



Meeting of the Regional Planning Committee

Date: Wednesday 11 December 2019
Time: 1.30pm
Venue: Council Chamber
Hawke's Bay Regional Council
159 Dalton Street
NAPIER

Agenda

ITEM	SUBJECT	PAGE
1.	Welcome/Notices/Apologies	
2.	Conflict of Interest Declarations	
3.	Call for Minor Items of Business Not on the Agenda	3
Decision Items		
4.	TANK Plan Change 9 Options for Notification and Beyond	5
Information or Performance Monitoring		
5.	Resource Management Policy Project December 2019 Update	33
6.	Statutory Advocacy December 2019 Update	37
7.	Discussion of Minor Items of Business Not on the Agenda	45

Parking

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

Regional Planning Committee Members

Name	Represents
Karauna Brown	Te Kopere o te Iwi Hineuru
Tania Hopmans	Maungaharuru-Tangitu Trust
Nicky Kirikiri	Te Toi Kura o Waikaremoana
Liz Munroe	Heretaunga Tamatea Settlement Trust
Joinella Maihi-Carroll	Mana Ahuriri Trust
Apiata Tapine	Tātau Tātau o Te Wairoa
Mike Mohi	Ngati Tuwharetoa Hapu Forum
Peter Paku	Heretaunga Tamatea Settlement Trust
Toro Waaka	Ngati Pahauwera Development and Tiaki Trusts
Rick Barker	Hawkes Bay Regional Council
Will Foley	Hawkes Bay Regional Council
Craig Foss	Hawkes Bay Regional Council
Rex Graham	Hawkes Bay Regional Council
Neil Kirton	Hawkes Bay Regional Council
Charles Lambert	Hawkes Bay Regional Council
Hinewai Ormsby	Hawkes Bay Regional Council
Jerf van Beek	Hawkes Bay Regional Council
Martin Williams	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 11 December 2019

Subject: CALL FOR MINOR ITEMS OF BUSINESS NOT ON THE AGENDA

Item 3

Reason for Report

Hawke's Bay Regional Council standing order 9.13 allows:

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

Recommendation

That the Regional Planning Committee accepts the following "Minor Items of Business Not on the Agenda" for discussion as Item 7:

Item	Topic	Raised by
1.		
2.		
3.		

Leeanne Hooper
GOVERNANCE LEAD

Joanne Lawrence
GROUP MANAGER
OFFICE OF THE CE & CHAIR

HAWKE'S BAY REGIONAL COUNCIL

REGIONAL PLANNING COMMITTEE

Wednesday 11 December 2019

Subject: TANK PLAN CHANGE 9 OPTIONS FOR NOTIFICATION AND BEYOND

Item 4

Reason for Report

1. The principal reason for this report is to revisit the issue of the notification pathways for the TANK Plan Change ('PC9'). To do this, the report builds on earlier briefings presented to the Committee in September 2019. This report also presents advice from Simpson Grierson solicitors on the following two questions:
 - 1.1. is the Schedule 1 Part 1 process a default pathway for the notification and approval of a plan under the RMA?
 - 1.2. is the choice of planning notification process a matter for the RPC to vote on or consider given the current scope of the guiding legislation (the HB RPC Act) and the Committee's own Terms of Reference?

Discussion

2. This report is in relation to the notification process for PC9. It intentionally does not revisit the content of PC9. This is because at a meeting on 18 September, the RPC had recommended that Council adopt the TANK Plan Change for public notification and that recommendation was subsequently accepted by the Council at its meeting on 25 September 2019. However the RPC has not made a recommendation on a notification pathway for PC9.
3. In terms of notification process options, several staff briefing papers have been presented to the RPC on this matter over the past twelve months. In July, planning staff had presented a preliminary report outlining two principal options for a PC9 notification process. Then a further report was presented at an extraordinary meeting of the RPC on 25 September. A copy of that September staff report is published as Attachment 1. At that 25 September meeting, the Committee could not agree on whether PC9 should be notified to:
 - 3.1. apply to the Minister for the Environment for a modified streamlined planning process 'SPP' (under Schedule 1 Part 5 of the RMA) or
 - 3.2. follow a traditional submission process (Schedule 1 Part 1 of the RMA).
4. Consequently, the item has been left 'lying on the table' for the past ten weeks. During that time, local body election results have returned three councillors and six new councillors. Also during that time, advice from Simpson Grierson solicitors has been sought on the two questions stated in paragraph 1 of this report. A full copy of Simpson Grierson's written advice is set out in Attachment 2.
5. The opinion and recommendation of senior planning staff remains as it was in September – that a SPP with modifications as set out in that earlier staff report:
 - 5.1. is entirely appropriate for PC9
 - 5.2. is preferable when taking into account the overall resourcing implications of either option, and
 - 5.3. addresses the need to provide planning and consenting certainty for the TANK catchment.
6. However, staff acknowledge that for some members of the Committee, particularly some/all tāngata whenua members, a modified streamlined planning process is not attractive primarily because there is no opportunity for Environment Court appeals and is highly unlikely to be supported by the required majority (80%) of Committee members necessary to secure a recommendation to Council.

7. Based on the legal advice received (and discussed shortly), staff believe that the best approach is to revisit the decision tabled at the Committee's extraordinary meeting on 25 September 2019.
8. As noted above, on the 25 September the Committee was asked to support an application to Minister Parker to notify the adopted TANK plan change using a modified SPP process (see Attachment 1) as opposed to the traditional pathway. In doing so staff made two assumptions: first, that the introduction of alternative notification pathways into the RMA represented a decision making 'fork in the road' that required a positive decision to adopt the agreed pathway and, second, that the decision itself was a matter within the RPC's 'jurisdiction' and not a matter for Council to determine alone.

Notification process pathways (Question 1):

9. The advice from Simpson Grierson concludes that:

"While it is clearly open to a council to make a choice as between the different process options that are available, in our view the preferable interpretation of the relevant provisions, read together, is that the Schedule 1, Part 1 process is the default plan-making process that would apply in the absence of such a choice."
10. Simpson Grierson's advice highlights a number of the ambiguities arising from the RMA's amendments in 2017 which introduced multiple plan pathways.
11. Essentially, the advice suggests that the correct approach would be to view the SPP (Part 5) path not as a fork in the road, but rather an 'off-ramp' which requires a decision for its use, and that in the absence of such a decision then the traditional (Part 1) operates as a default requiring no further deliberation.

Role of RPC for procedural matters (Question 2):

12. In responding to the second question, Simpson Grierson concluded that:

"There is no express requirement in the [Hawke's Bay Regional Planning Committee Act 2015] or the [terms of reference] for the Council to seek a recommendation from the RPC as to the planning process that should be used in considering PC9, and the Council could proceed to select a planning process without such a recommendation."
13. But (and in the view of senior planning staff, correctly) given the Committee's recent history together with the fact that this matter had already been in front of the RPC, Simpson Grierson have qualified that conclusion with the following further advice:

"However in our view, it would be appropriate to make a further attempt to obtain a recommendation from the RPC before doing so."
14. At a theoretical level, the implication of both parts of the advice is interesting. With the benefit of the advice and hindsight, the appropriate approach may have been for this question to have been a decision of Council, in which case it is likely that the modified SPP would have been agreed by a simple majority of then Councillors. The reality, however, is that staff's recommendation to pursue the modified SPP is unlikely to be supported by this Committee and the decision would therefore automatically be made to use the traditional pathway. Consequently, this paper is re-presenting the PC9 notification pathways matter in an attempt to remove the double uncertainty and to formally confirm the Committee's position. Another reason for doing so is to avoid a "no recommendation" outcome and to establish a clear foundation for any refer-back situation, should one arise.

Update on Central Government proposals:

15. In September, the Government released two key proposals relating to freshwater planning under the RMA:
 - 15.1. *"Action for Healthy Waterways: A discussion document on national direction for our essential freshwater"* and

- 15.2. Resource Management Amendment Bill 2019 (featuring the new freshwater planning process for regional policy statements, regional plans and plan changes relating to freshwater).
16. The Regional Council made [submissions](#) on both of these proposals. One of the key concerns covered in those submissions was the capacity to deliver on the proposals and the associated resourcing required to implement the proposals within stated timeframes. Those concerns have been echoed across submissions from all other regional councils and unitary authorities, plus several other organisations.
17. Currently, none of those proposals are in legal effect. It would be entirely premature to presume that the Bill and the Freshwater NPS proposals pass unaltered. The Second and Third readings of the Bill are anticipated in the first half of 2020 before it will pass into legislation. The Government intends that a new national policy statement and new national environmental standards for freshwater will be in force in mid-2020.

Alignment with Plan Change 7 (Outstanding waterbodies):

18. Plan Change 7 was publicly notified on 31 August 2019 with the deadline for submissions being 28 February 2020. This long submission period exceeds the minimum 20 working day period required by the RMA. Until the number and complexity of submissions is better known, staff cannot yet confirm timing of PC7's next milestones (e.g. further submissions, pre-hearing discussions and hearing dates).
19. In early 2020, planning staff will report back to the RPC with recommendations about formation of a panel of hearing commissioners to hear submissions on PC7. Staff currently anticipate that PC7 submissions would be heard in 2020 before a hearing on PC9 submissions.
20. In light of the reasons identified below, it would not be considered best practice to combine the hearings:
 - 20.1. PC7 is primarily a change to the Regional Policy Statement, which provides high level direction for the management of outstanding waterbodies across the whole region, including coastal areas;
 - 20.2. PC9 is a catchment-based change to the regional plan parts of the Regional Resource Management Plan. PC9 relates to only part of the region, and does not include coastal areas;
 - 20.3. Regional policy statements are distinct from regional plans, and the Regional Council's duties are different when preparing a RPS as opposed to a regional plan;
 - 20.4. PC9 features a number of issues that require specialised technical knowledge and expertise whereas PC7 is not about rules, regulation, freshwater limits, but rather higher-level policy direction in the RPS. As a consequence the make-up of the panel could be entirely different.

Next Steps

21. If the RPC were to recommend following a modified SPP pathway, then Council staff would begin drafting an application to the Minister for the Environment and liaise with MFE officials on the level of detail suitable for the application.
22. If the RPC didn't recommend a modified SPP pathway, then the path would 'default' to the traditional Schedule 1 Part 1 process. That can be considered by the Council (presumably at its meeting on 18 December). In that event, then staff would need to adjust current and immediate workloads to mobilise communications and various other logistics associated with the official public notification of a plan change spanning the Greater Heretaunga and Ahuriri catchment area. Those logistics are further complicated by the summer holiday period. These are a matter of resourcing and judgement for the Council to consider and would not require a decision from the RPC. In all reality, public notification would occur mid-January at the very earliest and a twenty working day submission period would follow.

Decision Making Process

23. 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:
 - 23.1. The decision does not significantly alter the service provision or affect a strategic asset.
 - 23.2. The use of the special consultative procedure is not prescribed by legislation.
 - 23.3. The decision does not fall within the definition of Council's policy on significance.
 - 23.4. 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 notification pathway may be followed.
 - 23.5. The decision is not inconsistent with an existing policy or plan.

Recommendations

That the Regional Planning Committee:

- 1.1. Receives this report and notes the Appendices
- 1.2. 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.
2. That the Regional Planning Committee recommends that Hawke's Bay Regional Council:
 - 2.1. 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)
 - 2.2. 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:
 - 2.2.1. a submission period of thirty working days
 - 2.2.2. further submissions
 - 2.2.3. hearing by panel of three to five suitably experienced and accredited RMA hearings commissioners to provide a report and recommendations back to Regional Planning Committee and Council
 - 2.2.4. 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.
 - 2.3. 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 2.2 above.
 - 2.4. 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.

Authored by:

**Gavin Ide
PRINCIPAL ADVISOR STRATEGIC
PLANNING**

**Ceri Edmonds
MANAGER POLICY AND PLANNING**

Item 4

Approved by:

**Tom Skerman
GROUP MANAGER STRATEGIC
PLANNING**

Attachment/s

- [1](#) 25 September 2019 - TANK Plan Change 9 Options for Notification and Beyond
- [2](#) Simpson Grierson Solicitors written advice

**HAWKE'S BAY REGIONAL COUNCIL
REGIONAL PLANNING COMMITTEE**

Wednesday 25 September 2019

Subject: TANK PLAN CHANGE 9 OPTIONS FOR NOTIFICATION AND BEYOND

Reason for Report

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

Background

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

Relevance of this item to Committee's Terms of Reference

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

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

"4.5 To oversee consultation on any draft ... plan change... (prior to notification)."

"4.6 To recommend to Council for public notification any ... plan changes..."
7. Consequently, this report is presented to the Committee for a recommendation to be made to the Council for public notification of the TANK Plan Change and a process to be used for the notification and post-notification stage of that plan change.

Discussion

8. The 'Slow' (Standard) track is the RMA's standard process. The Standard process features a number of mandatory milestones that a council must complete, but room exists for additional steps at the Council's own discretion. Appeals can be made against the Council's decisions and those appeals are heard 'de-novo' (anew) in the

Environment Court. The Environment Court's decisions can be challenged on points of law in High Court proceedings.

9. The 'Fast' track would use the minimum mandatory milestones and features that are now available in the RMA using a 'streamlined planning process.' The optional 'Streamlined Planning Process' (SPP) was introduced into the RMA by amendments in 2017. More detail about the SPP is outlined in paragraphs 13 to 22 of this report.
10. A 'Medium' track would use the minimum mandatory SPP milestones, plus some optional extra steps and features tailored for the TANK Plan Change's own circumstances.

Standard Schedule 1 process

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

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

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

- 15.6. requires an expeditious process for a reason comparable to those listed above.
16. A council cannot request the SPP if the proposed policy statement, plan, or plan change has already been publicly notified.
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).³
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)⁴ 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.

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

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

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.

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

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

Core elements	Standard RMA Part 1 Schedule 1	Streamlined Planning Process
	<p>appropriateness of appointing a hearings commissioner with understanding of tikanga Maori and of the perspectives of local iwi or hapu.</p> <ul style="list-style-type: none"> Can submit on proposal. 	<ul style="list-style-type: none"> Seek views of iwi authorities on draft plan change (if not done already) Minister's Direction must not be inconsistent with iwi participation legislation or Mana Whakahono a Rohe arrangements. Can submit on proposal.
Final decision made by	Local authority	Local authority but must be approved by Environment Minister (who may decline or recommend changes to the local authority).
Appeal possibilities	<ul style="list-style-type: none"> Available to any person who has made a submission or further submission Merit (de-novo) appeals to Environment Court Further appeals to higher courts on points of law Judicial review of council's decisions available. 	<ul style="list-style-type: none"> Judicial review of council's and Minister's decisions No merit (de novo) appeals to Environment Court available No appeals on points of law available.

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 SPP⁵ before notification of the proposed plan change, that relatively small amount of time can readily be compensated by a vastly streamlined submission phase (with or without a hearing) through to a final decision - 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.

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

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.
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).⁶ 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.

⁶ "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.

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/Maori 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.
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.

Authored by:

Gavin Ide
PRINCIPAL ADVISOR STRATEGIC
PLANNING

Approved by:

Tom Skerman
GROUP MANAGER STRATEGIC
PLANNING

Attachment/s

There are no attachments for this report.

Item 4

Attachment 1

Our advice

Prepared for Tom Skerman and Ceri Edmonds, Hawke's Bay Regional Council

Prepared by Matt Conway, Kat Viskovic and Lauren Phillips

Date 3 December 2019

PRIVILEGED AND CONFIDENTIAL

TANK Plan Change 9 – decision-making process

Background	<p>The Council has prepared draft Plan Change 9 – TANK; Tūtaekurī, Ahuriri, Ngaruroro and Karamu Catchments (PC9) in consultation with the Regional Planning Committee (RPC).</p> <p>The RPC was established through treaty negotiations and given statutory recognition through the Hawke's Bay Regional Planning Committee Act 2015 (HBRPC Act). The preamble to the HBRPC Act states that the legislation was enacted, in part, as a result of an identified need for greater tāngata whenua involvement in the management of natural resources in the Hawke's Bay region.</p> <p>The RPC has adopted Terms of Reference (TOR) which further define its purpose, the procedure it should follow and its functions.</p> <p>On 18 September 2019, the RPC passed a motion to recommend notification of PC9. A second vote was called for to determine the type of Resource Management Act 1991 (RMA) Schedule 1 process that PC9 should follow. However, the RPC was unable to vote on a recommendation as the quorum was lost.</p> <p>An extraordinary meeting of the RPC was held on 25 September 2019 to determine which planning process should be followed. At that meeting, Council officers recommended that a streamlined planning process (SPP) be followed. However, this motion was lost. A new motion was put to the RPC for the adoption of the traditional Schedule 1, Part 1 process. This was also lost.</p> <p>Given the results of the votes by the RPC, the Council is seeking clarification about the requirements for making a decision about the planning process that should be used to progress PC9.</p>
Questions and Answers	<p>Question 1: Is the Schedule 1, Part 1 process the default pathway for the notification and approval of a plan under the RMA?</p> <p>While it is not made explicit in the RMA, we consider that it would be correct to characterise the Schedule 1, Part 1 process as being the "default" process.</p>

Question 2: Is the planning process to be used a matter for the RPC to vote on or consider given its purpose and the scope of its powers?

There is no express requirement in the HBRPC Act or the TOR for the Council to seek a recommendation from the RPC as to the planning process that should be used in considering PC9, and the Council could proceed to select a planning process without such a recommendation. However, in our view, it would be appropriate to make a further attempt to obtain a recommendation from the RPC before doing so.

Our reasons

Question 1: Is the Schedule 1, Part 1 process the default pathway for the notification and approval of a plan under the RMA?

Pathways for plan making

1. Section 65(2) of the RMA states that a regional plan "must be prepared in accordance with Schedule 1." It therefore requires the use of Schedule 1, but leaves open the question of which part of Schedule 1 is to be used.
2. There are currently four broad pathways through which a planning document can be considered and approved. These are:
 - 2.1 The process prescribed by Schedule 1, Part 1 of the RMA (**Schedule 1, Part 1 process**). This was the only available process prior to 2009;
 - 2.2 Call-in and referral to either a Board of Inquiry or direct to the Environment Court for a "proposal of national significance" (introduced in 2009);
 - 2.3 SPP (introduced in 2017); and
 - 2.4 Collaborative planning process (**CPP**) (introduced in 2017).
3. There has been no express judicial statement about whether the Schedule 1, Part 1 process is the "default" process for plan making, nor is this expressly stated in the RMA. However, as discussed below, there are various indicators that it is the "standard" or "default" process.

RMA language still reflects the position that the Schedule 1, Part 1 process was originally the

4. The Schedule 1, Part 1 process was originally the only available process for notifying and approving a proposed plan, and the language in key RMA provisions still reflects that position.
5. For example, section 65(2) (above) was enacted in its current form in 2003, and states that a regional plan "must be prepared in

only available process

accordance with Schedule 1.” In turn, clause 2(1) in Part 1 of Schedule 1 provides that the preparation of a policy statement or plan “*shall be commenced by the preparation by the local authority concerned, of a proposed policy statement or plan*”. Part 1 goes on to set out requirements for public notification of the proposed plan, a hearing and then decisions on submissions.

6. As the RMA stood in 2003, it would have been clear that the section 65(2) requirement to prepare a plan “in accordance with Schedule 1” meant to use the Schedule 1, Part 1 process, because that was the only process option available.
7. When Parliament created further process options in 2009 and 2017, it could have amended section 65(2) to expressly require a decision between the available process options. Conversely, Parliament could have amended Part 1 Schedule 1, or other provisions of the RMA, to expressly state that the Schedule 1 Part 1 process would be the default or standard planning process. However, no such amendments were made when the further process options were enacted.

A Streamlined Planning Process is presented as an alternative to the “standard process”

8. In contrast with the wording of Schedule 1, Part 1, the provisions relating to the use of a SPP indicate that it is an alternative and optional process. Those provisions require additional steps to be taken by a local authority to initiate a SPP (i.e. an application for ministerial direction). Section 80C(1) provides:

If a local authority determines that, in the circumstances, it would be appropriate to use the streamlined planning process to prepare a planning instrument, it may apply in writing to the responsible Minister in accordance with clause 75 of Schedule 1 for a direction to proceed under this subpart.

9. Section 80C confirms that a council is entitled to make a decision about whether to use a SPP, but there is nothing in section 80C to suggest it is mandatory for a council to make an express decision on that matter in every case.
10. Schedule 1, Part 5, Clause 75(b)(ii) describes the SPP as “an alternative” process under Part 1 (our emphasis):

An application to a Minister for a direction under section 80C to use the streamlined planning process must—

...

(b) set out the following matters:

(ii) an explanation of why use of the streamlined planning process is appropriate as an alternative to using the process under Part 1 of this schedule; ...

-
11. The SPP is further described as an "alternative" to the "standard" process in the application form to the Minister for the Environment (**Minister**), which states (our emphasis):

Please explain why use of the SPP is appropriate as an alternative to using the standard process under Part 1 of Schedule 1 of the RMA ...

12. The SPP requires an application to the Minister, with specified statutory criteria that must be met before the council can apply to the Minister (section 80C(2)), and further statutory criteria that must be applied by the Minister in reaching a decision about whether to approve or decline such an application (Schedule 1, clause 76). As such, it is not a process option that a council can unilaterally choose to follow, but rather requires a Ministerial intervention. It also involves a modification to the process that would otherwise be used.
13. The way that a SPP application is made and progresses also adds further support to the interpretation that the Schedule 1, Part 1 process is the default. For example, the application must be made *before* the local authority commits to an alternative planning process, be that either by publicly notifying a proposed plan under Part 1, giving notice that it intends to use the SPP, or deciding how it will process a private plan change request.
-

CPP is also presented as a non-mandatory alternative process

14. The CPP process provides for a further alternative, collaborative, approach to developing and considering planning documents.
15. Like SPP, in contrast to the language used in Schedule 1, Part 1:
- 15.1 The CPP process is presented as optional. Clause 37 in schedule 1 states that "[a] local authority may decide to use the collaborative planning process to prepare or change a policy statement or plan." Part 4 of Schedule 1 then sets out the process that would be followed if the local authority decided to use the CPP.
- 15.2 The RMA sets out criteria that must be considered in determining whether to use the CPP (clause 37).
16. A local authority must give public notice of its decision made under clause 37 to use the CPP (clause 38). In contrast, no such notice is required in order to follow a Schedule 1, Part 1 process; the council can simply proceed to notify the planning document.
-

Call-in is available for matters of national significance

17. Part 6AA of the RMA was introduced in 2009 and provides an alternative pathway for consideration of "matters of national significance", including plan changes. Essentially, the Minister takes over the process after notification but prior to a hearing, and establishes a board of inquiry under the RMA to hear and consider the matter and then to make a recommendation to the Minister. Alternatively, the Minister may, instead of convening a board of inquiry, refer the matter directly to the Environment Court.
-

**Schedule 1,
Part 1 process
can be treated as
the default
process**

-
18. The Minister may call-in a proposal at his/her own initiative, or a local authority can apply for the proposal to be called-in.¹
19. To adopt this process, an additional layer of decision making is required, and to be called-in a plan change must fit within the statutory criteria for a "matter of national significance". If the matter is not called-in, then it will continue to follow the standard process prescribed by the RMA which in this case would be the Schedule 1, Part 1 process.
-
20. While it is clearly open to a council to make a choice as between the different process options that are available, in our view the preferable interpretation of the relevant provisions, read together, is that the Schedule 1, Part 1 process is the default plan-making process that would apply in the absence of such a choice. In summary, the factors that point to this conclusion are:
- 20.1 Section 65(2) directs the use of Schedule 1 for preparing a proposed plan or plan change, indicating a presumption that at least one of the available processes in Schedule 1 will be available in all cases. The only Schedule 1 process that will be available in all cases will be the Schedule 1, Part 1 process.
- 20.2 Before the SPP or CPP processes can be used, the RMA requires an express decision to that effect by the local authority, whereas there is no such requirement for the Schedule 1, Part 1 process.
- 20.3 There is no express requirement in the RMA for a local authority to consider whether to pursue the CPP or the SPP. The CPP process is presented as optional. The SPP is described in the RMA as an alternative to the Schedule 1, Part 1 process, and the application form describes the latter process as being the standard process.
- 20.4 A decision to use the CPP can only be made following consideration of statutory criteria (and only if notice has been given from the plan formation stage) and a decision to apply to use the SPP can only be made if statutory criteria are met. There are no such restrictions on the use of a Schedule 1, Part 1 process.
- 20.5 Both SPP and call-in require intervention by the Minister whereas the Schedule 1, Part 1 process does not.
-

¹ Resource Management Act 1991, s 142.

Question 2: Is the planning process to be used when preparing, consulting on and notifying a plan a matter for the RPC to vote on or consider given its purpose and the scope of its powers?

The purpose of the RPC is to oversee the development and review of RMA documents

21. Section 7 of the HBRPC Act established the RPC. The legislation was enacted as a result of an identified need for greater tāngata whenua involvement in the management of natural resources in the RPC region.²
22. Section 9 sets out the purpose of the RPC as follows:

The purpose of the RPC is to oversee the development and review of the RMA documents prepared in accordance with the Resource Management Act 1991 for the RPC region.
23. "RMA document" is defined as being any of the following documents prepared under the RMA in relation to the RPC region:
 - (a) a regional policy statement or proposed regional policy statement; or
 - (b) a regional plan or a proposed regional plan.
24. The language used in section 9 is broad and is not specific about precisely which parts of the development and review of documents are intended to be overseen by the RPC. Section 9 should be interpreted in light of the purpose of the HBRPC Act itself, which 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."*
25. In our view, "oversee the development and review" of RMA documents could be read as including the process by which the documents are developed and reviewed. As a result, it would be consistent with the purpose of the RPC for it to be asked for input into which planning process is to be adopted, for example seeking the RPC's views on using an alternative process to Schedule 1, Part 1, such as SPP.

The functions of the RPC include a focus on planning document content but also signal wider involvement

26. The primary function of the RPC is set out in section 10(1) and is to achieve the purpose of the RPC. In particular, the RPC may:³
 - (a) consider the RMA documents and recommend to the Council for public notification the content of any draft;
 - ...
 - (c) implement a work programme for the review of the RMA documents; and
 - (d) perform any other function specified in the terms of reference.

² Hawke's Bay Regional Planning Committee Act 2015, Preamble (1).

³ Section 10(2).

-
27. The Council is required by the HBPRC Act to refer all matters listed in section 10(2)(a) to the RPC for the purpose of enabling it to carry out its functions.⁴
 28. Section 10(2)(a) states that the RPC may consider and recommend the "content" of any draft for public notification. This appears to indicate that the RPC's focus is to be on the content of the RMA documents, rather than matters of process. However, section 10(2)(c) and (d) suggest that the RPC could have a broader role in relation to the processing of a plan change than merely considering the content of the draft. In our view, this could include consideration of the use of an alternative planning process such as the SPP.
 29. Further to the above, the RPC has "*the powers reasonably necessary to carry out its functions in a manner consistent with the specified legislation*".⁵
 30. Given the purpose and functions of the RPC, although it is not an express function of the RPC, we consider that it is open to the Council to seek the RPC's input into the planning process to be adopted.
-

The RPC Terms of Reference are consistent with the RPC having input into the planning process to be adopted

31. We have also considered whether the RPC's TOR (adopted in accordance with the HBRPC Act) specify any requirements in relation to the process that is to be followed in considering PC9. The current TOR for the RPC were adopted in 2014 so, like the HBRPC Act itself, they pre-dated the 2017 amendments to the RMA which introduced the SPP pathway.
 32. Clause (c) of the TOR reflects the wording of section 10 of the HBRPC Act:

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 (d) 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.
 33. "Preparation" of a proposed plan is presented in this clause as a step that occurs prior to adoption for notification. However, the reference to the RPC making a recommendation about adoption for public notification, when considered against the purpose of the
-

⁴ Section 10(3)(a).

⁵ Section 10(4).

HBRPC Act to oversee the review and development of regional policy statements and plans, could potentially be read as being wide enough to include decisions relating to which planning process to undertake.

34. Clause (d) reflects section 10(2)(c) of the HBRPC Act, outlining a particular function of the RPC as being "[t]o implement a work programme for the review of the Council's Regional Plans and Regional Policy Statements prepared under the Resource Management Act 1991." Neither the HBRPC Act or TOR expressly state what is meant by the term "review" in this context, and in particular whether it is limited to a review of the content of the operative plan to determine whether a change or variation is required (as per section 79 of the RMA), or whether it has a broader meaning that could encompass input into process matters following that determination. The first approach would arguably limit the RPC to matters of content under clause (d) of the TOR and section 10(2)(c) of the HBRPC Act. However, in the absence of a clear indication in the TOR about what is intended we would not suggest relying too heavily on the use of the word "review" in the TOR.

It is appropriate for the Council to seek a recommendation on the process PC9 is to follow

35. In summary, neither the HBRPC Act nor the TOR expressly give the RPC a mandate to make recommendations as to the process that is to be followed in considering a plan change. Although seeking such a recommendation is not a requirement, taking a purposive interpretation, we consider that it would be appropriate for the Council to seek a recommendation from the RPC on the process that PC9 is to follow, as well as the content of the document.
36. In particular, taking such an approach would be consistent with improving tāngata whenua involvement in the development and review of RMA documents and therefore consistent with the purpose of the HBRPC Act.

The Council could proceed to notification without a further recommendation

37. The RPC is a joint committee of the Council⁶ and is deemed to be appointed under clause 30(1)(b) of Schedule 7 of the Local Government Act 2002. It is a subordinate decision making body and its powers are limited to making recommendations and monitoring only.⁷
38. From the RPC meetings to date, the Council now has a recommendation to notify PC9 but no recommendation as to the process to be followed.
39. In light of our view that the Schedule 1, Part 1 process is the "default" process that would apply if a decision is made to approve a plan for notification without specifying the process to be followed, it would be open to the Council to proceed to notify PC9 under the

⁶ Hawke's Bay Regional Planning Committee Act 2015, Section 3(2).

⁷ Section 10.

Schedule 1, Part 1 process without a further recommendation from the RPC.

40. The Council could potentially also decide to apply to the Minister to use an SPP process in the absence of a recommendation to that effect by the RPC. However, the TOR (in clause (c), quoted earlier) require the Council to refer a recommendation back to the RPC in its entirety if the Council does not adopt any part of the recommendation. We have previously advised on a situation where the RPC is unable or unwilling to make a recommendation to the Council within its jurisdiction and, in such a case, whether the Council is able to advance the matter itself.⁸ Where the Council would be in breach of an explicit obligation under the RMA by failing to carry out an action (such as to implement a National Policy Statement) due to the delay or inability of the RPC to make a recommendation, it appears that it would be entitled to proceed in absence of a decision by the RPC.
 41. Although the failure of the motions about process options means that the RPC has currently made no recommendation as to process, not referring the matter back to the RPC could be seen as inconsistent with the intent of the TOR. We note further consequences outlined in our previous advice including potential Ministerial intervention.
 42. In addition to the potential inconsistency with the TOR, given that the Council has already sought input from the RPC on the planning process, proceeding with either of the above approaches without first seeking further input from the RPC could damage the working relationship with the RPC and open the process up to challenge by way of judicial review. We therefore recommend caution and set out two potential ways forward below.
-

Potential ways forward

43. The first option would be to refer the matter back to the RPC for its further consideration and recommendation about process options. If this is to be done, we recommend that the motion be sought on the basis that the Schedule 1, Part 1 process is the default approach and that the Council is seeking the RPC's recommendation as to whether the Council departs from that approach and instead uses an SPP process. This may provide additional clarity for the RPC about what the Council might do if no motion to use the SPP is passed.
 44. We appreciate that the Council is in a somewhat awkward position as the members of the RPC will have changed following the October election, and the members making a decision on PC9 now will be different from those who made the original decision. If this matter is put back to the RPC to vote on again, we recommend that a comprehensive briefing be provided to the RPC to ensure that
-

⁸ See advice dated 13 August 2018.

members understand the framework within which they are making recommendations.

45. The second option would be for the Council to proceed to make a decision on the notification of PC9 (based on the RPC's recommendation to notify PC9) and on the process by which PC9 will be considered (on the basis that the RPC has not made a recommendation to depart from the default Schedule 1, Part 1 process). In making that decision, we consider that the Council should take into account the fact that the RPC had voted on the process and as a result of those votes had not been able to make a recommendation to the Council in respect of this matter.
46. On balance, in light of the purpose of the HBRPC Act, the fact that the Council has already sought the RPC's input on process options, and the value of the relationship between the RPC and the Council, we consider the first option to be preferable. Although there is no express legal requirement for the RPC to make a recommendation on process, we consider that it is appropriate for the Council to seek that it does so.

**Please call or
email to discuss
any aspect of this
advice**

Matt Conway
Partner

+64 4 924 3536
+64 21 455 422
matt.conway@simpsongrierson.com

HAWKE'S BAY REGIONAL COUNCIL

REGIONAL PLANNING COMMITTEE

Wednesday 11 December 2019

Subject: RESOURCE MANAGEMENT POLICY PROJECT DECEMBER 2019 UPDATE

Reason for Report

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

Resource management policy project update

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

Decision Making Process

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

Recommendation

That the Regional Planning Committee receives and notes the "*Resource Management Policy Projects November 2019 Updates*" staff report.

Authored by:

Ellen Humphries
POLICY PLANNER

Dale Meredith
SENIOR POLICY PLANNER

Approved by:

Tom Skerman
GROUP MANAGER STRATEGIC
PLANNING

Attachment/s

[1](#) RMA December 2019 Update

**Status Report on HBRC Resource Management Plan Change Preparation & Review Projects
(as at 3 December 2019)**

Project	Narrative update	Next intended reporting to RPC
'PC5' Integrated land & freshwater management	PC5 was publicly notified as being made operative on Saturday 24 August 2019.	N/A
'PC7' Outstanding waterbodies plan change	PC7 was publicly notified on Saturday 31 August 2019. The submission period will run for 6 months, closing on 28 February 2020.	Staff will provide an update of submissions received over the coming months.
'PC8' Mohaka Catchment plan change	Under preparation. Not yet notified. Preliminary project re-design is underway with Ngāti Pāhauwera, iwi and Māori Trusts. A draft co-design Agreement has been developed with Ngāti Pāhauwera. Meetings have been held or are being arranged with each of the five PSGE iwi with an interest in the Mohaka catchment ahead of a catchment-wide hui on co-designing the proposed plan change. The hui is likely to be held in early 2020. A paper will be presented to RPC on the proposed co-design process, following that hui.	February 2020
'PC9' Greater Heretaunga/ Ahuriri catchment area plan change (a.k.a. TANK project)	Under preparation. Not yet notified.	February 2020
Ngaruroro and Clive Rivers Water Conservation Order	8 parties lodged further proceedings with the Environment Court regarding the Special Tribunal's recommendation report. Council lodged further proceedings in relation to the implementation of the draft Order. Because the Environment Court has received submission, an inquiry will be held. Staff are awaiting confirmation of dates for pre-hearing conferencing with other submitters. For more information, see: https://www.epa.govt.nz/public-consultations/decided/water-conservation-order-ngaruroro-and-clive-rivers/	Staff will provide an update of process in the coming months.
Statutory Acknowledgements of Treaty settlements	No further Treaty settlement legislation relating to parts of the Hawke's Bay region has been passed into law since the previous update. <i>Refer to Pātaka online mapping tool for further information [website link] about current Statutory Acknowledgements in Hawke's Bay region that have been passed in various Treaty settlement statutes.</i>	Staff will provide an update as and when new information becomes available.

HAWKE'S BAY REGIONAL COUNCIL

REGIONAL PLANNING COMMITTEE

Wednesday 11 December 2019

SUBJECT: STATUTORY ADVOCACY DECEMBER 2019 UPDATE

Item 6

Reason for Report

1. To report on proposals forwarded to the Regional Council and assessed by staff acting under delegated authority as part of the Council's Statutory Advocacy project since 14 August 2019.
2. The Statutory Advocacy project (Project 196) centres on local resource management-related proposals upon which the Regional Council has an opportunity to make comments or to lodge a submission. These include, but are not limited to:
 - 2.1. resource consent applications publicly notified by a territorial authority,
 - 2.2. district plan reviews or district plan changes released by a territorial authority,
 - 2.3. private plan change requests publicly notified by a territorial authority,
 - 2.4. notices of requirements for designations in district plans,
 - 2.5. non-statutory strategies, structure plans, registrations, etc prepared by territorial authorities, government ministries or other agencies involved in resource management.
3. In all cases, the Regional Council is **not** the decision-maker, applicant nor proponent. In the Statutory Advocacy project, the Regional Council is purely an agency with an opportunity to make comments or lodge submissions on others' proposals. The Council's position in relation to such proposals is informed by the Council's own Plans, Policies and Strategies, plus its land ownership or asset management interests.
4. The summary outlines those proposals that the Council's Statutory Advocacy project is currently actively engaged in. This period's update report excludes the numerous Marine and Coastal Area Act proceedings little has changed since the previous update.

Decision Making Process

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

Recommendation

That the Regional Planning Committee receives and notes the "*Statutory Advocacy November 2019 Update*" staff report.

Authored by:

Ellen Humphries
POLICY PLANNER

Dale Meredith
SENIOR POLICY PLANNER

Approved by:

Tom Skerman
GROUP MANAGER STRATEGIC
PLANNING

Attachment/s

[!\[\]\(e50091943b385fe16d3277389202856f_img.jpg\) 1](#) Statutory Advocacy December 2019 Update

Statutory Advocacy Update (as at 4 December 2019)

TABLE 1: NATIONAL PROPOSALS

Received	Proposal	Agency	Status	Current Situation
26 Nov 2019	Draft National Policy Statement for Indigenous Biodiversity (NPS-IB) The proposed NPS-IB sets out the objectives and policies to identify, protect, manage and restore indigenous biodiversity under the Resource Management Act 1991. https://www.mfe.govt.nz/publications/biodiversity/draft-national-policy-statement-indigenous-biodiversity	Ministry for the Environment	Submissions close 14 March 2020.	Staff are liaising to develop a submission.
	Resource Management Act 1991 Amendment Bill The Bill includes a new freshwater planning process which will support implementation of the upcoming National Policy Statement for Freshwater Management 2020. The Bill also addresses issues with: <ul style="list-style-type: none"> • resource consenting • enforcement • Environment Court provisions within the RMA. 	Ministry for the Environment	Public feedback closed 7 November 2019.	Submission lodged, a copy can be found at HBRC Submissions .
5 Sept 2019	Action for Healthy Waterways MfE has notified a discussion document on national direction for our essential freshwater, together with: <ul style="list-style-type: none"> • Draft National Policy Statement for Freshwater Management (NPS-FM) • Proposed National Environmental standards for Freshwater (NES-FW) • Draft Stock Exclusion Section 360 Regulations Link to the full suite of proposals: https://www.mfe.govt.nz/consultation/action-for-healthy-waterways	Ministry for the Environment	Public feedback closed 31 October 2019.	HBRC, NCC and HDC lodged a joint submission. The cover letter and a copy of the full submission can be found at HBRC Submissions .

Received	Proposal	Agency	Status	Current Situation
21 Aug 2019	National Policy Statement – Urban Development (NPS-UD) MfE has notified a discussion draft which intends to enable opportunities for development in New Zealand's urban areas in a way that delivers quality urban environments for people, now and in the future. Link to the proposal and supporting material: https://www.mfe.govt.nz/consultations/nps-urbandevelopment	Ministry for the Environment	Public feedback closed 10 October 2019	HBRC, NCC, HDC and CHBDC made a joint submission which can be found at HBRC Submissions .
14 Aug 2019	National Policy Statement – Highly Productive Land (NPS-HPL) MPI and MfE have prepared a draft NPS to improve the way highly productive land is managed under the RMA. https://www.mpi.govt.nz/news-and-resources/consultations/proposed-national-policy-statement-for-highly-productive-land/	Ministry for Primary Industries	Public feedback closed 10 October 2019	HBRC, NCC, HDC and CHBDC made a joint submission which can be found at HBRC Submissions .
5 Aug 2019	Draft NZ Biodiversity Strategy DOC proposes a strategy to protect and restore our nature over the next 50 years. https://www.doc.govt.nz/get-involved/have-your-say/all-consultations/2019/proposal-for-new-zealands-next-biodiversity-strategy/	Department of Conservation	Public feedback closed 22 September 2019	Staff provided input into the submission made by the Local Government New Zealand Regional Sector Biodiversity Working Group.
31 July 2019	Three Waters Policy Package The Cabinet announced its decisions on the proposed Three Waters policy package and has released a number of documents ahead to proposed legislative change: https://www.dia.govt.nz/Three-waters-review#Prog-Aug	Department of Internal Affairs	Information only	Staff are maintaining a watch on developments.
24 July 2019	Comprehensive Review of the Resource Management Act MfE has released two Cabinet papers and a regulatory statement impact summary on the pending Stage One changes to the RMA. Link to the papers released: https://www.mfe.govt.nz/rma/improving-our-resource-management-system	Ministry for the Environment	Information only	Staff are maintaining a watch on developments.

Received	Proposal	Agency	Status	Current Situation
16 July 2019	Action on Agricultural Emissions MfE proposes pricing agricultural emissions and options for managing emissions in the interim: https://www.mfe.govt.nz/consultation/action-agricultural-emissions	Ministry for the Environment	Public feedback closed 13 Aug 2019	Submission lodged, a copy can be found at HBRC Submissions
4 July 2019	Local Government Funding and Finance The NZ Productivity Commission released a draft report on its inquiry into local government funding and financing, including consideration of cost pressures facing local government, funding and financing models available and related regulatory system matters. Link to the draft report: https://www.productivity.govt.nz/inquiries/local-government-funding-and-finance/	NZ Productivity Commission	Public feedback closed 29 Aug 2019	Submission lodged, a copy can be found at HBRC Submissions
June 2018	Climate Change Response (Zero Carbon) Amendment Bill The Bill proposes climate change targets for 2050, a Climate Change Commission and various assessments, plans and reporting requirements. https://www.mfe.govt.nz/node/24262	Ministry for the Environment	Submissions closed 16 July 2019	Submission lodged, a copy can be found at HBRC Submissions HBRC addressed Select Committee on 21 Aug 2019. MfE website indicates the Zero Carbon Act may be in force by the end of 2019.

TABLE 2: TERRITORIAL LOCAL AUTHORITY PROPOSALS

Received	TLA	Proposal	Applicant/ Agency	Status	Current Situation
Sept 2019	NCC	Stormwater Bylaw review	Napier City Council	Public feedback closed 11 October 2019.	Submission lodged, a copy can be found at HBRC Submissions . Staff presented at the hearing on 19 November 2019.
Aug 2019	HDC	Seasonal Workers Accommodation Variation 7 HDC have notified Variation 7 to the proposed Hastings District Plan which relates to Seasonal Workers Accommodation.	Hastings District Council	Public feedback closed 27 September 2019.	Submission lodged, a copy can be found at HBRC Submissions .

Received	TLA	Proposal	Applicant/ Agency	Status	Current Situation
May 2019	CHBDC	Central Hawke's Bay District Plan Review CHBDC are undertaking a full review of the District Plan. Notification of proposed review plan is anticipated in early 2020.	Central Hawke's Bay District Council	Draft review discussion document released – public feedback closed.	Feedback submitted. A copy of HBRC's submission can be found at HBRC Submissions .
Nov 2018	NCC	Napier City District Plan Review Review of District Plan has been initiated. Preliminary phase of review underway with notification of proposed reviewed plan in 2020/21.	Napier City Council	Draft review discussion document released- public feedback closed	Previously... Napier City Council have publicly launched a review of their district plan. Public feedback was invited on the key themes about future planning needs and opportunities for Napier City. NCC are working through the public feedback it received to influence further drafting. HBRC's roles and activities will have interests in at least the following matters of the district plan review process: transport, natural hazards, water quantity, water quality, coastal environment, urban growth management, infrastructure planning, stormwater and wastewater management, biodiversity and open spaces. There will be further opportunities during NCC's District Plan Review process for HBRC to provide feedback and influence content.
13 July 2016	HDC	Howard Street Rezoning Variation 3 Variation to rezone 21.2 hectares of land from its current Plains zone to General Residential zone in between Howard Street and Havelock Road.	Hastings District Council	HDC Decisions issued Subject to appeal, mediation ongoing	Previously... <ul style="list-style-type: none"> Following Environment Court-assisted mediation and discussions between engineering experts, parties have indicated resolution is achievable regarding land for stormwater management. Final documentation is being drafted by HDC for Court's approval. Parties to the appeal have been discussing recently completed stormwater engineering investigations and geotechnical assessments and how the District Plan rezoning appeal might now be resolved. HDC issued its decisions on 25th March 2017.
18 Jan 2016	WDC	Resource Consent Application Consent is sought to clear 248 hectares of Manuka and Kanuka on Part Umumanfo 2 Block on Kopuawhara Road, Mahia.	Applicant R & L Thompson Agent Insight Gisborne Ltd	Limited Notified WDC hearing pending	Previously... <ul style="list-style-type: none"> HBRC has opposed the application based on concerns relating to the loss and degradation of soil (erosion) and water quality. A copy of the submission can be found at HBRC Submissions. HBRC staff and applicants have held discussions about potential alternative clearance proposals.

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

TABLE 3: OTHER PROPOSALS

Received	Proposal	Agency	Status	Current Situation
9 Dec 2017	HB Fish and Game Council's Draft Sports Fish and Game Management Plan A draft management plan under the Conservation Act to eventually replace the current 2005 Sports Fish and Game Management Plan for the HBFG region.	HB Fish and Game Council	Notified, Submissions closed. Hearing pending	Previously... Submission lodged. A copy of HBRC's submission can be found at HBRC Submissions .
24 July 2017	Application for Water Conservation Order (WCO) Application for a WCO for the Ngaruroro River & Clive River	Applicants NZ Fish & Game Council, HB Fish & Game Council; Whitewater NZ; Jet Boating NZ; Operation Patiki Ngāti Hori ki Kohupatiki Marae; Royal Forest & Bird Protection Society	Special Tribunal Recommendation Report Released. Submissions close 20 September 2019.	8 parties have lodged further proceedings with the Environment Court, so an inquiry will be held. Staff are awaiting confirmation of dates for pre-hearing conferencing.

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

HAWKE'S BAY REGIONAL COUNCIL

REGIONAL PLANNING COMMITTEE

Wednesday 11 December 2019

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

Item 7

Reason for Report

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

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