

SUBMISSION ON PUBLICLY NOTIFIED APPLICATION FOR WATER CONSERVATION ORDER

Sections 205 and 216, Resource Management Act 1991

To: The Special Tribunal appointed to consider the application for a Water Conservation Order on the Ngaruroro and Clive Rivers

Name of submitter: Hawke's Bay Regional Council

E kore Parawhenua e haere kit e kore a Rakahore

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

Application

1. This is a submission by the Hawke's Bay Regional Council (**HBRC or Regional Council**) on an application from the New Zealand Fish and Game Council, Hawke's Bay Fish and Game Council, Royal Forest and Bird Protection Society of New Zealand, Jet Boating New Zealand, Whitewater NZ Incorporated and Ngāti Hori ki Kohupatiki (the **Applicants**) for a water conservation order for the Ngaruroro and Clive rivers.
2. The Application seeks a Water Conservation Order (**WCO or Order**) in relation to:
 - (a) The mainstem of the Ngaruroro River and all of its tributaries and contributing waters (including hydraulically connected groundwaters and wetlands), from its source in the Kaimanawa Ranges down to Whanawhana cableway (**Upper Ngaruroro Waters**);
 - (b) The mainstem of the Ngaruroro River from Whanawhana cableway downstream to the inland limit of the coastal marine area (**Lower Ngaruroro River**);
 - (c) The tributaries and hydraulically connected groundwater to the Lower Ngaruroro River; and
 - (d) The mainstem of the Clive River from the Raupare Stream confluence downstream to the inland limit of the coastal marine area, at or about the State Highway 2 Bridge (**Clive River**).
3. This submission relates to the whole application.
4. This submission has been structured to address the position held by the HBRC in relation to the Upper Ngaruroro Waters, Lower Ngaruroro River, the tributaries and hydraulically connected groundwater of the Lower Ngaruroro River and the Clive River (as each is described in the application) separately.
5. Although throughout this submission we use the name 'Ngaruroro River' or catchment we acknowledge that the river has many names and 'Ngaruroro' is not the name given to the river by mana whenua, but an abbreviation of a former name. The various names used by tāngata whenua in the past depended on the people and the time that they interacted with the river, and the nature of such interaction, and occasionally with the occurrence of specific historical events.

The Submitter

6. HBRC is the local authority with the statutory responsibility in Hawke's Bay for managing activities in the beds of lakes and rivers, the taking, use, damming and diversion of surface water and groundwater, and the discharge of contaminants into water or on to land where it may enter water, under sections 13 to 15 of the Resource Management Act 1991 (RMA). The HBRC also has much broader responsibilities and roles under a variety of other legislation, including the Local Government Act.
7. The HBRC, acting as a consent authority, cannot grant any resource consent for an activity which is contrary to any prohibitions or restrictions in a WCO under section 217(2) of the RMA and accordingly, it is vital that the Tribunal consider and assess the wide ranging resource management prohibitions, restrictions and implications of the draft Order as sought by the Applicants.

Context of submission

Involvement of Māori

8. The Regional Council has actively involved tāngata whenua across its activities in relation to the way water and waterbodies are managed in Hawke's Bay. The Māori Committee and the Regional Planning Committee (**RPC**) are innovative 'governance level' initiatives which provide opportunities for tāngata whenua to proactively influence the Regional Council's resource management policy statement and regional plans.
9. The RPC was first established by HBRC in 2011 to actively achieve co-governance of the region's resources by the Regional Council and tāngata whenua. The RPC was established as Treaty of Waitangi redress and was given legal status as a statutory body in 2015 when the Hawke's Bay Regional Planning Committee Act was passed. The RPC comprises nine councillors and one member appointed by the Regional Council and ten tāngata whenua representatives. All members have full speaking and voting rights. Integration of tāngata whenua perspectives into the region's planning and policy through the RPC has provided tāngata whenua with a vehicle to fulfil their role as kaitiaki of the region's resources. The HBRC is committed to develop plans and policies to provide for current needs as well as promote sustainable environmental outcomes for future generations.
10. The RPC¹ has previously given a good faith commitment to "have particular regard" to recommendations from the TANK Group (a collaborative community stakeholder group comprising over 30 members working on options for the future management of land and water to the benefit of the Tutaekurī, Ahuriri estuary, Ngaruroro and Karamū rivers, their feeder tributaries and connected aquifer system - otherwise known as the '**TANK**' catchments). The Regional Council (elected representatives) intends to "give effect" to the group's recommendations. In both instances, these are clear signals that any consensus that the TANK group reaches will be considered in good faith and acknowledges the commitment being made by the TANK group membership. Any regional planning issues

¹ Recommendation from Regional Planning Committee to Council dated 26 February 2014 which reads in full as: "[The RPC and the Regional Council] acknowledges that while Council retains final decision-making responsibility under the RMA, the Regional Planning Committee undertakes to have particular regard to any TANK consensus outcome, if one emerges as long as it is consistent with higher level policy and planning documents including the Resource Management Act, Council's land and Water Management Strategy, Regional Policy Statement and Long Term Plan."

where the TANK group does not reach consensus will be considered by the RPC in the first instance, then the Regional Council.

National Policy Statement for Freshwater Management (NPSFM)

11. While the application is for a WCO, the Regional Council considers that its obligations under the NPSFM have a direct bearing on this WCO application. In Hawke's Bay, implementation of the NPSFM did not start from a blank canvas. Even prior to the 2011 NPSFM coming into effect, HBRC had a number of significant elements in place for managing freshwater resources. Some of those elements and more recent elements are set out in Attachment 1.
12. To coordinate those various elements, the HBRC adopted an overall implementation programme on 26 September 2011. Following the Government's release of the 2014 NPSFM, the HBRC adopted a revised implementation programme on 25 November 2015. A further third edition of the implementation programme is now being developed following recent amendments to the NPSFM. The current implementation programme to give full effect to the NPSFM across the entire Hawke's Bay region in policy statements and regional plans is staged through to 2025.
13. Full implementation of the NPSFM in Hawke's Bay involves an ambitious programme of many science workstreams and community engagement. Catchment differences have influenced the Regional Council's decision to prioritise NPSFM implementation in those catchments where it understands water allocation and water quality issues and pressures are the most pressing. Two of those high priority workstreams of particular relevance to the WCO application are:
 - (a) the Greater Heretaunga / Ahuriri Catchment Area (i.e. the TANK catchments) is one of the first three prioritised catchment areas subject to a regional plan change process; and
 - (b) a change to the RPS to identify outstanding freshwater bodies within the region which catchment-based regional plan changes would need to deal with.
14. The HBRC notes that this WCO application is the first to be lodged and now notified since 2011 when the first NPSFM came into effect. On that basis alone, this WCO application is set to be heard in an unprecedented set of circumstances.

Identification of Outstanding Freshwater Bodies

15. The NPSFM specifically requires the identification of water bodies having outstanding values. It provides a list of values to be considered (not exclusively instream values). While there is still debate about what values are eligible as being 'outstanding' for NPSFM purposes, the NPSFM does acknowledge a comprehensive list of national freshwater values and allows local communities to identify other values as relevant for how land and freshwater resources are to be managed.
16. The Regional Council has an important workstream underway to prepare and notify a plan change that would identify outstanding freshwater bodies in the Hawke's Bay region. Prior to that work commencing, the Regional Council contributed significant amounts of staff time to a project with Auckland Council and Ministry for the Environment to develop national

criteria and methodology for identification of outstanding freshwater bodies in the NPSFM context.²

Greater Heretaunga/Ahuriri catchment area plan change (aka TANK plan change)

17. The Regional Council initiated its TANK Plan Change process for resolving water management issues in the Tutaekuri, Ahuriri, Ngaruroro and Karamu/Clive catchments in 2012. The 'TANK project' refers to a community based collaborative process to consider the management requirements for these rivers and their connected surface and groundwater.
18. The HBRC is extremely concerned that a WCO process alongside this community based TANK plan change process will result in inefficient use of resources as the Council, iwi, stakeholders and community are diverted and potentially confused by a separate process that seek similar outcomes as the existing TANK process.
19. The Regional Council is also concerned about the potential impact on relationships between stakeholder groups that have formed and developed through the TANK collaborative stakeholder group process.
20. The Regional Council strongly suggests that the Tribunal separate its decision making into first hearing and deciding on submissions in relation to the WCO application for the Upper Ngaruroro. The WCO process in relation to the lower Ngaruroro and Clive Rivers could be delayed until the RPC has received and adopted the recommendations of the TANK Group. The RPC decisions, and the information supporting them, could then be taken into account by the Tribunal when it initiates its process for the remainder of the catchment.
21. These and other concerns were expressed to the Special Tribunal in a letter from the RPC's co-chairs dated 18 May 2017. For convenience, Attachment 2 is a copy of that letter.
22. Given the direction in the NPSFM for regional councils to:
 - (a) identify outstanding values of water bodies, and
 - (b) protect the significant values of these water bodies and
 - (c) maintain or improve overall water quality in a region and
 - (d) consider all national valuesand also given the wide range of values in the lower Ngaruroro and Clive Rivers which have a significant impact on how the community provides for its social, economic and cultural well-being, the Regional Council considers that the WCO as set out in this application is inappropriate and at odds with the broader objectives and provisions of the RMA and the NPSFM.

Submission and reasons for submission

Upper Ngaruroro Waters

23. Although the Regional Council maintains an open mind on the merits of the application in relation to the Upper Ngaruroro Waters, until our concerns regarding whether each of the characteristics sought to be protected by the Applicants meet the outstanding threshold and the scope of protections within the WCO being appropriate and necessary to protect any

² The Community Environment Fund project's final report is online here: <http://www.hbrc.govt.nz/assets/Document-Library/Reports/Environmental-Science/OFWB-CEF-Project-Main-Report-incl-Appendices.pdf>

characteristics which are found to be outstanding, the HBRC **opposes** the application in relation to the Upper Ngaruroro Waters.

24. In particular, the HBRC is not yet satisfied that the following characteristics, features and values pass 'outstanding' thresholds for a WCO:
 - (a) amenity and intrinsic values affected by natural state
 - (b) natural characteristics for water quality
 - (c) scientific and ecological values for water quality
 - (d) habitat for rainbow trout
 - (e) whitewater rafting/kayaking amenity and recreation
 - (f) habitat for native fish.
25. The HBRC recognises that the Upper Ngaruroro Waters have high natural, landscape, recreational and biodiversity values. The Regional Council's Plan Change 5 amended the Regional Policy Statement (**RPS**) to recognise the range of values of the Ngaruroro River. The RPS acknowledges higher levels of significance for particular values including regionally significant native water bird populations and their habitats and the high natural character values of the Ngaruroro River and its margins upstream of the Whanawhana cableway.
26. The Upper Ngaruroro Waters are also recognised in Change 5 as having high value for recreational activities.
27. However, the Regional Council is not fully satisfied that the Application demonstrates that all the values sought to be protected in the draft Order meet the 'outstanding'³ threshold under section 199 of the RMA.
28. By way of example in reference to Schedule 1 of the draft Order, overall, water quality variables as sampled at the Kuripapango monitoring site rank in the top 5% compared to rivers in indigenous forest cover on a national scale. Regionally, it ranks 1st for nutrient concentrations, 2nd for clarity, and top 5 for turbidity, MCI and *E.coli*. There is no doubt that the water quality is in a near natural or even pristine state, but whether this constitutes being outstanding in the context of a WCO is difficult to reconcile.
29. The HBRC is also concerned about the scope of the protections in the draft WCO and the implications these protections will have for the Regional Council given that a WCO, if confirmed, will constrain the Regional Council's plan making, resource consenting and asset management functions.
30. In particular, the Regional Council is concerned to better understand how those water quality limits set out in Schedule 5 of the Draft WCO application might impact on sustainable management and use of land within the Ngaruroro River catchment.
31. As will be evident from the above, the Regional Council is also concerned about the implications that the draft Order, if granted would have on the Ki uta ki Tai 'Mountains to

³ In *Rangitata South Irrigation Limited v New Zealand and Central South Island Fish and Game Council* EnvC, C109/2004, the Environment Court at [17] held that "amenities should stand out on a national comparative basis. If one takes a national comparative approach the fact that the wider region is well endowed with similar high quality features, may well suggest that particular waters do not stand out when considered in a national context."

Sea' approach being implemented by the RPC and Regional Council through the TANK process which has been designed to ensure its planning documents give effect to and implement the NPSFM.

32. Notwithstanding concerns of the HBRC regarding the implications of a WCO being made for the Upper Ngaruroro Waters in relation to our own planning processes, we recognise that the WCO hearing process may bring out evidence and information that will help inform the Regional Council's own planning processes in the future.

Lower Ngaruroro River

33. The HBRC **opposes** the making of an Order for the Lower Ngaruroro River on the following grounds.
 34. The Regional Council considers that the Application does not demonstrate that those characteristics which are being sought by the applicants to be protected as outstanding, are supported by currently available information.
 35. For example, the Regional Council does not consider that the following characteristics of the Lower Ngaruroro River identified in the application are outstanding:
 - (a) While jet boating is an important activity on the Ngaruroro River it does not "*stand out on a national basis*" when compared to other jet boating rivers in New Zealand; particularly the Rakaia, Rangitata, Kawarau and Shotover Rivers, all of which have water conservation orders.
 - (b) The diversity and abundance of fish in the lower Ngaruroro River are both high and regionally significant, but we are not convinced the native fish community is distinctive nor unique enough to warrant classification as outstanding by WCO terms. High temperatures and sedimentation limits the quality of habitat for fish. The presence of predatory trout also reduce habitat suitability for native species such as dwarf galaxias and koaro.
 - (c) Regionally, the lower Ngaruroro River has generally good water quality and meets most guideline values. However, it has relatively poor turbidity and clarity (in bottom 50% for similar sites on the Land Air Water Aotearoa online database). Water is often warmer than 21 degrees for weeks during summer and algal blooms breach guidelines at other monitored sites in the mid to lower reaches.
 36. In relation to tikanga Māori and cultural and spiritual values of the Ngaruroro River and connected groundwaters, the Regional Council is unequivocally supportive of the importance of the special relationship between tāngata whenua and the Ngaruroro River as an indivisible entity and, as held by iwi and hapu. However, the same or similar values are held by iwi and hapu for all waterways in the region and assessing the Ngaruroro related waters as being more special or important and essentially "over and above" those of other waterways in an outstanding sense to help justify this application for an Order is not supported.
 37. The other grounds that the Regional Council opposes making of an Order in the Lower River relate to the primary and secondary needs of industry and the community including its implications on the Regional Council's river control functions; the implications given provisions of the RPS and NPSFM; and scope issues with the extent of the Order.

Primary and secondary needs of the industry and community

38. The Regional Council vigorously opposes the making of an Order as the Lower Ngaruroro River (and its tributaries and hydraulically connected groundwater) are multi-use, multi value waterways and the WCO will not support the primary and secondary needs of industry and the community within the Lower River. Not supporting those needs would be contrary to the NPSFM and parts of the RPS (i.e. as introduced by Plan Change 5). In the Lower Ngaruroro River, large segments of the community, primary sector and secondary industries have huge reliance on the availability of water for economic activity and domestic use. Recent scientific modelling by the HBRC is strongly suggesting that, for example, the proposed restrictions on flows in Clause 9 of the draft Order would have extremely serious impacts on those highly valued uses of water.
39. Multi-use, multi value waterways are better suited to integrated management under regional planning processes compared to a water conservation order.
40. The Regional Council has flood protection functions in relation to the Lower Ngaruroro River. In fulfilling these functions active intervention for public safety and erosion control are required and the making of an Order could undermine this. While the draft Order addresses this to an extent under clause 12(b)(ii), the Regional Council is concerned that any protection will be undermined by the ambiguity associated with clause 12(c) of the draft Order. HBRC is also concerned that restrictions under Clauses 9 (a) and (b) will inhibit or prevent it carrying out its flood protection and river management role. HBRC considers that there is insufficient understanding and recognition of its river management role and the Heretaunga Plains Flood Protection and Drainage Scheme in the Lower Ngaruroro and Clive River to support the draft WCO application.
41. The HBRC's Ngaruroro River Ecological Management and Enhancement Plan (**EMEP**) is a comprehensive plan that describes the wildlife values, the diverse bird fauna, the location and description of habitat types with particular emphasis on the braided riverbed and the birds that rely on this for their survival. The EMEP also proposes a number of ecological enhancement actions, both for the braided riverbed habitat, and for the river berms.
42. HBRC does not support the draft WCO Schedule 2 because it restricts the EMEP, particularly the habitat enhancement and protection of highly specialised riverine bird species. The draft WCO forms an incorrect view on the role of gravel extraction and beach raking in river management and if it were to be adopted, it is likely that there will be even more loss of open braided riverbed due to encroachment of the gravel substrate by exotic plant pests. Plant pest encroachment is a widely acknowledged threat to the viability of riverbird communities.

Implications for implementation of the Regional Policy Statement and NPSFM

43. The making of an Order could also undermine the HBRC's full implementation of the NPSFM due before 31 December 2025. The implications of making an Order in relation the Regional Council's implementation of the NPSFM are discussed further above in paragraphs 11 to 22.
44. The Regional Council is also concerned about the lack of general flexibility or adaptability if the Order is made to accommodate better information, technology and knowledge that emerges in the future. Again, multi-use, multi value waterways with ever improving knowledge and technology are much better suited to integrated management under regional planning processes compared to a water conservation order.

Scope issues

45. The HBRC considers that aspects of the draft Order in relation to the Lower Ngaruroro River, go beyond the scope of what a WCO may limit. For example, a number of clauses within the draft WCO use the words that "no resource consent may be granted..." This appears to be ultra vires as section 217 of the RMA which only restricts the granting of water permits, coastal permits or discharge permits.

Tributaries and hydraulically connected groundwater of the Lower Ngaruroro River

46. The recent work of the Regional Council shows significant groundwater connections through the plains. We are concerned that given the extent of groundwater interaction with surface waters right across the Heretaunga Plains an Order on the Lower Ngaruroro River would restrict the utilisation of these waters (once current authorisations expire) by a very wide range of currently authorised activities which rely on this water, and hence would adversely affect the social and economic wellbeing of people and communities in the region.
47. New scientific advice from the Regional Council indicates the effects of current groundwater takes from the Heretaunga aquifer are at the limit of what is environmentally acceptable. This information has been presented to the community stakeholder TANK Group only as recently as 17 August 2017. We consider the evidence demonstrates that we should not allow increased volumes to be taken from groundwater, including increasing current usage within the headroom of existing consent without adverse effect mitigations.
48. However, unlike in the WCO application, this alone does not mean restricting granting of all new water permits. Options may exist to free up some water for further allocation through greater water-use efficiency or through a storage scheme. There may also be scope to allocate more water in the future through augmenting stream flows from groundwater in a manner that reduces the overall environmental impact. All these options are being explored by the TANK Group. The HBRC is extremely concerned that the Order, if granted in its current form, would unnecessarily prevent those innovative options for enhanced water availability on the Heretaunga Plains.
49. The Regional Council therefore **opposes** the making of an Order for the tributaries and hydraulically connected groundwater of the Lower Ngaruroro River on the following grounds:
- (a) The HBRC does not consider the tributaries and hydraulically connected groundwater contributes to any outstanding characteristics or features of the Upper or Lower Ngaruroro River.
 - (b) There is insufficient causal nexus between these waters and any waters in the Upper River or mainstem of the Lower River which might have outstanding characteristics.
 - (c) Protection of these waters is also opposed on the same grounds that the Regional Council opposes protection of the Lower Ngaruroro River outlined above at paragraphs 34 to 45.

Clive River

50. The Regional Council's earlier comments in paragraph 36 are also relevant here.
51. The Regional Council does, however, note that while the making of an Order may preserve the status quo for the Clive River, that the making of an Order may indeed preclude or

impact on wider aspirations to enhance the Clive River and future decision making in relation to the Clive River and the wider Karamu Stream catchment.

52. Existing consents when they expire would be affected by the draft Order and the consequences for many of these consent holders have not been properly addressed in the application. The HBRC considers some of those consequences will indeed be far reaching and affect the needs of the community and industry. For example, HBRC's river management functions that require a consent will expire with no indication of how the Regional Council could continue those operations within the restrictions proposed in the draft Order.
53. The Regional Council also notes that it has received the 'Operation Pātiki' iwi management plan prepared by Ngāti Hori. The Council supports integrated management and enhancement of the Clive River via partnership and considers that other mechanisms may be more appropriate than a WCO to fulfilling kaitiaki roles. Furthermore, the Regional Council is not only obliged, but committed to take into account Ngāti Hori's management plan when preparing regional plan changes⁴ such as the TANK plan change.
54. Accordingly, the HBRC **opposes** the making of an Order for the Clive River.

Decision sought

55. HBRC seek the following decision from the Special Tribunal:
 - (a) That the Tribunal declines the application in its entirety in relation to the mainstem of the Lower Ngaruroro River, the mainstem of the Clive River, the tributaries to the Lower Ngaruroro River and the hydraulically connected groundwater of the Lower Ngaruroro River and Clive River by deleting Schedule 2 and Schedule 3 from the Order (including all consequential amendments to the clauses within the Order which refer to Schedule 2 and Schedule 3).
 - (b) That the Tribunal declines the application in relation to the Upper Ngaruroro River as currently sought.
 - (c) Such other and further consequential relief to give effect to the grounds in this submission.

Hearing

56. HBRC do wish to be heard in support of this submission and also wish to participate in any pre-hearing meetings that the Special Tribunal might convene.



Rex Graham

Chairperson, Hawke's Bay Regional Council

Date: 24 August 2017

⁴ Section 66(2A)(a) of RMA

Address for service of Submitter:

Hawke's Bay Regional Council
Private Bag 6006
NAPIER 4142
Attention: James Palmer, Chief Executive
Email: james.palmer@hbrc.govt.nz

Note to submitter

You must serve a copy of your submission on the applicant as soon as reasonably practicable after you have served your submission on the special tribunal.

The Special Tribunal may require you to provide further information on your submission.

ATTACHMENT 1: Examples of matters and elements HBRC has had in place for managing freshwater resources in Hawke's Bay

- (a) An operative second generation Regional Policy Statement (first in New Zealand to do so). The RPS is included within the 'Regional Resource Management Plan.'
- (b) An operative second generation combined regional plan ('Regional Resource Management Plan').
- (c) Monitoring strategies for state of the environment programmes and the reporting of monitored trends in our waterbodies.
- (d) A Regional Planning Committee (**RPC**) formed and operating as the model (preferred by the Crown, HBRC and majority of Treaty Claimant Groups in Hawke's Bay) of co-governance for natural resource management in our region. This is particularly relevant to NPSFM Policy D1.
- (e) Nine Treaty Claimant Groups represented on the RPC.
- (f) A management plan ('Te Karamu') in place for the Karamu Stream, including the Clive River, to improve drainage and water quality.
- (g) Irrigation user groups established by irrigators with HBRC assistance in the Ruataniwha, Ngaruroro and Twyford areas. The initiatives are intended to ensure water is used efficiently, and in some cases, transferred between users where this will result in greater efficiencies and less pressure on the water resource.
- (h) Plan Change 4 (Managing the Built Environment) which amended the RPS to introduce policies to guide decision-making for urban development and the strategic integration of infrastructure. This is particularly relevant to NPSFM Policy C2.
- (i) The Hawke's Bay Land and Water Management Strategy adopted in 2011.
- (j) Plan Change 5 (primarily amending the RPS) which among other things, outlines what the catchment-based regional plan changes will need to consider along with the broad high level approach to be taken to managing numerous and often competing values and uses of freshwater.
- (k) Collaborative processes and stakeholder groups which are active in various catchments across our region (for example, Taharua/Upper Mohaka Stakeholder Group, Tukituki Stakeholder Group).
- (l) A \$4.1 million investment commitment over 2012-22 period for scientific data collection, analysis and reporting.
- (m) The TANK Collaborative Stakeholder Group formed in 2012 is actively progressing a collaborative approach to plan change preparation for the Greater Heretaunga /Ahuriri Catchment Area (Clive/Karamu, Ngaruroro, Tutaekuri, Ahuriri, Heretaunga aquifer).

ATTACHMENT 2: Letter from RPC Co-Chairs to Special Tribunal dated 18 May 2017



18 May 2017

To the Chair, Special Tribunal for Ngaruroro and Clive Rivers Water Conservation Order Application
C/- Thomas O'Flaherty
Ministry for the Environment
PO Box 10362
Wellington 6143

via email to Thomas.OFlaherty@mfe.govt.nz

Dear Sir,

Water Conservation Order Application; Ngaruroro and Clive Rivers, Hawke's Bay

This letter is to provide the Tribunal with some background information about water management and plan change processes currently underway in Hawke's Bay.

The Council's Regional Planning Committee (RPC) considers that current plan change processes are extremely relevant to decisions required of the Tribunal and could assist the Tribunal as they consider the management of their Ngaruroro WCO application hearing process. This context will not be entirely apparent from reviewing documentation supporting the application.

We do not wish to comment on the merits of the application at this time. Instead, we focus our interest only in establishing efficient and effective processes that assist all the relevant parties, including the Tribunal, Council, applicants and other stakeholders, including those engaged in the TANK project.

The Council initiated its TANK Plan Change process for resolving water management issues in the Tutaekuri, Ahuriri, Ngaruroro and Karamu/Clive catchments in 2012. The 'TANK project' refers to a community based collaborative process to consider the management requirements for these rivers and their connected surface and groundwater. The attached brochure helps explain the scope and importance of the TANK project. Please note that there is a common connection between the Ngaruroro and Clive Rivers with the Tutaekuri and Tukituki rivers through the Heretaunga Plains aquifer system and Waitangi Estuary.

The Council has been supporting and working with a group of more than 30 people representing a wide range of stakeholder groups since October 2012. A list of the members and the organisations they represent is attached for your information. There have been regular meetings since then, as the Group has increased its understanding and knowledge about the resources they are tasked with managing, the interconnectivity between them and the values and objectives they wish to manage for.

The purpose, operation and decision making process of the Group is governed by Terms of Reference. This document describes the context for the Group's decision making, membership and functioning, decision making process and, importantly, the commitment by the RPC to implement the recommendations of the TANK group. The Terms of Reference are attached for your information.

The RPC is now concerned that a WCO process alongside this community based TANK plan change process is likely to result in inefficient use of resources as Council, iwi, stakeholders and community are diverted and potentially confused by a separate process that seek similar outcomes as the existing TANK process.

We are also concerned about the potential impact on relationships between stakeholder groups that have formed and developed through the TANK Collaborative Stakeholder Group process.

Hawke's Bay Regional Council

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www.hbrc.govt.nz

The RPC sought information from the applicants about the intended application and received a briefing at their November 2015 meeting. Following the presentation by the applicants, the Committee raised a number of concerns about how that process would affect the TANK initiatives.

The applicants were encouraged to reconsider the process, including involvement by iwi, that could be used to identify and provide for the values of the Ngaruroro River. It is apparent that these concerns have not been taken into account with the lodging of the application. Since the application was lodged with the Minister, the Council sought on several occasions to work directly with the applicants and also through MfE officials to provide joint statements about possible WCO process in order to assist the Tribunal (both before and since Tribunal membership was announced). The applicants have chosen to wait for the Tribunal to initiate the WCO process.

The RPC encourages the Tribunal to take into account the TANK process as it considers its own process management. We strongly suggest that the Tribunal separate its decision making into first hearing and deciding on submissions in relation to the WCO application for the Upper Ngaruroro. The WCO process in relation to the lower Ngaruroro and Clive Rivers could be delayed until the RPC has received and adopted the recommendations of the TANK Group. The RPC decisions, and the information supporting them, could then be taken into account by the Tribunal when it initiates its process for the remainder of the catchment.

The RPC anticipates that the merits of the application in respect of the Upper Ngaruroro will be quite different from those of the lower reaches.

Furthermore, the complexities of the surface and groundwater interactions across the Ngaruroro, Tutaekuri, Clive/Karamu and Heretaunga Plains (and potentially the lower Tukituki River) are being addressed by a new, complex and very sophisticated ground and surface water model being developed by the Council.

The TANK Group is currently making choices about possible water management regimes (for both quality and quantity) that are to be modelled. Once the Group agrees on a preferred management regime, the Group will work with a number of consultants, including economic and farm system experts, to calculate the regional economic, social and cultural impacts of their preferred management regime. All of this information will also assist the Tribunal in its own decision making.

The Council's extensive science programme supporting the TANK process will enable robust decision making about water quantity and quality limits in these related catchments. This science programme is fundamental to good land and freshwater decision making. The WCO application could also benefit from this information and the modelled results (on the regional economy and water quality and quantity) of different management regimes being developed by the TANK Group.

If you would like any further information about the TANK Group, the process they are following or any of the science programmes currently underway, please let us know.

Yours sincerely on behalf of the Hawke's Bay Regional Planning Committee,



REX GRAHAM
COMMITTEE CO-CHAIR AND HBRC CHAIRPERSON



TORO WAAKA
COMMITTEE CO-CHAIR

Attachments

1. 'The TANK Plan' brochure (Nov 2016) What you need to know about the TANK Group and its plan change for the Tutaekuri, Ahuriri, Ngaruroro and Karamu catchments.
2. Membership of the TANK Collaborative Stakeholder Group (as at 15 May 2017).
3. TANK Collaborative Stakeholder Group Terms of Reference.

The background of the entire page is a high-angle aerial photograph of a river system. The river flows from the top left towards the bottom right, creating many sharp, meandering turns. It is surrounded by lush green vegetation and several small hills. In the far distance, a range of mountains is visible under a clear sky.

November 2016

THE TANK PLAN

What you need to know about the TANK Group
and its Plan Change for the Tutaekurī, Ahuriri,
Ngaruroro and Karamū catchments



HAWKE'S BAY PEOPLE ARE RIGHT TO EXPECT SAFE, HEALTHY RIVERS AND WATERWAYS

**E TIKA ANA TE TŪMANAKO
NUI O NGĀ TĀNGATA O
TE MATAU-A-MĀUI KIA
HAUMARU, Ā, KIA TINO
ORA HOKI NGĀ AWA ME
NGĀ ARAWAI**

Land and water use in each part of our region differs and each waterway is unique. The TANK Group focuses on the Tutaekurī, Ahuriri, Ngaruroro and Karamū catchments.

The TANK Group first met in 2012. It produced an interim report in 2014 giving some high level direction for water and land management in the TANK catchments.

The Group has continued meeting since then, but have been waiting for critical science investigation and modelling to complete decision-making.

Its purpose is to recommend limits and measures for a workable TANK Plan Change, that gives clear guidance to consent holders and resource users.

A draft Plan Change is expected by the end of 2017.

TANK's collaborative membership includes more than 30 groups, representing Tāngata Whenua, primary sector, councils and environmentalists. It will recommend land and water management options to the Regional Council to benefit the Tutaekurī, Ahuriri estuary, Ngaruroro and Karamū rivers, and their feeder tributaries.

Information about each TANK meeting and progress is at hbrc.govt.nz, search: #tank.





WITH YOUR BASKET AND MY BASKET
THE PEOPLE WILL LIVE

NAKU TE ROUROU NAU TE ROUROU
KA ORA AI TE IWİ

Progress so far

The TANK science programme will wrap up in 2017. One of the major developments is a complex ground and surface water model constructed to understand the connections between river flows, groundwater levels, water abstraction and oxygen levels in lowland streams. The model will also help us better understand nutrient pathways and concentrations in ground and surface water.

Other studies have helped to understand sediment loss risks, and measures available to limit the adverse effects of sediment on freshwater and estuary ecosystems.

The Group has looked at what values to manage the water for, and will be developing rules and wording to reflect the wide range of values expressed both in pakeha and Māori terms – see the following pages.

As part of this process, the Group is looking at indicators that help demonstrate whether these values are being met. They include things such as MCI (Macroinvertebrate index), a measure to assess the health of aquatic insect populations, algae and macrophytes (water plants), nutrient concentrations (that may affect algal growth) and sediment levels.

Nutrient and bacteria concentrations in the Ngaruroro are at very good levels. The Tutaekuri is also in a good state, but with slightly higher concentrations of nutrients. Areas for improvement include:

- Sediment (water clarity and deposited sediment) in the lower reaches of the Ngaruroro and Tutaekuri, and in the Ahuriri and Waitangi estuaries
- Algae in some tributaries (with concern about nutrient levels in the tributaries)
- MCI levels (bugs and insects) in the lower Ngaruroro and Tutaekuri.

Information about the desired conditions for the Karamu River and its tributaries, and the Ahuriri, is still to be considered in detail.

Smaller working groups are helping to tackle the TANK Group's substantial workload. These are focused

on specific topics including storm water, wetland management and the economic implications of any management scenario considered by the Group.

Wider community engagement important, and the TANK Group ensures that it properly involves the various stakeholders and Māori in its decision-making process.

What it might mean for you

The TANK process will result in new planning rules for land and water within the TANK footprint. These rules will apply allocation limits and flow management criteria for rivers, which will also affect some groundwater users.

Water quality objectives will be set, including land use and discharge rules. New rules will affect how people use our rivers or groundwater and manage the land.

Catchment-based plan changes in each region of New Zealand will satisfy the government's National Policy Statement for Freshwater Management 2014.

Water Conservation Order

A Water Conservation Order application made for the Ngaruroro and Clive Rivers may affect the TANK process. The Regional Council and TANK Group stakeholders are working to ensure that the TANK process can continue.

How to get involved

Talk to TANK Group members, or contact the organisations they represent: ask questions and give feedback. You can also do this online.

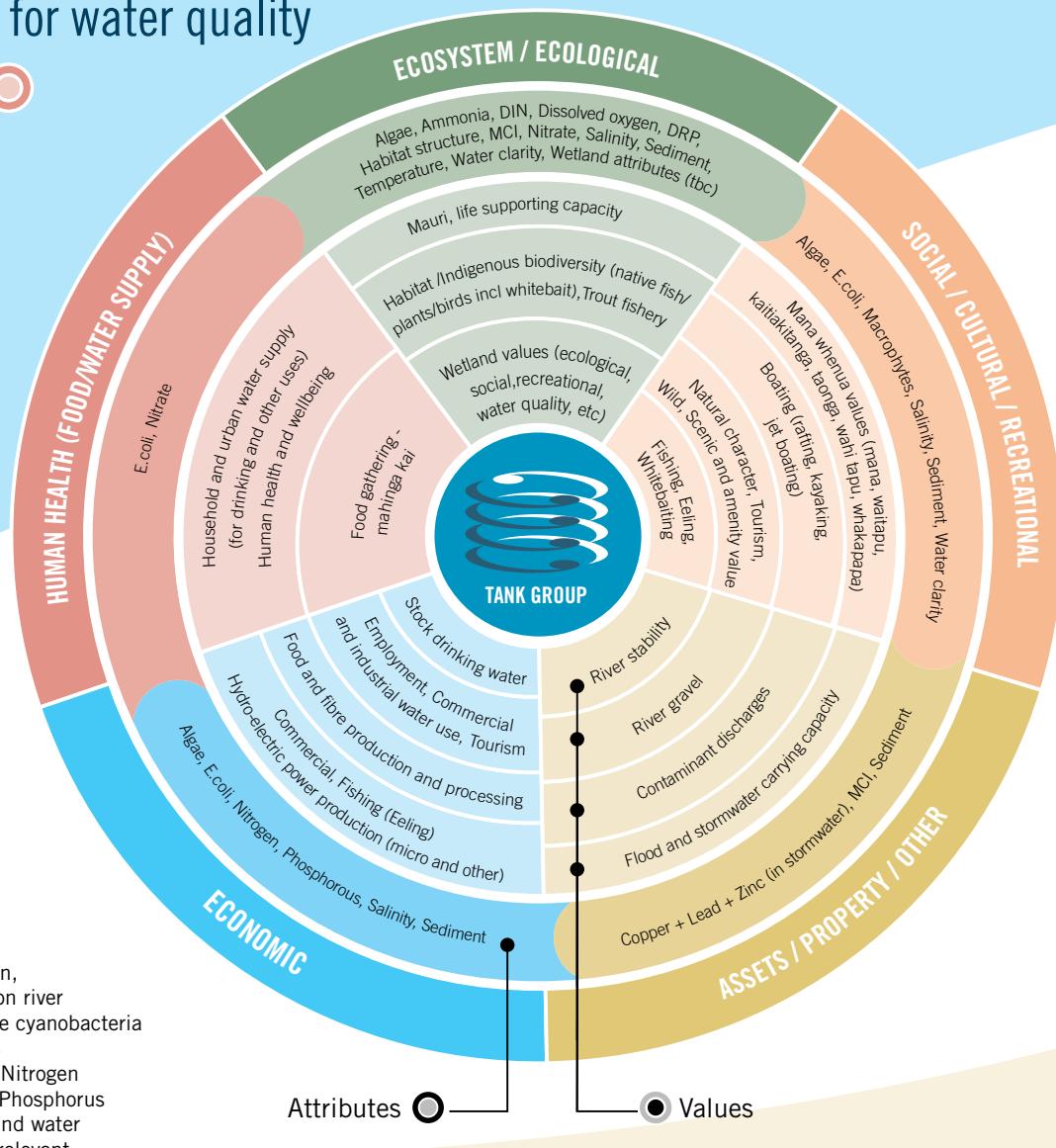
Or contact Hawke's Bay Regional Council staff, who are helping the TANK Group work through this process. Check HBRC website, Facebook or local papers.

Once the TANK Group has made its recommendations, HBRC will decide whether to publicly notify the plan change – or consult on a draft. You can also make a submission at that point.

See hbrc.govt.nz (search: #tank), or contact mary-anne.baker@hbrc.govt.nz.

TANK VALUES⁺

and Attributes for water quality

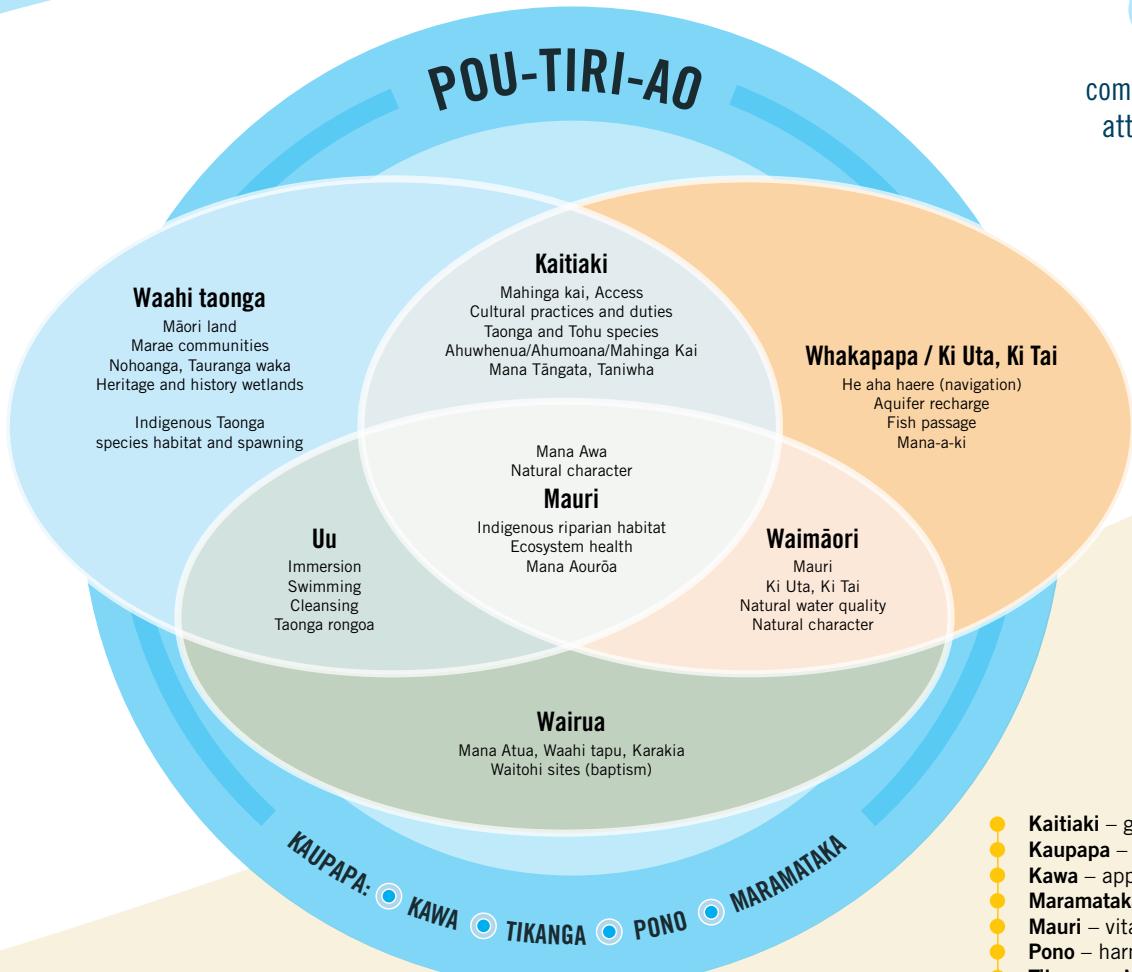


- Algae** - Includes periphyton, the algae found naturally on river beds, and phormidium, the cyanobacteria that can cause dog deaths
- DIN** - Dissolved Inorganic Nitrogen
- DRP** - Dissolved Reactive Phosphorus
- Economic** - Recreational and water supply attributes are also relevant
- MCI** - Macroinvertebrate index

TE AO MĀORI[†]

Tāngata whenua representatives of iwi and hapū in the TANK area have provided complementary values and attributes to characterise water quality.

These core values are underpinned by a philosophy of appropriate etiquette, customs, harmony and timing.



- Kaitiaki – guardian or custodian
- Kaupapa – philosophy
- Kawa – appropriate etiquette
- Maramataka – timing
- Mauri – vital essence of life
- Pono – harmony
- Tikanga – Māori customs
- Uu – values within water
- Waahi taonga – special or sacred places
- Waimāori – cultural view of rivers
- Wairua – spirit
- Whakapapa/ Ki Uta, Ki Tai – genealogy or lineage/mountains to the sea

[†] These two models are still being developed, but give a sense of the approach that the TANK Group and Māori are taking (November 2016).

TANK FACTS

- 85% of Hawke's Bay people live and work in the TANK footprint • 2 cities • 20 marae
- 87% of Hawke's Bay GDP (Gross Domestic Product) derived from the Napier/ Hastings City areas*
- 90% of Hawke's Bay horticulture and fruit is grown in the TANK footprint*
- 40% of Hawke's Bay sheep, beef, dairy and grain is farmed in the TANK footprint*
- 2,000 active consents to take water
- TANK footprint carries storm water from town/city runoff and industry

*Infometrics HB Economic Profile, 12 months to March 2015



T A N K

TANK Collaborative Stakeholder Group

Membership list April 2017

| NAME | ORGANISATION |
|----------------------|---|
| Aki Paipper | Operation Pātiki ki Kohupātiki Ngāti Hori |
| Brett Gilmore | Hawke's Bay Forestry Group |
| Bruce Mackay | Heinz-Watties |
| Connie Norgate | Department of Conservation |
| Craig Thew | Hastings District Council |
| Emma Taylor | Gimblett Gravel Grape Growers' Assoc. |
| Hugh Ritchie | Federated Farmers |
| Ivan Knauf | Dairy industry |
| Jason Strong | Napier City Council |
| Jenny Mauger | Ngā Kaitiaki o te Awa a Ngaruroro |
| Jerf van Beek | Twyford Irrigator Group |
| Joella Brown | Ngā Marae o Heretaunga |
| John Cheyne | Te Taiao HB Environment Forum |
| Kim Anstey | Napier City Council |
| Lesley Wilson | HB Fruitgrowers' Association |
| Mark Clews | Hastings District Council |
| Marei Apatu | Te Taiwhenua o Heretaunga |
| Matt Brady | Department of Conservation |
| Mike Glazebrook | Ngaruroro Water Users Group |
| Nathan Burkepile | Fish and Game NZ (Hawke's Bay) |
| Neil Eagles | Royal Forest and Bird Society (Napier) |
| Ngaio Tiuka | Ngāti Kahungunu Iwi Inc. |
| Nick Jones | Hawke's Bay District Health Board |
| Peter Kay | HDC Rural Community Board/Sheep & Beef Sector |
| Scott Lawson | HB Vegetable Growers |
| Te Kaha Hawaikirangi | Ngā Hapū o Tūtaekurī, Maungaharuru-Tangitū |
| Tim Herman | Pipfruit NZ |
| Vaughan Cooper | Royal Forest & Bird Inc. |
| Xan Harding | Hawke's Bay Winegrowers |

Greater Heretaunga and Ahuriri (TANK) Collaborative Stakeholder Group Terms of Reference

as updated October 2014 and April 2016

1. Purpose

This document updates the TANK Group's Terms of Reference which were adopted in 2012 to reflect the extension of the project timeframe through to 2017.

The purpose of this document is to describe and update the Context, Role and Operating Procedures for a Collaborative Stakeholder Group (the TANK Group).

The TANK Group has been convened to provide recommendations to the Regional Planning Committee for the management of land and water in the Greater Heretaunga and Ahuriri catchment area, comprising the Tutaekuri, Ahuriri, Ngaruroro and Karamu catchments and associated estuarine and coastal receiving environments.

The TANK Group will identify values, and recommend objectives, policies, rules and other methods to be included in the Regional Resource Management Plan (RRMP) to provide for those values. This area, including the coastal environments, will be colloquially referred to as the TANK catchments.

2. Study Area – TANK catchments

The study area is shown in Appendix 1. The key reason for the extent of the study area is the interconnectedness of the Heretaunga Plains aquifer systems with the surface water catchments – Karamu, Ngaruroro, Tutaekuri and Tutaekuri-Waimate, Ahuriri and the Taipo and Napier urban waterways. Some areas are more connected than others. The area will be broken down into manageable hydrological units which take into account the need to integrate the groundwater resource.

3. Key Drivers

There are some 3600 current consents in the TANK catchment area representing approximately half of the region's consented activity. Of these, some 2500 (approx. 70%) relate to the taking and use of surface water and groundwater. The bulk of the Ngaruroro and Maraekakaho takes expired in 2015, and the majority of the Tutaekuri consents expire in 2018. The majority of the groundwater takes from the Heretaunga Plains unconfined aquifer expire in 2019. The Karamu catchment consents expired in 2013.

The Ngaruroro catchment is at full allocation and the Karamu catchment is currently considered to be over allocated, largely by virtue of the Regional Resource Management Plan setting zero allocation limits. Issues have also been raised about the methodology for setting the minimum flows in the current plan. The minimum flows need to be reviewed.

In addition, the National Policy Statement for Freshwater Management (NPS), originally released in 2011, subsequently revised and came into effect in 1 August 2014, requires regional councils to set freshwater objectives, water allocation limits and water quality targets for every water body, so that overall quality of fresh water in the region is maintained or improved. There are no allocation limits in the RRMP for the Heretaunga Plains aquifer systems and the RRMP only contains water quality guidelines.

Council has given the assurance that it will provide clearer policy direction for upcoming consent processes for both applicants and submitters alike.

4. Planning Context

The planning framework within which the TANK Group is to function includes a variety of legislative requirements and both statutory planning instruments and non-statutory processes and documents as shown in Figure 1. A detailed explanation of the planning framework is provided in Appendix 2. As well as these, the TANK Group should also take into account the principles of the Treaty of Waitangi, iwi and hapū planning documents, and other agency and industry strategies. A list of relevant supporting documents will be provided to and discussed with the TANK Group as the collaborative process evolves.

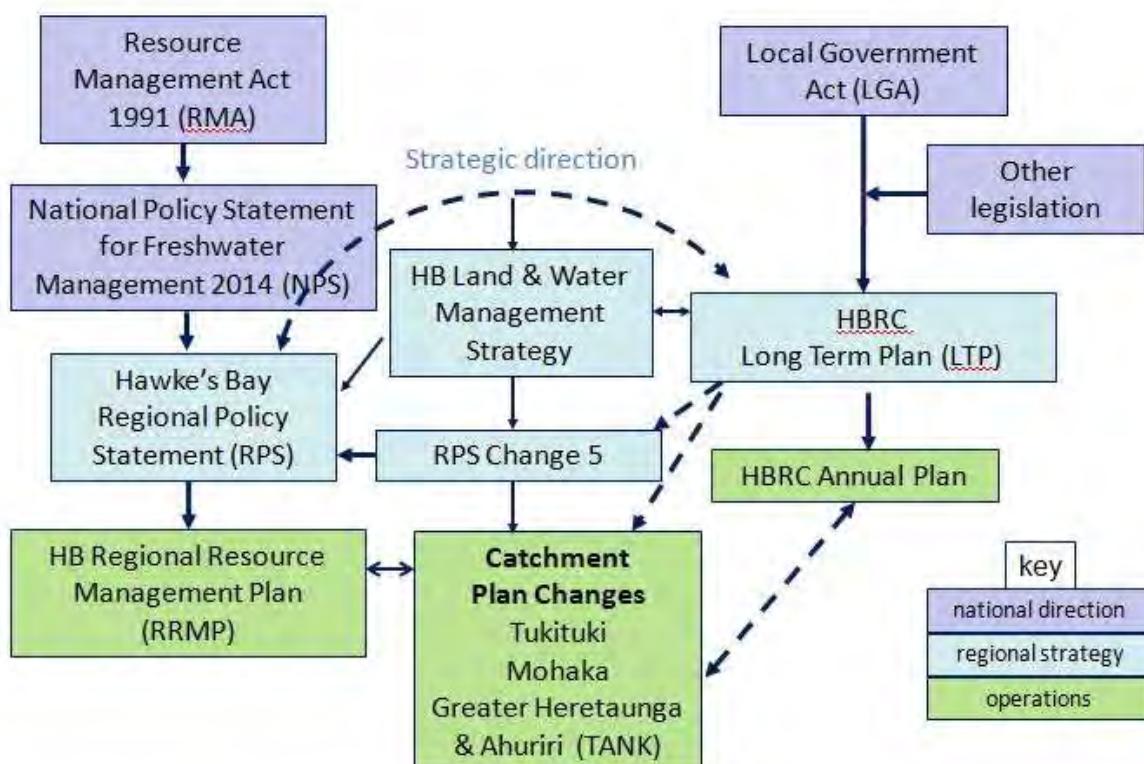


Figure 1 Greater Heretaunga and Ahuriri Plan Change planning framework

5. Role of the TANK Group

The TANK Group is undertaking a collaborative stakeholder process with the aim of providing the Council (via the Regional Planning Committee) with consensus recommendations regarding objectives, policies and methods, including rules for a plan change to the RRMP for the Greater Heretaunga and Ahuriri catchment area. To provide those recommendations, the TANK Group does not start from a blank canvas, nor operate in a silo as outlined in Section 4, Planning Context.

The Regional Planning Committee has agreed to have particular regard to any TANK consensus outcome, if one emerges¹, and the Regional Council has given a good faith undertaking to implement the recommendations of the TANK Group². Any recommendations must also be consistent with the following higher level documents:

- Resource Management Act
- National Policy Statements
- National Environmental Standards
- Regional Policy Statement

6. Membership and relationships

All members of the TANK Group have been nominated by their respective sector or group to be their representative and as such are expected to convey ideas and perspectives from their wider networks. However, the views expressed by members will be assumed to be their own until such time as they have been formally endorsed by their wider networks. A subsequent process, with a reasonable timeframe (to be decided by the TANK Group), will be required to get formal endorsement.

The TANK Group will adopt measures and processes to ensure that local iwi/hapū, community and TANK sectors and groups are informed and have opportunity for input and provide comment on the work of the Group. This includes through the establishment, as necessary, of working groups or communication strategies that provide regular updates about TANK Group outputs and provide opportunities for community and stakeholder feedback.

Some important points to remember about being a TANK Group member:

- A meeting allowance will be available for those who are not paid representatives for a particular interest.
- Members are expected to make every effort to attend all meetings. Between sessions, members will be expected to interact with their wider networks to obtain feedback on policy options.
- The Group has been working together for an extended period and a further two years is required to complete the decision making and produce a draft plan change. A commitment to regular attendance will be critical for continuity and consistency for this time. Substitutes (temporary) and replacements (permanent) are therefore discouraged. Any

¹ Regional Planning Committee Resolution, 19 February 2014.

² Regional Council Resolution, 29 August 2012

- substitute or replacement must be pre-agreed with the Independent Facilitator and must be well briefed by the member they are replacing in advance of the meeting.
- If a meeting is missed, or if a substitute does participate, members will be expected to “catch up” and to raise any concerns arising from that meeting with the Independent Facilitator no later than the next meeting.

- Time will not generally be provided within subsequent meetings to re-visit issues already addressed or resolved in the missed meeting unless new and relevant information is provided. Re-visitation of issues will be at the discretion of the Independent Facilitator.

7. Protocol for collaborative deliberation

This process is not just another consultation exercise – it is a new way of decision-making. Rather than simply advocating for a particular point of view, participants will be expected to explore, consider and deliberate on solutions that accommodate diverse views and interests, and to refrain from tactics that are divisive.

The protocol includes matters relating to respect, communication and consensus decision making:

Respect and Communication

- Members must be willing to participate cooperatively for the “greater good” of sustainable water resource management in the TANK catchments.
- All members agree to act in good faith. This means that members must commit to open, honest, constructive, robust and collaborative deliberations. To this end, we will follow the Chatham House Rule. This means that participants are free to discuss aspects of the process with other parties (excluding debating issues through media channels, see point below) but shall not attribute speakers or their affiliations to discussed options or opinions.
- TANK Group meetings are not open to the public; however Meeting Records and the list of participants will be made public.
- Contributions made within the Group will be “without prejudice”. That is, nothing said within the Group may be used in a subsequent planning or legal process except for any recommendations and agreements reached by the Group.
- Members agree to refrain from debating issues through public media channels and to keep the debate within the TANK Group.
- Members agree to show restraint and respect for other views when communicating with wider networks and to avoid promoting discord within the group.
- Any public statement about discussions or decisions by the group must be agreed by the group and made through an agreed spokesperson. This also applies to researchers, council staff and others who attend the meetings in support of the TANK Group.

The Group may add to this protocol by unanimous decision making. Any agreed additions are collated and appended to the Terms of Reference as an addendum.

Consensus decision making

- The group will strive to make decisions by consensus. Consensus is defined as every member (i.e. 100%) of the group agreeing that they accept the group’s recommendations to Council.

- At the end of the process, members and their networks will be asked to formally endorse and sign any recommendations that have been reached by consensus.
- Where 100% consensus cannot be reached on a topic or specific point, the reasons for disagreement will be noted, any alternatives defined, and the reasons for positions on the alternatives recorded.
- If the group reaches a consensus, members will be expected to support that consensus in subsequent public discussion, including appearing at any subsequent hearing if requested.

8. Council and Council staff roles

The HBRC, through its Regional Planning Committee, has established and is resourcing and supporting a collaborative approach to reaching broad agreement on, and developing recommendations for future water management by the TANK Group.

HBRC staff will be assigned to assist and support the TANK Group in delivering the required outputs within the agreed timeframes.

Members of the Regional Planning Committee, both councillors and tangata whenua representatives, may attend TANK meetings as observers with speaking rights. For clarity, members of the Regional Planning Committee are not to take part in TANK Group decision making to ensure a clear separation, both actual and perceived, between statutory governance and the advisory role of the TANK group.

The TANK Group will regularly update the RPC about its work. This update will coincide with scheduled RPC meetings and may also include special meetings if necessary. The TANK Group does not have the authority to commit the Council to any path or expenditure.

Officers from the Napier City and Hastings District Councils have been appointed to the TANK Group to represent the interests of these local authorities.

9. Role of facilitator

Most meetings of the TANK Group will be led by an independent facilitator, who will:

- Ensure a fair and equitable group process
- Foster an atmosphere of respect, open-mindedness and group learning
- Design an enjoyable and productive process to enable the group to achieve its task
- Facilitate input from all members of the group, so that every voice is heard
- Provide guidance on collaborative deliberation techniques, including constructive ways to voice disagreements and negotiate potential conflicts.
- Manage discussion and decision making processes in a way that assists with meeting the objectives for each meeting within the agreed timeframes and according to agreed protocols.
- Support as necessary, operation of any working group formed by the TANK group to assist the Group in its decision making.

10. Work Programme

The TANK Group will adopt a Work Programme with agreed timeframes required to deliver the outcomes specified. The Work Programme will be regularly reviewed and progress reported to the RPC.

There are four main phases for this project (Phase 1 has been completed) and the TANK Group will be involved in all four phases.

Phase 1 (completed)

Identification of values, objectives, and general agreements on approaches for developing policy options for a plan change.

Output: a document detailing interim agreements and any areas where agreement could not be reached, for presentation to the Regional Council's Regional Planning Committee.

The TANK Group held 11 meetings between October 2012 and December 2013 and reached interim agreement on a number of topics. These are captured in the report *Collaborative decision making for freshwater resources in the Greater Heretaunga and Ahuriri Region: TANK Group Report 1 – Interim Agreements ("Phase 1 - TANK report")*. These 11 meetings and the TANK Report will be referred to as "Phase 1" of the TANK process.

The interim agreements in the Phase 1 - TANK Report are "supported in principle" by most parties but not all. The areas of disagreement will be addressed in the early stages of Phase 2 of the TANK Group process.

Phase 1 - TANK Report will be used as a foundation document for progressing through Phases 2 and 3 of the TANK process (outlined below).

Phase 2

Building on and, where necessary, amending Phase 1 Interim Agreements to develop and evaluate policy options including determining appropriate limits/thresholds (quantity and quality) and/or methods for setting them. This phase will require further assessment of subcatchment level values and objectives.

Outputs: agreement on objectives, attributes and desired attribute states for identified water bodies or groups of water bodies in relation to the identified agreed values for which the water bodies are to be managed.

Agreement on the policies and methods that will be used to achieve the stated objectives for each water body or group of water bodies and identification of alternatives on any areas where agreement could not be reached, for presentation to Council's Regional Planning Committee.

Phase 3

Plan Change writing to incorporate any preferred/agreed policy response arising out of Phases 1 and 2 into the Regional Resource Management Plan. During Phase 3, the TANK Group will meet as required to make further recommendations on issues that arise during drafting of the plan change.

Public consultation on a draft plan change may be undertaken in partnership with the RPC, ahead of formal notification, if deemed a necessary supplement to the public and hapū/whanau engagement programme.

Outputs: a draft Plan Change ready for consideration and approval by the Regional Planning Committee by end of 2017 and a report on the TANK process (to inform Council's section 32 RMA evaluation report).

Phase 4

Consideration of the proposed plan change by RPC and subsequent recommendation to the Council for either public or targeted consultation on draft, or should public engagement have been sufficient in phases 2 and 3 then notification by the Council in early 2018.

The RPC may refer matters back to the TANK Group for further advice and/or recommendations prior to recommending a final plan change to the Council for notification.

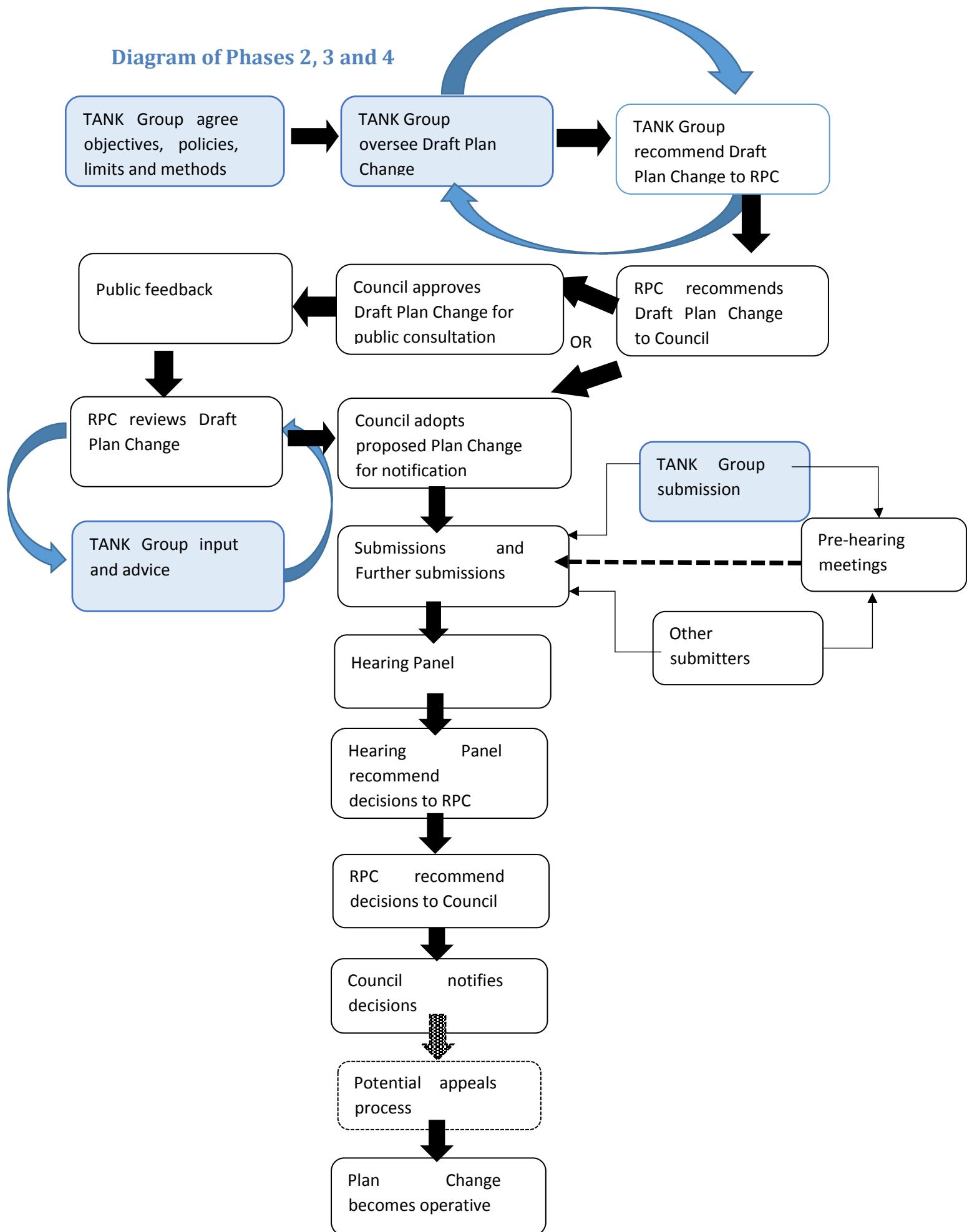
The TANK Group will be encouraged to make a submission on the proposed plan on behalf of the Group and will be assisted in this by Council staff if necessary.

This is to encourage on-going TANK commitment and involvement in any refinements to the plan change, including involvement in hearings and pre-hearing meetings and on-going commitment to plan implementation.

Hearing of submissions will be by the full RPC. (*editorial note: this proposal is amended by the recommendation in the report to RPC 20th April 2016 to a hearing panel consisting 3 councillor and 3 iwi members*). The RPC has been appointed by the Council to hear and make recommendations² on the submissions and further submissions on Proposed Plan Changes and make recommendations to the Council about the decisions to be made.

² The function of approving the Plan Changes under Clause 17 of Schedule 1 of the RMA was not delegated. That function remains with the Council

Diagram of Phases 2, 3 and 4



11. Meeting schedule for TANK Group – Phases 2 & 3

The Tank Group will set the meeting schedule for meetings in Phase 2 and it will then become an attachment to this update (see attachment 3). Near the end of Phase 2, the meeting schedule for Phase 3 will be developed by HBRC's Project Team in consultation with TANK Group members. The schedule will be adapted as necessary to suit the availability of as many Group members as possible.

12. Contact details

Facilitator

Robyn Wynne-Lewis, Core Consulting, ph 8772359 or 027-4431129, email robyn@coreconsulting.co.nz

HBRC staff

James Palmer, Group Manager Strategic Development, ph. 06-833 8045 email james.palmer@hbrc.govt.nz.

Iain Maxwell, Group Manager Resource Management, ph. 833 8011, email iain@hbrc.govt.nz

Mary-Anne Baker Senior Planner Policy, ph. 06-833-5478 email marya@hbrc.govt.nz (Policy and Planning).

Desiree Cull, Programme Leader, ph. 06-833 8037 email Desiree.Cull@hbrc.govt.nz (Project management).

Appendices

Appendix 1: Study Area



Appendix 2: Planning framework

Resource management context

There are numerous documents that set the context and scope of this project – see Figure 1. Looking first at the left side of Figure 1, at a statutory level is the **Resource Management Act 1991** (RMA).

The RMA specifies the functions of regional councils with respect to resource management, states the purpose (to promote sustainable management, defined in RMA section 5) and sets some highlevel direction for how this is to be done (e.g. in RMA sections 6-8). (Refer to pp7-8 of slides from Meeting 1.)

The central government can issue national policy statements when it wants to provide direction on how it wants local authorities to carry out their functions. The **National Policy Statement on Freshwater Management (NPS)**, issued in 2014, directs regional councils to, among other things, set allocation limits and water quality targets for every water body, so that overall quality of fresh water in the region is maintained or improved.

HBRC developed the **Hawke's Bay Land & Water Management Strategy (LaWMS)** to provide a strategic overview to all its programmes regarding land and water management. LaWMS is a non-statutory document developed using a stakeholder reference group to set the higher level strategic direction for land and water management in Hawke's Bay. It contains a number of policies and possible actions that should be considered as part of the process for developing specific land and water management policies for the Greater Heretaunga and Ahuriri area. Some aspects of LaWMS are already being further developed through statutory processes such as Plan Change 5 to the Regional Policy and Plan Change 6 for the Tukituki catchment.

To implement the NPS, HBRC is also amending its **Regional Policy Statement (RPS)** to clarify its strategic intent for the region's main catchments (**RPS Change 5**). Although originally a separate document, the RPS now forms the strategic component of the Hawke's Bay **Regional Resource Management Plan (RRMP)**, which contains the more detailed provisions to set allocation limits and water quality targets, in some cases involving rules on land and water use. As at 31 August 2014, Change 5 remains subject to parts of two appeals. Appeals on 'wetland' related provisions are dependent on further ephemeral wetland mapping work. An Environment Court hearing is scheduled for early December regarding RPS objectives for groundwater quality.

Plan Changes to the RRMP are being developed for the seven major catchments in Hawke's Bay with the Tukituki, Mohaka and Greater Heretaunga and Ahuriri (TANK) catchments currently underway (lower green box in Figure 1).

Plan Change 6 for the Tukituki catchment was publicly released by a Board of Inquiry on 26 June 2014 as part of the Tukituki Catchment Proposal. As at August 2014, two appeals have been lodged on the Board of Inquiry's Final Report and Decisions and are due to be managed at the Wellington High Court.

The TANK process for the **Greater Heretaunga and Ahuriri zone** will similarly lead to a plan change to the RRMP and may also recommend other measures that are outside the RRMP structure.

Local government context

This brings us to the right side of Figure 1. The **Local Government Act 2002 (LGA)** describes the role of regional councils more generally; it “provides for local authorities to play a broad role in promoting the social, economic, environmental, and cultural well-being of their communities, taking a sustainable development approach”. In giving effect to this mandate, councils have responsibilities under a number of statutes as well as the RMA.

Every three years, each local authority updates its **Long Term Plan (LTP)**, which states its priorities and indicative funding intentions for the next 10 years across all of its responsibilities. Thus, if the council anticipates a significant plan change, roading project or biodiversity initiative, these are signalled in the LTP along with the project cost and how it will be funded. The strategic direction in the LTP should align with that set in the RPS and in non-statutory documents such as the Land & Water Management Strategy. However, because only one of these can be changed at a time (*e.g.* the RPS cannot be amended via the LTP), it tends to be an iterative process of updating these documents over time to keep them aligned.

Funding and action plans are then confirmed annually through the **Annual Plan**, which specifies what projects will get done, the funding provided for each, and the rates that will be collected.

Summary

In summary, this process aims to provide the key content of a new chapter in the RRMP that specifies objectives, targets and limits for the TANK catchments. This must be consistent with the statutory direction in the RMA and NPS, and with the priorities set in the LTP. The Land & Water Management Strategy provides further strategic guidance regarding the broad objectives, and these will be given more focus through the RPS change underway. The priorities set in the RPS and in the Greater Heretaunga and Ahuriri plan change will need to be aligned. Any initiatives that require additional funding will need to be approved through the LTP and Annual Plan processes.

Appendix 3: Meeting Schedule for Phase 2

| MEETING | Date |
|----------------------|-------------------|
| Meeting 19 | 5 April 2016 |
| Meeting 20 | 24 May 2016 |
| Meeting 21 | 28 June 2016 |
| Meeting 22 | 9 August 2016 |
| Meeting 23 | 20 September 2016 |
| Meeting 24 | 2 November 2016 |
| Meeting 25 | 13 December 2016 |
| Meeting 26 | 9 February 2017 |
| Meeting 27 | 22 March 2017 |
| Meeting 28 | 3 May 2017 |
| Meeting 29 | 14 June 2017 |
| Meeting 30 | 26 July 2017 |
| Meeting 31 | 5 September 2017 |
| Meeting 32 | 18 October 2017 |
| Meeting 33 (reserve) | 22 November 2017 |

Addendum: TANK Group Operational Protocols

Attendance Protocol (from Meeting 12)

A TANK Group meeting is not a public forum. Any substitutes or visitors must be pre-approved.

Visitors or observers will not have speaking rights (unless this has been pre-arranged for a specific purpose). Visitors and observers must abide by the Group's meeting protocols and engagement etiquette.

Decision Making Protocol (from Meeting 18)

In terms of administrative decisions, those would typically be made by the Project Team or on the basis of a majority vote of those members present at the meeting. In terms of process-related matters, there is no single pre-defined approach but instead on a case-by-case basis, the Group should aim for consensus otherwise a majority vote would apply if striving for consensus was not going to be achievable or not straightforward. In such cases the independent facilitator will decide on the appropriate decision-making method.