



## MINUTES OF A MEETING OF THE ENVIRONMENTAL MANAGEMENT COMMITTEE

- Date:** Wednesday 11 November 2009
- Time:** 9 a.m.
- Venue:** Council Chamber  
Hawke's Bay Regional Council  
159 Dalton Street  
NAPIER
- Present:** E von Dadelszen – Chairman  
M Black  
A J Dick  
N Kirton  
E McGregor  
P Paku  
L Remmerswaal  
K Rose  
C Scott  
F Wilson
- In Attendance:** L Hooper – Minute Secretary  
A Newman – Chief Executive  
D Lew – Group Manager Resource Management  
H Codlin – Group Manager Strategic Development  
C Reed – Senior Planner  
B Powell – Land Management Advisor  
C Nicolson – Consents Officer  
P Barrett – Consents Officer  
C Rycroft – Harbourmaster

**1. WELCOME/NOTICES/APOLOGIES**

Chairman von Dadelszen welcomed everyone to the meeting, and noted apologies from Councillor Gilbertson. A further apology was received from Councillor Wilson for lateness and Mr Black needed to be excused at 2pm.

Councillors Kirton and Dick, and Mr Newman also apologised for late arrival.

**Rose/Scott  
CARRIED**

**2. CONFLICT OF INTEREST DECLARATIONS**

Councillor McGregor declared an interest in item 10 Lapsing of Resource Consents.

Mr Black declared an interest in item 9 Implications of Tukituki Liaison Group Recommendations for Council Activities and item 10 Lapsing of Resource Consents.

**3. CONFIRMATION OF MINUTES OF MEETING HELD ON WEDNESDAY 9 SEPTEMBER 2009**

**Moved:** That the Minutes of the meeting held on Wednesday 9 September 2009, a copy having been circulated prior to the meeting, be confirmed as read.

**McGregor/Scott  
CARRIED**

**4. MATTERS ARISING FROM MINUTES OF MEETING HELD ON WEDNESDAY 9 SEPTEMBER 2009**

Clarification of the Tukituki Liaison Group terms of reference was sought, and Ms Codlin responded that the query should be satisfied through the discussion of item 9.

There were no further matters arising.

**5. ACTION ITEMS FROM ENVIRONMENTAL MANAGEMENT COMMITTEE MEETINGS**

**Moved:** That the Action item from 9 September 2009 meeting be confirmed as completed, and the Action from the 8 July 2009 meeting (to schedule a Hearings Committee meeting) to be completed early in 2010.

**Remmerswaal/McGregor  
CARRIED**

*Councillor Kirton arrived at 9.10am.*

**6. CONSIDERATION OF GENERAL BUSINESS**

(a) Approach from school in regard to a sustainability project

**7. POLICY DEVELOPMENT – PROGRESS REPORT AND STRATEGIC REVIEW**

Ms Codlin provided an overview of the status of current Policy Development projects.

- Regional Coastal Environmental Plan – mediation and settlement of appeal points is ongoing, and there are one or 2 points that will proceed to Environment Court hearings.
- Air Quality plan change hearings have been held and the Hearing Committee is in deliberations. It is expected that decisions will be brought to Council for adoption early in 2010.

- Stormwater plan change – the working group of TLA and Council staff has met once and a second meeting is scheduled for 23 November. Progress is ongoing and proceeding in a positive forum.
- Wastewater plan change has been on the books for several years now. Original drivers associated with coastal settlements and development. The consultants' report on their follow-on technical work is due this month. HPUDS is also considered relevant in terms of infrastructure and how domestic wastewater discharges are managed in the region, particularly in at risk communities and communities where issues have previously been identified.
- A tentative framework for water allocation has been pulled together. In order to have everything in plan format in time for renewals in 2013, a plan change will need to be notified by August 2012. Staff will be consulting with other regions to take advantage of where development work done may be transferred or applied to Hawke's Bay.
- Plan changes on the books are currently being driven by land use changes, intensification and development.

Ms Codlin spoke to how plan changes may possibly be more efficiently managed as part of a larger process by combining the stormwater and wastewater plan change processes with implementation of the HPUDS into the Regional Policy Statement.

Councillors expressed their concerns at the length of time the stormwater and wastewater plan changes are taking to bring into effect, and whether delaying them further to include HPUDS outcomes could be justified or would be acceptable.

There was discussion as to what resources may be required to hasten the current plan change processes, and whether it might be possible to apply more resource to resolve the issues in other ways and achieve concrete results (i.e. reticulation of at-risk communities) ahead of any plan change processes being completed.

In response to a query asking why the NES default allocation amounts were not 'in effect' here in Hawke's Bay, Mr Lew explained that the NES is currently only at the draft stage and has no legal standing. However, it is staff's opinion that under section 104, the guidelines document that underpins the draft NES can be given weight when considering resource consent applications. Mr Lew urged some caution if using the guidelines, as they consider only the ecological bottom line, and no other Part 2 matters.

***Councillor Dick arrived at 9.35am.***

It was suggested that the Committee ask staff to bring a report back to them, giving them options for a more immediate track or path that could be embarked upon to resolve the wastewater issues, particularly in Jervoistown and Meeanee and other areas at risk, prior to awaiting the outcomes from the plan change process.

Where outcomes of HPUDS are relevant, it is envisioned that these frameworks will be applied to policies that apply to the entire region. HPUDS outcomes may also identify further Council policies requiring attention.

Concerns were raised, that waiting for HPUDS outcomes to inform or enlighten the stormwater and wastewater plan changes would further delay processes that were already behind schedule or taking longer than first anticipated or planned.

An additional recommendation was proposed, 3a., to ensure work on wastewater and stormwater issues continued with expediency:

- 3a. Whilst the Heretaunga Plains Urban Development Strategy may guide territorial councils in development of appropriate infrastructure, Council considers that it is

necessary to continue with development of policy on stormwater and wastewater with urgency.

### **Recommendations**

**Moved:** The Committee recommends that Council:

1. Agrees that the decisions to be made are not significant under the criteria contained in Council's adopted policy on significance and that Council can exercise its discretion under Sections 79(1)(a) and 82(3) of the Local Government Act 2002 and make decisions on this issue without conferring directly with the community and persons likely to be affected by or to have an interest in the decision due to the nature and significance of the issue to be considered and decided.

**Rose/McGregor  
CARRIED**

2. Receives the report titled Policy Development – Strategic Review and Progress Report.

**Scott/Kirton  
CARRIED**

3. Agrees that stormwater and onsite wastewater is an integral component of the Heretaunga Plains Urban Development Strategy and that any proposed policy provisions associated with those discharges should be developed in light of that Strategy.

**McGregor/Dick  
CARRIED 5:4  
1 ABSTAIN**

- 3a. Acknowledges that whilst the Heretaunga Plains Urban Development Strategy may guide territorial councils in development of appropriate infrastructure, Council considers that it is necessary to continue with the development of policy on stormwater and wastewater with urgency.

**Scott/Dick  
CARRIED**

4. The following recommendation was left to lie on the table:

*Approves the proposal to incorporate any proposed policy provisions associated with stormwater and on-site wastewater discharges into the Regional Policy Statement and the Regional Resource Management Plan at the same time as the Regional Policy Statement is changed to incorporate the Heretaunga Plains Urban Development Strategy.*

The Committee requested that staff come back to Council's November meeting with a revised timetable, along with resource implications and a new or revised recommendation.

5. Supports the tentative project plan for the policy development of the Water Allocation Framework.

**Kirton/Rose  
CARRIED 8:2**

***The meeting adjourned for morning tea at 10.15am and reconvened at 10.30am, with Mr Newman in attendance.***

## 8. TAHARUA POLICY DEVELOPMENT STRATEGY

Mr Reed highlighted key elements of the Strategy, which supports Council's preferred approach of effects based regulation along with adaptive management.

The strategy is made up of 3 key, inter-linked phases, being:

- Phase 1: Preparation – problem definition and objective/target setting
- Phase 2: Policy Framework Development – identifying solutions
- Phase 3: Implementation.

The Taharua Stakeholder Group is being formalised, and includes landowners, Iwi, Federated Farmers, Dairy NZ, Fonterra, DoC, Fish & Game, Taupo District Council and HBRC representatives. The members of the group, at their inaugural meeting, unanimously accepted that there was an issue to address, committed themselves to develop certain enduring solutions, are willing to be fully involved in the process, and want to identify solutions and take actions, some of which may be implemented immediately without waiting for the plan change. A Terms of Reference will be put to the group at the end of November.

In terms of timeframes, it is expected that the current scientific investigations and a report on implementation of adaptive management measures to date will be completed by mid-2010. From there, the setting of agreed targets would potentially lead to a plan change being notified in mid-2011.

The key risks to the process of developing and implementing an effects based policy framework were identified as:

- Any complexities that may arise from ongoing science investigations
- A breakdown in the partnerships with stakeholders creating resistance to policy development and implementation and potentially reducing the effectiveness of outcomes
- An inadequate knowledge base to support policy development and assessment of alternatives required by RMA Section 32
- The failure to adequately consider implementation issues during policy development, particularly the costs of implementation.

A request for additional funding for science projects that contribute to the Taharua policy development that were not approved through the 2009-19 Ten Year Plan process will be brought to Council in a paper in December alongside a proposed reforecast.

### Recommendations

**Moved:** The Committee recommends that Council:

1. Receives the report titled *Taharua Policy Development Strategy*.
2. Endorses the initial approach set out in the Strategy.
3. Confirms that the proposed tentative timeframes for policy development are appropriate and realistic to work toward.

**Remmerswaal/Scott  
CARRIED**

## 9. IMPLICATIONS OF TUKITUKI LIAISON GROUP RECOMMENDATIONS FOR COUNCIL ACTIVITIES

*Mr Black declared his interest in this item and took no part in the discussion nor voted on it.*

Mr Reed provided an overview staff's analysis of the Tukituki Liaison Group recommendations and how they align with Council's current and planned activities in the Tukituki Catchment, as well as ways the TLG's goals may be used by Council.

The summary report was reviewed by the TLG's chairman, Hugh Ritchie. Overall, Mr Ritchie considers the report to be well rounded and that it does meet most of the points the Group wanted to see address. In relation to goals 8 and 9 about water allocation, use, efficient and links to sustainable land use and impacts on water quality, Mr Ritchie is keen for Council to outline actions to address and achieve the goals more clearly in future. Due to the timeframes for getting the paper and report finalised for the Committee meeting, Mr Reed was unable to send copies to all group members for comment.

For each of the TLG goals, the report lists the activities that HBRC is currently doing and has planned over the next three years or so, as well as whether there are issues Council needs to consider further or activities are on track to achieving the goals.

This framework should be able to be applied consistently across the region, to all catchments.

### Recommendations

**Moved:** The Committee recommends that Council:

1. Receives the report titled '*Implications of Tukituki Liaison Group Recommendations for Council Activities*'.
2. Agrees that the current and planned programmes are adequately aligned to the TLG goals for the next three years.
3. Agrees that staff should report back to the TLG at least annually on progress against its programmes and the goals.
4. Endorses the following approaches for the future use of the TLG goals:
  - 4.1. Using the TLG goals as a springboard for further community engagement
  - 4.2. Having regard to the goals when developing the objectives and policies associated with planned policy development project, such as for the water management framework
  - 4.3. Reviewing the goals as part of the Annual Plan process and particularly the next Ten Year Plan process to ensure any gaps are considered when developing programmes for the next ten year period.

**Rose/Scott  
CARRIED**

## 10. LAPSING OF RESOURCE CONSENTS

*Mr Black and Councillor McGregor declared interest in this item and took no part in the discussion nor voted on it.*

Ms Berkett spoke to this item, which sought the Committee's direction as to how lapsed resource consents should be dealt with and also how the processing costs for applications for the extension of lapse dates might be recovered.

### Recommendations

**Moved:** The Committee recommends that Council:

1. Receives the report entitled '*Lapsing of Resource Consents*'.
2. Notes that Council may only extend the lapse date on application by the consent holder.
3. Notes that Council has no ability to allow a resource consent to continue to be used if it has lapsed due to the consent not being exercised or an application to extend the lapse date not being received.
4. Notes that Council may have to determine whether a consent has been given effect to if there is some evidence that a level of physical works and taking of water has occurred but it is unclear whether the consent has been 'given effect to'.
5. Instructs staff to send a letter to all consent holders whose water permits may lapse (determined through water meter records or upon evidence of infrastructure) three months prior to the specified lapse date. The letter shall set out the procedure for extending the lapse period, and the implications if the water permit lapses.
6. Instructs staff that the decision as to whether a consent has been given effect to under s 125(1)(a) is delegated to the Hearings Committee and subject to a hearing process.
7. Instructs staff that the decision to extend a lapse date, and for how long, is delegated to the Hearings Committee.
8. Instructs staff to specify a charging regime for lapse date hearings under s 36 of the RMA in the 2010/11 Annual Plan.

**Scott/Rose  
CARRIED**

## **11. RESOURCE MANAGEMENT (SIMPLIFYING AND STREAMLINING) AMENDMENT ACT 2009**

Mr Lew introduced Ms Nicolson, who outlined the implications of the RMA amendments which took effect on 1 October 2009.

Staff workloads are impacted where amendments to templates, the Council website and internal manuals need to be made, special circumstances criteria needs to be developed and also a review of the RRMP plan provisions must be completed to remove any provisions that conflict with an NES.

One of the key implications is that timeframes for processing resource consents have been tightened up, and Consents staff ability to extend processing timeframes has also been restricted in their ability to 'stop the statutory processing clock'. One tool which Council officers will use is a robust section 88 process, whereby applications not containing sufficient information will not be 'lodged' and will be returned to the applicant.

Another of the key implications is that, by 1 July 2010, Council must offer consent holders a discount for any consent applications that are processed outside of the timeframes specified in the Act. A national discount policy will be set, however councils can decide to develop their own discount policies, which must be more generous than the national policy.

An implication viewed by staff as positive, is the ability for processing officers to adopt parts of applicants' Assessment of Environmental Effects in whole or in part in the s.42 officer's report, and that the decision document needs only to state the reasons for the decision.

## **Recommendations**

**Moved:** The Committee recommends that Council:

1. Receives the report titled "*Implications of RMAA09*".
2. Recognises the implications to Council work programmes and unbudgeted expenditure resulting from the amendments.
3. Instructs Council officers to draft a further paper which examines the implications of the 2009 amendments in conjunction with the findings of Dr Brent Cowie's review in relation to resourcing and cost recovery issues, for the next Environmental Management Committee meeting.
4. Instructs Council officers to draft a further paper which examines how applications for direct referrals and requests for independent commissioners could be dealt with by Council; and clarification regarding timing of rules having legal effect in a Proposed Plan or a Plan Change under sections 86A-E of RMAA09.

**Scott/Rose  
CARRIED**

## **16. GENERAL BUSINESS**

- a) Bledisloe School proposal  
Students at the primary school doing a project on 'sustainability' sent samples of cloth bag designs to Council for consideration. The school proposes that each household in the region be given a free cloth bag to encourage the use of reusable bags as opposed to plastic.
- b) Taharua picnic  
Forest & Bird are holding a picnic in the Taharua Valley on Saturday 28 November and anyone who hasn't received an invitation can contact either Forest & Bird or Councillor Remmerswaal.
- c) Te Mahia School  
Starting a native nursery programme and may look for financial/expert assistance from Council in future.

***The meeting adjourned for lunch at 12.30pm and reconvened at 1.05pm.***

## **12. TWYFORD / RAUPARE WATER TAKE RENEWALS**

Ms O'Neill and Mr Harper provided the Committee with an overview of the issues involved and processes being undertaken in relation to the water take applications in the Twyford area. This process involves 230 applications, and is the largest consenting process to date.

### **Recommendation**

**Moved:** That the Committee receives the report titled '*Twyford / Raupare Water Take Renewals*'.

**Rose/Wilson  
CARRIED**

## **13. NAVIGATION SAFETY – BYLAWS REPORT, 08/09**

Captain Rycroft provided the Committee with a brief report on navigation safety issues that arose over the 2008/09 financial year before giving an overview of proposed changes to Maritime Rule Part 91 relating to the compulsory wearing of personal flotation devices.

It was suggested that staff bring a draft submission to the 16 December 2009 Council meeting for consideration.

**Recommendation**

**Moved:** That the Committee:

1. Receives the report titled "*Navigation Safety – Bylaws Report, 08/09*".
2. Agrees to staff keeping the Committee informed of proposals to amend Maritime Rule Part 91 in respect to Personal Flotation Devices.
3. Agrees that staff give further consideration to whether HBRC bylaws are appropriate in respect to Jetski use in the region.

**McGregor/Scott  
CARRIED**

**14. ALLOCATION STATUS OF HAWKE’S BAY SURFACE WATERS**

Mr Lew introduced Mr Barrett, who provided an overview of the allocation status of the rivers in the region.

**Mr Black was excused at 2.10pm**

**Recommendation**

**Moved:** That the Committee receives the report titled '*Allocation Status of Hawke’s Bay Surface Waters*'.

**McGregor/Rose  
CARRIED**

**15. STATUTORY ADVOCACY MATTERS**

Mr Ide and Ms Bate provided a brief overview of statutory advocacy matters that had been or were being considered since the meeting in September.

**Recommendation**

**Moved:** That the Committee receives the report titled '*Statutory Advocacy Matters*'.

**Remmerswaal/Dick  
CARRIED**

**Closure:**

There being no further business the Chairman declared the meeting closed at 2.45pm.

Signed as a true and correct record.

**DATE:** .....

**CHAIRMAN:** .....