

BEFORE THE HEARINGS PANEL

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of proposed Plan Change 9 to the RRMP

AND

IN THE MATTER of the submissions and further submissions set
out in the s 42A Hearing Report

STATEMENT OF REPLY EVIDENCE OF CERI EDMONDS

ON BEHALF OF HAWKE'S BAY REGIONAL COUNCIL

**GENERAL OVERVIEW AND INTRODUCTION TO PLAN
CHANGE 9**

19 MAY 2021

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1. INTRODUCTION

1.1 My full name is Ceri Harrietta Edmonds.

1.2 I am the Policy and Planning Manager at the Hawke's Bay Regional Council. I have been employed by HBRC since May 2017. Prior to that I was at Rolfe Judd Planning Limited a Planning and Architectural consultancy based in London in the United Kingdom, where I held an Associate position.

1.3 In my Manager role, I am responsible for the oversight of HBRC's policy development, monitoring and evaluation work, including in relation to the RRMP and the NPSFM 2020.

1.4 I hold a Bachelor of Resource and Environmental Planning (BRP) (Hons) from Massey University.

1.5 I have been involved in the development of PPC9 since November 2017. During this time, I have assisted in policy development, project management, attendance at TANK Group and TANK working group meetings, prepared papers and presented these to the Regional Planning Committee (**RPC**) and peer reviewed the section 32 and 42A reports.

Code of Conduct

1.6 Although this is not a court hearing, I confirm that I have read the Environment Court's Expert Witness Code of Conduct in the Practice Note 2014 and I agree and comply with it. My qualifications as an expert are set out above. Unless stated otherwise, the evidence is within my sphere of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed.

2. EXECUTIVE SUMMARY

2.1 The purpose of Proposed Plan Change 9 (**PPC9**) to the Hawke's Bay Regional Council (**HBRC**) Regional Resource Management Plan (**RRMP**) 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 maintain and improve water quality and water quantity, and to manage values for the catchments. PPC9 does not recommend changes to the Regional Policy Statement (**RPS**).

- 2.2 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.
- 2.3 PPC9 was developed using a collaborative community approach spanning six years and particular emphasis was placed on ensuring Māori voices and values were heard and incorporated throughout the plan change process.
- 2.4 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. PPC9 assists with the implementation of the National Policy Statement for Freshwater Management 2020 (**NPSFM 2020**), but is only one part of a larger work programme that is currently being undertaken to fully implement the NPSFM 2020 and the suite of other national direction from the Government.

3. SCOPE

- 3.1 My evidence provides an overview of the key drivers, influences and complexities that set the framework for the development of PPC9.
- 3.2 Whilst not directly responding to individual submissions, I provide comment and clarification relating to the process, timing and ‘journey’ of PPC9, in response to points made in submitter evidence. At a high level, I have also addressed the changes proposed by the Ministry for the Environment’s “Actions for Healthy Waterways” package, and the programme HBRC is embarking on to give effect to the NPSFM 2020 within the required timeframes.
- 3.3 I am providing evidence on behalf of HBRC, based on my experience in my role as Policy and Planning Manager for the RRMP and its implementation by HBRC. My evidence is neither technical nor opinion based, and I defer to the technical expert evidence presented in support of PPC9 in that respect. My evidence is intended to provide context and background to PPC9.
- 3.4 I do not make any specific recommendations about relief sought in submissions although, as I note above, to the extent relevant to my role within HBRC, I have responded to those submissions regarding the timing of PPC9 and its process.

4. CONTEXT

Pre-TANK

- 4.1 In 2011, the Government released the first National Policy Statement for Freshwater Management (**NPSFM 2011**) to help drive national consistency in freshwater planning. At around the same time, HBRC began work on preparing a change to the RPS implementing the new direction for freshwater management contained in the NPSFM 2011 and the 2011 Hawke's Bay LAWMS. That plan change was known as Plan Change 5 Land and Freshwater Management.
- 4.2 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.
- 4.3 Plan Change 5 was notified in 2012 and made fully operative in 2019. Plan Change 5 introduced Chapter 3.1A Integrated Land Use and Freshwater Management to the RPS portion of the RRMP. 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 section 65(6) of the Resource Management Act 1991 (**RMA**). Chapter 3.1A for the purpose of catchment planning, considered that the Greater Heretaunga and Ahuriri Catchment comprised one catchment area. As a consequence of this delineation, PPC9 encompasses the four TANK catchments.

TANK Plan Development and the TANK Collaborative Stakeholder Group

- 4.4 PPC9 commenced in 2012, when the Council initiated a collaborative approach by forming 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.
- 4.5 The aim of the TANK Group was to provide a community plan to the Council that was developed based on collaboration and consensus. The intent was to present consensus recommendations regarding objectives and policies for the plan change, which reflected

the community's vision and values for land and freshwater management. More than 30 representatives¹ of the community formed the TANK Group including mana whenua and local representatives of interest and stakeholder groups, including environmental organisations, local councils and primary sector representatives.

- 4.6 The TANK Group Interim Agreements 2013 report stated that the goal of the TANK Group was:²

“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.”

- 4.7 The 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 specific concerns with the report. Ngāti Kahungunu Iwi Incorporated did not endorse the report, as they considered that there were significant matters they did not agree with. The Interim report noted that these matters were not agreed upon and recorded the intention to raise these matters in future TANK Group discussions with the aim of resolving them.

- 4.8 At the RPC meeting of 19 February 2014, an update was provided on the TANK Collaborative Group progress. The Committee resolution acknowledged the commitment being made by the TANK Group towards delivering a consensus outcome and acknowledged that while Council retains final decision-making responsibility under the RMA, the RPC undertook to have particular regard to any TANK consensus outcome. This was conditional on any consensus outcome being consistent with higher level policy and planning documents, including the RMA, Council's LAWMS, RPS and Long Term Plan.

¹ A comprehensive list of the TANK Group can be found using the HBRC weblink <https://www.hbrc.govt.nz/hawkes-bay/projects/the-tank-plan/about-tank/whos-in-tank/>

² Collaborative decision making for freshwater resources in the Greater Heretaunga and Ahuriri Region – TANK Group Report 1 Interim Agreements 2013

- 4.9 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.³ The Council made an announcement 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.⁴
- 4.10 The TANK Group met more than 40 times over the course of six years and had its last meeting on 26 July 2018.

TANK Working Groups

- 4.11 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. The working groups were created to enable more detailed consideration 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 group's scope, membership and expected outputs. The working groups met a number of times, with some groups meeting more than 10 times throughout the collaborative process. The groups did not have decision-making duties, but they provided their findings and recommendations back to the wider TANK Group.
- 4.12 The mana whenua representatives formed a separate group (later renamed the Treaty Partner Working Group). This working group differed from the other working groups in that it was self-managing and the agenda was set by the representatives in response to issues and concerns raised in the plenary sessions. The working group regularly met with council staff, as did their advisors, to consider issues and further discuss the available information in more detail, and to provide input and make suggestions on the plan drafting.

Partnership and consultation with mana whenua

- 4.13 Over the six-year period from 2012 to 2018, mana whenua representatives from the following entities were present either for the duration or part of the TANK collaborative process:

3 P Rakowski: Heretaunga Aquifer Groundwater model – Scenarios Report August 2018.
4 <https://www.hbrc.govt.nz/our-council/news/archive/article/337/heretaunga-aquifer-at-its-limit>.

- (a) Ngāti Kahungunu Iwi Incorporated;
- (b) Te Taiwhenua o Heretaunga;
- (c) Te Roopu Kaitiaki o te Wai Māori;
- (d) Mana Ahuriri;
- (e) Ngāti Hori ki Kohupātiki;
- (f) Operation Pātiki ki Kohupātiki Ngāti Hori;
- (g) Ngā Kaitiaki o te Awa a Ngaruroro;
- (h) Matahiwi Marae;
- (i) Ruahapia Marae;
- (j) Ngā Hapū o Tūtaekurī; and
- (k) Ngā Marae o Heretaunga.

4.14 The consensus decision-making approach adopted by the TANK Group ensured that all values and views were considered equally, including those values and views of tangata whenua.

4.15 In addition to strong representation on the TANK Group, there was also significant support from the Regional Council directly to tāngata whenua in terms of resourcing for research and report development (including exploring sediment removal or management options for the Karamu Stream with Kohupatiki Marae), empowering tāngata whenua participation in meetings (honorary payments), resourcing tāngata whenua (or consultants of their choosing) to review and provide feedback to the draft plan, additional topic-based workshops to ensure good understanding of complex science presentations, support for tāngata whenua-led initiatives such as Kohupatiki Marae’s public hui on management of the Clive Karamu, the outcomes of which were presented to the TANK Group by mana whenua. A list and brief description of commissioned reports is included in the Section 32 Report.⁵

5 Section 4.5 Tangata Whenua Engagement, Section 32 Report, at 51.

Wider public engagement

- 4.16 To assist TANK members in sharing information and enabling the wider community, iwi and hapū to have greater access to the TANK Group's work, the following steps were taken:
- (a) publicising records of every TANK Group meeting;
 - (b) creating a "Think TANK" newsletter which included a summary of the main discussion of the TANK Group meetings;
 - (c) a series of public meetings;
 - (d) establishment of a Farmer Reference Group;
 - (e) regular updates to the Council's website; and
 - (f) presentations at field days, conferences and community and interest group meetings.

Draft Implementation Plan

- 4.17 A Draft Implementation Plan was developed alongside PPC9 to reflect the commitment by the TANK Group members and their stakeholder organisations to enable objectives and environmental outcomes to be met. The Draft Implementation Plan sets out tasks, responsibilities, measurements and timeframes for executing 10 actions resulting from the TANK process. 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 Implementation Plan.

Post TANK Group - Regional Planning Committee

- 4.18 The draft plan change was presented to the Council's RPC on 14 August 2018. The TANK Group was not able to reach consensus on all matters in the development of 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 all of these matters at meetings over the following 18 months.

- 4.19 The RPC approved the draft plan change for pre-notification in December 2018. Pre-notification consultation was undertaken in January 2019, in accordance with Schedule 1 of the RMA, with iwi authorities, Government Departments and Territorial Local Authorities. Responses were received from Mana Ahuriri Trust, Ngati Kahungunu Iwi Incorporated, Te Taiwhenua o Heretaunga and Heretaunga Tamatea Settlement Trust, Department of Conservation, Napier City Council and Hastings District Council. Staff reported back to the RPC in May and June 2019 on the feedback received and recommendations in response to pre-notification consultation.

Notification of PPC9

- 4.20 PPC9 was approved for notification by the RPC on 28 March 2020 and was notified on 2 May 2020. Submissions closed on 14 August 2020, which included an extension to account for COVID-19 and drought impacts. Further submissions were notified on 11 November 2020 and they closed on 9 December 2020. This also included an extension.

5. NATIONAL POLICY DIRECTION

- 5.1 The Government has released several National Policy Statements (**NPSs**) over the last 10 years. Of most relevance to PPC9 is the NPS for Freshwater Management (NPSFM).
- 5.2 The RMA requires regional policy statements (and regional plans) to give effect to NPSs. NPSs will commonly state required outcomes, but do not specify exactly how policy statements and plans need to be amended to reach each outcome; that is for each regional community to determine.

NPSFM

- 5.3 In July 2011, the NPSM 2011 came into effect. It was updated and replaced in 2014, amended further in 2017, and most recently replaced in September 2020.
- 5.4 As PPC9 was notified on 2 May 2020, PPC9 was prepared, evaluated pursuant to section 32 of the RMA, and notified to give effect to relevant parts of the National Policy Statement for Freshwater Management 2014 (as amended in 2017) (**NPSFM 2017**).
- 5.5 The NPSFM 2020 came into force in September 2020, after notification of PPC9 and after the close of submissions (submissions closed 14 August 2020). The Council's ability to

give effect to the NPSFM 2020 through PPC9 is confined by the scope of PPC9 and the submissions on it.

- 5.6 The NPS-FM 2020 requires local authorities to give effect to the NPS-FM 2020 "as soon as reasonably practicable". Section 80A(4)(b) of the RMA states that the Council is not required to notify a proposed regional plan, regional policy statement, plan change, or variation that is for the purpose of giving effect to the NPS-FM 2020 until 31 December 2024. As PPC9 was prepared and notified before the NPS-FM 2020 was released and came into effect, it would not have been possible for the section 32 report for PPC9 to have considered or addressed the application of the NPS-FM 2020.
- 5.7 The wider RRMP review (Kotahi) will address the NPSFM 2020 in a more comprehensive manner and will meet the statutory timeframe noted above.
- 5.8 In the meantime, to ascertain the extent to which PPC9 gives effect to the NPSFM 2020, the Regional Council commissioned Mitchell Daysh to compare PPC9 as notified and the RRMP to the NPSFM 2020. The HBRC Reporting Team added a column to the Mitchell Daysh analysis to identify where recommended changes through the Section 42A Report could further give effect to the NPSFM 2020, subject to there being scope within PPC9 and the submissions.

Proposed Plan Change 7 to the RRMP (PPC7)

- 5.9 Proposed Plan Change 7 (**PPC7**) to the RPS 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. PPC7 was publicly notified on 31 August 2019 and hearings held from the 30 November 2020 for a week.
- 5.10 It is anticipated that a decision from the commissioners on PPC7 could be released prior to the TANK hearings (but had not been released at the time of preparing this evidence). It should be acknowledged that PPC7 is a change to the RPS and therefore PPC9 must give effect to it. PPC7 as notified proposed some water bodies in the TANK catchments as Outstanding Water Bodies.

Water Conservation Order (WCO)

- 5.11 An application for a WCO for the Ngaruroro and Clive Rivers was made in December 2015. The Special Tribunal held a hearing and published its recommendation report on

30 August 2019. Several parties have subsequently lodged submissions to the Environment Court in relation to the Special Tribunal's report. The Environment Court proceedings are currently ongoing. Consequently, there is no WCO in force for the Ngaruroro River or Clive River. Section 62(3) of the RMA does not apply to PPC9 in relation to the Ngaruroro River as the WCO application remains unsettled and no Order has been made.

6. LOOKING AHEAD

- 6.1 It is important to consider PPC9 in the wider context of freshwater improvement in the region. Frequent changes in government policy, and associated changes to the NPSFM have complicated planning for the future for regional councils, iwi/hapū, and communities alike.
- 6.2 With the changes to the NPSFM promulgated in the 2020 iteration, HBRC is now required to notify freshwater catchment plans that give effect to the NPSFM 2020 no later than 31 December 2024. In Hawke's Bay, this timeframe coincides with a review of the RRMP and the Regional Coastal Environment Plan. Only very recently have decisions been made to combine these broader plan review workstreams and the freshwater planning work. This has been part of a wider discussion with the RPC and Council in developing the Long Term Plan proposals for Kotahi, in particular regarding additional resourcing required to actively involve tāngata whenua in plan development.
- 6.3 The programme to progressively implement earlier versions of the NPSFMs by a series of independent catchment-based plan changes has been abandoned (the requirement on Councils to prepare a Progressive Implementation Plan for freshwater catchment planning has been removed from the NPSFM2020). PPC9 is the last of the independent catchment-based plans designed to comply with the NPSFM2017. The TANK catchment will later be re-considered for compliance with the new NPSFM2020, as part of the broader plan review. Given PPC9 was publicly notified before the NPSFM 2020 and RMA amendments came into effect, the extensive community involvement, time and effort in developing it was considered appropriate to continue to proceed to Hearings.
- 6.4 The 2024 deadline makes for a much shorter and more challenging compressed timeframe, than that which was required by the NPSFM 2017. The NPSFM 2020's heavy degree of prescription also poses distinct new challenges. Among many things, the NPSFM 2020 will require a re-examination of values, attributes, methods, policies and

rules. This is a large and significant piece of work that will come at a significant cost to HBRC, tāngata whenua and local communities.

6.5 HBRC is conscious that in delivering on the 2024 deadline it will need to work in a manner that is consistent with the RMA and in achieving the purpose of the Act it will need to take into account the principles of the Treaty of Waitangi. HBRC has committed to pursuing co-design planning arrangements with iwi in the Hawke's Bay Region. These are positive and important developments. This co-design approach to actively involve iwi is critical to the success of the future work programme and regional planning documents in managing freshwater in a way that gives effect to Te Mana o te Wai.

6.6 I acknowledge the range of views that have been expressed in submissions about PPC9 and what it should or should not do, and I thank all those who have contributed. The contributions expressed through submissions, and through evidence are hugely important in informing this process. From the outset, my instruction to Council officers has been that gathering views and ideas for consideration will make the outcome stronger. It will also establish a good base of information to carry forward into HBRC's broader freshwater planning programme.

7. SUMMARY

7.1 I wish to acknowledge and thank all those individuals who have been involved on the TANK journey. PPC9 is borne from significant collaboration, input and engagement with tāngata whenua, stakeholders and the community to deliver a plan that manages land and freshwater in the TANK catchments.

7.2 PPC9 was developed and notified under the NPSFM2017. With regards to the NPSFM 2020, the extent to which PPC9 can give effect to the NPSFM 2020 is confined by the scope of PPC9 and submissions on it. It is important to recognise that PPC9 is one of a series of work programmes which are currently being undertaken to implement a suite of national directions, including the NPSFM 2020.

- 7.3 HBRC has committed to pursuing co-design planning arrangements with iwi in the Hawke's Bay Region. This co-design approach to actively involve iwi is critical to the success of the future work programme to enable HBRC to wisely manage all water bodies within the region and to ensure that water is available for the use and enjoyment of everyone in the region, including tāngata whenua, now and for future generations.

Ceri Edmonds

19 May 2021