

# Hearing Report on Proposed Plan Change 9

## - Tūtaekurī Ahuriri Ngaruroro Karamū Catchment Area

15 April 2021  
Hawke's Bay Regional Council Publication No. 5550

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# Hearing Report for Proposed Plan Change 9: TANK Catchments

## Section 42A Hearing Report under the Resource Management Act 1991

### Summary of Proposed Plan Change 9

<b>Plan subject to change</b>	Hawke's Bay Regional Resource Management Plan
<b>Number and name of change</b>	Proposed Plan Change 9 – TANK Plan Change
<b>Type of change</b>	Council-initiated proposed plan change
<b>Parts of the Regional Resource Management Plan affected by the proposed plan change</b>	<ul style="list-style-type: none"><li>• Add new chapter, Chapter 5.10 Tūtaekurī, Ahuriri, Ngaruroro and Karamū Catchments</li><li>• Add new section 6.10 Regional Rules</li><li>• Add new schedules, Schedules 26-36</li><li>• Chapter 9 Glossary – new terms are added</li><li>• Consequential amendments to Chapters 5.4, 5.5, 5.6 and 5.7 of the RRMP</li></ul>
<b>Committee date of approval (or adoption) for notification</b>	28 March 2020
<b>Date draft proposed plan change was sent to iwi authorities for feedback</b>	January 2019
<b>Date of notification of the proposed plan change and whether it was publicly notified or limited notified</b>	2 May 2020, publicly notified
<b>Date submissions closed</b>	14 August 2020
<b>Submissions received</b>	240, 1 submission has been withdrawn
<b>Date summary of submissions notified</b>	11 November 2020
<b>Number of further submissions received (numbers)</b>	24
<b>Legal Effect at Notification</b>	The rules in PPC9 have legal effect from the date of notification, 2 May 2020, because the rules protect or relates to water. This is in accordance with s86D of the RMA.

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## 1. Abbreviations and attachments

Abbreviations used throughout the text of this report are:

Abbreviation	Meaning
PPC9	Proposed Plan Change 9
TANK	Tūtaekurī, Ahuriri, Ngaruroro and Karamū
RPS	Regional Policy Statement
RRMP	Regional Resource Management Plan
RMA	Resource Management Act 1991
HBRC	Hawke's Bay Regional Council
RPC	Regional Planning Committee
ANZECC	Australia New Zealand Environment and Conservation Council
HBLAWMS	Hawke's Bay Land and Water Management Strategy
JWG	Joint Working Group
NPSFM	National Policy Statement for Freshwater Management
NPSFM2020	National Policy Statement for Freshwater Management 2020
NPSFM2017	National Policy Statement for Freshwater Management 2017 amendments
NPSREG	National Policy Statement Renewable Energy Generation
NZCPS	New Zealand Coastal Policy Statement
NPSUD	National Policy Statement for Urban Development
NES	National Environmental Standard
RRMP	Regional Resource Management Plan
SPZ	Source Protection Zone

Attachments	
Appendix 1	Recommended changes to PPC9
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Appendix 3	Recommendations on submission points
Appendix 4	Terminology table
Appendix 5	Draft Implementation Plan
Appendix 6	Table showing alignment with the NPSFM2020 and PPC9
Appendix 7	Technical memo – Estuarine trigger levels
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Appendix 9	Technical Memo – Water quality attributes – Schedule 26
Appendix 10	Technical Memo – NOF primary recreation (table 22)
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Appendix 12	Experience and qualification of the Reporting Team

## 2. Executive summary

1. This Hearing Report has been prepared under section 42A of the Resource Management Act 1991 (RMA). The purpose of this report is to assist the Hearing Commissioners in considering issues raised in the submissions to Proposed Plan Change 9 (PPC9) and the relief sought in the submissions.
2. The purpose of PPC9 is to ensure integrated management of land and water resources in the Tūtaekurī, Ahuriri, Ngaruroro and Karamū (TANK) Catchments. PPC9 provides a catchment management approach to improve water quality and water quantity, and to manage values for the catchments. The PPC9 process began in 2012 as a review of the Regional Resource Management Plan. Subsequently, the primary purpose of PPC9 was to give effect to policies LW1 and LW2 of the RPS as required by the section 65(6) of the RMA.
3. The plan change area covers the four catchments, Tūtaekurī, Ahuriri, Ngaruroro and Karamū, that feed into the Heretaunga Aquifer which is a deep sedimentary basin underlying the Heretaunga Plains. The Heretaunga Aquifer system includes the main aquifer and several connected peripheral valley aquifers. The Heretaunga Aquifer system is hydraulically interconnected with the surface water in the catchments.
4. PPC9 was developed using a collaborative, community-based approach. PPC9 started in 2012 when the Council formed the TANK Collaborative Stakeholder Group (the TANK Group) to represent mana whenua and the wider community. The TANK Group looked at the best way to manage the waterways of the TANK Catchment. 30 plus representatives of the community were in the TANK Group including mana whenua and local representatives of interest and stakeholder groups, including environmental organisations, local councils and primary sector representatives. The TANK Group met more than 40 times over the course of six years and it had its last meeting on 26 July 2018.
5. The draft plan change was presented to the Council's Regional Planning Committee (RPC) on 14 August 2018. The TANK Group was not able to reach consensus on all matters in the draft plan change. The matters the TANK Group did not reach consensus on were high flow allocation limits, flow enhancement of lowland streams, minimum flows and allocation limits for Ngaruroro and Tūtaekurī rivers. Some issues were not completed by the TANK Group, including protection of source water for community supply, stormwater discharge and land use change provisions. The RPC reviewed and considered these matters at meetings over the following 18 months.
6. Here are some key dates and information on pre notification consultation, notification and submissions:
  - a. Iwi authorities were consulted on the draft plan change in January 2019 prior to PPC9 being notified
  - b. PPC9 was approved for notification by the RPC on 28 March 2020
  - c. PPC9 was notified on 2 May 2020 and submissions closed on 14 August 2020, this included an extension to account for COVID-19 and drought impacts
  - d. The Council received 240 submissions that contained approximately 6,000 submission points.
  - e. Further submissions were notified on 11 November 2020 and they closed on 9 December 2020, this also included an extension
  - f. The Council received 24 further submissions, all but one of the further submitters were primary submitters on PPC9.
7. PPC9 had immediate legal effect from the date of notification, 2 May 2020. This is because section 86B(3)(a) of the RMA states that a rule in a proposed plan has immediate local

effect if the rule protects or relates to water, air or soil. Therefore, the rules in PPC9 have had immediate local effect from 2 May 2020 as they protect or relate to water.

8. PPC9 is not proposing any changes to the RPS. PPC9 proposes to amend the Hawke's Bay Regional Resource Management Plan by:
  - a. the inclusion of:
    - i. Chapter 5.10 Tūtaekurī, Ahuriri, Ngaruroro and Karamū Catchments
    - ii. a new section to Chapter 6 - 6.10: TANK Catchments specific rules
    - iii. three new RRMP rules to Chapter 6 – Rule 33A, Rule 62a and Rule 62b
    - iv. 11 new schedules – Schedules 26 - 36
    - v. new terms to Chapter 9 Glossary.
  - b. consequential amendments to these parts of the RRMP:
    - vi. parts of Section 5 of the RRMP
    - vii. 23 rules in Chapter 6 of the RRMP.
9. The analysis of submissions is explained in Section 11 of this Hearing Report. Submissions that address the same topic have been grouped together in these sections of the Hearing Report:
  - a. Section 12 – General
  - b. Section 13 – Cultural
  - c. Section 14 – Water quality
  - d. Section 15 – Water quantity
  - e. Section 16 – Stormwater management
  - f. Section 17 – Source Protection Zones
  - g. Section 18 - Miscellaneous.
10. The Reporting Team has analysed every submission point but we talk about the submissions generally rather than addressing every submission point individually. This is because there were so many submission points. There were a wide range of submissions from mana whenua, representatives from Mangraroa Marae, Post Settlement Government Entities, farmers, wine growers, agricultural and horticultural providers, industry groups and environmental groups. Some submissions are seeking PPC9 to be stricter and more regulatory and some submitters are seeking PPC9 to be more flexible.
11. The main issues from submission points in the general section, Section 12, are alignment with the National Policy Statement Freshwater Management 2020 (NPSFM2020), the implementation and monitoring of PPC9, a regulatory or non-regulatory approach, and points about the general objectives. With regards to the NPSFM2020, PPC9 is one part of the Council's programme to progressively implement the National Policy Statement for Freshwater Management 2020 (NPSFM2020). The plan change process was commenced in 2012, prior to the first NPSFM in 2014. It was notified when the NPSFM2017 was in force. The NPSFM2020 was gazetted and came into force after PPC9 was notified. The Reporting Team will be recommending changes to PPC9 to align with the NPSFM2020 if there is scope to make the changes through submissions and if there is enough information and it is possible to make changes based on the work HBRC has done.
12. Cultural issues are discussed in Section 13. Through the development of PPC9 there were mana whenua representatives on the TANK Group. The mana whenua representatives also formed a separate group and met with council staff and advisors on a regular basis to consider issues and discuss the available information in more detail. The Council consulted with iwi authorities on the draft plan change in January 2019 prior to notifying PPC9. The main issues from submission points in the cultural section are about Te Mana o te Wai, consultation, mātauranga Māori and joint management approaches.
13. The main issues from submission points in the water quality section, Section 14, are related to the management framework. There is wide agreement on the need to ensure water

quality objectives can be met but there is less agreement on the pathway. Some submitters do not like the staged and adaptive management and want there to be more rules and more focus on nitrogen management. Some submitters support a collective approach and outcomes based approach that enables flexibility and innovation to move towards the objectives.

14. Water quantity is discussed in Section 15 of this Hearing Report. The main water quantity issues addressed by PPC9 are avoiding and phasing out over-allocation and mitigating the stream depleting effects of groundwater takes in a way which maintains freshwater ecosystems, provides agreed reliability of supply to water users, and enables innovative solutions. The main issues from submission points in this section are Actual and Reasonable with regards to water allocation, the Ngaruroro minimum flow, interim allocations, stream depletion and high flow takes.
15. Stormwater management is discussed in Section 16. The impacts of stormwater on water quality are a significant issues, particularly in urban areas. A range of submissions were made on the detail and timing of the provisions but not on the overall management regime.
16. Source Protection Zones are discussed in Section 17. The protection of source water for community drinking water supply is also a significant issue for the community and while submissions generally supported the need for provisions to address this, amendments are sought in respect of management detail.
17. The Reporting Team and I have considered all of the submissions and we have reviewed all relevant statutory and non-statutory documents. The Reporting Team and I recommend that PPC9 be adopted subject to the amendments to the text and planning maps as set out in Appendix 1 and 2 of this Hearing Report.
18. Adoption of PPC9:
  - a. will assist the council in achieving the purpose of the RMA
  - b. help to give effect to the National Policy Statement on Freshwater Management 2020
  - c. will give effect to RPS; and
  - d. is consistent with the RRMP.

### **3. Purpose of the report**

19. This Hearing Report has been prepared under section 42A of the Resource Management Act 1991 (RMA). The purpose of this report is to assist the Hearing Commissioners in considering issues raised in the submissions to Proposed Plan Change 9 (PPC9) and the relief sought in the submissions.
20. The Reporting Team makes recommendations about whether to accept, accept in part or reject each submission point. The report groups submissions that address the same topic where appropriate. The recommendations set out in this report have been made in terms of the most appropriate methods of achieving the purpose of the RMA.
21. Any conclusions reached or recommendations made in this report are not binding on the Panel of Hearing Commissioners. The Panel is required to consider all submissions and the evidence presented at the hearing.
22. The Panel have been delegated full responsibility by Hawke's Bay Regional Council's Regional Planning Committee to determine the Council's decisions on submissions on

PPC9 under section 34 of the RMA. The Panel will be making a decision directly, they will not be making a recommendation to the Council.

## 4. Report Authors

23. This report has been prepared by a Reporting Team made up of five authors. The report draws on information provided by a number of technical experts. The authors and experts can be seen in Table 1 below.

**Table 1:** List of authors and technical experts

Lead Author	Anne Bradbury, Senior Policy Planner, HBRC	Sections 1-12, 17-21
Contributing author	Ellen Robotham, Policy Planner, HBRC	Section 15
Contributing author	Mary-Anne Baker, Senior Policy Planner, HBRC	Section 14
Contribution author	Kim Anstey, Policy Planner, HBRC	Section 16
Contribution author	Kirsten Tebbutt	Section 13
Technical expert	Anna Madarasz-Smith, Team Leader Marine and Coasts	Appendix 7, Appendix 10
Technical expert	Brendan Powell, Manager Catchments Policy Implementation	Appendix 8
Technical expert	Dr Sandy Haidekker, Senior Scientist Water Quality and Ecology	Appendix 9
Technical expert	Mona Wells, Team Leader Hydrology/Hydrogeology	Appendix 11
Technical expert	Rosa Kirkham, Scientist Hydrology	Appendix 11

24. A table is included in Section 11 of the report that outlines Sections 12-16 where the Reporting Team has analysed submissions.
25. The experience and qualifications of Reporting Team is shown in Appendix 12.

## 5. Background

### 5.1 Policy background

26. PPC9 seeks to ensure integrated management of land and water resources in the Tūtaekurī, Ahuriri, Ngaruroro and Karamū (TANK) Catchments. PPC9 provides a catchment management approach to improve water quality and water quantity, and to manage values for the catchments.
27. PPC9 arose from the Hawke's Bay Land and Water Management Strategy (LAWMS) 2011 and Plan Change 5 to the RRMP which was made operative on 24 August 2019. Both provided policy direction for a catchment-based management approach.
28. LAWMS provided direction for the management of land and water in Hawke's Bay for improved economic and environmental outcomes. LAWMS has objectives and policies to

meet sustainable land use and water use in the region. These policies include tailoring land and water use management to address pressures for each catchment, and working with partner agencies and stakeholders on water and land management.

29. Plan change 5 to the RRMP introduced *Chapter 3.1A Integrated Land Use and Freshwater Management* to the Regional Policy Statement (RPS). Policies LW1 and LW2 in Chapter 3.1A state that provisions need to be inserted into the regional plan relating to a catchment wide integrated management approach. A primary purpose of PPC9 was to give effect to policies LW1 and LW2 of the RPS as required by the section 65(6) of the RMA. Chapter 3.1A states that the greater Heretaunga and Ahuriri Catchment will be worked on as one catchment area so Tūtaekurī, Ahuriri, Ngaruroro and Karamū Catchments formed PPC9.

## 5.2 Plan change area and the Heretaunga Aquifer

30. The plan change area covers the four catchments, Tūtaekurī, Ahuriri, Ngaruroro and Karamū that feed into the Heretaunga Aquifer which is a deep sedimentary basin underlying the Heretaunga Plains. The Heretaunga Aquifer system includes the main aquifer and several connected peripheral valley aquifers. The Heretaunga Aquifer system is hydraulically interconnected with the surface water in the catchments. Section 1.4.1 of the Section 32 report gives information on each of the four catchments.



**Figure 1:** The Plan Change area

## 5.3 The development of PPC9

31. PPC9 was developed using a community based approach. PPC9 started in 2012 when the Council formed the TANK Collaborative Stakeholder Group (the TANK Group) to represent mana whenua and the wider community and to look at the best way to manage the waterways of the TANK Catchments. 30 plus representatives of the community were in the

TANK Group including mana whenua and local representatives of interest and stakeholder groups, including environmental organisations, local councils and primary sector representatives. The TANK Group Report 1 Interim Agreements 2013 report<sup>1</sup> stated that the goal of the TANK Group was as follows:

1. *To enable present and future generations to gain the greatest social, economic, recreational and cultural benefits from our water resources within an environmentally sustainable framework.*

32. The TANK Group Report 1 Interim Agreements report summarised the collaborative process from October 2012 to December 2013 by outlining the work to date and the interim agreements the TANK Group had made. The interim agreements were on regional plan changes, tangata whenua and mana whenua values, minimum flows, water allocation, groundwater, good irrigation practices, municipal water use efficiency, global consents and water sharing, staged reductions, water storage, nutrient management, stock exclusion, stormwater, wetland management, estuarine management, and the four catchments. The interim agreements were supported in principle by most parties but three parties could not confirm support. Hastings District Council had requested further time to assess the report but did not see any obvious issues based on initial consideration. Matahiwi Marae raised concerns with the report and Ngāti Kahungunu Iwi Incorporated did not endorse the report as there were significant matters they did not agree with.
33. To support the evidential basis for the plan development, the Council began collecting new information on groundwater science. In 2017, the Council presented new groundwater science to the TANK Group which indicated that the waterways and aquifer of the Heretaunga Plains are highly connected<sup>2</sup>. The Council made an announcement<sup>3</sup> that the Heretaunga Aquifer was over allocated and the Council was unlikely to approve any new water takes unless the environmental effects of future takes could be avoided, remedied or mitigated.
34. Five sub groups of the main TANK Group were established in 2016 and 2017 to work on community engagement, stormwater, lakes and wetlands, economic assessment and water augmentation. This was to enable greater consideration of details in a timely manner which was not possible in the wider TANK forum. Each of the five working groups were formed with a brief which outlined the scope of the group, memberships and outputs expected from the groups. The sub groups met a number of times with some groups meeting more than 10 times. The groups did not have decision making duties, but they provided their findings and recommendations back to the wider TANK Group.
35. The mana whenua representatives also formed a separate group and met with council staff and advisors on a regular basis to consider issues and further discuss the available information in more detail.
36. The TANK Group met more than 40 times over the course of six years and it had its last meeting on 26 July 2018. Further information on the TANK Group can be found in Section 4 of the Section 32 Report.
37. A Draft Implementation Plan was developed alongside PPC9 to reflect the commitment by TANK Group members and their stakeholder organisations to enable objectives. The Draft Implementation Plan sets out tasks, responsibilities, measurements and timeframes for the execution of 10 actions resulting from the TANK process. More information on the Draft

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<sup>1</sup> Collaborative decision making for freshwater resources in the Greater Heretaunga and Ahuriri Region – TANK Group Report 1 Interim Agreements 2013

<sup>2</sup> P Rakowski: Heretaunga Aquifer Groundwater model – Scenarios Report August 2018

<sup>3</sup> <https://www.hbrc.govt.nz/our-council/news/archive/article/337/heretaunga-aquifer-at-its-limit>

Implementation Plan can be found in Section 4.8 of the Section 32 Report and the Draft Implementation Plan is provided in Appendix 5. The Draft Implementation Plan sits outside of PPC9 as a non statutory document. It is therefore not subject to submissions however any amendments to PPC9 as a result of submissions will need to be reflected in the Draft Implementation Plan.

38. The draft plan change was presented to the Regional Planning Committee (RPC) on 14 August 2018. The TANK Group was not able to reach consensus on all matters in the draft plan change. The matters the TANK Group did not reach consensus on were high flow allocation limits, flow enhancement of lowland streams, minimum flows and allocation limits for Ngaruroro and Tūtaekurī rivers. Some issues were not completed by the TANK Group, including protection of source water for community supply, stormwater management and land use change provisions. The RPC reviewed and considered these matters at meetings over the following 18 months.
39. Iwi authorities were consulted on the draft plan change in January 2019 prior to PPC9 being notified, see Section 9 for more information. PPC9 was approved for notification by the RPC on 28 March 2020. PPC9 was notified on 2 May 2020 and submissions closed on 14 August 2020. The Council received 240 submissions that contained approximately 6,000 submission points. Further submissions were notified on 11 November 2020 and submissions closed on 9 December 2020. We received 24 further submissions, all but one of the further submitters were primary submitters on PPC9.
40. PPC9 is one part of the Council's programme to progressively implement the National Policy Statement for Freshwater Management (NPSFM) and sustainably manage the region's land and water resources. The plan change process was commenced in 2012, prior to the first NPSFM in 2014. It was notified when the NPSFM2014 (amended 2017) was in force. The NPSFM2020 was gazetted and came into force after PPC9 was notified. Changes can only be made to PPC9 to align with the NPSFM2020 if there is scope to make the changes through submissions. See Section 8.3 of this document for more details on this.
41. The Council has recently had a plan change hearing on Proposed Plan Change 7 – Outstanding Water Bodies. Plan Change 7 proposes changes to the RPS to protect Outstanding Water Bodies. The hearing was held in December 2020 and at the time of writing the Council is waiting on a decision from the Hearing Commissioners. Proposed Plan Change 7 references a number of water bodies in the TANK Catchment as proposed Outstanding Water Bodies for the region and for the TANK Catchment. TANK OBJ 2 seeks to protect and provide for the significant values of outstanding water bodies. The decision from the Hearing Commissioners will state which water bodies are Outstanding Water Bodies.

### **5.3 Values**

42. *Chapter 3.1A: Integrated Land Use and Freshwater Management* of the RPS acknowledges a range of non-site specific values relevant to the TANK water bodies, including cultural values and values associated with recreation, birds, stock, domestic water and native fish. The TANK Group identified freshwater values for the catchments. These values are detailed in PPC9. PPC9 gives effect to the RPS policies and has further incorporated Māori values for which all waterbodies in the TANK Catchment area are to be managed. Values identified for the catchment need to be maintained or enhanced using targets or limits for water quality and quantity, including the groundwater of the Heretaunga Aquifer.

## 6. Existing plan provisions that are proposed to be amended

43. PPC9 amends the Regional Resource Management Plan by proposing to:
- Make consequential amendments to parts of Section 5 of the RRMP. These consequential amendments remove the TANK Catchment from the 5.4 Surface Water Quality, 5.5 Surface Water Quantity, 5.6 Groundwater Quality and 5.7 Groundwater Quantity provisions.
  - Make consequential amendments to 23 existing rules in Chapter 6 of the RRMP. These amendments apply where the activity is carried out in the TANK Catchment. These 23 rules relate to bore drilling and bore sealing, feedlots and feedpads, vegetation clearance and soil disturbance activities, agricultural activities and other activities on production land – discharges to air/water/land and discharges to water.
44. PPC9 does not propose to change the Regional Policy Statement or the Regional Coastal Environment Plan.

## 7. Proposed plan provisions

45. PPC9 proposes to insert a new chapter, Chapter 5.10 Tūtaekurī, Ahuriri, Ngaruroro and Karamū Catchments, into the RRMP. This chapter contains objectives and policies for the integrated management of land and water in the four catchments.
46. PPC9 proposes a new Section, 6.10: TANK Catchments specific rules, in the Regional Rules Chapter. Section 6.10 proposes 23 rules that apply in the TANK Catchment that relate to the use of production land, take and use of water, and discharge of stormwater.
- a. PPC9 also adds three new RRMP rules to Chapter 6 of the RRMP that relate to drainage water (rule 33A), and transfer of permits to take and use water (Rules 62a and 62b). Rule 33A applies only in the TANK Catchment. Rules 66a and 62b apply outside the TANK Catchment.
  - b. PPC9 proposes 11 new schedules, Schedules 26 – 36 that support policy and rules. These schedules relate to:
  - c. freshwater quality objectives
  - d. priority catchments
  - e. land use change
  - f. landowner collectives
  - g. industry programme and farm environment plan
  - h. flows, levels and allocation limits
  - i. high flow allocation
  - j. water permit expiry dates
  - k. urban site specific stormwater management plan
  - l. source protection for drinking water supplies
  - m. Heretaunga Plains stream flow maintenance and habitat enhancement scheme.
47. PPC9 proposes to add new terms to *Chapter 9 Glossary* of the RRMP.

## 8. Statutory and policy framework

48. The Resource Management Act 1991 (RMA) requires regional authorities to consider a number of statutory and policy matters when developing proposed plan changes. PPC9 was developed under the relevant statutory and policy matters. The submissions on PPC9

were also considered under the relevant statutory and policy matters. This section summarises this statutory and policy framework.

## **8.1 Resource Management Act 1991**

49. Part 2 of the RMA sets out the overarching purpose of the RMA. Achieving the purpose of the RMA is discussed in Section 3.1 of the Section 32 Report. I support the analysis contained in the Section 32 Report for PPC9.
50. Section 32AA of the RMA requires a further evaluation for any changes that are proposed to the notified PPC9 since the Section 32 Report was completed. All amendments to the notified PPC9 recommended in this report have been assessed in accordance with section 32AA of the RMA.
51. Section 30 and sections 63-70 of the RMA are relevant to plan changes to regional plans. This is discussed in sections 3.2 and 3.3. of the Section 32 report and I support the analysis in that report.

## **8.2 Essential Freshwater rules and regulations 2020**

52. On 5 August 2020, after PPC9 was notified, the Government introduced its Essential Freshwater package and gazetted four documents:
  - a. The National Policy Statement for Freshwater Management 2020
  - b. The Resource Management (National Environmental Standards for Freshwater (Regulations 2020)
  - c. The Resource Management (Stock Exclusion) Regulations 2020 (Stock Exclusions Regulations)
  - d. The Resource Management (Measurement and Reporting of Water Takes) Amendment Regulations 2020.
53. These documents came into force on 3 September 2020.

### The National Policy Statement for Freshwater Management 2020

54. PPC9 was prepared when the National Policy Statement for Freshwater Management (NPSFM) 2014 (amended 2017) was in force. Since PPC9 was notified, the NPSFM2020 has been gazetted and it came into force on 3 September 2020.
55. Clause 4.1 of the NPSFM2020 states that every local authority must give effect to the National Policy Statement as soon as reasonably practicable. PPC9 was notified before the NPSFM2020 was gazetted so the Reporting Team has looked at the High Court case *Hawke's Bay and Eastern Fish and Game Council v Hawke's Bay Regional Council [2014] NZHC 3191*. This case looked at whether the Board of Inquiry had to give effect to the NPSFM2014 which came into force after a plan change was notified or if they should give effect to the NPSFM2011. In paragraphs 181-184 of the decision it states that the Board of Inquiry will have to give effect to the NPSFM2011 in relation to those parts of its report that have not been challenged. The Board of Inquiry will give effect to the NPSFM2014 when re-writing a rule if there have been submissions on the NPSFM2014. Therefore, the Reporting Team will only make recommendations that give effect to the NPSFM2020 where there is scope to do so in submissions.
56. The extent to which it is reasonably practicable for the provision of PPC9 to give effect to the NPSFM2020 is confined by the scope within the submissions to make changes to PPC9. PPC9 does not need to give full effect to the NPSFM2020, any remaining conflict between the NPSFM2020 and the RRMP will then fall to the Council to resolve in some

other proceedings. Section 80A(4)(b) of the RMA states that where a freshwater planning instrument has the purpose of giving effect to the NPSFM2020, it has to be notified by 31 December 2024.

57. One of the key changes between the NPSFM2014 (amended 2017) and the NPSFM2020 version is that Te Mana o te Wai has been further explained in the NPSFM2020. Section 1.3 of the NPSFM2020 states that Te Mana o te Wai is a fundamental concept that refers to the fundamental importance of water and recognises that protecting the health of freshwater protects the health and well-being of the wider environment. Te Mana o te Wai protects the mauri of the wai and is about restoring and preserving the balance between the water, the wider environment and the community. Te Mana o te Wai encompasses six principles:
- a. Mana whakahaere
  - b. Kaitiakitanga
  - c. Manaakitanga
  - d. Governance
  - e. Stewardship
  - f. Care and respect.
58. Clause 1.3(5) states there is a hierarchy of obligations enshrined in Te Mana o te Wai that prioritises:
- a. *first, the health and well-being of water bodies and freshwater ecosystems*
  - b. *second, the health needs of people (such as drinking water)*
  - c. *third, the ability of people and communities to provide for their social, economic, and cultural well-being, now and in the future.*
59. Clause 3.2 of the NPSFM2020 requires the Council to engage with communities and tangata whenua to determine how Te Mana o te Wai applies to water bodies and freshwater ecosystems in the region. The Council has not yet undertaken this engagement. I do not think it is possible to fully give effect to the true intent of the NPSFM2020 until this engagement has occurred and the local approach to giving effect to Te Mana o to Wai has been determined. This has a bearing on the extent PPC9 can give effect to the NPSFM2020, while also acknowledging that the Reporting Team can only recommend changes to give effect to the NPSFM2020 where there is scope in submissions to do so.
60. Other changes between the NPSFM2014 (2017 amendment) and the NPSFM2020 include development of long-term vision statements, the addition of two compulsory values, threatened species and mahinga kai, new attributes that provide for ecosystem health, avoiding any further loss or degradation of wetlands, and tougher bottom lines for ammonia and nitrate toxicity attributes.
61. A table showing how PPC9 aligns with the NPSFM2020 is shown in Appendix 6. The NPSFM2020 is discussed further in response to submission points in Section 12.2 of this report.

#### National Environmental Standard for Freshwater 2020

62. The National Environmental Standard (NES) for Freshwater regulates activities that pose a risk to the health of freshwater and freshwater ecosystems. Anyone carrying out activities that pose risks will need to comply with the standards. The standards are designed to:
- a. protect existing inland and coastal wetlands
  - b. protect urban and rural streams from in-filling
  - c. ensure connectivity of fish habitat (fish passage)
  - d. set minimum requirements for feedlots and other stockholding areas
  - e. improve poor practice intensive winter grazing of forage crops
  - f. restrict further agricultural intensification until the end of 2024

- g. limit the discharge of synthetic nitrogen fertiliser to land, and require reporting of fertiliser use.

63. In many cases, people will need to apply for a resource consent from their regional council to continue carrying out regulated activities.

#### Resource Management (Stock Exclusion) Regulations 2020

64. The regulations state that stock must be prevented from grazing within a natural wetland, or within three metres of any lake or river. The regulations do not apply to sheep.
65. The Reporting Team is recommending to delete Policy 22, Rule TANK and RULE TANK 4 from PPC9 because these provisions are covered by the Stock Exclusion Regulations 2020.

#### Resource Management (Measurements and Reporting of Water Takes) Regulations 2020

66. These regulations have been amended to require all permit holders who hold consents for taking water (five litres per second or more) to record water use every 15 minutes and supply the data directly to regional councils.

### **8.3 National Policy Statements**

#### National Policy Statement for Renewable Electricity Generation 2011

67. The National Policy Statement for Renewable Electricity Generation (NPSREG) is relevant to the region and to the RRMP. The RPS provides renewable electricity generation and particular catchments have been identified as having appropriate attributes and values for hydro electricity generation. These catchments are not within the TANK Catchment. However, POL TANK 56 of PPC9 does provide for renewable electricity generation to be considered in regard to water storage and augmentation schemes as follows:

*The Council will also recognise beneficial effects of water storage and augmentation schemes, including water reticulation in the TANK catchments and out-of-stream storage, and when considering applications for resource consent will take into account the nature and scale of the following criteria:*

...

*h) whether the proposal provides for electricity generation*

68. Further information on the NPSREG can be found in Section 3.4.2 of the Section 32 Report.

#### New Zealand Coastal Policy Statement 2010

69. The New Zealand Coastal Policy Statement (NZCPS) has relevance to PPC9 as each of the TANK Catchments flow into the coastal marine area through the Ahuriri and Waitangi Estuaries. TANK OBJ 7, TANK OBJ 10, POL TANK 18 and POL TANK 19 of PPC9 seek to manage effects on the coastal environment in a manner that gives effect to the NZCPS Objectives 1, 3 and 6.

70. Further information on the NZCPS can be found in Section 3.4.4 of the Section 32 Report.

#### National Policy Statement for Urban Development 2020

71. The National Policy Statement for Urban Development (NPSUD) seeks to ensure that there are adequate opportunities for land to be developed to meet community, business and

housing needs so cities are productive and well functioning. HBRC, Napier City Council and Hastings District Council are jointly responsible for implementing the NPSUD.

72. *Chapter 3.1: Managing the Built Environment* of the RPS helps to implement the NPSUD. The Council will be looking to review that chapter to ensure it is compliant with the NPSUD 2020. When looking at areas for development capacity areas, HBRC, Napier City Council and Hastings District Council will need to ensure they comply with the NPSFM2020.

## 8.4 National Environmental Standards or Regulations

### National Environmental Standard for Sources of Human Drinking Water 2007

73. The National Environmental Standard (NES) for Sources of Human Drinking Water is relevant as the public reticulated drinking water supplies that service the greater Napier and Hastings urban areas are sourced from the Heretaunga Aquifer.
74. Source Protection Zones are identified in PPC9 to protect the source of Registered Drinking Water Supplies. PPC9 contains TANK POL 6, 7, 8 and 9 and rules to protect drinking water from land use activities, water takes and discharges.
75. Further information on Source Protection Zones can be found in Section 8.8 of the Section 32 Report.

### National Environmental Standard for Plantation Forestry 2017

76. Regulation 6 of the Plantation Forestry NES sets out the circumstances when a rule in a plan may be more stringent than the regulations within the NES. This includes if a rule gives effect to an objective developed to give effect to the NPSFM and if a rule manages any activity conducted within 1 kilometre upstream of an abstraction point of a drinking water supply for more than 25 people where the water take is from a water body.
77. PPC9 does not include more stringent rules to manage the effects of forestry activities on freshwater resources. The RRMP and the NES for Plantation Forestry applies.

## 8.5 Hawke's Bay Regional Policy Statement

78. The Hawke's Bay Regional Resource Management Plan (RRMP) was made operative in August 2006 and it is a combined Regional Policy Statement (RPS) and regional plan.
79. As stated in Section 5 of this report, provisions in *Chapter 3.1A: Integrated Land Use and Freshwater Management* of the RPS state that provisions need to be inserted into the regional plan relating to a catchment wide integrated management approach. Chapter 3.1A includes objectives and policies that require catchment wide approaches for integrated management of land and freshwater amongst other things. Chapter 3.1A shows that the Greater Heretaunga/Ahuriri Catchment area is a catchment area. This catchment area is now known as TANK and it incorporates the Tūtaekurī River, Ahuriri Estuary, Ngaruroro River and Karamū River Catchment. PPC9 gives effect to policies LW1 and LW2 of the RPS as required by section 65(6) of the RMA.
80. PPC9 gives effect to the RPS policies in Chapter 3.1A which acknowledge a range of values and uses including cultural values, uses and values associated with recreation, birds, stock and domestic water, and native fish. PPC9 has further incorporated Māori values for which all waterbodies in the TANK Catchment areas are to be managed.

81. PPC9 gives effect to other objectives in the RPS including OBJ 21, OBJ 22, OBJ 25, OBJ 27 and OBJ 27A. These objectives relate to groundwater quality in the Heretaunga Plains aquifer systems, the quantity and quality of water in wetlands, rivers and lakes and riparian vegetation.
82. More information on the RPS can be found in Section 3.7 of the Section 32 Report.

## **8.6 Water Conservation Orders**

83. The Ngaruroro River is being considered for protection under a Water Conservation Order. A Water Conservation Order is to provide recognition and protection of the outstanding amenity or intrinsic values of water bodies. Regional policy statements, regional plans and district plans cannot be inconsistent with a Water Conservation Order.
84. This process is being managed by the Environmental Protection Agency. A Special Tribunal has held a hearing and published its report which recommended that the WCO be granted in part for the upper part of the Ngaruroro River and the WCO be declined for the lower part of the Ngaruroro River. Several parties have made submissions to the Environment Court in relation to the Special Tribunal's report. The Environment Court started holding a hearing for this Order on 9 February 2020. This hearing has been adjourned because of the recent COVID-19 lockdowns and it has been rescheduled to June 2021.

## **8.7 Reference to other relevant Acts**

### The Hawke's Bay Regional Planning Committee Act 2015

85. The purpose of the Hawke's Bay Regional Planning Committee Act is to improve tangata whenua involvement in the development and review of documents prepared in accordance with the RMA for the Hawke's Bay region. The Act establishes the Hawke's Bay Regional Planning Committee (RPC) as a joint committee of the Hawke's Bay Regional Council.
86. The role of the RPC is to oversee the review and development of the Regional Policy Statement and regional plans for the Hawke's Bay region, as required under the Resource Management Act 1991. The RPC has an equal number of Regional Councillors and Post Settlement Governance Entity representatives, and it is the co-governance group for the management of natural resources in Hawke's Bay.

## **9. Consultation**

87. PPC9 was prepared through a community-based approach that started when the TANK Group was formed in 2012. The TANK Group had 30 plus representatives of the community including mana whenua and local representatives of a variety of interest and stakeholder groups, including environmental organisations, local councils and primary sector representatives. Five working groups were established in 2016 and 2017 to work on community engagement, stormwater, lakes and wetlands, economic assessment and water augmentation. These working groups gave recommendations to the TANK Group. The mana whenua representatives also formed a separate group to consider issues, information and options in more detail.
88. To enable wider community engagement and engagement with other stakeholders, a record of every meeting was made publicly available from 2016 onwards and a summary of the main discussion points of each meeting was distributed to a wider network of people and organisations.

89. Public meetings were held in the upper catchments to raise awareness about issues being considered by the TANK Group and how landowners could be involved to develop solutions. This led to a Farmer Reference Group being created to provide feedback into developing solutions to improve water quality. The Council also regularly presented to community and interest groups including Fonterra, New Zealand Institute of Primary Management, Real Estate and Property Institute and Pipfruit NZ.
90. A Community Reference Group was created to provide input into the Social and Cultural Impact Assessment. This group helped to provide an assessment of the TANK community perceptions, questions and feedback about the draft TANK plan in April 2018.
91. The community engagement process and the consultation that was undertaken to prepare PPC9 are discussed in Sections 4.1, 4.2 and 4.2 of the Section 32 Report.
92. When PPC9 was notified and out for submissions, the Council organised two live facebook sessions and a series of online zoom sessions to consult with the wider community and community groups. A series of fact sheets were also prepared to help explain the more complex aspects of PPC9. The Council extended the period where the submissions were open to take into account the impacts of the drought and the COVID-19 pandemic which may have made it harder for people to find time to submit on PPC9.

#### Mana Whenua Engagement

93. Mana whenua members were represented on the TANK Group. Mana whenua formed a separate group and regular meetings were held between these representatives and council staff following TANK meetings to revisit issues discussed and to provide an opportunity for more in depth consideration of policy direction. These meetings were jointly supported by mana whenua and council.
94. Reports have been commissioned by the Council for mana whenua. These have helped inform PPC9. These reports included:
  - Ngaruroro Values and Attributes August 2016
  - Tūtaekurī Awa, Values and Objectives Management Report
  - TANK Social and Cultural Impact Assessment Report
  - Mr Morry Black's three reports for Te Taiwhenua o Heretaunga on work undertaken over 10 meetings
  - Ms Diana McDonald's assessment for Mana Ahuriri on the values of Mana Ahuriri were reflected appropriately in PPC9
  - Cultural Values alignment with the TANK draft plan report.
95. Mana whenua engagement that was undertaken to prepare PPC9 is discussed in Section 4.5 of the Section 32 Report.

#### Pre-consultation with iwi authorities on the draft plan

96. The Council consulted with iwi authorities on the draft plan change in January 2019 prior to notifying PPC9. Responses were received from Mana Ahuriri Trust, Heretaunga Tamatea Settlement Trust, Te Taiwhenua o Heretaunga and Ngāti Kahungunu Iwi Incorporated in March and April 2019.
97. The Mana Ahuriri submission was generally supportive of the draft plan change. The other three submissions raised concerns about water quality and quantity and stated the draft plan change did not go far enough with regards to water quality and quantity.

98. For more information on the iwi submissions please see Section 4.6.1 and Section 4.6.2 of the Section 32 Report.

## 10. Notification

99. PPC9 was notified on 2 May 2020. Section 86B(3)(a) of the RMA states that a rule in a proposed plan has immediate local effect if the rule protects or relates to water, air or soil. Therefore, the rules in PPC9 have had immediate local effect from 2 May 2020 as they protect or relate to water.
100. Details of the notification timeframes and number of submissions received are summarised below.

Date of public notification for submissions	2 May 2020
Closing date for submissions	14 August 2020
Number of submissions received	240
Date of public notification for further submissions	11 November 2020
Closing date for further submissions	9 December 2020
Number of further submissions received	24

101. There were no late submissions. Copies of submissions and further submissions have been sent to the Panel and can be found on the Council's website<sup>4</sup>.

## 11. Analysis of submissions and further submissions

102. This section of the report addresses the submissions and further submissions received on PPC9. The Reporting Team discuss the relief sought in the submissions and make recommendations to the Panel.
103. There were 240 submissions on PPC9 and there are more than 6,000 submission points from the submissions. There were submissions from mana whenua, representatives from Mangraroa Marae, Post Settlement Government Entities, farmers, wine growers, agricultural and horticultural providers, industry groups and environmental groups. Beef and Lamb New Zealand, Hawke's Bay Winegrowers Association and Horticulture New Zealand provided pro forma submissions for their members to use when they were making their own submissions. The Council received eight pro forma submissions from Beef and Lamb New Zealand, 30 proforma submissions from Hawke's Bay Winegrowers Association and 37 proforma submissions from Horticulture New Zealand. There are identical submission points from the proforma submissions. Where there are identical submission points the Reporting Team will just mention one point but the team has outlined how many identical points there are in the submissions.
104. One submission has been withdrawn. Submitter 25, Mr Harding, withdrew his submission in February 2021. The Reporting Team has not given recommendations on Submission 25.
105. Submissions that address the same topic have been grouped together in this report under the topic headings shown in Table 3 below. The Reporting Team has analysed every submission point but we talk about the submissions generally rather than addressing every submission point individually. This is because there were so many submission points.

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<sup>4</sup> <https://www.hbrc.govt.nz/hawkes-bay/projects/the-tank-plan/tank-submissions-and-hearings/>

106. The Reporting Team has recommended to accept, accept in part or reject each submission point. Where the Reporting Team have recommended accepting a submission point in part, the part the team has accepted may refer to one or more of the following circumstances:
- a. PPC9 already contains provision(s) that have been requested
  - b. the RRMP already contains provision(s) that have been requested
  - c. PPC9 is recommended to be retained or amended in a similar manner, but not identical to the decision requested
  - d. The Reporting Team is recommending to accept some parts of the relief the submission point is requesting, but not all of it.
107. Any recommended amendments to PPC9 are shown in Appendix 1 and 2. All recommended changes have a reference with the submission point that provides scope for the recommended changes apart from changes to terminology. The Reporting Team is recommending some changes to terminology in response to submission points seeking that terminology is consistent throughout PPC9. There is a table in Appendix 4 that shows the changes that the Reporting Team is recommending to terminology and the submission points that give scope to those changes. The Reporting Team is recommending to delete some provisions but we have kept the objective and policy numbers the same as what was notified for ease of reference. The numbers will need to be tidied up in the decision version of PPC9.
108. The summary of decisions requested was set out as points logged against provisions in the plan. In this report, the Reporting Team has discussed submission points by topic and so the submission points have been moved into topic areas. A full list of the submission points, the section of the report they are addressed in, and the Reporting Team's recommendation on each point are shown in Appendix 3. There are three reports in Appendix 3:
- i. Report 3A: Recommendations by submission point number. This report will be useful for submitters if they want to see what section of the report their submission points are in.
  - ii. Report 3B: Recommendations by topic section. This report will be useful when you want to see all the submission points discussed in each topic.
  - iii. Report 3C: Original submissions and further submissions. This report shows the further submissions that support or oppose original submission points. This report is organised by submission point number.
109. The Council received 24 further submissions. However, not all further submissions were submitted in the required form. Some did not give submission points but they generally supported or opposed themes. The Council staff that assessed the further submissions were unable to pick the submission points that the further submitters were supporting or opposing as that would have meant we were interpreting the further submissions. Some further submissions supported and opposed one submission point. Where we were able to log further submissions against submission points, Table 2 outlines the manner in which the Reporting Team recommend further submissions be accepted, rejected or accepted in part relative to their support or opposition of their original submission point.

**Table 2:** Matrix showing the recommendation on submission point for further submissions

		Accept	Accept in part	Reject
F sub stance versus original submission	Support	Accept F sub	Accept in part F sub	Reject F sub
	Part support	Accept in part F sub	Accept in part F sub	Accept in part F sub
	Part oppose	Accept in part F sub	Accept in part F sub	Accept in part F sub
	Oppose	Reject F sub	Accept in part F sub	Accept F sub

The submission points have been analysed on a topic basis. The order of the topics is listed in Table 3 below.

**Table 3:** Submission groups and the section of the report they are discussed in

Report section	Topic heading	Section author
<b>12</b>	<b>General</b>	<b>Anne Bradbury</b>
12.1	General support or rejection	
12.2	NPSFM2020	
12.3	Structure and approach of PPC9	
12.4	Implementation of PPC9	
12.5	Monitoring	
12.6	Economic	
12.7	General points on Objectives	
12.8	Climate change and TANK OBJ 3	
12.9	Catchment objectives	
12.10	Glossary	
<b>13</b>	<b>Cultural</b>	<b>Kirsten Tebbutt</b>
13.1	Rangatiratanga	
13.2	Te Tiriti o Waitangi	
13.3	Te Mana o te Wai	
13.4	Consultation	
13.5	Mātauranga Māori	
13.6	Mauri	
13.7	Water Quantity	
13.8	Water Quality	
13.9	Alignment with other Resource Management documents	
13.10	Approach should be reconsidered	
13.11	Catchment Based Approach	
13.12	Minor Changes	
<b>14</b>	<b>Water Quality</b>	<b>Mary-Anne Baker</b>
14.1	Water Quality General and Objective 7	
14.2	Water Quality Management Framework	
14.3	Land use change	
14.4	Stock exclusion	
14.5	Farm Plans, Industry Programme and Catchment Collectives	
14.6	Schedules 26, 27, Objectives 4, 5 and 6	
14.7	Point source discharges	
14.8	Riparian land management	
14.9	Wetlands	
14.10	Phormidium Management Policy	
14.11	RRMP Rules 32-33 and 71	
14.12	RRMP Rule 7	
<b>15</b>	<b>Water Quantity</b>	<b>Ellen Robotham</b>
15.1	Quantity management approach overview	
15.2	Water Quantity Objectives	
15.3	Heretaunga Plains Groundwater Levels and Allocation Limits	
15.4	Surface Water Low Flow Management	
15.5	High Flow Allocation	

15.6	Rules and Definitions	
<b>16</b>	<b>Stormwater Management</b>	<b>Kim Anstey</b>
16.1	TANK POL 28 Urban Infrastructure	
16.2	TANK POL 29 Source Control	
16.3	TANK POL 30 Dealing with the Legacy	
16.4	TANK POL 31 Integration of Rules and Processes	
16.5	TANK POL 32 Ahuriri Catchment	
16.6	Rule TANK 19 and 20	
16.7	Rule TANK 21	
16.8	Rule TANK 22	
16.9	Rule TANK 23	
16.10	Stormwater general	
16.11	Schedule 34	
<b>17</b>	<b>Source Protection Zones</b>	<b>Anne Bradbury</b>
17.1	Objective 9	
17.2	Protection of Source Water Policies, TANK POL 6-8	
17.3	Consequential amendments to RRMP Rules	
17.4	SPZ Maps and Schedule 35	
17.5	Miscellaneous	
<b>18</b>	<b>Miscellaneous</b>	<b>Anne Bradbury</b>
18.1	Supports other submission	
18.2	Consequential amendments	
18.3	RRMP/Out of scope	
18.4	Outstanding Water Bodies, Plan Change 7	
18.5	Other points	

## 12. General points

### 12.1 General support or opposition

#### 12.1.1 Submission points supporting PPC9

##### Submission points

110. There are 140 submission points that generally support PPC9. Submission points that support PPC9 are contained in table 12.1.1 in Appendix 3.

##### Submission point requests

111. These submission points generally support PPC9. These submission points support:

- the framework of PPC9 to the degree it reflects agreements reached by the TANK Group of community representatives
- the purpose of PPC9 to give effect to the HBRC Regional Policy Statement and the National Policy Statement for Freshwater Management
- the overall direction of PPC9 to ensure the sustainable management of water resources in the TANK Catchments
- support for the ability of a group of landowners to be able to manage environmental issues collectively.

##### Discussion

112. I note the support and I recommend accepting these submission points in part as the Reporting Team is recommending that PPC9 is adopted with some amendments.

## Recommendations

113. I recommend that these 140 submission points are accepted in part because PPC9 helps to achieve the purpose of the RMA and it gives effect to policies LW1 and LW2 of the RPS.

### **12.1.2 Submission points opposing PPC9**

#### Submission points

114. There are 101 submission points that oppose PPC9. Submission points that oppose PPC9 are contained in table 12.1.2 in Appendix 3.

#### Submission point requests

115. These submission points:
- a. oppose elements of PPC9 that do not reflect those agreements reached by the TANK Group
  - b. oppose provisions that fail to give effect to the NPSFM2020 and to the RPS
  - c. oppose all of the provisions in PCC9
  - d. state that the provisions need to be redrafted
  - e. raise concerns around water quantity, recreational values, cultural values and ecosystem health
  - f. want measurable outcomes and stronger enforceable standards.

#### Discussion

116. 38 of the 101 submission points are from representatives from the Mangaroa Marae. The rest of the submission points from these submitters are discussed in Section 13 but these points are included here as they oppose PPC9 generally.

## Recommendations

117. I recommend these submission points are rejected. I do not agree that PPC9 should be declined. The Reporting Team is recommending that PPC9 is adopted with amendments.

## **12.2 National Policy Statement for Freshwater Management 2020**

#### Submission points

118. There are 25 submission points that relate to the National Policy Statement for Freshwater Management 2020 (NPSFM2020). Submission points for this topic are contained in table 12.2 in Appendix 3.

119. The following evaluation may not refer to every submission point but I have considered each submission point in this topic before making my recommendations.

#### Submission point requests

120. These submission points seek:
- a. that PPC9 is amended to give effect to the NPSFM2020 and the National Environment Standards (NES) for Freshwater 2020 and the Resource Management (Stock Exclusion) Regulations 2020
  - a. to remove parts of PPC9 that are duplicated in the NPSFM2020 and the NES for Freshwater 2020

- b. to withdraw PPC9, amend the plan change and renotify it when it gives effect to the NPSFM2020
- c. that PPC9 should embed Te Mana o te Wai and the hierarchy of obligations
- d. that Freshwater Management Units are clearly identified
- e. that A4 and B7 of the NPSFM is embedded
- f. to identify values and freshwater objectives and where they apply in respect of each Freshwater Management Unit

## Discussion

121. The NPSFM2020 and the alignment with PPC9 is discussed in Section 8.3 of this report. There is also a table showing how PPC9 aligns with the NPSFM2020 in Appendix 6. I will summarise this discussion here in response to submission points. For more information, please see Section 8.3.
122. PPC9 was notified when the NPSFM2014 (amended 2017) was in force. Since PPC9 was notified, the NPSFM2020 has been gazetted and it came into force on 3 September 2020. As discussed in Section 8.3, PPC9 does not have to give effect to the NPSFM2020 now, PPC9 is helping to sustainably manage land and resource management issues in the TANK Catchment. PPC9 is a step towards meeting the NPSFM2020. The Council will have to ensure this plan change and the RRMP meets the NPSFM2020 by 31 December 2024. I recommend that submission points that ask for PPC9 to be withdrawn because it does not give effect to the NPSFM2020 are rejected because PPC9 does not need to give effect to the NPSFM2020 now.
123. There are submissions seeking alignment with the NPSFM2020. The Reporting Team will be recommending amendments to PPC9 to align with the NPSFM2020 where there is scope in submissions to do so. However, the Council has not undertaken engagement with tangata whenua and communities to determine how Te Mana o te Wai applies in this region. I do not think it is possible to fully give effect to the true intent of the NPSFM2020 until this engagement has occurred and the local approach to giving effect to Te Mana o te Wai has been determined. This has a bearing on the extent PPC9 can give effect to the NPSFM2020 and the Reporting Team will be considering this when they respond to the submission points. I recommend accepting in part submission points that seek PPC9 gives effect to the NPSFM2020 as the Reporting Team and I can only give effect where possible to do so.
124. With regards to Freshwater Management Units, the Council is taking a paper to the Regional Planning Committee meeting in April 2021. The paper will confirm a region wide approach to Freshwater Management Units. I recommend accepting the submission point that seeks that Freshwater Management Units are clearly defined however I am unable to define the Freshwater Management Units now. I will be able to provide an update at the hearing after the paper has been to the Regional Planning Committee. The Reporting Team and I are recommending to change terminology in PPC9 to make the plan more consistent in response to other submission points which are discussed in Section 12.3. This means we will have changed some names like Freshwater Quality Management Units. These units are not Freshwater Management Units and we will be calling them Quality Areas or Quantity areas. Changes to terminology can be seen in Appendix 4. I recommend accepting in part the other submission points that discuss values and freshwater objectives as these submission points are seeking that PPC9 gives effect to the NPSFM2020.
125. There are submission points that are seeking that PPC9 gives effect to the NES for Freshwater 2020 and Resource Management (Stock Exclusion) Regulations 2020. These points also seek that parts of PPC9 that duplicate rules in these regulations should be removed. I recommend accepting these points. The Reporting Team is recommending to

delete Policy 22, Rule TANK 3 and Rule TANK 4 because the provisions are covered in the Stock Exclusion Regulations 2020.

## Recommendations

126. I recommend submission points 16.7, 123.18, 132.6, 198.2, 198.10, 201.12, 210.18, 237.3 are rejected because:
- section 80A(4)(b) of the RMA states that where a freshwater planning instrument has the purpose of giving effect to the NPSFM2020, it has to be notified by 31 December 2024, therefore PPC9 does not have to give effect to the NPSFM2020 now
  - PPC9 does not have to give effect to the NPSFM2014 (amended 2017) as this NPS is no longer in effect.
127. I recommend submission points 97.76, 117.4, 120.11, 120.86, 123.9, 123.21, 127.12, 135.1, 184.3, 194.14, 202.3, 202.4 and 210.15 are accepted in part because:
- the Reporting Team and I will give effect to the NPSFM2020 where possible to do so
  - the Reporting Team and I might not be able to give full effect to the NPSFM2020 because the local approach to giving effect to Te Mana o te Wai has not been determined yet.
128. I recommend submission points are 100.2 and 129.27 are accepted because:
- PPC9 should give effect to the NES for Freshwater 2020 and the Resource Management (Stock Exclusion) Regulations 2020.
  - PPC9 does not need to include rules that are covered in the NES for Freshwater 2020 and the Resource Management (Stock Exclusion) Regulations 2020, having two sets of rules is confusing and unnecessary.
129. I recommend submission points 210.14 and 132.18 are accepted however I am unable to confirm the Freshwater Management Units in the PPC9 area at the time of writing. I will provide an update at the hearing.

## **12.3 Structure and approach of PPC9**

### Submission points

130. There are 116 submission points that relate to the way PPC9 was structured, the approach of the plan change, the introduction section of PPC9 and the process to create PPC9. Submission points for this topic are contained in table 12.3 of Appendix 3.
131. The following evaluation may not refer to every submission point but I have considered each submission point in this topic before making my recommendations.

### Submission point requests

These submission points seek:

- to amend PPC9 so that it better enables collective approaches to water and nutrient management by reducing the level of detail and specificity in the plan (38 identical points)
- to amend some of the maps
- that terminology is consistent throughout PPC9
- that structural difficulties should be fixed, there should be a clear pathway with the objectives flowing down through policies, rules and other methods
- that the plan change needs to be flexible and to be able to accommodate future information and new science

- that some policies should be moved to a methods section of PPC9
- to make PPC9 more regulatory based, include directive policies and rules, remove bias towards non-regulatory methods and remove phrasing that 'enables', 'provides for' and 'allows'
- that the format and content should align with the National Planning Standards
- that the background and issues statement sections of PPC9 are deleted or redrafted.

## Discussion

132. The points in this topic are about the structure and intent of PPC9. PPC9 was written through a collaborative process. I recognise the importance of the collaborative process which has formed PPC9 and I have kept the collaborative process in mind when I looked at submission points in this topic. However I have considered each submission point and I have recommended changes where it is appropriate to do so. PPC9 was written in a way that ensures a collective approach to managing freshwater. This aligns with the NPSFM2020 which seeks that freshwater is managed catchment by catchment and is managed with tangata whenua and communities. This collective approach also gives effect to the RPS, particularly Policy LW1.
133. A lot of the points that are in this section are seeking a more streamlined plan. The points are seeking that the level of detail is reduced, that the number of objectives and policies are reduced, that there are structural difficulties that need to be fixed, that objectives and policies need to line up with the rules, and that some policies should be moved to a methods section of the plan. The Reporting Team and I are considering submission points to make sure PPC9 is easy to understand but PPC9 covers a lot of resource management issues, from land use to water quality and water quantity. This means PPC9 is a comprehensive plan change. However, the Reporting Team is recommending to take out parts of PPC9 that is covered in new national regulations, this is discussed in Section 12.2 of this report.
134. There are submission points that are seeking terminology to be consistent throughout PPC9. I recommend accepting these submission points as having consistent terminology will make PPC9 easier to understand. I have included a table in Appendix 4 which shows the changes that the Reporting Team is recommending to terminology. The Reporting Team has included changes in terminology to the Recommended Changes to PPC9 document and the maps which are in Appendix 1 and 2. Having consistent terminology will help simplify the plan which other submission points are seeking.
135. There are submission points that seek that some objectives and policies should be moved to a non-regulatory part of PPC9. Section 67 of the RMA refers to the contents of regional plans and a regional plan can include non-regulatory methods. Therefore, objectives can cover non-regulatory matters that will help achieve the purpose of the RMA. I recommend rejecting these submission points. There is a submission point that seeks to align PPC9 with the National Planning Standards. The RRMP is not in the National Planning Standards format and it does not need to be in that format now. It does not make sense to have PPC9 fit with the National Planning Standards style if it then has to be inserted into the RRMP when it is made operative if the RRMP is in a different style.
136. There are 10 submission points that are seeking a more regulatory approach. These points seek that PPC9 includes directive policies and rules and they seek to remove bias towards non-regulatory methods. There is one submission point that is seeking flexibility with the plan and there are other points that want less detail in the plan. These points may counteract the points that want a more regulatory approach as a regulatory approach will have more detail in the way of rules. PPC9 was written using a collaborative approach over a few years of discussion. The approach to writing PPC9 aligns with the catchment approach in the NPSFM2020 and Policy LW1 of the RPS. I recommend rejecting the points

that are seeking PPC9 to be more regulatory as that was not the intent of the way PPC9 was written. I also recommend rejecting point 97.84 which seeks the plan to be more flexible as this would not help PPC9 to meet its objectives.

137. There are some submission points about the Background section of PPC9. The Background section is used to describe how PPC9 was prepared, it does not include any plan provisions. I understand that the Background section was never intended to be part of the plan change and it was not intended to go into the RRMP when PPC9 is made operative. Therefore I recommend accepting the submission points that request the Background section is deleted.
138. There are submission points on the Issue statements. The Section 32 Report states that issues were identified and they defined the matters that needed to be addressed in PPC9. The Section 32 Report states that the objectives in PPC9 seek to address the issues. Section 67 of the RMA does not include Issue statements as something that must be included in regional plans. The NPSFM2020 requires councils to include values in objectives, not issues. While the issues might have been helpful when PPC9 was being created they are redundant now and the objectives stand on their own merits. I recommend accepting the submission points that seek that the TANK Issues section is deleted. I recommend that PPC9 starts at the 5.10 Introduction heading. Deleting the Background section and the Issues section will help simplify the plan which other submission points are seeking.
139. There are 13 submission points about the process used to create PPC9 and the science behind PPC9, including seeking that new science can be used to make changes to PPC9. Most of these points do not seek relief. I note these points and I remind the submitters of the collaborative, community process that was used to develop PPC9. This is discussed in Section 5.3 and Section 9 of this report, and in Section 4 of the Section 32 Report. PPC9 will have to go through a plan change process for any new science that emerges. These points are not on the plan change. I recommend rejecting these points as most of them do not seek relief, PPC9 was developed by a community approach and the development of PPC9 has followed the Schedule 1 process of the RMA.
140. There is a submission point seeking minor amendments to the Tūtaekurī water quality map, the Ngarururo water quality map and the Ngarururo water quantity map. These amendments are to fix minor errors and make the maps clearer. I recommend accepting this submission point. The maps with recommended changes can be found in Appendix 2.
141. Submission point 233.3 seeks that cyanobacteria, the quantity of water and the presence of pathogens and other chemical contaminants should be added to human health attributes in Figure 1. I recommend rejecting this submission point because the values were agreed by the TANK Group and these things were not added to Figure 1 by the TANK Group.
142. Submission point 194.100 seeks clarification on the RRMP rules and how this will apply to other catchments. The amendments to Chapter 6, Regional Rules, of the RRMP seeks to remove the TANK Catchment from these rules. The TANK Catchment will now be covered by the new rules in PPC9.

## Recommendations

143. I recommend submission points 23.5 and all identical submission points, 47.14, 90.5, 97.84, 106.2, 120.70, 120.82, 132.8, 132.23, 132.76, 132.181, 132.101, 132.158, 180.9, 194.9, 198.1, 201.4, 201.5, 201.13, 210.5, 210.7, 210.8, 210.9, 210.10, 210.11, 210.26, 210.27, 210.28, 210.29, 233.4, 237.4 and 240.18 are rejected because:
  - a. PPC9 is a comprehensive plan that aims to improve land and freshwater management in the TANK Catchment.

- b. reducing the level of detail and specificity in the plan will not enable results to be produced.
  - c. the objectives were analysed in the Section 32 Report which states that they help to achieve the purpose of the RMA and they give effect to the RPS
  - d. the plan was written in a collaborative manner that is guided by the NPSFM2020 and gives effect to Policy LW1 of the RPS
  - e. The RRMP does not have to adopt the National Planning Standards format now.
144. I recommend that submission points 132.30, 180.1, 180.11 and 210.6 are accepted because having terminology consistent throughout the plan change will make PPC9 easier to understand.
145. I recommend that submission points 237.2 and 203.1 are accepted in part because PPC9 does achieve the purpose of the RMA, give effect to the RPS and align with the NPSFM2020.
146. I recommend that submission points 120.80, 123.19 and 132.33 are accepted because the Background section of PPC9 is superfluous to the plan change and is not a required part of the plan change.
147. I recommend that submission points 126.1, 126.2, 201.4, 201.5, and 201.7 are rejected because these points discuss the Background section and I am recommending to delete the Background section of PPC9.
148. I recommend that submission points 120.79, 123.20 and 132.7 are accepted because the TANK Issues section of PPC9 does not need to be included in the plan change.
149. I recommend that submission points 126.4, 132.80, 132.82, 195.8, 195.9, 195.10, 195.11, 195.12, 195.13, 195.14, 195.15, 201.8 and 233.2 are rejected because these points discuss the Issue statements and I am recommending to delete the TANK Issues section of PPC9.
150. I recommend that submission point 123.67 is accepted because the amendments to the maps that are proposed make the maps clearer.
151. I recommend that submission point 233.3 is rejected because the values were agreed by the TANK Group.
152. I recommend that submission point 195.16 is accepted because it seeks 5.10 Introduction to be retained as notified.
153. I recommend that submission points 103.15, 111.15, 128.1, 132.27, 132.157, 139.2, 200.3, 216.12, 216.15, 216.17, 236.1, 237.1 and 241.2 are rejected because:
- a. some of these points do not seek relief
  - b. PPC9 was developed by a community approach
  - c. the development and consultation of PPC9 has followed Schedule 1 of the RMA.
154. I recommend that submission point 194.100 is accepted in part because the amendments to Chapter 6 of the RRMP are to remove the TANK Catchment from those rules. This is what the submitter is suggesting and the submitter does not seek any specific relief.

## 12.4 Implementation of PPC9

### Submission points

155. There are 10 submission points that relate to implementing PPC9. Submission points for this topic are contained in table 12.4 in Appendix 3.

156. The following evaluation may not refer to every submission point but I have considered each submission point in this topic before making my recommendations.

### Submission point requests

157. These submission points seek:
- a. to have a Council staff member dedicated to each catchment
  - b. that the Council enforces penalties on people who breach guidelines in their own Farm Environment Plans, limits and management measures
  - c. that costs associated with managing freshwater resources are born by all members of the community, including municipal and industrial purposes
  - d. that timeframes need to be stated and associated with outcomes, objectives and targets
  - e. to have more detail in how the rules will be amended
  - f. timeframes to make changes and resources for growers to help them implement changes
  - g. that the implementation strategies should be part of PPC9
  - h. to opposes any reference to 2 May 2020 as the commencement date for compliance
  - i. that an Implementation Plan is provided.

### Discussion

158. A Draft Implementation Plan has been created for PPC9 to reflect the commitment by the TANK Group members and their stakeholder organisations to better land and water management. Meeting the PPC9 objectives will require the Council's implementation to be supported by stakeholder input and continuing involvement. The Draft Implementation Plan continues the collaborative approach that the plan change process started.
159. The Draft Implementation Plan sets out tasks, responsibilities, measurement methods and timeframes for the execution of 10 actions resulting from the plan change process. Section 67 of the RMA refers to the contents of regional plans and a regional plan does not need to include methods of policy implementation. The Draft Implementation Plan sits outside of PPC9, it is a non-statutory document and is not subject to submissions. However any amendments to PPC9 as a result of submissions will need to be reflected in the Draft Implementation Plan. The Draft Implementation Plan is provided in Appendix 5 and further information on the Draft Implementation Plan can be found in Section 4.8 of the Section 32 Report.
160. The Council has a Catchments Policy Implementation Team in the Integrated Catchment Management Group, and a Policy Implementation Team in the Policy and Regulation Group. The Council also has a Catchments Delivery Team that manages the delivery of projects in catchments across the region. These teams will provide guidance for landowners on how they can align with PPC9 and improve land and water management in their catchments. If landowners and operators do not comply with PPC9, the Council's Compliance Department will investigate and decide whether or not to take action to control for breaches of the RMA and the RRMP.
161. There have been a few submission points about timing of the plan having legal effect. Section 86B(3)(a) of the RMA states that a rule in a proposed plan has immediate local effect if the rule protects or relates to water, air or soil. Therefore, the rules in PPC9 have had immediate local effect from 2 May 2020 as they protect or relate to water. 2 May 2020 is the date PPC9 was notified.

## Recommendations

162. I recommend that submission points 24.6, 50.16, 103.16, 132.190, 210.19, 229.7 and 240.3 are accepted in part because:
- there is currently a Draft Implementation Plan and there are teams at the Council that look after Policy Implementation and the delivery of projects in catchments
  - The Council can enforce penalties on landowners and operators for breaches of the RMA and the RRMP if the landowners and operators are not making an effort to comply with PPC9
  - the Draft Implementation Plan sets out timeframes for implementing tasks.
163. I recommend that submission points 216.4, 229.6 and 236.4 are rejected because:
- regional plans do not need to include methods of policy implementation (see section 67(2) of the RMA)
  - The Draft Implementation Plan has been agreed by stakeholders to ensure continued involvement of stakeholders to implementation
  - all rules in PPC9 have immediate legal effect from the date of notification, 2 May 2020, as per section 86B(3)(a) of the RMA.

## **12.5 Monitoring**

### Submission points

164. There are 48 submission points on monitoring and on the monitoring policies, POL TANK 33-35. Submission points for this topic are contained in table 12.5 in Appendix 3.
165. The following evaluation may not refer to every submission point but I have considered each submission point in this topic before making my recommendations.

### Submission point requests

166. These submission points seek:
- yearly reviews of adherence to plans
  - monthly water quality testing of Maraekakaho Stream and the Ngaruroro River
  - that the Council provide resources for increased monitoring of water quality
  - that there is resource and support the development of a mātauranga Māori framework
  - that the streams, freshwater species, habitat and wetlands of Bridge Pa are monitored and managed with a reasonable time frame
  - Implementation should be subject to clear policies and regulation, should not abdicate council statutory duties of functions to a third party and are ideally co-managed in partnership with Ngati Kahungunu
  - to support the monitoring policies
  - to amend policy 33 so there is a stronger requirement than recognise and support, and to reword policy 33 and include as two nonregulatory methods
  - to delete policy 34
  - to amend policy 34 to require the Council to establish and maintain a catchment collective governance body and other wording amendments
  - to amend policy 35 to link monitoring of attributes and attribute states in Schedule 26 to milestones and timeframes for review, to delete 35 f) and other amendments.

### Discussion

167. There are three policies in PPC9 that are about monitoring, POL TANK 33-35. Monitoring and reporting are also required under the NPSFM2020. Section 3.18 of the NPSFM2020 requires regional councils to establish methods for monitoring progress towards achieving

target attribute states and environmental outcomes. The methods must include measures of mātauranga Māori and the health of indigenous flora and fauna. Section 3.30 of the NPSFM2020 requires every regional council to publish data annually on ecosystem health, value for human contact, and any other monitoring done for the purpose of freshwater management. The Council is also required to monitor, record and report under section 35 of the RMA. Monitoring and reporting is relevant to PPC9 and the RRMP however it will sit outside PPC9 and the RRMP so it is able to be amended easily without going through the process required by Schedule 1 of the RMA. The Draft Implementation Plan will be amended to reflect the recommendations and the decision of PPC9 but the Draft Implementation Plan is not subject to submissions as it is not part of PPC9.

168. I will discuss the general monitoring submission points first, then I will discuss points around mātauranga Māori and cultural monitoring and then I will discuss the submission points that have sought amendments to the monitoring policies.
169. The submission points about the process of monitoring seek clarification on how the monitoring will occur, resources that will need to be provided and yearly reporting. The information about the process of monitoring does not need to be included in PPC9 but the Council will be guided by section 35 of the RMA which requires local authorities to gather information, monitor and keep records. The Council will also ensure that our monitoring is compliant with the NPSFM2020. The monitoring sites are placed in locations that help to measure the values and outcomes that are sought catchments across the region and to help report on the State of the Environment as required by section 35 of the RMA. I recommend these submission points are accepted in part as the Council already undertakes monitoring and will continue to comply with the RMA and the NPSFM2020. This monitoring will be done with input from tangata whenua, the community and catchment collectives.
170. There are submission points on resourcing and supporting mātauranga Māori frameworks and there are points seeking cultural monitoring. Section 3.18 of the NPSFM2020 requires our monitoring methods to include mātauranga Māori. POL TANK 33 of PPC9 states that the Council will recognise and support monitoring according to mātauranga Māori. I recommend accepting in part these submission points because the Council has committed to this and the NPSFM2020 requires it. I note that in Section 13 of this report that there is a recommendation to place more emphasis on mātauranga Māori in the Draft Implementation Plan. I support this recommendation as this will ensure that mātauranga Māori is part of the implementation of PPC9 to meet freshwater objectives, as well as monitoring.

### **12.5.1 POL TANK 33**

171. There is a submission point that supports the monitoring policies and a submission point that seeks that POL TANK 33 is retained as notified. I note their support and I recommend accepting these points. There are four other submission points regarding POL TANK 33. There is a point that discusses moving this policy to a methods section of PPC9 and there are similar points on POL TANK 34 and POL TANK 35. A methods section is discussed in Section 12.3 of this report and I recommend to reject these submission points based on that discussion. I recommend rejecting submission point 135.37 as we want to include all freshwater objectives, not just objectives related to freshwater quality. I recommend accepting in part submission point 106.9 as I am of the opinion that support will include financial assistance to help Māori to monitor so I think this is covered by POL TANK 33.

### **12.5.2 POL TANK 34**

172. There are 11 submission points on POL TANK 34. One submission point seeks to remove POL TANK 34 and I recommend to reject this submission point as the Council needs to include representatives from the TANK Group in our monitoring to ensure implementation of

PPC9 will be worked on by the community. There are two submission points that support POL TANK 34 but state that it is not happening now. The NPSFM2020 requires action plans to be developed with the community so the Council will be meeting with tangata whenua, industry groups and other stakeholders to develop the action plans. The Catchments Policy Implementation Team are supporting the growth and development of catchment collectives which is another way the Council will be meeting with stakeholders.

173. Five of these submission points seek that the Council establishes and maintains a community catchment governance body. There are other points that are seeking a community catchment governance model in other parts of the plan change but I include these points in this discussion. I recommend rejecting these submission points as the Council will be monitoring in a way that complies with the RMA and the NPSFM2020.
174. Submission point 180.37 seeks to include more detail in POL TANK 34 around what the group can discuss, the membership of the TANK Group and the frequency of meetings. The things the submitter wants to discuss, for example progress towards freshwater objectives and targets, are covered by the NPSFM2020 and are covered by POL TANK 35 so I do not want to include more detail into the policy as this would be duplication. The Council will be guided by the RMA and the NPSFM2020 when considering plan reviews and will involve tangata whenua, the community and stakeholders.

### **12.5.3 POL TANK 35**

175. There are six submission points on POL TANK 35 including two points discussing methods sections which I have discussed above. The remaining four points seek amendments to POL TANK 35. Two submitters want to delete POL TANK 35 f) which seeks a review of the provisions within 10 years of the operative date and one submitter wants the review to be within 5 years of the operative date. I recommend removing f) as this is covered by the RMA and we do not need to duplicate RMA provisions in the RRMP. I recommend rejecting the rest of the submission points and other submission points that seek changes to POL TANK 35 because the Council's monitoring is required by the RMA and the NPSFM2020.

### Recommendations

176. I recommend that submission points 16.14, 67.6, 83.4, 97.77, 111.12, 120.99, 120.100, 191.8, 194.43 and 239.6 are accepted in part, and that submission points 14.4, 14.5, 15.6, 15.7, 20.6, 20.7, 29.9, 195.58, 126.26, 225.8, 233.12, 238.15 and 239.2 are rejected because the Council will:
- ensure our monitoring complies with section 35 of the RMA
  - ensure our monitoring complies with the NPSFM2020
  - will engage with tangata whenua, communities and catchment collectives with regards to monitoring.
177. I recommend that submission points 120.40, 120.94, 120.95, 120.97, 132.182, 138.4, 206.7, 209.6 and 234.1 are accepted in part because:
- POL TANK 33 of PPC9 states that the Council will recognise and support monitoring according to mātauranga Māori
  - Section 3.18 of the NPSFM2020 requires methods of monitoring to include mātauranga Māori.
178. I recommend that submission points 141.7, 194.13, 195.57 and 231.7 are accepted as they support the monitoring policies, POL TANK 33 and POL TANK 34. These policies will help the Council to comply with section 35 of the RMA and the NPSFM2020. I recommend submission point 126.25 is rejected because it seeks that POL TANK 34 is removed from PPC9.

179. I recommend that submission point 106.9 is accepted in part, and submission points 123.67, 123.69, 123.68, 135.37, 210.54, 210.55 and 210.56 are rejected because:
- a. POL TANK 33 supports Māori to monitor
  - b. monitoring should cover all freshwater objectives
  - c. there is no need for a non-regulatory section of PPC9 as section 67 of the RMA does not require regional plans to have a non-regulatory section.
180. I recommend that submission point 180.37 is rejected as the additional information the submitter wants to add to POL TANK 34 is covered by the RMA and the NPSFM2020 so it does not need to be in the RRMP.
181. I recommend submission points 135.38 and 195.59 are accepted in part as POL TANK 35f) is a duplication of what is required by section 79 of the RMA and it does not need to be duplicated in PPC9.

## 12.6 Economic

### Submission points

182. There are 24 submission points that relate to economic matters. Submission points for this topic are contained in table 12.6 in Appendix 3.
183. The following evaluation may not refer to every submission point but I have considered each submission point in this topic before making my recommendations.

### Submission point requests

184. These submission points seek:
- a. that the regulations will hinder production, employment and profitability
  - b. that PPC9 has regard for the economic circumstances arising from COVID
  - c. that there is concern about reporting, auditing, consents application and other ongoing compliance costs
  - d. that PPC9 is amended to provide for busines and urban communities to grow
  - e. that there is evidence that economic impacts have been assessed
  - f. that water restrictions and transfer of permit provisions will raise issues around the capital value of high water use existing land uses and state that the Council needs to strike a balance between environmental management and economic imperatives of the region
  - g. that PPC9 does not meet Part 2 and section 7 of the RMA
  - h. that costs must be borne by everyone, including municipal and industrial purposes.

### Discussion

185. An economic impact assessment report<sup>5</sup> that looked at horticulture and farming scenarios was completed in August 2018. The report looked at direct impacts and flow on impacts from the policy options in PPC9 for the scenarios. The results of the analysis showed that the impacts varied over 30 years, they varied between the scenarios and losses were not experienced over the entire years of analysis. The analysis also showed that the value added impact is considerable for the horticulture and fruit growing industry but that direct impacts on employment were relatively low. However, employment impacts were found to be mostly felt indirectly through impacts to processing and services, and then in less spending by affected households.

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<sup>5</sup> Economy-wide Impacts of Proposed Policy Options for the TANK Catchments. Market Economic Research, 20 August 2018

186. Section 32 (2) (a) of the RMA requires the Council to consider environmental, economic, social and cultural effects that are anticipated from the implementation of provisions, including the opportunities for economic growth and employment. The Section 32 Report for PPC9 includes information from the economic assessment report to outline the economic effects that are anticipated from the PPC9 provisions.
187. The Council also needs to consider the hierarchy of obligations under Te Mana o te Wai which is found in section 1.3 (5) of the NPSFM2020. This hierarchy states that the health and well being of water bodies and freshwater ecosystems comes first, the health needs of people comes second and the ability of people and communities to provide for their social, economic and cultural well-being comes third.
188. Most of the submission points in this section do not seek relief, they are concerned that the Council has not considered economic impacts. Two submission points have asked for an economic analysis to be undertaken. I am recommending to accept in part these submission points because an economic assessment was undertaken. The rest of the submission points are worried about compliance costs, adverse effects and providing employment. The impacts of PPC9 will be varied, they will change over the years and there will be little direct impact on employment. We also need to consider other analysis which has shown that the Heretaunga Aquifer is over allocated<sup>6</sup> which means we need to ensure the hierarchy of obligations in the NPSFM2020 is met. I recommend that the rest of the submission points in this section are rejected as economic impacts are only one impact that we need to consider. The Council also needs to consider environmental, social and cultural effects.
189. Two submission points that were discussed in Section 12.3 seek that cost is not a reason to not manage freshwater and that higher weighting has been given to economic development over the years than impacts on freshwater. These two points counteract the points in this section. Furthermore, a Social Impact Assessment<sup>7</sup> was undertaken which demonstrated that increasing minimum flows would have a negative adverse impact socially and culturally. TANK Catchment communities characterised by high levels of welfare and by high levels of Māori population ethnicity would be at risk.

### Recommendations

190. I recommend that submission points 50.5 and 97.82, are accepted in part because the Council has undertaken an economic report to determine the economic effects that are anticipated from the implementation of PPC9.
191. I recommend that submission points 45.2, 50.3, 50.8, 50.15, 50.18, 63.5, 72.77, 73.77, 109.3, 109.4, 113.11, 145.1, 145.2, 145.9, 180.5, 194.12, 216.3, 216.5, 224.8, 224.9, 145.3, 197.4 are rejected because:
- a. section 32 (2)(a) of the RMA requires councils to consider environmental, social and cultural effects as well as economic effects
  - b. the economic report showed that there will be little direct impact on employment
  - c. the NPSFM2020 contains a Te Mana o Te Wai hierarchy which states that the health of the water bodies must be considered first and economic wellbeing must be considered third.

<sup>6</sup> P Rakowski: Heretaunga Aquifer Groundwater model – Scenarios Report August 2018

<sup>7</sup> Social and cultural assessment TANK catchments, Anthony Cole - <https://www.hbrc.govt.nz/assets/Document-Library/TANK/TANK-Key-Reports/Social-and-Cultural-Impact-Assessment-TANK-Catchments-Powerpoint-Dr-Cole-June-2020.pdf>

## 12.7 General objectives

There are 88 submission points on the objectives in PPC9. I will discuss general points on the objectives first and then I will discuss the points on OBJ TANK 1 and OBJ TANK 2.

### 12.7.1 General points on objectives

#### Submission points

192. There are 27 submission points on objectives that I discuss in this section. Submission points for this topic are contained in table 12.7 in Appendix 3.
193. The following evaluation may not refer to every submission point but I have considered each submission point in this topic before making my recommendations.

#### Submission point requests

194. These submission points seek:
- a. that the objectives are retained (10 points)
  - b. to support objectives 1 and 2 and provisions that require landowner and community support and leadership
  - c. that the objectives are reordered with key priorities first
  - d. that the objectives must be clearly articulated, ambitious and reasonable
  - e. that that the objectives are redrafted as outcomes to address resource management issues
  - f. that the objectives fall short when considering the foreseeable water needs of future generations
  - g. to include a new objective and policy relating to restoring and revitalising the mauri and te mana o te wai of the TANK Catchment and Heretaunga muriwaihou; recognising and providing for Ngati Kahugnunu's relationships, tikanga and beliefs with their ancestral waters and taonga; and repatriate and protect tangata whenua values, customs, culture and relationships with these waters
  - h. to include objectives and policies to maintain or improve water quality, safeguard life-supporting capacity, ecosystem health and human health, protect the significant values of outstanding freshwater bodies and wetlands and provide for other instream freshwater values (including tangata whenua values)
  - i. that a specific objective providing for tangata whenua to undertake monitoring throughout the life of the plan to enable the application of a diversity of systems of values and knowledge, such as mātauranga Māori to the management of freshwater within the TANK Catchment
  - j. to add four new objectives to endorse promoting sustainable management of freshwater resources in the TANK Catchment and help to recognise and provide for the relationships of Māori with their taonga.
  - k. to amend and add new objectives to provide for a range and flexibility of land use and other amendments

#### Discussion

195. The objectives are discussed in section 7.3 of the Section 32 Report and I support the analysis in that report. The Section 32 Report states the objectives help to achieve the purpose of the RMA and they give effect to the RPS, particularly *Chapter 3.1A Integrated Land and Freshwater Management*.
196. I note the 10 submission points that support the objectives and I recommend accepting these points. However the Reporting Team is suggesting amendments to some of the objectives which are discussed in later sections of this report.

197. Objectives should clearly state what is to be achieved, they should state the outcomes. I recommend accepting submission points 120.78, 132.83 and 210.2 because these points seek objectives to be amended so that they are outcomes and that the objectives are clearly articulated. It will be easier to understand what PPC9 is seeking to achieve if the objectives are clearly stated outcomes. The Reporting Team has kept these submission points in mind when looking at submission points on specific objectives.
198. Submission points 97.80 and 120.64 request that key priorities should be made clear in the objectives. TANK OBJ 16 states that the sub clauses a) – e) do appear in a priority order. For all other objectives all the sub clauses need to be considered in conjunction. I am not recommending any changes to the objectives as a result of these submission points.
199. Submission point 197.2 seeks to add amend existing water quality objectives, to add new objectives to provide for a range and flexibility of land use and to restrict the reach of objectives to the values of the NPSFM. This submitter has not provided any wording for their suggested amendments and I invite the submitter to provide amendments at the hearing. I recommend rejecting this submission point as the objectives are discussed in Section 7.3 of the Section 32 Report and I support the analysis in the Section 32 Report that states that the objectives help achieve the purpose of the RMA and they give effect to the RPS.
200. Submission points 210.3 and 210.24 seek that all 18 objectives are removed and replaced with six new objectives. The Reporting Team is recommending changes to some objectives and has looked at these new six objectives when they are looking at each objective. However the Reporting Team is not recommending deleting all 18 objectives because as discussed in Section 7.3 of the Section 32 Report, they help to achieve the purpose of the RMA and they give effect to the RPS.
201. Submission point 123.22 also seeks all objectives are deleted except TANK OBJ 9, and restated as outcomes. I recommend accepting in part this submission point as the Reporting Team is aiming to turn the objectives into outcomes that respond to a resource management issue. However, as stated above, the objectives are discussed in Section 7.3 of the Section 32 Report and I support the analysis in the Section 32 Report that states that the objectives help achieve the purpose of the RMA and they give effect to the RPS.
202. Submission point 120.12 seeks a new objective. This submission point provides specific wording for the objective that includes restoring and revitalising the mauri and Te Mana o te Wai of the TANK Catchment. The wording provided is similar to TANK OBJ 2 however TANK OBJ 2 does not use the word “customs” so I am recommending to add “customs” to TANK OBJ 2d) but to reject the rest of the submission point as it is covered in TANK OBJ 2. OBJ TANK 2 is discussed in Section 12.7.3.
203. Submission point 120.13 seeks new objectives and policies. I recommend rejecting submission point 120.13 as TANK OBJ 1 and TANK OBJ 2 already talk about safe life-supporting capacity, significant values of outstanding water bodies and other things the submission point is seeking.
204. Submission point 132.84 wants to add two new objectives. I recommend rejecting this point as the two new objectives that this submitter wants to add are similar to TANK OBJ 1 and TANK OBJ 2. Submission point 132.85 seeks to add 4 new objectives. The proposed objectives are seeking a double up of what is the RMA and what is in the RPS. Safeguarding the life-supporting capacity of fresh water because it is included in section 5(2)(b) of the RMA and I do not think it appropriate to replicate the RMA in our plans. These four new objectives are similar to objectives 2, 4, 5, and 14 in PPC9. I am not recommending any changes to the objectives based on these submission points.

205. Submission point 202.8 seeks an objective for providing for tangata whenua to undertake monitoring. TANK OBJ 1 talks about monitoring and the use of mātauranga Māori and there are three monitoring policies, POL TANK 33-35, that cover what the submission point is seeking. Section 3.18 of the NPSFM2020 requires monitoring to include methods of mātauranga Māori. I do not think it is necessary to add another objective so I recommend rejecting this submission point.

### Recommendations

206. I recommend that submission points 17.2, 21.2, 40.2, 45.4, 50.2, 67.3, 109.2, 194.31, 197.1 and 210.3 are accepted and submission point 193.15 is rejected because the objectives:
- help achieve section 5(2)(a) of the RMA
  - give effect to the Objectives LW1, LW2 and LW3, and Policies LW1, LW2 and LW4 of the RPS Chapter 3.1A Integrated Land Use and Freshwater Management.
207. I recommend that submission point 123.22 is accepted in part as the Reporting Team are turning the objectives into outcomes that respond to regional management issues. However I do not support the rest of the submission point as the objectives help achieve the purpose of the RMA and they give effect to the RPS.
208. I recommend that submission points 120.78 and 132.83 and 210.2 are accepted because clear and precise objectives are needed to:
- ensure PPC9 helps to achieve section 5(2)(a) of the RMA and the purpose of the RMA.
  - ensure their effectiveness can be monitored as required by s35(2) of the RMA.
209. I recommend that submission points 97.80, 120.13, 120.64, 132.84, 132.85, 132.86, 197.2, 202.8, 210.3 and 210.24 are rejected because:
- some of them do not seek specific wording amendments and they do not help the objectives to achieve the purpose of the RMA
  - what the submission points are seeking is covered in the RMA and the RPS
  - what the submission points are seeking is already covered in other PPC9 objectives.
210. I recommend that submission point 120.12 is accepted in part because I am recommending adding part of their amendment to TANK OBJ 2 to ensure TANK OBJ 2 covers tangata whenua customs.

## **12.7.2 TANK OBJ 1**

### Submission points

211. There are 47 submission points about TANK OBJ 1. Submission points for this topic are contained in table 12.7 in Appendix 3.
212. The following evaluation may not refer to every submission point but I have considered each submission point in this topic before making my recommendations.

### Submission point requests

213. These submission points:
- support Objective 1 (two points)
  - support growers operating at good management practice (37 identical points)

- c. discuss Te Mana o te Wai and state that social and cultural values continue to be eroded to prioritise economic activities
- d. seek amendments to Objective 1 including deleting sub clauses a) – c) and deleting the second part of sub clause c) and
- e. seek to amend Objective 1 to recognise the unique characteristics of Māori land and that there is equal access to sustainable economic development options, including the allocation and use of water in the development of Māori land.

## Discussion

214. When looking at submission points on TANK OBJ 1 I have kept in mind submission points 210.2, and 132.83 which seek that the objectives are outcome focused, and submission point 120.78 which seeks that the objectives are clearly articulated. I have already discussed these submission points in Section 12.7.1 where I supported these submission points. Additionally, submission point 194.18 seeks that TANK OBJ 1 should be revised so it is an outcome statement and I recommend accepting this submission point. I recommend changes to TANK OBJ 1 to make it outcome focused and to make sure the objective is clearer.
215. TANK OBJ 1 is about sustainable management which helps to achieve the purpose of the RMA through section 5(2)(a) of the RMA. TANK OBJ 1 gives effect to the *Chapter 3.1A Integrated Land Use and Freshwater Management* of the RPS. I note the submission points that support TANK OBJ 1 and I recommend accepting them but I am recommending some changes to TANK OBJ 1 based on other submission points.
216. Some points do not seek relief but the submitters state support for requiring growers to operate at good management practice which supports sustainable management. TANK OBJ 1 c) talks about good decision making and good practice programmes. I recommend accepting these points in part because I am recommending some amendments to TANK OBJ 1.
217. Submission points 106.3, 111.8, 113.7 and 120.85 are seeking that Te Mana o Te Wai is linked to PPC9, that mātauranga Māori is preserved and protected, and that there is equal access to sustainable economic development options for Māori land. These submission points were logged against TANK OBJ 1 however these issues are discussed in Section 13 and I support the discussion that section. Mātauranga Māori is also been discussed in Section 12.5 of this report.
218. I support the analysis on TANK OBJ 1 in Section 7.2 of the Section 32 report. I do not think the changes I am recommending to TANK OBJ 1 mean the analysis in the Section 32 report needs to be amended so I have not undertaken a further evaluation under section 32AA of the RMA.

## Recommendations

219. I recommend that submission points 2.1 and 203.23 are accepted, and submission points 23.3 and identical points are accepted in part because:
- a. they help achieve section 5(2)(a) of the RMA
  - b. they give effect to Objective LW1, Objective LW3, Policy LW1 and Policy LW4 of the RPS Chapter 3.1A Integrated Land Use and Freshwater Management.
220. I recommend submission points 106.3, 111.8, 113.7 and 120.85 are accepted in part because the points and issues are covered in PPC9 through POL TANK 59, Schedule 32, TANK OBJ 2 and POL TANK 33.

221. I recommend submission point 194.18 is accepted and submission points 195.17 and 201.16 are accepted in part because having objectives that are outcome statements about resource management issues helps to:
- a. ensure PPC9 helps to achieve section 5(2)(a) of the RMA and the purpose of the RMA.
  - b. ensure their effectiveness can be monitored as required by section 35(2) of the RMA they help achieve.
222. I recommend submission point 135.3 is rejected because I am recommending deleting that part of the objective.

### **12.7.3 TANK OBJ 2**

#### Submission points

223. There are 13 submission points about TANK OBJ 2. Submission points for this topic are contained in table 12.7 in Appendix 3.
224. The following evaluation may not refer to every submission point but I have considered each submission point in this topic before making my recommendations.

#### Submission points requests

225. These submission points:
- a. are seeking retention of Objective 2 (two points)
  - b. seek to amendments to Objective 2 including adding trout and salmon to the objective, recognising and providing for Outstanding Water Bodies, protecting wetlands, adding climate change to the objective and amending the way the objective starts.
  - c. amending Objective 2 to recognise the unique characteristics of Māori land and that there is equal access to sustainable economic development options, including the allocation and use of water in the development of Māori land.

#### Discussion

226. When looking at submission points on TANK OBJ 2 I have kept in mind submission points 201.2 and 132.83 which seek that the objectives are outcome focused, and submission point 120.78 which seeks that the objectives are clearly articulated. I have already discussed these submission points in Section 12.3 where I supported these submission points. I recommend changes to TANK OBJ 2 to make it outcome focused and to make sure the objective is clearer.
227. TANK OBJ 2 seeks a continuous improvement approach to the use and development of natural resources and to protect the values in the catchments. TANK OBJ 2 will help achieve the purpose of the RMA by helping to achieve section 52(a) to met the foreseeable needs of future generations, 52(b) to safeguard life-supporting capacity of water and 52(c) to avoid, remedy or mitigate any adverse effects of activities on the environment, of the RMA. I note the submission points that support TANK OBJ 2 and I recommend accepting them but I am recommending some changes to TANK OBJ 2 based on other submission points which I discuss below.
228. There are two submission points seeking that Te Ao Māori is provided for in a manner that is consistent with Te Mana o te Wai and that there is equal access to sustainable economic development options for Māori land. These submission points were logged against TANK OBJ 1 however these issues have been discussed in Section 13 and I support the discussion that section.

229. The protection of trout and salmon is mentioned in section 7(h) of the RMA and POL TANK 10 of the NPSFM2020 protects the habitat of trout and salmon. I recommend accepting submission point 58.4 which seeks to include trout and salmon.
230. I recommend accepting in part submission point 126.6 as it seeks to frame TANK OBJ 2 as an outcome, it explains ki uta ki tai, it states the connection between surface water and groundwater which has shown to be important in the Heretaunga Aquifer and is important to integrated management, and it introduces wetlands into the objective. POL TANK 6 of the NPSFM2020 seeks to protect wetlands and promote their restoration.
231. I recommend accepting in part submission point 135.4 as I have added in the word “sustainable” because the RMA is based on sustainable management and section 3.5 (1)(b) the NPSFM2020 talks about managing freshwater and land use and development in an integrated and sustainable way. I do not accept other changes in this submission point to remove the continuous improvement part of TANK OBJ 2 a). PPC9 is built on a collaborative approach to continually improving to achieve freshwater improvements and outcomes.
232. I recommend rejecting the other submission points that seek to amend TANK OBJ 2. I recommend rejecting submission point 29.5 as TANK OBJ 1 talks about working together and working in partnership does not need to be included in this objective. Submission point 97.85 seeks food and fibre production to be taken into account. I recommend rejecting this point because this is covered under TANK OBJ 2 e) sustainable use and development. I recommend rejecting submission point 145.4 as section 1.3 of the NPSFM2020 states that the fundamental concept of the NPS is Te Mana o te Wai so it needs to be upheld. I recommend rejecting submission point 195.18 as TANK OBJ 3 is about climate change and it does not need to be included in TANK OBJ 2 and section 6(e) of the RMA recognises and provides for the relationship of Māori and their culture and traditions with water so I am not recommending any changes based on this submission point. I recommend rejecting submission point 201.17 as the objectives are about environmental outcomes and the Council does not need to be added to the objective as the addition will not clarify what the objective is trying to achieve.
233. I support the analysis on TANK OBJ 2 in Section 7.2 of the Section 32 report. I do not think that the changes I have recommended mean the analysis in the Section 32 report needs to be amended so I have not undertaken a further evaluation under section 32AA of the RMA.

### Recommendations

234. I recommend that submission points 2.4, and 12.1 are accepted because these submission points support TANK OBJ 2 which:
- a. helps to achieve section 5(2)(a) of the RMA
  - b. gives effect to the RPS *Chapter 3.1A Integrated Land Use and Freshwater Management*. In particular LW1-2 water quality, LW1 – 1 outstanding water bodies, LW1 – wetland values, LW 1-4 indigenous species and ecosystems, Objective LW2 and Objective LW3.
235. I recommend that submission points 113.8 and 240.5 are accepted in part because the points and issues are covered in PPC9 through POL TANK 59, Schedule 32 and TANK OBJ 2.
236. I recommend that submission point 240.5 is accepted in part as Te Mana o te Wai is covered in TANK OBJ 2.

237. I recommend that submission points 58.4, 126.6 and 135.4, are accepted or accepted in part as the changes help to achieve:
- Section 7(h) of the RMA
  - Policy 3 of the NPSFM2020 which takes about managing freshwater in an integrated way
  - Policy 6 of the NPSFM2020 which seeks to protect wetlands
  - section 3.5 (1)(b) the NPSFM2020 talks about managing freshwater and land use and development in an integrated and sustainable way.
238. I recommend that submission points submission points 29.5, 97.85, 145.4, 195.18 and 201.17 are rejected because they:
- include material that is in other objectives and it does not need to be included in TANK OBJ 2
  - do not give effect to section 1.3 of the NPSFM2020 which states that the fundamental concept is Te Mana o te Wai
  - do not recognise freshwater needs to be continually improved to achieve their desired states.

## 12.8 Climate change and TANK OBJ 3

### Submission points

239. There are 12 submission points on climate change and TANK OBJ 3. Submission points for this topic are contained in table 12.8 in Appendix 3.
240. The following evaluation may not refer to every submission point but I have considered each submission point in this topic before making my recommendations.

### Submission point requests

241. These submission points seek:
- to make sure climate change is considered in PPC9
  - to make sure population changes and their impacts on future water demand are considered
  - that PPC9 is consistent with recommendations in reports from the Ministry of the Environment
  - that climate change should be spread throughout the plan so the Council can consider causes and impacts from climate change
  - that droughts are considered when setting water caps
  - that Objective 3 is retained (3 points)
  - amendments to Objective 3 including adding reliance on freshwater resources for the social, economic and cultural wellbeing of communities, and adding in changes regarding habitats for human and animal disease vectors.

### Discussion

242. Submission points 193.16, 210.22, 229.4 and 210.23 support climate change being included in PPC9 but they are not seeking specific wording recommendations. I accept in part these submission points as I acknowledge their support for climate change and climate change is considered throughout PPC9. Climate change and the effects of climate change is included in the following provisions:
- TANK OBJ 3 states how climate change will be considered when making decisions on land and water management
  - TANK OBJ 18 seeks security of foreseeable future water needs through water conservation, efficiency, aquifer recharge, water harvesting and storage and other initiatives

- c. POL TANK 54 talks about water damming, and
- d. POL TANK 56 and POL TANK 57 are about water storage and augmentation and specifically require consideration of climate change. POL TANK 57 states that the Council will carry out further investigations to understand the potential future water demand and supply in relation to climate change.

243. These objectives and policies help PPC9 meet the foreseeable needs of future generations and achieve section 5(2)(a) of the RMA and section 7 of the RMA. They also align with Policy 4 of the NPSFM2020.
244. There are eight submission points on TANK OBJ 3. I note the three submission points that support TANK OBJ 3 and I accept them but I am recommending some changes to TANK OBJ 3 based on other submission points.
245. When looking at submission points on TANK OBJ 3 I have kept in mind submission points 201.2 and 132.83 which seek that the objectives are outcome focused, and submission point 120.78 which seeks that the objectives are clearly articulated. I have already discussed these submission points in Section 12.7.1 where I supported these submission points. I recommend changes to TANK OBJ 3 to make it outcome focused and to make sure the objective is clearer. I have created a new policy, POL TANK 61, to incorporate parts of the notified TANK OBJ 3 that talk about how matters and environmental effects will be managed following recommendations from these submission points.
246. I recommend accepting in part submission point 58.5 because I agree to the addition of “the habitat of trout and salmon”. Trout and salmon are mentioned in section 7(h) of the RMA and Policy 10 of the NPSFM2020 protects the habitat of trout and salmon. However, I have included this amendment in the new policy, POL TANK 61.
247. I recommend rejecting submission point 123.24 because providing for values, relationship of Māori with their water, ki uta ki tai and safeguarding life-supporting capacity are covered in TANK OBJ 2.
248. I recommend rejecting submission point 195.19 as community resilience is included in TANK OBJ 3 and this covers social, economic and community well being and cultural and economic factors.
249. I recommend rejecting submission point 201.18 because objectives are about environmental outcomes. The Council does not need to be added as the addition will not clarify what the objective is trying to achieve.
250. Submission point 233.5 seeks to include changes in habitat for human and animal disease vectors to TANK OBJ 3 because warming and changes in rainfall are predicted to impact on the risks of vector borne disease. I recommend rejecting this submission point because Biosecurity Act 1993 is the legislation that covers preventing and managing risks from diseases and the submitter did not provide any information about human and animal disease vectors.
251. The changes I am recommending and the submission points that give scope for the changes in the objective below.

### Recommendations

252. I recommend submission points 13.2, 58.5, 126.7, 193.16, 194.19, 210.22, 229.4 and 210.23 are accepted in part for the following reasons:
- a. TANK OBJ 3 helps to achieve the purpose of the RMA through section 5(2)(a) of the RMA and meeting the needs of future generations, and section 7 of the RMA.

- b. Policy 4 of NPSFM2020 states climate change needs to be managed as part of New Zealand's response to climate change
- c. PPC9 includes climate change in TANK OBJ 3 and POL TANK 61 (new policy)
- d. PPC9 includes other objectives and policies that consider climate change including TANK OBJ 18 and POL TANK 54, 56 and 57.
- e. POL 57 covers climate change impacting on future water demand.
- f. Trout and salmon are mentioned in section 7(h) of the RMA and Policy 10 of the NPSFM2020 protects the habitat of trout and salmon.

253. I recommend submission points 123.24, 195.19, 201.18 and 233.5 are rejected for the following reasons:
- a. some of the suggested amendments sought are covered in TANK OBJ 2 and other objectives
  - b. The Biosecurity Act 1993 covers diseases.

## 12.9 Catchment objectives, TANK OBJ 10-14

### Submission points

254. There are 54 submission points about the catchment objectives, TANK OBJ 10-14. Submission points for this topic are contained in table 12.9 in Appendix 3.
255. The following evaluation may not refer to every submission point but I have considered each submission point in this topic before making my recommendations.

### Submission point requests

256. These submission points seek:
- a. to support objectives 10-14 (11 points)
  - b. to support catchment collectives
  - c. to merge objectives and policies across all catchments where they address the same issue
  - d. amendments to the objectives to include social infrastructure, trout and salmon, industrial and commercial and the life supporting capacity of water and ecosystems
257. I will discuss general points on the catchment objectives and then I will discuss submission points on TANK OBJ 10, 11, 12, 13 and 14.
258. The catchment objectives seek to promote the sustainable management of the freshwater resources in the four catchments. These objectives help to achieve the purpose of the RMA and they give effect to *Chapter 3.1A Integrated Land Use and Freshwater Management* of the RPS, particularly Objective LW1, LW2 and LW3. I understand the catchment collectives were discussed by the TANK Group and the objectives outline the values for the catchments. I note the submission points that support TANK OBJ 10-14 and I recommend accepting them.
259. Submission points 123.32, 132.24 and 132.12 seek that objectives and policies are merged across all catchments where they address the same issue. I recommend rejecting these submission point as the TANK Group decided to recognise spatial variations of catchments and their values<sup>8</sup>. TANK OBJ 10-14 outline outcomes and values that are sought for each catchment and I recommend that these objectives are retained. Submission point 132.26 seeks accountability for effects from land use and water related activities within catchments

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<sup>8</sup> Collaborative decision making for freshwater resources in the Greater Heretaunga and Ahuriri Region: TANK Group Report 1 Interim Agreements

being regulated through the RRMP. I recommend to accept this submission point in part as PPC9 does regulate land use and impacts on freshwater.

### Recommendations

260. I recommend that submission points 3.1, 8.1, 8.2, 13.3, 13.4, 13.5, 13.6, 13.7, 108.1, 119.5, 124.1, 124.2, 142.9, 142.10, 194.27, 194.24, 194.25, 194.26, 195.26, 203.5 and 231.1 are accepted because:
- a. These points support the catchment objectives
  - b. they help achieve the purpose of the RMA
  - c. they give effect to Objective LW1, LW2 and LW3 of the RPS Chapter 3.1A Integrated Land Use and Freshwater Management.
261. I recommend that submission points 123.32, 132.24 and 132.12 are rejected because the TANK Group decided to recognise spatial variations of catchments and the objectives will help to ensure values sought for each catchment are achieved.
262. I recommend that submission point 132.26 is accepted in part because PPC9 does look at land use and impacts on freshwater and PPC9 will be part of the RRMP when it is made operative.

#### **12.9.1 TANK OBJ 10**

263. There are six submission points that are seeking changes to TANK OBJ 10. Two of these submission points are seeking amendments to widen the objective to include more than primary production and to include social infrastructure. I recommend rejecting these submission points because social infrastructure is covered by TANK OBJ 10 10 e) and including more than primary production does not line up with the hierarchy of obligations in Te Mana o te Wai which is found in section 1.3(5) of the NPSFM2020. The hierarchy of obligations prioritises the health and wellbeing of the water, the health needs of people and then the ability of people and communities to provide for their social, economic and cultural well-being. I am recommending to reject the other submission points that are seeking to line TANK OBJ 10 up with TANK OBJ 11-13 and seeking to amend the values in TANK OBJ 10 that were decided by the TANK Group. I am recommending to reject submission point 58.8 as although trout and salmon are included section 7(h) of the RMA and Policy 10 of the NPSFM2020 the TANK Group did not include them in the objective as a value or outcome for the Ahuriri Catchment.

### Recommendations

264. I recommend that submission points 12.2, 58.8, 126.13, 135.9, 194.23, 197.3, 201.23 are rejected because:
- a. they do not align with the hierarchy of obligations in Te Mana o te Wai which is covered in section 1.3 of the NPSFM2020
  - b. they do not align with the values for the Ahuriri Catchment that were decided by the TANK Group.
265. I recommend that submission point 229.8 is accepted in part because the Council is seeking to enhance the ecology of Ahuriri estuary which is reflected in TANK OBJ 10 b). I am not recommending any changes to PPC9 because of this recommendation.

#### **12.9.2 TANK OBJ 11**

266. There are seven submission points seeking to amend TANK OBJ 11. These submission points seek to include rural residential and the life supporting capacity of water and ecosystems as the first sub bullet point amongst other things. I recommend rejecting these

submission points because TANK OBJ 11 as notified lines up with the hierarchy of obligations in Te Mana o te Wai which discusses the health and wellbeing of the water, the health needs of people and then the ability of people and communities to provide for their social, economic and cultural well being. The life supporting capacity of water is covered by section 5(2)(b) of the RMA and it does not need to be duplicated in this objective. TANK OBJ 11 as notified lines up with the values and outcomes decided by the TANK Group for the Ngaruroro River Catchment.

267. However, I am recommending to accept submission point 29.52 as it has recognised a typing error that I recommend is fixed.

#### Recommendations

268. I recommend that submission points 3.13, 6.6, 12.3, 135.10, 142.7 and 201.24 are rejected because:
- a. they do not align with the hierarchy of obligations in Te Mana o te Wai which is covered in section 1.3 of the NPSFM2020
  - b. they do not align with the values for the Ngaruroro River Catchment that were decided by the TANK Group
  - c. the life supporting capacity of water is covered in section 5(2)(b) of the RMA and it does not need to be duplicated in this objective.
269. I recommend that submission point 29.5 is accepted because this point is seeking to fix a typing error in the plan and I recommend that the typing error is fixed.

#### **12.9.3 TANK OBJ 12**

270. There are four submission points seeking amendments to TANK OBJ 12. These points are seeking to include social infrastructure, industrial and commercial water needs and the life supporting capacity of water and ecosystems. I recommend rejecting these points for the reasons outlined in TANK OBJ 10 and TANK OBJ 11.
271. I recommend that submission point 29.53 is accepted because it has recognised a typing error that needs to be fixed.

#### Recommendations

272. I recommend rejecting submission points 12.4, 135.11 and 201.25 because:
- a. they do not align with the hierarchy of obligations in Te Mana o te Wai which is covered in section 1.3 of the NPSFM2020
  - b. they do not align with the values for the Tūtaekurī River Catchment that were decided by the TANK Group
  - c. the life supporting capacity of water is covered in section 5(2)(b) of the RMA and it does not need to be duplicated in this objective.
273. I recommend accepting submission point 29.53 as is seeking to fix a typing error.

#### **12.9.4 TANK OBJ 13**

274. There are four submission points that are seeking to amend TANK OBJ 13. These points are seeking to include social infrastructure, industrial and commercial water needs and the life supporting capacity of water and ecosystems. I recommend rejecting these points for the reasons outlined in TANK OBJ 10 and TANK OBJ 11.

#### Recommendations

275. I recommend that submission points 12.5, 135.12, 142.8, 201.26 are rejected because:
- they do not align with the hierarchy of obligations in Te Mana o te Wai which is covered in section 1.3 of the NPSFM2020
  - they do not align with the values for the Karamū and Clive Rivers Catchment that were decided by the TANK Group
  - the life supporting capacity of water is covered in section 5(2)(b) of the RMA and it does not need to be duplicated in this objective.

#### **12.9.5 TANK OBJ 14**

276. There are nine submission points that are seeking amendments to TANK OBJ 15. There are similar points about social infrastructure and the life supporting capacity of water that were discussed in TANK OBJ 10-13. I recommend rejecting these points based on the discussion in those objectives. There are five other submission points seeking amendments to this objective from two submitters. Submitter 123 wants to delete TANK OBJ 14 and replace it with two new objectives. TANK OBJ 14 and TANK OBJ 16 cover what the submitter is seeking. I recommend to reject these submission points. Submitter 132 seeks that water quality is protected from degradation and I recommend to accept in part these two submission points because this is covered by TANK OBJ 14 14.

#### Recommendations

277. I recommend that submission points 12.6, 123.3, 123.34, 123.35, 135.13, 201.27 are rejected because:
- they do not align with the hierarchy of obligations in Te Mana o te Wai which is covered in section 1.3 of the NPSFM2020
  - they do not align with the values for the groundwater that is connected to Ngaruroro Tūtaekurī and Karamū Rivers that were decided by the TANK Group
  - the life supporting capacity of water is covered in section 5(2)(b) of the RMA and it does not need to be duplicated in this objective.
278. I recommend that submission points 132.10 and 132.11 are accepted in part because ensuring water quality is protected from degradation is covered in TANK OBJ 14 and in other parts of PPC9.

## **12.10 Glossary**

#### Submission points

279. There are 15 submission points on the Glossary which is Chapter 9 of the RRMP that I discuss in this section. Submission points for this topic are included in table 12.10 in Appendix 3.
280. The following evaluation may not refer to every submission point but I have considered each submission point in this topic before making my recommendations.
281. Some points on the Glossary are discussed in other sections, for example Section 15.6 in the water quantity section.

#### Submission points requests

282. These submission points seek:
- new definitions for Groundwater Dependent Ecosystem, maintained, enhanced, restored, TANK waterbodies and other things
  - to include a glossary of te reo terms

- c) to align Māori terminology with that used in the RPS
- d) support for definitions including support for Registered Drinking Water Supply, Source Protection Zone and Source Protection Extent.

### Discussion

283. There are three submission points that support definitions that have been proposed to be included in the Glossary through PPC9. The points support the Registered Drinking Water Supply (or Supplies) definition, the Source Protection Zone definition and the Source Extent Protection Extent definition. I recommend to accept these submission points.
284. There are several submission points that seek to include new definitions into the RRMP Glossary for PPC9. These definitions are for Groundwater dependent ecosystem, Maintained, Enhanced, Restored, TANK waterbodies, Regionally Significant Industry, Registered Drinking Water Supply and other things. I think the submitters would like to include the terms for the PPC9 area and not include them into the Glossary for the whole region however I am unclear on this. I do not recommend to accept these submission points as inputting these terms into the Glossary would mean they would apply to the whole region and I can see no analysis of how these terms would fit in with the rest of the RRMP. For example the definition of maintained talks about water quality and quantity and ecosystem health but this might be too narrow a definition for the RRMP. Furthermore, these terms are self-explanatory and I do not think they need to be defined in the RRMP.
285. There is a submission point asking for a Glossary of Terms to be included. I recommend accepting this submission point in part because there is a Glossary included in PPC9.
286. There is a submission point asking for local authority to be defined. I recommend rejecting this submission point as Local Authority is defined in the Local Government Act 2002 and that definition is understood across New Zealand and it does not need to be included in the RRMP.
287. There are two submission points seeking to align Māori terminology with that used in the RPS and the RRMP, to reflect appropriate language as identified by tangata whenua and that te reo Māori should be defined by tangata whenua. I recommend that these submission points are accepted in part but I am unable to recommend any changes to PPC9 as the submission points are seeking that tangata whenua should be defining any changes to te reo Māori. I invite the submitter to provide any terms that need to be changed in PPC9 to align it with the RPS at the hearing.
288. There is a submission point seeking a Glossary of te reo terms. I recommend to reject this submission point but I note that submission points I mention in the paragraph above might aid this submitter.

### Recommendations

289. I recommend submission points 203.33, 203.34 and 203.35 are accepted because they support the Registered Drinking Water Supply (or Supplies) definition, the Source Protection Zone definition and the Source Extent Protection Extent definition.
290. I recommend submission points 82.1, 97.81, 123.162, 123.163, 123.164, 123.165, 126.36 and 207.37 are rejected because there is no analysis of how the terms would fit into the RRMP.
291. I recommend submission point 24.3 is accepted in part because PPC9 does include a Glossary.

292. I recommend that submission point 58.3 is rejected because Local Authority is already defined in the Local Government Act 2002.
293. I recommend that submission points 120.143 and 120.144 are accepted in part because I agree that te reo Maori terms in PPC9 should align with the RPS and the RRMP. However I am unable to recommend any changes in PPC9 from these submission points as the submission points are seeking that te reo Māori should be defined by tangata whenua. I invite the submitter to provide any terms that need to be changed at the hearing.

## **13. Cultural**

### **13.1 Rangatiratanga**

#### **13.1.1 Regional Council Functions and Performance**

##### Submission Points

294. There are four submissions which provide comment on the functions and performance of the Council. Submission points for this section are contained in, table 3.1 in Appendix 3.
295. The following evaluation may not refer to every submission point, but I have considered each submission point in this topic before making my recommendations.

##### Submission point requests

296. These submission points comment on the following:
- a. concerns with how wai is managed by the Council
  - b. the resource has been mis-managed
  - c. the Council should commit to annual cultural auditing until desired outcomes are met
  - d. whether the Council's role is to manage or utilise water as a commodity as though it has ownership rights
  - e. local authorities are unable to impose restrictions regarding water allocation for bottling water, and this emphasises the inequitable relationship between iwi, hapū and government in providing governance and management of the taonga.

##### Discussion

297. The concern at the Council's approach to the management of the water resource prior to the notification of PPC9 is noted. The notification of PPC9 is the culmination of significant engagement and also reflects the outputs of additional studies into groundwater, which indicated a high level of interconnection between waterways and the aquifer under the Heretaunga Plains. This research debunked the previous view that groundwater was an infinite water resource. While this approach has meant a protracted timeframe for the plan development process, it means that the PPC9 is able to suitably respond to the emerging data regarding the hydrological nature of the resource. On this basis, I consider that PPC9 provides a suitably adaptive response to emerging data.
298. The request for the Council to commit to annual cultural auditing is noted, however this organisation-wide request falls beyond the scope of PPC9. The development of the Plan Change has been through an evolving and responsive consultation and engagement process, and in my view the outcome takes into account the principles of te Tiriti o Waitangi. On this basis, I do not consider the requested relief to be appropriate or

necessary within the context of PPC9. The Long Term Plan process may be a more appropriate avenue to seek resourcing for annual cultural auditing.

299. The Council's roles and responsibilities are set out in both the Local Government Act and the RMA. Section 30 of the RMA identifies the following functions for regional councils:
- establishing, implementing and reviewing objectives, policies and methods to achieve integrated management of natural and physical resources (s30(1)(a))
  - control land use for soil conservation, maintaining and enhancing the quality and quantity of water in water bodies and their ecosystems, and avoiding or mitigating natural hazards (s30(1)(c))
  - controlling the taking, use, damming and diversion of water, and the control of the quantity, level, and flow of water in any water body, including setting maximum or minimum levels or flows, and the rates of change of levels or flows (s30(1)(e))
  - controlling the discharges of contaminants into or onto land or water, and discharges of water into water (s30(1)(f))
  - establishing rules to allocate the taking or use of water and/or the capacity of air or water to assimilate the discharge of a contaminant (s30(1)(fa))
  - controlling the introduction or planting of any plants for soil conservation, maintaining or enhancing the water quality or quantity, and avoiding natural hazards (s30(1)(g)).
300. On this basis, I consider the ability of the Council to manage the water resource is a responsibility required by legislation.
301. Water bottling accounts for 0.12% of the Heretaunga Plains Aquifer Resource, and allocation is managed by the Council through consents. There is no more water that can be allocated for bottling on the Heretaunga Plains currently, just as there is no allocation available for other new uses of ground water recognising that the Heretaunga Aquifer is over allocated. On this basis, I do not consider the relief sought in the submission to be appropriate.

### Recommendation

302. I recommend that submission point 168.2, insofar as it relates to the Council's mismanagement of water, be rejected. While the TANK Plan Change represents a shift towards a more catchment-based planning approach, this has occurred in conjunction with changing technical advice and in giving effect to the NPSFM2017 and RPS.
303. I recommend that submission point 223.7 be rejected. I consider that the relief sought goes beyond the scope of the TANK Plan Change.
304. I recommend that submission point 4.1 be rejected. I consider that section 30 of the RMA provides a clear mandate for the Council's function in respect of this resource.
305. I recommend that submission point 4.5 be rejected. As set out above, I consider that through the Council's regulatory function it manages the allocation of water for water bottling just as it is for any other use.

### **13.1.2 Ownership**

#### Submission Points

306. There are six submission points that set out concerns regarding ownership of the water resource. Submission points for this section are contained in table 13.1 in Appendix 3.

307. The following evaluation may not refer to every submission point, but I have considered each submission point in this topic before making my recommendations.

#### Submission point requests

308. These submission points comment that PPC9 seeks to manage wai as if it is an asset that is subject to ownership, which is contrary to the findings of the Waitangi Tribunal. These submission points refer to Ngati Kahungunu ki Heretaunga, Ngati Kahungunu ki Tamatea and Ngati Kahungunu ki Ahuriri, Ngati Rahunga I te Rangi, and to the Kawarewa and Paritua Streams.

#### Discussion

309. I do not consider that PPC9 assigns proprietary rights in respect of wai. Instead, I consider that PPC9 seeks to manage access to and use of the resource for a wide range of purposes, in accordance with the Council's obligations under section 30 of the RMA, as set out below.

- establishing, implementing and reviewing objectives, policies and methods to achieve integrated management of natural and physical resources (s30(1)(a))
- control land use for soil conservation, maintaining and enhancing the quality and quantity of water in water bodies and their ecosystems, and avoiding or mitigating natural hazards (s30(1)(c))
- controlling the taking, use, damming and diversion of water, and the control of the quantity, level, and flow of water in any water body, including setting maximum or minimum levels or flows, and the rates of change of levels or flows (s30(1)(e))
- controlling the discharges of contaminants into or onto land or water, and discharges of water into water (s30(1)(f))
- establishing rules to allocate the taking or use of water and/or the capacity of air or water to assimilate the discharge of a contaminant (s30(1)(fa))
- controlling the introduction or planting of any plants for soil conservation, maintaining or enhancing the water quality or quantity, and avoiding natural hazards (s30(1)(g)).

310. On this basis, I consider that the Plan Change does not seek to attribute proprietary rights and meets the requirements of the RMA in respect of the Council's obligation to manage wai as a natural resource.

#### Recommendation

311. I recommend that submission points 4.2, 64.2, 148.2, and 176.1 be rejected, and that submission points 174.2 and 181.1 are rejected insofar as they relate to ownership of wai. PPC9 does not seek to assign proprietary rights to water resources, and instead simply implements the provisions of the RMA in an appropriate manner for the Council to meet its responsibilities under section 30.

### **13.1.3 Mana Whenua Rights and Governance**

#### Submission Points

312. There are 11 submission points that relate to mana whenua rights and governance. Submission points for this section are contained in table 13.1 in Appendix 3.

313. The following evaluation may not refer to every submission point, but I have considered each submission point in this topic before making my recommendations.

## Submission points requests

314. These submission points comment on the following:
- a. the provision of an enhanced mandate for mana whenua rights and governance as they relate to PPC9. They seek the adoption of a collaborative approach, and/or the devolution of services to hapū driven, marae-based, Crown funded, fully resourced environmental research units, along with enhanced monitoring responsibilities for both surface and groundwater
  - b. acknowledgement of kaitiakitanga of mana whenua over wai
  - c. all future water management and allocation should come under the authority of any new structure that provides a framework for the co-governance of water
  - d. concerns around low and shallow rivers, the destruction of waterways, and the consideration of Māori in PPC9
  - e. concerns regarding the management and control of the Ngaruroro Awa, the interest of ancestral waters, its people and taonga tuku iho
  - f. Protection is requested for a spring and bore on the submitter's property, where their papakainga and home is established on the whenua that sources drinking water from this well.

## Discussion

315. A collaborative approach was adopted for the formulation of PPC9, as set out in the Section 32 Report. The plan development was community based and included input by more than 30 community representatives. A group was formed in 2012 and included tangata whenua, alongside other stakeholders. Its goal was to provide consensus stakeholder recommendations regarding objectives and policies for the Plan Change. This was the Mana Whenua Working Group which became the Treaty Partners Working Group.
316. Preparation of an Iwi and Hapū Engagement Plan commenced in 2015, however was not completed.
317. Te Taiwhenua o Heretaunga was included in the Community Reference Group that was established in 2018 to inform one of the strands of the Social and Cultural Impact Assessment to provide an assessment of community perceptions, questions and feedback about the then draft PPC9.
318. Since the Plan Change preparation commenced in 2012, there has been extensive other engagement with wider tangata whenua (rather than just those representatives that have been involved in groups). This engagement has largely taken forms other than traditional hui, and includes:
- Providing support to tangata whenua in terms of research and report development including exploring sediment removal or management options for Karamū Stream with Kohupatiki Marae
  - Empowering tangata whenua participation in meetings
  - Resourcing tangata whenua and/or their consultants to review and provide feedback to the draft plan
  - Topic-based workshops to ensure an understanding of complex science presentations
  - Reports have been jointly commissioned to inform the development of the TANK Plan in terms of tangata whenua values, in addition to Iwi Management Plans
  - The Council funded an advocate for Te Taiwhenua o Heretaunga to provide regular reports to mana whenua regarding one on one engagement with Council staff
  - The Council funded an advocate for Mana Ahuriri to assess whether the values of Mana Ahuriri were reflected in PPC9

- The Council established a fixed term in-house position for a TANK advisory support/Māori research advisor, to prepare a report regarding the alignment of cultural values with the Draft PPC9.
319. In addition, follow up meetings were regularly held after TANK meetings to revisit issues that were discussed and to provide an opportunity for more in-depth consideration of policy direction to the Treaty Partners Working Group.
320. Finally, a separate round of pre-notification consultation was undertaken on Version 8 of PPC9 with iwi authorities and other organisations. Responses were received from Mana Ahuriri Trust, Heretaunga Tamatea Settlement Trust, Te Taiwhenua o Heretaunga and Ngāti Kahungunu Iwi Incorporated, but not from Tūwharetoa Māori Trust Board, Te Taiwhenua o Whanganui o Orotu, Ngāti Parau Hapū Trust and Maungaharuru Tangitu Trust. Some changes were made to PPC9 in respect of the feedback received, however not all feedback was incorporated. The feedback not included has formed the basis for other submissions received in respect of PPC9.
321. On the basis of the pre-notification consultation that was carried out in respect of PPC9, I consider that the consultation undertaken meets the intent of the requirements of the RMA. In addition, the approach taken to the preparation of PPC9 accords with the directives provided by the RMA. Despite this, I acknowledge that the consultation that did occur is unlikely to have been undertaken at such a fine grain as to capture the views of all individual members of the various iwi groups and note that this more formal step in the RMA Schedule 1 plan-making process provides that opportunity. Further, given the nature of PPC9, it has not been possible to embed the outputs of the background consultative process within the Plan Change itself, which has in turn contributed to the concerns set out in this group of submissions.
322. Any future changes to the management of wai will be subject to a consultative process, similar to that utilised for the development of PPC9, whereby mana whenua are involved in the development of the Plan. I consider it appropriate to note this request, should any changes to the planning regime occur in the future.
323. The Plan Change seeks to address existing issues regarding water quantity and allocation, impacts on watercourses and water quality. As set out above and provided in greater detail below, mana whenua were involved in the preparation of both the Plan Change and the supporting materials. As well as meeting consultation requirements under the RMA this is also an acknowledgment of the kaitiakitanga that mana whenua have over wai. Although this submission point does not identify any specific relief as required, I consider it appropriate to note the concerns identified in the submission.
324. Finally, one submission has been received that seeks protection for a spring and bore on the submitter's property. The submitter's whānau whakapapa to the spring is noted, however PPC9 does not seek to provide proprietary rights, and thus cannot provide the specific protection sought. PPC9 recognises the interconnected nature of ground and surface water within the catchments, and provides a regulatory framework for the management of water allocation in the catchments. On this basis, it is not considered appropriate to amend PPC9 to provide protection in the manner sought. It is further considered that options outside of the resource management process may be open to the submitter, and these should be further pursued.

### Recommendation

325. I recommend that submission points 4.7, 16.12, 60.2, 111.13, 168.3, 172.3, and 182.3 be rejected, and that submission point 172.2 be rejected insofar as it relates to the enhancement of mana whenua rights and governance of wai. Whilst I note the concerns

expressed, I consider the approach taken to the formulation of PPC9 to be appropriately collaborative, within the requirements of the RMA and other statutory instruments. As such I do not consider that PPC9 fails to appropriately account for Māori values.

326. I recommend that submission point 4.8 be accepted by noting the request for future mana whenua involvement in the planning process. This approach reflects the current requirements of the RMA.
327. I recommend that submission point 57.2 be rejected. While the submitter's concerns with the environmental results that have occurred as a result of the previous Plan approach are noted, the submission does not request any specific relief to give effect to these concerns, and does not request any changes to specific provisions of PPC9.
328. I recommend that submission point 138.6 be rejected. PPC9 provides a management framework for wai that places controls on the taking and use of water, and will thus provide the relief sought.

### **13.1.4 Implementation of a Joint Management Approach**

#### Submission Points

329. There are 22 submission points that relate to the implementation of a joint management approach. Submission points for this section are contained in table 13.1 in Appendix 3.
330. The following evaluation may not refer to every submission point, but I have considered each submission point in this topic before making my recommendations.

#### Submission point requests

331. These submission points are seeking:
- a. a partnership approach by Treaty partners; a sharing of power consistent with Te Mana o te Wai where tangata whenua co-design, co-own, co-govern, co-ordinate, co-operate and communicate effectively
  - b. proper recognition/inclusion of tangata whenua; the priority focus and measures for Te Ao Pakeha values and commerce are not comprehensive enough to uphold the Council's responsibilities
  - c. mana whenua to have greater say over management and monitoring of water
  - d. better manaakitanga for Haukunui o Heretaunga and mana whenua
  - e. maintain a percentage of water for those in need at all times
  - f. provide guardianship and work as one to look after and improve the Bridge Pa streams and the taiao within 3 to 5 years
  - g. the establishment of a collaborative relationship with the Council
  - h. sharing of power and decision-making for the governance, management, consenting and monitoring of water
  - i. for decision-making around water allocation, that our whanau are able to have a say in processes that allocate water from our awa or from the aquifers within our whenua
  - j. Schedule 28, 29 & 30 must be re-written to include co-own, co-govern, co-manage alongside tangata whenua, mana whenua, tangata ahi kaa, which would form a co-governance body to oversee the implementation, monitoring and allocation of permits, if any, of all catchments within the Kahungunu rohe, including catchments that are presently in the HBRC and Hastings District Council database or those that have been formed by other means. Schedule 36 should also be rewritten in certain areas and to be managed alongside tangata whenua
  - k. implementation should be subject to clear policies and regulation which do not abdicate council statutory duties to a 3<sup>rd</sup> party and ideally are co-managed or co-

governed in partnership with Ngati Kahungunu (under Mana Whakahono a Rohe or other mechanisms).

## Discussion

332. A strong theme in the submissions to PPC9 that were received is the need for a collaborative approach to both the development of the Plan Change, and its implementation.
333. Under section 30 of the RMA, the Regional Council is responsible for the preparation of a plan that controls the taking, use, damming and diversion of water, the control of the quantity, level, and flow of water in any water body (including setting maximum or minimum levels or flows, and the rates of change of levels or flows), and the discharge of contaminants into or onto land or water, along with establishing rules to allocate the taking or use of water and the capacity of water to assimilate the discharge of a contaminant. Under section 8 of the RMA, all persons exercising functions under it must take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi).
334. On this basis, I consider the responsibility of the Council to manage the wai resource is required by legislation, and that the Council is required to take the principles of Te Tiriti into account in performing this function. Schedule I of the RRMP records the Council's interpretation of the principles of Te Tiriti.
335. These principles have been embedded in the consultation and collaboration that has been undertaken in the formulation of PPC9. The collaborative approach in the development of PPC9 is set out in the Section 32 Report that accompanied the notification of the Plan Change and is summarised below.
336. Plan development included a community-based approach that included input by more than 30 community representatives. The TANK Group was formed in 2012 and included tangata whenua, alongside other stakeholders. Its goal was to provide consensus stakeholder recommendations regarding objectives and policies for the Plan Change.
337. An Iwi and Hapū Engagement Plan was started in 2015 with mana whenua, however was not completed. It was intended to amalgamate and bolster the mana whenua collective voice to ensure that tangata whenua values and interests were understood and appropriately reflected in the Plan Change.
338. Te Taiwhenua o Heretaunga was included in the Community Reference Group that was established in 2018 to inform one of the strands of the Social and Cultural Impact Assessment to provide an assessment of community perceptions, questions and feedback about the then draft PPC9.
339. Since the Plan Change preparation commenced in 2012, there has been extensive engagement with wider tangata whenua (rather than just those representatives that have been involved in the TANK Group). This engagement has largely taken forms other than traditional hui, and includes:
- Providing support to tangata whenua in terms of research and report development including exploring sediment removal or management options for Karamū Stream with Kohupatiki Marae
  - Empowering tangata whenua participation in meetings
  - Resourcing tangata whenua and/or their consultants to review and provide feedback to the draft plan
  - Topic-based workshops to ensure an understanding of complex science presentations

- Reports have been jointly commissioned to inform the development of the TANK Plan in terms of tangata whenua values, in addition to Iwi Management Plans
- The Council funded an advocate for Te Taiwhenua o Heretaunga to provide regular reports to mana whenua regarding one on one engagement with Council staff
- The Council funded an advocate for Mana Ahuriri to assess whether the values of Mana Ahuriri were reflected in PPC9
- The Council established a fixed term in-house position for a TANK advisory support/Māori research advisor, to prepare a report regarding the alignment of cultural values with the Draft PPC9.

340. In addition, follow up meetings were regularly held after TANK meetings to revisit issues that were discussed and to provide an opportunity for more in-depth consideration of policy direction.
341. Finally, a separate round of pre-notification consultation was undertaken on Version 8 of PPC9 with iwi authorities and other organisations. Responses were received from Mana Ahuriri Trust, Heretaunga Tamatea Settlement Trust, Te Taiwhenua o Heretaunga and Ngāti Kahungunu Iwi Incorporated, but not from Tūwharetoa Māori Trust Board, Te Taiwhenua o Whanganui o Orotu, Ngāti Parau Hapū Trust and Maungaharuru Tangitu Trust. As set out in the Section 32 Report section on 'Advice Received from Iwi Authorities and Response to that Advice', changes were made to PPC9 in respect of some of the feedback received, however not all feedback was incorporated. Some of the feedback that has not been included in PPC9 has formed the basis for other submissions received, and these submissions are addressed in other sections of the report.
342. Aside from the consultation and engagement that has occurred in the preparation of PPC9, a Draft Implementation Plan has also been prepared and released at the same time PPC9 was notified in accordance with proposed POL TANK 27. The Draft Implementation Plan includes a number of actions for mana whenua, both as a lead agency, or in a partnership role. This approach enables mana whenua to be involved in the non-regulatory approaches that arise as a result of PPC9, and also provides the opportunity to address some concerns raised during pre-notification consultation and engagement in an alternative manner. Many of the actions will be best delivered in a collaborative manner, and I consider these to demonstrate the Council's commitment to manaakitanga and providing mana whenua with an opportunity to both lead and to be involved in parts of the implementation process.
343. Finally, improving the regulatory environment around water allocation will enable better management of the wai resource that is available, thus ensuring that availability of water is improved.

### Recommendation

344. I recommend that submission points 65.1, 65.2, 111.5, 111.7, 120.4, 183.4, 148.3, 149.2, 156.3, 161.3, 182.4, 182.5, 183.7, 191.7, 202.1, 202.10, 202.2, 225.2, 147.9, 225.5, 225.11 and 120.98 be accepted in part insofar as PPC9 does provide an enhanced mandate for mana whenua rights and as no changes are requested to specific provisions of PPC9. I consider that PPC9 has resulted from an extensive consultation process, and that opportunities have been identified to enable a continued partnership approach to managing the resource as part of the non-regulatory component of PPC9 and in particular through the actions identified in the Draft Implementation Plan.

## 13.2 Te Tiriti o Waitangi

### 13.2.1 Waitangi Tribunal

#### Submission Points

345. There are four submissions that consider that additional consideration should be provided to the Waitangi Tribunal process and outputs. Submission points submissions for this section are contained in table 13.2 in Appendix 3.
346. The following evaluation may not refer to every submission point, but I have considered each submission point in this topic before making my recommendations.

#### Submission point requests

347. These submission points comment on the following:
- the Waitangi Tribunal's findings in WAI 2357 and 2358, along with the Tribunal's National Fresh Water and Geothermal Resources Inquiry Reports Stage 1 and 2
  - require engagement with hapū to implement Post Settlement Treaty strategies.

#### Discussion

348. As set out above, I do not consider that PPC9 assigns proprietary rights contrary to the Waitangi Tribunal's findings in respect of wai. Instead, PPC9 seeks to manage access to and use of the resource for a wide range of purposes, in accordance with the Council's obligations under section 30 of the RMA. Further, insofar as the Tribunal's findings are not binding on the Crown, they are similarly not binding to the plan making process under the RMA. In developing PPC9, the Council has been required to take into account the principles of the Treaty of Waitangi, as set out in the Section 32 Report, and I consider that the Plan Change accords with those principles.
349. Notwithstanding this, the development of PPC9 has been undertaken in conjunction with significant mana whenua engagement. As set out above, PPC9 does not allocate ownership of the resource. Accordingly, I do not consider that amendment to PPC9 is required to reflect this concern.
350. PPC9 is not required to implement any settlement achieved, however the outcomes of the settlement process may impact on the resource management issues throughout the region. Despite this, PPC9 does ensure that some water in the Ngaruroro and Tūtaekurī catchments will be made available for the development of Māori economic, cultural and social wellbeing returned to a Post-Settlement Governance Entity through a Treaty Settlement. The Council continues to rely on its relationship with mana whenua to support this aspect of the process. The appropriate process for the Council to consider engagement with hapū to implement post settlement Treaty strategies would be through the Long Term Plan as this is a matter of financial resourcing rather than regional plan regulation.

#### Recommendation

351. I recommend that submission points 4.4, 52.2 and 133.2 be rejected. I consider that PPC9 has been developed in accordance with the provisions of the RMA, which require consideration of the principles of the Treaty.
352. I recommend that submission point 111.19 be rejected; I do not consider the Regional Plan to be an appropriate place to advance post settlement treaty strategies.

## 13.2.2 Principles of te Tiriti

### Submission Points

353. There are 21 submission points that relate to aspects of the principles of te Tiriti o Waitangi. Submission points for this section are contained in table 13.2 in Appendix 3.
354. The following evaluation may not refer to every submission point, but I have considered each submission point in this topic before making my recommendations.

### Submission point requests

355. These submission points make the following comments:
- a. recognise and provide for Treaty rights and interests in the TANK Catchment
  - b. Principles of te Tiriti as acknowledged in Schedule 1 of the RRMP should be taken into account and given effect, with particular reference to the principles of active protection and kawanatanga, and active participation
  - c. encouraging and enabling the management of wai within TANK Catchment in accordance with traditional Māori values, rangatiratanga and self-determination
  - d. Change 9 has shown the disregard Council has in providing for the relationship of Māori with their ancestral waters and other taonga
  - e. without proper input from tangata whenua, PPC9 only benefits one Treaty partner
  - f. concerns relating to the Karewarewa and Paritua awa.

### Discussion

356. In the preparation of Change 9 through the TANK process, mana whenua for the TANK Catchment were supported in the measures they wanted to progress, including additional technical support, investigating and reporting on values and attributes, providing pre- and post-meeting discussion opportunities, and considering how mātauranga Māori is to be embedded into environmental monitoring. Additional work was also done to explore a wider range of management options for the Clive/Karamū River to support the aspirations of mana whenua hapū for that river.
357. I consider that the protection of Māori values is evident throughout the plan and can be seen in the policies, such as by:
- recognising and supporting monitoring according to mātauranga Māori;
  - recognising the need to manage attributes collectively (TANK OBJ 5 was in response to iwi concerns about attribute management);
  - recognition of the values of mahinga kai, recreational and cultural values of whitebait and other indigenous fish such as patiki and practices of Uu in various objectives;
  - recognition of wetlands and lakes as taonga;
  - mana whenua engagement in development of stream flow maintenance schemes;
  - ensuring that the freshwater quality objectives will enable needs of identified Māori values to be met;
  - enabling transfer of water to marae and papakāinga to meet community needs;
  - priority allocations for papakāinga;
  - wetland and lake management to improve values including for cultural uses related to tikanga Māori and mahinga kai;
  - protection of outstanding values (primarily by Change 7 but supported by the PPC9 wetland and lake provisions) of Kaweka Lakes, Lake Poukawa and Pekapeka Swamp and the Ngamatea East Swamp;
  - high flow reservation for improvement of Māori well-being including by providing access to water for use by marae and papakāinga and the development of returned

land to a Post Settlement Governance Entity (PGSE) through Treaty Settlement;  
and

- water conservation and efficiency for future generations and for mauri and ecosystem health; and
- management of river flows to meet objectives for aquatic ecosystem health, mauri tikanga Māori values and instream values for the Ngaruroro, Tūtaekurī and Karamū Rivers and the Ahuriri freshwater streams. This has led to reduced allocation limits for the Tūtaekurī and Ngaruroro rivers to reduce abstraction pressures on instream values and the minimum flow of Tūtaekurī river has been increased.

358. As set out in the section above, Schedule I of the RRMP records the Council's interpretation of the principles of Te Tiriti. The Section 32 Report builds on this interpretation at Section 3.1.4.
359. I concur with that assessment, and accordingly consider that PPC9 appropriately addresses the principles of Te Tiriti, recognises the relationship of Māori with their ancestral waters and other taonga, and enables the management of wai within TANK Catchment in accordance with traditional Māori values. This is further evidenced by the actions and tasks set out in the Draft Implementation Plan, with a number of tasks to be led by mana whenua, or where mana whenua are identified as partners. Similarly, the extent of consultation that was undertaken prior to the notification of PPC9 demonstrates the Council's commitment to supporting the relationship of mana whenua with their ancestral waters and other taonga.
360. The concerns regarding the extent of input from mana whenua are acknowledged, however it is key to note that significant consultation and engagement with Māori was undertaken prior to the notification of PPC9. On the basis of the pre-notification consultation that was carried out in respect of PPC9, I consider that the consultation undertaken meets the intent of the RMA. In addition, the approach taken to the preparation of PPC9 accords with the directives provided by the RMA. Notwithstanding this, I acknowledge that the consultation that did occur is unlikely to have been undertaken at such a fine grain as to capture the views of all individual members of the various iwi groups and note that this more formal step in the Schedule 1 plan-making process provides that opportunity. Further, given the nature of PPC9 as a regulatory document, it has not been possible to embed the outputs of the background consultative process within the Plan Change itself, which has in turn contributed to the concerns set out in this group of submissions.
361. PPC9 seeks to deal with concerns regarding the allocation of water within the TANK Catchment and has been subject of significant engagement with various representatives of mana whenua throughout its development. The Plan Change offers a method to address the historic concerns that have resulted in the existing water levels within the catchments, and it is appropriate to ensure that the concerns of the submitters are noted in this regard. A specific management regime is advanced by the policies of PPC9 that relate to the Paritua/Karewarewa Streams, which encompasses working alongside tangata whenua and local hapū. Accordingly, I consider that PPC9 offers a suitable response to the submitters concerns in respect of the Karewarewa and Paritua awa.

### Recommendation

362. I recommend that submission points 127.10, 136.4, 154.2, 156.2, 166.2, 167.2, 169.1, 183.3 and 184.4 be accepted in part insofar as recognition and provision for Treaty rights and interests in the TANK Catchment is already acknowledged in PPC9. PPC9 provides appropriately for these rights and interests.
363. I recommend that submission points 115.6, 120.5, 125.1 and 147.3 be accepted in part. PPC9 relies on the principles of te Tiriti that are set out in Schedule I of the RRMP, and I

consider that the supporting Section 32 Report appropriately sets out the response of the Plan Change to the principles of the Treaty. No change is however recommended to PPC9 in regard to these submissions.

364. I recommend that submission point 120.84 be accepted in part as I consider that the management of wai in the TANK Catchment enables traditional Māori values and rangatiratanga, within the bounds provided by the RMA in PPC9. No change is however recommended to PPC9 in regard to this submission.
365. I recommend that submission points 16.9 and 120.83 be rejected and that submission point 123.23 be rejected insofar as it relates to providing for the relationship of Māori with ancestral waters and other taonga. I consider that the process followed in the preparation of PPC9 provides for the relationship of Māori with their ancestral waters and other taonga.
366. I recommend that submission point 157.3 be rejected. I consider that the preparation of PPC9 has been undertaken in a collaborative process, which has enabled substantial input from mana whenua.
367. I recommend that submission points 159.2, 160.2, 172.2 and 174.2 be accepted in part insofar as the two awa, Karewarewa and Paritua, are already addressed specifically by POL TANK 44 in PPC9. No specific changes are requested to the provisions of PPC9, and it puts in place a suitable framework to address the submitters concerns.

### **13.2.3 Governance Overlap**

#### Submission Points

368. There are three submission points that deal with the overlapping governance functions related to PPC9. Submission points for this section are contained in table 13.2 in Appendix 3.
369. The following evaluation may not refer to every submission point, but I have considered each submission point in this topic before making my recommendations.

#### Submission point requests

370. These submission points comment on the following:
- the inclusion of a Tiriti based partnership within PPC9, where Ngati Poporo are the key partners in managing freshwater
  - restoration and political redress for Ngāti Hinemanu, Ngāti Te Upokoiri, Ngati Honomokai, and Ngati Mahuika over Ngaruroro Awa
  - PPC9 should acknowledge the Rangatira of the hapū and marae communities in Heretaunga 182.4.

#### Discussion

371. I do not consider that the appropriate mechanism for seeking restoration and redress over the Ngaruroro Awa is via the inclusion of provisions in the RRMP which is a regulatory resource management planning document. PPC9 has been developed in a collaborative manner, with a variety of key partners and stakeholders. A separate mechanism is available to iwi in respect of addressing such concerns via the Waitangi Tribunal, and it is appropriate this matter is dealt with through that avenue.
372. As has been set out above, and within the consultation section below, the development of PPC9 has been undertaken in close collaboration with the mana whenua of the rohe of the TANK Catchment. The introduction to PPC9 sets out the Warū groups and aspects for

management in the diagram in Figure 2, and an acknowledgement of rangatiratanga sits within the operative RRMP. On this basis, it is not considered necessary to amend PPC9 to reflect the rangatira of the hapū and community within the Plan Change document itself.

### Recommendation

373. I recommend that submission points 52.4 and 111.1 be rejected. I consider that the matters raised in those submissions fit more appropriately with the Waitangi Tribunal's consideration of the settlement and should be addressed via that means.
374. I recommend that submission point 182.4 be rejected, as I consider that the duplication of iwi concepts of resource management from the RRMP to the PPC9 is unnecessary as PPC9 will form part of the RRMP (assuming it is approved as a result of decisions on submissions).

## **13.3 Te Mana o te Wai**

### **13.3.1 General**

#### Submission Points

375. There are 11 submission points that raise considerations related to Te Mana o te Wai. Submission points for this section are contained in table 13.3 in Appendix 3.
376. The following evaluation may not refer to every submission point, but I have considered each submission point in this topic before making my recommendations.

#### Submission point requests

377. These submission points comment on the following:
- a. recognise and give effect to Te Mana o Te Wai
  - b. concerns related to Māori values, Te Mana o Te Wai, access, stock exclusion and mahinga kai
  - c. promoting and enhancing te wai mauri, the kainga tuturu of the kaitiaki Karukaru
  - d. support for the aspects of PPC9 that align with Te Mana o Te Wai, and moves the Council closer to acknowledging Māori ownership of wai.

#### Discussion

378. Section 1.3 of the National Policy Statement for Freshwater Management 2020 defines Te Mana o te Wai. It is important to note that the definition took effect from September 2020, with the previous meaning of the term being established by Objective AA1 and Policy AA1 of the 2017 amendment of the 2014 National Policy Statement for Freshwater Management ('NPSFM2017')<sup>9</sup>.
379. A number of submissions seek recognition of, and that effect be given to, Te Mana o Te Wai. I consider it most likely that these submissions are referring to the NPSFM2017, as the NPSFM2020 was not formally gazetted until September 2020, however I note that the submissions do not state which version of the NPSFM they refer to. Regardless, the discussion below deals with both.
380. In 2017 the Government amended the National Policy Statement for Freshwater Management 2014 so that it would (amongst other things) increase direction for Te Mana o te Wai in freshwater management. This NPS formed the basis for much of the pre-

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<sup>9</sup> Page 7 of the NPSFM2017.

notification consultation, policy development and submissions associated with PPC9. Subsequent to the close of submissions, a new NPS was gazetted, which reframes how Te Mana o te Wai should be accounted for in freshwater policy making. The alignment of PPC9 with the new NPS is covered elsewhere in this report, however I consider it appropriate to note that the principles that were the subject of the submissions may have altered since the submissions were lodged.

381. From a conceptual perspective, Te Mana o te Wai refers to the vital importance of water. In terms of freshwater management, it seeks to ensure that the health and well-being of water is protected and that human health needs are provided for before enabling other uses of water, expressing the special connection all New Zealanders have with freshwater. By protecting the health and well-being of freshwater the health and well-being of people and environments is protected. How Te Mana o te Wai is applied is expected to be informed by engagement and discussion between councils, communities and tangata whenua.
382. In this case, a detailed assessment of how Te Mana o te Wai has been incorporated in PPC9 has been provided in the Section 32 Report, including an analysis of how each objective gives effect to the NPSFM2017 and its references to Te Mana of te Wai.
383. While the policy framework has altered with the gazettal of the 2020 NPS, the principle remains consistent, and accordingly I consider that PPC9 appropriately provides for Te Mana o te Wai within the terms of the NPSFM2017.
384. Clause 3.2 of the NPSFM2020 requires the Council to engage with communities and tangata whenua to determine how Te Mana o te Wai applies to water bodies and freshwater ecosystems in the region. This engagement has not yet occurred, and as such I do not consider that PPC9 can fully give effect to the true intent of the NPSFM2020 until this engagement has occurred and the local approach to giving effect to Te Mana o to Wai has been determined, which will occur outside of the PPC9 decision-making process. Notwithstanding this, I consider that PPC9 does give effect to the principles of Te Mana o Te Wai as it is defined in the NPSFM2017.
385. Submission point 111.6 seeks the promotion and enhancement of Te Mana o te Wai, which I do not consider to accord with the NPS. The support of submission point 133.1 is acknowledged.

### Recommendation

386. I recommend that submission points 106.8, 206.6, 209.5, 223.2, 229.2, and 229.9 be rejected, and that submission points 113.4 and 120.5 are rejected insofar as they relate to recognising and giving effect to Te Mana o te Wai. Te Mana o te Wai is a concept that I consider to be appropriately addressed in PPC9.
387. I recommend that submission point 60.1 be rejected insofar as it relates to Te Mana o te Wai. I consider that the principles of Te Mana o te Wai as set out in the NPSFM2017 is a concept that is embedded in PPC9, however I note that additional work will be required to align PPC9 more fully with the NPSFM2020.
388. I recommend that submission point 111.6 be rejected. PPC9 promotes Te Mana o te Wai to an appropriate extent within the context of the NPSFM2017.
389. I recommend that submission point 133.1 be accepted by noting the support for PPC9.

### 13.3.2 Amendments Sought

#### Submission Points

390. There are six submission points that seek specific amendments. Submission points for this section are contained in table 13.3 in Appendix 3.
391. The following evaluation may not refer to every submission point, but I have considered each submission point in this topic before making my recommendations.

#### Submission point requests

392. These submission points comment on the following:
- a. amend Change 9 to include new provisions which relate to re-establishing the relationship of Māori with water within the TANK Catchment and enable management of waterways in accordance with Māori values, rangatiratanga and self-determination
  - b. amend the priorities set in PPC9 to reflect the upholding of Te Mana o te Wai, and the health and well-being of water bodies as a first priority, the health and well-being of people and communities (including Māori communities), as a second priority, with all other considerations coming after these
  - c. include an over-arching objective in PPC9 that tangata whenua are equal partners in a co-management model of the catchment areas that gives effect to te Mana o te Wai, as well as an explicit framework for how this will be implemented
  - d. amend to protect and restore mauri of waterbodies, safeguard the life-supporting capacity and aquatic ecosystem processes, recognises ki uta ki tai, and provide for the relationship of Māori and their culture and traditions with ancestral lands, water, sites, waahi tapu and other taonga
  - e. PPC9 should use the allocative tools available to give effect to Te Mana o Te Wai, and address cultural parameters
  - f. general support for improvement of the mauri of the wai, but the linkage to Te Mana o Te Wai needs to be more distinct.

#### Discussion

393. Te Mana o te Wai is a concept embedded in the plan-making process via its inclusion in the National Policy Statement for Freshwater Management. Originally included in the 2017 version of the NPS, its relevance and applicability has been reinforced and further strengthened by the 2020 NPS. As set out elsewhere in this report, the principles behind Te Mana o te Wai are represented within PPC9, the RRMP and through various council processes, although PPC9 is based on the concept established via the NPSFM2017, rather than the more recent 2020 update. To this extent, I consider that PPC9 appropriately recognises ki uta ki tai and Te Mana o Te Wai, as defined in the NPSFM2017.
394. OBJ TANK 2 clearly articulates the role of Te Mana o te Wai in setting objectives, limits and targets, referencing Objective AA and Policy AA1 of the NPSFM2017 for clarity. OBJ TANK 2 is a general, or overarching objective, and sets the direction for the remainder of PPC9. The Section 32 Report has identified that the provisions of PPC9 appropriately give effect to the provisions of the NPSFM2017. The provisions of the NPSFM2017 have been superseded by the NPSFM2020, and the consistency of PPC9 with that NPS is explored further elsewhere in this report. While PPC9 cannot be expected to give full effect to the provisions of the NPSFM2020, I consider that its principles are aligned with the NPSFM2017.
395. The Consultation section of this report, Section 9, along with the Section 32 Report, set out in full the consultation and engagement that has been undertaken in respect of PPC9. It

included meetings and hui, the partial preparation of an engagement plan, direct engagement with Te Taiwhenua o Heretaunga, and prenotification consultation. Follow up meetings were held to korero any issues as required.

396. This process has been robust, offering substantial opportunity for engagement, and has resulted in a more collaborative outcome to date. Noting the environmental management obligations placed on the Council by section 30 of the RMA, I consider that the approach taken has resulted in a partnership approach to managing this taonga, providing opportunities for tangata whenua to build a planning framework that enables them to re-establish connection with wai (a concern highlighted via submission point 120.84). This approach is further embedded in the Draft Implementation Plan that has been prepared in accordance with proposed policy 27.
397. Policies 59 and 60 relate to the reservation of high flows for Māori development. Allocation via a mixed market model is partially provided for with some ability to transfer water takes in the rules. If it was a full mixed market model then some of the environmental controls would be lost in terms of only being able to transfer takes in the same area for the same use. Accordingly, I consider that PPC9 does not require amendment to use the allocative tools to give effect to Te Mana o te Wai.
398. Finally, this report also provides commentary as to how core cultural values have been recognised and used to make various water management decisions that are affected by PPC9. The values broadly canvass the descriptions contained in the NPSFM2017 (thus giving effect to te Mana o te Wai), albeit through the use of alternative Māori terminology. The values include:
- Kaitiakitanga – guardianship
  - Kaupapa – philosophy
  - Kawa – appropriate etiquette
  - Mauri – vital essence of life
  - Pono – harmony
  - Tikanga – māori customs
  - Uu – values within water
  - Waahi taonga – sacred places
  - Wai Māori – cultural view of rivers
  - Wairua – spirit
  - Whakapapa - / Ki Uta, Ki Tai – genealogy / mountains to sea.
399. Clause 3.2 of the NPSFM2020 requires the Council to engage with communities and tangata whenua to determine how Te Mana o te Wai applies to water bodies and freshwater ecosystems in the region. This engagement has not yet occurred, and as such PPC9 cannot fully give effect to the true intent of the NPSFM2020 until this engagement has occurred and the local approach to giving effect to Te Mana o te Wai has been determined, which will occur outside of the PPC9 decision-making process. Given that these values are described and reflected in PPC9, I do not consider the amendments requested to be necessary.

### Recommendation

400. I recommend that submission point 90.7 be accepted in part insofar as PPC9 incorporates a partnership approach to the management of freshwater. I consider that the collaborative process that has resulted in the notification of PPC9 has provided for a partnership approach as is exemplified in OBJ TANK 1. I recommend that submission point 132.1 is rejected for the same reasons.

401. I recommend that submission points 113.5 and 120.84 be rejected insofar as there is overall support for improving the mauri of the wai, and the objectives contained in PPC9 are integral to giving effect to PPC9's interpretation of te Mana o te Wai. I consider that the provisions of PPC9 provide the relief indicated in the submission lodged and no further change is recommended.
402. I recommend that submission point 123.23 be accepted in part insofar as PPC9 recognises the connectivity between land, surface water, freshwater and the coast. I consider that PPC9 provides a framework which recognises this relationship.
403. I recommend that submission point 127.4 be rejected. PPC9 provides for the relief sought in a manner which differs from the specific approach advanced by the submitter and given this I consider it unnecessary to make the specific changes sought.

## **13.4 Consultation**

### **13.4.1 Process**

#### Submission Points

404. There are four submission points that discuss the consultation process followed in the development of PPC9. Submission points for this section are contained in table 13.4 in Appendix 3.
405. The following evaluation may not refer to every submission point, but I have considered each submission point in this topic before making my recommendations.

#### Submission point requests

406. These submission points comment on the following:
- a. it has been difficult to make on-line submissions
  - b. the Council should engage a suitable technical expert for the analysis of submissions made by Māori and their respective organisations
  - c. greater incorporation of Māori thoughts, concerns, stories, evidence and mātauranga Māori into PPC9.

#### Discussion

407. While the Council encouraged the use of an online platform for the lodging of submissions in respect of PPC9, it also invited submissions to be lodged using the forms prescribed by the RMA. Further, the deadline for submissions was extended from 3 July 2020 until 14 August 2020, to ensure that a diversity of submissions would be received. I note this submission and accept the concerns it identifies. This submission does not however request any changes to PPC9.
408. All "Cultural" submissions have been provided to an independent resource management consultant for consideration through the preparation of this Hearing Report. These sections of the report have been subject to internal peer review, prior to being provided to council staff for their review and comment. Decisions on these submissions will be made by an independent panel, members of which have been accredited under the Ministry for the Environment's Making Good Decisions programme. Three of the five commissioners will have tikanga Māori expertise. On this basis, I consider that these submissions have been appropriately assessed prior to making a recommendation to the Hearing Panel and am confident in the impartiality of the Hearings Panel.

409. I accept submission points 90.8 and 210.2, as the Council has always identified that inputs from mana whenua will be critical to the outcome of the PPC9 process. Significant engagement with tangata whenua was undertaken in the preparation of PPC9, with the more formal RMA Schedule 1 submission process offering the opportunity for a finer grain of detail to be provided through submissions. In this regard, I consider that all submissions have been considered carefully, and changes have been recommended where they are appropriate to the content of, and within the scope of PPC9 and the RMA.

#### Recommendation

410. I recommend that submission point 127.2 be accepted in part insofar as no changes to PPC9 are possible or necessary to reflect the concerns identified in the submission, which relates to the process of making a submission rather than the content of the Plan Change.
411. I recommend that submission point 223.5 be accepted insofar as no changes to PPC9 are necessary to reflect the concerns identified in the submission which relates to the process of assessing submissions rather than the content of the Plan Change. Further, the assessment of submissions has been undertaken by a suitably qualified and independent person.
412. I recommend that submission points 90.8 and 210.20 be accepted insofar as no specific changes to PPC9 are necessary to reflect the concerns identified in these submissions as mātauranga Māori has been incorporated into the Plan Change to the extent possible for a regulatory document.

### **13.4.2 Consultation Undertaken**

#### Submission Points

413. There are six submission points that comment on the consultation undertaken in conjunction with PPC9. All submission points indicate concerns that the pre-notification consultation with mana whenua has not been appropriately robust. Submission points for this section are contained in table 13.4 in Appendix 3.
414. The following evaluation may not refer to every submission point, but I have considered each submission point in this topic before making my recommendations.

#### Submission point requests

415. These submission points comment on the following:
- a. the consultation undertaken in conjunction with PPC9 does not provide Māori the resource management role that has been recommended by the Waitangi Tribunal
  - b. concerns with the consultation process that was followed in the preparation of PPC9
  - c. no direct engagement has occurred, and because the proposed Water Conservation Order is not settled PPC9 reduces any impact Māori may have in respect of the management of this resource
  - d. concern at the perception that mana whenua have been identified as stakeholders, not as Treaty partners in the consultation process
  - e. Māori values have not been inherently incorporated in PPC9 to a level that meets the expectations of mana whenua
  - f. Mana whenua hapū interests in the allocation of available water is not recognised or addressed in PPC9.

## Discussion

416. The Consultation section of this report, Section 9, along with the Section 32 Report, set out in full the consultation and engagement that has been undertaken in respect of PPC9. It included meetings and hui, the partial preparation of an engagement plan, direct engagement with iwi as set out in Section 4.3 of the Section 32 Report<sup>10</sup>, and prenotification consultation. Follow up meetings were held to korero any issues as required.
417. On the basis of the pre-notification consultation that was carried out in respect of PPC9, I consider that the consultation undertaken meets the intent of the requirements of the Resource Management Act 1991. Notwithstanding this, I acknowledge that the consultation that did occur is unlikely to have been undertaken at such a fine grain as to capture the views of all individual members of the various iwi groups and note that this more formal step in the plan-making process under Schedule 1 of the RMA provides that opportunity. Further, given the nature of PPC9, it has not been possible to embed the outputs of the background consultative process within the Plan Change itself, which has in turn contributed to the concerns set out in this group of submissions.
418. Accordingly, while I note the concerns expressed in the submissions, I recommend they are rejected. While greater individual involvement at an early stage may have enabled more voices to be heard, PPC9 would have been unable to provide the response sought to each individual concern. Given that the consultation undertaken was detailed and comprehensive, I consider that PPC9 offers a suitably broad response to the themes raised via consultation.
419. Recommendation
420. I recommend that submission points 4.3, 227.2, 201.6, 240.2 and 240.7 be rejected, and that submission point 181.1 is rejected insofar as it relates to the consultation process adopted in respect of PPC9. No specific changes to PPC9 are necessary to reflect the concerns identified in these submissions.

### **13.4.3 Consultation Requirements Moving Forward**

#### Submission Points

421. There are three submission points that deal with consultation requirements as PPC9 is implemented. Submission points for this section are contained in table 11.3 in Appendix 3.
422. The following evaluation may not refer to every submission point, but I have considered each submission point in this topic before making my recommendations.

#### Submission point requests

423. These submission points comment on the need for more consistent engagement with tangata whenua to explore local values and concepts. Collaboration will be key to enable this.

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<sup>10</sup> Which includes Ngāti Kahungunu Iwi Incorporated, Te Taiwhenua o Heretaunga, Te Roopu Kaitiaki o te Wai Māori, Mana Ahuriri, Ngāti Hori ki Kohupātiki, Operation Pātiki ki Kohupātiki Ngāti Hori, Ngā Kaitiaki o te Awa a Ngaruroro, Matahiwi Marae, Ruahapia Marae, Ngā Hapū o Tūtaekurī, and Ngā Marae o Heretaunga.

## Discussion

424. As set out above, consultation and engagement with tangata whenua has been ongoing in the development of PPC9. The role of tangata whenua is woven throughout PPC9, and a number of provisions refer directly to the role of tangata whenua in the planning process. Of particular relevance, TANK OBJ 1 and TANK OBJ 2 refer specifically to the roles of mātauranga Māori and kaitiakitanga within the context of managing freshwater resources.
425. Notwithstanding the general direction provided in PPC9 regarding ongoing consultation requirements, it is also appropriate to note the continued applicability of other sections of the operative RRMP, including OBJLW3 which deals with the inclusion of tangata whenua values with the approach to the management of freshwater. Further, the operative sections of the RRMP also promote a catchment-based approach to the management of the resource, which in turn includes the promotion of collaboration and information sharing between management agencies, iwi, landowners and stakeholders.
426. On this basis, I recommend that these submissions are rejected. The submissions do not seek any specific relief, and no changes can be made to PPC9 in response. The consultation process undertaken to date has been full and highly detailed.

## Recommendation

427. I recommend that submission points 113.3, 229.3 and 234.3 be rejected with no changes made to PPC9 but note the concerns they express in respect of the consultation undertaken in the development of PPC9. No specific changes to PPC9 are necessary to reflect the concerns identified in these submissions.

### **13.4.4 Amendments Sought**

#### Submission Points

428. There are five submission points that seek amendments to the consultation process that has been followed. Submission points for this section are contained in table 13.4 in Appendix 3.
429. The following evaluation may not refer to every submission point, but I have considered each submission point in this topic before making my recommendations.

#### Submission point requests

430. These submission points seek to ensure that consultation is inclusive, conducted with integrity, and reported factually, as follows:
- a. greater input to PPC9 would ensure a response is provided to the degradation of the Ahuriri catchment, improve the health of the ecosystem, reduce sedimentation and improve oxygen levels, particularly in the Ahuriri catchment
  - b. PPC9 should be more inclusive and more sincere in its treatment of tikanga and te reo, providing an equal sharing of power and wealth between Treaty partners
  - c. paragraphs 5, 6, and 7 of the Background to PPC9 should be amended.

## Discussion

431. PPC9 contains specific objectives that relate to improving the mauri, water quality and water quantity of the Ahuriri catchment in particular. It is noted that the remainder of the submission will be assessed as part of the assessment relating to Schedule 26. Accordingly, I do not recommend making alterations to PPC9 in response to this part of the submission.

432. The extent of consultation undertaken prior to the notification of PPC9 is set out above, which factually identifies both the consultation steps undertaken and the outcomes from that process (see also Section 4.6 of the Section 32 Report). On that basis, and in the absence of any specific changes sought, I do not recommend the amendment of this section of PPC9 in response to this submission point.
433. For clarity, the Background section of the notified Plan Change documentation does not form a part of PPC9 itself, and I anticipate that this contextual section will accordingly not be inserted in the RRMP. The nature of the collaborative approach to the development of PPC9 has been set out above, and this also details how the provisions included in PPC9 were developed.
434. Noting the submitters request to reword paragraph 6 of the background section to identify that the Council and mana whenua are at the beginning of a journey that will ultimately better provide for Treaty of Waitangi obligations, I consider this to be inherent in the text of PPC9 itself.
435. Similarly, the request that mana whenua prepare a separate section within the background section to reflect Māori interests is also considered unnecessary. Given that the background will be omitted from the Plan Change once it is inserted into the RRMP, I do not consider this additional work to be of benefit to PPC9.
436. As such, I do not consider the amendments sought to the background paragraphs of the Plan Change documentation to be necessary in this instance.

### Recommendation

437. I recommend that submission point 127.24 be rejected, given its lack of specificity and as specific amendments are sought and will be dealt with in other sections of this report.
438. I recommend that submission point 155.3 be rejected due to no clear or specific relief being sought to PPC9.
439. I recommend that submission points 201.1, 201.2 and 201.3 be rejected. These submission points relate to a section of the PPC9 documentation that provides contextual background and will be deleted once the Plan Change is inserted into the RRMP

## **13.5 Mātauranga Māori**

### **13.5.1 Extent of Recognition**

#### Submission Points

440. There are six submissions that relate to the extent to which PPC9 recognises mātauranga Māori. Submission points for this section are contained in table 13.5 in Appendix 3.
441. The following evaluation may not refer to every submission point, but I have considered each submission point in this topic before making my recommendations.

#### Submission point requests

442. These submission points have commented seeking no specific decision, but are generally seeking greater recognition of tikanga Māori, Māori values, te mana o te wai, mahinga kai, mana and traditions handed down by Tīpuna.

## Discussion

443. The Māori Dictionary<sup>11</sup> defines mātauranga Māori as follows:

*Māori knowledge - the body of knowledge originating from Māori ancestors, including the Māori world view and perspectives, Māori creativity and cultural practices.*

444. PPC9 includes two overarching objectives, which provide context to the main aims of the Plan Change. The overarching objectives are set out below, with those highlighted in grey being a reflection of the key matters identified in this group of submissions.

### **OBJ TANK 1**

*The Council, tangata whenua and the urban and rural community work together in a way that recognises the kaitiaki and guardianship roles they each play in freshwater management and;*

- a) recognise the importance of monitoring, resource investigations and the use of mātauranga Māori to inform decision making and limit setting for sustainable management;*
- b) ensure good land and water management practices are followed and where necessary, mitigation or restoration measures adopted;*
- c) support good decision making by resource users including rural and urban communities through marae and hapū initiatives, community or other catchment management programmes and monitoring initiatives, urban stormwater programmes, landowner collectives, farm management plans and industry good practice programmes.*

### **OBJ TANK 2**

*When setting objectives, limits and targets;*

- a. Te Mana o te Wai and integrated mountains to the sea, ki uta ki tai principles are upheld;*
- b. A continuous improvement approach to the use and development of natural resources and the protection of indigenous biodiversity is adopted and the collective management of freshwater is enabled;*
- c. The kaitiakitanga role of tangata whenua and their whakapapa and cultural connection with water are recognised and provided for;*
- d. The responsibilities of people and communities for sustainable resource use and development is recognised and supported; and*
- e. The significant values of the outstanding water bodies in Schedule 25 and the values in the plan objectives are appropriately protected and provided for.*

445. Policy 27 of PPC9 requires the development of an implementation plan, with involvement from tangata whenua. A Draft Implementation Plan has been prepared and was released with the notification of PPC9. The Draft Implementation Plan identifies where cultural input, values and customs can be most appropriately incorporated into the implementation of PPC9 itself. Tangata whenua helped draft these actions. In combination, I consider that these two measures provide the recognition sought by the submissions included in this group.

## Recommendation

446. I recommend that submission points 187.3, 191.6, 223.4, and 234.4 be accepted in part, and that submission points 188.5 and 229.3 are also accepted in part, as I consider that PPC9 provides a suitable response to the concerns raised, and that the submitter's general support for this approach should be acknowledged and accepted.

### **13.5.2 Amendment Sought**

#### Submission Points

447. One submission seeks changes to enable the recognition of mātauranga Māori in PPC9. Submission points for this section are contained in table 13.5 in Appendix 3.

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<sup>11</sup> <https://maoridictionary.co.nz/>

### Submission point requests

448. The submission point notes that PPC9 does not contain a mechanism to enable mātauranga Māori assessment and monitoring of resource consents.

### Discussion

449. I consider that the objectives and policies contained in PPC9 already provide the requested mechanism. OBJ TANK 1 recognises the importance of the use of mātauranga Māori to inform decision making and limit setting, and the policies support monitoring according to mātauranga Māori with Policy 33 specifically stating: *“The Council will recognise and support monitoring according to mātauranga Māori...”*. Similarly, the Council specifically recognises the actual and potential effects of groundwater abstraction in the Heretaunga Plains Water Management Unit on tikanga and mātauranga Māori. Finally, Schedule 26 also includes a placeholder for mātauranga Māori attributes (yet to be developed). Resource consents will accordingly be assessed in accordance with the principles of mātauranga Māori, and on that basis, I do not consider any amendments to be required in respect of this issue.

### Recommendation

450. I recommend that submission point 240.4 be accepted in part by noting the inclusion of the mātauranga Māori principles in PPC9.

## **13.5.3 Benefits of Recognising Mātauranga Māori**

### Submission Points

451. There are three submissions that relate to the benefits of recognising mātauranga Māori in PPC9. Submission points for this section are contained in table 13.5 in Appendix
452. The following evaluation may not refer to every submission point, but I have considered each submission point in this topic before making my recommendations.

### Submission point requests

453. These submission points comment on the importance of weaving mātauranga Māori into the Council’s approach to the management of wai. Mātauranga Māori should be regarded as complementary to Western science.

### Discussion

454. OBJ TANK 1 specifically recognises the importance of monitoring, resource investigations and the use of mātauranga Māori to inform decision making and limit setting for sustainable management. This objective is supported by a number of policies throughout PPC9.
455. Given that the concept of mātauranga Māori has been embedded in PPC9 as described under Section 13.5.2 above, the submitter’s support for this approach should be noted. The concept of mātauranga Māori has not been specifically incorporated into the Draft Implementation Plan that has been provided as an exemplar. While I consider it appropriate that the Draft Implementation Plan that supports PPC9 incorporates strong reference to mātauranga Māori, I note that the role identified for mana whenua as both lead agency and as a partner in these Actions is expected to provide this context to implementation of PPC9. Coupled with the requirements of OBJ TANK 1 with respect to the importance of mātauranga Māori in decision making, I consider this to be an appropriate approach to merging mātauranga Māori concepts into the management approach.

## Recommendation

456. I recommend that submission points 113.4, 223.3 and 234.2 be accepted in part insofar as mātauranga Māori is supported in the broad approach taken in PPC9. I consider it appropriate for a strong emphasis to be placed on mātauranga Māori in the preparation of the implementation plan that is intended to support the attainment of the objectives set out in PPC9. OBJ TANK 1 identifies the key importance of mātauranga Māori to the management of wai, and I consider that the Draft Implementation Plan appropriately incorporates this knowledge via the relationships it identifies with mana whenua.

## **13.6 Mauri**

### **13.6.1 Relationship of Mana Whenua with Wai**

#### Submission Points

457. There are six submission points that raise the relationship of mana whenua with wai. Submission points for this section are contained in table 13.6 in Appendix 3.

458. The following evaluation may not refer to every submission point, but I have considered each submission point in this topic before making my recommendations.

#### Submission point requests

459. These submission points comment on the following issues:

- general recognition of te mauri required, including restoration of mauri
- specific concerns relating to Paritua and Karewarewa Streams.

#### Discussion

460. The online Māori Dictionary<sup>12</sup> defines mauri as follows:

*life principle, life force, vital essence, special nature, a material symbol of a life principle, source of emotions - the essential quality and vitality of a being or entity. Also used for a physical object, individual, ecosystem or social group in which this essence is located.*

461. The RRMP provides a local definition of mauri and PPC9 proposes inserting additional wording to the definition of mauri that is contained in the RRMP, and the amended definition is proposed to apply to the catchments of the Tūtaekurī, Ahuriri, Ngaruroro and Karamū rivers.

462. I consider the amended wording ensures that these catchments move toward a more fulsome and accurate definition of mauri, which in turn results in greater consideration of te mauri within the applicable resource management framework. Within PPC9, Schedule 26 sets out specific values which reflect mauri of the specific catchments, and OBJ TANK 5 indicates that the collective management of these attributes is critical to providing for these values.

463. On this basis, and in the absence of any specific relief sought, I consider that the proposed amendments better and appropriately provide for a recognition of mauri for the catchment as compared to the existing RRMP.

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<sup>12</sup> <https://maoridictionary.co.nz/>

464. PPC9 seeks to deal with concerns regarding the management of freshwater within the TANK Catchment. The Plan Change offers a method to address the concerns that have resulted in the existing water flows within the catchments, and it is appropriate to ensure that the concerns of the submitters are noted in this regard. A specific management regime is advanced by the policies of PPC9 that relate to the Paritua/Karewarewa Streams (Policy 44), which encompasses working alongside tangata whenua and local marae. Accordingly, I consider that PPC9 offers a suitable response to the submitters concerns in respect of the recognition of the mauri of the Karewarewa and Paritua awa.

#### Recommendation

465. I recommend that submission points 55.2, 147.2, 153.3 and 183.6 be accepted in part, as the amendments proposed to the RRMP through PPC9 including to the definition of mauri and the supporting plan framework will better align the planning framework within the expectations of the submitters.
466. I recommend that submission points 158.1 and 182.2 be accepted in part by noting the concerns for the mauri of the Karewarewa and Paritua Streams. I consider that PPC9 already offers a suitable response to the recognition of the mauri of the Karewarewa and Paritua awa through Policy 44 and the associated planning framework.

### **13.6.2 Inclusion within the Plan Change**

#### Submission Points

467. One submission point raises the inclusion of Mauri within PPC9. Submission points for this section are contained in table 13.6 in Appendix 3.

#### Submission point requests

468. This submission point comments that the explanation and definition of mauri is deficient, and specific objectives that focus on the improvement of mauri should be included.

#### Discussion

469. I have assessed the impacts of the revised and enhanced definition of mauri in the comments above. In that assessment, I have concluded that the improved definition (as applicable to the TANK Catchment) better aligns with the commonly understood definition of mauri, and accordingly in the absence of specific relief, I do not consider that the definition requires further amendment to resolve the submitter's concerns.
470. Notwithstanding that, the submitter has also indicated concern that the improvement of mauri should be further embedded in the discussion and specific objectives that are included in PPC9. Mauri is provided for in both the general objectives, and in the catchment-specific objectives contained in PPC9. It is an overarching theme that runs through the Plan Change, and in the catchment specific objectives is also included as a primary focus. On this basis, I do not consider it necessary to rework the objectives and discussion to provide additional weight to mauri considerations.

#### Recommendation

471. I recommend that submission point 113.6 be rejected. I consider that the amended definition of mauri provides additional meaning to the concept, which is consistent with a more customary understanding, and that this definition is appropriately embedded in PPC9 via the proposed objectives.

### 13.6.3 Amendments Sought

#### Submission Points

472. There are seven submission points that seek specific amendments in respect of how Mauri is dealt with in PPC9, three of these specifically relate to Figures 1 and 2 in section 5.10 'Introduction'. Submission points for this section are contained in table 13.6 in Appendix 3.
473. The following evaluation may not refer to every submission point, but I have considered each submission point in this topic before making my recommendations.

#### Submission point requests

474. These submission points comment on the following issues:
- a. Tangata whenua indicators provide a framework for holistic assessment of overall environmental well-being
  - b. Tangata whenua values should be clearly identified within the plan provisions, including directive policies and rules
  - c. the issue statements should not use Māori concepts in the same context as other concepts; the concepts are not interchangeable
  - d. amend to protect and restore mauri of waterbodies to provide for Te Hauora o te Taiao, Te Hauora o te Wai, and Te Hauora o te Tangata
  - e. insert new paragraph to read: "Figure 1 and Figure 2 are reflective of the process to determine freshwater objectives for PPC9 and must not be used in any resource consenting process. That is, by an applicant to support an application, by a submitter to oppose/support an application that is publicly notified, and by a planning officer to make a decision on an application."
  - f. delete the "TANK VALUES Attributes for water quality" (Figure 1)
  - g. delete or amend the interpretation part of Figure 2 to express the broader aspects of each wariu in the main diagram.

#### Discussion

475. PPC9 relies on the inclusion of various tangata whenua indicators and values to support the management of freshwater within the TANK Catchment, and these are accordingly an integral component of the Plan Change itself. These values are clearly evidenced in PPC9 via:
- The discussion contained in the introduction at section 5.10
  - The graphics included as Figures 1 and 2
  - The general objectives
  - The reference to specific cultural values in the catchment specific objectives
  - Various policies that recognise and assign an essential role for tangata whenua.
476. It is noted that tangata whenua values are less evident within the PPC9 schedules, which reflect a more quantitative approach. By their nature, the qualitative cultural values which are the subject of this submission point are less readily adaptable to form a meaningful, robust threshold. The values selected in the rules, matters for discretion and in schedule 26 reflect these cultural values and provide a collective management approach that provide for management of the catchments, to ultimately result in their enhancement. These values have been selected and calculated to reflect more qualitative values as far as practicable. As such, I do not consider it necessary to amend the approach taken in respect of tangata whenua values.
477. The PPC9 document that was publicly notified includes a comprehensive suite of information, including a number of issues that are included as background to the Plan

Change. The issue statements do not form a part of PPC9, however the introduction to the Plan Change (which will be inserted to the RRMP at the end of Chapter 5) does include community and tangata whenua values and attributes for water management, and wāriu (value) groups and aspects for management.

478. PPC9 focuses on providing a management framework that responds to the challenges facing the TANK Catchment, and as a result the community and tangata whenua values and attributes have been combined in Figure 1 (in the Introduction to the Plan Change) to provide a more holistic overview of the catchments. Figure 2 provides a representation of mauri and other tikanga Māori values, and these themes are embedded in the objectives and policies of PPC9 itself.
479. Given the considerations above, and the cross-catchment focus of PPC9, I do not consider it appropriate to split out a separate workstream that deals with the concerns included in the submission.
480. Similarly, I do not consider it necessary to amend PPC9 to separately provide for Te Hauora o te Taiao, Te Hauora o te Wai, and Te Hauora o te Tangata. The introduction to PPC9 places the mauri of the waterbody and its ability to provide for te hauora o te tangata, the hauora o te taiao, and te hauora o te wai<sup>13</sup> to the forefront of freshwater management<sup>14</sup>. This holistic approach is reflected in the objectives, policies and regulatory approach of PPC9; aside from the two general and overarching objectives, PPC9 also includes six objectives (OBJ TANK 4 – OBJ TANK 9) that specifically seek to address water quality. These objectives seek to maintain or improve water quality, collectively manage attributes to address mauri and ecosystem health, achieve targets for catchments included in the Plan Change, reduce contaminant loss and sedimentation, improve aquatic ecosystem health and mauri, and manage the consumptive characteristics of water supplies. Given the broad ranging focus of PPC9 in this respect, I consider that the Plan Change offers a suitable response to the matters raised in the submission.
481. In regard to the specific submissions on Figures 1 and 2 of the Introduction (section 5.10), I do not consider it necessary to add a statement that Figures 1 and 2 cannot be used in a resource consent process. The RMA determines what can and cannot be considered in assessing a resource consent application with the 'matters for control / discretion' set out in the rules and the objectives and policies of the plan change being most relevant. I also consider Figures 1 and 2 to be helpful in a general sense (including the interpretation panel of Figure 2), in setting out the attributes and wāriu groups that have been considered in the preparation of the PPC9 and do not support their deletion.

### Recommendation

482. I recommend that submission point 120.3 be accepted in part by noting the submitter's support for the inclusion of tangata whenua indicators and values in PPC9.
483. I recommend that submission point 120.81 be rejected. I consider that tangata whenua values are appropriately represented in the quantitative values used in PPC9 for the management of the freshwater resource.
484. I recommend that submission point 201.9 be rejected. I consider that the relief sought in the submission is largely provided within PPC9 and note that the issues section does not form a part of PPC9 itself.

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<sup>13</sup> The health of the people, the environment and the waterbody.

<sup>14</sup> 5.10 Introduction to PPC9.

485. I recommend that submission point 123.23 be rejected insofar as it relates to the mauri of waterbodies. I consider that PPC9 provides a holistic response to the management of wai.
486. I recommend that submission points 126.5, 132.2 and 132.3 be rejected insofar as no changes are made to section 5.10 and Figures 1 and 2. I consider that Figures 1 and 2 of PPC9 provide appropriate background information in articulating the attributes for water quality and wāriu groups on which the plan change was prepared.

## 13.7 Water Quantity

### 13.7.1 General

#### Submission Points

487. There are 10 submission points that relate to water quantity within the PPC9 area. Submission points for this section are contained in table 13.7 in Appendix 3.
488. The following evaluation may not refer to every submission point, but I have considered each submission point in this topic before making my recommendations.

#### Submission point requests

489. The submissions do not seek specific relief, and comment on the following issues:
- water quantity and allocation (particularly in relation to the Karewarewa and Paritua Streams)
  - concerns related to economic well-being and the consultation process
  - concerns relating to climate change and natural hazards.

#### Discussion

490. Most submissions included in this section of the report provide personal accounts of the decline of water quantity and quality in adjacent awa. PPC9 seeks to deal with concerns regarding the allocation of water within the catchments and has been subject of significant engagement with various f mana whenua representatives throughout its development. The Plan Change offers a method to address the historic concerns that have resulted in the existing water flows and conditions within the catchments, and it is appropriate to ensure that the concerns of the submitters are noted in this regard. A specific management regime is advanced by the policies of PPC9 that relate to the Paritua/Karewarewa Streams (Policy 44), which encompasses working alongside tangata whenua and local marae.
491. There are some submission points within this section that also overlap with other sections of the Hearing Report. It is important to note that submitters may wish to provide additional detail in support of their submissions at the hearing (noting that any new evidence must be confined to the scope of the submission).
492. PPC9 seeks to deal with concerns regarding the quantity of water available for use within the catchments and offers a method to manage the wai resource into the future. OBJ TANK 16 specifically provides for water allocation management to prioritise water for the essential needs of people. Given PPC9's response to issues associated with human use values, I consider it appropriate to note the concerns of the submitters in this regard. Should the submitters wish to further detail their concerns and relief sought at the hearing (which must be within the scope of their original submission), it would be of assistance.
493. In terms of water quantity and allocation, I consider that PPC9 provides a detailed response to the historic concerns in this regard by recognising over allocation and provides a

management solution to resolve the issue. OBJ TANK 17 specifically recognises the role of water allocation and use on the development of Māori economic well-being. Further detail from the submitter would be appropriate at the hearing regarding the concerns that relate to economic well-being, and the specific relief sought.

494. While these points are explored further in other sections of this report, the impact of climate change and flooding is also relevant to issues related to water quantity. I note that PPC9 includes specific provisions relating to managing the effects of climate change. The regulatory sections of PPC9 also provide a management approach to deal with flooding impacts. Accordingly, I do not consider that any additional amendments are required in respect of water quantity to deal with these considerations. Should the submitter provide additional detail related to this submission point at the hearing, it would be of some assistance.

### Recommendation

495. I recommend that submission points 150.2, 151.2 and 178.2 be accepted insofar as Policy 44 already addresses the management of the Karewarewa and Paritua Streams with no resulting additional amendment to PPC9 is required.
496. I recommend that submission points 154.2, 155.2, 168.2 175.2 and 177.2, be accepted in part, insofar as PPC9 regulates water quantity and allocation but no resulting amendment is made to PPC9.
497. I recommend that submission point 181.1 be accepted in part, by noting the concerns it expresses with no resulting amendment to PPC9.
498. I recommend that submission point 157.2 be accepted by noting the submitters concerns with no resulting amendment to PPC9.

### **13.7.2 Restoration**

#### Submission Points

499. There is one submission point that deals with the restoration of water quantity within the TANK area. Submission points for this section are contained in table 13.7 in Appendix 3.

#### Submission point requests

500. The submission point seeks to address, re-engage and re-establish the quantity of the environment at Bridge Pa, so that water flows return to their natural state. It specifically refers to fish growth, freshwater species, native bird life and vegetation. This submission point is also reflected in the discussion regarding water quality, as set out below.

#### Discussion

501. PPC9 contains catchment specific objectives and policies, including OBJ TANK 13, which relates specifically to the Karamū and Clive Rivers, the catchment within which Bridge Pa is located. The objective seeks to improve mauri, water quality and water quantity to enable healthy ecosystems, healthy and diverse indigenous aquatic and bird populations and macroinvertebrate communities, social recreational and cultural activities, collection of mahinga kai, meeting domestic and primary production water needs. The attainment of this objective via the proposed regulatory environment will have a direct impact on the provision for water, fish growth, freshwater species and native bird life at Bridge Pa.

502. Further to this Policy 44 specifically seeks to improve the water quantity in the Paritua and Karewarewa Streams. The Paritua is a tributary of the Karewarewa Stream which flows through Bridge Pa.
503. On this basis, I consider the proposed provisions contained in PPC9 provide the relief indicated in the submission. Further detail from the submitter in respect of their concerns would be appropriate at the hearing.

#### Recommendation

504. I recommend that submission point 187.2 be accepted in part with the provisions of PPC9 providing the relief indicated in the submission lodged and no further change is recommended.

## **13.8 Water Quality**

### **13.8.1 Restoration**

#### Submission Points

505. There are two submission points that deal with the restoration of water quality within the TANK area. Submission points for this section are contained in table 13.8 in Appendix 3.
506. The following evaluation may not refer to every submission point, but I have considered each submission point in this topic before making my recommendations.

#### Submission point requests

507. The submission points comment on the following issues:
- a. address, re-engage and re-establish the quality of the environment at Bridge Pa, so that water flows return to their natural state, specifically in respect of fish growth, freshwater species, native bird life and vegetation
  - b. concerns such as depletion of food sources, wastewater pollution, scarcity of wai and extraction of material from waterways.

#### Discussion

508. PPC9 contains catchment specific objectives and policies, including OBJ TANK 13, which relates specifically to the Karamū and Clive Rivers, the catchment within which Bridge Pa is located. The objective seeks to improve mauri, water quality and water quantity to enable healthy ecosystems, healthy and diverse indigenous aquatic and bird populations and macroinvertebrate communities, social recreational and cultural activities, collection of mahinga kai, meeting domestic and primary production water needs. The attainment of this objective via the proposed regulatory environment will have a direct impact on the provision for water, fish growth, freshwater species and native bird life at Bridge Pa. Further to this Policy 44 specifically seeks to improve the water quantity in the Karewarewa Stream which flows through Bridge Pa.
509. On this basis, I consider the proposed provisions contained in PPC9 provide the relief sought in the submission. Further detail from the submitter in respect of their concerns would be appropriate at the hearing.

510. The introduction to PPC9 places the mauri of the waterbody and its ability to provide for te hauora o te tangata, the hauora o te taiao, and te hauora o te wai<sup>15</sup> to the forefront of freshwater management<sup>16</sup>. This holistic approach is reflected in the objectives, policies and regulatory approach of PPC9; aside from the two general and overarching objectives, PPC9 also includes six objectives that specifically seek to address water quality (OBJ TANK 4 – OBJ TANK 9). These objectives seek to maintain or improve water quality, collectively manage attributes to address mauri and ecosystem health, achieve targets for catchments included in the Plan Change, reduce contaminant loss and sedimentation, improve aquatic ecosystem health and mauri, and manage the consumptive characteristics of water supplies. Given the broad ranging focus of PPC9 in this respect, I consider that the Plan Change offers a suitable response to the matters raised.

### Recommendation

511. I recommend that submission point 187.2 be accepted in part with the provisions of PPC9 providing the relief indicated in the submission lodged.

512. I recommend that submission point 230.1 be accepted in part with the provisions of PPC9 providing the relief indicated in the submission lodged.

### **13.8.2 General**

#### Submission Points

513. There are 10 submission points that relate to water quality within the PPC9 area. Submission points for this section are contained in table 13.8 in Appendix 3.

514. The following evaluation may not refer to every submission point, but I have considered each submission point in this topic before making my recommendations.

#### Submission point requests

515. The submission points comment on the following issues:

- a. Water quality, quantity, cultural and recreational values
- b. Water quality (particularly in relation to the Karewarewa and Paritua Streams)
- c. Stock exclusion practices

#### Discussion

516. PPC9 is designed to address water quality concerns within the four catchments and has been subject of significant engagement with various representatives of mana whenua throughout its development. The Plan Change offers a method to address the historic concerns that have resulted in the variable water quality within the catchments, and it is appropriate to ensure that the concerns of the submitters are noted in this regard. A specific management regime is advanced by the policies of PPC9 that relate to the Paritua/Karewarewa Streams (Policy 44), which encompasses working alongside tangata whenua and local marae.

517. Since the preparation of PPC9, additional guidance has been implemented at a national level, which will complement the outcomes sought by PPC9. This includes the NPSFM2020, the National Environmental Standards for Freshwater 2020, and the Resource Management (Stock Exclusion) Regulations 2020.

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<sup>15</sup> The health of the people, the environment and the waterbody.

<sup>16</sup> 5.10 Introduction to PPC9.

518. Alongside discussing water quality, some submissions provide anecdotal comment regarding declining water quantity and allocation, and these concerns are discussed in other sections of this Hearing Report. PPC9 seeks to deal with water quality concerns and offers a method to manage the wai resource into the future, as discussed in the section above. Given PPC9's response to issues associated with human use values, I consider it appropriate to note the concerns of the submitters in this regard. Should the submitters wish to further detail their concerns at the hearing, it would be of some assistance. No amendments are recommended to PPC9 as a result of these general submissions.

#### Recommendation

519. I recommend that submission point 158.1 be accepted in part with Policy 44 seeking to improve the Karewarewa and Paritua Streams and that no additional changes are made.

520. I recommend that submission points 64.1, 153.2, 154.2, 155.2, 168.2, 175.2 and 177.2, be accepted in part, with the provisions of PPC9 providing the relief indicated in the submissions lodged in respect of water quality.

521. I recommend that submission points 161.1, and 163.1 be accepted in part with the provisions of PPC9 providing the relief indicated in the submission lodged in respect of water quality.

### **13.9 Alignment with other Resource Management documents**

#### **13.9.1 Resource Management Act 1991**

##### Submission Points

522. There are three submissions which discuss whether PPC9 is appropriately aligned with the provisions of the RMA. Submission points for this section are contained in table 13.9 in Appendix 3.

523. The following evaluation may not refer to every submission point, but I have considered each submission point in this topic before making my recommendations.

##### Submission point requests

524. The submission points comment on the following issues:

- a. PPC9 does not promote sustainable management and is inconsistent with Part 2 of the RMA, thereby resulting in significant cumulative environmental and cultural effects
- b. Iwi values are not recognised with sufficient depth.

##### Discussion

525. Section 7 of the Section 32 Report provides a detailed assessment of the objectives of PPC9 against the RMA and concludes that the Plan Change and its objectives represents the most appropriate way to give effect to the purpose of the RMA. I concur with the conclusion the Section 32 Report reaches.

526. Similarly, Section 8 of the Section 32 Report provides a review of the key themes included in the provisions of PPC9 against the relevant sections of the RMA. It also compares alternative options for achieving the objectives of the Plan Change. In all cases, the Section 32 Report finds that the suite of provisions in each section of PPC9 is the most

appropriate approach to the management of freshwater. I concur with the conclusions reached in the Section 32 Report.

527. I consider that the protection of Māori values is evident throughout PPC9 and can be seen in the policies, such as by:
- recognising and supporting monitoring according to mātauranga Māori (Policy 33);
  - recognising the need to manage freshwater attributes collectively through Schedule 26 (TANK OBJ 5 was a response to iwi concerns about attribute management);
  - recognition of the needs of mahinga kai, recreational and cultural values of whitebait and other indigenous fish such as patiki and practices of Uu in various objectives (including specifically OBJ TANK 10 – OBJ TANK 15);
  - recognition of wetlands and lakes as taonga (OBJ TANK 15 and policies 1, 3, 14, 15, and 27);
  - mana whenua engagement in development of stream flow maintenance schemes (Policy 40);
  - ensuring that the freshwater quality objectives will enable needs of identified Māori values to be met (including specifically OBJ TANK 10 – OBJ TANK 15);
  - enabling transfer of water to marae and papakāinga to meet community needs (OBJ TANK 16);
  - priority allocations for papakāinga (Policies 48 and 50);
  - wetland and lake management to improve values including for cultural uses related to tikanga Māori and mahinga kai (OBJ TANK 15);
  - protection of outstanding values (primarily by Change 7 but supported by the Change 9 wetland and lake provisions) of Kaweka Lakes, Lake Poukawa and Pekapeka Swamp and the Ngamatea East Swamp (OBJ TANK 15 and policies 14, 15, and 27);
  - high flow reservation for improvement of Māori well-being including by providing access to water for use by marae and papakāinga and the development of returned land to a Post Settlement Governance Entity (PSGE) through Treaty Settlement (OBJ TANK 17 and policies 59 and 60);
  - water conservation and efficiency for future generations and for mauri and ecosystem health (OBJ TANK 17 & 18 and policies 46 & 47); and
  - Management of river flows to meet objectives for aquatic ecosystem health, mauri tikanga Māori values and instream values for the Ngaruroro, Tūtaekurī and Karamū Rivers and the Ahuriri freshwater streams (OBJ TANK 10 – OBJ TANK 14). This has led to reduced allocation limits for the Tūtaekurī and Ngaruroro rivers to reduce abstraction pressures on instream values.

528. In addition, iwi values have been incorporated into PPC9 via the consultation and engagement processes that were undertaken prior to the notification of the Plan Change, as set out above in this report. Significant engagement with tangata whenua was undertaken in the preparation of PPC9, with the more formal submission process offering the opportunity for a finer level of detail to be provided, included and used to inform the outcomes from this process. Accordingly, I consider that the provisions of PPC9 appropriately recognises and provides for mana whenua values and perspectives to give effect to Part 2 of the RMA.

### Recommendation

529. I recommend that submission points 127.3 and 127.5 be rejected insofar as no changes are recommended to PPC9 in response. I agree with the conclusions reached within the Section 32 Report that PPC9 appropriately gives effect to Part 2 of the RMA.

530. I recommend that submission point 201.10 be rejected. Mana whenua and iwi values have been reflected in the development of PPC9 by the engagement and ongoing consultation with iwi partners, and I consider that the resulting Plan Change appropriately accords with those values.

### **13.9.2 National Policy Statement for Freshwater Management**

#### Submission Points

531. There are six submission points that relate to the alignment of PPC9 with various iterations of the NPSFM. Submission points for this section are contained in table 13.9 in Appendix 3.
532. The following evaluation may not refer to every submission point, but I have considered each submission point in this topic before making my recommendations.

#### Submission point requests

533. The submission points comment on the following issues:
- a. supports the principle of PPC9 and acknowledges that it gives effect to the NPSFM2017
  - b. PPC9 should be better aligned with NPSFM2017 and NPSFM2020 but do not specify any changes or relief sought
  - c. policies in PPC9 should give effect to policy D1 in the NPSFM2017, and explicitly recognise the role of Ngati Kahungunu
  - d. appropriate Freshwater Management Unit size/spatial extent for surface water management zones for hapū based environmental/cultural monitoring, accounting and reporting.

#### Discussion

534. I note the support for the principle of PPC9 and recommend that this submission point should be accepted.
535. Since the preparation of PPC9, a new NPSFM has been gazetted (in September 2020). Accordingly, while the NPSFM2017 was relevant to the preparation of PPC9, it has now been replaced with the NPSFM2200. On this basis, I consider that the NPSFM2020 is now the current document that is relevant to the consideration of submissions on PPC9. The alignment of PPC9 with NPSFM2020 is considered elsewhere in this report.
536. Policy D1 of the NPSFM2017 requires local authorities to take all reasonable steps to involve iwi and hapū in the management of freshwater, and work with iwi and hapū to identify tangata whenua values and interests in freshwater. Tangata whenua values and interests should then be reflected in freshwater management and decision making.
537. As set out in the Consultation section, Section 9, of this report, substantial consultation was undertaken in the course of preparing PPC9. This consultation included hui and korero with mana whenua throughout the process of plan development. This work involved identifying tangata whenua values and interests in wai and was undertaken with the express purpose of reflecting tangata whenua values in the resultant Plan Change. A final round of consultation was also undertaken immediately prior to the notification of PPC9. On the whole, I would consider this consultation as having met the intent of Policy D1 of the NPSFM2017.
538. The NPSFM2020 replicates some principles of the NPSFM2017. An assessment of how the changes to the policy framework impact on the alignment of PPC9 with the NPS is set out elsewhere in this report. While PPC9 and the associated Section 32 Report set out a

regime for identification of freshwater quality management units, and rely on Schedule 26 which provides a placeholder for the inclusion of mātauranga Māori attributes, and the Draft Implementation Plan identifies specific roles for mana whenua in the ongoing management of wai, these units are not intended to meet the requirements of the NPSFM2020 in respect of Freshwater Management Units. A region-wide approach to the identification of Freshwater Management Units will be presented to the Planning Committee in April, and an update will be presented to the PPC9 Panel at the hearing. In the interim, I consider that PPC9 appropriately reflects the provisions of the NPSFM2017, however I note that the discussion of the principle of Te Mana o Te Wai is also relevant to the consideration of these submission points.

### Recommendation

539. I recommend that submission point 113.2 be accepted, as the submitter supports the method by which PPC9 adopts the NPSFM2017.
540. I recommend that submission points 115.6, 127.5 and 133.2 be rejected insofar as they relate to the alignment of PPC9 with the NPSFMs (both 2017 and 2020). The Section 32 Report has identified that the provisions of PPC9 appropriately give effect to the provisions of the NPSFM2017. The provisions of the NPSFM2017 have been superseded by the NPSFM2020, and the consistency of PPC9 with that NPS is explored further elsewhere in this report. While PPC9 cannot be expected to give full effect to the provisions of the NPSFM2020, I consider that it does where the NPSFM2020 has principles that align with the NPSFM2017.
541. I recommend that submission point 120.96 be rejected. I consider that the consultation undertaken in the preparation of PPC9 to have met the requirements and intent of Policy D1 of the NPSFM2017.
542. I recommend that submission point 240.10 be rejected. I consider that the definition of Freshwater Management Units will be undertaken in a holistic manner that also accounts for mana whenua values, in accordance with the framework established by PPC9.

### **13.9.3 Regional Resource Management Plan**

#### Submission Points

543. There is one submission that addresses how PPC9 aligns with the RRMP. Submission points for this section are contained in table 13.9 in Appendix 3.

#### Submission point requests

544. The submission point comments that PPC9 should be substantially amended to align better with the provisions of the RRMP that are not being amended, with particular reference to the principles of te Tiriti o Waitangi.

#### Discussion

545. Schedule 1 of the RRMP sets out a local interpretation of the principles of te Tiriti. These principles have been embedded in the RRMP, and in the consultation and collaboration that has been undertaken in the formulation of PPC9. The collaborative approach in the development of PPC9 is set out in the Section 32 Report that accompanied the notification of the plan change and is summarised elsewhere in this report. As PPC9 will be amalgamated into the RRMP, the principles of Schedule 1 will continue to apply to the content of PPC9. In this instance, PPC9 embeds the principles of the Treaty and Māori values into the provisions of the Plan Change more thoroughly than the operative RRMP,

which has standalone tangata whenua objectives and policies, but these are not embedded in the plan provisions themselves. Accordingly, in this instance, I consider that the provisions are appropriately aligned with the principles set out in Schedule I of the RRMP. In addition to this, the Section 32 Report has assessed the appropriateness of the various provisions of PPC9 in giving effect to the RRMP in section 8. The Section 32 Report found the provisions to be appropriate in giving effect to the Regional Policy Statement (which is embedded in the RRMP).

546. Finally, I note that some consequential amendments are sought to the RRMP, however these are not specifically set out in the submission point. In light of my assessment above, and the assessment and recommendation at Section 18.3 of this report, I do not consider it necessary or appropriate to further amend the operative RRMP.

### Recommendation

547. I recommend that submission point 115.6 be rejected insofar as it relates to the alignment of PPC9 with the RRMP. I do not consider it necessary to undertake additional amendments to PPC9 to integrate better with the RRMP.

### **13.9.4 Other Plans**

#### Submission Points

548. There are four submission points that raise how PPC9 integrates with other relevant plans. Submission points for this section are contained in table 13.9 in Appendix 3.
549. The following evaluation may not refer to every submission point, but I have considered each submission point in this topic before making my recommendations.

#### Submission point requests

550. The submission points identify the following concerns:
- a. The Karewarewa Water Plan should be taken into account in PPC9
  - b. PPC9 should adhere to the principles of the Council's booklet, Oho Rawa Aka Te Awa (Reawakening the Awa)
  - c. The Nga Hapū o Tūtaekurī Awa Management and Enhancement Plan should be taken into consideration in conjunction with PPC9
  - d. PPC9 should give effect to the aspirations of Ngati Rahunga I te Rangī and a 2016 iwi management plan.

#### Discussion

551. The consideration of resource consents that result from the requirements of PPC9 will be subject to consideration under section 104(1)(c) of the RMA. Section 104 sets out the considerations relevant to the determination of resource consents, and subsection (1)(c) requires the consideration of

*any other matter the consent authority considers relevant and reasonably necessary to determine the application.*

552. Given this, while PPC9 may not directly refer to the other plans such as those referenced in these submissions, they will remain relevant to the consideration of resource consents applications. Further to this the Section 32 Report has assessed PPC9 against the relevant statutory documents and plans that it is required to take into account, which included those iwi management plans referenced on the Hawke's Bay Regional Council website (see section 3.6 of the Section 32 Report).

553. Accordingly, I do not consider it necessary to amend PPC9 to refer to these planning documents.

### Recommendation

554. I recommend that submission points 173.2, 189.2 and 240.1 be rejected, and that submission point 183.6 be rejected insofar as it relates to how PPC9 relates to other planning documents. Consideration of other planning documents will occur at the time that resource consents are assessed in accordance with section 104 of the RMA, and I therefore consider that the amendment is not necessary.

## **13.10 Approach should be reconsidered**

### **13.10.1 Clearer acknowledgement of Māori values**

#### Submission Points

555. There are four submission points that seek greater acknowledgement of Māori values in PPC9 and that the overall approach should be reconsidered. Submission points for this section are contained in table 13.10 in Appendix 3.

556. The following evaluation may not refer to every submission point, but I have considered each submission point in this topic before making my recommendations.

#### Submission point requests

557. These submission points make the following comments:
- a. Issues statements should be reorganised, with environmental and biodiversity aspects in one issue, and tikanga Māori and cultural factors in another, while acknowledging linkages to ecosystem health.
  - b. The inclusion of distinct and specific objectives and policies and a new schedule, which combine to enable mana whenua to undertake monitoring throughout the life of the Plan, thus applying a diversity of values and knowledge including mātauranga Māori within the TANK Catchment.
  - c. Make specific provision for the relationship of Ngati Kahungunu with wai, specifically by introducing a mixed allocative model that recognises Te Mana o te Wai and Ngati Kahungunu's cultural and treaty interests, and explicitly providing for the re-establishment, restoration and protection of Ngati Kahungunu's relationship with the catchments, including new objective(s), policies and rules/methods.

#### Discussion

558. The PPC9 document that was publicly notified includes a comprehensive suite of information, including a number of issues that are included as background to the Plan Change. The issues statements do not form a part of PPC9, however the introduction to the Plan Change (which will be inserted to the RRMP at the end of Chapter 5) does reference community, cultural and tangata whenua values and attributes for water management, and wāriu (value) groups and aspects for management.

559. PPC9 focuses on providing a management response to the challenges facing the TANK Catchment, and as a result the community and tangata whenua values and attributes have been combined in Figure 1 (included in the introduction to PPC9) to provide a more holistic overview of the catchments. Figure 2 provides a graphical representation of mauri and other tikanga Māori values, and this theme flows into the objectives and policies of PPC9 itself.

560. Given the cross-catchment and inclusive focus of PPC9, I do not consider it necessary or appropriate to reorganise the issues separately in the manner sought. Ultimately PPC9 is required to set out a clear resource management framework with effective and efficient regulatory provisions (to meet the requirements of section 32 of the RMA). Having separate objectives, policies and schedules for mana whenua values will not achieve these RMA requirements in the manner that the inclusive approach in PPC9 does.
561. PPC9 partially relies on the inclusion of various tangata whenua indicators and values to support the management of freshwater within the TANK Catchment, and these are accordingly an integral component of the Plan Change itself. These values are clearly evidenced in PPC9 via:
- The discussion contained in the introduction at section 5.10
  - The graphics included as Figures 1 and 2
  - The general objectives
  - The reference to specific cultural values in the catchment specific objectives
  - Various policies that recognise and assign an essential role for tangata whenua.
562. It is noted that these values are less evident within the PPC9 schedules, which reflect a more quantitative approach. The qualitative cultural values which are the subject of the submission point are less readily adaptable to form a meaningful threshold than the quantitative values in PPC9. The values selected in the rules, matters for discretion and in schedule 26 reflect these cultural values and provide a collective management approach that provides for management of the catchments, resulting in their enhancement. As such, I do not consider it necessary to amend the approach taken in respect of tangata whenua values.
563. Policy 27 of PPC9 requires the development of an implementation plan, with involvement from tangata whenua. A Draft Implementation Plan has been prepared and was released with the notification of PPC9. As set out above, the Draft Implementation Plan includes Action 10 and an associated number of tasks that seek to deliver investigations and monitoring functions in accordance with PPC9, several of which are proposed to be led by mana whenua, including 53, 60, 61 and 62.
564. On the basis that Action 10 is included in the Draft Implementation Plan, it is considered that the outcome sought by this submission is already incorporated in the suite of documents that accompany and support PPC9.
565. As set out in the Consultation section of this report, Section 9, and in the Section 32 Report, significant consultation and engagement was undertaken with mana whenua in the preparation of PPC9. This consultation has directly influenced the objectives relevant to the Plan Change. OBJ TANK 2(c) specifically recognises and provides for the kaitiakitanga role of tangata whenua and their whakapapa and cultural connection with water. Policies 59 and 60 relate to the reservation of high flows for Māori economic, cultural or social wellbeing. Allocation via a mixed market model is partially provided for with some ability to transfer water takes in the rules. If it was a full mixed market model then some of the environmental controls would be lost in terms of only being able to transfer takes in the same area for the same use. I have also noted above that Policy 27 provides for the development of an implementation plan, the Draft of which indicates that mana whenua groups will have heavy involvement in the implementation of PPC9. Accordingly, I consider that the relief sought is inherent in the content of PPC9, and therefore do not consider the amendment necessary.

## Recommendation

566. I recommend that submission point 132.81 be rejected. The separation of the policy approach into two streams would result in a more segmented Plan Change that is less integrated, and I consider this would reduce the efficacy of the outcomes promoted by PPC9 and could not be demonstrated as either efficient or effective in regard to section 32 of the RMA.
567. I recommend that submission point 201.11 be accepted in part insofar as the submitter's desire to become involved in monitoring the implementation of PPC9 is provided for by policies 33 and 35. I consider it appropriate to ensure that mana whenua engagement is actively sought to support the implementation of PPC9.
568. I recommend that submission points 120.10 and 120.66 be rejected. PPC9 provides for the relief sought in a manner which differs from the specific approach advanced by the submitter and given this I consider it unnecessary to make the specific changes sought.

## **13.11 Catchment Based Approach**

### **13.11.1 General**

#### Submission Points

569. There are seven submission points that relate to a catchment-based approach. Submission points for this section are contained in table 13.11 in Appendix 3.
570. The following evaluation may not refer to every submission point, but I have considered each submission point in table 11.3.1 before making my recommendations.

#### Submission point requests

571. These submission points make the following comments:
- Support for the Council's approach to this project and the general thrust of PPC9 to further protect unique waterways within the Council's boundaries
  - Various hydrogeology reports and research has been undertaken relating to the Ngatarawa and Raukawa Valleys (which are the hapū boundaries)
  - Specific amendments are sought to Issue 4 in the background section which supports PPC9
  - The declaration of guiding principles from a hapū world view to monitor, check and report on the quality and usage of the Ngaruroro Awa and its tributaries and tribal estate
  - PPC9 restores and preserves the streams and wetlands at Bridge Pa for the tangata whenua and seeks to provide for the preservation of inter-generational knowledge and learning.

#### Discussion

572. I consider it appropriate to note the support for the Council's approach to this project and supports the general thrust of PPC9 to further protect unique waterways within the Council's boundaries.
573. It is useful to understand the basis for submissions that have been made, and as such I consider it appropriate to acknowledge that the submission refers to various hydrogeology reports and research relating to the Ngatarawa and Raukawa Valleys (which are the hapū boundaries). Notwithstanding this, the submission does not seek specific relief, and thus no changes to PPC9 are appropriate.

574. In very broad terms, the amendments sought to Issue 4 can be described as seeking to strengthen reference to past historical activities and events that have impacted on the TANK area. I do not consider that the changes sought will add anything to PPC9, given that they are focussed on the background document that is not proposed to be inserted into the Plan Change. Should the issues included in the background document be required to be included in PPC9, some additional consideration of the change sought would be required.
575. Policy 27 of PPC9 requires the development of an implementation plan, with involvement from tangata whenua. A Draft Implementation Plan has been prepared and was released with the notification of PPC9. As set out above, the Draft Implementation Plan includes Action 10 and an associated number of tasks that seek to deliver investigations and monitoring functions in accordance with PPC9, several of which are proposed to be led by mana whenua. In particular, task 60 is as follows:
- 60 Continue the development of the Matauranga Māori stocktake and development of Matauranga Māori monitoring programme to be aligned with SoE programme as necessary. Recognition of cultural memory.*
576. On this basis, it is considered that the outcome sought by these submission points are already incorporated in the suite of documents that accompany PPC9. Notwithstanding this, I consider it appropriate to note the request for future action.
577. Overall, PPC9 is focussed on addressing the previous activities which have resulted in the quality of the existing environment. As a result, one of the key outcomes anticipated is the continuous improvement in the use and development of natural resources.
578. OBJ TANK 1 and OBJ TANK 2 are general objectives that apply across PPC9. In combination, these objectives seek to provide for tangata whenua involvement in the planning process, including when setting objectives, limits and targets. OBJ TANK 2 in particular recognises and provides for the kaitiakitanga role of tangata whenua and their whakapapa and cultural connection with water.
579. In addition, OBJ TANK 13 relates specifically to the Karamū and Clive River catchments, and provides for the use and development of land, the discharge of contaminants and nutrients and the raking using damming and diverting of freshwater in the Karamū and Clive catchment to improve mauri, water quality and water quantity to enable:
- healthy ecosystems
  - healthy and diverse indigenous aquatic and bird populations
  - healthy macroinvertebrate communities
  - people to safely carry out a wide range of social, recreational, and cultural activities, including swimming and cultural practices of Uu and rowing and waka ama
  - collection of mahinga kai
  - people and communities to safely meet their domestic water needs
  - primary production water needs and water required for associated processing and other urban activities to provide for community social and economic well-being
  - contribute to the healthy functioning of the Waitangi Estuary ecosystem and to enable people to safely carry out a wide range of social, cultural and recreational activities and the collection of mahinga kai in the estuary.
580. These overarching objectives are reflected in the policies at section 5.10.5 of PPC9, which apply principally to monitoring and review processes. Accordingly, on the basis of the

inclusion of these policy directives, I consider that PPC9 encourages the restoration of streams and wetlands at Bridge Pa and provides appropriately for intergenerational learning and knowledge.

### Recommendation

581. I recommend that submission point 113.1 be accepted by noting general support for PPC9.
582. I recommend that submission point 52.3 be rejected. While it is useful to understand the basis for the submission, it does not seek specific relief, and thus changes to PPC9 are not appropriate.
583. I recommend that submission point 126.3 be rejected, due to seeking changes to background documentation that does not form a part of PPC9.
584. I recommend that submission points 111.2 and 188.3 be accepted in part by noting the outcome sought but that no resulting changes be made to PPC9. I consider that the relief sought is in place via the inclusion of the Draft Implementation Plan.
585. I recommend that submission points 188.4 and 188.5 be accepted in part by noting the concerns expressed but that no resulting changes be made to PPC9. I consider that PPC9 already accounts for these values through the policy framework that it advances.

## **13.12 Minor Changes**

### **13.12.1 Place Names**

#### Submission Point

586. One submission seeks to amend references to Ahuriri Estuary to instead refer to Te Whanganui-ā-Orotu (Ahuriri Estuary). The submission points for this section are contained in table 13.12 in Appendix 3.

#### Submission points requests

587. The submission point seeks the amendment of PPC9 so that it refers to the Ahuriri Estuary as Te Whanganui-ā-Orotū (Ahuriri Estuary).

#### Discussion

588. While the submitter's point is acknowledged, it is noted that the renaming of the Ahuriri Estuary is not contained within the Deed of Settlement of Historical Claims between the Ahuriri Hapū, the Trustees of the Mana Ahuriri Trust and the Crown. As a result, this renaming is not required by the current Ahuriri Hapū Claims Settlement Bill<sup>17</sup>. Should this change as the Bill progresses, renaming is expected to be required by the resulting Act, and the amendment would be required by statute.
589. Notwithstanding this, it is noted that the Council uses both names interchangeably in other documentation, and accordingly, I consider it appropriate that the Estuary should be referred to as Ahuriri Estuary (Te Whanganui-ā-Orotu) throughout PPC9.

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<sup>17</sup> Noting that the Bill is still presently before Parliament.

## Recommendation

590. I recommend that submission point 126.37 be accepted in part by referring to the Ahuriri Estuary as follows, throughout the Plan Change:

Ahuriri Estuary (Te Whanganui-ā-Orotu)

591. I note that this approach is consistent with the approach taken in other Council documents, and also reflects that the official name for the Estuary is unlikely to alter as a result of the Ahuriri Hapū Claims Settlement Bill.

### **13.12.2 Phrasing**

#### Submission Point

592. One submission point seeks the review of all provisions to clarify purpose and show a clear line of sight throughout PPC9, thus ensuring that Te Mana o te Wai, cultural values and Treaty principles are explicitly and appropriately given effect. The submission point for this section are contained in table 13.12 in Appendix 3.

#### Submission point requests

593. The submission point seeks the review of all provisions to clarify purpose and show a clear line of sight throughout PPC9, thus ensuring that Te Mana o te Wai, cultural values and Treaty principles are explicitly and appropriately given effect.

#### Discussion

594. While it is important for the format of the operative Plan to be retained as Plan Changes are considered, it is similarly important to ensure that the Plan's legibility and useability is retained. Where cross referencing is undertaken carefully, it provides a clear line of sight between the policy direction taken and the regulatory response. The operative RRMP contains cross-referencing, however in some places the usefulness of the cross referencing is limited. In lieu of further compounding this impediment to effectiveness, PPC9 does not include cross-referencing between the policies and the rules proposed.

## Recommendation

595. I recommend that submission point 120.65 be rejected. Although effective cross referencing provides a benefit in respect of plan legibility, the approach taken to cross referencing in the operative RRMP has resulted in an ineffective approach to cross referencing. Undertaking additional cross referencing in PPC9 utilising the same approach would reduce the effectiveness of the Plan Change.

### **13.12.3 Plan Format**

#### Submission Point

596. There is one submission point that requests the introduction of assessment criteria to provide for the relationship of Māori with their ancestral waters and other taonga. The submission point for this section are contained in table 13.12 in Appendix 3.

#### Submission point requests

597. The submission point seeks the introduction of assessment criteria to provide for the relationship of Māori with their ancestral waters and other taonga.

## Discussion

598. The architecture selected for the RRMP includes the provision of assessment matters to guide the determination of resource consent applications for controlled and restricted discretionary activities. Controlled and restricted discretionary activities have been deemed to have lesser effects on the environment in the formulation of the plan change and are therefore only subject to specific matters of discretion.
599. For discretionary and non-complying activities, where there is a potential for significant adverse effects, the RRMP relies on the provisions set out in sections 104-104D of the Resource Management Act 1991, alongside any applicable matters of discretion, to guide the assessment of resource consent applications. Of key importance, section 104(1) specifically refers to this consideration being subject to Part 2 (sections 5-8) of the RMA. As the Section 32 Report demonstrates, Part 2 is also given effect to and embedded in the objectives and policies of the plan change.
600. Section 6(e) of the RMA requires all persons exercising functions and powers under the RMA, in relation to managing the use, development, and protection of natural and physical resources, shall recognise and provide for the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, wāhi tapu, and other taonga. Under this section, this is considered a matter of national importance. Accordingly, I consider that a duplicate reference as requested by the submission is unnecessary.

## Recommendation

601. I recommend that submission point 16.1/16.10 be rejected as the relief sought is inconsistent with the RRMP format, and the duplication of provisions contained in Part 2 of the RMA is unnecessary.

### **13.12.4 Translator/Interpreter**

#### Submission Points

602. There are two submissions which relate to the necessity for a suitable interpreter at the hearing. The submission point for this section are contained in table 13.12 in Appendix 3.
603. The following evaluation may not refer to every submission point, but I have considered each submission point in table 11.3.1 before making my recommendations.

#### Submission points requests

604. The submission points are as follows:
- a. One is made wholly in te Reo
  - b. A Māori interpreter should be made available for the hearing

## Discussion

605. A translation of submission 56 has not been made available, which highlights the importance of having a suitable translator present at the hearing. Te Reo is one of New Zealand's two official languages, and I consider it appropriate for people to provide their submissions in the language they are most comfortable using for their submission. On this basis, I consider it appropriate to have an interpreter available to support the Panel through the hearings process. The Council has confirmed it will provide an interpreter at the hearing.

## Recommendation

606. I recommend that submission point 223.6 be accepted in regard to process (rather than any changes to PPC9), and that a translator/interpreter is made available for the Panel's support at the hearing. I consider that fully understanding concerns is critical to ensuring a robust decision is achieved.
607. I am unable to make a recommendation in respect of submission point 56.1 at this time.

## **14. Water quality**

608. This section of the Hearing Report addresses water quality, the water quality objectives, including the target attribute states and timeframes for achieving them and the management measures required to meet target attribute states.
609. The report is comprised of a number of topic areas as follows:
- a. Submissions addressing the water quality provisions of PPC9 in general terms.
  - b. The water quality management framework, including the priority management approach and alignment with national policy and regulation.
  - c. Land use change and measures to prevent further degradation of water quality.
  - d. Stock exclusion policy and rules, including in relation to national regulation.
  - e. Farm plans, industry programmes and Catchment Collective.
  - f. Schedules 26 and 27 which establish the water quality objectives and target attribute states.
  - g. Management of point source discharges
  - h. Riparian land management
  - i. Wetland management
  - j. Phormidium management
  - k. Amendments to Regional Resource Management Plan rules (land drainage).
  - l. Amendments to Regional Resource Management Plan rules (river control and land drainage works)
  - m. Amendments to Regional Resource Management Plan rules (land disturbance activities)
610. The topic area discussion and recommendations are provided together for the relevant Policies, Rules and Schedules. Submissions relevant for each topic area are briefly outlined and the summaries of relevant submissions contained in Appendix 3. This section of the Hearing Report then provides background summary of the provisions, an analysis of amendments sought and recommendations in respect of the submissions.

### **14.1 Water Quality General, OBJ TANK 7**

#### Submission Points

611. There are 30 general submissions about the water quality provisions in support, in opposition or with no position stated. Submission points are contained in table 14.1 in Appendix 3.
612. There are 44 submission points on OBJ TANK 7.
613. The following evaluation may not refer to every submission point, but I have considered each point before making my recommendations.

### Submission Point Requests – General

- 614. Of those submissions in general opposition to PPC9, most make general statements about the current quality of water and the need for action to be taken to improve water quality and ecosystem health.
- 615. The submissions in support generally acknowledge the need for an improved management regime to ensure water quality objectives are met and consider that the approach adopted in PPC9 provides that regime.
- 616. Submission points 119.4, 147.7, 198.9 and 90.2 seek inclusion of objectives policies and establishment of bottom lines as required by the NPSFM2020 and to meet needs of specified values and these are included in PPC9.
- 617. Submission point 132.25 refers to the management of coastal waters, seeking this be addressed in the Regional Coastal Environment Plan. Submission point 180.12 refers to the adequacy of the provisions for improving and protecting the Te Whanganui a Orotū (Ahuriri Estuary).

### Submission requests – OBJ TANK 7

- 618. Most submission points seek reference to reduceable sediment loss and submission point 99.3 reference to operating at good practice or further clarity and recognition that not all contaminant loss is practically reducible.
- 619. Submission points 14.2, 15.4, 20.4 and 99.3 seek reference to land use activities that have low sediment loss risk.
- 620. Submission points 120.71 seeks reference to increasing regulation, and clear environmental standards, and submission point 132.22 seeks limits for specified land uses.
- 621. Submission points 123.29, 201.21 seeks rewording in relation to sedimentation.
- 622. Submission point 126.11 seeks deletion of the objective.

### Discussion

- 623. Most of these submissions do not provide enough direction about the changes sought to PPC9. For some the subject matter is dealt with in more detail below under the relevant topic areas for PPC9 (Objectives, Policies, Rules and Schedules).
- 624. The submissions generally don't seek any specific amendments (Submitter 16) or seek provisions that are already contained in PPC9 (e.g. submission points 120.14, 123.8, 198.9). Most submitters also seek more detailed amendments with respect to specific plan provisions elsewhere.
- 625. The NPSFM2020 has directed the integrated management of freshwater impacts on sensitive receiving environments and to that extent the management of the Ahuriri and Waitangi estuaries is included in this part of the RRMP and no amendment is recommended. PPC9 introduces measures that target production land, but also introduce extensive new provisions targeted at stormwater management from urban areas, which includes significant discharges to Ahuriri from Napier City.
- 626. OBJ TANK 7 was included as a result of the concerns about freshwater clarity and sedimentation of freshwater bodies and estuary receiving environments and the need to ensure land use is carried out in a way that reduces sediment loss.

627. Submission point 126.11 considers out the outcomes sought in OBJ TANKs 2,4 5 and 10 (for the Ahuriri estuary) already reflect the outcome being sought through OBJ TANK 7. OBJ TANK 11 to 15 are also relevant. The submitter suggests the objective is therefore redundant. I am inclined to agree. The critical objective in relation to water quality and the need to manage soil loss is OBJ TANK 4 which includes, in the associated Schedule 26, a series of sediment related attribute targets. There are a number of policies directed at managing sediment loss to help achieve those water quality outcomes.

### Recommendations

628. I recommend that the submission points are accepted or rejected as contained in table 14.1 in Appendix 3 and that OBJ TANK 7 be deleted and no other amendments being made to PPC9.

### Reason

629. The submission points do not provide enough direction to understand what changes are sought, or they seek measures already contained in PPC9 or are broadly in support of PPC9. Estuary management is included in relation to the freshwater inputs into them.
630. OBJ TANK 7 is unnecessary given the content of other objectives about the future states of the freshwater and estuary ecosystems. Management of sediment is a necessary response to meeting freshwater objectives and this is reflected in a number of policies.

## **14.2 Water Quality management framework, POL TANK 1, 2, 4, 5, 17 – 20 and Schedule 28**

### Introduction

631. This section of the report will respond to submissions that relate to the broad theme of Production Land Use Activities and their impact on water quality.
632. This part of the report contains the background to the management approach adopted in PPC9, specifically including the:
- a) Priority management approach described through POL TANK 1 – 5 (except POL TANK 3 for wetlands which is in Section 14.9 below).
  - b) The targeted and adaptive approach to nutrient and sediment management in POL TANK 17 - 20
  - c) Schedule 28 supporting the prioritisation for action as directed by the Rule TANK 1 and 2 for managing contaminant loss from production land use.
633. The following sub themes have been identified as the key issues leading to the management framework and relevant to submissions on the objectives, policies and rules that relate to this section of PPC9:
- d) The overall management approach that accounts for the available resources and focusses on risk locations, practices and pathways.
  - e) The scientific uncertainties and complexity of the freshwater and estuary inter-connections for both nutrient and sediment management.
  - f) The supporting rule regime that requires and encourages the adoption of essential key mitigation measures and establishes performance standards for some high-risk activities, including land use change.
  - g) Timeframes.

634. This section of the report will outline the management approach that underpins PPC9 and summarises the particular challenges posed by the variability and uncertainty of the contaminant and ecosystem health issues in the TANK Catchments.

#### Submission Points – PPC9 Management Framework (POL TANK 1, 2, 4, 5 and 17-20, Schedule 28)

635. Submission points submissions are contained in table 14.2 in Appendix 3.
636. The following evaluation may not refer to every submission point, but I have considered each submission point before making my recommendations.
637. Most of the 33 submission points for POL TANK 1, 2, 4 and 5 support and seek amendments.
638. Submission points 12.1, 33.1, 124.4, 135.19 support aspects of the policies.
639. 31 submissions refer generally to the management framework with several making the same submission point about supporting and recognising farmers' contributions to meeting environmental outcomes (e.g. 17.3).
640. A further 38 submission points support, oppose or seek amendments to POL TANK 17 - 20.
641. 134 submission points are coded against Schedule 28 although several contain the same submission point content about industry schemes. This topic is considered in Section 14.5 of this report.
642. The following evaluation may not refer to every submission point, but I have considered each submission point before making my recommendations.

#### Submission Point Requests - General

643. A number of submissions have concerns about the overall management approach in PPC9. In particular submitters 210, 120, 123, 198, across a range of their submission points, consider that PPC9 prefers non-regulatory provisions and that it has too strong a focus on voluntary action with a lack of bottom lines or provisions for council regulation or enforcement. They generally seek a higher level of regulatory control and more consent requirements for production land. A number of submissions are also seeking establishment of nutrient load limits and higher regulatory controls on management of nitrogen in particular in several submission points (197.9, 132.138, 240.24).
644. A number of submission points also support the management approach taken in PPC9 either fully without qualification or with some suggested amendments to specific parts (e.g. 46.11).
645. Submission point 132.68 seeks removal of any reference to adaptive management, and seeks a number of new nitrogen loss provisions including a limit for all properties, charges per nitrogen loss rate, and deletion of reference to LUC. 58.18 seeks reference to the regulation of land use change in order to provide a policy direction link to rules.
646. Submission point 120.73 seeks removal of the presumption that land uses will remain unchecked by regulation and also that POL TANK 1- 5 are amended to make it clear improvement is needed where objectives for water quality are not currently met. (120.91)

### Submission Point requests - POL TANK 1, 2, 4, 5

647. Submission points make a number of submissions for amendments to these policies and to the overall management approach including:
- h) Adding reference to nitrogen in POL TANK 1 (58.13)
  - i) Reference to water used for irrigation, other water users, food and fibre production in POL TANK 1 (97.87, 99.6, 135.18, 180.2)
  - j) Rewording the policies including further requirements regarding timing and priorities (123.4, 126.14, 201.32, 123.42, 123.43)
  - k) Reference just to water quality objectives in POL TANK 1 (135.18)
  - l) Submission points 195.31 and 195.32 seeks reference to climate change effects on water quality, and including reference to contaminant pathways and flows in surface water bodies in POL TANK 1 and wording changes to POL TANK 2
  - m) Further clarity and direction with respect to meeting water quality targets by 2040 (210.25) and reordering policies including related POL TANK 6
  - n) Reference to stormwater from roads in POL TANK 2 (10.1)
  - o) Reference to catchment collectives and biosecurity in POL TANK 2 ( 180.21)
  - p) Submission point 201.33 seeks amendment to POL TANK 2 so that the focus for reducing excessive macropyhte growth is achieved by reducing nutrient concentrations.

### Submission point requests - POL TANK 17- 20

648. Submission point 99.9 seeks acknowledgement of landowners carrying out good management practice.
649. Submitters 126, 123, 210 seek substantial rewrites of POL TANK 17 – 20 or their deletion.
650. Submission points 126.17 and 18 seek new policy requiring farm and catchment plans to be prepared within 6 years in the low and long-term priority catchments and within 3 years for high and medium priority catchments.
651. Other submission points seek amendments in respect of high and low contaminant loss land and allowance for permitted activities (194.35 195.42). Submission point 195.43 also seeks reference to adverse effects from nitrogen loss.
652. Submission point 135.24 suggests alternative wording in relation to identifying whether the management regime is successful and submission point 180.29 suggests expanding parts of the policies to refer to contaminants generally, not just nutrients.
653. Submission points 123.54, 126.20 and 135.25 seek deletion of POL TANK 19 while other submission points support or seek amendments.
654. Submission points 120.124, 125 and 126 and 240.24, 123.55 and 210.41 seek more directive controls for managing sediment loss.

### Submission point requests – Schedule 28

655. While over 130 submission points refer to Schedule 28, many of them address issues covered in other topic areas (land use change, industry programmes and collective management). Those relevant to Schedule 28 itself seek:
- q) Amendments to remove overlapping requirements for land in the Coastal Environment (100.3)
  - r) Clarification about use of the Overseer modeling tool (116.7) (also addressed in the land use change topic discussion)
  - s) Clarification of catchment names so they are consistent with other parts of PPC9.

- t) Amend to ensure nutrient loads are not double counted (180.68) and delete the Total Nitrogen Yield threshold and priority areas (195.141).
- u) Delineation or listing of the priority catchment areas. (210.138, 123.146, 135.61)
- v) Specification of timeframes and targets (Submissions 120.118, 123.146, 210.138, 135.61)
- w) Requirements for resource consent for productive land use in high priority catchments (submissions 123,)
- x) Requirements to meet water quality targets in priority catchments.
- y) Ensure SPZs are high priority areas for Farm Plan requirements with medium priority assigned to source protections extent areas (submission points 207.47 and 126.36) and alternatively to delete reference to SPZs (180.66)

## Discussion - Background

- 656. PPC9 establishes target water quality attribute states and environmental outcomes in Schedule 26 which will provide for the values identified for the different waterbodies in the TANK Catchments. In this it is consistent with the direction in the NPSFM2014 (and as amended 2017).
- 657. Following the notification of PPC9, the NPSFM2020 in August 2020 introduced a range of new concepts and directions including in respect of environmental outcomes which are also discussed in Sections 14.4, 14.5, 14.6 and 14.9 of this report.
- 658. In order to meet the specified water quality targets, PPC9 adopts a staged and adaptive management approach that identifies priority locations, priority mitigation measures and performance standards for risk activities. New rules are introduced to support the management direction. This approach enables PPC9 to also account for the scientific uncertainties as it includes supporting policies that outline monitoring and investigation requirements and signals the need for future plan changes once further information is available.
- 659. This management approach accounts for incomplete science as well as the value of known mitigation practices. It requires development of data bases and information (see POL TANK 18 and 35) to better inform future plan changes both at a property scale as well as within and across catchments.
- 660. PPC9 establishes clear targets for water quality (see Schedule 26) and introduces a new regulatory regime and resource limits that enable the Council to assess progress at property and catchment scale for mitigation measures and ensure their timely implementation (See Schedule 28 and Rule TANK 1 and 2).
- 661. Further new rules are introduced that target risk activities. The Resource Management (National Environmental Standards for Freshwater) Regulations 2020 (NES Water Quality) have also introduced new activity regulations that further support and build on what was proposed by PPC9.
- 662. The main management components of the PPC9 priority focus approach include:
  - a. Clear and specific freshwater water quality attribute state targets and timeframes.
  - b. Integration with achieving estuary ecosystem outcomes.
  - c. A focus on priority actions that are known to have a positive impact on water quality and ecosystem health – and targeted according to existing ecosystem state.
  - d. Action (according to specific timeframes) focused on priority locations where water quality objectives are not being met.
  - e. Clear requirements for identification and mitigation of contaminant loss from production land through farm plans, including reporting and auditing provisions.
  - f. New rules for production land use that are enforceable.

- g. New rules for some high-risk activities with resource use limits that are enforceable.

#### *Freshwater and estuary connectivity*

663. The development of the PPC9 has accounted for the estuary state and the impacts of freshwater inputs into the estuary. Information about the estuaries has been recently published the State of the Hawke's Bay Coastal Marine Environment: 2013 to 2018 report<sup>18</sup> (including for the Waitangi and Ahuriri Estuaries) and which informed PPC9 decision making. This report describes significant issues for sediment levels and turbidity for both estuaries and high levels of nutrients and notes that the estuaries may be enriched with phosphorus.
664. I refer to the technical memorandum (Estuarine trigger values) by Anna Madarasz-Smith where she explains that further research is required to understand more fully the connections between contaminant pathways and estuary functioning before developing further management provisions such as contaminant load limits for these estuaries.
665. In the interim, the adverse impact of nutrients, especially nitrogen, on estuary ecosystems is acknowledged and priority action assigned in catchments with a high load contribution to the estuary (POL TANK 1(c)) as well as the nitrogen management POL TANK 17 and 18. Schedule 27 also contains ecosystem and water quality objectives for Waitangi and Te Whanganui a Orotū (Ahuriri) Estuaries (this Schedule is subject to other recommendations for amendments that reflect the management actions towards ensuring the target water quality states can be met. These provisions acknowledge the link between estuary state and freshwater inputs and the need for integrated management of land and freshwater use activities.

#### *Sediment Sources*

666. The SedNet model was used to understand risks and sources of sediment. It showed the rates of sediment loss vary considerably across the TANK Catchments and sources (erosion types for example) of sediment also varied greatly.
667. The Section 32 Report notes that modelling shows that sediment loss from landslides accounts for 47% of total sediment loss. Hill stabilization is a key mitigation measure (reducing sediment loss from this source by about 30-35%). Note, however, that SedNet predicts sediment loss risk and is not a measure of actual sediment loss. Some hill slopes for example are not currently contributing to sediment loss, but in some circumstances may do so in the future (such as in storm events).
668. The modelling shows the need for, and costs of these mitigation works varies across the catchment and properties and investment for mitigation of this sediment loss risk is unevenly spread across landowners. Modelling was used to calculate the likely impact of various mitigation measures across the catchment and the impacts and costs of this were reported by Agfirst<sup>19</sup> and Market Economics and referred to in the Section 32 Report.
669. Because of the variability in sediment loss risk and the costs of mitigation, farm plans are considered the most effective and efficient means of identifying this contaminant risk source and the required mitigation measures to manage it. PPC9 proposes that Farm Plans are required not only to identify contaminant loss risk, but also to include a programme of mitigation works consistent with the water quality targets and timeframes included in PPC9

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<sup>18</sup> <https://www.hbrc.govt.nz/assets/Document-Library/TANK/TANK-Key-Reports/5425-State-of-the-Hawkes-Bay-Coastal-Marine-Environment-2013-to-2018.pdf>

<sup>19</sup> <https://www.hbrc.govt.nz/assets/Document-Library/TANK/TANK-Key-Reports/TANK-Economic-Social-and-Ecological-Assessment-Part-2-Final-V2.pdf>

(as specified in Schedule 30 which is discussed separately in Section 14.5). A property or catchment scale approach enables mitigation works to be programmed in a way that enables farm productivity to be maintained while the most effective mitigation works are carried out, either at a property or catchment scale.

### *High Risk Activities and Mitigation Measures*

670. PPC9 identifies key mitigation measures that are known to improve water quality. A number of high-risk contaminant loss activities are also identified and specific new rules have been included.
671. Specific policy and regulatory requirements for farm plans commit the Council and landowners in the TANK Catchments to a number of milestones for mitigation measures that are known to improve ecosystem health and water quality. These mitigations are to be identified at a property or catchment scale according to the specific water quality challenges at that location. The specific mitigations include;
- a. improved stock and riparian land management,
  - b. wetland protection and development
  - c. preparation of nutrient management plans
  - d. erosion control works including tree planting.
672. Stock exclusion is also one of the main risk activities, but this is now also being addressed by national regulations.
673. The Farm Plan and Catchment Collective approach also requires an assessment of all contaminant loss risks and the development of a mitigation programme for that property (or catchment). For most properties, this is based on identifying and adopting good industry practice.
674. However, in some locations, meeting the water quality targets specified in Schedule 26 may require additional mitigations to be identified. PPC9's focus on outcomes for water quality will better enable and support innovative and flexible management responses, especially at a catchment scale. The timeframe for meeting most of the specified water quality targets in these catchments is 2040 and, in some catchments, longer timeframes will be required to meet the targets. The provisions of PPC9 are subject to review after 10 years. This is when progress towards the desired targets is assessed. It can account for delays between adoption of mitigation measures and measurable impact on water quality. It means that some key indicators for success will be in terms of the mitigation measure, not on the water quality as the effect is not immediate. This is especially so for measures that include planting and land use change (for example planting of erodible land).
675. The focus on implementation of key mitigation measures at a property scale to enable water quality objectives to be met is supported by national investigation looking at the effectiveness of various mitigation practices varies according to site specific characteristics and opportunities<sup>20</sup>. A recent report<sup>21</sup> carried out as part of the national Our Land and Water Science Challenge concluded that *"If all known and developing mitigation actions were implemented by all dairy and sheep and beef farmers by 2035, potential loads of nitrogen and phosphorus entering rivers might decrease by one-third, and sediment by two-thirds, compared to 2015. For many catchments, this will be enough to meet current water quality objectives"*.

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<sup>20</sup> McDowell et al 2013 Assessment of Strategies to Mitigate the Impact or Loss of Contaminants from Agricultural Land to Fresh Waters RE500/2013/066

<sup>21</sup> [OLWResearchFindingsBrief\\_Assessing-effectiveness-mitigations\\_final.pdf \(ourlandandwater.nz\)](#)

676. The contaminant management approach taken in the PPC9 also relies on new regulatory drivers. It includes new rules for production land use, new standards for risk activities as well as the specification of milestones outlined in POL TANK 27 and monitoring and reporting requirements described in POL TANK 24 and Schedule 30.

### *Nutrient Management*

677. Several submission points seek a nitrogen allocation regime or alternative nitrogen use restrictions. Submission points including 132.111, 120.111, 132.138 further suggest a range of nutrient allocation and management solutions. The complex relationships for nitrogen are outlined below and described in the Section 32 Report.

678. The Section 32 Report provides an assessment of the costs and benefits of the different options traversed in finding an efficient and effective method for nutrient management including property scale allocation within the TANK Catchment<sup>22</sup> and therefore this assessment will not be repeated here.

679. There is data available for the TANK Catchments about freshwater quality and the main environmental stressors in freshwater bodies. For example, while nutrient concentrations, especially nitrogen, are high in the lowland streams of the Karamū Catchment, the main environmental stressors in those streams are known to be temperature and oxygen<sup>23</sup>. PPC9 proposes a focus on riparian land management to improve the freshwater ecosystem health of lowland streams.

680. In contrast, while the Ngaruroro River mainstem has low nitrogen concentrations some of its tributaries have nitrogen levels that compromise ecosystem health and impact on algal growth in the tributaries as well as the mainstem. Sediment loss from hill country is also a key stressor for freshwater and estuary ecosystems in these water bodies.

681. A more regulatory focus on nutrient management in PPC9 would depend on calculating sustainable loads across 3 very different but connected catchments. It would involve development of nutrient limits at a property scale using models in the absence of good knowledge about existing losses and pathways. It means resources would be diverted from implementation of key mitigation measures such as restoration of shade and improved riparian land management in those lowland streams as well as better nutrient management which will all deliver improvements in water quality and ecosystem health.

682. PPC9 recognises that both nutrients and sediment need to be reduced to meet objectives for freshwater quality and for the health of the estuaries. This is reflected in the priority management in Schedule 28 based on nitrogen yields as well as freshwater nitrogen concentrations. This approach is also relevant to OBJ TANK 5 and which is further discussed in Section 14.6 of this report.

683. PPC9 ensures the management focus for each of these catchments is on the stressors and contaminant pathways that are relevant to meeting the objectives for that waterbody, while still addressing impacts on the estuary receiving environments. This focus is reflected in policies such as POL TANK 1 – 5 and the key mitigation measures in POL TANK 27. The prioritisation of resources is directed by Schedule 28 and reflected in the regulatory requirements for farm and catchment plans and industry programmes.

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<sup>22</sup> S32. Page 133.

<sup>23</sup> <https://www.hbrc.govt.nz/assets/Document-Library/TANK/TANK-Key-Reports/4782-Life-Supporting-Capacity-Streams-Karamu-010116.pdf>

684. Deciding on whether nutrient limits should be based on total loads to a sensitive receiving environment or on nutrient concentrations within the freshwater body would be integral to establishing sustainable nitrogen loss limits.
685. For example, load contributions to the Waitangi estuary from the Ngaruroro River are significantly higher than from either the Karamū or Tūtaekurī rivers due to the considerably higher volume of flow from that river, even though the concentrations of nutrients in the Ngaruroro mainstem itself are much lower. The Ahuriri Catchment is even more complex with multiple small streams entering the estuary, including from a significant part of urban Napier.
686. If the load is to be expressed in relation to concentrations in freshwater on the other hand, the four TANK Catchments have quite distinctive and separate needs for improving freshwater ecosystem health and other water body values that are not all related to nitrogen concentrations, including sediment control, riparian land management, stock control and planting.
687. Development of nitrogen allocation provisions and regulation of nitrogen losses in relation to nitrogen concentrations in the connected waterbodies of the TANK Catchments is therefore neither efficient nor effective use of resources at this stage.
688. The four catchments also have quite varied production land uses across the catchment. Data about nitrogen loss from the wide range of land use activities across the catchments is based on models like Overseer and SPASMO. The establishment of baseline information about property scale nutrient loss across the catchments is an administratively difficult, costly and complex task. The accuracy of tools like Overseer also means developing these sorts of regulatory provisions is challenging.
689. The necessary reduction in nitrogen losses from the wide range of land use activities would be difficult to calculate and allocate equitably in light of the varying environmental and local water quality issues in the connected contributing catchments. PPC9 acknowledges a need for more data but proposes it be collected over time. PPC9 provides a management pathway that allows for better data collection over the next 10 years and which could better inform this sort of allocation discussion when this Plan is reviewed.
690. The technical, science, social and economic complexities inherent in development of a regulatory regime for establishing sustainable nitrogen loads or developing a nitrogen allocation regime across the diverse TANK Catchments were acknowledged in the PPC9 process and described in the Section 32 Report. It is for these reasons that PPC9 takes a staged and adaptive, priority management approach that focuses on the issues relevant to where a property is located.
691. Further, the costs of developing and implementing a more regulatory approach in the absence of the information required were considered in relation to the costs of a focus on investing resources in known mitigation measures in priority locations.
692. The community costs in developing a more regulatory solution, including through PPC9 process and subsequent likelihood of Environment Court proceedings would be significant. This is because thresholds for consents, property scale nutrient allocations or other consent drivers would be extensively debated and challenged given the science and technical and practical challenges described above.
693. Further, landowners would potentially face significant resource consent costs and a management approach that focused on farm plans as a key management tool with more timely implementation of mitigation measures was a preferred approach. The proposed PPC9 approach was found to be more effective and efficient.

694. Note that there were no submissions opposed to the directions for contaminant management and adoption of mitigation measures where necessary to meet water quality outcomes. There were however, submissions about the associated costs including for administration, annual reporting, auditing, and monitoring etc., or consents required by PPC9 on landowners. PPC9 introduces new requirements, but also provides mechanisms for collective or industry supported management that will help to reduce costs for individual landowners, but still focus attention on mitigation measures where necessary.
695. Adaptive management is a well-recognized resource management tool that has been applied both internationally and nationally. The New Zealand government has seen adaptive management as a structured, iterative process of robust decision making in the face of uncertainty with the aim of reducing uncertainty over time through system monitoring and adapting management practices in response to what has been learnt<sup>24</sup>.
696. The New Zealand Biodiversity Strategy defines adaptive management as: “...an experimental approach to management, or “structured learning by doing”. It is based on developing dynamic models that attempt to make predictions or hypotheses about the impacts of alternative management policies. Management learning then proceeds by systematic testing of these models, rather than by random trial and error. Adaptive management is most useful when large complex ecological systems are being managed and management decisions cannot wait for final research results.”
697. In the TANK situation, the management structure requires action, and the priority and outcomes approach enables flexibility and innovation as well as efficient and effective management to meet the stated outcomes.
698. PPC9 provisions (including regulatory provisions that require identification of risks, adoption of mitigation measures, including preparation of nutrient management plans supported by new rules for productive land use activities) demonstrates a quantum shift in how the Council will interact with productive landowners and reflects a step change in the level of regulation of productive land and expectation on landowners for meeting environmental outcomes.
699. The Rule TANK 1 and 2 requirements for farm or catchment collective plans or industry programmes are a substantial new regulatory requirement which in itself imposes expectations and costs on landowners (in addition to costs of mitigations necessary to manage contaminant risks from the property).
700. The new requirements for production land activities are supported by monitoring and reporting commitments including in relation to nitrogen loss at a property scale in priority catchments. Other commitments are imposed on the Council to better understand impacts of land use activities, natural processes and impacts on estuary ecosystems.
701. The focus of Schedule 30 at a property scale includes a requirement for nutrient management plans where local water quality does not meet target attribute states for nitrogen concentration. There is also a priority focus for nutrient management in those parts of the catchment where modelling shows high nitrogen loads (Schedule 28). PPC9 builds an expectation for the adoption of good industry practice. The farm or catchment collective plan or industry programme also need to account for local water quality when

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<sup>24</sup> New Zealand's experience with adaptive management for seabed minings projects, MfE, 2016  
<https://www.mfe.govt.nz/sites/default/files/media/Marine/NZ%27s%20experiences%20with%20adaptive%20management.pdf>

considering mitigation measures. A catchment scale approach also enables creative or innovative solutions to be found to meet objectives.

702. As noted above, adoption of good industry practice can lead to a nutrient loss reduction by around one third across a catchment based on large scale data and modeling across NZ.

#### *Standards for nutrient management*

703. However, despite proposed PPC9 provisions, the expectations about the level of mitigation required at a property scale, especially for managing nitrogen loss is still somewhat unclear and could be amended to provide better guidance to landowners as well as address concerns expressed by some submitters about the level of nitrogen management performance.
704. Accordingly, amendments to POL TANK 17, Rule TANK 1, Schedule 30 and consequential amendment to the Glossary are recommended to make it clear that nutrient management as demonstrated by nutrient loss models like Overseer reflects good industry practice. While not specifically sought by any specific submission point, the recommended amendments are consistent with direction sought by submitters for clarity around expectations for nitrogen management.
705. The recommended amendments in both Schedule 30 and the Glossary terms for nitrogen loss rate and nitrogen loss target also indicate that for some waterbodies, additional mitigation measures may be required to meet objectives. The collective approach to managing water quality incentivises and enables innovative and collaborative solutions to be developed at a catchment scale for the longer term, while still ensuring property scale management meets industry good practice standards in the short term.

#### *Timeframes*

706. Submission points 123.52, 126.17 and 18, 120.124, 10.2 and 83.3 make references to timing and timeframes.
707. The timeframes proposed by PPC9 including for mitigation measures, requirements for Farm Plans and meeting target water quality attribute states acknowledge that not everything can be done in the next ten years. Issue 6 in the notified PPC9 preamble described the need to ensure people and communities can continue to meet their social, cultural and economic needs and that it was agreed during the PPC9 process that time would be provided to implement mitigation measures and meet objectives.
708. PPC9 establishes a new staged approach and details a new way of working with communities, landowners and industry groups with a specific focus on identifying contamination loss and investing in mitigation measures at a property scale.
709. PPC9 and the Draft Implementation Plan also acknowledge the resource needs associated with building the support systems, including technical support for farmers technical and process support for the Council including additional services to support farm and catchment scale planning and monitoring. Some of this support has been developed in the region as a consequence of PC5 (for the Tukituki Catchment), particularly in relation to the development of farm and industry services and advice for preparation and delivery of farm plans.
710. PPC9 goes a step further by also providing for collective management approaches which will also need resourcing and support by industry, landowners and the Council.

711. Meeting water quality target attribute states will also proceed faster with additional funding and other assistance for landowners and community groups to carry out the necessary mitigation works (provision of riparian and wetland creation design and planting advice, plants, fencing, for example).
712. The Council and government already recognise the value of supporting investment into costly mitigation measures with wide benefits such as wetland development, riparian planting and erosion control works. These mitigation measures can be costly but provide a high environmental public benefit and enable objectives to be met sooner. The Council will continue to support programmes that assist landowners to carry out these mitigations through its decisions on funding through the Annual and Long Term Plans.
713. Note that some council programmes, including Right Plant Right Place for erosion control or retirement can meet multiple objectives including for management of climate change, improvement of biodiversity as well as for freshwater ecosystem benefits.

#### *POL TANK 1 - 5*

714. POL TANK 1 looks to direct the key management responses to be adopted by the council and landowners across TANK Catchments. It uses a priority approach that recognises that site specific water quality, and stressors influence water quality differently in different locations. It also recognises that there are pathways which, if addressed, will target a range of contaminant issues and that there are key mitigation measures that result in faster improvements to ecosystem health. A priority focus area is also where human health is at risk.
715. The following POL TANK 2, 4, and 5 provide further management focus in each of the specific TANK Catchments as each has slightly different stressors, water quality issues and priority management actions. POL TANK 3 deals with wetlands and lakes which are located across all TANK Catchments and is further discussed in Section 14.9 below.
716. Reference to water quality needs of food and fibre production and irrigation in POL TANK 1 to is sought by submitters 97.87, and 99.103. However, the policy focusses management action on priority issues for managing water quality and while water quality for food and fibre production is important, the attention is focused on the priority and at-risk end uses of water for human health and municipal supply. The risks of getting this focus wrong have been demonstrated by the Havelock North water contamination issue.
717. Besides, Schedule 26 adopts a critical value approach, and in meeting specified water quality targets (as directed by the policy) the needs of irrigation and food and fibre production are also protected, as ecosystem and drinking water are generally more critical values for water quality.
718. All water bodies are being managed according to the site-specific challenges in each catchment. Nitrogen does not need to be specifically referred to in POL TANK 1 as it is only a critical water quality issue in some locations. The policies more generally refer to nutrient management where necessary such as in the Karamū, and managing load to the estuaries. (e.g. submission points 194.34, 195.33, 120.91)
719. Some wording changes were sought for clarity including in relation to where the management action lies (i.e. only the Council may regulate) and these submissions are recommended to be accepted. (i.e. Submission points 201.32, 135.18, 195.31).
720. Submission point 233.10 seeks reference to protection of water quality for community water supply. The policy refers to domestic and municipal water supply. However, rather than the relief sought, an amendment so that the policy refers to “domestic use and registered

drinking water supplies' both clarifies the protection for domestic use as well as links to POL TANK 6-9 referring to these more general community supplies.

721. POL TANK 2 need not refer specifically to road or sealed surfaces as it directs the Council to improve stormwater in urban waterways more generally – which includes both roads and sealed surfaces (submission point 10.1).
722. Submission points 99.104 and 180.21 seek reference to biosecurity in POL TANK 2. Refer also to POL TANK 11 and 12 which acknowledge that (while indigenous species are preferred) riparian plantings do not always need to be native for biodiversity purposes or for good riparian land management outcomes. However, biosecurity objectives are not referred to in either of those policies and in order to ensure integration in making decisions about riparian land management it is recommended that POL TANK 12 be amended to include reference to regional biosecurity.
723. The policy refers to water quantity as well as quality as it is a key component of ecosystem health. It sits alongside other policies and rules that establish minimum flows and allocation limits, but encourages a holistic approach to management through reference to quantity in POL TANK 2(b) (submission point 194.33) and no further changes are recommended.
724. POL TANK 2 acknowledges that nutrient management will not directly impact on macrophyte growth as macrophytes will access nutrients through their roots, not from dissolved nutrients. A focus on nutrient management to reduce nitrogen concentration to address macrophyte growth will therefore not achieve that purpose. The relief sought by submission point 201.33 does not reflect the science and understanding about management of macrophyte growth and is therefore rejected.
725. In POL TANK 4, submission point 180.22 seeks reference to planning maps and definitions for the lower main rivers. Note that PPC9 planning maps for the water quality management do show the location of the lower river management areas. Other recommendations for Schedule 26 and planning maps will clarify these aspects further.
726. POL TANK 5 should be amended to refer to Te Whanganui ā Orotu (Ahuriri Estuary) consistent with the Outstanding Water Bodies Plan Change and statutory acknowledgements. The policy provides specific direction for the management/mitigation measures on land and for freshwater necessary to improve the estuary. Some submission points seek alternative management responses (123.44, 233.15, 126.15) or suggest management solutions addressed elsewhere including through stormwater management in urban areas.
727. Submission point 126.15 also seeks reference to wastewater management into the estuary. Direct discharges of wastes (see POL TANK 10) are controlled through a resource consent process where activities will be assessed in light of the new policies and schedules for water quality.
728. The submitter is perhaps referring to issues arising from the emergency discharge of wastewater by NCC during extreme flood events. This is a complex issue arising from the design standards when the wastewater system was installed, challenges with water levels and drainage in low-lying areas of Napier, changing expectations about environmental outcomes, and the significant impacts on the community in relation to infrastructure improvements.
729. All of these issues will be considered as part of the resource consenting process which in POL TANK 10(c) acknowledges the potential need for investment in relation to managing effects of existing activities. It also enables appropriate timeframes for new investment to be agreed. This allows for the social, economic and cultural well-being to be accounted for

in developing appropriate solutions. No amendments are suggested in response to this submission point.

*POL TANK 17 – 20*

730. The policies reflect the need for management action to be taken to reduce contaminant loss including nutrients and sediment. The necessary mitigation measures depend on site specific characteristics of a property and land use type as much as on the location in a catchment where water quality objectives are not being met.
731. Each property in a priority catchment is required to assess all contaminant loss risks. Additional requirements are specifically imposed in some catchments (such as a focus on riparian planting along lowland streams and nitrogen management in areas with high nitrogen loads or concentrations).
732. The significant amendments sought by some submitters for these policies substantially changes the priority and adaptive management approach. I do not agree with suggestions by submitter 210 that the policies are not consistent with the NPSFM, RMA and NESFM. The proposed policies specifically address the need to reduce contaminant loss, collect data and establish limits on resource use through regulations on production land use activities. Further assessment on the alignment between PPC9 and the NPSFM2014 (amended 2017) and NPS 2020 is provided separately in Appendix 6.
733. **POL TANK 17** Submission point 135.23 seeks deletion of reference to nutrient management plans however this focus on nutrient management at a property scale is an essential part of PPC9 direction in catchments not meeting water quality objectives. The policy is also recommended to be amended more clarity in the directions for meeting nitrogen management loss.
734. Submission points 194.35 and 195.42 refer to production land use activities with a lower risk of nitrogen loss. However, the policies address the challenges of managing cumulative effects of a wide range of production land use activities across catchment with very different characteristics.
735. The property and catchment requirements are imposed on all properties in a priority sequence. The necessary mitigation measures will vary from property to property but PPC9 obliges all properties to carry out that risk analysis and identify appropriate mitigation measures to address the cumulative effects. This approach ensures all properties are managed within the context of water quality issues relevant to that property. It enables land use change decisions, including for properties with a low contaminant loss risk to be made within this context as well.
736. Other parts of PPC9 provide for an industry led farm plan approach that will help reduce costs and complexity including for some low-risk production activities such as grape growing or extensive sheep production.
737. **POL TANK 18** The priority catchment approach to cumulative effect management is also relevant in relation to determining whether a land use change causes 'adverse effect' as sought by submission point 195.43. It is the contribution to the cumulative effect that is being managed and it can be difficult to assign adverse effect at a property scale.
738. PPC9 change does not anticipate that all water quality objectives will be met in the short term but looks out to 2040 and beyond. Some of the mitigation measures will take some time before their impact on water quality and ecosystem health is evident. For example, it will take years to demonstrate ecosystem improvements from erosion control planting and land retirement to prevent future landslips and riparian planting to provide shade. At best,

we can hope to show improving trends as well as record the actual implementation of the mitigation measures within the 10-year planning term provided by this plan.

739. Amending the policies to refer to contaminants generally is appropriate in some parts of the policy but not all. For example, PPC9 includes regulation in respect of land use change impacts arising only through increased nitrogen losses. PPC9 anticipates sediment and bacteria loss risks will be addressed at a property scale and does not regulate for these contaminants as a result of land use change. Some amendments are therefore recommended for clarity
740. **POL TANK 19** A number of submitters (123.54, 126.20, 135.26, 210.39 ) seek deletion of POL TANK 19 as it repeats POL TANK 17(a) (iv) which it does, and the recommendation is for its deletion. A slight amendment is consequentially recommended for POL TANK 17 to refer to priority order in Schedule 28
741. **POL TANK 20** A number of submission points (120, 240.24) seek stronger or more directive measures to manage sediment loss. However, the policy is already supported by several new rules targeting high risk activities including cultivation near water ways and on steep slopes as well as rules regulating stock access. This is in addition to the property specific requirements imposed through farm plans to identify risks and adopt mitigations.
742. Sediment sources and risks of further sediment loss as noted above in para vary widely across the catchment as a result of different geologies, topography, soils and land cover. Analysis of costs of mitigation measures (Agfirst report) showed that the burden of carrying out erosion control works and other sediment management measures including land retirement fell unevenly across property owners and catchments. The farm plan and catchment collective management approach enable mitigation measures to be planned according to site specific requirements and constraints. Any more directive measures would impact on relatively few property owners. Faster progress towards meeting water quality targets is possible through the Council and Government support through programmes like the Freshwater Improvement Fund (currently underway to address sediment and other contaminant loss in the Ahuriri catchment) and the Right Plant Right Place programme which is also targeting high sediment loss areas.

#### *Alignment with RPS, RRMP and RCEP*

743. The PPC9 Change amends provisions in the Regional Resource Management Plan by introducing a new land and water management regime for the TANK Catchments. It makes some consequential amendments to the existing RRMP provisions. The scope for PPC9 does not extend to the Regional Policy Statement (RPS) or to the Regional Coastal Environment Plan (RCEP).
744. It means that while there are over-lapping provisions in the RPS and RCEP, these cannot be amended through this process as sought by submission point 100.3. The Council is aware of this issue and intends to address it as part of a wider review and update of its RMA plans. It will continue to administer both plans and in making decisions about resource consents will apply the appropriate weighting in assessing PPC9 requirements.
745. In the meantime, land in Ahuriri Catchment that may also be in the Coastal Environment also become subject to the new production land use and other relevant policies and rules. In dealing with any relevant consent requirements, the requirements of both parts of PPC9 will be appropriately weighted and considered.

## *Schedule 28 Maps*

746. A number of submission points seek better delineation of the priority catchments or inclusion of the priority areas in planning maps.
747. Schedule 28 currently provides the methodology and thresholds for determining which catchments are in the worst state and therefore a high priority for action. The water quality or contaminant loss risk data used to assign priority is based on a mix of monitoring data (such as for dissolved oxygen and nitrogen concentration) and on information provided by models such as SedNet for assessing risk of sediment loss and SOURCE/Overseer data for assessing risk of nitrogen loss. Source Protection Zones are also identified as risk areas because of their connection to municipal water supplies.
748. Actual data about attribute state may vary both at catchment and property scale from time to time and will change as mitigation measures are implemented. It was for this reason that the areas resulting from those priority thresholds were not included as planning maps – but were prepared to sit alongside PPC9 as guidance for implementation.
749. However, without a planning map, there is insufficient clarity about when and where land is subject to Rule TANK 1 or 2. The priority catchment areas provide the driver for Farm Plans/Catchment Collectives/Industry Programmes requirements and are an important implementation method for PPC9 and critical for identifying compliance.
750. Schedule 28 prompts action to be undertaken in a priority order. The property or catchment scale requirements are specified in Schedule 30. Schedule 30 requires contaminant risk and mitigation measures to be adopted according to the water quality issues relevant for that property. If local water quality and ecosystem health improves or is different to that modelled and shown on the priority planning maps, then the relevant Farm and Catchment Plans can be adapted accordingly.
751. Section 14.5 of this report addresses Schedule 30 requirements and about monitoring at smaller scales than provided by the SOE monitoring or where priority is assigned by models (which are not always accurate at a small scale).
752. It means that while providing sufficient direction about where priority must be focused in Schedule 28, the Schedule 30 requirements still enable landowners to respond to local water quality information, including where it is different than that modelled.
753. Submission point 116.7 questions how models (especially Overseer) are referred to and applied in relation to plan requirements and submission point 195.141 seeks deletion of the nitrogen load threshold for assigning priority and 180.68 is concerned about double counting of the nitrogen yield.
754. The nitrogen load priority arises in relation to the management of freshwater nutrient loads to the estuaries – while sustainable limits for estuary health are not yet developed, the estuaries are currently in a poor state and reduction in nutrient loads to the estuary is still a plan objective. Priority action on the basis of load is calculated by models. The models do not direct the content of farm plans, they provide the trigger for priority action through Rule TANK 1 and 2. No amendments are recommended in respect of these submission points.
755. Submission point 180.68, seek deletion of Source Protection Zones in Schedule 28 while submission point 207.47 seeks further clarification and direction for farm plans as a priority in Source Protection Zones.
756. The specification of Source Protection Zones arises in response to managing contaminant risk to source water used for municipal drinking water supplies. The areas are shown on

maps that are not currently part of PPC9, but are currently provided for information. The provisions for protection of source water quality for drinking water supply are considered elsewhere in the Hearing Report.

757. That section of the Hearing Report describes the methodology for defining SPZs and the original reasons for not including those zones in planning maps. However, without an associated map it leaves the application (and compliance) of Rule TANK 1 and 2 (and other relevant rules) in some doubt. The solution being recommended here is similar to that for dealing with the amendments to other rules in that a planning map for the SPZs is recommended for clarity and certainty. It identifies the SPZ for municipal supply as a high priority area for the preparation of Farm Plans.
758. PPC9 also refers to Source Protection Extent which covers the source areas for small scale drinking water supplies.

### Recommendations

759. I recommend that the general submissions opposed to PPC9's staged, adaptive and priority management focus or seeking changes to timeframes or regulatory provisions (as contained in table 14.2 in Appendix 3) be rejected because:
- z) the overall framework addresses both the scientific uncertainties as well as the priority management focus and
  - aa) the provisions allow the focus to be on key mitigation measures that are known to be successful.
  - bb) Implementation is supported by specific milestones and timeframes and
  - cc) a new regulatory approach requires a property scale response as well as new monitoring and reporting requirements.
760. I recommend that submissions seeking specific amendments (as contained in table 14.2 in Appendix 3) be rejected because amendments:
- a. are not consistent with the overall policy approach or
  - b. are not relevant to the intent of the policy, or
  - c. do not materially improve the policy, or
  - d. are dealt with elsewhere in PPC9 or
  - e. do not reflect the current science.
761. I recommend that the submission points are accepted, accepted in part or rejected (as contained in table 14.2 in Appendix 3) and that the following amendments be made to PPC9 as shown in the marked up version of PPC9 in Appendix 1;
- a. POL TANK 1 is amended to reflect functions of the Council, provide for consistency and accuracy in wording, and refer more comprehensively to drinking water quality protection,
  - b. POL TANK 3, 5, 17,18 are amended for consistency and accuracy,
  - c. POL TANK 17 are amended to provide better direction and clarity about expectations for nutrient loss management,
  - d. POL TANK 18 are amended for clarity about nutrient and contaminant management,
  - e. POL TANK 19 is deleted because it repeats the direction contained in POL TANK 17(iv),
  - f. POL TANK 20 is amended to refer to sediment specifically in clause (b) as the policy directs sediment management, and for consistency with national regulation for stock access,
  - g. POL TANK 21 is amended to reflect functions of the Council, for consistency with national regulation and accuracy.

762. I recommend that submission points are accepted, accepted in part or rejected (as contained in table 14.2 in Appendix 3) and that the following amendments be made to Schedule 28 as shown in the marked up version of PPC9 in Appendix 1:
- a. the priority catchment areas developed according to Schedule 28 direction be included as planning maps and referred to in Schedule 28 so as to provide sufficient clarity for interpretation of rules (Rules TANK 1 and 2).
  - b. Improve clarity of Schedule 28 by amending how the thresholds are described, for sediment, nitrogen concentrations and nitrogen loads and
  - c. clarify that areas for the protection of source water are a high priority area as directed by POL TANK 1 and 6 and to develop planning maps that show where these source water protection areas are located.

### **14.3 Land use change, POL TANK 21, Schedule 29 Rule TANK 5 and 6**

#### Submission points

763. There are over 400 submissions in opposition, in support, seeking amendments or with no position stated. Submission points are contained in table 14.3 in Appendix 3.
764. The following evaluation may not refer to every submission point but I have considered each submission point before making my recommendations.

#### Submission point requests - general

765. Most submissions oppose the provisions and seek substantial amendments or further explanation and clarity. This includes a large number seeking:
- a. clarification about what land use change and production land use activities mean,
  - b. enabling the management of nutrients to be done by collective management and
  - c. enabling Catchment Collectives and Industry Programmes to manage land use change in accordance with the 2040 timeline for meeting water quality objectives.
766. Submission points 103.18 and 194.39 refer to the regulatory impact on land use change from vineyards and differentiation between low and high Nitrogen loss activities, while submission point 91.73 refers to management of covered crops and those in structures such as glass houses and submission point 95.73 opposes regulations that restrict or limit land use decisions by landowners.
767. Submission point 40.5 raises concerns about the limiting of innovation and flexibility imposed by the new provisions.

#### Submission point requests – POL TANK 21

768. Submission point 10.3 seeks promotion of performance standards relating to humus content and a nitrogen loss target according to LUC.
769. A number of submission points seek that the policy be amended to enable Catchment Collectives and Industry Programmes to manage land use change in accordance with the 2040 timeline for meeting water quality objectives.
770. Submission points 70.2, 66.1, 74.1 are concerned about the use of the word 'avoid' in POL TANK 21(d) while 32 other submission points seek to make condition (d) subject to POL TANK 21 clauses (a) – c). Some seek that changes in land use be assessed in relation to good management practice not nitrogen limits. Submission point 101.1 seeks removal of

reference to Nitrogen loss and other submission points are concerned about the use of modelling as proposed in the rules and Schedule 29.

- 771. Submission points 210.37 and 210.42 seeks the policy be more directive and clearer and refer specifically to nitrogen loss management as intended by the policy (195.46)
- 772. Submission points 123.56 135.27, seek wording changes to POL TANK 21 and while submission point 141.1 supports the policy it seeks the threshold for change as 10% of a farm area (in the rules).
- 773. Submission point 142.3 opposes regulatory provisions based on modelling and submission point 91.74 opposes regulations limiting landowners land use choices.
- 774. Submission point 99.11 seeks that other contaminant losses also be addressed, expresses concern that reference to minimal use of nitrogen is considered as good land use, and that the focus is on the status quo and high nitrogen use.
- 775. Submission point 180.31 seeks amendments including reference to crop rotations, food growing and support of a transition to a low emissions economy by enabling land use change that reduces emissions and improves carbon sequestration, other submission points refer to provision for growing of food crops on versatile land and the need for regulation only where there is a more than minor effect (241.4).

#### Submission point requests- Rule TANK 5 and 6

- 776. A number of submission points seek deletion of Rule TANK 5 and 6 or amendments to ensure they are no more onerous than the Resource Management (National Environmental Standards for Freshwater) Regulations 2020. Several Submission points are concerned about restrictions on land use decision making (including 17.5, 8.48, 21.5, 33.3, 40.5, 45.7)
- 777. Other submission points seek amendments to the thresholds in the rule or Schedule 29, including for grapes (8.49, 14.12, and winter grazing of sheep (26.16) or generally (66.17 66.18, 50.13, 109.12)
- 778. Submission points seek a flat rate per hectare of 20kgN/ha/year, (e.g. 21.9, 40.9)
- 779. Several submission points (e.g. 21.12) seek alignment with Rule TANK 1 and 2 and requesting that Farm Plans meeting requirements of Schedule 30 be included in condition (b) of Rule TANK 5.
- 780. Reference to the Overseer version being used and methods being used to manage model version changes is sought by several submission points. (e.g. 41.16)
- 781. A number of submission points (including 14.6, 18.8, 20.8, 50.13) refer to the 2040 timeframe for meeting objectives for land use change.
- 782. Submission points 51.8, 66.17, 141.1 seek alternatives so that the permitted area is 50ha, or the greater of 10ha or 10% of the property area. Submission point 116.4 considers there is a contradiction between Rule TANK 5 and 6 that must be addressed, while 197.15 seeks that the threshold be increased to 20ha or 20% of the property area and include reference to a Farm Plan.

#### Submission point requests – Schedule 29

- 783. Over 100 submission points were received on Schedule 29. The thresholds, modelling and clarity are all issues raised by submitters. Some alternatives are provided such as a flat

rate per hectare, an LUC based system, and a land use category by leaching risk (submission points 21.9, 33.3, 35.81 and 129.7)

## Discussion

784. POL TANK 21, Schedule 29 and Rule TANK 5 and 6 seek to manage the adverse effects of land use change in relation to rates of nitrogen loss. They arose out of concerns about the lack of control over land use change that may create additional risk to meeting water quality objectives. The Section 32 Report described the land use change risks that might impact on meeting water quality objectives.
785. Several options for land use change management were explored and are outlined in the Section 32 Report. Since then, the government has also introduced new measures aimed at halting further degradation arising from specific land use changes (the Resource Management (National Environmental Standards for Freshwater) Regulations 2020). These provisions are interim and cease to apply from 1 January 2025 or when a council introduces new provisions giving effect to the NPSFM2020.

### *POL TANK 21*

786. The policy is focused on managing land use changes that result in increasing nitrogen losses based on modelling information for different land use systems. The focus is nitrogen because it is a contaminant of particular concern, freshwater concentrations exceed target attribute states in many places, and nutrient enrichment is occurring in the receiving estuaries. Nitrogen losses from different land use systems can also be predicted using models.
787. Increases in other contaminants such as sediment and bacteria are also a concern, but changes in losses of these contaminants are not able to be consistently predicted for different land use activities. These are more easily targeted by key mitigation measures and are a management focus for farm plans in Schedule 30. The policy will therefore continue to focus on nitrogen as a key contaminant (Submission point 99.11).
788. This policy guides decisions on applications for land use change. It accounts for current water state, how any relevant catchment collective programmes are working towards meeting environmental outcomes and mitigation measures likely to reduce nitrogen loss. The policy directs decision making towards avoiding land use change that results in nitrogen loss increases that will contribute to water quality objectives not being met. It is, as some submissions (70.2, 66.1, 74.1) pointed out, a high bar and may restrict land use change and impact on investment decisions by landowners.
789. Submission points such as 74.1 are concerned about the implied limitation on any future land use change across the TANK Catchment, and on future growth opportunities for business as directed by clause (d). These submissions seek that the trigger in assessing changes in land use should be measured in relation to good management practice, not nitrogen limits which cannot be accurately understood nor measured. Other submission points (50.12 114.6, 112.9, and others) oppose any restrictions on landowner ability to make land use decisions.
790. Experience around NZ shows that the cumulative effects of land use contribute towards the water quality state and some land use systems are riskier than others and can result in decreased water quality where there is a change in land use. There is a need for intervention by the Council to ensure this sort of land use change (with respect to potential loss of nitrogen) does not undermine the objectives in PPC9 to maintain, or improve where necessary, water quality as outlined in Schedule 26. There are no other provisions that manage this increasing cumulative impact in the Plan.

791. Models such as Overseer and SPASMO do not precisely measure nitrogen loss at a property scale but instead provide a prediction of likely losses or relative changes in nitrogen loss as a result of changes in land use management. They provide a tool to manage a significant risk to further degradation of water quality.
792. Despite the requirement to avoid nitrogen loss, the policy does not prevent land use change as some submission points are concerned about. It does, however, respond to the challenge of maintaining or improving water quality and preventing further degradation by providing a threshold of land use change that can occur without a consent.
793. Applications for land use change above the threshold will need to consider mitigation measures that will be necessary to avoid the risk of not meeting water quality targets within specified timeframes. This regulatory regime allows for management solutions to reduce nitrogen loss to be developed where a land use change is desirable – but does not allow land use change to undermine PPC9 objectives for water quality. These provisions also ensure mitigation measures being adopted by landowners to meet water quality targets are not undermined by ill-considered land use change elsewhere in the catchment.
794. The word 'avoid' in clause (d) is considered to be a critical aspect of the policy and submission points (such as 18.8, 26.8, 180.31) seeking its deletion or making the clause subject to clauses (a) – (c) are recommended to be rejected. The Council must be enabled to control land use change where it creates a risk to meeting water quality targets. If there is no direction to avoid further degradation, the cumulative effect of land use change will not be adequately managed.
795. A number of submission points refer to the 2040 target in relation to managing land use change. However, the submissions did not adequately describe what this meant in practice and how it would inform decision making. Landowners, either collectively or individually, are being directed to implement mitigation measures that will enable the water quality attribute targets to be met by 2040. If land use changes are going to prevent the targets from being met, a consent is unlikely to be granted. However, there is nothing to stop a collective approach to managing impacts of land use change while still adopting management measures that result in the targets being met by 2040.

#### *Rule TANK 5 and 6 and Schedule 29*

##### *Background*

796. The Tables in Schedule 29 were developed on the basis of the permitted 10ha land use change. For a possible change in land use, the difference in the annual TN load between the maximum and minimum losses for that soil type and land use type over 10 hectares established the permitted threshold. If the total N loss for a proposal exceeded the values provided in Table 2 a resource consent would be required. (e.g. a change from trees (3kg Nitrogen per year per hectare) to dairy (32kg Nitrogen per year per hectare) is permitted to have a maximum nitrogen loss change of 29kg Nitrogen per year per hectare times 10hectares (or 290kg) before a consent is required.)
797. The threshold for consent in Rule TANK 5 and 6 is based on both:
- a. A threshold area of 10 ha per property, or where there is collective management, 10% change per property and
  - b. No more than the specified change in N loss in Schedule 29
798. Rules TANK 5 and 6 are also differentiated on the basis of membership of a catchment collective. Rule TANK 5 was established as a controlled activity essentially as an incentive

for Catchment Collectives and to enable collective management by landowners and allows them to find solutions for land use change at a catchment scale. Land use change in that scenario would be a controlled activity. Note that the Collective is not required to give approval for a land use change application as it is a decision of the Council. But in making the decision the Council would consider whether the Collective can accommodate a land use change and the nature of the mitigations (including if they were property or catchment scale.)

799. The 10% change per property allowance also provided for a slightly greater land use change as the scale at which the impacts were being managed was also greater (i.e. at a catchment scale).

### *Managing Land Use Change Options*

800. Several submission points suggest changes or improvements to the proposed Schedule 29 and Rule TANK 5 and 6 including:

#### Amending TANK 5 and 6

- c. Any change to the production land use activity commencing after 2 May 2020 is either over more than 10 hectares or 10% of the property or farming enterprise area, whichever is the greater
- d. Increasing the allowance to either 20 or 50 ha
- e. Allowing a 10% change across the total catchment collective area
- f. Allowing land use change of up to 15% per property
- g. Adopting a flat rate per hectare (20kgN/ha/year was suggested by several submission points (including 21.9, 35.81, 40.9)
- h. Adopt an allowance based on LUC

#### Amending the Schedule

- i. Allowing more explicitly for crop rotations,
- j. Allowing for an increase in vegetable growing of up to 105 for vegetables
- k. Adopt single nitrogen loss load for all land use change and locations
- l. Insert further loss data to complete the tables and provide explanations to aid clarity in the proposed schedule and rules.

801. Some submission points 129.27, 180. 142.28 suggest amendments to provide further detail and clarification to the proposed provisions. Many of the suggested alternatives including an LUC approach, a flat rate or a system that relied on baseline data collection, or reliance on Farm Plans to manage the risks were considered and discounted during plan development and reported in the Section 32 Report.

802. If a land use change cap is imposed, submission points (including 50.12) suggest an allowance of 10 or 15% per property is a more reasonable level of change that still enables the flexibility to make land use decisions without requiring a consent. The submission point considered this is a better balance between cost and efficiency. A percentage change favours large scale properties where land use change can then occur over larger areas, and where the catchment scale for mitigations can be relevant.

803. Submission point 51.13 seeks a higher area before consent is required stating that “Most paddocks on sheep and beef farms exceed 10 ha in size. If a sheep/beef farmer wants to plant 10 ha into e.g. arable he would possibly be required to produce an Overseer model adding significant cost /ha compared with the production returns from that 10 ha of changed land use. This rule will make development of new crops much more difficult, complex, and costly with no environmental benefit. 50 ha is a more manageable area for farmers and council.”

804. This illustrates a particular issue around land use intensity and farm size. Pastoral farms are much larger than horticultural properties and the relative impact of 10ha at a farm scale is quite different.
805. However, the 10 ha threshold was proposed and aligns with the subsequent national regulation. It is essentially an arbitrary area that initiates a closer scrutiny of the actual risk from any specific proposal. As illustrated by the model numbers in the notified version of PPC9 Schedule 29, this threshold allows an increase of up to 430 kg of nitrogen per year (depending on location and type of land use change) before a consent is required. The impact of this amount of loss is not known for each receiving environment but does provide a reasonable point at which to assess the impact. The 10% per property within a Catchment Collective reflects the opportunities provided by the scale – although still subject to the catchment plan and meeting water quality objectives.

#### *Alternative management approaches*

806. Given the complexity and technical challenges posed by Rule TANK 5 and 6 and the associated Schedule 29, further work was done to develop a less complicated approach.
807. The technical memo by Brendan Powell ( Land Use Change) describes an approach based on that used in the national standards. The memo also describes the issues arising with the complexity of the proposed PPC9 land use change provisions, and the challenges of using models like Overseer and SPASMO to drive the methodology.
808. The concerns about the resulting complexity and implementation difficulties are echoed in a number of submission points.
809. The alternative approach described in the technical memo is much less complex than PPC9 and options considered in Section 32 Report. It relies on conventional understanding of land use systems. There are potential issues surrounding definitions of the various land use types listed in the proposed new table which establishes the hierarchy of Nitrogen loss which submitters are invited to comment on.
810. A number of submitters refer to collective management to meet water quality objectives. They state that the management of nutrients should be done at a collective level because it will enable some land use change to occur as it could be off-set within a collective. This is provided for in part by PPC9 through the 10% allowance per property in a collective.
811. The option for making a collective (global) consent that allows a group of landowners to combine the 10ha per property land use change across several properties is not specifically provided for in recommended new rule. However, there is no impediment to a global consent (for a restricted discretionary activity) being applied for by a Catchment Collective. This does not need to be specified separately in the Plan, although the responsibilities and accountabilities for such a consent will need to be addressed for such an application.
812. Other options proposed for collective management of land use change over 10% of the total area is not supported. A land use change threshold over 10% of a catchment potentially allows for a considerable area to be subject to land use change. The risk of perverse outcomes that might result from land use change at a property scale in what is otherwise a collaborative approach to management is considered too high to allow this submission. However, it is something that submitters may wish to comment on further.
813. It is recommended that any land use change control also include specific reference to winter cropping (intensive winter grazing) and irrigation. Both of these land use types can result in higher rates of Nitrogen loss. I acknowledge that this is not always an outcome for

irrigation, but the added costs of this assessment are outweighed by the relative simplicity of using this approach.

814. The national regulation proposes no increase in winter cropping from the maximum amount existing during the reference period (2014 - 2019). However in PPC9, an allowance of an increase up to 10ha of winter grazing or irrigated land is consistent with the 10ha permitted threshold for other land use change.
815. It is further recommended that the 10% per property land use change does not include intensive winter grazing and that threshold for change to winter grazing instead be kept at 10ha. This is because this particular land use activity can result in significant contaminant loss risk that may create increased pressure on the ability of a Catchment Collective to work collaboratively to meet water quality objectives. Intensive winter grazing is also associated with dairy run-off and the risk of increased cattle numbers being introduced into a catchment from elsewhere in the region and from other regions. I consider it necessary to ensure that such proposals be assessed in relation to the local water quality issues through a consent process.
816. Submission points 194.105, 103.18 are concerned about the disproportionate impact of the land change provisions on viticulture. The suggested new table places grapes at the same level as other horticultural crops. In catchments not meeting water quality objectives (many of which are in the same locations as all horticulture) a change in any horticultural land use to animal-based production systems or cropping and land use is subject to a consent process.
817. The impact on vegetable growing is arguably greater than the impact on grape growing. Submitter 180 seeks various amendments that recognise the importance of vegetables to people and communities in Hawke's Bay. However, cropping is a high-risk land use in an area subject to poor water quality. It is appropriate that change to this land use be regulated.
818. I consider that the first challenge being met by this Plan Change is the acknowledgement that the cumulative adverse effects of land use on water quality need to be managed and water quality degradation addressed, and that more information is required before a property scale nutrient allocation regime can be developed. Land use decisions need to be made within the limits being set by this Plan. Subsequent plan changes can make more nuanced and sophisticated choices about preferred land uses. For those reasons I recommend rejecting these submission points.
819. As noted earlier, the rules do not prevent land use change. Innovation and flexibility are enabled, including in contemplating land use change being managed collectively.
820. Alternative approaches, most of which require property scale nitrogen allowance were assessed and discounted in terms of costs and effectiveness.

### Recommendation

821. I recommend that the submission points are accepted, accepted in part or rejected as contained in table 14.3 in Appendix 3 and that the POL TANK 21, Rule TANK 5 and 6 and Schedule 29 be amended as shown in the marked up version of PPC9 in Appendix 1;
- a. Clarify POL TANK 21 direction and refer specifically to nitrogen loss management,
  - b. Clarify and simplify how land use change will be regulated in Rule TANK 5 and 6 and as provided in Schedule 29.
  - c. Retain the 10% land use change per property provision for properties within a collective, except for intensive winter grazing which is a 10ha threshold.
  - d. Amend Schedule 29 to provide a less complex approach to land use change

thresholds by assigning nitrogen leaching levels to different land use types.

822. This is because land use change from low leaching land uses to higher risk activities has the potential to undermine efforts to maintain or improve water quality and ensure water quality objectives can be met. The new provisions establish clearer thresholds and new regulatory limits to resource use. They are consistent with the approach taken in national regulations but encompass a wider range of risk activities. A 10 hectare threshold establishes a reasonable land area for permitted land use change after which a resource consent is required to allow assessment of effects and a 10% change per property incentivises collective management and enables catchment scale solutions.
823. Land use change is not prevented by these provisions, but the new approach does require landowners and industry groups to adopt mitigation measures when considering land use changes to avoid further adverse effects on water quality. While not provided for explicitly, global applications can be made by catchment collectives to manage cumulative effects of land use change in a catchment.
824. The provisions are much less complex than notified and reduce assessment costs necessary as part of a consent application.
825. More data about nitrogen loss rates and sustainable limits are required before decisions about nutrient allocation and preferred land uses can be made and allocation regimes adopted.

#### **14.4 Stock Exclusion, POL TANK 22 and Rules TANK 3 and 4**

##### Submission points

826. 17 Submission points were made in respect of POL TANK 22 and a further 15 in respect of Rules TANK 3 and 4. Submission points are contained in table 14.4 in Appendix 3.
827. The following evaluation may not refer to every submission point, but I have considered each submission point before making my recommendations.

##### Submission point requests

828. Submission points generally support the policy direction, but a number make requests for changes in relation to;
- a. Managing break-feeding near waterways.
  - b. Extending the stock exclusion to riparian margins rivers and lakes
  - c. Stronger direction about stock exclusion
  - d. Setback requirements
829. Submission point 124.32 refers to the new national stock exclusion regulations and seeks deletion of the TANK rules to prevent confusion. Submission point 123.123 suggests that PPC9 might need to be more stringent than the national regulations.

##### Discussion

830. PPC9 preceded the national regulations, but both are addressing the same issues and both acknowledge stock exclusion as a mitigation measure that has a high benefit in improving ecosystem health and riparian land management.
831. The TANK provisions use different terminology and performance standards compared to the national regulations as shown in the table below. It makes it difficult to assess the

relative overall impacts and whether the TANK provisions are more less stringent. Note also that a number of submission points seek amendments to the proposed TANK policy and rules.

832. There are significant challenges in administering overlapping provisions. The complexities add to a high level of uncertainty and confusion for landowners tasked with compliance and the expense of fencing. The Council is already experiencing a high administrative burden in respect for the Tukituki Plan Change 6 rules that are similar to those in PPC9.

**Table 4:** Comparison between TANK and regulation stock exclusion provisions

<b>Provision</b>	<b>TANK PPC9</b>	<b>National Regulations</b>	<b>Comparison</b>
Policy guidance	POL TANK 21	No specific policy	
Policy guidance for exceptions	Yes	No resource consent pathway	PPC9 allows resource consent application
Stock classes	Cattle, deer, pigs	Cattle, deer pigs	Similar stock classes
Exclusion applies to;	Beds of rivers and lakes	Within 3m of edge of river	PPC9 less prescriptive
Stock exclusion in on hill country	Stock exclusion required but subject to stocking rate and slope thresholds	Low slope maps showing applicable area. Reference to beef cattle being intensively grazed	Comparison difficult
Crossings	Bridges/culvert required at formed stock crossings	Bridges/culverts required, - some exceptions	PPC9 rule slightly more restrictive
Timeframes	By 2023	Variable according to stock class and location	PPC9 rule more restrictive

833. The national regulations are less complex. They also allow for regional rules to be more stringent (but not less stringent). There is no evidence to show that a more stringent approach is required to be taken across the TANK Catchments. The two sets of regulatory approaches are essentially aimed at achieving the same end result which is keeping cattle, deer and pigs out of rivers and streams in lowland areas to improve water quality and ecosystem health. I will recommend the national regulations be adopted and PPC9 provisions deleted.
834. The need for retaining policy guidance was considered but rejected on the basis that there is no consent pathway for stock exclusion under the national regulations and because no more stringent stock exclusion rules are proposed in PPC9.

### Recommendations

835. I recommend that the submission points are accepted, accepted in part or rejected as contained in table 14.4 in Appendix 3. and that POL TANK 22 and Rules TANK 3 and 4 be deleted from PPC9. Consequential amendments will also be made to POL TANK 20 and 27 as shown in the marked-up version of PPC9 in Appendix 1.
836. This is because there is a National Regulation for Stock Exclusion. Having two different but overlapping sets of regulatory provisions for the same activity results in unnecessary

complexity and increases the administrative burden for the Council. It also results in additional costs and confusion for landowners.

## **14.5 Farm Plans, Industry Programme and Catchment Collectives, POL TANK 23 – 27, Rules TANK 1 and 2 and Schedule 30**

### Submission points

837. A little more than 100 submission points are made in respect of the policies although a number made the same point, and a large number of submission points were made in respect of aligning Plan requirements with existing and established industry schemes.
838. Around 38 submission points were made in respect of Rules TANK 1 and 2
839. Schedule 30 in respect of Farm, Catchment Collective and Industry Plans has over 110 submission points although many have the same content.
840. Submission points are contained in table 14.5 in Appendix 3.
841. The following evaluation may not refer to every submission point, but I have considered each submission point in before making my recommendations.

### Submission point requests – General

842. Many submission points in respect of the policies support the approach including the permitted activity approach to managing effects of production land use activities and the reliance on farm plans as a key management response (including submission points 46.11, 83.1, 131.2, 140.1, 142.20 197.11etc)
843. Two submitters express general opposition to these provisions (123 and 210)
844. Submission points seek general and specific amendments including:
- a. Alignment with the new Section 217 in part 9A of the RMA including reference to Freshwater Farm Plans (194.15)
  - b. Amendments to the timeframes
  - c. Specified governance structures
  - d. More over-sight/discretion through resource consents
  - e. Links with water quality targets in Schedule 26 and specific reference to water quality objectives only
  - f. Deletion of POL TANK 23 and 24
  - g. Strong support for POL TANK 23 – 25
  - h. Changes to the property threshold (changes sought from 4ha - 200ha) (67.8, 83.8, 109.17
  - i. More direction for how collective action will be managed
  - j. Requiring no contaminant loss from production land
  - k. Amendment to the auditing requirement
  - l. Allowing landowners to prepare their own plans, removing the requirement for professional qualifications (21.8, 35.8, etc)
845. A number of submitters (making the same submission point) seek alignment between plan provisions and existing and established industry schemes across a range of PPC9 provisions including the policies and Schedule 30.

## Submission Points Requests – POL TANK 27

846. Several submission points are made in respect of POL TANK 27 that seek:
- a. Changes to timeframes so they are consistent with the NPSFM2020.
  - b. Deleting the policy in favour of other policy relief for higher levels of regulation
  - c. Deleting the policy and table in favour of more clarity in Schedules 28 or 30
  - d. Amending the policy to align with RRMP Policy TT16 (which directs preparation of an implementation plan in Tukituki)

## Submission point requests – Rule TANK 1 and 2

847. In summary, there are 11 submission points that support proposed Rules TANK 1 and 2, 20 submission points that request amendments to the rules and 2 submission points that request points of clarification. The requests for amendments are summarised as follows:
- a) There are a number of submissions that suggest that regulating land use should be more closely linked to the priority catchments with identified water quality issues. (i.e Submission point 120.102) with changes to activity status sought (Submission points 123.59, 96 and 97)
848. A number of submissions seek amendments to thresholds for when the rules apply (submission points 109.9, 135.51, 128.2 and 127.19 Submission point 126.28 suggests a new consenting pathway and refers to 'low intensity farms').
- b) There is 1 submission point that opposes all the rules.
  - c) Submission point 35.8 is the same as a number of submitters who seek that a farm plan can be prepared by a farm operator (not a person with qualifications).

## Submission point requests - Schedule 30

849. There are over 100 submission points on Schedule 30. Several support the provisions for industry programmes and catchment collectives, including the self-governing aspects. (including 8.25, 50.1, 85.8, 216.20, 231.2)
850. Submission point 120.119 considers the Schedule is unenforceable.
851. Submission point 131.3 seeks a clear checklist of more definitive requirements for establishing collectives and more detailed information on annual performance tracking and reporting requirements. 131.6 seeks requirements aligned with Waikato PC1 for a certified farm environment planner.
852. Submission point 180.70 seeks that the industry programme component be split out from the catchment collective requirements with responsibility for who prepares the farm plan made clear.
853. Submission points 210.140 and 216.22 seek deletion of reference to stream flow maintenance or express concern about viability of this approach.
854. Submission point 210.140 also seeks consistency with NPSFM2020, and amend to ensure farm plans are tied to enforceable conditions in rules setting out measurable outcomes.
855. Other submission points seek a range of amendments including:
- n. Less prescription, especially in Section B as they relate to Industry Programmes seeking that they should be re-cast as a more of a guideline, with an acknowledgement that detailed requirements can vary depending on the Industry's risk and emissions profile as it relates to catchment objectives. (e.g. 18.19)
  - o. Better alignment with industry programmes (e.g. 37.62) including making PPC9 an add on to NZ Gap or Global Gap schemes (39.19)
  - p. Opposition to the approval, reporting and auditing requirements and seeks a similar

- model to the work place safety plans.(50.11)
- q. More rigorous monitoring and compliance (106.15)
- r. Ensuring the Farm Plans remain outcomes focused (116.8)
- s. Ensuring the requirements are appropriate for viticulture given the low risk (194.8, 194.107)
- t. Reference to water quality state and objectives (195.143)
- u. Reference to engagement with the relevant Registered Drinking Water Supplier to understand potential risks of activities on the source water and to identify appropriate risk mitigation measures where SPZs are relevant (207.48)
- v. Since industry schemes are already audited by a third party, this need not be included in PPC9 (216.21)
- w. Establishment of a governance structure
- x. Ensuring mana whenua values accounted for in farm plan.(240.6)
- y. Funding support for functions of catchment collectives (83.2)
- z. Not prejudicing landowners for any lack by HBRC (195.144)
- aa. Amendments to farm plan requirements (195.144, 233.23, 233.24, 233.25, 195.145)

### *Introduction*

856. POL TANK 23 – 27 establish a management approach that addresses the cumulative effects of production land use on water quality and ecosystem health based on farm plans at a property scale but enabling collective management at a catchment scale or via industry programmes. They are underpinned by new rules and Schedules that set out requirements for freshwater farm plans and the timeframes for completion.
857. The most basic requirement is a property scale analysis of contaminant loss risks and identification of mitigation measures that are necessary to make progress towards meeting water quality attribute states specified in Schedule 26 relevant to the location of that property. These policies are supported by new rules for production land use and Schedule 30 that sets out the requirements for land managers including reporting and auditing requirements. Schedule 28 sets out the timeframes for completion. There is also an acknowledgement that not all the information available at a regional plan scale is available to understand the property and catchment scale risks and opportunities.
858. The management approach also provides alternatives for landowners that enables them to work collectively to meet obligations and objectives for water quality. This includes either through collective catchment scale management or via industry programmes that meet the requirements set out in the schedule. This one-to-many model is efficient for the Council as it reduces the administrative complexity.
859. These provisions also reflect the staged and adaptive management approach that allows the gathering of more specific land use information at the property scale such as nutrient loss rates, to identify problem areas and to contribute to future plan reviews.
860. The catchment scale collective approach also provides a range of benefits to farmers including:
- d) Shared learning
  - e) Shared costs, including for farm plan development and reporting as well as mitigation measures.
  - f) Builds social capital and trust and provides support for rural communities.
  - g) Members are empowered to do more than a 'minimum' and also to consider other catchment scale objectives such as for biodiversity and biosecurity.
861. Rule TANK 1 takes a broad-brush approach that acknowledges the cumulative effects of all properties in a catchment and applies to all landowners over a certain size, irrespective of

whether they are deemed an intensive or low risk land use. It enables a cumulative approach to management within a catchment, including where catchment scale management plans are developed.

862. The roll out of freshwater farm plan requirements is specified in Schedule 28 and allows targeting of resources to areas where water quality objectives are not being met. The outcomes focus of the provisions also allows the farm plans to be appropriate to the nature and scale of the risk. It can acknowledge and allow for low-risk activities including extensive sheep farming and viticulture, but still account for the cumulative impact, including in relation to land use change at that property or on other properties.
863. Rule TANK 2 is the corresponding rule that seeks a resource consent as a controlled activity if the conditions of Rule TANK 1 are not met. The submission points received on these rules are discussed together.

#### *National Direction*

864. New RMA amendments have been introduced since the notification of PPC9. The new Part 9A Section 217 provisions set out requirements for farm plans, the size of farm the section applies to and the duties and functions of farm operators and councils. Section 217M sets out the regulations that might be introduced in respect of (among other things) the content, certification process, and auditing requirements for farm plans.
865. Part 9A also specifies this section applies only to areas as specified in an Order in Council and on and from the date specified in the Order in Council. (Note that no orders have been made in respect of TANK Catchments)
866. Submission point 58.22 seeks alignment with national policy and regulation and 194.41 seeks clarification with how PC provisions align with national direction. Submission point 210.46 seeks deletion of the provisions and replacement with a system that gives effect to the NPSFM2020. Submission 29.38 requests that all references to Farm Environment Plan in PPC9 be amended to 'freshwater farm plan' (FW-FP) and otherwise align the PPC9 requirements to those of the RMA Amendment Act and related S360 regulations. I consider that the PPC9 provisions (as amended) also give effect to the NPSFM2020.
867. At the time of writing this Hearing Report, it is acknowledged that the national regulations for freshwater farm plans are under development. HBRC officers have been working in a government led sector working group to develop the national templates for FW-FP and it is expected they will be well aligned with the requirements of Schedule 30.
868. This new RMA provision 9A also introduces a number of specific meanings including:
- a. **arable land use** means the use of land to grow any of the following crops for harvest: (a) grain cereal, legumes, or pulse grain: (b) herbage seed: (c) oilseed: (d) maize grain, maize silage, cereal silage, or mangels: (e) crops grown for seed multiplication: (f) a crop prescribed in regulations made under Section 217M(1)(a)
  - b. **auditor** means a person who—
    - (a) is appointed under Section 217K; and
    - (b) meets the criteria prescribed in regulations made under Section 217M(1)(h)
  - c. (b) meets the criteria prescribed in regulations made under Section 217M(1)(h)
  - d. **certified freshwater farm plan** means a freshwater farm plan certified under Section 217G, as amended from time to time in accordance with Section 217E(2) or (3)
  - e. **certifier** means a person who—
    - (a) is appointed under Section 217K; and
    - (b) meets the criteria prescribed in regulations made under Section 217M(1)(h)
  - f. (b) meets the criteria prescribed in regulations made under Section 217M(1)(h)
  - g. **farm** means a farm where all or part of the farm is—
    - (a) arable land use; or (b) horticultural land use; or (c) pastoral land use; or

- j. (d) other agricultural land use prescribed in regulations made under Section 217M(1)(b); or (e) any combination of the above
- k. **farm operator** means the person with ultimate responsibility for the operation of a farm.
- l. **horticultural land use** means the use of land to grow food or beverage crops for human consumption (other than arable crops), or flowers for commercial supply.
- m. **pastoral land use** means the use of land for the grazing of livestock.

869. This report will align the terminology and concepts as much as possible to avoid inconsistency between local and national provisions. However, in the absence of any Order in Council for freshwater farm plans in TANK Catchments, PPC9 will continue to address this issue and introduce provisions for farm plans. Note also that Section 9A does not make specific provisions for a collective management approach.
870. It is also noted that the way in which the national regulations for freshwater farm plans is developed will have a significant impact on how the Council and local landowners interact with and are supported by industry groups and their industry specific programmes.
871. This alignment with national direction will also satisfy submission point 100.4 as the rules will apply where there is pastoral land used for the grazing of livestock. I understand the airport land, while under pasture, does not have livestock.
872. Submission point 99.23 requests clarity for management of land where lease arrangements are in place and where land use involves crop rotations across different farm properties. The RMA definition of a farm operator as the person with ultimate responsibility for the operation of the farm (the production enterprise) mean the requirement for farm plans under the national legislation is understood to include the leasee.
873. The national direction relating to applicable farms and the 10ha threshold in Rule TANK 1 is discussed further below.

*POL TANK 23, 24 and 25*

874. Submission points 123.58 and 60 seek deletion of these policies and consider they mean the Council is devolving their resource management responsibilities. However, the policies reflect the need to engage farm operators in understanding and managing the cumulative effects of their activities on water quality. They are linked to regulatory triggers in Rule TANK 1 and 2 and Schedules 28 and 30 that ensure farm operators take appropriate action in a timely manner. In contrast to the point made in 120.119. Rule TANK 1 is enforceable and the requirements of farm plans, collectives and industry programmes are both defined and set out in Schedule 30.
875. Submission points 135.28, 29 seek wording changes so that policies refer specifically to freshwater quality objectives (and not more generally to freshwater objectives). Although focused on freshwater quality, the overall policy direction of PPC9 as well as the requirements of Schedule 30 reflect a more integrated approach to freshwater ecosystems. PPC9 refers to a range of freshwater outcomes including in relation to freshwater and estuary ecosystem health, riparian and wetland values. Not all of the outcomes being sought are subject to regulatory requirements, including for wetland creation and riparian planting.
876. A further point seeks deletion of the reference to remedy or mitigate effects of land use leaving the policy instead to focus on reducing contaminant loss. At a property scale the focus is on contaminant loss reduction, however at a catchment scale, there are also potential opportunities to examine larger scale mitigation measures that address cumulative impacts of land use such as large-scale retirement, forestry or biodiversity planting, land

retirement, wetlands or land use change. Submitter 180 also seeks clarification that industry is best placed to understand and develop industry good practice and seeks a change to POL TANK 23 to reflect that. I agree that industry rather than the Council should develop industry good practice.

877. Submission points 210.140 and 216.22 refer to the potential for collective management of stream flows through water take consents (as provided for in proposed POL TANK 39). The water quantity management provisions are dealt with elsewhere in the Hearing Report. Given recommendations in respect of POL TANK 39 and the relief sought by these submission points it is recommended that this clause be deleted. Deletion of the clause does not prevent the collective management of water flows in a catchment, but it is not required or directed in policy.

### *Industry Programmes*

878. A number of submission points seek that all provisions relating to industry programmes should align better with existing and established industry programmes such as NZGAP.
879. Submission point 180.33 specifically requests that the functional capability of industry programmes better reflect how industry programmes, such as GAP work in practice, including so that those industry schemes can be used by growers to satisfy the farm planning requirements of this proposed plan.
880. The submitter notes the potential role of industry programmes in meeting requirements for farm plans, particularly where the industry programme has specific environmental management included. The submitter observes that while they support collective management of environmental effects of several properties, industry programmes do not of themselves particularly enable or promote 'collective' management.
881. The submitter seeks that the concept of collective management be separated from that of farm plans and industry programmes. This better reflects the different role that industry programmes have - which is more aligned with the delivery of the farm plan requirement than with collective management to meet freshwater objectives. This distinction will also ensure PPC9 remains consistent with how farm plans and industry-based programmes for delivery are managed at a national level.
882. However, submitter 180 also seeks deletion of clauses (a) (i) and (ii) and part of (iv) of POL TANK 24. In my opinion this severely undermines the ability of Industry Programmes to address the local cumulative effects of land use at a property and catchment scale. Without specific acknowledgement of local water quality and clearer direction in an industry plan to identify contaminant loss practices and timeframes for adoption of necessary mitigation measures the industry plan will not contribute to improving local water quality and contribute to meeting objectives. The bar being set for industry programmes is lower than that required for freshwater farm plans or catchment collectives.
883. I agree however, with the submitters' concerns about the role of industry programmes compared to collective management and recommend that the policies, schedule, rules and glossary are amended accordingly.
884. Submission points 216.19 and 180 also suggests that collective management can be a group of landowners – not necessarily in the same catchment (e.g. by product group or horticulture group). However, while such a group can address contaminant loss issues relevant to that group (for example, a group of vegetable growers), they do not necessarily have the location context necessary to collectively manage towards meeting the specified freshwater objectives. However, submitters may provide more evidence to show how this approach to collective management can work in practice.

### *Catchment Collectives*

885. Submission points 93.1, 205.2, 195.2, 195.49 .2, 101.4 all seek amendments concerning the support or management of Collectives.
886. PPC9 and the Draft Implementation Plan recognise that there are resourcing implications for the success of this proposed collective management regime for meeting freshwater objectives and the effective functioning of Collectives. It is not expected that all these resources will be provided by the Council, and that landowners themselves as well as industry groups will also be involved in the successful set up and management of Collectives. This reflects the wide support for this model of working and also the collaborative approach to water management already demonstrated through the TANK process.
887. The Council and industry groups will also provide supporting material, and other resources to help Collectives manage these challenges.
888. PPC9 takes a fairly wide view of how collectives might be operated and provides flexibility for landowners to self-organise. Some of the submission points seek greater direction with more specific requirements for governance, including for example new catchment governance structure supported by the Council formed by the chairpersons from each catchment group.
889. This collective management approach provided for in a regulatory framework is a relatively innovative approach to freshwater management. While there are many examples of collective management around NZ they are nearly always voluntary (there are some exceptions where collective management is required by conditions on a water take permits). While membership of a Collective under PPC9 is voluntary, it is an alternative regulatory requirement to preparation of a farm plan. The provisions for collective management are therefore an evolving approach in RMA Plans. For that reason, the recommendation is not to constrain options for self-management too tightly and to focus instead on the key process components instead (i.e conditions of membership, and information and management systems).
890. Submission point 231.10 seeks direction in relation to the management of data gathered and held by Catchment Collectives. Apart from specifying key information requirements in Schedule 30, PPC9 is silent about any other data that might be gathered by a Collective. It is envisaged that the Collective itself will manage issues around the privacy or other issues related to any other data they collect, including for other purposes such as biosecurity for example.

### *POL TANK 26*

891. This policy sets out the enforcement and compliance approach. Submission points 123.60 opposes the policy although it is not clear why. Submission point 180.34 seeks that the policy be targeted just at compliance with Rules TANK 1 and 2. Submission point 210.47 seeks it be moved to a methods section.
892. The policy recognises that issues may arise within Collectives as much as they might arise in relation to compliance with plan rules. The research<sup>25</sup> into the barriers to the success of collective management identified management of conflict and compliance as key areas that required specific attention. This policy addresses that need and reflects that Council may

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<sup>25</sup> <https://www.hbrc.govt.nz/assets/Document-Library/TANK/TANK-Key-Reports/SD-18-007-TANK-Barriers-Report-2018.08.27.pdf>

provide conflict resolution services in situations where Collectives may need assistance. Each Collective will need to develop conditions of membership (and these may be based on industry or council templates). If individuals don't comply with local conditions, this policy provides an avenue for resolution without the collective having to play a policing role over their own neighbours.

893. In addition, the Council will continue to enforce compliance with Rules TANK 1 and 2. The Council can adopt a range of enforcement measures including abatement notices, enforcement orders and prosecutions as necessary in these circumstances.

#### *POL TANK 27*

894. POL TANK 27 is the articulation of the priority actions component of PPC9's management approach. It provides supporting detail for POL TANK 1. Submission points 123.61 seeks its deletion in favour of a more regulatory approach while others seek that it be moved to Schedule 28 or 30.
895. The policy was included as a tangible measure of improvement and demonstration of commitment to the adoption of improved land management. These mitigation measures are known to improve ecosystem health and improve water quality. Farm operators, through their farm plans must as a priority identify or adopt these measures where appropriate.
896. The content of the policy could be included in an implementation plan, however, in accordance with the provisions for collective action and the farm plan approach to improving land management, the agreements around these mitigation measures and their inclusion as a specific policy provide transparent and measurable steps toward ecosystem improvement and in my opinion belong within PPC9 itself.
897. Moving these requirements to Schedule 30 is a viable alternative, although not consistent with how the schedule currently directs risks to be identified and mitigations to be adopted in a timely manner. It is however suggested that the policy be made more directive as intended by the reference to Schedules 28 and 30. This allows in part submissions seeking more direction and certainty (120.102, 180.35, 126.21, 135.32, 123.61, 120.117, 124.32)
898. Submission point (58.19) refers to timeframes in the NPSFM2020 however, no NPS directions are considered relevant. The Stock Exclusion Regulations 2020 however are relevant and as described in Section 14.4 above reference to the stock exclusion measures can be deleted from the policy. (195.51)

#### *Regulatory status for Production Land Activities Rule TANK 1 and 2*

899. A number of submission points (120.102 102.25, 123.96, 123.97, 123.100, 126.28, 132.103, 120.101, 195.80) seek changes to the regulatory status for production land through amendments to policy direction and Rule TANK 1 and 2.
900. As noted in Section 14.2 above, a permitted/controlled activity for use of production land is a new regulatory requirement that results in a substantially different approach to management of the use of general production land (and for the range of activities that occur there). This new approach to the management of activities on production land will result in new relationships being developed between the Council and landowners/managers and industry stakeholders.
901. This analysis is also subject to the new RMA provisions described above.

902. It is noteworthy that no submitters generally oppose the proposal to regulate production land use activities with the focus on farm plans, although they seek amendments to improve the proposed regime's efficiency and effectiveness.
903. This reflects recognition at a national level that primary production should not be at the cost of meeting objectives for water quality and ecosystem health. Freshwater Farm Plans developed to meet local issues and site-specific constraints is a key management response to this challenge. Industry groups may provide further evidence in relation to their roles and aspirations both at the national level and in relation to the success of the proposed PPC9 management framework.
904. The proposed plan provisions are not a low cost or no obligation management regime for landowners. The requirements in Schedule 30 require an assessment of contaminant loss risks according to the property location and a programme of mitigation measures, focusing on the key measures listed in POL TANK 27. The Council still holds approval, monitoring and auditing roles to ensure farm and catchment plan and industry programme performance meets appropriate standards and timeframes.
905. With a more consents-based approach, there is a need for increased consenting and compliance resources for the Council as well as increased costs for farm operators. A greater focus on consents is also more costly in terms of relationships as the focus is on compliance rather than environmental outcomes.
906. The amendments sought by some submitters to increase the level of regulation reflects in part a lack of confidence in the primary production industries to 'do the right thing' or to address water quality issues in a timely manner.
907. While it is true that rules are required to enable enforcement of the poorly performing few, they general only specify minimum performance standards. The collaborative approach to the development of the PPC9 provisions demonstrates that the industry leaders as well as the majority of landowners are all supportive of measures that enable them to understand the (water quality) issues, and to implement necessary measures in a reasonable timely manner (including in relation to the milestone targets for key activities). PPC9 submitters may wish to provide further evidence on this aspect.
908. The TANK Catchments contain a wide variety of high intensity (e.g commercial vegetable growing) and low intensity (e.g. viticulture) land uses with a range of management practices. The Catchment Collective option as a permitted standard enables more of a focus on improvement at a catchment scale that may not be realized if landowners were required to act individually or on the basis of a low contaminant risk.
909. For example, a landowner may be in a catchment that contains a stream that has been identified as high priority for dissolved oxygen or high nitrogen concentration. This landowner either needs to join a catchment collective or submit an individual farm plan.
910. Under the amendments sought by some submitters, low nitrogen leaching rates and other contaminants from viticulture would mean that there would otherwise be no regulatory focus on this land use activity.
911. However under the proposed rules, the landowner is still required to assess risks and opportunities for mitigation as appropriate – either at a property or catchment scale. The rules also enable collection of more accurate data in respect of nitrogen loss and collective management for meeting and maintaining water quality objectives.

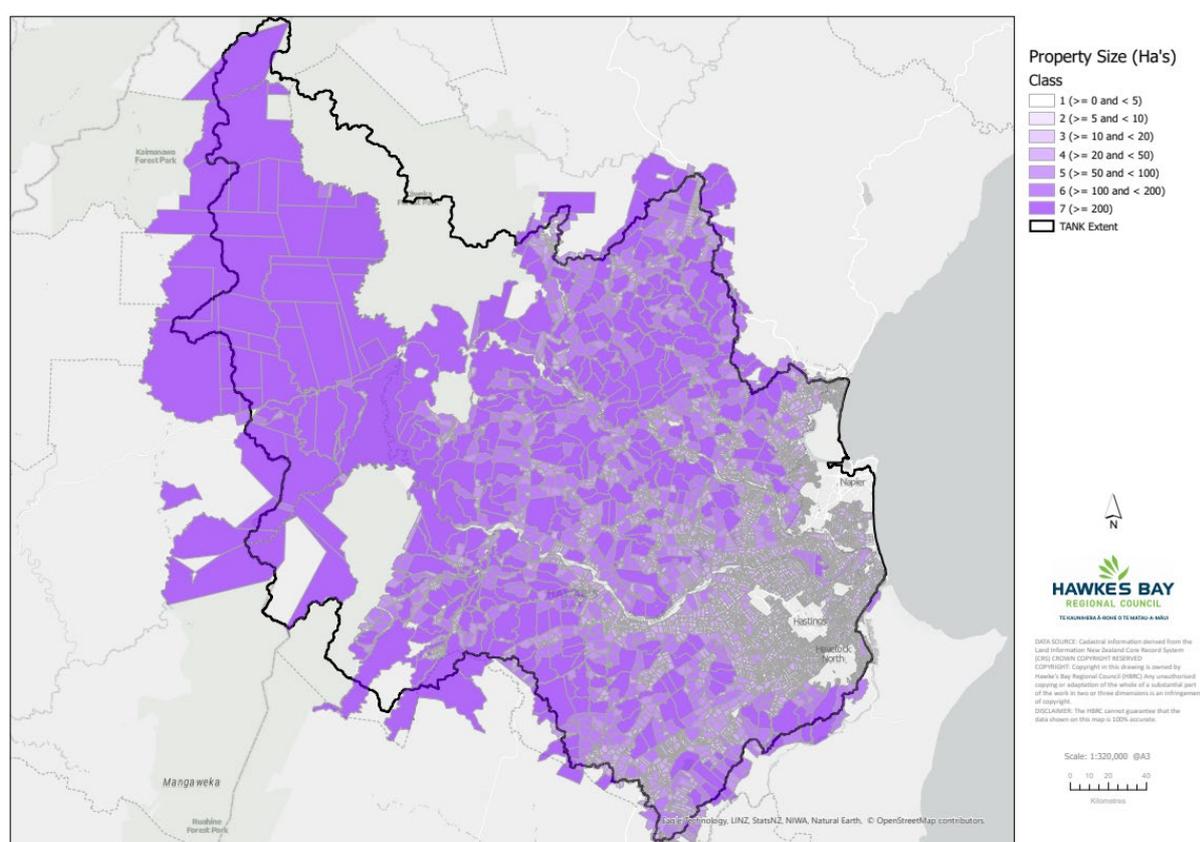
912. The Catchment Collective requirements are prescribed in Schedule 30 and includes meeting a broad range of environmental outcomes as well as governance and reporting and review requirements.
913. The HBRC monitoring and compliance programme applies to both conditions for the permitted rules as well as conditions of the controlled activity.
914. Submission point 210.83 seeks reference to life-supporting capacity, indigenous species and ecosystem processes in Rule TANK 2. However, those concepts are general and provide little guidance or clarity to the nature and types of conditions that might be applied in the resource consent. The rule applies to conditions to be applied to an individual property and are in respect of that property's cumulative effect on the water quality attribute states specified in Schedule 26. That Schedule is being amended to align with the NPSFM2020 as much as possible. It provides the measurable outcomes being sought and consent conditions in respect of those.

*Discussion Issue; What farm size does the production land use activity rule apply to?*

915. Submission points on this topic relate to how PPC9 defines the activity and therefore in turn, which properties are required to become part of a catchment collective/industry programme and/or produce a farm plan.
916. The rule applies to *the use of production land on farm properties or farming enterprises in the TANK catchments that are greater than 10 hectares.*
917. Submission point 120.25 suggests that this rule should apply to all farms greater than 4ha. There was no reason provided to support this change. Submission point 135.50 requests we align the rule to what is required for farms under the NES-F regulation 8 and what is now prescribed in Section 217D of the RMA. Submission point 29.37 concurs with this.
918. Submission point 109.3 and others have concern about the compliance costs inherent in the new regulatory requirements. Submission point 83.8 requests that it should only apply on farms of 50ha or more. This submission quotes the cost of Overseer that the potential burden this would be on small landholdings. Submission 109.9 requests that the permitted activity threshold is extended to 200ha with the condition being that the Farm Plan required for farms from 10ha to 200ha does not need to meet the approval process as required by Schedule 30. This submission quotes figure.nz statistics that indicate that farms of more than 200ha account for more than 93% of the farming area in Hawke's Bay region and only farms over 200ha that should be the subject to the more stringent production land use regulation as they cover nearly all the area.
919. The submitter assumes the environmental impacts are correlated with property size, but it can be the smaller more intensively farmed properties than can have a high contaminant loss risk.
920. The following Table 5 provides general data for the TANK Catchments from the Council's parcel valuation data (rates) and Agribase. It does not include urban or DoC land. The smaller properties do tend to be in the Heretaunga Plains as shown in Figure 1 where there is a wider range of land use activities, especially horticulture.

**Table 5: Property sizes in TANK Catchments**

Property Size Range (ha)	Number of properties	Area of Properties in class range(ha)	% of total property number	% of total area
Up to 5	8477	9810	68	3
From 5 to <10	1630	11436	13	3
From 10 to <20	760	10436	6	3
From 20 to <50	688	21373	6	6
From 50 to <100	298	21160	2	6
From 100 to <200	306	43944	2	13
200 and over	323	218300	3	65
<b>TOTALS</b>	<b>12482</b>	<b>336459</b>	<b>100</b>	<b>100</b>



**Figure 1: Property size across TANK Catchments**

921. Submission 109.9 makes a reasonable point when assessing the situation from an agricultural farming perspective. There are many small holdings of up to 200ha in the hill country areas of the TANK Catchments that would have a relatively small impact. However, when assessing the fact that the use of production land incorporates commercial vegetable growing with potentially higher environmental impact, increasing the required landholding size to 200ha in the rule proposed by submitter 109 would provide less essential oversight on these farming activities some with relatively high contaminant loss risks associated with them.
922. The basis of defining this activity on a landholding of 10ha in the proposed plan was to provide some consistency with the existing RRMP Rule TT1. Although Rule TT1 sets a

number of permitted conditions for properties over 4ha in area, condition I). excludes farm properties up to 10ha that meet the definition of 'low intensity farming'.

923. However, since the Board of Inquiry released the decision report on Tukituki Plan Change 6, a large body of work has been undertaken at the national level as part of Essential Freshwater work programme. While PPC9 change is not obliged at this time to follow the national thresholds (as they won't apply in Hawke's Bay until an Order in Council is made) I agree with the submission points that request aligning this rule with the recent threshold for farm size set in the NES-F and RMA Section 217D: Alignment will reduce the levels of complexity in local and national regulation and enables consistency between councils and industries across NZ

#### **217D Farm must have certified freshwater farm plan if it meets land use threshold**

- (1) A farm must have a certified freshwater farm plan if—
- (a) 20 or more hectares of the farm is arable land use; or
  - (b) 5 or more hectares of the farm is horticultural land use; or
  - (c) 20 or more hectares of the farm is pastoral land use; or
  - (d) a prescribed area of the farm is other agricultural land use prescribed in regulations made under [section 217M\(1\)\(b\)](#); or
  - (e) 20 or more hectares of the farm is a combination of any 2 or more of the land uses described above.
- (2) A certified freshwater farm plan applies to the entire farm.

Section 217D: inserted, on 1 July 2020, by [section 64](#) of the Resource Management Amendment Act 2020 (2020 No 30).

#### **Schedule 30**

924. A number of submission points (including 213.) seek that Schedule 30 be "*less prescriptive, more facilitative and more industry risk profile-based in respect of Industry Programmes. The Programme Requirements in Section B of Schedule 30 as they relate to Industry Programmes should be re-cast as a more of a guideline, with an acknowledgement that detailed requirements can vary depending on the Industry's risk and emissions profile as it relates to catchment objectives*".
925. A number of submission points (similar to 112.8) seek that the freshwater farm plan can be prepared by the farm owner. Several also provide evidence on the cost implications for their business especially where the operation is small scale. This issue is being overtaken somewhat by proposals through national legislation (which creates new expectations for certification). RMA Section 217G(1): *The farm operator must, within the prescribed time frame, submit a freshwater farm plan to a certifier.* The Council is required to appoint a certifier.
926. The certifier must certify they are satisfied that PPC9 complies with the requirements of Section 217F. Section 217F requires the farm plan to identify any adverse effects of farm activities and specify clear and measurable actions to address those effects.
927. These RMA requirements are largely reflected in PPC9. However there are some key differences.
928. At present PPC9 does not refer to a certifier or auditor although these concepts are incorporated in the approval process and the auditing requirements. These reflect the systems and processes adopted as part of the Tukituki Plan Change.
929. As the regulations are developed and Orders in Council introduced the Council will appoint certifiers and auditors as necessary. In the meantime, I recommend that PPC9 be amended to align as much as possible with the approach outlined in national legislation.

930. In respect of the submitter points about preparation of the farm plan by a qualified person, PPC9 is recommended to be amended so that the freshwater farm plan is to be submitted for certifying (by the Council) that the Freshwater Farm Plan complies with the requirements of Schedule 30.

### Recommendations

931. I recommend that submission points seeking greater levels of regulation and resource consent requirements, thresholds and level of prescription be rejected as contained in table 14.5 in Appendix 3.

932. This is because PPC9 has a regulatory regime that provides a prioritised and targeted approach, including new rules to meeting the specified water quality objectives. The proposed provisions already establish higher performance expectations and compliance costs on farm operators and are considered to be an effective and efficient way of meeting objectives. The proposed thresholds and requirements are considered to be appropriate in light of national direction and level of impact.

933. I recommend that submission points seeking alignment with new national regulations and environmental standards be accepted or accepted in part as contained in table 14.5 in Appendix 3. and that the following amendments be made to PPC9 as shown in the marked up version of PPC9 in Appendix 1:

- a. farm sizes and reference to freshwater farm plans aligned with national direction
- b. preparation and checking of freshwater farm plans to align with national direction
- c. deletion of reference to water quantity management from POL TANK 23

934. This is because it enables consistency with national regulation and reduces confusion.

935. I recommend that submission points seeking to better align the Schedule 30 requirements with existing and established industry programmes, subject to the outcomes being sought by the PPC9 be accepted in part as contained in table 14.5 in Appendix 3. and that the amendments be made to PPC9 as shown in the marked up version of PPC9 in Appendix 1 include further performance standards for industry programmes.

936. This is because while efforts to align industry programmes with PPC9 outcomes are supported as a means of reducing compliance costs for farm operators and enabling administrative efficiency, existing industry programmes do not have sufficient direction to landowners about contaminant loss management, mitigation measures and timeframes that contribute to local water quality issues.

## **14.6 Schedules 26 and 27, OBJ TANK 4, 5 and 6**

### Submission Points

937. Some 145 submission points were made on Schedules 26 and 27 and the associated planning maps (Schedules 26A – D).

938. 12 Submissions have been made in respect of OBJ TANK 4 and 7 on OBJ TANK 6

939. Submission points are contained in table 14.6 in Appendix 3.

940. The following evaluation may not refer to every submission point, but I have considered each submission point before making my recommendations.

## Submission point requests

941. The submission points make a range of requests for amendments to the schedules' general layout and content. All submission points are not mentioned below but the ones listed below are indicative of the relief in relation to:
- a. Alignment with the NPSFM2020 - 58.36, 120.152, 210.115
  - b. Requesting different layout and content for the schedules, including rearranging according to values - 132.108, 132.172, 210.112, 210.113, 210.117,
  - c. Better clarity about where schedules are applicable and alignment with Coastal Plan, and consistency between schedules -132.156, 132.108 132.66, 132.4, 132.19, 123.126, 194.101, 210.114,
  - d. Reference to wetlands and outstanding water bodies, and inclusion of estuaries within PPC9 maps (132.99, 126.29, 31, 123.144, 120.173, 126.31)
  - e. Combining Schedules 26 and 27, and consequential amendments to text (210.4, 58.36, 120.17, 120.104, 123.127, 126.32, 127.14,
  - f. Include timeframes for meeting objectives (120.147, 123.22, 210.118)
  - g. Clarify targets, objectives and limits and ensure consistent terminology. (120.146, 120.150, 123.123, 210.113, 194.102)
  - h. Include information about where existing state is not meeting objectives and information about monitoring sites(132.106, 180.67
  - i. Replacing recreation water values with Uu (123.134, 120.161, )
  - j. Period of record that compliance with attribute state is measured over (123.125, 120.149
  - k. Inclusion of deposited sediment for Te Whanganui a Orotū (Ahuriri Estuary) tributaries 120.158,
  - l. Reference to attribute states in the RRMP (Table 8)
  - m. Allowing for less stringent attribute states where the needs of the critical values are being met. (142.24,
  - n. Amend boundary between upper and middle Ngaruroro to be at crown land boundary.(124.26
  - o. Include information about location of monitoring sites and current state
  - p. New attributes and objectives for natural form, habitat and character (210.123, 210.122
  - q. Including nitrogen limits for some management areas 240.15, 240.14,
  - r. Redefine boundary so that lower Ngaruroro River not bounded by crown land on both banks (142.27
942. A range of amendments to the content of the schedules were made including;
- a. Reference to tangata whenua monitoring (matauranga and taonga species) (such as 120.181, 120.154) and to natural character/Habitat Quality Index and river form (210.122)
  - b. Nearly all attributes are subject to various submission points for a variety of amendments including for:
    - i. Water clarity and turbidity
    - ii. Deposited sediment
    - iii. Periphyton biomass
    - iv. Cyanobacteria
    - v. Macrophytes, including specifying nuisance macrophytes
    - vi. MCI
    - vii. DIN and DRP
    - viii. Nitrate and ammonia
    - ix. E. coli
    - x. Dissolved oxygen
    - xi. temperature
    - xii. pH, BoD metals (all submission points for these attributes sought they be retained)

#### Submission points requests – OBJ TANK 4

943. These submissions generally seek clarification (58,6), support the aspirational goals, provided there is evidence that they can be achieved, (131.11, 131.12, or seek amendments to impose different timeframes, clarify where targets states are measured (180.14) or reword to delete reference to management of activities.(210.19) submission point 198.12 seeks reference to stormwater management.

#### Submission requests – OBJ TANK 5

944. One submission point seeks deletion (201.2), one supports it, (195.21), and 2 seek to rewrite it as a water quality outcome (126.9, 123.25)

#### Submission requests – OBJ TANK 6

945. Several submission points seek the deletion of the objective and seeks revision to become an outcome statement and another agrees further measures to meet aspirational targets are introduced through future plan changes.

#### Discussion

946. OBJ TANK 4 reflects the requirements of the NPSFM2020 to maintain or improve water quality. It specifically requires that where water quality is above the target state, it must be maintained at that state. The note and clause (b) are no longer relevant as the Schedule specifies a water quality state for each attribute. (The NPSFM2020 has clarified NPSFM2014 in respect of not allowing decline within bands).
947. OBJ TANK 6 was included in part to reflect the long-term nature of the progress towards the desired water quality state and in part the lack of complete knowledge about the measures needed to achieve those states. The NPSFM2020 introduces the concept of (non-regulatory) action plans which is discussed further below and which impacts on how the PPC9 long term objectives are to be met.
948. PPC9 contains a number of non-regulatory measures, including further research and data to better understand sustainable loads and pathways for contaminants that will guide future plan changes and progress towards the desired outcomes. There are also existing requirements to review plans at ten year intervals to assess progress and management provisions.
949. The PPC9 Schedule 26 contains the objectives for freshwater quality – the desired state for each of the water quality attributes is provided in the Schedule, which also includes a place holder for other attributes that might better reflect matauranga Māori.
950. The PPC9 incorporated the same attributes and bands that were contained in the NPS 2014 (amended 2017). Where the attributes were not included in the NPSFM2014, applicable material being used by MfE to inform the NPSFM2020 was also referred to.
951. Where there was no national direction, the TANK Group referred to other guideline documents and standards relevant to the identified values in developing the freshwater quality objectives. This work was described in the report by Dr Sandy Haidekker and reviewed by the Cawthron Institute<sup>26</sup>.

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<sup>26</sup> Supporting Water Quality Information for the Development of Limits and Targets by the TANK Group: Rivers and Streams. June 2019

952. The direction for selecting water quality attributes and desired state was considered in the following order:
- a. NPS – FM attributes and bands
  - b. NOF attribute discussion papers (by MfE)
  - c. Published (NZ) thresholds that relate to the state of identified values (e.g. water clarity for trout)
  - d. Statistical trigger values (e.g ANZECC)
  - e. HBRC Regional Resource Management Plan (RRMP)
953. There were no NPS or NOF guidelines for sediment related objectives (clarity, turbidity and deposited sediment), MCI, dissolved oxygen, pH, BOD and temperature when PPC9 was notified.
954. OBJ TANK 5 was included to avoid a single attribute management approach. The objectives recognises that water quality is not just about one attribute (for example DIN Dissolved Inorganic Nitrogen) and that many freshwater ecosystem aspects contribute to understanding what 'water quality' means and how it can be measured.
955. This objective was included to reflect mana whenua concerns about integrated management. The amendments sought by submitters do not address that concern and seek directions that are already incorporated in other objectives. I will therefore recommend that it be retained.
956. Submission point 142.27 requests that the boundary for the Upper Ngaruroro be located where public estate changes to where there is more private land and therefore not include the Taruarau River. It would place the Whanawhana monitoring site in the mainstem (lower Ngaruroro) water quality area rather than in the headwaters (upper Ngaruroro) area.
957. The recommended maps and Schedule 26 currently have the Upper and Lower mainstem as proposed. PPC9 currently includes this part of the Ngaruroro River as headwater catchment and subject to the higher water quality standards that reflect a more pristine environment. However, I invite the submitters and Panel to consider revisiting the boundary location taking into account any further developments in relation to the proposed Water Conservation Order since writing this report and accounting for the Taruarau inputs in mainstem water quality.

*Alignment with NPSFM2020*

958. The NPS2020 introduced a number of new attributes, including for sediment related attributes, MCI and amended existing provisions. The NPS requires that an attribute state must be set at or above the baseline state of that attribute. It distinguishes between attributes in Appendix 2A and 2B as follows:

<b>NPSFM2020 attribute requirements</b>	<b>Identify Limits on resource use and include as rules in regional plan</b>	<b>Action Plan prepared</b>	<b>Conditions imposed on resource consents</b>
Appendix 2A	Must be	May be	May be
Appendix 2B	May be	Must be	May be

959. The PPC9 Schedule 26 is largely consistent with the requirements of the NPSFM2020 including identifying water body values and relevant attributes and desired freshwater quality states. However, the NPSFM2020 introduced new attributes, amended some existing attribute states and included additional requirements.

960. The freshwater attribute targets specified in Schedule 26 are a key driver for new resource limits requiring landowners to carry out management actions. The Schedule supports the identification of priority catchments in Schedule 28 as well as investment decisions into mitigation measures by landowners. In particular, Farm Plans are required to identify where current attribute state is not meeting the stated water quality outcomes specified in Schedule 26 and to identify mitigation measures that will enable the objectives to be met.
961. In assessing the submissions on the PPC9, we will give effect to the NPSFM2020 as much as possible and have adopted the following principles to help guide our recommendations. These are:
- a. There must be scope for the amendments provided within the submissions and within scope of the PPC9 content,
  - b. Terminology will be amended to reflect the NPSFM2020 wherever possible,
  - c. We know or can predict that the management impact arising from this alignment will be similar (i.e so it doesn't significantly change expectations for values agreed during the TANK collaborative process or result in significantly increased costs in order to meet any new objective)
  - d. If it makes sense to do so – this is particularly relevant to the new NPSFM2020 provisions for sediment management.
  - e. It remains largely consistent with the PPC9 values and objectives as discussed by the TANK Group.
962. We also amend the two Schedules 26 and 27 to make similar distinctions as are made between the NPSFM2020 Appendix 2A attributes and those for the 2B attributes and the estuary attributes, combining the two schedules and identifying short term and longer term target attribute states.
963. That is, Schedule 26 2040 targets remain the driver for identification of contaminant loss management and mitigation measures in Farm Plans, supports the prioritising of action in Schedule 28 and provides time frames for achieving the objectives.
964. The new Schedule 26 long term (or aspirational) objectives contains target attribute states that are to be achieved through non-regulatory means as provided for by the NPSFM2020 action plan approach. Note that the PPC9 includes non-regulatory action aimed at working towards these target attribute states and we recommend that OBJ TANK 4 is amended to reflect this. I consider that the PPC9 non-regulatory policies and methods comprise and action plan approach as envisioned by the NPSFM2020.
965. A consequential amendment required in response to these changes is the removal of OBJ TANK 4. The aspirational and estuary related attributes states are still clearly identified as more aspirational long term states. Their achievement is in part as a consequence the measures adopted for the 2040 targets and are also to be achieved by the non-regulatory aspects of the Plan, some of which include gathering further information. OBJ TANK 4 is consequentially amended to reflect this and Schedule 27 is deleted.
966. This is because the PPC9 already contains:
- a. Resource limits (rules) to reduce contaminant loss and improve ecosystem health.
  - b. Non-regulatory actions including a focus on improved riparian land management and wetland development and key mitigation measures
  - c. Monitoring and investigations to better understand pathways and sustainable loads.
967. The NPSFM2020 requires that the site or sites to which the target attribute state applies be identified. It also requires the Council to identify the baseline state of each attribute (in a

way that accounts for natural variability and sampling error). It is not clear that this information should be included in PPC9, but we have assumed that this was intended and have included the latest SOE information in Schedule 26.

968. In making these assessments in respect of Schedule 26 and 27 I rely on the technical memos and analyses prepared by Dr Sandy Haidekker and Anna Madarasz-Smith appended to this report.

#### *PPC9 Schedule 27*

969. Estuaries and some attribute targets were addressed in Schedule 27 because estuaries are not freshwater bodies and because there is uncertainty about some aspects of the nature, scale and costs of management actions necessary to meet the specified freshwater and estuary attribute states.
970. The NPSFM2020 recognises ki uta ki tai and estuaries are included in the definition of a 'receiving environment'. However, the NPS is expressly aimed at managing freshwater and the directions contained in it are specific to freshwater management. Further national guidance in relation to the management of estuarine and coastal ecosystems that builds on the need to adopted more integrated management of these connected ecosystems is likely.
971. In the meantime, PPC9 specifically adopts a ki uta ki tai approach and seeks to uphold an integrated approach consistent with the NPSFM2020. This is specifically reflected in the objectives of PPC9 which refer to the values of the Te Whanganui a Orotū (Ahuriri) and Waitangi estuaries. PPC9 directs that the management of freshwater inputs into the estuaries provides for the healthy functioning of those estuaries and ensures freshwater water quality inflows meets the needs of their values.
972. There has been an underlying assumption in the development of PPC9 that improved freshwater quality inputs into the estuaries will result in improved estuary state, although the relationship between the various freshwater and estuary attributes states is not always clear.
973. For example, some aspects of estuary health are not well understood including the relationship between anthropological and natural sources of phosphorus in the Ahuriri Estuary. The inclusion of estuaries in the proposed Schedule 27 does however, highlight the interconnectivity between effects of land use activities, freshwater quality and estuary health. It particularly signals the need for continued monitoring to improve understanding about estuary processes and to support establishment of sustainable nutrient limits for the TANK Catchments as part of the on-going management action required for the estuaries.
974. The PPC9 focus on reducing contaminant losses from contributing freshwater bodies into the estuaries will also contribute to improving the estuary state over time. To that extent, the PPC9 includes aspects of action plans for the estuary attributes.
975. The inclusion of the estuaries into the TANK freshwater management units is not supported. However, the amended Schedules will continue to include the attribute states for the estuaries and will be subject to an action plan approach. Further research about estuary processes is pending and investigation work is also signaled in relation to the establishment of sustainable loads of contaminants into the estuary. The Council also intends to review the Coastal Environment Plan in the near future as part of its Kotahi Plan review project. This regional review will provide the basis for better integration between freshwater and coastal water plans.
976. The following section considers the detail of the attribute states and how the NPSFM2020 impacts on the proposed PPC9 attributes and environmental outcomes.

### *Schedule layout and content*

977. A range of amendments to the Schedules layout and content are requested by a number of submitters. The terminology, including for target attribute states and environmental outcomes for each of the values is recommended for amendments that align them with the NPSFM2020.
978. Some submission points seek a separate schedule of values or rearrangement of the current schedules to reflect the values for TANK water bodies (210.83, 210.162, 120.15, 132.4, 120.160, 132.105, 123.124, 210.119).
979. Submission point 240.12 refers to small tributaries draining Napier urban area as being excluded as tributaries from Te Whanganui a Orotū (Ahuriri Estuary). Planning Map (Schedule) 26B refers to the Ahuriri water quality management area – and the Schedule 26 refers to lowland tributaries. The lowland tributaries include those of the Ahuriri Catchment, including those draining Napier. Some amendments are recommended to ensure the Schedules are properly aligned to the associated Planning Maps.
980. Amendments are also recommended to give relief to those submission points and to better align the proposed new Schedule 26 with the requirements of the NPSFM2020 in relation to identification of values, relevant attributes and environmental outcomes. These are shown in the tracked changes version of PPC9 as well as on the associated Planning Maps.
981. Submission points seeking further or alternative provisions in relation to matauranga Māori and monitoring are acknowledged, particularly in respect of the need for further information. PPC9 makes extensive reference to the importance of matauranga Māori and provides for placeholders once the required information is available.
982. The indigenous fishery and mahinga kai are components of this and I note that the next plan change process is expected to pick up this new NPSFM2020 direction. Placeholders are recommended to be included in Schedule 26 for these attributes.
983. Submission points 120.162, 123.135, 120.162 seek reference to invasive macrophytes, and also that the submerged nuisance macrophyte attribute target be applied to all lowland streams (Note that the target attribute state does already apply to all lowland streams.).
984. The technical memo by Dr Sandy Haidekker (Water quality attributes -Schedule 2) explains the relationships between ecosystem health, macrophyte growth and shade. The main environmental stressors in the low land streams are temperature and oxygen levels, with oxygen levels severely impacted by macrophyte growth. The key mitigation measure for these streams is shading and improved riparian land management. These submission points are therefore not accepted.

### *Timeframes*

985. The NPSFM2020 introduces new requirements for timeframes including requirements for interim target attributes states set for intervals of not more than 10 years.
986. The NPSFM2020 also states that to achieve the Appendix 2B attribute states, a Council must prepare an action plan for achieving the state in a specified timeframe.
987. I consider the requirement for timeframes at 10-year intervals and for action plans with specified timeframes for NPSFM2020 Appendix 2B attributes to be a technical challenge, and for some attributes unreasonable, given the lack of accurate predictive modelling tools. This is particularly for meeting long term attribute states:

- a. where the effects of mitigation measures are likely to take some time to become apparent (especially where planting, land retirement or afforestation are mitigation measures),
- b. when the exact impact of mitigation measures on water quality attributes like MCI and sediment related attributes are uncertain and cannot currently be accurately modelled, and
- c. in circumstances where meeting the 2040 timeframe already imposes significant implementation costs on the community (including in relation to mitigation measures required to meet water clarity, deposited sediment and DRP attribute states).

988. No timeframes for achieving some of the longer-term attribute states such as clarity in some water bodies and those for estuaries were discussed during the TANK process as they were considered aspirational and the costs of achieving this were not assessed. It was intended that the rate of improvement in attribute state towards the 2040 state would be assessed with each plan review and appropriate measures assessed and introduced as necessary to meet the longer-term aspirational state.
989. The Council is required to give effect to the NPSFM2020. However, given that insufficient information is available at this stage to generate either the interim (ten year) or long-term water quality states for Schedule 26, it is therefore recommended that these aspects be developed further with the next plan change in time to meet the requirements for giving effect to the NPSFM2020 by 2024. This assumes that modelling improvements will enable this analysis to be carried out at that time.

#### *Dissolved oxygen and temperature*

990. PPC9 Schedule 27 includes a higher long-term attribute state outcome for Dissolved Oxygen in the lowland streams and 2040 targets for all other freshwater. This is despite not having baseline information and despite the very high costs involved in gathering the data to the levels specified in the NPSFM2020 (for continuous monitoring).
991. However, there is information about the dissolved oxygen, especially in the lowland tributaries where dissolved oxygen levels are known to be a key environmental stressor. In other water quality management areas, dissolved oxygen levels are not of any concern and are monitored at regular State of the Environment sites (just not according to the NPSFM2020 requirement for continuous monitoring).
992. The attribute states for oxygen are therefore recommended for inclusion for the lowland tributaries with the 2040 state as well as a long-term state specified. Continuous monitoring will be carried out at representative sites. As described above however, the timeframe for reaching these targets will be developed with the next plan change to give full effect to the NPSFM2020.
993. The temperature attribute was included in Schedule 26 subject to the development of the reference condition temperatures. Reference condition temperatures are not yet available and are dependent on further data being collected. Schedule 27 introduces the attribute states relative to reference state – and anticipated these will be confirmed at some future date. (Refer also to the technical memo by Dr Sandy Haidekker).
994. Few submission points refer to either the oxygen or temperature attributes with two (120.167, 123.127,) seeking that specific temperatures from Schedule 27 are included in Schedule 26 and that temperature attributes be added for Te Whanganui a Orotū (Ahuriri Estuary), and that the CRI from continuous data be retained as notified (195.138). Submission 210.121 seeks clarification about reference conditions.

995. Submission points 123.140 and 120.167 seek amendments to the oxygen state metrics and inclusion of targets for the Ahuriri Catchment tributaries. Submission point 195.132 supports the oxygen attribute states.
996. Given the uncertainty around the temperature attribute and the lack of technical information to support establishing a target attribute state, it is recommended that temperature attribute be included in Schedule 26 as a longer-term goal as the more appropriate management response for this attribute. It enables the Council to make progress towards better understanding during the term of this Plan.

### *Sediment Attributes*

997. The new NPSFM2020 provisions for sediment related attributes of water clarity and deposited sediment result in a significantly different outcome than that used for TANK and the different basis for establishing the attribute state results in some complexity.

### *Water Clarity*

998. The PPC9 developed water quality target attribute states by considering available information for identified values. For water clarity in most of the TANK water bodies, trout were identified as the most sensitive to the attribute state and guideline values for protection of outstanding and significant trout fisheries were used. Where trout weren't an identified value (such as in lowland streams) guidelines for clarity that provide for recreation were used (ANZECC and RRMP).
999. While both of these values also provide protection for ecosystem health (which is a compulsory value), the NPSFM2020 adopted a River Environment Classification (REC) basis for predicting the desired water quality to protect ecosystem health.
1000. As described in the technical memo by Dr Haidekker, the outcomes of these two approaches are quite different. The REC approach results in lower water clarity targets (less clear water) across many of the TANK water bodies than an approach based on trout and recreation needs.
1001. The REC is based on modelled water clarity state using topography, geology and climate but does not account for the impacts of human land uses. We know from the SedNet model (refer to technical memo) however, that sediment loss risk can be high in parts of the catchment and that as a result of human impacts, sediment loss is much higher than under pre-human time.
1002. If the NPSFM2020 REC approach was used, the existing water quality means that most water bodies would be Band A and some in Band B for clarity. The lower Ngaruroro would be in Band D. The threshold for NOF Band A for the suspended sediment class 1 of the Ngaruroro main stem is  $\geq 1.78$  m.
1003. The main stem Ngaruroro SOE sites currently have a clarity of around 1 m. The PPC9 target is  $\geq 3.35$  m (significant trout fishery).
1004. The PPC9 target attribute state is for a high water clarity state for the trout fishery, however, there are concerns about the achievability of this target for the Lower Ngaruroro by 2040 given the scale of the catchment and the sediment sources. (The NPSFM2020 REC predictions are also for lower clarity state for this REC class of water body)
1005. However, as explained in the technical memo, using the REC approach to establishing target attribute states would imply there was little to no sediment issue in the tributary

catchments and the Schedules would not consequently drive adoption of sediment mitigation measures in Farm Plans.

1006. The PPC9 identifies that there are ecosystem health issues related to sediment (in freshwater as well as estuaries) and seeks to reduce the level of sediment loss risk through mitigation measures such as improved riparian land management, stock exclusion, land retirement and afforestation, and erosion control planting.
1007. The modelling to support assessment of costs of sediment mitigation measures calculated the erosion control measures needed to reduce sediment loss by 30%.
1008. The costs of these works were calculated at a farm scale and over time across the TANK Catchments and described in the Section 32 Report (pp 147-151). The direct and indirect costs of the sediment mitigation scenario are substantial and do not fall evenly across all landowners. Note that there were few submissions addressing the costs of the mitigation measures, although there were several (Submitter 216.10, 50.22) that noted the importance of making the plan implementation affordable.
1009. None of the modelling was able to predict the changes in water clarity attribute state over time as a result of the erosion control and sediment loss mitigation measures.

### *Options*

1010. The technical memo describes three options to respond to the impact of the new clarity targets they are:
  - d. Adopt the TANK approach as proposed;
    - i. This acknowledges the known sediment issues in TANK water bodies and the receiving estuaries and better reflects current state in some water bodies.
    - ii. Note that the 2040 objective for meeting water clarity particularly for the Ngaruroro mainstem are ambitious given the scale of the catchment, and the costs and delay in seeing the effects of the mitigation measures.
  - e. Adopt the new NPS target attribute states
    - i. This results in a much reduced or little attention being given to the management of sediment loss across nearly all TANK water bodies as all water bodies current state is already within Band A or B except the Ngaruroro mainstem.
  - f. Adopt a mixture of the TANK approach and the REC target attribute states:
    - i. TANK proposed states may not be met by 2040 given the investment in mitigation measures necessary and the time needed for the impact of planting to become evident. The NPSFM2020 attribute states for clarity might provide more realistic 2040 targets that better account for the investment into sediment loss reduction measures.
1011. We recommend that the TANK water clarity target attribute states be retained. However, we note that the timeframes for meeting the attribute state for water quality might be considered ambitious given the scale of mitigation work required in the farmed areas (as described in the Agfirst and Market Economics reports) as well as in upper catchment and within the river corridor and recommend that the NPSFM2020 attribute states be used in 2040 target where there is more than one band difference between the current state and the target state.

### *Deposited Sediment*

1012. PPC9 referred to the best available information regarding deposited sediment at the time and used the upper limit guideline for biodiversity (<20% deposited sediment).
1013. The NPSFM2020 introduces deposited sediment as an Appendix 2B attribute which requires an action plan, but not necessarily limits or rules.
1014. The NPSFM2020 approach was again based on the River Environment Classification (REC). The technical memo by Dr Sandy Haidekker explains the issues arising from this approach in relation to both the PPC9 approach and the lack of long-term data on which to base informed decisions. There is no baseline data to determine the deposited sediment state and a further 3 years of data is still required.
1015. The validity of the REC classification for some lowland rivers is also in some doubt. For example, as explained in the technical memo, some of the lowland streams are classified as hard bottomed are in fact more likely to be soft bottomed and vice versa.
1016. I concur with the recommendations made by Dr Haidekker and support the inclusion of the deposited sediment attribute in Schedule 26 as long-term goals to be addressed by action plans. In addition, because of the uncertainties around the REC classification (for the lowland streams), no long term goal can be developed at the moment for some of the lowland streams and this will be addressed with subsequent plan changes. The 2040 targets will continue to refer to the PPC9 attribute states for maximum deposited sediment levels.
1017. As noted above for the estuary action planning, PPC9 focuses on the management of sediment loss through a range of regulatory and other measures to reduce sediment loss and this will assist in meeting the objectives for deposited sediment over time.

### *Macroinvertebrates*

1018. The NPSFM2020 introduced new provisions for Macroinvertebrate Community Index (MCI), QMCI and Macroinvertebrate Average Score per Metric (ASPM) as Appendix 2B attributes.
1019. PPC9 had included MCI as one of the management drivers in Schedule 26, acknowledging this metric as a key indicator of overall ecosystem health, providing a long term and integrated view of water quality.
1020. The technical memo by Dr Sandy Haidekker describes how the NPSFM2020 bands are all 10 points higher than the equivalent band used in TANK, and how the environmental objective for each band also now encompasses nutrient enrichment as well as the previous organic pollution.
1021. The change to the MCI scores for each of the bands in the NPSFM2020 widens the gap between existing state and the desired state. Dr Haidekker's memo explains the impact of this in relation to the TANK management areas.
1022. The change is particularly relevant for the upper catchments where excellent water quality is the desired outcome. Much of the upper catchment is DoC or conservation estate. Further improvement of water quality in the upper catchment area has implications for management of the DoC estate that the Department may wish to comment on.
1023. Note also recommendations above for reconsideration of the Upper and Lower river mainstem boundary so that the Whanawhana site is reclassified as mid to lower mainstem not a headwater site.

1024. There is no direct relationship between the key mitigation measures identified in PPC9 and MCI state. Changes in MCI is the result of a range of natural and induced changes and stressors. However, we know that some of the mitigation measures such as better riparian land management, stock exclusion from water bodies, erosion control and nutrient management will all contribute to improved water quality and ecosystem health. The NPSFM2020 includes MCI attributes in Appendix 2B for this reason – actions are needed but establishing robust resource limits linked to changes in MCI is considered impractical.
1025. The QMCI and ASPM attributes are new. They provide additional metrics with which to assess health and state of macroinvertebrate communities with. However, on the basis of existing state, the current states of the TANK water bodies show that the 3 different macroinvertebrate attributes fall into two and sometimes 3 different NPSFM2020 bands. PPC9 also has a slightly different environmental outcome description for the proposed bands compared to the NPS.
1026. There are three main options for resolving the MCI attribute state for PPC9.
- a. Retain the PPC9 MCI values (as the 2040 PPC9 environmental outcome statements) in Schedule 26 and include the new QMCI and ASPM as longer term or aspirational goals in Schedule 26.
  - b. Include all three MCI metrics and environmental outcomes as long term goals in Schedule 26, replacing the PPC9 MCI attributes
  - c. Include all MCI metrics as per the NPSFM2020 into Schedule 26 as long-term goals – and adopt the new NPSFM2020 bands and environmental outcome statements (i.e. Band A in PPC9 will be changed to the Band A state from the NPSFM2020). Include a 2040 narrative target for improving trends.
1027. The use of the NPSFM2020 outcome statements are more comprehensive and refer to nutrient enrichment as well as organic pollution. While application of the NPS band to the equivalent TANK band then leads to a wider gap between existing state and desired state (by 10 points for each of the management areas), it is consistent with the overall outcomes being sought. For this reason we recommend use of the NPSFM2020 bands and objectives and the development of the TANK bands to the equivalent NPS bands for the extra two attributes.
1028. However we recommend that all three MCI attributes are included as the longer term goals in Schedule 26, given:
- d. the challenges between predicting the impact of the mitigation measures on the MCI state,
  - e. the increased gap between current and desired state,
  - f. the lack of information about the scale and costs of the mitigation measures required to meet the higher state, including for the upper mainstem and
  - g. the differences in the band that the water bodies are in for the 3 different MCI attributes.

*Human Health (Uu, mahinga kai and recreation)*

1029. PPC9 identified a range of values relevant to human health and which are also contained in the NPSFM2020, including swimming, mahinga kai and recreation. PPC9 also introduces the Māori cultural value of Uu which is not specifically referred to in the NPSFM2020.
1030. Uu is understood to be a cultural physical connection with water that may include immersion at any time of the year. Submission points 120.160, 123.133, seek that Uu be

considered the critical value (rather than recreation) for the E.coli attribute and that it applies all year round.

1031. The Council maintains a SoE monitoring programme for all rivers and this is reflected in the PPC9 attribute states and targets for E.coli. The attribute is applied all year and for all flows. The critical value listed all of recreation, human health and Uu values as they are all relevant to the health risk from E.coli. Human health is a compulsory value in the NPS. Uu, while an important human health related value, does not have associated guideline information for E.coli and the more generic human health risk information is used instead. All 3 critical values are therefore referred to.
1032. Submission points (120.160, 123.133) seek reference to all 4 of the NPSFM2020 attribute states. PPC9 currently includes three of them but not the 95<sup>th</sup> percentile target. This should be included for consistency.
1033. The NPSFM2020 also introduces a new E.coli attribute in Appendix 2B Table 22, linked to water quality at primary contact sites (bathing season). The NPS also requires the Council to manage a bathing water quality monitoring programme during the bathing season (November – April).
1034. The NPSFM2020 has a series of requirements for monitoring and reporting on recreational water quality that need not be repeated in PPC9. Note that the Council does not need to make any changes to its recreational water quality programme in order to give effect to the NPSFM2020.
1035. Primary contact/swimming is a key value for most of the waterbodies in the TANK catchments. In addition to the monitoring sites throughout the TANK Catchments (and which are shown on the proposed new index map) the Council has 3 primary recreational water quality sites in the TANK Catchments as follows:
  - bb. Ngaruroro River at Chesterhope bridge
  - cc. Tūtaekurī River at Guppy Road (Brookfields Bridge)
  - dd. Karamū River at Clive (SH2 Bridge)
1036. The Ahuriri does not have any primary recreation site in the freshwater bodies of the catchment. However, recreational values are high at estuary locations like Pandora and PPC9 includes an Enterococci attribute suitable for brackish water.
1037. The inclusion of this Appendix 2B Table 22 E coli. attribute state for the primary contact sites is not sought specifically by any submitter, although some make general requests for alignment with the NPSFM2020 (such as submission point 195.131)
1038. The implication of inclusion of NPSFM2020 Table 22 is described by the technical memo by Anna Madarasz-Smith. That memo describes the significant technical challenge associated with understanding risks to recreational water use and providing clear information to the public about water quality for human health.
1039. Reporting on both tables 9 and 22 (in Appendix 2A and 2B respectively of the NPSFM2020) result in mixed messages about water quality risks for human health. The analysis of the same data under both tables can result in a site being under the bottom line for E.coli and yet still a low risk for swimming.
1040. It is recommended that the Appendix 2B E coli. attribute state for the primary contact sites is included in the PPC9 for consistency and alignment. Management implications are not significantly altered, and the focus on stock exclusion and riparian land management will help achieve any necessary improvements in E.coli throughout the TANK Catchments.

1041. However, we recommend that the reporting on the 95<sup>th</sup> percentile be subject to assessment and discounting the effects of extreme or known events so as not to create confusion about the nature of the risks to swimming and primary contact activities, as described in the technical memo.

#### *DRP*

1042. PPC9 developed the DRP attribute states in a way that is essentially consistent with what is now in the NPSFM2020. However, the DRP attribute was included in PPC9 specifically to manage nutrient enrichment and algal growth. The environmental outcomes are described more fulsomely in the NPSFM2020 to include reference condition, eutrophication, primary production etc as outlined in the technical memo.

1043. The new NPS thresholds are slightly less stringent than imposed by the equivalent PPC9 targets in a small number of water bodies which move to a higher band based on current water quality state. Overall, the impact of the NPSFM2020 does not change the management focus. There remains a need to manage phosphorus loss in a number of water bodies currently below the bottom line (for both PPC9 and NPSFM2020 target states). PPC9 acknowledges this management need and also recognises the relationship between phosphorus and sediment loss management.

1044. The PPC9 DRP attribute target states are included in Schedule 26 and resource users are subject to new regulatory provisions that require phosphorus losses to be identified and managed – although the link between sediment and phosphorus is a key consideration in managing this nutrient loss. The NPSFM2020 includes DRP as an action plan Appendix 2B attribute. PPC9 is addressing management of phosphorus directly through new rules that link Schedule 28 and Schedule 26 in the requirements for Farm Plans as specified in Schedule 30. It is also managed indirectly in relation to the focus on sediment management which recognises that sediment loss is also a pathway for the loss of phosphorus.

1045. The options are described in the technical memo:

- h. Retain the PPC9 proposed attribute states and the NPSFM2020 outcomes for the bands.
- i. Adopt the NPSFM2020 attribute states and bands
- j. Adopt PPC9 states as the longer-term targets and use the NPS states as guiding the shorter term 2040 targets.

1046. We recommend the adoption of the NPSFM2020 DRP equivalent target states (reporting against both the median and 95<sup>th</sup> percentile) and environmental outcomes. However we recommend that where the Band difference is two bands we adopt a similar approach as recommended for clarity so that the 2040 target adopts an interim state being the improvement to the next band quality.

#### *Nitrate toxicity and ammonia*

1047. Applying the NPSFM2020 target state bands and environmental outcomes makes minimal difference in comparison with PPC9. Exceptions are that the current state of the Karewarewa and Awanui Streams would mean they are classed as being below the bottom line for the nitrate 95<sup>th</sup> percentile and both the Karewarewa and Awanui are below the bottom line for ammonia maximum concentration. These streams are already under management focus for a range of attributes including nitrogen. The recommendation is for the 2040 target to equate to the B band with the long-term target being the NPSFM2020 A band.

1048. The differences between PPC9 and the NPSFM2020 for these attributes are largely minor and applying the NPSFM2020 direction is recommended.

### *Turbidity*

1049. The turbidity attribute was included more as a 'belts and braces' approach to provide information and understanding about water quality. This was despite technical advice that it added little value to understanding ecosystem health and state. Turbidity measurements from different sensors are required to be calibrated and standardized in order to be compared. At best turbidity acts as a proxy for suspended sediment concentration and load.

1050. Turbidity is considered by some parties to provide information about sedimentation and clarity. However, water clarity (measured by black disc) and deposited sediment provide much more direct measures of the sediment impacts on water quality.

1051. Turbidity is routinely measured monthly at all SOE sites, so data is available. However, the technical memo describes changes to the measuring methods and resulting lack of baseline data.

1052. I note that in addition to water clarity and deposited sediment monitoring, the Council is also deploying continuous monitoring ISCOs at selected sites across the region to better measure the total sediment loads in rivers and being discharged to coastal waters. These units provide much more accurate suspended sediment data and in time will be used to inform future modelling in combination with other data. The Council is measuring turbidity in parallel with these units and will be developing a relationship between turbidity and suspended sediment to help calculate sediment loads.

1053. The NPSFM2020 does not include a target attribute state for turbidity. For this and the reasons above, I will be recommending that turbidity not be included in Schedule 26.

### Recommendations

#### *Schedule layout, values and environmental outcomes*

1054. I recommend to give relief to those submission points that seek to better align the Schedules with the requirements of the NPSFM2020 in relation to the overall format of the Schedules including identification of values, relevant attributes and environmental outcomes. These are shown in the tracked changes version of PPC9 including the amended Schedules 26 and 27. The sites to which the target attribute state apply are now also included in the Schedule.

1055. Submission points seeking alignment with the NPSFM2020 or amendments to the proposed attribute states are therefore recommended to be rejected or accepted as shown in table 14.3 in Appendix 3.

#### *Reasons*

1056. This is because of the need to give effect to the NPSFM2020 and provide for transparency, consistency and clarity.

#### *Schedule 26 and 27*

1057. I recommend that the following amendments are made to OBJ TANK 4, the two Schedules 26 and 27 as shown in the marked up version of PPC9 in Appendix 1;

- ee. make similar distinctions as are made between the NPSFM2020 Appendix 2A and 2B attributes by including 2040 target attribute states and long term attribute states that are to be met with progress towards the long term states over the life of the plan through regulatory and non-regulatory methods.
- ff. Schedule 26 to include long term attribute states for the estuaries and progress towards them made over the life of the plan through regulatory and non-regulatory methods.
- gg. Schedule 27 is deleted
- hh. That the target attributes states are recommended to be aligned with the NPSFM2020 except as outlined for specific attributes below.
- ii. That the 10 year interim target states for the achievement of the 2040 targets are not included at this time.
- jj. The long-term timeframes for reaching the Schedule 26 attribute states are not included at this time.

1058. Submission points seeking alignment with the NPSFM2020 or amendments to the proposed attribute states are therefore recommended to be rejected, accepted or accepted in part as shown in table 14.3 in Appendix 3.

### *Reasons*

1059. This is because of the need to give effect to the NPSFM2020 and provide for consistency and clarity. Aligning attribute state values reduces scope for debate about acceptable targets for attributes and adopting the environmental outcomes for the equivalent PPC9 bands provides for consistency.

1060. Progress towards the long term or aspirational targets is made through the term of this PPC9 by both the regulatory methods to meet 2040 target targets and non-regulatory means as provided for by the NPSFM2020 action plan approach and incorporated into PPC9 as its non-regulatory methods.

1061. Ten year interim target states for attributes where the timeframe is 2040 or longer are not included as there is limited ability to accurately model or predict the water quality outcome from the identified mitigation measures in shorter timeframes.

1062. Long term timeframes are not included as there was no community input into deciding that timeframe and PPC9 takes a staged approach that addresses key priorities first. There is also insufficient certainty about the scale and costs of the measures required to meet those targets beyond what has been modelled for the 2040 targets.

### *Water clarity*

1063. I recommend that the PPC9 attribute states for water clarity be used along with environmental outcomes related to the trout fishery and recreational values, provided that the 2040 target for the Ngaruroro and Tūtaekurī River mainstems be amended to 1.78m (which is equivalent to the NPSFM2020 A band for clarity). The long-term target attribute state for the mainstems is consequentially recommended to be the PPC9 2040 target state and amendments are as shown in the marked up version of PPC in Appendix 1.

1064. Submission points seeking alignment with the NPSFM2020 and those seeking amendments to the values for the proposed water clarity attribute are therefore recommended to be rejected, accepted or accepted in part as shown in table 14.3 in Appendix 3.

## Reasons

1065. This is because the PPC9 attribute states for water clarity reflect the known issues of sediment impacts on ecosystem health, including estuary health and existing water clarity in a way that is not provided for in the NPSFM2020 approach based on REC.
1066. Furthermore, the Upper Ngaruroro is subject to a Water Conservation Order application that seeks to recognise its outstanding trout fishery. The PPC9 attribute states also reflect the known sediment loss risks from TANK Catchments as modelled by SedNet. The NPSFM2020 water clarity states, if applied to the TANK water bodies, would indicate there is little or no sediment problem and therefore would not drive investment into sediment mitigation as required to achieve environmental outcomes. The recommended 2040 and long-term targets recognise the scale of the issue across the catchment and provides a staged approach.

## *Deposited Sediment*

1067. I recommend that the PPC9 deposited sediment attribute be included as a long-term target in Schedule 26 and progress towards meeting this be addressed by the non-regulatory action plan approach, including more monitoring to complete the data record length and enable better assessment as to baseline state and amendments are as shown in the marked-up version of PPC9 in Appendix 1.
1068. Submission points seeking alignment with the NPSFM2020 or amendments to the proposed attribute states are therefore recommended to be rejected, accepted or accepted in part as shown in table 14.3 in Appendix 3.

## *Reasons*

1069. This is because of the need to give effect to the NPSFM2020, while acknowledging that there is not yet a full data set that enables baseline state to be established. There is also concern that the fine sediment attributes provided in the NPSFM2020 do not adequately reflect sediment loss risk as a result of human activities and land uses and that there are doubts about the validity of the REC for some lowland streams.
- 1070.
1071. PPC9 focuses on the management of sediment loss through a range of regulatory and other measures to reduce sediment loss and this will assist in meeting the objectives for deposited sediment over time.

## *MCI*

1072. I recommend that the three MCI attributes are included as a long-term targets in Schedule 26 and progress towards meeting this be addressed by the non-regulatory action plan approach. The interim target is for improving trends for all these metrics., The target states be based on the equivalent NPSFM2020 thresholds, environmental outcomes and bands and amendments are as shown in the marked up version of PPC in Appendix 1.
1073. Submission points seeking alignment with the NPSFM2020 or amendments to the proposed attribute states are therefore recommended to be rejected, accepted or accepted in part as shown in table 14.3 in Appendix 3.

## *Reasons*

1074. This is because of the need to give effect to the NPSFM2020, while acknowledging:
- a. The challenges in predicting the impact of the mitigation measures on the MCI state,

- b. The increased gap between current and desired state, as a result of using the NPSFM2020 attribute states and bands,
- c. The lack of information about the nature and costs of the mitigation measures required to meet these states, and
- d. Because of the differences in the band that the water bodies are in for the 3 different MCI attributes.

#### *DRP*

1075. That the NPSFM2020 bands and attribute states and environmental outcomes for DRP be applied to the TANK rivers on an equivalent basis, except that if the target is more than one band away from the baseline, the 2040 target is an intermediate one band and amendments are as shown in the marked-up version of PPC in Appendix 1.
1076. Submission points seeking alignment with the NPSFM2020 or amendments to the proposed attribute states are therefore recommended to be rejected, accepted or accepted in part as shown in table 14.3 in Appendix 3.

#### *Reasons*

1077. This is because of the need to give effect to the NPSFM. It also reduces inconsistencies and enables alignment with national approaches. The management implications remain largely the same.

#### *Nitrate toxicity and Ammonia*

1078. I recommend that the NPSFM2020 bands and attribute states and environmental outcomes for nitrate toxicity and ammonia be applied to the TANK rivers on an equivalent basis and amendments are as shown in the marked up version of PPC in Appendix 1.
1079. Submission points seeking alignment with the NPSFM2020 or amendments to the proposed attribute states are therefore recommended to be rejected, accepted or accepted in part as shown in table 14.3 in Appendix 3.

#### *Reasons*

1080. This is because of the need to give effect to the NPSFM. It also reduces inconsistencies and enables alignment with national approaches. The management implications of making this amendment are low.

#### *Dissolved oxygen and Temperature*

1081. I recommend that target oxygen states be expressed as 2040 and long-term targets in Schedule 26 for lowland rivers and that targets for mainstem and hill country tributaries be deleted.
1082. I recommend that the temperature attribute and target states are included as a long term target in Schedule 26 and progress towards meeting this be addressed by the non-regulatory action plan approach, which includes further and that they are based on the equivalent NPSFM2020 thresholds, environmental outcomes and bands.
1083. Submission points seeking alignment with the NPSFM2020 or amendments to the proposed attribute states are therefore recommended to be rejected, accepted or accepted in part as shown in table 14.3 in Appendix 3.
1084. Amendments are as shown in the marked-up version of PPC in Appendix 1.

## *Reasons*

2. This is because of the need to give effect to the NPSFM, while acknowledging that
  - a. while there is information about dissolved oxygen levels, there is no continuous data as required for the NPSFM2020 dissolved oxygen attribute and
  - b. there are no dissolved oxygen issues known for the hill country tributaries and mainstem rivers, and SoE monitoring collects sufficient information to assess state in those water bodies,
  - c. the focus for continuous monitoring dissolved oxygen is a priority in lowland streams,
  - d. The required reference condition information for temperature is not yet available.

## **14.7 Point Source Discharges, POL TANK 10**

### Submission Points

1085. 10 submission points are made in respect of POL TANK 10. Submission points are contained in table 14.3 in Appendix 3.
1086. The following evaluation may not refer to every submission point, but I have considered each submission point in before making my recommendations.
1087. Submission points 120.106, 123.46, 210.31 seek the same timeframes be applied to point source discharges.
1088. 2 submission points support the policy as written.
1089. Submission point 58.15 seeks an outcome for QMCI so that it is not changed by more than 20% after reasonable mixing.
1090. Other submission points seek various amendments to the policy including for further clarity and provision of further text.

### Discussion

1091. POL TANK 10 provides direction for decisions to be made in respect of point source discharges however the policy allows for each discharge activity that is not permitted by a rule in PPC9 to be subject to an assessment of the timeframes required to contribute to the meeting of the water quality target states. For any new discharge activity, the requirements of Schedule 26 will apply at the time of application.
1092. A 'no greater than 20% change' in QMCI results in a lower water quality than directed for by the policy and is not recommended. The conditions on a discharge consent must enable the water quality target states to be met after reasonable mixing – the policy does not contemplate further reduction in state as a consequence of the discharge.
1093. Submission point 203.12 has sought reference to replacement and upgrading works in addition to maintenance, however a replacement activity or an upgrade should be considered in light of the water quality objectives for the new activity. This new investment into upgrades and replacements provides an opportunity to plan for improved performance standards. The submitter is invited to provide further evidence to explain why this should not be the case.

1094. Submission point 126.16 also suggests reference to best practicable options for the discharge. I agree that this would provide some guidance for the expected level of performance and recommend this amendment and also suggest reference to good industry practice to assess the application against.
1095. Schedule 26 is also subject to other submissions. Recommended amendments enable targets for estuary water quality may be a consideration in relation to point source discharges. This would potentially enable a more integrated approach to managing freshwater quality impacts on estuary environments.

### Recommendations

1096. I recommend that the policy be amended as shown in the marked-up version of PPC9 Change for consistency and to enable more comprehensive decision making by referring to best practicable option and industry good practice.
1097. Submission points are therefore recommended to be rejected or accepted as shown in table 14.3 in Appendix 3.
1098. This is because:
- a. The amendments provide better clarity and direction about the level of performance being sought.
  - b. The clauses are not in priority order and therefore do not need to be re-ordered.
  - c. Other amendments being made to Schedule 26 enable targets for estuary state to be considered when making decisions on resource consents.
  - d. Timeframes for requiring improvements for existing discharges are a matter for consideration for each application and which can take into account site specific issues.

## **14.8 Riparian Land Management, OBJ TANK 8, POL TANK 11 -13**

### Submission Points

1099. There are 13 submission points on OBJ TANK 8, and 31 general submissions in support, opposition or with no position stated in respect of the policies. Submission points are contained in table 14.3 in Appendix 3.
1100. The following evaluation may not refer to every submission point, but I have considered each submission point before making my recommendations.

### Submission Point Requests – OBJ TANK 8

1101. Submission points in respect of the objective seek reference to additional values or attributes;
- a. Habitat of trout and fish, (58.7)
  - b. Allowing for riparian planting and signage to improve public awareness (67.4, and 67.5)
  - c. Include restrictions on specific activities (67.7)
  - d. Recognition of water quality being maintained for food and fibre production (97.86)
  - e. Reword to better express the outcome sought (123.30)
  - f. Deletion of the objective or rewriting to be more general (126.11, 201.22)
  - g. Clarify that it is not subject to regulation and what appropriate management means (142.6, 180.16)

1102. Submission point 85.10 recognises the value of funding and other support from local and central government in enabling better riparian and wetland management.

#### Submission Point Requests – Policies

1103. Most submissions support the policies in respect of riparian land management although with some amendments sought.

1104. Several submission points seek information about implementation, and some seek stronger direction or regulation, although most do not provide specific requests about how this should be done. 120.56 seeks that riparian vegetation be restored around springs as a priority and seeks that access be provided.

1105. Several submission points (216.11, 99.8, 180.26, 124.5) support a close working relationship with landowners and industry groups to enable the outcomes being sought for riparian land management to be met.

1106. Several submission points (120.19, 145.7, 123.49) refer to riparian land values and the range of management objectives, including a need to account for biosecurity risks in horticultural areas and a focus on natural biodiversity.

1107. Several submission points seek wording amendments that either don't change the overall direction or create a much more directive policy (210.34, 201.35, 195.39).

#### Discussion

1108. All submission points acknowledge the importance of good riparian land management, with many also referring to the range of actual and potential values, objectives and functions that are influenced by, or impact on the way riparian land is managed.

#### *OBJ TANK 8*

1109. Some of the amendments sought are inappropriate given the role of the objective as an outcome statement. As drafted, the outcome being sought is riparian land management that results in specified outcomes (like reduced bank erosion, healthier ecosystems, etc.). However, the key outcome is the improved state of riparian margins so that the functions of the riparian margin, including in relation to how they enable the environmental outcomes for freshwater bodies, are to be met.

1110. I consider the objective is necessary in addition to other policies specifying the freshwater body objectives as it encompasses a wider ecosystem health consideration and acknowledges the range of values that riparian land has across the catchments and which is different to the values of the water bodies themselves.

1111. However, some amendments are recommended to better express the outcomes being sought for riparian land as sought by 123.30, 180.16, 195.24 and 210.22.

1112. Reference to food and fibre production (97.86) (as well as including restrictions on specific activities (67.7) is not appropriate in this objective. Signage and public awareness is to be encouraged and neither is limited by the objective or the Plan generally. Activities are controlled through rules.

1113. The objective references aquatic habitat and fish spawning. Specific reference to trout and salmon (58.7) is not recommended as there are native species that would also then need specific mention and the objective does not need that level of detail.

1114. The objective does not refer to regulation and the POL TANK 11 – 13 outline the methods to be used to meet the objective. Amendments sought by submission points 142.6 and 67.7 are therefore not necessary.

#### *POL TANK 11 – 13*

1115. The policy direction accounts for the sometimes-complex relationship between riparian land management, healthy ecosystems, flood and erosion control and biodiversity, including biosecurity impacts and the range of management objectives that can be met by various approaches to riparian land management and planting.
1116. These policies are connected to other plan provisions and the national regulation for stock access. The national regulation (Resource Management (Stock Exclusion) Regulation 2020) requires stock to be kept 3m away from the edge of a river or lake. The reference to the Council regulation for stock access can be deleted as it is now contained in national regulation. The stock exclusion policy and rules are discussed in Section 14.4 of this report.
1117. PPC9 has taken an outcomes-based approach to riparian land management that acknowledges a need for site specific and local scale management solutions to be found in order to meet water quality and other ecosystem objectives, while allowing for the range of riparian land functions.
1118. Submission point 120.56 seeks revegetation of lowland springs and improved access for cultural purposes. PPC9 scope and powers do not extend to provisions for enabling access across private land. However, it is possible to target riparian land management effort through the implementation plan and farm plans which provide further direction for plan implementation. The lowland streams are all in the priority areas for either nitrogen concentration of nitrogen yield or for dissolved oxygen levels. It means they are already a priority focus for action.
1119. PPC9 expects that landowners will identify through farm plans Catchment Collective plans and industry programmes, where riparian land management is to be improved in relation to the outcomes in POL TANK 11 and in relation to the milestones specified in POL TANK 27. This work is an obligation on landowners and mitigations will need to be programmed for completion in a timely manner. The farm, Catchment Collective and industry programmes are subject to assessment and approval by the Council.
1120. Submission points in relation to POL TANK 2 in Section 14.2 of this report refer to biosecurity concerns and consequential amendments have been recommended to POL TANK 12 to reflect these.
1121. Submission points 123.49, 210.134 refer to inconsistency in language. The policies refer to values whereas they should be referring to the outcomes that are specified in POL TANK 11 and 12. Amendments to clarify this are recommended.

#### Recommendation

1122. I recommend that the submission points are accepted or rejected as contained in table 14.3 in Appendix 3. with amendments being made to the policies to refer to outcomes for riparian land management and deletion of reference to stock access regulation as shown in the track changes version of PPC9 in Appendix 1.
1123. The remaining submission points are rejected because they either do not provide enough direction for changes sought, seek measures already contained in PPC9, are broadly in support of PPC9 or are not consistent with the management framework of PPC9.

## 14.9 Wetlands, OBJ TANK 15 and POL TANK 3, 14 and 15

### Submission Points

1124. There are 27 submission points relating to the wetland objective and policies and generally to wetland management. Submission points are contained in table 14.3 in Appendix 3.
1125. The following evaluation may not refer to every submission point, but I have considered each submission point before making my recommendations.

### Submission point requests

1126. Eight submission points support the provisions with no or minor qualification. Most others support the provisions with amendments sought.
1127. Submission points 201.28 and 123.36 seek reworking of the objective.
1128. A number of submission points seek additional values to be referred to including recreation, habitat for valued non-indigenous species, and water use for a range of purposes.
1129. Submission points 113.1 and 9 refer specifically to Lake Poukawa, the relationship with Schedule 24 of the RRMP and the need for a more site-specific approach to management of that lake and its margins.
1130. Submission points 123.5, 210.53 and 210.36 note some overlap between POL TANK 3 and POL TANK 14 and 15.
1131. A number of submission points note the need to manage adverse effects arising from creation of new wetlands and some seek more information about where new wetlands are to be established. (submission points 145.5, 180.17).

### Discussion

1132. OBJ TANK 15 could usefully be reworded to provide a better outcome statement for wetlands and lakes. Amendments are recommended to align with the approach taken for other objectives for consistency.
1133. A number of submission points refer to additional values not recognised in the objective, but nonetheless are valid and existing values for wetlands around the TANK catchment. This includes the wetlands and lakes providing habitat for valued non-indigenous species, being valued for some (non-contact) recreational activities and being used as a water source for a range of abstractive uses.
1134. Amendments are recommended to the objective to acknowledge these values, although the water abstraction value is limited to that for human and animal health. This is being recommended to indicate that wetlands and lakes have more value as natural ecosystems and hydrological functioning than for abstraction for a wide range of water uses while still acknowledging Te Mana o te Wai and the needs of humans and animals for water.
1135. POL TANK 3 directs the Council's attention to working with landowners to focus on key activities that impact on wetland values, recognising wetlands and lakes as priority areas for management. Amendments are sought that repeat the direction in POL TANK 1 (submission point 123.43) or direct a much wider catchment approach (submission point 58.14).

1136. POL TANK 14 repeats the values listed in the objective, but not quite in the same order. It further indicates that regulation of some activities in riparian margins is necessary and that the Council will generally support and encourage activities to improve or maintain wetland values.
1137. Submission point 210.35 seeks amendments to this policy that largely describe the functions of wetlands rather than the values they have. Some of the suggestions are already reflected by wetland values for their role in hydrological functioning. Other submission points for POL TANK 14 refer to other values. Given the overlap between this policy, OBJ TANK 15 and POL TANK 15, it is recommended that POL TANK 14 be deleted and amendments be made to POL TANK 15 to reflect the intention to create regulation (as well as support and encourage). It partially gives effect to the submission points seeking better drafting consistency and merging of policies and results in clearer policy direction. This policy also makes it clear that consents may be needed to carry out activities that improve wetland values as sought by submission point 145.5.
1138. Management of the wetland margins of Lake Poukawa is affected by PPC9 Change, but is even more restricted by national regulation and existing provisions in the RRMP.
1139. Plan Change 5 was subject to an extensive Environment Court process that sought to define wetlands (that would be subject to existing RRMP provisions). This process led to the wetland area being defined in Schedule XXIV of the RRMP. It includes the wet Poukawa Lake area as well as a substantial wetland area that can be intermittently wet.
1140. PPC9 intended for stock to be excluded from wetlands and lakes through Rules TANK 3 and TANK 4. It had also provided a restricted discretionary consent pathway for stock access that could not comply with the conditions.
1141. PPC9 also provides for a catchment scale approach to the management of the wetland values through a catchment collective. This would have provided relief for what is being sought in submission points 113.1 and 9. However, in the interim, the National Resource Management (Stock Exclusion) Regulations 2020 have been introduced.
1142. These new national regulations require that stock must be excluded from wetlands that are identified in a Regional Plan or Policy Statement. There is no consent pathway provided for in the regulations. The national regulation does not permit PPC9 to be less stringent than the regulations.
1143. PPC9 encourages landowners to work collectively to meet water quality objectives at a local scale. Management of Lake Poukawa water quality and ecosystem health (apart from stock exclusion) can be managed through a catchment collective approach. This is already provided for by PPC9 and direction for the Council to liaise directly with Te Tumu Paeroa and Poukawa 14B Trust specifically in the policy is not required as sought by submission point 113.1.
1144. One alternative that would enable consideration of a management plan specific to the Lake Poukawa wetland margins is to re-define the margins of the lake shown in RRMP Schedule XXIV through a plan change. The outcome of this process is not certain as the wetland boundary definition resulted from expert advice and the wetland is as defined.

### Recommendation

1145. I recommend that the submission points are accepted or rejected as contained in table 14.9 in Appendix 3 with amendments being as shown in the track changes version of PPC9 in Appendix 1.

1146. The amendments reflect wetland and lake values more accurately, reduce unnecessary repetition and provide clearer policy direction.
1147. Management of wetlands is also regulated by new national environmental standards and the Plan cannot be less stringent in respect of those controls.

## **14.10 Phormidium Management, POL TANK 16**

### Submission points

1148. 4 submission points were received on this policy.

### Submission Point requests

1149. Submission points 123.51 and 210.37 request a rewording and changing the term to cyanobacteria.

### Discussion

1150. Cyanobacteria is potentially toxic and is a specific type of periphyton (algae that attaches to streambeds). Phormidium is Hawke's Bay's most common genus of cyanobacteria and it can form toxic blooms. PPC9 also contains targets for periphyton cover.
1151. The policy was developed in response to concerns about the impact on human and animal health from this particular type of cyanobacteria. The level of knowledge about the cause of phormidium blooms is still developing and the relationship between nutrients and this particular algae are not as well-known as it is for periphyton.
1152. However, the measures aimed at reducing nutrient loss will contribute to the management of algae generally, including cyanobacteria. The notes in Schedule 26 refer to the value for cyanobacteria as an alert level and the policy directs the management response for cyanobacteria. Note that phormidium blooms occur sporadically and there is little to predict when they might occur, although, like algae generally, blooms occur where there are sufficient nutrients and after long periods of low flow.

### Recommendations

1153. I recommend that the submission points are accepted or rejected as contained in table 14.10 in Appendix 3 with amendments being made as shown in the marked up version of PPC9 Change in Appendix 1. These are minor amendments recommended for accuracy.

## **14.11 RRMP Rules – 32 – 33 and 71**

### Submission Points

1154. There are 7 submission points in respect of RRMP 32, 33A, and 33.
1155. There are 8 submission points about the RRMP Rule 71
1156. Submission points are contained in table 14.10 in Appendix 3.
1157. The following evaluation may not refer to every submission point, but I have considered each submission point before making my recommendations

### Submission point requests

- 1158. Amendments sought to RRMP Rules 32 – 33 reference to Schedule 26 in RRMP Rules 33A and 33 (pumped drainage), corrections, delete condition (g) from RRMP 33 and make a matter for control, deletion of the amendments made by PPC9,
- 1159. Amendments sought to RRMP Rule 71 include reference to rest of TANK Catchments (123.121)
- 1160. The submissions include support, extending the rule to cover enhancement planting in other areas and a revised rule regime that permits riparian planting in designated drainage control areas, but makes it subject to compliance with a planting guide. (129.34 and 129.35).

### Discussion

- 1161. The amendments to RRMP Rules 32 and 33 and the introduction of a new rule RRMP Rule 33A enable the Council to assess the impacts of land drainage, including pumped drainage systems on the receiving water. Land drainage is a widespread and common practice across the Heretaunga Plains and the land which naturally drains into Te Whanganui a Orotū (Ahuriri Estuary).
- 1162. There was some debate about when a water body was a drain and not a river for the purposes of the RMA. If they are not 'rivers' then there is 'diversion and discharge' that these rules then authorise. The amendments to these rules now enable the Council to manage the discharge from land drainage and its effects on water quality in receiving waters in a way that leads to more integrated management of land and water.
- 1163. The management of the quality of drainage water so that it does not adversely affect the receiving water results requires new information about how land drainage affects nutrient and other contaminant loss pathways. This is a challenging new requirement for landowners and is dependent on new science and also on new understanding about the mitigation measures that will be necessary to meet the new water quality requirements.
- 1164. The management of 3 key water quality indicators (phosphorus, nitrogen and sediment) is required by the amendments. This specificity is targeted and clear and certain in a way that reference to the general requirements of Schedule 26 is not.
- 1165. While submission points 123.118, 124.30 and 129.29 all make submissions about the detail of the amendments, submission point 180.64 has a more fundamental concern about the rules' ability to manage water quality across several properties and also about the level of understanding about the activity on water quality, the necessary mitigation measures and the costs of those measures.
- 1166. The submitter suggests that given these and the practical, technical and legal challenges the amendments to RRMP Rule 32 and 33 be deleted and the need for them to be revisited upon plan review.
- 1167. Industry groups and landowners have in the meantime taken some proactive action and have established an investigation into what is discharged from tile drains and submitters might wish to comment on the nature and intention of this project – and the role it plays in meeting water quality outcomes.
- 1168. I agree that the rules pose significant challenges, particularly for the permitted RRMP Rules 32 and 33A. However, the rules did envisage the challenges with managing water quality

as a result of land drainage and delay the meeting of the new water quality standards for 10 years (from 2 May 2020).

1169. The rules and timeframe act as a driver for some management action to be taken and I recommend that the changes to RRMP Rule 32 and 33 be retained. Although not specifically requested by any submitters, I also recommend a change to the date the new water quality requirements take effect – namely to 10 years from the operative date of the Plan. This takes into account the uncertainties around the operative date of the Plan, allows for the supporting plan requirements for improved water quality to be in place, and fill the recognised knowledge gaps. This allows in part the submission point 180.64.
1170. Submission point 180.64 further points to the arbitrary nature of the 10ha limit in new RRMP Rule 33A and I agree that it is. It also poses challenges where the pump also services land across more than one property – and the technical challenges of identifying the contributing areas for some pumped systems.
1171. The need for RRMP Rule 33A is re-examined. While clause 33A (c) could be amended to allow pumped drainage schemes that service one property to be permitted, irrespective of the area drained, this could allow for quite large schemes with significant impact on the receiving water (such as the Landcorp Farm in Ahuriri) which otherwise would be a controlled activity. All pumped systems currently require resource consents under the current RRMP rules and the impact of continuing with this level of regulation will avoid creating new implementation challenges with the RRMP Rule 33A.
1172. A further submission point, 129.35 also points out the legal and practical difficulty for a consent holder for a drainage pumping station to influence water quality in water draining a wide area of diverse land use activities, including both urban and rural drainage and stormwater runoff water.
1173. I agree that this requirement is unduly onerous as the pump operator has little direct control over the quality of water being pumped. However, there is little information about what contaminant loads there are in these discharges and that some monitoring will assist in levels of understanding and future management. It is therefore recommended that the condition be redrafted as a matter for discretion and subject to conditions that help the Council build a better understanding about the nature of the drainage water quality.

### Recommendations

1174. I recommend that the submission points are accepted, accepted in part or rejected as contained in table 14.11 in Appendix 3 with the following amendments being made as shown in the marked up version of PPC9 Change in Appendix 1
- a. RRMP Rule 32; Amend condition (g) so it begins '10 years from the operative date.....'
  - b. RRMP Rule 33A; delete this proposed rule
1175. RRMP Rule 33; delete condition (g)
- c. RRMP Rule 33; replace matter (h) with "for activities carried out in the TANK Catchments, monitoring water quality to categorise the nature and extent (concentration and loads) of contaminants in the drainage water.

### *Reasons*

1176. This is because it enables other plan provisions to become effective in managing water quality, and also allows for the necessary research to be carried out, it recognises the difficulties in managing drainage water across property boundaries and being able to manage water quality where there is no control over land use.

1177. Reference to Schedule 26 introduces a great deal of uncertainty about the performance standard required to be met and this amendment is not recommended.

## 14.12RRMP Rules – 71

### Discussion

1178. This rule was amended to allow for better riparian land management in the Karamū Catchment to improve water quality and ecosystem health in lowland streams.
1179. However, there are parts of the catchment where waterway management is subject to a River Control and Drainage Scheme. Nowhere else in the TANK Catchment is subject to such a scheme, so extending the provisions to other catchments (submission points 123.121, 210.111) is not necessary or relevant.
1180. The Karamū Catchment has been subject to extensive modification as the community has addressed flooding and drainage issues. The drainage network was established primarily in response to flooding and drainage issues and the design and subsequent maintenance of the drains and modified stream network has not provided for the health of the aquatic ecosystem. This includes as a result of the straightening of water ways and the design of the channel, both of which are designed to carry water efficiently and quickly. Additional planting within and adjacent to the channel will adversely impact on the carrying capacity of these waterways if not carried out with careful attention to the impacts on the channel capacity.
1181. The Council is preparing a planting guide to ensure planting for ecosystem health and water quality purposes does not compromise the hydraulic capacity of the network.
1182. Submission point 129.35 suggests that planting in the Karamū Catchment be permitted in order to promote improved riparian management, but that needs to be subject to this planting guide so as not to compromise the other flooding and drainage objectives. This means the guide will need to be incorporated into the plan by reference.
1183. I agree that promotion of better riparian land management must not in turn create adverse effects on the hydraulic capacity of the scheme and recommend that the rule be amended as sought.

### Recommendation

1184. I recommend that the submission points are accepted, accepted in part or rejected as contained in table 14.12 in Appendix 3. with the following amendments being made to PPC9 as shown in the marked-up version of PPC9 in Appendix 1.
- a. RRMP Rule 71: replace the bullet point referring to the Karamū Catchments with, “This rule does not apply to rivers in the Karamū Catchment”
  - b. RRMP Rule 71A: Insert a new rule as follows:  
Permitted activity RRMP Rule 71A
  - c. Activities affecting river control and drainage schemes
  - d. “The introduction or planting of any plant including any tree in or on the bed of a river, lake or artificial watercourse or within 6 metres of the bed of any river within the Heretaunga Plains Flood Control and Drainage Scheme.
  - e. Conditions:
  - f. (a) The planting complies with the planting design, including species, setbacks and

density requirements specified in Hawke's Bay Regional Council's Water Way Planting Guide for the Heretaunga Plains Flood Control and Drainage Scheme (date)

1185. This is because the new objectives for improved riparian land management for water quality and ecosystem health must not be at the expense of other community values for flood management and drainage. The amendments allow for planting, but in a way that does not compromise hydraulic efficiencies.

## **14.13 RRMP Rule 7**

### Submission points

1186. Eleven submission points were made in respect of the amendments to RRMP Rule 7. Submission points are contained in table 14.13 in Appendix 3..
1187. The following evaluation may not refer to every submission point, but I have considered each submission point before making my recommendations.

### Submission point requests

1188. The submission points seek a range of changes to be made to RRMP Rule 7 including
- h) Allowing cultivation required for machinery movement within the new exclusion strips near water bodies (14.17, 15.16, 20.16)
  - i) Flexibility in achieving minimum standards (22.3)
  - j) Permitting direct drilling (85.5, 195.106)
  - k) Allowing drain maintenance (124.29)
  - l) Wider setbacks (120.31 210.105, and 123.117) and narrower setbacks (195.109)
  - m) No cultivation in critical source areas. (210.105)

### Discussion

1189. The amendments to RRMP Rule 7 introduce new minimum standards for some land disturbance activities that have a high risk of contaminant loss to water associated with them. These amendments set new thresholds for activities so that if exceeded a resource consent would be required to assess potential adverse effects and conditions may be imposed on the activity to reduce risk of contaminant loss. The conditions allow compliance activity to be more readily taken as the standards for these particularly risky activities are specific and measurable. No further discretion about performance levels by landowners as sought by submission point 22.3 is recommended to be provided in this rule – and discretion to carry out the activity will only be provided through a resource consent.
1190. Cultivation is defined in the RRMP to mean land tillage or other land disturbance activities for the purpose of establishing or growing a crop or pasture establishment.
1191. The submission points seeking that cultivation be permitted in the setback area to facilitate machinery movement are referring to a need to keep headlands free for movement of machinery around permanent crops like grapes. I consider that keeping low growing vegetation in these headland strips could be done without cultivation, including use of no-tillage methods. The submitters might provide further evidence to show how this is not so.
1192. Submission points 85.5, 195.106 seek inclusion of direct seed drilling as a permitted activity. As direct drilling is not 'cultivation' as defined above the rule would not apply to that

activity and direct drilling is therefore not regulated as a consequence. The inclusion of a note to that effect could be considered for clarity.

1193. Submission points 120.31 and 123.117 seek a minimum setback of 10m for cultivation near waterways but have not provided evidence to support a wider setback than proposed for waterbodies on flat land. Submission point 195.106 seeks a reduction in setbacks.
1194. The specified setbacks in PPC9 were informed by research that considered the likely impact on reducing sediment by different setback distances. This includes the good industry practice for horticulture<sup>27</sup> which includes a setback of 3 – 6m and the research summaries prepared to support the Waikato Plan change<sup>28</sup>. The research is not definitive about the best riparian setback as the impact of the setback in managing sediment movement depends on a variety of site- specific characteristics including soil type and particle sizes, and geology as well as type and condition of vegetation. The size of the rainfall event is also a key consideration. A 5 metre setback on flat land is consistent with industry good practice and effective at reducing sediment loss to water.
1195. RRMP Rule 7(f) applies to the management of riparian land and does not prevent drain maintenance provided indigenous vegetation on the banks is not cleared during the drain maintenance. No amendment is required.
1196. Submission point 210.105 seeks that cultivation be prevented from critical source areas. The definition of critical source areas is commonly understood to be “small, low-lying parts of farms such as gullies and swales where runoff accumulates in high concentration” (from Dairy NZ). Good practice direction from both Dairy NZ and Beef and Lamb is that critical source areas be left uncultivated. Schedule 30 of PPC9 requires freshwater farm plans to address the management of contaminant loss, especially in relation to critical source areas. A further restriction on cultivation in critical source areas would underscore the importance of management in these areas. However, including this as a condition in a permitted activity is somewhat uncertain as the exact location of any critical source area is not known with any certainty until identified as one in a farm plan. The application of good industry practice would require farm plans to identify and manage critical source areas, not just in terms of cultivation but also in terms of stock management, fencing and drainage. On balance, it is recommended that the farm plan provides a better vehicle for identifying and managing critical source areas.

## Recommendations

1197. I recommend that the submission points are accepted, accepted in part or rejected (as contained in table 14.13 in Appendix 3.) and that no amendments be made to PPC9. This is because the performance standards are based on best available information about effectiveness of setbacks, the rule does not apply to direct (seed) drilling, drainage clearance is not prevented by this rule and including critical source areas would be lacking certainty.

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<sup>27</sup> <http://archive.hortnz.co.nz/assets/Natural-Resources-Documents/ES-Control-Guidelines-1-1.pdf>

<sup>28</sup> <https://www.mfe.govt.nz/sites/default/files/media/Fresh%20water/waikato-scoping-report-appendices-9-12.pdf>

## 15. Water quantity

### 15.1 Water Quantity overview

1198. The PPC9 quantity management framework includes three new objectives, 25 new policies, 14 new rules, and various consequential amendments to existing RRMP policies and rules.
1199. The appropriateness of water quality provisions are assessed in two parts of the Section 32 Report: Section 8.5 – Damming Storage and High Flow Takes, and 8.7 – Water Takes (including Transfer of Permits).
1200. To aid the understanding of the Panel and submitters, Mona Wells and Rosa Kirkham have prepared a summary of the relevant technical and scientific information which supports and informs planning decisions relating to the management of surface and groundwater quantity in the TANK Catchments and Heretaunga Plains. The TANK Group considered a large volume of scientific and technical material over more than 40 meetings spanning 6 years. This material is contained in various reports, meeting papers and presentations. The Reporting Team consider that the extent of this information is too vast to be appended to this Hearing Report therefore the memo summarises and highlights the relevant information in a more digestible and coherent manner. This memo can be found in Appendix 11.
1201. Science developed to support the development of PPC9 identified that the Heretaunga Plains Aquifer and some surface water bodies in the TANK Catchments are over-allocated. In order to meet obligations under the RMA and RPS, PPC9 proposes a pathway to avoid and phase-out over-allocation in the TANK Catchments. This requires careful consideration of competing values associated with each waterbody, and appropriate management responses to ensure PPC9 provisions are effective and efficient. Although the NPSFM2020 will be fully given effect to via a future planning instrument, this plan change and associated work will also assist with giving effect to the NPSFM2020.
1202. PPC9 water quantity policies are broadly split into 3 areas:
- a. *5.10.6 Heretaunga Plains Groundwater Levels and Allocation Limits* which identifies that the Heretaunga Aquifer is closely connected to surface water bodies across the region, and must be managed as an over-allocated catchment. It also includes provisions which enable mitigation of stream depletion effects, and a ground water management review.
  - b. *5.10.7 Surface Water Low Flows* which include specific policies for surface water body catchments, and policies which guide the management of all ground and surface water takes in the TANK Catchments. The policies in Chapter 5.10.7 relate to both groundwater and surface water takes because the management of groundwater affects surface water low flows.
  - c. *5.10.8 High Flow Allocation* which relates to damming, storage and subsequent use of water taken at flows above the median.
1203. The water quantity management framework in PPC9 acknowledges that avoiding and reducing over-allocation is no easy feat. It requires a significant step change in the way all parts of the Hawke's Bay community view and use water. It is a problem that cannot be fixed over-night and adverse effects will need to be mitigated while our community progresses down the pathway of change.
1204. The objectives reflect this by requiring limits that protect the values of the water bodies, ensuring that allocations are within agreed reliability of supply for users, and encouraging efficiency and innovation.

1205. PPC9 utilises four main mechanisms to address over-allocation and the adverse effects of over-allocation and achieve the objectives:
- d. avoiding further over-allocation
  - e. enabling the mitigation of stream depletion effects
  - f. enabling water harvesting and storage
  - g. encouraging efficient water use by all permit holders.

*Avoiding further over-allocation*

1206. While approximately 180 cumecs are allocated in the Heretaunga Plains groundwater, only an estimated 90 cumecs are actually being used. If water abstraction were to continue at current trends to the point where all users abstracted their full consented allocation, groundwater levels would continue to fall with increasing adverse effects on stream flows, ecosystem health and reliability of supply for users.
1207. Modelling has shown that if water use is capped at existing water use levels, this declining trend can be avoided and a new equilibrium can be established.
1208. As a result, POL TANK 36-38 establish that there will be no new water allocations, except for surface water at high flows. The only way for a new user to access water is through a transfer of an existing consent to take and use water, applying for a high flow take, or accessing water made available through storage schemes.
1209. POL TANK 36 and 37 also requires that any water that might become available within the interim limit or any limit of a connected water body is not re-allocated until a further review can occur. This 'returns' water to the waterbody and is a method of reducing actual use.
1210. PPC9 begins phasing out over-allocation by requiring all consents, except those for papakāinga and municipal use, to be subject to an Actual and Reasonable assessment. This assessment requires allocations to be the same or less than the existing consent, and to be based on water meter data or for irrigation takes, a model which calculate crop water requirements. PPC9 also introduces an annual allocation limit on the volume of water that may be abstracted for groundwater takes. Previously, groundwater takes were limited by rates of take without a limit on the volume that may be taken.
1211. For municipal and papakāinga allocations, they will be based on projected growth and development as included in the Heretaunga Plains Urban Development Strategy. This enables Hastings District Council and Napier City Council in particular the ability to account for growth while ensuring abstraction does not increase due to increasing populations and demand. Hastings District Council and Napier City Council will be required to demonstrate efficient use, water conservation and work together with the Council to develop integrated planning approaches.
1212. POL TANK 38 requires that all consents are assessed and re-allocated within 10 years of PPC9 being made operative. Once all consents have been re-allocated, POL TANK 42 directs the Council to undertake a review of the effectiveness of PPC9 in avoiding over-allocation and the appropriateness of the interim limit, and develop a plan to phase-out any over-allocation.
1213. Many submitters request that hard limits be set and clawbacks on consented allocations be required. The Council does not yet have enough information to know whether such an approach would effectively and efficiently phase-out over-allocation, or to implement such an approach. The Council does not have a clear understanding of total demand, total actual use, or the actual limit of the groundwater resource due to incomplete actual water use data. Without these three factors, the Council cannot determine the extent of clawbacks

required, or confidently set a firm total allocation on the groundwater resource. The process of re-allocating consents and the POL TANK 42 review will help answer these questions and better prepare the Council in developing future freshwater management plans. I also note that national regulations have required more wide-spread use of water meter data and will require increase telemetry which will also help inform future reviews.

1214. In setting the allocation framework, the Council has considered a wide range of potentially competing values. The Heretaunga Plains are home to approximately 85% of Hawke's Bay's population. Various values are identified for each catchment (see OBJ TANK 10-13) and are provided for by the setting of minimum flows, trigger flows and allocation limits to protect ecological functions, human health and drinking water, as well as consideration of reliability of supply for users.

#### *Mitigating adverse effects*

1215. The most obvious adverse effect of the over-allocation of groundwater is the stream flow depletion effect of groundwater takes. All groundwater takes from the Heretaunga Aquifer are considered to cause some level of stream depletion effect to one or more streams.
1216. PPC9 includes policies 39-41 which seek to enable pumping groundwater to surface water, or investigate taking and storing water at high flows for release to surface water or use at high flows, to off-set the stream depletion effect of groundwater takes. Pumping from groundwater to surface water is not feasible for all locations so the potential to use high flow takes provides an alternative option.
1217. The stream flow maintenance scheme provisions were modelled off a successful scheme which was user initiated in the Twyford area. PPC9 also wants to encourage water users to work together to identify innovative ways of addressing the adverse effects of their water takes and improve their reliability of supply through alternative sustainable methods.

#### *Enabling water harvesting and storage*

1218. POL TANK 54-60 relate to the taking and storing of water at flows above the median. The taking of high flows is considered an important mechanism for providing improved reliability of supply (through storage) and enabling stream flow mitigation where groundwater pumping is not feasible.
1219. The potential adverse effects of high flow takes are managed by setting a trigger flow (the equivalent to a 'minimum flow', where takes may only occur above that flow), and allocation limits. The allocation limits have been set in a way which causes a less than 10% change to the number of flows 3 times above the median (often referred to as FRE3). A 10% change or less to FRE3 is considered a minor effect.

#### *Requiring efficient water use*

1220. POL TANK 46 requires the Council to be efficient in its systems and processes to enable permit holders to be innovative and adopt flexible management regimes. POL TANK 47 and POL TANK 50 require users to adopt efficient practices, systems and infrastructure.
1221. Even where specific efficiency measures are not regulated by policy (for example requiring Hastings District Council and Napier City Council to install domestic water metering), the unavailability of water means growing demand will have to be met by using water smarter.

### *Concluding comment*

1222. For more detail regarding the technical information that has supported the development of PPC9, please refer to the Water Quantity Memo in Appendix 11. For more information on specific PPC9 provisions and recommended changes, please see the appropriate section of this report.

## **15.2 Water quantity objectives**

### **15.2.1 General Water Quantity and Allocation**

#### Submission Points

1223. There are over 150 submission points on the water quantity and allocation regimes generally. Submission points and further submission points for this topic are contained in Table 15.2 of Appendix 3.
1224. The following evaluation may not explicitly refer to every submission point, but I have considered each submission point before making my recommendations.

#### Submission point requests

1225. While some points seek amendments to OBJ TANK 16-18 generally, many of the submission points discussed here seek changes to the water quantity management framework in general.
1226. A number of submitters did not seek specific relief but stated or implied opposition for the following reasons:
- a. PPC9 unfairly penalises viticulture and efficient landowners
  - b. PPC9 may negatively impact horticulture and the economic and food security
  - c. submitters have concerns related to allocation limits, over-allocation and storage.
1227. Submissions seek amendments to PPC9 regarding:
- a. urban growth, use and efficiency
  - b. water bottling
  - c. drinking water for stock
  - d. the quantity allocation regime
  - e. creating a cultural flow
  - f. adding new objectives or deleting and replacing all water quantity objectives.

#### Discussion

1228. The overall purpose and reasons of PPC9's water quantity provisions are discussed in Section 15.1. Scientific information supporting planning decisions is summarised in the Water Quantity Memo.

#### *Additional or replacement objectives*

1229. OBJ TANK 16-18 are specifically about the management of freshwater quantity in the TANK Catchments and other PPC9 objectives relate to other aspects of freshwater management. They apply to both surface and groundwater resources.
1230. OBJ TANK 16 identifies that limits, targets and flow regimes must be established which meet the needs of the values for the water body. All water allocation is subject to these limits, targets and flow regimes, and a priority order which aligns with the NPSFM2020

hierarchy of obligations<sup>29</sup>. OBJ TANK 17 establishes the intended outcomes of water allocation and use. OBJ TANK 18 establishes how current and future water needs and for mauri and ecosystem health will be provided for in an over-allocated context.

1231. These provisions are required to provide guidance to the policies and rules that help implement them. As discussed in Section 7.2 or the Section 32 Report, they give effect to Part 2 of the RMA, and the RPS. They also align with the NPSFM2020 in so far as possible as discussed under Section 12.2.
1232. Submission points seek that the objectives are retained as notified, deleted and replaced with new objectives, or that new objectives are added. I consider the requested objectives do not follow good drafting practices by essentially repeating NPSFM2020 or RMA responsibilities, or do not align with the NPSFM2020 by implying water for economic use should have primary priority. One submission point recommends a new objective that specifically states that over-allocation will be avoided and phased out. I consider this gives effect to the NPSFM2020 and is a key driver of PPC9 provisions which is missing from the objectives as notified. I recommend changes to OBJ TANK 18, rather than adding a new objective.

#### *Urban growth, use and efficiency*

1233. Three submissions relate to provision of water for urban use and growth and seek sufficient allocation of water to provide for future population growth and to enable the territorial authorities to meet their requirements to provide for urban growth under the NPSUD2020.
1234. A hierarchy does not exist between the NPSFM2020 and NPSUD2020. Local authorities have obligations under both national policy statements. I note that the NPSFM2020 provides the following guidance (emphasis added):

### **3.5 Integrated management**

#### **(1) Adopting an integrated approach, ki uta ki tai, as required by Te Mana o te Wai, requires that local authorities must:**

- (a) recognise the interconnectedness of the whole environment, from the mountains and lakes, down the rivers to hāpua (lagoons), wahapū (estuaries) and to the sea; and
- (b) recognise interactions between freshwater, land, water bodies, ecosystems, and receiving environments; and
- (c) manage freshwater, and land use and development, in catchments in an integrated and sustainable way to avoid, remedy, or mitigate adverse effects, including cumulative effects, on the health and well-being of water bodies, freshwater ecosystems, and receiving environments; and**
- (d) encourage the co-ordination and sequencing of regional or urban growth.**

1235. The NPSUD2020 does not contain clauses providing equivalent detail on approaches to integrated management, or direction on how to manage freshwater resources.
1236. With the hierarchy of obligations in mind, PPC9 must ensure that natural and physical resources are managed in a way that prioritises the health and well-being of water bodies and freshwater ecosystems. PPC9 achieves this by establishing the Actual and Reasonable re-allocation framework to avoid and phase-out over-allocation. PPC9 recognises that territorial local authorities have obligations to provide for future growth and re-allocating consents based on actual historical water use could impede Hastings District Council and Napier City Council in fulfilling these obligations. POL TANK 50 establishes an alternative method of determining reasonable use for municipal use based off population and urban

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<sup>29</sup> Section 1.3 (5) of the NPSFM2020.

development projections and estimates as provided by HPUDS2017. See Section 15.4.10 for further discussion on allocation for municipal and papakāinga water supply.

1237. OBJ TANK 16 largely aligns with the NPSFM2020 hierarchy of obligations and specifically prioritises water for domestic supply after the essential needs of people. Consents to take freshwater held by territorial authorities not only provide for the health needs of people (through supply for residential drinking water, hospitals, rest homes etc.), they also include cultural, social and economic uses (through supply to religious meeting places, parks and gardens, restaurants, swimming pools, shops, and industry).
1238. Improving water use efficiency is a key method of enabling growth to continue while avoiding over-allocation.
1239. I invite Hastings District Council and Napier City Council to provide further information on how they allocate and manage use within their reticulated systems, how they might give effect to the NPSFM2020 hierarchy of obligations, and intend to improve efficient water use moving forward.
1240. One submission point seeks that the objectives are amended to require Hastings District Council and Napier City Council to promote water conservation and metering. Other submission points also seek or imply that urban communities can and should be required to use their water allocations more efficiently. I note that POL TANK 46, 47 and 50 require efficient water use. I consider the installation of water meters is an option Hastings District Council and Napier City Council may seek to implement in order to meet these polices.

#### *Water bottling*

1241. Four submissions seek that water takes for the purpose of water bottling are prohibited. I recommend the panel reject these submissions, and similar submissions addressed elsewhere in this report, because submitters do not provide clear reasons or evidence to support why water bottling should be treated differently to any other water take.
1242. Submitters on PPC9 that oppose water bottling have not provided sufficient reasons explaining why they oppose water bottling activities. In general, they appear to be related to concerns that the aquifer is over-allocated and that Māori do not have access to water for basic human rights. One submission states that “It doesn’t seem fair that domestic household uses are restricted while consents to abstract aquifer water for export are allowed to continue. This is inconsistent with the NPS-FM 2020 and Te Mana o Te Wai and Te Mana o te Tangata”<sup>1</sup>. Rules TANK 7 and 8 provide for water takes for reasonable domestic use as a permitted activity.
1243. I note that submitters have not raised concerns regarding the effects of the end use and therefore consider discussion relating to potential end use out of scope. Instead, I focus my discussion on the effects of water takes under PPC9.
1244. As discussed in Section 15.1, the TANK Catchments are considered over-allocated and all groundwater takes have a stream depleting effect to some extent. PPC9 adopts an Actual and Reasonable approach to allocating water in the TANK Catchments and to avoid future over-allocation. All groundwater takes from the Heretaunga Aquifer, regardless of their end use, will be subject to these provisions. No submitter on PPC9 has provided evidence which demonstrates that the environmental effects of a water take for water bottling significantly differ to a water take for any other use and should therefore be subject to different considerations.
1245. I do not think this approach is inconsistent with the NPSFM2020 and the hierarchy of obligations.

1246. The TANK Group also discussed at length the potential for prohibiting water bottling activities in the TANK Catchments. Staff through-out the PPC9 development process have maintained that it has not previously been the Council's role to direct water to favoured (commercial) uses and is not the Council's role to pick commercial "winners and losers"<sup>2</sup>. I maintain that this is not a function of regional councils under Section 30 of the RMA.

#### *Drinking water for stock*

1247. Some submission points seek that OBJ TANK 16, 17 and 18, and associated policies and rules are amended to provide for stock drinking water as a priority. I recommend the panel accept these submissions in part due because they align with Section 14(3)(b) of the RMA and align with to amendments to OBJ TANK 16 and consequential amendments.
1248. One submission seeks that stock drinking water should cease at minimum flows. I recommend the panel reject this submission because it is not consistent with Section 14(3)(e) of the RMA and align with to amendments to OBJ TANK 16 and consequential amendments.

#### *Review of allocation regimes*

1249. Some submissions seek that PPC9 includes clear objectives and policies which phase out over-allocation, avoid future over-allocation, protect springs, safeguard life-supporting capacity and ecosystem health, protect the significant values of outstanding freshwater bodies and wetlands, and set allocation limits. I recommend the panel accept these points in part as PPC9 and the recommended amendments achieve this. I note that OBJ TANK 16-18 are specifically about the management of freshwater quantity in the Heretaunga Plains and other PPC9 objectives relate to other aspects of freshwater management.
1250. The ability of and extent which PPC9 gives effect to the NPSFM2020 is discussed in Section 12.2. I recommend that the panel accept these submissions in part because the NPSFM2020 can only partly be given effect to through PPC9.
1251. Many submitters suggest that quantity allocations should be 'clawed back' (existing use must be reduced) or that allocation reductions should be made on a pro-rata basis (an equal percentage across all consented allocations). As discussed in Section 15.1, PPC9 establishes a "sinking lid" and POL TANK 42 triggers a review of plan provisions once we have greater certainty around how much water is actually used and groundwater quantity. Following a review under POL TANK 42, the appropriateness of the interim allocation limit will be assessed.
1252. Some submissions seek that the 'first in, first served' allocation model is reformed, and that all water users should have to re-apply for water. While there is no explicit guarantee of the renewal of a water permit, to date the custom has been for this to occur. For example Section 124 of the RMA enables consent holders to continue exercising their consent while applying for a new consent and RPS Policy 39(c)(ii) encourages Council to give preference to the renewal of existing surface water take consents. I recommend rejecting these points as they would require changes to the RMA to be given effect to.
1253. Several submissions seek that a cultural allocation is provided for. Submitters vary on who the cultural allocation should be allocated to, some specify particular iwi representative groups, the awa itself, or mana whenua. Submitters seek that any cultural allocation should not include stipulations as to its use. RMA Section 30(1)(fa) focuses on the allocation of the taking or use of the water. There is no direct reference in section 30 to guide who can apply for resource consent or who is appropriate to receive a water take. Legal advice has

indicated that the allocation is to be controlled by the status of the activity, not the status of the applicant.<sup>3</sup>

1254. PPC9 as notified goes some way to providing allocations for the wai itself, and for the benefit of Maori well-being. Alongside allocation limits and cease take triggers designed to protect the values of the various water bodies, POL TANK 36-38 ensure that any water that becomes available within the interim limit is “returned” to the wai. OBJ TANK 17 and POL TANK 59 and 60 prioritise and set aside high flow allocation for Maori development.

#### *No specific relief sought*

1255. 26 submission points are identical and raise concerns that PPC9 unfairly penalises viticulture landowners and efficient water users compared to other primary production systems. I believe this concern is unjustified given PPC9’s approach to Actual and Reasonable. I recommend rejecting these submission points because they do not seek sufficiently specific relief.
1256. 79 submission points (33 are identical) do not seek specific relief but oppose water allocation provisions generally for reasons related to the critically important role of horticulture to the future sustainability of TANK Catchments, potential negative economic and food supply impacts of changes to the allocation regime, and the lack of flexibility for water users. I note these submission points and economic matters are discussed in Section 12.6, however, I recommend rejecting these points because they do not seek sufficiently specific relief.
1257. Four submission points do not seek specific relief but relate to concerns with over-allocation, dams, flooding, safety, and provision for mahinga kai. I consider the concerns raised in these submissions are covered by PPC9. In particular, PPC9 aims to avoid and phase out over-allocation, and POL TANK 54 and 55 require consideration of downstream safety in relation to dams or storage infrastructure. I recommend rejecting these submissions because they do not request sufficiently specific relief.

#### Recommendations

1258. I recommend that submission points 11.1, 90.6, 106.16, 111.3 and 132.134 are rejected because they do not provide clear reasons or evidence to support why water bottling should be treated differently to any other water take.
1259. I recommend that submission points 17.4, 21.4, 33.2, 40.4, 45.6, 109.11, 112.4, 114.1, 197.5 are accepted in part because they align with Section 14(3)(e) of the RMA and align with to amendments to OBJ TANK 16 and consequential amendments.
1260. I recommend that submission point 132.91 is rejected because it does not align with Section 14(3)(e) of the RMA and amendments to OBJ TANK 16 and consequential amendments.
1261. I recommend that submission points 90.1, 119.3, and 120.32 are accepted in part in so far as they align with the NPSFM2020.
1262. I recommend that submission points 53.20, 123.3, 123.6, 123.7, 132.48, 198.4, 198.5, 207.68, 216.13, 237.5, 240.9, and 240.11 are accepted in part because they are given effect to by PPC9 and suggested amendments.
1263. I recommend that submission points 106.4, 120.9, 120.33, 120.58, 120.67, 120.69, 120.76, 127.7, 127.8, 127.9, 132.167 and 133.3 are rejected because they would require amendment to the RMA.

1264. I recommend that submission points 132.16 and 138.5 are rejected because they do not improve effectiveness or efficiency.
1265. I recommend that submission point 207.70, 207.73, 207.74, and 241.15 are rejected because it does not align with the NPSFM2020.
1266. I recommend that submission points 19.2, 123.37, 123.38, 132.13, 197.6 are rejected because they do not give effect to Part 2 of the RMA or the RPS.
1267. I recommend that submission points 123.39 and 203.6, 209.3, and 209.4 are accepted in part because they aligns with the NPSFM2020.
1268. I recommend that submission points 11.7, 15.20, 18.4, 23.2, 23.75, 26.4, 28.4, 29.4, 32.2, 34.4, 35.2, 36.1, 37.2, 38.2, 39.4, 41.4, 42.2, 43.2, 43.74, 43.75, 44.2, 44.76, 48.4, 49.2, 49.76, 50.4, 50.6, 50.7, 53.4, 54.2, 61.2, 61.76, 62.2, 62.76, 68.4, 69.2, 71.2, 71.74, 72.2, 72.74, 72.75, 72.80, 73.2, 73.74, 73.75, 73.80, 75.4, 76.4, 77.2, 79.2, 79.74, 79.75, 81.4, 84.4, 86.2, 86.74, 87.4, 88.4, 91.1, 91.76, 94.4, 94.20, 95.2, 96.2, 96.76, 97.2, 98.1, 102.4, 103.3, 104.2, 104.76, 105.2, 105.76, 107.4, 110.2, 110.76, 110.77, 120.34, 122.2, 122.76, 132.31, 143.4, 162.2, 165.4, 179.4, 180.1, 180.2, 180.6, 180.7, 180.8, 185.2, 186.2, 186.76, 191.3, 191.4, 191.5, 193.20, 194.11, 196.2, 199.4, 204.4, 204.20, 204.21, 208.4, 211.2, 213.4, 214.2, 214.76, 215.2, 216.2, 216.23, 217.2, 218.2, 219.2, 219.76, 220.2, 220.76, 221.2, 221.76, 238.4, and 241.16 are rejected because they do not seek sufficiently specific relief.

## **15.2.2 OBJ TANK 16**

### Submission Points

1269. There are over 50 submission points about OBJ TANK 16. They support OBJ TANK 16, discuss the priority order, additional considerations for inclusion, and seek amendments to OBJ TANK 16. Submission points and further submission points for this topic are contained in Table 15.2 of Appendix 3.
1270. The following evaluation may not explicitly refer to every submission point, but I have considered each submission point before making my recommendations.

### Submission point requests

1271. Submission points on OBJ TANK 16 request:
- a. support for OBJ TANK 16 as notified (six submission points)
  - b. specific wording amendments to improve clarity
  - c. provision for stock drinking water as a priority
  - d. increasing the priority level of primary production processing
  - e. increasing the weighting of future urban and industrial growth
  - f. according viticultural soils the same priority as versatile soils
  - g. including reference to Te Mana o Te Wai and the life-supporting capacity of water bodies for the purpose of supporting ecosystem health.

### Discussion

1272. When looking at submission points on OBJ TANK 16 I have kept in mind submission points 210.2 and 132.83 which seek the objectives to be outcome focused, and submission point

132.84 which seeks objectives to be clearly articulated. Ms Bradbury has already discussed these submission points in Section 12 of this report.

1273. OBJ TANK 16 helps achieve section 5 of the RMA and Objective LW1 of the RPS as discussed in the Section 32 Report. The priority order also aligns with the NPSFM2020 in so far as it requires limits, targets and flow regimes which provide for the values of the water body, then prioritises uses which support the health needs of people (OBJ TANK 16(a) and (b)), followed by uses which provide for the ability of people and communities to provide for their social, economic, and cultural well-being, now and in the future (OBJ TANK 16(c)-(e)).
1274. Three submission points request specific wording changes. I recommend accepting these submissions and recommend that they are accepted, or accepted in part because they provide clarity on the intent of the objective. One submission seeks that OBJ TANK16(b) is amended to include reference to additional activities and include suggested wording. The suggested wording is too detailed for the objective level and contradicts other accepted submission points which request clarity and succinct wording.
1275. Six submission points seek that stock drinking water should be provided for as a priority take. This approach would align with section 14(3)(b) of the RMA, POL TANK 52 and Rules 7 and 8.
1276. Several submissions seek that the priority order is amended, including to increase the priority level of primary processing activities and that additional weight be given to allocating water to future domestic or industrial use. I consider the requested changes are contrary to the NPSFM2020 and the RPS.
1277. 33 submission points are identical and request that 16(c) be amended to accord viticulture soils the same priority as versatile soils, and that 16(e) be amended to specify water bottling in the lowest priority use category. One submission point also makes a similar submission about versatile soils. I recommend rejecting these points and do not recommend any amendments to the objective. The definition of versatile soils in the RRMP glossary already includes highly productive viticulture soils. It is impractical to specify water bottling as lower priority due to difficulties defining the activity or identifying distinct adverse effects of water bottling from other beverage bottling activities.
1278. Three submission points seek specific wording amendments to OBJ TANK 16 to include reference to Te Mana o Te Wai and the life-supporting capacity of water bodies for the purpose of supporting ecosystem health. I consider these matters are already provided for by PPC9. Consideration of Te Mana o Te Wai is included in OBJ TANK 2, and provision for the life-supporting capacity of water bodies is included in OBJ TANK 18.
1279. I support the analysis on OBJ TANK 16 in section 7.2 of the Section 32 report. I do not think the changes to OBJ TANK 16 that I have recommended means the analysis in the Section 32 report needs to be amended so I have not undertaken a further evaluation under section 32AA of the RMA.
1280. The changes I am recommending and the submission points that give scope for the changes are shown in the tracked changes version.

### Recommendations

1281. I recommend that submission points 3.2, 8.3, 63.1, 119.6, 124.3 and 207.1 are accepted in part because these submission points support OBJ TANK 16 as notified but I recommend changes. OBJ TANK 16 helps achieve:
- a. section 5(2)(a) of the RMA

- b. RPS Chapter 3.1A Integrated Land Use and Freshwater Management
- c. Alignment with NPSFM2020 Objective 2.1.

1282. I recommend that submission points 30.1, 13.8 and 195.28 are accepted and accepted in part because they provide clarity.
1283. I recommend that submission 35.76 is accepted because it align with section 14(3)(e) of the RMA.
1284. I recommend that submission points 14.3, 15.5, 18.6, 20.5, 26.6, 28.6, 29.7, 34.6, 39.6, 41.6, 48.6, 53.6, 68.6, 75.6, 76.6, 81.6, 84.6, 87.6, 88.6, 94.6, 102.6, 103.5, 107.6, 143.6, 165.6, 179.6, 194.28, 199.6, 204.6, 208.6, 213.6 and 238.6 are rejected because the matters they relate to are already covered in the RRMP or are impractical to implement.
1285. I recommend submission point 12.7 is rejected because it is contrary to other accepted submission points.
1286. I recommend submission points 63.2, 63.51, 82.2, 117.3, 142.12, 135.15, and 207.2 are rejected because they do not help give effect to the RPS or align with the NPSFM-2020.
1287. I recommend submission point 58.10, 201.29 and 233.8 are rejected because the suggested matters are already covered by other objectives.

### **15.2.3 OBJ TANK 17**

#### Submission points

1288. There are 15 submission points on OBJ TANK 17. Submission points and further submissions for OBJ TANK contained in Table 15.2 of Appendix 3.
1289. The following evaluation may not refer to every submission point but I have considered each submission point before making my recommendations.

#### Submission points requests

1290. Submission points on OBJ TANK 17 include:
- a. support for OBJ TANK 17 as notified (four submission points)
  - b. relating to the development of Māori economic, cultural and social well-being
  - c. clarifying whether the provisions are in a priority order
  - d. consequential amendments.

#### Discussion

1291. OBJ TANK 17 establishes the desired outcomes of allocation in the TANK Catchments, including a pathway for policies and rules which enable allocation of water at high flows for Māori development, ensure reliability of supply for abstraction, and efficient use. Section 7.2.17 of the Section 32 Report examines how OBJ TANK 17 gives effect to Section 5 of the RMA, and the RPS.
1292. In considering submission points on OBJ TANK 17 I have kept in mind submission points 210.2 and 132.83 which seek the objectives to be outcome focused, and submission point 132.84 which seeks objectives to be clearly articulated. Ms Bradbury has already discussed these submission points in Section 12. I recommend that clause 17(d) is deleted because it is already provided for by OBJ TANK 17(c) and 18(b).
1293. Seven submissions relate to clause 17(a). This provision helps achieve RMA Sections 6(e), 7(a) and 8 of the RMA. Six of these submissions seek that this clause refer to the

development of the Hawke's Bay community rather than Māori. As discussed in Section 15.2.1, water allocation cannot be provided to specific people or groups. This clause provides a pathway for water to be allocated for Māori use in a way that is feasible under the RMA. One submission seeks specific wording amendments to ensure that the development of Māori economic, social, cultural well-being is not reliant on a single mechanism. I note that because the catchment is over-allocated, the only 'new' water available for allocation is water taken at high flows, so the only practical option for allocation is through the regulation of water taken at high flows.

1294. One submission seeks to clarify whether 17(a)-(d) are listed in priority order. I consider that the sub-clauses are not in a priority order, however I do not think amendments are required to indicate this. I do not consider that the objectives listed in the sub-clauses are posed in such a manner that they cannot be achieved in conjunction. Each sub-clause has a variety of policies and rules within PPC9 which give effect to them.
1295. The changes I am recommending and the submission points that give scope for the changes are shown in the tracked changes version.

### Recommendation

1296. I recommend that submission points 8.4, 12.8, 30.2 and 135.16 are accepted in part because they support OBJ TANK 17 as notified but I recommend changes.
1297. I recommend that submission points 3.14, 8.30, 124.22, 142.13, 192.3, and 195.29 are rejected because they do not help achieve RMA Sections 6(e), 7(a) and 8.
1298. I recommend that submission point 201.30 is rejected because it does not improve effectiveness or efficiency.
1299. I recommend that submission point 58.11 and 180.18 are rejected because they do not improve clarity.
1300. I recommend that submission point 6.7 is rejected because I recommend that Clause (d) is deleted to avoid duplication across the objectives.
1301. I recommend that submission point 194.29 is accepted in part because it is addressed by other parts of PC9.

### **15.2.4 OBJ TANK 18**

#### Submission points

1302. There are 13 submission points on OBJ TANK 18. Submission points and further submissions for OBJ TANK 18 contained in Table 15.2 of Appendix 3.
1303. The following evaluation may not refer to every submission point but I have considered each submission point before making my recommendations.

#### Submission points requests

1304. Submission points on OBJ TANK 18 include:
- h. support for OBJ TANK 18 as notified (four submission points)
  - i. prioritising and reorganising sub-clauses
  - j. explicitly providing for storage and use
  - k. adding new sub-clauses

I. consequential amendments.

Discussion

1305. OBJ TANK 18 establishes how current and future mauri, ecosystem health and human needs will be provided for in an over-allocated context.
1306. I have also kept in mind submission points discussed in Section 15.2.1 which relate to over-allocation. I recommend that amended 18(a) is added which specifically identifies avoiding future over-allocation and to phase out existing over-allocation as an objective of PPC9. Including this as a specific intended outcome would more overtly give effect to RPS Objective LW1 2B and the NPSFM2020. This clause is already given effect to by policies and rules which require the adoption of an Actual and Reasonable approach and a review of the policy provisions under POL TANK 42 once we have greater certainty around our groundwater resources.
1307. Four submissions seek amendments to the priorities. One submission point seeks alignment with the NSPFM2020 by noting needs for mauri and ecosystem health before human needs. Two submissions seek that water harvesting and storage should be prioritised first. One submission seeks specific wording amendments to limit reliance on experimental methods. I recommend rejecting these submission points because every mechanism will need to be used in order to accommodate future population growth while maintaining or improving mauri and ecosystem health. Each mechanism will play an important role and PPC9 intentionally allows the potential for innovation in this space. I note that any innovative method and its effects would still be subject to the policies rules, limits and targets as set out in PPC9.
1308. Two submission points seek that water use be included in 18(e) (amended 18(f)). I consider that the use or controlled release of stored water is implied and does not require specific reference here.
1309. One submission point seeks that an additional sub-clause be included which provides for regular review of the moratorium on new water allocations. Review of water allocation and related provisions is already provided for under POL TANK 42.
1310. The changes I am recommending and the submission points that give scope for the changes are shown in the tracked changes version.

Recommendation

1311. I recommend that submission points 12.9, 30.3, 135.17 and 142.14 are accepted in part because they support the objective as drafted.
1312. I recommend that submission points 58.12 and 233.9 are accepted in part in so far as they give effect to the NPSFM2020.
1313. I recommend that submission point 194.30 is accepted in part because it is addressed by other parts of PC9.
1314. I recommend that submission points 29.8, 99.5, 145.6, 180.19, 195.30, and 201.31 are rejected because they do improve clarity.

## 15.3 Heretaunga Plains Groundwater Levels and Allocation Limits

### 15.3.1 Heretaunga Plains Groundwater Levels and Allocation Limits

#### Submission Points

1315. There are 25 submission points about Heretaunga Plains Groundwater Levels and Allocation Limits. Submission points and further submission points for this topic are contained in in Table 15.3 of Appendix 3.
1316. The following evaluation may not explicitly refer to every submission point, but I have considered each submission point before making my recommendations.

#### Submission point requests

1317. This section discusses submission points which requested amendments to the policies in chapter 5.10.6, or the groundwater allocation and flow enhancement scheme provisions generally.
1318. Requests for amendments include:
- m. support for the policies as notified (two submission points)
  - n. allowing new water takes
  - o. ensuring allocations are reasonable and justifiable for intended use
  - p. ensuring allocations provide flexibility and reliability to primary producers
  - q. excluding municipal takes
  - r. restricting all irrigation takes to a prescribed irrigation season
  - s. restoring or improving flows and levels
  - t. take into account permitted and consented volumes in allocation limit
  - u. show extent of Regional Coastal Environment Plan
  - v. no specific relief but states that Actual and Reasonable use and maximum sustainable abstraction are two different things.

#### Discussion

1319. POL TANK 36-42 recognise groundwater in the Heretaunga Plains aquifer is over-allocated, and provide a pathway to avoid and phase out over-allocation of groundwater. Note that all groundwater abstractions have a stream depleting effect on surface water bodies to some extent. As a result, the way that groundwater is managed has an effect on low flow management of surface water bodies across the Heretaunga Plains.
1320. 16 submission points seek or imply that water allocations should not be limited, that primary producers should have greater flexibility or primacy of allocation, or that re-allocations should be larger than Actual and Reasonable. These submission points do not recognise that the aquifer is over-allocated and do not give effect to NPSFM2020, RPS LW 2B, or the PPC9 objectives.
1321. Several submission seek matters that are already provided for by PPC9 or the RCEP.
1322. One submission point seeks that the Heretaunga Plains Aquifer System is mapped showing the extent of the Regional Coastal Environment Plan. This extent is already mapped in Schedule O of the RCEP.

## Recommendations

1323. I recommend that submission points 13.9 and 46.2 are accepted in part because it seeks that the policies are retained as notified.
1324. I recommend that submission points 11.6, 23.74, 32.74, 37.74, 38.74, 42.14, 48.20, 48.21, 145.8, 145.10, 179.20, 193.17, 194.2, 194.7, 197.8, and 204.22 are rejected because they do not give effect to NPSFM2020, RPS LW 2B, or the PPC9 objectives.
1325. I recommend that submission point 123.71 is rejected because it does not seek specific relief.
- 1326.
1327. I recommend that submission points 132.56, 132.98, 191.10, 206.3, 206.4, and 206.5 are accepted in part because they are already provided for by PPC9 or the RCEP.

### **15.3.2 Heretaunga Plains Aquifer Management**

#### Submission Points

1328. There are 32 submission points about Heretaunga Plains Aquifer Management. Submission points and further submission points for this topic are contained in Table 15.3 of Appendix 3.
1329. The following evaluation may not explicitly refer to every submission point, but I have considered each submission point before making my recommendations.

#### Submission point requests

1330. Submissions points discussed here seek changes to multiple groundwater provisions or seek additional policies are added to this part of PPC9.
1331. Requests for amendments include:
- a. lowering the interim limit to 70Mm<sup>3</sup>
  - b. setting different limits for different parts of the aquifer and for different aquifers
  - c. deleting the interim limit
  - d. setting a limit (instead of an interim limit)
  - e. avoiding and phasing out over-allocation
  - f. focussing on mitigation of adverse effects
  - g. introducing particular controls for irrigators
  - h. introducing provisions to guide new low flow surface water or groundwater allocations
  - i. including directive provisions to avoid and phase out over allocation.

#### Discussion

1332. The interim limit is essentially our best estimation of current levels of Actual and Reasonable use across the Heretaunga Plains, including consented and permitted takes. The rationale for setting the interim allocation at 90Mm<sup>3</sup> is further discussed in the memo from Ms Wells and Ms Kirkham. This memo is shown in Appendix 11.
1333. Setting an interim limit at the estimated Actual and Reasonable use helps achieve OBJ TANK 16, 17 and 18, and aids in implementing a “sinking lid” approach by providing a point of reference for the POL TANK 42 review. The numerical limit also provides clarity about the level of over-allocation present in the Heretaunga Plains as demonstrated by the allocated amount compared to the (modelled) Actual and Reasonable use.

1334. A more permanent hard limit is inappropriate to implement at this stage because we are not sure how much each individual consent would need to reduce to fit within that limit fairly. Under the historical “first in, first served” approach, who ever happened to get their consent renewed first may be entitled to having their full allocation re-allocated, even if they don’t actually use it. Leaving those whose consents are reviewed later or last to be allocated very minimal or no water. This would not help achieve OBJ TANK 17(b) or 17(c).
1335. This framework essentially halts water use at existing use. It is possible there may be some initial increase in abstraction as new permitted activities begin, and existing resource consents for municipal, papakāinga or domestic use, and existing consents subject to staged development end up using their full allocations.
1336. Five submission points seek that POL TANK 36-38 are deleted and/or amended to avoid and phase out over-allocation. As discussed in Section 15.1, the Actual and Reasonable approach establishes a pathway for avoiding future over-allocation and phasing out over-allocation. Where alternative wording has been provided, it duplicates existing provisions in PPC9 or does not align with the definition of over-allocation in the NPSFM2020.
1337. Some submissions seek that a distinct regime for irrigators is created which involves establishing an irrigation season, allocation limits for inside and outside of the irrigation season, and charging for irrigation water takes. Irrigation typically occurs at higher levels during the summer months and substantially lower levels over the winter months. Allocation limits set in Schedule 31 are set as an annual volume for groundwater so groundwater takes for irrigation are regulated year round. Allocation limits and minimum flows for surface water takes are relevant during the low flow period (November-April for the Ngaruroro and Tūtaekurī Rivers and year-round for the Ahuriri and Karamū catchments). For the Ngaruroro and Tūtaekurī Rivers, minimum flows are less relevant outside of November-April because both low flows and irrigation are less likely to occur. Council does not currently have sufficient information to introduce winter cease take triggers. See Section 15.4 of this report for further discussion on the low flow management regime.
1338. Two submissions seek that an additional policy be included to guide situations where the granting of new takes will be considered. POL TANK 38 specifies that “The Council will restrict the re-allocation of water to holders of permits to take and use water in the Heretaunga Plains before 2 May 2020”. This means that no new users may apply for resource consent to take or use groundwater or over-allocated surface water in the Heretaunga Plains. POL TANK 37(b) also specifies that Council will avoid re-allocation that becomes available within allocation limits. A new policy as requested would create internal inconsistency. If the review under POL TANK 42 finds that the aquifer is not over-allocated, a policy guiding how to allocate new water would be appropriate for inclusion at that time. I consider that any policy regarding how to allocate groundwater and surface water for use at low flows would require considerable tangata whenua and community input.
1339. One submission point seeks that the water short areas identified in Schedule VI of the RRMP which relates to water management zones should be included in PPC9 provisions. The RRMP rules associated with Schedule VI mean that permitted takes in the identified stream or areas are for stock drinking water, domestic use and firefighting use only. New science utilised for the development of PPC9 has redefined the extent of the Heretaunga Aquifer and has identified that surface and groundwater takes are highly connected. I consider that the new management framework of PPC9 will effectively and efficiently manage freshwater resources in response to this new understanding of the freshwater resources in the Heretaunga Plains and the RRMP maps are superseded by Schedules 31A-E.

## Recommendations

1340. I recommend that submission points 58.23, 120.6, 132.53, 132.54, 132.58, 132.74, 132.124, 201.39 and 241.10 are rejected because they do not help achieve OBJ TANK 17.
1341. I recommend that submission points 49.75, 68.20, 70.1, 123.70, 132.126, 134.4, 195.60, 210.57, 216.14 are rejected because they do not help achieve OBJ TANK 18.
1342. I recommend that submission points 132.55, 132.63, 132.127, 132.128, 132.130, 132.170, 132.184, 132.185, 207.72 are rejected because they do not improve effectiveness or efficiency.
1343. I recommend that submission points 63.5, 134.4 and 207.5 are rejected because they do not provide clarity or consistency.
1344. I recommend that submission point 203.17 and 203.18 are accepted because they provide clarity.
1345. I recommend submission point 120.7 is accepted in part because they are already provided for by PPC9.

### **15.3.3 POL TANK 36**

#### Submission Points

1346. There are over 50 submission points about POL TANK 36. Submission points and further submission points for this topic are contained in Table 15.3 of Appendix 3.
1347. The following evaluation may not explicitly refer to every submission point, but I have considered each submission point before making my recommendations.

#### Submission point requests

1348. Requests for amendments include:
- a. amending the definition of and references to Actual and Reasonable
  - b. enabling use of allocated but previously unused allocations
  - c. providing for new water use
  - d. clarifying intent and removing duplication.

#### Discussion

1349. POL TANK 36 recognises that groundwater abstraction in the Heretaunga Plains has actual and potential adverse effects. POL TANK 36 identifies what the actual and potential adverse effects are and sets out a staged approach to managing those adverse effects in connected water bodies. This staged approach enables the avoidance of allocating new water except for high flow takes, Actual and Reasonable re-allocation of existing use, mitigation of adverse effects, and a review of the groundwater resource and the efficacy of the mechanisms used to avoid over-allocation. POL TANK 36 helps achieve OBJ TANK 16, 17 and 18.
1350. POL TANK 36 is given effect to through Rules TANK 7-18 which restrict permitted water takes, limit consents to take water to those existing prior to 2 May 2020 and to their Actual and Reasonable use, and enable high flow takes and mitigation options.

1351. 76 submissions seek specific wording amendments to amend references to Actual and Reasonable to 'reasonable use' only, remove references to 'reducing existing levels of water use' and focus on water efficiency instead, and enable consent holders to utilise allocated but unused water. The requested amendments could have the effect of allowing actual water use to increase. Signs of degradation and over-allocation exist at current levels of use so further increases must be avoided where possible to enable the Council to avoid future over-allocation. These submission points do not give effect to the NPSFM2020 and RPS POL LW 2B, or help achieve OBJ TANK 18 as recommended in this report.
1352. One submission seeks the removal of duplicate or unnecessary wording in clauses a and d. Two submissions seek amendments to clause f to clarify that the clause relates to groundwater takes only. I consider these submission points improve the clarity of POL TANK 36.
1353. Some submission points seek specific wording changes to improve clarity. I recommend accepting these submission points in so far as they remove duplicate or unnecessary wording and clarify that 36(f) is intended to relate to the granting of resource consents to take groundwater.
1354. The changes I am recommending to POL TANK 36 and the submission points that give scope for the changes are shown in the tracked changes version.

### Recommendations

1355. I recommend that submission points 3.15, 5.1, 8.31, 8.32, 18.9, 23.77, 26.9, 28.9, 29.19, 32.76, 34.9, 35.75, 37.76, 38.78, 39.9, 41.9, 43.77, 44.75, 48.9, 49.78, 53.9, 54.75, 61.75, 62.75, 63.3, 68.9, 69.76, 71.76, 72.82, 73.82, 75.9, 76.9, 77.75, 79.77, 81.9, 82.6, 84.9, 86.76, 87.9, 88.9, 91.80, 94.9, 95.75, 96.75, 97.9, 99.101, 102.9, 104.75, 105.75, 107.9, 110.75, 122.75, 124.24, 135.39, 143.8, 165.9, 179.9, 180.38, 185.75, 186.75, 192.7, 192.8, 193.3, 194.44, 194.45, 196.9, 199.9, 204.9, 207.3, 211.75, 213.9, 214.75, 215.75, 217.74, 218.75, 219.75, 220.75, and 221.75 are rejected because they do not give effect to the NPSFM2020 or RPS POL LW 2B.
1356. I recommend that submission points 8.33, 99.12 and 123.72 are accepted in part because they provide clarity on the intent of the provisions.
- 1357.** I recommend that submission points 47.7, 76.20 and 82.11 are rejected because they do not seek specific relief or are already provided for by other provisions of PPC9.

### **15.3.4 POL TANK 37**

#### Submission Points

1358. There are over 300 submission points about POL TANK 37. Submission points and further submission points for this topic are contained in in Table 15.3 of Appendix 3.
1359. The following evaluation may not explicitly refer to every submission point, but I have considered each submission point before making my recommendations.

#### Submission point requests

1360. Requests for amendments include:
- a. support for policies as notified (five submission points)
  - b. amending or deleting the interim limit
  - c. specifying that the interim limit is based on modelled water use

- d. enabling allocation of water that may become available within the interim limit
- e. amending the definition of or references to Actual and Reasonable
- f. clarifying that new high flow allocations are enabled by PPC9
- g. clarifying intent and removing duplication.

## Discussion

1361. POL TANK 37 provides further and more specific detail and enables implementation of the staged approach set out in POL TANK 36. It establishes an interim limit for groundwater in the Heretaunga Plains and sets out the key methods by which the Council will manage groundwater to avoid future over-allocation and where possible reduce actual use, namely by:
- a. avoiding re-allocating any water that may become available within the interim limit until the review under POL TANK 42 has been completed
  - b. preventing allocations of new groundwater
  - c. applying an Actual and Reasonable approach when re-allocating existing consents
  - d. enabling mitigation of stream depletion caused by groundwater abstraction.
1362. The setting of an interim limit is a highly contentious topic. Many submitters oppose the interim limit and seek its removal because they consider it is too restrictive, while others consider it is too permissive and Council should adopt a hard limit of 70m<sup>3</sup>. As discussed in Section 15.3.2., I consider the inclusion of an interim limit set at 90m<sup>3</sup> helps achieve OBJ TANK 16, 17 and 18.
1363. Some submitters seek that the wording of 37(a) be amended to read “adopt an interim allocation limit of 90 million cubic meters per year based on ~~actual and reasonable~~ estimated/modelled water use prior to 2017”. Amending the wording in this way would not change the implementation of the policy because re-allocation is dependent on an Actual and Reasonable assessment of each consent rather than dividing the allocation limit between consent holders.
1364. 52 submissions seek that PPC9 enable re-allocation of water that may become available within the interim or that the catchment not be managed as over-allocated. I consider the Actual and Reasonable approach as notified helps give effect to the NPSFM2020 because it starts prioritising the health and well-being of water bodies before human needs. Any water that does become available within the interim limit is essentially “returned” to the surface water body or aquifer. To re-allocate this water would not align with the NPSFM2020 and RPS POL LW1 2B, or help achieve OBJ TANK 18 as recommended in this report. As discussed in Section 15.3.2, if the POL TANK 42 review finds that there is allocable water, it could be appropriate to include plan provisions guiding new allocations at that time.
1365. 47 submissions seek amendments to refer to ‘reasonable use’ only, remove references to ‘reducing existing levels of water use’ and focus on water efficiency instead, and enable consent holders to utilise allocated but unused water. These submission points would not enable the Council to avoid future over-allocation therefore does not give effect to the NPSFM2020 and RPS POL LW 2B, or help achieve OBJ TANK 18 as recommended in this report.
1366. Some submissions seek amendments to clarify that 37(b) and 37(c) do not apply to high flow water takes for storage and use. POL TANK 37 refers specifically to the management of allocation and use of groundwater in the Heretaunga Plains so excluding high flow surface water takes is unnecessary.
1367. Two submission points seek that POL TANK 37(e) is amended to specify that individual consent holders may develop their own storage and augmentation. It would be unnecessary

to include that level of detail here, and would be inconsistent with the relief granted in accordance to submission points on POL TANK 39. The discussion on POL TANK 39 can be found in Section 15.3.7 of this report.

1368. One submission seeks a different allocation methodology is adopted. The suggested allocation method is based on pro-rata reductions of 12.5% applied to actual abstraction of each consent holder during 2014-2015 irrigation season. No evidence has been provided to support why 12.5% is an appropriate level to set pro-rata reductions. Water meter data for the 2014-2015 irrigation season is not available for all permit holders and does not provide a useful baseline from which to establish actual use. This approach could also have perverse outcomes for domestic, papakāinga and municipal users.
1369. 359 submission points seek relief relating to stream flow maintenance schemes. Identical relief is sought for POL TANK 39-41. Response to these submission points is included in Section 15.3.6.
1370. 38 submission points seek that the Actual and Reasonable use date is amended. Alternative dates requested include 2 May 2020 (the date PPC9 was notified) and 30 June 2020 (the end of the water year). The Council declared a moratorium on new allocations and notified the public that the Heretaunga Plains Aquifer was considered over-allocated on 17 August 2017. The Council also indicated that the TANK Group would be considering allocation regimes based on historic use previous to winter 2017. This statement was made to discourage a “gold rush”, of permit holders pumping their full allocation (even if they were pumping to waste) in order to demonstrate their Actual and Reasonable use was their full consented allocation.
1371. Changing the date would enable decision-makers to rely on actual use water meter data than IRRICALC or other calculators. The Resource Management (Measurement and Reporting of Water Takes) Regulations 2010 required water reporting for takes equal to and above 20l/s by November 2012, takes equal to and above 10l/s by November 2014, and takes equal to and above 5l/s by November 2016. If the effective date is amended to 2 May 2020, all consented takes above 5l/s should be able to provide at least 3 years of water use data. That 3 year period also includes the 2019/2020 drought which was a significant, long drought event. Water use during that irrigation season can be considered representative of a permits holders maximum needs in an extreme year. This matter is discussed further in Section 15.6.17, relating to the definition of Actual and Reasonable.
1372. I recommend that the date considered in Actual and Reasonable be amended to say 2 May 2020 instead of 17 August 2017 as it will ease administration and readability of PPC9. It will improve consistency across PPC9 and provide more and better data to decision-makers regarding Actual and Reasonable use, without hindering the ability to meet the NPSFM2020 and RPS POL LW 2B, and help achieve OBJ TANK 18 as recommended in this report.
1373. The changes I am recommending and the submission points that give scope for the changes are shown in the tracked changes version.

### Recommendations

1374. I recommend that submission points 3.3, 8.9, 8.14, 59.6, 66.6, and 124.9 are accepted in part because they support POL TANK 37 as notified but I recommend amendments to POL TANK 37.
1375. I recommend that submission points 36.4, 47.4, 59.2, 63.53, 99.13, 123.73, 132.125, 132.183, 134.5, 191.12, 193.4, 210.58, and 236.2 are rejected because they seek changes to the interim limit and the role it plays in the wider quantity management framework.

1376. I recommend that submission points 29.3 and 194.47 are rejected because the suggested amendments are superfluous.
1377. I recommend that submission points 16.4, 132.129, and 132.174 are accepted in part because they are provided for in PPC9.
1378. I recommend that submission points 8.34, 59.1, 66.2, 76.21, 82.8, 82.10, 99.105, 192.9, 194.50, and 194.51 are accepted in part because they provide for consistency and clarity for decision makers and applicants.
1379. I recommend that submission points 3.16, 6.1, 14.7, 15.9, 20.9, 22.1, 23.9, 23.42, 29.20, 29.21, 29.22, 32.9, 32.42, 35.9, 35.42, 36.5, 36.6, 37.9, 37.42, 38.9, 38.42, 43.9, 43.42, 44.9, 44.42, 49.9, 49.42, 53.21, 54.9, 54.42, 59.3, 59.4, 59.5, 61.9, 61.42, 62.9, 62.42, 63.4, 66.3, 66.4, 66.5, 69.42, 71.9, 71.42, 72.9, 72.42, 73.9, 73.42, 77.9, 77.42, 79.9, 79.42, 82.9, 84.21, 86.9, 86.42, 91.8, 91.41, 95.9, 95.42, 96.9, 96.42, 97.10, 97.43, 97.89, 99.35, 99.68, 104.9, 104.42, 105.9, 105.42, 110.9, 110.42, 122.9, 122.42, 135.40, 180.39, 185.9, 185.42, 186.9, 186.42, 192.10, 192.2, 193.5, 194.46, 194.48, 194.49, 196.10, 196.43, 207.4, 211.9, 211.42, 214.9, 214.42, 215.9, 215.42, 217.8, 217.41, 218.9, 218.42, 219.9, 219.42, 220.9, 220.42, 221.9, 221.42, and 233.13 are rejected because they do not give effect to the NPSFM2020 or RPS POL LW1 2B.
1380. I recommend that submission points 8.35, 18.10, 26.10, 28.10, 29.23, 34.10, 34.20, 36.7, 39.10, 41.10, 48.10, 53.10, 68.10, 75.10, 76.10, 81.10, 84.10, 87.10, 88.10, 94.10, 102.10, 103.7, 107.10, 143.9, 165.10, 179.10, 199.10, 204.10, 208.9, 213.10, and 238.9 are rejected because they are contrary to relief provided for by other provisions of PPC9.
1381. I recommend that submission point 132.159 is rejected because it is not feasible to implement.
1382. I recommend that submissions points 23.44, 32.44, 35.44, 37.44, 38.44, 43.44, 44.44, 49.44, 54.44, 61.44, 62.44, 69.44, 71.44, 72.44, 73.44, 77.44, 79.44, 86.44, 91.43, 95.44, 96.44, 99.70, 97.45, 104.44, 105.44, 110.44, 122.44, 185.44, 186.44, 196.45, 211.44, 214.44, 215.44, 217.43, 218.44, 219.44, 220.44, and 221.44 are rejected in accordance with the discussion in Section 15.3.5.
1383. I recommend that submission points 23.46, 32.46, 32.49, 35.46, 37.46, 38.46, 43.46, 44.46, 49.46, 54.46, 61.46, 62.46, 69.46, 71.46, 72.46, 73.46, 77.46, 79.46, 86.46, 95.46, 96.46, 91.45, 97.47, 99.72, 104.46, 105.46, 110.46, 122.46, 185.46, 186.46, 196.47, 211.46, 214.46, 215.46, 217.45, 218.46, 219.46, 220.46, and 221.46 are accepted in part in accordance with the discussion in Section 15.3.6 of this report.
1384. I recommend that submission points 23.50, 32.50, 35.50, 37.50, 38.50, 43.50, 44.50, 49.50, 54.50, 61.50, 62.50, 69.50, 71.50, 72.50, 73.50, 77.50, 79.50, 86.50, 91.49, 95.50, 96.50, 99.76, 97.51, 104.50, 105.50, 110.50, 122.50, 185.50, 186.50, 196.51, 211.50, 214.50, 215.50, 217.49, 218.50, 219.50, 220.50, and 221.50 are accepted in part in accordance with discussion in Section 15.3.6 of this report.
1385. I recommend that submission points 23.76, 32.75, 35.75, 37.75, 38.77, 43.76, 44.74, 49.77, 54.74, 61.74, 62.74, 69.75, 71.75, 72.81, 73.81, 77.74, 79.76, 95.74, 96.74, 97.55, 99.100, 104.74, 105.74, 86.75, 91.81, 110.74, 122.74, 185.74, 186.74, 196.55, 211.74, 214.74, 215.74, 217.73, 218.74, 219.74, 220.74, and 221.74 are rejected in accordance with the discussion in Section 15.3.6 of this report.

### 15.3.5 POL TANK 38

#### Submission Points

1386. There are 86 submission points about POL TANK 38. Submission points and further submission points for this topic are contained in in Table 15.3 of Appendix 3.
1387. The following evaluation may not explicitly refer to every submission point, but I have considered each submission point before making my recommendations.

#### Submission point requests

1388. Requests for amendments include:
- a. enabling re-allocation of water to any person
  - b. deleting POL TANK 38 in its entirety
  - c. clarifying that POL TANK 38 does not apply to high flow takes
  - d. specifying what investigations into stream flow maintenance and habitat enhancement schemes will occur before Actual and Reasonable re-allocation
  - e. requiring consent reviews sooner
  - f. changing the definition of Actual and Reasonable.

#### Discussion

1389. POL TANK 38 restricts all re-allocation to holders of permits issued before 2 May 2020 and establishes a timeframe for reviewing all permits. The combined effect of POL TANK 36-38 is that the only groundwater available for allocation in the Heretaunga Plains is already consented and will be subject to Actual and Reasonable use when consent is renewed. The only way for a new user to get access to water is by transfer of an existing permit or by applying to take and use water at high flows. The only exceptions are for consents, such as those held by the TLA's for municipal use, which have not been fully utilised due to staged development.
1390. One submission point seeks that the policy is deleted in its entirety due to duplication and unnecessary detail. The dates for consenting review ensure that all permits will be reviewed by the time the review of planning provisions is undertaken under POL TANK 42, and indicate to consent holders when they will be subject to Actual and Reasonable use restrictions under PPC9.
1391. Two submissions seeks that POL TANK 38 be amended to require review of all consents sooner. Schedule 33 includes a timeframe for consent reviews in the TANK Catchments. According to those timeframes, all consents will be reviewed within 10 years which aligns with the requirements of POL TANK 38. If resourcing allows, Council may review consents faster than that, however it would be ineffective and inefficient to include a policy which could not reasonably implemented.
1392. One submission seeks clarity that the restriction on allocation does not apply to high flow takes. This supports internal consistency through PPC9.
1393. Two submissions seek that POL TANK 38 outline what is proposed to be investigated or enabled prior to replacement processes to achieve a reduction in allocation as a result of those processes. I understand the submissions consider that investigations into the feasibility of stream flow maintenance or habitat enhancement schemes should occur before Actual and Reasonable re-allocations. The Matters for Control/Discretion listed under Rules TANK 9, 10, and 11 are clear about what aspects will be considered in re-allocation. Any water used for stream flow enhancement schemes will need to come from

consents which have been subject to Actual and Reasonable re-allocation or high flow allocations. Undertaking the exercise of re-allocating water according to Actual and Reasonable use is part of better understanding the groundwater resource and its limits.

1394. Some submission points relate to the definition of Actual and Reasonable. These points are accepted or rejected according to discussion in Section 15.6.17.
1395. Some submission points question the basis of restricting water use to existing consent holders and several submission points seek that water be re-allocated to any applicant. The majority of points appear to assume that water made available within the interim limit or new water allocations could be made for entities operating stream flow enhancement or augmentation schemes. One submission considers this provision does not ensure that water will be allocated to the most appropriate or efficient use.
1396. The Actual and Reasonable framework is premised from the basis that from now on, the only water available for use in the Heretaunga Plains is water that is already being used (except for high flows and consents subject to staged development). I recognise that this is not 'fair' and creates a barrier for any potential water user hoping to enter the system. It also does not address historical issues of Māori access to groundwater and low flow surface water.
1397. To enable re-allocation to anyone would require diversion from the "first-in, first-served" approach under the RMA. While there is no explicit guarantee of the renewal of a water permit, to date the custom has been for this to occur, although conditions to address environmental effects or efficiency requirements may be modified or added.<sup>30</sup> POL TANK 37 requires any water being made available within the interim limit is "returned" to the waterbody, so there is no way for a new user to access water unless it is water made available at high flows or by a transfer. As discussed in Section 15.3.4, I consider this approach gives effect to Te Mana o Te Wai and the hierarchy of obligations by meeting the needs of the waterbody before human needs.
1398. One method used by other councils is to operate a waiting list, where the applicant will wait to gain an allocation to water if it becomes available. I consider this approach could be more appropriate to include in future plan reviews, following the POL TANK 42 groundwater review. Guidance of how to implement and prioritise a waitlist could be included in plan provisions. I do not consider it appropriate to include such provision in PPC9 because it would create confusion for plan users with one policy clearly directing Council to avoid re-allocation of water within the interim but another provision detailing how Council would re-allocate water within the interim limit.
1399. Several submissions seek the allocation of water that is made available within the interim limit. This matter is discussed in Section 15.3.4 of this report and I recommend rejecting points in accordance with that discussion.
1400. The changes I am recommending to POL TANK 38 and the submission points that give scope for the changes are shown in the tracked changes version.

## Recommendations

1401. I recommend that submission point 29.24 is accepted in part because it provides clarity on the purpose of the framework.
1402. I recommend that submission point 92.1 is accepted in part because it is provided for by PPC9 in so far as staged development is taken into consideration.

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<sup>30</sup> <https://www.mfe.govt.nz/sites/default/files/media/Fresh%20water/water-allocation-use-jun04.pdf> page 8.

1403. I recommend that submission points 23.45, 32.45, 35.45, 37.45, 38.45, 43.45, 44.45, 47.5, 49.45, 54.45, 61.45, 62.45, 63.6, 69.45, 71.45, 72.45, 73.45, 77.45, 79.45, 86.45, 91.44, 95.45, 96.45, 97.46, 99.71, 99.14, 104.45, 105.45, 110.45, 122.45, 132.184, 135.41, 180.4, 180.40, 185.45, 186.45, 194.52, 196.46, 207.6, 210.59, 211.45, 214.45, 215.45, 217.44, 218.45, 219.45, 220.45, 221.45 are rejected because they do not align with the NPSFM2020 and would confuse the planning framework.
1404. I recommend that submission points 6.2, 180.40 are rejected because they do not effectively and efficiently achieve the policy intent.
1405. I recommend that submission points 23.43, 32.43, 35.43, 37.43, 38.43, 43.43, 44.43, 49.43, 54.43, 61.43, 62.43, 69.43, 71.43, 72.43, 73.43, 77.43, 79.43, 86.43, 91.42, 95.43, 96.43, 97.44, 99.96, 104.43, 105.43, 110.43, 122.43, 185.43, 186.43, 196.44, 211.43, 214.43, 215.43, 217.42, 218.43, 219.43, 220.43, and 221.43 are rejected in accordance with discussion in Section 15.3.4 of this report.

### **15.3.6 Flow Maintenance**

#### Submission Points

1406. There are over 100 submission points about Flow Maintenance. Submission points and further submission points for this topic are contained in in Table 15.3 of Appendix 3.
1407. The following evaluation may not explicitly refer to every submission point, but I have considered each submission point before making my recommendations.

#### Submission point requests

1408. Requests for amendments include:
- a. deleting all flow augmentation and enhancement scheme provisions
  - b. implement strategies to restore depleted streams
  - c. enable stream flow enhancement for particular water bodies
  - d. providing for schemes to be developed by the Council in a progressive manner
  - e. ensuring that flow maintenance requirements apply only to lowland streams
  - f. rename stream flow maintenance 'surface flow mitigation'
  - g. clarity regarding the timing of provisions and their implementation
  - h. removing presumption that the Ngaruroro River will be augmented.

#### Discussion

1409. PPC9 includes provisions which enable stream flow maintenance and habitat enhancement schemes to maintain stream flows, mitigate delayed and indirect stream depletion effects of collective groundwater takes, and avoid minimum flow restrictions on water takes. Key features of the approach in the PPC9 are:
- a. Water permit holders' obligation to this mitigation scheme would be imposed through resource consent conditions (POL TANK 39 and Rules TANK 9 and 10)
  - b. Schemes may be established and managed collectively by permit holders (POL TANK 39 and Schedule 36)
  - c. the development and implementation of the stream flow solutions is to be rolled out as water permits are replaced or reviewed (POL TANK 39 and Rules TANK 9, 10 and 18).
1410. These provisions reflect the collaborative approach to developing a pathway towards better resource management. Resource users involved in the TANK Group favoured solutions that

empowered the community to make choices about how to meet the objectives stated in PPC9.

1411. The Stream Flow Maintenance solution was based on a successful approach in Twyford where water permit holders worked together to mitigate stream depletion effects for the Raupare Stream. It was local leadership and local initiatives that enabled innovative solutions for a single waterway in response to issues arising for those consent holders around trigger flows for bans on water takes. The Council recognises that schemes need to be able to address cumulative effects across multiple streams, and that this may not be possible without centralised leadership and direction. The Council's own submission seeks significant amendment to POL TANK 39 as notified which is discussed under Section 15.3.7.
1412. Six submission points seek that provisions enabling stream flow maintenance be deleted but some also seek an exception for existing activities on the Raupare Stream and proposed activities for the Paritua Stream. Stream flow maintenance is a key mechanism for mitigating stream flow depletion from groundwater takes. To delete these provisions would remove the ability of the Council to mitigate those adverse effects while providing for other key objectives of PPC9, such as habitat enhancement and reliability of supply for abstractors. By not deleting these provisions, PPC9 provides for stream enhancement and habitat enhancement schemes for the Raupare and Paritua Streams.
1413. One submission seeks that "stream flow maintenance" and "flow augmentation" be replaced with "surface flow mitigation", and remove related provisions to a non-regulatory section of PPC9. The matter of a non-regulatory section of the PPC9 is discussed in Section 12.3. The term flow augmentation is not used in PPC9, and I consider Stream Flow Maintenance is an appropriate term for those schemes.
1414. 38 submissions are identical and seek that stream flow maintenance schemes be developed by the Council in a progressive manner. Other points also indicate support for increased Council leadership in developing stream flow maintenance schemes or recommend consideration of specific matters when developing stream flow maintenance schemes. I recommend accepting these points in part in so far as they are provided for by amendments to POL TANK 39.
1415. 38 submissions seek that stream flow maintenance and habitat enhancement scheme provisions relate only to lowland streams where it is feasible. One submission also seeks that feasibility investigation and implementation of schemes in the Ngaruroro Catchment are completed before cease take requirements apply. I consider PPC9 already provides for this through POL TANK 39, 41 and 44, and amendments recommended to POL TANK 39 also further improve clarity.
1416. 38 submission points are identical and seek that the presumption the Ngaruroro will be augmented is removed. One submission seeks that permit holders in Zone 1 are exempt. Groundwater pumping was found to be unfeasible for the Ngaruroro River because of the large instantaneous volume required and alternatives are to be investigated (see POL TANK 41). I consider POL TANK 41 helps achieve POL TANK 36 and 37 by providing a method for mitigating stream flow depletion effects.
1417. One submission seeks that additional clauses are added which require a numeric assessment of the degree of depletion versus the length and value of habitat restored. I recommend that this submission point is accepted in part because intent is provided for but not according to specific wording in the submission.

## Recommendations

1418. I recommend that submission points 120.54, 120.75, 132.151, 201.15, and 219.78 are rejected because they do not improve effectiveness or efficiency.
1419. I recommend that submissions points 16.3, 132.152, 132.153, 192.11, and 209.2 are accepted in part because they are already provided for by POL TANK 39.
1420. I recommend that submission point 132.116 is rejected because it does not improve clarity.
1421. I recommend that submission points 23.51, 32.51, 35.51, 37.51, 38.51, 43.51, 44.51, 49.51, 54.51, 61.51, 62.51, 69.51, 71.51, 72.51, 73.51, 77.51, 79.51, 86.51, 91.50, 95.51, 96.51, 97.52, 99.77, 104.51, 105.51, 110.51, 122.51, 185.51, 186.51, 196.52, 201.40, 211.51, 214.51, 215.51, 217.50, 218.51, 219.51, 220.51, and 221.51 are accepted in part because this is already provided for by POL TANK 39, 41 and 44.
1422. I recommend that submission points 23.54, 32.54, 35.54, 37.54, 38.54, 42.8, 43.54, 44.54, 49.54, 54.54, 61.54, 62.54, 63.57, 69.54, 71.54, 72.54, 73.54, 77.54, 79.54, 86.54, 91.53, 95.54, 96.54, 97.56, 99.80, 104.54, 105.54, 110.54, 122.54, 185.54, 186.54, 193.6, 196.56, 211.54, 214.54, 215.54, 217.53, 218.54, 219.54, 220.54, 221.54 are rejected because they do not help give effect to POL TANK 36 and 37.
1423. I recommend that submission points 23.47, 29.25, 32.47, 35.47, 37.47, 38.47, 43.47, 44.47, 49.47, 54.47, 58.24, 61.47, 62.47, 63.57, 69.47, 71.47, 72.47, 73.47, 77.47, 79.47, 86.47, 90.4, 91.46, 95.47, 96.47, 97.48, 99.73, 103.17, 104.47, 105.47, 110.47, 122.47, 134.6, 185.47, 186.47, 196.48, 201.40, 211.47, 214.47, 215.47, 217.47, 218.47, 219.47, 220.47, 221.47, 222.4, and 224.5 are accepted in part in so far as they are provided for by amendments to POL TANK 39.

### **15.3.7 POL TANK 39**

#### Submission Points

1424. There are over 50 submission points about POL TANK 39. Submission points and further submission points for this topic are contained in Table 15.3 of Appendix 3.
1425. The following evaluation may not explicitly refer to every submission point, but I have considered each submission point before making my recommendations.

#### Submission point requests

1426. Requests for amendments include:
- a. deleting POL TANK 39
  - b. a larger leadership role for Council in developing Stream Flow Enhancement schemes
  - c. clarifying the degree of mitigation required
  - d. enabling individuals mitigation options
  - e. providing for a Water Conservation Strategy approach for municipal takes
  - f. adopting an approach the same or similar to that used in RRMP POL TT11
  - g. clarifying whether these provisions apply to the Ngaruroro River and Zone 1
  - h. ensuring all benefactors contribute to the costs of a scheme
  - i. specific wording amendments for clarity and simplicity
  - j. clarifying extent to which these provisions relate to domestic takes.

## Discussion

1427. All groundwater takes in the Heretaunga Plains Quantity Area contribute to stream depletion to some extent. POL TANK 39 as notified requires that all takes cease abstraction when an applicable minimum flow is reached, or consent holders must contribute to a flow enhancement scheme. This policy helps give effect to OBJ TANK 18.
1428. Submission point 129.2 (the Council's own submission) seeks that POL TANK 39 is deleted and replaced. Implementation of POL TANK 39 as notified presents significant implementation challenges, including:
- a. The notified policy does not require users to mitigate their cumulative effects across multiple streams (it focusses on the most affected stream)
  - b. Only one scheme currently exists, so the majority of users would be subject to potentially bans with no feasible opportunity to mitigate their effects until schemes were implemented
  - c. Feasibility investigations have not yet been undertaken, so some users may never be feasibly able to offset their stream depletion effects
  - d. Not all streams are suited to the same types of solutions
  - e. A comprehensive solution is likely to be required at the Water Quantity Area scale, which would require centralised leadership and cost recovery
  - f. The policy as notified does not provide a pathway for prioritising highly effective or beneficial schemes
  - g. The policy as notified provide little guidance or support for individual and small scale permit holders to work collectively
  - h. The Council has access to resources and powers which will support implementation of schemes.
1429. For the reasons set out in the Council's submission, I consider the requested new policy will more effectively and efficiently achieve the objectives of PPC9. The analysis of Practicable Options under Section 8.7.4 of the Section 32 Report remains valid. I consider all other submission points on PPC9 against POL TANK 39 as recommended for amendment.
1430. Many industry submissions are supportive of an amendment along the lines of the Council's submission on POL TANK 39. 28 submission points are identical and support in principle jointly funded collective stream flow maintenance schemes on suitable lowland streams, facilitated by the Council. Two submissions seek that there is Council leadership in developing stream depletion mitigation schemes with all sectors of the community.
1431. Two submission points seek that POL TANK 39 is amended or a new policy is added to be consistent with RRMP POL TT11 and Table 5.9.7. The steam depleting impacts of groundwater takes in the Heretaunga Plains are quite different in nature to those in the Tukituki Catchment, therefore a different management and mitigation regime is required.
1432. Two submissions relate to costs of a scheme. The new POL TANK 39 ensures that Council develop and implement an associated funding mechanism.
1433. Five submission points seek that abstraction for irrigation, or all irrigation except essential water for human drinking water cease at minimum flows. I note that the same submitters seek the deletion of stream flow maintenance scheme provisions. One submission point also seeks that any stream mitigation scheme clauses include a numeric assessment of the degree of aquifer/streamflow depletion at the point of take versus the length and value of the habitat restored by streamflow enhancement.
1434. As discussed in Table 50 of Section 32 Report, restricting groundwater takes at minimum flows would have negligible or delayed effect on surface water flows in summer months and

that banning all takes, including municipal takes, would be required to achieve meaningful mitigation. The inclusion of POL TANK 39(a) is included to encourage permit holders to contribute to and participate in mitigation schemes. Requiring all takes to cease at minimum flows would not help achieve OBJ TANK 17 and could have significant economic, social and cultural cost<sup>31</sup>. The new policy as proposed by the Council's submission includes considerations which align with the submitters request for assessment of the degree of offset. I recommend amendment to the policy to ensure the driver remains for permit holders to contribute to stream flow maintenance or cease takes when trigger flows are reached.

1435. Two submissions seek that individual consent holders are enabled to mitigate their individual stream depletion effects. Individual schemes are unlikely to be able to offset all of their cumulative effects on various streams, and may miss opportunities to maximise benefits. That is not to say that management of the scheme could not be appropriately provided for at a local scale as per amended POL TANK 39(c)(i).
1436. Five submissions seek specific wording changes to the notified policy which are no longer relevant because I recommend deleting notified POL TANK 39.
1437. I make an amendment to ensure alignment with POL TANK 41, which relates to development of stream flow maintenance schemes on the Ngaruroro River. I consider this amendment aligns with the RMA.
1438. Three submissions seek that the policy is deleted and not replaced. To delete the policy would not meet OBJ TANK 18.
1439. The changes I am recommending to POL TANK 39 and the submission points that give scope for the changes are shown in the tracked changes version.
1440. I recommend consequential amendments to delete Schedule 36 and clause e) of POL TANK 40. See Sections 15.3.8 and 15.3.11 of this report for further discussion.

### Recommendations

1441. I recommend that submission points 18.12, 26.12, 28.12, 34.12, 39.12, 41.12, 48.12, 53.12, 68.12, 75.12, 76.12, 81.12, 84.12, 87.12, 88.12, 94.12, 102.12, 107.12, 143.11, 165.12, 179.12, 199.12, 194.53, 204.12, 208.11, 213.12, and 238.11 are accepted because they are more effective and efficient than the notified POL TANK 39.
1442. I recommend that submission points 8.40, 14.8, 15.10, 20.10, 42.10, 82.13, 99.15, 129.2, and 193.6 are accepted in part in so far as they improve effectiveness and efficiency.
1443. I recommend that submission point 3.17, 8.36, 63.58, 120.42, 120.44, 123.74, 124.25, 132.149, 132.189, 194.55, 195.61, and 210.60 are rejected because it does not efficiently or effectively meet the objectives.
1444. I recommend that submission point 36.10, 42.8, 63.7, 135.42, 180.41 and 207.7 are rejected because they are no longer relevant to the policy.

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<sup>31</sup> Section 32, Table 50, page 278-281.

### **15.3.8 POL TANK 40**

#### Submission Points

1445. There are 10 original submission points about POL TANK 40. Submission points and further submission points for this topic are contained in in Table 15.3 of Appendix 3.
1446. The following evaluation may not explicitly refer to every submission point, but I have considered each submission point before making my recommendations.

#### Submission point requests

1447. Requests for amendments include:
- a. support for policies as notified (three submission points)
  - b. deleting all references to stream flow maintenance (two submission points)
  - c. allowing individual holders to mitigate stream depletion effects
  - d. allowing transfers of allocated but un-used water for augmentation
  - e. clarifying timing of the provisions
  - f. allowing longer consent durations.

#### Discussion

1448. POL TANK 40 outlines matters that decision-makers will have regard to when assessing applications for stream flow maintenance and habitat enhancement schemes. These matters for consideration ensure that mana whenua are engaged in the development of any scheme and that the Council is able to include consent conditions that maximise the benefits of Stream Flow Maintenance Scheme. POL TANK 40e) establishes consent durations which align with POL TANK 49 and Schedule 33 to support the ability of Council to consider cumulative impacts of groundwater takes and stream depletion effects. POL TANK 37e) also allow decision-makers flexibility where significant infrastructure may be required and a longer consent duration may provide greater certainty and encourage the development of schemes.
1449. Two submissions seek that Policy 40 is deleted, while three submissions support the policy. Submissions that seek deletion of the policy seek that all stream flow enhancement scheme provisions are removed. I note that some stream flow maintenance or habitat schemes are already operational. To delete POL TANK 40 would not enable Council to mitigate adverse effects of schemes and does not give effect to the objectives of PPC9, or Section 5 of the RMA.
1450. Submission points which relate to the ability to transfer un-used water, allowing individuals to develop schemes and timing of the provisions are addressed under Sections 15.3.3 and 15.3.9. I do not repeat those discussions here and I recommend the panel accept or reject points accordingly.
1451. I recommending deleting POL TANK 40e) and its sub-clauses as a consequential amendment to my recommendations to change POL TANK 39. Many of the matters covered by POL TANK 40e) are covered by amended POL TANK 39(a) and (b) or POL TANK 49.

#### Recommendations

1452. I recommend that submission points 59.7, 66.7, 194.56 are accepted because they support Policy 40 as notified.

1453. I recommend that submission point 8.41 is accepted in part in accordance with discussion in Section 15.3.7.
1454. I recommend that submission points 123.75 and 210.61 are rejected because they do not give effect to the objectives of the plan.
1455. I recommend that submission points 8.37, 8.41, 63.8, 195.62, and 207.8 are rejected in accordance with discussion in Section 15.3.7.

### **15.3.9 POL TANK 41**

#### Submission Points

1456. There are 16 submission points about POL TANK 41. Submission points and further submission points for this topic are contained in Table 15.3 of Appendix 3.
1457. The following evaluation may not explicitly refer to every submission point, but I have considered each submission point before making my recommendations.

#### Submission point requests

Requests for amendments include:

- a. support for policies as notified (three submission points)
  - b. deleting the policy (two submission points)
  - c. clarifying timing of the provisions
  - d. clarifying geographical application of the policy (exclude Zone 1 takes)
1458. ensuring all benefactors (including municipal and industrial users) contribute to the costs of a scheme
- e. clarifying the degree of off-setting required.

#### Discussion

1459. Stream Flow Maintenance Schemes that rely on groundwater pumping are not feasible for the Ngaruroro River<sup>32</sup> and POL TANK 41 provides for Council to undertake further investigation into taking and storing water at high flows and releasing to mitigate stream depletion effects. POL TANK 41 helps give effects to OBJ TANK 18.
1460. Two submissions seek that POL TANK 41 is deleted, while three submissions support the policy. Submissions that seek deletion of the policy seek that all stream flow enhancement scheme provisions are removed. This would not enable Council to mitigate adverse effects and does not give effect to the objectives of PPC9, or Section 5 of the RMA.
1461. Six submissions relate to the degree of off-setting required by the policy. Many of these submissions question the use of the word “remedy”, seek that off-setting is tied to the minimum flow specified in Schedule 31, or offsetting is referred to “in full or in part”. Amending the term “remedy” to “mitigate” more clearly aligns with POL TANK 36 and 37, however the extent to which a potential scheme can reasonably off-set stream depletion effects will be determined through the feasibility investigations. A scheme may be able to provide for habitat enhancement, or alternatively may not be able to provide full off-setting ability so it would be short-sighted to determine the extent of off-set before any feasibility investigation.
1462. One submission seeks that consideration of social feasibility is included under POL TANK 41(a). I consider that taking social feasibility into account aligns with the RMA and I

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<sup>32</sup> Section 32 Report, page 278.

consider that similar amendments should be made to POL TANK 39, which relates to development of stream flow maintenance schemes for other lowland streams.

1463. I consider that amendments to POL TANK 39 clarify matters of timing and application of costs so changes are not required to POL TANK 41 regarding those matters.
1464. The changes I am recommending to POL TANK 41 and the submission points that give scope for the changes are shown in the tracked changes version.

#### Recommendations

1465. I recommend that submission points 59.8, 135.43, 195.63 are accepted because they support POL TANK 41 as notified but I recommend changes.
1466. I recommend that submission point 8.42 and 42.11 are accepted in part because they are already provided for by PPC9.
1467. I recommend that submissions point 180.42 is accepted in part because it aligns with Section 5 of the RMA. I also recommend consequential amendment to POL TANK 39 for consistency.
1468. I recommend that submission point 99.16 is accepted because it improves clarity.
1469. I recommend that submission points 29.26, 42.9, 66.8, 99.106, 123.76, 194.57, and 210.62 are rejected because they do not give effect to the objectives of PPC9, particularly OBJ TANK 10-15 and 18.
1470. I recommend that submission points 63.9 and 207.9 are rejected because they do not improve clarity.

### **15.3.10 Groundwater Management Review and POL TANK 42**

#### Submission Points

1471. There are 14 submission points about Groundwater Management Review and POL TANK 42. Submission points and further submission points for this topic are contained in in Table 15.3 of Appendix 3.
1472. The following evaluation may not explicitly refer to every submission point, but I have considered each submission point before making my recommendations.

#### Submission point requests

1473. Requests for amendments include:
- a. deleting POL TANK 42 (four submission points)
  - b. replacing POL TANK 42 with a policy to phase out over allocation
  - c. including a date by which over allocation will be phased out
  - d. including reference to potential groundwater augmentation schemes
  - e. set a date by which review will occur
  - f. considering long term equilibrium of the aquifer.

#### Discussion

1474. POL TANK 42 recognises the iterative process of plan making, contextualises the role of PPC9 in addressing over-allocation, and identifies the kind of information that will be

required to make decisions for subsequent Regional Plan review. POL TANK 42 is consistent with a continuous improvement approach under OBJ TANK 2.

1475. Some submission points seek that the policy is deleted because a review is already required under Section 79 of the RMA. While this could be considered unnecessary duplication, I consider that the review under POL TANK 42 plays an integral role in the Council's long-term approach to avoiding and phasing out over allocation. I consider it also makes it clear that PPC9 is not the perfect plan and that further investigations need to be undertaken to fully understand the water available and appropriate mechanisms to mitigate effects. Planning is an iterative process that enables council's to update management strategies in response to new information or evolving issues. POL TANK 42 provides more detailed guidance that is specific to the implementation and monitoring of PPC9 provisions to ensure that useful information is collected over the life of PPC9 to support the review. This will enable the Council to be strategic, and improve effectiveness of future plan reviews, and therefore the effectiveness of future planning provisions.
1476. Some submissions seek that additional matters are specified for consideration. I consider the majority of these matters are already provided for by the current wording. I recommend accepting some changes to improve consistency with OBJ TANK 18.
1477. The changes I am recommending to POL TANK 42 and the submission points that give scope for the changes are shown below.

#### Recommendations

1478. I recommend that submission points 47.8, 63.10, 63.11, 207.10, 207.11, and 207.75 are accepted in part because they are already provided for by PPC9.
1479. I recommend that submission points 29.27 and 194.58 is accepted in part because they improve alignment with OBJ TANK 18.
1480. I recommend that submission point 58.25, 123.77, 135.44, 195.64, 201.41, and 210.63 are rejected because they do not help achieve OBJ TANK 17 and 18.

#### **15.3.11 Schedule 36**

##### Submission Points

1481. There are over 100 original submission points about Schedule 36. Submission points and further submission points for this topic are contained in in Table 15.3 of Appendix 3.
1482. The following evaluation may not explicitly refer to every submission point, but I have considered each submission point before making my recommendations.

##### Submission point requests

1483. Requests for amendments include:
- a. enabling individuals to offset their own stream depletion effects
  - b. enabling participation to be voluntary
  - c. enabling Council to develop schemes
  - d. only requiring stream flow enhancement schemes on lowland streams where it is feasible
  - e. removing the presumption that the Ngaruroro will be augmented
  - f. including more detail

- g. including less detail
- h. no specific relief requested but implies need for flexibility
- i. requiring cease take for all takes with a stream depleting effect
- j. correcting errors in policy reference
- k. replicating the approach of Policy TT11
- l. clarifying cease take at minimum flow requirements
- m. deleting water augmentation provisions.

## Discussion

1484. Schedule 36 establishes requirements for plan development, scheme governance, approval, reporting and review. Meeting the requirements of Schedule 36 is a Condition of Rule 18, which makes the transfer and discharge of groundwater into surface water in the Heretaunga Plains a Discretionary Activity. Notified POL TANK 39 enables permit holders to establish and operate their own collectives.
1485. I recommend deleting Schedule 36 in its entirety as a consequential amendment to changes recommended to POL TANK 39. Recommended POL TANK 39 requires schemes to be developed in consultation with iwi and other relevant parties. I consider the changes to POL TANK 39 reduce the ability for Council to meaningfully consult with iwi and relevant parties when investigating options for stream flow maintenance and habitat enhancement schemes. I consider that in order to fully consult in good faith, iwi, relevant parties and Council should establish the scheme plan and operational requirements (such as those described in Schedule 39) together and on the needs of the relevant stream or water quantity area that the scheme services.
1486. I recommend that all submission points on Schedule 36 are rejected, however, I have kept them in mind while making amendments to relevant PPC9 provisions. I note that 114 of these submissions seek identical relief as submission points discussed in Section 15.3.6 of the Hearing Report.

## Recommendation

1487. I recommend that submissions points 8.39, 23.49, 23.53, 23.56, 32.53, 32.56, 35.49, 35.53, 35.56, 37.49, 37.53, 37.56, 38.49, 38.53, 38.56, 43.49, 43.53, 43.56, 44.49, 44.53, 44.56, 49.49, 49.53, 49.56, 54.49, 54.53, 54.56, 61.49, 61.53, 61.56, 62.49, 62.53, 62.56, 69.49, 69.53, 69.56, 71.49, 71.53, 71.56, 72.49, 72.53, 72.56, 73.49, , 73.53, 73.56, 77.49, 77.53, 77.56, 79.49, 79.53, 79.56, 86.49, 86.53, 86.56, 91.48, 91.52, 91.55, 95.49, 95.53, 95.56, 96.49, 96.53, 96.56, 97.50, 97.54, 97.58, 99.31, 99.75, 99.79, 99.82, 104.49, 104.53, 104.56, 105.49, 105.53, 105.56, 110.49, 110.53, 110.56, 122.49, 122.53, 122.56, 123.155, 123.156, 123.157, 123.158, 123.159,, 180.73, 185.49, 185.53, 185.56, 186.49, 186.53, 186.56, 194.112, 195.150, 196.50, 196.54, 196.58, 201.50, 210.148, 211.49, 211.53, 211.56, 214.49, 214.53, 214.56, 215.49, 215.53, 215.56, 217.48, 217.52, 217.55, 218.49, 218.53, 218.56, 219.49, 219.53, 219.56, 220.49, 220.53, 220.56, 221.49, 221.53, 221.56, and 225.11 are rejected because I recommend deleting Schedule 36.

## **15.4 Surface Water Low Flow Management**

### **15.4.1 Surface Water Low Flow Management**

#### Submission Points

1488. There are four submission points about surface water low flow management generally. Submission points and further submission points for this topic are contained in in Table 15.4 of Appendix 3.

1489. The following evaluation may not explicitly refer to every submission point, but I have considered each submission point before making my recommendations.

### Discussion

1490. The policies in this section relate to management of surface flows. These provisions, unless specifically about surface water takes, relate to both groundwater and surface water takes because of the highly connected nature of freshwater in the Heretaunga Plains. Groundwater must be managed in order to address adverse effects on surface water at low flows.

1491. Two submission points support and seek retention of the policies generally or specific policies as notified. These points are accepted in part because I make changes to the drafting based on others submissions.

1492. One submission point seeks that all references to stream flow augmentation, maintenance, or enhancement be removed. This point is rejected in accordance with the discussion in relating to POL TANK 39-41 in Section 15.3 of this report.

1493. One submission point seeks that policies need to reflect the dynamic realities of water takes, the relative necessity of minimum water takes and extreme variation in economic impacts caused by water restrictions or bans. I consider this is provided for by PPC9.

### Recommendations

1494. I recommend that submission point 210.13 is rejected in accordance with discussion in Section 15.3.

1495. I recommend that submission points 13.10 and 194.60 are accepted in part because they support the policies as notified.

1496. I recommend that submission point 217.75 is accepted in part because it is already provided for by PPC9 policies.

## **15.4.2 Flow Management Regimes; Tūtaekurī, Ahuriri, Ngaruroro and Karamū: POL TANK 43**

### Submission Points

1497. There are 48 submission points about Flow Management Regimes; Tūtaekurī, Ahuriri, Ngaruroro and Karamū and POL TANK 43. Submission points and further submission points for this topic are contained in in Table 15.4 of Appendix 3.

1498. The following evaluation may not explicitly refer to every submission point, but I have considered each submission point before making my recommendations.

### Submission point requests

1499. Requests for amendments include:

- a. support and retention of policies as notified (five submission points)
- b. delete the policy (1 submission point)
- c. enhancing or restoring springs and surface water flows
- d. increasing minimum flows to provide for 90% torrentfish habitat
- e. maintaining the Tūtaekurī River minimum flow
- f. setting minimum flows for the Ahuriri Catchment and estuary

- g. reducing allocation limits
- h. providing allocations for a cultural flow
- i. applying cease take requirements to takes with a stream depleting effect of 0.5 litres per second or more
- j. specific wording changes for clarity
- k. mitigating adverse effects
- l. amending the definition of Actual and Reasonable.

## Discussion

1500. For each surface water quantity area, POL TANK 43 sets out how the river flows and levels will be managed through minimum flow and allocation limits. This approach aligns with POL TANK 36 and 37, and effectively removes the ability to consent any new ground or surface water takes at low flows in catchments that are fully or over-allocated. This avoids future over-allocation in accordance with the NPSFM2020.
1501. RPS POL 33(a) states that *“any taking of shallow groundwater within 400 m of a river, lake or wetland as measured from the edge of the bed will be treated as if it were a direct take unless the extent to which the groundwater will deplete water in the surface water body has been assessed using an appropriate scientific procedure in which case the effects on surface water will be assessed on that basis.”* In the development of PPC9, modelling has been used to determine where groundwater is particularly highly connected to surface water.<sup>33</sup> As a result, PPC9 creates “Zone 1” areas where groundwater takes are to be managed as if they are direct surface water takes (see maps Schedule 31A-E). Groundwater takes in Zone 1 areas are subject to the same policies and rules as surface water takes.
1502. The Council’s own submission recommends amendments to clarify when the limits and triggers detailed in Schedule 31 apply. For the Tūtaekurī and Ngaruroro surface water quantity areas, Schedule 31 applies during summer months November-April where flows are typically lower due to less rain fall. The Karamū surface water quantity area is a lowland catchment and predominantly spring-fed, so Schedule 31 applies all year round. Little is known about the Ahuriri Catchment actual use and minimum flows so all water takes in this catchment are limited to existing Actual and Reasonable use.
1503. Minimum flows and the justification for their levels in PPC9 is discussed in the Water Quantity Memo and Section 8.7.4. of the Section 32 Report<sup>34</sup>. I consider that the minimum flows proposed by PPC9 provides for the range of values for each waterbody as identified by OBJ TANK 10-13. Many submissions seek that minimum flows are increased to provide 90% habitat protection for torrent fish but do not provide evidence which demonstrates the habitat is adversely affected by the current minimum flows where these are proposed to be maintained. Likewise some submitters oppose raising the minimum flow of the Tūtaekurī but do not provide evidence justifying the reasons for their opposition.
1504. Two submissions seek that the allocation limit for the Ngaruroro River remains at 1,581 litres per second. PPC9 lowers the allocation for the Ngaruroro River to 1300 l/sec in order to address over-allocation. I consider the minimum flows and allocation limits in Schedule 31 effectively and efficiently meet the objectives of PPC9.
1505. Some submissions seek additions to POL TANK 43 to include mitigation schemes and reliability for farmers. These matters are already provided for by POL TANK 39-41 and POL TANK 47.

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<sup>33</sup> Please refer to the Water Quantity Memo for more information.

<sup>34</sup> See pages 267-271 for discussion specific to the Ngaruroro River minimum flows, and pages 271-273 for the Tūtaekurī River minimum flows.

1506. The changes I am recommending to POL TANK 43 and the submission points that give scope for the changes are shown in the tracked changes version.

### Recommendations

1507. I recommend that submission points 3.4, 8.15, 30.4, 51.1, and 124.13 are accepted in part because they seek that the policy is retained as notified but I recommend changes.
1508. I recommend that submission points 16.6, 36.11, 47.11, 97.88, 120.48, 120.50, 120.55, 120.57, 120.68, 123.78, 126.27, 132.41, 132.42, 132.44, 132.147, 132.150, 132.165, 132.169, 132.173, 132.175, 132.49, 132.180, 132.89, 134.7, 191.9, 193.7, 195.65, 210.13, 210.16, 210.17, 210.64, and 232.6 are rejected because they do not help achieve OBJ TANK 10, 11, 12, 13, and 17.
1509. I recommend that submission points 129.3 and 129.4 are accepted because they improve clarity.
1510. I recommend that submission points 51.2, 51.3, 132.40, and 194.59 are rejected because they do not give effect to RPS POL LW1 2B.
1511. I recommend that submission point 24.8 is rejected because they do not seek specific relief.
1512. I recommend that submission points 132.176, 134.3, 199.20 and 237.7 are accepted in part because they are already provided for by POL TANK 43.

### **15.4.3 Schedule 31**

#### Submission Points

1513. There are over 100 submission points about Schedule 31. Submission points and further submission points for this topic are contained in in Table 15.4 of Appendix 3.
1514. The following evaluation may not explicitly refer to every submission point, but I have considered each submission point before making their recommendations.

#### Submission point requests

1515. Requests for amendments include:
- a. support for Schedule 31 as notified, particularly keeping the Ngaruroro minimum flow at 2400l/s (10 submission points)
  - b. changing every reference from “Actual and Reasonable” to “reasonable” only
  - c. enabling reallocation of allocated but unused water between irrigators within the same Catchment Collective
  - d. aligning allocation limit for Heretaunga Plains Water Management Unit (now referred to as Heretaunga Plains Water Quantity Area) with POL TANK 37 or Actual and Reasonable use over the 10 years prior to 2 May 2020
  - e. reducing the Tūtaekurī allocation limit
  - f. including minimum flows and allocation limits for the Maraekakaho River
  - g. ensuring all allocation limits are less than 30% Mean Annual Low Flow (MALF)
  - h. using an updated Q95 to derive reliability of supply and surface water abstraction limits
  - i. including allocation limits for Ngaruroro tributaries within an allocation limit for the catchment as a whole
  - j. retaining existing minimum flow for the Tūtaekurī River

- k. retaining existing allocation limit for the Ngaruroro River
- l. introducing an irrigation season from November to April each year
- m. adding new monitoring sites
- n. increasing minimum flows to 80% habitat provision
- o. increasing minimum flows to 90% habitat provision
- p. introducing a staged approach to increasing minimum flows
- q. introducing an allocation to be taken below low flows for the survival of horticultural root crops
- r. deleting Note 2
- s. listing groundwater bores and introducing a groundwater cease take trigger
- t. correcting Schedule 31E and 31C
- u. clarifying the preamble
- v. including total instantaneous rate of take limits.

## Discussion

1516. Schedule 31 sets allocation limits, minimum flows, and stream flow maintenance trigger flows for the TANK water quantity areas. Schedule 31 helps implement PPC9 POL TANK 43 which sets out the Council's management approach to river flows and surface water bodies affected by surface water abstraction and groundwater abstraction in Zone 1. Minimum flows and flow maintenance triggers have been set in order to maintain or enhance the values of each waterbody. Allocation limits have been set according to Actual and Reasonable use or to assist Council to avoid and phase out over-allocation. I have read and I agree with the assessment of Schedule 31 under Section 8.7 of the Section 32 Report.
1517. The Water Quantity Memo discusses minimum flows and the rationale for the setting of those flows, see also discussion relating to POL TANK 43 in Section 15.4.1.
1518. As discussed in the Water Quantity Memo, the term minimum flow refers to a trigger flow where surface water takes (and Zone 1 groundwater takes) are required to cease. Minimum flows are not the stream or river's lowest flow in a season. An allocation limit is not a percentage of the minimum flow, rather the specified allocation may only be taken when flows are at or greater than the minimum flow. I have considered amending the term "minimum flow" to "cease take trigger flow" to more accurately reflect the purpose of the flow. However, I consider that change in term will cause confusion and will not align with the RRMP.
1519. Surface water minimum flows and allocation limits are applicable according to POL TANK 43 and are cumulative rate of take limits. They apply for periods of low flow (generally in November-April) for the Ngaruroro and Tūtaekurī Rivers, and apply year round for the Karamū and Ahuriri catchments. Groundwater allocation limits are in annual volumes, so they apply year round.
1520. Submission points seek that the existing allocation limits and/or minimum flows are retained, are made less stringent, or are made more stringent. These submission points do not provide sufficient evidence to demonstrate that a different minimum flow and or allocation limit would more effectively and efficiently implement PPC9 policies and help achieve PPC9 objectives.
1521. Allocation limits for groundwater across the Heretaunga Plains and surface water in the Ahuriri Catchment and from Lake Poukawa are existing use only. This means only existing Actual and Reasonable use will be available for reallocation in these quantity areas. A numerical limit is not provided because the re-consenting process, which will determine Actual and Reasonable use, has not been completed.

1522. Some submissions seek new water monitoring locations and associated minimum and trigger flows. The requested water bodies are already subject to cease take triggers. Council does not have sufficient information and monitoring processes to enable cease takes according to groundwater levels. For the Karewarewa Stream, POL TANK 44 includes a commitment to investigate and understand natural flow regimes. I do not consider additional monitoring sites and cease take triggers would improve effectiveness or efficiency of PPC9.
1523. Five submission points relate to Note 2. All submissions oppose the note because it causes confusion and if the monitoring site were changed, a change may also be required to the specified minimum and flow maintenance trigger flows if the monitoring site were to be moved. I also note that the description of Note 2 does not seem relevant to two of the monitoring sites to which it applies. I recommend that Note 2 is deleted.
1524. 36 submission points are identical and seek that every reference to Actual and Reasonable is amended. One submission seeks that unused water be reallocated to irrigators. These requests are inconsistent with the definition of Actual and Reasonable as included in the glossary and POL TANK 36 and 37. See Section 15.6.17 for discussion on the definition of Actual and Reasonable.
1525. The Council's own submission seeks a correction to the planning maps so that Zone 1 groundwater areas that are connected to the Ngaruroro River are removed from Schedule 31E and inserted onto Schedule 31C. This change improves clarity and consistency.
1526. The changes I am recommending to Schedule 31 and the submission points that give scope for the changes are shown in the tracked changes version.

### Recommendations

1527. I recommend that submission points 3.9, 8.26, 8.27, 13.14, 59.35, 66.44, 103.19, 124.18, 135.64, and 118.7 are accepted in part because they support Schedule 31 as notified but I recommend changes.
1528. I recommend that submission points 59.34, 66.43, 99.29, 118.1, 123.149, 129.39, and 210.141 are accepted because they improve clarity and consistency.
1529. I recommend that submission point 180.71 is accepted in part in so far as it improves clarity and consistency.
1530. I recommend that submission points 23.15, 32.15, 35.15, 37.15, 38.15, 43.15, 44.15, 49.15, 54.15, 61.15, 62.15, 69.15, 71.15, 72.15, 73.15, 77.15, 79.15, 86.15, 91.14, 95.15, 96.15, 97.16, 99.41, 104.15, 105.15, 110.15, 122.15, 132.45, 185.15, 186.15, 194.6, 195.146, 196.16, 211.15, 214.15, 215.15, 217.14, 218.15, 219.15, 220.15, and 221.15 are rejected because they do not provide consistency or clarity.
1531. I recommend that submission points 82.7, 106.7, 111.11, 115.2, 115.4, 120.36, 120.39, 120.45, 120.47, 123.150, 123.151, 132.43, 132.141, 132.143, 132.145, 141.3, 194.108, 198.6, 201.49, 210.43, 210.144, 210.145, 225.6, and 232.2 are accepted in part because they are already provided for by Schedule 31.
1532. I recommend that submission points 14.14, 15.19, 17.8, 20.19, 50.17, 54.76, 59.36, 66.45, 115.5, 116.9, 118.8, 120.35, 120.46, 120.175, 120.176, 123.5, 123.4, 123.52, 123.148, 123.153, 130.1, 132.65, 132.90, 132.144, 132.145, 132.146, 132.154, 132.166, 132.171, 132.195, 194.109, 195.146, 198.7, 210.42, 210.146, 216.6, 222.3, 231.4, 240.8, and 241.6 are rejected because they do not improve efficient or effective implementation of POL TANK 43.

#### **15.4.4 Paritua and Karewarewa Streams: POL TANK 44**

##### Submission Points

1533. There are nine submission points about the Paritua and Karewarewa Streams and associated POL TANK 44. Submission points and further submission points for this topic are contained in in Table 15.4 of Appendix 3.
1534. The following evaluation may not explicitly refer to every submission point, but I have considered each submission point before making my recommendations.

##### Submission point requests

1535. Requests for amendments include:
- a. supporting and retaining the provision (1 submission point)
  - b. recognising the two streams as distinct, including individual minimum flows and flow monitoring sites
  - c. aligning with changes to POL TANK 39
  - d. providing a pathway for temporary takes
  - e. specific wording to ensure Council will investigate wetland creation, improve riparian management and reduce water permits
  - f. consideration of economic effects
  - g. re-visiting flows in Karewarewa Stream
  - h. specific wording to improve clarity.

##### Discussion

1536. POL TANK 44 outlines approaches to addressing the effects of over-allocation on the Paritua and Karewarewa Streams. This approach is more detailed and specific than the approaches outlined in POL TANK 43 because the Council recognises these streams are subject to seasonal drying up, and acknowledges the importance of these streams to local marae and for their flow contribution to other streams.
1537. This policy provides for flow mitigation and habitat enhancement works such as potential wetland creation, riparian management, better understanding of the natural flow regime, and the need to resource investigation of different options for stream depletion mitigation.
1538. Three submission points on POL TANK 43 do not seek specific relief. They relate to the potential economic effects of reducing allocated from the Paritua Stream, re-visiting flows in the Karewarewa Stream, and being urgent about the Paritua and Karewarewa Streams. I note that economic effects have been considered in the development of PPC9 and the importance of these streams and their flows is acknowledged by POL TANK 43.
1539. One submission seeks that Council “Recognise the Karewarewa and Paritua as separate distinct streams with separate characteristic hydrology and mauri with each having their own individual minimum flows, and respective flow monitoring sites”. While I agree they should be recognised as distinct streams in the wording of the policy and recommend changes to that effect, I consider the existing monitoring sites to effectively and efficiently provide information to help manage the adverse effects.
1540. One submission seeks that specific wording amendments are made which would have the effect of removing any reference to mitigating the adverse effects of stream depletion. To delete these provisions would not enable Council to address the specific adverse effects

present in the Paritua and Karewarewa Streams. Some submission points discussed in Section 15.3.1 seek that provisions to enhance flows in the Paritua Stream are retained in PPC9 and I have kept them in mind while making my recommendations.

1541. One submission seeks that POL TANK 54 is completely re-written and simplified. The new policy would require Council to investigate opportunities for wetland creation, improve riparian management and reduce water permits to ensure flow management regimes provide for 90% of trout habitat. I do not consider that these three actions alone are sufficient to effectively meet the needs of the Paritua and Karewarewa Streams.
1542. The changes I am recommending and the submission points that give scope for the changes are shown in the tracked changes version.

### Recommendations

1543. I recommend that submission point 194.6, and 195.66 are accepted in part because they support POL TANK 44 as notified but I am recommend some changes to POL TANK 44.
1544. I recommend that submission point 120.49 and 210.65 are accepted in part in so far as they provide clarity.
1545. I recommend that submission point 123.79 is accepted because it provides clarity.
1546. I recommend that submission point 201.42 is rejected because it does not improve effectiveness or efficiency.
1547. I recommend that submission points 106.12, 185.76, and 190.1 are rejected because they do not seek specific relief.

## **15.4.5 General Water Allocation Policies: POL TANK 45**

### Submission Points

1548. There are 19 submission points about General Water Allocation and POL TANK 45. Submission points and further submission points for this topic are contained in in Table 15.4 of Appendix 3.
1549. The following evaluation may not explicitly refer to every submission point, but I have considered each submission point before making my recommendations.

### Submission point requests

1550. Requests for amendments include:
- a. support for POL TANK 45 as notified (3 submission points)
  - b. changes to telemetry requirements
  - c. changes to requirements to cease connected groundwater takes
  - d. aligning with amendments to POL TANK 39
  - e. aligning with approach in Tukituki Catchment
  - f. enabling individual consent holders to offset stream depletion effects
  - g. removing requirements to address stream depletion effects.

### Discussion

1551. POL TANK 45 sets out how Council will assess applications to take water. These include excluding stored water from Schedule 31 allocation limits, requiring water metering for all

consented takes but telemetry only for those larger than 5 litres per second, application of allocation limits to tributaries, and enabling groundwater Zone 1 takes to participate in stream flow maintenance schemes instead of ceasing takes at low flows.

1552. A few submission points seek amendments to improve clarity of policy interpretation, and in order to align with amendments made to POL TANK 39. I do not consider amendments are necessary.
1553. Three submission points relate to telemetry requirements. The Resource Management (Measurement and Reporting of Water Takes) Regulations 2010 have been amended since PPC9 was notified. The amendments took effect on 3 September 2020. One submission recommends that PPC9 requirements are updated to align with the national regulations, while two others seek specific wording or reference amendments. I recommend that POL TANK 45 be amended to align with the requirements of the Measurement and Reporting of Water Takes Regulations.
1554. Four submission points relate to requiring connected groundwater takes to cease at minimum flows. Some submissions seek that Council adopt a similar approach as in RRMP POL TT9 and POL TT11, while others seek that Council require cease takes of any groundwater take with a stream depletion rate of 0.5 litres per second or more. The stream depleting impacts of groundwater takes in the Heretaunga Plains are quite different in nature to those in the Tukituki Catchment, therefore a different management and mitigation regime is required. For the reasons set out in relation to amendments made to POL TANK 39, linking all takes with a stream depletion effect of 0.5 litres per second to cease take requirements is not considered appropriate at this time.
1555. The changes I am recommending to and the submission points that give scope for the changes are shown in the tracked changes version.

### Recommendations

1556. I recommend that submission points 8.16, 59.9 and 66.9 are accepted in part because they support the policy as notified.
1557. I recommend that submission points 29.28 and 238.16 are accepted in part because they request consequential amendments to give effect to amendments to POL TANK 39.
1558. I recommend that submission points 58.26, 123.80, 203.19 are accepted because they improve clarity of PPC9.
1559. I recommend that submission point 132.158 is accepted in part because it is already provided for by PPC9.
1560. I recommend that submission points 3.18, 132.57, 132.118, and 194.62 are rejected because they are not appropriate solutions for the Heretaunga Plains groundwater context.
1561. I recommend that submission point 8.38, 59.10, 194.61, 195.67, 210.66 and 224.7 are rejected because they do not improve clarity and do not align with amendments made to POL TANK 39.

## 15.4.6 POL TANK 46

### Submission Points

1562. There are 50 submission points about POL TANK 46. Submission points and further submission points for this topic are contained in in Table 15.4 of Appendix 3.
1563. The following evaluation may not explicitly refer to every submission point, but I have considered each submission point before making my recommendations.

### Submission point requests

Requests for amendments include:

- a. supporting and retaining POL TANK 46 (6 submissions)
- b. deleting POL TANK 46 (2 submissions)
- c. referring to 'Actual use'
- d. referring to 'Actual and Reasonable use'
- e. amending definition of Actual and Reasonable use
- f. including references to 95% reliability of supply for irrigators.

### Discussion

1564. POL TANK 46 is about efficient water use and allocation. Efficiency in this context does not necessarily relate to the highest economic benefit, but rather to the achievement of PPC9 objectives, in particular OBJ TANK 17 and 18. This is achieved by ensuring Council processes are efficient and supporting water users to use and manage their allocation well.
1565. Two submissions seek specific wording amendments to refer to Actual and Reasonable use as a defined term included in the Glossary. I consider this will provide clarity and consistency for plan users and recommend that these changes should be replicated elsewhere throughout PPC9 to improve clarity.
1566. 41 submissions seek specific wording changes to refer to "actual use" only, include references to 95% reliability of supply for irrigators or do not seek specific relief. These submissions do not provide clarity for plan users.
1567. The changes I am recommending and the submission points that give scope for the changes are shown in the tracked changes version.

### Recommendations

1568. I recommend that submission points 3.5, 8.10, 8.17, 214.14, 132.14, 135.45, 194.63, and 195.68 are accepted in part because they support POL TANK 46 as notified and I recommend changes.
1569. I recommend that submission points 123.81, 132.147, and 210.67 are rejected because they do not support OBJ TANK 17 and 18, or align with RRMP POL 47.
1570. I recommend that submission points 29.61 and 194.64 are accepted because they provide clarity.
1571. I recommend that submission points 8.43, 23.10, 32.10, 35.10, 37.10, 38.10, 43.10, 44.10, 49.10, 54.10, 61.10, 62.10, 69.10, 71.10, 72.10, 73.10, 74.2, 77.10, 79.10, 86.10, 91.9, 95.10, 96.10, 97.11, 99.36, 104.10, 105.10, 110.10, 122.10, 123.81 124.26, 185.10, 186.10, 192.12, 194.65, 196.11, 210.67, 211.10, 214.10, 215.10, 217.9, 218.10, 219.10, 220.10, and 221.10 are rejected because they do not provide clarity.

## 15.4.7 POL TANK 47

### Submission Points

1572. There are 32 submission points about POL TANK 47. Submission points and further submission points for this topic are contained in in Table 15.4 of Appendix 3.

1573. The following evaluation may not explicitly refer to every submission point, but I have considered each submission point before making my recommendations.

### Submission point requests

1574. Requests for amendments include:

- a. support for and retention of policy or specific clauses (8 submissions)
- b. aligning terminology with industry definitions
- c. refer to 'best' practice instead of 'good' practice
- d. listing relevant industry codes of practice
- e. enabling use of other models than IRRICALC
- f. reducing reliability of supply to 90%.

### Discussion

1575. POL TANK 47 is about efficient water use and allocation. Efficiency in this context does not necessarily relate to the highest economic benefit, but rather to the achievement of PPC9 objectives, in particular OBJ TANK 17 and 18.

1576. POL TANK 47 provides more detail in relation to considerations to be taken into account when making consenting decisions.

1577. The majority of submissions on POL TANK 47 relate to specific wording amendments. Many submissions recommended alternative wording which better align with industry terms and interpretations and will improve clarity for plan users. I recommend these submissions are accepted or accepted in part where they align with the policy intent.

1578. Submitters suggest that POL TANK 47(c) should refer to 'distribution uniformity' rather than 'application efficiency'. The reference to application efficiency is intended to relate to how efficiently a permit holder uses their water. Submitters 59 and 66 include proposed definitions for the two terms which show they relate to different aspects of efficiency, are not interchangeable and are measured differently. I note that there are various types and definitions of efficiency commonly used in the irrigation sector so using the right term and definition is important to ensure correct and consistent implementation of PPC9. I recommend submitters provide further information regarding the difference between application efficiency and distribution uniformity, and why they consider distribution uniformity to be a more appropriate term to use in this context. Should 'application efficiency', 'distribution uniformity' or some other term be included in POL TANK 47, I recommend a definition for that term be added to the Glossary.

1579. Some submission points seek a 90% reliability of supply in clause c). Reliability of supply (sometimes referred to as security of supply) refers to the allocation of water required to meet a 1 in 20 year drought event. 95% reliability of supply is consistent with the RRMP approach and Market Economics modelling showed a significantly larger adverse economic

impact of a 90% reliability of supply than 95% reliability of supply.<sup>35</sup> See Section 8.7 of the Section 32 Report for further discussion.

1580. Three submissions seek that Council enable alternative models to IRRICALC to be used. POL TANK 47(b) enables this however I recommend changes to make this clearer.
1581. The changes I am recommending and the submission points that give scope for the changes are shown in the tracked changes version.

### Recommendations

1582. I recommend that submission point 3.6, 8.18, 46.10, 59.12, 59.16, 66.11, 66.13, 124.15, 135.46, 195.68 are accepted in part because they support POL TANK 47 as notified and I recommend changes.
1583. I recommend that submission points 59.11 and 66.10 are accepted because they improve clarity.
1584. I recommend that submission points 8.44, 29.30, 51.4, 59.13, 59.14, 59.15, 118.2, 123.82, 180.43, 192.13, 194.66, 210.68 are accepted in part because they improve clarity.
1585. I recommend that submission points 91.75, 95.78, and 123.84 are accepted in part because they are already provided for in PPC9.
1586. I recommend that submission points 11.3, 58.27, 59.17, and 201.43 are rejected because they do not help achieve OBJ TANK 17 and 18.
1587. I recommend that submission point 11.5 is rejected because it does not seek specific relief.

## **15.4.8 Water Use Change/Transfer: POL TANK 48**

### Submission Points

1588. There are over 50 submission points about water use changes and transfers, and POL TANK 48. Submission points and further submission points for this topic are contained in Table 15.4 of Appendix 3.
1589. The following evaluation may not explicitly refer to every submission point, but I have considered each submission point before making my recommendations.

### Submission point requests

1590. Requests for amendments include:
- a. support for POL TANK 48(e) (3 submission points)
  - b. support of POL TANK 48(g) (1 submission point)
  - c. prohibiting transfers
  - d. enabling transfer of allocated but unused water
  - e. enabling transfers from primary production to food processing uses
  - f. enabling transfers from frost protection to primary production
  - g. focussing on adverse effects
  - h. focussing on total water use at a water quantity area level
  - i. deleting references to stream flow augmentation/maintenance schemes

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<sup>35</sup> Market Economics, *Economy-wide Impacts of Proposed Policy Options for the TANK Catchments*, 15.

- j. elevating the status of ecosystem health, Te Mana o Te Wai and human health of irrigation and other uses.

## Discussion

- 1591. POL TANK 48 outlines matters Council will take into account when considering applications to change a water use, or to transfer a point of take. The ability to change the use of a water take and/or transfer a point of take is important to enable stream flow enhancement schemes, flexible management regimes, and efficient water use. The list of considerations ensures that the objectives of PPC9 are met, particularly OBJ TANK 16-18.
- 1592. POL TANK 48 relates to Rules 62a and 62b. Transfers are limited to Actual and Reasonable use of an existing consent, within the same quantity area, and between the same types of take (i.e. groundwater/surface water).
- 1593. 37 submission points seek that transfers of water permits that have been exercised are enabled. I have interpreted this to mean they seek that whole existing allocations should not be subject to an Actual and Reasonable assessment and should be transferable. To allow transfers of water that is allocated but not used would not align with NPSFM2020 requirements to avoid and phase-out over-allocation.
- 1594. One submission seeks that the policy is amended to focus on limiting quantity increases of water takes and the adverse effects on freshwater resources. Due to the highly connected nature of freshwater in the Heretaunga Plains a change in rate of take or timing of take could have different stream depletion effects, even if the quantity taken is the same. I agree the policy should be amended to focus on the adverse effects of changes and transfers of water takes because this aligns with the RMA and is good policy practice.
- 1595. Several submissions seek that Council prevent changes and transfers between catchments, or changes that might increase the scale or intensity of adverse effects. I consider that the PPC9 framework already provides for this but I recommend amended wording to improve clarity and continuity between POL TANK 48, Rules 62a and 62b. Two submission points seek that transfers between the unconfined and confined parts of the aquifer are prevented. I do not consider this control is required because of the Conditions and Matters for Discretion included in Rules 62a and 62b.
- 1596. Three submission points seek that transfers to industrial use be unlimited. This approach would not align with the priority order in OBJ TANK 16.
- 1597. Two submissions seek that transfers from frost protection to other uses be enabled. Takes and use for frost protection usually occur at the fringe of the irrigation and low flow season and have different impacts on minimum flows and stream depletion effects to other takes. To encourage the 'return' of these takes to the waterbody aligns with the NPSFM2020 hierarchy of obligations.
- 1598. One submission seeks that consents to take groundwater can be replaced with consents to take water from storage. I consider PPC9 enables this through the inclusion of POL TANK 54-56 and Rules 13-17 which enable and manage the effects of takes at high flows, damming and storing water.
- 1599. The changes I am recommending and the submission points that give scope for the changes are shown in the tracked changes version.

## Recommendations

1600. I recommend that submission points 59.18, 66.14 and 194.67 are accepted in part because they support POL TANK 47 as notified but I recommend changes.
1601. I recommend that submission points 120.52, 123.83, 132.76, 132.77, 132.109, 132.155, 194.67, 198.8, and 207.76 are accepted in part because they are already provided for by PPC9.
1602. I recommend that submission points 3.19, 36.12 and 210.69 are accepted in part because they improve clarity.
1603. I recommend that submission points 123.85, 132.59 and 132.75 are rejected because they do not improve clarity.
1604. I recommend that submission points 23.36, 32.36, 35.36, 37.36, 38.36, 43.36, 44.36, 49.36, 54.36, 61.36, 62.36, 69.36, 71.36, 72.36, 73.36, 77.36, 79.36, 86.36, 91.35, 95.36, 96.36, 97.37, 99.62, 104.36, 105.36, 110.36, 122.36, 180.44, 185.36, 186.36, 192.14, 194.68, 194.69, 195.69, 196.37, 211.36, 214.36, 215.36, 217.35, 218.36, 219.36, 220.36, and 221.36 are rejected because they do not give effect to the NPSFM2020.
1605. I recommend that submission points 6.3, 63.12, 63.55, 63.56, 74.3, and 207.12 are rejected because they do not help achieve OBJ TANK 16, 17 and 18.

### **15.4.9 Water Allocation – Permit Duration: POL TANK 49**

#### Submission Points

1606. There are 24 submission points about permit duration and POL TANK 49. Submission points and further submission points for this topic are contained in in Table 15.4 of Appendix 3.
1607. The following evaluation may not explicitly refer to every submission point, but I have considered each submission point before making my recommendations.

#### Submission point requests

1608. Requests for amendments include:
- a. support for a 15 year consent duration (7 submission points)
  - b. a shorter consent duration
  - c. a longer consent duration
  - d. an exemption for storage
  - e. amendments to the municipal supply exemption
  - f. explicitly removing the requirement for public notification due to cumulative effects.

#### Discussion

1609. POL TANK 49 creates a new framework for setting consent durations. In particular, POL TANK 49 establishes that consent durations for 15 years, or as required to align with the relevant common catchment expiry date, and will provide longer consent durations for municipal consents.
1610. RRMP Section 8.2.4 establishes that the Council will grant consents for 20 to 35 years unless certain exceptions apply. The exception of greatest relevance to PPC9 is that there

is a need to align consent expiry dates to consider cumulative effects through common consent renewal.

1611. Seven submission points support the 15 year consent duration. Three submissions seek longer durations, three submissions seek shorter durations. The TANK Group considered consent durations in Meeting 38. In the decisions on this matter, the majority of the TANK Group supported a 20 or 15 year consent duration. I consider 15 year consent durations provides a balance between certainty for water users who may need to invest in infrastructure to utilise their consent, and flexibility for changes to respond to environmental needs.
1612. Notified POL TANK 40(e)(iii) states that consent durations for significant water storage infrastructure is to be consistent with the scale of infrastructure. I recommend that POL TANK 40(e) is deleted and an equivalent exclusion clause is included in POL TANK 49 for consistency and clarity.
1613. Notifying all of the common consents in a water quantity area is likely to trigger RMA Section 95 requirements for public notification due to the cumulative effects of those consents being more than minor. There are over 1,500 consents to take groundwater across the TANK Catchments. Publicly notifying all of these consents could cause PPC9 provisions, particularly the definition and application of Actual and Reasonable use, to be litigated through individual consents resulting in unnecessary processing delays and cost. A more efficient and effective process would be to consider PPC9 provisions once, through the plan making process. I note that once stream depletion mitigation options are available, public notification would be an effective means for ensuring water users are doing what they can to mitigate the adverse effects of water takes. I recommend amendments to TANK Rule 9 and TANK Rule 10 in accordance with RMA Sections 95A(5)(a), 95A(9), 95B(6)(a) and 95B(10) to clarify when public notification is not required.
1614. Two submissions relate to the consent duration for municipal supplies. The submitters seek that consent duration aligns with requirements under the National Policy Statement on Urban Development 2020, and is not tied to Heretaunga Plains Urban Development Strategy due to the increased review cycle of that document and the need for greater certainty when providing significant municipal infrastructure. I note that the definition of 'long term' under the NPSUD2020 is "between 10 and 30 years" and assume the submitters suggest a 30 year duration as that would align with two 15 year consent periods for other consents in the relevant quantity area. I note that municipal supplies account for a large proportion of water use throughout the year so the effect of municipal takes should also be considered with other takes in the same water quantity areas. I recommend an amendment to allow for a more flexible timeframe that enables alignment with other common consents.
1615. The changes I am recommending and the submission points that give scope for the changes are shown in the tracked changes version.

### Recommendations

1616. I recommend that submission points 3.7, 8.19, 29.32, 59.19, 66.15, 103.20, 124.16, 99.17, 99.107, 193.8 are accepted and submission points 51.5, 63.13, 180.45, and 207.13 are accepted in part because they provide consistency and clarity.
1617. I recommend that submission points 123.86, 135.47, 141.9, 195.70, 210.70, and 231.8 are rejected because they do not improve effectiveness or efficiency.
1618. I recommend that submission points 29.31, 194.70, 208.15, and 238.17 are accepted in part because they support effectiveness and efficiency.

### 15.4.10 Schedule 33

#### Submission Points

1619. There are 13 submission points about Schedule 33. Submission points and further submission points for this topic are contained in in Table 15.4 of Appendix 3.
1620. The following evaluation may not explicitly refer to every submission point, but I have considered each submission point before making my recommendations.

#### Submission point requests

1621. Requests for amendments include:
- a. support for Schedule 33 as notified (four submissions)
  - b. extending permit durations
  - c. reducing permit durations
  - d. aligning permit durations with FEMP requirements
  - e. correcting policy references
  - f. correcting dates which do not align with POL TANK 49.

#### Discussion

1622. Schedule 33 helps implement POL TANK 49 which relates to setting common expiry dates for water permits in each quantity area. Schedule 33 lists all the current common expiry dates and a programme of setting future common expiry dates to align them to common 15 year periods. The Karamū, Twyford and Ahuriri water quantity units have multiple common expiry dates which require a staged approach to align to a single expiry date for each water quantity area.
1623. Some submission points note errors with the policy reference and Raupare Stream dates. I recommend accepting these points and I recommend amendments to correct the errors. I recommend the dates for the Raupare Stream to align with the Twyford groundwater takes because they are part of an existing global consent. I have also amended takes in Poraiti to enable consistent review.
1624. Some submission points seek the permit duration is extended, reviewed quicker, or made to align with Farm Environment Management Plans (FEMPS). I consider the timeframes set out in Schedule 33 helps implement POL TANK 49 by providing for 15 year consent durations, except where necessary to align common quantity areas to a single date. FEMPs are intended to be a much more dynamic document with more frequent reviews than water permits, which are relatively static over their duration.
1625. The changes I am recommending and the submission points that give scope for the changes are shown in the tracked changes version.

#### Recommendations

1626. I recommend that submission points 3.10, 59.38, 66.47, and 124.19 are accepted in part because they support Schedule 33 as notified and I recommend changes.
1627. I recommend that submission points 50.19, 106.5, 116.10, 195.148 and 225.8 are rejected because they do not implement POL TANK 49.
1628. I recommend that submission points 58.40 and 194.110 are accepted in part because they correct errors.

1629. I recommend that submission point 135.65 is accepted in part in so far as it corrects an error.

**1630.** I recommend that submission point 132.161 is rejected because it seeks consequential relief to submission points I do not recommend accepting.

#### **15.4.11 Water Allocation – Priority: POL TANK 50**

##### Submission Points

1631. There are 14 submission points about POL TANK 50. Submission points and further submission points for this topic are contained in in Table 15.4 of Appendix 3.

1632. The following evaluation may not explicitly refer to every submission point, but I have considered each submission point before making my recommendations.

##### Submission point requests

1633. Requests for amendments include:

- a. retaining the policy as drafted (3 submission points)
- b. requiring territorial local authorities to investigate or implement residential and commercial water metering
- c. changes to efficiency measure
- d. broadening examples of non-residential use
- e. referring to successive versions of HPUDS
- f. focussing municipal water allocation on planned growth rather than likely growth
- g. adding a provision to provide water allocation for regionally significant industry not provided for within municipal allocations

##### Discussion

1634. POL TANK 50 includes a set of considerations for making decisions on municipal and papakāinga water supply. This policy aligns with OBJ TANK 16 and 18 because it states that the Council will ensure the water needs of future community growth are met within water limits. It exempts applications for municipal and papakāinga water supply from an Actual and Reasonable assessment as defined in the glossary. Instead, it links the allocation of water for population and urban development to projections and estimates included in Heretaunga Plains Urban Development Strategy 2017.

1635. The Heretaunga Plains Urban Development Strategy is a collaborative approach by the Hastings District Council, Napier City Council and Hawke's Bay Regional Council to plan for urban growth on the Heretaunga Plains for the period 2015-2045. HPUDS takes a long-term view of land-use and infrastructure, and is regularly reviewed to ensure it is kept up-to-date and relevant. The strategy went through its first review cycle during 2016 and was adopted by the three partner councils in early 2017.

1636. The NPSUD2020 places obligations on territorial authorities to adequately provide for urban growth and development (see Section 15.2.1 for further discussion on the overlap of the NPSFM2020 and NPSUD2020 and the general approach to urban water allocation). HPUDS 2017 includes projections about the rate of population growth in Heretaunga Plains (Napier and Hastings). It is feasible to assume that as HPUDS (or its equivalents under the NPSUD2020) are reviewed and developed, population projections and associated freshwater demand will continue to grow. Given the tension between increasing urban

demand and the over-allocated nature of the freshwater resource in the Heretaunga Plains, urban and development growth will need to be provided for through alternative measures, such as improving efficient use and water conservation.

1637. Because of this projected growth, reallocating territorial authorities their actual historical use would require clawing back their allocation. Linking Napier City Council and Hastings District Council's consented allocations to HPUDS2017 allows for some growth in actual water use but will not require claw backs. Applying a 'claw back' could result in Napier City Council and Hastings District Council failing their obligations under the NPSFUS2020.
1638. If municipal water supply allocations are tied to subsequent versions of HPUDS or other spatial plans or strategies, and not limited to 2017 projections, they will also increase. This is also true for related industrial growth and increasing demand for water. Enabling any allocation to continue growing is contrary to the avoiding and phasing out over-allocation. Like all water users in the Heretaunga Plains, territorial authorities must also be constrained in their water allocations and find alternative sustainable methods of meeting demand.
1639. Submitters seek that municipal efficiency is improved by way of requiring territorial authorities to investigate or implement residential and commercial water metering. PPC9 is a plan change to the RRMP and does not propose to make amendments to the RPS. As such, PPC9 cannot require territorial authorities to adopt particular implementation methods. Territorial authorities may choose to investigate and implement water metering as a way of improving efficiency in order to meet the consent application considerations established in POL TANK 50 and make efficient use of their limited allocations.
1640. Non-residential uses of municipal water supplies can cover a variety of uses for social, cultural, recreational, and economic uses. I do not think the intention of the uses included in parenthesis was intended to define or limit the definition of non-residential uses. I recommend adding 'e.g.' in the parenthesis to remove confusion.
1641. Several submissions sought that amendments were made to sub-clause (b)(i) which requires industry good practice targets to be met. An Infrastructure Leakage Index of 4 or better is included as a minimum measure of efficiency. The use of the word "including" in this sub-clause implies that other industry good practice measures can also be considered. The Infrastructure Leakage Index can be categorised into one of four Bands:
- a. Band A: < 2.0 ; further loss reduction may be uneconomic unless there are shortages
  - b. Band B: 2.0 to < 4.0; possibilities for further improvement
  - c. Band C: 4.0 to < 8.0; poor leakage management, tolerable only if resources are plentiful and cheap
  - d. Band D: > 8.0; very inefficient use of resources, indicative of poor maintenance and system condition in general.<sup>36</sup>
1642. An Infrastructure Leakage Index of 4 or better would fall within Band B. I consider this is a reasonable minimum standard and given the restriction in sub-clause (a) to allocations being tied to HPUDS 2017 projections. Management and operation of reticulated systems are likely to require high efficiency to maximise use of their allocations.
1643. I recommend reference to HPUDS in clause c)(i) is removed because HPUDS may be replaced by documents developed under the NPSUD2020. This is a different type of reference than in clause a) because that reference is to a specific version of HPUDS and is

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[https://www.waternz.org.nz/Folder?Action=View%20File&Folder\\_id=101&File=benchmarking\\_of\\_water\\_losses\\_%20manual%202008.pdf](https://www.waternz.org.nz/Folder?Action=View%20File&Folder_id=101&File=benchmarking_of_water_losses_%20manual%202008.pdf)

not intended to refer to future versions of HPUDS or any equivalents developed under the NPSUD2020.

1644. The changes I am recommending and the submission points that give scope for the changes are shown in the tracked changes version.

### Recommendations

1645. I recommend that submission points 13.11, 123.87, and 210.71 are accepted in part in so far as the help achieve OBJ TANK 18, however I make amendments to the policy as notified.
1646. I recommend that submission points 132.177 is accepted in part because it seeks that the policy gives effect to the NPSFM2020 hierarchy of obligations.
1647. I recommend that submission points 63.14, 82.3, and 207.14 are accepted in part in so far as they reduced confusion around the definition of non-residential demand. I do not accept parts of the submissions that relate to water allocations and efficiency measures.
1648. I recommend that submission points 11.9, and 46.12 are rejected because it does not seek specific relief.
1649. I recommend that submission points 63.52 and 195.71 are rejected because it does not align with the NPSFM2020 requirement to avoid and phase-out over-allocation.
1650. I recommend that submission points 46.13, 53.22 and 97.83 are rejected because it is not a Regional Council function.

### **15.4.12 Water Allocation – Priority: POL TANK 51**

#### Submission Points

1651. There are 81 submission points about POL TANK 51. Submission points and further submission points for this topic are contained in in Table 15.4 of Appendix 3.
1652. The following evaluation may not explicitly refer to every submission point, but I have considered each submission point before making my recommendations.

#### Submission point requests

1653. Requests for amendments include:
- a. support for the policy as drafted (three submissions)
  - b. correcting references to listed organisations
  - c. adding primary sector representatives to the emergency water management group
  - d. providing for water to assist the survival of permanent horticultural crops
  - e. adding a new policy about specifically avoiding the death of horticultural crops
  - f. specific wording amendments.

#### Discussion

1654. POL TANK 51 establishes the priority order for water uses at time where the Council considers there is a serious temporary shortage of water in its region or any part of its region under Section 329 of the RMA. POL TANK 51 aligns with Section 14(3) of the RMA which prioritises the reasonable domestic needs of individuals, animal drinking water, and fire-fighting uses. It also aligns with the NPSFM2020 hierarchy of obligations with human

health needs prioritised before other economic, social, cultural uses, and helps achieve OBJ TANK 16 which further prioritises water allocation in the Heretaunga Plains.

1655. 31 submission points seek that “affected primary sector groups” are also included in the emergency water management groups. I consider that primary sector interests are already represented by the inclusion of representatives from the Ministry of Primary Industries.
1656. One submission seeks an amendment to correctly refer to Fire and Emergency New Zealand. I also recommend that other organisations should be correctly referred to in full.
1657. Three submissions seek that references to horticulture and primary production are removed from the policy. Some submitters support the inclusion of horticulture and primary industries. One submitter seeks an additional sub-clause which specifies “water essential for the survival of seed, vegetable, stock crops, trees, grape vines, animals, and pasture”, and others seek exemptions at minimum flows for the survival of horticultural tree crops or new policies specifically providing for the survival of horticultural crops. Primary industries play a significant role in the economy of the Heretaunga Plains and the wider Hawke’s Bay economy which warrants consideration when making a Section 329 direction. I consider the priority order of POL TANK 50 and the existing minimum flow rules align with Section 14(3) of the RMA, the NPSFM2020 hierarchy of obligations, and OBJ TANK 16.
1658. The changes I am recommending and the submission points that give scope for the changes are shown in the tracked changes version.

### Recommendations

1659. I recommend that submission points 13.12 and 135.48 are accepted in part because they improves clarity and consistency.
1660. I recommend that submission points 99.18, 146.2 and 180.46 are accepted in part because they align with OBJ TANK 16.
1661. I recommend that submission points 10.6, 23.32, 32.32, 35.32, 37.32, 38.32, 43.32, 44.32, 49.32, 61.32, 62.32, 69.32, 71.32, 72.32, 73.32, 77.32, 79.32, 86.32, 91.31, 95.32, 96.32, 97.33, 99.58, 104.32, 105.32, 110.32, 120.93, 122.32, 123.88, 185.32, 186.32, 196.33, 210.72, 211.32, 214.32, 215.32, 217.31, 218.32, 219.32, 220.32, and 221.32 are rejected because they do not align with or give effect to RMA Section 14(3), the NPSFM2020, and OBJ TANK 16.
1662. I recommend that submission points 14.9, 15.11, 18.13, 20.11, 26.13, 28.13, 29.33, 34.13, 39.13, 41.13, 42.13, 48.13, 53.13, 54.32, 68.13, 75.13, 76.13, 81.13, 84.13, 87.13, 88.13, 94.13, 102.13, 103.9, 107.13, 143.12, 165.13, 179.13, 194.54, 194.71, 195.72, 199.13, 204.13, 213.13, 238.18 are rejected because they are already provided for in POL TANK 51.
1663. I recommend that submission point 132.179 is rejected because it does not improve clarity or consistency.

### **15.4.13 Over-Allocation: POL TANK 52**

#### Submission Points

1664. There are over 100 submission points about POL TANK 52. Submission points and further submission points for this topic are contained in in Table 15.4 of Appendix 3.

1665. The following evaluation may not explicitly refer to every submission point, but I have considered each submission point before making my recommendations.

#### Submission point requests

1666. Requests for amendments include:

- a. support for the policy as drafted (2 submitters)
- b. enabling takes at high flows for storage and release
- c. a permitted pathway for temporary takes
- d. clear policy direction to phase out over-allocation
- e. using total allocation volume to re-allocate consents
- f. removing clause (d) and clause (g)
- g. changing the meaning of Actual and Reasonable
- h. enabling allocation of surface water above Actual and Reasonable use
- i. enabling the transfer of allocated but unused water
- j. exempting takes for the survival of permanent horticultural takes
- k. implementing POL TANK 52 after the POL TANK 42 review is completed.

#### Discussion

1667. POL TANK 52 establishes the method for avoid further over-allocation of surface water takes in the Heretaunga Plains. It reflects and aligns with POL TANK 36, 37 and 38 which establishes the method for groundwater takes to avoid groundwater takes.

1668. POL TANK 52 gives effect to the NPSFM2020 requirement to avoid and phase-out over-allocation by preventing new allocations, re-allocating water according to Actual and Reasonable use, reducing the permitted take volume to 5m<sup>3</sup>, and enabling flexible management options such as transfers, global consents, storage, and augmentation of surface water.

1669. A large number of points relate to transfer of permits to take water which are addressed in Section 15.4.8. I do not repeat that discussion here but I recommend these points are rejected in accordance with that discussion.

1670. 36 submission points seek that a specific exemption is made to allow up to 20m<sup>3</sup> to continue to be taken per day to assist the survival of permanent horticultural crops. Existing uses as at 2 May 2020 may continue, including those for the survival of horticultural crops. A specific exemption which allowed new uses would not align with NPSFM2020 hierarchy of obligations or meet the requirement to avoid and phase-out over-allocation of freshwater.

1671. Several submissions oppose this policy due to the application of Actual and Reasonable use, or the definition of Actual and Reasonable use. Some points seek amendments which would have the effect of allowing allocation, transfer and use of freshwater above Actual and Reasonable use. To make these changes would not allow Council to meet its obligations to avoid and phase out over-allocation and would not align with the NPSFM2020.

1672. Four policies seek that the policy is amended to clearly enable new high flow takes. I consider that this improves clarity and consistency of PPC, particularly alignment with OBJ TANK 18 and POL TANK 54-60.

1673. Some submissions seek that PPC9 includes clear policy direction to phase out over-allocation within five years or other specified timeframes, use a total allocation to inform consent re-allocation, and remove reference to water sharing and collectives. As discussed in Section 15.1, PPC9 does establish a clear pathway to avoid and phase out over-allocation through the application of Actual and Reasonable use, a review under POL TANK

42 within 10 years of PPC9 being made operative will inform limit setting and any further allocation reductions, and investigating and implementing mitigation measures to address adverse effects of over-allocation.

1674. The changes I am recommending and the submission points that give scope for the changes are shown in the tracked changes version.

### Recommendations

1675. I recommend that submission points 8.11 and 124.10 are accepted in part because they support POL TANK 52 as notified and I recommend changes.

1676. I recommend that submission points 106.13, 111.17, 115.1, 115.7, 115.8, 120.8, 123.89, 138.8, 147.5, 203.2, 210.12, and 210.73 are accepted in part in so far as PPC9 provides a pathway to phase out over-allocation as described in Section 15.1.

1677. I recommend that submission points 29.34, 82.12, 99.19, 180.47, 193.9, and 194.72 are accepted in part because they improve clarity and consistency.

1678. I recommend that submission point 203.20 is rejected because it is not relevant to POL TANK 52.

1679. I recommend that submission points 58.28, 136.3, and 201.44 are rejected because they do not support effective achievement of the objectives.

1680. I recommend that submission points 47.6 and 47.9 are rejected because they do not seek specific relief.

1681. I recommend that submission points 23.37, 32.37, 35.37, 37.37, 38.37, 43.37, 44.37, 47.6, 47.9, 49.37, 51.6, 54.37, 61.37, 62.37, 69.37, 71.37, 72.37, 73.37, 77.37, 79.37, 86.37, 91.36, 95.37, 96.37, 97.38, 99.36, 104.37, 105.37, 110.37, 122.37, 135.49, 185.37, 186.37, 194.73, 196.38, 211.37, 214.37, 215.37, 217.36, 218.37, 219.37, 220.37, and 221.37 are rejected in accordance with the discussion in Section 15.4.8 of this report.

1682. I recommend that submission points 23.11, 32.11, 35.11, 37.11, 38.11, 43.11, 44.11, 49.11, 54.11, 61.11, 62.11, 69.11, 71.11, 72.11, 73.11, 77.11, 79.11, 86.11, 91.10, 95.11, 96.11, 97.12, 99.37, 104.11, 105.11, 110.11, 122.11, 185.11, 186.11, 196.12, 200.2, 211.11, 214.11, 215.11, 217.10, 218.11, 219.11, 220.11, and 221.11 are rejected in accordance with Section 15.6.17 of this report.

1683. I recommend that submission points 6.4, 6.5, 23.33, 30.7, 32.33, 35.33, 37.33, 38.33, 43.33, 44.33, 49.33, 54.33, 61.33, 62.33, 63.15, 69.33, 71.33, 72.33, 73.33, 77.33, 79.33, 86.33, 91.32, 95.33, 96.33, 97.34, 99.59, 104.33, 105.33, 110.33, 122.33, 185.33, 186.33, 195.73, 196.34, 207.15, 211.33, 214.33, 215.33, 217.32, 218.33, 219.33, 220.33, and 221.33 are rejected because they do not give effect to the NPSFM2020.

### **15.4.14 Frost Protection: POL TANK 53**

#### Submission Points

1684. There are seven submission points about POL TANK 53. Submission points and further submission points for this topic are contained in in Table 15.4 of Appendix 3.

1685. The following evaluation may not explicitly refer to every submission point, but I have considered each submission point before making my recommendations.

## Submission point requests

1686. Requests for amendments include:
- support for the policy as notified (one submission point)
  - deleting the policy (one submission point)
  - expanding the policy to include temporary construction dewatering
  - requiring applicants to investigate non-water reliant alternatives
  - ensuring frost protection uses are within allocation limits and minimum flows
  - excluding frost protection takes from allocation limits and minimum flows
1687. reflecting the limited scope of frost protections effects.

## Discussion

1688. POL TANK 53 establishes consent considerations for new applications to take and use water to help avoid the effects of frost on sensitive crops.
1689. This practice occurs infrequently, on the fringes of the irrigation season (that is in spring or autumn) when flows are above cease take triggers (the minimum flow), and for a limited time. As a result, the total volume used may not exceed permitted take volumes under Rules 7 and 8, however the instantaneous rate of take can be quite high. The adverse effects arising from frost protection takes are generally minor and relate to:
1690. the impact on the flow of a stream. This is generally brief given the short duration of the take.
1691. the timing of the take. Reductions in flow at times when spawning fish may be sensitive to lower flows.
1692. the cumulative impact on groundwater levels. The volume of frost protection takes are generally minor given the short duration of a take and its relative infrequency but may have adverse effects on neighbouring bores and have stream depletion effect. These potential adverse effects require consideration on a site by site basis.
1693. The RRMP manages frost protection takes by a limited duration instantaneous take instead of by an annual allocation. Under PPC9, existing frost protection takes can be applied for as a Restricted Discretionary activity under Rules 9 and 10, and new frost protection takes can be applied for as a Discretionary activity under Rule TANK 11.
1694. One submission point seeks that the policy is expanded to include reference to temporary construction dewatering as well. I consider this would confuse the intent of the policy because temporary dewatering is likely to have different adverse effects.
1695. One submission point highlights that there is a discrepancy between this policy and Rule 11, where this policy requires the application of minimum flows and Rule 11 excludes consideration of allocation limits and minimum flows in Schedule 31. I recommend consequential amendments to Rule 11 to rectify this discrepancy.
1696. One submission point seeks that Council requires applicants to investigate and discount non-water dependent alternatives. I consider this approach aligns with the NPSFM2020 hierarchy of obligations as it could result in more water being 'returned' to the waterbody.
1697. One submission seeks that frost protection takes are always within allocation limits and minimum flows. Due to the timing, duration, and total volume of frost protection takes, I do not consider they warrant the same level of regulation as takes during minimum flow

periods. Due to the high rate of take and actual and potential adverse effects, I consider particular consideration on a case-by-case basis is appropriate.

1698. The changes I am recommending and the submission points that give scope for the changes are shown in the tracked changes version.

### Recommendations

1699. I recommend that submission point 195.74 is accepted in part because it seeks that POL TANK 53 is retained as notified but I recommend changes.

1700. I recommend that submission point 8.45 is accepted because it gives effect to the NPSFM2020.

1701. I recommend that submission points 123.90, 180.48, 194.74, and 203.21 are rejected because they do not improve clarity, effectiveness or efficiency.

1702. I recommend that submission point 210.74 is rejected because it seeks that the policy is deleted.

## **15.5 High Flow Allocation**

### **15.5.1 High Flow Allocation**

#### Submission Points

1703. There are 21 submission points about High Flow Allocation policies generally. Submission points and further submission points for this topic are contained in in Table 15.5 of Appendix 3.

1704. The following evaluation may not explicitly refer to every submission point, but I have considered each submission point before making my recommendations.

#### Submission point requests

1705. Requests for amendments include:

- a. support for POL TANK 54-58 (three submission points)
- b. support for water storage concepts generally (four submission points)
- c. support for financial contributions to Council owned storage schemes (three submission points)
- d. support for ownership of storage by mana whenua (one submission point)
- e. setting high flow allocations
- f. prohibiting all new large run of river dams
- g. requiring safe fish passage
- h. protecting natural character, and ability of tangata whenua to exercise kaitiakitanga and conduct cultural practices
- i. considering offline storage on a case by case basis
- j. focussing on water retention
- k. restricting high flow abstractions to 15 May – 15 October
- l. requiring high flows to be managed in a way that gives effect to the NPSFM2017, protects Te Mana o te Wai and ecosystem health, and meets Schedule 26 targets
- m. giving greater direction to minimise residual flows and enable greater flexibility
- n. stating that a series of small dams on the Ngaruroro River is simple and practical
- o. enabling storage from springs.

## Discussion

1706. POL TANK 54 – 60 enable high flow takes for storage and subsequent use or release in a way that avoids, remedies or mitigates adverse effects. Given the over-allocated and highly connected nature of surface water and groundwater in the Heretaunga Plains, water harvesting and storage is considered an option for mitigating stream depletion effects, providing for future growth, adapting to climate change, and providing for the development of Māori well-being. POL TANK 54-60 help achieve OBJ TANK 16, 17 and 18.
1707. Schedule 32 establishes trigger flows and allocation limits which allow high flow takes to begin at the median flow (except for specific exemptions in the Ngaruroro River for Paritua Stream and existing high flow takes), and requires them to stop at the median flow. High flow takes are not to individually or cumulatively cause a more than minor adverse effect to the frequency of flows above three times the median flow (FRE3). Ms Wells and Ms Kirkham discuss the setting of median flows, FRE3, and what is considered a minor effect in the Water Quantity Memo which can be found in Appendix 11.
1708. The Section 32 Report discusses damming, storage and high flow takes in Section 8.5. I support that analysis.
1709. Many of the submissions seeking amendments to high flow take and storage provisions generally are already provided for in PPC9:
- a. Schedule 32 establishes trigger flows, allocation limits for high flow takes and flow alteration limits for damming that apply all year round.
  - b. If takes for storage were to be taken at low flow allocations, that water would be subject to TANK Rules 7-11.
  - c. Rule 17 prohibits damming of the mainstems (large run of river dams) of the Ngaruroro, Omahaki, Taruarau, Tūtaekurī, Mangaone and Mangatutu Rivers.
  - d. The provisions of the RRMP relating to activities on the beds of rivers and lakes apply, including POL TANK 79 and Rule 67 which require the provision of fish passage. Damming and storage activities are also subject to Resource Management (National Environmental Standards for Freshwater) Regulations 2020 Subpart 3 relating to the passage of fish affected by structures.
  - e. Except for permitted activities under RRMP Rule 67, damming and storage activities in PPC9 have Discretionary, Non-complying, or Prohibited status. This means that new dams or storage infrastructure will be subject to resource consent and considered on a case-by-case basis.
  - f. The Actual and Reasonable framework which provides a pathway to avoid and phase out over-allocation, and POL TANK 27, 30, 35, 42 and 44 encourage the maintenance, restoration and improvement/creation of wetlands.
  - g. POL TANK 54(a) and 55(a) require consideration of any changes in water quality. I also make recommendations to Rule 18 which more explicitly requires water quality to be considered in discharge activities from stored water.
1710. One submission requests that PPC9 be amended to ensure the effects of damming and storage activities that may significantly adversely affect the ability of tangata whenua to exercise kaitiakitanga and conduct cultural practices are managed. Providing this protection would help achieve amended OBJ TANK 2(d), however the submission point does not request specific relief. I request the submitter to provide further information for the benefit of the panel.
1711. Some submissions seek more flexible rules and minimising residual flows, and the ability to store water from springs. I consider that POL TANK 54, POL TANK 54 and Schedule 32 as notified help give effect to OBJ TANK 2.

1712. Some of these matters are also discussed in the following sections about specific policies.

### Recommendations

1713. I recommend that submission points 59.20, 66.16, 72.78, 72.79, 73.78, 73.79, 202.6, 202.7, 185.77, 195.75 and 216.9 are accepted because they support one or more of the high flow allocation policies as notified.
1714. I recommend that submission points 120.51, 120.53, 210.63, 120.133, 120.134, 120.135, and 120.136 are accepted in part because they are already provided for by PPC9.
1715. I recommend that submission point 132.47 is rejected because it does not give effect to OBJ TANK 18.
1716. I recommend that submission point 120.63 is accepted in part because it helps achieve OBJ TANK 2.
1717. I recommend that submission points 22.2 and 235.4 are rejected because they do not help achieve OBJ TANK 2.
1718. I recommend that submission point 145.11 is rejected because it does not seek specific relief.

### **15.5.2 Adverse Effects – Water Damming: POL TANK 54**

#### Submission Points

1719. There are 88 submission points about adverse effects of damming and POL TANK 54. Submission points and further submission points for this topic are contained in in Table 15.5 of Appendix 3.
1720. The following evaluation may not explicitly refer to every submission point, but I have considered each submission point before making my recommendations.

#### Submission point requests

1721. Requests for amendments include:
- a. support for POL TANK 54 as notified (3 submissions)
  - b. revisiting high flow allocations
  - c. specifying high flow allocations for the Ahuriri Catchment
  - d. deleting clauses a and c
  - e. prohibiting all run of river dams.

#### Discussion

1722. POL TANK 54 recognises that adverse effects could be caused by water damming and sets out a list of effects that the Council will avoid, remedy or mitigate when assessing applications to dam water and take water from the dam impoundment. POL TANK 54 gives effect to OBJ TANK 2, 3 and 18.
1723. 76 submission points account for 2 sets of identical points, and relate to revisiting high flow allocations and providing high flow allocations for the Karamū and Ahuriri Catchments. These matters which are addressed in Section 15.5.10. I do not repeat that discussion here

but I recommend these points are accepted, accepted in part, or rejected in accordance with that discussion.

1724. The consideration of potential impacts on water quality is important for upholding Te Mana o Te Wai and giving effect to the hierarchy of obligations. The development of dams may enable land use change or intensification. POL TANK 54 enables Council to consider the holistic impacts of a dam on subsequent land use change and water quality.
1725. Two submission points seek that POL TANK 54 is deleted and all run of river dams in the TANK Catchments are prohibited. As discussed in Section 15.5.1, storage, including damming, is considered an important option for mitigating adverse effects of over-allocation, providing for current and foreseeable water needs, and improving community resilience to climate change.
1726. I do not recommend changes to POL TANK 54.

### Recommendations

1727. I recommend that submission points 99.20, 108.2, 195.75 are accepted because they support POL TANK 54 as notified.
1728. I recommend that submission points 123.91 and 210.75 are rejected because they do not give effect to OBJ TANK 3 and 18.
1729. I recommend that submission point 180.49 is rejected because it does not give effect to OBJ TANK 4 and 7.
1730. I recommend that submission points 23.16, 23.24, 32.16, 32.24, 35.16, 35.24, 37.16, 37.24, 38.16, 38.24, 43.16, 43.24, 44.16, 44.24, 49.16, 49.24, 54.16, 61.16, 61.24, 62.16, 62.24, 69.16, 69.24, 71.16, 71.24, 72.16, 72.24, 73.16, 73.24, 77.16, 77.24, 79.16, 79.24, 86.16, 86.24, 91.15, 91.23, 95.16, 95.24, 96.16, 96.24, 97.17, 97.25, 99.42, 104.16, 104.24, 105.16, 105.24, 110.16, 110.24, 122.16, 122.24, 185.16, 185.24, 186.16, 186.24, 196.17, 196.25, 211.16, 211.24, 214.16, 214.24, 215.16, 215.24, 217.15, 217.23, 218.16, 218.24, 219.16, 219.24, 220.16, 220.24, 221.16, 221.24, 23.24, 32.24, 35.24, 37.24, 38.24, 43.24, 44.24, 49.24, 54.24, 61.24, 69.24, 71.24, 72.24, 73.24, 77.24, 79.24, 86.24, 91.23, 95.24, 96.24, 99.50, 97.25, 104.24, 105.24, 110.24, 122.24, 185.24, 186.24, 196.25, 211.24, 214.24, 215.24, 217.23, 218.24, 219.24, 220.24, and 221.24 are rejected in accordance with the discussion in Section 15.5.10.

### **15.5.3 Adverse Effects – Water Take and Storage: POL TANK 55**

#### Submission Points

1731. There are 85 submission points about POL TANK 55. Submission points and further submission points for this topic are contained in in Table 15.5 of Appendix 3.
1732. The following evaluation may not explicitly refer to every submission point, but I have considered each submission point before making my recommendations.

#### Submission point requests

1733. Requests for amendments include:

- a. support for POL TANK 55 as notified (3 submissions)
- b. revisiting high flow allocations

- c. specifying high flow allocations for the Ahuriri Catchment
- d. ensuring 50:50 flow sharing
- e. subjecting high flow takes to minimum flows and allocation limits
- f. clarification of 55(b)(x)
- g. removing adverse effects not considered to be relevant to off-stream dams
- h. including additional adverse effects
- i. no specific relief requested.

### Discussion

1734. POL TANK 55 recognises that adverse effects could be caused by off-stream storage and sets out a list of effects that the Council will avoid, remedy or mitigate when assessing applications to take water for off-stream storage and take water from the storage impoundment. POL TANK 55 gives effect to OBJ TANK 2, 3 and 18.
1735. 72 submission points account for two sets of identical points, and relate to revisiting high flow allocations and providing high flow allocations for the Karamū and Ahuriri catchments. These matters which are addressed in Section 15.5.10. I do not repeat that discussion here but I recommend these points are accepted, accepted in part, or rejected in accordance with that discussion.
1736. Schedule 32 includes trigger flows to regulate when high takes may start and must cease, and to regulate allocation limits to ensure adverse environmental effects are minor. Minimum flows are not relevant because high flow takes can only occur above the median flow. A 50:50 flow sharing provision is not required because the trigger flows and allocation limits ensure adverse effects are minor.
1737. POL TANK 55(b)(x) acknowledges that there are existing high flow takes on the Ngaruroro River that are consented to begin and cease takes at a lower level than the median. The volume of water that has been allocated to these takes is to be considered within the total allocation for the Ngaruroro River so that cumulative effects of all high flow takes do not adversely affect FRE3 flows by more than 10%.
1738. The consideration of potential impacts on water quality is important for upholding Te Mana o Te Wai and giving effect to the hierarchy of obligations. The development of dams may enable land use change or intensification. POL TANK 55 enables Council to consider the holistic impacts of a dam on subsequent land use change and water quality.
1739. This policy relates to consideration of applications to take water at high flows, and to take water from off-stream storage. Although off-stream storage may not have the same effects as instream dams, takes at high flows may have adverse effects on the flows and water levels of other connected water bodies, including groundwater given the highly connected nature of the Heretaunga Plains.
1740. I do not recommend changes to POL TANK 55.

### Recommendations

1741. I recommend that submission points 108.3, 193.10, 194.76, and 195.76 are accepted because they support POL TANK 55 as notified.
1742. I recommend that submission point 123.92 and 210.76 are accepted in part because they are already provided for by PPC9.
1743. I recommend that submission points 58.29, 180.50, 241.11 are rejected because they do not improve clarity or consistency.

1744. I recommend that submission points 23.17, 23.25, 32.17, 32.25, 35.17, 35.25, 37.17, 37.25, 38.17, 38.25, 43.17, 43.25, 44.17, 44.25, 49.17, 49.25, 54.17, 54.25, 61.17, 61.25, 62.17, 62.25, 69.17, 69.25, 71.17, 71.25, 72.17, 72.25, 73.17, 73.25, 77.17, 77.25, 79.17, 79.25, 86.17, 86.25, 91.16, 91.24, 95.17, 95.25, 96.17, 96.25, 97.18, 97.26, 99.43, 99.51, 104.17, 104.25, 105.17, 105.25, 110.17, 110.25, 122.17, 122.25, 185.17, 185.25, 186.17, 186.25, 196.18, 196.26, 211.17, 211.25, 214.17, 214.25, 215.17, 215.25, 217.16, 217.24, 218.17, 218.25, 219.17, 219.25, 220.17, 220.25, 221.17, and 221.25 are rejected in accordance with discussion in Section 15.5.10.

#### **15.5.4 Benefits of Water Storage and Augmentation**

##### Submission Points

1745. There are 10 submission points about the benefits of water storage and augmentation generally. Submission points and further submission points for this topic are contained in in Table 15.5 of Appendix 3.

1746. The following evaluation may not explicitly refer to every submission point, but I have considered each submission point before making my recommendations.

##### Submission point requests

1747. Requests for amendments include:

- a. support for POL TANK 56 – 58 as drafted
- b. support for augmentation generally
- c. support for the Council to lead establishment of lowland stream augmentation schemes
- d. no specific relief requested but imply support
- e. No specific relief but states that policies are inconsistent with objectives.

1748. These submission points support PPC9 or are already provided for by PPC9.

##### Recommendations

1749. I recommend that submission points 11.11, 24.9, 30.5, 46.4, 46.9, 99.1, 193.23, and 195.77 are accepted in part because they support POL TANK 56-58 as notified but I recommend some changes to these policies.

1750. I recommend that submission point 195.5 is accepted in part because it is provided for by amendments to POL TANK 39.

1751. I recommend that submission point 193.21 is rejected because it does not provide specific relief.

#### **15.5.5 POL TANK 56**

##### Submission Points

1752. There are 89 submission points about POL TANK 56. Submission points and further submission points for this topic are contained in in Table 15.5 of Appendix 3.

1753. The following evaluation may not explicitly refer to every submission point, but I have considered each submission point before making my recommendations.

## Submission point requests

1754. Requests for amendments include:

- a. support for POL TANK 56 as notified (3 submission points)
- b. deleting the policy (1 submission point)
- c. Council actively encouraging benefits of storage and augmentation schemes
- d. require new resource consents to take from wells
- e. restoring artesian pressure
- f. opposition to any restriction on high flow takes
- g. ensuring internal consistency
- h. providing discretion as to the type of activity and scale of activity that is to be subject to the full extent of the policy
- i. revisiting high flow allocations
- j. specifying high flow allocations for the Ahuriri Catchment.

## Discussion

1755. POL TANK 56 provides a set of criteria for considering applications to take water at high flows, establish storage for water taken at high flows and takes from stored water. These criteria encourage applicants to maximise the various potential benefits of storage and augmentation schemes for environmental, economic, social, cultural and recreational uses.
1756. 72 submission points account for two sets of identical points, and relate to revisiting high flow allocations and providing high flow allocations for the Karamū and Ahuriri catchments. These matters are addressed in Section 15.5.10. I do not repeat that discussion here but I recommend that these points are accepted, accepted in part, or rejected in accordance with that discussion.
1757. Two submissions seek that the clause b) relating to water availability and reliability of supply is limited to the amount specified in POL TANK 47. I note that POL TANK 56 refers to water security and availability of water users generally and so it includes all water users including domestic, municipal, irrigators and industry. I do not consider this limitation is necessary and would not help achieve OBJ TANK 3 or 18. I consider the range of other criteria ensure that environmental benefits will not be over-looked in pursuit of reliability of supply.
1758. Two submissions seek an amendment to relieve individual out of stream storage proposals from being subject to these criteria. Stream depletion effects and other adverse effects experienced across the TANK Catchments are cumulative in nature. This means that no one activity is causing the full extent of the adverse effect. Likewise, any mitigation or offsetting of those adverse effects should contribute to the wider-picture and not be focussed on individual adverse effects only. The current wording of the policy enables decision-makers to consider the extent to which a proposal meets the criteria, so the scale and realistic ability of a proposal to meet that criteria can be taken into account.
1759. I do not recommend changes to POL TANK 56.

## Recommendations

1760. I recommend that submission points 8.20, 51.7, and 133.5 are accepted because they support POL TANK 56 as notified.
1761. I recommend that submission point 193.11 is accepted in part because it is already provided for by PPC9.

1762. I recommend that submission point 10.7 is rejected because it does not improve clarity.
1763. I recommend that submission points 58.30, 123.93, 201.45, and 210.77 are rejected because they do not give effect to OBJ TANK 18.
1764. I recommend that submission point 47.10 and 241.12 are rejected because they do not give effect to OBJ TANK 2.
1765. I recommend that submission points 63.16 and 207.16 are rejected because they do not effectively meet the objectives of PPC9.
1766. I recommend that submission points 23.18, 23.26, 32.18, 32.26, 35.18, 35.26, 37.18, 37.26, 38.18, 38.26, 43.18, 43.26, 44.18, 44.26, 49.18, 49.26, 54.18, 54.26, 61.18, 61.26, 62.18, 62.26, 69.18, 69.26, 71.18, 71.26, 72.18, 72.26, 73.18, 73.26, 77.18, 77.26, 79.18, 79.26, 86.18, 86.26, 91.17, 91.25, 95.18, 95.26, 96.18, 96.26, 97.19, 97.27, 99.44, 99.52, 104.18, 104.26, 105.18, 105.26, 110.18, 110.26, 122.18, 122.26, 185.18, 185.26, 186.18, 186.26, 196.19, 196.27, 211.18, 211.26, 214.18, 214.26, 215.18, 215.26, 217.17, 217.25, 218.18, 218.26, 219.18, 219.26, 220.18, 220.26, 221.18, and 221.26 are rejected in accordance with discussion in Section 15.5.10.

### **15.5.6 POL TANK 57**

#### Submission Points

1767. There are 80 submission points about POL TANK 57. Submission points and further submission points for this topic are contained in in Table 15.5 of Appendix 3.
1768. The following evaluation may not explicitly refer to every submission point, but I have considered each submission point before making my recommendations.

#### Submission point requests

1769. Requests for amendments include:
- a. revisiting high flow allocations
  - b. specifying high flow allocations for the Ahuriri Catchment
  - c. moving this policy to a methods section
  - d. specific wording to ensure investigation occurs before POL TANK 42 review.

#### Discussion

1770. POL TANK 57 is a commitment from the Council to carry out further investigation into water demand and supply in relation to the effects of climate change, to consider water storage options in consultation with iwi and the community and when making decisions about proposals in the Council's Annual Plans and Long Term Plans. This helps achieve OBJ TANK 3.
1771. Two submissions seek specific wording amendments to ensure that the investigation under POL TANK 57 occurs before the review in POL TANK 42. I agree that this timing is appropriate to ensure the POL TANK 42 review is effective.
1772. 72 submission points account for two sets of identical points, and relate to revisiting high flow allocations and providing high flow allocations for the Karamū and Ahuriri Catchments. These matters are addressed in Section 15.5.10. I do not repeat that discussion here but I

recommend that these points are accepted, accepted in part, or rejected in accordance with that discussion.

1773. There is no methods section in PPC9. The format of PPC9 is discussed in Section 12.3 of this report.
1774. The changes I am recommending to POL TANK 57 and the submission points that give scope for the changes are shown in the tracked changes version.

### Recommendations

1775. I recommend that submission points 63.17 and 207.17 are accepted in part because they align with POL TANK 42.
1776. I recommend that submission points 23.19, 23.27, 32.19, 32.27, 35.19, 35.27, 37.19, 37.27, 38.19, 38.27, 43.19, 43.27, 44.19, 44.27, 49.19, 49.27, 54.19, 54.27, 61.19, 61.27, 62.19, 62.27, 69.19, 69.27, 71.19, 71.27, 72.19, 72.27, 73.19, 73.27, 77.19, 77.27, 79.19, 79.27, 86.19, 86.27, 91.18, 91.26, 95.19, 95.27, 96.19, 96.27, 97.20, 97.28, 99.45, 99.53, 104.19, 104.27, 105.19, 105.27, 110.19, 110.27, 122.19, 122.27, 185.19, 185.27, 186.19, 186.27, 196.20, 196.28, 211.19, 211.27, 214.19, 214.27, 215.19, 215.27, 217.18, 217.26, 218.19, 218.27, 219.19, 219.27, 220.19, 220.27, 221.19, and 221.27 are rejected in accordance with discussion in Section 15.5.10.
1777. I recommend that submission points 123.94 and 210.78 are rejected because they do not provide clarity or consistency.

## **15.5.7 POL TANK 58**

### Submission Points

1778. There are three submission points about POL TANK 58. Submission points and further submission points for this topic are contained in in Table 15.5 of Appendix 3.
1779. The following evaluation may not explicitly refer to every submission point, but I have considered each submission point before making my recommendations.

### Submission point requests

1780. Requests for amendments include:
- a. support for POL TANK 58
  - b. prohibiting all run of river dams.

### Discussion

1781. POL TANK 58 is a commitment that the Council will protect the Ngaruroro, Tūtaekurī, Taruarau, Omahaki, Mangatutu, and Mangaone Rivers by prohibiting damming on the mainstem of these rivers. This policy is given effect to by Rule TANK 17.
1782. Given the over-allocated and highly connected nature of the Heretaunga Plains, water harvesting and storage is considered an option for mitigating stream depletion effects, providing for future growth, adapting to climate change, and providing for the development of Māori well-being which helps achieve OBJ TANK 18.
1783. I note that POL TANK 54 and 55 and Schedule 32 require dams and high flow takes to have a minor individual or cumulative impact on the frequency of flows above the median.

1784. I do not recommend changes to POL TANK 58.

### Recommendations

1785. I recommend that submission point 108.4 is accepted because it supports POL TANK 58 as notified.

1786. I recommend that submission points 123.95 and 210.79 are rejected because they do not give effect to OBJ TANK 18.

### **15.5.8 High Flow Reservation: POL TANK 59**

#### Submission Points

1787. There are 38 submission points about POL TANK 59. Submission points and further submission points for this topic are contained in in Table 15.5 of Appendix 3.

1788. The following evaluation may not explicitly refer to every submission point, but I have considered each submission point before making my recommendations.

#### Submission point requests

1789. Requests for amendments include:

- a. support for an allocation for Māori development
- b. deleting POL TANK 59 (1 submission point)
- c. opposition to an allocation for local iwi
- d. clearly distinguishing between water for environmental enhancement and water for Māori development
- e. reducing allocation for Māori development for the Ngaruroro to 1200L/s
- f. removing presumption that private sector will fund infrastructure costs
- g. enabling other users to access water until iwi have infrastructure to use water
- h. deleting clause c)
- i. making the 20% for Māori development only
- j. allocating water to specific PSGEs
- k. revising the policy with iwi input.

#### Discussion

1790. POL TANK 59 allocates 20% of the water available for abstraction, storage and use of high flows for environmental enhancement or for economic, cultural, and social well-being of Māori. POL TANK 59 is to be read in conjunction with POL TANK 54-58 and it helps to achieve OBJ TANK 2, 17 and 18. Schedule 32 includes the allocation limit at high flows, and the 20% allocation for Māori development and environmental enhancement.

1791. It is important that the Council reserve an allocation for Māori development and environmental enhancement because under the RMA, water is allocated on a first-in-first-served basis. Due to the infrastructure required to take, store and utilise water abstracted at high flows, a project for Māori development or environmental enhancement may not progress.

1792. As discussed in Section 15.2.4, water cannot be allocated for exclusive use by a particular person or group or class of people under the RMA, including a body representing iwi. The intent of POL TANK 59 is to ensure that the allocation is reserved and utilised for

environmental enhancement, Māori development, or uses contribute towards Māori development. I consider that it is important to provide options for applicants to provide for Māori development and wellbeing as applicants see fit, which may be through any of the listed activities.

1793. Several submissions (including 27 identical points) raise concerns with clause c). Some submitters raise that this essentially establishes a cost for water, and enables the selling of water. I do not consider the approach here creates a cost for water in a way which is significantly different to the buying of land which is associated with a permit to take water. Submissions from mana whenua regarding POL TANK 59 did not directly or impliedly support the inclusion of this clause. I note that removing clause c may greatly reduce the opportunities for utilising the water and make recommendations which continue to enable the development of Māori social and cultural wellbeing.
1794. Some submissions indicate confusion regarding the actual volume to be allocated for Māori development. Some submitters appeared to think that POL TANK 59 enables 20% of all flows of the Ngaruroro and Tūtaekurī Rivers and their tributaries to be allocated to Māori development. I recommend the policy is amended to clarify that allocation limits are specified in Schedule 32 in a way which aligns with POL TANK 54 and 55 requirements that high flow takes or dams do not cause a more than minor alteration to FRE3.
1795. The changes I am recommending to POL TANK 59 and the submission points that give scope for the changes are shown in the tracked changes version.

### Recommendations

1796. I recommend that submission point 99.21 is accepted in part because it is already provided for by PPC9.
1797. I recommend that submission points 108.5 and 210.80 are accepted in part in so far as they improve clarity.
1798. I recommend that submission points 15.12, 14.10, 18.14, 20.12, 26.14, 28.14, 29.35, 34.14, 39.14, 41.14, 47.12, 48.14, 53.14, 68.14, 75.14, 76.14, 81.14, 84.14, 87.19, 94.14, 102.14, 107.14, 141.10, 143.13, 165.14, 179.14, 180.51, 195.6, 195.78, 199.14, 204.14, 205.10, 213.14, 133.4, 180.51, 193.12, and 231.9 are rejected because they do not give effect to OBJ TANK 2, 17 or 18.
1799. I recommend that submission point 201.46 be rejected because it would require change to the RMA.

### **15.5.9 High Flow Reservation: POL TANK 60**

#### Submission Points

1800. There are nine submission points about POL TANK 60. Submission points and further submission points for this topic are contained in in Table 15.5 of Appendix 3.
1801. The following evaluation may not explicitly refer to every submission point, but I have considered each submission point before making my recommendations.

#### Submission point requests

1802. Requests for amendments include:
- a. deleting POL TANK 60

- b. specifying that POL TANK 60 relates only to applications made under POL TANK 59
- c. specifying environmental matters for consideration
- d. revising the policy with iwi input.

### Discussion

1803. POL TANK 60 establishes additional criteria for considering applications to take and store high flows to maximise the potential to provide for the development of Māori economic, cultural and social well-being in accordance with OBJ TANK 17.
1804. POL TANK 60 is to be read in conjunction with POL TANK 54-59 and therefore does not require specific inclusion of environmental matters for consideration.
1805. Six submissions relate to whether POL TANK 60 is linked to applications under POL TANK 59. POL TANK 60 is intended to encourage all applications to take and store high flows to consider opportunities to provide co-benefits. It is appropriate for initiatives beyond those proposed under POL TANK 59 to also consider potential for providing for Māori development.
1806. One submission seeks that POL TANK 60 is amended with iwi input. I consider this is possible in so far as iwi are involved in the PPC9 hearings process.
1807. I do not recommend changes to POL TANK 60.

### Recommendations

1808. I recommend that submission point 210.81 is accepted in part in so far as the hearings process allows.
1809. I recommend that submission points 108.6 and 194.77 are rejected because they do not improve clarity.
1810. I recommend that submission points 29.36, 63.18, 99.22, 180.52, 195.78, and 207.18 are rejected because they do not give effect to OBJ TANK 17 and 18.

## **15.5.10 Schedule 32**

### Submission Points

1811. There are 91 submission points about Schedule 32. Submission points and further submission points for this topic are contained in in Table 15.5 of Appendix 3.
1812. The following evaluation may not explicitly refer to every submission point, but I have considered each submission point before making my recommendations.

### Submission point requests

1813. Requests for amendments include:
- a. support for Schedule 32 as notified (four submissions)
  - b. adding allocation framework for Ahuriri and Karamū catchments
  - c. revisiting high flow allocations
  - d. rewriting by an independent governing body made up of tangata whenua and include all waterways
  - e. deleting an asterisks
  - f. no specific relief but implies a need to define “high flow allocation”, clarify limits for

- mainstem and tributaries
- g. opposition to damming Ngaruroro tributaries
- h. increasing trigger flow, reducing the allocation, providing for flow sharing and retaining damming provisions
- i. replacing specific rate of flow allocations with “up to 10%FRE3”
- j. deleting Columns E and F
- k. installing flow recording sites in catchments with consented high flow applications.

## Discussion

1814. Schedule 32 enables new allocations of freshwater at high flows. Schedule 32 helps implement POL TANK 54-60 and helps to achieve OBJ TANK 16, 17 and 18. The high flow trigger in column C refers to the point at which abstraction may begin and must cease. The allocation volume specified in column D and the damming limit in column F aligns with POL TANK 54 and 55 which require that high flow takes do not cause an alteration to flows of more than 10% of FRE3. A 10% change to FRE3 is considered a minor change. This is discussed by Ms Wells and Ms Kirkham in Water Quantity Memo which can be found in Appendix 11.
1815. A cumulative high flow total of 8000 litres per second may be allocated in the Ngaruroro River and its tributaries. This total allocation is considered to not cause an alteration of more than 10% to FRE3. Some of this total allocation is already allocated or earmarked (1,600 for Māori development in accordance with POL TANK 59, 2000l/s has already been allocated under the RRMP, 400l/s for discharge into the Paritua Stream in accordance with POL TANK 44). A cumulative total of 2,500l/s may be allocated in the Tūtaekurī River and its tributaries. As with the Ngaruroro River, 20% of this allocation is earmarked for Māori development in accordance with POL TANK 59. No high flows have been allocated under the existing RRMP for the Tūtaekurī River.
1816. In addition, any high flow take from a tributary must be proportional to the tributaries contribution to the mainstem and not cause a change of more than 10% to FRE3 of the mainstem. This means that the whole flow of a tributary cannot be allocated. In accordance with POL TANK 59, 20% of any high flow allocation from a tributary is to be reserved for Māori development.
1817. I consider that the high flow allocation framework, which includes Rules 13-17, allocation limits in Schedule 32, and the considerations of POL TANK 54-56, 59 and 60, establishes a sufficiently robust framework which enables decision-makers to consider a range of adverse and beneficial effects and supports the achievement of OBJ TANK 4, 5, 17 and 18.
1818. High flow allocations are not considered feasible or desirable in the Ahuriri and Karamū Catchments because they are small lowland catchments. In the case of the Ahuriri Catchment, we have little current understanding of water use and resource limits in the catchment. I also do not consider it appropriate to include high flow allocations for all water bodies because high flow allocations are not considered feasible or desirable for all waterways.
1819. 38 submissions seek that Schedule 32 is revisited. I do not consider this is specific relief however they seem to imply that high flow allocations should be larger and more flexible. I do not consider that increasing or making allocation more flexible would implement POL TANK 54 and 55.
1820. Rule TANK 13 makes high flow takes a Discretionary activity. Installation of flow recording sites could be included on consent conditions but is not required as an amendment to Schedule 32.

1821. One submission point seeks that the asterisks included in column D is removed because it does not link to a footnote. I recommend this relief is granted and the asterisks is removed.

### Recommendations

1822. I recommend that submission points 8.28, 59.37, 66.46, and 108.11 are accepted because they support Schedule 31 as notified.

1823. I recommend that submission point 29.64 is accepted because it improves clarity.

1824. I recommend that submission points 51.15 is rejected because it does not improve clarity.

1825. I recommend that submission points 193.22 and 195.147 are rejected because they do not help give effect to OBJ TANK 4, 5 and 17, or help implement POL TANK 54 and 55.

1826. I recommend that submission points 50.18, 106.6, 123.154, 210.147, and 225.7 are rejected because they do not help give effect to OBJ TANK 17 and 18, or help implement POL TANK 56, 59 and 60.

1827. I recommend that submission points 23.23, 32.23, 35.23, 37.23, 38.23, 43.23, 44.23, 49.23, 54.23, 61.23, 62.23, 69.23, 71.23, 72.23, 73.23, 77.23, 79.23, 86.23, 91.22, 95.23, 96.23, 97.24, 99.30, 99.49, 104.23, 105.23, 110.23, 122.23, 180.72, 185.23, 186.23, 192.18, 196.24, 211.23, 214.23, 215.23, 217.22, 218.23, 219.23, 220.23, 221.23, and 241.7 are rejected because they do not seek specific relief.

1828. I recommend that submission points 23.31, 32.31, 35.31, 37.31, 38.31, 43.31, 44.31, 49.31, 54.31, 58.39, 61.31, 62.31, 69.31, 71.31, 72.31, 73.31, 77.31, 79.31, 86.31, 91.30, 95.31, 96.31, 97.32, 99.57, 104.31, 105.31, 110.31, 122.31, 185.31, 186.31, 196.32, 211.31, 214.31, 215.31, 217.30, 218.31, 219.31, 220.31, and 221.31 are rejected because they do not improve effectiveness or efficiency.

1829. I recommend that submission point 58.38 is rejected because it does not seek specific relief.

## **15.6 Rules and Definitions**

### **15.6.1 Rules TANK 7 and 8**

#### Submission Points

1830. There are over 100 submission points about Rule TANK 7 and 8. Submission points and further submission points for this topic are contained in in Table 15.6 of Appendix 3.

1831. The following evaluation may not explicitly refer to every submission point, but I have considered each submission point before making their recommendations.

#### Submission point requests

1832. Some submissions seek changes to Rules TANK 7 and 8 individually, while some seek the same changes to both rules.

1833. Requests for amendment to both Rule TANK 7 and 8 are:

- a. Support for Rules TANK 7 and 8 as notified (1 submission point)

- b. Appropriately providing for and prioritising water for domestic uses and stock drinking water above other uses
- c. Not limiting domestic and stock drinking water
- d. Enabling permitted take of 20m<sup>3</sup> to be used for the survival of horticultural tree crops
- e. Providing a permitted take of 60m<sup>3</sup> for domestic uses and stock drinking water
- f. Removing Rules 7 and 8 from PPC9 and addressing matters separately
- g. Enabling stock drinking water takes which are now required due to fencing regulations
- h. Providing 5m<sup>3</sup> for holdings up to 2 hectares and progressively larger takes for larger land areas
- i. Allowing for more than one point of take
- j. Allowing domestic uses up to 20m<sup>3</sup> to continue as permitted activities
- k. Enable domestic uses and stock drinking water as permitted activities
- l. Removing reference to “existing efficient takes” for domestic takes
- m. Restrict takes from Lake Poukawa.

1834. Requests for amendment to Rule TANK 7 are:

- a. Support for Rule TANK 7 as notified (1 submission point)
- b. Not limiting takes under Section 14(3)(b) and (e) for reasonable individual domestic use, stock drinking water and firefighting purposes.
- c. Protecting existing domestic or community takes
- d. Allowing existing takes of up to 20m<sup>3</sup> to continue
- e. Maintain permitted take limit at 20m<sup>3</sup>
- f. Lifting permitted take to 30m<sup>3</sup> per day
- g. Enabling permitted take of 20m<sup>3</sup> to be used for the survival of horticultural tree crops
- h. Permitting takes from storage/impoundments
- i. Enable existing takes for reasonable domestic needs and animal drinking water to be taken without a specified limit
- j. Clarifying whether 7(b)(i) and (ii) apply together.

1835. Requests for amendment to Rule TANK 8 are:

- a. Support for Rule TANK 8 as notified (2 submission points)
- b. Enabling permitted takes for the needs of social infrastructure
- c. Prioritising the taking of water for reasonable domestic needs and stock drinking water use
- d. Providing for domestic needs and stock drinking water use without a limit
- e. Adding conditions to ensure takes do not cause changes to flows or water levels in connected water bodies
- f. Changing condition d to protect any domestic or community take existing at 2 May 2020
- g. Providing 20m<sup>3</sup> per day to assist the survival of horticultural crops
- h. Changing condition c to provide for 20<sup>3</sup> as the permitted volume
- i. Including a restriction on aquifer testing takes.

## Discussion

1836. Rules TANK 7 and 8 are permitted take rules. TANK 7 relates to surface water takes and Rule TANK 8 relates to groundwater takes. The rules are quite similar with differences related to the different nature of takes, for example requirements for fish screens only apply to surface water takes.

1837. The permitted rules are intended to enable any permitted take existing as at 2 May 2020 to continue. For any new activity, permitted takes must be 5m<sup>3</sup> or less except takes for stock drinking water, fire-fighting purposes and aquifer testing.
1838. Under RRMP Rule 53, permitted ground water takes are limited to 20m<sup>3</sup> per day, except for stock drinking water and fire-fighting uses which are not limited. The rate of take is limited to 10l/s except for aquifer testing which is not limited. The same or similar restrictions as proposed in PPC9 apply. I recommend adding a note to clarify that takes for the purposes of firefighting are not limited.
1839. I note that an activity that requires a new permitted take may also be subject to resource consent under Rules TANK 5 and 6 where there is a change in land use.
1840. Many of the submission points on Rules TANK 7 and 8 relate to the same or similar matters. I discuss points on both rules under the following headings:
- a. Takes for reasonable domestic use and stock drinking water
  - b. Takes to assist the survival of horticultural crops
  - c. Conditions (single point of take, connected water bodies)

*Takes for reasonable domestic use and stock drinking water*

1841. 22 submission points on Rules TANK 7 and 8 relate to the permitted volume for reasonable domestic use and stock drinking water.
1842. A common misunderstanding of the RRMP Rule 53 is that takes for reasonable domestic uses are not limited. The RRMP glossary definition (which applies to PPC9) for “Reasonable domestic use” is (emphasis added): *“Refers to needs associated with occupation of a dwellinghouse. “Domestic uses” and “Domestic purposes” have corresponding meanings. See also the definition of “Dwellinghouse”. With respect to the taking and use of water for an individual’s reasonable domestic needs, as a guideline this should involve the taking and use of up to 15 m<sup>3</sup> over any seven day period per dwellinghouse.”*
1843. I recommend that Rules TANK 7 and 8 are amended to clarify that the maximum take volume limits do not apply to takes for reasonable domestic needs, and a footnote is added to link to the definition of reasonable domestic need and the limit included in that definition to ensure alignment with the RRMP.
1844. The drafting of Rules TANK 7 and 8 as notified causes confusion because condition b)(i) combines both existing uses and takes for reasonable needs of stock drinking water together. The majority of points about access to water for stock drinking seek that it continues to be a permitted activity without a limit, permitted with a limit of 30m<sup>3</sup>, or permitted with a limit of 20m<sup>3</sup>. RRMP Rule 53 does not limit groundwater takes for stock drinking water, however, RRMP Rule 54 limits long-term surface water takes to 20m<sup>3</sup> or less.
1845. I recommend that Rules TANK 7 and 8 are amended to separate condition b)(i) into multiple points to clarify that they are not limited to 5m<sup>3</sup> per day, or 20m<sup>3</sup> either.
1846. I recommend that 21 points seek that existing uses as at 2 May 2020 be permitted activities, that domestic and stock drinking be prioritised, that permitted volumes be maintained or increased for existing, domestic and stock drinking water are accepted in part. The intent of PPC9 is to provide for these activities and my recommended changes to drafting provide clarity regarding these permitted activities, however they do not adopt requested wording or give full effect to the specific changes requested.

### *Takes to assist the survival of horticultural crops*

1847. 75 submission points seek provision for surface water takes to assist in survival of horticultural crops and rootstock as a permitted activity.
1848. I recommend points seeking a specific exemption for takes to assist the survival of horticultural crops are accepted in part because takes existing at 2 May 2020 may continue to take up to 20m<sup>3</sup> per day. If takes to assist the survival of horticultural crops existed before 2 May 2020, then they may continue. If these takes did not exist before 2 May 2020 then they are subject to a 5m<sup>3</sup> per day limit.

### *Conditions*

1849. One submission seeks clarification that Rule TANK 7 is intended to include takes from water storage and impoundments as a permitted activity. Conditions a) of Rule 15 states that the activity doesn't comply with Rule TANK 7, which implies there are situations where the activity would be permitted. I agree that the drafting of Rule TANK 7 does not make it obvious that surface water takes are to include takes from dams and impoundments.
1850. One submission point seeks that Rule TANK 7 is amended to address the potential for cumulative effects and require water users to notify Council of the take, location, volume and rate within one month of the take commencing or plan becoming operative. Such a condition mimics requirements of resource consents and essentially would make the activity a Controlled activity instead of permitted.
1851. One submission point seeks clarification about the application of conditions of Rule 7, and the application of rates of take. I consider that including a permitted rate of take provides clarity and consistency because it is same approach used in RRMP Rule 54 and aligns with the definition of **allocation limit for surface water**.
1852. One submission point seeks a change of wording to remove the "efficient taking" proviso for domestic takes. This does not give effect to OBJ TANK 18.
1853. One submission point seeks that Rule TANK 8, condition e) is amended so that takes shall not cause changes to the flows or levels of water in any connected wetland or surface waterbody. Permitted takes make up a small percentage of groundwater abstraction across the Heretaunga Plains. I consider that lowering the permitted volume from 20m<sup>3</sup> to 5m<sup>3</sup> for new takes will adequately manage the expected effects.
1854. The changes I am recommending and the submission points that give scope for the changes are shown in the tracked changes version.

### Recommendations

1855. I recommend that submission points 11.2, 11.4, 66.19, 66.20, 67.1, 241.13 are accepted in part because they support Rules TANK 7 and 8 as notified and I recommend changes.
1856. I recommend that submission points 120.61 and 222.6 are accepted in part because they is already provided for by PPC9.
1857. I recommend that submission point 12.15, 12.16, 13.13, 21.13, 50.20, 83.5, 83.6, 35.85, 40.13, 109.18, 112.13, 114.10, 116.5, 129.8, 123.102, 129.9, 131.7, 132.51, 132.61, 141.4, 142.23, 194.83, 195.85, 195.86, 197.16, 203.22, 207.19, 207.20, 231.11, 236.3, and 241.9 are accepted in part in so far as they improve clarity.

1858. I recommend that submission points 23.34, 23.35, 32.34, 32.35, 35.34, 35.35, 37.34, 37.35, 38.34, 38.35, 43.34, 43.35, 44.34, 44.35, 49.34, 49.35, 54.34, 54.35, 61.34, 61.35, 62.34, 62.35, 69.34, 69.35, 71.34, 71.35, 72.34, 72.35, 73.34, 73.35, 77.34, 77.35, 79.34, 79.35, 86.34, 86.35, 91.33, 91.34, 95.34, 95.35, 96.34, 96.35, 97.35, 97.36, 99.25, 99.60, 99.61, 104.34, 104.35, 105.34, 105.35, 110.34, 110.35, 122.34, 122.35, 180.58, 185.34, 185.35, 186.34, 186.35, 192.15, 196.35, 196.36, 211.34, 211.35, 214.34, 214.35, 215.34, 215.35, 217.33, 217.34, 218.34, 218.35, 219.34, 219.35, 220.34, 220.35, 221.34, and 221.35 are accepted in part they are already provided for by Rules TANK 7 and 8.
1859. I recommend that submission points 17.7, 21.7, 40.7, 45.9, 109.6, 112.7, and 114.4 are rejected because they do not seek specific relief.
1860. I recommend that submission point 210.89 is accepted in part because it helps implement POL TANK 36, 37 and 52.
1861. I recommend that submission points 85.7, 132.120, 140.4, and 239.7 are rejected because they do not help implement POL TANK 36, 37 and 52.
1862. I recommend that submission points 123.103, 132.121, 132.136, 142.23, 210.88 are rejected because they do not:
- a. improve efficiency or effectiveness
  - b. improve clarity or consistency
  - c. give effect to OBJ TANK 18.

## **15.6.2 Rules TANK 9 and 10**

### Submission Points

1863. There are over 150 submission points about Rules 9, 10 and 11. Submission points and further submission points for this topic are contained in in Table 15.6 of Appendix 3.
1864. The following evaluation may not explicitly refer to every submission point, but I have considered each submission point before making my recommendations.

### Submission point requests

1865. Requests for amendments to both Rule TANK 9 and 10 include:
- d. Referring to 2 May 2020 instead of 17 August 2017
  - e. Amending the definition of and references to 'Actual and Reasonable'
  - f. Referring to 'Replacement consents' instead of section 124 in the Activity column
  - g. Referring to Source Protection Extent
  - h. Protecting existing infrastructure
  - i. Introducing a prohibited status for takes that don't meet a suggested set of criteria
  - j. Enabling stream depletion calculations to be based off alternative methods
  - k. Removing reference to Infrastructure Leakage Index and including reference to broader end uses
  - l. Ensuring minimum flows in Schedule 31 apply.
1866. Rule TANK 9 include:
- a. Support for Rule TANK 9 as notified (6 submission points)
  - b. Adding a definition for 'Accurate Water Use Data'
  - c. Requiring municipal, papakāinga and community takes to comply with a Water Conservation Strategy
  - d. Opposition to Matter 7

- e. Reducing total allocation of surface water by up to 90%
- f. Making condition f) consistent with Tukituki provisions
- g. Introducing a materiality test for the effect of transfers
- h. Introducing consenting requirements and prohibited status over life of PPC9
- i. Deleting conditions f) and g)
- j. Require a permit review and new conditions relating to stream flow maintenance schemes under Matter 15
- k. Introducing a non-notification direction for applications subject to a review condition under amended Matter 15
- l. Delete Rule TANK 9 and replace with a policy that gives effect to the NPSFM2017
- m. Give stream flow enhancement schemes a non-complying activity status.

1867. Requests for amendments to Rule TANK 10 include:

- a. Support for Rule TANK 10 as notified (3 submission points)
- b. Partial opposition to Matter 10
- c. Exempt water taken for survival of horticultural crops from minimum flows
- d. Clarify how Zone 1 takes relate to stream flow maintenance schemes, Rule TANK 18 and Schedule 36
- e. Making condition h) and Matter 15 consistent with requested amendments to Rule TANK 9
- f. Giving effect to the NPSFM2017 and addressing issues of clarity.

### Discussion

1868. Rules TANK 9 and 10 make takes of surface or groundwater that cannot meet the conditions of Rules TANK 7 and 8 Restricted Discretionary activities. These Rules implement the policies of PPC9 and the Section 32 Report finds these policies and methods give effect to the NPSFM2017.
1869. One submission seeks a new rule is added which enable takes for stock drinking water and other purposes over 60m<sup>3</sup> in water short areas as a Restricted Discretionary activity. Rules TANK 9 and TANK 10 are Restricted Discretionary rules and encompass activities which are not permitted by TANK 7 and TANK 8 because they are in water short areas.
1870. Matters for Control 9.6 and 10.5 relate to applications for municipal, papakāinga and community water supply and are method of implementation for POL TANK 50. Changes to POL TANK 50 are discussed in Section 15.4.11 and submission points on these conditions are accepted or rejected in accordance with that discussion.
1871. Submission points seek specific wording amendments to provide clarity regarding the application of minimum flows to surface water takes. I recommend amendments to clarify that all other surface water (including Zone 1 groundwater) takes are subject to minimum flows in Schedule 31.
1872. One submission point seeks that total allocation of surface water abstraction is reduced by up to 90% and that global consents be given a non-complying activity status. These requests would not help achieve the objectives of PPC9, particularly OBJ TANK 17 and 18.
1873. One submission point seeks that an additional condition be added as follows: "Where possible positive artesian be maintained under abstraction conditions". The reasons appear to be related to maintaining groundwater quality. I consider conditions 9j) and 10k), and Matters 9.5 and 10.4 adequately address potential risk to groundwater quality from groundwater takes.

1874. Three submission points seek that consideration of, or provision for, water to assist the survival of horticultural root stock is included in Rules TANK 9 and 10. I consider this matter is already provided for under Rules TANK 7 and 8 where there is permitted takes as at 2 May 2020.

#### *Actual and Reasonable*

1875. 99 submission points relate to the definition, interpretation or reference to Actual and Reasonable.

1876. 72 of these points seek that Actual and Reasonable is amended to only refer to 'Reasonable'. 12 points seek that water meter data not be used to determine actual use, support conditions 9e)(iii) and 10g)(iii) in so far as they do not relate to irrigators, and that the definition of Actual and Reasonable is amended to remove reliance on water meter data for irrigators, or to enable increases in intensification. These requests are inconsistent with the definition of Actual and Reasonable as included in the glossary. See Section 15.5.17 for discussion on the definition of Actual and Reasonable.

1877. Some submission points seek that a definition is included for the term Accurate Water Meter Data to aid in the understanding of Actual and Reasonable. Similar requests are discussed in Section 15.5.17. I do not repeat that discussion here and recommend these points are rejected to maintain clarity and consistency.

1878. One point seeks that additional Matters for Control/Discretion are added under Matter 9.1 related to phased development and business operation. I consider these matters are already adequately addressed by Matter 9.2.

1879. Two points seek that urban and non-urban conditions and matters are more similar. The submission points seek this through requiring a higher Infrastructure Leakage Index is met, removing Matters 9.6.b. and 10.1.e., deleting Conditions 9d)(i)-(ii) and 10f)(i)-(ii), and amending Conditions 9d) and 10f) to read "The quantity taken and used for municipal, community and papakāinga water supply has regard to efficiency of use". These points also seek that the requirement to install water meters only apply to takes larger than 5l/s. I do not consider that the requested amendments relating to allocation of water for urban uses provide clarity to decision-makers and do not align with POL TANK 50 which guides decision-making. I do not consider that requested amendments align with POL TANK 36, 42, 45 and 46 which relate to monitoring actual water use, efficiency and reviewing the effectiveness of PPC9 in addressing over-allocation.

1880. Two submission points seek that Conditions 9c) and e) are combined, and that 10e) and g) are combined. This is because the definition of Actual and Reasonable applies to all uses except municipal, community and papakāinga uses. I consider that this removes unnecessary repetition, and improves clarity and consistency across PPC9.

1881. Two submission points seek clarity of the meaning of Actual and Reasonable, and that the term is defined. This is already provided for in the Glossary.

1882. Three submission points seek that the date referred to under 9e)(iii) and 10g)(iii) be amended to read 2 May 2020. I recommend rejecting these points because I recommend deleting the Conditions they seek to amend.

#### *Irrigation and efficiency*

1883. Matters for Control/Discretion 9.4., 9.7, 10.3, and 10.10 relate to effects of a take on other bores, and the achievement of efficiency. These conditions help implement POL TANK 47,

48, and 53. Requested amendments to these conditions could remove the ability for Council to ensure that permits for water takes help implement those policies.

### *Stream flow maintenance*

1884. Conditions 9f) and 10h) as notified require water permit holders to contribute to a stream flow maintenance scheme or cease groundwater takes in accordance with notified POL TANK 39. Condition 9g) exempts takes for essential human health provided by municipal, community or papakāinga takes from the requirement to contribute to stream flow maintenance schemes. Because I recommend that POL TANK 39 is deleted and replaced, consequential amendments are required to conditions 9f) and 10h).
1885. The Council's own submission requests specific wording and consequential amendments to ensure Rules TANK 9 and 10 implement POL TANK 39 as amended. Other submissions are accepted, accepted in part or rejected in order to implement amended POL TANK 39.
1886. The changes I am recommending and the submission points that give scope for the changes are shown in the tracked changes version.

### Recommendations

1887. I recommend that submission points 3.8, 8.12, 8.13, 8.22, 119.18, 119.19, 124.11, 124.12, 135.54, and 210.91 are accepted in part because they support the rules as notified and I recommend changes.
1888. I recommend that submission points 10.21, 30.8, 109.7, 109.14, 120.74, are accepted in part because they are already provided for by PPC9.
1889. I recommend that submission points 23.12, 23.13, 32.12, 32.13, 35.12, 35.13, 36.8, 37.12, 37.13, 38.12, 38.13, 43.12, 43.13, 44.12, 44.13, 47.13, 49.12, 49.13, 54.12, 54.13, 61.12, 61.13, 62.12, 62.13, 66.21, 69.12, 69.13, 71.12, 71.13, 72.12, 72.13, 73.12, 73.13, 77.12, 77.13, 79.12, 79.13, 86.12, 86.13, 91.11, 91.12, 95.12, 95.13, 96.12, 96.13, 97.13, 97.14, 99.38, 99.39, 104.12, 104.13, 105.12, 105.13, 110.12, 110.13, 122.12, 122.13, 180.59, 185.12, 185.13, 186.12, 186.13, 194.84, 196.13, 196.14, 200.1, 211.12, 211.13, 214.12, 214.13, 215.12, 215.13, 217.11, 217.12, 218.12, 218.13, 219.12, 219.13, 220.12, 220.13, 221.12, and 221.13 are rejected because they do not provide clarity or consistency.
1890. I recommend submission points 63.20, 63.23, 63.24, 63.26, 63.28, 82.14, 207.22, 207.25, 207.26, and 207.28 are accepted in part in so far as they improve clarity and consistency.
1891. I recommend submission points 63.22, 63.25, 129.10, 129.11, 129.12, 129.13, 129.14, 194.85, 194.88, 207.24, and 207.27 are accepted because they improve clarity and consistency.
1892. I recommend that submission points 115.9 and 132.191 are rejected because they does not help achieve the objectives of PPC9.
1893. I recommend submission points 3.20, 8.50, 8.51, 36.9, 59.23, 59.24, 59.29, 59.30, 63.21, 66.22, 66.23, 66.29, 66.30, 123.104, 123.105, 124.28, 192.17, 194.86, 194.87, 194.88, and 194.89 are rejected because I recommend deleting the Conditions or Matters they seek to amend.
1894. I recommend that submission points 29.47, 30.6, 59.22, 59.25, 59.26, 59.27, 59.28, 59.32, 59.31, 59.33, 66.24, 66.25, 66.26, 66.27, 66.28, 66.31, 66.32, 66.33, 66.34, 99.26, 120.60, 124.28, 194.90, 194.91, 195.87, 195.88, 207.23, 210.90, 222.5 and 241.14 are rejected because they do not implement PPC9 policies.

### 15.6.3 Rule TANK 11

#### Submission Points

1895. There are over 50 submission points about Rule TANK 11. Submission points and further submission points for this topic are contained in in Table 15.6 of Appendix 3.
1896. The following evaluation may not explicitly refer to every submission point, but I have considered each submission point before making my recommendations.

#### Submission point requests

1897. Requests for amendments include:
- a. Support for Rule TANK 11 as notified (five submission points)
  - b. No specific relief requested but states opposition to Rule TANK 11
  - c. Clarifying the application of Schedule 31 to frost protection takes
  - d. Amending references to 'Actual and Reasonable'
  - e. Creating a consenting pathway for non-consumptive water takes
  - f. Clarifying whether takes within existing allocation limits are to be avoided or provide a Non-Complying activity rule for otherwise prohibited takes
  - g. Amending condition a) to clarify the consenting pathway
  - h. Deleting references to water storage.

#### Discussion

1898. Rule TANK 11 provides a consenting pathway for the following activities to be considered as Discretionary activities:
- a. Re-allocation for existing groundwater or surface water takes that don't meet the conditions of Rules TANK 9 or TANK 10
  - b. New groundwater or surface water takes that won't cause over-allocation and don't meet the conditions of Rules TANK 7 or TANK 8.
1899. As discretionary activities, the Council will consider the relevant provisions of the RPS and RRMP, including PPC9 Policies 45, 47, 49, 50, 52, 53, 54, 55, 56 and 59.
1900. New takes that are enabled by the release of stored water are not managed by Schedule 31 allocation limits because they are subject to Schedule 32, limited by the amount of water which is being released and the relevant trigger flows.
1901. Some submissions seek clarity about whether Schedule 31 minimum flows and allocation limits apply to the activities listed under Conditions 11b)(ii)i. and ii. I recommend these activities are separated into their own list under 11b)(iii) so that the relevance and application of Schedule 31 to these activities can be determined by decision-makers in accordance with PPC9 policies. For example, while most frost protection takes occur outside of low flows, POL TANK 53 ensures minimum flows apply during November-April and that groundwater allocation limits apply.
1902. I also recommend removing the list of water bodies from condition b)(i) because it is intended to capture an application to continue a water take and use permit, or joint application which replaces existing water permits held in any Water Quantity Area. Schedule 31 applies to all applications to take and use water in the TANK Catchments.

1903. Rule TANK 11 is not intended to provide for the allocation of water that may become available within the interim allocation to new users. To do so would not implement POL TANK 36 and 37 and enable Council to avoid and phase out over-allocation.
1904. 36 submission points request amendments to references to Actual and Reasonable. That term is not used in Rule TANK 11 so I recommend rejecting these submission points.
1905. The changes I am recommending and the submission points that give scope for the changes are shown in the tracked changes version.

### Recommendations

1906. I recommend that submission points 66.35, 67.2, 124.17, 135.55 and 195.89 are accepted in part because they support Rule TANK 11 as notified and I recommend changes.
1907. I recommend that submission points 23.14, 32.14, 35.14, 37.14, 38.14, 43.14, 44.14, 49.14, 54.14, 61.14, 62.14, 69.14, 71.14, 72.14, 73.14, 77.14, 79.14, 86.14, 91.13, 95.14, 96.14, 97.15, 99.40, 104.14, 105.14, 110.14, 122.14, 185.14, 186.14, 196.15, 211.14, 214.14, 215.14, 217.13, 218.14, 219.14, 220.14, and 221.14 are rejected because they are not relevant to Rule TANK 11.
1908. I recommend that submission point 132.50 is accepted in part because they are already provided for by POL TANK 11.
1909. I recommend that submission points 141.5 and 210.92 are rejected because they do not request sufficiently specific relief.
1910. I recommend that submission points 30.23, 123.106, 194.92, and 203.23 are accepted in part because they improve clarity.
1911. I recommend that submission points 29.45, 129.15, and 129.16 are accepted because they improve clarity.
1912. I recommend that submission points 63.27, and 207.29 are rejected because they do not implement PPC9 policies.

## **15.6.4 Rule TANK 12**

### Submission Points

1913. There are 12 submission points about Rule TANK 12. Submission points and further submission points for this topic are contained in in Table 15.6 of Appendix 3.
1914. The following evaluation may not explicitly refer to every submission point, but I have considered each submission point before making my recommendations.

### Submission point requests

1915. Requests for amendments include:
- a. Support for Rule TANK 12 as notified (two submission points)
  - b. Make Rule TANK 12 a Non-Complying activity
  - c. Changing the conditions and what activities are considered prohibited.

## Discussion

1916. Rule TANK 12 implements POL TANK 36, 37, 38 and 52. It enables Council to avoid and phase out over-allocation.
1917. Seven submission points seek that the activity status of Rule TANK 12 be amended to Non-Complying. Without setting a prohibited activity status, there is potential for water use in the Heretaunga Plains to continue slowly, cumulatively increasing. A prohibited status sends a clear message to applicants and decision-makers that new water uses are not acceptable in certain situations.
1918. Four submission points seek that the conditions of Rule TANK 12 are amended to change what activities are considered prohibited. Two of these points seek that only takes that exceed the existing allocation limits and interim limit are prohibited. POL TANK 36 and 37 require Council to avoid allocating water that may become available within the interim limit, Rule TANK 12 implements these policies.
1919. Two submissions seek the conditions are changed consequential to other amendments to Policies and Rule 11. I do not recommend the first amendments are made, therefore I do not accept the consequential amendments.
1920. I do not recommend changes to Rule TANK 12.

## Recommendations

1921. I recommend that submission points 66.36 and 210.93 are accepted in part because they support Rule TANK 12 as notified and I recommend changes.
1922. I recommend that submission points 63.29, 117.2, 180.60, 194.93, 195.90, 203.24, 207.30, and 207.31 are rejected because they do not implement the policies of PPC9.
1923. I recommend that submissions 120.60 and 123.107 are rejected because they are consequential amendments to requests that I recommend are rejected.

### **15.6.5 Rule TANK 13**

#### Submission Points

1924. There are over 100 submission points about policies generally. Submission points and further submission points for this topic are contained in in Table 15.6 of Appendix 3.
1925. The following evaluation may not explicitly refer to every submission point, but I have considered each submission point before making my recommendations.

#### Submission point requests

1926. Requests for amendments include:
- a. Support for Rule TANK 13 as notified (four submission points)
  - b. Support for Rule TANK 13 as notified subject to amendments to other provisions (one submission)
  - c. Deleting condition a)
  - d. Including Conditions
  - e. Including Matters for Control/Discretion
  - f. Reviewing high flow allocation limits to allocate more water
  - g. Including high flow allocations for Karamū and Ahuriri catchments

- h. Making high flow takes a controlled activity.

### Discussion

1927. Rule TANK 13 enables the taking of water at high flows within the allocation limits specified in Schedule 32.
1928. Condition 13a) refers to RRMP Rules 67 and 68. These two rules are about the construction of dams and are not relevant to Rule TANK 13 which is about the taking of water at high flows.
1929. As a Discretionary activity, decision-makers will take into consideration provisions of the RPS and RRMP, including POL TANK 54, 55, 56, 59 and 60. These policies require Council to consider and control a variety of matters.
1930. High flows are considered to play important ecological functions which must be adequately protected. The allocation limits set in Schedule 32 ensure that high flow takes do not individually or cumulatively cause a more than minor change to FRE3. High flow allocations for the Ahuriri and Karamū catchments are not considered feasible because they are small, lowland catchments. These matters are discussed in more detail in Section 15.5.10 of this report and Section 8.5 of the Section 32 Report.
1931. The changes I am recommending and the submission points that give scope for the changes are shown in the tracked changes version.

### Recommendations

1932. I recommend that submission points 8.23, 66.37, 108.7, and 194.94 are accepted in part because they support Rule TANK 13 as notified and I recommend changes.
1933. I recommend that submission points 129.17 is accepted because they improve clarity.
1934. I recommend that submissions points 123.108 and 210.94 are accepted in part because they are already provided for by PPC9.
1935. I recommend that submission points 23.20, 23.28, 32.20, 32.28, 35.20, 35.28, 37.20, 37.28, 38.20, 38.28, 43.20, 43.28, 44.20, 44.28, 49.20, 49.28, 61.20, 61.28, 62.20, 62.28, 54.20, 54.28, 69.20, 69.28, 71.20, 71.28, 72.20, 72.28, 73.20, 73.28, 77.20, 77.28, 79.20, 79.28, 86.20, 86.28, 91.19, 91.27, 95.20, 95.28, 96.20, 96.28, 97.21, 91.27, 97.29, 99.46, 99.54, 104.20, 104.28, 105.20, 105.28, 110.20, 110.28, 122.20, 122.28, 185.20, 185.28, 186.20, 186.28, 195.91, 196.21, 196.29, 211.20, 211.28, 214.20, 214.28, 215.20, 215.28, 217.19, 217.27, 218.20, 218.28, 219.20, 219.28, 220.20, 220.28, 221.20, and 221.28 are rejected in accordance with discussion in Section 15.5.10 of this report.
1936. I recommend that submission points 18.17, 26.17, 28.17, 34.17, 39.17, 41.17, 48.17, 53.17, 68.17, 75.17, 76.17, 81.17, 84.17, 87.16, 88.16, 94.17, 102.17, 103.12, 107.17, 143.16, 165.17, 179.17, 199.17, 204.17, and 213.17 are rejected because they are consequential to submission points I do not recommend accepting.

## **15.6.6 Rule TANK 14**

### Submission Points

1937. There are 84 submission points about policies generally. Submission points and further submission points for this topic are contained in in Table 15.6 of Appendix 3.

1938. The following evaluation may not explicitly refer to every submission point, but I have considered each submission point before making my recommendations.

### Submission point requests

1939. Requests for amendments include:

- a. Support for Rule TANK 14 as notified (three submission points)
- b. Changing Activity description
- c. Inserting a new condition to align with RRMP rules
- d. Including Matters for Control/Discretion
- e. Removing reference to Rule TANK 17
- f. Making all instream dams a Prohibited activity
- g. No specific relief requested but state high flow allocations should be revisited
- h. Specifying high flow allocations for the Karamū and Ahuriri catchments.

### Discussion

1940. Rule TANK 14 enables erecting dams and the consequential damming of water a Discretionary activity. Damming activities are also subject to RRMP 67 and 68.

1941. As a Discretionary activity, decision-makers will take into consideration provisions of the RPS and RRMP, including POL TANK 54, 55, 56, 59 and 60. These provisions require Council to consider and control a variety of matters.

1942. Rule TANK 14 relates to all water bodies except those specified in Rule TANK 17. To delete references would confuse the rule framework.

1943. Issues relating to instream damming are discussed further under Section 15.5 of this report. Enabling storage through damming implements PPC9 OBJ TANK 3 and 18, and POL TANK 56.

1944. 77 submission points relate to high flow allocations. High flows are considered to play important ecological functions which must be adequately protected. The allocation limits set in Schedule 32 ensure that high flow takes do not individually or cumulatively cause a more than minor change to FRE3. High flow allocations for the Ahuriri and Karamū catchments are not considered feasible because they are small, lowland catchments. These matters are discussed in more detail in Section 15.5.10 of this report and Section 8.5 of the Section 32 Report.

1945. The changes I am recommending and the submission points that give scope for the changes are shown in the tracked changes version.

### Recommendations

1946. I recommend that submission points 66.38, 108.8, and 194.95 are accepted in part because they support the policy as notified and I recommend changes.

1947. I recommend that submission points 129.18 and 129.19 are accepted because they improve clarity.

1948. I recommend that submission point 123.109 is accepted in part because it is already provided for by PPC9.

1949. I recommend that submission point 195.92 is rejected because it does not improve clarity.

1950. I recommend that submission point 210.95 is rejected because it does not give effect to POL TANK 54-60.

1951. I recommend that submission points 23.21, 23.29, 32.21, 32.29, 35.21, 35.29, 37.21, 37.29, 38.21, 38.29, 43.21, 43.29, 44.21, 44.29, 49.21, 54.21, 54.29, 49.29, 61.21, 61.29, 62.21, 62.29, 69.21, 69.29, 71.21, 71.29, 72.21, 72.29, 73.21, 73.29, 77.21, 77.29, 79.21, 79.29, 86.21, 86.29, 91.20, 91.28, 95.21, 95.29, 96.21, 96.29, 97.22, 97.30, 99.47, 99.55, 104.21, 104.29, 105.21, 105.29, 110.21, 110.29, 122.21, 122.29, 185.21, 185.29, 186.21, 186.29, 196.22, 196.30, 211.21, 211.29, 214.21, 214.29, 215.21, 215.29, 217.20, 217.28, 218.21, 218.29, 219.21, 219.29, 220.21, 220.29, 221.21, and 221.29 are rejected in accordance with discussion on Section 15.5.10 of this report.

### **15.6.7 Rule TANK 15**

#### Submission Points

1952. There are 86 submission points about policies generally. Submission points and further submission points for this topic are contained in in Table 15.6 of Appendix 3.

1953. The following evaluation may not explicitly refer to every submission point, but I have considered each submission point before making my recommendations.

#### Submission point requests

1954. Requests for amendments include:

- a. Support for Rule TANK 15 as notified (two submission points)
- b. Clarifying references to other Rules
- c. Changing Activity status to Controlled
- d. Including Matters for Control/Discretion
- e. Amend high flow allocation limits
- f. Include high flow allocation limits for the Karamū and Ahuriri catchments
- g. Give effect to the RMA and NPSFM2017
- h. Making the rules fair and equitable for all water users.

#### Discussion

1955. Rule TANK 15 enables new surface water takes from water that is impounded or dammed. Because these takes are from impounded water which was taken at high flows, the minimum flows and allocation limits of Schedule 31 and Schedule 32 do not apply. The definition of 'surface water' in the RRMP includes waters that are impounded or dammed, therefore permitted take Rule TANK 7 applies to stored and dammed water.

1956. Water that has been dammed or impounded has already been subject to resource consent under Rules TANK 13 and 14 which makes the taking and storing of water a Discretionary activity, and Rule TANK 17 which prohibits damming on the mainstems of certain water bodies.

1957. A Discretionary activity status does not encourage the activity of using water that has been stored. It is also a high bar to pass because the damming or taking of water at high flows has already had to pass quite a high bar. This seems contrary to OBJ TANK 18, POL TANK 39, 40, 41, 44, 52, 56, 57, 59, and 60. Under the RRMP, these takes would have been Permitted under Rule 54, or Discretionary under Rule 55.

1958. Potential adverse effects of water take and use from stored water are less likely to be because of the act of taking of that water, but rather from its end use. For example, use of stored water may enable changes to land use which may subsequently affect water quality. The use of water that has already been stored will not affect minimum flows, however, it is important that water use from storage is monitored in order to inform the review under POL TANK 42 to understand total water use across the Heretaunga Plains.
1959. I consider Controlled is not an appropriate activity status because the exact nature, scale, and location of storage or impoundment takes and uses are not yet known and cannot be usefully defined in a Controlled status rule.
1960. I recommend Rule TANK 15 is amended to a Restricted Discretionary Activity status with relevant Conditions/Standards/Terms and Matters for Control/Discretion.
1961. 77 submission points relate to high flow allocations. I do not consider these submission points to be relevant to the taking of stored water and the matters raised are already addressed elsewhere. See Section 15.5.10 of this report and Section 8.5 of the Section 32 Report for further discussion.
1962. The changes I am recommending and the submission points that give scope for the changes are shown in the tracked changes version.

### Recommendations

1963. I recommend that submission points 66.39 and 108.9 are accepted in part because they support Rule TANK 15 as notified and I recommend changes.
1964. I recommend that submission points 23.22, 23.30, 32.22, 32.30, 35.22, 35.30, 37.22, 37.30, 38.22, 38.30, 43.22, 43.30, 44.22, 44.30, 49.22, 49.30, 54.22, 54.30, 61.22, 61.30, 62.22, 62.30, 69.22, 69.30, 71.22, 71.30, 72.22, 72.30, 73.22, 73.30, 77.22, 77.30, 79.22, 79.30, 86.22, 86.30, 91.21, 91.29, 95.22, 95.30, 96.22, 96.30, 97.23, 97.31, 99.48, 99.56, 104.22, 104.30, 105.22, 105.30, 110.22, 110.30, 122.22, 122.30, 185.22, 185.30, 186.22, 186.30, 196.23, 196.31, 211.22, 211.30, 214.22, 214.30, 215.22, 215.30, 217.21, 217.29, 218.22, 218.30, 219.22, 219.30, 220.22, 220.30, 221.22, and 221.30 are rejected in accordance with discussion in Section 15.5.10 of this report.
1965. I recommend that submission points 63.32, 129.19, and 207.34 are accepted because they improve clarity.
1966. I recommend that submission points 210.96, and 219.79 are accepted in part because they are already provided for by PPC9.
1967. I recommend submission points 123.110, 194.96, 195.93 are accepted in part in so far as they help achieve OBJ TANK 17 and 18, and improve clarity.

### **15.6.8 Rule TANK 16**

#### Submission Points

1968. There are six submission points about Rule TANK 16. Submission points and further submission points for this topic are contained in in Table 15.6 of Appendix 3.
1969. The following evaluation may not explicitly refer to every submission point, but I have considered each submission point before making my recommendations.

### Submission point requests

1970. Requests for amendments include:

- a. Support for Rule TANK 16 as notified (one submission point)
- b. Support for Rule TANK 16 subject to amendments to Rules TANK 13-15 (one submission point)
- c. Referring to "TANK Rules 13-15" instead of Rules TANK 13-15
- d. Changing the Activity status to Prohibited.

### Discussion

1971. Rule TANK 16 establishes a Non-Complying activity status for damming and high flow takes which do not comply with the conditions of Rules TANK 13-15. This helps implement OBJ TANK 18, and POL TANK 39, 40, 41, 44, 52, 56, 57, 59, and 60 which seek to enable and encourage flexible management regimes, water harvesting, storage and use.

1972. Changing the activity status to non-complying would not help achieve OBJ TANK 18.

1973. The naming convention of Rule TANK 16 is consistent with all other TANK rules. It also avoids confusion with existing RRMP rules.

1974. I do not recommend changes to Rule TANK 16.

### Recommendations

1975. I recommend that submission point 66.40 is accepted because it supports Rule TANK 14 as notified.

1976. I recommend that submission point 195.94 is accepted in part because I do not recommend granting the relief sought for Rules TANK 13-15.

1977. I recommend that submission points 63.33 and 207.35 are rejected because they do not improve clarity or consistency.

1978. I recommend that submission points 123.111 and 210.97 are rejected because they do not implement PPC9 objectives and policies.

## **15.6.9 Rule TANK 17**

### Submission Points

1979. There are 10 submission points about Rule TANK 17 generally. Submission points and further submission points for this topic are contained in in Table 15.6 of Appendix 3.

1980. The following evaluation may not explicitly refer to every submission point, but I have considered each submission point before making my recommendations.

### Submission point requests

1981. Requests for amendments include:

- a. Support for Rule TANK 17 as notified (four submissions)
- b. Adding tributaries, streams and rivers to the list of rivers
- c. Inserting a new rule to provide for temporary dams

- d. Changing the activity status to Non-Complying.

### Discussion

1982. Rule TANK 17 prohibits the construction of dams or damming or waters in specified rivers. This rule implements POL TANK 58.
1983. RRMP Rule 67 provides for the construction of temporary dams.
1984. To prohibit damming on all tributaries and the variety of rivers as requested by submitters would not enable Council to achieve OBJ TANK 18. I consider POL TANK 55-56 and 58, and Schedule 32 provide protection for the values of the requested water bodies.
1985. I note that the application for a Water Conservation Order on the Ngaruroro River is currently being heard before the Environment Court and a decision is unlikely before PPC9 hearings. Regional Policy Statements must not be inconsistent, and Council must not grant permits which are contrary to provisions of a water conservation order.
1986. I do not recommend changes to Rule TANK 17.

### Recommendations

1987. I recommend that submission points 46.3, 66.41, 108.10, and 123.112 are accepted because they support Rule TANK 17 as notified.
1988. I recommend that submission points 31.4, 58.32, 132.188, 210.98 and 237.6 are rejected because they do not help achieve OBJ TANK 18.
1989. I recommend that submission point 195.95 is rejected because it does not implement POL TANK 58.
- 1990.** I recommend that submission point 146.4 is accepted in part because it is already provided for by the RRMP.

## **15.6.10 Rule TANK 18**

### Submission Points

1991. There are more than 100 submission points about Rule TANK 18 generally. Submission points and further submission points for this topic are contained in in Table 15.6 of Appendix 3.
1992. The following evaluation may not explicitly refer to every submission point, but I have considered each submission point before making my recommendations.

### Submission point requests

1993. Requests for amendments include:
- a. Support for Rule TANK 18 as notified (one submission point)
  - b. Deleting condition a) and including as an Assessment Criteria
  - c. Changing activity status to Restricted Discretionary
  - d. Include water quality targets as a Matter for Control/Discretion.

## Discussion

1994. Rule TANK 18 as notified relates to both the transfer of water permits and the discharge of groundwater into surface water. These two activities are relevant to implementing stream flow maintenance schemes.
1995. Transfers are already managed by RRMP Rules 60-62b so the inclusion of "Transfer" within the Activity Description of TANK 18 is unnecessary duplication. The potential adverse effects which require management are those relating to the discharge. Potential effects to the discharge include:
- a. Changes to water quality caused by the discharge
  - b. Changes to water quality caused by land use change enabled by the discharge
  - c. Flooding risk.
1996. I recommend that Schedule 36 is deleted, so condition 18a) requires consequential amendment.
1997. One submission requests that the Activity status is amended to Restricted Discretionary. I acknowledge that allocation and transfer of the groundwater to be discharged has already been subject to Rules TANK 9, 10, 11, 13 and 15 as relevant. Making Rule TANK 18 a Restricted Discretionary encourages investigation and implementation of innovative, flexible water management regimes and flow enhancement by providing greater security to applicants. This helps implement OBJ TANK 18. In making Rule TANK 18 Restricted Discretionary, I also recommend a new TANK 18a with a Discretionary activity status for activities which do not meet the conditions of Rule TANK 18.
1998. In writing conditions and matters, I have kept in mind requests to require discharges to meet water quality targets. I have also kept in mind POL TANK 10 which relates to point source discharges.
1999. 114 submission points seek relief relating to stream flow maintenance schemes. Identical relief is sought for POL TANK 39-41. Response to these submission points is included in Section 15.3.6.
2000. The changes I am recommending and the submission points that give scope for the changes are shown in the tracked changes version.

## Recommendations

2001. I recommend that submission points 66.42 and 195.96 are accepted in part because they support Rule TANK 18 as notified.
2002. I recommend that submission point 63.34, 99.27, 123.113, 180.61, and 207.36 are accepted in part in so far as they help achieve OBJ TANK 18 and implement POL TANK 10.
2003. I recommend that submission points 132.73 and 210.99 and rejected because it does not help achieve OBJ TANK 18 or help implement POL TANK 36, 37 and 52.
2004. I recommend that submission points 194.36 is rejected because it does not improve clarity.
2005. I recommend that submission point 194.97 is rejected because I recommend deleting Schedule 36.

2006. I recommend that submission points 23.48, 23.52, 32.48, 32.52, 35.48, 35.52, 37.48, 37.52, 38.48, 38.52, 43.48, 43.52, 44.48, 44.52, 49.48, 49.52, 54.48, 54.52, 61.48, 61.52, 62.48, 62.52, 69.48, 69.52, 71.48, 71.52, 72.48, 72.52, 73.48, 73.52, 77.48, 77.52, 79.48, 79.52, 86.48, 86.52, 91.47, 91.51, 95.48, 95.52, 96.48, 96.52, 97.49, 97.53, 99.74, 99.78, 104.48, 104.52, 105.48, 105.52, 110.48, 110.52, 122.48, 122.52, 185.48, 185.52, 186.48, 186.52, 196.49, 196.53, 211.48, 211.52, 214.48, 214.52, 215.48, 215.52, 217.47, 217.51, 218.48, 218.52, 219.48, 219.52, 220.48, 220.52, 221.48, and 221.52 are accepted in part in accordance with discussion in Section 15.3.6 of this report.

**2007.** I recommend that submission points 23.55, 32.55, 35.55, 37.55, 38.55, 43.55, 44.55, 49.55, 54.55, 61.55, 62.55, 69.55, 71.55, 72.55, 73.55, 77.55, 79.55, 86.55, 91.54, 95.55, 96.55, 97.57, 99.81, 104.55, 105.55, 110.55, 122.55, 185.55, 186.55, 196.57, 211.55, 214.55, 215.55, 217.54, 218.55, 219.55, 220.55, and 221.55 are rejected in accordance with discussion in Section 15.3.6 of this report.

### **15.6.11 Miscellaneous**

#### Submission Points

2008. There are eight submission points about PPC9 rules generally. Submission points discussed here refer to multiple or all of the proposed rules, and refer to topics which are covered by multiple rules. Submission points and further submission points for this topic are contained in in Table 15.6 of Appendix 3.

2009. The following evaluation may not explicitly refer to every submission point, but I have considered each submission point before making my recommendations.

#### Submission point requests

2010. Requests for amendments include:

- a. Support for multiple rules as notified
- b. Statements that abstraction and damming rules are very weak and ambiguous
- c. Requiring existing and new consent applications for irrigation uses to be assessed as Discretionary activities, tangata whenua parties to be notified and a 10 year consent duration imposed.

#### Discussion

2011. I consider the framework of PPC9 implements the policies of PPC9 and it helps to achieve the objectives of PPC9. Conditions and Matter for Control and Discretion enable decision-makers to consider a wide range of effects while providing clarity to applicants.

2012. The changes I recommend to individual rules are considered to improve clarity.

#### Recommendations

2013. I recommend that submission point 59.21 is accepted in part because they support Rule TANK 7, 8, and 11-18 as notified but I recommend changes.

2014. I recommend that submission point 31.3 is rejected because it does not seek sufficiently specific relief.

2015. I recommend that submission points 132.50, 132.52, 132.60, 132.62, and 132.67 are rejected because they do not implement the policies of PPC9.

2016. I recommend that submission point 240.25 is accepted in part because much of the relief sought is already provided for by PPC9.

### **15.6.12 RRMP Rule 31**

#### Submission Points

2017. There is one submission points about RRMP Rule 31. It requests specific wording is added to proposed condition d. so it reads as follows:

2018. *“d. The discharge is not a discharge of groundwater into surface water in the Tūtaekurī, Ahuriri, Ngaruroro and Karamū Catchments except where discharge of such water into surface water is necessary due to structural failure of water retention vessels, drains, stop-banks, weirs, floodgates or dams deliberately sabotaged or damaged in emergencies such as fires, floods or earthquakes.”*

2019. RRMP Rule 31 enables discharges of water to water as a permitted activity. The potential adverse effects of dams or storage impoundments are considered under POL TANK 54 and 55. These potential adverse effects include risks from infrastructure failure. To enable infrastructure failure as a permitted activity would not implement POL TANK 54 and 55.

2020. I do not recommend changes to RRMP Rule 31.

#### Recommendation

2021. I recommend that submission point 195.111 is rejected because they do not implement PPC9 policies.

### **15.6.13 RRMP Rules 53-55**

#### Submission Points

2022. There are five submission points about RRMP Rules 53-55. Submission points and further submission points for this topic are contained in in Table 15.6 of Appendix 3.

2023. The following evaluation may not explicitly refer to every submission point, but I have considered each submission point before making my recommendations.

#### Submission point requests

2024. Requests for amendments include:

- a. Support for amendments as notified (one submission)
- b. Adding the Mangateretere Stream, Paritua Stream and Karewarewa Streams to the list of excluded water bodies in RRMP Rule 54
- c. Enabling takes in water short areas up to 60m<sup>3</sup> per week for stock drinking water as controlled activities
- d. Adding a new rule to make minor takes or takes above 60m<sup>3</sup> in water short areas a Restricted Discretionary activity.
- e. Changing references to “allocation limits” to “abstraction limits”.

#### Discussion

2025. RRMP Rules 53-55 do not apply in the TANK Catchments. Rule 53 enables groundwater takes and uses as a permitted activity, Rule 54 enables surface water takes and uses as a

permitted activity, Rule 55 establishes all other takes and uses of surface or groundwater Discretionary activities.

2026. I consider that PPC9 provides an appropriate rules framework for the taking and using of ground and surface water in the TANK Catchments.

2027. I do not recommend changes to RRMP Rules 53-55.

#### Recommendations

2028. I recommend that submission point 195.117 is accepted because it supports Rules 53-55 as notified.

2029. I recommend that submission points 132.119, 132.162, 132.63, and 132.164 are rejected because they do not implement the policies of PPC9.

#### **15.6.14 RRMP Rules 60-62b**

##### Submission Points

2030. There are more than 150 submission points about RRMP Rules 60-62b. Submission points and further submission points for this topic are contained in in Table 15.6 of Appendix 3.

2031. The following evaluation may not explicitly refer to every submission point, but I have considered each submission point before making my recommendations.

##### Submission point requests

2032. Requests for amendments include:

- a. Deleting conditions which enable the transfer to be to any person or occupier of the site in respect of which the permit is granted
- b. Deleting conditions which require the transfer to be downstream of any affected stream
- c. Changing conditions which relate to drawdown effects on neighbouring bores or connected water bodies
- d. Deleting conditions which require the transfer to not increase nitrogen loss
- e. Enabling transfers of all water permits that have been exercised
- f. Changing conditions to refer to 'reasonable' only
- g. Correcting formatting errors
- h. Excepting transfers in response to infrastructure failure or emergency
- i. Enabling longer temporary transfers
- j. Allowing transfers of unused water allocation between irrigators in the same catchment
- k. Amending conditions to refer to "communities' needs" instead of "communities' human health needs"
- l. Enabling transfers to industrial use
- m. Removing reference to stream flow maintenance schemes
- n. Clarifying application of Rule 62b.

##### Discussion

2033. Chapter 6.7.3 relates to the transfer of water permits. PPC9 amends Rules 61 and 62 to exclude the TANK Catchments, and adds new rules 62a and 62b to manage transfers in the TANK Catchments. Rules 62a and 62b relate to Section 136(2)(b)(i) of the RMA.

Activities described by Condition b.i. are covered under Section 136(2)(a) and are outside the scope of these rules.

2034. I note there is a formatting error in the notified version of PPC9 causing the sub-conditions of condition d to all appear as i). I recommend this is amended to show correct numbering and refer to conditions as amended in this discussion.
2035. Condition d.ii. requires transfers of groundwater takes to be downstream of any affected stream. Given the highly connected nature of the Heretaunga Plains, it is impractical and therefore ineffective and inefficient to determine what is “downstream of any affected stream across the Heretaunga Plains”.
2036. Condition e. requires that transfers do not cause a change to the nature and scale of drawdown effects on neighbouring bores or connected water bodies. It is not possible to have ‘no change’ in nature and scale of drawdown as the take will occur at a different site and therefore affect different bore and connected water bodies. Essentially all transfers would then fall to the Discretionary activity status, making the Controlled status redundant. It is more appropriate to require that there is no increase in the nature and scale of effects.
2037. Condition f. requires that the transfer does not result in an increase in nitrogen loss. This condition helps implement POL TANK 21 and connects the potential association between land use change and transfers of water take and use. One submission point seeks that it is deleted and one submission point seeks that is amended to improve clarity.
2038. 154 submission points (151 are identical points logged against multiple rules) seek that transfers of all permits that have been exercised are enabled. This relief is discussed in detail under Section 15.4.8. I do not repeat that discussion here and I recommend the points are rejected or accepted in part in accordance with that discussion.
2039. One submission seeks that transfers between ground and surface water points of take be enabled where infrastructure is damaged or otherwise impaired by matters beyond the consent holder’s control, and that reporting not be required for temporary transfers of 28 days or less. I consider that this relief is not necessary given permitted activity rules TANK 7 and TANK 8 which would enable any user to take a permitted volume in the interim of repairing their damaged infrastructure. Water meter and telemetry requirements are set out in the Resource Management (Measurement and Reporting of Water Takes) Regulations 2010 and I consider PPC9 to align with those.
2040. OBJ TANK 16 seeks that water is allocated in a priority order which aligns with the NPSFM2020 hierarchy of obligations and prioritises human health needs before uses for social, economic and cultural well-being. POL TANK 48 seeks to ensure that priority order is upheld through transfers of water take and use. See Section 15.2.1 and Section 15.4.11 for further discussion on municipal and urban allocation.
2041. I do not recommend changes to Rules 60-62 or 62b. Recommended changes to Rule 62a relate to consistency and consequential amendments. The changes I am recommending and the submission points that give scope for the changes are shown in the rule below.

### Recommendations

2042. I recommend that submission points 14.18, 15.17, 20.17, 29.47, 29.63, 129.30, 129.31, 129.32, 129.33, 180.66, 208.17, and 238.20 are accepted because they improve clarity, consistency, effectiveness and efficiency.
2043. I recommend that submission points 195.120 are accepted in part in so far as they improve effectiveness and efficiency.

2044. I recommend that submission point 195.121 is rejected because it does not improve clarity or consistency.

2045. I recommend that submissions points 23.38, 23.39, 23.40, 23.41, 32.38, 32.39, 32.40, 32.41, 35.38, 35.39, 35.40, 35.41, 37.38, 37.39, 37.40, 37.41, 38.38, 38.39, 38.40, 38.41, 43.38, 43.39, 43.40, 43.41, 44.38, 44.39, 44.40, 44.41, 49.38, 49.39, 49.40, 49.41, 54.38, 54.39, 54.40, 54.41, 61.38, 61.39, 61.40, 61.41, 62.38, 62.39, 62.40, 62.41, 63.30, 63.31, 69.38, 69.39, 69.40, 69.41, 71.38, 71.39, 71.40, 71.41, 72.38, 72.39, 72.40, 72.41, 73.38, 73.39, 73.40, 73.41, 77.38, 77.39, 77.40, 77.41, 79.38, 79.39, 79.40, 79.41, 86.38, 86.39, 86.40, 86.41, 91.37, 91.38, 91.39, 91.40, 95.38, 95.39, 95.40, 95.41, 96.38, 96.39, 96.40, 96.41, 97.39, 97.40, 97.41, 97.42, 99.64, 99.65, 99.66, 99.67, 104.38, 104.39, 104.40, 104.41, 105.38, 105.39, 105.40, 105.41, 110.38, 110.39, 110.40, 110.41, 122.38, 122.39, 122.40, 122.41, 123.119, 180.66, 185.38, 185.39, 185.40, 185.41, 186.38, 186.39, 186.40, 186.41, 195.118, 195.119, 196.39, 196.40, 196.41, 196.42, 207.32, 207.33, 210.107, 211.39, 211.40, 211.41, 214.38, 214.39, 214.40, 214.41, 215.38, 215.39, 215.40, 215.41, 217.37, 217.38, 217.39, 217.40, 218.38, 218.39, 218.40, 218.41, 219.38, 219.39, 219.40, 219.41, 220.38, 220.39, 220.40, 220.41, 221.38, 221.39, 221.40, and 221.41 are rejected because they do not implement POL TANK 48.

2046. I recommend that submission point 194.99 is rejected because it does not implement POL TANK 21.

### **15.6.15 RRMP Rules 67-69**

#### Submission Points

2047. There are five submission points about RRMP Rules 67 and 69 that seek the removal of references to RRMP Rules 67-69. Submission points and further submission points for this topic are contained in in Table 15.6 of Appendix 3.

2048. Rule 67 enables damming as a permitted activity, and Rule 69 makes damming which doesn't meet the conditions of Rule 67 a Discretionary activity. PPC9 amends Rules 67 and 69 to exclude certain water bodies in alignment with Rule TANK 17. Rule TANK 17 implements POL TANK 58 and prohibits damming on the Ngaruroro, Taruarau, Omahaki, Tūtaekurī, Mangaone, and Mangatutu Rivers.

2049. I do not recommend changes to RRMP Rules 67-69.

#### Recommendations

2050. I recommend that submission points 51.9, 195.123, 195.124, 210.108 and 210.109 are rejected because they do not implement POL TANK 58.

### **15.6.16 RRMP Policies**

#### Submission Points

2051. There are three submission points about the consequential amendments to the RRMP Chapters 5.5 and 5.7 proposed by PPC9. Submission points and further submission points for this topic are contained in in Table 15.6 of Appendix 3.

2052. The following evaluation may not explicitly refer to every submission point, but I have considered each submission point before making my recommendations.

### Submission point requests

2053. Requests for amendments include:

- a. Support for the consequential amendments as notified
- b. Retaining RRMP Pol 77.

### Discussion

2054. PPC9 establishes a new policy and rule framework for managing ground and surface water quantity in the TANK Catchments. I consider the approach proposed by PPC9 is a more effective and efficient way of achieving the objectives of PPC9 than the current RRMP policies and rules.

2055. I do not recommend changes to RRMP policies.

### Recommendations

2056. I recommend that submission points 195.152 and 195.154 are accepted because they support the consequential amendments as notified.

2057. I recommend that submission point 132.132 is rejected because it does not improve effectiveness or efficiency.

## **15.6.17 Definitions Relevant to Quantity Provisions**

### Submission Points

2058. There are 99 submission points about definitions that relate to water quantity. Submission points and further submission points for this topic are contained in in Table 15.6 of Appendix 3.

2059. I have divided the following discussing into three parts:

- a. Actual and Reasonable
- b. Allocation Limits
- c. Affected stream
- d.
- e. Terms to be added or deleted

2060. The following evaluation may not explicitly refer to every submission point, but I have considered each submission point before making my recommendations.

### *Actual and Reasonable*

### Submission point requests

2061. Requests for amendments include:

- a. Support for the definition of Actual and Reasonable use (3 submission points)
- b. Changing the dates in clauses b) and c) to reference 2 May 2020 instead of 17 August 2017
- c. Removing the option of allocating water according to actual historical use
- d. Enabling use of alternative models
- e. Consideration of historical low flow cease takes
- f. Removing the restriction on irrigated area

- g. Specific wording amendments.

## Discussion

2062. The definition of Actual and Reasonable is an integral part of PPC9. The first step of establishing a sinking allocation limit for the Heretaunga Plains quantity area is to re-allocate surface and groundwater takes according to their “Actual and Reasonable” use. As discussed in Section 15.1, this criteria for reallocation is intended to cap allocations and water use at current levels, allowing for domestic uses and stock drinking water, and consents which have not had the opportunity to fully utilise their allocation due to planned development.
2063. The effective date for Actual and Reasonable date was set as 17 August 2017. This date is when Council announced that the Heretaunga Plains aquifer was fully allocated and signalled the end of allocation of new water. The TANK Group considered allocation mechanisms based off historic use prior to the 2017 winter. This announcement and the effective date were set to avoid consent holders needlessly pumping their full allocation in order to demonstrate higher actual use. I consider it is appropriate to amend the effective date to 2 May 2020 for the following reasons:
- a. The Resource Management (Measurement and Reporting of Water Takes) Regulations 2010 (Measurement and Reporting regulations) requires permit holders to keep records of the water taken under a water permit, including water taken in excess of what the permit allows and provide that information to Council. The regulations were applied in a staged manner from November 2012 to November 2016. This means that the majority of permit holders should now have a minimum of four years actual use water data. Actual water meter data is considered to be a better indicator of existing use than IRRICALC for irrigators.
  - b. Many other provisions in PPC9 use the notification date, 2 May 2020, as the effective date, for example, the continuation of permitted takes under Rules TANK 7 and 8. Having one consistent date across PPC9 change would improve clarity and reduce confusion for plan users.
2064. As a consequential amendment, I recommend amending clause a) of the definition to refer to the average annual amount as measured by accurate water meter data, instead of the maximum. The 2019-2020 drought event was longer and resulted in lower rainfall than the 2012-2013 event. As a result, modelled and water meter data show a significant increase in water use during the 2019-2020 water year. Modelled and water meter data also show that for the 2016 and 2017 years, total water use levels were similar and 2018 was a lower year. When averaged across 2016-2019 (the years were most users had installed water meters as required by national regulation), modelled water use remains around 90Mm<sup>3</sup>. I note that the proviso remains that the *lesser* volume as specified on the existing consent, or determined by water meter data or IRRICALC will be allocated. I consider this to enable Council phase-out over-allocation, give effect to the NPSFM2020, and align with POL TANK 37 interim limit, while improving the clarity and consistency of PPC9.
2065. 65 submission points account for three sets of identical points. These points seek that reference to “Actual” historical use be removed, and re-allocation be determined according to “Reasonable” use as determined by IRRICALC. One of the reasons cited for these requests relates to a lack of sufficient monitoring data for water use during the 2012-2013 drought event. Concerns around insufficient water meter data are alleviated by changing the effective date to 2 May 2020. As discussed in Section 15.1, the Council must avoid and phase out over-allocation and capping allocations according at existing levels where possible is an important part of achieving that. IRRICALC has been found to have a tendency to over-estimate water needs for irrigation. Although some work has been undertaken to improve accuracy, I consider that relying on actual water use data is the most

accurate way of limiting allocation to existing use in order to avoid further over-allocation and give effect to the NPSMF2020.

2066. Some submitters seek that the words “and the least of either” are removed from between clause a) and clauses b) and c). I consider this is inappropriate because it could enable applicants to increase their allocation if changing or intensifying land use. This approach would not enable the Council to avoid and phase-out over-allocation under the NPSFM2020, especially given the over-estimation of IRRICALC.
2067. One submission seeks the ability to use alternatives to IRRICALC. This submission point aligns with relief sought to POL TANK 47 and provides consistency and clarity.
2068. One submission seeks that historical low flow bans are taken into account when considering Actual and Reasonable use. I assume they mean to have the water they could have taken if not on ban be included in Actual and Reasonable assessment. Matters for Control Rules TANK 9 and 10 enable decision makers to have consideration of previous history exercising the consent. This previous history may include the effect of cease takes on a permit holder’s ability to utilise their consented allocation.
2069. One submission seeks that the area being irrigated is not restricted by clause c)(i). I note that this restriction is only applicable when calculating use using IRRICALC and is relevant for ensuring actual water use does not increase.
2070. The changes I am recommending to Actual and Reasonable and the submission points that give scope for the changes are shown in the tracked changes version.

### Recommendations

2071. I recommend that submission points 3.11, 8.24 and 124.20 are accepted in part because they support the definition of Actual and Reasonable as notified but I recommend some amendments are made to the definition.
2072. I recommend that submission point 42.12 is accepted in part because it is already provided for by PPC9 rules.
2073. I recommend that submission points 192.19 and 194.113 are accepted in part because they improve consistency and clarity.
2074. I recommend that submission points 82.4 and 82.5 are accepted and submission points 9.1, 59.39, 66.48, 91.78 and 95.80 are accepted in part in so far as they seek a change of date to 2 May 2020.
2075. I recommend that submission points 123.160 and 123.166 are rejected because they do not improve clarity.
2076. I recommend that submission points 18.11, 23.8, 26.11, 28.11, 29.50, 32.8, 34.11, 35.8, 37.8, 38.8, 39.11, 41.11, 43.8, 44.8, 48.11, 49.8, 53.11, 61.8, 62.8, 68.11, 69.8, 71.8, 72.8, 73.8, 75.11, 76.11, 77.8, 79.8, 81.11, 84.11, 86.8, 87.11, 88.11, 91.7, 94.11, 95.8, 96.8, 97.8, 102.11, 103.8, 104.8, 105.8, 107.11, 110.8, 122.8, 143.10, 165.11, 179.11, 180.74, 185.8, 186.8, 196.8, 199.11, 204.11, 208.10, 211.8, 213.11, 214.8, 215.8, 217.7, 218.8, 219.8, 220.8, 221.8, and 238.10 are rejected because they do not give effect to the NPSFM2020.
2077. I recommend that submission points 23.8, 32.8, 35.8, 37.8, 38.8, 43.8, 44.8, 49.8, 54.8, 61.8, 62.8, 69.8, 71.8, 72.8, 73.8, 77.8, 79.8, 86.8, 91.7, 95.8, 96.8, 97.8, 99.34, 104.8,

105.8, 110.8, 122.8, 185.8, 186.8, 196.8, 211.8, 214.8, 215.8, 217.7, 218.8, 219.8, 220.8 and 221.8 are rejected because they do not give effect to the NPSFM.

### *Allocation Limits*

#### Submission point requests

2078. Requests for amendments include:

- a. Retaining as notified (one submission point)
- b. Amending all three allocation limit definitions to clarify meaning
- c. Inserting a new sentence at the end of Allocation limit for surface water
- d. Deleting "allocation limit" and replacing with a new definition
- e. Excluding frost protection takes from allocation limits.

#### Discussion

2079. There are three terms included in the Glossary relating to allocation limits:

- a. Allocation Limit
- b. Allocation limit for Groundwater
- c. Allocation limit for high flow takes.

2080. These definitions relate to the different types of allocation limits included in PPC9 for different types of freshwater takes. An annual volume allocation limit for groundwater had not been utilised in allocating groundwater under the RRMP.

2081. The Council's own submission requested changes to these definitions to help improve clarity. I recommend these amendments are accepted in part and recommend further formatting corrections to improve clarity and consistency.

2082. I consider that the existing reference to frost protection takes and the amendments made to POL TANK 43, Rule TANK 11 provide sufficient clarity regarding frost protection takes.

2083. The changes I am recommending and the submission points that give scope for the changes are shown in the tracked changes version.

#### Recommendations

2084. I recommend that submission point 203.32 is accepted because it supports the definition of groundwater.

2085. I recommend that submission point 129.40 is accepted in part in so far as they improve clarity.

2086. I recommend that submission points 11.1, 210.149, 210.150, and 210.151 are rejected because they do not seek specific relief.

2087. I recommend that submission point 129.41 is rejected because it does not improve clarity.

### *Affected stream and Applicable stream flow maintenance scheme.*

#### Submission point requests

2088. One submission point relates to the definition of affected stream and the definition of applicable stream flow maintenance scheme. One point requests that references to "stream depletion" is amended to "surface water body depletion" to make it more inclusive of rivers,

lakes, springs, wetlands as well as streams. The other point notes that a take may have effects on more than one stream.

### Discussion

2089. One submitter correctly notes that groundwater takes may have stream depleting effects on more than one stream or surface waterbody. Amendments to POL TANK 39 and the rules also acknowledge this and provide an alternative method of addressing cumulative and widespread stream depleting effects.
2090. The amendments recommended to POL TANK 39 and Rules TANK 9 and 10 removed references to affected stream and applicable stream flow maintenance scheme. As such I recommend deleting both terms as they are no longer relevant to PPC9 and they do not improve clarity.

### Recommendations

2091. I recommend that submission point 210.152 is accepted and submission point 123.161 is rejected because I recommend deleting the terms they relate to.

### *Terms to be added*

### Submission point requests

2092. Requests for terms to be added include:

- a. Water mining
- b. Cultural flow
- c. Consumptive Water Use
- d. Application Efficiency
- e. Distribution Uniformity
- f. Flushing flows
- g. Accurate Water Meter Data.

### Discussion

2093. I do not recommend defining cultural flow or water mining because those terms are not used in PPC9 so they would not aid in understanding or improve clarity.
2094. I consider including a definition for consumptive use improves clarity and understanding of PPC9. It aligns with amendments made to POL TANK 43 and Rules TANK 7 and 8. The definition requested is consistent with section 4(2) of the Resource Management (Measurement and Reporting of Water Takes) Regulations 2010.
2095. I consider including a definition for irrigation efficiency could help improve clarity, however I note the discussion in Section 15.4.6 requesting submitters to provide more information on the type of irrigation efficiency to be required in POL TANK 47. I recommend accepting this submission point in part but do not make amendments to the Glossary, pending the Panel's decision on POL TANK 47.
2096. Accurate Water Meter Data is used in the definition of Actual and Reasonable. As notified, PPC9 requires Council to use accurate water meter data to determine actual water use and inform re-allocation of water to permit holders. The definition requested by submitters would define Accurate Water Meter Data as "...*water use data that has been assessed against the National Environmental Monitoring Standard (NEMS) for Water Metering:*

*Measurement, Processing and Archiving of Water Meter Data and assigned a Quality Code of QC600*". A quality code of QC600 requires telemetry, 5-yearly verification and an annual site visit, among other criteria.

2097. Amendments to the Resource Management (Measurement and Reporting of Water Takes) Regulations 2010 took effect on 3 September 2020. These regulations will require water users to install telemetry in a staged manner, the first being 3 September 2022 for takes larger than 20 L/s. As such, there are many water permit holders across the Heretaunga Plains who do not yet have telemetry for their water takes.
2098. In addition, the Council does not have capability or capacity to undertake site-visits annually. Across the Hawke's Bay region there are over 2500 water meters. The majority of data held by Council is QC400 (a water meter is installed and monthly data is sent to Council), or QC500 (a water meter and telemetry is installed, verification occurs every 5 years). Little or none of the water meter data held by Council meets the QC600 criteria (a water meter and telemetry is installed, 5-yearly verification and an annual site visit).
2099. Setting the definition of Accurate Water Meter Data in accordance with QC600 would effectively preclude Council from using existing water meter data to inform Actual and Reasonable re-allocations. As discussed in Section 15.1, reallocating water permits across the Heretaunga Plains based on actual use is a key method for avoiding future over-allocation.
2100. I also note that work is currently underway on re-defining the NEMS quality coding system to improve relevance to telemetered water take data. Including a definition in PPC9 which is tied to the current NEMS quality coding system could quickly become out-of-date.
2101. The changes to the glossary I recommend and the submission points that enable them are:
- m. Including the following definition for consumptive water use as follows:  
**Consumptive water use means any use of fresh water that alters the flows and or levels in a water body on either a temporary or permanent basis, but excludes any non-consumptive use where:**
    - a) the same amount of water is returned to the same water body at or near the location from which it was taken; and**
    - b) there is no significant delay between the taking and returning of the water.****For the purposes of allocation limits and specified rationing provisions in the rules, the term 'consumptive use' does not apply to water used in hydro-electric power generation or water use or diversions which substantially return the water used to the same water body.**<sup>129.42</sup>
  - n. Including a definition for application efficiency or distribution uniformity pending further information from submitters regarding POL TANK 47. <sup>59.41, 59.42, 66.49, 66.50</sup>

2102. These recommended changes are also shown in the tracked changes version.

### Recommendations

2103. I recommend that submission points 59.41, 59.42, 66.49, 66.50 are accepted in part pending decisions on POL TANK 47.
2104. I recommend that submission point 129.42 is accepted because it improves clarity and understanding of PPC9.
- 2105.** I recommend that submission points 59.40, 66.51, 132.135, and 132.168 are rejected because they do not improve clarity and understanding of PPC9.

## 16. Stormwater management

2106. While there was overall support for the stormwater provisions as drafted, a number of submissions have requested specific wording changes to the policies and rules to provide further clarity. One clear theme was the request to make it clear that stormwater discharges will need to contribute to meeting Schedule 26 water quality targets. Other general submission points on specific subject matter are dealt with in more detail in the following sections.

### 16.1 TANK POL 28 Urban Infrastructure

#### Submission points

2107. There are 112 submission points on TANK POL 28, all seeking minor amendments to the policy wording. Submission points for this topic are contained in table 16 in Appendix 3.
2108. The following evaluation may not explicitly refer to every submission point but I have considered each submission point in this topic before making my recommendations.
2109. When considering these submission points I have also kept in mind submission point 120.138 that requests policies are redrafted to improve clarity.

#### Submission point requests

2110. Requests for amendments include:
- a. amend policy to include reference to Schedule 26 targets
  - b. require connections when stormwater networks are within 200m of property boundary
  - c. remove the word 'urban' from the heading
  - d. include reference to hazardous substances and source control
  - e. remove words 'where practicable'
  - f. amend to include reference to solid waste.

#### Discussion

2111. Policies 28 and 29 set out the parameters for how stormwater in the TANK catchment will be managed to achieve PPC9 water quality objectives. TANK POL 28 sets out the overall management framework for stormwater and provides guidance for any consents issued under Rule TANK 20 and Rule TANK 22.
2112. The PPC9 stormwater policies and rules are designed to manage stormwater discharges into water, or onto land where it may enter water. In urban areas, reticulated stormwater networks (managed by territorial authorities) are the community solution to efficient stormwater management. Clause c) of TANK POL 28 clarifies this and ascertains that managing stormwater through reticulated networks is the most desirable solution for any new developments.
2113. One submission point requests that the policy be extended to require connections to be made to stormwater networks where available networks are within 200m of property boundary. The requirement to connect to stormwater networks is a matter for territorial authorities to determine using the tools they have available under the Local Government Act. This includes assessment of capacity of an existing network and a regional rule requiring connections to be made may undermine the ability of a Territorial Authority to manage their networks. Developments that occur outside of these networks become a

discharge to land or water which are then appropriately managed by the proposed TANK rules.

2114. There are three submission points that request the word 'urban' to be deleted in the policy and the schedule. I agree with these submission points. PPC9 stormwater provisions are designed to manage discharges of stormwater from reticulated stormwater networks or directly to receiving waters and these occur in urban as well as other areas.
2115. One submission point requests that TANK POL 28 refers to the storage of hazardous substances and source control. I believe these topics are adequately covered in TANK POL 29 that addresses source control therefore I reject these suggestions. However, I do agree with the part of this submission that the correct terminology is 'trade or industrial activity' as per the RMA definition. Therefore, submission point 203.13 is accepted in part
2116. One submission point requests that 'where practicable' is removed from clause g) as best practice should apply at all times. I agree with this point. Clause e) that determines that site specific constraints can be taken into account when the adverse effects of stormwater are mitigated. This should be the only matter that could potentially restrict the ability for sites to mitigate the effects of stormwater. Therefore, submission point 123.62 is accepted in part.
2117. Submitter 233 requests an additional clause be added to TANK POL 28 to cover solid waste. Reference to management of solid materials adds strength to the policy direction but I suggest wording changes to stipulate that mitigation should avoid solid waste contamination in all stormwater discharges, not just into stormwater networks. Further, this direction is better positioned in TANK POL 29 which is targeted at source control. See analysis below for TANK POL 29.
2118. A number of submissions have made various wording request changes that seek to clarify the intention of the policies and therefore where reasonable, I recommend these submission points are accepted, or are accepted in part.
2119. A number of submissions request that the stormwater policies and provisions more directly require stormwater discharges to meet the water quality objectives in Schedule 26. I concur that more specific recognition of Schedule 26 is warranted and have amended the policy to reflect this.
2120. The changes I am recommending for TANK POL 28 include;
- a. Reference to Schedule 26 targets
  - b. Having regard to OWBs, wetlands and estuaries
  - c. Broader application of good practice
  - d. Various wording changes to improve clarity

#### Recommendations:

2121. I recommend that submission points 10.4, 203.13, 63.35 and 207.53 are accepted in part where they provide wording changes that improve clarity and interpretation of the policy.
2122. I recommend that submission points 210.49, 123.62, 120.137, 127.22, 123.16, 126.22 are accepted as they assist in achieving alignment with the NPSFM2020 and the objectives of PPC9.
2123. I recommend that submission points 233.16, 135.33 are rejected as the suggested wording changes are not appropriate for this policy.

## **16.2 TANK POL 29 Source Control**

### Submission Points

2124. There are four submission points on TANK POL 29. Submission points for this topic are contained in table 16 in Appendix 3.
2125. The following evaluation may not refer to every submission point but I have considered each point in this topic before making my recommendations.

### Submission Point Requests

2126. Requests for amendments include:
- a. amending policy to include management of 'solid contaminants and debris'
  - b. including management of heavy metal toxins
  - c. apply only to 'publicly managed stormwater networks' and 'where reducible'.

### Discussion

2127. TANK POL 29 recognises that source control (managing contaminants at their source, before they enter stormwater systems) is an integral treatment option to reduce stormwater contamination.
2128. Submitter 233 again requests that solid contaminants and debris are to be included in this policy. I consider this policy is a better location for that direction and have recommended it be included here.
2129. Two submissions refer to the need to specifically mention metals and toxins as important matters for source control of stormwater, including the regulation of zinc aluminum roofing and copper downpipes. While this is an important issue, the regulation of building materials is a matter for Building Act and Territorial Authority processes who are able to control the use of certain materials through regulation at the building consent stage of development.
2130. One submission requests a wording change to amend the source control policy so that it only applies to 'publicly managed stormwater networks', and to include the words 'where reducible'. Regional Council jurisdiction applies to discharges to land, water or land where it may enter freshwater which covers discharges outside of Territorial Authority managed stormwater networks. Territorial authorities are able to control what enters their stormwater networks through the regulatory tools available to them such as codes of practices, district plans and bylaws.

### Recommendations

2131. I recommend that submission points 203.14, 123.63, 195.53 are rejected as they are either out of scope or will not add value to the policy.
2132. I recommend that submission point 233.17 be accepted as it adds weight to the need for good site management to prevent stormwater contamination.

## **16.3 TANK POL 30 Dealing with the Legacy**

### Submission Points

2133. There are 12 submission points on TANK POL 30. There is one submission point in support of the policy as drafted, with the remaining 11 seeking amendments. Submission points for this topic are contained in table 16 in Appendix 3.
2134. The following evaluation may not refer to every submission point but I have considered each point in this topic before making my recommendations.

#### Submission Point Requests

2135. Requests for amendments include:
- a. seeking clarity on the inclusion of Australia New Zealand Environment and Conservation Council and their interaction with Schedule 26 and 27 targets.
  - b. request to include the term 'after reasonable mixing'
  - c. request to define the area of reasonable mixing.

#### Discussion

2136. TANK POL 30 provides the management framework for Rule TANK 21, the discharge of stormwater from any existing or new local authority network. It sets timeframes for meeting water quality objectives in both Schedule 26 and with reference to Australia New Zealand Environment and Conservation Council guidelines.
2137. ANZECC guidelines are a standard tool for water managers that provide default guideline values (DGV) on an array of toxicants and physical and chemical stressors. Ministry for the Environment indicate that the ANZECC guidelines complement the NPSFM2020 but are slightly different as the NPS sets minimum acceptable standards, whereas the ANZECC guidelines provide a trigger for further investigation<sup>37</sup>.
2138. A number of submitters request that Schedule 26 should be the priority focus for all stormwater discharges as these provide the agreed targets for water quality in the TANK catchment. However, where a parameter is not accounted for in these schedules, then ANZECC guideline values should apply in the manner drafted in TANK POL 30 (80<sup>th</sup> percentile by 2025 and 95<sup>th</sup> by 2040). I recommend the policy is redrafted to reflect this.
2139. A number of submissions request that the term 'after reasonable mixing' be applied to TANK POL 30. This concept is referred to in RMA sections 70 and 107 as appropriate when dealing with the discharge of contaminants into water and the RMA parameters are repeated as a matter of control in Rule TANK 22. It therefore appropriate to follow this through into the policy. I recommend the policy is redrafted to reflect this.
2140. One submission point goes further to suggest that the point of reasonable mixing should be 200m downstream of a discharge. The question of where 'reasonable mixing occurs' is problematic as environmental characteristics vary considerably between water bodies. The RRMP already contains a definition for 'after reasonable mixing' that is applicable across the region, including the TANK catchment. I recommend that this part of submission point 10.50 be rejected.
2141. Submitter 233 again requests that to implement measures that manage solid contaminants and physical debris entering into the stormwater network, and to apply measures to remove solid contaminants and physical debris once entered into the stormwater network. I recommend the policy is redrafted to reflect this

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<sup>37</sup> <https://www.mfe.govt.nz/fresh-water/freshwater-guidance-and-guidelines/australian-and-new-zealand-guidelines-fresh-and>

## Recommendations

2142. The changes I am recommending and the submission points that give scope for the changes for TANK POL 30 include clarifying the relationship between Schedule 26 and the ANZECC guidelines, introducing reference to the management of solid contaminants, reasonable mixing and other minor clarifications.
2143. I recommend that submission points 10.5, 203.15, 195.54 be accepted in part
2144. I recommend that submission points 123.64, 132.192, 126.23, 135.35, 210.51, 233.18 63.36, 207.54 are accepted as they assist in giving effect to the NPSFM2020 and the objectives of PPC9.
2145. I recommend that submission point 58.21 is rejected as insufficient reason for this amendment has not been provided.

## **16.4 TANK POL 31**

### Submission Points

2146. There are eight submission points on TANK POL 31. There are four submission points in support of TANK POL 31 as notified and four submissions seeking amendments. Submission points for this topic are contained in table 16 in Appendix 3.
2147. The following evaluation may not refer to every submission point but I have considered each point in this topic before making my recommendations.

### Submission Point Requests

2148. Requests for amendments include:
- a. reference to be made to 2040 Schedule 26 targets
  - b. remove requirement to update District Plans
  - c. provide clarification on the Council and territorial authorities roles and responsibilities.

### Discussion

2149. TANK POL 31 is a method for achieving the PPC9 objectives. It outlines how the Council and territorial authorities in the TANK catchment will work together to provide a consistent approach to improving stormwater performance standards and outcomes.
2150. There are 2 submission points that request more specific wording to require the councils to work towards achieving Schedule 26 targets. This request is accepted as this provides further clarity and consistency with the other stormwater policies.
2151. Other submission points argue that a regional plan is not the place to direct councils to update District plans as this can only be done through a Regional Policy statement (RPS). However, both Napier City Council and Hastings District Council have been part of the collaborative process to establish better a management regime that reflects both regional and Territorial Authority functions through this Plan Change. This collaborative and integrated approach for stormwater management in the TANK catchment is reflected in this policy. No amendments are considered necessary.

## Recommendation

2152. The changes I am recommending include rewording the first sentence of TANK POL 31 to refer to Schedule 26 targets.
2153. I recommend that submission points 210.52, 123.65, are accepted as it helps give effect to the NPSFM2020 and the objectives of PPC9.
2154. I recommend that submission points 203.16, 195.55 are accepted in part as the policy remains as notified, with minor amendments.
2155. I recommend that submission points 63.37, 207.55 are rejected as they are not considered necessary in ensuring the plan meets its objectives.

## **16.5 TANK POL 32**

### Submission Points

2156. There are seven submission points on TANK POL 32 with two in support of the policy as drafted and six seeking amendments. Submission points for this topic are contained in table 16 in Appendix 3.
2157. The following evaluation may not refer to every submission point but I have considered each point in this topic before making my recommendations.

### Submission Point Requests

2158. Requests for amendments include:
- a. the introduction of a set date for developing a Te Whanganui-a-Orotū (Ahuriri Estuary)
  - b. requests for more details to be added to the policy around who should be involved in developing the catchment management plan and what investigations should be carried out in developing the plan.

### Discussion

2159. TANK POL 32 requires the development of an Ahuriri Integrated Catchment Management Plan. A catchment scale plan documents community values for the catchment and the receiving environment (Te Whanganui-a-Orotū) and considers estuary processes and functions to provide a tool for managing water resources and land use on a catchment wide basis. This policy is relevant to some rules which seek to reduce contaminants entering estuaries via freshwater inputs and is also in the group of non-regulatory policies that the TANK Group developed to ensure a broad set of actions will be undertaken to address catchment issues.
2160. The setting of a timeframe for developing an integrated catchment management plan is problematic in that an integral partner to the plan, Mana Ahuriri Trust, is still awaiting the passing of the Ahuriri Hapū Claims Settlement Bill that will establish the permanent statutory committee for Te Whanganui-a-Orotū. While work is underway by both Napier City Council and HBRC to better understand estuary stressors at a catchment wide level that will feed into a management plan, providing a date to complete the plan would be premature pending the formation of a statutory governance committee for the Estuary.

## Recommendation

2161. I recommend that TANK POL 32 is retained as notified and therefore submission points 7.1 and 195.56 are accepted.
2162. I recommend that submission points 120.139, 123.66, 126.24, 180.36, 210.53 are rejected as they are not considered necessary to ensure PPC9 meets its objectives.

## **16.6 Rule TANK 19 and 20**

### Submission Points

2163. There are 22 submission points on Rule TANK 19 and 20. There are two submissions that support these rules as notified and 20 submission points requesting amendments to wording. Submission points for this topic are contained in table 16 in Appendix 3.
2164. The following evaluation may not refer to every submission point but I have considered each point in this topic before making my recommendations.

### Submission Point Requests

2165. Requests for amendments include:
- provide definitions of 'small scale', rural buildings' and 'planned reticulated network' to improve clarity
  - include as a matter of control Schedule 26 targets and 'solid contaminants and debris'.

### Discussion

2166. TANK 19 provides a permitted standard for small scale stormwater activities that pose limited risk to water quality, providing the activity conditions are met. The rule applies outside of Territorial Authority controlled networks where the discharge is into water or onto land where it may enter water. TANK Rule 20 is the corresponding rule that lifts the activity a restricted discretionary activity if the TANK Rule 19 standards are not able to be met. I have considered the submissions on both Rule TANK 19 and 20 together.

### Defining small scale

2167. One submission point requests that a definition of 'small scale' is provided by either providing a threshold for impervious areas or a maximum number of lots. The term small scale has been used in the rule heading but is not elsewhere referred to. I agree that this creates ambiguity as to where this rule applies.
2168. An alternative option is to amend the rule heading to align better with the activity description and intent and to further clarify the rule activity. The activity description as drafted refers to the discharge of stormwater from residential properties as well as industrial and trade premises under 1000m<sup>2</sup>, non-industrial and trade premises and rural buildings. I recommend activity description is updated to specify a maximum impervious area as the threshold for needing consent. This would negate the need to provide a maximum number of lots as the activity description already implies that the discharge is from single properties. The impervious area is a reasonable indicator of risk to water quality as the greater this area the greater the risk of contaminants being present on that surface as a result of vehicles, spills and accidents and activities like car washing etc.
2169. What is important to clarify is that this rule only applies to developments outside of reticulated stormwater networks. Within stormwater networks a development is required to

connect to an existing or planned stormwater network and the application for stormwater connections are regulated by territorial authorities through engineering codes of practices and bylaws.

2170. To provide further clarification on the remaining stormwater rules, I suggest consequential amendments are made to the headings of these rules to align better with their activity descriptions. These have been outlined in the recommendation below.

#### Defining Rural Buildings

2171. Two submission points request we provide a definition for rural buildings in the activity description. Submission 180.65 states the term rural building is too broad, and without a definition makes it difficult to understand what the impact of these rules be on horticultural growers.
2172. The amendments to the activity description of Rule TANK 19 and Rule TANK 20 discussed above have removed 'rural building' from the permitted activity rule. The rule now applies to impervious areas less than 1000m<sup>2</sup> of which the majority of rural buildings would fit within.

#### Defining 'planned' reticulated networks

2173. A number of submissions seek clarity on condition *b*). *The property cannot connect to a current or planned reticulated*. The purpose of this condition is to only permit discharges under this rule when Territorial Authority managed networks are not available.
2174. The provision of stormwater services via a stormwater network is a function of territorial authorities and they are able to produce bylaws to protect and regulate the discharges into that network. When land has been zoned for development but such services have not been made available by the developer and/or the Council, this will result in the management of stormwater being subject to regional rules. (Although development can also be delayed by the Territorial Authority until such services are provided). The addition of this condition seeks to support Territorial Authority water services and stormwater bylaws that require subsequent connections to be made to council infrastructure in the first instance, via an approval process.
2175. Two submission points request amendments to Rule TANK 20 to ensure that if a restricted discretionary activity consent is required as an interim measure because a planned network is not available, that a condition of this consent is that they will be required to connect to a network, when one becomes available. To ensure this they request a new matter of discretion is added to Rule TANK 20. I support this request.
2176. Submission points that request Rule TANK 19 refers to Schedule 26 targets and objectives are rejected as the purpose of this rule is to permit certain low risk discharges. The correct place to refer to Schedule 26 is in Rule TANK 20 which applies when the permitted standards cannot be met and measures will be required to ensure discharges don't impede on the ability to meet Schedule 26 targets. Rule TANK 20 has Schedule 26 targets as a matter of control and therefore no update to this is required.
2177. A consequential amendment for Rule TANK 20 is an additional matter of control for the requirement of a stormwater management plan for when applicants fail to meet the permitted standard of Rule TANK 19. This will enable the Council to request a plan to ensure good site management practices and source control measures are in place, if required.
2178. Submission point 233.19 request additional wording around solid contaminants and debris however I believe this is already adequately covered under (iv), i. which mentions floatable

or suspended materials. The same applies for this submitters other requests at submission point 233.22 and 233.21 which I reject for the same reason.

### Service stations

2179. Submission point 203.25 requests changes to Rule TANK 19, activity description c) which permits (subject to the listed conditions), the diversion and discharge of stormwater from industrial and trade premise with less than 1000m<sup>2</sup> of impervious areas. This submission discussed the impact of this rule on service station sites under 1000m<sup>2</sup> and requests changes to the rule that will ensure service stations are accommodated within the permitted activity description. The reasons provided are that service stations are subject to MfE guidelines for the appropriate management of hazardous substances which only occurs within certain areas of service station sites, the balance of which should not be a factor in determining the consenting pathway.
2180. Under the current RRMP rules, service stations fall to a controlled activity status under RRMP Rule 43. Under the Rule TANK 19, service stations are likely not able to meet condition *(iv) contain hazardous substances, or be from a site used for the storage, use or transfer of hazardous substances*, so fall to Rule TANK 20 which is a restricted discretionary consent.
2181. I believe this is the appropriate activity status for sites that contain hazardous substances and services stations should be no exception for this rule. I do accept that we could insert a new matter of discretion for Rule TANK 20 being the compliance with relevant codes of practice and guidelines to ensure these factors are a consideration in the consent decision making process.
2182. The request in submission point 203.25 to align with the Auckland Unitary plan definition of 'industrial or trade activity area' is rejected as this adds an additional layer of complexity that is not warranted. We have instead opted to rely on the RMA (and RRMP) definition of industrial or trade premise as:
- industrial or trade premises means—*
- (a) any premises used for any industrial or trade purposes; or*  
*(b) any premises used for the storage, transfer, treatment, or disposal of waste materials or for other waste-management purposes, or used for composting organic materials; or*  
*(c) any other premises from which a contaminant is discharged in connection with any industrial or trade process;— but does not include any production land*
2183. We have purposefully steered away from being prescriptive in defining high risk sites so each site can be considered individually on a case-by-case basis through a consenting process. Regional rules need to provide some consistency with the tools territorial authorities have through bylaws and engineering codes of practices that service stations would be subject to when establishing in urban areas. The restricted discretionary consenting pathway gives HBRC the opportunity to apply the necessary conditions to achieve TANK objectives and target attribute states.
2184. Submission point 123.114 requests reference to significant adverse affects on aquatic life. I believe this is adequately covered by condition *vii) cause to occur or contribute to the destruction of any habitat...plant or animal in any water body or coastal water* which is of very similar wording.

### Recommendation:

2185. The changes I am recommending include introducing a threshold of 1000m<sup>2</sup> impervious area as a permitted standard and other minor amendments to the matters of control
2186. I recommend that submission points 10.15, 129.22, 203.26, 119.20, 195.97 are accepted in part to the extent that the recommended changes improve the effectiveness and efficiency of the plan in achieving its objectives.
2187. I recommend that submission points 63.40, 129.21, 207.58 are accepted as they provide improved clarity in interpreting the rules.
2188. I recommend that submission points 63.39, 63.38, 123.114, 129.20, 129.23, 180.65, 203.25, 207.57, 207.56, 210.100, 210.101, 233.19, 233.20, 100.5 are rejected as they are not necessary in ensuring the objectives of the plan will be met or no specific relief has been sought.

## **16.7 Rule TANK 21**

### Submission points

2189. There are eight submission points on Rule TANK 21 that all request wording amendments. Submission points for this topic are contained in table 16 in Appendix 3.
2190. The following evaluation may not refer to every submission point but I have considered each submission point in this topic before making my recommendations.

### Submission point requests

2191. Requests for amendments include:
- a. further restricting discharges that may flow into inanga spawning habitats
  - b. provide a definition of 'Integrated Catchment Management Plan' and further conditions relating to these plans
  - c. moving the activity status from controlled to restricted discretionary
  - d. request to include new rule for tile/farm drainage.

### Discussion

2192. Rule TANK 21 applies to the discharge of stormwater from existing or new local authority networks. This is an important rule that provides the consenting pathway for large discharges from urban infrastructure designed to keep these areas from flooding. These consents are sometimes global consents for all Territorial Authority discharges as in the case of Hastings District Council, or individual consents for various networks as the respective areas have been developed.

### Inanga Spawning Habitats

2193. Submission point 123.115 requests a new condition of the controlled activity rule to exclude discharges into inanga spawning habitats. This would have the effect of making all discharges into these environments, unable to meet that condition, a discretionary activity under Rule TANK 23.
2194. Inanga spawn in multiple locations where saltwater meets freshwater and changing the activity status for these consents will not necessarily contribute to an improved quality of discharge but rather provides uncertainty to territorial authorities who are obligated to protect properties from flooding. What is more important than a rules activity status is the

matters of control of a rule that enable HBRC to place conditions of these consents to require Territorial Authority to make network improvements to meet water quality outcomes.

#### Definition of Integrated Catchment Management Plan

2195. Submission point 129.24 makes a request to provide a definition of 'integrated catchment management plan'. I support this request as it removes unnecessary wording from the activity condition and this list of what an Integrated Catchment Management Plan needs to include would more appropriately be found in a definition.

#### Change of rule activity status

2196. Submission point 132.122 requests the activity status for this rule be changed from controlled to restricted discretionary. This would create an uncertain environment for territorial authorities who are required to manage existing stormwater networks to prevent flooding. And as mentioned in paragraph 82, a change in activity status will not result in improved outcomes in the quality of the discharge as improvements are more likely to be seen when they can be enforced as conditions of consent.

#### Rule for tile/rural drainage

2197. Submission point 132.123 requests a new rule to manage stormwater discharges from tile drainage. Tile drainage is common on the productive soils of the Heretaunga Plains. A research project is underway to understand the local impacts of tile drainage on water quality.

2198. In the meantime, amendments have been made to existing RRMP Rule 32 – Discharge of drainage water which covers tile drainage. This is currently a permitted activity but TANK adds a new condition g. that stipulates that after 10 years of plan notification there be no increase in dissolved nutrients of DIN, DRP and suspended sediment after reasonable mixing. This would have the effect of requiring these discharges to seek a consent as a discretionary activity under RRMP Rule 52 if it is proven that tile drainage does contribute to raising the level of these dissolved nutrients.

#### Recommendation

2199. I recommend that submission point 129.24 is accepted as it removes unnecessary wording from the rule to the definitions.

2200. I recommend that submission points 10.16, 123.115, 129.25, 132.122, 132.123, 135.56 and 233.21 are rejected as they are either impractical to implement or are not necessary to ensure the objectives of the plan are able to be met.

## **16.8 Rule TANK 22**

#### Submission Points

2201. There are 6 submission points on Rule TANK 22 that are all seeking various amendments to the rule wording. Submission points for this topic are contained in table 16 or Appendix 3.

2202. The following evaluation may not refer to every submission point but I have considered each point in this topic before making my recommendations.

### Submission point requests

2203. Requests for amendments to wording include:

- a) include as a matter of discretion reference to the water quality targets in Schedule 26
- b) delete the word urban from the stormwater management plan.

### Discussion

2204. Rule TANK 22 manages the discharge from industrial or trade premises as a restricted discretionary activity. As with Rule TANK 19 and 20, this only applies to discharges where a Territorial Authority controlled stormwater network is not available. The rule requires the applicant to submit what has been termed a 'urban site specific stormwater management plan' in accordance with the requirements of Schedule 34.

2205. Several submission points request that reference is made to Schedule 26 targets. It is appropriate to include the Schedule 26 as a matter of discretion for this rule as this will allow consent planners to require mitigation of stormwater discharges as a condition of consent. I accept these submission points.

2206. Other submission points request that all references to the word urban are removed from this rule and the schedule. Considering this rule applies where there is no Territorial Authority networks the word urban causes confusion and a blurring of who is responsible in urban environments. I accept these submission points.

2207. A consequential amendment to Schedule 35 is required to delete the words 'urban site specific' from the heading

### Recommendation

2208. I recommend that submission points 10.17, 123.116 and 210.103 are accepted in part where they help this rule achieve the objectives of the plan, in particular the target attribute states in Schedule 26.

2209. I recommend that submission points 63.42, 207.60, 207.61 are accepted as they assist in improved clarity to the rules as drafted.

## **16.9 Rule TANK 23**

### Submission Points

2210. There are two submission points on Rule TANK 23. Submission points for this topic are contained in table 16 of Appendix 3.

2211. The following evaluation may not refer to every submission point but I have considered each point in this topic before making my recommendations.

### Submission point requests

2212. Requests for amendments to wording include:

- a) deleting the matters for control.

### Discussion

2213. Rule TANK 23 is the catch all rule that applies when conditions in Rule TANK 19, 20, 21 and 22 cannot be met. The rule has a discretionary status meaning that the Council can consider any matter when setting conditions for consents.

2214. For this reason, the matter of control drafted into this rule cannot apply.

#### Recommendation

2215. I recommend that submission points 126.26 and 135.58 are accepted as they ensure that PPC9 meets its legal requirements for rule setting under the RMA.

### **16.10 Stormwater General**

2216. Submission point 240.13 requests that stormwater consents hold a maximum duration of 10 years as systems are due for renewal or replacement. This submission point is contained in table 16 in Appendix 3.

#### Discussion

2217. Limiting the duration of consents is not the only way to manage uncertainty about adverse effects and impacts on receiving environments. A better approach is to include a range of adaptive management, monitoring and review conditions to a consent to ensure renewals or replacements are done as necessary. The matters of control in the PPC9 rules allow for this. In regard to network consents, territorial authorities are bound by the requirement to have 30 Infrastructure Strategies to guide investments and provide certainty to ratepayers in accordance with the Local Government Act. Consent durations are generally longer for these consents and can be up to period of 35 years under RMA section 123. However, this will not negate the need for renewals or replacements to be done to meet ongoing consent conditions.

#### Recommendation

2218. I recommend that submission point 240.13 is rejected as it is not necessary to ensure the objectives of PPC9 can be met.

### **16.11 Schedule 34**

#### Submission Points

2219. There are eight submission on Schedule 34. The majority of these submissions request that reference to the term urban is removed. As discussed above, this is a consequential amendment to align the schedule to the minor changes made to Rule TANK 22. Submission points for this topic are contained in table 16 in Appendix 3.

2220. The following evaluation may not refer to every submission point but I have considered each submission point in this topic before making my recommendations

#### Recommendation

2221. I recommend that submission points 63.46, 63.47, 135.66, 207.64, and 207.65 are accepted as they support an amendment that provides more clarity to the plan.

2222. I recommend that submission points 225.9, 207.66, 63.48 are rejected because there is not enough evidence has been provided to warrant the change suggested.

## 17. Source Protection Zones

### 17.1 TANK OBJ 9

#### Submission points

2223. There are nine submission points about TANK OBJ 9. Submission points for this topic are contained in table 17 of Appendix 3.
2224. The following evaluation may not refer to every submission point but I have considered each submission point in this topic before making my recommendations.

#### Submission points requests

2225. These submission points request:
- retention of TANK OBJ 9 as notified
  - amendment of TANK OBJ 9 to clarify that : “Activities in source protection areas for Registered Drinking Water Supplies are managed to ensure that they do not cause **source** water in these zones to become unsuitable for human consumption, and that risks to the supply of safe drinking water is appropriately managed”.

#### Discussion

2226. I note that the submissions on TANK OBJ 9 are supporting the retention of the objective in whole or in part.
2227. One amendment is sought to clarify that the objective is intended to protect source (drinking) water not all water in the zone. This is to reflect that there may be localised effects on shallow groundwater at some sites, for instance industrial or trade premises or legacy contaminated land, but that the objective seeks to ensure that the source water is not affected. This focus on source water is consistent with the underlying ‘Protection of Source Water’ policies.
2228. I support this clarification as the terminology used in PPC9, and in the proposed Water Services Bill, references the protection of source water. The protection of source water is the first level of the multi-barrier approach to the provision of safe drinking water. Other plan provisions cover the protection of water quality generally so the addition of the word “source” does not weaken any requirements on water quality.
2229. I support the analysis on TANK OBJ 9 in Section 7.2.9 of the Section 32 Report. As only a minor change is recommended to TANK OBJ 9 I do not consider that the analysis in the Section 32 Report needs to be amended so I have not undertaken a further evaluation under section 32AA of the RMA.

#### Recommendations

2230. I recommend that submission points 46.7, 119.1, 119.4, 123.31, 135.8, 194.22, 195.25 and 207.36 are accepted because these submission points support TANK OBJ 9 which helps achieve:
- l. section 5(2)(a)(b) and (c) of the RMA;
  - m. the National Policy Statement for Freshwater Management; and
  - n. the National Environment Standards for Sources of Human Drinking Water Regulations(2008)

2231. I recommend that submission point 203.4 is accepted and that the word “source” is inserted as requested for greater consistency with the terminology used in Plan Change 9 and in legislation and regulations.

## **17.2 Protection of Source Water Policies 6,7,8: General**

### Submission points

2232. There are 28 submission points which cover Policies 6,7and 8 collectively. Where the submission covers all three policies I am covering them in this section. Where there are submissions unique to one of these policies I have dealt with these separately below this section. Submission points for this topic are contained in table 17.2 in Appendix 3.

2233. The following evaluation may not refer to every submission point but I have considered each submission point in this topic before making my recommendations.

### Submission points requests

2234. These submission points seek amendments to Policies 6, 7and 8 to remove reference to assessment of actual or potential effects of activities in the SPZs on Registered Drinking Water Supplies and that risks be addressed through Farm Environment Plans, Catchment Collectives and Industry Programmes.

### Discussion

2235. Policies 6, 7 and 8 provide the framework for the establishment of a source water protection regime for drinking water within the TANK Catchment. Underpinning this regime is the identification of source protection zones (SPZs) and the management of activities that occur in these zones. These policies, together with the rules, are intended as the core of a preventative risk management approach to providing safe drinking water.

2236. This preventative multi-barrier risk management approach developed for Plan Change 9 begins with the protection of source water in the contributing catchment. This is consistent with the approach adopted by central government. After the public notification of Plan Change 9 in May 2020, the Government introduced the Water Services Bill into Parliament in July 2020. The Water Services Bill is designed to implement the Government’s decision to comprehensively reform the drinking water regulatory system (and also includes targeted reforms to improve the regulation and performance of wastewater and stormwater networks).

2237. Submissions on the Water Services Bill were heard by the Hearing Select Committee in March 2021. It is expected that changes will be made to the Bill as a result of the submissions and I recommend that alignment be made at the time of the PPC9 Hearing Panel’s final deliberations, or the passing of the bill into legislation, whatever is sooner.

2238. The Bill includes new arrangements related to source water risk management and applies to drinking water suppliers, Taumata Arowai (the new national drinking water regulator) and local authorities - including regional councils. Drinking water suppliers must monitor source quality and have a Source Risk Management Plan (SRMP). Local authorities - including regional councils - must contribute to SRMPs by sharing information about risks and undertaking action to address them on behalf of a drinking water supplier.

2239. Clause 42 of the Bill is relevant to the theme of these submissions to Policies 6, 7 and 8. This clause requires local authorities to contribute to the development and implementation of source water risk management plans prepared by drinking water suppliers<sup>38</sup> by:
2240. Providing information to drinking water suppliers including about land use activities, potential sources of contamination and other water users that could directly or indirectly affect the quality or quantity of drinking water sources.
- o. Providing information on any known risks or hazards that could affect the source of the drinking water supply.
2241. Given these new requirements, and consistent with the regulatory approach adopted in Plan Change 9 and outlined in the Section 32 Report, I recommend that the Council be able to retain its ability to regulate activities within the source protection zones and to consider the actual and potential effects of these activities on the protection of the sources of human drinking water. If these submissions were to be accepted the Council's effectiveness in managing the effects of activities in areas of source water protection would be less timely and ultimately weakened.

### Recommendations

2242. I recommend that submission points 18.5, 26.7, 28.7, 29.10, 29.39, 34.7, 39.7, 41.7, 48.7, 53.7, 68.7, 75.7, 76.7, 81.7, 84.7, 87.7, 88.7, 94.7, 102.7, 107.7, 165.7, 179.7, 199.7, 204.7, 208.7, 213.7 and 238.7 are rejected because Policies 6,7 and 8 as written will:
- Assist the Council to meet sections 5(2)(a)(b) and (c) of the RMA;
  - Support the most efficient and effective means of protecting the sources of human drinking water available under the Resource Management Act ; and
  - Assist in the implementation of requirements under the Water Services legislation.

### **17.2.1 TANK POL 6 – Protection of water used as source water for Registered Drinking Water Suppliers**

#### Submission points

2243. There are 10 submission points uniquely about TANK POL 6. Submission points for this topic are contained in table 17 in Appendix 3.
2244. The following evaluation may not refer to every submission point but I have considered each submission point in this topic before making my recommendations.

#### Submission points requests

2245. These submission points seek:
- retention of TANK POL 6 as notified.
  - mapping/identification of Source Protection Zones in Schedule 28
  - amendments to TANK POL 6 including requiring suppliers to undertake an assessment of options to relocate supplies to less vulnerable locations, take into account other water abstraction activities and recognising lawfully established water sources and lawfully established land uses.
  - extension of definition of Source Protection Zone to all registered water supplies serving 25 persons or more.

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<sup>38</sup> It is important to note that under the Water Services Bill a drinking water supplier is anyone who supplies drinking water to more than one household. So for example if there is more than one dwelling on a property being serviced from a single bore the landowner/consent holder is classed as a drinking water supplier under the proposed new legislation.

## Discussion

2246. TANK POL 6 is the first in a suite of policies that, together with Schedule 35, are designed to prevent other activities from contaminating the freshwater source of registered drinking water supplies; by appropriately identifying the source area to be protected; and regulating the activities within those areas.
2247. I acknowledge that the submissions on TANK POL 6 are supporting the retention of the objective in whole or in part.
2248. I have considered the request to include the Source Protection Zones within Schedule 28 and note that it is already listed as a priority area for Farm Plans. In response to other submissions, there is a recommendation to refer to SPZs in the Table in Schedule 28 as high priority areas. Rules TANK1 and 2 then apply for production land uses.
2249. Note also that Schedule 30 for farm plans states;  
*“any Source Protection Zone or Extent for any Registered Drinking Water Supply that any properties in the programme area are located in, plus the contact details of the water supply manager (Note – Maps included with this plan show the locations of the SPZs and Extent for any Registered Drinking Water Supplies. Contact information for the supply manager is available on the Council website)”*,  
And  
*“the plan must include statements about the ... f) measures required to reduce risk of contamination of the source water for any Registered Drinking Water Supply;*
2250. Several of the submission points seek amendments to the policy to take into account the effects of any proposed new activity on other existing lawful activities. For example to ensure that registered drinking water supplies are as appropriately sited as possible so taking into account need to avoid limiting productive land uses on the highly productive soils of the Heretaunga Plains. Policies 6-9 and the associated amendments to regional rules apply to Source Protection Zones which are based around existing registered drinking water supplies. The intent of this regulatory framework is not to limit the use of highly productive soils for production land use but to assess and manage the effects that any activities occurring on them may have in relation to source drinking water. This is consistent with the NES for Sources of Drinking Water and its regulations.
2251. Plan Change 9 identifies Source Protection Zones for registered drinking water supplies where they have been defined via specified technically appropriate methods (typically this would be in accordance with the GNS 2014 reports “Capture Zone Guidelines for New Zealand” and “Envirolink Tools Project – Capture Zone Delineation – Technical Report”. Schedule 35 defines the method to be used for calculating the provisional Hastings and Napier SPZs plus a process for amending them if necessary.
2252. Where they are not able to be defined the policies recognise a default source protection extent (as outlined in Schedule 35). This includes for any registered drinking water supplier serving more than 25 and fewer than 500 persons.
2253. The plan must not include permitted activities that increase risk to quality of source water for large scale drinking water supplies and the new SPZ’s enable the Council to manage that risk. For smaller scale water supplies, the Council must assess the risk from any consent application to that water supply. This includes the Source Protection Extent areas for small-scale registered drinking water supplies. Planning maps for small scale supplies are therefore not required.

## Recommendations

2254. I recommend that submission points 12.11, 119.7 , 135.21 and 210.30 are accepted in that TANK POL 6 is retained as written because these submission points support TANK POL 6 which helps achieve:
- p. section 5(2)(a)(b) and (c) of the RMA;
  - q. the National Policy Statement for Freshwater Management; and
  - r. the National Environment Standard for Sources of Human Drinking Water
2255. I recommend that submission points 123.45 and 210.3, 207.43 are accepted in part because Source Protection Zones are already included in Schedule 28 of PPC9.
2256. I recommend that submission points 180.23 and 195.34 are rejected because TANK POL 6 manages for the effects of activities on drinking water sources and is consistent with the National Environment Standards for Sources of Drinking Water.
2257. I recommend that submission point 207.39 is accepted for the sake of clarity on intent of the policy and amendments be made as follows:
- (i) Direct or indirect discharge of a contaminant to the source water including by overland flow and/or percolation to groundwater
  - (iv) Shortening or quickening the connection between contaminants and the source water, including damage to a confining layer of the aquifer.
2258. I recommend that submission point 233.11 is rejected as the methodology is not currently available to define the zones as sought and an alternative methodology - source protection extents – is available.

### **17.2.2 TANK POL 7 – Registered Drinking Water Supplies and applications to take water**

#### Submission points

2259. There are seven submission points uniquely about TANK POL 7. Submission points for this topic are contained in table 17 in Appendix 3.
2260. The following evaluation may not refer to every submission point but I have considered each submission point in this topic before making my recommendations.

#### Submission points requests

2261. These submission points seek:
- retention of TANK POL 7 as notified.
  - amendments to TANK POL 7 including adding in proposed SPZ and requiring applicants to include an assessment of the vulnerability of the location to contaminants from existing activities.
  - include SPZs as part of the Regional Plan or provided confirmation of the ability to implement the regulatory provisions of the PPC9.

#### Discussion

2262. TANK POL 7 sets out the criteria for considering applications by a Registered Drinking Water Supply to take water. I acknowledge that the submissions on TANK POL 7 are supporting the retention of the policy in whole or with amendments.
2263. One of the challenges in managing for the protection of drinking water through managing activities occurring on the land is that the land is highly productive because of the water

supply available to it. This makes those same locations suitable for drinking water and other consumptive uses.

2264. The Water Services Bill, currently before Parliament, places a requirement on drinking water suppliers to prepare a source water risk management plan for any supply (other than domestic self-supplies). This includes a requirement to address hazards and risks to the supply and measures taken to address those risks. It also places responsibilities on to local (territorial and regional) councils to provide information about land use activities and potential sources of contamination to the drinking water supply.
2265. I consider that this legislative requirement will address the concerns of submitters in relation to the effect of water abstraction activities on land use activities within a Source Protection Zone. Clause 42 is set out below for reference.

**Clause 42 Source water risk management plans**

(1) *A drinking water supplier must prepare and implement a source water risk management plan based on the scale, complexity, and risk of the drinking water supply.*

(2) *A source water risk management plan must—*

- a. identify any hazards that relate to the source water, including emerging or potential hazards; and*
- b. assess any risks that are associated with those hazards; and*
- c. identify how those risks will be managed, controlled, monitored, or eliminated as part of a drinking water safety plan; and*
- d. have regard to any values identified by local authorities under the National Policy Statement for Freshwater Management that relate to a freshwater body that the supplier uses as a source of a drinking water supply.*

(3) *A source water risk management plan is part of the supplier's drinking water safety plan and, unless the context otherwise requires, references in this Act to a drinking water safety plan must be read as including a reference to a source water risk management plan.*

(4) *Local authorities must contribute to the development and implementation of source water risk management plans prepared by drinking water suppliers, including by—*

*(a) providing information to suppliers in accordance with compliance rules issued by Taumata Arowai under section 48, including information about—*

- (i) land-use activities, potential sources of contamination, and other water users that could directly or indirectly affect the quality or quantity of the source of a drinking water supply; and*
- (ii) water quality monitoring of the source of a drinking water supply conducted by a regional council; and*
- (iii) any known risks or hazards that could affect the source of a drinking water supply; and*

*(c) undertaking any actions including plan changes to address risks or hazards to the source of a drinking water supply that local authorities have agreed to undertake on behalf of a drinking water supplier, as specified in a schedule attached to a source water risk management plan or otherwise agreed in writing.*

2266. I support the addition of the words “and occupiers” to d (iii) as productive land uses are often undertaken by people leasing land rather than the land owners.

2267. In relation to the submission to include SPZs as part of the Regional Plan or provide confirmation of the ability to implement the regulatory provisions of the TANK Plan change two options were considered for including SPZs in the Plan. The first of these was to include maps in the Plan showing where rule requirements apply. The second option was to adopt a more flexible approach that allows SPZs to be determined through a resource consent process and changed over time.

2268. The second option was pioneered by Environment Canterbury (Canterbury Regional Council). While SPZs are defined in Plan Change 9 amendments to SPZs are enabled

should there be new information or improvements to groundwater models. Option 2 relies on specifying the methodology to be used to delineate SPZs and it provides a pathway for updates through the consenting process.(Schedule 35).

2269. Changes to the SPZ were proposed to be sought when new information is available through the consent application process and not through a plan change. The consent process would ensure property owners who may be affected by any change are notified and aware of any implications.
2270. However, I agree with concerns expressed by submission points 207.4 and 207.77 which seek to ensure that the SPZs are legally robust, provide certainty for water suppliers and plan users alike, and provides adequate protection of source water from the time the provisions become operative. The SPZ areas should be included as planning maps for that reason. A Plan Change, including a Private plan Change to amend map boundaries can be a targeted and essentially technical plan change to amend boundaries consistent with the directions in Schedule 35.

### Recommendations

2271. I recommend that submission points 12.12 and 118.8 be accepted in part in so far as TANK POL 7 is retained with one addition because TANK POL 7 helps achieve:
- s. section 5(2)(a)(b) and (c) of the RMA;
  - t. the National Policy Statement for Freshwater Management; and
  - u. the National Environment Standards for Sources of Drinking Water.
2272. I recommend that submission point 180.24 and 195.35 are rejected because the new Water Services legislation will address the issues sought through the requirement for source water risk management plans to be prepared by drinking water suppliers.
2273. I recommend that submission point 203.9 be accepted and an amendment made to TANK POL 7 d)(iii) to include “and occupiers” after “owners” .
2274. I recommend that submission point 207.4 and 207.77 be accepted and the SPZs for Napier and Hastings be included as planning maps. This will ensure a more robust regulatory approach to the protection of source water in SPZs and provide clarity and certainty about where relevant TANK and RRMP rules apply.

## **17.2.3 TANK POL 8 – Protection of water and discharge of contaminants**

### Submission points

2275. There are six submission points uniquely about TANK POL 8. Submission points for this topic are contained in table 17 in Appendix 3.
2276. The following evaluation may not refer to every submission point but I have considered each submission point in this topic before making my recommendations.

### Submission points requests

2277. These submission points seek:
- retention of TANK POL 8 as notified.
  - amendments to TANK POL 8 including existing investment, including water takes to b)(iv))and including referencing to codes of practice and guidelines

## Discussion

2278. TANK POL 8 provides direction for the Council when considering applications to discharge contaminants or carry out land or water use activities in SPZs or source protection extents. The policy covers activities other than the taking of water for a Registered Drinking Water Supply.
2279. Within this context I support the some of the changes being sought by submitters as they provide additional clarity and/or information requirements to assist the Council in making its decisions.

## Recommendations

2280. I recommend that submission points 12.13 and 119.9 be accepted in part in that TANK POL 8 is retained subject to some amendments because TANK POL 8 helps to achieve
- v. section 5(2)(a)(b) and (c) of the RMA;
  - w. the National Policy Statement for Freshwater Management; and
  - x. the National Environment Standards for Sources of Drinking Water
2281. I recommend that submission points 180.25, 195.36, 203.10 and 207.41 be accepted and that TANK POL 8 be amended as follows:

*The Council will, when considering applications to discharge contaminants or carry out land or water use activities within:*

- a) *The source protection extent for Registered Drinking Water Supplies, take into account possible contamination pathways and risks to the quality of the source water for the water supply,*
- b) *A Source Protection Zone, avoid or mitigate risk of contamination from the activity of the source water for the water supply by taking into account criteria including but not limited to:*
  - i. *The amount, concentration and type of contaminants likely to be present as a result of the activity or in any discharge;*
  - ii. *The potential pathways for those contaminants, including any likely or potential preferred pathways;*
  - iii. *The mobility and survival rate of any pathogens likely to be in the discharge or arising as a result of the activity;*
  - iv. *Any risks the proposed land use or discharge activity has either on its own or in combination with other existing activities, including as a result of non-routine events;*
  - v. **Any risks** ~~*Ensuring the water supplier is aware*~~ *of any abstraction of groundwater where abstraction has the potential to have more than a minor impact on flow direction or speed and/or hydrostatic pressure;*
  - vi. *The effectiveness of any mitigation measures to avoid or mitigate risk of contaminants entering the source water and the extent to which the effectiveness of the mitigation measure can be verified, **including with regard to relevant codes of practice and guidelines;***
  - vii. *Notification, monitoring or reporting requirements to the Registered Drinking Water Supplier.*
  - viii. **Outcomes of consultation with the Registered Drinking Water Supplier with respect to the risks to source water from the activity, including measures to minimise risks and protocols for notification to the Registered Drinking Water Supplier in the event of an event that would present a risk to source water.**

### **17.2.4 TANK POL 9 – Multi-agency collaboration**

#### Submission points

2282. There are seven submission points uniquely about TANK POL 9. Submission points for this topic are contained in table 17 in Appendix 3.

2283. The following evaluation may not refer to every submission point but I have considered each submission point in this topic before making my recommendations.

#### Submission points requests

2284. These submission points seek:
- retention of TANK POL 9 as notified
  - deletion of clause (g) on grounds of duplication
  - addition of source control in 9 (a)
  - removal of reference to specific agencies.

#### Discussion

2285. TANK POL 9 relates to non-regulatory methods that sit alongside the identification of source protection zones and the regulation of water takes, land use and discharge activities that impact on safe drinking water sources.

2286. The submission points relate to the wording of TANK POL 9 rather than its intent and I consider them to be minor amendments that will enhance clarity, remove doubt or make the policy more future-proof. Clause (9)(g) is effectively a duplication of clause (9) (a).

2287. I do however consider that the insertion of the term “source control” in 9(a), relating to pollution prevention measures, is covered by the phrase “source protection measures” already in 9 (a) and is not needed.

2288. As only minor changes are recommended to TANK POL 9 I do not consider that the analysis in the Section 32 Report needs to be amended so I have not undertaken a further evaluation under section 32AA of the RMA.

#### Recommendations

2289. I recommend that submission points 12.14, and 119.24 are accepted in part in that TANK POL 9 is retained but with minor amendments.

2290. I recommend that submission points 29.56, 129.1 and 207.42 are accepted and submission 203.11 is accepted in part and that clause (g) of TANK POL 9 be deleted.

2291. I recommend that submission point 119.7 is accepted by amending TANK POL 9 as follows:

*9. The Council will work with the agencies that have roles and responsibilities for the provision of safe drinking water - including local government agencies, the national regulator, health agencies and registered water suppliers – through multi-agency collaboration to:...*

2292. These four recommendations are made because they remove or avoid duplication in the policy and allow for future proofing should governance arrangements in the area of safe drinking water provisions change over the life of the plan change.

## 17.3 Consequential Amendments to Regional Resource Management Plan Rules

### 17.3.1 Rule 1- Bore Drilling

#### Submission points

2293. There are 31 submission points relating to amendments to Rule 1 of the RRMP and Source Protection Zones. Submission points for this topic are contained in table 17 in Appendix 3.
2294. The following evaluation may not refer to every submission point but I have considered each submission point in this topic before making my recommendations.

#### Submission points requests

2295. These submission points seek:
- amendment of activity description of Rule 1 to include bore use and maintenance
  - addition of a condition to 6.3.1 Rule 1 reading: “c. The bore is located within a Source Protection Zone but is a replacement for an existing bore that will be decommissioned.” or similar wording.
  - amendment to rules so that where the bore is in a Source Protection Zone the provision of evidence of compliance criteria should be provided as a requirement and not just “on request”
  - amendments to Rule 1 by adding proposed new bore and an advice note.

#### Discussion

2296. Rule 1 of the Regional Resource Management Plan (RRMP) provides for bore drilling as a controlled activity. The conditions/standards/terms require the bore to be cased and sealed to prevent cross-connection and leakage from the ground surface into groundwater.
2297. Plan Change 9 proposes an additional condition that the bore is not located within a Source Protection Zone. Previously Rule 1 did not have any existing condition relating to location such as requiring separation from water bodies, existing bores or the Heretaunga Plains Unconfined Aquifer.
2298. The submissions mostly relate, directly or indirectly, to the additional condition around SPZ location. The purpose of the additional condition (b) is to ensure that assessment and monitoring of any bore drilling activity occurs when a bore is located within a source protection zone through a resource consent process.
2299. Bore drilling, as an activity, regulates the insertion of a pipe, cylinder or hole into the ground and does not regulate the extraction of any substance, including water, for which the bore was inserted. Rule 1 provides for this as a one-off, fixed term activity and the insertion of “bore use” implying ongoing activity is not appropriate and I recommend that this be rejected.
2300. The RRMP defines “maintenance” in relation to structures as: “means to keep in existing order, to prevent loss or deterioration, or to restore to working order. It does not include extending, replacing, removing or demolishing a structure, or any substantive change to the form, orientation, or outline of the structure”. The maintenance of a bore is an important part of keeping it intact and preventing cross-contamination and it is appropriate to address “maintenance”. The Plan amendments allow for this by including well maintenance as a matter for bores in the TANK Catchment. At a wider regional scale, maintenance should be

included in the activity description, but would be out of scope for PPC9. This aspect can be better considered through the next regional plan review.

2301. Bore drilling does pose a potential contamination pathway into the source water of Registered Drinking Water Supplies and assessment and monitoring via a resource consent process is appropriate. Differentiating between a brand new bore and a bore that is replacing an existing one overlooks the need for this assessment and monitoring to take place no matter if a bore already exists. The Water Services legislation is sending a clear signal that increased oversight of risks to source water is expected to be carried out. The review of the National Environment Standards for Sources of Human Drinking Water will further underline this. I recommend that any request for differentiation of proposed bores that are replacing existing bores, as opposed to the drilling of new bores, be rejected.

### Recommendations

2302. I recommend that submission point 207.46 is rejected as a bore activity requires a consent in SPZs and maintenance can be considered as a discretionary matter under RRMP Rule 2. Including 'maintenance' in the activity description results in an out of scope amendment with regional application.
2303. I recommend that submission points 14.16, 15.15, 18.18, 20.15, 26.18, 28.18, 34.18, 39.18, 41.18, 48.18, 53.18, 68.18, 75.18, 76.18, 81.18, 84.18, 87.17, 88.17, 94.18, 102.18, 107.18, 165.18, 179.18, 199.18, 204.18, 195.102, 208.14, 213.18, and 238.14 are rejected as any bore drilling poses a potential risk to source water contamination.
2304. I recommend that submission point 119.12 is rejected for Rule 1 as Rule 1 does not apply to any activity within a Source Protection Zone.
2305. I recommend that submission point 195.102 is rejected as Rule 1 includes the alteration of bores in the activity description which creates potential adverse effects on source water and is not limited to new bores. It does not apply to any activity within a Source Protection Zone.

### **17.3.2 Rule 2- Bore drilling that does not comply with Rule 1**

#### Submission points

2306. There are four submission points relating to amendments to Rule 2 of the RRMP and Source Protection Zones. Submission points for this topic are contained in table 17 in Appendix 3.
2307. The following evaluation may not refer to every submission point but I have considered each submission point in this topic before making my recommendations.

#### Submission points requests

2308. These submission points seek:
- amend matter (f) to clarify that notification is a consent holder advising a water supply manager (not notification of the consent application).
  - amend activity description of Rule 2 to include bore use and maintenance.
  - where the bore is in a Source Protection Zone that the provision of evidence of compliance criteria should be provided as a requirement and not just "on request".
  - amendments to RRMP Rule 2 to add proposed new bore.

## Discussion

2309. Rule 2 of the Regional Resource Management Plan (RRMP) provides for bore drilling activities that do not meet the conditions/standards/terms of Rule 1 to be managed as a restricted discretionary activity. Among other things Rule 2 covers bore drilling activities that occur within a Source Protection Zone.
2310. I support the clarification sought on the notification requirement in condition (f). It does not relate to public or limited notification in the RMA resource consent sense but rather to providing advice to the drinking water supplier of the intent to drill, construct, alter or undertake maintenance on a bore.
2311. Bore drilling, as an activity, regulates the insertion of a pipe, cylinder or hole into the ground and does not regulate the extraction of any substance, including water, for which the bore was inserted. Rule 2 provides for this as a one-off, fixed term activity and the insertion of "bore use" implying ongoing activity is not appropriate and I recommend that this be rejected.
2312. The RRMP defines "maintenance" in relation to structures as: "means to keep in existing order, to prevent loss or deterioration, or to restore to working order. It does not include extending, replacing, removing or demolishing a structure, or any substantive change to the form, orientation, or outline of the structure". The maintenance of a bore is an important part of keeping it intact and preventing cross-contamination. At a wider regional scale, maintenance should be included in the activity description, however I consider this amendment to be out of scope for PPC9. as they were not included in the plan change and the plan change did not seek to amend all parts of the RRMP. If a submission point is not "on" the plan change, that is if it is not within the scope of the plan change, then the Council cannot consider it. This aspect can be better considered through the next regional plan review.
2313. I support the inclusion of the provision of evidence of compliance as a requirement and recommend that it be inserted as a condition/standard/term.
2314. Bore drilling does pose a potential contamination pathway into the source water of Registered Drinking Water Supplies and assessment and monitoring via a resource consent process is appropriate. Differentiating between a brand new bore and a bore that is replacing an existing one overlooks the need for this assessment and monitoring to take place no matter if a bore already exists. The Water Services legislation is sending a clear signal that increased oversight of risks to source water is expected to be carried out. The review of the National Environment Standards for Sources of Human Drinking Water will further underline this. I recommend that any request for differentiation of proposed bores that are replacing existing bores, as opposed to the drilling of new bores, be rejected.

## **Recommendations**

2315. I recommend that submission point 129.28 be accepted and that the following amendment be made to condition (f) under Matters for Discretion:
- "In the Tūtaekurī, Ahuriri, Ngaruroro and Karamū catchments, the actual or potential effects of the bore and bore drilling on the quality of source water for Registered Drinking Water Supplies and any measures to reduce the risk to the water quality including ~~notification requirements to~~ **advising any affected** the Registered Drinking Water suppliers **of intent to drill prior to the activity occurring**, the maintenance of the bore and well head, including decommissioning the bore where necessary. "

2316. I recommend that submission point 207.46 is rejected as a bore activity requires a consent in SPZs and maintenance can be considered as a discretionary matter under RRMP Rule 2. Including 'maintenance' in the activity description results in an out-of-scope amendment with regional application.
2317. I recommend that submission point 119.12 is accepted for Rule 2 and that the following amendment is made to the Matters for Control/ Discretion for Rule 2:  
"k. Information to confirm compliance with conditions (a) to (f) shall be provided to the Council".
2318. I recommend that submission point 195.103 is rejected as Rule 2 includes the alteration of bores in the activity description which creates potential adverse effects on source water and is not limited to new bores.
2319. The reasons for this suite of recommendations is so that Rule 2 provides appropriate measures to manage activities that may affect the quality of source water or present a risk to the supply of safe drinking water, as required by TANK POL 6.

### **17.3.3 Rule 3- Unwanted or leaking bores**

#### Submission points

2320. There is one submission point relating to amendments to Rule 3 of the RRMP and Source Protection Zones. Submission points for this topic are contained in table 17 in Appendix 3.

#### Submission points requests

2321. The submission seeks:
- Where the bore is in a Source Protection Zone that the provision of evidence of compliance criteria should be provided as a requirement and not just "on request".

#### Discussion

2322. Rule 3 regulates unwanted or leaking bores as a non-complying activity.
2323. I support the inclusion of the provision of evidence of compliance with any conditions imposed by a resource consent as a requirement rather than upon request. However being a non-complying activity the Council can impose such a condition without it being a Matter for Control/Discretion.

#### Recommendations

2324. I recommend that submission point 119.12 is rejected for Rule 3 because neither Conditions/Standards/Terms nor Matters for Control/Discretion are specified in the Plan for non-complying activities.

### **17.3.4 Rule 4- Decommissioning of bores**

#### Submission points

2325. There are three submission points relating to amendments to Rule 4 of the RRMP and Source Protection Zones. Submission points for this topic are contained in table 17 in Appendix 3.

2326. The following evaluation may not refer to every submission point but I have considered each submission point in this topic before making my recommendations.

#### Submission points requests

2327. These submission points seek amendments to Rule 4 including:

- decommissioning of bores, be deleted as follows: ... Conditions/Standards/Terms ... f. ~~Where the bore is in a Source Protection Zone, information to confirm compliance with conditions (a) to (d) shall be provided to the Council upon request.~~
- amend activity description to include bore use and maintenance
- where the bore is in a Source Protection Zone that the provision of evidence of compliance criteria should be provided as a requirement and not just "on request".

#### Discussion

2328. Rule 4 is a permitted activity for the decommissioning or sealing of bores. It includes the undertaking of this activity within Source Protection Zones.

2329. I consider that the inclusion of the term "use and maintenance" are not necessary for this activity as it applies to the decommissioning of bores to no longer allow for their use. The conditions/standards/terms are appropriate for the activity with an amendment to f. to require the information to be provided confirming compliance in all instances.

#### Recommendations

2330. I recommend that submission point 195.104 is rejected and that information is required to be provided for the decommissioning of any bores in a Source Protection Zone.

2331. I recommend that submission point 207.46 is rejected in that the activity description for Rule 4 is for the decommissioning or sealing of bores and not for any ongoing use or maintenance.

2332. I recommend that submission point 119.12 is accepted for Rule 4 and condition f. is amended by the deletion of the words "upon request".

2333. The reason for these recommendations is to provide appropriate measures to manage activities that may affect the quality of source water or present a risk to the supply of safe drinking water, as required by TANK POL 6.

### **17.3.5 Rule 5 – Feedlots and Feedpads**

#### Submission points

2334. There is one submission point relating to amendments to Rule 5 of the RRMP and Source Protection Zones. Submission points for this topic are contained in contained in table 17 in Appendix 3.

#### Submission points requests

2335. The submission seeks:

- That proposed amendments to RRMP Rule 5 - Feed lots & feedpads, be amended as follows: ... Conditions/Standards/Terms ... e. ~~The **Any new feedpad** or **feedlot**~~ is not located in a Source Protection Zone

## Discussion

2336. Rule 5 is a permitted activity for the use of land for the purposes of operating a feedlot or feedpad. Plan Change 9 introduces a new condition/standard/term that the feedlot or feedpad shall not be located in a Source Protection Zone.
2337. Regulation 10 of the National Environment Standards for Sources of Human Drinking Water prevents a rule from being included in a plan allowing a permitted activity upstream of a drinking water abstraction point where the drinking water meets health quality criteria, unless satisfied that the activity is not likely to result in the water not meeting that criteria or aesthetic guideline values after existing treatment. Regulation 10 applies only to activities that have the potential to affect registered drinking water suppliers. Any amendment to Rule 5 to exclude existing feedlots or feedpads will not meet Regulation 10 of the NES.

## Recommendations

2338. I recommend that submission point 195.105 be rejected because if accepted Rule 5 would not meet the National Environment Standards for Sources of Human Drinking Water.

### **17.3.6 Rule 7- Vegetation Clearance and Soil Disturbance, Rule 40 – Discharges from closed landfills**

#### Submission points

2339. There is one submission point relating to amendments to Rules 7 and 40 of the RRMP and Source Protection Zones. Submission points for this topic are contained in in table 17 in Appendix 3.

#### Submission points requests

2340. The submission seeks:
- Add "***Measures to prevent or minimise any adverse effects on the quality of the source water used for a Registered Drinking Water Supply, irrespective of any treatment process for the Registered Drinking Water Supply***" as a matter of discretion to Rule 7 and Rule 40.

## Discussion

2341. Rule 7 is a permitted activity rule for vegetation clearance and soil disturbance. Rule 40 is a controlled activity for discharges from closed landfills.
2342. As part of the development of PPC9 the Hawke's Bay Drinking Water Joint Working Group (JWG) was requested by the TANK Group to draft provisions around the protection of source water for consideration and inclusion in PPC9.
2343. The JWG recommended several changes to the Regional Plan Rules via the PPC9 process so that:
- Permitted Activities would give effect to the NESDW
  - SPZs would have the same consenting requirements (regulatory protection) as the unconfined aquifer
  - where consents were required, there would be explicit requirements for consideration of effects on, and risks to, source drinking water.
- PPC9 includes some, but not all, of the recommended changes to existing rules.
2344. Soil disturbances, which are covered by Rule 7, will not affect SPZs as soil disturbances by their nature and definition are carried out on the land surface and do not affect

groundwater. I also consider the amendments sought for Rule 40 are out of scope. Rule 40 was not included in Proposed Changes to Chapter 6.9 so this rule was not included as part of PPC9. Consistent with other submission points on this point I consider the submission to be out of scope as they were not included in the plan change and the plan change did not seek to amend all parts of the RRMP. If a submission point is not “on” the plan change, that is if it is not within the scope of the plan change, then the Council cannot consider it

### Recommendations

2345. I recommend that submission point 207.46 is not on the plan change and I am therefore unable to consider it. The submission point falls outside the scope of the notified plan change.

### **17.3.7 Rule 12 – Stock feed**

#### Submission points

2346. There are two submission points relating to amendments to Rule 12 of the RRMP and Source Protection Zones. Submission points for this topic are contained in in table 17 in Appendix 3.

#### Submission points requests

2347. The submissions seek:

- that proposed amendment (new Clause h.) to RRMP Rule 12 – Stock feed, be deleted as follows: ... Conditions/Standards/Terms ... h. ~~Where the activity is in a Source Protection Zone, information to confirm compliance with conditions (a) to (g) shall be provided to the Council upon request.~~
- deletion of “upon request” for Rule 12h.

#### Discussion

2348. Rule 12 is a permitted activity for stock feed, specifically the discharge of contaminants into air, or onto or into land arising from the storage, transfer, treatment, mixing or use of stock feed on production land, including silage.

2349. I support the inclusion of the provision of evidence of compliance as a requirement and recommend the deletion of “upon request” from condition h.

### Recommendations

2350. I recommend that submission point 195.107 be rejected as condition h allows Rule 12 to meet Regulation 10 of the National Environment Standards for Sources of Drinking Water.

2351. I recommend that submission point 207.46 is accepted and that the information to confirm compliance be a mandatory requirement as it provides an appropriate measure to manage activities that may affect the quality of source water or present a risk to the supply of safe drinking water, as required by TANK POL 6.

### 17.3.8 Rule 14 – Animal Effluent

#### 2352. Submission Points

2353. There is one submission point relating to an amendment to Rule 14 of the RRMP and Source Protection Zones. Submission points for this topic are contained in table 17 in Appendix 3.

#### Submission Point Request

2354. The submission seeks:

- That proposed amendments to RRMP Rule 14 – Animal effluent, be amended as follows: ... Conditions/Standards/Terms ...  
h. ~~The activity~~ ***The discharge of contaminants into air, or onto or into production land, which is associated with any new conversion to a new type of farming, that is arising from the management of liquid animal effluent, including dairy shed effluent, piggery effluent, and poultry farm effluent, including associated sludges (except as provided for by Rules 13 & 15)*** is not in a Source Protection Zone.

#### Discussion

2355. Rule 14 is a controlled activity rule for the management of discharges to air, land or water arising from animal effluent. Rule 15 is a discretionary rule for the same activity in sensitive catchments, including any Source Protection Zones.

2356. The submitter is seeking that Rule 14's requirement that the activity not occur in a Source Protection Zone be amended so as to apply only to new operations, while allowing existing pastoral farms in Source Protection Zones to be covered by the permitted activity rule. The reason stated for this is that existing farms should not be disadvantaged because of a decision to require a SPZ.

2357. The reason for not differentiating between existing and new activities for a range of permitted activities is to ensure that Regulation 10 of the National Environment Standards for Sources of Drinking Water can be met. Regulation 10 prevents a rule from being included in a regional plan allowing a permitted activity upstream of an abstraction point where the drinking water meets health quality criteria, unless satisfied that the activity is not likely to result in the water not meeting that criteria or aesthetic guidelines values after existing treatment.

2358. I consider that treating existing activities differently to new activities will not meet the intent of Regulation 10.

#### Recommendations

2359. I recommend that submission point 195.109 be rejected because if accepted Rule 14 would not meet Regulation 10 of the National Environment Standards for Sources of Drinking Water.

### 17.3.9 Rule 15 – Animal Effluent

#### Submission Points

2360. There is one submission point relating to an amendment to Rule 15 of the RRMP and Source Protection Zones. Submission points for this topic are contained in in table 17 in Appendix 3.

## Submission Point Request

2361. The submission seeks:

- That proposed amendments to RRMP Rule 15 – Discharge of animal effluent in sensitive catchments, be amended as follows:

...

**Or any discharge of animal effluent resulting from any new conversion of farm to a different type of farming** in any Source Protection Zone

## Discussion

2362. Rule 15 is a discretionary activity rule for the management of discharges to air, land or water arising from animal effluent activity in sensitive catchments, including any Source Protection Zones.

2363. I note that this submission point is a consequential change arising from the submitter's previous submission point around Rule 14 which sought to differentiate between existing farming activities and new farm conversions in Source Protection Zones in relation to the rule. The reason stated for this is that existing farms should not be disadvantaged because of a decision to require a SPZ.

2364. As part of the development of Plan Change 9 the Hawke's Bay Drinking Water Joint Working Group (JWG) was requested by the TANK Group to draft provisions around the protection of source water for consideration and inclusion in Plan Change 9.

2365. The JWG recommended several changes to the Regional Plan Rules via the PPC9 process so that:

- Permitted Activities would give effect to the NESDW
- SPZs would have the same consenting requirements (regulatory protection) as the unconfined aquifer
- Where consents were required, there would be explicit requirements for consideration of effects on, and risks to, source drinking water.

2366. The identification of source protection zones (SPZs) and the management of activities that occur in these zones are the core features of a preventative risk management approach to providing safe drinking water.

2367. The Water Services Bill introduced into Parliament in 2020 includes new arrangements related to source water risk management. Drinking water suppliers must monitor source quality and have a Source Risk Management Plan (SRMP). Local authorities - including regional councils - must contribute to SRMPs by sharing information about risks and undertaking action to address them on behalf of a drinking water supplier.

2368. Clause 42 of the Bill requires local authorities to contribute to the development and implementation of source water risk management plans prepared by drinking water suppliers<sup>39</sup> by:

- y. Providing information to drinking water suppliers including about land use activities, potential sources of contamination and other water users that could directly or indirectly affect the quality or quantity of drinking water sources.
- z. Providing information on any known risks or hazards that could affect the source of the drinking water supply.

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<sup>39</sup> It is important to note that under the Water Services Bill a drinking water supplier is anyone who supplies drinking water to more than one household. So for example if there is more than one dwelling on a property being serviced from a single bore the landowner/consent holder is classed as a drinking water supplier under the proposed new legislation.

2369. Given these new requirements, and consistent with the regulatory approach adopted in Plan Change 9 and outlined in the Section 32 Report, I recommend that the Council be able to retain its ability to regulate activities within the source protection zones and to consider the actual and potential effects of these activities on the protection of the sources of human drinking water. If this submission was to be accepted the Council's effectiveness in managing the effects of activities in areas of source water protection would be less timely and ultimately weakened.

### Recommendations

2370. I recommend that submission point 195.110 be rejected because Rule 15 :

- Assists Council to meet sections 5(2)(a)(b) and (c) of the RMA;
- Support the most efficient and effective means of protecting the sources of human drinking water available under the Resource Management Act ; and
- Assist in the implementation of requirements under the National Environment Standard for Sources of Drinking Water.

### **17.3.10 Rule 37 – New Sewage Systems**

#### Submission points

2371. There is one submission point relating to amendments to Rule 37 of the RRMP and Source Protection Zones. Submission points for this topic are contained in in table 17 in Appendix 3.

#### Submission points requests

2372. The submission seeks:

- Conditions/Standards/Terms ... s. The activity is not located in a Source Protection Zone, ***unless it is for a sewage system that is replacing an existing system with the same (or worse) sewage treatment and disposal characteristics (in which case such replacement sewage treatment system shall be permitted)***

#### Discussion

2373. Rule 37 is a permitted activity for the discharge of contaminants including greywater onto or into land associated with new sewage systems.

2374. The submitter is seeking the that a replacement sewage system, under certain circumstances, would still be permitted in a Source Protection Zone.

2375. The reason for not differentiating between existing and new activities for a range of permitted activities is to ensure that Regulation 10 of the National Environment Standards for Sources of Drinking Water can be met. Regulation 10 prevents a rule from being included in a regional plan allowing a permitted activity upstream of an abstraction point where the drinking water meets health quality criteria, unless satisfied that the activity is not likely to result in the water not meeting that criteria or aesthetic guidelines values after existing treatment.

2376. I consider that treating existing activities differently to new activities will not meet the intent of Regulation 10.

## Recommendations

2377. I recommend that submission point 195.115 be rejected because if accepted Rule 37 would not meet Regulation 10 of the National Environment Standards for Sources of Drinking Water.

### **17.3.11 Rules 16, 48 and 49**

#### Submission points

2378. There is one submission point relating to amendments to Rule 16, 48 and 49 of the RRMP and Source Protection Zones. Submission points for this topic are contained in in table 17 in Appendix 3.

#### Submission points request

2379. The submission seeks to:

- amend Rules 16, 48, and 49 to exclude activities within SPZs.

#### Discussion

2380. Rule 16 is a permitted activity to manage solid waste on production land. Rule 48 is a permitted activity for the discharge of solid contaminants to land that may enter water. Rule 49 is a permitted activity for discharges to land that may enter water. Rules 16, 48 and 49 were not included in the Proposed Changes to Chapter 6.9 so these rules were not included as part of PPC9. I consider this submission point is out of scope of the plan change. For more information on submission points that are out of scope of PPC9 see Section 18.3 of this report.

## Recommendations

2381. I recommend that submission point 207.46 is not on the plan change and I am therefore unable to consider it. The submission point falls outside the scope of the notified plan change.

## **17.4 Source Protection Zone Maps/Schedule 35**

#### Submission points

2382. There are 22 submission points about the Source Protection Zone Maps and Schedule 35. Submission points for this topic are contained in table 17 in Appendix 3.

2383. The following evaluation may not refer to every submission point but I have considered each submission point in this topic before making my recommendations.

#### Submission points requests

2384. These submission points seek:

- retention of maps as notified
- that SPZ Map 1 and Hastings District Council SPZ Map 2 be amended to form up Source Protection Conjunctive Zones
- that PPC9 include the SPZ maps
- amend maps including expanding the area of the SPZ Zone 3 to encompass a larger area, to recognise that risk of contamination of drinking water is not uniform across

entire area of each SPZ and to reflect Awatoto SPZ required to manage risks to Napier drinking water supply.

- clarification on how/if PPC9 would incorporate a potential change to the National Environmental Standard for Sources of Human Drinking Water (NES) which may include extending the scope of regulations so they apply to landuse activities that pose a risk to drinking water sources, and registered drinking water supplies serving 25 or more people.

## Discussion

### **Approach**

2385. One of the key elements of the provisions to protect drinking water quality is the protection of recharge water for groundwater or managing activities upstream of surface water abstractions. This is being addressed in PPC9 through the proposed Source Protection Zones.

2386. The issue of identifying and mapping of Source Protection Zones is new to the RRMP and has yet to occur in many parts of New Zealand. Over time, and as modelling becomes yet more advanced, further refinement of the zones will occur. The challenge is how to update the zones without going through a plan change process following Schedule 1 of the RMA every time a change is sought. While the legislation to replace the Resource Management Act may provide a solution, in the meantime PPC9 is looking to use the best available information.

### **Methodology**

2387. The initial risk assessment carried out by *Good Earth Matters* for the Joint Drinking Water Group was based on mapping and analysis by Tonkin and Taylor using an Analytic Element Model (AEM).

2388. Hawke's Bay Regional Council developed a Numerical Model specifically for the Heretaunga Plains groundwater model and this represents a more advanced approach than that applied by Tonkin and Taylor.

2389. As the methodology for determining the SPZs has not been determined nationally through regulation, the Joint Drinking Water Group was unable to recommend a preference for any one methodology to be used to define the SPZs. The final recommended zones were based partly on how the models dealt with features of the aquifer in specific locations including porosity and homogeneity.

2390. Hawke's Bay Regional Council is part way through a 3D aquifer mapping project using airborne electromagnetic survey technology (SkyTEM) which will give the Council and the community much greater knowledge of the region's aquifers than ever before. The aquifer mapping aerial surveying was completed in February 2020 and the processing of the information gathered has begun.

2391. It is expected that revised 3D geological models and reporting will be available for the Heretaunga Plains in May 2022 and a revised Heretaunga groundwater flow and transport model will be completed by February 2023.

2392. I do not consider that PPC9 be delayed until the new information is available as there are a wider water management issues to be addressed by PPC9 with some urgency.

2393. Hastings District Council has submitted on the inclusion of additional SPZ areas for inclusion that incorporate both methodologies used for SPZ identification. These have been

subject to independent peer review, with the peer reviewer recommending a SPZ which incorporates both methodologies with a buffer zone. Hasting District Council submits that a SPZ which meets the peer review process recommendations be adopted given this would be consistent with the adoption of the precautionary principle of the RMA and the preventative risk management approach which is one of the fundamental principles of drinking water safety.

2394. The analysis in the Section 32 Report concluded that using both models at the same time would be overly cautious and impose a higher consenting burden on landowners. I support the analysis in the Section 32 Report and I recommend that only the Numerical Model for the Heretaunga Plains groundwater model is used to develop the SPZ areas.

### ***Amendments to SPZs/NESDW***

2395. In relation to the submission to provide confirmation of the ability to implement the regulatory provisions of PPC9 two options were considered for including SPZs in the PPC9. The first of these was to include maps in PPC9 showing where rule requirements apply. The second option was to adopt a more flexible approach that allows SPZs to be determined through a resource consent process and changed over time.
2396. The second option was pioneered by Environment Canterbury (Canterbury Regional Council). Option 2 means that while SPZs are defined in PPC9, amendments to SPZs are enabled should there be new information or improvements to groundwater models. Option 2 relies on specifying the methodology to be used to delineate SPZs and it provides a pathway for updates through the consenting process (Schedule 35). This is the option chosen for the notified version of PPC9.
2397. However, there has been a submission point asking us to include SPZs in a planning map. I consider that adding a planning map will be helpful for the resource consent process so I recommend accepting this submission point. I recommend that a planning map showing SPZs is included in PPC9. Recommended changes to maps are show in Appendix 2 to this report. This means that if any changes need to be made to SPZ maps it would need to be done during a plan change or private plan change process. I would also like to advise submitters that the Council is undertaking a plan review process and will be notifying the revised plan by the 31 December 2024 to comply with the NPSFM2020. This will be a chance to include any new information about SPZs from the SkyTEM study.
2398. The National Environment Standards for Drinking Water (2008) are being reviewed as part of the government's review of drinking water safety legislation and regulations. Each regional, city or district council must enforce what is in the standard. If specified in the NES this can occur without the need for a plan change. In some circumstances where specified in the NES, councils can impose stricter or more lenient standards.

### **Recommendations**

2399. I recommend that submission point 10.13 be rejected as the Unconfined Aquifer is included in the RRMP but it does not need to be included in PPC9.
2400. I recommend that submission points 10.14, 10.22, 120.141, 132.100 and 207.52 are rejected as the Numerical Model is an advanced approach and having two models would be overly cautious and impose a higher consenting burden.
2401. I recommend that submission point 120.140 is accepted because a planning map showing SPZs would help the resource consent process and provide transparency and clarity in relation to where rules apply.

2402. I recommend that submission point 58.41 is rejected as the submission is not specific to where or in what context Fish and Game should be included in Schedule 35.
2403. I recommend that submission point 63.61 is accepted in that there are no changes to the spatial extent of the Source Protection Zones for Napier City Council's municipal supplies.
2404. I recommend that submission points 132.100, 132.133 and 207.52 are rejected as that Source Protection Zones cover sites for more than 501 people. Evidence provided by the Hawke's Bay District Health Board provides information about the populations supplied.
2405. I recommend that submission point 135.67 is rejected because I recommend to add a planning map to the RRMP showing SPZs in response to another submission.
2406. I recommend that submission point 135.69 is rejected as there is no further information available since PPC9 was notified to necessitate an extension to the Awatoto Source Protection Zone in Map 2.
2407. I recommend that submission point 194.111 is accepted in part because the Council will comply with National Environmental Standards.
2408. I recommend that submission point 195.149 be rejected as the methodology for the delineation of the source protection zones will continue to be refined as further scientific information becomes available, and the type of land use activity can be managed through the RRMP rules.
2409. I recommend that submission point 203.31 be accepted and I note their support.
2410. I recommend that submission point 207.49 is accepted because I am recommending that SPZs will be identified on a planning map in response to other submissions.  
 "The location **and spatial extent** of a Source Protection Zone around a Registered Drinking Water Supply are to be determined **using appropriate technical guidance provided via any relevant National Environmental Standard, National Policy Statement or technical guidance document endorsed by the Ministry for the Environment**, or using site specific information listed in Table 2 below and according to the minimum requirements for the relevant population in Table 3."
2411. I recommend that submission point 207.50 be accepted and that Schedule 35 be amended to include:  
**"For the avoidance of doubt, the term "Source Protection Zone" or "SPZ" in this Plan includes provisional SPZs and SPZs defined in accordance with this Schedule"**
2412. I recommend that submission point 207.51 be rejected as the National Environmental Standard Drinking Water provides direction that effects of resource consent applications must be considered in relation to smaller scale water supplies.
2413. I recommend that submission points 194.16 and 207.67 be accepted in that amendments to the plan will be recommended to ensure alignment with the Water Services legislation as the latter is finalised.
2414. I recommend that submission point 225.10 is rejected as Schedule 35 is recommended to be retained (with amendments) along with the policy and rule framework for protecting drinking water sources.

## 17.5 Miscellaneous

### Submission points

2415. There are five submission points that I have described as miscellaneous in that they cannot be ascribed to any one plan provision but apply more generally. Submission points for this topic are contained in table 17 in Appendix 3.
2416. The following evaluation may not refer to every submission point but I have considered each submission point in this topic before making my recommendations.

### Submission points requests

2417. These submission points seek:
- purified drinking water in all households at Bridge Pa
  - drinking water free of pollution, chlorine, fluorine and is safe to drink that is restored in every household in Bridge Pa
  - PPC9 amended to reflect Water Services Bill in relation to Registered Drinking Water Supply and SPZs

### Discussion

2418. The requests for safe drinking water supply in Bridge Pa are acknowledged and the purpose of the strengthened source water provisions in PPC9 is to ensure that the source water is as high a quality as possible. The treatment of water once abstracted is the responsibility of the Registered Drinking Water Supplier and not the regional council.
2419. Submissions on the Water Services Bill are currently (March 2021) being heard by the Select Committee. It is expected that changes will be made to the Bill as a result of the submissions and I recommend that alignment of glossary terms be made at the time of the Hearing Panel's final deliberations or the passing of the bill into legislation, whichever is sooner.

### Recommendations

2420. I recommend that submission points 188.1 and 191.2 be rejected as the treatment of drinking water is outside the scope of the plan change.
2421. I recommend that submission point 194.16 and 207.67 are accepted in as far as changes are made to the PPC9 glossary at the time of the Hearing Panel decision to align with the Water Services legislation. This is to provide the most up-to-date reference if the definitions change during the Select Committee process.

## 18. Miscellaneous

### 18.1 Supports other submissions

#### Submission points

2422. There are 97 submission points that support other original submissions (not further submissions). Submission points for this topic are contained in table 18.1 in Appendix 3.

#### Submission point requests

2423. These submission points support other submitters. The submitters they support are:
- a. The Hawke's Bay Winegrowers Association
  - b. Horticulture New Zealand
  - c. The Ngaruroro Irrigation Society
  - d. Te Runanga o Heretaunga, Te Mana Taiao, Te Taiwhenua o Heretaunga, Heretaunga Tamatea Settlement Trust and Ngati Kahungunu Iwi Incorporated
  - e. The whanau and hapū and organisations of Ngati Hinemanu, Ngati Te Upokoiri, Piringa Haapu Authority
  - f. Hastings District Council
  - g. All whanau, hapū and iwi organisations within Kahungunu
  - h. Beef and Lamb NZ
  - i. Federated Farmers
  - j. Pa Waipatu Marae
  - k. Hira Huata, Adele White, Ngaio Tiuka, Jenny Mauger, Marei Nepe-Apatu, Robert McDonald
  - l. New Zealand Apples and Pears.

### Discussion

2424. These submission points support other submitters. Some of the submission points are from pro forma submissions. For example, the submitters might have made their submission based on their parent organisation and then they might have supported the parent organisation in their submission. The support of another submission has been logged as a submission point.

### Recommendations

2425. I recommend that these submission points are accepted in part because the Reporting Team is recommending to accept some submission points from the submitters that are being supported.

## **18.2 Consequential amendments**

### Submission points

2426. There are 63 submission points seeking consequential amendments to give effect to the matters the submitters have sought in other submission points. Submission points for this topic are contained in table 18.2 in Appendix 3.

### Submission point requests

2427. These 64 submission points do not seek any specific amendments themselves, the submitters have other submission points seeking amendments which are addressed in the appropriate sections of this report.

### Recommendations

2428. I recommend that these submission points are accepted in part because the Reporting Team is recommending some consequential amendments based on matters sought from other submission points.

## 18.3 Operative RRMP

### Submission points

2429. There are 39 submission points on the Regional Resource Management Plan. Submission points for this topic are contained in table 18.3 in Appendix 3.
2430. The following evaluation may not refer to every submission point but I have considered each submission point in this topic before making my recommendations.

### Submission point requests

2431. These submission points seek:
- a. amendments to the RRMP that were not included in the Consequential Amendments to Chapter 5 of the RRMP or anywhere else in PPC9
  - b. that RPS Policies 35, 43 and 57, are given effect to in PPC9
  - c. that HRBC commits to a comprehensive review of the RRMP and RCEP
  - d. that the RRMP provisions should apply where they are stronger than the proposed TANK rules.

### Discussion

2432. PPC9 proposes consequential amendments to Chapter 5 of the Regional Resource Management Plan to remove the TANK Catchment from the 5.4 Surface Water Quality, 5.5 Surface Water Quantity, 5.6 Groundwater Quality and 5.7 Groundwater Quantity provisions. There are also consequential amendments proposed to 23 existing rules in Chapter 6 of the RRMP. These amendments apply where the activity is carried out in the TANK Catchment. There are new rules in PPC9 which replace the 23 existing rules so the TANK Catchment is covered by new rules.
2433. These consequential amendments are part of PPC9 but the rest of the RRMP is not part of PPC9 and it was not put out for submissions when PPC9 was notified.
2434. Most of these submission points are on other parts of the RRMP that were not included in PPC9. I consider that these points are not in scope of PPC9 as they were not included in the plan change and the plan change did not seek to amend all parts of the RRMP. If a submission point is not “on” the plan change, that is if it is not within the scope of the plan change, then the Council cannot consider it.
2435. A two stage approach to the assessment of whether a submission is on a plan change was set out in *Clearwater Resort Ltd v Christchurch City Council HC Christchurch AP 34/02, 14 March 2003*. The two tests to determine if a submission is “on” a plan change are:
- I. The submission can only be regarded as being “on” the plan change if it is addressed to the extent to which the plan change changes the pre-existing status quo; and
  - II. If the effect of regarding a submission as being “on” a plan change could be to allow a plan to be appreciably amended without real opportunity for participation by those potentially affected, it will be a “powerful consideration” against finding that the submission is truly “on” the plan change.
2436. I consider the submission points that seek to amend parts of the RRMP that were not included in PPC9 do not meet these two tests.
2437. There are submission points seeking changes to the Regional Coastal Environment Plan and that the Council should commit to a comprehensive review of the RRMP and the

Regional Coastal Environment Plan. These submission points are not on PPC9 however I can advise the submitter that the Council is looking to review their RRMP and their Regional Coastal Environment Plan in the coming years and combine them into one plan. This will enable the environment and our natural resources to be considered through a ki uta ki tai approach. The Council will notify the proposed plan before 31 December 2024 to tie in with the freshwater planning approach that is outlined in the RMA and the NPSFM2020.

2438. Submission point 132.34 seeks that policies 35 and 43 of the RPS are given effect to. RPS Policies 35 and 43 sit in Chapter 3.10 Surface Water Resources of the RPS. RPS Policy 35 discussed water allocation regulation. PPC9 seeks no further allocation of water in the TANK Catchment therefore PPC9 gives effect to this RPS policy. POL TANK 43 of PPC9 discusses groundwater takes within the vicinity of surface water bodies. Zone 1, which is found around the Ngaruroro and Tūtaekurī rivers means that surface water takes are subject to minimum flow requirements. For more information on surface water takes please see Section 15.4 of this report. Submission point 132.186 seeks that Policy 57 of the RPS is given effect to. RPS Policy 57 sits in Chapter 3.14 Recognition of Matters of Significance to Iwi/Hapū and this policy discusses effects and impacts of an activity and how the activities should be managed. PPC9 seeks no further allocation of ground and surface water so PPC9 gives effect to Policy 57 as seeking allocation of water for new consents is discretionary and prohibited. I recommend to accept in part these submission points as PPC9 gives effect to Policies 35, 43 and 57 of the RPS.
2439. There are two submission points, 120.142 and 210.21, that seek to retain provisions in the RRMP that the submitters think are stronger than provisions in PPC9. The submitters do not identify any specific provisions in the RRMP so I am unsure what provisions they think are better. Therefore I recommend rejecting these submission points.
2440. Submission point 132.148 seeks that the explanations and reasons that are in Chapter 5.5 Surface Water Quantity of the RRMP should be moved to PPC9. These explanations and reasons are about an objective and two policies that PPC9 is proposing does not apply within the TANK Catchment. The explanation and reasoning does not apply to PPC9 provisions so I am recommending to reject this submission point.
2441. Submission point 210.110 is about RRMP Rule 70. RRMP Rule 70 was included in PPC9 however there were no changes shown to the rule in PPC9. The inclusion of RRMP Rule 70 in PPC9 was an error and I recommend that RRMP Rule 70 is removed from PPC9. I recommend to reject submission point 210.110 as I am recommending to remove RRMP Rule 70 as there were no changes recommended to it.
2442. Submission point 132.69 seeks that a reference to productive in relation to the Heretaunga Aquifer and other aquifers in the TANK Catchment is removed. The word productive is not included in PPC9 in relation to aquifers and the word productive has been removed in the consequential amendments to Chapter 5 of the RRMP. I recommend that this submission point is accepted in part because what the point is seeking has already been included in PPC9.

### Recommendations

2443. I recommend that submission points 10.2, 50.21, 51.9, 58.34, 116.6, 120.62, 120.89, 120.90, 120.177, 120.178, 120.79, 120.180, 123.120, 123.119, 132.9, 132.21, 132.32, 132.35, 132.36, 132.64, 132.88, 132.89, 132.92, 132.94, 132.95, 132.96, 132.97, 132.102, 132.137, 210.108, 210.109, 231.12 are not on the plan change and I am therefore unable to consider them. The submission points fall outside the scope of the notified plan change.
2444. I recommend that submission points 120.142, 132.148, and 210.21 are rejected because:

- a. they do not provide which provisions in the RRMP that they want to be retained, or
- b. they request for explanations and reasons from the RRMP to be moved to PPC9 when they don't explain PPC9 provisions.

2445. I recommend that submission points 132.34 and 132.186 are accepted in part as PPC9 gives effect to the RPS, including policies 35, 43 and 57.
2446. I recommend that submission point 210.110 is rejected as I am recommending to reject RRMP Rule 70.
2447. I recommend that submission point 132.69 is accepted in part because the word productive is not used in PPC9 in relation to the Heretaunga Aquifer and the word productive has been removed in the consequential amendments to Chapter 5 of the RRMP.
2448. There is one consequential amendment associated with these recommendations. I recommend to remove RRMP Rule 70 from PPC9 because there were no changes shown to this rule and it does not need to be included in PPC9 as no amendments are proposed.

## **18.4 Outstanding Water Bodies, Plan Change 7 to Regional Resource Management Plan**

### Submission points

2449. There are seven submission points that relate to Outstanding Water Bodies. Submission points for this topic are contained in table 18.4 in Appendix 3.
2450. The following evaluation may not refer to every submission point but I have considered each submission point in this topic before making my recommendations.

### Submission point requests

2451. The submission points for this topic are seeking:
- a. that Outstanding Water Bodies are recognised and provided for in PPC9 and are protected
  - b. that the Heretaunga Aquifer Muriwaihou should be an Outstanding Water Body
  - c. that a schedule of Outstanding Water Bodies should be included in PPC9.

### Discussion

2452. The Council began developing an Outstanding Water Bodies plan change in response to the NPSFM. Plan Change 7 to the RRMP proposed to include a list of the region's outstanding water bodies with a framework that prescribes a high level of protection for these water bodies. There was a hearing for Proposed Plan Change 7 in December 2020 and at the time of writing this report, the Council is waiting on a decision from the commissioners on Proposed Plan Change 7. Proposed Plan Change 7 is separate from PPC9, although there are some water bodies that are proposed to be Outstanding Water Bodies that are in the TANK Catchment.
2453. Plan Change 7 proposes amendments to the RPS to protect Outstanding Water Bodies and TANK OBJ 2 f) of PPC9 states that the significant values of outstanding water bodies are protected and provided for. Therefore, Outstanding Water Bodies are protected in the RPS and through TANK OBJ 2 of PPC9.
2454. Including the Heretaunga Aquifer as an outstanding water body is outside the scope of PPC9. The Heretaunga Aquifer was proposed to be an Outstanding Water Body in Plan

Change 7. The Panel for Plan Change 7 will make their decision on whether the aquifer is outstanding.

2455. There is a submission point seeking that a schedule of Outstanding Water Bodies is included in PPC9. Schedule 25 shows the Outstanding Water Bodies proposed through Plan Change 7. Schedule 25 will be inserted into the RRMP when Plan Change 7 is made operative so there does not need to be another schedule of Outstanding Water Bodies added as part of PPC9.

### Recommendations

2456. I recommend that submission points 120.87 is accepted in part because TANK OBJ 2 f) protects Outstanding Water Bodies.

2457. I recommend submission points 31.2, 120.88, 123.10, 127.13, 132.71 and 132.72 are not able to be considered because Outstanding Water bodies is outside the scope of this plan change, submissions on water bodies being Outstanding Water Bodies and on Outstanding values are not submissions on PPC9. However I would like to inform the submitters that Outstanding values are protected through Proposed Plan Change 7 through amendments to objectives and policies in *Chapter 3.1A Integrated Land Use and Freshwater Management, Chapter 3.2 The Sustainable Management of Coastal Resources* and in Schedule 25. Plan Change 7 to the RRMP covers Outstanding Water Bodies and the schedule of Outstanding Water Bodies, Schedule 25, will be included in the RRMP when Plan Change 7 is operative. The schedule does not need to be duplicated in PPC9.

## **18.5 Other points**

### Submission points

2458. There are 19 miscellaneous submission points that do not relate to any other sections in this report. Submission points for this topic are contained in table 18.5 in Appendix 3.

2459. The following evaluation may not refer to every submission point but I have considered each submission point in this topic before making my recommendations

### Submission point requests

2460. The submission points for this topic are discussing a variety of things including:

- a. gravel extraction and dredging
- b. headwaters of the rivers
- c. vehicle access to rivers
- d. resource consent applications
- e. protecting flora and fauna, in, on and around rivers.

### Discussion

2461. There are four submission points about gravel extraction and dredging. These points want gravel extraction to be acknowledged and how this might affect water allocation limits, they want less gravel to be extracted and one submitter wants royalties for the gravel paid to their hapū. Gravel extraction and potential effects on water quantity is not covered in PPC9 as there is insufficient information about the relationship between them. However, I have been advised by colleagues in the Science Department at the Council that Lincoln Agritech Limited have been doing research on the connection between gravel extraction on groundwater quantity and braided rivers. They have been investigating the Ngaruroro River and they will be testing their observations with modelling. It will be two-three years before we will see the outcomes of the research.

2462. The Council has submitted a global resource consent for the whole of the Hawke's Bay region to deal with gravel extraction for the purpose of maintaining the design channel capacity of rivers. The consent also looks at the alleviation of flood and erosion risk for rivers in the Tukitiki Catchment. If the consent is approved, gravel extraction will only be allowed by the Council. This is to ensure the Council can govern gravel extraction across the Hawke's Bay region. I recommend rejecting these submission points as gravel extraction is not covered by PPC9. Gravel extraction is covered in the RRMP through Rule 73 and Rule 74.
2463. One submission point seeks the acknowledgement that there are water bodies whose state is the desired state. I recommend that this submission point is accepted in part because in the Introduction section of PPC9 does state that for some water bodies the desired states does meet the actual state.
2464. There are some submission points that are out of scope of PPC9, they do not meet the two tests from the *Clearwater Resort Ltd v Christchurch City Council HC Christchurch AP 34/02, 14 March 2003* that is discussed in Section 18.3 of this report. These points are about the application for the Water Conservation Order on the Ngaruroro River, vehicle access to the Ngaruroro River, the coastal environment and resource consent applications. As these applications are not on PPC9, the Council is not able to consider the submission points.
2465. There is a submission point seeking PPC9 to allow strategic infrastructure to have a different consenting pathway. When PPC9 is operative it will form part of the RRMP. Resource consent applications in the TANK catchment will be subject to the RRMP and the RPS. Strategic infrastructure is defined in the RRMP and this definition will apply in PPC9 and the TANK catchment. I recommend that this submission point is accepted in part because the definition of strategic infrastructure will cover PPC9.
2466. There are two submission points that discuss the head-water areas of the river and the Upper Ngaruroro River. The RMA definition of a river, which is covered in section 2 of the RMA, states that rivers means a continually or intermittently flowing body of fresh water. Therefore, the headwaters and the upper parts of a river are part of the river. When PPC9 discusses the Ngaruroro River it includes the headwaters and the upper parts of the rivers. I recommend that these submission points are accepted in part because the headwater areas and the Upper Ngaruroro River are included in PPC9.
2467. There is a submission point seeking a management plan in partnership with tangata whenua and Māori landowners for Lake Poukawa. As discussed in Section 12.5, management plans and implementation plans will sit outside of PPC9 and monitoring will be done in partnership with tangata whenua as required by the NPSFM2020. I am unable to confirm whether there will be a management plan for Lake Poukawa. I recommend to reject this submission point as a management plan would not form part of PPC9.
2468. There are two submission points seeking protection of native flora and fauna and native species on and around the awa, and in the awa. The NPSFM2020 does not cover flora and fauna outside of the rivers and riparian margins. The NPSFM2020 and PPC9 do cover native species in the awa and they aim to protect riparian margins so I recommend these submission points are accepted in part as this is covered in PPC9.
2469. There is a submission point seeking a provision for farms that cover two catchments. The point is seeking that the rules from the catchment that the majority of the farm is in should apply. I understand the concern from the submitter however there are different issues in different catchments and I do think it is appropriate for the rules in all the catchments to be addressed. The rules for each catchment should apply.

2470. There is a submission point seeking that the Ngaruroro River flood protection and drainage scheme in relation to the TANK catchment should be reviewed. There are flood provisions in the RPS and in the RRMP and flood protection was taken into account when determining PPC9 provisions however the Ngaruroro River flood protection and drainage scheme was not assessed because of PPC9.
2471. There is a submission point seeking that the coastal environment boundary needs to be shown on maps to show where the PPC9 regulation ends. The PPC9 boundary is shown in the plan change map in the Section 32 Report. This map and the plan change boundary is included in Section 5 of this report.

### Recommendations

2472. I recommend that submission points 111.14, 132.93, 212.2, 240.23 are rejected because gravel extraction is not covered by PPC9. Gravel extraction is covered by the RRMP in Rules 73 and 74.
2473. I recommend that submission points 24.7, 31.1, 100.1, 111.16, 111.18 and 142.3 are accepted in part as the things these submission points are seeking are already included in PPC9 and the RRMP.
2474. I recommend that submission points 31.5, 67.10, 132.46, 139.3 and 139.4 are not on the plan change, they fall outside of the scope of the notified plan change. Therefore I am unable to consider the submission points.
2475. I recommend that submission points 120.132 is rejected because a management plan would not form part of PPC9.
2476. I recommend that submission point 1.2 is rejected because the provisions and rules need to be applied for parts of land that are in each catchment.
2477. I recommend that submission point 212.3 is rejected as the Ngaruroro River flood protection scheme is not part of PPC9.
2478. I recommend that submission point 132.39 is rejected because the plan change boundary is shown in the Section 32 Report.

## **19. Recommendations**

2479. The Reporting Team and I have considered all of the submissions and we have reviewed all relevant statutory and non-statutory documents. I recommend that PPC9 be adopted subject to the amendments to the text set out in Appendix 1 and the planning maps set out in Appendix 2.
2480. Adoption of PPC9:
- a. will assist the council in achieving the purpose of the RMA
  - b. give help to give effect to the National Policy Statement on Freshwater Management 2020
  - c. will give regard to RPS; and
  - d. is consistent with the RRMP.

2481. The Reporting Team and I recommend that, the Panel accept, accept in part or reject the submission points as discussed in sections 12-18 of this report. See Appendix 3 for recommendations on each submission point.
2482. That, as a result of the recommendations on the submissions, the Hawke’s Bay Regional Resource Management Plan be amended by:
- a. the inclusion of:
    - viii. Chapter 5.10 Tūtaekurī, Ahuriri, Ngaruroro and Karamū Catchments
    - ix. a new section to Chapter 6 - 6.10: TANK Catchments specific rules
    - x. three new RRMP rules to Chapter 6 – Rule 33A, Rule 62a and Rule 62b
    - xi. 11 new schedules – Schedules 26 - 36
    - xii. new terms to Chapter 9 Glossary.
  - b. consequential amendments to these parts of the RRMP:
    - xiii. parts of Section 5 of the RRMP
    - xiv. 23 rules in Chapter 6 of the RRMP.
2483. These amendments are set out in the Recommended Changes to Proposed Plan Change 9 to the RRMP which can be found in Appendix 1 of this report.

## 20. Signatories

	Name and title of signatories
Authors	Anne Bradbury, Senior Planner, Hawke’s Bay Regional Council Mary-Anne Baker, Senior Planner, North West and Islands Planning Ellen Robotham, Policy Planner, Hawke’s Bay Regional Council Kim Anstey, Policy Planner, Hawke’s Bay Regional Council Kirsten Tebbutt, Associate, Mitchell Daysh
Reviewer / Approver	Ceri Edmonds, Manager Policy and Planning, Hawke’s Bay Regional Council