



MINUTES OF AN 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

Present: T Waaka – Chair *Ngāti Pāhauwera Development & Tiaki Trust*
Cr P Bailey
Cr R Barker – Deputy Co-chair
Cr P Beaven
Cr T Belford
K Brown – *Te Kopere o te Iwi Hineuru*
Cr A J Dick
Cr R Graham – Co-chair
Cr D Hewitt
T Hopmans – Deputy Co-chair *-Maungaharuru Tangitū Trust – via
conference call*
N Kirikiri – *Te Toi Kura O Waikaremoana*
Cr N Kirton
J Maihi-Carroll – *Mana Ahuriri Trust*
M Mohi – *Ngati Tuwharetoa Hapu Forum*
L Munroe – *Heretaunga Tamatea Settlement Trust*
P Paku – *Heretaunga Tamatea Settlement Trust*
A Tapine – *Tātau Tātau o Te Wairoa Trust*
Cr F Wilson

In Attendance: J Palmer – Chief Executive
T Skerman – Group Manager Strategic Planning
J Lawrence – Group Manager Office of the CE & Chair
P Munro – Te Pou Whakarae Māori Partnerships
A Roets – Governance Administration Assistant

1. Welcome/Apologies/Notices

The Chairman, Toro Waaka welcomed everyone to the meeting and Pieri Munro opened with a karakia, acknowledging the passing of whanau members.

The Chairman advised he needs to leave the meeting at 11.20am and noted that Tania Hopmans is participating in the meeting via telephone conference.

Resolution

RPC26/19 That the apology for early departure from Mr Toro Waaka be accepted.

Tapine/Beaven
CARRIED

2. Conflict of Interest Declarations

There were no Conflict of Interest Declarations.

3. TANK Plan Change 9 Options for Notification and Beyond

Tom Skerman introduced the item and outlined the features of the streamlined and standard notification pathways for the TANK plan change, including the pros and cons of each. Discussions traversed:

- The traditional Schedule 1 process can be very lengthy, taking years, and Hearing Panel decisions can be appealed to the Environment Court on substantive matters and higher courts thereafter on points of law
- the Streamlined process introduced in 2017 allows appeals only on points of law or judicial review, with no substantive appeal rights on Hearing Panel decisions
- trade-offs for Schedule 1 including multi-year uncertainty, diminishes hearings process, favours those with more resources, opportunity costs of environmental improvements not being implemented
- streamlined process trade-offs include lack of appeal rights, limited checks and balances on Hearings Panel and lost opportunity for matters of national importance to be litigated through Environment Court
- wider RMA reform package (tied to 2020 NPS for Freshwater Management) introduces a specific and specialised pathway to notification for freshwater plan changes that prescribes the process and timeframes regional councils must adhere to
- where a plan change is in process Council can renew resource consents for short period to align with the timeframes for the plan change being made operative
- until the plan becomes operative, Council cannot call resource consents in for review to meet its provisions
- RPC Act and Terms of Reference not clear on whether decision on plan change process to be followed is for RPC, however when the RPC Act was introduced there was no process choice as there was no streamlined process
- Difficult to predict how long a schedule 1 process would take because cannot predict the number of appeals however due to complexity of the TANK plan change there is considerable scope for appeals to be made
- View that the Plan Change needs to progress through streamlined process to get positive changes implemented without lengthy delays
- View that schedule 1 process must be followed to allow appeals as forum to support natural justice and ensure mana whenua aspirations and concerns are taken into account

The meeting adjourned at 10.33am and reconvened 10.48am.

- a procedural motion was put, to adjourn the meeting and reconvene another day
- enormous divide between members, and angst and anger in Māoridom about this plan change
- a further procedural motion was put, to leave the item to lie until after a workshop session in the new triennium to resolve the issues discussed today

- whether the Council is able to resolve a decision on the Plan Change pathway to be undertaken for PC9 in the absence of a recommendation from the Regional Planning Committee
- whether the Schedule 1 plan change process is the 'default' or whether that would need to be resolved as a decision

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.

Belford/Kirton

Cr Barker moved a procedural motion, being:

4. That the meeting adjourns until such time as the Co-Chairs agree to reconvene.

**Barker/Wilson
7 For; 10 Against
LOST**

Cr Kirton moved a procedural motion, being:

5. to leave the current motion (streamlined process) to lie on the table until such time as the Co-Chairs agree to reconvene in the new triennium.

**Kirton/Barker
6 For; 11 Against
LOST**

The motion was **LOST**, and the substantive motion put.

That the Regional Planning Committee:

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 - 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.

**Belford/Kirton
5 For; 13 Against
LOST**

Cr Alan Dick moved a new motion, seconded by Mike Mohi, being:

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2. Agrees that the decisions to be made are not significant under the criteria contained in Council’s adopted Significance and Engagement Policy, and that Council can exercise its discretion and make decisions on this issue without conferring directly with the community.
3. Recommends that Hawke’s Bay Regional Council adopts a Schedule 1 process for public notification of the TANK Plan Change.

**Dick/Mohi
13 for; 4 Against; 1 Abstained
LOST**

Mr Toro Waaka left the meeting at 11.46am and Councillor Rex Graham assumed the Chair.

4. Hawke's Bay Regional Planning Committee Terms of Reference

James Palmer introduce the item, which recommends that the Committee agrees the version including minor non-contentious amendments to align the Terms of Reference with the RPC Act 2015 and sets aside the contentious matters such as quorum and a disputes resolution process for future consideration.

RPC27/19 Resolutions

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.

**Hopmans/Kirton
CARRIED**

Pieri Munro and Karauna Brown closed the meeting with karakia.

Closure:

There being no further business the Chairman declared the meeting closed at 11.57am on Wednesday, 25 September 2019.

Signed as a true and correct record.

DATE:

CHAIRMAN: