



Meeting of the Regional Planning Committee

Date: Wednesday 12 December 2018

Time: 1.00pm

Venue: Council Chamber
Hawke's Bay Regional Council
159 Dalton Street
NAPIER

Agenda

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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 Incorporated
Nicky Kirikiri	Te Toi Kura o Waikaremoana
Jenny Nelson-Smith	Heretaunga Tamatea Settlement Trust
Joinella Maihi-Carroll	Mana Ahuriri Trust
Apiata Tapine	Tātau Tātau o Te Wairoa
Matiu Heperi Northcroft	Ngati Tuwharetoa Hapu Forum
Peter Paku	Heretaunga Tamatea Settlement Trust
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 (physically present in the room).

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 present and voting 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 12 December 2018

Subject: FOLLOW-UPS FROM PREVIOUS REGIONAL PLANNING COMMITTEE MEETINGS

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:

**Annelie Roets
GOVERNANCE ADMINISTRATION
ASSISTANT**

Approved by:

**James Palmer
CHIEF EXECUTIVE**

Attachment/s

[1](#) Follow-ups for 12 December 2018 RPC meeting

Follow-ups from Previous Regional Planning Committee Meetings

Meeting held 31 October 2018

	Agenda Item	Action	Responsible	Status Comment
1.	TANK (PC9) Plan Change and Decisions on Plan Change matters	Provide Napier City Council's timeframe for development of drinking water source protection zone maps for NCC's municipal water supply abstraction points.	T Skerman	Tom Skerman to follow up with NCC to clarify NCC's expected timeframes for mapping work.
2.	TANK (PC9) Plan Change and Decisions on Plan Change matters	Provide further update on preparation of the s32 evaluation report to next RPC meeting in December.	T Skerman	Update on 12 December RPC meeting agenda

Meeting held 12 September 2018

	Agenda Item	Action	Responsible	Status Comment
3.	RMA Policy Planning Projects Update	Taharua / Mohaka Catchment plan change (PC8) update to be provided to 12 December RPC meeting as part of the RMA Policy Planning Projects Update item	G Ide	Update on 12 December RPC meeting agenda.

HAWKE'S BAY REGIONAL COUNCIL

REGIONAL PLANNING COMMITTEE

Wednesday 12 December 2018

Subject: CALL FOR ITEMS OF BUSINESS NOT ON THE AGENDA

Reason for Report

1. Standing order 9.12 states:

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

- (a) *the reason the item is not on the agenda; and*
- (b) *the reason why the discussion of the item cannot be delayed until a subsequent meeting.*

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

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

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

Recommendations

1. That the Regional Planning Committee accepts the following “Items of Business Not on the Agenda” for discussion as Item 14.

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

Item	Topic	Raised by
1.		
2.		
3.		

**Leeanne Hooper
PRINCIPAL ADVISOR GOVERNANCE**

**Tom Skerman
GROUP MANAGER
STRATEGIC PLANNING**

HAWKE'S BAY REGIONAL COUNCIL**REGIONAL PLANNING COMMITTEE****Wednesday 12 December 2018****Subject: TANK PLAN CHANGE (VERSION 8) RECOMMENDATION TO COUNCIL****Reason for Report**

1. This report is one of three reports related to the TANK Plan Change (PC9) to be considered by the Committee at this meeting.
2. This report completes the final details of the draft TANK Plan Change so that the RPC can make decisions about the next stage of the plan preparation process in respect of pre-notification consultation. The report addresses a number of minor and consequential amendments, and completes previous direction by the Committee and a couple of unfinished aspects in relation to Schedules 1 and 2 water quality objectives. More comprehensive detail in respect of these issues is provided in the attachments and the material included there will support the plan development.
3. The two other reports on this RPC meeting agenda provide further advice about pre-notification consultation, and an update on progress of the supporting documents (i.e. the Section 32 evaluation report, and the Monitoring and Implementation Plans).
4. This report provides background information about remaining issues, outlines options and makes recommendations. There are a number of editorial and minor amendments also being included to ensure the Plan is internally consistent and provides the clarity necessary.
5. The amendments are included in the TANK Draft Plan Change Version 7 attached to this report (Attachment 6) and shown as tracked changes. The water quality and quantity management planning maps are also included. Once the Committee has made its decisions on these matters, then this version will be rewritten as 'Version 8' of PC9.
6. A separate report in this RPC meeting agenda provides further commentary in respect of the pre-notification consultation for Version 8 and associated 'next-steps'.
7. This report contains information about the following topics. Each issue is provided in summary form, along with any options that were considered. Attachments provide more detailed description for some of the issues. The draft TANK Plan Change in Attachment 6 includes the necessary amendments (shown as tracked changes) to reflect the recommended direction.
 - 7.1. Part 1. High flow allocation for Maori wellbeing (Attachment 1)
 - 7.2. Part 2 Completed Schedule 1 and 2 for freshwater, estuary ecosystems (Attachment 2)
 - 7.3. Part 3 Completed Schedule 1 groundwater (Attachment 3)
 - 7.4. Part 4 Final risk matrix for stormwater
 - 7.5. Part 5 Drinking water quality protection (Attachment 4)
 - 7.6. Part 6 Minor and consequential amendments (Attachment 5)

Part 1: High Flow Allocation for Maori wellbeing

8. The allocation of water for taking at times of high flow for storage and use for activities that improve Māori economic, social and cultural well-being was recommended by TANK as a concept for further consideration and development by the RPC. The background to the issue and a description of the issues and possible management solutions is covered in more detail in Attachment 1. Note that a legal opinion has been recently sought by staff, but not yet received in relation to these draft provisions.

9. The options and costs and benefits for managing allocation of water available at times of high flow that have been considered are summarised below;

Table 1 - Options for Managing High Flow Allocation for Māori Development

OPTIONS	BENEFITS	COSTS
1. Status quo (allocation of high flow allocation water on a first in time priority order)	Continues historic approach to water. First application will be processed and decided on according to plan requirements in the order it is received.	Prevents any allocation for any preferred end use activities.
2. Allocate a percentage of the allocatable volume for Māori development. Include policy and rules in the plan.	Enables access to future water resources for specified activities Addresses historic inequities in relation to access to water Specifically enables improvement of Māori economic, cultural and social well being	An application (for an activity that does not directly improve Māori values) that might otherwise meet plan requirements is not able to be made for a portion of the available water. A legal opinion on whether the provisions are within the RMA is pending.
2a Allocate a percentage of the allocatable volume for Māori development. Await a jointly prepared IHMP to guide necessary policy and rules	Has advantage of being driven by local iwi/hapū who could identify thresholds and criteria that guide decisions about what satisfies 'Māori development'	Process not managed by Council. Could take a long time to prepare and derail TANK plan change process. Assumes a jointly prepared plan is possible and desired by Māori organisations

10. The changes to objectives, policies and rules that would give effect to option 2 are outlined in more detail in Attachment 1 and are contained within the draft Plan Change in Attachment 6. This includes a high flow allocation provisions for the Tūtaekurī River.
11. The details of these provisions can be further consulted on with Māori organisations in respect of some definitional and process issues that have been identified as part of the pre-notification consultation.

Part 2: Completion of Schedule 1 and 2

Freshwater (surface); Schedule 1 Amendments

12. Schedule 1 of the draft TANK PC9 contains the freshwater quality objectives for the attribute states necessary to enable the needs of the waterbody values to be met. They apply spatially through planning maps and management areas that reflect land use and ecosystem type.
13. Amendments to some of the attributes are recommended. The changes reflect additional data or new development of new guidelines as part of the NPSFM objectives framework. This applies to the objectives for pathogens and temperature.
14. The change to water clarity provides for consistency with the overall direction to ensure water quality meets the needs of the identified values. The trout fishery is highly valued in both the lower mainstem and tributaries.
15. Further information about these changes is provided in Attachment 2.
16. It is also recommended to include additional attribute objectives for; pH, BOD (a measure of oxygen demand) and heavy metals and metalloids, pesticides and organic contaminants, radioactive contaminants.
17. For these attributes, there is little current state information or information about relevant guidelines for the identified values. However, they are particularly relevant for managing point source discharges in relation to their impact on freshwater values. These objectives will be applied to the assessment of applications for contaminant discharges.

18. The changes to Schedule 1, as further described in Attachment 2, are recommended to be included in the Plan Change. They are inserted as tracked changes in Attachment 6.

Completion of Schedule 2

19. Schedule 2 does not have a regulatory function in PC9. It is not a statutory requirement and is an optional provision. However it is being recommended for inclusion because it satisfies cultural and social needs for a long term and more integrated approach to the way freshwater is managed. Schedule 2 will also provide additional direction for the monitoring and research efforts of the Council. This is particularly relevant for the integration of freshwater and estuary ecosystems.

Schedule 2 Freshwater (surface)

20. Some sites within each management unit currently have a higher water quality state than provided for in the Schedule (the plan requires that current state is maintained if it is already above the specified value in Schedule 1). Because it is possible for water quality to be higher than specified for the various values, Schedule 2 provides a signal that further improvement to existing state for some freshwater bodies to a higher water quality state is envisaged. There are additional costs involved in meeting a higher water quality standard, so it is expected that measures to meet these higher standards and the costs and benefits of this will be assessed in a future plan change process.
21. Further detail about this component of PC9 is provided in Attachment 2 and the recommended changes are incorporated into the draft Plan Change in Attachment 5.

Schedule 2 Estuary

22. Although not directly part of the TANK project scope, the Group also accounted for the freshwater impacts on both the Ahuriri and Waitangi estuaries. They undertook to understand what estuary values were likely affected by freshwater quality inputs. They were also subject to NPSFM requirements to provide for the integrated management of the effects of land use and development on coastal water. The Group recognised the Ahuriri Estuary in particular as a site of ecological, cultural and recreational significance.
23. The Group also acknowledged that the estuary health was not good and some ecosystem health indicators are trending downwards.
24. The key value sets for the estuary recognised by the TANK Group as pivotal in terms of the impact of freshwater inputs were;
 - 24.1. use of the estuaries for a wide range of recreational activities, including swimming and boating,
 - 24.2. food gathering
 - 24.3. aquatic ecosystem health.
25. Schedule 1's objectives for the freshwater quality inputs will, in part, provide for the health of the estuaries. Improved freshwater quality will have a beneficial effect on the estuary state.
26. It is recommended that further acknowledgement of the estuary also be provided. The water quality attributes in Schedule 2 will guide understanding about the state of estuary health and underpin monitoring programmes. More detail about how these attributes and their recommended states were developed is provided in Attachment 2 and the report: Proposed Trigger Levels for TANK Estuaries: Waitangi and Ahuriri Estuaries.
27. The options considered were;
 - 27.1. Wait until the coastal plan is reviewed and address estuary water quality objectives then. - This allows a regional view to be taken of estuary management. However, note that in the longer term it will be recommended that the coastal plan become integrated with the RRMP;
 - 27.2. Add estuary ecosystem provisions within PC9 as directions for monitoring and reporting estuary health in relation to freshwater impacts.

28. Content for Option 2 has been provided in the draft plan change. This is because each estuary is impacted by freshwater management decisions and could also be managed within the freshwater management context of the applicable catchments. This approach clearly signals the need to consider coastal environments when managing freshwater quality. These Schedule 2 provisions are likely to be eventually incorporated into a single plan in any case. The changes that would give effect to this option are outlined in more detail in Attachment 2 and are contained within the draft Plan Change in Attachment 6.

Part 3: Groundwater; Schedule 1

29. The TANK Group received information about groundwater quality and considered the values and potential attributes that could be used. However, a lack of time and a cross over with the work of the Joint Drinking Water Working Group meant that attributes or objectives for attribute states in relation to groundwater were not finally decided upon by the TANK Group. (Attachment 3 provides more background information).
30. The groundwater attributes considered by the TANK Group for including into Schedule 1 are *E. coli*, nitrate nitrogen, and chemical contaminants (including pesticides). The ‘critical values’ for setting the objective for each of the attributes were drinking water in relation to bacteria (*E.coli*) and chemical contaminants such as pesticides. National drinking water quality standards (DWSNZ) are used to ensure management of groundwater for drinking water in relation to these attributes.
31. Irrigation water and the aesthetic qualities for drinking water are also affected by natural sources or characteristics, including iron, arsenic and hardness. These attributes are related more to geology and natural causes meaning that they cannot be directly managed by Plan provisions. They are still relevant considerations when making decisions about resource consents to discharge. They are therefore provided in Schedule 1 to guide decisions about contaminants in discharge activities through a resource consent process.
32. While dissolved nitrate levels can pose a risk to human health, the level at which this occurs is much higher than the levels at which aquatic ecosystem health is put at risk. Levels for ecosystem health are determined using ecosystem health guidelines such as the ANZECC guidelines.
33. The role of water age in managing groundwater was discussed but, while water age across the aquifer may be affected by activities such as water abstraction, there is still uncertainty about the nature of this relationship, and use of water age as an attribute presently poses challenges in relation to cost effectiveness and practicality, existence of data and implications for management.

Table 2 - Options for managing groundwater quality

OPTIONS	BENEFITS	COSTS
1. Remain with the status quo	The RPS has a ‘no degradation’ direction and the RRMP includes environmental guidelines referencing this and the NZ Drinking Water Quality Standards	The existing provisions lack specificity and are open to interpretation
	These provisions provide guidance for managing new applications for contaminant discharges	The existing provisions are less helpful in managing cumulative impacts from diffuse contamination or understanding whether they are required to be managed. This approach does not address the ground/surface water connection or the impact on estuary environments.

OPTIONS	BENEFITS	COSTS
2. Include specific water quality standards for groundwater related to the needs of identified values.	Consistent with the approach taken for surface water	
For both options 1 and 2 there is no spatial differentiation for the groundwater and the water quality objectives apply to all groundwater – with some exceptions according to depth and to naturally occurring groundwater quality.		

34. The changes to Schedule 1 that would give effect to Option 2 are outlined in more detail in Attachment 3 and are contained within the draft Plan Change in Attachment 6.

Part 4: Stormwater

35. At the RPC meeting on 31st October, the Committee received information about changes to the stormwater policies following their instructions to be more specific about outcomes and actions within specified timeframes. Those amendments are reflected as tracked changes in Version 7 (Attachment 6).
36. At that time, there was further work required to determine the regulatory regime for land use and stormwater discharge activities that have a higher risk of causing contamination of stormwater.
37. A risk assessment matrix that enables a ranking to be applied to an activity has now been prepared. The matrix is based on a similar tool used by the United States Environmental Protection Agency, and will aid in determining the consenting requirements according to the level of risk. The matrix is now incorporated into Version 7 of PC9 as a checklist. As reported to RPC, the matrix covers off a number of factors including:
- 37.1. types of activities carried out
 - 37.2. proximity to source protection zone or provisional protection zone
 - 37.3. stormwater treatment practices onsite
 - 37.4. physical conditions of the premises or buildings.
38. The risk matrix and associated rules are now incorporated by tracked changes in Attachment 6.

Part 5: Drinking Water Quality Protection

39. Also at the 31st October RPC meeting, the Committee was presented with the recommendations of the Joint Working Group (JWG) on Drinking Water Safety regarding rules and policies for drinking water in the draft TANK Plan Change. To briefly recap, the JWG were asked by the wider TANK Group to act as a working group charged with investigating options for protecting drinking water under the plan. Their work investigated:
- 39.1. identification of key risk activities in catchments
 - 39.2. potential strengthening of current permitted activity rules (in order to assess if they were fit for purpose in the context of protection for registered drinking water sources)
 - 39.3. use of source protection zones (SPZs) and provisional protection zones (PPZs).
40. Subsequently, the JWG prepared a number of draft objectives, policies and rules on the basis that it provided improved source protection for registered drinking water supplies within the TANK catchment area. Those registered supplies service 77% of the region's population, and including policies for source protection would provide decision makers with the ability to have greater visibility as to activities occurring in source protection zones that could potentially pose risks to the water sources of registered drinking water supplies.

41. The RPC meeting on 31 October was attended by several members of the JWG. Those members were able to present maps of SPZs for the Hastings urban supply which demonstrated the affected areas. With regards to Napier, it is understood that they are in the process of developing SPZs for their water supply abstraction points and that SPZ mapping work will be completed in March 2019.
42. A substantial discussion took place at the RPC's 31 October meeting on the practical implications of these SPZs on existing activities. There was a desire to understand and to quantify how land use activities would be affected and what those activities were. Furthermore, RPC members expressed the view that information was required to better understand the costs for those affected. To that end, staff advised that further analysis on these matters would be addressed in the section 32 evaluation reporting (currently being undertaken by Mitchell Daysh Limited).
43. Further work is also being undertaken by the Council's hydrological science team using the Integrated Surface and Groundwater Model for the Heretaunga Plains to better understand water movement and pathways within and into the aquifer and better understand risks to groundwater quality. An overview of this new modelling is described in a memo to the Committee (Attachment 4). The findings of this work will be presented to the JWG in more detail for discussion on 11 December (one day prior to the RPC's own meeting on 12 December). Any further advice or recommendations received from the JWG in respect of the SPZs and or the Integrated Surface and Groundwater Model for the Heretaunga Plains will be presented verbally to the RPC.
44. It is recommended that any decisions on the extent of the SPZs be subject to the further consideration and advice from the Joint Working Group.

Part 6: Minor Amendments and Corrections

45. Draft Plan Change Version 7 is provided in Attachment 6. It contains amendments (as tracked changes) that would give effect to the previous directions of the Committee and to incorporate the final provisions outlined in this paper and its attachments.
46. In addition to the changes described in Parts 1-5 above, a number of amendments have also been made to ensure clarity and consistency within the draft plan change. These are also shown as tracked changes. A summary of the changes that have some material effect along with a short explanatory statement is provided in Attachment 5.

Strategic Fit

47. The TANK plan change is necessary as a result of direction of the National Policy Statement for Freshwater Management 2017 and the Council's progressive implementation programme to give effect to the NPSFM.
48. The Council adopted a collaborative or community decision making approach to the preparation of the Plan Change and the RPC has made additional decisions in respect of non-consensus or incomplete items.
49. The water and land management provisions for the TANK catchments in the attached draft plan change reflect the collaborative process. The provisions are now subject to wider tangata whenua, stakeholder and community feedback and submissions as the plan change process enters the next stage of the plan process.

Considerations of Tangata Whenua

50. There has been involvement by tangata whenua throughout the preparation of this draft Plan Change and further consultation via iwi authorities on draft PC9 prior to notification is required by the RMA. Also refer to the separate report in this RPC meeting agenda regarding pre-notification consultation steps.

Financial and Resource Implications

51. The development of the TANK Plan Change has been provided for in existing budgets.
52. The implementation of the plan change will also require a change to some Council resources, including staff resources and subsidies, and some council functions may also require review. Implementation is covered in more detail in a separate report to be

received at this meeting. Further reporting on the financial and resource implications will be made to the Committee as the plan change is further developed.

Decision Making Process

53. 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:
 - 53.1. The decision does not significantly alter the service provision or affect a strategic asset.
 - 53.2. The use of the special consultative procedure is not prescribed by legislation.
 - 53.3. The decision does not fall within the definition of Council's policy on significance.
 - 53.4. The persons affected by this decision are all those people with an interest in how water is managed in the TANK catchments. The consultation and notification pathway for this draft (and reported on separately) will account for those interests.
 - 53.5. The decision is not inconsistent with an existing policy or plan.
 - 53.6. 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

1. That the Regional Planning Committee:
 - 1.1 receives and notes the staff report; **TANK Plan Change (PC9 Version 8)**.
 - 1.2 **considers making** an in-principle decision about the spatial extent of the SPZ for the draft TANK Plan Change 9 following a verbal report of the findings from the Drinking Water Joint Working Group.
 - 1.3 **Agrees** that the Draft TANK Plan Change 9 as provided in attachment 6 and subject to any directions for amendments by the Committee, be recommended to the Council for adoption as a draft for targeted consultation with relevant iwi authorities, territorial local authorities, and relevant Ministers of the Crown.
 - 1.4 **Recommends that Council:**
 - 1.4.1 Agrees that consultation should commence early in 2019, and
 - 1.4.2 Agrees to provide for a consultation period of six weeks.

Authored by:

Mary-Anne Baker
SENIOR PLANNER

Gavin Ide
MANAGER POLICY AND PLANNING

Approved by:

Tom Skerman
GROUP MANAGER STRATEGIC
PLANNING

Attachment/s

- | | | |
|--------------------------|--|----------------------|
| <u>1</u> | Maori High Flow Water Allocations | Under Separate Cover |
| <u>2</u> | Schedules 1 and 2 for Freshwater and Estuaries | Under Separate Cover |

Item 6

<u>3</u>	Schedule 1 Groundwater	Under Separate Cover
<u>4</u>	Memo re SPZ Modelling	Under Separate Cover
<u>5</u>	Minor and Consequential Amendments	Under Separate Cover
<u>6</u>	TANK Draft Plan Change December 2018	Under Separate Cover
<u>7</u>	Map 1 Ahuriri Freshwater Management Unit	Under Separate Cover
<u>8</u>	Map 2 Heretauga Plains Groundwater Management Unit	Under Separate Cover
<u>9</u>	Map 3 Karamu Poukawa Freshwater Management Unit	Under Separate Cover
<u>10</u>	Map 4 Ngaruroro Freshwater Management Units	Under Separate Cover
<u>11</u>	Map 5 Tutaekuri Freshwater Management Unit Quantity	Under Separate Cover
<u>12</u>	Map 6 Priority Catchment Nitrate Yield Dec 18	Under Separate Cover
<u>13</u>	Map 7 Priority Catchment Sediment Loss Dec18	Under Separate Cover
<u>14</u>	Map 8 Priority Catchments Total Nitrogen Concentration	Under Separate Cover
<u>15</u>	Map 9 Karamu Poukawa SWMU Quality	Under Separate Cover
<u>16</u>	Map 10 Ngaruroro SWMU Quality	Under Separate Cover
<u>17</u>	Map 11 Ahurir iSWMU Quality	Under Separate Cover
<u>18</u>	Map 12 Tutaekuri SWMU Quality	Under Separate Cover

HAWKE'S BAY REGIONAL COUNCIL

REGIONAL PLANNING COMMITTEE

Wednesday 12 December 2018

Subject: TANGATA WHENUA REMUNERATION REVIEW

Purpose of Report

1. This report responds to a request from the Regional Planning Committee (RPC) tāngata whenua Co-Chair and Deputy Co-Chair that the level of the current remuneration for tāngata whenua representatives on the RPC be reconsidered due to concerns about workload and inequity with councillor remuneration.

Staff Recommendation

2. Staff recommend that the Committee discuss remuneration for tāngata whenua members of the Regional Planning Committee and if appropriate recommend to the Council that it instruct the Chief Executive to contract an independent organisation with relevant industry specific experience to conduct a review of the remuneration.

Background

3. An independent review of tāngata whenua remuneration was undertaken in 2017, which resulted in the current remuneration regime, being on a per annum salary replacing the previous remuneration arrangement which was on a 'per meeting' basis. This review fed into the 2018-2028 Long Term Plan budgets and remuneration for tāngata whenua members of the Regional Planning Committee was reset by Council from 1 July 2018 at \$12,000 per annum per member, \$18,000 for the Deputy Co-Chair and \$24,000 for the Co-Chair. This level of remuneration was an increase from the previous remuneration of \$400 per meeting, with approximately 16 meetings per annum (8 RPC meetings and 8 tāngata whenua hui). Despite this increase some tāngata whenua members have expressed concern about the methodology used by the previous reviewer, particularly the remuneration comparison with a senior policy analyst.

Consideration of the governance role

4. The Hawke's Bay Regional Planning Committee Act requires the Committee to adopt Terms of Reference which include "*a procedure for determining the remuneration to be paid to tāngata whenua members and reimbursement of their expenses*". The changes made earlier this year were progressed despite updated Terms of Reference for the Committee not having been agreed.
5. The comparison between the role of the RPC tāngata whenua members and councillors raises some issues that require careful consideration. Councillors are primarily accountable to the electors of the Region through the democratic processes set out in the Local Government Act. Before taking office after election, each declares that he or she will "*faithfully and impartially, and according to my best skill and judgment, execute and perform in the interests of the Hawke's Bay Region the statutory powers, authorities and duties vested in or imposed upon me as a member of the Hawke's Bay Regional Council*".
6. As a councillor for HBRC, during the 2017-18 financial year, each was expected to prepare for (pre-reading of Agendas and reports) and to attend 49 formal Council meetings, including:
 - 6.1. 17 Regional Council meetings (shortest 4 hours, longest 8 hours)
 - 6.2. 20 Environment & Services, Corporate & Strategic and Regional Planning committee meetings
 - 6.3. 12 workshops for development of the LTP, Capital Structure Review, investment manager selection and Napier Port capital funding consultation.

7. Most councillors also serve on a number of additional cross-council Committees, such as HPUDs, Coastal Hazards, Drinking Water, and attend other formal meetings with the community held by the council or other stakeholders. Each councillor represents not only the members of their constituency (between 8220 and 20,850 each), but also takes an oath to consider the best interests of the region as a whole.
8. RPC tāngata whenua members are appointed by their own Treaty Settlement entity and are accountable to that entity. Their reporting and consultation activities outside of the Committee and associated hui are not formally reported to Council and so there is currently limited visibility of the extent of duties. A further independent review could investigate the extent of this.

Issues

9. Some concern have been expressed by several RPC tāngata whenua members, including the Co-Chair and Deputy Co-Chair, about the current remuneration arrangements and that this is not comparable to councillors. Staff believe these concerns need to be discussed by the Committee as the current dissatisfaction is a distraction to the effective functioning of the Committee.

Conclusions and Next Steps

10. Should the Committee recommend that a further review of tāngata whenua remuneration to undertaken and the Council agrees, the HBRC Chief Executive will engage an independent organisation with strong experience in remuneration matters for governance roles. The provider will be asked to consider parity with councillor and look at the previous review, examine such things as the number of Council and Committee meetings, volume of papers as examples and weigh these up and provide their feedback accordingly. The findings will be shared with this Committee and Council in due course and any subsequent budget changes can be addressed in the 2019/20 Annual Plan.

Decision Making Process

11. 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:
 - 11.1. The decision does not significantly alter the service provision or affect a strategic asset.
 - 11.2. The use of the special consultative procedure is not prescribed by legislation.
 - 11.3. The decision does not fall within the definition of Council's policy on significance.
 - 11.4. The persons affected by this decision are the tāngata whenua members of the Regional Planning Committee and the treaty settlement entities they represent as well as the region's ratepayers.
 - 11.5. The decision is not inconsistent with an existing policy or plan.
 - 11.6. 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 "**Tangata Whenua Remuneration Review**" staff report.
2. recommends that the Council instruct the Chief Executive to commission an independent review of the remuneration of RPC tāngata whenua members to consider the issues outlined in this paper.

Authored by:

**Joanne Lawrence
GROUP MANAGER OFFICE OF THE
CHIEF EXECUTIVE AND CHAIR**

Approved by:

**James Palmer
CHIEF EXECUTIVE**

Attachment/s

There are no attachments for this report.

HAWKE'S BAY REGIONAL COUNCIL

REGIONAL PLANNING COMMITTEE

Wednesday 12 December 2018

Subject: RPC PERFORMANCE REVIEW - SUMMARY OF FEEDBACK FROM APPOINTERS

Reason for Report

1. This paper was presented at the previous Committee meeting was not formally considered for lack of a Quorum.
2. Staff believe it is appropriate procure a supporting resolution of the Committee to formally conclude the review.
3. **NOTE –** Discussion at the previous meeting indicated that the Committee:
 - 3.1. Agreed that statutory obligation in respect of the review had been discharged by the Appointers; and
 - 3.2. Agreed that statutory discretion for the Appointers to provide feedback on matters arising from the review should be led by HBRC's Te Pou Whakarae.
4. Accordingly, the previous paper is not reproduced in full.

Background

5. Section 10(2) and 10(3) of the Schedule to the Hawke's Bay Regional Planning Committee Act (the Act) provide (emphasis added):

10 Reporting and review by RPC

(2) Appointers—

- (a) **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; and
- (b) may undertake any subsequent review of the RPC at a time agreed by all appointers.

(3) Appointers **may**, following a review, make recommendations to the RPC on relevant matters arising from the review.

6. This paper differentiates between the compulsory requirement for Appointers to undertake a review of the RPC and the discretionary option for Appointers to make recommendations to the RPC.
7. The 3 year timeframe required the review to be undertaken prior to 16 September 2018.
8. Councilors met on 6 June to debate and collate Council's feedback in its capacity as an Appointer under the Act. As at 31 October 2018 formal responses were received from Tuhoe Te Uru Taumatua and Ngati Pahauwera.
9. Because the legislation provides no guidance or direction on the form or process of the review, staff believe it is open to the Appointers to conclude that the statutory obligation laid down by s10(2)(a), i.e. the fact of undertaking a review, has been discharged.

Section 10(3) Appointer Recommendations to the RPC

10. As noted above, the Appointers "may, following a review, make recommendations to the RPC on relevant matters arising from the review."
11. Currently, HBRC's Te Pou Whakarae is meeting with the PSGE Chairs and Councilors in their capacity as Appointers to discuss the review and seek guidance on any recommendations.

12. Without in any way pre-empting what (if any) formal recommendations will be made by Appointers, it should be noted that the Act provides little or no guidance on how any such recommendations are to be agreed or progressed in the absence of unanimous agreement by all Appointers and/or outside of the current decision making process within the Committee itself.

Decision Making Process

13. 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 that, as this report is for information only, the decision making provisions do not apply.

Recommendations

1. That the Regional Planning Committee receives and notes the "**RPC Performance Review – Summary of Feedback from Appointers**" staff report.
2. That the Regional Planning Committee resolves that the HBRPC Act Section 10(2)(a) review of the performance of the RPC has been completed.

Authored by:

Tom Skerman
GROUP MANAGER STRATEGIC
PLANNING

Approved by:

Tom Skerman
GROUP MANAGER STRATEGIC
PLANNING

Attachment/s

There are no attachments for this report.

HAWKE'S BAY REGIONAL COUNCIL

REGIONAL PLANNING COMMITTEE

Wednesday 12 December 2018

Subject: REQUEST FROM THE TUKITUKI WATER TASKFORCE

Reason for Report

1. On 20 November 2018, HBRC received a letter (Attachment 1) from the Tukituki Water Taskforce addressed to the Regional Planning Committee which included the following request.

“....[t]hat the Hawke's Bay Regional Council's Regional Planning Committee urgently reconsider 2018 operative dates for increased minimum flows within the Tukituki Plan to provide two summers (2018-2019 and 2019-2020) to allow the taskforce to work with the community and the Ruataniwha science programme to create a transitional plan for summer water security, subject to Tranche 2 consents being publically notified, to meet Plan Change 6 by 2023.”

2. The letter was signed by all members of the Taskforce.
3. Subsequently, on 23 November, HBRC received a letter from the national office of Forest and Bird (Attachment 2) expressing a range of concerns about their local member's support for the Taskforce position above.
4. This report provides Committee members with an opportunity to consider the Taskforce's request and provide guidance to staff on next steps.

Discussion

5. At the core of the issue is the belief by members of the Tukituki community that it was not unreasonable for the community to place reliance on the alternative water security arrangements available through the proposed Ruataniwha Water Storage Scheme, and that the demise of the scheme in mid-2017 did not provide the community with sufficient time to sensibly and coherently transition to the new PC6 minimum flow regime that was hard-wired to commence in 2018.
6. That new flow regime is now also embedded in the relevant water permits as consent conditions.
7. The Committee has previously considered matters relating to a possible deferral of the Tukituki minimum flows regime on 1 November 2017 and 7 February 2018.
8. HBRC established the Taskforce in conjunction with CHBDC in September 2018 as a community stakeholder group convened to better understand the freshwater quantity issues in the Tukituki catchment, particularly in relation to:
 - 8.1. HBRC current analysis and science programme for the Ruataniwha aquifer
 - 8.2. the impacts of groundwater takes on domestic bores
 - 8.3. the impact of minimum flows on direct and connected (surface) takes
 - 8.4. The opportunities for water sharing and scheduling amongst irrigators to alleviate the impacts of the first step up in the minimum flow.
9. The Taskforce is also tasked with developing solutions to these issues.
10. At its 20 November meeting, members of the Taskforce expressed the view that the immediacy of the imposition of the minimum flow regime created a risk of a “crisis response” – i.e. the need to focus on individual short-term solutions to the detriment of more enduring and collective or community driven outcomes. To this end a discussion and debate amongst the stakeholder's present at the meeting which resulted in the letter presented as Attachment 1.

11. For the record, the first attempt at a resolution failed to secure the Taskforce members' unanimous support until the following revisions were made.
 - 11.1. The original resolution requested a delay in the introduction of the first step-up of the minimum flow until 2023, but this was reduced to "two summers"
 - 11.2. The resolution was required to be "subject to" Tranche 2 consents being publicly notified.
12. Note that it is the intention of the resolution to reinforce that the second step up in the minimum flows scheduled for 2023 remains locked in.

Letter from the Forest and Bird National Office

13. The letter from Forest and Bird's National Office accurately sets out matters relating to:
 - 13.1. the Taskforce's Terms of Reference
 - 13.2. statements that the Taskforce was not intended to be a policy development group
 - 13.3. The impossibility (and suggested impropriety) of a "deal" in relation to notification of Tranche 2 consents.
14. In relation to para 10.2 of that letter, staff can only comment on the Taskforce's discussion that the request being made to this Committee is not so much focussed on advancing a new policy agenda, but instead is about the removal of a short-term obstacle to achieving better policy outcomes.
15. In relation to para 10.3 of Forest and Bird's letter, staff understand and agree with Forest and Bird's position in relation to the statutory notification process for the Tranche 2 consent applications and the importance of neither interfering nor pre-empting that statutory decision-making process. However, staff note that the Taskforce's resolution simply records that the members' collective request to this Committee is "...subject to the Tranche 2 consents being publicly notified." Whether or not these consents are publicly notified or not remains a decision for the future according to proper process – a process that is not within scope of the RPC's terms of reference to decide upon. Nevertheless, that does not, in staff's view, prevent the Committee responding to the request from the Taskforce regarding effective dates for minimum flows in the Regional Resource Management Plan (RRMP).
16. In subsequent correspondence, Forest and Bird's National Office has expressed a willingness to engage in a discussion about alternative options that would secure its support for minimum flow deferrals, such as including the removal of the entire Tranche 2 allocation in the plan change. This will no doubt be a matter for further discussion within the Taskforce itself.

Feedback sought from the Committee:

17. The Taskforce is requesting that the Committee revisits staff's earlier (Nov 2017) recommendation to prepare a narrow plan change and seeks only to defer the introduction of the first step up in the Tukituki minimum flows. At the November 2017 meeting, a similar staff recommendation to do that was not passed by the Committee.
18. The nature of the Taskforce's request suggests that a narrow plan change deferring the minimum flow for 2 years should only be progressed in the event that the Tranche 2 consent applications are themselves publicly notified. It follows that the Committee could either:
 - 18.1. decline the Taskforce's request; or
 - 18.2. seek further clarification or direction from the Taskforce in light of the position of the national office of Forest and Bird; or
 - 18.3. direct staff to scope out and potentially initiate a narrow plan change process in anticipation of a final decision on Tranche 2 consent application notification i.e. the plan change process is progressed to public notification in the event that the Tranche 2 Consents are publicly notified or shelved in the event they are not (no

- comment is made in the event of the Tranche 2 consents being withdrawn or indefinitely delayed); or
- 18.4. direct staff to initiate a plan change process if and only if the Tranche 2 consent applications are publicly notified.
 19. These options form the basis of the feedback being sought from the Committee at its meeting on 12 December.
 20. To assist Committee members' consideration of the implications of the request, based on a focussed scope of a possible plan change, timing resource implications were broadly estimated to inform the earlier November 2017 report to the RPC. By way of a brief recap, in making those estimations, senior planning staff considered two plan change pathways.
 - 20.1. the standard council-initiated plan change (CPC) and
 - 20.2. the newly introduced streamlined planning pathway (SPP).
 21. In terms of the SPP preliminary discussions with MfE officials regarding logistics and realities of the SPP in this situation. Key points to note are:
 - 21.1. the SPP would be an appropriate vehicle for this type of plan change
 - 21.2. the 'entry criteria' for a SPP application to the Minister would be readily satisfied
 - 21.3. pre-application liaison with MfE officials and the Minister's office is crucial to testing and designing a streamlined plan change process that meets the Minister's approval
 - 21.4. the pre-application liaison phase could alone span 3-5 months perhaps longer given current limited details of the Government's proposals for further freshwater management reform
 - 21.5. the SPP does not involve an opportunity for submitters to appeal the outcome of the plan change to the Environment Court, and so 'saves' a potentially lengthy 'tail-end' to a proposed plan change process.
 22. Accordingly, should the Committee resolve to give effect to the Taskforce's request, then staff would recommend utilising the SPP approach for this narrow plan change assuming there is wider community and stakeholder support for that approach. If support is not apparent, then the standard CPC process could still be pursued if that is the Committee's preference. But that will almost certainly involve longer timeframes and no guarantee of a timely outcome. In this regard Committee members will need to weigh the representations of the Taskforce alongside those of the national office of Forest and Bird.
 23. Assuming a relatively uncontested process, resourcing and timing for a SPP to defer timing of PC6's new minimum flows have been roughly estimated¹ to be around \$100,000 to \$150,000 for external (non staff-time) costs. There are no Environment Court appeal-related costs with a SPP process. In terms of timing, a formal application to the Minister could be made in the first half of 2019, with the remainder of the SPP phases (consultation with specified parties, submissions, decision on submissions and Ministerial approval) likely to extend through the remainder of 2019.
 24. Estimates of staff time and external expenditure resourcing needs for a standard CPC pathway are at least \$120,000 - \$200,000 (not including any Environment Court-related appeal costs).² In terms of timing, public notification could occur as early as March 2018, and if appropriately resourced, a hearing could be held by July 2019. Decisions and any appeals would run into 2019 and beyond. This is all subject to the necessary resourcing being in place.

¹ There are very few experiences with the SPP anywhere in New Zealand from which approximate costs and timeframes could be assumed. The SPP option only came into effect in mid 2017.

² Estimates of Environment Court appeal proceedings have not been attempted - not because an appeal is considered unlikely, but rather there are so many variables which could influence costs of responding to one or more appeals.

Considerations for Tangata Whenua

25. PC6 and the [then] proposed RWSS have effects on tangata whenua values and interests that were addressed during the Board of Inquiry hearing and decision-making process (i.e. 2014-2015). Social and economic benefits were expected from involvement in construction of the scheme and possible equity investment. If a plan change was to be prepared to alter dates for minimum flows, then tāngata whenua interests would need to be considered further, as well as consultation with tāngata whenua through the relevant iwi authorities.

Financial and Resource Implications

26. Financial and resource implications of proceeding with a plan change are not insignificant.
27. In the current 2018-28 Long Term Plan, there are **no** budgets in place for staff time allocations nor external expenditure to provide resource to a plan change of any kind to address PC6 – urgent or otherwise.
28. The significance of the decision will ultimately be influenced by what the decision actually is. Because the staff's recommendation is for the Committee to consider matters raised in this report, then provide direction to staff according to the Committee's preference, the precise form and character of the decision cannot be assessed at the time of writing this report.
29. During its discussion and deliberations on matters presented in this report, the Committee should carefully consider whether or not any of its potential decision(s) are indeed verging on significant. If a decision were to be significant, then there are additional procedural requirements regarding decision-making under the Local Government Act, notwithstanding that a plan change is also bound to follow legislative requirements by the RMA.
30. If, at the meeting on 12 December, the Committee were to provide guidance to staff to scope preparation of a plan change, then two key components of that scoping work will be:
 - 30.1. examining how any such plan change would be funded, and
 - 30.2. what might be the 'opportunity costs' of advancing a narrow plan change for Tukituki catchment (i.e. what pre-existing and budgeted work programmes might slow or shrink if resources are drawn upon to supply a new Tukituki plan change effort).

Decision Making Process

31. Council is required to make every decision in accordance with the requirements of the Local Government Act 2002 (the Act). As noted in paragraphs 26-29 of this report, staff have not fully assessed the requirements in relation to this item. The Committee itself needs to carefully consider LGA's decision-making requirements.

Recommendations

1. That the Regional Planning Committee receives and notes the request from the Tukituki Water Taskforce and the letter from the national office of Forest and Bird.
2. The Regional Planning Committee provides guidance to staff in respect of the following response to the correspondence received above.
 - 2.1 decline the Taskforce's request; or
 - 2.2 seek further clarification or direction from the Taskforce in light of the position of the national office of Forest and Bird; or
 - 2.3 direct staff to scope and initiate a preliminary plan change process in anticipation of a final decision on Tranche 2 Consent notification such that the plan change process is progressed to notification in the event that the Tranche 2 Consents are publicly notified or shelved in the event they are not (no comment is made in the event of the Tranche 2 consents being withdrawn or indefinitely delayed); or

- 2.4 direct staff to scope and initiate a plan change process if and only if the Tranche 2 consents are publicly notified.

Authored & Approved by:

Tom Skerman
**GROUP MANAGER STRATEGIC
PLANNING**

Attachment/s

- [1](#) Letter to Regional Planning Committee
[2](#) Forest and Bird letter to HBRC re Tukituki taskforce

20 November 2018

To the Hawke's Bay District Council Regional Planning Committee

Attention: Rex Graham and Toro Waaka

The Tukituki Water Taskforce was established in response to water issues in the Tukituki Catchment to enable the management of short, medium, and long term water quantity issues in Central Hawke's Bay.

The Taskforce was formed following a joint meeting between the staff and councillors of the Central Hawke's Bay District Council and Hawke's Bay Regional Council concerned about the future water management challenges in Central Hawke's Bay, including the increased flow triggers now in effect under the Tukituki Plan and concerns by Tikokino and Ongaonga residents about access to water and subsequent challenges during the dry summer months.

The Tukituki Water Taskforce has been selected to assist in finding solutions and share a mutual understanding of the science and information at hand. The group will consider and discuss issues to ensure that local iwi/hapū, community and primary sector groups are involved and have the opportunity to input and provide comment on the work of the group.

The Taskforce has met over the last few months to better understand the current issues and what short, medium and long term solutions look like.

At its meeting on the 20 November 2018 the Tukituki Water Taskforce unanimously resolved:

"To request that the Hawke's Bay Regional Council's Regional Planning Committee urgently reconsider 2018 operative dates for increased minimum flows within the Tukituki Plan to provide two summers (2018/2019 and 2019/2020) to allow the taskforce to work with the community and the Ruataniwha science programme to create a transitional plan for summer water security, subject to Tranche 2 consents being publically notified, to meet Plan Change 6 by 2023"

The Tukituki Water Taskforce requests a meeting with the Regional Planning Committee at its earliest convenience, and look forward to further discussion about the Taskforce's request to the Hawke's Bay Regional Council's Regional Planning Committee.

Yours Sincerely

Handwritten signatures of the Tukituki Water Taskforce members, including Hugh Ridd, Alan, Steve, BC Loake, B. Gray, Phillip, and DR Holden.

23 November 2018



Hawkes Bay Regional Council
For Iain Maxwell
By email

Copied to
Tukituki Water Taskforce
By email to Chairperson, Debbie Hewitt

National Office
205 Victoria Street
PO Box 631, Wellington 6140
New Zealand

P: +64 4 385 7374
www.forestandbird.org.nz

Tēnā koe,

We refer to the letter from the Tukituki Water Taskforce to the Regional Planning Committee that was drafted at the Taskforce's meeting on 20 November 2018.

According to the Taskforce's terms of reference (TOR), the views of taskforce members are "assumed to be their own until such time as they have been formally endorsed by their wider networks". We are concerned to learn that the Taskforce's letter will be provided to the Regional Planning Committee without this necessary 'endorsement' step occurring. This TOR requirement is an important safeguard in terms of Forest & Bird's engagement in regional processes and groups like the Taskforce. While we value highly the work and position of our branch representatives in regional processes, it is important that they are able to canvas the views of their local membership, as well as benefit from national office's understanding of the wider context on issues and, where necessary, access legal advice, before committing Forest & Bird to a position. It is likely that other Taskforce members may also need to seek formal endorsement in accordance with the TOR. We also note the TOR specify that the Taskforce is not a policy development group. However, the letter clearly takes a position on policy.

The position set out in the Taskforce's letter does not accurately represent Forest & Bird's position. While we are willing to consider a proposal that allows some leniency in regard to the implementation of Plan Change 6 flows (which will inevitably involve a plan change), we have consistently made clear that this would need to be put forward by Council for consideration and would need to include details illustrating how the proposal would ensure the life-supporting capacity of freshwater is safeguarded, how adverse effects would be avoided, remedied or mitigated, and that the proposal is in accordance with the NPS for Freshwater. This may require additional mitigation to compensate for the impacts of delaying the implementation of the new flow regime. Any commitment to delaying the new minimum flow implementation without this further information is not agreed.

We are also concerned that the Taskforce appears to have been given the impression that it can "cut a deal" in regard to the notification of Tranche 2 consents. This is not possible as decisions on notification are managed through a statutory process based on the provisions of the RMA, not through side agreements reached by interested parties. This means that the "deal" set out in the



Attachment 2

Item 9

letter is not possible and would not represent a benefit to the environment or Forest & Bird's interests in that regard (or to other parties with an interest in Tranche 2 notification). We are disappointed that the Council officers present at the Taskforce meeting appear not to have explained this to Taskforce members.

While there may well be some dissatisfaction within the Taskforce that the Forest & Bird position differs from that expressed on the day by our branch representatives, we note this may have been avoided if the TOR requirements had been clearly communicated to Taskforce members by meeting facilitators, and factored into a process for approval of the letter.

We reiterate our willingness to consider a proposal regarding the implementation of Plan Change 6 flows that would also benefit the environment, and our willingness to work with the local community and Council to determine such a proposal.

We invite you to discuss with us what should be communicated to the Regional Planning Committee at their December meeting, in light of this letter.

Ngā mihi nui,

J Kay

Tom Kay

Regional Manager

Royal Forest & Bird Protection Society



HAWKE'S BAY REGIONAL COUNCIL

REGIONAL PLANNING COMMITTEE

Wednesday 12 December 2018

Subject: DRAFT TANK PLAN CHANGE (PC9) – PRE-NOTIFICATION PLANNING PATHWAY

Reason for Report

1. This report focusses on the RMA consultative steps of the draft TANK Plan Change prior to public notification of the plan change. This is the next step in the planning process where approval is being sought from the RPC to further progress the Plan Change (PC9).
2. This report builds upon earlier reports to the committee regarding PC9's pre-notification steps and complements the separate report on the TANK Plan Change content and the related report on supporting documents contained in this agenda.

Background

3. Previously, the Committee has received briefing papers from staff on 'pathways to draft TANK plan change adoption by the RPC', most recently on the 31 October.
4. As noted in the October paper there are three principal phases to preparation of a plan change, these are:
 - 4.1. Drafting and pre-notification consultation.
 - 4.2. Post-notification submissions and hearings
 - 4.3. Decisions (and potential Court appeals).
5. As set down in its Terms of Reference, the TANK draft Plan Change has been developed around those items that the TANK stakeholder Group were able to reach consensus. Subsequently, the draft plan has been presented to the RPC over the course of the number of meetings and workshop with a particular focus on those areas of non-consensus which have been discussed in detail, and presented to the RPC with staff recommendations.
6. Version 8 of the TANK draft Plan Change has been provided to the RPC in a separate report at this meeting. Staff believe represents a well-considered and balanced approach to the integrated management of the freshwater and land resources within the Tutaekuri, Ahuriri, Ngaruroro and Karamu Catchments. Importantly, Version 8 of the draft TANK Plan Change expands upon and encompasses the Committee's 'in-principle' decisions (including TANK group non-consensus matters) from the previous meetings (14 and 15 August, 12 September, 19 September and 31 October).
7. With the TANK stakeholder group having provided its recommendations to this Committee in the form of version 7 of the draft plan, and with the Committee itself having now reviewed the draft plan and made its "in principle" recommendations on outstanding matters, staff now consider it appropriate to now undertake the further mandatory consultative steps required under Schedule 1 of the RMA, prior to the preparation of the TANK Plan Change being publicly notified.
8. As noted above, the purpose of the paper is to set out the requirements of the RMA and the pre-notification steps which are required to be undertaken, and which will support the RPC's recommendation to the Regional Council that the pre-notification process commences.

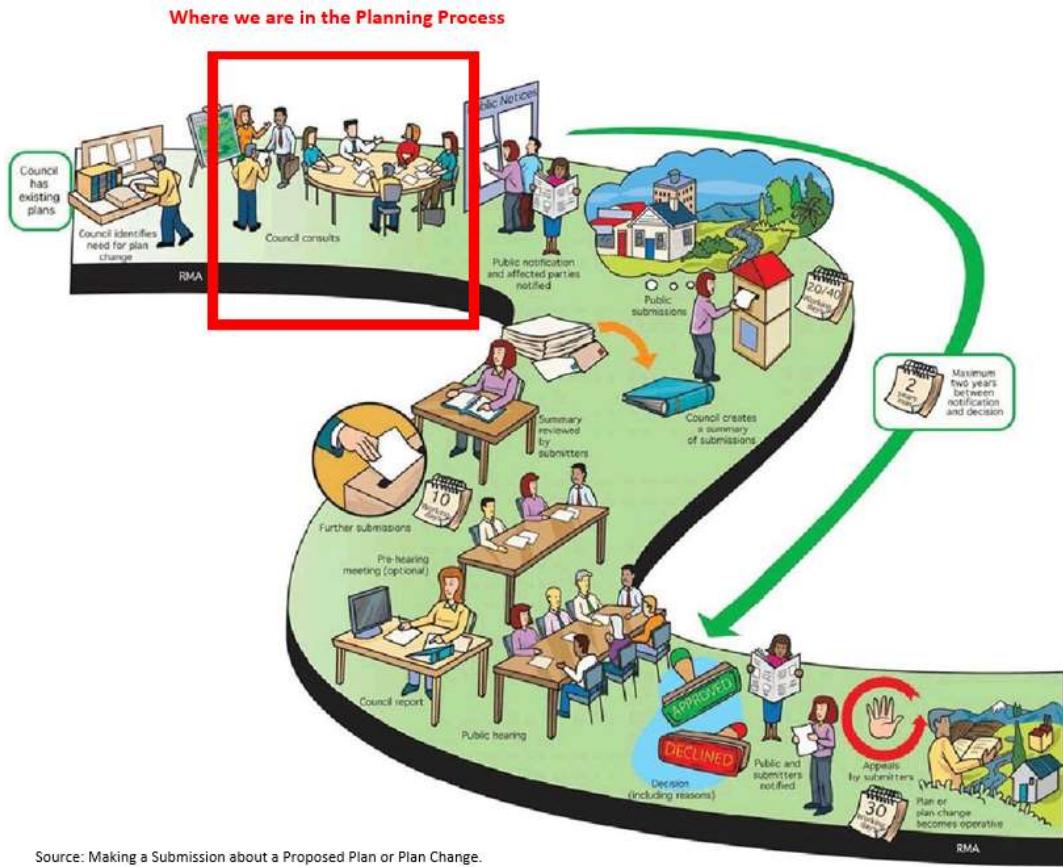
Consultation During the preparation of the TANK Plan Change – Who

9. As noted in the 31 October Committee briefing paper, there are requirements under Schedule 1 Clause 3(1) of the RMA for the Council to consult the following parties in the preparation of the TANK Plan Change prior to public notification:

- 9.1. The Minister for the Environment and any other Ministers of the Crown who may be affected by the proposed plan change;
 - 9.2. Local authorities who may be affected (Napier City Council and Hastings District Council, Taupo District Council and Rangitikei District Council)
 - 9.3. Tāngata whenua of the area who may be affected, through iwi authorities.
10. As defined by the RMA '**iwi authority** means the authority which represents iwi and which is recognised by that iwi as having authority to do so'. For the purposes of determining those iwi authorities affected by the Plan Change clarification has been sought from information held by the online tool, Te Kāhui Māngai. Te Kāhui Māngai has been developed by the Crown (Te Puni Kōkiri – the Ministry of Māori Development) to meet the requirements of the RMA in terms of the information the Crown must provide to local authorities. Whilst staff are aware that there is debate regarding the accuracy of the information provided within the online tool it is, for the purposes of meeting the statutory obligations of the RMA appropriate for the Council to refer to this to establish the iwi authorities within the TANK catchments whom should be consulted.
 11. As presented in the briefing paper in October those iwi authorities identified within the TANK catchments (using Te Kāhui Māngai online records) are as follows:
 - 11.1. Heretaunga Tamatea Settlement Trust
 - 11.2. Mana Ahuriri Trust
 - 11.3. Maungaharuru-Tangitu Trust
 - 11.4. Ngati Kahungunu Iwi Incorporated
 - 11.5. Ngati Parau Hapu Trust
 - 11.6. Te Taiwhenua O Heretaunga
 - 11.7. Te Taiwhenua O Tamatea
 - 11.8. Te Taiwhenua O Te Whanganui a Orotu
 - 11.9. Tuwharetoa Maori Trust Board.
 12. The Council may also choose to consult anyone else, in addition to those requirements above.

Consultation During the preparation of the TANK Plan Change – What this looks like

13. It is important to note that the TANK Plan Change is still at the early stages within the planning process. As noted above the draft plan is still within the first phase of the process - Drafting and pre-notification consultation. As indicated in the image below, there is considerable work beyond the notification of the Plan Change for the remaining two phases; post-notification submissions and hearings and decisions (and potential Court appeals).



- Whilst there may be some desire to consult affected parties with a polished ‘final’ version of the plan this would not be in the best interests of the plan development or effective consultation.

“Consulting involves the statement of a proposal not yet finally decided upon, listening to what others have to say, considering their responses and then deciding what will be done.” West Coast United Council v Prebble 1988 12 NZTPA 399 (HC).

- Version 8 of the TANK draft Plan Change is sufficiently robust to enable those affected parties to understand the direction and content of the draft TANK Plan Change and to communicate their views, whether for or against the objectives, policies and rules which are proposed within it. Whilst it is acknowledged that there has already been substantial consultation with the TANK Stakeholder Group, in essence this has provided the foundation, around which the draft TANK Plan has been developed and has identified the values which are important to the community and established a management framework. With the incorporation of the advice and input received from the RPC over the past months it is now considered appropriate to now undertake further socialising of the draft TANK Plan Change, to obtain views and in respect of the iwi authorities, advice to which particular regard must be given. This is discussed further below.

Further pre-notification consultation requirements – Iwi authorities

- The April 2017 amendments to the RMA require the Council to provide a copy of the relevant draft plan change to iwi authorities affected by the plan change (Schedule 1 Clause 4A). As noted in the earlier 31 October staff report to the Committee, this new step in the planning process is in addition to the consultation required under Schedule 1 Clause 3(1), but can be undertaken in tandem.
- The Council is required to provide “adequate time and opportunity” for the iwi authorities to consider the draft plan change and provide advice back to the Council. The Council are required to have particular regard to any advice received in the final drafting of the plan.

18. There are no specified timeframes within the RMA for either consultation under Schedule 1 Clause 3 or Clause 4A. The legislation goes so far as to state that under Schedule 1 Clause 4A (2) that the Council must allow “adequate time and opportunity” for the iwi authorities to consider the draft plan and to respond to it. At the RPC meeting held on the 31 October what might be considered to be ‘adequate time’ was discussed by members. From that discussion was a suggestion that six weeks would be a ‘reasonable’ timeframe for consultation with iwi and seeking their views on a draft version of PC9.

Consultation methodology

19. It is anticipated that the consultation phase would commence late January/early February 2019. The timing would allow preparation and circulation of the appropriate resources and to account for holidays.
20. Council planning staff intend to provide the Draft PC9 document to the territorial authorities and the Crown including the Department of Conservation and invite their feedback. Given that key staff within those organisations are intimately familiar with these processes simply providing the draft and asking for feedback is acceptable.
21. HBRC’s planning staff will provide the Draft PC9 document to iwi authorities but will accompany this with background and explanatory material (in plain language) to explain the content and intent of the Plan Change. Support to iwi authorities through direct dialogue will also be offered on request. Staff will work with the RPC tāngata whenua representatives’ technical advisers and/or the affected PSGEs at the RPC table to further refine this consultation pathway with iwi authorities, subject to the timing and resource constraints.
22. HBRC planning staff also intend to make the draft PC9 documentation to be made available online during that time for other stakeholders and interested people to view and offer informal comment via general correspondence.
23. At the completion of this targeted consultation stage, staff will summarise and evaluate the feedback received, and will then make further recommendations to the RPC for any amendments and the preparation of a possible ‘Version 9’ of PC9.
24. Only once the RPC has considered the consultation feedback and staff recommendations will the Committee be asked to consider the TANK Plan Change in its entirety and make its final decision about what it may recommend to Council on the version of PC9 to be publicly notified.

Decision Making Process

25. 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 ***“Draft TANK Plan Change (PC9) – Pre-Notification Planning Pathway”*** report.

Authored by:

**Ceri Edmonds
SENIOR PLANNER**

**Gavin Ide
MANAGER POLICY AND PLANNING**

**Mary-Anne Baker
SENIOR PLANNER**

Approved by:

**Tom Skerman
GROUP MANAGER STRATEGIC
PLANNING**

Attachment/s

There are no attachments for this report.

HAWKE'S BAY REGIONAL COUNCIL**REGIONAL PLANNING COMMITTEE****Wednesday 12 December 2018****Subject: DRAFT TANK PLAN CHANGE (PC9) – UPDATE ON SUPPORTING DOCUMENTS****Reason for Report**

1. This paper provides an update to the RPC on the status of the reports that support the draft TANK Plan Change, namely the Monitoring Plan, the s32 Evaluation Report and the Implementation Plan.

Background**S32 Evaluation Report**

2. As noted in the paper of the previous RPC meeting (31 October), Mitchell Daysh Limited have been appointed to undertake the s32 evaluation reporting on behalf of the Hawke's Bay Regional Council.
3. The RMA requires the Regional Council in preparing PC9 to evaluate the extent to which the objectives of the plan change proposal are the most appropriate way to achieve the purpose of the Act. It should be noted that case law has interpreted 'most appropriate' to mean "suitable, but not necessarily superior" (Rational Transport Soc. Inc. v New Zealand Transport Agency HC Wellington). In order to determine whether the most appropriate objectives have been proposed it should be demonstrated that the purpose of the RMA is met efficiently and effectively, and also that the proposed policies, methods and rules are the most appropriate way in which to achieve the objectives.
4. Since the RPC meeting last month Mitchell Daysh have turned a significant proportion of their focus to the Source Protection Zone Provisions including costs and benefits associated with this on landowners within the zone. This has been in direct response to queries raised by the RPC. A copy of the draft s32 report is appended to this paper (attachment 1)³. The appropriateness of the provision of the draft TANK Plan Change in respect of the SPZ's can be found in Section 8.7.
5. The key findings of this evaluation is as follows.
 - 5.1. Given the need to comply with regulation 10 of the Drinking Water NES the assessment concludes that any reasonably practicable option for source protection provisions will need to include regulation.
 - 5.2. An appropriately mapped SPZ would ensure that regulation is effective, by reducing risk of contaminants entering any registered drinking water supply's source water, and efficient by not applying regulation to areas where there is no pathway to the source water.
 - 5.3. Effectiveness Assessment - The assessment demonstrates that the proposed policies are an effective way of achieving the relevant objectives of the draft TANK Plan Change, noting however that the policies are specific to the source of water of Registered Drinking Water Supplies rather than to source water of drinking water generally. This is based on the direction of the Drinking Water NES which focusses on drinking water supply sources. Amending the policies to have a more general application to protecting drinking water would be possible but would reduce the efficiency of the provisions.

³This further iteration of the s32 Evaluation Report has been prepared against Version 7 of the draft TANK Plan Change, and does not evaluate the amendments which are being presented to the RPC at this meeting.

- 5.4. Determinative Rules Effectiveness Assessment – as with the effectiveness of the policies the assessment demonstrates that the determinative rules as a collective are an effective way of achieving the objectives of the Plan, however the rules are specific to the mapped SPZs in protecting the source water of Registered Drinking Water Supplies;
 - 5.5. Effectiveness Assessment of Matters for Assessment – these rules are (collectively) more general in that they apply to the source water of all Registered Drinking Water Supplies and not just the mapped SPZ's and are considered to be appropriate provisions;
 - 5.6. In general, the suite of policies and determinative rules are considered efficient in having a predominance of benefits over costs in achieving the objectives of the plan; and
 - 5.7. There is a general consistency when comparing those activities proposed to be regulated by SPZ's with that of the recently developed Canterbury Land and Water Regional Plan and the Greater Wellington Proposed Natural Resources Plan. For this reason the proposed determinative rules are considered appropriate having regard to efficiency in terms of benefits and costs;
 - 5.8. There are expected costs related to economic effects in terms of additional inputs and time required in the preparation and assessment of resource consent applications;
 - 5.9. In conclusion the assessment demonstrates that the proposed provisions relating to protecting the source water of Registered Drinking Water Supplies, are the most appropriate for achieving the objectives of Change 9.
6. Further additions to the s32 report include (in draft):
 - 6.1. Section 4 – Community Engagement Process
 - 6.2. Section 5 – Background to Plan Change
 - 6.3. Section 6 – Plan Change Matters to be Addressed
 - 6.4. Section 8 – Appropriateness of Provisions.
 7. It should be observed that the document remains in draft as there are still outstanding areas requiring evaluation. In particular further detail is required to reference the background to the development of Schedule 1 Freshwater quality objectives and attributes.
 8. As noted above, the s32 provides an assessment of the appropriateness of the provisions for the protection of drinking water and the associated SPZ's. However, not all aspects of the draft plan have been assessed for the appropriateness of the provisions for achieving the objectives. As such Sections 8.2 – 8.7 are blank placeholder sections for evaluations still to be completed. It is intended to provide a further iteration of the s32 Evaluation at the RPC's meetings in early 2019 in respect of the appropriateness of the balance of the draft Plan Change.
 9. In addition to this, any advice received from iwi authorities in respect of the response to pre-notification consultation on the Draft Plan (Schedule 1 Clause 4A) will also need to be incorporated into the s32 Evaluation Report. The timing of this summary will be dependent on when the pre-notification consultation occurs, the timeframe for receipt of advice and also the extent of the responses received. At present it is not possible to put an exact timeframe on when this will be reported back to the RPC, but it is likely to be beyond the 20 February 2019 meeting.

Monitoring Plan

10. The National Policy Statement for Freshwater Management requires every regional council to provide a monitoring plan to establish methods for monitoring progress towards the achievement of freshwater objectives and to establish methods monitoring the extent to which values are being provided for in a freshwater management unit. The monitoring plan should also identify the location of the monitoring sites which will be

representative for each freshwater management unit and should also recognise the importance of the long term trends of results.

11. The methods must include at least the following:
 - 11.1. Surveillance microbial health risks to people at primary contact sites
 - 11.2. The monitoring of macroinvertebrate communities
 - 11.3. Measures of the health of indigenous flora and fauna
 - 11.4. Information obtained in respect of Policy CB1(a) and Policy CC1, being the methods for monitoring progress towards the achievement of freshwater objectives; and establishing, operating and maintaining a freshwater quality and quantity accounting system;
 - 11.5. Mātauranga Māori.
12. A draft monitoring plan has been developed and is appended to this paper as Attachment 2. The monitoring plan does not need to be finalised prior to public notification of PC9. In fact, it is quite possible that amendments may be made to PC9 after notification that require corresponding revisions of the monitoring plan. Like the TANK PC implementation plan, the monitoring plan can be regarded as a 'living' document.
13. It is important to highlight that whilst the draft monitoring plan is shaping up to fulfil the requirements of the NPSFM, there are no significant additions proposed to HBRC's existing environmental monitoring programmes, which already largely meet the requirements of the NPSFM. There is an extensive monitoring programme which is currently undertaken as 'business as usual' for State of Environment reporting.
14. However it is proposed to introduce several additional monitoring sites and new monitoring for indigenous fish and estuary ecosystems within the TANK catchments in response to the consultation which has taken place with the TANK Stakeholder Group, in particular the Treaty Partner Working Group. The monitoring plan also acknowledges that monitoring can occur at local scales such as by landowners and marae.
15. The programme which will accompany the TANK Plan Change will be robust and effectively monitor the progress the Plan Change makes towards achieving the identified freshwater objectives and meet the requirements of the NPSFM.

Implementation Plan

16. The Implementation Plan has previously been presented to the RPC at the workshop held on the 15th August. Since introducing the implementation plan further refinement to the listed actions has occurred following advice from RPC. It is worth noting that there has not been any significant amendments to the overall content or direction of the implementation plan as a result of those amendments in recent months.
17. Development of an implementation plan is not a statutory requirement (as it is for the s32 Evaluation report or the monitoring plan), but rather it provides a useful tool in identifying the future actions which enable the delivery of the outcomes sought through the TANK Plan Change. The implementation plan is intended to provide a further degree of detail as to how the outcomes could be achieved. It is intended to avoid ambiguity as to who needs to undertake what type of action to ensure the plan objectives are being met. The implementation plan is a flexible 'live' document and will evolve over the lifetime of the TANK plan.
18. Given that the Implementation Plan document is a non-regulatory tool there is no requirement under the RMA to consult the community or seek their views on the plan content. That being said there has been direct engagement with, and feedback from the TANK Stakeholder Group (including the TLA's and Treaty Partner Working Group), various Industry organisations such as HortNZ, HBRC staff and the Regional Planning Committee which has been valuable to the plan development.
19. It is important to note that whilst there is significant reliance on community and stakeholder 'buy-in' to make the Implementation Plan a success, it is imperative that

there is support from the Council, not just in terms of the programme of work and direction outlined within the actions, but more importantly in terms of resourcing.

20. As highlighted at the workshop in August, there are a number of commitments on HBRC staff and the council to ensure that the Plan can be implemented and the outcomes achieved effectively and in a timely manner. This in short, will require commitments to be made through the Annual Plan and Long Term Plan. Many of the requirements which have been signaled as requiring staff input fall outside of the ‘business as usual’ capabilities. It is highly likely that some teams will require extra staffing resources; funding towards project development/completion; and for development of tools and resources which will be shared with stakeholders to enable them to meet their commitments to improving freshwater in the TANK catchments. It is anticipated that as the draft TANK Plan Change is further refined through the planning process (consultation, submissions, hearing etc.) the Implementation Plan will also be fine-tuned to reflect the plan content. Further reports will be provided in time to the RPC and Council in respect of the anticipated and actual resourcing requirements.

Decision Making Process

21. 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 “**Draft TANK Plan Change (PC9) – Update on Supporting Documents**” report.

Authored by:

Ceri Edmonds
SENIOR PLANNER

Mary-Anne Baker
SENIOR PLANNER

Gavin Ide
MANAGER POLICY AND PLANNING

Approved by:

Tom Skerman
GROUP MANAGER
STRATEGIC PLANNING

Attachment/s

- | | | |
|-----------|---|----------------------|
| ✉1 | Draft Section 32 Evaluation Report | Under Separate Cover |
| ✉2 | TANK Update Attachment 2 TANK Monitoring Plan | Under Separate Cover |

HAWKE'S BAY REGIONAL COUNCIL**REGIONAL PLANNING COMMITTEE****Wednesday 12 December 2018****Subject: RESOURCE MANAGEMENT POLICY PROJECT UPDATES****Reason for Report**

1. This report provides an outline and update of the Council's various resource management projects currently underway (i.e. the regular update reporting presented to every second meeting of the Regional Planning Committee).

Resource management policy project update

2. The projects covered in this report are those involving reviews and/or changes under the Resource Management Act to one or more of the following planning documents:
 - 2.1. the Hawke's Bay Regional Resource Management Plan (RRMP)
 - 2.2. the Hawke's Bay Regional Policy Statement (RPS) which is incorporated into the RRMP
 - 2.3. the Hawke's Bay Regional Coastal Environment Plan (RCEP).
3. From time to time, separate reports additional to this one may be presented to the Committee for fuller updates on specific plan change projects.
4. Similar periodical reporting is also presented to the Council as part of the quarterly reporting and end of year Annual Plan reporting requirements.

Decision Making Process

5. 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 "**Resource Management Policy Project Updates**" report.

Authored by:

Gavin Ide
MANAGER POLICY AND PLANNING

Approved by:

Tom Skerman
GROUP MANAGER
STRATEGIC PLANNING

Attachment/s

[1](#) RMA Plan Change Preparation & Review Projects December 2018 Update

**Status Report on HBRC Resource Management Plan Change Preparation & Review Projects
(as at 5 December 2018)**

Project	Narrative update	Next intended reporting to RPC
<u>'PC5' Integrated land & freshwater management</u>	<p>Publicly notified, Decisions on submissions partly subject to appeal. Part of the last remaining appeal (by Fish and Game) relating to wetlands in the RRMP and Plan Change 5 is almost settled. Environment Court hearing was held 11-12 September 2017. In October 2018, the Court issued an interim decision and directed HBRC to prepare revised maps and re-word provisions for the Court's approval. As at 5th December, Court's approval of submitted documents was still pending. In early 2019, it is likely the RPC will be presented with a final version of PC5 to consider recommending to Council to make it 'operative.'</p>	4 April 2019, otherwise earlier (20 Feb) if Court issues approved documents sooner.
<u>'PC7' Outstanding waterbodies plan change</u>	<p>Under preparation. Not yet notified.</p> <p>Recently, work of staff on this project has involved meeting with some iwi authorities, TLAs and the other stakeholders previously agreed by the Committee. The principal purpose of those meetings was to seek feedback on the secondary assessments prepared in relation to the 22 candidate waterbodies as agreed by the Committee earlier this year. Very few replies received to date from iwi authorities in response to staff's offer to meet and discuss this project.</p> <p>Some of the feedback received to date from targeted stakeholder engagement on the outstanding waterbodies plan change indicates likely risk of legal challenges will be encountered on basis of not only content, but also methodology and overall process followed as determined by the RPC earlier this year. In particular, Forest and Bird's National Office has called into question the robustness of the RPC's agreed approach (refer attached letter from F&B).</p> <p>Planning staff have subsequently liaised with the HBRC Chief Executive on that risk of legal challenge. The project team is now initiating an extra feature to the project. The extra feature is formation of a small five-person panel of experts who would convene in early 2019 for 2 or 3 workshops. To be clear, the Panel will not be making final decisions on what are the region's outstanding waterbodies. That remains HBRC's role and responsibility. Similarly, the panellists are not expected to help council staff draft actual provisions for the plan change.</p> <p>The intention is that the panel of five experts will convene early next year to evaluate and categorise a list of the region's water bodies; decide on a basic methodology which the panel will use for its work determining which water bodies go into which categories; place the water bodies into categories or groups, with the highest category containing the water bodies which contain the very best example in the region for each value set; and identify which water bodies they consider stand out in Hawke's Bay, and aptly warrant an OWB classification. Panellists will be expected to provide sound reasoning for their positions.</p> <p>The decisions made by the panel will be based on existing information available at the time of the first meeting and knowledge from their own expertise. To be clear, we are not intending to commission the gathering of new information or further research within the scope of this project. Resources are too limited to allow for that.</p> <p>Further update reporting on feedback from the expert panel and any further targeted consultation with groups is intended to be presented to the RPC's meeting in April.</p>	4 April 2019

Attachment 1**Item 12**

Project	Narrative update	Next intended reporting to RPC
'PC8' Taharua & Mohaka Catchment plan change	<p>Under preparation. Not yet notified.</p> <p>Preliminary project re-design is now underway with new planning staff recruitments in place. Project re-design work to date has focussed on understanding what work and community engagement has occurred in recent years; current state of scientific knowledge of catchment issues and creating a working understanding of what information gaps may exist for the plan change project and process to work with. From lessons learnt from the TANK project and other catchment planning projects elsewhere in NZ, design design design is a critical factor to do well before initiating wider community engagement in this plan change. It is the intention of HBRC's senior planning staff that they will engage with relevant RPC tāngata whenua representatives in the design phase in early 2019.</p>	4 April 2019
'PC9' Greater Heretaunga/ Ahuriri catchment area plan change (a.k.a. TANK project)	<p>Under preparation. Not yet notified.</p> <p>Refer various separate items on 12 December 2018 RPC meeting agenda.</p>	TBD. Possibly 20 Feb, but more likely 4 April 2019
'PC10' Oil and gas regulation	<p>Workstream has been closed.</p> <p>Following recommendation from the RPC at 12 September meeting and subsequent agreement by the Council, this project has been closed. No current work is underway nor any planned. This will be the last time this PC10 workstream is reported on in future similar update reports.</p>	Nil.
Progressive Implementation of, and reporting on, NPS for Freshwater Management	<p>At the RPC meeting on 31 October 2018, the Committee recommended that Council adopt and notify a third edition of a progressive implementation programme ('PIP') to implement the NPSFM. At its meeting on 28 November, Council adopted the RPC's recommendation.</p> <p>Consequently, the 3rd edition PIP will now be formatted, published on HBRC's website, and notified by Council before the NPSFM's 31st December 2018 deadline.</p> <p>Meanwhile, annual progress reporting on implementation during 2018/19 period will feature as part of the Council's Annual Report due late 2019.</p>	Nil.

Project	Narrative update	Next intended reporting to RPC
Responsiveness to 'National Direction' (i.e. legislation incl NPSs, national Regulations, national standards, etc).	<p>RMA Amendments – Minister has announced an intention to amend the RMA in two phases. The first phase will focus on rolling-back some of the amendments passed in 2017. A Bill is being drafted, but yet to be referred to a Select Committee and opened for public submissions. The second phase is not so well developed, but it will address some broader issues about the overall resource management system. Details and scope of the Phase 2 reforms are not yet available.</p> <p>NPSFM Amendments - Minister has announced a package of proposals ('branded as Essential Freshwater') to make further amendments to the NPSFM, although details or specifics are not yet clear. More on this will be revealed in 2019.</p> <p>Review of NES on Air Quality – New Environment Minister is determining next steps. Likely a proposal for a revised NESAQ will be released for public feedback ~April/May 2019.</p> <p>Review of NES for Human Drinking Water Sources – New Environment Minister is determining next steps, partly informed by 'Three-waters' review workstream. More on this will be revealed in 2019.</p> <p>Preparation of RMA National Planning Standards – Officials at MFE are refining proposals for national planning standards that will prescribe the form, function and style of RPSs, regional plans and district plans. The first set of National Planning Standards are due to come into effect in April 2019. Details from the Government on the revised Planning Standards will emerge in early 2019. The Standards will mean the RRMP and RCEP will need to be amended to 'fit' the new template style prescribed by the National Planning Standards. The timing and scale of those amendments, together with the resourcing required to complete those amendments, will depend largely on what the final gazetted Standards do or don't do.</p> <p>NES for Plantation Forestry – NES has been finalised and came into effect from 1 May 2018. 'Plan alignment' amendments to RRMP and RCEP are being drafted now that capacity of planning team members can accommodate this. Likely that plan alignment amendments will be re-published in early 2019 and revised RRMP and RCEP will be uploaded on HBRC's website.</p> <p>NPS on Urban Development Capacity – in effect Dec 2016. This influences HBRC's role in ongoing implementation of the Heretaunga Plains Urban Development Strategy ('HPUDS') and also the RPS. NPSUDC has implications for all TLAs, irrespective of projected rates of residential and business land growth demands.</p> <p>Staff in the HBRC policy & Planning team continue to maintain active exchanges with officials within the various relevant government ministries who are leading the above workstreams and a variety of related workstreams not featured above.</p>	4 April 2019, or earlier if specific national direction proposals emerge that warrant RPC input and/or briefing.
<u>Statutory Acknowledgements of Treaty settlements</u>	<p>No further Treaty settlement legislation relating to parts of the Hawke's Bay region has been passed into law since the previous update (21 September 2018).</p> <p>Refer to Pātaka online mapping tool for further information [website link] about current Statutory Acknowledgements in Hawke's Bay region that have been passed in various Treaty settlement statutes.</p>	4 April 2018

HAWKE'S BAY REGIONAL COUNCIL**REGIONAL PLANNING COMMITTEE****Wednesday 12 December 2018****SUBJECT: STATUTORY ADVOCACY UPDATE****Reason for Report**

1. To report on proposals forwarded to the Regional Council and assessed by staff acting under delegated authority as part of the Council's Statutory Advocacy project since the last update in May 2018.
2. The Statutory Advocacy project (Project 196) centres on resource management-related proposals upon which the Regional Council has an opportunity to make comments or to lodge a submission. These include, but are not limited to:
 - 2.1. resource consent applications publicly notified by a territorial authority,
 - 2.2. district plan reviews or district plan changes released by a territorial authority,
 - 2.3. private plan change requests publicly notified by a territorial authority,
 - 2.4. notices of requirements for designations in district plans,
 - 2.5. non-statutory strategies, structure plans, registrations, etc prepared by territorial authorities, government ministries or other agencies involved in resource management.
3. In all cases, the Regional Council is **not** the decision-maker, applicant nor proponent. In the Statutory Advocacy project, the Regional Council is purely an agency with an opportunity to make comments or lodge submissions on others' proposals. The Council's position in relation to such proposals is informed by the Council's own Plans, Policies and Strategies, plus its land ownership or asset management interests.
4. The summary outlines those proposals that the Council's Statutory Advocacy project is currently actively engaged in. This period's update report excludes the numerous Marine and Coastal Area Act proceedings little has changed since the previous update.

Decision Making Process

5. 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 **Statutory Advocacy Update** staff report.

Authored by:**Gavin Ide****MANAGER POLICY AND PLANNING****Approved by:****Tom Skerman****GROUP MANAGER STRATEGIC
PLANNING****Attachment/s**[↓1](#) Statutory Advocacy December 2018 Update

Statutory Advocacy Update (as at 1 December 2018)

Received	TLA	Activity	Applicant/ Agency	Status	Current Situation
22 November 2018	HDC	Variation 5 to amend proposed Hastings District Plan ('Inner City Living') Variation 5 introduces changes to several sections of the proposed Hastings District Plan to encourage above-ground level inner city living in Hastings CBD.	Hastings District Council	Publicly notified. Submissions close 19 Dec 2018	On 22 November 2018, HDC publicly notified Variation 5. Staff have reviewed Variation 5 for any implications it may have for HBRC's roles and interests. Staff have concluded that a submission on Variation 5 is not warranted on this occasion. Submissions close 19 December 2018.
22 November 2018	HDC	Variation 6 to amend proposed Hastings District Plan ('Amendments to Heritage provisions') Variation 6 proposed to add Vidal House as a heritage building listed in the district plan's Te Mata Special Character Zone. Variation 6 also proposes clarifying the permitted activity status of internal alterations to heritage buildings in the Te Mata Special Character Zone.	Hastings District Council	Publicly notified. Submissions close 19 Dec 2018	On 22 November 2018, HDC publicly notified Variation 6. Staff have reviewed Variation 6 for any implications it may have for HBRC's roles and interests. Staff have concluded that a submission on Variation 6 is not warranted on this occasion. Submissions close 19 December 2018.
9 December 2017	n/a	HB Fish and Game Council's Draft Sports Fish and Game Management Plan A draft management plan under the Conservation Act to eventually replace the current 2005 Sports Fish and Game Management Plan for the HBFG region.	HB Fish and Game Council	Notified, Submissions closed. Hearing pending	Previously... Submission lodged. A copy of HBRC's submission can be found at HBRC Submissions .

Attachment 1**Item 13**

Received	TLA	Activity	Applicant/ Agency	Status	Current Situation
7 February 2018	NCC	Public Notification of Plan Change 12 Mission Heights Special Character Zone proposed and various amendments to existing district plan provisions to accommodate the new zone.	Napier City Council	Napier City Council has issued decisions on submissions	<p>Latest...</p> <p>On 7th November, Napier CC issued decisions on PC12 submissions. In short, PC12 was approved by NCC, subject to some additional amendments in response to submissions and the hearings process. Nothing in NCC's decisions on HBRC's submission points warrant HBRC lodging an appeal.</p> <p>Previously...</p> <p>Hearing by two NCC-appointed Commissioners was held on 17-18 September. Commissioners' recommendations are pending. HBRC's concerns re stormwater had largely been addressed through a separate discharge permit application process earlier in 2018. HBRC's presentation at the hearing focussed on provisions for reserve areas adjacent to the Taipo Stream triggered by nearby subdivisions.</p> <p>Submission lodged. A copy of HBRC's earlier submission can be found at HBRC Submissions.</p> <p>Submission highlighted several issues including natural hazards, stormwater collection, treatment and disposal, and the need for reserve areas adjacent to the Taipo Stream.</p>
13 July 2016	HDC	Howard Street Rezoning Variation 3 Variation to rezone 21.2 hectares of land from its current Plains zone to General Residential zone in between Howard Street and Havelock Road.	Hastings District Council	HDC Decisions issued Subject to appeal, mediation ongoing	<p>Latest...</p> <ul style="list-style-type: none"> Following Environment Court-assisted mediation and discussions between engineering experts, parties have indicated resolution is achievable regarding land for stormwater management. Final documentation is being drafted by HDC for Court's approval. <p>Previously...</p> <ul style="list-style-type: none"> Parties to the appeal have been discussing recently completed stormwater engineering investigations and geotechnical assessments and how the District Plan rezoning appeal might now be resolved. HDC issued its decisions on 25th March.

Received	TLA	Activity	Applicant/ Agency	Status	Current Situation
24 July 2017	n/a	Application for Water Conservation Order (WCO) Application for a WCO for the Ngaruroro River & Clive River	Applicants NZ Fish & Game Council, HB Fish & Game Council; Whitewater NZ; Jet Boating NZ; Operation Patiki Ngāti Hori ki Kohupatiki Marae; Royal Forest & Bird Protection Society	Notified, Submission period closed. Special Tribunal commenced Stage 1 (of 2) hearing	<p>Latest...</p> <ul style="list-style-type: none"> Special Tribunal has issued directions for the commencement of Stage 2 hearings which will focus on the middle and lower sections of the Ngaruroro River, plus the Clive River. Stage 2 hearing is scheduled to commence for four weeks from 26 February 2019. The Tribunal has directed that before the hearing commences, that <ul style="list-style-type: none"> the Co-applicants are to submit their expert or technical evidence by 30 November (which is now uploaded on the EPA website) by 25 January 2019, submitters are required to confirm if they intent to present at Stage 2 hearings and/or call expert witnesses. other submitters (incl. HBRC) have until 25 January 2019 to file any expert or technical evidence. The Tribunal may issue further direction for pre-hearing expert witness caucusing. Special Tribunal had renotified the WCO application and second submission phase closed on 22nd August. The EPA is summarising those submissions. HBRC did not make an extra submission on the renotified WCO application. A further Memorandum of Counsel was submitted to the Special Tribunal on behalf of HBRC on the 30th August 2018 to provide the latest draft versions of both the TANK plan change and draft TANK plan change implementation plan. On 14th September, the WCO co-applicants provided Version 3 of the draft Order to the Tribunal as directed to do so by the Tribunal.
18 January 2016	WDC	Resource Consent Application Consent is sought to clear 248 hectares of Manuka and Kanuka on Part Umumanfo 2 Block on Kopuawhara Road, Mahia.	Applicant R & L Thompson Agent Insight Gisborne Ltd	Limited Notified WDC hearing pending	<p>Previously...</p> <ul style="list-style-type: none"> HBRC has opposed the application based on concerns relating to the loss and degradation of soil (erosion) and water quality. A copy of the submission can be found at HBRC Submissions. HBRC staff and applicants have held discussions about potential alternative clearance proposals.

Attachment 1**Item 13**

Received	TLA	Activity	Applicant/ Agency	Status	Current Situation
8 November 2013	HDC	Proposed Hastings District Plan Review of the Hastings District Plan in its entirety. Includes the harmonisation of district wide provisions between the Napier District Plan with the Hastings District Plan where relevant.	Hastings District Council	Notified HDC decisions issued, subject to appeals	<p>Previously...</p> <ul style="list-style-type: none"> Over 40 separate appeals were lodged against HDC's decisions by other groups and individuals. HBRC joined as a section 274 interested party to proceedings on eleven (11) of those appeals. All but one of those appeals has been resolved. That last one will be awaiting the appellant to prepare a draft 'structure plan' for their development area in Havelock North. HDC issued its decisions on 12 September 2015. Council staff reviewed the decisions and were satisfied that HBRC's submission has been appropriately reflected so did not need to lodge an appeal itself.

NOTE: The following matters appearing on previous Statutory Advocacy activity updates have been removed from this edition. The following matters have reached a conclusion and there is no further 'statutory advocacy' role for HB Regional Council.

- a) Hastings District Council's Iona area district plan rezoning
- b) Resource consent for subdivision at 258 Meeanee Road, Napier
- c) Resource consent for a retirement village and care home at 25 and 35 Ulyatt Road, Napier.

HAWKE'S BAY REGIONAL COUNCIL**REGIONAL PLANNING COMMITTEE****Wednesday 12 December 2018****Subject: DISCUSSION OF ITEMS OF BUSINESS NOT ON THE AGENDA****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.

Minor items (for discussion only)

Item	Topic	Raised by
1.		
2.		
3.		
4.		
5.		