

Regional Planning Committee

Terms of Reference

*Adopted by Council 26 February 2014**,

NB: for consideration alongside Parliament's reading of the Hawke's Bay Regional Planning Committee Bill)

** includes editorial minor corrections for improved readability/formatting & referencing only*

1. Introduction

- 1.1. Through its Treaty of Waitangi settlement negotiations with the tāngata whenua of the Hawke's Bay¹, in conjunction with the Council, the Crown has committed to introduce legislation to establish a permanent Regional Planning Committee (Permanent Committee) to draft and recommend to the Council plan and policy changes that affect natural resources in the Hawke's Bay region.
- 1.2. These terms of reference will be amended by and therefore must be read in conjunction with legislation enacted to give effect to agreements reached in respect of the Permanent Committee. These terms of reference may be amended by the Council and the Member Tāngata Whenua Groups in accordance with (14) below.

2. Purpose

- 2.1. 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.

3. Procedure

- 3.1. The Committee is responsible for preparing Proposed Regional Plans and Proposed Regional Policy Statements, or any Plan Changes or Plan Variations, and recommending to the Council the adoption of those documents for public notification, as provided for further in paragraph (4) below. In the event that the Council does not adopt all or any part of any Proposed Regional Plan, Proposed Regional Policy Statement, Plan Change or Plan Variation or other recommendation, the Council shall refer such document or recommendation in its entirety back to the Committee for further consideration, as soon as practicable but not later than two months after receiving a recommendation from the Committee. The Committee must take all steps reasonably necessary to enable the Council to meet any relevant statutory timeframes.

4. Functions

- 4.1. To implement a work programme for the review of the Council's Regional Plans and Regional Policy statements prepared under the Resource Management Act 1991.
- 4.2. To prepare any changes to the Regional Resource Management Plan, including the Regional Policy Statement.
- 4.3. To prepare any Plan Variations to the Proposed Regional Coastal Environment Plan.
- 4.4. To prepare Plan Changes to the Regional Coastal Environment Plan as required, once it is operative.
- 4.5. To oversee consultation on any draft Proposed Regional Plan, Proposed Regional Policy Statement, Plan Change or Plan Variation (prior to notification).
- 4.6. To recommend to Council for public notification any, Proposed Regional Plans, Proposed Regional Policy Statements, Plan Changes or Plan Variations.

¹ See Deed of Settlement with Ngāti Pāhauwera signed 17 December 2010, clause 5.22 and clauses 3.19-3.28 of the Provisions Schedule to the Deed; and Agreement in Principle with Maungaharuru Tangitu Hapū signed 22 September 2011, clause 5.41 and Schedule 4. In addition, the Crown has made commitments to other Tāngata Whenua Representatives to establish the Committee, including Mana Ahuriri Incorporated (for the Ahuriri Hapū) and Ngāti Hineuru Iwi Incorporated (for Ngāti Hineuru).

- 4.7. In accordance with the process outlined above, to review any documents which the Council may refer back to the Committee for further consideration.
- 4.8. To recommend to Council the membership of Hearings Panels, from appropriately trained and eligible commissioners, to hear and decide upon submissions on Proposed Regional Plans, Proposed Regional Policy Statements, Plan Variations and Plan Changes (which may include members of the Committee).
- 4.9. To determine the scope for the resolution and settlement of appeals on Proposed Policy Statements, Proposed Regional Plans, Plan Variations and Plan Changes.
- 4.10. When required, to recommend to Council that officers be delegated with the authority to resolve and settle any appeals and references through formal mediation before the Environment Court.
- 4.11. To monitor the effectiveness of provisions of Regional Policy Statements and Regional Plans in accordance with section 35 of the Resource Management Act and incorporate the monitoring outcomes into a review of the Committee's work programme.

5. Membership

- 5.1. Tāngata Whenua Representatives, each appointed by Council on nomination by a Member Tāngata Whenua Group.
- 5.2. Councillor members equal to the number of Tāngata Whenua Representatives appointed at any time.
 - 5.2.1. The principle which applies is that there shall be equal numbers of Councillor members and Tāngata Whenua Representatives on the Committee at any time.

6. Chairperson and Deputy Chairperson (Transition Period: April 2012 - December 2012)

- 6.1. During the transition period the Chair of the Committee will be appointed by Council from Councillor members. The Deputy Chairperson will be appointed by Council on nomination from the Tāngata Whenua Representatives.

7. Chairperson (January 2013 – enactment of legislation and establishment of the Permanent Committee)

- 7.1. From the end of the transition period until the establishment of the Permanent Committee the Committee will have two Co-Chairs:
 - 7.1.1. a Councillor member of the Committee appointed by the Councillor members; and
 - 7.1.2. a Tāngata Whenua Representative appointed by Council on nomination from the Tāngata Whenua Representatives.
 - 7.1.3. Each Co-Chair shall preside at meetings of the Committee on a pre-arranged basis. This arrangement will presume that the Co-Chairs will be responsible for separate areas of policy development and each will preside over a meeting as their relevant portfolio areas are discussed.

8. Term of Membership

- 8.1. Membership of the Committee (both Councillor members and Tāngata Whenua Representatives) shall be reviewed following the 2013 triennial election of Councillors, unless the Permanent Committee has already been established. The Council will review the appointment of its Council members and Member Tāngata Whenua Groups will review the appointment of their respective Tāngata Whenua Representatives. However, it is recognised that the Tāngata Whenua Representatives are nominated for appointment by their respective Member Tāngata Whenua Groups from time to time (and not necessarily triennially), and in accordance with the processes of their respective Member Tāngata Whenua Groups.

9. Quorum

- 9.1. 75% of the members of the Committee.

10. Voting Entitlement

- 10.1. Best endeavours will be made to achieve decisions on a consensus basis, or failing consensus, the agreement of 80% of the Committee members in attendance will be required. Where voting is required all members of the Committee have full speaking rights and voting entitlements.
- 10.2. The Chair at any meeting of the Regional Planning Committee does **NOT** have a deliberative vote and, in the case of equality of votes, does **NOT** have a casting vote”.

11. Special Terms of Reference

- 11.1. The role of the Committee, and all members of the Committee, is to objectively overview the development and review of proposed policy statements, plans, variations and plan changes in accordance with the requirements of the Resource Management Act 1991. In particular the Committee must apply the purpose and principles of the Act and section 32 to its decision-making.
- 11.2. The Committee, when recommending the appointment of hearings panels, shall recommend members for their particular skills, attributes or knowledge relevant to the work of the panel and shall so far as possible ensure that no member is open to perceptions or allegations of bias or predetermination.
- 11.3. It is not intended that the participation of Tāngata Whenua Representatives on the Committee be a substitute for any consultation with iwi required under the First Schedule of the Resource Management Act 1991.

12. Meeting Frequency and Notice

- 12.1. As required in order to achieve the plan and policy development work programme.
- 12.2. Notice of meetings will be given well in advance in writing to all Committee members, and not later than 1 month prior to the meeting.

13. Costs of administering and operating Committee

- 13.1. The costs of administering and operating the Committee will be met by the Council, including—
 - 13.1.1. The costs of any advice required by the Committee as agreed by the Committee; and
 - 13.1.2. Remuneration of Tāngata Whenua Representatives and Tāngata Whenua Co-Chair as follows:
- 13.2. The Tāngata Whenua Representatives and the Tāngata Whenua Co-Chair shall be remunerated for their services by the Council. The level of remuneration shall be determined promptly following each triennial election of Councillors by two independent persons (Appointees), one of which is appointed by the Council Co-Chair, and the other by the Tāngata Whenua Co-Chair. The Appointees must have regard to:
 - 13.2.1. the need to minimise the potential for certain types of remuneration to distort the behaviour of the Tāngata Whenua Representatives and the Tāngata Whenua Co-Chair in relation to their respective positions on the Committee;
 - 13.2.2. the need to achieve and maintain fair relativity with the levels of remuneration received by elected representatives in RMA policy development roles; and
 - 13.2.3. the need to be fair both:
 - 13.2.4. to the persons whose remuneration is being determined; and
 - 13.2.5. to ratepayers; and
 - 13.2.6. the need to attract and retain competent persons.

14. Review of these Terms of Reference

- 14.1. The Terms of Reference for the Committee will be reviewed by the Councillor

members and the Tāngata Whenua Representatives in April 2013 to determine whether the Committee is fulfilling the objectives of the Council and Tāngata whenua.

15. Amendments to these Terms of Reference

15.1. The Councillor members or Tāngata Whenua Representatives may request changes to the Terms of Reference. Amendments to the Terms of Reference may only be made with the approval of:

15.1.1. the Councillors at a Council meeting; and

15.1.2. the Tāngata Whenua Representatives at a hui called for that purpose.

16. Technical support

16.1. The Committee will have full access to Council staff, through the relevant Group Managers, to provide any technical support required in order to achieve the Committee's purpose, as set out in paragraph (b) above.

17. Terms of Reference Interim

17.1. These Terms of Reference are interim only until amended by legislation enacted to give effect to agreements reached in respect of the Permanent Committee.

18. Officer Responsible

18.1. Group Manager: Strategic Development

GLOSSARY

Hearings Panel	Is a panel appointed to hear public submissions on any Proposed Plan, Proposed Policy Statement, Plan Change or Plan Variation. It may be made up of any number of people, and may include Committee members, independent commissioners, or a mix of the two.
Member Tāngata Whenua Group	Means a Crown recognised mandated group representing tāngata whenua interests within the Hawke's Bay region, mandated for the purpose of negotiating with the Crown for a settlement of claims under the Treaty of Waitangi, being: <ol style="list-style-type: none"> 1. Mana Ahuriri Incorporated (representing the Ahuriri Hapū); 2. Maungaharuru-Tangitu Incorporated (representing the Maungaharuru-Tangitu Hapū); 3. Ngāti Hineuru Iwi Incorporated (representing Ngāti Hineuru); 4. on an interim basis and only to the extent set out in the Deed of Commitment [dated 1 March 2012] between HBRC, Tāngata Whenua Parties and the Crown, Te Toi Kura o Waikaremoana (representing Ruapani ki Waikaremoana); and 5. Any other group which becomes a Tāngata Whenua Party to the Deed of Commitment dated [1 March 2012] between HBRC, Tāngata Whenua Parties and the Crown by executing a Deed of Accession set out in Schedule 1 of that Deed.
Operative Regional Plan / Operative Regional Policy Statement	In relation to a regional plan or a regional policy statement, means that it has been through the public submission, hearings and Court processes and has full effect.
Plan Change	Is when a Council proposes changes to an operative plan or policy statement.
Plan Variation	A plan variation is when a Council proposes a further change to a plan or policy statement that is still in the 'proposed stage' and has yet to be finalised.
Proposed Regional Plan / Proposed Regional Policy Statement	A proposed regional plan or proposed regional policy statement is a document that has been issued by the Council and 'proposed' as the Council's official position. To be legally proposed, a document must be publicly notified so people can make submissions.
PSGE	Means a post settlement governance entity which has taken over responsibility from a Member Tāngata Whenua Group for representing tāngata whenua interests, being: <ol style="list-style-type: none"> 1. The Trustees of the Ngāti Pāhauwera Development Trust (representing Ngāti Pāhauwera); and 2. Any other entity which becomes a Tāngata Whenua Party to the Deed of Commitment dated [1 March 2012] between HBRC, Tāngata Whenua Parties and the Crown by executing a Deed of Replacement set out in Schedule 2 of that Deed
Regional Coastal Environment Plan	A document that sets out how the Council will manage the coast. Can include rules.
Regional Plan	A document that sets out how the Council will manage a particular aspect of the environment, like the coast, soil, rivers or the air. Can include rules.
Regional Policy Statement	Is the document that sets the basic direction for environmental management in the region. This also includes the Māori Dimension. It does not include rules.
Regional Resource Management Plan	Includes the Regional Policy Statement which relates to air, fresh water, gravel and land.
Tāngata Whenua Representative	Means each representative nominated by: <ol style="list-style-type: none"> 1. a Member Tāngata Whenua Group; or 2. a PSGE.
The Council	Means the Hawke's Bay Regional Council.
The Permanent Committee	Means the Permanent Regional Planning Committee referred to in the Deed of Settlement with Ngāti Pāhauwera signed 17 December 2010 (clause 5.22 and clauses 3.19-3.28 of the Provisions Schedule) and Agreement in Principle with Maungaharuru-Tangitu Hapū signed 22 September 2011 (clause 5.41 and Schedule 4).