annum per tāngata whenua member of the Regional Planning Committee. This payment will cover preparatory work, attendance at tāngata whenua-only hui, attendance at the formal Regional Planning Committee meeting, and any required follow-up meeting with appointers.
 - 11.2. Additional remuneration of \$6,000 per annum for the Deputy Co-Chair of the Regional Planning Committee
 - 11.3. Additional remuneration of \$12,000 per annum for the Co-Chair of the Regional Planning Committee
 - 11.4. Payments to be reviewed annually in accordance with the comparable salary for Senior Policy Advisors, as outlined in the Shannon Report.
 - 11.5. HBRC to continue to make payments separately for the reimbursement of travel, accommodation and incidental expenses as per current arrangements upon receipt of verified claims.
12. For the purpose of clarification payment to any tāngata whenua member who represents the Regional Planning Committee on any other body, such as a standing committee of HBRC or a sub-committee, is not covered by this arrangement and is determined separately.
13. In addition the payment for any independent advice sought by the tāngata whenua members of the RPC will continue to be made separately by HBRC.

Financial and Resource Implications

14. HBRC has provided for the level of remuneration described in this paper in its Draft Long Term Plan.

Decision Making Process

15. 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:
 - 15.1. The decision does not significantly alter the service provision or affect a strategic asset.
 - 15.2. The use of the special consultative procedure is not prescribed by legislation.
 - 15.3. The decision does not fall within the definition of Council's policy on significance.
 - 15.4. The persons affected by this decision are the ratepayers in the Hawke's Bay region who meet the costs of the Regional Planning Committee.
 - 15.5. The decision is not inconsistent with an existing policy or plan.
 - 15.6. Given the nature and significance of the issue to be considered and decided, and also the persons likely to be affected by, or have an interest in the decisions made, Council can exercise its discretion and make a decision without consulting directly with the community or others having an interest in the decision.

Recommendations

That the Regional Planning Committee:

1. Receives and notes the Remuneration Review report.
2. 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.
3. Recommends that for the purposes of the review of the Terms of Reference for the Regional Planning Committee that the procedure for the remuneration of the tāngata

whenua members of the Committee is as outlined in paragraph 11 of this paper and that annual payment reviews use market data for Senior Policy Advisors in the public sector as the baseline.

4. Recommends that the Council implements the payment system in paragraph 11 of this paper, with effect from 21 March 2018.

Authored by:

**Liz Lambert
GROUP MANAGER
EXTERNAL RELATIONS**

Approved by:

**Tom Skerman
GROUP MANAGER
STRATEGIC DEVELOPMENT**

Attachment/s

- [1](#) Remuneration of Regional Planning Committee Tangata Whenua and Maori Committee roles of the Hawke's Bay Regional Council
- [2](#) Supplementary Report to original report

REPORT

To the Hawke's Bay Regional Council

On the Remuneration of Regional Planning Committee Tangata Whenua and Māori Committee Roles of the Hawke's Bay Regional Council

December 2017

Prepared by

David Shannon

Remuneration Advisor

Remuneration of Regional Planning Committee Tangata Whenua and Māori Committee Roles of the Hawke's Bay Regional Council

Management of the Hawkes Bay Regional Council has requested a review of the remuneration of selected Regional Planning Committee Tangata Whenua and Maori Committee roles in comparison to the broader pay market. This Advisor has previously reviewed the job sizes and remuneration of a wide range of roles across all employment sectors – including a large number of Local Councils and Maori organisations. This enables him to undertake this review based on that past experience in conjunction with reviewing applicable current market data.

This report examines the data available that may be drawn on with regard to the establishment of appropriate levels of remuneration for Board related roles. This report has been produced exclusively for the Hawkes Bay Regional Council. The data and conclusions drawn herein cannot be applied effectively to any other role or organisation.

Remuneration of elected councillors is beyond the scope of this report.

Review of Board-Related Positions

The Hawkes Bay Regional Council wishes to consider the appropriate level of remuneration of selected **Board-Related roles** in relation to the broader pay market. The roles were assessed relative to the respective committees' own current terms of reference. This assessment does not anticipate any future versions of those terms of reference if/when they are reviewed from time to time.

This report examines the data available that may be drawn on with regard to the establishment of appropriate levels of remuneration for the designated roles. The Advisor interviewed selected representatives of Council and the two identified Board-Related bodies to obtain the information on the job requirements required for this review. This report has been produced exclusively for the Hawke's Bay Regional Council. The data and conclusions drawn herein cannot be applied effectively to any other role or organisation.

As noted in previous correspondence, as these are not full-time roles, it is not practical to apply a standard committee-based job sizing approach in assessing these roles as is typically used for Council staff positions. However, application of a job sizing process can establish a broad relativity between these roles and selected Council-based positions in order to broadly align them with market-based levels of pay. To achieve this objective, research was undertaken into various sources relating to Council positions through a range of available source materials and comparisons to other relevant positions in the experience of this Advisor.

Reference has then been made to the most appropriate market data available. In this case that is a survey of Public Sector data as at 2017. There is no more useful survey or database on Public Sector related roles presently in New Zealand. Further data is provided from a database of All Organisation roles which includes both Public and Private Sector roles.

Experience shows that the setting of remuneration levels based on research into market data is a process which varies widely from organisation to organisation. The rates themselves vary from zero – which is common among Not for Profit Organisations – to substantial sums in the private financial sector. Even within organisations such as Local Councils, the “work requirements” for different members may vary significantly making the setting of a single rate of remuneration even more difficult and different employees may be paid quite differently based on their individual contributions to the organisation.

Market Research

The remuneration of the positions covered in this review consists essentially of a meeting fee of which is set well below the bottom end of national remuneration rates. It is further noted that the Daily/Meeting Rates applicable to the positions addressed in this review have been at this level for some time now and have not previously been addressed in terms of market relativity.

As noted previously, it is not practical to use a full job sizing approach in assessing Board roles as is typically used for Council staff positions. The roles addressed in this review are not full time and are generally advisory in nature as opposed to “outcomes” or “task” oriented. Rather than applying a job sizing approach, research was undertaken into various sources relating to comparable Board-based positions through a range of available source materials. There is no useful remuneration survey or database specifically based on Board-related roles of this nature available in New Zealand at this time.

In undertaking this review, information was examined from the following sources:

- Market data on broadly comparable full-time local government and public sector positions as at March 2017.
- Cabinet Office Circulars – Fees Framework for Members of Statutory and Other bodies Appointed by the Crown.
- Strategic Pay’s surveys of salaries, payments, honorarium and other fees paid to Board members in a range of organisations.
- The Advisor’s experience in working with employees of a range of organisations in different sectors of the New Zealand market – in particular local councils.
- The Advisor’s experience in working with both urban and rural local Councils across New Zealand and knowledge of the Surveys of Remuneration in the Public Sector and Local Government published by Strategic Pay Limited.

Responsibilities of Board-based positions

In considering the situation at Hawkes Bay Regional Council, the Advisor also reviewed the data in a Survey of Director Positions which includes a much more comprehensive view of such roles and their responsibilities. Notably, this survey acknowledges that Directors "normally" put in much more time than merely that required for "meetings." In particular, this data reflects the considerable time outside meetings dedicated to Board-related work by these members.

Particular attention is called to this "outside meeting" requirement of these positions. The Committee members are expected to spend a not inconsiderable amount of time outside the formal meetings consulting with their constituents. This would involve both the informing of these constituents as to the proceedings, decisions and actions of the Committees as well as gathering the relevant commentary, suggestions and demands from these constituents to take to the next Committee meeting.

Another factor to consider in reviewing these roles is the requirement for previous and other current involvement in relevant community activities and their relationships with other persons and organisations across the community. The persons selected for the roles on the Maori Committee and Regional Planning Committee are expected to be knowledgeable on the functions of those committees and fully capable of communicating effectively between their constituents and committees on the proceedings, decisions and outcomes of the meetings.

This would more appropriately reflect the considerable time outside meetings dedicated to Board business – and is also designed to reflect some of the personal liability assumed by such members in the conduct of business on behalf of the Organisation. Consideration of that additional time and effort has been given in this review in order to align the Council's positions with the relevant market data.

Current Remuneration Levels

The current rates of remuneration accorded to the positions covered in this review are as follows. Note that the payments are "per meeting day," which is has been a long-standing basis of remuneration for non-elected committee members.

Regional Planning Committee Tangata Whenua representatives - \$400 per meeting plus \$400 for a preparation day plus payment for mileage and accommodation. The RPC's regular meetings have been held at monthly intervals during 2017 and are proposed to be six-weekly during 2018. Past and current practice has seen the RPC tangata whenua representatives meet alone (without councillors) the afternoon prior to the full committee meeting. On this basis in 2017, there were eleven regular committee meetings scheduled, each with a corresponding pre-meeting hui for tangata whenua representatives. This would result in a total meeting fee payment for each member who attends all sessions of \$8800 annually.

Maori Committee - \$270 per meeting. The Advisor was informed that there are 10 meetings annually¹. This results in a total pay for each member who attends all meetings of \$2700 annually. It is understood that this meeting frequency may vary.

Alignment of Committee Positions with Council Positions.

As noted previously, this Advisor has experience in the job sizing of a wide range of positions in and affiliated with Local Councils across New Zealand. The SP5 job evaluation system was then applied to these Committee roles with the understanding that the outcome can only be *indicative* of their relative sizes in the broad Local Government Sector.

Results of Job Sizing Review

Maori Committee Member – Assessed at Grade 17

Factor 1 – Accountability – Level 6: Substantial impact, input to strategy

Factor 2 – Work Complexity – Level 5: Assess, analyse, evaluate monitor and compare research & write, promote, devise, interpret policy/legislation procedures

Factor 3 – Responsibility for People – Level 1: No direct reports or requirement for supervising others

Factor 4 – Relating to Others – Level 4: Facilitating, persuading influencing on more sensitive issues. Element of choice, builds relationships.

Factor 5 – Expertise – Level 5: Advisory, technical roles with emphasis on applying skills in relevant discipline. Jobs at this level advise, plan, design, resolve, apply.

Regional Planning Committee Member – Assessed at Grade 19

Factor 1 – Accountability – Level 6: Substantial impact, input to strategy

Factor 2 – Work Complexity – Level 6: Discern, discriminate, formulate solutions, systems, policies, initiate, create, develop, design, resolve; provision of specialist advice, innovative, creative thinking

Factor 3 – Responsibility for People – Level 1: No direct reports or requirement for supervising others

Factor 4 – Relating to Others – Level 4: Facilitating, persuading influencing on more sensitive issues. Element of choice, builds relationships.

Factor 5 – Expertise – Level 6: Solve operational problems, resolve complex issues, recommend alternative courses of action. Tending to innovation and application of theoretical principles.

Note Please

The above alignments with the job sizing process were made by one of New Zealand's most experience job evaluation consultants who has undertaken this process for literally hundreds and hundreds of jobs across most employment sectors but with particular experience in local government roles. While one may be tempted to challenge the specific wordings applied above, this Advisor stands by these ratings in relation to those other roles reviewed in other organisations.

¹ In 2018 there are six meetings of the Maori Committee scheduled.

Market Data on Council-Based Positions

The Council's current remuneration consists solely of the meeting fees of \$400 and \$270 as noted above. While Board roles cannot be directly compared to full-time employee positions, a broad comparison is useful as a starting point in aligning these roles with market data. The following comparisons are made.

Note: these comparisons are made purely on the basis of being Council-employed and job sized through the process outline above. *The broad comparisons to full-time Policy Advisor and Senior Policy Advisor roles are NOT intended to indicate a "similarity" in the nature of these roles.* Rather, it is to give an idea of what kinds of positions typically sit at Grades 17 and 19 in a large number of local councils across New Zealand. Many examples of other positions in local councils could be given to illustrate which roles sit at these levels in terms of job size, but it is felt that the majority of those comparisons would be meaningless to the readers of this report. This comparison is admittedly further complicated by the very "part-time" nature of these roles. In undertaking these job sizings, the roles had to be viewed as "full time."

Maori Committee Member at Grade 17 is aligned broadly at the level of a Policy Advisor in a local Council – responsible for investigation, research and review of policies and strategic/business planning processes. The data is that for all jobs sized at Grade 17 in the sectors indicated.

The figures below are in terms of **Total Remuneration** which includes the value of any additional benefits which may be accessible. The Daily rate is calculated on 260 working days in the year.

- Public Sector Median data - \$94,300 – Daily Rate of \$363
- All Organisations, Median data - \$100,500 – Daily Rate of \$386

Regional Planning Committee Member at Grade 19 is aligned broadly at the level of a Senior Policy Advisor in a local Council – responsible for leading the investigation, research and review of policies and strategic/business planning processes. The data is that for all jobs sized at Grade 19 in the sectors indicated.

The figures below are in terms of **Total Remuneration** which includes the value of any additional benefits which may be accessible. The Daily rate is calculated on 260 working days in the year.

- Public Sector Median data - \$109,700 – Daily Rate of \$422
- All Organisations, Median data - \$117,900 – Daily Rate of \$453

Work Required Outside Formal Meetings

As noted previously, the work and output of these committee members is not restricted to attendance at the designated meetings. They are expected to both "gain" input from the various members of their communities and "give" output from their Committee meetings back to those communities.

It is anticipated that this "give-back" requirement could require an equal time commitment to that in the formal meetings, though it would be difficult to accurately measure the informal involvement of the jobholder in his or her community in the performance of this responsibility. While some interviewees "hinted" at this requirement to undertake "work" outside of committee meetings, it was never clarified to a degree where it could be directly evaluated as part of the position's responsibilities.

Another aspect of these roles that should be acknowledged but that does not lend itself easily to monetary reward is the element of 'public goodwill' gained by these persons in their work with the Council. The public acknowledgement of their efforts and achievements in itself provides a certain element of "reward" that may find further value when these persons become candidates for other, different roles in the community outside of Council.

Recommendations on Reward Structure

Following the above discussions and analysis of the market data, the following reward structure is recommended for these positions. These sums consider both the actual meeting times and the community consultation required to prepare for the meetings.

Maori Committee

Committee Member	6 ² meetings at \$400 = \$2,400 annually
Committee Chair	6 meetings at \$600 = \$3,600 annually

Regional Planning Committee

Committee Member	8 ³ meetings + 8 prep days at \$500 = \$8,000 annually
Committee Chair	8 meetings + 8 prep days at \$700 = \$11,200 annually

² 6 meetings scheduled for 2018

³ 8 meetings scheduled for 2018

External Rewards Sources

The work performed by these two bodies is primarily for the benefit of their external 'constituents' or appointing bodies. In this case, another consideration that should be made, though it may present challenges of its own, is the possibility of those external constituents bearing some degree of the total costs involved. As the benefits to be gained through the successful achievement of projects or activities undertaken as a result of the work of these two bodies will be to those local constituents, consideration should be given to an analysis of those comparative benefits and the appropriateness of participation in the reward structure by those bodies who benefit most directly. Consideration of this approach would require consultation with a sample of those bodies who are the constituents benefitting most from the committees' work.

Conclusion

The above discussion has provided a comparison of the current levels of remuneration for the two roles in question: Maori Committee members and Regional Planning Committee members. The data indicates a modest increase in the current allowances may be in line depending on Council's policies on payments to external persons.

One other factor that appears to be under consideration is the potential for any additional payments for specific qualifications or experience that individuals may bring to these roles. However, nothing substantial has been determined at the present time, so no consideration is given in this review. Council is encouraged to undertake further investigation into the existence and extent of such qualifications or experience.

Acknowledgement of Assistance Provided

This Advisor would like to particularly acknowledge and thank the following persons for the support and assistance they provided in the research and preparation of this report.

For the Hawkes Bay Regional Council

- James Palmer – Chief Executive
- Gavin Ide – Manager Strategy and Policy
- Liz Lambert – Group Manager External Relations
- Rick Barker – Acting Chair of the Council
- Fenton Wilson - Councillor

For the Regional Planning Committee

- Toro Waaka – Co-Chair
- Tania Hopmans – Deputy Chair - Tangata Whenua membership

For the Māori Committee

- Mike Mohi - Chair
- Mike Paku – Deputy Chair

And particularly, Joyce-Anne Raihania, Senior Policy and Strategic Advisor – Maori, for her consistent valuable support in organising this review and the interviews with the people named above.

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14 December 2017

Liz Lambert
Group Manager External Relations
Hawke's Bay Regional Council
159 Dalton Street
Napier 4110

Dear Liz

Attached is my further - and I hope final - revised report on my review of the Maori Committee and Regional Planning Committee positions that we discussed during my time in Napier. I trust this report meets your requirements for an outside review of the remuneration of these two groups of people.

Changes have been made to pages 7 to provide more specific recommendations on the remuneration of these positions. I misunderstood the initial assignment as providing the relevant market data so you could draw your own conclusions on the appropriate remuneration levels.

The recommended remuneration allows for some unspecified "work outside formal meetings" which will likely vary hugely from person to person. For that reason, I did not want to try to be more specific on those rewards. However, if that "outside work" can be better defined in terms of time and activities, it could be possible to put a more specific reward on it.

If you have any further questions, please get back to me and I will address them to the best of my ability.

Sincerely,

David Shannon
Remuneration Advisor

SUPPLEMENT

To the Report to the Hawke's Bay Regional Council

On the

Remuneration of Regional Planning Committee Tangata Whenua and Māori Committee Roles of the Hawke's Bay Regional Council

December 2017

Prepared by

David Shannon

Remuneration Advisor

Remuneration of Regional Planning Committee Tangata Whenua and Māori Committee Roles of the Hawke's Bay Regional Council

Review of Board-Related Positions

As noted previously, the Hawkes Bay Regional Council wishes to consider the appropriate levels of remuneration of selected **Board-Related roles** in relation to the broader pay market.

The Report submitted in November explained the Job Evaluation process applied to these roles in order to access available market data. The job sizing process which aligned the two Board roles with "generic policy officer" roles was explained in that it was merely a tool for identifying a "market size" of these two jobs. It did not draw any conclusions as to the actual similarity of these roles with the policy officer roles. This process was the only practical means of accessing the available market data appropriate to these roles.

As noted in previous correspondence, as these are not full-time roles, it is not practical to apply a standard committee-based job sizing approach in assessing these roles as is typically used for Council staff positions. However, application of a job sizing process can establish a broad relativity between these roles and selected Council-based positions in order to broadly align them with market-based levels of pay. To achieve this objective, research was undertaken into various sources relating to Council positions through a range of available source materials and comparisons to other relevant positions in the experience of this Advisor.

In considering the situation at Hawkes Bay Regional Council, the Advisor also reviewed the data in a Survey of Director Positions which includes a much more comprehensive view of such roles and their responsibilities. Notably, this survey acknowledges that Directors "normally" put in much more time than merely that required for "meetings." In particular, this data reflects the considerable time outside meetings dedicated to Board-related work by these members.

The subsequent report examined the data available that may be drawn on with regard to the establishment of appropriate levels of remuneration for the designated roles. The proposed levels of remuneration are broad indications only, not specific dollar amounts that should be followed slavishly. In actual practice, different members in the "same" roles may be awarded different levels of remuneration based on their own qualifications, experience and, ideally, performance in the role.

Recommendations on Reward Structure

Following the discussions with designated representatives and analysis of the market data, the following reward levels have been recommended for these positions. These sums consider both the commitment required for the actual meeting times and the community consultations required to prepare for the meetings.

Maori Committee

Committee Member	10 meetings at \$400 = \$4,000 annually
Committee Chair	10 meetings at \$600 = \$6,000 annually

Regional Planning Committee

Committee Member	11 meetings + 11 prep days at \$500 = \$11,000 annually
Committee Chair	11 meetings + 11 prep days at \$700 = \$15,400 annually

Chairs, Co-Chairs and Deputy Co-Chairs

There appear to be a range of "directing" positions in the committees. While presumably there are some different duties/requirements of these roles, these were not apparent in the interviews. I also have the impression that these roles "evolve" over time rather than fulfilling constant requirements. In that case, I can only recommend that the Chairs determine the 'distribution' of the additional rewards available to their position. It may be appropriate to split the added reward between the Chair and the other roles in some proportion relative to the actual duties undertaken by each.

Responsibilities of Individual Committee Members

As noted previously, the work and output of these committee members is not restricted to attendance at the designated meetings. They are expected to both "gain" input from the various members of their communities and "give" output from their Committee meetings back to those communities.

Particular attention is called to this "outside meeting" requirement of these positions. The Committee members are expected to spend a not inconsiderable amount of time outside the formal meetings consulting with their constituents. This would involve both the informing of these constituents as to the proceedings, decisions and actions of the Committees as well as gathering the relevant commentary, suggestions and demands from these constituents to take to the next Committee meeting.

Another factor to consider in reviewing these roles is the requirement for previous and other current involvement in relevant community activities and their relationships with other persons and organisations across the community. The persons selected for the roles on the Maori Committee and Regional Planning Committee are expected to be knowledgeable on the functions of those committees and fully capable of communicating effectively between their constituents and committees on the proceedings, decisions and outcomes of the meetings. Consideration of that additional time and effort has been given in this review in order to align the Council's positions with the relevant market data.

The indicated increase in remuneration in this report is also an attempt to more appropriately reflect the considerable time outside meetings dedicated to Board business – and is also designed to reflect some of the personal liability assumed by such members in the conduct of business on behalf of the Organisation.

Additional Considerations

External Rewards Sources

The work performed by these two bodies is primarily for the benefit of their external 'constituents' or appointing bodies. In this case, another consideration that should be made, though it will certainly present challenges of its own, is the possibility of those external constituents bearing some degree of the total costs involved. The benefits to be gained through the successful achievement of projects or activities undertaken as a result of the work of these two bodies will be to those local constituents.

Therefore, consideration should be given to an analysis of those comparative benefits and the appropriateness of participation in the reward structure by those bodies who benefit most directly. Consideration of this approach would require consultation with a sample of those bodies who are the constituents benefitting most from the committees' work. This aspect of the reward structure is outside the expertise and experience of this advisor.

Conclusion

The above discussion has provided a comparison of the current levels of remuneration for the two roles in question: Maori Committee members and Regional Planning Committee members. The data indicates a modest increase in the current allowances depending on Council's policies on payments to external persons. The precise allocation of that increase among individuals may be subject to a further review of the actual work performed by the various roles.

One other factor that appears to be under consideration is the potential for any additional payments for specific qualifications or experience that individuals may bring to these roles. However, nothing substantial has been determined at the present time, so no consideration is given in this review. Council is encouraged to undertake further investigation into the existence and extent of such qualifications or experience.

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30 December 2017

Liz Lambert
Group Manager External Relations
Hawke's Bay Regional Council
159 Dalton Street
Napier 4110

Dear Liz

Happy New Year! I imagine this is unexpected, but I have reviewed my report in further detail and would like to provide this further supplement that I trust will clarify my findings even further.

This should form the final part to my report on my review of the remuneration of the Maori Committee and Regional Planning Committee positions. I trust this supplement will clarify the remaining issues that may still be a little "up in the air."

I would like to point out that when I first responded to the Council's approach to undertake this project, I declined because I felt it was outside my area of expertise, but Council's response made much of my experience in job evaluation and market analysis with Maori organisations in requesting I undertake the work. In that case, I did undertake the work, but it was in terms of my own expertise in job sizing and market analysis. Hence, there are some aspects of the project that were outside my expertise and I am unable to comment on.

If you have any further questions, please get back to me and I will address them to the best of my ability.

Sincerely,

David Shannon
Remuneration Advisor

HAWKE'S BAY REGIONAL COUNCIL

REGIONAL PLANNING COMMITTEE

Wednesday 21 March 2018

Subject: REGIONAL PLANNING COMMITTEE TERMS OF REFERENCE AND REVIEW

Item 7

Reason for Report

1. This item identifies and discusses a number of matters requiring resolution that have either been raised by committee members in relation to the Regional Planning Committee terms of reference, or are mandated by the Hawke's Bay Regional Planning Committee Act 2015.

Interim Terms of Reference

2. The Regional Planning Committee was established in April 2011 as an interim committee pending the commencement of the Hawke's Bay Regional Planning Committee Act 2015 (the Act).
3. The Act's preamble ultimately recorded the Crown's commitment to establish a committee whose role would relate to natural resource planning processes that affect the region, and include drafting and recommending to the Council, plan and policy changes affecting natural resources in the region.
4. On 14 September 2011 the Corporate and Strategic Committee reviewed a draft terms of reference document and resolved:
 - 4.1. to adopt the terms of reference for the Regional Planning Committee as amended from discussions at the Corporate and Strategic Committee meeting held 14 September 2011,
 - 4.2. to endorse the Deed of Commitment and authorises the Chairman of Council to sign it on Council's behalf,
 - 4.3. to invite the Treaty claimant group signatories to advise Council of their appointees to the Regional Planning Committee, for formal approval by Council, and
 - 4.4. to instruct staff to bring back to Council, the proposals in relation to participation in voting.
5. The terms of reference were next considered at the Council meeting on 14 December 2011 where a series of amendments were debated and a revised version adopted. Following the 2013 council elections, the Council re-adopted terms of reference for the RPC on 6 November 2013. This is the version that is applicable today (refer **Attachment 1**). Of particular relevance for this paper are:
 - 5.1. Section m) - provides that the terms of reference *"will be reviewed by the Councillor members and the Tangata Whenua representatives in April 2013 to determine whether the Committee is fulfilling the objectives of Council and Tangata Whenua."*
 - 5.2. Section n) - provides that *"The Councillor members or Tangata Whenua representatives may request changes to the terms of reference. Amendments to the terms of reference may only be made with the approval (not unanimous) of: the Councillors at a Council meeting; and the tangata whenua representatives at a hui called for that purpose."*
 - 5.3. Section q) provides that the terms of reference *"are interim only and will be superseded by the Terms of Reference for the Permanent Committee."*

Hawke's Bay Regional Planning Committee Act 2015 (The Act)

6. On 14 August 2015 the Act came into force with the stated purpose of the RPC being “to oversee the development and review of the RMA documents prepared in accordance with the Resource Management Act 1991 for the RPC region.”
7. The legislation effectively adopts the 6 November 2013 amendments to the 2011 terms of reference as the formal terms of reference for the RPC. The legislation:
 - 7.1. sets out those matters that the terms of reference must provide for (section 12(1)(a)-(d),
 - 7.2. stipulates that the terms of reference may be amended by the written unanimous agreement of the Appointers.

Note – “Appointer” means the Council and the trustees or governors of the nine organisations whom each appointed or retain the right to appoint a tangata whenua representative to the committee. In this regard the terms of reference (which allows for an amendment to the terms of reference through a 80% resolution of committee members) are inconsistent with the Act and therefore the Act is deemed to prevail. That is, any amendment to the Terms of Reference requires a simple majority resolution of Council and unanimous written approval of all trustees/directors (acting with authority) who are a tangata whenua party to the Act.
 - 7.3. confirms that the terms of reference must be consistent with the specified legislation (the Act, local government legislation and the RMA).
8. Accordingly, while there is a requirement for the RPC to ensure that the current terms of reference are consistent with the specified legislation, there is no compulsion to review or amend the current terms of reference.

Proposed Terms of Reference

9. On 20 May 2015 the Committee considered whether the terms of reference should be amended to include broader resource management functions that were then undertaken by the Environment and Services Committee (i.e. more than overseeing preparation, review and amendments of RMA planning documents such as the Regional Policy Statement, Regional Resource Management Plan and Regional Coastal Environment Plan).
10. In order to address several inconsistencies between the terms of reference and the Act, several draft versions of revised terms of reference have subsequently been prepared for discussion purposes by the terms of reference sub-group. To assist with the re-drafting, legal review from Lara Blomfield of Sainsbury Logan Williams was commissioned on several versions of the draft document. Importantly, the legal review focussed on whether or not the revised draft terms of reference complied with the statutory requirements of the specified legislation (i.e. the Act, the LGA and the RMA). On 24 July 2017 the Council's legal advisors advised that, subject to the need to make three relatively minor amendments, “[t]he revised terms of reference will comply with the Act.”
11. TWR members requested staff prepare documentation to illustrate the current terms of reference (November 2013) marked up with draft amendments as discussed by the sub-group. Refer to **Attachments 2 and 3** for copies of Ms Blomfield's advice and **Attachment 4** for the Ms Blomfield's marked up terms of reference.
12. Drawing together the range of discussions during the development of the amended terms of reference, the remaining matters outstanding to be resolved appear to be:
 - 12.1. Voting and Quorum:
 - 12.1.1. The process by which the number of Council members eligible for voting will be reduced to ensure equal numbers of appointed tāngata whenua representatives
 - 12.1.2. The setting of the Quorum

- 12.1.3. Consensus decision making and the 80% voting threshold.
- 12.2. The presumption that the current Standing Orders of Council apply to the operation of the committee unless amended by the committee.
- 12.3. Confirmation of functions and powers of the committee (noting the legal advice that the broader scope in draft terms of reference is not inconsistent with the specified legislation).
- 12.4. Refer back provisions and clarification of the options available to Council in the event that no recommendation is received from the Committee. This issue relates in particular to section 12(4) of the Act which provides that *“In the event of an inconsistency between the obligations of Council under the terms of reference and its obligations under the specified legislation, the specified legislation prevails.”*
- 12.5. Remuneration provisions (to be addressed in a separate agenda item presented at the 21 March RPC meeting).

Review of the Performance of the Committee

13. Clause 10(2)(a) of the Act’s Schedule states that the Appointers *“must, no later than 3 years after the date of the first meeting of the RPC, undertake a review of the performance of the RPC.”* Following this statutory review, the Appointers may make recommendations to the RPC on relevant matters arising from the review. Assuming that this section is tied to the first meeting of the RPC following the date the Act came into effect then this review should be undertaken by September 2018.
14. While the scope of such a review appears very broad and is a matter for the committee to give consideration to, because both the statutory review and any amendment to the terms of reference are matters for consideration and ratification by the Appointers, there is merit in aligning both processes.
15. Provided that the committee can settle the remaining issues on the proposed terms of reference (per para 12) and resolve to refer same to Council and tangata whenua appointers for their respective organisations’ ratification, then staff consider the terms of reference would sensibly fall within the ambit of the wider statutory review requirement.
16. Accordingly, candidate topics to be included in the statutory review may include:
- 16.1. Matters resolved by the committee to be in scope in order to adequately assess the performance of the Regional Planning Committee (see Recommendations),
 - 16.2. Approval of amended Terms of Reference (pending resolution of the matters set out in para 12),
 - 16.3. Adequacy of Council’s provision of technical and administrative support of the RPC (incorporating the review of the role and performance of TWR independent advisors),
 - 16.4. Training for Committee members,
 - 16.5. Discussion and framing of long term work programme,
 - 16.6. Resourcing of the above.

Recommendations

1. That the Regional Planning Committee receives and notes the “Regional Planning Committee Terms of Reference and Review” staff report.
2. The Regional Planning Committee:
 - 2.1. Confirms which of the matters set out in paragraphs 12 and 16, and/or which additional matters, are to be resolved by the committee prior to undertaking of the statutory review of the performance of the RPC.

- 2.2. Instructs staff to work with the Co-chairs and Deputy Co-chairs and independent advisors to prepare recommendations for the Committee on the terms and scope of the statutory review, including:
 - 2.2.1. Appointment of review panel including appropriate cultural and legal expertise
 - 2.2.2. Agreed matters for review
 - 2.2.3. Consultation and discussion process
 - 2.2.4. Meeting and reporting timeframes.

Authored by:

**Tom Skerman
GROUP MANAGER
STRATEGIC DEVELOPMENT**

Approved by:

**Liz Lambert
GROUP MANAGER
EXTERNAL RELATIONS**

Attachment/s

- [↓1](#) Terms of Reference as at 6 November 2013
- [↓2](#) 24 July 2017 Sainsbury Logan and Williams letter
- [↓3](#) 31 August 2017 Sainsbury Logan and Williams Letter
- [↓4](#) Amended Terms of Reference as of 24 July 2017

Regional Planning Committee

Terms of Reference

[Adopted by Hawke's Bay Regional Council: 6 November 2013]

a) Introduction

Through its Treaty of Waitangi settlement negotiations with the tāngata whenua of the Hawke's Bay¹, in conjunction with the Council, the Crown has committed to introduce legislation to establish a permanent Regional Planning Committee (Permanent Committee) to draft and recommend to the Council plan and policy changes that affect natural resources in the Hawke's Bay region.

Legislation will be introduced to make the Permanent Committee permanent. Negotiations on terms of reference of the Permanent Committee are yet to be concluded. However, in the meantime, the Council and the Member Tāngata Whenua Groups have agreed to establish the Committee with interim terms of reference to begin working together on the matters set out at b) to d) following.

These terms of reference will be superseded by terms of reference of the Permanent Committee when legislation is enacted to give effect to agreements reached in respect of the Permanent Committee. These terms of reference may be amended by the Council and the Member Tāngata Whenua Groups in accordance with (n) following.

b) Purpose

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

c) Process

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

d) Specific Responsibilities

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

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

- To oversee consultation on any draft Proposed Regional Plan, Proposed Regional Policy Statement, Plan Change or Plan Variation (prior to notification).
 - To recommend to Council for public notification any, Proposed Regional Plans, Proposed Regional Policy Statements, Plan Changes or Plan Variations.
 - In accordance with the process outlined above, to review any documents which the Council may refer back to the Committee for further consideration.
 - To recommend to Council the membership of Hearings Panels, from appropriately trained and eligible commissioners, to hear and decide upon submissions on Proposed Regional Plans, Proposed Regional Policy Statements, Plan Variations and Plan Changes (which may include members of the Committee).
 - To determine the scope for the resolution and settlement of appeals on Proposed Policy Statements, Proposed Regional Plans, Plan Variations and Plan Changes.
 - When required, to recommend to Council that officers be delegated with the authority to resolve and settle any appeals and references through formal mediation before the Environment Court.
 - To monitor the effectiveness of provisions of Regional Policy Statements and Regional Plans in accordance with section 35 of the Resource Management Act and incorporate the monitoring outcomes into a review of the Committee's work programme
- e) **Membership**
- Tāngata Whenua Representatives, each appointed by Council on nomination by a Member Tāngata Whenua Group.
 - Councillor members equal to the number of Tāngata Whenua Representatives appointed at any time.
- The principle which applies is that there shall be equal numbers of Councillor members and Tāngata Whenua Representatives on the Committee at any time.
- f) **Chairperson and Deputy Chairperson (Transition Period: April 2012 - December 2012)**
- During the transition period the Chair of the Committee will be appointed by Council from Councillor members. The Deputy Chairperson will be appointed by Council on nomination from the Tāngata Whenua representatives.
- g) **Chairperson (January 2013 – enactment of legislation and establishment of the Permanent Committee)**
- From the end of the transition period until the establishment of the Permanent Committee the Committee will have two Co-Chairs:
- a Councillor member of the Committee appointed by the Councillor members; and
 - a Tāngata Whenua Representative appointed by Council on nomination from the Tāngata Whenua representatives.
- Each Co-Chair shall preside at meetings of the Committee on a pre-arranged basis. This arrangement will presume that the Co-Chairs will be responsible for separate areas of policy development and each will preside over a meeting as their relevant portfolio areas are discussed.

h) Term of Membership

Membership of the Committee (both Councillor members and Tāngata Whenua representatives) shall be reviewed following the 2013 triennial election of Councillors, unless the Permanent Committee has already been established. The Council will review the appointment of its Council members, and Member Tāngata Whenua Groups will review the appointment of their respective Tāngata Whenua representatives. However, it is recognised that the Tāngata Whenua representatives are nominated for appointment by their respective Member Tāngata Whenua Groups from time to time (and not necessarily triennially), and in accordance with the processes of their respective Member Tāngata Whenua Groups.

i) Quorum

75% of the members of the Committee.

j) Voting Entitlement

Best endeavours will be made to achieve decisions on a consensus basis, or failing consensus, the agreement of 80% of the Committee members in attendance will be required. Where voting is required all members of the Committee have full speaking rights and voting entitlements.

Standing Orders 2.5.1(2) and 3.14.2 which state: "The Chairperson at any meeting has a deliberative vote and, in the case of equality of votes, also has a casting vote" do **NOT** apply to the Regional Planning Committee.

k) Special Terms of Reference

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

l) Meeting Frequency and Notice

As required in order to achieve the Plan and Policy Development work programmes.

Notice of meetings will be given well in advance in writing to all Committee members, and not later than 1 month prior to the meeting.

m) Review of these Terms of Reference

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

n) Amendments to these Terms of Reference

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

- the Councillors at a Council meeting; and

- the Tāngata Whenua representatives at a hui called for that purpose.
- o) **Technical support**
The Committee will have full access to Council staff, through the relevant Group Managers, to provide any technical support required in order to achieve the Committee's purpose, as set out in paragraph (b) above.
- q) **Terms of Reference Interim**
These Terms of Reference are interim only and will be superseded by the Terms of Reference for the Permanent Committee.
- r) **Officer Responsible**
Group Manager Strategic Development

GLOSSARY

Proposed Regional Plan / Proposed Regional Policy Statement	A proposed regional plan or proposed regional policy statement is a document that has been issued by the Council and 'proposed' as the Council's official position. To be legally proposed, a document must be publicly notified so people can make submissions.
Plan Variation	A plan variation is when a Council proposes a further change to a plan or policy statement that is still in the 'proposed stage' and has yet to be finalised.
Operative Regional Plan / Operative Regional Policy Statement	In relation to a regional plan or a regional policy statement, means that it has been through the public submission, hearings and Court processes and has full effect.
Plan Change	Is when a Council proposes changes to an operative plan or policy statement.
Hearings Panel	Is a panel appointed to hear public submissions on any Proposed Plan, Proposed Policy Statement, Plan Change or Plan Variation. It may be made up of any number of people, and may include Committee members, independent commissioners, or a mix of the two.
Member Tāngata Whenua Group	Means a Crown recognised mandated group representing tāngata whenua interests within the Hawke's Bay region, mandated for the purpose of negotiating with the Crown for a settlement of claims under the Treaty of Waitangi, being: <ul style="list-style-type: none"> • Mana Ahuriri Incorporated (representing the Ahuriri Hapū); • Maungaharuru-Tangitu Incorporated (representing the Maungaharuru-Tangitu Hapū); • Ngāti Hineuru Iwi Incorporated (representing Ngāti Hineuru); • on an interim basis and only to the extent set out in the Deed of Commitment [] between HBRC, Tāngata Whenua Parties and the Crown, Te Toi Kura o Waikaremoana (representing Ruapani ki Waikaremoana); and • Any other group which becomes a Tāngata Whenua Party to the Deed of Commitment dated [] between HBRC, Tāngata Whenua Parties and the Crown by executing a Deed of Accession set out in Schedule 1 of that Deed.

PSGE	Means a post settlement governance entity which has taken over responsibility from a Member Tāngata Whenua Group for representing tāngata whenua interests, being: <ul style="list-style-type: none"> • The Trustees of the Ngāti Pāhauwera Development Trust (representing Ngāti Pāhauwera); and • Any other entity which becomes a Tāngata Whenua Party to the Deed of Commitment dated [] between HBRC, Tāngata Whenua Parties and the Crown by executing a Deed of Replacement set out in Schedule 2 of that Deed
Tāngata Whenua Representative	Means each representative nominated by: <ol style="list-style-type: none"> a Member Tāngata Whenua Group; or a PSGE.
The Council	Means the Hawke's Bay Regional Council.
The Permanent Committee	Means the Permanent Regional Planning Committee referred to in the Deed of Settlement with Ngāti Pāhauwera signed 17 December 2010 (clause 5.22 and clauses 3.19-3.28 of the Provisions Schedule) and Agreement in Principle with Maungaharuru-Tangitu Hapū signed 22 September 2011 (clause 5.41 and Schedule 4).
Regional Resource Management Plan	Includes the Regional Policy Statement which relates to air, fresh water, gravel and land.
Regional Policy Statement	Is the document that sets the basic direction for environmental management in the region. This also includes the Māori Dimension. It does not include rules.
Regional Plan	A document that sets out how the Council will manage a particular aspect of the environment, like the coast, soil, rivers or the air. Can include rules.
Regional Coastal Environment Plan	A document that sets out how the Council will manage the coast. Can include rules.



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LAWYERS SINCE 1875

Item 7

24 July 2017

The Co-Chairs
Hawke's Bay Regional Planning Committee
NAPIER

For: Mr Rex Graham & Mr Toro Waaka

Sent by email: joyce-anne.raihania@hbrc.govt.nz

HAWKE'S BAY REGIONAL PLANNING COMMITTEE – TERMS OF REFERENCE

- 1 We refer to our correspondence with Joyce-Anne Raihania and Gavin Ide in June and July 2017.
- 2 You have asked us to review and confirm whether the revised terms of reference comply with the Hawke's Bay Regional Planning Committee Act 2015 (**the Act**).
- 3 Subject to some relatively minor amendments (see below), we consider that the terms of reference comply with the Act.

Our suggested amendments

- 4 We have made some suggested amendments to the terms of reference (see **attached**) using the "track changes" function.
- 5 In summary:
 - 5.1 Clause 5.3.4 of the terms of reference describes the process by which the number of Council Members on the Regional Planning Committee (**RPC**) eligible for voting will be reduced. First, any other persons (who are not Councillors) appointed as Council Members are ineligible for voting. If there is more than one, it is decided by having the other persons draw lots. If further reductions are required to be made (after all 'other persons' are ineligible), then the Councillors must draw lots to determine who is ineligible to vote.

If a Tangata Whenua Member is appointed but the number of Council Members and Tangata Whenua Members remains unequal, the same process applies (i.e., the drawing of lots) to determine which Council Member becomes eligible to vote again.

TJB-003502-314-22-V1

61 Tennyson Street, PO Box 41, Napier 4140, New Zealand

Tel 06 835 3069, Fax 06 835 6746, www.slw.co.nz

Partners: Magnus Macfarlane, Gerard Sullivan, Stephen Greer, Andrew Wares

Attachment 2

- 5.2 We have included an additional clause in Part 9 of the terms of reference to reflect the legislation and allow the RPC to amend the standing orders at any time.
- 5.3 Clause 12.3 sets out the matters to which the independent persons appointed to determine the level of remuneration for Tāngata Whenua Members must have regard. One of those matters is:¹

the need to minimise the potential for certain types of remuneration to distort the behaviour of Tāngata Whenua Members and the Tāngata Whenua Co-chairperson in relation to their respective positions on the Committee:

We do not understand the concern that this clause is intended to address. If it is unclear to us, then it may also be unclear to the independents. We suggest that some time is spent identifying the issue this clause is intended to address and some alternative wording proposed.

It is possible that the two independent persons appointed to set the level of remuneration for Tāngata Whenua Members may not agree. To address that issue we have added a dispute resolution process which applies if the two independent persons reach an impasse.

In correspondence last month, Gavin Ide suggested that there may be merit in having an interim step where the independent persons do not agree (rather than going straight to the dispute resolution process). That is certainly possible. If there are to be additional (or interim) steps, the terms of reference will need to be amended to incorporate those steps.

- 5.4 The same dispute resolution process applies in the event of a dispute between members of the RPC or the RPC and the Council.

Conclusion

- 6 The revised terms of reference will comply with the Act provided that the amendments described in paragraph 5 above are made.
- 7 If you have any questions, please get in touch.

Yours faithfully



Lara Blomfield
Partner

Email: ljb@slw.co.nz

¹ Clause 12.3.1



SAINSBURY
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WILLIAMS

LAWYERS SINCE 1875

Item 7

31 August 2017

Hawke's Bay Regional Council
NAPIER

For: Gavin Ide and Liz Lambert

Sent by email: gavin@hbrc.govt.nz; liz@hbrc.govt.nz

HAWKE'S BAY REGIONAL PLANNING COMMITTEE – TERMS OF REFERENCE

- 1 We refer to Joyce-Anne Raihania's email of 21 August 2017.
- 2 You have asked us to provide a summary of the significant changes which have been made to the terms of reference for the Regional Planning Committee.
- 3 The first draft of the terms of reference we received was dated December 2016. There have been several versions since then, all of which have been reviewed and amended. The final version of the terms of reference we provided was dated 24 July 2017.
- 4 Below we summarise the main differences between the December 2016 terms of reference and the July 2017 version.

Membership and voting

- 5 Part 5 of the terms of reference deal with membership of the Regional Planning Committee (**RPC**). There is to be an equal number of Council Members and Tangata Whenua Members at all times.
- 6 That means that if, for whatever reason, there are fewer Tangata Whenua Members than Council Members on the RPC, one or more Council Members must 'stand down'. However the 2016 December terms of reference did not address how those Council Members were to be selected.
- 7 Clause 5.3.4 of the July 2017 terms of reference describes the process by which the number of Council Members on the RPC eligible for voting will be reduced. First, any other persons (who are not Councillors) appointed as Council Members are ineligible for voting. If there is more than one, it is decided by having the other persons draw lots. If further reductions are required to be made (after all 'other persons' are ineligible), then the Councillors must draw lots to determine who is ineligible to vote.

TJB-003502-314-25-V1

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Tel 06 835 3069, Fax 06 835 6746, www.slw.co.nz

Partners: Magnus Macfarlane, Gerard Sullivan, Stephen Greer, Andrew Wares

Attachment 3

- 8 If a Tangata Whenua Member is appointed but the number of Council Members and Tangata Whenua Members remains unequal, the same process applies (i.e., the drawing of lots) to determine which Council Member becomes eligible to vote again.

Co-Chairpersons

- 9 Part 6 of the December 2016 terms of reference addressed the appointment or discharge of a co-chairperson. A co-chairperson must be elected at the first meeting of the RPC following the triennial general election of members to the council. They hold that position until death, resignation, removal or election of their successor.
- 10 The July 2017 terms of reference now describe the process for removing a co-chairperson. The Council Members must follow the process for removing a chairperson or deputy chairperson in the Hawke's Bay Regional Council Standing Orders. The Tangata Whenua Members may decide upon their own process within a tikanga framework and are not obliged to follow the process in the HBRC Standing Orders.

Standing Orders

- 11 An additional clause has been included in Part 9 of the terms of reference to reflect the legislation and allow the RPC to amend the standing orders at any time (see clause 9.3 of the July 2017 terms of reference).
- 12 Clause 9.5 has also been added to make it clear that where the standing orders conflict with the terms of reference, the terms of reference prevail.

Costs of administering and operating the RPC

- 13 Clauses 12.2 and 12.3 of the December 2016 terms of reference described the process for setting the level of remuneration for Tangata Whenua Members. The Council co-chairperson and the Tangata Whenua co-chairperson each appointed an independent person. Together the independents must set a level of remuneration for Tangata Whenua Members having regard to the factors listed in clause 12.3.
- 14 However it is possible that the two independent persons appointed to set the level of remuneration for Tangata Whenua Members may not agree. The December 2016 terms of reference did not have a process for dealing with a stalemate (should one occur).
- 15 To address that issue a dispute resolution process has been added to the July 2017 terms of reference which applies if the two independent persons reach an impasse. It is the same dispute resolution process which applies in the event of a dispute between members of the RPC or the RPC and the Council (more on that below).

Dispute resolution

- 16 The dispute resolution clause in 15.1 of the December 2016 terms of reference did not describe a dispute resolution process or procedure, but rather left that to be decided at a later date.

- 17 The July 2017 terms of reference includes an alternative dispute resolution provision which is more directive (and so more certain) and which we believe satisfies the Act's intent.
- 18 The parties to the dispute must use their best endeavours and act in good faith to settle the dispute or reach agreement. If matters are not resolved through negotiation and discussion, the dispute must be referred to mediation. Both parties must agree who that mediator should be.
- 19 If you have any questions, please get in touch.

Yours faithfully



Lara Blomfield
Partner

Email: ljb@slw.co.nz

Te Komiti Whakatakoto Mahere ā-Rohe
Regional Planning Committee
Terms of Reference

31 May 2017

These Terms of Reference have been written in accordance with the Hawke's Bay Regional Planning Committee Act 2015.

1. Introduction

Preamble of the Act¹

1.1. The preamble of the Act states:

1.1.1. *Discussions between the Crown, the Hawke's Bay Regional Council (the Council), Tūhoe, and tāngata whenua of Hawke's Bay in the context of Treaty settlement negotiations have identified a need for greater tāngata whenua involvement in the management of natural resources in the RPC region:*

1.1.2. *In the Deed of Settlement dated 17 December 2010 between the Crown and Ngāti Pāhauwera, the Crown committed to establish a committee comprised of an equal number of Council members and representatives of Treaty settlement claimant groups whose role would relate to natural resource planning processes that affect the region, and include drafting and recommending to the Council, plan and policy changes affecting natural resources in the region:*

1.1.3. *The Deed of Settlement dated 25 May 2013 between the Crown and the Maungaharuru-Tangitū Hapū records that the trustees of the Maungaharuru-Tangitū Trust, the Council, and other Hawke's Bay iwi and hapū have agreed interim terms of reference for the committee that were adopted by the Council on 14 December 2011.*

1.2. Membership of the committee is also recorded as redress in the Deeds of Settlement between:

1.2.1. The trustees of Tūhoe Te Uru Taumata and the Crown dated 4 June 2013; and

¹ Hawke's Bay Regional Planning Committee Act 2015 (HBRPC Act)
<http://www.legislation.govt.nz/act/public/2015/0065/latest/whole.html>

- 1.2.2. The trustees of Te Kōpere o te iwi o Hineuru Trust and the Crown dated 2 April 2015; and
- 1.2.3. The trustees of the Heretaunga Tamatea Settlement Trust and the Crown dated 26 September 2015; and
- 1.2.4. Mana Ahuriri Incorporated and the Crown dated 2 November 2016-; and
- 1.2.5. Tātau Tātau O Te Wairoa and the Crown dated 26 November 2016-.
- 1.3. The Crown has also recognised the need to provide for membership of the committee for Ngāti Ruapani ki Waikaremoana before beginning Treaty Settlement negotiations.
- 1.4. The Committee has been operating since April 2012. Legislation was required to ensure that the Committee could not be discharged except by unanimous written agreement of the appointers and to confirm its role and procedures. Accordingly, the Legislation was enacted and came into force on 15 August 2015².
- 2. Purpose**
Purpose, functions, and powers of the RPC s9(1)
- 2.1. The purpose of the RPC is to oversee the development and review of the RMA documents prepared in accordance with the RMA for the RPC region³.
- 3. Functions and powers**
Functions and powers of RPC s10 (1)-(4)(a)-(b))
- 3.1. The primary function of the RPC is to achieve the purpose of the RPC. In achieving the purposes of the RPC, the Committee may:
- 3.1.1. implement⁴ an agreed work programme⁵ for the review and preparation of changes and variations to RMA documents including the Regional Resource Management Plan, the Regional Policy Statement, and the Regional Coastal Environment Plan.
- 3.1.2. oversee consultation on any RMA document (prior to notification).
- 3.1.3. recommend to Council for public notification the content of any draft Proposed Regional Plans, Proposed Regional Policy Statements, Plan Changes or Plan Variations.

² Section 2 (Commencement) of the Act.

³ Defined in the HBRPC Act and the Glossary to these Terms of Reference as the Hawke's Bay region.

⁴ Instigate and execute

⁵ The agreed work programme [must implement the RPC's functions as outlined in these Terms of Reference and ensure the Council meets the requirements of its is expected to be consistent with the RPC's functions as outlined elsewhere in these Terms of Reference. The Work Programme must fulfil the intent and requirements of the Council's Long Term Plan and any relevant Annual Plan in relation to RMA documents.](#)

- 3.1.4. In accordance with these Terms of Reference, review any RMA documents which the Council may refer back to the Committee for further consideration.
- 3.1.5. recommend to Council the membership of Hearings Panels, from appropriately trained and eligible commissioners (which may include members of the RPC) to hear and decide upon submissions on Proposed Regional Plans, Proposed Regional Policy Statements, Plan Variations and Plan Changes.
- 3.1.6. recommend to Council the scope for the resolution and settlement of appeals on Proposed Policy Statements, Proposed Regional Plans, Plan Variations and Plan Changes.
- 3.1.7. When required, recommend to Council that officers be delegated with the authority to resolve and settle any appeals and references through formal mediation chaired by an Environment Court Commissioner appointed by the Environment Court.
- 3.1.8. receive and recommend to Council environmental monitoring strategies and research and investigation programmes.
- 3.1.9. consider technical reports on the findings of research and investigations into impact of activities and recommend to Council the development of new policy frameworks based around such information including the State of the Environment Reports.
- 3.1.10. consider reports on the effectiveness of Council's compliance monitoring and enforcement activities, and recommend to Council the response to issues arising from such reports.
- 3.1.11. consider and recommend to Council the lodging of an appeal or reference to the appropriate Court against a decision of a territorial authority on an application or designation or proposed plan or plan change or variation on which the Regional Council had lodged a submission.
- 3.1.12. in accordance with section 35 of the Resource Management Act, monitor the efficiency and effectiveness of provisions of Regional Policy Statements and Regional Plans in achieving their intended policy objectives and statutory requirements, including national direction. The monitoring outcomes will be incorporated into a review of the Committee's work programme.
- 3.1.13. perform any other function specified in these Terms of Reference.
- 3.2. For the purposes of enabling the RPC to carry out its functions, the Council must –
- 3.2.1. refer all matters referred to in 3.1.3 to the RPC; and

3.2.2. provide all necessary documents or other information to the RPC.

3.3. The RPC has the powers reasonably necessary to carry out its functions in a manner consistent with the Specified Legislation.

4. Recommendations and refer-back procedure

4.1. For functions 3.1.3, the RPC is responsible for submitting recommendations to the Council. If the Council does not adopt all or part of any recommendation made by the RPC, the Council will refer such recommendation back to the RPC for reconsideration as soon as practicable but not later than two months after receiving a recommendation from the RPC. Following such re-consideration, the RPC will provide further recommendations to the Council within six months.

4.2. For all other functions the referral provision in paragraph (1) above does not apply. For such functions the decision of the Council will be final.

5. Membership

Membership of RPC s11(1)(a)-(i)

The RPC consists of an equal number of Tāngata Whenua members and Council members as follows:

5.1. Tāngata Whenua Members:

The following are the Tāngata Whenua Members.

5.1.1. 1 member appointed by the trustees of the Maungaharuru-Tangitū Trust:

5.1.2. 1 member appointed by the trustees of the Ngāti Pāhauwera Development Trust:

5.1.3. 1 member appointed by the trustees of Tūhoe Te Uru Taumatua:

5.1.4. 1 member appointed by the trustees of the Ngati Tuwharetoa Hapū Forum Trust:

5.1.5. 1 member appointed by Mana Ahuriri Incorporated:

5.1.6. 1 member appointed by the trustees of Te Kōpere o te iwi o Hineuru Trust:

5.1.7. 1 member appointed by Tātau Tātau o Te Wairoa:

5.1.8. 2 members appointed by the trustees of the Heretaunga Tamatea Settlement Trust:

5.1.9. 1 member appointed by the appointer for Ngāti Ruapani ki Waikaremoana:

5.2. Council Members

Membership of RPC s11 (1)(j)

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5.2.1. The Council Members are 10 members appointed by the Council (who must be councillors of the Council holding office and, if there is an insufficient number of councillors, such other persons appointed by the Council in accordance with clause 31(3) of Schedule 7 of the Local Government Act 2002).

5.3. Appointers

Membership of RPC s11(2)-(5)

5.3.1. When making an appointment of a member to the RPC, an Appointer must notify the RPC in writing of such appointment and provide a copy of the notice to all other appointers as soon as is reasonably practicable.

5.3.2. If a Tāngata Whenua Appointer fails to appoint a Tāngata Whenua Member in accordance with the Act, then the number of Council Members on the RPC eligible for voting is reduced proportionately until an appointment is made to ensure that the RPC consists of an equal number of Tāngata Whenua Members and Council Members.

5.3.3. If a Tāngata Whenua Member fails to attend 3 out of any 5 consecutive meetings of the RPC without the prior written agreement of all other members,

5.3.3.1. the Tāngata Whenua Member's appointment is deemed to be discharged; and

5.3.3.2. the number of Council Members on the RPC eligible for voting is reduced proportionately until a replacement member is appointed by the relevant Tāngata Whenua Appointer.

5.3.4. Where the situation described in clause 5.3.2 or 5.3.3.2 arises, the Council Member or Council Members who will cease to be a member of the RPC eligible for voting at that time will be determined by in the following manner:

5.3.4.1. Any person appointed by the council as a Council Member in accordance with clause 31(3) of Schedule 7 of the Local Government Act 2002 and who is not a councillor ("appointed person") shall first be ineligible for voting.

5.3.4.2. If there is more than one appointed person, the appointed persons must draw lots to determine which Member is not eligible for voting.

5.3.4.1-5.3.4.2. The process described in clauses 5.3.4.1 and 5.3.4.2 shall continue until there are no appointed persons eligible to vote. The Council's extra-appointed membership (as referred to in Clause 5.2.1) being cancelled; then

~~5.3.4.2, 5.3.4.4.~~ If Council Member numbers are required to be reduced further, the councillors must draw lots to determine which councillor (or councillors) are not eligible to vote. ~~If Council member numbers are required to be reduced further, then the drawing of lots by all Council Members as soon as reasonably practicable following such situation arising, and in such circumstances any person appointed by the Council as a Council Member in accordance with clause 31(3) of Schedule 7 of the Local Government Act 2002 shall be the first person to cease to be a member of the RPC.~~

5.3.5. The Council Member (or members) selected using the process described in clause 5.3.4 above shall remain ineligible to vote until a Tangata Whenua Member (or members) is (or are) appointed and the RPC consists of an equal number of Tangata Whenua Members and Council Members.

5.3.6. If:

5.3.6.1. there is more than one Council member ineligible to vote; and

5.3.6.2. a Tangata Whenua Member is appointed; but

5.3.6.3. the number of Council Members still exceeds the number of Tangata Whenua Members on the RPC

the ineligible Council Members must draw lots to determine which member becomes eligible to vote.

~~5.3.5.5.3.7.~~ To avoid doubt, a Tāngata Whenua Member is not, by virtue of the person's membership of the RPC, a member of the Council.

5.4. Term of appointment

Schedule; Further provisions relating to RPC cl1(1)-(3)

5.4.1. Subject to the Act:

5.4.1.1. A Tāngata Whenua Member is appointed to the RPC for the period specified by the relevant Tāngata Whenua Appointer:

5.4.1.2. A Council member is appointed to the RPC for a term commencing with the first meeting of the Council after the triennial general election of members of a local authority under the Local Electoral Act 2001 and ending with the close of the day before the next triennial general election.

5.4.2. However, if a Council Member is appointed after the date of the first meeting of the Council referred to in clause 5.4.1.2 above, the member

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is appointed from that date until the close of the day before the next triennial general election.

- 5.4.3. To avoid doubt, the appointment of a Tāngata Whenua Member is not affected by the triennial general election of members of a local authority under the Local Electoral Act 2001.

5.5. Discharge of membership

Schedule; Further provisions relating to RPC cl2

- 5.5.1. A member may be discharged by that member's Appointer.
- 5.5.2. If subclause 5.5.1 above applies, the member's Appointer must, within 10 working days after the date on which the member was discharged-
- 5.5.2.1. notify the RPC in writing that the member has been discharged; and
- 5.5.2.2. provide a copy of the notice to all other Appointers.

5.6. Resignation of membership

Schedule; Further provisions relating to RPC Cl3

- 5.6.1. A Tāngata Whenua Member may resign by giving written notice to that person's Appointer.
- 5.6.2. A Tāngata Whenua Appointer must, on receiving a notice given under subclause 5.6.1 above, forward a copy of the notice to the RPC and the chief executive of the Council.

5.7. Vacancies

Schedule; Further provisions relating to RPC cl4

- 5.7.1. If a vacancy occurs on the RPC, the relevant Appointer must fill the vacancy as soon as is reasonably practicable.
- 5.7.2. A vacancy does not prevent the RPC from continuing to perform its functions or exercise its powers.

6. **Co-chairpersons**

Schedule; Further provisions relating to RPC s5 (1) - (5)

- 6.1. The RPC has the following Co-chairpersons:
- 6.1.1. 1 member appointed by the Tāngata Whenua members:
- 6.1.2. 1 member appointed by the Council members.
- 6.2. Each Co-chairperson must be elected at or before the first meeting of the RPC following the triennial general election of members of a local authority under Local Electoral Act 2001.

- 6.3. Each Co-chairperson is to preside at meetings of the RPC on a pre-arranged basis
- 6.4. The Co-chairpersons may deputise for each other at meetings of the RPC.
- 6.5. The Co-chairpersons' role includes working with the Chief Executive and Group Managers of Council to ensure that the RPC is able to fulfil its purpose and perform its functions, including but not limited to quarterly meetings between the Chief Executive and Co-chairpersons to monitor progress.
- 6.6. The Tāngata Whenua Members may appoint a deputy Co-chairperson and the Council may appoint a deputy Co-chairperson.
- 6.7. The deputy Chairperson's role is to help their respective Co-chairperson to fulfil the role of Co-chairperson and to deputise for that Co-chairperson at meetings of the RPC or other meetings in the absence of that Co-chairperson.
- 6.8. Those persons appointed to the position of Co-chairperson or deputy Co-chairperson shall hold their position until death, resignation, removal⁶ or election of their successor in accordance with these Terms of Reference, whichever shall occur first.
- 6.9. A Co-chairperson or deputy Co-chairperson may be elected or discharged in accordance with these Terms of Reference
- 7. Quorum**
- 7.1. The quorum of a meeting of the RPC shall be 75% of the members of the RPC.
- 8. Decision Making**
- 8.1. The decisions of the RPC must be made by vote at meetings in accordance with these Terms of Reference
- 8.2. Best endeavours will be made to achieve decisions on a consensus basis, or failing consensus, the agreement of 80% of the RPC members present and voting will be required.
- 8.3. Where voting is required all members of the RPC have full speaking rights and voting entitlements.
- 8.4. A Co-chairperson of any meeting may vote on any matter but does not have a casting vote.
- 9. Standing Orders**
- Schedule; Further provisions relating to RPC cl6*
- 9.1. The Council's standing orders as adopted on 30 November 2016 shall apply until the RPC adopts a set of standing orders for the operation of the RPC.
- 9.2. The standing orders adopted by the RPC must not contravene—

⁶ The Council Members will [follow the process for removing a chairperson or deputy chairperson in manage this process in accordance to](#) the Hawke's Bay Regional Council Standing Orders, ~~while t~~^h [the RPC](#) Tangata Whenua Members may decide upon their own process within a tikanga framework and are not obliged to ~~manage this process by the same~~ [follow the process in the](#) HBRC Standing Orders.

- 9.2.1. this Act; or
- 9.2.2. [these Terms of Reference](#); or
- 9.2.3. Tikanga Māori; or
- 9.2.4. subject to paragraph 9.2.1(4), the local government legislation or any other enactment.

[9.3. The RPC may amend the standing orders at any time.](#)

[9.3.9.4.](#) Every member of the RPC must comply with the standing orders of the RPC.

[9.4.9.5.](#) Where the standing orders conflict with these Terms of Reference, the Terms of Reference prevail.

10. Conflict of interest

Schedule; Further provisions relating to RPC cl9

- 10.1. Each member of the RPC must disclose any actual or potential interest⁷ to the RPC.
- 10.2. The RPC must maintain an interests register⁸.
- 10.3. A member of the RPC is not precluded by the Local Authorities (Members' Interests) Act 1968 from discussing or voting on a matter merely because-
 - 10.3.1. the member is a member of an iwi or a hapū; or
 - 10.3.2. the economic, social, cultural, and spiritual values of an iwi or a hapū and their relationship with the RPC are advanced by or reflected in—
 - 10.3.2.1. the subject matter under consideration; or
 - 10.3.2.2. any decision by or recommendation of the RPC; or
 - 10.3.2.3. participation in the matter by the member.

~~10.4. In subclause 10.1, interest does not include an interest that a member may have through an affiliation with an iwi or a hapū that has customary interests in the RPC Region~~

11. Meeting frequency and notice

- 11.1. Meetings of the RPC shall be held as required in order to achieve the plan and policy development work programmes.

⁷ [An interest does not include an interest that a member may have through an affiliation with an iwi or a hapū that has customary interests in the RPC Region.](#)

⁸ ~~PLACEHOLDER – footnote re meaning of a~~ [An 'interests register' is a register of the business interests of members of the RPC kept for the purpose of determining compliance with the Local Authorities \(Members' Interests\) Act 1968.](#)

11.2. Notice of meetings will be given well in advance in writing to all RPC members, and not later than 1 month prior to the meeting.

12. Costs of administering and operating the RPC

Terms of reference of RPC s12(1)(d)

12.1. The costs of administering and operating the RPC will be met by the Council, including:

12.1.1. the costs of any advice required by the RPC; and

12.1.2. remuneration of Tāngata Whenua Members, the Tāngata Whenua Co-Chairperson and the deputy Co-chairperson for their services to the Committee and reimbursement of their expenses; ~~and~~

~~the reimbursement of expenses~~

12.2. The level of remuneration shall be determined promptly following the triennial general election of members of a local authority ~~under the~~, by two independent persons (Independents), one of which shall be appointed by the Council Co-Chairperson and the other by the Tāngata Whenua Co-chairperson.

~~12.2.12.3.~~ The Independents must have regard to the following matters when determining the level of remuneration for Tāngata Whenua Members:

~~12.2.1-12.3.1.~~ the need to minimise the potential for certain types of remuneration to distort the behaviour of Tāngata Whenua Members and the Tāngata Whenua Co-chairperson in relation to their respective positions on the Committee;

~~12.2.2-12.3.2.~~ the need to achieve and maintain relativity with the levels of remuneration received by elected representatives in RMA policy development roles; and

~~12.2.3-12.3.3.~~ the need to be fair both:

~~12.2.3.1-12.3.3.1.~~ to the persons whose remuneration is being determined; and

~~12.2.3.2-12.3.3.2.~~ to ratepayers; and

~~12.2.4-12.3.4.~~ the need to attract and retain competent persons.

~~12.3-12.4.~~ If the Independents cannot agree on the level of remuneration for Tāngata Whenua Members, the dispute resolution procedures in clause 15 apply.

13. Review of these Terms of Reference

Reporting and review by RPC, Schedule ~~c/10(1)-(3)~~

13.1. Appointers –

Comment [11]: It remains unclear to me what this clause means. It would be helpful to the Independent Person to have greater clarity here.

- 13.1.1. must, no later than 3 years after the date of the first meeting of the RPC following the date of enactment of the Act, undertake a review of the performance of the RPC; and
- 13.1.2. may undertake any subsequent review of the RPC at a time agreed by all Appointers, and in any event, at least every 3 years.
- 13.2. Appointers may, following a review, make recommendations to the RPC on relevant matters arising from the review.
- 13.3. These Terms of Reference may be amended by the written unanimous agreement of the Appointers.
- 13.4. These Terms of Reference must be consistent with the Specified Legislation.
- 13.5. In the event of an inconsistency between the obligations of the Council under these Terms of Reference and its obligations under the Specified Legislation, the Specified Legislation prevails
- 14. Technical and administrative support**
Schedule; Further provisions relating to RPC c112
- 14.1. The Council must provide technical and administrative support to the RPC in the performance of its functions.
- 14.2. The RPC will have full access to Council staff, through the relevant Group Managers, to provide any technical or administrative support.
- 14.3. Reports provided to the RPC must also include information and advice that is culturally relevant and appropriate and ensures that the RPC complies with its obligations relating to Māori under the Specified Legislation.
- 15. Dispute resolution**
- ~~15.1. In the event of a dispute, parties will identify issues, processes and procedures for resolutions which is consistent with the nature, scope and significance of an issue.~~
- ~~15.1. Clauses 15.2 to 15.6 shall apply if:~~
- ~~15.1.1. There is a dispute between:~~
- ~~(a) Members of the RPC; or~~
- ~~(b) The RPC and the Council; or~~
- ~~15.1.2. The Independents appointed under clause 12.2 of these Terms of Reference cannot reach agreement on the level of remuneration for Tangata Whenua Members.~~
- ~~15.2. The parties to the dispute or the Independents (as the case may be) will use their best endeavours and act in good faith to settle the dispute or reach agreement by negotiation and discussion.~~
- ~~15.3. If within 20 working days the dispute is not settled or the Independents have not reached agreement, the matter will be submitted for mediation by a single mediator agreed to by both parties.~~

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Comment [I2]: Or some other reasonable timeframe. 20 working days is just a suggestion

- 15.4. The mediator will determine the procedure and timetable for mediation.
- 15.5. Both parties will endeavour to reach an outcome that is acceptable to the other.
- 15.6. Neither party can represent the other or speak on the other's behalf in any statements about the dispute or matter of disagreement.

16. Service of notice

Schedule; Service of notices clause 11

- 16.1. Any notices relating to these Terms of Reference will be deemed to be validly given if posted, or forwarded by facsimile transmission, or emailed to the addresses set out in Appendix one or to any other address that an Appointer may designate by notice to the other Appointers.
- 16.2. A notice sent to a person in accordance with these Terms of Reference must be treated as having been received by that person, if the notice is sent –
- 16.2.1. by post, at the time it would have been delivered in the ordinary course of post;
- 16.2.2. by email or fax, at the time of transmission.
- 16.3. A notice required to be given by these Terms of Reference is not invalid because a copy of it has not been given to any or all of the persons concerned.

17. Officers Responsible

~~17.1. The Hawke's Bay Regional Council Executive Members:~~

~~17.2-17.1. Chief Executive Officer of Hawke's Bay Regional Council and his/ her delegated officers.~~

Appendix one – Service of Notice

Hawke's Bay Regional Council

Attention: Chief Executive

Address: Private Bag 6006, Napier 4110

Email: info@hbrc.govt.nz

Telephone: 06 833 8045

Heretaunga Tamatea Settlement Trust

Attention: He Toa Takatini Office Administration

Address: PO Box 2643, Stortford Lodge, HASTINGS 4156

Email: info@hetoatakitini.iwi.nz

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Telephone: 06 876 5235

Mana Ahuriri Incorporated

Attention: Ms Beverley Kemp-Harmer

Address: 170b Waghorne Street, Ahuriri, Napier 4110

Email: bkempharmer@gmail.com

Telephone: 0226576493 Work: 06872-6000

Maungaharuru-Tangitū Trust

Attention: Chairperson & General Manager

Address: P O Box 3376, Hawke's Bay Mail Centre, Napier 4142

Email: info@tangoio.maori.nz

Telephone: 06 835 2357

Ngāti Pāhauwera Development Trust

Attention: Administration Manager

Address: PO Box 374, WAIROA 4160.

Email: marie.moses@npdt.co.nz

Telephone: 06 8386869

Ngāti Ruapani mai Waikaremoana

Attention: Kara Dentice- Chairman

Address: 1 Glenberrie Terrace, Thorndon, Wellington

Email: kara.dentice@gmail.com

Telephone: 04 934 0868

Cell phone: 0274 033 662

Te Kōpere o te iwi o Hineuru Trust

Attention: Karauna Brown

Address: 4863 Napier/Taupo Rd, SH5, Te Haroto

PO Box 125, BAY VIEW 4149

Email: karauna@ngatihineuru.com

Telephone: 06 839 1707

Te Tira Whakaemi o Te Wairoa

Attention: Allen Smith

Address: Huramua West Road, WAIROA 4108

Email: alleyboy2012@gmail.com

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Telephone: 06 838 8263 / 022 164 8841

Tūhoe Te Uru Taumata

Attention: Pare Hill

Address: RD 3 Awamate Huramua Road West, WAIROA 4193.

Email: parehil2016@gmail.com

Telephone: 06 838 8263 / 021 065 66

Ngati Tuwharetoa Hapu Forum Trust

Attention: Matiu Heperi Northcroft

Address: 917 SH1 Waitahanui, TAUPO 33783

Email: Heperi7@gmail.com

Telephone: 021 065 6667

Appendix Two - Glossary

Appointer	Means – (a) a Tāngata Whenua Appointer: (b) the Council.
Hearings Panel	Is a panel appointed to hear public submissions on any Proposed Plan, Proposed Policy Statement, Plan Change or Plan Variation. It may be made up of any number of people, and may include Committee members, independent commissioners, or a mix of the two.
Operative Regional Plan / Operative Regional Policy Statement	In relation to a regional plan or a regional policy statement, means that it has been through the public submission, hearings and Court processes and has full effect.
Plan Change	Is when a Council proposes changes to an operative plan or policy statement.
Plan Variation	A plan variation is when a Council proposes a further change to a plan or policy statement that is still in the 'proposed stage' and has yet to be finalised.

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Proposed Regional Plan / Proposed Regional Policy Statement	A proposed regional plan or proposed regional policy statement is a document that has been issued by the Council and 'proposed' as the Council's official position. To be legally proposed, a document must be publicly notified so people can make submissions.
Regional Coastal Environment Plan	A document that sets out how the Council will manage the coast. Can include rules.
Regional Plan	A document that sets out how the Council will manage a particular aspect of the environment, like the coast, soil, rivers or the air. Can include rules.
Regional Policy Statement	Is the document that sets the basic direction for environmental management in the region. This also includes the Māori dimension. It does not include rules.
Regional Resource Management Plan	Includes the Regional Policy Statement which relates to air, fresh water, gravel and land.
RMA	Resource Management Act 1991
RMA document S 4 (1) & (2) of the Act	Any of the following documents required under the RMA in relation to the RPC region: (a) a regional policy statement or proposed regional policy statement; (b) a regional plan or proposed regional plan. [change.] Proposed policy statement, regional plan, regional policy statement [and variation] have the same meanings as in section 43AA of the RMA; and proposed plan has the same meaning as in section 43AAC of the RMA.
RPC region Act s4	Has the same meaning as Hawke's Bay Region in clause 3 of the Local Government (Hawke's Bay Region) Reorganisation Order 1989 (13 June 1989) 99 New Zealand Gazette at 2334.
Specified legislation Act s4	Means: (a) the Act; (b) the Local Government Act 2002; (c) the Local Government Official Information and Meetings Act 1987; (d) the Local Authorities (Members' Interests) Act 1968; and (e) the relevant provisions of the RMA.

Tāngata Whenua Appointer	<p>(a) Tāngata Whenua Appointer, subject to section 5 (Definition of tāngata whenua appointer modified if the Crown approves governance entity or recognises mandated body) of the Act, -means-</p> <ul style="list-style-type: none"> (i) the trustees of the Maungaharuru-Tangitū Trust, on behalf of the Maungaharuru-Tangitū Hapū: (ii) the trustees of the Ngāti Pāhauwera Development Trust, on behalf of Ngāti Pāhauwera: (iii) the trustees of Tūhoe Te Uru Taumatua, on behalf of Tūhoe: (iv) the trustees of Ngati Tuwharetoa Hapu Forum Trust, on behalf of Ngāti Tūwharetoa: (v) Mana Ahuriri Incorporated, on behalf of the Mana Ahuriri hapū: (vi) The trustees of Te Kōpere o te iwi o Hineuru Trust, on behalf of Ngāti Hineuru: (vii) Te Tira Whakaemi o Te Wairoa, on behalf of Wairoa iwi and hapū: (viii) The trustees of the Heretaunga Tamatea Settlement Trust, on behalf of Ngāti Ruapani ki Waikaremoana: and (ix) The appointer for Ngāti Ruapani ki Waikaremoana, on behalf of Ngāti Ruapani ki Waikaremoana; and <p>(b) includes, in relation to a Tāngata Whenua Appointer that is a governance entity, a delegate of, or a successor to, that Appointer if the delegation or succession complies with the requirements of the governance document of the Appointer.</p>
The Council	Means the Hawke's Bay Regional Council.

HAWKE'S BAY REGIONAL COUNCIL

REGIONAL PLANNING COMMITTEE

Wednesday 21 March 2018

Item 8

Subject: LIST OF CANDIDATE OUTSTANDING WATER BODIES IN HAWKE'S BAY

Reason for Report

1. This report sets out a number of options for the selection of a list of candidate outstanding water bodies (OWB) in order to progress the OWB Plan Change. This report does not present a finalised list of the region's OWBs.
2. Additionally, this report summarises a number of issues which were discussed at the Regional Planning Committee's meeting in June 2017.

Summary of key points in this report

3. The key points in this report are:
 - 3.1 In June 2017, the Hawke's Bay Regional Council (HBRC) endorsed an approach that was co-designed with the tāngata whenua representatives of the Regional Planning Committee (RPC) to identify outstanding water bodies (OWB) in the Hawke's Bay region. To date, substantial progress on this work programme has taken place.
 - 3.2 The OWB plan change puts in place an important framework to ensure the region's most treasured water bodies are protected for future generations.
 - 3.3 It cannot be assumed that because a water body is outstanding today that it will still be outstanding in 10 years, particularly if an appropriate management regime is not put in place.
 - 3.4 If an OWB plan change is not progressed, OWB will identified by catchment management groups on an inconsistent, adhoc basis across the region, with unequal regional input. Additionally, all future catchment based plan changes ¹ may be subject to a judicial review and subsequently delayed.
 - 3.5 The timing of the OWB plan change in relation to TANK needs to be reconsidered due to recent developments with the Ngaruroro Water Conservation Order (WCO) application.
 - 3.6 The OWB plan change does not lessen the importance of other water bodies. All water bodies are being considered as part of a NPSFM implementation programme which is currently being progressed by the Council.
 - 3.7 A decision on a candidate list of OWB for the recreational, landscape and ecological value sets needs to be made at the March meeting, with a decision being made on the cultural and spiritual value set at the 2 May RPC meeting at the latest. This will aid in demonstrating to the WCO Tribunal that the Council is progressing the identification of OWB across the region, and allow for the notification of the plan change prior to TANK plan change notification.

Executive Summary

4. Our coastal and fresh waters are essential to New Zealand's economic, environmental, cultural and social well-being. These waters are highly valued for their cultural and recreational aspects and underpins important parts of New Zealand's biodiversity and natural heritage.

¹ Except Mohaka

5. Regional councils are tasked with ensuring all of the country's water bodies are managed wisely. The National Policy Statement for Freshwater Management (NPSFM) and the New Zealand Coastal Policy Statement set national direction to assist regional councils to manage water bodies in a consistent, integrated and sustainable way.
6. A number of New Zealand's lakes, rivers and coastal areas are iconic and well known globally for their natural beauty and intrinsic values. The NPSFM recognises this, and provides for those exceptional water bodies to have special protection. This protection does not lessen the importance of, or value associated with, other water bodies, which are to be managed as directed by other provisions in the NPSFM.
7. The Hawke's Bay Regional Council is currently working through an implementation programme which will provide an improved management framework for all water bodies in the region, giving full effect to the NPSFM by 2025. The implementation programme involves a number of region wide, and catchment based, workstreams.
8. The OWB Plan Change is a small but important workstream that is not confined to any single catchment area. It is being undertaken as part of the overall NPSFM implementation package, ensuring that those 'special few' water bodies in Hawke's Bay are protected for future generations.
9. In 2017, in response to the application for a WCO on the Ngaruroro and Clive Rivers, the Regional Council clearly advocated to the Government and the Special Tribunal that a WCO is an unnecessary and disruptive piece of regulation when set against the new policy setting created under the NPSFM.
10. HBRC has consistently made a strong argument that the NPSFM implementation package adopted for Hawke's Bay comprehensively manages the region's resources without the need for a WCO instrument. Evidence was presented during the Stage 1 WCO hearings in support of this argument, particularly noting the two high priority workstreams currently being progressed by Council as being the TANK collaborative process and the OWB plan changes.

Key Questions

11. ***What happens if a water body is not identified as outstanding?***
12. Just because a waterbody is not recognised as 'outstanding' does not mean it is not important. The NPSFM and councils overall work programme will continue to recognise, and provide for waterbodies within Hawke's Bay which are of high value, together with tāngata whenua's special cultural, spiritual, historical and traditional associations with all waterbodies.
13. The catchment-based work programmes will focus 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 water bodies – regardless of 'outstandingness' to ensure overall water quality is maintained or improved. Degraded water bodies will also need to be given special attention during those catchment based processes.
14. ***Should HBRC be focussing on restoring degraded water bodies instead of protecting water bodies which are already outstanding?***
15. Both of these work streams are important. The regions degraded water bodies need to be restored, and so too do any outstanding waterbodies in Hawke's Bay need to be protected to ensure they are still around to be enjoyed by future generations. The Council's planning response needs to accommodate both. It cannot just choose to do one or the other.
16. It cannot be assumed that because a water body is outstanding today that it will still be outstanding in 10 years, particularly if the correct supporting management regime is not put in place.

17. The OWB plan change would put in place a key part of the planning framework to ensure the region's most treasured water bodies are protected for future generations. It achieves this by ensuring that each of the catchment management plans in the region protect the significant values of OWB moving forward.

Background

18. Committee members will recall that HBRC partnered with Auckland Council and Ministry for the Environment to delve into the intent behind the outstanding freshwater bodies provisions in the NPSFM. Following completion of the project the focus has been on preparation of HBRC's own OWB plan change.
19. In June 2017, the Council endorsed an approach that was co-designed with the RPC tāngata whenua representatives to identify outstanding water bodies across the region.
20. Based on that agreed approach, staff have undertaken a high level literature review documenting the cultural, spiritual, recreational, landscape and ecological values associated with water bodies across the region. This was done to build a clearer picture of their value and potential for being classified as outstanding.
21. To date, a total of 130 named water bodies in the Hawke's Bay region have been reviewed using an extensive range of documents. This work has been specifically undertaken to assist the RPC when deciding on a list candidate of OWB.
22. The results of this high level review are summarised in Attachment 2, and Attachment 3. A full version of the high level review will be presented to the RPC committee members at the workshop on 21 March 2018.

What is an outstanding water body?

23. An outstanding water body is considered as being exceptional in some way. It represents a high threshold and for this reason it is expected that only a small number will be identified across the country. This was one of several conclusions reached from the earlier work sponsored by MFE.
24. The NPSFM defines outstanding freshwater bodies as: "those water bodies with outstanding values, including ecological, landscape, recreational and spiritual values."
25. In June 2017, the RPC and Council agreed that in order to a water body to be classed as outstanding, it must contain at least one cultural, spiritual, recreational, landscape or ecological value which stands out from the rest on a national basis.

Summary of Selection Process – choosing a candidate list of OWB

26. The selection process for the cultural and spiritual value set has been undertaken separately from the recreational, landscape and ecological value sets, using different methodologies which directly reflect the different types of information reviewed for these value sets.
27. There is no strictly right or wrong approach to identify OWBs. The options in this report present a number of selection thresholds and result in between 20 to 51 candidate outstanding water bodies for further assessment. The final list of candidate outstanding water bodies will be subject to a secondary analysis which will assess what (if any) water bodies contain values that are clearly superior to other water bodies on a national basis.
28. It is recommended that Option C3 for the cultural and spiritual value set, and Option R4 for the recreational, landscape and ecological value sets, be adopted. Both options have high selection thresholds. Staff consider those high selection thresholds are consistent with the intent of the NPSFM that a relatively small number of outstanding water bodies should be identified across the country.

29. Over the past few months, planning staff have been liaising with the RPC tāngata whenua representatives' advisors which has led to a new option being considered for the cultural and spiritual value set (Option C4). This involves the creation of a list of candidate OWB by the RPC tangata whenua representatives, using their extensive knowledge, in lieu of Option C3. This option will be explored at the hui held with the RPC tangata whenua representatives on 20 March 2018, and reported back to the wider committee membership at the workshop the following day, on 21 March.
30. Additionally, several more options are presented in this paper in response to questions raised at the Co-Chairs' agenda setting meeting for the RPC. These are summarised as follows, with a detailed analysis contained in Attachment 1.
- 30.1 **Option C5** – the same as Option C4 but delays the adoption of a shortlist for the cultural value set until the RPC meeting scheduled for 2 May 2018. This deferral could provide additional time for the RPC tangata whenua reps to consider and confirm a short list for the cultural value set. NB: This option does not result in a delay to the work programme as it would allow the secondary analysis for the recreational, landscape and ecological value sets to be progressed in April, and the secondary analysis for the cultural and spiritual value set to follow and be progressed in May.
- 30.2 **Do not proceed option** – This option would see the RPC reverse their June 2017 decision and resolve not to progress an OWB plan change. OWBs would be identified during the development of each catchment based plan development process on an adhoc basis, with unequal regional input.
- 30.3 **All outstanding option** – This option would see all waterbodies in the region identified as 'outstanding water bodies' in the Regional Policy Statement. Again, this would reverse the RPC's earlier agreed approach reached in June 2017.
- 30.4 **Delay option** - This option delays the adoption of a shortlist for all value sets until a future RPC meeting, providing additional time for the RPC members consider and confirm a list of candidate OWB which would move through for secondary analysis. NB: This option would delay the work programme, meaning an OWB plan change would not realistically be ready for public notification around July-August 2018.

Summary of Key Options to determine a candidate list of OWB

31. This report provides a summary of the key selection options for the creation of a list of candidate OWB. Staff intend elaborating on these options during the Committee members' pre-meeting workshop on 21 March.

Cultural and spiritual value set

32. Four options have been developed to assist with identifying outstanding water bodies that have significant cultural and spiritual values.
33. Options C1 – C3 have been developed by HBRC planning staff and include those water bodies which have five or more key values, and/or customary linkages back to two or more treaty settlement entities, or as agreed by the RPC.
34. Options C4 and C5 are two new options which have been developed as alternatives to Options C1 – C3. Option C4 uses tāngata whenua traditional knowledge of their values related to water bodies, information from the Cultural Values Table and agreed criteria to identify the relevant cultural and spiritual values of water bodies. Option C5 is the same as Option C4, but delays the adoption of a shortlist for the cultural and spiritual value set until the May RPC meeting.

35. All options are summarised in Table 1 below.

Table 1: Summary of selection options – cultural and spiritual value set.

Factor	Option C1	Option C2	Option C3	Option C4	Option C5
Minimum number of key values	5 or more	4 or more	5 or more	TBC	TBC
Minimum number of links to Treaty Settlement entities	2 or more	3 or more	3 or more	TBC	TBC
Add other waterbodies as agreed by RPC?	Yes	Yes	Yes	TBC	TBC
Resulting approximate number of candidate waterbodies for further assessment for the cultural & spiritual values set	30	47	17	TBC	TBC at May RPC meeting

36. **Option C1** results in a list of 30 water bodies by shortlisting all water bodies which have five or more key values and/or linkages back to two or more Treaty Settlement Entities, or as agreed by the Regional Planning Committee
37. **Option C2** is the most conservative option resulting in 47 water bodies. It ensures a secondary analysis is carried out on wide range of water bodies by shortlisting all water bodies which have four or more key values and/or linkages back to three or more Treaty Settlement Entities, or as agreed by the Regional Planning Committee.
38. **Option C3** reduces the list of candidate outstanding water bodies to 17, by only including those water bodies which have five or more key values and/or linkages back to three or more Treaty Settlement Entities, or as agreed by the Regional Planning Committee.
39. **New alternative option (C4):** A new alternative option is currently being considered by the RPC tangata whenua representatives for the cultural and spiritual value set. The option involves creating a list of candidate OWB by the RPC tangata whenua representatives, using their extensive traditional and cultural knowledge, in lieu of Options C1 - C3. The RPC tangata whenua representatives will be exploring this option and its real-life application further at their hui on 20 March. The tāngata whenua representatives will report back to the wider committee membership and staff during the pre-meeting workshop on 21 March. Figure 1 below, shows Option C4 in a picture form.

Figure 1: Option C4 in picture form

Option C4			
		<ul style="list-style-type: none"> - Strength of value to TW - Intactness of value - Best example of value - Widely recognised by TW - More than one value - The "protect" what test 	
Cultural & Spiritual Values table	Traditional knowledge of Tangata whenua reps	Criteria agreed by Tangata Whenua reps	Potential outstanding waterbodies

40. **New alternative option (C5):** Option C5 is the same as Option C4, but delays the adoption of a shortlist for the cultural and spiritual value set until the RPC meeting on 2 May 2018. This would offer the tangata whenua representatives more time to consider a short list. This option would not result in delays to the OWB plan change by allowing staff to progress secondary analysis work on those water bodies shortlisted for the recreational, landscape and ecological value sets in April, with the secondary analysis commencing on water bodies shortlisted for the cultural and spiritual value set in May.

41. Developing a shortlist of potentially outstanding water bodies based on cultural values is a challenging task. This is primarily because only those iwi and/or hapū who exercise mana over a waterbody can practically assess the significance of its cultural values to that waterbody. As such, it is difficult to compare the relative significance of different water bodies between two iwi or hapū groups across the region.
42. Options C1 – C3 deliberately avoid comparing the identified values at this stage, and instead measures the number of identified values and number of different Treaty settlement entities who have customary linkages back to a particular water body.
43. A detailed analysis of Options C1 – C5 with an associated list of candidate OWB, is contained in Attachment 1.

Recreational, landscape and ecology value sets

44. Four principal options have been developed to assist with selecting a list of candidate outstanding water bodies for further assessment for the recreational, landscape and ecology value sets.
45. There are many rivers, lakes and coastal areas within Hawke’s Bay which are of high value to the people who live in this region. However as discussed in this report, in order for a water body to be identified as ‘outstanding’ it must be exceptional in some way. For example the water body must contain values which are clearly superior to others in the same group.
46. Accordingly, the following options only include those water bodies which contain a value that has been assigned an outstanding, nationally significant or allocated the highest rating in one or more of the reviewed publications. Table 2 sets out these options in tabular format.
47. **Option R1** is the most conservative option. It ensures a secondary analysis is carried out on wide range of water bodies by shortlisting all 32 water bodies which have been classified as either outstanding, nationally significant or allocated the highest rating available, for any value, in at least one of the publications reviewed.
48. **Option R2** reduces the list of candidate outstanding water bodies to 18, by only including those water bodies which have been identified as either outstanding, nationally significant or allocated the highest rating available, for any value, in at least two of the publications reviewed.
49. **Option R3** reduces the list to 8, by including only those water bodies which have been identified as either outstanding, nationally significant or allocated the highest rating available, for any value, in at least three of the publications reviewed.
50. **Option R4** is the same as Option R3, plus those water bodies which have been identified as internationally significant in at least one of the publications reviewed, for any value. Option R4 results in a list of 10 candidate outstanding water bodies.

Table 2: Summary of selection options – recreational, landscape, ecology values set.

Factor	Option R1	Option R2	Option R3	Option R4
Minimum number of publications which identify any value as either outstanding, nationally significant or allocated the highest rating available.	1 or more	2 or more	3 or more	3 or more
Minimum number of publications which identify any value as internationally significant.	N/A	N/A	N/A	1 or more
Resulting approximate number of candidate waterbodies for further assessment using ONLY the recreation, landscape & ecology values sets	32	18	8	10

52. A detailed analysis of each option, with an associated list of candidate OWB, is contained in Attachment 1.

Recommended Options

53. An outstanding water body is one which is exceptional in some way. It may be exceptional in relation to one particular feature, or it may have a number of outstanding features, which stand out on a national basis. Generally, when something is outstanding it should be obvious (in general terms) to the community and there is no need for expert analysis.
54. Given this high threshold, it is recommended that Options C3 for the cultural and spiritual value set and Option R4 for the recreational, landscape and ecological value sets be adopted for selecting a list of candidate OWBs for further assessment. Recommended Option C3 may be replaced with either Option C4 or Option C5 at the RPC's meeting on 21 March.
55. The recommended options are outlined below in Table 3. Both options have high selection thresholds which short list those water bodies in Hawke's Bay which are most likely to contain a particular value that stands out in a national context.

Table 3: Recommended options for selecting a list of candidate OWB

Option C3: Cultural and spiritual value set	Option R4: recreational, landscape and ecological value set
Water body has: <ul style="list-style-type: none"> - five or more key values, and/or - linkages back to three or more Treaty Settlement Entities, or - As agreed by the RPC. 	Water body has been identified as: <ul style="list-style-type: none"> - either outstanding, nationally significant or allocated the highest rating available in at least three of the publications reviewed, for any value, and/or - being internationally significant in at least one of the publications reviewed, for any value.
Total candidate water bodies = 15	Total candidate water bodies = 9
1. Te Whanganui a Orotu (Ahuriri Estuary) (eight key values + three linkages) 2. Mohaka River (seven key values + four linkages) 3. Lake Waikaremoana (six key values + four linkages) 4. Ngaruroro River (five key values + three linkages) 5. Tukituki River (six key values) 6. Tūtaekurī River (six key values + three linkages) 7. Lake Tūtira (six key values) 8. Waipawa River (five key values) 9. Esk River (five key values + three linkages) 10. Aropaoanui River /Waikoau River (five key values) 11. Waikari River (five key values) 12. Waipunga River (five key values) 13. Awamate Stream (five key values) 14. Huramua Stream (five key values) 15. Maunga Tatari Stream (five key values)	1. Te Whanganui a Orotu (Ahuriri Estuary) recreation, ecology, geological features) 2. Upper Mohaka River (recreation, ecology natural character, landscape) 3. Lake Waikaremoana (recreation, geological feature, landscape) 4. Upper Ngaruroro River (recreation, ecology, natural character) 5. Taruarau River (recreation, ecology, natural character) 6. Ruakituri River (recreation, landscape, ecology, natural character) 7. Lake Whakakī (ecology) 8. Mangahouanga Stream (geological feature) 9. Wairoa River (recreation, ecology, natural character, geological feature)
Total combined number of candidate OWB water bodies = 20	

WCO, TANK, OWB

56. The OWB plan change was identified as one of Council's standalone policy projects over six years ago, when the Government revised the NPSFM to direct greater protection of the significant values of outstanding water bodies.
57. To ensure the identification of OWB occurred across the region using a consistent framework, it was decided to undertake the OWB plan change on a 'whole-of-region' basis, rather than through numerous individual catchment area changes to regional plans.

58. Despite the OWB plan change being identified in Council's work programme, a number of submitters to Change 5 to the RPS requested various water bodies across the region be identified as outstanding. These submissions were not accepted by the hearings panel and appeals to the Environment Court were subsequently lodged against Change 5 in this respect.
59. As a result of some points in those appeals, a mediated agreement between parties resulted in the RPS being amended to incorporate a new policy stating that identification of outstanding water bodies would be completed and any associated changes to the RPS be publicly notified prior to the next catchment-based regional plan change².
60. That new policy in Change 5 (Policy LW1A) was inserted during the appeal phase to address appellant parties' concerns that an OWB plan change would not be a priority nor progressed at all by the Council.

Re-cap

61. At the RPC meeting in June 2017, the Committee was advised of Change 5's new Policy LW1A regarding sequencing of notification of a OWB plan change prior to the notification of the TANK plan change (and other catchment-based plan changes, except the Mohaka catchment).
62. The Committee was advised in June 2017 about the key risk of not complying with this procedural requirement - being the potential for any party to file judicial review proceedings with the high court and consequently result in challenges and delays to the Council's freshwater planning work programme – particularly the TANK plan change.
63. At that time, the hearing dates to consider the Ngaruroro and Clive Rivers WCO application had not been set. In this context, back in June 2017, the RPC:
 - 63.1. had considered that the risk of a High Court judicial review proceedings was low; and
 - 63.2. advised staff despite the risks associated with notifying the OWB plan change after the TANK plan change, the Committee were comfortable for staff not to adhere to this time frame.
64. Since June 2017, Stage 1 of the WCO hearings have been completed by the Minister-appointed Special Tribunal. In December 2017, the WCO Special Tribunal adjourned their proceedings until July 2018 to allow HBRC science, and talks between TANK members, to progress.
65. At the end of the adjournment period, the Tribunal has invited submitters to file memoranda on the progress of the TANK process specifically noting if any consensus between the members has been reached. If no memoranda are filed, then the Special Tribunal will proceed with Stage 2 of the WCO hearings.
66. The Regional Council has consistently made a strong argument that a WCO was as unnecessary piece of regulation when set against new and emerging regional planning policy since the advent of the 2014 NPSFM. Those arguments were a key feature of the Regional Council's written submission to the Special Tribunal, plus in evidence presented during Stage 1 hearings. The Council's argument made it abundantly clear that it was actively progressing work on both the OWB and TANK plan changes.
67. As a result of the Tribunal's pronouncement regarding adjournment and commencement of its hearings, the TANK group is on a tighter timeframe and working towards consensus by May/June 2018, aiming for a draft plan change by August/September. These timings would enable the Special Tribunal to take the Group's hard-grafted outputs into account during the Stage 2 hearings.

² By this time, PC6 for the Tukituki catchment was already well-advanced, and the amended RPS provision had also exempted the Mohaka catchment from the timing sequencing requirements.

68. With the Tribunal having signalled the prospect of Stage 2 hearings commencing mid-2018, staff recommend the RPC reconsider its earlier direction and approach for timing and sequencing of the OWB plan change relative to the TANK plan change. Planning staff also recommend that the Committee agrees to progress the OWB plan change in a manner that would aim for a realistic notification date of June/July 2018, and the TANK plan change being publicly notified thereafter to ensure that neither plan change is unnecessarily challenged by potential High Court judicial review proceedings.

What happens if a decision on candidate OWBs cannot be made?

69. There are several alternatives if the RPC cannot make a decision on a candidate list of outstanding water bodies. The consequences of not making a decision at the 21 March RPC meeting will spill over into future RPC meetings scheduled for remainder of the year.

Delay the creation of a list of Candidate OWB until 2 May RPC

70. The RPC may wish to extend the timeframe for identifying a list of candidate outstanding water bodies to the 2 May RPC meeting, to provide additional time to consider the large quantity of information put forward as part of this paper.
71. While this is possible, if the list of candidate OWB for further assessment is not confirmed until May, it is virtually inevitable that a July/August notification date for the OWB plan change will not be achieved.
72. As per Option C5, the RPC may choose to confirm a list of candidate OWB for the recreational, landscape and ecological value sets at the March RPC meeting, deferring a decision on a short list for the cultural and spiritual value set, until the 2 May RPC meeting. This option would not result in a delay to the overall OWB workstream.

Identification of OWB on a catchment by catchment basis (default alternative)

73. This is the default option if an OWB plan change cannot be progressed now or in the future. The default alternative has limited direct input by the RPC, with OWB being determined on a piecemeal basis between 2018 and 2025, through whatever relevant catchment stakeholder groups may be established for discussing policy options for the 'rest of the region' catchments (i.e. besides Tukituki and TANK).
74. This approach does not guarantee any consistency to the identification of OWB throughout the region, nor any certainty that cultural values will be robustly assessed or that OWB will be adequately protected during the development of each of the remaining catchment-based plan change projects.
75. This approach does not meet the requirements of RPS Policy LW1A, which means all catchment based plan changes¹ undertaken in the future will be potentially at risk of a judicial review because of the timing and sequencing issue. Further, this 'default' approach would also be contrary to the Regional Council's second edition of its NPSFM2014 Progressive Implementation Programme.

Next steps

76. Subject to a short list of candidate outstanding water bodies being confirmed at the March RPC meeting, the following outlines next steps and associated timeline are anticipated for the OWB Plan Change.

April-May 2018

77. As per Stage 3 of the project approach, the list of candidate outstanding water bodies will be subject to a secondary analysis. The secondary analysis is intended to provide a more detailed description of the values associated with each candidate outstanding water body.

¹ Except Mohaka which is exempt from this provision

78. After completion of the secondary analysis, consultation will occur with iwi authorities, territorial authorities and key stakeholder groups³ regarding the candidate list of OWBs. During this period, a generic feedback form would be an additional feature in the OWB webpage for other parties or members of the public who wish to provide general comments.
79. Additionally, in April 2018, three hui-a-iwi, in the 'Northern', 'Central' and 'Southern' parts of the region, are being planned to discuss the Oil and Gas plan change project. A brief update on the OWB plan change is proposed to take place at the same time at the three hui. Dates for the hui are still being confirmed.

June 2018

80. In June 2018, the findings of the secondary analysis, and associated consultation, will be reported back to the RPC (meeting on 20 June). The uninterrupted work programme would lead to recommendations for a draft OWB plan change being ready for the RPC's consideration and adoption as a 'draft plan change' at that same meeting (Stages 4 and 5 of the project approach).

July-August 2018

81. As per new requirements of recent amendments to the RMA, a draft plan change will be provided to all iwi authorities in Hawke's Bay and their comments invited. Thereafter, a finalised plan change will be presented to the RPC meeting on 1 August for consideration, and if adopted, then subsequent public notification as a 'proposed plan change'.

Implications for Tāngata whenua

82. 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.
83. The approach to identifying OWB in the region has been co-designed with the tāngata whenua representatives of the RPC to ensure tāngata whenua values are addressed as part of a robust process to identify OWB.
84. All waterbodies are important for spiritual, physical and customary reasons. The OWB 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.

Decision Making Process

85. 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:
 - 85.1. The decision does not significantly alter the service provision or affect a strategic asset.
 - 85.2. The decision does not significantly alter the service provision or affect a strategic asset.
 - 85.3. The use of the special consultative procedure is not prescribed by legislation.
 - 85.4. The decision does not fall within the definition of Council's policy on significance.

3 Hawke's Bay Fish and Game, Department of Conservation, Hawke's Bay branches of Forest & Bird Society.

- 85.5. The persons affected by this decision are all persons with an interest in the region's management of natural and physical resources under the RMA.
- 85.6. The decision is not inconsistent with an existing policy or plan.
- 85.7. Given the nature and significance of the issue to be considered and decided, and also the persons likely to be affected by, or have an interest in the decisions made, Council can exercise its discretion and make a decision without consulting directly with the community or others having an interest in the decision. In any event, there will be an opportunity for any person to make a submission on a proposed plan change once it is adopted and publicly notified.

Recommendations

1. That the Regional Planning Committee receives and notes the "List of Candidate Outstanding Water Bodies in Hawke's Bay" staff 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.
 - 2.2. Agrees that the list of candidate outstanding water bodies which will be subject to a secondary analysis as per Option R4 for the recreational, landscape and ecology value sets as follows.
 - 2.2.1. Te Whanganui a Orotu (Ahuriri Estuary)
 - 2.2.2. Upper Mohaka River
 - 2.2.3. Lake Waikaremoana
 - 2.2.4. Upper Ngaruroro River
 - 2.2.5. Taruarau River
 - 2.2.6. Ruakituri River
 - 2.2.7. Lake Whakakī
 - 2.2.8. Mangahouanga Stream
 - 2.2.9. Wairoa River.
 - 2.3. Agrees that the list of candidate outstanding water bodies which will be subject to a secondary analysis as per Option ____ for the cultural and spiritual value set being the list as follows.
 - 2.3.1. <insert list of water bodies here as appropriate>
 - 2.4. Agrees for staff to proceed with consultation with the following parties in relation to the secondary analysis for the candidate outstanding waterbodies as listed in 2.2 and 2.3 above.
 - 2.4.1. Iwi authorities in Hawke's Bay
 - 2.4.2. Local authorities, being Central Hawke's Bay District Council, Hastings District Council, Wairoa District Council, Napier City Council, Taupo District Council, Rangitikei District Council and Gisborne District Council
 - 2.4.3. Hawke's Bay Fish and Game Council, Department of Conservation and the Hawke's Bay branches of the NZ Forest and Bird Protection Society.
 - 2.5. Acknowledges the potential risk to the TANK plan change project and Council's wider freshwater planning work programme if an outstanding waterbodies plan change is not notified prior to the TANK plan change.

Authored by:

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Attachment/s

- [1](#) Options available to select a list of candidate outstanding water bodies in Hawke's Bay
- [2](#) Summary of High Level Review Findings – cultural and spiritual value set
- [3](#) Summary of High Level Review Findings – recreational, landscape, ecology value sets

Options to select a list of candidate outstanding water bodies in Hawke's Bay

Table 4: Options available to select a list of candidate OWB – cultural and spiritual value set

Table 5: Options available to select a list of candidate OWB - landscape and ecological value sets

Table 6: Additional options for the OWB plan change (as requested by RPC members)

Table 4

Options available to select a list of candidate outstanding water bodies – cultural and spiritual value set

Option	Total # of water bodies	List of water bodies	Pros	Cons
Option C1: Water body has: <ul style="list-style-type: none"> - five or more key values, or - linkages back to two or more Treaty Settlement Entities, or - as agreed by the RPC. 	30	Aropoanui River/ Waikoau River, Hangaroa River, Heretaunga Aquifer, Horomanga River, Lake Waikareiti, Mangaone River, Maungawhio Lagoon, Ruataniwha Aquifer, Te Hoe River, Tukituki River, Waikaretaheke River, Waikari River, Waitaha Stream, Whirinaki River, Pōrangahau River / Porangahau Estuary, Lake Waikaremoana, Esk River, Ngaruroro River, Te Whanganui-ā-Orotu (Ahuriri Estuary), Tūtaekurī River, Waiau River, Waipawa River, Ngaruroro River, Waipunga River, Te Hoe River, Maunga Tatari Stream, HURAMUA Stream, Awamate Stream, Lake Tūtira, Mohaka River.	Ensures a secondary analysis is carried out on wide range of water bodies.	Harder to meet a notification date for the OWB plan change of July/Aug. Significant amount of work due to large number of waterbodies to undergo a secondary analysis. Higher cost than other options due to large number of secondary analyses. Unnecessarily carries out a secondary analysis on a large number of water bodies given that only a small number of OWB are expected to be identified throughout the country.
Option C2 Water body has: <ul style="list-style-type: none"> - four or more key values, and/or - linkages back to three or more Treaty Settlement Entities, or - as agreed by the RPC. 	47	Pōrangahau River/ Porangahau Estuary, Makāretu River, Maraetōtara River, Lake Poukawa, Lake Opouahi, Hautapu River, Whirinaki River, Te Uwe Stream, Teraawaerea Stream, Ramarama Stream, Mangaroa Stream, Rahui Channel, Lake Paatangata, Lake Waihao, Lake Te-Awa Waahi Section 1, Lake Te Kainga Pipi, Rotonui Stream, Wairoa River, Nuhaka River, Tukituki River, Tūtaekurī River, Lake Tūtira, Lake Waikaremoana, Waipawa River, Ngaruroro River, Esk River, Aropoanui River/ Waikoau River, Waikari River, Waipunga River, Te Hoe River, Maunga Tatari Stream, HURAMUA Stream, Awamate Stream, Mohaka River, Te Whanganui-ā-Orotu, Hangaroa River, Heretaunga Aquifer, Horomanga River, Lake Waikareiti, Mangaone River, Maungawhio Lagoon, Ruataniwha Aquifer, Te Hoe River, Tukituki River, Waikaretaheke River, Waitaha Stream, Waiau River.	Ensures a secondary analysis is carried out on wide range of water bodies.	Harder to meet a notification date of July/Aug. Significant amount of work due to large number of waterbodies to undergo a secondary analysis. Highest cost of all options due to high number of secondary analyses that will need to be carried out. Unnecessarily carries out a secondary analysis on a large number of water bodies given that only a small number of OWB are expected to be identified throughout the country.

Option	Total # of water bodies	List of water bodies	Pros	Cons
<p>Option C3</p> <p>Water body has:</p> <ul style="list-style-type: none"> - five or more key values, and/or - linkages back to three or more Treaty Settlement Entities, or - as agreed by the RPC. 	17	Esk River, Ngaruroro River, Te Whanganui-ā-Orotu (Ahuriri Estuary), Tūtaekurī River, Tukituki River, Lake Tūtira , Waiau River, Lake Waikaremoana, Mohaka River, Waipawa River, Aropaoanui River/ Waikoau River, Waikari River, Waipunga River, Te Hoe River, Maunga Tatari Stream, Huramua Stream, Awamate Stream.	<p>Will likely meet a notification date of July/Aug for the OWB plan change, which would resolve the risks associated with not meeting the requirements of the RPS to notify an OWB plan change prior to the notification of TANK.</p> <p>More cost effective than other options due to a reasonable number of water bodies on the short list.</p> <p>Carries out a secondary analyses on those waterbodies which are most likely to be outstanding for this value set.</p>	
<p>Option C4</p> <p>The creation of a list of candidate OWB by the RPC tangata whenua representatives, using their extensive knowledge.</p>	TBC	TBC	TBC	TBC
<p>Option C5</p> <p>The same as Option C4, but delay's the adoption of a shortlist for the cultural value set until the 2 May RPC meeting, allowing additional time.</p>	TBC at 2 May RPC meeting	This option results in a candidate list of OWB for all value sets in a staged manner, providing an additional 5 weeks for the RPC tangata whenua reps to consider and confirm a short list for the cultural value set.	<p>This option will not result in a delay to the work programme and will allow an OWB plan change to be notified by July/Aug 2018 prior to the TANK plan change.</p> <p>This option will allow staff to progress the secondary analysis work on those water bodies shortlisted for the recreational, landscape and ecological value sets in April, and then focus on water bodies shortlisted for the cultural value set in May.</p> <p>Would resolve the risks associated with not meeting the requirements of the RPS to notify an OWB plan change prior to the notification of TANK.</p> <p>NB: Assumptions are based on this option resulting in a candidate list of OWB for the cultural and spiritual value set of around 20 water bodies.</p>	Same as option C4

Table 5

Options available to select a list of candidate outstanding water bodies - recreational, landscape and ecological value set

Option	Total # of water bodies	List of water bodies	Pros	Cons
<p>Option R1</p> <p>Water body has been classified as outstanding, nationally significant or allocated the highest rating available in <u>at least one of the publications reviewed</u>, for any value.</p>	32	Taruarau River, Wairoa River, Rivers of Lake Waikaremoana (Aniwaniwa Stream, Mokau Stream, Waiotukupuna Stream, Hopuruahine Stream), Lake Waikaremoana, Ngaruroro River, Te Whanganui a Orotu (Ahuriri Estuary), Ruakituri River, Mohaka River, Porangahau Estuary, Waipawa River, Tukituki River, Lake Poukawa, Pekapeka Swamp, Waitangi Estuary, Tutaekuri River, Esk River, Waiau River, Mangapoike River, Tangaruhe Stream, Māharakeke Stream, Makaroro River, Tukipo River, Clive River, Waikoau River, Ripia River, Te Hoe River, Lake Whakakā, Mangahouanga Stream, Wairoa Estuary and the Ngamotu, Whakamahī, Wairau, Ohuia, Te Para and Whakakā lagoons, Hangaroa River, Nuhaka River, Maungawhio Lagoon.	Carries out a secondary analysis of a wide range of waterbodies.	<p>Harder to meet a notification date for the OWB plan change of July/Aug.</p> <p>Significant amount of work due to large number of waterbodies to undergo a secondary analysis.</p> <p>Higher cost than other options due to large number of secondary analyses.</p> <p>Unnecessarily carries out a secondary analysis on a large number of water bodies given that only a small number of OWB are expected to be identified throughout the country.</p>
<p>Option R2</p> <p>Water body has been classified as outstanding, nationally significant or allocated the highest rating available in <u>at least two of the publications reviewed</u>, for any value.</p>	18	Taruarau River, Wairoa River, Rivers of Lake Waikaremoana (Aniwaniwa Stream, Mokau Stream, Waiotukupuna Stream, Hopuruahine Stream), Lake Waikaremoana, Ngaruroro River, Te Whanganui a Orotu (Ahuriri Estuary), Ruakituri River, Mohaka River, Porangahau Estuary, Waipawa River, Tukituki River, Lake Poukawa, Pekapeka Swamp, Waitangi Estuary, Tutaekuri River, Esk River, Waiau River, Mangapoike River.	Carries out a secondary analysis of a wide range of waterbodies.	<p>Harder to meet a notification date for the OWB plan change of July/Aug.</p> <p>Significant amount of work due to large number of waterbodies to undergo a secondary analysis when combined with the cultural value set.</p> <p>Higher cost than other options due to large number of secondary analyses.</p> <p>Unnecessarily carries out a secondary analysis on a large number of water bodies given that only a small number of OWB are expected to be identified throughout the country.</p>

Option	Total # of water bodies	List of water bodies	Pros	Cons
<p>Option R3</p> <p>Water body has been classified as outstanding, nationally significant or allocated the highest rating available in <u>at least three of the publications reviewed</u>, for any value.</p>	8	Taruarau River, Wairoa River, Rivers of Lake Waikaremoana (Aniwaniwa Stream, Mokau Stream, Waiotukupuna Stream, Hopuruahine Stream), Lake Waikaremoana, Ngaruroro River, Te Whanganui a Orotu (Ahuriri Estuary), Ruakituri River, Mohaka River.	<p>Carries out a secondary analyses on those waterbodies which are most likely to have an outstanding value in a national context.</p> <p>Does not allow inclusion of any waterbodies which do not meet the selection criteria but have an internationally significant value.</p> <p>Will likely meet a notification date of July/Aug for the OWB plan change, which would resolve the risks associated with not meeting the requirements of the RPS to notify an OWB plan change prior to the notification of TANK.</p> <p>Cost effective as carries out a small number of secondary analyses compared to other options.</p>	This option favours rivers as a number of reviewed publications exclude lakes and estuaries, which can make the selection criteria hard to meet for these types of water bodies.
<p>Option R4</p> <p>Water body has been classified as outstanding, nationally significant or allocated the highest rating available in <u>at least three of the publications reviewed</u>, for any value, OR contains a value which has been classified as internationally significant in at least one of the publications reviewed.</p>	10	Taruarau River, Wairoa River, Rivers of Lake Waikaremoana (Aniwaniwa Stream, Mokau Stream, Waiotukupuna Stream, Hopuruahine Stream), Lake Waikaremoana, Ngaruroro River, Te Whanganui a Orotu (Ahuriri Estuary), Ruakituri River, Mohaka River, Lake Whakakī, Mangahouanga Stream.	<p>Carries out a secondary analyses on those waterbodies which are most likely to have an outstanding value in a national context.</p> <p>Allows the inclusion of those waterbodies which do not meet the selection criteria of Option R3 but have a value which has been identified as internationally significant.</p> <p>Will likely meet a notification date of July/Aug for the OWB plan change, which would resolve the risks associated with not meeting the requirements of the RPS to notify an OWB plan change prior to the notification of TANK.</p> <p>Cost effective as carries out a small number of secondary analyses compared to other options.</p>	

Table 6

Additional options for the OWB plan change (as requested by RPC members)

Additional options	Summary	Comments
<p>Do not proceed option Resolve not to progress an OWB plan change. By default this would result in the identification of OWBs during the development of each catchment based plan development process on an adhoc basis.</p>	<p>This option will see the stakeholders of each catchment determine on behalf of the region whether there are any OWB in their catchment.</p>	<p>Inconsistent with HBRC's submission, and evidence, presented to the Special Tribunal hearing the Ngaruroro and Clive River WCO application. The Council has consistently made a strong argument to the special tribunal that the WCO is an unnecessary piece of regulation given Councils current work programme to give full effect to the NPSFM across the region. Of particular relevance to the WCO application are the TANK process and the OWB plan change.</p> <p>A significant amount of work has already been undertaken on the OWB change. In accordance with the RPC and Councils decision to progress an OWB plan change in June 2017, this work programme has been significantly progressed. The approach endorsed by council was co-designed by the RPC tangata whenua representatives to ensure the cultural and spiritual value set was adequately addressed and included in this plan change moving forward.</p> <p>Unequal regional input: The identification of OWB 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 OWB in the TANK catchment area.</p> <p>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 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 OWB: If OWB 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 OWB to decline in order to improve water quality elsewhere in the catchment¹.</p> <p>Lack of consistency: There is likely to be inconsistent assessment of OWB 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> <p>Catchment based plan changes being undertaken in the future will be at risk of a judicial review due to failure by council to undertake an OWB plan change prior to their notification as per requirements in the NPSFM.</p>

¹ 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.

Additional options	Summary	Comments
<p>All outstanding option Identify all water bodies in the region as 'outstanding water bodies'.</p>	<p>This option would see all water bodies in the region identified as outstanding water bodies.</p>	<p>The NPSFM defines outstanding water bodies as <i>“those water bodies identified in a regional policy statement or regional plan as having outstanding values, including ecological, landscape, recreational and spiritual values”</i>.</p> <p>A plan change which identifies all rivers, lakes, wetlands, streams, creeks, aquifers and estuaries as outstanding water bodies would require a significant amount of resourcing and be difficult to justify.</p> <p>As per the definition of the NPSFM an outstanding water body needs to contain an outstanding value. While a number of water bodies in Hawke's Bay are of high value, only a very small number would contain an outstanding value (i.e. one that stands out from the rest on a national basis). It would be impracticable to undertake a region wide study attempting to identify an outstanding value for every river, lake, wetland, stream, creek, aquifer and estuary in the region.</p> <p>Additionally, in accordance with the RMA, prior to notification of a plan a 'section 32 evaluation' needs to be carried out which assesses the costs, benefits and efficiency of a plan change. In addition to the benefits and costs of the plan change being addressed, the effectiveness and efficiencies of the objectives and policies needs to be examined and the Council needs to be satisfied the plan change is the most appropriate way to achieve the purpose of the RMA.</p> <p>Given our current understanding of the NPSFM provisions around outstanding freshwater bodies, it would be challenging to demonstrate through a section 32 evaluation that identifying all water bodies in the region as 'outstanding water bodies' is effective, appropriate or efficient.</p>
<p>Delay option Delay the adoption of a list of candidate OWB for all values until a future RPC meeting, allowing the RPC committee additional time to consider and adopt a list of candidate OWB.</p>	<p>This option results in a candidate list of OWB for all value sets at a future RPC meeting (as nominated by members).</p>	<p>This option will provide additional time for the RPC members to consider and confirm a candidate list of OWB which will move forward for secondary analysis.</p> <p>This option will result in a delay to the work programme meaning that an OWB plan change would not be notified by July/Aug 2018 prior to the TANK plan change.</p> <p>This option presents risks to the TANK in the form of challenges and delays.</p>

Summary of high level review findings – cultural and spiritual value set

Table 7 'At a glance' summary list of reviewed water bodies and associated number of linkages back to Treaty settlement groups.

Table 8 'At a glance' summary list of reviewed water bodies and associated number of key values.

Table 9 Summary of key values and linkages: water bodies containing 4 or more key values OR linkages back to two or more treaty settlement entities.

Table 7

'At a glance' summary - List of reviewed water bodies and associated number of linkages back to Treaty settlement groups

Water body has linkages to the following number of treaty settlement entities:					
	One Treaty settlement entity Total water bodies = 96		Two Treaty settlement entities Total water bodies = 15	Three Treaty settlement entities Total water bodies = 5	Four Treaty settlement entities Total water bodies = 2
Anaura Stream	Makahu River	Te Kuta River	Aropoanui River/ Waikoau River	Esk River	Lake Waikaremoana
Āniwaniwa Falls	Makāretu River	Te Ngarue Stream (Te Ngaru Stream)	Hangaroa River	Ngaruroro River	Mohaka River
Boundary Stream	Makaroro River	Te Reinga Falls	Heretaunga Aquifer	Te Whanganui-ā-Orotu (Ahuriri Estuary)	
Clive River	Makeakea Stream	Te Uwe Stream	Horomanga River	Tūtaekurī River	
Hautapu River	Mangakōpikopiko Stream	Teraawaerea Stream	Lake Waikareiti	Waiau River	
Huatokitoki Stream	Mangaone Caves	Tukipō River	Mangaone River		
Huramua Stream	Mangaroa Stream	Tunamaro River	Maungawhio Lagoon		
Ikawetea River	Mangatainoka Hot Springs	Tunanui Stream	Ruataniwha Aquifer		
Inangatahi Stream	Mangatutu Hot Springs	Tunamaro River	Te Hoe River		
Kaipo River	Maraetōtara River	Waewae Creek (Waiwai Creek)	Tukituki River		
Karamū Stream	Moeangiangi River	Waihakeke Stream	Waikaretaheke River		
Kopuawhara River	Morere Springs	Waihua River	Waikari River		
Lake Oingo	Ngamotu Lagoon	Waikinakitangata Stream	Waitaha Stream		
Lake Opouahi	Nuhaka River	Waikoko Stream	Whirinaki River		
Lake Orakai	Oamaru River	Waikotikoti Stream	Pōrangahau River / Porangahau Estuary		
Lake Paatangata	Ohinepaaka Stream	Waikotuturi Creek			
Lake Poukawa	Okahu Stream	Waiōeka River			
Lake Puharau	Pākuratahi Stream	Waipātiki Stream			
Lake Pūrimu	Papanui Stream	Waipawa River			
Lake Rotongaio	Patumahoe stream	Waipunga Falls			
Lake Rotoroa	Ponui Stream	Waipunga hot springs			
Lake Rūnanga	Poututu Stream	Waipunga River			
Lake Te-Awa Waahi Section 1	Rahui Channel	Wairoa River			
Lake Te Kainga Pipi	Ramarama Stream	Waitangi Estuary			
Lake Te Pōhue	Ripia River	Waitio Stream			
Lake Te Roto a Kiwa	Rotonui Stream	Waitirohia River			
Lake Tūtira	Ruakituri River	Whakamahia Lagoon			
Lake Waihao	Sandy Creek (Papakiri Stream)	Whangawehi Harbour			
Lake Waikōpiro	Shine Falls	Whangawehi Stream			
Lake Whakakī	Tangoio Falls	Wheao River			
Lake Whatumā (Lake Hatuma)	Te Awaawa Stream				
Māharakeke Stream					
Mahiaruhe Stream					

Table 8

‘At a glance’ summary List of reviewed water bodies and associated number of key values

Water body has the following number of key values:								
One key value Total water bodies = 47		Two key values Total water bodies = 22	Three key values Total water bodies = 14	Four key values Total water bodies = 19	Five key values Total water bodies = 10	Six key values Total water bodies = 4	Seven key values Total water bodies = 1	Eight key values Total water bodies = 1
Lake Pūrimu	Waipunga Falls	Huatokitoki Stream	Makaroro River	Pōrangahau River/ Porangahau Estuary	Waipawa River	Tukituki River	Mohaka River	Te Whanganui- ā-Orotu
Māharakeke Stream	Waipunga hot springs	Lake Te Roto a Kiwa	Lake Whatumā (Lake Hatuma)	Makāretu River	Ngaruroro River	Tūtaekuri River		
Patumahoe Stream	Mangatutu Hot Springs	Karamū Stream	Heretaunga Aquifer	Maraetōtara River	Esk River	Lake Tūtira		
Papanui Stream	Mangatainoka Hot Springs	Lake Rūnanga	Moeangiangi River	Lake Poukawa	Aropaoanui River/ Waikoau River	Lake Waikaremoana		
Tukipō River	Waewae Creek (Waiwai Creek)	Lake Oingo	Waipātiki Stream	Lake Opouahi	Waikari River			
Ruataniwha Aquifer	Lake Rotoroa	Clive River	Pākuratahi Stream	Hautapu River	Waipunga River			
Ikawetea River	Lake Rotongaio	Mangaone River	Te Awaawa Stream	Whirinaki River	Te Hoe River			
Waitio Stream	Ohinepaaka Stream	Lake Te Pōhue	Waihua River	Te Uwe Stream	Maunga Tatari Stream			
Waitangi Estuary	Ngamotu Lagoon	Te Kuta River	Waiau River	Teraawaerea Stream	Huramua Stream			
Waikinakitangata Stream	Whakamahia Lagoon	Waitaha Stream	Waikaretaheke River	Ramarama Stream	Awamate Stream			
Mangakōpikopiko Stream	Lake Whakakī	Te Ngarue Stream (Te Ngaru Stream)	Horomanga River	Mangaroa Stream				
Boundary Stream	Te Reinga Falls	Lake Waikōpiro	Hangaroa River	Rahui Channel				
Shine Falls	Āniwaniwa Falls	Lake Puharau	Ruakituri River	Lake Paatangata				
Sandy Creek (Papakiri Stream)	Okahu Stream	Ripia River	Maungawhio Lagoon	Lake Waihao				
Mahiaruhe Stream	Waikotikoti Stream	Wheao River		Lake Te-Awa Waahi Section 1				
Anaura Stream	Waiōeka River	Poututu Stream		Lake Te Kainga Pipi				
Lake Orakai	Waikoko Stream	Mangapoike River		Rotonui Stream				
Tangoio Falls	Waitirohia River	Lake Waikareiti		Wairoa River				
Ponui Stream	Waikotuturi Creek	Mangaone Caves		Nuhaka River				
Makahu River	Makeakea Stream	Morere Springs						
Oamaru River	Tunanui Stream	Whangawehi Stream						
Kaipō River	Kopuawhara River	Waihakeke Stream						

Item 8

Attachment 2

Water body has the following number of key values:							
One key value Total water bodies = 47	Two key values Total water bodies = 22	Three key values Total water bodies = 14	Four key values Total water bodies = 19	Five key values Total water bodies = 10	Six key values Total water bodies = 4	Seven key values Total water bodies = 1	Eight key values Total water bodies = 1
Inangatahi Stream	Whangawehi Harbour						
Tunamaro River							

Table 9

Summary of key values and linkages: water bodies containing 4 or more key values OR linkages back to two or more treaty settlement entities

Water body name /catchment	Key values	Total No. of key values	Treaty settlement entities with linkages	Total No. of linkages	
Te Whanganui-ā-Orotu (Ahuriri Estuary) Ahuriri	<ul style="list-style-type: none"> - Wāhi Tapu, Wāhi taonga - Wai Tapu - Acknowledged in korero tuku iho, pepeha, whakatauki, waiata - Mahinga kai, Pa tuna 	<ul style="list-style-type: none"> - Pa, kāinga - Tauranga waka - Rohe Boundary - Battle site 	8	<ul style="list-style-type: none"> - Mana Ahuriri - Maungaharuru – Tangitū - Ngāti Pāhauwera 	3
Mohaka River Mohaka	<ul style="list-style-type: none"> - Wāhi Tapu, Wāhi taonga - Wai Tapu - Acknowledged in korero tuku iho, pepeha, whakatauki, waiata 	<ul style="list-style-type: none"> - Mahinga kai, - Pa tuna Pa, kāinga - Rohe Boundary - Battle site 	7	<ul style="list-style-type: none"> - Ngāti Pāhauwera - Ngāti Hineuru - Mana Ahuriri - Ngāti Tūwharetoa 	4
Tukituki River Tukituki	<ul style="list-style-type: none"> - Wāhi Tapu, Wāhi taonga - Acknowledged in korero tuku iho, pepeha, whakatauki, waiata 	<ul style="list-style-type: none"> - Mahinga kai, Pa tuna - Pa, kāinga - Rohe Boundary - Battle site 	6	<ul style="list-style-type: none"> - Ngāti Kahungunu Iwi Incorporated - Heretaunga Tamatea 	2
Tūtaekurī River Tutaekuri	<ul style="list-style-type: none"> - Wāhi Tapu, Wāhi taonga - Acknowledged in korero tuku iho, pepeha, whakatauki, waiata 	<ul style="list-style-type: none"> - Mahinga kai, - Pa tuna Pa, kāinga - Rohe Boundary - Battle site 	6	<ul style="list-style-type: none"> - Heretaunga Tamatea - Mana Ahuriri - Ngāti Kahungunu 	3
Lake Tūtira Waikari	<ul style="list-style-type: none"> - Wāhi Tapu, Wāhi taonga - Wai Tapu - Acknowledged in korero tuku iho, pepeha, whakatauki, waiata 	<ul style="list-style-type: none"> - Mahinga kai, Pa tuna - Pa, kāinga - Battle site 	6	<ul style="list-style-type: none"> - Maungaharuru - Tangitū 	1
Lake Waikaremoana Wairoa	<ul style="list-style-type: none"> - Wāhi Tapu, Wāhi taonga - Wai Tapu - Acknowledged in korero tuku iho, pepeha, whakatauki, waiata 	<ul style="list-style-type: none"> - Mahinga kai, Pa tuna - Pa, kāinga - Battle site 	6	<ul style="list-style-type: none"> - Ngāti Ruapani ki Waikaremoana - Te Rohe o Te Wairoa - Ngāti Tūhoe - Ngāi Tāmanuhiri 	4
Waipawa River Tukituki	<ul style="list-style-type: none"> - Wāhi Tapu, Wāhi taonga - Acknowledged in korero tuku iho, pepeha, whakatauki, waiata 	<ul style="list-style-type: none"> - Mahinga kai, - Pa tuna Pa, kāinga - Rohe Boundary 	5	-	1
Ngaruroro River Ngaruroro	<ul style="list-style-type: none"> - Wāhi Tapu, Wāhi taonga - Acknowledged in korero tuku iho, pepeha, whakatauki, waiata 	<ul style="list-style-type: none"> - Mahinga kai, Pa tuna - Pa, kāinga - Rohe Boundary 	5	<ul style="list-style-type: none"> - Heretaunga Tamatea - Mana Ahuriri - Ngāti Tūwharetoa 	3
Esk River Esk	<ul style="list-style-type: none"> - Wāhi Tapu, Wāhi taonga - Acknowledged in korero tuku iho, pepeha, whakatauki, waiata 	<ul style="list-style-type: none"> - Mahinga kai, Pa tuna - Pa, kāinga - Rohe Boundary 	5	<ul style="list-style-type: none"> - Mana Ahuriri - Ngāti Pāhauwera - Maungaharuru - Tangitū 	3

Water body name /catchment	Key values		Total No. of key values	Treaty settlement entities with linkages	Total No. of linkages
Aropoanui River /Waikoau River Waikari	- Wāhi Tapu, Wāhi taonga - Acknowledged in korero tuku iho, pepeha, whakatauki, waiata	- Mahinga kai, - Pa tuna Pa, kāinga - Battle site	5	-Maungaharuru – Tangitū -Ngāti Pāhauwera	2
Waikari River Waikari	- Wāhi Tapu, Wāhi taonga - Acknowledged in korero tuku iho, pepeha, whakatauki, waiata	- Mahinga kai, Pa tuna - Pa, kāinga - Battle site	5	- Ngāti Pāhauwera - Maungaharuru - Tangitū	2
Te Hoe River Mohaka	- Wāhi Tapu, Wāhi taonga - Wai Tapu - Mahinga kai, Pa tuna	- Pa, kāinga - Rohe Boundary	5	- Ngāti Pāhauwera - Ngāti Hineuru	2
Waipunga River Mohaka	- Wāhi Tapu, Wāhi taonga - Wai Tapu	- Mahinga kai, Pa tuna - Pa, kāinga - Rohe Boundary	5	- Ngāti Hineuru	1
Awamate Stream Wairoa	- Wāhi Tapu, - Acknowledged in korero tuku iho, pepeha, whakatauki, waiata	- Mahinga kai, Pa tuna - Pa, kāinga - Battle site	5	- Te Rohe o Te Wairoa	1
Huramua Stream Wairoa	- Wāhi Tapu, Wāhi taonga - Acknowledged in korero tuku iho, pepeha, whakatauki, waiata	- Mahinga kai, Pa tuna - Pa, kāinga - Battle site	5	- Te Rohe o Te Wairoa	1
Maunga Tatarī Stream Wairoa	- Wāhi Tapu, Wāhi taonga - Acknowledged in korero tuku iho, pepeha, whakatauki, waiata	- Mahinga kai, Pa tuna - Pa, kāinga - Battle site	5	- Te Rohe o Te Wairoa	1
Pōrangahau River/ Porangahau Estuary Porangahau	- Wāhi Tapu, Wāhi taonga - Mahinga kai, Pa tuna	- Pa, kāinga - Rohe Boundary	4	- Heretaunga Tamatea - Ngāti Kahungunu Iwi Incorporated	2
Makāretu River Tukituki	- Wāhi Tapu, Wāhi taonga - Wai Tapu	- Mahinga kai, Pa tuna - Pa, Kāinga	4	- Heretaunga Tamatea	1
Maraetōtara River Tukituki	- Wāhi Tapu, Wāhi taonga - Pa, kāinga	- Mahinga kai, Pa tuna - Battle site	4	- Heretaunga Tamatea	1
Lake Poukawa Karamū	- Wāhi Tapu, Wāhi taonga - Pa, kāinga	- Mahinga kai, Pa tuna - Battle site	4	- Heretaunga Tamatea	1
Lake Opouahi Waikari	- Wāhi Tapu, Wāhi taonga - Acknowledged in korero tuku iho, pepeha, whakatauki, waiata	- Mahinga kai, Pa tuna - Pa, kāinga	4	-Maungaharuru -Tangitū	1
Hautapu River Mohaka	- Wāhi Tapu, Wāhi taonga - Mahinga kai, Pa tuna	- Pa, kāinga - Rohe Boundary	4	- Ngāti Hineuru	1

Water body name /catchment	Key values	Total No. of key values	Treaty settlement entities with linkages	Total No. of linkages	
Whirinaki River Mohaka	- Wāhi Tapu, Wāhi taonga - Acknowledged in korero tuku iho, pepeha, whakatauki, waiata	- Mahinga kai, Pa tuna - Pa, kāinga	4	- Ngāti Manawa - Ngāti Whare	2
Te Uwe Stream Wairoa	- Wāhi Tapu - Acknowledged in korero tuku iho, pepeha, whakatauki, waiata	- Mahinga kai, Pa tuna - Pa, kāinga	4	- Te Rohe o Te Wairoa	1
Teraawaerea Stream Wairoa	- Wāhi Tapu - Acknowledged in korero tuku iho, pepeha, whakatauki, waiata	- Mahinga kai, Pa tuna - Pa, kāinga	4	- Te Rohe o Te Wairoa	1
Ramarama Stream Wairoa	- Wāhi Tapu - Acknowledged in korero tuku iho, pepeha, whakatauki, waiata	- Mahinga kai, Pa tuna - Pa, kāinga	4	- Te Rohe o Te Wairoa	1
Mangaroa Stream Wairoa	- Wāhi Tapu - Acknowledged in korero tuku iho, pepeha, whakatauki, waiata	- Mahinga kai, Pa tuna - Pa, kāinga	4	- Te Rohe o Te Wairoa	1
Rahui Channel Wairoa	- Wāhi Tapu - Acknowledged in korero tuku iho, pepeha, whakatauki, waiata	- Mahinga kai, Pa tuna - Pa, kāinga	4	- Te Rohe o Te Wairoa	1
Lake Paatangata Wairoa	- Wāhi Tapu - Acknowledged in korero tuku iho, pepeha, whakatauki, waiata	- Mahinga kai, Pa tuna - Pa, kāinga	4	- Te Rohe o Te Wairoa	1
Lake Waihao Wairoa	- Wāhi Tapu - Acknowledged in korero tuku iho, pepeha, whakatauki, waiata	- Mahinga kai, Pa tuna - Pa, kāinga	4	- Te Rohe o Te Wairoa	1
Lake Te-Awa Waahi Section 1 Wairoa	- Wāhi Tapu - Acknowledged in korero tuku iho, pepeha, whakatauki, waiata	- Mahinga kai, Pa tuna - Pa, kāinga	4	- Te Rohe o Te Wairoa	1
Lake Te Kainga Pipi Wairoa	- Wāhi Tapu - Acknowledged in korero tuku iho, pepeha, whakatauki, waiata	- Mahinga kai, Pa tuna - Pa, kāinga	4	- Te Rohe o Te Wairoa	1
Rotonui Stream Wairoa	- Wāhi Tapu - Acknowledged in korero tuku iho, pepeha, whakatauki, waiata	- Mahinga kai, Pa tuna - Pa, kāinga	4	- Te Rohe o Te Wairoa	1
Wairoa River Wairoa	- Wāhi Tapu, Wāhi taonga - Acknowledged in korero tuku iho, pepeha, whakatauki, waiata	- Mahinga kai, Pa tuna - Pa, kāinga	4	- Te Rohe o Te Wairoa	1
Nuhaka River Nuhaka	- Wai Tapu - Acknowledged in korero tuku iho, pepeha, whakatauki, waiata	- Mahinga kai, Pa tuna - Pa, kāinga	4	- Te Rohe o Te Wairoa	1
Hangaroa River Wairoa	- Wāhi Tapu, Wāhi taonga - Acknowledged in korero tuku iho, pepeha, whakatauki, waiata	- Mahinga kai, Pa tuna	3	- Te Rohe o Te Wairoa - Rongowhakaata	2
Heretaunga Aquifer Tutaekuri & Ahuriri & Ngaruroro & Karamu	- Wāhi Tapu, Wāhi taonga - Acknowledged in korero tuku iho, pepeha, whakatauki, waiata	- Pa, kāinga	3	- Heretaunga Tamatea - Ngāti Kahungunu Iwi Incorporated	2
Horomanga River Wairoa	- Wāhi Tapu, Wāhi taonga - Mahinga kai, Pa tuna	- Rohe Boundary	3	- Ngāti Manawa - Ngāti Whare	2
Maungawhio Lagoon Mahia	- Acknowledged in korero tuku iho, pepeha, whakatauki, waiata - Mahinga kai, Pa tuna	- Pa, kāinga	3	- Te Rohe o Te Wairoa - Ngāti Kahungunu Iwi Incorporated	2
Waikaretaheke River Wairoa	- Acknowledged in korero tuku iho, pepeha, whakatauki, waiata - Mahinga kai, Pa tuna	- Battle site	3	- Te Rohe o Te Wairoa - Ngāti Ruapani ki Waikaremoana	2

Water body name /catchment	Key values		Total No. of key values	Treaty settlement entities with linkages	Total No. of linkages
Lake Waikareiti Wairoa	- Wāhi Tapu, Wāhi taonga	- Mahinga kai, Pa tuna	2	- Ngāti Ruapani - Tūhoe	2
Mangaone River Tutaekuri	- Pa, kāinga	- Rohe Boundary	2	- Mana Ahuriri - Maungaharuru -Tangitū	2
Waitaha Stream Waikari	- Wāhi Tapu, Wāhi taonga	- Pa, kāinga	2	- Maungaharuru –Tangitū - Ngāti Pāhauwera	2
Ruataniwha Aquifer Tukituki	- Wāhi Tapu, Wāhi taonga		1	- Heretaunga Tamatea - Ngāti Kahungunu Iwi Incorporated	2

Summary of high level review findings – recreational, landscape, ecology value sets

Table 10: 'At a glance' summary - number of reviewed publications identifying a water body as outstanding, nationally significant or allocated the highest rating available, for any value.

Table 11: Summary of values recognised as outstanding, nationally significant or given the highest rating available in reviewed publications.

Table 10
'At a glance' summary

Number of reviewed publications identifying a water body as outstanding, nationally significant or allocated the highest rating available, for any value.

Water body identified as outstanding, nationally significant or allocated the highest rating available, for any value, in:					
One publication Total water bodies = 14	Two publications Total water bodies = 10	Three publications Total water bodies = 4	Five publications Total water bodies = 2	Six publications Total water bodies = 1	Eight publications Total water bodies = 1
Tangaruhe Stream	Porangahau Estuary	Taruarau River	Ngaruroro River	Ruakituri River	Mohaka River*
Māharakeke Stream	Waipawa River	Wairoa River	Te Whanganui a Orotu (Ahuriri Estuary)*		
Makaroro River	Tukituki River	Rivers of Lake Waikaremoana (Aniwaniwa Stream, Mokau Stream, Waiotukupuna Stream, Hopurua Stream)			
Tukipo River	Lake Poukawa	Lake Waikaremoana			
Clive River	Pekapeka Swamp				
Waikoau River	Waitangi Estuary				
Ripia River	Tutaekuri River				
Te Hoe River	Esk River				
Lake Whakakī *	Waiau River				
Mangahouanga Stream *	Mangapoike River				
Wairoa Estuary and the Ngamotu, Whakamahi, Wairau, Ohuia, Te Para and Whakaki lagoons.					
Hangaroa River					
Nuhaka River					
Maungawhio Lagoon					

* Identified as containing an internationally significant value(s).

Note: Column's for 'four publications' and 'seven publications' have been deliberately left out due to no water bodies meeting this criteria.

Table 11

Summary of values recognised as outstanding, nationally significant or given the highest rating available in reviewed publications.

Water body name /catchment	Value(s)/sub value(s)	Description of value(s)	Relevant publications & associated rating for value(s)	No. of publications
Mohaka River Mohaka	Recreation (trout fishing, rafting and kayaking) Ecology Natural character Landscape (wild and scenic)	Has a highly natural river environment and is identified as a headwater trout fishery which fishes well all season with 'trophy' sized trout. The Mohaka River has an outstanding landscape and provides for a variety of recreational activities. It is potentially nationally important for aquatic biodiversity values and it meets the Ramsar site criteria which identifies wetlands of international importance.	<ul style="list-style-type: none"> - MAF&F (River of national importance - middle and upper reaches) - W&SR (outstanding a wide range of recreational experiences in a diverse landscape) - LOR&L (Group One for recreation, landscape, trout fishing). - HTF (List A (all season) headwater trout river with trophy fish) - WONI (potentially nationally important for aquatic biodiversity and recreation values) - Ramsar: (meets the criteria for an internationally important wetland) - RiVAS (nationally significant for salmonid angling, kayaking and natural character). - Water conservation order (wild and scenic, angling and rafting). 	Eight
Ruakituri River Wairoa	Recreation (kayaking, canoeing, rafting, salmonid angling) Landscape Ecology (biodiversity) Natural character	Has a highly natural river environment, with a short but strikingly beautiful gorge. Highly valued recreational opportunities, including rafting, kayaking and trout fishing for trophy sized trout. River is of potential national importance for biodiversity values. Blue duck are located in sheltered parts.	<ul style="list-style-type: none"> - 64NZR – (impressive scenic values – Ruakituri Gorge) - RRS (exceptional scenic values in the gorge) - MAF&F - River of national importance for angling (upper and middle reaches) - LOR&L (Group One - scenery, fishing, recreational , wildlife and wilderness qualities make it an outstanding river - WONI (Potential water body of national importance for aquatic biodiversity values) - RiVAS (Nationally significant for natural character, kayaking (upper) and salmonid angling) 	Six
Te Whanganui a Orotu (Ahuriri Estuary) Ahuriri	Recreation Ecological (wildlife habitat, native fisheries) Geological features	The 450 ha Ahuriri Estuary is the most significant wetland along the entire length of the eastern coastline of North Island between East Cape and Wellington, because of the paucity of coastal wetlands along this stretch of coastline. It meets the Ramsar site criteria which identifies wetlands of international importance. The Estuary an important nursery for marine and freshwater fish species and supports over 70 species of water birds. A Wildlife Refuge covering part of the estuary which contains royal spoonbill, migratory waders, eastern bar-tailed godwit, and the Pacific golden plover. The estuary, and surrounds, is listed as a nationally important example of tectonic processes. The area has been identified as nationally potentially important recreation values.	<ul style="list-style-type: none"> - WONI (potentially nationally important for water dependant geodiversity and recreations values) - Ramsar: (meets the criteria for an internationally important wetland) - Wetlands of National Importance to Fisheries (Category A – Outstanding for native fisheries) - Areas of Significant Conservation Values (Nationally significant for native fisheries, wildlife habitat and coastal landform – example of tectonic processes). - Geo preservation inventory (nationally significant for uplifted seafloor and islet and uplifted entrance channel fossils). 	Five

Water body name /catchment	Value(s)/sub value(s)	Description of value(s)	Relevant publications & associated rating for value(s)	No. of publications
Upper Ngaruroro River Ngaruroro	Recreation (trout fishing, rafting, kayaking/canoeing) Ecology (aquatic biodiversity values, native fish) Natural character	The upper Ngaruroro has a highly natural river environment and is identified as a headwater trout fishery which fishes well all season with 'trophy' sized trout. The Ngaruroro gorge has potentially nationally important aquatic biodiversity values and exceptional recreation values for rafting and kayaking. It is an important native fishery.	<ul style="list-style-type: none"> - HTF: List A (all season) headwater trout river - WONI (potentially nationally important for aquatic biodiversity and recreation values) - MAF&F (River of national importance for angling) - RRS (exceptional recreational value - gorge) - RiVAS (nationally significant for native fishery, natural character, salmonid angling, kayaking) NB: The Ngaruroro River is only excluded from group one in LOR&L because of its proximity to the Mohaka River.	Five
Taruarau River Ngaruroro	Recreation (trout fishing) Ecology (aquatic biodiversity values) Natural character	Has a highly natural river environment and is identified as a headwater trout fishery which fishes well all season. Taruarau River has potentially nationally important aquatic biodiversity values.	<ul style="list-style-type: none"> - HTF: List A (all season) headwater trout river. - WONI (potentially nationally important for aquatic biodiversity values) - RiVAS (nationally significant for native fishery, natural character. 	Three
Wairoa River Wairoa	Recreation (kayaking) Ecology (native fish) Natural character Geological feature	The upper river has a highly natural river environment, highly valued recreational opportunities, and important native fisheries. The Te Reinga Cave System is a major cave system in Pliocene limestone.	<ul style="list-style-type: none"> - WONI (Potential waterbody of national importance for recreation) - Geo preservation inventory (nationally significant - Te Reinga Cave System is a major cave system in Pliocene limestone). - RiVAS (Nationally significant for native fisheries, kayaking (Waikaretaheke) and natural character (upper)) 	three
Rivers of Lake Waikaremoana (Aniwaniwa Stream, Mokau Stream, Waiotukupuna Stream, Hopuruahine Stream) Wairoa	Landscape Recreation (salmonid angling) Natural character	The land surrounding Lake Waikaremoana is steep and rugged clothed in thick native bush. All the rivers are short in length. The area is very scenic. Mokau steam contains the Mokau Falls. This is a spectacular 34 m waterfall over near horizontal bedded Miocene sedimentary rocks. Aniwaniwa Stream contains the Papakorito falls of 15 m and Aniwaniwa Falls. Hopuruahine Stream has the famed cascades.	<ul style="list-style-type: none"> - RRS – (exceptional scenic value) - Geo preservation inventory (Mokau Falls – nationally significant) - RiVAS (Hopuruahine Stream – nationally significant for salmonid angling and natural character) 	three
Lake Waikaremoana Wairoa	Recreation (salmonid angling) Geological feature Landscape	Lake Waikaremoana is a very scenic lake with original vegetation and no erosion it is the largest debris dammed lake in Hawke's Bay. It contains valued recreational opportunities. It is a potentially natural important waterbody for recreation, scenic and geodiversity values.	<ul style="list-style-type: none"> - Geo preservation inventory (nationally significant – largest debris dammed lake in Hawke's Bay). - MAF&F Nationally important New Zealand Lake for salmonid angling. - WONI (Potential water body of national importance for geodiversity, recreation and scenic values) 	three
Porangahau Estuary Porangahau	Ecology (native fishery, wildlife, vegetation type)	One of the few large estuaries (750 ha) on the North Island's east coast, supporting a diverse assemblage of fish. It is the only known breeding site in the region for Caspian Tern, and contains the largest concentrations of wrybill and banded dotterel in Hawke's Bay. The area supports nationally significant dune vegetation-types, including a regionally distinct population of matagouri, and only location of rare tussock <i>Austrofestuca littoralis</i> within Hawke's Bay.	<ul style="list-style-type: none"> - Wetlands of National Importance to Fisheries (Category A – Outstanding for native fisheries) - Areas of Significant Conservation Values (Nationally significant for native fisheries, wildlife habitat and dune flora) 	Two
Waipawa River Tukituki	Ecological (aquatic biodiversity values) Recreation (salmonid angling)	Has potentially nationally important aquatic biodiversity values, and high salmonid angling values.	<ul style="list-style-type: none"> - WONI (potentially nationally important for aquatic biodiversity values) - RiVAS (nationally significant for salmonid angling) 	Two

Water body name /catchment	Value(s)/sub value(s)	Description of value(s)	Relevant publications & associated rating for value(s)	No. of publications
Tukituki River Tukituki	Recreation Ecology (native fishery, native birdlife, salmonid angling Natural character	Has a highly natural river environment, supports habitat for Bittern, NZ Pipit, Grey and Spotless crane and is an important native fishery. Has potentially nationally important recreation values.	- WONI (potentially nationally important for recreation) - RIVAS (nationally significant for native fishery, native birdlife, salmonid angling, natural character)	Two
Lake Poukawa Karamu	Geological feature Ecology (native fisheries)	Lake Poukawa is a large 195 ha shallow lake with significant native fishery values.	- WONI (potentially nationally important for water dependant geodiversity - Holocene swamp - Wetlands of National Importance to Fisheries (Category A – Outstanding for native fisheries)	Two
Pekapeka Swamp Ngaruroro	Ecological (native fisheries) Recreation	Peka Peka Swamp (50 ha) is the only large Swamp remaining in Hawke's Bay and is an important native fishery. Peka Peka Swamp has potentially nationally important recreation values.	- Wetlands of National Importance to Fisheries (Category A – Outstanding for native fisheries) - WONI (potentially nationally important for recreation).	Two
Waitangi Estuary Karamu & Tutaekuri & Ngaruroro	Ecological (Fisheries)	This 90 ha estuary includes the mouths of the Ngaruroro, Tutaekuri, and Clive Rivers, and Muddy Creek, and contains a nationally important fisheries habitat. One of the largest inanga spawning sites identified in Hawke's Bay is situated in the Clive River.	- Wetlands of National Importance to Fisheries (Category A – Outstanding for native fisheries). - Areas of Significant Conservation Values (Nationally significant for native fisheries)	Two
Tutaekuri River Tutaekuri	Ecological (biodiversity, native fisheries) Natural character	Has a highly natural river environment (upper), and a potentially nationally important aquatic biodiversity values and is an important native fishery.	- WONI (potentially nationally important for aquatic biodiversity values) - RIVAS (nationally significant for native fishery, natural character)	Two
Esk River Esk	Recreation (trout fishing) Natural character (upper)	Has a highly natural river environment (upper) and is identified as a headwater trout fishery which fishes well all season.	- HTF: List A (all season) headwater trout river. - RIVAS (nationally significant for natural character – upper river)	Two
Waiiau River Wairoa	Ecology (aquatic biodiversity) Natural character	Has a highly natural river environment, with potential aquatic biodiversity values of national importance.	- WONI (Potential waterbody of national importance for aquatic biodiversity values) - RIVAS Nationally significant for natural character (upper)	Two
Mangapoike River Wairoa	Geological feature Natural character	The Mangapoike River has a highly natural river environment. It contains a Pliocene section which is excellent exposure through limestone.	- Geo preservation inventory (nationally significant – Pliocene section with excellent exposure through limestone). - RIVAS (Nationally significant for natural character).	Two
Tangaruhe Stream Porangahau	Geological features	Has cretaceous foraminiferal fossils, which are the best preserved and most diverse Ngaterian foraminiferal faunas in New Zealand.	- Geo-preservation inventory (Nationally Significant for Cretaceous foraminiferal fossils)	One
Māharakeke Stream Tukituki	Ecology (Native birdlife)	Support habitat for Bittern, NZ Pipit, Grey, Spotless crane	- RIVAS (Nationally Significant for birdlife)	One
Makaroro River Tukituki	Natural character	Has a highly natural river environment.	- RIVAS (Nationally Significant for natural character)	One
Tukipo River Tukituki	Recreation (trout fishery)	Has a headwater trout fishery which fishes well all season.	- HTF: List A (all season) headwater trout river	One
Clive River Ngaruroro	Ecological (Fisheries)	The Clive River contains one of the largest inanga spawning sites identified in Hawke's Bay.	- Areas of Significant Conservation Values (Nationally significant for native fisheries).	One
Waikoau River Waikari	Recreation (trout fishing)	Is identified as a headwater trout fishery which fishes well all season.	- HTF: List A (all season) headwater trout river.	One

Water body name /catchment	Value(s)/sub value(s)	Description of value(s)	Relevant publications & associated rating for value(s)	No. of publications
Ripia River Mohaka	Recreation (salmonid angling)	Has high angling values. It is very important as a trout spawning stream and is not subject to floods like the Mohaka.	- RiVAS (nationally significant for salmonid angling).	One
Te Hoe River Mohaka	Recreation (salmonid angling, kayaking)	Has high angling values and kayaking values.	- RiVAS (nationally significant for salmonid angling and kayaking).	One
Lake Whakakī Wairoa	Ecology (wildlife)	Lake Whakaki is an intermittently closed and open lake (ICOLL) which is a rare habitat type in New Zealand and internationally. Lake Whakaki covers an area of over 600 hectares, and is the largest coastal lake of the North Island's east coast. It comprises the last major component of a wetland landscape that ran for 32 km between the Wairoa and Nuhaka river mouths. Lake Whakaki Supports a large population of wading and waterfowl bird, and threatened species such as the white heron, Australasian bittern and fernbird, New Zealand dabchick, and spotless crane. Migratory species include Wrybill, golden plover, eastern bar tailed godwit, and several sandpiper species. Waterfowl include grey teal, New Zealand shoveler, and Canada geese.	- LOR&L (Group One – outstanding wildlife habitat, duck shooting, food source for local Māori)	One
Mangahouanga Stream Wairoa	Geological feature	The Mangahouanga Stream. First, and to date the only, record of terrestrial dinosaurs found in New Zealand. Rich and diverse Cretaceous vertebrate fossils in concretions, including New Zealand's only known dinosaurs and New Zealand's oldest known fossil insect, as well as fossil turtles, mosasaurs, elasmosaurs, plesiosaurs and early fish.	- Geo preservation inventory (internationally significant – only record of terrestrial dinosaurs found in NZ).	One
Wairoa Estuary and Ngamotu, Whakamahi, Wairau, Ohuia, Te Para and Whakakī lagoons. Wairoa	Ecology (wildlife habitat)	Collectively these wetlands constitute the largest such system on the east coast of the North Island. The area is a gazetted Wildlife Management Reserve and has significant populations of both threatened and common coastal bird species, and a large waterfowl population.	- Areas of Significant Conservation Values (Nationally significant for wildlife habitat).	One
Hangaroa River Wairoa	Natural character	Has a highly natural river environment.	- RiVAS (Nationally significant for natural character)	One
Nuhaka River Nuhaka	Natural character	Has a highly natural river environment (upper)	- RiVAS (Nationally significant for natural character)	One
Maungawhio Lagoon Mahia	Ecological (wildlife, dune flora)	Maungawhio Lagoon is a Wildlife Management Reserve, which has significant ecological, fauna, and flora values. The site is located on the eastern side of the Mahia tombola, which is the best example of such a landform in New Zealand. Threatened species present include Australasian bittern, banded rail, New Zealand dotterel and Caspian tern. The sand dunes along Pukenui Beach feature many species of indigenous flora and fauna – some of which are not found anywhere else in New Zealand.	- Areas of Significant Conservation Values (Nationally significant wildlife habitat and dune system)	One

HAWKE'S BAY REGIONAL COUNCIL

REGIONAL PLANNING COMMITTEE

Wednesday 21 March 2018

Subject: OIL & GAS PLAN CHANGE PROCESS AND PROGRESS UPDATE

Item 9

Reason for Report

1. This report recaps the Oil and Gas plan change work to date, and provide an update on next steps. Following this, there will be two presentations, firstly from Walter Breustedt, and secondly from Cameron Madgwick on behalf of Petroleum Exploration and Production Association of NZ (PEPANZ). Both presenters have been invited to the RPC meeting at the request of the Committee co-chairs.

Background

Where we have come from

2. At the November 2016 Council meeting, Council requested that the RPC consider proposing a plan change to prohibit the drilling for oil and gas within the region's productive aquifers and surface water bodies.
3. A follow up staff paper to the RPC in November 2016 outlined three options for progressing a plan change and sought direction from the RPC as to the next steps. The three options were:
 - 3.1. Progress through TANK plan change for TANK catchments, then other catchment-based plan
 - 3.2. Progress region wide alongside the TANK plan change, or
 - 3.3. Progress discrete stand-alone plan change.
4. The RPC preference was for a stand-alone plan change and a recommendation was made to Council on that basis.

Exploration of Prohibited Activity Status

5. As part of the November 2016 RPC meeting it was also recommended that legal advice be sought on the extent to which a prohibition would be justifiable under law. This advice was provided by Simpson Grierson in March 2017 and can be briefly summarised as:
 - 5.1. Council does indeed have an ability to use a prohibited activity status in relation to oil and gas activities
 - 5.2. Such an approach would need to be supported by objectives and policies and a sound evidential basis around the potential effects on the environment the plan change is seeking to address
 - 5.3. Prohibited activity status could be used as part of a precautionary approach if the circumstances are appropriate
 - 5.4. A region-wide prohibition would seem difficult to justify if challenged in courts based on past Environment Court case law.
6. Simpson Grierson's advice also outlined some of the practical steps that would be required to progress the plan change.

Progressing a Plan Change

7. At the March 2017 RPC meeting, an indicative work programme for the oil and gas plan change was presented. This proposed public notification of a plan change in late 2017 and decisions by mid-2018.

8. Opus International Consultants (Opus) were engaged in April 2017 for an initial scoping phase. This included a staff workshop and the presentation of some high level issues and objectives to the RPC for feedback. A workshop was held with RPC members in June 2017. Through that scoping phase, the coastal marine area was also included for consideration in any future plan change options. The scoping phase helped inform a more detailed project plan and Opus were engaged to progress the remainder of the plan change.
9. The project plan included the following stages.
 - 9.1. Background Information Review and Technical Advice (attached)
 - 9.2. Stakeholder Consultation and Development of Plan Change Options
 - 9.3. Section 32 Analysis and Drafting Plan Amendments.
10. To stimulate discussion and highlight particular issues that this plan change project was being crafted to address (as well as describe what is out of scope), a Background Information Review was completed in October 2017. This is essentially a literature review of existing information and is intended to provide context for the issues relevant to the plan change, understand what information is available, and understand where the gaps in understanding are. It covers five broad areas, being:
 - 10.1. oil and gas activities
 - 10.2. oil and gas in Hawke's Bay
 - 10.3. regulatory context
 - 10.4. environmental context
 - 10.5. environmental risk.
11. It also included some high level plan change options that could be used as a starting point for stakeholder discussions. That discussion document was not a draft plan change.

Stakeholder Consultation

12. A stakeholder engagement plan was presented to the RPC in September 2017 and since November 2017, there have been a series of meetings with targeted stakeholders. This was documented in the February 2018 RPC paper. Information presented to stakeholders was a synopsis of the Background Information Review and meetings provided the opportunity for stakeholders to ask questions and provide preliminary feedback.
13. An online feedback form for wider public to express views on the plan change has also been on Council's website for several months. The form asks several questions including views on oil and gas exploration in the region. To date approximately 100 responses have been received from a range of individuals and organisations. All forms of feedback received will inform further drafting options for preparation of the oil and gas regulation plan change.
14. Furthermore, Council staff are currently progressing arrangements for three proposed Hui-a-Iwi across the region in the northern, central and southern parts of Hawke's Bay. We have been discussing options with the relevant RPC tangata whenua representatives. It is intended that these hui will be a blend of expo-style information boards and presentations led by RPC members themselves (with support from council staff). Dates for these hui have been tentatively scheduled between 9 - 20 April.
15. Following the hui, planning staff and Opus will be preparing advice to bring back to the RPC about options for next steps for the plan change (possibly 2 May or 20 June meeting dates). Based on stakeholder feedback, the options could cover anything from dropping the proposal altogether, to advancing with plan change content drafting (plus associated section 32 evaluation reporting). Subject to the RPC's preferred chosen option new plan provisions can be drafted in readiness for notification of a proposed plan change for the formal public submission phase to begin (optimistically in third quarter of 2018).

Correspondence from PEPANZ

16. At the RPC meeting in February, the Co-chairs had indicated a willingness to receive a presentation from the Chief Executive of PEPANZ, with the caveat that staff should provide an outline of PEPANZ's issues and some brief commentary on those issues. A copy of a letter from the CE of PEPANZ is attached. That letter followed a face to face meeting between PEPANZ representatives and several HBRC planning staff.
17. Firstly, it has to be said that PEPANZ is not the only organisation to have provided written feedback on the RPC's proposals for prohibiting oil and gas exploration activities in Hawke's Bay. A number of other parties have also provided written comments up to this point. The letter from PEPANZ is self-described as an "initial response" to some of the proposals outlined in the Opus discussion document. Table 1 summarises key comments from PEPANZ and outlines brief responses from policy planning staff.

Table 1: Summary of preliminary comments from PEPANZ and staff responses

PEPANZ Comment	Policy Planning Staff comment in response
<p>1. Taranaki operations and Taranaki planning framework</p> <p>Under the regulatory regime in Taranaki, PEPANZ comment that <i>"consents are appropriately required for many activities. Exploration and production related activities are often treated as a discretionary activity with the non-complying classification applied as appropriate in particularly sensitive areas."</i></p>	<ul style="list-style-type: none"> • While the industry has been operating in Taranaki for several decades, applying a regulatory framework across the industry's potential operations in Hawke's Bay is not as straightforward as simply copying all the relevant rules from Taranaki's regional plans. • Existing Hawke's Bay RRMP rules also already classify many oil and gas activities as discretionary, but generally stricter rules are not applicable in sensitive areas. A comprehensive breakdown of what rules apply to various elements of offshore oil and gas exploration have been previously presented to the Committee (for example, refer agenda papers for meetings on 9 December 2014, 16 September 2015 and 23 November 2016). • The existing regulatory regime is the 'status quo' option. The RPC has previously agreed the 'status quo' is not acceptable and has chosen to proceed with the oil and gas plan change project.
<p>2. Prohibited activity status</p> <ul style="list-style-type: none"> • PEPANZ consider a prohibited activity status across large areas (e.g. undefined aquifer recharge zones) is neither required nor appropriate to manage the effects of oil and gas exploration and production. • Introducing a prohibited activity status is considered "out of step with conventional planning practice." • There may be discrete areas where oil and gas activities (and other like-industrial activities) could sensibly be prohibited. • While in other areas, each proposal should be assessed on its own case-by-case merits. • Parliamentary Commissioner for the Environment's earlier reports on this subject reached similar conclusions. • Fundamentally, prohibited activities should be applied to activities where the nature and effects of the activity and sensitive of the area require it – not just selecting oil and gas activities. 	<ul style="list-style-type: none"> • A prohibited activity status is an entirely legitimate classification that can be used in regional plans. There are few examples across NZ of regional rules tailored for oil and gas activities, let alone characterising what is conventional v unconventional planning practice. • The process of preparing a plan change will inevitably involve an evaluation of various options, and drafting of provisions. That evaluation occurs prior to notification of a proposed plan, and also further evaluations as part of making decisions on submissions received. • Assessment on a case-by-case basis would already occur under the current rules through a resource consent application process. • The RMA was introduced as legislation which was intended to target management of the effects of activities – not the activities themselves. In that way, different activities with similar effects ought to be subject to similar controls. The meaning of 'effect' in the RMA includes both positive and adverse impacts, effects with low likelihood and high consequence, cumulative effects etc.

PEPANZ Comment	Policy Planning Staff comment in response
<p>3. Decision-making The industry is supportive of decisions (e.g. preparation of regional planning documents) <i>“on the basis of sound evidence and analysis, even where this leads to restrictive rules.”</i></p>	<ul style="list-style-type: none"> • As noted above, preparation of plan changes involve evaluations of alternatives and their respective benefits and costs (e.g. ‘s32’ evaluations). Decision-making should be informed by sound analysis. • Decisions made without appropriate analysis carry risk of challenges by third parties and also being overturned in court proceedings.

Decision Making Process

18. 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 ***“Oil and Gas Plan Change Process and Progress Update”*** report.

Authored by:

**Rina Douglas
 SENIOR PLANNER**

**Gavin Ide
 MANAGER, STRATEGY AND POLICY**

Approved by:

**Tom Skerman
 GROUP MANAGER
 STRATEGIC DEVELOPMENT**

Attachment/s

- [1](#) Opus Consultants October 2017 Background Information Review Under Separate Cover
- [2](#) 18 November 2017 PEPANZ Letter
- [3](#) 11 December 2017 PEPANZ Letter to RPC Co-Chairs



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Item 9

28 November 2017

Gavin Ide
 Manager Strategy and Policy
 Hawke's Bay Regional Council
 Private Bag 6006
 NAPIER 4142

Tēnā koe Gavin

PROPOSED CHANGE TO THE REGIONAL RESOURCE MANAGEMENT PLAN

Thank you for the opportunity to meet with you and your consultant planner OPUS on 15 November 2017 at the Council's offices to discuss Hawke's Bay Regional Council's proposal to pursue a regional plan change that prohibits oil and gas activities in, and over, surface water bodies, productive aquifers, and the coastal marine area. This letter follows up the meeting and provides an initial response to some of the proposals outlined in *OPUS's Oil and Gas Plan Change – Background Information Review* (October 2017). We welcomed the opportunity to discuss more substantive issues associated with the regulation of specific activities.

The industry has been operating in Taranaki for a number of decades without significant incident and there are many elements of the regulatory framework there that could be applied to Hawke's Bay. Our sector is well regulated and monitored by local and central government agencies and we have an exceptional health and safety record. Oil and gas wells have been drilled through groundwater resources for decades without causing adverse effects on those groundwater resources. The contribution the sector has made to Taranaki has been immense, helping diversify its economy, encouraging a highly skilled workforce to reside in the region and helped Taranaki achieve the highest GDP per capita in New Zealand.

As the industry association for the upstream oil and gas industry, we are absolutely committed to continue working with the Council openly and constructively to find a mutually beneficial outcome. We remain of the view that there are steps the Council can take to ensure plans relating to our sector are more comprehensive and satisfactorily address any risks and impacts. We believe this is a sensible approach that is in line with the purpose of the Resource Management Act (RMA).

The regulation of the oil and gas industry has evolved over recent years at a national level and in Taranaki. We would specifically draw your attention to the following three planning documents that have recently been developed in Taranaki the *South Taranaki District Plan*ⁱ and the *Draft Freshwater and Land Management Plan for Taranaki*ⁱⁱ and the *Draft Coastal Plan for Taranaki*ⁱⁱⁱ. All of these planning documents provide comprehensive treatment of the oil and gas industry's activities over the lifecycle from prospecting to exploration (e.g. drilling) and ultimately production. Consents are appropriately required for many activities. Exploration and production related activities are often treated as a discretionary activity with the non-complying classification applied as appropriate in particularly sensitive areas.

Attachment 2



At the meeting on 15 November you sought our initial feedback on the three plan change options outlined in section 9 of OPUS's October 2017 document: Modified Status Quo, Prohibited Activity Status - Narrow Focus and Prohibited Activity Status - Wide Focus. We recognise these have been put forward as options to stimulate stakeholder discussion and while there are elements of each that could be appropriate. We do find the fixation on introducing prohibited activity status to be out of step with conventional planning practice.

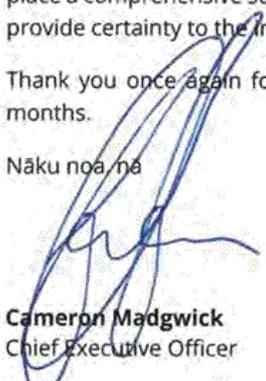
While there may be discrete areas within the Hawke's Bay where oil and gas activities (and presumably other industry activities) could sensibly be prohibited under the RMA, in many other areas oil and gas activities should be able to proceed on a case-by-case basis when steps have been taken to satisfactorily consider and mitigate the impacts and risks associated with such activities. A number of reports undertaken around the world into oil and gas drilling and hydraulic fracturing, including that undertaken by the Parliamentary Commissioner for the Environment, have reached similar conclusions.

Our view therefore remains that applying a prohibited status across large swathes of area (e.g. the undefined "aquifer recharge zones") is neither required nor appropriate to manage the effects of exploration and production due to the low risk profile, the engineering processes and mitigations used by the industry, the wider regulatory environment and the potential to apply further controls and oversight under RMA plans as occurs in Taranaki. On the other hand prohibiting activities such as drilling in sensitive areas where they are clearly unsuitable (e.g. in surface water bodies and wetlands) could be a logical approach that provides certainty. Fundamentally prohibited status should be applied to activities, whether undertaken by the oil and gas industry or others, when the nature and effects of the activity and the sensitivity of the area require it.

Where planning decisions are made on the basis of sound evidence and analysis the industry is supportive, even where this leads to restrictive rules. Should such an approach be taken it would be possible to put in place a comprehensive set of planning rules that appropriately control the oil and gas industry's activities and provide certainty to the industry and community.

Thank you once again for your time. We look forward to continuing working together over the coming months.

Nāku noa, nā



Cameron Madgwick
Chief Executive Officer

¹ Proposed South Taranaki District Plan, Decisions on Submissions Publicly Notified on 5 November 2016.

² Released in April 2015 for input and available from: <https://www.trc.govt.nz/assets/Documents/Plans-policies/SoilWaterPlanReview/DraftPlan-April2015W.pdf>

³ Available from <https://www.trc.govt.nz/council/plans-and-reports/strategy-policy-and-plans/regional-coastal-plan/coastal-plan-review/>



Rex Graham
Toro Waaka
Co-Chairs
Regional Planning Committee
Hawke's Bay Regional Council
Private Bag 6006
NAPIER 4142

11 December 2017

Dear Mr Graham and Mr Waaka,

I am writing to request a meeting in person with the Regional Planning Committee to discuss the proposed plan change to prohibit oil and gas exploration in fresh and coastal water bodies in the region.

PEPANZ represents the upstream oil and gas industry in New Zealand and we are keen to discuss this issue with the committee in the New Year.

We are very happy to discuss the protection of ecologically or culturally sensitive areas but any restrictions should be fair, consistent, and evidence-based.

It would be arbitrary and unfair to place restrictions solely on one industry when other activities can have the same or similar effects. Any restrictions should therefore focus solely on the effects or potential effects of activities.

We are proud of the way our industry operates in New Zealand and are committed to ensuring we are open and transparent. Our sector takes health and safety extremely seriously, is highly regulated by both local and central Government and has a strong track record.

I am happy to meet at your convenience and look forward to hearing back from you with a suitable date and time

In the meantime please feel free to contact me at any time on 021 674 671 and cameron.madgwick@pepanz.com.

Nāku i runga i aku mihi ki a koe

Cameron Madgwick
Chief Executive Officer



Advocate. Educate. Support.

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Attachment 3

CC:
Cr Alan Dick
Apiate Tapine
Cr Debbie Hewitt
Cr Fenton Wilson
Joinella Maihi-Carroll
Karauna Brown
Liz Munroe
Matiu Heperi Northcroft
Mike Mohi
Cr Neil Kirton
Nicky Kirikiri
Cr Paul Bailey
Cr Peter Beaven
Peter Paku
Cr Rick Barker
Tania Hopmans
Cr Tom Belford

Item 9

HAWKE'S BAY REGIONAL COUNCIL

REGIONAL PLANNING COMMITTEE

Wednesday 21 March 2018

Subject: REGIONAL RESOURCE MANAGEMENT PLAN – EFFECTIVENESS REPORT

Item 10

Reason for Report

1. This paper presents a recently completed report which evaluated the effectiveness of parts of the Regional Resource Management Plan (RRMP). The RRMP effectiveness reporting was undertaken by Philip Mackay of Mitchell Daysh Limited (MDL). The RMA requires councils to regularly (5-yearly) report on the effectiveness of planning documents. Plan effectiveness reporting is different from, but naturally related to, state of the environment annual and 5-yearly reporting frequencies.

Scope and Background

2. The scope and purpose of the RRMP effectiveness evaluation was previously outlined to the Regional Planning Committee at its meeting in June 2017. At that time, the project had just commenced having been deferred in the 2017 work programme by other commitments facing the Policy Planning Team, consequently the services of Mitchell Daysh Ltd were engaged to undertake the work.
3. The intent of the RRMP effectiveness evaluation is not a review of the entire RRMP. The RRMP effectiveness review can be thought of as a precursor assessment of what generally 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.
4. The RRMP effectiveness review focussed on some chapters more than others. For example, it did not revisit provisions that have been the subject of recent amendments since the RRMP became operative in 2006, such as:
 - 4.1. 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)
 - 4.2. PC 2 (Air Quality – principally introduced policies and methods for ambient air quality, esp. PM10, but also some other contaminants/air discharge activities too)
 - 4.3. PC 3 (rules for wastewater systems and on-site discharges)
 - 4.4. PC 4 (Managing the Built Environment) – one I assume you're fairly familiar with already.
 - 4.5. PC 5 (land and freshwater integrated management to set overarching scene for catchment-based regional plan changes)
 - 4.6. PC 6 (Tukituki River catchment)
 - 4.7. Plus several other amendments that were done without Schedule 1 formalities:
 - 4.7.1. Interim policies re NPSFM 2011 and 2014
 - 4.7.2. Removing conflict/duplication with NES Air Quality
 - 4.7.3. Removing conflict/duplication with NES Electricity Transmission activities
 - 4.7.4. Appending Statutory Acknowledgements to the RRMP as and when emerging from Treaty settlement legislation.

5. MDL's reporting involved assessing compliance monitoring data, interviews with key staff, policy and consents staff from the city and district councils – all are typically frequent users of the RRMP for a variety of reasons.

Summary of findings

6. MDL's assessment particularly focussed on the RRMP's anticipated environmental results (AERs) and their corresponding monitoring indicators. One of the key themes of MDL's assessment of the RRMP AERs is the limited availability of data and information to be able to confirm whether the AERs are being met. A similar theme was encountered in the earlier 2004 RPS effectiveness evaluation.
7. Given the time lag between now and when the RRMP AERs were established in the late 1990s, it is not surprising that modern monitoring programmes do not always match up with those older AERs and associated indicators. While this is not a fatal flaw in the ongoing operation of the RRMP, this does make it difficult to conduct quantitative plan effectiveness monitoring.
8. The summary provided in Table 16 of the MDL report (copied below) includes observations of where improvements could be made to various AERs when the opportunity arises through the upcoming plan review/plan change processes.

RRMP Section	Comments on AER Data Collection
3.3 Loss and Degradation of Soil	While there is limited information available to verify whether these AERs are being met the proposed wind erosion monitoring programme and the already commenced 'Soil Quality Monitoring Programme' should ensure that better time series data is available in the future for monitoring purposes. Questions have however been raised regarding the appropriateness of the 'sustainable land management' and 'sediment deposited in water bodies' AER wording.
3.4 Scarcity of Indigenous Vegetation and Wetlands	Although the AER is being met due to the area of indigenous vegetation under protective covenant increasing every time such a covenant is agreed, the relevance of this AER is questioned as the area of significant vegetation under covenant could be increased even if there was a reduction in the overall area in native vegetation cover in the region. AERs relating to significant indigenous vegetation may be improved by aligning with the HB Biodiversity Action Plan 2017 – 2020 and incorporating ecosystem mapping and prioritisation. A need is identified to make the current RRMP regulatory focus on soil conservation and the district councils' biodiversity values protection better aligned.
3.5 Effects of Conflicting Land Use Activities	This series of AERs are very difficult to measure in a quantitative way, therefore no conclusive statements can be made.
3.6 Agrichemical Use	Complaints relating to spray drift have been reducing overtime indicating that the associated RRMP objectives, policies and rules are effective, although the compliance team notes that complaint recording can be improved. No conclusions can be drawn on the AER relating to agrichemicals entering water bodies as there is no data available quantifying such incidences.
3.7 Management of Organic Material	Based on raw complaints data there has been an increase in odour complaints indicating that this AER relating to adverse effects is not being met, albeit that the majority of complaints relate to just four sites. The AER relating to increased composting of organic material is being met in terms of a reduction in such waste entering the regional landfill.
3.11 River Bed Gravel Extraction	The AER for this section is being met as the extraction of river bed gravel is being managed to ensure that its natural replenishment is not being exceeded.
3.12 Natural Hazards	Risk mitigation measures are in place in regard to natural hazards so the broad AER is met, while it is noted that the indicator relating to 'loss of life and property' is not a particularly helpful measure as it is only of relevance during extreme low return period events. An AER focused on damage to property or injuries could be more useful. As would a specific AER on reducing hazard risk for residential land development.
5.2 Land	There is little data available on which to verify the achievement of these AERs with similar comments applying as to 3.3 above. It is also noted that the AER relating to soil contamination has become somewhat outdated by the advent of the NESCS.

RRMP Section	Comments on AER Data Collection
5.3 Air Quality	Again, there is no programme of data collection for the AERs in this section to verify achievement or otherwise, although the general complaints data suggests the AER relating to odour is not being met.
5.8 Beds of Rivers and Lakes	Council's Assets Team is comfortable that the AERs relating to the Beds of Rivers and Lakes are being achieved but suggested that the wording of the AERs and associated indicators could be improved.

Next steps

9. There are no immediate next steps being recommended in this paper requiring a decision from the Regional Planning Committee. The Council's work programme for preparation and review of planning documents under the RMA is already rather substantial. Committee members will be well aware that much of the work programme's current focus is on land and freshwater policy.
10. Nonetheless, the 2018-28 Long Term Planning process presents an opportunity to revisit the overall priorities and associated timing of that work programme. The 2015-25 LTP currently signals commencing a review of the RRMP in 2020-21. One of the conclusions in MDL's report is that the upcoming RRMP review process presents a timely opportunity for a range of matters raised in their evaluation to be considered further and plan provisions consequently amended where relevant.
11. Undoubtedly, by 2020 there will be numerous other matters that the RRMP review will need to accommodate (for example, new or modified national policy statements, new national regulations, national planning standards/templates, etc).
12. In addition to the relative priorities of RRMP amendments, there are already several initiatives underway that will enhance the Council's collection, storage and retrieval of environmental information that can be used to inform the preparation of various planning documents, including regional plans. Two examples are:
 - 12.1. **Science Environmental Monitoring Network** review – as presented to the Environment and Services Committee meeting on 21 February 2018, some of the actions suggested as part of the environmental monitoring network review have already been undertaken as part of existing work programmes in a variety of budgets. For example, annual report cards are now produced in lieu of reports, for the State of the Environment annual reporting. Other actions suggested in the EMN Review have been incorporated into drafting of the 2018-28 Long Term Plan, including a move to integrated catchment management approaches and integration of citizen science and Mātauranga Māori.
 - 12.2. **IRIS** (Integrated Regional Information System) - is a new computer-based system that has been commissioned to manage the core functions and regulatory managements of NZ's regional councils, including consents, compliance, enforcement, land management and biosecurity, along with contacts, location information and extensive workflow support for business processes. The system includes standardised and customisable workflows that assist councils in following business processes to meet deadlines and keep track of the steps that have been performed in executing the process. IRIS is intended to be operational for HBRC by November 2018.

Decision Making Process

13. 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 ***“Regional Resource Management Plan – Effectiveness Report”*** report.

Authored by:

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Approved by:

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Attachment/s

 1 Mitchell Daysh RRMP Effectiveness Review Report Under Separate Cover

HAWKE'S BAY REGIONAL COUNCIL

REGIONAL PLANNING COMMITTEE

Wednesday 21 March 2018

Subject: PATHWAY TO DRAFT TANK PLAN CHANGE ADOPTION BY RPC

Item 11

Reason for Report

1. On 20 March, the Committee's tangata whenua representatives will have met with the TANK Mana Whenua Working Group¹ to discuss a wide range of matters related to the TANK collaborative group process, particularly focusing on their involvement as Treaty partners in the development of the Plan Change and their input around the TANK Group table. This paper has been prepared to:
 - 1.1. provide the RPC with a summary outline of the RMA's plan change process to give particular effect to the National Policy Statement for Freshwater Management (NPSFM); and
 - 1.2. ensure that timeframes beyond the development of draft plan change and the next steps in delivering the plan change are clearly understood.

Executive Summary

2. In both the 2009-2019 and 2012-2022 Long Term Plans, Council committed to preparing a regional plan change for the Greater Heretaunga and Ahuriri Catchment Area to review minimum flows and water allocation and to set water quality limits. In 2011 the Hawke's Bay Land and Water Management Strategy identified the Heretaunga Plains/Ngaruroro catchment as a priority catchment for the Council's immediate policy work programmes.
3. At that time and as a result of the success of the stakeholder involvement in preparing the strategy, the Council set up a collaborative type process. The resulting TANK Group was initiated to provide the Council with consensus recommendations regarding objectives and policies for a plan change.
4. At around the same time, the Regional Planning Committee (RPC) itself had just been formed as an interim committee of the Council, prior to legislation being passed for formal establishment of the RPC.
5. The RPC has previously agreed to have particular regard to any TANK consensus outcome if one emerges and the Regional Council has given a good faith undertaking to implement the recommendations of the TANK Group (consistent with higher level documents such as the NPSFM, RMA etc.)
6. The TANK Group has therefore been given the task of identifying the values for which the TANK catchment land and water resources are to be managed. Objectives and measures to ensure they can be met (including rules and limits) are to be developed to meet the needs of those values.
7. This TANK project was intended to ensure a robust and community led process to understanding the issues and developing solutions facing the freshwater resources and its people in the TANK catchments. In setting up the TANK Group, the Council has enabled a more inclusive approach to water management that reflects the diversity of community views. It was believed that this had the potential to result in a plan change that more accurately accounts for these views and provide innovative solutions that recognise all of the responsibilities the community holds for water management.
8. As the TANK Group progresses towards this, it is also apparent that there is a significant willingness by stakeholder participants to be involved in the implementation of the plan through potentially new management frameworks, beyond the adoption of the plan change.

¹ Recently renamed themselves the TANK 'Treaty Partners Working Group'

9. The RPC will need to be assured that the recommendations of the TANK Group do accurately reflect the wider community views and water values and provide solutions that adequately and efficiently meet the objectives set (as well as obviously being lawful). The process that Council and the TANK Group has used in developing the plan change and the ways in which it has involved community and stakeholder groups will be important aspects of this assessment. In particular the RPC members will be interested in understanding what tangata whenua involvement there has been and how well legislative requirements are achieved.
10. The Section 32 evaluation report which will accompany the plan change will also be a critical document for the RPC. The s32 report will document the assessments done on the effectiveness of the proposed objectives (and principal alternatives) in achieving the purpose of the Act, NPSFM and other national planning documents etc. That report will also outline the costs and benefits of the methods chosen, and assess alternative options that were considered and enable the RPC to assure themselves the provisions in the proposed plan change will be effective and efficient.
11. There will be several further briefing papers presented to the RPC in the coming months regarding choices to be made on both the TANK plan change process and draft content. However, none of those decisions need to be made at the RPC's meeting on 21 March.

Role of the RPC in plan changes

12. The purpose of the Hawke's Bay Regional Planning Committee Act 2015 is to improve tangata whenua involvement in the development and review of documents prepared in accordance with the RMA for the Hawke's Bay Region (section 3). By extension, the Act confirms that the purpose of the Regional Planning Committee is to oversee the development and review of those same documents (section 9(1)).
13. The Regional Policy Statement (RPS), which is combined into the Regional Resource Management Plan (RRMP), and the Regional Coastal Environment Plan (RCEP) are the Council's three most important RMA planning documents. Preparation, review and changes to those planning documents are not only a core function of the Regional Council, but one that is essential for Council to carry out its functions under section 30 of the RMA.
14. Since its formation in 2012, the RPC has yet to fully complete a journey with overseeing a proposed change to either the RPS or the RRMP. However, the RPC has had involvement in plan change 6 before and after PC6 was called-in and heard by a Minister-appointed Board of Inquiry. Similarly, the RPC had overseen preparation of Change 5 which remains partly subject to an appeal in the Environment Court, so Change 5 has not yet fully completed its 'journey' to an operative state.
15. It is anticipated that the RPC will be presented with two or potentially three proposed plan changes this calendar year (i.e. TANK, outstanding waterbodies, oil and gas regulation).

National Policy Statement for Freshwater Management

16. As a part of NZ's plan development framework, in certain circumstances of national significance central government specifies how it expects councils to achieve outcomes under the RMA. National policy statements, issued under section 52(2) of the RMA, are one such instrument. The National Policy Statement for Freshwater Management 2014, as amended in August 2017 (NPSFM) must be interpreted and given effect to within the context of the RMA.
17. The NPSFM requires regional councils to make or change regional plans to ensure they establish freshwater objectives and limits – then establish methods (including rules) to achieve them. HBRC must give effect to the NPSFM in its RPS and its RRMP. Where existing plans and policy statements do not already give effect to the NPSFM, they must be amended by 31 December 2025 (or by 2030 if the 2025 timeframe will affect plan quality or it would be impracticable for the council to fully implement the NPSFM by 2025).

18. It should be noted that the NPSFM is not the only national direction that councils must give effect to. There are several other national policy statements and national environmental standards that councils are also obliged to implement in RPSs, regional plans, district plans and/or resource consent decision-making.

The TANK Plan Change Process

TANK Group's task and drafting

19. To meet its NPSFM obligations, in 2012 HBRC elected to undertake a plan change using a collaborative process via the TANK Group (the process for engagement with the stakeholder group was endorsed by the [then] Environment and Services Committee on 15 August 2012). The terms of reference for the TANK Group states that the role of the group *"is to provide the Council (via the Regional Planning Committee) with consensus recommendations regarding objectives, policies and methods, including rules for a plan change to the RRMP for the Greater Heretaunga and Ahuriri catchment area."* The TANK Group consists of a broad cross-section of the community within those catchments, including mana whenua representatives, primary sector representatives, councils and NGO representatives (totalling over 30 members). The Group has operated under an agreed terms of reference since 2012, which has been periodically updated.
20. It should be noted that the establishment of the TANK Group pre-dates the RMA's new pathway option for a highly prescriptive 'Collaborative Planning Process' when preparing plan changes. Accordingly the RMA provisions for collaborative planning processes, which include restricted grounds for appeal to the Environment Court, do not apply to the TANK plan change.
21. To date the TANK Group have concluded 37 meetings. The Group have been meeting on a regular basis to discuss issues on water quality and quantity, and of recent times, meeting monthly with the aim of delivering a draft plan change to RPC for consideration and adoption mid-2018. There have also been Working Groups formed to deal with specific 'topics' or areas of key interest. These Groups consist of HBRC staff and members of the TANK collaborative Group and cover Community Engagement, Stormwater, Lakes and Wetlands, Economic Assessment, Mana Whenua and Water Augmentation. These working groups meet irregularly according to the issue being discussed, but the frequency of meetings has increased over the last year with some groups meeting more than monthly. Furthermore, the Group is also receiving advice from a Farmer Reference Group, which was set up to assist in understanding how the sediment management issues could be met. The Group has also attended a number of topic specific workshops and a number of field trips, including one with the Reference Farmer Group to hear about how the sediment management framework could operate.
22. It is the expectation of staff that the TANK Group will be in a position to provide those recommendations to the RPC in the form of a draft plan towards the middle of this year. This will include an assessment of where the Group formed consensus opinion and where it has not.

TANK Plan Change and RPC oversight

23. Committee members are no doubt aware that TANK plan change doesn't start from a blank canvas. The TANK plan change will need to be designed to fit amongst the RRMP's existing regulatory provisions and also alongside a number of existing national standards etc.
24. Previously, the RPC has agreed to have particular regard to any TANK outcome, if one emerges, and the Council has given a good faith undertaking to implement the recommendations of the TANK Group. This acknowledgement of the effort and recommendations of the TANK Group has been hugely motivating for members, and is certainly a position that the TANK Group will be concerned that Committee members take into account during the RPC's own decision making processes.

25. During these past 5 years, in excess of 20 verbal or written reports have been presented at RPC meetings, ranging from scientific presentations, discussions around the TANK/WCO process, and general updates on the process and progress being made under the collaborative framework.
26. All information and presentations given to the TANK Group since the beginning of 2016 has been publicly available on the Council's TANK webpage. In addition to the regular "Think Tank" updates and meeting records, all RPC members have had a standing invitation to attend all TANK meetings as active observers.
27. There will certainly be additional briefing papers and presentations to upcoming RPC meetings over the remainder of 2018 in relation to draft and proposed versions of the TANK plan change, plus associated documents like the section 32 evaluation report.

Consultation prior to public notification of a proposed plan change

28. There are requirements for the council to consult a range of specified organisations in the preparation of a plan change including the MfE, local authorities and tangata whenua through iwi authorities. These obligations have been met in a large part through the TANK collaborative process and the adequacy of this will be subject to RPC oversight. Discussion of plan change matters by the RPC alone does not constitute proper consultation with tangata whenua through iwi authorities.
29. Specifically in relation to consultation with iwi authorities, schedule 1 of the RMA further provides:

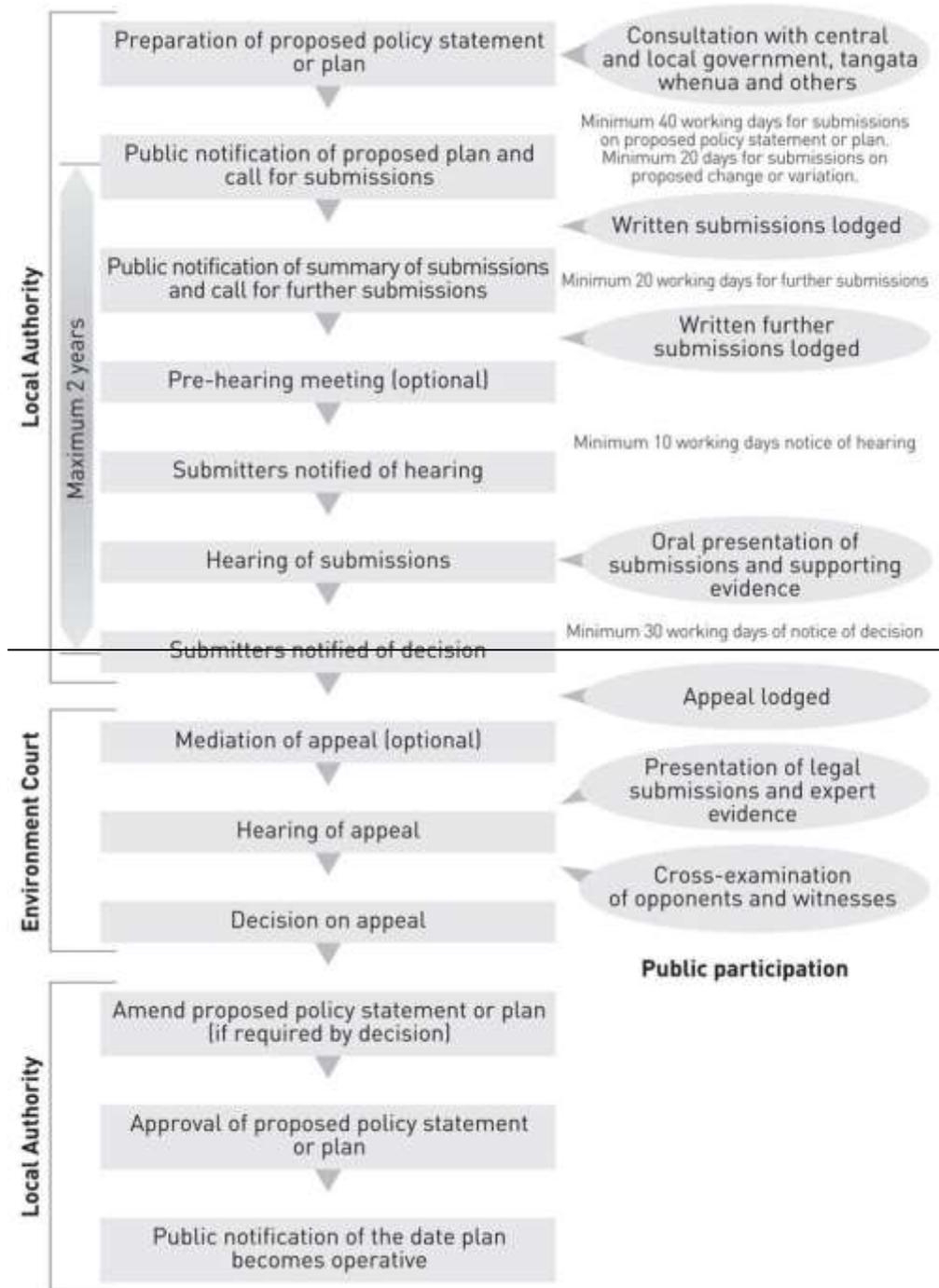
3B Consultation with iwi authorities

For the purposes of clause 3(1)(d), a local authority is to be treated as having consulted with iwi authorities in relation to those whose details are entered in the record kept under section 35A, if the local authority—

- (a) considers ways in which it may foster the development of their capacity to respond to an invitation to consult; and*
 - (b) establishes and maintains processes to provide opportunities for those iwi authorities to consult it; and*
 - (c) consults with those iwi authorities; and*
 - (d) enables those iwi authorities to identify resource management issues of concern to them; and*
 - (e) indicates how those issues have been or are to be addressed.*
30. It follows that the TANK mana whenua group's role in the collaborative process, supported by Council has enabled the TANK process to provide consultation and involvement by mana whenua in a way that meets the RMA's requirements. This is relevant not just in terms of the TANK Group's preparation of the draft plan change, but also in anticipation of the wider, RMA-mandated, consultation with iwi authorities. The more robust the wider tangata whenua involvement has been throughout the plan development, the less onerous the task in front of the affected Māori community.
 31. Figure 1 sets out the formal stages of a plan change pathway including indicative timeframes. In terms of context, the extensive TANK Group process to date is noted as being a comprehensive input into the first step of the much more formal proposed plan stages identified in Figure 1.
 32. Releasing a draft plan change for informal public feedback is an entirely optional action that councils can take. In the case of the TANK plan change, the Council will need to consider whether there is merit in undertaking any optional wider consultation on a draft Plan Change once it has been prepared by the Group or whether to skip directly to public notification of the plan change and the formal submission phases that follow. It would be premature to make that decision now, but the RPC will need to think about that choice in the next few months when the TANK Group's drafting and extent of consensus becomes clearer.
 33. Prior to notifying a plan change the Council must provide a copy of the relevant draft plan change to iwi authorities (those affected by the plan change). It is required to provide adequate time and opportunity for the iwi authorities to consider the draft Plan Change and provide advice on it (note this is a recently new clause under the RMA, Clause 4A, Schedule 1). There is no guidance of what 'adequate time' is under the RMA. Recent advice received from MFE officials indicates that the council itself is able

to determine what 'adequate time' is in the circumstances of any particular plan change. Prior involvement of tangata whenua and iwi authorities in the plan change preparation phases will no doubt have a strong bearing on the short or lengthy timeframe for inviting iwi authorities' comments on the draft plan change.

Figure 1 – formal stages and steps of a proposed plan change process by RMA Schedule 1.



The TANK Mana Whenua group

34. The TANK staff project team has recognised the on-going issues surrounding appropriate representation by mana whenua on the TANK group. The establishment of the TANK Group in 2012 was also at a time of change for Māori in the region, through Treaty settlements and the establishment of the RPC. Changes to TANK membership were made to ensure the relevant Treaty settlement entities and iwi authorities were given the opportunity to attend and also to ensure the plan change development and RPC member roles were properly recognised.

35. While some unresolved issues about mana whenua involvement around the table still remain, there has been wide acceptance of the need to provide the TANK project with the best available mana whenua input and involvement as possible.
36. The mana whenua TANK members have produced reports documenting values and attributes for surface water resources for the Ngaruroro and Tūtaekuri Rivers. The task involved holding a series of workshops, wananga, hui-a-hapu with mana whenua, to consolidate views and the values they held within various areas and reaches of the Ngaruroro and Tūtaekuri catchments. During these workshops the TANK plan change process was explained and key Maori concepts and values relating to the rivers were explored and agreed. Then specific areas where these values apply were discussed, researched and spatially prescribed. Attributes were confined to water quality and water quantity measures. This work complements but does not replace, the iwi/hapu management plans received by the Council relating to the TANK catchment area.
37. The TANK Mana whenua group has typically met before each TANK Group meeting to prepare for efficient collective engagement during the TANK stakeholder discussions. To avoid confusion with the role and mahi of mana whenua group not involved in the TANK project, the TANK Mana Whenua Group has renamed itself to become known as the TANK 'Treaty Partner Working Group.' Members of this group often engage with their 'parent' organisations. For example, the Heretaunga mana whenua engage with Te Runanganui ō Heretaunga to inform marae representative of progress and receive feedback on a six weekly basis. The TANK Treaty Partner Working Group meets regularly with HBRC project staff between TANK stakeholder meetings to progress and advance and progress the plan change.

Summary and next steps

38. Given the scale and complexity of the TANK catchment, its extreme degree of modification over many years (including the significant impact of urban environments), the competitive tension for access to and the use of natural resources, and the absolute significance of the cultural and spiritual values throughout the catchment, it must be noted that the first draft of the plan change, as reviewed and approved by the RPC, will be the subject of considerable local, regional and national scrutiny.
39. It is critical to emphasise that staff operate under the statutory obligations laid down by the NPSFM and which requires Council to advance a plan change to those address the challenges and issues around freshwater. The Council must manage our freshwater to provide for all the values which are listed as national values and they include compulsory values for ecosystem health and human health and a range of other values including; cultural, social, environmental, quality, health, availability and economic values. The NPSFM also requires management of freshwater in a way that considers and recognises Te Mana o te Wai. The NPSFM and Section 32 of the RMA both require that in developing the Plan there is also consideration of the impacts of any choices made and their implications for resource users and people and communities i.e. cannot simply let one interest group unreasonably dominate the plan change without creating an inevitability of lengthy and expensive appeals to the Environment Court.
40. Staff recognise that many stakeholders (including RPC members) are anxious and impatient for Council to progress the necessary changes to its regional management and planning frameworks (via the likes of the Tukituki and TANK plan changes) so that the communities' aspirations, as manifested in national policy instruments like the NPSFM, can be implemented at ground level. In this regard the importance of the role of the RPC in progressing this and other NPSFM plan changes cannot be understated, because these types of regional plan changes are fundamental to setting out clear policy direction for the Council's functions under the RMA.
41. Staff have the highest regard for the effort, commitment and outputs of the TANK Group and firmly believe the combination of the Group's expression of the breadth of community values, together with their own expertise in land and water science, ecology, land management, consenting, regulatory and planning (which should also not be underestimated) will result in a reasonably robust first draft for the RPC's consideration.

Upcoming matters for RPC's consideration

42. In terms of upcoming RPC meetings, staff anticipate further briefing papers will be presented covering a number of matters, including:
 - 42.1. options about whether it proceeds to formal public notification, limited circulation of a draft plan change or some far wider release of the draft plan change for general public feedback
 - 42.2. TANK Group's recommendations
 - 42.3. section 32 evaluation report
 - 42.4. implementation action planning
 - 42.5. releasing a draft plan change and seeking the view of iwi authorities
 - 42.6. mandatory consultation requirements with iwi authorities, local authorities and certain Ministers of the Crown, etc
 - 42.7. options for public notification, submission timeframes, and arrangements for the hearing phase of the plan change process.

Decision Making Process

43. 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 "Pathway to draft TANK plan change adoption by RPC" staff report.

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Attachment/s

There are no attachments for this report.

HAWKE'S BAY REGIONAL COUNCIL

REGIONAL PLANNING COMMITTEE

Wednesday 21 March 2018

Subject: DISCUSSION OF ITEMS OF BUSINESS NOT ON THE AGENDA

Item 13

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.		