




HAWKE'S BAY REGIONAL COUNCIL



SAFEGUARDING YOUR ENVIRONMENT + KAITIAKI TUKU IHO



**Submissions lodged
on RPS Change 5**

Submissions 21 - 29

Change 5 to Hawke's Bay RPS

Land and Freshwater Management

List of Submitters in Numeric Order

1	Belford, Tom
2	Central HB District Council
3	Department of Corrections
4	Fertiliser Assoc. Of NZ Inc.
5	Fonterra Co-operative Group Ltd
6	Friends of the Tukituki
7	Genesis Power Ltd
8	Green Party of Aotearoa (HB Branch)
9	Hastings District Council
10	Hastings/Havelock North Forest & Bird Branch
11	HB Environmental Water Group
12	HB Federated Farmers
13	HB Fish & Game Council et al
14	HB Forestry Group
15	Holcim (NZ) Ltd
16	Horticulture NZ et al
17	Irrigation NZ Inc.
18	Kelly, Terry
19	Knauf, Ivan (Wairua Farms)
20	Lowe Corporation Ltd
21	Maori Trustee for Poukawa 13B Ahu Whenua Trus
22	Medical Officer of Health (HBDHB)
23	Ngati Kahungunu Iwi inc.
24	Pan Pac Forest Products Ltd
25	Silver Fern Farms Ltd
26	Taupo District Council
27	Te Taiao HB Environment Forum
28	Te Taiwhenua o Heretaunga
29	TrustPower Ltd



Submission on proposed plan, plan change or variation

(Form 5)

To: Chief Executive
Hawke's Bay Regional Council
Private Bag 6006
NAPIER 4142
fax: 06 8353601
email: submissions@hbrc.govt.nz

Office Use	
Submission ID#:	Sub# 21
Date received:	_____
DBase entry date:	_____

SUBMITTER DETAILS

Name of submitter: Maori Trustee as Responsible Trustee for Poukawa 13B Ahu Whenua Trust

Contact person: Revell Wise

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PLEASE NOTE: your submission will become part of a public record of Council documents. This will mean your name, address and contact details will be searchable by other persons.

SUBMISSION DETAILS [a useful guide to writing a submission is attached to this form]

The proposed plan, plan change or variation my submission relates to

Proposed Change 5 to the Hawke's Bay Regional Resource Management Plan- Land use and freshwater management

The specific provision(s) of the proposal that my submission relates to are:

- ISS LW 1
- OBJ LW 1
- POL LW1
- POL LW2
- POL LW3
- POL LW4
- OBJ 15
- OBJ 15A
- POL 4A
- POL 4
- OBJ 22
- OBJ 25
- OBJ 27
- OBJ 27A
- Definition of Wetland

My submission is [include whether you support or oppose the specific provisions or wish to have them amended along with your reasons for your views]:

The submitter opposes all the specific provisions set about above for the following reasons::

Introduction

Prior to addressing the plan change itself, it is important to provide the decision makers with an understanding of who the submitter is, the history of Lake Poukawa and the key issues of concern.

The Submitter

Poukawa 13B is an area Maori Freehold Land situated at Te Hauke 12 kilometres south of Hastings comprising 522.5072 hectares which includes most of Lake Poukawa. It is subject to an Ahu Whenua Trust known as the Poukawa 13B Trust, constituted under Section 219 of Te Ture Whenua Maori Act 1993. Under this Trust the land is vested in the Maori Trustee as Responsible Trustee with Robin Hape, Thomas Harrison, Tama Huata, Elizabeth Pakai and Garth Miller as Advisory Trustees. These Trustees, including the Maori Trustee are appointed by the Maori Land Court pursuant to Section 231 of this Act.

The objects of the Poukawa 13B Trust are “to provide for the use and management and alienation of the land to best advantage of the beneficial owners or the better habitation or use by beneficial owners and their successors, to make provision for any special needs of the owners as a family group or groups, and to represent the beneficial owners on all matters relating to the land and to the use and enjoyment of facilities associated therewith”.

Background

The Poukawa swamp was converted to productive land use in the 1920s and 30s which involved the digging of the present outlet channel. In 1980 the radial gate was constructed (part funded by the New Zealand Wildlife Service) to protect wildlife values in the lake and to safeguard water storage for downstream irrigators. The outlet stream was upgraded at the same time to enhance flood removal rates from productive land in the Poukawa basin.

The land area of Poukawa 13B is leased to Brownrigg Agriculture Ltd who utilise it for extensive cropping and grazing. Brownrigg Agriculture Ltd owns adjoining general land and leases other neighbouring blocks of Maori Land which they also crop and graze. These land activities are impacting on Lake Poukawa as are the following activities which have operated or are required to operate under Hawkes Bay Regional Council resource consents.

Brownrigg Agriculture Ltd has wells on its lands from which they extract water for irrigation and to provide water for grazing stock. There are also a number of other general land owners within the Poukawa Groundwater Management Zone who also extract water for these purposes from wells on their land. All these resource consents to extract and use groundwater expired on 31 May 2012.

Over a number of years, Brownrigg Agriculture Ltd has carried out extensive unconsented drainage and bunding work mainly on their lands to mitigate the effects of flooding on the areas cropped and grazed. The Hawkes Bay Regional Council has only recently determined that these activities require resource consent. It has however sanctioned the existing work pending the granting of retrospective consents.

The Maori Trustee as Trustee for Poukawa 13B is also a co -resource consent holder for the operation of a Radial Gate located on the Lake Poukawa outlet canal. The other consent holders are Brownrigg Agriculture Ltd, R & C Buddo Partnership and Buddo Agriculture Ltd (Bill Buddo) on whose land the radial gate is located. This resource consent expired on 30 June 2012.

The Hawkes Bay Regional Council has received and is at different stages of processing the resource consent applications for the extraction and use of ground water, the pumping and bunding activities and the operation of the radial gate. There is a hydrological connection between the activities covered by the various resource consents currently under consideration and they are interrelated in that they all impact on Poukawa 13B, Lake Poukawa and on other neighbouring Maori Land including areas both upstream and downstream of the lake. It is crucial therefore that the granting of the new resource consents sought is considered concurrently.

While it is evident that the land activities and water extraction and control activities are impacting on Lake Poukawa and its associated wetlands the full and long term effects cannot be determined at this time due to a lack of recent and on-going monitoring.

Lake Management History

A comprehensive Management Plan for Poukawa was prepared in 1988, a detailed Technical Report in 1992 and an Issues and options paper in 1995 for the Hawkes Bay Regional Council. In 1998 the Poukawa lake/wetland was ranked second priority by the HBRC. In 1999 and 2001 ecological monitoring was carried out on the lake, but this was neither collated nor continued. A second Management Plan was prepared in 2001 but did not proceed beyond draft status. In 2002 the consent for operating the radial gate was transferred from the HBRC to a committee of landowners, and operating levels lowered from RL29.9-30.35m to RL29.7-29.9m in response to shrinking peat levels in the basin.

Ten years ago the Poukawa 13B Trust was instrumental in getting the edge of the permanent lake fenced (with help from Hawkes Bay Fish & Game and funding from Nga Whenua Rahui) to prevent stock entry. The Trust also engaged NIWA in 2009 to carry out an eel survey and to advise on conservation measures.

Primary Concerns of Submitter

Poukawa 13B Trust, as owner of most of the lake bed, has advocated for lake conservation measures for some time, and see the need to balance sustainable management of the lake with productive land uses beyond the lake

The HBRC, on the other hand, has implemented practically none of the conservation measures or monitoring programmes recommended by their 1988 Management Plan, or subsequent reports. The outlet flow gauge is downstream from the radial gate and is located to provide information on flows to the Pekapeka Swamp and for downstream water consents; flow data has not been calibrated against lake depth or size, neither of which has been monitored. In fact, other than peat level surveys in 1992 and 2003, there has been no significant HBRC monitoring in the Poukawa basin for 20 years, despite the declared No.2 priority ecological rating of the lake, and despite the greatly increased intensity of agricultural land use over that period and the concomitant increasing threats to the lake (and to downstream water users) from potentially damaging trends such as rising nutrient concentrations.

From earlier environmental reports and from recent discussions with Poukawa 13B Owners, the local Offices of the Department of Conservation and Fish and Game it is evident that the activities being carried out on the land surrounding Lake Poukawa are impacting detrimentally on the Lake and its associated wetlands. The Department of Conservation and Fish and Game too have grave concerns around the level of the lake and as a consequence its ability to sustain the eco-system including juvenile tuna stocks.

The Poukawa 13B Trust wishes to continue to derive an economic return from its land and that over time it will seek to become more proactively involved with the management of the activities being carried out on it. It has however determined that this must be carried out in balance with good guardianship of the lake and surrounding area. In order to do this the trust has recognised the need for a holistic sustainable water and land management plan. An overall catchment plan for the Poukawa basin is required to manage the complexities of the area and to assist the Trust identify the tipping point where land activities become unsustainable and impact on the health of the Lake and wetlands. In summary, the Hawkes Bay Regional Council has not policed the existing resource consents well and the full impacts of the current farming and horticultural practices, the water extraction, the operation of the radial gate and of the extensive drainage and bunding carried out by Brownrigg Agriculture Ltd are not known. A monitoring regime must be implemented to inform the development of a holistic sustainable water and land management plan and the granting of resource consents for activities impacting on Lake Poukawa and surrounding lands.

Specific issues with Plan Change 5

It is unclear if the plan change 5 is intended to enable the achievement of a level of environmental protection that did not occur under the current provisions (as discussed above) or if it is simply a "streamlining" exercise. What is also unclear is whether the Changes will actually assist in improving the current very low level of implementation.

These are very important points for clarification as they are the Submitter's primary concerns with the current regime, which must be guided by the relevant Policies, Plans and Strategies. If it's a streamlining exercise, then the submitter's significant concerns remain but if it is more than that, then the submitter seeks further clarification and detail on how this will actually be achieved.

It is suggested that the Councillors seek information from the Council on the performance of the existing provisions prior to determining what changes are required

More specific comments follow:

ISS LW 1 and OBJ LW 1

Much of this Objective deals with development issues, but items 1 and 4 are of particular relevance to Poukawa, as safeguarding it as an ecosystem (rather than merely a water resource) and protecting water quality have not featured to date in Council priorities within the basin. However, since items 1-11 are not prioritised, it is not clear how these sub-clauses will be applied at individual locations and whether some will take precedence over others. We submit, for instance, that sub-clause LW1.4 will take precedence at Poukawa.

POL LW1

This Policy clearly applies to Poukawa 13B, Council has not addressed items d), e) or f) to date with respect to Poukawa. We seek clarification as to exactly how POL LW1 will be applied in the absence of prioritisation under POL LW2. We are also concerned that this policy does not specifically state that the long-term planning perspective specified in LW1.f will also be applied to significant wetlands.

POL LW2

Although Poukawa is not specifically prioritised under POL LW2, we seek clarification that its high status (at least No. 2 in the Pekapeka Management Plan) will be re-affirmed or restored (ie as an independent ecosystem, not merely as a source of water for Pekapeka) in POL LW2.

POL LW3

There is currently no nitrogen limit for the Poukawa sub-catchment. We wish to see a guidelines set for both nitrogen and phosphorus. We are also concerned that phosphorus runoff 'will be managed by non-regulatory methods and industry-led best practice'. Non-regulatory methods are basically only data-gathering strategies and industry does not have the range of perspectives or objectivity to police itself over nutrient use and losses. We would like to see Council-promoted best practice adopted and then applied by industry to balance production 'wants' against environmental 'needs'.

POL LW4

No timeframes are given for putting these methods in place at specific locations and no intermediate goals (ie pre-2030) have been set. As no timeframes were set in the 1988 Poukawa Management Plan and no significant monitoring was carried out in the following 25 years, and since timeframes for compiling reliable models for wetland management are long, we believe that these intermediate goals need to be established now in order to effectively meet both the 2030 NPS deadline as well as the much earlier demands of development/conservation conflict at Poukawa.

OBJ 15

We support clarifying and strengthening the objectives by devoting OBJ 15 to native biodiversity across all ecosystem types, including wetlands.

OBJ 15A

We support the creation of a separate Objective to protect wetlands from development activities, provided that priority wetlands have management priority over development activities. Even though it does not have strong statutory support in all locations, this is a clear statement of intent and needs to be applied consistently across the region. We would like to see Poukawa specified as a priority location.

POL 4A

The use of non-regulatory methods to support regulatory methods is axiomatic. Non-regulatory methods are general by nature and their use will be selective depending on priorities. It is an uncertain fall back measure and we prefer to see Poukawa clearly specified in statutes as a priority site which automatically attracts priority measures.

POL 4

This policy is still subject to prioritisation within the provisions of the Annual Plan and therefore still requires locations to be prioritised.

OBJ 22

Although this Policy is formulated with the Heretaunga Plains and the Ruataniwha Plains in mind, the principles need to be applied on a more widespread basis. Thus the quality of borehole waters at Poukawa should be monitored for deterioration especially during drought periods.

More importantly, OBJ 22c requires addressing the issue of potential degradation of lakes and wetlands from point-source discharges. At present discharge of agricultural land drainage water directly to Poukawa Lake has received no Council attention. In order to apply this Policy consistently, it is expected that nutrient and hydrological loadings will need to be monitored at Poukawa.

OBJ 25

Subject to OBJ LW1.1 & LW1.4, we suggest that Poukawa clearly features high on the priority list and that 'maintaining the life-supporting capacity of ecosystems' is a much stronger commitment to protecting the quality of freshwaters than merely maintaining 'water resources'. Indeed since ecosystem priorities have to take precedence over resource requirements, we see this as a strong Objective supporting natural freshwater lakes and wetlands, particularly Lake Poukawa. However, we do seek clarification that, for a high value wetland such as Poukawa, maintaining satisfactory flows for aquatic ecosystem management on a sustainable basis will take precedence over development demands.

OBJ 27

Again, we support use of the specific term 'ecosystem' rather than the less specific 'resources'. However, the water quality should be suitable for sustaining not just 'any' aquatic ecosystem, but 'specified' aquatic ecosystems with particular qualities – such as the Lake Poukawa ecosystem as defined by a competent ecological survey.

Under the POL LW1 default condition, this ought to require the collection of enough water quality data to be able to adequately address OBJ 27.

OBJ 27A

This Objective, maintenance of riparian vegetation, is of particular relevance to Lake Poukawa because of its extensive ephemeral margins. This type of wetland ecosystem needs those seasonally flooded areas as well as appropriate marginal vegetation. We suggest that OBJ 27A notes that the amount and type of riparian vegetation will be specific both to wetland type and to individual wetlands within each type.

OBJ 47A

'Contaminant' needs to be defined in terms of the purpose and function of the water body into which it is discharged. Excess nitrogen, phosphorus and suspended solids all behave as contaminants in Lake Poukawa. OBJ 47A therefore strongly reinforces OBJ 27 and this should be acknowledged in the OBJ 47A wording.

Definition of Wetland

The definition of 'wetland' used in the Change 5 document (Glossary, p.9) is satisfactory, but we wish to point out the difference between 'tolerance' and 'adaptation.' A tolerant plant is able to survive waterlogged conditions only for a very limited time, but an adapted plant will endure waterlogging permanently, or seasonally. This has relevance to exclusion (a) 'wet production land'. 'Wet pastoral land' (rough pasture, seasonal pasture) is 'production land', but it often falls well within the definition of 'wetland' too, when it is dominated by adapted native swamp plants. This is the case at Poukawa, where 'seasonal wetland', dominated by adapted native swamp plants can, under the Change 5 exclusion, have its status changed simply by putting cows on it. We suggest that the exclusion is deleted, so that the ecological wetland definition applies where there is a conflict between a priority conservation wetland and development interests.

I seek the following decision from the Council [give precise details to ensure your views are accurately represented in submission summary documents to be prepared by the council as part of the submission and hearing process]

Decline the plan change until such time as there is full understanding of the issues raised in this submission, particularly with regard to the actual intent of the plan change and its overall effectiveness.

Do you wish to be heard in support of your submission?

Yes

If others make a similar submission, would you consider presenting a joint case with them at a hearing?

Yes

Signature of submitter:

Shelley A. Mar. Trustee

[or person authorised to sign on behalf of submitter]

Date:

5 November 2012

Submission on Proposed Regional Policy Statement Change 5

Sub# 22

To: The Chief Executive Officer
Hawkes Bay Regional Council
Private Bag, 6006
Napier, 4142
Email: submission@hbrc.govt.nz

SUBMITTER DETAILS

Name: Nicholas Jones, Medical Officer of Health
Postal Address: PO Box 447,
Napier, 4140

Phone: 06-834-1815

Email: Nicholas.jones@hbdhb.govt.nz

I wish to be heard in support of this submission

SUBMISSION DETAILS:

- 1.0 The general aim of integrating land use and fresh water management is supported
- 2.0 The proposed plan change does not specifically provide for protection of groundwater dependent ecosystems (GDE) as was recommended in a recent National Institute of Water and Atmospheric (NIWA) review.¹
- 3.0 Deletion of objective 21 reduces council's ability to prevent groundwater contamination that might impact on ground water dependent ecosystems. Degradation of such systems might ultimately impact on drinking water suitability and other uses. The submitter requests that objective 21 is retained or otherwise modified to recognize the need for protection of ground water dependent ecosystems
- 4.0 Water supply for cities and townships is not recognized as a primary value for the Mohaka Catchment area. Objective 22 provides that aquifers are protected to ensure suitability of water for human consumption. However this objective is subject to Objective LW1 and it is not clear whether protection of ground water for human consumption in smaller settlements will be regarded as a priority. The submitter requests that protection of drinking water supplies is included as a primary value and use in all catchments.

Yours faithfully



Nicholas Jones
Medical Officer of Health
Hawke's Bay District Health Board

Date: 5.11.2012

¹ NIWA. A review of current groundwater management in Hawke's Bay and recommendations for protection of groundwater ecosystems. NIWA. September 2009.

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Ngāti Kahungunu Iwi
INCORPORATED

Sub # 23

***HAWKE'S BAY REGIONAL COUNCIL'S
Proposed amendments***

***REGIONAL POLICY STATEMENT
CHANGE 5
LAND USE AND FRESHWATER MANAGEMENT***

***SUBMISSION FROM
NGATI KAHUNGUNU IWI INCORPORATED***

Submission **Regional Policy Statement Change 5 Land Use and Freshwater Management**
From **Ngāti Kahungunu Iwi Incorporated**

5/11/2012

Background

1. **Ngāti Kahungunu Iwi Incorporated (NKII)** is the mandated iwi organisation responsible for all aspects of Ngāti Kahungunu development. Ngāti Kahungunu has the third largest iwi population (55,946¹) and the second largest tribal rohe and coastline, from Paritu and extending inland across the Wharerata ranges in the north to Turakirae (Palliser Bay) in the south.

The mission of Ngāti Kahungunu Iwi Incorporated is:
“To enhance the mana and well-being of Ngāti Kahungunu”.

2. The iwi authority maintains an independent position to advocate for the interests and rights, including values, beliefs and practices of all Ngāti Kahungunu tāngata whenua, whanau, hapū and iwi. Tāngata whenua hold significant cultural, economic and spiritual connection to the natural environment and have rights and interests to its resources. This includes a responsibility and obligation as kaitiaki to care and protect the natural environment for future generations, there is particularly concern given to adverse cultural and environmental effects.
3. Land and Water are arguably the two most significant natural elements that have guided characterized Ngāti Kahungunu tāngata whenua; marae, whānau and hapu have always been strategically located near freshwater or waimāori. The very terms ‘tāngata whenua’² and ‘waimaori’³ are terms that demonstrate the importance of land and water to Māori and its link to our identity.
4. Ngāti Kahungunu Iwi Incorporated invests considerable amount of time, resources and energies in drawing together and considering the views and aspirations of Ngāti Kahungunu tāngata whenua mai Paritu ki Turakirae including the appropriate hapū, Taiwhenua and communities. Maintaining these networks and appreciating all perspectives is vital for a holistic over view and progressing towards enduring outcomes and solutions.

Hāngai ana ki te whakatauāki:
“Nāku te rourou nāu te rourou ka ora ai te iwi”.

5. NKII has held a number of public meetings for tāngata whenua that primarily focused on issues and initiatives associated with water. The hui highlighted the commonality amongst tāngata whenua in terms of their values. However, despite the best efforts of tāngata whenua to work with councils, there has been little change to the outcomes over the years. It also highlighted that the same frustrations and disappointments in terms of natural resource (mis)-management that has inadequately and continually failed to address the long standing concerns and values of tāngata whenua.

¹ 2006 Census of Population and Dwellings, New Zealand Kahungunu population only.

² Local people, hosts, indigenous people of the land – born of the whenua, i.e. of the placenta and of the land where the people’s ancestors have lived and where their placentas are buried. Whenua means both land and placenta.

³ Freshwater, mineral water.

6. There are a number of documents that provide valuable references to the values and interests of Ngāti Kahungunu tāngata whenua in terms of natural resource management:
 - a. W. Hodges (1992) *Kaitiaki Mo Ngā Taonga Tuku Iho*, Ngāti Kahungunu – provides councils with an introduction to an Ngāti Kahungunu ethic for sustainable resource management.
 - b. Ngāti Kahungunu (2008) *Kahungunu ki Uta, Kahungunu ki Tai Marine and Freshwater Strategy* – sets out the aspirations of Kahungunu for the use and management of marine and freshwater fisheries within our rohe.
 - c. Te Manga Maori Eastern Institute of Technology (2010) *Cultural Impact Assessment of the Tukituki Proposed Water Storage Dams*.
 - d. Te Manaaki Taiao: Te Taiwhenua o Heretaunga (2012) *Cultural Values and Uses of the Ko Wai Ka Hua: Cultural Values and Uses, Cultural Impact Assessment of the Tukituki Catchment on Heretaunga Marae Hapu Tukituki Catchment*.
7. However, the documents alone only provide an introduction; direct dialogue with the appropriate tāngata whenua is needed for more robust effective management. Also, the scope and timing of each publication may vary in terms of relevance to resource management objectives, policies and subsequent management decision.
8. To effectively provide for the involvement of tāngata whenua and their values and interests in the management and decision-making of natural resources, their direct involvement is needed in the planning stages. Tāngata whenua involvement would help interpret how their values and interests could appropriately be incorporated into management. In most instances the values and interests can add value to other ‘interests’.
9. This submission does not intend to exclude or undermine any other Ngāti Kahungunu responses or submissions. Ngāti Kahungunu Iwi Incorporated supports the submissions made by other tāngata whenua and encourages greater involvement of hapū and their interests in resource management planning and implementation.

Introduction

10. The Proposed Regional Policy Statement Plan Change 5 has the capacity to substantially affect Ngāti Kahungunu values and interests in land and water if the plan change does not recognise and provide for mātauranga Māori and tikanga Māori. An operative regional policy statement or plan has effect for in excess of ten years, and directs territorial authorities towards specific management options. If resource management within the Hawke’s Bay region is to be more inclusive of Māori values and interests, an appropriate and inclusive planning mechanism needs to be put in place to deliver outcomes for Māori that reflect the status and philosophy of existing Treaty settlements, and without compromising the aspirations of tāngata whenua who have yet to settle their Treaty grievances with the Crown. In addition, impediments towards rightful Treaty redress can be promulgated via statutory planning provisions if they are not sufficiently cognisant of the Māori world view, particularly towards environmental issues.

11. As we move towards a post-Treaty settlement era, it is essential that the partnership envisioned within the Treaty, is supported at the regional level as councils derive their powers and functions from legislation passed by the Crown.
12. We acknowledge regional council's prior consultation with the iwi authority and the opportunity to make initial comments on the draft plan change document, although we note that only some of our suggestions have been included in the notified plan change.
13. Land and water management and the mechanisms outlined through the proposed plan derive partly from the Hawke's Bay Regional Council's Land and Water Strategy. This strategy has a strong economic focus and this is carried through to the proposed RPS Plan Change 5. Our submission seeks to re-balance this focus towards a more holistic management approach.
14. As the proposed plan is setting the platform for other plan changes being prepared for the Tukituki, Ngaruroro, Tutaekuri, Ahuriri and Karamu catchments, it is essential that the foundations are solid and address all relevant issues, especially those raised by the HBRC's Treaty partner.

The Waitangi Tribunal

15. Ngāti Kahungunu has never relinquished ownership over our water bodies; the Treaty of Waitangi confirmed and guaranteed our interests over this extremely important taonga. Since the Treaty of Waitangi, the Crown has wrongly and progressively acted as the owner, under the assumption of exclusive rights of control, without the informed consent of Ngāti Kahungunu.
16. In 1992, the Waitangi Tribunal made specific findings that the rangatiratanga over the Mohaka River has never been relinquished and that the assumption by the Crown of exclusive rights of control, without the consent of Ngāti Pāhauwera, constitutes a Treaty breach.⁴
17. These findings are equally applicable to all water bodies within the Ngāti Kahungunu rohe - Ngāti Kahungunu have never relinquished mana, rangatiratanga or kaitiakitanga over Ngā wai a te ao Māori, a Ngāti Kahungunu (all of the water bodies within the Ngāti Kahungunu rohe).
18. More recently, the Waitangi Tribunal found that Māori had proprietary rights and interests in freshwater and that those rights are sufficiently linked to commercial developments and companies that use water, without paying.⁵
19. Ngāti Kahungunu Iwi Incorporated agree with the Waitangi Tribunal's interim findings and as the mandated iwi organisation we have a constitutional duty and obligation to:
 - promote, protect and assert the mana, rangatiratanga and kaitiakitanga of ngā hapu o Ngāti Kahungunu;
 - act in the beneficial interests of all descendants of Kahungunu, particularly where the interests and rights of Ngāti Kahungunu tāngata whenua, hapu and whānau have been unfairly subjugated.

⁴ Wai 119, *The Mohaka River Report 1992*.

⁵ Wai 2359, *Waitangi Tribunal Interim Report on Freshwater*

20. On September 3rd 2012 NKII lodged a contemporary statement of claim on behalf of ngā hapū o Ngāti Kahungunu.

WAI 2379: A Contemporary Treaty Claim to Freshwater and Geothermal Resources within their respective rohe on behalf of the iwi, hapū, Whanau and marae of Ngāti Kahungunu.

21. In line with the Waitangi Tribunals recommendation for meaningful discussion with iwi, Ngāti Kahungunu have invited the Crown to come and talk with us, *kanohi ki te kanohi (face to face)*, to develop mutually beneficial pathways forward *pokohiwi ki te pokohiwi (shoulder to shoulder)* in freshwater.

Discussion with the 11 councils and territorial authorities within Ngāti Kahungunu will follow, once a clear direction with the Crown has been agreed.

22. Ngāti Kahungunu are also prepared to litigate our case in court, should this be required.

23. NKII is concerned that so many important plans and strategies e.g. Ruataniwha Storage, Plan change 5 and Tukituki Choices and consent renewals are being reviewed currently and are scheduled to take effect before this important ruling on proprietary rights is made. Decisions made now could prejudice Ngāti Kahungunu rights and interests and we INSIST that the HBRC takes action to ensure that this does not occur. Failure to instigate adequate measures to protect Ngāti Kahungunu interests could be considered another Treaty Breach.

24. In the meantime, while proprietary rights to water are decided in the courts, or though discussions with the Crown, it is IMPERATIVE that the HBRC works together with Ngāti Kahungunu whanau and hapū to ensure that Māori have 'meaningful' engagement with HBRC at all levels. While the joint-planning committee is a valuable first step, the powers and functions of this group DOES NOT go far enough to ensure that the rangatiratanga of Whanau and hapū are adequately expressed and protected. There are other ideas and options which will need to be discussed and explored in more detail with Ngāti Kahungunu Whanau and hapū and also the joint-planning committee. Discussion is also required with the joint-planning committee to ensure that they are supported in their roles by the iwi, hapū and whanau.

The Section 32 Analysis

25. A section 32 report and its purpose is clearly prescribed in the Act, however there are some aspects related to the section 32 report for the proposed plan and the analysis, that have led to the proposed plan not constituting or contributing to the most appropriate way towards achieving the purpose of the Act, particularly in terms of efficiency and effectiveness. These include: -

- a. Proposed provisions related to Māori (iwi, hapu or tāngata whenua) not being comprehensive enough or given sufficient priority to enable their cultural well-being (in relation to water resources);
- b. Insufficient cognisance has been given to the hapu and tāngata whenua provisions and directions within the National Policy Statement for Freshwater Management (NPS FM);

- c. The proposed plan forming the foundation for enabling further degradation of water resources which does not give effect to Objective 5 of the RPS FM
 - d. No recognition of the significance of iconic rivers and water bodies to tāngata whenua/hapu
 - e. Lack of consistency in provision for Maori values and interests.
26. As a consequence, proposed Plan Change 5 could lead to drawn out hearing and litigation processes as Māori constantly seek recognition and provision for their values and interests when future plan change processes are undertaken by the regional council, who have 12-14 plan changes currently on their work programme.
27. Adequate consideration of and inclusion in the proposed Plan Change 5 for mātauranga Māori and tikanga Māori, would ensure better and more efficient processes, imbue a more inclusive approach towards tāngata whenua/hapu and aid towards the achievement of their environmental aspirations.

Issues and Recommendations

28. In general there is a missed opportunity in the current draft, to incorporate objectives and policies that adequately recognise Maori values and interests as well as giving greater and more meaningful effect to the NPS FW. Notwithstanding that no urgency is needed to give effect to NPS FW in terms of timelines, current decisions need not ignore or go against the intentions and purpose of the NPS FW. Particularly the promotion and further decline of water quality in the regions surface and ground water bodies.
29. Seeking to address both land use and water management within one objective however, as in draft OBJ LW 1 has resulted in a rather cumbersome approach that lacks clarity, is open to interpretation and will require a constant balancing act through decision-making processes as competing priorities are compared and assessed. The objective (s) should be more concise. In addition, the direction for lower tier planning instruments is not well defined. Breaking down the proposed objective into two separate objectives, one for water and one for land management would provide better direction and lead to greater cohesion with relevant sections of the HBRRMP and district plans.
30. Inclusion of clause 1.5 regarding Māori spiritual values within this context implies a trade-off when comparisons are made between these and all other matters raised within the objective. This will result in a prioritisation of separate elements, and risks inadequate 'taking into account' of Māori values. This is specified in the issue statement ISS LW1 where it states *"...requires the balancing of multiple, and often competing, values."* Wairuatanga is an absolute value. It should not be balanced off against any other value. Only recognising wairuatanga and mauri will not ensure that they are specifically *"provided for"* as required by section 6(e) of the Resource Management Act (RMA).
31. The additions and changes for plan change 5 are for the purpose of Hawke's Bay Regional Resource Management. Tāngata whenua and regional values should be the main objective, the inclusion of 'national value' and any subsequent recognition, devalues tāngata whenua and the

Hawkes Bay regional community and rate payers interests. It appears to be included to support a proposed dam or water storage project of apparent national significance. This is a regional plan and should be treated as such, any land or water use should be an objective of the region while nationally significant values are catered and are directed for in the NPS FW. Are international values to be added in the future?

Recommendation:

31.1 We strongly insist the following changes to OBJ LW 1 in particular the removal of the terms “national value”:

“5. recognises the significant ~~national and~~ regional value of freshwater for human drinking and animal drinking uses;

“6. recognises the significant regional ~~and national~~ value of freshwater use for beverages, food and fibre;

“7. recognises the potential for significant regional ~~and national~~ value arising from the non-consumptive use of water for renewable electricity generation;

32. The regional council has several plan changes and variations proposed over the next few years. Given that the average time taken for one plan change to traverse the statutory landscape is around 5 years, it would be prudent to combine several similar plan changes into one major plan change, thus reducing the considerable time and expense associated with multiple plan changes and variations. This plan change consisting of amendments to the regional policy statement section of the Hawke’s Bay Regional Resource Management Plan (HBRRMP) will need to encompass regional priorities across several catchments while implementing some of the directives contained within the National Policy Statement for Freshwater Management including those associated with water quantity in over-allocated catchments and degraded water quality issues.

33. The Heretaunga aquifer system is the manawa or beating heart of the Hastings economy, supplying water of exceptional quality for domestic, industrial and agricultural use, for most uses or purposes, it requires no treatment. Protection of the aquifer from contamination is paramount if our economy is to remain competitive. The management of aquifer systems will require the setting of limits so that abstraction does not lead to unsustainable practices being encouraged. Allocations within Heretaunga are constantly exceeding average annual recharge rates. The recommendations from the draft NES for Ecological Flows could be used as a default level to guide abstraction limit setting, and help prevent the decline in aquifer pressures and levels. This is particularly relevant where there is a high incidence of ground water interaction with surface water bodies. Clear guidance within the RPS would ensure aquifer recharge rates are not exceeded thus promoting the purpose of the RMA.

Recommendation:

34.1 **Include** an objective aligning maximum water abstraction from the Ruataniwha and Heretaunga aquifer systems with 33 % of their average annual recharge rates, thus allowing for the effects of drought periods and supporting the purpose of the RMA.

35. Chapter 3.14 of the plan, which is also referred to in OBJ LW 1.5, has not been sufficient in the past to protect or enhance Māori values and their constituent parts, as it only recognises tikanga Māori values without directing lower tier strategies or plans to provide for them.

36. As Plan Change 5 is a change to the Regional Policy Statement containing Chapter 3.14, one would expect it to address the requirements in the NPS for Freshwater Management that relate to tāngata whenua, thus capturing the intent of: -

“Objective D1

To provide for the involvement of iwi and hapū, and to ensure that tāngata whenua values and interests are identified and reflected in the management of fresh water including associated ecosystems, and decision-making regarding freshwater planning, including on how all other objectives of this national policy statement are given effect to;” and

Policy D1

Local authorities shall take reasonable steps to:

a) Involve iwi and hapū in the management of fresh water and freshwater ecosystems in the region

b) Work with iwi and hapū to identify tāngata whenua values and interests in fresh water and freshwater ecosystems in the region and

c) Reflect tāngata whenua values and interests in the management of, and decision-making regarding, fresh water and freshwater ecosystems in the region.”

37. This objective and policy from the NPS signals a need to amend Chapter 3.14 so as to enable Māori values and interests to be provided for. This would then direct positive outcomes for tāngata whenua when the other plan changes for the Ngaruroro, Mohaka, Tukituki and Tutaekuri Rivers, and the Karamu Stream are drafted and publicly notified by council. Better management of these catchments has been on HBRC’s agenda for the last few years for various reasons, and associated plan changes will follow in due course.

Inclusion of a Specific Objective and Policies for Tāngata Whenua Issues

38. As proposed, the interests of Māori and tāngata whenua are encompassed with other values in Objective LW 1 and associated policies. This implies a prioritisation of values during decision-making processes and fails to recognise and provide for the relationship of Māori and their culture and traditions with their ancestral lands rivers, lakes, wāhi tapu and other taonga, as a matter of national importance, and inasmuch, does not reflect Objective 8 of the NPS FM. In some instances, provisions in the proposed plan could relegate Māori interests and values through decision-making so that they are not considered to be of national importance.

39. The word “importance” means “of great significance or value; outstanding; eminent; esteemed (Collins). In the normal meaning of the word, it should follow that Māori values are themselves prioritised. This is partly acknowledged where HBRC has convened the Regional Planning Committee to a position of co-governance. The interests and values of the Māori representatives on this committee need to be enabled throughout the Regional Policy Statement and subsequent amendments to the regional plan.

40. We ask for the inclusion of a specific Objective and associated policies as Objective LW 2 and Policy LW 2, related specifically to Māori interests in land and water, and reference to these where relevant throughout the proposed plan.

Recommendation:

40.1 Make a consequential amendment to Objective 34: -

OBJ 34: recognise and provide for mātauranga a hapū o Ngāti Kahungunu and local tikanga Māori values and interests, and the contribution they make to sustainable development management and the fulfillment of HBRC's role ~~as guardians~~, as established under the RMA, and tāngata whenua roles as kaitiaki.

Catchment Management

41. It is enlightening to see that the regional council is moving more towards a “whole of catchment” approach, and better integration between management of land and water. However, there are a number of issues that involve areas of significance to Ngāti Kahungunu that risk being overlooked or not adequately catered for in the councils approach to catchment management, but are important to local tāngata whenua.
42. One issue that does not appear to be covered in any detail in the proposed plan is an adequate consideration of the cumulative effects of catchment activities on the coastal marine area. In their wisdom or otherwise, past environmental managers have heavily modified the lower catchments of three of our iconic and significant rivers so they now share one discharge point to the sea. The regional policy statement traverses the whole of the region including the coastal marine area (CMA) and sufficient recognition and provision for tāngata whenua interests within the CMA needs to be signaled in the regional policy statement.

Recommendation:

42.1 We seek the addition of another objective in Chapter 3.14 of the RPS (OBJ 34A): -

*“To recognise that the **whole of the coastal marine area is of significance to Ngāti Kahungunu** and to reflect this significance in policies and plans”*

Or words of like meaning and effect, we note that in the past this has been recognised by the Regional Council.

Inclusion of this statement within the Regional Policy Statement will enable appropriate recognition of the status of Ngāti Kahungunu and their hapū, whanau and iwi interests within the coastal marine area to be recognised and provided for in lower tier plans and policies.

43. Many Ngāti Kahungunu hapū have had their relationship with their culturally and spiritually significant waterways and water bodies adversely affected due to both natural but mainly man-made changes to their waters.
44. In these instances these particular tāngata whenua may appear to have no or less of an interest to a particular catchment and relevant land use or development. Part of this relationship is relevant to the surface and ground water hydrology. The traditional relationship should be taken into account and provision made for the relationship to continue.

45. Within a “whole of catchment” approach towards fresh water, there needs to be acknowledgment of the **interconnections between surface and ground water resources**, and respect for the integrity of aquifers. This could be achieved through regional plans placing limits on aquifer abstraction either via quantity or aquifer levels. None of these issues are covered in the proposed provisions for Surface water resources.
46. Discharges to land as a result of land-use have the potential to degrade groundwater resources and their interconnections with surface water result in cross-contamination. The effect of ground water abstraction on water quantity in surface water has been a relevant issue for renewal of resource consents over the last few years, and cross-contamination should receive similar attention.

Recommendation:

46.1 We ask for the addition of the following sub-clauses to the Issue Statement for Chapter 3.10.

“(d) The potential contamination of aquifers and consequential degradation of surface water”, and

“(e) The relationship between ground water quantity and surface water recharge”

Or words of like meaning and effect.

47. POL LW1 enables unrealistic expectations for meeting demands and pressures on water resources arising from irrigation within existing over-allocated catchments. National policy direction is aimed at working within resource limits in terms of quantity and quality. Striving to meet unreasonable or unsustainable demands in over-allocated catchments is not realistic.
48. Irrigators have been aware of the failure of HBRC’s policy framework to address over-allocation issues within catchments for some time, particularly since the last 4 bulk consent renewals which led to reduced durations for consents while council addressed new allocation limits and minimum flows. They have already been notified that on renewal their consents may be subject to further restrictions. Resource consents should not be permitted or renewed where they promote unsustainable practices.
49. POL LW1 k) Using the term “water scarce” implies that there is a lack of water when the problems within catchments have been identified as:
- a. water being available at the appropriate time.
 - b. unnecessary allocation i.e. land owners and water users seeking ‘extra’ security, resource rights or ‘assets’ by seeking water consent / use that far exceeds their current water requirements and reasonable forecasts.
 - c. over-allocation, and
 - d. failure of water managers to acknowledge the inter-connectivity between ground and surface water resources.

Recommendations:

49.1 **Amend** POLICY LW1 as below: -

“(d) protects water quality and water quantity of outstanding freshwater bodies identified in Policy LW1” and

- “i) allows reasonable transition times ~~and pathways~~ to meet any new water quantity reductions or new water quality limits in regional plans.*
- “k) allows for large-scale community water storage infrastructure ~~which can~~ to provide increased security for water users in ~~water-scarce-over-allocated~~ catchments while avoiding, remedying or mitigating adverse effects on ~~freshwater~~ resources, associated ecosystems, environments and tikanga Māori values.*
- l) takes into account cumulative adverse effects when managing water quantity and quality.”*

Proposed Table 1

50. POLICY LW2 is connected to the values stipulated in TABLE 1. The level of priority shown is in balanced and heavily influenced by commercial and industrial values. A sustainable resources management regime should consider climate change and less resource intensive activities. Environmental values are treated in a dismissive manner in Table 1. This denigrates the overwhelming public support in Hawke’s Bay for increased provision for environmental values and a more caring approach to water management in general. It would be strategic to plan for change in values and the growth in environmental considerations.
51. The proposed table does not include specific Māori values as either primary or secondary values, indicating that they are subservient to the other values listed. This fails to acknowledge the taonga values inherent within tikanga Māori whereby rivers, lakes and wetlands and the resources they contain, are regarded as taonga by tāngata whenua and intrinsic to their identity.
52. The Mauri value is likewise not included, indicating lack of appropriate regard for the outcomes of consultation with tāngata whenua prior to the proposed plan being publicly notified.
53. If the table is designed to refer to an overall Maori objective or similar statement as requested then there is still opportunity to provide specific recognition and priority values in each catchment.
54. The table does not include natural character and places a secondary value on taonga (native fish) and trout habitat even though these are matters of national importance and warrant protection in their own right under section 6 of the RMA. The recharge of groundwater, likewise, is omitted.
55. The coupling of all matters associated with water use and primary production as primary values is arbitrary, and does not recognise that some such matters should not be accorded priority over some other values including basic human needs.
56. In addition Māori relationships with their rivers are not specified as a priority at all.
57. The definition of a “Heretaunga catchment” is problematic as it is not a specific river catchment in the regional plan, nor is there a set allocation volume based on reliable information. HBRC’s Environment and Services committee meeting agenda for July indicates that this purported catchment incorporates several rivers and streams including the Ngaruroro, Tutaekuri, the Karamu catchment as well as sub-catchments associated with Ahuriri and the Twyford area of Hastings. Parts of Ahuriri and are not even within Heretaunga. Inclusion of all these as one catchment is cumbersome, and would require an immense amount of additional research to quantify to what degree each water body interacts with the others and with the Heretaunga

aquifer system. Many river and stream reaches within the Heretaunga Plains have specific minimum flows and allocations in the operative RRMP. Although not ideal, this is a system that most people have become accustomed to and the proposed “Heretaunga catchment” approach is a radical departure from current practice.

58. Tikanga Māori values associated within these separate (sub) catchments should only be determined by tāngata whenua who hold mana whenua status within each of them. Although they have similarities in concept, there are differences in how the values are interpreted by different hapū, and these differences should be reflected within the regional policy statement and the management of each sub-catchment. Adopting a “one size fits all approach is not appropriate as it does not give respect for or acknowledgment of the mana and rangatiratanga of our hapū, and could potentially create further issues and management inefficiencies.

Recommendations: -

58.1 For proposed Table 1: -

- a. **Include** as a priority, *“the relationship tāngata whenua with the river be preserved and enabled”*.
- b. **Separate** the *“Heretaunga catchment”* into separate parts – *Karamu, Ngaruroro* etc
- c. **Add** to primary values *“tikanga Māori”, “kaitiakitanga”, “taonga”, “natural character”, “aquifer recharge zones”,* as primary values for each of the catchments listed, or cross-reference values listed elsewhere in the RRMP.
- d. **Transfer** trout habitat and native fish habitat and contact recreation across to the “Primary Values” column for all catchments
- e. **Add** *“tikanga Māori and the values therein are taken into account when managing freshwater”,* or words to like meaning and effect to the AER’s table following Table 1.
- f. **Add** “water quality in the Heretaunga aquifer” to the primary value section for Greater Heretaunga / Ahuriri catchment.
- g. **Add** “water quality in the Ruataniwha aquifer” to the primary value section in the Tukituki catchment
- h. **Reconfigure** “water use associated with maintaining or enhancing land-based primary production” in the Greater Heretaunga / Ahuriri Catchment Area and Tukituki Catchment Area so that stock water use is a secondary value

59. There is no sound reason for diminishing the values associated with the Heretaunga and Ruataniwha aquifers and enabling the degradation of water quality within these water bodies as indicated by the deletion of OBJECTIVE 21, and proposed amendments to OBJECTIVE 22. It is abhorrent to remove the objective and replace it with the words “after treatment where this is necessary because of the natural water quality.”

60. The water quality of both the Ruataniwha and Heretaunga aquifer is exceptional. Treatment as a result of ‘natural water quality’ hasn’t happened in a thousand years, and unlikely to happen unless the safe guards are inadequate and miss-management continues. Also the burden of proof for which users will likely be responsible will rest entirely on those without the financial means.

61. This is a clear attempt to remove liability and reduce the safe guards around groundwater in the Ruataniwha and Heretaunga. The regional council manages water and land use which is a significant activity that can lead to irreversible degradation in ground water quality, as a result of water extraction and nutrient run-off.
62. This course of planning and removal of safeguards brings into question the Regional Councils ability to objectively manage and protect our natural resources for future generations. At present they are not in a state in which we received them. The NPS FW goals are to maintain or improve water quality.

Recommendations: -

Retain the operative version of OBJ 21.

- a. *“OBJ 21 No degradation of existing groundwater quality in the Heretaunga Plains and Ruataniwha Plains aquifer systems.”*
- b. **Amend** OBJ 22 thus: -
- c. **OBJ 22** Subject to Objective LW1, ~~the~~The sustainable management ~~maintenance or enhancement~~ of groundwater ~~quality~~quantity in the Heretaunga Plains and Ruataniwha Plains aquifer systems and unconfined or semi-confined ~~productive~~ aquifers ~~7 in order that it is they are suitable for human consumption and irrigation without treatment, or after treatment where this is necessary because of the natural water quality.~~
- d. Insert the following sentence into Explanation and reasons at 3.8.2: -
- e. *“The Heretaunga Plains aquifer system is one of the region’s outstanding freshwater bodies (see Policy LW1). Objective A2(a) of the 2011 National Policy Statement for Freshwater Management expects that the overall quality of freshwater within the region is maintained or improved while protecting the quality of outstanding freshwater bodies.”*

63. The draft version of RPS Plan Change 5 contains a new policy as POL LW3. This policy appears to support the discharge of contaminants from production land to surface and ground water, which could lead to pollution of the Heretaunga and Ruataniwha aquifer systems and the regions surface water bodies. If nitrogen is leaching from production land then it is a waste product and indicates that too much nitrogen is being applied. Commercial gain should not be achieved at a cost to the wider community through loss of public amenity or environmental values. Neither should tāngata whenua have to endure a reduced quality in the aquatic environment and consequential adverse effects of commercial operations. The draft policy appears to enable the degradation of water resources without providing any mechanism for avoiding, remedying or mitigating adverse effects. Ensuring environmental issues affecting water is more effectively managed to maintain, restore and enhance mauri and to avoid, remedy or mitigate adverse effects on fisheries and their habitats is a goal of The KKUKKT Marine and Freshwater Strategy.
64. Ngāti Kahungunu wishes to see consistency across all its regions (entire rohe) including the implementation of best practice resource management. In this respect Horizons Regional Council has set limits on the Manawatu River, halting further degradation of water quality and aiming to improve it over time through the one plan. The better practice is to adequately address nutrient leaching and set adequate limits.

Recommendations:

64.1 **Amend** the policy as below: -

POL LW3 Managing use of production land use

To manage the use of production land in specified catchments so that:

- (a) the discharge of nitrogen to land, and thereafter to ground water. is restricted to minimise adverse effects on water quality, and thereafter 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 animal faecal matter to land, and thereafter to groundwater and surface water, does not cause human consumption and irrigation guidelines for water quality set out in regional plans to be exceeded;
- (c) ~~any monitored exceedence of soluble reactive phosphorous limits set out in Policy 71 of this Plan will be regulated through resource consent conditions.~~ is used to target and prioritise the Regional Council's non-regulatory methods.

65.1 **Amend** the policy as below: -

Explanation and Reasons

Policy LW3 makes it clear that HBRC will manage production land use activities to minimise the leaching of nitrogen, phosphorous and faecal coliform bacteria to groundwater and surface water under section 9 of the RMA in order to ensure that groundwater and surface water values identified in specified catchment areas are maintained or enhanced where necessary." ~~Phosphorous leaching and run-off will be managed by non-regulatory methods as it is primarily caused by soil loss and cannot be practicably controlled by way of permitted activity conditions or consent conditions. This approach will complemented industries' implementation of good agricultural practices.~~

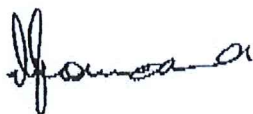
The council cannot ensure industries will implement the 'good agricultural practices' nor that the practices qualify as 'good'.

66.1 The proposed amendment to the AER associated with Policy is not supported as in some cases it would promote the degradation of existing good water quality.

We wish to be heard in support of our submission at any hearing or pre-hearing convened for such considerations.

Ngāti Kahungunu Iwi Incorporated are interested in contributing further to the drafting of the RPS in addition to these preliminary comments and will discuss matters further with our constituent hapū. NKII also wish to be informed of any further discussions or information sessions relative to the plan, preferably prior to release of the next version. We are available for face to face follow up. For any additional information on this submission, please contact Dr Adele Whyte, Pouarataki – Ngā tini a Tangaroa (Director of Fisheries), adele@kahungunu.iwi.nz.

Nā māua,



Ngahiwi Tomoana
Tumuaki/Chairman
Ngāti Kahungunu Iwi Incorporated



Meka Whaitirii
Kaiwhakahaere Matua/Chief Executive
Ngāti Kahungunu Iwi Incorporated



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File No: H300-11

25th October 2012

Hawke's Bay Regional Council
Private Bag 6006
NAPIER

Submission on Proposed Plan Change 5

Attached is Pan Pac's submission on the proposed Plan Change 5.

Pan Pac is a fully integrated forest products company with 33,000 hectares in plantation forests, a pulp and lumber processing facility at Whirinaki, and subsidiary importing company in China. Pan Pac is one of the largest customers of the Port of Napier. Pan Pac annually processes approximately 1.4 million tonnes of logs sourced from mostly within the region, however, logs do come from the Central North Island and the Wairarapa. Pan Pac is one of the largest employers in Hawke's Bay and a major contributor to the regional economy.

This submission is on behalf of the Forestry and Logistics of Pan Pac Forest Products Limited.

Pan Pac would like to present its submission in person to the council in conjunction with the Hawke's Bay Forestry Group's submission.

Sincerely

A handwritten signature in black ink, appearing to read 'Brett Gilmore'. The signature is fluid and cursive.

Brett Gilmore
Environmental and Technical Advisor

Part	Page	Section Title	Support/Oppose	Comment
POL LW2	3	Table 1	Oppose	<p>Pan Pac opposes Table 1 even though we understand the intent is to differentiate what are the most important values and uses in the catchments.</p> <p>Pan Pac notes that forestry is not listed as a value in any of the catchments. Forestry (plantation or as part of farm plans) is an essential tool, and part of the Council's strategy, to improve landscape resilience and water quality so it should specifically be mentioned.</p> <p>Pan Pac is concerned about the implications of a split between primary and secondary values and issues, and the problems that could be generated prior to consensus from the just started collaborative groups which Council has sort guidance from. All values and uses are vitally important for someone and many are interlinked regardless of whether they are in the primary or secondary category. Is it really OK to avoid, if reasonably practical (POL LW2 3 b)), impacts to recreation yet maintain and enhance some economic drivers? What is that saying?</p> <p>Pan Pac feels table 1 is the 'cart before the horse'. Once a Plan Change is approved, then the only way to change it is via another Plan Change. This provides a dilemma because it makes good ideas and collaborative outcomes in processes already started hard to incorporate because the Plan Change would only have been approved six months previously. It also may make participants of the collaborative process question the value of their involvement because the Council has already decided what is/isn't as important in specific catchments because they are listed in the Plan Change.</p> <p>In a Pan Pac specific example, if the Mohaka did not yield aggregate Pan Pac would have much more expensive and</p>

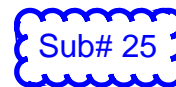
				<p>potentially inferior aggregate. Aggregate sourcing is of primary importance to us. At the moment, our aggregate source falls outside of even the secondary factors.</p> <p>There is also the risk of perverse outcomes. If there is a need to maintain and enhance industrial and commercial water supply and land-based primary production, does this mean that new planting of trees on the unstable hill country should be stopped because they use water that isn't listed as a Primary Value? It has already happened in other regions of NZ.</p>
OBJ 27A	8	Insert new objective into Cpt 3.10	Oppose until further clarification	<p>Pan Pac supports the intent of riparian margins for biodiversity and water quality. However Pan Pac would like clarification on what '<u>remnant indigenous riparian vegetation</u>' means. If <u>remnant</u> means original or primary forest we would be supportive. If <u>remnant</u> meant all riparians that are currently remaining along river, lake or wetland margins then Pan Pac would not support this in all situations. Sometimes the best environmental outcome in logging is to accept damage to riparians. For example, logging across a stream may be better than building an extensive road system to access the wood from the other side of the stream.</p>
OBJ 29	8	Amend objective 29 in Cpt 3.11	Support with an addition	<p>Economics often drives gravel extraction. River aggregate is a valuable resource as well as simply desirable for river management or minimising flood risk. Pan Pac suggests the economic necessity of the resource needs to be included in the objective.</p>



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5 November 2012



Chief Executive
Hawke's Bay Regional Council
Private Bag 6006
NAPIER 4142

fax: 06 8353601

email: submissions@hbrc.govt.nz

Re: Silver Fern Farms Submission on Hawke's Bay Regional Resource Management Plan Proposed Change 5 – Land and freshwater management

Dear Sir/ Madam,

Thank you for the opportunity to submit on the Proposed Change 5 – Land and freshwater management.

Silver Fern Farms recognises the need to achieve appropriate water quality outcomes within Hawke's Bay and nationally, and commends Hawke's Bay Regional Council on the approach for an integrated plan that recognises the four well beings - cultural, social economic and environment.

It is hoped the subsequent regional plan changes that will follow also reflect this integrated approach. An outcome based ethos is encouraged to allow choice, flexibility and innovation in achieving objectives.

Silver Fern Farms has a significant presence nationally and across Hawke's Bay with its operations relying on the productivity and success of the regions farmers' to supply livestock for our products and brands exported to more than 60 countries worldwide.

Silver Fern Farms is a farmer owned co-operative and as such it is not only the interests of our processing facilities we have to consider when looking at the potential impacts of the plan but also the impacts and implications for our farmer suppliers and shareholders.

Therefore, Silver Fern Farms makes this submission on the basis of generally supporting the submissions and points made by industry good organisations like Beef + Lamb NZ, and Federated Farmers in respect of supporting our farmer suppliers and shareholders, whilst making an individual submission to reflect concerns in recognition of our operations across Hawke's Bay; four processing sites (Frasertown, Leathers, Pacific, Takapau) and a support office in Hastings.

Yours sincerely,

Alison Johnstone
Environmental Advisor - Group Environmental



Silver Fern Farms Submission – Hawkes Bay Regional Council

Full Name of Submitter Silver Fern Farms Limited
Contact Person Alison Johnstone – Environmental Advisor
Full Postal Address PO Box 30, Ashburton 7700
Phone Number 027 496 6129
Email alison.johnstone@silverfernfarms .co.nz

I confirm that I am authorised on behalf of Silver Fern Farms to make this submission.

This is a submission on the Proposed Change 5 – Land and freshwater management.

Silver Fern Farms cannot gain an advantage in trade competition through this submission.

Silver Fern Farms and its shareholders are directly affected by the proposed plan that forms the subject matter of the submission.

Silver Fern Farms submission relates to the whole of the Proposed Change 5 – Land and freshwater management.

Silver Fern Farms wishes to be heard in support of its submission.

If others make a similar submission, Silver Fern Farms will consider presenting a joint case with them at the hearing.



Alison Johnstone
Environmental Advisor - Group Environmental

See table below for Silver Fern Farms submission



Submission on proposed plan, plan change or variation

(Form 5)

To: Chief Executive
Hawke's Bay Regional Council
Private Bag 6006
NAPIER 4142
fax: 06 83 53601
email: submissions@hbrc.govt.nz

<i>Office Use</i>	
Submission ID#:	<u>Sub# 25</u>
Date received:	_____
DBase entry date:	_____

SUBMITTER DETAILS

Name of submitter[full name]: Silver Fern Farms Limited

Contact person [if different to above, or if submitter is an organisation]: Alison Johnstone (Environmental Advisor)

Postal address: PO Box 30 Phone #(s): (03) 307 8282 ext 3481
Ashburton 027 496 6129
Post code: 7700 Fax #: (03) 3076828

Email: alison.johnstone@silverfermfarms.co.nz

PLEASE NOTE: your submission will become part of a public record of Council documents. This will mean your name, address and contact details will be searchable by other persons.

SUBMISSION DETAILS [a useful guide to writing a submission is attached to this form]

The proposed plan, plan change or variation my submission relates to [title and reference number if applicable]: Hawke's Bay Regional Resource Management Plan: Proposed Change 5 - Land and freshwater management

The specific provision(s) of the proposal that my submission relates to are: _____

Please see attached pages for details

My submission is [include whether you support or oppose the specific provisions or wish to have them amended along with your reasons for your views]:

Please see attached pages for details

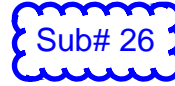
Title, Section & Page Number	Provision	Oppose/ support (in part or full)	Reasons	Decision Sought
ISSUE				
ISS LW 1, p1		Support	<p>Silver Fern Farms agrees with this issue statement that there is potential for ongoing conflict and often competing values and uses of fresh water.</p> <p>Silver Fern Farms is well aware of the need to balance sometimes competing facets, as a farmer owned co-operative we have to consider what best reflects the overall choice that would be beneficial to supporting both our primary sector support industry and the needs of our farmer partners and suppliers.</p>	<p>Retain ISS LW1.</p> <p>However, Silver Fern Farms note that HBRC will need to ensure that subsequent plan changes include the appropriate analysis outlining how the balancing of competing facets has been achieved in respect to any rule changes / additions.</p>
OBJECTIVES				
OBJ LW 1, p1	Point 6	Support	<p>Silver Fern Farms supports the appropriate recognition of the value of fresh water use for beverage, food and fibre production and processing.</p> <p>Point 6 of OBJ LW1 is consistent with the national values in the National Policy Statement for Fresh Water Management. A secure, reliable supply of quality water is paramount for primary sector and primary support industries.</p> <p>Silver Fern Farms has a number of operations throughout Hawke's Bay and is a significant employer in the region. The viability of our food processing operations and the productivity of our farmer suppliers rely on a secure supply of good quality water.</p>	Retain point 6 of OBJ LW1



Title, Section & Page Number	Provision	Oppose/ support (in part or full)	Reasons	Decision Sought
OBJ LW 1, p1	Point 11	Support in part	<p>Silver Fern Farms supports point 11 in that it recognises differing demands and values in different catchments and its commitment to provide clear priorities.</p> <p>However, the council must ensure appropriate mechanisms are put in place to assess priorities based on sound information and take into account all four well beings (social, cultural, economic and environmental).</p>	Retain intent of point 11 and ensure appropriate mechanisms are implemented to assess priorities.
POLICIES				
POL LW1, p2	Point e)	Support	<p>Silver Fern Farms supports the promotion of a collaborative approach. It is important that all stake holders are adequately and actively engaged, especially those who will be expected to implement actions required to achieve objectives.</p> <p>Silver Fern Farms does request that should catchment and sub-catchment committees or groups be set up that provision is made to manage and facilitate parties with interests in multiple catchments/ region wide.</p> <p>It also submits that these groups/ committees must be made up of a balanced spectrum of the stakeholders in the community, in order that all facets are represented to avoid oversights and bias. With outcomes consistent with the values set out in the Policy Statement.</p>	Retain intent of point e) and ensure parties with multiple interests are adequately provided for. Also ensure that any catchment groups/ committees encompass all facets of the community, and that outcomes are consistent with the Policy Statement.
POL LW1, p2	Point f)	Support	A strategic long term outlook is supported as time is required to adequately asses what is required, how to achieve the desired outcomes, implement changes and measure the effects of those changes, this being so the only option is for a long term approach.	Retain intent of point f)
POL LW1, p2	Point g)	Support	It is important to recognise differing demands and values and make provision to cater for all of them	Retain intent of point g)

Title, Section & Page Number	Provision	Oppose/ support (in part or full)	Reasons	Decision Sought
POL LW1, p2	Point i)	Support	Appropriate transition times are essential especially where significant changes and capital expenditure are required, allowing adequate time to implement change can soften and spread economic impacts.	Retain provision to allow for a period of transition.
POL LW2 p3	Table 1	Support	<p>Silver Fern Farms supports the inclusion of industrial and commercial water supplies in the primary values and uses.</p> <p>A secure, reliable source of quality water is essential for Silver Fern Farms operations. Security of supply is important for business investment and viability.</p> <p>Silver Fern Farms provides a valuable and value adding service to its farmer supplier shareholders. Sustainable resources provide confidence for the continued provision of services and for staff and communities for stable employment.</p>	Retain industrial and commercial water supply as a primary value/use.
POL LW3		Support in Part	Silver Fern Farms submits that catchment and sub-catchment limits for nitrogen should be based on sound technical information.	Ensure nitrogen limits are set using sound technical information.
POL LW4, p4		Support in Part	<p>Silver Fern Farms supports the use of non-regulatory methods. However the funding of such methods needs to be fair and equitable and provided for within the Annual plan if appropriate.</p> <p>Silver Fern Farms request that should any non-statutory documentation be integrated into statutory legislative plans or documents that due process is followed including consultation.</p>	Ensure that adequate funding is provided for and that any non-statutory recommendations integrated into regional planning documents follow due process in public notification and consultation.
POL LW4, p5	Anticipated Environmental Results	Support in part	Silver Fern Farms supports the maintenance and enhancement of primary values, However, Silver Fern Farms purports that targets and limits set for catchments must be based on sound technical information.	Targets, limits and rules must be based on sound technical information including a transparent assessment of the four well beings.

Title, Section & Page Number	Provision	Oppose/ support (in part or full)	Reasons	Decision Sought
POL LW4, p5	Anticipated Environmental Results		The efficient allocation of water is supported however the allocation needs to reflect and adequately provide for the values identified.	Ensure the framework for water allocation adequately provides for the identified values.
POL LW4, p5	Anticipated Environmental Results		Silver Fern Farms supports the use of water storage projects to increase the availability and reliability of water. However, this must not come at the detriment of water quality.	
CHAPTER 3.10 – SURFACE WATER RESOURCES				
OBJ 27, p7			OBJ 27 provides for water quality suitable to support contact recreation where appropriate. Silver Fern Farms supports this statement as there may be parts of a water body that are not suitable for certain activities and this must be recognised, a one size fits all approach to water standards can create unnecessary conflict.	Retain the statement “...where appropriate...”
OBJ 27			Silver Fern Farms supports the maintenance and enhancement of remnant indigenous vegetation. The funding for this needs to be fair and equitable taking into account the benefits and adequate provision needs to be made in Annual plan to provide funding in order to meet the desired outcome.	Ensure adequate provision is made for funding.



GREAT LAKE TAUPŌ

Taupō District Council

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5 November 2012

Gavin Ide
Team Leader Policy
Hawke's Bay Regional Council
Private Bag 6006
Napier 4142

Dear Gavin,

SUBMISSION TO PROPOSED CHANGE 5 HAWKE'S BAY REGIONAL POLICY STATEMENT

This submission is from Taupō District Council staff and is subject to approval by its elected members. Taupō District Council does not wish to be heard in support of our submission.

Contact details for this submission are: Kara Maresca, Taupō District Council, Private Bag 2005, Taupō Mail Centre, Taupō 3352, telephone 07 376 0899.

Overview

Taupo District Council's (TDC) submission to the Hawke's Bay Regional Council (HBRC) is summarised as follows:

1. Support in principle for aligning the regional policy statement (RPS) so that it gives effect to the national policy statement for freshwater management (NPSFM)
2. Support for listing the primary values and uses of fresh water bodies (POL LW2 Table 1).
3. Relief sought to remove the use of the term "maintain and enhance" (POL LW2)
4. Relief sought to amend existing explanatory text to reflect the new associated objective (OBJ 15, 15A and explanatory text 3.4.6)
5. Relief sought to remove duplicate wording in the proposed objective (Obj27A)

Introduction

The Taupō District covers an area of 6,970km² over four regions. Approximately 785km² are within the jurisdiction of HBRC. This entire area is within the upper reaches of the Mohaka catchment area.

Submission point 1 - General

No relief sought. TDC supports in principle the introduction of new objectives, policies, and text into the RPS so that it gives effect to the (NPSFM).

Submission point 2 – Table 1

No relief sought. TDC supports listing the values and uses that are considered important to the management of fresh water bodies. TDC submits that listing the values helps provide greater clarity in understanding how the intent of the policy can be met.

Submission point 3 – LW2.1, LW2.3(a)

Relief sought: Delete “and” where it appears in the context of maintenance or enhance, and replace with the word “or”.

Reason: Proposed policy LW2.1 recognises and gives priority to maintaining and enhancing the primary values and uses of the listed freshwater bodies (including the Mohaka Catchment Area). Similarly policy LW2.3(a) seeks to manage fresh water bodies in a manner that recognises and gives priority to maintaining and enhancing primary values and uses.

TDC submits that including the term “maintaining and enhancing” implies that recognition and priority will only be given if the primary values are both maintained and enhanced together. TDC submits that it may not be necessary in all instances to both maintain and enhance the values. Some activities with very minor effects may not require enhancement to occur.

TDC also submits that combining “maintaining and enhancing” extends beyond the objective of the NPSFM (Objective A2) which seeks overall quality of fresh water within a region to be “maintained or improved”. TDC supports the use of the word “or” in this context and submits that HBRC also use consistent wording in order to efficiently give effect to the NPSFM.

Submission point 4 – OBJ 15 and 15A, and explanatory paragraph 3.4.6

Relief sought: Amend explanatory text 3.4.6 so that it is consistent with the proposed change to objective 15 and new proposed objective 15A.

Reason: Proposed amendment to Objective 15 removes the preservation and enhancement of wetlands, and creates a new Objective 15A, which focuses on protection of the values of wetlands. In doing so the current explanatory paragraph 3.4.6 becomes inconsistent with the objective, as it still refers to preservation of wetlands.

3.4.6 “Because the extent of indigenous vegetation and wetlands is already limited in Hawke’s Bay, it is important that those areas remaining are preserved, rather than reduced even further.”

TDC submits the above explanatory text should be amended so that it is consistent with the new wording of objective 15 and 15A, in order to maintain efficiency of the objectives.

Submission point 5 – OBJ 27A

Relief sought: Amend proposed objective 27A by removing the duplicate wording (TDC relief shown using strike through):

Obj 27A Subject to Objective LW1, remnant indigenous riparian vegetation on the margins of rivers, lakes and wetlands is maintained or enhanced ~~in order to~~ for:

(a) ~~maintain~~ biological diversity: and

(b) ~~maintain and enhance~~ water quality and aquatic ecosystems.

Reason: Objective 27A is supported as it uses the term “maintained or enhanced”. However TDC submits the next two parts (a) and (b) contain duplicate wording by repeating the word “maintain” and the word

“enhance”, resulting in reduced efficiency of the objective. In addition for the same reasons in submission point 3, the wording of (b) is not supported for its use of the word “and”.
TDC submits proposed objective 27A be amended to remove duplicate wording to improve efficiency of the objective and to make the objective consistent with the NPSFM.

TDC would like to thank HBRC for the opportunity to submit on proposed RPS change 5.

Please contact me if further clarification to this submission is required.

Yours sincerely

Kara Maresca
Policy Analyst

On behalf of Taupō District Council – subject to approval.



5 Nov 2012

To: Chief Executive
Hawkes Bay Regional Council
Napier

Sub# 27

Fax: 06-8353601

Submission - Te Taiaroa Hawkes Bay
Environment Forum.

Regional Policy Statement
Change 5.

I enclose a three page submission

John Cheyne
Coordinator
Te Taiaroa Hawkes Bay Environment
Forum.

Page 1 of 3

To: Chief Executive
Hawkes Bay Regional Council
Napier
Fax: 06-8353601

Regional Policy Statement - Changes
Name of submitter: Te Tarao Hawkes
Bay Environment Forum

Contact: John Cheyne

Address: P.O. Box 305, Waipukurau

Phone: 06-8589506

Email: johncheyne@xta.co.nz

Te Tarao Hawkes Bay Environment Forum is an umbrella organisation which provides an opportunity to coordinate some activities/interests of the member groups.

The principles that guide the organisation are based around the sustainability of the soil, water and other natural resources, and their inter-connectedness.

We are interested in the long term sustainable use of these resources.

Our concerns relate to declining water quality and summer flows, declining biodiversity and associated habitats.

We value the waterways for their natural character life supporting capacity, cultural intrinsic recreation, amenity and aesthetic values.

Page 2 of 3

Our groups are interested in the long term sustainable use of these resources.

Our concerns relate to declining water quality and flows in our waterways and wetlands, declining terrestrial habitats and biodiversity.

Our values are not protected by the RPS with regards to protecting natural character, life supporting capacity, the ecosystem, intrinsic recreation, amenity and aesthetic value of waterbodies. The RPS does not maintain, or where degraded enhance the quality of freshwater and habitats to protect these values. The RPS does not ensure that resource use is reasonable and efficient. The RPS does not adequately address the regionally significant natural resource management issues.

Our concerns could be met by:

1. The RPS explicitly stating and including these values for waterbodies for protection (refer above)
2. The RPS should establish water quality and quantity limits to protect these values
3. The values priority system used in RPS should reflect the RIVAS ranking compiled by HRAC.

Page 3 of 3

4. The RPS should establish a framework to ensure water quality is maintained or where degraded that such values are improved hydrology maintained or where degraded such that its values are improved.
5. Resource use should be first necessary, second reasonable and third where it meets these criteria it should be efficient.
6. The RPS needs to provide better protection for wetlands and biodiversity in the region.
7. The proposed exclusion of "production land" for wetlands will impact significantly on ephemeral wetlands at sites like Poukawa and Whakahi. These wetlands are nationally significant for some ecological values.
8. Hawkes Bay currently only has 3% of its original freshwater wetlands remaining. All wetlands, including ephemeral wetlands, are significant and should be protected.

We wish to be heard in support of our submission and would consider presenting a joint case with other similar submissions.

J. W. Cheyne (J. W. CHEYNE)
4 November 2012

IN THE MATTER OF

Sub # 28

THE HAWKE'S BAY REGIONAL COUNCIL

AND

***PROPOSED PLAN CHANGE 5 TO
THE REGIONAL POLICY STATEMENT***

A SUBMISSION FROM

TE TAIWHENUA O HERETAUNGA

Address for service:

Te Manaaki Taiao
Te Taiwhenua O Heretaunga
P O Box 718
HASTINGS

He Mihi

E mihi kau ana ki te hunga e noho pūāhuru mai nā i waenganui i ō rātau whānau,

Me mihi anō hoki ki te hunga kua māwehe atu ki te pō,

Nā rātau i waiho mai ēnei taonga ki a tātau hei whāngai ki ngā reanga kei te heke,

Nō reira, mokori anō te tangi ki ō tātau tīpuna kua wehe atu i tēnei ao, ā, ka mihi ki te mātauranga me ngā taonga i waiho mai e rātau,

Nō reira, haere, haere, haere atu rā.

1. Introduction:

Te Taiwhenua o Heretaunga represents and advocates for the general environmental interests of Heretaunga hapū and whānau through our elected chairman and Board members. In addition, we have an established Rūnanganui structure whereby the collective environmental interests of the marae hapū of Heretaunga can be discussed and pathways towards meaningful input into statutory regulations can be advanced. Often we provide a default mechanism whereby hapū environmental values and aspirations are conveyed through statutory planning processes and into environmental policy and planning.

There is a growing awareness amongst tangata whenua of the speeding up of regulatory processes under the Resource Management Act, and in the recent past we have seen moves by HBRC towards stakeholder engagement. Helpful as this mechanism is, it is often driven by economic considerations, which tend to devalue mātauranga Māori and tīkanga Māori. Section 36A of the RMA has determined that there is no requirement for anyone to consult on resource consent applications, although regional authorities are still required to consult with Māori during the preparation and drafting of plans and plan changes.

Water is a taonga of the utmost importance to Māori. For Ngāti Kahungunu ki Heretaunga water plays a central role in their culture, traditions and the ongoing identity of the iwi, particularly in relation to the custom of mahinga kai as a pre-existing customary proprietary right.

*Ko Heretaunga Haukunui, Ararau, Haaro te Kaahu, Takoto Noa
Heretaunga - of the life-giving dew, of the hundred pathways, the vision of the far-sighted hawk, left to us, the humble servants.*

“Ko Heretaunga Haukunui, Ararau, Haaro te Kaahu, Takoto Noa” is a centuries old tribal whakataukī (proverb), that is as relevant today as it was when it was first uttered. It has many layers from which to identify and describe the tāngata whenua (people of the land), acknowledging Māori and their spiritual connection and

birthplace of Heretaunga, the environment, and their relationship to each other”¹, and as such is the framework upon which this submission is based.

The whakataukī is a statement of mana whenua (authority, possession and spiritual connection to certain land), and is the foundation that says ngā hapū o Heretaunga (clans of the Heretaunga region), are entitled to be equal partners at all levels of engagement, to be decision-makers for the future, and to have guardianship of the whenua (land) and awa (waters), which cannot be broken.

Section 32 Report:

The Section 32 report highlights a number of key issues including the hierarchy of relevant documents under the Resource Management Act and the consultation undertaken to date around land and water related issues with specific reference to the regional Land and Water Management Strategy (LWMS). Although non-statutory, this document was drafted with assistance from multiple agencies with interests within the region, and provides guidance to future direction for managing land and water.

HBRC’s website acknowledges the decline in water quality across a number of catchments and states:

“..those declines are being investigated by the Regional Council. It is putting in place practical actions and policies to arrest that trend which is mainly caused by diffuse runoff associated with agricultural land-use and land-use intensification.”

This implies a pro-active approach towards protection and enhancement of water quality, an aspiration reflected within the existing policy framework and a requirement of the National Policy Statement for Freshwater Management. However some provisions in the proposed Plan Change appear to promote a further decline of water quality in the region’s surface and ground water bodies.

HBRC Proposed RPS Plan Change 5

SPECIFIC:

Preliminary:

1. Do we want Māori values and interests to be included within the over-arching Objective LW 1 or do we want a specific objective related to things Māori?
The issue as identified suggests conflict between competing values when the RMA and many plans and policies support “recognising and providing for” the

¹ Ko Wai Ka Hua, Lower Tukituki CVU & CIA Final Report, Te manaaki Taiao/Te Taiwhenua o Heretaunga, May 2012

relationship of Māori and their culture and traditions with their ancestral lands, water, sites, waahi tapu and other taonga, as a matter of national importance.

By including Māori interests within the plethora of other interests, we risk devaluing and dilution of the significance of things Māori.

Recommendation:

- Create an objective that clearly identifies and promotes mātauranga Māori and tikanga Māori interests as there is precedent setting within other Treaty settlements (Ngai Tahu, Waikato-Tainui etc) and we should aim high given that this is the regional policy statement which will direct the regional plan and its rules when the Tukituki, and TANK plan changes come up. We also need to be consistent with advocacy for Plan Change 4 which will be going to hearing early December (Enabling of HPUDS and infrastructure)
 - Add principal reasons and explanation
2. Create policy strand for the above. The policies can be redrafted from the Māori related provisions currently in the proposed plan as notified. At present the Māori / tangata whenua provisions in the RPS are at Chapter 3.4 including Objectives 34-36 and in my view are deficient, e.g. Objective 34 says:

OBJ 34: To recognise tikanga Māori values and the contribution they make to sustainable development and the fulfillment of HBRC's role as guardians, as established under the RMA, and tangata whenua roles as kaitiaki.

This objective is rather weak as it focuses only on the kaitiaki function and doesn't direct lower tier plans and policies to "provide for" the relationship of Māori with their lands water, taonga, etc.

Recommendation:

- Seek redrafting of Objective 34 as a consequential amendment to Proposed Plan Change 5. The NPS for Freshwater Management supports this.
- Suggested wording:

OBJ 34: To recognise and provide for mātauranga Māori and tikanga Māori values and interests, and the contribution they make to sustainable management and the fulfillment of HBRC's role as established under the RMA, and tangata whenua roles as kaitiaki.

3. Move relevant proposed Māori provisions to new location (2) and include words “taonga” and “kaitiakitanga” in new policies.

Caution: - Look out for decision-making processes and other policies that are “Subject to Objective LW 1 and/or Policy LW 1”. Where necessary make them also subject to the new Māori objective, the redrafted Objective 34, and Schedule 1. The extra wording may be too cumbersome, but could be sorted out at hearing or on appeal.

It may either be a new Māori objective and policy strand, or the rewording of existing Objectives 34, 36 and 37. Objectives 36 and 37 contain the riders (out clauses) “where necessary”. Objective 35 is OK in its current form. Reference to Schedule 1 of the RRMP is helpful as the schedule contains the Treaty principles.

4. Amend Table 1

Table 1 contains the methodology for prioritising values, and in my view, some 2nd tier values should be across in the first column. E.g. native fish habitat in lower reaches. Not having them in the primary column means that their migratory pathways and patterns are not significant. In addition, elvers and juvenile species are more sensitive and increased predation will occur if flows fall below a certain level.

Recommendations:

- Add Māori values as they are absent from the primary value section
- Quote Section 6 matters for rationale
- Urban water supply for towns and cities should be primary
- Domestic supply also where houses do not have access to reticulated services
- Add “Ability to use water from the Heretaunga and Ruataniwha aquifers without treatment”. This is currently a high value resource
- Move “land-based primary production” to secondary
- Unpack and reword stock water use from primary production paragraph
- Consider moving stock water on irrigated pastures to secondary, this would require a differentiation at consenting stage, i.e: Permitted - stock water up to a set quantity; Restricted discretionary – stock water under an irrigation regime
- Move ecosystem health of tributaries and main stems to primary value
- Add “Natural character” to primary value
- Include aquifers in table

- Include health of coastal marine area
5. Include a preliminary statement re whānau, hapū and iwi have never relinquished their rights and interests in water. Removal or extinguishment of customary rights through statute or statutory plans would create further Treaty grievance.
 6. Add appropriate AER's based on new (Māori) objective and policy
 7. Consider including narrative re co-governance role and engagement methodology for Treaty claimant groups
 8. Identify and provide for outstanding water bodies of national significance
 - Include Ahuriri Estuary and quote from the Ahuriri Management Plan (non-statutory report) that references wading birds migratory species, fish nursery for several taonga species, tīkanga Māori and cultural/historical significance as Te Whanganui a Orotu
 - Include Tukituki, Ngaruroro, Mohaka and Tutaekuri as water bodies of National significance for various reasons – cultural association, taonga value for all (Waitangi report quotes), renowned trout fishery, ararau, etc
 - Include Heretaunga and Ruataniwha aquifer systems as water bodies of national and regional significance
 9. Ask for a map to be inserted showing all of these
 10. Deletion of proposed Objective 22 and re-instatement of Objective 21 (aquifers)

Retention of Objectives 42 ND 43 IN Chapter 5.6 of the regional plan apart from the addition of the word “unconfined” preceding “aquifers...”
 Water quality in the Heretaunga and Ruataniwha aquifers, particularly the deeper layers, is of exceptional quality. Encouraging degradation of these is not sustainable management, and is inconsistent with existing national directives and regional policy re “maintain and enhance” water quality. Loss of quality could lead to expensive remedial action to be undertaken by industry, councils and commercial interests to ensure adequate water quality and to meet export requirements

11. Refer to the need to address/ accommodate cross-boundary issues and consistent approaches – Manawatu River source is in Hawke's Bay and Horizons OnePlan seeks to halt any further degradation of this rivers water quality and improve it over time.

Take cognisance of the nutrient leaching limits in the One Plan and the LUC classes and subsequent restrictions

12. The imposition of new chapters into the RPS and the need to cross-reference existing chapters/provisions for appropriate integration
13. Chapters 3.3; 3.5; 3.6 and 3.7 each address some aspect of land-use management. Placing a new provision into an existing RPS should take heed of other operative parallel considerations/provisions. The proposed Chapter 3.X appears to be imposing a priority rather than guiding integrated management through full consideration of all land-use provisions. Most objectives and policies are therefore made subservient to Objective LW 1.
14. The AER for Chapter 3.8 (Groundwater quality)
 - Delete the proposed amendment in the first AER column
 - Add "soluble reactive phosphorus" and "soluble inorganic nitrogen" to the parameters to be measured
 - Add Cultural health monitoring as a data source and as a parameter
15. Amend the proposed change for the Issue Statement in Chapter 3.10 (Surface water resources):
 - Add "(d) The potential contamination of aquifers and consequential degradation of surface water"
16. Proposed Objective 25:
 - Add – sustaining "or enhancing" aquatic ecosystems
17. Proposed Objective 27:
 - Delete "where appropriate"
18. Add to new Objective 27A:
 - Add "(c) support tīkanga Māori values and uses of natural resources".
19. Amend new policy 47A:
 - Delete "when it is the best practicable option" and replace with, "in emergencies only".
20. Consider deletion of references to – "Subject to Objective LW 1 OR amend to "Subject to Objective LW 1 and Objective LW 2 (the new Mana whenua objective) and Schedule 1.

21. Include acknowledgment: "The whole of the coastal marine area is of significance to Ngāti Kahungunu" in Water Bodies of national significance section.
22. Quote potential for further degradation due to land-use practices.

We wish to be heard in support of this submission

A handwritten signature in blue ink, consisting of a large loop at the top, followed by a horizontal line, and then a vertical line that ends in a small hook.

Marei Apatu
Te Kaihautū
Te Manaaki Taiao Unit

**FORM 5****SUBMISSION ON PROPOSED REGIONAL POLICY STATEMENT CHANGE 5 UNDER CLAUSE 6 OF THE FIRST SCHEDULE TO THE RESOURCE MANAGEMENT ACT 1991**

To: Hawke's Bay Regional Council
Private Bag 6006
Napier 4142

Email: submissions@hbrc.govt.nz

Submission on: Proposed Plan Change 5

Name: TrustPower Limited

Address: TrustPower Limited
Private Bag 12023
TAURANGA

Introduction

TrustPower Limited ("TrustPower" or "the Company") is an electricity generator and retailer in New Zealand, using predominantly renewable energy generation to serve just over a quarter of a million customers throughout the country. The majority of TrustPower customers are regionally based residential and small commercial customers. However, TrustPower also provides electricity to a number of major industrial customers nationwide. TrustPower is a predominantly New Zealand owned, listed company, employing approximately 400 people. TrustPower owns and operates a range of generation assets, consisting of 36 small to medium-sized hydro electric power generation stations and two wind farms. the Tararua Wind Farm which was consented and constructed in three stages

Within the Hawkes Bay, TrustPower has resource consent for a hydro generation scheme in the northern Esk Valley on the Esk River Left Branch, and two tributaries of the Toronui Stream locally known as the Quarry and Sutherland Stream, which is presently under construction.

TrustPower is generally supportive of the provisions within Proposed Plan Change 5 and the approach adopted by Council. In particular, TrustPower is supportive of the catchment based approach and recognition of renewable electricity generation in Objective LW1. It follows that similar recognition of the local, regional and national benefits from renewable electricity generation are also provided for in Policy LW1.



Government initiatives and the existing statutory framework are focused toward both maintaining and building upon the current level of generation from renewable resources. Section 7(j) of the Resource Management Act (“RMA”) sets out that particular regard is to be had to “the benefits to be derived from the use and development of renewable energy”. In May 2011 the National Policy Statement for Renewable Electricity Generation (“NPS”) came into effect. The NPS has as its sole objective “To recognise the national significance of renewable electricity generation activities by providing for the development, operation, maintenance and upgrading of new and existing renewable electricity generation activities, such that the proportion of New Zealand’s electricity generated from renewable energy sources increases to a level that meets or exceeds the New Zealand Government’s national target for renewable electricity generation.”

The NPS serves to reinforce the significance of maintaining and further developing the renewable generation base in New Zealand. The operative New Zealand Energy Strategy (“NZES”) also contains the 90% renewable energy target and it is of note that this target has been retained in the recently notified draft NZES.

Given the national level policy framework provided in the NPS REG, it is therefore expected that the Hawke’s Bay Regional Policy Statement encourages and facilitates the appropriate development of further renewable energy generation assets.

It is noted the earlier draft version of Plan Change 5 had a specific policy that identified outstanding freshwater bodies. This draft policy (previously Policy LW1) dovetailed to the recognition and protection of these identified waterbodies in Objective LW1 and Policy LW2. TrustPower understands that the deletion of this former policy identifying outstanding freshwater bodies is to be addressed in subsequent workstream to more widely assess the values of freshwater bodies across the region. Arising from this workstream, a further change(s) will be made to the regional policy statement and/or regional plans. It is understood this work will be done as part of the Council’s progressive programme to implement the National Policy Statement for Freshwater Management.

Submission Point 1

The specific provision of the Proposed Plan Change 5 that TrustPower Ltd's submission relates to is as follows:

New Issue

ISS LW 1 Potential for ongoing conflict between multiple, and often competing, values and uses of fresh water and limited integration in management of land and water to promote sustainable management of the region's natural and physical resources.

The provision is supported

Reasons

The Issue is supported as it recognises that there are competing values and uses for fresh water.

Relief sought

- (i) That the New Issue ISS LW 1 be retained as proposed.
- (ii) Any similar or consequential amendments that stem from the submissions and relief sought.

Submission Point 2

The specific provision of the Proposed Plan Change 5 that TrustPower Ltd's submission relates to is as follows:

New Objective

OBJ LW1 Integrated management of fresh water and land use and development

The management of fresh water and land use and development in an integrated and sustainable manner that:

- 1. identifies outstanding freshwater bodies in Hawke's Bay region and protects their water quality;*
- 2. specifies targets and implements methods to assist improvement of water quality in catchments to meet those targets within specified timeframes;*
- 3. recognises that land uses, freshwater quality and surface water flows can impact on the receiving coastal environment;*
- 4. safeguards the life-supporting capacity and ecosystems of fresh water with a priority for indigenous species;*
- 5. recognises the significant national and regional value of fresh water for human drinking and animal drinking uses;*
- 6. recognises the significant regional and national value of fresh water use for beverages, food and fibre production and processing;*
- 7. recognises the potential for significant regional and national value arising from the nonconsumptive use of water for renewable electricity generation;*
- 8. promotes and enables the adoption of good land and water management practices;*
- 9. ensures efficient allocation and use of water;*

10. recognises and provides 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

11. recognises the differing demands and pressures on freshwater resources within catchments across the Hawke's Bay region, and where significant conflict exists between competing values, the regional policy statement and regional plans provide clear priorities for the protection or use of those freshwater resources.

The provision is **supported**

Reasons

Recognition of the benefits (value) of renewable electricity generation activities is of national significance and national policy direction has been developed in the form of the National Policy Statement for Renewable Electricity Generation ('NPS REG'). The NPS REG comprises an objective and eight policies to enable the sustainable management of renewable electricity generation and seeks to encourage investment in renewable electricity generation such as wind, solar, geothermal, hydro, and tidal power.

The NPS REG is of specific importance and relevance from a policy formulation perspective as it confirms that:

- Renewable electricity generation, regardless of scale, makes a crucial contribution to the well-being of New Zealand, its people and the environment, and any reductions in existing generation will compromise achievement of the Governments' renewable electricity target of 90% of electricity from renewable sources by 2025.
- The development, operation, maintenance and upgrading of new and existing renewable electricity activities, and the associated benefits, are matters of national significance.

Objective LW11 effectively presents a range of matters that require consideration in order to achieve integrated management of freshwater resources over the region. It is appropriate that recognition of the regional and national value of renewable electricity generation is one of the key matters alongside other social, cultural and environmental values.

Section 55 of the RMA requires local authorities to amend plans and proposed plans (and policy statements) to give effect to a National Policy Statement. In this regard TrustPower supports the approach in proposed Objective LW1.

Relief sought

- (i) That the New Objective OBJ LW 1 be retained as proposed, in particular subclause 7.
- (ii) Any similar or consequential amendments that stem from the submissions and relief sought.

Submission Point 3

The specific provision of the Proposed Plan Change 5 that TrustPower Ltd's submission relates to is as follows:

New Policy

POL LW1 Problem solving approach - Catchment-based integrated management

To adopt a whole-of-catchment approach to managing fresh water and land use and development within each catchment area, that (in no particular order):

- a) is consistent with the integrated management approach outlined in OBJ LW1
- b) provides for Maori values and uses of the catchment in accordance with tikanga Maori
- c) recognises the inter-connected nature of natural resources within the catchment area, including the coastal environment
- d) protects water quality of 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 in accordance with POL LW2
- 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
- i) allows reasonable transition times and pathways to meet any new water quantity limits or new water quality limits included in regional plans
- j) ensures efficient allocation and use of fresh water within limits to achieve freshwater objectives
- k) enables water storage infrastructure which can provide increased security for water users in water-scarce catchments while avoiding, remedying or mitigating adverse effects on freshwater values.

The provision is **supported in part**.

Reasons

Policy LW1 is supported insofar as it provides for a whole-of-catchment approach to managing competing values and interests over freshwater resources. However, Policy LW1 does not explicitly follow through the recognition provided in Objective LW1 of the national and regional value renewable electricity generation by non-consumptive hydro-schemes.

Policy LW1 manages all catchments not identified and provided for in Policy LW2. The listing of relevant matters to be considered, without priority, but to be determined on a case by case basis is supported, subject to the inclusion of an additional consideration which gives effect to the NPS REG as discussed previously in this submission.

Relief sought

- (i) That Policy LW1 be amended as follows:

l) recognises the national significance of the national, regional and local benefits from renewable electricity generation activities and provide for the establishment, operation, maintenance and upgrading of new and existing activities.

- (ii) Any similar or consequential amendments that stem from the submissions and relief sought.

Submission Point 4

The specific provision of the Proposed Plan Change 5 that TrustPower Ltd's submission relates to is as follows:

New Policy

Policy LW2 – Problem solving approach – Prioritising values

1. Subject to Objective LW1.1 to 1.10, recognise and give priority to maintaining and enhancing the primary values and uses of freshwater bodies shown in Table 1 for the following catchment areas in accordance with Policy LW2.3:

- a) Greater Heretaunga / Ahuriri Catchment Area;
- b) Mohaka Catchment Area; and
- c) Tukituki Catchment Area.

2. In relation to catchments not specified in POL LW2.1 above, the management approach set out in POL LW1 will apply.

3. Subject to Objective LW1.1 to 1.10, manage the fresh water bodies listed in Policy LW2.1 in a manner that:

- a) recognises and gives priority to maintaining and enhancing primary values and uses identified in Table 1; and
- b) avoids, as far as is reasonably practicable, significant adverse effects on secondary values and uses identified in Table 1; and
- c) uses a catchment-based process in accordance with POL LW1 to evaluate and determine the appropriate balance between any conflicting primary values and uses in Table 1.

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"> • Industrial & commercial water supply • Natural character in sub-catchments upstream of Whanawhana cableway • Urban water supply for cities and townships • Water use associated with maintaining or enhancing land-based primary production 	<ul style="list-style-type: none"> • Aggregate supply and extraction in Ngaruroro River downstream of Maraekakaho • Amenity for contact recreation (including swimming) in lower Ngaruroro River, Tutaekuri River and Ahuriri Estuary • Native fish habitat • Recreational trout angling • Trout habitat
Mohaka Catchment Area	<ul style="list-style-type: none"> • Amenity for water-based recreation between State Highway 5 bridge and Willowflat • Long-fin eel habitat and passage • Recreational trout angling in Mohaka River and tributaries upstream of State Highway 5 bridge • Scenic characteristics of Mokonui and 	<ul style="list-style-type: none"> • Aggregate supply and extraction in Mohaka River below railway viaduct • Native fish habitat below Willowflat • Water use associated with maintaining or enhancing land-based primary production

	<i>Te Hoe gorges</i>	
<i>Tukituki Catchment Area</i>	<ul style="list-style-type: none"> • Industrial & commercial water supply • Native fish and trout habitat • Urban water supply for towns and settlements • Water use associated with maintaining or enhancing land-based primary production 	<ul style="list-style-type: none"> • Aggregate supply and extraction in lower Tukituki River • Amenity for contact recreation (including swimming) in lower Tukituki River. • Recreational trout angling in: middle Tukituki River and tributaries between SH50 and Tapairu Road; & middle Waipawa River and tributaries between SH50 and SH2.

The provision is **supported in part**

Reasons

Policy LW2 subclauses 1 – 3 are supported. However given the noted importance of renewable electricity generation, Table 1 and the secondary values associated with the Tukituki Catchment Area and Mohaka Catchment Area should also include reference to water use for renewable electricity generation in upper Tukituki River tributaries and the Mohaka Catchment Area. While renewable electricity generation is referenced within Objective LW1, for the sake of clarity it is recommended reference be included within Table 1 below.

Relief sought

(i) That Table 1 of Policy LW2 be amended as follows:

<i>Mohaka Catchment Area</i>	<ul style="list-style-type: none"> • Amenity for water-based recreation between State Highway 5 bridge and Willowflat • Long-fin eel habitat and passage • Recreational trout angling in Mohaka River and tributaries upstream of State Highway 5 bridge • Scenic characteristics of Mokonui and Te Hoe gorges 	<ul style="list-style-type: none"> • Aggregate supply and extraction in Mohaka River below railway viaduct • Native fish habitat below Willowflat • Water use associated with maintaining or enhancing land-based primary production • <u>Water use for renewable electricity generation</u>
<i>Tukituki Catchment Area</i>	<ul style="list-style-type: none"> • Industrial & commercial water supply • Native fish and trout habitat • Urban water supply for towns and settlements • Water use associated with maintaining or enhancing land-based primary production 	<ul style="list-style-type: none"> • Aggregate supply and extraction in lower Tukituki River • Amenity for contact recreation (including swimming) in lower Tukituki River. • Recreational trout angling in: middle Tukituki River and tributaries between SH50 and Tapairu Road; & middle Waipawa River and tributaries between SH50 and SH2. • <u>Water use for renewable electricity generation in upper Tukituki River tributaries.</u>

(ii) Any similar or consequential amendments that stem from the submissions and relief sought.

TrustPower Limited wishes to be heard in support of its submissions and if others make a similar submission TrustPower would be prepared to consider presenting a joint case with them at any hearing.



Signature Laura Marra, for and on behalf of TrustPower Limited.

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