



Meeting of the Hawke's Bay Regional Council

Date: Wednesday 31 July 2019
Time: 9.00am
Venue: Council Chamber
Hawke's Bay Regional Council
159 Dalton Street
NAPIER

Attachments Excluded From Agenda

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Proposed Plan Change 7 - Outstanding Water Bodies

Hawke's Bay Regional Resource Management Plan

August 2019
HBRC Report Number: SD 19-21
HBRC Publication Number: 5406

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Item 8

Attachment 1





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Proposed Plan Change 7 - Outstanding Water Bodies

Hawke's Bay Regional Resource Management Plan

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Attachment 1

Date adopted by Council: XXXX
Date of public notification: XXXX
Date Council decisions issued: TBD
Operative date: TBD

Resource Management Act 1991

Hawke's Bay Regional Resource Management Plan
Proposed Plan Change under section 73 of the Resource
Management Act 1991

**INTRODUCTION**

The Hawke's Bay Regional Council has resolved to change the Regional Resource Management Plan and has prepared 'Proposed Plan Change 7.' This Proposed Plan Change introduces new provisions which relate to outstanding water bodies in the Regional Resource Management Plan. The new provisions identify a list of outstanding water bodies in Hawke's Bay and put in place a framework which ensures their protection for future generations. Plan Change 7 also consequentially amends several existing provisions within the Regional Resource Management Plan.

BACKGROUND

Our coastal and fresh waters are essential to New Zealand's economic, environmental, cultural and social well-being - highly valued for their cultural and recreational values. They underpin important parts of New Zealand's biodiversity and natural heritage.

Since the late 1970's, governments have been consulting with the public, undertaking research and investigations and introducing legislation to protect those lakes and rivers in New Zealand which have outstanding characteristics.

A number of New Zealand's lakes, rivers and coastal areas are iconic and well known globally for their natural beauty and unique values. Despite this, many of New Zealand's special water bodies not being recognised or protected in an appropriate manner.

The NPSFM has addressed this, by including special provisions which allow for exceptional water bodies to have special protection in regional policy statements and plans. It is these NPSFM provisions which have largely driven the need for Council's Plan Change 7 – Outstanding Water Bodies Plan Change. However Plan Change 7 is only one part of the Council's broader programme to implement the NPSFM and sustainably manage the region's land and water resources.

Plan Change 7 was co-designed with tāngata whenua representatives of the Regional Planning Committee. During the development phase of the plan change, over 90 documents were reviewed looking at cultural, spiritual, recreation, landscape, geology, natural character and ecology values associated with 130 water bodies in Hawke's Bay. This was done to build a clearer picture of their value and potential for being classified as outstanding.

It is important to note that protection of outstanding water bodies does not lessen the importance of, or value associated with other water bodies. The National Policy Statement for Freshwater Management (NPSFM) and the New Zealand Coastal Policy Statement set a national direction to assist regional councils to manage water bodies in a consistent, integrated and sustainable way.

AMENDMENTS PROPOSED IN PLAN CHANGE 7

The following references are made to the chapters/sections within the Regional Resource Management Plan. All amendments referred to can be seen in more detail in the attached document.

Chapter 3.1A Integrated Land Use and Freshwater Management

Chapter 3.1A is an existing section in the Hawke's Bay Regional Policy Statement which provides guidance and direction to decision-makers about how future management decisions will be made in an integrated manner for the sustainable management of the region's land and fresh water resources.

Plan Change 7 proposes to change Chapter 3.1A to better reflect the NPSFM provisions which require the protection of the significant values of outstanding freshwater bodies. Specifically, RRMP Objective LW1, Policy LW1A and the Anticipated Environmental Results, and associated explanations in RRMP Chapter 3.1A are proposed to be amended.

The amended objectives and policies will ensure the correct framework is in place to protect outstanding water bodies through the catchment based planning processes that will further implement the NPSFM.

Chapter 3.2 The Sustainable Management of Coastal Resources

Chapter 3.1A is an existing section in the Hawke's Bay Regional Policy Statement which sets out 7 objectives to guide the integrated management of the regions coastal resources. Plan Change 7 proposes to change Chapter 3.2 of the RRMP to align with new provisions relating to outstanding water bodies, incorporated in response to the NPSFM OFWB provisions, as set out in Chapter 3.1A.

Specifically, a new Objective 11 and two new Policies, Policy C1 and Policy C2 are proposed to be inserted into Chapter 3.2 to ensure a consistent framework is in place to protect outstanding water bodies (such as estuaries) in coastal areas, in the same manner as outstanding freshwater bodies.

Further, new Objective 11 and Policies C1 and C2 assist in giving effect to Objectives 1 and 2 and Policies 11, 13 15 and 17 of the NZ Coastal Policy Statement, which requires the protection of significant natural ecosystems, indigenous biodiversity, sites of biological importance, natural features, historic heritage, natural character and landscape values, which are some of the many significant values which can be associated with water bodies in the coastal environment.

Chapter 9 (Glossary)

New definitions are proposed to be added to the Regional Resource Management Plan's Glossary to provide clarification of key terms referred to in Plan Change 7.

Schedules

A new schedule has been added to the Regional Resource Management Plan: Schedule 25 features a list of the region's outstanding water bodies, or parts thereof, and their respective outstanding value(s).

Regional Rules

Chapter 6 of the RRMP, and Chapter 26 of the RCEP currently contain a number of regional rules that control activities occurring near/or in water bodies.

There are no new regional rules proposed to be inserted by Plan Change 7, but proposed policies will apply to activities that require a resource consent to be made under existing rules so that those consent applications will also need to consider the relevant values of outstanding water bodies.

FURTHER INFORMATION

For further information about Proposed Plan Change 7, contact Hawke's Bay Regional Council on 06 835-9200, email: OWB@hbrc.govt.nz, or visit our website: www.hbrc.govt.nz #OWB

Proposed Plan Change 7 to the Hawke's Bay Regional Resource Management Plan - Outstanding Water Bodies

NOTE: In the following sections, new text is represented as underlined and text to be deleted is ~~struckout~~. Elsewhere, words of other provisions may appear but those are presented for context only and are not proposed to be amended by Plan Change 7 [grey coloured text].

Amend Chapter 3.1A of HB Regional Resource Management Plan

3.1A Integrated Land Use and Freshwater Management

ISSUES

ISS LW1A E kore Parawhenua e haere ki te kore a Rakahore

Parawhenua (Water) would not flow if it were not for Rakahore (Rock)

He huahua te kai pai! He wai te kai pai!

Huahua (preserved birds) are a treasured delicacy. However water is a necessity.

Explanation: These two proverbs encapsulate the interrelationship between two significant elements – land and water. The Māori world is formed on the interconnectedness and interdependency of people to all living creatures and to the environments in which they live. The well-being of the whole is dependent on the well-being of its constituent parts.

ISS LW1 Multiple and often competing values and uses of fresh water can create conflict in the absence of clear and certain resource management policy guidance.

ISS LW2 Integration of the management of land use and water quality and quantity increases the ability to promote sustainable management of the region's natural and physical resources.

OBJECTIVES

OBJ LW 1 Integrated management of fresh water and land use and development

Fresh water and the effects of land use and development are managed in an integrated and sustainable manner which includes:

1. protecting the outstanding and significant values ~~quality~~ of outstanding ~~fresh~~water bodies ~~identified listed in Schedule 25 Hawke's Bay;~~
- 1A. protecting wetlands, including their significant values^{1A}
2. the maintenance of the overall quality of freshwater within the Hawke's Bay region and the improvement of water quality in water bodies that have been degraded to the point that they are over-allocated;
- 2B. establishing where over-allocation exists, avoiding any further over-allocation of freshwater and phasing out existing over-allocation;

^{1A} While significant values of wetlands can include nutrient filtering, flood flow attenuation, sediment trapping and cultural, spiritual, recreational, aesthetic and educational values, their values as habitat to fish, invertebrate, plant and bird life is likely to be significant for wetlands across the region.

3. recognising that land uses, freshwater quality and surface water flows can impact on aquifer recharge and the coastal environment;
4. safeguarding the life-supporting capacity and ecosystem processes of fresh water, including indigenous species and their associated fresh water ecosystems;
5. recognising the regional value of fresh water for human and animal drinking purposes, and for municipal water supply;
6. recognising the significant regional and national value of fresh water use for production and processing of beverages, food and fibre;
7. recognising the potential national, regional and local benefits arising from the use of water for renewable electricity generation;
8. recognising the benefits of industry good practice to land and water management, including audited self-management programmes;
- 8A. recognising the role of afforestation in sustainable land use and improving water quality;
9. ensuring efficient allocation and use of water;
12. recognising and providing for river management and flood protection activities;
13. recognising and providing for the recreational and conservation values of fresh water bodies; and
14. promoting the preservation of the natural character of the coastal environment, and rivers, lakes and wetlands, and their protection from inappropriate subdivision, use and development.

OBJ LW2 Integrated management of freshwater and land use development

The management of land use and freshwater use that recognises and balances the multiple and competing values and uses of those resources within catchments. Where significant conflict between competing values or uses exists or is foreseeable, the regional policy statement and regional plans provide clear priorities for the protection and use of those freshwater resources.

OBJ LW3 Tangata whenua values in management of land use and development and freshwater

Tangata whenua values are integrated into the management of freshwater and land use and development including:

- a) recognising the mana of hapu, whanau and iwi when establishing freshwater values; and
- b) recognising the cumulative effects of land use on the coastal environment as recognised through the Ki uta ki Tai ('mountains to the sea') philosophy; and
- c) recognising and providing for wairuatanga and the mauri of fresh water bodies in accordance with the values and principles expressed in Chapter 1.6, Schedule 1 and the objectives and policies in Chapter 3.14 of this Plan; and
- d) recognising in particular the significance of indigenous aquatic flora and fauna to tangata whenua.

Principal reasons and explanation

Objectives LW1, LW2 and LW3 (and associated policies) assist HBRC to give effect to the National Policy Statement for Freshwater Management by setting out a broad overall framework (in parallel with other objectives in the RPS) for improving integrated management of the region's freshwater and land resources. These RPS provisions only partly implement the NPS for Freshwater Management. Regional plan policies and methods (including rules) also assist in giving effect to the NPS for Freshwater Management.

In Hawke's Bay, the issues and pressures on land and water resources vary throughout the region. As a result, the urgency for clarity around water allocation and to maintain or improve water quality also varies. For example, the food and wine production Hawke's Bay is renowned for is focussed mostly on the Heretaunga Plains, while for example plantation forestry and wool growing is typically located on hill country. These catchment differences have influenced HBRC's decision to prioritise catchments where the issues, pressures and conflicts are most pressing.

Objectives LW1, LW2 and LW3 are intended to outline the broad principles for policy-making and regional plan preparation to improve integrated decisions being made about the way the region's land and freshwater resources are used, developed or protected

across the region's varying catchments and sub-catchments. Objective LW1.1 is consistent with the NPSFM which expects the regional council to protect the significant values of outstanding water bodies.

As well as different pressures in different catchments, freshwater values in Hawke's Bay also vary spatially. In addition to the national values of fresh water identified in the NPSFM's Preamble, HBRC has undertaken a process to assess freshwater values in Hawke's Bay. This included beginning with a Regional Water Symposium in 2010, followed by a process involving stakeholder representatives to develop the Hawke's Bay Regional Land and Water Management Strategy and a second Land and Water Symposium in 2011. This process helped HBRC to understand how to prioritise and strengthen policy options and management decisions for the different catchments. HBRC has also applied the River Values Assessment System (RIVAS)¹ to assess some of the values of rivers in the region. The results of the RIVAS assessments for Hawke's Bay reinforced the values identified at the symposiums and by the stakeholder reference group.

The predominant view of Māori in Hawke's Bay is that water is the essential ingredient of life: a priceless treasure left by ancestors for their descendants' life-sustaining use. This Plan sets out iwi environmental management principles (see Chapter 1.6), matters of significance to iwi/hapū (see Chapter 3.14) and commentary about the Māori dimension to resource management (see Schedule 1).

POLICIES

POL LW1A Problem solving approach – Wetlands and outstanding freshwater bodies

1. To work collaboratively with iwi, territorial authorities, stakeholders and the regional community:
 - a) to identify outstanding freshwater bodies at a regional level and include provisions in the Regional Policy Statement to list those waterbodies and guide the protection of the outstanding qualities of those water bodies; and
 - b) to prepare a Regional Biodiversity Strategy and thereafter include provisions in the Regional Policy Statement and/or regional plans to (amongst other things) guide the protection of significant wetland habitat values identified by the Strategy.
 - c) In relation to Policy LW1A.1, the identification of outstanding freshwater bodies will be completed and an associated change to the Regional Policy Statement will be publicly notified prior to public notification of any further² catchment-based plan changes³ prepared in accordance with Policy LW1.

POL LW1 Problem solving approach - Catchment-based integrated management

1. Adopt an integrated management approach to fresh water and the effects of land use and development within each catchment area, that:
 - b) provides for *mātauranga a hapū* and local tikanga values and uses of the catchment;
 - c) provides for the inter-connected nature of natural resources within the catchment area, including the coastal environment;
 - cA) recognises and provides for the need to protect the integrity of aquifer recharge systems;
 - cB) recognises and manages the co-existing values of wetland habitat and agricultural production;
 - cC) assesses the outstanding water bodies identified in Schedule 25 to determine the significant values of those water bodies. This assessment include consideration of the values set out in Appendix 1 of the National Policy statement for Freshwater Management, and any other values that are determined to be relevant taking into account local and/or regional circumstances.

¹ RIVAS, developed by Lincoln University, provides a standardised method that can be applied to multiple river values. It helps to identify which rivers are most highly rated for each value and has been applied in several regions throughout the country.

² Plan Change 6 for the Tukituki River catchment pre-dates this provision.

³ Notwithstanding Policy LW1A.2, a catchment-based regional plan change for the Mohaka River catchment may proceed in the meantime. For the avoidance of doubt, issue-specific regional plan changes (for example, urban stormwater or natural hazards and oil and gas resources) may also proceed in the meantime.

- d) ~~gives effect to provisions relating to outstanding freshwater bodies arising from the implementation of Policy LW1A, protects the outstanding and significant values of those outstanding water bodies identified in Schedule 25⁴;~~
- dA) maintains, and where necessary enhances, the water quality of those outstanding ~~freshwater~~ bodies identified ~~in Schedule 25 the catchment~~, and where appropriate, protects the water quantity of those outstanding ~~freshwater~~ bodies;
- e) promotes collaboration and information sharing between relevant management agencies, iwi, landowners and other stakeholders;
- f) takes a strategic long term planning outlook of at least 50 years to consider the future state, values and uses of water resources for future generations;
- g) aims to meet the differing demand and pressures on, and values and uses of, freshwater resources to the extent possible;
- gA) involves working collaboratively with the catchment communities and their nominated representatives;
- h) ensures the timely use and adaptation of statutory and non-statutory measures to respond to any significant changes in resource use activities or the state of the environment;
- iC) avoids development that limits the use or maintenance of existing electricity generating infrastructure or restricts the generation output of that infrastructure;
- iD) provides opportunities for new renewable electricity generation infrastructure where the adverse effects on the environment can be appropriately managed;
- iE) recognises and provides for existing use and investment;
- j) ensures efficient allocation and use of fresh water within limits to achieve freshwater objectives; and
- k) enables water storage infrastructure where it can provide increased water availability and security for water users while avoiding, remedying or mitigating adverse effects on freshwater values.

2. When preparing regional plans:

- a) use the catchment-wide integrated management approach set out in POL LW1.1; and
- b) identify the values for freshwater and wetlands and their spatial extent within each catchment and for catchments identified in Policy LW2.1:
 - i) the values must include those identified in Table 1; and
 - ii) may include additional values; and
- ~~bA) recognise and provide for outstanding freshwater bodies and their values arising from the implementation of Policy LW1A; and~~
- bA) in relation to any relevant outstanding waterbodies identified in Schedule 25:
 - i) identify the significant values of that outstanding waterbody and the spatial and/or temporal extent of those values as relevant;
 - ii) establish how the outstanding and significant values of outstanding water bodies identified in Schedule 25 will be protected by regulatory methods or non-regulatory methods or both;⁵

⁴ ~~In the case of conflicts arising between outstanding and significant values, the outstanding value(s) will take priority over significant values of the same outstanding water body identified in Schedule 25.~~

⁵ ~~In the case of conflicts arising between outstanding and significant values, the outstanding value(s) will take priority over significant values of the same outstanding waterbody identified in Schedule 25.~~

iii) include regional plan provisions to manage activities in a manner which avoids adverse effects that are more than minor on the outstanding and significant values of an outstanding water body identified in Schedule 25.

- c) establish freshwater objectives for all freshwater bodies for the values identified in clause (b) and clause (bA) above; and
 - d) so as to achieve the freshwater objectives identified under clause (c), set:
 - i) groundwater and surface water quality limits and targets; and
 - ii) groundwater and surface water quantity allocation limits and targets and minimum flow regimes; and
 - e) set out how the groundwater and surface water quality and quantity limits and targets will be implemented through regulatory or non-regulatory methods including specifying timeframes for meeting water quality and allocation targets.
3. When setting the objectives referred to in Policy LW1.2, ensure:
- a) the life-supporting capacity, ecosystem processes and indigenous species including their associated ecosystems of fresh water are safeguarded; and
 - b) adverse effects on water quantity and water quality that diminish mauri are avoided, remedied or mitigated; and
 - c) the microbiological water quality in rivers and streams is safe for contact recreation where that has been identified as a value under Policy LW1.2 or Policy LW2 Table 1.⁶
4. When identifying methods and timeframes in regional plans to achieve limits and targets required by Policy LW1.2(e) have regard to:
- a) allowing reasonable transition times and pathways to meet any new water quantity limits or new water quality limits included in regional plans. A reasonable transition time is informed by the environmental and socio-economic costs and benefits that will occur during that transition time, and should include recognition of the existing investment; and
 - b) promoting and enabling the adoption and monitoring of industry-defined and Council approved good land and water management practices.

Principal reasons and explanation

Catchment-based resource management is promoted in Policy LW1 and is consistent with Objective C1 of the 2011 National Policy Statement for Freshwater Management. Policy LW1 provides a 'default' planning approach for all catchments and catchment areas across the region, irrespective of the catchment area's values being identified in Policy LW2. Many of the principles and considerations for catchment-based planning have emerged from the 2011 Hawke's Bay Land and Water Management Strategy.

National values of freshwater have been listed in the NPSFM preamble and values have also been identified in the Hawke's Bay LAWMS. Those water bodies in the region with outstanding values have been identified in Part 2 of Schedule 25. The NPSFM provisions prescribe a high level of protection for those freshwater bodies with outstanding values.

Policies LW1A, LW1.1 and LW1.2 inform future catchment-based plan changes, and the respective community discussions, which water bodies have outstanding values and directs the protection of their respective significant and outstanding values. Policy LW1.2 ensures that the significant values of each outstanding water body are identified during the plan development phase, and that any future plan provisions protect the outstanding water bodies' significant and outstanding values.

Approaches to issues, values and uses of catchments will vary so Policy LW1.1, Policy LW1.2, Policy LW1.3 and Policy LW1.4 do not prescribe a one-size-fits-all approach for all catchments in Hawke's Bay. Each catchment-based process will need to be tailored for what is the most appropriate approach for that catchment (or grouping of catchments). Regional plans and changes to regional plans will be the key planning instrument for implementing catchment-based approaches to land use and freshwater resource management.

POL LW2 Problem solving approach - Prioritising values

⁶ NOTE: Policy LW1.3(c) applies to any values and uses identified in Table 1 which refer to "amenity for contact recreation", "amenity for water-based recreation" or "recreational trout angling."

Subject to achieving Policy LW1.3:

1. a) Policy LW 2.1 applies in the following catchment areas:
 - i) Greater Heretaunga / Ahuriri Catchment Area
 - ii) Mohaka Catchment Area
 - iii) Tukituki Catchment Area.
- b) Policy LW 2.1 applies:
 - i) When preparing regional plans for the specified catchments ~~specified in Policy LW 2.1 and~~
 - ii) When considering resource consents for activities in the specified catchments when no catchment-based regional plan has been prepared for the relevant catchment.
- c) ~~Give priority to Values~~ Values and uses of water bodies in these catchment areas⁷ will be prioritised as follows:
 - i) Protecting outstanding values of any outstanding waterbody in Schedule 25, then
 - ii) Protecting significant values of any outstanding waterbody in Schedule 25, then
 - iii) Maintaining, or enhancing where appropriate, the primary values and uses of freshwater bodies shown in Table 1, then
 - iv) Having particular regard to the secondary values and uses of freshwater bodies identified in Table 1, then
 - v) For values not specified in Table 1 or Schedule 25, the management approach set out in Policy LW 1 will apply
 - vi) Evaluate and determine the appropriate balance between any conflicting values and uses within (not between) columns in Table 1, using an integrated catchment-based process in accordance with Policy LW 1.1, Policy 1.2, Policy 1.3 and Policy 1.4 or when considering resource consent applications where no catchment-based regional plan has been prepared.
2. In relation to catchments not specified in Policy LW2.1, the management approach set out in Policy LW 1.1, Policy 1.2, Policy 1.3 and Policy 1.4 will apply.

TABLE 1:

Catchment Area	Primary Value(s) and Uses – in no priority order	Secondary Value(s) and Uses – in no priority order
Greater Heretaunga / Ahuriri Catchment Area	<ul style="list-style-type: none"> • any regionally significant native water bird populations and their habitats • Cultural values and uses for: <ul style="list-style-type: none"> ○ mahinga kai ○ nohoanga ○ taonga raranga ○ taonga rongoa • Fish passage • Individual domestic needs and stock drinking needs⁸ • Industrial & commercial water supply • Native fish habitat in the Ngaruroro River and Tutaekuri River catchments • Recreational trout angling and trout habitat in: <ul style="list-style-type: none"> ○ the Mangaone River ○ the Mangatutu Stream ○ the Ngaruroro River and tributaries upstream of Whanawhana cableway ○ the Ngaruroro River mainstem between the Whanawhana cableway and confluence with the Maraekakaho River 	<ul style="list-style-type: none"> • Aggregate supply and extraction in Ngaruroro River downstream of the confluence with the Mangatahi Stream • Amenity for contact recreation (including swimming) in lower Ngaruroro River, Tutaekuri River and Ahuriri Estuary • any locally significant native water bird populations and their habitats • Native fish habitat, notwithstanding native fish habitat as a primary value and use in the Tutaekuri River and Ngaruroro River catchments • Recreational trout angling, where not identified as a primary value and use • Trout habitat, where not identified as a primary value and use

⁷ A map illustrating the indicative location of these Catchment Areas is set out in Appendix 'A'.

⁸ In line with s14(3)(b)(ii) of the RMA, it is recognised that drinking water for stock is allowed, provided that it does not have an adverse effect on the environment.

Catchment Area	Primary Value(s) and Uses – in no priority order	Secondary Value(s) and Uses – in no priority order
	<ul style="list-style-type: none"> the Tutaekuri River mainstem above the Mangaone River confluence The high natural character values of the Ngaruroro River and its margins upstream of Whanawhana cableway, including Taruarau River The high natural character values of the Tutaekuri River and its margins above the confluence of, and including, the Mangatutu Stream Trout spawning habitat Urban water supply for cities, townships and settlements and water supply for key social infrastructure facilities freshwater use for beverages, food and fibre production and processing and other land-based primary production 	
Mohaka Catchment Area	<ul style="list-style-type: none"> Amenity for water-based recreation between State Highway 5 bridge and Willowflat any regionally significant native water bird populations and their habitats Cultural values and uses for: <ul style="list-style-type: none"> mahinga kai nohoanga taonga raranga taonga rongoa Fish passage Individual domestic needs and stock drinking needs⁸ Long-fin eel habitat and passage Recreational trout angling and trout habitat in the Mohaka River and tributaries upstream of, and including, the Te Hoe River Scenic characteristics of Mokonui and Te Hoe gorges The high natural character values of the Mohaka River and its margins Trout spawning habitat 	<ul style="list-style-type: none"> Aggregate supply and extraction in Mohaka River below railway viaduct any locally significant native water bird populations and their habitats Native fish habitat below Willowflat Recreational trout angling, where not identified as a primary value and use Trout habitat, where not identified as a primary value and use Water use associated with maintaining or enhancing land-based primary production Water use for renewable electricity generation in areas not restricted by the Water Conservation Order
Tukituki Catchment Area	<ul style="list-style-type: none"> any regionally significant native water bird populations and their habitats Cultural values and uses for: <ul style="list-style-type: none"> mahinga kai nohoanga taonga raranga taonga rongoa Fish passage Individual domestic needs and stock drinking needs⁸ Industrial & commercial water supply Native fish and trout habitat Recreational trout angling and trout habitat in: <ul style="list-style-type: none"> the Mangaonuku Stream the Tukipo River the Tukituki River mainstem downstream to Red Bridge the Waipawa River The high natural character values of: 	<ul style="list-style-type: none"> Aggregate supply and extraction in lower Tukituki River Amenity for contact recreation (including swimming) in lower Tukituki River. any locally significant native water bird populations and their habitats Recreational trout angling, where not identified as a primary value and use Trout habitat, where not identified as a primary value and use Water use for renewable electricity generation in the Tukituki River (mainstem) and the Waipawa River above SH50 including the Mākaroro River.

Catchment Area	Primary Value(s) and Uses – in no priority order	Secondary Value(s) and Uses – in no priority order
	<ul style="list-style-type: none"> ○ the Tukituki River upstream of the end of Tukituki Road; and ○ the Waipawa River above the confluence with the Makaroro River, including the Makaroro River • Trout spawning habitat • Urban water supply for cities, townships and settlements and water supply for key social infrastructure facilities • freshwater use for beverages, food and fibre production and processing and other land-based primary production 	

Principal reasons and explanation

Policy LW2.1 and 2.3 prioritises values of freshwater in three Catchment Areas where significant conflict exists between competing values. Clearer prioritised values in 'hotspot' catchments where significant conflicts exist was an action arising from the 2011 Hawke's Bay Land and Water Management Strategy. Policy LW2 implements OBJ LW2 in particular insofar as explicit recognition is made of the differing demands and pressures on freshwater resources, particularly within the three nominated 'hotspot' catchment areas. In relation to the remaining catchment areas across the region, Policy LW2 does not pre-define any priorities, thus enabling catchment-based regional plan changes (refer Policy LW1) for those areas to assess values and prioritise those values accordingly.

The primary and secondary values in Table 1 are identified to apply to the catchment overall, or to sub-catchments or reaches where stated. Table 1 recognises that not all values are necessarily equal across every part of the catchment area, and that some values in parts of the catchment area can be managed in a way to ensure, overall, the water body's value(s) is appropriately managed. With catchment-based regional planning processes, it is potentially possible for objectives to be established that meet the primary values and uses at the same time as meeting the secondary values.

[Refer also:

- *OBJ1, OBJ2 and OBJ3 in Chapter 2.3 (Plan objectives);*
- *Objectives and policies in Chapter 3.4 (Scarcity of indigenous vegetation and wetlands);*
- *Objectives and policies in Chapter 3.8 (Groundwater quality);*
- *Objectives and policies in Chapter 3.9 (Groundwater quantity);*
- *Objectives and policies in Chapter 3.10 (Surface water resources); and*
- *Objectives and policies in Chapter 3.14 (Recognition of matters of significance to iwi/hapū).*

POL LW3 Problem solving approach – Managing the effects of land use

1. To manage the effects of the use of, and discharges from, land so that:
 - a) the loss of nitrogen from land to groundwater and surface water, does not cause catchment area or sub-catchment area limits for nitrogen set out in regional plans to be exceeded;
 - b) the discharge of faecal matter from livestock to land, and thereafter to groundwater and surface water, does not cause faecal indicator bacteria water quality limits for human consumption and irrigation purposes set out in regional plans to be exceeded;
 - c) the loss of phosphorus from production land into groundwater or surface water does not cause limits set out in regional plans to be exceeded.
- 1A. To provide for the use of audited self management programmes to achieve good management of production land.
2. To review regional plans and prepare changes to regional plans to promote integrated management of land use and development and the region's water resources.

Principal reasons and explanation

Policy LW3 makes it clear that HBRC will manage the loss of contaminants (nitrogen, phosphorus and faecal indicator bacteria) from land use activities to groundwater and surface water in order to ensure that groundwater and surface water objectives and limits identified in specified catchment areas are achieved. Restrictions under section 15 of the RMA may also apply to land use activities. Phosphorus and nitrogen leaching and run-off will be managed by both regulatory and non-regulatory methods. This approach will be complemented by industries' implementation of good agricultural practices.

Most regional plan changes will be on a catchment-basis, although some changes may be prepared for specific issues that apply to more than one catchment. HBRC has prepared a NPSFM Implementation Programme that outlines key regional plan and policy statement change processes required to fully implement the NPSFM by 2030.

Policy LW3A - Decision Making Criteria – Outstanding Water Bodies

1. In relation to those types of activities identified in Policy LW3A.2, once the relevant catchment based regional plan change⁹ is operative or after 31 December 2025, whichever is sooner, a consent authority must have regard to:
 - a. the extent to which the activity would protect the outstanding value(s) described in Schedule 25 of the relevant outstanding waterbody
 - b. the extent to which the activity would protect the significant values (if any) identified in Schedule 25 of the relevant outstanding waterbody
 - c. whether, in order to protect the waterbody's outstanding values and significant values:
 - i. the location of the proposed activity is appropriate
 - ii. time limits, including seasonal or other limits on the activity may be appropriate.
 - d. If there is a conflict between protecting an outstanding and a significant value of the same water body, protection of the outstanding value must be given preference.
2. Policy LW3A.1 only applies to the following activities classified as a discretionary activity or a non-complying activity by a rule in a regional plan:
 - a. a take, use, damming, or diversion of water from an outstanding waterbody
 - b. a change to any existing take, use, damming or diversion of water from an outstanding waterbody
 - c. a discharge or a change or increase in any discharge of a contaminant into an outstanding waterbody
 - d. a discharge or a change or increase in any discharge of a contaminant onto or into land in circumstances that may result in that contaminant (or, as a result of any natural process from the discharge of that contaminant, any other contaminant) entering an outstanding waterbody
 - e. a land use consent for any new structure in the bed of an outstanding waterbody
 - f. a land use consent for any new or increased disturbance of the bed of an outstanding waterbody that is not already authorised by a current land use consent
3. Policy LW3A.1 only applies in the following circumstances:
 - a. where a description of the outstanding waterbody's outstanding value(s) is stated in Schedule 25 and/or
 - b. where a description of the outstanding waterbody's significant value(s) is stated in Schedule 25.

Principal reason and explanation

Policy LW3A provides guidance to resource consent applicants and decision-makers when assessing activities which can potentially cause adverse effects on outstanding water bodies. In some cases the proposed activity may be inappropriate at that location or at certain times of the year. Those types of factors can be considered by the Consent Authority when assessing resource consent applications to ensure the outstanding water body's significant and outstanding values are appropriately protected. Policy LW3A

⁹ A catchment-based plan change which provides for any identified OWB

takes effect after the objectives and limits have been set across the region and included in the Regional Resource Management Plan as required by the National Policy Statement for Freshwater Management.

POL LW4 Role of non-regulatory methods

To use non-regulatory methods, as set out in Chapter 4, in support of regulatory methods, for managing fresh water and land use and development in an integrated manner, including:

- a) **research, investigation and provision of information and services** – HBRC has in place a programme of research, monitoring and assessment of the state and trends of Hawke's Bay's natural resources. That programme will continue to be enhanced to assist HBRC implement the NPSFM and Hawke's Bay Land and Water Management Strategy;
- b) **advocacy, liaison and collaboration** – HBRC will promote a collaborative approach to the integrated management of land use and development and the region's freshwater resources;
- c) **land and water strategies** – the 2011 Hawke's Bay Land and Water Management Strategy contains a variety of policies and actions. A range of agencies and partnerships will be necessary to implement the actions and policies in the Strategy;
- e) **industry good practice** – HBRC will strongly encourage industry and/or catchment-based good practices for production land uses along with audited self management programmes as a key mechanism for achieving freshwater objectives at a catchment or sub-catchment level.

Principal reasons and explanation

Policy LW4 sets out the role of HBRC's non-regulatory methods in supporting regional rules and other regulatory methods to assist management of freshwater and land use and development in an integrated manner. This policy (and Policy LW1) recognises the need for a collaborative approach as an important means of minimising conflict and managing often competing pressures for the use and values of fresh water.

Anticipated Environmental Results

[Refer also anticipated environmental results in Chapters 3.3; 3.4; 3.7; 3.8; 3.9; 3.10; and 3.11]

Anticipated Environmental Results	Indicator(s)	Data Source(s)
1. Land and water management is tailored and prioritised to address the key values and pressures of each catchment	Freshwater objectives, targets and limits for catchments and/or groups of catchments are identified in regional plans for catchments Physical and biological parameters Social, cultural and economic indices	Regional plans and changes to regional plans HBRC's NPSFM Implementation Programme SOE monitoring and reporting Local authority records User surveys Catchment-specific monitoring programmes
2. Regional economic prosperity is enhanced	Regional GDP trends and unemployment trends for primary sector and associated manufacturing and processing	Statistics NZ Economic activity surveys Employment records by sector
3. Water is efficiently allocated	Level of allocation Catchment contaminant load modelling and monitoring Water use restriction timings and durations	SOE monitoring HBRC Consents records Compliance records Catchment-specific monitoring reports Water-supply management plans
4. Quality of fresh water in region overall is maintained or improved.	Catchment targets are met and limits in regional plans are not exceeded	SOE monitoring Compliance records

	Catchment contaminant load modelling and monitoring	Catchment-specific monitoring reports
5. Water storage is developed to provide increased water availability and security for water users	Consents issued for water storage projects Improved security of supply of water for users in times and places of water scarcity	HBRC consent records Building consent authority records
6. Tikanga Maori and tangata whenua values are taken into account when managing freshwater	Cultural indices developed through cultural monitoring frameworks	Cultural health monitoring records
<u>7. Outstanding and significant values of outstanding water bodies are protected</u>	<u>The significant values for each outstanding water body identified listed in Schedule 25 are identified.</u> <u>The significant values for each outstanding water body listed identified in Schedule 25 are protected using regulatory methods or non-regulatory methods, or both.</u>	<u>Regional plans and changes to regional plans</u> <u>HBRC's NPSFM Implementation Programme</u> <u>SOE monitoring and reporting</u> <u>Specific monitoring programmes</u>

Amend Chapter 3.2 of HB Regional Resource Management Plan

3.2 The Sustainable Management of Coastal Resources

ISSUE

- 3.2.1 *Integrated management of the region's coastal resources across a wide range of natural and physical conditions, administrative responsibilities cultural considerations, and matters of social and economic well being.*

OBJECTIVES

- OBJ 4** Promotion of the preservation of the natural character of the coastal environment and its protection from inappropriate subdivision, use and development.
- OBJ 5** The maintenance and where practicable and in the public interest, the enhancement of public access to and along the coast.
- OBJ 6** The management of coastal water quality to achieve appropriate standards, taking into account spatial variations in existing water quality, actual and potential public uses, and the sensitivity of the receiving environment.
- OBJ 7** The promotion of the protection of coastal characteristics of special significance to iwi, including waahi tapu, tauranga waka, taonga raranga, mahinga kai and mahinga mataitai.
- OBJ 8** The avoidance of further permanent development in areas prone to coastal erosion or inundation, taking into account the risk associated with global sea level rise and any protection afforded by natural coastal features.
- OBJ 9** Appropriate provision for economic development within the coastal environment, including the maintenance and enhancement of infrastructure, network utilities, industry and commerce, and aquaculture.
- OBJ 10** Enabling safe and efficient navigation.

OBJ 11 Protection of the outstanding and significant values of those outstanding water bodies within the Coastal Environment listed in Schedule 25.

Explanation and Reasons

- 3.2.2 The coastal environment includes the coastal marine area (the area from mean high water springs to the outer limits of the territorial sea) and the adjacent land that is affected by maritime influences, the air above it, and coastal water.
- 3.2.3 People and communities in the region are aware of, and have concerns about, the sustainable management of the coastline.
- 3.2.4 The environment of the coastline contributes to the characteristics which give Hawke's Bay its unique identity. This environment provides a social, recreational, cultural and economic resource for the regional community and for visitors. Public use and enjoyment of the coastline are, in turn, dependent on the protection and maintenance of its physical and biological diversity, health and well-being. Areas of wildlife habitat, marine and land-based vegetation, and geomorphological features also have value. These contribute to the distinctive natural identity of New Zealand in general, and the region in particular.
- 3.2.5 Among the significant features of the region's coastline are the spiritual and cultural significance of the sea to tangata whenua, the recreational amenities of coastal areas, and the importance of the coastal waters as a way of transporting goods.
- 3.2.6 Integrated management of the coast requires special effort as the regional council and the territorial authorities in the region jointly manage the coastal environment area landward of the "Coastal Marine Area". This is achieved through district and (as appropriate) regional plans. However, the "Coastal Marine Area" is primarily the responsibility of the Hawke's Bay Regional Council, which must prepare a Regional Coastal Plan. HBRC has combined its regional coastal plan with other regional planning provisions applicable to the coastal environment into the Regional Coastal Environment Plan. The coastal environment includes the coastal marine area and an area of land immediately adjacent to the coast. The Minister of Conservation also retains some specific responsibilities over the coastal marine area.
- 3.2.7 The New Zealand Coastal Policy Statement (NZCPS) provides principles for, and guidance to, regional and territorial authorities in managing coastal resources. The NZCPS links matters of national importance, as set out in the Act, with the objectives, policies, rules and other provisions of regional and district plans, including the Regional Coastal Environment Plan. The Regional Coastal Environment Plan thus contains a greater level of detail for areas and activities within the coastal environment than the broad regional policy framework for coastal resources included in the Regional Policy Statement.

- 3.2.8 The preservation of the natural character of the coastal environment is specified as a matter of national importance in the Act. The natural character of the coast embraces ecological, physical, spiritual, cultural, intrinsic and aesthetic values. While it is a matter of national importance to preserve those values, the Act does not preclude appropriate use and development, particularly where natural character has already been compromised.
- 3.2.8A Objective 11 aligns with provisions relating to outstanding freshwater bodies (Chapter 3.1A of the RRMP), and ensures a consistent framework is in place to protect outstanding water bodies (such as estuaries) in coastal areas, in the same manner as outstanding freshwater bodies. The NPSFM specifically provides for the integrated management of the effects of use and development of land and freshwater on coastal water. Objective 11 assists in achieving integrated management between coastal and freshwater resources.
- 3.2.8B Objective 11 assists in giving effect to Objectives 1 and 2 and Policies 11, 13, 15 and 17 of the NZ Coastal Policy Statement, which requires the protection of significant natural ecosystems, indigenous biodiversity, sites of biological importance, natural features, historic heritage, natural character and landscape values, which are some of the many significant values which can be associated with water bodies in the coastal environment.
- 3.2.9 Public access to and along the coast is an important issue for the residents of Hawke's Bay. It is also a matter of national importance in the RMA. In planning for the use, development and protection of the natural and physical resources in the coast, public access as far as possible should be maintained. In certain circumstances it may be desirable to enhance public access to and along the coast.
- 3.2.10 Good water quality is important for the sustainable management of natural and physical resources in the coastal environment and is an issue of prime concern to the residents of Hawke's Bay. However, water quality may vary over time and in different areas. An appropriate management framework includes achieving standards through management of discharge including point and non-point source discharges from land and to sea.
- 3.2.11 Tangata whenua of Hawke's Bay have strong traditional and cultural relationships with the sea. The identification and protection of coastal characteristics of special significance to iwi recognises the special relationships that iwi have with coastal resources.
- 3.2.12 Avoiding permanent development in areas prone to coastal erosion or inundation and taking into account the risk associated with global sea level rise is necessary to achieve the purpose of the Act. This approach enables people to provide for their safety and recognises the reasonably foreseeable needs of future generations. It also gives a clear indication to resource users that development in these areas is inappropriate and indicates that local authorities are accountable for any development that does occur in these areas.
- 3.2.13 The provisions of the Act do not relate solely to the control of environmental effects. Providing for economic development in the coastal environment within the region is necessary to achieve the purpose of the Act because the Act requires the Council to promote the sustainable management of both natural and physical resources. Physical resources include land and structures and includes the structures in the region which add to the present and future economic well-being of the region. The responsibility for providing for the social, economic, cultural, health and safety needs of the community lies in part with the Regional Council. The economic well-being of the people and communities of the region requires the continuation of an economic infrastructure.
- 3.2.14 There are a number of existing surface water activities in Hawke's Bay ranging from passive recreation to recreational use of boats, yachts and pleasure craft, to commercial fishing and port related shipping. New activities may occupy coastal marine space and may have the potential to enhance or conflict with navigational needs. Promoting safe and efficient navigation is necessary to promote the purpose of the Act because it enables people and communities to provide for their social, cultural and economic well-being and for their health and safety.

POLICIES

POL C1 Problem solving approach – outstanding water bodies

1. When preparing regional plans, in relation to any relevant outstanding waterbodies identified in Schedule 25:

- i) identify the significant values of that outstanding waterbody and the spatial and/or temporal extent of those values as relevant;
- ii) establish how the outstanding and significant values of outstanding water bodies identified in Schedule 25 will be protected by regulatory methods or non-regulatory methods or both;¹⁰
- iii) include regional plan provisions to manage activities in a manner which avoids adverse effects that are more than minor on the outstanding and significant values of an outstanding water body identified in Schedule 25.

Policy C2 - Decision Making Criteria – Outstanding Water Bodies

¹⁰ In the case of conflicts arising between outstanding and significant values, the outstanding value(s) will take priority over significant values of the same outstanding waterbody identified in Schedule 25.

1. In relation to those types of activities identified in Policy C2.2, once the relevant catchment based regional plan change¹¹ is operative or after 31 December 2025, whichever is sooner, a consent authority must have regard to:

- a. the extent to which the activity would protect the outstanding value(s) described in Schedule 25 of the relevant outstanding waterbody
- b. the extent to which the activity would protect the significant values (if any) identified in Schedule 25 of the relevant outstanding waterbody
- c. whether, in order to protect the waterbody's outstanding values and significant values:
 - i. the location of the proposed activity is appropriate
 - ii. time limits, including seasonable or other limits on the activity may be appropriate.
- d. If there is a conflict between protecting an outstanding and a significant value of the same water body, protection of the outstanding value must be given preferential protection.

2. Policy C2.1 only applies to the following activities:

- a. a take, use, damming, or diversion of water from an outstanding waterbody
- b. a change to any existing take, use, damming or diversion of water from an outstanding waterbody
- c. a discharge or a change or increase in any discharge of a contaminant into an outstanding waterbody
- d. a discharge or a change or increase in any discharge of a contaminant onto or into land in circumstances that may result in that contaminant (or, as a result of any natural process from the discharge of that contaminant, any other contaminant) entering an outstanding waterbody
- e. a land use consent for any new structure in the bed of an outstanding waterbody
- f. a land use consent for any new or increased disturbance of the bed of an outstanding waterbody that is not already authorised by a current land use consent

3. Policy C2.1 only applies in the following circumstances:

- a. where a description of the outstanding waterbody's outstanding value(s) is stated in Schedule 25 and/or
- b. where a description of the outstanding waterbody's significant value(s) is stated in Schedule 25.

Principal reasons and explanation

3.2.15 ~~While there are only two policies in this plan, There are no specific policies Policy C1 and C2 are the only two policies relating to the coastal environment part of this Plan. However, although many of the other provisions within the Regional Policy Statement parts of this Plan do apply are also relevant to within the coastal environment. Specific regional plan provisions (including policies) for the coastal environment are contained within the Regional Coastal Environment Plan.~~

3.2.16 The Hawke's Bay Regional Coastal Environment Plan is a combined Plan, incorporating the regional coastal plan that HBRC is required to prepare. It sets out in some detail objectives, policies and methods including rules which are the basis for management of the coastal environment. Thus the Regional Policy Statement of this Plan does not repeat or elaborate on the above objectives, and the Regional Coastal Environment Plan should be referred to for further detail.

3.2.17 Under the Act, HBRC has shared responsibility with the territorial authorities for management of activities and effects of activities within the coastal environment.

3.2.18 Some aspects of those activities are the sole responsibility of district councils – particularly managing the effects of land uses, development and subdivision in terms of the Act and in ways which are not inconsistent with this Regional Policy Statement or regional plans. District

¹¹ A catchment-based plan change which provides for any identified OWB

Plans should also be referred to as these may set out specific objectives, policies, methods and rules for the landward side of the coastal environment.

3.2.18A Policy C1 aligns with provisions relating to outstanding freshwater bodies (i.e. Policy LW1) in Chapter 3.1A of the RRMP, and ensures a consistent framework is in place to protect outstanding water bodies (such as estuaries) in coastal areas, in the same manner as outstanding freshwater bodies. This is consistent with the NPSFM which specifically provides for the integrated management of the effects of use and development of land and freshwater on coastal water. Policy C1 informs future catchment-based plan changes, and the respective community discussions, which water bodies have outstanding values and directs the protection of their respective significant values. Policy C1(b) ensures that the significant values of each outstanding water body are identified during the plan development phase, and that any future plan provisions protect the outstanding water bodies' outstanding and significant values.

3.2.18B Policy C2 aligns with Policy LW3A of the RRMP albeit applicable to decision making for activities affecting outstanding water bodies located in the coastal environment. Both policies provide guidance to resource consent applicants and decision-makers when assessing activities which can potentially cause adverse effects on outstanding water bodies. In some cases the proposed activity may be inappropriate at that location or at certain times of the year. Those types of factors can be considered by the Consent Authority when assessing resource consent applications to ensure the outstanding water body's significant and outstanding values are appropriately protected. Policy C2 takes effect after new provisions have been included in the Hawke's Bay Regional Coastal Environment Plan giving effect to the New Zealand Coastal Policy Statement.

Amendments to Chapter 9 (Glossary) of Hawke's Bay Regional Resource Management Plan

Amend Glossary by adding new definitions to read:

Outstanding water body means freshwater bodies and estuaries, or parts thereof, identified in Schedule 25 that have one or more outstanding cultural, spiritual, recreation, landscape, geology, natural character or ecology value(s).

Outstanding: for the purposes of an outstanding water body; outstanding means conspicuous, eminent, and/or remarkable in the context of the Hawke's Bay Region.

And make any other consequential amendments to the Hawke's Bay Regional Resource Management Plan.

Schedule 25: Outstanding Water Bodies

Part 1 – Overview of categories of outstanding values and their sub-parts

The following values have been identified as outstanding for the purposes of giving effect to the outstanding freshwater bodies provisions set out in the National Policy Statement for Freshwater Management. The key sub-values listed help describe the outstanding value, but are not all inclusive.

Table 1: Outstanding values and sub values

Outstanding Values	Descriptions	sub values
<u>Cultural and spiritual</u>	<u>A water body which has outstanding cultural and spiritual values.</u>	<u>Wāhi tapu, wāhi taonga, wai Tapu; rohe boundary; battle sites; pa, kāinga; tauranga waka; mahinga kai, pa tuna; and acknowledged in korero tuku iho, pepeha, whakatauki, or waiata.</u>
<u>Ecology</u>	<u>A water body which has outstanding ecological value as a habitat for:</u> <ul style="list-style-type: none"> - <u>native birds</u> - <u>native fish</u> - <u>salmonid fish</u> - <u>aquatic species.</u> 	<u>Native birds, native fish, native plants, aquatic macroinvertebrates</u>
<u>Landscape</u>	<u>A water body which forms a key component of landscape that is "conspicuous, eminent, remarkable or iconic" within the context of the area concerned, or is critical to an outstanding geological feature.</u>	<u>Scenic, association, natural characteristics (includes hydrological, ecological and geological features)</u>
<u>Natural character</u>	<u>A water body, with high naturalness, exhibiting an exceptional combination of natural processes, natural patterns, and natural elements, with low levels of modifications to the river, its ecosystems and the surrounding landscape.</u>	<u>Natural characteristics (includes hydrological, ecological and geological features)</u>
<u>Recreation</u>	<u>A water body which provides an outstanding recreational experience for an activity which is directly related to the water such as fishing, kayaking, rafting and jet boating.</u>	<u>Angling, fishing, kayaking, rafting, jet boating</u>
<u>Geology</u>	<u>A water body which has an outstanding geomorphological, geological or hydrological feature which is dependent on the water body's condition and functioning.</u>	<u>Science</u>

To be identified as 'outstanding', the water body must feature at least one outstanding value. The water body may also feature other significant values which must be protected to give effect to the NPSFM. Information held by HBRC on the outstanding and significant values of 'outstanding water bodies' is available on the HBRC website, www.hbrc.govt.nz under #OWB.

Part 2 – Outstanding Water Bodies in Hawke’s Bay and their outstanding and significant value(s)

The following water bodies, or parts thereof, have been identified as having outstanding value(s).

* The significant values, and their associated descriptions, for each outstanding water body will be included after a catchment based regional plan change has been made operative for the relevant catchment (see Policy LW1 and Policy C1). Note: The significant values for outstanding water bodies within the Tutaekuri, Ahuriri, Ngauroro, Karamu catchments have been included based on current information at time of notification of Plan Change 9.

** The description of the outstanding cultural and spiritual values will be updated in Table 2 as Proposed Plan Change 7 progresses through the plan change process set out in Schedule One of the Resource Management Act, and further information becomes available.

Table 2: Outstanding Water Bodies

Column 1	Column 2	Column 3	Column 4
ID #	Name of outstanding water body	Outstanding value(s)	Description of outstanding value(s) ¹²
1	Hautapu River	Cultural, spiritual	<p>The Hautapu River flows into the Te Hoe River, which is located in the far eastern reaches of the Hineuru rohe. The rivers act as a natural boundary to other iwi and hapū.</p> <p>Ngatapa, an important Hineuru pā, was located on the junction of the Te Hoe and Hautapu Rivers, and was settled permanently.</p> <p>Ngatapa was a site of cultivations, urupā and wāhi tapu sites.</p> <p>Tāngata whenua of the region have advised that the Hautapu River has outstanding cultural and spiritual values. **</p>
2	Heretaunga Aquifer	Cultural, spiritual, Geology	<p>The Heretaunga aquifer system consists of interconnected layers of water bearing gravels, sands, silts, clays and shells located beneath the Heretaunga Plains.</p> <p>The Heretaunga aquifer system is a taonga of Ngāti Kahungunu, who know the aquifer system as the “Heretaunga Ararau Haukūnui”, being a large water resource, represented in the many</p>

¹² Refer to HBRC Report SD18-01: Summary of cultural values associated with water bodies in Hawke’s Bay and HBRC Report SD18-02: Summary of recreation, landscape and ecology values associated with water bodies in Hawke’s Bay for further information about the outstanding values.

			<p>rivers, creeks, the small tributaries fed by underground springs, springs of water, swampy ground, swimming holes, rock pools and quirk sands.</p> <p>Tāngata whenua of the region have advised that the Heretaunga aquifer has outstanding cultural and spiritual values. **</p>		
3	<u>Karamū River</u>	Cultural, spiritual	<p>The Karamū River begins at lake Poukawa, flowing through Havelock North and the Karamū area to join the Clive River at Pakowhai. It was once the main channel of the Ngaruroro River, but following a major flood in 1867 the Ngaruroro River changed its course to its current course, leaving behind a smaller flow, named the Karamū in reference to the Karamū trees which grew in abundance in this area.</p> <p>The Karamū River is taonga of Ngāti Hori, an important freshwater fishery for hapū. Māori have a long history of occupation and travel on and around the Karamū River.</p> <p>Tāngata whenua of the region have advised that the Heretaunga aquifer has outstanding cultural and spiritual values. **</p>	<p>Ecosystems</p> <p>Indigenous aquatic populations, particularly patiki, tuna, and whitebait, macroinvertebrate communities</p> <p>Indigenous bird populations</p> <p>Social, recreational and cultural activities including swimming, cultural practices of Uu, rowing and waka ama,</p> <p>Mahinga kai</p> <p>Domestic water supply</p> <p>Primary production water use (including for associated processing and other urban activities)</p>	*
4	<u>Kaweka and Ruahine Ranges wetlands</u>	Cultural, spiritual	<p>Tāngata whenua of the region have advised that the Kaweka and Ruahine Ranges wetlands have outstanding cultural and spiritual values. **</p>	*	*
5	<u>Lake Rotoroa and Lake Rototuna (Kaweka Lakes)</u>	Cultural, spiritual, ecology, natural character	<p>Lake Rototuna and Lake Rotoroa are situated in the Kaweka Forest Park, surrounded by indigenous vegetation, with no sign of human modifications.</p> <p>The Lakes are ecologically significant because of the large number of plant species and vegetation types in the surrounding area.</p> <p>Lake Rototuna is the best example of a waterbody that still remains in an all-native vegetated state in the region and supports the best composition of submerged aquatic plants in Hawke's Bay. Lake Rotoroa has a large population of kōaro which are 'lake-locked' and carry out their entire life cycle in freshwater.</p> <p>Tāngata whenua of the region have advised that</p>	<p>Indigenous fish populations</p> <p>Indigenous bird populations</p> <p>Indigenous plant populations</p> <p>Hydrological</p> <p>Social and cultural activities</p> <p>mahinga kai</p>	*

Proposed Plan Change 7 – Outstanding Water Bodies

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DRAFT – NOT OFFICIAL COUNCIL POLICY



			the Kaweka and Ruahine Ranges wetlands have outstanding cultural and spiritual values. **		
6	Lake Poukawa and Pekapeka Swamp	Cultural, spiritual,	<p>Lake Poukawa, also known as Te Wai-nui-a-Tara, is a small shallow lake with a surface area of 89 hectares. The lake has an adjoining margin of wetland vegetation which is intermittently covered in water depending on the time of year. The wetland area contains swamp nettle (<i>Urtica linearifolia</i>) and the acutely threatened aquatic liverwort (<i>Ricciocarpos natans</i>) which is nationally endangered.]</p> <p>The Lake has been declared a non-commercial eel fishery, one of only a few lakes in New Zealand to have this designation.</p> <p>Lake Poukawa is a taonga of Heretaunga Tamatea, traditionally used for food gathering. The Lake is well known for its eel fishery which is of considerable cultural importance to the people of Te Hauke and their hapū Ngāi Te Rangikōhāne. The history of Lake Poukawa is directly related to the eels of the lake. The mana of each chief of Te Wheao is related to control of Lake Poukawa and its resources.</p> <p>Lake Poukawa has been the scene of many battles, with a number of wāhi tapu and wāhi taonga sites in the area. The origin of the name 'Poukawa' is said to have arose as a result of a disagreement between two local chiefs Te Rangihirawea and Te Rangikawhiua over fishing rights in the lake.</p> <p>Lake Poukawa supports a high diversity of bird species, with notably high numbers of the Australasian Bittern, New Zealand dabchick, pied stilt, and shoveler ducks.</p> <p>Tāngata whenua of the region have advised that Lake Rotorua and Lake Rototuna have outstanding cultural and spiritual values. **</p>	<p>Indigenous fish populations</p> <p>Indigenous bird populations</p> <p>Indigenous plant populations</p> <p>Hydrological</p> <p>Social and cultural activities</p> <p>mahinga kai</p>	
7	Lake Tūtira (including Aropaoanui River + Papakiri Stream)	Cultural, spiritual	<p>Lake Tūtira (including Aropaoanui River and Papakiri Stream) is a taonga of Ngāti Kurumōkahi, celebrated as a place of sustenance to replenish one's mind, body and soul. Ngāti Kurumōkahi</p>	*	*

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DRAFT – NOT OFFICIAL COUNCIL POLICY



			<p>carried out ceremonies and rituals at designated places at Tūtira, such as tohi (baptisms). Some rongoā (medicinal plants) are only found in or around Lake Tūtira. There are a number of wāhi tapu, wāhi taonga and wai tapu sites in the area.</p> <p>The inlet to Lake Tūtira is Papakiri Stream and is integral to the distinct identity and mana of the hapū. Its importance is due to its connection with Lake Tūtira and its reputation as a significant mahinga kai site.</p> <p>The hapū have a whakataukī about the lake being: "ko te waiū o ō tātau tīpuna" – "the milk of our ancestors". This whakataukī references the abundance of kai that could be sourced from the lake and the lake providing spiritual sustenance. Lake Tūtira was famous for the best flavoured tuna (eel).</p> <p>The Aropaoanui River/Waikoa River originates at the tūhi tapu (sacred peaks) of the central area of Maungaharuru. The Aropaoanui River is one of the most significant awa in the takiwā (traditional area of the hapū), linking two of the most culturally and historically important areas of the hapū, being Tūtira and Aropaoanui. The river provided an important connection between Maungaharuru and the coast, allowing for seasonal movements of the hapū. During peace Ngāti Kurumōkihi dwelt around the coastal estuaries and the lake. During war they sheltered in the forests and the hinterland. There was intensive Māori occupation around Lake Tūtira and numerous sites of significance.</p> <p>As a prized taonga, many raids and battles occurred at Lake Tūtira.</p> <p>Tāngata whenua of the region have advised that Lake Tūtira (including Aropaoanui River and Papakiri Stream) have outstanding cultural and spiritual values. **</p>		
8	Lake Waikareiti	Cultural, spiritual	<p>The cultural values and associations for Lake Waikareiti are closely linked to those of Lake Waikare-moana. Both were important seasonal food sources and strategic locations in the relationships between tribes.</p>	*	*

			<p>Colonies of kowhai (bird/shag) at Lake Waikareiti were spiritually significant due to their 'guardian-like activities'</p> <p>Tāngata whenua of the region have advised that Lake Waikareiti has outstanding cultural and spiritual values. **</p>		
2	Lake Waikaremoana	<p>Cultural, spiritual, ecology, natural character, landscape & geology, recreation</p>	<p>Lake Waikaremoana is situated in Te Urewera surrounded by pristine native forest and spectacular mountain ridges, and is often referred to as a 'jewel in the crown' of New Zealand landscapes. The name Lake Waikaremoana means the sea of rippling waters. It was created around 2,200 years ago when a wedge of sandstone blocked the course of the Waikaretaheke River.</p> <p>Legend tells of how Lake Waikaremoana was created. Having been turned into a tanihia, Haumapuhia, desperately tried to find an outlet to the sea before the sun rose. Her ceaseless thrashing upturned the hills and formed the various bays, inlets and features we see today.</p> <p>Lake Waikaremoana is an important taonga, with many pā, urupā and wāhi tapu sites located around its edge, and was the scene of many battles.</p> <p>Lake Waikaremoana is the North Island's deepest lake, reaching depths of 248 m, and Hawke's Bay's largest lake. The lake has exceptional water quality and is in excellent ecological condition with a high number of native aquatic plant species. It is the best example of diverse aquatic vegetation in a large, deep, clear lake in Hawke's Bay and the North Island. The lake has a high number of submerged plants, with an excellent indigenous turf community that has high native species diversity, and the nationally rare charophyte <i>Nitello opaco</i>.</p> <p>Lake Waikaremoana is renowned for its spectacular scenery and its clear pristine water. It is popular for a range of activities including</p>	+	+

			angling, swimming and boating. The Lake Waikaremoana Track is one of the 10 Great Walks of New Zealand. Tāngata whenua of the region have advised that Lake Waikaremoana has outstanding cultural and spiritual values. **		
<u>10</u>	Whakakī Lake - Te Paeroa Lagoon - Wairau Lagoon and wetlands	Cultural, spiritual, ecology	Whakakī Lake (Te Whakakī Lagoon) is a 400 hectare coastal lake which is separated from the sea by a narrow strip of sand dunes on its southern shore. The name of Te Whakakī Lagoon is based on a word meaning 'to fill', referring to the lagoon. Whakakī Lake is the second largest coastal lake on the North Island's east coast. The lake has an additional 200 hectares of adjacent wetland margin comprising sand dunes and swamp areas, and is part of a much larger wetland complex which includes the Ngamotu lagoon, Ohuia Lagoon, Waiheratuna Lagoon, Wairau Lagoon, Te Paeroa Lagoon, Rahui Channel, and Patangata Lagoon. Whakakī Lake is an intermittently closed and open lake (ICOLL) which is a rare habitat type both in New Zealand and internationally. The wetland complex has significant wildlife values supporting a high diversity of waterbirds, including the globally endangered Australasian Bittern. Te Whakakī lagoon is of spiritual and cultural significance to Ngāti Kahukura, Ngāti Kirituna and hapū of Te Whakakī Nui-a-Rua. The lake was a central feature of local hapū identity, highly valued, respected and admired. The area was important mahinga kai for local Māori and had a rich variety of food, including tuna, shellfish and birdlife. Tāngata whenua of the region have advised that Whakakī Lake - Te Paeroa Lagoon - Wairau Lagoon and wetlands have outstanding cultural and spiritual values. **	*	*
<u>11</u>	Lake Whatumā	Cultural, spiritual, ecology	Lake Whatumā is 160 hectares in size, with an additional adjacent wetland margin of around 75	*	*

			<p>hectares. The lake supports a high diversity of birds and is home to the largest population of the globally endangered Australasian bittern in Hawke's Bay.</p> <p>Lake Whatumā is a taonga of the hapū of Heretaunga Tamatea. The name refers to the discoverers of the lake who ate tuna (eels) they found there until their hunger was satisfied. The lake was a significant mahinga kai. As well as tuna, it was also known for other freshwater fish, freshwater mussels, birds (including kereru), and raupo pollen.</p> <p>Lake Whatumā was a traditional area of residence to a permanent population and was utilised by a number of surrounding hapū who travelled to the lake to gather resources on a seasonal basis. There are numerous remains of middens, tools, bones, pits, chisels and axes indicating there was a high population in the area.</p> <p>Tāngata whenua of the region have advised that Lake Whatumā has outstanding cultural and spiritual values. **</p>		
12	Makirikiri River	Cultural, spiritual	<p>The Makirikiri River is situated to the south of Takapau. It is a tributary of the Porangahau Stream which flows into the Tukituki River.</p> <p>The Makirikiri River is culturally significant to the people of Te Rongo a Tahu Marae as a mahinga kai and recreational area.</p> <p>The Makirikiri River was particularly notable for its tuna and koura.</p> <p>Tāngata whenua of the region have advised that the Makirikiri River has outstanding cultural and spiritual values. **</p>	+	+
13	Mangahouanga Stream	Cultural, spiritual, geology	<p>The Mangahouanga Stream is a small stream located in northern Hawke's Bay. The Stream is internationally renowned due to the discovery of dinosaur bones at the site. The remains of six separate species of dinosaurs (four new species), and New Zealand's oldest fossil insect have been</p>	+	+

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			<p>found in the Mangahouanga Stream. To date, the Mangahouanga Stream is the only place in New Zealand where significant dinosaur remains have been found.</p> <p>Tāngata whenua of the region have advised that the Mangahouanga Stream has outstanding cultural and spiritual values. **</p>		
14	<p>Maungawhio Lagoon, lower Kopuawhara River, Pukenui Dune Wetlands</p>	<p>Cultural, spiritual, ecology</p>	<p>Maungawhio Lagoon is a salt water lagoon that joins Oraka Beach, by the Mahia Peninsula, and is a site of significance to Te Rohe o Te Wairoa and Ngāti Kahungunu iwi Inc. It was known as a significant mahinga kai.</p> <p>The name 'Maungawhio' means 'the whistling, howling hills' and refers to the strong winds which pass over the lagoon. It was here that the Tākitimu waka arrived at Mahia and became stuck. Ruawhara, the tohunga of Tākitimu, left the waka here, assisting it to continue with its journey saying 'Mahia nga mahi mai! Tawhiti'.</p> <p>The Maungawhio Lagoon supports a high diversity of birds, including a high number of threatened species being the Australasian bittern, shore plover, black billed gull, reef heron, banded dotterel, Caspian tern, lesser knot.</p> <p>Tāngata whenua of the region have advised that Maungawhio Lagoon, lower Kopuawhara River, Pukenui Dune Wetlands have outstanding cultural and spiritual values. **</p>	*	*
15	<p>Mohaka River</p>	<p>Cultural, spiritual, ecology, natural character, landscape & geology, recreation</p>	<p>The upper parts of the Mohaka River are in a highly natural state, with pristine water quality and one of the healthiest macroinvertebrate communities in the region. The river flows through a variety of stunning landscapes, from large native forest areas, to remote countryside and through spectacular gorges, over some powerful rapids and around a horseshoe bend.</p> <p>The Mohaka River is widely recognised in New Zealand as a 'top quality wilderness trout fishery' and for its exceptional rafting and kayaking experiences, which can occur in a natural setting.</p>	*	*

			<p><u>In 2004, a water conservation order was placed over the Mohaka River (above willow flat) in recognition of the river's nationally outstanding scenic characteristics, trout fishery, rafting and canoeing values.</u></p> <p><u>The Mohaka River is an important taonga and there are numerous settlements and sites of significance along its length.</u></p> <p><u>The Mohaka River has been used as a significant boundary marker to define areas of interest. Mohaka is said to have been the name of a river or stream in Hawaiki. It was significant as a highway, being a key route inland, and a traditional area of residence, urupā, pā, kāinga, and other places of spiritual and cultural significance.</u></p> <p><u>The Mohaka River provided a wealth of resources, including hāwai stones, drinking water and water for spiritual cleansing and healing. It was significant as a mahinga kai resource, the river was plentiful with fish species tuna, trout and koura. The forest around the Mohaka River was very dense and provided many important resources including harakeke, toitoi, birdlife and a range of plants used for medicinal purposes.</u></p> <p><u>Tāngata whenua of the region have advised that the Mohaka River has outstanding cultural and spiritual values. **</u></p>		
16	Moreere Springs	Cultural, spiritual	<p><u>The Moreere Springs, meaning 'the waters of life which come into this world from the other world' are thermal springs located near Nuhaka. Moreere Springs and the surrounding area was a source of natural healing waters, kiekie and other traditional materials used for raranga whariki, kete and traditional rongoa.</u></p> <p><u>Tāngata whenua of the region have advised that Moreere Springs have outstanding cultural and spiritual values. **</u></p>	*	*
17	Ngamatea East Swamp	Cultural, spiritual, ecology, natural character	<p><u>The Ngamatea East Swamp is a 300 hectare unmodified wetland, the largest in Hawkes Bay.</u></p>	Indigenous fish populations Indigenous bird populations	*

			<p>The wetland contains high numbers of threatened indigenous plant species, including the sedge <i>Carex strictissima</i> which is nationally endangered and the <i>Ranunculus recens</i> var. which is 'at risk' and threatened.</p> <p>The Ngamatea East Swamp is highly valued for the cleansing provided by the water catchment, storage and drainage processes, and as a possible food source. Spiritual essence derives from being a headwater system to the Rangitikei River.</p> <p>Tāngata whenua of the region have advised that the Ngamatea East Swamp have outstanding cultural and spiritual values. **</p>	<p>Indigenous plant populations</p> <p>Hydrological</p> <p>Social and cultural activities</p> <p>mahinga kai</p>	
18	Ngaruroro River and Estuary	<p>Cultural, spiritual, recreation, ecology, natural character, landscape, geology.</p>	<p>The Ngaruroro River is the largest river flowing across the Heretaunga Plains.</p> <p>The full name of the Ngaruroro River is Ngāgaru-o-nga-upokororo-mai-i-mokotuararo-ki-Rangitira, with the river taking its name from an incident in which a dog belonging to the ancient deity Mahu startled some small fish known as upokororo. As the shoal of fish dashed away they caused ngaru or ripples in the water.</p> <p>The Ngaruroro River flows through a variety of landscapes along its length. In its upper parts the Ngaruroro River is in a near natural state with impressive scenery flowing through indigenous forest, tussock and scrubland and spectacular narrow rocky gorges with vertical schist walls. The Ngaruroro River gorge is one of the best two gorges in Hawke's Bay. From Whanawhana, the Ngaruroro River opens to wide braided channel which is the best example in the region, and highly valued for jet boating and as a bird habitat supporting high numbers of banded dotterel and pied stilt.</p> <p>Upstream of Kuripapango, the Ngaruroro River is in excellent ecological condition, with pristine water quality and one of the healthiest macroinvertebrate communities in the region. The upper Ngaruroro River contains a high quality habitat for both native fish and salmonid</p>	<p>Ecosystems</p> <p>Indigenous aquatic populations, particularly, torrent fish, whitebait, macroinvertebrate communities</p> <p>Indigenous bird populations,</p> <p>Trout fishery</p> <p>Social, recreational and cultural activities including swimming, cultural practices of Uu, boating</p> <p>Natural character</p> <p>Hydrological</p> <p>Mahinga kai</p> <p>Domestic water supply</p> <p>Primary production water use (including for associated processing and other urban activities)</p>	*

			<p>trout, being largely natural with good water quality. The upper river is particularly renowned for its salmonid angling, whitewater boating opportunities and its impressive scenery.</p> <p>The lower river and estuary area support a high diversity of native birds, some of which are classified as at risk or declining or globally endangered, including the black-billed gull, black fronted tern and Australasian bittern.</p> <p>The Ngaruroro River supports a high diversity of fish in its lower river and estuary areas, including a number of native fish which are classified as at risk or declining. In its upper parts the Ngaruroro River contains a high quality habitat for both native fish and salmonid trout, being largely natural with good water quality.</p> <p>The Ngaruroro River is a taonga of Heretaunga Tamatea, Mana Ahuriri, and Ngāti Tūwharetoa. The headwaters are commonly expressed as being at the heart of the Kaimanawa Ranges, the River forms a natural highway from coast to mountains and there are many settlements and sites of significance along its banks, including the presence of Pā, Kāinga, urupā, Wāhi Tapu, wāhi taonga and wai tapu.</p> <p>The Ngaruroro River has significance as a mahinga kai and has been a significant marker of land interests from ancient times. A pou once stood at Whanawhana which represents an important political demarcation between hapū.</p> <p>Tāngata whenua of the region have advised that the Ngaruroro River and Estuary have outstanding cultural and spiritual values. **</p>		
19	Nuhaka River	Cultural, spiritual	<p>The Nuhaka River is culturally significant for Te Rohe o Te Wairoa. There are numerous significant riverside sites that form the lifeblood of Rakaipaaka, including for baptism and burial. A kaitiaki, in the form of a large white flounder, protects the traditional inanga site at Papanui.</p>	*	*

			<u>Tāngata whenua of the region have advised that the Nuhaka River has outstanding cultural and spiritual values. **</u>		
<u>20</u>	<u>Opoutama Swamp</u>	<u>Cultural, spiritual</u>	<u>Tāngata whenua of the region have advised that Opoutama Swamp has outstanding cultural and spiritual values. **</u>	<u>*</u>	<u>*</u>
<u>21</u>	<u>Porangahau River and Estuary</u>	<u>Cultural, spiritual, ecology, landscape & geology</u>	<p><u>The Porangahau River, otherwise known as the Taurekaitai River, is a taonga of Ngāti Kere. It is rich in archaeological sites, and provided the first authenticated records of moa hunter occupation in the North Island. It is a significant mahinga kai, and vast shell middens are situated in the dune systems, and pā sites occur at either end of the estuary. On the southern bank of the river, Opiango stands, a peak sacred to Ngāti Pihere.</u></p> <p><u>The Porangahau Estuary is the largest and least modified estuary in Hawke's Bay. The river mouth barrier system is the largest barrier system in Hawke's Bay and the surrounding dune system demonstrates a rare cross-cutting relationship of a series of en echelon sand dunes and estuarine strand lines.</u></p> <p><u>The Porangahau River and Estuary supports large population of wrybill and banded dotterel and is the only location where Caspian terns and royal spoonbill nest. It is an important feeding and wintering area for migratory waders. The Porangahau Estuary has two main inanga spawning sites and the only estuary in Hawke's Bay to contain the seagrass, <i>zostera muelleri</i>.</u></p> <p><u>Tāngata whenua of the region have advised that the Porangahau River and Estuary have outstanding cultural and spiritual values. **</u></p>	<u>*</u>	<u>*</u>
<u>22</u>	<u>Putere Lakes</u>	<u>Cultural, spiritual</u>	<p><u>The Putere Lakes (Lakes Rotongaio, Lake Rotoroa and Lake Rotonuihaha) are located near the Waiapu River. Historically the lakes were a significant mahinga kai.</u></p> <p><u>Tāngata whenua of the region have advised that the Putere Lakes have outstanding cultural and spiritual values. **</u></p>	<u>*</u>	<u>*</u>

23	Ripia River	Cultural, spiritual	<p>The Ripia River is of great significance to Hineuru, who have a particular cultural, spiritual, historical, and traditional association with the River.</p> <p>The Ripia River was utilised as a mahinga kai, rather than being a focal point of settlement, and was abundant with fish species, including tuna, trout and the koura. Hangi stones were gathered from the river.</p> <p>The forest around the Ripia River was very dense and provided many important resources including harakeke, totora, birdlife and a range of plants used for medicinal purposes.</p> <p>The Ripia River provided the people with drinking water, and was a source of spiritual cleansing, wairua, and was felt to have healing properties (e.g. aids with the healing of women after they had given birth, used for the washing of Tupapaku and an important part of the ta moko process.</p> <p>Tāngata whenua of the region have advised that the Ripia River has outstanding cultural and spiritual values. **</p>	*	*
24	Ruakituri River	Cultural, spiritual, ecology, natural character, landscape & geology, recreation	<p>The Ruakituri River is in a natural state above Waitangi Falls, with no human modification in the surrounding area. In its upper reaches the river runs clean and clear, flowing through thick bush and rugged, remote backcountry and through a number of steep gorges, past giant limestone cliffs, and over the 72m Waitangi Falls. The Ruakituri Gorge is particularly valued by local canoeists who know it as a short but challenging run.</p> <p>The Ruakituri River is an internationally renowned trout fishery known for its crystal clear water, spectacular scenery and large population of trout which can reach trophy size. Angling on the river is restricted to fly fishing only, with the use of spinners prohibited. The river has one of the healthiest macroinvertebrate communities in Hawke's Bay.</p>	*	*

			<p>The Ruakituri River is culturally significant for the people of Te Rohe o Te Wairoa, and was one of several important locations for Ngāti Kahungunu. From these locations, they travelled, often considerable distances, to utilise resources seasonally. Traditional settlements on the Ruakituri River include Te Reinga and Erepeti.</p> <p>Ngāi Kohatu have a korero about the formation of these rivers. According to tradition, the Ruakituri and Hangaroa Rivers (which form the Wairoa River below their confluence) were formed when kin taniwha Ruamano and Hinekoroako heard the sound of the sea, and heeding its call, they decided to race to the sea, each taking a separate route by way of the two rivers.</p> <p>Tāngata whenua of the region have advised that the Ripia River has outstanding cultural and spiritual values. **</p>		
25	Ruataniwha Aquifer	Cultural, spiritual, ecology	<p>The Ruataniwha aquifer system consists of interconnected layers of water bearing gravels, sands, silts, clays and shells located beneath the Ruataniwha Plains.</p> <p>The Ruataniwha aquifer system is part of Heretaunga Tamatea's traditional rohe.</p> <p>Tāngata whenua of the region have advised that the Ruataniwha Aquifer has outstanding cultural and spiritual values. **</p>	*	*
26	Tarawera Hot Springs	Cultural, spiritual	<p>The Tarawera Hot Springs are located near the main highway between Napier and Taupo, set amongst indigenous native forest. The hot springs were highly prized by Ngāti Hineuru who used the hot springs for bathing, rongoa and cooking.</p> <p>Tāngata whenua of the region have advised that the Tarawera Hot Springs have outstanding cultural and spiritual values. **</p>	*	*
27	Taruarau River	Cultural, spiritual, ecology natural	<p>The Taruarau River is in a near natural state with excellent water quality and one of the healthiest</p>	Ecosystems	*

		<p><u>character, landscape, geology, recreation</u></p> <p>macroinvertebrate communities in the region. The River is very scenic, flowing through a variety of natural landscapes, from areas of rolling tussock country, scrubland and pine forests to impressive gorges with rocky overhangs. The Tararua River gorge is "one of the best two gorges in Hawke's Bay".</p> <p>The Tararua River is highly valued for its recreation qualities, particularly known as challenging whitewater run, suitable for experienced kayakers and rafters. The river is highly used by anglers in Hawke's Bay, fishing well all season.</p> <p>The Tararua River is located within the traditional boundary of Heretaunga Tamatea and Ngāti Tūwharetoa. The river is associated with the early origins of Kahungunu and associations with the Ruahine Range. A stone known as Te Tokatamahoutu marks the junction of the Tararua and Ikawetia Streams.</p> <p>Tāngata whenua of the region have advised that the Tararua River has outstanding cultural and spiritual values. **</p>	<p>Indigenous aquatic populations, particularly, torrent fish, whitebait, macroinvertebrate communities</p> <p>Indigenous bird populations,</p> <p>Trout fishery</p> <p>Social, recreational and cultural activities including swimming, cultural practices of Uu, boating</p> <p>Natural character</p> <p>Hydrological</p> <p>Mahinga kai</p> <p>Domestic water supply</p> <p>Primary production water use (including for associated processing and other urban activities)</p>	
28	<p><u>Te Hoe River</u></p>	<p><u>Cultural, spiritual, ecology</u></p> <p>Te Hoe River is in a highly natural state and is a breeding site for the blue duck, supporting one of the two largest blue duck populations in Hawke's Bay.</p> <p>Te Hoe River is a taonga of Ngāti Hineuru, and has a number of significant sites are located along the length of the river, including a pa site at Ngatapa and wāhi tapu sites by the confluence of the Te Hoe and Mohaka Rivers. The river is a traditional boundary marker.</p> <p>Te Hoe River provided drinking water, was a source for spiritual cleansing and was considered to have healing properties. Hangi stones were gathered from this river, and it has abundance of tuna (eel), trout and koura.</p> <p>Tāngata whenua of the region have advised that Te Hoe River has outstanding cultural and spiritual values. **</p>	<p>*</p>	<p>*</p>

29	Te Paerahi River	Cultural, spiritual	<p>Te Paerahi River is located near the Porangahau Estuary, and is a taonga of Ngāti Kere.</p> <p>Tāngata whenua of the region have advised that Te Paerahi River has outstanding cultural and spiritual values. **</p>	*	*
30	Te Whanganui a Orotū (Ahuriri Estuary)	Cultural, spiritual, ecology, landscape, geology	<p>Te Whanganui a Orotū (Ahuriri Estuary) is a significant wetland along the east coast of New Zealand, with high cultural and ecological value. It provides a wide diversity of habitat and an extremely diverse range of ecological communities, all contained within a relatively small area.</p> <p>Historically, the Tutaekuri and Esk Rivers flowed into Te Whanganui a Orotū which was predominately freshwater and significantly larger in size. In 1931, the Napier earthquake lifted the land by up to two metres and exposed around 1300 hectares of original lagoon. The estuary's unique geological history makes it a nationally important example of tectonic processes.</p> <p>Te Whanganui a Orotū has very important wildlife values, particularly as a feeding and resting area for over 70 species of water birds, some of which are critically endangered and some which migrate every year from the Arctic. It supports the highest diversity of birds in the region.</p> <p>The Estuary has very important native fish values, providing a diverse habitat and is recognised as the most important estuary in the region for fisheries production. It supports the highest diversity of native fish in the region.</p> <p>Te Whanganui-a-Orotū is a place of great cultural and spiritual significance to the Ahuriri Hapū. It is central to their existence and identity. It is named after the ancestor Te Orotū, who was a descendant of the great explorer and ancestor Māhu Tapoanui, who is the very beginning of the Ahuriri people. Ngāti Pāhauwera and Maungaharuru –Tangitū also have customary linkages to Te Whanganui-a-Orotū.</p>	*	*

		<p>Moremore is the kaitiaki of Te Whanganui-a-Orotū, and known as the guardian of the people occupying the shores of Te Whanganui-a-Orotū who are his descendants. The appearance of Moremore warned people of dangers and reinforced the customs practiced by the old people. The law of Moremore was always observed.</p> <p>The area around Te Whanganui-a-Orotū was a very important source of food and was heavily populated and the site of a number of significant battles. Consequently, numerous sites of cultural, historic and archaeological significance are situated around what was its shoreline.</p> <p>From the earliest of times it was highly prized for its enormous food resources and its access to major river systems and forest areas. It was known as 'a place of abundance'. Archaeological evidence confirms that Te Whanganui-a-Orotū was an important place to live. Excavations indicate settlement dates between the late fifteenth and early seventeenth centuries, with very early settlement on Roro o Kuri - somewhere between the twelfth and thirteenth centuries. Surrounding the harbour are 11 recorded pā, some extensive in size. Extensive middens exist in this area.</p> <p>The pā at Te Pakake was a communal gathering place in times of trouble. Ngāti Hinepare, Ngāti Mahu, Ngāti Parau, Ngāti Hawea and Ngāti Kurumokihī are all recorded as having occupied the pā when under threat of invasion. Pukemokimoki was a fortified pā, with a canoe landing place near, located at south-western end of Mataruahou (Napier Hill).</p> <p>Tāngata whenua of the region have advised that Te Whanganui a Orotū (Ahuriri Estuary) has outstanding cultural and spiritual values.**</p>			
31	Tukituki River and Estuary	Cultural, spiritual, ecology, landscape & geology	<p>The Tukituki River and Estuary area is a large, 145 km long braided river system in central Hawke's Bay. It is a tupuna awa (ancestral river) and has significant cultural values. Legend tells of how</p>	*	*

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		<p>the Tukituki River came into existence. Two taniwha lived in a large lake situated on what is now the Ruataniwha Plains. They fought for possession of a boy who accidentally fell into the lake and their struggles formed the Waipawa and Tukituki Rivers which drained the lake.</p> <p>The Tukituki River is part of an iconic Hawke's Bay landscape where it passes by Te Mata Peak.</p> <p>The Tukituki River has significant wildlife values with a high diversity of native birds. The Lower Tukituki River and Estuary area supports the largest population of wading birds in Hawke's Bay, and has significant regional populations of black fronted tern, banded dotterel and pied stilt.</p> <p>The Tukituki River is a toanga of Heretaunga Tamatea. There is evidence of at least 7-8 centuries of occupation by Maori, making this area one of the earliest settled. The river was traditionally the main transport route through Heretaunga. Historically, the Tukituki catchment had an abundance of mahinga kai and natural resources. In particular, the river mouth and estuary was renowned for the abundance of fish species. The estuary area continues to support important traditional fisheries.</p> <p>On the lower section of river, there are a number of sites that relate to the actions of the ancient tipuna, Māhu. On the north bank is a white rock, Papaotahi. It is said the rock was once a man who was fishing in the river, but he was turned to stone by Māhu. A little further on is another rock, Tauhou, where Māhu turned another man to stone. Down river near Te Kauhanga pā is another spot touched by Māhu. Here he put a curse on the peepae and people died. Kahuranaki maunga, a site upstream of Kaiwaka on the rivers eastern bank, is of special significance to all hapū of Heretaunga Tamatea.</p> <p>After the arrival of the Ngāti Kahungunu tipuna to Heretaunga, the Tukituki River was established as the first boundary between Taraia and Te Aomatarahi.</p>		
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			<u>Tāngata whenua of the region have advised that the Tukituki River and Estuary has outstanding cultural and spiritual values. **</u>		
32	<u>Tūtaekuri River</u>	<u>Cultural, spiritual, ecology</u>	<p><u>Ahuriri Hapū have a strong cultural association with the Tūtaekuri River, with the lower reach of the Tūtaekuri River traditionally utilised by Ngāti Pārau. Otatara Pā is wāhi tapu as an ancient pā and as an urupā. It held a prominent position over the river and is 'the guardian of all people who live in its shadow'. A site at Te Whare O Maraenui, located on the eastern bank of the Tūtaekuri River, contains an urupā of those who died during the battle at Te Pakake Pā.</u></p> <p><u>Heretaunga Tamatea, Ngāti Pāhauwera and Maungaharuru –Tangitū also have cultural association with the river, with the river once providing a major transport route into Mokai Patea (Taihape) and beyond. The Tūtaekuri River forms part of the rohe boundary between Heretaunga and Ahuriri.</u></p> <p><u>The Tūtaekuri River takes its name from an incident that occurred when Hikawera came to the aid of a starving party of travellers. He ordered many dogs, fish and kumara to be prepared to feed the hungry wanderers. The place where this occurred became known as Te Umukuri. The dog's offal was thrown into the river to replenish what was taken, hence the name Tūtaekuri.</u></p> <p><u>The Tūtaekuri River once was a significant mahinga kai providing much of the food supply for the local hapū. Otatara Pā was a major intersection between Heretaunga & Ahuriri and it permitted access to eel weirs, fern root groves and kumara plantations in the hinterland. It also allowed access to Te Whanganui a Orotū.</u></p> <p><u>The upper reaches of the Tūtaekuri River are in a near natural state with pristine water quality and one of the healthiest macroinvertebrate communities in the region.</u></p>	<p><u>ecosystems</u></p> <p><u>indigenous aquatic populations particularly, torrent fish, whitebait, macroinvertebrate communities</u></p> <p><u>Trout fishery</u></p> <p><u>Indigenous bird populations</u></p> <p><u>Social, recreational and cultural activities including swimming, cultural practices of Uu and boating</u></p> <p><u>Natural character</u></p> <p><u>Hydrological</u></p> <p><u>Mahinga kai</u></p> <p><u>Domestic water</u></p> <p><u>Primary production water use (including for associated processing and other urban activities)</u></p>	*

			<u>Tāngata whenua of the region have advised that the Tūtaekuri River has outstanding cultural and spiritual values. **</u>		
<u>33</u>	<u>Waiau River</u>	<u>Cultural, spiritual, ecology</u>	<p><u>The Waiau River is a breeding site for the blue duck, supporting one of the two largest blue duck populations in Hawke's Bay.</u></p> <p><u>The Waiau River is culturally and spiritually significant for Te Rohe o Te Wairoa, Ngāti Pāhauwera and Ngāti Ruapuni ki Waikaremoana. The river forms part of the traditional boundary of Ngāti Pāhauwera.</u></p> <p><u>The river adjoins a wāhi tapu site which is significant as being the place where Tamaterangi collected hangi stones after his defeat at Opuku.</u></p> <p><u>The river provides a valuable source of water, food, transport and trade. It was particularly significant as a transport route from Waikaremoana to Te Moananui a Kiwa (the Pacific Ocean)</u></p> <p><u>Tāngata whenua of the region have advised that the Tūtaekuri River has outstanding cultural and spiritual values. **</u></p>	<u>*</u>	<u>*</u>
<u>34</u>	<u>Waihua River</u>	<u>Cultural, spiritual</u>	<p><u>The Waihua River was a traditional boundary, important both culturally and commercially, including for mahinga kai, with important fishing and eeling spots, as well as shellfish beds.</u></p> <p><u>Tāngata whenua of the region have advised that the Waihua River has outstanding cultural and spiritual values. **</u></p>	<u>*</u>	<u>*</u>
<u>35</u>	<u>Waikaretaheke River</u>	<u>Cultural, spiritual</u>	<p><u>The Waikaretaheke River is culturally significant to the iwi and hapū of Te Rohe o Te Wairoa.</u></p> <p><u>The creation story for the river is linked with the taniwha, Haumapuhia, and the creation of Lake Waikaremoana.</u></p> <p><u>Traditionally, this river was an important source of tuna (eels), korokoro and inanga (whitebait).</u></p>	<u>*</u>	<u>*</u>

			<p>and was also used for transportation by Ngāti Kahungunu.</p> <p>Tāngata whenua of the region have advised that the Waikaretaheke River has outstanding cultural and spiritual values. **</p>		
36	Waipawa River	Cultural, spiritual	<p>The Waipawa River is culturally significant for Heretaunga Tamatea. The river was a significant mahinga kai particularly known for its tuna, pātiki, fresh water koura, water cress and inanga. Historically, the river provided access inland to the resources of the Ruahine ranges, and later a trading post was set up on the river, with boats travelling up and down from the Tukituki River mouth. The River was significant as a boundary marker.</p> <p>Legend tells how the Waipawa River came into existence. A large lake was located in what is now the Ruataniwha Plains, which was home to two taniwha. On one occasion a boy fell into the lake and the two taniwha fought over their prey. The resulting destruction on the landscape created breaks in the hills through which the lake drained away. One of the channels through which the lake drained was the Waipawa River.</p> <p>A number of archaeological sites indicating the presence of pā and kāinga have been recorded in the area. Near the headwaters was Motu-o-Puku pā which belonged to the descendants of Te Rangitakahutia and the descendants of Te Upokoiri.</p> <p>Tāngata whenua of the region have advised that the Waipawa River has outstanding cultural and spiritual values. **</p>	+	+
37	Waipunga River	Cultural, spiritual, ecology	<p>The Waipunga River is in a near natural state with pristine water quality and one of the healthiest macroinvertebrate communities in the region. Hineuru has a particular cultural, spiritual,</p>	+	+

			<p><u>historical and traditional association with Waipunga River.</u></p> <p><u>The Waipunga River acted as a boundary and is one of the iwi's most important taonga. The river is associated with many important mahinga kai, kāinga, pā, and has numerous settlements and sites of significance.</u></p> <p><u>Hineuru had a large zone of permanent settlements along the Waipunga River where the Tarawera township exists today. It has been permanently occupied by Hineuru iwi since the time of their ancestress Hineuru.</u></p> <p><u>The Waipunga River was abundant with fish species, including tuna, trout and the koura. Hangi stones were gathered from the river.</u></p> <p><u>The forest around the Waipunga River was very dense and provided many important resources including harakeke, toitoi, birdlife and a range of plants used for medicinal purposes.</u></p> <p><u>The Waipunga River provided the people with drinking water, and was a source of spiritual cleansing, wairua, and was felt to have healing properties (e.g. aids with the healing of women after they had given birth, used for the washing of Tupapaku and an important part of the ta moko process.</u></p> <p><u>Tāngata whenua of the region have advised that the Waipunga River has outstanding cultural and spiritual values. **</u></p>		
<u>38</u>	<u>Wairoa River</u>	<u>Cultural, spiritual</u>	<p><u>The Wairoa River is culturally significant to the iwi and hapū of Te Rohe o Te Wairoa. The river is regarded as tapu. It is bound by rituals and traditions, which stem from gods and belongs to their ancestors. The water of the Wairoa River was used for purification, ancient chants and prayers. The river was also a major avenue for trading and commerce with a number of pā close by. Several important pā sites are located along and at the mouth of the river including</u></p>	<u>*</u>	<u>*</u>

			<p><u>Rangihoua/Pilot Hill which is sacred to tāngata whenua.</u></p> <p><u>It is said that the Tākitimu waka came up the Wairoa River and landed at Makeakea Stream. Te Reinga Falls, the starting point of the river, is associated with Hinekorako and Ruamano, which were taniwha carried to Aotearoa on the Tākitimu waka. The river mouth is also associated with two taniwha engaged in an ongoing struggle between Tapuwae and Te Maaha.</u></p> <p><u>The river and estuary area was an important mahinga kai, providing inanga, mohooa, kanae, tuna, kākahi and koura.</u></p> <p><u>Tāngata whenua of the region have advised that the Wairoa River has outstanding cultural and spiritual values. **</u></p>		
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Outstanding Water Bodies Plan Change
Plan Change 7: Regional Resource Management Plan
Section 32 Evaluation Report

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Attachment 2



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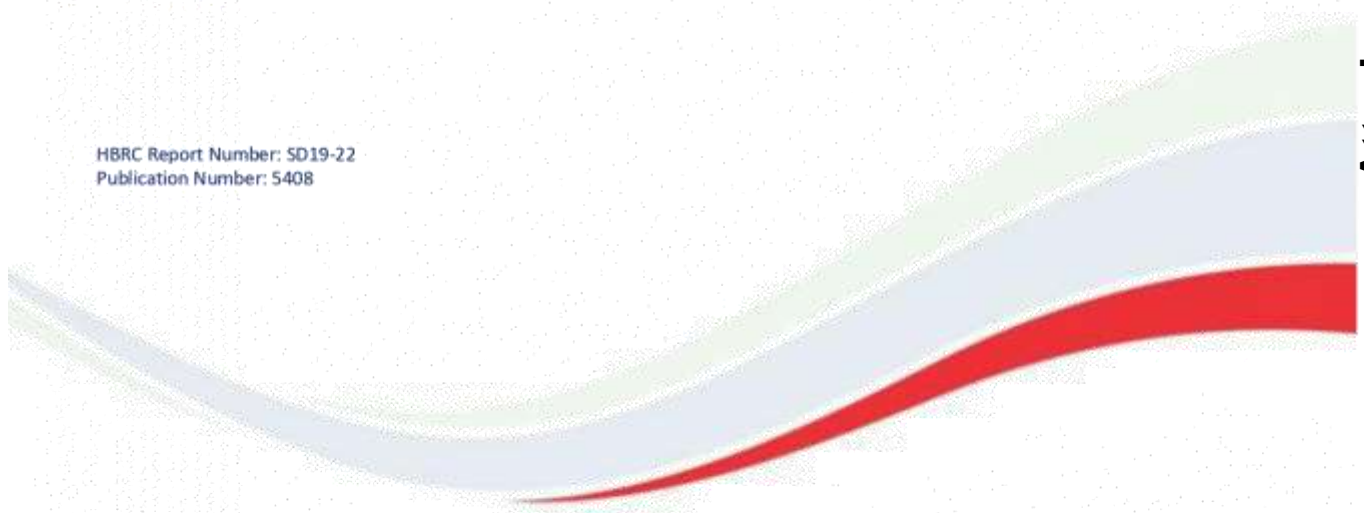
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Outstanding Water Bodies Plan Change

Plan Change 7: Regional Resource Management Plan

Section 32 Evaluation Report

HBRC Report Number: SD19-22
 Publication Number: 5408



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31 July 2019

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Common abbreviations used in this report

CEF OFWB Project	Community Environment Fund Outstanding Freshwater Body Project
CHANGE 5	Change 5 to the Hawke's Bay Regional Resource Management Plan (Land use and freshwater management)
HBRC	Hawke's Bay Regional Council
OWB	Outstanding Water Bodies
OFWB	Outstanding Fresh Water Bodies
MfE	Ministry for the Environment
NPS	National Policy Statement
NPSFM	National Policy Statement for Freshwater Management
NZCPS	New Zealand Coastal Policy Statement 2010
RPC	Regional Planning Committee
RPS	Regional Policy Statement
RRMP	Regional Resource Management Plan
RCEP	Regional Coastal Environment Plan
RMA	Resource Management Act 1991

INTRODUCTION

Overview

1. This report sets out a summary of the evaluation behind Hawke's Bay Regional Council's (HBRC) decision to add new provisions relating to outstanding water bodies (OWB) into the Hawke's Bay Regional Policy Statement.
2. The proposed changes will see a list of outstanding water bodies inserted into the RPS, together with a framework which prescribes a high level of protection for these water bodies moving forward. It is one of a series of plan changes which is currently being undertaken to implement the NPSFM.

Purpose of this report

3. This report meets the Hawke's Bay Regional Council's requirements under the Resource Management Act 1991 (RMA) to document the way that it has evaluated the provisions included in Plan Change 7. This report is based on all of the information that was available to Council during the development of the plan change.
4. In accordance with Section 32 of the RMA this report is an the evaluation of the provisions that Council has carried out to determine whether they are the 'most appropriate' to achieve the purpose of the Act, the objectives in the Plan Change and the NPSFM.
5. The level of detail in this report corresponds to the scale and significance of the effects anticipated from the implementation of Plan Change 7. This report does not purport to be the comprehensive record of all evaluations, Council discussions, stakeholder meetings and assessments undertaken in the course of preparing Plan Change 7. Further detailed evaluation of Plan Change 7's provisions and their preparation can be found in the numerous reports which made up the various Council meeting agendas (and subsequent minutes¹), expert reports, publications, and other reports prepared for Council by consultants and staff.

What is a section 32 evaluation report?

6. Section 32 of the RMA places a duty on councils where before a proposed plan change is publicly notified an evaluation must be carried out which examines:
 - *the extent to which each objective in Plan Change 7 is the most appropriate way to achieve the purpose of the Act, and*
 - *identification of other reasonably practicable options for achieving the objectives, and*
 - *the efficiency and effectiveness of the provisions in achieving Plan Change 7's objectives.*
7. The above evaluation must identify and assess:
 - *the benefits and costs that are anticipated from implementing the provisions*
 - *any uncertainty – the risk of acting or not acting if there is uncertainty or insufficient information about the subject matter of the provisions.*
8. The s32 Evaluation report must also summarise:
 - *all advice concerning the proposal received from iwi authorities*
 - *the response to the advice, including any provisions of the proposal that are intended to give effect to the advice.*
9. For the purposes of the evaluation:
 - **Appropriateness** means the suitability of any particular provision. For objectives in the plan change, appropriateness is measured against achieving the purpose of the RMA. For the other provisions, appropriateness is measured against achieving the objectives in the plan.

¹ And many of the video-recorded proceedings of relevant Committee and Council meetings can also be viewed online at [HBRC's webcasting Youtube channel](#).

- Getting a measure of **effectiveness** involves assessing how well the provisions will work towards achieving the objectives in the plan, and how successful they are likely to be in solving the problem they were designed to address.
- Determining **efficiency** involves an examination of benefits and costs. A measure of efficiency is the extent to which the provisions achieve the objectives, compared to the magnitude of what is foregone as a result of using the provisions. This includes opportunities for economic growth and employment that are anticipated to be provided or reduced.

Evaluation of benefits and costs

10. **Section 32(2)(a)** requires the evaluation to identify and assess the benefits and costs² of the environmental, economic, social and cultural effects that are anticipated from implementing the provisions in proposed Plan Change 7. When evaluating the efficiency and effectiveness of Plan Change 7's provisions, the benefits and costs are categorised as follows:
 - **Environmental** – being those benefits and costs that fall upon ecosystems and their constituent parts, natural and physical resources, and the conditions associated with these.
 - **Economic** – being those benefits and costs that accrue to the productive economy.
 - **Social** – being those benefits and costs that fall on people and the community.
 - **Cultural** – being those benefits and costs that fall on the relationship between people and their cultural heritage

Uncertainty or Insufficient Information

11. **Section 32(2)(c)** requires the evaluation to assess the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the policies, rule or other methods.
12. It is considered that the information available to Council is sufficient to provide a basis for its decision to notify Proposed Plan Change 7. Notwithstanding, it is recognised there is uncertainty and/or insufficient information in relation to the following matters:
 - Values that can potentially make a water body outstanding for NPSFM purposes (see paragraph 72)
 - What is an outstanding water body (see paragraphs 62 to 68)
 - List of outstanding water bodies in Proposed Plan Change 7 (see paragraphs 99 to 104).
13. While there will be increased interest in the Proposed Plan Change 7 process due to the uncertainty and/or insufficient information in relation to the matters identified above, on balance the risk of not acting or delaying Plan Change 7 is high. Freshwater is one of Hawke's Bay's most precious natural resources, and delaying the OWB plan change will further delay the implementation of the NPSFM and an overall improvement of the region's resources.
14. In any event, there are opportunities to further modify proposed provisions in Plan Change 7 during the formal submission and hearing stages in accordance with Schedule 1 of the RMA.

The risk of not acting

15. The risk of not acting at all means that there is no assurance for the community, that those special and exceptional water bodies within the region will be protected and provided for in the future. It cannot be assumed that because a water body is outstanding today that it will still be outstanding in 10 years, particularly if an appropriate protection and management regime is not in place.
16. Additionally, the Council will not give effect to the NPSFM OWB provisions, or meet its requirements set out in the RPS which requires outstanding water bodies within the region to be identified and a plan change notified prior to the next catchment based plan change.
17. Should an OWB Plan Change not be progressed, all future catchment based plan changes will be potentially subject to a judicial review, which could result in additional costs and significant delays towards the improvement of water bodies within the region in accordance with other requirements in the NPSFM.

² Section 32(2)(b) also says that if practicable, quantify the benefits and costs referred to in s32(2)(a), but quantification is not mandatory.

Purpose of Plan Change 7

18. Plan Change 7 makes changes to the RRMP, (particularly the RPS parts of that plan) to include a list of the region's outstanding water bodies, together with a framework which directs a high level of protection for these water bodies in future plan making under the RMA. However, it is not the purpose of Plan Change 7 to enhance characteristics of a waterbody so that values of that waterbody become outstanding, or to improve them further if they are already outstanding.
19. The HBRC is tasked with ensuring all water bodies within the region are managed wisely. Plan Change 7 is just one in a series of workstreams which are currently being undertaken by HBRC to progressively implement the NPSFM and ensure that water is available for the use and enjoyment of everyone in the region, including tangata whenua, now and for future generations. Specifically, Plan Change 7 proposes to:
 - a) Identify a list of outstanding water bodies in Hawke's Bay, being those water bodies (including estuaries) which contain an outstanding cultural, spiritual, recreation, landscape, geological, natural character or ecology value(s).
 - b) Insert a policy framework which directs a high level of protection for all outstanding water bodies within Hawke's Bay.
 - c) Provide guidance and direction to future catchment based freshwater planning processes, and respective local community discussions, to ensure future rules for outstanding water bodies are developed in a manner which protects their significant values.
 - d) Provide flexibility by not specifying exactly how the significant values associated with each OWB should be protected. Future catchment based planning will determine this in consultation with the community.
 - e) Enable future catchment based planning processes, and respective community discussions, to identify the significant values for each of the outstanding water bodies identified by Plan Change 7.
 - f) Provide guidance and direction to Hawke's Bay Regional Council when making decisions on future activities near outstanding water bodies
 - g) Assist with the implementation of the NPSFM which contains certain requirements regarding OWB.
 - h) Partly assist with the implementation of the NZCPS which seeks to avoid the adverse effects on natural character and outstanding natural features and natural landscapes in the coastal environment.

Location of the Outstanding Water Bodies (Proposed Plan Change 7)

20. Figure 1 sets out the indicative location of each of the outstanding water bodies identified within Plan Change 7.



Figure 1: Indicative locations of outstanding water bodies - Proposed Plan Change 7

STATUTORY CONTEXT

What is the Statutory Context of Plan Change 7

21. Proposed Plan Change 7 is a proposed change to the Hawke's Bay Regional Resource Management Plan, particularly the regional policy statement parts of that plan.
22. Regional Policy Statements are distinct from regional and district plans, and the regional council's role is different when preparing a RPS as opposed to a regional plan. Section 62(1) of the RMA sets out the contents of RPS, while sections 67 and 75 of the RMA sets out the contents of regional and district plans, respectively.
23. Figure 2 sets out the RPS's position in the context of other plans and documents under the RMA.

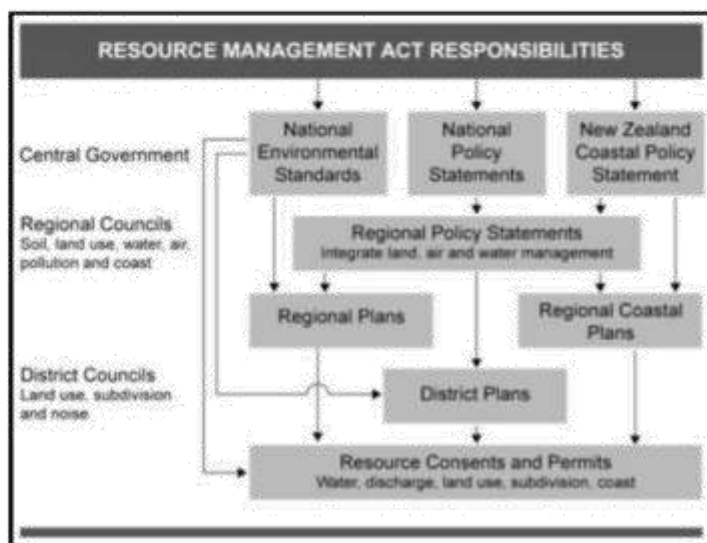


Figure 2 – RPS's position in the context of other key plans and other documents under RMA

National Policy Statements

24. The Government has released a number of National Policy Statements over the last 10 years. Of most relevance to Plan Change 7 is the NPS for Freshwater Management (NPSFM), and the New Zealand Coastal Policy Statement (NZCPS), which are discussed in more detail below.
25. The RMA requires regional councils to amend regional policy statements (and regional plans) to give effect to NPSs. NPSs will commonly state required outcomes, but not specify exactly how policy statements and plans need to be amended to reach each outcome. That is for each regional community to determine for themselves.
26. In 2014, the Supreme Court³ refined the role that Part 2 of the RMA plays in decision making process for changes to regional policy statements and regional plans. The Supreme Court found that policy-makers are acting "in accordance with" Part 2 when preparing and changing higher-order planning documents⁴. The only need to refer back to Part 2 is when the relevant planning document is invalid, incomplete or uncertain.⁵

³ *Environmental Defence Society Inc. v The New Zealand King Salmon Co Ltd* [2014] NZSC 38, [2014] 1 NZLR 593 (*King Salmon*)

⁴ In that instance, the New Zealand Coastal Policy Statement (NZCPS))

⁵ *RJ Davidson Family Trust v Marlborough District Council* (2017) NZEnvC124 at [17]

National Policy Statement for Freshwater Management

27. In July 2011, the Government's National Policy Statement for Freshwater Management came into effect. It was updated and replaced in 2014, and amended further in 2017.
28. The NPSFM signalled a new direction for the management of freshwater resources in New Zealand, with one of the key areas of direction being the protection of outstanding freshwater bodies.
29. The relevant provisions in the NPSFM which relate to OFWB are detailed in Table 1, below.

Table 1: NPSFM OFWB provisions

NPSFM OFWB provisions		
Interpretation	Outstanding Freshwater Bodies	"Outstanding freshwater bodies" are those water bodies identified in a regional policy statement or regional plan as having outstanding values, including ecological, landscape, recreational and spiritual values.
Section A: Water Quality	Objective A2	The overall quality of fresh water within a freshwater management unit is maintained or improved while: a) protecting the significant values of outstanding freshwater bodies; b) protecting the significant values of wetlands; and c) improving the quality of fresh water in water bodies that have been degraded by human activities to the point of being over-allocated.
Section B: Water quantity	Objective B4	To protect significant values of wetlands and of outstanding freshwater bodies.

30. Objective A2 recognises that maintaining or improving all aspects of water quality everywhere may not be possible or desirable, economically or socially, and allows for some variability in water quality as long as the overall water quality within an freshwater management unit is maintained or improved.
31. The guide to the NPSFM⁶ provides some additional context around Objective A2, stating "*protecting the significant values of outstanding water bodies sets a high standard for managing outstanding water bodies. In practice, once a water body has been identified as outstanding, adverse effects on the significant values of the water body may need to be avoided in some instances to provide for those values.*"
32. The guidance document goes to say that Objective A2 "*implies that while some degradation of some aspects of water quality (offset by a proportionate improvement to ensure overall quality is maintained or improved) is allowable, that degradation cannot be at the expense of the significant values associated with an outstanding freshwater body.*"
33. The guidance document further states Objective A2 "*does not require that every aspect of the water body is fully protected, unless that is necessary to protect the outstanding characteristics. For example a water body may be outstanding because it is the habitat for an endemic freshwater fish, but protecting that fish may be possible even if some water takes and discharges are authorised*".
34. The guide also says that "*depending on the values of the wetland or outstanding freshwater body, limit-setting alone may not be enough to protect the significant values of the wetland or outstanding freshwater body. Other measures to address water quality (including non-regulatory measures) may be required*".
35. Guidance provided for Objective A2 on protecting the significant values of outstanding freshwater bodies is relevant for Objective B4.

New Zealand Coastal Policy Statement (2010)

36. The New Zealand Coastal Policy Statement (NZCPS) sets out objectives and policies to manage the coastal environment.
37. There is no requirement in the NZCPS (nor NPSFM) to identify outstanding coastal waterbodies, nevertheless, it does contain provisions directing the protection of outstanding natural character, natural features and natural landscapes of the coastal environment from inappropriate subdivision, use and development. Furthermore, the NZCPS also contains requirements to maintain coastal water quality (Objective 1) consider the effects of activities on coastal water (Policies 4 and 5), and improve deteriorated

⁶ Ministry for the Environment, 2017, *A Guide to the National Policy Statement for Freshwater Management 2014 (as amended 2017)*.

coastal water quality (Policy 21).

38. The provisions in the NZCPS which are relevant to Plan Change 7 are detailed in Table 2, below. For clarification, Plan Change 7 gives partial effect to these policies where relevant to the identification of outstanding values for the purposes of Plan Change 7. Plan Change 7 does not seek to fully implement these policies which will be done through a review of the Regional Coastal Environment Plan as part of HBRC's future RMA planning work programme. Identifying and incorporating a policy framework for protecting outstanding waterbodies in the coastal environment coastal water bodies would at least meet or probably exceed the level of protection required by the NZCPS.

Table 2: NZCPS Relevant provisions - outstanding values (underlining emphasis added)

NZCPS provisions - outstanding values	
Objective 1	<p>To safeguard the integrity, form, functioning and resilience of the coastal environment and sustain its ecosystems, including marine and intertidal areas, estuaries, dunes and land, by:</p> <ul style="list-style-type: none"> maintaining or enhancing natural biological and physical processes in the coastal environment and recognising their dynamic, complex and interdependent nature; protecting representative or significant natural ecosystems and sites of biological importance and maintaining the diversity of New Zealand's indigenous coastal flora and fauna; and maintaining coastal water quality, and enhancing it where it has deteriorated from what would otherwise be its natural condition, with significant adverse effects on ecology and habitat, because of discharges associated with human activity.
Objective 2	<p>To preserve the natural character of the coastal environment and protect natural features and landscape values through:</p> <ul style="list-style-type: none"> recognising the characteristics and qualities that contribute to natural character, natural features and landscape values and their location and distribution; identifying those areas where various forms of subdivision, use, and development would be inappropriate and protecting them from such activities; and encouraging restoration of the coastal environment.
Policy 4 Integration	<p>Provide for the integrated management of natural and physical resources in the coastal environment, and activities that affect the coastal environment. This requires:</p> <p>(a) <u>co-ordinated management or control of activities within the coastal environment, and which could cross administrative boundaries, particularly:</u></p> <ul style="list-style-type: none"> (i) the local authority boundary between the coastal marine area and land; (ii) local authority boundaries within the coastal environment, both within the coastal marine area and on land; and (iii) where hapū or iwi boundaries or rohe cross local authority boundaries; <p>(b) working collaboratively with other bodies and agencies with responsibilities and functions relevant to resource management, such as where land or waters are held or managed for conservation purposes; and</p> <p>(c) particular consideration of situations where:</p> <ul style="list-style-type: none"> (i) subdivision, use, or development and its effects above or below the line of mean high water springs will require, or is likely to result in, associated use or development that crosses the line of mean high water springs; or (ii) public use and enjoyment of public space in the coastal environment is affected, or is likely to be affected; or (iii) development or land management practices may be affected by physical changes to the coastal environment or potential inundation from coastal hazards, including as a result of climate change; or (iv) <u>land use activities affect, or are likely to affect, water quality in the coastal environment and marine ecosystems through increasing sedimentation; or</u> (v) significant adverse cumulative effects are occurring, or can be anticipated.
Policy 11 Indigenous biological diversity	<p>To protect indigenous biological diversity in the coastal environment</p> <p>a. avoid adverse effects of activities on:</p> <ul style="list-style-type: none"> i. indigenous taxa that are listed as threatened or at risk in the New Zealand Threat Classification System lists; ii. taxa that are listed by the International Union for Conservation of Nature and Natural Resources as threatened; iii. indigenous ecosystems and vegetation types that are threatened in the coastal environment, or are naturally rare; iv. habitats of indigenous species where the species are at the limit of their natural range, or are naturally rare;

	<ul style="list-style-type: none"> v. areas containing nationally significant examples of indigenous community types; and vi. areas set aside for full or partial protection of indigenous biological diversity under other legislation; and <p>b. avoid significant adverse effects and avoid, remedy or mitigate other adverse effects of activities on:</p> <ul style="list-style-type: none"> i. areas of predominantly indigenous vegetation in the coastal environment; ii. habitats in the coastal environment that are important during the vulnerable life stages of indigenous species; iii. indigenous ecosystems and habitats that are only found in the coastal environment and are particularly vulnerable to modification, including estuaries, lagoons, coastal wetlands, dunelands, intertidal zones, rocky reef systems, eelgrass and saltmarsh; iv. habitats of indigenous species in the coastal environment that are important for recreational, commercial, traditional or cultural purposes; v. habitats, including areas and routes, important to migratory species; and vi. ecological corridors, and areas important for linking or maintaining biological values identified under this policy.
Policy 13 Preservation of natural character	<p>To preserve the natural character of the coastal environment and to protect it from inappropriate subdivision, use, and development:</p> <ul style="list-style-type: none"> (a) <u>avoid adverse effects of activities on natural character in areas of the coastal environment with outstanding natural character; and</u> (b) avoid significant adverse effects and avoid, remedy or mitigate other adverse effects of activities on natural character in all other areas of the coastal environment; <p>including by:</p> <ul style="list-style-type: none"> (c) assessing the natural character of the coastal environment of the region or district, by mapping or otherwise identifying at least areas of high natural character; and (d) ensuring that regional policy statements, and plans, identify areas where preserving natural character requires objectives, policies and rules, and include those provisions.
Policy 15 Natural features and natural landscapes	<p>To protect the natural features and natural landscapes (including seascapes) of the coastal environment from inappropriate subdivision, use, and development:</p> <ul style="list-style-type: none"> (a) <u>avoid adverse effects of activities on outstanding natural features and outstanding natural landscapes in the coastal environment; and</u> (b) avoid significant adverse effects and avoid, remedy, or mitigate other adverse effects of activities on other natural features and natural landscapes in the coastal environment; <p>including by:</p> <ul style="list-style-type: none"> (c) identifying and assessing the natural features and natural landscapes of the coastal environment of the region or district, at minimum by land typing, soil characterisation and landscape characterisation and having regard to: <ul style="list-style-type: none"> (i) natural science factors, including geological, topographical, ecological and dynamic components; (ii) the presence of water including in seas, lakes, rivers and streams; (iii) legibility or expressiveness—how obviously the feature or landscape demonstrates its formative processes; (iv) aesthetic values including memorability and naturalness; (v) vegetation (native and exotic); transient values, including presence of wildlife or other values at certain times of the day or year; (vi) whether the values are shared and recognised; (vii) cultural and spiritual values for tangata whenua, identified by working, as far as practicable, in accordance with tikanga Māori; including their expression as cultural landscapes and features; (ix) historical and heritage associations; and (x) wild or scenic values; (d) ensuring that regional policy statements, and plans, map or otherwise identify areas where the protection of natural features and natural landscapes requires objectives, policies and rules; and (e) including the objectives, policies and rules required by (d) in plans.
Policy 17 Historic heritage identification and protection	<p>Protect historic heritage in the coastal environment from inappropriate subdivision, use, and development.</p> <ul style="list-style-type: none"> (a)

Hawke's Bay Regional Policy Statement

39. Regional policy statements are high level documents prepared by regional councils for their region under Section 60 of the RMA.
40. In simple terms, an RPS provides high level direction for resource management within the region in the form of objectives, policies and methods, and is relevant to both territorial authority and regional council functions. The RPS does not contain rules and therefore it does not control activities and their effects directly. That control is exercised through regional and district plans which following the direction set in the RPS.
41. While a RPS does not contain rules, it does identify objectives and policies to achieve specific outcomes, for example:
- State that the significant values of outstanding water bodies must be protected. This means for example, when considering consent applications the council must have regard to the effects of the activity on the significant values of an OWB in their decision making, amongst many other matters.
 - Set out specific processes that must be followed when undertaking certain activities in the region relating to the control and use of land i.e.: catchment management plans must be developed in a manner which protects the significant values of outstanding water bodies amongst many other matters.
42. The RPS can set out a regional approach to address issues, and/or sub-regional approaches, depending on the issue needing to be managed. It is an important planning tool to assist in cross boundary consistency as both regional and district plans must give effect to the RPS for their region, and consent authorities must have regard to relevant provisions within a RPS when considering an application for resource consent.

PROJECT TIMELINE AND INFORMATION BASE

43. In the course of reviewing the outstanding water body provisions within NPSFM and the Regional Resource Management Plan, the CEF OFWB project a number of reports and investigations undertaken by HBRC to gain further information about the NPSFM OFWB provisions and OWB in Hawke's Bay.
44. The key pieces of work discussed below are listed in Appendix 1. It should be noted that this is list of the key documents used to inform Plan Change 7, it is not a comprehensive list of all documents referred to during the evaluation of Plan Change.
45. During the course of preparing the plan change, Council has invited feedback and offered to meet with key stakeholders, iwi authorities, city and district councils and the general public on a number of occasions and at various phases of the project. This has given these groups an opportunity to find out more information about those water bodies with outstanding values within the region, and provide input into actions Council could take to assist the region in protecting the significant values of these water bodies.

Project timeline and information base

46. The following table sets out a summary of the Plan Change 7 development timeline, and associated key pieces of work used to inform the plan change.

Table 3: Project timeline & Information base**Plan Change 5**

Aug 2012	Draft Change 5 released for informal public comment. The following water bodies and coastal areas were identified in Draft Change 5 as outstanding.	
	<u>Outstanding freshwater bodies</u>	<u>Outstanding coastal areas</u>
	<ul style="list-style-type: none"> • Lake Waikareiti • Lake Waikaremoana • Mohaka River catchment above 'Willowflat' • Ngaruroro River, Taruarau River and their tributaries above Whanawhana cableway. 	<ul style="list-style-type: none"> • Ahuriri Estuary • Maungawhio Lagoon • Porangahau Estuary • Whakaki Lagoon, Ngamotu Lagoon, Ohuia Lagoon, Wairau Lagoon and Te Paeroa Lagoon.
Aug 2012	Comments on Draft Change 5 supported the identification of OWB however, there were some concerns raised over the subjective nature of outstanding.	

Sept 2012	Council removes the list of outstanding freshwater bodies, and outstanding coastal areas, from Draft Change 5 and commits to a standalone OWB Plan Change.
Oct 2012	Plan Change 5 publicly notified, without a list of OWB.
Nov 2012	Submissions received on Plan Change 5 request various waterbodies across the region be identified as outstanding.
July 2013	Appeals lodged on Plan Change 5 in respect to a number of matters, including the OWB provisions.
Mar 2014	Mediated agreement between HBRC and Appellants. Change 5 amended to incorporate a new policy committing to the identification of outstanding water bodies prior to the next catchment based plan change.

Community Environment Fund (CEF) – Outstanding Water Bodies Project

Oct 2014	Literature Review 2: Determining Outstanding Values Throughout New Zealand ⁷ – A review of studies and investigations which have been undertaken to specifically determine outstanding values throughout New Zealand.
July 2015	HBRC forms a project group with Auckland Council and the Ministry for the Environment to provide clarity around the intent of the NPSFM's OFWB provisions, and develop a set of criteria for identifying OFWB's across New Zealand. CEF Outstanding Freshwater Bodies Project commences
Dec 2015	Literature Review 1: Intent of the NPSFM OFWB provisions (Literature Review 1 examined existing literature ⁸ produced over the last seven years to inform the development of the NPSFM)
Dec 2015	Expert group convened to identify a set of 'outstanding' criteria and thresholds which could be used to identify those water bodies which contain outstanding economic, cultural, environmental and social values
Jan 2016	Legal Opinion – NPSFM OFWB provisions
May 2016	Technical Advisory Group Reports: <ul style="list-style-type: none"> - Identification of New Zealand Freshwater bodies with outstanding economic value - Outstanding Freshwater Bodies – sensory /visual values - Proposed Mana Whenua values attributes and measures for Outstanding Freshwater bodies - Outstanding Freshwater Body assessment criteria and assessment methodology: Recreation values - Ecological values Outstanding Freshwater Bodies
Aug 2016	International Literature Review: Notable criteria and thresholds used internationally which could be used to assist with the identification of New Zealand's outstanding freshwater bodies as per the NPSFM.
Aug 2016	Water Conservation Order Review: wildlife, native fish, angling value sets and boating value sets.
Nov 2016	The Outstanding Freshwater Bodies Think Piece
Feb 2017	Expert workshop at Ministry for the Environment offices. Experts were present from all value sets with the aim to assist with the development of guidance that to identify outstanding freshwater bodies across New Zealand.
May 2017	CEF Outstanding Freshwater Body Project: Final Project Report.

Hawke's Bay Outstanding Water Body Plan Change (Plan Change 7)

Mar 2017	Draft project plan put forward for the identification of OFWB in Hawke's Bay. Based on CEF project findings – using previously accepted criteria and thresholds used in case law, water conservation orders or internationally accepted literature such as RAMSAR. Staged approach proposed, with Parts 1 and 2 identifying those OFWB which are clearly outstanding, and Part 3 undertaken at a later date to fill in any information gaps and pick up borderline OFWBs not identified via Parts 1 and 2. Draft project plan was not adopted by the RPC and staff were requested to prepare a revised proposal based on the RPC's preferences.
June 2017	An approach to identify OWB in Hawke's Bay is co-designed with the tāngata whenua representatives of the RPC. Revised project plan adopted by RPC. Scope of the OWB plan change amended to allow the inclusion of coastal areas, in particular estuaries which potentially have a number of outstanding features.
Dec 2017	Table C1 - Cultural Values Table: Cultural and Spiritual values associated with 130 water bodies across the region (high level review of 90 publications).
Dec 17 – Mar 18	Feedback received from iwi authorities Table C1 – Cultural Values Table
Mar 2018	Recreational, Landscape and Ecology Values Table: Recreation, natural character, landscape and ecology values associated with 62 water bodies across the region.
Mar 2018	RPC identify a list of 14 water bodies as being potentially outstanding for the recreational, natural character, landscape and ecology value set (candidate outstanding water bodies) Te Whanganui a Orotū (Ahuriri Estuary), Upper Mōhaka River (above Te Hoe River), Lake Waikaremoana, Upper Ngaruroro River (above Whanawhana), Taruarau River, Ruakituri River, Lake Whakakō, Mangahauanga Stream, Wairoa River, Heretaunga Aquifer, Ruataniwha Aquifer, Lake Whaturna, Tukituki River, Waipawa River, Waipunga River.
May 2018	RPC Tangata Whenua Representatives Hui on OWB. Shortlisting of water bodies potentially outstanding for the cultural and spiritual value set.
May 2018	RPC agree on a short list of 21 water bodies as being potentially outstanding for the cultural and spiritual value set (the 14 water bodies identified above + Makirikiri Stream, Lake Waikareiti, Karamū River, Pōrangahau River, Lower Ngaruroro River (below Whanawhana), Lake Tūtira (including Papakiri Stream, Waikoau River/ Aropaoanui River).
June 2018	Secondary assessments for each of the 21 candidate outstanding water bodies completed. This was done to build a clearer picture of the values associated with each water body and the potential for being classified as outstanding.

⁷ Report remains in draft form.

⁸ Including section 32 reports, briefing papers and cabinet papers.

Aug 2018	27 iwi authorities provided with the secondary assessments and invitation to provide comments on those assessments.
Aug 2018	RPC agreed to adding an additional water body as being potentially outstanding for the cultural and spiritual value set (Tūtaekuri River), bringing the number of candidate OWB to 22.
Aug 2018	A feedback form placed on the OWB webpage inviting comments from the general public.
Sept 2018	Meetings held with key stakeholders and Territorial Authorities.
Feb 2019	Two local expert panel workshops take place to consider the 22 candidate outstanding water bodies identified by the RPC, and the 20 water bodies, for all value sets. nominated by feedback (being Waihua River, Ngamatea East Swamp Boundary Stream, including Shine Falls, Nuhaka River, Kaweka and Ruahine Ranges wetlands, Opoutama Swamp, Kaweka Lakes (Lake Rototuna and Lake Rotorua), Porangahau Estuary, Lake Poukawa and Pekapeka Swamp Tarawera Hot Pools, Lake Whakaki - Te Paeroa Lagoon - Wairau Lagoon: interconnected wetland complex, Te Hoe River, Putere Lakes, Waitangi Estuary, Lower Mohaka River (below Willowflat), Waikaretaheke River, Maungawhio Lagoon, Waiau River, Moreere Hot Springs, Lower Ngaruroro River. Local expert panel discuss and identify those water bodies which best represent each value set in Hawke's Bay, and a list of outstanding water bodies. <ul style="list-style-type: none"> - Local expert panellists⁹ were nominated from key stakeholder groups and iwi authorities in Hawke's Bay - Key stakeholder groups, general public and iwi authorities were invited to nominate additional water bodies, and sections of water bodies, for consideration by the local expert panel
March 2019	Meetings held with iwi authorities
May 2019	Based on a recommendation from the RPC, Draft Plan Change 7 is adopted by Council for pre-notification consultation. A total of 43 water bodies, sections of water bodies or combined water bodies, are identified as outstanding water bodies for NPSFM purposes.
3 July 2019	Council's RPC gives particular regard to feedback received during the pre-notification consultation period and staff recommend amendments to Draft Plan Change 7.
3 July 2019	Council's RPC make recommendations to Council that Draft Plan Change 7 is adopted as Proposed Plan Change 7, together with an extended 6 month formal submission process.
31 July 2019	Council adopts Draft Plan Change 7, as Proposed Plan Change 7 for notification.

RECORD OF THE DEVELOPMENT PROCESS OF PLAN CHANGE 7

47. The following section sets out a summary of the key aspects of the Plan Change 7 development process. More detailed information can be found in the background documents listed in Appendix 1.
48. In accordance with Section 32(2)(c) this section discusses areas of Plan Change 7 where there is uncertain or insufficient information and the subsequent decisions made by the RPC in light of these uncertainties in order to progress Plan Change 7.

Record of development process (May 2011 – Sept. 2014)

49. In 2011, the Government released the NPSFM to help drive national consistency in freshwater planning. Soon after, the Council began work on a change to the RPS to implement the new direction for freshwater management contained in the NPSFM (Plan Change 5). Part of this approach involved preliminary identification of outstanding water bodies in Hawke's Bay.
50. In 2012, a draft version of Plan Change 5 was released for public comment containing provisions relating to the integrated management of water and land, along with a list of outstanding freshwater bodies and outstanding areas within the coastal environment.
51. Comments received on Change 5 indicated a high level of support of the identification of outstanding water bodies in Hawke's Bay. However, concerns were raised regarding the subjective nature of outstanding and the list of OWB. After carefully considering the written feedback, the proposed version of Plan Change 5 as publicly notified did not feature a list of OWBs. Instead a standalone OWB plan change was added into HBRC's NPSFM implementation work programme.
52. A number of submitters expressed concern at the removal of list of OWB from Proposed Plan Change 5, and subsequently lodged appeals with the Environment Court, citing concerns the identification of OWBs in Hawke's Bay would not be progressed.
53. In 2013, to alleviate concerns that an OWB Plan would not be progressed, the Environment Court included a new policy in Plan Change 5 directing that an OWB plan change to be notified prior to the next catchment

⁹ Morry Black, Andrew Curtis, Tom Winlove, Bernie Kelly, Matthew Brady, John Cheyne.

based management plan.¹⁰

Record of development process (Oct. 2014 – Feb. 2017)

54. In 2014, HBRC began preparatory work to inform a region wide OWB Plan Change. Between 2014 and 2017 Hawke's Bay Regional Council worked with the Ministry of the Environment and Auckland Council on an outstanding freshwater body project at a national level. Key aspects of this project were as follows:
- Confirmation of the intent of the NPSFM OFWB provisions. This involved a review of the existing literature produced over the last seven years to inform the development of the NPSFM, with a specific focus on the outstanding freshwater body (OFWB) provisions¹¹.
 - Development of a set of criteria and thresholds that could be used across the country to identify outstanding water bodies for NPSFM purposes. This involved a review of relevant investigations and studies which have been undertaken to specifically determine outstanding values throughout New Zealand¹².
55. Despite the OFWB project being unsuccessful in identifying a full set of criteria and thresholds that could be used to identify a list of OWB across New Zealand, the project successfully made some conclusions summarised as follows:
- Case law, water conservation orders and international literature (e.g. Ramsar) contain a number of previously accepted 'outstanding' thresholds. While, the thresholds are high and in many cases may exceed an 'appropriate' outstanding threshold for the NPSFM purposes, this would allow councils to partly progress the issue, and quickly identify and protect outstanding water bodies which would result in little challenge.
 - Being outstanding is a high test. The term 'outstanding' distinguishes something from others based on its exceptional qualities and is typically used to describe the 'best of the best'.
 - An outstanding value has a higher threshold than a significant value. An outstanding value will always be significant, but a significant value will not necessary be outstanding
 - A water body needs to have at least one outstanding value before qualifying as an OFWB under the NPSFM. A sum of two or more significant values is not enough to qualify the water body as outstanding.
 - While various documents underpinning the NPSFM's development appear to have never intended that economic and consumptive use values be classed as outstanding, the current wording of the NPSFM does seem to allow economic and consumptive use value such as such as tourism, irrigation or energy to potentially be classed as outstanding if a Council choose to do so.
 - A water body can only be reviewed in the context of its present condition, its 'outstanding-ness' cannot be assessed on its past condition or its potential value.
56. The full set of findings can be found in the Community Environment Fund: Outstanding Water Body Project – Final Report.

Record of development process (March 2017 – June 2017)

57. In 2017, following completion of the CEF OFWB project, the Council began developing an OWB plan change process for Hawke's Bay, giving particular consideration to the following matters:
- the most appropriate way to identify a list of OWB in Hawke's Bay (paragraphs 59 to 61)
 - the intent of a number of the NPSFM OWB provisions (paragraphs 69 to 72)
 - the most appropriate objectives, policies and/or rules and methods for inclusion in Plan Change 7 (Tables 18 and 19)
58. For clarification, paragraphs 59 to 107 focus on the development process undertaken to identify a list of

¹⁰ Refer RRMP Policy LW1A, an exception being a plan change for the Mohaka catchment.

¹¹ Riley B; 2015; *Criteria and methodology for determining outstanding freshwater bodies*; Literature Review One (intent of the NPSFM), Part One: Stocktake; and Riley B; 2015; *Criteria and methodology for determining outstanding freshwater bodies*; Literature Review One (intent of the NPSFM), Part Two: Summary report;

¹² Harper B; *Criteria and methodology for determining outstanding freshwater bodies*; Literature Review Two: outstanding values used in past publications (DRAFT), (HBRC Publication Number SD19-27)

OWB in Hawke's Bay. The evaluation of the alternatives to Plan Change 7, and the provisions in Plan Change 7, are discussed in detail in Tables 17, 18 and 19.

Identifying a list of outstanding water bodies in Hawke's Bay

59. The following five approaches were considered by the Council's RPC in terms of a suitable response to identifying outstanding water bodies in Hawke's Bay (see Table 4).

Table 4: Identifying a list of OWB in Hawke's Bay: Principal approaches considered by RPC

Principal approaches: Identifying OWB in Hawke's Bay	
Approach 1	Status quo (no identification of OWB in Hawke's Bay). The identification of OWBs would occur during future catchment planning processes on an ad-hoc basis.
Approach 2	A staged approach (Part 1, Part 2, Part 3) to identify OWB in Hawke's Bay. Parts 1 and 2 progressed CEF OFWB project findings and continued developing a set of previously accepted criteria and thresholds to identify water bodies in Hawke Bay which are clearly outstanding. Part 3 to be progressed after notification of Parts 1 and 2, to fill any information gaps and pick up the borderline and less obvious outstanding water bodies in Hawke's Bay. Part 3 looked to develop criteria and thresholds for the newer and more contentious values if required.
Approach 3	Resolution by HBRC that no/all water bodies are outstanding in Hawke's Bay
Approach 4	A comprehensive review approach to identify OWB in Hawke's Bay. A high level review of 130 water bodies using existing literature (no new studies), then short list of water bodies most likely to contain outstanding values (candidate OWB), secondary assessment of candidate OWB, consultation, determination of OWB in Hawke's Bay by RPC members based on information collected through this process (i.e. criteria and thresholds not used).
Approach 5	A short list approach to identify OWB in Hawke's Bay. Creation of a short list of water bodies most likely to contain outstanding values (candidate OWB) based on an early draft version of Change 5 (ten water bodies) and any others agreed by RPC. Secondary assessments of candidate OWB, consultation, determination of OWB in Hawke's Bay by RPC members based on information collected through this process (no high level review of 130 water bodies in the region, and criteria and thresholds not used).

60. In June 2017, after considering the approaches set out in Table 4, the Council endorsed Approach 4 which was co-designed with the RPC tāngata whenua representatives to identify outstanding water bodies in Hawke's Bay. The adopted approach was underpinned by existing information, with no new studies or investigations to be commissioned to further investigate a water body's 'outstanding-ness'.
61. Prior to progressing work on Plan Change 7, given the uncertainty around some of the NPSFM OFWB provisions, further clarity was needed around the following matters to enable the scope of Plan Change 7 to be determined prior to work on the plan change commencing.
- What is an outstanding water body (see paragraphs 62 to 68)
 - What values can make a water body outstanding (see paragraphs 69 to 72)
 - Whether the Plan Change 7 development process should identify a full list of outstanding and significant values for water bodies across the region, or focus solely on the identification of those water bodies with outstanding values. These matters are further discussed below.

What is an outstanding water body?

62. The NPSFM defines outstanding freshwater bodies "as those water bodies identified in a regional policy statement or regional plan as having outstanding values...", however it stops short of stipulating exactly how outstanding water bodies should be identified. There is no similar definition in the NZCPS. There is no mandatory or approved methodology for assessment and identification of outstanding water bodies. Consequently, the HBRC has discretion in terms of options, approaches and processes it may choose to identify the region's OWBs and include in RMA planning documents.
63. To ensure clarity on the scope of Plan Change 7, prior to commencing plan development, the RPC considered a number of matters, including those set out Table 5, to inform a decision around what constitutes an outstanding water body for NPSFM purposes.
64. While the NPSFM does not provide guidance on how an outstanding value should be identified, it is generally

accepted that the test for outstanding sets a high bar. This indicates in order to be classed as outstanding a water body must be exceptional in some way, with the values or sub values standing out or being superior to others in the region.

Table 5: What is an outstanding water body for NPSFM purposes (key findings – RMA context, case law, CEF project, legal advice)	
RMA context	<ul style="list-style-type: none"> “In an RMA context outstanding means ‘out of the ordinary’ or ‘standing out’¹².”
Case law	<ul style="list-style-type: none"> “the test as to what is outstanding is a reasonably rigorous one and that to qualify as outstanding a characteristic would need to be quite out of the ordinary on a national basis”¹⁴, and “Outstanding’ means conspicuous, eminent, especially because of excellence and remarkable in.”
CEF OFWB Project Findings ¹⁵	<ul style="list-style-type: none"> Being outstanding is a high test. The term ‘outstanding’ distinguishes something from others based on its exceptional qualities and is typically used to describe the ‘best of the best’. Criteria to identify OFWBs should be similar to that of a Water Conservation Order, but in a regional context. The NPSFM defines outstanding water bodies as “those water bodies identified... <u>as having outstanding values</u>...”. This means water body can only be reviewed in the context of its present condition, it cannot be identified as an OWB based on its past condition or potential.
Legal advice	<ul style="list-style-type: none"> It is open for regional councils to assess what is outstanding at a regional scale for the purposes of the NPSFM. Outstanding values have a higher threshold than significant values. An outstanding value will always be significant, but a significant value will not necessarily be outstanding. To be classed as outstanding a freshwater body needs to have at least one outstanding characteristic before the water body could be classified as outstanding.

65. During the initial development phases of Plan Change 7, the RPC directed that Plan Change 7 process would seek to identify those water bodies in Hawke’s Bay which contain an outstanding value in their own right. Staff progressed work on this basis, collating information and assessing water bodies across Hawke’s Bay on a water body, by water body basis.
66. In June 2017, the RPC also directed that in order to be identified as an OWB for the purposes of the NPSFM, the water body must contain a value which stands out from the rest on a national basis.
67. This was contested during an early engagement phase in preparation of Plan Change 7, with several stakeholders raising concerns that the Council would miss a number of outstanding water bodies in the region, by carrying out the outstanding assessment on a national instead of a regional scale, and therefore not give full effect to the relevant NPSFM provisions.
68. While the NPSFM is ambiguous on whether an OWB assessment should be carried out in a regional or national context, after considering the feedback from key stakeholders, Plan Change 7 was progressed in a manner which carried out an OWB assessment and selection in a regional context.

Values that can potentially make a water body outstanding for NPSFM purposes

69. The NPSFM is not clear on whether values that can make a water body outstanding for NPSFM purposes are restricted to ecological, landscape, recreational and spiritual type values; or if they can include consumptive and economic use values such as irrigation, drinking water, hydro-generation and tourism,
70. To ensure clarity on the scope of Draft Plan Change 7, the Council considered a range of information, including that set out Table 6, to inform a decision around what values have the potential to make a water body outstanding for NPSFM purposes.
71. The findings in Table 6, indicate that while it is clear that the NPSFM never intended to class economic and consumptive use values as outstanding, the current wording of the NPSFM does appear to allow councils to recognise economic and consumptive use values as ‘outstanding’ values for the purposes of the NPSFM, if they choose to do so.
72. In June 2017, the RPC and Council formally excluded economic and consumptive use values from consideration as ‘outstanding values’ for the purposes of Plan Change 7. This meant subsequent work on preparing the plan change would progress on the basis that only cultural, spiritual, recreation, landscape,

¹² Philip Milne’s opinion piece; Resource Management Journal.

¹⁴ Rangitata South Irrigation Ltd v NZ and Central South Island Fish and Game Council EnvC C109/04.

¹⁵ Riley B, 2015, *Criteria and methodology for determining outstanding freshwater bodies; Literature Review One, Part two: Summary report.*

geological, natural character and ecology values could make a water body outstanding for NPSFM purposes.

Table 6: Summary of CEF OFWB Project findings - outstanding values

Legal advice	It is theoretically possible to recognise an economic or consumptive use value as outstanding under the NPSFM OFWB provisions, however this approach: <ul style="list-style-type: none"> Has no case law precedent Would likely be contentious and could be difficult to justify as being consistent with the objectives of the NPSFM Could be subject to litigation in the future.
Intent of the NPSFM	The NPSFM never intended to class economic and consumptive use values as outstanding. The amendments which occurred to Objective A4 in later versions of the NPSFM which potentially allows for the protection of economic and consumptive use values, appear to be unintentional for the following reasons: <ul style="list-style-type: none"> In 2011, the protection of OFWBs was identified as one of the six key areas of direction of the NPSFM. All versions of the NPSFM have recognised that OFWBs are a limited class of water bodies which warrant special protection. As such, any major changes around the identification and management of OFWBs would have warranted significant discussion in supporting NPSFM documents. This has not occurred. The proposed 2008 NPSFM quite clearly did not allow for the recognition of economic and consumptive use values under the OFWB provisions. It is unlikely that subsequent versions of the NPSFM deliberately inserted the word 'including' into the definition of OFWB to allow economic and consumptive use values to be classed as outstanding, without discussing the consequences of these changes in any of the associated cabinet papers, regulatory impact statements, section 32 summary reports, hearing reports, or decision documents. In the gazetted 2011 version of the NPSFM, Objective A2 protects the <u>quality</u> of OFWB. This seemingly narrowed the protection of OFWB to water quality only. This amendment does not protect consumptive and economic use values, which indicates there was no intent to protect these values through the OFWB provisions. In 2014, a new Objective B4 was inserted into the NPSFM and Objective A2 was amended to protect the <u>significant values</u> of OFWB. It is these amendments which potentially allow for the protection of the economic and consumptive use values through the OFWB provisions²⁴. There are no discussions in any supporting documents about these amendments except to say, "the amendment to Objective A2 referencing significant values is minor". If the amendments to Objectives A2 and B4 were deliberately made to protect economic and consumptive use values through the OFWB provisions, significant discussion would have occurred around this issue and the changes would not have been referred to as 'minor'. The supporting documents to the NPSFM are consistently clear that only a small number of OFWB should be identified across the country, with cabinet papers and regulatory impact statements stating "if too many water bodies are considered outstanding there will be missed development opportunities". This indicates that there was never any intent to protect economic and consumptive use values through the OFWB provisions, because protecting economic and consumptive uses would not result in "missed development" opportunities, it would likely create them.

Inclusion of outstanding and/or significant values in Plan Change 7

73. To further inform the scope of Plan Change 7, consideration was given as to whether the plan change should identify a list of outstanding and significant values associated with OWB in the region, or focus solely on the identification of those water bodies with outstanding values in the region.
74. After considering both options, the scope of Plan Change 7 was limited to the identification of water bodies with outstanding values across the region. For clarification, identifying a full list of the outstanding and significant values for the purpose of Plan Change 7 was dismissed for a number of reasons, including those set out below:
- The identification of a list of significant values for each OWB is more appropriate during development of the catchment based management plans in consultation with key stakeholders, iwi authorities and the relevant local community.
 - Significant values can include the full range of values set out in the NPSFM, including consumptive and economic use values. As discussed in paragraph 72, the RPC excluded these values from consideration as outstanding values for the purposes of Plan Change 7 but that does not preclude them from being recognised as a significant value in the appropriate circumstances. Yet attempting to identify a list of significant values, include consumptive and economic uses, at the same time as outstanding values for OWBs would likely cause confusion, and would certainly require a substantial degree of further work

²⁴ E.g. 2011 NPSFM required "...protecting the quality of OFWB"; 2014 NPSFM required "...protecting the significant values of OFWB".

(e.g. engagement with iwi, stakeholders, further review of published literature, etc).

- Highly likely that some significant values may be missed if undertaken at the same time, and/or a significant delay in the OWB Plan Change as Council would need to identify a list OWB, prior to putting additional resourcing into identifying a full list of significant values in consultation with key stakeholders, iwi authorities and the local community.

Record of development process (July 2017 – June 2018)

- In June 2017, in accordance with Approach 4 (see Table 4, above) above, the Council embarked on a high level review documenting¹⁷ the cultural, spiritual, recreation, landscape, geological, natural character and ecology values associated with 130 water bodies across the region.
- This work built a clear picture of values associated with a wide range of water bodies across the region and their potential for being classified as outstanding, prior to short listing.

Choosing a list of candidate OWB for further assessment

- In 2018, the high level review information was reported back to the Council's RPC together with nine principal options, for selecting a list of candidate OWB to move forward for secondary assessment.
- All options had various assumptions and limitations. The only alternative which eliminated all assumptions and limitations was to undertake a secondary assessment on all 130 water bodies. However, this was not favoured due to its significant cost and time, and was considered to be of little potential benefit to Plan Change 7 which is trying to identify the 'best of the best' water bodies in Hawke's Bay.
- The selection methodologies used by the RPC to identify the list of candidate OWB is set out in Table 7.

Table 7: Selection methodologies used by RPC to identify list of candidate outstanding water bodies

Selection methodologies	
Recreation, landscape, geological, natural character and ecology value sets	Cultural and spiritual value sets
Those water bodies identified as either outstanding, nationally significant or allocated the highest rating available in <u>at least three</u> of the publications reviewed in Table R1 ¹⁸ , for any value, and/or being internationally significant in <u>at least one</u> of the publications reviewed, for any value + any additional water bodies the RPC considers should be on the candidate list.	Selected based on information contained in Table C1 ¹⁹ + traditional knowledge of the Council's RPC's tangata whenua representatives + draft criteria considered by tangata whenua representatives + any additional water bodies the RPC considers should be on the candidate list.

- Mid 2018, the following list of water bodies (see Table 8) were identified as 'candidate outstanding water bodies' by the RPC using the selection methodologies set out in Table 7, above.

Table 8: Candidate list of outstanding water bodies (identified by RPC)

Cultural, spiritual, recreation, landscape, geological, natural character and ecology value sets	Cultural and spiritual value set only
Heretaunga Aquifer	Karamu River
Lake Whakakī	Lake Waikareiti
Lake Whatumā	Lake Tūtira (including Aropaoanui River + Papakiri Stream)
Lake Waikaremoana	Lower Ngaruroro River (below Whanawhana)
Mangahauanga Stream	Makirikiri River
Ruakituri River	Porangahau River
Ruataniwha Aquifer	Tutaekuri River
Taruarau River	Waipunga River
Te Whanganui a Orotū (Ahuriri Estuary)	
Tukituki River	
Upper Mohaka River	
Upper Ngaruroro River (above Whanawhana)	

¹⁷ Over 90 documents were used. No new studies or investigations were undertaken as part of this review (i.e. existing literature was relied on).

¹⁸ Harper B; 2018; *Summary of recreation, landscape and ecology values associated with water bodies in Hawke's Bay*; HBRC Report Number SD18-02; Table R2: Recreation, Landscape, Ecology Values Table.

¹⁹ Harper B; 2018; *Summary of cultural values associated with water bodies in Hawke's Bay*; HBRC Report Number SD18-01; Table C1: Cultural Values Table.

Waipawa River	
Wairoa River	

81. In June 2018, Council staff undertook a secondary assessment for each candidate OWB water body to further investigate if any of the water bodies contained values that were clearly superior to other water bodies in Hawke's Bay.

Record of development process (July 2018 – Feb. 2019)

82. Following completion of the secondary assessments, staff sought feedback from iwi authorities, territorial authorities, key stakeholder groups and the general public on Plan Change 7. The secondary assessments were placed on the HBRC's website and each iwi authority was individually contacted inviting feedback on those assessments.
83. Feedback from this process featured requests for an additional 20 water bodies to be identified as OWB (see Table 9), for all value sets, and to broaden stakeholder involvement in the process.

Table 9: Nominated list of outstanding water bodies (nominated during engagement)

Additional candidate OWB requested by iwi authorities, key stakeholders and general public	
Waihua River	Ngamatea East Swamp
Boundary Stream, including Shine Falls	Nuhaka River
Kaweka and Ruahine Ranges wetlands	Opoutama Swamp
Lake Rototuna and Lake Rotorua (Kaweka Lakes)	Porangahau Estuary
Lake Poukawa and Pekapeka Swamp	Tarawera Hot Pools
Lake Whakaki - Te Paeroa Lagoon - Wairau Lagoon: interconnected wetland complex	Te Hoe River
Putere Lakes	Waitangi Estuary
Lower Mohaka River (below Willowflat)	Waikaretaheke River
Maungawhio Lagoon, lower Kopuawhara River, Pukenui Dune Wetlands	Waiau River
Moreere Hot Springs	Lower Ngaruroro River

84. Following that feedback, an additional step was included in OWB Plan Change process and a local expert panel was engaged to evaluate, categorise and identify outstanding characteristics from the list of 22 candidate OWB (see Table 8) and the additional 20 nominated water bodies (see Table 9), for all value sets²⁰.

Local expert panel report

85. Late 2018, a local expert panel was appointed via nominations by key stakeholders, iwi authorities and city and district councils²¹, and comprised six members²² with good knowledge of the Hawke's Bay region.
86. In February 2019, two panel workshops were held to carry out a comparative assessment of the 42 candidate and nominated water bodies and to identify those water bodies which contained values which were clearly superior and stood out. Out of the 42 water bodies, the local expert panel found:
- 16 clusters of water bodies (22 individual water bodies²³) to be outstanding for NPSFM purposes (see Table 10),
 - 13 water bodies to need further cultural assessments (see Table 11),
 - 5 water bodies to have either insufficient information to carry out an assessment or to be not outstanding for NPSFM purposes (see Table 12).

²⁰ For clarification, 8 water bodies on the candidate list of OWB were only identified as being potentially outstanding for the cultural and spiritual value set. Subsequently, these water bodies were assessed for all value sets.

²¹ Including Ngati Kahungunu Iwi Incorporated, Hawke's Bay Fish and Game Council, Department of Conservation, city and district councils, NZ Forest and Bird Society, Federated Farmers, and whitewater rafting and jet boating groups.

²² Morry Black (Mauri Protection Agency), Matt Brady (DOC), John Cheyne (Te Taiao Environment), Andrew Curtis (Water Strategies Limited), Bernie Kelly (kayaking rep), Tom Winlove (Fish& Game)

²³ 24 individual water bodies if upper/lower Mohaka River and upper/lower Ngaruroro River counted separately.

87. While the local expert panel found a number of water bodies to be outstanding for cultural and spiritual values, their findings were preliminary, with acknowledgement that the panel had limited ability to assess cultural and spiritual values on behalf of marae and hapu.

Table 10: Outstanding water bodies for NPSFM purposes (identified by local expert panel)

Water Body	Outstanding values ²⁴
Heretaunga Aquifer	Ecology, landscape, cultural spiritual
Porangahau River (+ estuary)	Ecology, landscape, cultural, spiritual
Te Whanganui a Orotū (Ahuriri Estuary)	Ecology, landscape, recreation, cultural, spiritual
Moreire Hot Springs	Landscape, cultural, spiritual
Lake Waikaremoana	Ecology, landscape, natural character, recreation, cultural, spiritual
Lake Waikareiti	Ecology, landscape, natural character, recreation, cultural, spiritual
Upper Mohaka River	Ecology, landscape, natural character, recreation, cultural, spiritual
Te Hoe River	Ecology, landscape, natural character,, recreation, cultural, spiritual
Waipunga River	Ecology, landscape, natural character, recreation, cultural, spiritual
Ngaruroro River (+Waitangi Estuary)	Ecology, landscape, natural character, recreation, cultural, spiritual
Tararua River	Ecology, landscape, natural character, recreation, cultural, spiritual
Ruakituri River	natural character, recreation
Tukituki River (+ estuary)	Ecology, landscape, recreation, cultural, spiritual
Ruataniwha Aquifer	Ecology, landscape, recreation, cultural, spiritual
Waipawa River	Ecology, landscape, recreation, cultural, spiritual
Waiau River (above Matuku Stream)	Ecology, natural character
Lake Rototuna and Lake Rotorua (Kaweka Lakes)	Ecology, landscape, natural character
Lake Poukawa and Pekapeka Swamp	Ecology, landscape, cultural, spiritual
Lake Whakaki - Te Paeroa Lagoon - Wairau Lagoon: interconnected wetland complex	Ecology, cultural, spiritual
Lake Whatumā	Ecology, cultural, spiritual
Maungawhio Lagoon lower Kopuawhara River, Pukenui Dune Wetlands	Ecology, cultural, spiritual
Ngamatea East Swamp	Ecology

88. The local expert panel found the following 13 water bodies (see Table 11) to need further cultural assessments undertaken to better understand their associated cultural and spiritual values

Table 11: Water bodies needing further cultural assessment (identified by local expert panel)

Water body	
Tarawera Hot Springs	Cultural assessment needed
Lake Tūtira complex	Cultural assessment needed
Aropoanui River	Cultural assessment needed
Karamu River	Cultural assessment needed
Makirikiri River	Cultural assessment needed
Lower Mohaka River (below Willowflat)	Cultural assessment needed
Porangahau Estuary	Cultural assessment needed
Tutaekuri River	Cultural assessment needed
Waiau River (below Matuku Stream)	Cultural assessment needed
Waihua River	Cultural assessment needed
Wairoa River	Cultural assessment needed
Opoutama Swamp	Cultural assessment needed
Putere Lakes	Cultural assessment needed

89. The local expert panel found the water bodies set out in Table 12, to either have insufficient information to carry out an assessment or determined them not to be outstanding water bodies for NPSFM purposes.

²⁴ Cultural and spiritual value set findings were preliminary, with the panel advising they had limited ability to assess cultural and spiritual values on behalf of marae and hapu.

Table 12: water bodies needing further cultural assessment (identified by local expert panel)

Water body	
Waikaretaheke River	Not an OWB
Mangahauanga Stream	Not an OWB
Nuhaka River	Insufficient information
Boundary Stream, including Shine Falls	Insufficient information
Kaweka and Ruahine Ranges wetlands	Insufficient information

Record of development process (Mar. 2019 - May 2019)

90. By May 2019, a draft version of the objectives, policies and methods associated with Plan Change 7 had been developed which best met the purpose of the RMA and gave effect the relevant NPSFM OFWB provisions (see Tables 17, 18 and 19).
91. In developing the plan change a significant amount of work was undertaken to build a clearer picture of water bodies within the region and their potential for being classed as outstanding.
92. This work was summarised into an overview report²⁵ with a particular focus on the 42 candidate and nominated water bodies set out in Tables 8 and 9, to assist the RPC to select a final draft list of OWB for inclusion in Draft Plan Change 7.

Choosing a final draft list of OWB for inclusion in Draft Plan Change 7 (May 2019)

93. In accordance with Approach 4 (see paragraph 59), the overview report focused on existing literature and summarised the relevant key values of each of the 42 water bodies set out in Tables 8 and 9, based on the secondary assessments, local expert panel findings, the values summary reports²⁶, and stakeholder engagement.
94. As directed by the RPC earlier agreements, the overview report included staff findings identifying those water bodies which contained a value which clearly 'stands out' when compared to other water bodies²⁷, with a clear focus on existing literature and feedback received during engagement at the time of writing.
95. This information was reported back to the Council's RPC together with three principal options that could be used to identify a draft list of water bodies for inclusion in Plan Change 7. As discussed in the overview report, there is no right or wrong approach for identifying a list of outstanding water bodies, providing there is a robust evidence base to support their selection.
96. After considering a range of information, the RPC used the following selection methodologies to identify draft list of outstanding water bodies for each value set.

Table 13: Selection methodologies used by RPC to identify draft list of outstanding water bodies

Selection methodologies	
Cultural, spiritual, recreation, landscape, geology, natural character and ecology value sets	Cultural and spiritual value sets
Select those water bodies which contain values that: <ul style="list-style-type: none"> clearly 'stand out' and are 'superior' when compared to the other water bodies in Tables 8 and 9; and/or are of excellent quality, despite being similar to one or more water bodies in Tables 8 and 9; and 	Select water bodies which are clearly supported as containing cultural or spiritual values which 'stand out' when compared to the other water bodies in Tables 8 and 9; using:

²⁵ Harper B, Meredith D; *Outstanding Water Bodies Plan Change: Selecting a list of outstanding water bodies in Hawke's Bay*; HBRC Report Number SD19-18.

²⁶ Harper B; 2018; *Summary of recreation, landscape and ecology values associated with water bodies in Hawke's Bay*; HBRC Report Number SD18-02; Table R2: Recreation, Landscape, Ecology Values Table; and Harper B; 2018; *Summary of cultural values associated with water bodies in Hawke's Bay*; HBRC Report Number SD18-01; Table C1: Cultural Values Table.

²⁷ Refer to paragraph 66, where to RPC directed that in order to be an outstanding water body for the purposes of Plan Change 7, a water body must contain at least one value which stands out from the rest on a national basis.

- are identified as 'outstanding' in published literature.
- the traditional knowledge of the RPC tāngata whenua representatives;
- information in Table C1²⁸,
- information in the secondary assessments,
- feedback from iwi authorities,
- preliminary findings of the local expert panel.

97. In May 2019, using the methodologies set out in Table 13, the RPC identified all 42 water bodies put forward for consideration in the overview report²⁹, plus the Hautapu River, Ripia River and Te Paerahi River³⁰, as outstanding water bodies for inclusion in Draft Plan Change 7. These water bodies are set out in Table 14, below, with their corresponding outstanding values.

98. For clarification, a number of the water bodies in Table 14 were identified as containing outstanding cultural and spiritual values despite not having a robust evidence base to support their outstanding status. This is discussed in paragraphs 99 to 104.

Table 14: Draft list of OWB for inclusion in Draft Plan Change 7

Name of outstanding water body	Outstanding value(s)
Boundary Stream, including Shine Falls	Cultural, spiritual
Hautapu River	Cultural, spiritual
Heretaunga Aquifer	Cultural, spiritual, geology
Karamu River	Cultural, spiritual
Kaweka and Ruahine Ranges wetlands	Cultural, spiritual
Lake Rotorua and Lake Rototuna (Kaweka Lakes)	Cultural, spiritual, native fish, native plants, natural character
Lake Poukawa and Pekapeka Swamp	Cultural, spiritual, wildlife
Lake Tūtira (Including Aropoanui River + Papakiri Stream)	Cultural, spiritual
Lake Waikareiti	Cultural, spiritual
Lake Waikaremoana	Cultural, spiritual, native plants, natural character, landscape & geology, recreation
Lake Whakakī - Te Paeroa Lagoon - Wairau Lagoon and wetlands	Cultural, spiritual, wildlife
Lake Whatumā	Cultural, spiritual, wildlife
Makirikiri River	Cultural, spiritual
Mangahouanga Stream	Cultural, spiritual, geology
Maungawhio Lagoon, lower Kopuawhara River, Pukenui Dune Wetlands	Cultural, spiritual, wildlife
Mohaka River (Lower - below Willowflat)	Cultural, spiritual, macroinvertebrates
Mohaka River (Upper - above Willowflat)	Cultural, spiritual, macroinvertebrates, natural character, landscape & geology, recreation
Morere Springs	Cultural, spiritual
Ngamatea East Swamp	Cultural, spiritual, native plants, natural character
Ngaruroro River (Lower) and Waitangi Estuary	Cultural, spiritual, wildlife, native fish, recreation
Ngaruroro River (Upper)	Cultural, spiritual, wildlife, native fish, macroinvertebrates, natural character, landscape & geology, recreation
Nuhaka River	Cultural, spiritual

²⁸ Harper B; 2018; *Summary of cultural values associated with water bodies in Hawke's Bay*; HBRC Report Number SD18-01; Table C1: Cultural Values Table

²⁹ Harper B, Meredith D; *Outstanding Water Bodies Plan Change: Selecting a list of outstanding water bodies in Hawke's Bay*; HBRC Report Number SD19-18.

³⁰ Note: Water bodies were not originally identified as either candidate or nominated OWB. Therefore, not assessed by the local expert panel, or discussed in the overview report.

Opoutama Swamp	Cultural, spiritual
Porangahau Estuary	Cultural, spiritual, wildlife, native fish, native plants, landscape & geology
Porangahau/Tāurekaitai River	Cultural, spiritual, wildlife
Putere Lakes	Cultural, spiritual
Ripia River	Cultural, spiritual
Ruakituri River	Cultural, spiritual, macroinvertebrates natural character, landscape & geology, recreation
Ruataniwha Aquifer	Cultural, spiritual, geology
Tarawera Hot Springs	Cultural, spiritual
Taruarau River	Cultural, spiritual, macroinvertebrates, natural character, landscape and geology, recreation
Te Hoe River	Cultural, spiritual, wildlife
Te Paerahi River	Cultural, spiritual
Te Whanganui a Orotū (Ahuriri Estuary)	Cultural, spiritual, wildlife, native fish, landscape and geology
Tukituki River and Estuary	Cultural, spiritual, wildlife, landscape & geology
Tūtaekuri River	Cultural, spiritual, macroinvertebrates
Waiiau River	Cultural, spiritual, wildlife
Waihua River	Cultural, spiritual
Waikaretaheke River	Cultural, spiritual
Waikōau River/ Aropaoanui River	Cultural, spiritual
Waipawa River	Cultural, spiritual
Waipunga River	Cultural, spiritual, macroinvertebrates
Wairoa River	Cultural, spiritual

List of OWB: insufficient information

99. In progressing Plan Change 7 it became apparent that there were substantial gaps in published material for a number of water bodies identified by the Council's RPC Tangata Whenua Representatives as containing outstanding cultural and spiritual values.
100. Maori history is recorded orally, and much of the information and knowledge to support the inclusion of these water bodies in Plan Change 7 is held with local marae and hapu, but not specifically recorded in those documents which were reviewed to inform Plan Change 7³¹.
101. In recognition of this, iwi authorities were contacted a number of times during the plan change process, to gain further information and knowledge to support an outstanding status for these water bodies. However, due to resourcing constraints this engagement was ineffective and a number of iwi authorities were unable to respond.
102. The RPC identified a number of water bodies in Draft Plan Change 7 as containing outstanding cultural and spiritual values, despite a lack of written evidence. During the pre-notification consultation period iwi authorities were contacted, and offered resourcing, in an attempt to gain further information in support of the outstanding status for water bodies identified in Draft Plan Change 7. Albeit the timeframe for this phase was only a matter of a few weeks.
103. Very little information was received during this period, as such there are still significant information gaps on the cultural and spiritual values associated with a number of the OWB identified in Draft Plan Change 7. Gaining further information on the cultural and spiritual values associated with these water bodies is vital as many of these water bodies will be subject to scrutiny and potential challenges by those who may be affected by the provisions in Proposed Plan Change 7.
104. As discussed in paragraphs 15 to 17, the risk of not acting is high. During post-notification phases of Plan

³¹ Harper B; 2018; *Summary of cultural values associated with water bodies in Hawke's Bay*; HBRC Report Number SD18-01; Harper B & Ridling K, 2018

Change 7, there are opportunities to remedy gaps in published information for cultural and spiritual values of OWBs. It is likely HBRC will work with the relevant iwi authorities to find ways of remedying those gaps.

Record of development process (May 2019 – June 2019)

105. In May 2019, a copy of the Draft Plan Change 7 was sent out to those parties listed in Appendix 2, seeking feedback. At the same time, Draft Plan Change 7 was placed on HBRC's website, with an invitation to the general public to provide comments.

Comments received on Draft Plan Change 7 (pre-notification consultation)

106. Schedule 1 of the RMA requires Council, prior to notifying the Proposed Plan Change 7, to have particular regard to any advice received from iwi authorities.
107. Table 15 summarises the key of the parts of advice received on Draft Plan Change 7 (on a theme by theme basis), and sets out councils response to the advice, including any amendments proposed to Draft Plan Change 7 which give effect to the advice received.

Table 15 Summary of advice received on Draft Plan Change 7

Feedback	Council Staff comments	Was Draft Change 7 amended? (Y/N)
Support Plan Change 7		
Six responses noted their general support for Plan Change 7	No comment needed	No
Oppose Plan Change 7		
<p>Ngati Kahungunu Wairoa Taiwhenua Inc. have advised:</p> <ul style="list-style-type: none"> • They do not support Plan Change 7 • Tāngata Whenua worldview states that all waterbodies are interlinked and outstanding and should be addressed as such in Plan Change 7. • Note that Ngati Kahungunu Wairoa Taiwhenua incorporated have limited capacity to respond, and requests in the future that when making such requests the council provide suitable financing. • Requests Council provides suitable funding when making requests such as this. 	<p>Tāngata whenua have special cultural, spiritual, historical and traditional associations with all water bodies.</p> <p>A key challenge in implementing the NPSFM and identifying outstanding water bodies is the special relationships and historical associations that tāngata whenua have with all water bodies. Freshwater is recognised by Māori as a taonga of paramount importance. A core Māori belief is that no waterbody is more important than another and each waterbody has its own individual mauri or vital essence. The NPSFM's provisions for outstanding freshwater bodies directly conflict with this Māori worldview, by requiring regional councils identify a list of outstanding water bodies in their region.</p> <p>Despite the challenges from a Māori worldview, the RPC tāngata whenua representatives did not want the Māori cultural and spiritual value set excluded from Plan Change 7. Council staff have worked closely with the RPC tāngata whenua representatives and co-designed an approach to identify outstanding water bodies in Hawke's Bay which is inclusive of the cultural and spiritual value set.</p> <p>Resourcing is not something that the provisions proposed in Plan Change 7 can address.</p>	No
Additional information (cultural and spiritual values)		
<p>Te Tumu Paeroa advised:</p> <ul style="list-style-type: none"> • Supports Plan Change 7 • Te Tumu Paeroa hold significant information on water bodies in Plan Change 7 and believe they can help quantify and highlight their outstanding values. • Interested in participating in the Plan Change 7 process moving forward 	<p>No amendments requested. Council staff will work with Te Tumu Paeroa during the submission period of Plan Change 7 to gain further information about the important cultural and spiritual values of the outstanding water bodies in proposed Plan Change 7.</p>	No

Feedback	Council Staff comments	Was Draft Change 7 amended? (Y/N)
<ul style="list-style-type: none"> Recognises Lake Poukawa is an outstanding waterbody exceptionally high importance. 		
<p>Ngati Kahungunu Iwi Incorporated provided additional information on Lake Poukawa, specifically noting:</p> <ul style="list-style-type: none"> The Lake Poukawa wetland area supports swamp nettle (<i>Urtica linearifolia</i>) an at risk declining species and an aquatic liverwort (<i>Ricciocarpos natans</i>), which is acutely threatened and nationally endangered. The wetland extent of Poukawa is important for customary purposes, cultural taonga. "<i>poukawa pataka kai tuna era mea no nga kai</i>". Lake Poukawa is the only lake in Hawke's Bay to be protected from commercial eeling due to its customary significance under the fisheries act. This is rare nationally. 	<p>This information further supports the identification of Lake Poukawa as an OWB in Plan Change 7.</p> <p>Draft Plan Change 7 has been amended accordingly, and a description of the outstanding values associated with Lake Poukawa have been added to Schedule 25.</p>	<p>Yes. Description of outstanding values of Lake Poukawa added to Schedule 25 of Plan Change 7.</p> <p>(see Appendix 3)</p>
Outstanding waterbodies /outstanding values in Plan Change 7		
Maungaharuru Tangitu Trust: Boundary Stream be removed from Schedule 25 of Plan Change 7	In May 2019, the Council's RPC identified Boundary Stream (including Shine Falls) as OWB for cultural and spiritual values. The tāngata whenua representative for Maungaharuru Tangitu Trust has requested its removal from Schedule 25 of Plan Change 7.	Yes. Boundary Stream (including Shine Falls) removed from Schedule 25. (see Appendix 3)
Add natural character (braiding) as an outstanding value for the Ngaruroro River.	<p>The term natural character is used to describe the naturalness of environments. Generally, the highest degree of natural character (the greatest naturalness) occurs where there is least modification to the ecosystems and landscape.</p> <p>In May 2019, the Council's RPC identified the Ngaruroro River as an outstanding water body noting its outstanding cultural, spiritual, landscape, geology, recreation, natural character and ecology values. Given the significant modifications that have occurred to the braided river channel of the lower Ngaruroro River, combined with the lack of information, this section of the River was not identified as being outstanding for natural character.</p> <p>Further information, with respect to the natural character of the braided section of the Ngaruroro</p>	No.

Feedback	Council Staff comments	Was Draft Change 7 amended? (Y/N)
	<p>River was received during the pre-consultation notification period on Draft Plan Change 7. This information states</p> <ul style="list-style-type: none"> - The intensity (number of braids) duration (length of the braids) and the mobility (speed at which they change form over time) in this section of the Ngaruroro vastly exceeds that found in any other North Island river. - The braiding of the Lower Ngaruroro compares extremely well with the best of the South Island braided rivers. <p>This is important further information that will need to be considered, alongside its evidence base, during the extended submission process for Plan Change 7. No amendments have been made to Draft Plan Change 7 in response to this feedback, further evidence is required.</p>	
No recognition of consumptive and economic uses values as 'outstanding values' in Plan Change 7.	<p>The NPSFM is not clear on whether values that can make a water body outstanding for NPSFM purposes are restricted to ecological, landscape, recreational and spiritual type values; or if they can include consumptive and economic use values such as irrigation, drinking water, hydro-generation and tourism,</p> <p>In June 2017, after considering the intent of the NPSFM the RPC and Council excluded economic and consumptive uses as determinative of an outstanding value of an OWB in Plan Change 7. As such, work on Plan Change 7 has subsequently been progressed on the basis that only cultural, spiritual, recreation, landscape, geology, natural character and ecology values can make a water body outstanding for NPSFM purposes.</p>	No.
<p>Provide more detail on the cultural, spiritual and geological values associated with the Heretaunga and Ruataniwha Plains aquifers in Schedule 25; or remove the Heretaunga and Ruataniwha Plains aquifers from Draft Plan Change 7.</p> <p>The current provisions create uncertainty for the following reasons:</p> <ul style="list-style-type: none"> - There is not sufficient detail in Plan Change 7 around the 'cultural, spiritual and geological feature(s) that must be protected. As such, the potential implications of including 	<p>The Ruataniwha and Heretaunga aquifer systems have been identified by the Council's RPC as containing outstanding cultural, spiritual and geology values. In accordance with the NPSFM, the significant values of the aquifer systems must be protected.</p> <p>The full policy implications of identification the Ruataniwha and Heretaunga aquifer systems as OWB are currently unknown, and will be worked through in the future catchment based planning processes. To date, there are no aquifer systems that have been identified as OWB for NPSFM purposes. Staff recommendations remain the same as those provided to the RPC on 15 May 2019³², prior to a determination being made on the list of OWB in Plan Change 7.</p> <p>In response to feedback received during the pre-consultation notification process, a list of significant values has been included in Plan Change 7 for those OWB identified in the TANK catchment (based on information from the TANK stakeholder process). This information, combined with the revised wording of Policy LW3A will provide increased certainty for decisions makers and resource consent applicants.</p> <p>For clarification, no additional information during the pre-notification consultation process was received challenging the 'outstanding status' of the cultural, spiritual, and geology values of the</p>	<p>Yes. Amend:</p> <ul style="list-style-type: none"> • Policies LW3A and C2 to provide increased certainty to resource consent applicants • Schedule 25 to include descriptions of outstanding values • Schedule 25 to include list of significant values for water bodies located in the TANK catchments. • Schedule 25 to clarify that the significant values of OWB can be included after a catchment based regional plan change has been made operative for the relevant catchment.

³² Harper B, Meredith D, HBRC Report Number SD19-18 "Selecting a list of outstanding water bodies in Hawke's Bay" (p 79).

Feedback	Council Staff comments	Was Draft Change 7 amended? (Y/N)
<p>the aquifer systems are difficult to understand.</p> <ul style="list-style-type: none"> - No precedent for their inclusion of aquifer systems as, no other region in New Zealand has identified an aquifer system as an outstanding water body for NPSFM purposes. - Around 16,800 ha of commercial fruit and vegetable production is undertaken on the Heretaunga Plains. 	Heretaunga and Ruataniwha aquifer systems. As such, no amendments are recommended in this regard.	(see Appendix 3)
Plan Change 7 inconsistent with Part 2 of the Resource Management Act		
Plan Change 7 is inconsistent with Part 2 of the Resource Management Act.	<p>The NPSFM has been prepared in accordance with Part 2 of the RMA. Plan Change 7 has been developed to give effect to the outstanding freshwater body provisions in the NPSFM.</p> <p>Through case law³³, the courts have determined that <i>"in the context of giving effect to the NPSFM resort to Part 2 is not appropriate because Part 2 has been embodied by the NPSFM"</i>. As such, by giving effect to the NPSFM Plan Change 7 is achieving the purpose of the RMA.</p>	No.
Plan Change 7 does not give effect to the National Policy Statement for Freshwater Management		
<p>Plan Change 7 does not give effect to the National Policy Statement for the following reasons:</p> <ul style="list-style-type: none"> - Plan Change 7 and its supporting reports, do not provide any analysis to support the proposition that 43 water bodies in Hawke's Bay have values that are the 'best of the best'. 	<p>A number of outstanding water bodies identified in Draft Plan Change 7 were identified by the RPC as containing outstanding cultural and spiritual values despite significant gaps in published information and/or written evidence to support their outstanding status (refer paragraphs 99 to 104).</p> <p>During the pre-notification consultation period, the views of iwi authorities were invited on the draft plan change. In addition to that, those iwi authorities were offered a modest amount of resourcing if that would assist those iwi authorities to provide additional information in support of the outstanding status for water bodies identified in Draft Plan Change 7. Albeit the timeframe for this phase was only a matter of a few weeks. Very little information was received during this period, as such there are still significant information gaps on the cultural and spiritual values associated with a number of the OWB identified in Draft Plan Change 7.</p> <p>Notwithstanding, based on a range of information, combined with their traditional knowledge, the Council's RPC tāngata whenua representatives identified 38 water bodies in Hawke's Bay as containing outstanding cultural and spiritual values. However, given that Māori history is</p>	No.

³³ *Environmental Defence Society Inc v New Zealand King Salmon Company Ltd* [2014] NZSC 38.

Feedback	Council Staff comments	Was Draft Change 7 amended? (Y/N)
	<p>recorded orally, much of the information and knowledge to support the inclusion of all 38 OWB in Plan Change 7 in not currently contained in written documents but with the marae and hapu groups themselves.</p> <p>As discussed in this report, the risks of not progressing or delaying Plan Change 7 are high. During the post-notification phases of Plan Change 7, there are opportunities to remedy gaps in published information to support the inclusion of these water bodies for cultural and spiritual values in Plan Change 7. HBRC will work with the relevant iwi authorities to find ways of remedying those gaps.</p>	
Plan Change 7 does not give effect to the National Policy Statement for Electricity Generation (2011)		
Plan Change 7 does not give effect to the 2011 National Policy Statement for Electricity Generation (NPS-REG)	<p>Plan Change 7 requires the protection of the significant values of OWB. Future catchment based management plans, in consultation with key stakeholders, iwi authorities and the local community, will identify a list of significant values for any OWB in the catchment, and set out a detailed direction on significant values of OWB in the catchment will be protected.</p> <p>Plan Change 7 is not inconsistent with the National Policy Statement for Electricity Generation. Consumptive and economic use values (including electricity generation) can be identified as significant values and protected in future catchment management plans.</p> <p>Notwithstanding, amendments made in response to other points of feedback during the pre-notification consultation period, have resulted in Policies LW3A being amended, and descriptions added in Schedule 25, to provide increased certainty to decision makers and resource consent holders and applicants. Certainly other provisions already in the RRMP assist decision-makers giving effect to all national policy statements, including the NPS-REG.</p>	No.
Uncertainty - Plan Change 7 provisions		
Undear why Schedule XXVI contains several water bodies which are separated into lower/upper reaches or identified twice.	<p>In the initial stages of the Plan Change 7 development process, several water bodies were identified as containing potentially outstanding values in their upper reaches only, or for a limited set of values. As the Plan Change 7 development process has progressed 42 water bodies, along their entire reach for all value sets.</p> <p>Draft Plan Change 7 has been amended to combined these water bodies, and delete any double ups.</p>	<p>Yes. Amend Schedule 25 to re-combine separated water bodies, and remove identified twice.</p> <p>(see Appendix 3)</p>

Feedback	Council Staff comments	Was Draft Change 7 amended? (Y/N)
Lack of clarity around what the outstanding values for OWB are as set out in Schedule 25.	In progressing Plan Change 7 it became apparent that there were significant gaps in published information for a number of water bodies identified by the Council's RPC Tangata Whenua Representatives as containing outstanding cultural and spiritual values. Maori history is recorded orally, and much of the information and knowledge to support the inclusion of these water bodies in Plan Change 7 is held with local marae and hapu, but not specifically recorded in those documents which were reviewed to inform Plan Change 7 ³⁴ . In response to feedback, Schedule 25 has been amended to include a description of outstanding values associated with each OWB (where known).	Yes. Descriptions of outstanding values have been added (where published information is available) (see Appendix 3)
Lack of clarity with regard to outstanding and significant values, and their associated differences.	Outstanding values have a higher threshold than significant values. An outstanding values will always be significant, but a significant value will not necessarily be outstanding. For the purposes of Plan Change 7: Outstanding values are limited to cultural spiritual, recreation, landscape, geological, natural character values (i.e. consumptive and economic use values cannot be outstanding values for NPSFM purposes), and significant values include any value in relation to freshwater (i.e. is inclusive of economic and consumptive use values). In response to feedback, Draft Plan Change 7 has been amended to include add a definition for 'outstanding' and a 'significant value'.	Yes. New definitions included for 'outstanding' and 'significant value' (see Appendix 3)
Lack of clarity around how rule framework will tie in Plan Change 7.	Plan Change 7 makes changes to the RPS parts of the RRMP to include a list of the region's outstanding water bodies. PC7 also incorporates a framework which directs a high level of protection for these water bodies in future plan making. The provisions in Plan Change 7 provide clear direction to future catchment based plan changes, and respective community discussions, around which water bodies are outstanding and have significant values which must be protected. It is expected that catchment based plan changes will then tailor rules for each outstanding water body in the catchment using both regulatory (includes rules) and/or non-regulatory methods to protect their significant values (i.e. each outstanding water body will have a different set of significant values that will need to be protected, and different pressures surrounding it). Non-regulatory methods may be sufficient in rare instances to protect the significant values of OWB. This will be up to the catchment management group to decide, having regard to all available	No.

³⁴ Harper B; 2018; *Summary of cultural values associated with water bodies in Hawke's Bay*; HBRC Report Number SD18-01; Harper B & Ridling K; 2018, *Candidate List of Outstanding water Bodies in Hawke's Bay – Secondary Assessments*, HBRC Report RM19-252.

Feedback	Council Staff comments	Was Draft Change 7 amended? (Y/N)
	information.	
Lack of clarity around the difference between outstanding waterbodies and outstanding freshwater bodies.	Outstanding freshwater body is a term used in the NPSFM and does not include water bodies in the coastal environment such as estuaries. Outstanding water body includes both freshwater bodies, and water bodies such as estuaries in the coastal environment. The definitions of 'outstanding freshwater body' and 'outstanding water body' have been amended to provide further clarification around the difference.	Yes. Definitions amended for 'outstanding freshwater body' and 'outstanding water body'
Lack of clarity around why outstanding values are given priority to protection over significant values, in cases of conflict.	The NPSFM requires the protection of the significant values of outstanding water bodies. In some cases, when trying to protect the significant values of an outstanding water body a conflict may occur, particularly when attempting to protect a significant value type which is consumptive or economic use value and a more intrinsic type value. Any conflicts between protection measures for different values will need to be resolved during the catchment based planning processes. The provisions in Draft Plan Change 7 provide appropriate clarification and direction, that in cases of a conflict, where both an outstanding and significant value of an OWB cannot be protected, then the outstanding values will be given priority for protection.	No.
Lack of clarity around how the primary and secondary values in RRMP Policy LW2 Table 1 relate to outstanding and significant values.	Policy LW2, Table 1 is incorporated into the RRMP via Plan Change 5. Table 1 lists the primary values and secondary values for three catchment areas, being the Greater Heretaunga/Ahuriri Catchment Area, the Mohaka Catchment Area, and the Tukituki Catchment Area. In response to feedback, Plan Change 7 has been amended to provide clarification around how completing values in these catchments are dealt with when also considering a water body which has been identified as an OWB in Schedule 25.	Yes (see Appendix 3)
Unclear how landscape, natural character and significant natural area assessments undertaken by city or district councils will fit into Plan Change 7	Any assessments which provide further information the values associated with any of the OWB in Plan Change 7 is important information, that will help further inform Plan Change 7. These types of assessments will be particularly useful during future catchment based planning processes, where the significant values of each OWB will need to be identified in consultation with city and district councils, key stakeholders, iwi authorities, and members of the community, and methods tailored for each outstanding water body to ensure their significant values are protected going forward. For clarification, any 'outstanding' assessments undertaken by district or city councils are not directly applicable to Plan Change 7, without further refinement, for the following reasons - The NPSFM OFWB provisions are the primary driver behind the Plan Change 7 provisions, and associated 'outstanding' assessments. Assessments undertaken by city and district councils, which include the identification of 'outstanding' areas within their district have occurred in response to their duties set out on other parts of the RMA.	No.

Feedback	Council Staff comments	Was Draft Change 7 amended? (Y/N)
	<ul style="list-style-type: none"> - Plan Change 7 has occurred at a larger regional scale, whereas assessments undertaken by city and district councils will occur at a district scale. A value which is outstanding at a district scale may not be outstanding at a regional scale due to the larger area and number of water bodies being assessed. - Plan Change 7 has carried out assessments in relation to water bodies only. Assessments undertaken by district or city councils are predominately terrestrial areas which include some water bodies. As such, the process to identify 'outstanding' areas in the district will have occurred looking at a range of values, some of which are not applicable to water bodies. - be different from the process used to identify OWB in the region. 	
Policy LW3A and Policy C2 create uncertainty for decision makers and resource consent applicants when proposing/assessing activities near an OWB. It is not clear what activities are included /excluded and whether the policies are applicable to district and city council consenting functions. The significant values of the OWB have not been identified causing further uncertainty.	<p>Policy LW3A and Policy C2 provide important guidance to resource consent applicants and decision makers when assessing activities covered by a rule in a regional plan that can potentially cause adverse effects on outstanding water bodies.</p> <p>Notwithstanding, as currently drafted, Policy LW3A and Policy C2 create significant uncertainty for both decision makers and resource consent applicants, particularly between the time Plan Change 7 is proposed and the catchment based regional plan changes are progressed. For example a list of significant values will not be inserted until the relevant catchment based plan change has been progressed, yet the wording of Policies LW3A and C2 Draft Plan Change 7 requires consent applicants to take into account how their activity may impact on any of the significant values of these OWB. In the interim, Policies LW3A and Policy C2 do not provide any meaningful guidance to as to how significant values will be reflected in decision making processes. To provide increased clarity for decision makers and applicants, the wording of Policies LW3A and C2 has been changed to be more specific about those activities in which it relates, with the policies effect being delayed until 2025. At 31 December 2025, all catchment based management plans would have been progressed and new freshwater objectives and water quality and quantity limits have been set across the region giving effect to the NPSFM. Additionally, These plans, will include provisions which protect the significant values of any OWB in their catchments.</p>	<p>Yes. Delete Policy LW3A Policy C2 and replace with new wording.</p> <p>(see Appendix 3)</p>
Unclear if the policies in Draft Plan Change 7, which direct the protection of significant values of for OWB located in the coastal environment, are more stringent than that required by the New Zealand Coastal Policy Statement.	<p>A new Objective 11 and two new Policies, Policy C1 and Policy C2 are proposed to be inserted into Chapter 3.2 to ensure a consistent framework is in place to protect outstanding water bodies (such as estuaries) in coastal areas, in the same manner as outstanding freshwater bodies.</p> <p>Objective 11 and Policies C1 and C2 assist in giving effect to Objectives 1 and 2 and Policies 11, 13 15 and 17 of the NZ Coastal Policy Statement, which requires the protection of significant natural ecosystems, indigenous biodiversity, sites of biological importance, natural features, historic heritage, natural character and landscape values, which are some of the many significant values which can be associated with water bodies in the coastal environment.</p> <p>Policy C1 aligns with provisions relating to outstanding water bodies that are not within the coastal environment (i.e. Policy LW1) as set out in Chapter 3.1A of the RRMP. This is consistent</p>	<p>Yes. Amend explanation for Objective 11.</p> <p>(see Appendix 3)</p>

Feedback	Council Staff comments	Was Draft Change 7 amended? (Y/N)
	<p>with the NPSFM which specifically provides for the integrated management of the effects of use and development of land and freshwater on coastal water.</p> <p>The provisions in Draft Plan Change 7 ensure a consistent and integrated approach to the management of OWB occurs across the region.</p> <p>In response to feedback, some minor amendments have been made to the explanation for Objective 11, for clarification.</p>	

Record of development process (3 July 2019)

108. On 3 July 2019, a summary of the feedback received during pre-notification consultation on Draft Plan Change 7, together with a final draft amended version of the Plan Change was reported back to RPC to consider adopting for public notification³⁵.
109. In response to the advice received on Plan Change 7 during the pre-notification period, a number of provisions in Plan Change 7 were amended (see Table 16), and the RPC formally recommended to Council that Draft Plan Change 7 be adopted as Proposed Plan Change 7 and publically notified prior to 31 August 2019.

Table 16: Key Changes – Draft Plan Change 7

Ref.	Matter	Amendment proposed	
		Provision	Amendment & Reason
1	Decision-making criteria	Policy LW3A Policy C2	<ol style="list-style-type: none"> Defer application of policies until: <ol style="list-style-type: none"> The relevant catchment-based RRMP plan change is operative, or after 31 December 2025; whichever is sooner The review of the RCEP is operative; or after 31 December 2025; whichever is sooner Limit application of these policies to specified activities: <ol style="list-style-type: none"> In discretionary and non-complying rules in the RRMP and RCEP (and not to District Plans) As new consents or variations to existing consents Clarify wording for protection of significant values, including giving preferential protection to the identified outstanding values <p>These amendments provide greater certainty as to how the policy framework works, including with respect to NPSFM and NZCPS directives, and enable the more detailed catchment-based work on significant values to be completed prior to the policies coming into effect.</p>
2	Definitions	Glossary	<ol style="list-style-type: none"> Define 'outstanding' Define 'outstanding water body' <p>These amendments improve the clarity of key terms</p>
3	List & description of outstanding and significant values	Schedule 25 (previously Schedule XXIV)	<ol style="list-style-type: none"> Add descriptions of the outstanding values in Table 1 Add new columns to Table 2 for describing the outstanding and significant values identified for each water body Add descriptions of the outstanding values for each water body, and the significant values proposed for each OWB in the TANK catchment, where they are identified already

³⁵ 3 July 2019; Meeting of the Regional Planning Committee; Item 9; http://hawkesbay.infocouncil.biz/Open/2019/07/RPC_03072019_AGN_AT.PDF

			<p>4. Include references to the key source reports providing more detailed descriptions of the values, including outstanding values, of each water body</p> <p>5. Re-present the following proposed OWBs by combining:</p> <ul style="list-style-type: none"> a. Mohaka River (upper and lower) b. Ngaruroro River (upper and lower) c. Porangahau River & Estuary d. Waikoau and Aropaoanui Rivers with Lake Tutira <p>6. Remove Boundary Stream (including Shine Falls) water bodies from Schedule 25</p> <p>These amendments provide greater certainty for how the provisions are intended to work, including through staging of application of policies and inclusion of more detailed information on outstanding values for each proposed OWB.</p>
4	Clarity		Minor and consequential changes to give better effect to the proposed change.

Record of development process (31 July 2019)

110. On 31 July 2019, the Hawke's Bay Regional Council considered recommendations from the Councils Regional Planning Committee and resolved to:

<insert resolution>

EVALUATION SUMMARY OF ALTERNATIVES AND THE PREFERRED OPTION

111. Under Section 32 of the RMA, Plan Change 7 must be evaluated, firstly in terms of whether its objective(s) are the most appropriate way to achieve the purpose of the Act, and secondly whether its provisions are the most appropriate way to achieve the objective(s) contained in the plan change.
112. To assist in determining whether an alternative is appropriate, the effectiveness and efficiency of the alternatives should be considered, and the costs and benefits of the environmental, economic, social and cultural effects anticipated should be identified and assessed.
113. The following section considers alternatives to the preferred option of introducing new objectives and policies relating to outstanding water bodies into the RRMP.
114. The following five options are discussed in Table 17 below:
 - Option 1: Retain the Status Quo (no change to the RRMP)
 - Option 2: Resolution by HBRC that there are no OWB in Hawke's Bay (no change to the RRMP)
 - Option 3: Change RRMP (identify all water bodies in the region as 'outstanding water bodies')
 - Option 4: Change RRMP (insert a list of OWB + guiding policy)
 - Option 5: Change RPS + Regional Plan parts of RRMP and RCEP (insert a list of OWB + guiding policy + rules)
115. Options 1 and 2 require no change to the RPS, with Option 3 identifying all water bodies in Hawke's Bay as OWB. Options 4 and 5 assess whether Plan Change 7 should be restricted to an RPS change (i.e. guiding policy only), or whether Plan Change 7 should change the RPS and Regional Plan and Regional Coastal Environment Plan. These options are discussed in Table 17, below.
116. Table 17, provides a summary of the pros and cons of each option, their effectiveness and their respective efficiency. After considering the effectiveness and efficiencies of each option, Option 4 was determined as the most effective and efficient approach to give effect to the NPSFM OWB provisions, and the most appropriate way to achieve the purpose of the RMA.
117. In particular, Option 4 was favoured over Option 5, as future rule changes as a result of the identification of OWB in the region are better placed during catchment based planning with involvement of key stakeholders and the local community.

Table 17: Evaluation summary of alternatives

Costs, risks and uncertainties	Benefits	Efficiency & effectiveness	Evaluation of option overall
Option 1 – Status Quo (no change to the RRMP). This option retains the existing regulatory framework of objectives and policies in the RRMP which relate to OWB.			
<ul style="list-style-type: none"> • This option does not identify a list of OWB in Hawke's Bay. This causes uncertainty when developing future catchment based management plans as it is not clear what (if any) water bodies are outstanding in the catchment. • OWB may be identified on an ad-hoc basis during the development of each catchment based management plan. This is likely to result in an inconsistent approach used to identify OWB in each catchment throughout the region, with different catchment groups applying different reasoning as to why a water body is/is not outstanding. • Lack of certainty for stakeholder groups: No certainty for stakeholder groups around what makes a value outstanding and what waterbodies' values must be protected when developing the management regime for the catchment. • Does not give effect to the relevant NPSFM OWB provisions which prescribes a high level of protection for OWB. The risk of not acting is that the regions OWB will not have the appropriate policy protection in place, which may result in the outstanding values of these water bodies degrading over time, potentially to the point the value is no longer outstanding. • The existing provisions in the RPS do not provide any guidance on how to manage and protect outstanding water bodies located in the coastal environment (i.e. estuaries). • Inefficient use of resources/increased costs over the long term. The same discussions and work to assess and identify OWB would be repeated on a catchment by catchment basis during different time periods, likely re-litigating principles. • The identification of OWB on a catchment by catchment basis may result in unequal regional input. This means not everyone within the region will have an equal opportunity to provide input into identifying outstanding waterbodies across Hawke's Bay³⁶. • The future catchment based plan changes, and respective community discussions will not know from the outset which water bodies are 	<ul style="list-style-type: none"> • Low cost to HBRC as no expense incurred in preparing an RPS plan change. • The hard discussion around which water bodies in Hawke's Bay are/ are not outstanding does not have to take place in the context of a standalone plan change. 	<ul style="list-style-type: none"> • The existing RPS provisions are not operating in an efficient manner. • The RPS does not contain a list of OWB in Hawke's Bay, or direct the protection of significant values of outstanding water bodies. • Does not give effect to the relevant NPSFM OWB provisions which prescribes a high level of protection for OWB. • Ineffective in meeting objectives and the purpose of the RMA. • Would not be effective in guiding consent decision making and regional plan review/ change processes which involve OWB. • Inefficiencies in the longer-term, as costs associated (and potentially litigious) decision-making processes to identify OWB on a catchment by catchment basis outweigh low administrative costs saved by not changing the RPS. 	<ul style="list-style-type: none"> • Not the most effective and efficient option to achieve the purpose of the RMA.

³⁶ For example, the TANK collaborative catchment group would decide on behalf of others in the region if there are/are not any OWB in the TANK catchment area.

Costs, risks and uncertainties	Benefits	Efficiency & effectiveness	Evaluation of option overall
<p>outstanding and have values which cannot be 'traded off', with other less than outstanding values.</p> <ul style="list-style-type: none"> • Enables 'trade-offs' to occur on OWB, where degradation is allowable providing it is offset by a proportionate improvement elsewhere in the catchment. For example: If OWB are not identified before catchment management plans are developed, the values that make them outstanding may be 'traded' when a stakeholder group is trying to find an appropriate balance for the managing water quality in their catchment. This means the water quality of OWB may be purposely allowed to decline in order to improve water quality elsewhere in the catchment. • There is a risk of judicial review court proceedings if the OWB plan change is not progressed in accordance with the timing and sequencing directed in RRMP Policy LW1A. • If the OWB plan change is not progressed in a timely manner though to an operative state, then the timeframes to commence and complete NPS-FM planning in all the remaining catchments (e.g. Wairoa, Mohaka, Esk, Aropoanui, southern coast and Porangahau) will become ever increasingly compressed by the NPS-FM 31 Dec 2025 timeframe (or 2030 extension). 			
Option 2: Resolution by HBRC that there are no OWB in Hawke's Bay (no change to the RRMP)			
<ul style="list-style-type: none"> • Will not result in the protection of outstanding water bodies. Water bodies must be identified in a regional policy statement or regional plan prior to their significant values being protected as per NPSFM OFWB provisions. • This option does not identify a list of OWB in Hawke's Bay. This causes uncertainty when developing future catchment based management plans as to whether OWB can be identified through this process or not. • Risk of significant litigation costs, as stakeholders who believe there are OWB in the region may request a judicial review of HBRC's decision. • Provides no guidance to decision making on catchment planning and may result in disagreements during the catchment based plan change process between those who believe there are outstanding water bodies in the catchment, and those who do not. • Enables 'trade-offs' to occur on Hawke's Bay's most treasured waterbodies. For example: If these water bodies are not identified as 	<ul style="list-style-type: none"> • Low cost to HBRC as no expense incurred in preparing an RPS plan change. • Prevents the perception, that HBRC are identifying OWB and diminishing the significance of other highly valued water bodies. 	<ul style="list-style-type: none"> • Does not give effect to HBRC's roles and responsibilities if there are OWB in Hawke's Bay. In particular would not give effect to the relevant NPSFM OWB provisions • If there are OWB in Hawkes Bay, this option is ineffective in meeting objectives and the purpose of the RMA. • Would not be effective in guiding consent decision making and regional plan review/ change processes which involve Hawke's Bay's most treasured water bodies. • This is an inefficient option, which is highly likely to be challenged in 	<ul style="list-style-type: none"> • Not the most effective and efficient option to achieve the purpose of the RMA.

Costs, risks and uncertainties	Benefits	Efficiency & effectiveness	Evaluation of option overall
<p>having outstanding values, the values that make them outstanding may be 'traded' when trying to find an appropriate balance for the managing water quality in their catchment. In theory, the water quality of one of Hawke's Bays most treasured water bodies may be allowed to decline in order to improve water quality elsewhere in the catchment.</p> <ul style="list-style-type: none"> A resolution by HBRC that there are no OWB in the region could be potentially difficult to justify. Given parts of the Mohaka River and tributaries have an existing Water Conservation Order identifying some outstanding values, and the Ngaruroro River is the subject of an application for a Water Conservation Order with the applicants arguing the river does have nationally outstanding values and features. 		<p>the High Court via a judicial review. If a judicial review was successful, this would result in higher costs in the longer term and the court is likely to direct HBRC to undertake an OWB plan change.</p>	
Option 3: RRMP Change: Identify all water bodies in the region as 'outstanding water bodies'			
<ul style="list-style-type: none"> Being outstanding is a high test. The term 'outstanding' distinguishes something from others based on its exceptional qualities and is typically described as the 'best of the best'. A plan change which identifies all rivers, lakes, wetlands, streams, creeks, aquifers and estuaries as containing an outstanding value would be difficult to justify. The NPSFM OFWB provisions requires identification of the outstanding values, of these outstanding water bodies, in a regional policy statement or regional plan. Identifying an outstanding value for all water bodies in Hawke's Bay as outstanding water bodies would require a significant amount of resourcing. This option causes uncertainty when developing future catchment based management plans as to how to manage water bodies in the context of the NPSFM that have all being identified as OWB. Creates uncertainty for resource users in the region and may cause an increase in resource consent costs and confusion for applicants. All resource consents applications with a discretionary activity status will need to address how the activity is protecting the significant values of the closest water body. Risk of significant litigation costs, as stakeholders who do not believe all water bodies are outstanding in Hawke's Bay may challenge HBRC decisions through to the Environment Court. May unnecessarily constrain the development potential of many water bodies within the region which are not truly outstanding. Provides no meaningful guidance to decision making in catchment 	<ul style="list-style-type: none"> Consistent with tangata whenua views that all water bodies are outstanding. The hard discussion around which water bodies in Hawke's Bay are/ are not outstanding does not have to take place in the context of a standalone plan change. 	<ul style="list-style-type: none"> While a number of water bodies in Hawke's Bay are of high value, only a very small number would contain an outstanding value (i.e. one that stands out from the rest on a regional basis). It would be impracticable to undertake a region wide study attempting to identify an outstanding value for every river, lake, wetland, stream, creek, aquifer and estuary in the region. Would not be effective in guiding consent decision making and regional plan review/ change processes which involve Hawke's Bay's most treasured water bodies. This is an inefficient option, which is highly likely to be challenged through the schedule one process to the Environment Court. This would result in higher costs in the longer term and the decision on which water bodies are/are not outstanding will 	<ul style="list-style-type: none"> Not the most effective and efficient option to achieve the purpose of the RMA.

Costs, risks and uncertainties	Benefits	Efficiency & effectiveness	Evaluation of option overall
planning and could result in confusion, with catchment planning processes not provided with any justification around what a particular water body has been identified as outstanding.		ultimately be made through the courts.	
Option 4 – RRMP Change (inserting a list of OWB + guiding policy)			
<ul style="list-style-type: none"> • The costs of preparing and notifying a change to RPS. • This option implements the a suitable framework to ensure the protection of outstanding water bodies in future plan making, but does not include new rules or amend any existing rules in regional plans. As such, it will not result in the immediate protection of some outstanding water bodies. How the significant values of each water body are protected will be decided during future catchment based planning changes. • The protection of some outstanding water bodies may only be achievable over a longer timeframe depending on which catchment the outstanding water body is located in, and in what year the councils work programme has scheduled the development of the catchment based plan. • May result in disconnect between guiding policy and existing rules. For example, a number of activities which involve the discharge of contaminants, and the take, use, or diversion of water in or near outstanding water bodies are controlled or restricted discretionary activities with limited matters of control or discretion that can be taken into account when deciding on the resource consent application. Existing rules in plans will not be updated until the catchment planning phase is scheduled for each catchment, meaning when resource consent comes up for renewal in the interim, the activity may be able to carry on as existing – without needing to have regard to an OWB significant values. • Increase in the costs of resource consents, for discretionary activities occurring in or near an outstanding water body. i.e. More detailed consent applications will need to be provided setting out the potential adverse effects that the proposed activity will have on the significant values of an OWB, and measures that will be undertaken to ensure protection of the significant values from the proposed activity. • May result in increased litigation costs for resource consent applicants through appeals. 	<ul style="list-style-type: none"> • Enables the discussion around which water bodies are outstanding to occur on a region wide basis instead of at a catchment by catchment level. This reduced the likelihood of debates over what are and are not OWB during future catchment planning processes. • Provides clarity around which water bodies are outstanding and provides guidance for their future management to ensure their protection. • A guiding policy framework in the RPS provides a broad overall, but consistent approach, without being too rigid, allowing limitation to be prescribed in future policy. • Guiding policy can be of value to decision makers, particular when there is uncertainty or insufficient information. • Guiding policy in terms of methodologies or decision-making processes can offer some clarity and certainty about the processes that need to be followed when assessing applications or making plans which affect OWB in the region. • Provides degree of flexibility insofar as decision making at catchment-level is not highly prescribed, but guided by overall principles and direction on how to manage OWB. • A guiding policy framework in the RPS 	<ul style="list-style-type: none"> • Gives effect to the relevant NPSFM OWB provisions which prescribes a high level of protection for OWB to ensure their protection for future generations. • Effective in meeting objectives and the purpose of the RMA. • Effective in guiding consent decision making and regional plan review/ change processes which involve OWB. • This option recognises that the most efficient approach to protect OWB in the region is to enable a range of methods to be used in the future (both regulatory and regulatory). • This option amends the current regulatory framework to identify a list of OWB in the region, and clarify that these water bodies require special attention during future planning processes. 	<ul style="list-style-type: none"> • This is considered the most effective and efficient method to achieve the purpose of the RMA as it relates to Hawke's Bay. • This method is the preferred method. • This method embeds into the RPS the approach set out in the OWB in the NPSFM. • This option strikes an appropriate balance between directing the protection of OWB generally, while still providing flexibility around exactly how this is achieved in circumstances of each OWB individually.

Costs, risks and uncertainties	Benefits	Efficiency & effectiveness	Evaluation of option overall
	<p>ensures that both district and regional plans recognise and protect OWB.</p> <ul style="list-style-type: none"> • Has the challenging discussion around which water bodies are outstanding in Hawke's Bay once, rather than in each catchment based plan change process. • Activities which fall into a discretionary activity classification discharging contaminants, or taking, using, damming or diverting water. 		
Option 5 – Change to RPS + Regional Plan parts of RRMP (inserting a list of OWB + guiding policy + rules)			
<ul style="list-style-type: none"> • The costs of preparing and notifying a change to the Regional Resource Management Plan and the Regional Coastal Environment Plan. • Large scope, significant longer timeframe and cost than Option 4, to develop Plan Change 7. For example, before new rules can be included to protect the significant values out OWB the significant values of the OWB need identified with input by the community. Current understanding of the significant values of OWB is limited to those values identified in pre-existing literature. • This option is inflexible and directs from the outset (through rules) how the significant values of OWB will be protected, with potentially limited input from the community. • Increased costs, challenges can occur against regional policy statement and regional plan and regional coastal environment plan. • May result in increased litigation costs for resource consent applicants through appeals. • Increased resource consent costs in some instances, as a more detailed consent applications may need to be provided for activities which are potentially impacting on the significant values of outstanding water bodies. • Additional cost, as discretionary activity rules will be eventually updated and changed as the catchment based plan changes tailor rules for each outstanding water body (i.e. each outstanding water body will have a different set of significant values that will need to be protected, and different pressures surrounding it). 	<ul style="list-style-type: none"> • The discussion around which water bodies are outstanding to occur on a region wide basis instead of at a catchment by catchment level. This reduces the likelihood of debates over what are and are not OWB during future catchment planning processes. • Will provide immediate protection to outstanding water bodies by including rules which enable decision makers to take into account all of the potential effects of activities in or near outstanding water bodies. i.e. rather than waiting for the catchment based management plans which will provide protection over a longer timeframe. • Provides clarity around which water bodies are outstanding and how their significant values will be protected. 	<ul style="list-style-type: none"> • Inefficiencies as consultation with relevant community interests is very important when developing rules. These groups may have reduced involvement and potentially less 'buy in'. • Inefficiencies as may take a long time to progress Plan Change 7. Plan Change 7 is just one of several workstreams to amend the RRMP and RCEP so as to fully implement the NPSFM and relevant parts of the NZCPS. 	<ul style="list-style-type: none"> • Not the most effective and efficient option to achieve the purpose of the RMA.

EVALUATION – OUTSTANDING WATER BODY OBJECTIVES

118. Section 32 of the RMA requires the Council to evaluate the extent to which each objective is the most appropriate way to achieve the purpose of the RMA.
119. The purpose of the RMA is set out in Section 5 of the Act and is further defined by the principles set out in sections 6, 7 and 8 which are also relevant to this assessment. The RMA has an overarching single purpose of sustainable management.
120. The NPSFM, is a high level planning document, which sets out the strategic direction of freshwater management in New Zealand. The NPSFM sets a clear direction for the management of OWB, requiring regional councils to identify and protect the significant values of those water bodies in their region with outstanding values.
121. The NPSFM has been prepared by the Government in accordance with Part 2 of the RMA. Therefore, by giving effect to the 2014 NPSFM, the amendments are achieving the purpose of the RMA³⁷. As such, the provisions of Plan Change 7 supports the direction set through the NPSFM, which is consistent with the purpose of the Act.
122. In light of the NPSFM OWB provisions (as most recently amended in 2017), it is proposed to amend Objective LW1, and insert a new Objective 11 into the RPS. The proposed changes will align with the latest NPSFM wording which requires the protection of the significant values of OWB³⁸, and refer to a list of OWB in Hawke's Bay.
123. The proposed Change to Objective LW1 and the proposed new Objective 11 are detailed as follows:

OBJ LW 1 *Integrated management of fresh water and land use and development*
Fresh water and the effects of land use and development are managed in an integrated and sustainable manner which includes:

1. *protecting the outstanding and significant values ~~quality~~ of outstanding freshwater bodies identified in Schedule 25 Hawke's Bay ;*

1A."

OBJ 11 *Protection of the outstanding and significant values of those outstanding water bodies within the Coastal Environment listed in Schedule 25.*

124. As discussed in paragraph earlier in the report, Plan Change 7 is one of a series of work programmes which are currently being undertaken to implement the NPSFM and NZCPS to ensure that water is available for the use and enjoyment of everyone in the region, including tangata whenua, now and for future generations.

Evaluation summary of objectives

125. The summary of the evaluation of amended Objective LW1 and new Objective 11, against the purpose of the RMA, is set out in Table 18, below.
126. On the basis of this assessment, Hawke's Bay Regional Council is satisfied that the new Objective 11 and amended Objective LW1 are the most appropriate way to achieve the purpose of the RMA. In particular, the objectives:
- Are consistent with the NPSFM OWB provisions which requires regional councils to protect the significant values of outstanding water bodies.
 - Give priority to waterbodies that have been identified as having outstanding values and provide clear direction that future management methods need to be focused on the protection or improvement of these waterbodies.
 - Ensures a consistent framework is in place to manage and protect OWB in the region regardless of their location. In particular new Objective 11 aligns with provisions relating to outstanding water bodies that are located inland from the coastal environment, as set out in Chapter 3.1A of the RRMP.
 - Provide for the integrated management of the effects of use and development of land and freshwater on

³⁷ In the context of giving effect to the NPSFM resort to Part 2 is not appropriate because Part 2 has been embodied by the NPSFM *Environmental Defence Society Inc v New Zealand King Salmon Company Ltd* [2014] NZSC 38.

³⁸ 2014 NPSFM wording required the protection of the quality of 'outstanding freshwater bodies.

coastal water, in accordance with the NPSFM, NZCPS and also s30(1).

- Refer to a list of OWB set out in Schedule 25 of the RPS. Identifying a list of OWB will assist the council and community to identify and protect the significant values of OWB, when making decisions in the future that involve the balance of multiple, and often competing, values associated with land use and development and water resources in Hawke's Bay.
- Directly informs future catchment planning processes, by clearly signalling that future plan provisions and management methods need to deliberately identify and protect the significant values of the outstanding water bodies.
- Provide certainty by identifying those water bodies which require special attention during future planning processes.
- Give partial effect to the NZCPS. Specifically, new Objective 11 give partial effect to Objectives 1 and 2 and Policies 13 and 15 of the NZ Coastal Policy Statement, which seek to protect significant natural ecosystems, sites of biological importance, natural features, natural character and landscape values, which are some of the many significant values which can be associated with water bodies in the coastal environment.
- The NPSFM has been prepared in accordance with Part 2 of the RMA. Therefore, by giving effect to the 2014 NPSFM, the amendments are achieving the purpose of the RMA³⁹. As such, the provisions of Plan Change 7 supports the direction set through the NPSFM, which is consistent with the purpose of the Act.

³⁹ In the context of giving effect to the NPSFM resort to Part 2 is not appropriate because Part 2 has been embodied by the NPSFM *Environmental Defence Society Inc v New Zealand King Salmon Company Ltd* [2014] NZSC 38.

Table 18 Evaluation summary of objectives

Amended /new Objective of PC7	Does it address the issue	Does it achieve the purposes of the RMA?	Is the new/amended objective the most appropriate way to achieve purpose of the RMA?
OBJ LW 1 Integrated management of fresh water and land use and development Fresh water and the effects of land use and development are managed in an integrated and sustainable manner which includes: 1. protecting the outstanding and significant values of outstanding water bodies identified in Schedule 25; 1A. ⁴⁰	<ul style="list-style-type: none"> The amendments provide a clear statement of intent for water bodies in Hawke's Bay contain outstanding values. The amendments are consistent with the 2014 NPSFM which direct regional councils to protect the significant values of outstanding water bodies (Objectives A2 and B4) rather than the earlier 2011 NPSFM policy directives. The amendments provides clear direction to future catchment based plan changes, and respective community discussions, which water bodies are outstanding and have significant values which must be protected. The amendments ensure future catchment based plan changes contain provisions protect the significant values of OWB for future generations. 	<ul style="list-style-type: none"> Objectives A2 and B4 of the NPSFM requires the protection of significant values of OWB. The proposed amendments reflect the updated wording in relation to outstanding water bodies as stated in the NPSFM. The NPSFM also requires regard to the connections between freshwater and coastal water (Policies A1 and B1), which is reflected in whole river systems, including their estuaries, being included in the plan change. The NPSFM is a higher level document prepared in accordance with Part 2 of the RMA. As such, by giving effect to the 2014 NPSFM, the amendments are achieving the purpose of the RMA⁴⁰. 	Yes. The amended objective reflects the updated wording of the NPSFM in relation to OWB. This is more appropriate than status quo (i.e.no amendment to Objective LW1).
OBJ 11 Protection of the outstanding and significant values of those outstanding water bodies within the Coastal Environment listed in Schedule 25.	<ul style="list-style-type: none"> Freshwater and coastal systems are interconnected. The management and protection of outstanding water bodies is complex and needs be integrated between the two environments, to ensure adequate protection of all outstanding water bodies. The new objective ensures a consistent framework is in place to management and protect OWB in the region regardless of their location. The new objective provides clear direction 	<ul style="list-style-type: none"> Objective 2 of the NZCPS seeks to preserve the natural character of the coastal environment and to protect natural features and landscape values. Policy 11 protects indigenous biological diversity in the coastal environment. Policy 13 of the NZPCS requires greater protection for areas of 'outstanding' natural character in the coastal environment. The new objective partially gives effect to Policy 13 of the NZCPS which seeks to protect 	Yes. The new objective is more appropriate for achieving the RMA's purpose than the than status quo (i.e. existing objectives in the RPS).

⁴⁰ In the context of giving effect to the NPSFM resort to Part 2 is not appropriate because Part 2 has been embodied by the NPSFM *Environmental Defence Society Inc v New Zealand King Salmon Company Ltd* [2014] NZSC 38.

Amended /new Objective of PC7	Does it address the issue	Does it achieve the purposes of the RMA?	Is the new/amended objective the most appropriate way to achieve purpose of the RMA?
	<p>to future catchment based plan changes, and respective community discussions around which water bodies are outstanding and have significant values which must be protected.</p> <ul style="list-style-type: none"> • The new objective ensures future catchment based plan changes contain provisions protect the significant values of OWB for future generations, regardless of their location. • The new objective partially gives effect to objectives 1 and 2, and policies 13 and 15 of the NZCPS, by directing the protection of significant values of OWB located in the coastal environment. (Note: natural features and landscape values are just a few of many significant values which may be identified for protection). • The new objective recognises the importance of all significant values associated with outstanding water bodies in the coastal environment, and requires their protection (i.e. does not restrict protection to outstanding natural character, natural features and natural landscapes). 	<p>outstanding natural features, including biophysical and geological aspects, natural landforms, and wild and scenic areas. Some of these features will be associated with water bodies (i.e. estuaries which are located in the coastal environment).</p> <ul style="list-style-type: none"> • Policy 15 of the NZCPS requires greater protection for outstanding natural features and outstanding natural landscapes in the coastal environment. The new objective partially gives effect to Policy 15 by protecting those outstanding natural features and landscapes, which are two of a number of significant values that may be associated with water bodies located within the coastal environment. • Policy 17 of the NZCPS protects historic heritage in the coastal environment from inappropriate subdivision, use, and development. • The new objective closely mirrors similar provisions relating to outstanding water bodies in Section 3.1A of the RPS (e.g. Objective LW1). While the NZCPS does not provide guidance or refer to outstanding water bodies, Objective 11 ensures that water bodies with outstanding values located within the coastal environment (i.e. estuaries), enjoy the same high level of protection as those water bodies with outstanding values which are freshwater. • The NZCPS was prepared in accordance with Part 2 of the RMA, therefore by partially giving effect to provisions in the NZCPS, the 	

Amended /new Objective of PC7	Does it address the issue	Does it achieve the purposes of the RMA?	Is the new/amended objective the most appropriate way to achieve purpose of the RMA?
		amendments are achieving the purpose of the RMA ⁴¹ .	

⁴¹ In the context of giving effect to the NPSFM resort to Part 2 is not appropriate because Part 2 has been embodied by the NPSFM *Environmental Defence Society Inc v New Zealand King Salmon Company Ltd* [2014] NZSC 38.

EVALUATION – APPROPRIATENESS OF POLICIES IN PLAN CHANGE 7

127. Having concluded that the objectives are the most appropriate way of achieving the purpose of the RMA, the next requirement in the section 32 evaluation is for Council to consider whether, having regard to their effectiveness and their efficiency, the provisions in the proposal are the most appropriate for achieving the objectives of Plan Change 7.
128. The following section contains a summary of the key policies within Plan Change 7, and whether there are any other reasonably practicable options for achieving the objectives.
129. Table 18, below evaluates the efficiency and effectiveness of each policy in achieving the objectives of Plan Change 7, taking into account any benefits, costs and risks, and whether the provisions are the most appropriate to achieve the objectives.

Evaluation summary of policies

130. Currently there are two policies within the RPS that refer to outstanding water bodies; Policies LW1A and LW1, which guide the identification and protection of those freshwater bodies with outstanding values in the region.
131. Plan Change 7 proposes to amend Policy LW1, and insert three new policies (Policy LW3A, Policy C1 and Policy C2) into the Regional Policy Statement to help implement Objectives LW1 and 11.
132. The new and amended policies will provide a consistent region wide management framework going forward for all outstanding water bodies across the region. Policies LW1 and C1 are strategic policies which provide high level guidance for development of more targeted policies and rules for OWB in future catchment management planning.
133. The new and amended policies set out below are considered to be the most appropriate provisions for achieving Objectives LW1 and 11 of Plan Change 7.

POL LW1 Problem solving approach - catchment-based integrated management

134. The 2014 NPSFM provisions direct a high level of protection for those water bodies with outstanding values. Policy LW1 has been amended to give further effect to the NPSFM OWB provisions, by providing clear guidance that the significant values of outstanding water bodies will need to be protected when developing future plans.
135. The proposed amendments to Policy LW1 provide clear direction around how best to achieve that outcome. This involves the identification of an outstanding water body's significant values (including their spatial extent), and managing activities in or near outstanding water bodies which avoids adverse effects on its significant values.
136. In recognition that 'one size does not fit all', the high level guidance in Policy LW1 will enable the future catchment plan changes to develop more targeted policies and rules in a manner which is best suited to each individual OWB.
137. The proposed amendments to Policy LW1 are set out below:

POL LW1 Problem solving approach - Catchment-based integrated management

1. Adopt an integrated management approach to fresh water and the effects of land use and development within each catchment area, that:
 - b) provides for *mātauranga a hapū* and local tikanga values and uses of the catchment;
 - c) provides for the inter-connected nature of natural resources within the catchment area, including the coastal environment;
 - cA).....";
 - cB)....."
 - cC) assesses the outstanding water bodies identified in Schedule 25 to determine the significant values of those water bodies. This assessment include consideration of the values set out in Appendix 1 of the National Policy statement for Freshwater Management, and any other values that are determined to be relevant taking into account local and/or regional

circumstances.

- d) ~~gives effect to provisions relating to outstanding freshwater bodies arising from the implementation of Policy LW1A~~ protects the outstanding and significant values of those outstanding water ~~bodies identified listed in Schedule 25~~⁴²;
- dA) maintains, and where necessary enhances, the water quality of those outstanding freshwater bodies identified ~~in Schedule 25, the catchment~~ and where appropriate, protects the water quantity of those outstanding freshwater bodies;
- e) ~~.....~~

2. When preparing regional plans:

- a) use the catchment-wide integrated management approach set out in POL LW1.1; and
- b) identify the values for freshwater and their spatial extent within each catchment and for catchments identified in Policy LW2.1:
 - i) the values must include those identified in Table 1; and
 - ii) may include additional values; and
- ~~bA) recognise and provide for outstanding freshwater bodies and their values arising from the implementation of Policy LW1A; and~~
- bA) in relation to any relevant outstanding waterbodies identified in Schedule 25:
 - i) identify the significant values of that outstanding waterbody and the spatial and/or temporal extent of those values as relevant;
 - ii) establish how the outstanding and significant values of outstanding water bodies identified in Schedule 25 will be protected by regulatory methods or non-regulatory methods or both;⁴³
 - iii) include regional plan provisions to manage activities in a manner which avoids adverse effects that are more than minor on the outstanding and significant values of an outstanding water body identified in Schedule 25.
- c) ~~.....~~

POL LW2 Problem solving approach - Prioritising values

- 138. Policy LW2 prioritises values of freshwater in three catchment areas, being the Greater Heretaunga / Ahuriri Catchment Area, Mohaka Catchment Area and Tukituki Catchment Area, where significant conflict exists between competing values.
- 139. To provide clarity, Plan Change 7 proposes the following amendments to Policy LW2:

POL LW2 Problem solving approach - Prioritising values

Subject to achieving Policy LW1.3:

- 1. a) Policy LW 2.1 applies in the following catchment areas:
 - i) Greater Heretaunga / Ahuriri Catchment Area
 - ii) Mohaka Catchment Area
 - iii) Tukituki Catchment Area.
- b) Policy LW 2.1 applies:
 - i) When preparing regional plans for the specified catchments ~~specified in Policy LW 2.1; and~~
 - ii) When considering resource consents for activities in the specified catchments when no catchment-based regional plan has been prepared for the relevant catchment.
- c) ~~Give priority to~~ Values and uses of water bodies in these catchment areas⁴⁴ will be prioritised as follows:
 - i) Protecting outstanding values of any outstanding waterbody in Schedule 25, then
 - ii) Protecting significant values of any outstanding waterbody in Schedule 25, then

⁴² In the case of conflicts arising between outstanding and significant values, the outstanding value(s) will take priority over significant values of the same outstanding water body identified in Schedule 25.

⁴³ In the case of conflicts arising between outstanding and significant values, the outstanding value(s) will take priority over significant values of the same outstanding waterbody identified in Schedule 25.

⁴⁴ A map illustrating the indicative location of these Catchment Areas is set out in Appendix 'A'.

- iii) Maintaining, or enhancing where appropriate, the primary values and uses of freshwater bodies shown in Table 1, then
- iv) Having particular regard to the secondary values and uses of freshwater bodies identified in Table 1, then
- v) For values not specified in Table 1 or Schedule 25, the management approach set out in Policy LW 1 will apply
- vi) Evaluate and determine the appropriate balance between any conflicting values and uses within (not between) columns in Table 1, using an integrated catchment-based process in accordance with Policy LW 1.1, Policy 1.2, Policy 1.3 and Policy 1.4 or when considering resource consent applications where no catchment-based regional plan has been prepared.

- 2. In relation to catchments not specified in Policy LW2.1, the management approach set out in Policy LW 1.1, Policy 1.2, Policy 1.3 and Policy 1.4 will apply.

POL LW3A Decision Making Criteria – Outstanding Water Bodies (new policy)

- 140. Policy LW3A is intended to provide guidance to resource consent applicants and decision-makers when assessing activities which can potentially cause adverse effects on outstanding water bodies.
- 141. Policy LW3A is particularly relevant for new activities requiring a resource consent for a discretionary activity, prior to the relevant catchment based management plan being notified. Once the future catchment management plan has been notified, it is expected that the outstanding water bodies in the catchment will be protected through the policies, rules and other methods developed through this process.
- 142. The new policy will provide clarity for resource consent applicants and decision makers around the types of factors that will be considered when assessing resource consent applications to ensure the outstanding water body's significant values are appropriately protected.
- 143. Proposed new Policy LW3A is set out below:

Policy LW3A - Decision Making Criteria – Outstanding Water Bodies

- 1. In relation to those types of activities identified in Policy LW3A.2, once the relevant catchment based regional plan change is operative or after 31 December 2025, whichever is sooner, a consent authority must have regard to:
 - a. the extent to which the activity would protect the outstanding value(s) described in Schedule 25 of the relevant outstanding waterbody
 - b. the extent to which the activity would protect the significant values (if any) identified in Schedule 25 of the relevant outstanding waterbody
 - c. whether, in order to protect the waterbody's outstanding values and significant values:
 - i. the location of the proposed activity is appropriate
 - ii. time limits, including seasonal or other limits on the activity may be appropriate.
 - d. If there is a conflict between protecting an outstanding and a significant value of the same water body, protection of the outstanding value must be given preference.
- 2. Policy LW3A.1 only applies to the following activities classified as a discretionary activity or a non-complying activity by a rule in a regional plan:
 - a. a take, use, damming, or diversion of water from an outstanding waterbody
 - b. a change to any existing take, use, damming or diversion of water from an outstanding waterbody
 - c. a discharge or a change or increase in any discharge of a contaminant into an outstanding waterbody
 - d. a discharge or a change or increase in any discharge of a contaminant onto or into land in circumstances that may result in that contaminant (or, as a result of any natural process from the discharge of that contaminant, any other contaminant) entering an

outstanding waterbody

- e. a land use consent for any new structure in the bed of an outstanding waterbody
 - f. a land use consent for any new or increased disturbance of the bed of an outstanding waterbody that is not already authorised by a current land use consent
3. Policy LW3A.1 only applies in the following circumstances:
- a. where a description of the outstanding waterbody's outstanding value(s) is stated in Schedule 25 and/or
 - b. where a description of the outstanding waterbody's significant value(s) is stated in Schedule 25.

POL C1 Problem solving approach – outstanding water bodies (new policy)

144. Policy C1 is a new policy that has been included in Plan Change 7 to provide a consistent approach to the management of OWB in the coastal environment. Policy C1 achieves the same outcome as the proposed amendments to Policy LW1, but in a coastal environment context (see paragraphs 134 to 137).
145. Proposed new Policy C1 is set out below:

POL C1 Problem solving approach – outstanding water bodies

1. When preparing regional plans, in relation to any relevant outstanding waterbodies identified in Schedule 25:
 - i) identify the significant values of that outstanding waterbody and the spatial and/or temporal extent of those values as relevant;
 - ii) establish how the outstanding and significant values of outstanding water bodies listed in Schedule 25 will be protected by regulatory methods or non-regulatory methods or both;⁴⁵
 - iii) include regional plan provisions to manage activities in a manner which avoids adverse effects that are more than minor on the outstanding and significant values of an outstanding water body listed in Schedule 25.

POL C2 Decision Making Criteria – Outstanding Water Bodies (new policy)

146. Policy C2 is a new policy that has been included in Plan Change 7 to provide a consistent approach to the management of OWB in the coastal environment. Policy C1 achieves the outcome as the proposed amendments to Policy LW3A, but in a coastal environment context (see paragraphs 140 to 142).
147. Proposed new Policy C2 is set out below:

Policy C2 - Decision Making Criteria – Outstanding Water Bodies

1. In relation to those types of activities identified in Policy C2.2, once the relevant catchment based regional plan change is operative or after 31 December 2025, whichever is sooner, a consent authority must have regard to:
 - a. the extent to which the activity would protect the outstanding value(s) described in Schedule 25 of the relevant outstanding waterbody
 - b. the extent to which the activity would protect the significant values (if any) identified in Schedule 25 of the relevant outstanding waterbody
 - c. whether, in order to protect the waterbody's outstanding values and significant values:
 - i. the location of the proposed activity is appropriate
 - ii. time limits, including seasonable or other limits on the activity may be

⁴⁵ In the case of conflicts arising between outstanding and significant values, the outstanding value(s) will take priority over significant values of the same outstanding waterbody identified in Schedule 25.

appropriate.

- d. If there is a conflict between protecting an outstanding and a significant value of the same water body, protection of the outstanding value must be given preferential protection.
2. Policy C2.1 only applies to the following activities:
 - a. a take, use, damming, or diversion of water from an outstanding waterbody
 - b. an increase in any existing take, use, damming or diversion of water from an outstanding waterbody
 - c. a discharge or a change or increase in any discharge of a contaminant into an outstanding waterbody
 - d. a discharge or a change or increase in any discharge of a contaminant onto or into land in circumstances that may result in that contaminant (or, as a result of any natural process from the discharge of that contaminant, any other contaminant) entering an outstanding waterbody
 - e. a land use consent for any new structure in the bed of an outstanding waterbody
 - f. a land use consent for any new or increased disturbance of the bed of an outstanding waterbody that is not already authorised by a current land use consent
 3. Policy C2.1 only applies in the following circumstances:
 - a. where a description of the outstanding waterbody's outstanding value(s) is stated in Schedule 25 and/or
 - b. where a description of the outstanding waterbody's significant value(s) is stated in Schedule 25.

Table 19: Evaluation Summary – Determining the most appropriate policy approach

The following policy approach have been assessed in determining the most effective and efficient approaches to achieve the objectives of Plan Change 7

Policy approach	Costs, risks and uncertainties	Benefits	Efficient and effective overall?	Appropriateness
General				
Status Quo /do nothing	<ul style="list-style-type: none"> • The current policy wording does not give effect to the 2014 NPSFM OWB provisions, which requires the protection of significant values of OFWB. • Lack of clarity for future catchment based planning processes and for decision makers when assessing future resource consents applications near an OWB. • Potentially harder to protect of the significant values of outstanding water bodies in the region due to lack of guidance. • No clear guidance to decision-makers when assessing activities which can potentially cause adverse effects on outstanding water bodies. • Could result in inconsistent decisions across the region when decision makers are considering activities in or near OWB. 	<ul style="list-style-type: none"> • Potentially increased development opportunities around OWB due to the RPC not providing guidance on how to protect the significant values of OWB. 	<p>Low efficiency and effectiveness.</p> <p>Achievable – is within the Council's functions under the RMA and NPSFM</p>	No
Non-regulatory				
<p>Awareness, education, communication and any other non-regulatory methods</p> <p>Informing and advising landowners/ consent holders located near OWB + 'any other non-regulatory methods</p>	<ul style="list-style-type: none"> • Cost to HBRC through education and awareness campaign + any incentives provided to encourage protection of significant values of OWB. • Not mandatory – potentially means despite being informed about an OWB located nearby, this may not result in the protection of the significant values of OWB due to economic factors being more important to some individuals. • No regulation so messages may be disregarded without any penalties. 	<ul style="list-style-type: none"> • The protection of outstanding water bodies is also reliant and the actions landowners and consent holders to undertake activities in a manner which protects the significant values of OWB. • More collaborative approach will result in and increased 'ownership' over ideas around how best to protect significant values of the OWB. Increased 'buy in'. • May result in the improvement of significant values of some OWB. Landowners / consent holders may not have been aware of the special values associated with nearby water body. • Appropriate protection measures can be tailored for each OWB. • The protection of significant values can happen now, does not need a plan change to be progressed. 	<p>On its own low effectiveness.</p> <p>As part of a 'package' of methods - high effectiveness</p>	Yes – as part of a 'package'

Policy approach	Costs, risks and uncertainties	Benefits	Efficient and effective overall?	Appropriateness
		<ul style="list-style-type: none"> Methods to catchment management groups develop to protect the significant values of outstanding water bodies are likely to be a mix of both regulatory and non-regulatory methods. In certain cases regulatory methods may not be appropriate at all. i.e. when an OWB is located in a national park. 		
Financial	<ul style="list-style-type: none"> Cost to HBRC for any financial incentives (e.g. grants) include direct cost of incentive and administrative support and monitoring Requires campaign to raise awareness of any funding opportunity Not mandatory, so there may be uneven uptake of funding Risk that funding will not be sufficient to achieve protection of the outstanding value i.e. additional funding may be necessary for value protection and for monitoring to ensure expected benefits are delivered Places greater onus on HBRC to take more responsibility for protecting OWBs at a higher cost to the regional ratepayer 	<ul style="list-style-type: none"> Supports landowners and managers in stepping up to protect the OWB; more collaborative approach Flexible application of funding is possible to best meet specific circumstances Protection of significant values can happen now, it does not need to wait for the plan change to be made operative Partial funding may seed top up funding from others e.g. landowner, government, philanthropic trusts etc. 	<p>On its own low cost effectiveness.</p> <p>As part of a 'package' of methods - high effectiveness</p>	Yes - as part of a package of methods
Regulatory (Policies LW1 and C1)				
Amendments to POL LW1 & new Policy C1	<ul style="list-style-type: none"> Degree of uncertainty for stakeholders with interests in outstanding water bodies (i.e. no certainty around what future rules and restrictions will be put in place to protect the significant values of each OWB). Does not contain any rules. This may result in lag in extra protection measures being developed for those OWB, located in catchments which are not scheduled for catchment management plans in the near future. Potential extended disagreements on what constitutes 'significant'. No examples of definitions in relevant national policy statements nor associated case law that may assist with interpretation. 	<ul style="list-style-type: none"> Will help guide catchment planning by providing a consistent framework for managing and protecting outstanding water bodies across the region. Gives effect to the 2014 NPSFM outstanding water body provisions, by directing the identification and protection of their significant values during catchment planning processes. Policy LW1 and Policy C1 provide clear direction that the significant values of each OWB must be protected, and sets out high level guidance around how this is achieved. Methods to achieve Policy LW1 and Policy C1 are likely to be a mix of both regulatory and non-regulatory methods – some with existing rules and some as new methods. 	<p>Policy Option 2 is considered to be efficient and effective insofar as Policies LW1 and C1:</p> <ul style="list-style-type: none"> Specify an approach that must be used when developing future provisions for OWB. Does not prescribe precisely what the approach must be taken to protect OWB. Reduces likelihood of debate and re-debate over factors to consider, and what approach should be 	Yes

Policy approach	Costs, risks and uncertainties	Benefits	Efficient and effective overall?	Appropriateness
		<ul style="list-style-type: none"> • There is a degree of flexibility to Policy LW1 and Policy C1 which ensures the policies and methods (regulatory and non-regulatory) may be used to protect the significant values of outstanding water bodies. • The decision making framework set out in Policy LW1 and Policy C1, with regard to outstanding water bodies, ensures that decisions are made at the catchment level with all stakeholders having input to decide what are the significant values associated with each outstanding water body and how best to protect each significant value. • Policy LW1 and Policy C1 are worded in a way which enables each catchment based process to tailor a set of provisions which protect the significant values of each OWB, while taking into account the surrounding location and development pressures. (I.e. it does not prescribe a one size fits all approach). The actual provisions suitable for future catchment based plans will depend on many things including the identification of significant values, consideration of current and future use and development patterns, including potential threats or conflicts, and input by relevant community interests, stakeholders and Iwi authorities. • Policy LW1 and Policy C1 provide clear direction around the approach that should be used to protect outstanding water bodies when preparing regional plans. • Many waterbodies have values that are significant to the community. These values may be of economic, cultural, social or environmental significance. Policy LW1 and Policy C1 assist in ensuring that the identification of the significant values of outstanding water bodies during the catchment management plan process, in consultation with the local community. • Provides clear guidance to future catchment based plan processes, that during this process the 	<p>used, in future planning processes.</p> <ul style="list-style-type: none"> • Assists in achieving Objective LW1(a) and Objective 11 of RPS. • Gives effect to the 2014 NPSFM OWB provisions. • Enable better informed decisions, where the regions outstanding water bodies are assessed by the relevant catchment management process to determine what is/is not significant. This allows for better plan making in the longer term. • Assists HBRC to give effect to the NPSFM OWB provisions. • Helps guide decision makers when considering resource consent applications for activities in or around outstanding water bodies • Specifies an approach and factors that will be taken into account when considering resource consent applications for activities occurring near or in OWB. <p>Effective and efficient approach by not unnecessarily requiring resource consents and</p>	

Policy approach	Costs, risks and uncertainties	Benefits	Efficient and effective overall?	Appropriateness
		<p>significant values for each OWB must be identified, and provisions included in the plan which protects those identified significant values, albeit giving priority to outstanding values of that same waterbody if conflicts in values arises.</p> <ul style="list-style-type: none"> • Policy LW1 and Policy C1 are flexible, by providing high level guidance only. They do not prescribe what provisions must be included in future plans to protect the significant values of each OWB. This allows future plans to be developed in a manner which tailor a different set of provisions (non-regulatory, or regulatory or both) for each OWB which takes into account the particular location, development pressures, characteristics and community expectation for each OWB. • Directs that the significant values for each outstanding water body must be protected, but does not specify what provisions must be included in the catchment based plans to protect the significant values. • Provides clearer guidance around what values should be considered during catchment managing planning as significant values. • A clearer description of what constitutes a significant value will assist decision-makers and plan preparation as to what is significant, improves awareness and enables better focus for developing the more detailed catchment plan changes in future, and identification of appropriate protection • Ensures all significant values associated with outstanding water bodies are identified and protected, with subsequent policies, rules, and non regulatory methods developed to ensure their protection and establish management priorities. • Ensures the future management approach can be focused on the protection of the significant values, rather than the identification and debate of 	<p>focusing assessment of environment effects (through resource consent applications) on activities that have the most potential to create adverse effects</p> <ul style="list-style-type: none"> • Greater clarity about significant values achieves both plan efficiency and effectiveness 	

Policy approach	Costs, risks and uncertainties	Benefits	Efficient and effective overall?	Appropriateness
		<p>identification of outstanding water bodies themselves.</p> <ul style="list-style-type: none"> Decision-making in Policy LW1 (BaA, BA) would occur at the appropriate catchment level for greater efficiency, flexibility, accountability and autonomy), more likely to see protections follow through if landowners and stakeholders involved in discussions The management and protection of OWB set out in POL LW1 will be tailored and prioritised to address the significant values and development pressures that surround each OWB. 		
Amendments to POL LW1 & new Policy C1 – priority to outstanding values over significant values in cases of conflicts	<ul style="list-style-type: none"> The potentially significant values of an OWB include all national values listed in the NPSFM, and, depending on the context and proposal being considered, not all of those significant values may be able to be protected because of the inherent tensions, especially between extractive use national values and in-situ use and natural national values. Careful analysis will be required, which may increase costs of consent preparation and possible mitigation measures. No guidance to catchment based planning processes on how to deal any conflicts that arise between significant values (i.e. not a conflict with the outstanding value). 	<ul style="list-style-type: none"> Significant values can include the full range of values. In some instances, it may not be possible to protect the all identified significant values of an OWB, due to conflicts. For example the protection of an outstanding bird habitat may conflict with a recreational use that has been identified as a significant value. Or the protection of an outstanding native fish habitat may conflict with irrigation values of the water body. Any conflicts between protection measures for different values will need to be resolved. Policies LW1 and C1 provide guidance around how these conflicts should be resolved during the catchment based plan-making process Where careful analysis is undertaken and it is difficult to reconcile all significant values, providing preference to protection of the outstanding value(s) of the OWB ensure the continuing integrity of the OWB. This provides a clear direction to applicants and assists them in targeting mitigations to ensure they do protect the outstanding values, above other significant values. Gives the priority for protection to the outstanding value, being the more important value and obviously the reason for the OWB status in first instance. 	<p>Yes – provide clarity and certainty, and reduces disagreements on how to proceed when conflicts occur.</p> <p>Efficient and effective – noting that future catchment-based plans will increase the efficiency and effectiveness of how all significant values in a particular OWB interact.</p>	Yes.

Policy approach	Costs, risks and uncertainties	Benefits	Efficient and effective overall?	Appropriateness
Regulatory (Policies LW3A and C2)				
Policies LW3A and C2 (general)	<ul style="list-style-type: none"> Where catchment based plan changes have not yet been progressed, new activities will be assessed under current rules in the RRMP and RCEP. Those activities which are discharging contaminants, or taking using damming or diverting water, that fall within a controlled or a restricted discretionary activity classification can lodge a resource consent without having to provide an extensive evaluation of the activity's impacts on the water body's significant values. 	<ul style="list-style-type: none"> Policies LW3A and C2 provide guidance to resource consent applicants and decision-makers when assessing activities which can potentially cause adverse effects on outstanding water bodies. Decision makers and resource consent applicants can ensure activities will be carried out in a manner which ensure the outstanding water body's significant values are appropriately protected. Will set clear expectations to applicants and resource users about the importance of undertaking activities in a manner which protects the significant values of OWB. Reduces cost and uncertainty as only applies to discretionary and non-complying activities (post catchment management plans, permitted, controlled and restricted discretionary activities around OWB would have been developed in a manner which ensures the protection of the significant values of OWB). Ensures resource consents that are granted have appropriate consent conditions. 	Yes – provide clarity and certainty, and is efficient and effective	Yes
Policies LW3A and C2 – defer until 31 December 2025 or until after the relevant catchment based regional plan change is operative	<ul style="list-style-type: none"> May result in consents being granted when they should not be, or with inappropriate consent conditions due to their impacts on OWB not being fully considered. Uncertainty whether or not the Government will further amend the NPSFM's provisions for OFWBs and/or require HBRC to fully implement the NPSFM by 31 December 2025 with no extension out to 2030. Uncertainty whether or not HBRC can realistically achieve full implementation of the NPSFM in all of the region's catchments by 31 December 2025, but is aiming to do so by 2030 as outlined in HBRC's 2018 NPSFM Progressive Implementation Programme ('PIP'). 	<ul style="list-style-type: none"> In accordance with direction of the NPSFM the NPSFM should have been fully implemented in the Hawke's Bay region by the end of 2025 or 2030 at the latest in certain circumstances. The understanding of what constitutes a significant value(s) relates to the understanding and level of certainty of what actually is significant and therefore how it may be best be protected. This is best determined through future catchment based plan changes (rather than as part of PC7), in consultation with the community, key stakeholders and iwi authorities, using all available information. Will avoid inconsistencies through consenting processes. 	Partly	Yes

Policy approach	Costs, risks and uncertainties	Benefits	Efficient and effective overall?	Appropriateness
		<ul style="list-style-type: none"> Will avoid ad-hoc arguments about what does/does not protect significant values of OWB on a case by case basis through consenting processes. Deferring the effect of Policies LW3A and C2 provides a transitional timeframe for the establishment of new freshwater objectives and water quality and quality limits for all parts of the region to give effect to the NPSFM (these plans will include provisions which protect the significant values of any OWB in their catchments). This will provide increased clarity and reduced costs, for decision makers and applicants. 		
Policies LW3A and C1 – having immediate effect on consent decision-making	<ul style="list-style-type: none"> The understanding of what constitutes a significant value(s) relates to the understanding and level of certainty of what actually is significant and therefore how it may be best be protected. This is best determined through future catchment based plan changes, in consultation with the local community, key stakeholders and iwi authorities, using all available information. If Policies LW3A and C1 take effect immediately, then the protection of significant values of the water body will occur on a case by case basis through ad-hoc consenting processes. Protecting the significant values on a case by case basis through consenting processes could result in consents being declined when they should not be or inappropriate, restricted, consent conditions being required Creates uncertainty for decision makers and resource applicants when the significant values of the OWB have not been clearly identified. This will likely increase costs for consent applications and decision makers will not have clarity around what the significant values are for each OWB or what protection is expected. Likely to result in extended debates over what is/isn't a significant value. 	<ul style="list-style-type: none"> Will result in some immediate protection for some outstanding water bodies. 	No	Not
Require Policies LW3B and C3 to inform non-statutory planning documents	<ul style="list-style-type: none"> Wording of other provisions in Plan Change 7 (Policies LW1 and C2) are deliberately flexible to enable the future catchment based management plans, to tailor a set of provisions for each OWB in their catchment (i.e. it does not prescribe a one size fits all approach). Extending the scope of 	<ul style="list-style-type: none"> Ensures the protection of the significant values of OWB will be required to be considered in a wide range of statutory and non-statutory documents. 	Low efficiency - future catchment based plans are best placed to develop the most appropriate provisions which will	Not

Policy approach	Costs, risks and uncertainties	Benefits	Efficient and effective overall?	Appropriateness
	<p>Polices LW3B and C3 to include non-statutory plans (such as farm plans), removes flexibility for future catchment planning processes to make informed decisions about the best way to protect the OWB in their catchment.</p> <ul style="list-style-type: none"> The actual provisions suitable for future catchment based plans will depend on many things including the identification of significant, consideration of current and future use and development patterns, including potential threats or conflicts, and input by relevant community interests, stakeholders and iwi authorities. Extending the obligation of Policies LW3B and C3 to non-statutory plans (such as farm plans) may be unnecessary to protect the significant values of outstanding water bodies and result in additional costs. Catchments where freshwater objectives and water quality and quantity limits have been set and included in a proposed plan giving effect to the NPSFM, will include provisions which protect the significant values of any OWB in their catchments. Extending this obligation to non-statutory plans in Polices LW3B and C3 is likely to be unnecessary unless catchment management plans have deemed this is appropriate, in which case the consideration of a non-statutory plan can be included as part of the catchment planning process. 		<p>ensure the protection of a water bodies significant values.</p>	
Policies LW3B and C3 – preference to outstanding values over significant values in cases of conflicts	<ul style="list-style-type: none"> The potentially significant values of an OWB include all national values listed in the NPSFM, and, depending on the context and proposal being considered, not all of those significant values may be able to be protected because of the inherent tensions, especially between extractive use national values and in-situ use and natural national values. Careful analysis will be required, which may increase costs of consent preparation and possible mitigation measures. No guidance to decision makers and consent applicants on how to deal with any conflicts that arise between significant values) i.e. where there is no conflict with the outstanding values) 	<ul style="list-style-type: none"> Significant values can include the full range of values. In some instances, it may not be possible to protect the all identified significant values of an OWB, due to conflicts. For example the protection of an outstanding bird habitat may conflict with a recreational use that has been identified as a significant value. Or the protection of an outstanding native fish habitat may conflict with irrigation values of the water body. Any conflicts between protection measures for different values will need to be resolved. Policies LW3A and C2 provide guidance around how these conflicts should be resolved during the catchment based planning process and gives the priority for protection to the outstanding value, being the more important value. Where careful analysis is undertaken and it is difficult to reconcile all significant values, 	<p>Yes – provides clarity and certainty, and reduces disagreements on how to proceed when conflicts occur.</p> <p>Efficient and effective – noting that future catchment-based plans will increase the efficiency and effectiveness of how all significant values in a particular OWB interact.</p>	Yes

Policy approach	Costs, risks and uncertainties	Benefits	Efficient and effective overall?	Appropriateness
		providing preference to protection of the outstanding value(s) of the OWB ensure the continuing integrity of the OWB. This provides a clear direction to applicants and assists them in targeting mitigations to ensure they do protect the outstanding values, above other significant values.		
Regulatory – Rules				
Change to regional plan parts of RRMP and Regional Coastal Environment Plan to include rules to protect significant values of OWB	<ul style="list-style-type: none"> • Prescriptive and potentially based on incomplete information and consultation. New rules would be included without knowing the full set of significant values associated with each OWB, and the development pressures which surround these water bodies. • Prescriptive - having a full set of rules at time of notification removes flexibility for future catchment planning process to develop rules in conjunction with their local community. • Future catchment based planning processes may decide to reassess and develop new provisions which they consider to be more appropriate to protect the significant values of outstanding water bodies. • Increased resource consent costs in some instances, as more detailed consent applications will need to be provided for activities discharging contaminants, or taking, using, damming or diverting water that were previously restricted discretionary or controlled activities. • The development of rules to protect the significant values of identified OWB will realistically take more time than just preparing a plan change featuring objectives and policies. A full list of significant values associated with each OWB has not been developed, rules cannot be appropriately developed until this has been established. • Uncertainty if rules existing in the RRMP and RCEP already provide suitable methods to protect significant values of each OWB. • Including new rules in plans immediately without fully informed understanding of each of the OWB's respective significant values could unnecessarily constrain use and development opportunities of land and water resources in the 	<ul style="list-style-type: none"> • A rule framework would ensure that the significant values of all outstanding water bodies are protected in an appropriate manner from the outset. No delays. • Enables decision makers to fully take into account the effects of an activity on the significant values of OWB in resource consent applications going forward. • Provides a consistent and transparent decision making framework for all resource consent applicants, for all activities (that are not permitted activities), that are discharging contaminants, or taking, using, damming or diverting water in or near an OWB. • Would assist in preventing potential degradation of OWB in areas where catchment planning processes are yet to be completed. • Immediate certainty for stakeholders with interests in outstanding water bodies around what rules will be in place to protect the significant values of each OWB. • Sets out clear expectations to resource consent applicants about the importance of protecting the significant values of outstanding water bodies. • Would enable HBRC to give more effect to the NPSFM OWB provisions in the short term, but including a catch all discretionary activity rule for activities which are most likely to impact on the significant values of OWB. 	<ul style="list-style-type: none"> • Low efficiency and effectiveness – would result in significant delays to the identification of OWB in Hawke's Bay • Freshwater is one of Hawke's Bay's most precious natural resources, and delaying the OWB plan change will delay the implementation of the NPSFM and an overall improvement of the region's resources. 	Not appropriate for this stage of ongoing plan development and progressive implementation of the NPSFM.

Policy approach	Costs, risks and uncertainties	Benefits	Efficient and effective overall?	Appropriateness
	meantime.			
Schedule 25				
New descriptions for outstanding values - cultural and spiritual, ecology, landscape, natural character, recreation, geology	<ul style="list-style-type: none"> The adequacy of description of the outstanding value(s) relates to the understanding and level of certainty of what actually is outstanding, and therefore how it may be best protected. Less adequate descriptions risk creating uncertainty as to what is to be protected. Uncertainty may lead to resource consents being granted when they should not have been, not granted when they could have been, or inappropriate consent conditions being required 	<ul style="list-style-type: none"> Clear descriptions of outstanding values improve awareness and enable decision-makers to better focus on what appropriate protection might involve for a particular activity Clarifies information already held by HBRC regarding outstanding value(s) of each respective OWB. 	Greater clarity about these values achieves both plan efficiency and effectiveness	Yes
Shortened list of OWB + extended submission period + HBRC assistance to iwi authorities Include only those water bodies in Draft Plan Change 7 that have a robust evidence base to support an outstanding status. Leaving remaining water bodies from Draft Plan Change 7 to be re-introduced via RMA Schedule 1 submission process.	<ul style="list-style-type: none"> Potentially could result in some water bodies which have outstanding values being left out of the notified version of Plan Change 7, albeit that published information and/or written evidence has not been made available to HBRC yet. Uncertainty whether or not information collected (if any) during an extended submission period will provide enough evidence in support of the water body being identified as an OWB for NPSFM purposes (or NZCPS purposes where relevant). 	<ul style="list-style-type: none"> Opportunities exist for additional water bodies to be added to Proposed Plan Change 7 during the formal submission and hearing stages in accordance with Schedule One, provided those waterbodies had been the subject of evaluation in accordance with s32 of the RMA. Provides certainty to the local community that there is clear reasoning and a robust evidence base for the water bodies included in Proposed Plan Change 7 as at the public notification milestone. Is a more orthodox planning approach insofar as water bodies which do not have robust information to support an outstanding status at this point in time are not included in the proposed plan change as at the public notification milestone. Would assist in facilitating further participation in the Plan Change 7 process by iwi authorities, ensuring the important cultural and spiritual values associated with all water bodies in Draft Plan Change 7 are recorded and have the opportunities to be considered for an outstanding status. Retains the integrity of the Plan Change 7 process, by following a more conventional approach to adoption and notification of a proposed plan 	High effectiveness - achieves identification of OWB in the region at the conclusion of the RMA Schedule 1 process. High efficiency	Yes

Policy approach	Costs, risks and uncertainties	Benefits	Efficient and effective overall?	Appropriateness
		change. <ul style="list-style-type: none"> The Hearing Panel would have the opportunity to amend the list of OWB, based on further information, and include additional water bodies based on requests in submissions, provided those additional waterbodies had been the subject of evaluation in accordance with s32 of the RMA. 		
<p>Longer list of OWB + extended submission period + HBRC assistance to iwi authorities</p> <p>Retain the same list of outstanding water bodies from Draft Plan Change 7.</p> <p>+ an extended submission period</p>	<ul style="list-style-type: none"> Including some water bodies in Schedule 25 before the Council has clear evidence justifying their inclusion is not a 'conventional' planning approach. Carries the risk of challenge by affected parties who believe this approach is incorrect. Potentially could undermine the Plan Change 7 process, particularly those elements for which robust evidence and evaluation is available. The larger the number of water bodies in the region, the harder it becomes to credibly argue that all of those water bodies are truly outstanding when compared to others in the region. Uncertainty whether or not information collected (if any) during an extended submission period will provide enough evidence in support of the water body being identified as an OWB for NPSFM purposes (or NZCP5 purposes where relevant). May result in water bodies being incorporated in Plan Change 7 that are not truly outstanding and that will have potentially unintended implications for future catchment-based plan-making. Uncertainty whether the Hearing Panel would retain waterbodies where limited information is available, or whether the Panel find (based on evidence before it) that the list of OWB as publicly notified warrants reform. 	<ul style="list-style-type: none"> Clear and transparent. As at notification, Plan Change 7 includes all water bodies the Council believes have outstanding values. Parties who are potentially affected by the provisions in Plan Change 7 will be engaged in the process from notification (rather than some water bodies being added through the Schedule 1 submission and hearing process). Would assist in facilitating further participation in the Plan Change 7 process by iwi authorities, by ensuring the important cultural and spiritual values associated with all water bodies in Draft Plan Change 7 are recorded. The Council's RPC tāngata whenua representatives identified 38 water bodies in Hawke's Bay as containing outstanding cultural and spiritual values, based on a range of information, combined with their traditional knowledge. Allows these water bodies to be included in Plan Change 7 – despite not being a 'conventional' planning approach. 	<p>High effectiveness - achieves identification of OWB in the region at conclusion of the RMA Schedule 1 process</p> <p>Moderate efficiency, identifying a list of water bodies prior to having supporting information is not a 'conventional' planning approach.</p>	Yes
Glossary				
New definition of 'outstanding'	<ul style="list-style-type: none"> Potential disagreements on what constitutes 'outstanding'. 	<ul style="list-style-type: none"> The concept of what is outstanding underpins the entire plan change, and in the absence of better direction through the NPSFM, is critical for identifying what may or may not be outstanding i.e. 	<ul style="list-style-type: none"> A good understanding of what 'outstanding' is vital for plan efficiency & effectiveness 	Yes

Policy approach	Costs, risks and uncertainties	Benefits	Efficient and effective overall?	Appropriateness
		the scale and scope of the proposal.		
<p>Include brief descriptions of all significant values for waterbodies (except Ahuriri Estuary) located in the TANK catchments</p>	<ul style="list-style-type: none"> Plan Change 7 development process has not identified or researched the significant values associated with any of the OWB listed in Schedule 25. This may create uncertainty as to why some significant values are included by in Schedule 25 and others aren't. The identification and inclusion of the significant values for water bodies in the TANK catchments is relying on a separate process which was undertaken independently of Plan Change 7. The significant values of the water bodies within the TANK catchment have been included in Plan Change 7, despite research and assessment of those values not being within scope of PC7. Their inclusion relies on information being sourced from the TANK Plan Change ('PC9') project. The significant values of the water bodies in the TANK catchments have not been investigated as part of the Plan Change 7 process. Does not include the significant values of the Ahuriri Estuary which was not considered as part of the TANK Plan Change due to it being coastal water (in the coastal marine area). The significant values are being inserted at notification rather than when the TANK Plan Change becomes operative, which may lead to the significant values being altered. 	<ul style="list-style-type: none"> Provisions of Plan Change 7 are aligned with the relevant provisions and assessments of the TANK Plan Change project. Identifying the list of significant values would improve awareness and enable better focus on what appropriate protection might involve for a particular activity. Provides clarity around the significant values that were identified through the TANK Plan Change. 	<p>Greater clarity about these values achieves both plan efficiency and effectiveness</p>	<p>Yes</p>

APPENDIX 1: REFERENCES

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- Harper B, Ridling K, 2018, *Outstanding Water Bodies Plan Change: Candidate List of Outstanding Water Bodies in Hawke's Bay – Secondary Assessments for Heretaunga Aquifer, Karamu River, Lake Whakakī, Lake Whatumā, Lake Waikaremoana, Lake Tūtira (including Aropaoanui River + Papakiri Stream), Lake Waikareiti, Lower Ngaruroro River (below Whanawhana), Mangahauanga Stream, Makirikiri River, Porangahau River, Ruakituri River, Ruataniwha Aquifer, Taruarau River, Te Whanganui a Orotū (Ahuriri Estuary), Tukituki River, Tutaekuri River, Upper Mohaka River, Upper Ngaruroro River (above Whanawhana), Waipawa River, Waipunga River, Wairoa River*, Hawke's Bay Regional Council, HBRC Report Number RM19-252.
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- Ministry for the Environment, *A guide to the National Policy Statement for Freshwater Management 2014 (as amended 2017)*.
- Riley B, 2015, *Criteria and Methodology for Determining Outstanding Freshwater Bodies, Literature Review One, Part One: Stocktake*, Ministry for the Environment, Hawke's Bay Regional Council, Auckland Council.
- Riley B, 2015, *Criteria and Methodology for Determining Outstanding Freshwater Bodies, Literature Review One, Part Two: Summary Report*, Ministry for the Environment, Hawke's Bay Regional Council, Auckland Council.
- National Policy Statement for Freshwater Management 2014 (as amended 2017).
- Draft Plan Change 5 to the Regional Resource Management Plan (2012)
- Plan Change 5 to the Regional Resource Management Plan (June 2019 amended edition)
- Comments on Draft Plan Change 5 to the Regional Resource Management Plan (2012)

APPENDIX 2: ENGAGEMENT

Type	Agency
Ministers of the Crown	Ministry for the Environment
	Department of Conservation
	Ministry of Health
	Ministry for Business, Innovation & Employment (Energy & Resources)
	Ministry for Primary Industries (Agriculture, Forestry)
Iwi authorities & other entities for notice re RMA plan changes	Mana Ahuriri Trust
	Ngāti Pārau Hapū Trust
	Maungaharuru-Tangitū Trust
	Tāmanuhiri Tutu Poroporo Trust
	Te Kōpere o te iwi o Ngāti Hīneuru
	Ngāti Kahungunu Iwi Inc
	Wairoa Taiwhenua
	Te Taiwhenua o Te Whanganui-a-Orotū Inc
	Te Taiwhenua o Heretaunga (hapu)
	Te Taiwhenua o Tamatea (hapu)
	Heretaunga Tamatea Settlement Trust
	Te Runanga o Ngāti Manawa
	Ngāti Pāhauwera Development Trust
	Te Kotahitanga o Tūwharetoa
	Tūwharetoa Māori Trust Board
	Mokai Marae Reserve / Turopaki A Trust
	Te Runanga o Ngāti Whare
	Rangitāne Tū Mai Rā Trust
	Rangitāne o Manawātū Settlement Trust
	Taneuiarangi Manawatu Incorporated
	Rangitāne o Tāmaki nui a Rua
	Rangitāne o Wairarapa
	Ngāti Rongomaiwahine
	Rongowhakaata Iwi Trust
	Ngati Ruapani ki Waikaremoana (affiliated to Te Tatou Pounamu o Waikaremoana)
	Te Iwi o Rakaipaaka Inc
	Tatau tatau o te Wairoa Trust
	Te Rākatō Marae
	Tūhoe - Te Uru Taumatua
Local authorities within or adjoining Hawke's Bay region	Napier City Council
	Central Hawke's Bay District Council
	Hastings District Council
	Wairoa District Council
	Rangitikei District Council

Type	Agency
	Taupo District Council
	Gisborne District Council
	Horizons Regional Council
	Waikato Regional Council
	Bay of Plenty Regional Council
Stakeholders	Hawke's Bay District Health Board (Public Health)
	Federated Farmers
	Fish and Game Council (Hawke's Bay)
	Royal Forest & Bird Protection Society Inc
	Horticulture NZ
	Genesis Energy
	Whitewater NZ
	Jet Boating NZ
	Tourism Hawke's Bay
	Brylee Farms
	Te Tumu Pareoa
Public	Via website

Item 8

Attachment 2

APPENDIX 3: DRAFT PLAN CHANGE 7 (WITH AMENDMENTS)

Item 8

Attachment 2

TRUST DEED

HAWKE'S BAY FUTURE FARMING CHARITABLE TRUST

DRAFT

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Item 9

Attachment 1

TRUST TERMS

DATE

This deed is dated the _____ day of _____ 2019

PARTIES

The parties executing this deed, as the Initial Trustees, are: *[Drafting note: Name, occupation and place of residence to be added for each of the Initial Trustees, and any Council-appointed Trustee should be identified. The Initial Trustees are the only parties to the deed on the basis that they would declare the terms of the Trust in relation to property (a nominal sum) that they hold, rather than having a settlor of the Trust.]*

BACKGROUND

- A. The Initial Trustees wish to establish the Trust as a charitable trust for exclusively Charitable Purposes in New Zealand, and in particular for Charitable Purposes relating to the promotion and advancement of environmentally sensitive and sustainable Farming in the Hawke's Bay Region, that is governed in accordance with the terms set out in this deed.
- B. The context for the establishment of the Trust is the development of a Future Farming Initiative for the Hawke's Bay Region as an outcome of the Regional Council's consultation on its 2018-2028 Long Term Plan. This Trust is being establishing following work undertaken by a Hawke's Bay Future Farming Establishment Working Group, facilitated by the Regional Council, to progress this initiative.
- C. It is intended that the Trust will facilitate the implementation of the Future Farming Initiative by pursuing its purpose and functions set out in this deed, and that it will solicit and secure funding and support from the Regional Council and from other sources for this purpose.
- D. The Trust will be governed by its Trust Board, comprising the Trustees of the Trust, and it is intended that the Trust Board will be incorporated under the Charitable Trusts Act 1957.
- E. It is also intended that the Trust will be eligible for certain Tax Concessions benefitting charitable entities, and for this purpose registered as a charitable entity under the Charities Act 2005.
- F. In order to establish the Trust, the Initial Trustees hold an amount of \$100.00, which constitutes the initial Trust Fund and is to be deposited in an account for the Trust.
- G. It is intended that the Trust Board will receive and acquire further funds and other property from time to time for the purposes, and on the terms, of the Trust, as set out in this Deed.

TRUST TERMS

1. INTERPRETATION PROVISIONS

- 1.1 **General:** Clauses 1.2 to 1.11 apply to the interpretation of this deed unless the context requires otherwise.

1.2 **Definitions:**

"**Annual Meeting**" means an annual meeting of the Trust Board held in accordance with clause 10.1;

"**Annual Report**" means a report regarding the activities of the Trust for a Financial Year and, as the context requires, the most recent Annual Report, as referred to in clause 14.2;

"**Balance Date**" means 30 June or any other date adopted from time to time by the Trust Board as the end of the Trust's Financial Year;

"Chair" means the Trustee holding that office for the time being in accordance with clause 8.1;

"Charitable Purpose" means a purpose that is charitable in accordance with the law of New Zealand, and in particular falls within the "charitable purpose" definition in section 5 of the Charities Act 2005;

"Deputy Chair" means the Trustee (if any) holding that office for the time being in accordance with clause 8.1;

"Farming" includes all forms of arable, pastoral and mixed farming involving the rearing of animals and/or the growing of crops (including various forms of horticulture, and viticulture), forestry and agroforestry, and any other equivalent or similar activity as determined by the Trust Board, and the terms "farmer", "grower" and "farm" are to be read accordingly;

"FFI Guidelines" means the problem/mission statement and scope of activities for the Future Farming Initiative developed by the Hawke's Bay Future Farming Establishment Working Group, as set out in the Schedule to this deed;

"Financial Statements" means the financial statements of the Trust for a Financial Year, prepared in accordance with clause 14.1.1;

"Financial Year" means any 12 month or other accounting period ending on a Balance Date;

"Hawke's Bay", "Hawke's Bay Region", or "Region" means the region for which the Regional Council is responsible, including in particular, as at the date of execution of this deed, the districts of the Wairoa, Napier, Hastings and Central Hawke's Bay Territorial Authorities;

"Initial Trustee" means any individual executing this deed as one of the first Trustees, who will be an Initial Trustee until he or she first ceases to hold office as a Trustee;

"Interested" has the meaning given to that term in clause 13.5;

"Officer" means a person for the time being holding a position (as Chair, Deputy Chair or otherwise) to which that person has been appointed in accordance with clause 8;

"Regional Council" means the Hawke's Bay Regional Council, as referred to in Part 1 of Schedule 2 of the Local Government Act 2002, or its successor in relation to the Hawke's Bay Region;

"Resettle" means to settle all or any part of the Trust Fund on the terms of another trust, by way of transfer, declaration or otherwise, and the terms "resettlement" and "resettled" are to be read accordingly;

"Tax Concession" means any tax concession under New Zealand law directly or indirectly benefiting charitable entities, including (without limitation) exemption of a charitable entity's income from income tax and any tax concessions in respect of contributions to a charitable entity;

"Territorial Authorities" means the territorial authorities referred to in Part 2 of Schedule 2 of the Local Government Act 2002, or their successor(s), that are responsible for districts included, wholly or partly, in the Hawke's Bay Region;

"Trust" means the trust established and maintained in relation to the Trust Fund on the terms set out in this deed;

"Trust Board" means:

- (a) the Trustees, or a sufficient number of the Trustees in accordance with the terms of this deed, acting as a board, whether or not the Trustees are incorporated as a board under the Charitable Trusts Act 1957; and
- (b) if the context requires, the Trustees constituting the Trust Board for the time being;

"Trust Fund" means:

- (a) the amount held by the Initial Trustees to establish the Trust; and
- (b) all other funds and other property, including capital and income, paid to or held under the control of or vested in or acquired by the Trust Board on the terms of the Trust, from any source, on or after the date of this deed, whether by way of gift, bequest, devise, purchase, exchange or otherwise;

"Trustee" means any individual acting as a trustee of the Trust, whether as an Initial Trustee or as an additional or replacement Trustee;

1.3 Deed and Clauses: a reference to "this deed" is a reference to this deed (including the Schedule) executed by the Initial Trustees setting out the initial terms of the Trust and also includes, as the context requires, any subsequent variation to the terms of the Trust in accordance with this deed, and a reference to any clause is a reference to a clause of this deed;

1.4 Headings: section, clause and other headings are for ease of reference only and do not form any part of the context or affect the interpretation of the deed;

1.5 Inclusive Expressions: the terms "includes" and "including" (or any similar expression) are deemed to be followed by the words "without limitation";

1.6 Negative Obligations: any obligation not to do anything includes an obligation not to suffer, permit or cause that thing to be done;

1.7 Particular References: a reference to anything of a particular nature either before or after a general statement does not limit the general statement;

1.8 Persons: a reference to a "person" includes an individual (that is, a natural person), a partnership, a firm, a company, a body corporate, a corporation, an association, an organisation, a trust (that is, the trustee or trustees of the trust), a state or government or any agency thereof, a municipal, local or regional authority, and any other form of entity or organisation, whether incorporated or not (in each case whether or not having separate legal personality);

1.9 Plural and Singular: singular words include the plural and vice versa;

1.10 Property: a reference to "property" includes real or personal property of any kind, any right or interest in any such property, any chose in action, and any other right, interest or thing capable of being held on trust;

1.11 Legislation: a reference to any legislation or to any provision of any legislation includes:

1.11.1 Legislative Amendments: that legislation or provision as from time to time amended or re-enacted and any corresponding replacement legislation or provision; and

1.11.2 Subordinate Legislation: any statutory instrument, regulation, rule or order issued under that legislation or provision (as from time to time amended or re-enacted) or issued under any corresponding replacement legislation or provision.

2. NAME OF THE TRUST

2.1 Initial Name: The name of the Trust is **THE HAWKE'S BAY FUTURE FARMING CHARITABLE TRUST.**

2.2 Change of Name: The Trust Board may, by deed, change the name of the Trust to any other name as determined by the Trust Board from time to time, provided that the new name must not be offensive or liable to mislead any member of the public.

2.3 Records and Notice: The Trust Board must ensure that any change of name is recorded in the Trust's records and, if appropriate or required by law, notified to any relevant authority (for

example, under the Charitable Trusts Act 1957, under the Charities Act 2005 if the Trust is registered under that Act, and under any relevant tax legislation).

3. TRUST FUND DEDICATED TO CHARITABLE PURPOSES

- 3.1 Exclusively Charitable Purposes:** The Initial Trustees declare that the Trust is established and to be maintained, and the Trust Fund (including both capital and income) is to be held and administered by the Trust Board on trust, for exclusively Charitable Purposes in New Zealand, and in particular for the Trust's purpose and functions set out in clauses 3.2 and 3.3, which are to be pursued for the benefit of the public and not for private profit.
- 3.2 Purpose of the Trust:** The Trust's purpose is to promote and advance Farming in the Hawke's Bay Region that is environmentally sensitive and sustainable (as well as being productive, high quality and economically sustainable) and thereby benefits the health of the Region's natural environment and the Region's communities, including those involved in Farming. The Trust will do this by providing, and/or promoting and supporting the provision of, a regional hub of knowledge, research, education and innovation in relation to Farming systems, practices, technologies and related matters.
- 3.3 Functions of the Trust:** In furtherance of the Trust's purpose set out in clause 3.2, the specific functions that the Trust is intended to fulfil (which are intended to reflect but also allow for the further development of the FFI Guidelines) are as follows:
- 3.3.1** To facilitate an independent farmer and grower-led approach to advancing and achieving the Trust's purpose.
 - 3.3.2** To promote and support on-farm research and innovation to identify, develop and make available to farmers and growers practical, achievable and financially sustainable options for farmers and growers to improve environmental outcomes on their farms.
 - 3.3.3** To generate, identify, monitor, collate and disseminate knowledge and information regarding relevant research, case studies, demonstrations and innovations relating to Farming systems, practices, technologies and related matters.
 - 3.3.4** To identify, monitor and, where appropriate, promote and support the adoption and/or adaptation of Farming systems, practices, technologies and related matters from other projects and initiatives in the Hawke's Bay Region, New Zealand or internationally.
 - 3.3.5** To establish, promote and support the development, adoption, and advancement and achievement of environmental goals, standards, benchmarks and other such measures for Farming in the Hawke's Bay Region.
 - 3.3.6** To work with, and provide input and advice to, the Regional Council and any other relevant governmental or non-governmental organisation in relation to matters relevant to the Trust's purpose and functions.
 - 3.3.7** To secure funding and other support from the Regional Council and other persons, and to grow and maintain the Trust Fund, to provide a financially sustainable basis for advancing and achieving the Trust's purpose and functions.
 - 3.3.8** To undertake other functions consistent with the charitable status of the Trust that the Trust Board considers to be necessary or expedient to achieve or advance the Trust's purpose.
- 3.4 FFI Guidelines and Adding Value:** In pursuing the Trust's purpose set out in clause 3.2 and its functions set out in clause 3.3:
- 3.4.1** The Trust Board must take into account the FFI Guidelines.
 - 3.4.2** The Trust Board must endeavour at all times to ensure that the Trust's work is additional and/or complementary to, not a replacement for, "business as usual" work that falls

within the statutory or other normal responsibility of other persons (including central and local government agencies) that are directly or indirectly involved in matters relevant to the Trust's purpose and functions.

- 3.4.3** The Trust Board may, however, use Trust funding to enhance or help to more fully realise the benefits that arise from "business as usual" work undertaken and/or funded by such other persons.

4. PARTS OF TRUST FUND MAY BE HELD ON SPECIFIC TRUST

- 4.1 Specific Trusts Permitted:** For the purpose of pursuing the Trust's purpose and fulfilling the functions set out in clauses 3.2 and 3.3, the Trust Board may receive, acquire, hold, invest and distribute or apply any part of the Trust Fund, including income from any particular source or of any particular nature, on trust for any specific Charitable Purpose or Charitable Purposes or subject to specific terms that are consistent with the general terms of the Trust set out in this deed (referred to as a **Specific Trust**).

- 4.2 Administration of Specific Trusts:** In relation to any such Specific Trust:

- 4.2.1** the Trust Board must separately identify, administer and distribute/apply, that part of the Trust Fund in accordance with both the general terms of the Trust and the terms of the Specific Trust; and
- 4.2.2** in the first instance, costs relating to the administration of the Specific Trust, including a fair proportion of the general administration costs of the Trust, will be borne by that part of the Trust Fund held on Specific Trust, provided that the Trust Board may apply any other part of the Trust Fund (but excluding any part of the Trust Fund held on another Specific Trust) to meet all or part of the costs relating to the administration of the Specific Trust.

5. GEOGRAPHICAL FOCUS OF THE TRUST

- 5.1 Hawke's Bay Region:** The Trust's purpose and the functions set out in clauses 3.2 and 3.3 are to be pursued for the benefit of the Hawke's Bay Region.

- 5.2 Impact on Activities:** For the avoidance of doubt, the Trust Board undertaking any activity or using any part of the Trust Fund outside the Hawke's Bay Region, or outside New Zealand, or in a manner that may benefit any area outside the Region, or outside New Zealand, may constitute an activity or use of the Trust Fund for the Trust's Charitable Purposes in New Zealand, for the benefit of the Hawke's Bay Region, so long as the relevant activity or use of the Trust Fund is reasonably considered by the Trust Board to be, and is pursued by the Trust Board as, an appropriate means by which to advance the Trust's purpose and its functions for the benefit of the Hawke's Bay Region.

6. RELATIONSHIP WITH REGIONAL COUNCIL AND TANGATA WHENUA

- 6.1 Regional Council:** It is intended that the Trust will have a close relationship with, but will be independent of, the Regional Council, and that the Trust Board will work with and provide input and advice to the Regional Council, in relation to advancing and achieving the Trust's purpose and functions set out in clauses 3.2 and 3.3, and the Trust Board must use all reasonable endeavours to ensure that this intention is met.

- 6.2 Tangata Whenua:** It is acknowledged that the Trust's purpose and functions set out in clauses 3.2 and 3.3 are of particular importance to tangata whenua of the Hawke's Bay Region, and the Trust Board will endeavour to actively engage with tangata whenua and ensure that the perspectives of tangata whenua are considered in its decisions.

7. ROLE AND COMPOSITION OF THE TRUST BOARD

- 7.1 Role of the Trust Board and Trustees:** In accordance with the terms set out in this deed, the role of the Trust Board, and each Trustee, is to act in the best interests of the Trust in terms of advancing

its Charitable Purposes. The Trust Board will have overall control of, and responsibility for, the Trust Fund and the administration of the Trust, and the affairs of the Trust will be managed by, or under the direction or supervision of, the Trust Board.

7.2 Role of the Initial Trustees: Without derogating from clause 7.1, the role of the Initial Trustees includes doing all things practicable and expedient to establish the Trust, incorporate under the Charitable Trusts Act 1957, and ensure that the Trust obtains any registration or approval required to become eligible for the benefit of any Tax Concession (in accordance with clause 11).

7.3 Composition of the Trust Board: The Trust Board will comprise a minimum of three and a maximum of nine individuals who hold office as Trustees, as follows:

7.3.1 It is intended that the Trust Board will include one Trustee appointed by the Regional Council on account of the Regional Council's anticipated provision of funding support to the Trust, and for this purpose:

(a) Subject to clause 7.3.1(b), the Regional Council has the power to appoint (and to remove), at any time and by ordinary resolution of the Regional Council (which the Council must notify to the Trust Board), one Trustee. **[Insert name of Initial Trustee]** is deemed to be the first Council-appointed Trustee under this clause.

(b) The Regional Council will not have the power to appoint a Trustee, and any Council-appointed Trustee will cease to hold office, if at any time the Trust Board and the Regional Council agree that, on account of the level of funding support (if any) provided by the Regional Council to the Trust at the relevant time or for any other reason, it is no longer appropriate for the Trust Board to continue to include a Council-appointed Trustee. Any such agreement may be subsequently rescinded by the parties.

(c) The Trust Board must notify the Regional Council if a Council-appointed Trustee ceases to hold office (other than by way of removal by the Council).

7.3.2 The Trust Board has the power to appoint all other additional or replacement Trustees, and in relation to the exercise of this power of appointment the Trust Board must use all reasonable endeavours to ensure that, taking into account the skills, expertise, experience and connections of the existing Trustees, the Trust Board includes at all times:

(a) a Trustee or Trustees able to fairly represent the perspectives of those involved in environmentally sensitive and sustainable Farming in the Hawke's Bay Region and other relevant stakeholders in respect of the Trust's purpose and its functions; and

(b) Trustees who have a mix of skills, expertise, experience and/or connections relevant to advancing the Trust's purpose and its functions.

7.4 Maintaining the Trust Board: If, for any reason, the number of Trustees falls below three, the remaining Trustee or remaining Trustees (acting unanimously) can and must, as soon as practicable, exercise the Trust Board's power to appoint additional Trustees under clause 7.3.2 to increase the number of Trustees to three.

7.5 Term of Office: The following provisions apply in relation to an individual's term of office as a Trustee:

7.5.1 In order to ensure that the Initial Trustees do not all cease to hold office at the same time and to stagger the appointment/reappointment of Trustees in place of the Initial Trustees, the Initial Trustees (other than the Council-appointed Trustee) will cease to hold office as Initial Trustees as follows (and in each case the two Initial Trustees will be determined by unanimous agreement of the Trust Board or otherwise by lot, or if only

one or two Initial Trustees still hold office at the relevant time the remaining Initial Trustee(s) will cease to hold office):

- (a) two Initial Trustees will cease to hold office at the conclusion of the first Annual Meeting following the date of execution of this deed;
- (b) two Initial Trustees will cease to hold office at the conclusion of the second Annual Meeting following the date of execution of this deed;
- (c) two Initial Trustees will cease to hold office at the conclusion of the third Annual Meeting following the date of execution of this deed; and
- (d) two Initial Trustees will cease to hold office at the conclusion of the fourth Annual Meeting following the date of execution of this deed;

provided that an individual who ceases to hold office as an Initial Trustee under this clause may be reappointed as a Trustee under 7.3 for a further term, from or after the time that he or she ceases to hold office under this clause.

7.5.2 An individual appointed as a Trustee by the Regional Council under clause 7.3.1 will hold office until the earlier of cessation of office under clause 7.7 and removal from office by the Regional Council under clause 7.8.

7.5.3 An individual appointed as a Trustee under clause 7.3.2 will hold office until the earlier of cessation of office under clause 7.7 and the conclusion of the third Annual Meeting of the Trust Board following the date of his or her appointment under clause 7.3.2.

7.6 Reappointment: An individual who holds, or has held, office as an Initial Trustee or a Trustee appointed under clause 7.3 may be appointed for a further term or terms at any time, provided that:

7.6.1 an individual is not permitted to hold office as a Trustee for more than two consecutive terms (excluding any term as an Initial Trustee that ceased under clause 7.5.1(a) or (b), and treating as consecutive any two terms with less than six months between end of one term and the start of the other term); and

7.6.2 an individual who has held office as a Trustee for two consecutive terms (as referred to under clause 7.6.1) may, after a stand down period of at least 12 months from the end of the second of those consecutive terms, be appointed for a further term or terms.

7.7 Cessation of Office: An individual holding office as a Trustee (including an Initial Trustee) will cease to hold such office, notwithstanding that his or her term has not yet expired, immediately upon:

- 7.7.1** the expiry of 28 days after the individual has given the Trust Board written notice of his or her resignation (or the expiry of any shorter period approved by the Trust Board);
- 7.7.2** the individual's removal from office as Trustee in accordance with clause 7.8;
- 7.7.3** the individual becoming disqualified from holding office as a Trustee under clause 7.9; or
- 7.7.4** the individual's death.

7.8 Removal from Office: An individual (including an Initial Trustee) may be removed from office as a Trustee as follows:

7.8.1 in the case of an individual holding office under clause 7.3.1, by the Regional Council providing written notice of the removal to the Trust Board; and

7.8.2 in the case of any other individual holding office as a Trustee, by the Trust Board, by way of a resolution passed at a meeting by a number of Trustees that equals or exceeds 75% of the total number of Trustees, but only in circumstances where:

- (a) the individual fails to attend any three or more consecutive meetings of the Trust Board without leave of absence from the Trust Board; or
- (b) the Trust Board reasonably considers that, due to illness or injury of the Trustee, or the conduct of the Trustee in connection with the Trust or any other matter, or for any other reason, the individual's removal from office is in the best interests of the Trust, provided that the Trust Board must give the individual a reasonable opportunity to be heard by the Trust Board prior to making any decision regarding removal (unless it is impossible or impracticable to do so in the particular circumstances).

7.9 Disqualification from Office: An individual (including an Initial Trustee) is not eligible to hold office as a Trustee, or to continue to hold office as a Trustee, if he or she:

7.9.1 is an undischarged bankrupt, or a discharged bankrupt who is prohibited by court order from engaging in all forms or any form of business activity;

7.9.2 has been convicted of a crime involving dishonesty within the meaning of section 2(1) of the Crimes Act 1961, or an offence under section 143B of the Tax Administration Act 1994, and sentenced for that crime within the last seven years, or has been convicted of (and not pardoned for) an offence punishable by a term of imprisonment of two or more years or any offence for which he or she is or has been sentenced to imprisonment;

7.9.3 is prohibited from being a director or promoter of, or from being concerned or taking part in the management of, a company under any of the Companies Act 1993, the Financial Markets Conduct Act 2013, or the Takeovers Act 1993;

7.9.4 is subject to a property order made under the Protection of Personal and Property Rights Act 1988 or whose property is managed by a trustee corporation under section 32 of that Act, or is mentally incapable in relation to property or personal care and welfare, as defined in respect of a donor of an enduring power of attorney under section 94 of that Act;

7.9.5 is disqualified from acting as an officer of a charitable entity under section 16 of the Charities Act 2005, if the Trust is registered, or required under clause 11.2 to be registered, under that Act; or

7.9.6 is disqualified from acting as a Trustee under any other applicable legislation.

7.10 Records and Notice: The Trust Board must ensure that Trustee details, including the appointment, removal and cessation of office of Trustees, are included in the Trust's records and, if required, notify Trustee changes to any relevant authority (for example, under the Charities Act 2005, if the Trust is registered under that Act).

8. CHAIR, DEPUTY CHAIR AND OTHER POSITIONS

8.1 Chair and Deputy Chair: The Trust Board:

8.1.1 must appoint one of the Trustees (who must not be a Council-appointed Trustee under clause 7.3.1) to act as the Chair of the Trust, and may remove a Trustee from that position at any time; and

8.1.2 may appoint one of the Trustees (who must not be a Council-appointed Trustee under clause 7.3.1) as Deputy Chair of the Trust, and may remove a Trustee from that position at any time;

and an individual appointed to hold office as Chair or Deputy Chair will hold that position until the earlier of his or her resignation from the position, or his or her removal from the position by the Trust Board, or the end of his or her term of office as a Trustee.

- 8.2 Other Positions:** The Trust Board may appoint from time to time either one of the Trustees or some other person to hold any other position (for example, secretary or treasurer), as determined by the Trust Board, and may remove any Trustee or other person appointed to hold any such position at any time. Any appointee who is not a Trustee must not be disqualified, and will cease to hold any such position if they become disqualified, from holding office as a Trustee under clause 7.9.

9. POWERS OF THE TRUST BOARD

- 9.1 Powers of Trust Board:** In order to carry out its role, and in particular to advance and achieve the Trust's purpose and its functions as set out in clauses 3.2 and 3.3:

9.1.1 the Trust Board has, in addition to all other powers conferred by law but subject to the restrictions contained in this deed (and any other applicable law), the same powers as if it was the absolute owner of, and beneficially entitled to, the Trust Fund, including (without limitation):

- (a) full capacity to carry on or undertake any business or activity, do any act, or enter into any transaction; and
- (b) for the purposes of paragraph (a), full rights, powers, and privileges; and

9.1.2 the Trust Board's powers will not be limited or restricted by any principle of construction or rule of law or statutory power or provision except to the extent that it is obligatory.

- 9.2 Exercise of Powers:** The Trust Board, and each Trustee, must exercise their powers and discretions (including the power to invest the Trust Fund or any part of the Trust Fund):

9.2.1 to advance and achieve the Trust's purpose and functions as set out in clauses 3.2 and 3.3; and

9.2.2 in a prudent manner, exercising the care, diligence and skill that a prudent person of business would exercise in managing the affairs of others.

- 9.3 Delegation of Powers:** To the full extent permitted by law, the Trust Board may delegate any of its powers or discretions, in writing and subject to such terms and/or directions as the Trust Board thinks fit, to any committee (which may include, but must not be controlled by, an individual or individuals who are not Trustees) or to any officer, employee, manager, agent, attorney or other person or body appointed by the Trust Board, provided that:

9.3.1 any committee or person to whom the Trust Board has delegated any power or discretion will be bound by, and must exercise such power or discretion in accordance with, the terms of this deed and any terms set and/or directions given by the Trust Board;

9.3.2 the Trust Board may wholly or partly revoke or modify any such delegation at any time, and no such delegation will prevent the exercise of any power or discretion by the Trust Board; and

9.3.3 no such delegation will release the Trust Board and the Trustees from their responsibilities in relation to the Trust.

10. MEETINGS AND DECISIONS OF THE TRUST BOARD

- 10.1 Trust Board Meetings:** Unless provided otherwise in this deed, the following provisions apply in relation to meetings of the Trust Board:

Frequency of Meetings

- 10.1.1** The Trust Board must meet not less than six times in each Financial Year, including an annual meeting which must be held within four months after the end of a Financial Year (starting with the 2019/2020 year) to receive and approve the Annual Report for that year and to deal with any other business as determined by the Trust Board, and may otherwise meet from time to time as the Trust Board considers necessary or expedient for the conduct of the affairs of the Trust.

Method of Holding Meetings

- 10.1.2** Meetings of the Trust Board may be held by the Trustees assembling together in one place and/or by means of audio, audio and visual, or any other form of communication suitable for conducting meetings by which all Trustees can attend, participate and simultaneously hear each other throughout the meeting.

Calling and Notifying Meetings

- 10.1.3** The Trust Board, or the Chair, Deputy Chair or any two Trustees, may convene a meeting by giving, or arranging for any Officer or employee of the Trust to give, written notice of the meeting in accordance with clause 10.1.4.

- 10.1.4** Unless the Trust Board determines otherwise, any meeting of the Trust Board is to be convened by giving each Trustee (other than a Trustee who has waived the right) not less than seven days' written notice of the meeting and such notice must:

- (a) specify the date and time of the meeting;
- (b) specify the place of the meeting at which the Trustees are to assemble and/or the manner in which each Trustee may participate in the meeting (if the meeting is to be held, wholly or partly, by means of audio, audio and visual, or any other form of communication suitable for conducting meetings); and
- (c) provide an agenda or otherwise give an indication of the matters to be discussed at the meeting, in sufficient detail to enable the Trustees to appreciate the general import of those matters, unless this is already known to the Trustees or is impossible or impracticable in the particular circumstances or in relation to a particular matter;

provided that any omission or irregularity in relation to giving such notice is waived by a Trustee if the Trustee attends the meeting without protest as to the irregularity or agrees to waive the omission or irregularity (before, after or during the meeting).

Quorum and Voting

- 10.1.5** Subject to the provisions set out in clause 13:

- (a) A quorum at a meeting of the Trust Board will be established only if:
 - (i) there are at least three Trustees in attendance (unless there are fewer than three Trustees); and
 - (ii) the total number of Trustees in attendance exceeds 50% of the total number of Trustees for the time being.

No business will be transacted at a meeting at any time unless a quorum is present at that time.

- (b) Each Trustee in attendance at a meeting will have one vote, provided that if the number of trustees in favour of any resolution at a meeting equals 50%

of the total number of Trustees for the time being the Chair will have a second, casting vote on the resolution.

- 10.1.6** Subject to the provisions set out in clause 13, and any other provision of this deed (for example, requiring a resolution to be passed by a specified number or majority of Trustees), any resolution to be passed at a meeting of the Trust Board must be approved by a number of votes that exceeds 50% of the total number of Trustees for the time being. A resolution passed in accordance with this clause will be binding on all Trustees.

Chair of meetings

- 10.1.7** The Chair, or in the absence of the Chair the Deputy Chair, must chair any meeting of the Trust Board. If no Trustee holds office as Chair or Deputy Chair, or if neither the Chair nor Deputy Chair is present within 15 minutes after the time appointed for commencement of the meeting, the Trust Board at that meeting may appoint one of the attending Trustees to chair the meeting. Subject to the terms of this deed and any rules/regulations adopted by the Trust Board prior to any meeting, the Trustee chairing the meeting will control the conduct of that meeting.

Attendance by Officers

- 10.1.8** Unless the Trust Board determines otherwise, any Officer who is not a Trustee will be notified of, and entitled to attend and participate (but not vote) at, meetings of the Trust Board, as if the Officer were a Trustee.

- 10.2** **Trust Board Resolutions:** Subject to the provisions set out in clause 13 and any other provision of this deed (for example, requiring a resolution to be passed by a specified number or majority of Trustees), the following provisions apply in relation to Trust Board resolutions:

Resolutions at meetings

- 10.2.1** Any resolution at a meeting of the Trust Board must be passed in accordance with clause 10.1.6.

Written resolutions

- 10.2.2** A written resolution signed or approved in writing by all of the Trustees for the time being will be as valid and effectual as if it had been passed unanimously at a meeting of the Trust Board duly convened and held. Any such resolution may consist of several documents in like form each signed or approved in writing by one or more of the Trustees. An electronic scanned copy of any such signed resolution shall be as valid and effectual as the original signed document with effect from its transmission.

Rescission/variation

- 10.2.3** The Trust Board may from time to time rescind or vary any resolution of the Trust Board by way of a resolution passed by the same majority as was necessary to pass the resolution that is to be rescinded or varied.

- 10.3** **Other Matters Relating to Proceedings:** Subject to the terms of this deed, the proceedings of the Trust Board, including the manner in which meetings of the Trust Board are to be convened and conducted (including holding meetings by means of audio, audio and visual, or any other form of communication suitable for conducting meetings), will be regulated by the Trust Board, and the Trust Board may develop and adopt from time to time rules and/or regulations in relation to its proceedings, as the Trust Board thinks fit.

- 10.4** **Validity of Proceedings:** Any meeting of the Trust Board and any resolution of the Trust Board will be as valid and effective as if:

- 10.4.1** the individuals acting as Trustees had been duly appointed;

- 10.4.2** the individuals acting as Trustees were eligible to hold office as Trustees; and
- 10.4.3** the Trust Board, and the individuals acting as Trustees, had complied with any applicable rule and/or regulation adopted by the Trust Board relating to such matters;

even if it is later discovered that:

- 10.4.4** there was some defect in the appointment of any individual acting as Trustee;
- 10.4.5** any individual acting as Trustee was for any reason ineligible to hold office as Trustee; or
- 10.4.6** there was accidental failure to comply with any applicable rule and/or regulation adopted by the Trust Board.

- 10.5 Records of Meetings/Resolutions:** The Trust Board must ensure that a record of all meetings and resolutions of the Trust Board is included in a minute book, or equivalent records, kept and maintained by the Trust Board. Once any minutes are confirmed by the Trust Board, the Chair (or, if confirmed at a meeting of the Trust Board, the Trustee chairing the meeting) must sign the minutes as a true and correct record. The signed minutes will be *prima facie* evidence of the facts stated in those minutes.

11. MAINTAINING TRUST ELIGIBILITY FOR TAX CONCESSIONS

- 11.1 General Requirement:** The Trust Board must do all things practicable and expedient to ensure that the Trust is, and remains, eligible for the benefit of any Tax Concession, unless in relation to any such concession the Trust Board has determined that eligibility for the benefit of that concession is not required in the best interests of the Trust in terms of advancing its Charitable Purposes.
- 11.2 Specific Requirements:** Without limiting clause 11.1, things to be done by the Trust Board under that clause may include:
- 11.2.1** registering under the Charities Act 2005, and maintaining such registration; and
- 11.2.2** complying with all relevant obligations under:
- (a) the Charities Act 2005; and
- (b) the Income Tax Act 2007, the Tax Administration Act 1994 or any other relevant tax legislation.

12. RESTRICTIONS RELATING TO PRIVATE BENEFITS

- 12.1 General Restriction:** Nothing expressed or implied in this deed will permit the activities of the Trust, or any business carried on by, or for, or for the benefit of the Trust, to be carried on for the private profit of any person so as to affect:
- 12.1.1** the continued operation of the Trust and dedication of the Trust Fund exclusively for Charitable Purposes, pursued for the benefit of the public and not for private profit; and/or
- 12.1.2** the Trust's eligibility for the benefit of any Tax Concession for which it would otherwise be eligible, unless in relation to any such concession the Trust Board has determined that eligibility for the benefit of that concession is not required in the best interests of the Trust in terms of advancing its Charitable Purposes.
- 12.2 Permitted Expenditure:** For the avoidance of doubt, the proscription of private profit under clause 12.1 does not preclude the Trust Board, acting in furtherance of the Trust's purpose and its functions as set out in clauses 3.2 and 3.3, using the Trust Fund:

12.2.1 to pay for services provided, and to reimburse expenses properly incurred, by any Trustee, in accordance with clause 17; and

12.2.2 to pay or otherwise provide consideration for the supply of any goods and/or services to the Trust Board by any other person, provided that the payment or consideration does not exceed fair market value (that is, an arm's length rate) for the supply.

12.3 Business Income Restriction: For the purpose of ensuring that any income derived by the Trust Board from any business carried on by, or for the benefit of the Trust (if any) is exempt from income tax (as at the date of this deed, under section CW 42 of the Income Tax Act 2007), no person holding any of the following positions is permitted to have, by virtue of that position, the ability, either directly or indirectly, to determine or materially influence the determination of either the nature or extent of any relevant benefit or advantage from the business or the circumstances in which any such benefit or advantage from the business is or is to be given or received:

12.3.1 Any settlor or Trustee of The trust by which the business is carried on.

12.3.2 Any shareholder or director of the company by which the business is carried on.

12.3.3 Any settlor or trustee of a trust that is a shareholder of the company by which the business is carried on.

12.3.4 Any person associated with any person referred to in clauses 12.3.1 to 12.3.3 (as determined under the Income Tax Act 2007, for the purpose of section CW 42 of that Act).

For the avoidance of doubt, for the purposes of this clause 12.3 a relevant benefit or advantage does not include any benefit or advantage to a person for any Charitable Purpose of the Trust or any other benefit or advantage that may be disregarded under section CW 42(1)(c), or under any other provision of section CW 42, in the Income Tax Act 2007.

13. MANAGING TRUSTEE/OFFICER CONFLICTS OF INTEREST

13.1 Entry into Transactions: Subject to the provisions of this clause 13, the Trust Board may enter into a transaction in respect of which a Trustee or Officer is Interested, if the Trust Board considers that the transaction is in the best interests of the Trust in terms of advancing its Charitable Purposes.

13.2 Disclosure and Records: If a Trustee or Officer is Interested in any transaction entered into, or to be entered into, by the Trust Board (other than Trustee reimbursement/remuneration, indemnification and insurance, to which separate provisions apply under clause 17):

13.2.1 the Trustee or Officer, immediately upon becoming aware that he or she is Interested in the transaction, must disclose to the Trust Board:

- (a) the fact of his or her interest in the transaction; and
- (b) the nature of his or her interest and either the monetary value of the interest, if the monetary value of the interest is able to be quantified, or, if the monetary value of the interest is not able to be quantified, the extent of the interest; and

13.2.2 the Trust Board must ensure that a record of the interest of the Trustee or Officer in relation to the transaction is included in the Trust records kept and maintained by the Trust Board.

13.3 Involvement in Transaction: Any Trustee or Officer who is Interested in any transaction entered into, or to be entered into, by the Trust Board to which clause 13.2 applies:

13.3.1 must not be involved in deliberations, and in the case of a Trustee will not be counted for the purpose of establishing a quorum and will not be entitled to vote on any Trust Board resolution, in respect of any matter relating to the transaction;

- 13.3.2** subject to clause 13.3.1, may attend any meeting of the Trust Board that is not limited to dealing with matters relating to the transaction and be included among the attendees at that meeting for the purpose of establishing a quorum to commence the meeting and to deal with other matters at the meeting;
- 13.3.3** may sign a written resolution of the Trust Board dealing with any matter relating to the transaction, provided that the majority of Trustees signing any such resolution must not be Interested in the transaction; and
- 13.3.4** in accordance with the Trust Board's decisions in relation to the transaction, may sign any contract or other document, or do anything else as Trustee or Officer of the Trust, in relation to the transaction.

13.4 Independent Trustee(s) or Advice: This clause applies if, as a consequence of any Trustee or Trustees being Interested in a transaction to which clause 13.2 applies, the Trust Board would be unable to establish a quorum and/or decide on a resolution in respect of the transaction. For the Trust Board to act in relation to the transaction, either the composition of the Trust Board must change (by way of the appointment and/or the removal or resignation of one or more Trustees) or, by unanimous resolution of all Trustees for the time being including any Interested Trustee (being either a resolution at a meeting or a written resolution), the Trust Board may either:

- 13.4.1** authorise the independent Trustee or Trustees on the Trust Board, acting unanimously (by way of a resolution at a meeting or a written resolution), to determine the Trust Board's position on the transaction; or
- 13.4.2** appoint or engage (as an advisory trustee, a special trust advisor or otherwise), and determine to proceed in relation to the transaction in accordance with the advice and/or recommendations of, a suitably qualified independent person.

13.5 Meaning of "Interested": For the purpose of this clause 13, a Trustee or Officer will be Interested in a transaction if the Trustee or Officer:

- 13.5.1** is a party to, or will or may derive a material financial benefit from, the transaction; or
- 13.5.2** has a material financial interest in another party to the transaction; or
- 13.5.3** is a director, officer, or trustee of another party to the transaction, or person who will or may derive a material financial benefit from, the transaction (unless the party or person is wholly owned or wholly controlled by the Trust Board); or
- 13.5.4** is the parent, child, spouse, civil union partner, or de facto partner of another party to, or a person who will or may derive a material financial benefit from, the transaction; or
- 13.5.5** otherwise has, directly or indirectly, any material personal interest in the transaction.

14. FINANCIAL STATEMENTS AND ANNUAL REPORTS

14.1 Financial Statements: Without limiting any financial and/or non-financial reporting requirements that may apply in relation to the Trust under clause 11 (or any other applicable law), the Trust Board must ensure that:

- 14.1.1** as soon as practicable after the end of each Financial Year (starting with the 2019/2020 year), financial statements for the Trust are prepared for presentation and approval at the Trust Board's Annual Meeting as part of the Trust's Annual Report. The statements must give a true and fair view of the financial position of the Trust for the relevant Financial Year and must include:
 - (a) a statement of financial position (or an equivalent statement, however described);

- (b) a statement of financial performance (or an equivalent statement, however described); and
- (c) notes to those statements;

14.1.2 the Financial Statements for each Financial Year are independently audited or reviewed by a chartered accountant or other appropriately qualified person appointed for that purpose by the Trust Board; and

14.1.3 the Financial Statements, and any audit or review of such statements, must be included in the Trust's records and, if required by law, filed with any relevant authority (for example, under the Charities Act 2005, if the Trust is registered under that Act).

14.2 Annual Reports: As soon as practicable after the end of each Financial Year (starting with the 2019/2020 year):

14.2.1 the Trust Board must ensure an Annual Report, including a report or reports on the Trust's activities during the relevant Financial Year and a copy of the Financial Statements (audited or reviewed, if applicable) for that Financial Year, is prepared for presentation and approval at the Trust Board's Annual Meeting; and

14.2.2 once the Annual Report for a Financial Year is finalised and approved at the Trust Board's Annual Meeting, the Trust Board must provide a copy for information to the Regional Council, and must take reasonable steps to make the Annual Report available to the general public of the Hawke's Bay for review.

15. GENERAL ADMINISTRATIVE MATTERS

15.1 Record Keeping: The Trust Board must ensure that full and accurate records are kept and maintained in respect of the Trust, in written form or in a form or in a manner that allows such records to be easily accessible and convertible into written form, including:

15.1.1 financial books, accounts, papers and other financial records of the Trust, including full and accurate records and accounts of all receipts, credits, payments, assets, liabilities, transactions and other matters necessary for giving a true and fair view of the financial position of the Trust and the Financial Statements (audited or reviewed, as applicable) for each Financial Year;

15.1.2 a minute book or similar records, which must include a full and accurate record of the appointment, removal and cessation of office of Trustees and Officers, disclosures of interest, Trust Board meetings and resolutions, delegations, and any other such matter appropriately included in the Trust's records; and

15.1.3 any other records that it may be necessary or appropriate to keep and maintain in respect of the Trust, including this deed and any other document relating to the terms upon which all or any part of the Trust Fund is held, any rules and/or regulations adopted by the Trust Board, written communications with the Trustees and other persons, and any other documents and information relating to the Trust and its activities,

and such records will be open to inspection by any of the Trustees upon request.

15.2 Financial Matters: The Trust Board must ensure that:

15.2.1 the Trust has an account or accounts, at a bank or banks, for its funds, as determined by the Trust Board from time to time, and in relation to any such account cheques, withdrawals and authorities must be signed or endorsed, as the case may be, by one or more persons, any such person being either a Trustee or another person acting on, and in accordance with, the written authority of the Trust Board; and

15.2.2 there are at all times procedures in place in relation to the Trust Board's receipt, administration and expenditure of the Trust's funds.

- 15.3 Method of Contracting:** Unless the law requires otherwise, and subject to clause 15.4:
- 15.3.1** a deed to be executed by the Trust Board may be signed on behalf of the Trust Board by any two or more Trustees;
 - 15.3.2** any contract or other obligation required by law to be in writing, and any other written contract or obligation to be entered into by the Trust Board, may be signed on behalf of the Trust Board by a Trustee or another person acting under the express or implied authority of the Trust Board; and
 - 15.3.3** any other contract or obligation may be entered into on behalf of the Trust Board in writing or orally by a Trustee or another person acting under the express or implied authority of the Trust Board.
- 15.4 Common Seal:** If the Trust Board is incorporated under the Charitable Trusts Act 1957, the Trust Board will have a common seal and the common seal:
- 15.4.1** must be held by one of the Trustees, or an Officer, as determined by the Trust Board;
 - 15.4.2** must be affixed to any document required to be executed by the Trust Board under common seal, and may be affixed to any other document to be executed by the Trust Board as the Trust Board thinks fit; and
 - 15.4.3** if the common seal is to be affixed to any document, it must be affixed pursuant to prior authority given by the Trust Board and it must be affixed in the presence of, and accompanied by the signatures of, two or more Trustees.
- 15.5 Provision and Receipt of Notices:** In relation to any notice required to be given by a person (**Sender**) to any other person (**Recipient**) under this deed, including notice of any written approval, resolution or other matter:
- 15.5.1** such notice may be:
 - (a) delivered to the Recipient directly or to an address given by the Recipient to the Sender for such purpose or the Recipient's address recorded on an official New Zealand public register (for example, the Companies Register or Charities Register);
 - (b) posted to an address given by the Recipient to the Sender for such purpose or the Recipient's address recorded on an official New Zealand public register; or
 - (c) sent by electronic means in accordance with any consent provided or request made by the Recipient for notices or any notice to be sent by such means, or in accordance with the Recipient's details included on an official New Zealand public register; and
 - 15.5.2** a notice given by a Sender to a Recipient in accordance with clause 15.5.1 is deemed to be given:
 - (a) in the case of delivery, when the notice is handed to the Recipient or delivered to the address of the Recipient;
 - (b) in the case of posting, two days after it is posted; or
 - (c) in the case of electronic means, at the time of transmission.
- 15.6 Other Administrative Matters:** Subject to the terms of this deed, the administration of the Trust's activities and the Trust Fund will be regulated by the Trust Board, and the Trust Board may develop

and adopt from time to time rules and/or regulations in relation to the administrative matters set out in this clause 15 and any other administrative matters, as the Trust Board thinks fit.

16. RESOLUTION OF DISPUTES

16.1 Alternative Dispute Resolution: In the event of any dispute arising out of or in relation to this deed between the Trust Board and any Trustee or other party referred in this deed (such as the Regional Council), the Trust Board may determine, of its own accord or at the request of the Trustee or other party, that the dispute will be dealt with under the alternative dispute resolution provisions set out in this clause 16, not Court proceedings.

16.2 Mediation: If the Trust Board determines that a dispute arising out of or in relation to this deed is to be dealt with under the alternative dispute resolution provisions set out in this clause 16:

16.2.1 In the first instance, the dispute will be referred to mediation (that is, a non-binding dispute resolution process in which an independent mediator facilitates negotiation between the parties).

16.2.2 For this purpose, the Trust Board will notify the Trustee or other party in writing, identifying the dispute which is being suggested for mediation, and the Trustee or other party may decline to proceed with mediation, agree to proceed with mediation, or agree to attend a preliminary meeting with the mediator to discuss whether mediation would be helpful in the circumstances.

16.2.3 The parties will agree on a suitable person to act as mediator or, will request the Arbitrators' and Mediators' Institute of New Zealand Inc. (or its successor) to appoint a mediator, and the mediation will be conducted in accordance with the Mediation Protocol (or equivalent rules/regulations) of the Arbitrators' and Mediators' Institute of New Zealand Inc. (or its successor).

16.2.4 Mediation shall be terminated upon the earlier of:

- (a) the signing of a settlement agreement by the parties; or
- (b) notice to the parties from the mediator, after consultation with the parties, to the effect that further efforts at mediation are no longer justified; or
- (c) notice by one or more of the parties to the mediation to the effect that further efforts at mediation are no longer justified; or
- (d) the expiry of 60 days from the mediator's appointment, unless the parties expressly consent to an extension of this period.

16.3 Arbitration: If mediation is terminated as provided in clause 16.2.4(b) to 16.2.4(d), or if the Trust Board and the Trustee or other party agree at any time:

16.3.1 The dispute will be referred to, and finally resolved by, arbitration in New Zealand in accordance with New Zealand law and the current Arbitration Protocol (or equivalent rules/regulations) of the Arbitrators' and Mediators' Institute of New Zealand Inc. (or its successor).

16.3.2 The arbitration will be conducted by one arbitrator agreed by the parties or, if they fail to agree within twenty one days of the termination of the mediation or their agreement to refer the dispute to arbitration, an arbitrator appointed by the President of the Arbitrators' and Mediators' Institute of New Zealand Inc. (or its successor).

16.1 Court Proceedings: For the avoidance of doubt, this clause 16 does not preclude the Trust Board from making any application to the Court for orders or directions (under the Charitable Trusts Act 1957, the Trustee Act 1956 or otherwise) in respect of any matter arising out of or in relation to this deed.

17. TRUSTEE REIMBURSEMENT/REMUNERATION AND OTHER TRUSTEE MATTERS

- 17.1 Trustee Reimbursement:** A Trustee is entitled to be indemnified and reimbursed out of the Trust Fund for all expenses properly incurred by the Trustee in connection with the Trust, including travel and other expenses.
- 17.2 Trustee Remuneration:** Subject to clause 17.3, and taking into account at all times the intention that the role of Trustee will be wholly or substantially voluntary, the Trust Board may:
- 17.2.1** approve use of the Trust Fund to remunerate a Trustee for his or her role as a Trustee and/or Officer, provided that the Trust Board must be satisfied, on reasonable grounds, that the provision of any such remuneration to any Trustee is necessary or appropriate, having regard to the Charitable Purposes and financial position of the Trust, the Trustee's duties and responsibilities, and the nature and extent of the services provided by the Trustee; and
 - 17.2.2** in the case of any Trustee, including any initial Trustee, engaged in any profession, business or trade, approve use of the Trust Fund to pay all usual professional, business and trade charges for services requested by the Trust Board that are provided by that Trustee or by that Trustee's employee, partner or firm, including acts which the Trustee, not being in the profession, business or trade, could have done personally.
- 17.3 Remuneration Restrictions:** In relation to any remuneration to be paid under clause 17.2.1 or 17.2.2:
- 17.3.1** the amount of the remuneration must not exceed fair market value (that is, an arm's length rate) for the services provided; and
 - 17.3.2** if the remuneration is a relevant benefit or advantage in respect of which clause 12.3 applies, in accordance with that clause neither the Trustee receiving the remuneration nor any person associated with the Trustee may determine or materially influence, directly or indirectly, the nature or amount of that remuneration or the circumstances in which it is to be provided.
- 17.4 Trustee Standard of Care:** Despite the fact that the Trust Board may from time to time include Trustees whose profession, employment or business is, or includes, acting as a trustee or investing money on behalf of others:
- 17.4.1** the care, diligence and skill to be exercised by all Trustees at all times is the care, diligence and skill that a prudent person of business would exercise in managing the affairs of others; and
 - 17.4.2** the Trustees will not be subject to the duty to exercise special skill as set out in section 13C of the Trustee Act 1956 (or any equivalent, similar or higher standard of care under any other legislation).
- 17.5 Limitation of Trustee Liability:** Notwithstanding clause 17.4:
- 17.5.1** A Trustee (including any former Trustee) will be chargeable only for any money which that Trustee has received (for which purpose, a Trustee is deemed to have received money, even if not actually paid to the Trustee, if that money has been credited in account, reinvested, accumulated, capitalised, or otherwise dealt with on the Trustee's behalf).
 - 17.5.2** A Trustee (including any former Trustee) will not be liable for any loss to the Trust Fund arising from any act or omission of the Trustee, the Trust Board or any of the Trustees, except to the extent that the loss is attributable to:
 - (a) dishonesty on the part of the Trustee; or

- (b) wilful misconduct on the part of the Trustee, including any wilful act or omission of the Trustee known by the Trustee to be a breach of trust or a breach of any other obligation of the Trustee in connection with the Trust; or
- (c) gross negligence on the part of the Trustee.

17.5.3 No Trustee (including any former Trustee) will be liable for any loss to the Trust Fund attributable to any negligence, dishonesty, misconduct or delay on the part of any agent, contractor or employee engaged by the Trust Board in connection with the activities of the Trust.

17.6 Proceedings Against Trustees: Neither the Trust Board nor any Trustee will be bound to take, or liable for failure to take, any proceedings against any Trustee (including any former Trustee) for any breach or alleged breach of trust committed by the latter Trustee.

17.7 Indemnification of Trustees: A Trustee (including any former Trustee) is entitled to be indemnified out of the Trust Fund against all actions, proceedings, claims, damages, losses, demands, calls, liabilities, costs (including legal costs) and expenses (together called **Liabilities**) suffered or incurred by the Trustee in connection with their role as Trustee, except to the extent that the Liabilities suffered or incurred by that Trustee are attributable to:

- 17.7.1** dishonesty on the part of the Trustee; or
- 17.7.2** wilful misconduct on the part of the Trustee, including any wilful act or omission of the Trustee known by the Trustee to be a breach of trust or a breach of any other obligation of the Trustee in connection with the Trust; or
- 17.7.3** gross negligence on the part of the Trustee.

17.8 Insurance: If the Trust Board thinks fit, it may obtain insurance for the benefit of the Trustees in relation to any Liabilities covered by the indemnification provided under clause 17.6 and use the Trust Fund to meet the cost of such insurance.

18. RESETTLEMENT OF TRUST FUND

18.1 Resettlement Permitted: The Trust Board may, by deed, Resettle all or any part of the Trust Fund including any part of the Trust Fund held on Specific Trust as referred to in clause 4.1, on trust for exclusively Charitable Purposes in New Zealand, on terms determined by the Trust Board, provided that for any such resettlement to be valid and effective it must be approved in accordance with, and must comply with the restrictions set out, in clause 18.2.

18.2 Resettlement Approval and Restrictions: Any resettlement under clause 18.1:

- 18.2.1** must be approved by the Trust Board by way of a resolution at a meeting of the Trust Board passed by a number of Trustees that equals or exceeds 75% of the total number of Trustees for the time being or a unanimous written resolution;
- 18.2.2** must not permit any resettled part of the Trust Fund, or any income to be derived from any resettled part of the Trust Fund, to be distributed or applied other than for exclusively Charitable Purposes within New Zealand, for public benefit and not for private profit, and in particular any resettlement must only be made for one or more of the Charitable Purposes of the Trust at the time of the resettlement, to be pursued for the benefit of the Hawke's Bay Region; and
- 18.2.3** must not affect the Trust's eligibility for the benefit of any Tax Concession for which it would otherwise be eligible, unless in relation to any such concession the Trust Board has determined that eligibility for the benefit of that concession is not required in the best interests of the Trust in terms of advancing its Charitable Purposes.

19. WINDING UP AND DISPOSITION OF SURPLUS ASSETS

19.1 Approval of Winding Up: The Trust, including any part of the Trust Fund held on Specific Trust as referred to in clause 4.1, may be wound up by the Trust Board, and any surplus assets must then be distributed in accordance with clause 19.2, if a proposal to wind up the Trust is:

19.1.1 notified to all Trustees not less than 28 days prior to a meeting of the Trust Board at which the proposal is to be considered; and

19.1.2 approved at such meeting by way of a resolution passed by a number of Trustees that equals or exceeds 75% of the total number of Trustees for the time being, which resolution may also determine the proposed distribution of any surplus assets in accordance with clause 19.2.2.

19.2 Winding Up Process: In relation to winding up the Trust:

19.2.1 the Trust Board must first ensure that all debts and liabilities of the Trust, including the costs of winding up the Trust, have been or will be satisfied out of the Trust Fund or have been or will be assumed by another person;

19.2.2 subject to any specific terms on which any part of the Trust Fund is held (including any Specific Trust under clause 4.1), the remainder of the Trust Fund must be distributed or applied to advance any one or more Charitable Purposes within New Zealand, for the benefit of the public and not for private profit, and in particular, unless it is impossible or impracticable to do so, must be distributed or applied for one or more of the Charitable Purposes of the Trust at the time of winding up, to be pursued for the benefit of the Hawke's Bay Region; and

19.2.3 such distribution or application of the remainder of the Trust Fund will be made:

- (a) in accordance with the resolution of the Trust Board under clause 19.1.2, or a subsequent resolution of the Trust Board; or
- (b) otherwise at the direction of a Judge of the High Court of New Zealand.

19.3 Notice Requirements: The Trust Board must ensure that notice of the winding up of the Trust is filed with any relevant authority (for example, to dissolve the Trust Board under the Charitable Trusts Act 1957, to deregister the Trust under the Charities Act 2005 (if applicable), and for the purpose of any relevant tax legislation).

19.4 Application for Liquidation: For the avoidance of doubt, this clause 19 does not preclude the Trust Board from making any application to be put into liquidation under section 25 of the Charitable Trusts Act 1957, if the Trust Board considers such an application to be appropriate.

20. REVIEW AND ALTERATION OF TRUST TERMS

20.1 Review of Terms: The Trust Board must review the terms of the Trust from time to time, to ensure that the Trust's purpose and its functions are appropriately described and that the governance, administration and other terms of the Trust remain fit for purpose.

20.2 Alteration of Terms: The Trust Board may, by deed (which may be in the form of a supplemental deed, or a revised deed setting out all of the terms of the Trust as altered), alter the terms of the Trust (including, for the avoidance of doubt, the Trust's purpose and its functions as set out in clauses 3.2 and 3.3 of this deed), by adding, amending, deleting and/or replacing any term, provided that for any alteration to the terms of the Trust to be valid and effective it must be approved in accordance with, and must comply with the restrictions under, clause 20.3.

20.3 Alteration Approval and Restrictions: Any alteration under clause 20.2:

20.3.1 must be approved by the Trust Board, by way of a resolution at a meeting of the Trust Board passed by a number of Trustees that equals or exceeds 75% of the total number of Trustees for the time being or a unanimous written resolution;

20.3.2 must not affect the fundamental nature of the Trust as a charitable trust that is focused on Charitable Purposes that:

- (a) relate to environmentally sensitive and sustainable Farming (unless the Trust Board determines that it is impossible, impracticable or inexpedient to maintain the Trust for such Charitable Purposes); and
- (b) are pursued for the benefit of the Hawke's Bay Region;

20.3.3 must not permit the Trust to operate other than for exclusively Charitable Purposes in New Zealand, for the benefit of the public and not for private profit; and

20.3.4 must not affect the Trust's eligibility for the benefit of any Tax Concession for which it would otherwise be eligible, unless in relation to any such concession the Trust Board has determined that eligibility for the benefit of that concession is not required in the best interests of the Trust in terms of advancing its Charitable Purposes.

20.4 Records and Filing: The Trust Board must ensure that any alteration to the terms of the Trust is included in the Trust's records and, if required by law, filed with any relevant authority (for example, under the Charitable Trusts Act 1957, and under the Charities Act 2005 if the Trust is registered under that Act).

21. GOVERNING LAW AND JURISDICTION

21.1 Governing Law: The Trust and this deed is governed by New Zealand law.

21.2 Jurisdiction: In connection with the Trust, the Trustees submit to the non-exclusive jurisdiction of all courts having jurisdiction in New Zealand.

22. EXECUTION AND DELIVERY OF DEED

This deed may be executed and delivered by the Initial Trustees in any number of counterparts signed by one or more of the parties and all executed counterparts taken together will be deemed to constitute one document.

EXECUTED AND DELIVERED AS A DEED

SIGNED by **[INSERT NAME OF TRUSTEE]** as one of the Initial Trustees in the presence of:

[INSERT NAME OF TRUSTEE]

Witness:

Signature of witness

Full name of witness

Occupation of witness

Address of witness

SIGNED by **[INSERT NAME OF TRUSTEE]** as one of the Initial Trustees in the presence of:

[INSERT NAME OF TRUSTEE]

Witness:

Signature of witness

Full name of witness

Occupation of witness

Address of witness

SIGNED by **[INSERT NAME OF TRUSTEE]** as one of the Initial Trustees in the presence of:

[INSERT NAME OF TRUSTEE]

Witness:

Signature of witness

Full name of witness

Occupation of witness

Address of witness

SIGNED by **[INSERT NAME OF TRUSTEE]** as one of the Initial Trustees in the presence of:

[INSERT NAME OF TRUSTEE]

Witness:

Signature of witness

Full name of witness

Occupation of witness

Address of witness

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Attachment 1

SIGNED by **[INSERT NAME OF TRUSTEE]** as
one of the Initial Trustees in the presence of:

[INSERT NAME OF TRUSTEE]

Witness:

Signature of witness

Full name of witness

Occupation of witness

Address of witness

SIGNED by **[INSERT NAME OF TRUSTEE]** as
one of the Initial Trustees in the presence of:

[INSERT NAME OF TRUSTEE]

Witness:

Signature of witness

Full name of witness

Occupation of witness

Address of witness

SIGNED by **[INSERT NAME OF TRUSTEE]** as
one of the Initial Trustees in the presence of:

[INSERT NAME OF TRUSTEE]

Witness:

Signature of witness

Full name of witness

Occupation of witness

Address of witness

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Attachment 1

SIGNED by *[INSERT NAME OF TRUSTEE]* as
one of the Initial Trustees in the presence of:

[INSERT NAME OF TRUSTEE]

Witness:

Signature of witness

Full name of witness

Occupation of witness

Address of witness

SIGNED by *[INSERT NAME OF TRUSTEE]* as
one of the Initial Trustees in the presence of:

[INSERT NAME OF TRUSTEE]

Witness:

Signature of witness

Full name of witness

Occupation of witness

Address of witness

Item 9

Attachment 1

Schedule
Hawke's Bay Future Farming Initiative
Problem/Mission Statement and Scope of Activities Developed by the Establishment Working Group

Problem

Society today is challenging the environmental cost and impact of producing food. Public concerns include the degradation and loss of our soil and water resources, food safety and soil nutrition, animal welfare and agriculture's contribution to climate change.

A failure to respond to these issues at scale will guarantee a loss of confidence in New Zealand's food sector by both the community at large and individual consumers, leading to increased regulatory intervention and consumers migrating to alternative food producers and products.

Farming needs to address these public concerns while also contending with on farm production, compliance and cost issues that impact on business viability.

Response

Food producers will respond, we believe, by embracing practises or systems that lower food's environmental footprint, and in fact restore soil health, landscape function and water quality, while improving on-farm resilience productivity and profitability.

The Future Farming Initiative aims to help farmers find those solutions and ensure they are persistently presented with the best available and relevant options for navigating this changing and more demanding environment.

Mission

Our ambition is to make Hawke's Bay's farming the pride of our entire community. To shine a light on our region's existing and emerging expertise and create a local hub of knowledge, research, education and opportunity for profitable and resilient farming that ensures the health of the region's soil and water, communities and farmers into the future.

Ongoing success will be indicated by measurable improvement in farm performance (environmentally and financially), enthusiastic acceptance of our food products by domestic and overseas consumers, and the pride our community demonstrates for its farming sector.

Scope of activities

1. Know the relevant working environment
 - Identify similar projects/initiatives and, if appropriate adapt from and/or partner with them
 - Monitor literature for pertinent research, case studies, innovation, demonstrations
 - Monitor disruptive trends, technologies, consumer expectations
2. Generate Hawke's Bay hands-on knowledge focused on innovation
 - Sponsor on-farm demonstration/pilot projects, including outcome measurement
 - From focused interventions (e.g., improving soil biology) to optimal integrated farming systems
3. Spread knowledge: Continuously improve farm practices by developing tools, tactics and incentives for effective outreach and education
 - Identify, publicly recognize and promote Hawke's Bay best practices, practitioners and champions
 - Identify and promote non-Hawke's Bay/New Zealand practices with potential upside relevance to Hawke's Bay
 - Encourage/support sub-catchment farmer/grower-led initiatives

- Liaison with Hawke's Bay Regional Council Integrated Catchment Management programme/teams
 - Conduct education and extension activities for all farming sectors
4. Establish ambitious goals for superior performance by the primary sector (i.e., what do we want Hawke's Bay's best performance to look like in the future?)
- Soil Health
 - Clean Waters
 - Food Quality
 - Animal Welfare
 - Biosecurity
 - Profitability
5. Build a regional brand/celebrated identity around superior Hawke's Bay agricultural performance and proud, resilient rural communities
6. Advise Hawkes Bay Regional Council on policy, funding and regulatory matters relevant to the Future Farming Initiative mission
7. Seek external funding to accomplish/expand these activities from
- Local and central Government
 - Industry/sector groups
 - Service users
 - Philanthropies

Item 9

Attachment 1

FUNDING DEED

HAWKE'S BAY REGIONAL COUNCIL

HAWKE'S BAY FUTURE FARMING CHARITABLE TRUST

[Drafting note: This draft Funding Deed deals with the the Council's provision of funding to the Trust only, not any other form of support to be provided by the Council nor any other aspects of the relationship between the Council and the Trust, eg in relation to publicity/communications, dispute resolution etc.]

In reviewing the draft Funding Deed, it is also important to bear in mind the terms of the proposed trust deed for the Trust, including the trust deed's provision for the Trust Board to include a Council-appointed Trustee (clause 7.3.1) and its express reference to the intention that the Trust Board will work with and provide input and advice to the Council and the requirement for the Trust Board to use all reasonable endeavours to ensure that this intention is met (clause 6.1).]

DEED DATED

2019

PARTIES

1. **HAWKE'S BAY REGIONAL COUNCIL**, a regional council under the Local Government Act 2002
2. **HAWKE'S BAY FUTURE FARMING CHARITABLE TRUST**, a charitable trust with its trustees incorporated, or to be incorporated, as a board under the Charitable Trusts Act 1957

BACKGROUND

- A. As an outcome of the Council's consultation on its 2018-2028 Long Term Plan, the Council facilitated the development of a Future Farming Initiative for the Hawke's Bay Region.
- B. The Trust was subsequently established by its Initial Trustees with the intention that it would facilitate the implementation of the Future Farming Initiative, by pursuing the charitable purpose and functions of the Trust as set out in its Trust Deed.
- C. The charitable purpose and functions of the Trust relate to the promotion and advancement of environmentally sensitive and sustainable Farming in the Hawke's Bay Region, for the benefit of the health of the Region's natural environment and the Region's communities, including those involved in Farming.
- D. The Council wishes to support the Trust by providing Funding to the Trust, to be held, managed and applied by the Trust Board for the charitable purpose and functions of the Trust in accordance with the terms set out in its Trust Deed, and the Trust Board wishes to accept that Funding.
- D. In consideration for the Funding provided by the Council, the Trust Board will be required to provide advice and input to the Council from time to time and to meet certain conditions as specified by the Council under the terms of this deed.
- E. This deed sets out the agreed terms upon which the Council will provide the Funding to the Trust.

OPERATIVE TERMS

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions: In this deed, unless the context indicates otherwise:

Council means the regional council known as Hawke's Bay Regional Council, named in Part 1 of Schedule 2 of the Local Government Act 2002;

Funding means the amount of \$580,000.00 plus GST in accordance with 2.3(a) and (b), in cash or cleared funds, which the Council has resolved to provide to the Trust in accordance with clause 2.1 and subject to the further terms set out in this deed;

Trust means the charitable trust named the Hawke's Bay Future Farming Charitable Trust, established on or about the date of this deed on the terms set out

in the Trust Deed and with its Board incorporated, or to be incorporated, under the Charitable Trusts Act 1957;

Trust Board means the board of trustees of the Trust, constituted in accordance with the terms of the Trust set out in the Trust Deed and acting in respect of the Trust; and

Trust Deed means the trust deed setting out the initial terms of the Trust, executed by the Initial Trustees of the Trust on or about the date of this deed, and includes, as the context requires, any variation to the terms of the Trust from time to time.

1.2 Interpretation: In this deed, unless the context indicates otherwise:

- (a) **Headings:** section, clause and other headings are for ease of reference only and will not affect this deed's interpretation;
- (b) **Clauses:** references to clauses are to clauses in this deed;
- (c) **Defined Terms:** words and expressions defined in the main body of this deed have the defined meaning throughout this deed, including the Background;
- (d) **Trust Deed Terms:** subject to the definitions in this deed, words and expressions used in this deed, including the Background, have same meaning as those words and expressions have in the Trust Deed;
- (e) **Documents:** references to any document (however described) are references to that document as modified, novated, supplemented, varied or replaced from time to time and in any form, whether on paper or in an electronic form;
- (f) **Inclusive Expressions:** the terms **includes** and **including** (or any similar expression) are deemed to be followed by the words **without limitation**;
- (g) **Negative Obligations:** any obligation not to do anything includes an obligation not to suffer, permit or cause that thing to be done;
- (h) **Parties:** references to parties are references to parties to this deed;
- (i) **Plural and Singular:** words importing the singular include the plural and vice versa; and
- (j) **Statutes/Regulations:** references to any statute or statutory provision include any amendment or replacement statute or provision and any regulation, order, statutory instrument or subordinate legislation made under the original, amendment or replacement statute or provision.

2. COUNCIL PROVISION OF FUNDING TO THE TRUST

- 2.1 Agreement to Provide Funding:** The Council agrees to provide the Funding to the Trust, to be held, managed and applied by the Trust Board on trust for the charitable purpose and functions of the Trust and in accordance with the further terms set out in the Trust Deed, and the Trust Board accepts the Council's provision of the Funding. The Council's provision and payment of the Funding is subject to the further terms set out in this deed.

2.2 Consideration for Funding: In consideration for the Funding, the Trust Board agrees to provide such advice and input as may reasonably be requested by the Council and its officers and other personnel from time to time in relation to any project, initiative or other matter (including any Council policy, funding or regulatory matter) relating to Farming in the Hawke's Bay Region, and to fulfil the various Funding conditions set out in clause 2.4. For the avoidance of doubt, the Trust Board's obligations to the Council under this clause 2.2 and any other term of this deed do not affect or derogate from any of the Trust Board's general obligations under the Trust Deed.

2.3 Payment of Funding in Instalments: Subject to the conditions set out in clause 2.4, the Council will pay the Funding to the Trust Board, by way of transfer to an account with a New Zealand registered bank that has been opened by the Trust Board for the Trust, in two instalments, as follows:

- (a) **First Instalment:** The Council will pay the first instalment of \$330,000.00 excluding GST as soon as reasonably practicable following *[the date of execution of this deed OR the Council's receipt of written notification of the relevant bank account details from the Trust Board]*.
- (b) **Second Instalment:** The Council will pay the second instalment of \$250,000.00 excluding GST on *[1 July 2020]*, unless the parties agree to an earlier or later payment date for the instalment.

[Drafting note: Council to confirm proposed payment arrangements, including the number of instalments and the proposed instalment amounts and timing for payment. Note that this deed cannot be executed, and funding cannot be paid, until after the Trust has been established by way of execution of its Trust Deed and the Trust has opened a bank account, so the first instalment payment date will need to be set accordingly.]

2.4 Funding Conditions: The following conditions apply in relation to the Council's agreement to provide the Funding to the Trust and payment of each instalment. Each of the conditions is included for the benefit of the Council and may be wholly or partly waived by the Council at any time (either generally or on a one-off basis). For the avoidance of doubt, each condition set out in this clause 2.4 will continue to apply unless and until the Council waives the condition.

- (a) **Conditions Precedent:** The conditions precedent are as follows:
 - (i) **Invoicing:** In relation to the Council's payment of each instalment, the Council must have received from the Trust Board an invoice (or equivalent documentation satisfactory to the Council) for the relevant instalment. No GST amount will be payable by the Council in respect of the relevant instalment unless the invoice is a valid tax invoice under the Goods and Services Tax Act 1985.
 - (ii) **Satisfaction of Conditions:** In relation to the Council's payment of the second instalment, all of the conditions subsequent set out in out in clause 2.4(b) must be satisfied (as applicable) for the period prior to the date for payment of that second instalment.

If any condition precedent is not satisfied in relation to any instalment, the Council will not be required to pay that instalment.

(b) **Conditions Subsequent:** The conditions subsequent in relation to the Council's provision and payment of the Funding are as follows:

- (i) **Trust Terms and Significant Transactions:** The charitable purpose and functions of the Trust and the further terms of the Trust set out in its initial Trust Deed must not be varied, and the Trust Board must not use any of the Funding to establish any Specific Trust or resolve to resettle all or any part of the Trust Fund or to wind up the Trust.
- (ii) **Board and Trustee Compliance:** The Trust Board and the Trustees must comply with the terms of the Trust as set out in its initial Trust Deed, and with all other applicable laws (including the Charitable Trusts Act 1957, the Charities Act 2005 and any relevant tax legislation).
- (iii) **Board and Trustee Conduct:** As determined by the Council (acting reasonably), the Trust Board and the Trustees must not commit any act or omission, or conduct themselves in any other manner, that has or may have a material adverse effect on the reputation or goodwill of the Council or its officers or any other personnel.
- (iv) **Funding Records:** The Trust Board must establish and maintain complete and accurate records in relation to the Trust Board's receipt and management of the Funding and its use of the Funding in furtherance of the charitable purpose and functions of the Trust and, if requested by the Council, must provide the Council with reasonable access to such records to enable the Council to conduct its own review or audit of the records.
- (v) **Reporting to the Council:** The Trust Board must provide to the Council:
 - (A) **Half Yearly Report:** as soon as reasonably practicable after the end of each half year (starting with the period ending 31 December 2019), a report regarding the Trust's operations, its financial position and its management and use of the Funding, in a form satisfactory to the Council (acting reasonably); and
 - (B) **Annual Report:** in addition and as soon as reasonably practicable at the end of each Financial Year of the Trust (starting with the period ending 30 June 2020), a copy of the Trust's Annual Report, including its Financial Statements (audited or reviewed, as applicable), for that Financial Year.

2.5 Consequences of Breach: If clause 2.2 or any condition subsequent under clause 2.4 is breached at any time, the Council will not be required to pay any further amount of Funding to the Trust and the Council will be entitled to recover from the Trust Board the full amount of Funding paid to the Trust Board to the extent that such Funding has not been expended or committed to expenditure by the Trust Board in furtherance of the charitable purpose and functions of the Trust at the time of the breach.

- 2.6 **Further Assurances:** Following the execution of this deed, each party must promptly execute and deliver all documents, and do, or use their reasonable endeavours to cause any third party to do, all things necessary or expedient to give effect to, perfect or complete this deed, the provision and payment of the Funding as contemplated under this deed, and any incidental or ancillary matters.

3. COUNCIL AND TRUST BOARD WARRANTIES

- 3.1 **Mutual Warranties:** The Council warrants to the Trust Board, and the Trust Board warrants to the Council, that:

- (a) **Power to Enter:** it has the legal right, authority and full power to enter into this deed and to perform its obligations under it and has taken all necessary corporate and other action to authorise this deed's execution, delivery and performance; and
- (b) **Binding Obligation:** this deed constitutes a valid and binding obligation enforceable against it in accordance with its terms.

- 3.2 **Separate Warranties:** Each warranty is given as a separate and independent warranty and except as otherwise expressly provided will not be limited by reference to any other warranty or by anything in this deed.

4. GENERAL PROVISIONS

- 4.1 **Council to Bear Costs:** The Council will bear all costs and expenses of and in connection with the preparation and execution of this deed and the provision and payment of the Funding as contemplated under this deed.
- 4.2 **Entire Agreement:** This deed records the entire understanding and agreement of the parties relating to the matters dealt with in this deed and supersedes all previous agreements, understandings and communications (whether written, oral or both) relating to such matters.
- 4.3 **Partial Invalidity:** If any term of this deed is or becomes invalid or unenforceable, that term will be deemed to be modified to the minimum extent necessary to render the term valid and enforceable or, if the invalidity or unenforceability of any term cannot be so remedied, the invalidity or unenforceability of the term will not affect the other terms of this deed, which will remain in full force and effect to the extent permitted by law, unless the Council determines otherwise.
- 4.4 **Amendments:** No amendment to this deed will be effective unless it is in writing, in deed form, executed and delivered for and on behalf of each party.
- 4.5 **No Merger:** Any warranties, undertakings, obligations, and indemnities under this deed will not merge in or be treated as discharged upon completion of the settlement and payment of the Funding as contemplated under clause 2.
- 4.6 **Waiver:** Any waiver by a party of any condition or any of its rights or remedies under or in respect of this deed will be effective only if it is recorded in writing and signed by that party, and such waiver is notified to the other party. If the waiver relates to a breach of any term of this deed, this will not (unless stated otherwise) operate as a waiver of any other breach of that term. No waiver of any breach, or failure to enforce any term, of this deed at any time by a party will in any way affect, limit or waive that party's right to subsequently require strict compliance with this deed.

4.7 Governing Law and Jurisdiction: This deed is governed by, and must be construed in accordance with, the law of New Zealand. The parties submit to the non-exclusive jurisdiction of the New Zealand courts in respect of all matters relating to this deed.

4.8 Execution and Effective Date: This deed may be executed and delivered by the parties by having any number of counterparts signed by one or more of the signatories and all executed counterparts taken together will be deemed to constitute one document. The deed will be dated, and will be effective from, the latest date that any signatory signs the document or any counterpart.

EXECUTED AND DELIVERED AS A DEED

SIGNED for and on behalf of **HAWKE'S BAY REGIONAL COUNCIL** by:

Full name and position of signatory	Signature	Date
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Full name and position of signatory	Signature	Date
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SIGNED for and on behalf of **HAWKE'S BAY FUTURE FARMING CHARITABLE TRUST** by:

Full name of Trustee	Signature	Date
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Full name of Trustee	Signature	Date
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Full name of Trustee	Signature	Date
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Full name of Trustee	Signature	Date
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Full name of Trustee	Signature	Date
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Full name of Trustee	Signature	Date
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Full name of Trustee	Signature	Date
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Full name of Trustee	Signature	Date
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Future Farming Charitable Trust - Funding Deed

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Full name of Trustee

Signature

Date

[Drafting note: Council execution requirements TBC. Note that any two Trustees may execute the deed on behalf of the Trust Board (esp. if the Trust Board has already been incorporated), but all Trustees can sign the deed.]

DRAFT

Future Farming Charitable Trust - Funding Deed

Item 9

Attachment 2