



Meeting of the Regional Planning Committee

Date: Wednesday 3 July 2019
Time: 10.00am
Venue: Council Chamber
Hawke's Bay Regional Council
159 Dalton Street
NAPIER

Agenda

| ITEM | SUBJECT | PAGE |
|--|---|------|
| 1. | Welcome/Notices/Apologies | |
| 2. | Conflict of Interest Declarations | |
| 3. | Confirmation of Minutes of the Regional Planning Committee meeting held on 15 May 2019 | |
| 4. | Follow-ups from Previous Regional Planning Committee Meetings | 3 |
| 5. | Call for Items of Business Not on the Agenda | 21 |
| Decision Items | | |
| 6. | Making Plan Change 5 Operative | 23 |
| 7. | TANK Plan Change - Feedback and Recommendations Following Pre-notification Consultation | 47 |
| 8. | TANK Plan Change Options for Notification and Beyond | 105 |
| 9. | Outstanding Water Bodies Plan Change 7 | 113 |
| Information or Performance Monitoring | | |
| 10. | Update on Central Government Policy Announcements | 121 |
| 11. | Resource Management Policy Project July 2019 Updates | 137 |
| 12. | Statutory Advocacy July 2019 Update | 141 |
| 13. | Discussion of Minor Items of Business Not on the Agenda | 145 |

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 Trust |
| 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 |
| Mike Mohi | 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 03 July 2019

Subject: FOLLOW-UPS FROM PREVIOUS REGIONAL PLANNING COMMITTEE MEETINGS

Item 4

Reason for Report

1. On the list **attached** are items raised at Regional Planning Committee meetings that staff have followed up. All items indicate who is responsible for follow up, and a brief status comment. Once the items have been reported to the Committee they will be removed from the list.

Decision Making Process

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

Recommendation

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

Authored by:

Leeanne Hooper
PRINCIPAL ADVISOR GOVERNANCE

Approved by:

James Palmer
CHIEF EXECUTIVE

Attachment/s

[!\[\]\(b64b40baaee5acddc1eab8538ba84754_img.jpg\) 1](#) Followups for July19 RPC meeting

Follow-ups from Previous Regional Planning Committee Meetings

Meeting held 15 May 2019

| ref | Agenda Item | Action | Responsible | Status Comment |
|-----|---|--|-------------------------|---|
| 1 | Call for minor items | Written advice provided to tangata whenua hui to be provided to all RPC members in accordance with the August 2018 resolution to do so | B Brough/ R Ellison | Advice from 14 May hui distributed via email and included following (reference 1) |
| 2 | TANK Plan Change - Feedback and Recommendations Following Pre-Notification Consultation | Further workshop to be held 2 July to provide members with further information in particular areas of focus to enable 'adoption for public notification' decision on 3 July 2019 | T Skerman /C Edmonds | Workshop scheduled 2 July 2019, 1pm and all relevant information pre-circulated electronically to members via email and Dropbox on 21 & 22 June |
| 3 | Outstanding Water Bodies Plan Change | Draft Proposed Plan Change 7 to be released for pre-notification consultation | T Skerman /B Harper | Draft PC 7 released for pre-notification consultation, with deadline for feedback being 14 June. (see 3 July OWB agenda item for further information) |
| 4 | RPC recommendations to Council | Outstanding Water Bodies Plan Change recommendations for pre-notification of agreed list of water bodies | L Hooper | All recommendations carried as proposed at the 29 May 2019 Regional Council meeting. |

Meeting held 17 April 2019

| ref | Agenda Item | Action | Responsible | Status Comment |
|-----|--|---|-------------|---|
| 5 | Tangata Whenua Remuneration Review | Tangata whenua members to be provided with an opportunity to engage with Strategic Pay about the draft review findings report | J Lawrence | Strategic Pay Q&A session with tangata whenua scheduled as part of the pre meeting hui on 2 July 2019. |
| 6 | HBRC 2019-20 Annual Plan Approach | Summary of the Annual Plan budgets relevant to the RPC to be provided to members | J Lawrence | Relevant budgets as confirmed by Council's 26 June adoption of the Annual Plan will be collated and provided to RPC members by end of July. |
| 7 | Overview of the Regional Three Waters Review | Request that Toni Goodlass and/or Troy Brockbank provide a report to tangata whenua around the engagement plan, specifically in relation to Māori cultural values | T Skerman | Advice from Toni Goodlass emailed 10 May 2019 and included following (reference 7) |

Meeting held 2 May 2018

| ref | Agenda Item | Action | Responsible | Status Comment |
|-----|---|---|---------------------|--|
| 8 | Hawke's Bay Regional Planning Committee Terms of Reference for Adoption | This version as accepted by PSGEs - to be considered and discussed by the Co-Chairs and Deputy Co-Chairs prior to being brought back to RPC as 'recommended' by them for adoption | T Skerman & P Munro | RPC Terms of Reference to be progressed. In progress |

Briefing on Regional Planning Committee agenda

May 2019

Item 6 – Outstanding Water Bodies – Proposed Plan Change 7 (PPC7)

Item 6 sets out the relevant information to support the Outstanding Water Bodies (OWB) - Proposed Plan Change 7 (PPC7) and asks the RPC to make a decision on: (i) receiving report SD 19-18 and 19-19; (ii) an agreed list of OWB of PPC7; (iii) releasing PPC7 for pre-notification consultation; and (iv) requesting HBRC staff to shortlist suitably qualified RMA accredited hearings commissioners.

Key information

The Hawke's Bay Regional Council (HBRC) are required by the National Policy Statement for Freshwater Management (NPS-FM) to identify and protect the significant values of OWB.

In 2012, the HBRC prepared Proposed Plan Change 5 (PPC5) for the Tukituki River catchment and chose not to identify OWB in the Tukituki catchment. The resolution of appeals on PPC5 resulted in HBRC agreeing to prepare a stand-alone plan change, ahead of the TANK plan change (PPC6), to identify OWB across the region.

In 2017, the RPC agreed to a co-drafted process [drafted by Tāngata whenua representatives (TWR) and HBRC staff] to improve upon the original Council proposed process for identifying OWB with significant cultural values. Other significant values (eg, recreation) would be identified through existing 2017 Council process.

In mid 2018, the HBRC released the OWB candidate list to iwi authorities, key stakeholders and city/district Councils, and undertook engagement with each of the parties. Engagement generated new candidate waterbodies.

In late 2018/early 2019, the HBRC convened an expert panel to assess the OWB candidate list + new candidate waterbodies and provide recommendations to the RPC. The expert panel released their own report on OWB.

PPC7 includes amendments to the Regional Resource Management Plan (RRMP) to insert new objectives, policies, schedule and definitions to identify OWB and provide for the protection of significant values of OWB.

Decision-making

The OWB concept has been challenging for Tangata Whenua since the beginning. The TWR universally agree freshwater is a taonga of paramount importance and all waterbodies have significant customary/cultural/spiritual value. However, for some TWR the notion of elevating one water body over another water body is unacceptable. This important distinction is now understood by HBRC and is recorded in para 31 of item 6. Pahauwera also articulated their view that all water bodies within their rohe are degraded and are therefore no longer outstanding. They believe the focus should be on restoring the

mauri of all degraded water bodies rather than attempting to identify significant values of outstanding water bodies when these no longer exist.

Some TWR, in reconciling the difficulties of choosing/ranking one water body over another water body, have taken the view the PPC7 may provide an opportunity to provide increased protection of significant customary/cultural/spiritual values of waterbodies that are identified as outstanding in the RRMP (even where these values have been diminished). Put simply, where no current protection exists for an awa, the PPC7 process may provide an increased level of protection.

The TWR have stated the process to identify OWB, while fulsome nationally, is imperfect. There are gaps in the HBRC knowledge base and as a result, with the OWB candidate list. HBRC have acknowledged this point in para 18 of item 6.

We recommend TWR approach item 6 in three steps and amend the recommendations:

The TWR who either do not support or are opposed to the identification of outstanding waterbodies in their rohe for significant customary/cultural/spiritual value must be provided the opportunity to express their view at the RPC. We recommend TWR who do not wish to include water bodies within their rohe as a matter of principle request PPC7 explicitly excludes water bodies from being identified as OWB for customary/cultural/spiritual values from a tangata whenua perspective in their respective rohe. NB. This would not exclude OWB being identified in their rohe for other significant (non-customary/cultural/spiritual) values;

The TWR who wish to utilise the opportunity presented by PPC7 must also be provided with the opportunity to express their view at the RPC and ensure that PPC7 includes those waterbodies that have outstanding customary/cultural/spiritual values in their rohe;

The TWR should consider an amendment to the recommendations for item 6 that provides for the mana motuhake of individual TWR to make decisions on how to proceed with the inclusion of OWB for customary/cultural/spiritual values in PPC7 to respect the views of tangata whenua. Such an amendment could be:

That the Regional Planning Committee:

- 1.1 Receives and notes the report SD 19-18 Outstanding Water Bodies Plan Change: *"Selecting a list of outstanding water bodies in Hawke's Bay"* (separately circulated).
 - 1.2 Receives and notes the report SD 19-19 Outstanding Water Bodies in Hawke's Bay: *"Report of the Expert Panel (April 2019)"* (separately circulated).
 - 1.3 Notes that Ngāti Pahauwera and Te Uru Taumata o Tūhoe have elected not to participate in the Outstanding Water Bodies process and their values for the water ways with which they are associated are not reflected in the draft PPC7;
 - 1.4 Agrees on a draft list of Outstanding Water Bodies for inclusion in draft Plan Change 7. [Note: Staff will provide further recommendations on the draft list of OWB at the RPC meeting].
 - 1.5 Agrees that the Draft Proposed Plan Change 7 (Attachment 1) should be released for pre-notification consultation.
- 2
- 1.6 Requests staff identify a shortlist of suitably qualified and experienced Resource Management Act Accredited Hearing Commissioners for consideration by the Committee

Reference follow-up 7

Item 4

Attachment 1

From: Leeanne Hooper**Sent:** Friday, 10 May 2019 8:47 AM**Subject:** FW: 3 Waters Maori Engagement**Attached**Three Waters Review Project Update for Maori Advisors April 19_ FINAL.docx
638 KB

From: Toni Goodlass <toni.goodlass@napier.govt.nz>**Sent:** Thursday, 9 May 2019 7:50 PM**To:** Tom Skerman <Tom@hbrc.govt.nz>**Cc:** Pieri Munro <Pieri.Munro@hbrc.govt.nz>**Subject:** RE: 3 Waters Maori Engagement

Hi Tom

I sent this update on the project to the Maori Advisor's last week for their reports and I have just started the second round of updates to the Maori Committees today with Wairoa. In terms of who we have met with please see below: (we also acknowledge this is not 'Iwi' engagement) but for the purposes of the review the first step in Maori engagement.

Cheers, Toni

Five initial workshops were held:

Wairoa Māori Standing Committee, Hastings Māori Joint Committee, Napier Māori Consultative Committee
Joint meeting of Hawke's Bay Regional Council Regional Planning Committee and Māori Advisory Committee,
Te Taiwhenua O Tametatea Inc

Toni Goodlass

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Hawkes Bay Three Waters Review Project Update

April 2019

Review Background & Rationale

The five councils within the Hawke's Bay Region, including Napier City Council, Hastings District Council, Central Hawke's Bay District Council, Wairoa District Council and Hawke's Bay Regional Council ("the Councils") have collectively commenced this review of the three waters service delivery.

The primary objective of this review is to complete an assessment and recommendations of the current and potential delivery models for three waters in the Hawke's Bay region. It is focussed on the three waters service provided by the Councils but in doing so needs to acknowledge the broader issues and emerging community concerns relating to water and the management of water within the Hawke's Bay and more generally across the country.

The review is concerned with the three waters services – drinking water, wastewater and stormwater. Issues relating to the wider management of rivers, lakes and harbours for example is not part of this study except to the extent that the three waters services impact on rivers, lakes and harbours.

This study is intended to provide the Councils with information to engage effectively with central government on the three waters reforms. Ultimately a recommendation will be provided to the Councils about the best way forward. It will then be for the Councils and their communities to decide the next steps.

Key Objectives/Principles

The objectives and principles objectives were developed through workshops with council staff and Māori committees, a review of the current state and takes into account typical Section 17A assessment criteria. These were then discussed and confirmed following the options assessment workshop with representatives from the four territorial authorities and the Hawke's Bay Regional Council.

The final, agreed objectives were

- to provide three water services in a way that is affordable and effective
- to provide services that are safe, reliable and resilient
- to provide services through a model that enables a meaningful role for Māori
- to provide services through a model that has the value of water at the centre
- to provide three waters services in a way that supports our urban and rural communities
- to provide three waters services that builds enduring capability and capacity.

Key Objectives/ Principles explained

- To provide three water services in a way that is affordable and effective*

Much of Hawke's Bay's water infrastructure is old or aging. Asset management plans and financial forecasts have identified substantial capital investment is required either to support existing communities or to facilitate and sustain the growth occurring within the region. The three waters services' model must address the challenge of providing for an effective, affordable service in a fiscally responsible way. In doing that we must consider not only of the current costs of the services but also consider the future costs as they are known and quantified within the councils' Long-Term Plans. We must also consider the future infrastructure costs which the councils have not yet quantified but are aware of as well as the capital and operational costs which are expected to come as a result of the Government's three waters reform. Underpinning everything is the purpose of local government, as set out in the Local Government Act, the provision of efficient and effective services.
- To provide services that are safe, reliable and resilient*

Access to safe and reliable water services are considered core services in both urban and rural communities. There is a particularly heightened sensitivity and understanding of what's required within the Hawke's Bay as a result of Havelock North contamination event in 2016. Stormwater disposal is a significant issue within the Region as is good water infrastructure that delivers a safe reliable and sustainable supply. Water services are a core service for councils under the Local Government Act and must meet health and environmental standards in delivering the services. The Government's three waters reform agenda is anticipated to significantly increase environmental standards and compliance requirements for all councils. The three waters services' model must deliver quality, compliant services that are resilient and sustainable both now and in the future. Resilience requires consideration of much more than the infrastructure. While understanding and acknowledging the challenges of the natural disasters that the Hawke's Bay is at risk of facing there is a need for the three waters system to be resilient; that includes the human resources, infrastructure and financial capacity.
- To provide services through a model that enables a meaningful role for Māori*

The principles contained within the Local Government Act require a local authority to provide opportunities for Māori to contribute to its decision-making processes. The development of any model must be cognisant of the importance of providing a meaningful role for Māori. Māori culture and values have always placed a high importance on water. Marae have always been established close to water, and the rivers, harbours and sea have always been a source of food. This is particularly evident in the Hawke's Bay. Water is central to Māori culture; water is taonga; respecting water, the way water is used and the impact of human life on water and the life it sustains.
- To provide services through a model that has the value of water at the centre*

Water is vital to community life and as such water services are part of a holistic water system, not only within the Hawke's Bay but across New Zealand. The communities of the Hawke's Bay are deeply connected to their water (lakes, rivers and harbours) and they place significant importance on the use, health, quality and protection of future use of that water. Water crosses communities and is not constrained by local or regional boundaries, as such each community's decisions can affect its neighbours. Similarly, there are sometimes competing interests for the same resources with a council area and within the wider Hawke's Bay. Safe and secure water supplies, drainage and sewerage treatment are identified by most individuals as a top priority for the region. Water has cultural significance for Māori and models should be able to incorporate Te Ao Māori, kaitiakitanga and implement mātauranga Māori. Designing in Māori principles and values into projects and infrastructure is emerging across New Zealand and needs to be able to be reflected in the

operations of a service delivery model. To be successful the service delivery model for three waters will recognise all of these different values of water.

- *To provide three waters services in a way that supports our urban and rural communities.*
Three waters services and the people that form part of those services are deeply linked in the communities of the Hawke's Bay. The services influence how people live, work, gather, socialise, recreate and value environmental amenity. The three waters are a crucial element of the local economy, providing direct employment, facilitating business establishment and growth, and as such are essential to community place making. Local employment is a priority for the smaller and rural communities of Hawke's Bay. The direct impacts as well as flow-on impacts of change in service delivery models for these communities need to be considered. It is also important for small communities to feel listened to and represented by the service delivery model. All of these must be balanced against the benefits that may arise for these communities with improved services and affordability.
- *To provide three waters services that builds enduring capability and capacity.*
The three waters model must be capable of, and have the capacity to, deliver quality sustainable planning, management and operation of water services that is consistent with the wider regional strategic objectives. This will continue to require skills beyond traditional service delivery functions and include a wider appreciation of stakeholder view and expectations. Creating and holding that capability and capacity over the medium and longer term will be a challenge. This challenge is not unique to the Hawke's Bay.

Review Programme – Key Steps



A long list of three waters services delivery options was developed using the Government Better Business Case five option dimensions.

Figure 1 Five long list option dimensions



The long list of options were defined after the discussion of the investment objectives and critical success factors.

Longlist Options: Examples of Different Models

The delivery options describe the structure and nature of the service provider. Existing examples are highlighted to help provide high level definition and identify the different features. Additionally, a table that follows the descriptions highlights differences by reference to important questions of responsibility for aspects of the services. The descriptions are not intended to be a comprehensive explanation of all aspects of the models.

Status Quo

Each council operates independently, delivering the service to its own customers. Strategic planning is limited on a regional basis. Each council's asset management capability is limited by its own resources.

Centre of Excellence

e.g. Waikato Road Asset Technical Accord (RATA)

Collaboration between two or more councils with a specific focus on information sharing and identification of areas or potential improvement, rather than delivery of the core service. This lends itself to activities where economies or efficiencies of scale are most available, such as valuations, condition surveys, planning and asset management, where smaller councils may not have the resources or the data to develop alone or solve common issues. Each council contributes an agreed fee per year to fund the CoE's operations, and the CoE provides recommendations to each participating council on improvements and efficiencies that are relevant to them. The CoE employs staff directly, and may provide opportunities for secondments for other council staff. In the case of RATA, an employed technical director reports to a governance group consisting of representatives from each council, and a technical advisory group allows the CoE to leverage off specialists located in each council.

Joint Procurement

e.g. Napier and Hastings Waste Collection Services (Waste)

Councils approach the market together to engage a third party for services, with the intention of securing better prices for a larger scope of works. Each council defines their own level of service and enters into separate contracts with the successful contractor following negotiations. The administration of each contract is managed within the respective council while delivery is carried out by a common third party.

'Simple' Shared Services

e.g. Masterton servicing Carterton (Roading, part of Two Waters)

Typically, a larger council providing a service to a smaller council, leveraging off a larger asset base and larger staff allowances. The scope of the services can be as small as providing laboratory services, up to full service delivery. Smaller councils can benefit from the more advanced asset management systems, while retaining asset ownership, strategic oversight and funding control. In the case of Masterton and Carterton, there is a common roading contractor between the councils, and Carterton contracts Masterton to manage their roading programme. In the Waingawa area of Carterton, Masterton is also contracted to deliver water and wastewater services.

Shared Service Business Unit

e.g. Northland Transport Alliance and Rangitikei DC and Manawatu DC (Infrastructure)

The business unit delivering the shared service is usually located at one of the participating council offices and staff are employed by the host council but directly within the business unit. Level of service, funding and strategic decisions are still made separately by the individual councils. The cost of operating the business unit is divided among the participant in agreed proportions that may take into account overall asset base, forecast capital programmes, or any other metric agreed by the councils. Support services may be provided by any participating council (usually the host under service level agreements) or by third parties as agreed.

Management CCO

e.g. Wellington Water

Asset ownership and strategic direction is retained by the council but management of day-to-day operations is carried out through the Management CCO. The Management CCO is a separate entity from all participating councils, which can increase overheads but also provides clarity for the assessment of costs directly related to the activity. The Management CCO will typically employ their own staff and provide their own support services (as opposed to utilising a council's services). The setting of price and level of service remains with the council. Each council can set its own requirements of the CCO, while benefiting from the combined knowledge and asset management maturity of the larger organisation. The key difference between the Management CCO and the Centre of Excellence is the ability to deliver the whole service rather than supplement each council's in-house team.

Asset Owning CCO

e.g. Watercare Services Ltd

The CCO has full independence over service delivery, but must give effect to councils' development and growth plans. CCOs are overseen by a Board of Directors that may be a combination of Councillors, technical experts and independent parties. The Board will approve the budget prepared by the CCO, including the setting of fees and charges and submit the information to the controlling council as part of the LTP and annual plan process. The CCO's Chief Executive is delegated operational responsibility by the Board and oversees the daily operation of the service. All staff are employed by the CCO directly.

Watercare is part of the Auckland Council 'family' and is responsible for Water and Wastewater. Stormwater is the responsibility of Auckland Transport, a separate CCO also established through the Auckland amalgamation.

Features of Examples of Existing Models

| | Status Quo | Centre of Excellence (e.g. RATA) | Joint Procurement (e.g. Napier and Hastings Waste Collection Contract) | 'Simple' Shared Services (e.g. Masteron/Carterton) | Shared Services Business Unit (e.g. NTA, Rangitikei & Manawatu DC) | Management CCO (e.g. Wellington Water) | Asset Owning CCO (e.g. Watercare) |
|---|---------------------|---|---|--|---|--|--|
| Who owns the assets? | Individual councils | Individual councils | Individual councils | Individual councils | Individual councils | Individual councils | CCO |
| Who determines the level of service? | Individual councils | Individual councils (Governance group for each council's level of service to the council) | Individual councils | Individual councils | Individual councils | Individual councils | CCO |
| Who approves strategic decisions? | Individual councils | Individual councils | Individual councils | Individual councils | Individual councils (on recommendations of the business unit) | Individual councils (on recommendations made by CCO) | CCO* (growth projections developed by individual councils) |
| Who approves operational decisions? | Individual councils | Individual councils | Individual councils (Contractor – to meet defined level of service targets) | Individual councils | Shared Services Business Unit | CCO | CCO |
| Who sets the price to the customer? | Individual councils | Individual councils | Individual councils | Individual councils | Individual councils | Individual councils | CCO |
| Who provides administrative support (e.g. employing staff)? | Individual councils | Individual councils (see may how small number of specialist staff) | Individual councils (Contractor – within scope of contract) | Individual councils | Shared Services Business Unit (typically with support from host council e.g. NTA) | CCO | CCO |
| Who approves future plans? | Individual councils | Individual councils | Individual councils | Individual councils | Individual councils | Individual councils* (on recommendations of CCO) | CCO* (subject to LTP or AP consultation requirements) |

Short Listed Service Delivery Model Options to Evaluate in Detail

1. Status Quo – Noting that the future status quo will be considerably different to the current and will therefore be evaluated as an enhanced status quo
2. Option 1 – Three waters Shared Services Business Unit with
 - Current council funding (do minimum option)
3. Option 2 – Three waters regional management CCO
 - Current council funding
 - Regional funding
4. Option 3 – Three waters Regional asset owning CCO with
 - Regional funding

All options will consider the opportunities available in national support. In addition, the additional costs and benefits of sub-national management CCO will be compared to the costs and benefits of a regional management CCO. Each option will be evaluated on the basis of a single transition process into any new model in order to maximise likely benefits but recognising that phasing in of councils may be required. The risks, impacts, costs and benefits of such an approach will be highlighted through the detailed analysis.

Review Programme Next Steps

Short listed options will be described in detail as part of the detailed assessment and presentation of the preferred option in mid May. Straw man structures will be created including, where appropriate, organisational structures and functional responsibilities, the creation of ten year long term financial plans for any new models which include transitional costs and any expected efficiencies.



Our Council Leadership teams will review the recommendation and determine whether further information/ steps are required. It is our expectation that we will be communicating to Council the outcome of the review in late June/July.

Note: This is the first phase of the 3 Waters review project and it is not currently envisaged that we would bring any formal recommendation until the later part of the year following direction from our Chief Executives and Council Leadership teams.

Appendix A: Summary of workshops with Māori committees

The key takeaways from these workshops are set out below, grouped by key themes. An explanation of each theme is provided to give context and background with specific comments or points of discussion from the workshop that highlight where or how the theme applies in the Hawke's Bay.

1. Value Te Ao Māori

Te Ao Māori (Māori world view) is integral to the identity of Māori. Incorporating and implementing mātauranga Māori (indigenous knowledge), culture and values (ie Te Aranga Principles) are a core element for any potential framework in decision-making, business plan and procurement plan development and service delivery to realise and enhance the region's commitment to Māori, and protecting/enhancing water.

Adoption of a Māori world view would place people within the environment, and not in a dominant and exploitive role. It would also reflect the ngakau (heart) and kōrero (voice) of local Iwi, including tikanga, kawa and values, whilst acknowledging their mana, their role as guardians (kaitiaki), caretakers of the mauri (the life-force) within Te Ao Tūroa, for the benefit and wellbeing of the next generation.

Our workshops highlighted this through discussions and comments on the following:

- Models should consider Te Ao Māori, not just on individual projects or issues but embedded within the organisation
- There is only 'one water'
- Current systems to take water for water supply and treat and discharge wastewater are not incorporating Māori tikanga
- There are alternative ways to treat water using Māori principles, land based solutions
- Opportunity to use cultural monitoring frameworks e.g. example being developed in Hawke's Bay *Nga Pou Mataara Hou*
- Incorporate Te Aranga Principles in the design of new infrastructure.

2. Value Water

Wai (water) is the essence of all life and the world's most precious resource. It's of high importance to Māori, as it is the life giver of all things, a precious taonga (treasure), part of our whakapapa (genealogy).

Ngā wai taonga i tuku iho nei - Water is taonga, a precious treasure passed down from our ancestors.

Water is under increasing pressure due to the strain we've put on the world, including rapid urbanisation, food production challenges, aging infrastructure and climate change.

Through urbanisation we've disrupted the flow of water, in particular ngā romiata o ngā Atua, the tears of Ranginui (sky father) to Papatūānuku (earth mother); we've made the land impervious to water through laying concrete, asphalt and roofs; we've piped and culverted our waterways; we've taken water from one catchment to serve the people in another catchment.

As a result, many of our local water resources have depleted over time and this has impacted a range of traditional practices. This is especially true for the harvesting of resources, wild foods and plants, where stocks have been depleted or lost, or where discharges of wastewater and stormwater make wild food consumption and recreation unsafe and subject to tapu (cultural prohibition).

This is of real concern to Māori and communities, as the health of the waterway is connected to the health of the people; we are one and the same.

Ko au te awa, ko te awa ko au – I am the river, the river is me.

Our workshops highlighted this through discussions and comments on:

- No water, no life
- Access to water is a human right. Many residents, communities and marae do not have access to water supply
- Some communities only have one water
- Water is the reflection of the people; if it is in a poor state, the people are also in a poor state
- Behavioural and attitude change is required across the region
- We need to incentivise change, lead change and be aspirational.

3. Whakapapa – Genealogical links

Recognise and respect the relationship and whakapapa (genealogical link) that mana whenua have with water. Connect people and communities back to water.

Whakapapa connects all of us, tying us all together. It reminds us of our mortal position in the natural world and how its relationships constitute and sustain us. This reminder needs to be acted upon if Māori are to continue their tūrangawaewae and for humanity to thrive. Our environmental and sustainability challenges in our ever-changing world, specifically climate change, tell how our behaviour is inconsistent with our kaitiaki responsibilities. The whakapapa and mauri that hold us and our shared ecology together is being degraded. This risks our existence as we have known it. We must remember what is important and we must change our behaviour, or we and the world we know will be lost.

We, the human element - he tangata - inhabit the space between Ranginui and Papatūānuku. Between the sky father (father of all things) and mother earth (mother of all things). This space was created by their children who form the natural realms and the lifeforms that inhabit them. These elements are connected by a whakapapa that weaves through their wairua. These connections and whakapapa surround, extend and give rise to tangata whenua, the human element, and our individual experience in the world.

Whatungarongaro te tāngata, toitū te whenua, toitū te wai - Man perishes, but land and water remain.

Our workshops highlighted this through discussions and comments on

- connections of communities and marae to water and waterways
- disconnection of people in the region with their ancestral waterways
- common issues but unique communities
- desire not to lose the important local connections through a big utility service provider who wouldn't/couldn't understand at the local level.

4. Te Mauri o Te Wai – The life force of water

Water has a mauri (life force), a vitality or essence that supports all life. Mauri is the integrated and holistic well-being and life support capacity of water. The wellbeing/healthiness of the water, the land, and the people are intrinsically connected.

Our actions can enhance mauri or they can diminish mauri. There are consequences of our actions across the whole water cycle and ensure we treat water as a precious resource.

Te Mauri o Te Wai needs to be considered in any potential model.

Our workshops highlighted this through discussions and comments on

- need to protect mahinga kai – food and resource harvesting. There have been instances where dead and/or degraded shellfish have been observed in Mahia after heavy rain. Reports of sewage flowing into Waipawa and Tukituki, contaminating food sources and wildlife.
- safe waterbodies, swimmable water
- paru (contaminants) dumped into waterways, affecting the quality and health of the water and all that lives in and around the waterways
- the four pou/wellbeings; economic, environmental, social and cultural to be considered
- “Put the mauri back into it – how do we blend it back”.

5. Holistic approach to water

Although the project is based around the review of the service and delivery of the three (infrastructure) waters, the proposed model needs to take into account a holistic water approach – there is only one water.

The potential option should take into account the upstream water (all water that contribute into the three (infrastructure) waters) and the downstream water (all discharges to water). This would include all rivers, lakes, sea, groundwater etc.

Mai i te rangi, ki te whenua, Mai uta, ki tai - from the sky to the land, from the hinterlands to the sea

Our workshops highlighted this through discussions and comments on

- importance of putting water at the centre
- a strong requirement to consider a holistic approach to water
- a Te Ao Māori focused framework for “mountains to sea”
- “All hinges back to the environment – all comes back to the river”
- looking outwards towards the future.

6. Enabling of Te tiriti o Waitangi (Treaty of Waitangi);

Involving iwi and mana whenua in governance and decision-making roles required to ensure Te tiriti o Waitangi obligations are met, as well as making sure they are able to actively exercise kaitiakitanga in practical way.

The Local Government Act requires councils to provide for opportunities for Māori to contribute to decision making processes. Section 6(e) of the Resource Management Act 1991 sets out:

“Section 6(e) Matters of national importance – In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall recognise and provide for the following matters of national importance: The relationship of Māori and their culture and traditions with their ancestral lands, water, sites, wahi tapu, and other taonga.”

Our workshops highlighted this through discussions and comments on the following:

- If the model is not through local government then where and what is the role of Māori?
- Relationships with iwi and treaty partners are critical to any model
- Co-governance, co-creation, co-managed
- Should be built into the operations of the potential model, not just governance
- Desire for Māori to be involved in co-design, not to be re-interpreted.

7. Mana motuhake – identify, self-determination.

The identity of iwi and mana whenua in Hawke's Bay should not be lost in any potential model. But inclusion and co-governance whilst keeping their identity is an opportunity.

"Mana motuhake means the authority (mana) gained through self-determination and control over one's own destiny. Mana whenua communities have this authority in their customary 'rohe' or territory and have special cultural relationships with ecosystems in these areas. It is important to proactively engage mana whenua in designing urban environments within their rohe so that they can have a meaningful role in shaping the outcome." - Urban Water Principles – Ngā Wai Manga (MfE 2018)

Our workshops highlighted this through discussions and comments on

- strong Māori communities
- strong river identity - the *"River is the life of our town, and the vibrancy of their community"*. Waikaremoana is the beating heart and the other rivers are the arteries (if you don't look after these you die)
- *"We have nine marae in this district and every marae has water problems - all reliant on tanks (trucking water in) but it is worse now."* Waipukurau Marae (access to sewerage line stops there - separate pump to pushing it uphill - every quarter it breaks down - infrastructure is old.
- *"One of the marae had to be closed because the water was contaminated."*
- Māori economy and local employment.

Attachment 1

Item 4

HAWKE'S BAY REGIONAL COUNCIL

REGIONAL PLANNING COMMITTEE

Wednesday 03 July 2019

Subject: CALL FOR ITEMS OF BUSINESS NOT ON THE AGENDA

Item 5

Reason for Report

Hawke's Bay Regional Council 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."

Recommendation

That the Regional Planning Committee accepts the following "Minor Items of Business Not on the Agenda" for discussion as Item 13.

| Topic | Raised by |
|-------|-----------|
| | |
| | |
| | |

Leeanne Hooper
PRINCIPAL ADVISOR GOVERNANCE

Joanne Lawrence
GROUP MANAGER
OFFICE OF THE CE & CHAIR

HAWKE'S BAY REGIONAL COUNCIL

REGIONAL PLANNING COMMITTEE

Wednesday 03 July 2019

Subject: MAKING PLAN CHANGE 5 OPERATIVE

Item 6

Reason for Report

1. This report asks the Committee to recommend that Council adopt Plan Change 5 to be made operative. There is no discretion not to adopt the amended plan at this stage.
2. On 7 June 2019, the Environment Court issued its final decision on the last remaining points of an appeal by Hawke's Bay Fish and Game Council on Change 5's wetland-related provisions. That decision followed a 2-day Court hearing in September 2017. With that decision issued, there are no remaining parts of any appeals unresolved.

Relevance of this item to Committee's Terms of Reference

3. The purpose of the Regional Planning Committee as stated in section 9(1) of the Hawke's Bay Regional Planning Committee Act 2015 is:

"to oversee the development and review of the RMA documents [i.e. the Regional Policy Statement and regional plans] prepared in accordance with the Resource Management Act 1991 for the [Hawke's Bay] region."

4. Neither in the Procedure and Functions sections of the Terms of Reference nor in the HB Regional Planning Committee Act 2015, are there any specific references to the Committee having the function of recommending to Council the adoption of any plan or plan change after completing the RMA Schedule 1 process. However, in the spirit of the Terms of Reference, this report is presented to the Committee to 'close the loop' on the RPC's oversight of Change 5 over the past few years.

Discussion

5. This item represents the end of the RMA Schedule 1 process for proposed Plan Change 5 which has been a long-running saga. It started back in 2011 when the Council first commenced drafting of a plan change to improve policies for the integrated management of land and freshwater resources in Hawke's Bay.
6. In very general terms, Change 5 introduces new provisions relating to the management of land and freshwater resources into various parts of the Regional Resource Management Plan (RRMP). It does not amend the Regional Coastal Environment Plan.
7. The following were significant milestones in that process to arrive at this final step.

| | |
|---------------------------------------|---|
| July 2012 | Draft version of Change 5 was released for public comment |
| 2 Oct 2012 | proposed Plan Change 5 publicly notified (and 29 submissions received) |
| 10-12 April 2013 | Hearings by Commissioner Panel |
| 5 June 2013 | Decisions on submissions issued |
| | Four appeals to Environment Court subsequently lodged totalling over 150 individual appeal points. Appellants were Federated Farmers of NZ, HB Fish and Game Council, Horticulture New Zealand; and Ngati Kahungunu Iwi Incorporated. |
| 26 Sept 2014 | Environment Court issues Consent Order approving parties' mediated agreements |
| Dates of Environment Court Decisions: | 27 March 2015 (2015 NZEnvC050) re NKII appeal on groundwater policies |
| | 7 June 2019 (2019 NZEnvC102) re HBF&G appeal on wetland provisions |

8. The next step that the Council must now take is to adopt Change 5 (Attachment 1), affix the Council's seal, and make it operative. This would involve as soon as practicable, amending the RRMP as per the package of amendments emerging from the process

(i.e. Council's decisions on submissions, Consent Orders and decisions issued by the Environment Court).

9. There is no discretion not to adopt the amended plan at this stage. This decision is merely a procedural step and is not an opportunity to re-debate the content of Change 5. If the Committee or Council were inclined to now modify some or all of the content of Change 5, then that must follow due process as a separate plan change – not an add-on at this step in the RMA Schedule 1 process.

Considerations of Tangata Whenua

10. The step of agreeing to make Change 5 operative under the RMA does not have any extraordinary requirements of considerations for tāngata whenua. During the earlier phases of Change 5's process, there were the typical RMA factors and procedural steps that specifically considered interests of tangata whenua.

Financial and Resource Implications

11. Progressing Change 5 through to this stage has been provided for in Project 192 (Regional Planning). Financial and resource implications of making Change 5 operative are included in the Long Term Plan 2018-28. There is no additional budget required to make PC5 operative. It is a relatively mechanical step with a public notice to be given and online version of the RRMP to be updated, plus printed copies of the RRMP held at public libraries in the region also to be updated as soon as practicable.

Summary

12. The purpose of this item is for the Committee to recommend that Council adopt PC5 and take steps to make it operative in August 2019.

Decision Making Process

13. Council is required to make a decision in accordance with the requirements of the Local Government Act 2002 (LGA). In this case, the decision to be made is prescribed by the Resource Management Act and is a culmination of a lengthy process following the sequence of steps in Schedule 1 of the RMA. Staff have assessed the requirements contained in Part 6 Sub Part 1 of the LGA in relation to this item and have concluded the following:
 14. The decision to make Change 5 operative does not significantly alter the service provision or affect a strategic asset.
 15. The use of the special consultative procedure is not prescribed by legislation.
 16. The decision does not fall within the definition of Council's policy on significance.
 17. The persons affected by this decision are the Hawke's Bay regional community.
 18. Options that have been considered include approving Change 5 and not approving Change 5.
 19. The decision to make Change 5 operative is not inconsistent with an existing policy or plan.
 20. Given the nature and significance of the issue to be considered and decided, and also the persons likely to be affected by, or have an interest in the decisions made, Council can exercise its discretion and make a decision without consulting directly with the community or others having an interest in the decision.

Recommendations

1. That the Regional Planning Committee receives and considers the "*Making Plan Change 5 Operative*" staff report.
2. The Regional Planning Committee recommends that Hawke's Bay Regional Council:
 - 2.1. Agrees that the decisions to be made are the result of Resource Management Act plan change consultation processes and Environment Court proceedings and therefore able to be made without re-consulting directly with the community.

- 2.2. Approves Change 5 (Land and Freshwater Management) to the Hawke's Bay Regional Resource Management Plan in accordance with Clause 17 Schedule 1 of the Resource Management Act.
- 2.3. Agrees to staff making the necessary administrative arrangements (including a mandatory public notice) that Change 5 will become operative on a date sometime before 31 August 2019.

Authored by:

Gavin Ide
PRINCIPAL ADVISOR
STRATEGIC PLANNING

Approved by:

Tom Skerman
GROUP MANAGER
STRATEGIC PLANNING

Attachment/s

[!\[\]\(003082e50e3009141f59bd5df831749f_img.jpg\) 1](#) Plan Change 5



Change 5 (Land and Freshwater Management)

Hawke's Bay Regional Resource Management Plan

Presented Regional Planning Committee meeting 3 July 2019
for adoption to become an operative plan change

Item 6

Attachment 1



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Change 5 (Land and Freshwater Management)

Hawke's Bay Regional Resource Management Plan



| | |
|---|-------------------|
| Date of public notification: | 2 October 2012 |
| Date Council decisions issued: | 5 June 2013 |
| Date Consent Order(s) issued: | 26 September 2014 |
| NZEnvC 50 [2015] Decision issued: | 27 March 2015 |
| NZEnvC 198 [2018] Interim Decision issued: | 4 October 2018 |
| NZEnvC 102 [2019] Decision issued: | 7 June 2019 |
| Operative date: | TBC |



Change 5 to the Hawke's Bay Regional Resource Management Plan - *Land and freshwater management*

Prepared for presentation to the Regional Planning Committee meeting on 3rd July 2019
for adoption to become an operative plan change

Insert following as a new chapter in Section 3 of the Regional Resource Management Plan

3.1A Integrated Land Use and Freshwater Management

ISSUES

ISS LW1A E kore Parawhenua e haere ki te kore a Rakahore

Parawhenua (Water) would not flow if it were not for Rakahore (Rock)

He huahua te kai pai! He wai te kai pai!

Huahua (preserved birds) are a treasured delicacy. However water is a necessity.

Explanation: These two proverbs encapsulate the interrelationship between two significant elements – land and water. The Māori world is formed on the interconnectedness and interdependency of people to all living creatures and to the environments in which they live. The well-being of the whole is dependent on the well-being of its constituent parts.

ISS LW1 Multiple and often competing values and uses of fresh water can create conflict in the absence of clear and certain resource management policy guidance.

ISS LW2 Integration of the management of land use and water quality and quantity increases the ability to promote sustainable management of the region's natural and physical resources.

OBJECTIVES

OBJ LW 1 Integrated management of fresh water and land use and development

Fresh water and the effects of land use and development are managed in an integrated and sustainable manner which includes:¹

1. protecting the quality of outstanding freshwater bodies in Hawke's Bay;
- 1A. protecting wetlands, including their significant values;^{1A}
2. the maintenance of the overall quality of freshwater within the Hawke's Bay region and the improvement of water quality in water bodies that have been degraded to the point that they are over-allocated;
- 2B. establishing where over-allocation exists, avoiding any further over-allocation of freshwater and phasing out existing over-allocation;

¹ There is no particular priority or ranking intended by the matters' order of appearance. For the avoidance of doubt, varying degrees of emphasis may apply, irrespective of their particular placement in the list, arising from the use of verbs in each sub-clause.

^{1A} While significant values of wetlands can include nutrient filtering, flood flow attenuation, sediment trapping and cultural, spiritual, recreational, aesthetic and educational values, their values as habitat to fish, invertebrate, plant and bird life is likely to be significant for wetlands across the region.

3. recognising that land uses, freshwater quality and surface water flows can impact on aquifer recharge and the coastal environment;
4. safeguarding the life-supporting capacity and ecosystem processes of fresh water, including indigenous species and their associated fresh water ecosystems;
5. recognising the regional value of fresh water for human and animal drinking purposes, and for municipal water supply;
6. recognising the significant regional and national value of fresh water use for production and processing of beverages, food and fibre;
7. recognising the potential national, regional and local benefits arising from the use of water for renewable electricity generation;
8. recognising the benefits of industry good practice to land and water management, including audited self-management programmes;
- 8A. recognising the role of afforestation in sustainable land use and improving water quality;
9. ensuring efficient allocation and use of water;
12. recognising and providing for river management and flood protection activities;
13. recognising and providing for the recreational and conservation values of fresh water bodies; and
14. promoting the preservation of the natural character of the coastal environment, and rivers, lakes and wetlands, and their protection from inappropriate subdivision, use and development.

OBJ LW2 Integrated management of freshwater and land use development

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

OBJ LW3 Tāngata whenua values in management of land use and development and freshwater

Tāngata whenua values are integrated into the management of freshwater and land use and development including: ā

- a) recognising the mana of hapu, whanau and iwi when establishing freshwater values; and
- b) recognising the cumulative effects of land use on the coastal environment as recognised through the Ki uta ki Tai ('mountains to the sea') philosophy; and
- c) recognising and providing for wairuatanga and the mauri of fresh water bodies in accordance with the values and principles expressed in Chapter 1.6, Schedule 1 and the objectives and policies in Chapter 3.14 of this Plan; and
- d) recognising in particular the significance of indigenous aquatic flora and fauna to tāngata whenua.

Principal reasons and explanation

Objectives LW1, LW2 and LW3 (and associated policies) assist HBRC to give effect to the 2011 National Policy Statement for Freshwater Management by setting out a broad overall framework (in parallel with other objectives in the RPS) for improving integrated management of the region's freshwater and land resources. These RPS provisions only partly implement the NPS for Freshwater Management. Regional plan policies and methods (including rules) also assist in giving effect to the NPS for Freshwater Management.

In Hawke's Bay, the issues and pressures on land and water resources vary throughout the region. As a result, the urgency for clarity around water allocation and to maintain or improve water quality also varies. For example, the food and wine production Hawke's Bay is renowned for is focussed mostly on the Heretaunga Plains, while for example plantation forestry

and wool growing is typically located on hill country. These catchment differences have influenced HBRC's decision to prioritise catchments where the issues, pressures and conflicts are most pressing.

Objectives LW1, LW2 and LW3 are intended to outline the broad principles for policy-making and regional plan preparation to improve integrated decisions being made about the way the region's land and freshwater resources are used, developed or protected across the region's varying catchments and sub-catchments.

As well as different pressures in different catchments, freshwater values in Hawke's Bay also vary spatially. In addition to the national values of fresh water identified in the NPSFM's Preamble, HBRC has undertaken a process to assess freshwater values in Hawke's Bay. This included beginning with a Regional Water Symposium in 2010, followed by a process involving stakeholder representatives to develop the Hawke's Bay Regional Land and Water Management Strategy and a second Land and Water Symposium in 2011. This process helped HBRC to understand how to prioritise and strengthen policy options and management decisions for the different catchments. HBRC has also applied the River Values Assessment System (RIVAS)² to assess some of the values of rivers in the region. The results of the RIVAS assessments for Hawke's Bay reinforced the values identified at the symposiums and by the stakeholder reference group.

The predominant view of Māori in Hawke's Bay is that water is the essential ingredient of life: a priceless treasure left by ancestors for their descendants' life-sustaining use. This Plan sets out iwi environmental management principles (see Chapter 1.6), matters of significance to iwi/hapū (see Chapter 3.14) and commentary about the Māori dimension to resource management (see Schedule 1).

POLICIES

POL LW1A Problem solving approach – Wetlands and outstanding freshwater bodies

1. To work collaboratively with iwi, territorial authorities, stakeholders and the regional community:
 - a) to identify outstanding freshwater bodies at a regional level and include provisions in the Regional Policy Statement to list those waterbodies and guide the protection of the outstanding qualities of those waterbodies; and
 - b) to prepare a Regional Biodiversity Strategy and thereafter include provisions in the Regional Policy Statement and/or regional plans to (amongst other things) guide the protection of significant wetland habitat values identified by the Strategy.
2. In relation to Policy LW1A.1, the identification of outstanding freshwater bodies will be completed and an associated change to the Regional Policy Statement will be publicly notified prior to public notification of any further³ catchment-based plan changes⁴ prepared in accordance with Policy LW1.

POL LW1 Problem solving approach - Catchment-based integrated management

1. Adopt an integrated management approach to fresh water and the effects of land use and development within each catchment area, that:⁵
 - b) provides for *mātauranga a hapū* and local tikanga values and uses of the catchment;
 - c) provides for the inter-connected nature of natural resources within the catchment area, including the coastal environment;
 - cA) recognises and provides for the need to protect the integrity of aquifer recharge systems;
 - cB) recognises and manages the co-existing values of wetland habitat and agricultural production;
 - d) gives effect to provisions relating to outstanding freshwater bodies arising from the implementation of Policy LW1A;

2 RIVAS, developed by Lincoln University, provides a standardised method that can be applied to multiple river values. It helps to identify which rivers are most highly rated for each value and has been applied in several regions throughout the country.

3 Plan Change 6 for the Tukituki River catchment pre-dates this provision.

4 Notwithstanding Policy LW1A.2, a catchment-based regional plan change for the Mohaka River catchment may proceed in the meantime. For the avoidance of doubt, issue-specific regional plan changes (for example, urban stormwater or natural hazards and oil and gas resources) may also proceed in the meantime.

5 There is no particular priority or ranking intended by the matters' order of appearance. For the avoidance of doubt, varying degrees of emphasis may apply, irrespective of their particular placement in the list, arising from the use of verbs in each sub-clause.

- dA) maintains, and where necessary enhances, the water quality of those outstanding freshwater bodies identified in the catchment, and where appropriate, protects the water quantity of those outstanding freshwater bodies;
 - e) promotes collaboration and information sharing between relevant management agencies, iwi, landowners and other stakeholders;
 - f) takes a strategic long term planning outlook of at least 50 years to consider the future state, values and uses of water resources for future generations;
 - g) aims to meet the differing demand and pressures on, and values and uses of, freshwater resources to the extent possible;
 - gA) involves working collaboratively with the catchment communities and their nominated representatives;
 - h) ensures the timely use and adaptation of statutory and non-statutory measures to respond to any significant changes in resource use activities or the state of the environment;
 - iC) avoids development that limits the use or maintenance of existing electricity generating infrastructure or restricts the generation output of that infrastructure;
 - iD) provides opportunities for new renewable electricity generation infrastructure where the adverse effects on the environment can be appropriately managed;
 - iE) recognises and provides for existing use and investment;
 - j) ensures efficient allocation and use of fresh water within limits to achieve freshwater objectives; and
 - k) enables water storage infrastructure where it can provide increased water availability and security for water users while avoiding, remedying or mitigating adverse effects on freshwater values.
2. When preparing regional plans:
- a) use the catchment-wide integrated management approach set out in POL LW1.1; and
 - b) identify the values for freshwater and wetlands and their spatial extent within each catchment and for catchments identified in Policy LW2.1:
 - i) the values must include those identified in Table 1; and
 - ii) may include additional values; and
 - bA) recognise and provide for outstanding freshwater bodies and their values arising from the implementation of Policy LW1A; and
 - c) establish freshwater objectives for all freshwater bodies for the values identified in clause (b) and clause (bA) above; and
 - d) so as to achieve the freshwater objectives identified under clause (c), set:
 - i) groundwater and surface water quality limits and targets; and
 - ii) groundwater and surface water quantity allocation limits and targets and minimum flow regimes; and
 - e) set out how the groundwater and surface water quality and quantity limits and targets will be implemented through regulatory or non-regulatory methods including specifying timeframes for meeting water quality and allocation targets.
3. When setting the objectives referred to in Policy LW1.2, ensure:

- a) the life-supporting capacity, ecosystem processes and indigenous species including their associated ecosystems of fresh water are safeguarded; and
 - b) adverse effects on water quantity and water quality that diminish mauri are avoided, remedied or mitigated; and
 - c) the microbiological water quality in rivers and streams is safe for contact recreation where that has been identified as a value under Policy LW1.2 or Policy LW2 Table 1.⁶
4. When identifying methods and timeframes in regional plans to achieve limits and targets required by Policy LW1.2(e) have regard to:
- a) allowing reasonable transition times and pathways to meet any new water quantity limits or new water quality limits included in regional plans. A reasonable transition time is informed by the environmental and socio-economic costs and benefits that will occur during that transition time, and should include recognition of the existing investment; and
 - b) promoting and enabling the adoption and monitoring of industry-defined and Council approved good land and water management practices.

Principal reasons and explanation

Catchment-based resource management is promoted in Policy LW1 and is consistent with Objective C1 of the 2011 National Policy Statement for Freshwater Management. Policy LW1 provides a 'default' planning approach for all catchments and catchment areas across the region, irrespective of the catchment area's values being identified in Policy LW2. Many of the principles and considerations for catchment-based planning have emerged from the 2011 Hawke's Bay Land and Water Management Strategy.

National values of freshwater have been listed in the NPSFM preamble and values have also been identified in the Hawke's Bay LAWMS.

Approaches to issues, values and uses of catchments will vary so Policy LW1.1, Policy LW1.2, Policy LW1.3 and Policy LW1.4 do not prescribe a one-size-fits-all approach for all catchments in Hawke's Bay. Each catchment-based process will need to be tailored for what is the most appropriate approach for that catchment (or grouping of catchments). Regional plans and changes to regional plans will be the key planning instrument for implementing catchment-based approaches to land use and freshwater resource management.

POL LW2 Problem solving approach - Prioritising values

Subject to achieving Policy LW1.3:

1. Give priority to maintaining, or enhancing where appropriate, the primary values and uses of freshwater bodies shown in Table 1 for the following catchment areas⁷ in accordance with Policy LW2.3:
 - a) Greater Heretaunga / Ahuriri Catchment Area;
 - b) Mohaka Catchment Area; and
 - c) Tukituki Catchment Area.
- 1A. Policy LW2.1 applies:
 - a) when preparing regional plans for the catchments specified in Policy LW2.1; and
 - b) when considering resource consents for activities in the catchments specified in Policy LW2.1 when no catchment-based regional plan has been prepared for the relevant catchment.
2. In relation to catchments not specified in Policy LW2.1 above, the management approach set out in Policy LW1.1, Policy LW1.2, Policy LW1.3 and Policy LW1.4 will apply.
- 2A. In relation to values not specified in Table 1, the management approach set out in Policy LW1.1, Policy LW1.2, Policy LW1.3 and Policy LW1.4 will apply.

⁶ NOTE: Policy LW1.3(c) applies to any values and uses identified in Table 1 which refer to "amenity for contact recreation", "amenity for water-based recreation" or "recreational trout angling."

⁷ A map illustrating the indicative location of these Catchment Areas is set out in Appendix 'A'.

3. When managing the fresh water bodies listed in Policy LW2.1:
 - a) recognise and provide for the primary values and uses identified in Table 1; and
 - b) have particular regard to the secondary values and uses identified in Table 1.
4. evaluate and determine the appropriate balance between any conflicting values and uses within (not between) columns in Table 1, using an integrated catchment-based process in accordance with Policy LW1.1, Policy LW1.2, Policy LW1.3 and Policy LW1.4 or when considering resource consent applications where no catchment-based regional plan has been prepared.

TABLE 1:

| Catchment Area | Primary Value(s) and Uses – in no priority order | Secondary Value(s) and Uses – in no priority order |
|--|---|--|
| Greater Heretaunga / Ahuriri Catchment Area | <ul style="list-style-type: none"> any regionally significant native water bird populations and their habitats Cultural values and uses for: <ul style="list-style-type: none"> mahinga kai nohoanga taonga raranga taonga rongoa Fish passage Individual domestic needs and stock drinking needs⁸ Industrial & commercial water supply Native fish habitat in the Ngaruroro River and Tutaekuri River catchments Recreational trout angling and trout habitat in: <ul style="list-style-type: none"> the Mangaone River the Mangatutu Stream the Ngaruroro River and tributaries upstream of Whanawhana cableway the Ngaruroro River mainstem between the Whanawhana cableway and confluence with the Maraekakaho River the Tutaekuri River mainstem above the Mangaone River confluence The high natural character values of the Ngaruroro River and its margins upstream of Whanawhana cableway, including Taruarau River The high natural character values of the Tutaekuri River and its margins above the confluence of, and including, the Mangatutu Stream Trout spawning habitat Urban water supply for cities, townships and settlements and water supply for key social infrastructure facilities freshwater use for beverages, food and fibre production and processing and other land-based primary production | <ul style="list-style-type: none"> Aggregate supply and extraction in Ngaruroro River downstream of the confluence with the Mangatahi Stream Amenity for contact recreation (including swimming) in lower Ngaruroro River, Tutaekuri River and Ahuriri Estuary any locally significant native water bird populations and their habitats Native fish habitat, notwithstanding native fish habitat as a primary value and use in the Tutaekuri River and Ngaruroro River catchments Recreational trout angling, where not identified as a primary value and use Trout habitat, where not identified as a primary value and use |
| Mohaka Catchment Area | <ul style="list-style-type: none"> Amenity for water-based recreation between State Highway 5 bridge and Willowflat any regionally significant native water bird populations and their habitats | <ul style="list-style-type: none"> Aggregate supply and extraction in Mohaka River below railway viaduct any locally significant native water bird populations and their habitats Native fish habitat below Willowflat |

⁸ In line with s14(3)(b)(ii) of the RMA, it is recognised that drinking water for stock is allowed, provided that it does not have an adverse effect on the environment.

| | | |
|--------------------------------|--|--|
| | <ul style="list-style-type: none"> • Cultural values and uses for: <ul style="list-style-type: none"> ○ mahinga kai ○ nohoanga ○ taonga raranga ○ taonga rongoa • Fish passage • Individual domestic needs and stock drinking needs⁸ • Long-fin eel habitat and passage • Recreational trout angling and trout habitat in the Mohaka River and tributaries upstream of, and including, the Te Hoe River • Scenic characteristics of Mokonui and Te Hoe gorges • The high natural character values of the Mohaka River and its margins • Trout spawning habitat | <ul style="list-style-type: none"> • Recreational trout angling, where not identified as a primary value and use • Trout habitat, where not identified as a primary value and use • Water use associated with maintaining or enhancing land-based primary production • Water use for renewable electricity generation in areas not restricted by the Water Conservation Order |
| Tukituki Catchment Area | <ul style="list-style-type: none"> • any regionally significant native water bird populations and their habitats • Cultural values and uses for: <ul style="list-style-type: none"> ○ mahinga kai ○ nohoanga ○ taonga raranga ○ taonga rongoa • Fish passage • Individual domestic needs and stock drinking needs⁸ • Industrial & commercial water supply • Native fish and trout habitat • Recreational trout angling and trout habitat in: <ul style="list-style-type: none"> ○ the Mangaonuku Stream ○ the Tukipo River ○ the Tukituki River mainstem downstream to Red Bridge ○ the Waipawa River • The high natural character values of: <ul style="list-style-type: none"> ○ the Tukituki River upstream of the end of Tukituki Road; and ○ the Waipawa River above the confluence with the Makaroro River, including the Makaroro River • Trout spawning habitat • Urban water supply for cities, townships and settlements and water supply for key social infrastructure facilities • freshwater use for beverages, food and fibre production and processing and other land-based primary production | <ul style="list-style-type: none"> • Aggregate supply and extraction in lower Tukituki River • Amenity for contact recreation (including swimming) in lower Tukituki River. • any locally significant native water bird populations and their habitats • Recreational trout angling, where not identified as a primary value and use • Trout habitat, where not identified as a primary value and use • Water use for renewable electricity generation in the Tukituki River (mainstem) and the Waipawa River above SH50 including the Mākaroro River. |

Principal reasons and explanation

Policy LW2.1 and 2.3 prioritises values of freshwater in three Catchment Areas where significant conflict exists between competing values. Clearer prioritised values in 'hotspot' catchments where significant conflicts exist was an action arising from the 2011 Hawke's Bay Land and Water Management Strategy. Policy LW2 implements OBJ LW2 in particular insofar as explicit recognition is made of the differing demands and pressures on freshwater resources, particularly within the three nominated 'hotspot' catchment areas. In relation to the remaining catchment areas across the region, Policy LW2 does not pre-define any priorities, thus enabling catchment-based regional plan changes (refer Policy LW1) for those areas to assess values and prioritise those values accordingly.

The primary and secondary values in Table 1 are identified to apply to the catchment overall, or to sub-catchments or reaches where stated. Table 1 recognises that not all values are necessarily equal across every part of the catchment area, and that some values in parts of the catchment area can be managed in a way to ensure, overall, the water body's value(s) is

appropriately managed. With catchment-based regional planning processes, it is potentially possible for objectives to be established that meet the primary values and uses at the same time as meeting the secondary values.

(Refer also:

- OBJ1, OBJ2 and OBJ3 in Chapter 2.3 (Plan objectives);
- Objectives and policies in Chapter 3.4 (Scarcity of indigenous vegetation and wetlands);
- Objectives and policies in Chapter 3.8 (Groundwater quality);
- Objectives and policies in Chapter 3.9 (Groundwater quantity);
- Objectives and policies in Chapter 3.10 (Surface water resources); and
- Objectives and policies in Chapter 3.14 (Recognition of matters of significance to iwi/hapū).

POL LW3 Problem solving approach – Managing the effects of land use

1. To manage the effects of the use of, and discharges from, land so that:
 - a) the loss of nitrogen from land to groundwater and surface water, does not cause catchment area or sub-catchment area limits for nitrogen set out in regional plans to be exceeded;
 - b) the discharge of faecal matter from livestock to land, and thereafter to groundwater and surface water, does not cause faecal indicator bacteria water quality limits for human consumption and irrigation purposes set out in regional plans to be exceeded;
 - c) the loss of phosphorus from production land into groundwater or surface water does not cause limits set out in regional plans to be exceeded.
- 1A. To provide for the use of audited self management programmes to achieve good management of production land.
2. To review regional plans and prepare changes to regional plans to promote integrated management of land use and development and the region's water resources.

Principal reasons and explanation

Policy LW3 makes it clear that HBRC will manage the loss of contaminants (nitrogen, phosphorus and faecal indicator bacteria) from land use activities to groundwater and surface water in order to ensure that groundwater and surface water objectives and limits identified in specified catchment areas are achieved. Restrictions under section 15 of the RMA may also apply to land use activities. Phosphorus and nitrogen leaching and run-off will be managed by both regulatory and non-regulatory methods. This approach will be complemented by industries' implementation of good agricultural practices.

Most regional plan changes will be on a catchment-basis, although some changes may be prepared for specific issues that apply to more than one catchment. HBRC has prepared a NPSFM Implementation Programme that outlines key regional plan and policy statement change processes required to fully implement the NPSFM by 2030.

POL LW4 Role of non-regulatory methods

To use non-regulatory methods, as set out in Chapter 4, in support of regulatory methods, for managing fresh water and land use and development in an integrated manner, including:

- a) **research, investigation and provision of information and services** – HBRC has in place a programme of research, monitoring and assessment of the state and trends of Hawke's Bay's natural resources. That programme will continue to be enhanced to assist HBRC implement the NPSFM and Hawke's Bay Land and Water Management Strategy;
- b) **advocacy, liaison and collaboration** – HBRC will promote a collaborative approach to the integrated management of land use and development and the region's freshwater resources;
- c) **land and water strategies** – the 2011 Hawke's Bay Land and Water Management Strategy contains a variety of policies and actions. A range of agencies and partnerships will be necessary to implement the actions and policies in the Strategy;
- e) **industry good practice** – HBRC will strongly encourage industry and/or catchment-based good practices for production land uses along with audited self management programmes as a key mechanism for achieving freshwater objectives at a catchment or sub-catchment level.

Principal reasons and explanation

Policy LW4 sets out the role of HBRC's non-regulatory methods in supporting regional rules and other regulatory methods to assist management of freshwater and land use and development in an integrated manner. This policy (and Policy LW1) recognises the need for a collaborative approach as an important means of minimising conflict and managing often competing pressures for the use and values of fresh water.

Anticipated Environmental Results

[Refer also anticipated environmental results in Chapters 3.3; 3.4; 3.7; 3.8; 3.9; 3.10; and 3.11]

| Anticipated Environmental Results | Indicator(s) | Data Source(s) |
|--|---|--|
| 1. Land and water management is tailored and prioritised to address the key values and pressures of each catchment | Freshwater objectives, targets and limits for catchments and/or groups of catchments are identified in regional plans for catchments Physical and biological parameters Social, cultural and economic indices | Regional plans and changes to regional plans HBRC's NPSFM Implementation Programme <u>SOE monitoring and reporting</u> <u>Local authority records</u> <u>User surveys</u> <u>Catchment-specific monitoring programmes</u> |
| 2. Regional economic prosperity is enhanced | Regional GDP trends and unemployment trends for primary sector and associated manufacturing and processing | Statistics NZ Economic activity surveys Employment records by sector |
| 3. Water is efficiently allocated | Level of allocation Catchment contaminant load modelling and monitoring Water use restriction timings and durations | SOE monitoring HBRC Consents records Compliance records Catchment-specific monitoring reports Water-supply management plans |
| 4. Quality of fresh water in region overall is maintained or improved. | Catchment targets are met and limits in regional plans are not exceeded Catchment contaminant load modelling and monitoring | SOE monitoring Compliance records Catchment-specific monitoring reports |
| 5. Water storage is developed to provide increased water availability and security for water users | Consents issued for water storage projects Improved security of supply of water for users in times and places of water scarcity | HBRC consent records Building consent authority records |
| 6. Tikanga Maori and tāngata whenua values are taken into account when managing freshwater | Cultural indices developed through cultural monitoring frameworks | Cultural health monitoring records |

Insertions to other chapters in Part 3 (RPS) of HB Regional Resource Management Plan

NOTE: In the following section, new text is represented in underlined italics and text to be deleted is ~~struckout~~.

→ Amend Policy 4 and insert a new policy into Chapter 3.4 (Scarcity of indigenous vegetation and wetlands) as follows:

POL 4A *To use both non-regulatory and regulatory methods for protecting significant values of wetlands.*

POL 4 To use non-regulatory methods, as set out in Chapter 4, as the primary means for achieving the preservation and enhancement of remaining areas of significant indigenous vegetation and ecologically significant wetlands, in particular: ...

- (b) **Works and services** - Providing works and services, or financial support, for the preservation of remaining ecologically significant indigenous wetlands at a level of funding as established in the HBRC's Annual Plan, subject to a management plan or statutory covenant being established for each wetland receiving assistance. Priority for Council's works and service-related projects will be given to the following wetlands⁴ (see Figure 4): ...

plus consequentially amend footnote 4 to read:

⁴ Priority wetlands for works and services - Note that some of these wetland areas are located within the coastal marine area (and therefore fall under the provisions of the Regional Coastal Plan rather than this Plan). However, the full list of priority wetlands for works and services has been included for the sake of completeness.

→ Insert following as new part of explanation for Policy 4A and Policy 4:

These non-regulatory methods will assist HBRC in protecting the significant values of wetlands in accordance with Objective A2(B) of the 2011 National Policy Statement for Freshwater Management. These methods will complement regional rules that are included elsewhere in this Plan and the Regional Coastal Environment Plan. Significant values of wetlands can include nutrient filtering, flood flow attenuation, sediment trapping, habitats for flora and fauna, recreation, cultural values and educational value.

→ Amend Objective 22 in Chapter 3.8 (Groundwater quality) as follows:

- OBJ 21** No degradation of existing groundwater quality in the Heretaunga Plains and Ruataniwha Plains² aquifer systems.
- OBJ 22** The maintenance or enhancement of groundwater quality in ~~unconfined or semi-confined~~ **productive** aquifers in order that it is suitable for human consumption and irrigation without treatment, or after treatment where this is necessary because of the natural water quality.

→ Amend Anticipated Environmental Result in Chapter 3.8 (Groundwater quality) to read:

| Anticipated Environmental Result | Indicator | Data Source |
|--|--|--|
| No degradation of existing groundwater quality in confined productive aquifers | Nitrate- nitrogen levels <u>Organic and inorganic determinands of significance in NZ Drinking Water Standards</u> <u>E.coli levels</u> Pesticides and herbicides | Ministry of Health Council monitoring |

→ Amend Issue statement in Chapter 3.10 (Surface water resources) to read:

The potential degradation of the values and uses of rivers, lakes and wetlands in Hawke's Bay as a result of:

- (a) The taking, use, damming and diversion of water, which may adversely affect aquatic ecosystems and existing lawfully established resource users, especially during droughts.
- (b) ~~Non-point source discharges and~~ Stock access to water bodies and non-point source discharges (including production land use activities), which cause contamination of rivers, lakes and wetlands, and degrade their margins.
- (c) Point source discharges which cause contamination of rivers, lakes and wetlands.

⁹ Subject to the Ruataniwha Plains aquifer being removed by Plan Change 6.

→ Amend Objective 25 in Chapter 3.10 (Surface water resources) to read:

OBJ 25 ~~The maintenance of the water quantity of~~ water in the wetlands, rivers and lakes in order that it is suitable for sustaining aquatic ecosystems, for achieving other freshwater objectives in catchments as a whole, and ensuring resource availability for a variety of purposes across the region, while recognising the impact caused by climatic fluctuations in Hawke's Bay.

→ Amend Objective 27 in Chapter 3.10 (Surface water resources) to read:

OBJ 27 ~~The maintenance or enhancement of water quality of~~ in rivers, lakes and wetlands in order that it is suitable for sustaining or improving aquatic ecosystems in catchments as a whole, and for other freshwater values objectives identified in accordance with a catchment-based process as set out in Policy LW1 and Policy LW2, including contact recreation purposes where appropriate.

→ Insert new objective into Chapter 3.10 (Surface water resources) to read:

OBJ 27A Riparian vegetation on the margins of rivers, lakes and wetlands is maintained or enhanced in order to:

- a) maintain biological diversity;
- b) maintain and enhance water quality and aquatic ecosystems; and
- c) support the use of surface water resources in accordance with tikanga Māori.

→ Amend Policy 47 in Chapter 3.10 (Surface water resources) to read:

POL 47 To manage activities affecting the quality of water in wetlands, rivers and lakes in accordance with the environmental guidelines and implementation approaches set out in Chapter 5 of this Plan.

Insert new policy into Chapter 3.10 (Surface water resources) to read:

POL 47A Decision-making criteria - Land-based disposal of contaminants

Promote land-based disposal of wastewater, solid waste and other waste products so that:

- a) the adverse effects of contaminants entering surface waterbodies or coastal water are avoided as far as practicable;
- aA) where it is not practicable to avoid any adverse effects of contaminants entering surface waterbodies or coastal water, then adverse effects are remedied or mitigated; and
- b) any disposal of wastewater, solid waste or other waste products to a surface waterbody or coastal water occurs only when it is the best practicable option.

→ Amend Policy 50(b) in Chapter 3.11 (River bed gravel extraction) to read:

POL 50 To assess the availability of river bed gravel by:

- (a) ...
- (b) ensuring that as far as practicable, long term gravel extraction is undertaken at a level consistent with maintaining the rivers close to their design profiles, while maintaining compatibility with other resource management and environmental values, particularly any values and uses described identified in accordance with a catchment-based process as set out in Policy LW1 and Policy LW2.

Amendments to Chapter 9 (Glossary) of Hawke's Bay Regional Resource Management Plan

→ Amend Glossary by adding new definitions to read:

Catchment area

For the purpose of this Plan, means a grouping of surface water catchments and groundwater catchments. Indicative location of each Catchment Area is set out in Appendix A.

Efficient allocation and use

Efficient allocation and use has the same meaning as given in the NPSFM's interpretation section. For the purposes of this Plan, economic efficiency means water use which results in the optimum outcome for the environment and community; technical efficiency means the amount of water beneficially used in relation to that taken; and dynamic efficiency means the adaptability of water allocation to achieve ongoing improvements in efficiency.

Freshwater objective

has the same meaning as given in the NPSFM's interpretation section.

Greater Heretaunga / Ahuriri Catchment Area

Means a catchment area including the Ahuriri Estuary, Karamū Stream, Ngaruroro River, Tutaekuri River, their tributaries, plus associated Heretaunga Plains groundwater catchments. Indicative location of the Greater Heretaunga / Ahuriri Catchment Area is set out in Appendix A.

Limit

has the same meaning as given in the NPSFM's interpretation section.

Mohaka Catchment Area

Means a catchment area including the Mohaka River, its tributaries, plus associated groundwater catchments. Indicative location of the Mohaka Catchment Area is set out in Appendix A.

NPSFM

National Policy Statement for Freshwater Management 2011.

Outstanding freshwater body

has the same meaning as given in the NPSFM's interpretation section.

Target

has the same meaning as given in the NPSFM's interpretation section.

Tukituki Catchment Area

Means a catchment area including the Waipawa River, Tukituki River, Makāretu River, Makaroro River, Makara Stream, Omakere Stream, their tributaries, plus associated groundwater catchments. Indicative location of the Tukituki Catchment Area is set out in Appendix A.

→ Amend definition of 'wetland' as follows in Chapter 9 and consequentially delete footnote to POL 4 in RRMP Chapter 3.4:

Wetland

1. in the RPS (only), it includes:

- (a) permanently or intermittently wet areas, shallow water, and land water margins that support a natural ecosystem of plants and animals that are adapted to wet conditions; and
- (b) those areas mapped in Schedule 24 (a to d) and commonly known as:
 - i) Lake Whatuma (previously known as Hatuma);
 - ii) Atua Road north swamp;
 - iii) Wanstead Swamp;
 - iv) Lake Poukawa.

2. in the regional plan (only), it includes permanently or intermittently wet areas, shallow water, and land water margins that support a natural ecosystem of plants and animals that are adapted to wet conditions, except for:

- (a) wet pasture or cropping land;
- (b) artificial wetlands specifically designed, installed and maintained for any of the following purposes:
 - i) wastewater or stormwater treatment;
 - ii) farm stock water dams, irrigation dams, and flood detention dams;
 - iii) reservoirs, dams and other areas specifically designed and established for the construction and/or operation of a hydro-electric power scheme;
 - iv) land drainage canals and drains;
 - v) reservoirs for fire fighting, domestic or municipal supply;
 - vi) beautification or recreation purposes.

→ Add Schedules 24a, 24b, 24c and 24d.

And make any other consequential amendments to the HB Regional Resource Management Plan

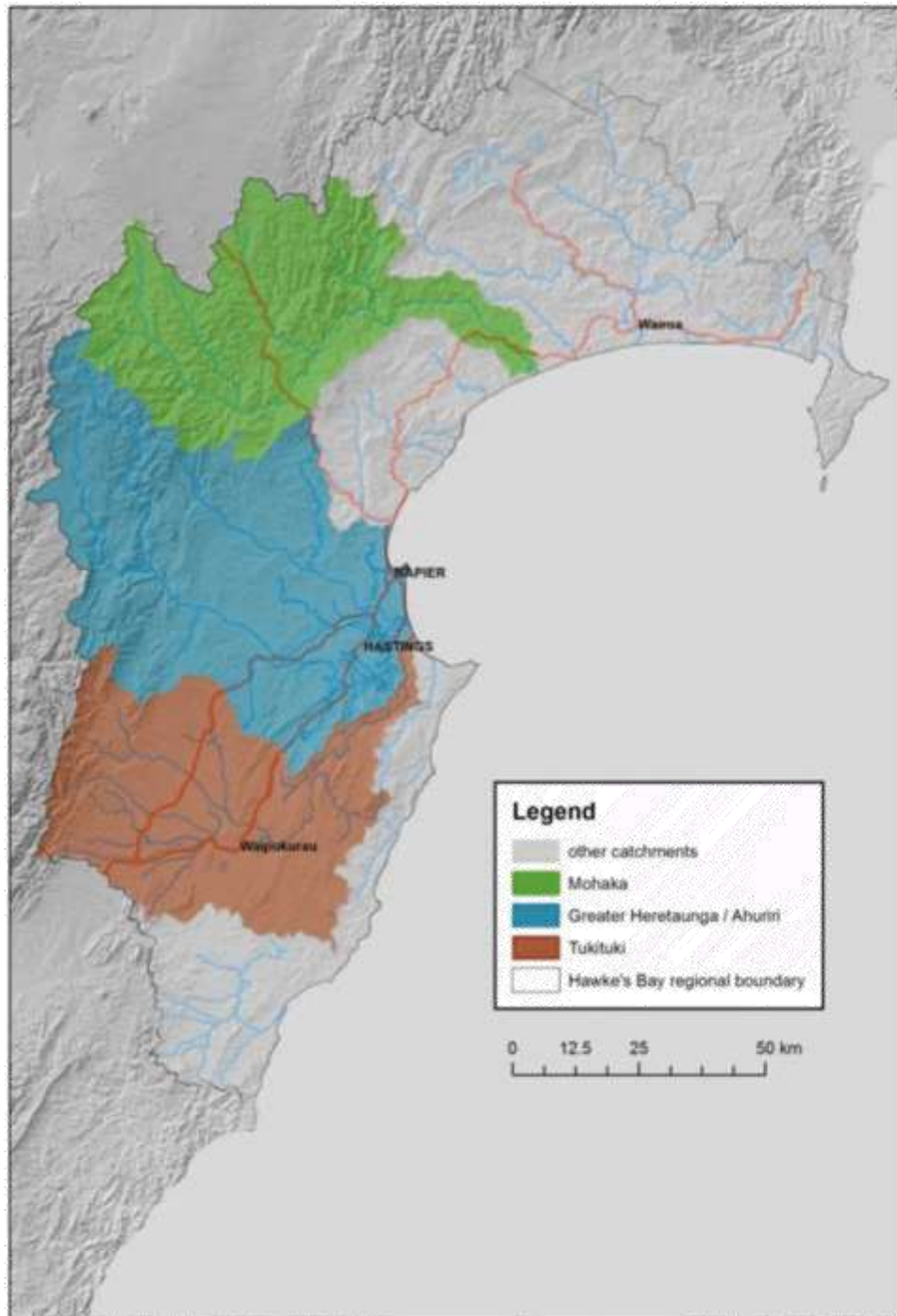
→ Amend Table 1 (RPS objectives and regional plan objectives) in Chapter 2.3 by adding the following row:

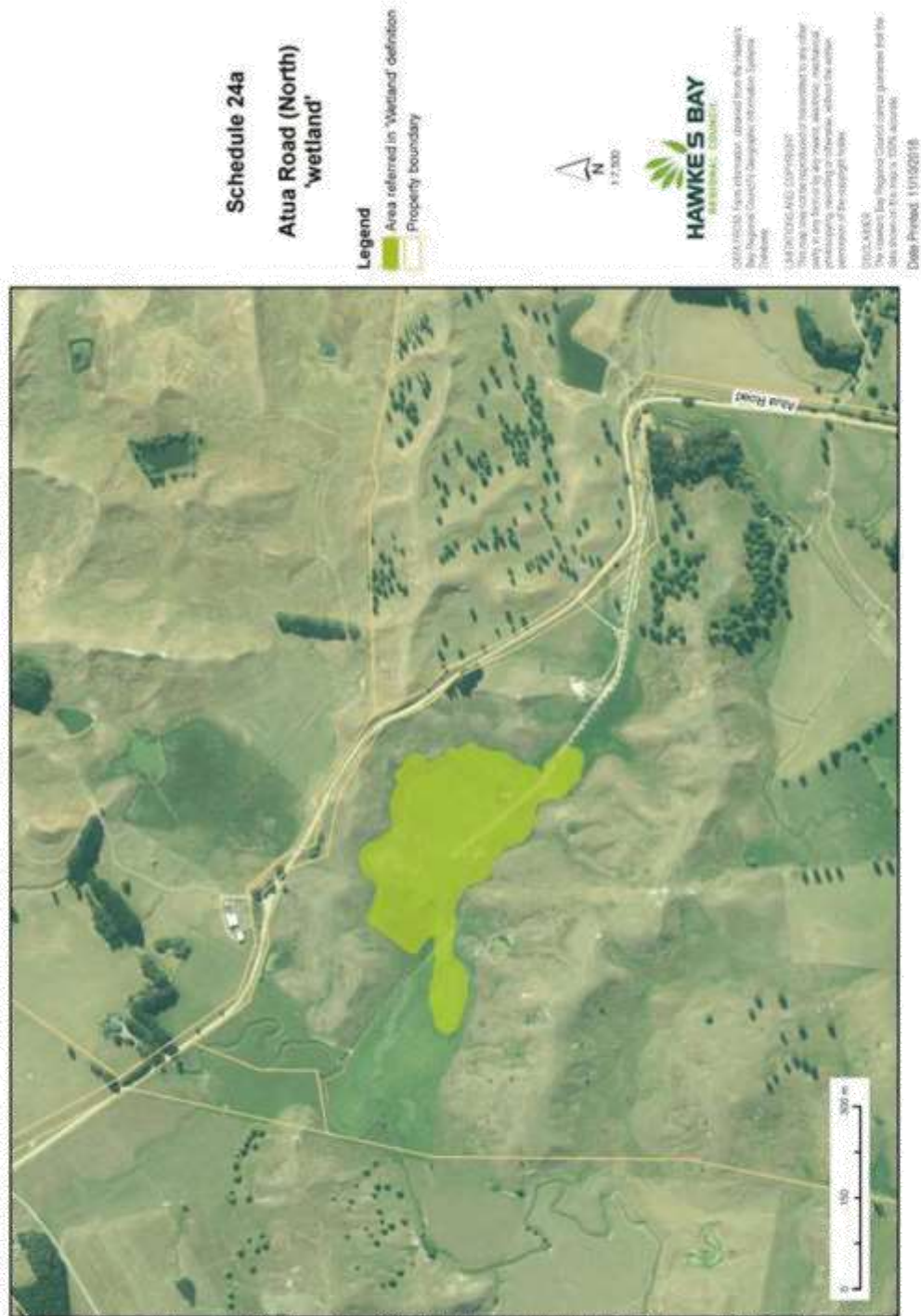
| OBJECTIVE | TOPIC | LOCATION |
|----------------------|---|---------------------------|
| Objectives LW1 – LW3 | Integrated land use and freshwater management | Regional Policy Statement |

→ Amend Table 2 (Summary of objectives, policies and methods in Chapters 3 and 5) in Chapter 3.1 by adding the following row:

| Objective | Policies | Rule Number | Non Regulatory Methods |
|----------------------|--------------------------|-------------|------------------------|
| Objectives LW1 – LW3 | LW1A, LW1, LW2, LW3, LW4 | | Refer Policy LW4 |

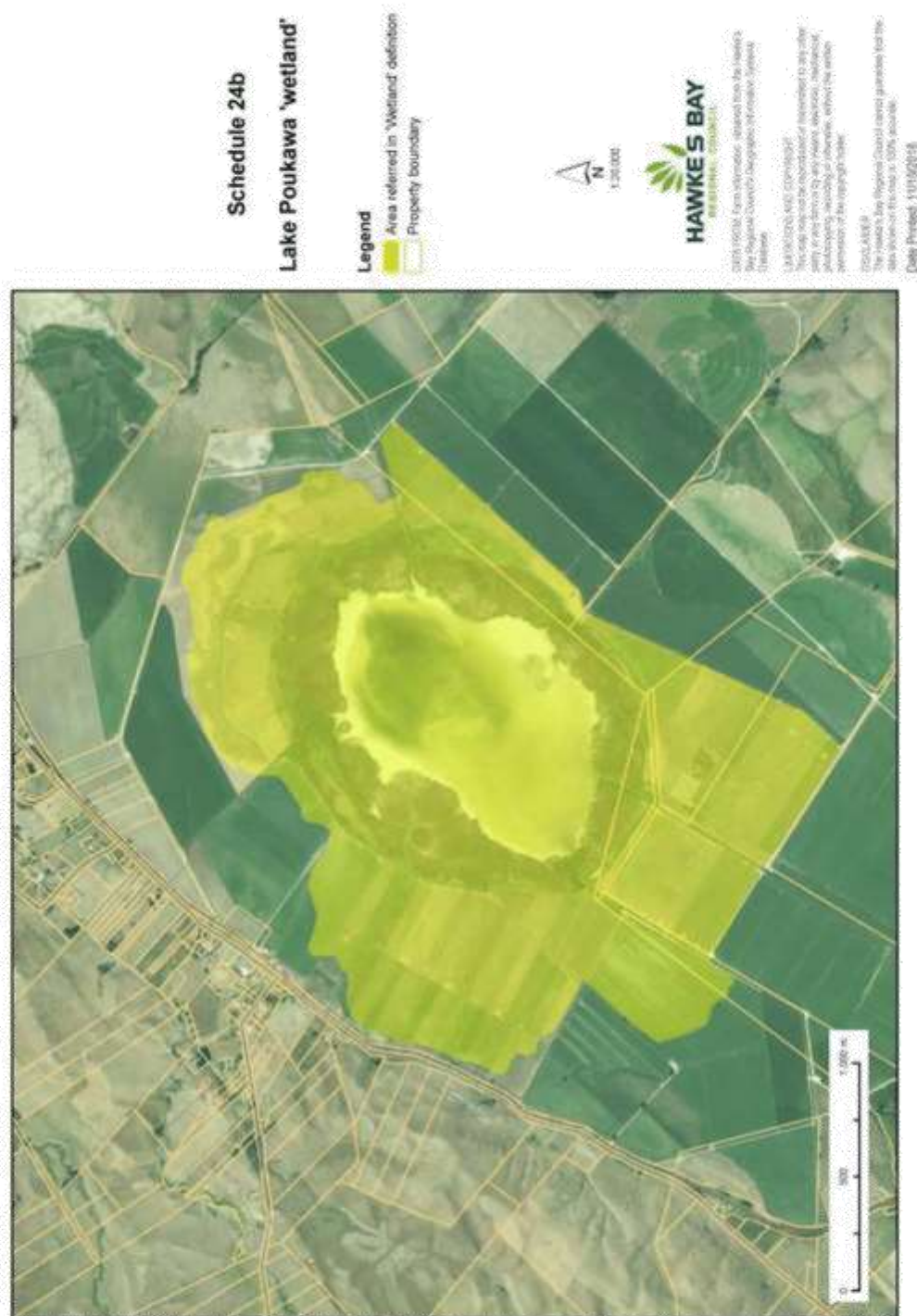
Appendix A – Indicative locations of 'Catchment Areas' in POL LW2

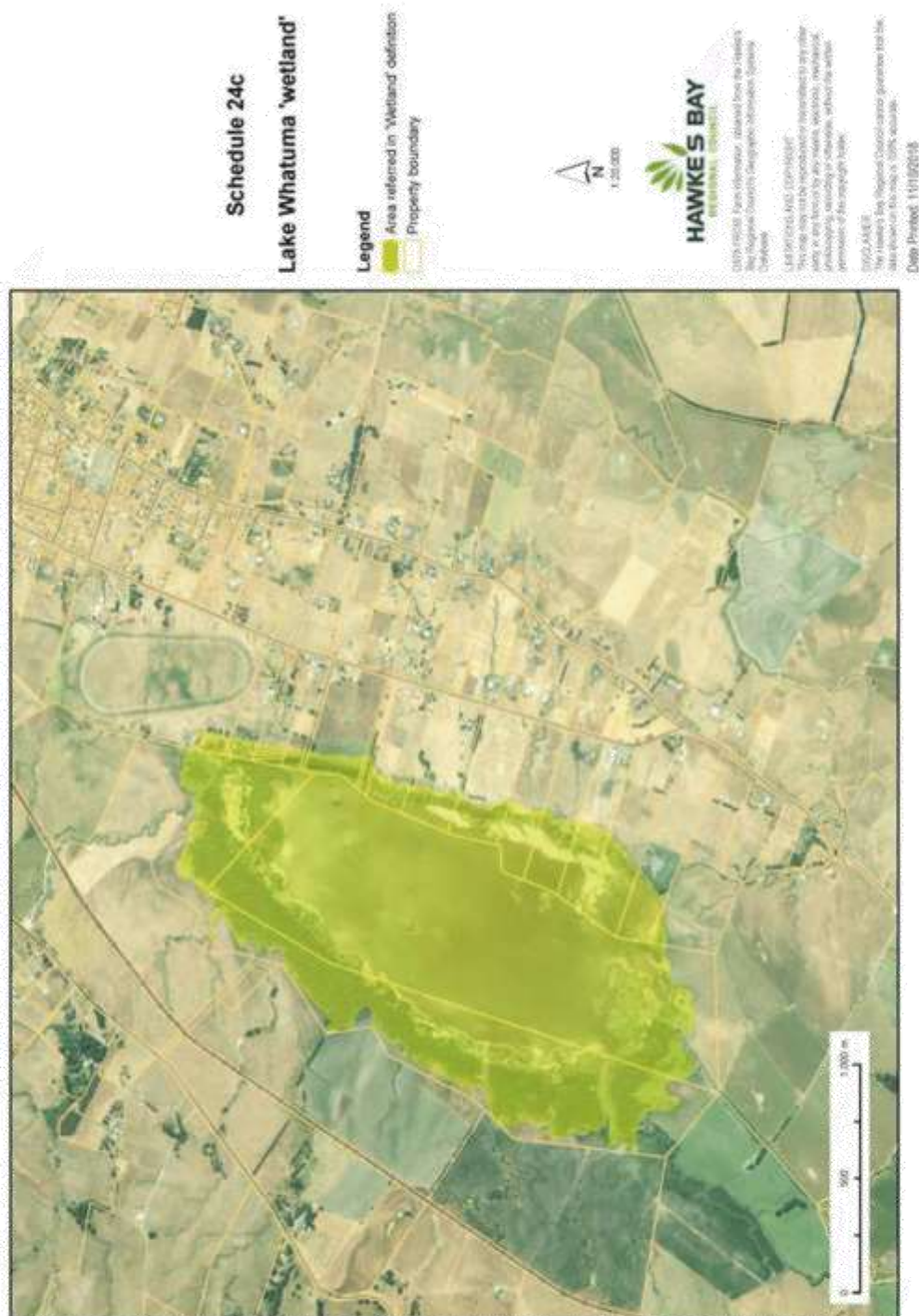




Item 6

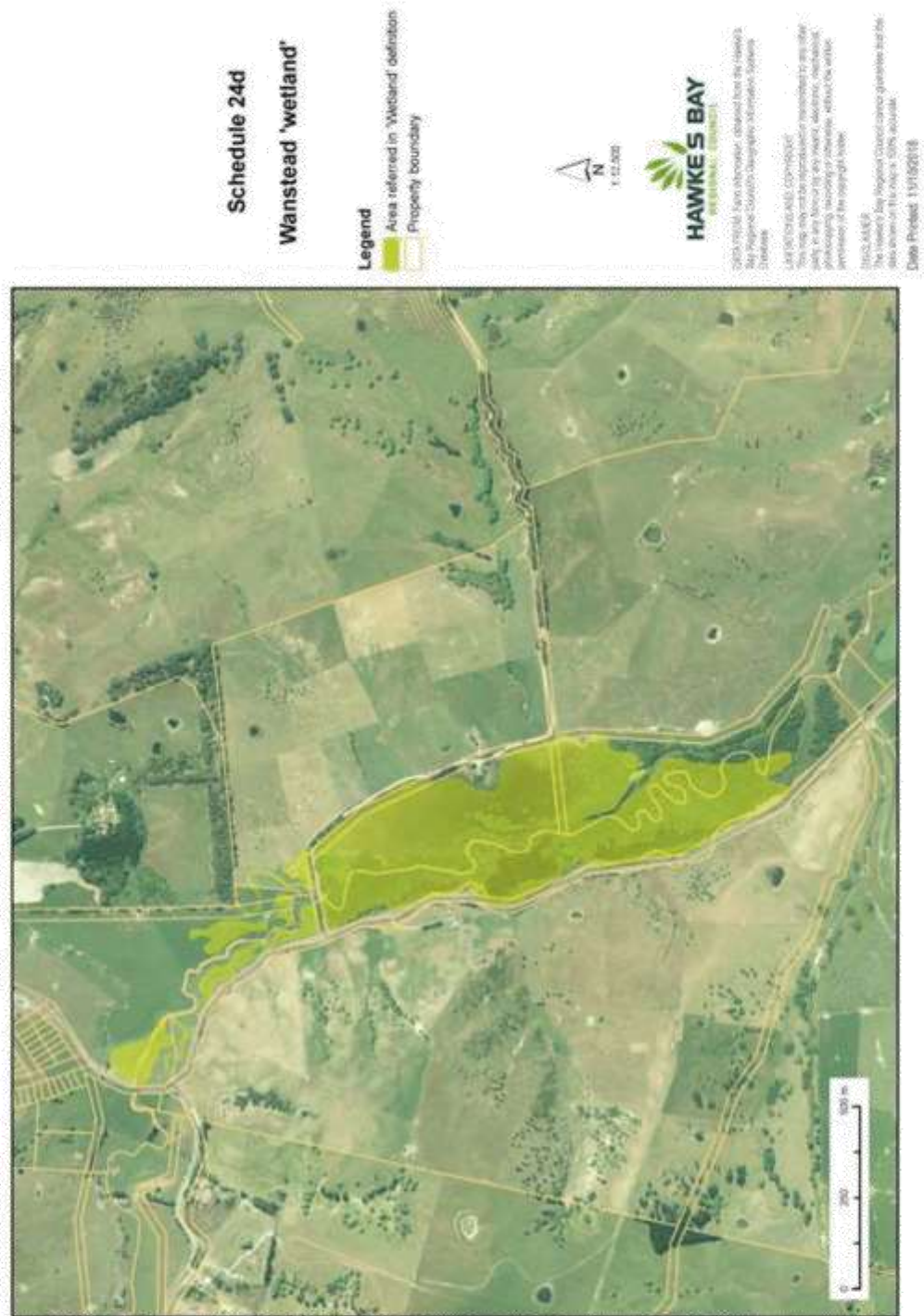
Attachment 1





Attachment 1

Item 6



HAWKE'S BAY REGIONAL COUNCIL

REGIONAL PLANNING COMMITTEE

Wednesday 03 July 2019

Item 7

Subject: TANK PLAN CHANGE - FEEDBACK AND RECOMMENDATIONS FOLLOWING PRE-NOTIFICATION CONSULTATION

Reason for Report

1. This report summarises the advice received during the pre-notification consultation of Draft Plan Change 9 and seeks direction, based on the officers' assessments of the feedback received, in relation to recommended amendments to the Change prior to public notification as a proposed plan change.
2. This information was provided to the Committee at their 15 May meeting although no decisions were made then. Except for an amendment to paragraphs 58 and 87, the advice remains largely unchanged.
3. Additional matters are now reported on and included in this paper in Sections 9-13, paragraphs 177-238. Feedback attachments and summaries are as received under separate cover for the May meeting and a further version of the TANK Plan Change is attachment 1 to this report. This report addresses new material in relation to:
 - 3.1 Source protection for drinking water supplies
 - 3.2 Stormwater policies and rules (attachment 2)
 - 3.3 Mana whenua issues
 - 3.4 TANK group feedback
 - 3.5 Remaining Issues.

Background

4. The Hawke's Bay Regional Council (the Council) intends to change its Regional Resource Management Plan for the management of the waterbodies in the Tūtaekurī, Ahuriri, Ngaruroro and Karamu catchments (TANK) in proposed Plan Change 9.
5. At the RPC meeting on the 12 December 2018 the Committee agreed that the draft TANK plan Change 9 (version 8) be recommended to Council for adoption as a draft for targeted consultation with relevant iwi authorities, territorial local authorities and relevant Ministers of the Crown. This pre-notification consultation was subsequently agreed at Council on 19 December 2018.
6. Letters and supporting reports/documentation were sent to those identified pre-notification parties on 1 February 2019, seeking feedback and comments to the Draft TANK plan change. Responses were to be received by the 15 March, however an extension was sought by HDC (and approved by RPC) to 29 March 2019.

Feedback

7. Advice and feedback has been received from:
 - 7.1 Te Taiwhenua o Heretaunga (TToH) received 10 April 2019
 - 7.2 Ngati Kahungunu Iwi Incorporated (NKII) received 5 April 2019
 - 7.3 Heretaunga Tamatea Settlement Trust (HTST) received 17 April 2019
 - 7.4 Mana Ahuriri Trust received 6 March 2019
 - 7.5 Hastings District Council (HDC) received 29 March 2019
 - 7.6 Napier City Council (NCC) received 29 March 2019
 - 7.7 Department of Conservation (DoC) received 18 April 2019, and
 - 7.8 Horticulture NZ (Hort NZ) received 29 March 2019.

8. It should be noted that no response was provided by the Minister for the Environment, however the Minister acknowledged receipt of the letter and documents. In addition to the Minister, no response was received from:
 - 8.1 Tuwharetoa Māori Trust Board
 - 8.2 Te Taiwhenua o Whanganui o Orotu
 - 8.3 Ngāti Parau Hapū Trust
 - 8.4 Maungaharuru Tangitu Trust
 - 8.5 Taupō District Council
 - 8.6 Rangitikei District Council.
9. The Council must have particular regard to any advice received on a draft proposed policy statement or plan from iwi authorities. This does not mean that the Plan Change must be amended as requested by the iwi authorities, but the RPC must at least consider that feedback alongside the many other considerations. Feedback from all of these parties has led to staff now recommending for amendments to further improve the draft.
10. Each of the feedback documents received has been summarised with a brief staff response or explanation provided for all feedback items. The feedback documents are provided in full as attachments 1-8, and the summaries for all of the feedback along with an assessment of the matters raised and recommendations provided in attachments 9-15.
11. It should be noted that as a matter of courtesy a copy of the summary of the NKII response, matters raised including the recommendations from staff was provided to NKII in advance of the RPC meeting. An invitation to meet with staff to further discuss matters which may still require further consideration was extended. At the time of writing this report no meeting had been scheduled.
12. Further amendments recommended by staff and explanations are either reported on in this report, for more substantive items, or collated and provided in Table 1 of this report for more editorial amendments, corrections or clarifications. All of the recommended amendments were presented as tracked changes in the attached draft Version 9 of the TANK Plan Change 9 (Attachment 16, 15 May agenda).
13. The significant issues raised in the feedback and described in more detail include:
 - 13.1 Ensuring values are properly provided for
 - 13.2 Managing stream depletion effects of groundwater takes
 - 13.3 Allocation limit for high flow abstraction and water for Māori development
 - 13.4 Urban development and freshwater
 - 13.5 Allocation Limits
 - 13.6 Integrated and long term solutions for managing stormwater
 - 13.7 The role of mana whenua in the TANK collaborative process.

Assessments

Section 1 – Ensuring Values are provided for

Iwi advice

14. TToH, NKII and HTST consider the Plan does not clearly provide for Māori values. Mana Ahuriri conversely have supported the Plan stating that the ‘in terms of iwi values we support that the plan has clearly articulated these provisions...’

Other feedback

15. The Department of Conservation seeks more explicit recognition of natural character including wild and scenic values and protection for the Ngaruroro mainstem. Additional recognition for indigenous biodiversity is sought.

Officers' Assessment

16. As noted in the advice from iwi, considerable Council resource and tāngata whenua effort was expended in gathering information about Māori values and how they were to be provided for in the plan change. The Ngaruroro Attributes and Values document and subsequent work by the Catalyst Group to understand what attribute states would provide for Māori values proved very helpful in drafting the Plan and establishing freshwater objectives. The table of attributes at the end of the Ngaruroro report aligned very well with the final selection of attributes that are now in Schedule 1 of the draft. The selection of attributes was necessarily governed by the availability of data and established guidelines or information to show how the attribute state provides for the value identified.
17. Attention was given specifically to other attributes that might better reflect Mātauranga Māori. This is reflected by the placeholder in Schedule 1. The input by Māori that is required to complete this work is further reflected by Policies 33 and 35. This same issue clouded development of the Tukituki Plan Change process and as part of implementation of that plan Council committed significant funds to enable iwi, local marae and hapū to develop the necessary information. It was to be hoped that the Tukituki work was sufficiently advanced to help inform the TANK plan change.
18. The values diagrams remain separate to reinforce a distinct Māori world view rather than attempting to develop a more integrated approach to how water values could be articulated. Nonetheless, the plan objectives refer to specific types of values including mauri and mahinga kai that are included in the Māori values diagram. Ecosystem targeted objectives and protections are understood to align with the Māori world view of Te Mana o te Wai, the concept of mauri and that the awa comes first - and that this also means fundamental protection of the ecosystem. It also enabled the Freshwater NPS to be given effect to in terms of the compulsory national standard for ecosystem health.
19. Insofar as the scope and purpose of the Plan Change allows, provision for Māori land and Māori communities have been incorporated within the Plan, specifically in relation to high flow water allocation (see section 4), addressing community water supply for papakāinga and marae and addressing concerns about the Paritua catchment.
20. Water uses relevant to human health and cultural practices, such as encompassed by the term Uu (values within water e.g. immersion, swimming, cleansing, tāonga rongoa), are also specifically recognised in Schedule 1. It is suggested that this can be made more explicit in Objectives 6 (c), 7(c) and 8(c) which refer to people safely carrying out a range of social cultural and recreational activities by including practices relevant to Uu.
21. Kaitiaki, as it is defined as an expression of stewardship or guardianship, is a term reflected throughout the plan. Clearly for Māori, kaitiaki may require additional responsibilities as defined by their culture, however TANK Group members also wished to acknowledge their own responsibilities for good stewardship as expressed by this concept. This shouldering of responsibility is to be celebrated as it illustrates the commitment of the TANK stakeholder members.
22. This plan change does not address structures in waterways and fish passage directly so, in as far as this aspect of whakapapa is concerned, provisions in the rest of the RRMP already cover this.
23. Natural character is not specifically mentioned anywhere in the Plan change although it was part of TANK discussions about water body values. Natural character also informs understanding about and provision for wai Māori. A wide range of site specific characteristics combine to provide a natural character including biophysical, ecological, geomorphological, geological aspects, natural movement of water, location, the presence of indigenous species, colour and clarity of the water.
24. Evidence presented to the Special Tribunal in its proceedings for the WCO application for the Ngaruroro River illustrate the significant natural character in some parts of the TANK catchments. The Department of Conservation feedback also mentions a need to specifically mention this. Other work is also being considered in relation to outstanding water bodies. It is plausible that some waterbodies in the TANK catchments will be

considered outstanding. The draft plan will be reviewed in light of any decisions made by the RPC about outstanding water bodies and any necessary amendments to PC9 reported back to the committee before notification.

25. The protection of the Ngaruroro and Tūtaekurī River's significant natural character value and its habitat for indigenous birds is already provided for in the plan through restrictions on damming and Objectives 6(d) and 7(d). Both those clauses should refer also to natural character.
26. The values of wetlands are specifically identified and provided for. They are a key waahi taonga and the Plan change contains several objectives and policies targeted at protecting existing wetlands and increasing wetland areas. The words 'waahi taonga' could be included in Objective 10 to make it even clearer that this Māori value is being provided for.
27. The values diagram also requires amendment to include natural character and deletion of reference to 'commercial' eeling.
28. Whilst some values or matters may not be explicitly mentioned in the Plan it should be noted that the RRMP's existing provisions in many instances already address the key issues which have been raised e.g. rules controlling drainage of natural wetlands. The TANK plan should be considered as an addition to the RRMP, not in isolation from it.

Suggested amendments

29. Staff recommend that the objectives are amended as follows.
 - 29.1 Objectives 6 (c), 7(c) and 8(c) - Insert 'and cultural practices of Uu'
 - 29.2 Objectives 6 (d) and 7(d) - Insert 'natural character and' before instream values
 - 29.3 Objective 10 - Insert the words waahi taonga after wetland and lakes.

Section 2 - Managing Stream Depletion

Iwi advice

30. The mana whenua members of the TANK Group expressed concerns about the stream flow enhancement measure to address stream depletion during the TANK plan development and various alternative management options were explored. The TANK mana whenua member concerns are also reflected in advice from NKII, TTOH and HTST and iwi agencies again seek deletion of this management solution. Advice also requests that the allocation limit is not classified as interim.

TLA advice

31. HDC seeks that the flow enhancement schemes for Karamū tributaries need to be developed prior to water permits being reviewed. HDC considers that better understanding of the off-setting benefits of stream flow enhancement may allow a higher volume of consented water without compromising outcomes sought and providing retention of existing consented allocations.
32. NCC expresses reservations about how such a scheme will be implemented and the implications of this requirement on their consented water takes.

Other feedback

33. Hort NZ suggests that water users who are not consent holders should also contribute to such a scheme.
34. DOC consider that Objective 9 does not adequately recognise the importance of flow in the Heretaunga Aquifer to the Karamu Stream. They suggest a maximum water take at peak season and on-site storage provisions to complement Policy 36.
35. Legal advice has also been received in respect of the obligations and management of the scheme.

Current state

36. HBRC's extensive science and modelling work has confirmed that the Heretaunga Plains aquifer is more connected and transmissive than previously thought. The cumulative effect of all groundwater abstraction contributes to reduced flows in connected surface streams and rivers. The Heretaunga Plains integrated ground and surface model was used to predict the effectiveness of a range of management options to manage this stream depletion effect. These options included:
 - 36.1 Restrictions or bans
 - 36.2 Reductions in allocations
 - 36.3 Stream flow enhancement.
37. The stream flow enhancement option was endorsed by the majority of the TANK Group as the preferred option, but did not receive support from mana whenua. Consequently, this was highlighted as one of the non-consensus matters that the RPC needed to consider further in its deliberations during late 2018.
38. This solution is especially targeted for review within 10 years of the Plan being operative and all water permits have been re-issued in line with plan requirements. It is clearly acknowledged that if environmental objectives for the aquatic ecosystems are not being met, alternative management responses may need to be developed.
39. The scheme is based on how the Tywford Group of irrigators maintain stream flows in order to avoid triggering a take ban. This group collectively work together to maintain stream flows by pumping groundwater (allocated to them) to adjacent streams and by reducing or rostering water takes to reduce the impact of their water abstraction on flows. There is no specific advice as to whether this scheme is supported or not, but it does operate successfully. It has provided local water users with better information about the effects of their water takes on stream flows and enables them to manage that more effectively.
40. Irrigators in the Tywford Group were previously judged to be affecting stream flows depending on their proximity to the stream and whether or not they abstract water from the confined or unconfined aquifer. However, the new model demonstrates all water users cumulatively impact on stream flows. It demonstrates that all groundwater takes have some stream depletion effects and that the effect is variable depending on location. The model also indicated that a take may potentially affect more than one river or stream.
41. New modelling tools have been developed that show the relative contribution to stream depletion for each point of take. It enables the stream depletion effect from each point of take to be calculated (in litres per second) for all of the streams affected by the abstraction.
42. There is still some feasibility and modelling work required to refine the scheme and management options for each affected stream and in relation to each consent holder.

Draft Plan Change proposal

43. The Plan manages the cumulative stream depletion effects by:
 - 43.1 requiring that the stream depletion effect for each abstraction be offset by an equivalent discharge into an affected stream by the permit holder
 - 43.2 requiring stream augmentation if stream flows fall to a specified trigger flow
 - 43.3 requiring flow enhancement water to be part of the total allocated to the permit holder
 - 43.4 noting that stream flow enhancement may not be required every year
 - 43.5 enabling permit holders to collectively consider other measures to ensure stream flows do not fall below triggers. This might include more targeted management of abstraction points with a larger stream depletion effect, rostering water takes and reducing inessential water use during low flow periods

- 43.6 enabling Council to support permit holders to work collectively; and
- 43.7 requiring the permit holder, if the contribution is not made, to cease take when the trigger flow is reached.

Officers' Assessment

- 44. The Draft Plan Policy 38, as currently worded causes confusion regarding the role of Council in developing, constructing and operating stream flow enhancement schemes. The policy requires redrafting to more clearly indicate that it is an enabling provision. It provides an opportunity for flow enhancement as an alternative to a more stringent water take ban.
- 45. The current policy describes a lead role for Council and includes a requirement for consent holders to contribute to a scheme and enable Council to recover costs from permit holders for any development and operational costs. However, the policy is not intended to limit stake holders' ability to mitigate stream depletion effects by making them reliant on the Council to establish the scheme. Imposing a condition on a consent which requires a third party (i.e Council itself) to do something is ultra vires.
- 46. The consent holder alone, or with a third party (such as in the Twyford model), may establish a scheme themselves. Conditions on such a consent will impose responsibilities on the consent holders to be part of and contribute to such a scheme.
- 47. In some circumstances, it may be appropriate for a scheme to be administered by Council, provided costs were recovered from permit holders. However, it is not the intention in the drafting of Policy 38 that the Council be responsible for a consent holder's stream enhancement obligations, the application or management of any associated consents that will be necessary for such a scheme. Rather, the Council could provide support for the modelling and design for any stream flow enhancement scheme that is available to consent holder.
- 48. An applicant could seek to offset stream depletion effects by contributing to an enhancement scheme administered by either a third party or the Council. This would avoid the need for a particular charge to be set as the payment for the provision of the enhancement scheme would essentially be a commercial development.
- 49. There is uncertainty about the extent to which the actual and reasonable assessments will reduce water permit allocations and the effect on the interim allocation limit. The stream depletion effects of each take have yet to be calculated and accounted for in the scheme for each permit holder.
- 50. However, some advance modelling and working with permit holders will enable consent processing to be more stream-lined in relation to the opportunities the flow enhancement and the extent to which the stream depletion effect can be off-set.
- 51. No changes to the plan in respect of the timing of the schemes are recommended by staff, however, it is suggested that Council commence discussions soon with industry groups, water permit holders and iwi about the development of flow enhancement schemes and their management. Having this work done in advance of permit re-allocation processes provides more certainty and clarity for both the Council and applicants when permit applications are being processed and conditions applied.
- 52. The inclusion of iwi in the design of the stream enhancement schemes ensures the maximum benefit to stream flows at their upper reaches is considered, and design is not limited to meeting a flow trigger at the most downstream site.
- 53. Also required is further development of the Stream Depletion Calculator (SDC) including its public (on-line) availability to assist permit holders understanding of their stream depletion effects in advance of permit expiry. The speedy development of the SDC is also important so that water permit holders can gauge the effect of this plan change on their water take to inform any submissions that they may lodge on PC9.
- 54. Item 51 of the Implementation Plan refers briefly to the stream enhancement solution. It requires further refinement, timelines and specification of other stakeholder roles. This is being considered by staff.

55. There is a range of small scale water use that is permitted (and does not require a resource consent). The Council does not hold information on the location of each and every permitted water take, nor does it require such use to be metered. The individual impacts of such takes are minor, and while the cumulative total permitted take has been modelled, it is a relatively small proportion of the total. There are no requirements to impose stream flow enhancement requirements on permitted activities. The administrative and compliance costs for Council and water users of establishing such a requirement as a condition of permitted activities would outweigh any benefits.
56. The allocation limit applies as part of this Plan Change and calling it 'interim' is not necessary. It had been included to signal to water users that further reduction may be necessary following assessment of the stream flow enhancement scheme and other measures to reduce allocations and improve efficiency. Policy 40 clearly sets out the review requirements and indicates that the allocation limit may require adjustment upon review of the Plan.

Suggested amendments

57. **Delete** from Policy 33(e) the word "*interim*"

58. **Amend** Policy 38 as follows.

The Council will remedy, or offset if remedying is not practicable, the stream depletion effects and effects on tikanga and matauranga Māori of groundwater takes in the Heretaunga Plains Water Management Zone on the Karamu River and its tributaries by;

- a) Regulating water takes and enabling consent applicants to either
- (i) develop or contribute to ~~developing~~ stream flow and habitat enhancement schemes that;
 - 1. improve stream flows in lowland rivers where groundwater abstraction is depleting stream flows below trigger flows and;
 - 2. improve oxygen levels and reduce water temperatures;
- or
- (ii) be subject to water take restrictions when flow triggers are reached ~~and to;~~
- b) support ~~consult on~~ the design and management of the stream flow enhancement regime, especially in working with permit holders collectively;
- c) assess the contribution to stream depletion from groundwater takes; and
- (i) require stream depletion to be off-set equitably by ~~impose costs equitably on consent holders based on the level of stream depletion while providing for exceptions for the use of water for essential human health; and~~
 - (ii) work with permit holders to progressively develop and implement flow enhancement schemes as water permits are replaced or reviewed, including through the establishment and support of catchment collectives in the order consistent with water permit expiry dates;
 - (iii) allow site to site transfer of water to enable the operation of a flow enhancement scheme
- d) ~~Regulate groundwater abstraction so that water use ceases when the minimum flow for the affected stream is reached if a permit holder does not contribute to an applicable low enhancement scheme~~ This condition (d) is deleted because it is already provided for in (a)

59. **Amend** TANK Rule 7(f) and (g) as follows.

Stream Flow Enhancement

Either:

- f) *The stream flow depletion (in l/sec) will be calculated using the Stream Depletion Calculator.* A and when a stream flow enhancement scheme for the affected*

~~stream contribution to stream~~ flow enhancement will be calculated for the affected stream according to the extent of total stream flow depletion and based on the allocated amount of water, and

- g) The volume and rate of water able to be abstracted is reduced by an amount equivalent to the stream flow depletion calculated in (f) (as determined by the Stream Depletion Calculator*) at any time the flows in the affected stream reduces below the minimum flows in Schedule 6

Or

h) The water take ceases when flows in the affected stream fall below specified trigger levels in Schedule 6

60. **Insert** into RRMP Rule 31 a new condition.

(d) The discharge is not discharge of groundwater into surface water in the Heretaunga Plains Groundwater Management Unit.

61. **Insert new rule-**

| RULE | ACTIVITY | STATUS | MATTERS |
|--------------------------------|--|--------------------------|--|
| Stream Flow Enhancement | Discharge of groundwater into surface water in the Heretaunga Plains Groundwater Management Unit | Restricted Discretionary | <ol style="list-style-type: none"> 1. Rate and timing of the discharge 2. The quality of the groundwater and the quality of the receiving water 3. Location of the discharge 4. Riparian land management along the affected stream 5. Information to be supplied and monitoring requirements including timing and nature of water quality monitoring. 6. The duration of the consent (Section 123 of the Act) as provided for in Schedule timing of reviews and purposes of reviews (Section 128 of the Act). 7. Lapsing of the consent (Section 125(1)). |

Section 3 - High Flow Water Allocation Including for Māori Development

Iwi advice

62. Advice from TToH, HTST and NKII about the reservation of water for Māori well-being was negative, opposing the plan provisions (Objective 13, policies 56 and 57 and Schedule 7). Their advice noted in particular that while water rights for Māori were supported, the policy is “offensive” and “tokenistic” - and that the policy was not written or requested by Māori and iwi were not involved in its development. Advice from TToH for its deletion is because it is probably ultra vires. By implication the advice from all of the iwi groups is to delete the objective, policies and accompanying rules.
63. Related to this issue is the allocation limit for high flow allocation. Iwi advice is that their high-flow allocation preferences have been over-ruled by potential economic considerations. They consider the allocation limit for the high flow allocation from the Ngaruroro River should be reduced from 8,000 to 5,000 litres per second and that abstraction should cease at a higher trigger of 24m³/sec rather than 20m³/sec.

DOC feedback

64. The Department of Conservation raises concerns about the lack of direction provided by policies 51 and 52 in relation to the phrase ‘avoid, remedy or mitigate’ and consider not enough guidance is provided.

Other feedback

65. Legal advice is that this solution for addressing historic inequity in relation to access to water by Māori can be successful, provided some amendments to ensure clarity about what activities are being provided for can be more clearly defined.

Officers' Assessment

Intent and Opportunities

66. The intent of the TANK stakeholders in promoting this policy was to address historic inequities in looking forward to new allocation regimes. The TANK members had been particularly influenced by the reporting on the social and cultural impact assessment from Dr Cole and the current social, economic and cultural challenges faced by TANK Māori and local iwi and hapū.
67. The TANK stakeholders considered this high flow allocation was a way to address some of those issues. The objective and policy provide opportunities for both new environmental management solutions to be developed and social and economic needs for water to be met and help to enable the relationship of Māori and their culture and traditions.
68. The amount of water being reserved to meet the objective of improved Māori well-being depends on the high flow allocation limit. If the limit remains as in the draft this represents an allocation of 1,600 litres per second at times of high flow for Māori well-being activities. While bearing in mind that this needs to be stored for later use or discharge, it represents a considerable amount of water and an opportunity for Māori organisations to work with any applicant wanting to develop a high flow storage solution. To help put the 1600 l/s in context, this flow roughly equates to the total Tutaekuri-Waimate stream flow that is often observed during typical summer low flow conditions and which is illustrated in figure 1. The amount of reserved water represents considerable potential environmental flow benefit, irrigation, or commercial/industrial potential.



Figure 1 Tutaekuri-Waimate River at 1500l/sec

69. This policy approach is a novel and innovative way to address some of the water allocation inequities suffered by Māori but there are some legal concerns about scope and implementation. However, it requires support of local Māori and iwi in order to make it work. Feedback was sought from iwi (via the letters sent during the pre-notification consultation), on how the policy could be improved to better describe the kinds of activities that this reserved water could be used and the types of Māori organisations who should be consulted when making decisions about applications to take this water.
70. No further input into how this policy could be improved was provided in the iwi feedback. In view of the strength of opposition to this provision by NKII in particular, the RPC may not wish to pursue this plan provision.
71. However, given the potential water quantities involved and the opportunity being provided for Māori to be directly involved with water storage initiatives, staff advice is

that this policy could provide significant benefits to develop Māori well-being and should be retained and further developed to ensure it can be effectively implemented. This report is progressed on that basis.

Implementation

72. Legal advice notes that there is case law in respect of providing allocation for specific Māori customary and cultural purposes. It also informs us that while neither plan provisions nor case law exists in relation to allocating for Māori economic and social well-being, and while neither of these things are specifically included as matters to be afforded particular protection under the RMA, Council nonetheless has broad discretion to:
 - 72.1 allocate water under Section 30
 - 72.2 provide for Māori interests and
 - 72.3 enable people and communities to provide for social, economic and cultural well-being.
73. However, some constraints and challenges still exist, as has been noted in earlier staff briefings. Council cannot allocate water for exclusive use by a particular person, group or class of people, including a body representing iwi. This is relevant also to how water permits issued directly to any Māori consent holder are managed; i.e. special consideration or priority cannot be made for Māori consent holders as sought by NKII.
74. An application should be able to be made by any person in a particular area or location irrespective of ownership or any relationship with an area.
75. It is also not permissible to use a plan to give preference or priority access of resources to tāngata whenua or other specified parties. The allocation is controlled by the status of the activity, not the status of the applicant. Legal advice considers the policy must be careful not to favour applicants who are Māori organisations or holders of land newly acquired by Treaty settlements. Requests for the reserved water to be allocated directly to Māori are therefore not able to be given legal effect to.
76. The policy and allocation rule must provide sufficient clarity and direction as to the specific activities that provide Māori well-being. The current provisions are not sufficiently clear as to the types of activities that provide for Māori well-being. "Providing for well-being" is more of an outcome than an activity for which water can be allocated.
77. The staff recommendation is to reword the policy to provide for more clarity about the activity rather than the applicant. The provision relating to Māori employment benefits is deleted as it is considered an ultra vires provision; a consent holder would be affected by changing circumstances and third parties (employees), beyond their control to be compliant. It is likely that such a condition is also outside employment laws.
78. In the absence of further suggestions about which Māori organisations should be consulted in relation to applications for this water, it is recommended that only Post Settlement Governance Entities be consulted.
79. Consideration of further specific activities which would improve Māori cultural, economic and social well-being would also help strengthen the policy.

High Flow Allocation Limit

80. Iwi feedback suggests that the high flow allocation limit for the Ngaruroro River should be reduced, but aside from commenting that the amount appears to have been set in a way that over-rides instream values in providing for economic considerations, there is no further information as to why they hold this view.
81. The TANK Group took into account the role of high flows in contributing to the hydrological functioning of the river and its instream values in deciding on an allocation limit. They started with a presumption that the river functioning needed to be protected and used a statistical approach. They sought that the high flow frequency would not be changed by more than a maximum amount of 10% change.

82. The Group could not reach a consensus on whether the allocation should be a 4% or 6% change to the flood flow frequency. Both are significantly less than the conservative 10% change to flood flow frequency. No change is being recommended, although it is noted that this is an issue that may attract submissions and will enable further debate and evidence to be provided during the formal hearing phase.
83. Hort NZ considers further clarification is needed to guide high flow allocation from tributaries. Rewording is recommended to help address their concern. Full flow details are not available for each tributary and must be calculated for each new application for high flow abstraction.

Policy guidance

84. The policy requires an avoid, remedy, mitigate assessment to be taken when assessing consent applications and the effects of a proposal while also providing a limit to the amount of high flow water that might be abstracted. It is also supported by Policy 55 which provides a high level of protection to specified rivers with identified significant values.
85. This approach is considered to remain appropriate given that the particular circumstances of each application are not known. It is not possible to say in advance what options for managing adverse effects for any one proposal will be appropriate, and the circumstances under which decisions need to be made about whether effects are avoided, remedied or mitigated.
86. However, the policy does provide for bottom line protection through the allocation limit and the extent to which flood flows may be changed by abstraction. This bottom line ensures many effects listed in the policy will be avoided. There are also related policies that will also be relevant in making decisions such as those in relation to changes in water quality, meeting freshwater quality objectives, wetland protection and riparian management.

Suggested amendments

87. **Amend** Policy 56 as follows.

The Council will allocate 20% of the total water available at times of high flow in the Ngaruroro or Tūtaekurī River catchments for abstraction, storage and use for the following activities;

- a) *contribution to environmental enhancement (that is in addition to any conditions imposed on the water storage proposal)*

~~*A direct increase in employment opportunities for Māori at a rate proportional to the amount of water being taken*~~

- b) *improvement of access to water for domestic use for marae and papakainga;*

- c) ~~*The use of water for any activity, provided that it includes direct contribution (funding) The improvement of Māori economic well-being by*~~ *to a fund managed by the Council and which will be used to provide for development of Māori wellbeing*

~~*Post Settlement Governance Entity Māori organisations contribution*~~

~~*at a rate that is equivalent to the amount of the allocated water being taken and stored as a result of the use of the stored water at a rate proportional to the amount of water being taken*~~

- d) ~~*the development of land returned to a PSGE through a Treaty Settlement or acquired through Treaty Settlement funding where there is insufficient water for full development of the land through existing water permits .*~~

And in making decisions on resource applications for this water the Council will;

- e) ~~*require information to be provided that demonstrates how these activities will be provided for*~~ *Māori economic, cultural or social well-being;*

- f) have regard to the views of any affected PSGE or iwi authority Māori organisation arising from consultation about the application and any assessment of the potential to provide part, or all of the 20% high flow allocation reservation to Māori development the activity
- g) have regard to any relevant provisions for the storage and use of high flow allocation water for Māori development in any joint iwi/hapu management plans relevant to the application (where more than one PSGE, iwi/hapu is affected, the iwi management plan must be jointly prepared by the affected iwi/hapu).

88. **Amend** Policy 56 as follows.

When making decisions about resource consent applications to take high flow water, the Council will take into account the following matters:

- a) whether water ~~allocated~~ for development of Māori well-being is still available for allocation;
- b) whether there is any other application to take and use the high flow allocation for development of Māori well-being relevant to the application.
- c) the scale of the application and whether cost effective or practicable options for taking and using the high flow allocation for Māori development can be incorporated into the application;
- d) the location of the application and whether cost effective or practicable options for including taking and using water for Māori development can be developed as part of the application;
- e) whether there has been consultation on the potential to include taking and using all or part of the water allocated for Māori development into the application;
- f) whether it is the view of the applicant that a joint or integrated approach for the provision of the high flow water allocated to Māori development is not appropriate or feasible, and the reasons why this is the case.

89. **Amend** column (D) in Schedule 7 as follows.

~~Proportionally in comparison to flow contributions to the main stem. This is included as~~
The high flow allocation from the tributary is proportional to its contribution to the mainstem. It is part of the total allocation for the mainstem high flow allocation.

Section 4 - Urban Development and Priority Water Management

Iwi advice

- 90. Advice from iwi generally notes the importance of water (available for abstraction) for essential human needs and community uses such as for marae and urban development. There is concern that the allocation policy does not sufficiently recognise a hierarchy for water allocation. TToH specifically has concerns about the changes to the permitted activity levels of water use.

TLA advice

- 91. The Napier and Hastings Councils support priority for community and human health supply. They also note the link between urban land development and the National Policy Statement Urban Development Capacity (NPS-UDC) for this and the importance of primary production to the economic, social and cultural well-being of the two territorial areas.
- 92. The councils also note concern about the ordering and apparent priority of Policy 1 which sets out priorities for action.
- 93. Napier and Hastings Councils both stress that the HPUDS is secondary to the Urban Development Capacity National Policy Statement (NPS-UDC) and point out that in order to deliver on NPS-UDC, there must be adequate water supply and that this would prevail over any water needs contained within the HPUDS. The two councils consider the statutory responsibility to provide for sufficient development capacity applies to the associated allocation of water to support those land uses.

94. The Councils note that plan review cycle (10 years) is not aligned with either the HPUDS (2045 timeframe and based on 5 yearly revisions) or NPS-UDC.
95. NCC and HDC seek the deletion of references to the 2017 HPUDS which ties them to 2017 calculations for urban growth and water demand projections. They seek removal of this reference to allow flexibility to accommodate changing water demands as a result of urban development, driven by requirements of the NPS-UDC.

Other feedback

96. Hort NZ notes the importance of primary production to the economic, social and cultural well-being of the community and the dependence of this on the availability of water at a reasonable security of supply.

Officers' assessment

Priority allocation of available water

97. Iwi and local council advice is that there needs to be better recognition of the human health and community needs for water. At present Objective 13 is somewhat vague about a priority regime, although policies specifically reserve water for municipal and community water use (Policies 46, 47, 48,). See below for further recommendations that also reinforce this priority approach. Use of water to irrigate land for primary production is also recognised with specific priority in relation to site to site transfer.
98. NKII expressed concern about Policy 46 and how re-allocation of water was to be managed. Two options for managing water that is returned to Council (such as through lapsed or unused consents) have been identified by staff, either:
 - 98.1 Option 1- Water is re-allocated for irrigation of versatile land, or
 - 98.2 Option 2 - Water is not re-allocated until the plan is reviewed.
99. The status of water allocation for versatile land could be reconsidered in light of the TLA obligations and RPS requirements for the protection of such land. A priority allocation recognises the value already given to the protection of such land and the interdependence between its productive capacity and water availability. Note too that the government is contemplating new national policy direction for the management of these scarce and highly valued resources.
100. However, given the degree of over-allocation across most water bodies, the possibility that substantial water will become available for re-allocation is quite small within the term of this plan. Furthermore, by then there may be new RMA allocation tools developed, new criteria for allocation could be developed or water remains allocated first in time.
101. It is suggested that Option 2 is the more conservative approach. It is recommended that Policy 46 is amended accordingly, and to remove the reference to the potential amendments to the RMA.

Urban water allocation and management

102. The tensions between the various national policy statements (for water, urban development and under development for versatile land) and legislative requirements under both the RMA and the LGA are acknowledged.
103. The Plan refers to the HPUDS strategy as it is the public expression for the strategic planning of urban development in the TANK catchments. HPUDS shows where development is anticipated and how it will be provided for. Expected water demand in the TANK draft plan is tied to the HPUDS to provide both certainty and clarity for the community generally, and the local authorities in particular, about the limits of natural resources that may constrain future urban development.
104. Council plans under the RMA are reviewable at any time at the Council's discretion and resourcing, although reviews are required every 10 years. This provides opportunity to assess the alignment between the limits set and the available water. It allows for new assessments of growth to then inform Plan rules, including where re-allocation decisions to provide for urban growth are needed at the expense of other existing water

investments. The first review of these TANK Plan change provisions also provides for an assessment of the effectiveness of stream enhancement strategies and whether they can provide for additional allocation.

105. The implication that more water can continue to be made available for urban development does not account for the fact that all available water is already fully allocated, nor does it provide the community with any certainty as to how limits will be met and how the resource needs of new development will be met.
106. New allocations to urban uses within a fully allocated water management unit will either come at the expense of other users or will need to be met by other water sources such as by augmentation. Within the current urban water supply networks, there is also scope to meet future demand by improving efficiency of water use and efficiency of the water reticulation network.
107. To provide more water beyond the limits set is not a sustainable solution. The functions and duties under sections 30 and 31 of the RMA are subject to Part 2 requirements for sustainable development, including in relation to water, as well as finite resources such as versatile land. PC9 clearly establishes limits for water abstraction (albeit tempered with some uncertainties). Any development, whether for irrigation, commercial use or urban development must be within those limits.
108. In this setting, to allow more water for urban use means another use has to be reduced. A wider community discussion about the costs and benefits and equity of that, as well as the other options that might exist is necessary before providing that solution.
109. HDC and NCC seek that the water allocation regime does not result in urban water takes becoming non-complying, however, while current and some future development is provided for, any new urban development that exceeds limits should be considered non-complying as it means the environmental limits for this development are being exceeded.

Other solutions

110. There are a number of management solutions to address water demand shortfalls that can be considered. These include:
 - 110.1 water use efficiency by users of council supplied water
 - 110.2 efficiencies within a council reticulation network
 - 110.3 supply and demand management initiatives (pricing, water meters, pressure management etc.)
 - 110.4 water storage, and
 - 110.5 site to site transfers of water permits.
111. Other ways of meeting water demand can be explored by TLAs where limits are being reached. Both councils are addressing network management issues and developing opportunities for savings within their networks. While there is clearly room for better management in the short term, other strategies such as water metering and storage should also eventually feature in future discussions with the community about reductions in water use to allow for further urban growth.
112. Water storage is also an obvious solution – but consideration of water storage solutions by TLAs and their rate-paying communities would not occur without the pressure inherent in this limit context.
113. A further solution that is not specifically provided for is transfer of water from other water users to community/municipal water supply. See in particular Policy 44 (d), (e) and (f). An opportunity to relax the transfer restrictions of takes for any other use to municipal supply would be consistent with the priority regime. It would enable a TLA to consider transferring irrigation, commercial or industrial permits to municipal use such as when land is rezoned for urban development and these permits become available. These transactions would allow for willing transfer, rather than a rule requiring a more general

re-allocation of water to municipal supply. They would still be subject to discretionary oversight to ensure adverse effects remain the same or similar.

114. HBRC should also continue to support collaborative investigations between itself and HDC and NCC to understand water supply and demand constraints and opportunities, particularly in the preparation of urban growth strategies such as HPUDS and any other developments considered necessary to give effect to the NPS-UDC.
115. An amendment to the consent duration has been made to reflect concerns by the TLAs in relation to their urban planning under HPUDS and the NPS-UDC. It reflects their priority water use, but makes it clear that new water use is to remain within the identified limits, including the urban development limits within HPUDS for the 2015-2045 planning period.
116. The municipal water allocation provisions include water for both residential and non-residential use including schools and rest homes, parks and reserves and commercial and industrial areas. Reservation for future municipal use however, excludes water for industrial supply at rates higher than 15m³/day. This provides a check on new larger scale wet industries which might be expected to otherwise assess their own options for water availability in a water short area. It ensures existing urban supplies are not placed under additional pressure from economic developments, which have access to non-ratepayer funding and that might be located elsewhere.
117. It is also suggested that provisions for water transfers to municipal supplies also exclude transfer to large scale industrial takes within a municipal network.

Permitted quantities

118. There was concern from TToH about the impact of the Plan restricting existing and future individual household takes. The Plan has reduced the permitted quantity for new takes, including for individual household takes. Existing household and other permitted takes can continue.
119. The previous permitted limit was a relatively generous (20m³ per day) and enabled a range of takes in addition to household use not otherwise manage by a water permit. New household takes are still provided for, but the permitted amount now better reflects a reasonable level of domestic (and other) water use to 5m³ per day. The change reflects the overall concern about the amount of water currently being abstracted from TANK waterbodies and the fact that the water resources are either fully or over - allocated.

Suggested amendments

120. **Amend** Objective 13 as follows.

Subject to limits, targets and flow regimes established to meet the needs of the values for the water body, water quantity allocation management and processes ensure water allocation in the following priority order:

- a) ~~Water is available for the essential needs of people;~~
- b) ~~There is equitable allocation of the water between competing end uses including priority allocation and reservation~~ of water for community supply including for marae and papakāinga, and for municipal supply so that existing and future demand as described in HPUDS (2017) can be met within the specified limits
- c) ~~And allocation for primary production especially on versatile soils,~~
- d) ~~And for~~ other primary production, food processing, industrial and commercial end uses;
- e) non-commercial end uses

~~water is allocated for municipal and papakāinga water use so that existing and future demand as described in HPUDS (2017) can be met within limits to enable the community to provide for its economic, social and cultural well-being~~

and that the allocation and use of water results in

- a) the development of Māori economic, cultural and social well-being supported through regulating the use and allocation of the water available at high flows for taking, storage and use ~~for this activity~~
- b) water being available for abstraction at agreed reliability of supply standards;
- c) efficient water use;
- d) allocation regimes that are flexible and responsive, allowing water users to make efficient use of this finite resource.

121. **Amend** Policy 1 by replacing 'prioritising' at the end of the first paragraph with:

"...focussing on all of the following"

122. **Insert** new clause at the end of Policy 44.

- (h) *enabling the transfer of a point of take and change of water use to municipal or community water supplies, including for marae and papakainga, from any other use for the efficient delivery of water supplies and to meet the communities' human health needs for water supply provided the transfer does not include any industrial take above 15m³/day and adverse effects on existing water users can be avoided, remedied or mitigated.*

123. **Insert** into Policy 45.

'will impose a consent duration for municipal water supply consistent with the most recent HPUDS and will impose consent review requirements that align with the expiry of all other consents in the applicable management unit'

124. **Amend** Policy 46 as follows.

The Council will recognise reasonably foreseeable needs for municipal, papakainga and community water supply for human health and community well-being (excluding any provision for industrial uses that take or are supplied with water from a municipal water supply at rates more than 15m³/day) as priority uses for water available for allocation within allocation limits and,

- a) *will reserve any water that becomes available for allocation or re-allocation for those uses;*
- b) *if no application is made or no reasonably foreseeable needs identified for this water use within 5 years of it becoming available, Council will not re-allocate any of the available water until such time as alternative allocation mechanisms are provided through the RMA there has been a review of the allocation limits within this plan.*

125. **Delete** clause (b) (iii) from Policy 47.

126. **Insert** new clause (c) to Policy 47

'work with Napier City and Hastings District Councils to;

- (i) *develop an integrated planning approach through HPUDS that gives effect to National Policy Statements within the limits of scarce resources*
- (ii) *develop a good understanding of the present and future regional water demand and opportunities for meeting this.*

127. **Insert** into Rule 62a a new clause (h)(iii);

the transfer enables efficient delivery of water supply to meet the communities' human health needs.

Section 5 - Allocation Limits

Iwi advice

128. The iwi advice includes a number of general observations about water allocation with specific comments by TToH and HTST for the Ngaruroro River minimum flow to be increased to 2,800l/sec. There is no specific advice about the allocation limits for surface water.

Other feedback

129. Hort NZ expresses concern about the nature of the security of supply (referred to in Policy 41) and the allocation limits established for the Ngaruroro River. It requests clarification about the effect of the new allocation limit for the Ngaruroro River.

Officers' assessment

130. Options for managing both flow triggers and allocation limits were extensively modelled and this range of options were debated at length. River ecology and flows are affected by both the allocation limit and the minimum flow. The minimum flow restricts takes beyond a certain trigger (it may continue to fall naturally if the drought continues) and the amount of water abstracted has an impact on how quickly a minimum flow trigger might be reached.
131. There was a very high level of scrutiny given to minimum flow as if it were the only metric of river ecological health. Other advice showed that the allocation limit as a percentage of mean annual river flow was also a relevant metric to consider. While the minimum flow was not increased, the Plan proposes that the allocation limit is decreased. The new allocation of 1300l/sec from the Ngaruroro River is a significant decrease from 1581 l/sec.
132. For water users, it is important that when water is allocated, it is available at a reasonable security of supply so as to enable economic investment. This security is dictated by two management levers. One is the amount allocated for the specific end use. For example, irrigators are not allocated all the water they need, but enough to meet demand nine out of ten years. It enables more people to get access to water than if full demand were met all the time. This also reflects the way in which irrigation systems and infrastructure is designed and operated.
133. In addition, security of supply is also dictated by the combination of minimum flow and allocation limit. The larger the allocation the quicker the limit in any given river is reached during times when river flows are decreasing. The higher a minimum flow the more often a trigger for restriction is reached.
134. As Hort NZ points out, security of supply is an important consideration for water users when they are making investment decisions – particularly where water allocation regimes may mean water is not available all the time. There is data available about the security of supply for water users, but there is no common or widely used metric (it could be in relation to number of continuous days on ban or frequency of restrictions in an irrigation season). Suitable security of supply information has not yet been collated for inclusion within this report. Information about security of supply will be collated for each waterbody and made available to water permit applicants. This information will be provided to the committee for consideration prior to notification.
135. Re-allocation via resource consents of water from the Ngaruroro River will be in accordance with Policy 49 which seeks to manage over-allocation. It means that existing users are particularly scrutinised as to actual and reasonable water use. The evidence from the modelling for the Heretaunga Plains in relation to water meter data shows that there is considerable opportunity to reduce allocation and use with better measurement and more efficient management of the available water.

Suggested amendments

136. None at present. Further information is to be provided to the RPC regarding the security of supply for consideration prior to notification.

Section 6 – Stormwater

TLA advice

137. The Napier and Hastings Council's generally support the stormwater policies and rules.
138. They support the requirement to update and align territorial frameworks for stormwater management where practicable, however, they seek clarity regarding TANK Policy timeframes to ensure they are coordinated and consistent.
139. They would also like amendments made to clarify the intent of the Policies and ensure there is no 'blurring of lines' between Regional Council and territorial authority roles and responsibilities.
140. Both Councils have concerns regarding the suitability and applicability of the Risk Matrix in Schedule 10 for TLAs, and would like to see this further refined to be more consistent with other tools that are already in use and currently being developed, including existing Codes of Practice, District Plan review/development and Stormwater Bylaws etc.
141. Further meetings have been requested by NCC and HDC to discuss this further.

Officers' assessment

142. The timeframes within the policies refer to integrated management, amendments of plans, standards, codes of practice and bylaws, development of site plans, public advice, and reducing effects. The different timeframes and deadlines were put into policies in accordance with a decision making matrix for determining if an activity was low, medium or high risk. However, it is recognised that the policy requires redrafting to provide a more logical sequence of actions over time and to more clearly align the dates with other TANK policies and councils' plan reviews.
143. It was acknowledged that the Risk Matrix tool in Schedule 10 needed some further refining to better assess the risk of stormwater contamination associated with activities. Napier City Council indicated that they also have an assessment tool which both council's considered more appropriate and applicable to their territorial functions.
144. Staff from each of the councils met on the 30 April to further discuss the suitability of the Matrix, and also to determine whether there were any 'loopholes' within the rules as currently proposed. It was agreed a further meeting would be scheduled to test the robustness of the rules using case studies. It was also agreed that a legal review would be required, particularly of the rules.
145. Staff agree that the current stormwater policies need to be redrafted to ensure the obligations of each council are clearly articulated. Some amendments have been made to the stormwater policies of the plan but further amendments may be required following further assessment of the rule robustness by staff and legal review.

Suggested amendments

146. **Amend** Policy 26 and delete policy 27.

New Urban Infrastructure

26. Napier City Council and Hastings District Council will reduce or mitigate the effects of stormwater quality and quantity on aquatic ecosystems and community well-being arising from existing and new urban development (including infill development) and its associated infrastructure, will be progressively reduced or mitigated by local authorities on or before 1 January 2025, by:
- a) adopting an integrated catchment management approach to the collection and discharge of stormwater before 1 January 2025;
 - b) requiring stormwater to be discharged into a reticulated stormwater network where such a network is available or will be made available as part of the development;
 - c) requiring increased retention or detention of stormwater, while not creating flood hazards;
 - d) taking into account site specific constraints such as in areas with high groundwater;
 - e) taking into account the collaborative approach of HBRC, Napier City and Hastings District councils in managing urban growth on the Heretaunga Plains as it relates to stormwater management; and
 - f) taking into account the effects of climate change when providing for new and upgrading existing infrastructure;
- a) —
- b)g) adopting, where practicable, a good practice approach to stormwater management including adoption of Low Impact Design for stormwater systems
 - c)h) amending district plans, standards, codes of practice and bylaws by 1 January 2025 to specify design standards for stormwater reticulation and discharge facilities through consent conditions, that will achieve the freshwater objectives set out in this plan
 - d)i) developing and making available to the public by 1 January 2023 advice about good stormwater management options (including through HBRC's Waterways Guidelines)
 - e)j) encouraging, through education and public awareness programmes, greater uptake and installation of measures that reduce risk of stormwater contamination.

147. **Amend** Policy 28 as follows.

Source Control

28. HBRC, Napier City Council and Hastings District Council as the appropriate consenting authority will reduce sources of stormwater contamination by will, from 1 January 2023, be reduced, by local authorities;
- a) Specifying requirements for the design and installation of stormwater control facilities on sites where there is a high risk of freshwater contamination arising from either the direct discharge of stormwater to freshwater, the discharge of stormwater to land where it might enter freshwater or the discharge to a stormwater or drainage network;
 - b) Requiring the implementation of good site management practices on all sites where there is a risk of stormwater contamination arising from the use or storage of contaminants; any of the contaminants listed in Schedule 10;
 - c) Controlling, and if necessary avoiding, activities that will result in water quality standards not being able to be met.

148. **Amend** Policy 29 date to 1 January 2025.

149. **Amend** Policy 30 date to 1 January 2025 and **Insert** footnote to clarify ANZECC Guidelines.

150. **Amend** RRMP existing Rule 43 "Diversion and Discharge of stormwater" (Controlled activity) to read:

Activity - Diversion and discharge of stormwater except as provided by Rule 42 and Stormwater 1"

151. **Amend** existing RRMP Rule 52 to read:

'Discharges that do not comply with rules 9-14, 16, 31-51 and Stormwater 1-4'

152. Include the Advisory note to follow Stormwater Rules 1-4 as follows.

1. Non-compliance with rules – if the rules in this section cannot be complied with, then the activity is a discretionary activity under RRMP Rule 52.

Section 7 - Role of Mana Whenua in the TANK Collaborative Process

Iwi advice

153. The iwi feedback showed a high level of unhappiness, in particular from NKII, TToH and HTST with the process and, as a result, with the final outcomes and plan content.

Officers' assessment

154. The Council adopted a plan review process in 2012 to develop new objectives and limits for waterbodies in the TANK catchments. They adopted a collaborative model whereby plan provisions would be developed jointly by a wide range and extensive number of parties with an interest in water management.
155. The Council was following a new national lead provided by the government and national stakeholder groups demonstrated by the Land and Water Forum, as well as building on the success of their own process which followed a similar model for the region's Land and Water Management Strategy which was completed in 2011.
156. At the same time, new in-house decision making structures and processes were being set up as a result of Treaty Settlement initiatives. It was (and arguably still is) a time where there is lack of clarity from Central Government and within legislation with regards to the roles, responsibilities and expectation of Māori as Treaty Partners within the planning process and in decision making.
157. The range of requirements and opportunities provided by Treaty settlements and under various Acts (LGA, RMA and the councils own RPC Act in particular) and the Freshwater National Policy Statements has created uncertainty about how the TANK process was to properly account for Māori, their culture and traditions with their ancestral lands and water, both in terms of how decisions were made and how the consensus decision making was supposed to work.
158. Nevertheless, all parties entered into the challenge posed by the TANK plan change process and nearly all stayed with it for the entire programme. A great deal of time and resources by both the Council and the individual contributors was invested into the work. The discussions and debate were at times robust, but always illustrated the comprehensive, mature and committed approach to the TANK Group's work and its significance.
159. Note: During the time since the TANK project was initiated the NPSFM has been amended twice and amendments have also been made to the RMA (passed in 2017).

Representation

160. The mana whenua members raised concerns at various times throughout the process including in relation to:
- 160.1 who was sitting around the table with a voice for Māori, and
 - 160.2 how those people were selected
 - 160.3 the status of the mana whenua members compared to other parties
 - 160.4 the resourcing challenges relating to the time and financial commitments that were necessary, and
 - 160.5 the level of understanding and capability of the mana whenua to contribute to discussions and solutions.
161. The Council adapted the process to accommodate many of the concerns. Some were outside the scope and functions of the Council and therefore could not be resolved, especially the representation and mandate of mana whenua. While the Group was set up with the best of intentions at that time, iwi and mana whenua were not themselves organised in ways which enabled optimal representation for Māori in this sort of collaborative process to be determined. Other changes including funding and additional resourcing were provided to assist meeting some of these challenges.
162. There has also been some misalignment in relation to the expectations about how Māori values should be provided for in a resource management plan. While the freshwater

NPS establishes a process for the community identification of values, including Māori values, neither the NPS nor the RMA gives precedence to the protection of Māori values when setting objectives and limits – provided, of course, that plan safeguards life-supporting capacity and recognises Te Mana o te Wai. The NPSFM does not define Te Mana o te Wai per se but it states that Te Mana o te Wai is the integrated and holistic well-being of a freshwater body.

AA. Te Mana o te Wai

Objective AA1

To consider and recognise Te Mana o te Wai in the management of fresh water.

Policy AA1

By every regional council making or changing regional policy statements and plans to consider and recognise Te Mana o te Wai, noting that:

- a) te Mana o te Wai recognises the connection between water and the broader environment – Te Hauora o te Taiao (the health of the environment), Te Hauora o te Wai (the health of the waterbody) and Te Hauora o te Tangata (the health of the people); and
- b) values identified through engagement and discussion with the community, including tangata whenua, must inform the setting of freshwater objectives and limits.

163. Many of the TANK members will be similarly frustrated that their specially held values or methods for addressing issues were not incorporated within the Plan. This is the nature of consensus, and as a result of the debate and discussions, there has been a great deal of change resulting from the TANK conversations about responsible resource management. There is nothing within the plan change content that can be amended in response to the design of the process which was utilised.

The paradigm

164. There has been a call within the feedback from iwi, for a paradigm shift in the way water resources are managed. The apparent lack of extensive new regulation is cited as not having achieved the required shift.
165. However, the TANK process has actually demonstrated a very significant shift in the way responsibility for water outcomes has been assumed by TANK members and their stakeholder organisations and landowners in the TANK catchments.
166. The focus on management of water to meet community held values has enabled the conversation to be more about solutions and reflects the willingness by various stakeholders to assume greater responsibility and develop innovative collaborative solutions. It is demonstrated as much by how the three councils (Napier, Hastings and HBRC) have to date worked together through the stormwater management challenges (some of which is still a work in progress), as it is by primary producers in meeting the challenges of managing diffuse discharges of contaminants.
167. Agreement about the desired states for water quality was one of the most momentous outcomes of this process and its significance should not be underestimated. Other plan change processes both in Hawke's Bay and elsewhere have resulted in seemingly endless Environment Court debate about the most suitable water quality state. The draft TANK plan change again illustrates a considerable paradigm shift with a focus on priorities and solutions rather than technical debates about a single attribute state.
168. It is increasingly acknowledged that, while some limits may still be required (especially for nitrogen loss), the TANK Group supported a focus on solutions to meet community expectations and objectives for water. There was a strong desire by farmers in particular to be the drivers of innovation and solutions at a farm scale. A paradigm shift has occurred in land and resource users recognising they have a

collective responsibility for meeting water quality objectives that are affected by complex catchment processes and cumulative effects of a range of always changing activities.

169. Further is the recognition that resource users need to be accountable for the effects of their practices on land and water quality and that there must be transparency in how efforts to achieve water objectives will be undertaken and monitored. Landowner and Council responsibilities for this are clearly articulated in the Plan and the accompanying Implementation Plan. The Plan is not without regulation. New rules as drafted will hold landowners accountable to better and more transparent resource management.
170. The ongoing efforts into making sure landowners and councils have the tools they need and the information necessary to make good decisions will be a challenge for the Council to ensure the success of this Plan.

Consensus

171. There a number of items where complete consensus was not reached by the TANK Group. These decisions were referred back to the Regional Planning Committee as decision makers. These non-consensus items will no doubt feature in submissions and will be further debated. Some of those matters are listed in the iwi feedback. Impacts of decisions about those non-consensus issues on resource users and the economic and social well-being require that such decisions are made with all the available information being taken into account.

Suggested amendments

172. All parties to the TANK Group, including staff would conclude that the collaborative process has had significant merits in terms of building relationships, sharing information and values, providing opportunities to develop wider community understanding of complex science and social and cultural issues and develop innovative solutions.
173. However, nothing is lost in conceding (with the benefit of hindsight) that the process was far too drawn out and ultimately time consuming and placed a heavy burden on those involved. Council staff are taking these learnings into account in the development of future freshwater catchment plan changes, particularly in relation to our engagement with iwi as the Crown's Treaty Partner.

Section 8 - Summary of Remaining Issues

174. Some of the feedback contains quite detailed suggestions for amendments to the draft plan. Minor changes for editorial and clarity improvement are not reported on separately but are included as tracked changes in the attached Version 9 of Draft Plan Change 9.
175. Substantive feedback and advice is summarised in the preceding sections. The remaining associated recommendations for amendment are summarised in the Table below. The recommendations listed are also shown as tracked changes in the attached Version 9 of Draft Plan Change 9.
176. Where no change is recommended in response to the feedback, please refer to the summary sheets for each organisation for the assessment and explanation.

Table 1

| Plan Ref | Party | Concern | Assessment | Suggested Amendments |
|-----------------------|-------------------------------|---|--|---|
| Objectives | NKII | The order does not reflect importance. Objective 15 should be first | No priority was intended. A different ordering according to type of objective may be helpful | Rearrange order of objectives as follows. General objectives concerning processes and relationships General objectives water quality Catchment or specific objectives Objectives for water quantity |
| Objective 13 (now 16) | NKII, HTST, NCC, HDC, Hort NZ | The objective should provide for priority allocations | The plan already provides for some priority end uses | Amend to provide explicit priority order. (see section 5 above for details) |

| Plan Ref | Party | Concern | Assessment | Suggested Amendments |
|--------------------------------|---------------------|---|--|---|
| Objectives | NKII, HTST and TToH | Māori values not sufficiently recognised | Additional reference to specific Māori values can be made to better reflect interconnected values and objectives. | As in section 2 of this paper. Delete reference to commercial eeling in Figure 1. Natural character protections explicit |
| Objective 1 and biodiversity | DoC | 'Protection' of natural resources should be included. More emphasis on protecting biodiversity sought | Protection of natural resources has a very wide scope. It would be more appropriate to refer to indigenous biodiversity to be consistent with the Plan protection for wetlands, riparian margins and indigenous species. Note that this is not a plan for terrestrial biodiversity. | Amend Objective 1 to refer to protection of indigenous biodiversity (section 2). |
| Policy 1 | HDC NCC | Concern about apparent priority order for actions | No priority order was intended – this policy provided a short list of the more essential or priority actions that were identified as necessary to meet water objectives. | Amend wording to show no priority is intended. |
| Policy 3 | DoC | Establishing macrophytes to improve lake condition requires lake condition to be improved first. | Agree, clause needs re-wording. | Amend clause 3 (i) of Policy 3. |
| Policy 5 and others | HDC NKII | Both seek that the regulatory or non-regulatory directions in the policies be more clearly articulated. | Re-ordering the plan content will assist in distinguishing policy content and direction. | Re-order policies to assist interpretation and distinguish between regulatory and non-regulatory approaches. Clarify roles and responsibilities within policies (Policy 5) |
| Policy 6 (and where term used) | HDC NCC | A default protection zone may not be a circle to reflect g/w travel as indicated by Heretaunga Plains g/w model. | Amend default radius to refer to default area instead. | Amend all instances of 'default radius to 'default area'. |
| Policy 7 | HDC | It was not intended that extensive monitoring be required by water permit applicants, but that the water supply authorities were aware of water abstractions and the potential impact on their supplies | Agree that it is information about water abstraction risks that is more relevant. | Amend policy 7(v) to; (v) ensuring the water supplier is aware of any abstraction of groundwater where abstraction has the potential to impact on direction or speed and/ or hydrostatic pressure. |
| Policy 8 | HDC NCC | Clarify the need to share information across agencies. | Agree information sharing is important. | Amend Policy 8 to clarify information to be shared. |
| Policies 26 – 32 Stormwater | NCC HDC | A number of concerns need to be addressed and clarification provided. | The stormwater policies have been amended to provide clarity with regards to roles and timeframes | See amendments within this report. |
| Policy 33 | NKII | Policy should not lump Mātauranga Māori and landowners together | Mātauranga integral to Māori culture. Landowners have individual responsibilities for good stewardship which includes awareness about their impacts on water. Other amendments to better articulate policy direction. | Amend policy 33 to mention mātauranga Māori separately and clarify policy intent. |

| Plan Ref | Party | Concern | Assessment | Suggested Amendments |
|-----------------------------------|--|---|---|---|
| Policy 34 | NKII | Concerned about resource commitment imposed by this policy | This policy is a key and fundamental policy for accountability, transparency and ensuring the stakeholder commitments made in the TANK process are followed through. Reference to tangata whenua was initially included at their request. Attendance by them is not considered obligatory. The kaitiaki responsibilities can be discharged through the oversight role provided by the reporting to Council requirement that is included within the policy. | Delete reference to mana whenua. |
| Policy 36 and 49 and TANK 7 and 8 | HDC NCC NKII TToH HTST | Concern where water has been allocated but not yet used as part of major development requiring infrastructure development over time. Concerns about allocation limit | The Council should take into account the practical and economic realities of constructing and completing a major development including fluctuations in market demand and the need to raise finance. It should be a tightly controlled discretion so that new water use is not given a loophole opportunity Delete reference to interim – it is a limit for the duration of the Plan | Amend Policy 36, 49 and TANK 7, 8 to allow this consideration. |
| Policy 38 and TANK 7 | As in section 3 above | | | |
| Policy 41 | HDC/NCC Hort NZ | The security of supply standards that apply for each of the rivers as a result of the allocation limit and the minimum flow need to be specified within the plan | Agreed that information about this is important for applicants for water so that they know the limits of the resource they have been allocated and can make investment decisions accordingly. | The data has yet to be collated for each of the rivers but will be made available to water permit applicants. |
| | NKII, TToH, HTST | NKII strongly oppose the use of offsets for the effects of takes in Zone 1 to be implemented in another. | New water management units may change how some groundwater takes are classified. This policy provided for alternative stream depletion options for Zone 1 takes that were previously groundwater takes. Ngaruroro Zone 1 takes only have a water storage scheme option for mitigation and this could be specifically provided for rather than an arbitrary contribution to some other stream enhancement. | Delete reference to lowland stream enhancement where a lowland stream is not being affected. |

| Plan Ref | Party | Concern | Assessment | Suggested Amendments |
|---|-----------------------|--|--|--|
| Policy 41 | HBRC | Clarity about recording and reporting on small takes required. | There are national water meter regulations for all water takes above 5l/sec that specify the need for water meters and define technical standards. They do not specify that telemetry is required to record and report data and there are no regulations for takes less than 5l/sec. The use of telemetry is increasingly required by Council particularly where the take is significant, where real time management of water is necessary (such as in meeting minimum flow restrictions). Telemetry takes advantage of technology that reduces workload and automates data management and reporting but is not always available at remote sites. An amendment is recommended in order to provide better direction and clarity around expectations for water meters. | Amend policy 41 (l) to read; l) requiring water meters to be installed for all water takes authorised by a water permit and water use to be recorded and reported via telemetry in zones that are fully or over-allocated provided that telemetry will not normally be required where the consented rate of take is less than 5 L/sec or where there are technical limitations to its installation. |
| Policy 42 | HDC, NCC | Policy refers to allocation limits calculated with known security of supply, but this is not provided. | Agree that clarity around security of supply important – especially to assist resource users understanding about limits and constraints of water permits. | Information needs to be collated for each of the relevant water bodies as the combination of minimum flow and allocation limit will mean different security of supply standards for different water bodies. Detail still to come. |
| Policy 44, 45, 46, 47 TANK 7-10 RRMP 62 | As above in section 5 | | | |
| Policy 47 | HDC and NCC | Concerned about appropriateness of ILI requirement | Wording to be adjusted to reflect concerns about prescriptive in relation to the direction for good industry practice | Amend TANK 7 Matter 6 and Policy 47 |
| Policy 48 | HDC, Hort NZ TToH | Concerns about clarity of water shortage directions and emergency water. | Agree that more clarity and direction required. Don't agree that separate allocation required for tree irrigation despite impact on trees in severe drought. Allocation of water not on the basis that water will always be available. See comments in relation to including security of supply. Impact of drought on tree survival should be in relation to water users investment into alternative supplies and management responses like shared water permits not continuing water take. Change to policy allows council to make decisions about continuing water use beyond specified flows for identified activities if necessary. | Policy rewritten to show it applies when drought continues and plan provisions and minimum flows are exceeded. |
| Policy 49 | NKII, HTST, TTOH | Policy difficult to follow | Agree policy is lengthy and complex. | Delete unnecessary text. |
| | NCC/HDC | As in section 5 above | | |

| Plan Ref | Party | Concern | Assessment | Suggested Amendments |
|--|--------------------------|--|--|--|
| Policy 50 | Hort NZ | Pointed out that volumes not able to be predicted as frost occurs randomly from year to year with differing frequency. | Agreed direction need clarification. | Delete reference to volume and duration. |
| Policies 51, 52, | DoC | As in section 4 above | | |
| Policy 56 and 57 and TANK 11 and 12 and schedule 7 | NKII, TTOH, HTST Hort NZ | As in section 4 above | | |
| TANK 4 and Schedule 4 | Hort NZ | Provided additional nitrogen loss and definitional information | Agree new information necessary. | Amended to complete and provide clarity. |
| TANK 6 | Hort NZ | Some landowners may have more than one point of take to access water for animals for example. | May increase compliance/enforcement effort if compliance necessary. May result in more bores being drilled. | Amend to delete reference to one point of take for surface takes. |
| TANK 7 and 8 | Hort NZ | Concerned that alternative water management models not provided for. | Agree rules need to allow for collective management to enable more efficient water use. | Amend to allow collective applications. |
| | | Concerned that land use rule incorporated in water take rule. | Agree that makes the rule unnecessarily complex. Link to land use change rule a better way of tracking land use changes as a result of water use change. | Amend to manage land use change separately |
| RRMP 7 | DoC | Include reference to lakes and wetlands | Agree that protection of indigenous riparian vegetation should include lakes/wetlands. | Amend RRMP 7 for TANK PC9 to include lakes and wetlands |
| TANK 7 and 8 | HDC | Suggest improvements to wording and seeks that municipal takes do not default to non-complying status. | Municipal supplies can be discretionary where they don't otherwise meet TANK 5-8, but it is important that they remain constrained by the allocation limit as a discretionary activity. A non-complying application can be considered in light of the applicable policies where necessary. | Minor amendment made partially as sought. |
| TANK 10 - 13 | Hort NZ | Clarifications sought. | | Amendments agreed as necessary for ease of interpretation and clarity. |
| RRMP 32 | Hort NZ DoC | Suggestions for assisting application and interpretation Include reference to temperature | Reasonable mixing is a relevant consideration. Temperature is being managed through better riparian land management. | Amend to refer to reasonable mixing. |
| TANK 62a | Hort NZ, HDC | Transfers | Unreasonable limitation on transfers to sites where not consent is held. Rule already requires existing bore. | Amend to reduce restriction. |
| Stormwater 1 -3 | NCC/HDC | As above in section 7 | | tbc |

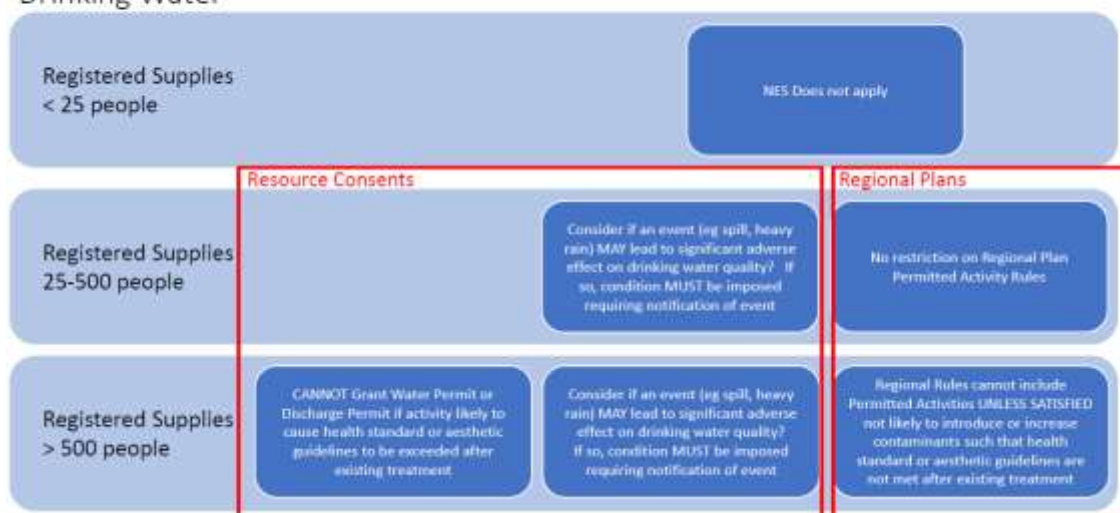
| Plan Ref | Party | Concern | Assessment | Suggested Amendments |
|------------|----------------------|--|--|--|
| Schedule 1 | NKII, TTOH, HTST DoC | Concern about lack of timeframes. Concern about context for both Schedules 1 and 2 | Cross reference to objectives and timeframe needed. Preamble about quality objectives meeting needs of values needed in Schedule 1 | Correct references to upper Tūtaekurī Include in Schedule 1 similar reference as in Schedule 2 about the water quality states specified enabling environmental, cultural and social needs for water quality to be met when they are achieved. Include statement that Schedule 1 is a first step with objectives being attained by 2040 and that the longer term and more integrated (fresh/coastal water) approach to managing water resources is reflected in Schedule 2 |
| | HBRC | Concern that temperature limits not robust given existing information | The temperature objectives have been changed to better reflect reference site data and the Hawkes Bay summer weather temperatures | Amend temperature attributes. |
| Schedule 4 | Hort NZ | Provide additional clarity around land use change. Provides for baseline land use as arable/vegetable rotation area can expand and contract for year to year because many crops have several years before they can be repeated in the same location. | Amendments necessary for completeness. | Amendments made for completeness. N loss rates for vegetable growing still to come. |
| Schedule 5 | Hort NZ | A number of suggestions to aid clarity and interpretation have been made | These suggestions generally aid readability and clarity and are included in the attached draft. Agree that Section A 2(x) should be part of the plan, not the governance management. | A number of amendments have been made to the Schedule. It still contains the original requirements and obligations but the layout and ordering is now more structured and easier to follow. |
| General | Hort NZ | Concern about new allocation limit and effects on existing users | New limits for the Ngaruroro will mean it will be managed as an over-allocated resource and according to Policy 49. The joint effects of allocation limit and minimum flow affects security of supply which is known and can be specified for clarity and enable water users to understand effects of water allocation policy on investment decisions. | Information about security of supply statistics to be available to water permit applicants. |
| Glossary | HBRC | Some terms are still to be defined, particularly those relating to protection of source water for drinking water supplies. | Tbc | tbc |

Section 9 - Source Protection

177. The Joint Working Group was set up under the direction of the Joint Council Governance Group following the Havelock North community water supply contamination in 2016. The JWG is comprised of representatives from all of the territorial authorities and the regional council, the District Health Board including a Drinking Water Assessor. Ngāti Kahungunu also attend the meetings.
178. The Joint Working Group provided their recommendations for objectives, policies and rules to the TANK Group in relation to protection of water used to supply communities and these have been incorporated into the draft Plan. One remaining issue related to the technical methods that would be used to delineate the area where specified activities would need particular attention in relation to risks to source water quality.
179. The JWG initially relied on generic analytical element modelling (AEM) for the large scale Hastings District Council and Napier City water supplies to determine the areas (called Source Protection Zones) where these specified activities would be subject to closer attention because of risks to community health. Where a registered drinking water supply is small scale (less than 500 people) an SPZ wouldn't apply, but any activities subject to resource consent would be subject to assessment of risks to the water supply within a defined protection extent for each supply.

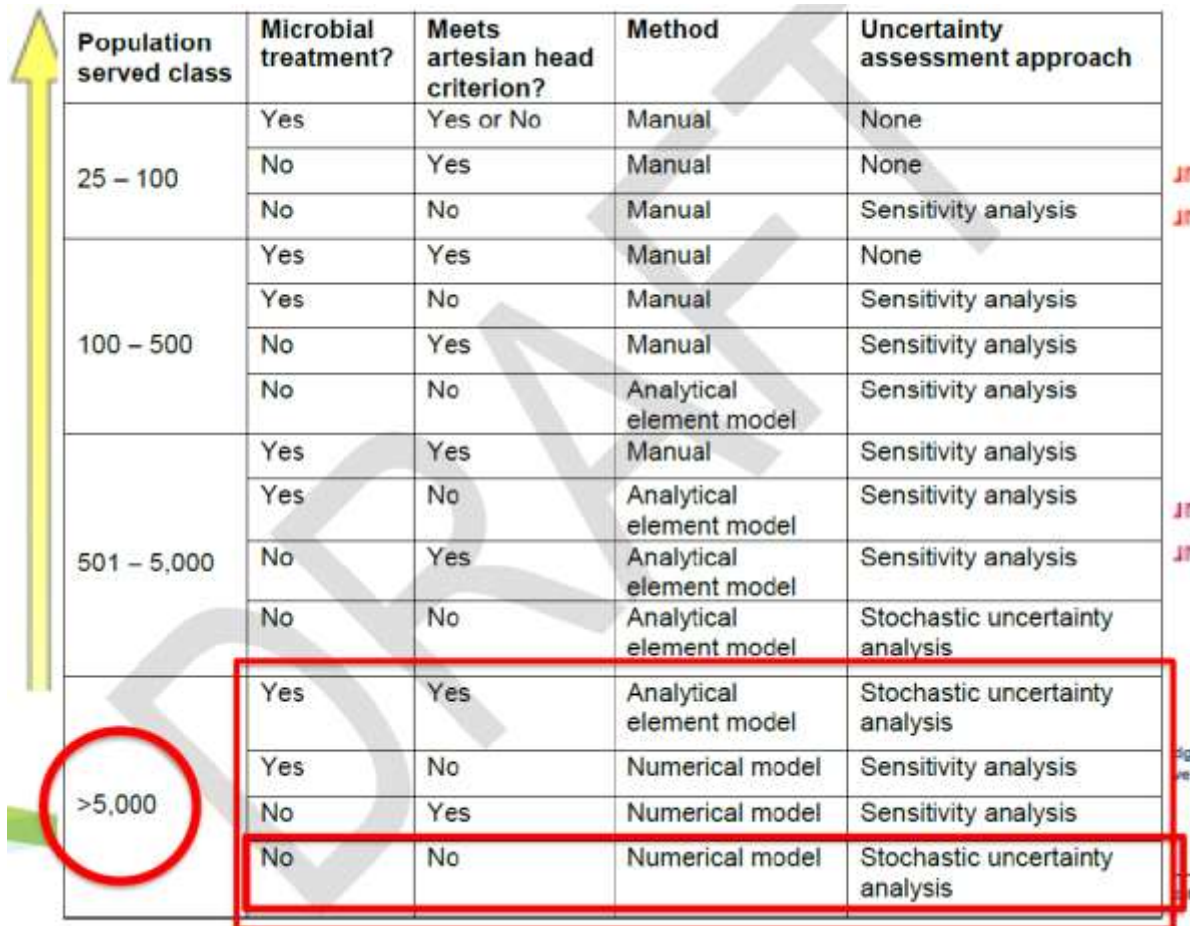
Summary of Current NES requirements,

The NES has direct relationship to statutory obligations in the Health Act for Drinking Water



180. Subsequently, the HBRC was able to apply the more specific numerical model for the Heretaunga Plains to determine the risk and recharge areas. This is the model developed specifically to understand the Heretaunga Plains and model management scenarios.
181. A memo from Dr Jeff Smith was presented to the RPC meeting 12 December 2018 (Attachment 4, Item 6 of that report) titled 'Source Protection Zone Delineation Using Numerical Modelling', along with a verbal update from the presentation to the JWG from the 11 December. The memo highlighted the limitations of the AEM approach and how the numerical model overcomes these limitations. The JWG agreed to a peer review of the numerical model from GNS, the DHB were also seeking a further review from ESR (but subsequently this was not pursued due to DHB budget constraints). A flexible approach to managing changes to delineation of SPZs adopted by Environment Canterbury was also being considered further. At the RPC meeting the Committee resolved to make an in-principle decision about the spatial extent of the SPZ for the draft TANK plan following this verbal report of the findings from the JWG meeting.
182. The two models produced different Source Protection Zone areas for the Hastings supplies. The Heretaunga Plains numerical model has not yet been applied to the Napier City supplies.

183. The GNS peer review report was presented and discussed at the JWG meeting on the 12 March and received in principle support.
184. The GNS report conclusions were presented through an information paper to the HB Drinking Water Governance Joint Committee, on 11 April 2019. The report concluded that the *'modelling approach adopted by HBRC for delineating the SPZ's for the four Hastings bore-fields is considered appropriate and represents an advance on the initial work by Tonkin and Taylor in that it accommodated more of the complexity of groundwater flow system, and in particular the groundwater flow directions and gradients'*.
185. The JWG was unable to reach consensus on which model to use for delineating the SPZs in the Plan. HDC and the DHB supported putting forward a joined up boundary combining the protection zone boundary of both models.
186. A concern was expressed by HBRC staff regarding the defensibility of this approach, and noted the preference would be to have one model to provide greater clarity and certainty within the plan. HBRC staff suggest that where there is numerical modelling this should be the adopted approach for delineating the protection zone. The use of both models at the same time is overly cautious, would impose a higher consenting burden on landowners and would not be defensible given the more technically robust approach provided by the Heretaunga Plains numerical model.
187. The diagram below provides an overview of the differences in risk and uncertainty of using various models.
188. As the risk increases with population size, the accuracy represented by more sophisticated models becomes more appropriate. The Heretaunga Plains numerical model including the uncertainty analysis represents one of the most sophisticated approaches to modelling groundwater.
189. Staff therefore recommend that the Heretaunga Plains numerical model be used to determine Source Protections Zones in the longer term within the TANK Plan, while the AEM approach for Napier be used in the short term until further modelling can be carried out. This could either be as a matter of urgency before the Plan is notified (which depends on decisions about notification by the Committee at this meeting). This would however delay notification as the expertise required to apply the model is currently in short supply. The alternative is for the work to proceed, and the Council could introduce the new zones as part of a submission on its own plan if necessary.
190. Note that the Napier Source Protection Zones, was modelled using an Analytical Element Model as indicated for populations above 5,000 in the table below (although was not subject to a stochastic uncertainty analysis). Advice from the groundwater modellers indicates that the SPZ may not in fact be significantly different using the Heretaunga Plains numerical model as the bores in that location are within a more homogenous part of the aquifer.
191. Furthermore, while the Heretaunga Plains numerical model represents the best available knowledge about the water source protection risks, it may change as more data is gathered as part of improving the model. This relates specifically to the SkyTEM Airborne Aquifer Survey work programmed for completion by 2021. This survey will provide more detailed analysis of groundwater flows and locations and may alter the area outputs for the SPZs.
192. There are two options for including information about SPZs and source protection areas.
 - 192.1 The plan contains maps to show where rule requirements apply.
 - 192.2 A more flexible approach that allows for SPZs to be determined through a resource consent process.



| Population served class | Microbial treatment? | Meets artesian head criterion? | Method | Uncertainty assessment approach |
|-------------------------|----------------------|--------------------------------|--------------------------|---------------------------------|
| 25 – 100 | Yes | Yes or No | Manual | None |
| | No | Yes | Manual | None |
| | No | No | Manual | Sensitivity analysis |
| 100 – 500 | Yes | Yes | Manual | None |
| | Yes | No | Manual | Sensitivity analysis |
| | No | Yes | Manual | Sensitivity analysis |
| | No | No | Analytical element model | Sensitivity analysis |
| 501 – 5,000 | Yes | Yes | Manual | Sensitivity analysis |
| | Yes | No | Analytical element model | Sensitivity analysis |
| | No | Yes | Analytical element model | Sensitivity analysis |
| | No | No | Analytical element model | Stochastic uncertainty analysis |
| >5,000 | Yes | Yes | Analytical element model | Stochastic uncertainty analysis |
| | Yes | No | Numerical model | Sensitivity analysis |
| | No | Yes | Numerical model | Sensitivity analysis |
| | No | No | Numerical model | Stochastic uncertainty analysis |

- 193 Option 1 provides certainty to land owners about where an activity is subject to regulation or conditions.
- 194 However, while it provides certainty, it might also become quickly out-of-date as new information updates the Heretaunga Plains groundwater model. Further, we don't yet have the Heretaunga Plains model output for the Napier city supply and would be using the analytical model output (although it could be updated through a council submission on the plan as noted above).
- 195 Option 1 does not allow for new SPZs to be created or amended without a Plan Change process.
- 196 Option 2 has been pioneered by Environment Canterbury and it enables a more flexible approach to delineation of the SPZ. Amendments to SPZ may be necessary should there be new information or as indicated above, improvements to groundwater models. The option relies on specifying the methodology to be used to delineate SPZs and it provides a pathway for improvements and updates through a consenting process. The associated maps are not planning maps contained within the plan. Change to the SPZ can be sought through the consent application process (not a plan change process). The consent process still ensures property owners who may be affected by any change will be notified and aware of any implications.
- 197 The Provisional SPZs for the Hastings and Napier water supplies are based on information already obtained through modelling as shown in the proposed new Schedule 11. These apply until the relevant resource consent requires replacement or until an application to change this provisional SPZ to a Specific SPZ through a change to a resource consent is made. The Schedule anticipates new information (such as the new SKYTem data) may change model outputs. An SPZ may be amended through a consent process if the any changes to the model result in substantial changes to the source protection areas.
- 198 For the small scale drinking water supplies, a methodology is provided that enables a provisional distance to be specified with amendments being provided for through a consent process according to a specified methodology outlined in Schedule 11.

- 199 Where the holder of a water permit for an existing registered drinking-water supply considers the provisional protection area is not adequate for the level of protection required for that supply, an application for resource consent to amend the conditions and associated protection area for the water permit may be made.
- 200 Under option 2, information about all community drinking-water supplies and source protection areas will be publically available through the Council's website to ensure land and water users have the required information that determines the consent status of their activities.
- 201 Maps showing the protection areas are being prepared and will be tabled at the Council meeting.

Suggested Amendments

- 202 **Insert** new definitions in Glossary;

- 202.1 **Registered drinking water supply** means a drinking water supply that is recorded in the drinking water register maintained by the Chief Executive of the Ministry of Health (the Director-General) under section 69J of the Health Act 1956 that provides no fewer than 25 people with drinking water for not less than 60 days in each calendar year.
- 202.2 **Source Protection Zone** means an area surrounding the point of take for a registered drinking water supply that provides no fewer than 501 people with drinking water for not less than 60 days in each calendar year where plan provisions apply and includes any provisional Source Protection Zone and is defined by methods specified in Schedule 11. (information about the location of SPZs can be found on the Council's webpage).
- 202.3 **Source Protection Extent** is an area surrounding the point of take for a registered drinking water supply that provides no less than 25 and no more than 500 people with drinking water for not less than 60 days in each calendar year and includes any Provisional Source Protection Extent and is defined by methods specified in Schedule 11 (information about the location of SPZs can be found on the Council's webpage).
- 202.4 **Hawkes Bay Regional Council Heretaunga Plains Groundwater Model** is a numerical model meeting the requirements for artesian head and stochastic uncertainty analysis as provided for in Schedule 11.

- 203 **Amend** Policy 6 as follows;

The quality of groundwater of the Heretaunga Plains and surface waters used as source water for Registered Drinking Water Supplies will be protected, in addition to Policy 1 by the Council ~~will~~;

- 203.1 identifying a provisional Source Protection Extent for small scale drinking water supplies or a provisional Source Protection Zone for large scale drinking water supplies around the source of any existing drinking water supply by methods defined in Schedule 11~~define the spatial extent of a Source Protection Zones for Registered Drinking Water Supplies by defined technical methods~~
- 203.2 ~~where a source protection zone has not been defined, apply a default radius for a Registered Drinking Water Supply~~
- 203.3 regulating activities within Source Protection Zones that may actually or potentially affect the quality of the source water or present a risk to the supply of safe drinking water because of;
- (i) direct or indirect discharge of a contaminant to the source water including by overland flow or percolation to groundwater;
 - (ii) an increased risk to the safety of the water supply as a result of a non-routine event ;
 - (iii) potentially impacting on the level or type of treatment required to maintain the safety of the water supply

- (iv) shortening or quickening the connection between contaminants and the source water, including damage to a confining layer;.
- (v) in the case of groundwater abstraction, the rate or volume of abstractions causing a change in groundwater flow direction or speed and/ or a change in hydrostatic pressure that is more than minor.

204 **Amend** Policy 7 as follows;

The Council will, when considering applications to discharge contaminants or carry out land or water use activities within;

204.1 ~~the specified default~~ Source Protection Extent for small scale Registered Drinking Water Supplies, take into account possible contamination pathways and risks to the quality of the source water for the water supply,

204.2 A Source Protection Zone, avoid or mitigate risk of contamination from the activity of the source water for the water supply by taking into account criteria including but not limited to;

- (i) the amount, concentration and type of contaminants likely to be present as a result of the activity or in any discharge;
- (ii) the potential pathways for those contaminants, including any likely or potential preferred pathways;
- (iii) the mobility and survival rates of any pathogens likely to be in the discharge or arising as a result of the activity;
- (iv) any risks the proposed land use or discharge activity has either on its own or in combination with other existing activities, including as a result of non-routine events;
- (v) ensuring the water supplier is aware of any effects of abstraction of groundwater flow where abstraction has the potential to have more than minor impact on flow direction or speed and/ or hydrostatic pressure.
- (vi) the effectiveness of any mitigation measures to avoid or mitigate risk of contaminants entering the source water and the extent to which the effectiveness of the mitigation measure can be verified
- (vii) notification, monitoring or reporting requirements to the Registered Drinking Water Supplier

205 **Insert** new policy after policy 6 - When considering applications to take water for a Registered Drinking Water Supply, the Council will:

205.1 provide for the replacement or amendment of a source protection distance or Source Protection Zone which reflects the level of protection required for that supply, according to a method specified in Schedule 11;

205.2 provide for the amendment of a Source Protection Zone where new information changes the outputs from the method specified in Schedule 11

205.3 require applications to include an assessment of the Source Protection Zone required, taking into account the factors set out in Schedule 11

205.4 have regard to the:

- (i) extent to which the application reflects the factors and methodology in Schedule 11 when establishing the Source Protection Zone; and
- (ii) impacts, including any costs and benefits, of any additional restrictions in the Source Protection Zone
- (iii) level of consultation with land owners within the Source Protection Zone

206 **Insert** New Schedule 11

Schedule 11 Registered Drinking Water Supply Protection

- 207 The location and details of groundwater wells (including water infiltration galleries) and surface water intakes used as the source of a Registered Drinking Water Supply can be found on the Registered Drinking Water Supply Protection Zone map layers on the HBRC online GIS mapping website.

Source Protection Zones

- 208 Existing Registered Drinking Water Supplies that provide drinking water to no fewer than 501 people for not less than 60 days per year will have provisional Source Protection Zones determined according to the provisions of Table 1 until the relevant resource consent requires replacement or until an application for resource consent to amend a Source Protection Zone is made.

Table 1: Method for calculating provisional SPZ

| Registered Drinking Water supply | Method for calculating SPZ |
|--|--|
| Hastings District Council Municipal Supply | Hawke's Bay Regional Council Heretaunga Plains Groundwater Model |
| Napier City Council Municipal Supply | Analytical Element Model meeting artesian head criterion |

- 209 Where the holder of a water permit for an existing Registered Drinking Water Supply considers the Source Protection Zone is not adequate for the level of protection required for that supply or where new information significantly amends the modelling output, an application may be made to amend the resource consent conditions of the water permit and establish an amended Source Protection Zone.
- 210 The dimensions of a Source Protection Zone shall form part of any application for resource consent to take or use water for a new Registered Drinking Water Supply or the replacement of an existing permit for that purpose.
- 211 The location of a **Source Protection Zone** around a Registered Drinking Water Supply is to be determined using site specific information listed in Table 2 below and according to the minimum requirements for the relevant population in Table 3.

Table 2: Site Specific Information

| Site Specific Information |
|---|
| 1. the topography, geography and geology of the site; |
| 2. the depth of the well; |
| 3. the construction of the well; |
| 4. pumping rates; |
| 5. the type of aquifer; |
| 6. the rate of flow in the surface waterbody; |
| 7. the types of actual or potential contaminants; |
| 8. the level of treatment that the abstracted water will receive; |
| 9. any potential risk to water quality |

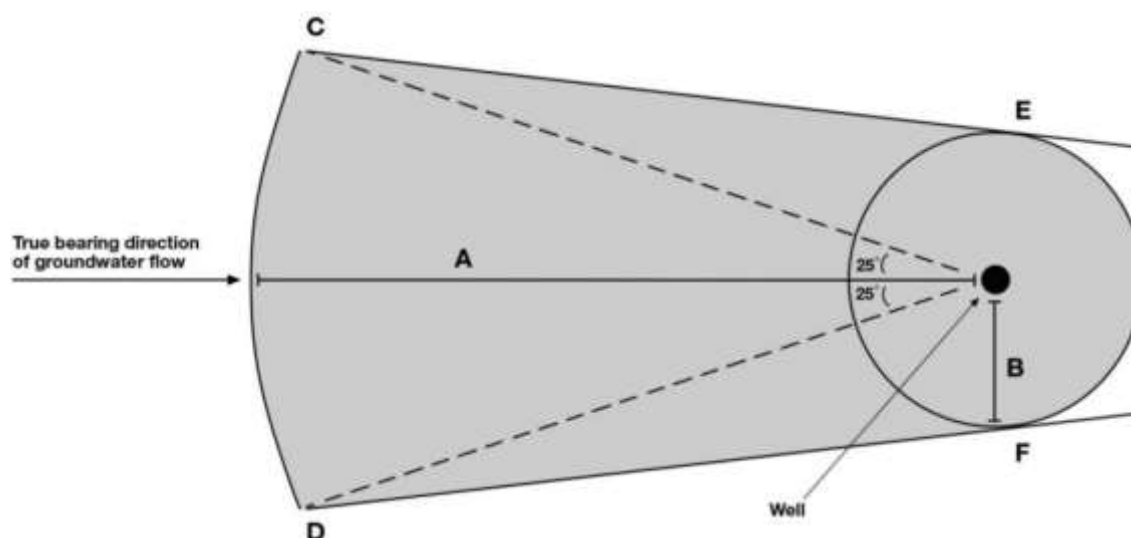
Table 3: Methodology for Determining Source Protection

| Population served class | Microbial Treatment? | Meets Artesian Head criterion | Method | Uncertainty approach | assessment |
|-------------------------|----------------------|-------------------------------|--------------------------|---------------------------------|------------|
| 25 – 100 | Yes | Yes or No | Manual | None | |
| | No | Yes | Manual | None | |
| | No | No | Manual | Sensitivity analysis | |
| 100-500 | Yes | Yes | Manual | None | |
| | Yes | No | Manual | Sensitivity analysis | |
| | No | Yes | Manual | Sensitivity analysis | |
| | No | No | Analytical Element Model | Sensitivity analysis | |
| 501-5,000 | Yes | Yes | Manual | Sensitivity analysis | |
| | Yes | No | Analytical Element Model | Sensitivity analysis | |
| | No | Yes | Analytical Element Model | Sensitivity analysis | |
| | No | No | Analytical Element Model | Stochastic Uncertainty Analysis | |
| >5000 | Yes | Yes | Analytical Element Model | Stochastic Uncertainty Analysis | |
| | Yes | No | Numerical Model | Sensitivity analysis | |
| | No | Yes | Numerical Model | Sensitivity analysis | |
| | No | No | Numerical Model | Stochastic Uncertainty Analysis | |

Source Protection Extent

- 212 Method for calculating the area of a **provisional Registered Drinking Water Supply Protection Extent**
- 213 Existing groundwater Registered Drinking Water Supplies that provide drinking water to between 25 and 500 people for not less than 60 days per year will be protected for the distances specified in Figure 1 and Table 4 below. These provisional protection areas apply until the relevant resource consent requires replacement or until an application to amend the protection distance is made in accordance with the requirements of Tables 2 and 3.

Figure 1 Method for calculating the area of a provisional registered drinking water supply distance



- 214 The area of the protection zone is determined by selecting from the Table 4 below depending on the screen depth (or well depth if no screen depth is recorded) and aquifer type.

Table 4: Protection Extent

| Screen Depth (or well depth if no screen depth is recorded) | Aquifer Type | Protection Distances (m) | |
|---|-----------------------------|---------------------------|------------------------|
| | | Up-gradient from bore (A) | Radius around bore (B) |
| <10m | All | 2,000 | 200 |
| 10 - <30 m | Unconfined or semi-confined | 1,000 | 200 |
| | Confined | 100 | 100 |
| 30 – 70 m | Unconfined or semi-confined | 500 | 200 |
| | Confined | 100 | 100 |
| >70 m | Unconfined or semi-confined | 100 | 100 |
| | Confined | 100 | 100 |

Public Information

- 215 All existing and new Registered Drinking Water Supplies and their source protection zones or distances will be added to the Registered Drinking Water Supply Source Protection map layers on Hawkes Bay Regional Council GIS mapping website.

Section 10 – Stormwater Rules

- 216 Please note that the previously reported Section 6 on Stormwater is still applicable from paragraphs 137-145, however the suggested amendments in paragraphs 146-152 should be disregarded, as these have been amended (these were circulated to the RPC in advance of the workshop).
- 217 As indicated at the RPC meeting on the 15 May, staff have been reviewing and refining the stormwater policies and rules, both in light of the feedback received from the TLAs and from internal queries raised with regards to the intent of the policies and the

robustness of the rules. HBRC staff (policy, consents, compliance, science – coastal and water quality/ecology and asset management) have worked together to develop the rules further to ensure that activities similar to those which have occurred in the past that have resulted in, often unintentional but adverse effects on the receiving environments, would be required to adhere to greater regulation. As a consequence further amendments are proposed to the stormwater policies and rules and are provided in attachment 2.

- 218 It has also become apparent from these discussions that the stormwater matrix which was developed for the TANK plan was not fit for purpose. Whilst both Napier and Hastings have existing, or are in the process of developing bylaws it was considered that there was an opportunity for HBRC to review the current Waterways Guidelines, which are currently outdated. It was considered that the Guidelines have the potential to provide greater clarity and advice for those undertaking works within the regions waterways which has been largely absent. Note: draft TANK Policy 26 previously made reference to the Waterways Guidelines. Whilst this work will have a region-wide focus, and isn't specifically for the TANK catchments it will be a useful guidance tool for engineers, applicants, TLAs etc. for example, to understand best engineering practice, how to manage waterways taking into account habitat and ecology and provide advice about good stormwater management options. This work is currently being scoped and a suitable contractor(s) will be appointed in due course.
- 219 The amendments to the rules has resulting in the removal of the Stormwater Matrix. The high risk classification is now determined by whether the activity meets the conditions of the rule, rather than by a set prescriptive table, list or tool.

Suggested amendments

- 220 The attached Stormwater policies and rules (attachment 2) have been tightened up to remove ambiguity, provide clear regulation both for the consenting team in their decision making and for those seeking consent.
- 221 The clear policy direction distinguishes the respective roles of the Regional Council and the TLA's in stormwater management, to achieve freshwater outcomes, which ultimately will benefit the receiving environments.

Section 11 Mana Whenua Issues

- 222 Reservation of high flow allocation for Māori well-being; Amendments are made to the policy for high flow reservation in paragraph 87. A wider scope for consultation with iwi as well as PSGEs is provided for to acknowledge the role of iwi in water management. The policy is re-ordered for clarity.
- 223 The RMA has quite specific provisions for allocating water. Section 30 directs Council to allocate to specific activities, including between activities but not to persons or organisations. This means the allocation of water for the development of Māori land is not an appropriate activity for reservation as it would favour applicants who are Māori.
- 224 For this reason, a subset of Māori land has been suggested as a way of identifying (through the Treaty Settlement process) where targeting Māori land development might be more appropriate and defensible. We consider the provision is targeted at addressing potential Treaty Settlement issues and an application for resource consent is not necessarily limited to the Māori organisation (i.e it may be a third party who develops the land through lease or other partnership arrangements).
- 225 Including land that may be subsequently bought by a PSGE as a result of Treaty Settlement funding has not been included as there are concerns about evidence and enforceability, especially if a PSGE has been involved in commercial transactions over time. The inability of some PSGEs who may not have had land returned to them in a Treaty Settlement to access water for development of other land is acknowledged.
- 226 As noted, reservation of water specifically for development of Māori land, whether or not the committee makes changes to the scope of the reservation is still a marginal provision given the scope of the RMA. The committee may wish to consider what classes of Māori land should be eligible as not all Māori land is the same.

- 227 However, given wider concerns about rights and interests of Māori in respect of access to water the Council may wish to test a wider interpretation of Māori land through the submission and appeal process.
- 228 Further improvement of Policy 56 clause (c) in para 87 above has been suggested. Rather than provide for funding to an iwi entity such as a PSGE, the Council could establish a fund in trust for development of Māori well-being.
- 229 It avoid issues about identification of eligible PSGEs, equity between them and enables a wider perspective to be taken for Māori development. Decisions about expenditure of the funds would be something the council and the Hawkes Bay iwi entities could manage by agreement. The directions for how the trust will be established and operated can be part of the implementation plan.
- 230 The costs of this approach would be that a PSGE would not have direct control of any applicable funding.

Suggested Amendments

- 231 Amendments have been made to Policy 56 in response to these suggestions in para 87 above. It includes amendment to the funding clause to establish a fund instead of allocation to Māori land.
- 232 Tikanga and matauranga. Policy 38 refers just to tikanga Māori and it would be more accurate and appropriate to refer to both tikanga and matauranga Māori.
- 233 Further, the policy could better reflect the nature of the Council support in relation to the policy direction to remedy and off-set stream depletion effects. The main onus is on consent holders to manage stream depletion effects, as noted in paragraphs 44-56. However, Council can support the design and management of stream flow enhancement schemes in some circumstances, including through the provision of modelling and ecological advice and where it is efficient for the council to carry out the work on behalf of the permit holders. The intention is not that the council contributes funding to any such scheme. The deletion of the word 'contribute' is suggested so as to avoid that implication.

Suggested Amendments

- 234 Amendments have been made to Policy 38 in response to these suggestions in para 58 above.

Section 12 –TANK Group Workshop

- 235 The TANK Group members sought a workshop opportunity so that they could be updated on the Plan Change progress and the changes being made as a result of RPC decisions, and feedback on the pre-notification draft. The Workshop was held on 13 June.
- 236 The aim of the workshop was an information sharing exercise and no formal feedback was sought or received by them. However, in response to questioning about TANK provisions a number of opportunities for improved clarity and were identified. These suggested amendments are largely minor in nature and are summarised in the Table below.

| Plan Ref | Concern | Assessment | Suggested Amendments |
|---------------------------------|--|--|--|
| Policies 51 and 52 (High flows) | The percentage change to the Fre ₃ has been deleted without a useful replacement and now implies no change to flood flows is being permitted | The agreed change to the FRE ₃ should be included in the policy as it guides the allocation limit in schedule 7 | Insert 'by more than a minor amount' |
| Policy 35 | The policy commits the council to a range of monitoring actions. The results of the results of this should be shared widely so progress in plan implementation should be transparent | The findings of actions undertaken in respect of this policy (and policy 34) should be shared with stakeholders to ensure transparency and also inform any opportunities for adaptive management | Insert 'and report on' after 'monitor' in policy 35. |

| Plan Ref | Concern | Assessment | Suggested Amendments |
|---------------------|--|---|--|
| Policy 48 | The possible use of water (in droughts) for some crops is provided a higher priority than some other irrigation end uses. It was suggested that vines are sometimes particularly vulnerable to drought and should be included within the scope of 'tree crops' in clause (d) | Vines such as grapes are generally known to be low water using and tolerant of droughts. However, in some cases (such as just after establishment) and for some vines (such as kiwifruit or hops) they may be as vulnerable as other tree crops and could be treated similarly. | Insert at the end of clause (d) "including vines where necessary" |
| Schedule 4 | Clarify units in Table 2 and re-inset data for grapes. | | Units in Table 2 are kg/ha/year Re-insert data for grape. |
| Implementation Plan | Some concern remaining about level of knowledge about the HP springs | There was no comprehensive data base about the location and state of springs. It was suggested that the councils monitoring programme include gathering data about the state and location of the springs. | Include commitment to gathering data about location and state of HP springs in the implementation plan |

- 237 **Take and use from storage:** The TANK workshop queried whether the Plan Change provided clear enough provisions to manage the connection between storage of water at some location in the catchment and use of that stored water at some other location. The transport of the stored water may be via pipes, channels or river flow. The concern is that while the take and storage is provided for, the subsequent take may be inappropriately constrained by the allocation limits.
- 238 The plan is a little unclear on how such proposals might be considered in relation to the allocation limits. Policies 41, 51 and 52 are aimed at ensuring water abstraction at is carried out at sustainable levels in relation to natural flow regimes. A further clause is suggested to make it clear that a water storage and release proposal may include abstraction at some other location including from a river and that this abstraction is not included in the allocation limit. The abstraction would be linked to the release of water from storage and would be subject to any applicable minimum flow requirement.

Suggested amendments

- 239 **Insert** into Policy 41 the following new clause
- (l) providing that the abstraction of water that has been taken and stored at times of high flow and released for subsequent use is not subject to allocation limits.
- 240 **Insert** in rule TANK 9 and new sub clause
- 240.1 Takes of water associated with the release of water from a water storage impoundment.
- 241 **Insert** at the beginning of Schedule 6
- 241.1 This Schedule specifies the amount of water that may be authorised for abstraction from the specified water management units and the flows at which water abstraction is subject to restrictions or requirements. The allocation limits do not apply to water abstraction that is enabled by the release of water from water taken at times of high flow and stored for later release.

Section 13 –Other advice

- 242 **Ahuriri Estuary;** Policy 32 refers to the support given by this plan (addressing freshwater quality) to the wider Ahuriri Estuary Integrated Catchment Management Plan (yet to be developed) in addressing all the relevant estuary management issues
- 243 The plan includes measures relating to production land use and water allocation within the Ahuriri Catchment to manage their impacts on freshwater quality and quantity and their subsequent impact on the estuary. It is recommended the policy be reworded for clarity.

Suggested Amendment

244 Amend Policy 32 as follows

The Council will support the wider community commitment to the Ahuriri Estuary Integrated Catchment Management Plan (ICMP) including from Mana Ahuriri, Napier City Council, Department of Conservation by

- (i) ~~Improving adopting the measures to improve~~ the quality of freshwater entering the Ahuriri Estuary through the measures included in this plan and to
- (ii) carrying out investigations to help better understand processes and functions occurring within the estuary and its connected freshwater bodies.

Strategic Fit

245 The TANK Plan Change is necessary to enable the Council to give effect to the Freshwater National Policy Statement. It enables the Council to establish objectives for freshwater management and set resource limits.

246 The Plan Change is consistent with all four of the focus areas of the Council's Strategic Plan.

Considerations of Tangata Whenua

247 Tāngata whenua have special cultural, spiritual, historical and traditional associations with freshwater. For Māori, water is a taonga of paramount importance.

248 Mana whenua and iwi have been involved throughout this TANK Plan Change process with the TANK Group itself and through this pre-notification consultation. This consultation report provides particular attention to issues raised by tāngata whenua and the Council must have particular regard to this advice.

Financial and Resource Implications

249 The development of this plan Change is provided for within the existing budget. The costs and benefits of the measures include in the Plan Change are being assessed in the accompanying Section 32 report.

250 Note that the final Section 32 report will be completed once the council has made its final decisions.

Decision Making Process

251 This report provides the Council with advice and options in respect of the content of Plan Change 9. A separate report provides advice to the Committee about the subsequent process options.

252 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:

- 252.1 The decision does not significantly alter the service provision or affect a strategic asset.
- 252.2 The use of the special consultative procedure is prescribed by legislation.
- 252.3 The persons affected by this decision are all persons with an interest in the region's management of water resources under the RMA

Recommendations

1. That the Regional Planning Committee:
 - 1.1. Receives and considers the "*TANK Plan Change - Feedback and Recommendations Following Pre-notification Consultation*" staff report.
 - 1.2. Receives the feedback and advice from iwi and stakeholders on the pre-notification draft (v8) of Plan Change 9.
 - 1.3. Agrees to the suggested amendments to the draft Plan Change 9 (v9.1) as

provided and as shown by tracked changes.

2. That the Regional Planning Committee recommends that Hawke's Bay Regional Council:
 - 2.1. Accepts the amendments to draft Plan Change 9 (v9.1) as agreed by the 3 July 2019 Regional Planning Committee meeting.

Authored by:




Mary-Anne Baker
SENIOR PLANNER

Ceri Edmonds
MANAGER POLICY AND PLANNING

Approved by:

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STRATEGIC PLANNING

Attachment/s

- | | | |
|---|--|----------------------|
|  1 | TANK Draft Plan Change 9 Version 9.1 | Under Separate Cover |
|  2 | Appendix 1 Amended Stormwater Policies and Rules | |
|  3 | Draft Simpson Grierson Legal Memo | |

STORMWATER MANAGEMENT -

Urban Infrastructure

1. ~~Napier City Council and Hastings District Council will reduce or mitigate the~~ The adverse effects of stormwater quality and quantity on aquatic ecosystems and community well-being arising from existing and new urban development (including infill development), industrial and trade premises and ~~its~~ associated infrastructure, will be reduced or mitigated on or before no later than 1 January 2025, by:
 - a) Local Authorities adopting an integrated catchment management approach to the collection and discharge of stormwater
 - b) requiring stormwater to be discharged into a reticulated stormwater network where such a network is available or will be made available as part of the development;
 - c) requiring increased retention or detention of stormwater, while not ~~creating exacerbating~~ flood hazards;
 - d) taking into account site specific constraints ~~such including as in~~ areas with high groundwater, source protection zones, and/or an outstanding water body;
 - e) taking into account the collaborative approach of HBRC, Napier City and Hastings District councils in managing urban growth on the Heretaunga Plains as it relates to stormwater management; ~~and~~
 - f) taking into account the effects of climate change when providing for new and upgrading existing infrastructure;
 - g) adopting, where practicable, a good practice approach to stormwater management including adoption of Low Impact Design for stormwater systems;
 - h) amending district plans, standards, codes of practice and bylaws to specify design standards for stormwater reticulation and discharge facilities through consent conditions, that will achieve the freshwater objectives set out in this plan
 - i) developing and making available to the public ~~by~~ advice about good stormwater management options (including through HBRC's ~~Waterways Guidelines~~ guidelines)
 - j) encouraging, through education and public awareness programmes, greater uptake and installation of measures that reduce risk of stormwater contamination;
 - k) requiring, no later than 1 January 2025, the preparation and implementation of a site management plan and good site management practices on industrial and trade premises with a high risk of stormwater contamination and those in the high priority areas of:
 - (i) of the Ahuriri catchment;
 - (ii) of the Karamu River and its tributaries;
 - (iii) of land over the unconfined aquifer and
 - (iv) within identified drinking water Source Protection Zones.

2.

Source Control

3. ~~HBRC, Napier City Council and Hastings District Council as the appropriate consenting authority will reduce s~~ Sources of stormwater contamination ~~and contaminated stormwater will be reduced~~ by;
- a) Specifying requirements for the design and installation of stormwater control facilities on sites where there is a high risk of freshwater contamination arising from either the direct discharge of stormwater to freshwater, the discharge of stormwater to land where it might enter ~~fresh~~water or the discharge to a stormwater or drainage network;
 - b) Requiring the implementation of good site management practices on all sites where there is a risk of stormwater contamination arising from the use, or storage of contaminants; ;
 - c) Controlling, and if necessary avoiding, activities that will result in water quality standards not being able to be met.

Dealing with the Legacy

4. ~~Aquatic ecosystem health improvements and reduced stormwater contamination will be achieved through requiring, on or before 1 January 2025 the preparation and implementation of a site management plan and good site management practices on existing and new industrial and commercial sites with a high risk of stormwater contamination and those in the high priority areas of the Ahuriri catchment; the Karamu River and its tributaries; land over the unconfined aquifer and drinking water Source Protection Zones.~~

- 5.4. ~~Aquatic ecosystem health improvements and community wellbeing~~ and reduced stormwater contamination will be achieved by HBRC ~~working~~ with the Napier City and Hastings District Councils ~~requiring discharges from stormwater networks to meet:~~

- a) ~~water quality objectives (where they are degraded by stormwater) and the identification of measures that ensure stormwater discharges will achieve at least:~~
 - (i) ~~the 80th percentile level of species protection in receiving waters by 1 January 2025 and~~
 - (ii) ~~the 95th percentile level¹ of species protection by 31 December 2040.~~
- and
- a)b) ~~requiring stormwater network discharges to meet~~except as in (ba) above, the management objectives in Schedule 1 for freshwater and estuary health through resource consent conditions, ~~including that requirements, in a way that recognises affordability for ratepayers;~~
 - (i)(iii) ~~to apply~~ Application of the Stream Ecological Valuation methodology;
 - (ii)(iv) ~~to install~~Installation of treatment devices within the drainage network ~~where appropriate;~~
 - (iii)(v) ~~for s~~Stream planting/re-alignment for aquatic ecosystem enhancement;

¹ ANZECC Guidelines 2018 (Australia and New Zealand Guidelines for Fresh and Marine Water Quality)

- (vi) ~~for Wetland creation, water sensitive design and other opportunities for increasing stormwater infiltration where appropriate;~~
- ~~(iv)/(vii) Recognise existing and planned investments in stormwater infrastructure~~
- and
- ~~requiring stormwater discharges to meet water quality objectives (where they are degraded by stormwater) and the identification of measures that ensure stormwater discharges will achieve at least:~~
 - ~~— the 80th percentile level of species protection in receiving waters by 1 January 2025 and~~
 - ~~(v) — the 95th percentile level² of species protection by 31 December 2040.~~

Consistency and Collaboration; Integration of city, district and regional council rules and processes.

~~6.5.~~ To achieve the freshwater quality objectives in this Plan, HBRC, with the Napier City and Hastings District Councils will, ~~by no later than~~ 1 January 2025, implement similar ~~stormwater~~ performance standards including through ~~the adoption of~~ adopting:

- ~~a) consistent best practice~~ engineering standards,
- ~~a)b) consistent~~ plan rules and bylaws;
- ~~b)c) shared information and~~ approaches to education and advocacy;
- ~~c)d) Shared information and~~ processes for monitoring and auditing individual site management on sites at high risk of stormwater contamination;
- ~~d)e) consistent~~ levels of service for stormwater management and infrastructure design;
- ~~e)f) an integrated~~ stormwater catchment management approach;
- and through
- ~~f)g) undertaking~~ a programme of mapping the stormwater networks and recording their capacity.
- ~~g)h) aligning resource consent processes and having joint hearings to achieve integrated management of proposals for urban activities, urban development proposals~~ particularly in respect of stormwater, water supply and wastewater provisions and implementation of the HPUDS

Ahuriri Catchment

~~7.6.~~ The Council will support the wider community commitment to the Ahuriri Estuary Integrated Catchment Management Plan (ICMP) including from Mana Ahuriri, Napier City Council, Department of Conservation by adopting measures to improve the quality of freshwater entering the Ahuriri Estuary and to carry out investigations to help better understand processes and functions occurring within the estuary and its connected freshwater bodies.

² ANZECC Guidelines 2018 (Australia and New Zealand Guidelines for Fresh and Marine Water Quality)

STORMWATER

| RULE | ACTIVITY | CLASSIFICATION | CONDITIONS/STANDARDS/TERMS | MATTERS FOR CONTROL/DISCRETION |
|--|---|----------------|--|--------------------------------|
| STORMWATER 1 <u>Existing Activities³</u> | The diversion and discharge of stormwater into water, or onto land where it may enter water from any <u>existing and lawfully established⁴; new and existing small-scale⁵ and residential activities</u> <u>(a) residential activities;</u> <u>(b) non-industrial or trade premise;</u> <u>(c) industrial or trade premise with less than 1,000 m² of impervious areas;</u> <u>(d) rural building.⁶</u> | Permitted | (1) The diversion and discharge shall not; (a) cause <u>any permanent bed</u> scouring or <u>bank</u> erosion of land or any water course at or beyond that point of discharge (b) cause or contribute to flooding of any property <u>(bA) cause any permanent reduction in the ability of the receiving environment to convey flood flows</u> (c) contain hazardous substances, <u>or, be from a site used for the storage, use or transfer of hazardous substances</u> (d) <u>Contains drainage from a stockyard</u> <u>(e) cause to occur or contribute to any of the following after reasonable mixing:</u> i) production of <u>conspicuous</u> oil or grease films, scums or foams, or floatable or suspended materials ii) any emission of objectionable odour iii) Any conspicuous change in colour or the visual clarity of the receiving water body <u>(including the runoff from bulk earthworks)</u> iv) any freshwater becoming unsuitable for consumption by farm animals <u>vf) cause to occur or contribute to the destruction or degradation of any habitat, mahinga kai, plant or animal in any water body or coastal water</u> <u>wig) cause to occur or contribute to the discharge of microbiological contaminants including sewage, blackwater, greywater or animal effluent.</u> | |

³ Any existing and lawfully established site/on-site stormwater system that is modified or replaced after 'insert date of notification here' is considered to be a 'new' system and must be assessed in accordance with 'Stormwater 2'.

⁴ NOTE: 'Stormwater 1' means that once a system has been lawfully established, the system's continued operation is permitted under this rule. No ongoing consent is required for the operation of lawfully established stormwater discharges provided the conditions of this rule are met

⁵ As defined in the district plan in which the property is located

⁶ NOTE: Refer to Rule 52 in circumstances of any non-compliance with one or more relevant conditions/standards/terms in this rule.

| RULE | ACTIVITY | CLASSIFICATION | CONDITIONS/STANDARDS/TERMS | MATTERS FOR CONTROL/DISCRETION |
|--|---|----------------------|--|--------------------------------|
| | | | <p>(2) There is no stormwater network within a distance of xxx from the property boundary. The property cannot connect to a current or planned reticulated stormwater network.</p> <p>(3) Any structure associated with the point of discharge or diversion is maintained in a condition such that it is clear of debris, does not obstruct fish passage and is structurally sound.</p> <p>(4) The person who discharges or diverts, or who causes the discharge or diversion to occur, shall provide such information upon request by the Council to show how Condition 1 will be met or have been met.</p> | |
| STORMWATER 2 New Activities | <p>The diversion and discharge of stormwater into water, or onto land where it may enter water from any new⁷:</p> <p>(a) residential activities;</p> <p>(b) non-industrial or trade premise;</p> <p>(c) industrial or trade premise with less than 1,000 m² of impervious areas;</p> <p>(d) rural building⁸</p> | Permitted | <p>(1) The diversion and discharge shall not;</p> <p>(a) cause any permanent bed scouring or bank erosion of land or any water course at or beyond that point of discharge</p> <p>(b) cause or contribute to flooding of any property</p> <p>(bA) cause any permanent reduction in the ability of the receiving environment to convey flood flows</p> <p>(c) contain hazardous substances or, be from a site used for the storage, use or transfer of hazardous substances</p> <p>(d) Contains drainage from a stockyard</p> <p>(e) cause to occur or contribute to any of the following after reasonable mixing;</p> <p>i) production of conspicuous oil or grease films, scums or foams, or floatable or suspended materials</p> <p>ii) any emission of objectionable odour</p> <p>iii) Any conspicuous change in colour or the visual clarity of the receiving water body (including the runoff from bulk earthworks)</p> | |

⁸ NOTE: Refer to Rule 52 in circumstances of any non-compliance with one or more relevant conditions/standards/terms in this rule.

| RULE | ACTIVITY | CLASSIFICATION | CONDITIONS/STANDARDS/TERMS | MATTERS FOR CONTROL/DISCRETION |
|---------------------|--|-------------------|---|---|
| | | | <p><u>(v) any freshwater becoming unsuitable for consumption by farm animals</u></p> <p><u>v(f) cause to occur or contribute to the destruction or degradation of any habitat, mahinga kai, plant or animal in any water body or coastal water</u></p> <p><u>v(g) cause to occur or contribute to the discharge of microbiological contaminants including sewage, blackwater, greywater or animal effluent.</u></p> <p><u>(2) The property cannot connect to a current or planned reticulated stormwater network.</u></p> <p><u>(3) Any structure associated with the point of discharge or diversion is maintained in a condition such that it is clear of debris, does not obstruct fish passage and is structurally sound.</u></p> <p><u>(4) The person who discharges or diverts, or who causes the discharge or diversion to occur, shall provide such information upon request by the Council to show how Condition 1 will be met or have been met.</u></p> | |
| <u>Stormwater 3</u> | <u>Except as provided for in Rule Stormwater 1 or Rule Stormwater 2, the diversion and discharge of stormwater into water, or onto land where it may enter water⁹</u> | Controlled | <p><u>(1) The diversion and discharge shall not:</u></p> <p><u>(a) cause any permanent bed scouring or bank erosion of land or any water course at or beyond that point of discharge</u></p> <p><u>(b) cause or contribute to flooding of any property</u></p> <p><u>(bA) cause any permanent reduction in the ability of the receiving environment to convey flood flows</u></p> <p><u>(c) contain hazardous substances or, be from a site used for the storage, use or transfer of hazardous substances</u></p> <p><u>(d) Contains drainage from a stockyard</u></p> | <p><u>a. Location of the point of diversion and discharge including its catchment area.</u></p> <p><u>b. Volume, rate, timing and duration of the discharge, in relation to a specified design rainfall event.</u></p> <p><u>c. Effects of the activity on downstream flooding.</u></p> <p><u>d. Contingency measures in the event of pipe capacity exceedence.</u></p> <p><u>e. Actual or likely adverse effects on fisheries, wildlife, habitat or amenity values of any surface water body.</u></p> <p><u>f. Actual or likely adverse effects on the potability of any ground water.</u></p> |

⁹ NOTE: Refer to Rule 52 in circumstances of any non-compliance with one or more relevant conditions/standards/terms in this rule.

| RULE | ACTIVITY | CLASSIFICATION | CONDITIONS/STANDARDS/TERMS | MATTERS FOR CONTROL/DISCRETION |
|---------------|---|----------------|--|--|
| | | | <p><u>(e) cause to occur or contribute to any of the following after reasonable mixing:</u></p> <p><u>i) production of conspicuous oil or grease films, scums or foams, or floatable or suspended materials</u></p> <p><u>ii) any emission of objectionable odour</u></p> <p><u>iii) Any conspicuous change in colour or the visual clarity of the receiving water body (including the runoff from bulk earthworks)</u></p> <p><u>iv) any freshwater becoming unsuitable for consumption by farm animals</u></p> <p><u>v(f) cause to occur or contribute to the destruction or degradation of any habitat, mahinga kai, plant or animal in any water body or coastal water</u></p> <p><u>vi(g) cause to occur or contribute to the discharge of microbiological contaminants including sewage, blackwater, greywater or animal effluent.</u></p> | <p><u>fA. The actual or potential effects of the activity on the quality of source water for Registered Drinking Water Supplies and any measures to reduce the risk to the water quality including notification requirements to the Registered Drinking Water supplier.</u></p> <p><u>g. Duration of the consent.</u></p> <p><u>h. A compliance monitoring programme.</u></p> <p><u>i. A bond.</u></p> <p><u>j. Administrative charges.</u></p> |
| STORMWATER 24 | Diversion and discharge of stormwater from an existing or new territorial local authority managed stormwater network into water, or onto land where it may enter water ¹⁰ | Controlled | <p><u>(1) The diversion and discharge shall not:</u></p> <p><u>(a) cause any permanent bed scouring or bank erosion of land or any water course at or beyond that point of discharge</u></p> <p><u>(b) cause or contribute to flooding of any property</u></p> <p><u>(bA) cause any permanent reduction in the ability of the receiving environment to convey flood flows</u></p> <p><u>(c) contain hazardous substances or, be from a site used for the storage, use or transfer of hazardous substances</u></p> <p><u>(d) Contains drainage from a stockyard</u></p> <p><u>(e) cause to occur or contribute to any of the following after reasonable mixing:</u></p> <p><u>i) production of conspicuous oil or grease films, scums or foams, or floatable or suspended materials</u></p> <p><u>ii) any emission of objectionable odour</u></p> | <p>1)The efficacy of the Integrated Catchment Management Plan including, but not limited to:</p> <ul style="list-style-type: none"> - Its contribution to achieving water quality objectives - Its implementation programme and milestones, - The comprehensiveness and reliability of the monitoring regime - The use of low impact stormwater design methods <p>2) Its contribution to the avoidance of adverse effects, including cumulative effects, on aquatic ecosystem health and mahinga kai, contact recreation and Māori customary use</p> |

¹⁰ NOTE: Refer to Rule 52 in circumstances of any non-compliance with one or more relevant conditions/standards/terms in this rule.

| RULE | ACTIVITY | CLASSIFICATION | CONDITIONS/STANDARDS/TERMS | MATTERS FOR CONTROL/DISCRETION |
|------|----------|----------------|---|---|
| | | | <p>iii) <u>Any conspicuous change in colour or the visual clarity of the receiving water body (including the runoff from bulk earthworks)</u></p> <p>iv) <u>any freshwater becoming unsuitable for consumption by farm animals</u></p> <p>(f) <u>cause to occur or contribute to the destruction or degradation of any habitat, mahinga kai, plant or animal in any water body or coastal water</u></p> <p>(g) <u>cause to occur or contribute to the discharge of microbiological contaminants including sewage, blackwater, greywater or animal effluent.</u></p> <p>(2) Any application for resource consent shall<u>must</u> include an Integrated Catchment Management plan that includes;</p> <p>(i) A monitoring programme to assess existing <u>stormwater discharge</u> quality and level of impact on receiving water quality standards</p> <p>(ii) Identification of the spatial extent of the stormwater network to which the application for consent relates</p> <p>(iii) Identification of the priority streams or catchments where stormwater discharges currently result in receiving water quality below the standards specified in Schedule 1</p> <p>(iv) A programme of mitigation measures including timeframes and milestones for the enhancement of streams identified in <u>[2](iii)</u>,</p> <p>(v) Identification of any industrial or trade sites, that use, store or produce the discharge of any contaminant of concern (as defined in Table 3.1 of Hawke's Bay Waterway Guidelines Industrial Stormwater Design),</p> <p>(vi) Identification of sites within catchments that have a high risk of contaminants entering the stormwater network or land where it might enter surface or groundwater, including industrial and trade premises and areas subject to new urban development.</p> | <p>(3) The characteristics of the proposed discharge and its effects on the receiving environment</p> <p><u>(3A) The actual or potential effects of the activity on the quality of source water for Registered Drinking Water Supplies and any measures to reduce the risk to the water quality including notification requirements to the Registered Drinking Water supplier.</u></p> <p>(4) Duration of the consent</p> <p>(5) Review of consent conditions</p> <p><u>(6) Compliance monitoring</u></p> <p><u>(6)(7) Administrative charges</u></p> |

| RULE | ACTIVITY | CLASSIFICATION | CONDITIONS/STANDARDS/TERMS | MATTERS FOR CONTROL/DISCRETION |
|------|----------|----------------|---|--------------------------------|
| | | | <div>(vii) For sites identified in (2)(vi)-above, a programme to ensure Urban Site Specific Stormwater Management Plans are prepared and implemented so that stormwater quality risks are managed. (schedule 9)</div> <div>(viii) Identification of areas at risk of flooding, and where levels of service to protect communities from flooding are not being met provide information about how this will be managed.</div> <div>(ix) The potential effects of climate change on infrastructure capacity and a description of any planned mitigation measures including the identification of secondary flow paths and the capacity of the receiving environment.</div> <div>(x) Identification of measures to demonstrate how discharges shall not cause scouring or erosion of land or any water course beyond the point of discharge</div> <div>(xi) Where the stormwater network (or part thereof) or discharge locations are situated within a Source Protection Zone of a registered drinking water supply, a description of measures to prevent or minimise adverse effects on the quality of the source water for the registered drinking water supply or any increase in the risk of unsafe drinking water being provided to persons and communities from the drinking water supply</div> <div>(xii) Description of measures to demonstrate how the discharge shall not contain hazardous substances¹¹ or contaminants (including wastewater) and shall not cause any of the following to occur-after-reasonable mixing¹².</div> | |

¹¹ As defined in the Hazardous Substances and New Organisms Act 1996

¹² As defined at definition 9.7 in the Glossary of the Hawke's Bay Regional Resource Plan

| RULE | ACTIVITY | CLASSIFICATION | CONDITIONS/STANDARDS/TERMS | MATTERS FOR CONTROL/DISCRETION |
|---------------------|---|-------------------|--|---|
| | | | i) production of <u>conspicuous</u> oil or grease films, scums or foams, or floatable or suspended materials <u>after reasonable mixing</u> ii) any emission of objectionable odour <u>after reasonable mixing</u> iii) Any conspicuous change in colour or visual clarity of the receiving water <u>after reasonable mixing</u> iv) Any freshwater becoming unsuitable for consumption by farm animals <u>after reasonable mixing</u> v) the destruction or degradation of any habitat, mahinga kai, plant or animal in any water body or coastal water. | |
| STORMWATER 3 | Discharge of stormwater to water or onto land where it may enter water from any industrial or trade premises that is deemed to be low risk (as determined Stormwater Risk Matrix, Schedule 10) | Controlled | (1) The diversion and discharge; (a) shall not cause scouring or erosion of land or any water course beyond the point of discharge (b) shall not cause or contribute to flooding of any property; (c) shall not result in surface ponding persisting for longer than 6 hours after the cessation of rainfall (e) shall not contain hazardous substances²³ (d) shall not cause, after reasonable mixing²⁴: i) production of oil or grease films, scums or foams, or floatable or suspended materials ii) any emission of objectionable odour iii) Any conspicuous change in colour or the visual clarity of the receiving water iv) result in any freshwater becoming unsuitable for consumption by farm animals | (i) Site design to minimise the potential for contamination release (ii) Operational procedures to minimise the release of contaminants (iii) Spill contingency and emergency procedures to minimise the release of contaminants during accidents (iv) Compliance with relevant industry guidelines and best practice standards (v) The characteristics of the proposed discharge and its effects on the receiving environment (vi) Duration of the consent (vii) Review of consent conditions (viii) Compliance monitoring (ix) The actual or potential effects of the discharge on the quality of source water for Registered Drinking Water Supplies and any measures to reduce the risk to the water quality |

²³ As defined in the Hazardous Substances and New Organisms Act 1996

²⁴ As defined in definition 9.7 in the Glossary of the Hawke's Bay Regional Resource Plan

| RULE | ACTIVITY | CLASSIFICATION | CONDITIONS/STANDARDS/TERMS | MATTERS FOR CONTROL/DISCRETION |
|---------------|--|--------------------------|---|--|
| | | | <p>v) the destruction or degradation of any habitat, mahinga kai, plant or animal in any water body or coastal water</p> <p>(2) There is no reticulated stormwater network within xx metres of the property boundary</p> <p>(3) Any structure associated with the point of discharge or diversion is maintained in a condition such that it is clear of debris, does not obstruct fish passage and is structurally sound.</p> | |
| STORMWATER 46 | <p>Except as provided for in Rule Stormwater 1 or Rule Stormwater 2, the discharge of stormwater to water or onto land where it may enter water from any industrial or trade premises ¹⁵where the activity is deemed to be of high risk { as determined by the Stormwater Risk Matrix, Schedule 10)</p> | Restricted discretionary | <p>(a) Any application for resource consent mustshall include an Urban Site Specific Stormwater Management Plan (Schedule 9)</p> <p>(b) The diversion and discharge;</p> <p>(i) shall not cause <u>permanent bed</u> scouring or <u>bank</u> erosion of land or <u>alter the natural course of any water body any water course beyond that point of discharge</u></p> <p>(ii) shall not cause or contribute to flooding of any property,</p> <p>(iiiA) shall not cause any permanent reduction in the ability of the receiving environment to convey flood flows</p> <p>(iii) shall not result in surface ponding persisting for longer than 6 hours after the cessation of rainfall</p> <p>(iv) shall not contain hazardous substances</p> <p>(v) is not to land if the industrial or trade premises is located in a Source Protection Zone</p> <p>(c) The diversion and discharge shall not cause any of the following to occur after reasonable mixing¹⁶:</p> <p>i) production of <u>conspicuous</u> oil or grease films, scums or foams, or floatable or suspended materials</p> <p>ii) any emission of objectionable odour</p> | <p>(1). The efficacy of the Urban Site Specific Stormwater Management Plan (Schedule 9 including measures adopted to minimise the risk of contaminants of concern entering stormwater including:</p> <p>(i) Installation of stormwater management devices including as detailed in table 3.1 of the Hawke's Bay Regional Council Industrial Stormwater Waterway Design Guidelines.</p> <p>(ii) Alignment with relevant industry guidelines and best practice standards.</p> <p>(2) Water quality standards in the discharge in relation to any contaminants being used on site and specific methods for treating these.</p> <p>(3) <u>The actual or potential effects of the activity on the quality of source water for Registered Drinking Water Supplies and any measures to reduce the risk to the water quality including notification requirements to the Registered Drinking Water supplier</u>Where the discharge or any land contributing to the discharge is in a Source Protection Zone, the actual or potential effects of the discharge on the quality of source water for registered</p> |

¹⁵ NOTE: Refer to Rule 52 in circumstances of any non-compliance with one or more relevant conditions/standards/terms in this rule.

¹⁶ As defined in definition 9.7 of the Glossary of the Hawke's Bay Regional Resource Plan

| RULE | ACTIVITY | CLASSIFICATION | CONDITIONS/STANDARDS/TERMS | MATTERS FOR CONTROL/DISCRETION |
|------|----------|----------------|---|--|
| | | | <div>lii) Any conspicuous change in colour or the visual clarity</div> <div>lv) result in any freshwater becoming unsuitable for consumption by farm animals</div> <div>dv) the diversion and discharge shall not cause to occur or contribute to:</div> <div><div>i) the destruction or degradation of any habitat, mahinga kai, plan or animal in any water body or coastal water</div><div>vii) the discharge of microbiological contaminants, including sewage, blackwater, greywater or animal effluent.</div></div> <div>(ed) There is no reticulated stormwater network at the property boundary</div> <div>(ef) Any structure associated with the point of discharge or diversion is maintained in a condition such that it is clear of debris, does not obstruct fish passage and is structurally sound.</div> <div>(f) Where the activity is located within a Source Protection Zone for a registered drinking water supply the proposed discharge has no adverse effect on the quality of source water within the Secure Protection Zone and its suitability for drinking water use without treatment</div> | <div>drinking water supplies and any measures to reduce the risk to the water quality</div> <div>(4) The characteristics of the proposed discharge and its effects on the receiving environment</div> <div>(5) Duration of the consent</div> <div>(6) Review of consent conditions</div> <div>(7) Compliance monitoring</div> |



Subject to legal professional privilege

To Gavin Ide, Mary-Anne Baker and Tom Skerman, Hawke's Bay Regional Council **12 December 2018**

From Matt Conway, Katherine Viskovic and Oska Rego

Subject Initial comments on TANK plan change proposals

1. This memorandum sets out our initial high level thoughts on two proposals that Hawke's Bay Regional Council (HBRC) has been working on; to allocate water for Māori development, and to manage groundwater depletion by a river flow enhancement scheme.
2. We have focused on the workability of these two proposals and the key principles that apply to them, potential issues to be aware of, the draft plan change (PC9) provisions that have been developed, and what elements of the proposals require particular attention in the course of consultation and development going forward.
3. We recommend more detailed consideration of the legal issues we have identified in this memo before PC9 is notified.

Water allocation for Māori development

4. We consider that allocating water for Māori *customary or cultural purposes* is possible under the RMA. It is less clear whether water can be allocated for Māori *economic and social well-being*. Our preliminary view is that the latter it is at least conceptually possible, on the basis of HBRC's broad discretion to allocate the taking or use of water,¹ and the obligations to provide for Māori interests,² and to enable "people and communities to provide for their social, economic, and cultural well-being".³
5. There are limitations on how any allocation for Māori purposes can be done, as illustrated by the key principles noted below, in addition to the need to ensure the provisions are properly justified in terms of section 32 of the RMA.
6. The High Court has found (in the context of allocation of space for coastal occupation) that it is not legally permissible for a resource to be allocated for exclusive use by a particular person or group or class of people, including a body representing iwi.⁴ The RMA authorises any person to make an application for a resource consent or an activity in a particular area or location, irrespective of ownership or any other relationship with the area.

¹ RMA, sections 30(1)(a), 30(1)(fa) and 30(4).

² RMA, sections 6(e), 7(a) and 8.

³ RMA, section 5.

⁴ *Hauraki Maori Trust Board v Waikato Regional Council* High Court Auckland, CIV-2003-485-999, 4 March 2004 at [52]-[60].

7. Nor is it permissible to use plan provisions to give preference or priority access to resources to tāngata whenua, or other specified parties.⁵ Section 30(1)(fa) focuses on the allocation of the taking or use of the resource. There is no direct reference in section 30 to any group in the community. The allocation is to be controlled by the status of the activity, not the status of the applicant.⁶
8. There is case law indicating that water can be allocated to be used for Māori *customary* or *cultural* purposes and in accordance with local iwi values.⁷ It is less clear whether water can be allocated for Māori *economic* and *social well-being* which, unlike the relationship between the environment and Māori culture and traditions,⁸ are not matters that have been afforded particular protection under the RMA. We suggest careful further consideration of this issue before HBRC commits itself to provisions focused on Māori *economic* and *social well-being*.
9. In order to allocate water for the purpose of developing Māori well-being, it would be necessary to allocate the water for that purpose, or possibly specified activities, but in a way that does not give Māori applicants preference or priority over non-Māori applicants.⁹ This may be difficult to do in a manner that is appropriate for achieving improved social and economic outcomes for Māori.
10. We note that the requirement in the RMA to take into account the principles of the Treaty of Waitangi¹⁰ does not enable councils to act inconsistently with the general scheme of the RMA and its decision-making processes. Section 8 does not confer on local authorities an obligation to give effect to the principles of the Treaty, and local authorities cannot use the RMA to undertake the Crown's role of identifying and redressing Treaty breaches.¹¹
11. In addition to the above principles, our initial comments on the current draft provisions in PC9 are that:
 - (a) developing Māori well-being is not a specific "activity", so it may be better referred to as a "purpose" in the relevant provisions; and
 - (b) in its current form, policy 56 does favour applicants who are Māori organisations or holders of land acquired via Treaty settlements, so it will need to be amended in accordance with the principles noted above.

⁵ *Ngāti Māhino Heritage Trust v Bay of Plenty Regional Council* [2014] NZEnvC 25 at [35].

⁶ *Carter Holt v Waikato Regional Council* [2011] NZEnvC380 at [438]; and Report and Recommendations of the Hearing Commissioners in the Matter of Proposed Plan Change 3 to the Waitaki Catchment Water Allocation Regional Plan at [500] to [503].

⁷ *Ngāti Māhino Heritage Trust v Bay of Plenty Regional Council* [2014] NZEnvC 25 at [35]; see also Report and Recommendations of the Hearing Commissioners in the Matter of Proposed Plan Change 3 to the Waitaki Catchment Water Allocation Regional Plan at [546].

⁸ RMA, section 6(e).

⁹ *Carter Holt v Waikato Regional Council* [2011] NZEnvC380 at [438] and [441]; *Ngāti Māhino Heritage Trust v Bay of Plenty Regional Council* [2014] NZEnvC 25 at [35].

¹⁰ RMA, section 8.

¹¹ *Minihinnick v Minister of Corrections* EnvC A043/04; *Tainui Hapu v Waikato Regional Council* EnvC A063/04.

Managing groundwater depletion by a flow enhancement scheme

12. Work undertaken by HBRC has determined that the Heretaunga Plains aquifers are more connected and transmissive than previously thought. Modelling used to understand the aquifer has determined that water management methods currently used, which focus on reducing water allocation limits or imposing restrictions at times of low flow, do not provide expected outcomes.
13. Through PC9, HBRC is seeking to enable the development of a river and stream flow enhancement scheme (FES). At the outset, we note that conceptually it appears that enabling a FES fits within the functions of a regional council,¹² however HBRC will need to think carefully about the particular provisions that are used in relation to the scheme to ensure they are *vires* and do not limit the operation of such a scheme in ways not intended by HBRC.

Policy decision regarding who can operate a FES

14. We understand that stakeholders are keen for certainty to be provided to ensure that a FES does occur, and is not merely encouraged and that HBRC does not want to stifle innovation.
15. As currently drafted, PC9 directs HBRC to operate the FES, on the basis that it would then seek to recover costs from the resource consent holders (Policy 38). Generally, it is resource consent holders rather than councils that are responsible for remedying and/or mitigating the effects of their activities, and we assume that HBRC is not seeking to limit consent holders' ability to mitigate effects by relying on HBRC to establish a scheme instead of either the consent holder or a third party establishing a FES themselves (as is the case for the Twyford Irrigators).
16. We would support reframing Policy 38 and associated provisions to enable FES more generally rather than including an assumption that it will be HBRC undertaking the scheme and then seeking to recover the costs from it (e.g. via a charge or financial contribution). There are some potential *vires* issues with requiring a third party to undertake mitigation, as discussed below.

Plan provisions currently require HBRC to take action

17. Imposing a condition on a consent which requires a third party to do something is *ultra vires*.¹³ There is authority that a council can bind itself to actions that will result in valid conditions being imposed for the purpose of avoiding, remedying or mitigating the adverse effects of the activity being consented to.¹⁴ However, we consider that HBRC should be cautious about establishing a scheme that could require it to take certain actions to enable a consent holder to comply with conditions of consent.
18. The approach currently set out in PC9 appears to rely on HBRC obtaining the requisite consents for the FES and complying with their conditions, which would be out of the hands of the consent holder for the groundwater take. It raises a question as to how HBRC would proceed if it did not obtain the required consents to undertake stream recharge, if

¹² RMA, sections 30(1)(e), 30(1)(f) and 30(1)(fa)(i).

¹³ *Robert Holt & Sons Ltd v Napier City Council* (1977) 6 NZTPA 132.

¹⁴ *Retail Projects Limited v Papakura District Council*, W028/06 at [20].

it was not complying with consent conditions, or if the water for a FES became fully allocated.

19. An alternative way of conceptualising the use of a FES may be through enabling it as an option for environmental compensation/offsetting. An applicant could then seek to offset the effects of a take through contributing to a FES administered by either HBRC or a third party (assuming the consent holder did not administer a FES itself). This would avoid the need for a particular charge to be set or foreshadowed in PC9 for the activities as the payment for provision of a FES would essentially be a commercial arrangement.
20. We have not specifically considered the operation of this type of approach, however it would be based on the PC9 provisions enabling rather than requiring the establishment of a FES, and the provisions would signal to an applicant that an offset in the form of a contribution to a FES could be a way to manage effects. In some cases this may require the applicant to offer a condition on an *Augier* basis.

Cost recovery under the RMA

21. The RMA only provides limited scope for the fixing of charges. In this case, should HBRC operate a FES it would be essentially providing mitigation on behalf of a consent holder and then seeking to recover its costs associated with those actions.
22. Section 36 is focused on administrative charges and does not appear to enable HBRC to fix a charge associated with operating a FES. The proposed contributions appear to be more than just cost recovery associated with administrative tasks, rather they seem to be seeking reimbursement for mitigation being undertaken by HBRC on behalf of the consent holders.
23. If financial contributions were going to be collected, they would presumably be needed for non-capital ongoing costs (in addition to costs associated with capital expenditure), and be collected in a way that takes into account the changing nature of groundwater takes and the hydrological system. Over time, we assume financial contributions would need to vary in line with the number of water takes, and their relative impact on groundwater depletion. While a financial contribution can be collected to provide for non-capital expenditure, there may be difficulties with the HBRC seeking to collect contributions on an ongoing and variable basis. Given these issues, we consider that HBRC may wish to explore whether there are other, more suitable options for recovering costs associated with administration and operation of a FES, for example use of a targeted rate or a separate commercial arrangement.
24. If HBRC does decide to pursue the option of seeking a financial contribution, ideally it would defer notifying a plan change incorporating a new financial contribution for now as it is still uncertain whether it will be able to use financial contributions after April 2022. Repeal of the Resource Legislation Amendment Act 2017 provision that removes the ability to impose a financial contribution as a condition of a resource consent has recently been proposed by the Minister for the Environment but not confirmed.

Concluding thoughts

25. The proposed approach to expressly provide for FES as a mitigation method is somewhat novel and is likely to come under additional public scrutiny, and it will need to be carefully worked through before notification. Generally we consider that the approach fits within HBRC's functions, and should be able to be achieved, however it will be important to get the details right to ensure that the proposed scheme meets HBRC and the community's

requirements. As identified above, there are some potential *vires* issues and/or policy decisions that the HBRC will need to consider.

Kind regards

Matt Conway/Katherine Viskovic/Oska Rego
Partner/Senior Associate/Law Graduate

HAWKE'S BAY REGIONAL COUNCIL

REGIONAL PLANNING COMMITTEE

Wednesday 03 July 2019

Item 8

Subject: TANK PLAN CHANGE OPTIONS FOR NOTIFICATION AND BEYOND

Reason for Report

1. While drafting of the TANK Plan Change continues to evolve and near completion, senior planning staff have considered a number of options for the process which the TANK plan change may follow from public notification. Essentially there are three principal 'speed-settings':
 - 1.1. Slow
 - 1.2. Medium
 - 1.3. Fast.
2. This paper asks the Committee for its in-principle support for the medium track. If there is support from the Committee for the medium track (or indeed even the 'fast track') then staff would initiate further discussions with Ministry for the Environment officials to progress developing an application to the Environment Minister for a 'streamlined planning process' on the proposed TANK Plan Change.
3. Previously, the Committee has received briefing papers from staff on pathways to draft TANK Plan Change adoption (31 October 2018) and most recently a paper on TANK Plan Change pre-notification planning pathway (12 December 2018).

Relevance of this item to Committee's Terms of Reference

4. The purpose of the Regional Planning Committee as stated in section 9(1) of the Hawke's Bay Regional Planning Committee Act 2015 is:

"to oversee the development and review of the RMA documents [i.e. the Regional Policy Statement and regional plans] prepared in accordance with the Resource Management Act 1991 for the [Hawke's Bay] region."
5. More specifically, clauses 4.5 and 4.6 of the Terms of Reference state:

"4.5 To oversee consultation on any draft ... plan change... (prior to notification)."
4.6 To recommend to Council for public notification any ... plan changes..."
6. Consequently, this report is presented to the Committee for a recommendation to be made to the Council for public notification of the TANK Plan Change and a process to be used for the notification and post-notification stage of that plan change.

Discussion

7. The 'Slow' (Standard) track is the RMA's standard process. The Standard process features a number of mandatory milestones that a council must complete, but room exists for additional steps at the Council's own discretion. Appeals can be made against the Council's decisions and those appeals are heard 'de-novo' (anew) in the Environment Court. The Environment Court's decisions can be challenged on points of law in High Court proceedings.
8. The 'Fast' track would use the minimum mandatory milestones and features now available in the RMA using a 'streamlined planning process.' The optional 'Streamlined Planning Process' (SPP) was introduced into the RMA by amendments in 2017. More detail about the SPP is outlined in paragraphs 12 to 21 of this report.
9. A 'Medium' track would use the minimum mandatory SPP milestones, plus some optional extra steps and features tailored for the TANK Plan Change's own circumstances.

Standard Schedule 1 process

10. The purpose of the standard process is to provide rigorous analysis and transparent process for the development and change of RPSs, regional plans and district plans. This process provides extensive formal public involvement throughout the process and broad possibilities for appeal. The Standard process has been used since the RMA came into force in 1991. It is relatively well understood and there is a lot of good practice guidance available.
11. However, it can be a lengthy process due to a number of process steps and potential appeals. Under the standard process it can take years to develop and finalise a regional policy statement, regional plan or district plan. It can often take several years or more to complete a plan change and resolve any appeals¹, depending on the issues. Recognising that these timeframes are too long for plans to be able to respond to urgent issues, the Government amended the RMA in 2017 to enable councils² to make a request to the Minister to use a SPP proportional to the issues being addressed, instead of the standard planning process. The intent of that amendment is to enable a council to use a tailored plan making process under particular circumstances.

Overview of the Streamlined Planning Process (generally)

12. The SPP is an alternative to the standard Part 1 Schedule 1 process. Previously the RMA had only one statutory process (the standard process) and timeframe to prepare and change policy statements or plans, no matter how simple or complex the proposal.
13. If a council wishes to use a SPP, it must make a request to the Minister for the Environment (or the Minister of Conservation, if the process is for a plan or plan change concerning the coastal marine area). Before a council can make a request for a SPP, it must be satisfied that the proposed policy statement, plan, or change meets at least one of the following 'entry' criteria:
 - 13.1. will implement national direction
 - 13.2. is urgent as a matter of public policy
 - 13.3. is required to meet a significant community need
 - 13.4. deals with an unintended consequence of a policy statement or plan
 - 13.5. will combine several policy statements or plans
 - 13.6. requires an expeditious process for a reason comparable to those listed above.
14. Planning staff consider that the TANK Plan Change would easily pass at least the first 'entry' criterion and also some of the others.
15. A council cannot request the SPP if the proposed policy statement, plan, or plan change has already been publicly notified.
16. Any request to the Minister for a SPP from a council **must** contain:
 - 16.1. a description of the planning issues and how the entry criteria are met
 - 16.2. an explanation of why a streamlined planning process is appropriate instead of the standard planning process
 - 16.3. a description of the process and timeframes the council proposes for a SPP
 - 16.4. the persons the council considers are likely to be affected by the proposed policy statement, plan, change or variation
 - 16.5. a summary of the consultation planned or undertaken on the proposed policy statement, plan, or plan change, including with iwi authorities
 - 16.6. the implications of the proposed SPP for any relevant iwi participation legislation or Mana Whakahono a Rohe: Iwi participation arrangements (Mana Whakahono).³

¹ For example, four appeals raising over 150 points were lodged against HBRC's decisions on Plan Change 5. Council's decisions were issued on 5 June 2013 and the last remaining points of appeal were determined by an Environment Court decision issued on 7 June 2019 – some **six** years on.

² Only local authorities can apply to the Minister to use the streamlined planning process. Applications cannot be made by any other person.

³ There are currently no relevant Mana Whakahono a Rohe arrangements in place. Relevant 'iwi participation legislation' would include the Hawke's Bay Regional Planning Committee Act 2015.

17. The Minister **must** either:
- 17.1. grant the request, and issue a 'Direction' that sets out the streamlined planning process to be followed (i.e. a written instruction that a SPP applies)⁴ or
 - 17.2. decline the request, providing reasons for decisions.
18. A Direction for a SPP **must** as a minimum include:
- 18.1. consultation with affected parties, including iwi authorities, if not already undertaken
 - 18.2. public notification (or limited notification)
 - 18.3. an opportunity for written submissions
 - 18.4. a report showing how submissions have been considered, and any changes made to the proposed policy statement, plan or plan change
 - 18.5. a section 32 and 32AA report, as relevant
 - 18.6. the time period in which the SPP must be completed
 - 18.7. a statement of expectations from the Minister that the council must consider during the plan-making process.
19. A Direction **may** also include the following, but none are mandatory:
- 19.1. additional process steps (e.g. further submissions and/or a hearing)
 - 19.2. any other timeframes
 - 19.3. reporting or other planning process requirements.
20. The council must submit its proposed plan or plan change to the Minister(s) for approval before it can become operative. The council must complete any reporting requirements specified in the Direction and must have regard to the Minister's Statement of Expectations.
21. There are no rights of appeal on plans or plan changes in a SPP. However like the Standard Process, council's decisions can be subject to judicial review proceedings in the higher courts.

Table 1: Side by side comparison of standard process and SPP

| Core elements | Standard RMA Part 1 Schedule 1 | Streamlined Planning Process |
|-------------------|--|---|
| Key phases | <ul style="list-style-type: none"> ● Pre-notification consultation ● Notification (full or limited) ● Submissions, further submissions and hearing ● Local authority decisions on submissions ● Appeals ● Made operative by the local authority. | <ul style="list-style-type: none"> ● Application to Minister to use SPP ● Ministerial Direction to local authority providing a tailored planning process ● Pre-notification consultation (if not done already) ● Notification (full or limited) ● Submissions ● Additional steps if required by the Direction ● Local authority submits recommended plan change to Minister within specified timeframe ● Minister approves/declines/requests reconsideration ● Notified and made operative by the local authority. |

⁴ Only two Directions have been issued by the Minister since the SPP option became available in late 2017. One Direction (in February 2018) was to Hastings District Council for the 'Iona Rezoning Variation' to its proposed district plan.

| Core elements | Standard RMA Part 1 Schedule 1 | Streamlined Planning Process |
|---------------------------------------|---|---|
| Timeframe | <ul style="list-style-type: none"> No timeframe for pre-notification preparation phase Statutory limit of two years between notification to issuing final decision of local authority If appeals, can take several more years (no statutory limit on duration of appeal proceedings). | <ul style="list-style-type: none"> Timeframes to be prescribed in Minister's Direction. Time required to liaise with Ministry officials and for Minister to issue his/her Direction before proposal is publicly notified. Can provide faster process overall than other processes. No plan appeals (merit or points of law) will reduce timeframes. |
| Costs | <ul style="list-style-type: none"> Costs for pre-notification consultation Costs for pre-notification preparation Costs to publicly notify and process submissions Costs of hearings and issuing decisions Costs of Court appeal proceedings / litigation. | <p>Potential to develop a more cost-effective process, subject to the process as set out in Minister's Direction. As a minimum, costs will include:</p> <ul style="list-style-type: none"> Costs for pre-notification consultation Costs for pre-notification preparation Costs to publicly notify and process submissions and decision Reduced costs of litigation. |
| Maori/iwi interests and values | <ul style="list-style-type: none"> Consultation with tāngata whenua during drafting of plan change through iwi authorities Seek views of iwi authorities on draft proposal Provision of proposal to iwi authorities prior to notification Consultation with tāngata whenua on appropriateness of appointing a hearings commissioner with understanding of tikanga Maori and of the perspectives of local iwi or hapu. | <ul style="list-style-type: none"> Implications of process on existing iwi settlement legislation or Mana Whakahono a Rohe arrangements to be considered by the local authority when preparing request to Minister Consultation with tāngata whenua via iwi authorities during drafting of plan change (if not done already) Seek views of iwi authorities on draft plan change (if not done already) Minister's Direction must not be inconsistent with iwi participation legislation or Mana Whakahono a Rohe arrangements. |
| Final decision made by | Local authority | Local authority but must be approved by Environment Minister (who may decline or recommend changes to the local authority). |
| Appeal possibilities | <ul style="list-style-type: none"> Available to any person who has made a submission or further submission Merit (de-novo) appeals to Environment Court Further appeals to higher courts on points of law Judicial review of council's decisions available. | <ul style="list-style-type: none"> Judicial review of council's and Minister's decisions No merit appeals available No appeals on points of law available. |

22. Senior planning staff leading the TANK Plan Change project consider that the SPP would deliver an operative plan change far sooner than the Standard 'Slow' process. Notwithstanding that there is some time to be invested at the front end of the process to enter into a SPP⁵ before notification of the proposed plan change, that relatively small amount of time can readily be compensated by a vastly streamlined submission phase (with or without a hearing) through to a final decision which cannot be appealed to the Environment Court or High Court.

⁵ For example, preparation of the application to the Minister, awaiting the Minister's decision and Direction.

23. The Committee will be well aware of the TANK Plan Change's origins, evolutions and extensive drafting involved in the TANK Plan Change over the past six years, particularly the past two years' of far greater intensity of effort. Preparation of the TANK Plan Change has been a journey never experienced by this council before in RMA plan making, and so it is considered entirely valid for a tailored post-notification process to be followed.

NPS-FM Implementation Programme and consequential timeframes

24. Committee members will recall that the Council is currently obliged to fully implement the NPS-FM into the RPS and regional plans by 31 December 2025 (or 2030 in limited circumstances). However, it is very likely that the Government will announce proposals that the 2030 extension will be revoked in rewritten NPS-FM slated for 2020.
25. There is a very real risk that the longer it takes for the TANK Plan Change (and Plan Change 7 on outstanding waterbodies) to complete their respective processes to each reach an operative state, then the timeframes to commence and complete NPS-FM planning in all the remaining catchments (e.g. Wairoa, Mohaka, Esk, Aropaoanui, southern coast and Porangahau) will become ever increasingly compressed. The Committee's Terms of Reference (at section 3.1) do state that *"the Committee must take all steps reasonably necessary to enable the Council to meet any relevant statutory timeframes."*
26. The speed of progressing the TANK Plan Change to an operative state (through whatever pathway) still of course ought to be balanced with a need to ensure the plan provisions are robust; public feedback on the proposed plan change is suitably considered; and the Council ticks all relevant legislative requirements along the way.
27. A round of further submissions (by law must be 10 working days' duration) could add a degree of rigour to assessing the merits of requests made in the original submissions. Another degree of rigour over and above the minimum mandatory SPP features could be added by Council appointing a 3 to 5 person panel of suitably experienced and accredited RMA hearings commissioners to hear and test merits of matters raised in submissions. Both further submissions and a commissioner hearings panel are typical features of the Standard process. Incorporating those two optional extras into the SPP might offer some comfort and familiarity of process to people who might make otherwise regularly make submissions on proposed RMA plans/plan changes, while still keeping a relative degree of streamlined process in place.
28. Planning staff also suggest there is a great deal of merit in the Council having an explicit opportunity to review the hearings panel's draft report before being finalised. This is considered an important tailored step so that any amended provisions being suggested by the Panel can be checked for their coherency, clarity, technical accuracy and importantly the TANK plan change's 'implement-ability.' This check-in step was missing from the Board of Inquiry process for Plan Change 6 (Tukituki River catchment) and subsequent implementation of PC6 has not been without its challenges.

Considerations of Tangata Whenua

29. Tāngata whenua have special cultural, spiritual, historical and traditional associations with freshwater. For Māori, water is a taonga of paramount importance.
30. Mana whenua and iwi have been involved throughout the TANK Plan Change process with the TANK Group itself and through recent pre-notification consultation as discussed in a separate staff report for the RPC meeting on 3 July 2019. That consultation report provides particular attention to issues raised by tāngata whenua and the Council must have particular regard to this advice.
31. There will be an opportunity for iwi authorities, tāngata whenua (and any other person) to make a submission on the proposed TANK Plan Change after it is publicly notified – irrespective of whichever slow, medium or fast track may be chosen.

Financial and Resource Implications

32. Preparation of the TANK Plan Change, including the post-notification phase is provided for within the existing budgets. Staff consider that overall, the costs of a SPP would be less than potential costs of a Standard process and the likely litigation of council's decisions after submissions and hearings.

Conclusion

33. With the SPP option now available in the RMA, planning staff do not recommend using the traditional Standard process for the TANK Plan Change. Rather, staff do recommend applying for the Environment Minister's approval to use a SPP for the TANK Plan Change.
34. Given the unique pathway of the TANK Plan Change's development to this point, planning staff consider it is entirely appropriate that the TANK Plan Change's post-notification stage is a tailored form of SPP that includes (subject to Minister's approval):
 - 34.1. the minimum mandatory features (refer paragraph 18)
 - 34.2. the following optional extra features:
 - 34.2.1. a further submission period (10 working days) as per Schedule 1 Clauses 7 and 8 of RMA
 - 34.2.2. a hearing by a panel of three to five suitably experienced and accredited RMA hearings commissioners to provide a report and recommendations back to the RPC and Council. HBRC would select and appoint the commissioners.
 - 34.2.3. a directive that the hearings panel seek feedback from the Council on its draft report prior to the panel finalising that report and recommendations.
35. On this basis, planning staff consider that an overall timeframe of 12 to 18 months from notification of the TANK Plan Change to an operative plan is realistic. By comparison, a 'fast track' SPP would be slightly shorter while the Standard ('Slow') track process is likely to be significantly longer, perhaps by several years.
36. To further streamline any such SPP process, it is likely that a number of operational matters and decision-points which can be efficiently actioned if the Chief Executive and/or Group Manager Strategic Planning held the appropriate delegations. Delegations relating to the Standard process have been in place for many years now, but a separate paper needs to be prepared in the coming months outlining what those delegations might be if a SPP is to be entered.

Decision Making Process

37. 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:
 - 37.1. The decision does not significantly alter the service provision or affect a strategic asset.
 - 37.2. The use of the special consultative procedure is not prescribed by legislation.
 - 37.3. The decision does not fall within the definition of Council's policy on significance.
 - 37.4. The persons affected by this decision are any person with an interest in management of the region's land and water resources. In any event, those persons will have an opportunity to make a submission on the proposed TANK Plan Change after it is publicly notified – irrespective of whichever slow, medium or fast track may be chosen.
 - 37.5. The decision is not inconsistent with an existing policy or plan.

Recommendations

That the Regional Planning Committee:

1. Receives and considers the “*TANK Plan Change Options for Notification and Beyond*” staff report.
2. Agrees that the decisions to be made are not significant under the criteria contained in Council’s adopted Significance and Engagement Policy, and that Council can exercise its discretion and make decisions on this issue without conferring directly with the community.
3. Recommends that Council:
 - 3.1. subject to Minister’s approval, agree that a streamlined planning process be used for notification and post-notification stages of the proposed TANK Plan Change (‘Plan Change 9’)
 - 3.2. subject to Minister’s approval, agree that the streamlined planning process be at least the mandatory steps, plus the following additional steps tailored for the TANK Plan Change’s circumstances:
 - 3.2.1. further submissions
 - 3.2.2. hearing by panel of 3 to 5 suitably experienced and accredited RMA hearings commissioners to provide report and recommendations back to Regional Planning Committee and Council
 - 3.2.3. requirement for the panel to seek feedback from the Council on its draft report and recommendations prior to the panel finalising that report and recommendations.
 - 3.3. note that a Streamlined Planning Process will likely require some operational activities to be delegated to the Chief Executive and/or Group Manager Strategic Planning to further streamline new operational steps and milestones associated with the process tailored for the TANK Plan Change. Details of those will be in separate briefing to Council in near future.
 - 3.4. adopt the TANK Plan Change (subject to any further amendments agreed at the meeting) for public notification as a proposed plan change.
 - 3.5. adopt s32 Evaluation Report and make it publicly available at the same time as public notification of the proposed TANK Plan Change.

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Attachment/s

There are no attachments for this report.

HAWKE'S BAY REGIONAL COUNCIL

REGIONAL PLANNING COMMITTEE

Wednesday 03 July 2019

Subject: OUTSTANDING WATER BODIES PLAN CHANGE 7

Item 9

Reason for Report

1. This report presents the Outstanding Water Bodies (OWB) plan change, and Proposed Plan Change 7 to the Regional Resource Management Plan (RRMP), for resolution to notify the proposed change to the Regional Policy Statement component of the RRMP.
2. The report summarises:
 - 2.1. Feedback on the Consultation Draft of the proposed plan change
 - 2.2. Amendments being proposed in light of this feedback
 - 2.3. How matters raised by iwi authorities in their feedback have been addressed.
3. The report also presents the Section 32 Evaluation Report (attachment 5), evaluating the proposal as required under Section 32 of the Resource Management Act 1991 (RMA), and requests the RPC consider the appointment of Hearing Commissioners to hear and make recommendations on the proposal in response to submissions and further submissions received.

Background

4. The process for developing the plan change has been described in the previous report to the Regional Planning Committee on 15 May 2019, when the Consultation Draft was released for feedback.
5. The key steps in developing this plan change are identified in Table 1 following.

Table 1: Key Steps in Developing Plan Change 7

| RPC Meeting Date | Agenda Link | Minutes Link | On-demand video recording link | Agenda item link for RPCs recs to Council meeting | Notes |
|------------------|--|-------------------------|--------------------------------|---|--|
| 1 March 2017 | Item 6 | Minutes | Recording | Item 7 | Item puts forward an initial project plan which was not adopted by the RPC |
| 7 June 2017 | Item 6 | Minutes | Recording | Item 11 | Item refers to the revised project plan for adoption |
| 7 Feb 2018 | Item 9 | Minutes | Recording | Item 10 | Update information item |
| 21 March 2018 | Item 8 | Minutes | Recording | Item 9 | Item presented work from initial assessment of 130 named waterbodies, then put forward a list of candidate OWB for secondary assessment in terms of recreation, landscape and ecology value sets (OWB for cultural value set were put forward in this item but deferred until May meeting) |
| 2 May 2018 | Item 8 • Supplementary report from RPC Tāngata Whenua | Minutes | Recording | Item 7 | Item put forward a list of further candidate OWBs for secondary assessment in terms of the cultural and spiritual value set |

6. At the May 2019 RPC meeting, Committee members recognised that there was limited information available to ascertain the outstanding cultural and spiritual values for all 43 candidate OWBs, and allowed all of those water bodies identified to be included in the Consultation draft. The intention was to gather preliminary supporting information through the consultation process and use the submission-making processes to refine and evaluate that evidence. Committee members acknowledged that iwi authorities would find it difficult to provide comprehensive information on the values associated with these water bodies within the 4 week pre-notification feedback timeframe.

Feedback on the Consultation Draft

7. In May 2019, territorial authorities, key stakeholders and iwi authorities were contacted to provide feedback on Draft Plan Change 7. Additional resourcing was offered to assist iwi authorities provide further information on the outstanding cultural and spiritual values of the water bodies identified in the draft plan change.
8. The OWB website page was updated with an invitation to the general public to provide comments, and meetings were held on request.
9. In summary, 13 responses were received. While four respondents stated general support for the plan change or its intent and two were neutral, most respondents voiced a variety of concerns. The following general concerns were raised by those making comments.
 - 9.1. The Tangata Whenua worldview, that all waterbodies are interlinked and outstanding, should be addressed.
 - 9.2. The proposed policy framework, including:
 - 9.2.1. Obligations to protect OWBs under the National Policy Statement for Freshwater management (NPS-FM) and New Zealand Coastal Policy Statement
 - 9.2.2. Stringency of the policy provisions proposed
 - 9.2.3. Uncertainty arising from the lack of rules and understanding of how the OWB provisions apply
 - 9.2.4. The relationship with District Plans, urban growth management and implications for land use consent applications.
 - 9.3. The values identified, including:
 - 9.3.1. Criteria and adequacy of detailed information to enable an appreciation of the outstanding value of each OWB, including cultural and spiritual values
 - 9.3.2. How the values will be protected, their spatial extent and prioritisation for protection
 - 9.3.3. The distinction between outstanding and significant values, and how significant values will be identified.
 - 9.4. The sheer number of OWBs identified and possible impacts e.g. restrictions on farming operations, consenting, other costs.
 - 9.5. Improved clarity, including around wording, referencing , the classification system and spatial extent of values.
10. One respondent provided information on particular values and how these could be protected.
11. Copies of all pre-notification feedback received are attached (attachment 1).

Commentary

12. The conventional approach to plan-making relies on sufficient evidence being provided to justify proposing the change. Such evidence is essential to being able to conclude that identification of the particular water body as an OWB is the most appropriate way to give effect to the NPS-FM.

13. As a consequence, staff are recommending the list of proposed OWBs is reduced to 20 water bodies where there is a clear evidential base to support the particular water body being classified as having outstanding value.
14. A 6-month submission period is proposed to enable submitters to collect evidence on the outstanding values of any of the water bodies on the notified list or on the pre-consultation list of 43 potential water bodies. All evidence presented through submissions can then be evaluated through the further submission and hearing process. Funding for any necessary cultural and spiritual assessments is discussed later in the report, under Financial and Resource Implications.
15. This option is considered to provide a robust decision-making process, with the Hearing Panel testing evidence presented to justify any OWB classification.
16. Alternatively, should the RPC recommend that the longer list of 43 water bodies be notified as OWBs, in recognition of the larger number of water bodies seen as holding outstanding cultural and spiritual values, there is a greater risk that the whole process of identifying OWBs will be challenged. It is not standard practice to propose a plan change without sufficient information to justify a proposal and then use the submission process to fill already known information gaps.
17. Staff note that there is a third option to add more OWBs through the catchment-based plan changes programme, when sufficient evidence is provided to demonstrate that the water body has outstanding value.

Amendments Proposed

18. As a consequence of the feedback received and in response to draft legal advice, amendments are recommended to the proposed plan change for notification as summarised in Table 2 following.

Table 2: Recommended Amendments to Consultation Draft of PC 7

| Ref | Matter | Amendment proposed | |
|-----|--------------------------|--------------------------|--|
| | | Provision | Amendment & Reason |
| 1 | Decision-making criteria | Policy LW3A Policy C2 | <ol style="list-style-type: none"> 1. Defer application of policies until: <ol style="list-style-type: none"> a. The relevant catchment-based RRMP plan change is operative, or after 31 December 2025; whichever is sooner b. The review of the RCEP is operative; or after 31 December 2025; whichever is sooner 2. Limit application of these policies to specified activities: <ol style="list-style-type: none"> a. In discretionary and non-complying rules in the RRMP and RCEP (and not to District Plans) b. As new consents or variations to existing consents 3. Clarify wording for protection of significant values, including giving preferential protection to the identified outstanding values <p>These amendments provide greater certainty as to how the policy framework works, including with respect to NPSFM and NZCPS directives, and enable the more detailed catchment-based work on significant values to be completed prior to the policies coming into effect.</p> |
| 2 | Definitions | Glossary | <ol style="list-style-type: none"> 1. Define 'outstanding' 2. Define 'outstanding water body' <p>These amendments improve the clarity of key terms</p> |

| Ref | Matter | Amendment proposed | |
|-----|--|--|---|
| | | Provision | Amendment & Reason |
| 3 | List & description of outstanding and significant values | Schedule 25 (previously Schedule XXIV) | <ol style="list-style-type: none"> 1. Add descriptions of the outstanding values in Table 1 2. Add new columns to Table 2 for describing the outstanding and significant values identified for each water body 3. Add descriptions of the outstanding values for each water body, and the significant values proposed for each OWB in the TANK catchment, where they are identified already 4. Include references to the key source reports providing more detailed descriptions of the values, including outstanding values, of each water body 5. Re-present the following proposed OWBs by combining: <ol style="list-style-type: none"> a. Mohaka River (upper and lower) b. Ngaruroro River (upper and lower) c. Porangahau River & Estuary d. Waikoau and Aropaoanui Rivers with Lake Tutira 6. Remove all those water bodies from the schedule where insufficient information is available to justify their identification as proposed OWBs. The proposed list of OWBs for notification has been reduced to 20 water bodies (attachment 6). <p>These amendments provide greater certainty for how the provisions are intended to work, including through staging of application of policies and inclusion of more detailed information on outstanding values for each proposed OWB.</p> |
| 4 | Clarity | | Minor and consequential changes to give better effect to the proposed change. |

19. The draft version of the plan change as consulted on, is marked up in blue text to show all the above recommended amendments, and attached.
20. Proposed Plan Change 7, as proposed for public notification (attachment 3), shows the same changes, but in the form for notification, with the marked up changes as proposed to the operative RRMP.
21. Should the RPC recommend the longer list of 43 water bodies be notified as OWBs, Schedule 25 (attachment 4) would be substituted for the shorter list in attachment 3.

Response from iwi authorities

22. A written response was received from one iwi authority on the Consultation Draft of the OWB plan change and their comments are included in attachment 1.
23. Throughout this process, tangata whenua have consistently expressed discomfort with a process that would rank some water bodies over others according to cultural and spiritual 'criteria'. Reconciling this concern with the definition of 'outstanding' as being the 'best of the best' has created ongoing tensions in the development of this plan change which have not yet been fully resolved.
24. The Section 32 Report details the process of engagement with tangata whenua. Initially, a literature review was undertaken of all known and relevant written material on the rivers within Hawke's Bay, including evidence presented to the Waitangi Tribunal and Deeds of Settlements.
25. Through previous engagement, some iwi authorities have stated that the written information is not definitive, and there is still information on important values held by hapu that should be collected.
26. Ngāti Pāhauwera have expressed their dissatisfaction by not electing not to participate in the process through the nomination of water bodies. Accordingly their values have not been identified in this proposed plan change

27. Previously, Te Uru Taumatua o Tūhoe have requested Te Urewera is excluded from the OWB plan change. It is managed as Te Urewera and has its own management plan. Ngai Tūhoe values have not been identified in this proposed plan change.
28. Staff recommend the matters raised are generally addressed by:
 - 28.1. Enabling those 20 water bodies with sufficient evidence currently available to be notified as OWBs now
 - 28.2. Providing for an extended 6-month submission period, rather than the minimum of 20 working days
 - 28.3. Recognising that any of the remaining 23 water bodies on the pre-notification consultation list to be considered for OWB classification if supporting information on the outstanding cultural and spiritual values of the particular water bodies is provided as part of a submission on this plan change
 - 28.4. Providing a clear policy pathway for identification of any other OWB in future, should suitable evidence be made available, through catchment-based plan change work
 - 28.5. Assisting with funding for iwi authorities to collect information on potential outstanding cultural and spiritual values of particular water bodies through the extended 6-month submission-making period. Such funding should be limited to specific water bodies nominated by the tangata whenua representatives on the RPC and would contribute towards part of the overall assessment analysis for that water body. Note that the commissioning of any such report does not of itself guarantee that the water body will achieve 'outstanding' status through the full plan making process, including appeals.

Section 32 Evaluation Report

29. In preparing any change to the Regional Policy Statement, the Council must evaluate a number of matters in accordance with s32 RMA, including:

32 Requirements for preparing and publishing evaluation reports

- (1) An evaluation report required under this Act must—
 - (a) examine the extent to which the objectives of the proposal being evaluated are the most appropriate way to achieve the purpose of this Act; and
 - (b) examine whether the provisions in the proposal are the most appropriate way to achieve the objectives by—
 - (i) identifying other reasonably practicable options for achieving the objectives; and
 - (ii) assessing the efficiency and effectiveness of the provisions in achieving the objectives; and
 - (iii) summarising the reasons for deciding on the provisions; and
 - (c) contain a level of detail that corresponds to the scale and significance of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the proposal.

30. Further, the Council must have particular regard to this report when deciding to proceed with the proposed change, as provided for in clause 5 Schedule 1 RMA.

5 Public notice and provision of document to public bodies

- (1) A local authority that has prepared a proposed policy statement or plan must—
 - (a) prepare an evaluation report for the proposed policy statement or plan in accordance with [section 32](#) and have particular regard to that report when deciding whether to proceed with the statement or plan; and
31. The Section 32 Evaluation Report (attachment 5) summarises that evaluation and must be made available for public inspection at the same time as the plan change is publicly notified. It is not a comprehensive record of all evaluation, Council discussions, staff workshops and assessments undertaken in the course of reviewing the OWB provisions. It is separate to the proposed plan change itself.

Next Steps

32. Once the decision to notify Proposed Plan Change 7 has been taken by Council, in accordance with the RPC recommendations, staff will proceed to publicly notify the proposal in accordance with clause 5 Schedule 1 RMA, and call for submissions.
33. A summary of all submitter requests will be prepared and publicly notified, and a call made for further submissions on those requests.
34. A Hearing Panel will be convened to hear and decide on submitter requests, and the Panel's recommendations will be presented to Council.
35. The RPC may make recommendations to Council on the membership of that Hearing Panel.
36. The RPC may also determine the scope for the resolution and settlement of any appeal.
37. Table 3 following illustrates where we are in the plan-making process.

Table 3: Steps in Making the OWB Plan Change

| Step | Process |
|------|--|
| 1 | Preparatory work |
| 2 | Pre-notification consultation on draft plan change |
| 3 | Notification of proposed plan change & receipt of submissions ← We are here |
| 4 | Hearing and decisions on submissions |
| 5 | Address any appeal to Environment Court |
| 6 | Make plan change operative |

38. RPC members will recall the need to notify the OWB plan change ahead of the TANK plan change. The following extract was presented in the June 2017 report to RPC.

| |
|---|
| <p>Procedural requirements</p> <p>9. Change 5 requires the notification of an OFWB plan change prior to the notification of the next catchment-based plan change. The Mohaka Plan Change is exempt from this requirement. The TANK plan change is the next most imminent plan change that would encounter Change 5's procedural requirement.</p> <p>10. There are several potential outcomes if a catchment-specific plan change (e.g. TANK) is notified prior to an OFWB plan change.</p> <p>10.1. Nothing. The catchment plan change follows the standard RMA Schedule 1 process and gets adopted into the Hawke's Bay Regional Management Plan.</p> <p>10.2. Parties previously involved in Change 5 express strong dissatisfaction that identification of OFWB has not progressed and request urgent prioritisation.</p> <p>10.3. A judicial review could be lodged in the High Court against any catchment based plan changes which occur prior to notification of an OFWB plan change. Note: A judicial review may or may not have merit and if this occurred would likely either be by:</p> <ul style="list-style-type: none"> - a member of the community who disagrees with the provisions of the catchment plan change rather than what Council has or hasn't been identified as an OFWB. - a party previously involved in Change 5 who is not happy with an outcome or management regime from the TANK process for a value they consider to be outstanding. |
|---|

39. RPC members will also recall that the Council is currently obliged to fully implement the NPS-FM into the RPS and regional plans by 31 December 2025 (or 2030 in limited circumstances). However, it is very likely that the Government will announce proposals that the 2030 extension will be revoked in rewritten NPS-FM slated for 2020.
40. There is a very real risk that the longer it takes for this plan change (and the TANK plan change) to complete their respective processes to each reach an operative state, then the timeframes to commence and complete NPS-FM planning in all the remaining catchments (e.g. Wairoa, Mohaka, Esk, Aropaoanui, southern coast and Porangahau) will become ever increasingly compressed. The Committee's Terms of Reference (at

section 3.1) do state that “the Committee must take all steps reasonably necessary to enable the Council to meet any relevant statutory timeframes.”

Strategic Fit

41. The OWB plan change is necessary to give effect to the NPS-FM requirements with respect to the identification and protection of OWBs.
42. It contributes directly towards achieving two of Council’s four strategic outcomes: Outcome 1 water quality, safety and certainty, and Outcome 3: Healthy and functioning biodiversity.

Financial and Resource Implications

43. The development of this plan change, including for its notification, is provided for within the existing budgets.
44. Some additional resourcing is available within that budget to record information from hapu and iwi on outstanding and significant cultural and spiritual values for specified water bodies. Any substantial additional resourcing needs may be addressed through reviewing other workstreams and/or the Long Term Plan and Annual Plan processes.

Decision Making Process

45. 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:
 - 45.1. The decision does not significantly alter the service provision or affect a strategic asset.
 - 45.2. The use of the consultative procedure is prescribed under the RMA.
 - 45.3. The decision does not fall within the definition of Council’s policy on significance.
 - 45.4. The persons affected by this decision are all persons with an interest in the region’s management of water resources under the RMA.

Recommendations

1. That the Regional Planning Committee receives and notes the “*Notification of Proposed Plan Change 7: Outstanding Water Bodies*” staff report.
2. The Regional Planning Committee recommends that Hawke’s Bay Regional Council:
 - 2.1. Adopts Draft Plan Change 7 as proposed, subject to the incorporation of any agreed amendments made at the 3 July 2019 Regional Planning Committee meeting, as Proposed Plan Change 7 to the Regional Resource Management Plan for public notification.
 - 2.2. Publicly notifies Proposed Plan Change 7: Outstanding Water Bodies (as per recommendation 2.1), before 31 August 2019, and calls for submissions in accordance with clause 5 Schedule 1 Resource Management Act 1991.
 - 2.3. Adopts the ‘*Section 32 Evaluation Report: Plan Change 7 - Regional Resource Management Plan: Outstanding Water Bodies*’, subject to the incorporation of any agreed amendments made at the 3 July 2019 Regional Planning Committee meeting, and makes it available for public inspection.
 - 2.4. Requests staff identify a shortlist of suitable qualified and experienced Resource Management Act accredited Hearing Commissioners for consideration by the Regional Planning Committee for appointment to the Hearing Panel to hear and make recommendations on the proposed Plan Change 7 in response to submissions and further submissions received.

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Attachment/s

| | | |
|---|---|----------------------|
|  1 | Feedback on draft Plan Change 7 Outstanding Waterbodies | Under Separate Cover |
|  2 | Draft Change 7 Including Mark up | Under Separate Cover |
|  3 | Proposed Plan Change 7 for Public Notification | Under Separate Cover |
|  4 | Schedule 25 Long List | Under Separate Cover |
|  5 | Section 32 Evaluation Report for Plan Change 7 | Under Separate Cover |
|  6 | Short List of 20 | Under Separate Cover |

HAWKE'S BAY REGIONAL COUNCIL

REGIONAL PLANNING COMMITTEE

Wednesday 03 July 2019

Subject: UPDATE ON CENTRAL GOVERNMENT POLICY ANNOUNCEMENTS

Item 10

Reason for Report

1. This report is a re-representation of a staff briefing paper delivered to the Regional Council's Environment and Services Committee meeting on 19 June 2019. Due to time limitations at that meeting, Councillors asked for this paper to be presented at the RPC meeting to elicit some discussion. It should be noted that not all of the matters covered in this update relate to the role and responsibilities of the Regional Planning Committee regarding RMA planning documents.
2. This report presents a brief update on the extensive number of workstreams underway by central government departments in relation to resource management legislation and policy in the pipeline. Prime Minister Jacinda Ardern has described 2019 a critical year of "delivery" for the Government.
3. This report does not dive into the details of each and every one of those workstreams. In many instances, the details are simply not yet publicly available. Many of the proposals remain subject to further drafting by government officials and/or direction from Cabinet Ministers.

Context

4. During the second half of 2019 and into 2020, the Government will be releasing various proposals and inviting public feedback on them. A snapshot of the notable proposals recently released or in the pipeline relating to resource management matters is attached. Some of those opportunities for feedback will be relatively formal (e.g. submissions on bills to select committees) while others will be less formal as comments on discussion documents and the like.
5. The Government's year of "delivery" will require an unprecedented degree of activity in the 'statutory advocacy' project (Project 196). Not all of the government's proposals will be directly relevant to HBRC's activities and interests, but many certainly will be. Senior staff will maintain a watching brief and remain connected with colleagues in other regional councils/unitary authorities so we may 'share the load' of evaluating each of the proposals as and when they are released.
6. It is highly likely that there will be other groups and agencies reviewing the same proposals and considering making submissions. For example, Local Government New Zealand (LGNZ), Society of Local Government Managers (SOLGM), neighbouring territorial local authorities, iwi authorities, iwi/hapū groups, etc. Subject to timing constraints, there may be opportunities for HBRC's interests to be incorporated into a sector submission or a joint submission with other parties who share similar interests. Staff will use existing connections to proactively scan for potential joint submissions.

What next?

7. Where relevant and subject to Council/committee meeting schedules, staff will prepare further advice for Councillors on these upcoming policy proposals from central government. The most notable ones will be undoubtedly the 'Essential Freshwater Package' (including NPSFM amendments and new national environmental standards), the indigenous biodiversity NPS and the RMA amendment bill.
8. It is worth noting that none of the Government's proposals can be guaranteed until it is approved and in force. A prudent approach of being simultaneously proactive, yet patient, is recommended. The recent hype around a capital gains tax was a prime example where policy announcements do not always materialise into legislation.

Additional Comments on Essential Freshwater Proposals

9. Earlier this year, the Regional Sector Water sub-group considered the workstreams and policy options as they existed at that time. In March, Doug Leeder wrote on behalf of the LGNZ Regional Sector providing advice to Minister Parker (and shared with Ministers O'Connor and Sage) that the work programme is too ambitious and that focus should be given to particular matters. It remains to be seen if that advice has been heeded in any way.
10. Minister Parker has said he is *“determined to put frameworks in place that will see material improvements to our freshwater in five years”* and wanting *“to have new rules in place by next year.”* Minister Parker has frequently lamented that it is taking too long for regional councils to have better policies and regional plans in place for managing freshwater resources.
11. It appears highly likely that the Council's revised programme (adopted in 2018) to progressively implement the NPSFM by 2030 will need yet another revision so that the remaining catchment plan changes are complete by 2025. To achieve that in this iteration of RMA plans, a different approach will be necessary spanning community engagement, policy development, plan drafting, as well as the formal submission, hearing and appeal processes on RMA plan changes. Time is simply not available to undertake deep and lengthy community engagement plus extensive scientific assessments etc to inform policy development so that plans are fully in place by 2025.
12. It is also worth noting that since January, seven highly experienced staff from various regional councils have been working as secondees to MFE contributing to development of the freshwater policy proposals. That secondee initiative aimed to bring some pragmatism and coal-face expertise to the range of ideas being generated from the Government's various working groups, firmer policy proposals and their implementability. One of those secondees was HBRC Senior Planner Mary-Anne Baker.
13. As outlined in attachment 1, the Government proposes to present its freshwater policy proposals for public consultation in late July.

Additional Comments on Climate Change Response (Zero Carbon) Amendment Bill

14. This [Bill](#) is now in a Select Committee process after it was introduced to Parliament in April. An overview of the Bill's main features is included in attachment 1.
15. In July last year, HBRC made a [submission](#) on the Government's 'Zero Carbon Bill Consultation Document.' In that submission, HBRC supported many of the proposals, but did oppose the idea that the Climate Change Commission might have regulatory powers immediately from its formation. In the Bill, it does not appear that the Commission is proposed to have any regulatory authority, rather it has an advisory (recommendation-making) role to the Climate Change Minister. The Commission would also have responsibility for preparation of a 6-yearly National Climate Change Risk Assessment. The six-yearly timeframe is proposed as it lines up better with relevant investment cycle timings, including local government long term planning and land transport investment planning (both of which happen in 3-yearly cycles).
16. Much of the remainder of the Bill aligns well with the submissions made by HBRC and LGNZ on last year's Discussion Document. While the Bill itself does not specify any extra roles and responsibilities for local councils, the Bill does propose a new Section 5ZV which would provide the Minister with powers to request information from certain organisations, including councils and council-controlled organisations. The information would inform the Climate Change Commission's preparation of the six-yearly National Climate Change Risk Assessments.
17. MFE *“has undertaken an assessment of the economic impacts of the proposed target options in a constrained timeframe New Zealand is at the forefront of this type of analysis. The [186-page [Regulatory Impact Statement](#) accompanying the Bill] sets out the full economic modelling results for baseline, current domestic target and target options 1–4.*

Specific impacts (e.g. on a regional or individual household level) are not estimated. These will be calculated as part of the cost-benefit-analysis behind policies to achieve the target.

[Modelling by] NZIER indicates that with Net Zero Emissions, per household national income would still increase by 40 per cent by 2050, compared to 55 per cent if no further climate action was taken.

Modelling shows the impact of domestic climate action would be felt more strongly by lower income households, if the Government does not take action to mitigate the impacts, because a higher proportion of their spending is on products and services that are likely to increase in cost as we reduce emissions across the economy. Modelling by Infometrics for the NZIER study suggests the households in the lowest 20 per cent bracket for income may be more than twice as affected, on a relative basis, than those households with an average income.

The uneven distribution of costs across different households is an important part of the reason for taking a planned approach to ensure a just and fair transition.” (source: MFE Departmental Disclosure Statement, 2019).⁶

18. Given that the proposals in the Bill line up very well with HBRC’s comments on the earlier Discussion Document, staff do not consider a separate submission on the Bill is necessary from HBRC [but councillors have subsequently expressed a preference that a submission is to be made – with content yet to be confirmed]. It is understood that LGNZ are currently preparing a submission on this Bill. Submissions are due by 16 July 2019.
19. If Councillors have a different view to staff that HBRC should indeed submit on the Bill [and they have], then there will be some immediate logistical limitations to navigate if a submission from HBRC is to be drafted, and approved for lodgment by 16 July [because there are no scheduled Council or committee meetings beforehand].

Decision Making Process

20. 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 “Update on Central Government Policy Announcements” staff report.

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Attachment/s

- [!\[\]\(3dc92c626ede9fa1b47e2e010104b5c4_img.jpg\) 1](#) Overview of Central Governments Key Resource Management Related Workstreams

⁶ At <http://disclosure.legislation.govt.nz/bill/government/2019/136>

Overview of Central Government's key resource management-related workstreams (at 1 June 2019)

Bills

| What | Lead Ministry | When | |
|--|---|--|---|
| Climate Change Response (Zero Carbon) Amendment Bill | MFE [weblink1] [weblink2] | Select Committee stage. Submissions close 16 July 2019. | <p>Purpose of the Bill is to establish a framework which New Zealand can use to develop clear, stable climate change policies in accord with the Paris Agreement. The Paris Agreement is a global effort to combat the effects of climate change by limiting the global average temperature increase to 1.5 degrees Celsius above pre-industrial levels.</p> <p>The Bill would set greenhouse gas reduction targets into law and require that future governments continue these efforts into the future. It would also:</p> <ul style="list-style-type: none"> • set up the Climate Change Commission, an independent body that will advise and support the government to reach the targets, specifically: <ul style="list-style-type: none"> ○ reduce gross emissions of biogenic methane within the range of 24% to 47% below 2017 by 2050, with an interim requirement to reduce emissions to 10% below 2017 levels by 2030 ○ reduce net emissions of all other greenhouse gases to zero by 2050 • create a requirement that the government sets emission budgets every five years that will act as 'stepping stones' towards the ultimate goal of zero greenhouse gases by 2050 • create a requirement that the government understands the risk of climate change (for example, rising sea levels) and produces plans to address these which will cover climate change adaptation measures. <p>This bill would be an amendment to the existing Climate Change Response Act 2002, meaning that all of the key climate-related legislation is covered under one Act.</p> <p>In parallel to the Bill, MFE are overseeing preparation of New Zealand's first national climate change risk assessment (NCCRA). The NCCRA will improve understanding of the nature and severity of the risks and opportunities posed by climate change, and enable action to adapt to climate change to be prioritised through the national adaptation plan.</p> <p>Work to respond to a number of the other recommendations from the Climate Change Adaptation Working Group (not covered in the Climate Change Response Bill) are being overseen by an inter-agency Community Resilience Group led by the Department of Internal Affairs. The CRG's work has five workstreams:</p> <ul style="list-style-type: none"> • information to better support decision-making • enhanced use of risk assessment • alignment and adequacy of regulatory frameworks • ensuring effective insurance and risk markets. <p>The potential role of national direction such as a national policy statement to assist councils in the management of risk (natural hazards and climate-related) is part of this work programme.</p> |

Item 10

Attachment 1

| What | Lead Ministry | When | |
|--|--|--|--|
| Kāinga Ora—Homes and Communities Bill | Ministry of Housing and Urban Development (MHUD) [weblink1] [weblink2] | Select Committee stage (for first Bill). Submissions close 11 July 2019. Further Bill to be introduced late 2019. | <p>Legislation was introduced to Parliament on 29 May 2019 to establish Kāinga Ora—Homes and Communities (previously known as the Housing and Urban Development Authority (HUDA)). It will consolidate three existing agencies; Housing New Zealand, its subsidiary HLC and parts of the KiwiBuild Unit. The Bill also sets out the operating framework for Kāinga Ora—Homes and Communities and states that strategic direction will be provided to the organisation through a government policy statement.</p> <p>Once established, Kāinga Ora—Homes and Communities will be “a one-stop-shop with a job description to build modern homes and vibrant communities” says Housing and Urban Development Minister Phil Twyford. “It will have a strong social mandate, including being a fair and reasonable landlord and recognising the importance of environmental, cultural and heritage values in urban development.”</p> <p>“Partnerships are critical to the future success of Homes and Communities, which will work alongside local government, iwi, infrastructure providers and property developers,” Phil Twyford said.</p> <p>According to a MHUD factsheet, “Kāinga Ora—Homes and Communities will partner with councils on developments of all sizes. A range of partnership models will be available to enable Kāinga Ora—Homes and Communities and councils to work together on urban development. In the case of specified development projects, Kāinga Ora—Homes and Communities must seek agreement from relevant councils as part of the establishment process. It will also be able to enter into agreements with councils around providing and funding infrastructure and public facilities as part of these projects.”</p> <p>It would appear much of Kāinga Ora’s work would be with city and district councils in their respective urban areas. There may be some involvement from regional councils as providers of infrastructure services and asset managers in those urban areas.</p> <p>Kāinga Ora will be established through two separate pieces of legislation. The Bill introduced in May will bring together the three agencies. A second Bill intended to be introduced later this year will give Homes and Communities its enabling development powers.</p> <p>Following the Select Committee process, the first Bill is expected to pass later this year, with Kāinga Ora—Homes and Communities up and running on 1 October 2019.</p> |
| Resource Management Act Amendments – Phase One | MFE | Late 2019 | A Bill is being drafted, but yet to be referred to a Select Committee and opened for public submissions. Bill largely focusses on reversing changes made through the 2017 RMA amendments, particularly in relation to resource consent decision-making. It will also introduce some changes to assist with technical problems, strengthen the enforcement tools, and provide Environment Protection Agency enforcement function under the RMA. |
| RMA Amendments – Phase Two | MFE | TBA | Second phase of amendments is not so well developed as Phase One, but it will address some broader issues about the overall resource management system. Details and scope of the Phase Two reforms are not yet available. |

| What | Lead Ministry | When | |
|-----------------------------------|--|--|---|
| Review of Walking Access Act 2008 | Ministry for Primary Industries [weblink] | 17 May to 2 July 2019 – public feedback from organisations and individuals involved in access to the outdoors. | <p>The Walking Access Act 2008 (the Act) is about providing free access to the outdoors for walking and for types of access that may be associated with walking, such as access with firearms, dogs, bicycles, or motor vehicles.</p> <p>MPI is reviewing the Act and they want to hear views about what's working well and what could be improved.</p> |

Item 10

Freshwater Package

| What | Lead Ministry | When | |
|---|----------------------------------|--|---|
| 'Essential Freshwater' package (incl NPSFM amendments and new NESs) | MFE [weblink] | Public consultation late July to Sept 2019 (Subject to Ministerial approval) | <p>The work programme's three main objectives to achieve by 2020 are to:</p> <ul style="list-style-type: none"> • stop further degradation and loss to NZ's freshwater and achieve improvements within five years • reverse past damage and promote restoration activity to bring NZ's freshwater to a healthy state within a generation • address water allocation issues – working to achieve efficient and fair allocation of freshwater resources, having regard to all interests, including Maori, and existing and potential new users. <p>Broadly, the package is mooted to feature a number of policy proposals, including:</p> <ol style="list-style-type: none"> 1. at risk catchments (in two workstreams being national level information and 'exemplar' catchments) 2. improving management practices and managing intensification of rural land use (such as regulation of high risk activities, intensification and stock exclusion) 3. allocation frameworks 4. strengthening and clarifying the Te Mana o Te Wai framework for freshwater management 5. Freshwater investments (i.e. use of Crown funding for freshwater projects). 6. Amendments to systems and processes for developing freshwater policy in RPSs and regional plans by 2025. 7. Additional requirements for monitoring, reporting and managing within several new attributes for water quality. <p>These proposals are likely to be delivered principally in the form of a revised National Policy Statement for Freshwater Management (NPS-FM) and a National Environmental Standard for Freshwater Management (NES-FM). The amended NPS-FM will be the fourth time it has been amended since first coming into force in 2011.</p> |

Attachment 1

| What | Lead Ministry | When | |
|------|---------------|------|---|
| | | | <p>According to MFE, the revised NPS-FM is intended to improve regional planning by ensuring all aspects of ecosystem health are managed, and give direction on how to proceed where there is uncertainty. It is also intended to clarify and simplify the NPS-FM.</p> <p>The proposed NES-FM is intended to provide clear and specific direction on resource use, in particular where rapid action is required.</p> <p>Some of the issues being considered in the development of the NES and NPS are:</p> <ul style="list-style-type: none"> • how to strengthen Te Mana O Te Wai as the framework for freshwater management • how to better provide for ecosystem health (water, fish and plant life) • how we can better protect wetlands and estuaries • ways to control high-risk farming activities and limit intensification • support to improve farm management practices. <p>Alongside this work, government officials are making progress with the mapping of vulnerability, risks and pressures in each catchment across New Zealand. This is likely to be shared as part of the consultation. In addition to the NPSFM and NESFM, the policy proposals will be complemented by some tailored amendments to the RMA for making freshwater planning more agile, plus increased Crown investment in freshwater projects, decision-making support tools and research and supporting water-users to transition to better practices (as announced as part of the 2019 'Wellbeing' Budget).</p> <p>MFE officials have also begun work on a system for allocating nitrogen discharges. As regional councils set limits for nitrogen, a system will be required to allocate who can discharge and how much. Any such system has to provide for new entrants and the development of underdeveloped land. There are a number of complex issues to resolve and MFE advises it will take time to develop a system so councils will be kept informed of this developing workstream. Indications are the allocation proposals will be announced ~October 2019.</p> |

Other NPSs, NESs and Resource Management Regulations

| What | Lead Ministry | When | |
|---|--|---|---|
| NES for Marine Aquaculture | MPI (Fisheries NZ) [weblink] | Mid-late 2019 | <p>Developing a proposed National Environmental Standard for Marine Aquaculture. Consultation with the public and iwi authorities on the proposal occurred in mid-2017. Government departments have developed final policy recommendations which are currently with Ministers for consideration before a Cabinet decision to proceed to drafting the regulations. Potentially a final NES gazetted in late 2019.</p> <p>The initial 2017 proposal aimed to:</p> <ul style="list-style-type: none"> • address variations and regional inconsistencies in processing replacement permit applications for <u>existing</u> marine farms • reduce New Zealand's exposure to biosecurity risks • enable better use of space within <u>existing</u> marine farms • improve environmental outcomes. |
| Review of NES for Human Drinking Water Sources | MFE [weblink] | Cabinet decisions ~July 2019 | <p>Partly informed by Three Waters' review workstream.</p> <p>In short, a Cabinet briefing paper on strengthening the regulation of drinking water, wastewater and stormwater is in progress, with Government decisions expected in July. RMA-related proposals to be released as part of the 'Essential Freshwater' package.</p> |
| National Planning Standards 2019 (Form, Function & Style) | MFE [weblink] | First Set in effect from April 2019. Further sets TBA. | <p>The purpose of the national planning standards is to improve consistency in plan and policy statement structure, format and content. When releasing the first set of planning standards on 5th April 2019, Environment Minister David Parker said the move would reduce compliance costs and address criticisms that RMA plans are unduly complex. The new planning standards do not determine local policy matters or the substantive content of plans as that remains the responsibility of local councils and communities.</p> <p>Different timeframes apply to different planning standards and different local authorities.</p> <ul style="list-style-type: none"> • all councils must meet basic electronic accessibility and functionality requirements by May 2020. • regional councils have three years to adopt the standards for their regional policy statements, and ten years for their regional plans (i.e. by April 2022 and April 2029 respectively). • unitary councils have 10 years to adopt the planning standards. • city/district councils generally have five years to adopt the planning standards, with seven years for the definitions standard. A smaller group who have recently completed a plan review have seven years to make changes, and nine years for definitions. <p>If a council undertakes a full plan review within these timeframes the new plan must meet the planning standards when it is notified for submissions.</p> |

| What | Lead Ministry | When | |
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| | | | There are also different timeframes for online interactive plans. Regional councils and unitary councils have 10 years to comply with the requirements (i.e. by April 2029). |
| Review of NES for Air Quality | MFE [weblink] | TBA | <p>The current Air Quality NES regulations came into effect on 8 October 2004. They are made up of 14 separate but interlinked standards. These include:</p> <ul style="list-style-type: none"> • seven standards banning activities that discharge significant quantities of dioxins and other toxics into the air • five standards for ambient (outdoor) air quality • a design standard for new wood burners installed in urban areas • a requirement for landfills over 1 million tonnes of refuse to collect greenhouse gas emissions. <p>The National-led government had initiated a review of the NES with particular focus on standards for ambient outdoor air quality and domestic woodburners. Officials are continuing assessment of policy options and relative benefits and costs. The Review remains subject to further Cabinet decision-making during 2019-20.</p> |
| NES for Outdoor Storage of Tyres | MFE [weblink] | TBA | Draft NES was released in 2017 and further revisions are being considered in response to issues raised in submissions. Revised NES potentially in place by end of 2019, subject to Cabinet decision ~July 2019. While the original draft NES placed much of the responsibility for implementation on city and district councils, issues under re-consideration may involve a shift of implementation to regional councils. |
| NPS for Indigenous Biodiversity [and NZ Biodiversity Strategy] | DOC/MFE [weblink1] [weblink2] | Public consultation late 2019. Likely NZBS mid-July & draft NPS-IB ~Oct/Nov 2019. | <p>On 25 October 2018, Associate Minister for the Environment, Nanaia Mahuta, publicly released the Report of the Biodiversity Collaborative Group. Central government has been engaging with Maori, Regional Councils, Territorial Authorities and other relevant stakeholders to test the workability of the draft NPS. Minister has already announced that the NPS will be drafted with a focus on terrestrial biodiversity and not cover marine or aquatic biodiversity. Further policy analysis is being undertaken. Subject to Ministerial approval, expect an opportunity for public feedback on the indigenous biodiversity NPS mid October to mid December.</p> <p>The proposed NPS-IB is likely to recommend identification of Significant Natural Areas, as well as coordinated restoration of land, wetlands and depleted environments.</p> <p>Meanwhile, DOC officials engaged in early 2019 with iwi and stakeholders to understand goals and ambitions for a new strategy for NZ's Biodiversity. DOC is developing a framework for the new strategy which will ultimately replace the existing NZ Biodiversity Strategy adopted by the Government in 2000. In terms of timing, officials have indicated the Draft Strategy would be released for comment prior to submissions on a draft NPS being invited.</p> |

| What | Lead Ministry | When | |
|--|--|--|--|
| NPS for Highly Productive Land (NPS-HPL) | MFE & MPI | Public consultation July to Sept 2019 alongside proposed NPS-UD (Subject to Ministerial approval) | <p>MFE & MPI officials are working together to develop a proposed NPS for highly productive land. According to MFE (June 2019), <i>“the NPS-HPL would provide councils with greater clarity on how highly productive land (including versatile soils) should be considered in RMA decision-making. The NPS-HPL intends to address the gradual reduction in availability of this resource for primary production, as well as to manage fragmentation and reverse sensitivity effects. The NPS-HPL would initially apply to all LUC1-3 land across New Zealand, however regional councils would be required to undertake a process to identify highly productive land in their region based on a set of criteria.</i></p> <p><i>The proposal would provide direction for councils to:</i></p> <ul style="list-style-type: none"> • recognise and provide for the full range of values and benefits associated with the use of highly productive land for primary production • maintain the availability of highly productive land for primary production for future generations • protect highly productive land from inappropriate subdivision, use and development. <p><i>Absolute protection will not always be appropriate. The proposal provides clear direction that urban development should be avoided on highly productive land where better options exist. Councils would be given flexibility to avoid undue constraints to their urban development objectives.</i></p> <p><i>Further work is expected to progress in 2020 to address declining soil health as a result of past and present agricultural practices. This timeframe will allow the Essential Freshwater programme to develop, which will address overlapping issues. This work is likely to focus on:</i></p> <ul style="list-style-type: none"> • soil contamination • soil compaction • erosion.” |
| Proposed NPS for Urban Development | MFE & Ministry of Housing and Urban Development [weblink] | Public consultation July to Sept 2019 alongside proposed NPS-HPL (Subject to Ministerial approval) | <p>A proposed national policy statement on urban development (NPS-UD) is being developed as part of the Government’s Urban Growth Agenda. The proposed NPS-UD would replace the existing 2016 NPS on Urban Development Capacity. The intention is to build on the existing NPS-UDC by strengthening existing policies and broadening its focus. According to MFE (June 2019), the new NPS-UD <i>“should help councils make decisions about creating room for growth, both up and out, in suitable areas. Some of the proposals in the NPS-UD would apply to all urban areas that are expected to experience growth. Other proposals would be targeted only at larger cities.</i></p> <p><i>New elements in the proposed NPS-UD include directing councils’ planning decisions to:</i></p> <ul style="list-style-type: none"> - support quality urban environments - recognise the benefits of urban development and the needs of all current and future communities - strengthen long-term, strategic (spatial) planning - address a number of the barriers to Māori involvement in council processes and reflect Māori values and interests in urban planning decisions |

| What | Lead Ministry | When | |
|----------------------------------|---------------|------|---|
| | | | <p>- direct more intensive development, particularly around centres and transport networks. [MFE] are also looking to simplify the evidence-based requirements of the existing NPS-UDC and improve their usefulness for planning.”</p> <p>Under the existing NPS-UDC, Napier-Hastings area is classified as a ‘medium growth’ area. As a consequence of that medium growth status, the NPS-UDC requires monitoring and quarterly reporting on a range of housing and business land development indicators. Past housing and business market indicator monitoring reports are published at www.hpuds.co.nz/resources.</p> |
| Proposed NPS for natural hazards | MFE | TBA | Understood to be part of the inter-agency Community Resilience Group’s work programme led by DIA. Details are very limited. |

Other things of particular relevance...

| What | Lead Agency | When | |
|--|--|--|--|
| NZ Productivity Commission – Inquiry into local government funding and financing | New Zealand Productivity Commission [weblink] | Draft report released in June 2019. Final report to Government by 30 November 2019. | <p>In June 2019, the Productivity Commission is due to release a draft of its report. The Inquiry’s Terms of Reference describe the scope as:</p> <p>“the inquiry would examine the adequacy and efficiency of the existing local government funding and financing framework. Specifically the inquiry will investigate: [cost pressures; funding and finance models; and the regulatory system], but out of scope are “particular mechanisms for rating of Maori freehold land and Crown land; the valuation system and practices; and substantial privatisation.”</p> <p>In November 2018, the Commission had published an issues paper for this inquiry into local government funding and financing. That issues paper briefly described local government in New Zealand and how funding and financing currently works. It asked questions about current pressure points and ways that councils can manage cost pressures. It invited feedback on options for future funding and financing tools. The Commission is aiming to present its final report to the Government by 30 November 2019.</p> |

| What | Lead Agency | When | |
|-----------------------------|---------------------------------------|---------------------------|---|
| The 2019 'Wellbeing' Budget | Treasury [weblink] | 30 th May 2019 | <p>The 2019 Wellbeing Budget was delivered by the Finance Minister Hon Grant Robertson on Thursday 30 May. Some parts of particular interest to local government regional sector/HBRC include:</p> <p>a) A Sustainable Future:</p> <ul style="list-style-type: none"> Support for farmers, growers and councils to make “positive land use changes”. The \$229.2 million package invests in projects to protect and restore at-risk waterways and wetlands and provides support for farmers and growers to use their land more sustainably. provides funding (no \$ amount specified) to accelerate actions that improve water quality in at-risk catchments and wetlands. Addresses capability gaps and inconsistent practices across regions regarding rules implementation. This includes support for improving consistency between councils, better compliance and enforcement, better engagement with Māori, and improving scientific knowledge to inform plan development. <p>b) The Provincial Growth Fund (continues)</p> <p>c) Essential Freshwater Work programme – phrased as a non-spending initiative, the website says “<i>In October 2018, the Government launched an Essential Freshwater Work Programme to stop further degradation and loss, reverse past damage and address water allocation issues. These will be achieved through a new National Policy Statement for Freshwater Management and a new National Environmental Standard for Freshwater Management, among other things.</i>”</p> <p>d) Sustainable future initiatives part 2 (some have very limited info)</p> <ul style="list-style-type: none"> Climate Change Commission and Government response: providing funding (\$42.7m operating, \$0.4 capital) to establish key institutions and regulations and ensuring the Government has the resources to deliver on its obligations and commitments. Enabling agriculture transition: funding (\$122.2m operating) for: on-the-ground advice to farmers; supporting Māori agribusiness; information, tools and advice to support farmers making change to more environmentally sustainable and higher value production; improving on-farm emissions data and upgrading decision and regulatory tools; and protecting high-value food exports and updating our official assurances system. Freshwater and Transition to a Sustainable and Low Emissions Economy: \$64.3 million operating funding to establish key institutions and regulations. Reforms to RMA Strengthening the Integrity of the Environmental Management System: \$30.5 million operating, \$3.9 million capital. This initiative will enable NZ to better manage economic and urban growth within environmental limits. This will be done through providing funding for comprehensive reform of the resource management system and the improvement of implementation, compliance and enforcement of National Direction (how resources are managed under the RMA). |

Attachment 1

Overview of Central Governments Key Resource Management Related Workstreams

| What | Lead Agency | When | |
|-----------------------------|--|----------------------------|---|
| | | | <p>e) Meeting the climate change challenge: includes things like ETS changes and the Zero Carbon Bill.</p> <p>f) Unlocking Whenua Māori: investment in an advisory service for Māori landowners to help them develop their land. Hawke's Bay is not one of the initial focus regions (which are Gisborne/Tairāwhiti; Northland/Te Tai Tokerau; and Waikato-Wairariki/Waikato; and Bay of Plenty).</p> <p>g) Supporting Māori Crown relations and Treaty settlements: stipulates operating budget (probably for Māori Crown relations agency - Te Arawhiti) for various activities related to completing Treaty settlements and ensuring Crown land is in a decent state for redress.</p> <p>Also seems an increase in research and development funding across a few areas for transitioning NZ's economy to more climate change friendly activities and technologies.</p> |
| 'Environment Aotearoa 2019' | MFE and StatsNZ [weblink] | Report released April 2019 | <p>On 18 April MFE released Environment Aotearoa 2019 in partnership with StatsNZ. The report provides a health check on NZ's environment, identifying the top nine issues that we currently face.</p> <p>The report also contains a section on strengthening the knowledge and reporting system. It suggests more could be done to make better use of the knowledge system – particularly by aligning, coordinating and leveraging efforts across the many organisations involved.</p> <p>MFE's environmental reporting programme is currently being reviewed by the Parliamentary Commissioner of the Environment. PCE's recommendations are expected towards the end of the year.</p> <p>MFE's Marine Environment 2019 report is their next report, due to be released in mid-October with updated data.</p> |

| What | Lead Agency | When | |
|--|-------------|-----------|--|
| National Climate Change Risk Assessment (NCCRA) and Interim Climate Change Committee Recommendations | MFE | June 2020 | <p>NCCRA</p> <p>MFE are currently developing New Zealand's first national climate change risk assessment (NCCRA). It will improve our understanding of the nature and severity of the risks and opportunities posed by climate change, and enable action to adapt to climate change to be prioritised through the national adaptation plan. It will provide a national overview of how various hazards and threats may be influenced by climate change, and identify significant risks for New Zealand.</p> <p>The first step towards producing the NCCRA is to develop a framework that enables a broad range of risks to be systematically compared. An expert panel will develop the framework by the end of June 2019, along with guidance materials to help assess climate change risks at a national level.</p> <p>MFE will use the framework to commission the first NCCRA, with work scheduled to begin later this year and completed by the end of June 2020. MFE have indicated that will be working closely with local government as they develop the NCCRA.</p> <p>Interim Climate Change Committee Recommendations</p> <p>Last year, the Government asked the Interim Climate Change Committee (ICCC) to look into how to set up a system to reduce agricultural emissions – focusing on the NZ Emissions Trading Scheme (ETS), because this is the way all other emissions are managed in New Zealand.</p> <p>The ICCC delivered their recommendations to MFE in April, and the Government is considering its response. MFE says councils are unlikely to be strongly impacted. This is because the focus on the ETS as a policy tool does not involve implementation by councils. However, as the aim is to reduce on-farm emissions, there is a link to regional councils' work with on-farm environmental management.</p> |

HAWKE'S BAY REGIONAL COUNCIL

REGIONAL PLANNING COMMITTEE

Wednesday 03 July 2019

Subject: RESOURCE MANAGEMENT POLICY PROJECT JULY 2019 UPDATES

Item 11

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 and notes the "*Resource Management Policy Project July 2019 Updates*" staff report.

Authored by:

Ellen Humphries
POLICY PLANNER

Ceri Edmonds
MANAGER POLICY AND PLANNING

Approved by:

Tom Skerman
GROUP MANAGER
STRATEGIC PLANNING

Attachment/s

[1](#) RMA Projects July 2019 Update

Status Report on HBRC Resource Management Plan Change Preparation & Review Projects (as at 25 June 2019)

| Project | Narrative update | Next intended reporting to RPC |
|--|--|---|
| 'PC5' Integrated land & freshwater management | Refer to separate item on 3 July 2019. | 3 July 2019. |
| 'PC7' Outstanding waterbodies plan change | Under preparation. Not yet notified. At RPC meeting 15 May 2019, the RPC agreed that Draft PC7 be adopted as a draft for consultation with iwi authorities, territorial local authorities, and relevant Ministers of the Crown. The RPC also agreed that this consultation period would run for four weeks, closing on 14 June 2019. Further update reporting on feedback from pre-notification consultation is being presented to the RPC's meeting on 3 July. | 3 July 2019. |
| 'PC8' Mohaka Catchment plan change | Under preparation. Not yet notified. Preliminary project re-design is underway with Ngati Pāhauwera, iwi and Māori Trusts. Initial engagement has indicated that there is support for the development of an Agreement between Council and iwi. This is currently being prepared. Contact with the Taharua catchment landowners is also being re-established. The intention is to re-engage the wider community and progress this plan change from later this year, following notification of the OWB and TANK plan changes. | August 2019. |
| 'PC9' Greater Heretaunga/ Ahuriri catchment area plan change (a.k.a. TANK project) | Under preparation. Not yet notified. At meeting 12 December 2018, the RPC agreed that Draft PC9 version 8 be adopted as a draft for targeted consultation with relevant iwi authorities, territorial local authorities and relevant Ministers of the Crown. The RPC also agreed that this pre-notification consultation phase would commence in early 2019 and run for a period of six weeks. To date feedback has been received from: <ul style="list-style-type: none"> • NKII • Mana Ahuriri • HTST • TToH • Napier City Council • Hastings District Council, • DoC, and • HortNZ Draft PC9 version 9 is also available for public viewing on HBRC's website. Staff have summarised the responses received, provided comment in response to the feedback and suggested recommendations. This will be reported back to the RPC at a workshop on 2 July 2019 and at the meeting on 3 July 2019. | 3 July 2019. |
| Ngaruroro and Clive Rivers Water Conservation Order | Stage 2 of the hearing commenced on 26 February 2019. 8 March 2019 was the final sitting day of the hearing although the hearing will remain adjourned to allow for comprehensive closing submissions from the Applicant. The full written closing submissions and Version 5 of the draft Order were provided to the Environmental Protection Agency on 29 March 2019. | Staff will provide an update as and when new information becomes available. |
| Statutory Acknowledgements of Treaty settlements | No further Treaty settlement legislation relating to parts of the Hawke's Bay region has been passed into law since the previous update. <i>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.</i> | Staff will provide an update as and when new information becomes available. |

Item 11

Attachment 1

Attachment 1

| Project | Narrative update | Next intended reporting to RPC |
|---|--|--------------------------------|
| Responsiveness to 'National Direction' (i.e. legislation incl NPSs, national Regulations, national standards, etc). | Refer to separate item on 3 July 2019. | 3 July 2019. |

Item 11

HAWKE'S BAY REGIONAL COUNCIL

REGIONAL PLANNING COMMITTEE

Wednesday 03 July 2019

SUBJECT: STATUTORY ADVOCACY JULY 2019 UPDATE

Item 12

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 15 May 2019.
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 July 2019 Update*" staff report.

Authored by:

Ellen Humphries
POLICY PLANNER

Ceri Edmonds
MANAGER POLICY AND PLANNING

Approved by:

Tom Skerman
GROUP MANAGER STRATEGIC
PLANNING

Attachment/s

[1](#) Statutory Advocacy July 2019 Update

Statutory Advocacy Update (as at 25 June 2019)

| Received | TLA | Activity | Applicant/ Agency | Status | Current Situation |
|--------------|-------|---|--------------------------------------|--|---|
| May 2019 | CHBDC | Central Hawke's Bay District Plan Review CHBDC are undertaking a full review of the District Plan. Notification of proposed review plan is anticipated in early 2020. | Central Hawke's Bay District Council | Draft review discussion document released – public feedback open until 15 July 2019. | HBRC Staff are drafting a response. |
| Nov 2018 | NCC | Napier City District Plan Review Review of District Plan has been initiated. Preliminary phase of review underway with notification of proposed reviewed plan in 2020/21. | Napier City Council | Draft review discussion document released- public feedback closed | Previously... Napier City Council have publicly launched a review of their district plan. Public feedback was invited on the key themes about future planning needs and opportunities for Napier City. NCC are working through the public feedback it received to influence further drafting. HBRC's roles and activities will have interests in at least the following matters of the district plan review process: transport, natural hazards, water quantity, water quality, coastal environment, urban growth management, infrastructure planning, stormwater and wastewater management, biodiversity and open spaces. There will be further opportunities during NCC's District Plan Review process for HBRC to provide feedback and influence content. |
| 9 Dec 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 . |
| 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 | Previously... <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. 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 2017. |

| 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 completed Stages 1 & 2 hearing | <ul style="list-style-type: none"> Stage 2 hearing has now been completed. Stage 2 of the hearing focussed on the lower Ngaruroro River and Clive River whereas Stage 1 had earlier focussed on the upper catchment (above Whanawhana). The Co-applicants filed a written closing statement on 29 March 2019. The Tribunal is yet to announce any further timetabling or milestone events prior to it preparing a report and recommendations on the application. |
| 18 Jan 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 | Previously... <ul style="list-style-type: none"> HBRC has opposed the application based on concerns relating to the loss and degradation of soil (erosion) and water quality. A copy of the submission can be found at HBRC Submissions. HBRC staff and applicants have held discussions about potential alternative clearance proposals. |
| 8 Nov 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 | Previously... <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. http://www.hbrc.govt.nz/HBRC-Documents/HBRC-Documents/20140214-Submission-HDC-District-Plan.pdf |

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.

- Hastings District Council's District Plan Variation 5 regarding inner city living
- Hastings District Council's District Plan Variation 6 regarding heritage provisions for 'Vidal House.'

HAWKE'S BAY REGIONAL COUNCIL

REGIONAL PLANNING COMMITTEE

Wednesday 03 July 2019

Subject: DISCUSSION OF MINOR ITEMS OF BUSINESS NOT ON THE AGENDA

Item 13

Reason for Report

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

| Topic | Raised by |
|-------|-----------|
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