

**Decision of the Independent Hearing Panel**

**PROPOSED PLAN CHANGE 7**

**REGIONAL RESOURCE MANAGEMENT PLAN – OUTSTANDING  
WATER BODIES**

**Decision Report of the Independent Hearing Panel  
appointed by the Hawke's Bay Regional Council  
pursuant to section 34A of the Resource Management Act 1991**

**June 2021**

## SUMMARY

- i. PC 7 proposes to incorporate outstanding water bodies in the region into the Regional Resource Management Plan. It does this in two main ways, first via amendments to objectives and policies in the Plan, and second, by listing the outstanding water bodies in the region, and the values that make them outstanding, for incorporation into Schedule 25 of the Plan.
- ii. Since 2014 three iterations of the National Policy Statement for Freshwater Management have required Regional Councils to identify the outstanding water bodies in their regions, and protect their significant values. PC7 seeks to give effect to these directions in the region. Although PC7 was notified well before the NPS-FM 2020 came into effect on 3 September 2020, we have endeavoured to incorporate the requirements of that current NPS to the extent that is consistent with submissions.
- iii. The NZ Coastal Policy Statement 2010 requires the integrated management of freshwater, estuaries and waters of the open coast. The outstanding values of certain rivers in the region continue into the coastal environment, so where appropriate, sections of the coastal environment are included in the description of outstanding values. We are also obliged to give effect to the NZ Coastal Policy Statement as the Regional Coastal Environment Plan does not yet fully do so.
- iv. The 16 National Water Conservation Orders that presently exist give us useful guidance about what values can be considered as outstanding. Consistent with s199 of the Resource Management Act these all relate to outstanding natural values (including for instance outstanding wild and scenic or ecological values, such as fish or wildlife habitat), and human use values (such as major trout and salmon fisheries). No economic use values have ever found to be “outstanding” in a national context (and nor has any party sought that they should be), and we see no justification for finding any economic values are “outstanding” in the regional context.
- v. In the interregnum between PC7 being notified, and the preparation of the S42A officers’ report, a national project developed screening criteria that could be used to determine more objectively what values could justify water bodies being found to be “outstanding”. This enabled us to reconsider the water bodies listed in Proposed PC7, which were based on work by a local expert panel. No party to the hearing said the screening criteria should not be applied (and those who did comment supported their inclusion), so we have adopted them with some minor changes to update their wording.

- vi. These screening criteria were applied by the Council's s42A reporting officers to the 38 water bodies listed in PC7. The officers suggested that 19 of these 38 water bodies did not clearly meet any of these criteria. However, cultural values were not often assessed by either the expert panel using their own guidelines or the reporting officers using the screening criteria. This allowed us to further consider the evidence after hearing from relevant tāngata whenua submitters, particularly as there was limited information on some of the water bodies listed in Schedule 25. Having read all the submissions and hearing all the evidence, we have decided that two water bodies be included in Schedule 25 solely for their having outstanding cultural and spiritual values. Another 13 water bodies were found to be outstanding for one or more criteria. This means that a total of 15 water bodies have been found to be outstanding in the Hawke's Bay Region. The other 23 water bodies listed in Proposed PC7 do not clearly meet any of the screening criteria.
  - vii. We evaluated five alternatives on how PC7 could be progressed. These included doing nothing, which we are obliged to evaluate as an option, but which would not meet the Council's statutory obligations. We evaluated whether four additional water bodies proposed by submitters were outstanding; all clearly did not meet any of the screening criteria.
  - viii. Overall, we find that PC7, incorporating amendments recommended in the lead-up to and during the course of the hearing and considered these and the written submissions, represents the most appropriate means of achieving the purpose of the Resource Management Act 1991.
  - ix. We also find that the content of PC7, with amendments, is consistent with the direction required by higher order documents, and represents the most appropriate means of achieving the 'objectives' (i.e., purpose) of the plan change.
  - x. PC7 attracted 41 submissions and 18 further submissions. We also received 17 briefs of expert evidence, and we read the additional material tabled by staff and submitters, such as Waitangi Tribunal findings. Over the course of a three day hearing, we heard from officers and counsel from the Regional Council, and from 26 witnesses, along with counsel for three parties. Council officers prepared comprehensive s42A reports and evidence, were particularly open and responsive to queries from us, and suggestions or requested amendments from other parties to the hearing. All parties provided a valuable perspective and we sincerely appreciate their input. We record our particular appreciation to the iwi representatives from Maungaharuru-Tangitū Trust, Owhakao C Trust, and Hineuru Iwi Trust who took the time and effort to present thorough evidence on the cultural values of water bodies, including Lake Tūtira, Hautapu River, Mangahouanga Stream, Ripia River, and Tarawera Hot Springs.
  - xi. We are confident that our decisions on PC7 meet the Council's statutory obligations, have been through a thorough evaluative and hearing process, and provide a comprehensive policy framework for future decision making. We are also confident that the water bodies we have decided upon are outstanding and truly represent "the best of the best" in the Hawke's Bay region.
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**APPENDIX 1:** Decisions on the Policy Framework for Outstanding Water Bodies

**APPENDIX 2:** Decisions on Schedule 25 - Outstanding Water Bodies in the Hawke’s Bay Region.

**APPENDIX 3:** Decisions on Submissions and Further Submissions to Proposed Plan Change 7: Regional Resource Management Plan

## INDEX OF ABBREVIATIONS

This report utilises several abbreviations and acronyms as set out in the glossary below:

Abbreviation	Means...
<b>"the Act", "the RMA"</b>	Resource Management Act 1991
<b>"CMA"</b>	The coastal marine area of the region
<b>"CEF OFWB"</b>	Community Environment Fund Outstanding Fresh Water Body Project
<b>"the Council"</b>	Hawke's Bay Regional Council
<b>"HEP"</b>	Hydro electric power
<b>"IUCN"</b>	International Union for the Conservation of Nature
<b>"HBRC"</b>	Hawke's Bay Regional Council
<b>"ME"</b>	Ministry for the Environment
<b>"NES-F"</b>	Resource Management (National Environmental Standards for Freshwater) Regulations 2020
<b>"NOF"</b>	National Objectives Framework limits in the NPS-FM
<b>"NPS"</b>	National Policy Statement
<b>"NPS-FM"</b>	National Policy Statement for Freshwater Management (with dates specified) e.g. NPS-FM 2020
<b>"NZCPS"</b>	New Zealand Coastal Policy Statement 2010
<b>"NWCO"</b>	National Water Conservation Order
<b>"OWB"</b>	Outstanding Water Body
<b>"PC7"</b>	Plan Change 7 to the Regional Resource Management Plan - Outstanding Water Bodies
<b>"PC9"</b>	Plan Change 9 to the Regional Resource Management Plan - Tūtaekurī, Ahuriri, Ngaruroro and Karamū (TANK) catchments.
<b>"RCEP"</b>	The Regional Coastal Environment Plan
<b>"RPC"</b>	The Regional Planning Committee
<b>"the Plan"</b>	Hawke's Bay Regional Resource Management Plan
<b>"the plan change"</b>	Proposed Change 7 to the Plan
<b>"the region"</b>	The area administered by the Hawke's Bay Regional Council
<b>"the Regional Plan"</b>	The regional plan component of the Regional Resource Management Plan
<b>"RMA"</b>	Resource Management Act 1991
<b>"RPS"</b>	The Regional Policy Statement component of the Regional Resource Management Plan
<b>"RRMP"</b>	The Regional Resource Management Plan
<b>"s[#]"</b>	Section Number of the RMA, for example s32 means section 32
<b>"s42A report"</b>	The report prepared by staff of the HBRC pursuant to s42A, RMA
<b>"SOE"</b>	State of the Environment
<b>"NZTCS"</b>	NZ Threat Classification System

**Hawke’s Bay Regional Council  
Proposed Plan Change 7  
Regional Resource Management Plan – Outstanding Water Bodies**

**Decision of the Independent Hearing Panel**

**Proposal Description:**

Proposed Plan Change 7 to the Regional Resource Management Plan – Outstanding Water Bodies

**Hearing Panel:**

Dr Brent Cowie – Independent RMA Hearing Commissioner, Chair  
Christine Scott – Independent RMA Hearing Commissioner  
Dr Roger Maaka – Independent RMA Hearing Commissioner

**Date of Hearing:**

30 November to 2 December 2020

**Hearing Officially closed:**

8 June 2021

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**1. INTRODUCTION**

**Report purpose**

- 1.1. This report sets out our decisions on behalf of the Council on Proposed Plan Change 7 to the operative Regional Resource Management Plan.
- 1.2. We were appointed by the Council to hear and decide submissions on PC7 and make a decision under delegated authority pursuant to section 34A of the RMA, as to whether PC7 should be declined, approved or approved with amendments.
- 1.3. The plan change (as notified) sought to:
  - a. introduce comprehensive new policy provisions into the Regional Resource Management Plan which “directs a high level of protection” for Outstanding Water Bodies “in future plan making under the RMA”<sup>1</sup>; and
  - b. list the outstanding water bodies in Hawke’s Bay, including a description of the water body and (where relevant) the specific sections considered outstanding, and the characteristics or values of each listed water body that makes them outstanding.
- 1.4. More specifically Proposed PC7 sought to:

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<sup>1</sup> Council s32 report, Paragraph 18

- a. Identify a list of outstanding water bodies in Hawke’s Bay, being those water bodies (including estuaries) which contain an outstanding cultural, spiritual, recreation, landscape, geological, natural character or ecology value(s).
  - b. Insert a policy framework which directs a high level of protection for all outstanding water bodies within Hawke’s Bay.
  - c. Provide guidance and direction to future catchment based freshwater planning processes, and respective local community discussions, to ensure future rules for outstanding water bodies are developed in a manner which protects their significant values.
  - d. Provide flexibility by not specifying exactly how the significant values associated with each OWB should be protected. Future catchment based planning will determine this in consultation with the community.
  - e. Enable future catchment based planning processes, and respective community discussions, to identify the significant values for each of the outstanding water bodies identified by Plan Change 7.
  - f. Provide guidance and direction to Hawke’s Bay Regional Council when making decisions on future activities near outstanding water bodies.
  - g. Assist with the implementation of the NPSFM which contains certain requirements regarding OWB.
  - h. Partly assist with the implementation of the NZCPS which seeks to avoid the adverse effects on outstanding natural character, outstanding natural features and outstanding natural landscapes in the coastal environment.
- 1.5. We will outline the plan change’s background in due course. It has been the subject of an extensive development process, a section 32 report<sup>2</sup>, consultation with stakeholders, and, the public notification and hearing process, culminating in our decisions.
- 1.6. Before setting out the details of PC7, the submissions to it and our substantive evaluation, there are some procedural matters that we will address, beginning with our role as an Independent Panel.

### **Role and report outline**

- 1.7. As noted above, our role is to make decisions on the plan change on the Council’s behalf. The authority delegated in us by the Council includes all necessary powers under the RMA to hear and make decisions on the submissions received on the plan change.
- 1.8. The purpose of this report is to satisfy the Council’s various decision-making obligations and associated reporting requirements under the RMA.
- 1.9. Having familiarised ourselves with PC7 and its associated background material, read all submissions and evidence, and conducted the hearing, we now record our decisions.
- 1.10. Our report is broadly organised as follows:

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<sup>2</sup> Section 32 of the RMA sets out the requirements for preparing and publishing reports that evaluate the appropriateness of a plan change.



**Section 2** contains an overview of the plan change. It outlines the background to the plan change and the relevant sequence of events, and discusses whether the Council met its obligations to consult under Schedule 1 of the RMA. It also outlines the main components of the plan change as notified. This background section provides relevant context for considering the issues raised in submissions to the plan change. We also briefly describe the submissions received on the plan change, and provide a summary account of the hearing process itself and our subsequent deliberations.

**Section 3** provides an overview of the statutory instruments relevant to the Plan Change. It includes a summary of: the evolving framework for protecting OWB's in NPS-FMs from 2014 on and the relevant provisions in the NZCPS 2010, how NWCOS have evolved and what they can protect, discusses NWCOS in the region, and finally outlines relevant rules in the NES-FW Regulations 2020.

This section of our report also outlines the basis on which we made decisions. It discusses what constitutes an "outstanding" water body in the regional context, the "screening criteria" for OWB's, which was developed as part of a national project but then applied to the OWB's listed in Proposed PC7, and what values we consider to be "outstanding", and, in some cases, significant. We also discuss how we assessed whether cultural values of a particular water body are outstanding, and outline why we have included some sections of water bodies in the coastal environment in our decisions. We refer extensively to evidence and submissions in this section, and make decisions on some broad submission points

**Section 4** discusses the five alternatives we considered in coming to our decisions on PC7. These include doing nothing, which we are required to do so under s32 of the Act. The other four options assessed use a variety of criteria, including whether or not the screening tests recommended by the s42A reporting officers should be adopted for our decision making.

**Section 5** evaluates submissions and evidence on the planning framework relating to OWB's in PC7. It covers both Chapters 3.1A and 3.2 of the RMMP, which deal with freshwater and the coastal environment respectively.

The planning framework was the subject of a substantial number of submissions and evidence, which are evaluated, as is the s42A officers' response to those submissions and evidence. Accordingly, this section includes our decisions on the policy framework (including objectives and policies, but no methods or rules), and changes to the glossary in the RRMP, for decision making on OWB's in the region.

The changes we have decided are contained in both Section 5 and **Appendices 1 and 2** of this decision. For clarity:

- the Changes set out in Section 5 show a clean copy our decisions in relation to each of the policies without any associated markups. The associated explanations and footnotes are contained out in Appendix 1 and Appendix 2.
- The Changes set out in Appendix 1 and Appendix 2 show a marked up copy of our decisions on PC7 where:
  - Text shown in red (underlined and ~~struck-out~~) represents PC7 as notified on 31 August 2019

- Text shown in blue (underlined) and red (~~double strike through~~) represents all changes made by the Hearing Panel since notification of PC7.

**Section 6** lists our decisions, with reasons, why we consider 15 water bodies in Hawke's Bay that qualify as being outstanding. They are listed, and shown on an indicative map, in **Appendix 2** of this decision. Our intention is that the contents of this appendix can be transposed directly into Schedule 25 of the RRMP.

**Section 7** briefly outlines why the other 23 water bodies listed in Proposed PC7 have not been found to qualify as outstanding, and so are not included in Schedule 25.

**Section 8** is a concluding section.

**Decisions on Submissions and Further Submissions** are set out in Appendix 3 of this decision.

### **Comment on the parties' assistance to us**

- 1.11. We want to record our appreciation at the manner in which the hearing was conducted by all the parties taking part. All those who attended greatly assisted us in assessing and determining the issues, and in delivering our decisions to the Council. We thank in particular those people, including many iwi representatives, who often travelled long distances to present their evidence and submissions.
- 1.12. We also observe here that many submitters put a great deal of work into opposing the inclusion of particular water bodies in Schedule 25 of the RRMP. We recognise all the work that went into all submissions, and while we accepted some points and rejected others, it all very much assisted in our decision making.

## 2. PLAN CHANGE CONTEXT

### Operative Regional Plans

- 2.1 Two operative Regional Plans are relevant to our decisions. They are the Regional Resource Management Plan and the Regional Coastal Environment Plan.
- 2.2 The RRMP was notified in April 2000 and became fully operative on 28 August 2006. It combines the Regional Policy Statement with all regional plans for the region, except for the Regional Coastal Environment Plan that stands alone. The RPS sets out the regionally significant resource management issues and outlines the objectives, policies and methods that will be used to address these issues. Policies identified in the RPS are implemented through provisions in the Regional Plan.
- 2.3 Since it became operative the RRMP has been subject to five plan changes and two variations that are now operative. The most relevant of these to Proposed PC7 are Plan Change 5 – land use and freshwater management, and Plan Change 6 – Tukituki River Catchment Plan. These became operative on 24 August 2019 and 1 October 2015 respectively.
- 2.4 The other currently notified Plan Change to the RRMP is PC9, which is the proposed Tūtaekurī, Ahuriri, Ngaruroro, Karamū Catchment Plan.<sup>3</sup> Submissions and evidence are being heard during May and June 2021.
- 2.5 The operative Regional Coastal Environment Plan is also pertinent to our consideration of Proposed Plan Change 7. It was publicly notified on 30 August 2006, decisions were released on 19 July 2008 it and became operative on 8 November 2014. This means that many of the provisions of RCEP predate the gazetting of the New Zealand Coastal Policy Statement 2010, and instead rely on the 2004 iteration of the NZCPS.
- 2.6 The fact that the operative RCEP does not yet fully implement the NZCPS 2010 is an important consideration in our decision making on Proposed PC7. The NZCPS was redrafted completely in the 2010 iteration, which includes Objectives and Policies that direct Councils to protect specified conservation values in the coastal environment. We discuss this further in Paragraphs 3.26 to 3.32 below.
- 2.7 We should add at this point that we received detailed evidence from Ms Ceri Edmonds about the challenges that the Regional Council has faced in recent years. These include four iterations of the NPSFM, and a growing suite of other NPS's and NES's that the Council has to implement. This has been compounded by shorter timeframes for implementing the NPS-FM 2020 versus the previous 2017 iteration. The Council has accordingly reconfigured its future resource management planning programme, and is no longer proceeding with catchment based plans, such as the Mohaka which was next on the previous "to do" list. It will be included as part of the Council's Kotahi Plan, which seeks to fully implement the 2020 NPSFM.
- 2.8 The following operative RRMP chapters, objectives, policies and anticipated environmental results<sup>4</sup> are relevant to the matters that PC7 seeks to address:

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<sup>3</sup> This is often known colloquially as the "TANK Plan", and that is what we will refer to it from this point on.

<sup>4</sup> No rules are proposed to be amended by Proposed PC7.

- a. Chapter 3.1A – Integrated Land Use and Freshwater Management
- b. Objective LW1, Policy LW1 and the anticipated environmental results and associated explanations in RRMP Chapter 3.1A are proposed to be amended.
- c. Chapter 3.2 – The Sustainable Management of Coastal Resources
- d. A new Objective 11 and two new policies, C1 and C2 are proposed to be inserted into Chapter 3.2 of the RRMP (which forms part of the RPS) to ensure a consistent approach to protection of outstanding water bodies in freshwater and coastal areas (such as estuaries).
- e. Chapter 9 – Glossary
- f. It is proposed to add two new definitions, specifically “outstanding water body” and “outstanding”.
- g. Schedules
- h. PC7 proposed to add a new Schedule 25 to the RRMP. This comprises two parts: the first an overview of categories of outstanding values and the second a full list of the outstanding water bodies, their geographic extent and the values that make them outstanding. Proposed PC7 listed 38 water bodies assessed (at that time) as being “outstanding” for inclusion in Schedule 25.

2.9 More specifically, Proposed PC7 at notification sought to make changes to the RRMP which in the Officers’ view:<sup>5</sup>

- a. Identify a list of outstanding water bodies in Hawke’s Bay, being those water bodies (including estuaries) which contain an outstanding cultural, spiritual, recreation, landscape, geological, natural character or ecology value(s).
- b. Inserts a policy framework which directs a high level of protection for these water bodies in future plan making under the RMA.
- c. Provides guidance and direction to future catchment based planning processes, and respective local community discussions, ensuring future rules for outstanding water bodies are developed in a manner which protects their significant values.
- d. Provides guidance and direction to the Council when making decisions on future activities near outstanding water bodies.
- e. Partly assists with the implementation of the NPS-FM which contains certain requirements regarding OWB.
- f. Partly assists with the implementation of the NZCPS which seeks to avoid the adverse effects on natural character, outstanding natural features and natural landscapes and certain types of habitats and ecosystems in the coastal environment.

### **Development of the plan change**

2.10 The process leading up to the notification of Proposed PC7 has been exhaustive. The detail is summarised in a table at Paragraph 46 of the Council’s s32 report, and then documented extensively in Paragraphs 47 -110 of the same s32 report. We do not need to repeat all that here, (although we do refer to some of it elsewhere in this report), but we will summarise it briefly.

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<sup>5</sup> At Paragraph 41 of the s42A report

- 2.11 The first step involved the preparation of what was then Proposed PC5. It was first released as a draft in August 2012, and notified, without a list of OWB's, in October 2012. After a hearing and appeals, the Council and appellants came to a mediated agreement that PC5 would be amended to incorporate a new policy committing to identifying OWB's prior to the next catchment based plan change.
- 2.12 The second step was a Community Environment Funded project<sup>6</sup> on OWB's, in which HBRC played a leading role. This began in October 2014 and ran until May 2017. It included expert input, technical advisory group reports, reviews of overseas literature and of New Zealand National Water Conservation Orders and what qualified as "outstanding". The final report gave, in our view, substantial guidance on how to determine OWB's in a region, including agreed screening criteria.
- 2.13 The third stage began in 2017. In developing PC7, the Council reviewed over 90 documents, and collected information on the key values associated with 130 water bodies in the region, including seeking input from iwi authorities. Following this review, in early 2018 the Council's Regional Planning Committee (RPC) short-listed 22 water bodies for further consideration.
- 2.14 Further consultation then took place with iwi authorities, stakeholders and the wider public who nominated an additional 20 water bodies for an outstanding status. A local expert panel was engaged to identify any outstanding characteristics of those 42 water bodies. The RPC received the final evaluation report from the expert panel in May 2019. It was acknowledged however that there was limited information about some candidate OWB's, especially regarding the cultural and spiritual value set.
- 2.15 In July 2019 the Council resolved to notify Proposed PC7, with 38 OWB's listed. A six month submission period was provided for.
- 2.16 During the development of a Regional Policy Statement, Regional Plan, or a proposed change to any of these statutory instruments, the Council is obliged to follow the consultation process prescribed in Schedule 1 of the RMA. Consultation must be undertaken with various parties, including Crown agencies, local authorities in the region and tāngata whenua.
- 2.17 In particular, Section 3 of the Schedule details which organisations the Council must consult with, and in particular Section 3B prescribes five ways how the Council should consult with iwi authorities.

### *Discussion and Finding*

- 2.18 In our view the Council's lengthy process to draft and eventually notify Proposed PC7 met all its obligations under Schedule 1 of the RMA. In particular we find that the Council fully met its legal obligations to consult with iwi authorities, and additionally we consider that the Council offered ample opportunities for tāngata whenua to have input into the development of Proposed PC7.
- 2.19 In their submission on Proposed PC7 Federated Farmers sought that the Council "directly notifies and consults with private landowners" near 14 different water bodies listed in Proposed PC7. In our view this is not necessary. As outlined above Proposed PC7 went through an extensive development and consultative process, and when publicly notified

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<sup>6</sup> This work was part funded by MFE.

a six month submission period was provided for. In our view groups like Federated Farmers have a responsibility to keep their members informed of Council statutory processes, and the Council cannot be reasonably expected to consult individually with hundreds of landowners.

### **Council decisions on the plan change**

- 2.20 In the absence of national guidance on criteria for evaluating and identifying 'outstanding' water bodies, the Council directed that for the purposes of Change 7:<sup>7</sup>
- a. In order to be 'outstanding', a water body must contain a cultural, spiritual, recreation, landscape or ecology value, in its own right, which stands out from the rest on a regional basis.
  - b. Economic and consumptive use values are excluded from consideration as 'outstanding values'.
  - c. The identification of outstanding water bodies will be based on existing evidence and past publications. No new studies or investigations will be carried out.
  - d. The scope of PC7 is limited to the identification of outstanding values only<sup>8</sup>.
  - e. Estuaries are included in the scope of PC7.
- 2.21 Further, based on the findings of the CEF OFWB project, and legal advice obtained from Simpson Grierson, for the purposes of Change 7 it was determined that:
- a. Being outstanding is a high test. The term 'outstanding' distinguishes something from others based on its exceptional qualities and is typically used to describe the 'best of the best'.
  - b. Outstanding and significant values are not the same. An outstanding value has a higher threshold than a significant value. An outstanding value will always be significant, but a significant value will not necessarily be outstanding (based on legal advice and case law in context of s6 RMA).
  - c. A water body needs to have one outstanding characteristic before the water body is classified as outstanding. Cumulative significant values do not trigger an outstanding status.
- 2.22 We will comment further on the criteria used by the Council to determine the principles that underlie PC7, and the legal advice from Simpson Grierson, later in this report.

### **The s42A RMA Officers' Report**

- 2.23 The Officers' report was written by two Council officers, Ms Belinda Harper and Ms Nichola Nicholson, and was published in October 2020.
- 2.24 The report addressed 10 topics, which provided background to PC7, and which addressed the main matters raised in submissions. Those topics, and where we discuss them in this decision, were:

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<sup>7</sup> Some of these are discussed in Paragraph 72 of the Council's S32 Report.

<sup>8</sup> Notwithstanding, Change 7 does include a list of significant values for those outstanding water bodies located within the Tūtaekurī, Ahuriri, Ngaruroro and Karamū Catchments. These significant values have been identified through preparation of the Change 9 TANK Plan with tāngata whenua and the community NOT as part of Change 7.

- a. Outstanding Water Bodies: NPSFM and NZCPS. Section 3 of our report.
- b. Outstanding and Significant Values. Section 3 of our report.
- c. Future Management of Outstanding Water Bodies. Section 5 of our report.
- d. Chapter 3.1 Objectives and Policies. Section 5 of our report.
- e. Chapter 3.2 Objectives and Policies. Section 5 of our report.
- f. Identifying Outstanding Water Bodies and their Outstanding Values. Sections 6 and 7 of our report.
- g. Schedule 25: List of Outstanding Water Bodies. Section 6 of our report.
- h. General – these are covered in our decisions on submissions in Appendix 3.
- i. Glossary -Section 5 of our report.
- j. Miscellaneous – these are covered in our decisions on submissions in Appendix 3.

### **The Broader Context of PC7**

- 2.25 PC7 is part of a wider Council programme to implement the NPS-FM, but does not try to implement either the NPS-FM or the NZCPS in its own right. In particular, the Council has a hearing scheduled for PC9 (the proposed TANK plan) in mid 2021. Additionally, the Council is required to notify a plan or plans that meets the extensive requirements of the NPS-FM 2020 by no later than the end of 2024, through the development of the Kotahi Plan.
- 2.26 Given this context we have considered briefly the extent to which PC7 “fits in” with PC9 and a future NPS-FM 2020 compliant plan. This is to avoid legacy issues that would hinder the Council in the future considerations. We have concluded that PC7 can comfortably sit alongside both Proposed PC9, as our decisions do not have significant ramifications for that plan, and the NPS-FM 2020, as this continues to require Councils to protect the significant values of outstanding water bodies in their region.<sup>9</sup>

### **Notification and submissions**

- 2.27 The plan change was publicly notified on 31 August 2019. A six month submission period was provided, with the closing date for submissions being 28 February 2020.
- 2.28 A total of 41 submissions were lodged with the Council, including one late submission which we gave a waiver to in our Minute 1.
- 2.29 A summary of submissions was prepared and subsequently notified for further submissions on 26 August 2020. The closing date for further submissions was 10 September 2020, with 18 further submissions received.
- 2.30 Table 1 below provides a summary of submitters based on the broader groupings that they fall into. We provide a full summary of the submissions received in **Appendix 3**, including our decisions on the relief sought by each submitter.

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<sup>9</sup> Policy 8 of the NPS-FM 2020.

**Table 1: List of Submitters on PC7**

Submissions		
Group	Submitters	Number received
Government	Director-General of Conservation*	1
Iwi authorities, Post Settlement Governance Entities, Maori Land Trusts and individual tāngata whenua	Hineuru Iwi Trust, Maungaharuru Tangitū Trust, “Ngāti Kahungunu Iwi Incorporated (NKII) and Te Manaaki Taiao (TMT) and Te Rūnanganui o Heretaunga (TRoH)* and Te Taiwhenua o Heretaunga (TToH)* <sup>10</sup> , Ngāti Kahungunu Wairoa Taiwhenua Incorporated, Owhaoko C Trust, Elizabeth Palmer (Iwitea Marae), Lorna Taylor on behalf of Waikaremoana Tribal Authority	7
Territorial authorities	Hawke’s Bay Regional Council, Central Hawke’s Bay District Council, Napier City Council	3
NGOs, environmental groups and recreational users	Forest & Bird*, Hawke’s Bay Fish and Game*, Jet Boating NZ, Wirihihana Raihania on behalf of Te Tumu Paeroa	4
Primary production sector groups	Booster Wine Group, Brownrigg Agriculture, Ernslaw 1 Limited*, Federated Farmers of New Zealand*, Forest Management (NZ) Ltd*, Hawke’s Bay Forestry Group*, Hawke’s Bay Winegrower’s Assn*, Horticulture NZ*, NZ Forest Management Ltd, Ngamatea Farming Cpy, Pan Pac Forest Ltd*, Pernod Ricard Winemakers NZ*, Ravensdown Ltd, Rayonier Matariki*, Timberlands Ltd*.	15
Infrastructure/Power Industry	Genesis Energy*, Hawke’s Bay Airport*, Transpower, Trust Power*, Z Energy/BP/Mobil (the oil companies).	5
Individuals	Kathryn Bayliss, Bryce Donovan, Dan Elderkamp, Audrey Jones, Gerard Pain, Adrienne Tully	6

There were 18 further submitters, 17 of which were original submitters, which are indicated with an asterisk in the above table. There was one additional further submitter, Silver Fern Farms Ltd, giving 42 submitters in total.

### Pre-hearing directions and procedures

- 2.31 Prior to the commencement of the hearing, we issued two minutes to the parties, which in summary contained:
- a. **Minute 1** (6 October 2020) – this set out the timeline for the statutory process leading up to the hearing starting on 30 November 2020. This included circulation of the s42A report by the Council officers, circulation of submitter expert evidence and any response from the officers, and pre-circulation of Council legal submissions. It noted that this timetable relied on the country being at Alert Level 1 or 2 for Covid-19, and the hearing could not proceed if the Alert Level was 3 or 4. A late submission was allowed.
  - b. **Minute 2** (22 November 2020) – set out our expectations and guidance about the hearing process.

<sup>10</sup> These four groups made one submission.



2.32 In the lead up to the hearing, the following reports and evidence were received and made available to all parties in accordance with the proposed timetable:

s42A Officers' report dated October 2020 prepared by Ms Belinda Harper and Ms Nichola Nicholson.

Statements of expert evidence on behalf of submitters November 2020, prepared by:

- a. Ms Bridget Margerison for Brownrigg Agriculture;
- b. Mr Matthew Brady for the Director-General of Conservation;
- c. Ms Maggie Burns for the Director-General of Conservation;
- d. Mr Peter Matich for Federated Farmers;
- e. Ms Rhea Dasent for Federated Farmers;
- f. Dr Phil Mitchell for Genesis Energy;
- g. Mr Gareth Gray for Genesis Energy;
- h. Ms Ceri Edmonds for Hawke's Bay Regional Council;
- i. Ms Charlotte Drury for Horticulture NZ;
- j. Ms Michelle Sands for Horticulture NZ;
- k. Mr Morrie Black for Te Taiwhenua o Heretaunga and Ngāti Kahungunu Iwi Incorporated (NKII);
- l. Mr Marei Apatu for Te Taiwhenua o Heretaunga and Ngāti Kahungunu Iwi Incorporated (NKII);<sup>11</sup>
- m. Mr Mark St Clair for Pernod Ricard;
- n. Ms Carmen Taylor for Ravensdown;
- o. Ms Anna Wilkes for Ravensdown;
- p. Ms Bridget Robson for Timberlands;
- q. Ms Nicola Foran for Trustpower;
- r. Mr Sean Stirling for the Oil Companies; and
- s. Mr Ethan Glover for Silver Fern Farms Limited.

2.33 In addition, during the course of the hearing we were presented with further evidence from Ms Harper for the Council, who proposed some changes to the policy framework recommended in the s42A report. This was in response to evidence and legal submissions heard, and our questions on them.

2.34 Closing legal submissions on behalf of the Council were provided on 2 December 2020.

2.35 We issued a further **Minute 3** on 27 April 2020. This was in response to our being told of an incorrect wording of Policy LW2 notified in Proposed PC7. This is because just prior to Proposed PC7 being notified, a change to Policy LW2 had become operative.

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<sup>11</sup> The evidence of Mr Black and Mr Apatu was supported by three appendices.

- 2.36 Although the intent and direction of Policy LW2 had not changed in the operative version, we decided to be transparent and offer submitters the opportunity to make comments on this error in Proposed PC7.
- 2.37 No submitters made any formal response to this minute in the timeframe allowed. However, one late submission was received from Maungaharuru-Tangitū Trust (Submitter 22) requesting clarification around whether the values set out in Table 2A would be prioritised over the values set out in Schedule 25 when preparing regional plans, or considering resource consents, in the catchments specified in Policy LW2. Our view is that given the priority in the policy framework provided OWB's the Schedule 25 values would prevail, but this is not a matter we have sought formal advice on.

### **The Hearing**

- 2.38 The hearing commenced at 9:30am on Monday, 30 November 2020 in the Business Hub, Ahuriri, Napier. It concluded on the afternoon of Wednesday 2 December, and was adjourned at that time. The hearing was formally closed on 8 June 2021.
- 2.39 At the outset of proceedings, we outlined the manner in which we expected the hearing to be conducted, set out a range of procedural matters and outlined our role as decision makers.
- 2.40 No procedural matters were raised during the course of the hearing that we were obliged to make a finding on.
- 2.41 Over the course of the proceedings, we heard from the following people and parties. Where noted people appeared via a Zoom link; this was both for convenience and would also have allowed the hearing to proceed if we had been operating under Alert Level 2 Covid 19 Restrictions.

#### 30 November

- Ms Belinda Harper, Ms Ceri Edmonds and Mr Matt Conway (counsel) for the Hawke's Bay Regional Council
- Ms Trish Fordyce (Counsel) on behalf of Hawke's Bay Forest Group, Timberlands Limited, Earnslaw One Limited, Forest Management NZ, NZ Forest Managers and Rayonier Matariki Forests and Pan Pac Forests Limited
- Ms Bridget Robson for Timberlands Limited
- Ms Jo Field, Pan Pac Forest Products Limited
- Mr Mark Roper, Forest Management NZ Ltd
- Mr Peter Wilson for the Hawke's Bay Fish & Game Council
- Mr Xan Harding for Hawke's Bay Winegrower's Association
- Ms Charlotte Drury and Ms Michelle Sands for Horticulture NZ
- Mr David Allen (Counsel), Mr Garth Gray and Dr Phil Mitchell for Genesis Energy
- Mr Tom Kay for Forest & Bird (via Zoom).

## 1 December

- Ms Carmen Taylor and Ms Anna Wilkes for Ravensdown
- Mr Nathan Apatu for Ngamatea Farming Company
- Ms Tania Hopmans, Te Kaha Hawaikarangi<sup>12</sup> and Mr Callum Beattie (plus supporters) for Maungaharuru-Tangitū Trust
- Ms Robyn Rauna, Mr Renata Bush and Ms Tirohia Bridger for Hineuru Iwi Trust
- Ms Maggie Burns, Mr Matt Brady and Ms Michelle Hooper (counsel) (all via Zoom) for Director General of Conservation.
- Ms Nicole Foran for TrustPower via Zoom
- Mr Bryce Donovan for Brylee Farms Ltd.
- Ms Audrey Jones.

## 2 December

- Mr Ethan Glover for Silver Fern Farms via Zoom
- Ms Tania Huata and Mr Mark Cooper for Owhaoko C Trust
- Ms Rhea Dasent and Mr Peter Matich for Federated Farmers
- Mr Ezekiel Hudspith (Counsel) and Mr Mark St Clair for Pernod Ricard Winemakers NZ Ltd via Zoom
- Ms Belinda Harper and Mr Matt Conway (counsel) for HBRC – closing statement.

It was disappointing that some submitters did not attend the hearing, which meant we had no opportunity to clarify their submissions and ask questions that could have provided further information. These particularly included Ngāti Kahungunu Iwi Incorporated and Te Taiwhenua o Heretaunga, who made part of a joint submission and presented written expert evidence, but neither of their experts attended the hearing.

- 2.42 A number of observers and interested parties were also present at the hearing. Whether submitters chose to present evidence or not, all issues raised in submissions remain 'live' for our consideration. **Appendix 3** provides our decisions on all submission points made.

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<sup>12</sup> Who spoke about Te Whanganui a Orotū (Ahuriri Estuary).

### 3. STATUTORY CONTEXT

#### Overview

- 3.1 This section of our report sets out the statutory context within which our decision has to be made. It covers the relevant National Policy Statements and National Regulations, and provides background on National Water Conservation Orders, and puts the approaches used there into a regional context. We also discuss and make some findings about these matters.
- 3.2 In making our decisions we are required to pay close attention to the issue of scope. A submission must be “on Proposed PC7” if we are to take account of it. There are well accepted tests for determining if a submission is on the Plan Change: first, the submission must fall within the ambit of the Plan Change, and second, we must consider whether there is a real risk that persons directly or potentially affected by the additional changes proposed in the submission have been denied an effective response to those changes.<sup>13</sup>

#### National Policy Statement for Freshwater Management

- 3.3 The NPS-FM was first proposed in 2008, taking effect in July 2011. The NPS-FM was replaced in 2014 (then further amended in 2017), and most recently replaced in September 2020. Proposed PC7 was prepared and notified under the amended 2014 NPS-FM (updated 2017).<sup>14</sup>
- 3.4 All versions of the NPS-FM have retained policies directing a high level of protection for outstanding water bodies. The relevant provisions from the 2014/17 and 2020 NPS-FM are set out below in Table 2.

**Table 2: 2014-17 & 2020 NPS-FM outstanding water body provisions**

NPS-FM OWB provision	NPS-FM 2017	NPS-FM 2020
Interpretation	<b>Outstanding freshwater bodies</b> are those water bodies identified in a regional policy statement or regional plan as having outstanding values, including ecological, landscape, recreational and spiritual values.	<b>Outstanding water body</b> means a water body, or part of a water body, identified in a regional policy statement, a regional plan, or a water conservation order as having one or more outstanding values.

<sup>13</sup> Clearwater Resort Limited v Christchurch City Council HC Christchurch AP34/02; Palmerston North City Council v Motor Machinists Limited (2013) NZHC 1290.

<sup>14</sup> To avoid cumbersome repetition, we shall refer to this as the 2017 NPS or the NPSFM 2017

NPS-FM OWB provision	NPS-FM 2017	NPS-FM 2020
Objectives	<p><b>Objective A2:</b> "The overall quality of fresh water within a freshwater management unit is maintained or improved while:</p> <ul style="list-style-type: none"> <li>(i) protecting the significant values of outstanding freshwater bodies;</li> <li>(ii) protecting the significant values of wetlands; and</li> <li>(iii) ....."</li> </ul> <p><b>Objective B4:</b> "To protect significant values of wetlands and of outstanding freshwater bodies".</p>	<p><b>NPSFM Objective:</b> "The objective of this National Policy Statement is to ensure that resources are managed in a way that prioritises:</p> <ul style="list-style-type: none"> <li>a) first, the health and wellbeing of water bodies and freshwater ecosystems; and</li> <li>b) second, the essential health needs of people; and</li> <li>c) third, the ability of people and communities to provide for their social, economic, and cultural wellbeing, now and in the future." </li></ul>
Policies	N/A	<p><b>Policy 8:</b> The significant values of outstanding water bodies are protected.</p>
National objectives framework	N/A*	<p><b>3.8 Identifying FMUs<sup>15</sup> and special sites and features</b></p> <ul style="list-style-type: none"> <li>(1)...</li> <li>(2)...</li> <li>(3) Every regional council must also identify the following (if present) within each FMU: <ul style="list-style-type: none"> <li>a) ....</li> <li>b) ...</li> <li>c) the location of habitats of threatened species;</li> <li>d) outstanding water bodies;</li> <li>e) natural inland wetlands.</li> </ul> </li> </ul>

3.5 The Council must give effect to the NPS-FM. PC7 sets out to give effect to the provisions relating to OWB’s. Although Proposed PC7 was notified at the time the NPS-FM 2017 was in effect, we must give effect to the NPS-FM 2020 to the extent submissions allow us to do so.

*Discussion and Findings*

3.6 The NPS-FM stops short of stipulating exactly what constitutes an outstanding value or how the assessment and identification of outstanding water bodies should be undertaken.

3.7 We consider that there is some conflicting language in both the 2017 and 2020 NPS-FMs relating to OWB’s. In short, the interpretation of what is an OWB – in essence that it must have at least one outstanding value – is inconsistent with the subsequent policies which speak about protecting “the significant values” of OWB’s.<sup>16</sup> We found this difficult to reconcile.

<sup>15</sup> An FMU is a freshwater management unit.

<sup>16</sup> See Policies B4 (NPS 2017) and 8 (NPS 2020) in the above table.

- 3.8 Our reconciliation of this is not helped by Proposed PC7 listing significant values in the TANK catchments (apart from the Ahuriri Estuary), the detailed management of which is being considered in detail as part of Proposed PC9. An additional four water bodies also have significant values listed: the Kaweka Lakes, Lake Poukawa and Peka Peka Swamp, the Ngamatea East Swamp and the Taruarau River. This means that of the proposed 38 water bodies listed as outstanding in Proposed PC7, eight had significant values listed but the other 30 do not.
- 3.9 The Officers' advice to us was that it is intended to populate the "significant values" column of Schedule 25 in the upcoming Kotahi plan. We think this is an appropriate vehicle for dealing with significant values on a holistic basis and ensures that the identification of significant values occurs in a consistent manner across the region.
- 3.10 In her evidence on behalf of HortNZ, Ms Drury asserted that the terminology used for the significant values in PC7 for the OWB's in the TANK catchments is not consistent with Section 5.1 of Proposed PC9, and that the evidential basis of these significant values is not clear. She suggested that the information in Column 4 of Table 2 in Proposed PC7, which specifies the significant values of the TANK catchments, ought to be deleted entirely. HortNZ did not however seek this deletion in their submission.
- 3.11 Pan Pac Forests made a specific submission that the lists of significant values in Proposed PC7 be deleted from the Ngaruroro and Tūtaekurī catchments. We have the discretion to accept this submission, and we have done so.
- 3.12 We have not included any of the Karamū River, the Heretaunga Aquifer or Lake Poukawa and Pekapeka Swamp in Schedule 25, so their "significant values" will appear nowhere in the RRMP via PC7. In effect, this means that Ms Drury's request that any significant values be deleted from the TANK catchments has been met, albeit not directly.
- 3.13 The confusion about listing significant values in some of the TANK catchments in Proposed PC7 is not assisted by Table 2A in the Operative RRMP. It lists what are called primary values and secondary values in the TANK, Mohaka and Tukituki catchment areas. In the TANK catchments the primary values embrace all of natural values, cultural and spiritual values and economic values. A few of the values listed in Table 2A we have found to be outstanding, but most are not so. We anticipate that these anomalies will have to be rectified once the whole RRMP is reviewed in the Kotahi Plan. We cannot change them as they are outside the scope of Proposed PC7.
- 3.14 Each of Lake Rotoroa and Rototuna (the Kaweka Lakes), the Ngamatea Swamp and the Taruarau River have significant values listed as part of Proposed PC7 and are included as OWB's in Schedule 25. There are no direct submissions that allow us to delete these entirely, despite those "significant values" partly repeating the outstanding values which have led us to include them in Schedule 25. We discuss whether the significant values of these water bodies should be included in Schedule 25 on a case by case basis in Section 6 of our decision.
- 3.15 In his closing submissions to us, Mr Conway, Counsel for the HBRC, helpfully discussed the reconciliation of outstanding versus significant values at length in his Section 6. In summary, what he said was:
- a. Two key steps in implementing the 2020 NPS-FM are the identification of outstanding water bodies, and protection of their significant values.

- b. PC7 currently implements this direction by: using outstanding values to identify a water body as outstanding, and then protecting those outstanding values; including further policy direction to protect significant values, and identify these values through future planning processes; and, where there is any conflict between these values, priority is given to protecting outstanding values.
  - c. This approach has been questioned. Issues raised include whether outstanding and significant values should be provided for separately in PC7, and whether PC7 should list what values could be found as significant.
  - d. *“The NPSFM does not provide any specific direction to protect the outstanding values of outstanding water bodies, but it is consistent with the NPSFM’s policy direction that if a value is important enough to be outstanding, it should be protected”*. Not protecting those outstanding values could enable other values to be prioritised above those that make the water body outstanding.
  - e. The approach taken by PC7 is a legitimate one. Other approaches exist that we could potentially adopt, but given the current approach has no legal deficiency, a robust s32AA evaluation would be needed to justify it.
  - f. Alternatives were then discussed; all raise significant issues in our minds.
- 3.16 We cannot entirely reconcile this contradiction. Nor could many of the submitters, some of whom supported prioritising outstanding values over significant values (such as Mr St Clair for Pernod Ricard Wines and Counsel for Director General of Conservation) and some of whom opposed it (such as Ms Drury for HortNZ and the expert witnesses from Federated Farmers). In our view no submitter gave strong reasons why PC7 should not prioritise the protection of the outstanding values of OWB’s over their significant values.
- 3.17 What is abundantly clear to us however is that to be “outstanding”, a water body must have at least one outstanding value. It could also have significant values.
- 3.18 We do not agree with the submission of Rhea Dasent for Federated Farmers that more than one outstanding value is necessary for a water body to be found outstanding<sup>17</sup>; our reading of the NPS-FM is that any one outstanding value can make a water body outstanding.
- 3.19 Accordingly, we find ourselves in agreement with the legal advice provided by Simpson Grierson to the Council (see Paragraph 2.21) which said:
- Outstanding and significant values are not the same. An outstanding value has a higher threshold than a significant value. An outstanding value will always be significant, but a significant value will not necessary be outstanding (based on legal advice and case law in context of s6 RMA).*
- 3.20 That is the approach we take throughout this decision. Cumulative significant values cannot make a water body outstanding.
- 3.21 The NPS-FM does not specify whether the term ‘outstanding’ should be applied in a regional or national context. Given however that the NPS-FM is implemented by Regional Authorities, it follows logically that the assessments of what is “outstanding” must be at a regional scale.

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<sup>17</sup> At pp3 of her submission given at the hearing.

- 3.22 Ms Dasent also submitted that the “*threshold for outstandingness (sic) be made higher, so only pristine or low human intervention water bodies are found to be outstanding*”.<sup>18</sup> While we have in part met her concern by making the threshold for what is outstanding higher by the adoption of the screening criteria, and by applying these in a robust way, we cannot accept her assertion that only pristine water bodies should be found to be outstanding. This is because several water bodies found outstanding in NWCOs are anything but pristine. For example, Te Waihora (Lake Ellesmere) is one of the most eutrophic lakes in the country, Lake Wairarapa is not much better, and the lower Rangitata River is a major source of water for irrigation on the Canterbury Plains. Despite this, all have been found to have a range of outstanding values.
- 3.23 We also accept that an OWB can be part of a water body, such as a section of a river or a tributary or tributaries of a river. It does not have to be the entirety of a water body (e.g. from its source to the coast). This is now made much clearer in the 2020 NPS-FM’s definition of ‘outstanding water body’.<sup>19</sup>
- 3.24 This follows the precedent set by NWCOs. For instance, not all the Mohaka catchment was found to be “outstanding”, nor indeed was much of Rangitikei catchment, which is nearby, albeit in the Manawatu-Whanganui region. The draft NWCO for the Ngaruroro catchment similarly found only the headwaters of that catchment to be outstanding.<sup>20</sup>
- 3.25 The NPS-FM is not clear on whether the types of values that can be identified as ‘outstanding’ for NPS-FM purposes are restricted to intrinsic and non-consumptive use values, or if they can they include consumptive and economic use values such as irrigation, hydro-generation and tourism. We discuss this matter further in Paragraphs 3.76 to 3.82.

### **The NZ Coastal Policy Statement 2010**

- 3.26 The 2010 New Zealand Coastal Policy Statement (NZCPS) sets out objectives and policies to manage the coastal environment. The NZCPS is relevant as it applies to estuaries and lagoons which have been classed as ‘water bodies’ under PC7. We must give effect to the NZCPS to the extent that it is relevant to our decisions on OWB’s in the region, particularly as the RCEP does not yet fully do so.
- 3.27 The NZCPS does not specifically refer to outstanding water bodies and has a different management framework when it comes to managing waters with outstanding values when compared to the NPS-FM. For instance, although there is no requirement in the NZCPS to identify outstanding coastal water bodies, it does contain provisions directing the protection of outstanding natural character, natural features and natural landscapes of the coastal environment from inappropriate subdivision, use and development. Furthermore, the NZCPS also contains requirements to maintain coastal water quality (Objective 1) and consider the effects of activities on coastal water (Policies 4 and 5). In particular Policy 4 requires that the Council “provide for the integrated management of natural and physical resources in the coastal environment, and activities that affect the coastal environment”.
- 3.28 Policies 11, 13, 15 and 17 of the NZCPS set out a number of provisions which relate to natural ecosystems, indigenous biodiversity, sites of biological importance, natural

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<sup>18</sup> On her pp2. Mr Matich, an expert witness for Federated Farmers took the same view. See for instance Paragraph i on his pp3.

<sup>19</sup> This finding is consistent with Ms Dasent’s submission at her pp3.

<sup>20</sup> The decision of the Special Tribunal has been appealed to the Environment Court. The Court had not issued a decision on the appeal at the time our decision was released.



features, historic heritage, natural character and landscape values. These are some of the many significant values which can be associated with water bodies in the coastal environment. In some cases, the national policy direction from the NZCPS is more restrictive than the NPS-FM when it comes to managing these types of values.

#### *Discussion and Finding*

- 3.29 A number of submitters, most notably the forestry companies and Ngāti Kahungunu Iwi Incorporated and Te Manaaki Taiao and Te Rūnanganui o Heretaunga and Te Taiwhenua o Heretaunga collective, opposed including estuaries and coastal lagoons that are in the coastal environment in the potential scope of an OWB. They sought that PC7 only refer to freshwater bodies. Other submitters, including the Director General of Conservation, Ravensdown and Trustpower supported including those relevant parts of water bodies in the coastal environment within the potential definition of an OWB.
- 3.30 The quality and quantity of water in rivers and streams indisputably affect the waters in the coastal environment, and often the open coast. Rivers and streams do not stop being “water bodies” when they enter the coastal environment. Their estuaries, lagoons and other water bodies within the coastal environment remain intrinsically linked to those rivers and streams. We see no reason why waters within the coastal environment should not be included as part of an outstanding river or stream. This approach is consistent with the NZCPS, which we are legally obliged to give effect to. Such continuity is also embraced in the Maori saying “*kai uta ki ti*”, which is given weight to in Policy 3 of the 2020 NPS-FM by requiring local authorities (inter alia) “*to recognise the interconnectedness of the whole environment, from the mountains and lakes, down the rivers to hapua (lagoons), whahapu (estuaries) down to the sea.*”
- 3.31 Other reasons exist for including waters in the coastal environment in PC7. In particular, Chapter 3.1A of the RPS includes several provisions that recognise and provide for the interconnected nature of natural resources, including the coastal environment. Policy C2 of the NPS-FM 2017 included (inter alia) a requirement for RPS’s to manage the effects of use and development of land and freshwater on coastal water, and now Policy 3 of the 2020 NPS-FM requires that freshwater be managed in an integrated way that considers the effects of use and development of land on a whole of catchment basis, including receiving environments. Similarly, Part 1.5 of the 2020 NPS-FM states that “*this NPS applies to all freshwater (including groundwater) and, to the extent that they are affected by freshwater, to receiving environments (which may include estuaries and the wider coastal marine area)*”.
- 3.32 PC7 does not seek to manage the coastal environment in any broader sense. That is the role of the operative Regional Coastal Environment Plan (see Paragraphs 2.5 and 2.6 above). But importantly, PC7 complements that plan to the extent possible where the outstanding values of rivers and streams include a coastal component.

#### **The National Environmental Standards for Freshwater 2020**

- 3.33 On the same date the NPS-FM 2020 came into effect, which was 3 September 2020, the Government promulgated what are formally known as the Resource Management (National Environmental Standards for Freshwater) Regulations 2020. We shall refer to these as the NES-F Regulations 2020. They apply throughout New Zealand.
- 3.34 These regulations cover a wide range of matters. Many relate to dairy farming, including specifying national permitted and discretionary activity categories for activities including

dairy conversions, irrigation of dairy land, the use of land for dairy support and winter grazing.

- 3.35 The most restrictive regulations however relate to the modification of “natural wetlands”. Regulation 52 specifies that activities within 100m of a natural wetland that results in any drainage of that wetland, or the taking, use, damming or diversion of water within that 100m setback, are non-complying activities. Similarly, Regulation 53 stipulates that any drainage of, or the taking, use, damming and diverting of water within a natural wetland is a prohibited activity, for which no resource consent application can be lodged.<sup>21</sup>
- 3.36 The definition of what is a “natural wetland” is very broad. It does not apply to artificial or geothermal wetlands, nor to “any area of improved pasture that (as of 3 September 2020) is dominated (i.e. > 50%) of exotic pasture species and is subject to temporary rain derived water pooling”. All other inland wetlands are regulated by Regulations 52 and 53.<sup>22</sup>

#### *Discussion*

- 3.37 We make no comment here as to how appropriate such national regulations strictly controlling activities in all natural inland wetlands in all parts of the country are. They have already been subject to substantial criticism (as indeed have a number of these regulations). What is very important for our decisions however is regardless whether we find inland wetlands put forward as proposed OWB's in Proposed PC7 to be found outstanding or otherwise, at present their use and development is restricted by the NES-FW regulations.
- 3.38 We asked for some comment on this from legal counsel for Director General of Conservation, Ms Michelle Cooper. She pointed out that Regulations 52 and 53 may be rescinded sometime in the future, and we cannot rely on them to protect any wetland or wetland complexes we find to be outstanding in the long term. We agree with her, so our determinations as to which wetlands listed in Proposed PC7 are outstanding are independent of any consideration of these regulations. Regardless, at present, all natural wetlands in the region, no matter how small or insignificant they may appear to be, are offered a very high level of protection by these regulations. Our decisions make no difference to that.

### **National Water Conservation Orders**

- 3.39 NWCs first came into effect in the “Wild and Scenic Rivers Amendment” 1981 to the Water and Soil Conservation Act 1967. They have continued to be provided for in Part 9 of the RMA.
- 3.40 Early applications for NWCs were largely made by either Fish and Game, and/or the Wildlife Service, whose functions were later incorporated into the Department of Conservation. Accordingly, early applications for WCOs largely sought protection for wildlife habitat and/or fisheries values. A particular focus of those applicants was preventing rivers being considered for development – such as for hydro power generation or irrigation – being protected so such development would be much hindered or prevented altogether.

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<sup>21</sup> Additionally, stock exclusion regulations prohibit stock, apart from sheep, grazing natural wetlands.

<sup>22</sup> An exception is provided for the construction of specified infrastructure, where a more lenient approach is provided by Regulation 43.

- 3.41 There are 16 existing NWCs. In the North Island these cover all or part of the Mohaka, Motu<sup>23</sup>, Manganuioteao and Rangitikei<sup>24</sup> Rivers, and Lake Wairarapa. Applications to protect the four rivers were all made under the Water and Soil Conservation Act, with the main trigger for those applications being to prevent any future Hydro Electric Power (HEP) development.
- 3.42 The Mohaka River is in the Hawke's Bay region. The NWC does not protect all the river and its tributaries. Rather Clause 4 lists the following water bodies as outstanding characteristics and features of the catchment and its tributaries:
- a. an outstanding trout fishery in the mainstream, upstream of the State Highway 5 bridge and in the tributaries; and
  - b. outstanding scenic characteristics in the Mokonui Gorge; and
  - c. outstanding scenic characteristics in the Te Hoe Gorge [although this gorge is not on the Mohaka River's mainstem]; and
  - d. an outstanding amenity for water-based recreation from the State Highway 5 bridge to Willow Flat.
- 3.43 Proposed PC7 sought to protect the Mohaka River catchment to a greater extent than does the existing NWC. Within the catchment it specifically listed the Hautapu River, the Mangahouanga Stream, the Te Hoe River, Tarawera Hot Springs, the Ripia River and the Waipunga River, along with the Mohaka River itself, as proposed outstanding water bodies for protection. We discuss this matter in detail in Sections 6 and 7 of this decision.
- 3.44 The Ngaruroro River is subject to a draft NWC decision by a Special Tribunal. Their decision only protects the headwaters of the river, which are those upstream of the Whanawhana cableway. This includes the Taruarau River, which was also listed as an OWB in Proposed PC7. The draft NWC contains two Schedules: the first refers to the mainstem of the Ngaruroro River upstream of Whanawhana; and the second to all contributing waters upstream of that point, including groundwater. In both schedules the outstanding values listed are: amenity and intrinsic values afforded by natural state, habitat for rainbow trout, rainbow trout fishery, angling amenity and recreation, whitewater rafting and kayaking amenity and recreation, wild and scenic characteristic, and water quality as a natural characteristic.
- 3.45 The Special Tribunal's decision has been appealed to the Environment Court.<sup>25</sup> This means that the extent to which the Ngaruroro River catchment, including the Clive River, will be protected by an NWC is sub judicæ, and will be until all appeals are settled by the Courts.

#### *Discussion*

- 3.46 The s42A Officers' Report recommended that we find the headwaters of the Ngaruroro River (including the Taruarau River) to be regionally outstanding, which would be consistent with the Special Tribunal's findings. Additionally, they recommended we find

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<sup>23</sup> The Motu River is in the eastern part of the Bay of Plenty Region.

<sup>24</sup> The Manganuioteao and Rangitikei Rivers are in the Manawatu Whanganui Region. The former consists of a network of deeply incised rivers draining from the western slopes of Mt Ruapehu.

<sup>25</sup> The appellants were Royal Forest and Bird Protection Society of NZ, Whitewater NZ Incorporated, the Regional Council, Nga Kaitiaki o te Awa te Ngaruroro, Trustees of East Taupo Lands Trust, Trustees of Owhaoko B&D Trust and Trustees of Owhaoko C Trust.

sections of the lower river to be regionally outstanding also. We discuss this in Section 6 of this decision.

### **Development of the Screening Criteria**

- 3.47 The work carried out to identify the 38 OWB's listed in Proposed PC7 relied largely on a local "expert panel". They used a range of criteria to determine what water bodies they considered "outstanding" in the Hawke's Bay Region. Those criteria were ecology (which was split into threatened species, percentage of population, ecological distinctiveness and ecological function), landscape, natural character, amenity/recreation and cultural and spiritual values (which were assessed against a comprehensive list of criteria).
- 3.48 We very much appreciate the work put in by the expert panel, and we acknowledge their very helpful contribution to determining what water bodies should be included in Proposed PC7. Much of their work relied on criteria that were not strongly tied back to any legal precedents.
- 3.49 In work part funded by MfE's Community Environment Fund, Ms Harper, the primary author of the Council's s42A Officers' report, undertook a comprehensive review of the different values that have been found to be "outstanding", and so have qualified for protection in NWCos.<sup>26</sup>
- 3.50 A wide range of values have been found to be "outstanding" in a national context. We might characterise these into "wild and scenic values", including natural character and landscape values, "ecological values", such as native wildlife populations of aquatic birds, native fish populations and the presence of large numbers and/or large trout, Maori "cultural and spiritual values", and "human use values" (such as angling, rafting or jet boating).
- 3.51 By using the values that have been found to be "outstanding" in NWCos, Ms Harper developed a set of "screening criteria" that specify what values OWB's in a region should meet in order to be considered outstanding.
- 3.52 The screening criteria had not been developed fully at the stage when PC7 was notified. The Officers' report recommended that they be incorporated into PC7 to provide a more robust process for determining OWB's in the region. This was in accordance with a number of submissions who sought a more rigorous and robust process to determine which water bodies in the region were truly outstanding.<sup>27</sup> It also reflects criticism from a number of submitters that proposing 38 water bodies as "outstanding" in Proposed PC7 was many more than was truly justified.<sup>28</sup>
- 3.53 Using these criteria, the number of OWB's was recommended to be reduced from the 38 listed in Proposed PC7 to 18 in the Officers' Report. However, although no recommendation was made to protect the other 20 water bodies, the Officers did recommend that if submitters representing tāngata whenua could show any of these water bodies, or parts of these water bodies, had outstanding cultural and spiritual values, they should also be incorporated into Schedule 25 of the RRMP.

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<sup>26</sup> Belinda Harper (2020): Water Conservation Order Review; Outstanding Values; Key Features. For Community Environment Fund – Outstanding Freshwater Bodies Project; Ministry for the Environment, Auckland Council, Hawke's Bay Regional Council.

<sup>27</sup> Examples include: Director General of Conservation, Federated Farmers (albeit not directly) and Royal Forest and Bird Protection Society.

<sup>28</sup> Examples include Genesis Energy and Federated Farmers. Many submitters also questioned the inclusion of specified water bodies as outstanding.

- 3.54 The screening criteria recommended to be incorporated into PC7 are shown in Table 4 of the s42A Officers' Report. The screening criteria replace Table 1 in Proposed Plan Change 7, which is deleted as a consequential amendment.
- 3.55 We have slightly modified those criteria for inclusion into PC7 by changing the stem of the first sentence of each description to refer directly to outstanding water bodies, and by putting the criteria to determine if cultural and spiritual values are outstanding into a regional context (see Paragraphs 3.66 to 3.68 below). The criteria to be included in PC7 are as listed below.

**Table 3. Outstanding Water Body Identification Screening Criteria for Inclusion in PC7**

Value	Sub values / Outstanding indicators	Evidential sources can include but not limited to the following <sup>29</sup>
Ecology	<b>Habitat for aquatic birds (native and migratory)</b>	
	Water body provides an outstanding habitat for aquatic birds where it meets: <ul style="list-style-type: none"> <li>at least one matter in List A; and</li> <li>all matters in List B.</li> </ul> <b>List A</b> <ol style="list-style-type: none"> <li>One of the highest regional populations of a native aquatic bird species which is endangered, threatened or distinctive<sup>30</sup>.</li> <li>One of the highest natural diversity of aquatic birds (native and migratory) in the region, which includes endangered or threatened species.</li> </ol> <b>List B</b> <ol style="list-style-type: none"> <li>Evidence is provided in support of outstanding features.</li> </ol>	International Union for Conservation of Nature (IUCN) criteria. RAMSAR site criteria reports. New Zealand threat classification system. IUCN red list. Expert evidence.
	<b>Native fish habitat</b>	
	Water body provides an outstanding habitat for native fish where it meets: <ul style="list-style-type: none"> <li>at least one matter in List A; and</li> <li>all matters in List B.</li> </ul> <b>List A</b> <ol style="list-style-type: none"> <li>A unique species or distinctive assemblage of native fish not found anywhere else in the region.</li> <li>Native fish that are landlocked and not affected by presence of introduced species.</li> <li>One of the highest diversities of native fish species in the region, which includes a threatened, endangered or distinctive species.</li> <li>An outstanding customary fishery.</li> </ol> <b>List B</b> <ol style="list-style-type: none"> <li>Evidence is provided in support of outstanding native fish habitat value.</li> </ol>	Waters of National Importance. Expert evidence.
	<b>Habitat for indigenous plant communities</b>	
	Water body provides an outstanding habitat for an indigenous plant community where it meets: <ul style="list-style-type: none"> <li>at least one matter in List A; and</li> <li>all matters in List B.</li> </ul> <b>List A</b> <ol style="list-style-type: none"> <li>The indigenous plant community has a high diversity of habitats, or</li> </ol>	New Zealand Geopreservation Inventory. Protected Natural Area (PNA) surveys. Expert evidence.

<sup>29</sup> Evidence sources include but are not limited to those listed.

<sup>30</sup> For NWCO purposes, at least 5% of the national population (Rangitata River 2004).

Value	Sub values / Outstanding indicators	Evidential sources can include but not limited to the following <sup>29</sup>
	<p>rare and threatened plant species in the region.</p> <p>b) The indigenous plant community contains special features not found anywhere else in the region.</p> <p><b>List B</b></p> <p>a) The indigenous plant community is reliant on the river flows, other aquatic characteristics, or is an integral part of the water body.</p> <p>b) Evidence is provided in support of outstanding features.</p>	
	<p><b>Habitat for trout and salmon</b></p> <p>Water body provides an outstanding habitat for trout and salmon where it meets all matters in List A.</p> <p><b>List A</b></p> <p>a) Has an outstanding angling amenity, or is critical to maintaining an outstanding angling amenity elsewhere in the catchment.</p> <p>b) Supports a self-sustaining population of wild trout or salmon (i.e. fish population not periodically restocked from hatcheries).</p> <p>c) Evidence is provided in support of outstanding features.</p>	<p>Waters of National Importance.</p> <p>Headwater trout fisheries (NIWA).</p> <p>Expert evidence.</p>
<p><b>Cultural and spiritual (tāngata whenua)</b></p>	<p><b>Cultural and spiritual (tāngata whenua)</b></p> <p>Water body provides outstanding cultural and spiritual values where it meets all matters in List A.</p> <p><b>List A</b></p> <p>a) The features are of outstanding value to wider iwi and hapu groups of the region.</p> <p>b) The features are acknowledged as outstanding, by the descendant groups most closely associated with the water body.</p> <p>c) Evidence is provided in support of outstanding features.</p>	<p>Waitangi Tribunal Reports.</p> <p>Statutory acknowledgements.</p> <p>Statements provided from Iwi members.</p> <p>Expert evidence.</p> <p>Deeds of settlement, Customary uses reports.</p> <p>Court cases.</p>
<p><b>Recreation</b></p>	<p><b>Angling amenity (trout and salmon)</b></p> <p>Water body provides an outstanding recreational fishing experience (angling amenity) where it meets:</p> <ul style="list-style-type: none"> <li>• at least one matter in List A; and</li> <li>• at least one matter in List B; and</li> <li>• all matters in List C.</li> </ul> <p><b>List A</b></p> <p>a) Trophy trout (over 4 kg in size).</p> <p>b) High numbers of large trout (water body supports the highest number of large trout in the region).</p> <p>c) High numbers of trout (water body supports the highest trout numbers in the region or the highest trout biomass in the region).</p> <p><b>List B</b></p> <p>a) Variety of high quality angling experiences.</p> <p>b) Specialised high quality angling experience (scenic, solitude, challenging, high catch rate, ability to spot and fish to a particular trout).</p> <p><b>List C</b></p> <p>a) Wild trout fishery (self-sustaining trout population through natural replacement).</p> <p>b) Water body is accessible and suitable to fish (high water quality and suitable flows).</p> <p>c) A regional, national or international reputation as an exceptional trout fishery or high non-local usage (high numbers of anglers come from</p>	<p>National Angling Survey.</p> <p>Headwater trout fisheries (NIWA).</p> <p>Testimonies from anglers.</p> <p>National Inventory of Wild and Scenic River.</p> <p>Expert evidence.</p>

Value	Sub values / Outstanding indicators	Evidential sources can include but not limited to the following <sup>29</sup>
	<p>outside of the area).</p> <p>d) Evidence is provided in support of outstanding recreational experience.</p>	
	<b>Rafting</b>	
	<p>Water body provides an outstanding rafting experience (amenity) where it meets:</p> <ul style="list-style-type: none"> <li>• at least one matter in List A; and</li> <li>• all matters in List B.</li> </ul> <p><b>List A</b></p> <p>a) Variety of high quality rafting experiences found in few other water bodies in the region.</p> <p>b) A specialised high quality rafting experience found in few other water bodies in the region.</p> <p><b>List B</b></p> <p>a) The water body provides an outstanding rafting experience which is reliable and predictable for most of the year under normal flows (i.e. the experience is not reliant on dam release water or high flows, or subject to low flows).</p> <p>b) Regional, national or international significance as an exceptional rafting experience.</p> <p>c) High non-local usage (high numbers of participants come from outside of the area).</p> <p>d) Evidence is provided in support of an outstanding rafting experience.</p>	<p>1991 River Use Survey. New Zealand Recreational River Survey. Testimonies from rafters and their local or national associations. Expert evidence.</p>
	<b>Kayaking (includes canoeing)</b>	
	<p>Water body provides an outstanding kayaking experience (amenity) where it meets:</p> <ul style="list-style-type: none"> <li>• at least one matter in List A; and</li> <li>• all matters in List B.</li> </ul> <p><b>List A</b></p> <p>a) Variety of high quality kayaking experiences found in few other water bodies in the region.</p> <p>b) A specialised high quality kayaking experience found in few other water bodies in the region.</p> <p><b>List B</b></p> <p>a) The water body provides an outstanding kayaking experience which is reliable and predictable for most of the year under normal flows (i.e. the experience is not reliant on dam release water or high flows, or subject to low flows).</p> <p>b) Regional, national or international significance as an exceptional kayaking experience.</p> <p>c) High non-local usage (high numbers of participants come from outside of the area).</p> <p>d) Evidence is provided in support of an outstanding kayaking experience.</p>	<p>1991 River Use Survey. New Zealand Recreational River Survey. New Zealand Whitewater: 120 Great Kayaking Runs. Testimonies from kayakers and their local or national associations. Expert evidence.</p>
	<b>Jet boating</b>	
	<p>Water body provides an outstanding jet boating experience (amenity) where it meets:</p> <ul style="list-style-type: none"> <li>• at least one matter in List A; and</li> <li>• all matters in List B.</li> </ul> <p><b>List A</b></p>	<p>New Zealand Recreational River Survey. Testimonies from jet boaters and their local or national associations.</p>

Value	Sub values / Outstanding indicators	Evidential sources can include but not limited to the following <sup>29</sup>
	<p>a) Variety of high quality jet boating experiences found in few other water bodies in the region.</p> <p>b) A specialised high quality jet boating experience found in few other water bodies in the region.</p> <p><b>List B</b></p> <p>a) The water body provides an outstanding jet boating experience which is reliable and predictable for most of the year under normal flows (i.e. the experience is not reliant on high flows or subject to low flows).</p> <p>b) Regional, national or international significance as an exceptional jet boating experience.</p> <p>c) High non-local usage (high numbers of participants come from outside of the area).</p> <p>d) Evidence is provided in support of an outstanding jet boating experience.</p>	Expert evidence.
<b>Landscape</b>	<p><b>Wild and scenic</b></p> <p>Water body has outstanding wild and/or scenic values where it meets all matters in List A.</p> <p><b>List A</b></p> <p>a) Waters are an essential component of the landscape.</p> <p>b) Waters have wild and/or scenic values that contain distinctive qualities which 'stand out' and are present in few other water bodies in the region.</p> <p>c) Evidence is provided in support of outstanding wild or scenic values by way of an expert assessment or independent evidence sources.</p>	<p>A National Inventory of Wild and Scenic Rivers.</p> <p>A list of rivers and lakes deserving protection in a schedule of protected waters.</p> <p>64 New Zealand Rivers: a scenic evaluation.</p> <p>New Zealand Recreational Survey and the National Inventory of Wild and Scenic Rivers.</p> <p>Expert evidence.</p>
<b>Karst system / subterranean waters</b>	<p><b>Karst system / subterranean waters</b></p> <p>A karst system and/or subterranean waters is outstanding where the following is met:</p> <ul style="list-style-type: none"> <li>• at least one matter in List A; and</li> <li>• all matters in List B.</li> </ul> <p><b>List A</b></p> <p>a) A specialised high quality experience present in few other water bodies in the region.</p> <p>b) Wild and/or scenic values that contain distinctive qualities which 'stand out' and are present in few other water bodies in the region.</p> <p>c) Unique or unusual scientific or ecological values present in few other water bodies in the region.</p> <p><b>List B</b></p> <p>a) International or national reputation and/or high non-local usage.</p> <p>b) Evidence is provided in support of outstanding values.</p>	<p>New Zealand Geopreservation Inventory.</p> <p>Expert evidence.</p>
<b>Natural Character</b>	<p><b>Natural Character</b></p> <p>Water body has outstanding natural character values where it meets all matters in List A.</p> <p><b>List A</b></p>	Expert evidence



Value	Sub values / Outstanding indicators	Evidential sources can include but not limited to the following <sup>29</sup>
	a) the water body is highly natural with little or no human modification, including to the flow, bed and riparian margins, water quality, flora and fauna, within a largely indigenous landscape. b) The natural character values are conspicuous, eminent and/or remarkable in the context of the Hawke's Bay Region. c) Evidence is provided in support of outstanding natural character values by way of an expert assessment or independent evidence sources.	
<b>Geology</b>	<b>Geology</b>	
	Water body has outstanding geology values where it meets all matters in List A. <b>List A</b> a) The geomorphological, geological or hydrological feature is dependent on the water body's condition and functioning. b) The geology values are conspicuous, eminent and/or remarkable in the context of the Hawke's Bay Region. c) The geomorphological, geological or hydrological feature is classified as Class A on the New Zealand Geopreservation Inventory. d) Evidence is provided in support of outstanding geology values by way of an expert assessment or independent evidence sources.	New Zealand Geopreservation Inventory. Expert evidence.

### *Discussion and Findings*

- 3.56 We observe that some of the proposed screening criteria are based on the language that has been found to describe what has qualified as “outstanding” in an NWCO. The language used has included “conspicuous, eminent, especially because of its excellence” and “remarkable in”.<sup>31</sup>
- 3.57 For this reason we support the proposed new definition of “outstanding” in PC7. It reads:
- “Outstanding for the purposes of an outstanding water body: means conspicuous, eminent and/or remarkable in the context of the Hawke’s Bay Region.”***
- 3.58 Other screening criteria are based on the findings of Special Tribunals and/or the Environment Court.
- 3.59 The screening criteria were not included in Proposed PC7, but were rather put forward in the s42A Officers’ Report. We note that quite a number of submitters had sought a more robust selection process for OWB’s in PC7, rather than the series of expert panels and Council judgments that had been used to select the original list of 38 OWB’s in Proposed PC7.
- 3.60 Submitters at the hearing had no significant criticism of the screening criteria included in the Officers’ Report being added to PC7. Those who commented generally supported the screening criteria being included in PC7. For instance:
- a. Ms Burns, the planning expert for Director General of Conservation, “supported the addition of the screening framework into Schedule 25 and the criteria itself.

<sup>31</sup> Wakatipu Environmental Society and others v Queenstown Lakes DC (2000), NZRMA 59 at pp 82.

The criteria are based on a robust identification process which has informed the current schedule of OWB..."<sup>32</sup>

- b. In his evidence on behalf of Pernod Ricard Winegrowers Mr St Clair *"agreed that this is an appropriate approach in providing clarity of process and as guidance to catchment or Freshwater Management Unit plan changes..."*<sup>33</sup>
- c. Ms Drury, who like several other witnesses had expressed concern about the number of proposed OWB's listed in Proposed PC7, *"supported the addition of the (screening) framework to Part 2 of Schedule 25, and its use to identify the water bodies that are ultimately classified in PC7 as outstanding"*<sup>34</sup>
- d. Ms Margerison, the expert witness for Brownrigg Agriculture asked *"that as a minimum you apply the screening framework **now** to the 38 supposedly outstanding water bodies in PC7... so that only waterbodies that are truly outstanding remain in PC7..."*<sup>35</sup>

- 3.61 We agree that adopting the screening criteria provides a more robust basis for assessing which water bodies in Hawke's Bay are genuinely outstanding. While it would have been helpful to apply these criteria earlier to each of the 38 water bodies proposed as OWB's in Proposed PC7, the screening criteria had not been developed at that time, and so could not be applied by the expert panel.
- 3.62 The screening criteria reflect the totality of what has been found to be nationally outstanding in Water Conservation Orders, with no refinement of the relative values of different attributes.
- 3.63 In the Rangitata River NWCO appeal, when discussing the numbers of Black Fronted Terns breeding and living in the river, the Environment Court found that "to qualify as outstanding the cut off point should be 5% of the national population" and the associated finding that the only aquatic bird species that the river provided outstanding habitat for was the Black Fronted Tern.
- 3.64 We considered using a similar criterion to assess whether a water body provides outstanding habitat for aquatic birds in the Hawke's Bay region, but rejected that idea. Instead we have focussed on the conservation status of species on the NZCTS, and particularly on those that are listed as nationally critical or nationally endangered. Species that are classified as nationally vulnerable under the NZCTS are dealt with on a case by case basis in our assessments of individual water bodies in Sections 6 and 7 of this decision.
- 3.65 We also consider that to have regionally outstanding geological values the water body should be in Class A on the Geopreservation Index, which means such features are internationally recognised. We do not consider Classes B and C qualify a water body as having regionally outstanding geological features. None of them are clearly conspicuous, eminent and/or remarkable in the region.
- 3.66 Maori cultural and spiritual values are very deeply held, and they generally rely on the natural values of a water body rather than its current uses for human activities.

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<sup>32</sup> At her paragraph 6.4.

<sup>33</sup> At Paragraph 10.1 of his amended evidence.

<sup>34</sup> At her Paragraph 25; she expresses similar sentiments in her Paragraph 33.

<sup>35</sup> In Section 2 of her expert evidence; the quote is slightly paraphrased but the emphasis was hers.

- 3.67 In her work on what outstanding features and characteristics had been included in NWCOs Ms Harper concluded that (underlining added):

*When concluding if a water body has characteristics considered to be outstanding for cultural and spiritual purposes (specific to tangata whenua), or of outstanding significance in accordance with tikanga Maori, decision makers have established whether its features are of significance to much larger and more widely representative iwi groups, rather than solely for one iwi/hapu group; and whether these features are acknowledged as outstanding by the descendant groups most closely associated with the water body.*

- 3.68 We have based our criteria for determining what water bodies have outstanding cultural and spiritual values in the Hawke's Bay region largely on these two underlined criteria. We consider this to be consistent with the approach taken nationally, and appropriate at the regional decision making level. As a result, six water bodies are listed in our amended Schedule 25 as having outstanding cultural and spiritual values; in two instances – Lake Tutira and the Tūtaekurī River – such values are the sole reason for their inclusion in the Schedule.
- 3.69 Applying a set of criteria such as those listed in Table 3 above inevitably still involves some level of subjectivity. Such criteria cannot always be black and white, and there are several instances where we have had to exercise our best judgment in deciding what is an outstanding value of any given water body. Our approach has been that what is “outstanding” needs strong corroboration in submissions and/or evidence, and through the use of the screening criteria. This is further elaborated on in Sections 6 and 7 of this decision, where we discuss individual water bodies.
- 3.70 In some rivers, such as the upper Mohaka and the upper Ngaruroro, the officers suggested that macroinvertebrate communities could be found to be outstanding because the Macroinvertebrate Community Index (or MCI) was very high. We have declined to do so. MCI is not included in the screening criteria, and a high MCI simply reflects high habitat quality, including high water quality. Protecting other values, such as native fisheries or wildlife habitat, will also secure habitat quality, and so will also protect the macroinvertebrate community.

### ***Section 32AA Analysis***

- 3.71 Section 32AA of the RMA requires that any significant changes to a proposed Plan Change made during the hearing of evidence and submissions must be considered under s32(1) to (4) inclusive. However s32AA (1)(c) says this evaluation only needs to be undertaken at a level of detail that corresponds to the scale and the significance of the changes made.
- 3.72 The introduction of the screening criteria into the Plan Change provides a more effective and efficient way to assess a water body for an outstanding status than did the expert panel approach. The screening criteria was widely supported by submitters, substantial numbers of whom had sought a more robust and transparent approach to identifying OWB's in the region. There are no costs to including the screening criteria in PC7, but there are benefits by introducing a much more rigorous approach to identifying which water bodies clearly are conspicuous, eminent and/or remarkable in the region.
- 3.73 We discuss this matter further in Section 4 of this report.

## Response to Submissions

- 3.74 Submitters sought a variety of changes to the screening criteria, which are listed in Paragraph 181 of the s42A report. They included being able to find that economic and consumptive uses could be found to be outstanding, adding swimming and walking as new outstanding sub values of recreation, expanding on the definition of cultural and spiritual values, deleting geology as an outstanding value and amending the description of natural character.
- 3.75 We discuss these in turn.
- 3.76 Some submitters, notably Genesis Energy and Federated Farmers sought that the economic values associated with a water body should also be able to be found “outstanding”.
- 3.77 At the hearing Mr Allen, Counsel for Genesis Energy, elaborated on this. He quoted Dr Mitchell, an expert planning witness for Genesis, as saying that the NPS-FM “*anticipates that the outstanding values are to be assessed on a case by case basis, and there is nothing that precludes economic, consumptive or renewable energy uses from being considered as outstanding values*”<sup>36</sup>. Dr Mitchell also asserted that the Council had failed to recognise the National Policy Statement for Renewable Energy Generation 2017 in either its s32 or 42A reports, and so had not given effect to this NPS.
- 3.78 Turning first to the assertion that the Council had not given effect to the NPS Renewable Energy Generation, we can find nothing in Dr Mitchell’s evidence that specifies how the Council has failed in its duty to give effect to this NPS. Rather his evidence cites sections of the NPS, quotes Paragraphs 324-326 of the s42A report, and then concludes that the NPS has not been given effect to. We cannot understand from his evidence how he reached that conclusion, particularly as Objective LW1.7 of the RRMP specifically recognises “the potential national, regional and local benefits arising from the use of water for renewable electricity generation”, and PC7 does not seek to amend that.<sup>37</sup> In our view the decisions we have made are not contrary to the provisions of the NPS, nor will they preclude the ongoing operation and consenting of the Waikaremoana Power Scheme owned and operated by Genesis.<sup>38</sup>
- 3.79 As to the assertion that there is nothing that precludes us finding economic values could qualify as outstanding, to make such a finding we would need strong affirmative evidence and/or precedent that economic values can be found “outstanding”.
- 3.80 No such precedent was presented to us during the hearing, and two evidential reasons weigh against such a finding. First, neither the NPS-FM 2017 nor the current 2020 NPS-FM provide justification for economic values to be “outstanding”. The 2017 NPS-FM listed what could be found to be “outstanding”, which made no mention of economic values, and Objective 1 of the 2020 NPS-FM now explicitly prioritises “the health and wellbeing of water bodies and freshwater ecosystems” over all other values.<sup>39,40</sup>

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<sup>36</sup> At his Paragraph 3.

<sup>37</sup> Genesis sought specific amendments to Chapter 3.1A of the RRMP, essentially to “protect” the power scheme. Although these submissions have been rejected, our Changes to Chapter 3.1A do provide some explicit recognition for existing uses.

<sup>38</sup> Particularly as we have not found the Waikaretaheke River to be an OWB.

<sup>39</sup> See Paragraphs 5.3 and 5.4 of Mr Conway’s closing submissions.

<sup>40</sup> In saying this we note with concern the placing of cultural and spiritual values in the third tier of considerations in Objective 1. We cannot entirely reconcile this with the central focus given “Te Mana o Te Wai” in the NPS-FM 2020.

- 3.81 Second, s199 of the RMA lists what an application for an NWCO application can apply for, and this does not include economic values. Nor have any economic values found to be outstanding by any Tribunal or Court that has made decisions on NWCO applications. Given economic values have not been found nationally to be “outstanding” in any NWCO, there is no precedent for finding they could be “outstanding” values in a regional context.
- 3.82 For these reasons we find that economic values cannot be found to be an outstanding value of a water body in the region.
- 3.83 Some submitters sought that values including swimming and walking alongside rivers could be outstanding, and sought these be included in the screening criteria.<sup>41</sup> Consistent with s199 of the RMA, no NWCO has ever found swimming or walking to be outstanding values of any water body. They are human use values associated with water bodies, and may be of local importance but certainly nowhere are they “conspicuous, eminent and/or remarkable in the context of the Hawke’s Bay Region”.

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<sup>41</sup> Such as Kathryn Bayliss and Gerald Pain.

## 4. CONSIDERATION OF ALTERNATIVES

### Overview

- 4.1 In this section of our report we consider alternative approaches to making our recommendations on Proposed PC7. We are obliged to do so under the provisions of s32AA of the RMA.
- 4.2 We consider that there are five alternatives that we should address, which we do so in turn.
- a. Do nothing/take no action.
  - b. Evaluate the 38 water bodies identified in Proposed PC7 with no reference to the screening criteria promoted in the s42A report
  - c. Add further water bodies to those to be evaluated based on submissions made.
  - d. Adopt the screening criteria alone for determining which water bodies are outstanding – as per the s42A report.
  - e. Use the screening criteria, together with considering submissions, expert and lay evidence provided at the hearing to determine the OWB's in Hawke's Bay.

### Take No Action

- 4.3 We must evaluate the consequences of taking no action. This would not meet the requirements of the NPS-FM to identify and protect the values of outstanding water bodies in the Hawke's Bay Region. It would also involve rejecting a very large body of work carried out by the Council to identify OWB's over nearly 10 years (see Paragraphs 2.10 to 2.15 above). For these reasons, the take no action/do nothing alternative is unacceptable.

### Evaluate the Water Bodies listed in Proposed PC7 with no reference to other Criteria

- 4.4 As already discussed immediately above the proposed OWB's listed in Proposed PC7 had been through an exhaustive process using expert panels, input from tāngata whenua and judgments made by the Council.
- 4.5 However at the time Proposed PC7 was notified, there were no established set of criteria that could be used to determine if a given water body qualified as outstanding. The proposed 38 outstanding water bodies listed in Proposed PC7 were predominately based on the judgments of the expert panel, although we are confident that they had all been thoroughly considered through the process carried out by the Council.
- 4.6 A set of more objective screening criteria now exist that can be used to refine the water bodies listed in Proposed PC7 to those that are genuinely outstanding, and which represent "the best of the best" in the region. These criteria are based on well founded legal precedents, and their use is, in our view, a much better alternative than basing our decisions on the judgments of the expert panel. We discuss this further in Paragraphs 4.17 to 4.19 below.

## **Add Further Water Bodies to Schedule 25**

- 4.7 Submitters sought the addition of four further water bodies to Schedule 25 of Proposed PC7. We discuss these in turn.
- 4.8 Four submitters<sup>42</sup> sought that the Makaroro River be added to the Schedule. In particular Kathryn Bayliss and Gerard Pain asserted that river has a wide variety of characteristics that make it “outstanding”. These included “cultural and spiritual”; ‘ecology’ (for native birds, native fish, native plants, aquatic macroinvertebrates,); ‘landscape’ (scenic, natural characteristics); ‘natural character’; ‘recreation’; ‘geology’; and ‘historic’.
- 4.9 In support of an outstanding status for the values identified above, submitters have referred to ‘research and investigations’ undertaken during development of Change 6 with respect to the Ruataniwha Water Storage Scheme and the Board of Inquiry into the Tukituki Catchment Proposal.
- 4.10 The Makaroro River is located in Central Hawke’s Bay, flowing from the slopes of the Ruahine Range into the Waipawa River near the town of Tikokino.
- 4.11 The river was not one of the 42 water bodies considered by the expert panel, so it was not assessed for cultural and spiritual values. In our view the submissions did not substantiate that such values exist on the Makaroro River, and none of the submitters appeared at the hearing.
- 4.12 Similarly, no substantive evidence was provided in submissions that other values associated with the Makaroro River are outstanding. The only criteria that it could possibly meet would be for outstanding natural character and/or ecological values. However we agree with officers’ conclusion that it met none of the screening criteria (see Paragraphs 506 to 514 inclusive of the Officers’ Report). For these reasons we have not added the Makaroro River to Schedule 25.
- 4.13 Elizabeth Palmer of the Iwitea Marae sought the inclusion of the Mangapoike River, which is tributary of the upper Wairoa River, as having OWB status for cultural and spiritual values. While we acknowledge the importance of the river to the submitter, her submission did not provide sufficient evidence that the Mangapoike River has regionally outstanding cultural or spiritual values.
- 4.14 Gerard Pain also sought that Middle Stream and Smith Stream, which are both tributaries of the Waipawa River, be added to Schedule 25. His submission provided little substance to support the inclusion of these streams, and as he did not appear at the hearing to add weight to his submission, we have not added Middle Stream or Smith Stream to Schedule 25.
- 4.15 There were also two other submitter requests to include additional water bodies in Schedule 25. These were “all the water bodies above and below ground in the Wairoa District” and “all the tributaries that feed into the main rivers from (the) Ruahine and Kaweka Ranges.”
- 4.16 In both instances no substantive information was provided to support the assertions that the water bodies listed by submitters have outstanding values. The descriptions of

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<sup>42</sup> Dan Elderkamp only implied that the Makaroro River be added; the other submitter who sought its inclusion was Adrienne Tully.

them are unclear and very uncertain and what we might call “broad brush”. No one would know for certain where they are. For these reasons we cannot find these water bodies to be outstanding.

### **Adopt the Screening Criteria to determine which Water Bodies should be included in Schedule 25**

- 4.17 We have already discussed the screening criteria in Section 3 above, where we concluded that the screening criteria should be adopted as a “package” (with some modifications to the language to put it in a regional context) to assess more objectively which water bodies in the region qualify as outstanding.
- 4.18 Using these criteria alone the number of water bodies that the officers recommended unequivocally be included in Schedule 25 was 18. However, for reasons set out in the s42a report<sup>43</sup>, including to provide the opportunity for tāngata whenua submitters to present their evidence orally at the hearing, reporting officers did not make any recommendations around the cultural and spiritual value set for any of the 38 water bodies listed as outstanding in Proposed PC7. On this matter their report said they have not made any preliminary findings, but recommended that we further consider the evidence, particularly after hearing from relevant tāngata whenua. This was the approach we adopted.

### **Use the screening criteria, plus submissions, expert and lay evidence to determine the OWB’s in Hawke’s Bay**

- 4.19 This “alternative” is what we are obliged to adopt in making our decisions on Proposed PC7. Having decided that “take no action” is contrary to directions in the NPS-FM, that robust criteria as per the screening process are necessary to make our decision making more objective, that no other water bodies sought to be included in Schedule 25 qualify as “outstanding”, and so the screening criteria should be adopted (with a few modifications), we must take full account of submissions and evidence.

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<sup>43</sup> At Paragraphs 126 and 127.



## 5. OBJECTIVES AND POLICIES

### Overview

- 5.1 Proposed PC7 sought to change the policy framework in two sections of the RRMP. These were Chapter 3.1A, Integrated Land Use and Freshwater Management, and Chapter 3.2, The Sustainable Management of Coastal Resources. Essentially the changes proposed to the two chapters closely mirrored one another, but were far from identical as different resources are involved. The main focus of submitters and witnesses were the proposed changes to Chapter 3.1A.
- 5.2 We found the proposed changes to the policy framework in PC7 challenging to work through. There are two main reasons for this: first, the proposed changes have to “fit in” to the existing provisions of the RRMP, and this is by no means straightforward; and, second, while there appears to be considerable overlap between some of the policies, exclusions and management of specified resources ensure such overlap does not exist. We are however obliged to be consistent in our decision making, so words chosen in one set of provisions need to be included in following similar provisions.
- 5.3 Having said this, we deal with these two chapters in turn. After that we discuss the proposed amendments to the Glossary, which is Chapter 9 of the RRMP.

### Chapter 3.1A

- 5.4 Chapter 3.1A is an existing Chapter in the RMMP. Proposed PC7 sought to change this chapter to better reflect NPS-FM provisions regarding OWB's. More specifically it proposed to change RRMP Objective LW1 and Policies LW1, LW2, and add Policy LW3A, with associated changes to the Anticipated Environment Results and the explanations.
- 5.5 The s42A Officers' report assessed the submissions made on Chapter 3.1A, and recommended some significant changes from what was proposed in PC7.
- 5.6 During the course of the hearing we made it clear that there were further matters raised by submitters, particularly Pernod Ricard Winemakers, that we thought needed to be integrated into the Officers' recommendations on Chapter 3.1A. In particular we considered that recognition needed to be given to existing uses, and we sought advice from Ms Harper on how a pathway for existing consents to be replaced could be embedded into the policy framework.
- 5.7 On the final morning of the hearing Ms Harper helpfully tabled some significant amendments to what had been recommended in the Officers' report. It is against those amended recommendations that this assessment is made.

### Submissions and Evidence

- 5.8 There were a wide range of submissions on Chapter 3.1A. **General matters** raised on Proposed PC7 were:
- a. Referring to outstanding freshwater bodies rather than water bodies.
  - b. Adding additional, and amending objectives that focus on the improvement of mauri.

### *Findings*

- 5.9 As we said in Paragraph 3.30 above, “rivers and streams do not stop being “water bodies” when they enter the coastal environment. Their estuaries, lagoons and other water bodies within the coastal environment remain intrinsically linked to those rivers and streams. We see no reason why waters within the coastal environment should not be included as part of an outstanding river or stream.”
- 5.10 Additionally, we are required to give effect to the NZCPS 2010, particularly as the RCEP has not yet fully done so. We cannot do this effectively if coastal waters are excluded from OWB considerations. Nor would this give full effect to the provisions of the NPS-FM 2020.
- 5.11 Adding additional material on mauri to the policy framework in Chapter 3.1A is outside the scope of Proposed PC7.
- 5.12 For these reasons we reject these two submission points.
- 5.13 **Clause 1 of Objective LW1** was proposed to be modified in Proposed PC7. None of the other 14 clauses under Objective LW1 were proposed to be changed. This means we have no scope to make any changes to those other clauses.
- 5.14 At the hearing Genesis Energy put forward proposed additions to Clause 7 of Objective LW1. The exact same additions were similarly sought in Policy LW1.<sup>44</sup> While we doubt that these are within the scope of Proposed PC7, we do now discuss them.
- 5.15 The proposed additions read:
- 7A *Protecting the existing take, use, dam, divert and discharge of water for renewable energy generation;*
- 7B *Recognising the existing take and use of water for production and processing of beverages, food and fibre;*
- 5.16 The first of these amendments could only logically follow a finding that economic values are potentially “outstanding”, and so merit a high level of protection. As we have discussed in Paragraphs 3.76 to 3.82 above, there is neither precedent nor substantive evidence for finding economic values outstanding, so Clause 7A (and likewise identical or similar amendments proposed to Clauses in Policy LW1.1, in Policy LW2.1, and in Policy LW3A.1, and all similar amendments put forward by Genesis are rejected.
- 5.17 We also note that existing clause 7 of Objective LW1 already requires that the Council recognises “the potential national, regional and local benefits from the use of water for renewable energy generation”. In our view that is ample; as discussed above there is no case for protecting existing rights to take, use, dam or divert water for HEP generation.
- 5.18 As for proposed amendment 7B, the matters there are already largely covered in Clause 6 of Objective LW1, so it is redundant. The same finding applies where Genesis put forward similar amendments in conjunction with “protecting” HEP generation.

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<sup>44</sup> Similar amendments were also sought in other sections of the RRMP; these are discussed below.

5.19 Some submitters sought this clause continue to refer to outstanding water bodies in Hawke's Bay rather than in Schedule 25. The s42A report recommended that Objective LW1 be retained as notified. We agree with that as the clause needs to refer where that list of outstanding water bodies in the region can be found in the RRMP. Accordingly, this clause reads:

Protecting the outstanding and significant values of water bodies identified in Schedule 25;

5.20 Proposed PC7 included amendments to **Policy LW1**, which is headed "Problem solving approach – Catchment based integrated management".

5.21 Three amendments were proposed to be made to **Policy LW1.1**, which were to add a new clause cC and amend clauses d and dA).

#### *Findings*

5.22 One submitter sought amendments to Clause (b) to refer to mauri and Te Mana o te Wai. We cannot however amend Clause (b), as no changes to this sub-section were included in Proposed PC7.

5.23 Whether or not we refer to Te Mana o Te Wai in PC7 is perhaps more problematic. It is referred to in the NPSFM 2020 as a "fundamental concept", and Policy 1 and clause 3.2 require HBRC to "give effect to Te Mana o Te Wai." Our decisions on PC7 are required to give effect to this requirement, but this does not mean that express references must be made to Te Mana o Te Wai in specific provisions applying to OWB's. If we were to include references to Te Mana o Te Wai, these would only relate to the management of the OWB's listed in Schedule 25 and not freshwater in the region as a whole, as we do not have the scope to go beyond Proposed PC7.

5.24 We consider that giving effect to Te Mana o Te Wai is better incorporated into the Kotahi Plan, which must give full effect to the NPSFM and will cover the management of all freshwater resources in the region, rather than just a piecemeal approach to only the subset of those listed in Schedule 25 as OWB's. Furthermore, we are conscious of the requirements in clause 3.2 of the NPSFM 2020 to engage with communities and tāngata whenua to determine how Te Mana o Te Wai applies to water bodies and freshwater ecosystems in the region. For these reasons, this submission is rejected.

5.25 We consider that the proposed addition of Clause cC is now redundant here, as the process of identifying OWB's in the region has been undertaken in PC7, and refined substantially via the adoption of the screening criteria. The Officers' recommended that identifying the significant values of OWB's is best left to future regional plans, and so the direction in Clause cC is better placed in Clause 2 (bA)(i). We agree with that.

5.26 Clause d was proposed to be amended to protect the outstanding and significant values of those outstanding water bodies identified in Schedule 25.

5.27 The amendments to Clause dA were to provide consistency by referring to Schedule 25 and water bodies, rather than freshwater bodies. Elsewhere in this decision we have explained our reasons for agreeing to these proposed amendments.

5.28 **Policy LW1.2** is headed up "when preparing regional plans", and sets out a list of matters that must be considered at that time. In the context of PC7 it is a policy that we have some difficulty with because, as proposed to be amended by Proposed PC7, it

equates protection of significant values of OWB's with the protection of their outstanding values. Our view is that outstanding values merit a substantially higher level of protection than the protection to be afforded to significant values of OWB's.

- 5.29 Regional Council staff have informed us that the intention is to include significant values for all OWB's listed in Schedule 25 during the development of the Kotahi Plan. We support that approach.
- 5.30 In Paragraphs 3.6 to 3.17 above we have discussed at some length why we have prioritised protection of the outstanding values of OWB's above the protection of their significant values. The policy decisions listed below reflect that decision.
- 5.31 Another substantive concern we have about this policy is that it gave no greater weighting to existing activities than new activities. If an activity already exists, and the water body has outstanding values, then we cannot see strong reason why that activity should not be able to continue on similar conditions to what exist at present. New activities however should face higher threshold tests before any consents should be granted, as they could potentially jeopardise those outstanding values.
- 5.32 This was a matter highlighted in the submissions of Mr Hudspith, Counsel for Pernod Ricard Winemakers. While his focus was primarily on the TANK catchments, he did make the following comment:

*"In particular, given the emphasis of the OWB's provisions on protection rather than enhancement, it is not appropriate to require existing activities to avoid more than minor effects if they are able to continue without compromising the outstanding status of the water body".<sup>45</sup>*

- 5.33 These two guiding principles underlie our decisions on Policy LW1.2, which now reads in part:

- bA) In relation to any relevant outstanding water bodies identified in Schedule 25:
- i. Carry out an assessment which identifies the significant values of that outstanding water body. This assessment includes consideration of the values set out in Appendix 1a and Appendix 1b of the National Policy Statement for Freshwater Management 2020, and any other values that are determined to be relevant taking into account local and/or regional circumstances.
  - iA Identify the spatial extent of the outstanding values, and the significant values where relevant.
  - ii. Establish how the outstanding and significant values of outstanding water bodies will be protected by regulatory methods and/or non regulatory methods.<sup>5</sup>
  - iii. Include regional plan provisions to manage new activities in a manner which avoids adverse effects that are more than minor on the outstanding and significant values of outstanding water bodies; and

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<sup>45</sup> At his Paragraph 3.25.

- iv. Include regional plan provisions to manage existing activities in a manner which protects the outstanding and significant values of outstanding water bodies.
- 5.34 There are consequential changes to the Principal Reasons and Explanation of Policy LW1.2.
- 5.35 The next Policy proposed to be changed in PC7 is **Policy LW2, Problem Solving Approach – Prioritising Values**.
- 5.36 Policy LW2 is dependent on Policy LW1.3, which is not proposed to be changed in PC7.

*Discussion and Findings*

- 5.37 **Policy LW2.1** only applies to three catchment areas: the Greater Heretaunga /Ahuriri Catchment Area<sup>46</sup>, the Mohaka Catchment Area and the Tukituki Catchment Area, where the Officers say that “significant conflict exists between competing values”.<sup>47</sup> The policy does not apply anywhere else in the region, and is applicable to all water bodies in those catchments, not just the OWB’s.
- 5.38 As we explained in our **Minute 3** dated 27 April 2021 there had been an error in Proposed PC7 in that a very recently updated version of Policy LW2 had not been included in the proposed Plan Change. We observed that *“the intent and underlying direction set by Policy LW2 has not changed from the version used in Proposed PC7 to the now operative version; rather the wording has been reorganised so the Policy reads more clearly”*.
- 5.39 We attached our then proposed (but now finalised) changes to the operative version of Policy LW2 to show how little we believed the Policy needed to be changed for Plan Change 7. We gave submitters two weeks to comment.
- 5.40 No written comment was received in the two weeks provided for. One late comment was received<sup>48</sup> and we deal with that elsewhere in this decision.
- 5.41 The policy applies in two situations: when preparing regional plans, and when considering resource consents where no catchment based regional plan has been prepared. When considering resource consents, the clause has a sunset date, in that it does not apply after a catchment-based regional plan has been prepared for the relevant catchment.
- 5.42 Within this context two changes are proposed the existing priority list of values. These are by inserting references to protecting the outstanding values of any OWB in Schedule 25, and, separately, protecting the significant values of any OWB in Schedule 25.
- 5.43 In her evidence on behalf of Timberlands, Ms Robson raised concerns that the proposed amendments to Policy LW2, and the addition of proposed Policy LW3A introduces a “timing differential” as to when outstanding water bodies need to be considered through the consenting process. It is immediate for the three specified catchments, but will be delayed in all other catchments in the region.

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<sup>46</sup> i.e. the TANK Catchments.

<sup>47</sup> Officers’ report, Paragraph 332.

<sup>48</sup> Callum Beattie for Maungaharuru-Tangitū Trust.

- 5.44 The differences relate to the staged catchment planning processes undertaken by the Council, which is certainly not something we can change. The Tukituki catchment is managed under the auspices of operative Plan Change 6. The TANK catchments are subject to Proposed Change 9, which hearings commenced in June 2021. The Mohaka catchment will be considered as part of the Council's Kotahi programme that seeks to meet the requirements of the NPS-FM 2020.
- 5.45 Ms Robson was also concerned that the additions to Policy LW2.1(c) may significantly broaden the number and range of activities for which the effects on OWB's must be considered. We do not consider that to be the case.
- 5.46 There were no other submissions within scope that suggested significant changes to the proposed policy which now reads:

**POLICY LW2 Problem solving approach - Prioritising values**

Subject to achieving Policy LW1.2 and Policy LW1.3:

1. Give priority to maintaining, or enhancing where appropriate, the primary values and uses of freshwater bodies shown in Table 2A for the following catchment areas<sup>1</sup> in accordance with Policy LW2.3:
    - a) Greater Heretaunga / Ahuriri Catchment Area;
    - b) Mohaka Catchment Area; and
    - c) Tukituki Catchment Area.
  - 1A. Policy LW2.1 applies:
    - a) when preparing regional plans for the catchments specified in Policy LW2.1; and
    - b) when considering resource consents for activities in the catchments specified in Policy LW2.1 when no catchment-based regional plan has been prepared for the relevant catchment.
  2. In relation to catchments not specified in Policy LW2.1 above, the management approach set out in Policy LW1.1, Policy LW1.2, Policy LW1.3 and Policy LW1.4 will apply.
  - 2A. In relation to values not specified in Table 2A, the management approach set out in Policy LW1.1, Policy LW1.2, Policy LW1.3 and Policy LW1.4 will apply.
  3. When managing the fresh water bodies listed in Policy LW2.1:
    - a) recognise and provide for the primary values and uses identified in Table 2A; and
    - b) have particular regard to the secondary values and uses identified in Table 2A.
  4. Evaluate and determine the appropriate balance between any conflicting values and uses within (not between) columns in Table 2A, using an integrated catchment-based process in accordance with Policy LW1.1, Policy LW1.2, Policy LW1.3 and Policy LW1.4 or when considering resource consent applications where no catchment-based regional plan has been prepared.
- 5.47 To provide clarity for plan readers, the Principal Reasons and Explanations for Policy LW2 have been amended to help give effect to the OWB provisions in the NPSFM. The new text reads:

Policy LW2 is subject to Policy LW1.2, which provides clear guidance that the outstanding and significant values of OWB's will need to be protected when developing future plans.

- 5.48 Proposed PC7 sought to add a new **Policy LW3A**, which was headed up "Decision Making Criteria – Outstanding Water Bodies". The decision making criteria listed are for resource consent applications.

#### *Discussion and Findings*

- 5.49 The policy as proposed did not differentiate between resource consent applications sought for existing activities, and applications sought for new activities.
- 5.50 As we have already discussed in Paragraphs 5.31 and 5.32 above, submitters had raised concerns about how regional plan provisions would treat applications to replace existing activities versus applications for new activities. We made provision for a differentiation to be made between existing and new activities in regional plans in Policy LW1.2.
- 5.51 If we are to be consistent then a similar differentiation should be made in Policy LW3A. However there are no submissions that ask directly for such changes; rather they are implied in submissions and evidence. For example, Dr Mitchell said in his evidence that (in reference to regional plan provisions):

*"the requirement to avoid adverse effects is problematic in my opinion. In the case of the WPS (Waikaremoana Power Scheme) it is uncertain how effects on the currently identified outstanding values of Lake Waikaremoana and the Waikaretaheke River....can be avoided with the WPS operational".<sup>49</sup>*

- 5.52 Mr St Clair for Pernod Ricard also sought changes to Policy LW3A that would differentiate between existing and new activities.<sup>50</sup>
- 5.53 At the hearing we made it clear that we believed there was a strong case for separate criteria for resource consent decision making for existing activities on or within OWB's, and new activities. In response to this, Ms Harper at the hearing tabled proposed amendments to Policy LW3A that included a new Policy LW3B. In short, while there is significant overlap between the two policies, LW3A now deals only with **new activities** in or that affect an OWB listed in Schedule 25, whereas LW3B deals with **existing activities** in those Schedule 25 OWB's.
- 5.54 The decision making criteria in these two instances are different, and we consider that is entirely appropriate. For these reasons Policy LW3A has been split into two policies and now reads:

#### **Policy LW3A Resource Consent Decision Making Criteria – Outstanding Water Bodies Identified in Schedule 25 (new activities)**

1A Policy LW3A applies where the activity does not meet Policy LW3B.1.

1. In relation to those types of activities identified in Policy LW3A.2, once the relevant catchment based regional plan change<sup>s</sup> is operative or after 31 December 2025,

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<sup>49</sup> At his Paragraph 49.

<sup>50</sup> At Paragraphs 9.1 -9.6 of his amended evidence.

whichever is sooner, a consent authority must take into account:

- a. the extent to which the activity may adversely affect the outstanding value(s) identified in Schedule 25 of the relevant outstanding water body; and
  - b. the extent to which the activity may adversely affect the significant values (if any) identified in Schedule 25 of the relevant outstanding water body; and
  - c. whether, in order to protect the water body's outstanding values and significant values:
    - i. the location of the proposed activity is appropriate; and
    - ii. if time limits, including seasonal, or other limits on the activity may be appropriate.
  - d. If there is a conflict between protecting an outstanding and a significant value of the same water body, protection of the outstanding value must be given preference.
2. Policy LW3A only applies to the following activities classified as a discretionary activity or a non-complying activity by a rule in a regional plan (but not a regional coastal environment plan)<sup>9a</sup>:
- a. a take, use, damming, or diversion of water from an outstanding water body.
  - b. a discharge of a contaminant into an outstanding water body.
  - c. a discharge of a contaminant onto or into land in circumstances that may result in that contaminant (or, as a result of any natural process from the discharge of that contaminant, any other contaminant) entering an outstanding water body.
  - d. a land use consent for any new structure in, on, under or over the bed of an outstanding water body.
  - e. a land use consent for any new or increased disturbance of the bed of an outstanding water body that is not already authorised by a current land use consent.
3. Policy LW3A only applies in the following circumstances:
- a. where the outstanding value(s) of the outstanding water body is identified in Part 3 of Schedule 25; and/or
  - b. where the significant value(s) of the outstanding water body is identified in Part 3 of Schedule 25.

### **Policy LW3B Resource Consent Decision Making Criteria – Outstanding Water Bodies Identified in Schedule 25 (existing activities)**

1. Policy LW3B applies in the following circumstances:
  - a. The activity was a permitted activity in the regional plan as at 31 August 2019, or
  - b. The activity was authorised by a resource consent prior to 31 August 2019 and the holder of the consent applies for a new consent for the same activity.
2. In relation to those types of activities identified in Policy LW3B.3, once the relevant catchment based regional plan change<sup>9</sup> is operative or after 31 December 2025, whichever is sooner, a consent authority must take into account:
  - a. The extent to which the outstanding value(s) of the relevant outstanding water body, identified in Schedule 25, are present in the same state as at 31 August 2019.



- b. If the outstanding value(s) of the relevant outstanding water body, identified in Schedule 25, are present in the same state as at 31 August 2019, the extent to which the activity, and any conditions imposed on it, results in effects that are the same or similar in character, intensity, and scale to those arising from or associated with the existing activity.
  - c. If the outstanding value(s) of the relevant outstanding water body, identified in Schedule 25, are in a worse state than as at 31 August 2019:
    - (i) the extent to which the activity is adversely affecting the outstanding value(s) either on its own or cumulatively; and
    - (ii) the extent to which conditions can be imposed to limit the adverse effects of the activity (if any) on the outstanding values of the relevant outstanding water body, identified in Schedule 25.
3. Policy LW3B only applies to the following activities classified as a discretionary activity or a non-complying activity by a rule in a regional plan (but not a regional coastal environment plan)<sup>9b</sup>:
- a. a take, use, damming, or diversion of water from an outstanding water body.
  - b. a discharge of a contaminant into an outstanding water body.
  - c. a discharge of a contaminant onto or into land in circumstances that may result in that contaminant (or, as a result of any natural process from the discharge of that contaminant, any other contaminant) entering an outstanding water body.
  - d. a land use consent for a structure in, on, under or over the bed of an outstanding water body.

5.55 There are consequential changes to the Principal Reasons and Explanation of Policy LW3A (now LW3A and LW3B) and to the Anticipated Environment Results of implementing these policies.

*S32AA Analysis*

5.56 The policy differentiation between existing and new activities clearly has benefits for existing consent holders because it gives them more certainty that they will be able to replace current resource consents authorising various activities in OWB's on similar terms and conditions. It is appropriate to recognise that if a water body is outstanding with the consented activity present, it may be that the existing activity is not significantly affecting the outstanding values of the water body. This provision was not provided for in Proposed PC7, and for existing consent holders the new policy framework we have adopted is clearly more efficient and effective.

**Chapter 3.2**

5.57 As already described Chapter 3.2 of the RRMP deals with the sustainable management of coastal resources, and many of the changes proposed therein mirror proposed changes to Chapter 3.1A, but refer explicitly to the coastal environment. The changes proposed to this Chapter drew less submissions than did those to Chapter 3.1A.

5.58 We have previously decided that waters in the coastal environment cannot be separated from their freshwater sources on either ecological or policy grounds, and so OWB's can extend into the coastal environment (see Paragraphs 3.29 to 3.32 above).

### *Discussion and Findings*

- 5.59 With this context in mind we now discuss the proposed changes to Chapter 3.2. In doing so we will not repeat what we have already addressed but rather refer to those previous discussions.
- 5.60 Before starting that discussion we need to address a submission made by a collective of forestry companies<sup>51</sup> who sought that all of Proposed PC7 as it related to the coastal environment be deleted, and that a variation be introduced to PC7 which includes new objectives and policies which give effect to Policies 11, 13, 15 and 17 of the NZCPS, and apply to those estuaries identified in Schedule 25.
- 5.61 That would be a very cumbersome process for a plan change that has been the best part of a decade in the making. It would put on hold on the rest of PC7 as a policy framework for the coastal environment is an essential component of PC7, particularly as we have decided that PC7 must give effect to the NZCPS 2010. Accordingly, we have decided to include the matters raised by the forestry companies in our decisions on Chapter 3.2 of the RRMP.
- 5.62 The first proposed change is to **Objective 11**. It mirrors the changes to Objective LW1 of Chapter 3.1A and so reads:
- Protection of the outstanding and significant values of those outstanding water bodies within the Coastal Environment identified in Schedule 25.
- 5.63 There are associated changes to the explanation and reasons section.
- 5.64 Proposed PC7 sought to include two new policies to cover the management of those parts of OWB's that are within the coastal environment. These were:
- Policy C1**, headed "Problem solving approach – outstanding water bodies", which mirrored proposed changes to Policy LW1, and covered regional planning
- Policy C2**, headed Decision making criteria – outstanding water bodies which similarly mirrored the proposed new Policy LW3A
- 5.65 In their additional report dated 2 December 2020 the officers additionally recommended amending Policy C2 and adding a new **Policy C3**, to mirror changes to Policies LW3A, which is (now) Policies LW3A and LW3B.
- 5.66 When we use the word "mirror" in the above sections, Policies C1 and C2 did use near identical wording to Policies LW1 and LW3A in Proposed PC7. At that stage there was no proposed policy equivalent to what was then Policy LW3A.

### *Discussion and Findings*

- 5.67 Submitters sought changes to the proposed policies. Most of these were specific to various clauses, and we have addressed them in our decisions on submissions. However, as already discussed in Paragraphs 5.60 to 5.61 above, a collective of forestry companies sought that all of proposed PC7 as it related to the coastal environment be deleted, and that a variation be introduced to PC7 which includes new objectives and policies which

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<sup>51</sup> These were Earnslaw 1 Ltd, the Hawke's Bay Forestry Group, Pan Pac Forest Ltd, Rayonier Matariki and Timberlands Ltd.

give effect to Policies 11,13,15 and 17 of the NZCPS, and apply to those estuaries identified in Schedule 25. As we have already said, we do not accept this submission point.

- 5.68 In their additional report to us dated 2 December 2020, the officers recommended substantial amendments to Policies C1 and C2 as set out in Proposed PC7, and additionally recommended that we consider a new Policy C3. The amendments to Policies C1 and C2 reflect our decisions on Policies LW1 and (to a small extent) LW2, and also incorporate references to the relevant policies of the NZCPS. Policy C3 was not included in Proposed PC7, but reflects our decisions on Policies LW3A and LW3B.
- 5.69 For these reasons we have decided that the wording of Policies C1, C2 and C3 should be as follows:

**POLICY C1 Problem solving approach – outstanding water bodies in the coastal environment**

1. When preparing regional plans, in relation to any relevant outstanding water bodies identified in Schedule 25:
  - (a) Apply Policy LW1.2(bA)(i), (iA) and (ii).
  - (b) include provisions to manage new activities in a manner which:
    - (i) avoids adverse effects on the outstanding and significant indigenous biological diversity (biodiversity) values of an outstanding water body, that are identified in Schedule 25 and meet the description(s) set out in Policy 11(a) of the New Zealand Coastal Policy Statement 2010; and
    - (ii) avoids adverse effects on outstanding natural character, outstanding natural features and outstanding natural landscape values of an outstanding water body identified in Schedule 25 to give effect to Policies 13.1(a) and 15(a) of the New Zealand Coastal Policy Statement 2010; and
    - (iii) avoids adverse effects that are more than minor on any other outstanding and significant values identified in Schedule 25.
  - (c) Include provisions to manage existing activities in a manner which:
    - (i) avoids adverse effects on the outstanding and significant indigenous biological diversity (biodiversity) values of an outstanding water body, that are identified in Schedule 25 and meet the descriptions set out in Policy 11(a) of the New Zealand Coastal Policy Statement 2010; and
    - (ii) avoids adverse effects on outstanding natural character, outstanding natural features and outstanding natural landscape values of an outstanding water body identified in Schedule 25 to give effect to Policies 13.1(a) and 15(a) of the New Zealand Coastal Policy Statement 2010; and
    - (iii) protects any other outstanding and significant values of outstanding water bodies identified in Schedule 25.

**Policy C2 Resource Consent Decision Making Criteria – Outstanding Water Bodies Identified in Schedule 25 in the coastal environment (new activities)**

- 1A Policy C2 applies where the activity does not meet Policy C3.
1. In relation to those types of activities identified in Policy C2.2, once the relevant catchment based regional plan change<sup>11</sup> is operative or after 31 December 2025, whichever is sooner, a consent authority must take into account:
    - a. the extent to which the activity may adversely affect outstanding value(s) identified in Schedule 25 of the relevant outstanding water body.
    - b. the extent to which the activity may adversely affect the significant values (if any) identified in Schedule 25 of the relevant outstanding water body.
    - c. whether, in order to protect the water body’s outstanding values and significant values:
      - i. the location of the proposed activity is appropriate; and
      - ii. if time limits, including seasonable or other limits on the activity may be appropriate.
    - d. If there is a conflict between protecting an outstanding and a significant value of the same water body, protection of the outstanding value must be given preferential protection.
    - e. If adverse effects from the activity on the outstanding and significant value(s), of the relevant outstanding water body, can be avoided pursuant to Policies 11(a), 13.1(a) and 15(a) of the New Zealand Coastal Policy Statement 2010 in the following instances:
      - (i) where the outstanding and/or significant values, identified in Schedule 25, meet the indigenous biological diversity (biodiversity) values description(s) set out in Policy 11(a) of the New Zealand Coastal Policy Statement 2010; and/or
      - (ii) where the outstanding values, identified in Schedule 25, are outstanding natural character, outstanding natural features or outstanding natural landscape values.
  2. Policy C2 only applies to the following activities classified as a discretionary activity or a non-complying activity by a rule in a regional coastal environment plan:
    - a. a take, use, damming, or diversion of water from an outstanding water body.
    - b. a discharge of a contaminant into an outstanding water body.
    - c. a discharge of a contaminant onto or into land in circumstances that may result in that contaminant (or, as a result of any natural process from the discharge of that contaminant, any other contaminant) entering an outstanding water body.
    - d. a land use consent for any new structure in, on, under or over the bed of an outstanding water body.
    - e. a land use consent for any new or increased disturbance of the bed of an outstanding water body that is not already authorised by a current land use consent.
  3. Policy C2 only applies in the following circumstances:
    - a. Where the outstanding value(s) of the outstanding water body is identified in Part 3 of Schedule 25; and/or

- b. where the significant value(s) of the outstanding water body is identified in Part 3 of Schedule 25.

**Policy C3 Resource Consent Decision Making Criteria – Outstanding Water Bodies Identified in Schedule 25 in the coastal environment (existing activities)**

1. Policy C3 applies in the following circumstances:
  - a. The activity was a permitted activity in the Regional Coastal Environment Plan as at 31 August 2019, or
  - b. The activity was authorised by a resource consent prior to 31 August 2019 and the holder of the consent applies for a new consent for the same activity.
2. In relation to those types of activities identified in Policy C3.3, once the relevant catchment based regional plan change is operative<sup>12</sup> or after 31 December 2025, whichever is sooner, a consent authority must take into account:
  - a. The extent to which the outstanding value(s) of the relevant outstanding water body, identified in Schedule 25, are present in the same state as at 31 August 2019.
  - b. If the outstanding value(s) of the relevant outstanding water body, identified in Schedule 25, are present in the same state as at 31 August 2019 the extent to which the activity, and any conditions imposed on it, results in effects that are the same or similar in character, intensity, and scale to those arising from or associated with the existing activity, except in the case of Policy C3.2(d).
  - c. If the outstanding value(s) of the relevant outstanding water body, identified in Schedule 25, are in a worse state than as at 31 August 2019:
    - (i) the extent to which the activity is adversely affecting the outstanding value(s) either on its own or cumulatively; and
    - (ii) the extent to which conditions can be imposed to limit the adverse effects of the activity (if any) on the outstanding values of the relevant outstanding water body, identified in Schedule 25, except in the case of Policy C3.2(d).
  - d. If adverse effects from the activity on the outstanding and significant value(s), of the relevant outstanding water body, can be avoided pursuant to Policies 11(a), 13.1(a) and 15(a) of the New Zealand Coastal Policy Statement 2010 in the following instances:
    - (i) where the outstanding and significant values, described in Schedule 25, meet the indigenous biological diversity (biodiversity) values description(s) set out in Policy 11(a) of the New Zealand Coastal Policy Statement 2010; and/or
    - (ii) where the values, described in Schedule 25, are outstanding natural character, outstanding natural features or outstanding natural landscape values.
3. Policy C3 only applies to the following activities classified as a discretionary activity or a non-complying activity by a rule in a regional coastal environment plan:
  - a. a take, use, damming, or diversion of water from an outstanding water body.
  - b. a discharge of a contaminant into an outstanding water body.
  - c. a discharge of a contaminant onto or into land in circumstances that may result in that contaminant (or, as a result of any natural process from the discharge of that contaminant, any other contaminant) entering an outstanding water body.

- d. a land use consent for a structure in, on, under or over the bed of an outstanding water body.
- 5.70 There are consequential changes to the Principal Reasons and Explanation of Policies C2 and C3 and to the Anticipated Environment Results of implementing these policies.

### **Glossary**

- 5.71 Proposed PC7 sought to amend the Glossary in Chapter 9 of the RRMP by including definitions of “outstanding water body” and “outstanding”.
- 5.72 We have previously discussed some of the issues raised by submitters about the proposed definitions. Federated Farmers for instance sought that to be outstanding a water body must have more than one outstanding value, but for the reasons given in Paragraphs 3.18 and 3.19 above we do not agree with that. Similarly, Federated Farmers sought to have “outstanding” defined on a national basis; however given the NPS-FM directs Councils to specify OWB’s in their regions, it follows logically that the water bodies be regionally outstanding as a separate NWC0 process is available nationally. In this context we also note that the proposed definition of “outstanding” is based on case law from Court decisions on NWC0s, albeit modified to fit in to a regional context.
- 5.73 Genesis Energy sought that the word “existing” be defined in relation to existing lawful uses of OWB’s. We do not think that is necessary, as it is well established in case law.
- 5.74 Other submitters, such as Director General of Conservation, Trustpower and Forest and Bird supported the definitions as proposed in PC7.
- 5.75 We see no good reason to change the new definitions proposed, and so they will read:

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

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

## 6. DECISIONS ON PROPOSED OUTSTANDING WATER BODIES IN HAWKE'S BAY

### Overview

- 6.1 We now come to our decisions on each of the 38 proposed OWB's listed in the Proposed PC7, and which of those qualify as being outstanding and so are included in Schedule 25. Before starting on that however, we want to reiterate a number of our earlier decisions as they set the context for the upcoming discussion:
- a. To qualify as outstanding a water body must clearly and unambiguously meet at least one of the screening criteria that we have decided to adopt to determine what are truly OWB's in the Hawke's Bay Region.
  - b. OWB's must be conspicuous, eminent and/or remarkable in the context of the Hawke's Bay Region. For this reason, the screening criteria must be applied strictly, and if there are any "grey" areas, we will take a conservative view and not declare that value and/or water body outstanding.
  - c. An OWB can be part of a water body, and can include waters in the coastal environment. In this same context we must give effect to the NZCPS 2010, particularly as the current iteration of the RCEP does not yet fully do so.
  - d. We will discuss retaining the significant values in three water bodies listed in Schedule 25 (these being the Kaweka Lakes, the Ngamatea East Swamp and the Taruarau River.) A column headed "significant values" has to be provided for all other outstanding water bodies listed in Schedule 25, as we understand the intention is to populate it in due course.
- 6.2 There are two other matters that we want to address at this time. First, Proposed PC7 included detailed descriptions of each of the 38 water bodies listed in proposed Schedule 25. While we believe some description is essential, we do not consider that it needs to be as long as those in the proposed plan change. We have accordingly significantly cut down each of those descriptions to what we consider to be their core elements.
- 6.3 Second, some submitters sought that we provide detailed maps of each OWB. We do not think that is necessary for lakes and wetlands. In rivers we have referred to the reaches to be protected by landmarks such as bridges or other recognisable features. Instead, we consider a map showing indicative locations of all 15 water bodies that we have concluded are outstanding is sufficient. That map on a single page is included in Schedule 25.

### General Submissions

- 6.4 There were a number of general submissions on the proposed OWB's listed in Proposed PC7 for inclusion in Schedule 25 of the RRMP. These submissions were discussed in Paragraphs 427 to 457 of the Officers' report. Most are matters that we have already addressed, particularly that outstanding values can apply to part or all of any given water body, and that modified environments can have outstanding values and so qualify as OWB's.
- 6.5 Ngāti Kahungunu Iwi Incorporated, Te Manaaki Taiao, Te Rūnanganui o Heretaunga and Te Taiwhenua o Heretaunga jointly submitted on Proposed PC7 requesting 'Kohanga ika'; 'Mahinga mataitai'; 'Nohoanga/Pahi' be added as outstanding values to all estuaries, coastal lagoons and wetlands.

- 6.6 No substantive evidence was provided to us to support this submission, and none of these parties attended the hearing, and so we could not question them about this or other matters. For these reasons this submission point is not accepted for any OWB.
- 6.7 In their submission Brownrigg Agriculture opposed 29 of the OWB's listed in Proposed PC7 being included in Schedule 25. At the same time, they sought that any water bodies not "quite of the ordinary on a regional basis" in Hawke's Bay be deleted from Schedule 25. While most of the water bodies they sought be excluded from the schedule have been, there are seven instances where water bodies they sought be excluded clearly have outstanding characteristics or values, and so are listed in Schedule 25. As no substantive evidence was provided to support all but one of these submissions, we do not discuss them any further. The exception is Lake Poukawa and the Pekapeka Swamp, where some detailed information was provided.
- 6.8 One matter raised in those submission points is that OWB's that have similar outstanding characteristics to other outstanding OWB's should not be included in Schedule 25. This would be inconsistent with the screening criteria that we have adopted, and would involve taking a comparative approach to OWB's that meet one or more of those criteria, which we do not generally consider appropriate. Such an approach would also be highly inconsistent with the findings for NWCOS where in two instances adjacent rivers with similar values are protected by NWCOS.<sup>52</sup>
- 6.9 We will deal with the rivers, lakes and streams in the same order as in the Officers' report. In that report 18 of the 38 proposed OWB's were firmly recommended for retaining in Schedule 25. However, no firm recommendation was made for the other 20 water bodies; rather the officers said they should only be included in Schedule 25 if there was strong evidence of outstanding cultural and spiritual values.
- 6.10 Of the 38 proposed OWB's listed in Proposed PC7, after hearing submissions and considering the evidence presented to us, we have found 15 of those water bodies clearly and unambiguously meet one or more of the assessment criteria and so qualify as OWB's in the Hawke's Bay Region. They are now discussed individually, together with detailed reasons why we have found them outstanding, and what characteristics or values we have found to be outstanding. Our intention is that the associated tables for each OWB can be transposed directly into Schedule 25 of the RRMP.
- 6.11 The remainder, which we have found do not qualify as outstanding, are discussed briefly in Section 7 of our report.

### **Lakes Rotoroa and Rototuna (the Kaweka Lakes)**

- 6.12 These two lakes were discussed in Report 7.5 of the Officers' Report. No submitter opposed their inclusion in Schedule 25. They have both outstanding and significant values listed in Proposed PC7, with the outstanding values being cultural, spiritual, ecology and natural character.
- 6.13 These two lakes are located in the Kaweka Forest Park and were formed thousands of years ago by streams being dammed by a large slip. The lakes are surrounded by indigenous vegetation with no sign of human modification. The local expert panel considered they have outstanding natural character, and we agree that they are in an

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<sup>52</sup> These are the Rakaia and Rangitata Rivers in Canterbury, and the Mataura and Oreti Rivers in Southland.



unmodified state in a largely indigenous landscape and so are remarkable in the context of the Hawke's Bay Region.

- 6.14 Both lakes have outstanding ecological values. Lake Rototuna is the best example of a water body that remains in an all native vegetated state, and supports the best composition of aquatic plants in the region, three of which are nationally endangered.
- 6.15 Lake Rotoroa is thought to have a similar native aquatic plant community, but there is no evidence to show it has the same values as that in Lake Rototuna. It also has a large population of land-locked koaro, and long finned eels are thought to be present in the catchments of both lakes.
- 6.16 There is no evidence that these lakes have outstanding or significant cultural and spiritual values or activities. Nor do we have evidence that they have significant indigenous bird populations or mahinga kai. We are not clear what significant hydrological characteristics exist on these lakes either, and the two other potential significant values – indigenous fish and aquatic plant populations are clearly outstanding values of one each of these lakes. For these reasons we have deleted the significant values listed for the Kaweka Lakes in Proposed PC7, and left this column unpopulated.
- 6.17 Accordingly, we find that both the Kaweka Lakes have outstanding natural character, Lake Rototuna has an outstanding indigenous aquatic plant community; and Lake Rotoroa has an outstanding indigenous fish community, but do not have any additional significant values. They are listed in Schedule 25 as follows:

Lakes Rotoroa and Rototuna (the Kaweka Lakes). These lakes are situated in the Kaweka Forest Park, with no sign of human modification and surrounded by indigenous vegetation.	Outstanding Characteristics or Values
Both Lakes Rotoroa and Rototuna	Natural Character
Lake Rototuna	Habitat for Indigenous Aquatic Plant Community
Lake Rotoroa	Habitat for Native Fish Community

**Lake Tūtira (including Lake Waikōpiro) and Aropaoanui/Arapawanui River)**

- 6.18 These were discussed in Report 7.7 of the Officers' Report. They were listed in Proposed PC7 as having outstanding cultural and spiritual values. A local farmer, Mr Bryce Donovan appeared at the hearing and opposed the inclusion of the Papakiri Stream in PC7.
- 6.19 Lake Tūtira is located alongside SH2 north of Napier. It is surrounding by a wildlife reserve, a regional park and private land, including farm land. Lake Tūtira is a popular trout fishery and stocked annually with rainbow and brown trout. Fish and Game submitted that Lake Tūtira was an outstanding trout fishery, but no evidence was provided to support this submission.
- 6.20 Lake Tūtira is currently in a degraded state and suffers from frequent algae blooms which impacts on its water quality. The lake has been artificially oxygenated at times, and ongoing work is being carried out to help restore the lake.

- 6.21 Lake Waikōpiro lies adjacent to Lake Tūtira, flowing into Lake Tūtira under a narrow strip of land. The two lakes are effectively one during high water levels, and are considered as one in this decision.
- 6.22 The Maungaharuru-Tangitu Trust gave evidence that the Aropoanui/Arapawanui River was their most significant awa. While we acknowledge its value to the hapu, it does not meet the screening criteria for having outstanding cultural and spiritual values.
- 6.23 The Papakiri Stream was diverted away from Lake Tūtira in 1982 due to it being the main supply of sediment and nutrients during storms. The Maungaharuru-Tangitū Trust also sought the inclusion of the Mahiaruhe Stream and the Waikoau River (which is the outlet of the lake) as part of the wider catchment of the lake. We heard no convincing evidence however that any of these water bodies have outstanding values, and so are not included in Schedule 25.
- 6.24 Lake Tūtira is a taonga of Ngāti Kurumōkihi. The physical and spiritual well-being of the hapū is closely linked to the well-being of the lake. It was celebrated as a place of sustenance to replenish one’s mind, body and soul. The hapū have a whakatauākī (tribal proverb) about the lake, referring to Tūtira as ‘ko te waiu o tatou tipuna’
- 6.25 The Maungaharuru-Tangitū Trust appeared at the hearing and gave what we found persuasive evidence of the cultural and spiritual values associated with Lake Tūtira. In particular we observe that:
- a. The area around the lake was intensively occupied with two fortified pa sites. Many battles were fought there, including against Tuhoe, Te Urewera, Ngāti Pahuwera and Ngāti Raukawa (who were originally from South Waikato).
  - b. The lake was a major source of kai, particularly tuna, and there were abundant flax swamps to the north.
  - c. The lake was a central hub of well used tracks that linked the north of the region to the south.
- 6.26 We conclude that Lake Tūtira (including Lake Waikōpiro) has outstanding cultural and spiritual values because it is significant to a number of iwi groups, and particularly because their inclusion is supported by the descendant group most closely associated with the lake. It is listed in Schedule 25 as follows:

Lake Tūtira (including Lake Waikōpiro)	Outstanding Characteristics or Values
Lake Tūtira is located beside SH2 north of Napier. Water quality in the lake is degraded, and various attempts have been made to improve it. Two fortified pa at the lake, which was a taonga, a highly valued source of kai and the scene of many battles.	Cultural and Spiritual Values

### Lake Waikaremoana

- 6.27 Lake Waikaremoana is discussed in Report 7.9 of the Officers’ Report. No party provided substantive reasons why it should not be included in Schedule 25. Genesis Energy sought that the Waikaremoana Power Scheme be listed as an outstanding value of the lake, but for the reasons given in Paragraphs 3.76 to 3.82 above we have refused all

submissions seeking that economic uses of water be an outstanding value of any water body listed in Schedule 25.

- 6.28 Proposed PC7 listed cultural, spiritual, ecology, natural character, landscape and geology, and recreation as outstanding features or characteristics of Lake Waikaremoana.
- 6.29 Lake Waikaremoana, was created around 2,200 years ago when a wedge of sandstone blocked the course of the Waikaretaheke River, and is the largest debris dammed lake in the region. It is the North Island's deepest lake, and Hawke's Bay's largest lake. We find it has outstanding landscape values.
- 6.30 The waters of Lake Waikaremoana are regarded as a taonga to Ngāi Tūhoe, Ngāti Ruapani and Ngāti Kahungunu. Ngāti Tāmanuhiri also have ancestral and customary connections with the lake. The lake is an important taonga, with many pā, urupā and wāhi tapu sites located around its edge. It was the scene of many battles.
- 6.31 The local expert panel found Lake Waikaremoana to have known outstanding cultural and spiritual values, specifically noting Wairuatanga, Rangātiratanga, Whakapapa and Cultural Natural Character.
- 6.32 The Waikaremoana Tribal Authority, which represents some hapū of Waikaremoana and the whānau that whakapapa to them, opposes the inclusion of Lake Waikaremoana in PC7. Ngāi Tūhoe has previously stated opposition to the identification of OWB in Hawke's Bay and has not participated in the PC7 process.
- 6.33 Accordingly we do not find that Lake Waikaremoana has outstanding cultural and spiritual values, because their identification is not supported by the descendant groups most closely associated with the water body.
- 6.34 Lake Waikaremoana supports a very high diversity of native aquatic plant species, with 22 species recorded. It is one of the best examples of diverse aquatic vegetation in a large, deep, clear lake in the North Island. The lake supports indigenous turf communities with high native species diversity, with a native charophyte community forming extensive underwater meadows, including a nationally rare species. This is reflected in the lake having the highest Native Condition Index (NCI) in the region, measured at 86% in 2003, 85% in 2008 and 77% in 2013. We find it has outstanding aquatic native plant communities.
- 6.35 Human modification is limited to tracks and huts around the lake, and a road on its eastern side, together with some management of lake levels for HEP generation. Despite this we find the lake has outstanding natural character. It is set in Te Urewera and is a large clear lake with sparkling blue waters in an impressive and remote natural setting among native forest and mountain ridges.
- 6.36 Lake Waikaremoana is renowned for its range of recreation activities which take place in a remote natural environment with exceptional scenery and clear pristine water. The lake is used all year round for various activities, including angling, swimming and boating, with a number of commercially run canoeing and kayaking trips in this area. The lake's recreation values are consistently recognised as outstanding in past publications, and it is particularly valued as a trout fishery. It also forms the basis of one of New Zealand's Great Walks, which are premier tracks scattered in the most impressive and remote natural environments across the country. We find it to have outstanding recreational values.

- 6.37 In summary, we find Lake Waikaremoana to be the most outstanding water body in the region. It is simply “the best of the best.” We find that Lake Waikaremoana has outstanding aquatic plant habitat, wild and scenic values, natural character, landscape and recreational values and is included in Schedule 25 as follows:

Lake Waikaremoana	Outstanding Characteristics or Values
Lake Waikaremoana is a debris dammed lake located in Te Urewera. It is the deepest lake in the North Island, and the largest in the region. It has exceptional water quality, a high diversity of native aquatic plant species, is popular for recreational activities including angling and boating, and forms the focus of one of NZ’s great walks.	Ecology, specifically habitat for aquatic native plant communities Landscape (wild and scenic) values Natural Character Recreation (central focus of a Great Walk)

### Lake Whakakī – Te Paeroa Lagoon – Wairau Lagoon and Wetlands

- 6.38 These were discussed in report 7.10 of the Officers’ Report. They were listed in Proposed PC7 as having outstanding cultural, spiritual and ecological values. No submitter provided any substantive reasons why they should not be included in Schedule 25.
- 6.39 Whakakī Lake is the second largest coastal lake on the North Island’s east coast, with a total wetland area of around 600 hectares. It is currently in a degraded state and suffers from frequent algae blooms which severely affect its water quality and wildlife habitats. It is part of a bigger wetland complex which includes the Ngamotu, Ohuia, Waihoratuna, Wairau, Te Paeroa, and Patangata lagoons. The lake was at one stage opened to the sea, but in more recent times its original outlet, the Rahui Channel, has been reinstated.
- 6.40 We received no submissions and heard no evidence that any outstanding cultural or spiritual values exist there.
- 6.41 Whakakī Lake has historically supported a high diversity of birds, with over 46 species of waterbirds having been recorded in this area, including the endangered Australasian bittern, the New Zealand dabchick, the Wrybill, Spotless Crake, Fernbird and Banded Rail, and a number of migratory species. It supports about 14% of the regional population of Australasian Bittern, which throughout Hawke’s Bay totals only about 54 breeding pairs. While in the 1950’s the lake also supported a large waterfowl population, numbers of species such as black swan have decline in recent decades.
- 6.42 We find Whakakī Lake (including Ohuia, Te Paeroa and Wairau Lagoons) to have outstanding wildlife values and outstanding ecological function, particularly regarding connectivity between the wetlands, the number of threatened species present, and the high numbers of Australasian bittern, and so it meets criterion b) for being an outstanding habitat for aquatic native birds. They are listed in Schedule 25 as follows.

Lake Whakakī – Te Paeroa Lagoon – Wairau Lagoon and Wetlands	Outstanding Characteristics or Values
Whakakī Lake and its associated wetlands are located to the north of Wairoa township near the coast.  Whakakī Lake is an intermittently closed and open lake (ICOLL) which is a rare habitat type. These water bodies support a significant number of threatened native aquatic birds.	Ecology (habitat for high natural diversity of aquatic native birds)

## Lake Whatumā

- 6.43 This was discussed in report 7.11 of the Officers’ Report. Lake Whatumā was listed in Proposed PC7 as having outstanding cultural, spiritual and ecological values. No submitter provided any substantive reasons why it should not be included in Schedule 25.
- 6.44 Lake Whatumā is located to the south west of Waipukurau. It is a large, 236 hectare, shallow lake which has been significantly modified. It is currently in a degraded state and suffers from algae blooms during summer.
- 6.45 The name Lake Whatumā means “to satisfy one’s hunger”. It lies at the heart of the cultural and spiritual well being and identity of the Tamatea hapū, traditionally held a significant permanent population and was a major source of kai for the community who lived nearby. Other hapū travelled to the lake to gather resources on a seasonal basis. There are remains of several major pa sites, and ample evidence of occupation, including numerous remains and bones, middens, tools, pits chisels and axes.
- 6.46 The lake supports about 24 species of waterbirds, including the black-billed gull, banded dotterel, Caspian tern, pied stilt, New Zealand dabchick, Spotless Crake and the cattle egret. Most notably, Lake Whatumā provides a favoured wetland type for the Australasian bittern and supports the best population in Hawke's Bay, with 22% of the regional population being found there. The Australasian bittern is a specialist wading bird which is rare with only 2,500 remaining worldwide. It is classified as endangered on the IUCN<sup>53</sup> red list and nationally vulnerable on the, NZTC, and only about 54 breeding pairs exist in Hawke’s Bay.
- 6.47 The local expert panel considered Lake Whatumā to have outstanding wildlife values, specifically noting the threatened species present and the high numbers of Australasian bittern, dabchick and pied stilt (22%, 26% and 45% of the regional population, respectively). We agree with their findings in this regard.
- 6.48 Accordingly, we find that Lake Whatumā has outstanding cultural and spiritual values and provides regionally outstanding habitat for aquatic native birds. It is listed in Schedule 25 as follows.

Lake Whatumā	Outstanding Characteristics or Values
Lake Whatumā is located south west of Waipukurau. It covers about 160ha, with an adjacent wetland margin of around 75ha. It is a taonga to hapū of Heretaunga Tamatea, providing a major source of kai for those who resided nearby. The lake supports a number of threatened birds, including the greatest numbers of Australasian Bittern in the region.	Cultural and Spiritual Values Ecology (habitat for aquatic native birds, particularly Australasian Bittern)

<sup>53</sup> International Union for Conservation of Nature red list of threatened species.

## Mangahouanga Stream

- 6.49 This was discussed in report 7.13 of the Officers' Report. It was listed in Proposed PC7 as having outstanding cultural and spiritual values, and geological values. No submitter provided strong reasons why it should not be included in Schedule 25.
- 6.50 The Mangahouanga Stream is a tributary of the Te Hoe River, which is in the Mohaka Catchment. It is located high in the Urewera Ranges, surrounded by a combination of private forestry and native forest areas.
- 6.51 We heard from Ngāti Hineuru, who in their submission sought that the stream be found outstanding for matauranga (contemporary esteem), but when speaking to us provided no substantial reasons why we should find the stream has outstanding cultural and spiritual values. Ngāi Tūhoe has previously stated opposition to the identification of OWB in Hawke's Bay and has not participated in the PC7 process.
- 6.52 The Director General of Conservation submitted that natural character be added as a significant value for the Mangahouanga Stream but provided no evidence to support this submission.
- 6.53 The Mangahouanga Stream is internationally renowned for its rich and diverse fossil concentrations. It is the only site in New Zealand known to contain significant dinosaur remains, with six species, four of which are unique to New Zealand, having been found at this location. The site also contains a range of other marine and plant fossils, including New Zealand's oldest known fossil insect, and teeth from the first known southern hemisphere sawfish.
- 6.54 Prior to dinosaur fossils being discovered in the Mangahouanga Stream it was not thought dinosaurs lived in New Zealand. The stream is recognised worldwide for these discoveries and is consistently identified in past publications as containing outstanding geological values. It is for instance identified on the Geopreservation Inventory, as being Class A (internationally important) and this cites the river as the first, and to date the only, record of terrestrial dinosaurs found in New Zealand. These values do not however directly relate to the water body itself, as the bones are found in ancient rocks revealed by tectonic processes.
- 6.55 Accordingly, we find that the Mangahouanga Stream has outstanding geological values, specifically the presence of the only dinosaur fossils found in New Zealand to date. It is listed in Schedule 25 as follows.

Mangahouanga Stream	Outstanding Characteristics or Values
The Mangahouanga Stream is a small tributary on the north bank of Te Hoe River. It is the only site in NZ where dinosaur fossils have been found to date.	Geology (presence of dinosaur fossils)

## The Mohaka River

- 6.56 This was discussed in report 7.14 of the Officers' Report. No submitter provided any substantive reasons why it should not be included in Schedule 25.
- 6.57 We found it a little confusing to discuss the Mohaka River, because it was not clear to us exactly what this was intended to cover. Given however that five tributaries of the Mohaka were listed as separate OWB's in Proposed PC7<sup>54</sup>, we will only deal with the mainstem of the river here. The Mohaka River was listed in Proposed PC7 as having outstanding cultural, spiritual, ecology, natural character, landscape and geology and recreational values. One submitter sought that the reference to geological values be removed.
- 6.58 The Mohaka River is a large river which rises in the Kaweka and Kaimanawa Ranges flowing into Hawke Bay 175 km downstream, near the settlement of Mohaka. The upper reaches of the Mohaka River are renowned for their spectacular scenery and exceptional trout angling and whitewater rafting and kayaking opportunities.
- 6.59 A National Water Conservation Order already protects much of the Mohaka catchment. More specifically, Clause 4 of the Water Conservation (Mohaka River) Order 2004 identifies the following as outstanding characteristics and features of the Mohaka River and its tributaries:
- a) an outstanding trout fishery in the mainstream upstream of the State Highway 5 bridge and in the tributaries;<sup>55</sup> and
  - b) outstanding scenic characteristics in the Mokonui Gorge; and
  - c) outstanding scenic characteristics in the Te Hoe Gorge (noting this gorge is not on the Mohaka River's mainstem); and
  - d) an outstanding amenity for water-based recreation from the State Highway 5 bridge to Willow Flat.
- 6.60 The characteristics and features recognised as 'nationally outstanding' in the Mohaka WCO result in specific parts of the Mohaka River and its tributaries being regarded nationally as OWB's. Our evaluation therefore focusses on any additional features, values or locations of the Mohaka River that might be regarded as outstanding in a regional context.
- 6.61 The Mohaka River is significant to Ngāti Pāhauwera, Ngāti Hineuru, Mana Ahuriri and Ngāti Tūwharetoa. Ngāti Pāhauwera had pacts with Ngāti Hineuru and Ngāti Tūwharetoa for the use of the Mohaka in relation to the coastal areas and the hinterland, enabling coastal dwellers to move inland when coastal resources were scarce, and vice versa. The river was a key transport route between the inland hills and mountains and the sea.
- 6.62 There were conflicting positions about the cultural and spiritual values of the mainstem of the Mohaka River. Ngāti Hineuru sought that a long section of the mainstem of the river be protected for its cultural and spiritual values, but equally other significant tāngata whenua parties, such as Ngāti Pahauwera, opposed the OWB process.

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<sup>54</sup> These were the Hautapu River, the Mangahouanga Stream, the Ripia River, the Te Hoe River and the Waipunga River.

<sup>55</sup> Note that the Ripia River is included among these tributaries.

- 6.63 Accordingly we do not find that the Mohaka River has outstanding cultural and spiritual values, because their identification is not supported by all the descendant groups most closely associated with the water body.
- 6.64 The upper Mohaka River is in a near natural state known for its impressive gorges and waterfalls. It contains some powerful rapids and is diverse and energetic with large numbers of big boulders, rapids, chutes and plunge pools. The river runs clean and clear through large native forest areas, in its upper parts, flowing through remote countryside with scrub covering the hills past the Taharua confluence to Pungahuru. The flow regime is highly natural with no modification to the flow pattern.
- 6.65 We find that the mainstem of the Mohaka River upstream of Willow Flat has regionally outstanding landscape and natural character values.
- 6.66 We do not find that the river has outstanding geological values as no feature is listed on the Geopreservation Inventory A list.
- 6.67 The upper Mohaka River is widely recognised as a top quality wilderness trout fishery, with high numbers of often large fish. The NWCO specifically provides for the trout fishery in both the mainstem and all its tributaries upstream of the SH5 bridge.
- 6.68 The mainstem of the upper Mohaka River is highly valued for its exceptional scenic beauty, which sets the backdrop for a range of top quality kayaking, rafting and fishing experiences. It is reliable and can be used at any time during the year due to its stable river flows. A number of commercial organisations operate in this area. The river is best known to paddlers for its technical Grade 4 and 5 rapids, particularly Te Hoe (though not on the mainstem) and Mokonui gorges, which are the best in Hawke’s Bay and have an international reputation. The upper Mohaka River contains a 55 km stretch of jet boating water, which requires advanced skills and is not suitable for family boating, but we do not have sufficient evidence to say this is an outstanding characteristic of the river.
- 6.69 We find that the mainstem of the Mohaka River provides an outstanding recreational amenity from its headwaters down to Willow Flat. It is listed in Schedule 25 as follows:

The Mohaka River Mainstem upstream of Willow Flat	Outstanding Characteristics or Values
The Mohaka River is 175km long and is located in northern Hawke’s Bay. The upper reaches of the river are in a near natural state with pristine water quality, and an impressive waterscape comprising deep gorges and fast flowing rapids. The river is already protected by a National Water Conservation Order but is further recognised here for its regionally outstanding values.	Natural Character Landscape (wild and scenic) values Recreation, including trout fishing, kayaking and rafting

### **Ngamatea East Swamp**

- 6.70 The Ngamatea East Swamp was discussed in Report 7.17 of the Officers’ report. It was listed in Proposed PC7 as having cultural, spiritual, ecological and natural character values.
- 6.71 The swamp is the largest intact wetland in the Hawke’s Bay region, with a total area of about 300ha in an expansive open landscape with clear wetland drainage and vegetation patterns. Our evaluation and decision only cover that part of the wetland in the region.



- 6.72 The swamp is located inland from Kuripapango and the Kaweka Forest Park. It is an extensive largely unmodified swamp with strong north-south drainage patterns. The indigenous vegetation assists with the area’s function as a water catchment, feeding upper stream tributaries, then to the Taruarau River in the upper Ngaruroro River catchment.
- 6.73 Mr Nathan Apatu, who is the Manager of Ngamatea Station, appeared at the hearing. He opposed the inclusion of the Ngamatea East Swamp in Schedule 25, noting particularly that parts of the swamp had in recent years been invaded by exotic species, most notably broom. He acknowledged that the swamp did have high ecological values, which had been detailed in several scientific publications, but he considered that invasive species had eroded those values. He also drew our attention to the fact that the swamp spans two regions.
- 6.74 We had no evidence that the Ngamatea East Swamp has outstanding cultural and spiritual values.
- 6.75 The swamp contains at least 15 threatened plant species, including a sedge that is nationally endangered. We find it has outstanding ecological values as a habitat for threatened plants. We also find it has outstanding natural character for its expansive open landscape and wetland drainage patterns. In our view, it is the best example of an intact inland wetland in the region.
- 6.76 Proposed PC7 also listed six “significant values” of the Ngamatea East Swamp. We have no strong evidence that it has significant indigenous fish or bird populations, nor can we find that it has significant hydrological values, nor social and cultural activities or mahinga kai. The indigenous plant populations are an outstanding value of the wetland, and do not need to be listed separately as significant. For these reasons we have taken out the significant values listed in Proposed PC7.
- 6.77 Ngamatea East Swamp is listed in Schedule 25 as follows:

Ngamatea East Swamp	Outstanding Characteristics or Values
The Ngamatea East Swamp is a 300ha largely unmodified wetland located in the headwaters of the Taruarau River. It is the largest intact wetland in Hawke’s Bay, and contains high numbers of threatened indigenous plant species.	Natural Character Ecology (habitat for indigenous plant populations)

### **The Ngaruroro River and Estuary**

- 6.78 The Ngaruroro River was discussed in Report 7.18 of the Officers’ Report. It was listed in Proposed PC7 as having cultural, spiritual, ecology, natural character, landscape and geology outstanding values, together with a broad suite of significant values.
- 6.79 Submitters sought some opposing outcomes, including that the river be included in or deleted from Schedule 25, that its listing in that Schedule be restricted to the sections that are outstanding, that the geology characteristic of the river be deleted and that the ecology outstanding value be amended to indigenous bird populations. Pan Pac Forests also sought that the ‘significant values’ of the Ngaruroro River listed in Proposed PC7 be deleted. We have accepted that submission, in saying so we note that some of the significant values partly repeat the outstanding values, some relate largely to the lower river, and others are economic values that we do not consider appropriate to include in Schedule 25 as outstanding values. Additionally, many of the primary values and uses

already listed in Table 2A of the RRMP already cover many of the “significant values” of the Ngaruroro River listed in Proposed PC7.

- 6.80 The Taruarau River is an upper catchment tributary of the Ngaruroro River. It was proposed as a separate OWB in PC7, and that is the approach we have followed here.
- 6.81 The Ngaruroro River is the largest river flowing across the Heretaunga Plains, rising on slopes of the Kaimanawa and Kaweka Ranges and flowing into the sea 160 km downstream near the town of Clive. The Ngaruroro River shares a common river mouth, the Waitangi Estuary, with the Tūtaekurī and Clive Rivers.
- 6.82 The upper reaches of the Ngaruroro River are surrounded largely by native vegetation and are highly valued for their scenic and recreational qualities; the latter include trout angling and whitewater boating.
- 6.83 As we have already discussed in Paragraphs 3.44 to 3.45 above a National Water Conservation Order has been sought for the Ngaruroro River, and a draft NWCO decision has been made by a Special Tribunal. The Tribunal’s decision only protects the headwaters of the river, which are those upstream of the Whanawhana cableway. The draft NWCO contains two Schedules: the first refers to the mainstem of the Ngaruroro River upstream of Whanawhana; and the second to all contributing waters upstream of that point. In both schedules the outstanding values listed are: amenity and intrinsic values afforded by natural state, habitat for rainbow trout, rainbow trout fishery, angling amenity and recreation, whitewater rafting and kayaking amenity and recreation, wild and scenic characteristic, and water quality as a natural characteristic.
- 6.84 The Special Tribunal declined the NWCO application for the river below the Whanawhana cableway to the river mouth, including that part of the Clive River covered in the application. The Tribunal also considered that there was sufficient evidence to conclude that the lower Ngaruroro supports nationally outstanding avifauna habitat, but found that no NWCO should be made to protect avifauna habitat there, as in their view the threat test for avifauna habitat was not met.
- 6.85 The Special Tribunal’s decision has been appealed to the Environment Court.<sup>56</sup> This means that the extent to which the Ngaruroro River catchment, including the Clive River, might be protected by any NWCO will not be decided until all appeals are settled by the Courts.
- 6.86 Our brief is to determine whether any sections of the Ngaruroro River catchment, including the Waitangi Estuary, are outstanding in a regional context, and if so, what values are outstanding and where are they located, whereas the NWCO appeals will consider if any values are outstanding in a national context.
- 6.87 To help us determine what is an OWB in the Hawke’s Bay region, we have adopted a slightly modified version of the screening criteria developed as part of the Community Environment Fund Outstanding Freshwater Body Project and put forward by the officers in their Section 42A report (see discussion in Section 3). In doing so we will deal separately with the upper catchment above Whanawhana, and the catchment downstream of that point.

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<sup>56</sup> The appellants were Royal Forest and Bird Protection Society of NZ, Whitewater NZ Incorporated, the Regional Council, Nga Kaitiaki o te Awa te Ngaruroro, Trustees of East Taupo Lands Trust, Trustees of Owhaoko B&D Trust and trustees of Owhaoko C Trust.

- 6.88 In our assessment the Ngaruroro River upstream of Whanawhana does have outstanding natural character and landscape values, supports an outstanding trout fishery, and an outstanding recreational amenity for trout angling, whitewater rafting and kayaking.
- 6.89 The Owahaoko C Trust who have legal rights to some relatively small land holdings in the upper catchment spoke about the draft NWCO in particular and they opposed us imposing any similar protection to the upper Ngaruroro catchment. They said they had not been engaged with during the development of Proposed PC7. Their specific concern was that a 'corporate takeover' would limit the potential for development on their own land. While we recognise this concern, we do not consider any such possibility exists if the upper Ngaruroro River is found to be an OWB.
- 6.90 We had no specific submissions or evidence that there were outstanding cultural and spiritual values in the Ngaruroro catchment.
- 6.91 While the upper catchment does have very high water quality, so do other, largely unmodified headwater catchments in Hawke's Bay (and indeed throughout much of the nation). High water quality is nothing outstanding. Nor is the presence of low numbers of blue duck (5% of the regional population), nor are the presence of native fish such as long finned eels and koaro, which are widespread (but often uncommon) throughout headwater catchments in both Hawke's Bay and the nation as a whole. We are not aware of any outstanding geological features. None of these characteristics or values are conspicuous, eminent and/or remarkable in the context of the Hawke's Bay Region.
- 6.92 The lower Ngaruroro River downstream of Whanawhana is a highly modified braided river that flows between stop banks designed to prevent flooding of Hastings and other local townships, and extensive tracts of farmland. The lower reaches of the river share the Waitangi Estuary, its outlet to the sea, with the Clive and Tūtaekurī Rivers.
- 6.93 The Waitangi Estuary can have seasonal algal blooms, which affect habitat quality. Despite this the estuary, including the Clive River, is listed as a Significant Conservation Area in the Regional Coastal Environment Plan, where it is recognised as containing a nationally significant fisheries habitat. The lower river and estuary support 22 species of fish, and there are native bird populations within the estuary. Many estuaries however support fish and native bird populations, and the Waitangi Estuary has significantly lower natural values than does the Ahuriri Estuary.
- 6.94 The lower river is used extensively for jet boating, but is a Class 1 (easy) river, which in our view means it cannot qualify as outstanding as it is not conspicuous, eminent and/or remarkable in the context of the Hawke's Bay Region.
- 6.95 In his evidence for the Director General of Conservation, Mr Brady discussed the wildlife values of the Ngaruroro River from Whanawhana to State Highway 2. Surveys he and the Regional Council undertook in 2018 and 2019 respectively found 1193 and 916 banded dotterels on this reach of the river, with the Council also recording 1112 banded dotterels on the Tukituki River and its tributaries. The Ngaruroro River supports the third largest single river population of banded dotterels in the country, and bird numbers per km of river are also high. However banded dotterels are only listed as nationally vulnerable on the NZCTS, and we do not consider a substantial population of banded dotterel alone makes a river reach an OWB.
- 6.96 For these reasons the Ngaruroro River is listed in Schedule 25 as follows:

Upper Ngaruroro River upstream of the Whanawhana cableway	Outstanding Characteristics or Values
The Ngaruroro River is the largest river flowing across the Heretaunga Plains, rising on slopes of the Kaimanawa and Kaweka Ranges and flowing into the sea 160 km later The upper reaches of the Ngaruroro River are surrounded largely by native vegetation and are highly valued for their scenic and recreational qualities; the latter include trout angling and whitewater boating.	Natural Character Landscape (wild and scenic) values Rainbow Trout Habitat Recreation (trout fishery, whitewater rafting, kayaking)

## The Taruarau River

- 6.97 The Taruarau River is an upper catchment tributary of the Ngaruroro River, and was discussed in report 7.27 of the Officers' Report. It was listed in Proposed PC7 as having outstanding cultural, spiritual, natural character, landscape, geology and recreational values. No submitter provided any substantive reasons why it should not be included in Schedule 25.
- 6.98 The Taruarau River has the same "significant values" listed as those for the Ngaruroro River. This appears to be partly in error; that a remote headwater river can have "significant values" that include domestic water supply and primary production water use is implausible. We have taken out the significant values column out of the Taruarau River just as we have the Ngaruroro, and for much the same reasons.
- 6.99 The Taruarau River rises in the Kaimanawa Ranges flowing south across rolling tussock country for around 70 km before it joins the Ngaruroro River. The river drops into an enclosed gorge (which has been described as "impressive") before flowing into the Ngaruroro River around 20 km upstream of Whanawhana.
- 6.100 The Taruarau River is in a near natural state with high ecological values. It flows through a variety of natural landscapes, from areas of rolling tussock country which are very barren and dry to rugged and isolated areas surrounded by scrubland. Pastoral farming occurs on around 10% of the catchment area.
- 6.101 For these reasons we find the river has outstanding natural character, especially in the gorge. We also find it provides an outstanding recreational resource for whitewater rafting and kayaking.
- 6.102 We accept that the river also provides a valued trout fishery but we are not persuaded however it is outstanding, as in our view the trout fishery is not conspicuous, eminent and/or remarkable in the context of the Hawke's Bay Region.
- 6.103 The Taruarau River is listed in Schedule 25 as follows:

Taruarau River	Outstanding Characteristics or Values
The Taruarau River rises in the Kaimanawa Ranges flowing south across rolling tussock country for around 70 km before it drops into an enclosed gorge before flowing into the Ngaruroro River around 20 km upstream of Whanawhana. The river is in a near natural state, with some extensive pastoralism in the catchment. It has outstanding natural character and outstanding whitewater recreation opportunities.	Natural Character, especially the gorge Recreation (whitewater rafting and kayaking)

## Pōrangahau River and Estuary

- 6.104 This was discussed in Report 7.21 of the Officers' Report. It was listed in Proposed PC7 as having outstanding cultural, spiritual, ecological, landscape and geological values. Different submitters sought it be both excluded and included from Schedule 25, or that the list of outstanding values be expanded or reduced. The forestry industry sought that only those areas with outstanding values be protected if it were to be included in Schedule 25.
- 6.105 The Pōrangahau Estuary covers about 750ha, and is one of the few large estuaries in Hawke's Bay. It is a long, narrow estuary formed behind a low, sandy longshore bar which runs for around 14 km. It is the largest and least modified estuary in Hawke's Bay.
- 6.106 The Pōrangahau River, also known locally to Māori as the Taurekaitai River, is a significant waterway for Heretaunga Tamatea hapū, lying at the heart of their spiritual and physical wellbeing. On the southern bank of the river, Opiango stands, a peak sacred to Ngāti Pihere.
- 6.107 Heretaunga Tamatea hapū have noted there are some 20 fishing sites between the township of Pōrangahau and the sea, and we understand it was historically a major source of kai. There are vast shell middens in the dune system, and the first authenticated records of moa hunter occupation in the North Island are found here, and it would have been very important for passage and trade along the coast. The estuary continues to be an important source of flatfish, kahawai, eels and whitebait.<sup>57</sup> For these reasons we find that the estuary has outstanding cultural and spiritual values.
- 6.108 The Pōrangahau Estuary is listed as a Significant Conservation Area in the Hawke's Bay Regional Coastal Environment Plan for its nationally significant wildlife habitat, and supports six threatened species. It is an important feeding and wintering area for migratory waders. It is the only known location in Hawke's Bay where Caspian terns and royal spoonbill nest. A survey that dates back to 1992 found significant populations of wrybill and banded dotterel, estimating that the area contained around 78% of banded dotterel species recorded along the Hawke's Bay Conservancy coast at that time. The wrybill and banded dotterel are both classified as Nationally Vulnerable on the NZTCS.
- 6.109 The estuary is also an important area for the eastern bar-tailed godwits and lesser knot, during migration. Both species are also classified as Nationally Vulnerable on the NZTCS.
- 6.110 For these reasons, and because we are required to give effect to the 2010 iteration of the NZCPS as far as submissions allow, we find the Pōrangahau Estuary provides an outstanding habitat for aquatic birds.
- 6.111 The Officers' report also discussed reasons why the expert panel considered the Pōrangahau Estuary contained outstanding fisheries and indigenous plant communities. We do not find the evidence presented by the panel, or through applying the screening criteria, to provide a sufficiently robust case to say these values are clearly outstanding. Nor do we find any basis for the estuary having outstanding geological values.
- 6.112 All the outstanding values are located in the estuary and lower river below the Beach Road bridge, so this is the upstream limit of the OWB. The Pōrangahau River is listed in Schedule 25 as follows:

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<sup>57</sup> See for instance the evidence of Mr Morry Black at his Paragraph 2.42.

Pōrangahau River and Estuary downstream of the Beach Road Bridge	Outstanding Characteristics or Values
<p>The Pōrangahau River runs 35 km through southern Hawke's Bay. The river winds through rugged hill country reaching the sea close to the township of Pōrangahau.</p> <p>The Pōrangahau Estuary covers about 750ha and is one of the few large estuaries in Hawke's Bay. It is a long, narrow estuary formed behind a low, sandy longshore bar which runs for around 14 km. It is the largest and least modified estuary in Hawke's Bay and is listed as a Significant Conservation Area in the RCEP for its nationally significant wildlife habitat, and supports six threatened species.</p> <p>There is extensive evidence of early habitation of the estuary by tāngata whenua, and it would have been a major source of kai.</p>	<p>Cultural and spiritual values Ecology (habitat for native aquatic birds)</p>

## Te Hoe River

- 6.113 This was discussed in Report 7.28 of the Officers' Report. It was listed in Proposed PC7 as having outstanding cultural, spiritual and ecological values. Hineuru Iwi Trust sought specifically that Te Hoe River be found to have outstanding cultural and spiritual values.
- 6.114 Te Hoe River is a major tributary of the Mohaka River. Te Hoe gorge, although not on the Mohaka mainstem, is recognised in the Mohaka River NWCO as having outstanding scenic characteristics. Although these are not listed in Proposed PC7 they are in the NWCO, and we find that the reach of the Te Hoe River from its confluence with the Hautapu River downstream the Mohaka River confluence to have outstanding wild and scenic values.
- 6.115 We have discussed the Hautapu River separately in Section 7 of this decision, and have found it is not a regional OWB.
- 6.116 Te Hoe River is a traditional boundary marker for Ngāti Hineuru. A number of significant sites are located along the length of the river, including a pa site at Ngatapa and wāhi tapu sites by the confluence of the Te Hoe and Mohaka rivers.
- 6.117 The river provided drinking water, was a source for spiritual cleansing and was considered to have healing properties. Hangi stones were gathered from this river, and it has abundant fish species, including tuna (eel), trout and the koura.
- 6.118 Ngāti Hineuru wanted the river protected for its cultural and spiritual values, but this was not supported by other descendant groups associated with the river, and so did not meet the criteria for inclusion as an OWB.
- 6.119 Te Hoe River supports about 18% of the regional blue duck (whio) population<sup>58</sup>, which is estimated to be about 220 birds, and a high number of other native species. There are only an estimated 1,000 breeding pairs of blue duck left in the country, and it has a conservation status of "nationally threatened". Given that the river also supports other

<sup>58</sup> As does the Waiiau River, however we have not included the Waiiau River in Schedule 25.

native species, we have found it to provide an outstanding habitat for aquatic native birds, particularly blue duck.

6.120 Te Hoe River is listed in Schedule 25 as follows

Te Hoe River	Outstanding Characteristics or Values
Te Hoe River is a tributary of the Mohaka River. The gorge is already protected by the Mohaka Water Conservation Order for its scenic characteristics. It carries the second largest population of blue duck in the region.	Landscape (wild and scenic) values Habitat for Aquatic Native Birds (particularly blue duck)

### **Te Whanganui a Orotū (Ahuriri Estuary)**

6.121 This was discussed in Report 7.30 of the Officers' Report. It was listed in Proposed PC7 as having outstanding cultural, spiritual, ecology, landscape and geology values.

6.122 Nearby Hawke's Bay Airport Limited were one of the submitters who opposed its inclusion in Schedule 25, but they provided no substantive evidence for its exclusion. Ravensdown sought deletion of the geology outstanding value listed in Proposed PC7.

6.123 Te Whanganui a Orotū is a significant wetland located next to the city of Napier. Historically it was the mouth of the Tūtaekurī and Esk Rivers, and covered a much larger area than it does today. Additionally, the 1931 Hawke's Bay earthquake lifted the land by 1-2 metres and exposed about 1300 ha of the original Ahuriri lagoon.

6.124 Although in a degraded state the estuary provides a wide diversity of habitats, and an associated diverse range of ecological communities which are all contained within a relatively small area. It is listed as a Significant Conversation Area in the Regional Coastal Environment Plan.

6.125 Three Treaty settlement entities have customary linkages to Te Whanganui-a-Orotū - Ahuriri Hapū, Ngāti Pāhauwera and Maungaharuru-Tangitū. In particular, Te Whanganui-a-Orotū:

- a. is a place of great cultural and spiritual significance to the Ahuriri hapū and is central to their existence and identity. Ahuriri hapū has a long history of settlement in Te Whanganui-a-Orotū; its significance is conveyed in song and story, reciting the names of ancestors, kaitiaki and events. It is named after the ancestor Te Orotū, who was a descendant of the great explorer and ancestor Māhu Tapoanui, who is the very beginning of the Ahuriri people.
- b. was a significant mahinga kai for Ngāti Pāhauwera who regularly travelled from Mohaka to the Estuary. A Ngāti Pāhauwera pā and kāinga are located at the northern end of Te Whanganui-a-Orotū and graves of Ngāti Pāhauwera ancestors are located on islands previously in Te Whanganui a Orotū.
- c. Maungaharuru Tangitū: the estuary was a vitally important fishing and resource-gathering area for hapū.

6.126 The area around Te Whanganui-a-Orotū was a very important source of food and was heavily populated. Consequently, numerous sites of cultural, historic and archaeological significance are situated around what was its shoreline.

- 6.127 From the earliest of times it was highly prized for its food resources and its access to major river systems and forest areas. It was known as 'a place of abundance'. So greatly was it valued through the generations that songs were sung, poetry composed, and dances created in praise of its productiveness.
- 6.128 Archaeological evidence confirms that Te Whanganui-a-Orotū was an important place to live. Excavations indicate settlement dates between the late fifteenth and early seventeenth centuries, with very early settlement on Roro o Kuri - somewhere between the twelfth and thirteenth centuries. Surrounding the harbour are 11 recorded pā, some extensive in size. Extensive middens exist in this area. It was the scene of many battles.
- 6.129 The pā at Te Pakake was a communal gathering place in times of trouble. Ngāti Hinepare, Ngāti Mahu, Ngāti Parau, Ngāti Hawea and Ngāti Kurumokihi are all recorded as having occupied the pā when under threat of invasion. After the Waikato and Hauraki tribes attacked Te Pakake in 1824, the people of Heretaunga went into exile at Mahia Peninsula. This invasion caused large scale devastation to the local people. They remained in exile until after the signing of the Treaty of Waitangi in 1840.
- 6.130 Moremore is the kaitiaki of Te Whanganui-a-Orotū and known as the guardian of the people occupying the shores of Te Whanganui-a-Orotū who are his descendants. The appearance of Moremore warned people of dangers and reinforced the customs practiced by the old people. The law of Moremore was always observed.
- 6.131 The cultural and spiritual values of Te Whanganui a Orotū are also strongly recognised in several Waitangi Tribunal reports; these include Wai 55, 168 and 201.
- 6.132 For these reasons we find that Te Whanganui a Orotū has outstanding cultural and spiritual values because it is conspicuous, eminent and or remarkable in the region.
- 6.133 The Ahuriri Estuary has outstanding wildlife values, particularly as a feeding and resting area for over 70 species of aquatic birds, some of which are critically endangered and some which migrate every year from the Arctic. In particular the estuary:
- a) supports the highest diversity of waterbirds in Hawke's Bay, including seven threatened species, three of which are classified as nationally critical on the NZTCS. It is also a significant breeding ground for a number of endangered species.
  - b) is used by over 70 species of waterbirds, 17 of which migrate every year from the Arctic. Of particular note are the Australasian bittern, black billed gull, and shore plover, which are classified as endangered on the IUCN red list, and Nationally Critical on the NZTCS.
  - c) is a vital summer feeding ground for migrating eastern bar-tailed godwits who migrate each year from Alaska, and the lesser knot who migrate from Siberia. Both species are classified as near threatened on the IUCN red list and Nationally Vulnerable on the NZTCS.
  - d) Supports high numbers of banded dotterel, Caspian tern (1% of the regional population) and Australasian bittern (11% of the regional population).
- 6.134 For these reasons we find the Ahuriri Estuary to provide an outstanding habitat for native aquatic birds because it is conspicuous, eminent and remarkable in the region.



- 6.135 The Ahuriri Estuary also has outstanding value for native fish. Its habitats support the highest diversity of native fish in the region, a significant proportion of which rely on the estuary to breed and feed, and is recognised as the most important estuary in the region for fisheries production. In particular the estuary makes a significant contribution to Hawke’s Bay marine fisheries by providing nursery and spawning habitats and feeding areas for species which migrate between freshwater and the sea. Additionally, it meets the RAMSAR criteria as a wetland of international importance due to its diverse assemblage of fish species and its biologically important fish habitat, particularly as a breeding ground and nursery for a number of species of fish.
- 6.136 We do not consider that the estuary has outstanding landscape values, and while it has an interesting geological history during recorded time, we do not find this to be an outstanding value either.
- 6.137 Te Whanganui-a-Orotū (Ahuriri Estuary) is listed in Schedule 25 as follows:

Te Whanganui-a-Orotū (Ahuriri Estuary)	Outstanding Characteristics or Values
<p>Te Whanganui-a-Orotū, which lies between Napier Airport and Tamatea, is a large tidal estuary close to the city. In historical times it used to be the mouth of the Esk and Tūtaekurī Rivers, and about 1,300 ha of the estuary was lifted 1-2 metres by the 1931 Napier earthquake.</p> <p>Te Whanganui-a-Orotū has outstanding cultural and spiritual values to tāngata whenua, and provides diverse habitats that support the best aquatic bird habitat, and the best estuarine fish habitat and nursery in the region.</p>	<p>Cultural and Spiritual Values            Aquatic Bird Habitat            Native Fish Habitat</p>

### The Tukituki River and Estuary

- 6.138 The Tukituki River and estuary is discussed in Report 7.31 of the Officers’ report. It was listed in Proposed PC7 as having outstanding cultural, spiritual, ecology, landscape and geological values. No submitter gave substantive reasons why it should not be included in Schedule 25.
- 6.139 The Tukituki River is a large gravel braided river system which rises in the Ruahine Ranges flowing into the sea 117 km later at Haumoana. It is one of two major rivers flowing across the Ruataniwha Plains and has been significantly modified by flood protection works.
- 6.140 There is a wildlife refuge covering about 342ha upstream of the Waimarama Road bridge. The estuary is listed as a Significant Conservation Area in the Coastal Environment Plan, where it is identified as having high wildlife values.
- 6.141 The Tukituki River is significant for Heretaunga Tamatea hapū, lying at the heart of their spiritual and physical wellbeing. It is also significant to Ngāti Kahungunu Iwi Incorporated. It is a tupuna awa (ancestral river), integral to the web of whakapapa connections shared by the different hapū along its banks.<sup>59</sup>

<sup>59</sup> Ngāti Kahungunu Iwi Incorporated v Hawke’s Bay Regional Council NZEnvC 50, 27 March 2015, at paragraph 94.

- 6.142 The story telling of the river’s creation begins with two taniwha living in a lake on the Ruataniwha Plains. When a boy fell into the lake, the two taniwha fought for the prey, in the process destroying the landscape and creating breaks in the hills which resulted in channels draining the lake away, one of which was the Tukituki River, the other being the Waipawa.
- 6.143 There is evidence of at least 7-8 centuries of occupation by Māori, making this area one of the earliest settled. The river was traditionally used as a highway connecting whanau to each other, to their gardens, to trade links, to their pā sites, to wāhi tapu and to their wai tupuna. Much of the river was navigable for canoes over winter, and it was the main transport route through Heretaunga. The river mouth was renowned for the abundance of fish species, including kahawai, patiki, kanae, kataha, kokopu, inanga and tuna.
- 6.144 We find the Tukituki River from the State Highway 50 bridge downstream to the sea has outstanding cultural and spiritual values.
- 6.145 The Tukituki River supports around 51 species of waterbirds (43 recorded at the river mouth), including the black billed gull, Australasian bittern, royal spoonbill, Caspian tern, reef heron, black-fronted tern, and large populations of banded dotterel and pied stilt. The lower river and estuary support the largest population of wading birds in the region.
- 6.146 In the 1980s, riverbed surveys found around 50% and 55% of the regional population of pied stilt and banded dotterel on the river. The Tukituki River supports the second largest single river population of banded dotterels in the country, and bird numbers per km of river are also high. The banded dotterel is classified as nationally vulnerable on the NZTCS.
- 6.147 In 2017, a black-billed gull colony of more than 300 nests was found at the Tukituki River mouth. The black billed gull is endemic to New Zealand and regarded as ‘the most threatened gull species in the world’ and classified as nationally critical on the NZTCS.
- 6.148 For these reasons we find the Tukituki River from the SH50 bridge to its mouth, including its estuary, provides outstanding wildlife habitat for aquatic birds.
- 6.149 We do not find the Tukituki River to have outstanding landscape or geological values. While some of the landscape in the upper catchment is impressive, it is not conspicuous, eminent and/or remarkable in the context of the Hawke’s Bay Region.
- 6.150 The Tukituki River and estuary is listed in Schedule 25 as follows:

Tukituki River downstream of SH50 bridge to the sea, including the estuary	Outstanding Characteristics or Values
The Tukituki River is 145km long, rising in the Ruahine Ranges and entering the sea at Haumoana. It is a tipuna awa, and there is evidence of 7-8 centuries of occupation by Māori. The lower river and estuary support the largest population of wading birds in the region.	Cultural and Spiritual Values Ecology (habitat for native aquatic birds, particularly in the lower river)

### **The Tūtaekurī River and Estuary**

- 6.151 The Tūtaekurī River and estuary is discussed in Report 7.32 of the Officers’ report. It is listed in Proposed PC7 as having outstanding cultural, spiritual and ecological values, as well as a suite of “significant values”. As discussed in Paragraph 3.11 above, Pan Pac

Forests submitted that these significant values be deleted from Proposed PC7 in the Tūtaekurī River, and we have accepted that submission. No submitter gave substantive reasons why it should not be included in Schedule 25.

- 6.152 The Tūtaekurī River rises in the Kaweka Ranges, around 50 kilometres northeast of Taihape. It is about 100 kilometres long and flows over the Heretaunga Plains where it now joins the Ngaruroro River and flows out to sea through the Waitangi Estuary.
- 6.153 Prior to the 1931 Hawke’s Bay earthquake, the Tūtaekurī River flowed into the southern end of Te Whanganui a Orotū/ Ahuriri Estuary. The river’s original pathway to the estuary has been channelised beside Riverbend Road and Douglas McLean Avenue in Napier.
- 6.154 The Tūtaekurī River is one of the four main water bodies in Te Matau a Māui Tikitiki-a-Taranga, Hawke’s Bay. It is of importance to Heretaunga Tamatea hapū, Mana Ahuriri and Ngāti Kahungunu, who all share significant ancestral, spiritual and physical links with the river. A large pa site was strategically sited at Otatara. The forms part of the rohe boundary between Heretaunga and Ahuriri.
- 6.155 The river takes its name from an incident about 400 years ago when a group of people from Wairoa who had travelled south to Pōrangahau seeking food, but found none, were on their return trip. Hikawera fed these starving wanderers at Te Umukuri (named for the ovens that cooked the dogs), killing 70 of his dogs and then disposing of their offal in the river (hence the river’s name). The river was re-named the Tūtaekurī in honour of this event.
- 6.156 The river provided a major transport route into Mokai Patea (Taihape) and beyond, and was widely used by iwi outside of the Hawke’s Bay region. River resources included inanga (whitebait), ngaore, kakahi and raupo.
- 6.157 We find the mainstem of the Tūtaekurī River upstream of the State Highway 50 Bridge to have outstanding cultural and spiritual values, but we do not find it has any outstanding ecological values. It is listed in Schedule 25 as follows:

Mainstem of the Tūtaekurī River upstream of the SH50 Bridge	Outstanding Characteristics or Values
The Tūtaekurī River rises in the Kaweka Ranges, around 50 kilometres northeast of Taihape. It is about 100 kilometres long and flows over the Heretaunga Plains where it now joins the Ngaruroro River and flows out to sea through the Waitangi Estuary. The reach upstream of the SH50 bridge has outstanding cultural and spiritual values, which include the presence of the “gateway” pa Otatara, and as passage between the volcanic plateau and the Hawke’s Bay coast.	Cultural and Spiritual Values

## **7. WATER BODIES NOT INCLUDED IN SCHEDULE 25**

### **The Hautapu River**

- 7.1 The Hautapu River is an upper catchment tributary of Te Hoe River, which is in turn a tributary of the Mohaka River. It was listed in Proposed PC7 as having only outstanding cultural and spiritual values, but there was insufficient evidence that the Hautapu River met the screening criteria.

### **The Heretaunga Aquifer**

- 7.2 The Heretaunga Aquifer was listed in Proposed PC7 as having outstanding cultural and spiritual and geological values. We had no substantive evidence that it has outstanding cultural and spiritual values on a region wide basis, and we do not consider its geology to be conspicuous, eminent and/or remarkable in the region.

### **The Karamū River**

- 7.3 The Karamū River was listed in Proposed PC7 as having outstanding cultural and spiritual values.
- 7.4 The river begins at Poukawa, and travels through Havelock North to join the Clive River at Pakowhai. It was once the main channel of the Ngaruroro River, but following a major flood in 1867 the Ngaruroro changed its course, leaving behind a smaller flow, named the Karamū in reference to the Karamū trees which grew in abundance in this area.
- 7.5 Today the Karamū River is a very modified watercourse which is constrained by stop banks that aim to prevent inundation of the floodplain. The river is a taonga of Ngāti Hori, and we acknowledge their efforts and achievements in improving and restoring the riparian margins of the river, and helping restore its mauri.
- 7.6 There was insufficient evidence that the Karamū River met the screening criteria.

### **The Kaweka and Ruahine Wetlands**

- 7.7 These were listed in Proposed PC7 as having outstanding cultural and spiritual values. No evidence was provided to support that, nor do we know precisely where these wetlands are. There are no reasons to include them in Schedule 25.

### **Lake Poukawa and Pekapeka Swamp**

- 7.8 These were listed in Proposed PC7 as having outstanding cultural and spiritual values. Brownrigg Agriculture opposed these water bodies being found to have outstanding values.<sup>60</sup>
- 7.9 Lake Poukawa is a large (195 ha) shallow lake, fringed with raupo and surrounded by farmland. It is currently degraded and suffers from frequent algae blooms which impacts on its water quality and wildlife habitats. Pekapeka Swamp is the only large swamp remaining in lowland Hawke's Bay, and is maintained by the outflow from Lake Poukawa (Poukawa Stream).

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<sup>60</sup> Section 3 of the evidence of Bridget Margerison.

- 7.10 We do not have sufficient evidence that Lake Poukawa and the Pekapeka swamp meet the screening tests for having outstanding cultural or spiritual values.
- 7.11 Proposed PC7 did not list any other outstanding value of Lake Poukawa and the Pekapeka Swamp, and no party submitted that other outstanding values exist there.

### **Lake Waikareiti**

- 7.12 Lake Waikareiti lies to the east of Lake Waikaremoana in Urewera National Park. It is in an unmodified state, and has high natural character.
- 7.13 The lake was listed in Proposed PC7 as having outstanding cultural and spiritual values, but the descendant groups most closely associated with the lake opposed that.

### **The Makirikiri River**

- 7.14 The Makirikiri River is located to the south of Takapau. It was listed in Proposed PC7 as having outstanding cultural and spiritual values, but we do not have enough evidence that it met the screening criteria.

### **Maungawhio Lagoon, lower Kopouawhara River, Pukenui Dune Wetlands**

- 7.15 These were discussed in report 7.14 of the Officers' Report. They were listed in Proposed PC7 as having outstanding cultural, spiritual and ecological values.
- 7.16 Maungawhio Lagoon is a salt water lagoon that joins to Oraka Beach on the Mahia Peninsula. It is a gazetted Wildlife Management Reserve which supports around 25 different species of waterbirds, including a high number of threatened species such the Australasian bittern, shore plover, black billed gull, reef heron, Caspian tern, and the lesser knot.
- 7.17 The Maungawhio Lagoon is listed as a Significant Conversation Area in the Regional Coastal Environment Plan, where it is identified as containing a nationally significant wildlife habitat. We do not find however that it is has outstanding ecological values, as it is not conspicuous, eminent and/or remarkable in terms of coastal lagoons in the region.
- 7.18 We accept that the Maungawhio Lagoon could have outstanding cultural and spiritual values, but we did not have sufficient evidence to make such a finding, and nor was its inclusion supported by the descendant groups most closely associated with the water body.

### **The Morere Springs**

- 7.19 These thermal springs are located near Nuhaka. They were discussed in report 7.16 of the Officers' Report. They were listed in Proposed PC7 as having outstanding cultural and spiritual values, but the evidence we had did not support their meeting the screening criteria.

### **The Nuhaka River**

- 7.20 This was discussed in report 7.19 of the Officers' Report. It was listed in Proposed PC7 as having outstanding cultural and spiritual values, but we had no submissions or evidence to corroborate that, and the descendant group most closely associated with the river opposed its inclusion in Schedule 25

### **The Opoutama Swamp**

- 7.21 This was discussed in report 7.20 of the Officers' Report. It was listed in Proposed PC7 as having outstanding cultural and spiritual values, but we had no submissions or evidence to corroborate that, and the descendant group most closely associated with the river opposed its inclusion in Schedule 25

### **Putere Lakes**

- 7.22 These lakes are located near the Waiau River. They were discussed in report 7.22 of the Officers' Report. They were listed in Proposed PC7 as having outstanding cultural and spiritual values, but we had no evidence that they met the screening criteria.

### **The Ripia River**

- 7.23 The Ripia River is a tributary of the Mohaka River. It is already included in the NWCO as part of the large catchment of the Mohaka upstream of SH5 as having an "outstanding trout fishery".
- 7.24 It was discussed in report 7.23 of the Officers' Report. It was listed in Proposed PC7 as having outstanding cultural and spiritual values, but we had insufficient evidence to corroborate that, and there was no evidence that it met the screening criteria.

### **The Ruakituri River**

- 7.25 The Ruakituri River, which is discussed in report 7.24 of the Officers' Report, was listed in Proposed PC7 as having outstanding cultural, spiritual, natural character, landscape and geology and recreation values.
- 7.26 The river lies in both the Gisborne District and the Hawke's Bay region. We agree that it may have outstanding natural character, landscape and recreational values, **but** only in that section of the river in the Gisborne District, and not the Hawke's Bay region.
- 7.27 We do not have sufficient evidence to find that any outstanding cultural and spiritual values exist in those sections of the Ruakituri River in the Hawke's Bay region, and the descendant group most closely associated with the river opposed its inclusion in Schedule 25.

### **The Ruataniwha Aquifer**

- 7.28 The Ruataniwha Aquifer was listed in Proposed PC7 as having outstanding cultural and spiritual and geological values. We find it does not have any outstanding values as its geology is not conspicuous, eminent and/or remarkable in the region, and we had no evidence that it met the screening criteria for having outstanding cultural or spiritual values

### **The Tarawera Hot Springs**

- 7.29 The Tarawera Hot Springs were listed in Proposed PC7 as having outstanding cultural and spiritual values. When we heard from Ngāti Hineuru they spoke of developing the springs, but when told classifying them as an OWB would likely constrain any development, they opposed including the springs in Schedule 25.

### **Te Paerahi River**

- 7.30 Te Paerahi River is close to the Pōrangahau estuary. It was listed in Proposed PC7 as having outstanding cultural and spiritual values, but we had no submissions or evidence that it met the screening criteria.

### **The Waiau River**

- 7.31 The Waiau River is discussed in Report 7.33 of the Officers' report. It was listed in Proposed PC7 as having outstanding cultural, spiritual and ecological values. No submitter specifically requested it be included in Schedule 25.
- 7.32 The headwaters of the river, which rise in the Urewera Ranges south of Lake Waikaremoana, flow through native bush, but the middle and lower reaches of the river pass through farmland.
- 7.33 We heard no evidence that the Waiau River has outstanding cultural and spiritual values, and some of the descendent groups opposed its inclusion in Schedule 25.
- 7.34 The upper reaches of the river support one of the two largest populations of blue duck (whio) in the region, with 18% of the regional population (which totals an estimated 220 birds) recorded there. Blue duck are listed as nationally threatened in the NZCTS, with only about 1,000 breeding pairs thought to remain in the country. However as the Waiau River is not known to support high numbers of other aquatic native birds, we have not included it in Schedule 25.

### **The Waihua River**

- 7.35 The Waihua River, which was discussed in report 7.34 of the Officers' report was listed in Proposed PC7 as having outstanding cultural and spiritual values. We have no evidence to corroborate that.

### **The Waikaretaheke River**

- 7.36 The Waikaretaheke River, which was discussed in report 7.35 of the Officers' report was listed in Proposed PC7 as having outstanding cultural and spiritual values. The river is the outlet of Lake Waikaremoana.
- 7.37 The Waikaremoana Power Scheme has three stations that have been present on the river for decades, and river flows and lake levels are managed to provide HEP. Genesis Energy, which own the scheme, sought that the river be found to have outstanding economic values, but for the reasons discussed in Paragraphs 3.76 to 3.82 above, we have declined to do so.

- 7.38 A local resident, Ms Audrey Jones, appeared at the hearing and sought the river be protected for its high natural values. However, we think the natural values the river undoubtedly once had are too eroded by the existing power scheme to make it an outstanding water body in the region.
- 7.39 We heard no evidence that the river has outstanding cultural or spiritual values, and its inclusion as an OWB was not supported by any descendant groups.

### **The Waipawa River**

- 7.40 This was discussed in report 7.36 of the Officers' Report. It was listed in Proposed PC7 as having outstanding cultural and spiritual values, but we had insufficient evidence that it has regionally outstanding values.

### **The Waipunga River**

- 7.41 The Waipunga River was listed in Proposed PC7 as having outstanding cultural, spiritual and ecological values. It was discussed in report 7.37 of the Officers' Report, where it was described as being in a near natural state with pristine water quality.
- 7.42 The forestry submitters in particular were strongly opposed to the Waipunga River being included in the Schedule 25 as an OWB. Ngāti Hineuru supported its inclusion in the Schedule particularly as they settled near the river and it was an important source of kai, but this was not supported by other descendent groups closely associated with the river, and so does not meet the screening criteria.

### **The Wairoa River**

- 7.43 This was discussed in report 7.38 of the Officers' Report. It was listed in Proposed PC7 as having outstanding cultural and spiritual values, but we had insufficient evidence to corroborate that and was opposed by descendent groups closely associated with the river.

### **Other water bodies requested to be added to Schedule 25 by submitters**

- 7.44 Submitters sought that a number of other water bodies not included in Proposed PC7 be added to Schedule 25. We have not added any other water bodies for the reasons discussed in Paragraphs 4.7 to 4.16 above.



## 8. CONCLUSIONS

- 8.1 We received comprehensive submissions and evidence on Proposed PC7. Our decisions explain carefully why we have found 15 of the 38 proposed outstanding water bodies listed in Proposed PC7 qualify as outstanding water bodies in the Hawke's Bay region, and why the balance do not qualify.
- 8.2 We are very grateful for the help and support we received from the staff of the Regional Council and their professional advisers. In particular, the work of Belinda Harper and Nichola Nicholson, together with Gavin Ide, gave us a very firm base on which to make our decisions.
- 8.3 In the end all the decisions are ours. It was not an easy process determining which water bodies should be listed in Schedule 25; while some decisions were clear cut, there were many others we deliberated over at length.
- 8.4 We are confident in our final decisions. In particular we have given effect, in so far as it possible, to the NZCPS 2010 and the NPS-FM 2020. We consider the Objectives and Policies help give effect to these National Policy Statements, and meet the Purpose of the Act. Alternative approaches have been discussed and found not to be the most efficient and effective means of meeting the Council's statutory duty to protect outstanding water bodies in the Hawke's Bay Region. We have provided for ongoing uses of outstanding water bodies, with a higher threshold test for new activities.
- 8.5 The identification of 15 outstanding water bodies in Hawke's Bay is a significant step forward for the Council in meeting its statutory obligations. We three members of the panel feel privileged to have been asked to make decisions on Proposed PC7.



**Dr Brent Cowie**  
**Plan Change 7 Independent Hearings Commissioner (Chair)**



**Dr Roger Maaka**  
**Plan Change 7 Independent Hearings Commissioner**



**Christine Scott**  
**Plan Change 7 Independent Hearings Commissioner**



# Appendix 1 - Decisions on the Policy Framework for Outstanding Water Bodies



## Proposed Plan Change 7 - Outstanding Water Bodies

Hawke's Bay Regional Resource Management Plan

Decisions Version

26 June 2021



## **Proposed Plan Change 7 - Outstanding Water Bodies**

### Hawke's Bay Regional Resource Management Plan

#### **Decisions Version**



Date adopted by Council:	31 July 2019
Date of public notification:	31 August 2019
Date decisions issued:	26 June 2021
Operative date:	TBD

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

## Decisions Version

NOTE: In the Proposed Plan Change 7 (PC7) provisions that follow:

- Text shown in red (underlined and struck-out) represents PC7 as notified on 31 August 2019
- Text shown in blue (underlined) and red (~~double strike-through~~) represents all changes made by the Hearing Panel since notification of PC7
- Elsewhere, words of other provisions may appear but those are presented for context only and are not part of PC7 [grey coloured text].

## Amend Chapter 3.1A of HB Regional Resource Management Plan

### 3.1A Integrated Land Use and Freshwater Management

#### ISSUES

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

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

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

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

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

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

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

#### OBJECTIVES

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

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

1. protecting the outstanding and significant values ~~quality~~ of ~~outstanding fresh~~ water bodies identified listed in Schedule 25 Hawke's Bay;
- 1A. protecting wetlands, including their significant values<sup>1A</sup>

2. the maintenance of the overall quality of freshwater within the Hawke's Bay region and the improvement of water quality in water bodies that have been degraded to the point that they are over-allocated;
- 2B. establishing where over-allocation exists, avoiding any further over-allocation of freshwater and phasing out existing over-allocation;

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

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

**OBJ LW2 Integrated management of freshwater and land use development**

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

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

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

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

**Principal reasons and explanation**

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

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

Objectives LW1, LW2 and LW3 are intended to outline the broad principles for policy-making and regional plan preparation to improve integrated decisions being made about the way the region's land and freshwater resources are used, developed or protected across the region's varying catchments and sub-catchments. [Objective LW1.1 is consistent with the NPSFM which expects the regional councils to protect the significant values of outstanding water bodies.](#)

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

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

## POLICIES

### **POL LW1A Problem solving approach – Wetlands and outstanding freshwater bodies**

1. To work collaboratively with iwi, territorial authorities, stakeholders and the regional community:
  - a) to identify outstanding freshwater bodies at a regional level and include provisions in the Regional Policy Statement to list those waterbodies and guide the protection of the outstanding qualities of those water bodies; and
  - b) to prepare a Regional Biodiversity Strategy and thereafter include provisions in the Regional Policy Statement and/or regional plans to (amongst other things) guide the protection of significant wetland habitat values identified by the Strategy.
  - c) In relation to Policy LW1A.1, the identification of outstanding freshwater bodies will be completed and an associated change to the Regional Policy Statement will be publicly notified prior to public notification of any further<sup>2</sup> catchment-based plan changes<sup>3</sup> prepared in accordance with Policy LW1.

### **POL LW1 Problem solving approach - Catchment-based integrated management**

1. Adopt an integrated management approach to fresh water and the effects of land use and development within each catchment area, that:
  - b) provides for *mātauranga a hapū* and local tikanga values and uses of the catchment;
  - c) provides for the inter-connected nature of natural resources within the catchment area, including the coastal environment;
  - cA) recognises and provides for the need to protect the integrity of aquifer recharge systems;

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

<sup>2</sup> Plan Change 6 for the Tukituki River catchment pre-dates this provision.

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

- cB recognises and manages the co-existing values of wetland habitat and agricultural production;
- ~~eC) assesses the outstanding water bodies identified in Schedule 25 to determine the significant values of those water bodies. This assessment include consideration of the values set out in Appendix 1 of the National Policy statement for Freshwater Management, and any other values that are determined to be relevant taking into account local and/or regional circumstances.~~
- d) ~~gives effect to provisions relating to outstanding freshwater bodies arising from the implementation of Policy LW1A protects the outstanding and significant values of those outstanding water bodies identified in Schedule 25<sup>4</sup>;~~
- dA) maintains, and where necessary enhances, the water quality of those outstanding freshwater bodies identified in Schedule 25 the catchment, and where appropriate, protects the water quantity of those outstanding freshwater bodies;
- e) promotes collaboration and information sharing between relevant management agencies, iwi, landowners and other stakeholders;
- f) takes a strategic long term planning outlook of at least 50 years to consider the future state, values and uses of water resources for future generations;
- g) aims to meet the differing demand and pressures on, and values and uses of, freshwater resources to the extent possible;
- gA) involves working collaboratively with the catchment communities and their nominated representatives;
- h) ensures the timely use and adaptation of statutory and non-statutory measures to respond to any significant changes in resource use activities or the state of the environment;
- iC) avoids development that limits the use or maintenance of existing electricity generating infrastructure or restricts the generation output of that infrastructure;
- iD) provides opportunities for new renewable electricity generation infrastructure where the adverse effects on the environment can be appropriately managed;
- iE) recognises and provides for existing use and investment;
- j) ensures efficient allocation and use of fresh water within limits to achieve freshwater objectives; and
- k) enables water storage infrastructure where it can provide increased water availability and security for water users while avoiding, remedying or mitigating adverse effects on freshwater values.

2. When preparing regional plans:

- a) use the catchment-wide integrated management approach set out in POL LW1.1; and
- b) identify the values for freshwater and wetlands and their spatial extent within each catchment and for catchments identified in Policy LW2.1:
  - i) the values must include those identified in Table 2A; and
  - ii) may include additional values; and
- ~~bA) recognise and provide for outstanding freshwater bodies and their values arising from the implementation of Policy LW1A; and~~

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



- bA) in relation to any relevant outstanding water bodies identified in Schedule 25:
- i) Carry out an assessment which identifies the significant values of that outstanding water body, and the spatial and/or temporal extent of those values as relevant; This assessment includes consideration of the values set out in Appendix 1a and Appendix 1b of the National Policy Statement for Freshwater Management 2020, and any other values that are determined to be relevant taking into account local and/or regional circumstances.
  - iA) Identify the spatial extent of the outstanding values, and the significant values, where relevant.
  - ii) Establish how the outstanding and significant values of outstanding water bodies identified in Schedule 25 will be protected by regulatory methods and/or non-regulatory methods or both;<sup>5</sup>.
  - iii) Include regional plan provisions to manage new activities in a manner which avoids adverse effects that are more than minor on the outstanding and significant values of an outstanding water bodies identified in Schedule 25; and
  - iv) Include regional plan provisions to manage existing activities in a manner which protects the outstanding and significant values of outstanding water bodies.
- c) establish freshwater objectives for all freshwater bodies for the values identified in clause (b) and clause (bA) above; and
- d) so as to achieve the freshwater objectives identified under clause (c), set:
- i) groundwater and surface water quality limits and targets;-and
  - ii) groundwater and surface water quantity allocation limits and targets and minimum flow regimes; and
- e) set out how the groundwater and surface water quality and quantity limits and targets will be implemented through regulatory or non-regulatory methods including specifying timeframes for meeting water quality and allocation targets.
3. When setting the objectives referred to in Policy LW1.2, ensure:
- a) the life-supporting capacity, ecosystem processes and indigenous species including their associated ecosystems of fresh water are safeguarded; and
  - b) adverse effects on water quantity and water quality that diminish mauri are avoided, remedied or mitigated; and
  - c) the microbiological water quality in rivers and streams is safe for contact recreation where that has been identified as a value under Policy LW1.2 or Policy LW2 Table 2A.<sup>6</sup>
4. When identifying methods and timeframes in regional plans to achieve limits and targets required by Policy LW1.2(e) have regard to:
- a) allowing reasonable transition times and pathways to meet any new water quantity limits or new water quality limits included in regional plans. A reasonable transition time is informed by the environmental and socio-economic costs and benefits that will occur during that transition time, and should include recognition of the existing investment; and
  - b) promoting and enabling the adoption and monitoring of industry-defined and Council approved good land and water management practices.

<sup>5</sup> In the case of conflicts arising between outstanding and significant values, the outstanding value(s) will take priority over significant values of the same outstanding water body identified in -Schedule 25.

<sup>6</sup> NOTE: Policy LW1.3(c) applies to any values and uses identified in Table 2A which refer to “amenity for contact recreation”, “amenity for water-based recreation” or “recreational trout angling.”

### **Principal reasons and explanation**

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

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

~~Policies LW1A, LW1.1 and LW1.2~~ Policy LW1.1(d) and (dA) inform future catchment-based plan changes, and the respective community discussions, which water bodies have outstanding values and directs the protection of their respective significant and outstanding values. Policy LW1.2(bA) ensures that the significant values of each outstanding water body are identified during the plan development phase and that any future plan provisions protect the outstanding water bodies' significant and outstanding values. Policy LW1.2(bA) differentiates between existing and new activities. In particular, Policy LW1.2(bA)(iii) requires new activities to be managed in a way that avoids any adverse effects, that are more than minor, on an outstanding water body's significant and outstanding values, while Policy LW1.2(bA)(iv) requires existing activities to be managed in a way that protects an outstanding water body's significant and outstanding values. Policy LW1.2(bA)(iv) recognises that existing activities are part of the existing environment in which these outstanding and significant values currently exist and should be able to continue in their current form providing the activity is not diminishing the outstanding nature of the water body.

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

### **POLICY LW2 Problem solving approach - Prioritising values**

Subject to achieving [Policy LW1.2](#) and Policy LW1.3:

1. Give priority to maintaining, or enhancing where appropriate, the primary values and uses of freshwater bodies shown in Table 2A for the following catchment areas<sup>1</sup> in accordance with Policy LW2.3:
  - a) Greater Heretaunga / Ahuriri Catchment Area;
  - b) Mohaka Catchment Area; and
  - c) Tukituki Catchment Area.
- 1A. Policy LW2.1 applies:
  - a) when preparing regional plans for the catchments specified in Policy LW2.1; and
  - b) when considering resource consents for activities in the catchments specified in Policy LW2.1 when no catchment-based regional plan has been prepared for the relevant catchment.
2. In relation to catchments not specified in Policy LW2.1 above, the management approach set out in Policy LW1.1, Policy LW1.2, Policy LW1.3 and Policy LW1.4 will apply.
- 2A. In relation to values not specified in Table 2A, the management approach set out in Policy LW1.1, Policy LW1.2, Policy LW1.3 and Policy LW1.4 will apply.
3. When managing the fresh water bodies listed in Policy LW2.1:
  - a) recognise and provide for the primary values and uses identified in Table 2A; and
  - b) have particular regard to the secondary values and uses identified in Table 2A.
4. Evaluate and determine the appropriate balance between any conflicting values and uses within (not between) columns in Table 2A, using an integrated catchment-based process in accordance with Policy LW1.1, Policy LW1.2, Policy LW1.3 and Policy LW1.4 or when considering resource consent applications where no catchment-based regional plan has been prepared.

TABLE 2A:

Catchment Area	Primary Value(s) and Uses – in no priority order	Secondary Value(s) and Uses – in no priority order
<b>Greater Heretaunga / Ahuriri Catchment Area</b>	<ul style="list-style-type: none"> <li>• any regionally significant native water bird populations and their habitats</li> <li>• Cultural values and uses for:               <ul style="list-style-type: none"> <li>○ mahinga kai</li> <li>○ nohoanga</li> <li>○ taonga raranga</li> <li>○ taonga rongoa</li> </ul> </li> <li>• Fish passage</li> <li>• Individual domestic needs and stock drinking needs<sup>7</sup></li> <li>• Industrial &amp; commercial water supply</li> <li>• Native fish habitat in the Ngaruroro River and Tutaekuri River catchments</li> <li>• Recreational trout angling and trout habitat in:               <ul style="list-style-type: none"> <li>○ the Mangaone River</li> <li>○ the Mangatutu Stream</li> <li>○ the Ngaruroro River and tributaries upstream of Whanawhana cableway</li> <li>○ the Ngaruroro River mainstem between the Whanawhana cableway and confluence with the Maraekakaho River</li> <li>○ the Tutaekuri River mainstem above the Mangaone River confluence</li> </ul> </li> <li>• The high natural character values of the Ngaruroro River and its margins upstream of Whanawhana cableway, including Taruarau River</li> <li>• The high natural character values of the Tutaekuri River and its margins above the confluence of, and including, the Mangatutu Stream</li> <li>• Trout spawning habitat</li> <li>• Urban water supply for cities, townships and settlements and water supply for key social infrastructure facilities</li> <li>• freshwater use for beverages, food and fibre production and processing and other land-based primary production</li> </ul>	<ul style="list-style-type: none"> <li>• Aggregate supply and extraction in Ngaruroro River downstream of the confluence with the Mangatahi Stream</li> <li>• Amenity for contact recreation (including swimming) in lower Ngaruroro River, Tutaekuri River and Ahuriri Estuary</li> <li>• any locally significant native water bird populations and their habitats</li> <li>• Native fish habitat, notwithstanding native fish habitat as a primary value and use in the Tutaekuri River and Ngaruroro River catchments</li> <li>• Recreational trout angling, where not identified as a primary value and use</li> <li>• Trout habitat, where not identified as a primary value and use</li> </ul>
<b>Mohaka Catchment Area</b>	<ul style="list-style-type: none"> <li>• Amenity for water-based recreation between State Highway 5 bridge and Willowflat</li> <li>• any regionally significant native water bird populations and their habitats</li> <li>• Cultural values and uses for:               <ul style="list-style-type: none"> <li>○ mahinga kai</li> <li>○ nohoanga</li> <li>○ taonga raranga</li> <li>○ taonga rongoa</li> </ul> </li> <li>• Fish passage</li> <li>• Individual domestic needs and stock drinking needs<sup>8</sup></li> <li>• Long-fin eel habitat and passage</li> <li>• Recreational trout angling and trout habitat in the Mohaka River and tributaries upstream of, and including, the Te Hoe River</li> </ul>	<ul style="list-style-type: none"> <li>• Aggregate supply and extraction in Mohaka River below railway viaduct</li> <li>• any locally significant native water bird populations and their habitats</li> <li>• Native fish habitat below Willowflat</li> <li>• Recreational trout angling, where not identified as a primary value and use</li> <li>• Trout habitat, where not identified as a primary value and use</li> <li>• Water use associated with maintaining or enhancing land-based primary production</li> <li>• Water use for renewable electricity generation in areas not restricted by the Water Conservation Order</li> </ul>

<sup>7</sup> In line with s14(3)(b)(ii) of the RMA, it is recognised that drinking water for stock is allowed, provided that it does not have an adverse effect on the environment.

Catchment Area	Primary Value(s) and Uses – in no priority order	Secondary Value(s) and Uses – in no priority order
	<ul style="list-style-type: none"> <li>• Scenic characteristics of Mokonui and Te Hoe gorges</li> <li>• The high natural character values of the Mohaka River and its margins</li> <li>• Trout spawning habitat</li> </ul>	
<b>Tukituki Catchment Area</b>	<ul style="list-style-type: none"> <li>• any regionally significant native water bird populations and their habitats</li> <li>• Cultural values and uses for: <ul style="list-style-type: none"> <li>○ mahinga kai</li> <li>○ nohoanga</li> <li>○ taonga raranga</li> <li>○ taonga rongoa</li> </ul> </li> <li>• Fish passage</li> <li>• Individual domestic needs and stock drinking needs<sup>8</sup></li> <li>• Industrial &amp; commercial water supply</li> <li>• Native fish and trout habitat</li> <li>• Recreational trout angling and trout habitat in: <ul style="list-style-type: none"> <li>○ the Mangaonuku Stream</li> <li>○ the Tukipo River</li> <li>○ the Tukituki River mainstem downstream to Red Bridge</li> <li>○ the Waipawa River</li> </ul> </li> <li>• The high natural character values of: <ul style="list-style-type: none"> <li>○ the Tukituki River upstream of the end of Tukituki Road; and</li> <li>○ the Waipawa River above the confluence with the Makaroro River, including the Makaroro River</li> </ul> </li> <li>• Trout spawning habitat</li> <li>• Urban water supply for cities, townships and settlements and water supply for key social infrastructure facilities</li> <li>• freshwater use for beverages, food and fibre production and processing and other land-based primary production</li> </ul>	<ul style="list-style-type: none"> <li>• Aggregate supply and extraction in lower Tukituki River</li> <li>• Amenity for contact recreation (including swimming) in lower Tukituki River.</li> <li>• any locally significant native water bird populations and their habitats</li> <li>• Recreational trout angling, where not identified as a primary value and use</li> <li>• Trout habitat, where not identified as a primary value and use</li> <li>• Water use for renewable electricity generation in the Tukituki River (mainstem) and the Waipawa River above SH50 including the Mākaroro River.</li> </ul>

### **Principal reasons and explanation**

Policy LW2.1 and 2.3 prioritises values of freshwater in three Catchment Areas where significant conflict exists between competing values. Clearer prioritised values in ‘hotspot’ catchments where significant conflicts exist was an action arising from the 2011 Hawke’s Bay Land and Water Management Strategy. Policy LW2 implements OBJ LW2 in particular insofar as explicit recognition is made of the differing demands and pressures on freshwater resources, particularly within the three nominated ‘hotspot’ catchment areas. In relation to the remaining catchment areas across the region, Policy LW2 does not pre-define any priorities, thus enabling catchment-based regional plan changes (refer Policy LW1) for those areas to assess values and prioritise those values accordingly. [Policy LW2 is subject to Policy LW1.2, which provides clear guidance that the outstanding and significant values of outstanding water bodies will need to be protected when developing future plans.](#)

The primary and secondary values in Table 2A are identified to apply to the catchment overall, or to sub-catchments or reaches where stated. Table 2A recognises that not all values are necessarily equal across every part of the catchment area, and that some values in parts of the catchment area can be managed in a way to ensure, overall, the water body’s value(s) is appropriately managed. With catchment-based regional planning processes, it is potentially possible for objectives to be established that meet the primary values and uses at the same time as meeting the secondary values.

[Refer also:

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

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

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

**Principal reasons and explanation**

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

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

**Policy LW3A Resource Consent Decision Making Criteria – Outstanding Water Bodies identified in Schedule 25 (new activities)**

**1A. Policy LW3A applies where the activity does not meet Policy LW3B.1.**

**1. In relation to those types of activities identified in Policy LW3A.2, once the relevant catchment based regional plan change<sup>8</sup> is operative or after 31 December 2025, whichever is sooner, a consent authority must take into account ~~have regard to:~~**

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

**2. Policy LW3A~~4~~ only applies to the following activities classified as a discretionary activity or a non-complying activity by a rule in a regional plan (but not a regional coastal environment plan)<sup>9a</sup>:**

- a) a take, use, damming, or diversion of water from an outstanding water body. ~~a change to any existing take, use, damming or diversion of water from an outstanding waterbody~~

<sup>8</sup> A catchment-based plan change which provides for any identified ~~OWB~~ outstanding water body.

<sup>9a</sup> In relation to a rule in a regional coastal environment plan, then Policy C2 applies.

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

~~3. Policy LW3A~~4~~ only applies in the following circumstances:~~

- ~~a. where a description of the outstanding value(s) of the outstanding water body's outstanding value(s) is stated is identified in Part 2 of Schedule 25; and/or~~
- ~~b. where a description of the significant value(s) of the outstanding water body's significant value(s) is stated is identified in Part 2 of Schedule 25.~~

**Policy LW3B Resource Consent Decision Making Criteria – Outstanding Water Bodies identified in Schedule 25 (existing activities)**

1. Policy LW3B applies in the following circumstances:

- a) The activity was a permitted activity in the regional plan as at 31 August 2019, or
- b) The activity was authorised by a resource consent prior to 31 August 2019 and the holder of the consent applies for a new consent for the same activity.

2. In relation to those types of activities identified in Policy LW3B.3, once the relevant catchment based regional plan change<sup>9</sup> is operative or after 31 December 2025, whichever is sooner, a consent authority must take into account:

- a) The extent to which the outstanding value(s) of the relevant outstanding water body, identified in Schedule 25, are present in the same state as at 31 August 2019.
- b) If the outstanding value(s) of the relevant outstanding water body, identified in Schedule 25, are present in the same state as at 31 August 2019, the extent to which the activity, and any conditions imposed on it, results in effects that are the same or similar in character, intensity, and scale to those arising from or associated with the existing activity.
- c) If the outstanding value(s) of the relevant outstanding water body, identified in Schedule 25, are in a worse state than as at 31 August 2019:
  - (i) the extent to which the activity is adversely affecting the outstanding value(s) either on its own or cumulatively; and
  - (ii) the extent to which conditions can be imposed to limit the adverse effects of the activity (if any) on the outstanding values of the relevant outstanding water body, identified in Schedule 25.

3. Policy LW3B only applies to the following activities classified as a discretionary activity or a non-complying activity by a rule in a regional plan (but not a regional coastal environment plan)<sup>9b</sup>:

- a) a take, use, damming, or diversion of water from an outstanding water body.

<sup>9</sup> A catchment-based plan change which provides for any identified outstanding water body.

<sup>9b</sup> In relation to a rule in a regional coastal plan, then Policy C3 applies.

- b) [a discharge of a contaminant into an outstanding water body.](#)
- c) [a discharge of a contaminant onto or into land in circumstances that may result in that contaminant \(or, as a result of any natural process from the discharge of that contaminant, any other contaminant\) entering an outstanding water body.](#)
- d) [a land use consent for a structure in, on under or over the bed of an outstanding water body.](#)

**Principal reason and explanation**

[Policy LW3A provides guidance to resource consent applicants and decision-makers when assessing new activities which can potentially cause adverse effects, including cumulative adverse effects, on outstanding water bodies. In some cases the proposed activity may be inappropriate at that location or at certain times of the year. Those types of factors ~~can~~ shall be taken into account ~~considered~~ by the Consent Authority when assessing resource consent applications to ensure the outstanding water body's significant and outstanding values are appropriately protected. Policy LW3A takes effect after the objectives and limits have been set across the region and included in the Regional Resource Management Plan as required by the National Policy Statement for Freshwater Management.](#)

[Policy LW3B provides guidance to resource consent applicants and decision-makers when assessing existing activities in or around outstanding water bodies. Policy LW3B provides for existing activities to continue in their current form providing the activity is not diminishing the outstanding nature of the water body. Policy LW3B recognises that activities occurring at or before 31 August 2019 were part of the existing environment at the time in which the outstanding value\(s\) set out in Schedule 25 were identified.](#)

**POL LW4 Role of non-regulatory methods**

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

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

**Principal reasons and explanation**

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

**Anticipated Environmental Results**

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

Anticipated Environmental Results	Indicator(s)	Data Source(s)
1. Land and water management is tailored and prioritised to address the key values and pressures of each catchment	Freshwater objectives, targets and limits for catchments and/or groups of catchments are identified in regional plans for catchments Physical and biological parameters Social, cultural and economic indices	Regional plans and changes to regional plans HBRC's NPSFM Implementation Programme SOE monitoring and reporting

		Local authority records User surveys Catchment-specific monitoring programmes
2. Regional economic prosperity is enhanced	Regional GDP trends and unemployment trends for primary sector and associated manufacturing and processing	Statistics NZ Economic activity surveys Employment records by sector
3. Water is efficiently allocated	Level of allocation Catchment contaminant load modelling and monitoring Water use restriction timings and durations	SOE monitoring HBRC Consents records Compliance records Catchment-specific monitoring reports Water-supply management plans
4. Quality of fresh water in region overall is maintained or improved.	Catchment targets are met and limits in regional plans are not exceeded Catchment contaminant load modelling and monitoring	SOE monitoring Compliance records Catchment-specific monitoring reports
5. Water storage is developed to provide increased water availability and security for water users	Consents issued for water storage projects Improved security of supply of water for users in times and places of water scarcity	HBRC consent records Building consent authority records
6. Tikanga Maori and tangata whenua values are taken into account when managing freshwater	Cultural indices developed through cultural monitoring frameworks	Cultural health monitoring records
<u>7. Outstanding and significant values of outstanding water bodies are protected</u>	<u>The outstanding and significant values for each outstanding water body identified listed in Schedule 25 are protected identified.</u> <u>The significant values for each outstanding water body listed identified in Schedule 25 are protected using regulatory methods or non-regulatory methods, or both.</u>	<u>Regional plans and changes to regional plans</u> <u>HBRC's NPSFM Implementation Programme</u> <u>SOE monitoring and reporting</u> <u>Specific monitoring programmes</u>



## **3.2 The Sustainable Management of Coastal Resources**

### ISSUE

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

### OBJECTIVES

- OBJ 4** Promotion of the preservation of the natural character of the coastal environment and its protection from inappropriate subdivision, use and development.
- OBJ 5** The maintenance and where practicable and in the public interest, the enhancement of public access to and along the coast.
- OBJ 6** The management of coastal water quality to achieve appropriate standards, taking into account spatial variations in existing water quality, actual and potential public uses, and the sensitivity of the receiving environment.
- OBJ 7** The promotion of the protection of coastal characteristics of special significance to iwi, including waahi tapu, tauranga waka, taonga raranga, mahinga kai and mahinga mataitai.
- OBJ 8** The avoidance of further permanent development in areas prone to coastal erosion or inundation, taking into account the risk associated with global sea level rise and any protection afforded by natural coastal features.
- OBJ 9** Appropriate provision for economic development within the coastal environment, including the maintenance and enhancement of infrastructure, network utilities, industry and commerce, and aquaculture.
- OBJ 10** Enabling safe and efficient navigation.
- OBJ 11** Protection of the outstanding and significant values of those outstanding water bodies within the Coastal Environment identified ~~listed~~ in Schedule 25.

### Explanation and Reasons

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

- 3.2.8 The preservation of the natural character of the coastal environment is specified as a matter of national importance in the Act. The natural character of the coast embraces ecological, physical, spiritual, cultural, intrinsic and aesthetic values. While it is a matter of national importance to preserve those values, the Act does not preclude appropriate use and development, particularly where natural character has already been compromised.
- ~~3.2.8A Objective 11 aligns with provisions relating to outstanding freshwater bodies (Chapter 3.1A of the RRMP), and ensures a consistent framework is in place to protect outstanding water bodies (such as estuaries) in coastal areas, in the same manner as outstanding freshwater bodies. The NPSFM specifically provides for the integrated management of the effects of use and development of land and freshwater on coastal water. Objective 11 assists in achieving integrated management between coastal and freshwater resources ensuring that outstanding and significant values that span both the freshwater and coastal environments are protected.~~
- ~~3.2.8B Objective 11 assists in giving effect to Objectives 1 and 2 and Policies 11, 13, 15 and 17 of the NZ Coastal Policy Statement, which requires the protection of significant natural ecosystems, indigenous biodiversity, sites of biological importance, natural features, historic heritage, natural character and landscape values, which are some of the many significant values which can be associated with water bodies in the coastal environment. In some instances Policies 11, 13 and 15 of the NZCPS contain direction that is more stringent than that set out in the NPSFM. In those cases, the direction set out in the NZCPS applies (see Policies C1, C2 and C3). Objective 11 allows the national direction contained in the respective NZCPS and NPSFM documents to be taken into account in decision making.~~
- 3.2.9 Public access to and along the coast is an important issue for the residents of Hawke's Bay. It is also a matter of national importance in the RMA. In planning for the use, development and protection of the natural and physical resources in the coast, public access as far as possible should be maintained. In certain circumstances it may be desirable to enhance public access to and along the coast.
- 3.2.10 Good water quality is important for the sustainable management of natural and physical resources in the coastal environment and is an issue of prime concern to the residents of Hawke's Bay. However, water quality may vary over time and in different areas. An appropriate management framework includes achieving standards through management of discharge including point and non-point source discharges from land and to sea.
- 3.2.11 Tangata whenua of Hawke's Bay have strong traditional and cultural relationships with the sea. The identification and protection of coastal characteristics of special significance to iwi recognises the special relationships that iwi have with coastal resources.
- 3.2.12 Avoiding permanent development in areas prone to coastal erosion or inundation and taking into account the risk associated with global sea level rise is necessary to achieve the purpose of the Act. This approach enables people to provide for their safety and recognises the reasonably foreseeable needs of future generations. It also gives a clear indication to resource users that development in these areas is inappropriate and indicates that local authorities are accountable for any development that does occur in these areas.
- 3.2.13 The provisions of the Act do not relate solely to the control of environmental effects. Providing for economic development in the coastal environment within the region is necessary to achieve the purpose of the Act because the Act requires the Council to promote the sustainable management of both natural and physical resources. Physical resources include land and structures and includes the structures in the region which add to the present and future economic well-being of the region. The responsibility for providing for the social, economic, cultural, health and safety needs of the community lies in part with the Regional Council. The economic well-being of the people and communities of the region requires the continuation of an economic infrastructure.
- 3.2.14 There are a number of existing surface water activities in Hawke's Bay ranging from passive recreation to recreational use of boats, yachts and pleasure craft, to commercial fishing and port related shipping. New activities may occupy coastal marine space and may have the potential to enhance or conflict with navigational needs. Promoting safe and efficient navigation is necessary to promote the purpose of the Act because it enables people and communities to provide for their social, cultural and economic well-being and for their health and safety.

## **POLICIES**

### **POLICY C1 Problem solving approach – outstanding water bodies in the coastal environment**

1. When preparing regional plans, in relation to any relevant outstanding water bodies identified in Schedule 25:
  - a) Apply Policy LW1.2(bA)(i), (iA) and (ii).
    - ~~i) identify the significant values of that outstanding waterbody and the spatial and/or temporal extent of those values as relevant;~~
    - ~~ii) establish how the outstanding and significant values of outstanding water bodies identified in Schedule 25 will be protected by regulatory methods or non-regulatory methods or both;<sup>49</sup>~~

<sup>49</sup> ~~In the case of conflicts arising between outstanding and significant values, the outstanding value(s) will take priority over significant values of the same outstanding waterbody identified in Schedule 25.~~

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

- (i) avoids adverse effects on the outstanding and significant indigenous biological diversity (biodiversity) values of an outstanding water body, that are identified in Schedule 25 and meet the description(s) set out in Policy 11(a), of the New Zealand Coastal Policy Statement 2010; and
- (ii) avoids adverse effects on outstanding natural character, outstanding natural features and outstanding natural landscape values of an outstanding water body identified in Schedule 25 to give effect to Policies 13.1(a) and 15(a) of the New Zealand Coastal Policy Statement 2010; and
- (iii) avoids adverse effects that are more than minor on any other outstanding and significant values identified in Schedule 25.

c) Include provisions to manage existing activities in a manner which:

- (i) avoids adverse effects on the outstanding and significant indigenous biological diversity (biodiversity) values of an outstanding water body, that are identified in Schedule 25 and meet the description(s) set out in Policy 11(a), of the New Zealand Coastal Policy Statement 2010; and
- (ii) avoids adverse effects on outstanding natural character, outstanding natural features and outstanding natural landscape values of an outstanding water body identified in Schedule 25 to give effect to Policies 13.1(a) and 15(a) of the New Zealand Coastal Policy Statement 2010; and
- (iii) protects any other outstanding and significant values of outstanding water bodies identified in Schedule 25.

## **Policy C2 Resource Consent Decision Making Criteria – Outstanding Water Bodies Identified in Schedule 25 in the coastal environment (new activities)**

1A. Policy C2 applies where the activity does not meet Policy C3.

1. In relation to those types of activities identified in Policy C2.2, once the relevant catchment based regional plan change<sup>11</sup> is operative or after 31 December 2025, whichever is sooner, a consent authority must take into account ~~have regard to:~~

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

a)e) If adverse effects from the activity on the outstanding and significant value(s), of the relevant outstanding water body, can be avoided pursuant to Policies 11(a), 13.1(a) and 15(a) of the New Zealand Coastal Policy Statement 2010 in the following instances:

<sup>11</sup> A catchment-based plan change which provides for any identified ~~OWB~~ outstanding water body

- i) where the outstanding and/or significant values, identified in Schedule 25, meet the indigenous biological diversity (biodiversity) values description(s) set out in Policy 11(a) of the New Zealand Coastal Policy Statement 2010; and/or
- ii) where the outstanding values, identified in Schedule 25, are outstanding natural character, outstanding natural features or outstanding natural landscape values.

2. Policy C2~~4~~ only applies to the following activities classified as a discretionary activity or a non-complying activity by a rule in a regional coastal environment plan:

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

3. Policy C2~~4~~ only applies in the following circumstances:

- a) where a description of the outstanding value(s) of the outstanding water body ~~outstanding value(s)~~ is identified ~~stated~~ in Part 2 of Schedule 25; and/or
- b) where a description of the significant value(s) of the outstanding water body ~~significant value(s)~~ is identified ~~stated~~ in Part 2 of Schedule 25.

**Policy C3 - Resource Consent Decision Making Criteria – Outstanding Water Bodies identified in Schedule 25 in the coastal environment (existing activities)**

1. Policy C3 applies in the following circumstances:

- a) The activity was a permitted activity in the Regional Coastal Environment Plan as at 31 August 2019, or
- b) The activity was authorised by a resource consent prior to 31 August 2019 and the holder of the consent applies for a new consent for the same activity.

2. In relation to those types of activities identified in Policy C3.3, once the relevant catchment based regional plan change<sup>12</sup> is operative or after 31 December 2025, whichever is sooner, a consent authority must take into account:

- a) The extent to which the outstanding value(s) of the relevant outstanding water body, identified in Schedule 25, are present in the same state as at 31 August 2019.
- b) If the outstanding value(s) of the relevant outstanding water body, identified in Schedule 25, are present in the same state as at 31 August 2019 the extent to which the activity, and any conditions imposed on it, results in effects that are the same or similar in character, intensity, and scale to those arising from or associated with the existing activity, except in the case of

<sup>12</sup> A catchment-based plan change which provides for any identified outstanding water body.

Policy C3.2(d).

- c) If the outstanding value(s) of the relevant outstanding water body, identified in Schedule 25, are in a worse state than as at 31 August 2019:
- i) the extent to which the activity is adversely affecting the outstanding value(s) either on its own or cumulatively; and
  - ii) the extent to which conditions can be imposed to limit the adverse effects of the activity (if any) on the outstanding values of the relevant outstanding water body, identified in Schedule 25, except in the case of Policy C3.2(d).
- d) If adverse effects from the activity on the outstanding and significant value(s), of the relevant outstanding water body, can be avoided pursuant to Policies 11(a), 13.1(a) and 15(a) of the New Zealand Coastal Policy Statement 2010 in the following instances:
- i) where the outstanding and significant values, described in Schedule 25, meet the indigenous biological diversity (biodiversity) values description(s) set out in Policy 11(a) of the New Zealand Coastal Policy Statement 2010; and/or
  - ii) where the values, described in Schedule 25, are outstanding natural character, outstanding natural features or outstanding natural landscape values.
3. Policy C3 only applies to the following activities classified as a discretionary activity or a non-complying activity by a rule in a regional coastal environment plan:
- a) a take, use, damming, or diversion of water from an outstanding water body.
  - b) a discharge of a contaminant into an outstanding water body.
  - c) a discharge of a contaminant onto or into land in circumstances that may result in that contaminant (or, as a result of any natural process from the discharge of that contaminant, any other contaminant) entering an outstanding water body.
  - d) a land use consent for a structure in, on, under or over the bed of an outstanding water body.

**Principal reasons and explanation**

3.2.15 While there are only two policies in this plan, there are no specific policies Policy C1, and C2 and C3 are the only two policies relating to the coastal environment part of this Plan. However, although many of the other provisions within the Regional Policy Statement parts of this Plan do apply are also relevant to within the coastal environment. Specific regional plan provisions (including policies) for the coastal environment are contained within the Regional Coastal Environment Plan.

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

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

3.2.18 Some aspects of those activities are the sole responsibility of district councils – particularly managing the effects of land uses, development and subdivision in terms of the Act and in ways which are not inconsistent with this Regional Policy Statement or regional plans. District Plans should also be referred to as these may set out specific objectives, policies, methods and rules for the landward side of the coastal environment.

3.2.18A Policy C1 aligns with provisions relating to outstanding freshwater bodies (i.e. Policy LW1) in Chapter 3.1A of the RRMP, and ensures a consistent framework is in place to protect outstanding water bodies (such as estuaries) in coastal areas, in the same manner as outstanding freshwater bodies. This is consistent with the NPSFM which specifically provides for the integrated management of the effects of use and development of land and freshwater on coastal water. Policy C1 informs future catchment-based plan changes, and the respective community discussions, which water bodies have outstanding values and directs the protection of their respective significant values. Policy C1.1(a) (b) cross references Policy LW1.2(bA)(i) (iA) and (ii) to ensure that the significant values of each outstanding water body are identified during the plan development phase, and that any future plan provisions protect the outstanding water bodies' outstanding and significant values.

3.2.18B Policy C2 and C3 align with Policies LW3A and LW3B, respectively, of the RRMP albeit applicable to decision making for activities affecting outstanding water bodies located in the coastal environment. Both policies Policy C2 provides guidance to resource consent

applicants and decision-makers when assessing new activities which can potentially cause adverse effects including cumulative adverse effects, on outstanding water bodies. In some cases the proposed activity may be inappropriate at that location or at certain times of the year. Those types of factors ~~can~~ shall be taken into account ~~considered~~ by the Consent Authority when assessing resource consent applications to ensure the outstanding water body's significant and outstanding values are appropriately protected. Policy C2 takes effect after new provisions have been included in the Hawke's Bay Regional Coastal Environment Plan giving effect to the New Zealand Coastal Policy Statement. Policy C3 provides guidance to resource consent applicants and decision-makers when assessing existing activities in or around outstanding water bodies. Policy C3 provides for existing activities to continue in their current form providing the activity is not diminishing the outstanding nature of the water body. Policy C3 recognises that activities occurring at or before 31 August 2019 were part of the existing environment at the time in which the outstanding value(s) set out in Schedule 25 were identified.

3.2.18C The New Zealand Coastal Policy Statement 2010 contains specific direction with respect to significant natural ecosystems, indigenous biodiversity, sites of biological importance, natural features, historic heritage, natural character and landscape values. These are some of the many significant values which can be associated with water bodies in the coastal environment. In some instances, Policies 11, 13 and 15 of NZCPS contain direction which is more stringent than that set out in the NPSFM. In those cases, Policies C1, C2 and C3 reflect the direction set out in the NZCPS.

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

Amend Glossary by adding new definitions to read:

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

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

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

# Appendix 2 - Decisions on Schedule 25

## Schedule 25: Outstanding Water Bodies

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

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

Table 1: Outstanding values and sub-values

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

To be identified as ‘outstanding’, the water body must feature at least one outstanding value. The water body may also feature other significant values which must be protected to give effect to the NPSFM. Information held by HBRC on the outstanding and significant values of ‘outstanding water bodies’ is available on the HBRC website, [www.hbrc.govt.nz](http://www.hbrc.govt.nz) under #QWB.

## Part 1 – Outstanding Water Body Identification Screening Criteria

The Outstanding Water Body Identification Screening Criteria enables the identification of water bodies and/or estuaries, or parts thereof, in Hawke's Bay, that have one or more outstanding cultural and spiritual, recreation, landscape, geology, natural character or ecology value(s) that are conspicuous, eminent and/or remarkable in the context of the Hawke's Bay Region.

The Outstanding Water Body Screening Criteria is used to identify outstanding water bodies in Hawke's Bay (see Part 2 of Schedule 25). Information held by HBRC on the outstanding and significant values of 'outstanding water bodies' is available on the HBRC website, [www.hbrc.govt.nz](http://www.hbrc.govt.nz) under #OWB.

Value	Sub values / Outstanding indicators	Evidential sources can include but not limited to the following <sup>13</sup>
Ecology	<p><b>Habitat for aquatic birds (native and migratory)</b></p> <p>Water body provides an outstanding habitat for aquatic birds where it meets:</p> <ul style="list-style-type: none"> <li>at least one matter in List A; and</li> <li>all matters in List B.</li> </ul> <p><b>List A</b></p> <ol style="list-style-type: none"> <li>One of the highest regional populations of a native aquatic bird species which is endangered, threatened or distinctive<sup>14</sup>.</li> <li>One of the highest natural diversity of aquatic birds (native and migratory) in the region, which includes endangered or threatened species.</li> </ol> <p><b>List B</b></p> <ol style="list-style-type: none"> <li>Evidence is provided in support of outstanding features.</li> </ol>	<p>International Union for Conservation of Nature (IUCN) criteria.</p> <p>RAMSAR site criteria reports.</p> <p>New Zealand threat classification system.</p> <p>IUCN red list.</p> <p>Expert evidence.</p>
	<p><b>Native fish habitat</b></p> <p>Water body provides an outstanding habitat for native fish where it meets:</p> <ul style="list-style-type: none"> <li>at least one matter in List A; and</li> <li>all matters in List B.</li> </ul> <p><b>List A</b></p> <ol style="list-style-type: none"> <li>A unique species or distinctive assemblage of native fish not found anywhere else in the region.</li> <li>Native fish that are landlocked and not affected by presence of introduced species.</li> <li>One of the highest diversities of native fish species in the region, which includes a threatened, endangered or distinctive species.</li> <li>An outstanding customary fishery.</li> </ol> <p><b>List B</b></p> <ol style="list-style-type: none"> <li>Evidence is provided in support of outstanding native fish habitat value.</li> </ol>	<p>Waters of National Importance.</p> <p>Expert evidence.</p>
	<p><b>Habitat for indigenous plant communities</b></p> <p>Water body provides an outstanding habitat for an indigenous plant community where it meets:</p> <ul style="list-style-type: none"> <li>at least one matter in List A; and</li> <li>all matters in List B.</li> </ul> <p><b>List A</b></p> <ol style="list-style-type: none"> <li>The indigenous plant community has a high diversity of habitats, or rare and threatened plant species in the region.</li> <li>The indigenous plant community contains special features not found anywhere else in the region.</li> </ol> <p><b>List B</b></p> <ol style="list-style-type: none"> <li>The indigenous plant community is reliant on the river flows, other aquatic characteristics, or is an integral part of the water body.</li> </ol>	<p>New Zealand Geopreservation Inventory.</p> <p>Protected Natural Area (PNA) surveys.</p> <p>Expert evidence.</p>

<sup>13</sup> Evidence sources include but are not limited to those listed.

<sup>14</sup> For National Water Conservation Order purposes, at least 5% of the national population (Rangitata River 2004).



Value	Sub values / Outstanding indicators	Evidential sources can include but not limited to the following <sup>13</sup>
	<p>b) <a href="#">Evidence is provided in support of outstanding features.</a></p> <p><b>Habitat for trout and salmon</b></p> <p><a href="#">Water body provides an outstanding habitat for trout and salmon where it meets all matters in List A.</a></p> <p><b>List A</b></p> <p>a) <a href="#">Has an outstanding angling amenity, or is critical to maintaining an outstanding angling amenity elsewhere in the catchment.</a></p> <p>b) <a href="#">Supports a self-sustaining population of wild trout or salmon (i.e. fish population not periodically restocked from hatcheries).</a></p> <p>c) <a href="#">Evidence is provided in support of outstanding features.</a></p>	<p><a href="#">Waters of National Importance.</a></p> <p><a href="#">Headwater trout fisheries (NIWA).</a></p> <p><a href="#">Expert evidence.</a></p>
<p><b>Cultural and spiritual (tāngata whenua)</b></p>	<p><b>Cultural and spiritual (tāngata whenua)</b></p> <p><a href="#">Water body provides outstanding cultural and spiritual values where it meets all matters in List A.</a></p> <p><b>List A</b></p> <p>a) <a href="#">The features are of outstanding value to wider iwi and hapu groups of the region.</a></p> <p>b) <a href="#">The features are acknowledged as outstanding, by the descendant groups most closely associated with the water body.</a></p> <p>c) <a href="#">Evidence is provided in support of outstanding features.</a></p>	<p><a href="#">Waitangi Tribunal Reports.</a></p> <p><a href="#">Statutory acknowledgements.</a></p> <p><a href="#">Statements provided from iwi members.</a></p> <p><a href="#">Expert evidence.</a></p> <p><a href="#">Deeds of settlement.</a></p> <p><a href="#">Customary uses reports.</a></p> <p><a href="#">Court cases.</a></p>
<p><b>Recreation</b></p>	<p><b>Angling amenity (trout and salmon)</b></p> <p><a href="#">Water body provides an outstanding recreational fishing experience (angling amenity) where it meets:</a></p> <ul style="list-style-type: none"> <li>• <a href="#">at least one matter in List A; and</a></li> <li>• <a href="#">at least one matter in List B; and</a></li> <li>• <a href="#">all matters in List C.</a></li> </ul> <p><b>List A</b></p> <p>a) <a href="#">Trophy trout (over 4 kg in size).</a></p> <p>b) <a href="#">High numbers of large trout (water body supports the highest number of large trout in the region).</a></p> <p>c) <a href="#">High numbers of trout (water body supports the highest trout numbers in the region or the highest trout biomass in the region).</a></p> <p><b>List B</b></p> <p>a) <a href="#">Variety of high quality angling experiences.</a></p> <p>b) <a href="#">Specialised high quality angling experience (scenic, solitude, challenging, high catch rate, ability to spot and fish to a particular trout).</a></p> <p><b>List C</b></p> <p>a) <a href="#">Wild trout fishery (self-sustaining trout population through natural replacement).</a></p> <p>b) <a href="#">Water body is accessible and suitable to fish (high water quality and suitable flows).</a></p> <p>c) <a href="#">A regional, national or international reputation as an exceptional trout fishery or high non-local usage (high numbers of anglers come from outside of the area).</a></p> <p>d) <a href="#">Evidence is provided in support of outstanding recreational experience.</a></p> <p><b>Rafting</b></p> <p><a href="#">Water body provides an outstanding rafting experience (amenity) where it meets:</a></p> <ul style="list-style-type: none"> <li>• <a href="#">at least one matter in List A; and</a></li> <li>• <a href="#">all matters in List B.</a></li> </ul> <p><b>List A</b></p> <p>a) <a href="#">Variety of high quality rafting experiences found in few other water bodies in</a></p>	<p><a href="#">National Angling Survey.</a></p> <p><a href="#">Headwater trout fisheries (NIWA).</a></p> <p><a href="#">Testimonies from anglers.</a></p> <p><a href="#">National Inventory of Wild and Scenic River.</a></p> <p><a href="#">Expert evidence.</a></p> <p><a href="#">1991 River Use Survey.</a></p> <p><a href="#">New Zealand Recreational River Survey.</a></p> <p><a href="#">Testimonies from rafters and their local or national associations.</a></p>

Value	Sub values / Outstanding indicators	Evidential sources can include but not limited to the following <sup>13</sup>
	<p><a href="#">the region.</a></p> <p>b) <a href="#">A specialised high quality rafting experience found in few other water bodies in the region.</a></p> <p><b>List B</b></p> <p>a) <a href="#">The water body provides an outstanding rafting experience which is reliable and predictable for most of the year under normal flows (i.e. the experience is not reliant on dam release water or high flows, or subject to low flows).</a></p> <p>b) <a href="#">Regional, national or international significance as an exceptional rafting experience.</a></p> <p>c) <a href="#">High non-local usage (high numbers of participants come from outside of the area).</a></p> <p>d) <a href="#">Evidence is provided in support of an outstanding rafting experience.</a></p>	<p><a href="#">Expert evidence.</a></p>
	<p><b>Kayaking (includes canoeing)</b></p> <p><a href="#">Water body provides an outstanding kayaking experience (amenity) where it meets:</a></p> <ul style="list-style-type: none"> <li>• <a href="#">at least one matter in List A; and</a></li> <li>• <a href="#">all matters in List B.</a></li> </ul> <p><b>List A</b></p> <p>a) <a href="#">Variety of high quality kayaking experiences found in few other water bodies in the region.</a></p> <p>b) <a href="#">A specialised high quality kayaking experience found in few other water bodies in the region.</a></p> <p><b>List B</b></p> <p>a) <a href="#">The water body provides an outstanding kayaking experience which is reliable and predictable for most of the year under normal flows (i.e. the experience is not reliant on dam release water or high flows, or subject to low flows).</a></p> <p>b) <a href="#">Regional, national or international significance as an exceptional kayaking experience.</a></p> <p>c) <a href="#">High non-local usage (high numbers of participants come from outside of the area).</a></p> <p>d) <a href="#">Evidence is provided in support of an outstanding kayaking experience.</a></p>	<p><a href="#">1991 River Use Survey.</a></p> <p><a href="#">New Zealand Recreational River Survey.</a></p> <p><a href="#">New Zealand Whitewater: 120 Great Kayaking Runs.</a></p> <p><a href="#">Testimonies from kayakers and their local or national associations.</a></p> <p><a href="#">Expert evidence.</a></p>
	<p><b>Jet boating</b></p> <p><a href="#">Water body provides an outstanding jet boating experience (amenity) where it meets:</a></p> <ul style="list-style-type: none"> <li>• <a href="#">at least one matter in List A; and</a></li> <li>• <a href="#">all matters in List B.</a></li> </ul> <p><b>List A</b></p> <p>a) <a href="#">Variety of high quality jet boating experiences found in few other water bodies in the region.</a></p> <p>b) <a href="#">A specialised high quality jet boating experience found in few other water bodies in the region.</a></p> <p><b>List B</b></p> <p>a) <a href="#">The water body provides an outstanding jet boating experience which is reliable and predictable for most of the year under normal flows (i.e. the experience is not reliant on high flows or subject to low flows).</a></p> <p>b) <a href="#">Regional, national or international significance as an exceptional jet boating experience.</a></p> <p>c) <a href="#">High non-local usage (high numbers of participants come from outside of the area).</a></p> <p>d) <a href="#">Evidence is provided in support of an outstanding jet boating experience.</a></p>	<p><a href="#">New Zealand Recreational River Survey.</a></p> <p><a href="#">Testimonies from jet boaters and their local or national associations.</a></p> <p><a href="#">Expert evidence.</a></p>
<b>Landscape</b>	<b>Wild and scenic</b>	

Value	Sub values / Outstanding indicators	Evidential sources can include but not limited to the following <sup>13</sup>
	<p><u>Water body has outstanding wild and/or scenic values where it meets all matters in List A.</u></p> <p><b>List A</b></p> <ul style="list-style-type: none"> <li>a) <u>Waters are an essential component of the landscape.</u></li> <li>b) <u>Waters have wild and/or scenic values that contain distinctive qualities which 'stand out' and are present in few other water bodies in the region.</u></li> <li>c) <u>Evidence is provided in support of outstanding wild or scenic values by way of an expert assessment or independent evidence sources.</u></li> </ul>	<p><u>A National Inventory of Wild and Scenic Rivers.</u></p> <p><u>A list of rivers and lakes deserving protection in a schedule of protected waters.</u></p> <p><u>64 New Zealand Rivers: a scenic evaluation.</u></p> <p><u>New Zealand Recreational Survey and the National Inventory of Wild and Scenic Rivers.</u></p> <p><u>Expert evidence.</u></p>
<u>Karst system / subterranean waters</u>	<p><u>Karst system / subterranean waters</u></p> <p><u>A karst system and/or subterranean waters is outstanding where the following is met:</u></p> <ul style="list-style-type: none"> <li>• <u>at least one matter in List A; and</u></li> <li>• <u>all matters in List B.</u></li> </ul> <p><b>List A</b></p> <ul style="list-style-type: none"> <li>a) <u>A specialised high quality experience present in few other water bodies in the region.</u></li> <li>b) <u>Wild and/or scenic values that contain distinctive qualities which 'stand out' and are present in few other water bodies in the region.</u></li> <li>c) <u>Unique or unusual scientific or ecological values present in few other water bodies in the region.</u></li> </ul> <p><b>List B</b></p> <ul style="list-style-type: none"> <li>a) <u>International or national reputation and/or high non-local usage.</u></li> <li>b) <u>Evidence is provided in support of outstanding values.</u></li> </ul>	<p><u>New Zealand Geopreservation Inventory.</u></p> <p><u>Expert evidence.</u></p>
<u>Natural Character</u>	<p><u>Natural Character</u></p> <p><u>Water body has outstanding natural character values where it meets all matters in List A.</u></p> <p><b>List A</b></p> <ul style="list-style-type: none"> <li>a) <u>The water body is highly natural with little or no human modification, including to the flow, bed and riparian margins, water quality, flora and fauna, within a largely indigenous landscape.</u></li> <li>b) <u>The natural character values are conspicuous, eminent and/or remarkable in the context of the Hawke's Bay Region.</u></li> <li>c) <u>Evidence is provided in support of outstanding natural character values by way of an expert assessment or independent evidence sources.</u></li> </ul>	<p><u>Expert evidence</u></p>
<u>Geology</u>	<p><u>Geology</u></p> <p><u>Water body has outstanding geology values where it meets all matters in List A.</u></p> <p><b>List A</b></p> <ul style="list-style-type: none"> <li>a) <u>The geomorphological, geological or hydrological feature is dependent on the water body's condition and functioning.</u></li> <li>b) <u>The geology values are conspicuous, eminent and/or remarkable in the context of the Hawke's Bay Region.</u></li> <li>c) <u>The geomorphological, geological or hydrological feature is classified as Class A on the New Zealand Geopreservation Inventory.</u></li> <li>d) <u>Evidence is provided in support of outstanding geology values by way of an expert assessment or independent evidence sources.</u></li> </ul>	<p><u>New Zealand Geopreservation Inventory.</u></p> <p><u>Expert evidence.</u></p>



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

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

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

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

**Table 1: Outstanding Water Bodies in Hawke’s Bay**

Column 1	Column 2	Column 3	Column 4
ID #	Outstanding water body	Outstanding Characteristics or Values	Significant values
OWB 1	<p><b>Lakes Rotoroa and Rototuna (the Kaweka Lakes)</b></p> <p>These lakes are situated in the Kaweka Forest Park, with no sign of human modification and surrounded by indigenous vegetation.</p>	<p>Natural Character (Lake Rotoroa and Lake Rototuna)</p> <p>Habitat for Indigenous Aquatic Plant Community (Lake Rototuna)</p> <p>Habitat for Native Fish Community (Lake Rotoroa)</p>	
OWB 2	<p><b>Lake Tūtira (including Lake Waikōpiro)</b></p> <p>Lake Tūtira is located beside SH2 north of Napier. Water quality in the lake is degraded, and various attempts have been made to improve it. Two fortified pa stood beside the lake, which was a taonga, a highly valued source of kai and the scene of many battles.</p>	<p>Cultural and Spiritual Values</p>	
OWB 3	<p><b>Lake Waikaremoana</b></p> <p>Lake Waikaremoana is a debris dammed lake located in Te Urewera. It is the deepest lake in the North Island, and the largest in the region. It has exceptional water quality, a high diversity of native aquatic plant species, is popular for recreational activities including angling and boating, and forms the focus of one of New Zealand’s great walks.</p>	<p>Ecology, specifically habitat for aquatic native plant communities</p> <p>Landscape (wild and scenic) values</p> <p>Natural Character</p> <p><del>including a large debris dammed lake</del></p> <p>Recreation (central focus of a Great Walk)</p>	
OWB 4	<p><b>Lake Whakakī – Te Paeroa Lagoon – Wairau Lagoon and Wetlands</b></p> <p>Whakakī Lake and its associated wetlands are located to the north of Wairoa township near the coast.</p> <p>Whakakī Lake is an intermittently closed and open lake (ICOLL) which is a rare habitat type. These water bodies support a significant number of threatened native aquatic birds.</p>	<p>Ecology (habitat for high natural diversity of aquatic native birds)</p>	

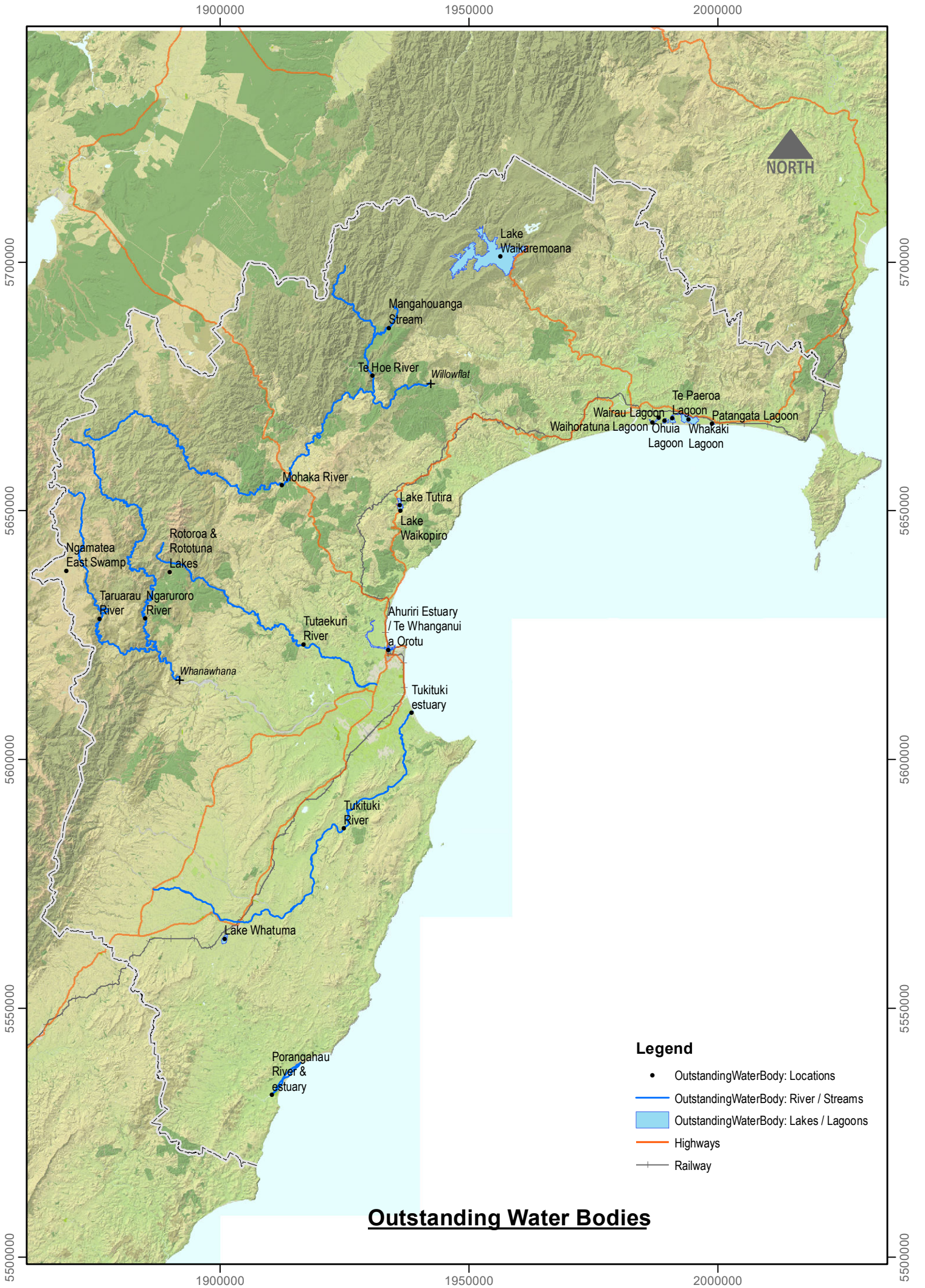
Column 1	Column 2	Column 3	Column 4
ID #	Outstanding water body	Outstanding Characteristics or Values	Significant values
<b>OWB 5</b>	<p><b>Lake Whatumā</b></p> <p>Lake Whatumā is located south west of Waipukurau. It covers about 160ha, with an adjacent wetland margin of around 75ha. It is a taonga to hapū of Heretaunga Tamatea, providing a major source of kai for those who resided nearby. The lake supports a number of threatened birds, including the greatest numbers of Australasian Bittern in the region.</p>	<p>Cultural and Spiritual Values</p> <p>Ecology (habitat for aquatic native birds, particularly Australasian Bittern)</p>	
<b>OWB 6</b>	<p><b>Mangahouanga Stream</b></p> <p>The Mangahouanga Stream is a small tributary on the north bank of Te Hoe River. It is the only site in New Zealand where dinosaur fossils have been found to date.</p>	<p>Geology (presence of dinosaur fossils)</p>	
<b>OWB 7</b>	<p><b>The Mohaka River Mainstem upstream of Willow Flat</b></p> <p>The Mohaka River is 175km long and is located in northern Hawke's Bay. The upper reaches of the river are in a near natural state with pristine water quality, and an impressive waterscape comprising deep gorges and fast flowing rapids. The river is already protected by a National Water Conservation Order but is further recognised here for its regionally outstanding values.</p>	<p>Natural Character</p> <p>Landscape(wild and scenic) values</p> <p>Recreation, including trout fishing, kayaking and rafting</p>	
<b>OWB 8</b>	<p><b>Ngamatea East Swamp</b></p> <p>The Ngamatea East Swamp is a 300ha largely unmodified wetland located in the headwaters of the Taruarau River. It is the largest intact wetland in Hawke's Bay, and contains high numbers of threatened indigenous plant species.</p>	<p>Natural Character</p> <p>Ecology (habitat for indigenous plant populations)</p>	
<b>OWB 9</b>	<p><b>Ngaruroro River upstream of the Whanawhana cableway</b></p> <p>The Ngaruroro River is the largest river flowing across the Heretaunga Plains, rising on slopes of the Kaimanawa and Kaweka Ranges and flowing into the sea 160 km later.</p> <p>The upper reaches of the Ngaruroro River are surrounded largely by native vegetation and are highly valued for their scenic and recreational qualities; the latter include trout angling and whitewater boating.</p>	<p>Natural Character</p> <p>Landscape (wild and scenic) values</p> <p>Rainbow Trout Habitat</p> <p>Recreation (trout fishery, whitewater rafting, kayaking)</p>	
<b>OWB 10</b>	<p><b>Taruarau River</b></p>	<p>Natural Character, especially the gorge</p> <p>Recreation (whitewater rafting and kayaking)</p>	

Column 1	Column 2	Column 3	Column 4
ID #	Outstanding water body	Outstanding Characteristics or Values	Significant values
	<p>The Taruarau River rises in the Kaimanawa Ranges flowing south across rolling tussock country for around 70 km before it drops into an enclosed gorge before flowing into the Ngaruroro River around 20 km upstream of Whanawhana.</p> <p>The river is in a near natural state, with some extensive pastoralism in the catchment. It has outstanding natural character and outstanding whitewater recreation opportunities.</p>		
<b>OWB 11</b>	<p><b>Pōrangahau River and Estuary downstream of the Beach Road Bridge</b></p> <p>The Pōrangahau River runs 35 km through southern Hawke's Bay. The river winds through rugged hill country reaching the sea close to the township of Pōrangahau.</p> <p>The Pōrangahau Estuary covers about 750ha and is one of the few large estuaries in Hawke's Bay. It is a long, narrow estuary formed behind a low, sandy longshore bar which runs for around 14 km. It is the largest and least modified estuary in Hawke's Bay and is listed as a Significant Conservation Area in the RCEP for its nationally significant wildlife habitat, and supports six threatened species.</p> <p>There is extensive evidence of early habitation of the estuary by tāngata whenua, and it would have been a major source of kai.</p>	<p>Cultural and spiritual values</p> <p>Ecology (habitat for native aquatic birds)</p>	
<b>OWB 12</b>	<p><b>Te Hoe River</b></p> <p>Te Hoe River is a tributary of the Mohaka River. The gorge is already protected by the Mohaka Water Conservation Order for its scenic characteristics. It carries the second largest population of blue duck in the region.</p>	<p>Landscape (wild and scenic) values</p> <p>Habitat for Aquatic Native Birds (particularly blue duck)</p>	
<b>OWB 13</b>	<p><b>Te Whanganui-a-Orotū (Ahuriri Estuary)</b></p> <p>Te Whanganui-a-Orotū, which lies between Napier Airport and Tamatea, is a large tidal estuary close to the city. In historical times it used to be the mouth of the Esk and Tūtaekurī Rivers, and about 1,300 ha of the estuary was lifted 1-2 metres by the 1931 Napier earthquake.</p> <p>Te Whanganui-a-Orotū has outstanding cultural and spiritual values to tāngata whenua, and provides diverse habitats that support the best aquatic bird habitat, and the best estuarine fish habitat and nursery in the region.</p>	<p>Cultural and Spiritual Values</p> <p>Aquatic Bird Habitat</p> <p>Native Fish Habitat</p>	
<b>OWB 14</b>	<p><b>Tukituki River downstream of SH50 bridge to the sea, including the estuary</b></p>	<p>Cultural and Spiritual Values</p> <p>Ecology (habitat for native aquatic birds, particularly in the lower river)</p>	

<u>Column 1</u>	<u>Column 2</u>	<u>Column 3</u>	<u>Column 4</u>
<u>ID #</u>	<u>Outstanding water body</u>	<u>Outstanding Characteristics or Values</u>	<u>Significant values</u>
	<u>The Tukituki River is 145km long, rising in the Ruahine Ranges and entering the sea at Haumoana. It is a tipana awa, and there is evidence of 7-8 centuries of occupation by Māori. The lower river and estuary support the largest population of wading birds in the region.</u>		
<u>OWB 15</u>	<u>Mainstem of the Tūtaekurī River upstream of the SH50 Bridge</u> <u>The Tūtaekurī River rises in the Kaweka Ranges, around 50 kilometres northeast of Taihape. It is about 100 kilometres long and flows over the Heretaunga Plains where it now joins the Ngaruroro River and flows out to sea through the Waitangi Estuary. The reach upstream of the SH50 bridge has outstanding cultural and spiritual values, which include the presence of the “gateway” pa Otatara, and as passage between the volcanic plateau and the Hawke’s Bay coast.</u>	<u>Cultural and Spiritual Values</u>	



### Part 3: Outstanding Water Bodies in Hawke's Bay – Indicative location map



Column 1	Column 2	Column 3		Column 4	
ID #	Name of outstanding water body	Outstanding value(s)	Description of outstanding value(s) <sup>45</sup>	Significant value(s)	Description of significant value(s)
14	<u>Hautapu River</u>	<u>Cultural, spiritual</u>	<p><u>The Hautapu River flows into the Te Hoe River, which is located in the far eastern reaches of the Hineuru rohe. The rivers act as a natural boundary to other iwi and hapū.</u></p> <p><u>Ngatapa, an important Hineuru pā, was located on the junction of the Te Hoe and Hautapu Rivers, and was settled permanently.</u></p> <p><u>Ngatapa was a site of cultivations, urupā and wahi tapu sites.</u></p> <p><u>Tāngata whenua of the region have advised that the Hautapu River has outstanding cultural and spiritual values.***</u></p>	<u>≠</u>	<u>≠</u>
15	<u>Heretaunga Aquifer</u>	<u>Cultural, spiritual, Geology</u>	<p><u>The Heretaunga aquifer system consists of interconnected layers of water bearing gravels, sands, silts, clays and shells located beneath the Heretaunga Plains.</u></p> <p><u>The Heretaunga aquifer system is a taonga of Ngāti Kahungunu, who know the aquifer system as the "Heretaunga Ararau Haukūnui", being a large water resource, represented in the many rivers, creeks, the small tributaries fed by underground springs, springs of water, swampy ground, swimming holes, rock pools and quick sands.</u></p> <p><u>Tāngata whenua of the region have advised that the Heretaunga aquifer has outstanding cultural and spiritual values.***</u></p>	<u>Domestic water supply;</u> <u>Municipal water supply;</u> <u>Primary production water use (including for associated processing and other urban activities);</u> <u>Hydrological</u>	<u>≠</u>
16	<u>Karamū River</u>	<u>Cultural, spiritual</u>	<p><u>The Karamū River begins at Lake Poukawa, flowing through Havelock North and the Karamū area to join the Clive River at Pakowhai. It was once the main channel of the Ngaruroro River, but following a major flood in 1867 the Ngaruroro River changed its course to its current course, leaving behind a smaller flow, named the</u></p>	<u>Ecosystems</u> <u>Indigenous aquatic populations, particularly patiki, tuna, and whitebait, macroinvertebrate communities</u> <u>Indigenous bird populations</u>	<u>≠</u>

<sup>45</sup> Refer to HDRC Report SD18-01: Summary of cultural values associated with water bodies in Hawke's Bay and HDRC Report SD18-02: Summary of recreation, landscape and ecology values associated with water bodies in Hawke's Bay for further information about the outstanding values.

Column 1	Column 2	Column 3		Column 4	
ID #	Name of outstanding water body	Outstanding value(s)	Description of outstanding value(s) <sup>45</sup>	Significant value(s)	Description of significant value(s)
			<p><del>Karamū in reference to the Karamū trees which grew in abundance in this area.</del></p> <p><del>The Karamū River is taonga of Ngāti Hori, an important freshwater fishery for hapū. Maori have a long history of occupation and travel on and around the Karamū River.</del></p> <p><del>Tāngata whenua of the region have advised that the Heretaunga aquifer has outstanding cultural and spiritual values. **</del></p>	<p><del>Social, recreational and cultural activities including swimming, cultural practices of Uu, rowing and waka ama.</del></p> <p><del>Mahinga kai</del></p> <p><del>Domestic water supply</del></p> <p><del>Primary production water use (including for associated processing and other urban activities)</del></p>	
4	<del>Kaweka and Ruahine Ranges wetlands</del>	<del>Cultural, spiritual</del>	<del>Tāngata whenua of the region have advised that the Kaweka and Ruahine Ranges wetlands have outstanding cultural and spiritual values. **</del>	<del>±</del>	<del>±</del>
5	<del>Lake Rotoroa and Lake Rototuna (Kaweka Lakes)</del>	<del>Cultural, spiritual, ecology, natural character</del>	<p><del>Lake Rototuna and Lake Rotoroa are situated in the Kaweka Forest Park, surrounded by indigenous vegetation, with no sign of human modifications.</del></p> <p><del>The Lakes are ecologically significant because of the large number of plant species and vegetation types in the surrounding area.</del></p> <p><del>Lake Rototuna is the best example of a waterbody that still remains in an all native vegetated state in the region and supports the best composition of submerged aquatic plants in Hawke's Bay. Lake Rotoroa has a large population of kōaro which are 'lake locked' and carry out their entire life cycle in freshwater.</del></p> <p><del>Tāngata whenua of the region have advised that the Kaweka and Ruahine Ranges wetlands have outstanding cultural and spiritual values. **</del></p>	<p><del>Indigenous fish populations</del></p> <p><del>Indigenous bird populations</del></p> <p><del>Indigenous plant populations</del></p> <p><del>Hydrological</del></p> <p><del>Social and cultural activities</del></p> <p><del>mahinga kai</del></p>	<del>±</del>
6	<del>Lake Poukawa and Pekapeka Swamp</del>	<del>Cultural, spiritual,</del>	<p><del>Lake Poukawa, also known as Te Wai-nui-a-Tara, is a small shallow lake with a surface area of 90 hectares. The lake has an adjoining margin of wetland vegetation which is intermittently covered in water depending on the time of year. The wetland area contains swamp nettle (<i>Urtica linearifolia</i>) and the acutely threatened aquatic</del></p>	<p><del>Indigenous fish populations</del></p> <p><del>Indigenous bird populations</del></p> <p><del>Indigenous plant populations</del></p> <p><del>Hydrological</del></p> <p><del>Social and cultural activities</del></p> <p><del>mahinga kai</del></p>	

Column 1	Column 2	Column 3		Column 4	
ID #	Name of outstanding water body	Outstanding value(s)	Description of outstanding value(s) <sup>45</sup>	Significant value(s)	Description of significant value(s)
			<p><del>liverwort (<i>Piezocorpus natans</i>) which is nationally endangered.</del></p> <p><del>The Lake has been declared a non-commercial eel fishery, one of only a few lakes in New Zealand to have this designation.</del></p> <p><del>Lake Poukawa is a taonga of Heretaunga Tamatea, traditionally used for food gathering. The Lake is well known for its eel fishery which is of considerable cultural importance to the people of Te Hauke and their hapū Ngai Te Rangikoianaka. The history of Lake Poukawa is directly related to the eels of the lake. The mana of each chief of Te Wheao is related to control of Lake Poukawa and its resources.</del></p> <p><del>Lake Poukawa has been the scene of many battles, with a number of wāhi tapu and wāhi taonga sites in the area. The origin of the name 'Poukawa' is said to have arose as a result of a disagreement between two local chiefs Te Rangihirawa and Te Rangikawhiua over fishing rights in the lake.</del></p> <p><del>Lake Poukawa supports a high diversity of bird species, with notably high numbers of the Australasian Dittern, New Zealand dabchick, pied stil, and cheveler ducks.</del></p> <p><del>Tāngata whenua of the region have advised that Lake Roterea and Lake Rototuna have outstanding cultural and spiritual values. **</del></p>		
72	<del>Lake Tūtira (including Aropaeauui River + Papakiri Stream)</del>	<del>Cultural, spiritual</del>	<p><del>Lake Tūtira (including Aropaeauui River and Papakiri Stream) is a taonga of Ngāti Kurumōkihi, celebrated as a place of sustenance to replenish one's mind, body and soul. Ngāti Kurumōkihi carried out ceremonies and rituals at designated places at Tūtira, such as tohi (baptisms). Some rongoā (medicinal plants) are only found in or around Lake Tūtira. There are a number of wāhi tapu, wāhi taonga and wai tapu sites in the area.</del></p>	72	72

Column 1	Column 2	Column 3		Column 4	
ID #	Name of outstanding water body	Outstanding value(s)	Description of outstanding value(s) <sup>45</sup>	Significant value(s)	Description of significant value(s)
			<p><del>The inlet to Lake Tūtira is Papakiri Stream and is integral to the distinct identity and mana of the hapū. Its importance is due to its connection with Lake Tūtira and its reputation as a significant mahinga kai site.</del></p> <p><del>The hapū have a whakatauaiki about the lake being: “ke te waiū o ō tātau tipuna” – “the milk of our ancestors”. This whakatauaiki references the abundance of kai that could be coursed from the lake and the lake providing spiritual sustenance. Lake Tūtira was famous for the best flavoured tuna (eel).</del></p> <p><del>The Aropoanui River/Waikoa River originates at the tihitapu (sacred peaks) of the central area of Maungaharuru. The Aropoanui River is one of the most significant awa in the takiwā (traditional area of the hapū), linking two of the most culturally and historically important areas of the hapū, being Tūtira and Aropoanui. The river provided an important connection between Maungaharuru and the coast, allowing for seasonal movements of the hapū. During peace Ngāti Kurumōkihi dwelt around the coastal estuaries and the lake. During war they sheltered in the forests and the hinterland. There was intensive Māori occupation around Lake Tūtira and numerous sites of significance.</del></p> <p><del>As a prized taonga, many raids and battles occurred at Lake Tūtira.</del></p> <p><del>Tāngata whenua of the region have advised that Lake Tūtira (including Aropoanui River and Papakiri Stream) have outstanding cultural and spiritual values. **</del></p>		
8	<u>Lake Waikareiti</u>	<u>Cultural, spiritual</u>	<u>The cultural values and associations for Lake Waikareiti are closely linked to those of Lake Waikaremoana. Both were important seasonal food sources and strategic locations in the relationships between tribes.</u>	<u>≠</u>	<u>≠</u>

Column-1	Column-2	Column-3		Column-4	
ID-#	Name-of-outstanding-water-body	Outstanding-value(s)	Description-of-outstanding-value(s) <sup>45</sup>	Significant-value(s)	Description-of-significant-value(s)
			<p><del>Colonies of kawau (bird/shag) at Lake Waikareiti were spiritually significant due to their 'guardian-like activities'</del></p> <p><del>Tāngata whenua of the region have advised that Lake Waikareiti has outstanding cultural and spiritual values. **</del></p>		
9	Lake Waikaremoana	<p><del>Cultural, spiritual, ecology, natural character, landscape &amp; geology, recreation</del></p>	<p><del>Lake Waikaremoana is situated in Te Urewera surrounded by pristine native forest and spectacular mountain ridges, and is often referred to as a 'jewel in the crown' of New Zealand landscapes. The name Lake Waikaremoana means the sea of rippling waters. It was created around 2,200 years ago when a wedge of sandstone blocked the course of the Waikaretaheke River.</del></p> <p><del>Legend tells of how Lake Waikaremoana was created. Having been turned into a taniwha, Haumapuhia, desperately tried to find an outlet to the sea before the sun rose. Her ceaseless thrashing upturned the hills and formed the various bays, inlets and features we see today.</del></p> <p><del>Lake Waikaremoana is an important taonga, with many pō, urupā and wāhi tapu sites located around its edge, and was the scene of many battles.</del></p> <p><del>Lake Waikaremoana is the North Island's deepest lake, reaching depths of 248 m, and Hawke's Bay's largest lake. The lake has exceptional water quality and is in excellent ecological condition with a high number of native aquatic plant species. It is the best example of diverse aquatic vegetation in a large, deep, clear lake in Hawke's Bay and the North Island. The lake has a high number of submerged plants, with an excellent indigenous turf community that has high native species diversity, and the nationally rare charophyte <i>Nitella opaca</i>.</del></p>	<del>**</del>	<del>**</del>

Column 1	Column 2	Column 3		Column 4	
ID #	Name of outstanding water body	Outstanding value(s)	Description of outstanding value(s) <sup>45</sup>	Significant value(s)	Description of significant value(s)
			<p><del>Lake Waikaremoana is renowned for its spectacular scenery and its clear pristine water. It is popular for a range of activities including angling, swimming and boating. The Lake Waikaremoana Track is one of the 10 Great Walks of New Zealand.</del></p> <p><del>Tāngata whenua of the region have advised that Lake Waikaremoana has outstanding cultural and spiritual values. **</del></p>		
<del>10</del>	<del>Whakakī Lake-Te Paeroa Lagoon- Wairau Lagoon and wetlands</del>	<del>Cultural, spiritual, ecology</del>	<p><del>Whakakī Lake (Te Whakakī Lagoon) is a 400 hectare coastal lake which is separated from the sea by a narrow strip of sand dunes on its southern shore. The name of Te Whakakī Lagoon is based on a word meaning 'to fill', referring to the lagoon.</del></p> <p><del>Whakakī Lake is the second largest coastal lake on the North Island's east coast. The lake has an additional 200 hectares of adjacent wetland margin comprising sand dunes and swamp areas, and is part of a much larger wetland complex which includes the Ngamotu lagoon, Ohuia Lagoon, Waihoratuna Lagoon, Wairau Lagoon, Te Paeroa Lagoon, Rahui Channel, and Patangata Lagoon</del></p> <p><del>Whakakī Lake is an intermittently closed and open lake (ICOLL) which is a rare habitat type both in New Zealand and internationally. The wetland complex has significant wildlife values supporting a high diversity of waterbirds, including the globally endangered Australasian Bittern.</del></p> <p><del>Te Whakakī Lagoon is of spiritual and cultural significance to Ngāti Kahukura, Ngāti Kirituna and hapū of Te Whakakī Nui a Rua. The lake was a central feature of local hapū identity, highly valued, respected and admired. The area was important mahinga kai for local Māori and had a rich variety of food, including tuna, shellfish and birdlife.</del></p>	<del>**</del>	<del>**</del>

Column 1	Column 2	Column 3		Column 4	
ID #	Name of outstanding water body	Outstanding value(s)	Description of outstanding value(s) <sup>45</sup>	Significant value(s)	Description of significant value(s)
			<del>Tāngata whenua of the region have advised that Whakakī Lake, Te Paeroa Lagoon, Wairau Lagoon and wetlands have outstanding cultural and spiritual values. **</del>		
11	Lake Whatumā	<del>Cultural, spiritual, ecology</del>	<p><del>Lake Whatumā is 160 hectares in size, with an additional adjacent wetland margin of around 76 hectares. The lake supports a high diversity of birds and is home to the largest population of the globally endangered Australasian bittern in Hawke's Bay.</del></p> <p><del>Lake Whatumā is a taonga of the hapu of Heretaunga-Tamatea. The name refers to the discoverers of the lake who ate tuna (eel) they found there until their hunger was satisfied. The lake was a significant mahinga kai. As well as tuna, it was also known for other freshwater fish, freshwater mussels, birds (including kereru), and raupo pollen.</del></p> <p><del>Lake Whatumā was a traditional area of residence to a permanent population and was utilised by a number of surrounding hapū who travelled to the lake to gather resources on a seasonal basis. There are numerous remains of middens, tools, bones, pits, chisels and axes indicating there was a high population in the area.</del></p> <p><del>Tāngata whenua of the region have advised that Lake Whatumā has outstanding cultural and spiritual values. **</del></p>	≠	≠



Column 1	Column 2	Column 3		Column 4	
ID #	Name of outstanding water body	Outstanding value(s)	Description of outstanding value(s) <sup>45</sup>	Significant value(s)	Description of significant value(s)
<del>11</del>	<del>Makirikiri River</del>	<del>Cultural, spiritual</del>	<del>The Makirikiri River is situated to the south of Takapau. It is a tributary of the Perangahau Stream which flows into the Tukituki River.  The Makirikiri River is culturally significant to the people of Te Rongo a Tahu Marae as a mahinga kai and recreational area.  The Makirikiri River was particularly notable for its tuna and koura.  Tāngata whenua of the region have advised that the Makirikiri River has outstanding cultural and spiritual values. **</del>	<del>≠</del>	<del>≠</del>
<del>12</del>	<del>Mangahouanga Stream</del>	<del>Cultural, spiritual, geology</del>	<del>The Mangahouanga Stream is a small stream located in northern Hawke's Bay. The Stream is internationally renowned due to the discovery of dinosaur bones at the site. The remains of six separate species of dinosaurs (four new species), and New Zealand's oldest fossil insect have been found in the Mangahouanga Stream. To date, the Mangahouanga Stream is the only place in New Zealand where significant dinosaur remains have been found.  Tāngata whenua of the region have advised that the Mangahouanga Stream has outstanding cultural and spiritual values. **</del>	<del>≠</del>	<del>≠</del>
<del>14</del>	<del>Maungawhio Lagoon, lower Kopuawhara River, Pukenui Dune Wetlands</del>	<del>Cultural, spiritual, geology</del>	<del>Maungawhio Lagoon is a salt water lagoon that joins Oraka Beach, by the Mahia Peninsula, and is a site of significance to Te Rohe o Te Wairoa and Ngāti Kahungunu Iwi Inc. It was known as a significant mahinga kai.  The name 'Maungawhio' means 'the whistling, howling hills' and refers to the strong winds which pass over the lagoon. It was here that the Tākitimu waka arrived at Mahia and became stuck. Ruawhoro, the tohunga of Tākitimu, left the waka here, assisting it to continue with its journey saying 'Mahia nga mahi mai I Tawhiti'.</del>	<del>≠</del>	<del>≠</del>

Column 1	Column 2	Column 3		Column 4	
ID #	Name of outstanding water body	Outstanding value(s)	Description of outstanding value(s) <sup>15</sup>	Significant value(s)	Description of significant value(s)
			<p><del>The Maungawhio Lagoon supports a high diversity of birds, including a high number of threatened species being the Australasian bittern, shore plover, black-billed gull, reef heron, banded dotterel, Caspian tern, lesser knot.</del></p> <p><del>Tāngata-whenua of the region have advised that Maungawhio Lagoon, lower Kopuawhara River, Pukenui Dune Wetlands have outstanding cultural and spiritual values. **</del></p>		
<del>15</del>	<del>Mohaka River</del>	<del>Cultural, spiritual, ecology, natural character, landscape &amp; geology, recreation</del>	<p><del>The upper parts of the Mohaka River are in a highly natural state, with pristine water quality and one of the healthiest macroinvertebrate communities in the region. The river flows through a variety of stunning landscapes, from large native forest areas, to remote countryside and through spectacular gorges, over some powerful rapids and around a horseshoe bend.</del></p> <p><del>The Mohaka River is widely recognised in New Zealand as a 'top quality wilderness trout fishery' and for its exceptional rafting and kayaking experiences, which can occur in a natural setting. In 2004, a water conservation order was placed over the Mohaka River (above willow flat) in recognition of the river's nationally outstanding scenic characteristics, trout fishery, rafting and canoeing values.</del></p> <p><del>The Mohaka River is an important taonga and there are numerous settlements and sites of significance along its length.</del></p> <p><del>The Mohaka River has been used as a significant boundary marker to define areas of interest. Mohaka is said to have been the name of a river or stream in Hawaiki. It was significant as a highway, being a key route inland, and a traditional area of residence, urupā, pā, kāinga, and other places of spiritual and cultural significance.</del></p>	<del>±</del>	<del>±</del>

Column 1	Column 2	Column 3		Column 4	
ID #	Name of outstanding water body	Outstanding value(s)	Description of outstanding value(s) <sup>45</sup>	Significant value(s)	Description of significant value(s)
			<p><del>The Mohaka River provided a wealth of resources, including hangi stones, drinking water and water for spiritual cleansing and healing. It was significant as a mahinga kai resource, the river was plentiful with fish species tuna, trout and koura. The forest around the Mohaka River was very dense and provided many important resources including harakeke, toitoi, birdlife and a range of plants used for medicinal purposes.</del></p> <p><del>Tāngata whenua of the region have advised that the Mohaka River has outstanding cultural and spiritual values.**</del></p>		
16	Morere Springs	Cultural, spiritual	<p><del>The Morere Springs, meaning 'the waters of life which come into this world from the other world' are thermal springs located near Nuhaka. Morere Springs and the surrounding area was a source of natural healing waters, kiakie and other traditional materials used for raranga whariki, kete and traditional rongoa.</del></p> <p><del>Tāngata whenua of the region have advised that Morere Springs have outstanding cultural and spiritual values.**</del></p>	≠	≠
17	Ngamatea East Swamp	Cultural, spiritual, ecology, natural character	<p><del>The Ngamatea East Swamp is a 300 hectare unmodified wetland, the largest in Hawkes Bay. The wetland contains high numbers of threatened indigenous plant species, including the sedge <i>Carex strictissima</i> which is nationally endangered and the <i>renunculus recens</i> var, which is 'at risk' and threatened.</del></p> <p><del>The Ngamatea East Swamp is highly valued for the cleansing provided by the water catchment, storage and drainage processes, and as a possible food source. Spiritual essence derives from being a headwater system to the Rangitikei River.</del></p>	Indigenous fish populations Indigenous bird populations Indigenous plant populations Hydrological Social and cultural activities mahinga kai	≠

Column 1	Column 2	Column 3		Column 4	
ID #	Name of outstanding water body	Outstanding value(s)	Description of outstanding value(s) <sup>45</sup>	Significant value(s)	Description of significant value(s)
			<del>Tāngata whenua of the region have advised that the Ngamatea East Swamp have outstanding cultural and spiritual values. **</del>		
18	Ngaruroro River and Estuary	<del>Cultural, spiritual, recreation, ecology, natural character, landscape, geology;</del>	<p><del>The Ngaruroro River is the largest river flowing across the Heretaunga Plains.</del></p> <p><del>The full name of the Ngaruroro River is Nga-ngaru-o-nga-upokororo-mai-i-moketuararo-ki-Rangatira, with the river taking its name from an incident in which a dog belonging to the ancient deity Mahu startled some small fish known as upokororo. As the shoal of fish dashed away they caused ngaru or ripples in the water.</del></p> <p><del>The Ngaruroro River flows through a variety of landscapes along its length. In its upper parts the Ngaruroro River is in a near natural state with impressive scenery flowing through indigenous forest, tussock and scrubland and spectacular narrow rocky gorges with vertical schist walls. The Ngaruroro River gorge is one of the best two gorges in Hawke's Bay. From Whanawhana, the Ngaruroro River opens to wide braided channel which is the best example in the region, and highly valued for jet boating and as a bird habitat supporting high numbers of banded dotterel and pied stilt.</del></p> <p><del>Upstream of Kuripapango, the Ngaruroro River is in excellent ecological condition, with pristine water quality and one of the healthiest macroinvertebrate communities in the region. The upper Ngaruroro River contains a high quality habitat for both native fish and salmonid trout, being largely natural with good water quality. The upper river is particularly renowned for its salmonid angling, whitewater boating opportunities and its impressive scenery.</del></p> <p><del>The lower river and estuary area support a high diversity of native birds, some of which are classified as at risk or declining or globally</del></p>	<del>Ecosystems</del> <del>Indigenous aquatic populations, particularly torrent fish, whitebait, macroinvertebrate communities</del> <del>Indigenous bird populations;</del> <del>Trout fishery</del> <del>Social, recreational and cultural activities including swimming, cultural practices of Uu, boating</del> <del>Natural character</del> <del>Hydrological</del> <del>Mahinga kai</del> <del>Domestic water supply</del> <del>Primary production water use (including for associated processing and other urban activities)</del>	<del>18</del>

Column 1	Column 2	Column 3		Column 4	
ID #	Name of outstanding water body	Outstanding value(s)	Description of outstanding value(s) <sup>45</sup>	Significant value(s)	Description of significant value(s)
			<p><del>endangered, including the black-billed gull, black-fronted tern and Australasian bittern.</del></p> <p><del>The Ngaruroro River supports a high diversity of fish in its lower river and estuary areas, including a number of native fish which are classified as at risk or declining. In its upper parts the Ngaruroro River contains a high quality habitat for both native fish and salmonid trout, being largely natural with good water quality.</del></p> <p><del>The Ngaruroro River is a taonga of Heretaunga Tamatea, Mana Ahuriri, and Ngāti Tūwharetoa. The headwaters are commonly expressed as being at the heart of the Kaimanawa Ranges, the River forms a natural highway from coast to mountains and there are many settlements and sites of significance along its banks, including the presence of Pā, Kāinga, urupā, Wāhi Tapu, wāhi taonga and wai tapu.</del></p> <p><del>The Ngaruroro River has significance as a mahinga kai and has been a significant marker of land interests from ancient times. A pou once stood at Whanawhana which represents an important political demarcation between hapū.</del></p> <p><del>Tāngata whenua of the region have advised that the Ngaruroro River and Estuary have outstanding cultural and spiritual values. **</del></p>		
<del>19</del>	<del>Nuhaka River</del>	<del>Cultural, spiritual</del>	<p><del>The Nuhaka River is culturally significant for Te Rohe o Te Wairoa. There are numerous significant riverside sites that form the lifeblood of Rakaipaaka, including for baptism and burial. A kaitiaki, in the form of a large white flounder, protects the traditional inanga site at Papanui.</del></p> <p><del>Tāngata whenua of the region have advised that the Nuhaka River has outstanding cultural and spiritual values. **</del></p>	<del>≠</del>	<del>≠</del>
<del>20</del>	<del>Opeutama Swamp</del>	<del>Cultural, spiritual</del>	<p><del>Tāngata whenua of the region have advised that Opeutama Swamp has outstanding cultural and spiritual values. **</del></p>	<del>≠</del>	<del>≠</del>

Column 1	Column 2	Column 3		Column 4	
ID #	Name of outstanding water body	Outstanding value(s)	Description of outstanding value(s) <sup>45</sup>	Significant value(s)	Description of significant value(s)
<del>21</del>	<del>Porangahau River and Estuary</del>	<del>Cultural, spiritual, ecology, landscape &amp; geology</del>	<p><del>The Porangahau River, otherwise known as the Taurekaitai River, is a taonga of Ngāti Kere. It is rich in archaeological sites, and provided the first authenticated records of moa hunter occupation in the North Island. It is a significant mahinga kai, and vast shell middens are situated in the dune systems, and pā sites occur at either end of the estuary. On the southern bank of the river, Opiango stands, a peak sacred to Ngāti Pihoro.</del></p> <p><del>The Porangahau Estuary is the largest and least modified estuary in Hawke's Bay. The river mouth barrier system is the largest barrier system in Hawke's Bay and the surrounding dune system demonstrates a rare cross-cutting relationship of a series of en-echelon sand dunes and estuarine strand lines.</del></p> <p><del>The Porangahau River and Estuary supports large population of wrybill and banded dotterel and is the only location where Caspian terns and royal spoonbill nest. It is an important feeding and wintering area for migratory waders. The Porangahau Estuary has two main inanga spawning sites and the only estuary in Hawke's Bay to contain the seagrass, <i>Zostera muelleri</i>.</del></p> <p><del>Tāngata whenua of the region have advised that the Porangahau River and Estuary have outstanding cultural and spiritual values.**</del></p>	<del>≠</del>	<del>≠</del>
<del>22</del>	<del>Putere Lakes</del>	<del>Cultural, spiritual</del>	<p><del>The Putere Lakes (Lakes Rotongaio, Lake Rotorea and Lake Rotoniaha) are located near the Waiau River. Historically the lakes were a significant mahinga kai.</del></p> <p><del>Tāngata whenua of the region have advised that the Putere Lakes have outstanding cultural and spiritual values.**</del></p>	<del>≠</del>	<del>≠</del>
<del>23</del>	<del>Ripia River</del>	<del>Cultural, spiritual</del>	<p><del>The Ripia River is of great significance to Hineuru, who have a particular cultural, spiritual, historical, and traditional association with the River.</del></p>	<del>≠</del>	<del>≠</del>

Column 1	Column 2	Column 3		Column 4	
ID #	Name of outstanding water body	Outstanding value(s)	Description of outstanding value(s) <sup>45</sup>	Significant value(s)	Description of significant value(s)
			<p>The Ripia River was utilised as a mahinga kai, rather than being a focal point of settlement, and was abundant with fish species, including tuna, trout and the koura. Hangi stones were gathered from the river.</p> <p>The forest around the Ripia River was very dense and provided many important resources including harakeke, toitoi, birdlife and a range of plants used for medicinal purposes.</p> <p>The Ripia River provided the people with drinking water, and was a source of spiritual cleansing, wairua, and was felt to have healing properties (e.g. aids with the healing of women after they had given birth, used for the washing of Tupapaku and an important part of the ta moko process).</p> <p>Tāngata whenua of the region have advised that the Ripia River has outstanding cultural and spiritual values. <sup>46</sup></p>		
24	Ruakituri River	Cultural, spiritual, ecology, natural character, landscape & geology, recreation	<p>The Ruakituri River is in a natural state above Waitangi Falls, with no human modification in the surrounding area. In its upper reaches the river runs clean and clear, flowing through thick bush and rugged, remote backcountry and through a number of steep gorges, past giant limestone cliffs, and over the 72m Waitangi Falls. The Ruakituri Gorge is particularly valued by local canoeists who know it as a short but challenging run.</p> <p>The Ruakituri River is an internationally renowned trout fishery known for its crystal clear water, spectacular scenery and large population of trout which can reach trophy size. Angling on the river is restricted to fly fishing only, with the use of spinners prohibited. The river has one of the healthiest macroinvertebrate communities in Hawke's Bay.</p>	<sup>47</sup>	<sup>48</sup>

Column 1	Column 2	Column 3		Column 4	
ID #	Name of outstanding water body	Outstanding value(s)	Description of outstanding value(s) <sup>45</sup>	Significant value(s)	Description of significant value(s)
			<p><del>The Ruakituri River is culturally significant for the people of Te Rohe o Te Wairoa, and was one of several important locations for Ngāti Kahungunu. From these locations, they travelled, often considerable distances, to utilise resources seasonally. Traditional settlements on the Ruakituri River include Te Roinga and Eropeti.</del></p> <p><del>Ngāi Kohatu have a korero about the formation of these rivers. According to tradition, the Ruakituri and Hangaroa Rivers (which form the Wairoa River below their confluence) were formed when kin – taniwha – Ruamano and Hinokorako heard the sound of the sea, and heeding its call, they decided to race to the sea, each taking a separate route by way of the two rivers.</del></p> <p><del>Tāngata whenua of the region have advised that the Ripia River has outstanding cultural and spiritual values. **</del></p>		
<del>25</del>	<del>Ruataniwha Aquifer</del>	<del>Cultural, spiritual, geology</del>	<p><del>The Ruataniwha aquifer system consists of interconnected layers of water bearing gravels, sands, silts, clays and shells located beneath the Ruataniwha Plains.</del></p> <p><del>The Ruataniwha aquifer system is part of Heretaunga Tamatea's traditional rohe.</del></p> <p><del>Tāngata whenua of the region have advised that the Ruataniwha Aquifer has outstanding cultural and spiritual values. **</del></p>	<del>*</del>	<del>*</del>
<del>26</del>	<del>Tarawera Hot Springs</del>	<del>Cultural, spiritual</del>	<p><del>The Tarawera Hot Springs are located near the main highway between Napier and Taupo, set amongst indigenous native forest. The hot springs were highly prized by Ngāti Hineuru who used the hot springs for bathing, rongoa and cooking.</del></p> <p><del>Tāngata whenua of the region have advised that the Tarawera Hot Springs have outstanding cultural and spiritual values. **</del></p>	<del>*</del>	<del>*</del>



Column 1	Column 2	Column 3		Column 4	
ID #	Name of outstanding water body	Outstanding value(s)	Description of outstanding value(s) <sup>45</sup>	Significant value(s)	Description of significant value(s)
27	Taruarau River	<del>Cultural, spiritual, ecology natural character, landscape, geology, recreation</del>	<p><del>The Taruarau River is in a near natural state with excellent water quality and one of the healthiest macroinvertebrate communities in the region. The River is very scenic, flowing through a variety of natural landscapes, from areas of rolling tussock country, scrubland and pine forests to impressive gorges with rocky overhangs. The Taruarau River gorge is “one of the best two gorges in Hawke’s Bay”.</del></p> <p><del>The Taruarau River is highly valued for its recreation qualities, particularly known as challenging whitewater run, suitable for experienced kayakers and rafters. The river is highly used by anglers in Hawke’s Bay, fishing well all season.</del></p> <p><del>The Taruarau River is located within the traditional boundary of Heretaunga Tamatea and Ngāti Tūwharetoa. The river is associated with the early origins of Kahungunu and associations with the Ruahine Range. A stone known as Te Tokatamahoutu marks the junction of the Taruarau and Ikawetes Streams.</del></p> <p><del>Tāngata whonua of the region have advised that the Taruarau River has outstanding cultural and spiritual values. **</del></p>	<p><del>Ecosystems</del></p> <p><del>Indigenous aquatic populations, particularly, torrent fish, whitebait, macroinvertebrate communities</del></p> <p><del>Indigenous bird populations,</del></p> <p><del>Trout fishery</del></p> <p><del>Social, recreational and cultural activities including swimming, cultural practices of Uu, boating</del></p> <p><del>Natural character</del></p> <p><del>Hydrological</del></p> <p><del>Mahinga kai</del></p> <p><del>Domestic water supply</del></p> <p><del>Primary production water use (including for associated processing and other urban activities)</del></p>	<del>≠</del>
28	Te Hoe River	<del>Cultural, spiritual, ecology</del>	<p><del>Te Hoe River is in a highly natural state and is a breeding site for the blue duck, supporting one of the two largest blue duck populations in Hawke’s Bay.</del></p> <p><del>Te Hoe River is a taonga of Ngāti Hineuru, and has a number of significant sites located along the length of the river, including a pa site at Ngatapa and wāhi tapu sites by the confluence of the Te Hoe and Mohaka Rivers. The river is a traditional boundary marker.</del></p> <p><del>Te Hoe River provided drinking water, was a source for spiritual cleansing and was considered to have healing properties. Hangi stones were</del></p>	<del>≠</del>	<del>≠</del>

Column 1	Column 2	Column 3		Column 4	
ID #	Name of outstanding water body	Outstanding value(s)	Description of outstanding value(s) <sup>45</sup>	Significant value(s)	Description of significant value(s)
			<p><del>gathered from this river, and it has abundance of tuna (eel), trout and koura.</del></p> <p><del>Tāngata whenua of the region have advised that Te Hee River has outstanding cultural and spiritual values. **</del></p>		
20	Te Paerahi River	Cultural, spiritual	<p><del>Te Paerahi River is located near the Porangahau Estuary, and is a taonga of Ngāti Kere.</del></p> <p><del>Tāngata whenua of the region have advised that Te Paerahi River has outstanding cultural and spiritual values. **</del></p>	#	#
30	Te Whanganui-a-Orotū (Ahuriri Estuary)	Cultural, <del>spiritual,</del> ecology, <del>landscape,</del> geology	<p><del>Te Whanganui-a-Orotū (Ahuriri Estuary) is a significant wetland along the east coast of New Zealand, with high cultural and ecological value. It provides a wide diversity of habitat and an extremely diverse range of ecological communities, all contained within a relatively small area.</del></p> <p><del>Historically, the Tutaekuri and Esk Rivers flowed into Te Whanganui-a-Orotū which was predominately freshwater and significantly larger in size. In 1931, the Napier earthquake lifted the land by up to two metres and exposed around 1300 hectares of original lagoon. The estuary's unique geological history makes it a nationally important example of tectonic processes.</del></p> <p><del>Te Whanganui-a-Orotū has very important wildlife values, particularly as a feeding and resting area for over 70 species of water birds, some of which are critically endangered and some which migrate every year from the Arctic. It supports the highest diversity of birds in the region.</del></p> <p><del>The Estuary has very important native fish values, providing a diverse habitat and is recognised as the most important estuary in the</del></p>	#	#

Column 1	Column 2	Column 3		Column 4	
ID #	Name of outstanding water body	Outstanding value(s)	Description of outstanding value(s) <sup>45</sup>	Significant value(s)	Description of significant value(s)
			<p><del>region for fisheries production. It supports the highest diversity of native fish in the region.</del></p> <p><del>Te Whanganui a Orotū is a place of great cultural and spiritual significance to the Ahuriri Hapū. It is central to their existence and identity. It is named after the ancestor Te Orotū, who was a descendant of the great explorer and ancestor Māhu Tapoanui, who is the very beginning of the Ahuriri people. Ngāti Pāhauwera and Maungaharuru Tangitū also have customary linkages to Te Whanganui a Orotū.</del></p> <p><del>Moremore is the kaitiaki of Te Whanganui a Orotū, and known as the guardian of the people occupying the shores of Te Whanganui a Orotū who are his descendants. The appearance of Moremore warned people of dangers and reinforced the customs practiced by the old people. The law of Moremore was always observed.</del></p> <p><del>The area around Te Whanganui a Orotū was a very important source of food and was heavily populated and the site of a number of significant battles. Consequently, numerous sites of cultural, historic and archaeological significance are situated around what was its shoreline.</del></p> <p><del>From the earliest of times it was highly prized for its enormous food resources and its access to major river systems and forest areas. It was known as 'a place of abundance'. Archaeological evidence confirms that Te Whanganui a Orotū was an important place to live. Excavations indicate settlement dates between the late fifteenth and early seventeenth centuries, with very early settlement on Roro o Kuri somewhere between the twelfth and thirteenth centuries. Surrounding the harbour are 11 recorded pā, some extensive in size. Extensive middens exist in this area.</del></p> <p><del>The pā at Te Pakake was a communal gathering place in times of trouble. Ngāti Hinopare, Ngāti</del></p>		

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			<p><del>Mahu, Ngāti Parau, Ngāti Hawoa and Ngāti Kurumokihī are all recorded as having occupied the pā when under threat of invasion. Pukemokimoki was a fortified pā, with a canoe landing place near, located at south-western end of Matarahou (Napier Hill).</del></p> <p><del>Tāngata whenua of the region have advised that Te Whanganui a Orotū (Ahuriri Estuary) has outstanding cultural and spiritual values. **</del></p>		
24	Tukituki River and Estuary	<p><del>Cultural, spiritual, ecology, landscape &amp; geology</del></p>	<p><del>The Tukituki River and Estuary area is a large, 145 km long braided river system in central Hawke's Bay. It is a tupuna awa (ancestral river) and has significant cultural values. Legend tells of how the Tukituki River came into existence. Two taniwha lived in a large lake situated on what is now the Ruataniwha Plains. They fought for possession of a boy who accidentally fell into the lake and their struggles formed the Waipawa and Tukituki Rivers which drained the lake.</del></p> <p><del>The Tukituki River is part of an iconic Hawke's Bay landscape where it passes by Te Mata Peak.</del></p> <p><del>The Tukituki River has significant wildlife values with a high diversity of native birds. The Lower Tukituki River and Estuary area supports the largest population of wading birds in Hawke's Bay, and has significant regional populations of black-fronted tern, banded dotterel and pied stilt.</del></p> <p><del>The Tukituki River is a toanga of Heretaunga Tamatea. There is evidence of at least 7-8 centuries of occupation by Maori, making this area one of the earliest settled. The river was traditionally the main transport route through Heretaunga. Historically, the Tukituki catchment had an abundance of mahinga kai and natural resources. In particular, the river mouth and estuary was renowned for the abundance of fish species. The estuary area continues to support important traditional fisheries.</del></p>	<p><del>   </del></p>	<p><del>   </del></p>

Column 1	Column 2	Column 3		Column 4	
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			<p>On the lower section of river, there are a number of sites that relate to the actions of the ancient tipuna, Māhu. On the north bank is a white rock, Papaotihi. It is said the rock was once a man who was fishing in the river, but he was turned to stone by Māhu. A little further on is another rock, Tauhou, where Māhu turned another man to stone. Down river near Te Kauhanga pā is another spot touched by Māhu. Here he put a curse on the paopao and people died. Kahuranaki maunga, a site upstream of Kaiwaka on the rivers eastern bank, is of special significance to all hapū of Heretaunga-Tamatea.</p> <p>After the arrival of the Ngāti Kahungunu tipuna to Heretaunga, the Tukituki River was established as the first boundary between Taraia and Te Aomatarahi.</p> <p>Tāngata whenua of the region have advised that the Tukituki River and Estuary has outstanding cultural and spiritual values.<sup>46</sup></p>		
32	Tūtaekuri River	Cultural, spiritual, ecology	<p>Ahuriri Hapū have a strong cultural association with the Tūtaekuri River, with the lower reach of the Tūtaekuri River traditionally utilised by Ngāti Pārou. Otatara Pā is wāhi tapu as an ancient pā and as an urupā. It held a prominent position over the river and is 'the guardian of all people who live in its shadow'. A site at Te Whare O Maraenui, located on the eastern bank of the Tūtaekuri River, contains an urupā of those who died during the battle at Te Pakake Pā.</p> <p>Heretaunga Tamatea, Ngāti Pāhauwera and Maungaharuru Tangitū also have cultural association with the river, with the river once providing a major transport route into Mōkai Patea (Taihape) and beyond. The Tūtaekuri River forms part of the rohe boundary between Heretaunga and Ahuriri.</p>	<p>ecosystems</p> <p>indigenous aquatic populations particularly, torrent fish, whitebait, macroinvertebrate communities</p> <p>Trout fishery</p> <p>Indigenous bird populations</p> <p>Social, recreational and cultural activities including swimming, cultural practices of Uu and boating</p> <p>Natural character</p> <p>Hydrological</p> <p>Māhinga kai</p> <p>Domestic water</p> <p>Primary production water use (including for associated processing and other urban activities)</p>	

Column 1	Column 2	Column 3		Column 4	
ID #	Name of outstanding water body	Outstanding value(s)	Description of outstanding value(s) <sup>15</sup>	Significant value(s)	Description of significant value(s)
			<p><del>The Tūtaekuri River takes its name from an incident that occurred when Hikawera came to the aid of a starving party of travellers. He ordered many dogs, fish and kumara to be prepared to feed the hungry wanderers. The place where this occurred became known as Te Umukuri. The dog's offal was thrown into the river to replenish what was taken, hence the name Tūtaekuri.</del></p> <p><del>The Tūtaekuri River once was a significant mahinga kai providing much of the food supply for the local hapū. Otatarā Pā was a major intersection between Heretaunga &amp; Ahuriri and it permitted access to eel weirs, fern root groves and kumara plantations in the hinterland. It also allowed access to Te Whanganui a Orotū.</del></p> <p><del>The upper reaches of the Tūtaekuri River are in a near natural state with pristine water quality and one of the healthiest macroinvertebrate communities in the region.</del></p> <p><del>Tāngata whenua of the region have advised that the Tūtaekuri River has outstanding cultural and spiritual values. **</del></p>		
33	Waiau River	<del>Cultural, spiritual, ecology</del>	<p><del>The Waiau River is a breeding site for the blue duck, supporting one of the two largest blue duck populations in Hawke's Bay.</del></p> <p><del>The Waiau River is culturally and spiritually significant for Te Rohe o Te Wairoa, Ngāti Pāhauwera and Ngāti Ruapuni ki Waikaremoana. The river forms part of the traditional boundary of Ngāti Pāhauwera.</del></p> <p><del>The river adjoins a wāhi tapu site which is significant as being the place where Tamaterangi collected hangi stones after his defeat at Opuku.</del></p> <p><del>The river provides a valuable source of water, food, transport and trade. It was particularly significant as a transport route from</del></p>	<del>≠</del>	<del>≠</del>

Column 1	Column 2	Column 3		Column 4	
ID #	Name of outstanding water body	Outstanding value(s)	Description of outstanding value(s) <sup>45</sup>	Significant value(s)	Description of significant value(s)
			<p><del>Waikaremoana to Te Moananui a Kiwa (the Pacific Ocean)</del></p> <p><del>Tāngata whenua of the region have advised that the Tutakuri River has outstanding cultural and spiritual values. **</del></p>		
<del>24</del>	<del>Waihua River</del>	<del>Cultural, spiritual</del>	<p><del>The Waihua River was a traditional boundary, important both culturally and commercially, including for mahinga kai, with important fishing and eeling spots, as well as shellfish beds.</del></p> <p><del>Tāngata whenua of the region have advised that the Waihua River has outstanding cultural and spiritual values. **</del></p>	<del>≠</del>	<del>≠</del>
<del>25</del>	<del>Waikaretaheke River</del>	<del>Cultural, spiritual</del>	<p><del>The Waikaretaheke River is culturally significant to the iwi and hapū of Te Rohe o Te Wairoa.</del></p> <p><del>The creation story for the river is linked with the taniwha, Heumapuhia, and the creation of Lake Waikaremoana.</del></p> <p><del>Traditionally, this river was an important source of tuna (eel), korokoro and inanga (whitebait), and was also used for transportation by Ngāti Kahungunu.</del></p> <p><del>Tāngata whenua of the region have advised that the Waikaretaheke River has outstanding cultural and spiritual values. **</del></p>	<del>≠</del>	<del>≠</del>
<del>26</del>	<del>Waipawa River</del>	<del>Cultural, spiritual</del>	<p><del>The Waipawa River is culturally significant for Horotaunga Tamatea. The river was a significant mahinga kai particularly known for its tuna, pātiki, fresh water koura, water cress and inanga. Historically, the river provided access inland to the resources of the Ruahine ranges, and later a trading post was set up on the river, with boats travelling up and down from the Tukituki River mouth. The River was significant as a boundary marker.</del></p>	<del>≠</del>	<del>≠</del>

Column-1	Column-2	Column-3		Column-4	
ID-#	Name of outstanding water body	Outstanding value(s)	Description of outstanding value(s) <sup>45</sup>	Significant value(s)	Description of significant value(s)
			<p><del>Legend tells how the Waipawa River came into existence. A large lake was located in what is now the Ruataniwha Plains, which was home to two taniwha. On one occasion a boy fell into the lake and the two taniwha fought over their prey. The resulting destruction on the landscape created breaks in the hills through which the lake drained away. One of the channels through which the lake drained was the Waipawa River.</del></p> <p><del>A number of archaeological sites indicating the presence of pā and kāinga have been recorded in the area. Near the headwaters was Motu o Puku pā which belonged to the descendants of Te Rangitekahutia and the descendants of Te Upokoiri.</del></p> <p><del>Tāngata whenua of the region have advised that the Waipawa River has outstanding cultural and spiritual values. **</del></p>		
27	Waipunga River	Cultural, spiritual, ecology	<p><del>The Waipunga River is in a near natural state with pristine water quality and one of the healthiest macroinvertebrate communities in the region. Hineuru has a particular cultural, spiritual, historical, and traditional association with Waipunga River.</del></p> <p><del>The Waipunga River acted as a boundary and is one of the iwi's most important taonga. The river is associated with many important mahinga kai, kāinga, pā, and has numerous settlements and sites of significance.</del></p> <p><del>Hineuru had a large zone of permanent settlements along the Waipunga River where the Tarawera township exists today. It has been permanently occupied by Hineuru iwi since the time of their ancestress Hineuru.</del></p> <p><del>The Waipunga River was abundant with fish species, including tuna, trout and the koura. Hangi stones were gathered from the river.</del></p>		



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			<p><del>The forest around the Waipunga River was very dense and provided many important resources including harakeke, toitoi, birdlife and a range of plants used for medicinal purposes.</del></p> <p><del>The Waipunga River provided the people with drinking water, and was a source of spiritual cleansing, wairua, and was felt to have healing properties (e.g. aids with the healing of women after they had given birth, used for the washing of Tupapaku and an important part of the ta moko process.</del></p> <p><del>Tāngata whenua of the region have advised that the Waipunga River has outstanding cultural and spiritual values.**</del></p>		
28	Wairoa River	Cultural, spiritual	<p><del>The Wairoa River is culturally significant to the iwi and hapū of Te Rohe o Te Wairoa. The river is regarded as tapu. It is bound by rituals and traditions, which stem from gods and belong to their ancestors. The water of the Wairoa River was used for purification, ancient chants and prayers. The river was also a major avenue for trading and commerce with a number of pā close by. Several important pā sites are located along and at the mouth of the river including Rangihoua/Pilot Hill which is sacred to tāngata whenua.</del></p> <p><del>It is said that the Tākitimu waka came up the Wairoa River and landed at Makeakea Stream. Te Reinga Falls, the starting point of the river, is associated with Hinekorako and Ruamano, which were taniwha carried to Aotearoa on the Tākitimu waka. The river mouth is also associated with two taniwha engaged in an ongoing struggle between Tapuwae and Te Maaha.</del></p>	<del>1</del>	<del>1</del>

<u>Column-1</u>	<u>Column-2</u>	<u>Column-3</u>		<u>Column-4</u>	
<u>ID-#</u>	<u>Name of outstanding water body</u>	<u>Outstanding value(s)</u>	<u>Description of outstanding value(s)-<sup>45</sup></u>	<u>Significant value(s)</u>	<u>Description of significant value(s)</u>
			<p><del>The river and estuary area was an important mahinga kai, providing inanga, moheao, kanae, tuna, kākahi and koura.</del></p> <p><del>Tāngata whenua of the region have advised that the Wairea River has outstanding cultural and spiritual values.**</del></p>		