



## Extraordinary Meeting of the Regional Planning Committee

**Date:** Wednesday 25 September 2019  
**Time:** 9.00am  
**Venue:** Council Chamber  
Hawke's Bay Regional Council  
159 Dalton Street  
NAPIER

### Agenda

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1.	Welcome/Notices/Apologies	
2.	Conflict of Interest Declarations	
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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
Jenny Nelson-Smith	Heretaunga Tamatea Settlement Trust
Joinella Maihi-Carroll	Mana Ahuriri Trust
Apiata Tapine	Tātau Tātau o Te Wairoa
Matiu Heperi Northcroft	Ngati Tuwharetoa Hapu Forum
Peter Paku	Heretaunga Tamatea Settlement Trust
Toro Waaka	Ngati Pahauwera Development and Tiaki Trusts
Paul Bailey	Hawkes Bay Regional Council
Rick Barker	Hawkes Bay Regional Council
Peter Beaven	Hawkes Bay Regional Council
Tom Belford	Hawkes Bay Regional Council
Alan Dick	Hawkes Bay Regional Council
Rex Graham	Hawkes Bay Regional Council
Debbie Hewitt	Hawkes Bay Regional Council
Neil Kirton	Hawkes Bay Regional Council
Fenton Wilson	Hawkes Bay Regional Council

Total number of members = 18

### Quorum and Voting Entitlements Under the Current Terms of Reference

#### Quorum (clause (i))

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

At the present time, the quorum is 14 members (physically present in the room).

#### Voting Entitlement (clause (j))

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

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

# HAWKE'S BAY REGIONAL COUNCIL

## REGIONAL PLANNING COMMITTEE

Wednesday 25 September 2019

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

Item 4

#### 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.

<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.

16. A council cannot request the SPP if the proposed policy statement, plan, or plan change has already been publicly notified.
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
<b>Final decision made by</b>	Local authority	Local authority but must be approved by Environment Minister (who may decline or recommend changes to the local authority).
<b>Appeal possibilities</b>	<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 provisions are robust; public feedback on the proposed plan change is suitably considered; and the Council ticks all relevant legislative requirements along the way.

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

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.

### **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.

<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.

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 25 September 2019

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

Item 5

#### 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	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: a) Quorum was not established so RPC meeting immediately lapsed at 9:05am. 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>
31 Oct 2018	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.” 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>
12 Dec 2018	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>
3 July 2019	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>

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.

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

<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,



### 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 above).
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.

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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 2.1** 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 2.1** 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>6</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> Mana Ahuriri Incorporated (representing the Ahuriri Hapū); Maungaharuru Tangitu Incorporated (representing the Maungaharuru Tangitu Hapū); Ngāti Hineuru Iwi Incorporated (representing Ngāti Hineuru); <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, 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: The Trustees of the Ngāti Pāhauwera Development Trust (representing Ngāti Pāhauwera); and Any other entity which becomes a Tāngata Whenua Party to the Deed of Commitment dated (1 March 2012) between HBRC, Tāngata Whenua Parties



	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>Ngati-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>