



Meeting of the Hawke's Bay Drinking Water Governance Joint Committee

Date: Friday 2 July 2021

Time: 10.00am

Venue: Council Chamber
Hawke's Bay Regional Council
159 Dalton Street
NAPIER

Agenda

Item	Title	Page
1.	Welcome/Karakia/Notices/Apologies	
2.	Conflict of Interest Declarations	
3.	Confirmation of Minutes of the Hawke's Bay Drinking Water Governance Joint Committee held on 29 March 2021	
4.	Call for Minor Items Not on the Agenda	3
5.	Taumata Arowai Presentation	5
6.	Review of Terms of Reference for the Hawke's Bay Drinking Water Governance Joint Committee	7
7.	Report on the Joint Committee's Verbal Submission to the TANK Hearing Panel	13
8.	Discussion of Minor Items not on the Agenda	23



HAWKE'S BAY DRINKING WATER GOVERNANCE JOINT COMMITTEE

Friday 02 July 2021

Subject: CALL FOR MINOR ITEMS NOT ON THE AGENDA

Reason for Report

1. This item provides the means for committee members to raise minor matters they wish to bring to the attention of the meeting.
2. Hawke's Bay Regional Council standing order 9.13 states:
 - 2.1 "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 HB Drinking Water Governance Joint Committee accepts the following "*Minor Items Not on the Agenda*" for discussion as Item 8:

Topic	Raised by

Authored by:

**Leeanne Hooper
TEAM LEADER GOVERNANCE**

Approved by:

**Desiree Cull
STRATEGY AND GOVERNANCE
MANAGER**

Attachment/s

There are no attachments for this report.



HAWKE'S BAY DRINKING WATER GOVERNANCE JOINT COMMITTEE

Friday 02 July 2021

Subject: TAUMATA AROWAI PRESENTATION

Reason for Report

1. This item introduces Bill Bayfield, Chief Executive of Taumata Arowai, who has been invited by the Committee's Chair to join the meeting via Zoom.

Introduction

2. Taumata Arowai became a new Crown entity in March 2021. When the Water Services Bill is passed, expected to be in the second half of 2021, Taumata Arowai will become the country's dedicated water services regulator.
3. Bill Bayfield became the establishment Chief Executive of Taumata Arowai in May 2020, following CEO roles at both Environment Canterbury Regional Council and the Bay of Plenty Regional Council. He has also held senior roles at the Ministry for the Environment and Taranaki Regional Council.

Discussion

4. Bill Bayfield will present to the Committee on the role and purpose of Taumata Arowai, the approach it is taking, and how it will work to deliver the standards and rules to achieve acceptable solutions. He will also cover transitional arrangements.
5. The table below gives an at-a-glance overview of the roles of respective agencies in working to implement Te Mana o Te Wai.

	<i>Freshwater</i>	<i>Drinking Water</i>	<i>Wastewater</i>	<i>Stormwater</i>
Regulator	Regional Councils	Taumata Arowai	Regional Councils	Regional Councils
Oversight	Ministry for the Environment	Department of Internal Affairs	Taumata Arowai	Taumata Arowai
Policy	Ministry for the Environment	Ministry of Health	Ministry for the Environment	Ministry for the Environment

6. Mr Bayfield will respond to any questions from members of the Committee, and from the Working Group, directed through the Chair.
7. A copy of Mr Bayfield's presentation will be made available following the meeting.

Decision Making Process

8. 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 Hawke's Bay Drinking Water Group Joint Committee receives and notes the "*Taumata Arowai Presentation*" report.

Authored and Approved by:

Liz Lambert
CONSULTANT

Attachment/s

There are no attachments for this report.



HAWKE'S BAY DRINKING WATER GOVERNANCE JOINT COMMITTEE

Friday 02 July 2021

Subject: REVIEW OF TERMS OF REFERENCE FOR THE HAWKE'S BAY DRINKING WATER GOVERNANCE JOINT COMMITTEE

Reason for Report

1. This report follows up on the item presented to the March 2021 meeting of the Joint Committee which agreed to give consideration to the Committee's Terms of Reference and undertake a review, including a full refresh, with a proposal to be put forward at the July 2021 meeting.
2. The Committee recommended that this refresh/review would be overseen by the Chair, Garth Cowie, and Councillors Ormsby and Simpson.

Officers' Recommendation

3. Officers recommend that the Hawke's Bay Drinking Water Joint Governance Committee is disestablished, having concluded the functions for which it was set up, and that governance oversight of drinking water safety is transferred to the Regional Leaders' Forum.
4. Officers further recommend that the Drinking Water Joint Working Group is retained and that it reports directly to the Regional Leaders' Forum, with its future institutional and administrative support to be agreed by that group.

Background

5. As will be seen in the presentation from Bill Bayfield (CEO of Taumata Arowai) comprehensive water reform is occurring across New Zealand with regulatory reform through legislation, the formation of Taumata Arowai and service delivery reform of Three Waters. This led to a discussion at the March 2021 meeting of this Committee to revisit the Terms of Reference for the Committee to assess whether or not it is fit for purpose.
6. The Terms of Reference for the Joint Committee are based on its establishment following the Havelock North drinking water contamination event, with its purpose being to provide governance oversight to the Joint Drinking Water Working Group regarding the implementation of recommendations from the Board of Inquiry and the evolution of the Joint Working Group into a more permanent officials working group.
7. The Committee has met on ten occasions since it was established in 2017. The programme for the Committee has focused on completing the Board of Inquiry recommendations, the establishment of a communications protocol among agencies for drinking water contamination events, and the development of the source protection provisions for the TANK Plan Change. In addition, the Committee has approved the preparation and content of submissions to several pieces of proposed legislation and the TANK Plan Change.

Progress on Board of Inquiry Recommendations

8. The Board of Inquiry issued 17 recommendations from the first stage of its Inquiry. These were developed in conjunction with the Water Safety Working Group (the precursor to the Joint Drinking Water Group), which at that stage comprised representatives from Hawke's Bay Regional Council (HBRC), Hastings District Council (HDC), the District Health Board (DHB) and Drinking Water assessors. These recommendations were centred around the safety and integrity of the Brookfield Road bores and the wider Hastings District Council water supply. The recommendations are either part of ongoing maintenance and monitoring work or were completed within twelve months of being issued.
9. Part 2 of the Board of Inquiry report looked at the wider management of drinking water and the 40 recommendations from Part 2 focussed on legislative reform (including to the Resource Management Act (RMA) for source protection), the establishment of a national drinking water regulator, and a range of recommendations to and for the Ministry of Health.
10. Both the HB Drinking Water Joint Governance Committee and the Joint Drinking Water Group (JWG) have contributed to the development of these changes when given the opportunity to do so. Additionally, both groups have used the opportunities available to increase their understanding of the science underpinning drinking water status and supplies throughout Hawke's Bay.
11. A White Paper prepared by the JWG at its inception also included a range of actions to be undertaken by the Group to enhance its operations and effectiveness. These included agreement on a communications protocol to be used by the member agencies in the event of a drinking water contamination event (or potential event) and a project to look at digital data sharing. The communications protocol is in place and has been used. The data sharing project has not been completed, due in part to the precedence given to developing the TANK source protection plan provisions and in part to the establishment of Taumata Arowai as the national drinking water regulator and gaining an understanding of its role in data collection and distribution.

Three Waters Reform

12. In early 2019, Central Hawke's Bay District Council, Hastings District Council, Napier City Council, Wairoa District Council and Hawke's Bay Regional Council began working together to review the current and potential service delivery options for drinking water, wastewater and stormwater for all of Hawke's Bay. The project aligned with the five councils' strategic priority for the 2019-22 triennium; water safety, security and planning. Governance oversight of this project was provided by the region's four Mayors, the Chair of HBRC and the CEs of the five councils.
13. In July 2020, the Government announced a \$710 million funding package to support economic recovery relating to COVID-19, and to start to address the persistent issues facing the three waters sector, through a combination of infrastructure investment stimulus and service delivery reform. Councils that agreed to participate in the initial phase of the reform programme were eligible to receive a share of this funding package. Hawke's Bay's four territorial authorities all opted into the initial phase of the reform.
14. Since then, a comprehensive service delivery reform programme has been established by the Department of Internal Affairs, using a partnership approach between central and local government. Cabinet has agreed there will be a centrally-led process to determine the boundaries and number of new entities. This will mean that councils will not choose which neighbours/entity to join, but may choose to opt-out of the entity they are assigned when fully equipped with the information of what this might mean locally.
15. The Department of Internal Affairs (DIA) has recently released national level analysis and modelling to advance the evidence base informing the case for change for the Three Waters Reform Programme.
16. The reports include analysis of the economic benefits of reform by the Water Industry Commission of Scotland (WICS), independent reviews of WICS' methodology by

Farrerswier and Beca, and an analysis of the effects of the proposed reform on the economy and affected industries by Deloitte.

17. The reports highlight the huge investment required over the next 30 years to ensure that New Zealanders have access to safe drinking water and that wastewater and stormwater networks achieve good environmental outcomes.
18. Work is still underway to inform cabinet decisions as to the scope of stormwater functions that may be transferred from territorial and regional councils to multi regional Three Waters service provider.
19. The timeline for further decisions on the construct of the Three Waters entities and their governance constructs is still not clear. Any update on transition arrangements is delayed until government decisions are made, and this could be mid-late 2021.

Joint Drinking Water Group

20. The Hawke's Bay JWG is the group of officials from the agencies involved in the management and/or delivery of safe drinking water. The JWG was set up at the conclusion of Stage 1 of the Havelock North Board of Inquiry process with its core functions being inter-agency collaboration and maintenance of public health through the delivery of drinking water.
21. The agencies represented on the JWG now include all five councils, the Hawke' Bay District Health Board through its Public Health Unit and Drinking Water Assessors. Ngāti Kahungunu Iwi Inc. was also represented on the JWG but chose to leave the group following the work on the TANK Plan Change. Iwi/hapū representation is important for any ongoing management/delivery entity and needs to be addressed at the time a decision is made.
22. The JWG continues to implement the work programme set by the Joint Committee. Up until the Level 4 lockdown, the JWG would meet approximately every two months and since that time has met less regularly, but still meets as the work programme necessitates to exchange information, to progress actions and to prepare for Joint Committee meetings.

Discussion

23. Since the March 2021 Joint Committee meeting the sub-group (Garth Cowie and Councillors Hinewai Ormsby and Nigel Simpson) met to discuss the way forward for the Joint Committee and to make appropriate amendments to the Terms of Reference if required. Members of the JWG held a separate workshop on this topic.
24. The sub-group considered the potential for the Committee to provide a feedback mechanism to the new Three Waters Entity and to provide closer oversight of the service delivery aspects of three waters infrastructure for Hawke's Bay. They also saw the opportunity for the Committee to become a key advisory or advocacy group.
25. The sub-group considered that the Committee potentially had a more aspirational role to play in governance in this area. However, in the absence of any clear decisions about the construct of the new entities this was not able to be pursued in any detail.
26. The JWG workshop traversed the future role of the Joint Working Group. The consensus is that there is value in retaining the JWG for several reasons, including:
 - 26.1. The Havelock North Board of Inquiry recommended the establishment of collaborative cross-agency groups to ensure improved communications and understanding between those agencies on drinking water matters. The JWG arose during the Board of Inquiry.
 - 26.2. The JWG has strong input from a public health perspective, which does not appear to be prevalent in the development of the new infrastructure entities. This will provide additional support in this important area.

- 26.3. Given the level of reform there will be the need to develop new policies and by-laws, and potentially codes of practice, and the JWG would be a suitable vehicle for working through these collaboratively.
27. The future of the Drinking Water Governance Joint Committee was also raised with the region's CEs. They have reflected back the views of the HB Leaders Forum that the oversight of the broader Three Waters Reform in Hawke's Bay should continue to occur at the leaders' (Mayors and HBRC Chair) level. They have signalled that the Regional Leaders believe that the Committee has achieved what it was established to do – to oversee the work of the JWG in implementing the Board of Inquiry recommendations and the evolution of the JWG into a more permanent Working Group – and that the Joint Committee should be wound up.
28. The ongoing oversight of the Working Group's work programme will be undertaken directly by the Regional Leaders, in conjunction with the work being undertaken in the Three Waters space, led by Toni Goodlass. The kaupapa of the Regional Leaders around infrastructure planning and operational delivery will require the Working Group to continue to ensure that public health issues are also considered within the wider work programme.

Options Assessment

29. Two options have been identified for the Committee's consideration:
 - 29.1. Option One – to advise the member agencies that the Hawke's Bay Drinking Water Governance Joint Committee is to be disestablished, with its governance role to be undertaken by the Regional Leaders Forum
 - 29.2. Status Quo – the Committee continues to function for the remainder of the triennium with a focus solely on drinking water safety and with its current Terms of Reference.
30. Option One is the desire of the Regional Leaders Forum. It will mean that not only the financial aspects of Three Waters Reform are overseen by the Regional Leaders, but also the advocacy and communications aspects of the transition. It will allow for the Working Group to be realigned to ensure that all three waters activities, and all relevant parties, are represented on the Working Group.
31. Option Two will be less efficient and effective in that the work on the drinking water recommendations from the Havelock North Board of Inquiry has largely been achieved. This option is likely to ensure the maintenance of transparency with the community as to maintaining a strong regional dialogue and progress on drinking water improvement initiatives.

Strategic Fit

32. The governance and management of drinking water safety aligns with the five councils' strategic priorities for the 2019-22 triennium; water safety, security and planning.
33. It is not proposed to reduce either governance or management for water safety, security and planning, but for the governance to occur through a different vehicle, being the Regional Leaders' Forum.

Significance and Engagement Policy Assessment

34. A decision on whether or not to amend the Terms of Reference for the Committee, or to revisit the ongoing operation of the Committee is not significant under the criteria contained in the Hawke's Bay Regional Council's adopted Significance and Engagement Policy, and therefore the Joint Committee can exercise its discretion and make decisions on the issue without conferring directly with the community or persons likely to have an interest in this decision.

Financial and Resource Implications

35. The costs of both the Joint Committee and Working Group lie where they fall, i.e. with each member agency paying for the costs of their own representation, and joint costs (for

independent Chair, independent consultant, and any agreed consultancy work) being divided among them.

36. Should the decision be made to disestablish the Committee and continue with the JWG a separate item will be prepared for the Regional Leaders Forum on the institutional and administrative support required for the ongoing operation of the Working Group, including the incorporation of the public health and tangata whenua inputs.

Consultation

37. Consultation on the matters in this item has occurred across representatives of the member agencies through the HB Regional Leaders, the ToR Review sub-group and staff members of the JWG.
38. Ngāti Kahungunu Iwi Inc (NKII) was previously represented on the Joint Committee, but chose to step away from the Committee and the Working Group in 2020.
39. Water is a taonga to Māori and it would be valuable to have iwi/hapū represented around the table again. The broader kaupapa of three waters may appeal to the wider concerns of iwi/hapū and an approach to iwi/hapū to be part of the discussions may be received more positively.

Decision Making Process

40. Council and its committees are required to make every decision in accordance with the requirements of the Local Government Act 2002 (the Act). Staff have assessed the requirements in relation to this item and have concluded:
 - 40.1. The decision does not significantly alter the service provision or affect a strategic asset, nor is it inconsistent with an existing policy or plan.
 - 40.2. The use of the special consultative procedure is not prescribed by legislation.
 - 40.3. The decision is not significant under the criteria contained in Council's adopted Significance and Engagement Policy.
 - 40.4. Given the nature and significance of the issue to be considered and decided, and also the persons likely to be affected by, or have an interest in the decisions made, Council can exercise its discretion and make a decision without consulting directly with the community or others having an interest in the decision.

Recommendations

That the Hawke's Bay Drinking Water Governance Joint Committee:

1. Receives and considers the "*Review of Terms of Reference for the Hawke's Bay Drinking Water Governance Joint Committee*" staff report.
2. Agrees that the decisions to be made are not significant under the criteria contained in Hawke's Bay Regional Council's adopted Significance and Engagement Policy, and that the Joint Committee can exercise its discretion and make decisions on this issue without conferring directly with the community or persons likely to have an interest in the decision.
3. Recommends to the Hawke's Bay Regional Council and all other member agencies that:
 - 3.1. The Hawke's Bay Drinking Water Governance Joint Committee be disestablished, having concluded the functions for which it was set up, and that governance oversight of drinking water safety be transferred to the Regional Leaders' Forum.
 - 3.2. The Hawke's Bay Drinking Water Joint Working Group be retained and report directly to the Regional Leaders' Forum, with a report on its future institutional and administrative support to be prepared for consideration and approval by the Regional Leaders' Forum.

Authored by:

**Liz Lambert
CONSULTANT**

Approved by:

**Katrina Brunton
GROUP MANAGER POLICY &
REGULATION**

**James Palmer
CHIEF EXECUTIVE**

Attachment/s

There are no attachments for this report.



HAWKE'S BAY DRINKING WATER GOVERNANCE JOINT COMMITTEE

Friday 02 July 2021

**Subject: REPORT ON THE JOINT COMMITTEE'S VERBAL SUBMISSION TO
THE TANK HEARING PANEL**

Reason for Report

1. This agenda item provides a report-back to the Joint Committee on the verbal submission made to the TANK (Plan Change 9) Hearing Panel on behalf of the Committee.

Executive Summary

2. Plan Change 9 to the Hawke's Bay Regional Resource Management Plan covers new provisions to manage water quality and quantity for the Tūtaekurī, Ahuriri, Ngaruroro and Karamū (TANK) catchments.
3. It includes new policies and rules for the identification and management of source protection zones for drinking water.
4. The Hawke's Bay Drinking Water Governance Joint Committee (HBDWGJC) lodged a submission and then a further submission on Plan Change 9. Representatives of the Committee appeared before the Plan Change 9 Hearings Panel on 8 June 2021.

Background

5. The development of Plan Change 9 occurred over a number of years via a multi-member TANK Stakeholder Group. Following the establishment of the Hawke's Bay Drinking Water Group Joint Committee (HBDWGJC), and the supporting Working Group, by the Havelock North Board of Inquiry the Committee was recognised as a TANK working group tasked with developing draft policies and rules for the protection of drinking water sources for inclusion in the Plan Change.
6. Recommendations on plan provisions were presented by the Committee and Working Group to the TANK Stakeholder Group in July 2018. Plan Change 9 was publicly notified in May 2020 and the Committee lodged both a submission and, later a further submission, on the drinking water source provisions. These have both been circulated and adopted by the Committee at previous meetings...

Officer's Report

7. The s42A Report – the recommendations on submission and further submissions – was released in mid-April 2021. Of the 24 itemised points of submission from the Committee 21 were accepted either in full, or in part. Where they were accepted in part the specific recommendation did not deviate from our underlying support for the security of water quality and adequate access to drinking water being major issues for public health, and we were comfortable in accepting the Officer's recommendations on these.

8. There were three outstanding points of submission which we then chose to speak to in the verbal presentation of our submission, made to the TANK Hearings Panel on 8 June 2021.

Verbal submission

9. A copy of the verbal submission was previously circulated to all members of the Committee and Working Group, and is also attached for public record.
10. There were two specific matters we spoke to at the hearing:
 - 10.1. the impact on the proposed provisions of changes to legislation and regulation at a national level, and
 - 10.2. the development of, and potential changes to, the Source Protection Zone (SPZ) maps.
11. The reform of drinking water safety and wider three waters reform at a national level is happening across a range of government work programmes. Our original submission to TANK was premised in part on the ability for the Hearing Panel to respond to national direction as part of its decision making on Plan Change 9 and our submission was designed to provide the Panel with the scope to do this.
12. In the meantime, work at a national level has not proceeded in accordance with the timeline originally provided and the increased level of certainty we had hoped would be in place by the time of the TANK hearings is not in place. What we do know at the moment is that:
 - 12.1. The Water Services Regulator Bill has passed into law and *Taumata Arowai* has been established
 - 12.2. The Health Select Committee has heard submissions to the Water Services Bill and has delayed its reporting back to Parliament, effectively delaying the implementation of the Bill from July until the last quarter of 2021. Once passed, this puts into place the new drinking water regulatory framework, including Taumata Arowai becoming the drinking water regulator, and obligations on water suppliers and local authorities to identify and assess risks to drinking water
 - 12.3. Once passed the Water Services Bill introduces s.104G into the Resource Management Act (RMA) which requires consent authorities, when making decisions on resource consent applications, to have regard to the effects of activities on registered drinking water sources and also the risks of the proposed activities as may be defined in a Source Water Risk Management Plan (SWRMP). S.104G of the RMA explicitly links SWRMP under the Water Services legislation to consent decisions under the RMA
 - 12.4. The review of the National Environmental Standards (NES) for Drinking Water is programmed to include amendments to enable better management of risks to source water in RMA decisions. To the best of our knowledge these amendments will be consulted on in the second half of 2021 with gazettal of the amended NES early in 2022.
13. Because of these unknowns, we requested that the Hearing Panel takes into account the latest information available to it from the Water Services Bill and possibly the review of the NES for Drinking Water at the time of making their decisions.
14. With respect to the Source Protection Zones we supported the Hastings District Council's submission to include both the analytical and numerical models for their water supplies as providing extended protection. We noted that the s.42A Officer's report recommended that all source protection zones be included in the Planning maps, rather than as a GIS layer outside the formal plan. While we still have concerns about the timing of plan change processes to include new areas, we are satisfied that the principal drinking water supplies for the TANK area – the Napier and Hastings urban supplies – are included in Plan Change 9, as the investigations have already occurred on these.

15. Following our presentation, the Panel noted their appreciation for our support for the drinking water provisions and asked questions. These questions related to the definition of registered drinking water supplies and appropriate community size for source protection zones, and to the status of the maps.

Next Steps

16. The Hearing Panel concluded hearing all verbal submissions on 23 June 2021 and has now adjourned to make decisions. Following the release of those decisions we will analyse them to determine whether there is any need to appeal any decisions, or to become a party to any other appeals around drinking water source protection.

Decision Making Process

17. 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 Hawke's Bay Drinking Water Governance Joint Committee receives and notes the "Report on the Joint Committee's Verbal Submission to the TANK Hearing Panel" staff report.

Authored by:

**Liz Lambert
CONSULTANT**

Approved by:

**Katrina Brunton
GROUP MANAGER POLICY &
REGULATION**

Attachment/s

[**1**](#) **Joint Committee's Verbal Submission to TANK Hearing Panel**

Plan Change 9 to the Hawke's Bay Regional Resource Management Plan**Verbal Submission to Hearings Panel****Hawke's Bay Drinking Water Governance Joint Committee****8 June 2021****Introduction**

1. Nga mihi nui! Thank you for the opportunity to speak to you today.
2. My name is Garth Cowie. I am the independent Chair for both the Hawke's Bay Drinking Water Governance Committee and the Hawke's Bay Drinking Water Working Group. With me are Dr Nicholas Jones, the Hawke's Bay Medical Officer of Health, Craig Thew, the Group Manager, Asset Management for Hastings District Council and Liz Lambert, former Group Manager Regulation for the Hawke's Bay Regional Council. Dr Jones and Mr Thew are members of the Working Group and advisers to the Committee. Mrs Lambert is an adviser to both the Committee and the Working Group.
3. Our submission is submission no 119 and we have been advised that our written submission has been read by the Panel. Our submission was around the provisions for safe drinking water proposed in Plan Change 9, including specific source protection provisions as well as more general objectives and policies as they may impact on drinking water, as this is the remit for the Governance Committee. We did not submit on any other parts of Plan Change 9 outside this scope.
4. This presentation today is to comment on the recommendations put forward in the s.42A Officers' report in respect of our points of submission and further submission, and to be available to answer questions from the Panel.

Fundamentals

5. The Board of Inquiry into the Havelock North Contamination Event made some fundamental recommendations about drinking water safety and articulated the six principles of safe drinking water in New Zealand. The Board reinforced the need for greater collaboration across agencies responsible for safe drinking water provision, and established both the Joint Governance Committee and the Joint Working Group to work across a range of issues and focus on information and knowledge sharing. One of the tasks the Committee and Working Group were invited to work on by the TANK Stakeholder Group was the development of the source protection drinking water provisions for Plan Change 9. It is from this perspective of having worked through the various alternatives that our submission was prepared.

6. The six principles of safe drinking water articulated by the Board are repeated here for the Panel's awareness:

Principle 1: A high standard of care must be embraced

Unsafe drinking-water can cause illness, injury or death on a large scale. All those involved in supplying drinking-water must therefore embrace a high standard of care. Vigilance, diligence and competence are minimum requirements, and complacency has no place.

Principle 2: Protection of source water is of paramount importance

Protection of the source of drinking-water provides the first, and most significant, barrier against drinking-water contamination and illness. It is of paramount importance that risks to sources of drinking-water are understood, managed and addressed appropriately.

Principle 3: Maintain multiple barriers against contamination

Any drinking-water system must have, and continue to maintain, robust multiple barriers against contamination appropriate to the level of potential contamination. No single barrier is effective against all sources of contamination, and any barrier can fail at any time.

Principle 4: Change precedes contamination

Contamination is almost always preceded by some kind of change, and change must never be ignored. Change of any kind should be monitored for and responded to with due diligence.

Principle 5: Suppliers must own the safety of drinking-water

Drinking-water suppliers must maintain a personal sense of responsibility and dedication to providing consumers with safe drinking-water. Knowledgeable, experienced, committed and responsive personnel provide the best assurance of safe drinking-water.

Principle 6: Apply a preventive risk management approach

A preventive risk management approach provides the best protection against waterborne illness. Once contamination is detected, illness may already have occurred. This requires systematic assessment of risks throughout a drinking-water supply from source to tap; identification of the ways these risks can be managed; and control measures implemented to ensure that management is occurring properly. Adequate monitoring of performance of each barrier is essential.

7. These principles formed the basis of the work undertaken by the Governance Committee and the Working Group, at the request of the TANK Stakeholder Group, to formulate the source protection provisions for inclusion in Plan Change 9.
8. The basic premise of the framework delivered to the TANK Stakeholder Group is that there is an acceptable level of risk in the management of source protection, acknowledging that there will never be zero risk. The key outcome sought by the SPZ provisions is to ensure that there is

greater understanding and awareness of activities that are occurring in the zone and be able to consider how those activities are undertaken and monitored. The framework is based on the regulation of activities within mapped source protection zones. It is with this in mind that our submission for the most part supports the TANK Plan Change provisions. There are several areas we wish to comment on further as a result of the S 42A report and ongoing developments at a central government level.

Plan Provisions

9. We acknowledge that many our submission points have been accepted in full, or accepted in part with acceptable reasoning for why they may not have been accepted in full. We request that the Hearings Panel adopts the Officer's recommendations for these points. Specifically we agree with the officer's recommendations on our following submission points:
 - a. 119.1 – 119.10
 - b. 119.12 – 119.22
10. Further, we note that Hastings District Council submission and expert evidence for HDC and NCC sought amendments to the notified Plan Change 9 to achieve alignment with the provisions put forward by the JWG. The s42A addendum report accepted the amendments sought by Hastings District and Napier City Councils. Specifically these support the inclusion of the combined outputs of both the numeric and analytical modelling for the Hastings urban bore supplies protection zones. This was consistent with advice obtained through a peer review by GNS. I confirm that the amendments sought by HDC and NCC regarding the SPZ provisions are acceptable to the Joint Committee. SPZs which meet the peer review process would be consistent with the adoption of the precautionary principle of the RMA and the preventative risk management approach which is one of the fundamental principles of drinking water safety.
11. There are two matters we wish to comment on further – the impact on the proposed provisions of changes to legislation and regulation at a national level; and the development of, and potential changes to, the SPZ maps.
12. In the matter of changes to legislation and regulation the situation is complex, fast-changing and by no means finalised. At the time of preparing our submission to Plan Change 9 we were awaiting royal assent of the Water Services Regulator Bill, the release of the Water Services Bill and review of the National Environment Standard for the Protection of Sources of Drinking Water. Our submission was premised in part on the ability for the Hearings Panel to respond to national direction as part of its decision making on Plan Change 9 and our submission was designed to provide you with the scope to do this. While your ability to do this has not changed we are collectively not much further ahead in terms of certainty than we were at the time of lodging our submission.
13. What we do know now is that:
 - a. The Water Services Regulator Bill has passed in to law and *Taumata Arowai* has been established;

- b. The Health Select Committee has heard submissions to the Water Services Bill and has delayed its reporting back to Parliament, effectively delaying the implementation of the Bill from July until the last quarter of 2021. Once passed, this puts into place the new drinking water regulatory framework, including Taumata Arowai becoming the drinking water regulator, and obligations on water suppliers and local authorities to identify and assess risks to drinking water;
 - c. Once passed the Water Services Bill introduces s.104G into the RMA which requires consent authorities, when making decisions on resource consent applications, to have regard to the effects of activities on registered drinking water sources and also the risks of the proposed activities as may be defined in a Source Water Risk Management Plan (SWRMP). S.104G of the RMA explicitly links SWRMP under the Water Services legislation to consent decisions under the RMA.
 - d. The review of the NES for Drinking Water is programmed to include amendments to enable better management of risks to source water in RMA decisions. To the best of our knowledge these amendments will be consulted on in the second half of 2021 with gazettal of the amended NES early in 2022.
14. In our submission to Plan Change 9 (submission point 119.23) we sought the alignment of the definition of "Registered Drinking Water Supplier" in the Plan with that in the Water Services legislation, on the assumption that the latter would be clarified by now. As this is not now the case we request that the Hearings Panel takes into account the latest information available to it on this definition at the time of making your decisions.
- Mapping**
- 15. In relation to our two remaining submission points – 119.11 and 119.24 –these relate to the inclusion (or not) of mapped Source Protection Zones within the Planning Maps issued as part of Plan Change 9.
 - 16. The Water Services Bill (2020) prescribes the need for drinking water suppliers to have in place a Drinking Water Safety Plan, part of which must be a Source Water Risk Management Plan (SWRMP). The latter must identify any hazards that relate to the source water, including emerging or potential hazards; assess any risks that are associated with those hazards; identify how those risks will be managed, controlled, monitored, or eliminated as part of a drinking water safety plan; and have regard to any values identified by local authorities under the National Policy Statement for Freshwater Management that relate to a freshwater body that the supplier uses as a source of a drinking water supply.
 - 17. It is our understanding that, subject to government approval, the review of the National Environment Standard for Drinking Water will include a requirement to identify source water risk management areas, replacing the "up-gradient" and "upstream" definitions in the current NES-DW.
 - 18. With respect to surface water sources upstream areas are relatively easily identified. With respect to groundwater sources the current NES defines "upstream" as being "up-gradient of

the abstraction point." Defining the spatial extent of the "up-gradient" area can be extremely complex and require a detailed understanding of the groundwater system including interactions with surface water and other groundwater abstraction regimes. "Up-gradient" also excludes groundwater which has the potential to be extracted for drinking water purposes (e.g. down-gradient groundwater which is part of the drawdown area for a groundwater abstraction).

19. The key technical guidance document for the development of Source Protection Zones in New Zealand is GNS's 2014 report "Capture Zone Guidelines for New Zealand" (Moreau, et al). The range of techniques described in the Guidelines is summarised below:

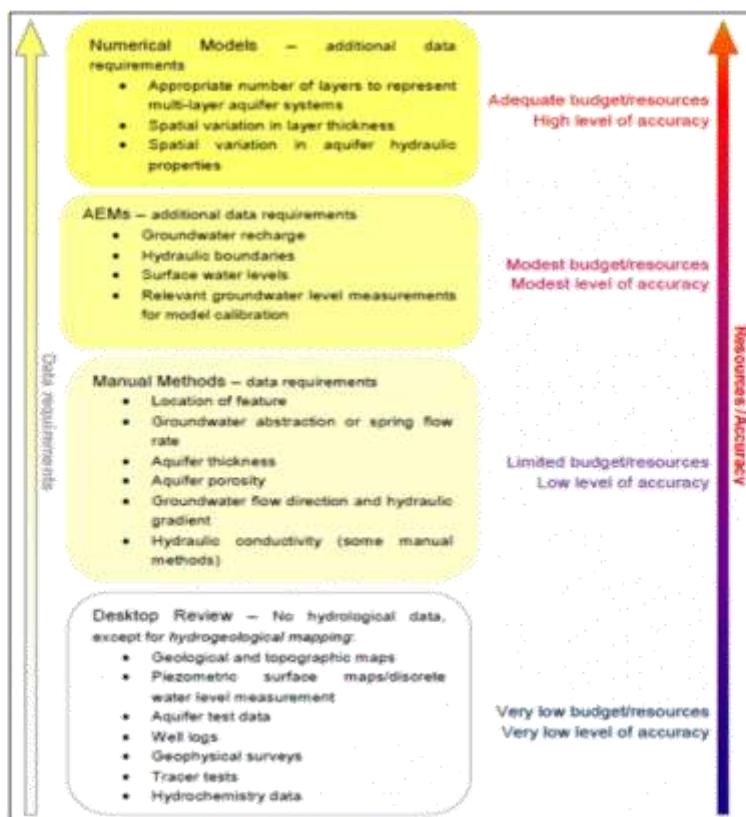


Figure 2.1: Listing of the four types of methods for capture zone delineation with indications of their data and resource needs, and the level of accuracy they will provide.

20. A significant amount of work has been undertaken by Hastings District Council, Napier City Council and Hawke's Bay Regional Council to define the spatial extent of source protection zones (risk management areas) for the respective drinking water sources for Hastings and Napier urban supplies, all of which are groundwater abstractions.
21. We support Table 3 Schedule 35 – the methodology for determining source protection - as it recognises the complexities of source protection zone identification should be relative to the population size (as risk increases) and greater accuracy is required.

22. Our submission supported the provisions in the notified Plan Change 9 allowing for source protection zones to be included or updated through the resource consent process as new activities occur. This also meant that the Source Protection Zones were not a formal part of the Regional Resource Management Plan but would be identified on GIS Layers. The rationale for this is to recognise the need for an effective and responsive planning tool to incorporate new information around risks. Our concern is that a plan change can take a number of years to become operative.
23. We noted that the Hawke's Bay Regional Council's 3D aquifer mapping project (using SkyTEM technology) is underway and will provide a much clearer understanding of the Heretaunga Plains aquifer (as well as other aquifers within the region). This has the potential to change how risk is understood and managed, including the size and extent of Source Protection Zones.
24. In the s 42A report the Officers have recommended that the SPZ maps be included as part of the plan, rather than being added or amended through the resource consent process. While we understand the reasoning for this around regulatory certainty we remain concerned in regards to ensuring that the plan can be agile to changes in information and knowledge on source water and the health risk considerations. Our suggestion to the Panel is that existing source protection zones be included in the planning maps and future zones be included in a GIS layer sitting outside the Plan for consideration by regional council in all relevant consent applications. Over time these could be included in future plan changes.
25. As with the methodology for determining source protection areas we are of the view that the reviewed NES for Drinking Water is likely to address the manner in which SPZs are incorporated in to the planning framework. The proposed amendments are scheduled to be considered by Cabinet in June/July 2021 so, as with the other matters covered in this verbal submission, we request that you take into account the latest information available to you on this issue at the time of making your decision.
26. Thank you for the opportunity to present to you and we are happy to take questions.



HAWKE'S BAY DRINKING WATER GOVERNANCE JOINT COMMITTEE

Friday 02 July 2021

Subject: DISCUSSION OF MINOR ITEMS NOT ON THE AGENDA

Reason for Report

1. This document has been prepared to assist Councillors note the Minor Items Not on the Agenda to be discussed as determined earlier in Agenda Item 4.

Topic	Raised by