

HAWKE'S BAY REGIONAL COUNCIL

PROPOSED PLAN CHANGE 7 (PC7) – OUTSTANDING WATER BODIES

MINUTE 3 OF THE INDEPENDENT HEARING PANEL

Introduction

1. This is the third minute of the independent hearing panel. It seeks feedback on a drafting error which was brought to our attention on 21 April 2021.
2. Proposed PC7 has amended an outdated version of '**Policy LW2 Problem solving approach – Prioritising values**' in error. An updated version of this Policy was made operative on 24 August 2019, and this was not included when Proposed PC7 was publicly notified seven days later. We are obliged to now use the operative version of Policy LW2 as the basis for our decisions on this Policy.
3. 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.

Description of the Issue

4. Since we adjourned the hearing on 2nd December 2020, we have made most of our provisional decisions on Proposed PC7. Given however that this error has been brought to our attention, we want to offer submitters an opportunity to comment should they wish to do so.
5. Policy LW2 was inserted into the Hawke's Bay Regional Resource Management Plan by an earlier 'Plan Change 5', which became operative on 24 August 2019. The operative (and correct) version of Policy LW2 reads:

POL LW2 Problem solving approach - Prioritising values

Subject to achieving 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 areas¹ 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.*

¹ A map illustrating the indicative location of these Catchment Areas is set out in Appendix 'A'.

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.*
6. This correct version of Policy LW2 does not feature as the underlying text in Proposed PC7. As already noted however, the direction and intent of the Policy is unchanged.
7. At the hearing, the Council officers had recommended that we make some significant changes to Policy LW2. With the wording of the operative plan these specific recommendations are no longer relevant.
8. More specifically, Policy LW1.2(bA) and Policy LW3A (with our further amendments) ensure that any future plan provisions, or resource consents, protect the outstanding water bodies' significant and outstanding values. Amending Policy LW2 further will reduce the clarity of these policies when read and applied collectively. For example, most of the amendments proposed to Policy LW2 as part of Proposed PC7 partially repeat the requirements set out in Policy LW1.2(bA) and Policy LW3A, which somewhat confused us and which we think would be equally confusing for plan users.
9. Our provisional changes to Policy LW2 are attached to this minute as a tracked changes version. Although these changes are not set in stone, they can be taken as a strong indication of how little we intend to change the operative version of the Policy.

Feedback Sought

10. We want to give submitters the opportunity to comment on how we intend to respond to this error that has been brought to our attention. For this reason we have been open and transparent about our intended approach to Policy LW2.
11. If any submitter does wish to provide us with feedback on this matter, then please do so in writing (hardcopy or digital) **no later than 5:00pm on Tuesday 11 May 2021.**
12. Written feedback is to be sent to Gavin Ide (email: gavin@hbrc.govt.nz), who will in turn pass that on to the Commissioners.
13. If you have any questions regarding the matters covered in this minute, then please contact Gavin Ide in the first instance. His contact details are:

email: gavin@hbrc.govt.nz
phone: 06 835 9200
mobile: 0275 888 901

Dr Brent Cowie
Chair of Plan Change 7 Hearing Panel

27 April 2021

Attached: Our Provisional Decisions on Policy LW2 in Tracked Changes.

ATTACHMENT: MINUTE 3 of PROPOSED PLAN CHANGE 7 HEARING PANEL
- Provisional Decisions on Policy LW2 in Tracked Changes

POL 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 areas¹ 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
Greater Heretaunga / Ahuriri Catchment Area	<ul style="list-style-type: none"> • any regionally significant native water bird populations and their habitats • Cultural values and uses for: <ul style="list-style-type: none"> ○ mahinga kai ○ nohoanga ○ taonga raranga ○ taonga rongoa • Fish passage • Individual domestic needs and stock drinking needs² • Industrial & commercial water supply • Native fish habitat in the Ngaruroro River and Tutaekuri River catchments • Recreational trout angling and trout habitat in: <ul style="list-style-type: none"> ○ the Mangaone River ○ the Mangatutu Stream ○ the Ngaruroro River and tributaries upstream of Whanawhana cableway ○ the Ngaruroro River mainstem between the Whanawhana cableway and confluence with the Maraekakaho River 	<ul style="list-style-type: none"> • Aggregate supply and extraction in Ngaruroro River downstream of the confluence with the Mangatahi Stream • Amenity for contact recreation (including swimming) in lower Ngaruroro River, Tutaekuri River and Ahuriri Estuary • any locally significant native water bird populations and their habitats • Native fish habitat, notwithstanding native fish habitat as a primary value and use in the Tutaekuri River and Ngaruroro River catchments • Recreational trout angling, where not identified as a primary value and use • Trout habitat, where not identified as a primary value and use

¹ A map illustrating the indicative location of these Catchment Areas is set out in Appendix 'A'.

² In line with s14(3)(b)(ii) of the RMA, it is recognised that drinking water for stock is allowed, provided that it does not have an adverse effect on the environment.

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

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

Principal reasons and explanation

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

The primary and secondary values in Table 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**).*