

# **Plan Change 9 to the Hawke's Bay Regional Resource Management Plan**

## **Verbal Submission to Hearings Panel**

### **Hawke's Bay Drinking Water Governance Joint Committee**

**8 June 2021**

#### **Introduction**

1. Nga mihinui! Thank you for the opportunity to speak to you today.
2. My name is Garth Cowie. I am the independent Chair for both the Hawke's Bay Drinking Water Governance Committee and the Hawke's Bay Drinking Water Working Group. With me are Dr Nicholas Jones, the Hawke's Bay Medical Officer of Health, Craig Thew, the Group Manager, Asset Management for Hastings District Council and Liz Lambert, former Group Manager Regulation for the Hawke's Bay Regional Council. Dr Jones and Mr Thew are members of the Working Group and advisers to the Committee. Mrs Lambert is an adviser to both the Committee and the Working Group.
3. Our submission is submission no 119 and we have been advised that our written submission has been read by the Panel. Our submission was around the provisions for safe drinking water proposed in Plan Change 9, including specific source protection provisions as well as more general objectives and policies as they may impact on drinking water, as this is the remit for the Governance Committee. We did not submit on any other parts of Plan Change 9 outside this scope.
4. This presentation today is to comment on the recommendations put forward in the s.42A Officers' report in respect of our points of submission and further submission, and to be available to answer questions from the Panel.

#### **Fundamentals**

5. The Board of Inquiry into the Havelock North Contamination Event made some fundamental recommendations about drinking water safety and articulated the six principles of safe drinking water in New Zealand. The Board reinforced the need for greater collaboration across agencies responsible for safe drinking water provision, and established both the Joint Governance Committee and the Joint Working Group to work across a range of issues and focus on information and knowledge sharing. One of the tasks the Committee and Working Group were invited to work on by the TANK Stakeholder Group was the development of the source protection drinking water provisions for Plan Change 9. It is from this perspective of having worked through the various alternatives that our submission was prepared.

6. The six principles of safe drinking water articulated by the Board are repeated here for the Panel's awareness:

**Principle 1: A high standard of care must be embraced**

Unsafe drinking-water can cause illness, injury or death on a large scale. All those involved in supplying drinking-water must therefore embrace a high standard of care. Vigilance, diligence and competence are minimum requirements, and complacency has no place.

**Principle 2: Protection of source water is of paramount importance**

Protection of the source of drinking-water provides the first, and most significant, barrier against drinking-water contamination and illness. It is of paramount importance that risks to sources of drinking-water are understood, managed and addressed appropriately.

**Principle 3: Maintain multiple barriers against contamination**

Any drinking-water system must have, and continue to maintain, robust multiple barriers against contamination appropriate to the level of potential contamination. No single barrier is effective against all sources of contamination, and any barrier can fail at any time.

**Principle 4: Change precedes contamination**

Contamination is almost always preceded by some kind of change, and change must never be ignored. Change of any kind should be monitored for and responded to with due diligence.

**Principle 5: Suppliers must own the safety of drinking-water**

Drinking-water suppliers must maintain a personal sense of responsibility and dedication to providing consumers with safe drinking-water. Knowledgeable, experienced, committed and responsive personnel provide the best assurance of safe drinking-water.

**Principle 6: Apply a preventive risk management approach**

A preventive risk management approach provides the best protection against waterborne illness. Once contamination is detected, illness may already have occurred. This requires systematic assessment of risks throughout a drinking-water supply from source to tap; identification of the ways these risks can be managed; and control measures implemented to ensure that management is occurring properly. Adequate monitoring of performance of each barrier is essential.

7. These principles formed the basis of the work undertaken by the Governance Committee and the Working Group, at the request of the TANK Stakeholder Group, to formulate the source protection provisions for inclusion in Plan Change 9.
8. The basic premise of the framework delivered to the TANK Stakeholder Group is that there is an acceptable level of risk in the management of source protection, acknowledging that there will never be zero risk. The key outcome sought by the SPZ provisions is to ensure that there is

greater understanding and awareness of activities that are occurring in the zone and be able to consider how those activities are undertaken and monitored. The framework is based on the regulation of activities within mapped source protection zones. It is with this in mind that our submission for the most part supports the TANK Plan Change provisions. There are several areas we wish to comment on further as a result of the S 42A report and ongoing developments at a central government level.

### **Plan Provisions**

9. We acknowledge that many our submission points have been accepted in full, or accepted in part with acceptable reasoning for why they may not have been accepted in full. We request that the Hearings Panel adopts the Officer's recommendations for these points. Specifically we agree with the officer's recommendations on our following submission points:
  - a. 119.1 – 119.10
  - b. 119.12 – 119.22
10. Further, we note that Hastings District Council submission and expert evidence for HDC and NCC sought amendments to the notified Plan Change 9 to achieve alignment with the provisions put forward by the JWG. The s42A addendum report accepted the amendments sought by Hastings District and Napier City Councils. Specifically these support the inclusion of the combined outputs of both the numeric and analytical modelling for the Hastings urban bore supplies protection zones. This was consistent with advice obtained through a peer review by GNS. I confirm that the amendments sought by HDC and NCC regarding the SPZ provisions are acceptable to the Joint Committee. SPZs which meet the peer review process 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.
11. There are two matters we wish to comment on further – the impact on the proposed provisions of changes to legislation and regulation at a national level; and the development of, and potential changes to, the SPZ maps.
12. In the matter of changes to legislation and regulation the situation is complex, fast-changing and by no means finalised. At the time of preparing our submission to Plan Change 9 we were awaiting royal assent of the Water Services Regulator Bill, the release of the Water Services Bill and review of the National Environment Standard for the Protection of Sources of Drinking Water. Our submission was premised in part on the ability for the Hearings Panel to respond to national direction as part of its decision making on Plan Change 9 and our submission was designed to provide you with the scope to do this. While your ability to do this has not changed we are collectively not much further ahead in terms of certainty than we were at the time of lodging our submission.
13. What we do know now is that:

- a. The Water Services Regulator Bill has passed in to law and *Taumata Arowai* has been established;
  - b. The Health Select Committee has heard submissions to the Water Services Bill and has delayed its reporting back to Parliament, effectively delaying the implementation of the Bill from July until the last quarter of 2021. Once passed, this puts into place the new drinking water regulatory framework, including Taumata Arowai becoming the drinking water regulator, and obligations on water suppliers and local authorities to identify and assess risks to drinking water;
  - c. Once passed the Water Services Bill introduces s.104G into the RMA which requires consent authorities, when making decisions on resource consent applications, to have regard to the effects of activities on registered drinking water sources and also the risks of the proposed activities as may be defined in a Source Water Risk Management Plan (SWRMP). S.104G of the RMA explicitly links SWRMP under the Water Services legislation to consent decisions under the RMA.
  - d. The review of the NES for Drinking Water is programmed to include amendments to enable better management of risks to source water in RMA decisions. To the best of our knowledge these amendments will be consulted on in the second half of 2021 with gazettal of the amended NES early in 2022.
14. In our submission to Plan Change 9 (submission point 119.23) we sought the alignment of the definition of “Registered Drinking Water Supplier” in the Plan with that in the Water Services legislation, on the assumption that the latter would be clarified by now. As this is not now the case we request that the Hearings Panel takes into account the latest information available to it on this definition at the time of making your decisions.

### **Mapping**

15. In relation to our two remaining submission points – 119.11 and 119.24 –these relate to the inclusion (or not) of mapped Source Protection Zones within the Planning Maps issued as part of Plan Change 9.
16. The Water Services Bill (2020) prescribes the need for drinking water suppliers to have in place a Drinking Water Safety Plan, part of which must be a Source Water Risk Management Plan (SWRMP). The latter must identify any hazards that relate to the source water, including emerging or potential hazards; assess any risks that are associated with those hazards; identify how those risks will be managed, controlled, monitored, or eliminated as part of a drinking water safety plan; and 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.
17. It is our understanding that, subject to government approval, the review of the National Environment Standard for Drinking Water will include a requirement to identify source water risk management areas, replacing the “up-gradient” and “upstream” definitions in the current NES-DW.

18. With respect to surface water sources upstream areas are relatively easily identified. With respect to groundwater sources the current NES defines “upstream” as being “up-gradient of the abstraction point.” Defining the spatial extent of the “up-gradient” area can be extremely complex and require a detailed understanding of the groundwater system including interactions with surface water and other groundwater abstraction regimes. “Up-gradient” also excludes groundwater which has the potential to be extracted for drinking water purposes (e.g. down-gradient groundwater which is part of the drawdown area for a groundwater abstraction).
19. The key technical guidance document for the development of Source Protection Zones in New Zealand is GNS’s 2014 report “Capture Zone Guidelines for New Zealand” (Moreau, et al). The range of techniques described in the Guidelines is summarised below:

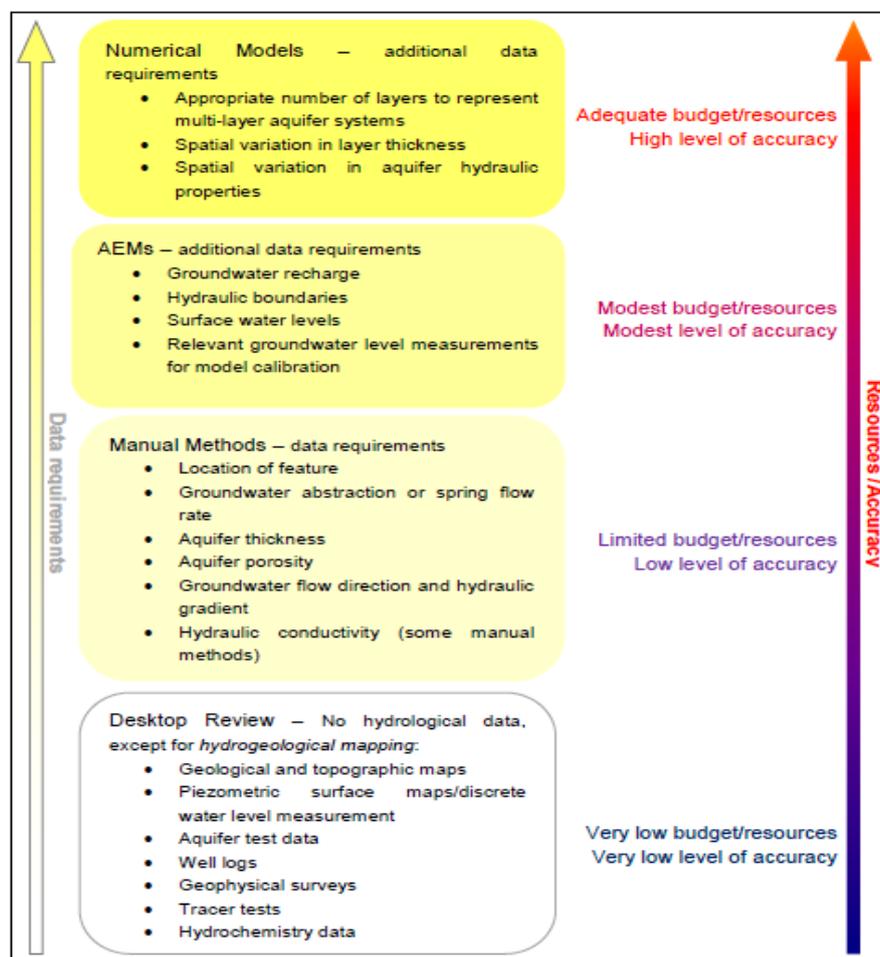


Figure 2.1: Listing of the four types of methods for capture zone delineation with indications of their data and resource needs, and the level of accuracy they will provide.

20. A significant amount of work has been undertaken by Hastings District Council, Napier City Council and Hawke’s Bay Regional Council to define the spatial extent of source protection zones (risk management areas) for the respective drinking water sources for Hastings and Napier urban supplies, all of which are groundwater abstractions.

21. We support Table 3 Schedule 35 – the methodology for determining source protection - as it recognises the complexities of source protection zone identification should be relative to the population size (as risk increases) and greater accuracy is required.
22. Our submission supported the provisions in the notified Plan Change 9 allowing for source protection zones to be included or updated through the resource consent process as new activities occur. This also meant that the Source Protection Zones were not a formal part of the Regional Resource Management Plan but would be identified on GIS Layers. The rationale for this is to recognise the need for an effective and responsive planning tool to incorporate new information around risks. Our concern is that a plan change can take a number of years to become operative.
23. We noted that the Hawke’s Bay Regional Council’s 3D aquifer mapping project (using SkyTEM technology) is underway and will provide a much clearer understanding of the Heretaunga Plains aquifer (as well as other aquifers within the region). This has the potential to change how risk is understood and managed, including the size and extent of Source Protection Zones.
24. In the s 42A report the Officers have recommended that the SPZ maps be included as part of the plan, rather than being added or amended through the resource consent process. While we understand the reasoning for this around regulatory certainty we remain concerned in regards to ensuring that the plan can be agile to changes in information and knowledge on source water and the health risk considerations. Our suggestion to the Panel is that existing source protection zones be included in the planning maps and future zones be included in a GIS layer sitting outside the Plan for consideration by regional council in all relevant consent applications. Over time these could be included in future plan changes.
25. As with the methodology for determining source protection areas we are of the view that the reviewed NES for Drinking Water is likely to address the manner in which SPZs are incorporated in to the planning framework. The proposed amendments are scheduled to be considered by Cabinet in June/July 2021 so, as with the other matters covered in this verbal submission, we request that you take into account the latest information available to you on this issue at the time of making your decision.
26. Thank you for the opportunity to present to you and we are happy to take questions.