



## Meeting of the Regional Planning Committee

**Date:** Wednesday 18 September 2019  
**Time:** 1.00pm  
**Venue:** Council Chamber  
Hawke's Bay Regional Council  
159 Dalton Street  
NAPIER

### Agenda

ITEM	SUBJECT	PAGE
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3.	Confirmation of Minutes of the Regional Planning Committee meetings held on 3 July and 14 August 2019	
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## Parking

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

### Regional Planning Committee Members

Name	Represents
Karauna Brown	Te Kopere o te Iwi Hineuru
Tania Hopmans	Maungaharuru-Tangitu Trust
Nicky Kirikiri	Te Toi Kura o Waikaremoana
Liz Munroe	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 18 September 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**  
**TEAM LEADER GOVERNANCE**

#### **Approved by:**

**James Palmer**  
**CHIEF EXECUTIVE**

#### **Attachment/s**

[!\[\]\(b64b40baaee5acddc1eab8538ba84754\_img.jpg\) 1](#) Followups for September 2019 RPC Meeting





## Follow-ups from Previous Regional Planning Committee Meetings

## Meeting held 3 July 2019

ref	Agenda Item	Action	Responsible	Status Comment
1	Follow-ups from Previous RPC meetings	2 May 2018 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	18 September RPC meeting agenda item
2	Making Plan Change 5 Operative	Provide clarification as to whether owners are obliged to remediate drainage if and when a resource consent expires	M Miller	Reference 2 following
3	Making Plan Change 5 Operative	Provide brief overview of implications of Change 5 on the Regional Council's own operations in riparian margins	C Dolley	PC5 has no direct immediate implications on flood scheme maintenance/management operations as PC5 did not amend relevant rules in the RRMP. Those operations will be more directly affected by rules and provisions in the Tukituki and TANK plan changes and are managed in accordance with Asset Management Plans and associated codes of practice.
4	Resource Management Policy Project July 2019 Updates	Provide a list of all resource management plans and renewal dates, similar to tables in the HBRC annual report	E Humphries	Reference 4 following
5	Statutory Advocacy July 2019 Update	Provide WDC decisions on the resource consent application to clear 248 hectares of manuka and kanuka in Mahia	E Humphries	Awaiting advice from WDC, and will distribute to committee members via email once received.
6	RPC recommendations to Council	PC5, TANK and Outstanding Water Bodies Plan Change recommendations to Council	L Hooper	All recommendations carried as proposed at the 31 July 2019 Regional Council meeting.

## Meeting held 17 April 2019

ref	Agenda Item	Action	Responsible	Status Comment
7	HBRC 2019-20 Annual Plan Approach	Summary of the Annual Plan budgets relevant to the RPC to be provided to members	L Hooper	Relevant 2019-20 budgets listed as (reference 7)

**Reference follow-up 2**

Historically if a wetland is drained it is no longer a wetland. If this has been achieved through forming drains then these are likely to be lawfully established diversions if they precede the RMA and therefore these can continue as permitted activities under the RRMP. The discharge of drainage water via gravity flow systems is a permitted activity. (The discharge of drainage water via a pump station is a controlled activity). Under the RRMP, councils are able to undertake river control and drainage works as described in the HBRC Environmental Code of Practice, as a permitted activity. So generally activities falling within these categories are able to continue without expiry.

The Poukawa Catchment scheme is an established flood drainage scheme established in the 1970s and 1980s. The operation and maintenance of this scheme is a permitted activity. There are some consented elements to this. One is the operation of a control gate below Lake Poukawa. This is not to control the lake level but rather to hold water in the soils for agricultural benefit during the summer. Another consented activity is the bunding along drains to hold water in the lake and drains and the pumped discharge of water from the land into the drains and lake. This has become necessary because of the shrinking of the peat soils across the agricultural and cropping areas causing the levels to drop below the drain and lake levels.

These two consents have the same expiry dates, i.e. 31 May 2023. If these consents are not replaced at this time then current farming activities will not be practical to the current extent and changes will be required. Potentially reversion to a wetland will extend covering a larger area if water is not pumped off the land. If this was to occur the need for maintaining the drainage scheme in the current manner would need to be reviewed. How active Council or consent holders should be in taking remedial actions is open to question. If the consent to control levels is allowed to expire then the structure should be removed to the extent necessary to stop the ability to control the levels. If the consent to pump water expires and is not renewed then water will pond over a larger area for longer probably allowing a reversion to wetland without much other action. There is nothing associated with the consent or under the RMA that would require other remedial action or enhancement of the wetland.

## Reference follow-up 4

Plan/Plan Change	Operative Date / (Notification Date)	Review Date (if any)
Regional Policy Statement	28 Aug 2006	28 Aug 2016 – Planned to commence 2021
Regional Resource Management Plan (RRMP)	28 Aug 2006	28 Aug 2016 – Planned to commence 2021
Regional Coastal Environment Plan (RCEP)	8 Nov 2014	8 Nov 2024 – Planned to commence 2021
RRMP Change 1 - Geographic coverage of coastal environment	8 Nov 2014	
RRMP Change 2 - Air Quality	1 Jan 2012	
RRMP Change 3 - On-site Wastewater	1 Oct 2012	
RRMP Change 4 - Managing the built environment	1 Jan 2014	
RRMP Change 5 - Land Use and Freshwater Management	24 Aug 2019	
RRMP Change 6 - Tukituki River Catchment Plan	1 Oct 2015	
RCEP Variation 1 - Rivermouth hazard areas	8 Nov 2014	
RCEP Variation 2 - Air Quality	8 Nov 2014	
RCEP Variation 3 - On-site wastewater	8 Nov 2014	
RRMP Change 7 - Outstanding Water Bodies	(31 Aug 2019)	
RRMP Change 8 - Mohaka Catchment Plan	(estimated 2021) TBC	
RRMP Change 9 - TANK (Tutaekuri, Ahuriri, Ngaruroro, Karamu) Catchment Plan	(2019) TBC	
RRMP Change 10 - Oil and Gas Regulation plan	Ceased*	To be incorporated in RRMP/RCEP review*
Remaining catchment areas (i.e. Esk, Nuhaka, Te Ngaru, Tutira, Porangahau, Southern coast area, Waihua, Waikari, Waipatiki, Wairoa, Whakaki etc.)	(estimated 2024)	

**NOTE:** The NPSFM requires overall policy implementation by 31 December 2025. Although NPSFM Policy E1(ba) allows for that date to be extended to 31 December 2030 in some circumstances. Based on a recommendation from the RPC, in November 2018 Council agreed to extend the full implementation out to 31 December 2030 because meeting a 2025 timeframe would result in lower quality planning and it would be impracticable for the Council to complete implementation of all policies by 31 December 2025.

\* At meeting 12 September 2018, RPC recommended to Council to cease further work on the preparation of the Oil and Gas Plan Change, with a view to incorporating this work, as appropriate in future coming reviews of the Regional Resource Management Plan and the Regional Coastal Environment Plan. That recommendation was subsequently agreed by the Regional Council on the 26 September 2018.

Reference follow-up 7

Projects relating to Regional Planning Committee work include the following.

Project 840 – Community Representation & Regional Leadership

Hawke's Bay Regional Council - Annual Plan 2019/2020		
TANGATA WHENUA ENGAGEMENT		
PROJECT #: 874		
PROJECT EXPENDITURE	Job #	Ann Pin 2a Ann Pin 2019/20 Wks / \$
TOTAL PROJECT COSTS		766,124

Hawke's Bay Regional Council - Annual Plan 2019/2020		
STRATEGIC DEVELOPMENT AND EXECUTION		
PROJECT #: 190		
PROJECT EXPENDITURE	Job #	Ann Pin 2a Ann Pin 2019/20 Wks / \$
TOTAL PROJECT COSTS		501,458

Hawke's Bay Regional Council - Annual Plan 2019/2020		
REGIONAL COASTAL PLAN		
PROJECT #: 191		
PROJECT EXPENDITURE	Job #	Ann Pin 2a Ann Pin 2019/20 Wks / \$
TOTAL PROJECT COSTS		121,837

Hawke's Bay Regional Council - Annual Plan 2019/2020		
STRATEGY & PLANNING		
PROJECT #: 192		
PROJECT EXPENDITURE	Job #	Ann Pin 2a Ann Pin 2019/20 Wks / \$
TOTAL PROJECT COSTS		1,669,066

## HAWKE'S BAY REGIONAL COUNCIL

### REGIONAL PLANNING COMMITTEE

Wednesday 18 September 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 14.

Item	Topic	Raised by
1.		
2.		
3.		

**Leeanne Hooper**  
**TEAM LEADER GOVERNANCE**

**Joanne Lawrence**  
**GROUP MANAGER**  
**OFFICE OF THE CE & CHAIR**



## **HAWKE'S BAY REGIONAL COUNCIL**

### **REGIONAL PLANNING COMMITTEE**

**Wednesday 18 September 2019**

**Item 6**

#### **Subject: PROPOSED TANK PLAN CHANGE 9 ADOPTION FOR NOTIFICATION**

##### **Reason for Report**

1. This item seeks the Committee's decisions to enable notification of proposed TANK Plan Change 9.

##### **Background**

2. The RPC considered a series of recommendations in respect of the TANK Plan Change at their meeting on 3 July 2019. Some of the recommendations were in respect of matters considered at the RPC meeting on 15 May and carried over to the July meeting.
3. The Committee did not make any decisions and instead directed a sub-group of RPC members, technical advisers, representatives from TToH and NKII and HBRS staff to consider and make recommendations on the issues identified by RPC tangata whenua representatives as still outstanding.
4. The RPC sub-group and advisors met twice (25 July and 1 August) and reported findings to the RPC meeting on 14 August. That RPC meeting did not proceed, however, feedback from the tangata whenua representatives on the TANK Plan Change draft V9.2 was provided and this led to a further meeting of the RPC subgroup on 22 August.
5. This report accounts for the findings of the sub-group, including recommendations for further amendments.
6. This item also encompasses all additions and amendments to Version 9 of the Plan as reported on at the 3 July meeting but for which a decision is still to be made. These amendments are provided still as tracked changes in Version 9.3 in attachment 1.
7. The supporting Section 32 report for these changes is provided as attachment 2 (electronically only). Decisions made in respect of this item are integrally linked to the Section 32 report which remains in draft as its content may be amended as a result of this report. Note that a peer review is currently being undertaken and advice from the peer reviewer will be tabled at the meeting.
8. Note also that the Implementation Plan (not attached to this report) is also a critical component of the TANK Plan Change. It provides further direction about how the proposed policies and rules are to be implemented, including commitments by various stakeholder organisations and mana whenua that reflect a collaborative approach to the ongoing TANK Plan Change process.
9. The topics described in more detail in this report as a result of directions by the RPC and discussions with the RPC sub-group are as follows.
  - 9.1. Heretaunga Plains groundwater allocation limit
  - 9.2. Policy direction for stream flow maintenance
  - 9.3. Assessment of TANK Plan Change in relation to Outstanding Waterbodies PC7.

##### **Allocation Limits and Stream Flow Management**

10. The RPC considered alternatives to the allocation limit included in PC9 V9.1 for the Heretaunga Plains at their meeting on 3 July 2019. The discussion arose in relation to concerns about the potential effectiveness of the stream flow maintenance scheme that has been included to manage effects groundwater abstraction on stream flow and options for further reducing groundwater abstraction to address that concern.

11. Members of the RPC also expressed a view that the combined management provisions did not adequately provide for the range of instream values held for the Heretaunga Plains water bodies and there would be an adverse impact on tikanga Māori as a result of the stream flow maintenance scheme.
12. The draft plan contains a number of measures in relation to the management of water abstraction from the Heretaunga Plains water bodies. These measures are summarised in Table 1 in attachment 3.
13. The policy direction includes management of the Heretaunga Plains aquifers as if it was over-allocated as it prevents further allocation and re-allocation of water pending further information about and review of the:
  - 13.1. actual water use
  - 13.2. total allocated amount following review and replacement of all existing water permits
  - 13.3. stream flow information
  - 13.4. degree of success of the proposed stream flow management regime
  - 13.5. effectiveness of other ecosystem improvements, and
  - 13.6. appropriateness of the interim allocation limit in light of this review.
14. One component for water management is the establishment of an allocation limit. The draft included 90 M m<sup>3</sup>/year as an 'interim' allocation limit. It is substantially less than the currently allocated amount of around 140-160 M m<sup>3</sup>/year.
15. The interim 90 M m<sup>3</sup>/year limit, in combination with Policies 38 and 45 was intended to ensure that no new water can be allocated until the plan review is undertaken, even if water becomes available within allocation limits (a minor exception is currently provided for re-allocation to urban or community use but see further discussion below about Policy 45).
16. Although not expressed as such, the policies provide for a 'sinking lid' approach to water allocation until a review occurs following implementation of this Plan. This is made more apparent by suggested amendments listed in **Table 1: List of issues and amendments**.
17. Protection of surface water bodies is generally provided by specified minimum flows. These previously acted as cease take triggers for surface and groundwater takes that had been classed as stream depleting by virtue of their proximity to a stream.
18. The Heretaunga Plains Groundwater model shows all groundwater takes are stream depleting to a greater or lesser degree. The Plan proposes that existing groundwater takes that have a similar effect to a surface take will continue to be subject to a minimum flow cease take. The cumulative effect of all the remaining groundwater takes is now going to be subject to a management trigger flow that requires action to protect the stream flow and its associated ecosystem health. This is a new provision that directly addresses the stream depletion effect.
19. The management approach in the draft plan includes offsetting or mitigating the stream depletion effects of groundwater takes by maintaining stream flow through pumping groundwater or stored water into the stream. It enables water users to avoid a cease take restriction if water is pumped into streams to offset their depletion effect when flows fall below the specified trigger. Note however, that in one part of the Plains (the Paritua/Karewarewa area), the lack of certainty about groundwater and surface water connections and management opportunities is reflected in specific policy direction for further investigation, data collection and development of alternative management measures.
20. The draft Plan envisages that not all adverse effects associated with water abstraction in the Heretaunga Plains will be avoided, but that the management solutions included in the plan will remedy or offset adverse effects on ecosystems and instream values while still providing for the economic and social values of the abstracted water.



21. Tangata whenua sought further information about reductions in water allocation and use than were indicated by the modelling based on the 2012-13 drought year. Attachment 3 provides modelling information about the extent to which water use would need to be reduced in order to significantly reduce stream depletion.
22. The terminology of 'interim' is creating some confusion about the nature and role of this allocation limit. The 90 M m<sup>3</sup>/year reflects modelled use during the 2012-13 year. New permits issued subject to this plan will therefore only be provided where there is an existing permit due for expiry and each permit will be subject to an actual and reasonable assessment of water use that results in a defined annual or seasonal amount. Permits not expiring will also be called in and reviewed within ten years. For irrigators, this is based not only on use in the ten years up to 2017, it is also further subject to specified reliability of supply, modelled crop water demand and efficiency standards.
23. Industrial and commercial water abstraction will also be subject to this actual and reasonable assessment including demonstration of efficient water use. An exception for actual and reasonable is provided for urban water supply who must meet demands of urban growth through savings made in existing networks. This is further discussed in attachment 3.
24. The allocation limit was therefore considered interim because:
  - 24.1. there is uncertainty about the current levels of water allocation and water use
  - 24.2. it is not known whether the existing level of use (based on 2012-13) in combination with all the other management measures will adequately address adverse stream depletion effects
  - 24.3. the resulting amount allocated following the expiry and review of existing consents is not yet known
  - 24.4. it is unknown what, if any, measures would be needed to reduce allocation further to some other limit, and what the associated costs of further reduction might be
  - 24.5. in making decisions about further reductions in water allocation and use, information about costs and benefits of any reduction will need to be determined
  - 24.6. any further reduction in the allocation limit and any changes to the way water is allocated can only be done through a plan change process.
25. Other Plan provisions and ongoing information gathering, including more precise water and land use data and water quality information, will also impact on how the sustainable limit is to be more definitively determined upon review. In particular, the success of the stream flow maintenance and habitat enhancement schemes will be assessed in relation to their effectiveness in meeting ecosystem health and water quality objectives alongside the allocation limit and actual water use. While there is already a successful example of this sort of scheme in operation at Twyford, and the Heretaunga Plains groundwater model supports this solution for other streams, there is still a lack of confidence in its effectiveness that still needs to be assessed. The Plan sets up a staged management process that enables this to occur.
26. It was previously suggested that 'interim' be deleted because review Policy 39 already indicates it is subject to review. However, stronger direction about the interim and staged management nature of the plan provisions was sought by tangata whenua. This would better reflect their concerns about the effectiveness of the stream flow maintenance scheme in adequately protecting ecosystem health in the lowland streams and its role in the longer term.
27. Inclusion of 'interim' in respect of the allocation limit is therefore suggested as it reflects the intent of the review policy and the more staged approach towards more sustainable management. As a result of concerns, it is suggested that use of the term 'interim' is helpful although a further option to delete reference to a specific allocation limit is also included for consideration following.

**RPC Sub-group feedback**

28. As noted above, the numerical value of the allocation limit became an issue for mana whenua and for water users in relation to:
  - 28.1. its origin (as modelled water use in a drought year)
  - 28.2. whether it provides for the water body values in connected waterbodies
  - 28.3. whether it reflected sustainable groundwater allocation
  - 28.4. what future impact it might have on existing users including current and foreseeable municipal supply.
29. The Heretaunga Plains Groundwater model shows that if it does not increase any further, current water abstraction is not leading to 'mining' nor does it represent unsustainable rates of groundwater abstraction – however, further abstraction will cause increased levels of adverse effect, including on flows in connected waterbodies and access to groundwater if levels drop further.
30. The current level of abstraction has a cumulative stream depletion effect on connected waterbodies. The 'current level of abstraction' is not yet able to be definitively calculated and modelling was used to understand what it might be. A drought year was used as a worst case to enable various scenarios to be modelled and compared. Water use varies from year to year and in an average year will be less than the amount modelled for the drought year 2012-13.
31. The water use in this drought year was modelled at 90Mm<sup>3</sup>/year, but note that this amount does not necessarily reflect the new allocation regime. This is because the amount to be re-allocated (following review or replacement of existing permits) will be less than the amount modelled as re-allocation, particularly for irrigation, is on the basis of a limited volume that provides for slightly less than the amount needed at all times. Uniform application of the IRRICALC water demand model and efficiency of use standards that did not previously apply will be applied.
32. Furthermore, given the likelihood of further adverse effect if abstraction was to increase, the plan establishes new policy and rules to prevent new abstractions of groundwater and adopts a sinking lid approach that ensures any 'returned' water is not re-allocated. This occurs whether any numerical limit is established or not.
33. An alternative allocation limit of 80Mm<sup>3</sup>/year has been suggested but little evidence is available to support it, other than it is less than 90Mm<sup>3</sup>/year and may assist in reducing stream depletion effects. However, stream depletion management solutions are already an integral component of the draft plan. It remains to be confirmed (through the review policy direction) whether this management solution along with the new allocation regime is a sustainable option in comparison with further allocation reductions.
34. Given the debate about specification of a numerical allocation limit, further options for managing groundwater allocation have now been advanced. In order to avoid unhelpful debate about whether 80 or 90Mm<sup>3</sup>/year is the more appropriate limit, the draft proposed plan now includes provisions that:
  - 34.1. Limit any allocation of water to existing actual and reasonable use, (Policy 34B and 35 and refer also to Policy 47, TANK Rule 7 and glossary)
  - 34.2. Ensure no new allocation of water by establishing a prohibited activity for new takes, (Policy 34B and Rules TANK 7, 9 and 10a and Schedule 6)
  - 34.3. If any water is returned through any permit review or reduction, it is not made available for re-allocation (sinking lid Policy 34B and 35)
  - 34.4. Ensure transfers of water do not result in any new or increased water use (policy 43)
  - 34.5. Review the success of these measures as per existing policy 39.

### Prohibited activity for new water takes

35. Of the measures listed above, apart from not having a numerical limit, a new element to consider is the inclusion of a prohibited activity for any new water take. A resource consent application cannot be made for a prohibited activity and a consent cannot be granted. The prohibited activity status is the most restrictive of any activity status and therefore must be used with care. The prohibited activity status is only used when the activity in question cannot be contemplated in any circumstances. The decision to use it should be backed with strong evidence of its necessity, including justification through objectives and policies.
36. The Plan already provides objectives and policies that seek the sustainable use of the groundwater resource of the Heretaunga Plains. Its value for the needs of people and communities as well as its contribution to economic and social well-being is recognised, while also seeking to provide for the maintenance of groundwater levels and contribution of flows to connected waterbodies. The policy framework introduces restrictions and limits to enable objectives to be met.
37. One of the biggest challenges being managed by the plan is the cumulative effect of groundwater abstraction on connected waterbodies, including not just from consented activities but also in relation to permitted activities.
38. The policy direction is clearly aimed at both limiting any new allocation, while also reducing water use. This regime will apply until more data and information about water use and mitigation measures is available. This includes for permitted activity takes which are provided for, but at a significantly reduced level compared with what is currently authorised.
39. A prohibited activity is not inconsistent with, and may arguably better support this policy approach. While a prohibited activity poses a risk in relation to the level of certainty about whether a water take should not be contemplated in any circumstances, a water take allocation limit does by its very nature establish that a limit has been reached and no water should be allocated beyond it. A prohibited activity status avoids the potential for assessing a single activity as no more than minor while not fully accounting for cumulative effects of many such activities.
40. A new water use under this regime can still be established provided it is through a site to site transfer of an existing water use, or where water that is already allocated is shared with new users.
41. While tangata whenua sought a prohibited activity to protect water resource values, they consider that it would essentially confirm 'grand-parenting' for existing users and represents a 'bitter pill' in relation to their aspirations for access to the water resource. While there are opportunities still available through transfer or water storage this plan should however, also be seen as a staged approach to better management and allocation. Understanding current demand and use and establishing appropriate allocation limits is a first step to better allocation and management regimes. The next iteration of this plan may take the opportunity to re-consider how water is allocated in the future, including whether there are any other approaches available to address iwi rights and interests. By then, there may also be more national direction to assist in managing this challenging issue.

### Non-complying water takes

42. If new takes were to continue as non-complying, the Act directs that councils can grant consent where an application can meet the following tests:
  - 42.1. the adverse effects on the environment will be minor or
  - 42.2. the application is not contrary to the objectives and policies of the plan.
43. The fact that either of the tests need to be met, but not both, means there is a risk that applications for new water use may be granted where they have minor effect, but this adds to the cumulative water take that is already causing adverse effects. The strong policy direction limiting new water use would, however, enable Council to decline such applications other than in exceptional circumstances.

44. A non-complying activity status would be appropriate if Council wished to enable contemplation of a water use proposal in exceptional circumstances. It could be that new resource information, such as from the proposed Skytem survey for example, indicates new or different understanding about the groundwater resource. Non-complying status would reflect the staged management approach of the plan provisions and the identified need for further data and information.
45. The arguments for and against prohibited are finely balanced – particularly given that it is decisions to prohibit water use application, an essential component of human health and well-being, that are being considered.
46. However, given:
  - 46.1. the role of water allocation limits in preventing on-going degradation of water ecosystems from the effects of cumulative abstraction
  - 46.2. existing concerns about the adverse environmental effects resulting from the current level of allocation
  - 46.3. the options for site to site water transfers or sharing and water storage or augmentation to meet new demand
 a prohibited activity status for takes beyond specified allocation limits is included in the Plan.

### **Springs and connected water bodies**

47. The protection of spring flow and lowland stream ecosystems is of particular concern to tangata whenua and they note a range of uncertainties and issues with the scheme and in relation to the modelled management scenarios.
48. The lack of certainty that the Plan provisions will actually improve current poor state of some lowland tributaries remains a concern for tangata whenua. For example, it is known that not all streams affected by depletion can be managed in this way. For some, losses to groundwater will exceed any flow maintenance pumping (such as for the Karewarewa). In other circumstances, small tributary waterways may be too far from a cost effective pumping scheme solution.
49. The required detail for each scheme cannot be provided for at a Plan level as each scheme will depend on a range of local and site specific issues including identifying relevant water permits, abstraction and pumping options, and any other measures that a water user collective might develop to ensure stream flows are maintained, such as by rostering or changing points of take. Opportunities and constraints for stream flow maintenance solutions will need to be addressed in more detail through subsequent resource consent processes.
50. In order to address concerns about the stream flow maintenance scheme in a more transparent way, and to ensure scheme design and operation takes adequate account of the uncertainties and risks, new plan provisions have been developed that more clearly direct the management of stream flow maintenance and habitat enhancement.
51. Existing policy direction has been further strengthened and more detailed guidance provided for the outcomes expected from such schemes. The cumulative effects and consequent need for collective solutions has also been more clearly reflected in a new Schedule 11. The Schedule is modelled on the Farm Plan and Catchment Collective approach (as provided in Schedule 5) and allows for water users to pool resources and develop solutions to meet the objectives set in the plan. The key driver for these collectives is provided through the resource consent requirements for stream depletion management and the alternative solution that requires water takes to cease when flow triggers are reached.

52. The amendments are as described in Table 1 following.

**Table 1: List of issues and amendments**

	Issue	Amendments	Risk and Opportunities
1	The stream flow maintenance scheme does not fully remedy impacts on mauri or reflect tikanga or matauranga Māori.	Adverse effects of groundwater abstraction on mātauranga Māori and tikanga clearly acknowledged in Policy 34 as over-riding concern. Section 32 report to reflect nature of these concerns	Tangata whenua concerns may not be fully addressed by the Plan – but plan review process will enable reassessment about the extent to which adverse effects are to be further avoided or remedied and mitigated
2	Staged (or interim) approach to management	Policy 34 amended to describe components of staged management approach and new Policy 34 B describes allocation regime. Policy 39 for review remains with amendments to clarify what is being assessed.	Policy 34 more clearly describes the steps being used to develop sustainable groundwater allocation management for Heretaunga Plains groundwater.
3	The re-allocation of water based on the defined 'actual and reasonable' assessment.	Allocation for new water use is avoided as re-allocation is only in respect of existing permits and defined 'actual and reasonable' assessment. An exception for urban takes who have to meet planned urban development (HPUDS) within existing allocations. Policy 34B and 35 and 45	Existing investment is provided for, although is more constrained than previously to drive more efficient water use and management systems.
4	Any water that is unallocated, even if the total allocation is less than the specified limit, would not be re-allocated to any use until a review had been carried out- a sinking lid approach	If there is unallocated water it is left unused to provide additional protection for ecosystem values. Policy 43 deleted. Policy 34B and 47	Policy 45 previously allowed for re-allocation to urban use. Urban use must meet future demand within existing limits and through efficiency gains. Avoids further investment into water that might need to be clawed back if the allocation limit is further reduced
Either a limit 5a	Either: 1. An interim allocation limit be set at 80 M m <sup>3</sup> /year or 2. An interim allocation limit be set at 90 M m <sup>3</sup> /year.	The 90Mm <sup>3</sup> /year reflects the worst case modelled amount for a significant drought. Average use is estimated at 78 M m <sup>3</sup> /year 80 M m <sup>3</sup> /year is an intermediate number that reflects an intention to reduce allocations further Policy 34B, Rule TANK 10, Schedule 6.	The Plan currently provides for management of adverse stream depletion effects through stream flow maintenance provisions. The current groundwater levels are at an equilibrium if abstraction is not increased further. The review directions require all of the plan components to be assessed for effectiveness. This includes in relation to more accurate water use data.

	Issue	Amendments	Risk and Opportunities
Or no numerical limit 5b	No specific allocation limit be included but the combination of actions relied on to prevent new allocations and reduce current allocations	Combination of other provisions means limit is provided by preventing any new allocation of water to actual and reasonable and otherwise managing the HPs aquifer as over-allocated until review of plan provisions carried out	This more accurately reflects the uncertainties about the sustainable allocation limit and the impacts on water abstraction resulting from any changes beyond those already modelled.  This also reflects the strong commitment for review of all aspects of water management for the aquifer because of the nature of the uncertainties and the significant potential costs and benefits associated with this decision.
6	Prohibited activity for new water uses	Non-complying rule now made prohibited and no consent can be applied for.	Prohibited provides greater level of control and better reflects concerns about the current level of allocation. Enables further over-allocation to be prevented. Avoids risk of allowing additional minor takes to add to the cumulative effects of all water takes. New water uses will rely on transfer of existing allocated water (subject to some limitations on site to site transfers). Risk that a future water use that might be contemplated in exceptional circumstances cannot be applied for.
7	The outcomes from stream flow maintenance and habitat enhancement scheme development and operation are more clearly provided for	Provides more clarity about obligations and expectations in respect of the design and operation of such schemes  Policy 36 and new Schedule 11	Enables both flexibility and innovation while establishing minimum requirements.
8	Further direction included about how success of the stream flow maintenance and habitat enhancement scheme would be assessed.	Assessment criteria included in the policy and reflected in monitoring requirements for the schemes  New Policy 37 and Schedule 11	Provides more clarity in relation to expectations and performance.
9	Concern that new clauses about constraints for developing large infrastructure over time creates a loophole for new use. (V9.1; Policy 34 Clause (h)(v).	The clause has been removed. More targeted amendment to Rule TANK 7.	The provision was not intended allow new development but to protect existing authorised commitments to water use. It has very limited application.

	Issue	Amendments	Risk and Opportunities
10	The development of the stream maintenance schemes needs to be in advance of water permit expiry	The implementation plan needs to be more explicit about council's role in making sure the schemes are able to be developed and rolled out as consents expire and new applications are made.	Provides more clarity for consent applicants.

### Amendments

53. As a result of further input and discussion by the RPC sub-group, a number of amendments to the Heretaunga Plains policies and rules, including a new schedule, have been developed to reflect the direction in Table 1 including associated amendments to the Implementation Plan. Amendments are shown in tracked changes in the attached Version 9.3 of the TANK Plan Change (attachment 1) and include Option 5b.

### Outstanding Waterbodies in TANK Catchments

54. The RPC has made decisions on a change to the RPS for outstanding water bodies. An assessment of the TANK plan change for these water bodies is provided below. Since the last meeting of the RPC, the Special Tribunal has also released its (draft) decision in respect of the Water Conservation Order application for the Ngaruroro and Clive Rivers. The implications of the Draft Order are also described following.
55. The outstanding water bodies in the TANK catchments as listed in Proposed Plan Change 7 are:
- 55.1. Wetlands and lakes
  - 55.2. Kaweka Lakes
  - 55.3. Lake Poukawa and Pekapeka Swamp
  - 55.4. Ngamatea East Swamp
  - 55.5. Ngaruroro River
  - 55.6. Tūtaekurī River
  - 55.7. Taruarau River
  - 55.8. Karamu River
  - 55.9. Heretaunga Aquifer.
56. The Ahuriri Estuary is also identified as an Outstanding Water Body. The TANK Plan Change provides land and water management provisions in respect of freshwater bodies. The Plan must also ensure an integrated approach with respect to inputs to coastal waters and to that extent the TANK Plan Change addresses freshwater inputs to the Ahuriri Estuary and potential impacts on estuary values.

### Requirements for Outstanding Waterbodies

57. The National Policy Statement for Freshwater Management (NPSFM) Objectives A2 and B4 require the protection of the significant values of Outstanding Waterbodies (OWB) while water quality is maintained or improved and that water is not over-allocated. The NPSFM objectives do not require improvement beyond the current state to enable a water body to become (more) outstanding.
58. Protection does not necessarily mean no further use or development. Guidance from the Ministry for the Environment states;
- 58.1. *"The NPSFM objectives do not require that every aspect of the water body is fully protected, unless that is necessary to protect the outstanding characteristics. For example a water body may be outstanding because it is the habitat for an endemic"*

*freshwater fish, but protecting that fish may be possible even if some water takes and discharges are authorised.”*

59. The RPS objectives requires protection of outstanding and significant values and includes several policies in relation to the preparation of regional plans and the consideration of resource consents.
60. Table 1 in attachment 4 shows how TANK refers to the water bodies and what provisions are included to protect identified values. A summary of the Plan provisions for the values identified in PC7 is provided as follows.

#### **TANK Plan provisions for wetlands**

61. Wetlands and lakes are assigned high levels of protection already, both as a result of existing RRMP rules that require no adverse effects as a result of specified activities, and further within the TANK catchments as all wetlands in the TANK catchments are recognised for their high natural, ecological and cultural values. With the exception of Lake Poukawa, the specific wetland/lake water bodies (Listed above) are not however, separately mentioned in PC9.

#### **TANK Plan provisions for the Ngaruroro and Tūtaekurī Rivers**

62. The indigenous species, ecosystem health, recreational activities and particularly natural character, instream values and hydrological functioning values of the mainstem of the Tūtaekurī and Ngaruroro rivers and four of their tributaries are protected and improved, particularly in relation to:
  - 62.1. the establishment of freshwater quality objectives
  - 62.2. prohibition on damming
  - 62.3. high flow allocations
  - 62.4. flow triggers for water abstraction at high and low flows
  - 62.5. riparian land management.
63. The improvement to the values provided for by this range of measures will improve the mauri of the water bodies and is therefore intended to also improve cultural and spiritual values.
64. The provisions of the TANK plan go beyond the ‘protection’ of these existing values to improvement of them.

#### **TANK Plan provisions for water quality**

65. Water quality is subject to new TANK Plan Change objectives for the maintenance or improvement of freshwater quality. Freshwater quality state objectives are specified for a large range of water quality attributes. Attribute states are set in relation to the most critical or sensitive value for that attribute (e.g. E. coli levels represent maintenance and improvement of water quality for swimming, while clarity protects water quality for fish that rely on visual clarity for feeding).
66. The TANK Plan specifies that ‘maintain’ means ensuring the state of the attribute does not decline below its present state if it is already above the specified state, and must be improved if it is below the specified state. It does not allow for movement to a lower quality within an NPSFM band for that attribute.
67. Both the values identified in the TANK Plan Change and the significant values listed in the OWB plan change are therefore being protected and improved.

#### **TANK Plan provisions for water quantity**

68. PC9 introduces new allocation limits and flow triggers for both high and low flow abstraction, and includes a new limit for total abstraction from the Heretaunga Plains aquifer.
69. In particular, damming is prohibited to protect the natural character, instream values and hydrological functioning both for the Ngaruroro and Tūtaekurī Rivers and four of their



tributaries. This serves to protect values such as jet boating and the braided reaches which are essential habitat for some bird species.

70. New allocation limits are also specified for both the Ngaruroro and Tūtaekurī Rivers at low flows. The allocation limits have been substantially reduced to reduce impacts of abstraction on instream values. Further, the Plan seeks to increase the minimum flow for the Tūtaekurī.
71. The TANK Plan Change recognises and manages a wider range of values in relation to water quantity in addition to the instream and intrinsic values and also addresses the needs of people and communities for water.
72. Both the values identified in the TANK Plan Change and the significant values listed in the OWB plan change are therefore being protected and improved.

#### **TANK Plan provisions for ecosystem health**

73. A key factor for improving water quality and ecosystem health is linked to good riparian land management. PC9 focuses on improved riparian management and includes milestones for both stock exclusion and riparian planting to provide shade. These provisions will improve natural character, instream values and water quality and habitat for indigenous species.
74. Both the values identified in the TANK Plan Change and the significant values listed in the OWB plan change are therefore being protected and improved.

#### **RPS Policies for Outstanding Waterbodies (PC7)**

75. New and amended objective and policy has been introduced into the RPS to identify and direct management of outstanding waterbodies as per the direction of the NPSFM. The RPS objectives requires protection of outstanding and significant values and includes several policies in relation to the preparation of regional plans and the consideration of resource consents
76. Table 2 in attachment 4 provides an assessment of the specific new policies introduced by PC7 in relation to the provisions of the TANK plan Change.
77. The overall assessment is that the TANK Plan Change does give effect to the RPS provisions for outstanding water bodies in the TANK catchments. However a couple of amendments are suggested to ensure the appropriate connections are made.

#### **Amendments**

78. **Objective 2-** Amend clause (e) to read:

“The significant values of the outstanding water bodies in schedule 25 and the values in the plan objectives are appropriately protected and provided for.

79. **Objective 15**

Insert new clause “(f) the protection of the outstanding values of the Kaweka Lakes, Lake Poukawa and Pekapeka Swamp and the Ngamatea East Swamp”.

#### **Water Conservation Order**

80. The Special Tribunal found that a WCO should be made over the upper Ngaruroro River in respect of the following values or characteristics:
  - 80.1. habitat for rainbow trout
  - 80.2. rainbow trout fishery
  - 80.3. angling amenity and recreation
  - 80.4. white water kayaking and rafting amenity and recreation
  - 80.5. wild, scenic and other natural characteristics.
81. The Tribunal did not find that an order should be made for the lower river(s).

82. The TANK plan change objectives acknowledge most of these values but some are not specifically mentioned such as 'wild and scenic'. PC9 identifies the need to protect natural character and instream values generally. PC9 also refers to boating generically, including jet boating on braided reaches, although it does not mention kayaking or rafting in the upper river specifically.
83. Further, the Plan does not provide protection of the upper reaches separately; it is the natural character and all instream values of the entire river that are being protected by damming prohibitions for example. The water quality objectives are however differentiated between the upper and lower, with higher standards established for the upper, particularly reflecting their current high quality state. The water quality schedules in both documents are largely similar although there may be some technical amendments that may yet be made to the Order for clarity.
84. The TANK Plan establishes new allocation limits for the surface and groundwaters of the Ngaruroro catchment. No further groundwater can be abstracted and surface water abstractions are limited by new allocation limits that have resulted in the Ngaruroro River being considered over-allocated and subject to new policies and rules to manage this over-allocation.
85. Attachment 5 provides further assessment of the TANK Plan Change in relation to the draft order. However, no recommendations for changes to ensure PC9 is consistent with the Order are being made at this time. We suggest that the Council delays making amendments until the Order has progressed through all of its stages. A submission to the Council's own plan can then be made, if timing permits or a variation to the Plan Change lodged when appropriate.

#### **Other Issues**

86. It is recommended that suggested amendments reported in respect of the 3 July report to the RPC are also incorporated into the Tank Plan Change for notification. A number of additional minor corrections and amendments have also been made to previous versions and are shown as tracked changes in Version 9.3 (attachment 1).
87. The accompanying Section 32 report that fulfils the requirements of the Act to evaluate appropriateness of the provisions, examine options and assess the efficiency and effectiveness of the measures as well as identify the costs and benefits and the risks of acting or not acting has been prepared and is attachment 2 (provided electronically only). It is still in draft and subject to decisions of this committee. The options for the notification process are being reported on separately to this meeting of the committee.

#### **Consideration of Tangata Whenua**

88. The TANK Plan Change when it is notified will have considerable potential impact on tangata whenua and the values they hold for water. This report arises in relation to their feedback on the pre-notification draft of the Plan Change and demonstrates that particular regard is being given to the advice received from iwi authorities.
89. The section 32 report describes how the TANK Plan change and the process of its development involved iwi and reflects iwi values.

#### **Consideration of Climate Change**

90. The Plan Change contains an objective that any decisions made in respect of activities and actions in the TANK catchment about land and water use take into account effects of climate change. The Plan considers long term impacts of decision making and incorporates the need for developing community resilience by making land use decisions that address multiple objectives and provides for the development of longer term water supply and demand strategies.

#### **Strategic Fit**

91. The Plan Change delivers on several of the Council's strategic goals especially in relation to sustainable land and water use and efficient infrastructure.

## Financial and Resource Implications

92. The Plan preparation process is incorporated in existing Council budgets. The implementation of the Plan will have significant impact on Council staff and other resources that have yet to be fully assessed.

## Decision Making Process

93. Council is required to make a decision in accordance with the requirements of the Local Government Act 2002 (LGA). In this case, the decision about content is prior to the next step of making a decisions about notification as prescribed by the Resource Management Act and which will be subject to process steps prescribed by 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:
- 93.1. The decision about the content of the Proposed Plan Change 9 (TANK) does not significantly alter the service provision or affect a strategic asset
  - 93.2. The persons affected by this decision are the Hawke's Bay regional community
  - 93.3. 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 this specific decision about the content of the Proposed Plan Change 9 (TANK) without consulting directly with the community or others having an interest in the decision.

## Recommendations

1. That the Regional Planning Committee:
  - 1.1. Receives and considers the "Proposed TANK Plan Change 9 – Agree Amendments for Notification" staff report.
  - 1.2. Agrees to the amendments described in this report being incorporated into the proposed TANK Plan Change 9 as proposed, as Draft Plan Change version 9.3 and incorporated into the Section 32 report.
  - 1.3. Requests that staff prepare Proposed Plan Change 9 and complete the Section 32 report according to the amendments as noted in 1.2 above and subject to amendments identified by the Section 32 peer reviewer.
2. The Regional Planning Committee recommends that Hawke's Bay Regional Council:
  - 2.1. Adopts the draft TANK Plan Change 9, as amended, as Proposed Plan Change 9 to the Regional Resource Management Plan for notification at the meeting on 25 September 2019.
  - 2.2. Makes the Section 32 report available for public inspection when the Proposed Plan Change 9 is notified.

### Authored by:

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## Item 6

### Attachment/s

- |   |   |                      |
|---|---|----------------------|
|  1 | Draft Plan Change 9 Version 9.3                                     | Under Separate Cover |
|  2 | TANK PC9 Section 32 Report ( <b><i>electronic format only</i></b> ) | Under Separate Cover |
|  3 | Management Options and Modelling                                    | Under Separate Cover |
|  4 | OWB RPC Report 18 September 2019                                    | Under Separate Cover |
|  5 | Comparing TANK 9.3 and the Draft Water Conservation Order           | Under Separate Cover |

# HAWKE'S BAY REGIONAL COUNCIL

## REGIONAL PLANNING COMMITTEE

Wednesday 18 September 2019

Item 7

### Subject: TANK PLAN CHANGE 9 OPTIONS FOR NOTIFICATION AND BEYOND

#### Reason for Report

1. A version of this report was originally published for the Committee's meeting on 3 July 2019, but deferred. This report builds on that earlier report.
2. This item asks the Committee for its support for the medium track. If there is support from the Committee for the medium track (or indeed even the 'fast track') then staff will hold further discussions with Ministry for the Environment officials to seek the Environment Minister's approval for a 'streamlined planning process' on the proposed TANK Plan Change 9.

#### Background

3. While drafting of the TANK Plan Change 9 continues to evolve and near completion, senior planning staff have considered a number of options for the process which the plan change may follow from public notification. Essentially there are three principal 'speed-settings':
  - 3.1. Slow
  - 3.2. Medium
  - 3.3. Fast.
4. Previously, the Committee has received agenda items from staff on pathways to draft TANK Plan Change adoption (31 October 2018), TANK Plan Change pre-notification planning pathway (12 December 2018) and most recently (3 July 2019) this same item was deferred to this 18 September meeting. Since that July meeting, senior planning staff have had preliminary conversations with Ministry for the Environment who oversee SPP applications to the Minister. Staff have yet to draft an SPP application as that commitment will rely on whether or not the RPC opts to follow some type of SPP pathway.

#### Relevance of this item to Committee's Terms of Reference

5. 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."*
6. More specifically, clauses 4.5 and 4.6 of the current 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..."*
7. 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

8. 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.

9. The 'Fast' track would use the minimum mandatory milestones and features that are 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 13 to 22 of this report.
10. 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**

11. The purpose of the standard process is to provide 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.
12. 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 appeals<sup>1</sup>, depending on the issues, as speed of appeal proceedings largely rests with the Courts.

### **Overview of the Streamlined Planning Process (generally)**

13. Recognising that the standard Schedule 1 timeframes are too long for plans to be able to respond to urgent issues, the Government amended the RMA in 2017 to enable councils<sup>2</sup> 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.
14. 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. The purpose of the SPP is to give an "*expeditious planning process that is proportionate to the complexity and significance of the planning issues being considered*" (s80B(1) RMA).
15. 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:
  - 15.1. will implement national direction
  - 15.2. is urgent as a matter of public policy
  - 15.3. is required to meet a significant community need
  - 15.4. deals with an unintended consequence of a policy statement or plan
  - 15.5. will combine several policy statements or plans
  - 15.6. requires an expeditious process for a reason comparable to those listed above.
16. A council cannot request the SPP if the proposed policy statement, plan, or plan change has already been publicly notified.

<sup>1</sup> 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.

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

17. Any request to the Minister for a SPP from a council **must** contain:
  - 17.1. a description of the planning issues and how the entry criteria are met
  - 17.2. an explanation of why a streamlined planning process is appropriate instead of the standard planning process
  - 17.3. a description of the process and timeframes the council proposes for a SPP
  - 17.4. the persons the council considers are likely to be affected by the proposed policy statement, plan, change or variation
  - 17.5. a summary of the consultation planned or undertaken on the proposed policy statement, plan, or plan change, including with iwi authorities
  - 17.6. the implications of the proposed SPP for any relevant iwi participation legislation or Mana Whakahono a Rohe: Iwi participation arrangements (Mana Whakahono).<sup>3</sup>
18. The Minister **must** either:
  - 18.1. 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)<sup>4</sup> or
  - 18.2. decline the request, providing reasons for decisions.
19. A Direction from the Minister for a SPP **must** as a minimum include:
  - 19.1. consultation with affected parties, including iwi authorities, if not already undertaken
  - 19.2. public notification (or limited notification)
  - 19.3. an opportunity for written submissions
  - 19.4. a report showing how submissions have been considered, and any changes made to the proposed policy statement, plan or plan change
  - 19.5. a section 32 and 32AA report, as relevant
  - 19.6. the time period in which the SPP must be completed
  - 19.7. a statement of expectations from the Minister that the council must consider during the plan-making process.
20. A Direction from the Minister **may** also include the following, but none are mandatory:
  - 20.1. additional process steps (e.g. further submissions and/or a hearing)
  - 20.2. any other timeframes
  - 20.3. reporting or other planning process requirements.
21. The council must submit its proposed plan or plan change to the Minister(s) for approval before it can become operative. Only after approval by the Minister(s) can the plan change be made operative. The council must complete any reporting requirements specified in the Minister's Direction and must have regard to the Minister's Statement of Expectations.
22. 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.

<sup>3</sup> 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.

<sup>4</sup> 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.

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

Core elements	Standard RMA Part 1 Schedule 1	Streamlined Planning Process
<b>Key phases</b>	<ul style="list-style-type: none"> <li>• Pre-notification consultation</li> <li>• Notification (full or limited)</li> <li>• Submissions, further submissions and hearing</li> <li>• Local authority decisions on submissions</li> <li>• Appeals</li> <li>• Made operative by the local authority.</li> </ul>	<ul style="list-style-type: none"> <li>• Application to Minister to use SPP</li> <li>• Ministerial Direction to local authority providing a tailored planning process</li> <li>• Pre-notification consultation (if not done already)</li> <li>• Notification (full or limited)</li> <li>• Submissions</li> <li>• Additional steps if required by the Direction</li> <li>• Local authority submits recommended plan change to Minister within specified timeframe</li> <li>• Minister approves/declines/requests reconsideration</li> <li>• Notified and made operative by the local authority.</li> </ul>
<b>Eligibility criteria</b>	<ul style="list-style-type: none"> <li>• No set criteria. Council can develop plan change at any time.</li> </ul>	<ul style="list-style-type: none"> <li>• Set entry criteria (refer paragraph 15).</li> <li>• Must be appropriate in the circumstances</li> </ul>
<b>Process</b>	<ul style="list-style-type: none"> <li>• Procedural steps and timeframes set of Part 1 of Schedule 1 in RMA.</li> </ul>	<ul style="list-style-type: none"> <li>• Can be tailored so it is proportional to nature of planning issues involved.</li> </ul>
<b>Timeframe</b>	<ul style="list-style-type: none"> <li>• No timeframe for pre-notification preparation phase</li> <li>• Statutory limit of two years between notification to issuing final decision of local authority</li> <li>• If appeals, can take several more years (no statutory limit on duration of appeal proceedings).</li> </ul>	<ul style="list-style-type: none"> <li>• Timeframes to be prescribed in Minister's Direction.</li> <li>• Time required to liaise with Ministry officials and for Minister to issue his/her Direction <b>before</b> proposal is publicly notified.</li> <li>• Can provide faster process overall than other processes.</li> <li>• No plan appeals (merit or points of law) will reduce timeframes.</li> </ul>
<b>Costs</b>	<ul style="list-style-type: none"> <li>• Costs for pre-notification consultation</li> <li>• Costs for pre-notification preparation</li> <li>• Costs to publicly notify and process submissions</li> <li>• Costs of hearings and issuing decisions</li> <li>• Costs of Court appeal proceedings / litigation.</li> </ul>	<ul style="list-style-type: none"> <li>• 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: <ul style="list-style-type: none"> <li>○ costs for pre-notification consultation</li> <li>○ costs for pre-notification preparation</li> <li>○ costs to publicly notify and process submissions and decision</li> <li>○ reduced costs of litigation.</li> </ul> </li> </ul>
<b>Involvement of tāngata whenua</b>	<ul style="list-style-type: none"> <li>• Consultation with tāngata whenua during drafting of plan change through iwi authorities</li> <li>• Seek views of iwi authorities on draft proposal</li> <li>• Provision of proposal to iwi authorities prior to notification</li> <li>• 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.</li> <li>• Can submit on proposal.</li> </ul>	<ul style="list-style-type: none"> <li>• 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</li> <li>• Consultation with tāngata whenua via iwi authorities during drafting of plan change (if not done already)</li> <li>• Seek views of iwi authorities on draft plan change (if not done already)</li> <li>• Minister's Direction must not be inconsistent with iwi participation legislation or Mana Whakahono a Rohe arrangements.</li> <li>• Can submit on proposal.</li> </ul>



Core elements	Standard RMA Part 1 Schedule 1	Streamlined Planning Process
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"> <li>• Available to any person who has made a submission or further submission</li> <li>• Merit (de-novo) appeals to Environment Court</li> <li>• Further appeals to higher courts on points of law</li> <li>• Judicial review of council's decisions available.</li> </ul>	<ul style="list-style-type: none"> <li>• Judicial review of council's and Minister's decisions</li> <li>• No merit (de novo) appeals to Environment Court available</li> <li>• No appeals on points of law available.</li> </ul>

### Is the TANK Plan Change eligible for a SPP?

23. Yes. Given the entry criteria set out in paragraph 15, planning staff consider that the TANK Plan Change would easily pass at least the first 'entry' criterion and also some of the others (noting only one is required to be eligible).
24. Notwithstanding that there is some time to be invested at the front end of the process to enter into a SPP<sup>5</sup> 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 - the merits of which cannot be appealed to the Environment Court or High Court.

### Would a SPP for the TANK Plan Change be proportionate to the complexity and significance of the planning issues being considered?

25. Maybe. Planning staff do consider it to be entirely valid and legal for a tailored post-notification process to be followed rather than presuming the standard Schedule 1 process is the only viable option. However, the degree of 'streamlining' needs to be commensurate with the complexity and significance of the issues being addressed in the TANK Plan Change and the process thus far in preparing PC9.
26. 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 with a collaborative group and also evaluation by the RPC's co-governance arrangements has been a journey never experienced by this council before in RMA plan making. The details of the plan change content and its process thus far are not repeated in this paper as that has been well documented in recent presentations to the RPC.
27. While the TANK Plan Change addresses a number of complex science and social issues, the long lead-in time and high level of community and stakeholder involvement in the preparation of the plan change has meant relevant parties are familiar with the complexity and issues and a medium-paced streamlining being recommended reflects this.
28. Senior planning staff leading the TANK Plan Change project consider that a 'fast' or 'medium' SPP would deliver an operative plan change far sooner than the Standard Schedule 1 'Slow' process. Nonetheless, senior planning staff do not consider that a SPP with only the minimum legal steps (i.e. the 'fast' speed) would be proportionate to the TANK Plan Change's significance and complexity. That 'bare minimum' option is not being recommended.
29. 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

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

provisions are robust; public feedback on the proposed plan change is suitably considered; and the Council ticks all relevant legislative requirements along the way.

30. Inevitably some parties may feel aggrieved that by using the SPP, the rights to Environment Court appeals are unavailable. It is true that there are no Environment Court appeals in a SPP because that is what the RMA was amended to do in 2017. Nevertheless there are other opportunities for parties to get involved in influencing the TANK Plan Change after it is publicly notified. Indeed, in the 'medium' SPP speed-setting being recommended by planning staff, there are added opportunities for public participation than just the bare minimum SPP.
31. For the TANK Plan Change, planning staff recommend a SPP with the minimum legal requirements, plus several discretionary extras. Those 'extras' being:
  - 31.1. an extended submission period
  - 31.2. a period for lodging further submissions
  - 31.3. a hearing of submissions by panel of three to five experienced commissioners, and
  - 31.4. Council having an opportunity to provide feedback on hearing Panel's draft report).

#### Submission period

32. A period for making submissions is a mandatory requirement of a SPP, but the RMA does not prescribe the duration of that period. By comparison, the RMA does specify a minimum twenty working day submission period on proposed plan changes. The Council (or Minister's SPP direction) could specify an extended period (say, thirty working days) to enable would-be submitters more time to review the TANK Plan Change's proposals and then prepare a well-considered clear submission.
33. It is also worth noting that draft versions of the TANK Plan Change have been publicly available for viewing since January 2019 so much of its content will not appear as a surprise to affected parties upon its release. The TANK Plan Change project thus far has featured an extraordinary degree of publicity and public profile before it has even been publicly notified as a proposed plan change.

#### Further submissions

34. Further submissions are part of the Standard ('slow-setting') Schedule 1 process. The RMA specifies a fixed ten working day period for lodging further submissions. Further submissions can only be made in support or opposition to a submission lodged in the original submission period. People who make further submissions have the same ability as an original submitter to participate in subsequent hearing processes if a hearing is held.
35. A round of further submissions in a SPP for the TANK Plan Change could add a degree of rigour to assessing the merits of requests made in the original submissions. Equally, the RPC might choose to not include the further submissions phase as it is a discretionary extra in a SPP process.

#### Hearings Panel

36. Another degree of rigour over and above the minimum mandatory SPP features could be added by Council appointing a three to five person panel of suitably experienced and accredited RMA hearings commissioners to hear and test merits of matters raised in submissions. Commissioner hearings panels are typical features of the standard Schedule 1 process.
37. Incorporating a hearings process (as well as further submissions) into the SPP might offer some comfort and familiarity of process to people who might otherwise regularly make submissions on proposed RMA plans/plan changes, while still keeping a relative degree of streamlined process in place.
38. Incorporating a hearings phase will also motivate parties to put their respective best case forward in submissions and at the hearing. In a SPP, there is no scope for parties to behave in a way that 'keeps their powder dry' for another day pending an Environment Court hearing.

39. Sections 39-42 of the RMA relate to powers and duties in relation to hearings. This is typically done by directions from Chair of the Panel. For example, the Panel may choose to direct a timetable for the preparation and exchange of parties' evidence (in a similar fashion commonly employed by the Environment Court); directions for pre-hearings meetings and/or expert conferences; protocols for the presenting of submissions at the hearings; how and who has the right to ask questions at the hearing, etc. Planning staff consider it is more appropriate that the Panel exercises its discretion and judgement on those sorts of matters nearer the hearing rather than attempt to prescribe them in the process before the process has commenced. The Panel will have the benefit of exercising their discretion after submissions have closed and viewing the scale, character and complexity of matters arising in those submissions.
40. For avoidance of doubt, the RPC's terms of reference do provide for accredited and experienced members of the committee to be eligible for hearings panel selection. They are not excluded just because they are a member of the RPC, but often there are a range of factors that influence selection of panel members.

*HBRC feedback on Hearing Panel's draft report*

41. 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.
42. To be clear, this feedback loop is not intended to give the Council an opportunity to re-litigate the merits of the Panel's recommendations. Rather, it is a quality control check on the implementability of the Panel's recommendations with the HBRC being the principal agent carrying responsibility for implementation of the TANK Plan Change.

**NPS-FM Implementation Programme and consequential timeframes**

43. 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, on 5 September, the Government released proposals that the 2030 extension would be revoked in rewritten NPS-FM slated to come into force in 2020.
44. There is a very real risk that the longer it takes for the TANK Plan Change to 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.

**Applying TANK Plan Change limits to existing activities**

45. A proposed plan change does not have an immediate effect on existing resource consents nor on existing lawfully established activities. Consequently, those activities may continue under the existing terms and conditions until the TANK Plan Change is made operative.
46. After the TANK plan change becomes operative, then notably:
  - 46.1. the six month timeframe for expiry of existing use rights commences if those existing uses would no longer comply with the new rules (refer s20A of RMA)
  - 46.2. generally, the Council can initiate reviews of existing consent conditions so they are better aligned with relevant provisions arising from the operative TANK Plan Change
  - 46.3. commence to implement new rules for production land activities.
47. So in short, the sooner the TANK Plan Change reaches its operative milestone, then the sooner Council may instigate actions to adjust operating parameters for existing activities.

## Action for health waterways – a discussion document on national direction for our essential freshwater

48. On 5 September 2019, the Government released a discussion document proposing new national direction on our essential freshwater. The proposals include introducing a new freshwater planning process, a rewritten new national policy statement for freshwater, national standards for freshwater, and national regulations for excluding stock from waterways. The Government's intention is that these proposals pass through their respective processes to come into effect in mid-2020. Until then, the proposals remain proposals without any legal effect.
49. As noted in paragraph 42, the proposals include compressing timeframes for plans and policy statements to fully implement the [new 2020] NPS so that decisions on submissions released before 31 Dec 2025 (and by inference plans publicly notified for submissions two years prior to that, i.e. 2023).<sup>6</sup> To achieve this highly compressed timeframe, Government is proposing amending the RMA to introduce a new mandatory plan-making pathway for freshwater-related plans and plan changes. Notably, the proposed mandatory process would:
  - 49.1. not apply to any plan or plan change that has been publicly notified (i.e. not able to apply retrospectively)
  - 49.2. feature submissions hearings by panel of Commissioners and decisions by the Council and
  - 49.3. restrict Environment Court appeal rights to specific limited circumstances.
50. Realistically, the RMA amendments required to establish this new mandatory process are unlikely to be in force until mid-2020 at the earliest.

### Considerations of Tangata Whenua

51. Tāngata whenua have special cultural, spiritual, historical and traditional associations with freshwater. For Māori, water is a taonga of paramount importance.
52. 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.
53. 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.
54. When considering an application for a SPP, the Minister will be required to consider any relevant obligations set out in iwi participation legislation, mana whakahono ā rohe, or any other matters the Minister considers relevant, as well as the statutory purpose of SPP. The Environment Minister must also consult with any other relevant Ministers of the Crown (e.g. Minister of Conservation, or Minister of Crown/Māori Relations etc).

### Financial and Resource Implications

55. 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.

<sup>6</sup> "Final decisions [on submissions] on changes to policy statements and [regional] plans that are necessary to give effect to this national policy statement must be publicly notified no later than 31 December 2025." The 31 December 2025 timeframe does not include time required to settle any appeals lodged in the Environment Court or High Court, but does include time between public notification of proposed plans/changes, submission periods and hearing phase.

## Conclusion

56. 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.
57. Given the unique pathway of the TANK Plan Change's development to this point, planning staff consider it is entirely appropriate and commensurate that the TANK Plan Change's post-notification stage is a tailored form of SPP that includes (subject to Minister's approval):
  - 57.1. the minimum mandatory features (refer paragraph 19)
  - 57.2. the following optional extra features:
    - 57.2.1. an extended submission period of thirty working days
    - 57.2.2. a further submission period of ten working days
    - 57.2.3. 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.
    - 57.2.4. a directive that the hearings panel seek feedback from HBRC on its draft report prior to the panel finalising that report and recommendations.
58. 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-setting) Schedule 1 process is likely to be significantly longer, perhaps by several years.
59. While the Government has recently released a package of proposals for improving national direction on freshwater management, those proposals remain just proposals. The freshwater planning process is reliant on legislative amendments before it becomes real. The SPP is already a legitimate process in legislation. The medium-paced SPP from submissions to hearings and decisions is not too dissimilar to the Government's recent proposals.
60. 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 accepted by the Minister.

## Decision Making Process

61. 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:
  - 61.1. The decision does not significantly alter the service provision or affect a strategic asset.
  - 61.2. The use of the special consultative procedure is not prescribed by legislation.
  - 61.3. The decision does not fall within the definition of Council's policy on significance.
  - 61.4. 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.
  - 61.5. 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 9 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. The Regional Planning Committee recommends that Hawke’s Bay Regional Council:
  - 3.1. subject to Minister’s approval, agrees 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, agrees 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. a submission period of thirty working days
    - 3.2.2. further submissions
    - 3.2.3. hearing by panel of three to five suitably experienced and accredited RMA hearings commissioners to provide report and recommendations back to Regional Planning Committee and Council
    - 3.2.4. 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. instructs the Chief Executive to prepare and lodge an application to the Minister for the Environment for the TANK Plan Change to follow a streamlined planning process featuring those matters in recommendation 3.2 above.
  - 3.4. notes 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 9. Details of those will be in separate briefing to Council in near future.

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### Attachment/s

There are no attachments for this report.

# HAWKE'S BAY REGIONAL COUNCIL

## REGIONAL PLANNING COMMITTEE

Wednesday 18 September 2019

### Subject: HAWKE'S BAY REGIONAL PLANNING COMMITTEE TERMS OF REFERENCE

#### Reason for Report

1. This item provides an annotated version of revised Terms of Reference (TOR) for consideration by the Committee, which incorporates relatively minor amendments to align the TOR with the Hawke's Bay Regional Planning Committee Act 2015 (HBRPCA). The version presented is deliberately an interim one, whilst the RPC continues to work through several other matters relating to the committee's performance, scope and relationships. Therefore, the revised TOR presented in this item does not attempt to fully and finally settle all content.
2. This item recommends that the Committee endorses an interim revised version of TOR for referral to the Appointers for their agreement. This would mean the more substantial or contentious matters remain unsettled, pending further work by members of the Committee.

#### Brief Background

3. The RPC operated as a joint committee of Council with interim TOR for several years prior to the HBRPCA passing into legislation in August 2015. The interim TOR were provided for in the HBRPCA, and adopted by Council on 26 February 2014 with minor editorial corrections. These are the current TOR for RPC.
4. Earlier stages of the TOR review were overseen by the RPC Co-Chairs and Deputy Co-Chairs. Some legal advice was sought to inform earlier TOR drafting and alignment with the HBRPCA. A number of staff reports and revised TOR have been prepared and considered by the RPC through the 2016-18 period. A summary of the TOR review history was presented to the RPC meeting on 21 March 2018, so is not repeated here. However, Table 1 does present a brief sequence of meetings and minutes since March 2018.

**Table 1 – Summary of RPC meetings and minutes March 2018 to 3 July 2019**

2 May 2018	Staff report (Item #3) presented to RPC a marked up TOR for approval of amendments that were not matters <sup>7</sup> being considered as part of the [then concurrent] first statutory review of the RPC's performance.  Minutes record that the item was left to lie on the table for referral of a version with minor technical amendments agreed by the Co-Chairs and Deputy Co-Chairs to a workshop session for all committee members to attend.
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<sup>7</sup> Those matters being:

"2.1 Voting and Quorum:

2.1.1 The process by which the number of Council members eligible for voting will be reduced to ensure equal numbers of appointed tāngata whenua representatives

2.1.2 The setting of the Quorum

2.1.3 Consensus decision making and the 80% voting threshold.

2.2 The presumption that the current Standing Orders of Council apply to the operation of the committee unless amended by the committee.

2.3 Confirmation of functions and powers of the committee (noting the legal advice that the broader scope in draft terms of reference is not inconsistent with the specified legislation).

2.4 Refer back provisions and clarification of the options available to Council in the event that no recommendation is received from the Committee. This issue relates in particular to section 12(4) of the Act which provides that "In the event of an inconsistency between the obligations of Council under the terms of reference and its obligations under the specified legislation, the specified legislation prevails."

20 June 2018	<p>Follow-up item recording that TOR workshop for RPC members is scheduled to follow 20 June RPC meeting. At meeting, quorum not established so RPC meeting immediately lapsed. Minutes record that:</p> <p>a) Quorum was not established so RPC meeting immediately lapsed at 9:05am.</p> <p>b) Discussions continued following meeting lapsing and record that <i>“The Co-Chairs and Co-Deputy Chairs agreed the content of the TOR with the inclusion of the purpose of the Committee from the Act (noting some substantial amendments to TOR previously agreed by the Committee to be set-aside pending the RPC performance review process).”</i></p>
31 Oct 2018	<p>Staff report (Item #6) presented to RPC to “To report on and conclude the Appointers’ statutory obligation to undertake a review of the performance of the RPC.”</p> <p>Staff recommended RPC receives and notes the staff report. Minutes record that: <i>“RPC considered that insufficient feedback was received from Treaty Settlement partners, and therefore this item is deferred until such time as the Te Pou Whakarae has met with the entities and formulated their feedback.”</i></p>
12 Dec 2018	<p>Staff report (Item #5) recommended RPC resolve that the HBRPCA Section 10(2)(a) review of the performance of the RPC has been completed. Minutes record that [RPC55/18] motion to accept the staff recommendation was LOST. <i>“As the resolution was lost, staff sought feedback on how to proceed, however were not provided with any guidance or direction on how, or whether, to draw the statutory review to a close.”</i></p>
3 July 2019	<p>Follow-up item (from 2 May 2018 meeting) recorded action as “this version 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.” Status comment from staff responsible was “In progress.” Minutes record that “In relation to the Committee’s Terms of Reference it was agreed that the next meeting of the Co-Chairs and Co-Deputy Chairs would pick this up again and progress it as agreed 2 May 2018 that <i>“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.”</i></p>

5. Despite work over several years, a revised TOR has not yet been agreed upon. That leaves the RPC operating under both the HBRPCA and TOR adopted in February 2014 (prior to the HBRPCA coming into effect). The HBRPCA requires terms of reference to specify a number of matters that are not addressed in the current 2014 TOR.

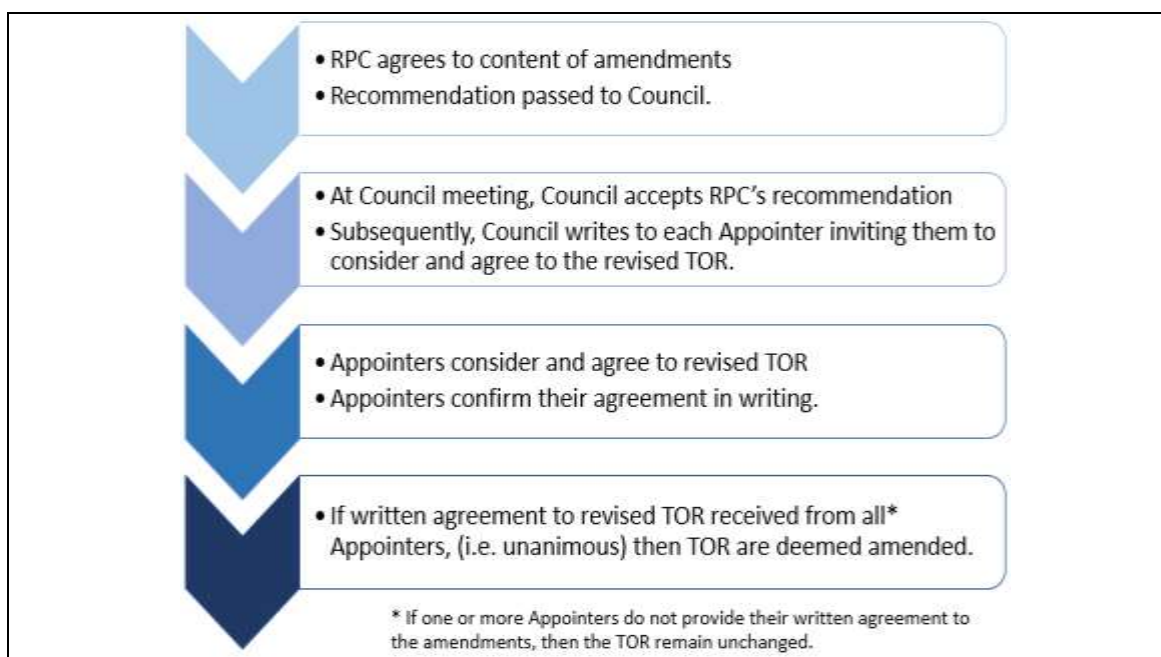
#### **Who approves amendments to the Terms of Reference?**

6. Section 12(2) of the HBRPCA says that the TOR may be amended by the written unanimous agreement of the Appointers. That is, any review and amendment of the TOR is not mandatory but is at the discretion of the Appointers.<sup>8</sup>
7. While all RPC members have committed to the review process, the ultimate decision to agree upon amendments to the TOR sits with the Appointers. However, it is acknowledged that acceptance by the RPC in the first instance is highly desirable before seeking the Appointer’s approval of amended TOR.
8. Figure 1 illustrates the basic sequential steps to approval of revised TOR.

<sup>8</sup> Appointers may choose to delegate that authority to their respective RPC Member but not all Appointers have chosen to do so at this time,



Figure 1 – overview of sequential steps to approving revised RPC terms of reference



### Options Assessment

9. There are three main options for the Committee, being:
  - 9.1. Do nothing (not recommended)
  - 9.2. Seek agreement to a fully revised TOR (ideal, but not recommended)
  - 9.3. Seek agreement to partially revised TOR as an interim working solution (recommended).

#### **Option 1: Do nothing / Status quo**

10. The current TOR and HBRPCA need to be read and applied side-by-side because a portion of the HBRPCA provisions are not adequately captured or reflected in the TOR. Doing nothing would leave in place the 2014 TOR, which does not best align with the HBRPCA. This is a sub-optimal approach with limited longevity and therefore, is not recommended.

#### **Option 2: Seek agreement to a fully revised TOR**

11. RPC members have discussed a range of matters informing the TOR review at some length during 2017-18. A package of relatively uncontentious (a.k.a. vanilla) amendments was presented to the RPC in May 2018 with a proposal to set aside a number of other matters that were being considered within scope of the [then concurrent] RPC Performance Review (refer footnote 1 above).
12. Members of the RPC are working through a number of issues regarding improving the performance, functioning and effectiveness of the RPC model – some of which are necessary matters to include in a revised TOR. However, until those issues are resolved, more contentious matters in TOR amendments ought to remain set aside.

#### **Option 3: Seek agreement to a partially revised TOR to apply as an interim approach**

13. Option 3 involves progressing the relatively minor amendments so that the current 2014 TOR is somewhat better aligned with the HBRPCA. In this way, it would be an interim solution that uses the current 2014 TOR as a base, then:
  - 13.1. incorporates those minor corrections, editorial improvements, and other amendments that improve alignment with the HBRPCA; meanwhile
  - 13.2. setting aside those matters which were within scope of the first statutory review of performance of the RPC (refer Footnote 1).

14. Attachment 1 is the proposed (clean) version of the draft TOR resulting from the interim approach. Attachment 2 is the same document but with all tracked changes visible. Note, as above, this is sub-optimal but is considered better than the status quo/do nothing option (1). Option 3 also yields necessary and immediate results, which Option 2 cannot since the latter is subject to further discussions, which may not be resolved for some time.
15. Notwithstanding that there are several matters still for Committee members to resolve (i.e. as identified in Footnote 1 from RPC meetings in early 2018), the interim amendments would enable clearer administration and operation of the RPC and immediately improve consistency between the HBRPCA and the current TOR. This option is therefore recommended.

### **Alignment with the Hawke's Bay Regional Planning Committee Act 2015**

16. The principal matter that remains missing from the TOR in Attachment 1 but is required by the HBRPCA, is specification of a process for resolving disputes. Section 12(1)(c) of the HBRPCA says that the TOR must provide for "the procedures relating to ... dispute resolution..." In the draft TOR presented to the RPC in May 2018, the then draft disputes resolution clauses were set aside in to the bundle of substantive amendments warranting further work by committee members. For ease of reference, the wording presented in May 2018 was:

#### ***"15. Dispute resolution***

*15.1 Clauses 15.2 to 15.6 of these Terms of Reference shall apply if:*

*15.1.1. there is a dispute between:*

*15.1.1.1. Members of the RPC; or*

*15.1.1.2. the RPC and the Council; or*

*15.1.2. the Independents appointed under clause 12.2 of these Terms of Reference cannot reach agreement on the level of remuneration for Tāngata Whenua Members.*

*15.2. The parties to the dispute or the Independents (as the case may be) will use their best endeavours and act in good faith to settle the dispute or reach agreement by negotiation and discussion.*

*15.3. If within 20 working days the dispute is not settled or the Independents have not reached agreement, the matter will be submitted for mediation by a single mediator agreed to by both parties.*

*15.4. The mediator will determine the procedure and timetable for mediation.*

*15.5. Both parties will endeavour to reach an outcome that is acceptable to the other.*

*15.6. Neither party can represent the other or speak on the other's behalf in any statements about the dispute or matter of disagreement.*

*15.7. The fees and expenses of the mediator will be met by the Council."*

17. If the RPC members were to agree that the above (or something similar) disputes resolution procedure be incorporated into the TOR, then the TOR would be far better aligned with the HBRPCA than the current terms of reference.

### **Strategic Fit**

18. The RPC is a standing joint committee of the Hawke's Bay Regional Council and is integral to assisting the Council to achieve its strategic goals insofar as the RPC's role relates to the preparation, review and changes to the HB Regional Resource Management Plan and the HB Regional Coastal Environment Plan. Practical and workable terms of reference for the RPC are necessary for clearer, effective operation of the RPC now and into the future.

## Considerations of Tāngata Whenua

19. Tāngata whenua members of RPC and some of the tāngata whenua Appointers have been involved to varying degrees throughout the TOR review process. Improving the operations of the RPC should positively impact on the participation of all members, including tāngata whenua. There are no identified negative impacts on tāngata whenua, subject to the consideration that members need to do further work on those matters set aside within scope of the [then] RPC Performance Review.
20. The decision for the RPC to agree and refer revised TOR to the Appointers does not require additional consideration of iwi planning documents, or Treaty settlement legislation. The required legislative considerations have been outlined in this item and earlier staff briefing papers, including the HBRPCA, the LGA and the RMA.

## Financial and Resource Implications

21. The act of agreeing to revised terms of reference has little direct immediate impact on the Council's resourcing and financing. The degree of financial and resourcing implications will largely depend upon what the agreed revisions may specify. If an interim revised TOR is agreed (as recommended in this item), then the financial and resource implications are modest.

## Decision Making Process

22. 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:
  - 22.1. The decision does not significantly alter the service provision or affect a strategic asset.
  - 22.2. The use of the special consultative procedure is not prescribed by legislation.
  - 22.3. The decision does not fall within the definition of Council's policy on significance.
  - 22.4. The persons affected by this decision are all persons with an interest in the region's management of natural and physical resources under the RMA.
  - 22.5. The decision is not inconsistent with an existing policy or plan.
  - 22.6. Given the nature and significance of the issue to be considered and decided, and also the persons likely to be affected by, or have an interest in the decisions made, Council can exercise its discretion and make a decision without consulting directly with the community or others having an interest in the decision.

## Recommendations

That the Regional Planning Committee:

1. Receives and notes the "*Hawke's Bay Regional Planning Committee Terms of Reference*" 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 and persons likely to be affected by or to have an interest in the decision.
3. Agrees that the preferred approach is to agree on amendments to the RPC's February 2014 version of Terms of Reference that:
  - 3.1. incorporates minor corrections, editorial improvements, and various other uncontentious amendments that improve alignment with the Hawke's Bay Regional Planning Committee Act 2015

3.2. sets aside the following matters (which were within scope of the first statutory review of performance of the RPC):

3.2.1 *Voting and Quorum:*

3.2.1.1 *The process by which the number of Council members eligible for voting will be reduced to ensure equal numbers of appointed tāngata whenua representatives*

3.2.1.2 *The setting of the Quorum*

3.2.1.3 *Consensus decision making and the 80% voting threshold.*

3.2.2 *The presumption that the current Standing Orders of Council apply to the operation of the committee unless amended by the committee.*

3.2.3 *Confirmation of functions and powers of the committee (noting the legal advice that the broader scope in draft terms of reference is not inconsistent with the specified legislation).*

3.2.4 *Refer back provisions and clarification of the options available to Council in the event that no recommendation is received from the Committee. This issue relates in particular to section 12(4) of the Act which provides that "In the event of an inconsistency between the obligations of Council under the terms of reference and its obligations under the specified legislation, the specified legislation prevails.*

4. Agrees to use best endeavours to seek resolution and agreement on those matters in recommendation 3.2 above, and then when agreement has been reached, thereafter agree that the RPC's terms of Reference be approved and referred to the Appointers (or their nominated delegate) for their written agreement.
5. Recommends that Hawke's Bay Regional Council:
  - 5.1. writes to each of the RPC Appointers inviting them to consider and agree to the amended Terms of Reference for the RPC as proposed; and
  - 5.2. as an Appointer itself, Council agrees to the amended Terms of Reference for the RPC as proposed.

#### Authored by:

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**GROUP MANAGER**  
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#### Attachment/s

- [1](#) Revised draft RPC Terms of Reference as at September 2019
- [2](#) Revised draft RPC TOR with Tracked Changes

## Te Komiti Whakatakoto Mahere a-Rohe

### Regional Planning Committee

#### Terms of Reference<sup>^</sup>

<sup>^</sup> These Terms of reference have been written in accordance with the Hawke's Bay Regional Planning Committee Act 2015 ('the Act'). There are some matters that are yet to be fully agreed upon and will require further amendment to these Terms of Reference in due course.

#### 1. Introduction

##### *Preamble to the Act<sup>2</sup>*

##### 1.1. The Preamble of the Act states:

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

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

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

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

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

1.2.2. the trustees of Te Kōpere o te iwi o Hineuru Trust and the Crown dated 2 April 2015; and

1.2.3. the trustees of the Heretaunga Tamatea Settlement Trust and the Crown dated 26 September 2015; and

1.2.4. the trustees of the Mana Ahuriri Trust and the Crown dated 2 November 2016; and

1.2.5. Tātau Tātau O Te Wairoa and the Crown dated 26 November 2016; and

1.2.6. Te Kotahitanga o Ngāti Tūwharetoa and the Crown dated 8 July 2017.

1.3. The Crown has also recognised the need to provide for membership of the committee for Ngāti Ruapani ki Waikaremoana before beginning Treaty Settlement negotiations.

1.4. The Committee has been operating since April 2012. Legislation was required to ensure that the Committee could not be discharged except by unanimous written agreement of the Appointers and to confirm its role and procedures. Accordingly, the legislation was enacted and came into

<sup>2</sup> Hawke's Bay Regional Planning Committee Act 2015 (HBRPC Act).  
<http://www.legislation.govt.nz/act/public/2015/0065/latest/whole.html>

force on 15 August 2015<sup>3</sup>.

- 1.5. The RPC is a joint committee of the Council deemed to be appointed under Clause 30(1)(b) of Schedule 7 of the Local Government Act 2002.

## 2. Purpose

*Purpose of the HB Regional Planning Committee Act s3(1)*

- 2.1. The purpose of the Act is to improve tāngata whenua involvement in the development and review of documents prepared in accordance with the Resource Management Act 1991 for the Hawke's Bay region.

*Purpose, functions and powers of the RPC s9(1)*

- 2.2. The purpose of the RPC is to oversee the development and review of the RMA Documents prepared in accordance with the RMA for the RPC Region.<sup>4</sup>

## 3. Procedure

- 3.1. The Committee is responsible for preparing Proposed Regional Plans and Proposed Regional Policy Statements, or any Plan Changes or Plan Variations, and recommending to the Council the adoption of those documents for public notification, as provided for further in paragraph (4) below. In the event that the Council does not adopt all or any part of any Proposed Regional Plan, Proposed Regional Policy Statement, Plan Change or Plan Variation or other recommendation, the Council shall refer such document or recommendation in its entirety back to the Committee for further consideration, as soon as practicable but not later than two months after receiving a recommendation from the Committee. The Committee must take all steps reasonably necessary to enable the Council to meet any relevant statutory timeframes.

**[EDITOR'S NOTE – Revision of these 'refer-back' procedures is not yet agreed upon so Clause 3 above remains the same as in the previously adopted February 2014 Terms of Reference].**

## 4. Functions and Powers

*Functions and powers of RPC s10 (1)-(4)*

- 4.1. The primary function of the RPC is to achieve the purpose of the RPC. In achieving the purpose of the RPC, the committee may:
- 4.1.1. implement<sup>5</sup> a work programme for the review of the RMA Documents;
  - 4.1.2. oversee consultation on any RMA Document (prior to notification);
  - 4.1.3. consider the RMA Documents and recommend to Council for public notification the content of any draft –
    - 4.1.3.1. change to the regional policy statement or regional plan;
    - 4.1.3.2. proposed regional policy statement or proposed regional plan;
    - 4.1.3.3. variation to a proposed regional policy statement, proposed regional plan, or change.
  - 4.1.4. in accordance with the process outlined in Clause 3.1 of these Terms of Reference, review any documents which the Council may refer back to the RPC for further consideration;
  - 4.1.5. recommend to Council the membership of Hearings Panels, from appropriately trained and eligible commissioners (which may include members of the RPC), to hear and decide upon submissions on proposed RMA Documents;

<sup>3</sup> Section 2 (Commencement) of the Act.

<sup>4</sup> Defined in the Hawke's Bay Regional Planning Committee Act 2015 and the Glossary to these Terms of Reference as the Hawke's Bay region.

<sup>5</sup> Meaning to instigate and execute.



- 4.1.6. recommend to Council the scope for the resolution and settlement of appeals on proposed RMA Documents;
- 4.1.7. when required, recommend to Council that officers be delegated with the authority to resolve and settle any appeals on proposed RMA Documents through formal mediation before New Zealand's Courts;
- 4.1.8. monitor the efficiency and effectiveness of provisions of the RMA Documents in accordance with section 35 of the RMA. The monitoring outcomes will be incorporated into a review of the RPC's work programme if relevant to do so.
- 4.1.9. perform any other function specified in these Terms of Reference.
- 4.2. For the purposes of enabling the RPC to carry out its functions, the Council must -
  - 4.2.1. refer all matters referred to in clause 4.1.3 of these Terms of Reference to the RPC; and
  - 4.2.2. provide all necessary documents or other documents to the RPC.
- 4.3. The RPC has the powers reasonably necessary to carry out its functions in a manner consistent with the Specified Legislation.

## 5. Membership of RPC

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

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

#### 5.1. Tāngata Whenua Members:

The following are Tāngata Whenua Members:

- 5.1.1. 1 member appointed by the trustees of the Maungaharuru-Tangitū Trust;
- 5.1.2. 1 member appointed by the trustees of the Ngāti Pāhauwera Development Trust;
- 5.1.3. 1 member appointed by the trustees of Tūhoe Te Uru Taumatua;
- 5.1.4. 1 member appointed by the trustees of the Te Kotahitanga o Ngāti Tūwharetoa;
- 5.1.5. 1 member appointed by the trustees of the Mana Ahuriri Trust;
- 5.1.6. 1 member appointed by the trustees of the Hineuru Iwi Trust;
- 5.1.7. 1 member appointed by the Tātau Tātau o te Wairoa Trust;
- 5.1.8. 2 members appointed by the trustees of the Heretaunga Tamatea Settlement Trust;
- 5.1.9. 1 member appointed by the appointer for Ngāti Ruapani ki Waikaremoana.

#### 5.2. Council Members:

### *Membership of the RPC s11(1)(j)*

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

#### 5.3. Appointers:

### *Membership of RPC s11(2)-(5)*

- 5.3.1. When making an appointment of a member to the RPC, an Appointer must notify the RPC in writing of such an appointment and provide a copy of the notice to all other Appointers as soon as is reasonably practicable.
- 5.3.2. If a Tāngata Whenua Appointer fails to appoint a Tāngata Whenua Member in accordance

with the Act, then the number of Council Members on the RPC eligible for voting is reduced proportionately until an appointment is made to ensure that the RPC consists of an equal number of Tāngata Whenua Members and Council Members.

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

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

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

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

*[EDITOR'S NOTE: clauses relating to a process how to reduce and reinstate equal numbers of Council Members is yet to be agreed upon]*

## 6. Term of Appointment

*Schedule; further provisions relating to RPC clause 1(1)-(3)*

6.1. Subject to the Act:

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

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

6.2. However, if a Council Member is appointed after the date of the first meeting of the Council referred to in **Clause 6.1.2** of these Terms of Reference, the member is appointed from that date until the close of the day before the next triennial general election.

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

## 7. Discharge of membership

*Schedule; Further provisions relating to RPC clause 2*

7.1. A Member may be discharged by that member's Appointer.

7.2. If **Clause 7.1** of these Terms of Reference applies, the Member's Appointer must, within 10 working days after the date on which the Member was discharged –

7.2.1. notify the RPC in writing that the Member has been discharged; and

7.2.2. provide a copy of the notice to all other Appointers.

## 8. Resignation of membership

*Schedule; Further provisions relating to RPC clause 3*

8.1. A Tāngata Whenua Member may resign by giving written notice to that person's Appointer.

8.2. A Tāngata Whenua Appointer must, on receiving a notice given under **Clause 8.1** of these Terms of Reference, forward a copy of the notice to the RPC and the Chief Executive of the Council.

## 9. Vacancies

*Schedule; Further provisions relating to RPC clause 4*

9.1. If a vacancy occurs on the RPC, the relevant Appointer must fill the vacancy as soon as is reasonably practicable.



- 9.2. A vacancy does not prevent the RPC from continuing to perform its functions or exercise its powers.

## 10. Co-chairpersons and deputy co-chairpersons

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

- 10.1. The RPC has the following Co-chairpersons:
- 10.1.1. 1 Member appointed by the Tāngata Whenua Members:
  - 10.1.2. 1 Member appointed by the Council Members.
- 10.2. Each Co-chairperson must be elected at or before the first meeting of the RPC following the triennial general election of members of a local authority under Local Electoral Act 2001.
- 10.3. Each Co-Chairperson is to preside at meetings of the RPC on a pre-arranged basis.
- 10.4. The Co-chairpersons may deputise for each other at meetings of the RPC.
- 10.5. The Co-Chairpersons' role includes working with the Chief Executive and Group Managers of the Council to ensure that the RPC is able to fulfil its purpose and perform its functions, including but not limited to quarterly meetings between the Chief Executive and Co-chairpersons to monitor progress.
- 10.6. The Tāngata Whenua Members may appoint a deputy Co-chairperson and the Council Members may appoint a deputy Co-chairperson.
- 10.7. The deputy Co-Chairpersons' role is to help their respective Co-chairperson to fulfil the role of Co-chairperson and to deputise for that Co-chairperson at meetings of the RPC or other meetings in the absence of that Co-chairperson.
- 10.8. Those persons appointed to the position of Co-chairperson or deputy Co-chairperson shall hold their position until death, resignation, removal<sup>6</sup> or appointment of their successor in accordance with these Terms of Reference, whichever shall occur first.
- 10.9. A Co-chairperson or deputy Co-chairperson may be appointed or discharged in accordance with these Terms of Reference.

## 11. Quorum

- 11.1. The quorum of a meeting of the RPC shall be 75% of the Members of the RPC who are eligible to vote.

*[EDITOR'S NOTE - Notwithstanding this Clause, the quorum threshold is one matter that is within scope of the first statutory review of the RPC's performance. The Act does not specify a quorum threshold, but does require the TOR to specify what the quorum is. The RPC is yet to agree on a quorum figure consequently the 75% threshold is carried over from the RPC's Feb 2014 Term of Reference.]*

## 12. Decision-making

*Schedule; Further provisions relating to RPC clause 7*

- 12.1. The decisions of the RPC must be made by vote at meetings in accordance with these Terms of Reference.
- 12.2. Best endeavours will be made to achieve decisions on a consensus basis, or failing consensus, the agreement of 80% of the RPC Members present and eligible to vote will be required.

*[EDITOR'S NOTE - Notwithstanding Clause 12.2, the voting threshold is one matter that is within scope of the first statutory review of the RPC's performance. The Act does not specify a voting threshold. The RPC is yet to agree on what decision-making looks like on some or all of its functions when consensus is not achieved. Consequently the 80% threshold is carried over from the RPC's Feb 2014 Term of Reference.]*

<sup>6</sup> The Council Members will follow the process for removing a chairperson or deputy chairperson in the Hawke's Bay Regional Council Standing Orders. The Tāngata Whenua Members may decide upon their own process within a tikanga framework and are not obliged to follow the process in the Hawke's Bay Regional Council Standing Orders.

- 12.3. All members of the RPC have full speaking rights.
- 12.4. Where voting is required, all Members of the RPC have voting entitlements, except in circumstances referred to in **Clause 5.3.2** of these Terms of Reference.
- 12.5. Any Member who is chairing a meeting of the RPC may vote on any matter but does **NOT** have a casting vote.

### 13. Standing Orders

*Schedule; Further provisions relating to RPC clause 6*

- 13.1. The Council's standing orders as adopted on 30 November 2016 shall apply until the RPC adopts a set of standing orders for the operation of the RPC.
- 13.2. The standing orders adopted by the RPC must not contravene –
  - 13.2.1. the Hawke's Bay Regional Planning Committee Act 2015; or
  - 13.2.2. these Terms of Reference; or
  - 13.2.3. Tikanga Māori; or
  - 13.2.4. subject to **Clause 13.2.1** of these Terms of Reference, the local government legislation or any other enactment.
- 13.3. The RPC may amend the standing orders at any time.
- 13.4. Every Member of the RPC must comply with the standing orders of the RPC.
- 13.5. Where standing orders conflict with these Terms of Reference, the Terms of Reference prevail.

### 14. Conflict of interest

*Schedule; Further provisions relating to RPC clause 9*

- 14.1. Each Member of the RPC must disclose any actual or potential interest<sup>7</sup> to the RPC.
- 14.2. The RPC must maintain an interests register<sup>8</sup>.
- 14.3. A Member of the RPC is not precluded by the Local Authorities (Members' Interests) Act 1968 from discussing or voting on a matter merely because –
  - 14.3.1. the Member is a member of an iwi or a hapū; or
  - 14.3.2. the economic, social, cultural, and spiritual values of an iwi or a hapū and their relationship with the RPC are advanced by or reflected in –
    - 14.3.2.1. the subject matter under consideration; or
    - 14.3.2.2. any decision by or recommendation of the RPC; or
    - 14.3.2.3. participation in the matter by the Member.

### 15. Meeting Frequency and Notice

- 15.1. Meetings of the RPC shall be held as required in order to achieve the RMA Documents review and development work programme.
- 15.2. Notice of ordinary meetings will be given well in advance in writing to all RPC Members, and not later than 1 month prior to the meeting.

### 16. Costs of administering and operating the RPC

<sup>7</sup> An interest does not include an interest that a Member may have through an affiliation with an iwi or a hapū that has customary interests in the RPC Region.

<sup>8</sup> An 'interests register' is a register of the business interests of Members of the RPC kept for the purpose of determining compliance with the Local Authorities (Members' Interests) Act 1968.

*Terms of Reference of RPC s12(1)(d)*

- 16.1. The costs of administering and operating the RPC will be met by the Council, including—
- 16.1.1. the costs of any advice required by the RPC; and
  - 16.1.2. remuneration of Tāngata Whenua Members, the Tāngata Whenua Co-Chairperson and the Tāngata Whenua Deputy Co-Chairperson for their services to the RPC and reimbursement of their expenses.
  - 16.1.3. the level of remuneration shall be determined promptly following the triennial election of members of a local authority by two independent persons (Independents), one of which shall be appointed by the Council Co-Chairperson, and the other by the Tāngata Whenua Co-Chairperson.
  - 16.1.4. The Independents must have regard to the following matters when determining the level of remuneration for Tāngata Whenua Members:
    - 16.1.4.1. the need to minimise the potential for certain types of remuneration to distort the behaviour of the Tāngata Whenua Members, the Tāngata Whenua Co-Chairperson, and the Tāngata Whenua Deputy Co-chairperson in relation to their respective positions on the RPC;
    - 16.1.4.2. the need to achieve and maintain relativity with the levels of remuneration received by elected representatives in RMA policy development roles; and
    - 16.1.4.3. the need to be fair both:
      - 16.1.4.3.1. to the persons whose remuneration is being determined; and
      - 16.1.4.3.2. to ratepayers; and
    - 16.1.4.4. the need to attract and retain competent persons.
  - 16.1.5. If the Independents cannot agree on the level of remuneration for Tāngata Whenua Members, the dispute resolution procedure in these Terms of Reference applies.

**17. Review and Amendment of these Terms of Reference***Reporting and review by RPC, Schedule clause 10*

- 17.1. Appointers –
- 17.1.1. must, no later than 16 September 2018<sup>9</sup>, undertake a review of the performance of the RPC; and
  - 17.1.2. may undertake any subsequent review of the RPC at a time agreed by all Appointers, and in any event, at least every three years.
- 17.2. Appointers may, following a review, make recommendations to the RPC on relevant matters arising from the review.
- 17.3. These Terms of Reference must be consistent with the Specified Legislation.
- 17.4. In the event of an inconsistency between the obligations of the Council under these Terms of Reference and its obligations under the Specified Legislation, the Specified Legislation prevails.
- 17.5. The Council Members or Tāngata Whenua Members may request changes to the Terms of Reference.
- 17.6. These Terms of Reference may be amended by the written unanimous agreement of the Appointers.

<sup>9</sup> 16 September 2018 is 3 years after the date of the first meeting of the RPC (16 September 2015) following the date of enactment of the Act (15 August 2015).

**18. Technical and administrative support**

*Schedule; Further provisions relating to RPC clause 12*

- 18.1. The Council must provide technical and administrative support to the RPC in the performance of its functions.
- 18.2. The RPC will have full access to Council staff, through the relevant Group Managers, to provide any technical and administrative support in the performance of its functions.
- 18.3. Reports provided to the RPC must also include information and advice that is culturally relevant and appropriate and ensures that the RPC complies with its obligations relating to Māori under the Specified Legislation.

**19. Service of Notice**

*Schedule; Service of notices clause 11*

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

**20. Terms of Reference Interim**

- 20.1. These Terms of Reference are interim only until amended by legislation enacted to give effect to agreements reached in respect of the Permanent Committee.

**21. Officers Responsible**

- 21.1. Chief Executive of Hawke's Bay Regional Council and his/her delegated officers.



**APPENDIX ONE - GLOSSARY**

For the purposes of these Terms of Reference, the following terms and their definitions apply:

<b>Appointer</b>	Means – (a) A Tāngata Whenua Appointer; (b) The Council.
<b>Council Member</b>	Means a member of the RPC appointed by the Council under section 11(1)(j) of the Act.
<b>Hearings Panel</b>	Is a panel appointed to hear public submissions on any RMA Document. It may be made up of any number of people, and may include RPC Members, independent commissioners, or a mix of the two.
<b>Members</b>	In relation to the RPC, means each Tāngata Whenua Member and each Council Member.
<b>Proposed Regional Plan</b>	Has the same meaning as in section 43AAC of the RMA.
<b>Regional Coastal Environment Plan</b>	Is a combined regional plan for the Hawke's Bay coastal environment, including the coastal marine area of the RPC Region.
<b>Regional Plan</b>	Has the same meaning as in section 43AA of the RMA.
<b>Regional Policy Statement</b>	Has the same meaning as in section 43AA of the RMA.
<b>Regional Resource Management Plan</b>	Is a combined planning document including the Regional Policy Statement for the RPC Region and regional plan for those parts of the RPC Region not within the coastal environment.
<b>RMA</b>	Resource Management Act 1991 and subsequent amendments.
<b>RMA Document</b> (s4(1) and (2) of the Act)	Any of the following documents required under the RMA in relation to the RPC region: (a) regional policy statement or proposed regional policy statement; (b) regional plan or proposed regional plan; (c) change to a regional policy statement or regional plan; (d) variation to a proposed regional policy statement or a proposed regional plan.
<b>RPC</b>	Regional Planning Committee.
<b>RPC Region</b> (s4 of the Act)	Has the same meaning as Hawke's Bay Region in clause 3 of the Local Government (Hawke's Bay Region) Reorganisation Order 1989 (13 June 1989) 99 New Zealand Gazette at 2334.
<b>Specified Legislation</b> (s4 of the Act)	Means: (a) the Act; (b) the Local Government Act 2002; (c) the Local Government Official Information and Meetings Act 1987; (d) the Local Authorities (Members' Interests) Act 1968; and (e) the relevant provisions of the RMA.
<b>Tangata Whenua Appointer</b>	(a) Tāngata Whenua Appointer, subject to section 5 (Definition of Tāngata Whenua appointer modified if the Crown approves governance entity or recognises mandated body) of the Act, means-  (i) the trustees of the Maungaharuru-Tangitū Trust, on behalf of the Maungaharuru-Tangitū Hapū:

	<ul style="list-style-type: none"> <li>(ii) the trustees of the Ngāti Pāhauwera Development Trust, on behalf of Ngāti Pāhauwera:</li> <li>(iii) the trustees of Tūhoe Te Uru Taumatua, on behalf of Tūhoe:</li> <li>(iv) the trustees of Te Kotahitanga o Ngāti Tūwharetoa, on behalf of Ngāti Tūwharetoa:</li> <li>(v) the trustees of Mana Ahuriri Trust, on behalf of the Mana Ahuriri hapū:</li> <li>(vi) the trustees of Hineuru Iwi Trust, on behalf of Ngāti Hineuru:</li> <li>(vii) Tātau Tātau o Te Wairoa Trust, on behalf of Wairoa iwi and hapū:</li> <li>(viii) the trustees of the Heretaunga Tamatea Settlement Trust, on behalf of the hapū of Heretaunga and Tamatea: and</li> <li>(ix) the appointer for Ngāti Ruapani ki Waikaremoana, on behalf of Ngāti Ruapani ki Waikaremoana; and</li> </ul> <p>(b) Includes, in relation to a Tāngata Whenua Appointer that is a governance entity, a delegate of, or a successor to, that Appointer if the delegation or succession complies with the requirements of the governance document of the Appointer.</p>
<b>Tāngata Whenua Member</b>	Means a Member of the RPC appointed under section 11(1)(a) to (i) of the Act.
<b>The Act</b>	Means the Hawke's Bay Regional Planning Committee Act 2015.
<b>The Council</b>	Means the Hawke's Bay Regional Council.

**APPENDIX TWO – SERVICE OF NOTICE (Appointee in parenthesis)**

<b>Hawke's Bay Regional Council</b> Attention: Chief Executive Address: Private Bag 6006, Napier 4142 Email: <a href="mailto:info@hbrc.govt.nz">info@hbrc.govt.nz</a> Telephone: 06 833 8045	<b>Heretaunga Tamatea Settlement Trust</b> Attention: Administration – Heretaunga Tamatea Settlement Trust Office (Appointees - Dr Roger Maaka / Peter Paku) Address: PO Box 2192, Stortford Lodge, HASTINGS 4156 Email: <a href="mailto:office@heretaungatamatea.iwi.nz">office@heretaungatamatea.iwi.nz</a> Telephone: 06 876 6508
<b>Mana Ahuriri Trust</b> Attention: Chairperson (Appointee Joinella Maihi Carroll) Address: PO Box 12076, Ahuriri, Napier 4144 Email: <a href="mailto:joinellamc@gmail.com">joinellamc@gmail.com</a> Telephone: 022 6576 493 Work: 06 872 6000	<b>Maungaharuru-Tangitū Trust</b> Attention: Chairperson & General Manager (Appointee Tania Hopmans) Address: PO Box 3376, Hawke's Bay Mail Centre, Napier 4142 Email: <a href="mailto:info@tangoio.maori.nz">info@tangoio.maori.nz</a> Telephone: 06 835 2357
<b>Ngāti Pāhauwera Development Trust</b> Attention: Administration Manager (Appointee Toro Waaka) Address: PO Box 374, WAIROA 4160 Email: <a href="mailto:twaka@gmail.com">twaka@gmail.com</a> Telephone: 06 8386869	<b>Ngāti Ruapani ki Waikaremoana</b> Attention: (Interim Appointee Nicky Kirikiri) Address: C/- Twin Lake Store, Tuai, WAIROA 4164 Email: <a href="mailto:n.kirikiri@xtra.co.nz">n.kirikiri@xtra.co.nz</a> Telephone: 06 837 3855 Cell phone: 021 916 405
<b>Te Kotahitanga o Ngāti Tūwharetoa</b> Attention: Te Poari Mahi (Interim Appointee Mike Mohi) Address: 130 Atirau Road, Turangi, P O Box 315, TURANGI 3353 Email: <a href="mailto:tpm@tknt.maori.nz">tpm@tknt.maori.nz</a> / <a href="mailto:mmohi@doc.govt.nz">mmohi@doc.govt.nz</a> Telephone: 027 2466 200	<b>Hineuru Iwi Trust</b> Attention: (Appointee Karauna Brown) Address: 4863 Napier/Taupō Rd, SH5, Te Haroto PO Box 125, BAY VIEW 4149 Email: <a href="mailto:karauna@ngatihineuru.com">karauna@ngatihineuru.com</a> Telephone: 06 839 1707
<b>Tātau Tātau o Te Wairoa Trust</b> Attention: (Appointee Apiata Tapine) Address: 34 Marine Parade, PO Box 61, WAIROA 4108 Email: <a href="mailto:apiata.tapine@gmail.com">apiata.tapine@gmail.com</a> Telephone: 06 838 8262	<b>Tūhoe Te Uru Taumata</b> Attention: General Manager (Appointee pending) Address: Te Kura Whare, 12 Tuhoe Street, TANEATUA 3191 Email: <a href="mailto:kirsti@ngaituhoe.iwi.nz">kirsti@ngaituhoe.iwi.nz</a> Telephone: 07 312 9659





## Te Komiti Whakatakoto Mahere a-Rohe

### Regional Planning Committee

#### Terms of Reference<sup>^</sup>

*Adopted by Council 26 February 2014\*,*

*NB: for consideration alongside Parliament's reading of the Hawke's Bay Regional Planning Committee Bill)*

*\* includes editorial minor corrections for improved readability/formatting & referencing only*

*<sup>^</sup> These Terms of reference have been written in accordance with the Hawke's Bay Regional Planning Committee Act 2015 ('the Act'). There are some matters that are yet to be fully agreed upon and will require further amendment to these Terms of Reference in due course.*

#### 1. Introduction

1.1. Through its Treaty of Waitangi settlement negotiations with the tāngata whenua of the Hawke's Bay<sup>1</sup>, in conjunction with the Council, the Crown has committed to introduce legislation to establish a permanent Regional Planning Committee (Permanent Committee) to draft and recommend to the Council plan and policy changes that affect natural resources in the Hawke's Bay region.

1.2. These terms of reference will be amended by and therefore must be read in conjunction with legislation enacted to give effect to agreements reached in respect of the Permanent Committee. These terms of reference may be amended by the Council and the Member Tāngata Whenua Groups in accordance with (14) below.

##### Preamble to the Act<sup>2</sup>

##### 1.1. The Preamble of the Act states:

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

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

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

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

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

<sup>2</sup> Hawke's Bay Regional Planning Committee Act 2015 (HBRPC Act).  
<http://www.legislation.govt.nz/act/public/2015/0065/latest/whole.html>

- 1.2.1. the trustees of Tūhoe Te Uru Taumata and the Crown dated 4 June 2013; and
- 1.2.2. the trustees of Te Kōpere o te iwi o Hineuru Trust and the Crown dated 2 April 2015; and
- 1.2.3. the trustees of the Heretaunga Tamatea Settlement Trust and the Crown dated 26 September 2015; and
- 1.2.4. the trustees of the Mana Ahuriri Trust and the Crown dated 2 November 2016; and
- 1.2.5. Tātau Tātau O Te Wairoa and the Crown dated 26 November 2016; and
- 1.2.6. Te Kotahitanga o Ngāti Tūwharetoa and the Crown dated 8 July 2017.

- 1.3. The Crown has also recognised the need to provide for membership of the committee for Ngāti Ruapani ki Waikaremoana before beginning Treaty Settlement negotiations.
- 1.4. The Committee has been operating since April 2012. Legislation was required to ensure that the Committee could not be discharged except by unanimous written agreement of the Appointers and to confirm its role and procedures. Accordingly, the legislation was enacted and came into force on 15 August 2015<sup>3</sup>.
- 1.5. The RPC is a joint committee of the Council deemed to be appointed under Clause 30(1)(b) of Schedule 7 of the Local Government Act 2002.

## **2. Purpose**

### Purpose of the HB Regional Planning Committee Act s3(1)

- 2.1. The purpose of the Act is to improve tāngata whenua involvement in the development and review of documents prepared in accordance with the Resource Management Act 1991 for the Hawke's Bay region.

### Purpose, functions and powers of the RPC s9(1)

- 1.3.2.2 The purpose of the RPC is to oversee the review and development and review of the RMA Documents prepared in accordance with the RMA for the RPC Region.<sup>4</sup> Regional Policy Statement and Regional Plans for the Hawke's Bay region, as required under the Resource Management Act 1991.

## **2.3. Procedure**

- 3.1. The Committee is responsible for preparing Proposed Regional Plans and Proposed Regional Policy Statements, or any Plan Changes or Plan Variations, and recommending to the Council the adoption of those documents for public notification, as provided for further in paragraph (4) below. In the event that the Council does not adopt all or any part of any Proposed Regional Plan, Proposed Regional Policy Statement, Plan Change or Plan Variation or other recommendation, the Council shall refer such document or recommendation in its entirety back to the Committee for further consideration, as soon as practicable but not later than two months after receiving a recommendation from the Committee. The Committee must take all steps reasonably necessary to enable the Council to meet any relevant statutory timeframes.

[EDITOR'S NOTE – Revision of these 'refer-back' procedures is not yet agreed upon so Clause 3 above remains the same as in the previously adopted February 2014 Terms of Reference].

## **3.4. Functions and Powers**

### Functions and powers of RPC s10 (1)-(4)

- 4.1. The primary function of the RPC is to achieve the purpose of the RPC. In achieving the purpose of the RPC, the committee may:

<sup>3</sup> Section 2 (Commencement) of the Act.

<sup>4</sup> Defined in the Hawke's Bay Regional Planning Committee Act 2015 and the Glossary to these Terms of Reference as the Hawke's Bay region.

- ~~4.1.1. To implement<sup>5</sup> a work programme for the review of the RMA Documents Council's Regional Plans and Regional Policy statements prepared under the Resource Management Act 1991;~~
- ~~4.1.2. oversee consultation on any RMA Document (prior to notification);~~
- ~~4.1.3. consider the RMA Documents and recommend to Council for public notification the content of any draft –~~
- ~~4.1.3.1. change to the regional policy statement or regional plan;~~
- ~~4.1.3.2. proposed regional policy statement or proposed regional plan;~~
- ~~3.1.1.4.1.3.3. variation to a proposed regional policy statement, proposed regional plan, or change.~~
- ~~3.2. To prepare any changes to the Regional Resource Management Plan, including the Regional Policy Statement.~~
- ~~3.3. To prepare any Plan Variations to the Proposed Regional Coastal Environment Plan.~~
- ~~3.4. To prepare Plan Changes to the Regional Coastal Environment Plan as required, once it is operative.~~
- ~~3.5. To oversee consultation on any draft Proposed Regional Plan, Proposed Regional Policy Statement, Plan Change or Plan Variation (prior to notification).~~
- ~~3.6. To recommend to Council for public notification any, Proposed Regional Plans, Proposed Regional Policy Statements, Plan Changes or Plan Variations.~~
- ~~3.6.1.4.1.4. In accordance with the process outlined above in Clause 3.1 of these Terms of Reference, to review any documents which the Council may refer back to the RPC Committee for further consideration;~~
- ~~3.6.2.4.1.5. To recommend to Council the membership of Hearings Panels, from appropriately trained and eligible commissioners (which may include members of the RPC), to hear and decide upon submissions on proposed RMA Documents Proposed Regional Plans, Proposed Regional Policy Statements, Plan Variations and Plan Changes (which may include members of the Committee);~~
- ~~3.6.3.4.1.6. To determine recommend to Council the scope for the resolution and settlement of appeals on proposed RMA Documents Proposed Policy Statements, Proposed Regional Plans, Plan Variations and Plan Changes;~~
- ~~3.6.4.4.1.7. When required, to recommend to Council that officers be delegated with the authority to resolve and settle any appeals and references on proposed RMA Documents through formal mediation before New Zealand's the Environment Courts;~~
- ~~4.1.8. To monitor the efficiency and effectiveness of provisions of the RMA Documents Regional Policy Statements and Regional Plans in accordance with section 35 of the RMA. Resource Management Act and incorporate the monitoring outcomes will be incorporated into a review of the Committee's RPC's work programme if relevant to do so.~~
- ~~4.1.9. perform any other function specified in these Terms of Reference.~~
- ~~4.2. For the purposes of enabling the RPC to carry out its functions, the Council must –~~
- ~~4.2.1. refer all matters referred to in clause 4.1.3 of these Terms of Reference to the RPC; and~~
- ~~4.2.2. provide all necessary documents or other documents to the RPC.~~
- ~~3.7.4.3. The RPC has the powers reasonably necessary to carry out its functions in a manner~~

<sup>5</sup> Meaning to instigate and execute.



consistent with the Specified Legislation.

#### **4. Special Terms of Reference**

4.1. ~~The role of the RPC, and all members of the RPC, is to objectively overview the development and review of proposed policy statements, plans, variations and plan changes in accordance with the requirements of the Resource Management Act 1991. In particular the RPC must apply the purpose and principles of the Act and section 32 to its decision-making.~~

4.2. ~~The RPC, when recommending the appointment of hearings panels, shall recommend members for their particular skills, attributes or knowledge relevant to the work of the panel and shall so far as possible ensure that no member is open to perceptions or allegations of bias or predetermination.~~

~~It is not intended that the participation of Tāngata Whenua Members on the RPC be a substitute for any consultation with iwi required under Schedule 1 of the Resource Management Act 1991.~~

#### **5. Membership of RPC**

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

5.1. ~~Tāngata Whenua Representatives, each appointed by Council on nomination by a Member Tāngata Whenua Group.~~

5.2. ~~Councillor members equal to the number of Tāngata Whenua Representatives appointed at any time.~~

5.2.1. ~~The principle which applies is that there shall be equal numbers of Councillor members and Tāngata Whenua Representatives on the Committee at any time.~~

#### **6. Chairperson and Deputy Chairperson (Transition Period: April 2012 – December 2012)**

6.1. ~~During the transition period the Chair of the Committee will be appointed by Council from Councillor members. The Deputy Chairperson will be appointed by Council on nomination from the Tāngata Whenua Representatives.~~

#### **7. Chairperson (January 2013 – enactment of legislation and establishment of the Permanent Committee)**

7.1. ~~From the end of the transition period until the establishment of the Permanent Committee the Committee will have two Co-Chairs:~~

7.1.1. ~~a Councillor member of the Committee appointed by the Councillor members; and~~

7.1.2. ~~a Tāngata Whenua Representative appointed by Council on nomination from the Tāngata Whenua Representatives.~~

7.1.3. ~~Each Co-Chair shall preside at meetings of the Committee on a pre-arranged basis. This arrangement will presume that the Co-Chairs will be responsible for separate areas of policy development and each will preside over a meeting as their relevant portfolio areas are discussed.~~

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

##### 5.1. Tāngata Whenua Members:

The following are Tāngata Whenua Members:

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

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

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

5.1.4. 1 member appointed by the trustees of the Ngati-Tuwharetoa Hapu Forum TrustTe Kotahitanga o Ngāti Tūwharetoa;

5.1.5. 1 member appointed by the trustees of the Mana Ahuriri Trust;

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

5.1.7. 1 member appointed by the Tātau Tātau o te Wairoa Trust:

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

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

## 5.2. Council Members:

### Membership of the RPC s11(1)(j)

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

## 5.3. Appointers:

### Membership of RPC s11(2)-(5)

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

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

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

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

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

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

[EDITOR'S NOTE: clauses relating to a process how to reduce and reinstate equal numbers of Council Members is yet to be agreed upon]

## 6. Term of Membership Appointment

### Schedule; further provisions relating to RPC clause 1(1)-(3)

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

## 6.1. Subject to the Act:

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

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

general election.

6.2. However, if a Council Member is appointed after the date of the first meeting of the Council referred to in **Clause 5.1** of these Terms of Reference, the member is appointed from that date until the close of the day before the next triennial general election.

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

## **7. Discharge of membership**

Schedule: Further provisions relating to RPC clause 2

7.1. A Member may be discharged by that member's Appointer.

7.2. If **Clause 5.1** of these Terms of Reference applies, the Member's Appointer must, within 10 working days after the date on which the Member was discharged –

7.2.1. notify the RPC in writing that the Member has been discharged; and

7.2.2. provide a copy of the notice to all other Appointers.

## **8. Resignation of membership**

Schedule: Further provisions relating to RPC clause 3

8.1. A Tāngata Whenua Member may resign by giving written notice to that person's Appointer.

8.2. A Tāngata Whenua Appointer must, on receiving a notice given under **Clause 8.1** of these Terms of Reference, forward a copy of the notice to the RPC and the Chief Executive of the Council.

## **9. Vacancies**

Schedule: Further provisions relating to RPC clause 4

9.1. If a vacancy occurs on the RPC, the relevant Appointer must fill the vacancy as soon as is reasonably practicable.

9.2. A vacancy does not prevent the RPC from continuing to perform its functions or exercise its powers.

## **10. Co-chairpersons and deputy co-chairpersons**

Schedule: Further provisions relating to RPC clause 5(1) - (5)

10.1. The RPC has the following Co-chairpersons:

10.1.1. 1 Member appointed by the Tāngata Whenua Members;

10.1.2. 1 Member appointed by the Council Members.

10.2. Each Co-chairperson must be elected at or before the first meeting of the RPC following the triennial general election of members of a local authority under Local Electoral Act 2001.

10.3. Each Co-Chairperson is to preside at meetings of the RPC on a pre-arranged basis.

10.4. The Co-chairpersons may deputise for each other at meetings of the RPC.

10.5. The Co-Chairpersons' role includes working with the Chief Executive and Group Managers of the Council to ensure that the RPC is able to fulfil its purpose and perform its functions, including but not limited to quarterly meetings between the Chief Executive and Co-chairpersons to monitor progress.

10.6. The Tāngata Whenua Members may appoint a deputy Co-chairperson and the Council Members may appoint a deputy Co-chairperson.

10.7. The deputy Co-Chairpersons' role is to help their respective Co-chairperson to fulfil the role of Co-chairperson and to deputise for that Co-chairperson at meetings of the RPC or other meetings in the absence of that Co-chairperson.



10.8. Those persons appointed to the position of Co-chairperson or deputy Co-chairperson shall hold their position until death, resignation, removal<sup>6</sup> or appointment of their successor in accordance with these Terms of Reference, whichever shall occur first.

10.9. A Co-chairperson or deputy Co-chairperson may be appointed or discharged in accordance with these Terms of Reference.

#### **8.11. Quorum**

11.1. The quorum of a meeting of the RPC shall be 75% of the ~~m~~Members of the ~~Committee~~RPC who are eligible to vote.

*[EDITOR'S NOTE - Notwithstanding this Clause, the quorum threshold is one matter that is within scope of the first statutory review of the RPC's performance. The Act does not specify a quorum threshold, but does require the TOR to specify what the quorum is. The RPC is yet to agree on a quorum figure consequently the 75% threshold is carried over from the RPC's Feb 2014 Term of Reference.]*

#### **12. Voting-EntitlementDecision-making**

*Schedule; Further provisions relating to RPC clause 7*

12.1. The decisions of the RPC must be made by vote at meetings in accordance with these Terms of Reference.

12.2. Best endeavours will be made to achieve decisions on a consensus basis, or failing consensus, the agreement of 80% of the ~~Committee~~RPC ~~m~~Members ~~in attendance~~present and eligible to vote will be required.

*[EDITOR'S NOTE - Notwithstanding Clause 12.2, the voting threshold is one matter that is within scope of the first statutory review of the RPC's performance. The Act does not specify a voting threshold. The RPC is yet to agree on what decision-making looks like on some or all of its functions when consensus is not achieved. Consequently the 80% threshold is carried over from the RPC's Feb 2014 Term of Reference.]*

12.3. ~~Where voting is required, all members of the Committee~~RPC have full speaking rights ~~and voting entitlements~~.

8.1.12.4. Where voting is required, all Members of the RPC have voting entitlements, except in circumstances referred to in ~~Clause 12.3~~ of these Terms of Reference.

12.5. The Chair at any meeting of the Regional Planning Committee does NOT have a deliberative vote and, in the case of equality of votes, Any Member who is chairing a meeting of the RPC may vote on any matter but does NOT have a casting vote<sup>7</sup>.

#### **13. Standing Orders**

*Schedule; Further provisions relating to RPC clause 6*

13.1. The Council's standing orders as adopted on 30 November 2016 shall apply until the RPC adopts a set of standing orders for the operation of the RPC.

13.2. The standing orders adopted by the RPC must not contravene –

13.2.1. the Hawke's Bay Regional Planning Committee Act 2015; or

13.2.2. these Terms of Reference; or

13.2.3. Tikanga Māori; or

13.2.4. subject to ~~Clause 12.3~~ of these Terms of Reference, the local government legislation or any other enactment.

13.3. The RPC may amend the standing orders at any time.

13.4. Every Member of the RPC must comply with the standing orders of the RPC.

<sup>6</sup> The Council Members will follow the process for removing a chairperson or deputy chairperson in the Hawke's Bay Regional Council Standing Orders. The Tāngata Whenua Members may decide upon their own process within a tikanga framework and are not obliged to follow the process in the Hawke's Bay Regional Council Standing Orders.

13.5. Where standing orders conflict with these Terms of Reference, the Terms of Reference prevail.

#### 14. Conflict of interest

Schedule; Further provisions relating to RPC clause 9

14.1. Each Member of the RPC must disclose any actual or potential interest<sup>7</sup> to the RPC.

14.2. The RPC must maintain an interests register<sup>8</sup>.

14.3. A Member of the RPC is not precluded by the Local Authorities (Members' Interests) Act 1968 from discussing or voting on a matter merely because –

14.3.1. the Member is a member of an iwi or a hapū; or

14.3.2. the economic, social, cultural, and spiritual values of an iwi or a hapū and their relationship with the RPC are advanced by or reflected in –

14.3.2.1. the subject matter under consideration; or

14.3.2.2. any decision by or recommendation of the RPC; or

9. participation in the matter by the Member.

14.3.2.3.

#### 10.15. Meeting Frequency and Notice

10.15.1. Meetings of the RPC shall be held ~~As~~ required in order to achieve the ~~plan and policy~~ RMA Documents review and development work programme.

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

#### 16. Costs of administering and operating the RPC Committee

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

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

10.3.1.16.1.1. The costs of any advice required by the ~~RPC~~ Committee as agreed by the Committee; and

10.3.2. ~~Remuneration of Tāngata Whenua Members, Representatives and the Tāngata Whenua Co-Chairperson and the Tāngata Whenua Deputy Co-Chairperson as follows:~~

16.1.2. The Tāngata Whenua Representatives and the Tāngata Whenua Co-Chair shall be remunerated for their services to the RPC and reimbursement of their expenses by the Council.

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

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

10.3.3.1.16.1.4.1. the need to minimise the potential for certain types of remuneration to distort the behaviour of the Tāngata Whenua ~~Representatives~~ Members, and the Tāngata Whenua Co-Chairperson, and the Tāngata Whenua Deputy Co-

<sup>7</sup> An interest does not include an interest that a Member may have through an affiliation with an iwi or a hapū that has customary interests in the RPC Region.

<sup>8</sup> An 'interests register' is a register of the business interests of Members of the RPC kept for the purpose of determining compliance with the Local Authorities (Members' Interests) Act 1968.



chairperson in relation to their respective positions on the CommitteeRPC;

~~10.3.3.2.16.1.4.2.~~ the need to achieve and maintain fair relativity with the levels of remuneration received by elected representatives in RMA policy development roles; and

~~10.3.3.3.16.1.4.3.~~ the need to be fair both:

~~10.3.3.3.1.16.1.4.3.1.~~ to the persons whose remuneration is being determined; and

~~10.3.3.3.2.16.1.4.3.2.~~ to ratepayers; and

~~16.1.4.4.~~ the need to attract and retain competent persons.

~~10.3.4.16.1.5.~~ If the Independents cannot agree on the level of remuneration for Tāngata Whenua Members, the dispute resolution procedure in these Terms of Reference applies.

#### **11.17. Review and Amendment of these Terms of Reference**

~~11.1. The Terms of Reference for the Committee will be reviewed by the Councillor members and the Tāngata Whenua Representatives in April 2013 to determine whether the Committee is fulfilling the objectives of the Council and Tāngata whenua.~~

Reporting and review by RPC, Schedule clause 10

##### **17.1. Appointers –**

17.1.1. must, no later than 16 September 2018<sup>9</sup>, undertake a review of the performance of the RPC; and

17.1.2. may undertake any subsequent review of the RPC at a time agreed by all Appointers, and in any event, at least every three years.

17.2. Appointers may, following a review, make recommendations to the RPC on relevant matters arising from the review.

17.3. These Terms of Reference must be consistent with the Specified Legislation.

17.4. In the event of an inconsistency between the obligations of the Council under these Terms of Reference and its obligations under the Specified Legislation, the Specified Legislation prevails.

#### **12. Amendments to these Terms of Reference**

~~12.1.17.5. The Councillor mMembers or Tāngata Whenua Representatives Members may request changes to the Terms of Reference. Amendments to the Terms of Reference may only be made with the approval of:~~

~~12.1.1. the Councillors at a Council meeting; and~~

~~12.1.2. the Tāngata Whenua Representatives at a hui called for that purpose.~~

17.6. These Terms of Reference may be amended by the written unanimous agreement of the Appointers.

#### **18. Technical and administrative support**

Schedule; Further provisions relating to RPC clause 12

18.1. The Council must provide technical and administrative support to the RPC in the performance of its functions.

18.2. The Committee RPC will have full access to Council staff, through the relevant Group Managers, to provide any technical and administrative support required in order to achieve the

<sup>9</sup> 16 September 2018 is 3 years after the date of the first meeting of the RPC (16 September 2015) following the date of enactment of the Act (15 August 2015).

Committee's purpose, as set out in paragraph 2 above in the performance of its functions.

12.2.18.3. Reports provided to the RPC must also include information and advice that is culturally relevant and appropriate and ensures that the RPC complies with its obligations relating to Māori under the Specified Legislation.

#### **19. Service of Notice**

Schedule; Service of notices clause 11

19.1. A notice sent to a person in accordance with these Terms of Reference must be treated as having been received by that person, if the notice is sent –

19.1.1. by post, at the time it would have been delivered in the ordinary course of post;

19.1.2. by email or fax, at the time of transmission.

19.2. A notice required to be given by these Terms of Reference is not invalid because a copy of it has not been given to any or all of the persons concerned.

19.3. Any notices relating to these Terms of Reference will be deemed to be validly given if posted, or forwarded by facsimile transmission, or emailed to the addresses set out in Appendix Two or to any other address that an Appointer may designate by notice to the other Appointers.

#### **13.20. Terms of Reference Interim**

13.1.20.1. These Terms of Reference are interim only until amended by legislation enacted to give effect to agreements reached in respect of the Permanent Committee.

#### **14.21. Officers Responsible**

14.1.21.1. ~~Group Manager; Strategic Development~~ Chief Executive of Hawke's Bay Regional Council and his/her delegated officers.

**APPENDIX ONE - GLOSSARY**

For the purposes of these Terms of Reference, the following terms and their definitions apply:

<b>Appointer</b>	Means – (a) A Tāngata Whenua Appointer; (b) The Council.
<b>Council Member</b>	Means a member of the RPC appointed by the Council under section 11(1)(j) of the Act.
<b>Hearings Panel</b>	Is a panel appointed to hear public submissions on any <del>Proposed Plan, Proposed Policy Statement, Plan Change or Plan Variation</del> RMA Document. It may be made up of any number of people, – It may be made up of any number of people, and may include <del>Committee</del> <del>RPC</del> <del>Members</del> , independent commissioners, or a mix of the two.
<b>Members</b>	In relation to the RPC, means each Tāngata Whenua Member and each Council Member.
<b>Member Tāngata Whenua Group</b>	<del>Means a Crown recognised mandated group representing tāngata whenua interests within the Hawke's Bay region, mandated for the purpose of negotiating with the Crown for a settlement of claims under the Treaty of Waitangi, being:</del> <del>Mana Ahuriri Incorporated (representing the Ahuriri Hapū);</del> <del>Maungaharuru Tangitu Incorporated (representing the Maungaharuru Tangitu Hapū);</del> <del>Ngāti Hineuru Iwi Incorporated (representing Ngāti Hineuru);</del> <del>on an interim basis and only to the extent set out in the Deed of Commitment (dated 1 March 2012) between HBRC, Tāngata Whenua Parties and the Crown;</del> <del>Te Toi Kura o Waikaremoana (representing Ruapani ki Waikaremoana); and</del> <del>Any other group which becomes a Tāngata Whenua Party to the Deed of Commitment dated (1 March 2012) between HBRC, Tāngata Whenua Parties and the Crown by executing a Deed of Accession set out in Schedule 1 of that Deed.</del>
<b>Operative Regional Plan / Operative Regional Policy Statement</b>	In relation to a regional plan or a regional policy statement, means that it has been through the public submission, hearings and Court processes and has full effect.
<b>Plan Change</b>	Is when a Council proposes changes to an operative plan or policy statement.
<b>Plan Variation</b>	A plan variation is when a Council proposes a further change to a plan or policy statement that is still in the 'proposed stage' and has yet to be finalised.
<b>Proposed Regional Plan / Proposed Regional Policy Statement</b>	Has the same meaning as in section 43AAC of the RMA. A proposed regional plan or proposed regional policy statement is a document that has been issued by the Council and 'proposed' as the Council's official position. To be legally proposed, a document must be publicly notified so people can make submissions.
<b>PSGE</b>	Means a post settlement governance entity which has taken over responsibility from a Member Tāngata Whenua Group for representing tāngata whenua interests, being: <del>The Trustees of the Ngāti Pāhauwera Development Trust (representing Ngāti Pāhauwera); and</del> <del>Any other entity which becomes a Tāngata Whenua Party to the Deed of Commitment dated (1 March 2012) between HBRC, Tāngata Whenua Parties</del>



	and the Crown by executing a Deed of Replacement set out in Schedule 2 of that Deed
<b>Regional Coastal Environment Plan</b>	Is a combined regional plan for the Hawke's Bay coastal environment, including the coastal marine area of the RPC Region. A document that sets out how the Council will manage the coast. Can include rules.
<b>Regional Plan</b>	Has the same meaning as in section 43AA of the RMA. A document that sets out how the Council will manage a particular aspect of the environment, like the coast, soil, rivers or the air. Can include rules.
<b>Regional Policy Statement</b>	Has the same meaning as in section 43AA of the RMA. Is the document that sets the basic direction for environmental management in the region. This also includes the Māori Dimension. It does not include rules.
<b>Regional Resource Management Plan</b>	Is a combined planning document including the Regional Policy Statement for the RPC Region and regional plan for those parts of the RPC Region not within the coastal environment. Includes the Regional Policy Statement which relates to air, fresh water, gravel and land.
<b>RMA</b>	Resource Management Act 1991 and subsequent amendments.
<b>RMA Document</b> (s4(1) and (2) of the Act)	Any of the following documents required under the RMA in relation to the RPC region: (a) regional policy statement or proposed regional policy statement; (b) regional plan or proposed regional plan; (c) change to a regional policy statement or regional plan; (d) variation to a proposed regional policy statement or a proposed regional plan.
<b>RPC</b>	Regional Planning Committee.
<b>RPC Region</b> (s4 of the Act)	Has the same meaning as Hawke's Bay Region in clause 3 of the Local Government (Hawke's Bay Region) Reorganisation Order 1989 (13 June 1989) 99 New Zealand Gazette at 2334.
<b>Specified Legislation</b> (s4 of the Act)	Means: (a) the Act; (b) the Local Government Act 2002; (c) the Local Government Official Information and Meetings Act 1987; (d) the Local Authorities (Members' Interests) Act 1968; and (e) the relevant provisions of the RMA.
<b>Tangata Whenua Appointer</b>	(a) Tangata Whenua Appointer, subject to section 5 (Definition of Tangata Whenua appointer modified if the Crown approves governance entity or recognises mandated body) of the Act, means: (i) the trustees of the Maungaharuru-Tangitū Trust, on behalf of the Maungaharuru-Tangitū Hapū; (ii) the trustees of the Ngāti Pāhauwera Development Trust, on behalf of Ngāti Pāhauwera; (iii) the trustees of Tūhoe Te Uru Taumatua, on behalf of Tūhoe; (iv) the trustees of Ngāti Tūwharetoa Hapu Forum Trust Te Kotahitanga o Ngāti Tūwharetoa, on behalf of Ngāti Tūwharetoa; (v) the trustees of Mana Ahuriri Trust, on behalf of the Mana Ahuriri hapū; (vi) the trustees of Te Kōpere o te Iwi o Hineuru Iwi Trust, on behalf of Ngāti Hineuru;

	<p>(vii) <u>Te Tira Whakaemi o Te Wairoa Tātau Tātau o Te Wairoa Trust, on behalf of Wairoa iwi and hapū;</u></p> <p>(viii) <u>the trustees of the Heretaunga Tamatea Settlement Trust, on behalf of the hapū of Heretaunga and Tamatea; and</u></p> <p>(ix) <u>the appointer for Ngāti Ruapani ki Waikaremoana, on behalf of Ngāti Ruapani ki Waikaremoana; and</u></p> <p>(b) <u>Includes, in relation to a Tāngata Whenua Appointer that is a governance entity, a delegate of, or a successor to, that Appointer if the delegation or succession complies with the requirements of the governance document of the Appointer.</u></p>
<b>Tāngata Whenua Representative Member</b>	Means each <u>a representative Member</u> nominated by: a Member Tāngata Whenua Group; or a PSGE; of the RPC appointed under section 11(1)(a) to (i) of the Act.
<b>The Act</b>	Means the Hawke's Bay Regional Planning Committee Act 2015.
<b>The Council</b>	Means the Hawke's Bay Regional Council.
<b>The Permanent Committee</b>	Means the Permanent Regional Planning Committee referred to in the Deed of Settlement with Ngāti Pāhauwera signed 17 December 2010 (clause 5.22 and clauses 3.19-3.28 of the Provisions Schedule) and Agreement in Principle with Maungaharuru Tangitu Hapū signed 22 September 2011 (clause 5.41 and Schedule 4).

**APPENDIX TWO – SERVICE OF NOTICE (Appointee in parenthesis)**

<p><b><u>Hawke's Bay Regional Council</u></b>  <b><u>Attention: Chief Executive</u></b>  <b><u>Address: Private Bag 6006, Napier 4142</u></b>  <b><u>Email: info@hbrc.govt.nz</u></b>  <b><u>Telephone: 06 833 8045</u></b></p>	<p><b><u>Heretaunga Tamatea Settlement Trust</u></b>  <b><u>Attention: Administration – Heretaunga</u></b>  <b><u>Tamatea Settlement Trust Office</u></b>  <b><u>(Appointees - Dr Roger Maaka / Peter Paku)</u></b>  <b><u>Address: PO Box 2192, Stortford Lodge,</u></b>  <b><u>HASTINGS 4156</u></b>  <b><u>Email: office@heretaungatamatea.iwi.nz</u></b>  <b><u>Telephone: 06 876 6508</u></b></p>
<p><b><u>Mana Ahuriri Trust</u></b>  <b><u>Attention: Chairperson</u></b>  <b><u>(Appointee Joinella Maihi Carroll)</u></b>  <b><u>Address: PO Box 12076, Ahuriri, Napier 4144</u></b>  <b><u>Email: joinellamc@gmail.com</u></b>  <b><u>Telephone: 022 6576 493 Work: 06 872 6000</u></b></p>	<p><b><u>Maungaharuru-Tangitū Trust</u></b>  <b><u>Attention: Chairperson &amp; General Manager</u></b>  <b><u>(Appointee Tania Hopmans)</u></b>  <b><u>Address: PO Box 3376, Hawke's Bay Mail Centre,</u></b>  <b><u>Napier 4142</u></b>  <b><u>Email: info@tangoio.maori.nz</u></b>  <b><u>Telephone: 06 835 2357</u></b></p>
<p><b><u>Ngāti Pāhauwera Development Trust</u></b>  <b><u>Attention: Administration Manager</u></b>  <b><u>(Appointee Toro Waaka)</u></b>  <b><u>Address: PO Box 374, WAIROA 4160</u></b>  <b><u>Email: twaaka@gmail.com</u></b>  <b><u>Telephone: 06 8386869</u></b></p>	<p><b><u>Ngāti Ruapani ki Waikaremoana</u></b>  <b><u>Attention: (Interim Appointee (Nicky Kirikiri)</u></b>  <b><u>Address: C/- Twin Lake Store, Tuai,</u></b>  <b><u>WAIROA 4164</u></b>  <b><u>Email: n.kirikiri@xtra.co.nz</u></b>  <b><u>Telephone: 06 837 3855</u></b>  <b><u>Cell phone: 021 916 405</u></b></p>
<p><b><u>Ngāti-Te Kotahitanga o Ngāti Tuūwharetoa Settlement Trust</u></b>  <b><u>Attention: Te Poari Mahi</u></b>  <b><u>(Interim Appointee (Mike Mohi)</u></b>  <b><u>Address: 81 Horomatangi Street, PO Box 1845,</u></b>  <b><u>TAUPO 3351 130 Atirau Road, Turangi, P O Box</u></b>  <b><u>315, TURANGI 3353</u></b>  <b><u>Email: tpm@tknt.maori.nz /</u></b>  <b><u>mmohi@doc.govt.nz</u></b>  <b><u>Telephone: 027 2466 200</u></b></p>	<p><b><u>Te Kōpere o te iwi o Hineuru Iwi Trust</u></b>  <b><u>Attention: (Appointee Karauna Brown)</u></b>  <b><u>Address: 4863 Napier/Taupō Rd, SH5, Te Haroto</u></b>  <b><u>PO Box 125, BAY VIEW 4149</u></b>  <b><u>Email: karauna@ngatihineuru.com</u></b>  <b><u>Telephone: 06 839 1707</u></b></p>
<p><b><u>Tātau Tātau o Te Wairoa Trust</u></b>  <b><u>Attention: (Appointee Apiata Tipene Tapine</u></b>  <b><u>Address: 34 Marine Parade, PO Box 61,</u></b>  <b><u>WAIROA 4108</u></b>  <b><u>Email: apiata.tapine@gmail.com</u></b>  <b><u>Telephone: 06 838 8262</u></b></p>	<p><b><u>Tūhoe Te Uru Taumata</u></b>  <b><u>Attention: General Manager</u></b>  <b><u>(Appointee pending)</u></b>  <b><u>Address: Te Kura Whare, 12 Tuhoe Street,</u></b>  <b><u>TANEATUA 3191</u></b>  <b><u>Email: kirsti@ngaituhoe.iwi.nz</u></b>  <b><u>Telephone: 07 312 9659</u></b></p>

## HAWKE'S BAY REGIONAL COUNCIL

### REGIONAL PLANNING COMMITTEE

Wednesday 18 September 2019

#### Subject: TANGATA WHENUA REMUNERATION REVIEW

Item 9

#### Reason for Report

1. This item presents the Strategic Pay report on the findings of their review of tangata whenua representatives' remuneration for participation on the Regional Planning Committee. A copy of the final report by Strategic Pay with their findings is attached.

#### Background

2. Tāngata whenua representatives' remuneration was previously reviewed in 2017-18, with effect 1 July 2018.
3. At its meeting on 12 December 2018, the Regional Planning Committee (RPC) considered a response to a request from the tāngata whenua Co-Chair and Deputy Co-Chair that the remuneration for tāngata whenua representatives on the RPC be reconsidered due to concerns about workload and inequity with councillor remuneration.
4. After consideration and considerable debate, the RPC resolved:
  - 4.1. instructs the Chief Executive to work collaboratively with the Regional Planning Committee Co-chairs to commission an independent review of the remuneration of RPC tāngata whenua members in accordance with the Regional Planning Committee Terms of Reference, as adopted by Hawke's Bay Regional Council 26 February 2014, for agreement by the Committee prior to any appointment(s) being made.
5. Clause 13.2 in the 2014 Terms of Reference for the Regional Planning Committee states:
  - 5.1. The Tāngata Whenua Representatives and the Tāngata Whenua Co-Chair shall be remunerated for their services by the Council. The level of remuneration shall be determined promptly following each triennial election of Councillors by two independent persons (Appointees), one of which is appointed by the Council Co-Chair, and the other by the Tāngata Whenua Co-Chair. The Appointees must have regard to:
    - 5.1.1. the need to minimise the potential for certain types of remuneration to distort the behaviour of the Tāngata Whenua Representatives and the Tāngata Whenua Co-Chair in relation to their respective positions on the Committee
    - 5.1.2. the need to achieve and maintain fair relativity with the levels of remuneration received by elected representatives in RMA policy development roles, and
    - 5.1.3. the need to be fair both:
      - 5.1.3.1 to the persons whose remuneration is being determined; and
      - 5.1.3.2 to ratepayers; and
      - 5.1.3.3 the need to attract and retain competent persons.
6. Subsequent to the 12 December 2018 meeting, the Chief Executive approached two independent providers seeking their proposals to undertake a review. Both parties have responded and these proposals were provided to the co-Chairs for their feedback. The co-Chairs agreed on the one preferred provider (Strategic Pay) be appointed to carry out the remuneration review.

7. The terms of reference for the remuneration review were:
  - 7.1. confirm current composition of Council and its committees
  - 7.2. confirm current Regional Planning Committee (RPC) fees paid: base annual fees, separate committee fees; governance pool from when RPC fees were last reviewed
  - 7.3. examination of Council and committee meeting schedule, and consider the time commitment for Tangata Whenua representatives on the RPC
  - 7.4. examination of any projects or challenges of note confronting the RPC at this time
  - 7.5. acknowledgement of any particular board skills or expertise that need to be considered e.g. "Making Good Decisions" training with respect to the Resource Management Act
  - 7.6. reference to the Remuneration Authority for the setting of Councillor fee levels and fee structure
  - 7.7. reference to current arrangements for the salary setting arrangements for Tangata Whenua representatives of the Regional Planning Committee
  - 7.8. provide remuneration advice which is consistent with similar organisations throughout New Zealand to determine appropriate Committee fee levels for the RPC Tangata Whenua representatives
  - 7.9. provide "scoring" of governance roles and positions on an independent, objective basis which is consistent with the State Services Commission's Cabinet Fees Framework 2012
  - 7.10. evaluate the RPC governance roles and size these against fees paid in the NZ market for comparably sized roles
  - 7.11. provide a final report within four weeks from project approval and delivery of all requested background materials which covers the following information
    - 7.11.1. background information and the context identified above
    - 7.11.2. recommendation summary
    - 7.11.3. application of SSC's Cabinet Fees Framework to governance roles of tangata whenua members
    - 7.11.4. results of Director evaluation methodology.

### **Financial and Resource Implications**

8. The fee estimate for the independent review is \$8,900.00 excluding GST.

### **Key findings**

9. The final report from Strategic Pay has been shared in draft form with the Co-Chairs. The key findings of the report proposes a salary range of \$12,000 - \$15,000 per annum for a committee member. Currently the salary payment to tangata whenua committee members is \$12,000 per annum.
10. The Co-Chair salary is presently \$24,000 and also sits within the recommended range which is \$24,000 to \$30,000. The Deputy Co-Chair has a current remuneration of \$18,000 and the proposed range is \$18,000 to \$22,500.
11. Although Strategic Pay felt the current remuneration arrangements are appropriate with no immediate need for an increase, staff would appreciate the Committee's feedback as to whether a modest increase to \$13,000 per annum for a tangata whenua committee member, \$19,000 per annum for the RPC Deputy Co-Chair and \$26,000 per annum for the RPC Co-Chair would be acceptable.
12. With regard to travel, Strategic Pay do recommend a consistent arrangement with councillors whereby an hourly payment of \$37.50 per hour (after the first hour of eligible travel) is added.



13. Full details can be found on page 8 of the attached report.
14. Feedback from the Regional Planning Committee members is encouraged so this can be fed through to the Council for their meeting on 25 September for final decision-making.

### Remuneration Review cycle

15. The Terms of Reference for the RPC require that tangata whenua remuneration is set promptly following each triennial election. Due to the timing of the completion of this latest review falling only weeks before the start of the next triennium, staff are seeking the agreement of the Committee to accept that the next tangata whenua remuneration review will not be undertaken until immediately following the 2022 local body elections.

### Decision Making Process

16. Council and its committees are 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:
  - 16.1. The decision does not significantly alter the service provision or affect a strategic asset.
  - 16.2. The use of the special consultative procedure is not prescribed by legislation.
  - 16.3. The decision does not fall within the definition of Council's policy on significance.
  - 16.4. The persons affected by this decision are the tangata whenua representatives appointed to the Regional Planning Committee.
  - 16.5. The decision is not inconsistent with an existing policy or plan.
  - 16.6. Given the nature and significance of the issue to be considered and decided, and also the persons likely to be affected by, or have an interest in the decisions made, Council can exercise its discretion and make a decision without consulting directly with the community or others having an interest in the decision.

### Recommendations

1. That the Regional Planning Committee:
  - 1.1. Receives and considers the "*Tangata Whenua Remuneration Review*" staff report, providing discussions and feedback to inform Council decision making.
  - 1.2. Agrees that this most recent Remuneration Review meets the Terms of Reference requirement that "the level of remuneration shall be determined promptly following the triennial election" and that the next time that remuneration for tangata whenau representatives is set will be immediately following the 2022 local body elections.
2. The Regional Planning Committee recommends that Hawke's Bay Regional Council:
  - 2.1. Agrees that the decisions to be made are not significant under the criteria contained in Council's adopted Significance and Engagement Policy, and that Council can exercise its discretion and make decisions on this issue without conferring directly with the community and persons likely to be affected by or to have an interest in the decision.
  - 2.2. Sets the remuneration for tangata whenua representatives appointed to the Regional Planning Committee in accordance with the findings of the Strategic Pay report, for effect from 1 July 2019, at:
    - 2.2.1. \$13,000 per annum for a tangata whenua committee member
    - 2.2.2. \$19,000 per annum for the RPC Deputy Co-Chair
    - 2.2.3. \$26,000 per annum for the RPC Co-Chair
    - 2.2.4. A payment of \$37.50 per hour (after the first hour of eligible travel) to be paid upon submission of an approved Travel Claim form.

## Item 9

**Authored by:**

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

**Approved by:**

**James Palmer  
CHIEF EXECUTIVE**

### **Attachment/s**

[!\[\]\(a870788d6ed9b8fd294b7654a8c8526b\_img.jpg\) 1](#) 2019 Strategic Pay RPC Remuneration Report



Item 9

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## Hawke's Bay Regional Council: Regional Planning Committee

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Attachment 1

### Fees Review for Tangata Whenua Members

Prepared by:  
John McGill, CEO  
Sherry Maier, Senior Consultant  
Strategic Pay  
July 2019

**Private and Confidential**

*Strategic Pay Limited is independent of Hawke's Bay Regional Council's Regional Planning Committee. In this context, independence means that Strategic Pay Limited has not been subjected to any undue influence from management of Regional Planning Committee, any committee member of Regional Planning Committee or any other party in relation to the services provided by Strategic Pay Limited or the outcomes of those services.*

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## Overview

Joanne Lawrence, Group Manager, Office of the Chief Executive and Chair for the Hawke's Bay Regional Council ("HBRC" hereafter), has commissioned Strategic Pay Ltd to provide a review of fee levels for Tangata Whenua members of the Regional Planning Committee ("RPC" hereafter).

Ms Lawrence and Ms Leeanne Hooper have supplied our background information. John McGill met with both Tangata Whenua Committee members and Councillors of the RPC in Napier in conjunction with a scheduled Committee meeting in July. We subsequently phone interviewed the Co-Chairs: Toro Waaka and Rex Graham, to discuss the DirectoRate and CommitteeRate factors.

We understand that past analyses regarding appropriate fee levels have largely relied on application of the State Services Commission's Cabinet Fees Framework methodology. Fees were last reviewed in December 2017 by another party.

Our approach involved:

- ☐ Using a modification of our proprietary Director Evaluation Methodology ("DirectoRate" which considers nine factors involving Board of Director work) called for convenience "CommitteeRate," to consider Committee work and relying on seven factors, to develop our understanding of the RPC roles;
- ☐ Reviewing what similar roles would be paid if the RPC were under the purview of the NZ Government's State Services Commission's Cabinet Fees Framework;
- ☐ Looking at Committee fee levels and overall fee levels compared to data collected and analysed in our annual February 2019 [New Zealand Directors' Fees Survey](#);
- ☐ Reviewing the fees paid to the HBRC Councillors and understanding the relativities between Councillor roles and pay and those of the RPC;
- ☐ Contacting the New Zealand Remuneration Authority requesting advice. This request was declined as the issue is not in its jurisdiction.

## TERMS OF REFERENCE

Strategic Pay Limited has been selected to deliver the following work outputs in this project:

- ☐ Confirm current composition of Council and its committees;
- ☐ Confirm current Regional Planning Committee (RPC) fees paid: base annual fees, separate committee fees; governance pool from when RPC fees were last reviewed;
- ☐ Examination of Council and committee meeting schedule, and consider the time commitment for Tangata Whenua representatives on the RPC;
- ☐ Examination of any projects or challenges of note confronting the RPC at this time;
- ☐ Acknowledgement of any particular board skills or expertise that need to be considered e.g. "Making Good Decisions" training with respect to the Resource Management Act;
- ☐ Reference to the Remuneration Authority for the setting of Councillor fee levels and fee structure;
- ☐ Reference to current arrangements for the salary setting arrangements for Tangata Whenua representatives of the RPC;
- ☐ Provide remuneration advice which is consistent with similar organisations throughout New Zealand to determine appropriate Committee fee levels for the RPC's Tangata Whenua representatives;
- ☐ Provide "scoring" of governance roles and positions on an independent, objective basis which is consistent with the State Services Commission's Cabinet Fees Framework 2012;
- ☐ Evaluate the RPC governance roles and size these against fees paid in the NZ market for comparably sized roles;
- ☐ Provide a final report within four weeks from project approval and delivery of all requested background materials which covers the following information:
  - ☐ Background information and the context identified above
  - ☐ Recommendation summary
  - ☐ Application of SSC's Cabinet Fees Framework to governance roles of Tangata Whenua members
  - ☐ Results of Director evaluation methodology

This report presents the following:

- 1 Overview
- 2 Terms of Reference
- 3 Background information
- 4 Context and Process
- 5 Recommendation
- 6 State Services Commission Analysis
- 7 DirectoRate and CommitteeRate Analysis
- 8 Relativities Analysis – Councillors and Tangata Whenua Committee members
- 9 Appendix 1 – Remuneration Authority response to Strategic Pay request for advice
- 10 Appendix 2 - February 2019 [New Zealand Director Fees Survey](#) highlights on Committee Fees and Committee Practice
- 11 Appendix 3 – DirectoRate Methodology
- 12 Appendix 4 - CommitteeRate Questionnaire and Factors
- 13 Appendix 5 - Tangata Whenua Member Position Description
- 14 Appendix 6 - Strategic Pay Ltd – Capabilities and Offerings.

## Background

### HAWKES' BAY REGIONAL COUNCIL ("HBRC")

The HBRC is the local authority charged with regional planning responsibilities for managing the natural resources (air, water, land, coast, biodiversity) across a large portion of the east coast of the North Island.

The region's total land area is around 14,200 square kilometres (1.42 million hectares). It includes mountain ranges to the north and west, 350km of diverse coastline (cliffs, estuaries, sand beaches, gravel beaches), and productive plains and hill country.

The region is determined by river catchments and Hawke's Bay has 7 major rivers; Wairoa, Mohaka, Esk, Ngauroro, Tutaekuri, Tukituki, and Waipawa.

The Council is composed of nine Councillors with a Chair and Deputy Chair.

The HBRC Council is paid as follows, as of 1 July 2019:

- ☐ Chairman - \$127,436 (net of vehicle benefit)
- ☐ Deputy Chairman - \$66,287;
- ☐ Councillor - \$53,030;
- ☐ Councillor with Committee Chair - \$66,287

The HBRC Council reports its meeting schedule as follows for 2018/2019:

- ☐ 20 full Council Meetings
- ☐ 41 Council Committee meetings – not all Councillors sit on all Committees, however all Councillors sit on three committees, including RPC. There are nine Committees in total.
- ☐ 10 workshops
- ☐ 7 Joint Committee meetings.

### REGIONAL PLANNING COMMITTEE

The focus of this report is the determination of the annual fees for Tangata Whenua members of the RPC and we note the following concerning this committee:

The work of the RPC covers all aspects of natural resource use in the Council's catchment area. Decisions made and recommendations put forward to Council are designed to determine the use of the natural resources of the region for the indefinite future and therefore the committee's work represents a significant part of the work of Council and has a significant influence on the economic future of Hawke's Bay. Understanding and applying the Resource Management Act (RMA) is central to this Committee's work.

Thus, the responsibilities of the RPC are fairly narrow and focussed on RMA issues as stated above. We note that Council Chair, Rex Graham, feels that the RPC is "the most important" of all HBRC committees.

The RPC was established under special legislation in 2014, as a joint committee with equal representation from Tangata Whenua and all HBRC Councillors. All members have voting rights, with recommendations to HBRC requiring 80% consensus before full Council consideration. The legislation intended that the RPC's decisions are binding for the HBRC. To date, HBRC has not overridden the RPC's recommendations, an indication of the RPC's power.



The RPC is comprised of 9 representatives of Post Settlement Governance Entities (Tangata Whenua) and nine elected representatives (all Councillors). There are two Co-Chairs and two Co-Deputy Chairs, one from each group respectively. Payment is as follows:

- ☐ The Tangata Whenua representatives are each paid a \$12,000 base annual fee per year plus \$0.79/km travel reimbursement and accommodation upon claim;
- ☐ The Co-Deputy Chair is paid an \$18,000 base annual fee.
- ☐ The Co-Chair is paid a \$24,000 base annual fee.
- ☐ Those Tangata Whenua members who serve on Council Committees are paid \$400/meeting plus travel, which may run from 4 to 8 additional meetings per year. *(Two sit on the Hearings Committee, one on the Corporate and Strategic Committee, and one on the Environment & Services Committee). We note there is a separate Maori Advisory Committee which has a broader mandate.)*

There are six-weekly RPC meetings throughout the year, with a Tangata Whenua hui the day prior. Meetings run from 4 to 6 hours.

RPC members are an equal mix of Councillors and Tangata Whenua with chairmanship shared jointly. The Co-Chairs alternate chairing the formal meetings. This is an unusual arrangement in NZ that has been mandated through legislation.

## Recommendation Summary

We recommend that annual Committee fees for Tangata Whenua Members of the RPC be set in a range from **\$12,000 to \$15,000**.

Likewise, we recommend that annual Committee fees for the Co-Chair of RPC be set in a range from **\$24,000 to \$30,000**.

Since the Co-Deputy Chair carries additional responsibilities and workload, we support continuation of the 50% premium to Member fees. Calculating this on fee range above, we recommend that committee fees for the Deputy Chair be set in a range from **\$18,000 to \$22,500**.

**As you can see, while there is scope for an uplift, current fee levels are appropriate in our view, thus no adjustment is immediately required.**

Recommendation Summary – Tangata Whenua Members of RPC:

Fees	Current (\$)	Number	Proposed (\$)	Number	Proposed Total (\$)
Co-Chair	24,000	1	24,000 to 30,000	1	24,000 to 30,000
Co-Deputy Chair	18,000	1	18,000 to 22,500	1	18,000 to 22,500
Committee Member	12,000	7	12,000 to 15,000	7	84,000 to 105,000
<b>Total</b>	<b>126,000</b>	<b>9</b>		<b>9</b>	<b>126,000 to 157,500</b>

Depending on your final decisions within the recommended ranges, the annual cost may rise from **\$126,000** to as much as **\$157,700**. At maximum, this represents an increase of as much as 25%.

*Additionally, we recommend that, in addition to mileage, Tangata Whenua members receive hourly payment for travel time consistent to that paid to HBRC Councillors. We understand this is currently paid at \$37.50 per hour (after the first hour of eligible travel.)*

Summary Results – Methodologies for Regional Planning Committee

Sample	Base Annual Fee (\$)
SSC Fees Framework	<b>8,288</b>
Directorate and Committee Rate	<b>14,570</b>
Relativities to Councillor Analysis	Up to 13,258
Remuneration Authority (Appendix 1)	n/a no authority on the issue

We have considered the results of these three methodologies, and find consensus in the **\$12,000 to \$15,000** range. *No one methodology overrides the others.*

## CONTEXT AND PROCESS TO FEE SETTING RECOMMENDATION

In reviewing the fees, we have taken into account the fact that committee members often have considerable travel requirements to be present at meetings.

We agree with an earlier decision to move away from setting fees on a per meeting basis rather setting an overall fee level that represents the “whole” job of the committee.

In setting fee levels the importance of understanding both the extent, context and scope of the workload is important. We have done this through application of the State Services Commission’s Fees Framework scoring methodology as well as our DirectorRate methodology. There is overlap between the two in terms of factors to be considered. This is explained in the appendices.

In reviewing the fee levels we have taken into account:

- ☐ The fees Councillors receive, and respective relativities to RPC fees;
- ☐ The broader marketplace for governance fees including the Cabinet Fees framework, other broadly similar work we have conducted
- ☐ Our annual [New Zealand Directors’ Fees Survey](#) as of February 2019.

We have also noted that the fees for Councillors are set by the Remuneration Authority and they specifically allow for a “Public Service discount” in setting levels. In this regard we are also aware that the fees in the Cabinet Fees framework have only had the most minor of adjustments since 2012. In our view the recommended fee levels in this document have fallen behind the wider marketplace in a number of areas. We also believe it is wholly appropriate that Tangata Whenua members of the RPC are likewise covered by this “Public Service” discount.

In assessing fee levels for the RPC, we believe that relativity is important and our view is that fees paid to Councillors should be factored into a final determination on fee levels for Tangata Whenua members. We note this is consistent with other work within local government and Iwi that we have conducted and reflects the position across the country as to the setting of fee levels in the Public Sector regardless of who is appointed, what the nature of the organisation is, or what sector we are talking about. Please note that the Tangata Whenua members did not raise this issue when we met with them.

We were asked to check with the Remuneration Authority in terms of their fee setting ability within LG committees. They replied that they had no authority in this area. (See Remuneration Authority response in Appendix 1.)

We have reviewed the following documents in the course of our review:

- ☐ Position Description
- ☐ Terms of Reference – Regional Planning Committee
- ☐ Glossary – Regional Planning Committee

## State Services Commission – Cabinet Fees’ Framework

In our view, the State Services Commission's Cabinet Fees Framework, last reviewed in June 2019, is the most applicable methodology for the Regional Planning Committee's request for assessment of fee levels for Tangata Whenua members. It is designed to address appropriate fees for members appointed to bodies in which the Crown has an interest. Certainly, this includes Hawkes' Bay Regional Council generally and the Regional Planning Committee specifically.

Such Bodies are classified into four groups as follows:

- ☐ Royal Commissions, Commissions of Inquiry and Ministerial Inquiries
- ☐ Statutory Tribunals and Authorities
- ☐ Governance Boards
- ☐ All Other Committees and Other Bodies.

**In our view, the Regional Planning Committee falls into Group 4: All Other Committees.**

Within the Group 4 assessment, there are four Factors as follows:

- ☐ Skills, Knowledge and Experience Required for Members
- ☐ Function, Level and Scope of Authority
- ☐ Complexity of Issues
- ☐ Public Interest and Profile.

Each Factor has its own range of Scores.

We have scored the Regional Planning Committee as follows, based on our understandings:

- ☐ Skills, knowledge and experience **Score: 8** out of 12 maximum
- ☐ Function, Level and Scope of Authority; **Score: 4** out of a maximum of 6
- ☐ Complexity of Issues: **Score: 4** out of a maximum of 5
- ☐ Public Interest and Profile: **Score: 4** out of a Maximum of 5
- ☐ **Total Score: 20.**

Daily rates: SSC Fees Framework Group 4; Level 2

Total Score	Level	Daily Rate Fees Range Chair	Daily Rate Fees Range Member
20 to 23 points	2	\$360 to \$818	\$375 to \$518

As stated earlier, fee levels in the State Services Commission's Cabinet Fees Framework have not been adjusted in any meaningful way since 2012. Accordingly, we believe it is appropriate to rely on the top end of the respective ranges as the basis for calculating committee fees:

- ☐ \$818 daily rate for Chairs. Estimated days = 16. 16 x \$818 = **\$13,088.**
- ☐ \$518 daily rate for Members. Estimated days = 16. 16 x \$518 = **\$8,288.**

## DirectoRate Approach – “CommitteeRate” Variation

Specifically for this project with HBRC, we have modified our Strategic Pay Limited proprietary DirectoRate methodology to assess market competitive Committee fees rather than Board Director Fees. The complete DirectoRate methodology appears in Appendix 3.

Specifically for use in this project, we have developed our Questionnaire (Appendix 4) to determine scores against factors reflecting committee work. You will note the similarity of our 7 Factors with the 4 Factors used by State Services Commission in its Fees Framework.

We have scored these factors based on the feedback and input from our discussions with the two Co-Chairs respectively as follows:

Factor	Score 1-5
1 Complexity of Operating Environment	5
2 Innovation/Intellectual Complexity	3
3 Committee Discretion/Autonomy	3
4 Stakeholder Management	4
5 Financial Impact	2
6 Liability/Risks	2
7 Public Perception/Reputational Risk	4
<b>Average</b>	<b>3.28</b>

This score, approximately the midpoint of the Score range, suggests fee placement for RPC at Committee Fee median levels.

Per the Strategic Pay Limited February 2019 [New Zealand Directors' Fees Survey](#), the market median Committee member fee is \$7,285. (See Appendix 2 on page 15).

Given that the RPC workload is approximately twice that of a typical Board committee, we calculate a base annual Committee fee for RPC of \$14,570 (2 x \$7,285).



## Relativities to Councillor Roles and Fees

We have considered the respective complexity, scope, workload and decision-making powers of both HBRC Councillors and the Tangata Whenua members of the RPC.

It is our view that the work of the committee does not equate to the workload of an elected councillor, specifically in three areas:

- 1 The work of the RPC is but one committee of Council. We note there are nine other committees plus the full Council meetings that Councillors attend;
- 2 The RPC meetings account for 8 of the 41 Committee meetings attended by Councillors annually.
- 3 Councillors have to weigh up the work of not only the RPC but also other committees and work coming through to full council in making their decisions. While we acknowledge the RPC will and does consider the wider work of Council, the legislation does require them to focus specifically on one area
- 4 Councillors' workloads and mandate requires them to work across a number of committees and understand a wide variety of issues unrelated to the mandate of the RPC. Hence their volume of work is higher overall.

All members of the Committee - both Councillors and Tangata Whenua members - are involved and expected to be involved as a normal responsibility - in constituent interaction.

Both Tangata Whenua members and Councillors spend time in preparation for the eight formal meetings. We note that Tangata Whenua members do so through scheduled meetings the prior day, when HBRC advisors assist in reviewing and analysis of agenda matters as needed.

The current \$12,000 annual fees received by Tangata Whenua members of RPC compares to the \$53,030 annual fee paid to Councillors. This represents **22.6%**.

### CONCLUSION:

Considering the information provided by all parties regarding workload, time commitment, complexity and scope of work, we believe that the base annual fees for the Tangata Whenua members of the RPC should be set in a range not exceed **25%** of the Councillor's base annual fees as a matter of relativities as we understand it.

That means that **RPC annual committee fees for Tangata Whenua members should be set in a range up to \$13,258.**

## APPENDIX 1: REMUNERATION AUTHORITY VIEW

As outlined in HBRC's proposal request for the Regional Planning Committee's fee review, we requested guidance from the New Zealand Remuneration Authority. The guidance we received from Geoff Summers, Deputy Chairman of the Authority, is presented in full below:

"I can inform that the Remuneration Authority does not have any "methodology and rules for setting Councillor Fee levels and fee structure". The Authority used to set meeting fees for Councillors but those were eliminated some years ago now. Setting meeting fees could have the potential to distort behaviours and therefore not be in compliance with the Local Government Act, Schedule 7, Clause 7(1)(a); albeit we could (but do not) set a meeting fee under Clause 7(2) but only in addition to salary. Consequently, we now set the annual remuneration for Councillors which they are paid for undertaking their full elected member role.

We allow Councils to have an additional pool of money, of up to twice the Councillor annual salary, from which they can recommend to the Authority additional salary to be paid for Councillors with additional responsibility. In this way we set the salary for the Deputy Mayor and Chairpersons of Committees etc. So there could be an amount of salary that the elected members on the committee got paid, but if there were it would not be a substantial sum of money; a few thousand dollars at most.

So there is nothing in our systems that is likely to be of assistance to you in recommending what the Tangata Whenua members of the committee should be paid. We also cannot advise or set the rates for such people because we are only mandated to set rates of remuneration for roles where there is legislation specifically authorising that to occur (the Local Government Act, Schedule 7, Clause 6 provides the limitations for local government in that regard).

So you will need to seek an alignment with some other appropriate source.

I hope this information is of assistance."



## APPENDIX 2: NEW ZEALAND DIRECTORS' FEES SURVEY – FEBRUARY 2019

This annual Survey is the basis for understanding current trends and practices in the payment of Director Fees at New Zealand organisations. This is the 26th annual survey of its type conducted by Strategic Pay Ltd (the longest running survey of directors' fees in the country). 382 organisations contributed data to the 2019 [New Zealand Directors' Fees Survey](#). 2,444 individual directorships were analysed for the data.

The Survey combines information from three sources:

- ☐ Organisations from the Strategic Pay database
- ☐ Questionnaires sent to Strategic Pay master mailing list
- ☐ Publicly available annual reports and NZX listings.

The data is reported as at 1 February 2019.

## Board Committees

Of the organisations that responded, ninety-seven percent have an audit committee and ninety-two percent have a remuneration committee.

Thirty-eight percent of participants also have other committees, which encapsulate a range of priorities from technology and innovation to due diligence or strategic planning.

## Type of Committee

Committee	Boards (% of sample)	Av. No. Meetings p.a.	Av. No. of Directors	Pay Chair Fee (% of sample)	Pay Member Fee (% of sample)
Audit	97%	4	4	53%	19%
Remuneration	92%	3	3	37%	17%
Risk	51%	4	4	16%	-
Health & Safety	24%	5	4	36%	13%
Finance	59%	4	4	6%	-
Investment	13%	6	4	-	-
Nominations / Governance	52%	3	4	10%	-
Other	38%	6	4	58%	23%

- Not enough data to calculate

While 24% of boards have a Health & Safety Committee, 36% of those boards pay the chair a fee compared to only 13% of committee members getting paid a fee, so while in the next table it might seem that a Health & Safety chair gets paid a lower median fee than the members, the difference is due to members being paid a fee much less frequently.

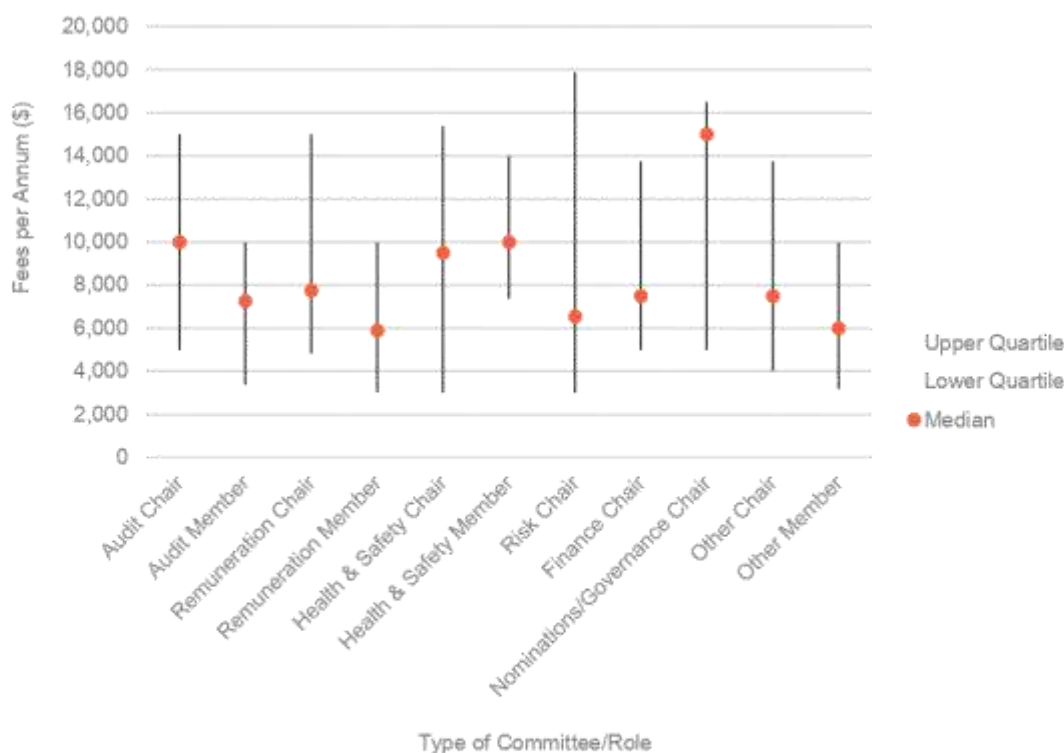
## Committee Fees by Committee Type

Committee	Chair Fees				Director Fees			
	Upper Quartile	Median	Lower Quartile	Average	Upper Quartile	Median	Lower Quartile	Average
Audit	15,000	10,000	5,000	12,064	10,000	7,250	3,375	8,569
Remuneration	15,000	7,750	4,819	10,532	10,000	5,890	3,026	6,793
Risk	17,875	6,552	3,000	11,841	-	-	-	-
Health & Safety	15,375	9,500	3,000	11,509	14,000	10,000	7,375	10,644
Finance	13,750	7,500	5,000	11,648	-	-	-	-
Nominations / Governance	16,500	15,000	5,000	11,636	-	-	-	-
Other	13,750	7,500	4,000	10,528	10,000	6,000	3,192	9,294
<b>Average</b>		<b>9,115</b>				<b>7,285</b>		

- Not enough data to calculate

The graph below demonstrates considerable ranges of committee fees. For example, at the median, the audit committee chair is paid \$10,000 per annum, but those fees rise to an upper quartile of \$15,000 and lower quartile of \$5,000.

## Committee Fees



## APPENDIX 3: STRATEGIC PAY DIRECTOR FEE METHODOLOGY

Strategic Pay has developed an evaluation methodology to assess the relative complexity, risk and scale of an organisation. The methodology has a number of factors we believe can be applied to any organisation to provide a means of assessing appropriate director fees. This is not an evaluation of the individual directors, or the performance of the organisation, but an evaluation of the organisation as a whole, in relation to the role of the directors. The factors are also based on the fundamentals of the organisation, not the skills or requirements of individual directors.

The methodology can be applied to a governance board for any type of organisation. **We have distilled the key factors that affect the complexity, workload, responsibility and risk carried by directors, and that therefore should have some influence on overall fees.**

All of the factors we have selected are interdependent and potentially impact on each other. However, we have tried to capture the most important elements that may impact on the complexity of the governance role and how this should be rewarded.

As a whole, we believe they are a good measure of the overall relative size, complexity and responsibility of the directors.

### DirectorRate® Factors

#### ☐ Complexity of Operating Environment

This factor evaluates the complexity of the environment in which the organisation operates.

#### ☐ Innovation/Technology/Intellectual Complexity

Organisations have varying levels of complexity of the products or services that they provide. This adds to the difficulty of the directors' role.

#### ☐ Board Discretion/Autonomy

Whilst a governance board always has overall responsibility for the direction and strategy of the organisation, this can vary greatly between organisations.

#### ☐ Stakeholder Management

The level of interaction required with shareholders also adds to the complexity of the directors' role.

#### ☐ Revenue/Capital Risk

Some organisations have very little risk regarding their income and funding, whilst for others income can be highly variable and requiring constant monitoring by the board.

#### ☐ Liability Risk to Organisation

The risk of insolvency, or serious financial uncertainty, or potential for serious health and safety events is a significant responsibility for directors.

#### ☐ Public Perception/Organisation Profile Risk

Most directors will evaluate the potential reputational risk in joining a board.

#### ☐ Organisation Revenues and Assets

Annual revenues/turnover and Total Assets of the organisation

## APPENDIX 4: QUESTIONNAIRE – COMMITTEE-RATE

FACTOR	QUESTIONS	SCORE Least to Most	FACTOR TOTAL
1. Complexity of Operating Environment	1. How rapidly is the environment changing?	1 2 3 4 5	
	2. How volatile is the market in which the entity operates?	1 2 3 4 5	
	3. Does the entity operate internationally?	1 2 3 4 5	
	4. How much competition – from competitors or shifts in resources – exist?	1 2 3 4 5	
	5. Availability of sufficient resources to realise objectives or outcomes?	1 2 3 4 5	
<b>TOTAL</b>		<b>TOTAL</b>	
2. Innovation/Technology/ Intellectual Complexity	1. How hard or easy is it to communicate the nature of the entity's work?	1 2 3 4 5	
	2. Is the entity involved in new or novel things that have not been done previously or elsewhere?	1 2 3 4 5	
	3. How much emphasis on innovation, R&D, nurturing of ideas?	1 2 3 4 5	
	4. To what extent is the entity subject to rapid technology change?	1 2 3 4 5	
	5. How much intellectual capacity "grunt" is required?	1 2 3 4 5	
<b>TOTAL</b>		<b>TOTAL</b>	
3. Discretion/Autonomy	1. How influential are the members in developing plans and strategies?	1 2 3 4 5	
	2. How much input does the entity have into budget matters that relate to it?	1 2 3 4 5	
	3. How much independence does the entity have to independently determine strategy?	1 2 3 4 5	
	4. To what extent can the entity significantly change direction?	1 2 3 4 5	
	5. To what extent does the entity source new investments/projects/ acquisitions?	1 2 3 4 5	
<b>TOTAL</b>		<b>TOTAL</b>	

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## APPENDIX 4: QUESTIONNAIRE

FACTOR	QUESTIONS	SCORE Least to Most	FACTOR TOTAL
4. Stakeholder Management	1. How diverse are the needs of the multiple stakeholder groups?	1 2 3 4 5	
	2. How vocal are stakeholders?	1 2 3 4 5	
	3. To what extent do entity members meet with (or need to meet with) different stakeholders?	1 2 3 4 5	
	4. How often is special reporting or consultation needed?	1 2 3 4 5	
	5. How important is an understanding of political processes?	1 2 3 4 5	
<b>TOTAL</b>		<b>TOTAL</b>	
5. Financial Impact	1. What is financial size/cost impact of recommendations or proposals relative to overall Council totals?	1 2 3 4 5	
	2. To what extent are Committee views and analyses adopted or accepted?	1 2 3 4 5	
	3. Extent of designated financial authorities approved – financial scope for decisions	1 2 3 4 5	
	4. Financial cost justifications or return analyses prepared as part of recommendations?	1 2 3 4 5	
<b>TOTAL</b>		<b>TOTAL</b>	
6. Liability Risks	1. How high is the risk of financial uncertainty?	1 2 3 4 5	
	2. To what extent is the entity subject to a highly regulated environment?	1 2 3 4 5	
	3. How high are the reporting and disclosure requirements?	1 2 3 4 5	
	4. To what extent are health and safety issues risk factors for the entity?	1 2 3 4 5	
	5. To what extent are legal issues a risk factor for the entity?	1 2 3 4 5	
<b>TOTAL</b>		<b>TOTAL</b>	
7. Public Perception/ Reputational Risk	1. To what extent are entity members in the media?	1 2 3 4 5	
	2. How high is the general public's and Tangata Whenua's awareness of the entity and its activities?	1 2 3 4 5	
	3. To what extent is the entity involved in contentious and/or political issues?	1 2 3 4 5	
	4. To what extent are the entity members subject to legal action?	1 2 3 4 5	
	5. How high are the reputational risks?	1 2 3 4 5	
<b>TOTAL</b>		<b>TOTAL</b>	



## APPENDIX 5: POSITION DESCRIPTION

## Position Description

## Hawke's Bay Regional Planning Committee Tāngata Whenua Representative

<b>Position Title:</b>	Tāngata Whenua representative
<b>Employment Period:</b>	N/A
<b>Date created:</b>	September 2017
<b>Remuneration:</b>	To be determined; market related package commensurate with the responsibilities of the position
<b>Department:</b>	n/a
<b>Responsible To:</b>	Appointing Governance Entity
<b>Location:</b>	Hawke's Bay region
<b>Primary Purpose:</b>	Actively participate in the Hawke's Bay Regional Planning Committee as the Tāngata Whenua representative appointed by their respective Governance Entity. Joint responsibility as a member of the Regional Planning Committee for the management of natural resources within the Hawke's Bay region, including development and review of the Council's regional planning documents prepared under the Resource Management Act 1991.
<b>Direct Reports:</b>	HBRC staff ( when approved by the Chief Executive ) Independent Technical Advisor/s (as engaged by the Hawke's Bay Regional Council)
<b>Indirect Reports:</b>	n/a
<b>Functional Relationships:</b>	<input type="checkbox"/> Board of the respective Governance Entity; <input type="checkbox"/> Tāngata Whenua Representatives on the Hawke's Bay Regional Planning Committee; <input type="checkbox"/> Chair of the Tāngata Whenua Representatives (also Co-Chair of the Hawke's Bay Regional Planning Committee); <input type="checkbox"/> Hawke's Bay Regional Council members on the Hawke's Bay Regional Planning Committee; <input type="checkbox"/> Chief Executive and Senior Staff within Hawke's Bay Regional Council;
<b>Other Relationships:</b>	<input type="checkbox"/> Independent Technical Advisor/s (as engaged by the Hawke's Bay Regional Council); <input type="checkbox"/> Hawke's Bay Regional Council staff; <input type="checkbox"/> Ministerial staff (where required);

<b>Primary Purpose:</b>	<p>The Tāngata Whenua Representative sits on the Hawke's Bay Regional Planning Committee as one of ten Tāngata Whenua Representatives with the same status, roles and responsibilities as an elected Council member. The Tāngata Whenua Representatives shall be guided by the matters set out in the Hawke's Bay Regional Planning Committee Act 2015 and the Hawke's Bay Regional Planning Committee Terms of Reference.</p> <p>Tāngata Whenua representatives have a collective responsibility, along with all members of the Regional Planning Committee, to ensure effective governance and decision-making, including in the development of regional planning documents, regarding natural resources across the Hawke's Bay region.</p> <p>The Tāngata Whenua Representative is responsible for representing and articulating the positions of their respective Governance Entity in matters that are considered by the Hawke's Bay Regional Planning Committee.</p> <p>The Tāngata Whenua representative is also responsible for participating in the governance and decision making for the whole Hawke's Bay Region, not just for issues directly within the rohe of their Governance Entity. This will likely require the representative to use sound judgement in formulating a position on a wide range of matters that may not directly impact their rohe.</p> <p>The Tāngata Whenua Representative is accountable to their respective Governance Entity and is expected to report to their Governance Entity on the outcome of matters considered by the Hawke's Bay Regional Planning Committee.</p>
<b>Key Result Areas:</b>	<ul style="list-style-type: none"> <li><input type="checkbox"/> To articulate the positions of their appointing Governance Entity in respect of the matters that are considered by the Hawke's Bay Regional Planning Committee;</li> <li><input type="checkbox"/> To report to the Board of their Governance Entity on the outcome of matters considered by the Hawke's Bay Regional Planning Committee;</li> <li><input type="checkbox"/> To build and maintain strong relationships with the other Tāngata Whenua Representatives on the Hawke's Bay Regional Planning Committee to influence the direction of the Council;</li> <li><input type="checkbox"/> To work in partnership with elected Council members to ensure sound resource management outcomes in the Hawke's Bay region;</li> <li><input type="checkbox"/> To actively participate in Hawke's Bay Regional Council committees where active participation would support the purpose of the Hawke's Bay Regional Planning Committee Act 2015;</li> <li><input type="checkbox"/> To actively participate in Tāngata Whenua Representative pre-RPC hui to agree on, and prepare positions for, Hawke's Bay Regional Planning Committee meetings;</li> <li><input type="checkbox"/> Collectively with Tāngata Whenua Representatives, to direct the work of the Independent Technical Advisor/s;</li> </ul>
<b>Core Competencies:</b>	<ul style="list-style-type: none"> <li><input type="checkbox"/> Detailed understanding of Mātauranga Maori and ability to apply this knowledge to a broad range of issues;</li> <li><input type="checkbox"/> Strong oral communication/debating skills and active listening skills;</li> <li><input type="checkbox"/> Sound decision-making skills;</li> <li><input type="checkbox"/> Ability to korero with Tāngata Whenua Representatives to agree on positions to advance to the Hawke's Bay Regional Planning Committee;</li> </ul>



	<input type="checkbox"/> Ability to engage with Hawke's Bay Regional Councillors on the Hawke's Bay Regional Planning Committee; <input type="checkbox"/> Working knowledge of Local Government processes including the Standing Orders and Terms of Reference for the Hawke's Bay Regional Planning Committee; <input type="checkbox"/> Working knowledge of Resource Management Act 1991 processes;
<b>Requirements</b>	<input type="checkbox"/> Capacity to dedicate the necessary time and effort required to actively participate as a member of the Hawke's Bay Regional Planning Committee; <input type="checkbox"/> Ability to deal with imperfect information, complex issues or ambiguity; <input type="checkbox"/> Knowledge of commercial, financial and legal matters; <input type="checkbox"/> Knowledge of science/research and technical information;

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## APPENDIX 6: ABOUT STRATEGIC PAY LTD

At Strategic Pay we provide innovative solutions to help organisations meet their strategic remuneration, performance development and performance improvement goals. We help improve your overall performance by ensuring employee effort, remuneration and rewards are closely aligned with business objectives.

### Deliver Strategic Rewards

We work alongside you to provide a compelling proposition that attracts retains and motivates the best people.

Our adaptable solutions include:

- ☐ Remuneration and reward strategy development
- ☐ Executive remuneration and performance advice (including incentives)
- ☐ Salary options using job evaluation, grades, bands or benchmarks
- ☐ Salary review management, including processes, tools and training
- ☐ Performance development systems, including customised design and implementation

### Access New Zealand's Largest Remuneration Data Services

Strategic Pay offers an unrivalled suite of nation-wide and specialist industry and sector remuneration survey reports, based on a database of more than 180,000 employees from nearly 1,100 organisations.

**Our key nation-wide surveys and reports include:**

- ☐ NZ Remuneration Report (published 6 monthly)
- ☐ CEO and Top Executive Remuneration Report
- ☐ NZ Benchmark Report
- ☐ Corporate Services and Executive Management
- ☐ Directors' Fees Report
- ☐ HR Metrics Survey

### Use Smart Technology

We understand busy HR practitioners' needs and offer a range of smart tools to manage remuneration and survey submissions:

- ☐ RemWise®: a remuneration tool to manage all aspects of your salary review, market data and survey submissions
- ☐ Rem On-Demand®: online access to remuneration reports, resources and insights
- ☐ PayCalculator: survey data at your fingertips

### Drive Organisation Performance

Superior organisational performance is critical to delivering strategic business objectives. Speak to us today about using PLUS+ to develop a future proof strategy, an organisational model and structure that supports the strategy and matching the right people to accountabilities best designed to deliver the strategy in your organisation.

### Build Capability

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## HAWKE'S BAY REGIONAL COUNCIL

### REGIONAL PLANNING COMMITTEE

Wednesday 18 September 2019

**Subject: TANK DECISION MAKING UNDER THE RMA - S32**

**Item 10**

#### Reason for Report

1. "Decision Making Under Part 2 of the Resource Management Act" was provided within the agenda for the Regional Planning Committee 14 August. The report provided the committee with an overview of their obligations as Resource Management Act 1991 (RMA or the Act) decision-makers in the context of reviewing and amending regional plans and the Regional Policy Statements.
2. Prior to the scheduled RPC meeting a public excluded workshop was held for the Committee to discuss the paper titled "RMA Decision Making and Māori Interests: Obligations Under Part 2 and the NPSFM" which was appended to the Decision Making Papers. A Senior Associate from Simpson Grierson was in attendance to answer any queries in relation to the content of the paper and the legal interpretation.
3. At the workshop concern was expressed from tāngata whenua representatives with regards to the extent of the assessment provided within the paper. As a consequence of this meeting tāngata whenua sought further information in particular with regards to what decision makers should do in respect of Sections 5, 6, 7 and 8 of the Act. A scope outlining a brief to define what was required within this additional piece of work was to be provided. A scope was circulated to the RPC and staff received from the Technical Advisors (attachment 1) on the 22 August 2019.
4. This report provides an update since the RPC 14 August in response to the Technical Advisors brief. A separate table (attachment 2), prepared by Mitchell Daysh Limited (a consultancy) provides a quick reference guide for the Committee to cross reference the relevant parts of the draft s32 report which responds to the items raised within the brief.

#### Background

5. As noted above this report has been updated since it was first reported to the RPC on the 14 August, this has been in response to requests from the tangata whenua representatives for further information to be provided to them as decision makers. In particular this was to expand on how they must consider and apply the Part 2 purpose and principles of the RMA (specifically sections 5, 6, 7 and 8), and more generally enable a higher level of understanding as to how the Part 2 provisions have been applied to the draft TANK plan change.
6. The brief provided by the Technical Advisors suggested that rather than seeking further generic legal advice on the Part 2 paper what was required was the provision of further explanation and articulation on six key points which have been summarised as follows.
  - 6.1. Item 1. How has the Council informed itself of tangata whenua values. What are the values and how have they been provided for in the TANK plan.
  - 6.2. Item 2. If engagement has been adequate, what values have tangata whenua articulated?
  - 6.3. Item 3. How does the TANK plan 'demonstrably aspire to protect water quality from further degradation and to improve it over time'. Recognition of the values in the policies and rules, articulate how these have been given effect to.
  - 6.4. Item 4. Treaty Principles – Has the plan attempted to work out the issues, has there been compromise from both sides (mainstream parties and tangata whenua). Principle of mutual benefit and duty of active protection – how are the interests of tangata whenua protected and what is the mutual benefit?

- 6.5. Item 5. How has the TANK plan considered and recognised Te Mana o te Wai, particularly in the policies, rules and limits.
- 6.6. Item 6. How have the Part 2 matters been considered and/or provided for through the plan provisions.
- 7. It should be noted that further correspondence was received from Tania Hopmans (2 September) reiterating the scope for this paper and the s32 evaluation, and provided further clarification on the details sought. It was also requested that a new sub-section be developed and added to Chapter 4 'Community Engagement Process' of the s32 to detail the engagement undertaken with tangata whenua, marae, hapū and iwi, and that a new theme be included to evaluate how relevant policies and methods will achieve the relevant objectives in respect of providing for the values articulated by tangata whenua.
- 8. Many of the items presented within the brief have been considered within the s32 evaluation report. The attached table has been provided to assist the Committee in locating these pertinent references. This report does not provide further explanation to these points as it is considered that these have been adequately and appropriately addressed within the s32 evaluation report.

### **Section 32 Evaluation Report**

- 9. As reported to the RPC in October 2018 the Council are required to provide an analysis of the TANK plan change to evaluate the extent to which the objectives of the proposal are the most appropriate way to achieve the purpose of the Act. Mitchell Daysh were appointed to undertake the s32 on behalf of the Council and have since that time provided a couple of draft iterations to the RPC for information purposes.
- 10. The Section 32 report remains in draft until such time that the RPC makes final decisions on the content of the plan and is subject to amendment as a consequence of these decisions.
- 11. The evaluation of the TANK plan has been informed by numerous reports and documents prepared by staff and consultants; meeting records and minutes from a range of meetings including those of the TANK Group, RPC, TANK Working Groups, Mana whenua hui, Farmer Reference Group etc.; as well as PowerPoint presentations, memos, press releases, Think TANK publications etc.
- 12. The s32 Evaluation will determine whether the provisions of the TANK plan are the most appropriate. S32 case law has interpreted 'most appropriate' to mean "suitable, but not necessarily superior" National Transport Soc. Inc. v New Zealand Transport Agency HC Wellington CIV-2001-485-2259, 15 December 2011. The most appropriate option does not need to be the most optimal or best option, but demonstrate that it will meet the objectives in an efficient and effective way.
- 13. Particular regard should be given to the s32 evaluation by the RPC and Council when deciding to proceed with the proposal i.e. if the TANK plan is publicly notified. To have "particular regard" requires matters to be considered, but doesn't set absolute standards or requirements. The analysis of whether the objectives and provisions are most appropriate is a matter decision makers must actively consider. They cannot simply ignore it.

### **S32 and the Planning Process**

- 14. The previous memo to RPC noted those things which the s32 evaluation report does not do, namely:
  - 14.1. Commission new of additional reports and/or workstreams – but rather consolidates the reporting done to date
  - 14.2. Provide alternatives or solutions
  - 14.3. Provide recommendations for decision making
  - 14.4. Evaluate reports or information which is not within the scope of the plan change
  - 14.5. Require an analysis of the issues which have been identified.

15. Section 32 (1)(c) requires the evaluation undertaken of any proposed plan change must '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'. The s32 report collates the results of a lengthy collaborative process that traversed a range of complex issues over a number of years. Issues, options and management choices were developed over this time and it has meant the lengthy and comprehensive paper trail to be synthesised into this s32 report.
16. Section 32 of the RMA requires an evaluation of the proposed objectives, whether they are the most appropriate and requires an evaluation of the proposed provisions and whether they are the most appropriate to achieve the objectives. The RMA does not require an evaluation of the planning process in itself. As such the s32 report does not provide an evaluation of the TANK collaborative process. However, the NPSFM has explicit requirements to involve iwi and hapū to ensure tangata whenua values and interests are identified and reflected and to that extent, the s32 report assesses how that was addressed.
17. Whilst the s32 does not provide a new independent 'theme' to evaluate how the relevant policies and methods will achieve the relevant objectives in respect of providing for the values articulated by tangata whenua, it is considered an appropriate evaluation has been undertaken. Given that the TANK plan does not have objectives and policies which consider Maori values in isolation of all other values it is not appropriate to have a separate theme within the s32 report. Maori values are considered throughout the TANK plan and have been evaluated and referred to within the s32 according to the topics which have been identified, namely: Production Land Use Activities; Riparian Management; Land Drainage & Wetland Management; High Flow Takes, Damming & Storage; Stormwater; Water Takes; Transfer of Permits and Source Protection Zones.
18. In order to highlight where in the s32 report this evaluation has been made the attached table has been provided by Mitchell Daysh provide a simple reference guide.

### **Tangata Whenua Values and the S32**

19. The previous version of the s32 report presented to the RPC was draft as befitting the ongoing development of the plan at the Committee's direction. A number of sections have been further developed to ensure that it reflects the evolution of the plan and the feedback of this committee as to form and content. In particular the report (attached to item 6) now includes further information and evaluation specific to tangata whenua values (as requested within the brief) and greater clarification has been incorporated in regards to the following (note this list is not exhaustive).
  - 19.1. a specific section titled 'Consideration of tangata whenua values'
  - 19.2. articulation of the concerns raised by tangata whenua in respect of water quality and quantity
  - 19.3. further detail provided with regards to the breadth of engagement with tangata whenua in the TANK plan development process (Chapter 4)
  - 19.4. reference to the Ngaruroro Values and Attributes report (October 2016) which was recently lodged by NKII (2 July 2019) as an Iwi Hapū Management Plan, titled "Tangata whenua values and attributes and management priorities for the Ngaruroro River"
  - 19.5. reference to section D of the NPSFM in Table 1 listing the NPSFM objectives and further reference and detail provided in respect of Objective D1 throughout the report
  - 19.6. inclusion of the summary of iwi feedback received from the pre-notification consultation
  - 19.7. elaboration and evaluation of the iwi feedback within the various provisions of the report.
20. As noted in 18.3 above the s32 report has provided for further expansion of Chapter 4 to provide greater detail with regards to the extent of engagement with tangata whenua

during the collaborative process. It notes that there has been extensive engagement and support for tangata whenua members of the TANK Group and subsequently much wider engagement with tangata whenua generally. The s32 report touches on the support from the council in respect of resourcing (of engagement, research, consultants etc.) and highlights a number of reports which were commissioned by both HBRC and tangata whenua to comprehensively articulate Maori values to inform the TANK plan.

21. Equally of importance to understanding the extent to which the TANK plan provides for Maori values was the work undertaken by Joella Brown. The purpose of the report 'Cultural Values alignment with the TANK draft plan report' authored by Ms Brown was to determine how the cultural values expressed by tāngata whenua in the TANK plan change process have been translated into the TANK plan, and to measure how the plan recognises and provides for the relationship of Māori with freshwater and to determine whether the plan supports or has implied actions that are consistent with or uphold cultural values. The report concluded that there was evidence that there was alignment of tāngata whenua values with the plan but that this was not evidence of 'tikanga'. Recommendations were made to seek further input from tāngata whenua. The report conclusions and recommendations were presented to the RPC tāngata whenua representatives at a pre-RPC meeting hui, and a separate hui was held (March 2018) where the report was presented to both the mana whenua working group and RPC tāngata whenua representatives. No decisions were made in response to the recommendations, however despite no further progress being made in respect of this report it has been a valuable tool for staff and has been used to inform the progression of the TANK Plan.

### Decision Making Process

22. 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 considers the "*TANK Decision Making Under the RMA – S32*" staff report.

### Authored by:

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### Attachment/s

- [1](#) TANK Part 2 Whakaaro
- [2](#) S32 cross reference table



Kia ora Ceri,

Thank you for providing the summary of the Council's views on the requirements of Part 2 and your instructions to Simpson Grierson. While I think it is a relatively limited assessment of the obligations of the RMA requirements in this area, particularly with regards to the Treaty principles and the rather extensive and evolving case law in this area it is a useful starting point. The discussion on the relevant provisions of the NPS-FM are also more descriptive of the provisions than particularly instructive about what those provisions require or how they could/should be applied in the PC9.

I also note your comment in your instructions to Simpson Grierson that *"As a decision maker HBRC is obliged to take a somewhat conservative approach in its judgement as to whether a plan promotes the sustainable management of natural and physical resources. Our focus is what is defensible through the environment court – noting however that in the TANK plan change the community reference group has directed HBRC to advance an ambitious Iwi allocation of high-flow water."*

I'm not aware of anywhere in the RMA that "obliges the Council to take a 'conservative approach' whatever that means. For example the Waitaki Catchment Water Allocation Plan provides an allocation of water for 'mahinga kai' which if the hearing panel who developed that plan had taken a conservative approach would not likely have been included.

It is also interesting to note paragraph 3 of your paper which states that the committee members requested a particular focus on:

- *An overview of Part 2 of the Act;*
- *Further analysis of the weightings to be given to each part and how the requirements to 'recognise and provide for', 'have particular regard to' and 'take into account' in terms of ss6, 7, and 8 of the Act respectively have been applied;*
- *Weighting to be given to higher order planning documents; and*
- *A brief analysis of the matters decision makers must take into Maori interests and values, when making planning decisions under the National Policy Statement for Freshwater Management 2017.*

Fundamentally I think this paper has missed the point, and you have asked and answered the wrong question to start with. What I understood the RPC, and in particular the Tangata Whenua Representatives, have requested (for at least the last 2 RPC meetings, and from memory earlier) is advice from staff on how **the TANK plan change** had incorporated the Part 2 matters. The generic articulation of the obligations under Part 2 and the NPS-FM,, while useful, does not assist the RPC members understand how these requirements have been applied or met through PC9.

It's also important to note there isn't a single standard that can be applied in all situations irrespective of the particular local circumstances, in this case the TANK catchments.

It is clear, including in your paper, that the correct application of the matters in Part 2 turn on the facts of the case, in this situation the **particular TANK context**. It is not possible to make a binary assessment of whether or not the matters in Part 2 have been appropriately applied

based on a generic description of the matters that need to be considered. It all comes down to local context and local values, interests and aspirations.

Therefore, rather than seeking further generic legal advice on Part 2 at this stage I think what is required is a paper explaining/articulating:

1. How the Council has informed itself of the tangata whenua values in these catchments. The HBRC/SG paper refers to this at Para 14 – Parliament did not intend others to evaluate the cultural beliefs of Maori – that is for Maori to assert and establish. Para 20 states: “To give effect to the concept of Kaitiakitanga it is important to consult with Maori. Consultation in this context involves an obligation to hear and understand the views of tangata whenua on the exercise of kaitiakitanga and to let those views influence the decision making”

How has this been done? I get the impression from the s32 report the reliance has been on the TANK Collaborative Group? Without questioning the usefulness of that process, I’m not sure that would withstand the ‘Treaty Principles’ test, even by the limited articulation of these principles in your paper. I think it is also questionable if relying on the Collaborative Group to “let those views influence the decision making” would pass muster. At a minimum I think these values and how they have been provided for (or not) should be clearly articulated to the RPC members.

Once you have articulated how HBRC have been informed of iwi values, the question for the RPC then is – has this process been sufficient? And has sufficient provision been made within the plan for these values? (Noting Maori values/Treaty principles do not create a veto right – but this requirement at the very least requires a conscious decision and articulation of the reasons for that decision to either include or exclude those values. Ultimately that decision is for the RPC to make and they need to be informed about the basis for these decisions in the draft plan (hence the request for information on specifics of how these have been provided for, or not, in PC9)

2. If engagement has been adequate, what values have tangata whenua articulated?
3. How does the TANK Plan ‘demonstrably aspire to protect water quality from further degradation and to improve it over time’ [Para 15 HBRC/SG advice]. This needs to be more than statements in the objectives that these values are recognised, this needs to carry through into the policies and rules and hopefully it is possible to articulate how those give effect to those values.
4. The Treaty principles established by the Courts and Tribunal are also quite a bit broader than the selective approach that has been taken in your advice. However, I don’t think getting into too much detail is going to assist too much at this stage. A number of simple principles include:
  - The Treaty principle to act reasonably and with the utmost good faith requires the parties to make a genuine effort to work out the issues arising between them. Neither side has primacy.

Does PC9 demonstrate sufficient reasonableness here? How has the plan attempted to work out the issues? What is the compromise on both sides? What have the mainstream parties compromised? What have tangata whenua compromised (although I suspect they would argue they have made all the compromise so far). Again important to acknowledge the test is reasonableness, not perfection, but that is not an excuse to ignore the issues, the need to be at the very least considered and the obligation is then on the RPC to make the final call on whether these matters have been appropriately provided for.

- Principle of mutual benefit. Rights, values and needs of neither party should be subsumed. Requires compromise on both sides and a balance of interests to be maintained.

What is the mutual benefit for tangata whenua in this situation? What compromises have been made? Given opposition from Tangata Whenua I suspect they think they are being asked to make all the compromise.

- Duty of Active Protection

How are the interests of Tangata Whenua being actively protected?

5. The hierarchy of Planning Documents section is a useful summary of the status quo, but doesn't in any way explain how TANK has considered and recognised Te Mana o Te Wai (Objective AA1 and Policy AA1 NPS-FM), or any of the other obligations in the NPS-FM.

How have these matters been applied/provided for in the TANK plan change? The s32 report makes some general references to these issues being provided for through the Objectives but it is not clear how this is carried forward into the policies, rules, limits etc that will deliver these matters.

6. Ultimately the RPC members as decision makers need to be satisfied that the TANK plan change has adequately provided for all the the matters and values they are required to consider. One of the strengths of the RPC is that it provides a much greater diversity of views and experience across the decision makers than would likely otherwise be the case. The tangata whenua representatives are fully within their rights to request information on these matters to inform their decision making.

The answer to what is sufficient in any particular situation is effectively a judgement about what is appropriate based on the specific circumstances of that resource and location.

While, as stated above, I acknowledge there is some discussion in the s32 Report about how the Part 2 requirements are reflected in PC9, but this is primarily in reference to the Objectives, with limited detail to back up how these are provided for

**Attachment 1**

through the policies, rules, and most importantly for the aquifer the limits. It would be great if you could expound in more detail how these matters have been considered and/or provided for (or not) through the operational provisions of PC9.

**Item 10**



S32 EVALUATION – APPLICATION OF THE RMA PART 2 PROVISIONS TO THE DRAFT TANK PLAN (v9.2)

Issue/suggestion from Technical Advisors Scope	Reference within s32		Summary of content
Issue 1. How has the Council informed itself of tangata whenua values. What are the values and how have they been provided for in the TANK plan.	5.2	Values and uses within the TANK Catchments	Presents the TANK Values and Pou-Tiri-Ao values diagrams, noting that Change 9 gives effect to the RPS policies and has incorporated Māori values for which all waterbodies in the TANK catchment area re to be managed.
	3.6	Relevant Planning Documents recognised by an iwi authority	Lists the IHMP which have been considered in the plan development
	3.7	Regional Policy Statement	Reference to implementation of OBJ LW3 Tāngata whenua values
	7.2.1 – 7.2.17	Objective 1- Objective 17	Table 7- Table 23 Evaluation of Objective 1 – 17 against RMA Instruments (RMA sections 5, 6, 7 and 8, NPSFM and the RPS including Change 5)
	8.2.5	Assessment of the appropriateness of the provisions (Production Land Use Activities)	Table 29 – Costs, Benefits (including social and cultural) and Appropriateness Assessment
	8.3.1	Assessment of the appropriateness of the provisions (Riparian Management Provisions)	Table 32 – Costs, Benefits (including social and cultural) and Appropriateness Assessment



Issue/suggestion from Technical Advisors Scope	Reference within s32		Summary of content
	8.4.5	Assessment of the appropriateness of the provisions (Land Drainage and Wetland Management Provisions)	Table 34 – Costs, Benefits (including social and cultural) and Appropriateness Assessment
	8.5.5	Assessment of the appropriateness of the provisions (Damming, Storage and High Flow Water Take)	Table 38 - Costs, Benefits (including social and cultural) and Appropriateness Assessment
	8.6.5	Assessment of the appropriateness of the provisions (Stormwater)	Table 41 - Costs, Benefits (including social and cultural) and Appropriateness Assessment
	8.7.4	Consideration of Tāngata Whenua Value	Identifies the concerns raised by tāngata whenua re: Water quality and quantity, noting that the options chosen to be included in Plan Change 9 are not necessarily the option most favoured by tāngata whenua.
	8.7.4.3	Options for the Allocation of Water	Identifies options for general approach for surface water allocation noting concerns of tāngata whenua
	8.7.5	Assessment of the appropriateness of the provisions (Water Take Provisions)	Table 52 - Costs, Benefits (including social and cultural) and Appropriateness Assessment
	8.8.7.1	SPZ Policies Efficiency Assessment	Table 58 - Benefits and costs including (including social and cultural)
Item 2. If engagement has been adequate, what values have tangata whenua articulated?	4 (4.1-4.2)	Community Engagement Process TANK Collaborative Process.	Outlines the collaborative process, the TANK Group membership, purpose and aims.





Issue/suggestion from Technical Advisors Scope	Reference within s32		Summary of content
	4.3	TANK Group Members	Indicates the representation from tāngata whenua at TANK meetings Reference to TANK values & agreement all values equally important. Pou-Tiri-Ao values diagram referenced.
	4.4	Wider Community Engagement Tāngata whenua engagement Other engagement	This section details the extensive engagement undertaken. Reports which provide for tāngata whenua values identified. Summarises how these have been considered in the plan development. Reference to SCIA Community Reference Group
	8.7.4.2	Consideration of Tāngata Whenua Values	Identifies the concerns raised by tāngata whenua re: water quality and quantity, noting that the options chosen to be included in Plan Change 9 are not necessarily the option most favoured by tāngata whenua. The summary of feedback (appended to the s32) highlights the values which tāngata whenua seek to be reflected in the plan
Item 3. How does the TANK plan 'demonstrably aspire to protect water quality from further degradation and to improve it over time'. Recognition of the values in the policies and rules, articulate how these have been given effect to.	Schedule 1	Reference to the Schedule 1: <i>Freshwater quality objectives of the TANK plan Change is referenced and evaluated throughout the s32 report.</i> <i>There is not an isolated assessment of this.</i>	Provides for the protection of values within the TANK catchments through the setting of the water quality targets / limits to improve overall freshwater quality by 2040.

S32 Evaluation – Application of the RMA Part 2 provisions to the draft TANK plan (v9.2)

3



Issue/suggestion from Technical Advisors Scope		Reference within s32	Summary of content
		<i>Production Land and Water Quality Sections</i>	<i>The following references to Objectives and Assessments establish expectations for water quality and timeframe.  Establishes methods for achieving objectives on priority basis (priority location, priority stressors and priority practices)</i>
		7.2.4      Objective 4	Table 10 – Evaluation of Objective 4 against RMA instruments (RMA sections 5, 6, 7 and 8, NPSFM and the RPS including Change 5)
		7.2.5      Objective 5	Table 11 – Evaluation of Objective 5 against RMA instruments (RMA sections 5, 6, 7 and 8, NPSFM and the RPS including Change 5)
		7.2.7      Objective 7	Table 13 – Evaluation of Objective 7 against RMA instruments (RMA sections 5, 6, 7 and 8, NPSFM and the RPS including Change 5)
		7.2.8      Objective 8	Table 14 – Evaluation of Objective 8 against RMA instruments (RMA sections 5, 6, 7 and 8, NPSFM and the RPS including Change 5)
		7.2.9      Objective 9	Table 15 – Evaluation of Objective 9 against RMA instruments (RMA sections 5, 6, 7 and 8, NPSFM and the RPS including Change 5)

Issue/suggestion from Technical Advisors Scope	Reference within s32		Summary of content
	7.2.10	Objective 10	Table 16 – Evaluation of Objective 10 against RMA instruments (RMA sections 5, 6, 7 and 8, NPSFM and the RPS including Change 5)
	7.2.11	Objective 11	Table 17 – Evaluation of Objective 11 against RMA instruments (RMA sections 5, 6, 7 and 8, NPSFM and the RPS including Change 5)
	7.2.12	Objective 12	Table 18 – Evaluation of Objective 12 against RMA instruments (RMA sections 5, 6, 7 and 8, NPSFM and the RPS including Change 5)
	7.2.13	Objective 13	Table 19 – Evaluation of Objective 13 against RMA instruments (RMA sections 5, 6, 7 and 8, NPSFM and the RPS including Change 5)
	7.2.14	Objective 14	Table 20 – Evaluation of Objective 14 against RMA instruments (RMA sections 5, 6, 7 and 8, NPSFM and the RPS including Change 5)
	8.2.4.2	Options Considered for Mitigating the Water Quality Effects of Production Land Use	Options considered by the TANK Group to achieve the objectives set out in Schedule 1 of Change 9.
	8.2.4.5	Adoption of Option 2 Staged Management Approach	Table 27 – Land Based activity provisions included in Change 9 (Policies and Rules)
	8.2.5	Assessment of the appropriateness of the provisions (Production Land Use Activities)	Table 29 – Costs, Benefits (including social and cultural) and Appropriateness Assessment

Issue/suggestion from Technical Advisors Scope	Reference within s32		Summary of content
	8.3.1	Assessment of the appropriateness of the provisions (Riparian Management Provisions)	Table 32 – Costs, Benefits (including social and cultural) and Appropriateness Assessment
	8.4.5	Assessment of the appropriateness of the provisions (Land Drainage and Wetland Management Provisions)	Table 34 – Costs, Benefits (including social and cultural) and Appropriateness Assessment
	8.6.5	Assessment of the appropriateness of the provisions (Stormwater)	Table 41 – Costs, Benefits (including social and cultural) and Appropriateness Assessment
Item 4. Treaty Principles – Has the plan attempted to work out the issues, has there been compromise from both sides (mainstream parties and tangata whenua). Principle of mutual benefit and duty of active protection – how are the interests of tangata whenua protected and what is the mutual benefit?	<i>As above for item 3</i>	<i>As above for Item 3 Schedule 1 Production Land Water Quality</i>	<i>The above references to Objectives and Assessments establish expectations for water quality and timeframe.  Establishes methods for achieving objectives on priority basis (priority location, priority stressors and priority practices)</i>
	<i>Water quantity and allocation and monitoring and review</i>		<i>The below references to Objectives and Assessments have considered the alternative management solutions which were identified in relation to a range of issues.  Costs and benefits of range of management options have been considered and assessed.</i>
	3.1.4	Section 8 'Treaty of Waitangi'	Noting mana whenua involvement in the TANK collaborative process. HBRC Treaty obligations are accounted for through the



Issue/suggestion from Technical Advisors Scope	Reference within s32		Summary of content
			legal decision making framework provided by the RPC.
	7.2.13	Objective 13	Table 19 –Evaluation of Objective 13 against RMA instruments (RMA sections 5, 6, 7 and 8, NPSFM and the RPS including Change 5)
	7.2.14	Objective 14	Table 20 - Evaluation of Objective 14 against RMA instruments (RMA sections 5, 6, 7 and 8, NPSFM and the RPS including Change 5)
	8.5.5	Assessment of the appropriateness of the provisions (Damming, Storage and High Flow Water Take)	Table 38 - Costs, Benefits (including social and cultural) and Appropriateness Assessment  ‘...TANK Group reached consensus that their kaitiaki and guardianship roles in relation to the Ngaruroro and Tutaekuri Rivers and their specified tributaries require the prohibition of dams to ensure that the Schedule 1 water quality attributes can be achieved.’  High flow allocation for Māori – waiting on further detail from Phil
	8.7.4.2	Consideration of Tāngata Whenua Values	Identifies the concerns raised by tāngata whenua re: water quality and quantity, noting that the options chosen to be included in Plan Change 9 are not necessarily the option most favoured by tāngata whenua. The summary of feedback (appended to the s32) highlights the values which tāngata whenua seek to be reflected in the plan

S32 Evaluation – Application of the RMA Part 2 provisions to the draft TANK plan (v9.2)

Issue/suggestion from Technical Advisors Scope	Reference within s32		Summary of content
	8.7.4.3	Options for the Allocation of Water	<p>Table 45 – Ngaruroro Management Regime options Considered. Ngaruroro surface allocation limit reduced.</p> <p>Table 46 – Tutaekuri River Management Regime Options Considered. Tutaekuri minimum flow increased and allocation limit reduced.</p> <p>Table 47 – Options for Approach to Groundwater. No new groundwater takes.</p> <p>Table 49 – Options Considered for Permitted Activity Water Take Provisions</p> <p>Table 50 – Rule TANK 10 Activity Status Options</p>
	8.7.5	Assessment of the appropriateness of the provisions (Water Take Provisions)	Table 52 - Costs, Benefits (including social and cultural) and Appropriateness Assessment
Item 5. How has the TANK plan considered and recognised Te Mana o te Wai, particularly in the policies, rules and limits.	<i>As above for Items 3 and 4</i>	<i>Te Mana o Te Wai is reflected on in each of the Objective 1-17 Evaluations (as noted above).  There are numerous other references and evaluations of the TANK plan in respect of Te Mana o Te Wai. Some are highlighted below.</i>	<i>As above</i>





Issue/suggestion from Technical Advisors Scope	Reference within s32		Summary of content
	7.2.1	Objective 1	Table 7 - Evaluation of Objective 1 against RMA instruments (RMA sections 5, 6, 7 and 8, NPSFM and the RPS including Change 5)  This objective specifically refers to Te Mana o Te Wai.
	7.2.2 – 7.2.17	Objective 2 – Objective 17	Table 7- Table 23 Evaluation of Objective 1 – 17 against RMA instruments (RMA sections 5, 6, 7 and 8, NPSFM and the RPS including Change 5)
	8.4.5	Assessment of the appropriateness of the provisions (Land Drainage and Wetland Management Provisions)	Table 34 – Costs, Benefits (including social and cultural) and Appropriateness Assessment
	8.5.5	Assessment of the appropriateness of the provisions (Damming, Storage and High Flow Water Take)	Table 38 - Costs, Benefits (including social and cultural) and Appropriateness Assessment
	8.6.5	Assessment of the appropriateness of the provisions (Stormwater)	Table 41 - Costs, Benefits (including social and cultural) and Appropriateness Assessment
	8.7.4.3	Options for the Allocation of Water	Table 44 – Options for Surface Water Allocation  Table 47 - Option for Groundwater Allocation  Transfer of Permits (paragraph unnumbered)

Issue/suggestion from Technical Advisors Scope	Reference within s32		Summary of content
	8.7.5	Assessment of the appropriateness of the provisions (Water Take Provisions)	Table 52 - Costs, Benefits (including social and cultural) and Appropriateness Assessment
	8.8.6.1	Source Protection Zones	Table 55 – SPZ’s policies assessment Table 57 – Effectiveness of matters for Assessment Table 58 – SPZ’s policies effectiveness Assessment
Item 6. How have the Part 2 matters been considered and/or provided for through the plan provisions.	As above for Items 3 , 4 and 5	Part 2 of the RMA is referred to within each of the Objective 1-17 Evaluations (as noted above).  There are numerous other references and evaluations of the TANK plan policies and rules in respect of Part 2 of the RMA.	As above

# HAWKE'S BAY REGIONAL COUNCIL

## REGIONAL PLANNING COMMITTEE

Wednesday 18 September 2019

Item 11

### Subject: REGIONAL PLANNING COMMITTEE ORIENTATION HANDBOOK

#### Reason for Report

1. This report provides the Regional Planning Committee (RPC) with an initial suggested list of contents for an RPC Handbook to assist new member orientation.
2. Tāngata whenua representatives and elected members are asked to reflect on their experiences of participating on the RPC and advise staff of any additional useful information that should be considered for inclusion within the handbook for new members.

#### Background

3. Staff are developing an orientation programme ahead of local body elections in October, and as part of that process a new RPC Handbook is being developed for inclusion within the pack. This handbook will also be provided to any new tāngata whenua representatives as and when required to ensure that all members are enabled to effectively perform their role as a committee member.
4. The RPC Handbook is intended to be a single point of reference for RPC matters, including information specific to tāngata whenua representatives, and will also support the broader induction for elected members.
5. Topics in the handbook may also be supplemented by staff-led presentations and training, such as providing updates on RMA processes and plan changes under development.

#### Suggested contents list

6. Staff have developed a preliminary list of potential contents for RPC consideration listed below. Staff are developing the substantive content for each item and seek RPC member comments and suggestions to inform development of the handbook.
  - 6.1. About Hawke's Bay Regional Council – high-level overview
    - 6.1.1. History, difference between regional, district and city councils, and relationship with central government
    - 6.1.2. Strategic Plan, Long Term Plan, Annual Plan
  - 6.2. Committees
    - 6.2.1. How RPC fits into the wider Council committee structure
    - 6.2.2. History and scope of RPC and overview of the Hawke's Bay Regional Planning Committee Act 2015
    - 6.2.3. Terms of Reference
    - 6.2.4. Membership
    - 6.2.5. How the RPC works – meeting timelines and processes
    - 6.2.6. Tāngata whenua pre-meetings
    - 6.2.7. Independent advisors, roles and contact details
  - 6.3. Resource Management
    - 6.3.1. Policy and plan making processes
    - 6.3.2. Fundamentals, including RMA purpose and principles, e.g. Treaty of Waitangi, matters of national importance
    - 6.3.3. Relationship with central government.

- 6.4. Administrative information for tāngata whenua representatives (*note that elected members will receive administrative information, such as remuneration and parking information, through the general elected member orientation*)
  - 6.4.1. Remuneration and reimbursement processes and contacts
  - 6.4.2. Parking and maps
- 6.5. Contact Information
  - 6.5.1. Key staff, roles and contact information
  - 6.5.2. RPC members and contact details
  - 6.5.3. RPC tāngata whenua appointers and contact details
- 6.6. Appendices – useful links and essential resources
  - 6.6.1. Iwi authority rohe map
  - 6.6.2. Acronym buster
  - 6.6.3. Relevant legislation - Resource Management Act 1991, Local Government Act 2002, Hawkes' Bay Regional Planning Committee Act 2015
  - 6.6.4. Deeds of Settlement
  - 6.6.5. Relevant websites – e.g. Ministry for the Environment
  - 6.6.6. Training and courses available – e.g. the “Making Good Decisions Programme” – and processes for registration/ Council sponsorship
  - 6.6.7. HBRC planning documents - Regional Policy Statement, Regional Resource Management Plan, Regional Coastal Environment Plan, plan changes currently underway.
  - 6.6.8. Policies and Forms - e.g. remuneration and reimbursement.

### Next steps

- 7. Staff will continue developing the RPC Handbook and presentations, including any relevant additional suggested materials from RPC members.
- 8. The handbooks will be provided to all RPC members ahead of the 13 November 2019 RPC meeting, which is scheduled as a Committee orientation day.

### Decision Making Process

- 9. 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 the persons affected by this decision are RPC members.

### Recommendation

That the Regional Planning Committee receives and considers the “*Regional Planning Committee Induction*” staff report and considers if additional information should be included.

### Authored by:

**Ellen Humphries**  
**POLICY PLANNER**

**Ceri Edmonds**  
**MANAGER POLICY AND PLANNING**

**Leeanne Hooper**  
**TEAM LEADER GOVERNANCE**

### Approved by:

**Tom Skerman**  
**GROUP MANAGER**  
**STRATEGIC PLANNING**

**James Palmer**  
**CHIEF EXECUTIVE**

### **Attachment/s**

There are no attachments for this report.





## HAWKE'S BAY REGIONAL COUNCIL

### REGIONAL PLANNING COMMITTEE

Wednesday 18 September 2019

#### **Subject: RESOURCE MANAGEMENT POLICY PROJECT SEPTEMBER 2019 UPDATES**

Item 12

#### **Reason for Report**

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

#### **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 Projects September 2019 Updates*" staff report.

#### **Authored by:**

**Ellen Humphries**  
**POLICY PLANNER**

**Dale Meredith**  
**SENIOR POLICY PLANNER**

#### **Approved by:**

**Tom Skerman**  
**GROUP MANAGER STRATEGIC  
PLANNING**

#### **Attachment/s**

[1](#) RMA September 2019 Update



### Status Report on HBRC Resource Management Plan Change Preparation & Review Projects (as at 10 September 2019)

Project	Narrative update	Next intended reporting to RPC
<a href="#">'PC5' Integrated land &amp; freshwater management</a>	PC5 was publicly notified as being made operative on Saturday 24 August 2019.	N/A
<a href="#">'PC7' Outstanding waterbodies plan change</a>	PC7 was publicly notified on Saturday 31 August 2019. The submission period will run for 6 months, closing on 28 February 2020.	Staff will provide an update of submissions received over the coming months.
<a href="#">'PC8' Mohaka Catchment plan change</a>	Under preparation. Not yet notified. Preliminary project re-design is underway with Ngāti Pāhauwera, iwi and Māori Trusts. Discussions are progressing an Agreement with Ngāti Pāhauwera on co-design of the plan development process. The intention is to re-engage with the wider community in November, following a hui with Mohaka iwi and Maori Trusts on co-design.	September 2019.
<a href="#">'PC9' Greater Heretaunga/ Ahuriri catchment area plan change (a.k.a. TANK project)</a>	Under preparation. Not yet notified.	September 2019.
Ngaruroro and Clive Rivers Water Conservation Order	The report recommends that the application for a Water Conservation Order be declined for the lower part of the Ngaruroro River – that is, that there should be no Water Conservation Order for any part of the river below the Whanawhana cableway to the river mouth, including the part of the Clive River that was included in the application. The report recommends that the application for a Water Conservation Order be granted in part, for the upper part of the Ngaruroro River – that is that there should be a Water Conservation Order for the part of the river above the Whanawhana cableway to the headwaters. In this part of the river the Special Tribunal found that the habitat for rainbow trout, the rainbow trout fishery, the angling and recreation amenity, the whitewater kayaking and rafting amenity and the wild and scenic and other natural characteristics are outstanding values that warrant this high level of protection. As a consequence the Special Tribunal has recommended some prohibitions and conditions on what can and cannot be done in that part of the river in order to protect those values. These prohibitions and restrictions prevent damming or altering the flow, protect water quality and provide for fish screens for taking or diversion of water in that upper part of the Ngaruroro River. However, small scale structures that have no more than minor adverse effects are excluded from the prohibition on damming.  See: <a href="https://epa.govt.nz/public-consultations/decided/water-conservation-order-ngaruroro-and-clive-rivers/special-tribunals-recommendation-report/">https://epa.govt.nz/public-consultations/decided/water-conservation-order-ngaruroro-and-clive-rivers/special-tribunals-recommendation-report/</a>	Staff will provide an update of submissions in the coming months.
<a href="#">Statutory Acknowledgements of Treaty settlements</a>	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 Pataka 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 12

Attachment 1



## HAWKE'S BAY REGIONAL COUNCIL

### REGIONAL PLANNING COMMITTEE

Wednesday 18 September 2019

#### SUBJECT: STATUTORY ADVOCACY SEPTEMBER 2019 UPDATE

Item 13

#### 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 14 August 2019.
2. The Statutory Advocacy project (Project 196) centres on local 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 September 2019 Update*" staff report.

#### Authored by:

Ellen Humphries  
POLICY PLANNER

Dale Meredith  
SENIOR POLICY PLANNER

#### Approved by:

Tom Skerman  
GROUP MANAGER  
STRATEGIC PLANNING

#### Attachment/s

[1](#) Statutory Advocacy September 2019 Update





## Statutory Advocacy Update (as at 5 September 2019)

TABLE 1: NATIONAL PROPOSALS

Received	Proposal	Agency	Status	Current Situation
5 Sept 2019	<b>Action for Healthy Waterways</b> MfE has notified a discussion document on national direction for our essential freshwater, together with: <ul style="list-style-type: none"> <li>Draft National Policy Statement for Freshwater Management (NPS-FM)</li> <li>Proposed National Environmental standards for Freshwater (NES-FW)</li> <li>Draft Stock Exclusion Section 360 Regulations</li> </ul> Link to the full suite of proposals: <a href="https://www.mfe.govt.nz/consultation/action-for-healthy-waterways">https://www.mfe.govt.nz/consultation/action-for-healthy-waterways</a>	Ministry for the Environment	Submissions close 17 October 2019.	Staff are liaising to develop a submission.
21 Aug 2019	<b>National Policy Statement – Urban Development (NPS-UD)</b> MfE has notified a discussion draft which intends to enable opportunities for development in New Zealand's urban areas in a way that delivers quality urban environments for people, now and in the future. Link to the proposal and supporting material: <a href="https://www.mfe.govt.nz/consultations/nps-urbandevelopment">https://www.mfe.govt.nz/consultations/nps-urbandevelopment</a>	Ministry for the Environment	Submissions close 10 October 2019	Staff are liaising to develop a submission.  A public meeting is set for 24 September in Napier (together with the proposed NPS-HPL)
14 Aug 2019	<b>National Policy Statement – Highly Productive Land (NPS-HPL)</b> MPI and MfE have prepared a draft NPS to improve the way highly productive land is managed under the RMA. <a href="https://www.mpi.govt.nz/news-and-resources/consultations/proposed-national-policy-statement-for-highly-productive-land/">https://www.mpi.govt.nz/news-and-resources/consultations/proposed-national-policy-statement-for-highly-productive-land/</a>	Ministry for Primary Industries	Submissions close 10 October 2019	Staff are liaising to develop a submission.  A public meeting is set for 24 September in Napier (together with the proposed NPS-UD)

Received	Proposal	Agency	Status	Current Situation
5 Aug 2019	<b>Draft NZ Biodiversity Strategy</b> DOC proposes a strategy to protect and restore our nature over the next 50 years. <a href="https://www.doc.govt.nz/get-involved/have-your-say/all-consultations/2019/proposal-for-new-zealands-next-biodiversity-strategy/">https://www.doc.govt.nz/get-involved/have-your-say/all-consultations/2019/proposal-for-new-zealands-next-biodiversity-strategy/</a>	Department of Conservation	Submission close 22 September 2019	Staff are liaising to develop a submission.
31 July 2019	<b>Three Waters Policy Package</b> The Cabinet announced its decisions on the proposed Three Waters policy package and has released a number of documents ahead to proposed legislative change: <a href="https://www.dia.govt.nz/Three-waters-review#Prog-Aug">https://www.dia.govt.nz/Three-waters-review#Prog-Aug</a>	Department of Internal Affairs	Information only	Staff are maintaining a watch on developments.
24 July 2019	<b>Comprehensive Review of the Resource Management Act</b> MfE has released two Cabinet papers and a regulatory statement impact summary on the pending Stage One changes to the RMA. Link to the papers released: <a href="https://www.mfe.govt.nz/rma/improving-our-resource-management-system">https://www.mfe.govt.nz/rma/improving-our-resource-management-system</a>	Ministry for the Environment	Information only	Staff are maintaining a watch on developments.
16 July 2019	<b>Action on Agricultural Emissions</b> MfE proposes pricing agricultural emissions and options for managing emissions in the interim: <a href="https://www.mfe.govt.nz/consultation/action-agricultural-emissions">https://www.mfe.govt.nz/consultation/action-agricultural-emissions</a>	Ministry for the Environment	Public feedback closed 13 Aug 2019	Submission lodged, a copy can be found at <a href="#">HBRC Submissions</a>
4 July 2019	<b>Local Government Funding and Finance</b> The NZ Productivity Commission released a draft report on its inquiry into local government funding and financing, including consideration of cost pressures facing local government, funding and financing models available and related regulatory system matters. Link to the draft report: <a href="https://www.productivity.govt.nz/inquiries/local-government-funding-and-financing/">https://www.productivity.govt.nz/inquiries/local-government-funding-and-financing/</a>	NZ Productivity Commission	Public feedback closed 29 Aug 2019	Submission lodged, a copy can be found at <a href="#">HBRC Submissions</a>

Received	Proposal	Agency	Status	Current Situation
June 2018	<b>Climate Change Response (Zero Carbon) Amendment Bill</b> The Bill proposes climate change targets for 2050, a Climate Change Commission and various assessments, plans and reporting requirements. <a href="https://www.mfe.govt.nz/node/24262">https://www.mfe.govt.nz/node/24262</a>	Ministry for the Environment	Submissions closed 16 July 2019	Submission lodged, a copy can be found at <a href="#">HBRC Submissions</a> . HBRC addressed Select Committee on 21 Aug 2019. MfE website indicates the Zero Carbon Act may be in force by the end of 2019.

TABLE 2: TERRITORIAL LOCAL AUTHORITY PROPOSALS

Received	TLA	Proposal	Applicant/ Agency	Status	Current Situation
Aug 2019	HDC	<b>Seasonal Workers Accommodation Variation 7</b> HDC have notified Variation 7 to the proposed Hastings District Plan which relates to Seasonal Workers Accommodation.	Hastings District Council	Public notification – submissions close 27 September 2019.	Staff are liaising to develop a submission.
May 2019	CHBDC	<b>Central Hawke's Bay District Plan Review</b> 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 closed.	Feedback submitted. A copy of HBRC's submission can be found at <a href="#">HBRC Submissions</a> .
Nov 2018	NCC	<b>Napier City District Plan Review</b> 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	<b>Previously...</b> 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.

Received	TLA	Proposal	Applicant/ Agency	Status	Current Situation
13 July 2016	HDC	<b>Howard Street Rezoning Variation 3</b> 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	<b>Previously...</b> <ul style="list-style-type: none"> <li>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.</li> <li>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 25<sup>th</sup> March 2017.</li> </ul>
18 Jan 2016	WDC	<b>Resource Consent Application</b> 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	<b>Previously...</b> <ul style="list-style-type: none"> <li>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 <a href="#">HBRC Submissions</a>.</li> <li>HBRC staff and applicants have held discussions about potential alternative clearance proposals.</li> </ul>
8 Nov 2013	HDC	<b>Proposed Hastings District Plan</b> Review of the Hastings District Plan in its entirety. Includes the harmonisation of district wide provisions between the Napier District Plan with the Hastings District Plan where relevant.	Hastings District Council	Notified HDC decisions issued, subject to appeals	<b>Previously...</b> <ul style="list-style-type: none"> <li>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.</li> <li>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.</li> </ul>

TABLE 3: OTHER PROPOSALS

Received	Proposal	Agency	Status	Current Situation
9 Dec 2017	<b>HB Fish and Game Council's Draft Sports Fish and Game Management Plan</b> 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	<b>Previously...</b> Submission lodged. A copy of HBRC's submission can be found at <a href="#">HBRC Submissions</a> .

Received	Proposal	Agency	Status	Current Situation
24 July 2017	<b>Application for Water Conservation Order (WCO)</b> 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	Special Tribunal Recommendation Report Released. Submissions close 20 September 2019.	The Special Tribunal released its recommendation report on Friday 30 August 2019. The report recommends a WCO for the upper river (above Whanawhana Cableway) in respect of: a) The habitat for trout b) The rainbow trout fishery c) The angling amenity and recreation d) The white water kayaking and rafting amenity and recreation e) The wild, scenic and other natural characteristics. Staff are working with counsel to develop a submission within the 15 working day period specified by s209 of the RMA.

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:





**HAWKE'S BAY REGIONAL COUNCIL**

**REGIONAL PLANNING COMMITTEE**

**Wednesday 18 September 2019**

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

**Item 14**

**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.

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